Volume 2

MICHIGAN STATE LAW LIBRARY

ONE HUNDRED FOURTH DAY

Wednesday, March 21, 1962, 9:30 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by the Reverend P. T. Calvin Johnson of the All Saints Evangelical Lutheran Church of East Detroit.

REVEREND JOHNSON: Lord God, today as representatives of the people of our state, remind us that we are first of all the representatives of Thy truth known within our highest and best.

Because we cannot speak but what we have received, keep us open to receive wisdom and insight by whatever channels they come to us. Give us humility to listen as well as courage to speak. Help us to state our differences with integrity and honor yet with alertness to see that the fullness of truth is not the monopoly of any one person or party. In debate and conversation filter our speech from the words that only becloud and do not clarify, and when our words are done, move us to act as fearlessly as we have tried to speak honestly.

Now having bowed our heads, enable us to bow our minds and wills to today's demands in the name and spirit of Him who came, not to be served but to serve and to give Himself for those in every need. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Those present, please record your attendance by voting aye. Have you all recorded your attendance? If so, the secretary will lock the machine and record your attendance.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leaves: Mr. Anspach, from today's session, as he is ill with a cold; Mr. Higgs, from today's session, as he is still tied up in federal court; and Mr. Douglas, indefinitely, because of illness in the family.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Anspach, Bledsoe, Bonisteel, Douglas, Greene, Higgs, Hood, Mahinske, McAllister, Mosier and Page.

Absent without leave: Messrs. T. S. Brown, Hodges, Krolikowski and Norris.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Krolikowski, Hodges, Douglas, Greene, Hood, McAllister, Page, Bledsoe, T. S. Brown and Norris.]

The president is in receipt of the following communications from the governor:

March 19, 1962

The Honorable Stephen S. Nisbet, president
Michigan constitutional convention
Constitution hall
Lansing, Michigan

Dear Mr. Nisbet:

Thank you for transmitting to me the resignation of Mr. Charles J. Davis as a delegate to the constitutional convention from the second legislative district of Ingham county, effective March 16, 1962.

I have accepted the resignation of Mr. Davis according to its terms, and notified the secretary of state that a vacancy exists in this office.

Sincerely yours,
John B. Swainson,
Governor.

March 20, 1962

Stephen S. Nisbet, president
Michigan constitutional convention
Constitution hall
Lansing, Michigan

Dear Mr. Nisbet:

Please be advised of the appointment of Mr. Howard L. Jones as a delegate to the Michigan constitutional convention representing the Ingham county second district, succeeding Mr. Charles J. Davis, resigned.

With best wishes.

Sincerely yours,
John B. Swainson,
Governor.

Will Dr. Hannah, delegate from the fourteenth senatorial district, and Mr. Downs, vice president of the convention, please escort Mr. Jones to the rostrum.

[Whereupon, Messrs. J. A. Hannah and Downs escorted Mr. Jones to the rostrum.]

Mr. Jones, will you raise your right hand, please?

Do you solemnly swear that you will support the Constitution of the United States and the constitution of this state, and that you will faithfully discharge the duties of the office of delegate to the Michigan constitutional convention to the best of your ability?

MR. JONES: I do.

PRESIDENT NISBET: Will you please sign the oath?

Mr. Jones, we are very happy to welcome you as a delegate to the convention. (applause)

Reports of standing committees.

SECRETARY CHASE: Mr. Millard, for the committee on emerging problems, introduces

Committee Proposal 125, A proposed constitutional provision with respect to the conservation of the state's paramount interest in the air, waters and other natural resources of the state;

with the recommendation that it pass.

Frank G. Millard, chairman.

For Committee Proposal 125 and the reasons submitted in support thereof, see below, under date of April 18.

PRESIDENT NISBET: Referred to committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 83,** A resolution relative to sessions on Friday; with 2 amendments, recommending that the amendments be agreed to and that the resolution, as thus amended, be adopted.

The following are the amendments recommended by the committee on rules and resolutions:

1. Amend the resolving clause, after the word "That" by striking out the following language: "we, the undersigned delegates to the Michigan Constitutional Convention of 1961-1962, hereby resolve that upon the adoption of this resolution,".

2. Amend the resolving clause, after the second "until" and before "2:00 p.m.", by inserting "approximately".

R. C. Van Dusen, chairman.

Following is the resolution:

[Resolution 83 was read by the secretary. For text, see above, page 1664.]

The language of the resolving clause, with the amendments, would read:

> Resolved, That each Friday session shall begin at 9:00 a.m. with a recess at 11:00 a.m. until 12:00 noon, at which time the convention shall reconvene and remain in session until approximately 2:00 p.m., when it shall adjourn for the weekend, unless otherwise ordered by this convention.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think the amendments offered by the committee on rules and resolutions to this resolution are simply clarifying and they strike surplus language referring to "the undersigned delegates" and make it clear that it will never be possible for the convention to adjourn at exactly 2:00 p.m., and that an approximation is therefore necessary. I would ask first that the delegates agree to the amendments.

PRESIDENT NISBET: The question is on the amendments as offered by the committee. Mr. Yeager.

MR. YEAGER: Mr. President, I'd like to ask Mr. Van Dusen a question. Did the committee give any thought of staying in session from 9:00 until 1:00, without that hour break for lunch?

MR. VAN DUSEN: Mr. Yeager, the committee did give consideration to that. As a matter of fact, it happens to be my personal preference but a majority of the members of the committee preferred the language of the resolution as it was submitted with the amendments which have been suggested.

MR. YEAGER: I'd like to ask if there would be any serious objection if I offered an amendment to make it from 9:00 until approximately 1:00 o'clock, without a break. I so move, Mr. President.

MR. VAN DUSEN: Mr. President, might I ask Mr. Yeager to defer his amendment until we have acted on the committee amendments? Then his amendment would be in order.

PRESIDENT NISBET: Mr. Yeager, would you? The question is then on the amendments recommended by the committee. Those in favor will say aye. Opposed, no.

The committee amendments are adopted. Mr. Yeager, do you care to offer your amendment?

MR. YEAGER: I move that the time be from 9:00 until approximately 1:00, without a break for lunch.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: I would simply repeat, Mr. President, that I have no personal objection to Mr. Yeager's amendment. It happens to be my personal preference. The majority of the committee on rules and resolutions felt otherwise and I will leave it to them to speak for themselves.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: This will probably be one of the few times that I'll get to support Delegate Van Dusen and Delegate Yeager. I would like to support the Yeager amendment.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: The amendment offered by Mr. Yeager is:

1. Amend the resolving clause, after "9:00 a.m.", by striking out "with a recess at 11:00 a.m. until 12:00 noon, at which time the convention shall reconvene"; and after "approximately" by striking out "2:00" and inserting "1:00"; so that the language will then read:

> Resolved, That each Friday session shall begin at 9:00 a.m. and remain in session until approximately 1:00 p.m., when it shall adjourn for the weekend, unless otherwise ordered by this convention.

PRESIDENT NISBET: Mr. Leppien.

MR. LEPPIEN: Fellow delegates, as one of the sponsors of this resolution, I am sure that the signers thereon were not in complete agreement as to the suggested hours originally and I am sure that the majority will agree to the amendment as offered by Delegate Yeager. I suggest its adoption.

PRESIDENT NISBET: Mr. Gover.

MR. GOVER: Fellow delegates, as one who opposed the change of time, I felt that we were here to do some work and I felt that we should stay here until approximately 4:00 o'clock on Friday afternoon. I just want to state my point on the record.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. Chairman, I don't think any of us disagree with Mr. Gover, but 9:30 to 11:30 is 2 hours and 2:00 to 4:00 is 2 hours and 2 and 2 is 4. That's what we're talking about: 9:00 to 1:00. Let's work right on through and get on home.

PRESIDENT NISBET: The question is on the amendment of Mr. Yeager. Those in favor will say aye. Opposed, no.

The amendment is adopted. The question is now on the resolution as amended. Those in favor will say aye. Opposed, no.

Resolution 83, as amended, is adopted.

Following is Resolution 83 as amended and adopted:

> A resolution relative to sessions on Friday.
>
> Resolved, That each Friday session shall begin at 9:00 a.m. and remain in session until approximately 1:00 p.m., when it shall adjourn for the weekend, unless otherwise ordered by this convention.

Mr. Leibrand.

MR. LEIBRAND: Mr. President, may I make inquiry of Mr. Van Dusen, chairman of the rules committee? About 3 weeks ago I filed a resolution to the effect that no second readings be undertaken until all first readings were completed. I have heard nothing of that resolution. The chairman of the rules committee has very kindly come in each Monday since then and moved that no second readings be undertaken for that week. This only carries from week to week, however. May I inquire of the chairman of the rules committee what progress is being made on my resolution?

PRESIDENT NISBET: Mr. Van Dusen, do you care to answer?

MR. VAN DUSEN: Mr. President and Judge Leibrand, the committee on rules and resolutions has agreed to take no further action with respect to your resolution until you had come in to testify with respect to it. You will be welcome at any of our meetings. I had given you my personal assurance that we would continue to pass second readings on a week to week basis and would not do otherwise without prior notification to you.

MR. LEIBRAND: I believe that is satisfactory. I attended one meeting and no action was taken and I've had no further notice. Thank you.

PRESIDENT NISBET: Any further reports of standing committees?

SECRETARY CHASE: No other reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: **Motions and resolutions.**

SECRETARY CHASE: Mr. Van Dusen, on behalf of the committee on rules and resolutions, moves that the remaining deadline dates set forth in **Resolution 45,** as amended, be deferred 2 weeks.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, unless some action is taken today, under the terms of Resolution 45 of this convention, as amended, today is the last day for completing the work of the committee of the whole. In view of the fact that we have a portion of the executive branch and all of apportionment, some of the work of the committee on elections, the work of the committees on legislative powers and miscellaneous provisions still ahead of us, this obviously is unattainable. The committee on rules and resolutions does believe, however, that another 2 weeks, if we apply ourselves diligently, should see us through the work of the committee of the whole and that the deferring of all of the remaining deadlines for that 2 week period is therefore in order at this time. I would move the question.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that the deadlines be deferred for a period of 2 weeks. Those in favor will say aye; opposed, no.

The motion prevails and Resolution 45 is so amended.

Following is Resolution 45 as amended:

A resolution to provide a schedule for completing the work of the convention by April 28, 1962.

Resolved, That:

1. All public hearings by substantive committees shall be completed on or before December 21, 1961, unless otherwise authorized by the convention. This shall not preclude a committee from hearing witnesses invited by the committee.
2. All substantive committee hearings on delegate proposals shall be completed on or before January 5, 1962.
3. All substantive committee proposals and supporting reports shall be submitted to the convention and placed on general orders in accordance with rule 57, paragraph 2, on or before January 31, 1962.
4. The committee of the whole shall complete its consideration of all committee proposals and make its reports in accordance with rule 57, paragraph 4, on or before April 4, 1962.
5. The committee on style and drafting shall complete its consideration of all committee proposals and make its reports in accordance with rule 57, paragraph 5, on or before April 6, 1962.
6. Second reading of all committee proposals shall be completed on or before April 13, 1962.
7. The final report of the committee on style and drafting shall be made in accordance with rule 57, paragraph 8, on or before April 20, 1962.
8. The convention shall finally adjourn on or before April 28, 1962.

Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. At last night's conclusion we were on the first paragraph of section a of **Committee Proposal 71.** The Chair has 4 delegates on the list to talk but perhaps the secretary should read. We were on the minority report of that paragraph.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1766.

SECRETARY CHASE: The minority, by Mr. Marshall, has offered the following amendment:

1. Amend page 1, line 10, after "Sec. a.", by striking out the balance of the first paragraph and inserting "The governor, lieutenant governor, secretary of state, state treasurer, auditor general, attorney general, highway commissioner, and superintendent of public instruction shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966. They shall, after 1966, serve for terms of 4 years beginning on the first day of January next succeeding their election.".

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Downs. Is he here? If not, the next on the list is Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, yesterday some statements were made by Delegate Marshall about how great our highway commissioner was, what a wonderful job he has done. I'd like to point out to the members of the committee that the interstate highway system was not a responsibility of the state highway commissioner, but it was an act of congress. The highway commissioner didn't have anything to do with it. Also, I'd like to point out that the interstate highway system was advocated by the bureau of public roads and the bureau of public roads has an appointed highway director.

Also it was mentioned that Michigan has toll free highways. To me, they are not toll free. I have to pay a gasoline tax. I don't know who Mr. Marshall knows if he doesn't have to pay that.

Also, I would like to say again that I am not aware of any firm deal that has been made by the majority party and as the news broadcast indicated this morning, there was a meeting of a group last night which was not the entire majority party and they are considering their position in this matter and I know nothing about this. Thank you.

CHAIRMAN MILLARD: The Chair will recognize Delegate Gust.

MR. GUST: Mr. Chairman, members of the committee, Mr. Marshall either misspoke or you misunderstood my statement yesterday. For the record I will say that it is my understanding that Missouri elects highway commissioners — in the plural — who in turn select a highway commissioner to head that department. If I indicated otherwise yesterday, I was incorrect.

I would like to say — and you know this — but for the benefit of the delegates on the floor — and I mentioned this yesterday in my talk — that a great deal of give and take was necessary in our committee in order to bring out this proposal. As Mr. Marshall knows, I was the only Republican on the executive branch committee who voted for an elected highway commissioner. I felt very strongly about this but I realized there was a wide divergence of opinion, not only in our committee, but within our party and among the delegates as a body. Certainly, compromise was necessary in order to bring out this proposal and I think, as I indicated, that almost everybody, all the executive branch committee, had to give in one or more instances in order to reach the accord as it is set forth in Committee Proposal 71.

In conclusion, Mr. Marshall, with reference to your remarks directed to me of yesterday, I would be somewhat remiss if I did not confess to you that I have had qualms on many occasions about the abuse of discretion with reference to advice and consent of the senate as it has existed in the state of Michigan over the last decade. I don't propose to superimpose my judgment of those of the elected officials who have served in that branch of the legislature, but as a citizen of the state of Michigan, I am somewhat less than satisfied with their overall performance. However, this does not negate the fact that it is sound government as far as I'm concerned and has some sort of a check or balance on gubernatorial appointments. I can only hope that men of good faith, realizing that they have been given sufficient authority in this field and responsibility, will rise above partisan politics and use it with great care.

CHAIRMAN MILLARD: Judge Leibrand, the gentleman from Bay City.

MR. LEIBRAND: Mr. Chairman, the secretary has just read what I understood to be an amendment to a minority report to Committee Proposal 71. I find in my book here 13 pages of minority report. Might I inquire if what the secretary just read is included in the printed forms that we find here in our books, and if so, which one is it?

SECRETARY CHASE: The amendment just read by the secretary, since we are considering the proposal section by section and paragraph by paragraph in each section, is the first paragraph of the minority amendment to section 1. It is projected on the wall and the lines on the wall are numbered and the amendments that may be offered to that we will present for consideration by the line numbers indicated as projected on the wall so it may be easier for the delegates to follow.

CHAIRMAN MILLARD: Does that answer your question?

MR. LEIBRAND: Thank you.

CHAIRMAN MILLARD: Delegate Marshall.

MR. MARSHALL: Mr. Chairman and delegates, I am not going to take too much time speaking on the amendment. I would like to thank Delegate Gust for the remarks that he made. I do not want to be put in the position of continuously correcting Delegate Gust, but he again misstated himself when he said Missouri instead of Mississippi. We were talking about the road commission in Mississippi and not Missouri. If he will stand that one correction, that will take care of that one.

In answer to Delegate Sterrett, in regard to his remarks concerning my statements on the highway commissioner of yesterday, I don't think that I have to reiterate the statements I made yesterday on the outstanding job that the present highway commissioner has done. Furthermore, in regard to the interstate system, and the fact that we have a federal director of highways, I would point out to Delegate Sterrett, that when the federal money comes into the state, that it is still the responsibility of the highway commissioner to build the roads and to use the federal funds. This, I think, has been handled rather well.

Now, in urging support of the minority amendment to the majority report, I gave all of the reasons yesterday that could possibly be given and I am not going to bore the delegates any further with any more remarks on my part concerning the amendment that is before you now on the board. I would like, before I sit down, though, to tell the delegates that I hope that we can proceed somewhat more rapidly today than we did yesterday. I would hope that many of you do not see fit to take me on today because I do not feel that I want to become involved in any debate other than answers, but if you are inclined to take me on, I hope you go all out and really take me on so that I have some good excuse to come back. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, unless you have some further names on your list, I think we are ready to proceed.

CHAIRMAN MILLARD: The question is on the minority report amendment. Are there any amendments, Mr. Secretary?

SECRETARY CHASE: Messrs. Brake, Durst and Karn offer the following amendment to the amendment:

1. Amend the amendment, after "secretary of state,", by striking out "state treasurer, auditor general, attorney general, highway commissioner, and superintendent of public instruction" and inserting "and attorney general"; so that the language will then read, "The governor, lieutenant governor, secretary of state, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year. . . ."

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Delegate Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, when it is suggested to the delegates in this convention that we elect the governor, lieutenant governor, a secretary of state and an attorney general, that we appoint the state treasurer, that the superintendent of public instruction be picked by the state board of education, that the auditor general become a legislative auditor, and that the highway department be put in charge of a commission, any novice looking at that program will say immediately: that must be a compromise. Of course, it's a compromise. Personally, I am not frightened nor embarrassed by the word "compromise." Practically every item that goes into this constitution will be a compromise. Some of them were compromises in committee. Some will be compromises on this floor. Some of the compromises are voluntary; some are involuntary. I think I was involved in an involuntary compromise in every item we had before us yesterday. I can't remember winning one. Compromise is the way we govern ourselves. When Robinson Crusoe was alone on the island, there need be no compromise. But the day Friday arrived, 1 of 2 things had to take place: either Friday had to be completely controlled and dominated by Robinson Crusoe or there had to be compromises. A bachelor like Wanger has a broad field in which he can do just as he pleases, (laughter) but just the minute the preacher finishes that speech, 1 of 2 things happen: either there must be compromises or the bride takes over completely. (laughter) In a dictatorship you need not compromise. In a republic like ours you compromise all the time.

Now, this suggests the election of some officers, the appointment of some. Some of the delegates came to this convention — and there were a considerable number of them — thinking that every officer of the so called ad board must be appointed. Some of us came here with the idea that every one of them should be elected, and I was among that group. There were others in between who thought that some should be elected and some should be appointed. I don't know who had the most votes. I think each side thought that it had the most votes. But those are situations in which compromises arise. I perhaps am in a very ironical position as the person who held the elected office of state treasurer longer than any other person in the history of the state, to be standing before you suggesting that the state treasurer be an appointed official. I would prefer that he be an elected official. But there are a lot of people here who thought that the secretary of state and the attorney general should be appointed officials. We had to give or fight it out on the floor. As a result, the suggestion is that the 2 of them be elected; the state treasurer be appointed.

Now, this compromise has not been agreed to by everyone in this convention. I don't know at this time if there are enough people, enough delegates, in agreement on this so that it will stick. That is something I suspect we will find out before tonight. But that's the proposition. In thinking about this matter of election and the matter of concentration of power in the governor's office, centralization of power in the governor's office, for months I have been mulling over in my mind the things that I would like to say in support of electing all these officers. I think it would take 2 hours without even catching my breath. Since some of us have compromised our viewpoints, I am not going to go into that argument at any length at all. I think that the compromise that some of us have agreed to is a fair compromise, a genuine compromise. Both sides have given.

But in the field of centralized power, which I oppose generally, on both the national and state level, there is one quotation that I want to leave with you. I am not always an admirer of Woodrow Wilson, but he said one thing so true and so vital in this government of ours, that every school kid ought to be required to memorize it. I don't think it would hurt some of the delegates to this convention to have to write it on the blackboard a hundred times or so. And what he said was this: "The history of liberty is a history of limitations of governmental power, not the increase of it." Not the granting of more power, not the centralization of power, but limitation on government.

Now, I think there are several things to be noticed in connection with this suggested compromise. One is that it preserves our line of succession, which has been by statute: the governor, the lieutenant governor, the secretary of state, the attorney general, the state treasurer and the auditor general. Of course, it cuts off the last 2, but it still leaves us 4. The committee proposal, as it came to the floor, suggested the governor, lieutenant governor, the president pro tem of the senate and the speaker of the house. Much better, much better to have in that line of succession the secretary of state and the attorney general. In these days of plane crashes and automobile accidents, to have the proper line of succession in case of such an accident is a thing of importance. You will recall that not many years ago the 3 top officers in Oregon — and I was acquainted with the governor, Governor Snell of Oregon — were killed in a plane crash. So this leaves a good line of succession.

In the second place, it preserves as a useful — I shouldn't say that quite that way — it preserves a possibility, at least, of a useful administrative board. An administrative board entirely of appointive officers would have lost its most important function, that of general supervisory control over the administrative branch of state government. This leaves as a possibility, subject to legislative discretion, an administrative board that will have value. With 4 officers directly elected, a superintendent of public instruction not completely subservient to the governor, an auditor general picked by the legislature, so that he is not completely subservient to the governor, and a highway director, if the legislature sees fit to continue it, with one directly appointed officer on the administrative board.

I think that administrative board, with all of its functions, is tremendously important. We had a quotation read here yesterday from Governor Groesbeck on it, and it was in complete accord with Governor Groesbeck's thinking, and at the time he asked the legislature to establish the administrative board, he never intended it to have any power. He intended it as a means of bringing up in daylight what was going on, particularly in the financial side of state government, and to have some advisory power, and those 2 things it has always had. It does bring up in daylight every 2 weeks, twice every month, the principal financial transactions that are taking place in the state government. And it is tremendously important that it do so.

I tried to get Mr. Martin's committee to include the administrative board in the constitution. They would not do so. But the legislature can continue it and continue it with its full usefulness under this suggested compromise. I think that is all that I need to cover. We are coming to some highly important votes. In my judgment, second only to the matter of reapportionment, this is the most important thing we are going to settle in this convention.

Mr. Chairman, I would like to yield to Mr. Durst for a continuance of this discussion.

CHAIRMAN MILLARD: The Chair will recognize Delegate Durst.

MR. DURST: Mr. Chairman, members of the committee, it is rather obvious this is an amendment which is sponsored by one of the originators of the "courthouse gang" and one of the "radicals" of this convention. Mr. Brake has pointed out in this particular issue of appointed or elected state officials, there are strong opinions on both sides. Certainly, there are to be found anywhere just as strong opinions in my own party on both sides.

I want to say that I believe very strongly in the principle of appointed department heads. I'd like to say to Mr. Marshall that this opinion is in no way connected, as far as I am concerned, with any idea of political manipulation to benefit the Republican party. I learned this principle, if I learned it anywhere, at the knee of Dr. Pollock and his colleagues in Ann Arbor some years ago, and I still subscribe to it. The idea of elected department heads, in 1908 or in the days of Jackson, is one which I probably would have supported. The only way of knowing what was going on in our government at that time was to send somebody down to the seat of government to keep an eye on the head rascal. We no longer have this problem. In this day and age, when the members of the press and television can inform us statewide what the officials of our government are doing, it is not necessary for us to divide into a multiple head the administration of our state in order to control it. But as Mr. Brake has pointed out, we are assembled here in convention, 144 delegates strong, without enough votes to support either principle. So what we have before us is clearly a compromise. Now, Mr. Brake has presented to you some ideas which in his opinion justified this particular compromise and make it compatible from his point of view. I would like to present to you some which from my point of view make it somewhat compatible.

First of all, this leaves us with an elected attorney general. I can justify somewhat in this instance departing from the principle of appointed department heads, first of all, because this man, as far as I can see it, does not directly engage himself in the day to day administration of government in the way that some of the other administrative officers of the state do. He is, in a sense, and has been described as a quasi judicial officer, the people's attorney, rendering opinions which may limit the power of the governor or what the governor can do. He is in a sense a watchdog. His opinions stand as a force of law, in effect, until there has been a court decision on the matter. So I can see some justification for electing this man and letting him stand separate and apart from the governor.

Now, on the question of secretary of state, we are probably violating further the principle, for here is strictly an administrative officer, a ministerial officer, with no purpose for electing him except to set up some little independent kingdom apart from the governor. But in some compromises there must be some things that we do not necessarily like and accept. There is one great advantage in this thing, to my mind — this compromise — which makes it palatable and I think desirable to the people in this state, and that is this: we are making a giant step forward in a departure from the past. We have had in this state for years elected state officers. This is something that most people more or less have taken for granted, perhaps without thinking about it, without analyzing it through, but nevertheless, they have accepted it and think they desire to elect these people. Now, I have talked in my own district to many, many farm groups who from a point of first impression, have staunchly believed that all these officials should be elected. And I know from personal experience that by a small matter of discussion and argument with them, to point out to them that they do not know who these people are or what they are doing, that they will gradually accept the principle that they do not necessarily have to elect them in order to have the kind of government they want.

Nevertheless, we are making a giant step forward, and I believe that this compromise is one which the people of the state of Michigan will accept as guaranteeing to them this thing which they desire or seem to desire — the election of some of their state officials — and yet give us in part the efficient type of state government which the state of Michigan needs. So, in my opinion, I think this compromise is a good one and one which we should support, one which retains enough of what is familiar to us to provide us with an orderly transition and will in part — I think sufficiently — give us the kind of orderly government that is necessary for the governor of this state to efficiently administer the state. Thank you.

CHAIRMAN MILLARD: Mr. Brake, do the proponents have anything further to offer?

MR. BRAKE: No, Mr. Chairman.

CHAIRMAN MILLARD: All right. We'll now go to the general debate and the Chair will recognize the gentleman from Detroit, Delegate Madar.

MR. MADAR: Mr. Chairman, fellow delegates, it has been some years since I first walked into the state capitol and walked into the door of the state treasurer and met that serious minded gentleman, D. Hale Brake. He's a different sort of man today. I can understand how he has been able to do such great work for his constituents and this, of course, has only been done through this great change. He has become quite humorous. But I wonder how much humor there is going to be that is going to make the rest of the people throughout the state feel so good in what he is doing. It's all right to say: we compromise. But Mr. Brake has been known not just as a great statesman, but also as a politician, and more so as a politician. And in a politician's dictionary there is no such word as a compromise. It's "deal," d-e-a-l. It's all right to stand up and give a man a pair of pants and try to laugh off the things that hurt and that hurt the people of this state.

So far as I'm concerned, I campaigned on the theory that we ought to have a strong governor and that he should appoint the auditor general, the secretary of state, superintendent of public instruction, the superintendent of highways—I want to omit the auditor general because I thought that he should be appointed by the legislature—but the rest should be appointed by the governor without the advice and consent of the senate—without their advice and consent, not with it.

There were 8 of us elected to this constitutional convention on just such promises. One other was elected—a senatorial candidate, that is a senatorial district con con delegate. I notice today that he is for advice and consent. Of course, he has to depend on how many votes he is going to get for lieutenant governor in the primary. So he is going to have to go along with the majority party. But I don't believe he is going along with the people of this state. I believe that when we can't give them—when we can't put into our constitution that the governor can appoint them alone, that they ought to be allowed to elect. And it is because you're trying to shove down our throats and the people's throats, the league of women voters' throats, and all the other organizations that have been trying to get good government and a good constitution, it is because you have been doing that that I must go for an elected ad board and oppose—yes, elected, because it won't be appointed by the governor when you say advice and consent, so don't laugh.

You know what you've done over the past few years with advice and consent of the senate. We've had men appointed to commissions who never have been confirmed, and they were good men, good women, but the majority party—the senate—just doesn't want to go along with good government. And that's exactly what is happening here. You're dealing; you're not compromising. You're dealing. You're selling your souls. And that's something I don't think we ought to do.

CHAIRMAN MILLARD: The gentleman from Taylor, Delegate Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I agree with the remarks made by Delegate Brake that we are now facing one of the most, if not the most crucial issue before this convention. I would not place it second to apportionment. I would place it on the same level in importance. I think that Delegate Brake, by offering this amendment, explained the alleged deal that I referred to yesterday. It seems to me that we either favor an appointed ad board or we favor an elected ad board, one or the other. Now, this so called package deal makes absolutely no sense at all. It is completely asinine and I believe in my considered judgment, an insult to the intelligence of the people of the state of Michigan.

Many of the delegates came into this convention talking about a strong executive, giving the chief executive the authority to appoint the state administrative board. As Delegate Brake stated, many of the delegates came to this convention favoring an elected ad board. Out of this package deal that is now being offered to the delegates to this convention, we have neither. In order to try to make the package a little more palatable, I assume that we are going to permit the people to elect the attorney general and the secretary of state. The highway commissioner apparently, from statements made previously, will be appointed by some type of bipartisan board. The superintendent of public instruction, of course, has already been set up to be appointed by the board of education. The auditor general will be appointed by the legislature, and if the deal stands and the delegates in this convention do not upset the deal, the auditor general will, in effect, be appointed by the minority of the people of the state of Michigan under the proposed legislative apportionment plan that has been adopted by the majority of the committee on legislative organization.

I have to admit that I am at this point somewhat frustrated. I am also extremely disappointed at the turn of events. Delegate Brake and others on the floor of this convention have repeatedly talked about a compromise. We've heard the word as it relates to this issue, "compromise," over and over and over again on the floor of this convention. Now, ladies and gentlemen, this simply is not the case, because when you talk about compromise, as I understand it, we talk about reaching an agreement between the 2 opposing viewpoints. I want to say to this convention that the minority party in this convention has not been consulted on the alleged deal. We have not participated in any so called compromise on this issue. A compromise, if any, was worked out among delegates of the majority party off the floor of this convention. A compromise arrived at, if you please, to satisfy, or an attempt to satisfy all of the opposing viewpoints within the majority party. I am of the opinion that it satisfies really no one. I do not believe at this point—nor can I accept—that this alleged deal is going to stand. I had hoped that before we reached second reading and maybe before we get through this proposal, that the deal would start to fall apart, and I hope that it falls apart in the interests of the state of Michigan, the people, the electorate.

Now, Mr. Brake quoted a quotation from Woodrow Wilson. I too have been a great admirer of Woodrow Wilson's; and he stated that possibly it would be good if all of the delegates on the floor of this convention should have to write this quotation on a blackboard 100 times. For those who have talked about compromise and working out a deal, I would like also to make a quotation that would be good if probably all the delegates on the floor of this convention would have to write it on the blackboard 500 times, and I quote from Lowell, "Compromise makes a good umbrella but a poor roof. It is a temporary expedient often wise in party politics, almost sure to be unwise in statesmanship." Maybe while we're writing Mr. Brake's quotation, you ought to jot this one down a few hundred times.

What we need to do here, I think, is not so much to try and realize the ideals at this point, as to idealize the real, and to face up to what the people of this state want. And I do not believe that the people of the state want this type of a hodgepodge setup of selecting their ad board, nor do I believe that they will accept it. I want to very seriously remind you that this does not require the advice and consent of a malapportioned senate. This deal will require the consent and advice of the electorate of the state of Michigan. Yes, I think many of us—and I know we in the minority, and I believe that many of the majority—are sitting here today considering this proposal, particularly the amendment, with a heavy heart. I think we are saddened because this deal was worked out among and between certain leaders within the majority party without even so much as the courtesy of consulting with the minority of this convention.

And in conclusion, and in speaking against the Brake-Durst amendment and asking support for the minority report amendment, I would only say this to this committee: that if this deal is consummated—I want to make this very clear. This is a serious statement that I am about to make and I do this with a lot of consideration—I would say, that if this deal is consummated and perpetrated upon the state of Michigan and its electorate, I, for one—and, I believe, most of my colleagues—will have to oppose this constitution. I would remind the delegates that my party, the party that I am a member of, represents a far larger percentage of the people in this state than is reflected at this convention. To forget this—for the delegates to forget this and not be mindful of it—is to sacrifice this convention, to sacrifice this convention in order to solidify the Republican party for the election of 1962. This, my friends, is a tremendous price to pay at the expense of the people of the state of Michigan, and I oppose the amendment.

CHAIRMAN MILLARD: The Chair will recognize Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, I rise to oppose the Brake-Durst amendment. I cannot condone much of the conduct and many of the statements coming from the minority delegates in this convention over the past few days. On the other hand, I was not sent here to judge the conduct and the morals of my fellow delegates. I've got to keep my eye on the doughnut and not on the hole. (laughter)

I was sent here to try to write a constitution that would be acceptable to the people of the state of Michigan. I believe that the people of the state of Michigan are overwhelmingly in favor of electing their principal state officers. Now, Delegates Martin and Van Dusen have pointed out, or have asserted on the floor of this convention, that people don't know who they are voting for when they are voting for members of the state administrative board. I point out to my fellow delegates that in the election of November 1960 our present governor came out with a majority of 41,000 votes. Our present secretary of state came out with a majority of over 300,000 votes. Apparently there were a quarter of a million people who knew who they were voting for, and I assume there were many more.

I have already gone along with the majority in this convention on the appointment by the legislature of an auditor general and the appointment by the board of education of a superintendent of public instruction. Further than that I cannot go, at least at this time. I will vote against the Brake-Durst amendment.

CHAIRMAN MILLARD: The delegate from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman—

MR. MADAR: I'd like to rise to a point of special privilege.

CHAIRMAN MILLARD: State it, if you will.

MR. MADAR: I like to get up and debate and I like to point out the things that are going on in debate and regarding the various amendments, proposals. There is one thing I don't like. I don't like the remarks that are made by Delegate Plank. I am not a "g-d" liar, as he claims, as he stated out loud in front of the others. I haven't once veered from the truth here and I've been able to prove—

MR. G. E. BROWN: Point of order.

CHAIRMAN MILLARD: State your point.

MR. MADAR: Wait until I get through. I rose to a point of special privilege. Let me finish, Mr. Brown.

CHAIRMAN MILLARD: Mr. Madar—

MR. MADAR: I had a point of privilege on the floor.

CHAIRMAN MILLARD: What is your point of order? State it, please.

MR. MADAR: That we do not have to listen to this sort of thing while we're sitting here. He ought to be a gentleman. That's one thing he might try to be, even though it's almost impossible for him to do it. (laughter) He doesn't know how to be— (laughter)

CHAIRMAN MILLARD: You are out of order. You are out of order.

MR. DOWNS: Point of parliamentary inquiry. Will the Chair rule as to whether personal privilege applies to what is said on the convention floor and not as to what is said off the convention floor or in private conversation?

CHAIRMAN MILLARD: That is the Chair's understanding, Mr. Downs, and the Chair so rules. Mr. Madar was deliberately out of order.

MR. NORD: Thank you, Mr. Chairman. Mr. Chairman and fellow delegates, I feel that we have had unfortunately rather heated debate on this subject. I don't believe this is the kind of subject that warrants heated debate. Just the reverse. I think this kind of a subject requires, if possible, cool, calm deliberation. I think the reason for that is quite obvious. Members of both parties have frequently alternated their views on this subject. Therefore, it is pretty clear that what we have before us is an issue on which reasonable persons can differ and therefore, reasoning is in order. However, I believe the reason for the hot and heavy debate that we've had is because many people recognize that the convention is at a crucial stage as a result of off convention activities, which we can't ignore at this point.

I don't intend to debate what happened off the floor because I wasn't a party to it. The first thing I would like to say is in connection with the remarks of Delegate Brake as to a compromise. I spoke on this subject a couple of days ago and it was apparently misinterpreted by some people that think that I am opposed to compromise and a lot of people seem to be attacking this particular amendment that is before us on the basis that it is a compromise. I am not opposed to this amendment before us on the basis that it is a compromise. Neither am I against compromise at all. I think it's crucial to the point of view of any liberal. Any liberal is always interested in compromising because he can see 2 sides of an issue and anyone who can see 2 sides of an issue is uncertain whether he has the whole ultimate truth before him on his side. I think compromise, as Mr. Brake has said, is absolutely correct. It is the essence of a republican or democratic form of government, and I don't think there is anything wrong with compromise as such. I would like to point out, however, this: that there is one limit to compromise, and I say we have not passed it at this point. But there is a limit. I just wanted to point it out because we will get to this at a later point. As I see it, in any event, compromises are always in order except when you have a moral issue. If you have a moral issue, I think it's clear you don't compromise. You don't compromise, for example, about how many people you shove into the ovens. You don't do it to any of them. And in a war, again, you don't compromise with the enemy. You don't shoot to wound him. You either shoot to kill him or you don't shoot at all.

As to moral issues, Mr. Chairman, I say there is no room for compromise, and as to issues that are not moral issues, there is room for compromise. And I say further there are very, very, very few issues that are moral issues. There are some, but this isn't one in my opinion. This is not a moral issue. Therefore, compromise is not wrong as such, and I do not object to a compromise in this situation and furthermore, I am not a bit certain that we would not have come to the compromise, no matter how we started out. We certainly did end up with a compromise in the judiciary article and I voted in favor of it—many people did—even though probably none of us thought it was the best solution in the beginning. Therefore, let us not get excited about the fact that it's a compromise. But let us at the same time also consider the fact that there is something about this particular compromise which does put the convention, in my opinion, in jeopardy of degenerating to something less than a deliberative body, and that is the way the compromise has been reached.

As pointed out by Mr. Marshall, in a compromise you take the opposing party and they hash out whatever compromise is indispensable. And it seems to me that there are 2 conditions precedent before you get to a compromise. First of all, you find out whether a compromise is needed. The second thing you do, if you find out that it is needed, is the parties who are opposing each other and who don't seem to wish to give, negotiate the compromise. It seems to me that both of these principles have been overlooked in this particular compromise and it isn't too late for us to reverse the procedure and get back to the compromise in a proper manner.

The first principle—if you want to dignify it by the name of principle—anyway, the first approach, it seems to me, is to find out whether compromise is needed. How do we know that it is needed? I call to the attention of the delegates that in the judiciary article we found out that it was needed. The way we found out that it was needed was that we found that we couldn't adopt any other provision on the floor. It took us a long time to determine whether or not we could reach a solution. When we determined that we could not, then we knew a compromise was indispensable. We have not undergone that procedure in this case as yet and there is no reason why we could not do so.

The second principle—and I use the word "principle" in a loose sense, not a fundamental principle—the second one is this: if there is to be a compromise, it ought to be negotiated by all the parties involved and not just by some of the parties involved. And also I say that when you apply these principles to a deliberative body such as this convention, you will find that what we did in the judiciary article was the correct approach. The first thing we did was to strike out the section which it seemed was not likely to be satisfactory to anybody or to many people, at least. Then we came back with all varieties of approaches, one after the other, and found out whether the various contending forces could succeed on the merits by debating on the floor. When that failed, then we worked out a compromise. Even at that point, I feel that we didn't do it the very best way. Compromises in all cases, it seems to me, should be based on negotiation among the parties. But at least we negotiate it on the floor by debate.

As to the merits of this issue about election versus appointment, it seems to me that it is very difficult to have any strong view as an abstract matter about whether you should want one or the other. And that's the reason why people are wobbling on this issue. I don't believe that it's really a basic issue. I think that reasonable people can think one way on this subject and reasonable people can think the other way and the same person can think one way one time and another way another time.

If you consider this in the abstract, it isn't something that everyone is bound to agree on. For example, it seems to me that an appointment is not automatically bad. It depends on the circumstances. It is neither good nor bad automatically. But in the particular circumstances we have, there are 2 objections which I raise to it. If these were removed I would take a certainly different view. In fact, I believe I would be in favor of appointment if it were not for these 2 objections, which can be removed. The first one that has been referred to is advice and consent of the senate. Appointment by advice and consent of the senate is all right, provided the senate is not malapportioned. And the reason malapportionment of the senate causes trouble is because advice and consent of such a senate prevents the will of the people from being effectuated. If we did not have a malapportioned senate, I would take a different look at the question of appointment and if we did not require advice and consent I would also take a very different look, and I believe we will have that on the floor at some time and I may be in a position to vote for it at that point.

In addition to the malapportioned senate, there is this other factor too, which is related to it, and that is the erosion of the entire principle of majority rule by election, that is, majority rule by direct vote of the people. Now, in this state we have had a considerable amount of expression of the people of their voice in elections. To the extent that the majority rules in those elections, we have democracy in action. To the extent that we don't have that, we minimize democracy in action. Now, many of the elections that we have at this time have to do with the legislature and the legislature does not now and under the majority proposal that is before the committee will not represent the majority rule. And that means that many of the elections that we have will not turn out in accordance with basic principles of democracy under majority rule. That being the case, there is a case to be made for continuing to elect some officers of the state at large because in most cases there you have the people speaking their voice and the majority ruling. Therefore, as to that general question about appointment versus election, my position is by no means fixed one way or the other. It depends largely on what else we do and specifically what we do in the constitution as to apportionment.

What I am suggesting, Mr. Chairman and delegates, at this point is this: that we follow procedure similar to what we did with the judiciary in this respect, that we strike out the majority report whenever it's in order to do so and take up the minority report amendments and amendments of this type or whatever other type we may have, and find out whether—I would say, for example, that we take up the question of whether they should all be elected, whether they should all be appointed. If that fails, take up the question of what we have before us; some are elected and some are appointed. In order to do this, the first thing we would have to do, I assume, is to vote on the amendment before us. We could vote against this amendment, vote it down, with the understanding that it could be reconsidered later if it was necessary to do so. Mr. Chairman, I point this out simply in the hope that we can put the issue back in the proper perspective in this manner, we can put it back into procedure that will be calm and deliberative and see if we can determine the issue on its merits. I will have to vote against the amendment as it now stands.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Pontiac, Delegate King.

MR. KING: Mr. Chairman and fellow members of the committee, first of all, I would like to state my "going in" position in this matter. I have favored the election of the attorney general and very briefly I'd like to give you my reasons. I feel that the attorney general is not counsel for the governor, but rather counsel for the people. He renders opinions to the executive branch but also to the legislative branch and, unfortunately, now and then he renders opinions to constitutional conventions. He has many functions. He supervises a staff of attorneys at the county level to a degree and he of course writes opinions. Sometimes these opinions are in direct conflict with the decisions of the executive branch. He is really a member of the executive branch and yet he isn't. Perhaps he is almost quasi judicial in his function.

Some years back the attorney general in the state of New York—if memory serves me correctly, at that time I think it was Tom Dewey—indicated to the governor that he might have to make some decisions and expose some corrupt practices and racketeers which perhaps wouldn't meet with the approval of the governor. But he was elected by the people and he had that power, that position, that authority to tell the governor in so many words that he was going to do it anyway, whether the governor liked it or not. I think this is a good situation to have.

With regard to the rest of the administrative board, I personally would like to see them appointed, but unfortunately you can't always have just exactly what you want. Dr. Nord has made a very careful and I think quite accurate analysis of the necessity of compromise, the necessity of negotiation, of getting together and resolving differences. It is seldom indeed that all the truth and all the right and all the angels are on one side.

I can appreciate, from reading this morning's newspapers, that the league of women voters are not satisfied exactly with what appears to be a position that this convention is finding itself in favor of. Of course, I think it's a little bit early yet because I'm not at all sure, even though they appear to be, just what this position is. But the league of women voters is in a unique position and so is the citizens for Michigan, the citizens for constitutional reform. These groups of civic minded people—and my wife is a member of the league of women voters—have the obligation to strive for perfection, for what they believe to be perfection. And sometimes I wish that that were the position that I could take, that I could hold out for exactly what I want on every single issue right down the line. Oh, that would be wonderful. It would be completely irresponsible, but it would be wonderful. But unfortunately my obligation is somewhat different than the obligation of the league of women voters. My obligation is to help write a constitution and as a voice in the wilderness I really can't help write a constitution. I am interested in getting 73 people together on this issue and in that way I am really making a constructive contribution to the writing of this document.

Now let's look at this question: was a deal made? Well, obviously—and I can tell you this from firsthand experience, from the experience of having sat in the Republican meetings—that at no time was there ever, nor is there yet any assurance that 73 people or even anything close to 73 are going to go along with this—are going to go along with the Brake-Durst amendment. I don't know, and I'm just sitting here on pins and needles waiting to find out. But I'll say this: that a majority of the majority party would not necessarily favor this. Now, how could that be? Well, you see what we did, we counted those Democrat votes. We took them into consideration. We were forced into considering those very votes because of a real type of deal which we knew was in the offing which involved some members of one party and most of the members of another party. So those votes were counted. Now, I can't tell you exactly how many. But I suspect that there were about 40 of the 45 of the minority party who would favor the complete election of the ad board, and I don't think that count is any more accurate on the other side of the fence. But these things are all suppositions. They're all considerations. But don't ever think that the vote and the position of every delegate in this room was not considered to the best of the ability of those who were sincerely interested in writing a good document.

Now, there's another group who has this wonderful ability—and I'm not speaking specifically here, but in any such situation as we now find ourselves, there is always another group who can ignore the responsibilities of the position, and that, of course, would be an irresponsible minority. I hope that we don't have such a situation here.

I should like to quote again from President Kennedy's book written when he was a senator, a Pulitzer prize winner, where he says,

> Some of my colleagues who are criticized today for lack of forthright principles and who are looked upon with scornful eyes as compromising "politicians" are simply engaged in the fine art of conciliating, balancing and interpreting the forces and factions of public opinion and are essential to keeping our nation united and enabling our government to function.

Now, that's a clear statement of what is required by statesmen. You are not a statesman when you just hold out for your position against all the world. And frankly, you're not a statesman when you get up and say, "If I don't have my way, I'm going to go out and campaign against this constitution." Why, that's like a little boy who wants his ball and bat because he can't play his favorite position in left field.

So I repeat: all the votes were considered. Make no mistake about that. We still don't know how this thing is coming out. And I suggest that you vote as you please and sit back and watch where the chips fall. But I, for one, will never find myself in the unbecoming position of apologizing for trying to write the best possible constitution which I think we can possibly write, and as far as I'm concerned, that means being realistic and taking into consideration all of the factors in arriving at a sound conclusion.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, Mr. Marshall a few moments ago mentioned that he had not been consulted about any compromises. I cannot understand how he can get up before all of us and say that, because I can recall in the committee on executive branch where he said that nothing could be worked out there until the reapportionment problem was settled.

Also, I think if Mr. Madar could find his high principles that he campaigned on, nothing is going to stop him in this convention from making an amendment to the committee proposal to appoint the entire ad board and eliminate the advice and consent of the senate.

Further, Judge Leibrand made the statement that he was in favor of an entire elective ad board and pointed out some election statistics from 1960. However, he did fail to mention that the secretary of state candidate was a very popular nominee for the governor's office in the primary. This could account for the number of votes he had that were over and above a normal election. Further, Judge Leibrand did not go on down the ad board and let us know how scarce the polls reflect the elections for the other members of the ad board.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from St. Joseph, Delegate Upton.

MR. UPTON: It sounds like the "young radicals" are having the floor this morning, brother King and brother Sterrett preceding me. Mr. Chairman and members, I wish to discuss for a few minutes the remarks made by the distinguished delegate from Taylor, and I hope that he is not serious in his remarks about campaigning against our constitutional convention's efforts on one issue and one issue alone. I will go out and work for this constitution, for I feel that much has been done already to make us proud of the work accomplished by the delegates.

Dr. Nord talked very seriously about the need for compromises. I agree with much that he had to say. But I think when we dealt with this problem, we already knew where 45 votes stood, and these votes were not to be changed. There was a difference of opinion among the other 99 delegates, and there was an attempt to come to some agreement as to how we could arrive at a solution that would be acceptable to 73 delegates.

I personally was again not a part of this program and I am not sure in my own mind whether I go along completely with it. But as far as appointing the treasurer is concerned, I feel this is a very important step to take in our state government, for we will know that our financial crises are in the minds of all of us as citizens of Michigan, and our state treasurer must be one who is reporting directly to the chief executive, in my opinion, for the chief executive is the one who is responsible for outlining the budget of our state and determining where the money is going to be allocated — of course, with the advice of our legislature, with the consent of our legislature. So our state treasurer, in my mind, should be appointed. He shouldn't be necessarily a true politician. He should be a man who can deal with the higher finances of the state. And when we spend $1,200,000,000 each year in our state — $5 million every day — we should have a man that is the best qualified in the financial world to take care of our finances for our state.

Therefore, I believe, Mr. Marshall, that there is some sense, perhaps, in appointing the treasurer, and if we have to, elect the other members of the ad board. Therefore, I would suggest that this convention and this committee think very seriously about this amendment and the importance to our future citizens as to how we can best administer our state government. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Grand Rapids, Delegate Tubbs.

MR. TUBBS: Mr. Chairman, I think practically all of the speech that I might have made has been made by others. I was elected to this convention on the Republican ticket and personally I resent having people getting on the floor of the convention and maligning me as a member of a party. We were told yesterday that we are the handmaidens of big business. We are this, that, and the other thing. I would remind the delegates that you do not answer a question by removing the question mark nor by attacking the questioner, and when he brings personalities into his arguments in favor of or against any proposition in this constitution, he is merely showing his own weakness.

We have heard much this morning and yesterday about compromise. It is a word that I do not particularly like. I think, however, that an expression which comes closest to our situation is found in the Federalist Papers and this particular one was written by Hamilton about a century and 3 quarters ago. I hope I can read it well enough from my little notebook so that I can get it verbatim:

> I never expect to see a perfect work from imperfect men. The result of the deliberations of all collective bodies must necessarily be a compound as well of the fears and prejudices as of the good sense and resolution of the individuals of whom they are composed.

I agree with Dr. Nord that we should battle out the sections of this constitution on this floor without reference to personalities. We are here dealing with principles and at this point I would like to assure some of the brethren of the other party that I am a republican in principle, and I spell that word with a small "r". Now, perhaps a lot of people don't know the difference between a republican and a democrat, both of which are spelled with small letters. A democrat is one who thinks he is elected by the people for the purpose of doing what the people want him to do. A republican is one who is elected by the people to do the things he thinks ought to be done. Now, that's the theory on which I came to this convention. And when they talk of our democratic forefathers, I would like to remind these gentlemen that not a single person in the national government was elected by the people except the members of the house of representatives. And it wasn't until within the memory of some of the women in this convention that women were permitted to vote. How long ago did we get this democratic government? Section 4, article IV of the Constitution of the United States guarantees to every state a republican form of government, and that's what I'm here to vote on.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Pleasant Ridge, Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Chairman, ladies and gentlemen of the committee, I think that we have now started to strike a tone that this convention needs in deliberation on this particular subject and it has just been expressed by the speaker who just finished. I would be hopeful that I can maintain the few short words that I have to say in that vein and that the speakers will try to do likewise because we are here, each and every one of us, to do the very finest job that we have within our capabilities to do for all of the people of Michigan and not for any one segment of the people or any one economic group and so forth.

The only remarks that I have to make in regard to this amendment are along the lines of the importance of what we are talking about. Every detail of this convention is important. But when we single out any 1 item or any 2 items and recite them as being the most important issues that are going to confront the convention, we must recognize that we're doing this within the frame of reference that we ourselves are thinking and that this is not necessarily true for the bulk of the people of Michigan or even for the bulk of the people of this convention. Let's put things, just for a moment then, in their proper perspective. If this convention was to adjourn today, we would have made significant and substantial improvements in every phase of the constitution with which we have dealt in the committee of the whole. We've made improvements in the area of civil rights. We've made substantial improvements through the committee's work on education. Certainly, the improvements in the finance and taxation articles of our constitution are things that we can be proud of. Even though they may not have answered the needs of everyone in this convention, they are significant in their nature. The same thing. I am certain is true for the committee on local government, one which is perhaps a little bit closer to my heart than others.

Now we are engaged in debate on the issues that have come to us from the executive committee and we have tried to narrow down their work to the discussion and to place the emphasis on their work just on the discussion which is before us. And I think that this is doing them an injustice, doing ourselves an injustice and doing the people of the state of Michigan an injustice. Because if we look at what this executive committee has proposed to us as their recommendations for the future of this state in these particular areas, we will find that there have not been minor improvements in the executive branch of government, but there have been some absolutely startling, substantial and exciting improvements either contemplated or already adopted by us in the committee of the whole. In many of these committee reports and the action that we have taken and are about to take, we will find within those actions enough improvements to more than pay for the entire cost of this convention in the first year after the —

MR. MARSHALL: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. MARSHALL: Excuse me, Delegate Elliott. I'm sorry I have to rise to a point of order. I don't believe that Delegate Elliott is speaking on the amendment. I have no objection if he desires to make a speech —

CHAIRMAN MILLARD: Your point is well taken. Mr. Elliott, confine yourself —

MR. A. G. ELLIOTT: Thank you very much.

CHAIRMAN MILLARD: The Chair will take that into consideration as to the rest of the speakers.

MR. A. G. ELLIOTT: If you are able to do that, then what I've said will have had some value. (laughter) May I suggest to Mr. Marshall, inasmuch as he raised the point of order and I will now speak directly to this amendment, the one which amends the minority report amendment, that there has been much talk of compromise which I think is not to the benefit of the convention; that we are really trying here on this convention floor, by debate, to reach an agreement between opposing views; that to do that you must find some middle ground, one which will more properly recognize the points of view of 7,800,000 people, and not anything less than that; and in that operation that you rarely, if ever, achieve what you as an individual feel is the complete answer to any particular problem.

Now, if we were to subscribe to the amendment of the minority, and only to his amendment, I would like to ask you to look at the position that he espouses in the election of these various officers of the executive branch of government. And now I would like to ask you, as delegates in this convention, to review in your mind the statements that have been made by nearly every student of government who has spoken on this subject. And remember that, almost without exception, they have spoken against this amendment. And I am wondering as I stand here what position those units of our society who have been active in the espousal of this convention, such as the league of women voters and all others who have been vitally interested, would say if the position that Mr. Marshall has presented would prevail.

I personally feel that the Durst-Brake amendment is one which will give the members of the minority here — is one which will give to the state of Michigan — a much more effective, efficient executive branch of government, one which will give to the people of the state of Michigan a much more direct control upon government, and it will make its officials much more responsive. And this is what I came here to do and I am very pleased to support the amendment.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Balcer.

MR. BALCER: Mr. Chairman, ladies and gentlemen of the committee, I haven't said much but I've been thinking a lot. (laughter) I've got to a point where I have to get up and say at least a few words, and my questions will be directed to Mr. Durst. Mr. Durst, you studied, you told us, and you believe that we have a good appointive system in Michigan, and we should have. I also have studied at the University of Michigan and my views are a little opposite to yours. What would happen if you appointed a governor instead of electing him?

CHAIRMAN MILLARD: Mr. Durst, do you care to answer that?

MR. DURST: The only answer I can give you, Mr. Balcer, is that Dr. Pollock never suggested we appoint the governor, so I never considered it. (laughter)

MR. BALCER: But if you did, why, you'd go back to a territory and then you'd have to have an enabling act to put Michigan back in the union.

MR. DURST: I will concede that, Mr. Balcer.

MR. BALCER: That's right. All right. Now, why do you object to the people having more power?

MR. DURST: I don't object to the people having more power. I will say this — and I want it made perfectly clear — if I really believed that the people of this state made an honest decision and a capable decision on who were to be the members of this ad board; would at each election consider the qualifications of every candidate and go to the polls with the idea of making a selection as to which man could do the best job, then I would say it was worthwhile. But I am convinced that at least when the people who live in my territory go to the polls, Mr. Balcer, the great majority of them mark one place on the ballot, which is a straight Republican ticket, without any consideration as to the merits or the abilities of the various people that are running for those offices. And to the extent that they do this, they are not exercising any judgment or any concept of democracy as far as the election of these persons are concerned. Now, this isn't so bad. Miss Hart here behind me makes the comment many times that if you're going to appoint these officials, let's appoint our legislators. Many of the people don't know who their legislators are either.

I might say this: that by electing these people you set up a multiple headed executive department, with each one of these multiple heads conflicting with the authority of the governor, therefore making the administration of the executive department of this state less efficient than it would be if they were all appointed by the governor. Now, against this efficiency is the desire of the people to have democracy. As I say, if I really thought the people were getting something out of this process, then I would say that we should elect them and forget it. But, when you come to legislators — maybe they don't know, but you can't let anybody appoint the legislators. This is a matter of separation of powers. The legislature is there as sort of a watchdog. It is another component of government to the executive branch. I don't think the 2 issues are comparable in any way whatsoever.

MR. BALCER: Mr. Chairman, Mr. Durst, I know that both parties vote straight tickets. Would you say that they come around and hand you out posters that say: vote straight this or vote straight this? Now, who is more ignorant than the other?

MR. DURST: I am not saying here that any party is more ignorant than the other. I said that in my area the Republicans do this. I am convinced that in other areas Democrats do it. Democrats do it in my area too. They're both equally guilty of this sin, if it is one.

MR. BALCER: Mr. Chairman, Mr. Durst, do you insist that the people don't know what they're voting for?

MR. DURST: I believe a great majority of the people don't. Sure, there are people who are vitally interested in this and make an intelligent choice.

MR. BALCER: I give the people of Michigan credit that they know how to vote.

MR. DURST: That's the dispute between us, Mr. Balcer.

MR. BALCER: All right. I haven't anything more but I think that the elective officials should be elected by the people. Then the final thing that I want to mention to the delegates of of the convention is, ladies and gentlemen of the committee, I think we should have less party politics and more Americanism and that's what this convention needs is more Americanism. Thank you. (applause)

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Bloomfield Hills, Delegate Romney.

MR. ROMNEY: Mr. Chairman and fellow delegates, I came to this convention prepared to take final positions based on our deliberations and the overall view of what is in the state's best interests, and I have not changed my viewpoint in this respect one iota. I came to this convention only with "going in" positions. I have undertaken to arrive at my votes on the basis of the committee action and the discussion here on the floor and I expect to continue to do so.

Now, on this particular matter, I have not changed my personal viewpoint. I think it would be better to appoint all the members of the ad board. I think that electing some and appointing others is not as good. I believe that a proper organization of the administrative and executive branch of the state government would call for the election of those who carry the primary responsibility. I believe sound organization requires authority commensurate with responsibility. I have heard Mr. Marshall use that principle in the discussion in past days, as well as others. I think that the dispersion of executive responsibility defeats the proper limitation of governmental power through checks and balances. And we have already indicated our intention to provide in this constitution for the election of the governor, lieutenant governor, and whatever ad board members we elect, as well as the members of the board of education, the members of the legislature and the members of the supreme court. We have thus put in the hands of the people the selection of the principal officers in the 4 branches of government that we are establishing under this state constitution. I think the situation we face under this amendment is perfectly clear.

Mr. Marshall's minority report amendment and Mr. Brake's views, as he expressed them — he indicated that he had not changed his views with respect to the election of all of these officers — makes it clear that a coalition of their supporters would have resulted in the election of all these officials. Now, this is a compromise. Mr. Nord has had a good deal to say about compromise. Unfortunately, Mr. Nord's words do not square with his practice in one particular respect: the key problem of compromise insofar as one of the important areas before this convention was in the apportionment committee, and here Mr. Nord and his Democratic associates had the opportunity to support a minority Republican position that would have provided for a house on a straight population basis. When this matter was before the committee, Mr. Nord and his associates abstained, and that abstention prevented —

CHAIRMAN MILLARD: Mr. Romney, we're not on the legislature —

MR. ROMNEY: We're discussing the question of compromise on this matter and its application in this convention. And it ill behooves those who have failed to support compromises that would improve the work of this convention to criticize those who have. And that's my point in making this point. Now, the heroic all or nothing stand in this convention, without 73 votes, means nothing. And I think that's a very important thing that everyone should keep in mind.

Reference has been made to the league of women voters' position on this matter. I have in my hand a statement of the position of the league of women voters on this matter, as well as others. On the question of the executive branch of government they list 4 items that they say they would like to see written into this constitution. If you score those 4 items, including this one, the indication is that we will write in 80 per cent of what they recommend. If you take all of the recommendations, including the one on this, the score would be 87.9 per cent.

MR. FORD: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. FORD: The question on the floor is the amendment proposed by Mr. Brake and Mr. Durst and the speaker is not talking about and has not yet touched upon this amendment.

CHAIRMAN MILLARD: The speaker will confine himself to the amendment, please.

MR. ROMNEY: It's quite correct that the speaker has made some comments upon statements made by other speakers in the course of the discussion of this amendment but I think it is important that these comments be made to clarify the record of this debate.

Now, as far as I am concerned, I am supporting this amendment. I am supporting this amendment for a very simple reason. I believe that if you face total defeat, it's better to secure partial victory. And this represents a big step forward in improving the organization of the administrative branch of the executive branch of the state government. It does not defeat the checks and balances of government. It increases their effectiveness, and that's why I'm for this amendment.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Jackson, Delegate Karn. You pass?

MR. KARN: Anything I'd say would be repetitious.

CHAIRMAN MILLARD: Delegate Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, in viewing the question of appointment versus election, I think we have to keep in mind why we developed this tradition here in the state of Michigan, and then we have to view whether the adoption of this tradition is necessary today to be changed in the light of new considerations and changes in our society.

When our constitution was written — and I now refer to the federal Constitution of 1787 — it did not provide for government by the people because the people who attended that convention did not believe that the people were capable of making sound independent judgments. So that kind of democracy that we know of today started in part back then but it developed in our country over a period of years and it developed through the time that Jefferson was president, and Madison, and Monroe, and it came to some sort of point of understanding during the time that Jackson was the president of the United States. And so when our constitution was rewritten in the year 1850, its provisions dealing with the election rather than the appointment of the administrative heads was essentially in the Jacksonian tradition.

Now, what was this tradition that some of these "young radicals" are attempting to usurp today? A tradition which has in its basic form a trust in the people and a faith in the people, a tradition which did not want to concentrate the total powers of the executive branch of government in a single executive. The people in 1850 knew what they were doing. They did not want a strong governor. The people in 1908 who attended the convention and reaffirmed the position that was taken in 1850 — and by the way, those who attended the convention in 1908 were predominantly those Republicans in this state who wanted to reaffirm a weak executive —

reaffirmed the position of the 1850 constitution. They did not want a strong governor, a strong executive and, furthermore, they reaffirmed their faith in democracy by permitting the people to exercise their elective franchise in the selection of those people who have the various administrative branches of government. It is not a question here of whether these branches of government determine policy or actually run the government. The question that I suggest to you here is whether we have faith in people and whether we have faith in the democracy which this country symbolizes to the entire world.

In 1850 we did not have a very broad educational system. In fact, people didn't even go to high school in those days. And yet we were willing, in 1850, to trust the people to elect their officials. In 1908, education had not yet reached the point that it has today and we were again willing to trust the people. Are we now to give a slap in the face to our educational system? Are we now to take a slap at democracy and the people who have made this possible, by saying that the people today cannot exercise the good judgment that they were able to exercise for the past 100 years in the selection of people to sit on the administrative board? I don't think we can say to the world that Michigan, after having experienced democracy in this form, is now going back to an inefficient administrative setup that was conjured up by students of political science, not by people who have actually been in the exercise of this government over the past years. I suggest to you that the decision we came to in 1850 did not come because we had political scientists advising us on what makes efficient government. I suggest that our fundamental documents were not written by people who were political scientists. They were written by people who were in government and people who were close to the people. Jefferson gave us government for the people. Jackson gave us government by the people. Lincoln gave us government of the people. Now we are facing a decision which really does take away the right of the people to elect the various administrative heads. And it's been said very clearly by one of the proponents of this amendment to which I'm directing my comments, that he doesn't trust the people in his district. He says they vote Republican. Now I don't care whether the people vote one party or another. This isn't a partisan thing as far as I'm concerned. It doesn't matter whether the people vote a straight ticket or a split ticket. It does matter, though, whether we trust the people who sent us here. And I suggest to you that if we are forgetting that the people who sent us here trusted us, we ought not to forget that we should trust them in turn. And I don't feel the same way as that delegate felt, that he couldn't trust the people in his district, because I do trust the people in my district, not because they selected me, but because I think we ought to trust the people —

MR. PLANK: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. PLANK: The delegate is not talking on the amendment. If you are going to direct one member of one area to talk on it, then you should direct them all, please.

CHAIRMAN MILLARD: The speaker will confine himself to the Brake amendment.

MR. FAXON: Mr. Chairman, I have just directed my comments to a remark made by one of the proponents.

CHAIRMAN MILLARD: You will confine yourself to the Brake amendment.

MR. FAXON: I am doing that, Mr. Chairman. I am dealing with a point which is elective, and this is the question here. Now, I am going to conclude. I don't think that it demeans this convention to become picayunish in terms of what remarks are made by one delegate or another, and I don't think that a justification for a point should be because it's been done for one, it should be done for the other. I am directing my comments to the amendment because we are concerned here with whether we are going to continue a tradition in this state which has been in existence for 112 years. As a conservative, I am concerned whether we make any radical departures such as is suggested. I think this needs discussion and the fullest kind that we can give it.

I am going to conclude this now by reaffirming the principles that were inherent in the people who wrote up our constitution 100 years ago, who reaffirmed faith in the democracy which we have here, and faith in the educational system to provide for the people of this state a means by which they will learn to know their government, learn to recognize those people who occupy the head positions in that government and learn to make intelligent judgment as to which people should or should not be elected. I think we in Michigan have had a good experience with democratic government, and I think the Republican party in Michigan has affirmed this position over the years, a position of faith and trust in the people to make these decisions. And I think the election of administrative heads of government is a basic concept in our democracy here in this state, is a basic principle in our entire society and is one which would be well worth our consideration before we are going to make any changes in it. I urge the rejection of the amendment and the affirmation of our faith in the democratic process, our faith in the people of this state and our faith in the traditions and conservative principles that this state has been guided by over the past 125 years.

CHAIRMAN MILLARD: The Chair has had some curiosity expressed as to the number of speakers. There are now 14 on the list to be heard. Mr. Martin.

MR. MARTIN: Obviously the flow of oratory is going to go on for quite awhile here. I think we are beginning to get a little hungry and I move that the committee do now rise.

CHAIRMAN MILLARD: The question is on Mr. Martin's motion that the committee do now rise. All in favor say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, Vice President Hutchinson assumed the Chair.]

VICE PRESIDENT HUTCHINSON: The delegate from Genesee, Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had matters under consideration of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71**, considered an amendment thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

VICE PRESIDENT HUTCHINSON: Any announcements? Will the convention please be in order. Will the gallery please respect the decorum of this convention.

SECRETARY CHASE: The secretary would like to request the delegates, as promptly as possible, to turn in the blanks for the furnishing of the necessary biographical material. They were due last Friday and about half of them have been received.

We have a request from Mr. Barthwell to be excused from the afternoon session today because of personal business.

VICE PRESIDENT HUTCHINSON: Without objection, the request is granted.

What is the pleasure of the convention? The Chair recognizes Mr. Shackleton.

MR. SHACKLETON: Mr. President, I move the convention recess until 2:00 p.m.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of the gentleman to recess. All those in favor will say aye. Opposed will say no.

The motion prevails. The convention stands recessed until 2:00 o'clock this afternoon.

[Whereupon, at 11:35 o'clock a.m., the convention recessed; and at 2:00 o'clock p.m., reconvened.]

PRESIDENT NISBET: The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. At the close we were debating the Brake amendment to the minority report amendment to **Committee Proposal 71.**

The Chair will now recognize Delegate Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I might start with a quotation from President Cleveland: "When faced with a fact and not a theory," nothing is easier for me to compromise on than this provision here inasmuch as over the years I've noticed it wouldn't make much difference whether the governor appointed those men directly or whether he decides at the convention who they eventually will be. I think the people of the state of Michigan probably feel much the same way. It's true that there are exceptions, but they're rare. It's true that some of the delegates in this convention happened to be executive elective officers at a time when the governor happened to be of another party. But over the years, most of the time it isn't much of a question whether these men are elected by the people after they have been nominated in a convention controlled by the governor or the candidate for governor or whether you would appoint them directly. But remember that appointing these men directly is not all that you might think it might be. President Jackson had his kitchen cabinet, Theodore Roosevelt had his tennis cabinet, and even Abraham Lincoln had members of the cabinet whom he never would have chosen except for the exigencies of the situation which made it almost necessary for him to do it. So I would support the Brake amendment on the basis that, so far as I am concerned, it doesn't make much difference whichever way you do it. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Taylor, Delegate Ford.

MR. FORD: Mr. Chairman, members of the committee, my understanding is that we are now talking specifically about an amendment proposed by Mr. Brake and Mr. Durst, the direct effect of which would be to make a decision at this time that we would not elect on a statewide basis the state treasurer, auditor general and highway commissioner, as well as the superintendent of public instruction. The result would be, as I see it, in adopting this amendment — if the minority report amendment were ultimately adopted — that we would provide for the election of the secretary of state and the attorney general, and I can only assume, since neither of the proponents of the amendment said so this morning, that they had in mind some other method, that is, other than the election on a statewide basis by the people, of selection for the other 4 present state officers.

Mr. Brake, I think unfairly to a certain extent, has been identified as the person responsible for the position we find ourselves in now and have been in ever since last Friday morning. I told Mr. Brake a little while ago that I hope he understood that when I talk of him, I talk of him as a symbol of a point of view here and I hope that we can avoid picking on him constantly. I am sure that with his many years in politics he is not at all upset by the attacks, but I think that we ought to spread some of the responsibility around here so that we can have some identification with the people truly responsible for the posture we're in. Mr. Brake urges on behalf of the amendment that we adopt it for 1 reason, and if any other reason was given by either he or Mr. Durst, it passed me and I missed it. And the 1 reason is that although he, from the sound of his presentation, did not personally approve of the result of his amendment, the amendment is dictated by a compromise and he urges the adoption of the amendment, not because it's the best way to select the administrative board or the best way not to select the administrative board, but because it is a method arrived at pursuant to a compromise.

Since the proponents of the amendment rely so strongly and almost exclusively on the support of their amendment by the magic of the word "compromise", I borrowed from one of my seat mates Webster's Collegiate Dictionary, calling upon 5½ months' experience to be able to find the word "compromise" therein. Webster defines a compromise as "A settlement by arbitration or by consent reached by mutual concessions." I think the word "concession" is very important. Another way of putting it is: "a commital to something derogatory, hazardous —"

MR. GUST: Mr. Chairman, point of order. Does it matter how we got to this present proposal or Brake amendment before us, whether we compromised or picked it out of a hat? It's here for a vote. If Mr. Ford wants to talk to it, let's talk to it so we can get to the voting. I raise this as a point of order, that it's immaterial how we arrived at the Brake amendment to the minority amendment.

CHAIRMAN MILLARD: Mr. Ford, will you confine yourself to the amendment, please.

MR. FORD: Continuing: "a committal to something derogatory, hazardous or objectionable; a prejudicial concession; a surrender, as a compromise of character." This is not my definition of Mr. Brake's words in support of his amendment. This is Mr. Webster's definition.

Now, where is the compromise in this amendment that urges its adoption or persuades us? The principal amendment is that we elect 6 people on a statewide basis. The amendment to it is that we elect 2. Is the compromise in that we elect 4 less than the principal amendment? And if so, what is the consideration for the failure to elect the 4? Neither Mr. Brake nor Mr. Durst told us this morning what the elements of compromise are that take these 4 people out of the elective process. It has been suggested to us by other speakers on the floor this morning that there were a number of considerations involved, apparently to most of us, considerations that lie completely outside of the scope of the executive department and deal with the subject matter of the apportionment of the legislature, the question of the tax structure of the state, and questions involving all of the other major issues that have come before this convention and are yet to come before the convention.

Now, the question that comes to my mind is this: do you start on the assumption that the people should select everyone in their government that they might reasonably be able to select and should only have imposed upon them those appointed people — or people picked by a lottery, or however you do it other than electing them — those people that you determine from experience should be picked in some other manner? Or do you start from the point of view that everybody should be appointed — as it once was in the government that preceded our democracy — and work slowly, one by one, toward adding people to the elective process?

Starting off on the assumption — as the principal amendment does here — that these 6 people should be elected, we're still waiting for someone to tell us why these particular 4 should not be elected, why all 6 of them shouldn't be elected for that matter. If we're not talking about a compromise that incorporates into it considerations other than the proper way to make up an administrative board, and other than the question whether this is going to be an effective administrative board that is going to serve all of the people of the state and strengthen or supplement the powers of the governor, then there doesn't seem to be much point in simply deciding that we'll pick 2 one way and 2 another way and 2 another way so that we may give everybody something in the convention without actually facing up to the responsibility of looking at the offices and voting our own individual conscience on how we think these people should be selected.

I submit that to vote for this amendment solely for the reason urged upon us, that this would accomplish a compromise between 2 opposite points of view. Without having some sound reason for using a method other than election by the people for the selection of these officers would be ducking the responsibility of every single member of this delegation. We all have individual views on how these people should be selected. Some of us have changed our views since the beginning of the convention, and I think that this is as it should be, or else we have wasted all of our time here for the last 5½ months. If all of us are still voting with the same prejudices that we brought here, without any consideration for other points of view that have been urged on us, then we must reject the compromise, because at no time has anyone at any stage in this constitution — Mrs. Judd or Mr. Karn apparently have something more important than what I have to say; if they want to take the microphone — no one at any time in this convention has presented to us a proposal, either from a delegate proposal or from a committee proposal or from any combination of the 2 that would result in the same situation that the Brake amendment would bring about now. I ask every one of you, in voting on the Brake amendment, to examine for yourselves the real reason why we are urged to do what we are urged to do in the adoption of the amendment at this point and find out whether we are really voting for something that people believe is the right way to do it or whether we are voting for something that is going to produce for someone support from a group that they might not have had before, or some other consideration outside the principal subject matter of this section of the constitution.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Birmingham, Delegate Van Dusen.

MR. VAN DUSEN: Mr. Chairman, I had intended to pass, but in view of Mr. Ford's remarks, I think perhaps what I have to say may be particularly pertinent at this point. The provisions of the Brake-Durst amendment which I intend to support are not, in my judgment, ideal. I would have preferred to see the entire administrative board appointed by the governor with the advice and consent of the senate. However, that appeared to be unattainable, and one important reason why it appeared to be unattainable was that on February 16 of this year, 45 members of this convention, describing themselves as "We, the delegates of the Democratic party of the Michigan Constitutional Convention of 1961-62, subscribe to a declaration of principles, . . ." one important feature of which was the continued election of all of the members of the administrative board. Consequently, confronted with that prospect, it became necessary for those of us who believed in an appointive administrative board to seek to retain as much of that objective as was possible. And embodied within the Brake-Durst amendment appears to be as much of the appointive administrative board as is attainable in the light of the declaration of principles subscribed to by the Democratic delegates on February 16.

Now, I think that the Brake-Durst amendment embodies some significant improvements in the method of selection of members of the administrative board over the present elective method. I spoke yesterday about the weaknesses of the elective method and I will not repeat those remarks at this point. I would simply point out, however, that the governor can make a far more intelligent selection of a highly qualified man to serve as state treasurer than can the electorate forced to make that choice at a time when they are voting upon not only the governor and lieutenant governor, but many other officials. I firmly believe that the legislature can make a more intelligent selection of the auditor general than can the electorate under our present circumstances. I firmly believe that a board of education can make a more intelligent selection of a highly qualified state superintendent of public instruction than can be made under the present method, and that we will obtain by this means far better men for these posts of important responsibility in our state government than we do by the present method. I further believe, though it is not before us at this point, that a highway commission charged with the responsibility of selecting the best qualified man to operate the highway department can make a better selection of a highway commissioner than can the electorate, very few of whom participate proportionately in the selection as at present.

Therefore, while I fully recognize that the method of selection of these officials embodied in the Brake-Durst amendment is not what I conceive to be the ideal, it is a sufficient improvement over what we have at present and, in my judgment, the best attainable improvement which we can reach at present, so that I propose to support it.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, there were several statements made concerning this amendment on the floor of the convention this morning which I'd like to attempt to answer at this time.

Delegate King, I believe, this morning said that he was interested in coming up with a compromise — is Delegate King on the floor? — that would receive the votes of 73 people in this convention, realizing, of course, that that is the required number that it takes to pass any final proposal in the convention, and he was interested in writing a constitution that would get the required 73 votes. I too am interested in this. But Delegate King did not add to his statement and I got the impression that he wouldn't particularly care what type of a document it was, just so he could get 73 votes for it, whether it was good or bad. I would ask Delegate King at this time whether that was his intent.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, Mr. Marshall, it was neither my intent nor was it what I said.

MR. MARSHALL: Then I believe, Delegate King, that you talked about the irresponsible minority. I don't think that this is a charge that can stand. I think there is very definitely a difference of opinion —

MR. A. G. ELLIOTT: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. A. G. ELLIOTT: Is Mr. Marshall talking to the amendment or something other than the amendment?

CHAIRMAN MILLARD: Mr. Marshall should confine himself to the amendment.

MR. MARSHALL: For the benefit of the Chair and Mr. Elliott, the door was opened by the remarks that were permitted on the floor and I think that —

CHAIRMAN MILLARD: Mr. Marshall, this morning you raised a point of order that they were not talking to the amendment and the Chair said that hereafter he would hold the people to that. And so the Chair wishes you would confine yourself to the amendment, please.

MR. NORD: Mr. Chairman, may I address a parliamentary inquiry to the Chair?

CHAIRMAN MILLARD: Yes.

MR. NORD: There may be a very simple answer. I wish I knew what the answer is, though. This is the question: when a delegate has the floor and is speaking, under what circumstances can somebody interrupt and raise a point of order? I'm not saying that one person or another has done it, but can you interrupt, or must you wait, or how do you work that?

CHAIRMAN MILLARD: You can raise a point of order at any time, Dr. Nord.

MR. NORD: You can interrupt the speaker?

CHAIRMAN MILLARD: Because that's when the point of order is being raised — on something the speaker is saying.

MR. NORD: May I ask also about a personal privilege? May you interrupt at the same time, or do you wait your turn, or what?

CHAIRMAN MILLARD: If it is a true question of personal privilege as defined in the rules, yes.

MR. NORD: Thank you, Mr. Chairman.

MR. MARSHALL: Well, I will pass over then the statements of Delegate King and talk on the amendment. I might later on desire to take the floor on a point of personal privilege to answer the charge.

Now, obviously, in adopting this amendment, I believe Delegate King referred to changing the rule; that the present method of electing state officials was not proper and that we now change the rules. He talked about some of us who are supporting the minority amendment and opposing this amendment.

MR. KING: Mr. Chairman, on a point of personal privilege, could I ask Mr. Marshall not to refer to me by name unless he wants to quote me accurately? I said none of those things. I accused no one of being —

CHAIRMAN MILLARD: Address your point of order to the Chair, please.

MR. KING: It's a matter of personal privilege. I do not mind being quoted if the gentleman would care to quote me accurately.

CHAIRMAN MILLARD: All right.

MR. MARSHALL: Can I ask you a question? Delegate King —

CHAIRMAN MILLARD: Just a moment, Mr. Marshall. The secretary will read what personal privilege is, so you will all understand it.

SECRETARY CHASE: This is from section 220 of Mason's Manual:

> Questions which relate to the body or to its members in such a manner as to affect proper functioning of the body are questions of privilege. . . . They relate to the rights and privileges of the body or to any of its members in their official capacity or to the comfort and convenience of the body or its members in the performance of their official duties.
>
> Questions of privilege are of 2 types. They may relate to the privilege of the entire body which are known as questions of privilege of the house and questions of privilege which relate to a member which are known as questions of personal privilege.

Questions of personal privilege.

> Sec. 222. Questions affecting the rights, reputation and conduct of members of the body in their representative capacity are questions of personal privilege. Questions of privilege of a member must relate to a person as a member of the body or relate to charges against his character which would, if true, incapacitate him from membership, and he is not entitled to the floor on a question of personal privilege unless the subject which he proposes to present relates to him in his representative capacity.

MR. BENTLEY: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, am I correct in believing that when a member desires the floor on a point of personal privilege, he is first of all required to state the point of personal privilege and await a ruling by the Chair as to whether or not personal privilege is involved before proceeding to speak on it?

CHAIRMAN MILLARD: That is correct. Proceed, Mr. Marshall.

MR. MARSHALL: I'll agree with the ruling of the Chair. I think that Delegate King's point of order was well taken. It probably does relate to his comfort because he doesn't want to hear the remarks. (laughter)

I want to point out that in this amendment — I don't think that this can be emphasized too strongly — that you are not strengthening the executive; you are weakening the executive considerably. In effect, what you are doing, you are establishing a troika, with one part of the ad board controlled by the legislature or some board or commission that is going to be set up, and the governor sitting in the executive office. You have 3 different things here that you are talking about and you are not strengthening the hand of the governor at all. I don't see how you strengthen the hand of the governor by this amendment, by giving him the authority to appoint the treasurer and having the other appointments made by a commission, then having a couple of state officials elected. I don't see how anybody could agree that this is a better system than the election of the state officials and, as I said this morning, we ought to do either one or the other. We ought to elect all the officials or we ought to appoint all of them. I am not in favor of the Brake-Durst amendment. Instead of Brake-Durst, we might refer to this amendment as the "Brake and burst" amendment.

Delegate Romney this morning made a statement on this amendment which I think makes his position rather clear. He was prepared to take final position on this amendment, that he still favored a strong executive; that he had not changed his personal viewpoints in this matter, even in face of the deal. He thought that going part way on this amendment and electing some of them and having others appointed was better than the present system. If I may, and if the delegate cares to answer, I would like to at this time ask a question of the delegate from Bloomfield Hills.

CHAIRMAN MILLARD: He is not on the floor, Mr. Marshall.

MR. MARSHALL: I'll catch him when he flies in and out, and ask him.

Mr. Van Dusen made a statement a moment ago in supporting this amendment, which shocked me somewhat, because if I understood his remarks correctly, they were along the lines that the people could not be trusted in the matter of electing their state officials, or that you could get better state officials by the process of having them appointed by the governor or by some board or commission, and he particularly talked about the highway commissioner — that very few people participated in the election of the highway commissioner and that the vote for the highway commissioner was a very light vote, or something to this effect. I may not have the remarks exactly verbatim as he spoke them. But I would only point out that in the last election I think that people did know — and I use this as an example in opposing this amendment — that the people did know, because the present highway commissioner received the largest vote that has ever been cast for a highway commissioner in this state. I think that if you would check — and I've heard this argument used: that people do not know who they're voting for when they vote for their state officials; that they only vote for the governor, and the rest of the people go along for the ride. I can only cite you the returns of the last election, that I think belies this argument, because the governor of this state was elected by only slightly over 40,000 votes, while the secretary of state received a plurality of better than 177,000. The attorney general's margin was somewhere around between 150,000 and 160,000. So the people did not just go to the polls to vote for a governor and then cast a ballot for the whole ad board. The votes were split. I think that the vote that the secretary of state received demonstrates that they were voting for Jim Hare for secretary of state, and not voting for Jim Hare because they were voting for Governor Swainson. I just can't understand — and I'll have to admit that I'm awfully thick headed — but I cannot understand the rationale or the logic behind this deal that was worked out between certain delegates in this convention. No one has really given a valid reason. And unless some logic is given and set forth to substantiate this deal, I think that the delegates to this convention should vote down the Brake amendment and support the minority report amendment.

Now, if you're talking about really wanting a strong executive, are there 73 delegates in this convention that would consider, if you want a strong executive, the governor appointing his ad board without the consent and advice of the senate? And that was the question that I wanted to ask of Delegate Romney: if he was willing to submit an amendment to permit the governor to appoint his ad board without the consent and advice of the senate. I would think not, because that might tend to split the deal. I urge you to defeat the Brake amendment and to support the minority report amendment in the absence of something better.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Hodges.

MR. HODGES: Mr. Chairman, I rise in opposition to the Brake amendment. I realize the debate has been long, but I do not hesitate to rise because we are not merely debating the question of appointive versus elective administrative board, important as that is. We are debating the first part of the package deal. No one here came advocating this type of administrative board which the amendment has. No one here believes that it's right today. It is being sold as part of a package, and stated it must be supported because it's one part of the package and it hinges upon the rest of the package. I do not intend to make empty charges and meaningless threats. But if this entire deal is consummated, in my humble opinion, this constitution is lost. It is for this reason we make our fight now and here. If the leadership chooses to use our influence, that is, the minority, to the 1/3 that is reflected in our number in this body, rather than our true strength, to treat us as second class cousins —

CHAIRMAN MILLARD: Mr. Hodges, the Chair thinks you're out of order. Would you confine yourself to the amendment, please?

MR. HODGES: I am speaking on the amendment.

CHAIRMAN MILLARD: Please stick to the amendment.

MR. HODGES: Well, Mr. Chairman, I realize I am asking for some latitude, but I think this is necessary. We all know that this is the first part of what has been admitted on this floor to be part of a package. Now, I don't want to relate to the other parts of the package, but it is meaningless for us to stand here talking about one isolated part of it when it accompanies the entire —

CHAIRMAN MILLARD: Mr. Hodges, the Chair rules that you will confine yourself to the amendment.

MR. HODGES: I believe I'm on it — and that if this is passed and we are to be treated, rather than partners, as something less, then this is to be done at the cost of this convention.

I remind you that there are those here who opposed the calling of this convention, and still oppose it. They are the ones that will gain by this deal, by gaining the insurance that if this constitution passes over their objections, they will still be better off than they would expect to be if we came out with a progressive document. We were split into 3 camps when we came in here: those of us who were opposed to the calling of this convention, and opposed to any new constitution; those of us who wanted a constitution at all costs; and those of us who want a constitution if it can become a progressive and meaningful document. And I state that I hope that rather than consummate this deal, those who wanted a constitution at all costs will join with us who wanted a constitution if it was to be a progressive document, vote down this amendment and start trying to build a document that will not go down into defeat.

CHAIRMAN MILLARD: The Chair will recognize Delegate Howes.

MR. HOWES: Mr. Chairman, fellow delegates, I campaigned for this office on a platform of election of state officials and I believe that in the light of information which has been given to us here, and if my people at home had the same information, they would change their minds with me and urge me to support the amendment to the minority report amendment, and I in turn urge you to support it.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Alpena, Delegate Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, I am rather tired of hearing constant references on this floor to deals and compromises. It seems to me the duty of each one of us delegates — and I include the members of the minority as well as the majority party — is first of all to view any issue before us with these 2 things in mind: is it in the best interest of good government of the people of the state of Michigan? And secondly — and the order is deliberate — is it according to the wishes of the constituents of the district that we represent?

Seeing where I came from, I suspect all of you will suspect that the people of my district are committed to the idea of elective officers. But what has actually happened here is simply that 2 groups of Republicans, sincerely believing in the principles which they espoused, found a common middle ground that didn't violate any of their principles. The Brake-Durst amendment represents that common ground. I have no difficulty whatsoever in squaring this with the principles that I hold. I can support the amendment wholeheartedly.

I have recognized that certain state officers who have no policymaking powers, who are responsible only for the proper administration of their duties, owe their responsibility probably to the head of the executive department. I recognize that other state officers who may have independent functions and who may have some policymaking powers, owe their responsibility to the electorate of the state. The officers here that would remain elective, I believe, have just such responsibilities that they ought to hold the responsibility to the electorate. Those that would become appointive would owe their responsibility for carrying out administrative duties to the head of their department or departments, or the chief executive. I believe that the people of my district can very readily understand that simple principle. And I believe that the amendment offered here is in the best interests of good government in the state of Michigan. I don't feel that I have to compromise my conscience in the slightest in supporting the Brake-Durst amendment, and I suggest rather strongly that a good many other delegates, if they would view this in the light of these 2 requirements, also would not have to compromise their consciences.

CHAIRMAN MILLARD: The Chair is very happy to recognize the newest member of this convention for his maiden speech, the gentleman from Ingham, Delegate Jones.

MR. JONES: Mr. Chairman and fellow delegates, I would like to state that my views on this matter were arrived at before I had come to this convention as a delegate and were arrived at as a citizen of the state of Michigan.

The thing that disturbs me about the Brake-Durst amendment is that it goes a long way toward removing the people in our state from further involvement in the process of government. Any time that you take away the right of the people to elect responsible officials, as this amendment does in 4 cases, it appears to me that we are asking the people in our state to be less concerned about the affairs of government. As far as I'm concerned, I would rather trust the judgment of the people in this state to elect the auditor general, the attorney general, the secretary of state, the highway commissioner, and the superintendent of public instruction, because, as one of my fellow delegates has pointed out, the people that ran in the last election for these respective offices did not receive the same vote. And I think that this is a reflection of the confidence and the responsibility that the people had in these men.

Further, if there is some magic in this trio arrangement which is suggested by this amendment, I would like to have someone who proposed this amendment explain to me why it is that the 2 certain officials who would be appointed by boards — why they should be these respective offices and not the rest of the offices, and why the officials that would be appointed with the advice and consent of the senate, why shouldn't they all be appointed with the advice and consent of the senate? And thirdly, why should only 2 people be elected? As far as I'm concerned, you can set up experts who are auditors and set up a board of auditors and let them select the auditor and so on down the line.

As far as I'm concerned, we have a responsibility to the people in this state. I will have to go out, if I accept what the constitutional convention does, and try and convince my constituents that this is a good document. At the present time I would feel that I would have a hard time convincing them that this amendment has any merit.

CHAIRMAN MILLARD: The Chair will recognize Delegate Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I rise to speak in opposition to the Durst-Brake amendment. I listened very carefully to the rationale proposed by the proponents of the amendment, and one of the things that they placed great emphasis on was that this was to provide a chain of command so that in any event of a catastrophe, there would be a logical passing on of the duties and powers to those who did survive. I would say that if they wanted to be consistent in their thoughts, they should go the whole way. I feel that the import of the problem is more than providing a chain of command. What we have involved here is a basic principle of government and who controls government and who makes government.

The previous speaker made a good point when he said that government is for the people and by the people. These are not, I feel, his original words but I think that they are words worth being repeated. And when we take government away from the people, we're taking away responsive government. I am aghast, ladies and gentlemen, at some of the statements made by a previous delegate, and I feel that the statements were made in sincerity. When one of the delegates said that people had little judgment, that people show little thinking, I do not find this to be true. I do not feel that the people had one great stroke of inspiration when they elected democratically the delegates to this convention and after this one initial stroke of inspiration they cease to be people who can think and elect public officials. I feel that people thought and elected public officials before they elected delegates to the constitutional convention.

I'm very proud that I have had in my home candidates who would be excluded by the present proposition. I have had them meet with people in my neighborhood. I have exposed people in my community to government, and I feel that this has generated good government in my community and I think it has served well. I think it's wrong, where there is a criteria of whether we should accept the proposal of the minority or not, to ask: do you know the names of the incumbents? This is almost the same as asking you: do you know the name of your postmaster? Do you know the name of your milkman? If you do not know his name, then you should discontinue. I don't think that this is a criterion. I think that a criterion that we should use is the exposure to these people. And when you bring people into your community, and when you bring people into your home, you expose candidates to the problems of the people. I make it a periodic point to go back and meet with my constituents, as I feel that you all do, and in this way you know their problems and you learn their problems. This gives you the opportunity of meeting them at a grass roots level and knowing of their problems. The exposure that you have is what makes you a good public official. And if you were just to elect a governor, and if you select people, you would be taking away one of the finest controls that we have in government, the right of people to participate in government.

I know that periodically the league of women voters and the various other civic leagues throughout the state make an analysis of the candidates and the people who are carrying the banners for the respective offices. I submit to you that it's wrong to say that they are not qualified, that they do not have the mental ability to evaluate and to judge the candidates that we have before us.

I know there are some elected officials here at the constitutional convention, and I know that their course of action as public officials is dictated a lot by the contacts that they have with the people. Our people know how to put pressures on irresponsible people; and when they are elected, when their stewardship runs out they must run on their record, they must submit their record, and the people can judge. Certainly this is what you cannot do to an appointed official. The appointed official is a buffer; he is an excuse for the lame public official who does by some happenstance get elected. I am an elected public official, and one of the first things that I was forced to do was to forego the luxury of an unlisted telephone. I had to forego this luxury so that I could have a contact with the people, and I think this is a rightful maneuver on the part of the people. People want government officials who are available. They do not want public officials who can hide behind the cloak of others. And we would be doing a grave injustice to the people of the state of Michigan if we would take elected officials and hide them in the guise of an appointed official.

I feel very strongly on this, because last night I spoke to a large group of women who posed this problem. They were very much concerned about this and they said, "Mr. Snyder, one of the things that we have spent a great deal of time on in our meetings is the evaluation, the analysis of a candidate to see whether or not he has the qualifications to serve the people of the state of Michigan, and we have reason to suspect that you 144 delegates in Lansing are going to take away this right from us." And I assured the good ladies that this was not the feeling of the 144 delegates; that we had a cleavage here in which approximately 99 felt one way and 45 felt the other way. But I assured them that this was not the unanimous thinking and I assured these good ladies that I would do what I could to permit them to continue making these objective analyses and the opportunity to judge people. There may be more of you here who feel that we should take away the elected officials. But I assure you, ladies and gentlemen, there are more of those at home who do not feel this way. Thank you.

CHAIRMAN MILLARD: The Chair will recognize one of the proponents of the amendment, Delegate Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee I wish to speak as a matter of privilege. My name has been bandied back and forth here constantly as a symbol, as an individual and, in the thinking of some, perhaps, as if this whole compromise was my idea and my deal. I wish to answer some of the charges that have been made.

CHAIRMAN MILLARD: Without objection, you may proceed. There are no objections.

MR. BRAKE: I think there has been no instance since October 3 when I have made any arguments on this floor on a party basis, except possibly as a matter of jest. I'm not so much concerned about what the delegates have in their minds here on this floor. But we are making a verbatim report. From time to time in the future, students, research people, possibly some others, are going to examine this record. And if that proves to be true, there are going to be questions raised in their minds that I wish to concern myself with.

If any politician should ever take the time to look through that record, I can hear him say: how can there be so many naive people in one body? Some student might come to the conclusion that the Republicans in the convention on this day were stricken dumb, with charge after charge made against them and no answer given. I think as far as the delegates here are concerned, the answer is not necessary, and as to most of the charges that have been made, I will make no answer. I have heard that kind of thing over and over again for 30 years. And if I had tried to answer every charge made, I would have worn myself out long before this.

But there is one thing that I do want to call attention to. Over and over again today we have had the charge presented or the complaint made that here were members of the majority party who got together and decided on a compromise of their diversive viewpoints without consulting the minority. Now, that is just plain naive. I sat in the senate 8 years. During one of those terms the majority was not my party. I never got up on the floor of the senate and cried because the majority decided something without asking me. I didn't expect them to ask me. And when the minority made a decision, we didn't ask the majority what our decision was to be, and they didn't expect us to. Every day in congress the majority decides what the majority is going to do and they don't ask the minority for their opinions on it. And the minority get together and decide what their opinion is going to be and they don't ask the majority. That's the way we run these things. Any inference that there is something improper about that is either not made in good faith, or it's so naive as to be strange in the hands of people with some experience.

We were elected as 99 Republicans and 45 Democrats. We are now 98 and 46. The public expects that the Republican party is going to have to take the responsibility for whatever we do, and whatever we do that isn't good the minority party is going to charge us with every day during the campaign. And I'm not finding fault with it. I expect they will. They have a right to. If the product is not good, it is our fault, because we're in control. I hope that occasionally if there is something good in the constitution we produce, they will be willing to acknowledge that, and certainly I shall as I present this matter to the people to whom I speak. Where we have the cooperation of the minority party in a matter that's good —

MR. GARVIN: Question of privilege, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. GARVIN: I wonder if this is germane to the question. We're not really here for a speech on —

CHAIRMAN MILLARD: Mr. Garvin, Mr. Brake asked to speak on personal privilege. The Chair asked if there was any objection and no person entered an objection. Do you object now?

MR. GARVIN: I object to him going farther than a personal privilege. What he's doing is giving a speech on the various facts —

CHAIRMAN MILLARD: Your point is well taken. The Chair doesn't want any speech from you either. Mr. Brake, there has been an objection so the Chair thinks you can fair close.

MR. BRAKE: Well, let me say I have made points. We are being charged with something improper in that the majority party has made some decision. The majority party is expected to make such a decision and I have no apologies to offer to anyone.

MR. HODGES: Mr. Chairman, would Mr. Brake yield to a question?

MR. BRAKE: Certainly.

MR. HODGES: Mr. Brake, do you feel —

CHAIRMAN MILLARD: We have a lot on the list.

MR. HODGES: This is just one short question.

CHAIRMAN MILLARD: Is this pertinent to his statement here?

MR. HODGES: Yes, I think it is.

CHAIRMAN MILLARD: Does anybody object to this?

MR. PELLOW: I object. (laughter)

CHAIRMAN MILLARD: You're out of order, Mr. Hodges. The Chair will recognize Delegate McAllister.

MR. McALLISTER: Mr. Chairman and fellow delegates, I came to this convention to represent the people of my district. I have not been a party to any compromise. I do not intend to be a trained seal or rubber stamp at any time for anyone or any group. I have not appreciated many of the remarks made by members of the minority group in this convention. This does not cause me to change my viewpoint on the question of electing members of the administrative board. I do not share the views of those who have indicated that the people of our great state do not have an adequate knowledge of or ability to determine who shall be their attorney general, highway commissioner, secretary of state and treasurer.

I am and have been active in politics for 30 years and am presently and have been for many years chairman of my county organization. Before I vote on any matter, I want the views of my people. In this matter I have had their views and the views of many others who I deem well informed on the subject before us. The opinion of these people is that the officers previously mentioned should be elected by the people. In my opinion, the principal beneficiaries of the appointment of the state officials involved will be those who the people would not elect to state office.

If the theory of those who want state offices is followed to its limit, no state officer should be elected, including the governor, and everyone should be appointed by a commission or a group composed of those who admit that they are superior people with knowledge and ability far beyond that of the average voter.

A good illustration of the people's thinking is represented by the elections of 1946 and 1948. In 1946 the Republican who became governor made many promises to the people. He was practically unknown in politics before that date. He was elected by a majority of approximately 380,000 votes, though the elected leaders of the party then were lukewarm to him. He did not fulfill his promises and the platform that he stood on and was defeated 2 years later by the people by a vote of over 180,000. This is proof enough to me that the people know what they are doing, who they are voting for and all about what is going on, and that they don't need guardians to provide for them.

The appointment of state officials either by a commission, the governor or any select group will ruin the 2 party system which has made our government great. The election of a highway commissioner or director by a commission decentralizes responsibility for the expenditure of millions of dollars of our money spent for highway purposes. We have a fine system of highways. Those responsible for the construction and maintenance of them are happy with the election of the highway commissioner. When we have a good system with the head of it responsible to the people, why change? I oppose the Brake-Durst amendment.

CHAIRMAN MILLARD: The Chair will recognize Delegate Hanna.

MR. W. F. HANNA: Mr. Chairman and fellow delegates, the issue is quite clear. The majority and minority parties have agreed that the administrative or executive branch of the government must be narrowed down in the number of departments. The second question, after we have made a decision in the executive branch to reduce the number of the executive departments to 20, or to any given number, is: how do you select those administrative heads? Now, if we were to take one viewpoint on this floor, we certainly would elect all 20 department heads. And if we believe that the principal deputy may succeed, we would elect the principal deputies in the same manner. And I dare say if we were to carry out that philosophy to its end result, and were to elect a governor and a lieutenant governor and 20 department heads, the people would laugh us out of the state of Michigan. And yet, this would be good responsible government to the people, subject to such confusion as might ensue, subject to the fact that we would have to vote on 2 different voting machines because of the length of the ballot. Now, the other alternative obviously is that the governor would appoint all his executive branch. This has worked well within the federal government. I believe it has given us better government at the federal level than we could have if we'd elected the president's cabinet each time congress has seen fit to add an administrative agency to the executive branch.

Our problem then is the problem that I face as a delegate, the problem each delegate faces. Both political parties have been split over this issue from time immemorial. I realized when I ran that while I advocated and said that I would favor an appointive administrative board of all the principal department heads, and that I favored a single department head as the head of each department, whether appointed or elected, that fellow delegates from surrounding territories would not necessarily agree with me, nor would I agree with them. It became, then, a problem for me to vote my conscience and to decide which of these members should be appointed and which should be elected. I had hoped that we could find a bipartisan solution on this floor and deal with each office as it developed.

We have seen by declaration and action that the theory of compromise on this floor too often has been that you will accept in toto the proposal of the minority or you have nothing — or you have a disgraceful proposition. Of the present elective board members, I think in general the public has consistently asked that the superintendent of public instruction be appointed by an elective education board. We have accomplished this. And to defeat the Brake amendment would restore a conflict now in the action we have taken and certainly fly in the face of a proposal that over the years has received tremendous bipartisan support. I therefore think that we should accept at least that part of the Brake amendment which would leave the superintendent of public instruction or the director of state institutions, or whatever name we may call him, to be appointed by an elective state board of education.

Now we come to the other administrative offices. In trying to analyze this as a delegate — and as I think we should — the question is: do these men make policy decisions or are they largely ministerial? As I approach this in my own rationale, of the present elective officers, the officer I would first want appointed would be the treasurer. I say this because history in Michigan and in other states has shown that as we've attempted to elect a treasurer, we have taken from that office his functions and we have created a department of revenue, a department of budget, and the treasurer is not the true head of the department of finance. I therefore, in my own rationale, would first want to appoint the treasurer and hope that within that office we could create an intelligent money saving department of finance. The second most ministerial office, in my opinion, would be the secretary of state. This is not included in Mr. Brake's amendment. But I would have supported any move from the minority or from this floor to make the secretary of state an appointive office. As we work down the line, the highway commissioner — if we retain earmarked funds — and the attorney general would be the most logical men to elect. But we have been faced with a take all or nothing.

Actually we're not really fighting the real issue at this point with the Brake amendment. This has been alluded to. And I think we could have saved a lot of time and work and expense and boredom to the various delegates had we faced to the issue, which is advice and consent of the senate. I think many of the minority and many of the majority face this issue squarely. We recognize in the committee proposal, which is part of this whole proposal, that those members who are appointed would face some restriction or circumspection by the governor as executive, and the senate. The committee dealt with this and attempted to answer this question. They have used the term "advice and consent" —

CHAIRMAN MILLARD: Mr. Hanna, will you please confine yourself to the Brake amendment?

MR. W. F. HANNA: Alright. If we are to elect any or all administrative officials, we quickly remove from them their function and leave them with a hollow shell. I therefore would urge that each delegate take these officers separately and distinctly. And certainly we are making a step, in my humble opinion, in the right direction when we provide and retain — as the Brake amendment does — an auditor general appointed by the legislature, the superintendent of public instruction appointed by the board of education, a treasurer appointed by the governor. And if we may proceed from there to deal with these other officers not on a political basis but on a basis of intelligence and looking 50 years backwards and 50 years to the future in providing good government for the state of Michigan, both political parties will benefit and I believe that we can examine administrative offices not on whether they're attractive political offices, but whether they are primarily ministerial and should be appointed or whether they are primarily policymaking and should be elected.

For the status of the present debate, I urge the approval of the Durst-Brake amendment as a step in the right direction. It is not perfect, but it is a step in the direction which I honestly believe will save dollars and cents to the electorate of the state of Michigan.

CHAIRMAN MILLARD: The Chair will recognize Delegate Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, I'll try to make this as brief as possible. Speaking on the Brake-Durst amendment, I have been an advocate of the appointive ad board and I have heard others discuss here factors against this amendment because they do not feel that any part of the ad board should be appointed. As I recall, Mr. Hodges made a speech about the election of the entire ad board. He felt that the people knew the candidates, they know who they're voting for. Therefore, Mr. Chairman, through the Chair I'd like to address a question to Mr. Hodges.

CHAIRMAN MILLARD: If Mr. Hodges wants to answer.

MR. STERRETT: Mr. Hodges, would you please tell me who the Republican candidate for secretary of state was in 1958.

MR. HODGES: In '58 it was Mr. Plank and in '60 it was Mr. Krueger.

MR. STERRETT: You're very well versed. Thank you. (laughter)

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Dr. Norris.

MR. NORRIS: Mr. Chairman and fellow delegates, I am moved by what Mr. Brake stated in support of the position that he has had with regard to the convention and with regard to this amendment. I think there is a question of philosophy involved both in the amendment that is before us and the position which he has expressed. And I am certain all of us are cognizant that we are addressing not only our respective consciences and the conscience of this body, but the conscience of the state. We are also speaking to history.

I think there is a principle with regard to the election of state officers. When we have the people schooled in elections, we have them training themselves in the processes of democracy. If the ultimate safety of the state and the nation rests upon the will of the people, then the will of the people must be expressed by the election process. The people have the constitutional and sovereign duty to make mistakes and to learn as a result of experience. They do this by making choices and by assuming the consequences of those choices. When they make a choice which is bad, they assume the consequence and learn as a result, and then take steps to rectify it at the next opportunity. When you have that kind of choice made repeatedly, the people rise to their responsibility, increase and enhance their wisdom and make the kind of choice which in the last analysis will be the ultimate safety of this nation. The chief distinction between this nation and state and many nations throughout the world is that the ordinary person in the United States makes a choice upon which the ultimate safety of the nation rests and that decision cannot be taken away from him if he is to remain a sovereign person in a self governing society. If that premise is sound, then the more opportunities by which policy and electoral judgment may be expressed in the free marketplace of public opinion, a marketplace which comes to focus every time there is an election, then we have that school for democracy, that school for self government which enriches the nation and makes the government secure and strong. I think this basic principle is an answer to this amendment and I think this basic principle is also an answer to the observation Mr. Brake made before. He indicated the people expect this to be a Republican document; that the people expect the majority to decide without consultation with the minority; that the people expect the convention to be conducted like the state senate. I respectfully disagree. I think the people expect a deliberative body producing a deliberative document that is bipartisan in character. I think the people expect that the 144 delegates here will merge together and out of common consensus will produce a document that represents the sovereign will of the people of the state of Michigan.

I concur wholeheartedly with the observation made by our president, Mr. Nisbet, when he admonished us after one of our debates, that we ought to conduct ourselves in the manner of Madison and Jefferson and Washington at the first constitutional convention. And I submit that then they didn't regard it to be a particularly partisan document or that the majority would be doing it without the minority or that it would be conducted like the senate. I submit that the way they intended that document to emerge was one that represented a consensus of judgment and experience and wisdom and foresight and the kind of principled devotion to the idea that the people shall run their government. And if the people shall run their government, it shall not be done by a majority or by a minority, but it shall be a bipartisan document.

I submit that we have to have 2 principles before us if this convention is going to produce a document that meets the needs of the people for the remaining decades of this century. First, that it must be bipartisan. If it is not bipartisan it will not express in principle that which is necessary to secure ratification. That is an immutable, inscrutable, irrefragable fact that we have to face. Second, that there must be a policy of selective change in this constitution. We cannot change everything. We are proceeding here as if it is a total overhaul of the constitution, and while that may be necessary in terms of appraisal, it need not be necessary in terms of every final decision and, I think, in this particular case we're making a change in which the burden of proof has not been shown to be dispositive. I think the policy of a bipartisan convention, producing a bipartisan document based upon the concept of selective change is one in which we will win concurrence of the majority of the people when the final document is submitted. I don't think, however, that the manner by which we have thus far been proceeding is one that is calculated toward that objective, and I am most apprehensive over the result.

I submit that if we are to proceed with regard to the amendment before us in the spirit by which we are to secure a ratifiable document, then I think we ought to proceed to not regard this as a state senate, or that the people can proceed here as a majority without consulting the minority, or that the people regard this as a Republican document. On the contrary, it must be regarded as a result of a full, deliberative debate, where the decisions with regard to policy are made on the floor of this chamber, and nowhere else, and where people have the full opportunity not merely to discuss the matter, but to actually decide and choose the matter on this floor.

I do hope that I have contributed somewhat in some measured way to an understanding and made a helpful contribution to this convention, as I've tried to since October 3. But I have certain grave apprehensions as a result of the manner in which this matter and other matters have thus far been arrived at. I do hope that we can perhaps take cognizance of what the people expect us to do, to come up with a document that represents our full and honest consensus deliberatively arrived at, and in no other fashion arrived at, and by doing that we will be acquitting ourselves of our constitutional oath. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize Delegate Hodges.

MR. HODGES: Since I have the floor, I guess maybe my own party members can't object to my question. I'd like to ask Mr. Brake a question, if he cares to answer.

CHAIRMAN MILLARD: Mr. Brake, do you care to answer?

MR. HODGES: Mr. Chairman, Mr. Brake, this goes somewhat to the remarks Mr. Norris made. Do you feel that the fact that whatever passes this convention must be both voted on by the people, who are at least 50 per cent Democratic in this state, should temper your attitude that all that counts is how many votes you have on this floor?

MR. BRAKE: I have never said that all that counts is how many votes we have on this floor, and never thought that. Of course, all the people have got to vote and as far as possible the constitution should be for the best interests of all the people.

MR. HODGES: Mr. Chairman, Mr. Brake, I didn't mean any derogatory remark by this. I only meant the point that you raised is that the Republicans do have a 2 to 1 majority and therefore it should be incumbent upon them to write this document. My only question being that this does not reflect the elective strength of the Democratic party in this state, and wouldn't it be far better for this document to pass the people if we can arrive at something which we can have a mutual respect for?

MR. BRAKE: Neither did I say that it is the full responsibility of the Republican party to write this document, and nobody else's responsibility. What I said was that there will be times and have been times when the majority party will have to make some decisions.

Mr. Hodges, may I call your attention to the fact that day after day, vote after vote, your party votes en bloc, while the Republicans are divided on issues as they come along. Maybe once in a while there will be one or two of you split off. But there is no record down through the journals of this convention of the Republican party voting en bloc except on very, very few occasions, while your party votes en bloc almost all the time.

MR. HODGES: Mr. Chairman, Mr. Brake, I will continue this colloquy off the floor with Mr. Brake rather than take the time of this committee. (laughter)

CHAIRMAN MILLARD: The Chair will recognize Mr. Faxon.

MR. FAXON: I'd like to ask a question of Delegate Brake through the Chair.

CHAIRMAN MILLARD: If he cares to answer.

MR. FAXON: Delegate Brake, one of the previous speakers made specific reference to the post of the state treasurer. He asked the question: does this man, or do these men make policy decisions, and he answered that the treasurer is the first one, in his opinion, who should be appointed, the inference being that the treasurer is the one person above others that has the least amount of policy decision. Now, my question, as you can already see, is whether you agree with this conclusion; and if you don't agree, that is, with regard to the treasurer not having any policy decisions, what are the reasons which you would care to give in reference to your earlier remarks this morning that you believe the treasurer ought to be an elected official?

MR. BRAKE: I would say, Mr. Faxon, of the state officers that we now elect, that probably the matter of making policy decisions would be about the same with the treasurer, the secretary of state and the auditor general. I would say about the same, and all of them do have policy decisions to make.

MR. FAXON: I have one further question, please, to Delegate Brake, through the Chair. The inference has been made that it is an undesirable situation when members of 2 parties sit together on an administrative board. Now, as a person who was in that position, would you come to the same conclusion?

MR. BRAKE: No. No, I don't think it's bad at all.

MR. FAXON: I just want to make one comment in light of Delegate Brake's remarks: that people have been repeatedly alluding here to the undesirability of having 2 parties represented on an administrative board and I don't see that there has been any evidence presented which really makes this charge by the delegates an accurate one. And I would furthermore submit that many of the references which are made to the fact that we get greater efficiency in a government where the officials are appointed or elected, this too has never been proven out, that where other states have changed from elective to appointive, there is no valid means of making a comparison to show that through an appointive official you get any better administration of that particular department than through an elective official. And I think Delegate Brake's remarks substantiate that position.

CHAIRMAN MILLARD: The question is on the Brake amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, I have not entered into this debate since I had the opportunity to make a statement yesterday on this whole question. However, there are 1 or 2 comments that I should like to make as long as we appear to be about to the point where this matter can be voted on. First of all I want to say this—and I don't want to use words here just to create controversy—but there have been an awful lot of crocodile tears shed by the second vice chairman of my committee about this amendment. Mr. Marshall said he had a heavy heart and he was saddened at all this that was being done this morning; that the minority hadn't been consulted. As a matter of fact, this wasn't true and isn't true. The minority was consulted regularly in the committee. The minority was asked on numerous occasions whether they had any suggested changes that they wanted to make. The minority took the position squarely and clearly that they would not yield—

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Yes, sir.

CHAIRMAN MILLARD: Will you confine yourself to the amendment, please.

MR. MARTIN: I will, Mr. Chairman, but so many others have departed from the amendment, I thought I might have the privilege of a slight deviation.

CHAIRMAN MILLARD: The Chair has been trying to keep them in line this afternoon, Mr. Martin. (laughter) Mr. Marshall.

MR. MARSHALL: Would it be all right for him to be out of order if I yielded and let him be out of order? (laughter) I'd like to hear what he has to say. (laughter)

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I simply want to make a point.

CHAIRMAN MILLARD: If nobody objects, the Chair presumes that he can take it as a matter of personal privilege. Any objection?

MR. MARTIN: Mr. Chairman—

MR. DADE: I object, Mr. Chairman.

CHAIRMAN MILLARD: Father Dade objects.

MR. MARTIN: I'll confine myself to the amendment, Mr. Chairman. The whole point about this amendment is that the minority was consulted on it and that their position was absolutely fixed and adamant and that there was to be no compromise whatsoever. For that reason I can't take the statements that have been made over and over again that they can't understand why we have tried to reach a consensus on this, and that's exactly what it is. This amendment represents a consensus of a majority of the members of this convention on the best that can be obtained towards achieving a stronger governor.

We started out with 6 elective positions, not counting the governor and lieutenant governor, and we are now—with this amendment, plus the action that has been taken already—we are now arriving at a situation where we will have 2 elective positions other than the governor and lieutenant governor and we will have 4 members of the administrative board who will be appointive in one way or another: the treasurer, the auditor general, who has already been dealt with, the superintendent of public instruction and presumably the highway commissioner. I want to say this: that this is not only a step forward; this is a move squarely in the right direction of strengthening the governor here in the state of Michigan so that he can carry the responsibility for which he is held liable by the people. He does not now have the authority which the members of the public think he has, and this moves in that direction. It doesn't move as far as some of us would like, but it moves squarely in that direction and, therefore, since it is the best that can be obtained, it's good and it's desirable. I want to end by saying, Mr. Chairman, I hope that the members of the minority will not vote on this matter as a bloc, but that they will use the judgment with which they came down here, many of them, which was that these members should be appointed; that they should not be elected. And I want to call the attention to the fact that there was a great change in the convention at the time that the state Democratic central committee changed—

MR. MARSHALL: Point of order.

CHAIRMAN MILLARD: That is out of order, Mr. Martin. Confine yourself to the amendment, please.

MR. MARTIN: I'll go no further than that, Mr. Chairman. But there was a change in this convention and it solidified the position of the minority. (laughter)

MR. MARSHALL: I have to agree, there was a change.

CHAIRMAN MILLARD: You're not next, Mr. Marshall.

MR. MARSHALL: I'm not? I thought I was. (laughter)

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: I'd be glad to yield to the vice chairman of the committee if he wishes to speak now, or be glad to say a few words.

MR. MARSHALL: Do you yield to me? (laughter)

MR. DOWNS: I'll be glad, if it's in order, to yield to the vice chairman of the committee.

CHAIRMAN MILLARD: You're giving up your position, then?

MR. DOWNS: I may still speak on the question?

CHAIRMAN MILLARD: You can go on the list.

MR. DOWNS: Alright.

MR. MARSHALL: He can yield to me, can't he, Mr. Chairman? It has been done. And then he still retains the floor.

CHAIRMAN MILLARD: Not when we're in general debate. The Chair does that when the proposer of a proposal or the proposer of an amendment gets up on the floor. We don't yield—

MR. MARSHALL: It has been done before but I guess today we've got a different rule. Okay.

CHAIRMAN MILLARD: No, not today there is no different rule.

MR. MARSHALL: I am going to be very brief and not speak any further on the amendment other than to say that I oppose the amendment and I think that's very clear. In speaking on the amendment, I would like to answer the statement by our distinguished committee chairman when he contradicted the fact that we had made the statement that we had not been consulted as it pertains to this amendment. The statement has been made—it's true—in the committee, that we were consulted and had our voice in the committee. The statement that was made here—I am speaking against the amendment, and I think it's directly related to the amendment—was that we were not consulted when the deal was consummated to make a change, and I would like to at this time—and it's related to the amendment—ask the committee chairman a question if he cares to answer it.

CHAIRMAN MILLARD: Mr. Martin, Mr. Marshall is addressing a question to you if you want to answer it.

MR. MARSHALL: As I understand, you are speaking in support of the amendment?

MR. MARTIN: You don't have any question about that, do you?

MR. MARSHALL: Well, I have some slight question about it because I want to know—

CHAIRMAN MILLARD: Gentlemen, gentlemen, will you please put your question through the Chair and not have this private argument.

MR. MARSHALL: All right. It's not a private argument. We're friends. (laughter) Through the Chair to Delegate Martin, if he supports the amendment which we were not consulted on, does he also at the same time still support the committee report which came out of his committee?

MR. MARTIN: Mr. Chairman, I am not taking this as a position of the committee. I am taking the position as a personal position.

MR. MARSHALL: Do you support the committee report that you agreed to in the committee?

MR. MARTIN: I support the report of the committee insofar as it's possible to get it adopted but it isn't possible to get it adopted in the form that it came out of the committee.

MR. MARSHALL: This is related to the amendment. The statement was made in contradiction to the statement that I had made that we were not consulted. Now, this is related, because if Mr. Martin supports the amendment, he also supported the committee report that came out of the committee, and I ask the question simply: does he now not support the committee report as he reported it out of the committee?

MR. MARTIN: I thought I made it clear in my answer that as far as this particular portion of the committee proposal is concerned, I am going to support the amendment which has been offered because I believe it's the best that we can get in terms of what the committee sought to get.

MR. MARSHALL: Well, now, we have the amendment here that we're discussing and I don't know how you can arrive at the conclusion that you cannot adopt the committee report, that you have to adopt this amendment when you haven't tried.

CHAIRMAN MILLARD: Is that a question?

MR. MARSHALL: Yes, sir.

CHAIRMAN MILLARD: Can you answer it?

MR. MARTIN: Mr. Chairman, Mr. Marshall, we would be able to adopt the committee report, Mr. Marshall, if the minority would go along with the committee report. What the minority is trying to do is defeat the committee report, and you're leading the minority.

MR. MARSHALL: I don't have anything else to say. John looks kind of tired. I'll let him sit down and rest. I'm opposed to the amendment.

CHAIRMAN MILLARD: Now the Chair will recognize Mr. Downs.

MR. DOWNS: Fellow delegates, if it's in order, I would like to confine my remarks to the amendment before us.

CHAIRMAN MILLARD: The Chair wishes you would. (laughter)

MR. DOWNS: Thank you. I would like, in doing that, to particularly confine my remarks to just what we're doing and whether this strengthens or weakens the governor. What we are doing in the amendment to the minority amendment is setting up what at best could be a Rube Goldberg system of selecting our present elected officials. This does not strengthen the governor. I wish to take these officers one at a time and show specifically how the amendment introduced by the 3 delegates will weaken the power of the governor over what he now has, and will not strengthen his power. It will also weaken the power of the people.

Let's be specific. Under this amendment, the state treasurer would no longer be elected by the people. I assume that he would be appointed—and if some of the other amendments are adopted, and I do have to refer to those by implication—with some kind of senate advice and consent. Now, the governor will either be of the same party or a different party than the senate. If it is from a different party, the governor will be weakened because of the difficulty in getting a state treasurer to have advice and consent, and I simply cite the record of the last 14 years or so. If the governor is of the same party, this does not mean he would be strengthened, and I shall try to point out why. At the present time the governor—and this is his strength—regardless of the party, is elected on a one man, one vote basis. The state treasurer is elected the same way. And the state treasurer is nominated in a political party convention. I think there has been an impression given, something about the unwholesomeness of political party conventions. It has been my privilege to observe some and have friends tell me about others. And in the election laws of the state of Michigan, the political party is also based on the concept of one man, one vote because the representation of that party is based on the number of people who voted, I believe, for the secretary of state on that particular political party's candidate. So that when the party convention convenes it represents, on a numerical basis, the people of that political party. And when a ticket is chosen, I think it can be said in all candor, not that a governor of either political party has hand picked a running mate but that in the process of making candidate selections the gubernatorial candidates of both parties have been consulted for their wishes to see that there is a representative statewide ticket. And in that process, a running team is developed by both parties that does represent the overall thinking of that party. Now, when that advice and consent is put in the hands of a legislative body that is not based on one man, one vote, we find that the over represented areas of the state have an over representation in deciding who would get advice and consent for that treasurer. So I want to make it clear that even if the governor and the senate are of the same political party, the governor will not have the voice of confirmation from a senate that does not represent people that he has in selecting candidates in a convention that is based on people.

Let us go to the next position. The auditor general is currently selected by nomination from the convention and runs with the governor. At present, the governor of both parties, as a gubernatorial candidate, has something to say about who the auditor general candidate will be. Under this amendment, with what we have done, the governor would have nothing to say about who is auditor general. Now, I am not at this point arguing whether the auditor general should be selected by the legislature or the people. All I am saying is, to those that say the governor is strengthened, please tell me how he is strengthened by saying the legislature shall have the exclusive right to select the auditor general. This I cannot fathom. When the auditor general is nominated in convention, the gubernatorial candidate is at least a delegate to that convention and has at least one vote in helping select the auditor general as a candidate and he has another vote when he votes as a citizen. When the legislature selects that, the governor has no vote in the nomination and he has no vote in the final selection. So this too weakens and does not strengthen the powers of the governor.

Now, the attorney general, I understand, will still be elected, so at least in this respect the power of the governor is holding its own because of his consultation in the convention.

Now, this next, the highway commissioner, how it strengthens the governor to take the highway commissioner out of his appointment and—if our newspaper stories are accurate—to have some other commission select him, is beyond my comprehension. I again say that when a highway commissioner is nominated at a political party convention, the gubernatorial candidate or the governor, if it's at a different time, as a delegate, has at least one vote and some influence. Under this amendment the governor would have less power and not more power.

Now, on the superintendent of public instruction, again I challenge the proponents of this amendment to tell me how and tell the committee here how it strengthens the hand of the governor to say that the superintendent of public instruction will be selected by a board that has been elected by the people and the governor has no choice on that. I'm not saying he should or shouldn't. I'm simply saying he is weakened. Under the present constitution and statute, when the superintendent is nominated at a convention, the governor as a delegate has a vote on who is selected; and when the superintendent runs for public office, the governor has a vote on who to vote for or against for that office.

I just want to sum this up to say that the amendment will result in no more than 2 of the present ad board members nominated and elected or selected in the same manner. It will weaken the power of the governor; it will not strengthen it. And at the same time, incongruous as it may seem, it weakens the power of the people because we have fewer people to vote for.

And I'd just like to make one comment on the matter of campaigning. I am the first one to say that every citizen who votes does not know the name of every person or perhaps know personally every person that he does vote for or against. But I do know that if an elected official does something highly improper, as we have seen done in other states—and fortunately not in our great state—then the people do know about it and can go and very negatively express themselves at the next election if that person is an elected one. There's one other point on the matter of campaigning. It is also true that not every constituent gets personally to know every candidate, whether it is the president or the township official. But in the process of campaigning, I believe the elected officials know more about their constituents than if they are appointed. And anybody who has been on a campaign trail, if nothing else, he learns that this state is a long state and it's a wide state. It's a long way from Ironwood to Sault Ste. Marie and almost as far from Sault Ste. Marie to Lansing. But in the process of campaigning, I think we do something that is very fine in this elective process. The person who may be a very high minded person but does not have that compassion or feeling or ability to go out and mingle and discuss people's problems with them tends to screen himself out of the campaign because he may say it's too far to go from Lansing to the Keweenaw peninsula on a hard campaign.

I, for one, think that we get better state officials when we have people who have been on the campaign trail, who have been in meetings of all kinds, been in luncheon clubs, in evening meetings, been in factories, been in schools, been to all types of organizations, because then the candidate firsthand realizes the complexity of our state, the differences of the people and even more important, the similarity and the human nature and the common denominator and the common wishes of our citizens in this state. So I urge that the amendment be defeated and that we support the minority report amendment because the amendment I am urging us to vote against weakens the power of the governor and weakens the power of the people and weakens effective participation in government. Thank you.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I also would like to speak on the same point as Mr. Downs has suggested, and for a moment I thought he might have covered my point, but he has not quite. The point that I am addressing myself to is whether or not Mr. Martin is correct and the delegates are correct in believing that the amendment before us and amendments of that general type where there will be appointment, whether that will strengthen the governor. I will say this: if it will strengthen the governor, I have a high regard for such a position, as I stated previously on the floor. That is the principal reason why I have considered and still do consider that the appointment has a good possibility, at least under certain conditions. But let's examine the question of whether it does strengthen the governor.

Mr. Downs, of course, has just made certain points about whether or not it strengthens the governor, and I can see the merit of those points. There is one point, however, that it seems to me has not yet been touched upon, and that relates to the question of who the governor is, and not the individual, but whether he is a Democrat or a Republican will make a difference, as I see it, and here is the reason: if you have a Democratic governor, at the present time he has to deal with his party in a party convention, and of course he has considerable influence if he is either the governor or a candidate for governor. He has a strong position in the convention. That's clear, I think. And therefore, that is one of the possibilities. Now, if the same person on the other hand does not have to deal with the party convention in determining who shall be the people in his cabinet, he still has to deal with the senate. Now we have to consider who is in that senate as compared to who was in his party convention. In his party convention he deals with people of his own party. Now he deals with people in the senate on the basis of advice and consent. We may have the exact reverse situation and we do have it at the present time and we would have it under the proposal on apportionment coupled with this. For example, we can see if we have a Democratic governor, he must get the advice and consent of the Republican senate. He certainly cannot be stronger under those circumstances. It's impossible for him to be stronger. He is weaker. It may be if you have a Republican governor and a Republican dominated senate, that you might have an argument—although Mr. Downs has discussed that point—you might have an argument that the governor is stronger because he can pick his own men. But how can you come to the conclusion that a Democratic governor could possibly be stronger in having to deal with a senate dominated by the opposite party than if he dealt with the convention of his own party? Now, if we had a senate which was not dominated by anybody, any party, or not regularly dominated by any party, we would have a different story. But we have to recognize the facts. The fact is that at the present time and under the majority proposal for the senate we will continue to have a large gap between Republican and Democratic numbers of members and good reason to believe that that will continue for the foreseeable future because of the improper apportionment. Whether you agree that it's proper or improper apportionment perhaps is irrelevant. I think you can see—

MR. W. F. HANNA: Mr. Chairman, I raise an objection.

CHAIRMAN MILLARD: What is your point, Mr. Hanna?

MR. W. F. HANNA: I spoke on the problem of advice and consent. I was challenged on this floor. Mr. Nord is now proceeding on the question of advice and consent, from which I was prohibited from debate. I object to his proceeding along that line.

MR. NORD: May I respond before you rule, Mr. Chairman?

CHAIRMAN MILLARD: What do you want to say, Dr. Nord?

MR. NORD: I would simply like to say that the question I am addressing myself to is whether or not the governor will be strengthened. It seems to me we have to know the answer to that, try to elucidate that.

CHAIRMAN MILLARD: Try to confine yourself to the amendment, Dr. Nord.

MR. NORD: The reason for the amendment, as I understand it, as has been stated on the floor—I believe I can show it in the record—is that this will strengthen the governor. I raise the question whether it will strengthen the governor.

I'd also like to point out I did not interrupt any speaker. I have not interrupted any speaker since the convention started and I don't intend to do so. If Mr. Hanna has a feeling that he has been interrupted by somebody, tit for tat may be all right, but I don't feel I've been a party to that and I wish I may be able to continue. May I, Mr. Chairman?

CHAIRMAN MILLARD: You can talk on the amendment. If your discussion is on the amendment, you're in order.

MR. NORD: You stop me when I depart. I've raised the question whether this strengthens the Democratic governor or whether it strengthens the Republican governor. I say to you that it depends on advice and consent of the senate because if the amendments that are before us are adopted—that is, the minority report amendment and the 2 reports to which it relates, that is to say, the Brake amendment and the minority report amendment and the majority report—if they are adopted as is, then there will be advice and consent. And if there is advice and consent, the question is whether it will strengthen or weaken. I stated that my conclusion is this: that it depends on whether there is a Democratic governor or a Republican governor.

Now, it seems to me that when you are analyzing this question, if you are thinking of a Republican governor, you could come to the conclusion—as many of you may have done—that it strengthens the governor. But if you think about a Democratic governor, I don't see how you can come to that conclusion. I don't believe anyone will say that they do come to that conclusion. You won't come to that conclusion as long as the senate remains in the form presented by Mr. Bill Hanna to the legislative organization committee and to the convention.

Therefore, Mr. Chairman, in conclusion, I would simply say that if you will consider all the possibilities, and not just some of them, if you will consider the 2 different possibilities as to who may be the governor—Democratic or Republican—for the next 50 years, you will see there will be some times when there will be one, some times when there will be the other. But as to the senate, it won't be some times one and some times the other. For the foreseeable future, it will be one direction. And therefore, you could not believe, I think, that you can strengthen the governor unless he is a Republican governor.

I think therefore that you should imagine the situation in the future sometime within the next 50 years during which there is a Democratic governor and a Republican senate. I think it isn't too difficult to imagine that, because you've had it for quite a long time. If it should continue, the governor would be weakened rather than strengthened. Thank you.

CHAIRMAN MILLARD: The question is on the Brake amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: A division has been called for. Is there sufficient support? There is support. Mrs. Cushman.

MRS. CUSHMAN: I wish to say that I abstain because I can't go for either the amendment or the amendment to the amendment.

CHAIRMAN MILLARD: It will be recorded. The question is on the Brake amendment to the minority amendment. All those in favor will vote aye and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Brake, Durst and Karn, the yeas are 82; the nays are 48.

CHAIRMAN MILLARD: The amendment is adopted. The secretary says he has another amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment to the pending minority amendment:

1. Amend the amendment, second sentence, after "beginning" by inserting "at 12:00 o'clock noon".

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Vice President Hutchinson.

MR. HUTCHINSON: Mr. Chairman, this amendment would commence the term of the office of governor and the other state officers to be elected at 12:00 o'clock noon on the first day of January. The present language says that they shall commence on the first day of January, which is midnight, December 31, January 1. Traditionally, inauguration takes place at 12:00 o'clock noon on January 1. The federal constitution in the twentieth amendment was amended to provide that the term of the president of the United States should commence a 12:00 o'clock noon. The Constitution of Michigan has for a long time provided that when the legislature meets, it shall meet at 12:00 o'clock noon and when it adjourns without day, that it shall adjourn at 12:00 o'clock noon. It seems as though an affair of the significance of the inauguration and beginning of a new gubernatorial term is of sufficient importance that the change should take place sometime during the daytime, not at midnight, and while I don't know that any emergency on the morning of the first day of January might enter into the picture, it is conceivable during the morning January 1, prior to the time when the new governor was officially installed and so on some action might require his signature and it would be becoming, it seems to me, to have his term officially commence at noon instead of at midnight.

And I would state another reason which I suppose is of no importance whatsoever, but one reason that impels me to suggest this change is that as we go over to the capitol and look at the portraits of the former governors, you will note a plaque under each portrait and it will give the years that they served, and because of the fact that the term expired at midnight of December 31, January 1, the term—well, for instance, let's take the illustration, the time of Fred W. Green. Fred Green was elected in 1926 and he was reelected in 1928. He served from January 1, 1927 through December 31, 1930; but, of course, he served from 1927 to 1930 and while anybody, by giving thought to it, recognizes that's 4 years, just at first glance it looks like 3 years: 1927 to 1930. It looks like 3 years.

I'd like to see some kind of arrangement here so that you could actually say that the governor was from—well, for instance, for Governor Williams, it could have said from 1949 to 1961, because had he been able to serve during the first 12 hours of 1961, he would have been governor during 1961, and that would reflect a complete period in the same way that the years of the presidential terms are reflected. For those 2 reasons, Mr. Chairman, I offer this amendment. I grant that this is nothing of enormous importance in the work of this convention, but I do think that it would be a good idea to start the term of the governor as of 12:00 o'clock noon.

CHAIRMAN MILLARD: The question is on the Hutchinson amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Messrs. Gust, DeVries and Pollock offer the following amendment:

1. Amend the amendment, first sentence, after "lieutenant governor,", by striking out "secretary of state,"; so the language would then read, "The governor, lieutenant governor and attorney general shall be elected. . . ."

CHAIRMAN MILLARD: The Chair recognizes the delegate from Grosse Pointe Farms, Mr. Gust.

MR. GUST: Mr. Chairman and members of the committee, obviously as a proponent of Committee Proposal 71, I did not feel free to vote for the Brake amendment. But the committee has spoken and the majority has adopted it, and I will abide by it. Now the only question is: can it be improved upon, at least in my mind and in the minds of those who think as I do, about the appointment versus election of certain administrative board members? I honestly believe that the secretary of state is one member of the administrative board whose functions are mainly ministerial and should be appointed rather than elected, and I would like to, if I may, Mr. Chairman, yield the floor to Dr. DeVries to make a more detailed explanation on this.

CHAIRMAN MILLARD: Dr. DeVries.

MR. DeVRIES: Mr. Chairman, members of the committee, as Mr. Gust has pointed out, we introduce this amendment because we feel the secretary of state is purely an administrative officer. He is not a policymaker. Let me see if I can prove this point by giving you a brief resume of some of his duties. He is the keeper of the great seal; he is the chief election officer; he is the keeper of documents, official records and archives; he registers motor vehicles; he licenses officers, chauffeurs, dealers and watercraft; he compiles, publishes and distributes laws, pamphlets and administrative rules; he regulates and supervises building and loan associations; he licenses private detectives and private detective agencies; and so forth.

The point is that because this is primarily an administrative task and he heads a department charged with administrative details, it is our feeling that he should be appointive and responsible to the governor. For this reason I urge that you approve this amendment.

CHAIRMAN MILLARD: Mr. Gust, you are the proponent. You have the floor.

MR. GUST: Mr. Chairman, I think previous debate has pretty well covered this. Dr. Pollock, do you care to say anything on this?

CHAIRMAN MILLARD: The Chair recognizes Dr. Pollock.

MR. POLLOCK: I merely say that I support very strongly this amendment which has been introduced on the floor.

MR. GUST: I'll yield the floor, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I can't see any reason why the state official that is charged with the responsibility of insuring honest elections in the state should not be answerable to the people of this state. I think I am on record now that I favor the election of our state officials.

Because of the maneuvering that is going on on this amendment, I would at this time state my intention to abstain from voting on this amendment and I would hope that those who feel as I do, that the state officials should be elected, would also abstain. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Yeager.

MR. YEAGER: I simply ask for a division, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Boothby.

MR. BOOTHBY: Mr. Chairman and ladies and gentlemen of the committee, I rise to oppose this amendment and I think it can be opposed on one ground and one ground alone, if nothing else; and that particular ground was mentioned very briefly and very quickly by Mr. DeVries when he went over the duties of the secretary of state. I noticed he went over them very rapidly, but I think this is possibly the point of contention between those that do not want to have the secretary of state an appointed official, and that is that the secretary of state has power to supervise the election machinery in the state—and this does not only apply to the state elections and it does not only apply to local elections, but also applies to the federal elections which are being held in the state. This is quite a responsibility. And I realize that by and large, with some exceptions, we have had honest and clean elections in this state. But I would not like to see any particular official of this state who is the chief political head of this state also have power over the election machinery, because I think it is potentially a very dangerous situation.

I would like to make one comment which would indicate that what I have to say is not completely unfounded from the present situation of today. Not too long ago we had pending in the Supreme Court of the state of Michigan a case entitled Scholle versus Secretary of State. Here we had a situation where an individual was suing the secretary of state of the state of Michigan, and the purpose of the suit was redistricting of the state legislature. Here is a situation where there was considerable pressure that could have been applied to the secretary of state, but instead of the secretary of state giving in to any of these pressures, he stood firm because he was an elected official. He did not have to answer to the governor or to any other official in this state. He was responsible to the people. I think this duty over the election machinery and over the supervision of the elections is a most definite responsibility which we must safeguard against any possible intrusion by a political head, and I would therefore urge the defeat of the amendment which has been proposed at this time.

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, I can't follow Mr. Gust's reasoning. He felt constrained to go along with the amendment that we just voted on and now he wants to destroy the whole plan. This was an integral part of the compromise by which divergent views were reconciled and an agreement come to. If this is taken out, we're right back to where we were 2 or 3 weeks ago. I trust that you will not vote for this amendment.

CHAIRMAN MILLARD: Delegate Bledsoe.

MR. BLEDSOE: Mr. Chairman, fellow delegates, I thought I could pass through and listen without getting into this controversy. We have recorded in our memory one day of infamy, and that was the day that President Roosevelt referred to when we were attacked physically by a foreign power. And I have just this to say: I didn't accuse the Republican party of this. If we do this today, we're delivering the electorate of our people to the possibility of outrageous election by gangsterism. That's all I have to say.

CHAIRMAN MILLARD: The question is on the Gust amendment. Mr. Martin.

MR. MARTIN: It seems to me that the action on this amendment has to be consistent with the action which we took on the earlier amendment offered by Mr. Durst and Mr. Brake. I therefore plan to oppose this amendment, to vote against it.

CHAIRMAN MILLARD: A division has been called for. Is there sufficient support? Sufficient number. All those who are in favor of the Gust amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Gust, DeVries and Pollock, the yeas are 21; the nays are 80.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend the amendment, first sentence, after "secretary of state,", by inserting "state treasurer,".

CHAIRMAN MILLARD: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, members of the committee, I intend to be very brief on this because I think the case has been very amply stated by the distinguished delegate, the former state treasurer. When I questioned Delegate Brake with regard to the policymaking decisions of the state treasurer, he said it was equal to those of the other members of the administrative board that we already propose to be elected. I cannot see why after 112 years of electing a state treasurer, with a person who has the responsibility that he has in his office, that we should at this point change that. If there is any office which should be independent of the governor, it certainly should be that of the state treasurer. Certainly, the possibilities of having a governor in cahoots with the state treasurer could lead to many, many strange happenings and I, for one, would urge you to keep in the hands of the people the selection of their treasurer, knowing full well that the people of this state will make independent, individual judgment as to those candidates running for this office and knowing full well that the people of this state have exercised this judgment to a high degree in seeing the kind of people that we have had in this office over the past years. No one can deny the integrity and the sincerity and the ability of those people who have occupied the office of state treasurer. Some sit here today; some sit in the capitol building. We know that this is an important office. It is one that the people have had, the people believe in, the people know about. It is something that I urgently ask you to consider as one that should remain elective.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we just voted to remove the state treasurer from the minority amendment. There is an amendment pending on the desk to make him appointive for a 4 year term. I hope, therefore, that Mr. Faxon's amendment will be defeated.

CHAIRMAN MILLARD: The Chair recognizes the Delegate from Detroit, Mr. Balcer.

MR. BALCER: Mr. Chairman, ladies and gentlemen of this committee, I'm in trouble right now. I can't vote for anybody the way it's proposed because we have a succession act and when you're going to jumble them around instead of having a succession act, you're going to have an assumption act. Somebody is going to "assumpt" something that doesn't belong. Now, I wish Mr. Brake or somebody would explain to me the succession act before I vote.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Balcer, the treasurer is in the line of succession. He is pretty well down the line. He can either be left there or he can be removed. If the legislature feels, or the convention desires to change that line of succession, that can be done. In general, people who are in the line of succession are elected officers. So it is possible that the convention might decide not to include him in the line of succession if he is made appointive by the convention.

MR. BALCER: If the governor gets an appointment and the secretary of state gets to be our secretary at Washington and they go down the line, then you will have a governor that would be appointed by a governor. I don't believe in that. He should be an elected official if he's going to be in the succession.

CHAIRMAN MILLARD: The question is on the Faxon amendment. All in favor will say aye; opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? Sufficient number up. All those in favor of the Faxon amendment to the minority amendment will vote aye; those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Faxon, the yeas are 35; the nays are 82.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. Brake, Durst and Karn offer the following amendment:

1. Amend the amendment, following the first paragraph, by inserting a new paragraph to read as follows:

"The state treasurer shall be appointed by the governor with the advice and consent of the senate for a 4 year term coterminous with the term of the governor.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, we have so many minority reports here that I am confused about lines and so forth. On the report that I've got, that should be line 6. It's at the end of that first paragraph in the minority report. I think the matter has been thoroughly debated and that there is no use in carrying it on any further. We've gone over it and over it and over it. This is a part of the compromise agreement that some of us entered into and it calls for the appointment of the treasurer.

CHAIRMAN MILLARD: The Chair recognizes Mr. Downs.

MR. HODGES: May I ask a question of Mr. Brake if he would yield to a question?

CHAIRMAN MILLARD: Mr. Brake, do you care to answer?

MR. BRAKE: Yes, sir.

CHAIRMAN MILLARD: Mr. Hodges, you may proceed.

MR. HODGES: Mr. Brake, you have alluded again to the compromise. Is it your intention just on this particular issue or does this cover the entire facet of what we read in the paper?

MR. BRAKE: I'm not taking a chance of putting an endorsement on anything that you may have read in a paper. I don't know what you saw. (laughter)

MR. HODGES: Mr. Chairman, Mr. Brake, does the compromise go beyond this particular issue we are debating on the floor?

MR. BRAKE: Yes.

MR. HODGES: And it does cover a substantial part of this constitution; is that right?

MR. BRAKE: I would say that there are substantial items involved. (laughter)

MR. HODGES: Thank you, Mr. Brake.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: I rise in opposition to the amendment. I do not wish to speak on whether or not this is a part of a deal or a compromise, but rather to again bring out the point that this does not strengthen the hand of the governor. By putting in "advice and consent of the senate" this is strengthening the hand of the senate and the senate, so far as we have acted, is not a representative senate, and it weakens the hand of the governor. And I just hope that any delegate who has been claiming this does strengthen the hand of the governor — and I do not put the previous speaker in that category — would explain to us how it does, when in fact it reduces the strength, and I think that should be made clear to the delegates before we vote.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and delegates, I rise to speak against the amendment. This amendment as offered, of course, may enhance the ego of the governor or would be governor. I don't think that we're here to satisfy the eccentricities of governors or gubernatorial candidates. Therefore, while it might enhance the ego of the governor, I don't think it would enhance the protection of the people, and I oppose the amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: The amendment is consistent with other amendments which we just recently adopted. I hope it will be approved.

CHAIRMAN MILLARD: The question is on the Brake amendment. Mr. Douglas.

MR. DOUGLAS: Mr. Chairman, fellow delegates, I have a question for Mr. Brake.

CHAIRMAN MILLARD: If Mr. Brake cares to answer it.

MR. DOUGLAS: Mr. Brake, irregardless of the practical policy of confirmation in the legislature, is there anywhere in the constitution anything that would prohibit these appointees from being from without the state of Michigan? Is there anything to provide that they must be a resident or a citizen of Michigan?

MR. BRAKE: You're talking, of course, about the proposed constitution, the new constitution?

MR. DOUGLAS: That is correct. If they're elected, we know they're citizens.

MR BRAKE: I assume that there are others who could answer that better than I; perhaps Mr. Martin. I don't know of anything in the proposed constitution that would forbid it, but I'm not sure that I'm right.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer the question?

MR. MARTIN: Mr. Chairman, I don't think that there is any limitation on who may be appointed to these positions. In fact, it's expected, I assume, that the governor or in the case of a board or a commission which has appointive power, that it will select the ablest person either he or it can find anywhere in the United States. Normally speaking, of course, the selection of state treasurer would be made from persons within the state and I assume most governors will follow that practice. But we're trying to get the most qualified people that we can get to fill jobs of this kind. That's the whole purpose of the appointment process.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, since Mr. Brake admitted that this was a part of the deal and also that — not the deal, the compromise; I know the deal, you're getting tired of listening to that — the compromise goes beyond this vote. I wonder if I might ask a question of one of the delegates through the Chair.

CHAIRMAN MILLARD: If it's on this amendment, yes.

MR. MARSHALL: I think it's on this amendment and I'd like to —

CHAIRMAN MILLARD: Whom do you desire?

MR. MARSHALL: I'd like to direct my question to Delegate Romney through the Chair.

CHAIRMAN MILLARD: Mr. Romney is not a proponent of this amendment.

MR. MARSHALL: He is not a proponent but he was a part of the compromise. He stated so himself here the other day on the floor and I would like to ask —

CHAIRMAN MILLARD: Just a moment.

MR. G. E. BROWN: I rise to a point of order because the compromise is not before us.

CHAIRMAN MILLARD: The Chair thinks the point is well taken.

MR. MARSHALL: I disagree with the point because this is —

CHAIRMAN MILLARD: You can appeal from the Chair.

MR. MARSHALL: Mr. Brake stated a moment ago that this was a part of the compromise.

CHAIRMAN MILLARD: Mr. Romney was not a proponent and he is not taking the floor.

MR. HODGES: Mr. Chairman.

CHAIRMAN MILLARD: You sit down. The Chair is talking to Mr. Marshall now. (laughter)

MR. MARSHALL: Whoa. Back up a minute.

MR. HODGES: Point of information, Mr. Chairman.

CHAIRMAN MILLARD: The Chair is talking to Mr. Marshall now.

MR. MARSHALL: I'll yield to Delegate Hodges for a point of information.

CHAIRMAN MILLARD: All right. Mr. Hodges.

MR. HODGES: My point of information is: are we entitled to know, through a question, what our capacity is at this convention and what it is going to be from this day forward?

CHAIRMAN MILLARD: We are now debating —

MR. HODGES: It goes to the very heart of this debate, Mr. Chairman; it goes to whether we have any meaningful purpose at this convention.

MR. ROMNEY: Mr. Chairman, point of personal privilege.

CHAIRMAN MILLARD: Mr. Romney.

MR. ROMNEY: I'd like to state as a matter of personal privilege that I have no personal objection to answering any question. However, I want to abide by the rules of proper parliamentary procedure. I don't know of any question that Mr. Marshall might ask that I wouldn't be willing to respond to.

CHAIRMAN MILLARD: If Mr. Romney is willing and there is no objection, the Chair will permit you to answer.

MR. MARSHALL: I think we're making a mountain out of a molehill. I want to ask a simple question that's related —

MR. G. E. BROWN: Mr. Chairman.

CHAIRMAN MILLARD: For what purpose does Mr. Brown rise?

MR. G. E. BROWN: I rise in support of the point of order I raised previously. I would also rise to the point of personal privilege and privilege of the convention, and that is that whether or not this compromise is before the house is a question to be decided by the Chair. I am not happy with the compromise and I certainly do not intend to sit here and have it discussed on this floor when we should be discussing an amendment or something that relates to the substance with respect to this constitution.

MR. MARSHALL: Delegate Brown —

CHAIRMAN MILLARD: Just —

MR. G. E. BROWN: I still have the floor, Mr. Chairman. Whether or not Mr. Brake mentioned a compromise or mentioned a deal is not important. Because a point of order was not raised in respect to his speech does not preclude a point of order being raised as to anyone else who may mention that subject.

CHAIRMAN MILLARD: The Chair wants to say this: that we've allowed quite free debate in this committee of the whole and if Mr. Romney has no objection and would like to answer the question, and if there is no objection by anybody, that can be done. State your question.

MR. MARSHALL: I just want to ask Delegate Romney, if he cares to answer: does your vote on this amendment — are you committed to the compromise beyond this vote, and if so, does it cover other major provisions of this constitution?

MR. G. E. BROWN: Same point of order, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Romney does not have to answer.

MR. MARSHALL: He doesn't have to answer, Garry.

MR. G. E. BROWN: I don't think he has a right to if there is objection to raising a question of this nature.

MR. MARSHALL: He said he didn't mind. I would answer his questions.

CHAIRMAN MILLARD: You may answer if you want to, Mr. Romney.

MR. ROMNEY: I'll be very happy to answer it.

MR. MARSHALL: Thank you.

MR. ROMNEY: I'm going to support this amendment because I think under the circumstances prevailing in this convention, it's a sound thing to do in getting a sound document.

I wish Mr. Marshall and his associates were as consistent in their positions as they might be. I find them flip flopping all around in an effort to create an appearance of things that are not so. The facts are that it was necessary to arrive at some understanding among delegates to keep Mr. Marshall and some of his associates and those joining with him from preventing this convention from putting into the constitution certain improvements that we would not otherwise get. And I am supporting this for the purpose of getting a better document than we could otherwise get.

I am going to do everything I can to get the best possible document out of this constitutional convention, and I am not going to permit anything to keep me from doing that. I have to deal with realities of the varying positions being taken by Mr. Marshall and his associates and the inconsistent positions.

MR. MARSHALL: Mr. Chairman —

CHAIRMAN MILLARD: Your question is answered.

MR. MARSHALL: The question was not answered. I asked was he committed beyond this amendment to the compromise and did it cover other major facets of this constitution. That wasn't answered.

MR. ROMNEY: Mr. Marshall, it does cover other aspects of the constitution and those other aspects are dealt with for the reasons I have cited, for the purpose of keeping you and some of your associates from joining with certain others to produce a constitution that would not be as good as we can obtain as a result of the understandings that have been reached.

MR. MARSHALL: I rise now to a point of personal privilege.

MR. G. E. BROWN: Point of information.

CHAIRMAN MILLARD: Who got up first?

MR. MARSHALL: I rise to a point of personal privilege.

CHAIRMAN MILLARD: Who got up first?

MR. MARSHALL: I got up first. I had it.

CHAIRMAN MILLARD: State your question.

MR. MARSHALL: I want to thank Delegate Romney for answering the question and for also stating that the constitution has been pretty well written at this point and that debate here is useless.

MR. ROMNEY: Mr. Chairman, I want to make a statement of personal privilege.

MR. MARSHALL: Mr. Romney, I'm making —

MR. ROMNEY: Mr. Marshall is making statements —

CHAIRMAN MILLARD: We are trying to get a verbatim record of this and we can't do it when you're all talking at once.

Mr. Romney, you rose to a point of personal privilege?

MR. ROMNEY: Point of personal privilege.

CHAIRMAN MILLARD: State your point, Mr. Marshall.

MR. MARSHALL: My point is, I was making a point of personal privilege. Delegate Romney got up and started talking. I think he's out of order, Mr. Chairman.

MR. ROMNEY: My point of personal privilege Mr. Chairman, was —

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I yield to Delegate Romney.

CHAIRMAN MILLARD: Mr. Romney.

MR. ROMNEY: My point of personal privilege was that Mr. Marshall was putting words into my mouth. I answered his question directly. I did not indicate that the understandings reached dealt with the balance of the constitution and wrapped it up. As a matter of fact, the understandings reached deal with certain limited aspects of a few articles and the vast bulk of the work that we have yet to do is not affected by those understandings. And I think that Mr. Marshall should not add to my answers.

MR. G. E. BROWN: Point of information, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. G. E. BROWN: I would like to inquire as to whether or not we have a right to have this committee pursue the substance of the several proposals —

CHAIRMAN MILLARD: That's what the Chair is trying to do.

MR. G. E. BROWN: — or whether they have to be interrupted — whether be it Mr. Romney or Mr. Marshall — by a colloquy between them, or can we proceed with the matters at hand when they are discussing something that has not occurred on the convention floor and is not in the record of this convention and you have matters before this house that relate to things that delegates can vote upon?

CHAIRMAN MILLARD: Your point is well taken. We'll proceed with the amendment.

MR. MARSHALL: Mr. Chairman, now wait just a minute.

CHAIRMAN MILLARD: Don't talk to the Chair like that.

MR. MARSHALL: Look.

CHAIRMAN MILLARD: You just take it easy a moment. If you don't like the Chair's ruling, appeal to the floor.

MR. MARSHALL: I had the floor under a point of personal privilege. I was in the process of speaking, Mr. Chairman. Delegate Romney rose to the microphone and proceeded to speak. I very graciously backed away and yielded and permitted him to speak. Now if you don't want to hear me, go ahead and run the caucus.

CHAIRMAN MILLARD: Just a moment, Mr. Marshall. You had the floor for a point of personal privilege and the Chair thought that you were finished.

MR. MARSHALL: How could I finish when I didn't get started?

CHAIRMAN MILLARD: Yes, you did.

MR. MARSHALL: I don't know where, now.

CHAIRMAN MILLARD: Do you have something you want to say now?

MR. MARSHALL: Yes.

CHAIRMAN MILLARD: Alright, go ahead and say it.

MR. MARSHALL: If it pleases the Chair. If it displeases the Chair, I won't.

CHAIRMAN MILLARD: If it's a point of personal privilege and if it's pertinent.

MR. A. G. ELLIOTT: What is the point?

CHAIRMAN MILLARD: What is the point?

MR. MARSHALL: You'll get the point if you'll listen.

CHAIRMAN MILLARD: Tell the Chair first what the point is.

MR. MARSHALL: I rise to a point of personal privilege. Did Delegate Romney tell you his point?

CHAIRMAN MILLARD: State it.

MR. MARSHALL: I'm stating it. In Delegate Romney's remarks he referred to me, as an individual, and to members of the minority party as flip flopping all over the place; that the compromise was arrived at between himself, Mr. Brake and others in order to prevent the minority in this convention from — and I don't know that I have his exact words — but to prevent the minority of this convention from joining with other forces to write a bad constitution. I think the question — and I would be willing to debate this and I realize I can't debate it under a point of personal privilege — but I think it is clear as to who has flip flopped in this convention.

CHAIRMAN MILLARD: That is not part of the personal privilege. Keep to your own point.

MR. MARSHALL: When an attack, Mr. Chairman, is made upon a delegate, not personally, and statements are made related to the delegate's actions in the convention or on the floor, I believe — and I know a little bit about parliamentary procedure too, Mr. Chairman — that a delegate has a right to rise under a point of personal privilege, and I will also remind this delegation that there have been many, many people that have risen on a point of personal privilege and they did not receive the type of treatment that I am receiving at this moment. Now, you don't bother me with the treatment. I'm trying to be as decent, I'm trying to be —

CHAIRMAN MILLARD: Go ahead on your point of personal privilege.

MR. MARSHALL: Alright. As I was saying when I was so rudely interrupted for about the third time, that I think it's clear as to who has flip flopped in this convention and I think that the compromise indicates who flip flopped. How can anyone get up and charge me, Delegate Romney, of flip flopping when you have not, through your compromises, permitted all of the issues to come to the floor of the convention;

when you have decided it along with others in a private meeting? While I know that you and I have not agreed on all the issues and we don't now agree, I do believe that I have been rather consistent in my position as it relates to the amendment before us and the election versus the appointed officials.

MR. ROMNEY: Mr. Chairman, am I permitted to answer him?

CHAIRMAN MILLARD: Wait a minute. Let him finish.

MR. MARSHALL: I didn't ask him a question.

CHAIRMAN MILLARD: The Chair doesn't want to be accused of interrupting him again.

MR. ROMNEY: I thought he put a question to me and I'd be glad to answer it.

CHAIRMAN MILLARD: Just a minute.

MR. MARSHALL: No, I did not.

CHAIRMAN MILLARD: Are you through?

MR. MARSHALL: I did not put a question. I merely answered a statement. And I resent the charge being leveled of flip flopping all over the place, because I don't think that we have flip flopped. I'll admit that we have been kicked around a bit and if we got flipped and flopped in the kicking then this counts. But I resent the implication of flip flopping.

MR. W. F. HANNA: Mr. Chairman, I have a preferential motion.

CHAIRMAN MILLARD: Mr. Hanna.

MR. W. F. HANNA: I move that the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion —

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: It's not debatable. All in favor will say aye. Opposed, no. The Chair is in doubt. All of those in favor will vote aye and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: Mr. Chairman, on the motion that the committee should rise, the yeas are 61; the nays are 68.

CHAIRMAN MILLARD: The motion does not prevail. We will proceed. Mr. Martin.

MR. MARTIN: I had in mind that we move to rise at 5:00 o'clock in the event some of the delegates want to know when I expect to make the motion. If we can get another 20 minutes in, we may be able to dispose of a couple more amendments here.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I'd like to direct a parliamentary inquiry through the Chair to the secretary. It is my understanding, according to Mason — and I think we've all been guilty in overlooking this — that matters of privilege, and this is whether it is privilege of the convention or personal privilege, are not to be raised in committee of the whole but must be raised in the house. I suggest, if that ruling is correct, that I intend to raise a point of order against any matters of personal privilege in the committee of the whole from now on. It should be reserved for when the convention is in plenary session. I'd like to ask if I'm correct in that interpretation.

CHAIRMAN MILLARD: The secretary will read the section.

SECRETARY CHASE: Section 655 of Mason's Manual: Limitations on Committee of the Whole:

> 1. The committee of the whole, like other committees, derives its authority solely from the body and is confined strictly to the powers delegated to it.
> 2. Also, being but a committee, it is limited in other matters.
> 3. A committee of the whole:
>   (a) Cannot order a vote by roll call taken on any matter.
>   (b) Cannot entertain any question of priority.
>   (c) Cannot entertain any matter of privilege.

and there are 6 or 7 others.

CHAIRMAN MILLARD: Your point is well taken, Mr. Bentley, and it will be observed in the future.

MR. A. G. ELLIOTT: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. A. G. ELLIOTT: In committee of the whole, inasmuch as Mr. Marshall made this point, it seems to me that what we're supposed to do is maintain discussion solely upon the substantive matter at hand. All day long, and in previous days, we have deviated from this in varying degrees. Today has been a day when we apparently have been quite far afield, although the Chair has tried to correct that. Am I correct in my assumption that we are to maintain discussion upon the substantive matter?

CHAIRMAN MILLARD: The Chair tried to keep that, Mr. Elliott, and will endeavor to do that. With your help and the rest of the delegates, the Chair will try to keep them on the track.

MR. A. G. ELLIOTT: May I ask you this, sir? Maybe this is a point of parliamentary inquiry; I don't know. If they are not on the track, does a delegate of this convention have the right to ask the Chair to bring them back to order and if the point is well taken, should this not suffice so that we can get on with the business at hand?

CHAIRMAN MILLARD: That's correct.

MR. A. G. ELLIOTT: I would urge the Chair to find a longer gavel so that we can get going.

CHAIRMAN MILLARD: Thank you. The Chair will do its best. We're on the Brake amendment. Mr. Ford.

MR. FORD: Mr. Chairman, point of parliamentary inquiry. Notwithstanding the ruling of the Chair, would a motion, while we are in committee of the whole, to print in the daily journal of this convention the point of personal privilege raised by Mr. Brake — which became very apparent on its face a question of convention privilege — be in order?

CHAIRMAN MILLARD: Not in the committee of the whole.

MR. FORD: Would this motion be in order when we rise?

CHAIRMAN MILLARD: The convention and the president will have to decide that matter.

MR. FORD: I'm not asking how it's going to come out but am I in order to move to include his points of personal privilege made during committee of the whole when we rise and are back in convention?

CHAIRMAN MILLARD: That matter will have to be decided by the president. He'll be in charge of the convention. Your present chairman is not and can't say how he will rule.

MR. FORD: There is very little change going to be made up there in the fellow who is going to be making the parliamentary decisions. If I could have your indulgence, I'd like a ruling now before we rise.

CHAIRMAN MILLARD: The Chair is not going to rule on what President Nisbet will rule in the convention.

We're on the Brake amendment. The Chair has Mr. Downs on the list. Do you wish to talk on that?

MR. DOWNS: I wasn't going to ask which list I'm on, Mr. Chairman, (laughter) but rather was going to confine myself to the amendment before us. I will try to discuss this amendment on its merits, simply on the 4 lines that are before us, with no relationship to any other matter that has been discussed, implied, or printed in the press. And I hope that as I try to do this, the delegates will try with me to consider these 4 lines strictly on their merit, and particularly these 6 words, "advice and consent of the senate." I wish to point out that where we are from a parliamentary viewpoint, if I understand it — and I would appreciate the Chair correcting me if I'm wrong — we had before us a minority report amendment, to which the Brake-Durst amendment was adopted, part of which said that the state treasurer would not be elected. Now the amendment we have before us provides that there will be advice and consent of the senate in appointing the treasurer. There have been comments on the floor that the purpose is to get the best and most capable treasurer there could be. We disposed of whether or not the treasurer should be appointed or elected, so I will not try to reopen that question.

The point I want to make is that when the words "advice and consent of the senate" are put in, the governor must, in making an appointment, consider not only the ability of the person, but also the conformability. Now, I again say to those that talk about a strong governor, that this amendment weakens the governor; it does not strengthen him. I do not address myself to those delegates that are set on strengthening the legislature in relation to the governor. They've made their point very adequately here. I am addressing myself to those delegates that keep insisting on this myth that this strengthens the governor when it weakens the governor. And the only point that I want to make to the body here is that if this amendment is adopted, it will be not a step forward, a long step or a small step. As far as the power of the governor goes, I believe it will be a step backward because the governor, regardless of which party he is in, will need to make his appointment with the advice and consent of the senate, whereas at the present time, where the nomination is made through the convention, the governor has a voice vote in the convention — and usually a fairly strong voice — and this in my judgment would weaken the governor. And if the delegates wish to weaken the governor, that is certainly the prerogative of the body, but I just wish to emphasize again and again and again that this advice and consent does not strengthen the governor; it weakens him. Thank you.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, I have a point of order here. I'm trying to get this in the proper order. The minority report amendment which proposes to substitute for the beginning of the executive branch article deals specifically with the elective positions. Now, the mention in the majority proposal of the naming of the state treasurer doesn't occur until page 3, line 12, where there is the first mention of a state treasurer. My point is this, Mr. Chairman: isn't this amendment out of order, considering that it is not pertinent to the main amendment, which is the elective position and it doesn't relate to anything until page 3? It seems to me that the intent of the first paragraph was to deal with elective officials, and that we are now out of order in taking up an appointive position.

CHAIRMAN MILLARD: Mr. Faxon, the Chair thinks your point is well taken because we have stricken the state treasurer out of this first parapraph and it should come in later in some other paragraph, where it can be inserted as an appointive official. The Chair hopes that the proponents will withdraw it and introduce it later.

The proponents withdraw the amendment and will introduce it at a later time. Any further amendments?

SECRETARY CHASE: Not to this paragraph of the minority report amendment. There are none on file, Mr. Chairman.

CHAIRMAN MILLARD: The question now is on the adoption of the minority report amendment, as amended, the first paragraph only. Judge Leibrand.

MR. LEIBRAND: Can it be read, Mr. Chairman?

SECRETARY CHASE: The present amended language of the minority amendment to the first paragraph is as follows:

1. Amend page 1, line 10, after "Sec. a.", by striking out the balance of the first paragraph and inserting "The governor, lieutenant governor, secretary of state, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966. They shall, after 1966, serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.".

CHAIRMAN MILLARD: The question is on the adoption of the first paragraph of the minority report amendment, as amended. Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman and delegates, I rise to speak against the minority report amendment, as amended, and for the original committee proposal. I am among those in the convention, and outside it, who worked for this constitutional convention because we believed that the constitution needed thoroughgoing changes. These changes included a strengthening of the executive of this state, the governor, and also of the legislature. In carrying this out, we believe that the governor should have stronger power in appointing the members of the administrative board, his cabinet. It is ridiculous to allow in the constitution for the possibility of having a governor of one party but administrative board members of a different party. These ad board members are heads of important state departments and are responsible for carrying out the policies of the governor. There is serious reason to believe that these officials would not be interested in seeing that the policies of a governor of the opposing party would be successfully carried out. The ones who would lose under this arrangement are the people of the state of Michigan.

It has been said here that the people ought to elect these officials, and there is something to be said for this point of view. But actually very few of the people of this state know who these officials are. They can learn enough about the governor to make a choice and they would prefer to pick a governor in whom they have confidence and hold him responsible for the executive functions of the state, rather than dividing this executive responsibilitiy among a number of officials who are only responsible to the people through election.

In strengthening the legislative power, we believe in a legislative auditor, such as has already been approved by this convention. The role of the auditor is to act as the watchdog of the people in the expenditure of the state's funds. It is the legislature that has been given the responsibility for appropriating funds, and it is only logical that the auditor should also be responsible to the legislature.

I see no violence to the idea of a stronger executive in having the state superintendent of public instruction appointed by the state board of education. But under the amendment now before us, the governor's appointive power in the administrative board is limited to the treasurer. This in my opinion is inadequate.

When we get to section b, I will express my conviction that the governor's power to appoint should be subject only to a veto by the legislature. I am here to vote my conviction that Michigan needs a stronger chief executive. I hope that others in this convention will do likewise, and will therefore vote against the minority report amendment and for the original committee proposal.

CHAIRMAN MILLARD: The question is on the minority report amendment, paragraph 1 of section a, as amended. All in favor will say aye. Opposed, no. The Chair is in doubt.

DELEGATES: Division.

CHAIRMAN MILLARD: There is a call for division. Is there support? Sufficient number up. The question is on the minority report amendment to paragraph 1 of section a, as amended. All those who are in favor will vote aye and those who are opposed will vote nay. There is a request that the amendment be read. The secretary will read.

SECRETARY CHASE: The amendment now reads:

[The amendment was again read by the secretary. For text, see above.]

MR. DOWNS: Point of information, Mr. Chairman. The slides that are up, I believe, have the original amendment which is not what the secretary read. I think it would avoid confusion if the slides were taken down because some delegates may think that they are voting on that instead of the amendment that the secretary just read.

CHAIRMAN MILLARD: Is there any question about the amendment that anybody has? Mr. Martin, have you?

MR. MARTIN: Mr. Chairman, the amendment as now amended — with the various amendments we've attached to it — it seems to me should be supported.

CHAIRMAN MILLARD: Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment, the yeas are 82; the nays are 35.

CHAIRMAN MILLARD: The minority report amendment to section a, paragraph 1, is adopted. Are there any other amendments to paragraph 1? If not, it will pass. Mr. Bentley.

MR. BENTLEY: I think there is another minority report amendment on the desk.

SECRETARY CHASE: I'm sorry, Mr. Bentley. Pursuant to minority report A of Messrs. Bentley, Hatch, Durst, Shackleton, King, Karn, Gust and Shaffer,

Mr. Bentley offers the following amendment:

1. Amend page 1, following the first paragraph of section a, by inserting a new paragraph to read as follows:

"No person who has been elected governor for 2 full successive terms shall be again eligible to hold that office until one full term has intervened.".

CHAIRMAN MILLARD: Mr. Martin, do you have a preferential motion?

MR. MARTIN: Yes, Mr. Chairman, I move that the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of the chairman of the committee that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** to provide for the election, term and duties of state officers, has adopted an amendment to the first paragraph of section a, has received another amendment to said paragraph, and has come to no final resolution thereon. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: The public information committee will meet immediately after this session this afternoon instead of at 7:30 as previously scheduled. Mr. Ink White, chairman.

The committee on style and drafting will meet at 8:00 o'clock this evening in room K.

May the secretary have the attention of the delegates who stay at the Jack Tar hotel? Your host, Mr. Bill Greer, requests of those who are staying there that he would appreciate it very much if you could check out Friday morning. There is a state high school basketball tournament coming to town and he needs the rooms.

The committee on legislative organization is to meet in room D immediately. Mr. John Hannah, chairman.

Mr. Ostrow asks for leave from the session of Friday.

PRESIDENT NISBET: Without objection, he will be excused. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, an announcement which I think is of interest to all of the delegates: the convention this morning adopted a schedule which looks to an adjournment of this convention on or about April 28. If we adhere to that schedule, fine. If we are unable to adhere to that schedule, the delegates should be readily aware that there is very little leeway between that adjournment date and the date of May 15, which has a certain fiscal significance to all of us. For that reason and because my optimism about the April 28 date expressed this morning has been somewhat tarnished by the performance of the committee of the whole today, I think it's only fair to suggest to the delegates that it may be necessary beginning next week to schedule night sessions. I make the announcement and suggestion at this time in order that the delegates in scheduling their personal affairs for next week will try, if possible, to keep their evenings open and available for the work of this convention.

PRESIDENT NISBET: I think in that connection, members of the convention, I have been asked to make a statement which I am making first of all to myself, and then to you. Many of the delegates have had requests for speaking engagements during the month of April. Up until this time I think we have encouraged our delegates to speak to various groups about the convention. However, April will be a very critical month with the convention because we will, I hope, be in second reading when it is even more necessary that our delegates be in attendance. And if it will be of any help to the delegates in refusing to make speaking dates, by having it said that the president of the convention suggested that you not make them, I hereby suggest to you and to myself that we try not to make speaking engagements during the month of April if it interferes at all with the meetings of the convention. I hope, Mr. Staiger and others who have made this request of me, that this might be helpful to you.

The Chair recognizes Judge Shaffer.

MR. SHAFFER: Mr. President, it is my fervent hope that after a hectic day we might adjourn in peace and harmony. I so move, Mr. President, that we do now adjourn, and with the hope that some of that peace and harmony may flop over until tomorrow morning. (laughter)

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed, no.

We are adjourned until 9:30. Thank you, Judge Shaffer.

[Whereupon, at 5:10 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Thursday, March 22, 1962.]

ONE HUNDRED FIFTH DAY

Thursday, March 22, 1962, 9:30 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our own delegates, Mr. Barthwell.

MR. BARTHWELL: Let us pray. Dear Lord, with the commencement of this new and glorious season, help us to realize our many blessings. Guide us in Thy path, O Lord, and make us worthy of the great amount of faith and power entrusted in us. Help us to abandon, as did Christ, our Savior, that which is best for ourselves and to do instead that which is best for all men. As Thou hast given the earth this period of rebirth, give also this constitutional convention a new spirit of rededication to the cause of bettering mankind. These blessings we ask of Him whom we love and trust, even Jesus Christ, our Lord. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your presence? If so, the secretary will record the attendance.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: temporarily from today's session, Mr. J. A. Hannah and Mr. Tubbs who is having car trouble in Grand Rapids; from today's session, Messrs. Heideman, Hodges, Marshall and Norris and Mr. King, indefinitely, due to illness.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. J. A. Hannah, Heideman, Hodges, King, Mahinske, Marshall, Mosier, Norris and Tubbs.

Absent without leave: Messrs. Bledsoe, Ford and Krolikowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Krolikowski, J. A. Hannah, Bledsoe, Tubbs, Norris, Heideman, Hodges and Ford.]

MR. TURNER: Mr. President.

PRESIDENT NISBET: Mr. Turner.

MR. TURNER: I have an announcement to make:

On this day of March in 1910,
  At a time in this nation when men were men,
In the state of Colorado there was born, they say,
  A member of this convention who is with us today.

He soon was the pride of his mother and father
  And bringing him up was simply no bother.
He had such ambition he couldn't slow down,
  Not even for girls that lived in his town.

And when to the courthouse he found himself going,
  He made up his mind that he'd make a good showing,
And as deputy clerk he dug in so hard,
  He completed his work in every regard.

So he headed for Lansing and to this convention,
  To join the 3 B's was his next intention.
Baginski and Brake saw him coming to town
  And invited him in, since their strength had been down.

He quickly joined up with the "Courthouse Gang",
  Then they got into trouble—I hope they don't hang.
  It's a man like this Buback that's real hard to beat.

I would now like to wish "happy birthday" to Pete. (laughter and applause)

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Thank you very much for that nice poem. I want to take this opportunity to thank the many delegates here that were concerned about my recent illness. I got cards and telephone calls and personal concern. I want to thank you very much. Thank you. (applause)

PRESIDENT NISBET: It has been brought to my attention that one of our delegates, Mr. Stevens, had a birthday yesterday. Is that right, Harold? (applause) Mr. Yeager.

MR. YEAGER: I was going to mention Mr. Stevens' birthday, and Frank Millard had one March 1. (applause)

PRESIDENT NISBET: **Reports of standing committees.**

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 38 of that committee, reporting back to the convention **Committee Proposal 22,**

A proposal pertaining to state civil service;

with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 22 as reported by the committee on style and drafting, see under date of April 25.

PRESIDENT NISBET: Placed on the order of second reading.

SECRETARY CHASE: That is the only standing committee report, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Millard.

MR. MILLARD: Mr. President, I move the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.]**

CHAIRMAN MILLARD: The committee will be in order. Mr. Secretary, the Chair wishes for its own benefit and the benefit of the rest of the delegates, that you would read rules 22, 23 and 25.

SECRETARY CHASE: Rule 22, conduct in debate:

> When any delegate is about to speak in debate or present any matter to the convention, he shall rise from his seat, and respectfully address himself to "Mr. President;" he shall not speak until recognized and when recognized he shall confine himself to the question under debate, and avoid personalities.

Rule 23, delegates called to order:

> If any delegate in speaking transgresses the rules of the convention, the president shall, or any delegate may, call him to order; in which case the delegate so called to order shall immediately sit down and shall not rise unless to explain or proceed in order.

Rule 25, conduct on the floor:

> While the president is putting any question, or while the roll is being called or taken by the secretary, no delegate

shall walk out of or cross the constitution hall; nor in such case when a delegate is speaking, shall any delegate entertain private discourses or pass between the speaker and the Chair.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Item 11 on the general orders calendar, from the committee on executive branch, **Committee Proposal 71.** Section a has been read. The first paragraph has been amended.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1797.

Pursuant to minority report A, Mr. Bentley offers the following amendment, which was offered last evening before the committee rose:

[The amendment was again read by the secretary. For the text, see above, page 1814.]

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Owosso, Delegate Bentley.

MR. BENTLEY: Mr. Chairman, assorted doctors, poets, et cetera, ladies and gentlemen, this amendment, Mr. Chairman, was discussed at some length in the committee on executive branch, and within that committee was finally defeated on a rather close vote. The following members of the committee on executive branch have joined me as cosponsors of this particular amendment: Mr. Hatch, Mr. Durst, Mr. Shackleton, Mr. King, Mr. Karn, Mr. Gust and Judge Shaffer.

Mr. Chairman, although this amendment is obviously of a controversial nature, I do not believe that it requires extensive debate. It is rather simple in its intent. It merely provides that no individual who has been elected to the office of chief executive of this state may serve more than 2 full successive terms until one full term has intervened thereafter.

I think, Mr. Chairman, it would be helpful to members of the committee to point out briefly that the practice in this respect is followed in many of our other states. Actually there are 23 of the 50 states which contain a similar limitation on the number of terms which the chief executive can serve. In 10 states—primarily in the south, but including states such as Missouri, which has had a fairly new constitution, and Pennsylvania—the governor cannot succeed himself directly; he can only be reelected following the intervention of one or more terms. In the states of Georgia, Kentucky and West Virginia, he is ineligible to serve as governor for 4 years after the completion of the term to which he has been elected. In the state of Delaware, he cannot be reelected for a third term under any circumstances. In the state of Alaska which, as we all know, has had a very recent constitution, he cannot be eligible after 2 full successive terms until one full term has intervened. That is exactly the language which we are proposing here today. In the state of Maine, after he has served 2 consecutive elective 4 year terms, he cannot succeed himself at all. In the state of Maryland, after he has served 2 consecutive popular terms, he cannot succeed himself for the term immediately following. That is basically the language which we have also offered here. In the state of New Jersey, which has also had a recent state constitution—this is rather complicated—if he has been elected for 2 successive terms, including an unexpired term, he is ineligible until the third Tuesday in January of the fourth year following the expiration of the second successive term. (laughter) In the state of New Mexico, he cannot hold any state office for 2 years after he has served 2 consecutive terms. In the state of Indiana, he is ineligible for more than 4 in any period of 8 years. In the state of North Carolina, he is ineligible for more than 4 in any 8 year period unless the office cast on him is that of lieutenant governor or president of the senate. In the state of Ohio, he cannot serve more than 2 successive 4 year terms. And in the state of Oregon, he cannot serve more than 8 in any 12 year period.

Although these provisions are somewhat complicated, I think the basic intent of the majority of them is all the same, Mr. Chairman, and that is that these states which I have named have decided that the office of governor should not be held by any individual for more than 2 successive terms until at least one term has intervened, although some of them are even more restrictive than that.

I think, as I say, the amendment is very simple. It would merely provide that beginning, presumably, in 1966 when, according to the amendment we adopted yesterday, the 4 year term for governor would commence—that is, after the 1966 election—that no individual elected for 2 successive 4 year terms could be eligible for a third 4 year term until at least one term has intervened. The reason, I think, I and my cosponsors feel this way is that because of the extension of the gubernatorial term from the present 2 years to the proposed 4 years, we believe that 8 years is sufficient time for one individual to serve in this high responsible office, and that he should be constitutionally prohibited from running for a third 4 year term until there has been at least, as I say, a single intervention.

I understand, Mr. Chairman, there are members of the committee of the whole who desire to speak on this amendment, and I would therefore be glad to yield the floor, unless at the moment there are direct questions that I would be happy to answer. Otherwise, I will be glad to yield the floor for those delegates who do not wish to ask questions but wish to make further comments of their own in this respect.

CHAIRMAN MILLARD: Do you yield the floor to any person?

MR. BENTLEY: I am yielding the floor, Mr. Chairman, unless there is a question, in which case I will be glad to yield to any individual for the purpose of a question and my answer. If there are no questions, I will yield the floor for any further remarks from any member of the committee of the whole.

CHAIRMAN MILLARD: Did you have a question, Mr. Barthwell?

MR. BARTHWELL: Mr. Chairman, Mr. Bentley, I would just like to know why would you be willing for him to run after a term if he has served 2 complete terms? What would this absence from the office do?

MR. BENTLEY: Mr. Chairman, in reply to my good friend, Mr. Barthwell, I may say that there was some consideration, both in the minds of myself and the cosponsors, as well as in the committee, of making a flat limitation of 2 consecutive terms, but it seemed to us after deliberation that if the individual in question should be an outstanding individual, we should not constitutionally prohibit him from ever again seeking the office of chief executive. We would permit him to return and offer himself again to the people if the people decided that they wanted him, but that we would require a break in the continuity. I myself would have no objection to a flat limitation of two 4 year terms, but the majority of us felt that it would be desirable to permit him to offer himself again to the electorate, but with the requirement that there would have to be a break after the second 4 year term.

MR. BARTHWELL: Thank you.

CHAIRMAN MILLARD: The Chair recognizes Mr. Kelsey for a question.

MR. KELSEY: Mr. Chairman, Mr. Bentley, what distinction do you draw between the governor of the state and, say, a United States senator or a United States congressman in relation to terms that they can serve?

MR. BENTLEY: Mr. Chairman, with reference to the question of my good friend from Warren, I would say that in both the congress and in the legislature, there are those who consider seniority of service as a virtue. That is why those people who are continually reelected to either the senate, the house of representatives or the legislature through the years can accumulate seniority and thereby be in a better position to serve themselves, their constituencies and the people of their particular districts or states as the question may be.

With regard to the office of governor, I would say that I think it is equally desirable to continue a man in office for a certain period of time, but I would respectfully point out my personal opinion that seniority insofar as serving in the office of governor can cease being a virtue after a certain period of years.

MR. KELSEY: Mr. Chairman, Mr. Bentley, why would it cease being a virtue because it was a different office; for instance, governor or senator or congressman? I don't follow your reasoning here.

MR. BENTLEY: Because, Mr. Kelsey and Mr. Chairman, I think that in the legislative bodies seniority is desirable as long as we retain the committee system and as long — at least in the congress, and I presume to some extent in the legislature — as the chairmanship of committees depends upon those members of those committees who hold the greatest seniority and have the greatest experience. Since the governor is not a member of a legislative body but is an executive, I think the analogy does not apply.

Now, as I say again, I have no wish to prevent a qualified man from being returned to office if the electorate decides that they want him, but I feel that following the practice in the states which I have already outlined, it would be desirable to prevent a continued succession of unbroken terms, and I feel that if his services are so highly desired, he could be returned for a third term providing that you do have this intervention, so if for no other reason than purposes of comparison, the electorate would have a chance to make a choice with someone else.

MR. KELSEY: Mr. Chairman, Mr. Bentley, 2 further questions. You acknowledge that you would allow him to run for 2 terms, serve 8 years, and then he could vacate the office for 4 and then become a candidate again. Can you give me the logic to that reasoning?

MR. BENTLEY: The same logic that is followed, by and large, Mr. Kelsey and Mr. Chairman, in these other 23 states, and that is because of the power and the prestige that the chief executive has, and should hold, as a matter of fact, in his high office, it was felt — and, as I say, this feeling is shared apparently in these other states — that we did not desire to see the individual concerned continue in an unbroken succession of terms. We felt that two 4 year terms would be sufficient for him. If he is qualified, as I would hope anybody holding the office of governor would be, 8 years should be highly sufficient for him to present his program and implement his program for the state.

MR. KELSEY: Mr. Chairman, Mr. Bentley, don't you feel that unless the governor was a rarely exceptional man, a man of very high stature and standard, that during his second term he would be derelict; he would have no incentive to serve the people and the people would be sort of short changed in his second term?

MR. BENTLEY: Mr. Chairman, in reply to the question from my good friend from Warren, I am delighted that he asked that question because it seems to me, Mr. Chairman and fellow members of the committeee of the whole, that if the chief executive would have the ability to serve a second 4 year term with the knowledge that he would not thereby immediately thereafter be a candidate, that he could make an outstanding record in the second 4 year term. He would be able, for example, to devote his entire time to the duties of his office. He would have no thoughts with respect to the following political campaign insofar as reelection was concerned. And furthermore, I can envisage this chief executive, this distinguished person holding this high office would be able to conduct himself throughout those 4 years in the complete absence of any pressure or any considerations of a political nature which might govern him or might influence him if he were intending to be a candidate for a third term.

MR. KELSEY: Mr. Chairman, I have no further questions. Can I retain the floor for a brief statement?

CHAIRMAN MILLARD: The Chair has you down, Mr. Kelsey, as third on the list for debate and will recognize you then.

MR. KELSEY: Thank you kindly, sir.

MR. OSTROW: I have a question.

CHAIRMAN MILLARD: Mr. Ostrow has a question for Mr. Bentley.

MR. OSTROW: Mr. Chairman, Mr. Bentley, we are being constantly reminded that we ought to put the state on a businesslike basis and run it in a businesslike manner. Do you know of any billion dollar corporations who have similar provisions relating to their president or to their chairman of the board?

MR. BENTLEY: Mr. Chairman, in answer to the question from my good friend from Detroit, the answer is, of course, no; but I would point out that I think the points have been made in debate in the past that there are certain differences between the operation of a large industrial corporation and the operations of a state government as complex as the state of Michigan. And in answer to him, although I can find no precedent insofar as business is concerned, I can find ample precedent, which I have already quoted, in the examples taken by many other states, including some of our neighboring sister states and including 3 of the last 4 states to have a constitutional convention.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, before I begin my remarks, I want to apologize for the sound of my voice this morning. Those of us back here on "pneumonia row" are singing that old Maurice Chevalier song "Every Little Breeze Seems to Whisper DeVries" (laughter) or "I've Got The Air Condition Blues."

Ladies and gentlemen of the committee, I rise to support the minority report amendment limiting the term of governor to 2 consecutive terms. This was my original delegate proposal, and even though it was entered some time quite early in the convention — October in fact — I still feel as strongly in support of it today as I did when it was first submitted.

There are several reasons why I believe you should vote for the minority report amendment. First, this would in effect limit the governor to serving 8 years at any one time. I believe 8 years is a very ample time for any governor to enact a program. Eight years is the better part of a decade. We believe in legislative reapportionment every 10 years. Therefore, a new executive approach every 8 years is certainly not unreasonable.

Second, based on the proposals and interest among delegates and testimony from former governors of this state, the governor under this new constitution will have more power, and this is as it should be. He will also have a longer term. But with greater power and a longer term, there should be some practical limit on the duration of this power, since with more power there will be increased control in the hands of a single individual. You will notice I said "practical limit."

Third, at the end of an 8 year period the governor, through the office in which he serves, will have built up the power of incumbency and personality following, and the trend then is for people to vote for personality rather than issues. For instance, you frequently hear a voter say, "I know governor so and so," or "I have shaken hands with governor so and so. He's doing okay in the office. He's a good guy. I don't know the other man who is running. He is new to me. Therefore, I'll vote to retain the governor." This means that he is really deciding on the basis of personality and not on the basis of issue. Personality, particularly well known personality, overshadows most issues. Personality plays a part in any elective process, but it certainly should not be the dominant part. And if personality becomes built up to a point that it completely overshadows issue, the incumbent party can suffer as much or more than the party outside. If you vote yes on the minority report amendment, it means at the end of each 8 years the parties must put up candidates to discuss issues. The power of incumbency and personality are minimized and government then will be decided on issues and, I believe, will be far better off in the long run.

Fourth, I believe a new administration, even of the same party, brings with it a new enthusiasm and a fresh viewpoint which keeps democracy vital. This new enthusiasm and viewpoint is a necessary ingredient in efficient progressive government. In spite of any learning period that may be involved, I believe people will get more from such a change, and therefore the end of each 8 years seems to me to be a very good benchmark of progress. Any program will have succeeded or failed in this 8 year period.

Now, the argument has often been raised that an executive limited by terms is ineffective in his relations with the legislative branch because they know that he can no longer be effective as a political force. I don't agree with this. I think Eisenhower was more effective in his last 2 years in office than he was in the previous 6. Furthermore, if an executive decides not to run, he will have to announce this fact generally at least a year before his term ends in order to begin to build up a new candidate within the party. Another consideration is the fact that a governor who cannot run for reelection may get courage to do some of the things for the common good that he might not otherwise consider because of pure political reasons.

Let me review with you 4 reasons for supporting the minority report amendment: 1. Eight years is ample time to enact any program; 2. Since the governor will have increased power and longer term, there should be a practical limit upon the duration of this power; 3. I think good government will be better served if the parties must discuss issues rather than personality at least once each 8 years; and, 4. I think we need a new viewpoint and enthusiasm at least once each 8 years. I therefore strongly urge a yes vote on the minority report amendment. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I rise to speak against the proposed minority report amendment. I do this for several reasons. The first one is that this amendment would weaken the power of the governor. It would make the governor weaker in this respect: the present constitution adopted in 1908 and no constitution in Michigan's history, to my knowledge, has had an effect of limiting the governor's right to run for reelection.

The second point I would like to make is that if a governor cannot run for a third term, even if he may decide not to run for that third term, he is much more ineffective in his second term for the reason that everybody knows he would not be able to run for the following term. This also weakens his effectiveness, not only because he cannot run for the third term, but because during the second term or half of his 8 year term he would be in a weakened position.

The third point I would like to make is that one of our real unresolved — I almost use the word tragedy — in American government is that men who take years to learn the complex job of government may, when the political winds are such that they are defeated, not only personally lose, but the people lose the value of their experience. I point out, without arguing for or against it, that this convention, I believe just this week or last week, made an amendment to provide that the legislative auditor, now called the auditor, would not be limited by two 8 year terms on the very grounds that the experience gained could be of value. I just hope there is some consistency in these matters.

The main point — and I want to make this one as clear as I can — is that I am even more concerned about the limitation on the people's right to select an official than I am on the limitation on that individual in office. I think there is a tendency to look at this question from the viewpoint of the individual candidate rather than from the viewpoint of the electorate. I believe that the strength of our democratic government in America has grown as the franchise has expanded, and delegates have in the past pointed out on this floor that our history of America has been the expansion of the franchise; that women got to vote within the memory of many of us here; that, in addition to that, the property qualifications were reduced so that we expanded our franchise. With that we expanded the number of people from whom the electorate could select their officials.

This in effect, if adopted, will be telling the people of Michigan: you have the democratic right to go out and vote for anybody you want to for governor, nominate anyone you want to for governor except the man that has satisfied you for 2 terms. I want to repeat this to emphasize it. This is saying to the voters of Michigan: you can go to the polls. You can be active in a primary campaign or a general election. You can nominate anybody you want. You can vote for anybody you want — except the person that has proved for 2 terms that he has satisified your wishes. This is a severe limitation on the right of the people to elect their governor. And I would point out that if this had been in effect, a governor within our memory or within the lives of many of us here would not have been elected for a third term. I am speaking of Governor Groesbeck. In addition to that, Governor Williams would not have been elected for a third or fourth or another term. So those are 2 specific examples where the people of this state wanted to elect the governor for more than 2 terms, and I feel that this amendment, if adopted, while it is a serious limitation on the strength of the governor, is even a more serious limitation on the right of the people to select and reelect and campaign for a person that the people feel has served them well for 2 terms and should serve for another term.

Let's not superimpose our judgment over that of the voters. I am not one that says the voters are always correct, but I do believe that 2 or 3 million people voting will in the long run make more correct decisions than if their choices are limited. So I would urge the defeat of this because it is a limitation on every single voter in this state. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Warren, Mr. Kelsey.

MR. KELSEY: Mr. Chairman, delegates, I have detected since the beginning of this convention a sort of industrialization of our constitution or so called automation of our constitution. I don't mean by those remarks that I am against progress in certain fields, but in human relations, dealing with the democratic form of government, I don't feel that we should continue to freeze language into the constitution and try change for the sake of change by quoting numbers of states that have this particular provision so that should be a reason why we should have it, et cetera.

I would like to read section 1 of article II in our present constitution, which has been passed on first reading and will be part of the new document, "All political power is inherent in the people. Government is instituted for their equal benefit, security and protection." "The people" I think are the key words here. I don't think that we should insert any language into the constitution that would restrict the citizens of the state if they have a man in any office, regardless of whether it is a village constable or the governor of the state. If his constituents feel he is doing an adequate and proper job, we should not tell him how long he should stay. Certainly the people should make that choice.

Let me point to the terms of Franklin Roosevelt, to Tom Dewey and, if you please, if it hadn't been for the last federal amendment, President Eisenhower. I think you can't use the argument here that the people don't know who they are voting for. Certainly I think everybody knows who the governor is or has been during a particular campaign.

The high cry has been if a governor tends to stay in office too long, he can build a machine. Let me point to some recent history in Wayne county, and I think if there is any place you can build a machine, the county of Wayne is one of the best places to build it if you are a successful and cunning politician. And I say that the people rose here just in April and decided to make a change and they made it. The machine didn't control in this instance.

Governor Williams was before our committee on executive branch, and I think he put it very pointedly that if you have someone in office who is doing a good job, keep him. And if he is not, throw him out. We have the votes and we have the right and the power through free elections to do that. I, needless to say, am against the amendment and ask that you join me. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Traverse City, Delegate Rajkovich.

MR. RAJKOVICH: Mr. Chairman, fellow delegates, most of my speech has already been given by the preceding speakers in opposition to this amendment, so my statement will be very short and to the point. I have no hesitation in placing my complete trust with the people of the state to elect a governor only when he is competent and to reject his bid for reelection if he has not rendered acceptable service during the current term. If the people wish to elect a man for 1 term, 2 terms or 5 terms, this is their right. This is their privilege. This is their business. And we ought to let them have that prerogative. Why should we as delegates here eliminate from the field of candidates one individual whose qualifications people are best able to judge by the current progress of his government? Thank you.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Ostrow. He is not present. The gentleman from Kalamazoo, Delegate Stamm.

MR. STAMM: Mr. Chairman and members of the committee, I speak in opposition to this amendment. Mr. Bentley indicated that the majority report just squeezed through the committee. There were 21 members in the committee and there are 7 names on his minority report, which, it seems to me, indicates that there was a majority vote in the committee more than just squeezing by.

This amendment indicates another case of fear of the executive, and you may be certain that if this amendment carries, we will make the governor a lame duck for his second term regardless of what the people may indicate here as they speak for their amendment. This amendment also creates a game of musical chairs on the governor's office, and I believe the proposers fear a repetition of FDR and G. Mennen Williams, and these are rare occasions in political history. We should give the power of limitation to the people. It seems to me that this is one time that we could trust the citizens of Michigan to decide limitations, and I believe the amendment should be defeated.

CHAIRMAN MILLARD: The gentleman from Lansing, Delegate Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I support this amendment because I firmly believe that over the long pull it will produce a generally better government than the government over the long pull would be without it, and I believe this would be so principally for the reasons which have already been stated by Delegate Yeager. I would add this to the discussion: of the 34 states in the union whose governors have a 4 year term, 20, or a substantial majority, limit the number of terms which the governor may serve. This is taken from page 7 of the Michigan Constitutional Convention Studies prepared by the constitutional convention preparatory commission.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Ann Arbor, Professor Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I have understood, I hope correctly, that discussion in committee of the whole is to be brief and informal. I have merely this to say: I find no sound public reason behind this minority report amendment. There may be personal reasons or partisan reasons, but I can't find any sound public reasons. I feel also that Michigan very badly needs to have great governors as New York has had great governors, and in New York there has been no limitation, and had there been limitations in New York, that distinguished native son of Michigan, Tom Dewey, would not have been able to serve 3 terms with credit to his state as he did, nor that great democratic Governor Ritchie of Maryland, who I believe served four 4 year terms. As a matter of fact, there is a strong move in Washington now to bring about the repeal of the twenty-second amendment, because people having now applied a limitation to the president's terms feel that the original arguments are no longer applicable.

If you are going to limit the governor, it seems to me you ought to limit the terms of all public officers, especially legislators. I see no reason at all why you should perpetuate a senator in a rotten borough any more than you are afraid to give that power of reelection to a governor. As a matter of fact, the seniority rule and all that goes with it is perhaps the basis of some of our difficulties in the state of Michigan today. I find, therefore, finally that this is an unjustified limitation on the power of the people. I trust the people to elect or to reelect or to defeat their governors and I don't believe in intuiting any arbitrary restrictions such as this is.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, fellow delegates, I managed to read the morning paper while the debate was going on, all the late con con news, and at the same time make up my mind on this issue, and I am ready to vote. (laughter)

CHAIRMAN MILLARD: The gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, I think Mr. Hubbs is premature because he hasn't heard my speech and it might change his mind. (laughter) Some of the points that I had to make have been made. I will simply state them and not argue. The first point I have in mind is that this does not square with the idea of a strong governor. Since that point has been amply discussed, I will just leave it at that position.

The second point I have in mind against the amendment is this: it seems to me rather backwards in philosophy, because it is based on a theory that experience should count against a man instead of in favor of a man. I can understand why you might wish to put qualifications for office. You might say that a man can't be governor unless he has this qualification, or that, or the other. I think that would be a good thing. He should have qualifications to be in office. On the other hand, I can't see the logic to saying that if he does have qualifications, that is why he should be out of office. That is backwards in my opinion. That is going in the wrong direction.

The third point I will also state briefly, since that point has been made by others, and that is that this amendment implies deep distrust of the people. It implies the people will not be able to choose wisely and therefore we should interfere with their choice.

And I would call to the attention of the delegates briefly just this point: that in the present constitution, especially with the amendments that now exist, there has been indicated a great amount of distrust of the legislature, and I believe that is one of the reasons why the convention has been called. I don't think we should add other provisions which show further distrust of other branches of the government. It seems to me that this one currently before us would show distrust of the executive, and would just compound distrust of the legislature with distrust of the executive. Further, it shows distrust of the people. Now, when you have an instrument of government such as our constitution which shows distrust of the legislature, distrust of the executive and distrust of the people, you can see that there isn't much room left over to find out who you can trust. If we can't trust any instrument of government and if we can't trust the people either, then the question arises in my mind: who is it that we are going to trust? The answer, I suppose, is, in God we trust. But on a terrestrial level, we have got to place some faith in God's creature, man, and on man's instrument, popular government. Therefore, it seems to me that we can't refuse to place our faith someplace, and the first place to place it is in the people. Let the people speak and let their government be based on faith and trust as well.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman and members of the committee, the statement has been made in opposition to the minority report amendment, of which I am a cosponsor, that the only reason this amendment is sponsored is for personal or partisan reasons. I would submit that there are those who sponsor this amendment, both on the minority report and on the floor, who have neither personal nor partisan reasons for supporting this position. I would call to the delegates' attention our meeting of December 13 when General Eisenhower appeared before our body and in response to a question by Mr. Binkowski, I believe it was, stated that he favored a limitation of 2 terms on the presidency of the United States, and that he would favor a like limitation with respect to the gubernatorial office.

I don't think this involves the question of whether you are going to have a strong executive or a weak executive. We are not here talking about the powers of the office itself. We are talking here about the person. The office itself by its very nature attracts a great deal of publicity, and where you have a person of average qualifications who may be doing an average job, by virtue of the fact that he is governor and is receiving publicity each and every day in the newspapers, he has a tremendous advantage when he runs for reelection, as opposed to a man who might have extremely better qualifications than the incumbent. Therefore, I heartily support the minority report amendment and would urge the delegates to likewise vote in favor of it.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Grand Rapids, Delegate Goebel.

MR. GOEBEL: Mr. Chairman and members of the committe, I see little, if any, merit in this particular amendment. My reasons for feeling as I do have been ably presented by other delegates, Delegates Downs, Pollock and others. Essentially, I feel that the governor's opportunity to effectively promote his program during his second term would be reduced considerably if this restriction were put on. Secondly, I feel that the people should have the right to determine for themselves whether or not they want a governor for a third or fourth term, and I therefore urge the defeat of this amendment or proposal.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Escanaba, Delegate Follo.

MR. FOLLO: Mr. Chairman, I just would like to assure my friends, Mr. Bentley, Mr. Hatch, Mr. Durst, Shackleton, King, Karn and Gust not to be so pessimistic about the future. It seems to me that sooner or later the Republican party will elect a governor, (laughter) and then there will be wishful longing, wishing that you were back when governors could be reelected at least 2 times. So I would urge that you defeat this amendment.

CHAIRMAN MILLARD: The question is on the Bentley amendment to paragraph 1 of section a. Mr. Bentley.

MR. BENTLEY: Mr. Chairman, may I just respond very briefly to a few of the comments that have been made here, and I assure the committee they will be brief. I would like to point out to my good friend from Kalamazoo, Mr. Stamm, that there are 8 cosponsors. Judge Shaffer's name could not be printed on the amendment, but he is a cosponsor of it. And, as I recall, the vote in the committee was even closer than 13 to 8, because I know of at least one other member of the committee that voted for the amendment although he did not wish to be a cosponsor of this particular amendment.

In response to my good friend from Ann Arbor who quoted several examples, including that of Governor Ritchie of Maryland, I do not know when Governor Ritchie served, but I did point out that Maryland has exactly the same constitutional limitation as we are proposing in this amendment.

But, Mr. Chairman, I think perhaps something more fundamental: much has been said in this brief period of debate with regard to the proposed limitation on the right of the people. I would like to point out, Mr. Chairman, to the members of the committee that we have already limited the people's right to choose a chief executive by giving them that choice only every fourth year instead of every second year as they have at the present time. Therefore, we have actually cut the people's right to choose a governor almost in half by giving the governor a 4 year term. And with respect to the mention made continuously about the fact that you are going to turn a man out of office after 2 terms, which to many people might seem unreasonably abbreviated, I think it should also be mentioned that we are proposing that a chief executive be allowed to serve uninterruptedly the equivalent of 4 terms under the 2 year limitation that we have at the present time.

Finally, Mr. Chairman, I can only say since reference has been made to some extent to our recent president, General Eisenhower — and I think Mr. Hatch very appropriately reechoed his own feelings in this respect when he was before us shortly before the end of the year — that I know from personal knowledge that whether the twenty-second amendment had been in operation or not, nothing in this world, I am sure, would have persuaded Mr. Eisenhower to be a candidate for a third term. I have heard him say that personally too many times to have any mistake in that particular respect.

CHAIRMAN MILLARD: The Chair will recognize the Chairman of the Committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, I rise to comment on my vote on this particular amendment, because as chairman of the committee I find myself on this one question, which the committee considered in all the proposals that we have out here, of having supported the position of the minority report amendment which was, however, not adopted in committee.

First of all, I would like to say that though this relates to politics, it is not a political question. It should not be decided on the question of who held office or whether he held office too long or not long enough. Personally, in my campaign for delegate to this convention and in the committee, I supported the proposition that in view of the extended terms which we were giving the governor, two 4 year term possibilities, that it created the possibility, with the means of communication and other devices for getting the governor's position before the people and maintaining his political status, that the failure to limit to 2 terms would enable the governor to build a political machine which would be relatively impossible to defeat, and that a limitation of some sort not less than 8 years was desirable.

I think the delegates have had an opportunity to listen to the arguments on both sides. I think they have been ably presented. On this matter, I find myself obligated to vote for the minority report amendment, but I think that the delegates should consider the arguments on both sides, should not vote on them as a purely political matter but on the basis of their best judgment as to what will advance the cause of good government most.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Barthwell.

MR. BARTHWELL: Mr. Chairman, fellow delegates, I have listened to Delegate Yeager say that one of the reasons why the governor should only have 2 terms is because by him shaking hands, the public begins to say they know governor so and so. During this convention I have been listening to the argument on the selection of other officers, the ad board and the judiciary, and one of the main points that has been put across in this convention, especially to me, is the fact that the people should know who they are voting for. So now I don't understand why this thing works in one direction in one case and in another case it has got to be applied in a different direction. This to me seemed to add up to a masterful type of gerrymandering in the selection of our officials. If you are supposed to know some of them, and if tenure is good for them and it is not good for the others, I don't get the reasoning behind how you differentiate between which candidate it is good for and which one it is not good for. Therefore, I am opposed to the minority report amendment and would urge the delegates to vote against it.

CHAIRMAN MILLARD: Delegate Kelsey.

MR. KELSEY: Mr. Chairman, members of the committee, I just want to agree with what Delegate Martin has just said, that we don't want to decide this on a political basis. I think of all the witnesses that were before the committee on executive branch on this question, very able people, we didn't ask for political affiliation. I have reference to one, a Dr. Ronan, who is a political scientist and certainly, in my judgment, very able. It would take too long to read his statements into the record, but he could see no reason in limiting the term of the governor. Thank you.

CHAIRMAN MILLARD: The Chair will recognize a vice president of the convention, Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I think that there has been just one little piece of information that hasn't yet been thrown out on this floor. I rise in support of this amendment, and would invite your attention to the fact, Mr. Chairman and ladies and gentlemen of the committee, that in all of Michigan's history, there has only been one governor that served as long as this constitutional amendment here would permit. Governor Williams was the only governor in Michigan's history that served as long as 8 years. He served 12. But all of the rest of them served only 4 years, with the exceptions of Governor Warner and Governor Groesbeck who each served 6. So I don't think that by adopting this minority report amendment you are unduly restricting the people of Michigan. They have on only one occasion in all their history seen fit to give a man the office for so long as you would, even under this amendment, permit.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Madar.

MR. MADAR: Mr. Chairman, I would just like to ask a question through the Chair of Mr. Martin.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. MADAR: He mentions the fact that we ought to divorce this particular question from politics. I have been around a good many years and I know he has, in politics, and I was just trying to find out how he was going to divorce an election of the governor from politics. Maybe he can give me this information.

MR. MARTIN: Mr. Chairman, Mr. Madar, I tried to explain that I recognize that this relates to politics but that I thought the decision should not be made on the political question of who had held office. I don't think it should be decided on whether Governor Williams held office for 12 years or whether President Roosevelt held office for that long. I think the considerations are over and beyond whether we liked or whether we didn't like the particular individuals. The question is whether this gives an undue opportunity for a governor who is able to hold office for 8 solid years to build a political machine which will make it next to impossible for anyone on the other side to get his story to the people in an effective way which would permit the people to vote intelligently on whether they wanted a change or not.

MR. MADAR: Well then, apparently what you are saying —

CHAIRMAN MILLARD: Are you commenting or asking a question?

MR. MADAR: I am just commenting now. Then, of course, the only thing that I can get out of this is seeing as how we are just going to think about this politically in thinking about the question, then I feel that he is also saying, too, that when we have good people we ought to keep them just as long as we possibly can and forget about whether they are Republicans or Democrats; and if it has just been the Democrats that have been able to keep them in there for a long time because they are brilliant people, let's forget about the politics and keep them there.

CHAIRMAN MILLARD: The question is on the Bentley amendment to paragraph 1 of section a of Committee Proposal 71. All in favor will say aye.

MR. YEAGER: Division, please.

CHAIRMAN MILLARD: A division has been called for. Is there support? There is a sufficient number up. All those who are in favor of the Bentley amendment to paragraph 1 of section a of Committee Proposal 71 will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment of the minority offered by Mr. Bentley to insert a new paragraph following line 19, the yeas are 55; the nays are 72.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: May the secretary suggest that the second paragraph of the minority report amendment offered by Mr. Marshall is identical with the language of the committee proposal.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Just to supplement Mr. Chase's comment, the second part of this section is identical. Both of the reports provide for a party nomination of the candidate for lieutenant governor and the designation of the running mate of the winning candidate for governor as the successful candidate for lieutenant governor. The purpose of the change from the present constitution, I think, is quite obvious. It is proposed that the 2 candidates run as a team and that the lieutenant governor be selected in party convention, which would give the nominee for governor some say — not a controlling say — in who would be running with him. It probably would enable the governor not to have somebody on the ticket with him who was completely antagonistic to his program and should improve the possibility of the lieutenant governor, when elected, being helpful to the governor as liaison with the legislature and in carrying out ceremonial duties and matters of that kind. We think that this will be a marked improvement in our present system under which, with a separate primary for the lieutenant governor, it is conducted under circumstances where people are apt to know very little about who they are voting for in that primary. This would be a better system and would, among other things, avoid the situation in which you have a governor of one party and a lieutenant governor of another party, which doesn't seem to make very much or very good sense. So there is no difference between the 2 reports. The committee was unanimous on this part of its proposal.

CHAIRMAN MILLARD: Are there any amendments to paragraph 2 of section a?

SECRETARY CHASE: As the matter presently stands, Mr. Chairman, the minority has offered the amendment to the complete section. I wonder if someone on the part of the minority would be willing to withdraw the proposed amendment to the second paragraph.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Marshall is not here. Miss Hart is getting her glasses. I believe Mrs. Elliott is here who signed the minority report. If I understand it correctly — and could I have the secretary, through the Chair, explain it — this would simply procedurally show that there is agreement between the minority and the majority on this aspect if this were withdrawn; is that correct?

SECRETARY CHASE: That is correct, Mr. Downs.

CHAIRMAN MILLARD: The Chair recognizes Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, then I would withdraw the minority amendment to the section.

CHAIRMAN MILLARD: Without objection, the minority report amendment to paragraph 2 of section a is withdrawn. The secretary will read.

SECRETARY CHASE: Messrs. Brake, Durst and Karn offer the following amendment to paragraph 2 of section a of the original committee proposal now under consideration:

1. Amend page 1, line 20, after "lieutenant governor" by inserting a comma and "secretary of state and attorney general"; so that the language will then read, "The lieutenant governor, secretary of state and attorney general shall be nominated by party convention in a manner provided by law."

CHAIRMAN MILLARD: The Chair will recognize Delegate Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, let me assure you in the first place that no compromise has anything to do with this amendment. (laughter) It is not the most important thing in the world either. The method of nominating the secretary of state and attorney general is now provided for by statute just as this amendment is here. This method of nominating the lieutenant governor could have been provided for by statute and can still be provided for by statute. I assume that the committee, when it decided that this change ought to be made, also decided that they felt the legislature would probably not make it, and I agree with the committee in both aspects. I think the change should be made. The lieutenant governor should be nominated at the party convention. And I agree with what I assume is the thinking of the committee that the legislature probably would not make the change. If we are to put this in the constitution, it seems to me we should put in all of the elected officers who are to be nominated — that is, the administrative officers, members of the ad board who are to be nominated at the convention and have the whole statement in one place. I trust this won't start a long line of debate. It is not of prime importance but it seems to me just a matter of convenience in having all 3 of them together.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Brake, your understanding as to the view of the committee, I think, is correct. If the secretary of state and the attorney general are to be elected — and that is the status of matters at the present time — I would see no objection to adding their names here since we have specifically provided this with respect to the lieutenant governor.

CHAIRMAN MILLARD: Delegate Powell.

MR. POWELL: Mr. Chairman, members of the committee, I find myself a little bit confused right here. I thought the minority had just withdrawn this particular paragraph, and now we are amending a paragraph that is withdrawn. What happened?

CHAIRMAN MILLARD: Mr. Powell, the committee proposal, paragraph 2, and the minority report, paragraph 2, were the same, so the minority report has been withdrawn and we are now on the committee proposal, paragraph 2.

MR. POWELL: Well, I had understood yesterday that we were proceeding on the whole minority report with the idea of sort of perfecting that, and then it would be considered as to whether or not it was a substitute for the original majority report. Maybe we are taking section by section, comparing back and forth. Is that the idea?

CHAIRMAN MILLARD: Taking paragraph by paragraph, Mr. Powell.

MR. POWELL: Comparing one with the other?

CHAIRMAN MILLARD: That is right. Mr. Young.

MR. YOUNG: Mr. Chairman, I would like to ask a question of Mr. Brake, if I may.

CHAIRMAN MILLARD: Mr. Brake, if you care to answer.

MR. YOUNG: The section as now amended would provide for the method of nomination of the attorney general and the secretary of state. Down further in the section we also provide for the method of election, in team with the governor, the lieutenant governor. No provision is made for the election of secretary of state or attorney general. Now, does that mean this will be left to the legislature, or will they run as a part of that same team, or will they run as individuals? Or what provision, if any, should be made for that?

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, Mr. Young, I assume that the present statute would stand and they would run on the same ticket, but not with their election dependent upon the election of the governor.

MR. YOUNG: Since the constitution sees fit to declare clearly how the lieutenant governor shall be elected, don't you feel that we should extend that reasoning and provide specifically for direction in the method of election of these 2 other officers?

CHAIRMAN MILLARD: Mr. Young, are you directing a question?

MR. YOUNG: Through the Chair, please.

CHAIRMAN MILLARD: Through the Chair, and is this directed to Mr. Brake?

MR. YOUNG: Yes.

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, Mr. Young, I would not think so. That is well established in practice and well established in the statutes. I would see no reason for making a change.

CHAIRMAN MILLARD: The question is on the Brake amendment to paragraph 2 of section a. All in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Hubbs offers the following amendment:

1. Amend page 1, at the beginning of line 20, by inserting "The governor and"; so the language will then read, "The governor and the lieutenant governor, secretary of state and attorney general shall be nominated by party convention in a manner provided by law."

CHAIRMAN MILLARD: The Chair will recognize Delegate Hubbs.

MR. HUBBS: Mr. Chairman, my fellow delegates, I permitted this amendment to be introduced this morning for only one reason. I want you to be aware of the fact that I think it would be advisable to nominate the governor in party convention. However, I realize that this is likely to be a very controversial subject and I do not feel that it should be placed in that situation at this time. I honestly believe that the motive of this amendment is one that is designed to improve the political situation in Michigan and in the long run will be of great benefit to the people of this state. However, at this time I feel the situation would make it inconceivable that we could gain the kind of bipartisan support that I feel it should have, and I therefore respectfully request that it be withdrawn.

CHAIRMAN MILLARD: The Hubbs amendment to paragraph 2 of section a of Committee Proposal 71 is withdrawn. Are there any further amendments, Mr. Secretary?

SECRETARY CHASE: There are no further amendments to the second paragraph of section a on file.

CHAIRMAN MILLARD: Are there any amendments to the body of section a of Committee Proposal 71, paragraphs 1 and 2? If not, it will pass.

Section a, as amended, is passed. The secretary will read.

SECRETARY CHASE: Section b:

[Section b, paragraph 1, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair recognizes the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this first paragraph of section b simply adds to the authority of the lieutenant governor to the extent of permitting him to break a tie vote. It also specifically provides that he shall perform such additional duties as may be delegated to him by the governor. The purpose of this, of course, is to enable the governor to have a more useful lieutenant governor and this, I think, would enable him to do just that. The problem so far as the lieutenant governor is concerned is that if he serves solely as a presiding officer of the senate, he is not being as useful as many people think he could be, and we are trying to give the lieutenant governor a more responsible job without trying to specify here in the constitution just exactly what those duties should be. So the proviso leaves it to the governor to make use of him for various responsibilities: to work on study commissions, chairing study commissions, handling other matters of that kind, ceremonial matters, acting as liaison with the legislature and various other responsibilities.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to direct a question to Mr. Martin.

CHAIRMAN MILLARD: Mr. Martin, if you care to answer.

MR. HUTCHINSON: Mr. Martin, the wording of this proposal, sir, says that the lieutenant governor may be given such additional duties as may be delegated to him by the governor. My question is this, sir: would you understand that that language in the constitution might be construed to prevent the legislature from placing any additional responsibilities in the lieutenant governor by law? Specifically I have in mind the state administrative board, which is a statutory agency, and the lieutenant governor sits on the administrative board by reason of a statute. With this language in the constitution, would you think it within the power of the legislature to direct duties upon the lieutenant governor?

MR. MARTIN: Mr. Chairman, Mr. Hutchinson, I think that it would not be possible with this language for the legislature to assign the duties to the lieutenant governor, and I think I would have to say that it could not place him on the administrative board. It could provide that the governor might delegate him responsibilities with respect to the administrative board, but I believe that this would not permit the legislature to provide so directly.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Cudlip.

MR. CUDLIP: Mr. Chairman, through the Chair I would like to ask Chairman Martin a question.

CHAIRMAN MILLARD: Mr. Martin, if you care to answer.

MR. CUDLIP: I think we all appreciate the desirability of such a proposal, and I know the reason therefor. We have had lots of experience in the administrations of President Truman and President Eisenhower and I believe even President Roosevelt with respect to providing more work for the vice president in addition to his duties as presiding officer. However, this word "delegate" bothers me a bit. My question to Mr. Martin is whether he feels that this language would in any way impair or disparage the philosophy of separate branches of government, the 3 branches that we have, legislative, executive and judicial. I don't think we want to write into the constitution the fact that anything that inheres in the gubernatorial office as such within this principle can at will, by virtue of a note or letter, be given to this other gentleman, the lieutenant governor, and I am sure that is a fundamental principle of government. I think what we are trying to do is assign him some tasks but not in derogation of that principle. That is my question at least, Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Cudlip, I think the committee had this in mind. They did not want to confuse the responsibilities of the 2 branches, and this was the reason they provided for delegation by the governor. This, I assume, would be subject to some limitation by the legislature. But in general it would be a delegation of responsibilities which the governor himself had been given, and of course the lieutenant governor would be simply acting as his agent in that respect. He would not be acting on any original authority basis.

MR. CUDLIP: Mr. Chairman, may I ask further questions?

CHAIRMAN MILLARD: Go ahead, Mr. Cudlip.

MR. CUDLIP: Mr. Martin, would this mean, for example, that a governor could ask the lieutenant governor to take over his duties with respect to calling out the militia, granting pardons and other things that in our system of government are attached to the chief executive office? This word "delegate" is a broad word, and we are writing a constitution. I am in favor of the idea that people have in mind, but I am worried.

MR. MARTIN: I would have to say I don't think so, Mr. Cudlip. I think those would be, in a sense, nondelegable functions of the governor where they are specifically entrusted to him by the constitution. However, there are certain responsibilities entrusted to him by the legislature which he might be able to delegate.

MR. CUDLIP: Thank you, Mr. Chairman. Thank you, Mr. Martin and members of the committee.

CHAIRMAN MILLARD: The question is on the first paragraph of section b of Committee Proposal 71. The secretary will read.

SECRETARY CHASE: Mr. Brake offers the following amendment:

1. Amend page 2, line 9, after the word "governor" by inserting "or legislature"; so the language will then read, "He shall perform such additional duties as may be delegated to him by the governor or legislature."

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, it seems to me that the fixing of the duties of an elected officer is the business of the legislature, not the business of the governor. As Senator Hutchinson has called to our attention, the language of the committee would bar the lieutenant governor from the administrative board unless the governor happened to see fit to name him to that board. The legislature has set up the administrative board. It is a statutory matter, pure and simple, and certainly the legislature ought to have the power to say who shall be on the administrative board. That should not be left to the whim or to the reasoning of the governor. The lieutenant governor belongs on the administrative board and should be there unless the legislature changes its mind and takes him off.

CHAIRMAN MILLARD: The Chair recognizes Delegate Downs.

MR. DOWNS: I wondered if Delegate Brake would care to answer a question.

CHAIRMAN MILLARD: Mr. Brake.

MR. DOWNS: Delegate Brake, I will try to make it a short question. I can see the point about the ad board, and personally I would not object to saying in the constitution that the governor and lieutenant governor and other officials be on the ad board and establish that in the constitution. What concerns me is when we say in effect the lieutenant governor shall do what the governor or the legislature assigns him to do. I raise the question with you if that really doesn't give him 2 bosses, and what if each one gives him something conflicting to do, or what if each one gives him something that may not be conflicting but from a time viewpoint would mean he would have to be 2 places at once? How does the poor fellow decide what to do in this case?

MR. BRAKE: Well, Mr. Chairman, Mr. Downs, if I were doing it, I would take the governor's name out of there. I think the assigning of the duties of an officer, particularly an elected officer, is the legislature's business and not the governor's business. I would not expect that there would be conflict between the 2 if it were left as it is. Certainly the legislature should not be left out.

MR. DOWNS: Well, I think from a viewpoint of responsibility and the prevention of confusion, your statement would at least put it in one place. Are you suggesting that as an amendment to your amendment or a substitute to strike the word "governor"?

MR. BRAKE: No. But if you put it in, I won't object. (laughter)

MR. DOWNS: I was going to suggest that to have 1 boss, we strike the word "legislature" and leave it as it is. (laughter) We can have it 1 either way. I wouldn't call this a 2 headed monstrosity; it isn't that big. But I would feel, Mr. Chairman and delegates, that this is an invitation to an irresponsible organization of government. We talked a lot about private industry, and I cannot conceive of a private industry creating a position and saying that the man shall be responsible to 1 individual or a group of legislators who might not always be consistent with each other in their objectives.

Delegate Brake has answered my question. I appreciate his forthright answer to it. But because of that confusion, I would argue against the amendment. I would suggest, from a viewpoint of preventing the conflict, that either the word "governor" or "legislature" be used. I think this is the worst possible choice. Then if just the one word were used, "legislature", I would be glad to discuss that, but since all we have before us is the present alternative language, I would speak in opposition to the amendment. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Adrian, Delegate Durst.

MR. DURST: Mr. Chairman, members of the committee, I submit that at this point the court house — radical coalition of yesterday is coming apart somewhat. I believe that, practically unanimously, our committee rejected language similar to Mr. Brake's or this concept of giving the legislature control over the activities of the lieutenant governor. Our reason was this: in creating this type of procedure where the lieutenant governor is nominated and runs on the same ballot with the governor, we hoped to create the type of situation where we would get the same type of cooperation between the governor and the lieutenant governor that we have had between President Eisenhower and Mr. Nixon. It was our idea that he could become, if the governor saw fit, a sort of trouble shooter for the governor to be available to do the extra special tasks of government which the governor is faced with, to give him advice as it is needed. It was our feeling that if we subjected this man to doing those duties which are assigned to him by the legislature, that ultimately there would be a conflict. The legislature would be assigning him duties that would make him unavailable to do the things which the governor found necessary.

I realize that there will be such times when the governor and lieutenant governor do not get along that well together and that this may shunt the lieutenant governor to the side. But we felt that in the long run this was the better alternative, to leave it free for the governor to establish those duties which he desired the lieutenant governor to do, and that in doing so we would probably be creating a situation where the lieutenant governor would have more responsibility and would be better informed upon the activities of the executive branch of government. So I oppose the Brake amendment.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, it is obvious that this little matter again brings up a very basic difference in philosophy and beliefs on this convention floor, and I state my own: it seems to me that the vesting of power — that is, to determine what officers shall do what — is traditionally and soundly a responsibility of the legislature. The manner of their performance in the executive branch is the responsibility of the governor, but what they shall do is legislative.

We create in our constitution various officers. We create the office of secretary of state. We create the office of state treasurer and others. We do not in the constitution say that the governor shall say what those officers shall do. We are perfectly content to leave it to the legislature to implement, define and enlarge their powers. The matter brought up by Mr. Cudlip, I think, gets right at the very root of the problem here. Mr. Martin assures us that it was not the intent of his committee to create a situation where the governor might delegate those responsibilities which are peculiarly the responsibility of the chief executive to his lieutenant. Nevertheless, this language doesn't assure us that it could not come about, and a reasonable check on that would be to let the legislature say what powers shall be vested in the lieutenant governor.

I suppose that some of you are fearful that the legislature in its majority might be of a different party than the lieutenant governor and would not be disposed to give him anything to do. On the other hand, the more realistic approach to this is that the lieutenant governor as president of the senate has and should have a considerable influence in the legislature, and I have no doubt in my mind but that if the legislature at one time provides that the lieutenant governor shall head up a particular department, I don't think that the legislature is going to turn around and arbitrarily and shortsightedly and so on take the power away from him. I am thinking about the fact — I believe it is in Indiana — that the lieutenant governor by statute is the head of their department of agriculture. I wouldn't submit that that would be a proper duty, necessarily, for the lieutenant governor of Michigan, but that is the way Indiana solved the problem. The intent was, I think, to recognize that if you are going to have a lieutenant governor, he should not continue to be a fifth wheel; that we cannot at this time in this day and age afford the luxury of a state officer that has nothing to do except preside over the senate, because the senate can just as well provide for its own presiding officer.

It was my position in coming into this convention that the lieutenant governor should be abolished entirely. We could get along without a lieutenant governor. I agree, however, that if you are going to have the officer, you should give him something to do. So our only quarrel, apparently, among ourselves is how those duties should be assigned to him.

I submit to you to look into the history of the fabric of our system and ask yourselves whether, really, this isn't a job for the legislature. I cannot differentiate between letting the legislature describe and define and impose duties and responsibilities upon other state officers and denying to the legislature the right to do so with regard to the lieutenant governor. I would hope that Mr. Brake's amendment would be adopted, and that if it is adopted, that we then could go ahead and strike out the reference to the governor here.

CHAIRMAN MILLARD: The question is on the Brake amendment. Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I want to reply to some things that have been said. Mr. Durst seemed to be disturbed that the legislature would so burden the lieutenant governor that he wouldn't have time to do what the governor wanted done. We have 125 or more years of Michigan history to the exact contrary. The complaint has been that the legislature never gave the lieutenant governor enough to do. They have given him one thing to do that he should continue to do.

We don't let the governor assign the duties to any other elective office. The governor himself has most of his duties spelled out by the legislature. So have the attorney general, the secretary of state and all the others. Now we want to take from them the power over this particular office. It seems to me that very clearly we are infringing upon the jurisdiction of the legislature. Over and over again we have had the statement made here: we should have a strong governor. We should have a strong legislature. Actions speak louder than words. Every step we take with reference to the legislature weakens it. True, the other day we gave the legislature the power to pick the auditor general, and we turned right around and tied their hands so if they make a bad choice, they can do nothing about it for 8 years. And this is just another step in not making a strong legislature but in weakening it and taking away from it one of its functions.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Battle Creek, Delegate Everett.

MR. EVERETT: Mr. Chairman, fellow delegates, it seems to me that the position of Senator Hutchinson and Mr. Brake can be reconciled with the committee proposal without this amendment. We are not suggesting here that the legislature would be hampered in any way in setting forth what are executive functions. Except for those which are spelled out in the constitution, obviously the legislature determines what will be done by the executive department of government, and it would continue to have that function. The only thing we are saying here is that the portion of the executive functions which will be filled by the lieutenant governor will be designated by the governor. If they are to run as a team and if he is to serve as sort of a righthand man of the governor, it seems to me at least the governor ought to have the right to direct which portion of the executive functions will be performed by him. It is quite probable that there would be no great conflict between what the legislature might tell him to do and what the governor might tell him to do, but I think the possibility of this conflict ought to be removed by submitting that one or the other has the power to determine this, and it would certainly break up the team and would break down the committee's theory that the lieutenant governor should be a righthand man of the governor if you deprive the governor of this ability to designate that portion of the executive functions which should be carried out by the lieutenant governor. For that reason, I would oppose the amendment and support the committee position.

CHAIRMAN MILLARD: Delegate Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I think we are getting at a fascinating aspect of government and I would like to make a few comments on this. I was very interested that Delegate Brake just said that in creating the legislative auditor, we limited the power of the legislature because we provided an 8 year term that could not be rejected without a 2/3 vote. I would just like to remind him that this was the very statement I attempted to get across on the floor, and I for one voted against the legislative auditor on one basis: that it did limit the legislature; that it had the power to hire staff and so on.

I think what this would do from the legislature's viewpoint is say that it would have, in effect, an employee, but the employee would be elected by the people. This is just as illogical as it would be to do the other thing, and I think that if the legislature wants work done, if it is a matter of research of the legislative functions, it certainly has the power to create those positions or whatever is needed and to do that. This amendment would be both a limitation on the legislature and also a limitation on the governor because of that inevitable conflict that I think might result. I think this would mean the lieutenant governor was neither fish nor fowl nor good red herring. If the intent of the committee is to strengthen the governor, see that the lieutenant governor runs with the governor and they run as a team and then the lieutenant governor has the constitutional status to assist the governor in his functions, I think if that is what we believe in, we should defeat the amendment and support what is an agreement of both the minority report and the majority report.

The other aspect of this that comes up—and I will just touch on it very briefly—is that the governor and the lieutenant governor would be elected on a one man, one vote basis and in that sense be jointly representative of the whole state, and this amendment, I am afraid, unless there is something done in legislative organization that I do not yet anticipate, would create a potential built in conflict that is not sound for the governor, for the legislature or for the voters and people of this state. I urge the defeat of the amendment.

CHAIRMAN MILLARD: The question is on the Brake amendment to paragraph 1 of section b of Committee Proposal 71.

MR. BRAKE: I ask for a division, Mr. Chairman.

CHAIRMAN MILLARD: A division has been called for. Is there support? Sufficient up. The secretary will read the amendment.

SECRETARY CHASE: The pending amendment offered by Mr. Brake:

[The amendment was again read by the secretary. For text, see above, page 1823.]

CHAIRMAN MILLARD: The question is on the Brake amendment which has just been read. All in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brake, the yeas are 35; the nays are 70.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Wanger offers the following amendment:

1. Amend page 2, line 6, after "but" by striking out "shall have no vote except in case of equal division.", and inserting "may vote only when his vote would change the result."; so the language would then read, "The lieutenant governor shall be president of the senate, but may vote only when his vote would change the result."

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Wanger.

MR. WANGER: Mr. Chairman, I do not anticipate that this would be a very controversial matter. However, I offer the amendment for the following reason: it seems to me to be quite illogical to allow the lieutenant governor to break a tie but not allow him to either make a tie or break one on matters such as constitutional resolutions where a 2/3 vote of the body may be required, and therefore it seems to me quite clear that either this officer should have no vote at all or he should have a vote when his vote would change the result.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would rise in opposition to this amendment. I can see in it this effect which I don't believe I would agree to: let us assume then that you have a bill over there in the senate with 17 votes for it and it takes 18 votes to pass a bill. Then you would let the lieutenant governor make up the constitutional majority to pass the bill. I don't think that we want to do that. I wouldn't. I can well remember one time when the eighteenth vote was off the floor and it so happened that it was a bill I was opposed to, so I was very happy to see that eighteenth vote not on the floor. When he came back in, he asked unanimous consent to be recorded as voting in favor of it, and that would have changed the result. Well, that couldn't be done without unanimous consent and he didn't get unanimous consent.

I don't think that it would be good policy to let the lieutenant governor be a senator at large to make law that which has not been able to win a majority of the senators elect, except in that extreme situation where they are equally divided. And there would be no need of giving the lieutenant governor any power at all to break a tie vote if we had a constitutionally odd numbered senate so there would always be a number of senators not evenly divisible by 2 making up the body. Since our history is that we have even numbered senates, it is only sensible to let the lieutenant governor break a tie. But I would not be in favor of letting him cast the vote to make the constitutional majority in every case like your amendment would do.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, it seems to me quite clear that under cases where the senate is equally divided, under the present language the lieutenant governor has the power to make this constitutional majority, and it seems to me it is a question of logic in this case, and to a certain extent it is most illogical to permit him to vote only in this limited situation and deny him the right to change the result of a vote in any other situation, and I think it is clear we should either go all one way or all the other.

There is a very limited amount of power involved. It is, of course, one vote, but I can see no reason why, for example, apart from the matter of constitutional majority, the lieutenant governor should be given this "equal division" vote and yet prevented from making a tie, because you know when you make a tie, then the matter under consideration fails.

Also, with respect to the question of 2/3 vote, when the legislature seeks to amend the constitution, it must get a 2/3 vote of the senate in order to do so. If his vote would change the result, why should the lieutenant governor be forbidden from either making or breaking a tie under those circumstances and yet allow him to break a tie when the body is equally divided? It is completely inconsistent and illogical, and therefore I urge your support for this amendment or, in the alternative, to strike out his power to vote altogether.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Hutchinson has stated very ably the reasons why I feel sure the committee would not favor the present amendment. It is not desired to get the lieutenant governor into the business of deciding all of these questions that might come up, and that could frequently happen if he is given the right to add his one vote to the number necessary to provide the 18 or whatever is the constitutional majority. So I am sure the committee would be opposed to this amendment.

CHAIRMAN MILLARD: The Chair recognizes Delegate Hoxie from St. Louis.

MR. HOXIE: Mr. Chairman, I would like to ask a question through the Chair.

CHAIRMAN MILLARD: To Mr. Wanger?

MR. HOXIE: No. My question is of Delegate Gust—if he has any views on this proposed amendment. (laughter)

CHAIRMAN MILLARD: Delegate Wanger.

MR. WANGER: Mr. Chairman, I would like to direct a question through the Chair to the chairman of the committee, Mr. Martin.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. WANGER: And to ask him why, then, any vote was given to the lieutenant governor at all? On an equal division, you know, the matter fails. Now, why should the lieutenant governor be given the power to have something passed which otherwise could not have passed in this limited situation? It seems to me that your arguments against my amendment apply with equal force and vigor against what the committee itself has proposed.

MR. MARTIN: Mr. Chairman, Mr. Wanger, the committee envisioned that this would be a relatively rare situation which would arise, and that it is generally an unfortunate thing from the standpoint of the people watching the legislative process to find the legislature deadlocked on an issue by an absolutely even vote, and that it is desirable from the standpoint of having the people feel that the legislative process does and can move forward at all times to have it possible for a tie vote to be broken. I think this is the rationale of the committee proposal.

CHAIRMAN MILLARD: Is there anything further, Mr. Wanger?

MR. WANGER: Only this: that the same argument would apply to permitting the officer to vote on matters with respect to which a 2/3 vote is required, and that is clearly prohibited by the committee's proposal.

CHAIRMAN MILLARD: The Chair recognizes Delegate Bentley.

MR. BENTLEY: Mr. Chairman, I would just like to point out to Mr. Wanger that this committee proposal would exactly parallel the situation in the United States senate in Washington where the vice president presides over the United States senate and does have the right to vote, which he has exercised in the past, in case of a tie vote, and then only.

CHAIRMAN MILLARD: The Chair recognizes Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I would like to address a question to Mr. Wanger.

CHAIRMAN MILLARD: If Mr. Wanger cares to answer.

MR. G. E. BROWN: Mr. Wanger, would you consider the lieutenant governor as a member of the house with respect to a 2/3 vote for either immediate effect of legislation or to override a veto?

MR. WANGER: It would appear to me that under the present language, he would not be.

MR. G. E. BROWN: Then you would consider him a member as far as the 2/3 vote is concerned?

MR. WANGER: It depends on how you vote on this amendment.

MR. G. E. BROWN: I am saying your amendment would consider him a member, right?

MR. WANGER: No. It would give him the right only to vote in those cases where his vote would change the result.

MR. G. E. BROWN: I realize that—

MR. WANGER: And that is a very great restriction upon his right.

MR. G. E. BROWN: I realize that, Mr. Chairman and Mr. Wanger, but the point is with a 2/3 vote, of course, his vote would be a vote for the purposes of a 2/3 majority or a 2/3 vote to override a veto or for immediate effect of legislation. Now then, he would have an opportunity to vote at that time, which might preclude the having of a 2/3 vote. But in having this right to vote eventually, would you consider his vote as a vote for the purposes of determining a 2/3 majority then?

MR. WANGER: Only if that vote would change the result. Mr. Chairman, Mr. Brown apparently does not grasp the fact that he could only vote when that vote could change the result. That is the only time.

MR. G. E. BROWN: Mr. Chairman, Mr. Wanger, I grasped it entirely. I am wondering if you are grasping this situation.

CHAIRMAN MILLARD: The question is on the Wanger amendment. Is everybody familiar with it? All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mrs. Judd offers the following amendment:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "from time to time assigned"; so the language will read, "He shall perform such additional duties as may be from time to time assigned to him by the governor."

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, I thought that Delegate Cudlip expressed a rather valid fear of the possible significance of this word "delegate"; that the gubernatorial powers might be passed on to the lieutenant governor which the people intended should only be handled by the governor. It may be that Mr. Cudlip was satisfied with Mr. Martin's explanation and thinking that that explanation in the record would take care of it was enough, and perhaps it is. But I thought it might perhaps lessen litigation to clarify the language by expressing what I assume from some committee expressions is the real intent of the committee in the constitution.

I am not a lawyer, and if I misinterpret the legal significance of the verb "to delegate" this is perhaps merely a matter for style and drafting, and possibly Mr. Cudlip was satisfied because he knew he was in a position to handle it in style and drafting. But if the convention wants to express this intent by making the language somewhat more casual, they could do so perhaps by supporting this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, there is another amendment directed to this same point which is pending, and it may be that that would meet the question which Mrs. Judd and Mr. Cudlip had in mind. But I think it is about time for the committee to rise, and I am going to so move at this time. We can consider these matters after lunch.

CHAIRMAN MILLARD: The question is on the motion for the committee to rise. All those in favor say aye. Opposed, no. The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71;** has considered several amendments thereto; has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: No announcements, Mr. President.

PRESIDENT NISBET: If not, the Chair will recognize Mr. Shanahan.

MR. SHANAHAN: Mr. President, I move that the convention now recess until 2:00 p.m. this afternoon.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 2:00 o'clock.

[Whereupon, at 11:35 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. President, a couple of weeks ago when we finished the judicial article, we were having some levity and some lightheartedness, and I wanted to get up and tell a story, but the man who was going to be the principal beneficiary of that story had left the convention hall and I changed by mind. But today he is here. So, if I may have the floor for a moment, I would like to tell it.

PRESIDENT NISBET: You may.

MR. TUBBS: And I want to assure Mr. Barthwell that he has learned a lot of law this winter, and as one of his instructors I feel quite honored that he has progressed so well in his studies.

There is a big law firm in New York that had one member as personnel director. One day a boy came in to talk to him about getting a job. And he said, "Why should I hire you?" And the boy said, "Well, I'm the best office boy in the United States." And the personnel man said, "Well, if you're that good, I'll hire you." So he put him to work. A week later he came in the door and the boy was going out with his few belongings under his arm, and he said, "What's the matter, Fred? Didn't you like the study of the law?"

"No. I'm sorry I learned it." (laughter)

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention now resolve itself into committee of the whole for the purpose of taking up matters on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. All in favor will say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: At the time the committee rose before lunch, there was under consideration the following amendment offered by Mrs. Judd to Committee Proposal 71:

[The amendment was again read by the secretary. For text, see above, page 1826.]

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, if I hadn't been so impatient and had waited just a few moments longer, I would have discovered that Mr. Cudlip had solved this problem. He has very graciously permitted me to bring it to you, so I would like to withdraw the amendment that I put in before lunch and offer instead the one that is on the secretary's desk.

CHAIRMAN MILLARD: If there is no objection, Mrs. Judd can withdraw the amendment that she introduced, and the secretary will read the substitute.

SECRETARY CHASE: Mrs. Judd now offers the following amendment:

1. Amend page 2, line 9, after "governor" by inserting "unless otherwise prohibited by this constitution or law"; so that the sentence will read, "He shall perform such additional duties as may be delegated to him by the governor unless otherwise prohibited by this constitution or law."

CHAIRMAN MILLARD: The Chair will recognize Mrs. Judd.

MRS. JUDD: It is my understanding that the fears over the meaning of the word "delegate"—that the governor might hand the lieutenant governor some very important jobs that we the people want the governor to keep to himself—are taken care of by keeping the word "delegate" but adding this phrase. And as I understand it, some of the things that would be prohibited in the constitution for him to delegate would be the matter of pardons, which was mentioned this morning.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we had a chance to confer on this during the noon hour and to look over the language that is now proposed. I think it meets the objections that were raised, and I believe that in its present form it will prevent the governor from delegating any powers which the legislature clearly felt he ought not to have the authority to delegate. I think it is in satisfactory form.

CHAIRMAN MILLARD: The Chair will recognize Delegate Downs.

MR. DOWNS: Mr. Chairman, I wish to point out—and I had not thought this was really offered seriously—that we should see just what it will do. This means that we want a strong governor, so we are going to give him a helper. We are going to give him a lieutenant governor. And we are going to see he is on the same team. He is not only apt to be of the same political party; he is nominated by the convention where the governor has a vote and usually a fairly large voice, the gubernatorial candidate at least. Then after he is elected, the governor can then assign his helper, the lieutenant governor, tasks to do unless the legislature says that he can't do it.

That is a step backwards from the 1908 constitution. It is not a step forward. The 1908 constitution is silent on the matter of assignment of functions of the lieutenant governor. And I believe as a practical matter governors of both parties, when they have had lieutenant governors from the same party, have in many cases on a practical governmental operation asked those lieutenant governors to assist them in the operation of the executive branch of state government. Nobody, to my knowledge, has ever raised a question or objection to this.

With this provision we are further weakening the governor, because it would mean that the legislature could by law prohibit certain functions that the governor might otherwise want to assign the lieutenant governor. All I am suggesting to the committee is if we want to give the governor a helper in the constitutional office of the lieutenant governor, let's do that. I think the majority report, which the minority agrees with, does this rather specifically. If we don't want to do that, please let's hold our own and not go back behind 1908 so far as the strength of the chief executive office is concerned. Thank you.

CHAIRMAN MILLARD: The Chair recognizes Delegate Gust.

MR. GUST: Mr. Chairman, I have an amendment to this amendment on the secretary's desk which I would like him to read, please.

SECRETARY CHASE: Mr. Gust offers the following amendment to the amendment offered by Mrs. Judd:

1. Amend the amendment, after "constitution" by striking out "or law"; so that the language to be added would read, ". . . unless otherwise prohibited by this constitution."

CHAIRMAN MILLARD: The Chair recognizes Delegate Gust on his amendment.

MR. GUST: Mr. Chairman, members of the committee of the whole, I quite agree with Mr. Cudlip insofar as he refers to a prohibition specifically set forth in this constitution. However, I quite agree with Delegate Downs, and certainly the intent of this overall executive branch committee proposal was to strengthen the executive arm of our government. The lieutenant governor is the righthand man of the governor and is specifically empowered to carry out functions of the executive branch and not be a messenger boy for the legislature. Therefore, I don't think the legislature should have anything to say about the duties assigned to him or not assigned to him by the governor. So I would respectfully request that the last 2 words of the Cudlip amendment be stricken.

CHAIRMAN MILLARD: Mr. Faxon, we are on the Gust amendment now. Do you want to talk to that?

MR. FAXON: I have to talk specifically on that?

CHAIRMAN MILLARD: You have to talk on the Gust amendment now.

MR. FAXON: Not to the Judd amendment? I wanted to ask Mrs. Judd a question.

CHAIRMAN MILLARD: The Chair recognizes Delegate Hanna.

MR. W. F. HANNA: Mr. Chairman, I merely want to call Mrs. Judd's and Mrs. Cudlip's and the other delegates' attention to the fact that, to my knowledge, in this constitution we have not prohibited, and I have seen no proposals that would prohibit, the lieutenant governor from exercising any function. May I suggest that this language say "unless specifically assigned to the governor by this constitution," because we have assigned specific functions or duties to the governor himself, but I know of no place where we have prohibited, by this constitution, powers and functions to the lieutenant governor and it would seem that "unless otherwise prohibited by this constitution or law" or, as Mr. Gust now leaves it, actually it expresses nothing, because all we have done in this constitution is specifically give duties to the governor. I suggest different language.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, Mr. Chairman, I think the situation is this, if I could try to clarify it. The present proposal specifically gives the governor authority to delegate responsibilities to the lieutenant governor. He has never had that specific authority before. Insofar as the lieutenant governor has accepted any responsibilities from the governor, it has been simply a matter of good will or his willingness to help. But we wanted to make it clear that the governor had the authority to delegate such powers, and therefore we made this provision. We did not, however, intend that the governor should be able to delegate every power which he has to the lieutenant governor or, in other words, to make a governor out of the lieutenant governor. And in general in the past the powers of the various administrative officials have derived from legislative enactment of one kind or another or from the constitution.

Of course, if the constitution restricts this, the governor couldn't do it. But insofar as legislative enactments are concerned, since these powers to do certain things by administrative officers flow from those powers, it seems reasonable to let the governor delegate any of those powers that come to him by law to the lieutenant governor unless the legislature feels that these are and should be nondelegable powers, and that is essentially what this does. If you don't have the law in there, you don't accomplish that result. So it seems to me the wording is correct and does what we wanted to do. It lets the governor delegate authority unless you get to some kind of authority which would be of such a major character that the legislature does not feel that this should be anywhere except in the governor's hands. I therefore approve the amendment and hope you will support it.

CHAIRMAN MILLARD: The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. Chairman and members, I agree fully with the analysis made by member Martin. The legislature can pass laws pertaining to the office of the chief executive if they are not unconstitutional, and if such laws direct certain functions to be performed only by the governor and not by him to be assigned, well and good. That could happen in numerous cases. And all these words "or by law" are intended to mean is just that. And of course it is obvious what the violation of the constitution means, because we don't want the governor to be assigning or delegating duties which by the constitution he, as chief executive of this state, is charged with.

CHAIRMAN MILLARD: The question is on the Gust amendment. Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, I would agree with Delegate Gust 100 per cent that if we put in the "or law" we are going to do exactly what the committee of the whole decided not to do this morning, and that is let the legislature provide any duties for the lieutenant governor. Therefore, while I do not think this whole sentence is necessary, I am certainly against the "or law" and I do support the Gust amendment.

CHAIRMAN MILLARD: The question is on the Gust amendment to the Judd amendment. Will the secretary read it so we all know what we are voting for.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 1827.]

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, very briefly, I agree with Mr. Gust's amendment and rise in support of it. I think the adoption of his amendment will assure that the governor really has the lieutenant governor as his executive constitutional assistant unless there are limitations provided by the constitution. I therefore urge support of Mr. Gust's amendment.

CHAIRMAN MILLARD: The question is on the Gust amendment to the Judd amendment. All in favor will say aye. Opposed, no.

The amendment is adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number. The question is on the Gust amendment to the Judd amendment. All in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Gust, the yeas are 97; the nays are 24.

CHAIRMAN MILLARD: The amendment is adopted. The question now is on the Judd amendment, as amended. Mr. Boothby.

MR. BOOTHBY: Would the secretary please read the amendment as it now stands?

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The amendment as amended now reads:

1. Amend page 2, line 9, after "governor" by inserting "unless otherwise prohibited by this constitution"; so that the language in the last sentence of the first paragraph of section b will read, "He shall perform such additional duties as may be delegated to him by the governor unless otherwise prohibited by this constitution."

CHAIRMAN MILLARD: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, I would like to address a question to Mrs. Judd, if I may, please.

CHAIRMAN MILLARD: If Mrs. Judd cares to answer.

MR. W. F. HANNA: Mrs. Judd, do you know of any proposal that we have passed or any proposal which we are going to consider which prohibits a power granted to the governor being delegated to the lieutenant governor?

MRS. JUDD: Mr. Chairman, Mr. Hanna, I am sorry I ever brought up the subject. (laughter) And I think if you want an answer, you'd better ask Mr. Cudlip.

CHAIRMAN MILLARD: Does Mr. Cudlip desire to answer it?

MR. CUDLIP: I would be happy to; thank you. This troublesome problem, you know, they have never grappled with in Washington because of the very things we are discussing, and the vice president gets these ad hoc assignments. But if we are going to have it in the constitution, it should be clear that the power vested in the governor—and we vest him with lots of power; we call him the chief executive officer of this state—shall not be delegated to anyone else, and if the language as it was originally submitted would stand, there is no reason at all why any future governor, if this constitution is adopted, could not delegate all or part of his authority.

All the amendment is intended to provide is as follows: that whereby our division of governmental powers and whereby this constitution is proposed, the chief executive has powers that only he should exercise. This morning I mentioned some of them—the pardons and paroles, militia calling out and so forth. Those are not delegable powers, and the reason is obvious. We didn't choose a lieutenant governor to have the governor that was chosen assign all or some of the powers to that gentleman, and that is the way I understand this matter.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Detroit, Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to direct a question to either Mrs. Judd or Mr. Cudlip.

CHAIRMAN MILLARD: Mr. Cudlip, if he wants to answer.

MR. CUDLIP: I will be glad to answer.

MR. IVERSON: Would the language presently in this amendment permit the governor to, even though he is sitting in his front office, assign practically any or all of his duties to the lieutenant governor?

MR. CUDLIP: Well, I said earlier this afternoon, before the Gust amendment was adopted, that the legislature of this state or any state can adopt laws regarding the governor's office if they are not in conflict with the constitution. For example, if such a law said that they would like to have him sit on the Michigan corporation and securities commission but did not wish that the lieutenant governor should sit, that would be a proper law because it doesn't conflict with the constitution. And that was the kind of a situation—and there are countless others that could be imagined—that was in mind when the words "or by law" were added, but that is out temporarily. Now we are simply talking about the fact that this chief executive cannot delegate to the lieutenant governor any of the duties which he has to discharge under the terms of the constitution, expressly or impliedly.

Does that answer your question, Mr. Iverson?

MR. IVERSON: I am not sure. Mr. Chairman, Mr. Cudlip, I assume then with "or law" being stricken from this amendment, you are satisfied we are not doing anything which would permit the governor to assign any and all of his duties to a lieutenant governor, even though he is sitting in the front office?

MR. CUDLIP: I am satisfied myself that this language means that the governor may not delegate authority to the lieutenant governor if it conflicts with this proposed constitution. Any powers which we have given to him which he himself by virtue of his office—by the inherent nature of his office—is charged with performing, those aren't delegable. Otherwise we would have a situation where, in whole or in part, the chief executive could pass on to the lieutenant governor missions of various sorts and you wouldn't have a governor. You would have a lieutenant governor acting in behalf of a governor who made assignments.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I think we can throw a little more light on this particular provision as it now stands. As I understand it now, the governor could delegate anything that was not prohibited in the constitution. He could delegate any legislative power which was granted to him as of now without any prohibition in it at all. It does not seem to me, however, that this would prevent the legislature from passing legislation which gave the governor power but which said at the same time: the authority which we are now granting shall be nondelegable. I think this leaves the legislature that much leeway as to legislation which is passed in the future. I don't think that legislation previously passed is affected unless it were revised and repassed.

CHAIRMAN MILLARD: Delegate Wanger.

MR. WANGER: Mr. Chairman, I desire to ask Mr. Cudlip a question regarding this amendment.

CHAIRMAN MILLARD: Mr. Cudlip, if you care to answer.

MR. WANGER: Mr. Chairman, Mr. Cudlip, perhaps I misunderstand the various reasons behind the language here used, but as I understand them, would not your purpose in offering this amendment be better served by using the word "provided" in place of the word "prohibited"? The question has been raised, I believe, is there any place where we say expressly in the constitution that we prohibit the governor from assigning certain duties, and it was pointed out that we probably do not expressly say that. However, we do provide for certain powers to be exercised by the governor. And as I heard your explanation, I just wondered if the word "provided" might not clear up that point rather than the word "prohibited."

MR. CUDLIP: Well, I, in candor, must say that this is not my amendment, and Mrs. Judd said so herself. I was interested in the problem, and the words I had in mind were "not in derogation of this constitution or of law." Frankly, I didn't pay particular attention to the wording there because I didn't think Mr. Hanna's point was well taken in the way I view this whole proposal and its purpose, and I would have to look at that again.

I had an objective, as I stated this morning, and I think we have to accomplish it. The language that I would have used if I had proposed an amendment would have been a little different. But, generally speaking, I think the language is satisfactory. I think you should address your question, Mr. Wanger, to Mr. Hanna. He was concerned with some double looping there that didn't bother me.

MR. WANGER: Thank you, Mr. Cudlip. I misunderstood, I see, with regard to whose amendment was actually before us. If Mr. Hanna would care to comment on this suggestion of changing of the words, I will yield to him.

CHAIRMAN MILLARD: Do you desire to answer the question?

MR. W. F. HANNA: Mr. Chairman, will Mr. Wanger repeat his question?

MR. WANGER: The question is this: if it is desirable to adopt an amendment which says that the governor cannot delegate those powers which he is given in the constitution, would it not be clearer to substitute the word "provided" for the word "prohibited" in this amendment? I believe you raised the question along this line.

MR. W. F. HANNA: Mr. Chairman, Mr. Wanger, I have submitted an amendment which I hope will clarify the situation, the essence of which says that the governor may delegate powers to the lieutenant governor unless those powers are specifically vested in the governor by this constitution, so that the powers that we give to the governor—to wit, the power to appoint or the power to grant pardons; the power to make the budget; and so forth—are in the governor and he cannot delegate his constitutional duties; he can only delegate other duties that are nonconstitutional.

MR. WANGER: Thank you.

CHAIRMAN MILLARD: Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, it seems to me that part of the problem here is that we are using 2 words that are foreign to one another, at least in my interpretation, and that is we are speaking of delegating duties rather than assigning duties, and at the same time we are talking about delegating powers. We speak of delegating duties. I think that usually we speak of it as delegating authority and assigning duties. And by using these 2 terms in this way, we find that we are not only thinking of ministerial duties that do not constitute an exercise of gubernatorial authority, but we use the delegation of duties which makes us think we are delegating authority.

I think Mr. Hanna's amendment as he has described it will help in this regard, and very possibly we should move on to that. I would like to point out, however, that Mr. Downs earlier said that we were moving back beyond the 1908 constitution, and I would only direct the delegates' attention to section 1 of the executive department, which says, "They —" referring to the governor, lieutenant governor, the secretary of state, the state treasurer and so on—"shall keep their offices at the seat of government, superintend them in person and perform such duties as may be prescribed by law." This is not going backwards from the 1908 constitution.

CHAIRMAN MILLARD: Delegate Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, Mr. Brown called attention to the particular point that I wanted to make that under the wording of the first part of section b, to my mind there is a considerable difference between assigning additional duties and assigning powers provided for in the constitution. I don't have any fear of the section as it now stands. I think there is no need for the proposed amendment because I think it in no way prohibits the legislature from enacting legislation which will clarify those duties and even limit the duties.

CHAIRMAN MILLARD: Delegate Gust.

MR. GUST: Mr. Chairman and fellow delegates, I think Mr. Hoxie covered just about everything in my remarks. I would only say that I too would recommend that the Judd amendment be voted down. If there still is any question in anybody's mind relative to this problem, I think the Hanna amendment will certainly clarify it.

CHAIRMAN MILLARD: The secretary will read.

SERCETARY CHASE: May the secretary ask, Mr. Hanna, do you propose to add this language to the amendment offered by Mrs. Judd, or to strike out the language offered by her and insert this?

[Whereupon, consultation took place between Secretary Chase and Mr. W. F. Hanna.]

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The substitute amendment offered by Mr. W. F. Hanna is:

1. Amend page 2, line 8, after "him" by striking out "by the governor.", and inserting "except powers specifically vested in the governor by this constitution."; so that the sentence would then read, "He shall perform such additional duties as may be delegated to him except duties specifically vested in the governor by this constitution."

CHAIRMAN MILLARD: The Chair will recognize Delegate Hanna.

MR. W. F. HANNA: Mr. Chairman, because of the confusion—

CHAIRMAN MILLARD: Just a moment.

MR. W. F. HANNA: Mr. Chairman, I will solve your problem by withdrawing it, because that language doesn't accomplish the purpose intended.

CHAIRMAN MILLARD: Mr. Hanna withdraws his amendment. We are still on the Judd amendment. The question is on the Judd amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, I think the Judd amendment, although I believe it ought to have "by law" attached to it, in its present form is satisfactory and does not completely prevent the legislature from limiting some power if it decides that in giving that power it should have a limitation on it. I think it can be properly adopted.

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: I was going to withdraw it if it isn't too late. (laughter) I think the best thing to do is delete the whole sentence in the committee proposal and let it be handled on a very informal basis between the governor and lieutenant governor, but I have no such amendment in.

CHAIRMAN MILLARD: If there is no objection, the amendment will be withdrawn. The secretary will read.

SECRETARY CHASE: Mr. Hutchinson now offers the following amendment:

1. Amend page 2, line 8, after "may be" by striking out "delegated to him by the governor" and inserting "prescribed by law"; so that the language will then read, "He shall perform such additional duties as may be prescribed by law."

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I offer this amendment at this time because this morning, when this matter was determined, we didn't have this precise matter before us. We were debating on the Brake amendment which had "the governor" in there and "by law" and there was a considerable amount of feeling that there would be 2 masters there. Some of the delegates afterwards came around to me and indicated that if it had read the way I now offer it, they might have supported it.

I make this argument in support of this amendment, ladies and gentlemen of the committee. To begin with, let us assume that the present language stays in the constitution, "He shall perform such additional duties as may be delegated to him by the governor." Let's consider the problem that a citizen of the state would have to determine the legality of an act performed by the lieutenant governor under that language. At the present time every official of the government has to have behind him the authority to act, and that authority to act has to be found either in the constitution directly or in a constitutional statute, so that the citizen who wants to know whether this imposition against him is or is not legal can ascertain it by looking to the constitution or to the statutes.

This says that the lieutenant governor shall perform such additional duties as may be delegated to him by the governor. And at one time we were talking about language which would say: be assigned to him from time to time by the governor. How is the citizen of Michigan to know whether or not at the time the lieutenant governor undertook to act he did or did not have such authority? He couldn't find it in the statutes; he couldn't find it in the constitution. That, for one reason, is why I think that, in fairness to our system of law, we should adopt the language which I now propose.

Another point I wish to make is this: there seems to be some fear here lest the legislature by law would impose upon the lieutenant governor some duties which would be embarrassing to him in his relationships with the governor or something of that sort, and I remind you of the fact that if you provide in the constitution that the lieutenant governor's duties shall be as prescribed by law, that means that the legislature has to pass an act empowering the lieutenant governor to do thus and so, but that act will not become the law unless the governor approves it except in extremely rare cases, which isn't very likely because it is almost impossible to override the veto of a governor of Michigan. Consequently, the situation is that the lieutenant governor will never have cast upon him duties which are not agreeable to him and the governor.

And if you keep in mind the fact that this governor and lieutenant governor are going to be elected together by a single vote just like the president and vice president of the United States, it follows that the relationships between the governor and the lieutenant governor will be very close, and I cannot believe the governor would approve an act of the legislature imposing on the lieutenant governor some duties conceived to be embarrassing either to himself or to the governor, so I think you have the protection there. But, on the other hand, I revert back to my first point: that the acts of every official of the government must be found in a statute or in the constitution itself, the authority for the specific act that is done, and the place to find it is in the constitution or in the statutes.

I don't know how it is envisioned that the governor would delegate powers or duties unless it should be by some kind of an executive order, but those executive orders are not, at least in Michigan, practiced. They are not law, something foreign to our usage and something which presumably could be delegated today and taken away tomorrow, leaving it in considerable confusion. I think I agree with Mrs. Judd. The best solution to this problem would be to let it revert to an informal basis. But if we should adopt the amendment that I now propose, we will be carrying forward the same system in effect that we have had since 1908 because, as another delegate read on the floor—I think it was Mr. Garry Brown who read from the present constitution, pointing out that the several officers, including the lieutenant governor, shall perform such duties as may be prescribed by law.

The fact that the legislature has never found very much work for the lieutenant governor to do is not the fault of the legislature, but it is something kind of troublesome throughout our whole history. Nobody much has ever been able to figure out what to do with either the vice president or the lieutenant governor. They are an officer in waiting, so to speak, and such things as the governor and the legislature could agree upon could happily be placed in the hands of the lieutenant governor, but I assure you that the lieutenant governor will never do anything that the governor doesn't want him to do, because the governor is not going to approve a law that would vest that responsibility in him. And I think that a lot of our trouble, both in the United States' history and in the history of Michigan, as between the governor and lieutenant governor arises from the fact that the relationship between the 2 officers doesn't necessarily lend to a great deal of intimacy. The governor, understandably, doesn't want another officer, a lieutenant governor, who is just a heartbeat away from that job, building his own self up in opposition to the glory of the governor if the governor himself has ambitions to succeed himself. This is a problem which we have been plagued with in all of our history and it is not going to be solved by language like this in the constitution. On the other hand, I do think that if we have to have something in the constitution on the subject, we might just as well frankly recognize that the only solution to it must lie in law. For that reason, I offer this amendment.

CHAIRMAN MILLARD: Delegate Karn.

MR. KARN: Mr. Chairman, members of the committee, I certainly am a babe in the woods attempting to comment on what Delegate Hutchinson has just said, a man with his experience and ability in the legislature. However, I just want to say this: the committee on executive branch gave a great deal of thought to this particular part of the section, and there was a great deal of discussion as to whether or not we should continue this position of lieutenant governor or whether to do away with the job entirely. It was decided, however, to continue the lieutenant governor in the constitution. The next question was, how could he be given duties that would justify his position and at the same time relieve the governor of some of his duties?

It is my understanding—and Mr. Hutchinson mentioned it—that the legislature has always had the right to delegate additional duties to the lieutenant governor, but it has never been done, and the fear of the members of the committee—or the majority of them at least—was that it never would be done unless something specific was added to the constitution. Therefore, in my opinion, I think that the sentence in here—it may not be legal, and if it isn't, it would have to be cured, but I do believe that the governor should have some power, some right to delegate duties to the lieutenant governor to really make a job out of it instead of having him have one duty only, and that is presiding over the senate.

CHAIRMAN MILLARD: Delegate Gust.

MR. GUST: Mr. Chairman and members of the committee, Mr. Hutchinson spoke the truth when he said his amendment will put it right back where it was, and that is precisely what we were trying to obviate in the committee. The lieutenant governor has been nothing but an errand boy in the past and we at one time thought about either eliminating this office or giving it sufficient structure so that it would have meaning. I think the committee proposal will do just this and Mr. Hutchinson's amendment will do just what he said it will do: it will put it back exactly where it was, and that is what we were trying to get away from. Obviously with the Hutchinson amendment, the lieutenant governor will now be completely at the mercy of the legislature, and it will draft such powers in an act as it sees fit to give the lieutenant governor. Instead of having the lieutenant governor the right arm of the governor, he will be the errand boy for the legislature.

The governor or lieutenant governor cannot control in a positive way what kind of a bill will come out of the legislature. Sure, the governor won't sign a bill that he thinks does not give sufficient powers to the lieutenant governor in a "prescribed by law" bill, but he has no way to initiate the positive things that he might want in there and no assurance that he can get sufficient support in order to pass them. I say to you that our committee on executive branch gave considerable thought and listened to much discussion on this matter. I urge you to vote no on the Hutchinson amendment and adopt the committee proposal as submitted.

CHAIRMAN MILLARD: Delegate Tubbs.

MR. TUBBS: Mr. Chairman, I had a substitute to the Judd amendment. I wonder if I can amend my substitute to make it a substitute to the Hutchinson amendment. It seems to me that we are quibbling over who is to give the lieutenant governor power. I say just leave it neutral and let the chips fall where they may, and that is what I tried to accomplish in my substitute.

CHAIRMAN MILLARD: We will consider first the Hutchinson amendment and then your amendment. Delegate Downs.

MR. DOWNS: Mr. Chairman and delegates, I believe that Delegate Garry Brown very properly pointed out that the present constitution in article VI, section 1, says, referring to the lieutenant governor, that he shall perform such duties as may be prescribed by law. And section 19 says, "The lieutenant governor shall be president of the senate."

Now, as I understand it, the intent of the committee on executive branch was to change this so that the lieutenant governor would be the executive aide, really, a constitutional one, of the governor. And I think perhaps we are making mountains out of molehills. I may not see all the implications, but as I visualize this, we would want a situation where the governor—who often has the problem that he can't physically be 2 places at once—would like, on an immediate basis, to assign the lieutenant governor to represent himself or the state. I can think of, for example, a situation where the governor might not be able, because of other state commitments, to go out of the state. There might be a governors' conference, a conference of state officials someplace else in the United States where he would want temporarily to assign the lieutenant governor to represent both his office and the state of Michigan there. I would hope this could be done without the need of adopting legislation each time. I think if we make it clear this can be done, it might be satisfactory to have no constitutional reference to it.

I can also see the possibility that if we combine the state departments into 20—and I am not trying to anticipate or get off the subject, but I think, Mr. Chairman, it is related—if the governor has particular administrative problems or new programs starting, he might want to call on a lieutenant governor, because of his past experience, to help temporarily with some type of administrative representation of the governor with that particular developing branch of the executive branch of government. And I say this trying to look ahead 50 years where we can see changes in the executive structure take place as did in the past 50 years.

I believe Mr. Karn pointed out, if I understood him correctly, the thinking that there should either not be a lieutenant governor or, if there is one, give him the responsibility to work and represent the governor. I think by having the lieutenant governor responsible to the governor and assignable by him, that he could be of assistance in the executive branch of government. I say this in no way to limit the power of the legislature to have the technical and professional help it needs, but I think the legislature would be strengthened by assigning people of its own choosing in many cases rather than somebody that had been elected as lieutenant governor running on a ticket with the governor and presumably dedicated to the same governmental program when they did run together. I therefore urge defeat of the amendment and support of the majority and minority reports which on this item are the same.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we seem to have gone round and round on this and perhaps spent more time on it than it warrants. The committee is opposed to Mr. Hutchinson's amendment because it does exactly the opposite of what the committee was trying to do. But I believe Mr. Chase has on his desk an amendment proposed by Mr. Brown and Mr. Norris, and I wondered if he could read that and see if the differences in point of view can't be compromised by that amendment. I wonder if he would read that.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Messrs. G. E. Brown and Norris have filed the following amendment for consideration:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "assigned"; and in line 9, after "governor" by inserting "and shall have such additional authority as shall be prescribed by law"; so that the sentence would then read, "He shall perform such additional duties as may be assigned to him by the governor and shall have such additional authority as shall be prescribed by law."

MR. MARTIN: Mr. Chairman, that is not the amendment we are discussing, of course, but apparently what we have is not satisfactory and what Mr. Hutchinson has, I am sure, is not satisfactory to the committee. I wonder if he would be willing to accept an amendment of this kind.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I understand the intent of the amendment which has just been read to mean that the authority by which the lieutenant governor could do anything would be based in law and that such little administrative duties as the governor might dream up for him to do from time to time could be directly delegated to him by the governor. I can only imagine, however, that in the performance of such duties that would be directly delegated, he would have to act in the name of the governor. He couldn't act in the name of himself, because there would be no authority in law for his so doing.

MR. MARTIN: Mr. Chairman, Mr. Hutchinson, isn't that really what he does now when he is asked to, say, head up a study commission or perform some ceremonial functions and so on? He acts as a representative of the governor on matters of that kind.

MR. HUTCHINSON: Yes, I think he does. But that isn't the kind of legal activity that I envisioned was in the committee's mind. I supposed that the committee had in mind delegating to the lieutenant governor something that would actually have some power and not just a matter of going around and cutting ribbons and so on. If that is all that is necessary, I don't know why you have to write that in the constitution even.

CHAIRMAN MILLARD: Evidently the 2 amendments cannot be joined. We are still on the Hutchinson amendment. Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman, delegates, there was one point brought up in the committee on executive branch which I think has not been mentioned. Mr. Downs came very close to it when he mentioned condensing the departments down to 20. The committee was a bit fearful that if the departments are condensed down to 20, it might be the intent of the legislature to name the lieutenant governor as head of one of these departments. That could result in making it practically impossible for him to do the other duty which has been assigned to him, that of presiding over the senate. As Mr. Downs pointed out, it could very well be that the governor might want to use the lieutenant governor in the reorganization of the government in reducing down to the 20 departments. The thought was to have the lieutenant governor an assistant governor to assist him, not to assist the legislature.

CHAIRMAN MILLARD: Mr. Garry Brown, on the Hutchinson amendment.

MR. G. E. BROWN: Mr. Chairman, I would merely say that which Mr. Hutchinson didn't say, and that is that I think that his amendment does not do the same thing that the Brown-Norris amendment does. I think that I must again reiterate that we should distinguish between those functions which are duties and those functions which are an exercise of executive authority.

Now, in the case of duties, which does not involve the exercise of executive authority, the governor should be able to delegate those things, those things a governor would do which would be in the nature of a duty which doesn't involve the exercise of executive authority. In those areas which would involve an exercise of the executive authority, these things should be prescribed by law. Whether the law may say that the governor may delegate these things or specifically grant them to the lieutenant governor is unimportant, because this will be provided in the law, but when it is an exercise of executive authority, it should be prescribed by law. When it is merely the doing of a duty that doesn't involve the exercise of executive authority, it should be able to be delegated by the governor without specific grant in a law.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I am quite disturbed and a little bit amazed at the attitude apparent on the floor that crops up now and again and all the time, in fact, with regard to a distrust and a fear of the legislature. Some delegates apparently have it in mind that if the constitution said that the lieutenant governor could perform such duties as may be prescribed by law, that the legislature would expect the lieutenant governor to be an errand boy of the legislature. Well now, that isn't true at all. As a matter of fact, if anybody could ever have devised something that the lieutenant governor might do, I can assure you that, for the most part, the senate would be very happy to have him be doing it.

This constitutional duty of the lieutenant governor to preside over the senate is nothing. He comes in there and calls the senate to order and goes down through the order of business and turns the senate over to a chairman of the committee of the whole, and there the senate works all day, just like we would. And at the end of the session, if the lieutenant governor is around, he comes back to close the session, and if he isn't around, the president pro tempore of the senate does. This task of presiding over the senate is not very time consuming and certainly is not a full time job. With regard to these other things that the lieutenant governor might be doing, I submit to you that I don't recall any governor that asked the legislature to assign to the lieutenant governor some powers, and I can't believe—

CHAIRMAN MILLARD: Will the committee be in order so we can listen to the delegate.

MR. HUTCHINSON: —and I can't believe if that would happen, that the legislature would deny the request. Certainly the legislature considers the lieutenant governor as an officer in the executive branch. The lieutenant governor is not considered any officer in the legislative branch of government, so I don't see why we should treat the lieutenant governor any different than we treat the other executive officers. The other officers in the executive branch of government derive most of their functions out of statutes. The governor himself does, the secretary of state, the auditor general, the attorney general, the treasurer, the superintendent of public instruction, the state highway commissioner and all of the other departments and heads of departments appointed. They all find their powers to perform right in statutes. And why you should be so fearful of the legislature that you wouldn't allow the legislature to prescribe the functions of the lieutenant governor just amazes me. I can't understand the justification for this great fear and this great hate and this great distrust of the legislature.

I hope that this convention will realize that its function here is to build a strong legislature as well as to build a strong governor. And you must remember that in spite of the fact that we have 3 branches of government, they are not operating completely independently of each other and in a vacuum as regards each other. Our whole governmental system depends upon their getting along with each other. So I cannot understand why you are so opposed to the idea that if the legislature is competent to define the duties of other officials, it is not equally competent to define the duties of the lieutenant governor. And you say: well, but they never have. You charge them with no action. But I submit to you that their nonaction comes about from the fact that nobody ever had any idea as to what the lieutenant governor should do, and that includes the lieutenant governors themselves. If any lieutenant governor had had any idea, I dare say, of what he might be doing, and if he got the support of the governor in the project, you might have been amazed at the rapidity with which the legislature would have authorized it.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Lesinski.

MR. LESINSKI: Mr. Chairman, speaking on the Hutchinson amendment, I would like to state perhaps it could be covered in section c of this proposal, because it has reference to a deletion of the last sentence of section 1 of the present constitution. And in the present constitution there is reference to the governor, lieutenant governor, secretary of state and state treasurer, and it states that they shall perform, in person, such duties as may be prescribed by law. Now, this last sentence was deleted, and it is taken up in section c, so possibly this amendment can be taken care of in section c.

CHAIRMAN MILLARD: The question is on the Hutchinson amendment. All in favor will say aye. Opposed, no. The Chair is in doubt. The question is on the Hutchinson amendment. All in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Hutchinson, the yeas are 32; the nays are 82.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Tubbs offers an amendment:

1. Amend page 2, line 8, after "duties" by striking out the balance of the sentence and inserting "within the executive department as may be assigned to him."; so that the language will then read, "He shall perform such additional duties within the executive department as may be assigned to him."

CHAIRMAN MILLARD: The Chair recognizes the proponent, Delegate Tubbs.

MR. TUBBS: Mr. Chairman, whether we have a strong legislature or a weak legislature is immaterial to me and I think should be immaterial in this constitution. Rather than quibble over who gives him these duties to do, why not leave it in the neutral. Whoever assigns the duties to him, if it is within the executive department, he will do them. But I think it should be limited to the executive department, and maybe the governor will assign the duties to him and maybe the legislature will.

In answer to a statement made by Mr. Hutchinson a moment ago, I suggest that strong legislatures are born and not made.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, I have a substitute on the secretary's desk, if he would read it.

SECRETARY CHASE: Mr. Faxon has offered the following substitute for the amendment offered by Mr. Tubbs:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "from time to time assigned"; so that the language would read, "He shall perform such additional duties as may be from time to time assigned to him by the governor."

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow committee members, this is the original Judd amendment that was introduced this morning. Unfortunately it was withdrawn, because I had intended to support this. I think the feeling of the committee on executive branch has been made clear that they want this to be lodged with the governor, and the quibbling that we have had to some extent has been over the word "delegating" the authority. And I too have had some qualms over the use of "delegating" because traditionally when we talk about delegating, we are talking about either authority or powers. We talk about delegation of powers in our national government, and I don't think this is the intent. I think from what we have been able to find from the committee, we have found that they really mean the assignment of duties, and I think "the assignment of duties from time to time" clearly leaves this with the governor, as seems to have been the intent of the committee, and still it doesn't appear that the governor would be giving up any of those powers which are delegated to him by the constitution. So for these reasons, in order to try to get through with this section and still retain the meaning that the committee had in mind, I would urge your favorable consideration.

CHAIRMAN MILLARD: Delegate Durst.

MR. DURST: Mr. Chairman and members of the committee, when this matter first came up this morning and Mr. Cudlip raised the question of the word "delegate," I talked to him afterwards about the possibility of just changing it in style and drafting since this is really what the committee meant, to use the word probably in the sense of "assigned" rather than "delegate" which seems to have caused this trouble here all afternoon. On that basis I would suggest that we approve this amendment and move on. I think we have defeated decisively on 2 occasions the idea of giving the legislature the power of assigning duties to the lieutenant governor, and if this word will ease some of the dissension that exists here, I think we should approve it and move on to the next item.

CHAIRMAN MILLARD: Delegate Gust.

MR. GUST: Well, I agree with Ted Durst, and I would like to say Delegate Faxon is absolutely right. We intended in the executive branch committee that only the governor would have the right to delegate or assign these powers. Now, I again agree with Delegate Durst that we probably have spent practically a whole afternoon on something that might have been cleared up in style and drafting. I have no objection to the word "assigned" as against "delegated" but I would like to ask a question through the Chair to Delegate Faxon. I am somewhat disturbed over this "from time to time" language. If you are going to assign to him, you assign to him or delegate; but why "from time to time?"

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, Mr. Gust, this is the same question which Delegate Hoxie has been asking me here, and since Mrs. Judd isn't going to speak with regard to this, I would just as soon take out "from time to time" and leave it "assigned," since it is "may be" and it seems permissive enough. The idea I had in mind regarding "from time to time" frankly was that this would be something that could be taken and given back and there would be no permanent assignments when you have this kind of language, but if you feel that the "time to time" is confusing, I would certainly withdraw that and just keep the word "assigned" in.

MR. GUST: Alright. Well, if you are going to withdraw it, then the amendment will now read, as I understand it, Mr. Chairman and Mr. Secretary, that the Faxon amendment will delete the word "delegate" and substitute the word "assign."

SECRETARY CHASE: That is correct.

MR. GUST: Would you read it now as amended?

SECRETARY CHASE: The substitute amendment, as revised by Mr. Faxon, now reads:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "assigned"; so the language will read, "He shall perform such additional duties as may be assigned to him by the governor."

MR. GUST: In its present form, I would support the Faxon amendment.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I think it is a pity that we are wasting as much time on this as we have, and I don't know how we can solve the problem. There is difficulty with the word "delegate" no doubt. It is a very unfortunate word. I don't believe, however, that the word "assigned" solves the problem. I will explain why in a moment. And my thought is that we should not waste time handling this over and over and over again on the floor, and that we should postpone the ultimate decision to the end of the article. It won't do any harm, and we would have overnight to solve the problem.

The reason I think that the word "assigned" doesn't do the trick is that in some parts of the law, the word "assign" is broader than the word "delegate." For example, in contract law, the word "delegate" is used in a narrower sense than "assigned." They say, for example, that you can assign your rights but you cannot assign your duties. That is straightforward contract principle. You cannot assign your duties; you can only delegate them. That is to say you can only delegate the performance. That being the case, the words "assigned" and "delegate" both have legal significance, and by bad luck it happens that, at least in one part of the law, their significance is just the reverse of what we intended here. It seems to me it would be a pity to waste time trying to solve the problem.

Mr. Chairman, am I in order to move that we postpone the consideration of this paragraph until the end of the section?

CHAIRMAN MILLARD: You can so move.

MR. NORD: Well, I would so move.

CHAIRMAN MILLARD: There has been a motion by Dr. Nord that further consideration of paragraph 1 of section b be put at the end of Committee Proposal 71. All in favor will say aye. Opposed, no.

The motion does not prevail. Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I too think we have spent much too much time on this. I think, however, that the duties which he is going to do should be within the executive department, and I think my amendment without any subsequent amendment will do exactly what everyone wants to do, including the committee.

CHAIRMAN MILLARD: The question is on the Faxon substitute to the Tubbs amendment. The secretary will read it.

SECRETARY CHASE: The amendment offered by Mr. Tubbs and then the substitute by Mr. Faxon:

[The amendment and the substitute amendment were again read by the secretary. For text of amendment, see above, page 1832; for text of substitute amendment, see above.]

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to ask Mr. Tubbs a question, just so I can get clarified in my own mind at least what he has in mind.

CHAIRMAN MILLARD: Mr. Tubbs, if you care to answer.

MR. HUTCHINSON: Mr. Tubbs, I would like to ask, through the Chair, when you refer to "within the executive department," do you have in mind the executive branch of government or do you have in mind the governor's office?

MR. TUBBS: I have in mind the executive branch of government.

MR. HUTCHINSON: The entire executive branch of the government.

MR. TUBBS: I look on the lieutenant governor as a vice executive.

MR. HUTCHINSON: All right, sir. That clarifies that part of it. Now, I would like to further ask you this question: whether, in your opinion, the governor would have any power, even if he wanted to, to delegate to the lieutenant governor any power either in the legislative or judicial branches.

MR. TUBBS: I think he has the power to delegate duties within the executive department.

MR. HUTCHINSON: Clearly; but he doesn't have any power to delegate duties within any other department.

MR. TUBBS: I don't think he has any power over any other department, period.

MR. HUTCHINSON: Alright. Then why is it necessary to spell out "within the executive department," sir?

MR. TUBBS: It perhaps is not, but it is answering some of the objections you made to the original amendment a while ago.

MR. HUTCHINSON: I don't recall that it does, but thank you. I think I have an answer from you. (laughter)

CHAIRMAN MILLARD: Delegate Lesinski.

MR. LESINSKI: Mr. Chairman, speaking on the Tubbs amendment, I see a flaw. Who is going to do the assigning? It does not state that.

CHAIRMAN MILLARD: Are you addressing the question to anybody, Mr. Lesinski?

MR. LESINSKI: To Mr. Tubbs.

CHAIRMAN MILLARD: Mr. Tubbs, do you care to answer?

MR. TUBBS: Whoever has the constitutional authority to do it.

MR. LESINSKI: Where does it give that constitutional authority, Mr. Chairman, Mr. Tubbs?

MR. TUBBS: I think there are lots of implied things in this constitution which give authority. I believe, with Mr. Hutchinson, that the legislature can delegate to the executive department certain duties.

CHAIRMAN MILLARD: Mr. Woolfenden.

MR. WOOLFENDEN: Point of order. I think the question and the answer are out of order. We have the Faxon substitute before us.

CHAIRMAN MILLARD: You are correct. We are on the Faxon substitute. The question is on the Faxon substitute for the Tubbs amendment to paragraph 1 of section b. All in favor will say aye. Opposed, no. The Chair is in doubt. All in favor of the Faxon substitute will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the Faxon substitute, the yeas are 50; the nays are 52.

CHAIRMAN MILLARD: The amendment is not adopted. We are now voting on the Tubbs amendment. Mr. Gust.

MR. GUST: I just want to briefly state that this is coming through the back door; that it has already been voted on twice today. We have turned down that portion of the Cudlip amendment which would allow what Mr. Tubbs wants. We turned the Hutchinson amendment down, and now I urge you to turn down the Tubbs amendment and we will have it back where it ought to be.

CHAIRMAN MILLARD: The question is on the Tubbs amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, just speaking for myself, because I haven't had a chance to consult with the committee, I don't think that this amendment, without any indication as to who may assign these duties to him, is a satisfactory amendment. I think if we are going to assign any duties, we'd better know who is going to assign them. For that reason, I am going to vote against the amendment.

CHAIRMAN MILLARD: The question is on the Tubbs amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. G. E. Brown and Norris offer the following amendment:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "assigned"; and in line 9, after "governor" by inserting "and shall have such additional authority as shall be prescribed by law"; so that the language will read, "He shall perform such additional duties as may be assigned to him by the governor and shall have such additional authority as shall be prescribed by law."

CHAIRMAN MILLARD: The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I spoke on this before as to the merits of it, distinguished between those duties which the governor should have the right to assign and that authority which should be prescribed by law. This is the provision that we have always had relative to what executive authority may be exercised by the lieutenant governor, but as to those matters which are peculiarly within the governor's power that he may assign if he wants to that doesn't involve an exercise of executive authority, the governor should be able to do it without specific implementation by the legislature.

CHAIRMAN MILLARD: Delegate Durst.

MR. FAXON: Point of order.

CHAIRMAN MILLARD: What is it?

MR. FAXON: Mr. Chairman, has this question in part been already acted upon by the committee of the whole? Haven't these parts already been acted upon?

CHAIRMAN MILLARD: It probably has in part, but not completely. The Chair thinks it is perfectly proper.

MR. DURST: Mr. Chairman and members of the committee, I realize Mr. Brown claims he has something new here, and he claims that when he states "additional authority," this does not mean the legislature is assigning any duties. However, as far as I can see, it amounts to the same thing and would be to the same effect as the Hutchinson amendment and the Brake amendment which we have already defeated. It may be stated in different language, but it accomplishes the same thing, and I urge that we defeat the amendment.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: I have nothing to say.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, Mr. Chairman, we have gone round and round on this and it seems to me we need to resolve it. The committee is committed to the proposition that the legislature should not have any right to assign any authority to the lieutenant governor. That is the position of the committee, and I fully respect it.

However, at this stage I have to express my own personal opinion on this, and that is that there is not the slightest danger of the legislature assigning to the lieutenant governor anything that would in any way cramp his style or get him into doing anything that he shouldn't be doing. They have had this authority for years and years and years and they have never assigned him anything that would do any harm. Now, I realize this is not the position of the committee. I am just speaking from my own experience in this picture, and I can't see for the life of me any difficulty that anybody is going to get into from having a right to assign some responsibilities here, so I am going to vote for the Brown-Norris amendment.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I think it should be said, in answer to what Mr. Durst had to say, that by innuendo, by inference, he has suggested that the legislature could chop away at the gubernatorial power by granting authority to the lieutenant governor. I would only remind the members of the committee this would have to be done over a gubernatorial veto if this were the case and the governor didn't want it, which would require a 2/3 vote in the legislature, so I doubt very much if the legislature would at any time be able to, whether it wanted to or not, as Mr. Martin has said, chop away at the governor's power. At the same time I don't think that the legislature should have to say what duties that are within the authority of the governor to assign, ministerial duties and so on — that they shouldn't be able to be assigned by the governor without specific statutory implementation. So I would urge a yes vote on this amendment.

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: I would like to ask Mr. Martin a question, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. BRAKE: When I suggested to you, Mr. Martin, that you were barring the lieutenant governor from the administrative board, you said that the governor could assign him to the administrative board.

MR. MARTIN: That is correct.

MR. BRAKE: I would like to ask you now if you think that the governor can make him a legal member of a statutory board so that his vote would be a legal vote on that board.

MR. MARTIN: Under this amendment, Mr. Brake?

MR. BRAKE: Under your committee proposal.

MR. MARTIN: I think I answered you this morning by saying that under the committee proposal, it would not be possible for the legislature to make him a member of the administrative board.

MR. BRAKE: That isn't what I asked you, Mr. Martin. Suppose that the governor assigns him to the administrative board. Will he be a legal member of that board so that his vote will count?

MR. MARTIN: Under the committee proposal, I think that would have been possible.

MR. BRAKE: I don't.

MR. MARTIN: I think under the Norris-Brown amendment, the legislature could give him responsibility on the administrative board. I see no reason why he shouldn't have that authority as a member of the administrative board, if there is going to be an administrative board.

Mr. Brake and I have differences of opinion as to whether the administrative board is an important and useful device in our state department. He thinks it is and I think it is not. But if there is going to be an administrative board, the lieutenant governor ought to be on it. It doesn't make a bit of difference whether he is assigned to that board by the legislature or by the governor.

CHAIRMAN MILLARD: Mr. Romney.

MR. ROMNEY: Mr. Chairman, I would just like to express this viewpoint for whatever it is worth: I think that if this language had been in the constitution in past years, it might well have encouraged the legislature to begin to build up the authority of the lieutenant governor versus the governor. It seems to me a very unwise thing to begin to insert language of this character that would encourage a division and broad dispersion of the executive responsibility, and for that reason I am opposed to the language.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: I would like to direct a question to Mr. Romney, Mr. Chairman, through the Chair.

CHAIRMAN MILLARD: If Mr. Romney cares to answer.

MR. G. E. BROWN: Mr. Romney, do you think this could have been accomplished by the legislature if the governor did not agree with it? Do you think that a 2/3 vote could have been garnered in the 2 houses in order to accomplish this?

MR. ROMNEY: Well, I don't think that we should rely entirely upon the veto power of the governor. I think it is either sound or it is unsound, and I don't think it is sound. I think it is the wrong approach.

MR. G. E. BROWN: Well, I would only say I think your final conclusions are without any basis in reason.

CHAIRMAN MILLARD: The question is on the Brown-Norris amendment. All in favor will say aye. Opposed, no. The amendment is not adopted. The secretary will read.

MR. G. E. BROWN: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number. All in favor of the Brown-Norris amendment will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Garry Brown and Norris, the yeas are 26; the nays are 81.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Miss Donnelly and Messrs. Boothby, Perras and Plank offer the following amendment:

1. Amend page 2, line 7, after "divison.", by striking out the balance of the paragraph.

CHAIRMAN MILLARD: The Chair will recognize Miss Donnelly.

MISS DONNELLY: As is obvious, Mr. Chairman and members of the committee, we had to get to this point. To me, the argument for I don't know how many hours has been what does this language in the committee proposal mean originally. We have spent hours trying to arrange it to make it right. What makes it right is apparently almost impossible for anybody to decide unless we were to write a complete statute on it. Everybody, I believe, doesn't want the lieutenant governor to veto a bill; doesn't want the lieutenant governor to pardon someone; doesn't want the lieutenant governor to act as the governor except at the time that he should act as the governor, when the governor is incapacitated or otherwise out of the state, dead or what have you. In other words, we have said when he should act as the governor. We are very fearful of what other power should be delegated, assigned or what have you. We are dealing in legal terms.

CHAIRMAN MILLARD: The committee will be in order.

MISS DONNELLY: The problem with our legal terms has been pointed out: what does "delegate" mean? What does "assign" mean? And we are confronted with a problem on which we all basically have a vague idea of what we want this to mean, what we want the constitution to say. We are not arriving at it, saying it, in any way that will satisfy us as to what it should be interpreted to mean.

I cannot see why there needs to be anything in this constitution to allow the lieutenant governor to take on certain tasks of ministerial activity that the governor may ask him to do. To have him go out of the state and represent the governor momentarily where he could not particularly bind the governor nor the state of Michigan, nobody objects to. We don't need it in the constitution to say it. I cannot see why we need anything in the constitution to say what the governor should let him do, provided the governor doesn't do what we don't want him to do.

Now, to have it handled the way we want it, we'd better write a complete legislative article. We are not here to do that task. We are here to put out broad general principles. People are fearful of what the legislature in their enactment would have the governor do, although the governor, we know, could veto it. This sentence has caused more disturbance than anybody thinks it should or wants it to. We need the lieutenant governor in the constitution for one reason, if none other; we have to know where the power goes when we do not have a governor, somebody in being, in mental capacity to act, physical capacity to act. We need this man. So to say he is a ridiculous thing to have in the constitution I don't think is true. We do need him. But to spend hours in worrying about what this sentence means or what it interprets is reason in my mind to show that the whole problem is one that we cannot settle here.

By setting it up that the legislature should do it offends many people. To have the governor be allowed to do things that we all feel is improper offends us. We can't settle it in this constitution. It can only be settled by a long legislative act, but not as a legislature because we don't want them to do the wrong thing either. We don't trust anybody. We don't trust each other. And by putting anything in, we are going to get into trouble. So I therefore think we should delete the whole thing and we won't have the difficulty. The governor can then still have the lieutenant governor aid him in his ministerial tasks, represent him when he wants him to, but not bind him. When the lieutenant governor is going to bind, he will act as the governor and we won't have any difficulty.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, this is the same solution that I arrived at independently of the sponsors of this amendment. It seems to me that, first of all, we really don't want a delegation of duties in the sense that the lieutenant governor could act and bind the governor. What we do want — probably most of us, anyway — we do want the governor to make use of the lieutenant governor if he can and if he wishes to. It seems to me that by striking the sentence as proposed in this amendment we can accomplish that result the same way as is done in the federal constitution. The federal constitution, as I recall, says nothing about this, and yet the problem is solved adequately, informally. As I see it, striking the sentence, the governor would still be able to use the lieutenant governor to help him carry out duties but not to formally bind the governor. The governor could do that if he sees fit. On the other hand, if the lieutenant governor should not be willing to help the governor in these matters, it is true that if we leave the language out, then the lieutenant governor couldn't be forced to do it. But I question the advisability, in any event, of trying to force the lieutenant governor to help the governor.

In other words, as I see it, the informal solution of cooperation between governor and lieutenant governor is the best solution. They will be in the same party from now on. They will be elected on the same ticket from now on. Therefore, most likely they would be willing to cooperate informally. And since we can't find any legal way of requiring them to do so, why not leave it alone in an informal manner just like the federal constitution? I therefore support the amendment.

CHAIRMAN MILLARD: Delegate Woolfenden.

MR. WOOLFENDEN: Mr. Chairman and delegates, I rise in opposition to this amendment. The committee, after 4 months of study, less one day, reported to this convention its recommendation. Both the majority report of the committee and the minority report contain exactly the same langauge. Evidently there was unanimity of opinion on what it should be after 4 months of study. We have spent almost this entire day voting down suggested amendments to this language, not by a bare majority but by votes that have run from 3 to 1 to 4 to 1 against every amendment. It seems clearly evident to me that the overwhelming majority of the delegates present are in favor of the committee language, and I strongly recommend voting this amendment down and supporting the committee, and let's get on with our work.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, all I want to do is to say that I support this amendment, and on those very rare occasions when Mr. Nord and I can agree with each other, I am happy to be able to vote with him on this one. (laughter)

CHAIRMAN MILLARD: The question is on the Donnelly amendment. Donnelly, Boothby, Perras and Plank are all on the amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: Is there support? There is. All those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Miss Donnelly and others, the yeas are 49; the nays are 57.

CHAIRMAN MILLARD: The amendment is not adopted. Are there any further amendments to the first paragraph?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MILLARD: If there are no further amendments to the first paragraph of section b we will proceed to paragraph 2 and the secretary will read.

SECRETARY CHASE: Paragraph 2, section b:

[Paragraph 2 of section b, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the next paragraph is directly related to the paragraph which the secretary has just read, and I think it would be helpful to the convention if we could consider the 2 together. If there is no objection, I would appreciate the secretary reading the next paragraph and then considering the 2 paragraphs together.

CHAIRMAN MILLARD: If there is no objection, the second and third paragraphs of section b will be considered together. No objection? The secretary will read.

SECRETARY CHASE: The third paragraph reads as follows:

[Paragraph 3 of section b was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, I am going to call on one of the members of our committee to explain this more in detail. I only want to say this: that this is one of the more important portions of this committee proposal and, in fact, of all of the committee proposals. It relates, as all of you know, to the problem which has existed in every state which has not reorganized its state government, arising out of the fact that in recent years, in the last 20 or 25 or 30 years, the number of state boards, agencies, departments, authorities, commissions and so on has increased and increased without any relation to any kind of logical structure. Some departments are headed by boards, some by commissions, some by individuals. Some are appointed in one way and some appointed in another, and there is absolutely no rhyme or reason to the structure of the state government.

Michigan is not unique in this. Even states such as Hawaii and Alaska, which have relatively recently organized and adopted new constitutions, had a great proliferation of such boards and agencies and commissions under their territorial governments, and they have found, and other states have found which have recently had constitutional conventions, that reorganization is a must if the governor is to have a structure of government such that he can maintain contact with the heads of his principal departments in such a way as to not only know what is going on but to be able to give some supervision and direction to the functioning of state government. As we all know, state government, just as with the federal government, has become increasingly complex, and it has become important — it has become absolutely necessary in as complex a situation as this, where as much money is being spent as is now being spent in the state of Michigan — that some improvement in the structure of government be brought about.

This is not a thing that can be done overnight. It can't be done by waving a wand. And for that reason the proposal does provide that the legislature shall have a 2 year period in which to accomplish this. If it is not accomplished at the end of that time, the governor has authority to do the job himself. The purpose and the expectation is that the legislature will set up whatever is necessary in the way of a study commission, will use whatever experience has been accumulated from prior study commissions and will engage in a 2 year project during which it will come up with a structure of government that will be sensible and will be as economical as possible, and will provide the kind of government we ought to have here in Michigan.

With that, I want to call on Mr. Bentley, chairman of this subcommittee, to go into this matter in somewhat greater detail, and then we will be glad to answer questions on it. He may wish to yield to members of his subcommittee.

MR. WOOLFENDEN: Mr. Chairman, may I make an inquiry of Mr. Martin at this point?

CHAIRMAN MILLARD: If he desires to answer.

MR. WOOLFENDEN: Through the Chair, Mr. Martin, I did not raise any objection to considering the 2 paragraphs together, but I note that the second paragraph as agreed to in the recommendation is identical in both the majority report and the minority report, and I am wondering, if there is unanimity of opinion as to the advisability of that second paragraph, if it might not be more appropriate to separate the 2.

MR. MARTIN: Mr. Chairman, Mr. Woolfenden, it occurred to us that while the committee may be unanimous in its views, there may be amendments which would be proposed to be offered, and I think that the discussion will relate, naturally, because of the subject matter, to both paragraphs. I think it is better to have them both in front of us at the same time.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in presenting the beginning of the proposals that came out of the subcommittee on executive reorganization from the committee on executive branch, I should like to mention briefly the members of the subcommittee and pay tribute to them for their fine work. This particular subcommittee consisted of Mr. Sterrett, Mr. Gust, Judge Shaffer, Miss Hart, Mrs. Elliott and our chairman, Mr. Martin, as an ex officio member.

Perhaps by way of best describing what we found, Mr. Chairman, when we began to plow into the present system of our state government, I could refer the members of the committee of the whole to a booklet which I believe most of them have received at one time or another. It is one of the state constitutional studies project, specifically number 4, entitled, The Structure of Administration. I think most delegates have had this booklet available to them at some time or another. And, interestingly enough, this particular study was prepared by Professor Ferrel Heady of the University of Michigan, who acted as a consultant to both the committee and the subcommittee in our work. Professor Heady's comments with respect to the existing situation in Michigan begin on page 35 of the booklet and continue through page 41. And I would like briefly to quote his opening paragraph as a graphic description of our present complex state government in Michigan:

> Michigan is a state with a high degree of administrative disintegration despite repeated efforts at reorganization and with constitutional provisions which would prevent a thoroughgoing reform by statutory action even assuming that the legislature and the governor could agree upon a program. In a description which is still substantially correct, Frank M. Landers and Howard D. Hamilton remarked in 1954: —

And at this point, Mr. Chairman, I interpolate with specific reference to the chart which is behind me, the chart which we have had on display in our committee room for several months now.

> The picture shows a jungle of 115 agencies —

and again I interpolate because the number is now 123, according to the citizens research council —

> headed by a mixture of elective and ex officio boards, full and part time commissions, elected officers and appointive department heads, including a plural executive device, the state administrative board. Authority and responsibility are dispersed, confused and obscure. The structure is incredibly and unnecessarily complex and, in terms of direct authority and administrative control, the governor is chief executive in name only.

As I say, Mr. Chairman, this perhaps may not be the best part of the chamber from which to view this chart, but I call the delegates' attention, particularly those on the opposite side of the room, to the fact that it is available here. I understand that possibly smaller editions of this — what I am pleased to term labyrinth of horrors or chamber of horrors— may be distributed to the members of the committee of the whole at large. But anyone who has seen this chart, I think, will easily and readily recognize that our state government certainly stands badly in need of reorganization.

As Chairman Martin has said, Mr. Chairman, we are proposing in these 2 paragraphs that, following the example of other recent state constitutional conventions, there be a specific mandate written into our proposed new constitution that the present 123 departments, divisions, agencies, offices, bureaus, et cetera, ad nauseam, be reduced to not more than 20. Some states have reduced in their recent constitutions even to a smaller number than that. New York, for example, in its constitutional convention reduced to 18. They have since added 2 more principal divisions by constitutional amendment, bringing it up to the number which we propose, the number of 20.

We have specifically avoided making some of the errors that were committed by other state constitutional conventions, and one was attempting to spell out within the constitution any specific titles for these 20 principal departments. We are leaving that matter entirely in the hands of the legislature and the governor, recognizing as we do that over the years, titles and functions of these various departments may change. The only constitutional requirement we are presenting is that at no time be there more than 20 with the exception of the offices of the governor, the lieutenant governor and the governing boards of our institutions of higher education.

We are giving the legislature the first 2 years following the adoption of the constitution to create by law the proposed reorganization of this hydraheaded monster into not more than 20 principal departments. Following the initial 2 year period, as Chairman Martin has said, Mr. Chairman, the governor would, if he so sees fit, have the privilege of, by executive order within the third year, further reorganization where he deemed it necessary or where he deemed initial action on the part of the legislature to have been lacking.

We are going to discuss in subsequent paragraphs, Mr. Chairman, the proposals for further reorganization after the 3 years following the adoption of this constitution. The 2 paragraphs which the secretary has read only pertain to the initial 2 years whereby the legislature will have the authority to reorganize by law the present 123 departments into not more than 20; the third year the governor will have the further authority, if the legislature has not acted, to further reorganize, still retaining the overall structure, into not more than 20 departments.

I believe, Mr. Chairman, that, briefly, explains the action of the subcommittee and the committee on executive branch in the second and third paragraphs of section b. Mr. Martin or I, I am sure, would be happy to answer questions. If there are no questions, then, of course, I would yield the floor. But first I would like to yield to any member specifically of my subcommittee, Mr. Sterrett, Mr. Gust, Judge Shaffer, Miss Hart or Mrs. Elliott who might care to make further presentations.

CHAIRMAN MILLARD: None are rising.

MR. BENTLEY: I see that the small charts have been distributed, Mr. Chairman, which will help the members of the committee of the whole in further understanding the jungle which we are presently attempting to reorganize and consolidate.

CHAIRMAN MILLARD: Are you yielding the floor?

MR. BENTLEY: I will be glad to yield for questions from the committee of the whole, Mr. Chairman. I see there is one question. I will be glad to yield to Mr. Everett.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, Mr. Bentley, this question may pertain more to arithmetic than substance, but in reviewing the work of the education committee which has been passed upon by the committee of the whole, it is apparent that the various governing boards of the universities bear a direct relationship to the state board of education. While they are autonomous to some degree, they are also under the control of the state board of education to some degree. It would appear offhand that, following that philosophy out, as an administrative matter shouldn't they be grouped under that department rather than excepted from the number of 20 and added on so that we have considerably more than 20 departments?

MR. BENTLEY: Mr. Chairman, in response to the gentleman from Battle Creek, I would say, serving in a dual capacity on both committees, that they would have, as we explained when the education proposals were on the floor, a very direct connection with the state board of education as well as indirectly with the state office of education, but we did not feel that we wanted to write into the constitution specifically that they had to be grouped under one of the 20 principal departments, one of which presumably would be, of course, the new department or office or education.

MR. EVERETT: I guess, then, Mr. Chairman, Mr. Bentley, my real question is why did you determine to make this exception?

MR. BENTLEY: I think in the first place because of the increased number of the governing boards which the committee and the committee of the whole have decided upon, and secondly because — if I can explain this setup, Mr. Everett, briefly, and if I am not speaking out of order in referring to the education committee proposal, Mr. Chairman — we did establish the state office or department of education, of which the chief administrative officer would be the superintendent of public instruction. Presumably that would be one of the 20 principal departments. At the same time, the superintendent, as we envisaged it in the committee on education, would serve also as the chief executive officer of an elective state board of education. The 10 governing boards of our institutions of higher education would be somewhat outside or removed from this framework because they do have constitutional autonomy. They would be working through the state board of education, but they would continue their autonomy as set forth in the constitution. Does that answer your question, sir?

MR. EVERETT: Yes. Thank you.

MR. BENTLEY: I see Miss Donnelly has a question, Mr. Chairman. I would be happy to yield to her.

CHAIRMAN MILLARD: Mr. Hutchinson has a question.

MR. BENTLEY: I will be glad to yield to either one the Chair wishes to call upon.

MR. HUTCHINSON: I will let Miss Donnelly be recognized first. I do want to ask a question of Mr. Bentley.

CHAIRMAN MILLARD: Alright. Miss Donnelly.

MISS DONNELLY: My question is directed to line 17, "Temporary commissions or agencies for special purposes and with a life of no more than 2 years may be established by law and need not be allocated within a principal department." My question is primarily this: what is to prohibit this temporary establishment every 2 years, every 2 years? In other words, we take an agency temporarily established for 2 years and we repeat it and we repeat it and we repeat it. In effect, isn't this a loophole that could change the general intent of the entire committee proposal?

MR. BENTLEY: Mr. Chairman, in answer to the question of the lady from Highland Park, I would say that it was the intent of the committee, as I think we tried to specify in our proposal, that the commission would only have a life of 2 years, and we would assume that since it would be established by law, that the pertinent statute would prevent such a loophole as you envisage.

MISS DONNELLY: In other words, you would leave it up to the legislature to cut off any life afterwards on that even though they may need it too.

MR. BENTLEY: I think if the legislature wanted to reestablish the commission in a somewhat different form to conform with the provision of the constitution which limits the life of that temporary commission to 2 years, they could do it, but they would have to continue the commission under somewhat different form. They would not be able, under this provision, to establish it beyond a 2 year period, regardless.

MISS DONNELLY: Thank you.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I am sure that Mr. Bentley could point out numerous cases, however, when the Congress of the United States has continued and continued so called temporary agencies in the federal government by simply changing the expiration date.

Mr. Chairman, my question to Mr. Bentley has to do with this matter of principal departments. What I would like to have him do is to enlarge upon what that means. And in order to let him understand what is troubling me: as I gather it, all of the departments in the government either now established or to be established in the future will have to be arranged in what he calls 20 principal departments, and that there could not be anything of a permanent nature lying outside of the 20 departments. Is that correct? If so, what is the necessity for this use of the word "principal?" Would we not have 20 permanent departments?

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in reply to the gentleman from Fennville, I would say, first of all, that we did not attempt in the committee to try to define the functions of the various departments. We envisaged the reorganization by the legislature and the governor of the entire structure here into 20 principal divisions — perhaps that is even a better descriptive phrase than the word "departments." Within those divisions as we have set forth in our report — and I would like to interrupt briefly, if I may, to remind the members of the committee of the whole that the supporting reasons for our proposal may be found in the journal on pages 452 and 453 — the legislature and the executive branch would be able to continue, if so desired, any or all, actually, of these existing offices, bureaus, agencies, et cetera. But the point is that we were trying, Mr. Hutchinson and Mr. Chairman, to boil down the question of responsibility, and rather than have them trace their lines of responsibility all over the map as they are doing here, we were trying to set up 20 principal divisions, departments and heads of divisions and departments within which all of these other bureaus and offices and that sort of thing would have to accept their responsibility. That was the main reason, I think, for the use by the committee of the words "principal departments."

MR. HUTCHINSON: Thank you, Mr. Bentley. Then I understand that there could continue to be a department which would be part of another department, which probably could more properly be called a division.

MR. BENTLEY: Mr. Chairman, if the gentleman from Fennville will permit me, I would like to read from the first paragraph of our supporting reasons on page 453.

> Adoption of this provision would retain in the hands of the legislature and the governor considerable discretion as to internal organization within the principal departments. For example, it would not prohibit the creation, for purposes of professional regulation, of professional or quasi professional licensing boards, made up in whole or in part of members of the profession, in a department of professional standards or of licensing such as now exist in several states.

I believe, Mr. Chairman, that would satisfactorily answer the question raised by the gentleman from Fennville.

If there are no further questions, Mr. Chairman, I will yield the floor, reminding the members of the committee that this proposal was reported out by the committee on executive branch by unanimous vote.

CHAIRMAN MILLARD: Did you desire to ask a question, Mr. Faxon?

MR. FAXON: Yes.

MR. BENTLEY: I will yield to the gentleman.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, Mr. Bentley, I heard you say something to the effect that education would be one of the 20 principal departments.

MR. BENTLEY: Presumably but not specifically, Mr. Faxon.

MR. FAXON: All right. Then the next question is this —

CHAIRMAN MILLARD: Will you address your question through the Chair.

MR. FAXON: Mr. Chairman, Mr. Bentley, is the presumed department of education to be under the board of education or is it to be under the superintendent or under something other than either of those 2?

MR. BENTLEY: Mr. Chairman, I am sure that my distinguished colleague on the education committee, Mr. Faxon, recalls full well the procedure under which we envisaged establishing the state office of education, of which the chief administrative officer and presumably the head of the so called department would be the superintendent.

MR. FAXON: Mr. Chairman, Mr. Bentley, then am I correct in saying that the state board of education would be the board that would determine the functions of the state department of education?

MR. BENTLEY: Mr. Chairman, again in response to the gentleman's question, I am sure that he recalls exactly how we envisaged the cooperation between the state board of education and the department of education through the role of the superintendent, who would act in the dual capacity of executive officer for the board of education and administrative officer for the department of education, carrying out policies as laid down by the state board.

MR. FAXON: Well, Mr. Chairman, Mr. Bentley, I am aware of the action that we took in committee, but in looking at — and I don't want to make reference to the proposal. There was some question as to whether the state department of education — or state office of education — would be apart from the jurisdiction of the state board of education, and I simply want to get the record straight that it is the intent that the state board of education would be the superintending agency over any state department of education.

MR. BENTLEY: Mr. Chairman, there are 3 members of the executive committee, myself, Miss Hart and Mr. Karn, who also served on the committee of education. I think all 3 of us will agree there is nothing inconsistent with our proposal here and what we did in the education committee.

MR. FAXON: Thank you.

CHAIRMAN MILLARD: Mrs. Judd, did you have a question to ask?

MRS. JUDD: I would like to ask a question of Mr. Bentley, if I may, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Happy to yield.

MRS. JUDD: I notice that much of the language in this proposal comes from the model state constitution, and I noticed that the model state constitution excepts from the 20 departments also regulatory and quasi judicial agencies. I presume you arrived at the number 20 by trying it on for size, and I wondered just what plans you had for that type of agency.

MR. BENTLEY: There was no thought to make such an exception in this case, Mr. Chairman and Mrs. Judd. I am not too familiar with the provisions of the model state constitution, but I would presume that the man who did a considerable amount of drafting for our subcommittee, Dr. Heady, is very familiar with it. It was his suggestion that we adopt the number used by the great sovereign state of New York as the number of 20, and although there was some discussion as to whether or not this number might be higher within the committee, as I say, the committee finally decided that the number 20 was a good round number, and we felt that with the exceptions of the office of governor and the lieutenant governor and the governing boards, that it would be possible to reorganize completely within this number of 20, including the agencies which you have mentioned.

MRS. JUDD: I see. Thank you very much, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Gover, did you have a question?

MR. GOVER: I have a question.

CHAIRMAN MILLARD: To whom?

MR. GOVER: To Mr. Bentley, please.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Happy to yield.

MR. GOVER: Mr. Chairman, Mr. Bentley, what thought has your committee given about control of the different licensing boards under this section such as the real estate board being controlled by a banking department or such?

MR. BENTLEY: Mr. Chairman, my friend from Sheridan evidently wasn't listening when I read the particular part of our committee reasons. Mr. Gover, do you have Journal 71 of February 2, our supporting reasons?

MR. GOVER: I have your supporting reasons right here.

MR. BENTLEY: You will note that in the very first paragraph on page 453, I think we cover the question of licensing boards. Do you have a further question after reading that, sir?

MR. GOVER: Yes, I do, because I notice your supporting statements gave the states as New York, New Jersey and Missouri with their limitations and such, as being very desirable and feasible. I wanted to call to your attention, so it would be in the record at least, that under the healing arts of medicine, chiropractic and osteopathic healing, these are separate and distinct sciences of healing and cannot be satisfactorily governed by a competitive board of healing. Now, in Missouri, as you mentioned there in the supporting reasons, there was a period of 25 years when it was impossible for a chiropractic physician to get a license in that state because they were controlled by some other branch of the healing arts, and I want to know what your committee has done in regard to alleviating that situation here in Michigan.

MR. BENTLEY: Mr. Chairman, in answer to my good friend from Sheridan, I would say that we did not take cognizance of this particular problem as it may have existed in Missouri. We merely provided for the continuation of existing licensing boards as we explained in our supporting reasons.

I might add, Mr. Chairman, that this particular language in the committee supporting reasons was introduced into our supporting reasons by an amendment offered by one of our own committee members. Now, I am not sure of my memory. Was it Mr. Hatch's amendment to put that in? It was Mr. Sterrett's amendment. I wonder if Mr. Sterrett would like to address himself to the question raised by Mr. Gover, since he wrote the language relating to the licensing boards in the committee supporting reasons.

CHAIRMAN MILLARD: Does Mr. Sterrett desire to answer that?

MR. STERRETT: Mr. Chairman, Mr. Bentley, Mr. Gover, I offered this as an amendment to the committee proposal. It was the unanimous idea that I withdraw this because it was not too constitutional language. However, it was agreed that we could put this in the committee proposal's supporting reasons for the record and for intent. And the particular reasons that you have mentioned were the particular reasons I was thinking of at the time I offered this amendment to the committee proposal.

I realize that not only in the healing arts but in many other fields of professional or quasi professional work they do have these problems of licensing, and this is the particular reason why we have put this into the supporting reasons of the committee proposal.

MR. GOVER: One other question, then, while you are on your feet. I agree that probably this is legislative, all right, but do you think that this in the verbatim journal will get enough attention that we won't run into this trouble in the state of having one particular licensing board or such dominate the complete board to the exclusion of the rest of them?

MR. STERRETT: Mr. Chairman, Mr. Bentley, Mr. Gover, I do not feel we can make this our problem. I think that we have done everything that our rights permit us to do. I believe that when the executive reorganization takes place, then it is up to the various quasi professional and professional fields to make it known that this is the intent of the constitution.

MR. GOVER: Thank you, Mr. Sterrett. I believe that just about answers the question. It doesn't give me a guarantee that other groups are going to be protected, but at least it is in the journal and records, anyway, of the convention.

MR. BENTLEY: Mr. Chairman, if I may, I would add that I agree with Mr. Sterrett that this is primarily a legislative matter, and I hope that Mr. Gover's concern will be handled by the legislature, which will have the primary job of reorganizing under our proposed structure.

MR. GOVER: Thank you, Mr. Bentley, for the remarks.

CHAIRMAN MILLARD: Delegate Dell, do you have a question?

MR. DELL: Well, Mr. Chairman, most of my questions have been answered by Mr. Everett and Mr. Hutchinson here, Judd, Sterrett and Gover, but if I may to Mr. Bentley —

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Glad to yield.

MR. DELL: My question was on the 20 departments — and don't misunderstand me, I am very much in favor of the practice of economy in government. If this will help cut costs and will make for efficiency, I am for it — but I was concerned as to how you arrived at the 20 departments, and when I look over the list of the departments we now have, I find the question Mr. Gover brought up there — the state board of chiropractic and osteopaths and so on, that you tried to mix them up with the medical people, I don't think it would work — and the state board of alcoholism and the board of building commission, and maybe you could put the alcoholism under corrections, I don't know — great lakes commission, historical society and the racing commission, you probably could put that under revenue; and the tourist council. I just wondered how you arrived at the 20 and if you felt that that would be a sufficient number.

MR. BENTLEY: Mr. Chairman, in reply to the question from the gentleman from St. Ignace, I would have this to say: I think I referred earlier to the fact that when New York originally adopted 18 principal divisions in its new constitution, they did spell them out in the constitution. And, Mr. Chairman and Mr. Dell, they ran into more possible headings than they could possibly compound. If we even remotely tried to suggest, Mr. Chairman, possible headings for these departments here on the floor of the convention, we would, I think, almost probably be here on this one proposal from now until the fiscal deadline of May 15. We have avoided the mistake made by New York. We have further followed the example of New York, Mr. Chairman. When they found that 18 was not enough, they added an additional 2 through constitutional amendment. They arrived at the number 20, which we felt, after considerable discussion within the committee, would be a number within which our present organizational structure could be consolidated and condensed.

I would assume, and I would assure you, Mr. Chairman and Mr. Dell, that this will not be an easy task of reorganizing. That is why we are providing the 2 years for the legislature and the third year for the governor. But we do believe that it is possible, since New York began with a number of divisions equal to if not superior to the number we have now. They were able to boil it down to 18. Other states have consolidated to an even smaller figure. We think that the legislature and the governor can get to 20 if they want to.

MR. DELL: Thank you.

CHAIRMAN MILLARD: Are there any amendments to the 2 paragraphs, Mr. Secretary?

MR. BENTLEY: There are questions, Mr. Chairman, if I may yield further.

CHAIRMAN MILLARD: Mr. Farnsworth, do you have a question?

MR. FARNSWORTH: Yes, Mr. Chairman, I do, to Mr. Bentley. Mr. Bentley, you give as one of your reasons for the consolidation to bring about a more effective grouping of departments according to major purposes. Now, does that mean grouping them on paper, on a chart, or does that mean grouping them into a building with a department according to major purposes? I have noted that there are several departments strung throughout Lansing, some of them downtown, some over here on back streets. My specific question is: do you hope to physically group them together where they can be a little more definitely supervised, and do you envision savings in that regard, or are you simply going to group them on charts on paper?

MR. BENTLEY: Mr. Chairman, in response to the question of the gentleman from Allegan, I would say that we are not trying to regroup anything. We are specifically avoiding laying down guidelines for the legislature and the governor other than establishing the number of 20. I would, of course, hope — as we spell out in our supporting reasons — that the 20 would be principally grouped by purposes; that is, by general functions. And I would hope that within that general grouping by functions we would accomplish the dual purpose of getting more efficient and more responsible state government, and also something which we all devoutly hope for — more economical state government. But beyond that, Mr. Farnsworth, I think the committee has endeavored to avoid laying down any specific guidelines in this respect.

MR. FARNSWORTH: The second question, Mr. Bentley, through the Chair, please: do you envision grouping these perhaps on paper; then you find that they are pretty well dispersed throughout the city of Lansing and then it becomes necessary to appoint a coordinator to go from one office to another in order to coordinate the activities?

MR. BENTLEY: Mr. Chairman, in response to Mr. Farnsworth, I would say that it would obviously be desirable if all of these 20 could be consolidated under one roof, but I submit that that is technically a legislative and an administrative function, and I hope the committee of the whole would not want us within the constitution to try to spell out how these various divisions would be housed, other than that we would express the general belief and intent and hope that they obviously should have as close connection and relationship as possible.

CHAIRMAN MILLARD: Are there any amendments to paragraphs 2 and 3 of section b?

SECRETARY CHASE: There is an amendment pursuant to minority report C on file, Mr. Chairman.

For minority report, see above, page 1769.

CHAIRMAN MILLARD: The Chair will recognize Delegate Downs.

MR. DOWNS: Could I say that the only difference in the second paragraph is that the minority report says "except as otherwise provided by this constitution." We would prefer not to put this in now, but perhaps on second reading.

I would just briefly say that there is basic agreement here between the majority and minority on the need for executive reorganization. I believe all the delegates realize there is really nothing magic in the number 20. I think that the question that comes up is whether or not this should be affected by other constitutional bodies such as the universities that are exempted in both and to see what finally happens on the matter of elected as opposed to other forms of selecting other existing constitutional offices. So I would like to not put in the amendment — I believe that is easy to do — and let the convention know that after we have finished our committee of the whole work, we might want to put some additional amendment in at second reading.

CHAIRMAN MILLARD: Then you are asking to have the minority report amendment to paragraphs 2 and 3 withdrawn? Is that correct?

MR. DOWNS: That is correct.

CHAIRMAN MILLARD: Without objection, it will be withdrawn. Are there further amendments?

SECRETARY CHASE: Mr. Brake offers the following amendment:

1. Amend page 2, line 12, after "offices" by striking out "of governor and lieutenant governor" and inserting "held by elected officials"; so that the language will then read:

> All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the offices held by elected officials and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. . . .

CHAIRMAN MILLARD: The Chair recognizes Delegate Brake, the proponent of this amendment.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, it is going to be a tremendous job to try to jam all of the state's activities into 20 departments. It will be found that there are many for which there is no logical home at all, where there is not enough relationship to make it logical to put them together. The sole purpose of this proposed amendment is to prevent the attorney general's office and the secretary of state's office from becoming a dumping ground for those activities that find no other home. That is all there is to it. It leaves the 20 departments or divisions for taking in all of the state's other activities, but would leave the attorney general's office and the secretary of state's office as outside of this 20.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, in a further portion of this proposal on page 3, we specify that the single executives heading principal departments shall include a secretary of state, state treasurer and attorney general. The secretary of state and the attorney general, as of the present moment, are the only additional officials who would be elected, and it is the feeling of the committee, of course, as indicated here that they should head principal departments, that they should have a principal department under their supervision.

However, the committee in reaching the figure of 20 took into account the fact that this would be so, and therefore it was the committee's feeling that the provision for 20 departments was adequate to include these officials with their departments without making them a dumping ground for a lot of miscellaneous activity. We feel that this is true because not only has the state of New York found it possible to operate in this way, but the state of New Jersey — which is also a big and a very populous state and which had this same problem of many, many departments and agencies — was able to come within the limitation of 20, and is a comparable state. There are other states which have done this and which have been able to bring their organization into good order with less than 20 departments. I believe Missouri is one. I think Missouri has 14 departments. Hawaii and Alaska, of course, are newer and perhaps not as good examples to compare with, but they also have been able to organize with less than 20 departments.

It is our feeling, therefore, that though the figure 20 is not a magic number and we don't pretend that it is, it is sufficient, and that it is not necessary to add these 2 elected executives, which would make the number 22 instead of 20. We realize that this may require some tight scheduling, but we believe that the more departments you provide, the more you will have, that any vacuum that you leave will be filled, of course, with another department, so that we do feel that the number provided here is sufficient and that the amendment is not a necessary one. We appreciate Mr. Brake's purpose, of course, in introducing it, but we feel that it is not necessary under the circumstances.

CHAIRMAN MILLARD: Delegate Durst.

MR. DURST: Mr. Chairman, members of the committee, I think when we consider this matter that is raised by Mr Brake, at first glance all of us think that it is almost an impossible task to put this welter of 120 agencies together into 20, and that is what bothers people. I think in this connection we could recall the testimony of Dr. Martin Faust from Missouri who took a key part in accomplishing the same job in Missouri under their constitution after it was adopted. He admitted this was the problem, but it was done there without any great difficulty. The first step is to put it together loosely, and then over the period of time functions are rearranged more coherently and it is put into a coherent whole.

I would like to read to you just briefly the testimony of Dr. William Ronan, administrative assistant to the governor of New York, who for many years, from 1932 on, was the head, as I understand it, of the legislative research council of the legislature of New York and who was the former dean of the department of administration, New York University, in describing what happened in New York and how they did it, which I envision to be a similar process that is going to occur here if this amendment is adopted. He says:

> The organization of the executive branch of New York state's government prior to 1927, when the great reorganization of the state was effected, was rather a morass of independent, nonrelated in many cases, departments, agencies, boards, commissions, committees, offices and bureaus. In order to make a rational structure, how we operated for those years is a matter of conjecture.
>
> We didn't operate very efficiently, and the movement for governmental reorganization in New York state goes back many years . . . when the state constitution was amended in 1926 and the new organization put into effect in statutes in 1927, and this welter of agencies aggregating, depending on how you counted them, in the neighborhood of 100 to 200 were reduced to a rational structure, pseudo rational, at any rate, quickly and then ultimately, into a structure that we found very effective in the state of 18 departments of state government.
>
> This number has since been expanded to 20 and we recently had a constitutional amendment reiterating the limitation on departments, limiting them to 20, but eliminating the provision in the Al Smith reorganization as it came into the constitution, which named the departments in the constitution.

This makes clear, as Dr. Faust indicated and as Dr. Ronan indicated, that when the task is first approached, naturally when you put this structure together it is going to look somewhat loose. There are going to be things out of place. It is impossible, probably, to do it all in one day.

The question that Mr. Brake raises in support of his amendment that perhaps the secretary of state and the attorney general would get a lot of functions that didn't belong there may possibly happen, but to my mind this is no justification for increasing the number in effect to 22, which is the effect his amendment has. As other speakers have pointed out, 20 has worked very effectively in other states and certainly should work effectively in the state of Michigan.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, speaking on Mr. Brake's amendment, I rise in support of it and desire to point out a problem which I think exists because of the fact that we are going to have a couple of elected officials here, which apparently wasn't envisaged by the committee when they drafted their proposal. I noted that, as Mr. Martin states, they contemplated that the state treasurer and the attorney general and the secretary of state would each head a principal department. Those officials were all to be appointed under the committee's proposal. I notice also that the committee in drafting its proposal carefully did exclude from the 20 departments the officers which it envisioned would be elected, the governor, the lieutenant governor and these educational boards. They were to be popularly elected. They were not to be included within the limitations of the 20 principal departments, and I think that the committee's thinking was wise to exclude from this reorganization those departments which are headed by elected officials, for the reason that in the reorganization, I am not concerned so much about the initial allocation of these functions within 20 departments, but when we get down into the subsequent machinery of this, it appears to me that thereafter as the legislature might create some new function, it would be apparently up to the governor to fit it into one of the 20 principal departments. Suppose that you had a governor of one party and a secretary of state and attorney general — and/or — of another party. When it came time to allocate functions, the functions allocated might be increased, altered, changed, taken away from these elected officials simply because they were elected officials, perhaps elected out of another party.

I submit to you that the functions that should be vested in the departments headed by elected officials should be vested there by legislative act. If the legislature wants an elected official to do something, it should direct him to do so by law, and that it is wise in this reorganization concept to take the committee at its "coming in" situation where it, itself, apparently conceded that, and would leave within the reorganization concept those departments which were to be headed by appointed officials. Therefore, I think that it is only logical that Mr. Brake's amendment be supported and that those departments in the government which are headed by elected officials should not be within this concept of 20 principal departments.

CHAIRMAN MILLARD: Delegate Hatch.

MR. HATCH: Mr. Chairman, I would like to direct a question through the Chair to Mr. Brake, if I may.

CHAIRMAN MILLARD: Mr. Brake, if you care to answer.

MR. HATCH: Mr. Brake, in section d of Committee Proposal 71, it is provided that each principal department shall be under the supervision of the governor. Do you intend by this amendment that the attorney general and the secretary of state, because they would not be of these principal departments, would not be under the supervision of the governor?

MR. BRAKE: No, I had no such intention.

MR. HATCH: Well then, did you then plan to offer an amendment to section d to accomplish this?

MR. BRAKE: I had not even connected the 2.

MR. HATCH: Well, I would oppose the Brake amendment for the reasons stated by Mr. Bentley, also by Mr. Durst and others, that the committee has considered this number 20 sufficiently and carefully and feels that it is a sufficient number of principal departments. I also would oppose it because I think it should be crystal clear that although the attorney general and the secretary of state may be elected independently of the governor, that they should be under his supervision if they are to be heads of departments.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to direct a question to Mr. Brake.

CHAIRMAN MILLARD: Mr. Brake, if you care to answer.

MR. IVERSON: Mr. Brake, would you foresee by your amendment, in view of your previous statement that you didn't like to see the attorney general or secretary of state or any other elective office being a dumping ground for other functions of government, the possibility that the legislature might not be permitted to add functions to their office if they so saw fit?

MR. BRAKE: Not at all, not at all. But it saves out 2 departments that are not included in this concept of the other departments headed by other than elected officials so they will be limited to 20. Of course, the legislature must have power to change the authority of the attorney general and of the secretary of state.

MR. IVERSON: Mr. Chairman, so that if this amendment were passed, then you feel that the legislature would be in a position, if they saw fit to increase the powers of either of those officers, to do so?

MR. BRAKE: Most certainly, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Bloomfield Hills, Mr. Romney.

MR. ROMNEY: I just wanted to make this statement, Mr. Chairman, that in relationship to this question of the feasibility of the number of 20 departments, I asked 2 different organizations who devoted a great deal of time to administrative organization to undertake to make a logical grouping of the various Michigan executive departments, commissions and boards, and one organization came up with a grouping of 13. In other words, they could be logically grouped into 13 departments. And the other came up with 14. I mention that because it seems to me that it is unnecessary to pass this amendment which would make provision for 2 departments beyond the 20. Actually the 20, as far as my experience is concerned, would be more than ample, and this would be unnecessary.

CHAIRMAN MILLARD: The question is on the Brake amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number up. The question is on the Brake amendment. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked. The secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Brake, the yeas are 38; the nays are 66.

CHAIRMAN MILLARD: The amendment is not adopted. Are there any further amendments to paragraphs 2 and 3?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: Are there any amendments from the floor on paragraphs 2 and 3 of section b? If not, we will proceed to paragraph 4 and the secretary will read.

SECRETARY CHASE: Paragraph 4 of section b:

[Paragraph 4 was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, I don't anticipate that we will be able to finish our discussion on this particular paragraph since I would expect that the committee would rise not later than 5:00 o'clock. But I think we can get started on our discussion of it, and I would like to start by saying that this is not a new proposal in state government. The state now has a statute under which the governor is permitted to suggest reorganization plans to the legislature and to present those plans to the legislature subject to legislative veto, and these plans may group the functions of various departments in such fashion as the governor thinks is desirable and necessary for the improved functioning of government. The legislature is then given a period of time in which to act upon them. If the legislature rejects them, they do not become law —

CHAIRMAN MILLARD: The committee will come to order.

MR. MARTIN: — if the legislature takes no action, of course they do.

Mr. Chairman, this was also a matter which was considered in the committee, in the subcommittee on reorganization, and I want to call on the chairman of the subcommittee, Mr. Bentley, to make a further explanation.

I would only say that it appears to us that it is desirable to include such a provision in the constitution because it is the best way that we know of effecting ongoing reorganization from time to time after this general reorganization on which we have just acted is completed. We believe this is a proper instrument of good government, and that giving it constitutional status is a highly desirable thing. I will call on Mr. Bentley at this time.

CHAIRMAN MILLARD: The Chair will recognize Mr. Bentley.

MR. BENTLEY: Mr. Chairman, members of the committee, we now come to the provision of the proposal of the executive branch committee dealing with the question of reorganization after the third year following the adoption of the constitution. As it was explained in the previous 2 paragraphs, we have provided for the initial period of 2 years for the legislature to reorganize. We have provided for the governor to act by executive order for the third year. The paragraph which is now under discussion contemplates reorganization actions after the third year.

Unlike the preceding 2 paragraphs, Mr. Chairman, there is controversy on this particular paragraph. There are, I believe, 2 minority reports. They differ not in the concept of the reorganization procedure, but they do differ in the degree of ease or of difficulty with which the legislative body should be enabled to approve or disapprove the reorganization acts of the governor. In this connection, Mr. Chairman, I would like to say that we do have, as Chairman Martin outlined, of course, I believe, a 4 year old statute which does provide for the reorganization as carried out by the statute at the present time. I have been exposed, Mr. Chairman, during my years in Washington, to reorganization at the federal level along this line, which of course has been in statutory existence, I believe, ever since 1932 or 1933. The reorganization action on the federal level has been changed over the years. Currently the federal government is operating under the reorganization act of 1949, which has been changed somewhat, the last change making it easier for the legislative body — that is, the congress — to disapprove executive reorganization plans. I believe now the present language as far as Washington is concerned provides for a disapproval by simple majority of either house of congress, and we have seen even during the current year examples of legislative disapproval of federal reorganization schemes.

Writing a reorganization plan into the constitution, Mr. Chairman, is admittedly somewhat of a novelty. I believe there is only one other state at the present time that does have a provision in its state constitution for executive reorganization and legislative approval or disapproval. Nevertheless, the members of the committee on executive branch, I believe unanimously, agreed on the concept of writing it into the constitution as a forward looking step permitting more effective and more efficient reorganization over future years of our state government. Where the members of the committee on executive branch did disagree was in whether it should be relatively difficult or relatively easy for the legislature to disapprove the proposed reorganization plans as submitted by the executive within the 60 day period as we have provided for in our proposal. I am not going to explain at this time the amendment which I and other members of the committee are submitting in the form of a minority report. I assume the other minority report will likewise be explained by those proponents of that particular amendment. But I do believe — and I would like to emphasize to the members of the committee of the whole — that within the committee there was unanimous agreement that this procedure properly did belong in the constitution rather than leaving it to statute as in the present situation. We did differ as to whether it should be difficult or easy, relatively speaking, for the legislature to approve or disapprove those executive reorganization plans as submitted by the governor.

With that, Mr. Chairman, I believe, I will be glad, or Mr. Martin, I am sure, will be glad to answer questions, and then I presume either now or tomorrow morning, depending upon our time, we will be taking up these 2 minority amendments and other amendments that may be offered.

CHAIRMAN MILLARD: Are there any questions? If not, the secretary will read the minority report amendment.

SECRETARY CHASE: Pursuant to minority report B of Messrs. Bentley, Hatch, Shackleton, King, Karn, Shaffer and Dean Doty,

Mr. Bentley offers the following amendment:

1. Amend page 3, line 5, after "in" by striking out "both houses" and inserting "either house".

[Mr. Bentley, in order to accomplish the intent of the minority report, revised the minority report amendment to include the following amendment:

1. Amend page 3, line 6, after "members elect" by striking out "of each house".]

The language will then read:

> Unless disapproved in either house by a resolution concurred in by a majority of the members elect, these orders shall become effective at a date thereafter to be designated by the governor.

CHAIRMAN MILLARD: The Chair will recognize Delegate Bentley, the first name on the amendment.

MR. BENTLEY: Mr. Chairman, I was furnished with separate amendment sheets on this, but since they pertain to adjoining lines on page 3, and since they are obviously interrelated, I suppose there would be no objection to considering them en bloc.

CHAIRMAN MILLARD: They are tied together, Mr. Bentley.

MR. BENTLEY: Thank you. Mr. Chairman, I would like to mention the members of the executive branch committee who join me as cosponsors of this minority amendment. They are, Mr. Hatch, Mr. Shackleton, Mr. King, Mr. Karn, Judge Shaffer and Mr. Dean Doty. The last 2 names unfortunately could not be printed on the yellow sheet.

Mr. Chairman, the committee proposal suggests that to have, within the 60 day period, legislative disapproval of an executive reorganization plan, it would require a majority of those members elect in both houses of the legislature to so disapprove this plan. Otherwise, it would take effect. The intent of our amendment — in fact, the effect of it, Mr. Chairman — is to require only a majority of those members elect in either house of the legislature, which in my understanding conforms to the present statute of 1958, which at this time I would like to read, since, I believe, it is very brief. It is as follows:

> Within the first 30 days of any regular legislative session, the governor may submit to both houses of the legislature at the same time, 1 or more formal and specific plans for the reorganization of executive agencies of state government.

I will not read the entire statute. I think this is the only other pertinent section:

> Section 2. A reorganization plan so submitted shall become effective by executive order not sooner than 90 days after the final adjournment of the session of the legislature to which it is submitted, unless it is disapproved within 60 legislative days of its submission by a senate or house resolution adopted by a majority vote of the respective members elect thereof.

In other words, Mr. Chairman, it is my understanding and former members of the legislature who are here present can confirm this if they desire — that if, within the 60 days following the submission of the executive reorganization plan under the current statute a majority of the members elect in either house of the legislature disapprove the plan, it does not become effective. The committee proposal would, of course, make it more difficult by requiring a majority in both houses of the members elect to disapprove the reorganization plan. I and my cosponsors believe that it would be better, in view of the novelty of this procedure, to conform to the existing statute, and that is the intent of our amendment.

CHAIRMAN MILLARD: The Chair will recognize Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I would object to this amendment. I hope it is defeated and the committee report is supported. My particular objection here is that I feel that if in the executive reorganization there is establishment of a department, that it would be, I think, handled adequately by both houses disapproving it, and I am sure that if there is anything seriously wrong in the reorganization, it would be recognized by both houses. I feel that it is too loose here to have it in either house or each house. Therefore, I would be against this amendment.

CHAIRMAN MILLARD: The Chair recognizes Delegate Downs on the Bentley amendment.

MR. DOWNS: Mr. Chairman, I rise in opposition to the amendment. I think it is unfortunate that we have not handled the matter of legislative organization before this comes up. However, I would like to point out the possibility — and if I am wrong, I would be glad to have somebody correct me — that we might have a case where one house of a legislature was in favor of a reorganization plan and this was not passed by the other house. Then after the 2 years for the reorganization by the legislature had expired, the governor might submit a plan which would be approved by one house and disapproved by another, and I think it might create an impossible stalemate. This may not be the intent, and if I am corrected on that, I would certainly be glad to be.

I just have one other thing to say. In looking at this, I do not think, in my judgment, this is a matter of: do we trust the legislature? Do we trust the governor? It is simply trying to find a realistic way to create 20 — or whatever other number we finally settle on — executive departments, and I am very pleased that Delegate Bentley in his presentation brought out that it is easier to say "there shall be 20 departments" than determine just how this is done. All I do hope is that we work out a system where we ultimately will get this done, whether it is by legislative or executive action.

MR. BENTLEY: Will the gentleman yield to me for a brief comment on his presentation?

MR. DOWNS: Yes, I will, Mr. Chairman, through the Chair.

MR. BENTLEY: Mr. Chairman, Mr. Downs, this would not apply to the initial reorganization, because under our previous paragraphs the legislature has 2 years in which to act. If they fail to act, as you suggest, through disagreement of either house, during the third year the governor by executive order has complete freedom to reorganize as he sees fit without any legislative sanction at all, and the amendment which we are now debating is only after the initial period of reorganization; that is, at least 3 years or longer following the date of the adoption of the constitution.

MR. DOWNS: Mr. Chairman, may I ask Delegate Bentley a question through the Chair?

CHAIRMAN MILLARD: If he cares to answer.

MR. DOWNS: I am glad you pointed that out, Delegate Bentley. I want to see if I am correct, though, that after this 2 or 3 year period had expired, could there then be the possibility of a deadlock between the houses of the legislature and the governor on a reorganization plan or organization plan for future agencies?

MR. BENTLEY: Mr. Chairman, in reply to the question raised by my good friend from Detroit, Mr. Downs, I will say this: there could be a deadlock, because the governor could set up a subsequent reorganization plan and one house could pass it and the other house could disapprove it within a 60 day period, but it would not apply to the initial reorganization of 20 principal departments, because if the legislature failed to reorganize into 20 principal departments during the first 2 years, we give the governor specifically during the third year complete freedom by executive order to so reorganize.

MR. DOWNS: Alright. Thank you. I think it does have the weakness for the future reorganization rather than the immediate, and I am glad that Delegate Bentley pointed that out. Thank you.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I rise in support of Mr. Bentley's amendment, and would say in support of it that I don't believe that we should overlook the tremendous political power which accompanies governmental reorganization. Whoever has the power by an executive order to organize and to rearrange the departments of his government to suit his will has a tremendous political power, because if, for instance, a particular function is being carried on in one department in a way which doesn't suit the governor and still he doesn't think it politically wise, you know, to remove the head of the department or anything, he can, by a reorganization plan, simply take that function which is being performed in a manner not suitable to him out of that department and place it someplace else. That is a tremendous political power. It is a tremendous political advantage in any man who can be governor. Consequently, it is only a fair check and balance to permit either house of the legislature to veto it.

I want to confine my remarks strictly to Mr. Bentley's amendment. There are many other facets of this whole thing that I want to raise from time to time, but at this time I think it important for this committee to remember what I have said: the tremendous political power which is encompassed within this power to, at will, suit the governor, alter the operations, the functions, the responsibilities of the departments in his branch.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, do we have other speakers on your list?

CHAIRMAN MILLARD: The Chair has one, Mr. Binkowski.

MR. MARTIN: Well, perhaps we can terminate this, Mr. Chairman. I will yield to Mr. Binkowski.

CHAIRMAN MILLARD: Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, members of the committee, I will speak very briefly. I speak against the amendment. And I would like to remind the members of this committee that in spite of the fact that we have had an executive reorganization plan since 1958, and also a plan which barely was passed in the legislature in the first instance, that there has not been a plan which has been accepted by the legislature.

Now, it is my understanding — and of course Mr. Hutchinson who was a senator back at that time can explain in detail to you — the first executive reorganization plans were submitted to the legislature, I believe, in 1959. They were rejected and then resubmitted in the form of legislation. While there is, of course, a possibility of abuse, I think that you have a sufficient check and balance if you have a simple majority elect of both houses, and I think in the past experience, which has been demonstrated with this law on the books, that it has been too easy for the legislature not to go along with the governor. And I submit that if you want a strong executive, if you want to place the responsibility upon him, this is the manner in which you do it, and therefore I speak against the amendment.

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman, I had several things I wanted to say on this, but because of the hour, I would just like to make one brief point: it seems rather ridiculous to me to permit a reorganization which can only be defeated by the vote of both houses of the legislature, when after this reorganization takes effect, if one house is definitely opposed to a segment of this reorganization, you have to pass appropriation bills to support, say, a given department or an agency set up under a reorganization. If one house is against that, they are going to fight appropriations for it. So I favor the minority report amendment and feel that it is the only consistent procedure which can be followed.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: May I inquire of Chairman Martin whether he proposes to let this go to a vote this afternoon, or will the vote be deferred until tomorrow morning?

MR. MARTIN: Mr. Chairman, I thought that we were about through discussing it and we would take a vote on it, but if there are others who want to speak, I am going to move to rise.

MR. LEIBRAND: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: There are 2: Judge Leibrand and Mr. Karn.

MR. MARTIN: There appear to be several who want to be heard, and for that reason, Mr. Chairman, I move that the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair will recognize Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration a proposal of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71** to provide for the election, terms and duties of state officers, and so forth; has considered several amendments thereto; has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: I have no announcements, Mr. President.

I have the following requests for leave: Mr. Snyder wishes to be excused from the session of Monday, March 26, and Monday, April 2; Mr. A. G. Elliott wishes to be excused from tomorrow's session; Mr. Dade wishes to be excused from the session of Monday, March 26, and temporarily from the session of Tuesday morning; Mr. Lundgren wishes to be excused from the session of tomorrow because of personal business; and Mr. Norris wishes to be excused from the session of tomorrow.

PRESIDENT NISBET: Without objection, they will be excused.

The Chair recognizes Mr. Sharpe.

MR. SHARPE: Mr. President, I move the convention adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 5:05 o'clock p.m., and in pursuance of the order previously made, the convention adjourned until 9:00 o'clock a.m., Friday, March 23, 1962.]

ONE HUNDRED SIXTH DAY

Friday, March 23, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

The **invocation** this morning will be given by the pastor of one of our delegates, Mr. Van Dusen, the Reverend Gerald B. O'Grady, Jr., of Christ Church Cranbrook, Bloomfield Hills.

REVEREND O'GRADY: Let us pray. O Lord, God almighty, guide, we pray Thee, our president and all those to whom has been committed the government of this nation, and grant to them the special gifts of wisdom, understanding, counsel and strength that, upholding what is right and following what is true, they may obey Thy holy will and fulfill Thy divine purposes. And especially we commend to Thee, O Lord, all who are engaged in the government of this state and those who plan for it. Grant to them integrity of purpose and unfailing devotion to the cause of righteousness. May all their legislation be such as will promote our welfare, to the succor of the poor, the relief of the oppressed, the putting down of all social evils and the redress of all social wrongs. To Thy glory and the good example of Thy people, through Jesus Christ, our Lord. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Habermehl, from the first 2 hours of today's session; and from today's session, Mr. Staiger and Mr. Krolikowski who is ill.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. A. G. Elliott, Habermehl, Krolikowski, Lundgren, Mahinske, Mosier, Norris, Ostrow and Staiger.

Absent without leave: Messrs. Douglas, Ford, Gust, Mrs. Hatcher, Messrs. Marshall, Murphy, Prettie and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Hatcher, Messrs. Douglas, Murphy, Prettie, Marshall, Ford and Gust.]

The Chair recognizes Mr. Suzore.

MR. SUZORE: Mr. President and members of the convention, one of the most sought after political prizes in Wayne county is chairman of the Wayne county board of supervisors, and by arrangement and resolution, agreement of the members of both the outcounty and the city of Detroit, the supervisors of the city of Detroit elect the chairman for a 2 year period, and the outcounty has it every third year.

Last night, the members of the Wayne county outcounty supervisors held their annual caucus, and at that meeting, unanimously nominated and, we hope, on the second Tuesday of April, will elect John McCauley, our fellow delegate, as chairman of the Wayne county board of supervisors. (standing ovation)

PRESIDENT NISBET: Congratulations, Mr. McCauley. I hope you can make the proceedings go on as rapidly there as we do here. (laughter)

SECRETARY CHASE: Mrs. Cushman requests leave from the latter part of this morning's session.

PRESIDENT NISBET: Without objection, it will be granted.

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Select committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: **Motions and resolutions.**

SECRETARY CHASE: Mr. Everett and 29 other delegates offer

Resolution 84, A resolution relative to time of convention sessions.

Following is Resolution 84 as offered:

Resolved, That we, the undersigned delegates, hereby resolve that the following be the work schedule for the convention:

Monday	6:30 - 10:30 p.m.
Tuesday and Thursday	9:00 - 12:00 a.m.
	1:30 - 5:30 p.m.
	7:30 - 10:00 p.m.
Wednesday	9:00 - 12:00 a.m.
	1:30 - 5:30 p.m.
Friday	9:00 - 12:00 a.m.
	1:00 - 3:30 p.m.

Stanley Everett
Don Seyferth
James Sterrett
Arthur Elliott
Peter Buback
Frank Perlich
Edmond Lesinski
Weldon Yeager
S. Martin Tweedie III
David Upton
J. Burton Richards
Herbert Turner
Charles Youngblood, Jr.
Coleman Young
George Romney

Raymond Plank
William Suzore
Claud Erickson
Anne Conklin
Don Batchelor
Alvin Bentley
William Cudlip
Ruth Butler
Joseph Sablich
Clyne Durst, Jr.
Ann Donnelly
Ella Koeze
Anthony Stamm
Frank Balcer
Theodore Brown

PRESIDENT NISBET: It will be referred to the committee on rules and resolutions.

Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. All those in favor will say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order and the secretary will read.

SECRETARY CHASE: Item 11 on the general orders calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers, allocation of departments, and so forth.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1827.

There was under consideration, when the committee rose last evening, a minority report amendment offered by Mr. Bentley.

[The amendment was again read by the secretary. For text, see above, page 1843.]

CHAIRMAN MILLARD: At the close of last night's session, there were 2 names on the list to be heard on the Bentley amendment. The Chair will recognize the gentleman from Bay City, Judge Leibrand.

MR. LEIBRAND: Pass, Mr. Chairman.

CHAIRMAN MILLARD: The gentleman from Jackson, Delegate Karn.

MR. KARN: Pass, Mr. Chairman.

CHAIRMAN MILLARD: Then the question is on the Bentley amendment. Mr. Heideman.

MR. HEIDEMAN: I guess I am still a little under the weather. I asked for permission to say a word yesterday, Mr. Chairman.

CHAIRMAN MILLARD: You may proceed, Delegate Heideman.

MR. HEIDEMAN: I would like to speak in favor of this amendment. If I were a poet, I would write a poem on our pale, poor, abused legislature. One day we give the powers to the supreme court; on another day we give the powers to the governor; on still another day, we give legislative powers to civil service; on another, to a quasi legislative or judicial body or commission. One day the Democrats kick the legislature; on another day the Republicans do the same. There is a seeming bipartisan approach to this, a cooperation, as it were, here at the constitutional convention, to cut down or whittle away the powers of the legislature.

As we all know, from the earliest inception, the origin and growth of constitutional government of free society has coincided with the origin and growth of legislative bodies and, of course, to an extent, the courts; not the executive. And the converse, of course, has been true in our time, that the ending of free societies has been by the increasing and over extending of executive powers.

It is one thing to increase the powers of the executive, to make a more efficient, a more potent force in the government or of the judiciary; it is another thing to weaken the legislature. I think that we should try to strengthen all 3 branches of state government in this constitution and, therefore, I think that it is sufficient that if 1 branch of the legislature wishes to disapprove of the plan, it should be able to do so, as it would take 2 in a bicameral legislature to pass such legislation.

CHAIRMAN MILLARD: The question is on the Bentley amendment. Mr. Bentley.

MR. BENTLEY: Mr. Chairman, it may be a little early in the morning for some of us to recall the debate on this subject last night. It is a very simple issue. It would only pertain to those reorganization plans submitted by the governor following the 3 year period after the adoption of the constitution. In other words, it does not pertain to the initial reorganization and the 20 principal departments which we approved yesterday.

The issue before the committee of the whole is merely, is the legislature required to disapprove the governor's reorganization plan by a disapproval resolution passed in both houses of the legislature, or will it suffice to have either house disapprove it? That is the issue before the committee of the whole, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Martin.

MR. MARTIN: I yield to Mrs. Judd, Mr. Chairman, if she wishes to speak.

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: Mr. Chairman, I would just like to ask for some information. I don't have the facts, but my impression has been that through the years the effort to secure reorganization in the federal government has been slow because of the requirements of congressional approval, and I wonder whether we should make it so difficult. I don't know whether Dr. Pollock could answer this question. He knows something about the experience in federal reorganization.

CHAIRMAN MILLARD: Dr. Pollock, do you desire to answer?

MR. POLLOCK: Mrs. Judd, Mr. Chairman, I am glad to reply to that question. This was thoroughly discussed in the committee, and the Bentley amendment was not accepted in the committee. And I think the reasons are as indicated by Mrs. Judd's question. It is true that federal reorganization has moved very slowly because there, as with Mr. Bentley's amendment—and I presume that is where he gets his inspiration—the provision is that either house can knock down a presidential recommendation. So you are quite correct that reorganizations at the federal level have been impeded by the ease with which you can get one house or the other to defeat the proposal. We have recently had an example of this, and we have one almost every session.

It seems to me, Mr. Chairman, that the problem is one of administrative organization and here, it seems to me, the governor is in a much better position to know what is needed within his own administrative structure than anybody else. I think certainly the legislature should have the power to veto any proposal that is not in the public interest, but I do not think that this should be made easy, and I think it is not too difficult by requiring a majority of both houses. Therefore, I am opposed to the Bentley amendment.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I am sorry to take issue with my good friend from Ann Arbor, but if Mrs. Judd feels that she got an answer to her question, I do not. I am sure that Dr. Pollock will recall that over the years the federal reorganization statutes have only been approved on a 2 year basis; that is, there is nothing permanent about it. The congress retains the right to approve them or disapprove them every 2 years. That is the enabling act. Furthermore, I am sure that Dr. Pollock will also recall that over the years, the trend has been for the congress to make it more easy to disapprove executive reorganization plans than was initially the case. Finally, I am sure that Dr. Pollock will also recall that the present statute is even more flexible and makes it easier for the congress to disapprove than does the one we are proposing, because we are requiring here or we are asking that it be a majority of the members elect in either house, whereas the present statute in the congress merely provides that a simple majority of a quorum of either house may disapprove an executive reorganization plan, which is far more liberal and far easier to disapprove than is the case we are suggesting. We are merely requesting that the constitutional proviso conform to the existing statute in the legislature.

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MILLARD: Delegate Hutchinson is on the list, Dr. Pollock.

MR. HUTCHINSON: Mr. Chairman and ladies and gentlemen of this committee, Mrs. Judd's question and Mr. Pollock's reply infer that the legislative branch of government is obstructionist and is the reason for the slowness in governmental reorganization. With that I take issue and would argue this way: under this arrangement you are turning the traditional system upside down, to begin with. Instead of giving to the legislature the lawmaking function in these reorganization plans, and to the governor a veto, you are giving to the governor, in effect, the power to make the law and you are according to the legislature a veto.

Keeping in mind the traditional way of doing things, where the legislature is the lawmaker, nobody seems to object that the governor, a single man, a single individual, may veto what the legislature may do, and when the governor vetoes, strangely enough, nobody seems to charge that it is the governor that is obstructing. So, when we turn this thing around and we say, let a majority of the members of either house veto what the governor proposes to make the law, then you say that is obstructionist. I think it is unfair and I don't think it is reasonable. Certainly, the veto power of the governor is just as obstructionist—if that is what you are thinking about—as would be the case of letting either house veto.

I call your attention to this again: this is a tremendous political power, this power to reorganize. And I am not willing to agree, offhand, that just because the governor thinks that a particular reorganization is in the best interests of the government, that that necessarily makes it so. I think that the governor also can make some mistakes or be misled, or be influenced by groups or be influenced by considerations, which, in the minds of other people, might not be in the best interests of the state. Consequently, when you subject the governor's reorganization to the test of veto by either house, you are simply applying, in a reverse sort of arrangement, the same principle which we have always had.

I disagree with this inference, and this argument that slowness in reorganization is evil or bad. It is a matter of getting people to agree upon which course to follow. I think that it would be extremely bad public policy to, in effect, permit the governor to reorganize the executive branch in any way that he saw fit without any real effective legislative veto, and then, at the same time, expect the legislature to come forth and produce the money with which to carry on, perhaps, increased programs and different emphasis upon programs brought about because, as I said yesterday, I can well imagine that a governor may be dissatisfied with the emphasis or the way that a particular program is being carried on in one department and think that he can get a better treatment of it somewhere else, it can be expanded somewhere else; perhaps the head of another department is more friendly with the governor and they can expand the program to the political benefit of the governor, and the legislature will be expected to provide the money, and at the same time you have effectively denied the legislature any positive or effective role in asserting what it thinks to be the best interests of the state of Michigan. After all, the legislature, too, is elected by the people, is answerable to the people, not statewide but by constituency, and for those reasons, I think that the Bentley amendment is a good one, that at least it won't be as bad a system as it would be if you, in effect, denied to the legislature the power of veto.

CHAIRMAN MILLARD: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I don't think the issue should be clouded. It is a very simple issue: do you want to perpetuate the kind of maze of administrative organizations as that chart over there indicates, or do you want to devise a bit of machinery, simple and effective in itself, which can accomplish for the state of Michigan what, I think, the majority of people want, namely; an efficient and economical administrative structure? The history of administrative reorganizations show very clearly that although they have helped, they haven't been as effective as they should be largely because of the reluctance of the legislature to go along with the proposals made by governors and particularly by presidents.

I can understand the feeling of these 2 former legislators who see a whittling away of a little bit of legislative—not power, but really—obstructionism. It is not a case, really, of effectively using your power, because they haven't used their power to reorganize. That is why these amendments have been suggested. The whole story, so far as Washington is concerned is, as Mr. Bentley quite clearly indicates, congress giving a limited grant of power to the president, so that he hasn't very much time to do anything with it, and then gradually whittling it down until it provides for a veto by just one house, which has proved to be so easy that even when the president has sometimes rather unobjectionable proposals about reorganization, congress feels a certain partiality to its own point of view and they just don't want the president to have this power.

I think the history of administrative reorganizations and the failure to have administrative reorganization clearly points to the excellence of this device, and the only point at issue is whether you want it to be very easy for the legislature to knock down a proposal which, as Mr. Hutchinson—I think, with a great deal of exaggeration—indicates that it is a fearful exercise of power by the governor, it is the kind of administrative authority which any general manager of a business would insist upon having, if he couldn't rearrange his own administrative structure to promote the efficiency of the organization, he wouldn't want to be general manager. It is, of course, a matter of power; but the question of power, and calling it a traditional way of doing things doesn't make a bad institution good. And the fact simply is, as I see it, either you want to promote flexibility in administrative structure, and thus to permit the abolition of useless agencies, the combining of others, or you want to make it so difficult that, in fact, it is not going to be accomplished.

It is true that we have a statute in Michigan, one of the few states that have such a statute, permitting this power by the governor. But again, the experience of our legislature in the exercise of their veto over the governor's power gives nobody any encouragement that it will ever get anywhere if it remains as easy as that, and that is why the committee, in its wisdom, I think, provided that it would take a veto by both houses, and when we say "members elect", that means you don't count absentees against the proposal; that is precisely the point.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, Mr. Hutchinson has made a theoretical argument about veto by one house as compared with veto by the governor, although I believe he objects to the word "veto," and I would like to consider this argument further, and I should like to point out that there is a very big difference between veto by one house as proposed by the present amendment, and on the other hand, a veto by either the governor or a veto by both houses. There is a big difference in principle.

For example, a majority of either house, a majority of one house, is not, necessarily, a majority of the people, or does not necessarily represent a majority of the people. There are 2 possible reasons why that might be so. In the first place, it might be that if you considered both houses—considered the majority of the members of both houses—they might favor a certain plan, and yet the majority of one house might not favor it. Therefore, when you arbitrarily divide a group into 2 halves and say, you only need a majority of one half, a majority of one half of the group is not, necessarily, a majority of the entire group. Similarly, if either house does not represent population—which is to be anticipated—again, this factor is easily exaggerated. Therefore, there are at least 2 reasons I could think of why a majority of one house might very easily represent something other than a majority of the people on a certain issue.

On the other hand, a majority of both houses certainly will either represent a majority of the people or will be much closer to that. And, similarly, a veto by the governor—the governor is elected by all of the people—and a veto by him does reflect, as much as he can determine, the wishes of the majority of the people. Therefore, it seems to me that the argument made by Mr. Hutchinson that when the governor vetoes we should compare that with a veto by one house, is a mistake. When the governor vetoes, we have one situation, when both houses veto, we are closer to that situation, and I, therefore, think that the present amendment should not be supported.

CHAIRMAN MILLARD: Delegate Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, Dr. Pollock has said most of the things that I would like to say, but I would like to call to your attention a couple of factors. Number 1, executive reorganization and the existing law, act 125 of the public acts of 1958, did not come in our law books over night. It was started, I think, back in 1952, through the efforts of the citizens research council, and Mr. Tilden Mason. It was only after a long struggle and a lot of luck that the law finally did pass.

The reason, I think, for executive reorganization is that the legislature did not act. Now, I am not criticizing the legislature, because I think that there are some valid points, perhaps, for the legislature not engaging in more executive reorganization. For example, there are a lot of political pressures on the legislature, and department heads who know the legislators well, and the programs, and so forth, can influence them to a certain extent. Also, I think you have to remember that our legislature is a part time legislature. In many instances, I don't think that they have the time to study executive reorganization, and so, in some cases, they are not as informed as they should be.

But I am not criticizing the legislature for not acting in executive reorganization. However, I think basically the reason for having this form is to place the responsibility with the executive, who should know all about these administrative agencies, and to allow him to initiate the programs, and therefore present them to the legislature. I think the reason for executive reorganization is simply economy and efficiency in government.

Now, I think all of you who have been in government know that we have a certain number of bureaucrats. We have people who build empires. They don't want these empires consolidated or eliminated. If you are going to go ahead, as we have done, and give the executive the responsibility of lowering appropriations, then I think you have to give him the responsibility in this area of his executive departments, so that he can eliminate or consolidate in the best interests of the state. And again, with the present senate, with a membership of 34, it is relatively easy, as it has been in the past, for a department head, who happens to know 18 senators, to go ahead and defeat a certain reorganization plan. And there is a small history in this, and I won't indulge in personalities, and I won't tell you the board which has effectively prevented itself from being consolidated in the interest of economy and efficiency, because of the fact that this certain head of department happens to know a large number of senators. I think, then, this amendment would defeat efficiency and economy in government and allow bureaucrats to continue on.

A third point I would like to call to your attention is that the legislature does appropriate funds, so that if they are unhappy with any extension of power, so called power by the governor, if the governor should create a new agency which they are dissatisfied with, they can effectively reduce the effectiveness of that organization. For these reasons, I oppose the amendment.

CHAIRMAN MILLARD: Delegate Bentley.

MR. BENTLEY: Mr. Chairman, I would just like to point out to the committee of the whole that my good friend from Ann Arbor has made the same honest mistake that the delegate from Detroit, Mr. Downs, made yesterday in referring to this matter, to this chart. The pending amendment, Mr. Chairman, has nothing to do with this chart. We have already approved, yesterday, a 2 year period for the legislature, and following that, a third 1 year period for the governor, by executive order, to reduce the numerous agencies on the chart into 20 principal departments. The pending amendment, Mr. Chairman, merely refers to future reorganization plans after this entire mass and maze and mess has been consolidated and reorganized, then it is a question of reorganization plans submitted by the executive to the legislature following that 3 years. But reference to this chart, as I pointed out to Mr. Downs yesterday, is not correct, and he certainly admitted it, and I would like to point the same thing out to my good friend from Ann Arbor this morning.

Finally, Mr. Chairman, with reference to the question originally raised by the lady from Grand Rapids, Mrs. Judd, I would like to say, without having the figures at hand, that over the years in the federal government, the history of approval or disapproval by congress with respect to executive reorganization plans, has been almost entirely the same percentages; even though—as I said earlier—over the years it has been relatively easier for the congress to disapprove, nevertheless, the ratio of approvals and disapprovals is about the same as when the reorganization act first went into law. Thank you.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Adrian, Mr. Durst.

MR. DURST: Mr. Chairman and members of the committee, I would just like to speak to a portion of this problem. Mr. Bentley is quite right, that what we passed yesterday should effectively change that chart to quite an extent. Then the question is, what happens after that. I think to this point it is pertinent to note the experience that the state of New York has had, which has had this type of procedure for 30 years now. Dr. Ronan who, I explained to you yesterday, was Governor Rockefeller's administrative assistant, gave us this testimony. Now, in New York, when they made 18 departments, they created one department which they called the "executive department," which was immediately under the governor and was to perform those services which he was most actively interested in. Dr. Ronan said:

> The executive department became a grab bag, because no one really wanted to face up to the hard decisions as to where else to put them.

then he says:

> Then we have new agencies created. These were put into the executive department. As a result, the executive department became an unwieldy agency, the governor being the nominal head of it and the secretary to the governor being his deputy in connection with it. But many of these activities had, really, no relationship to the governor's executive power and the exercise thereof. And one of the things which will without question be on the agenda in our state, now that we have passed the constitutional amendment allowing the transfer of functions and the change in names of departments, will be to disestablish the executive department, create executive offices of the governor for those functions which, back in 1927, they had thought belonged to the governor.

What I am really saying here is, we should at least consider the desirability of allowing the governor as free a hand as possible to keep this thing in order, because, as has happened in New York, the legislature is not equipped—apparently, anyhow—to make what administrators, anyhow, would call a good decision as to where these agencies should go. As in New York, as the legislature created new departments, they lumped them all into one department.

As Dr. Pollock has pointed out, the legislature has always had the power to relocate these things and to create an efficient administrative organization. It is difficult, as I see it, for them to do so. And I think that the majority report from the committee places enough power in the legislature to keep this thing from becoming an instrument of oppression, if you will, on the part of the governor, and yet gives to the governor the power which he needs to keep an efficient organization, and I urge you to defeat the minority report amendment.

CHAIRMAN MILLARD: Delegate Wanger.

MR. WANGER: Mr. Chairman, members of the committee, it is quite clear that efficiency and not politics should be the guide and the motivation behind these executive reorganizations. It is also clear that we need to have some kind of a check upon them, as the committee in its proposal recommends when it allows the legislature to have any voice in this regard.

Now, it seems to me that the merit of the proposed amendment is this: you see, under the proposal as set forth in the committee report, if the governor or his party have strong control of either house, or perhaps just some of the committees thereof, he could ram through a politically motivated reorganization.

It is true that there are reasons on the other side, but let us remember this very simple fact, that reorganization can be used for political purposes and the temptation may always be there, to some extent, to make such use of reorganization. I, therefore, suggest that, as a practical matter of political management and efficient management, considered side by side together, as they must, it would be best to adopt this amendment to get around that difficulty.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Grand Rapids, Dr. DeVries.

MR. DeVRIES: Mr. Chairman, I would like to direct a question to Mr. Bentley through the Chair, if I may.

CHAIRMAN MILLARD: Mr. Bentley, if you care to answer.

MR DeVRIES: Mr. Bentley, I am trying to recall, in the last 5 years, any significant administrative reorganization that has taken place under public act 125 of 1958. It seems to me, as I recall this, that there has been no significant administrative reorganization resolution approved by the legislature. Could you comment on that?

MR. BENTLEY: Mr. Chairman, I think that probably one of the former members of the legislature would be in a better position to answer Dr. DeVries' question than I. It is my impression that many of the proposed reorganization plans have been defeated in the legislature, insofar as the question of legislative disapproval is concerned, but that a number of them have been passed by direct action of the legislature, but I would rather have someone like Mr. Hutchinson comment, because I am sure he has more facts and figures in this case than I could possibly have.

CHAIRMAN MILLARD: Would you like to have Mr. Hutchinson answer?

MR. DeVRIES: Yes, I would, please.

CHAIRMAN MILLARD: Mr. Hutchinson, would you care to answer?

MR. HUTCHINSON: Mr. Chairman, one reorganization which I think was significant and of some importance that has come about in the last 5 years has been the transfer of the checkwriting function and so on out of the office of the auditor general and into the office of the state treasurer. We have moved all of that voucher operation out of the auditor general's office in order to make that office more truly a postaudit function. This, I think, was significant.

I would have to look at the list. Back in 1959, I believe it was, Governor Williams submitted 7 or 8 of those plans and—well, someone has very kindly given me a list of them. The first one was the transfer of warrant functions from the office of the auditor general to the state treasurer. That has been accomplished. I think that was significant. The commodities food surplus distribution section was transferred from the department of administration to the department of social welfare. The motor fuel tax collection functions were transferred from the department of state to the department of revenue. The office of hospital survey and construction, which theretofore had been an independent office under the governor, has been transferred to the department of health. The TB sanitarium commission, its functions, were transferred to the department of health.

As I recall these plans, the only one that was rejected by the legislature was a plan to abolish the state board of alcoholism, and transfer its functions to the department of health. Frankly, that didn't come about because of the concern of the organization known as alcoholics anonymous. They didn't want it transferred. They were afraid that its operations under the department of health would be tucked under, tucked under so far and so deep that it would be forgotten or absorbed or something, and that the importance of that program would be lost. Consequently, the legislature did not go ahead with that one. They went ahead with the rest of them.

Now, these are the original plans. I am answering your question, Dr. DeVries, and if I have answered it, I won't pursue this any further until I can obtain the floor under my own recognition.

MR. DeVRIES: Mr. Chairman and Mr. Hutchinson, you haven't answered my question. I think, in my own mind, that there hasn't been any significant administrative reorganization in the last 4 years, and I think the 2 reasons for it: basic legislative inertia—and perhaps this comes from the fact that legislators are part time and also because they lack an adequate staff—but I think a more important reason for not getting administrative reorganization in the legislature is in the tendency to trade among legislative supporters for various agencies, and to prevent their favorite agencies from being consolidated or reorganized with others. And this always effectively blocks reorganization, particularly when it is easy to get a majority vote. Therefore, I would urge the defeat of the Bentley amendment. It seems to me if you try to depend on the legislature to accomplish rational administrative reorganization you are never going to get it done.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Fennville, Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I think that there is an impression being cast upon this floor that the legislature has done nothing in its history and that there has never been any reorganization. I would remind you that back in 1921—which I suppose you will say was another age and all that—back in 1921, Governor Groesbeck obtained a very significant governmental reorganization in Michigan after only a 6 weeks effort in the legislature. He had that completed by the middle of February, in a session which commenced the first part of January.

I am reminded, as I think we all should be, that during the '30s and the '40s, the legislature created and then reorganized significantly, the department of welfare, the department of mental health and some others; and I recall, very vividly, back in 1948, the creation of the department of administration, and that was a very significant reorganization in Michigan's executive, because it gathered together all of the so called "housekeeping functions" of government under a single department, the department of administration, and those housekeeping functions included such significant things as budget and accounting, and property management, and so forth. Then the history since public act 125 of '58—if that is what it is—that government reorganization act, which I remember when it passed in the legislature—I remember that quite vividly, too—since that time all of this effort and emphasis has been upon these reorganization plans. I call your attention to the fact that—at least while I was in the legislature—while I objected very strenuously, as a matter of principle, to permitting the governor to reorganize on his own motion, that while I was a prime mover in getting the veto of the senate as to each and every one of those plans, I also introduced a bill to accomplish, by legislative action, every one of those proposals, and I am proud to say that all but one of them passed and became law.

What has happened in 1961 and '62, I am no longer part of the administration. I can assure you that I believe that the legislature should positively consider—and I say positively consider and not negatively consider, as you would have them do—but positively consider these recommendations for reorganization, but I also invite your attention to the fact, as Mr. Binkowski has pointed out, that there are strong political considerations, and they aren't ulterior pressure groups, but they are folks, well, for instance, like the alcoholics anonymous, who convinced a sufficient number of senators that the program of the board of alcoholism would probably be tucked in under the department of health so deeply that its program would, if not ignored, not be given the light of public attention to which they felt it would be entitled at this particular time, and so the legislature didn't want to go along with that one. There are those considerations that do come up, but simply because the reorganization plan is vetoed, I submit to you, doesn't prove or should not even be inferred that the legislature is obstructionist or nonprogressive. It is simply that, after all, while some folks might think this is a wonderful idea, other folks have just as strong opinions on the other side.

It isn't a case of one party being all in the right, and the other group being all in the wrong so some of these things will find favor and some of them will not. I have been told by the members of the governor's committee working on these reorganization plans that, as time goes on, and they attempt to get into more major fields, their task becomes infinitely greater and more difficult, and the likelihood of achievement is much harder. That isn't because people are objecting to economy or anything of the sort. At the base of this thing is what I said before, a fear—and a genuine fear—of the concentration of political power. If you are going to concentrate—and it is a tremendous political power, even though Dr. Pollock thinks I exaggerate; I do not believe I do, I feel very strongly about this, and I want to, as best I can, convey to the delegates here the seriousness of vesting in a single man, who is the head of a political party, this tremendous political power to completely reorganize his executive branch of government to suit his political purposes. I am not here to say that that would customarily happen, but I can envision that it might. It was such kinds of concentration of political power in the hands of people overseas in Europe which completely destroyed liberty.

I don't think that the people of Michigan would let it go that far, knowingly, but I would hate to see you write into our state constitution a system where constitutionally such strange things could be brought about under the guise of governmental reorganization.

CHAIRMAN MILLARD: Delegate Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, Dr. DeVries in particular, there has been no executive reorganization plan submitted to the legislature which has not been defeated. In other words, act 125 of 1958 has never been implemented. I think that this is very significant, and I gave the list to Mr. Hutchinson regarding those first 7 reorganization plans, and as he told you, they were introduced and they were defeated in the legislature only then to be placed in bill form and passed by legislation. I don't know what the reason is. Senator Hutchinson indicated it was his philosophy—he doesn't believe in the executive reorganization method. But, I submit to you that there must have been some reason why the legislature did not want to accept the governor's executive reorganization plan by defeating it, and then by going ahead and passing the very same plan, word for word, in the form of legislation. They still can do this.

Now, when Mr. Tilden Mason from the citizens research council wrote for the National Municipal Review regarding the executive reorganization plan here in Michigan, he entitled this article, Miracle in Michigan, and I think he did this very wisely, because I think he felt, as most people did, that it was a miracle that this legislation passed in the first instance, and I think that he felt—perhaps he didn't feel—I feel, of course, that it would be a miracle if it worked, and it hasn't worked so far, and I submit to you that this amendment would continue to eliminate the effectiveness of implementing the executive reorganization plans and methods. I think if you are interested in economy and efficiency, you would go ahead and defeat this amendment.

CHAIRMAN MILLARD: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I merely want to add a postscript following Delegate Hutchinson's remarks. I have been a member of this committee on reorganization since its inception, and it is only half the story to say what has happened to what has been submitted.

There is such a thing as preventing the birth of good ideas, and when you look at the legislature of Michigan and then contemplate how far you think you can get, as a realistic individual, you don't submit things that haven't some chance of getting through. It is a good deal like the question of advice and consent or confirmability. It isn't just a question of checking the power, you check it, sometimes, in its inception. You prevent a good idea from even getting under way.

I can assure the delegate from Fennville that on this reorganization committee, which is a bipartisan committee, and the committee which has tried to implement this act, that this committee has been much more affected by this negative influence that they are facing all the time, and therefore, all the plans that have been put through thus far—have been proposed thus far—have been proposed because they are so really minor and innocuous that it is inconceivable that the senate or the house could veto them.

CHAIRMAN MILLARD: The gentleman from Grand Ledge, Dean Doty.

MR. DEAN DOTY: Mr. Chairman and fellow delegates, I rise to support this amendment and I am rather surprised at some of the objections and rather surprised at some of the people who are raising them. We all recognize that the democratic legislative process is slow and perhaps cumbersome. I think you see it on a township level, you see it in city government, you see it in the county. You see it here. If I have ever seen a body that is a good example of what I am referring to, it is here. I think it is time we got off our feet and went to work. I was rather surprised at Dr. DeVries, I think he cut his teeth over there.

CHAIRMAN MILLARD: The delegate from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I think when Dr. Pollock said that the issue was a very simple one, whether we want reorganization or whether we don't, he had not got down to the fundamental issue. The fundamental issue is whether we are going to have 3 branches of government—coordinate branches of government—or whether we are going to keep on nicking away at one until we have it gone entirely. Every step we have taken, as I can recall in this convention, has been to nick something out of the legislative branch of government. We did it yesterday. We are talking about doing it again today. What Senator Hutchinson said about the use of political power in this matter of reorganization isn't entirely a matter of theory. It isn't a matter of theory with me. I can remember, in the senate, when the governor proposed and the legislature followed him in the complete abolition of a department and its reorganization for the one and only purpose of getting members of one party off the board and putting on the members of the other. I wouldn't go along, and for a time I was regarded as an outlaw in my party, and I think Mr. Chase will remember that I was the only member of the party that wouldn't stand for it. Oh, it is used, it has been used and it will be used again.

A lot of the argument that we hear here, if followed to its logical conclusion, would result in our having no legislature at all. And there are some other assumptions that we make over and over again, and one of them is that everything the governor does is for the best interests of the people; everything that the legislature does is in the way of obstruction. After a lifetime in government, I have no such illusions whatsoever. Many of you disagree with this, but I am not talking from a book nor from hearsay. The most partisan spot, the most political spot in your state government is the governor's office, and it doesn't make any difference whether he is a Democrat or a Republican. You will wait a long time and look a long way before you find an exception to that rule. That has been true in the past. It will be true most of the time in the future.

This whole thing is a legislative field. We have gone a long way in letting the executive branch of government come into it. Certainly we have gone far enough so that Mr. Bentley's amendment ought to put a limit on the extent to which we go.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Charlevoix, Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman, fellow delegates, much of what I was going to say has been covered in what Delegate Brake just mentioned. I have tried to analyze this and it seems to me that it comes to whether we wish to strengthen or preserve the strength of the legislature, or whether we wish to strengthen or extend the strength of the executive. The tendency has been to strengthen the executive. We have the executive administrative boards, we have all sorts of things that are in the executive department, and when you analyze what happens, you can have 2 movements. Today, in Michigan, we apparently are having a movement for strengthening the executive, and that makes me very uncomfortable, because you get an all powerful executive, whether it is a king or an emperor or just a plain dictator, you have a dictatorship. It is the complete subjugation of democracy. On the other hand, when the legislative gets all powerful—we have examples in the world of that—democracy is not destroyed, it is preserved. The one that comes quickly to mind is the house of commons in England, where the house of commons has usurped the executive and you still have democracy.

I cannot vote for anything that would be voting against democracy, against the opportunity of the people to express themselves, and they can express themselves much more readily through the legislature than they can through the governor. I am for this amendment.

CHAIRMAN MILLARD: Dr. DeVries.

MR. DeVRIES: Mr. Chairman and members of the committee, it is true that I cut my teeth at the legislature over a 5 year period, and for this experience I am very grateful. One of the things, however, that I learned about the legislature is that it needs more help and we have to strengthen the legislative process itself. I think we can do this through the removal of earmarking, better staff, higher legislative salaries, full time legislators and so on. My inferences on their behalf are not meant as criticisms, but I think are intended to strengthen the process.

I rise to ask Mr. Bentley one more question, if I may, Mr. Chairman, and it is—

CHAIRMAN MILLARD: If Mr. Bentley cares to answer.

MR. DeVRIES: Is there anything in this proposal which prevents the legislature from initiating its own administrative reorganization plan?

MR. BENTLEY: Mr. Chairman, the answer to the gentleman from Grand Rapids is that I see nothing in here that would prevent the legislature from initiating its own reorganization plans. As I understand the proposal and the language, and the sense of it, it merely applies to executive reorganization proposals submitted by the governor. It says in line 27, "Subsequent to such allocation," referring to the first 3 years, "the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration." I see nothing in that language that would prevent the legislature from taking any action in this field it so desired.

MR. DeVRIES: In other words, Mr. Bentley, if the legislature wanted to initiate reorganization plans within the executive branch, they have the complete freedom to do so?

MR. BENTLEY: As I understand the language of the proposal, Mr. Chairman, Dr. DeVries, the proposal is silent in this and I assume that silence gives consent.

CHAIRMAN MILLARD: The gentleman from Jackson, Delegate Karn.

MR. KARN: Mr. Chairman, members of the committee, there still seems to be some confusion regarding this amendment and the possibility of this amendment interfering with the reorganization of the departments initially. This has been stated very clearly by Mr. Bentley and others. Mr. Binkowski has left the hall, I believe, but his last statement seemed to infer that this amendment might interfere with the original reorganization of these departments. Just so that there can be no question about it, I again would like to read, starting with line 21, which was discussed and passed yesterday. It says,

> The allocation of departments by law pursuant to this section shall be completed within 2 years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make such allocation.

That paragraph covers the initial reorganization of the departments that Mr. Bentley has referred to so many times. Following this:

> Subsequent to such allocation, the governor may make changes in the organization of the executive branch . . .

and it is this following part to which the amendment refers. The amendment does, in no way, have anything to do to hinder or otherwise, the reorganization in the first instance.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, may I inquire, through the Chair, of Mr. Martin?

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. LEIBRAND: Delegate Martin, Chairman Martin, referring now to that part of Committee Proposal 71, which we are considering, beginning on line 27, was it the intent of the committee that the governor in office at the time any legislative reorganization plan was passed by the legislature, could make such changes in the reorganization as he desired, or was it the thought of the committee that all subsequent governors throughout the life of this constitution, could make changes?

MR. MARTIN: Judge Leibrand, this involves 2 processes. The preceding 2 paragraphs, as has been commented on by some of the delegates, deal with this problem of initial reorganization. After that 3 year period is completed, in which first the legislature, and then if the legislature does not do it, the governor has a chance to work out a general reorganization plan, then you have, into the future and for the future, a continuing reorganization proposal which is different from that as to this initial reorganization, and this continuing reorganization authority, which rests both in the governor and the legislature. After this initial reorganization is completed, then the governor may propose plans and the legislature is given the veto power on those plans as is provided here. And it is that later process of reorganization proposals coming from time to time, from year to year or 10 years to 10 years, that we are dealing with here. Does that answer your question?

MR. LEIBRAND: Mr. Chairman, may I inquire further?

CHAIRMAN MILLARD: You may.

MR. LEIBRAND: What I am trying to get at, Mr. Martin, is this: could each successive or subsequent governor reorganize these departments according to his personal interests or the interests of his party, and would these successive reorganizations stand unless vetoed by a majority of the members elect of both houses of the legislature? Would that go on into the future every time we have a new governor?

MR. MARTIN: Certainly. Any governor can propose a plan of reorganization subject to legislative veto.

MR. LEIBRAND: By a majority of the members of both houses?

MR. MARTIN: That is correct.

MR. LEIBRAND: Mr. Chairman and fellow delegates, I support the Bentley amendment.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Detroit, Mr. Madar.

MR. MADAR: Mr. Chairman, fellow delegates, I don't believe there is too much to debate here. You just have one thing before you and that is this: whether or not the administrative department should set up the administrative end or whether it should be the legislative. Mr. Brake states that we have the different branches of government. We have. Up to this point we have had 3. You have your judicial, your executive branch, and you have your legislative branch. And in this constitution, I believe that we are also adding a fourth, the educational.

Frankly, I say this: that I can't see why you would want to take out of the hands of the executive branch the setting up of the administration of your government. Businessmen operate or try to operate a good businesslike administration. Politicians, on the other hand, want these things in the hands of the legislators where they can manipulate and maneuver. I say this: for the sake of the people of the state of Michigan, give the administrative end the right to do this and if it isn't done properly by the governors, believe me, those people who elected them will also throw them out. Let's get good business administration in the state of Michigan.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman and ladies and gentlemen of the committee, I would like to address myself to some of the inconsistencies of the arguments propounded by the most outspoken opponents of this amendment. First of all, Mr. Binkowski stated that of the reorganization plans that have been submitted under the act of 1958, none have been adopted by the legislature, but then he did go on to say that most, if not all, have been enacted by legislation. It doesn't seem to me that this is a very good argument against continuing, in the constitution, essentially what the statute now provides. If Mr. Binkowski is concerned solely with who receives the credit for a reorganization, this might be a valid point, but as far as I am concerned, the important thing is that there was reorganization. It also points out the fact that the idea initiated with the executive, but the legislature, realizing the validity of the good idea, used its normal processes in adopting that reorganization.

Mr. Binkowski has also pointed out that the legislature is only a part time body and therefore is not qualified to handle reorganization plans. Delegate DeVries pointed out that the legislature didn't have enough help, and I believe Dr. Pollock testified before the legislative organization committee that the legislature should be full time, that they should have a minimum salary set forth in the constitution. I would merely point out that if they are only part time now, if we are going to strengthen the legislature, the way to do it is not to take away the powers that they have, but to at least leave those powers that they do have.

Now, before our committee, we had many witnesses who recommended that the executive branch of government should be strengthened, but they all consistently and at the same time said that if you have a strong executive, you also need a strong legislature. I would point out that the only place in which this reorganization requires the disapproval of both houses of the legislature is where the reorganization would require the force of law. In other words, if it is merely a shifting of a few administrative bodies within the executive branch, which does not involve a changing of functions or a creation of new functions, the governor can do this, or the head of a department can do this. It is only where functions are changed or new ones are created by a reorganization plan that they would require the force of law and therefore the disapproval of the legislature. Although Mr. Madar points out that the administrative branch of government should be charged with setting up the administration, I point out that what we are talking about are those things which require the force of law, and this is properly a legislative function. I therefore support the amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Mr. Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I have heard various people speak this morning on this debate and also yesterday, and it has been pointed out to me that the reorganization in our state government has been very negligible. Also, it has been pointed out that in our committee proposal the legislature has the right to reorganize, as they always have had. This amendment before us now weakens the executive power, and also I would like to point out that it considerably weakens the legislative power. The committee proposal, as it now stands, allows for a strong legislature to take the initiative, and if this is not done, it allows for a strong governor to go ahead after the legislature, possibly, did not do anything. In my opinion, this is a good balance for government.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and members of the committee, I hesitate to prolong this discussion, but yet it is something in which I have had some part during the last 4 years. In the spring of 1958, the organization which I was then representing favored the idea of executive reorganization. I went before the house committee on state affairs, along with such esteemed gentlemen as Dr. Pollock, and we testified in favor of the bill and were somewhat surprised that it was reported favorably from that committee and adopted in the house, and it went over to the senate, and I knew of the position of our esteemed vice president, Senator Hutchinson, and I didn't think there was much chance we could get it through over there, but to make a long story short, we did, and I think the governor thought that I had a little part in it, because he gave me the pen, or at least one of the pens with which he signed that act at that time, and then went on and put me on the advisory committee, along with Dr. Pollock, and I think a score of other ladies and gentlemen, and I think we held many meetings and worked on the development of these ideas. I am still a member of that advisory committee. It is true that none of those plans were accepted by the legislature in the form in which they were presented but, as Senator Hutchinson has said, those ideas were incorporated into legislation which, with the exception of the one dealing with the board of alcoholism, were adopted. So I think the whole program showed that it had some merit.

We are continuing to function. I have attended some meetings of the committee and subcommittees in the not far distant past. But why I stand here is to say that the Bentley amendment brings this program in line with the existing statute, and I certainly feel that we should adopt the Bentley amendment before we write this into our constitution.

CHAIRMAN MILLARD: The question is on the Bentley amendment. Mr. Martin.

MR. MARTIN: I think we are about ready to vote on this and I only want to make one or two rather brief comments to the effect that the committee gave this question the most careful consideration that it knew how. We considered the Bentley amendment, we considered the amendment of the minority, which is an amendment to require a veto by 2/3 of both houses, and we arrived at the committee position which is a veto by a majority in each house, because we believed that this was the right place to be if we wanted to get some executive reorganization and if we did not want to have the legislature in a position to block or to prevent any legislative reorganization. It is a pretty good test of the fact that we are not far wrong that we have the extreme position on the one side, that either house should be able to block a governor's proposal, and on the other side, we have an amendment that only 2/3 of both houses should be able to. The committee position is right between those extremes.

I can only say this, and I say it from experience, and I know that Mr. Brake and Mr. Hutchinson know that this is true, and certainly Mr. DeVries does, because he has made the point that it is the most difficult thing in the world to get a plan for executive reorganization of a department through the legislature or approved because, as has been said, every agency has its protectors in that body, and the bigger the agency, the more protectors there are. Even the little agencies have protectors who will trade their votes for the votes of somebody else, so that you never get a satisfactory consideration of the merits of these questions.

That is the real reason why the committee came out where it did. It hasn't made it impossible to get these plans through and it hasn't made it too easy to get them through. It has ended up on a middle position which the committee believes is the right position. I hope that the committee report will be accepted, that the Bentley amendment will be defeated, and that the amendment of the minority in the general minority report here, calling for 2/3 of both houses, will also be defeated. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: The question is on the Bentley amendment. A division has been called for. Is there support? A sufficient number is up. All in favor of the Bentley amendment will vote aye, those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Bentley, the yeas are 54; the nays are 71.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 3, line 5, after "concurred in by a" by inserting "2/3"; so the language will then read:

> . . . unless disapproved in both houses by a resolution concurred in by a 2/3 majority of the members elect of each house. These orders shall become effective at a date thereafter to be designated by the governor.

CHAIRMAN MILLARD: The Chair recognizes the proponent of the amendment, Mr. Marshall.

MR. MARSHALL: Mr. Chairman, fellow delegates, the purpose of offering this minority report amendment is, obviously, to make it easier for the governor to effectuate the reorganization. If we are to have reorganization, I think the executive must have a lot of latitude to do this, and the reason for this is because we have a long record of irresponsibility on the part of the legislature, particularly when it comes to this type of action or confirmation. I am not going to go into that at this time. I might prefer to hold the arguments I have on this question when we actually come to the consent and advice of the senate. But if there is any doubt in any of the delegates' minds as to this charge of irresponsibility, then I think all you have to do is read this mornings' Free Press. I urge support of the minority amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee opposes this amendment since it makes it impossible, we believe, for the legislature to defeat a proposed reorganization plan. We are opposed to the amendment.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, my fellow delegates, I would like to make a brief reply to a word that Mr. Marshall just said. In 2 sentences, he accused the legislature of a long record of irresponsibility. I would like to submit to you here that if the legislature is irresponsible, that it is the people of Michigan who have been irresponsible. We elect the legislator, and he is, supposedly, a champion of the people in a democracy. If he would like to have the legislature responsible, let's ask him to get his people to elect responsible people.

CHAIRMAN MILLARD: The question is on the Marshall amendment. Please confine your discussion to the Marshall amendment. Mr. Marshall.

MR. MARSHALL: I am trying to weigh my words, because I don't care to get into a debate with our distinguished chairman of the day.

When I made the statement, I don't agree with our committee chairman that it makes it impossible for the legislature to veto the governor's reorganization plan. I do say that it makes it somewhat more difficult for the legislature to veto it than it would if it required a majority vote, and that was precisely what we intended to do by offering this amendment, to make it more difficult. But, at the same time, to give the checks and balances.

I think this is on the amendment, in replying to the remarks of Delegate Hubbs when he said that I was a great exponent of the people speaking, that is true. But, in answer to Delegate Hubbs, to your question about the people electing the legislature, if that was true in this state, that the people did truly elect the legislature, then I couldn't agree more with you, and that is one of the reasons that this amendment was offered by the minority, to require a 2/3 majority in order to block the governor's reorganization plan, because the present legislature is not representative of the people, nor is the senate, in particular, elected by a majority of the people. I think this has an effect upon the amendment before us, and under this amendment we will insure that the governor will have the authority to operate in this area, to do those things that are necessary. We will also insure the checks and balances — that the legislature will have a veto, too. The only thing that we do, and it is intended to do that, is to make it more difficult for the legislature to reject a reorganization plan.

CHAIRMAN MILLARD: Thank you, Mr. Marshall, for sticking to the amendment.

MR. MARSHALL: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, it is interesting to see the split vote of the majority party on the last amendment. I would like to see what happens on this one, for both parties. However, on this amendment I would oppose it, because this would take the balance that we have out of the committee proposal. This would make the executive branch, the governor, far too strong, and would weaken the legislative power. In the committee proposal, the legislature has adequate power, as well as the governor having adequate power. I oppose this amendment.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I would like to direct a question to Mr. Marshall.

CHAIRMAN MILLARD: Mr. Marshall, if you care to answer it.

MR. G. E. BROWN: Mr. Chairman, Mr. Marshall, do you think that this provides an adequate check on, say, executive reorganization, a free for all on executive reorganization?

MR. MARSHALL: I think it provides an adequate check, considering the way that the present legislature is constituted, and the way that it will obviously be constituted under the deal that was made here.

MR. G. E. BROWN: Mr. Chairman, Mr. Marshall, another question: do you know how many times, say, in the last 10 years, 12 years, 14 years, that the executive veto has been overridden by the legislature by a 2/3 vote?

MR. MARSHALL: I don't think I can answer that question without doing some research on it. I might ask you, do you?

MR. G. E. BROWN: I think once, Mr. Marshall.

CHAIRMAN MILLARD: Wait a minute, now. Let's not get into an argument.

MR. MARSHALL: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: The question is on the Marshall amendment. All in favor will say aye. Opposed, no.

A DELEGATE: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number is up. All those in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Marshall, the yeas are 32; the nays are 85.

CHAIRMAN MILLARD: The amendment is not adopted. Are there any more amendment on the secretary's desk to paragraph 4?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MILLARD: Are there any amendments to the body of paragraph 4 of section b of Committee Proposal 71, if not, it will be agreed to and we will proceed to the next paragraph. Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, before this particular paragraph is declared to have passed, I want to raise again, so I understand clearly, the apparent intent of this committee, because I think I would take issue with what I understand to be the statement of Mr. Bentley, I believe, with regards to the power of the legislature to pass laws to organize or reorganize anything in the executive branch, after this language is found in the constitution. I understood him to say that since the constitutional provision was silent on the matter, he assumed the legislature would continue to have the power to pass laws to provide, for instance, that there should be a department of space exploration or something like that, and that would be a department. This, I am talking about, in the future. I don't know that I am convinced of that.

I am inclined to believe that the courts might just as likely reason this way: that here is a constitutional provision spelling out the manner in which the executive branch of government is to be organized subsequent to this initial reorganization and I am afraid that, as this language now stands, the courts might very likely say that this encompasses the whole field, and that in the future the legislature might provide that the executive branch of government should do thus and so, but it would be left up to the governor, by an executive order, to determine in what department, in which of the 20 principal departments this function should lay. I don't believe—I will put it this way, I—

MR. WOOLFENDEN: Mr. Chairman, a point of order.

CHAIRMAN MILLARD: Mr. Woolfenden, your point?

MR. WOOLFENDEN: I believe there is nothing before the house. If Senator Hutchinson has an amendment to which he wishes to speak, I think he should submit it. Otherwise, I believe there is nothing before the house.

MR. HUTCHINSON: Mr. Chairman, may I speak to the point of order?

CHAIRMAN MILLARD: All right.

MR. HUTCHINSON: I understand that there is something before the house. I asked the Chair, before he declared this particular paragraph to have passed, that I might speak upon it. I submit that this paragraph is before the house.

CHAIRMAN MILLARD: The Chair thinks you are correct, Delegate Hutchinson. The paragraph is still before the house.

MR. HUTCHINSON: And so, if I might perhaps, just conclude upon the note that I think that, unless somebody who has done a lot of legal research on this can convince me to the contrary, this provision should also go on to spell out that the legislature's power to create additional subdepartments or departments, or something, and to determine in which of the principal departments the function should rest, would not be vitiated by this language, and I am greatly concerned that it has been completely vitiated, as matters now stand, and I am in complete opposition to it. I think that this is a revolution in the governmental structure of Michigan, and I hope that this kind of a revolution doesn't come to pass.

CHAIRMAN MILLARD: Are you prepared to submit an amendment then, Mr. Hutchinson?

MR. HUTCHINSON: I have no amendment drafted at the moment.

CHAIRMAN MILLARD: Do you wish time to draft an amendment?

MR. HUTCHINSON: Yes, I will draft an amendment.

CHAIRMAN MILLARD: You can, of course, submit this to the body of the proposal when it finally comes — before it is passed finally. Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I make no pretense at being a constitutional lawyer, indeed, any type of lawyer. Neither do I make much of a pretense of being any type of a political scientist. In view of Senator Hutchinson's concern that the omission of any specific language giving the legislature power to initiate reorganization law, I would strongly support such an amendment, if he cares to offer it at an appropriate time. I say, as my own opinion — I repeat, as my own opinion — that I still think that where reorganization requires the force of law, the legislature would have that authority to initiate the law, as well as having the plan come from the governor. But, as I say —

CHAIRMAN MILLARD: Mr. Bentley, the Chair thinks you better reserve your argument until there is something before the house.

MR. BENTLEY: I understood we were still speaking on the paragraph, Mr. Chairman. I am sorry. I will be very brief, Mr. Chairman. I will say that I will defer to Mr. Hutchinson's eminent knowledge of constitutionality in this field, and will support any such amendment, if he cares to offer it in the future.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I don't want to debate this question at this time —

CHAIRMAN MILLARD: The Chair doesn't want it debated now because there is nothing before the house.

MR. MARTIN: That is right. I don't want to debate it. I do want to differ with Mr. Hutchinson, and I will present that at the time that an amendment is presented, if he desires to present an amendment.

CHAIRMAN MILLARD: If there is no further amendment to paragraph 4, it will be agreed to and we will proceed to the next paragraph. The secretary will read.

SECRETARY CHASE: Paragraph 5:

[Paragraph 5 of section b was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the purpose of this paragraph, I think, is quite clear, simply providing, of course, that where the head of a principal department is a single executive — or, the head of the principal department shall be a single executive, unless otherwise provided in the constitution or by law, and providing that principal departments shall be headed up by the secretary of state, state treasurer and attorney general. They are the only 3 we have mentioned, and they would head principal departments.

The next clause, at the beginning of the next sentence, is proposed to be stricken by an amendment which is pending on the secretary's desk, because that should be inserted at the end of the proposal, along with other material indicating when state officers will succeed, or how long the terms of existing officers will continue if they are affected by changes in this constitution. That will be removed and put in at a later date.

Also, it is going to be necessary, since we have now proposed to elect at least 2 state officials, to provide that when a single executive, other than an elected official is the head of a principal department, shall — he shall be nominated by and with the advice and consent of the senate, appointed by the governor, and shall serve at the pleasure of the governor. There is an amendment to effect that change, also, on behalf of the committee. I think I have no further presentation to make on this at this time, but there is a minority report, which we will want to debate at some length.

CHAIRMAN MILLARD: Mr. Martin, did you say that those amendments were committee amendments?

MR. MARTIN: Yes, they are committee amendments.

CHAIRMAN MILLARD: Committee amendments will take priority. If you have them presented —

MR. MARTIN: I believe the secretary has them.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment to paragraph 5:

1. Amend page 3, line 13, after "attorney general.", by striking out the balance of the line, all of line 14, and through "amended,", in line 15; so that the sentence will begin in line 15, "When a single executive is the head of a principal department, he shall be nominated and," and so forth.

CHAIRMAN MILLARD: The Chair will recognize Mr. Martin.

MR. MARTIN: I think I have already explained this, Mr. Chairman. It is just to remove this particular question of what happens as to an existing executive who is holding his office when the constitution comes into effect. We would like to remove that and put it along later in the proposal.

CHAIRMAN MILLARD: The question is on the committee amendment. Mr. Faxon requests that the amendment be read.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: All those in favor of the amendment will vote aye. Opposed no.

The amendment is adopted.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment:

1. Amend page 3, line 15, after "executive" by inserting a comma and "other than an elective official,"; so that the sentence will read:

> When a single executive, other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the senate, appointed by the governor . . . .

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: That is simply a corrective amendment, Mr. Chairman, to take account of the fact that we have now included the attorney general and secretary of state among the elective officials.

CHAIRMAN MILLARD: You have heard the amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. Is that all the committee amendments, Mr. Secretary?

SECRETARY CHASE: All the committee amendments.

CHAIRMAN MILLARD: Will you proceed, then, with the minority report?

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 3, line 11, after "law.", by striking out the balance of the paragraph.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the minority report amendment, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, the minority report amendment part of this has been covered by the action that was taken in section a. At this point, I am not quite prepared, frankly, because I was trying to come up with some notes that I had, and I couldn't seem to find them on my desk, so I will pass over it for just a few minutes, if you will give me time to find the notes that I was looking for.

CHAIRMAN MILLARD: Anyone else want to speak on the minority report amendment? There are other proponents, Mr. Greene, Mr. Kelsey, Mr. Perlich, Mr. Wilkowski, Miss Hart and Mrs. Daisy Elliott.

Mr. Hodges.

MR. HODGES: Mr. Chairman and members of the committee, I think that probably the main issue, as I see it, between the minority report amendment and the majority report, with the exception of the question of the elected officials, which has been taken care of by amendments here, is a question of advice and consent of the state senate.

Mr. Marshall alluded, just a moment ago, to the situation of today and yesterday in the state senate. I think this is particularly pertinent and it shows, particularly, the irresponsibility of that body in dealing with this field. While we are here debating the very question of advice and consent, the state senate, yesterday, the business committee, reported out, without recommendation, the name of the public service commissioner, Mr. James Inglis —

CHAIRMAN MILLARD: Mr. Hodges, the question is upon the minority report amendment, not upon the action of the senate yesterday.

MR. HODGES: Mr. Chairman and members of the body, it seems to me that the practical experience of what we are faced with is very pertinent as to why the question of advice and consent, whether it should be in here or not, and if we are not allowed, by example, and even by specific example to show this, then I think that we are deluding ourselves.

We have talked in generalities about whether advice and consent is good or not. The theory of advice and consent, I would submit, is probably right. The practicalities of advice and consent in the state of Michigan, has demonstrated that it cannot work.

CHAIRMAN MILLARD: Mr. Hodges, you can show by example, but the Chair does not think it is proper to mention particular names in doing that.

MR. HODGES: I'm sorry Mr. Chairman I will—but the reason—

MR. DOWNS: Point of parliamentary procedure.

CHAIRMAN MILLARD: Yes.

MR. DOWNS: Parliamentary inquiry. Is the Chair ruling that the name, James Inglis, cannot be discussed in conjunction with advice and consent?

CHAIRMAN MILLARD: The Chair would rule that his qualifications and anything that pertained to his not being confirmed would not be pertinent.

MR. DOWNS: Are you so ruling?

CHAIRMAN MILLARD: Yes.

MR. DOWNS: I appeal the decision of the Chair and ask for the chance to speak on the appeal.

MR. DEHNKE: Mr. Chairman, I would like an opportunity to speak on that also.

CHAIRMAN MILLARD: Mr. Downs is first.

MR. DOWNS: Mr. Chairman and fellow delegates, we are discussing here the question of advice and consent, not simply as an academic matter but as a realistic matter of state government. I believe that in presenting this discussion to the delegates, we want to go into the reasons, if any, for changing that. We are not trying to take over the work of the state senate under the present constitution or statutes, but use, as an example, what we feel may mean that we need a change in the present constitution. I therefore contend that Delegate Hodges, in discussing what the senate did or did not do in relation to this individual appointee for office, has a bearing on our deliberations as to whether advice and consent should be changed in the committee proposal as recommended by the minority report amendment.

I, therefore, contend that Delegate Hodges' discussion is in order, and I respectfully request that the committee overrule the Chair in its ruling on this point.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, I think I am as anxious as anybody could possibly be to keep the discussions within reasonable bounds and within reasonable rules of relevancy. It may be true that some of the delegates have shown very little disposition to regulate themselves in that respect. But I think on the other hand, a little more latitude might well be allowed where the discretion is being exercised reasonably. I think, in this particular case, I agree with Mr. Downs.

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we have been working here for 2 full hours, and I think we have 2 full hours more. I think we will want to recess sometime along here and I will move that the committee do now arise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now arise. All in favor will say aye. Have you a preferential motion?

MR. BARTHWELL: Yes. I will move this convention adjourn.

CHAIRMAN MILLARD: We cannot accept your motion in committee of the whole. The question is on the motion of the committee chairman, Mr. Martin, that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair will recognize Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71;** has considered several amendments thereto, has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair will recognize Mr. Iverson.

MR. IVERSON: Mr. President, I move the convention recess for 20 minutes.

PRESIDENT NISBET: The question is on the motion to recess for 20 minutes. Those in favor will say aye; opposed, no. We are —

Mr. Downs.

MR. DOWNS: Miss Hart was trying to get the floor before the motion and I respectfully request she be allowed to speak.

PRESIDENT NISBET: Miss Hart may proceed.

MISS HART: Mr. President, I just wanted to say I thought it was a perfectly reasonable request, and I hoped the convention would recess.

PRESIDENT NISBET: Thank you very much. We are recessed for 20 minutes.

[Whereupon, at 10:55 o'clock a.m., the convention recessed; and, at 11:15 o'clock a.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye, opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Chairman, parliamentary inquiry.

CHAIRMAN MILLARD: State it, please.

MR. WOOLFENDEN: Would I be in order to ask unanimous consent of the body for Mr. Hodges to continue with his debate, using—

CHAIRMAN MILLARD: Not at this time. The Chair has a statement to make.

At the close of our session before the recess, we were in the process of making a ruling upon the admission of certain arguments. The Chair feels that Mr. Downs and the Chair did not exactly understand each other. My ruling will be this: that the discussion may proceed in regard to advice and consent of the state senate; that examples may be used, but that personalities will be avoided.

[Mr. Downs accepted the ruling.]

The question before us now is the minority report amendment to **Committee Proposal 71.**

MR. HODGES: Thank you, Mr. Chairman. Continuing, Mr. Chairman, as to this specific example: everyone here realizes that the very purpose of the public service commission is to protect the consumers of this state. Yet no reason is given for not reporting Mr. Inglis out of committee with recommendation, which is tantamount to rejection—

MR. WANGER: Point of order.

CHAIRMAN MILLARD: State your point.

MR. WANGER: The speaker is entering into personalities contrary to the ruling of the Chair.

CHAIRMAN MILLARD: No, he was stating what the report of the committee was. He may proceed.

MR. HODGES: It would seem, therefore, Mr. Chairman, when it is reported or rumored that the reason of the rejection is that he is consumer conscious—

CHAIRMAN MILLARD: The Chair doesn't think you can state rumors, Mr. Hodges. Would you confine yourself to facts?

MR. HODGES: Well, I think the real thing is that we do not want a fox in charge of the chicken coop when we have people dealing with important things affecting the consumers of this state, and that is exactly what is demanded of a person, unless he is a rubber stamp for the utilities of this state, he cannot get confirmation.

I will pass Mr. Inglis at this point and go on to someone else, that sits in this convention and, I think, by every member of this convention is considered a respected member and one of the finest men in this convention—and I am speaking of one of our vice presidents, Mr. Chairman. I have the utmost respect for all 3, and I think every member of this convention does. Yet he probably served longer without confirmation by the state senate than anybody in the history of the state of Michigan, and I submit if there is any member here who, knowing his qualifications, and knowing the type of individual he is, could, in good conscience, say that he should be rejected or not confirmed, then, I say, let him stand now.

At this time, I would yield to Mr. Marshall for further remarks on the question of advice and consent.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, fellow delegates, this is a very serious question that we have under debate here in the committee of the whole today. I think that the authority that has arbitrarily been assumed by our state senators in relation to the power of the governor to appoint members of the state boards and commissions, and the way in which they have used the authority of advice and consent has made a mockery of advice and consent, as you understand it, and as I understand it.

You have heard a lot of talk in the convention, up to now, from many of the delegates of both parties here, about a stronger executive—making the governor a strong governor instead of a weak governor, giving the governor more authority over appointments of his ad board and so forth. How the signers of the majority report can convince this convention or the people of this state how you strengthen a governor by giving him more authority in the way of his authority to make appointments and at the same time giving a malapportioned senate, a senate that is elected by a minority of the people, where a majority of 22 receive less votes, statewide, than the 12 senators of the other party, where you give this malapportioned senate a Gromyko type veto over gubernatorial appointees, how, in heaven's name, do you strengthen the governor?

Senate refusal to confirm appointees of the governor was a very rare thing, indeed, from the years 1901 to 1948. In 47 years of our history, there were only 9 rejections—in 47 years there were only 9 rejections—of a governor's appointments, as against 24 rejections in the 12 year period from 1948 to 1960. These figures that I give you do not deal with the number that were left hanging unconfirmed or not rejected. The list would be too long, I think, to infringe upon your time and patience to cite.

As an example of the misuse of this power, an example of the mockery that they have made out of advice and consent, one member of the appeals board of the Michigan employment security commission, who was appointed in 1946 for a 6 year term of office, was kept in this position until 1960. He served, my friends, for 14 years, in spite of the fact that Governor Williams had appointed others to replace him. This was accomplished by the senators through the simple expedient of refusing to confirm the governor's new appointees. This is an example of how the senate has usurped the executive power of appointment in this state. Only one Republican governor's nominee was rejected—only one Republican governor's nominee was rejected—from 1906 to 1947, and this was during the term of office of former Governor Kim Sigler.

There was never any accusation by the senators that the appointees who were appointed by Governor Williams during his 12 year term in office were not qualified. Under the circumstances, then, no other reasonable conclusion can be reached than that the senate was motivated by purely political considerations and giving priority to political considerations over good governmental administration.

Do not place the governor and his appointees at the mercy of a malapportioned senate, wherein the governor has to make his appointments more on the basis of confirmability, as to whether or not the appointee will stand in good graces and will be approved by the 22 senators, instead of whether or not he can select the best man he can find in the state for the job and appoint him and have him confirmed.

I think the action that you read of in the Free Press this morning is a glaring example, and I hope that the senate will reconsider. Because, when the present gentleman under dispute served as the racing commissioner in this state, he received praises from people in all walks of life, all political affiliations, and received very favorable praise from the daily press of this state. I think it is an outrageous situation where this man now finds himself subjected to having his name reported out of committee without recommendation.

I could go through the list, and I have it here with me, to give you the names and positions of all of the appointments rejected by the senate, the 9 that were rejected from 1901 to 1948, as well as the 24 during the 12 year term of Governor Williams. Last year—and it didn't change when Governor Williams left office—last year there were 5 appointees of Governor Swainson that were rejected by the state senate, with no reasons given, and there were 15 last year left hanging in air, unconfirmed. I think this is a shocking record. And I think that any fairminded individual that would take a look at the facts and consider them, very seriously, and consider them in the light and vein in which they are given, would have to come to the logical conclusion that the action of the senate, in most cases, at least, was purely politically motivated. I think the question is that the senate does not reflect the will of the majority of the people, whereas the governor goes out and runs in a statewide election and is elected by all of the people by a majority vote. He then has a mandate from the people, and should be allowed and should be permitted to make appointments on the boards and commissions, and I think it brings chaos to government when we give a Gromyko type veto to a veto bloc in the senate that represents a minority of the people of the state of Michigan, as evidenced by the vote that they receive at the polls.

This goes to the very heart of democracy. In this question, when people elect a governor of this state, they have a right to expect that he will represent all of the people to the best of his ability, and I think they also have a right to expect that his appointments will be confirmed, unless there is some good reason other than political motivations.

We are repeatedly demanding the right of each citizen in the iron curtain countries—and to give a particular example, in East Germany today—to vote on choosing his form of government. Unfortunately, in the iron curtain countries, the people do not rule. There a minority rules. It is really of little importance what percentage of the minority rules, the important fact is that the minority does rule. And that is likewise true right here when we are dealing with this question of advice and consent, because when a governor goes out and finds and picks an outstanding man to appoint as chairman of the public service commission, the governor does this after having been elected by a majority of the people. Then he finds himself confronted with the serious possibility of having this individual rejected, denied the right to serve his people by a minority of the people exercising their voice through the malapportioned senate. This has been the crux of the thing all the way through, and it is hard to disassociate apportionment from any of the other factors, and this is why, throughout this convention, I asked and insisted and wanted apportionment brought to the head of the calendar as soon as possible, in order to dispose of it, but we weren't able to accomplish that fact, having it held until the last.

In examining the appointing power in Michigan—and I have heard this used in this convention, I have heard it used in more than one committee when it was convenient to compare it to the federal system—in examining the appointing power in Michigan, it is obvious to all that the present situation does not aid sound government, by withholding consent to executive appointments—in election years, particularly—the senate makes the appointees less receptive to the governor and more receptive to the senate. Any appointee who encourages senatorial displeasure is quite likely to find his appointment rejected by the senate after spending some months in office.

The federal appointees must also rely on senatorial approval, it is true, but there is never any large group of unconfirmed appointees, and never, under the federal system, do the appointees have to toe the line so as not to encourage senatorial displeasure. They must, instead, at the federal level, act so as not to incur presidential disapproval. It is true, I admit, that the doctrine of senatorial courtesy does limit the executive somewhat, but the approval that must be rendered by senators of the same state as the appointee acts as a negative check on the appointive power rather than a positive one. The difference between presidential and gubernatorial appointments lies in the difference in the power between the 2 officials. On the national level, the president of the United States has a strong power of removal. Any removal power in Michigan is, at best, ill defined. Moreover, as the head of the national party, the president can exercise strong influence in campaigns and elections. The governor in Michigan, because of the party differences between executive and legislative, can never do this. Also, the president has patronage to deliver in many areas. The withholding of patronage is a powerful lever to use, and it is feared by the U.S. senate. That does not exist at the state level.

To sum up, the distinction between federal and state appointing power lies in the distinction between a strong and a weak executive. If the executive in Michigan, my friends, is to have control of his appointments, and through them be master of his administration, 2 things are necessary, and I think the 2 things are this: that he must have a free hand in selecting his team, he must be in a position to pick the most capable and the most qualified individual for a given position; and then, the second reason is that he then should not be subjected to having his appointees rejected or removed from office by a veto bloc in the senate without good, sound reasons for doing so. In conclusion, Mr. Chairman, I don't think that I can state too strongly the importance of removing the consent and advice provision, if we are to have a strong governor.

All of the prior statements that have been made in this committee by the chairman of the committee on executive branch and many others about strengthening the governor, about letting him appoint this official and this official and that official is so much hogwash, when you have to rely upon his approval by the state senate. I personally believe that most of us in the minority would not feel quite so strongly about this, even though I believe that the governor should have a free hand in selecting his team, but we would not feel as strongly about this advice and consent question if the majority in this convention would go along with the minority in establishing a senate that is truly representative of the majority of the people of this state. I urge your adoption of the minority report amendment, and at this time, I would like to yield the floor to Delegate Downs.

CHAIRMAN MILLARD: The Chair will recognize Mr. Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I shall try to be brief, nonrepetitious, and avoid personalities. Fellow delegates, we are now discussing what is probably as important a concept of government as there is and, for that reason, I hope we can do this without rancor, without malice and by looking ahead, instead of back; and if we look back, look back only to use history to help us judge the future, but not to prejudice the future.

I think that our basic concept of government—and I do not want to sound like a high school civics teacher—but we do agree on the basic concept of division or separation of powers, the executive, legislative and judicial. I, for one—and I want to make this clear—believe very definitely in a chief executive with limited and specific powers, and on this convention floor I was one of those who urged that the so called ad board be constitutionally elected officers. One reason for that was that I did and do still believe that the executive should have his power clearly delineated; but by the same token, I believe that once that power of the executive is established, he should have the authority to carry it out in a responsible fashion, a responsible fashion to the concepts on which he ran and was elected, a responsible fashion to the people, and one where the people can measure his performance.

There have been many glib generalities—and I meant to take them down, I hope I have gotten them right—that a governor should have responsibility or power commensurate with his authority, and with that statement I agree completely, and I believe I got it right, that he should have power commensurate with his authority. If he is to carry out these responsibilities, I think he should have the right to select his chief policy executives. We have, by our actions so far, gone in the direction of eliminating the executive departments to approximately 20, give or take a few.

I believe also, and I have made this clear, that the executive should not have the power, on a patronage or political patronage basis, to hire and fire all the employees of state government. I yield to no delegate in my support of a strong civil service amendment, a constitutional civil service for the career people who are not in the policymaking function. So, this comes down, really, to 3 things: one is, the governor should have his power clearly defined; secondly, the employees of a career nature should have their jobs protected through a positive constitutional civil service; and thirdly, the governor should have the right to appoint the heads of the departments under his authority, whether that is a constitutional or statutory authority, does not, for the purpose of this discussion, make any difference.

Now, how many positions does that make? That makes approximately 20 heads of major departments, with our recommendations that perhaps a deputy and a few other policy people in large agencies or departments as authorized by the civil service commission. This would give him that responsibility to carry out his job. I urge therefore the support of the minority recommendation.

I wish to emphasize what I touched on very briefly last night, and Delegate Marshall did, that our present system has other weaknesses in it, that the present matter of confirmability, when we have a governor elected on a one man, one vote concept, and the confirming body on something other than a one man, one vote concept, we are building in a conflict between the 2 and a conflict that, only too often, results in the selection of the lowest common denominator. The governor, in making an appointment, cannot consider solely the matter of ability; if he is to "get along with the legislature" he must concern himself also with the matter of confirmability. Believe me, if we have a governor—and I wish to mention no names—that is or wishes to be a sound governor, a sound administrator, a positive, constructive administrator, this is the most frustrating experience in his administration. If, on the other hand, we have a governor that neither cares nor is capable of being a good administrator, we have built in a complete excuse for mediocrity in performance, because if he is questioned, he can always say, "Gentlemen, I would have had a perfect administration, but the people I wanted to select could not be confirmed." I say that the confirmation concept has, in our state, been unfair to the governor, it has been unfair to the legislature, and most of all, it has been unfair to the people of the state.

I would, without going back too far in history, point out that the legislature, and the legislature properly, has very many controls. For example, the matter of legislation. The legislation is establishing the functions of government as adopted by the legislature, and this is a proper control. The allocation of money—and there is no control like a purse string control—is a legislative one.

I hope that I will make this very brief, just a little point of historical reference which I think may be of some interest, particularly to our Hamiltonian friends in the delegation. If my memory is correct, not from personal experience, but from reading, I believe that when Hamilton was first secretary of treasury, and George Washington was president, they did not bother with appropriations, but rather, President Washington, with the advice of Mr. Hamilton, would expend—would not make appropriations—no, he would make appropriations, I believe, and not the expenditures, and then later on, when the congress met, submit to them a bill for what had been done. This happened about 2 or 3 sessions, and it was considered too much power for the executive, and then, historically we did develop the concept of appropriations by the legislative body.

I do say, in summary, and I shall try to sum up very briefly, that if we truly want a governor that represents the wishes of the people, is elected on a free ballot system, then on the executive and administrative aspect of government he should have the power commensurate with the authority, and if he does wrong, the people will know who to go to. If, through honest mistake, he picks somebody that does not turn out adequate for the job, he should have the power to remove or replace that person. And if there should be—and I am glad to say we have not had this in our state—examples of major corruption, certainly the people and the courts can take care of that as well as the legislative controls.

Mr. Chairman and fellow delegates, I urge the support of the minority report amendment.

CHAIRMAN MILLARD: Will the sergeant at arms put those amendments up on the wall, please. Mr. Marshall.

MR. MARSHALL: I yield to Delegate Hodges at this time, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Hodges.

MR. HODGES: Mr. Chairman, I would think that perhaps there are many people here who do not really know how advice and consent mechanically works in the Michigan state senate. Certainly there are people far more qualified than me, and they can correct me if I am mistaken, but all appointments or confirmations are channeled through the senate business committee, which is a 6 man committee, and, until recently, 5 of those members were from the majority party in the state senate, and 1 was from the minority party. Thus, a member of the governor's party could not even get a second in the committee for confirmation.

When we talk about advice and consent of the senate, this is, in truth, a myth. What we are talking about is advice and consent of 4 individuals today and 5 individuals a short time ago, who are the sole arbiters of whether an individual shall continue to sit or not. The senate does not have the time, nor does it try, as a body, to seek the individual merit of the person whose name is before it, and I would submit, in many cases, they don't even know the person, they might not even have heard of him. Yet they follow, which they must probably do, because of their limitations of time, almost blindly, the recommendations of the senate business committee.

I say to you here, that to reject this amendment is to say that there are members of the leadership of this convention who are not qualified to sit in state government, and I don't think that is an indictment anyone here would care to make. Thank you.

CHAIRMAN MILLARD: Mr. Marshall, the minority proponents still have the floor.

MR. MARSHALL: I yield the floor, Mr. Chairman.

CHAIRMAN MILLARD: The first one on the list is the delegate from Grand Rapids, Mr. Blandford.

MR. BLANDFORD: Mr. Chairman and fellow delegates, I think today we are seeing the opening blast on apportionment. I am sure we will get to that battle next week. I, for one, am looking forward to it. I have been kind of quiet here for a few weeks, but I will be back next week.

My friend, Bill Marshall, didn't give us the complete story on the 1961 record of the senate with regards to advice and consent. The statement that the senate's record on this is all bad is just not true. I think Mr. Marshall knows it. I think this should be spiked once and for all. Senator John Fitzgerald, who heads up the senate business committee, which is charged with the responsibility of advice and consent, appeared before our legislative organization committee. I would like to read to you delegates the direct testimony that he gave before our committee. I will now quote Senator Fitzgerald. He says:

> There were 175 appointments that faced us during the legislative session in 1961. Of 175 appointments, we confirmed 135; 8 withdrew; 2, I believe, were appointed to jobs in Washington; 1, I believe, left the state; the business interests of 1 man became such that he couldn't go on; 5 were rejected; and 16 left in committee. This totals a few short of 175, and they are probably still in committee.
>
> Here is why they are in committee. It is a little difficult when these appointments come in as late as the morning of adjournment, to have them in and act on them the same day. The people that were rejected were, in my feeling, rejected for very good reasons.

That is the end of the quotation from Senator Fitzgerald. In my personal opinion, 5 rejections out of 175 governor appointments is an excellent record on the part of the state senate.

We did ask Senator Fitzgerald a couple of other questions when he appeared before our committee, and I am sure that both Mr. Marshall and Mr. Hodges, who appear on the committee, will remember this. He said that in a couple of instances, and one that he remembered specifically, they had a man come before the committee that the governor had named that morning. This gentleman lived in the upper peninsula. They made a special effort to get him before the committee because he was driving back that same day. They interviewed him and confirmed him the same day. So, I would say they are cooperating very well with the governor. I asked him, when he appeared before the committee, if he had ever been commended by Governor Swainson. He said he had been for the way that they had been handling advice and consent. In my judgment, the senate's record in 1961 is an excellent record, and I certainly am for the continuation of the advice and consent feature of the state senate.

Furthermore, in the majority report—which we haven't gotten to as yet—this loophole of being able to leave these appointments in committee, has been plugged once and for all, because if the senate does not confirm them within 60 days, they are automatically confirmed. So I think that the way the proposal is written up, it pretty well covers the advice and consent, and I certainly urge all of you to vote in favor of the majority report when it comes up, and vote against the minority report amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Saginaw, Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman, members of the committee, it may be that there have been numerous abuses to the power of the senate to confirm or reject. Maybe they have been serious. Delegate Marshall would lead us to believe that it has all happened since about 1948. Apparently it did not bother either Governor Williams or Governor Swainson too much, from what Mr. Blandford has said.

I want to quote 2 sentences from Governor Williams' testimony before the committee on executive branch. All members of this committee, of course, could not attend all committee hearings and all testimony. Governor Williams, in his testimony made this statement, "The senate should have the right to approve gubernatorial appointments. That this power can be abused does not deny its general validity." If he were terribly mistreated, I doubt that he would have made the statement contained in those 2 sentences, and I certainly oppose the minority report amendment.

CHAIRMAN MILLARD: Delegate Plank.

MR. PLANK: Mr. Chairman, I would like to ask Mr. Marshall a question.

CHAIRMAN MILLARD: If he cares to answer.

MR. PLANK: How many of the Governor Swainson appointments had AFL-CIO backgrounds?

CHAIRMAN MILLARD: The Chair thinks that that is out of order. You don't have to answer it.

MR. MARSHALL: Well, I don't—

CHAIRMAN MILLARD: No, the Chair is not going to allow you to answer it.

MR. MARSHALL: May I appeal to the Chair a moment? I would like, if it is the pleasure of the committee and the Chair, to go into all of the appointments, and just briefly, Mr. Chairman. If I am out of order, tell me—

CHAIRMAN MILLARD: The Chair has ruled that the question is out of order, and doesn't think it needs any answer.

MR. MARSHALL: Well, may I make a statement, then, since he asked the question?

CHAIRMAN MILLARD: No.

MR. MARSHALL: I think I have a right to make an explanation, since he has asked the question.

CHAIRMAN MILLARD: The Chair has ruled Mr. Plank out of order. That's it.

MR. MARSHALL: Well, may I have a point of personal privilege?

CHAIRMAN MILLARD: No, there is no personal privilege in committee of the whole.

MR. PLANK: Mr. Chairman, perhaps you should know my reasons behind asking the question—

CHAIRMAN MILLARD: The Chair doesn't want to know your reasons at all. The Chair has ruled you out of order.

MR. PLANK: I have some real good ones, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize Delegate Follo.

MR. FOLLO: Mr. Chairman, I rise to support the minority report amendment, and this is my reason: last December the education committee made a trip up to Houghton, at which time we were entertained by the board of control of Michigan Tech, and the president and certain other officials. As I stood there talking to 2 of them, 2 of the board of control, they told me they had been appointed for several months and neither one of them had been confirmed, and they said there was a third one had not been confirmed and—much as I hate to admit that sometimes Democrats can abuse this privilege of advice and consent—it was a Democrat that had held up their appointments because of certain reasons which were his own, which may be very good, but were not considered so by other people.

I feel that, while I know this will be removed by the 60 day provision, nevertheless, it serves to point up that this thing has been abused in the past and is likely to be abused in the future if we don't take some action about it. Thank you.

CHAIRMAN MILLARD: The Chair will recognize Mrs. Butler.

MRS. BUTLER: Mr. Chairman, I would like to address a question to Mr. Downs, if he is here. If he isn't, to Mr. Marshall.

CHAIRMAN MILLARD: Mr. Downs is coming, if he cares to answer.

MRS. BUTLER: Mr. Chairman, Mr. Downs, I understand that in the advice and consent of congress, that the president asks the advice of the committee in congress before he asks for the consent. Is this true in the state with the governor? Does he ask the advice or does he just ask for the consent?

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, I will try to answer this the best I can, Mrs. Butler. I could not give a yes or no answer, but I think I can, as far as the United States congress goes, I have not been on a speaking acquaintanceship with the presidents there, so I cannot speak of personal knowledge.

I think that in the state of Michigan there certainly have been times when the governor has discussed appointments, prior to making them, with leaders of the senate and I am sure there are people here from the senate who can speak better on that. I would say it is my impression—and this again is not from first hand knowledge—that generally speaking, when the governor is from the same party as the majority of the senate, there is probably more preliminary discussion.

Now, the point I would like to make and tried to make in my talk, is that if the governor does do more at the advice level, he could end up with nobody ever being rejected. In other words, if the governor, regardless of the political party, says to the senate business committee, "Come on in and meet with me. Here is a list of names. If there are any you do not want to okay, I just won't submit them," then we will never have a case where somebody is rejected under advice and consent. That could be done. I am talking purely theoretically now. However, the point I want to make now is that if that is done, to the extent that it is done the governor is then more concerned with what he thinks will be confirmability than what, in his executive estimation, is a matter of ability for who he thinks can best carry out the administration of state government, and I think you have raised a very important question. I am very glad you raised it, and I hope I have been able to shed some further light on this matter. I am sure there are former legislators who can speak much more adequately on the details than I can.

MRS. BUTLER: Thank you, Mr. Downs.

CHAIRMAN MILLARD: The Chair recognizes Delegate King.

MR. KING: Mr. Chairman and fellow delegates, I have a few points that I think ought to be clarified. First of all, advice and consent of some legislative body is sound, necessary and advisable. I don't think that can be debated.

Delegates Hodges and Marshall have made a partisan appeal, which, I think, is unfortunate. Let's try to put this topic in its proper perspective. First of all, a given governor can, does, and has baited the senate by submitting names of people he knows to be unqualified and unacceptable. This, I think, is unfortunate. This violates the concept of advice and consent, as pointed out by Mr. Downs, and I don't think this happens at the national level. Secondly, I don't think the senate ought to be forced to libel and slander the reputation of perspective appointees under the cloak of legislative immunity by being required to state publicly their reasons for not confirming. I think this would be most inadvisable. Thirdly, there is no reason why confirmation or nonconfirmation should not be forthcoming within a reasonable time. Of course, the committee proposal provides for that. It provides that it must take place within 60 legislative days. This has been corrected in the committee proposal. Fourth, I think it is true that sometimes senate committees withhold consent for fear of nonconfirmation on the floor. This practice might be defensible under the present constitution but, of course, it will not be possible, in any event, if the committee proposal is accepted and the new constitution is passed by the people of this state.

After this review of the facts, we must then ask ourselves if some of the minority members here really want to persuade or only want to agitate, antagonize, polarize and influence the distinguished gallery on each end of the hall. I don't think this is the case, in the remarks by Delegate Follo and Delegate Downs.

To get back to the matter which was first brought up, how about the action yesterday in the senate committee? First of all, the senate has taken no action on the recommendation of this 4 to 2 majority controlled committee, and it is presumptuous of us to try to assume what that action will be. They also recommended, as I recall from reading in the paper, the recommendation of another gubernatorial appointee, one Mr. Scholle. To follow the reasoning of the minority here, it would appear that Mr. Scholle has not been active in the affairs of the minority party.

CHAIRMAN MILLARD: Just a moment. The Chair doesn't want you to get into personalities, Mr. King. The Chair made that ruling, and wants you to follow it.

MR. KING: I will try to follow it, Mr. Chairman, and I don't think that I was violating your ruling. I was merely pointing out the inconsistencies in the statements of other delegates.

I would also agree with Mr. Blandford that the senate's committee action this past year represents great improvement over the past. I agree with Governor Williams, when he supports the valid principle of advice and consent, but before you think that I have given up wearing my badge here, I would point this out: I would support any amendment which would place this power in that legislative body which is most closely apportioned according to population. I am disappointed that some of the minority delegates have made this kind of an amendment more difficult, but if someone does care to make that kind of an amendment, then I would support it. I think there is valid reason for having one house based on population, as nearly as possible, and the other based on area and population. I see no reason, though, despite positions to the contrary, at the state and federal level, why this advice and consent function could not be given to the house which most closely represents the population. Thank you.

CHAIRMAN MILLARD: Delegate Bentley.

MR. BENTLEY: Mr. Chairman, in discussing the whole question of advice and consent we are, of course, discussing an institution which—certainly on the federal level and, in many cases, on the state level—is among the oldest institutions, among the oldest ones of the checks and balances in our country.

I would be the last one to try to deny that there has been, from time to time, abuse on the part of both the executive and the legislative, insofar as this historic institution is concerned. I think that it would be very possible—I shall not do so, for I would be violating the Chair's ruling in respect to personalities—to point out examples on the national level that are equally as flagrant as any accusation which has been brought against the legislative body here on the state level. I shall not do so. Likewise, I shall not attempt to discuss the institution, and how it operates either at the federal or state level. It would be interesting to know how many of the delegates might have read that recent best seller by Mr. Allen Drury, such a best seller that it is being made into both a stage play and a movie, whose title is, Advice and Consent, which discusses the entire concept at very great and interesting length.

But I think, since we are basically confining ourselves to the immediate question of whether or not the advice and consent proviso should or should not remain in our constitution, it might be helpful to the members of the committee of the whole to be specifically informed with regard to the constitutions of some of their sister states in this respect. The research and drafting department has informed me that there are 37 states which specifically require, in their constitutions, advice and consent with respect to either the senate or the legislature; 28 of these require specifically advice and consent with regard to designated gubernatorial appointments, including the recent constitutions of Hawaii, Missouri, New Jersey, New York; and the only other pertinent recent constitution, of the state of Alaska, requires advice and consent by the entire legislature. So 37 out of a total of 50 specifically make this requirement. An additional 20 require it in the case of all heads of departments, boards and commissions, et cetera, where the appointment is not otherwise specifically designated.

I would speak in strong and determined opposition to the minority position, Mr. Chairman, to remove this time tested tradition from our constitution. I maintain that although the practice perhaps has been unfortunate in both respects over the last few years, I think when we consider the entire history of advice and consent, as it has operated in the last 54 years since the 1908 constitution, and keeping in mind that we are endeavoring to write a document which will be projected at least as far into the future, I would certainly hope that all delegates would insist upon keeping this in with the wise proviso which the committee has adopted, which will, perhaps, prohibit the most flagrant example of abuse, if abuse has occurred in these recent last few years. Thank you.

CHAIRMAN MILLARD: Delegate Hodges.

MR. HODGES: Mr. Chairman and members of the committee, I would merely like to answer a couple of the statements of Mr. Blandford. One, he stated the number of appointments that were confirmed in the last year, and I would be one of the first to admit that there has been some improvement. I think that the letter from Governor Swainson to Senator Fitzgerald was properly apropos. When one has been hit over the head with a sledge hammer for years, and somebody picks up a lighter instrument, this is an improvement. But I would also say this: if you look over the variety of these 120 commissions we have, you can understandably see that many of these are one issue commissions, ones of limited importance except to the individuals involved in the particular field, and ones for which advice and consent is probably readily attainable. These are not the commissions where primarily the rejections come from. It comes to the important, key committees of our state government, in the fields of workmen's compensation, unemployment compensation; the things that are meaningful to the wide scope of the people of this state. These are where the rejections come in.

I would only say to Mr. King that he made a very serious charge when he said that the governors of this state have knowingly submitted the names of unqualified people. I am not going to get into a colloquy with Mr. King on the floor, but I think that if he is going to make these charges, he should substantiate them.

CHAIRMAN MILLARD: The Chair will recognize Delegate Dean Doty.

MR. DEAN DOTY: Mr. Chairman, members of the committee, I would not be able to subscribe to the things that Delegate King has just said. I would say this: there is a danger that a governor, in all sincerity, could pick the wrong man. If Mrs. Butler had been fortunate enough to have been in the capitol several years ago, she would have seen the bipartisan effort that was made to confirm many of the people that are questioned. They rode a pretty broad path to the governor's office, and if you stood in the capitol rotunda you would have seen that.

Mr. Marshall referred to the Gromyko power. I would hate to think that this was true of our federal government. I don't believe it is. In other words, that there should be no check and balance. In my opinion, this is the very thing that makes good government and makes this government strong, checks and balances.

Mr. Marshall referred to the number of rejections. He didn't give us the total number of names submitted, and I would like to submit this: 1941 to '42, of the Van Wagoner administration, rejections by the senate—none; 1943 to '46, Kelly administration—none; 1949 to '60, Williams administration—23 in 12 years, an average of 2 per year; and 1961, Swainson administration—5. Now, let's look at the 1961 session: of those confirmed compared to those submitted—10 per cent. I defy any delegate to admit that he isn't wrong at least 10 per cent of the time if not more.

CHAIRMAN MILLARD: Delegate Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, the amendment which you are being asked to consider here only deletes that portion which is objectionable and so, to those delegates who want to see some changes made, I am sure that any amendments after this will be in order to insert that type of consent which those delegates feel are necessary; so I just want to get that in the proper perspective.

The second point I would like to make is, we have been going on with the words "advice and consent," and I think we need to get back to what the meaning was, I think, when it was first put in, and understand that actually the meaning it had when it was first put into the constitution back in 1787 has never really been exercised at any time after the federal government was organized and began under Washington in 1790.

They had an idea in those days that the senate would act as an advisory board; a group to advise the president. And, since there were only 13 states, you would have 26 people to sit down with the president and they would discuss appointments and they would then agree on it, and they would give the advice and the consent. This was the idea that had been carried over, for instance, from the parliamentary days where in England there are no separate branches of government. You have them all working together, and they didn't really know, back in 1787 when they put this in that they were trying to create checks and balances, and they didn't really know how it would work, and they figured, well, the president ought to be able to sit down with his advisors and agree upon who should occupy the chief offices of the federal government.

I guess they had a good reason for it, and I guess the idea is that the executive ought not to have a completely unrestricted power of appointment, and I, for one, am not going to stand up and say that I am for complete freedom with regard to executive appointments. It would be completely inconsistent with conservative responsibility of a constitution. But, at the same time, when this began working out in 1790 and Washington came down to the senate, there was some degree of embarrassment. The senators were a little bit embarrassed because they viewed the office of president with a certain degree of awe, as they would have viewed any chief executive—as they viewed the king, even though they had broken away from England—and Washington, feeling the discomfort, the whole situation being what it was, didn't go down again and the advice part soon left the whole picture. And so it became a consent part. And it was consent not just to appointments, but it was consent to treaties and foreign affairs and other areas where the senate was given special privileges.

We are not suggesting here that there should be an unlimited right of the governor to fill appointments and vacancies. That is, the governor's right to appoint should be subject to some limitations. This we know must be because we can never predict what might be put into the governorship, and we can never predict what kind of appointments, so there is a check. We are not advocating no check. What we are concerned with here is that an official who is elected by all the people of all the state is having his appointments not consented to by a minority of the people representing a minority of the state.

Governments—and this isn't anything original—are instituted among men, and they derive their just powers from the consent of the governed, and that is a good old declaration, and as it goes on in the declaration, when any government becomes destructive of these ends, it is the right of the people to alter or to abolish it. We are not concerned with abolishing; but we are concerned with alteration, and the reason we are concerned with alteration is because government has become destructive of these ends, the ends being good government, the good government being permitting the executive to make his appointments and permitting the legislature to exercise its powers and prerogatives, but not to the extent of denying the right of the executive to function. What we are dealing with here is whether we can have an executive branch of government that can function.

Now, the declaration wisely goes on to say that mankind is more disposed to suffer while evils are sufferable than to alter and change those institutions which have long endured and certainly history has shown this, and we in Michigan have been patient, and the people of this country have been patient. We have not altered or abolished our government significantly. But, when a long train of abuses and usurpations, pursuing, invariably, the same object evinces a design, then it is the right and then it is the time for the people to alter or to abolish those forms of government. This is what we are dealing with. It goes back all the way to 1776.

The senate, if it has abused its privileges, it has abused them. The record is there, and when they pursue, invariably, the same design—and that design is to curb and restrict the powers of the chief executive of this state to execute the laws by appointing those people he can work most efficiently and effectively with, then we have reason to view this with certain degrees of criticism.

When the declaration was written, they were referring to the arbitrariness of His Majesty King George III, and they said as the very first thing: he has refused his assent to law, as the most wholesome and necessary for the public good. Could this not be said in other language: that the senate has refused their assent to appointees, the most wholesome and necessary for the public good? One could go on and point out that the very reasons which prompted the people in 1776 to declare their reasons for wanting to change or alter their form of government is the very reason that we are in convention meeting now, because the people of this state have asked us to represent them in changing or altering those forms which would seem to be in need of alteration in the light of present conditions and present practices.

So, I think that the idea of checks and balances is a fine one and I am not advocating no check, but I suggest to you that when a long train of abuses and usurpations, pursuing, invariably, the same object, and that is to not confirm the appointments of one governor of one party—and this is not to me a party question—but when you don't confirm the appointments of one governor of one party and you do of the other, then that same object evinces a design which must lead up to the conclusion that this needs alteration.

CHAIRMAN MILLARD: The Chair will recognize Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I was interested in Mr. Faxon's comparison of the senate with the king of England. I didn't know that he was raising the senate up to the position of the king of England.

I want to rise in connection with this matter of advice and consent, Mr. Chairman, because it was my duty for a number of years to serve as chairman of the committee on senate business. I would like to make this observation with regard to this advice and consent function, which hasn't yet been mentioned, and that is that, at least in the Michigan practice, the governor appoints officers whose terms of office extend far beyond his own, so that the hand of the governor reaches into the future and influences the future in that respect, and so the advice and consent function is justifiable on that ground, if for no other; that when you are vesting a power in an official to reach beyond the term for which he was elected, it is justifiable that there be some check.

Much emphasis has been placed by some speakers on the record in the senate of Michigan during recent years with regards to the advice and consent function. I would like to say, first of all, that the Constitution of Michigan, as it now stands, says that the advice and consent function of the senate, so far as the constitution is concerned, is a very narrow thing. The only place where the present Constitution of Michigan mentions advice and consent at all is in section 10 of article VI, where it says, "Whenever a vacancy shall occur in any of the state offices, the governor shall fill the same by appointment, by and with the advice and consent of the senate, if in session."

Now, this is a very narrow situation where, as a constitutional matter, the senate could advise and consent only when the governor has to fill a state office, namely, a constitutional state office during a time when the senate is in session. That is all that is required by the constitution. All of the rest of this advice and consent function of the senate in Michigan is statutory, and could be amended, taken away, removed by statute at the present time.

As a matter of history, there have been times in our state's progress when departments, boards and commissions have been created to which the advice and consent function was not attached. There are several boards in the state government at the present time where the senate has no advice and consent function. One, for instance, that I recall off hand, is the state board of cosmetology. When that board was created the legislature did not provide that the appointments be subjected to the advice and consent function, and so they are not.

I recall, on 2 or 3 occasions, that the governor submitted to the senate some appointments which, under the law, he need not, and they were, of course, returned without action. I remember one time when, even though the state constitution says that the members of the civil service commission shall be appointed by the governor and doesn't say anything about any advice and consent function, the governor did submit an appointment to the civil service commission to the senate. We immediately returned it without action.

So this is not an all inclusive function; it is a function, for all practical purposes, which has been set up by statute and I remind you that what is given by statute can be taken away by statute. So if the people of Michigan should feel that this practice is unnecessary or has been unduly abused or something it could, at the present time, be corrected by statutory change.

I have not had time, in all of these months, to do the kind of research that I would like into the records of those years during which I presided over the senate business committee but I do have before me some research of the citizens research council of Michigan for the years 1957 through 1961, and I would like to invite your attention to the fact that in 1957, according to their records, the senate confirmed 97 per cent of the appointments submitted; in 1958, it fell down to 67½ per cent; in 1959, however, it went up to 80 per cent; in 1960, and this is a unique year, the senate confirmed only 20 per cent of the governor's appointments; but by 1961, they were up to 82 per cent. I would like to state on the record the justification which I have for what you would call the dismal failure of the senate in 1960 when it only confirmed 20 per cent of the governor's appointees, and that explanation is this: in 1960, we had a governor whose tenure—the longest tenure in office in Michigan's history—was drawing to a close. He was a "lame duck" governor. Regardless of who the new governor was to be, whether he was to be a Democrat or a Republican, he would be a new governor. The retiring governor had been in office so long that he had actually made every appointment in state government. Not only that, but his hand was already reaching far into the future by virtue of the fact that he had made appointments which, in some cases, would extend 8 years beyond his term. We felt—and this was not any partisan position at all—that it was as much of a justification for a new Democratic governor, as it would be for a new Republican governor, to be elected in 1960, that that new governor should have an opportunity to have at least some voice in his administration.

When the senate confirms an appointee for a fixed term, why, that appointee stands for that fixed term. When the senate does not confirm, the appointee serves only at the pleasure of the governor. And so we justified—I justify the senate's position in 1960 on that ground; that failure to confirm simply afforded to the new governor, whoever he might be—and as events happened, it was a Democratic governor, Governor Swainson—afforded to Governor Swainson, an opportunity to have a voice in his own administration, to submit new names under his own decisions, to fill appointments which had not been confirmed. In 1961, the senate, according to these figures, came again to its 82 per cent performance of actual confirmations.

There have been very few actual rejections during that 5 year period. According to these figures, 1 was rejected in '57; 1 was rejected in '59; 4 were rejected in 1960; in 1957, the senate failed to take action, according to these figures, in only 1 case; in 1958, it failed to take action in 26 cases; in 1959, 25 cases; in 1960, as I have said, it failed to take action in 98 cases; but by 1961, it had failed to take action in only 24 cases.

If the senate of Michigan should have never failed to reject, it could be just as strongly argued on this floor that this function was of no value at all, since in all of the years examined there had been no rejections. In other words, this was simply a formality. It didn't mean anything at all.

If you have a system where there are never any rejections, why, the effect of it is that the system isn't serving any necessary purpose. In a system where there was an abnormal amount of absolute rejections, you might accuse, you might point the finger of accusation, of abuse, but there has not been any undue percentage of rejections, a very small percentage of rejections, in fact.

Now, in regards to nonaction, I submit to you that the committee report, the majority report, even, would contemplate a nonaction; since the senate will no longer be called upon to confirm, it will simply have a limited power to reject. And, if it doesn't choose to reject, it doesn't need to confirm; there will be much more nonaction in the future under the new proposal.

There has been some charge here on the floor that appointees are rejected on some occasions without making public the reasons for such rejections, and that is all for the protection of the appointee. I would say that, in my recollection, those that were rejected were rejected for good cause, at least in the opinion of the senate. I would never say that a governor knowingly submitted to the senate an unqualified appointee. I don't believe that any governor ever knowingly submitted to the senate any such unqualified person. I am sure that, in his opinion, the nominee was qualified. On some few occasions, in my own experience, I had occasion to invite the governor's attention to some information that I found which apparently had not been available to him, and on some of those occasions, the governor saw fit simply to send in a request to the senate for withdrawal of the nomination, and the nomination was withdrawn; nothing was said about it. On other occasions, the reasons which, in the opinion of the senate, were good reasons for rejection, why, the governor disagreed with and so they went to the floor.

There has been some suggestion here that the committee on senate business sits as a dictator, and if the senate business committee says, "reject," why, they are rejected, and if it says, "confirm", why, they are confirmed. I can testify that such is not the case.

I did go through the journals of 1957 yesterday because I was ambitious to examine through all of these records, but it took me all day yesterday simply to get through the journals of 1957. But I noted there, in checking through the journals of '57, one appointment where the senate business committee reported the appointee out with the recommendation that the senate advise and consent and, as I recall the circumstances, I can honestly tell you that my committee expected that the senate would advise and consent to that appointment. We were among those greatly surprised when the nominee failed to obtain the constitutionally required majority vote of the members elect to be advised and consented to, with the result that he was rejected. On other occasions, my committee made adverse recommendations to the senate floor and we were overturned there, and I tell you, that after 2 or 3 experiences along that line, we were much more circumspect in making recommendations, unless and until we were sure or felt sure that our recommendations would be followed, because a senate committee doesn't like to be usually overturned.

Now, the practice before the senate of Michigan in this field—in the senate of the United States, the substantive committees receive these nominees of the president; in other words, nominations for judges go to the senate judiciary committee down in Washington; nominee for the federal power commission go to some other committee, and so on—here in Lansing, as the system started and was built up in the past, we had a special committee handling all nominations. This committee, at one time in the senate's history, had this function alone—it was known then as the committee on executive business. At the present time, the old functions of the committee on executive business, and the old functions of the senate committee on rules and resolutions have been combined in order to make what is known as the committee on senate business in an effort, again, at reducing the number of committees; you know, reorganization of the senate.

This function of advice and consent in the Michigan senate is not a full time job of that senate committee, and the senators who sit on that committee, of course, are expected, also, to carry on a full time responsibility in other committees and also on the floor of the senate. What I am wanting to say is this: in spite of that workload, it was the policy of my committee to afford every nominee an opportunity to be heard, and they were all invited to be heard before any action was taken on them in my committee. I dare say that most of them who were adversely reported were aware—or should have been aware, from the manner of questioning and from what appeared as presented to them before the committee—that chances were not very good that they would be confirmed and, I know, on numerous occasions after such an interview that the man who was to be recommended adversely had this matter mentioned to him and he had an opportunity to request that his name be withdrawn by the governor if he wanted to. I don't say that that has always been the pratice in the senate. I don't know that it is the practice today. I am simply saying what the practice was under my committee. And I reiterate that the recommendations of my committee were not followed always without exception. There were numerous times when the recommendations of my committee, both favorable and unfavorable, were overturned in the senate.

All of this is perhaps in defense of a period of time when the senate advice and consent function is being pointed to with abuse. I would say—and we will lay the situation, frankly, upon the table—that to a large extent, the areas in which the senate either rejected or failed to take action, that is in matters of general concern, were in the field of labor. This was due, I suppose, to a conflict in philosophy between a majority of the senate and the governor, but it was restricted largely to that one field of labor.

Mention has been made of the fact that appointments to the Michigan employment compensation appeal board were not acted upon. The legal situation in that regard was that way back, I think it was in 1951, the so called Higgins amendment was written into the law under which the Michigan employment compensation appeal board operates. The Higgins amendment said that members of that board should serve until their successors were appointed and confirmed by the senate, and that became the law and, as I recall it, it is my present impression that Governor Williams signed the bill. I don't think it became a bill without his signature. As a result of that law, it is true that there were a couple of members on that board that served long beyond the time for which they were originally appointed. But, the reason that the senate failed to confirm the recommendations of Governor Williams to replace them was that, in the opinion of a majority of the senate, the compensation appeal board was a kind of administrative supreme court in that field, and that really it should be made up of people who were lawyers and not who were partisans, either of management or of labor. The appointees that we received were not in accordance with that philosophy, so we failed to confirm, with the result that the old appointees, the old members continued to serve.

The same thing was true with regard to the office of commissioner of labor, about which there has been much controversy. Back in the days when this controversy was most ripe, it stemmed from the fact that, for many years, the office of commissioner of labor had been filled by a man in labor whose background had been in the AFL, and a majority of the senate were reluctant—and maybe you can say unjustifiably reluctant—to accept appointees from a different labor organization. But that was our philosophy at the time, and it seems to have been justified; at least, as justified as the philosophy of the governor.

So, I submit to you that much of this criticism of the advice and consent function of the senate of Michigan wouldn't be here today if it were not for the fact that we did have a period of time—I don't think that it is as nearly as ripe and as excited now as it was a few years back, during this time when there was a transition in Michigan from the AFL to the CIO.

CHAIRMAN MILLARD: The Chair will recognize Dr. Nord.

MR. NORD: Mr. Chairman, Mr. Hutchinson has just given an elaborate defense of a wholly indefensible record. The more I heard him explain it, the more convinced I have become it is not something we wish to repeat. One of the things he pointed out, for example, was this: that the senate business committee doesn't like to be overturned, and that is one of the reasons that they were reluctant, often, to act. What about the comparable situation, however, when the governor also feels that he may be overturned if he appoints somebody and he doesn't get consent of the senate? In other words, there is a prior restraint upon the governor because he has to consider confirmability, and it is the exact same type of restraint as the senator just mentioned with respect to his committee. Further, in Mr. Hutchinson's talk, he pointed out that one of the best examples of the inaction of the committee, which was to give advice and consent, initially, had to do with a situation where 80 per cent of the appointments were disregarded, the explanation being that that is when there is a lame duck governor. That seems to be rather odd for him to take that position, because, if I am not mistaken—if I am mistaken, I believe I will be corrected—I recall that he took the position that there should be lame duck governors, when that position was before us, that is to say, that there were to be 2 term limitations for the governor. Putting his position in a package, then, so to speak, you will see that: he wishes to have lame duck governors, and then when we have them, he expects that their appointments will not be ratified.

The only conclusion I can draw from this is that this is part and parcel of a fixed intention on the part of a number of delegates to the convention, no doubt, to thwart the executive branch of government as much as they can, and to me that would be absolutely inimicable to good government, and it absolutely prevents any effective government.

I ask you this question also, in a tit for tat sense: it is stated that the senate should give advice and consent to matters relating to the executive responsibility. If there is any validity to that, is there validity to the contrary, to the reverse? Should the governor also not be given the power to advise and consent to the selection of committee appointments by the legislature? I don't say we should do that, but I simply say that whatever reason is urged for one could equally be urged for the other. There is no powerful case to show that the legislature is the one to give advice and consent. If there is to be advice and consent, it certainly is not clear that it ought to be from the opposite branch of government.

It seems to me that Mr. Faxon put his finger on the point when he started to explain where the whole idea came from. The idea of advice and consent is that there should be teamwork between the governor and people who are likely and willing, most likely and willing to cooperate with him. If he has a group of people who are most likely to be cooperative with him, it is a good thing for them to share decisions. But suppose we are thinking of the reverse case, a pitched battle between a governor, representing a majority, and a portion only of the legislature—that is, only one house, a portion of the legislature—which can, and frequently has represented an opposing minority? That can happen when the governor is of one party and the senate is of the other. It can even happen if they are of the same party. The point I make is this: if you set up a team, a team effort, and then you find that, in fact, you have opposing parties trying to give advice and consent to each other, you know there is something wrong with your system.

As Mr. King pointed out, the matter could be viewed differently if we had a house, either house which was fully responsive to the majority of the people. In that case, I certainly would take an entirely different view. But that matter, of course, is not before us at this time. We have to consider the senate. That is the one before us, and the proposal for the senate is rather similar to the past. It would not represent a majority.

Mr. Doty also mentioned some points that I would like to comment upon. He said, "well, 10 per cent wrong," I believe he said, "is not bad. Everybody is 10 per cent wrong, at least." That is true. It is true that everybody is at least 10 per cent wrong. I suppose that means they have only rejected 10 per cent or less. I believe that is the idea. But again, that overlooks the point that Mr. Htuchinson mentioned, that they won't do certain things; in this case, the governor will not make certain appointments because he doesn't believe they will be confirmed. It isn't just the 10 per cent that are rejected. It is the prior restraint, it is the prior restraint of one branch of government on another.

On the whole, therefore, Mr. Chairman, I conclude simply with this point: I am not opposed to advice and consent of somebody. The governor could have the advice and consent of someone. He could, for example, have advice and consent of an elected ad board. That would be his cabinet. If they were elected, certainly he would have teamwork there. Some kind of advice and consent could be worked out. It could be of one house. It could be of the ad board. But, the point is this: we should never provide in the government a system which requires teamwork and doesn't give any guarantee or really any expectation that what we will get is teamwork. Therefore, I think we should strike the advice and consent of the senate and then reconstruct whatever kind of advice and consent or other provision we need.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from St. Joseph, Delegate Upton.

MR. UPTON: Mr. Chairman and fellow delegates, one of our delegates has been talking about a train of abuses by the committee who confirms the appointments. I don't wish to continue the abuses, I think, that some of us have been going through for the last day on some of the ideas of how we can best carry out the checks and balance system that has made our country strong. In my viewpoint, we need this confirmation by consent and advice by the senate on all appointments, for this is the manner in which we, as a people, are interested, to make sure that a governor does not go to the wrong viewpoint which he may go to without this advice and consent by the senate. Therefore, I would support the committee proposal and oppose this minority report amendment.

CHAIRMAN MILLARD: Delegate Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I mislaid my notes. As a political theorist, I wish to join the practical politicians in opposing this and any other dilution of the principle of advice and consent, beyond that which the committee has recommended in its report. Thank you.

CHAIRMAN MILLARD: Delegate Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I shall be very brief, since I have spoken once. I would like to thank Senator Hutchinson for his statement that to his knowledge, no governor—if I am quoting this right—had knowingly appointed an unqualified person to a position. I believe that that is a responsible statement by Senator Hutchinson and does much to get our discussion on the merits and away from personalities.

Now that I have expressed my appreciation for his comment, I would like to express some of my differences with his ideas. I think he also pointed out that the basic reason on the problem of advice and consent was a difference in philosophy between the senate and the governor, and in this statement, I also agree with him, and disagree with those who just say, well, it is a matter of just changing this senator or that senator, and so on, which will solve the problem. I believe that he was very proper in pointing out that there is a difference in philosophy between the senate and the governor, and I am not, at this point, going to say which one is correct. I do not believe that is a function of this forum and deliberative body. But, I do wish to emphasize, that as long as we have a governor selected on a one man, one vote basis, and the confirming body selected on a different basis, we have a built in conflict of philosophy because of the differences of the basis of representation, and I emphasize again that that is true regardless of which party is governor and which party has a majority of the senate; because a governor, regardless of which party he is elected by, is elected on a statewide basis, and must have the philosophy of his appointees reviewed by a senate or a committee of a senate that is not on a statewide basis.

I would particularly like to point out that I think the strengthening in both the minority and majority report provide that the governor can have people serve at his pleasure, which means he is responsible for the administration. I hope this will, once and for all, remove the necessity that Delegate Hutchinson referred to—and I put "necessity" in quotes—where the then senate did not confirm people on the theory there might be a different governor later on. This does make a stronger governor. It does provide for more change in government.

On the point about the lawyer being on the appeal board of MESC—and perhaps we are getting into too detailed discussion—I would simply point out that the statute did not then, and to my knowledge, never required only attorneys on that body. I would suggest that if the senate had wanted only attorneys on that body, it would have been better to have done that directly by legislation, rather than indirectly or obliquely by making a decision not to confirm anybody who was not an attorney. I think that is legislation of an indirect nature.

And, finally, when the mention was made of the so called Higgins amendment, while I do not know the details at this point, I would just point out again that this may be another control the legislature has, if that was part of a package or compromise bill dealing with other items. Perhaps we are unnecessarily reviewing past history, but since it has been brought up, I wish to take the opportunity to make a few comments on it.

I would say, again, that the minority report amendment does put the definite responsibility on the governor, and I, for one, feel that the governor, regardless of political party, would use his best judgment on making appointments, knowing full well that he was answerable to the people in making the ultimate choices that he had for important executive positions. Thank you.

CHAIRMAN MILLARD: The question is on the minority report amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, do you have any more speakers on your list?

CHAIRMAN MILLARD: No, that is the last one.

MR. MARTIN: Then, apparently we are about ready to vote. If I might make just a brief remark, we can take a vote and after that I will move that the committee rise.

I would simply add this to what has already been said, because I think that the subject has been very well covered by the preceding speakers. But, I would like to say that it is impossible to consider this problem of advice and consent and what we should do about it without also considering what the committee proposes to do about a modification of the provision regarding advice and consent. As you know, we do provide that advice and consent shall involve a rejection within a period of 60 legislative days after an appointment is submitted. This means that if the appointment is not rejected within that time, it will stand confirmed at that point.

I want to read one short paragraph from the report of the citizens research council, dated January 23, 1962, to indicate that this is a problem; this problem of how advice and consent should operate is a problem primarily concerned with this matter of whether action is taken or not, and the paragraph reads as follows:

> Almost all of the Michigan statutes establishing administrative agencies provide that the department head, whether a single director or a board, be appointed by the governor, with the advice and consent of the senate. And

> the constitution provides that vacancies in state offices be filled in the same manner. The requirement of senatorial confirmation of appointments is designed to prevent the appointment to office of unsuitable persons by an irresponsible executive.

And I would say, or a mistaken executive, one who doesn't have all the facts as to the person he is appointing.

> This check on the governor's appointive powers is proper if properly applied in practice. In Michigan, however, the advice and consent of the senate has not been applied properly in recent years. During the past 5 years, the governor has submitted 557 names to the senate for confirmation. Of these, 372 have been confirmed and 11 rejected. . . .

I call your attention to the fact that 11 rejected out of 557 is something less than 2 per cent of the total.

> . . . but the senate failed to act on the nominations of 174 nominees, almost 1/3 of the total. This failure to confirm or reject has led to a situation in which the nominee can serve in the office to which he was appointed until his appointment is rejected. But the senate, at any time, can reject the appointment. The result is that a sizeable number of appointees who head executive, administrative departments have been serving, in effect, at the pleasure of the senate.

"This," says the citizens research council—and I heartily agree with them, "is a serious encroachment on the executive authority and responsibility of the governor and is an impediment to securing able individuals to serve in appointive positions." So, I hope that in considering this, in voting on this, you will consider the fact that we are making this proposed change further along in this proposal, and that this will cure or meet the problem in a great majority of those cases. Certainly, the number of rejections in the period of 5 years is not out of line in terms of the number of appointments presented. It is to be expected that some would be rejected. If they weren't, the senate would not be doing its job, obviously. And I therefore urge that you defeat the amendment, and you will then have an opportunity to vote on this other proviso at a later time.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I wanted to make a few remarks on the statements made by the committee chairman, and also to those by Senator Hutchinson, but I believe that rather than do that at this point, the reason I want to make the remarks, if I may state it, is because of the number of figures and the statements that have been made, that they were not unreasonable and so forth, and I could go into it in detail, but rather than do that at this time, I think that I will just now move that the committee rise.

CHAIRMAN MILLARD: The question is on the motion that the committee do now rise. All in favor will say aye. Opposed, no. The Chair is in doubt.

MR. MARTIN: Mr. Chairman, I didn't make the motion, but if Mr. Marshall will agree, why, I will join in the motion at this time. If he has a long speech to make and wants to carry on here—

CHAIRMAN MILLARD: This is not debatable, gentlemen. The Chair put the motion, is in doubt and is calling for a vote. All those who are in favor that the committee do now rise vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 62; the nays are 50.

CHAIRMAN MILLARD: The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

MR. GOVER: Preferential motion, Mr. President.

PRESIDENT NISBET: It is not in order until we get the report from the committee of the whole. Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will make a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71;** has considered several amendments thereto; has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, I would like to make a suggestion for serious consideration by the officers of this convention, and by the leadership of both political parties, hoping that they will indicate to the delegates early next week the feasibility of the suggestion I am about to make.

I believe that 144 delegates, after devoting almost 6 months and 106 working days to the development of the new constitution—now would like to do everything possible to assure the best constitution that we can write—in the best interest of all of the 7.8 million people of Michigan—who are first of all citizens—wage earners, parents—primarily interested in the long time best interests of the state. The vast majority of Michigan people are only casually interested in partisan political organizations.

I think there would be real gain—offsetting some of the undesirable features. I offer this suggestion for whatever consideration it deserves:

1. That beginning next Monday, this convention go on a new daily work schedule: mornings from 9:00 to 11:30; afternoons from 2:00 to 4:30; evenings from 7:00 to 9:30.
2. That we complete first reading consideration on all matters and hopefully second reading consideration of the total constitution.
3. That we recess this convention by April 15 and remain in recess until November 12.
4. That the committee on style and drafting assemble a tentative constitutional document for the information of all the people of Michigan so that they may have an opportunity to give all delegates their guidance in the recess interim.
5. This schedule, if approved, should conserve sufficient salary funds to pay delegates' salaries and provide for the required funds for one month's staff beginning November 12. It is my belief that this convention could, if it would, complete its work in that month.
6. This calendar would have 2 obvious advantages:

a. It would permit public reaction to all our tentative decisions for our guidance.

b. It would complete our work on the constitution much closer to the April election when it will be voted on by the people and maintain public interest in its approval.

The obvious disadvantages would include, among others, the giving up of this hall, the problem of restaffing the convention for the November session, and the personal inconvenience to the delegates.

If this suggestion has merit, I hope it will prevail. If it is impractical, it should be rejected. I am not offering it as a resolution but only as an informal suggestion with the request that our leadership consider it and report to us early next week a considered appraisal of its advantages and disadvantages.

PRESIDENT NISBET: Thank you, Dr. Hannah. Your suggestion will be taken under consideration and a report made back to the convention early next week.

Announcements.

SECRETARY CHASE: The committee on style and drafting will meet Monday, March 26, at 1:45 p.m., in room K. Mr. Cudlip, chairman.

We have the following requests for leave: Mr. Ford requests to be excused from Monday's session; Mr. Kirk requests leave from the afternoon session of Monday to attend a special meeting of the board of supervisors; Mrs. Judd wishes to be excused from the afternoon session of Monday; and Mr. Suzore wishes to be excused from the session of Monday.

PRESIDENT NISBET: Without objection, they will be excused.

Mr. Wanger.

MR. WANGER: Mr. President, could the secretary supply copies of Dr. Hannah's suggestion to all the delegates?

PRESIDENT NISBET: It will be printed in the journal, without objection, Mr. Wanger.

Mrs. Butler.

MRS. BUTLER: Mr. President, I would like to receive a special permit to search the homes of the delegates at this convention. I will describe the homes, the curtilage of the homes, as their desks. I am told by the learned members of the bar in this convention that I must describe in detail what I am searching for if I wish to seize it. This is a red book and plainly says on the front "state property." The back says "Michigan Manual" and has the seal of Michigan and the year 1960-61. Inside the cover are the signed names of a number of delegates to this convention; a picture of Governor Swainson; a picture of the capitol; a picture of the state flag; the state tree, bird and flower; and other state material. I believe this is enough description and that someone must have an extra copy in their desk.

PRESIDENT NISBET: Thank you, Mrs. Butler.

SECRETARY CHASE: Mr. Yeager requests leave from the first part of Monday's session.

PRESIDENT NISBET: Without objection, it will be granted.

Mr. Dade.

MR. DADE: Mr. President, I believe that, in my opinion, Dr. Hannah has made a momentous suggestion. During the course of this convention, we have been importuned on behalf of God by clergymen. It happens this suggestion, coming from Dr. Hannah, falls on the weekend, and I ask my brother constitutional delegates, as they go to their churches on Sunday, that they, on their own behalf, ask serious and prayerful guidance in making this momentous decision which I think is for the good of the state of Michigan, and our own special good.

PRESIDENT NISBET: Mr. Gover.

MR. GOVER: Mr. President and fellow delegates, I move we recess until 2:00 p.m. and then resume work until later in the afternoon, to get in a day's work.

PRESIDENT NISBET: The question is on the motion of Mr. Gover that we recess until 2:00 o'clock. Those in favor will say aye. Opposed, no.

The motion does not prevail. The Chair recognizes Mr. Sleder.

MR. SLEDER: Mr. President and fellow delegates, I just received a weather report from the Traverse City area. The weather is wonderful up there. The sun is shining and it is warm. I would suggest that for a relaxation for the weekend, that we all adjourn to the Traverse City area. So we can all get started, I will move that this convention adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned until 4:00 o'clock Monday.

[Whereupon, at 1:20 o'clock p.m., the convention adjourned until 4:00 o'clock p.m., Monday, March 26, 1962.]

ONE HUNDRED SEVENTH DAY

Monday, March 26, 1962, 4:00 o'clock p.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** today comes to us through the courtesy of one of our delegates, Tom McAllister. It will be given by the Reverend Wesley Perschbacher of St. Paul's Episcopal Church, Bad Axe.

REVEREND PERSCHBACHER: O Lord, our God, as these delegates report for duty at the beginning of this week's session of the Constitutional Convention of the State of Michigan, we call upon Thee for Thy help and guidance. We give Thee thanks that Thou art always present and seeking through the actions and votes of these delegates that Thy will be done in this land we love so much. Keep before them the vision of that whole which is larger than the sum of the small parts they represent. If ever they need Thy help, they need it now when pressure for action increases as the time left for action decreases. Save them from the tyranny of trifles so that they may give attention to what is important and accomplish that which is worthwhile. Save them from floundering indecision which wastes time, subtracts from peace and divides efficiency while it multiplies troubles. May they not add their mistakes to those of the past by accepting too much of what they know is wrong in order to get a little of what they think is right. Give them the faith while honestly facing things as they are, to hope and believe in the possibility of improvement and the attainment of the best so they may make every effort to change the bad to good and the good to better. Above all for the sake of the taxpayers keep this convention from becoming a rocking chair which merely gives them something to do without getting anywhere and when their work is done, may our constitution be a document which You can ratify as "well done" and the citizens of Michigan can accept with pride as a legal I.O.U. for this good land and life and then proceed at once, with every talent, every moment and every breath, to pay it up. We ask this in the name of Him without whom our knowledge is ignorance, our wisdom folly and our labor lost. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? The secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Binkowski, Mrs. Hatcher, Mr. Kelsey, Miss McGowan and Mr. Murphy, temporarily, from today's session; and Mr. Seyferth wishes to be excused for the afternoon because of attendance at a meeting; and Mrs. Cushman, Messrs. W. F. Hanna and Norris, indefinitely, due to illness.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Mr. Binkowski, Mrs. Cushman, Messrs. Dade, Ford, Garvin, W. F. Hanna, Mrs. Hatcher, Mrs. Judd, Messrs. Kelsey, Kirk, Miss McGowan, Messrs. Mosier, Murphy, Norris, Seyferth, Snyder, Suzore and Yeager.

Absent without leave: Messrs. Baginski, Bledsoe, T. S. Brown, Donald Doty, Douglas, Gust, Hutchinson, Krolikowski and Kuhn.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Miss McGowan, Mrs. Hatcher, Mrs. Judd, Messrs. Donald Doty, Murphy, Gust, Kuhn, Hutchinson, Bledsoe, Douglas, T. S. Brown, Kirk, Seyferth, Yeager, Baginski and Krolikowski.]

The Chair recognizes Dr. Anspach.

MR. ANSPACH: Mr. President, fellow delegates, in the last few weeks we have had a number of citations awarded, a number of honors recognized, some announcements made. I have an announcement which I think will be of interest to you. If you recall, when we opened this convention, the president of the convention in his opening talk illustrated his talk by drawing on his experience as an athlete and had a great deal to say about baseball. Dr. Stephen Nisbet, our president, has 9 grandsons without interruption or break: 1, 2, 3, 9. He has his baseball team, but no manager or umpire. Saturday the manager and umpire was born in a 9½ pound daughter to his son in Ypsilanti. Congratulations. (applause)

PRESIDENT NISBET: Thank you, Dr. Anspach and delegates. Many times I am not formal, but I know I am not today.

The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. President and fellow delegates, you have already received or will receive in your mailbox a pamphlet that looks as if it might be a sermon by the preacher of the Fountain Street Baptist Church of Grand Rapids. This is not a sermon. This is a scholarly dissertation on conservatives and liberals. Dr. Littlefair was a doctor of philosophy before he became a preacher, and this is a philosophical thing. I hope you will read it, and that after you have read it perhaps you will have a little less temerity or little less something before you call one of your neighbors either a conservative or a liberal.

Now, of course, those of us who have been around a long time know that a conservative is a man who wears both suspenders and a belt, and some of us in the back seats here have always wondered why Claud Erickson didn't become a conservative. So, in order to do something about it, and perhaps to prevent him from pulling up his pants every time he comes up the aisle here as if he fears that he might not make it to the door, or wherever it is he is going, Jim Thomson and Ray Plank are now going to present him with the reddest pair of suspenders we could find. (laughter)

MR. PLANK: Mr. President, we need a lady with some thread and some buttons. Mrs. Butler, would you volunteer?

MR. ERICKSON: Well, I suppose all these things call for remarks. I know during the campaign I went up to the office of one businessman in town here, and he said, "I would like to have you run as a conservative and let everybody know you are a conservative." I said, "No, I am not going to do that." I said, "Anybody who runs as a conservative has 2⅞ strikes on them to start with, but any time I walk in anywhere they see I have been wearing a bow tie, and I have been wearing a tie like this since 1920, and the stogies I like to smoke, they started making them in 1840, and I have been smoking them since 1926, and I pay an extra $5 or $10 to have a doublebreasted suit made, and I am still old fashioned enough to wear a pocket watch, and who else in the community carries a cigar cutter at the end of his watch chain." (laughter)

PRESIDENT NISBET: Dr. Anspach.

MR. ANSPACH: Mr. President and fellow delegates, when you were asking for thread and buttons to properly equip Mr. Erickson, it brings up the story of this man who took his wife to a dance at this hotel, and going up the open stairway he slipped and hit his knee on the edge of the step and tore his trousers. So they got upstairs, and his wife said, "That doesn't look very good, Bill. Perhaps I can get a needle and thread and sew that up." So he got hold of a hotel maid who said, "Certainly." So the hotel maid brought her some thread and thimble, and the wife said, "Now, where can I go? If my husband can take off his trousers, I can repair them." "Well," the maid said, "you are a bit early. I think it will be all right to go in the ladies' lounge." So they went in the ladies' lounge. He took off his coat and took off his trousers. She started to sew. There was a knock on the door, and the maid said, "You will have to get out of there. There are 2 women who want to get in immediately," and the wife got excited, looked around, saw a door, and she said, "There's a closet." She shoved him through this door. He immediately started pounding on the other side of the door, and she said, "You can't come in here. There are 2 women in here now." He said, "Forget the 2 in there, I am in the middle of the ballroom floor and there are 150 out here." (laughter)

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: Nothing.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye. Those opposed, no. The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order, and the secretary will read.

SECRETARY CHASE: Under the consideration of the committee of the whole at this time, is Committee Proposal 71, a proposal to provide for the election, term and duties of state officers, allocation of departments, et cetera, and immediately pending was an amendment from minority report C, as follows:

1. Amend page 3, line 11, after "law.", by striking out the balance of the paragraph.

For last previous action by the committee of the whole on Committee Proposal 74, see above, page 1856.

CHAIRMAN MILLARD: At the time that this committee arose last Friday, Mr. Marshall was the first one on the list, and the only one on the list. The Chair will recognize the delegate from Taylor, Mr. Marshall.

MR. MARSHALL: I think I will surprise the committee and have nothing to say.

CHAIRMAN MILLARD: The question is on the minority report amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. Are there any further amendments to paragraph 5?

SECRETARY CHASE: Mr. Downs offers the following amendment:

1. Amend page 3, line 11, after "law.", by striking out "The single executives heading principal departments shall include a secretary of state, a state treasurer, and an attorney general."; and in line 16, after "shall be" by striking out "nominated and, by and with the advice and consent of the senate,"; so that the language will read:

> The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. When a single executive, other than an elected official, is the head of a principal department, he shall be appointed by the governor and he shall serve at the pleasure of the governor.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Ladies and gentlemen, this was part of the minority report, and so with the permission of the committee, and to save time, I will withdraw this at the present time and withhold it until the committee arises.

CHAIRMAN MILLARD: The proponent of this amendment, Mr. Downs, withdraws this minority report amendment, and if there is no objection it will be withdrawn. It is withdrawn.

SECRETARY CHASE: Dr. Nord offers the following amendment:

1. Amend page 3, line 17, after "advice" by striking out "and consent"; so that the language will then read:

> When a single executive, other than an elected official, is the head of a principal department, he shall be nominated and, by and with the advice of the senate, appointed

by the governor and he shall serve at the pleasure of the governor.

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Dr. Nord.

MR. NORD: Mr. Chairman, we have had a considerably long debate on the subject of whether or not we want advice and consent, and we found that some delegates want advice and consent and some delegates do not want advice and consent, and therefore it occurred to me to offer this as a compromise. It meets 50 per cent of each group's position. You don't have advice and consent, but you have half of it; you have advice. Therefore, I believe that is a 50 per cent compromise, and I urge the support of this amendment.

PRESIDENT NISBET: The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, this would destroy the advice and consent provision entirely. I am sure the committee would be opposed to it.

CHAIRMAN MILLARD: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. Chairman, I have a substitute amendment I presented to the secretary for Dr. Nord's amendment. I would like it read now, if it is in order.

SECRETARY CHASE: Mr. Downs offers the following substitute for Mr. Nord's amendment:

1. Amend page 3, line 17, after "and" by inserting "/or"; so that the language will read, ". . . advice and/or consent of the senate. . . ."

MR. DOWNS: Mr. Chairman, I think that Dr. Nord's amendment, while it was a compromise, didn't go far enough; as he admitted it was just a 50 per cent compromise and used the word advice. My amendment, by saying advice and/or consent, has the 50 per cent compromise of Dr. Nord's plus a 100 per cent of including advice and consent, which by my arithmetic comes to 150 per cent compromise. I do, on thinking things over, if my mathematics is right, think that 150 per cent is impossible to compromise, and that should be compromised at 75 per cent. However, on rethinking, the 75 per cent perhaps cuts it a little too low, and halfway between 75 and 100 per cent is 87½ per cent, which rounds out to 87.9 per cent, which seems like a very reasonable compromise and should have the support of the committee, or if the committee would prefer, I would be glad to withdraw the amendment. (laughter)

CHAIRMAN MILLARD: Does the Chair take it you are withdrawing the amendment, Mr. Downs?

MR. DOWNS: Yes, I do.

CHAIRMAN MILLARD: If there is no objection, Mr. Downs' amendment is withdrawn. Mr. Nord.

MR. NORD: In view of the fact that an 87.9 per cent compromise has been withdrawn, I don't see that my 50 per cent looks very good any more, and I will withdraw that, too.

CHAIRMAN MILLARD: If there is no objection, the amendment offered by Dr. Nord is withdrawn. The secretary will read.

SECRETARY CHASE: Messrs. Follo, King, Stamm and Sterrett offer the following amendment:

1. Amend page 3, line 17, after "consent of the" by striking out "senate" and inserting "house of representatives"; so that the language will then read:

> . . . he shall be nominated and, by and with the advice and consent of the house of representatives, appointed by the governor and he shall serve at the pleasure of the governor.

CHAIRMAN MILLARD: The Chair recognizes one of the proponents of this amendment, Mr. Follo.

MR. FOLLO: Mr. Chairman, you remember that Friday morning Mr. King suggested that if a member of the minority party would propose an amendment which would substitute the house of representatives for the senate in this advice and consent provision, that he would vote for it. I drafted such an amendment and asked him to join me in it, which he did, and later I found out that Mr. Sterrett plus others had put in a similar amendment and asked to be included in our amendment, to which I consented.

I think you will agree, the house of representatives is more representative of the people than is the senate, and I would personally urge you to vote for this as a means — as a compromise which I think is a real compromise, all joking aside. Perhaps there are others who may wish to speak to this point, also, but that is about all I have to say. I hope that this will receive bipartisan support.

CHAIRMAN MILLARD: Any other of the proponents wish to speak to this amendment? Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I think there is a lot of merit in this amendment. Senator Hutchinson pointed out that — probably quite correctly, and certainly if I indicated that the governor sent names over knowing that they weren't qualified, I did not mean that. I said he knew that they were unqualified or unconfirmable. Senator Hutchinson points out that the governor has never done that; that he has never sent anyone over there that wasn't qualified. He went on to say it was only a difference in philosophy.

Now, I don't know whether the senate ought to reject people because they don't agree with their philosophy or not. But let's assume that this is their function; that because of a difference in philosophy the governor's nominees should be rejected. Perhaps this is all right. Perhaps the legislative philosophy, when it is in conflict with the governor's philosophy, ought to be determinative. But I think that perhaps if we are going to advise and consent based on philosophy, that the makeup of the body which does this ought to be such that all kinds of philosophies can conceivably be represented, and I think that because of that we ought to give careful consideration to moving this very necessary function, this advice and consent function, over to the house, which is most nearly apportioned according to population. By so doing, it seems to me that we will have all the advantages of advice and consent, and there are many, and, at the same time, this power will be lodged in a body which can be flexible to the needs of the people of the state of Michigan as those needs may change from time to time.

Now, I don't quarrel with the proposed apportionment of the senate. I think it is absolutely essential that something besides just pure population be taken into consideration. I think it is essential that sparsity be considered. I am aware of the fact that the U.P. is larger than Massachusetts, Rhode Island and Connecticut put together, and because of the geographic problems involved, it would be extremely difficult for one senator to represent this area. However, I am not at all in sympathy with a particular philosophy growing out of the rural nature of this type of apportionment plan dominating the wishes and desires of the governor when it comes time for him to make his appointments. I am not at all sure that I could get senate confirmation if need should ever arise — and I don't anticipate it ever will. My philosophy might not be in agreement with the philosophy of the senate. I think we would do well, and I really think we would be doing the majority party a great favor if we switch this advice and consent function over to the house.

CHAIRMAN MILLARD: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, while the Follo-King amendment doesn't meet all the needs that I think it should — it leaves something to be desired insofar as my concern in the matter would be, but I believe that it is an attempt to reach a compromise, as Delegate Follo stated in his opening remarks. It takes care of several things, and we were not objecting, or I was not objecting, to the consent and advice in the senate, other than the question that I raised on the floor here last week, of the obvious abuse of that power by the senate; the fact that the senate was not truly representative of the people. I think in this compromise, this compromise amendment of Delegates King and Follo, that it does come closer to meeting some of the basic objections of the people of the state that have been opposed to the consent and advice in the senate — and what I choose to call the abuse of it — and taking into consideration some of the remarks that Delegate King made in regard to those made by Senator Hutchinson on Friday where there was a difference in philosophy. I believe in this area that if it was passed over to the house of representatives, there you have a broader cross section of the different philosophies — political philosophies — in the state.

In respect to the sparsely settled areas of the state having a more equal voice, particularly as it pertains to consent and advice, I think that this amendment would also do that; it would give the sparsely settled areas a greater voice on the question of consent and advice. For example, in the U.P. you have several members in the house of representatives, but as I understand it now, I think there are only 2 or 3 senators.

While this does leave much to be desired, I am hopeful that the house of representatives before this convention is over will at least be on a population basis, and realizing that I am not sticking by what I argued here on Friday and Thursday and Wednesday of last week, and the hard fight that I put up to have the minority report amendments accepted by this convention — I still believe in the minority report; I still believe that I was right — but for the sake of compromise, and in order to move along in the convention and to not belabor this issue any further, I would at this time be happy to support the Follo-King amendment, and ask all of the other delegates to take a close look at it as being a reasonable compromise and being one that will at least give a broader cross section of thinking and philosophy when it comes to the question of ruling upon the governor's appointees, and that we not continue what we have had in the past where people were rejected in many cases, I assume, primarily because of the difference of philosophy with those who control the vote in the senate. Therefore I am happy to support the Follo-King amendment as a compromise in the sense that it was stated by Delegate Follo.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Delegate Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, I was very happy that Mr. Follo accepted Mr. Stamm and I along with he and Mr. King as proponents of this amendment because, as I was listening to the debates last week, and also thinking about this in the committee when we reported it out, I wasn't completely satisfied with the advice and consent of the senate. I am very glad that we have stated what we mean by advice and consent at the end of the executive article —or at the end of this executive proposal. It would be clearly outlined then. Also, I would like to state I am not opposed to the senate activities. I think we have some very responsible people in the senate, and I am very happy that we have a senate as we have, and I am happy we have the legislative organization proposal for reapportionment of the senate on the basis which is coming out, but I do feel that the principle of the advice and consent in the senate is not correct. I feel that this should be in the house of representatives because in appointing and giving consent to department heads it is necessary to recognize that the department heads represent all of the people for which they administer this department. Therefore the legislative body most closely representing the people should have the advice and consent privilege, and according to the committee proposal the house will have the closest reapportionment to true population. This is the particular reason why I feel that we should support this amendment for the house of representatives having advice and consent in lieu of the senate.

I would also like to point out here that there has been a small compromise worked between the minority party and probably the minority of the majority only.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Kalamazoo, Mr. Stamm.

MR. STAMM: Members of the committee and distinguished alumni of the Michigan senate, one of the greater criticisms which has been repeated here not once but many, many times is the autocratic power of the state senate in the matter of advice and consent. Whether it is autocratic or not is not a decision of the convention, but a matter of the decision of the individuals in the convention. I have witnessed many appointees left dangling over a seat on a board or commission while a committee of the state senate concerned itself with the appointees' political and social philosophy and personal morals. I realize that many feel that a certain amount of checks must be exercised over the governor, and I am a party to the amendment, and as a compromise to the differing ideas in this convention, may I ask that you support this amendment.

CHAIRMAN MILLARD: The question is on the Follo-King amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, this amendment, of course, would change a traditional method of advice and consent which has been in effect in Michigan for over 125 years. There never has been any question about the fact that the senate ought to be the body to confirm or reject. I pointed out the other day that in the last 5 years out of 579 appointments or nominations only 11 had been rejected; which doesn't seem to be an unreasonable number. It seems to me that there is no crying need for shifting from the practice that we have had for these many years and moving this over to the house, and for that reason the committee took the position, after considering this—it was suggested and debated in the committee—the committee took the position that the senate should be the body to confirm; providing, of course, that the procedure used was to give them a power to reject by a majority vote, which would make it necessary to act on these matters rather than to let them dangle, as one of the proponents of the amendment has suggested. We are doing away with the dangling, and that being done, it seems to me that the committee proposal is in order and ought to be supported, and the amendment defeated.

CHAIRMAN MILLARD: The question is on the Follo-King amendment. Mr. Madar.

MR. MADAR: Just a little rebuttal to Mr. Martin. I rather like the way he puts this about the tradition, and yet, you know, it is a strange thing that Mr. Martin drives an automobile. I am surprised that he refuses to drive horses. Horses were used for a good many years in the state of Michigan. Just imagine what would have happened if we had continued with that old tradition of driving horses and not doing anything about automobiles. I don't think Mr. Martin would even be here today.

CHAIRMAN MILLARD: The delegate from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, I rise in opposition to this amendment. To me it is just window dressing; a lot of applesauce. The man who has been harassed, if anybody has been harassed, would be Governor Williams, and it was my understanding that Governor Williams went on record testifying in favor—that the senate have the power of giving advice and consent on the appointments of the governor. So, since the only man that I can recall in modern times, even in the history of Michigan, who would have been harassed by a radical senate, G. Mennen Williams, comes out in favor of the senate having this power, I certainly don't want this kind of window dressing, and I am going to vote to continue the senate with this power.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, I have from Delegate Hart what I believe is the copy of the testimony of Governor Williams, and I hope we can set this part straight. It is true, as Delegate Kuhn said, that he spoke for the advice and consent concept, and he said, "That this power can be abused has not denied its general validity." However, he did say on this first point that the legislature should be apportioned, and he said "To be strong the legislature must be equally and fairly apportioned, and without such equal and fair representation it is improbable that the legislature will keep up with its responsibility in a fast moving world." So I do think we must see that part in context. I believe those who spoke for advice and consent by the house did it on the assumption that the house would be based on a population basis, as contrasted to the senate. I just wanted to make that point clear.

CHAIRMAN MILLARD: The question is on the Follo-King amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? Sufficient number. The question is on the Follo-King amendment. All in favor will vote aye, and those opposed will vote no. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Follo, King, Stamm and Sterrett, the yeas are 51; the nays are 65.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read. Mr. Hodges.

MR. HODGES: It is my understanding that that concludes all the amendments on advice and consent on this section. Is that right?

CHAIRMAN MILLARD: The Chair doesn't know and just asked the secretary.

MR. HODGES: I would have a motion, and I am not sure it will be in order, and I asked the —

CHAIRMAN MILLARD: There is another amendment.

MR. HODGES: On the question of advice and consent?

CHAIRMAN MILLARD: An amendment to this paragraph, Mr. Hodges.

SECRETARY CHASE: The secretary is not too sure, Mr. Hodges.

MR. HODGES: Is this the one from Mr. Brake on the treasurer?

SECRETARY CHASE: No, this is Mr. Faxon's amendment. He just sent it to the desk.

Mr. Faxon offers the following amendment:

1. Amend page 3, line 16, after "department,", by striking out the remainder of the sentence and inserting "he shall be appointed by the governor which appointment shall stand confirmed unless rejected by a 2/3 vote of the senate within 60 legislative days of such appointment.".

CHAIRMAN MILLARD: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, as another way of keeping the aspects of this in the senate, this would keep the confirming powers in the senate where it's been, but it would set up an unusual majority for denying confirmation. I think that this would, at least in my own mind, make possible a more considered judgment on the part of the senate with regard to denying confirmation. The unusual majority then would constitute a check upon the governor's power if there was just any old appointment put in. I am sorry you can't see it on the wall because I just turned it in. I had it written out and I forgot to turn it in last week. I didn't realize we would get to it this soon. But what it does is simply to say that the governor's appointments will stand unless rejected by the senate within 60 days, but such rejection would require a 2/3 vote of the senate to reject. And this way, we would still keep the power in the senate; they would still have what they have had, except that they would need 2/3 of the vote to reject a gubernatorial appointment.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee has as a part of its proposal, at the end of the proposal, a provision to the effect that advice and consent shall involve disapproval by a majority of the senate within 60 legislative days, and I wonder if Mr. Faxon's amendment isn't really out of order, or if he wouldn't like to temporarily withdraw it, in any event. This is coming up. The only difference is that he makes it 2/3 and ours makes it a majority. My point is, we will have to debate it all over again if we debate it now.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: I yield to Mr. Mahinske.

CHAIRMAN MILLARD: Mr. Mahinske.

MR. MAHINSKE: I would like to direct a question to Mr. Martin. As I understand the ending of this, you are talking about a negative approval for interim appointments only, and I think Mr. Faxon —

MR. MARTIN: No. This covers both, Mr. Mahinske.

MR. MAHINSKE: It covers both?

MR. MARTIN: Yes, it does.

MR. MAHINSKE: Simple majority as opposed to 2/3?

MR. MARTIN: That is the difference.

MR. MAHINSKE: That is quite material, though.

MR. MARTIN: Well, it is a material difference, but the whole question will come up on the committee's own proposal, and I wondered if it won't expedite matters if Mr. Faxon will move to amend at that time to make it 2/3, if he wants to.

MR. MAHINSKE: I will yield to Mr. Faxon.

MR. FAXON: I will withdraw the amendment until we get to the end of the section.

CHAIRMAN MILLARD: If there is no objection, the Faxon amendment is withdrawn. Are there any further amendments to paragraph 5 of section b?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: I would move at this time to pass over the question of advice and consent, and if I am in order, also, to move that when this convention adjourns for dinner that it stand adjourned until tomorrow morning in order that many of the delegates could see for themselves how advice and consent is carried out. As you might know, tonight the state senate is going to pass on the question of advice and consent of James Inglis and August Scholle, and I think this might be a demonstration well worth seeing for many of the delegates. I am afraid we're going to take an action precipitously that we will be sorry for later on.

CHAIRMAN MILLARD: The question of adjournment is not put for the action of the committee of the whole, Mr. Hodges.

MR. HODGES: Then I will leave that question until later and move at this point we pass over the question of advice and consent. Pass over section b of Committee Proposal 71 at this point.

CHAIRMAN MILLARD: The only paragraph that had anything about advice and consent is paragraph 5, Mr. Hodges. Are you moving that that be passed?

MR. HODGES: Yes, sir.

CHAIRMAN MILLARD: That is your motion?

MR. HODGES: If that is in order, I would so move.

CHAIRMAN MILLARD: The question is on a motion by Mr. Hodges that paragraph 5 of section b of Committee Proposal 71 be passed over until tomorrow. Mr. Martin.

MR. MARTIN: Mr. Chairman, there are other points to be discussed in paragraph 5, and I think we can go right on or should go right on discussing them. If Mr. Hodges or the proponents of the amendment with respect to advice and consent want to delay consideration on that, they can withhold their amendment and offer it later on in the discussion of this proposal, but I think we ought to continue in the present order of consideration. I would therefore oppose the motion.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: This is a point of information. Am I not correct in noting that advice and consent is also included in the next paragraph as well, that is, the sixth paragraph, and, if so, would not Mr. Hodges —

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: Well, Mr. Chairman, in order to clarify the thing, I will withdraw my motion at this point and offer it before final determination; just when we get to the point where it is.

CHAIRMAN MILLARD: Are there any other amendments to paragraph 5?

SECRETARY CHASE: Messrs. Brake, Durst and Karn offer the following amendment:

1. Amend page 3, following line 18, by inserting a new paragraph to read as follows:

"The state treasurer shall be appointed by the governor with the advice and consent of the senate for a 4 year term coterminous with the term of the governor.".

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Mr. Brake.

MR. BRAKE: Mr. Chairman, that was handed to the secretary a long time ago. I think Mr. Martin has taken care of everything that any of my amendments on this page have to do with. So can I withdraw that, please?

CHAIRMAN MILLARD: You withdraw this?

MR. BRAKE: Yes.

CHAIRMAN MILLARD: The Brake amendment is withdrawn if there is no objection. There appears to be no objection. Are there any further amendments?

SECRETARY CHASE: Not to paragraph 5, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I think the secretary does have — are we talking about paragraph 5 of the —

CHAIRMAN MILLARD: Paragraph 5 of section b of Committee Proposal 71.

SECRETARY CHASE: Paragraph 6 begins in line 19, and we have several amendments pending to that, Mr. Martin.

MR. MARTIN: Oh, yes. Well, that is what I thought we were moving to. I thought we had moved to that paragraph. I'm sorry.

CHAIRMAN MILLARD: If there are no further amendments to paragraph 5 of section b of Committee Proposal 71, it will be agreed to.

Paragraph 5 of section b, as amended, is agreed to. The secretary will read.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 3, line 20, after "shall be" by striking out "nominated and, by and with the advice and consent of the senate,"; so that that sentence would read, "When a board or commission is at the head of a principal department, the members thereof shall be appointed by the governor."

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Secretary, the paragraph hasn't been read as yet.

SECRETARY CHASE: I beg your pardon. Paragraph 6.

[Paragraph 6, section b, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the amendment just read is an amendment to strike out advice and consent, and our objections to that would be the same as with respect to —

CHAIRMAN MILLARD: Mr. Martin, you are the proponent of the committee proposal, paragraph 6. Do you want to talk to that or not? The minority report amendment is not in yet.

MR. MARTIN: I think, Mr. Chairman, I would only say this with respect to this section: it deals with the heads of principal departments where that head is a board or commission, and it provides there, as it does with respect to single heads in the paragraph above, that there shall be advice and consent to the nomination by the governor of members of such boards and commissions. The further provisions of the paragraph have to do with the chief executive officers of such boards and commissions, and I understand that there are some amendments with respect to that portion of it. I have no further comment to make on the section, at least until the additional amendments have been discussed.

CHAIRMAN MILLARD: The secretary will read the first amendment to paragraph 6, the minority amendment offered by Mr. Marshall.

SECRETARY CHASE: Minority report C amendment:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: The Chair will recognize the delegate from Taylor, Mr. Marshall.

MR. MARSHALL: I will be very brief on this one. I have given all the argument heretofore that I could possibly give to try and prevail upon the delegates to help us make the executive stronger. I think, and the argument is the same, that if the consent and advice was removed, and the governor had the full authority to appoint his department heads, that we would strengthen the governor, and I again do not see how we can strengthen the governor by giving a malapportioned senate veto power over his appointees.

CHAIRMAN MILLARD: The question is on the minority report amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: The secretary has an amendment by Mr. Downs.

MR. DOWNS: Mr. Chairman, may I ask that that also be withdrawn since that is similar to the minority report amendment?

CHAIRMAN MILLARD: If there is no objection, the amendment offered by Mr. Downs is withdrawn.

SECRETARY CHASE: Mr. Brake offers the following amendment:

Amend line 23 —

MR. BRAKE: Mr. Chairman, I withdraw that amendment.

CHAIRMAN MILLARD: You withdraw this, Mr. Brake?

MR. BRAKE: Yes.

CHAIRMAN MILLARD: Mr. Brake withdraws his amendment to paragraph 6.

SECRETARY CHASE: Messrs. Durst and Hatch offer the following amendment:

1. Amend page 3, line 24, after "of" by striking out "a" and inserting "an elected"; and in line 26, by striking out "as prescribed by law"; and in line 27, after "governor" by inserting a period and striking out the balance of the sentence and inserting "Approval of the governor shall not be required with respect to the chief executive officer of an appointed board or commission heading a principal department.

No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Durst.

MR. DURST: Mr. Chairman, members of the committee, the amendment is offered, we think, in the line of balancing here the various powers between an appointed and an elected board. What it does, very simply, is when the board is an elected one, such as the state board of education, it would give to the governor the right to approve the state superintendent of public instruction, for instance, when he is appointed by the board. On the other hand, when it is an appointed board — we assume that when an appointed board is created, it is done to insulate the department in some way from the governor — we feel here it would be desirable that the chief executive officer of this board be appointed by the board without the consent of the governor.

The second part of the amendment, which Mr. Hatch will speak on, limits the term of years of an appointed board, so that we feel the governor would have sufficient authority in this area. We feel the amendment would give balance between the elected and appointed boards in this particular area. I yield to Mr. Hatch.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman, I would like to address my remarks to the second paragraph displayed on the wall. It provides that no member of any board or commission created or enlarged after the adoption of this constitution shall have a term longer than 4 years, and that the terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.

First of all, I would like to say what this part of the amendment does not do. It does not affect the elected boards, the state board of education or the civil service commission, except that their terms could not be extended. It does not affect the terms of existing boards that may be continued under a reorganization.

What it does do, however, is affect any board or commission now in existence in that the term of its members may not be extended beyond 4 years, and it will affect newly created boards and commissions to the extent that the terms of the members of the boards and commissions cannot exceed 4 years. The purpose of this amendment is to give the governor some semblance of control over boards and commissions. Now, if they have terms of more than 4 years, they may very well be in a position where they can act contrary to the policy or the philosophy of the governor, and we feel that where boards are heading principal departments, it is preferable that he have the appointive power over them, and that they be, in a sense, responsive to his general overall supervision; which would be much more difficult if the terms of the commissioners or board members exceed a 4 year period.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, this recognizes the fact that where you have an appointive board or commission, if the governor has adequate authority with respect to such appointments he need not have the authority to approve the executive director, because his contact with the board and his influence with the board comes through his power of appointment of board members, and we are enlarging the term of the governor so that he gets an additional authority to make appointments, and it would appear, therefore, that this more probably balances the authority of the governor and the authority of the boards than the proposal as it stands in the original committee report.

These 2 paragraphs, I think, taken together, accomplish that, and do not detract from the governor's authority, don't add to it materially, but they do balance it up in a somewhat better fashion, and at the same time make it clear that, where there is an elected board, the governor should have some authority with some responsibility with respect to the appointment of that member of the — I mean, of the executive director of such an elected board. The 2 taken together, I think, make good sense and ought to be approved.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Owosso, Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I, first of all, have a question for the gentleman from Marshall, Mr. Hatch, and then I wish to speak on the first portion of the previous amendment.

CHAIRMAN MILLARD: If Mr. Hatch desires to answer.

MR. BENTLEY: Mr. Chairman, I would like to ask the delegate from Marshall with respect to that portion of the amendment on which he spoke if he will recall in the educational article we provided for several boards, all of 8 year terms, some of which were increased from 6 to 8 years, such as the board of trustees, the board of governors of 2 of our large institutions, and several of the other governing boards of the colleges, and also the term of office for the state board of education was increased from 6 to 8 years. I would like to ask the gentleman if, in view of the words "other than as provided in this constitution," this would take care of all changes that have been made within the executive article which has previously been approved by the committee of the whole, and there is nothing in this proposed amendment which would contravene the action already taken?

MR. HATCH: Mr. Chairman, Mr. Bentley, yes.

MR. BENTLEY: Thank you, Mr. Hatch. Mr. Chairman, I would like now to speak on the first portion of the amendment presented by the gentleman from Adrian, Mr. Durst, which, as far as I know, has direct and possibly sole reference to the state board of education, since it is an elective board.

Mr. Chairman, Mr. Durst, the members will recall that the committee on education believed that there should be some area of executive responsibility in the field of public education; some tie in so far as the governor was concerned, and to that end we recommended to the committee of the whole that the governor be a member of the state board of education. In its wisdom the committee of the whole decided to delete that particular recommendation from the proposal of the committee on education, leaving the governor then with no direct responsibility in this important field.

It is not my intention to oppose this particular amendment, Mr. Chairman, since the committee on education has admitted — that is, the majority of the committee has admitted — that there is and should be an area of responsibility, an area of executive tie in or liaison, whatever term you wish to use. I may say, speaking personally — and I don't know how many members of the committee on education — I don't know how many of their views I reflect — I do not feel that this is necessarily the final or the perfect solution for establishing this area of liaison or this area of responsibility on the part of the governor in the field of education.

It is not my intention, as I say, to oppose the amendment at this time, since I am not prepared to offer a preferable alternative, other than, of course, the committee's original proposal which was voted down by the committee of the whole. But I would like to say, speaking as an individual, and I hope reflecting the viewpoint of the majority of the committee on education, I think this question is something that should and must have further examination, further consideration. I would very much hope that this matter will be further examined, if it is now passed, prior to the time it returns on second reading — and it is very possible that there may be a change in this particular matter offered at that time. I would hope that the gentleman from Adrian would also agree with me, as well as the chairman of the committee, that this does not represent, necessarily, a final solution, but it does thus repeat the fact that there should be liaison with the governor and, although it is not in the form the committee on education originally recommended, I am prepared to accept it at this time. But, as I say, I want another chance to give it further consideration, further examination, and it may be that we will have perhaps a better solution or better suggestion to offer when this matter comes up on second reading. Is that the understanding of the chairman of the committee? I would be glad to yield to him for a comment, Mr. Chairman, if he cares to make one.

MR. MARTIN: Mr. Chairman, Mr. Bentley, I think that the problem which you raise has been properly taken care of in these amendments. I think I should add with regard to them that they represent compromise of conflicting points of view as to how this matter should be handled and that, taken together, they adequately cover the varying points of view which have been compromised on this particular point. I think that so far as your statement is concerned, I understand that you may want to raise the question again, but I think that the matter is satisfactorily disposed of in the language here presented.

MR. BENTLEY: Mr. Chairman, I regret that I cannot agree with the chairman of the committee, and would like to ask him 1 or 2 questions along this line, if he cares to answer them. Mr. Chairman, I wonder if the gentleman from Grand Rapids would give me an answer to the following hypothetical case? Suppose that the state board of education, with the approval of the then governor, contracted for the services of an individual to serve as the superintendent of public instruction and, to obtain the services of a highly qualified individual, it was found necessary to offer him a term of rather long duration, perhaps a contract of 8 or 10 years. After a 4 year period we had a change in administration, would that contract be valid, Mr. Martin?

MR. MARTIN: I think there is no question about that, Mr. Bentley. I am sure the contract would be a valid one, and that the contract having been properly entered into, there would be no new appointment to approve until the contract had expired.

MR. BENTLEY: I would like to ask the gentleman further, Mr. Chairman, if I may, and that is, exactly what would the approval of the governor indicate? Would it mean that he would have an absolute veto power over the choice by the state board of education if that were unanimous, if he so desired to exercise it?

MR. MARTIN: My understanding is it would be a right of rejection. It would not be a right to appoint or nominate, but it would be a right to reject if he found that the proposed individual was totally unacceptable for one reason or another.

MR. BENTLEY: Well, I feel I have no further comment, Mr. Chairman, other than to say that I cannot agree with my good friend from Grand Rapids that this is a closed matter. I don't know how it represents a compromise, and it was definitely my understanding that this matter would be further considered. I understood, although I may be in error, that the chairman of the committee had agreed to examine this matter further, but we were prepared to accept suggested language at this time for want of a more suitable alternative.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from East Lansing, Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and ladies and gentlemen of the committee, some of the questions that I wanted to ask Mr. Durst have already been asked by Mr. Bentley. I am very much concerned about the potential that appears to me in these words. Most of the people that have been interested in the welfare of education, of both political parties, for a long period of years have felt with a deep conviction that the superintendent of public instruction should be taken out of the area of partisan politics, and this is what the committee on education attempted to do in providing for a state board of education with long terms elected by the people, and with this board responsible for the selection of the superintendent. I haven't any objection if, when the time comes for this board to come up with a new superintendent, the governor has the right to be consulted or participate, perhaps, in the selection, but these words do not do that, as I interpret them. Actually you might just as well make the superintendent of public instruction subject to the direct appointment by the governor, because this is exactly what these words seem to do to me.

Now it is true if Mr. Durst and Mr. Martin's interpretations are followed this state board of education could avoid this if a new governor is elected in November. The board could meet in December, and if it should happen that the superintendent seemed to be in jeopardy because perhaps he would be unpopular with the new governor, they could reappoint him for a period of time, and they might get by with it.

The second paragraph is somewhat related. I can remember very well, and some of the older people in this room can, the chaos that used to take place in Lansing every time we elected a governor before civil service; when all the principal officials of state government were turned out and a whole new crop was brought in if we happened to have a change in political parties. This was not good, and if in this second paragraph the objective is — although it doesn't seem to say this — to terminate the terms of all of these boards and commissions so the new governor or the new party can almost immediately replace the commissioner of agriculture, the superintendent of public instruction, the people in charge of the mental hospitals and all the rest, I don't believe that this is good.

My real concern is, of course, the superintendent of public instruction, and I am not satisfied with the answers that have been given. I have no alternative but, unless there is some absolute protection for all the public education for which this new superintendent is going to be responsible — he is not only going to be responsible for the job that is now the responsibility of the superintendent, but he is going to be responsible as the executive officer of this board; it is going to be the coordinating agency of all public education, from the preschool kindergarten to the graduate schools and universities, and I am as certain as I am standing before you this afternoon that anything that tends to put partisan politics into education is bad. All people have children, and there are 2 issues that have no place in public education. One is partisan politics and the other is religion. And I should dislike to see us move in the direction of making it possible for a new governor, regardless of his intentions, to force a new superintendent of public instruction.

CHAIRMAN MILLARD: The Chair will recognize Mr. Faxon.

MR. FAXON: If I may, Mr. Chairman, I would like to direct a question to Mr. Durst.

CHAIRMAN MILLARD: If Mr. Durst cares to answer.

MR. FAXON: Mr. Durst, is my understanding correct that this entire first section of your amendment really deals only with the state board of education?

MR. DURST: It deals, Mr. Faxon, with the elected boards of state government. As far as I know, that is the only one we have provided for to date that it would apply to.

MR. FAXON: Mr. Chairman, Mr. Durst, that does not include elected boards of control?

MR. DURST: The amendment refers to boards and commissions which head principal departments, and I would not consider the board of regents as heading a principal department of this state.

MR. FAXON: Mr. Chairman, if the amendment deals only with one board, which is the board of education, is it in order at this time for us to consider that as part of this section dealing with the executive branch of government when this deals — a substantial part of it — with education, the board of education? Is this first paragraph in order? We have already dealt with the board of education.

CHAIRMAN MILLARD: Mr. Faxon, we haven't gone through all of the constitution. We don't know whether there will be any other elective boards or not. The Chair doesn't think your point is valid at this time. It might be later.

MR. FAXON: Well, what I meant to say — in other words, up until now we only have one board, and it is possible we may have another one and this would have a broader meaning. But, as I understood it from the rest of the executive article, Mr. Chairman, there weren't any other elective boards provided for, so that, as Mr. Durst said, this dealt only with the board of education. It would seem to me that if this does single out the board of education, we should have considered it under the state board because this deals with the recommendations that have already been approved by the committee of the whole on education.

CHAIRMAN MILLARD: The Chair's ruling was that your point is not valid at this time; not until we do get through with the first reading in committee of the whole, then you can bring it up on second reading if nothing happens along the line. Mr. Durst.

MR. DURST: Mr. Chairman, may I just add for Mr. Faxon that we are dealing here with the executive department, and although education was set up as a separate committee, which it well should be, nevertheless it is part of the executive structure when we get all done and is properly a matter for discussion here in this sense.

MR. FAXON: Mr. Chairman, I might just remark that education is something separate from the executive branch and the executive article, and it has been in the Michigan constitution for as long as we have had a constitution in Michigan. I would hope that the matters dealing with the substance of the education committee report would have been dealt with at the time we were considering the education committee proposal rather than being injected here at this time when we are considering the executive report.

CHAIRMAN MILLARD: Mr. Faxon, the Chair has ruled that this amendment is in order.

MR. FAXON: I would like to comment on this amendment with one further word, which is that as another member of the education committee, I must join with my fellow committee members, the chairman and Mr. Hannah, with regard to making the governor the person to approve of the appointment of the superintendent. I share with them the concern that they displayed already, and I don't think it is necessary to add any more.

CHAIRMAN MILLARD: The Chair recognizes Delegate Wanger.

MR. WANGER: Mr. Chairman and members of the committee, the second part of this amendment is very surprising to me, and I suspect perhaps to many other delegates; for, in reading it, it appears to say that the legislature can never, for any reason, establish a commission or a board in any area, the members of which will have terms which exceed 4 years. Is this a wise restriction to put into the Constitution of the state of Michigan?

Arguments can be made with respect to any particular subject or area, as to whether or not it is of such a nature that the members there should have a 4 year term or a term longer than 4 years. But this language here, it seems to me, is a restriction upon problems which we in all probability cannot now anticipate. It is something which had never occurred to me at any time before I saw the language upon the wall and heard it read by the secretary, as I am sure is the case with the rest of the delegates, and I am quite concerned about some unpredictable adverse affect which this second half of the Hatch-Durst amendment would have, and I would like to ask, Mr. Chairman, Delegate Durst or, if he would prefer, Delegate Hatch to comment upon this problem.

CHAIRMAN MILLARD: Delegate Durst.

MR. DURST: I will yield to Mr. Hatch.

CHAIRMAN MILLARD: Do you have a question you want to ask Delegate Hatch?

MR. WANGER: Yes. I wish to ask him if he would be so kind as to comment upon this particular problem and to answer the doubts which I have suggested.

CHAIRMAN MILLARD: Mr. Hatch, do you care to answer that, or have you answered it before?

MR. HATCH: Mr. Chairman, it seems to me I have explained the purpose of the amendment. If Mr. Wanger wants me to reiterate that, I certainly can. I might at this point indicate that the intent is not necessarily that when a new governor comes in he is going to be appointing immediately all new members of boards and commissions. I would assume that boards and commissions and the members thereof would have staggered terms, but it would provide a governor during his 4 year term over that period of time to fill the board with his appointees. I think this is consistent with the language which we have used in connection with individuals heading single departments. There the individual heads of the departments will serve at the pleasure of the governor. Now, where you have boards and commissions which the legislature may establish and give a term, we feel that they should not have a term longer than the term of the governor himself. The idea is to strengthen the position of the governor with respect to the boards and commissions in the executive branch.

MR. WANGER: Mr. Chairman, if I may briefly comment, the question which I raised was not with respect to the fact that the terms would be staggered, as undoubtedly in every case or almost every case they would, but is rather with the length of the term itself.

Now, I suggest that there might be times when everyone would agree that a particular board or commission should have a longer term. If this language applies to any possible board or commission which could be established, I would like to ask a further question, Mr. Chairman, of Delegate Hatch, and that is with respect to the second and last sentences of the second half of the amendment which says, "The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended." I would like to ask, does this mean that any statutory board or commission whose members have a longer term than 4 years would continue to have a term longer than 4 years under the amendment which he proposes?

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman, I think, Mr. Wanger, that you are correct in that assumption; that if the legislature in a reorganization intended to continue a board or commission which presently is in existence, and which has a term of longer than 4 years, could continue a term greater than 4 years, but it could not be extended further than that; further than what it presently is, in other words.

MR. WANGER: So then, Mr. Chairman, in effect, we are creating an exception to this rule which would provide for existing statutory boards or commissions whose terms are presently longer than 4 years, and this seems to me is a recognition of the fact that there are certain areas in our state where perhaps a longer term would be desirable.

I know this convention is not going to go through every period where the state might, in the future, propose to adopt a board or commission, and in light of the fact that we can not and should not do that, it seems to me that this language in the second half of the amendment is unduly restrictive upon future governors, future legislators of our state who might wish to have commissions in certain areas where the members have terms of greater length. With that in mind, I request that the amendment be divided.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, if I might, I should like to comment on Mr. Wanger's point.

CHAIRMAN MILLARD: There are other speakers ahead of you, Mr. Martin.

MR. MARTIN: I am sorry, Mr. Chairman. We are close to 5:30. I move that the committee do now arise.

CHAIRMAN MILLARD: The question is on the motion that the committee now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** has considered several amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there announcements?

SECRETARY CHASE: Dr. Hannah announces a meeting of the committee on legislative organization which will meet briefly in room D following this afternoon's session. Mr. John Hannah, chairman.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, at this time I will renew the request I made that was out of order in committee of the whole. I believe that it would be much more profitable rather than discussing the question here, for many of the delegates to see it in action tonight in the state house. Therefore I would move we adjourn.

PRESIDENT NISBET: The question is on the motion of Mr. Hodges to adjourn. Those in favor will say aye. Opposed, no.

The motion does not prevail. The Chair recognizes Mr. Spitler.

MR. SPITLER: Mr. President, I move the convention now recess until 8:00 o'clock this evening.

PRESIDENT NISBET: The question is on the motion of Mr. Spitler. Those in favor will say aye. Those opposed, no.

The convention will recess until 8:00 o'clock.

[Whereupon, at 5:30 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

During the recess Mr. Lesinski filed a request to be excused from part of the evening session.

PRESIDENT NISBET: Without objection, the request is granted.

The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, before we go into the committee of the whole this evening, I thought it might be well to report to the delegates a conclusion reached by the officers and the committee chairmen at a meeting earlier this evening with respect to the problem of night sessions. As we are all aware, the time consumed by our debate has grown and grown, and in order to complete our work within the time allotted to us we are going to have to spend more time in debate than the daylight hours will permit. As an experiment it has been suggested by the officers and the committee chairmen that we try a night session this Wednesday night. This is simply a word of advanced warning so that you can plan your schedule. This is the only night session currently contemplated for this week, with the exception of this evening's session. This is simply a bit of advanced warning.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters upon the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. All those in favor say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: Presently under consideration is **Committee Proposal 71,** and the committee had finished the reading of paragraph 6 of section b to which an amendment was offered by Messrs. Durst and Hatch.

[The amendment was again read by the secretary. For text, see above, page 1871.]

CHAIRMAN MILLARD: There are 6 on the list to argue this amendment. First, the Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: I pass.

CHAIRMAN MILLARD: Delegate Hatch.

MR. HATCH: I pass.

CHAIRMAN MILLARD: Delegate Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I will be very brief. I rise to oppose the amendment and at the same time — both the first part of the amendment and the second part of the amendment — I would like to briefly point out to the delegates that in discussing the report of the committee on education, we took care of the question of the superintendent of public instruction who would be selected by the board of education. There was considerable debate on the floor of this convention as to whether or not the governor should be a member of the board of education. After thorough debate and discussion pro and con this convention as a committee of the whole decided that the governor should not be a member of the board of education. In trying to follow the debate on that particular issue at that time, I got the opinion that the delegates were trying to remove the school administrator or the superintendent of public instruction or director of education, whatever you might call him; trying to remove him as far from politics as was possible to do so. Now, I am not quite as allergic to politics as some of the delegates in this convention, but I will point out at this time — and my prime reason for opposing the first part of the amendment is that you give the governor — now you have a board of education which this committee has already decided upon who would appoint the superintendent of public instruction — now you give the governor, under this amendment, veto powers over the selection of the board of education. You would have a board of education — and I would assume that most of them, if not all of them, would be educators — who would spend time and effort trying to arrive at the best selection, the best qualified person to fill this post, and then all of their work and effort would be subject to the disapproval or the veto of the governor.

Now, I know there are many men in this room who are just as familiar with the internal operations of politics as I am, and I know there are many of you that are more so, because I can look around the room and see outstanding people like Delegate Hutchinson, Delegate Brake, and many others who have been many, many years in politics. So I would not propose or attempt at this time to try to give these gentlemen any words of advice. But, the board of education could select an outstanding individual who maybe had not been too active politically in either party, but who was an outstanding educator and an outstanding administrator; then the board could, under this amendment, find itself in the position of having political pressure applied to the governor to try and replace its selection, or at least to have its selection vetoed in order to play some political act regardless of party affiliation or the party that might be in control at that time. But there would be enormous pressure in the event that you selected someone who had not been active or contributed or worked in any way in partisan politics.

You can try to dispute this if you like, but I think that the facts and the records of the past would belie this. I think it is a serious mistake to adopt this amendment under these circumstances. I would much rather see the governor have outright appointment power than to see him put in the — to see the board of education put in this position, or to see the guy that they select, the individual they selected to serve — I think this is a step backward, and I am not so sure it isn't a step designed to try and please those who attempted to put the governor on the board of education; because in the committee on executive branch — and if I am incorrect on this statement, I would ask either Delegate Durst or Delegate Hatch to correct me — the many days that we were in committee session and discussing and debating this issue, I don't recall either one of the delegates, and both of them were on the committee, coming forth with this type of suggestion, and it is only at this late date they come forth with this, after the amendment was defeated that would have placed the governor on the board of education.

Believe me — as I said before, I am not as allergic to politics as some of our educators are — but, believe me, if you adopt this amendment where the governor is going to have veto power over the selection of the board of education, brother, you just put this particular position right in the political mill, and don't kid yourselves. I would oppose the amendment on that basis. I would much rather see the superintendent of public instruction elected, elected by the people. Failing in that, I would prefer, if I had to make a choice, I would rather give the governor outright appointive power rather than to come around with this type of what I believe to be a ridiculous scheme.

On the second paragraph — and I am not quite sure that I understand as thoroughly, maybe, as I should the intent of this — I heard Delegate Hatch just before we recessed for dinner explain the last sentence of the paragraph, which reads, "The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended." I believe his explanation was that they would not be further extended beyond what they presently are, whether it be 6 years or 8 years, as the case may be. I don't quite read this that way and I think that what this does is that it is driving at the boards and commissions that are not mentioned constitutionally. I think that you would have a number of them all expiring at one time under this. It takes time, as a matter of fact, on many of these boards and commissions, to learn; it is hard to find all of the experienced, qualified, trained people to place on these commissions, and in many cases you have a training period to go through, and if you are going to have a large number of these boards' and commissions' terms expire all at the end of 4 years, you could have a chaotic condition exist. I think the language — and Delegate Hatch could correct me on this if I am incorrect — completely prohibits or takes away from the legislature the right to create the terms of the boards and commissions by legislative act, and if this is true, I am deeply disturbed, as I have said before.

We have changed practically every single article and paragraph in this constitution in the committees and what we have had in the committee of the whole at this point. I was one of those and I still believe, and believe even more strongly today, that there was no great necessity in the beginning, nor is there a great necessity now, to be making wholesale changes in every single item just for the sake of changing. I have argued before on this floor that many of the things that are in the 1908 constitution, just because they haven't been changed doesn't mean that they haven't been tried, and I can't think of but just a few that we haven't changed here. But on this one, I would urge all of the delegates to give very serious consideration, and particularly on the first paragraph because if it was your desire when the committee on education — and, in closing, if it was your desire when the committee on education made its report to try and remove the school administrator as far from politics as was humanly possible under our system by having the board of education select a superintendent of public instruction, by keeping the governor off of the board of education, how are you going to accomplish that if you now turn around and give one man, who is the leader of his political party, regardless of the party, the right to veto what the board of education does? I oppose the amendment.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, I only want to correct Mr. Marshall with respect to the provision of the second part of this amendment. This doesn't provide in any way that all boards shall terminate at a certain time. All this does — and it is very simple, and I think it is all there in the language — is to simply say that new boards and commissions shall not be extended beyond the term of 4 years, and that existing boards and commissions except those which are longer than that in the constitution shall not be further extended. If they are 6 or 7 years, they shan't be made 8 or 9 or 10 years. That is all it does. Unless you do this, the tendency is to get these boards having longer and longer and longer terms, and the final result is that you have the terms so long that the governor, no matter how long he is in office, is unable to appoint even a reasonable number of the members of those boards and commissions. The purpose is not what Mr. Marshall says it is, and it wasn't so intended, I am sure, by the amendment that is proposed.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, what I had intended to say has just been said mostly by Mr. Martin. If I could read into this language any requirement that the terms of these commissioners should be coterminous with that of the governor I would be as apprehensive as Dr. Hannah as to the results, but I don't see that they mean that at all. I would assume the legislature will stagger the terms, and the principal boards are already set up — conservation, welfare, mental health, public service commission, agricultural commission are already set up — with a longer term, and this does not shorten them. I am in favor of the amendment.

CHAIRMAN MILLARD: The Chair recognizes one of the proponents, Delegate Durst.

MR. DURST: First of all, Mr. Chairman, is it in order to request that this question be divided so that we vote separately on each part of the amendment?

CHAIRMAN MILLARD: Right.

MR. DURST: I would do so at this time.

CHAIRMAN MILLARD: That will be done. The amendment will be divided.

[The amendment is as follows:

1. Amend page 3, line 24, after "of" by striking out "a" and inserting "an elected"; and in line 26, by striking out "as prescribed by law"; and in line 27, after "governor" by inserting a period and striking out the balance of the sentence and inserting "Approval of the governor shall not be required with respect to the chief executive officer of an appointed board or commission heading a principal department.".]

MR. DURST: Thank you. Dr. Hannah has raised a question here regarding the fact that — he raised the possibility that the superintendent of public instruction would be changed every time a new governor comes into office. I would like to state here that it is my understanding and my opinion of this amendment, that what we are doing is providing that when a new superintendent is appointed, that the governor must give his approval. There is nothing here to indicate that he can force his removal or in any way oust the existing superintendent at the time the new governor comes into office. It is limited to just when a new one is being named by the board itself. With that interpretation, which I think is the same as was given by Mr. Martin earlier this evening — I would like to ask Dr. Hannah if with that interpretation he is still dissatisfied with this particular paragraph of the amendment?

CHAIRMAN MILLARD: Dr. Hannah, do you care to reply?

MR. J. A. HANNAH: Mr. Chairman and Mr. Durst, I am satisfied with the answer that is made by Mr. Durst and as made by Mr. Martin if it is clearly understood that what we are talking about is only when the superintendent of public instruction office is vacant, that at that point the governor shall have a role in the selection of the superintendent. I would like to say, however — and this is a little beyond answering Mr. Durst's question — as a member of the committee on education, I vastly prefer the proposal that was made originally by the committee, in which it was felt that education, which spends several hundred million dollars of public money, is so important, not only in the fiscal affairs of the state but from the standpoint of policy, and importance, that the governor should have a role in it. And I was enthusiastic about the idea of making the governor a member of the board, where he would have an opportunity to participate. I was not here when that was debated; not that it would have made any difference whether I was here or not, but it was rejected by the convention. But I would have preferred that to this. But, with this understanding we are talking only about when the office is vacant, I would withdraw my objection, and on the basis of the explanation which was made by Mr. Hatch and Mr. Martin, I am willing to go along with that part of the amendment. I am satisfied on that one.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, I rise to oppose the 2 amendments, and particularly the first. It seems to me that the first amendment before us provides, in effect, for advice and consent by the governor. It seems to me that that is a novel feature of our constitution. We have had before us last time and tonight, this afternoon, advice and consent by the senate to a governor's appointment, and 2 arguments that I can recall were made on behalf of that. One of them is that it is traditional, and another is that here you have a chance for a group to exercise some evaluation over the selection by an individual. Those, as far as I can recall, were the 2 arguments in behalf of the advice and consent of the senate over a governor's appointment. But it seems to me that in the present proposed amendment we have exactly the reverse of both scores. Certainly advice and consent of a governor to a board's appointment is not traditional. That is a novelty. That is exactly the reverse of the argument we had on the advice and consent of the senate.

During the dinner hour one of the Republican delegates to the convention mentioned to me that he had not favored advice and consent in the house because it had been a novelty, and advice and consent in the senate is a traditional feature. I simply point out that what we have now is a novelty. It is not a tradition. The more important argument, however, is this: that the real argument in behalf of advice and consent by any house or any board over an appointment made by any individual is that a group has a chance to reconsider what an individual has done. But in this case we have exactly the reverse situation. A group makes the first appointment, and then an individual, the governor, reviews their determination. I can't see the value and the logic of such an arrangement. I believe somebody pointed out, one of the delegates in arguing this pointed out that the reverse situation would be preferable to this; that this doesn't really make any sense. For those 2 reasons, which seem to me are pertinent to this subject, the advice and consent of the governor should not be considered as part of our constitution. In addition, I feel that both the first and the second amendments will tend to introduce politics into the field of education.

Now, some people have said they are allergic to politics and others are not. It seems to me, however, whether you are allergic to politics or not, when it comes to the field of education, everyone must be allergic to politics, because we must have a situation where the minds of the young are left free to grow and to get information which is not limited to what any political group, whoever they may be — it doesn't matter which party — any group of politically minded people might wish them to know. We do need to have politics out of education, and it seems to me both of these amendments have only as an object to introduce a political personage — the governor certainly will always be a political personage — into education.

The second amendment, it seems to me, suffers from numerous defects. One of them is it certainly is not clear. I still don't know what it means in detail. There are many questions in my mind as to what it means. Maybe some people know what it means, but I think before you vote in favor of it you should ask yourself what it does mean. If you are sure you know what it means, maybe you may be in a position to vote yes. But I am not sure I know what it means. I think it suffers from the defects of ambiguity. In addition, I know that it suffers from another defect; it places a limitation on the legislature which is not needed. There is no need here to place such limitation as 4 year terms for every single board that can be imagined without knowing in advance why we might not wish a longer term. We know, for example, that in the case of the legislative auditor we wish to have a term longer than 4 years. Similarly in some boards we may wish the same thing. For these various reasons, I believe that both of these amendments ought to be defeated.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I pass.

CHAIRMAN MILLARD: The delegate from Detroit, Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, fellow delegates, I would like to ask a question of Delegate Durst through the Chair, please.

CHAIRMAN MILLARD: Delegate Durst, if you care to answer.

MR. BARTHWELL: My confusion is, if there is really any difference between the governor appointing the superintendent of public instruction and his selection under this amendment, because, after all it seems to me that what we are making of the state board of education is a select committee for selecting the candidate for the appointment, because if he doesn't meet the governor's approval he can't get the job, I don't think. That is the way it appears to me.

MR. DURST: Mr. Chairman, Mr. Barthwell, I think you are partly correct. Of course, since the approval of the governor is necessary, the appointee, the superintendent of public instruction, must be agreeable both to the board of education and to the governor. There is this difference: that the way it is presently constituted, it would be the board who was seeking out the superintendent, and they would be in a position to convince the governor that this is the person that they should obtain. Whereas, the other way around, it would be the governor independently coming up with a nominee and convincing the board that this is the person they should accept. The greater discretion here, the greater judgment, is in the board of education.

MR. BARTHWELL: Mr. Chairman, I accept partially the explanation, but to me the reality of the facts are that the state board of education is going to select the candidate and present him to the governor for appointment, because if he is not agreeable to the governor, by not agreeing, he can't get the job. So it seems to me like it is the same thing, and since we have voted down the governor appointing the superintendent of public instruction, I would be against this amendment, sir.

CHAIRMAN MILLARD: Delegate Downs.

MR. DOWNS: Mr. Chairman, through the Chair, could I ask Delegate Durst a question?

CHAIRMAN MILLARD: If Mr. Durst cares to answer.

MR. DOWNS: Could the board of education, under the provision we adopted earlier, select a superintendent of public instruction for a long period, say, 8, 10, 12 years?

MR. DURST: Mr. Chairman, Mr. Downs, you mean under this provision?

MR. DOWNS: No; under the provision we adopted dealing with the right of the board of education to select a superintendent of public instruction.

MR. DURST: Mr. Chairman, Mr. Downs, it is my understanding that they could select a superintendent of public instruction for more than 4 years, which is what your question is aimed at. Therefore, if they select him for 8 years there is a possibility that there would be a governor who would have no choice in the appointment of the superintendent of public instruction.

MR. DOWNS: Your answer anticipated my question. I am glad that Delegate Durst pointed that out; that this would have the anomaly that a governor would need to approve the selection of the superintendent of public instruction by the state board of education. However, the state board could have that term far beyond the term of the governor, and a new governor coming in would have nothing to say about who should be the superintendent.

Now on the second part I agree; it's just the matter of the first part as to why the governor should have what Dr. Nord calls the advice and consent of selecting the superintendent. I believe that this amendment is one that would very definitely weaken the state board of education. I, too, thought the superintendent should be elected for the primary reason that that would keep our educational system out of the regular political sphere, and I believe, again, without being overly repetitious, that the state of Michigan has had an outstanding educational system from universities through our lower grades, and one reason for this is we have elected the heads of our educational system as independent constitutional officers that were not dependent upon the other branches of government for policy making other than indirectly on the appropriation. I therefore urge the defeat of this, and the maintenance of our independent educational system. Thank you.

CHAIRMAN MILLARD: Mr. Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I am not going to debate on this or go at any length, but I would like to ask Mr. Durst a question through the Chair.

CHAIRMAN MILLARD: If he cares to answer.

MR. STERRETT: Dr. Hannah brought up a point that he understood from you, and I would like to have you once again restate it to the committee: that in the event of a vacancy in the job of superintendent this is the only time that the governor would have anything to say.

MR. DURST: Mr. Chairman, Mr. Sterrett, this is what I stated to be my opinion as to what this means. I believe Mr. Martin has stated it also, and Mr. Hannah has paraphrased it. The only time the first part of this amendment becomes operative is when there is a vacancy in the office of superintendent of public instruction. There is no power here on the part of the governor to discharge a present superintendent.

MR. STERRETT: Mr. Chairman, Mr. Durst, it would appear to me at the end of the term of the superintendent of public instruction there would be a vacancy, so therefore, the governor would always have something to say about the appointment of the superintendent of public instruction.

MR. DURST: Correct.

MR. STERRETT: Thank you.

CHAIRMAN MILLARD: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, could I ask the chairman of the committee, Mr. Martin, a question?

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. POLLOCK: I was a member of the committee on the executive, and this is the first time I have seen these amendments, and therefore I am a little in the dark. It deals primarily with the problem of commissions heading departments. As a student of administration, I have never been an admirer of commissions, especially when they are in charge of a single substantive administrative function. It seems to me it decentralizes the structure of the administrative branch. It inhibits effective administrative control by the governor. Having said that, my question now is: do you find in these amendments any constitutional foundation or justification for the continuance of commissions as heads of departments in such a way that when the legislature or the governor under our provision come to reorganize the administrative structure they will feel inhibited by this constitutional language from eliminating a commission here and there if they found it desirable to do so?

MR. MARTIN: Mr. Chairman, Dr. Pollock, I think the answer to your question is that there is no language here or elsewhere that prevents the legislature from changing a commission to a single administrative head or a single administrative head to a commission except where the constitution provides that an agency or an institution shall be headed by a commission or by a single head. Wherever the constitution so provides, of course, the legislature has nothing to do with it; no power to change it. But, aside from that, the legislature has the authority, I am sure, under all the language we have seen so far, to decide that an agency or a department can be headed either by a commission or by a single administrative head.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Hancock, Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen of the delegation, I am sorry to have to rise in opposition to this first amendment with respect to the superintendent of public instruction. I thought that we had reached a happy solution with regard to this on first reading after many, many months of study in the committee on education, and then having had the matter approved here on the floor, the provision that:

> The state board of education shall consist of 8 elected members who shall hold office for 8 years. They shall be nominated by party convention and elected at large as prescribed by law. The governor shall fill board vacancies by appointment. Any such appointee shall hold office until a successor has been nominated and elected as prescribed by law.

Then, particularly to this thing at hand: superintendent of public instruction, appointment, term, duties.

> The state board shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the state board without the right to vote, and shall be responsible for the execution of its policies.
>
> The superintendent of public instruction shall be chief administrative officer of a state office of education which shall be granted sufficient funds and staff to carry on state responsibilities for education as determined by law.

Now, this we debated very thoroughly in the education committee, and then here on the floor, and came to a decision with respect to it.

I would like to quote briefly from a memorandum which I believe was sent out to at least 500 persons, leading people in the field of education throughout the state of Michigan, as of March 16. That would be last week. This memorandum has to do with the work of the educational committee and with the results obtained here on the floor. The pertinent parts, I believe, are the following:

> Next, the committee recommended that there be established an 8 member elected state board of education, which would give Michigan its first overall policymaking body on education. In the words of Chairman Bentley, "The creation of this new and enlarged board has been by far the most outstanding accomplishment of the education committee." As the committee supporting report stated:
>
>> The new state board is a symbol of partnership between the people and the state. As representative of the people, it embraces popular control, discourages use of education as a partisan tool, provides continuity of statewide policies and programs, is a barrier to special interest group influence on the schools, and helps unify educational forces throughout the state.

Then I skip a couple of paragraphs and conclude with this:

> For many years there have been serious doubts expressed as to whether the superintendent of public instruction alone should have the final voice in determining state educational policies and procedures. The education committee therefore recommended that the state board should appoint the state chief school officer to serve as its chief executive officer. His responsibility in directing the state educational system would be consistent, it would be the same as now, but he would also be serving as an administrator to a deliberative body of outstanding citizens who would be bodily representatives of the general public and would have an unselfish interest in public education.

Now, if there was anything on which there was unanimity of opinion on the part of tens and tens of witnesses who appeared before the committee on education during the early months of this convention, as well as in correspondence, as well as in contacts — now getting into personal contacts with people in the educational field and other people, lay people who are interested in education — it was with respect to the fact of the choice of the superintendent of public instruction, a practically unanimous opinion that the superintendent of public instruction should be chosen, appointed, or selected, whichever word you prefer to use, by a state board of education, preferably enlarged, and with even a longer tenure of office, and elected directly by the people, as directly as the governor, in order that they would be independent but still responsible to the people; in order to keep Michigan's educational system on the high plane which it has attained as one of the leading educational systems of the country and of the world.

I am sorry to say — but I am convinced as much of this as of anything here at this convention — that this would be a backward step, the adoption of this amendment, and therefore, as I say, I find myself impelled by conscience, by conviction, by every instinct I have from my years in the educational field that we should not adopt this amendment.

I was asked about this, and my response to it — with reference to this being brought up again — and I responded this way, "I think the proposal for which we won approval, that the superintendent of public instruction be selected or chosen by the state board of education alone, is right. I am very much opposed to the proviso requiring the approval of the governor for this appointment." I would hazard another opinion — perhaps even stronger language than "hazard" — but if we do not choose the superintendent of public instruction in the fashion that we have already decided on first reading — and I think this really shouldn't come up at this time; it shouldn't come up until second reading, morally, if not otherwise — then we should retain the method of selecting the superintendent of public instruction by the people; that he should be directly elected by the people.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I rise in opposition to the first paragraph on the board for several reasons. First of all, my fellow members of the education committee will perhaps recall that day when we were about to — at least it seemed to me at that juncture — about to have the governor appoint the board of education and also the superintendent of public instruction, and in an effort to halt this headlong flight into what I considered something of an anomaly, I proposed the similar terminology to what is contained in the first paragraph as a fatuous argument that day before the committee on education. It was accepted as a fatuous argument, I think, by everyone concerned. But in the course of discussing the thing, and getting into the ramifications of that particular argument, the board finally realized that we ought to have something other than the governor appointing the board of education and the superintendent of public instruction, and I think the day was saved.

Now, I find the same fatuous argument appearing again, and apparently this time in earnest, and I am against it because it violates a couple of consistent principles in that it is prejudicial. It is prejudicial in 2 ways. It is prejudicial against governors because only one governor, as explained by Mr. Martin, I believe, would have the right to say yes or no, and the next governor could not say yes or no; he could simply wither away in silence if the superintendent was not acceptable to him. And it is prejudicial against boards and commissions because it imposes upon a board which is elected by the people of the state of Michigan a greater degree of duty than that board which is appointed by the governor of the state of Michigan.

Now, in toto, I think that the people who proposed this particular argument — I know from personal experience — wear the young "radical badges," and I wonder at this juncture again what is the philosophical basis of this particular argument. Now I can understand the philosophical basis on either side of the question, but in this particular matter I am asking you — I hope rhetorically but, if not, directly — what is the philosophy behind this particular setup? I hope there is one, because it escapes me.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Ingham, Delegate Jones.

MR. JONES: Mr. Chairman, through the Chair I would like to direct 2 questions to Mr. Martin, please.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. JONES: Mr. Martin, if I understood you correctly, I believe you said that under the second amendment here that the present terms of commission and board members would not be affected. Is that correct?

MR. MARTIN: That is correct, Mr. Jones.

MR. JONES: I think we have also already approved a provision in Committee Proposal 70 or 71, which would give our state government the right and the duty to reorganize our departments into 20 principal departments. Is this correct?

MR. MARTIN: That is right.

MR. JONES: Well, now, as I see it, many of the existing boards and commissions could be consolidated and new names attached to these departments. Under this type of setup, wouldn't it be possible, then, that these newly consolidated departments would then come under this provision?

MR. MARTIN: The legislature can, of course, reorganize if it so desires. It can change boards and commissions into single heads, and it can change single heads into boards and commissions, except where the constitution specifically provides that a board or a commission shall have such and such number of members, and so on. There, of course, they couldn't change it.

MR. JONES: Thank you.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, I was absent this afternoon so I did not hear the earlier discussion on this, and perhaps therefore I should not speak, but I must say I am quite shocked to discover an amendment that would inject politics into the appointment of the superintendent of public instruction. It seems to me that by this change we are doing exactly what we aimed not to do when we established the education section, and I was very pleased over the education section. I thought of it as the one thing, so far, that perhaps would sell our constitution to the public.

It seems to me that we are not, in that proposal, losing any power that the governor had over the superintendent of public instruction, since he was formerly elected and the governor never had any power over him, so this would not be a loss. I can't see any sense at all in giving one governor the right to determine appointment of a superintendent of public instruction by approval, and then the next governor, because the former superintendent goes on, have nothing to say about him. It doesn't seem to me to make any sense at all.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, I share with Mrs. Judd the concern which was just expressed, because I really don't see that this succeeds in doing what the proponents say it will do. They say this is only operative when there is a vacancy in the job of the superintendent. If that is the case, then what they are doing is, they are saddling a governor, who may be the next governor to be, with a superintendent who was picked by the previous governor, and creating a much worse situation than if the governor weren't involved in the selection process at all.

It seems to me if we want to tackle this issue headon, we should have done so, and we did so, when the committee proposal from the education committee came up on the selection of the superintendent. At that time this convention rejected, by a vote of something like 29 to 80 something, the question of having the superintendent appointed by the governor. This was Mr. Kuhn's amendment at the time.

Now, this doesn't succeed — this is neither fish nor fowl, as far as I am concerned, because it saddles someone with a superintendent who may serve beyond the duration of the governor. In this case he would have been in some way selected through some political maneuvering in the executive office. Now this idea of advice and consent of the governor, this is somewhat unprecedented. It is a radical departure from what is traditionally an advice and consent function, which is reserved largely to the senate in our present society, and here we are giving it to the governor. How would it work? We don't really have any example of how this would work, but many of us know how this would come out to be. The governor would actually submit the names to the state board of education, that these are the people that he would consent to. So that actually the reverse situation would occur, even though the amendment seems to say it isn't.

I would suggest to you that if we are concerned with making the governor a more effective and influential person in administering the educational department of our state, we ought to do so by letting him select the superintendent, but this is a back door way which doesn't really succeed in doing what it proposes to do.

Then I would just like to make one comment with regard to the second part of this amendment, and in doing so I would call to your attention that many of our decisions up to this point have been in freeing the legislature insofar as making certain determinations. In the second amendment what I see here is a freezing upon the legislature, a restriction upon the powers of the legislature to make a determination as to what the length and term of a particular board ought to be. There are instances, and I am sure that many of you here are more familiar with them than I am, where boards ought to have longer terms other than 4 years. It takes time for a person to become better equipped to take care of his job and to acquire the necessary knowledge and information that goes into being an effective board member, and his terms of office might logically be extended to 6 or 8 years under certain conditions. We have many examples of this today, where boards have longer than 4 year terms. Under this amendment you are placing a perpetual restriction upon the legislature's power to make the determination as to what boards ought to have longer terms and as to what the needs might be in the future. This is an unnecessary handicap. It is not in keeping with the general tenor of the executive article which is to free these things, and it certainly doesn't even come, at least in my opinion, within the purview of the executive article at all, since it deals with the legislature's power to create boards and commissions, and it deals with their duty to set the term for such office.

CHAIRMAN MILLARD: The gentleman from Bloomfield Hills, Mr. Woolfenden.

MR. WOOLFENDEN: I pass.

CHAIRMAN MILLARD: Mr. Bledsoe.

MR. BLEDSOE: I still live in Detroit, Mr. Chairman. I would like to ask Mr. Martin a question, please, through the Chair.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. BLEDSOE: Mr. Martin, are we to conclude that the superintendent will become an employee of the board and not so much an employee of the state of Michigan?

MR. MARTIN: Mr. Chairman, Mr. Bledsoe, if I understand your question correctly, yes, the superintendent would be an employee of the board by contract or agreement with the board, and an employee of the state of Michigan.

MR. BLEDSOE: Who would sign the contract?

MR. MARTIN: I assume that the board would have full authority to sign such a contract with the superintendent.

MR. BLEDSOE: Mr. Chairman, Mr. Martin, just what position would the governor play in the execution of that contract?

MR. MARTIN: Mr. Chairman, Mr. Bledsoe, as far as I know, and as far as any of the language indicates, the governor would not have a say with regard to the terms of that contract. The only thing with which the governor would have anything to do would be the question of whether he approved of the proposed appointee of the board.

MR. BLEDSOE: Then, Mr. Chairman, Mr. Martin, if the governor does not sign the contract, and the board has the power of appointment, the board could make the appointment, then, without the governor, couldn't it, Mr. Martin?

MR. MARTIN: The board would have the power to determine the terms of the contract, Mr. Bledsoe, and would have the power to determine the identity of the person with whom they signed the contract, subject to approval by the governor of the identity of that person.

MR. BLEDSOE: Well, of course, you don't have a contract until it has been mutually agreed upon by 2 parties, Mr. Chairman, Mr. Martin, isn't that correct?

MR. MARTIN: That is correct. They couldn't enter into the contract until they knew who they were going to enter into it with, of course. But, as I say, the question of the identity of the person with whom they were going to enter into it would be subject to the governor's approval.

MR. BLEDSOE: Mr. Chairman and Mr. Martin, just as a matter of law, and as a matter of contract and appointment, will you tell us definitely just what would be the governor's function in relation to this proposed employee selected and appointed by the board, the state board?

MR. MARTIN: Mr. Chairman, the sole function, the governor's sole function would be the question of whether he approved of the nominee or nominees prior to the time of entering into that contract, and that would only arise when there was a vacancy and a new man was to be brought in.

MR. BLEDSOE: Mr. Chairman, may I ask just one more question? Then, I take it that the appointment by the board could cover more than for a period of — within the discretion of the board?

MR. MARTIN: That is correct.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, fellow delegates, after listening to the remarks of many eloquent speakers upon this subject, and with particular reference now to the remarks made by Delegates Marshall and Heideman, I have arrived at a decision, and that is a decision to vote against both branches of the amendment. Thank you.

CHAIRMAN MILLARD: The gentleman from Detroit, Delegate Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, while I have not looked with great enthusiasm upon this, I will vote for it because while I see no place it does much good to the governor, neither do I see any harm in it. It seems to me that the people are going out of their way in using great imagination to try to say what is going to happen. I don't think any governor is going out of his way to refuse to accept somebody after the board has made a careful and determined choice in the matter. I think this whole debate is way outside of the possibilities and probabilities of what might happen. Thank you.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from St. Louis, Delegate Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I wonder how well we have analyzed the provision of this first amendment. As I recall, when we considered the proposal relative to education, it was the consensus of this convention that we felt that education should be completely divorced from politics. We created a state board of education. There was an attempt to inject the influence of the front office in the selection of the superintendent by the governor being a member of that board. As so ably stated by Mrs. Judd, it was the feeling of this convention that education should not become involved in politics. The whole premise on which the governor should be a member of the board of education was to the effect that education represented a sizable amount of state expenditure; yet when we came to the University of Michigan we didn't say that the president of the University of Michigan or that Dr. Hannah as head of Michigan State University should be approved by the governor. And, ladies and gentlemen, that does represent a sizable amount of state expenditure, and yet now, after we have determined that we should elect a board by the people, board of education by the people, making them responsible to the people for their actions and the results of their administration of education, now we once again want to inject into our educational system strictly politics.

To begin with it is very impractical because the superintendent can be selected by the board for any number of years, so that after the inception of the constitution, if it is adopted, the first appointment of the superintendent can be for 20 years. There is no restriction in the education proposal as we have now passed it, and as a result for many years to come the premise that the governor would have a voice on the state board of education can be very easily defeated. So this amendment doesn't have, in my opinion, any practical effect, and I think we are injecting into our educational system something that this convention in its prior action on the educational proposal determined we did not want. I urge you to vote against the first amendment.

CHAIRMAN MILLARD: Mr. Heideman.

MR. HEIDEMAN: Just a word of addendum. There is a rule of life that unless you want to gamble do the sure thing. Now, the gamble here is this amendment. The sure thing is to vote down the amendment and/or at least retain what we have with the splendid educational system that we have in the state of Michigan. The word "approval" is the magic word. My friend, Delegate Stevens, says that we are making too much over this. I cannot agree with that. That word "approval" may be a small word, but it can also assume mountainous, mammoth proportions. Approval is the sole function and it can be the whole function. What good is it to talk about terms of contract or any of the other features if the governor can disapprove or withhold approval of the superintendent?

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman, there has been one aspect of the debate thus far that has distressed me somewhat, and that is the argument that has been made that this first part of the amendment up here will throw education back into politics. This argument presupposes that the committee on education and the recommendations adopted by the committee of the whole had taken the state board of education out of politics. I would like to read from section a of Committee Proposal 47, dealing with the state board of education. It says, "They shall be nominated by party convention and elected at large as prescribed by law." In other words, the nominees for this so called nonpartisan, nonpolitical board will be nominated at the Democratic party convention, at the Republican party convention, will run with the designation of their political party, and will be elected as such. So if there is politics in education, certainly this amendment will not be inflicting it therein. It is already there. All this amendment purports to do and is intended to do is give the chief executive of the state some degree of responsibility with respect to the educational field.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in the light of hindsight, perhaps it might have been better to defer this particular paragraph for further consideration. However, I understand we are about ready to vote, and I don't intend to ask that it be put over.

Certainly no one wants to see politics in our great educational system. On the other hand, as I said this afternoon, the committee on education, at least the majority of our members, felt that the governor did deserve to have a certain degree of responsibility, a certain area of liaison in this field, which is why our proposal originally placed him as a voting member on the state board of education. The committee of the whole decided that they did not want him to so participate. I do not pretend to say that I am completely satisfied with the proposed amendment before us. On the other hand, I intend to support it, but only as a basis, as I said earlier, as I tried to make crystal clear to the committee of the whole, only as a basis for further and subsequent discussion and careful consideration of this matter.

Whether we would find it better, perhaps, at this time to go back to the original language of the committee on education or whether some other alternative might be found to be acceptable, I do not know. I do not accept this as a final word, but I shall support it in the absence of a desirable alternative. If the amendment prevails I certainly intend to do all in my personal power to try and resolve something which will carry out the original intent of the committee on education, whether it is this or some other language.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I would like to ask Delegate Bentley a couple of questions, if he cares to answer them.

MR. BENTLEY: I would be happy to yield to my distinguished friend from Taylor township.

MR. MARSHALL: Delegate Bentley, you were chairman of the committee on education. Did you have any of the educational leaders of this state, people who were thoroughly familiar with the problems, appear before your committee with any such suggestion as we have before us now?

MR. BENTLEY: I do not recall the detailed testimony of 123 witnesses that came before the education committee, but I am frank to say, Mr. Marshall and Mr. Chairman, that in the absence of any direct memory to the contrary, I would assume your premise to be a correct one.

MR. MARSHALL: If that is correct, then, that no one of the outstanding educators and people familiar with the problems appeared before the committee advocating such a thing, and in light of what was done heretofore on your committee report, I am at a complete loss — and maybe you can explain it to me — to understand how this proposal, this amendment that is before us now, came about.

MR. BENTLEY: As far as the amendment to which we are directly addressing ourselves, Mr. Marshall and Mr. Chairman, I do not know, because I was not a party to the preparation of this particular amendment. But might I remind the gentleman, Mr. Chairman, that the final proposal from the committee on education to the effect that the governor should be a member of the state board of education was likewise not supported by any witnesses that appeared before our committee but, nevertheless, it was the considered opinion of the majority of our committee, educators and noneducators alike, that this was a desirable step.

MR. MARSHALL: I have no further questions. I would like to, while I am on the floor — might I ask Delegate Hatch a question? I think this is a real serious and important matter that we have, and I don't think that it should be passed over lightly on the basis that we will vote for it in the absence of something better. Because no one really knows that this is better, and yet we are saying we are going to vote for it, and speaker after speaker admits it, that we are going to get up and vote for it even though we don't know if it is better. And I am disturbed that we are making changes here in this constitution that we are going to have to live with for maybe 4 or 5 decades, if it is adopted, and yet we are moving along at a pace, and we are changing this and changing that, and I think we are entitled to a clear explanation as to why we are doing these things. Delegate Hatch, may I ask you: you pointed out to the delegates that the board of education — that the committee on education —

CHAIRMAN MILLARD: Mr. Hatch, do you care to answer?

MR. HATCH: Yes.

MR. MARSHALL: — that even the committee report did not take this out of politics, and I am going to ask you your own personal opinion. With the knowledge that the board of education, as you stated, is nominated at the party convention and runs statewide and elected by the people, would the fact that — it has been established heretofore, I think, that no one goes on a state ticket if the gubernatorial candidate objects to them, or the governor, as the case might be at the time — I know of no case where this has happened — so he does in effect have a voice in selecting the candidate for the educational board. Now, the question is this: let's suppose you had a Republican educational board or board of education, and they were accepted as candidates by the leader of the Republican party but you had a Democratic governor — now I put it this way so no one can jump down my throat — and your board comes out and selects a superintendent of public instruction, but the heat then is applied to the Democratic governor — and you can say: well, governors always do those things that they should do at the time they are doing them. I think in both parties, both parties, there are plenty of politics that exist, and when this comes up, do you think that if the pressure was applied from the right sources, the right places, that the governor is going to just up and bow? No. He is going to veto this candidate, regardless of whether he is a qualified and capable educator or not.

CHAIRMAN MILLARD: Was that a question or are you answering?

MR. MARSHALL: I am asking. You know what happens to me, Mr. Chairman, when I try to be real gentlemanly and kind; I get in trouble. Well, I try not to be a character.

Delegate Hatch, do you agree with my statement?

MR. HATCH: Mr. Chairman, Mr. Marshall, I think you answered the question the way you would like to see it answered. I would think that any governor who, because of political pressure or political influences, used this approval power purely for political purposes would be in a very bad position when he came up for reelection at the expiration of his term.

MR. MARSHALL: I am not saying that any governor would or any governor has. I am only saying that the potential is there, and it is great, and I think by this amendment, regardless of the party in power, that you are not taking the educational system out of politics; you are putting it more in politics, and I again urge the delegates to consider this in voting on this amendment.

CHAIRMAN MILLARD: One of the proponents has asked that the question be divided, so the question now is upon the first part of the amendment as it is upon the board.

Dr. Anspach.

MR. ANSPACH: Mr. Chairman, fellow delegates, as a member of the committee on education, I, too, favor the tie in with the governor's office, thinking that the tie in was good for the governor and good for education because of the amount of money involved, the fact that the superintendent of public instruction, because of his position, would be more or less close to the governor and have many things in common. However, I do not believe this is the way to do it. I was in hopes there would be some delay, that there might be some sort of compromise worked out that would be satisfactory, but apparently that isn't going to come about. Therefore, I have no choice but to speak against the amendment.

In my opinion, when the committee brought in these proposals, the proposal on education and the proposals that were accepted by this convention, we accomplished something which was a bit unusual in the history of the convention, for it was accepted by a minority and majority. There were a very few differences of opinion; only in one area, and that was relative to the selection of the superintendent of public instruction; whether he would be selected, be elected at large on a ticket, or appointed by the board. Therefore, we accomplished something that was not unique, particularly, but something that I think measured up to an achievement. The proposal has been accepted universally by the people of the state. Publicity has gone out, and while there have been some criticisms on certain proposals that have been accepted, some criticisms on proposals which have been rejected, I have yet to hear one person criticize the action of the committee on education and this convention in adopting the proposal from the standpoint of the state board of education. We achieved something which the educational groups of this state, the citizens, the PTAs and all who are interested in education have been trying to accomplish for a period of years: the state board will appoint the superintendent of public instruction. This convention approved that proposal. They gave the board of education the privilege, the opportunity to select the best person in the United States for this position regardless of residence. In making it necessary for him to face possible veto, you immediately take away from that board one of the big advantages given this board. It would be an advantage in the future, a great opportunity for the board to do the best for education and for the state.

Therefore, in my opinion, if we — as I said, I have no choice other than to speak against this amendment, because of the way matters have taken a turn, the turn that matters have taken in this convention — therefore, we have accepted something which is universally approved. We have accepted something which has the approval of both the minority and the majority. We have accepted something which will improve the educational system of this state. We have accepted something — regardless of what we have to say about politics, we have accepted something which will take us farther away from politics than we have ever been before. Therefore, I must speak in opposition to this amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Ionia, Delegate Powell.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, in all of the debates that we have had here for a long time, everything that has been said has been directed toward the language of the amendment. Now, I would like to compare 2 different things to see what the alternatives are. I would like to see what it is that we would have if the amendment is voted down and the language of the committee report is retained. I am not sure that I understand that language when I read it over a few times. Beginning with the last word in line 23 on this page, if we do not adopt this amendment, the language reads:

> When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution.

Someone has said the key word here is "approval." I don't see that. Approval is in both the language of the report and the language of the amendment. I think the key is what these last few words might be construed to mean, "except as otherwise provided in this constitution." I would like to direct a question to Chairman Martin, or anybody else who cares to answer.

CHAIRMAN MILLARD: Mr. Martin.

MR. POWELL: Suppose this report is adopted just the way it comes from the committee, thinking back toward our action with reference to the state board of education and the superintendent of public instruction, would it be possible, after the superintendent of public instruction had been appointed by the state board of education that that action could be subject to approval by the governor, or would their action there be final? I think the key, in making up my mind whether I vote for or against this amendment, is what the construction of that last phrase may be. Personally I feel rather sympathetic to this amendment, because I think it is a limiting amendment. By putting in the word "appointive," we have narrowed things down. If you don't have the word "appointive" in there, then this provision applies to all the boards and commissions, appointed and elected. The word that is proposed to be put in is "elected." So that this amendment is a restrictive amendment, it seems to me, narrowing this provision. I wonder if we could have some comment as to what Chairman Martin or anybody else feels is the implication of these words "except as otherwise provided by this constitution?"

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. MARTIN: Mr. Chairman, the words "except as otherwise provided by this constitution," were specifically put in there, Mr. Powell, to exempt the board of education from the requirement that the governor should approve. The present amendment reverses that. It takes out the requirement that executive directors of boards and commissions shall be subject to gubernatorial approval. It takes that out, this language — I mean, the amendment takes that out and substitutes approval by the governor of the executive director of an elective board. In other words, this reverses it.

MR. POWELL: Mr. Chairman, I assume that was your thought, but I am not so sure those words would have accomplished that, because it would seem as though that provision in our educational article would have to be subject to this provision here, and this might carry on where the other leaves off. That is, you might have it that the superintendent of public instruction will be chosen by the board of education, but with this language in the committee report, I am not so sure but what the governor wouldn't have had the last word.

CHAIRMAN MILLARD: The question is on the first amendment, first Durst and Hatch amendment. Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman and ladies and gentlemen of the committee, I shall not be very long in what I have to say. I think almost everything relating to the proposed amendments, arguments pro and con, have been made, but throughout the entire argument, as I have listened to it, there is doubt in the minds of even some of those who have said they were going to support the amendment precisely as to what is the meaning of the proposed amendment. We are dealing with something that is very delicate, in my judgment, something that is very important to the people of the state of Michigan. We say to the people of the state of Michigan, "We are going to give you the opportunity to elect a state board of education consisting of 8 members so that you will be closer to the board which governs education at all levels from the kindergarten to higher education." And we say, "This board shall elect a state superintendent of public instruction who shall also be the agent of the board which represents you," thus bringing a direct chain of title to the people of the state of Michigan, and which, in fact, has the same high standard so far as the electorate is concerned as does the governor of the state of Michigan.

Now, if some of you are confused as to what this language means, I want to say to you that I am more than confused as to what this language means. I am not sure, let us say, what are the principal departments to be given consideration under the proposed amendment. I am not sure who is going to designate and to say which are to be the principal departments and which are not going to be the principal departments. I believe that the language in both of the amendments, as well as what Delegate Powell pointed out here a little while ago, even the language under the section under debate, in my judgment, is so ambiguous, so subjected to different interpretations, that I personally cannot support either 1 of these 2 amendments. We talk all the time about flexibility, and about giving the legislature an opportunity to do the things which the legislature should be permitted to do, and yet we, in one of these amendments, attempt to prevent the legislature from using their best judgment by even limiting, and putting into this constitution limits on the terms of the service that the board members can have under the various boards which are appointed either by the legislature themselves or by the governor of the state of Michigan.

It seems to me that we are getting away from the flexibility; it seems to me that we are attempting to take away the type and kind of freedom which one delegate has expressed or many delegates have expressed here tonight, that the finest system of public education in the United States of America is a system of education that has grown up under this freedom. I would hate to think that someone would come along some day and, because of a particular dislike of a president of the university, say that he is the principal officer of a board. Why, what would happen then to the principal officer of the board? You can make any construction you wish on this thing. I am not so far out of line when you are talking about this, because we don't know who is going to make these constructions, and I don't want to take any chances as to who is going to make the construction.

And so my position simply is this: I am for education, the best education that the state of Michigan can give the boys and girls of this state, and I want it clearly defined, defined in such a way so that no one can misunderstand it, so that there is not going to be any state of confusion in the minds of the people, nor of those who are going to administer the education in this state. I believe that the place to begin is here now, and to defeat these 2 amendments, and, in addition to that, to make certain that there is a clarification of the language as is now presented to us in the section which was discussed here a moment ago by Delegate Powell.

Mr. Chairman, I would like to see both of these amendments defeated. I certainly am not so obtuse as to not want to give consideration to any reasonable plan which might be considered, but for the purpose of the present time, the only way to dispose of them, it seems to me, is to defeat both of these amendments, and when you come back to the section as it stands there now, I suggest we scrutinize that with care; that the language that goes in there finally shall be such language that no one can misunderstand what its legal meaning is; because I am certain now, based upon what experience I have had in my life, that I don't know what the language means, and I don't know what the language means in either 1 of these 2 amendments, and I recommend that we defeat the 2 amendments that we have before us now.

CHAIRMAN MILLARD: Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, I call for the yeas and nays.

CHAIRMAN MILLARD: The question is on the first Durst-Hatch amendment. All those in favor of the amendment will vote aye.

DELEGATES: Division.

CHAIRMAN MILLARD: A division is called for. Is there support? Enough up. All those in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked, and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the first amendment offered by Messrs. Durst and Hatch, the yeas are 45; the nays are 67.

CHAIRMAN MILLARD: The amendment is not adopted. The question now is on the second amendment.

[The amendment is as follows:

1. Amend page 3, after line 28, by inserting a new paragraph to read as follows:

"No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".]

Division is called for. Is there support? Sufficient number up. All those in favor of the second amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked, and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the second amendment offered by Messrs. Durst and Hatch, the yeas are 43; the nays are 72.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. Boothby and Wood offer the following amendment:

1. Amend page 3, line 19, by striking out the paragraph.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Delegate Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen of the committee, we have submitted this amendment to strike out from line 19 through the remaining parts of the section, and the reason for it is that from looking through the section which is before you, by talking with some of the delegates, it appears to us that there is quite an inconsistency between the provision of this section from line 19 on through the remaining part of this section and the provision which was adopted when the education committee's report was before us.

A few minutes ago Delegate Martin indicated that the words, "except as otherwise provided in this constitution," were inserted in this particular provision so as to take care of the board of education so that the governor would not have the power of veto in that particular area. Now, the thing that confuses me is the fact that the very first sentence of this particular portion of the section reads that "When a board or commission is at the head of a principal department, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor." It appears to me that in every case where there is a board or commission which sits at the head of a principal department, that it must be appointed by the governor. In other words, it does not recognize a situation to occur whether it can be an elected board, and this, I feel, is inconsistent with the action which we took in regard to the education section. If we say here that any time there is a board which is at the head of a commission or principal department that he has to be appointed, then this is certainly inconsistent with the action which we took which provided for the election of the board of education, which I would consider to be a principal board of a principal department.

In addition to that, Delegate Bonisteel pointed out the fact that the words "principal department" are very ambiguous; a question can be raised as to what is a principal department. Certainly that should be spelled out with more particulars. In addition to that, it seems to me that this provision actually restricts the legislature in many ways. It prevents the legislature, in the first instance, from setting up an elected board if that board is a board or a commission which heads a principal department, because under the wording of this provision, it must be an appointed board. It cannot be an elected board under the wording of this provision. In addition to that, the legislature could not do away with the advice and consent provision if it were an appointed board. It prevents them from doing away with the advice and consent. So here is a straitjacket on the legislature which prevents them from doing either 1 of 2 things: setting up an elected board which is at the head of a principal department, it would also prevent them from doing away with the advice and consent provision.

In addition, I am very much baffled by the position that has been taken on the floor by the executive branch committee. The amendment which apparently they agreed to, which was just before us, and which was voted down, took out of the provision the suggestion that the governor could veto the recommendation of a board which was appointed. Now what we have left is just the opposite, just the reverse, where the governor is to veto, be able to veto the action of a board in appointment of a chief administrator of the department. So I am wondering what the reason is for this inconsistency between the action they recommended at that time and the action which they recommended a few minutes ago in reference to the amendment.

I think that in summing this up it may be said that in reading this particular paragraph it seems as though it is so ambiguous and so confusing and so inconsistent with other action that we have taken that the best thing to do would be to remove it and vote yes in favor of the amendment to strike the paragraph, and then if at some later time other wording is put together which is more clear in nature and more definite and certain, then we can look at that and see whether we wish to adopt it or not. I urge the adoption of this amendment.

CHAIRMAN MILLARD: Do the other proponents of this amendment desire to speak? If not, the Chair will recognize Delegate Durst.

MR. DURST: Mr. Chairman, members of the committee, I am very much opposed to the amendment which we have before us. I would like, first, to point out to both Delegate Bonisteel and Delegate Boothby that we have defined principal departments, and if you look on page 2, starting at line 10, you will see the words:

> All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the offices of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. . . .

Now, those are the 20 departments we are speaking of. It does not affect the universities in this state in any way whatsoever.

Now, what does Delegates Boothby and Wood's amendment do? It proposes to strike everything that comes after line 19. So then we will be left with this: wherever there is a single executive heading a principal department, he would be nominated by the governor with the advice and consent of the senate. Wherever there is a board, no one knows who nominates the board; no one knows whether its advice and consent of the senate. This apparently is going to be left completely to the legislature to establish, and I submit, without imposing any undue imputation to the legislature, that this is an open invitation to set up every principal department within this state, except for 2 elected officers, as a board and commission completely separated and divided from the governor's authority, and the adoption of this amendment would completely defeat everything we have done here so far to establish a strong government system in the state of Michigan.

Now, Mr. Boothby does raise the point that we do not say anything on page 3, when a board of the state is the head of a principal department, the members thereof shall be nominated by and with the advice and consent of the senate, appointed by the governor, we have not provided for the exception of the state board of education. I would think, as a matter of construction, probably we could say since we have specifically provided for the board of education elsewhere, that this general provision would not contravene that specific provision. However, he may be right, that there should be an amendment to specifically spell that out in this section. But to take out the whole section would be to defeat most of everything we have done thus far in the executive order.

CHAIRMAN MILLARD: The Chair recognizes Delegate Martin.

MR. MARTIN: Mr. Chairman, this amendment seems to me to be particularly ill conceived. It destroys all of the provisions of the article with respect to boards or commissions as the heads of principal departments. It goes altogether beyond, I am sure, the desire of any of the people here who may have voted against the recent amendments we voted on. There was no inconsistency in the situation. The section with regard to the governor approving the chief executive officer — those amendments were deleted, and in lieu thereof we had a provision with respect to the limitation on the length of at least new boards and commissions. Now the body has voted to eliminate that limitation, and at the same time voted to eliminate the reference to the governor's approval of the superintendent of public instruction so the provision as it now stands is perfectly consistent. As I say, we took out the last sentence and changed that because we were adding the provision with regard to boards and commissions, with regard to the length of term, but it would be a serious mistake to adopt this amendment and eliminate the entire paragraph.

I certainly hope that the amendment will not be passed, and I am sure that the members of the committee, whether they were members of the minority or members of the majority, will be opposed to this amendment.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, I would like to first ask a question of Mr. Martin, and that question is: who creates a board or commission that will head a principal department?

CHAIRMAN MILLARD: Mr. Martin, do you care to answer the question?

MR. MARTIN: I am sorry, I didn't hear you.

MR. FAXON: You want me to repeat it?

MR. MARTIN: Yes.

MR. FAXON: Who would create a board or commission that would head a principal department?

MR. MARTIN: Well, aside from those boards or commissions which are established in the constitution, the legislature creates a board or commission which heads a principal department.

MR. FAXON: Thank you, Mr. Martin. I would like to then direct my comments to the amendment. It seems to me, and I am speaking now in support of Mr. Boothby's amendment, because what I think we have done in this section here is to prescribe something to the legislature which I think the legislature is perfectly capable of doing. We are saying how the commission is to be established, and who it is to be nominated by, and how it is to be approved, and I don't think that this represents a necessary addition to this particular section. The legislature would do it anyhow, and if the legislature saw fit to make any alterations with regard to the selection of a commission or board that would head a principal department, they could make that decision, too. In looking at the model state constitution, there isn't any spelling out in detail as to what the legislature shall do in carrying out this type of mandate.

It has been suggested that this would defeat everything that is done. I wish to suggest to you fellow delegates that this does not defeat everything that is done. This is a detail. It is a detail which more properly would belong in statutory language than it would in the constitution. Examination of constitutions won't reveal detailed language as to what the legislature shall do in establishing a commission or board to head a principal department.

It says, in just looking at the language here, "The term of office and removal of such members shall be as prescribed in this constitution or by law." It clearly puts back into the legislature what is to be done with it. Does the next sentence make any difference? "When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission —" again "as prescribed by law, his appointment shall be subject to the approval of the governor. . . ." So again, in all the sentences it is prescribed by law. There isn't anything in this particular paragraph which the legislature couldn't do with or without it. So this really — at least this is the way I have been looking at it — doesn't defeat everything that the executive proposal does here. It doesn't defeat anything. It just attempts to clean the language up where there is confusion, and this has already been shown.

Several delegates have indicated that they are not quite certain as to the meaning, and not only as to what they might think this to mean, but they are not quite certain as to what people might, interpreting this later, think it to mean. Now, when we are writing constitutional language, we have to be certain, as certain in our own minds as we can, that we do know exactly what it means. If it is a question of spelling out statutory detail in a constitution, then we ought not to put it in if it is going to create confusion. We ought to be in fairly good agreement when it comes to something that we know what it means.

Now, this whole section has already elicited a great deal of response from everybody for about 3 or 4 hours, so it seems quite clear at this point there have been many delegates here who haven't been certain as to what it means, and I would support this amendment in the light of the fact that there has been confusion over its meaning, in the light of the fact that this is statutory language, and it is something which the legislature can do without its insertion, and in the light of the fact that this does not materially alter the full impact of the executive reorganization, and I would call your attention to other such — look at the model state constitution and other provisions in other states where this is a necessary part of a constitution.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Birmingham, Delegate Van Dusen.

MR. VAN DUSEN: Mr. Chairman, I have a question for Mr. Martin, if he would care to answer.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. VAN DUSEN: Mr. Martin, the purport of the Durst-Hatch amendment, which we just considered and which you supported, would have been, as I understand it, to eliminate the requirement of the last sentence of this paragraph, that the governor approve the executive head of a department where the department was headed by a commission appointed by the governor, and that the striking of that last sentence would accomplish the purpose which you supported with respect to the Hatch-Durst amendment in that limited respect, is that correct?

MR. MARTIN: That is correct, provided the second portion of the — I mean, the second Durst-Hatch amendment were added. In other words, if the last sentence were to be stricken, then the provision, the last sentence of the first Durst-Hatch amendment should be added, and the entire part of the second Durst-Hatch amendment should be added. I am sorry if that is confusing, but that is the way it would come out.

MR. VAN DUSEN: Well, putting my question another way, Mr. Martin: the first 2 sentences of this paragraph are in no way involved in the subject matter of either of the Hatch-Durst amendments?

MR. MARTIN: Absolutely in no way involved. That is correct.

MR. VAN DUSEN: With that understanding, Mr. Chairman, I would oppose this amendment.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I think with this amendment we are confronted with the situation of whether we want something or we want nothing at all. In my opinion, Mr. Chairman and fellow delegates, I would like to see the advice and consent part deleted, but realizing, of course, that the legislature could put it back in, I am fearful that by deleting this entire paragraph we would actually gut the executive administration, and I would not want to see that happen. After giving this thorough consideration, I wish to oppose the amendment.

CHAIRMAN MILLARD: The Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, it is my pleasure to, on this occasion, support the amendment of a former student of mine, and it is my dismay to disagree with the vice chairman of the committee. I think this is a good amendment, although I believe each sentence should be considered separately. I had in mind, myself, to move to strike the last sentence, but I believe Mr. Boothby's amendment is better. Nevertheless, I think we ought to consider each sentence one at a time.

As I gather, this whole paragraph was written on the assumption, the initial assumption, that all boards and commissions would be appointed aside from the board of education. I believe that when this paragraph was drafted that was the intention of the entire proposal, as I recall; that nothing in here was to be elective, none of the executives were to be elected. I believe everything here had in mind, originally, only appointive boards and commissions, but as pointed out by Mr. Boothby, there might be elective boards and commissions which would be created by the legislature. And, in addition, we have some principal departments which are now in the paragraph before this one, such as, I believe, the secretary of state and some others, which are elective, as I understand it. In any event, I think that the original purpose of this paragraph has been somewhat altered by the recent developments, and also by the point made by Mr. Boothby that the legislature or even the governor, in creating a reorganization plan, might wish to have some elective boards. Now, if we are going to have any elective boards, it would certainly make some difference the way this paragraph would have to be worked out. Now, I would like to look at each sentence — there are 3 sentences here — look at them one at a time and see what can be adduced as to what, if anything, is wrong with any of these.

That first sentence reads this way, "When a board or commission is at the head of a principal department, the members thereof shall be nominated —" and so on. Now I think that it has been pointed out fully that this certainly assumes that any board would be appointive, and therefore some correction would have to be made at this point, no matter what, because it doesn't take into account any possibility of elective boards. In addition, it has been pointed out by a number of people that the words "principal department" are not as clear as they should be, and therefore the first sentence, at the very least, needs some changes. In addition to that, it can certainly be argued — and I believe it is correct to argue — that whatever is in the first sentence, in addition to requiring redrafting, is not necessary in any event. There is no reason why, as far as I can make out, a governor's reorganization plan or a legislative reorganization plan could not provide this provision or the reverse provision, whichever may be deemed to be better at the time. Therefore, it seems to me the first sentence is certainly ambiguous in 2 respects, and I can't see the necessity of it, in any event.

As to sentence 2, let's see what that says. "The term of office and removal of such members shall be as prescribed in this constitution or by law." It seems to me perfectly clear that that is unnecessary. That adds nothing. If something is prescribed in the constitution, then we don't need to say look in the constitution to find it. And if it is prescribed by law, similarly we don't need to say it shall be as prescribed by law. The second sentence doesn't add anything.

That brings us to the third sentence which it has been pointed out by several members in the previous debate, in addition to having ambiguities — there are 2 ambiguities in it that have been pointed out: one is the meaning of the words "principal department," and the other one is whether it applies to elective and appointive or only appointive or only elective. There are 2 ambiguities. In addition, there seems to be no need to prescribe the provisions of this particular sentence. It could be arranged by law or by a governor's reorganization plan.

In other words, to summarize the whole paragraph, there are certainly ambiguities in the first and third sentences which would have to be cured. The second sentence doesn't make any difference in or out. The entire paragraph as a whole, as far as I can see, adds nothing. Removing it would create something good. It would give more power to the governor to create a system as he pleases, or more power to the legislature to create a system as they please. Therefore, if I thought that the statements made were correct, that striking this would weaken the reorganization plan, I would immediately turn around and vote the other way; but I can't see it as yet. It seems to me that striking this paragraph would strengthen the flexibility of both the executive and the legislative branch and remove ambiguities, and certainly in the form that it now exists, I think it would be better to strike it.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I don't wish to debate, and I hate that I find myself in disagreement with the learned Dr. Nord, my colleague from Detroit, but I can assure you that before I get through with this convention, with the help of Dr. Nord, Hale Brake, Senator Hutchinson and John Martin, I think I will have a rather liberal education.

But what disturbs me, and again I think I should point this out — and what I say, of course, is subject to rebuttal — if you eliminate the first part of this, "When a board or commission is at the head of a principal department, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor," what you are saying in effect is that you are making it possible, if you vote for the Boothby-Wood amendment, to permit the legislature to set up all types of boards and commissions, and Lord knows who would do the appointing — some Tom, Dick and Harry, or the legislature itself could do it. It does hinder and would hinder and have a direct effect upon the executive administration and reorganization.

Then in the last sentence, "When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor. . . ." Now this doesn't make too much sense, either, with one exception: in this matter the governor ought to have the outright right and responsibility to appoint. He shouldn't have the board or commission heading a principal department and have them make the appointment or recommendation subject to the approval of the governor. The governor should have the authority to appoint.

So all I can make of this is, it is obviously a compromise. I don't recall it in the committee, but I guess it was discussed. But this is necessary, all we need here is giving the governor the right to appoint. But if you delete this — and someone who has had experience in the legislature — my experience has been restricted to observing and watching and working with it — but if this is deleted, the first part of this, "When a board or commission is at the head of a principal department," et cetera, who would appoint the boards and commissions, or how would they be set up? This is the $64 question, and Lord knows — and I think this is necessary. There would be some changes in the language that I would use, but in view of what has been said, and in view of what I have said, unless someone can set me straight or offer some rebuttal, I would urge that we vote against the Boothby-Wood amendment.

CHAIRMAN MILLARD: Delegate Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I wonder if we can't clarify this question in relation particularly to the first sentence starting on line 19 of page 3. The difficulty seems to be in connecting up the principal department which is being referred to. If you turn back to page 2, starting with line 10, you will see that there are certain exclusions of the governor, lieutenant governor, the governing body of institutions of higher learning, and then it goes on to say ". . . shall be allocated by law among and within not more than 20 principal departments. . . ."

I am wondering if 3 words were added on page 3, line 20, "When a board or commission is at the head of a principal department as provided herein," in other words, relating back to the 20 principal departments referred to on lines 15 and 16, if that wouldn't completely clarify the principal departments that we are referring to?

CHAIRMAN MILLARD: The question is on the Boothby-Wood amendment. Mr. Boothby.

MR. BOOTHBY: I would like to ask a question of Mr. Martin, if I may.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. BOOTHBY: Mr. Martin, when you contemplated — Mr. Chairman, Mr. Martin, when you contemplated the 20 agencies, did you include in your count the board of education?

MR. MARTIN: We didn't name any of the departments, Mr. Boothby, because experience in other states had been that where an attempt was made to name particular departments it created unlimited difficulties. Obviously there has got to be a department of public instruction or education, or whatever you may call it. This is clear from the amount of money expended and the size of the operation, and so on. There is no question but what that would be one. But if we started naming individual departments, why, we would be a long time; we would be around here until next Christmas, because everybody has a particular department he would like to name. But there isn't any question but what there would be a department of public instruction or education, and that would be one of the principal departments, I am sure.

MR. BOOTHBY: I would like to direct a further question to Mr. Martin, if he cares to answer. Mr. Chairman, Mr. Martin, that being true, since we can consider the board of education to be one of the principal departments which is contemplated in here, I took from a previous comment that you made that you thought you had excluded from this provision, as far as the nomination aspect is concerned, the board of education by supplying the words, "except as provided in this constitution." Is that correct?

MR. MARTIN: That is correct, yes.

MR. BOOTHBY: I raise one further question, Mr. Chairman. When I read, as Mr. Nord has pointed out, the last sentence in this particular provision, it reads as follows:

> When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution.

Now, my question is this: a few minutes ago it was indicated that in regard to the aspect of the board of education being a department which might be considered to be in conflict with this wording, which Mr. Martin sought to take care of by adding the last words, if that is actually true? Because when you read that last sentence it doesn't refer back, as far as I can see it, to the previous part of the paragraph, to the first part of the paragraph. It makes a simple and short statement that when a chief executive of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution. Then I read of the provision in the constitution regarding the education section which provides for the superintendent of public instruction to be appointed by the board of education, but it makes no exception regarding whether the governor has a veto power or not. As I read this, "except as provided in this constitution," it would indicate to me that there would actually have to be an expressed provision that the governor could not veto, could not express his disapproval of the appointment by the board, otherwise this provision would apply. So my question to Mr. Martin, Mr. Chairman — if Mr. Martin cares to answer — would be whether, in his opinion, there would have to be an expressed statement in the education section that the governor would have no power to veto the appointment of the board of education?

MR. MARTIN: Mr. Boothby, I don't think so. I would have no objection, and I don't think the committee would, to making this conform to the action that the convention has already taken so far as that's concerned. If it can be done here, why, that is satisfactory to do that. We added that last phrase, although we thought the language was perfectly clear, because it related to an appointive board. So we thought it clearly excluded an elective board. But Mr. Bentley raised a question, and still was not satisfied with the language, so we added this additional phrase "except as otherwise provided in this constitution" to make it completely clear this didn't apply to the state board of education. Now the committee is certainly open to suggestions as to how that can be made more explicit than it is; but that was the intention.

MR. BOOTHBY: Mr. Chairman and ladies and gentlemen of the committee, I submit at this point that it might be wise to read the provision which was adopted several weeks ago in regard to the education section. It states as follows:

> Section b. The state board shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the state board without the right to vote, and shall be responsible for the execution of its policies.
>
> The superintendent of public instruction shall be chief administrative officer of a state office of education which shall be granted sufficient funds and staff to carry on state responsibilities for education as determined by law.

There is no exception in this provision regarding the fact that the governor cannot veto. I am submitting at this point that if we adopt the committee's recommendation at this point we will have defeated our previous intention as was expressed by the last amendment which we defeated. In other words, what we will be doing will be leaving in the provision which has been recommended by the committee, a provision whereby the governor could veto the appointment of the superintendent of public instruction by the board of education, because there is no exception in that particular report.

I think it would be very unwise at this point to take the reverse action to the one we took just a few minutes ago. If there is some ambiguity, let's take another look at this section, let's pull out this whole section, vote in favor of the amendment, and then if some other wording can come up which more complies with what we have done in the past, then let's review it when that time comes.

CHAIRMAN MILLARD: Mr. Karn.

MR. KARN: Mr. Chairman, members of the committee, what I say is going to be repetition, as much of what has been said here this evening has been. In the first place, Delegate Faxon commented at length upon the confusion that exists between the last 2 paragraphs which we have considered. I think Mr. Martin described it very clearly before Delegate Faxon talked, but what we have been referring to as paragraph 5, which starts on page 3 at line 9, covers the individual heads of principal departments. The last paragraph, starting at line 19, covers boards or commissions who are the heads of individual departments.

I think if Delegate Boothby's amendment should be approved, those departments — and most of the 120 departments involved here, many of them are under the direction of a board or commission or a number of individuals instead of a single head; those groups would be hanging alone with no provision for them. I certainly suggest that this amendment be defeated.

CHAIRMAN MILLARD: The question is on the Boothby amendment. All in favor will say aye. Opposed, no. The Chair is in doubt. A division was called for. Is there support? Sufficient number is up. The question is on the Boothby amendment. All in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Boothby, the yeas are 27; the nays are 98.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Lawrence offers the following amendment:

1. Amend page 3, line 20, after "thereof" by inserting a comma and "unless elected as otherwise provided in this constitution,"; so that this sentence will read:

> When a board or commission is at the head of a principal department, the members thereof, unless elected as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor.

CHAIRMAN MILLARD: The Chair will recognize the proponent, Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, members of the committee, it was my hope that perhaps this might correct some of the matters suggested by Mr. Boothby, and is also in line with Dr. Nord's suggestion that maybe we should take this up sentence by sentence. So what I have to say takes the first sentence only. It has nothing to do with coordinating the balance of the paragraph, although I don't think it is inconsistent. But it is done with the intention that the balance of the paragraph will also be taken up sentence by sentence.

The thought that I have in mind is this: that this provision would then mean this: that unless this constitution provides for an elected board, or unless at some future date the constitution is amended by the people, and they want an elected board, it would not be within the power of the legislature to provide for an elected board, and in that way clutter up the balance. In other words, any board that is provided for by the legislature would be an appointive board, and the balance of the sentence would then apply. He would be nominated by the governor and appointed with the advice and consent of the senate. But it does preserve in the constitution this provision: that the board of education which we have already provided for shall be elected; that this does away with the inconsistency pointed out by Mr. Boothby; it does also protect any other elective board that we may later provide for as we go through the constitution, or that the people themselves later, by amendment to the constitution, feel they should have as an elective board. Otherwise it would be by appointment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I see no objection to this amendment.

CHAIRMAN MILLARD: The Chair understands there is a substitute. It has been withdrawn. The question is on the Lawrence amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Brake offers the following amendment;

1. Amend page 3, line 23, after "by law.", by striking out the balance of the section.

CHAIRMAN MILLARD: The Chair recognizes the proponent, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I agree with Mr. Lawrence that maybe we will get along better if we take one thing at a time instead of several. Mr. Lawrence's amendment makes it perfectly clear that this paragraph is talking about appointed boards and commissions. This amendment deals simply with the power of the governor to approve, or the right of the governor to approve or disapprove an executive picked by a commission or board which heads a given department. The amendment is to strike that provision out so that when the board or commission appoints an executive that will be the appointment. I think this is tremendously important. I would like to give you a little Michigan history in connection with it. We constantly refer to what is being done in other states in their constitutions. Most of the lessons we need we can find here in Michigan, and we certainly can in this connection.

If the governor has the power of approval or disapproval of the executive as nominated by the board, in effect, he is making the appointment. Certainly under those circumstances, the board is going to go to the governor and ask him whom he wishes appointed. This we have tried. I want to call your attention to several specific departments in Michigan government. This is about the way we started with the conservation department. When it was organized back in 1921, the governor appointed the commission, the governor appointed the director of the commission, and both the commissioners and the director served at the governor's pleasure, not for a fixed term. The governor at that time appointed a man who was perhaps the most skillful political manipulator of his generation. He did have a background in conservation, and I think he never required the staff in his department to participate in his political activities. He did a pretty good job. But in came a new governor, and the old director went out.

I think I should just call your attention to one more thing about this particular fellow. You remember we used to have a presidential preferential primary in Michigan? You gave your choice of the nominees for president. No legal effect, but advisory. There was a man by the name of Hiram Johnson, who was a senator in California, running for president. This particular head of the conservation department got placed on that ballot the name Hiram Johnson, but it wasn't the California Hiram Johnson; it was an obscure farmer, as I remember, in Saginaw county, and the people of this state voted for Hiram Johnson, thinking they were talking about a United States senator from California, when they were talking about an unknown citizen of this state. And the net result was that the legislature, in disgust, repealed the preferential primary law, and we haven't had one since.

Well, in came a new governor. He wanted a new director. And the appointment was so clearly political; of one without a conservation background at all. The legislature said, "We've had enough of this," and they set up the present long, staggered term commission, and the net result of that move is that we have in our state a conservation department with a reputation second to none in the United States. The directors have served for long periods of time — Pete Hoffmaster, Mr. Eddy. We have had good administration. I doubt if there is anybody in this convention who would believe that we would have had a department with the reputation and the fine service that department has given if every incoming governor could have made a political appointment of the director of the department.

Let me call your attention to another one. Back in the '30s we didn't have an agricultural commission. We had an agricultural commissioner appointed by the governor, serving at his pleasure. We changed governors every 2 years, we changed commissioners of agriculture every 2 years. Some of them were fine. Some of them were terrible. One of our delegates here, Jim Thomson, was one of the good ones. Judge Dehnke early in this convention referred to a pardon which contributed very largely to the defeat of one governor for reelection. That pardon was of the son of the commissioner of agriculture. The farmers got tired of that change every 2 years with everybody appointed as commissioner expected to pay off politically; and they got through our present statute setting up a commission with long, staggered terms. The commission picks the director, and not with the approval or anything else from the governor. Another of our delegates had a lot to do with getting that statute through, and I am sure he and his organization have been satisfied with the results that we have had. The first director under the new setup had been in as commissioner, and that was another of our delegates, Charlie Figy, and since that change was made, we have had only 2 directors, Charlie Figy and George McIntyre, who is still on the job and doing a good job.

Another department, the welfare department, a big spender. Back in the '30s again we had the same situation with the director of welfare picked by the governor, serving at his pleasure, and again some of them were excellent and some of them were terrible. There came a time when an incoming governor had 2 people who needed good jobs, so the department was divided and we had 2 heads of the welfare department. It was one of the directors of welfare in those days who made off with a very sizable quantity of the state's postage stamps. When I came in the treasurer's office, 2 or 3 months after I had been there one of the girls came in one day and said, "Do you know we've got a great big drawer full of postage stamps in the vault?" I said I didn't. She didn't know where they came from, but we ran it down. They were the stamps this director of welfare had embezzled. The attorney general got them back, stored them in the treasury vault, and everybody forgot them, and they were still there. So we got tired of that, too. The legislature set up the present welfare commission with long, staggered terms, and the commission picks the director, and we haven't had many directors since that was done.

We have often had reference made to the fact that Michigan government was illogical, grew by chance, like Topsy. A lot of people have said it grew like Topsy. Believe me, that one didn't grow like Topsy. It was deliberately framed to get it out from under the immediate political control of the governor, and I had something to do with that legislation. It has worked. I happen to know that in one instance since then the governor of the state tried to get that commission to make the welfare appointments in the county political patronage, and the commission had the guts to say no, and they made it stick. That was what was intended.

I think this amendment ought to go through. When the governor has appointed the commission, that is his oversight, his control. He ought not also to have the veto power over the appointment of the director.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, the hour is getting late; it is 10:20. I wanted to speak on this subject, and I know there are others on the list. I know that it's of major importance that a lot of the delegates do not have their minds made up at this point. I have been discussing it with several myself, and due to the lateness of the hour and the fact that there are several other speakers, I would like to at this time move that the committee rise.

CHAIRMAN MILLARD: There is only one other speaker. The motion is on the question shall the committee now rise. All in favor say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

CHAIRMAN MILLARD: Is there support for division? All right. There is sufficient. On the question of the motion that the committee do now rise, all those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 39; the nays are 77.

CHAIRMAN MILLARD: The motion does not prevail. Mr. Marshall, do you wish to talk?

MR. MARSHALL: Mr. Chairman, fellow delegates, some of the delegates who now are advocating that we strike this were arguing in the reverse when we were talking about elective officials. I see no point in having the governor approve the appointments after he has already appointed the commission in the beginning. We were talking here about the "chief executive officer of a board or commission heading a principal department" as "appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution."

Of course, we could go on and question whether or not all of these various commissions of various numbers are necessary. We could have a commissioner who would be the head of the department, the same as the labor department. You have a labor commissioner, but you have no commission, and the labor commissioner is appointed by the governor with the advice and consent of the senate, and there are some amendments that can be offered, and that was my reason previously for moving to rise so that we could have more time to think about the Brake amendment. Because, very frankly, I have some mixed feelings about this, myself; as to whether or not the Brake amendment is the right thing or whether or not I should submit an amendment to eliminate all the commissions and just have a commission and department heads, and have the governor make the appointments.

So, I would again — I shall not make the motion, but I would again urge the delegates and our committee chairman in particular that maybe the hour is — 10:30 is the time that the committee rises, and if we — otherwise, I will just have to go ahead and offer my amendment.

CHAIRMAN MILLARD: Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I consider the Brake amendment to be a vitiating amendment. It is not a perfecting amendment as was the one offered by Mr. Lawrence. It doesn't help the committee proposal, it weakens it very considerably. It depends, of course, on whether you accept the philosophy of the committee's whole proposal. Basically we are concerned with strengthening the position of the governor, and on this point the entire committee was in agreement. We began by giving the governor a 4 year term, which makes it quite different than the situation Mr. Brake talked about when governors had 2 year terms. We decided also that the structure of government should be reorganized, and that the governor should have a part in it, and a continuing part, on a basis that would really be effective in keeping the structure in order.

We recognize that in the experience of Michigan administration certain commissions traditionally and over the years have worked successfully as heads of departments. We had no desire as members of the committee in the constitutional convention to disturb what already appeared to work satisfactorily. However, either you have departments influenced more by the governor or you have them more influenced by the legislature, and the reason, of course, why anybody with legislative orientation favors the commission rather than a single head is because there are so many more opportunities for influencing the department through a many headed commission than is the case when there is a single department head appointed by the governor. In our desire, however, not to disturb situations where there are commissions that have been effective and have handled their jobs well, we did, however, feel that it was absolutely necessary to tie the executive branch together to at least give the governor the power of approval in those cases, which I hope won't be very numerous, where there is a commission at the head of a department rather than a single head.

Those are the principal reasons I think, Mr. Chairman, why the committee decided this way, and I didn't — I can't recall that there was any disagreement among any of the members of the committee. In other words, we were proceeding from an altogether different point of view than Mr. Brake. It wasn't merely a question of where we had been, we wanted to know where we were going.

CHAIRMAN MILLARD: The question is on the Brake amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, for myself, I can't accept this amendment standing alone. If I understood that Mr. Brake were willing to accept either an amendment to his amendment which would add the substance of the second Durst-Hatch amendment regarding the limitation of terms of new boards and commissions, or if he were willing to go along with the idea of reconsidering the vote on that amendment, I would feel differently. But if that is not so, then I can't accept this amendment just standing by itself, because it does weaken the article.

CHAIRMAN MILLARD: The Chair will recognize Delegate Young.

MR. YOUNG: Mr. Chairman, I also rise in opposition to the amendment. Dr. Pollock has described it as a vitiating amendment. More properly in the political vernacular it could be described as a ripper amendment, because I think it goes a long way toward defeating the obvious purpose of strengthening the executive.

Now, as I understand it, the purpose of this whole proposal is to reorganize the executive under 20 departments in order to provide for a more responsible executive administration and control. Now, if we are to assume that many of the abuses that Mr. Brake referred to did in fact exist, then I think the legislature has gone a long way toward correcting these abuses by providing for the staggered terms.

Now this raises a possibility that a newly elected governor might come into office with a commission in existence with staggered terms that might consist in its majority of an opposite party. Now this would be bad enough, and would certainly divide the legislative responsibility, but if that governor has no power to determine who shall be the acting executive head of the agency, then his power is indeed, as Dr. Pollock pointed out, vitiated. So if we are interested in reorganizing and strengthening and making more effective the executive department, I submit that this amendment should be defeated.

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, what Mr. Young has been talking about is the exact purpose of long, staggered terms. That is the reason we have them. But I will go along with the chairman of the committee. If he wants to submit this whole thing in one package again with the limitations at the end of the amendment that we had a little while ago, I will accept it.

CHAIRMAN MILLARD: The question is on the Brake amendment.

SECRETARY CHASE: Mr. Brake, at the suggestion of Mr. Martin, therefore revises his amendment to read as follows:

1. Amend page 3, line 23, after "by law.", by striking out the balance of the section and inserting a new paragraph to read as follows:

"No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".

MR. WOOLFENDEN: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. WOOLFENDEN: I think the committee has already acted on that exact language, and I think it is out of order.

CHAIRMAN MILLARD: Your point is well taken. That was rejected by a vote of 43 to 72. That very wording was rejected.

MR. BRAKE: There is something else with it now. It isn't the same proposition. It is a combination of language.

MR. WOOLFENDEN: Mr. Chairman, the previous amendment was divided, and this question, exactly verbatim, was voted on by the committee, so that there is nothing new. It is exactly the same as the divided half of the previous amendment.

CHAIRMAN MILLARD: You are right. Mr. Martin.

MR. MARTIN: Mr. Chairman, is that your ruling on this, that this is not a proper addition to Mr. Brake's amendment when added to it?

CHAIRMAN MILLARD: He has added nothing to it. It is the same wording, identical with an amendment that was voted down by this committee.

MR. MARTIN: I appreciate that, but I thought Mr. Brake's point was that this combined presented a different amendment; combined with his wording presented a different amendment, or combined with his deletion.

CHAIRMAN MILLARD: The Chair still rules that this is the amendment that was voted down. It can be cured by having a motion to reconsider.

MR. MARTIN: Mr. Chairman, can I make that motion at this time, or do we need to wait until we have voted on Mr. Brake's amendment?

CHAIRMAN MILLARD: Well, if Mr. Brake has no objection to voting on the reconsideration of this.

MR. BRAKE: Mr. Chairman, Mr. Martin, I don't like to go back and forth here between us, but may we vote on my amendment and then take up your motion to reconsider?

MR. MARTIN: I have no objection, if I have your support on that.

MR. LEIBRAND: Mr. Chairman, may I inquire what we are voting on; whether or not it is the original Brake amendment or some possible substitute?

CHAIRMAN MILLARD: The question is on the amendment of Mr. Brake which reads as follows:

1. Amend page 3, line 23, after "by law.", by striking out the balance of the section.

Division is called for. Is there support? Sufficient number up. All those in favor will vote aye. All those opposed will vote nay. The Brake amendment is up on the wall, the one we are voting on. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brake, the yeas are 57; the nays are 64.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read. Mr. Martin, do you want to move to reconsider now?

MR. MARTIN: No, I don't want to move to reconsider, Mr. Chairman.

CHAIRMAN MILLARD: The secretary will read.

MR. MARTIN: What do we have now before us? Do we have other amendments?

SECRETARY CHASE: Mr. Wanger has offered an amendment.

MR. MARTIN: Well, Mr. Chairman, the hour is pretty late. I move the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. Those in favor will say aye. Those opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole had under consideration some matters of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers; has considered several amendments to this proposal, has come to no final resolution thereon. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: Will the convention please be in order. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, since the announcement I made at the outset of this evening's session to the effect that we were contemplating a session on Wednesday night, it has come to my attention that a great number of delegates had made a commitment for Wednesday night for which they had bought tickets, relying on the fact that we were probably going to have evening sessions on Tuesdays and Thursdays. Consequently, it appears desirable to shift the session for Wednesday night of this week to Thursday night of this week instead, a Thursday night session of this week instead of a Wednesday night session.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: Mr. Millard announces a meeting of the committee on emerging problems tomorrow, Tuesday, in committee room I on the third floor, at 11:30 a.m. or immediately after the morning session. Bring your lunch. Frank G. Millard, chairman.

We have the following requests for leave from the session: Messrs. Bentley, L. W. Richards and Nisbet ask for leave of absence from tomorrow's session; Mr. Bentley from tomorrow morning's session only. Mr. Farnsworth requests leave from tomorrow's session, and Mr. Anspach from the session of tomorrow. He has been requested to be a pallbearer at a funeral, and also wishes to be excused from the sessions of Wednesday and Thursday, April 4 and 5, to fulfill speaking engagements at Purdue University which are a long time commitment.

PRESIDENT NISBET: Without objection, they are excused.

The Chair recognizes Mr. Stafseth.

MR. STAFSETH: Mr. President, I move that the convention adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

The convention is adjourned until tomorrow morning at 9:30.

[Whereupon, at 10:45 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Tuesday, March 27.]

ONE HUNDRED EIGHTH DAY

Tuesday, March 27, 1962, 9:30 o'clock a.m.

PROCEEDINGS

VICE PRESIDENT HUTCHINSON: The convention will **come to order.**

The **invocation** this morning will be delivered by the delegate from Ingham, Mr. Wanger.

MR. WANGER: Let us pray. Father in heaven, we again acknowledge our weaknesses before You and humbly ask for Your blessing and Your guidance in our work. Remove all animosity, all partisan controversy and all selfish desire from our hearts; and give us the ambition, the courage and the understanding to write the best possible constitution for all the people of Michigan. Help us, dear God, to be wise statesmen, not foolish partisans; and always remind us that to whatever extent we should fail the people of our state, we fail You. Amen.

VICE PRESIDENT HUTCHINSON: The **roll call** will be taken by the secretary. All those present will vote aye. Have you all voted? If so, the secretary will lock the machine and take the roll.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Absent with leave: Mr. Bentley, Mrs. Cushman, Messrs. Dade, Farnsworth, W. F. Hanna, Mosier, Nisbet, Norris and L. W. Richards.

Absent without leave: Messrs. Bledsoe, Habermehl, Mrs. Hatcher, Messrs. King, Pugsley and Stamm.

VICE PRESIDENT HUTCHINSON: Without objection, the unexcused delegates will be excused from the morning session temporarily. The Chair hears no objection. Then they are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Mr. Stamm, Mrs. Hatcher, Mr. Dade and Mr. Bentley.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 39 of that committee, reporting back to the convention **Committee Proposal 81,** A proposal pertaining to county government;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 81 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 40 of that committee, reporting back to the convention **Committee Proposal 82,** A proposal pertaining to townships;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 82 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 41 of that committee, reporting back to the convention **Committee Proposal 83,** A proposal pertaining to cities and villages;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 83 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 42 of that committee, reporting back to the convention **Committee Proposal 84,** A proposal to provide for liberal construction of provisions concerning municipal corporations;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 84 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 43 of that committee, reporting back to the convention **Committee Proposal 85,** A proposal to provide that public utilities may use public property with consent of local authorities and a limitation on the length of franchise;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 85 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 44 of that committee, reporting back to the convention **Committee Proposal 86,** A proposal pertaining to highways and their maintenance;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 86 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 45 of that committee, reporting back to the convention **Committee Proposal 87,** A proposal relating to ports and port districts;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 87 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 46 of that committee, reporting back to the convention **Committee Proposal 88,** A proposal pertaining to metropolitan areas;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 88 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 47 of that committee, reporting back to the convention **Committee Proposal 89,**
A proposal pertaining to county home rule;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 89 as reported by the committee on style and drafting, see under date of April 17.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 48 of that committee, reporting back to the covention **Committee Proposal 30,**
A proposal pertaining to free public and elementary schools;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 30 as reported by the committee on style and drafting, see under date of April 18.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 49 of that committee, reporting back to the convention **Committee Proposal 31,**
A proposal to amend article XI, section 14 of the present constitution pertaining to public libraries;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 31 as reported by the committee on style and drafting, see under date of April 18.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 50 of that committee, reporting back to the convention **Committee Proposal 47,**
A proposal to replace sections 2 and 6 of article XI;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 47 as reported by the committee on style and drafting, see under date of April 18.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 51 of that committee, reporting back to the convention **Committee Proopsal 98,**
A proposal pertaining to the educational institutions of the state;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 98 as reported by the committee on style and drafting, see under date of April 18.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

Reports of select committees.

SECRETARY CHASE: No select committee reports.

VICE PRESIDENT HUTCHINSON: Communications from state officers.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: Second reading of proposals.

SECRETARY CHASE: Nothing on that calendar for today.

VICE PRESIDENT HUTCHINSON: Third reading of proposals.

SECRETARY CHASE: Nothing on that calendar.

VICE PRESIDENT HUTCHINSON: **Motions and resolutions.**

SECRETARY CHASE: Mr. Allen offers
Resolution 85, A resolution to hasten the word of the convention and to enable the convention to meet the fiscal deadline of May 15.

Following is Resolution 85 as offered:

Whereas, Only 35 session days remain in the constitutional convention before its fiscal deadline of May 15, 1962, and the following items to be completed on general orders (or committee of the whole) with an estimate of session days required therefor are:

Executive branch	3 days
Apportionment	3 days
Legislative powers (24 sections)	4 days
Miscellaneous provisions and schedule (13 sections)	4 days
New section on civil rights — property rights	1 day
Elections	2 days
Amended finance sections	1 day
	18 days (viz: April 17).

Included among the above list are controversial sections which will require extended debate. Such sections are:

Condemnation
Internal improvements
Initiative
Referendum
Fifteen mill limitation
Sales tax earmarking
Civil rights (property rights); and

Whereas, The above estimated schedule permits only 17 session days to complete second reading of approximately 235 sections of the constitution and, in addition, to complete the third reading; and

Whereas, The 17 session days are not sufficient to complete a second and third reading of these sections and this convention therefore must choose between the following alternatives:

1) Working without pay beyond the May 15 deadline; or

2) Voting itself a 50 per cent reduction in salary for one month in order to continue the convention for an additional 30 days; or

3) Making changes in the rules which will accelerate the progress of the convention; and

Whereas, It is believed to be in the best interest of the convention to change its rules in order to hasten the work of the committee of the whole; and

Whereas, Delay in convention deliberations has primarily resulted both from extended debate in the convention of matters previously debated in the committee of the whole and from the number of impromptu amendments (and extended debate thereon) in committee of the whole; now therefore be it

Resolved, That the rules of this convention be forthwith amended so as to incorporate any one or more of the following changes:

1. That when the committee of the whole reports to the convention, the actions of the committee of the whole be accepted. Votes in committee of the whole shall be made record roll call votes; (or, in the alternative)

1a. That when the committee of the whole reports to the convention, no debate shall be permitted on recommendations of the committee of the whole. Amendments offered in committee of the whole and defeated shall not be resubmitted to the convention nor shall any new amendments be offered. In the event a recommendation of the committee of the whole is defeated upon report to the convention, then new amendments may be submitted, but debate thereon shall be limited to 20 minutes which time shall be equally divided as near as can be between proponents and opponents of the amendment.

2. Debate on all amendments in committee of the whole (except minority reports) shall be limited to 20 minutes, which time shall be equally divided as near as can be between the proponents and the opponents of the amendment.

3. Except for speeches made on apportionment, no speech shall exceed 10 minutes.

4. Any report of the committee on style and drafting which is unchanged by the convention on second reading and adopted unanimously by the convention (or as an alternative, with no more than 20 dissenting votes) shall be considered finally passed and shall not be reconsidered on third reading; and be it further

Resolved, That in the interest of obtaining bipartisan support for these or any other recommendations which will speed the procedure of this convention, this resolution in addition to being referred to the committee on rules and resolutions be referred to the president and 3 vice presidents of this convention or, in the alternative, that the committee on rules and resolutions meet jointly with the president and 3 vice presidents for the consideration of this resolution.

VICE PRESIDENT HUTCHINSON: The Chair recognizes the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. President, ladies and gentlemen, I don't care to have the resolution read, but I would like to make a few comments about it. I computed that starting with yesterday there are only 35 session days remaining before our fiscal deadline of May 15, and yet to be completed in the committee of the whole on general orders is the executive branch. I roughly computed it might take 3 days, and that included yesterday, so there are only 2 more days for executive branch; for apportionment, I put down 3 days though it may not be enough; there are 24 sections, approximately, unfinished on legislative powers; 13 sections, approximately, on miscellaneous provisions and schedule; we have an important section on property rights, concerning civil rights; we have elections; and we have the sections on finance which are coming back. Allowing as little time as possible, but still trying to be realistic, it would take about 18 days, moving as fast as we can, in order to finish our general orders, or first reading, as some of us call it, and that will be April 17. That will leave only 18 days before our fiscal deadline and it means we have just 18 session days in which to go through all of second reading on the approximately 235 sections of the constitution, and the third reading.

Now, I don't think that 17 or 18 session days are going to be sufficient to go through second or third reading, and therefore, realistically, what this convention faces is the following: either we are going to work without pay beyond our May 15 deadline, or possibly we could take a voluntary reduction of 50 per cent in our pay for the last month so as to go on an approximate additional 30 days, or we can make some changes in our rules of procedure which will accelerate the progress of this convention. There has been quite a bit of discussion in the rules committee about this, and it appears that if there is any fault at all in this convention procedure or delay, it occurs when we redebate everything that we previously have debated in the committee of the whole when we report to the convention; and then offer the same amendments that were offered and defeated in committee of the whole. It also occurs because of the great number of impromptu amendments offered from the floor.

In this resolution there are some suggestions as to methods of changing the rules. I am not particular which ones are accepted—or, in fact, if any are accepted—but I am interested in seeing that something is done in order to hasten our work merely as a matter of necessity. For example, we might change the rules to provide that when the committee of the whole reports to the convention the action of the committee of the whole be accepted and that votes in committee of the whole shall be made record roll call votes. That would shorten things up quite a bit. It may seem too drastic. Or we could do something a little less drastic than that; we could still report out of the committee of the whole to the full convention, and have our question as to whether or not to accept the report of the committee of the whole, but not allow debate and not allow any more amendments to be proposed, and not allow amendments which have been defeated in committee of the whole to be offered again. Another thing that we could do is to limit debate on the amendments which are offered from the floor. The resolution suggests a limitation of 20 minutes on each amendment offered from the floor in committee of the whole, which time will be divided as nearly as can be between the proponents and the opponents of the amendment. We could also provide that except for speeches on the apportionment issue, which I think will have to be longer, that no speech given here exceed, let us say, 10 minutes. We might be able to shorten our third reading by providing that any proposal which is approved unanimously on second reading by this convention not be considered separately on third reading.

Now, Mr. President, in order to obtain bipartisan support for some method to expedite and hasten the work of the convention, I would suggest that this resolution which will automatically go to the committee on rules, also, in the discretion of the president, be referred to the convention officers, the president and the 3 vice presidents, so that they may give this matter consideration also because I feel that whatever we do is going to need the support of the convention officers. Thank you very much.

VICE PRESIDENT HUTCHINSON: The resolution is referred to the committee on rules and resolutions.

In the opinion of the Chair, having referred the resolution to the rules committee in accordance with our rules, the resolution is vested there, and it cannot be at the same time referred to the group of officers. It is the opinion of the Chair that to the extent that the opinion of the officers is requested by the committee on rules, that advice to the committee on rules will be given.

Any further motions or resolutions?

SECRETARY CHASE: That is the only resolution on file, Mr. President.

VICE PRESIDENT HUTCHINSON: Unfinished business.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: Special orders of the day.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: **General orders of the day.** The gentleman from Genesee, Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of the gentleman from Genesee. All those in favor will say aye. Opposed, no.

The motion prevails. The committee will convene, and Mr. Millard will preside.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order, and the secretary will read.

SECRETARY CHASE: The committee of the whole has under consideration **Committee Proposal 71,** to provide for the election, term and duties of state officers, allocation of departments, et cetera.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1875.

Immediately pending is paragraph 6 of section b, beginning on page 3, lines 19 through 28. An amendment offered by Mr. Lawrence on yesterday was adopted. Mr. Wanger offers an amendment to that language that has been adopted.

Mr. Lawrence's amendment which has been adopted was to line 20, after "thereof" by inserting a comma and the words "unless elected as otherwise provided in this constitution."

Mr. Wanger offers the following amendment:

1. Amend page 3, line 20, after "elected" by inserting "or appointed"; so that the language will then read:

> When a board or commission is at the head of a principal department, the members thereof, unless elected or appointed as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor.

MR. LAWRENCE: Mr. Chairman, may I say something?

CHAIRMAN MILLARD: Mr. Lawrence.

MR. LAWRENCE: I am in full accord with that amendment. It seems to me it covers the matter much better than with the word "elected" alone.

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Mr. Wanger.

MR. WANGER: Mr. Chairman, I urge the adoption of this amendment, which I think we will all be in agreement with, because without this amendment I believe that the present language in these lines of the proposal would mean that the governor's appointments to the civil service commission would require the advice and consent of the senate. That, of course, was not the intention of the committee or Mr. Lawrence, and by adding these words that matter can be clarified.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we have no objection to this amendment. It is entirely within the sense of the original proposal.

CHAIRMAN MILLARD: The question is on the Wanger amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. Any further amendments?

SECRETARY CHASE: There are no further pending amendments to this paragraph, Mr. Chairman.

CHAIRMAN MILLARD: If not, it will be agreed to.

Paragraph 6 of section b is agreed to, as amended. That is the last paragraph in section b. Are there any amendments to the body of the section?

SECRETARY CHASE: Messrs. Gover, Faxon and Dell offer the following amendment:

1. Amend page 2, line 17, after "major purposes" by changing the period to a comma and inserting "but at no time shall an examining or licensing board be composed of or governed by a majority of members of a competitive profession.".

CHAIRMAN MILLARD: The Chair recognizes the first proponent, Delegate Gover.

MR. GOVER: Mr. Chairman, fellow delegates, this amendment is to straighten out what I believe is a deficiency in this section as written, something that will take the problems out of the control of the departments by others than those who are in the professions being controlled. I believe this amendment has merit and assures all concerned that a majority from one profession will not control any licensing or examining board of another profession.

It has been maintained on the floor here that Missouri has a fine constitution. I want again to call attention to the fact that in Missouri there was a period of 25 years when it was impossible for anyone of any of the healing arts to get a license. It seems that the healing arts are separate and distinct sciences and cannot satisfactorily be governed by a competitive school of healing. Therefore I support this amendment and believe we should do something in that case to take care of this deficiency. I would like to yield to Delegate Faxon at this time.

CHAIRMAN MILLARD: The Chair recognizes Delegate Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, this very simply attempts to put some restriction on the organization of the 20 departments so that members of competing professions won't sit in judgment on the credentials of other people. Of course the case of Missouri was one that was cited. There has been a tendency in other areas to try to group together professions under one board. This may seem logical and reasonable to those of you who may be lawyers here, but when we approach the area of the healing arts there is considerable controversy, and this is not to diminish its importance; but there is some controversy as to whether they should be under a single board or not.

Under the present state government, these are under separate boards, and this has served the various practitioners in this state well. Now this amendment doesn't really alter that; it just simply lets that go on. This doesn't change anything. It just places a certain restriction with regard to how the departments organize so that that particular board continues to function. It doesn't exclude people from competing professions sitting on the board. It simply prevents them from being the majority of the board. There isn't a problem, for example, in the case of chiropractic examiners, as to whether a member of the medical profession could sit on the board; it would simply mean that a majority of the members could not be of a competing profession. This would, I think, safeguard and protect the rights of those people who are already practicing in this state and would act as some guide in terms of the organization of the departments.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: I would like to yield to Mr. Sterrett at this time. He has something to say.

CHAIRMAN MILLARD: The Chair recognizes Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I had mentioned before, when we were passing over this or going through this section about the reorganization of the 20 departments, that in the committee on executive branch I had requested the committee to accept a type of wording similar to this to be written into the constitution. However, through the unaimous decision to withdraw this type of wording, it was so done and we put a similar statement in the supporting reasons accompanying the committee proposal. However, as long as delegates of the committee of the whole have submitted this amendment for consideration, I would like to support this type of amendment because I believe there is a need for the recognition, as such, outlined in this amendment for the various licensing boards to create an equality for all. I support it for the various reasons that Mr. Gover has already given, and I hope the amendment is approved.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: Mr. Dell also has something he wants to say.

CHAIRMAN MILLARD: The Chair recognizes the delegate from St. Ignace, Mr. Dell.

MR. DELL: Mr. Chairman and members of the committee, I think this touches upon the question discussed the other day in setting up these departments or consolidating these departments, and I think this amendment speaks for itself. I am sure, however, in the future, consideration will be given when these boards are set up, and that is why I was a part of the sponsorship in this particular amendment; and I hope that you will adopt it.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: Mr. Martin has something on that.

CHAIRMAN MILLARD: Are you yielding the floor, or is he talking on your amendment?

MR. GOVER: Well, he told me to go ahead by highsign. The main thing I want to say is that we are not going to take a lot of time on this, but we would like to see the committee give favorable action on it.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Detroit, Mr. Yeager.

MR. YEAGER: Mr. Chairman, I would like to put a question to Mr. Gover.

CHAIRMAN MILLARD: If Mr. Gover cares to answer.

MR. YEAGER: I realize that the amendment as is now proposed is reasonably clear, but there is one thing I want to make certain is in the record. Proponents of efficient government feel, many of them feel, that we should in Michigan have a department of business and professional licensing. Is there any way or any manner by which this amendment might interfere or preclude having the various boards function under this one type of efficient licensing department, in your opinion, Mr. Gover?

MR. GOVER: Mr. Chairman and Mr. Yeager, I don't believe there is anything in there that would interfere with the efficiency of the board. Each one of these licensing boards maintains its own personnel anyway. Many of them serve without compensation, and I think they could all work under one head. That is the way it is figured under these 20 departments.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee, I think, would feel that the general purpose of this amendment is in line with our own thinking, but the amendment itself is clearly a legislative matter. The question of how such a department of licensing should be set up is something that the legislature is entirely competent to decide, and we have carefully avoided trying to dictate to the legislature how this should be done, and for that reason, and particularly in view of the fact that the legislature has carefully avoided putting members of competitive professions on examining boards, it seems to me we can trust the legislature in this matter as we have in others. For that reason it seems to me that this amendment is not a necessary amendment and that it adds to the legislative provisions which we would otherwise be putting into the constitution. I think that we should leave the proposal as it is and rely upon the legislature in this matter, as in many other matters which it will have to consider, to take account of the public benefit, and to do what is desirable and to do certainly what Mr. Gover has in mind. I have no objection to what he desires to have the legislature do, but that is where it ought to be left. For that reason I think—I am sure the committee would oppose the amendment.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: Mr. Chairman and Mr. Martin, I would agree with you, probably, that this is a legislative factor in the constitution, but when you start bringing 141 or 145 or 146 departments down to 20, you are necessarily going to have some conflict in there, and some are going to want to wield more control over others than should be, and I, for that reason, am strongly in favor of separating this; at least giving the departments under the head a chance to have their own boards.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Mr. Iverson.

MR. IVERSON: Mr. Chairman, members of the committee, I desire to say a few words on this. I didn't propose to nor do I like to be put in the position of opposing a committee recommendation. However, I find myself in this position. Having had considerable experience with matters involving the healing arts, and with that experience, and the continual attempt on the part of one to continually grind the others down, I am inclined to go along with a little extra language in the constitution to protect the so called 3, at least 3, healing arts, main healing arts, which are recognized by licensing under acts of the legislature.

As I say, I have seen the operation of these groups, and I think the people, generally, of the state of Michigan should have their right to choose their own method of healing. They are licensed in the state of Michigan, and I am sorry that I have to oppose any recommendation of the committee on this, but I must support this amendment.

CHAIRMAN MILLARD: The question is on the Gover amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is a sufficient number. The question is on the Gover amendment. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Gover, Faxon and Dell, the yeas are 60; the nays are 49.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to the body of section b? If not, it will pass.

Section b is passed, as amended. The secretary will read section c.

SECRETARY CHASE: Section c,

[Section c was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair recognizes the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the provisions of this section are essentially the same as other provisions of the constitution with regard to the maintenance of the offices at the seat of government, the superintending of those offices and the performance of duties pertaining to those offices. The committee has added the provision — there is no essential difference. There is no amendment offered at the present time. This is the substance of the proposal. It does not fundamentally change any of the provisions of the present constitution. I think that we have nothing further to present on this.

CHAIRMAN MILLARD: Are there any amendments to section c?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: If not, section c will pass. It is—

SECRETARY CHASE: I am sorry. The secretary overlooked part of this section. On page 4, at the top of the page, there appears the language, "principal departments headed by boards or commissions. . . ." This is a duplication. I am sorry. This has been read.

MR. MARTIN: Mr. Chairman, I believe that the minority has a — no, I think the minority report is essentially the same as our provision. So I guess there is no further —

CHAIRMAN MILLARD: Are there any amendments? Mr. Marshall.

MR. MARSHALL: I believe the minority report removes the requirement of consent and advice from section c. Am I on the wrong one?

MR. MARTIN: No.

MR. MARSHALL: My legal advisers advise me I am on the wrong section.

CHAIRMAN MILLARD: Are there any amendments or minority reports to section c? If not, it will pass.

Section c is passed. The secretary will read section d.

SECRETARY CHASE: Section d,

[Section d, first paragraph, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee. You want to take it up by paragraph?

MR. MARTIN: We can on this one, yes. I think we should take it up by paragraph.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: This first paragraph simply includes the language of the present constitution with regard to taking care that the laws be faithfully executed, transacting business with the officers of the government by the governor, and requiring information in writing from executive and administrative state officers on subjects related to their own duties. We have added the one sentence at the beginning of the section, which appears in all of the new constitutions, to the effect that each principal department shall be under the supervision of the governor. This is simply a general statement, covering the fact that under this reorganization there will be 20 principal departments and that the executive has a responsibility for seeing that these departments perform their duties as provided by law, and the provision blends with the other provisions of the present constitution regarding the execution of those laws.

CHAIRMAN MILLARD: Mr. Martin, do you yield to anybody on your committee, or do you yield the floor?

MR. MARTIN: I yield the floor.

CHAIRMAN MILLARD: There is a minority report. The secretary will read.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott, Mr. Marshall offers the following amendment:

1. Amend page 4, line 6, after "governor" by inserting a comma an "unless otherwise provided by the constitution".

CHAIRMAN MILLARD: The Chair recognizes the delegate from Taylor, Mr. Marshall.

MR. MARSHALL: There isn't too much difference between the majority and the minority reports here. Both the majority and minority reports put the principal departments under the supervision of the governor, but the minority report adds the language "unless otherwise provided by this constitution," because there is one department that comes to my mind, and there might be others, that does not give this — take the civil service commission for an example: it is not under the supervision of the governor. It is under the supervision of the commission itself, and its personnel director. So this is primarily the purpose of adding the language "unless otherwise provided by this constitution," in any section in the constitution, where the constitution itself provides for the supervision of the board or agency or department. We think that the language added "unless otherwise provided by the constitution" is appropriate.

CHAIRMAN MILLARD: Anybody else on your amendment? Mr. Martin.

MR. MARTIN: Mr. Chairman, we think that this language is surplusage; that it doesn't add to it. Obviously if there are other parts of the constitution which provide otherwise, they control, because they would be specific and this is general. So we think this amendment is unnecessary and that the committee language is adequate to the situation and covers it.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, I urge you to vote in favor of the minority amendment. While I agree with the gentleman who last spoke that this language might be considered surplusage, if the specific word is construed to control the general under the circumstances, this amendment would remove all doubt and prevent the necessity of a test case to make such determination. Without this amendment it could very reasonably be interpreted that the governor would have supervision of the state board of education and the civil service commission.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Faxon.

MR. FAXON: Mr. Chairman, I wish to join with Delegate Wanger in his remarks that this amendment is not surplusage. I think that first sentence is very clear, and its intention at the time it was put in was when they thought each executive department, the head of each department, was going to be an appointed official. Now, the committee has since taken action to make some of these people elective, and I think that changes the meaning here because that first sentence says, "Each principal department shall be under the supervision of the governor." Now, this could lead to litigation. It could lead to confusion as to whether an elected official is directly under the supervision of the governor. One of the reasons that we advanced for elected officials was that that would encourage a greater sense of independence insofar as the administration of that particular office was concerned. So that these words, "unless otherwise provided by the constitution," would exclude those departments which we have already set up under elective heads, and I think it is necessary language if we are going to avoid confusion and litigation over the meaning of that first sentence.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Delegate Faxon covered most of the points that I wanted to cover, so I pass.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Schoolcraft, Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I would like to direct a question to Mr. Martin.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. G. E. BROWN: Mr. Martin, in the immediate preceding section we have referred to a single executive as being the person who shall superintend the department, and as to this section you said that they shall be under the supervision of the governor. Do you think that this poses any problem as far as interpretation is concerned?

MR. MARTIN: I don't think it does, Mr. Brown, Mr. Chairman. Obviously the head of each department is in charge of his department. The governor, however, is responsible for seeing that the laws are executed, and this is simply a statement to that effect, a general policy statement.

CHAIRMAN MILLARD: The question is on the minority report amendment to the first paragraph of section d. All in favor of the minority report amendment will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? Sufficient number up. The question is on the minority report amendment to the first paragraph of section d. Those in favor will vote aye; those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the minority amendment offered by Mr. Marshall, the yeas are 66; the nays are 37.

CHAIRMAN MILLARD: The minority report amendment is adopted. Are there any further amendments to the first paragraph, Mr. Secretary?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I want to apologize to you for jumping the gun. I admit my face is somewhat red. I should have waited until you ruled. This taught me a lesson. I won't be quite so quick next time.

CHAIRMAN MILLARD: Thank you, Mr. Marshall.

Paragraph 1 of section d is agreed to, as amended. The Chair will recognize the chairman of the committee — pardon me. The secretary will read the second paragraph.

SECRETARY CHASE: Paragraph 2, section d,

[Section d, paragraph 2, was read by the secretary. For text, see above, page 1767.]

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, this provision is a provision which has been included in a number of the new constitutions, and it has been recommended as giving the governor some additional authority in the event that no other procedure will prevail to submit to the court, for compliance with constitutional or legislative mandates, and to obtain from the court an order requiring that the constitution or the legislative enactments be carried out. We think it is a desirable provision. It will probably be seldom used, but we think it is useful and desirable. Although there is a minority report, the minority report proposes no changes, I believe, in this particular paragraph.

CHAIRMAN MILLARD: The question is on the adoption of the second paragraph. Are there any amendments? There are no amendments on file. The Chair recognizes Miss Donnelly.

MISS DONNELLY: Through the Chair I would like to ask the committee chairman, Mr. Martin, a question on this language. Is it, Mr. Martin, through the Chair, the intent of the committee to limit this action to the governor?

MR. MARTIN: Mr. Chairman, Miss Donnelly, that is correct. This is not a general power. This is simply a power which the governor would have in the event that what he is required to do cannot be done in any other way. In other words, he might find a failure to perform; he might have the authority to order that performed but nothing might happen, and in that case it may be necessary for him to ask the court to issue an order to that effect. That is all.

MISS DONNELLY: Mr. Martin, through the Chair again, then if I understand it, it isn't to limit it to the governor. I am worrying about the right of the individual and that this could be construed to mean that the only party that may act may be the governor, as in certain cases, the only party that may act may be the state. If they fail to act, no one can.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Miss Donnelly, this does not limit anyone else who would normally have a right, but this gives the governor authority to do something which he might have the authority to do but which is not clear that he has. This does not limit anybody else's right now established or now existing or in the future established by the legislature to take action against an administrative official, no.

MISS DONNELLY: Through the Chair, I am still somewhat concerned that it may eventually be construed to so limit. Did the committee consider any language that could broaden this, to indicate that you wish to give the governor additional power, but you do not wish to deprive any other citizen a right?

MR. MARTIN: No, we didn't think that was necessary, because we didn't think this could be construed to limit the authority of any other citizen already established or to be established by the legislature. The committee would have no objection to a statement to the effect that this does not limit anybody else's right, but we didn't think it was necessary.

MISS DONNELLY: No doubt it is something that could be taken care of in style and drafting, if that is the committee's intent, and they could phrase this a little better to take care of that.

MR. MARTIN: That is the committee's intent, and we would have no objection to that.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman, if you please, a question to Mr. Martin.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. WANGER: Mr. Martin, in reading these lines of this second paragraph to section d, it would appear possible to interpret them to allow the governor to bring a suit in the federal court against the Supreme Court of the state of Michigan. Now, I doubt very much if that was the interpretation placed on it by the committee, and I wanted to ask you how that matter was considered, and if so, what —

MR. MARTIN: We don't construe this to give him any such authority, Mr. Wanger. Again, if that is of concern to you, and style and drafting wants to add, "should not be construed to authorize any action or proceeding against the legislature," and wants to add "or the courts," we have no objection.

MR. WANGER: Thank you.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, I would like to ask Mr. Martin just one question.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. FAXON: Mr. Chairman, Mr. Martin, line 15, where it uses the words "legislative mandate," those 2 words, is that the kind of case where you have the sentences beginning "The legislature shall" do such and such? Is that what this is referring to? Is that what we mean by a mandate to the legislature?

MR. MARTIN: My copy of the proposal doesn't have line 15, Mr. Chairman, in that section.

MR. FAXON: It does read "legislative mandate." I maybe have an old copy of it.

MR. MARTIN: Oh, I am sorry. Will you ask that question again?

MR. FAXON: What do the words "legislative mandate" mean insofar as the constitution is concerned?

MR. MARTIN: It simply means any legislative enactment, any existing law, legislative directive, in order words.

MR. FAXON: If the legislature doesn't, Mr. Chairman, Mr. Martin, do what the constitution says it is going to do, what recourse does the governor have?

MR. MARTIN: Well, the governor, so far as the legislature is concerned — you are talking about something the legislature doesn't do that it is supposed to do?

MR. FAXON: Yes.

MR. MARTIN: Well, the governor has to operate with the legislature, as he always has, by persuasion and whatever other means he has, but he clearly doesn't have and shouldn't have the right to bring a court action against the legislature to force it to do something. We just wanted to make that clear, that he can enforce legislative directives which give him the responsibility to do something, but so far as enforcing the legislature itself, why, he can't do that by the constitution.

MR. FAXON: The point that I want to make is that using the words "enforce compliance with any constitutional or legislative mandate," and in the last sentence "shall not be construed to authorize any action or proceeding against the legislature," I thought there might be some confusion between the 2. In fact, one says one thing and the other says another thing.

MR. MARTIN: They are entirely unrelated. The one provides that the governor may enforce a legislative act by action against whomever is supposed to carry it out, and the last provision with respect to not being authorized to bring a court action or proceeding against the legislature has to do, not with something the legislature has enacted, but has to do with forcing the legislature to carry out some action. This the governor has no authority to do; certainly by court action he doesn't.

MR. FAXON: Mr. Chairman, Mr. Martin, the word "mandate" there, do you think that word would better be legislative "actions" or legislative "acts" rather than "mandate," if that is what the intent is?

MR. MARTIN: No, I don't think so. I think it is quite clear the way it is.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD. Mr. Chairman, first I would like to make a comment and then a question to Mr. Martin. If I am not mistaken, it appears that this language was written originally having in mind that the attorney general would be appointed and would therefore be under the supervision of the governor. And now that that has been changed, that the attorney general, as I recall, will be elected, it might have some effect on this paragraph. For example, the language here, "The governor may, by appropriate court action . . . enforce compliance with any constitutional or legislative mandate," sounds almost exactly what you think would be the case of attorneys general. That is almost exactly, I think, his duty. It might be that the governor is to be the superior of the attorney general. If he were to appoint him, this would be appropriate. The question I have in mind now, which I would like to ask through the Chair, if I may, of Mr. Martin —

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. NORD: — is whether in view of that change, whether that should have any effect on this paragraph or whether as it is now written it might possibly be construed to limit or detract from the attorney general's power?

MR. MARTIN: No, Mr. Chairman, Mr. Nord. It doesn't make any difference under this paragraph whether the attorney general is elected or appointed. All that this says is that if an officer does not perform his duty the governor, in addition to whatever other authority he may have, may ask the court to order him to do his duty. This is all it provides. It doesn't have any effect on whether the attorney general is elected or appointed.

MR. NORD: Mr. Chairman, I would simply respectfully say to the style and drafting committee that they take in account the possibility that this might be construed in a way unintended.

MR. MARTIN: I have no objection to their considering that, Mr. Chairman.

CHAIRMAN MILLARD: Are there any further amendments to the second paragraph?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: The question is on the second paragraph of section d. If there are no further amendments, it will be agreed to.

Paragraph 2 of section d is agreed to. Are there any amendments to section d?

SECRETARY CHASE: None on file.

CHAIRMAN MILLARD: If not, it will pass.

Section d is passed, as amended. The secretary will read section e.

SECRETARY CHASE: Section e,

[Section e was read by the secretary. For text, see above, page 1767.]

CHAIRMAN MILLARD: The Chair recognizes the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman and members of the committee, this provides for appointments when the senate is not in session.

The present provisions of the constitution provide that when a vacancy shall occur in any of the state offices the governor shall fill the same by appointment, by and with the advice and consent of the senate if in session. We feel that this provision, the present provision, can't be really understood; that is, there is no reason why the governor shouldn't have authority to fill a vacancy when—whether the senate is in session or whether it is not in session.

We provide that such interim appointments are subject to disapproval or subject to the advice and consent of the senate in the same way that other appointments are subject to it, and the later provision in this proposal, later paragraph, makes it clear that they may be disapproved within 60 legislative days, just as with other appointments. We further provide, however, that a person who is so appointed shall not be eligible for another interim appointment to the same office if that appointment is disapproved by the senate. Now, I think that the majority report provides for these. The minority report does not. It is not before us yet, but it simply leaves out any provision with respect to appointments when the senate is not in session, because it has eliminated the whole question of senate advice and consent. It proposes to eliminate that, and of course that matter has been settled at an earlier time. So we do need this provision, and the minority report which would appear to strike it, therefore, we feel, should be defeated. It is not before us yet, but I believe it will be.

CHAIRMAN MILLARD: Have you anything further to offer as far as the section is concerned?

MR. MARTIN: No, Mr. Chairman.

CHAIRMAN MILLARD: You yield the floor?

MR. MARTIN: Yes, I yield the floor.

CHAIRMAN MILLARD: The secretary will read the minority report amendment.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 4, line 25, by striking out the paragraph and inserting a new paragraph to read as follows:

"Whenever a vacancy shall occur in any of the state offices, the governor shall fill the same by appointment.".

CHAIRMAN MILLARD: The Chair recognizes the first name on the minority report amendment, Mr. Marshall.

MR. MARSHALL: I think the minority report amendment is rather self explanatory. We want to give the governor the right to appoint, but we do not want to have the advice and consent of the senate. We urge adoption of the minority report amendment.

CHAIRMAN MILLARD: Mr. Marshall, do you have any others who want to talk on the minority report amendment?

MR. MARSHALL: No.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I say this is the same question which we dealt with before, whether there should be advice and consent or not, and I hope that the committee will take the same position that it did before which was, there should be advice and consent, and therefore will vote against the minority report amendment on this point.

MR. MARSHALL: I have to agree with Delegate Martin in his explanation. Our language is very brief. We say merely that whenever a vacancy shall occur in any state office the governor shall fill the same by appointment, period. In accord with what you have already done, though, if you are going to retain advice and consent, I would think you would have to have the majority language. This is primarily designed to give the governor the authority to appoint without advice and consent of the senate.

CHAIRMAN MILLARD: The question is on the minority report amendment to section e of Committee Proposal 71. Mr. Martin, do you want recognition?

MR. MARTIN: No.

CHAIRMAN MILLARD: All those in favor will say aye. Opposed, no.

The minority report amendment is not adopted. Are there any further amendments to section e?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: If not, it will pass.

Section e is passed. The secretary will read section f.

SECRETARY CHASE: Section f,

[Section f was read by the secretary. For text, see above, page 1767.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this language changes the language of the present constitution only by adding the words "under impeachment." The section is a section now which relates to suspension under impeachment but does not say "under impeachment," and the committee is simply putting in the words "under impeachment" to clarify this and make it clear that that is what the section relates to. It is simply a clarifying amendment and, we believe, more clearly expresses the present intent of the present provision in the constitution.

CHAIRMAN MILLARD: Do you have anything further as far as concerns members of your committee, Mr. Martin?

MR. MARTIN: No, Mr. Chairman. I yield the floor.

CHAIRMAN MILLARD: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. Chairman, I would like to ask a question of Mr. Martin, if he will answer. Is this intended to apply to judicial officers only?

MR. MARTIN: Mr. Chairman, no. It applies to anyone who may be impeached. You see, the latter part of the sentence says "until he shall be acquitted or until after the election and qualification of a successor," and the reference to being acquitted is a direct reference to the impeachment procedure. It relates to anyone who might be impeached.

MR. STEVENS: Mr. Martin, I am not too familiar with all of this. Further on does it provide for suspension of persons impeached other than judicial officers? For example, the governor. In the present constitution only judicial officers are subject to suspension at the time of impeachment. Has that been changed?

MR. MARTIN: It has been changed in this respect, Mr. Chairman, Mr. Stevens: the next section, section g, if you will note, relates to the power of the governor to examine into the condition of an administration of a public office and to remove from office for gross neglect of duty, and we have there "any elective or appointive state officer, except legislative or judicial, and report the causes of such removal or suspension to the legislature. . . ." Now, we have added the words there "or suspension," but that is a power of the governor under a different section, and doesn't have to do with the impeachment powers.

MR. STEVENS: Well, that was the essence of my question, Mr. Martin. In the present constitution there is no provision for suspending persons who are impeached until they have been convicted. Then, of course, they would be removed, except judicial officers, and the constitution provides the judicial officer shall be suspended upon impeachment until he is either convicted or acquitted.

MR. MARTIN: Right.

MR. STEVENS: It has nothing to do with, as I see it, removal by the governor. I am just trying to find out whether in the new constitution there would be any provision which would suspend any officer other than judicial officers.

MR. MARTIN: Mr. Chairman, the answer to that is that it does not as far as impeachment is concerned.

MR. STEVENS: Well, then, this applies only to judges, is that correct?

MR. MARTIN: It applies to anyone who may be impeached, Mr. Stevens. Other officers than judicial officers may be impeached, of course.

MR. STEVENS: Well, of course, but there is no provision for suspending them during the—

MR. MARTIN: Yes, there is.

MR. STEVENS: Where?

MR. MARTIN: In section f, which is taken from the existing constitution, which says—and is in the impeachment section, I believe, "The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, until he shall be acquitted or until after the election and qualification of a successor." Now, we have added the words "under impeachment" in order to clarify that that does relate to the impeachment procedure.

MR. STEVENS: But the constitution at the present time makes no provision to suspend a person unless he is a judicial officer.

CHAIRMAN MILLARD: Is that a question, Mr. Stevens?

MR. STEVENS: Well, I am trying to find out whether this would apply to anybody except judicial officers.

CHAIRMAN MILLARD: Well, ask the question through the Chair and then give Mr. Martin a chance to answer it.

MR. STEVENS: Could you tell me who could be suspended upon impeachment other than a judicial officer?

MR. MARTIN: Under the present constitution, Mr. Chairman and Mr. Stevens, any officer who is subject to impeachment can, I believe, be suspended—

MR. STEVENS: I think you are wrong in that matter.

MR. MARTIN: —because the present wording of the constitution is "The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer. . . ." This is the section which relates to impeachment.

MR. STEVENS: I can't agree with your interpretation of the present constitution, but perhaps it doesn't make any difference. Thank you.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I yield the floor. Mr. Stevens raised the point I had in mind.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, I would like to ask a question of Mr. Martin.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. EVERETT: Mr. Chairman, Mr. Martin, when this provision was drawn within your committee the practice was, of course, used of having the governor fill all judicial offices where there was a vacancy. In this case it would be sort of a temporary vacancy. We have now changed that by the action of the judicial committee and the committee of the whole. Don't you think it would be more consistent with what we have done to have judicial officers replaced by the supreme court pending the trial on the impeachment rather than by the governor?

MR. MARTIN: Mr. Chairman, I am not sure that I can answer that accurately. What is the provision—Mr. Chairman, may I ask Mr. Everett, what is the provision that you have in your judicial article now with regard to this matter?

MR. EVERETT: Mr. Chairman, Mr. Martin, we did not specifically cover this matter, but we did provide that all vacancies will be filled by election; that pending the election the supreme court would have the right to use a retired judge to fill the vacancy in that interim period. To me, at least, there seems to be an analogy between this temporary vacancy, if you want to call it that, or at least the period of time in which the judge may not act simply because he is under impeachment until the trial, and it seems to me it would be more consistent with what we have done in the judicial branch to permit the supreme court to fill this vacancy pending the trial, rather than have the governor do it. I assume they would use the same practice of calling on some retired judge, or by assignment, if they could do it that way, rather than appointing somebody who possibly would go out of office if the judge were then acquitted.

MR. MARTIN: Mr. Chairman, I am not sure that this is something that we considered, and I don't think that the committee would object to that kind of provision. But that isn't what we have here. If an amendment is offered, we can consider it.

CHAIRMAN MILLARD: Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, may I ask a question of—I guess Mr. Iverson, through the Chair? Don't we have a difference here—

CHAIRMAN MILLARD: Mr. Everett?

MR. BARTHWELL: Mr. Everett. Excuse me.

CHAIRMAN MILLARD: Mr. Everett, if you would like to answer the question.

MR. BARTHWELL: Don't we have a difference here in this appointment in that the appointee in the judicial section cannot run for election in case the person is convicted—I mean, for the vacancy? Here I see no reason why the person can't run for election in office, and if so, I think the governor should have the right to appoint him.

MR. EVERETT: Mr. Chairman and Mr. Barthwell, of course, it is a difference of opinion, because it seems to me that, with the protection we have given the incumbent in the judicial article, the temporary appointee should not be eligible to run but is simply filling the needs of the people during the period of time in which the judicial officer is under suspension. If he were then convicted and removed from office, the vacancy should be filled by election, which we have already provided for, and it would violate the spirit of what we have done in the judicial branch to permit an appointive judge to then run as an incumbent. We have barred this right in every other case—death, resignation and so forth—and it seems to me to be consistent we ought also to bar the right in the case of impeachment.

MR. BARTHWELL: Mr. President, I would like to ask Mr. Martin a question. Mr. Martin, is it your opinion that if the vacancy or impeachment is an elective office other than the judicial, that the appointee may not run if the office is vacated?

MR. MARTIN: The appointee may not run?

MR. BARTHWELL: Yes, for election to this office if he served a temporary appointment to fill it during the time of impeachment.

MR. MARTIN: I am not sure what the answer to that is, Mr. Barthwell. You are raising a question as to whether an officer who is suspended during an impeachment could run for office?

MR. BARTHWELL: No. Suppose he is convicted, and a vacancy occurred in the office, could the person holding the temporary appointment then run in the election?

MR. MARTIN: I don't see why not.

MR. BARTHWELL: So this is the difference, I think, between the 2 situations. In the judicial article this person cannot run for the office for a 4 year period, I believe.

MR. MARTIN: Well, I will have to refer that one to some member of the judicial committee, if it is a question.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, Mr. Martin, I think that Mr. Everett has raised a problem here which I don't think is subject to amendment, because we have already adopted a provision that a vacancy shall be filled by the supreme court.

Now, the preface of this section says that when a vacancy occurs, a vacancy having occurred by virtue of suspension, it is governed, so far as judicial offices are concerned, by the section dealing with the filling of vacancies by the supreme court. So therefore I think you must accept here that you can say officers other than judicial officers, because it isn't a question of amending this paragraph. We have already provided what should be done in that instance. If a suspension—in the colloquy that was held here on the floor discussing the removal powers of the supreme court, it was implicit, I believe, that the supreme court would have the power of suspension pending an impeachment, for instance, and that such a suspension would result in a vacancy, and the vacancy would then be filled by the supreme court. So I think that you must except here judicial officers.

MR. MARTIN: Mr. Chairman, Mr. Brown, are you simply wanting an interpretation from me on the point, or are you suggesting this ought to be amended to say "except judicial officers?"

MR. G. E. BROWN: I think it should be amended to say, "except judicial officers."

MR. MARTIN: I indicated if an amendment were offered we would consider it, but I have nothing to consider at the present time.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I have been trying to point out that in article IX regarding removals and impeachments, section 4 states, "No judicial officer shall exercise his office after an impeachment is directed until he is acquitted." There is nothing else in this article that makes any provision to suspend anyone upon impeachment before he is convicted. So if this does not apply to judicial officers, it wouldn't apply to anybody unless the present constitution is changed. There is no provision to suspend civil officers except those who are judges, judicial officers.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Stevens, the next section there of article IX provides, "The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, until he shall be acquitted or until after the election and qualification of a successor." Now, I think those 2 sections are related, section 4 and section 5. All that we are doing here is to insert the words "under impeachment," because this provision comes from the impeachment section, and we believe that that reference in section 5, to use the words "until he shall be acquitted" refers to impeachment. So we are simply trying to make the sentence clear, and make it clear that it does apply to impeachment.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I would like to ask Mr. Stevens a question.

CHAIRMAN MILLARD: If Delegate Stevens desires to answer.

MR. KING: Delegate Stevens, didn't you appear before our committee with regard to section 16 of article VI and advise us that it was your interpretation that the governor was not suspended?

MR. STEVENS: Yes, I did, and I believe it was changed in the new provision to read "upon the impeachment and conviction of the governor." And, by the way, the governor himself made such a recommendation when he was before the committee. I happened to be there for that purpose.

MR. KING: When you say that this article IX, sections 4 and 5, applies only to judicial officers, you mean only to judicial officers and the governor; is that right?

MR. STEVENS: No. I mean only judicial officers may be suspended by the process of impeachment. The governor may of course remove persons as provided herein. That is not impeachment.

MR. KING: Didn't you just say the governor could be suspended?

MR. STEVENS: No, I didn't. I said the provision which I offered and which was adopted provided for succession by the lieutenant governor to the office of governor in case of impeachment and conviction thereon. The words "and conviction thereon" were the words I sought to have added, and I believe they were.

MR. KING: Mr. Chairman, Mr. Stevens, you are right. Those words were added. But what I am getting at is, under the present Constitution of 1908 is it not true that the governor, in your opinion, is suspended pending the trial and conviction on impeachment?

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: It is not true. It was not clear. I added that because I thought it was not clear. But I certainly did not think that he was suspended because it didn't say so, and it does say expressly that judicial officers are suspended in case of impeachment.

MR. KING: Mr. Chairman, Mr. Stevens, then I will take it to be a conclusion that you are sure judicial officers are suspended, and you think that the governor may be suspended, but everyone else, you think, is not suspended?

MR. STEVENS: No, I don't think the governor can be suspended until he is convicted. I don't think he can be removed from office until he is convicted, and I don't think anyone else can except the judicial officers. That is what the constitution says or fails to say, whichever way you want to put it.

MR. KING: Thank you.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I tend to agree with Mr. Stevens in that it seems to me that the only officers who are subject to impeachment in its artful sense are the governor, lieutenant governor and judicial officers. Of course, under the impeachment section of the present constitution we referred to those things which we commonly think of as removal proceedings rather than impeachment proceedings and conceivably, if Mr. Martin intends this section, or the committee intends this section to be all inclusive, it should relate to "under impeachment" or "subject to removal" proceedings; in other words, a suspension in connection with those 2 things. I still would say that the judicial officers should be removed from this section in any case, because we have provided a different system, and I shall put in an amendment to deal with this.

At the same time, I am wondering—and I would direct this question through the Chair to Mr. Martin—if he contemplates impeachment as it is used in this section to include removal proceedings, as those proceedings are presently contemplated by the present constitution?

MR. MARTIN: Mr. Chairman, there are 2 proceedings that might take place here. One is under section f and one is under section g. Under section f we are dealing with impeachment and what happens there. Under section g we are dealing with the power of the governor to examine the acts of public officers and to remove or suspend there. They are 2 different things, and we understood this section, particularly because of its placement in article IX on impeachments and removals from office, to relate to impeachment, and we understood the wording of section 5 of that article to relate to impeachment, and all we have done there is to add the words "under impeachment" to make it clear that that is what that particular section relates to. It does not have to do with the other powers of the governor to remove somebody from office.

CHAIRMAN MILLARD: The secretary will read the minority report amendment.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 5, line 5, after "officer" by striking out "under impeachment".

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and delegates, all the minority report amendment does is keep the present language of the 1908 constitution dealing with provisional appointments in article IX, section 5. We do not believe that placing the words "under impeachment" here really means anything. As was pointed out, and I think Mr. Stevens and some of the other speakers said most of what I would have said, you have a provision dealing with judicial officers. They are the only ones that can be removed or suspended, I should say, after impeachment is directed, until they are acquitted. There is no provision, as I understand it—and if I am incorrect I would stand corrected—where civil officers can be removed until they are convicted. This is the reason for offering the amendment to strike the words "under impeachment," because we feel the language as presented in the minority amendment is sufficient, and that is the identical language that was in the 1908 constitution.

CHAIRMAN MILLARD: Any other proponent of the amendment who wishes to talk? Mr. Martin.

MR. MARTIN: If the minority amendment were to prevail, then this paragraph should be moved back to an article on impeachment rather than put into the section where we have got it. Where we are putting it, we tried to make it clear that it relates to impeachment, but if you take out that reference to impeachment, then it takes on other meaning when you shift it to the executive article. For that reason I would urge the defeat of the minority amendment and the support of the committee report.

CHAIRMAN MILLARD: The question is on the minority amendment. Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to inquire with regard to this problem. I would like to ask Mr. Martin this point: it seems to me, Mr. Martin, that if we should strike out the words "under impeachment" from section f, that when the governor should remove somebody under his powers in section g, section f would give him power to fill a vacancy occasioned by the suspension of an officer who was suspended under section g, but if you limit section f to impeachment situations, then what is the situation under section g? The governor is given power under g to suspend from office an official; under f he isn't given any power to fill the vacancy.

MR. MARTIN: Well, Mr. Chairman, Mr. Hutchinson, the governor would have whatever power he now has to fill a vacancy which might occur from suspension or any other reason.

MR. HUTCHINSON: Mr. Chairman, would Mr. Martin point out to me where, in the text of this proposal or any other proposal, that power would be vested in the governor if you limited it simply to those things arising out of impeachment? I would submit to Mr. Martin that even though section f is under the impeachment article in the present constitution, it doesn't say under impeachment there, and so the present language could be construed broadly enough to take care of the situations in g. But if, Mr. Chairman, section f is limited to impeachment processes, then I would like to have some other authority cited to me for the governor's filling a vacancy occasioned by a suspension under g.

MR. MARTIN: Mr. Chairman, Mr. Hutchinson, I think you have made a point. If section f is left in the executive article, it is true, and if section g is adopted as is now proposed, it is true that there will not be a specific provision for the appointment to fill a vacancy created by suspension. I would agree with that. We had restricted this to impeachment situations, but in light of the point which you make I think I would be inclined—I can only speak for myself; I can't speak for the committee; we haven't had a chance to meet on this—to withdraw our objection to the provision of the minority amendment.

CHAIRMAN MILLARD: The question is on the minority amendment.

SECRETARY CHASE: Messrs. G. E. Brown and Barthwell offer the following amendment to the amendment:

1. Amend the amendment at the end thereof, after "impeachment" to provide for the insertion in the proposal of a comma and the words "other than a judicial officer"; so that the language will then read, "The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, other than a judicial officer, until he shall be acquitted" and so forth.

MR. MARTIN: Mr. Chairman, I think we would accept that.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: In view of what was done in the judicial article—even though I disagree with it and disagreed with it at the time, but, nevertheless, it was enacted by the committee of the whole—in view of that I would also accept the amendment offered by Delegate Brown.

CHAIRMAN MILLARD: The question is on the Brown amendment to the minority amendment.

MR. MARSHALL: I just want to be clear. The amendment does strike out "under impeachment," yes?

SECRETARY CHASE: And adds "insert the language 'other than a judicial officer' " in lieu thereof.

CHAIRMAN MILLARD: The question is on the Brown amendment to the minority amendment. All those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Now the question is on the amendment of Mr. Marshall as amended by the Brown amendment which minority report amendment now reads as follows:

1. Amend page 5, line 5, after "officer" by striking out "under impeachement" and inserting a comma and "other than a judicial officer".

CHAIRMAN MILLARD: The question is on the adoption of the minority amendment as amended by the Brown amendment. Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I simply want to make this observation, and while I do not oppose the adoption of this amendment, I think we should keep in mind that its adoption will indicate a necessity, I believe, on second reading to clarify the situation under the impeachment article, because as the impeachment article now stands, and as it was reported by style and drafting, it is subject to the interpretation that Mr. Stevens makes; that after all, no officer other than a judicial officer is subject to suspension by impeachment. And so I think that we will have to look at this again on second reading when we get to the impeachment article.

CHAIRMAN MILLARD: The question is on the adoption of the minority amendment, as amended. All those in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Messrs. Everett and Danhof offer the following amendments to section f—

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, if I could direct a question to Mr. Brown, I think we could withdraw the amendments which were offered by Mr. Danhof and myself.

CHAIRMAN MILLARD: Mr. Brown, if you care to answer.

MR. EVERETT: Mr. Chairman, Mr. Brown, is it your understanding that the amendment which you proposed and which was adopted would mean that judicial vacancies would now be filled in the manner which is already provided in the judicial article?

MR. G. E. BROWN: Yes, sir.

MR. EVERETT: With that in mind, Mr. Chairman, I would, and Mr. Danhof agrees with me—we will withdraw the amendments which we have offered.

CHAIRMAN MILLARD: The Everett-Danhof amendments are, without objection, withdrawn. Are there any further amendments to section f?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MILLARD: If not, section f will pass.

Section f is passed, as amended. The secretary will read section g.

SECRETARY CHASE: Section g, paragraph 1,

[Section g, first paragraph, was read by the secretary. For text, see above, page 1767.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this section embodies most of the wording of the present provision of the constitution with 2 exceptions. The present wording provides the governor shall have power to examine into the condition and administration of a public office and remove for gross neglect of duty except at such time as the legislature may be in session. That is probably put in there because this was regarded as an alternative to the impeachment power. The committee felt that the governor should have the power, as he does have under the present constitution when the legislature is not in session; the committee believes that he should have the power at all times regardless of whether the legislature is in session or not and that the power should include the power to remove or suspend for gross neglect of duty. The words "or suspend" are added and, of course, the balance of the provision should apply, that he should report the causes of such removal or suspension to the legislature if in session, or otherwise at its next session.

In other words, it gives the governor the power whether the legislature is in session or not and it provides that he may remove or he may take the lesser action of suspending where there is a case of gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein. I think with those changes the language is intact as it was.

CHAIRMAN MILLARD: Anything further from the chairman?

MR. MARTIN: I yield the floor, Mr. Chairman.

CHAIRMAN MILLARD: The secretary will read the minority report amendment.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 5, line 9, after "duty,", by reinserting "except at such time as the legislature may be in session,"; and in line 12, after "remove" by striking out "or suspend"; and in line 17, by striking out "or suspension", and after "legislature" by striking out "if in session or otherwise".

CHAIRMAN MILLARD: The Chair will recognize the first name on the minority amendment, Mr. Marshall.

MR. MARSHALL: At this time, without objection of the cosponsors, I am going to withdraw the minority amendment on this one, Mr. Chairman.

CHAIRMAN MILLARD: Any further amendments, Mr. Secretary?

SECRETARY CHASE: Not to this paragraph, Mr. Chairman.

CHAIRMAN MILLARD: There being no further amendments to the paragraph, it will be agreed to.

Paragraph 1 of section g is agreed to. The secretary will read the second paragraph.

SECRETARY CHASE: The second paragraph to section g:

[Section g, paragraph 2, was read by the secretary. For text, see above, page 1767.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this paragraph is a part of the majority report because the committee felt that it was desirable to give a definition to advice and consent which would in effect require that some action be taken with respect to appointments. The committee examined this present situation with respect to advice and consent rather carefully. We asked a good many questions of different people who appeared before the committee, and we concluded that the major defect in the present operation of the advice and consent provision, where it exists in many statutes and so on, was that in a great many cases the senate did not act on these appointments. In fact, out of about some 570 cases in the last 5 years, some 170 were not acted upon. Only 11 were rejected. And the committee felt that this is a sort of twisting of the advice and consent power to, in effect, keep in office existing appointees where they receive their appointment under a statute which says that they shall hold their office until a successor shall be appointed and approved and qualified. The result has been that in certain cases—some of them not serious but some of them rather serious—persons have remained in office for long periods of time even though an appointment was made because no action was taken on that appointment, and under the statute under which the incumbent was holding office he could continue holding office until an appointment had been made and confirmed.

We don't think this is good for government, and we think that the senate should be required to take some action within a reasonable period of time. So we have provided that where an appointment is made the senate should have a period of 60 legislative days—and this means that if the appointment were made during a time when the legislature was not in session the legislative days would not begin to run until the legislature came into session—to give the senate ample time to consider the appointment; that where that appointment was made, after a period of 60 legislative days, unless it was disapproved during that time, it would, in effect, be confirmed. We think this cures a rather serious defect in the procedure for using the advice and consent power and that it is desirable.

CHAIRMAN MILLARD: Does anyone else wish to speak for this proposal, Mr. Martin?

MR. MARTIN: I yield the floor unless some other member of the committee wishes to speak on this.

CHAIRMAN MILLARD: Are there any amendments, Mr. Secretary?

SECRETARY CHASE: Mr. Hoxie offers the following amendment to paragraph 2:

1. Amend page 5, line 24, after "appointment.", by inserting "If not disapproved within such period of time the appointment shall stand confirmed.".

CHAIRMAN MILLARD: The Chair recognizes the delegate from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, this amendment was offered to clarify what I consider a weakness in the last paragraph. I discussed this with Mr. Martin. He agreed with me that there should be a provision, upon the failure of the senate to disapprove within 60 days, that we should spell out the status of those individuals whose appointments have been submitted to them. And it merely states that if not disapproved within such period of time, relating to the 60 days, the appointment shall stand confirmed. It will clarify the status of each individual who is not disapproved by the senate within such 60 days. I would like to yield to Mr. Martin.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Hoxie discussed this amendment with me. It seems to me it is a good amendment, does clarify the meaning, makes it quite specific, and I see no objection to it.

CHAIRMAN MILLARD: The question is on the Hoxie amendment to paragraph 2 of section g. All those in favor will say aye. All those opposed will say no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 5, line 22, after "by a" by striking out "majority" and inserting "2/3".

CHAIRMAN MILLARD: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, last Friday we heard lengthy addresses made with regard to this entire question of the advice and consent of the senate. I think the executive committee is to be congratulated for at least taking some affirmative position in changing what has hitherto not been really dealt with in the Michigan constitution other than mentioning those words. However, we have had sufficient evidence, at least to my own satisfaction, that there has been some conflict between the senate and the governor over appointments by the governor; and I think that it is time that we take an affirmative stand, one that would affirm the powers of the governor to appoint and, at the same time, not take away the power of the senate to disapprove. The only way we could make this kind of a situation work out to the satisfaction of all people here is by inserting a 2/3 vote.

The denial of confirmation should be an unusual thing and based upon very good and sound grounds. It should not be left to whim or caprice, and it should not be based upon simply the different ideas of political philosophy that may exist between individual members of the senate and the governor in selecting his appointments. To deny the president of the United States an appointment is a rare thing at the federal level; the senate has exercised considerable discretion in this power. Here in Michigan over the past few years we have seen a different example set. For this reason an unusual majority may be called for. It doesn't take away the senate's power. It simply provides for an unusual majority for rejection, and in this case I think we would be working toward bringing together the divergent parts within this convention as a whole in reaching an understanding we can all agree with. I urge your support for this amendment.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I just want to clarify a point, Mr. Chairman. A moment ago I withdrew a minority amendment on the first paragraph of section g. Obviously there is some misunderstanding. I thought we had an amendment in to strike this last part dealing with advice and consent of the senate. Am I correct or incorrect?

SECRETARY CHASE: I don't have it on file.

MR. MARSHALL: It was in the minority report dealing with the whole text of section g, and I did say that I would withdraw section g. In other words, we had omitted the last paragraph of section g in the minority report. At this point I think that probably I will not pursue it any further. I can always offer my amendment in the convention when the committee rises.

I would, while I am on the floor, take this opportunity to speak in behalf of the amendment offered by Mr. Faxon. While in many ways the proposal here of the committee which makes it mandatory that the legislature act within 60 days is much worse than the present provision, in my considered opinion, of advice and consent, in that it denies interim appointments; it would seem to me to create a situation where the legislature would make wholesale rejection because of the fact that the club was over their head that they had to act within 60 days. And in view of this, it would seem to me that the old provision would be better than the committee proposal. While I object to both, this one in many respects is worse. But if we are to be stuck with this one, if this is going to be the proposal of the convention, then certainly in order to try and eliminate a reoccurrence in the future of some of the things that have gone on in the past and some of the things that are going on right now over in the senate, the Faxon amendment would be a step in this direction, in that it would require 2/3 of the senate for disapproval rather than a majority vote.

I think that the delegates here in the convention should give consideration—serious consideration—to this, and I can refer you to an editorial in the Detroit News on Monday, March 26, which I think points out rather vividly what has been transpiring in the present controversy that exists over here in the senate, and again I say, the way in which they are abusing the power of advice and consent. I would like to quote just one excerpt from this Detroit News editorial, which I think pinpoints the attitude. It says, "In point of fact, Inglis' chief sin is that of being a Democrat. It appears to be that he is stubbornly propublic. His 9 years in the state racing commission was marked with controversy arising from his muleheaded view that the public's interest in racing is the paramount interest; that racing in Michigan should be as clean and honest—"

MR. LUNDGREN: A point of order. I don't think Mr. Marshall is sticking to the amendment here.

CHAIRMAN MILLARD: Mr. Marshall, will you stick to the amendment?

MR. MARSHALL: All right. I will stick to the amendment, but the point that I was getting to when I was interrupted was that the Detroit News pointed out the abuse of the advice and consent, which I did not get to quote, but I will accede to your wishes and stick to the amendment. I think that if we are to have this type of proposal that at least by requiring 2/3 of the senate we will go a long way toward correcting some of the abuses and evils that have existed in the advice and consent of the senate, and I urge support of the Faxon amendment.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I also rise to support the Faxon amendment for the following reason: when the advice and consent provision was originally invented in the federal constitutional convention, there were no political parties, and they were not contemplated at that time. Many of the problems that have arisen since that time have not taken into account this change in our entire governmental system. The idea was not that one party should become at war with another in case the governor or the president should be of the opposite party from the legislature, and I think if we were to follow the philosophy behind the original advice and consent we could say, for example—I think it would be a good idea, in fact, to say—that what should be required in order to reject a governor's appointment would be a majority of the majority party plus a majority of the minority party. That would take into account the fact that these are 2 parties, and it would make it impossible for a rejection to be based on partisan reasons. That would be a very simple solution, I suggest.

However, that is not the one, exactly, which is before us. Nevertheless, the Faxon amendment is in that general direction. It is a rough and ready approximation to that approach. By providing for more than a majority in order to reject an appointment—for example, as he says, a 2/3 vote—in effect it will require in all cases the consent of both the majority and the minority in the senate to reject an appointment of the governor. It seems to me that would be an extremely wholesome thing. There you would have the advantage of a group analysis of what the governor has considered to be the correct appointment, and yet it would guarantee that it would never be based on partisan considerations. In the absence of any other more perfect solution to this, it seems to me that the Faxon approach is a reasonable approach, and it is supported by this theory, and on that basis I would support the Faxon amendment.

CHAIRMAN MILLARD: The question is on the Faxon amendment, which is an amendment to paragraph 2, section g. Mr. Martin.

MR. MARTIN: Mr. Chairman, this is essentially the same question we took up some time ago in another connection, and the committee considered this question of making it a 2/3 approval and rejected it. I think, therefore, that the committee's wording ought to stand and that we ought not to try to go to this more stringent requirement of 2/3. I hope that the amendment will be defeated.

CHAIRMAN MILLARD: The question is on the Faxon amendment. All those in favor will say aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? Sufficient number up. The question is on the Faxon amendment. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon, the yeas are 37; the nays are 71.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment:

1. Amend page 5, after line 24, by adding a new paragraph to read as follows:

"No provision of this constitution or of law or executive order authorized herein shall shorten the term of any person elected to state office at a statewide election in or prior to November, 1962. In the event the duties of any of such officers shall not have been incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated.".

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this is simply an amendment to make provision for officers whose terms might otherwise be affected by the changes made in the constitution. I think the terms of the amendment are self explanatory, and it is just intended to provide a transitional period here. It is not impossible that style and drafting may wish to move this to another part of the constitution and may wish to modify it in the light of other changes that are being made, but the committee felt it necessary to state its general views here.

CHAIRMAN MILLARD: Are there any others of the committee that desire to talk on this amendment, Mr. Martin?

MR. MARTIN: I yield the floor, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Durst.

MR. DURST: Mr. Chairman, I would just ask Mr. Martin a question, if I may. Mr. Martin, does this provision, in your interpretation, apply to members of the judiciary? Do they hold a state office that this would apply to?

MR. MARTIN: I think that this probably does not apply to the judiciary, no. I think this would apply only to other members of the executive branch.

CHAIRMAN MILLARD: The question is on the committee amendment to add a paragraph to section g. All those in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Wanger offers—

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: If there are other amendments to be offered, I think it is desirable that we take some time off here, and I move that the committee do now arise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. All in favor say aye. Opposed no.

The motion prevails.

[Whereupon, the committee of the whole having risen, Vice President Hutchinson resumed the Chair.]

VICE PRESIDENT HUTCHINSON: The delegate from Genesee, Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration a proposal of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71**, has considered a number of amendments thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

VICE PRESIDENT HUTCHINSON: Announcements.

SECRETARY CHASE: The following announcements:

The committee on emerging problems will meet this noon immediately following the session in room G. Frank G. Millard, chairman. Footnote, "Bring your lunch."

The committee on style and drafting will meet at 8:00 o'clock this evening in room K. Mr. Cudlip, chairman.

The committee on legislative organization will meet in room D immediately following the afternoon session today. Mr. John Hannah, chairman.

That is all of the announcements, Mr. President.

VICE PRESIDENT HUTCHINSON: The Chair recognizes the delegate from the thirty-fourth senatorial district, Mr. Staiger.

MR. STAIGER: Mr. President, I move that the convention recess until 2:00 p.m.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to recess. All those in favor will say aye. Opposed, no.

The motion prevails. The convention will stand in recess until 2:00 o'clock p.m.

[Whereupon, at 11:30 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

There was filed with the secretary during the luncheon hour a request by Mr. Hatch to be excused from the remainder of today's session.

VICE PRESIDENT HUTCHINSON: Without objection, the request of Mr. Hatch will be granted. The Chair hears no objection, and it is granted.

General orders of the day. The gentleman from Genesee, Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of the gentleman from Genesee. All those in favor will say aye. Opposed will say no.

The motion prevails, the committee will convene and Mr. Millard will preside.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: Under consideration is **Committee Proposal 71**, section g, paragraph 2. An amendment offered by the committee on executive branch had been adopted.

Mr. Wanger offers the following amendment:

1. Amend page 5, following line 24 by inserting a new paragraph to read as follows:

"No appointee whose appointment is subject to the approval of the governor under this constitution shall assume the duties of his office until his appointment has been so approved.".

CHAIRMAN MILLARD: The Chair will recognize the delegate from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, this paragraph is a paragraph to define what is meant by the term "advice and consent of the senate." One of the problems which we know has existed under the present constitution in this regard has been that the senate by nonaction may keep the sword of Damocles above an appointee's head for a long period of time, and the committee, as you know from this paragraph, has solved that problem. However, the committee, I believe, may have created an additional and a similar problem in providing in paragraph 6 of section b that the chief executive officer of a board or commission heading a principal department is appointed by such board or commission as prescribed by law. His appointment shall be subject to the approval of the governor, except as otherwise provided in this constitution. It seems to me the words "his appointment shall be subject to the approval of the governor" could very reasonably be interpreted to mean that the appointee in question could be appointed, assume the duties of his office, and the governor by nonaction could keep a suspensive veto over him for a long period of time. This would clearly be improper, just the same as it is improper under sound constitutional drafting and usage for the senate, and therefore I offer this amendment to define what "subject to the approval of the governor" means.

The amendment merely says, "No appointee whose appointment is subject to the approval of the governor under this constitution shall assume the duties of his office until his appointment has been so approved." This forces both the board and the governor, with respect to the appointment, to get together and to take immediate and responsible action—as it, of course, should, ideally, always be taken—and removes any doubt with respect to the meaning of the language which we have agreed upon under paragraph 6 of section b above in this proposal.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, may I ask Mr Wanger a question?

CHAIRMAN MILLARD: If Mr. Wanger cares to answer.

MR. MARTIN: Mr. Wanger, what is the effect of this amendment of yours going to be to keep an office from being filled for any substantial period of time?

MR. WANGER: It would keep, Mr. Chairman, the—

MR. MARTIN: Mr. Chairman, provided that he cannot assume his duties until his appointment has been approved. Suppose the board appoints and the governor doesn't act right away; does that mean that the board can't have anybody on the job?

MR. WANGER: Mr. Chairman, Mr. Martin, it certainly does not mean that everything in the department must come to a standstill. Obviously there are seconds in command in these various departments. However, it would mean that no one could assume the duties of the executive position involved until he had been approved by the governor. There is certainly no question about that and should not be.

MR. MARTIN: It seems to me, Mr. Chairman, that the effect is to make it possible to have a gap there in which nobody is serving as the head of this department. It seems to me that would be very unwise and undesirable. As the amendment stands, I think we would be opposed to it.

MR. WANGER: There is, Mr. Chairman, no question but that it is always possible for a board and the governor to agree upon a temporary appointment until a permanent replacement to fill the vacancy has been found. However, the problem which this amendment gets around could upon occasion be just as serious as the problem of nonaction by our present state senate, namely, a man is appointed to fill a vacancy; he assumes the duties of his office; but in every act in performing those duties he knows that should he displease the person having the power to disapprove his appointment, that disapproval may come down any time. This is clearly not in the best interests of the impartial administration of the public policy underlying the various departments headed by these boards and commissions.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, it seems to me that the Wanger amendment would have the same effect in government that you would if you turned a 10 ton truck loose without a driver. You could have several of these important department head positions open and, if I understand the amendment correctly, you couldn't even fill them. Supposing the governor was tied up in other matters and it took him some time to get around to all of them—and you just don't do these things on a day or 2 days' notice—what would happen in the department as far as the running of the department, the ordinary processes and so forth under your amendment, Mr. Wanger?

MR. WANGER: Mr. Chairman and Mr. Marshall, I just explained that, I think, quite clearly. The first is that there are always people who are second in command in these departments and, secondly, it would be obviously proper and expedient for the commission and the governor to agree upon a temporary appointee to fill this position until a permanent replacement could be found. There is no problem of a gap here in any serious sense of the word, Mr. Marshall.

MR. MARSHALL: I believe, on the contrary, that there would be a gap in the strongest sense of the word, and even if you had some lower echelon person who could assume this, he would not actually be in a position of directing and running the department, and I don't see where the amendment actually makes any improvement at all, and I can see many ways in which it could be a hindrance, and I would therefore oppose the amendment.

CHAIRMAN MILLARD: The question is on the Wanger amendment. All those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. Faxon and Nord offer the following amendment:

1. Amend page 5, line 22, after "members elect" by inserting "of each of the 2 major political parties"; so that the language will then read:

> Appointment by and with the advice and consent of the senate when used in this constitution or in statutes in effect or hereafter enacted shall mean appointment subject to disapproval by a majority vote of the members elect of each of the 2 major political parties of the senate if such action is taken within 60 legislative days after the date of such appointment.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Faxon.

MR. FAXON: Mr. Chairman, members of the committee, I think it was pointed out well this morning that when the whole idea of advice and consent was conceived of in the federal constitutional convention in 1787 they did not think in terms of political parties. They did not even at that time recognize the existence of different political parties as such. Because of this we have adopted the language, advice and consent of the senate. But after that time political parties developed, and the idea of advice and consent of the senate, as it was originally put in the federal constitution, has never been changed or revised to recognize the existence of political parties in our state and society.

Now this provision takes recognition of what is a fact, and it does more than that. It doesn't say more than a majority; it says a majority. But it deals with the idea that where there is a disapproval of a governor's appointment, that that disapproval will not be on the basis of different political party philosophies or affiliations. In other words, there is a legitimate reason for not confirming appointments of the governor, but is it not a legitimate reason to deny confirmation on the basis of the person's political party, because it is obvious to us that the governor's election represents the will of the people in the state, and that his appointments should stand unless rejected not just by members of one political party, but rejected by members of both political parties? So what this would do is, it would force the political parties to work together with regard to appointments and rejection of such appointments. It provides that a majority of the majority plus a majority of the minority will theoretically make the decision which could be that of just the majority or it may require more than the majority, depending upon the number of people involved.

I think that this would take the political aspects out of the selection process of filling appointments by the governor, and at the same time assure a check by the senate with regard to the person serving. I would urgently ask you to view this favorably so that we can come to some agreement over this entire question of advice and consent.

CHAIRMAN MILLARD: Does the other proponent wish to speak? Dr. Nord.

MR. NORD: Mr. Chairman, I don't wish to review the arguments again. I would simply call to the attention of the delegates that while this is a rather late thought to be introducing, I believe it is worthy of consideration, and I hope that the delegates will think about it even if they should see fit not to adopt it at this time; nevertheless, to consider it further later on, because I recommend it to you as being a valuable solution to the problem of advice and consent in the senate.

You realize, delegates, I believe, that when you have a senate which is not apportioned to everyone's satisfaction it raises problems about whether the majority of the senate should be allowed to veto the action of a governor, especially if he is of the opposite party; and yet, as I see the amendment before us, this almost takes out entirely the problem of apportionment from the advice and consent. I haven't done all the calculation on it, but it appears to me that no matter what the apportionment system would be, no matter how malapportioned it might be or how malapportioned anyone might think it might be, nevertheless, if you have a majority of the majority party plus a majority of the minority party you certainly do have consent in every sense it needs to be had. Therefore, I suggest it to you on the basis of the arguments given to you by Mr. Faxon and also on the practical basis that it could eliminate one stumbling block on the advice and consent of the senate—and on its own merits, too—it would make it possible to have an advice and consent function which would be perfectly sound and yet would absolutely make impossible any political aspects to it. Therefore I hope you will consider it, and if you don't feel you have time to consider it fully at this point, that you will nevertheless consider it at a later time.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, it seems to me this amendment is so bad in its philosophy and principle of government it is hardly necessary to say anything against it. I would, however, like to make just one statement. I think the more we keep out of the constitution reference to political parties the better we will be, particularly 50 years from now. I suggest we put in the term, political parties, only when we think it is urgently necessary for some reason such as a bipartisan commission. Thank you.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Faxon is right when he says this is a novel idea, but I am afraid the trouble with it is that it emphasizes rather than deemphasizes politics in the approval of these nominees. I think it would effectively prevent the rejection of anyone who was appointed by reason of the way in which our language is drafted. It would therefore effectively confirm all appointees of the governor. I hope the committee will defeat the amendment.

CHAIRMAN MILLARD: The question is on the Faxon-Nord amendment. All those in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? Sufficient number up. The question is on the Faxon-Nord amendment. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Faxon and Nord, the yeas are 29; the nays are 83.

CHAIRMAN MILLARD: The amendment is not adopted. Are there any further amendments on the desk?

SECRETARY CHASE: None on file to this section, Mr. Chairman.

CHAIRMAN MILLARD: If there are no further amendments to section g, it will pass.

Section g is passed, as amended. The secretary will read.

SECRETARY CHASE: Messrs. Figy, Karn, Knirk, Shackleton, Sharpe and Tubbs offer the following amendment:

1. Amend page 5, following section g, by inserting a new section h to read as follows:

"Sec. h. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as shall be prescribed by law.

The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, appointed by the governor with the advice and consent of the senate for 4 year terms. No 2 members shall have conterminous terms.

The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state highway department and shall be responsible for the execution of policy of the state highway commission.".

CHAIRMAN MILLARD: The Chair will recognize the first proponent of this amendment known as a new section h, Mr. Figy.

MR. FIGY: Mr. Chairman, fellow delegates, the state highway department must be responsive to public control in order that it may best serve the interests of the people of the state. But the substantive nature of the work involves the exercise of professional knowledge and technical skills. In determining the organization of the state highway department, we must seek to balance these 2 aspects of its functioning.

The amendment submitted provides for a 4 member bipartisan commission serving staggered terms and appointed by the governor with the advice and consent of the senate. Such a commission, representing a variety of viewpoints, chosen by the governor, will be made up of persons responsive to the public interest.

The amendment submitted provides that the administrative head of the department shall be a director appointed by the highway commission and that he must be a competent highway engineer and administrator. The operation of a highway department of the magnitude of that of the state of Michigan requires that the director have certain very definite qualifications in a very high degree. The design, construction and maintenance of highways and the direction of the complex organization necessary to implement these functions, is a job that can only be properly exercised by a man who has acquired an extensive background in this area of work.

The method of organizing a department which is being proposed has been employed by the state of Michigan in many other areas. At the present time the state departments of aeronautics, agriculture, civil service, conservation, corrections, libraries, mental health and social welfare are all headed by a board or commission which is appointed by the governor with the advice and consent of the senate and which in turn appoints its administrative head. It should be noted that this list includes departments performing extensive and vital functions in the government of the state. These departments also share with the highway department the need for using special professional skills which makes a director with an extensive background in a particular area of work so desirable. Nor is this method of organization unknown to state highway departments. The administrative head of the state highway department is appointed by a highway commission in Arkansas, Delaware, Louisiana, Nevada, Oklahoma, South Carolina, Texas, Utah and Wyoming.

Examples of governmental departments headed by an administrator appointed by a board or commission specifically concerned with setting the policies of that department are too numerous to list. This is widely recognized as an organizational framework which permits the professional and technical work of a department to progress without undue pressure and interference, while at the same time subjecting it to the legitimate control of a publicly responsible body. It is with these ends and the need to achieve them in our state highway department in mind, that this amendment is submitted.

There is much other precedent for this type of organization other than what I have mentioned. As you know, in all of our counties in the state of Michigan they have a county highway commission, and the highway commission is authorized to hire the engineer or the executive officer.

In my experience in agriculture—which is somewhat different, I will admit, than it is in highways—it was my pleasure to work with all of the state departments of agriculture in the whole United States at one time or another, and one of them that stands out I think, is our sister state of Wisconsin, where they have such a provision as this. They did have and the director of the department apparently was not doing the best job in the interest of the board or commission, as they are called so he was relieved of his duties. It was not necessary for them to continue him until his elective term ran out, until he might run again for election, and might get elected to the position; but he was relieved of his duties and a young man in the department, in the opinion of the commission anyway, was very capable of carrying on the responsibilities. He was made the head of the department, and in my work with him for several years I think he did a splendid job, much better than the previous director, who was also a good friend of mine.

Now, I don't want to belabor this thing much longer. I think we have brought out the points on it. It has been discussed by different people. I think you know what the amendment is, and without taking more of your time right now I would yield to Delegate Karn for some remarks.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Jackson, Mr. Karn.

MR. KARN: Mr. Chairman, members of the committee, I rise to speak in favor of the amendment which Delegate Figy has just presented to you.

A 4 man commission representing both political parties and with a delegated responsibility for the control and jurisdiction over all of our state trunkline highways, in my opinion, at least, through the years would select a director perhaps with excellent qualifications, perhaps better qualifications than would be selected by either political party in a convention. In addition to this, appointment of a director would eliminate the rather considerable time and expense required for electing the director of the highway department.

This certainly is an important job. It needs the complete attention and effort of the director; and one who finds that periodically he must stand for election and campaign throughout the state is using time that could better be used if he is not selected in this manner. It seems to me also that the appointment of a director by the commission rather than by election, or appointment by the governor, would tend to remove politics from a very important department.

Now we have heard it said and there are those who believe that a director of a department such as this is farther away from politics if elected than appointed. It is difficult for me to agree with that type of thinking. However, it may be possible at times. But it does seem to me that with a 4 man commission in there with the responsibility and with the director free to devote his entire time and attention to the job at hand, I do believe personally that he would be removed farther from politics than is true today. I recommend the adoption of the amendment.

CHAIRMAN MILLARD: Mr. Figy.

MR. FIGY: I would like to yield at this time to Delegate Knirk.

CHAIRMAN MILLARD: The Chair will recognize Delegate Knirk.

MR. KNIRK: Mr. Chairman and delegates, I wish to add a few comments to the comments of Delegates Figy and Karn. I was somewhat undecided in this particular position, whether or not they should be elected or appointed by this particular commission as we recommend here, but I have to confess that because of experiences that I have had here in the convention hall since—a week ago it will be tomorrow, which is Wednesday, and last Thursday and then over the weekend—experiences that I have had in this regard convinced me definitely that a commission would be much better than what we now have, because of the experience of people that represent suppliers of road materials, or contractors and, I understand, others that have been in the hall, but this happened to me personally, to try to, if I might say, twist my arm and insist that I vote for the election of the highway commissioner. Over the weekend I had a supplier contact me and try to prove how wrong I was. In both cases I let the gentlemen know that because of their particular conduct and their insistence that this office be an elective office, I felt that they very definitely convinced me that there might be more to what we have than meets the eye. And I am referring to the fact that I believe that a commission, much like a board of education in a local school district, or a board, whether it be statewide or on an area basis, certainly can add tremendously to the knowledge of the executive officer of a commission. I believe that in our own counties all of us are proud of the highway commissions that we have and the fine work that they have done with the limited funds that they have had at their disposal, and I think that this can also apply on the state level, and I think that if there have been any undue, shall we say, contributions to certain campaigns in the past by these suppliers, perhaps we might build roads more cheaply if they didn't have to contribute, and therefore I am absolutely in agreement that this particular office should be filled by appointment by this commission, and I certainly hope that all of the delegates here will see fit to support this amendment. Thank you.

CHAIRMAN MILLARD: Mr. Figy.

MR. FIGY: Mr. Chairman, I would like at this time to yield to Delegate Shackleton.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Saginaw, Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman, Mr. Figy, members of the committee, this department is one of the largest principal departments in the state, spending upwards of $350 million a year. That is a tremendous amount of money to leave, really, up to one individual to administer.

In the present highway commissioner's testimony before the committee on executive branch, he stated that he was not responsible to the governor. He certainly can't be responsible to 144 members of the legislature because 144 members certainly could not devote the time or lend any particular amount of direction. He stated he was responsible to the people, to the individuals, because he was elected by them. It was brought out in the committee testimony, however, that in one of the counties in the southern part of the state where there was an official delegation consisting of the county, the principal city in that county and the planning board, it took a long time before they could get a hearing or an audience with the commissioner, and then it only lasted about 15 minutes.

I have spent about 13 years on the planning board for the city of Saginaw; we have had the same experience there. Appointments made and in the last minute canceled. That was true of the present commissioner and also with the previous commissioner, and I have never heard of the time when an individual could get an audience with the commissioner if he were trying to represent himself and not a group. So what actually happens belies, apparently, the statement that he is responsible to the people.

He testified—the present commissioner—that under the present highway system he derives his administrative authority from the legislature and policy authority directly from the people. Now obviously 7 million people can't very well have too much influence jointly or collectively with the present commissioner, and I submit that if counties and cities of substantial size, and planning boards which have been authorized by the legislature to take care of primary and secondary road planning, can't get hearings or be heard or get their stories over to the highway commissioner, he is not being responsive, at least, to the people or deriving his authority from the people because he happens to be elected. I highly concur in this amendment.

CHAIRMAN MILLARD: Mr. Figy.

MR. FIGY: Mr. Chairman, I would like to yield at this time to Delegate Sharpe.

CHAIRMAN MILLARD: The Chair will recognize Delegate Sharpe.

MR. SHARPE: Mr. Chairman, Mr. Figy, fellow delegates, I cannot add anything that would aid in the passage of this amendment on this section that hasn't already been said, and I know it; so I am going to sit down, and I would like to solicit the aid of some of our good delegates not to be too repetitious and not to carry this on all afternoon. We all know what it is about, and we all have heard about it before. It is not new, and I would like to see us either pass it or defeat it.

CHAIRMAN MILLARD: Mr. Figy.

MR. FIGY: Mr. Chairman, we have arranged these people who had their names on this amendment in alphabetical order and, I assure you, with no less respect than we had for the rest of them, I call on Delegate Tubbs.

CHAIRMAN MILLARD: Delegate Tubbs.

MR. TUBBS: Mr. Chairman, Mr. Figy and delegates, I can simply second the things that have been said by the other sponsors of this amendment. We can look at business if we want another example of how this system works. I don't believe the 200,000 or so stockholders of General Motors Corporation could elect a general manager or general superintendent, not only of the company, but of any single plant in that company. You have to have a small board of directors who will pick a man for his ability and not expect him to have to go out and spend his money campaigning in a political campaign. I am for this amendment 100 per cent, and I hope it is adopted.

CHAIRMAN MILLARD: Mr. Figy.

MR. FIGY: Mr. Chairman, I think these men have covered the subject very well, although at this time I would like to yield to Delegate Martin.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, if I might comment very briefly on this amendment, it substitutes, as you know, a commission with an appointed highway commissioner instead of an elected highway commissioner. I think the great virtue of the amendment is that it will enable us to get the best man in the country to run our highway department. This is not possible under the present system of selection by nomination, by party nomination and election. The very fact that a party nomination and election is required limits the possible choice of a highway commissioner to a relatively few persons. Since it is desirable and necessary to get somebody of high professional qualifications, this choice is even more limited.

I have had some experience with trying to find candidates for highway commissioners in a political convention. It can be very difficult, and when all is said and done you may not be satisfied that you have the best person after all. But the use of a commission provides the possibility of appointment by the governor of the commission—good citizen representation—and then it provides the possibility of that commission, as I say, getting the very best man in the country to do the technical job, and this is a combination which I think would be of great benefit to the people and which we could certainly profit by here in the state of Michigan. For that reason I hope that the amendment will be approved.

CHAIRMAN MILLARD: Mr. Figy.

MR. FIGY: Mr. Chairman, knowing that we will be subject to cross examination, I would like to state at this time we rest our case. We yield the floor.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Lansing, Mr. Erickson.

MR. ERICKSON: Well, I find it necessary to rise in opposition to this amendment. This convention gathered in Lansing here last October with a mandate from the people to write a constitution that would provide the framework for resolving crucial issues facing the state of Michigan. Without discussing the merits of our present system which has accidentally or deliberately given Michigan one of the finest networks of highways in the nation, we are told that an appointive state highway commissioner would be more responsive to the governor and the people and thus would strengthen the governor's hand. With this decision and philosophy I disagree completely.

For nearly 50 years the state highway commissioner has been a statutory officer rather than a constitutional officer. For nearly 50 years the Michigan legislature has had the power to make the office of the state highway commissioner appointive instead of elective. For nearly 50 years there has been no change and no public clamor for a change. Why? It is because this system has worked and has worked well. It has successfully met the test of time. Why change when we have no complaints against the results of our present system? The advocates of change do not claim that their plan would give us better roads. The state highway commissioner now spends more than $200 million a year taken directly from the public for a single purpose—construction and maintenance of highways and streets which are so important to Michigan's economy. The public is vitally concerned in the matter of good roads and should have a direct voice in who is going to provide these roads.

I am well aware that Michigan is the only state electing a highway commissioner, but that is not a persuasive reason to make a change, particularly when our present system works so satisfactorily. I am extremely dubious about giving a governor or commission full control over the highway department, over the spending of these millions of dollars, and over the decision as to which roads should be built and which roads should not be built. This is simply too much power, too much concentration of power and too much temptation for political deals.

I am well aware of the argument that the highway commissioner is now in politics, and what would be the difference. I think there is a great deal of difference because now the highway commissioner is directly responsible to the people, and the people can get at him directly if they don't like the way he operates. They do not have to upset a whole administration which might otherwise be approved by the voters simply to register a protest against a highway program.

There are those who argue we must strengthen the hand of the governor. I ask why. Under our present structure of state government we have had both strong governors and weak governors. The difference was in the men and not in the system. Will the advocates of change argue that the governor rather than the highway commissioner should have authority over spending the $200 million a year? Whose money is it, the governor's or the people's? For half a century the people of Michigan and most of their governors have been content to hold the highway commissioner responsible for spending the people's road money. They have one of the best highway systems in the nation today to show for it, and they have achieved that accomplishment without the scandals which have tainted highway commissioners and administrations in other states. I think it is far better that the man responsible for spending so much money and responsible for administering the highway program on which our Michigan economy depends so heavily should be constantly mindful that he must answer to all the people of Michigan—at the ballot box—rather than feel he owes an obligation to a commission or a governor.

All of us here are elected delegates. We feel our obligation to the people who elected us, and we feel it deeply. In the discharge of our duties we can exercise conscientious judgment as the elected agents of the people. We are not political appointees of the governor or a commission. The highway commissioner should not be a political servant of a commission or a governor either.

I am a Republican and have been all my life, but I also respect the views of competent public officials, regardless of party affiliation. I am impressed that the only man in Michigan's history who has held both the office of governor and the office of highway commissioner had this to say to the executive committee of this convention and I quote:

> Let us not forget for one moment that governors are only human beings. They have to bend with the pressures and I remind you those pressures are great whether you be Democrat or Republican. An appointive state highway commissioner would be a captive of the executive office or a commission, with neither complete freedom to build roads as he determined it, nor the complete courage to say "no" to the man who made his paycheck possible.
>
> Today, Michigan state highway commissioners can operate with independence, knowing that if they don't satisfy the majority of the people, they will be replaced by another commissioner. If the commissioner isn't doing the job, the chief executive has the power to remove him from office. The legislature is in firm control of the state highway department budget and the gasoline tax rate.

End of quote.

Let this convention always remember that what we propose here is not for today, tomorrow or 5 years, but for generations. This constitution, if approved by the voters, will live long after we have answered the last roll call. Let us not betray the people who sent us here by putting partisanship above the best interests of the state. And if the people who pay the highway bills don't like or trust the man who is spending their money, they can get themselves a new highway commissioner. What better check and balance system can this convention devise? I sincerely urge the defeat of this amendment and leave with the legislature the authority to make this an appointive or elective office as presently obtains.

CHAIRMAN MILLARD: The gentleman from Detroit, Delegate Hodges.

MR. HODGES: Mr. Chairman, Mr. Sharpe just stated that much of what could be said on this has already been said and that for that reason we might get on to a vote. He might have added that since this is part of the deal, and we all know what the results are going to be when the vote is taken, we might as well get on with it. But I point out to you delegates that this is perhaps the most obnoxious feature of this deal. The brightest star, perhaps, in Michigan government today and over the past years has been the Michigan state highway department because, far from the experience in many other states, it has been free of scandal and has today given Michigan the number one road program in the United States.

I would say to those that classify themselves as conservatives, use the test that they so often ask us to take in proposing something new. First, prove the need for a change; then show us what that change is; and then compare that change with what we have, to see if it is better or not. I would submit that under the experience of Michigan this does not meet any one of those 3 tests. That the elective process has worked well in Michigan can be shown by the results of the elections we have had for highway commissioners. For years we had a commissioner who believed in the bits and snatches theory of road building in the state of Michigan. The people proved by their votes that they did not believe in this theory. They voted for someone pledged to build highways and not roads around someone's barn, to give the citizens of Michigan the number one highway system in the United States; and because he kept that pledge with the people who voted for him, there is now an effort in this convention to remove him from office.

I submit again, if we are going to capriciously let our political ideas enter into this convention, we are dooming this constitution. The people are well satisfied, and everyone here admits that we have the finest road program in the United States. Even those who have felt they have had to vilify the state of Michigan and make slanderous charges about its economy and its government have never once turned the spotlight upon the state highway commission and said it was not doing the job or the commissioner was not doing the job he was elected to do. And the only result that can be taken from a vote to eliminate his office is one of political expediency and one to put some more glue on the deal that has been made.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Wyandotte, Mr. McCauley.

MR. McCAULEY: Mr. Chairman and members of the committee, I would like to preface my remarks by stating that the remarks in debate by myself are my own and are not necessarily the opinions of the 2 major networks herein involved. (laughter) There has been considerable controversy on the question of electing or appointing a state highway commissioner. Now we are confronted with a new plan, a 4 member bipartisan state highway commission appointed by the governor with the advice and consent of the senate. Thus our highway director would be under the direction of a combination of Democrats, Republicans; a governor and the Michigan state senate. How such a hydraheaded creature could survive with such progenitors and how such a system could improve Michigan's highway system is something for the sponsors of this amendment to explain to this convention.

I think the time has come for us to look realistically at the state highway department, honestly and without political rancor. Only twice in the last half century has any governor sought to make the office of state highway commissioner appointive. On both occasions the legislature responded with an emphatic and resounding "no." And let me submit that on both occasions the chief executive and the legislative majority were of the same political faith.

The fact is that the office of state highway commissioner is closer to the people today than any other elected office in Michigan. The office of state highway commissioner is under direct control of the legislature and the legislature can change the system any time it sees fit. That the legislature has not chosen to do so reflects favorably the kind of administration and performance the long line of elected highway commissioners has given the state and its taxpayers. That the people of this state have raised no public demand for a change is another stamp of approval on Michigan's highway system.

Some members of this convention look askance at the idea that Michigan is the only state in the nation to elect its highway commissioner. All other commissioners are by direct appointment of the governor or boards and commissions. But let us not forget that the Michigan system is unique in another area. It has been free of scandal and corruption in contrast to the many experiences that some of our sister states have experienced.

Just for a moment let's examine the bipartisan commission amendment before this committee today. What are its strengths? What are its weaknesses? First, the commission amendment removes the highway department further from the governor and much further from the people. An incoming governor would be saddled with holdover appointees. The bipartisan commission would have split authority. The choice of a highway director would become a political pawn with the people having to upset not 1, but 2 political parties to change their highway administration. Is this strengthening the governor's hand? Is this strengthening our highway program which every man and woman in this hall will admit is one of the best in the nation?

The sponsors of this amendment say it is not unknown for state highway departments to have various departments such as I am advocating today. They cite Arkansas, Delaware, Louisiana, Nevada and various other states as being unique in this field. Let's look at the record of these states and compare it to Michigan's record under an elected highway commissioner. The federal bureau of roads issued this report for the last quarter of 1961, listing the progress of each state in the federal interstate program. At the end of 1961, Arkansas had built 40 miles of interstate road; Delaware, 6/10 of 1 mile; Louisiana, 45 miles, and so on. What has Michigan built? It has built 379 miles. Michigan was exceeded only by the state of Texas, which built 705 miles.

Let us examine for a moment Michigan's record and those of the same states in regard to the number of miles rebuilt or relocated on the state trunkline systems. Arkansas, 721 miles; Delaware, 20 miles, et cetera, et cetera. Michigan's performance was 1,128. Here again, Michigan was exceeded only by Texas with 1,400 miles. We can honestly ask ourselves: is Michigan's system less efficient than the other states or more efficient than most?

The sponsors of this amendment argue that a commission will be responsive to the public interest. I submit that the elected highway commissioner or one appointed without advice and consent is the best protection for the people and the public interest in the state of Michigan. If the people don't like him or his policies, they can vote him out of office. How can the people ever get to a 4 man commission? Ladies and gentlemen, I think the answer is obvious.

We have heard endless discussion on this floor about compromise. Here is an opportunity for honest compromise, based on fact, performance, legislative and voter approval. Let each delegate ask himself, "How many people in Michigan have asked for in the past or are demanding now a change in the concept of administering of our highway department? Where is the evidence that a change will improve our highway system over the next 50 years?"

I am against this official being blanketed into the constitution as a constitutional officer, and I feel equally strong about the commission form that we are attempting to blanket him under. I say leave it to the legislature and thus insure flexibility for this very important office for which the people of Michigan will be the ultimate chief beneficiary. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Ann Arbor, Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I also arise to oppose this amendment for a number of reasons, some of which have been mentioned and others have not. I recognize, of course, in the first place that this is not a committee proposal. Therefore it can't be expected, I suppose, to be consonant with the thinking of the committee on organization and administration. The committee looked at the total administrative structure of the state of Michigan and came up with what, in my opinion, was a first class, high class proposal. The committee of the whole made some change in this recommendation. Now the committee of the whole is making a change in its own recommendation. It seems to me to be frankly an improvisation of a very objectionable sort, and I have heard no arguments here to convince me that it is better than the present system we have. I am not here to defend that present system, because I went with the committee in recommending the appointment of heads of all departments rather than their election, but I see no reason to jump from a system which at least is working very satisfactorily to one which might be quite the reverse.

I think in the first place that individual substantive departments should not be frozen in the constitution, with the possible exception of education, and I am not too sure how this is going to work. At the present time the highway department is based on a statute. The statute can be changed. As Mr. Erickson and others have said, it hasn't been changed. If the highway department ceases to be a part of the state goverment of Michigan and should go its own way without regard to the governor and the legislature, if that is even thinkable, the remedy lies with the legislature and would not require constitutional amendment. I think in the second place this amendment definitely impairs the control of the governor, and certainly the record of other states that has been cited here is not very encouraging. I think also, in the third place—as I said the other day—only in exceptional cases is it justifiable to use a commission as the head of a department. I always like to quote the expression of General Goethals, who built the Panama canal, when he said he had long experience with boards and he knew that they were long and narrow and wooden. Certainly they do not give the type of dynamic up to date administrative leadership which one can expect from a single head.

Then too, it is always interesting that those who complain about high taxes and want economy are the first ones to create new jobs. Here are 4 new jobs, 5 people, in other words, instead of 1.

Certainly I think, therefore, that the complaints that one hears about the highway department as we have it now do not justify going this far in adopting what seems to me to be a cumbersome improvisation. I don't believe in maintaining separate political or administrative empires in our state government, and I would not disturb what is good for something of unproved value.

CHAIRMAN MILLARD: Delegate Jones.

MR. JONES: Mr. Chairman, fellow delegates, in rising to oppose this amendment I should like to refute 2 of the arguments advanced by proponents of this amendment. I gathered in the comments of one of these gentlemen that he would rather trust the judgment of this bipartisan commission than he would the 1200 or 1300 delegates of each of the party conventions. I don't know how the Republican party conventions operate, but I know in the Democratic party convention all delegates have a right to confront any of the state ad board candidates as to their qualifications and background and experience and their philosophy as far as the conduct of the office is concerned. As far as I am concerned, a comment of this type is disparaging the kind of delegates that we are sending to the state conventions, and I personally would rather trust the judgment of 1200 or 1300 people than 4 bipartisan commission members.

Secondly, there was some point made, and I believe Mr. Martin made this, that the commission would go out and seek a very highly technically qualified person for this office, and as I see it in the last paragraph it says that he shall be the director of the state highway department, and I view this as primarily an administrative job, not a technical job. I submit that on this basis the last argument is fallacious. Thank you.

CHAIRMAN MILLARD: Mr. Ford.

MR. FORD: I would like to ask Mr. Figy some questions through the Chair, if I might.

CHAIRMAN MILLARD: If Mr. Figy wants to answer.

MR. FORD: Mr. Figy, first of all, going to the specifics, could you define for us the meaning of the 2 words "highway engineer?" Is there a degree or a license or something else that defines a highway engineer as used by you in the third paragraph?

MR. FIGY: I think I would like to ask Delegate Stafseth to answer this. He is a highway engineer and probably could give you the best definition of a highway engineer.

CHAIRMAN MILLARD: Do you accept Delegate Stafseth?

MR. FORD: Well, if Mr. Stafseth wrote it I suppose he knows what it is.

CHAIRMAN MILLARD: All right, the Chair will recognize Delegate Stafseth.

MR. STAFSETH: I wouldn't admit I wrote it. I might say that a competent highway engineer under the statute of the state of Michigan—under the present highway act it calls for a competent highway engineer and under the registration act for engineers the definition of competent highway engineer is one that is registered under the state.

MR. FORD: Does this get us into—Mr. Figy or Mr. Stafseth—

CHAIRMAN MILLARD: Through the Chair, and indicate which one you want.

MR. FORD: Whoever wants to answer.

CHAIRMAN MILLARD: Which one do you want?

MR. FORD: Mr. Figy.

CHAIRMAN MILLARD: Mr. Figy.

MR. FORD: Mr. Figy, do I understand, then, that in light of what happened with the present highway commissioner when he was elected that he would not qualify under this language?

MR. FIGY: Not to my knowledge. In fact, I don't know the man, even. I don't know what his qualifications are, and nobody has said a word to me about his qualifications. I would think it would be perfectly proper that if the commission were set up and wanted to retain the present engineer or present commissioner, it could very well do so. This has been done in many other departments.

MR. FORD: Mr. Figy, you are aware, aren't you, that there is a considerable difference of opinion in this state; there are 2 particular groups, for example, who license engineers and that by one set of standards the present highway commissioner was found to be qualified and by another one he wasn't, and that there was a lawsuit involving this?

MR. FIGY: I don't know that myself, no.

MR. FORD: Could I ask, then, Mr. Chairman, Mr. Stafseth, who apparently knows the most about this particular term?

CHAIRMAN MILLARD: If Mr. Stafseth desires to answer.

MR. FORD: If he is familiar with the issue that was raised in this regard, and whether as a matter of fact this language would preclude the present occupant of the position of highway commissioner from continuing to occupy it?

MR. STAFSETH: I can't answer that question. I think that Mr. Boothby, as I understand it, had something to do with the case that you are referring to and could probably answer the question. I just gave you what the statute said. As far as the outcome of the case as it was handled, I don't know anything about that.

MR. FORD: Well, Mr. Chairman, I would like to ask any one of the sponsors of this if they can tell us what "competent highway engineer" means in specific terms so we can tell whether or not the present incumbent in that office would be able to hold it with this language in the constitution. I think this is important when we vote on this.

CHAIRMAN MILLARD: Designate someone to answer the question, Mr. Ford.

MR. FORD: Mr. Karn?

CHAIRMAN MILLARD: Mr. Karn.

MR. KARN: Mr. Chairman, Mr. Ford, I am sure I can't answer the question. There would be details set up that would cover the qualifications for a man in this particular job. I don't think it is in order to put all of the detailed qualifications in the constitution. You have got a commission of 4 whose duty it would be, and I would think that they would be the ones responsible for setting the pattern of qualifications of the man that they are looking for.

I have not a single thing against the present highway commissioner. He may be a very competent individual, and he might qualify under this particular suggestion. I must say, however, that as far as the planning, the advanced planning that has gone into the road building in the last 3 or 4 years, it is my understanding, and I believe I am right, that the majority of that was done before the present highway commissioner arrived on the job. But at the same time, he might qualify and be a very competent man for this job.

MR. FORD: Mr. Chairman, in view of Mr. Karn's either reluctance or inability to answer the question — he made a fine speech — I would like to ask Mr. Knirk if he could define for me and enable me to make a decision on voting on this what a competent highway engineer means in this language.

CHAIRMAN MILLARD: If he cares to answer.

MR. KNIRK: Perhaps I might get an opportunity to say a few words here. I cannot answer his question directly.

MR. FORD: Well, all I want, Mr. Knirk, is a definition. You put a qualification in your amendment here that this person who is appointed shall be a competent highway engineer.

CHAIRMAN MILLARD: Mr. Ford, the Chair will handle— Mr. Knirk will answer the question.

MR. KNIRK: Mr. Chairman, I said that I would not attempt as a layman to give the qualifications for a competent highway engineer, in answer to Mr. Ford's question.

MR. FORD: Mr. Chairman, I would like to ask Mr. Shackleton, as one of the sponsors, if he could define what he means by a competent highway engineer.

CHAIRMAN MILLARD: If he cares to answer.

MR. SHACKLETON: Mr. Chairman, Mr. Ford, I don't think that has any bearing on the amendment at all. The question has not been brought up with any other commission — civil service, and that is a commission; they hire a director; and it hasn't been brought up with the board of education as to the qualifications. This amendment doesn't bear on the qualifications of the present incumbent in the office, and of course there is no other incumbent under consideration. I don't see how it has any bearing on the amendment.

MR. FORD: Mr. Chairman, to Mr. Shackleton; in all due respect, Mr. Shackleton, I call attention to your amendment here, and it is your amendment which places the qualification on the man. It doesn't say they will appoint a highway commissioner; it says that they will appoint a highway commissioner, and then it says that he shall have this qualification: he shall be a competent highway engineer. Now, since some of us have never heard of a degree as a highway engineer or a license as a highway engineer, we would like to know what a highway engineer is.

MR. SHACKLETON: That would be up to the commission to decide. They would be setting the policies and the standards, just as the civil service commission decides who a competent personnel director would be.

CHAIRMAN MILLARD: Does that answer your question?

MR. FORD: I still don't have a definition of a competent highway engineer. Mr. Sharpe, Mr. Chairman—

CHAIRMAN MILLARD: Are you addressing the question to Mr. Sharpe?

MR. FORD: The same question, Mr. Chairman.

MR. SHARPE: I assume it is the same question, Mr. Chairman. Mr. Ford, you know very well this language is taken out of the statute. You also know very well that the court has never ruled as to what a competent lawyer is, a competent doctor nor a competent engineer.

MR. FORD: Nor have I ever seen in the statute the words "highway engineer" defined, nor by court, Mr. Sharpe. But I am asking you as one of the authors if you can tell me what you mean when you say that this fellow will be a highway engineer as contrasted, for example, with a chemical engineer or civil engineer or mechanical engineer or any of the recognized forms of engineering degrees with which we are all familiar. Mr. Chairman, excuse me for bypassing the Chair with my question. Maybe I haven't made it clear, Mr. Chairman. My question really is: is this some sort of a specialty in the engineering field that the rest of us haven't heard about, or is this a term that will have to be defined by somebody else, and should be left out of here?

CHAIRMAN MILLARD: Who is the question directed to?

MR. FORD: Mr. Sharpe, since he was the last one.

CHAIRMAN MILLARD: Mr. Sharpe, do you desire to answer? Mr. Sharpe does not desire to answer.

Mr. Boothby has asked if you would yield.

MR. FORD: No.

CHAIRMAN MILLARD: Proceed, Mr. Ford. Let's get on with it.

MR. FORD: I would like to ask Mr. Figy another question, if I might.

CHAIRMAN MILLARD: If Mr. Figy cares to answer.

MR. DEHNKE: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: Judge Dehnke, state your point.

MR. DEHNKE: This is the very thing that I have seen coming up the road since we started the practice of one delegate asking questions of another. The good purpose of that proceeding is to clarify things, to bring out information. Now we have seen it degenerate into a system of cross examination. The questions being asked are not for the purpose of receiving enlightenment, but all raise issues that ought to be covered in argument instead of dialogue between delegates.

MR. FORD: Mr. Chairman, a point of order. I understood I was interrupted for a point of order. I ask that the delegate state his point.

MR. DEHNKE: That is the point of order, that this method of asking questions ought not to be considered within the rules.

CHAIRMAN MILLARD: The Chair thinks your point is well taken. Mr. Ford, you will ask your question and not try cross examination.

MR. FORD: Well, I am sorry that Judge Dehnke had to put it on this level, but I think the one thing the questions did demonstrate is that the people who purport to be the authors of this thing don't appear to know too much about the contents of what they signed their names to. They are apparently either unwilling or unable to give me or anyone else here a definition of the terms they put into this.

I want to disagree with Bob Hodges when he said there is no point in debating this on the floor because there are 2 things, Bob, that you have overlooked; one of them you didn't have an opportunity to observe. The first one is the number of conscientious delegates who have risen to oppose this method of selecting the highway commissioner, something unexpected to many of us. The second one was that when we left here Friday there was a persistent rumor about the chambers—

CHAIRMAN MILLARD: We don't care about rumors.

MR. FORD: —to the effect that the method announced in the newspapers for the selection of the highway commissioner was going to be changed and that we were going to swap him now for the secretary of state. So we take some bit of courage from that and some hope that probably this will have some effect on the voters.

But I call the delegates' attention to the fact that you are going to have here appointed a man who has specific language attached to him with respect to his qualifications, language that none of the authors are willing to define for you; you are asked to put a qualification on the office but not understand what that qualification means, and up until this point no one reading in the future the proceedings of this convention will be able to tell from anything that has been said on this floor what we meant when we said that he shall be a competent highway engineer.

There is another thing that you might observe, and that is that there is no term of office provided for this appointed highway engineer, which means he might be serving at the whim and caprice of this 4 man commission. It also means that they might contract with this man for a period of time considerably longer than the unexpired portion of the terms of any one or more of the commissioners then in office, and this should present some serious questions to our minds. If we get a bad highway commissioner under this system, how long are we stuck with him, and if we get a good highway commissioner, how do we protect him from the instantaneous threat of discharge every time he makes a policy decision that meets with the displeasure of the dominant members of this partisan—and you will notice that the 2 principal parties are involved here—of this partisan commission appointed by a partisan elected governor?

There isn't any question at all about the total inability of this provision to remove the highway commissioner from politics —if, in fact, this is a good thing—and up until this time no one has presented a single sound reason why a completely statutory office, an office that has been statutory up until now—and this is a question I would like to ask, Mr. Chairman, if it is in order: why are we taking an office that until now has been purely statutory and making it a constitutional office and then changing the method of selecting him all at the same time? Why don't we leave this to the legislature as it was? If I am in order, I would like to ask this question of the sponsors of the amendment.

CHAIRMAN MILLARD: Who do you designate?

MR. FORD: Mr. Figy. I am not picking on you, Charlie. You are just the first on the list.

MR. FIGY: I am sure of that. (laughter)

CHAIRMAN MILLARD: Mr. Figy, if he cares to answer.

MR. FIGY: Now he asks why. The reference has been made to deals here. I want to assure you that as far as I am concerned, there is no deal or compromise involved. I had this idea of this type of setup long before I ever came to this convention. So I deny that there is any deal involved. The reason for this method is because, as I told you in my statement, there is much precedent for it and I think it has been proved in many other cases that it works.

Now, I will answer a couple of your questions, if I can. One of them is, you might enter into a contract with this man for a long term of years, even beyond the term of the board members. I assure you that I don't know whether it will be for a long term or not, but in many of the other departments—conservation, agriculture and many of these others I've referred to—the executive officer serves at the will of the board. They may remove him tomorrow if he doesn't do the job, and they may let him run continuously until they decide to take him out.

I would like to say this to Mr. Ford. If he wants a better definition of what a competent engineer is, I would be willing, if the other sponsors of this amendment would be, to let you write the definition or, in other words—

CHAIRMAN MILLARD: The Chair thinks that is out of order, Mr. Figy.

MR. FIGY: I'll take that back. Mr. Chairman, I have one other point. I mean to say, if there is a question about the definition I would be willing to have inserted into it that the same requirements for the office could be written in here as exist now for the elective office.

CHAIRMAN MILLARD: Does that answer your question?

MR. FORD: Yes. Thank you.

CHAIRMAN MILLARD: The Chair recognizes Delegate Plank.

MR. PLANK: Listening to all these remarks about qualifications, I would like to submit to you that even I could build highways with an unlimited budget. If our commissioner today is doing us a favor, I ask you, is he doing us a favor? Through his action we taxpayers are now in debt over $600 million for our highways. You could almost buy the state for that. I think something should be done to get him out of politics, make him responsible. I submit to you that today our highway commissioner is in the upper peninsula using his political system to build even a greater empire. Coincidentally, the senatorial election for the upper peninsula is next Monday.

CHAIRMAN MILLARD: The Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, if I am not mistaken, every engineer in the convention has already discussed this point, and I believe I am the last of the bunch to do so. My doctor's degree is in engineering and I have been teaching the professional engineers—or all the applicants for it—the ins and outs of the professional engineering laws; so I am very interested in some of the dialogue about what a highway engineer is, and so on. But I would like to preface my remarks with a question, Mr. Chairman, and I hope no one will get angry if I ask the question of Mr. Figy because, as was said, his name is first.

CHAIRMAN MILLARD: If Mr. Figy cares to answer.

MR. NORD: Mr. Figy, would you please tell me what is meant by conterminous terms? I have heard of contemptible and contradictory and a few others like that, but I have never heard of conterminous.

MR. FIGY: There are probably more learned men in this convention than I am, but I think people here looked the word up, and coterminous and conterminous in one dictionary says they are the same, and in another place conterminous means "with the same ending." So we say no 2 terms shall be conterminous, meaning no 2 terms shall expire at the same time.

MR. NORD: Thank you, Mr. Figy. I assume that it means what I understand coterminous to mean.

Now, Mr. Chairman and delegates, one of the main features I noticed in reading this last paragraph of this amendment is this: we have a bipartisan commission set up, and as I see it, they have the duty to appoint the highway commissioner. The bipartisan commission, 2 of one party and 2 of another party, as I gather, and this brings up reminiscences of the apportionment committee—that is, the legislative organization committee which created a bipartisan commission as well—and I would like to call to the attention of the delegates that when we did that we didn't stop at the point we have here. The first thing that occurred to us when we had finished creating this commission was, what happens if they can't agree? Since there are 2 of each party there is always the possibility, in fact it seems to me an extremely great likelihood, they won't agree. If that should happen, something must be done to determine what the result will be, and in the apportionment committee we labored for a long time, a great deal of time, to consider the various alternatives; and we finally came up with one in which, as far as I can recall, everyone was agreed. But, I will ask a rhetorical question and hope no one feels it is directed at him. What happens in this commission if the highway commissioners —the board of highway commissioners—what happens if they cannot agree? That is to be anticipated. If they cannot agree, who will be the highway commissioner? It seems to me you haven't faced up to that problem, and somebody has got to face up to that before we go ahead and make such a setup as this.

I don't say it could not be done. For example, in the apportionment commission we said we'll let the Michigan supreme court say what should be done about it. That would be the solution. Another solution was suggested, which was not adopted, that it go to the people on a ballot. Some solution might be worked out here. Possibly let the governor decide. I don't know. But as far as I can make out, there is something missing. It is not functional as it now stands.

As to the question that was raised by Mr. Ford as to the meaning of a highway engineer, I would like to testify, if I may. As I say, I've taught all the engineers who were taking the engineers' registration exam for quite a few years as to the registered professional engineer statute and what it means, and I can testify with first hand knowledge that there is no such thing in that statute as a highway engineer. All there is, in fact, is a professional engineer. That is the only thing that is defined. There are no categories whatever. I don't know whether that settles your mind on the subject but in fact, in any event, there are no categories of engineers other than professional engineers. However, certificates are granted in certain branches of engineering. If you take the exam in a certain branch you will get a certificate which says chemical engineer or civil engineer or electrical or mechanical. But there are no categories as far as—there are no categories for highway engineers as such. They are not recognized as a distinct branch of engineering.

I can also testify that that is normally the case in schools. I have taught engineering for quite a long time as well at Wayne University, and there is no such a thing as a degree in highway engineering, although there were courses in it, and what it generally meant was somebody who was a civil engineer who practiced that particular branch of civil engineering. As a result, it seems to me that the term highway engineer could be improved, and possibly it could be changed to simply a professional engineer or a professional engineer having experience in highways. I don't think this is a stupendous problem. It could be worked out, but I don't believe it is quite right as yet.

One of the answers given to the question about whether or not the words "highway engineer" are definite or not, I think, was an incorrect answer. Mr. Sharpe told us that there was no such thing defined anywhere as a competent lawyer or a competent doctor. I believe we should not be misled by that. That is not so; quite the contrary. No one is permitted to practice law unless he is adjudged by the state board of bar examiners to be competent to practice law, and therefore everyone who has passed the bar exam or has been admitted to practice in the state is a competent lawyer by definition. The same thing with a doctor and many other professions as well; so therefore in this particular case I believe what probably is meant here is that a professional engineer is required and possibly in addition that he has had substantial experience in highways or some such form.

In any event, Mr. Chairman, I personally do not approve of the amendment for many reasons that have already been stated, and I won't go into any of them, but I do point out to the proponents that if this amendment passes or if you wish to have it passed, I believe you should make changes. One, you should certainly add some provision saying what happens if there is disagreement. You should not allow a deadlock. Two, it would be a good idea to change the definition or the words "competent highway engineer" and make it a little more specific.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, fellow delegates, this is without a doubt the most asinine amendment that has been presented to this committee to date. I have heard other delegates—

MR. WANGER: Point of order.

CHAIRMAN MILLARD: Would you state your point?

MR. WANGER: Mr. Chairman, the word "asinine" as used by the delegate is entirely impertinent to the question under discussion. It goes into the motivations behind the people who are offering this amendment and is entirely unparliamentary.

CHAIRMAN MILLARD: The delegate maybe can use a better word.

MR. MARSHALL: Mr. Chairman, I will try to use a better word, but I would think it would be just as pertinent as reference to the election in the senatorial district in the U.P., and no one was ruled out of order. Maybe I will use "spenorious." (laughter) For the lack of a better word, then, I will say it is the most spenorious amendment I have seen come before this committee to date.

But seriously, I have to very strongly oppose this amendment. Some of the delegates here on the floor deny that this was part of the deal that was worked out among certain delegates of the majority party. On the contrary, I think 1 of the delegates, at least, and possibly 2, in explaining the deal, explained this as a part of it.

It seems to me that this is another attempt to further create malapportionment in every branch of our government. Presently the highway commissioner is elected on a basis of one man, one vote; one man's vote equating that of another. You have read much in the last day or two in the daily press about this problem of malapportionment and denial of rights under the federal constitution. Yet you are advocating the appointment of a commissioner that would require the advice and consent of a malapportioned senate, and one that would obviously be malapportioned when it comes out of this convention if the committee's majority report has its way. Therefore we are, in effect, saying that a minority of the people will now have veto power over the highway commission which you are establishing, where under the present system all of the people have a vote on who would serve them as their highway commissioner and direct the highway department. This is a hodge podge to say the least.

Today here in Michigan the highway department happens to be in disrepute with a majority of the delegates at this constitutional convention, but I have heard no good reasons from any of the delegates here for changing the rules. Obviously some of you look upon it as an obstacle to the cause of good government, but I have heard no proof. Is it considered a thorn to the executive branch of the government? I think not. And if you take the view of many of the delegates—and I have heard this expressed: Michigan is in a financial jam because the legislature could not use the highway money, paid in by motorists for the exclusive use of highways, administered by an elected highway commissioner, and I might add, tax money paid in by the motorist over and above other taxes he pays. I don't think the people who supported and promoted the calling of a constitutional convention had in mind this type of a proposition. The things that I think they were primarily interested in were those of finance and taxation, apportionment, and others, and some flexibility in metropolitan areas to be able to solve their problems under a true home rule provision. The constitutional convention and we delegates assembled here have already put a stranglehold on the state highway department by actions that we have taken heretofore—and I will deal with those later on—and now you threaten to make a shambles out of the road building program.

Let me give you some facts and one fact above all that stands out in the 5 months of this convention. In dealing with the question of the highway commissioner and the highway department every official act of this convention thus far has weakened the state highway department and its program; a program which affects every man, woman and child in this state. And this is just another step toward further weakening the highway program. The concept of earmarking highway funds for highway purposes only, written into the present constitution by the voters of this state in 1938, has already been seriously weakened and I sincerely believe that this amendment here would further weaken our highway program.

As tentatively approved by the convention already the earmarking provision now permits the legislature—I am talking about the one we have already adopted—to define highway purposes. This means that the legislature would have exclusive authority to decide how motorists' money will be spent. It means, for example, the legislature may decide to use highway funds for state police patrols or driver training in high school.

CHAIRMAN MILLARD: For what purpose does the gentleman rise, Mr. Wanger?

MR. WANGER: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. WANGER: The point is this: the speaker is not speaking to the question here before us, and, furthermore, he is violating Mason's rules which govern our proceedings, section 121, paragraph 5, which says:

> A member in debate is not permitted to reflect upon a prior determination of the house unless it is his purpose to conclude with a motion to repeal or modify or rescind the action to which he has referred.

CHAIRMAN MILLARD: The Chair hopes the delegate will keep on the subject.

MR. MARSHALL: I can't separate the 2, Delegate Wanger, because the action taken on that score fits in with this one, and the 2 of them, in my considered judgment, would completely and totally wreck the highway program of this state. That is my opinion, and I have a right, I think. I don't know; maybe I don't have any rights any more. If I don't, tell me.

CHAIRMAN MILLARD: Proceed, Mr. Marshall, and try to confine yourself to the issue, if you will.

MR. MARSHALL: Well, I could go on and use many other examples to make the point that I am trying to make, but since Delegate Wanger objects so much, I will not bore him with any other facts. But I think the facts are known to the delegates here, and I think they are known to the people of Michigan. Good roads are too important and too vital to our whole economy and to its people to leave anything to chance. The future of our highways, of our present construction program and of our city street systems must be protected. I think that the present practice that has been in effect has worked and has proven that it works, and here we are going to throw something to chance for reasons best known to those who worked it out in the compromise and who offered the amendment here on the floor. The only sure way I can see of protecting our highway program and the future of our highway system is to provide for earmarking gas and weight taxes for highways without any loopholes as defined by law, and to continue to have a highway commissioner to administer these funds and to administer the program, responsible to and answerable to the people of the state of Michigan.

The amendment, as I view it along with what has previously been adopted—and I have to tie the 2 together—would mean the virtual end to future freeway construction in Michigan. That the federal bureau of roads considers Michigan's present system one of the best in the nation has obviously made little or no difference thus far with the majority of the delegates in this convention.

The Michigan constitution now guarantees that money from special taxes on highway users will be used only to build and maintain highways. This separation of highway use of revenues along with an elected highway commissioner to administer them is essential for sound highway planning and programming. Therefore the people, having reserved the highway taxes for a separate and specific use, should have these taxes administered by a separate official and not some board or commission that is created and has been untried. Under the present system that we now have the highway commissioner derives administrative authority from the legislature which created the position and policy authority directly from the people. This has proved to be a good system. Nothing will be gained by changing it.

The only man who has been both highway commissioner and governor of this state, testifying before the committee on executive branch—and I happen to be a member of that committee—testified that the pressure on a governor to trade roads for other parts of his program would be enormous under the appointive system. Legislative log rolling to the detriment of sound highway planning is not unusual where the highway director is appointed, and there is a long sordid record of this in other states if we have to get into the facts on this one. The highway commissioner would be under great pressure from time to time to make exceptions in the highway program; to cut back the program in one part of the state to accommodate pressure for more roads in another part. This again is where the malapportionment would come in. It is a far easier matter for a commissioner to decide highway priorities strictly on statewide needs than it would be for him to be whipsawed by a commission and a governor to yield on roads to gain something else. The present system enables a highway commissioner who wants to do the job to do it without fear or favor. And the present system guarantees the people a direct accountability for the use of their separate highway funds.

We know for a fact that a majority vote in 83 counties in 1938 demonstrated that the people want their highway money kept separate, and I believe they want their highway commissioner separately elected as well. That is what Commissioner

Mackie recommended when he appeared before our committee. His views were apparently ignored because today this committee is considering an amendment to make the state highway commissioner an appointee of a bipartisan commission which Ray Courage, political writer for the Detroit Free Press, described in an article as ridiculous.

I have attempted to the best of my ability—and I have to confess that I am limited—to point out to the delegates in this convention and to anyone who is willing to listen to reason and to study the facts actually what is happening here in this convention as it pertains to this amendment now before us.

Why is the state highway department all of a sudden being pushed around? Who is doing the pushing and for what reasons? Part of the answer has appeared in the newspapers during recent days. Let me bring you up to date on part of the rest of the story. It seems to have all started 4 months ago when Commissioner Mackie appeared before the executive committee of the convention to give his views on executive reorganization. I hope that you don't try to rule me out of order on this because I think this is pertinent, what I am now going to point out, which would demonstrate what brought about, I think, this amendment. He was immediately met with a barrage of questions on how much campaign contributions he had received, where the money came from, and how it was spent. No other state official who appeared before that committee or after was treated so shabbily, nor were similar questions raised to any other state official.

MR. MARTIN: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. MARTIN: I question whether the speaker is dealing with this amendment at this point. Mr. Mackie did appear before our committee. He was questioned, and the substance of the committee's action is in the action that—

CHAIRMAN MILLARD: What is your direct point?

MR. MARTIN: My direct point is that the speaker is entirely off the point in discussing some of the questions that might have been asked of Mr. Mackie when he appeared before the committee.

MR. MARSHALL: Okay, I will accept that.

CHAIRMAN MILLARD: Will you confine yourself to the issue, Mr. Marshall?

MR. MARSHALL: In dealing with this amendment, there are delegates in this convention who came here dedicated to continuing to elect the state highway commissioner, I think, because they felt that it was a good system, that it has worked, and that it has proved that it has worked. As a matter of fact, at least one delegate in this convention defended the concept of keeping Michigan's highway commissioner elected before the committee. Yet this same delegate, as I understand it, today is a part of the move to make this office appointive. I wonder why. Is it because the delegate has suddenly changed his mind about the elected highway commissioner, or is it because some delegate now envisions an appointment if there should be a change in administration?

MR. PLANK: Point of order, Mr. Chairman. I don't see what that has to do with the subject before us.

CHAIRMAN MILLARD: Will the delegate please confine himself to the issue?

MR. MARSHALL: I am sorry if this is not pertinent. I thought that some of the events leading up to this amendment were pertinent and should be pointed out as to the sudden change in the convention. I will try, however, Mr. Chairman, to the best of my ability to accede to your wishes.

CHAIRMAN MILLARD: The Chair wishes you would, Mr. Marshall.

MR. MARSHALL: Now you have read and heard much about the so called package deal devised by a few Republican delegates to wrap up the constitutional convention. The Detroit Free Press article described the maneuver in the March 16 issue, and I quote: "The deal is a series of trades and compromises involving finance and taxation provisions, legislative apportionment and makeup of the state administration board."

MR. WANGER: Point of order.

CHAIRMAN MILLARD: Mr. Wanger, state your point.

MR. WANGER: I object to the reading of this paper. I don't believe that reading a paper before the committee is proper, and particularly a paper of this type which refers not to this question—by paper, of course, I do not mean newspaper: I mean any type of written instrument that someone is reading from.

CHAIRMAN MILLARD: Again Mr. Marshall, will you try and keep your remarks on the amendment and not on a newspaper?

MR. PELLOW: Mr. Chairman, parliamentary inquiry as to whether or not the motives behind a particular amendment may be inquired into, or is the debate to be confined to saying election in every other sentence?

CHAIRMAN MILLARD: The Chair thinks that it has been quite liberal, Mr. Pellow, and would just ask Mr. Marshall to please—

MR. MARSHALL: Mr. Chairman, I will try. All I am trying to do is point out some of the facts that have lead up to this, and in doing it—and I have tried awfully hard to accede to your wishes to be in order, and if you think I have been out of order, Delegate Wanger, you should read what I scratched out. (laughter)

CHAIRMAN MILLARD: For what purpose does the delegate rise?

MR. ERICKSON: I would like to make a motion here under rule 61 that the delegate that has the floor be given unanimous consent to read.

CHAIRMAN MILLARD: To read what, anything he wants?

MR. ERICKSON: The paper that is referred to in rule 61.

A DELEGATE: Support.

CHAIRMAN MILLARD: It has been moved and supported that unanimous consent be given to this delegate to read anything he wants. That is what you meant, wasn't it?

MR. ERICKSON: I have reference to rule 61 only; just the specific paper that he wants to read now, and that is not debatable.

CHAIRMAN MILLARD: "When the reading of a paper is called for—"

MR. MARSHALL: Mr. Chairman, I don't want to see this turned into—

CHAIRMAN MILLARD: Just a minute. The Chair wants to read 61 so everyone will know what we are talking about:

> When the reading of a paper is called for and an objection is raised to such reading, the convention by a majority vote of delegates present and voting shall determine without debate whether or not the paper shall be read.

The question is whether or not Mr. Marshall will be allowed to read the paper. All in favor will say aye. Opposed, no.

The motion prevails and Mr. Marshall may proceed to read his paper.

MR. MARSHALL: Thank you very kindly, Mr. Chairman and delegates. I am laboring with great restraint, and it is somewhat difficult. I did want to say this a moment ago, that I hope this has not turned into a show. I am very serious about this, and I am deadly serious. I think this is one of the most important issues that will be before this convention, and it is one that I want all of the delegates to face and to vote on with an open mind, and not becloud the issue because someone jumps up, when I try to be a good boy, and objects.

As I was saying, a Detroit Free Press article described the maneuver in the March 16 issue, and I quote:

> The deal is a series of trades and compromises involving finance and taxation provisions, legislative apportionment and makeup of the state administrative board.

I emphasize "makeup of the state administrative board."

> It was worked out in 3 days of secret caucuses, hallway huddles and conversations over the breakfast table. If the deal works as expected, Michigan's 5 month old constitutional convention is all over except the shouting.

I hope that that is not true. I hope that there will be enough delegates who will consider the seriousness of this issue before us to realize what we are doing when we establish this so called bipartisan commission, and I am sure that many of the delegates in this convention know what I mean when I say the so called bipartisan commission. If this is true, and if this is a part of the package that was worked out, then maybe I am wasting my time and your time in discussing it any further on the convention floor. But I have been told that some of the Republican delegates here are also unhappy, and particularly as it relates to this given amendment before us. There are only 46 Democrats of the 144 delegates, so it is obvious that we are powerless to do anything about it. Michigan's highway program was dealt out of the deal. It didn't even have a seat at the table when the state's economic future was being compromised.

Now this convention came into being because the majority that voted for it basically wanted fiscal and legislative reform and more flexibility for metropolitan areas to solve problems of an exploded population. There is no evidence before this convention, nor was there any evidence prior to this convention that anyone has brought forth that I have seen or at least no one has presented it, that the people expected or wanted this convention to interfere with the outstanding highway program of this state and its administration. I don't think the voters of Michigan will accept political chicanery disguised as good government, nor will they tolerate deals, Democrat or Republican—and I want to make this bipartisan—that would sabotage the highway program of this state.

Michigan's good roads combination of earmarked funds, separately administered by an independently elected highway commissioner, my friends, has worked in this state, and it has worked well. This combination has brought Michigan from 101 miles of freeway in 1957 to 802 miles of freeway in 1962. This combination has likewise made Michigan the nation's number one road building state. It is a combination that has served this state well for nearly a quarter of a century. There is nothing to be gained by changing the present system.

The office of highway commissioner is closest to the people. It was created by the legislature more than 50 years ago and has been retained ever since because it works. And any time that it stops working, the legislature can act swiftly without a constitutional convention experimenting with this type of amendment before us. The Michigan state highway department is charged with the responsibility for building highways that will last for generations. This convention here also has the same obligation in writing a constitution for Michigan. There is no room for short term petty or personal considerations in building Michigan's future.

In closing, I have one other paper that I would like to read, and that is a resolution that was adopted by the Michigan engineering society in a meeting that they held at the Cranbrook Academy in Bloomfield Hills on Saturday, March 24, "Whereas, the Michigan constitutional convention is now revising the present Michigan constitution; and whereas, the language of article X, section 22 of the present constitution—" and this deals with earmarked funds, as well, Mr. Chairman. If you are going to rule me out of order, say so now. It goes on into why, and maybe rather than to bore you with the reading of it, if anyone wishes to see it, if you don't have a copy, I will show it to you. But the meat of it is—the crux of it is that the Michigan engineering society strongly urges and unanimously went on record that Michigan continue its present system of earmarking the gasoline and weight taxes for highway purposes and continue to elect a highway commissioner, responsible to the people to administer this highway department.

Therefore I cannot too strongly urge that you vote down the amendment before us. Because, take a look: in the second paragraph that you see before you, where it requires the advice and consent of the senate over the commission—even if the commission was a good idea in the first place, which I personally do not believe it is—let's assume it was—do you see what this would do with it? It would place a minority in control of the highway department. You saw what happened today in the senate on a couple of matters that were before the senate today. So I urge you to defeat the amendment, and let's continue the highway system that we have in this state that is second to none in the nation. Thank you.

CHAIRMAN MILLARD: The Chair will recognize Delegate Boothby.

MR. BOOTHBY: Mr. Chairman and ladies and gentlemen of the committee, I would like to make a few remarks concerning the definition of what a competent highway engineer is. The reason for my remarks is that I understand that while I was out of the room—and now it has been about 30 minutes or so ago—there was a suggestion that I might be able to help clarify this, since at one time I was engaged in serving a law firm that had something to do with this particular question. The statute from which I believe this wording is taken from is Michigan Statutes Annotated 9.202. This statute reads, referring to highway commissioners:

> The chief officer of said department shall be denominated as the state highway commissioner. He shall be a competent highway engineer experienced in the administration of highway affairs and shall be a citizen of this state.

So the statute which now provides for a highway commissioner defines the qualifications of the highway commissioner as being a competent highway engineer experienced in the administration of highway affairs and shall be a citizen of this state. This comes very close to the wording which is used in the amendment which describes it as being a competent highway engineer.

Now, the question then is, what is a competent highway engineer? There was an attorney general's opinion many, many years ago which indicated that a competent highway engineer would have to be a professional engineer. However, at the time that our present highway commissioner was nominated at the party convention, there was at that time a rather quick, off the cuff decision given by the attorney general that a competent highway engineer did not require him to be a registered or professional engineer; it merely indicated that it gave to the people of the state the question of deciding whether he was a competent engineer or not. So it left to the people of the state to decide whether he was a competent highway engineer. A suit was filed in the Michigan supreme court, and this suit was based upon the contention of the Michigan society of professional engineers that a competent highway engineer required that the highway commissioner be a registered professional engineer, and the reason for it was that this statute which I have just referred to was considered imprimatur to the provisions dealing with architects, engineers and surveyors, and particularly with those sections starting with Michigan Statutes Annotated 18.84, subsection 1, and this section reads:

> In order to safeguard life, health and property, any person practicing or offering to practice the profession of architecture, profession of engineering or of land surveying, shall hereafter be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice the profession of architecture, the profession of engineering or of land surveying, in this state, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is an architect, a professional engineer, or a land surveyor, unless such person has been duly registered or exempted under the provisions of this act.

And then further in Michigan Statutes Annotated 18.84, subsection 18:

> Upon this law becoming effective, it shall be unlawful for this state, or for any of its political subdivisions, or any county, city, town, township, village or school district to engage in the construction of any public work involving architecture or professional engineering, unless the plans and specifications and estimates have been prepared by, and the construction executed under the direct supervision of, a registered architect or a registered professional engineer. . . .

So it was the position of the society of professional engineers that in order to be able to have a direct supervision of public works, as the highway commissioner does, he would have to be a registered professional engineer as required by this section.

A suit, as I say, was filed in the Michigan supreme court to have the Democratic nominee's name removed from the ballot. The supreme court declined to decide this matter, stating that the electorate had not yet made a decision. And then immediately after the election of this particular individual another suit was filed in the Michigan supreme court, and at that time they said it was too late because the people had decided that this person was a competent engineer within the wording of the statute. They declined to rule on the interpretation. Now it would lead me to believe, therefore, that the words "competent highway engineer" might be rather ambiguous since we couldn't get the supreme court to make a decision, and there has been no decision by the Michigan supreme court as to what a competent highway engineer is.

I would like to, however, direct your attention to another statute which is in this same general section dealing with architects, engineers and surveyors. That is Michigan Statutes Annotated 18.84, subsection 2, where they define what a professional engineer is, and they say:

> The term "professional engineer" as used in this act shall mean a person who, by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined.
>
> The practice of professional engineering within the meaning and intent of this act includes any professional service, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects . . . when such professional service requires the application of engineering principles and data, except as hereinafter defined.

and then, skipping down 2 paragraphs:

> No person shall publicly use the term "architect", "professional engineer" or "land surveyor" in connection with his name unless such person is registered under the terms of this act.
>
> The term "board" as used in this act shall mean the state board of registration for architects, professional engineers, and land surveyors, provided for by this act.

My only suggestion is that we might have a more definite definition if we used the words "professional engineer" rather than "competent highway engineer" because competent highway engineer apparently up to this point has no definite and certain legal meaning. The words "professional engineer" have, however, by statute a very definite and certain meaning, and I would suggest that some consideration be given to the exchange of "professional engineer" for "competent highway engineer."

CHAIRMAN MILLARD: Delegate Karn.

MR. KARN: Mr. Chairman, I asked for recognition only to read the definition of a highway commissioner which Mr. Boothby has just read—Mr. Ford wasn't in here at the time, I don't believe—and it says, "He shall be a competent highway engineer experienced in the administration of highway affairs and shall be a citizen of this state." This is from Michigan Statutes Annotated, volume 7, 1958. All I can say about the qualifications is this: apparently the electors in the last election had a clear understanding of the definition of qualifications.

CHAIRMAN MILLARD: The Chair recognizes Delegate Tubbs.

MR. TUBBS: May I ask the Chair how many others are to be recognized?

CHAIRMAN MILLARD: Two.

MR. TUBBS: I will pass.

CHAIRMAN MILLARD: Delegate Shackleton.

MR. SHACKLETON: Mr. Chairman, fellow delegates, it has come up before and may come up again, so I thought it might be of interest to the delegates and to Dr. Nord that according to the Michigan Manual—and I wouldn't guarantee I have all of them, but I counted 24 commissions or bureaus that have an even number of members, ranging from the universities, the various schools, the board of nursing, Mackinac bridge authority, civil service commission, board of canvassers, and so on, 24 of them have even numbers, and I don't think we have heard too much trouble about getting into deadlocks.

CHAIRMAN MILLARD: The Chair recognizes Delegate Wood.

MR. WOOD: Mr. Chairman, I believe you have a substitute amendment on the desk.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Messrs. Erickson, Wood, Faxon, McAllister and Leibrand offer the following amendment to the amendment:

1. Amend the amendment, after " "Sec. h.", by striking out the balance of the section and inserting "There shall be a state highway department with such powers and duties as prescribed by law to be administered by a highway commissioner who shall be nominated by party convention and elected as prescribed by law.".

CHAIRMAN MILLARD: Delegate Wood.

MR. WOOD: Mr. Chairman, fellow delegates, I feel very strongly on this subject. I feel that a branch of our state government as important as the highway department, in the spending of enormous sums of state and federal moneys and entrusted with the building of roads in every section of this state, should be in a position of answering to the people of this state and not be placed into the position of having to satisfy the political ambitions of the governor or any political party.

I think we have heard it pointed out, but I want to reiterate that Michigan ranks number one in the United States, the 50 states, as to our highway system and that is not only of recent date; under the previous administration we also ranked number one. It would seem to me that that is enough to recommend the present system of electing our highway commissioner. Much has been made of the fact that Michigan is the only state that elects a state highway commissioner. Well, maybe we are, but I think our rating in the states in the United States justifies that election.

We have a trend throughout the world towards centralization of government, and we here in the United States point to the rest of the world and say we don't like their forms of government. At the same time we are trying to centralize our government both nationally and in the state of Michigan. I don't think that is a good system either.

The commission being proposed by the original amendment would not in any way remove the state highway department from politics. It would, by adding 4 men as a commission, increase this department's participation in politics. I served 8 years as chairman of a county road commission, and I don't want anyone to think that we didn't do a good job in our county during those 8 years. I think it was recognized that we had the best administration since the department had been set up. But I don't want you, either, to think that it was the most efficient administration. We found a man in each corner of the county who wanted a piece of road here and another one wanted one there. We were never able to build a road straight across the county. You will find the same condition with the state administration board.

It has been stated here in this convention in the past month that tourism or tourists were a big source of income in the state of Michigan. That same business depends on the excellence of our highway system.

I urge you to support this amendment, and I think as you examine the facts you cannot help but agree that our present system is better than any system that has been offered in the United States.

CHAIRMAN MILLARD: Mr. Wood, do you want to yield to any of the proponents with you on the amendment?

MR. WOOD: I yield to Mr. Faxon.

CHAIRMAN MILLARD: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, I think it has been said very clearly that the people of this state did not call this convention because they were dissatisfied with the present arrangement of the highway department, and I don't think there is anything I can add to what has been said on that subject.

The language which you are being asked to consider now is essentially the language which is in the statutes of the state dealing with the highway commissioner. It provides, though, if—to those of you concerned with putting this into the constitution, let's keep it the way it has been, the way it has worked well in Michigan and the way that the Michigan experience has shown to be a successful one. This is what the legislature has done. This is what the people and their representatives have chosen to do. This is a system that has worked, and this is a system that will continue to work.

In view of that, change at this time certainly doesn't seem imminent or necessary. This amendment is less language. It leaves to the legislature detail which belongs to the legislature. It states the department—it states the commissioner as a person who is an integral part of the overall executive administration of the state and as a person who is able to administer that office. I urge you to leave this language as it is here in this amendment so that the legislature can make the necessary requirements with regard to the powers and duties of the highway commissioner.

One other point that has been overlooked by some of the delegates: they have been saying that this is going to make the highway commissioner—that is, this amendment is going to take care of it, but the proponents of the other one were saying it was going to take the highway commissioner out of politics. Under the original amendment the highway commissioner would be selected by a commission, but he would have to have the approval of the governor, and I suggest that if this is the case the people of the state want the office of the highway commissioner elective. If it's going to be in the constitution, let's keep it the way it has been, the way it has worked and the way that we can go forth together with a united feeling that the highway department should stay as it has been. I now would like to yield to another cosponsor, Delegate McAllister.

CHAIRMAN MILLARD: Mr. Wood? Mr. McAllister.

MR. McALLISTER: Mr. Chairman, fellow delegates, I believe that we should have an elected highway commissioner. No point has been seriously advanced that supports the commission form of electing a highway commissioner. The proposition is an experiment. The Michigan highway department has been doing a splendid job on the elected highway commissioner basis. We have splendid highways throughout the state. As far as I know, we only have 2 toll bridges, the one going to Canada and the one going across the Straits of Mackinac. In other words, our highways are toll free.

The county highway departments and all those who are connected with highways in any way that I have had any contact with heartily endorse the present method of selecting a highway commissioner. The original amendment is one more that takes government away from the people. The people throughout the state, in my opinion, want to elect their officials. The plan would give us 4 more officials, who will appoint a highway commissioner. In other words, a select commission of 4 will appoint a highway commissioner for approximately 8 million people. The commission is supposed to consist of 2 Democrats and 2 Republicans, but it is sometimes possible to appoint people who call themselves Democrats who think like Republicans, and vice versa. So it is most likely that the commission will be a group favorable to the governor. If the group does actually consist of 2 Republicans and 2 Democrats, it would appear that we will have a commission that will be a standoff; a 4 man commission with 2 Democrats in favor of one individual and 2 Republicans in favor of another. So that the commission will have difficulty in deciding on a highway director or commissioner, and if there is a stalemate, no highway director or commissioner is likely to be appointed.

The commissioner and the commission are likely to build highways with preference to the areas from which they come. This setup can be what we commonly call a buck passing group. They can pass the responsibility from one to another. The highway commissioner has to meet the public and explain his conduct to them and convince them that he has done a good job or is going to do one. The commission and director can be criticized by the public, but this group can ignore the public's criticism.

The committee has already proposals to consolidate existing agencies into 20 departments. Yet the original amendment creates a new one. The people will be asked to approve the constitution and vote in favor of this provision which takes their control of the highway department away from them. Do we as delegates of the people believe that the people will make a mark on a ballot which deprives them of the right they have had for over half a century? If the theory of that amendment is sound, we should have had a commission appointed to prepare this constitution. If we vote for that amendment we are saying to the people, in effect, that they made a mistake in electing us, as in our opinion the best form of government is the commission form and not the form whereby the people elect their officials. We will say that 8 million people are incapable of electing the officers who run our state government. I, for one, do not wish to declare 8 million people aren't fit to elect the officials of this state.

Those supporting the original amendment have cited Arkansas as one of the states that has an appointed highway commissioner under their plan. I was in Arkansas about 3 years ago, and on a Sunday afternoon we took a drive out of Hot Springs on a designated state highway. It became worse and worse until we finally arrived at the end of the trail and found a bridge tied to a tree across a large river. My passengers walked across the bridge, and I was elected to drive. (laughter) Fortunately we got across. The rest of the group joined me on the other side. The car and I had made it already. We then traveled for an hour through woods, moving many trees off the highway or trail. Next we hit a huge hidden hole in the road and finally arrived at an unbridged river or large creek. The tracks led to the river or creek and the sign said: go slow. We followed instructions. The car stopped in the middle of the river and water poured into the floor of the car. I stepped on the starter, the car started and we reached land well soaked but safe. In view of this, I recommend that Arkansas be chalked off the list and that the commission form of electing the highway commissioner go along with it. (laughter) I yield to Mr. Leibrand.

CHAIRMAN MILLARD: Mr. Wood? Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, delegates to the convention, I rise briefly to speak in support of the Erickson-Wood amendment which provides for the retention of an elected highway commissioner. By the same token, I wish to express myself as unalterably opposed to the Figy amendment. If the delegates of this convention had the final power to determine whether the highway commissioner should be elected or appointed, I frankly am not sure how I would vote. But as we all know, we do not have that final power. The final power to make the decision is vested in the voters of the state of Michigan, and in my opinion the people of the state of Michigan have already, have long since made that decision. I believe from observation and contacts that the people on the whole overwhelmingly are favorable to the present type of administration and the present operation of their highway system. I think that public opinion overwhelmingly favors the elective system. If this convention tries to buck that sentiment, I believe we will be jeopardizing the acceptance of the entire new constitution. I am not willing to take that chance. Accordingly, I will vote to make the highway commissioner a constitutional official and an elected official. Once again I support the Erickson-Wood amendment, and I yield to Delegate Erickson.

CHAIRMAN MILLARD: Mr. Wood, you are in charge of yielding.

MR. WOOD: I yield to Mr. Erickson.

CHAIRMAN MILLARD: Mr. Erickson.

MR. ERICKSON: Just a final short statement. At the beginning of this convention we heard considerable about government by stalemate. I am fearful if we adopt the first amendment that we are going to have administration by stalemate.

There seems to be a sentiment in the convention that this office of highway commissioner should be written into the constitution, and I think this amendment is the best way that it can be accomplished.

CHAIRMAN MILLARD: Mr. Wood? Delegate Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, Mr. Wood said he would yield for a quick question. I want to know why in this it is provided that the commissioner would be nominated by a party convention. We never put those things in the constitution before. We provide for the election of the governor; we provide for the election of the superintendent of public instruction under the present constitution. We don't say anything about how they will be nominated. Is that desirable?

MR. WOOD: I don't see anything wrong with it, and I believe it is in the constitution with regard to some of the judicial officers.

MR. STEVENS: It is in the case of the supreme court, but that is another situation.

CHAIRMAN MILLARD: Is that a question?

MR. STEVENS: The question is, aside from the supreme court which is a peculiar situation, the constitution at the present time makes no provision for how a person will be nominated, and I wonder if there is some reason for putting it in not only here but in any other place?

CHAIRMAN MILLARD: We are confined to this particular amendment, Mr. Stevens. Do you want to answer the question, Mr. Wood?

MR. WOOD: As far as I am concerned, it can be left out. I haven't discussed this with my colleagues on the amendment, but I see no reason that we couldn't leave it out.

CHAIRMAN MILLARD: Is that all you have, Mr. Wood?

MR. WOOD: Yes. I yield the floor.

CHAIRMAN MILLARD: Dr. Nord, you raised your hand a long time ago. The Chair will recognize you. This is on the Wood amendment?

MR. NORD: Yes. Mr. Chairman, the issue before us now, as I see it, is this: whether we adopt this amendment presently before us which in essence maintains the present system of operating the highway department or whether we go to the alternative which is the underlying amendment. I would like to address myself to the question of which of the 2 is better. Without going into detail, I think that the case in favor of the existing system has been made very well, and I don't think there is any point in amplifying that. The present system has worked well, and the question I wish to address myself to is whether the alternative, the underlying amendment which is the other possibility for us, is better. It may be said that Mr. McAllister has already sunk the highway commission form by his discussion of what has happened with it elsewhere. And I too made some remarks earlier as to what might happen, and I would like to amplify those remarks simply to show the difference between the 2 possibilities. If we have a bipartisan commission, which is the alternative to the amendment before us, I pointed out that that commission might deadlock, and it was remarked by Mr. Shackleton that he didn't think it was likely to deadlock because there are many boards, 24, I think he said, which have an even number of members. I would like to reply to that statement of Mr. Shackleton.

There may be many boards which have an even number of members. I don't believe, unless I am corrected, there are many boards which have an even number of members which are partisan boards. That is the issue I raise. When you have a bipartisan board, 2 parties, and an even number, then you are inviting a deadlock. You can't avoid the possibility that there will be a deadlock. I would like to emphasize that beyond what I said before. I said that there might be a deadlock; there would be a deadlock, most likely, as to the selection of a highway commissioner, but there might be deadlocks of other sorts, as well, not only on the selection of a highway commissioner but on the policy decisions. It might be, for example, a question of whether or not to build a road in a certain place, and the Democrats might say let's build it over here and the Republicans say let's build it over there. In that case I wonder how this question is to be decided? It has been suggested to me by one of the delegates that he thinks the only way to decide it is that there will be a compromise and they will build both roads. It seems to me that is the correct answer. That is probably what would happen. They can't do that as to selecting a highway commissioner. As far as I know, they can only select 1 rather than 2. But we cannot expect solutions to problems under the underlying amendment as we have had under the system proposed by this amendment. We can only expect instead of a highway program a dead end.

I would like to point out one further thing which slipped my mind when I was on the floor earlier on the underlying amendment: when you attempt to solve this problem of the deadlock, you get into great difficulty. You may think at the moment that this problem of deadlock is something which can be handled later, and therefore you may not be concerned. But let me assure you that that is not so. These deadlock problems are extremely difficult to handle. For example, I suggested when I was on the floor that maybe somebody will work one out such as having the governor decide. When there is a deadlock the governor decides or some other person decides. Suppose the governor is to decide; what is the result? As we found in the apportionment committee, or legislative organization committee, in discussing this type of a subject we found whenever you provide a solution for a deadlock you have a tendency to create the deadlock because of that solution. So that if you have 2 Democrats and 2 Republicans, and a governor, let us say, that is a Democrat, then you can have fears which I think are justified, that Democrats might wish to have a deadlock so that the Democratic governor will settle it. Similarly, if there is a governor who is a Republican, the Republican members would wish to have a deadlock so the Republican governor could settle it. And we found that it is extremely difficult to find a solution which breaks the deadlock which doesn't in itself make the deadlock. And it seems to me that before you can accept the underlying amendment as contrasted to the present system, such as is before us at the moment, you must know the solution to that problem. You must have some solution. I have not heard a word on the floor as to what is going to be that solution, and I certainly hope that no one will blindly enter this cul de sac or dead end thinking that he is on a highway. You are not on a highway unless you have a solution to the problem. For that reason, as well as for others that have already been stated, it seems to me the better system is the present system. We should stay on that. That has built roads, and let's keep away from dead ends.

CHAIRMAN MILLARD: Delegate McCauley.

MR. McCAULEY: Mr. Chairman, I oppose this amendment as well as the original amendment. I think this is legislative in nature. It has worked for 50 years under the control of the legislature, and I think they should have the flexibility that might be necessary to make the change in the next 50 years.

CHAIRMAN MILLARD: The gentleman from Quincy, Mr. Knirk.

MR. KNIRK: Chairman Millard, delegates, there has been very interesting discussion here this afternoon, and I certainly wish to add these following comments: I am very definitely opposed to the present amendment before the delegates here at this time. I was interested in hearing Delegate McAllister in his story of Arkansas, but I thought you folks might also be interested in not going to Arkansas but staying within Michigan. Just a short time ago I had the privilege of having my wife and 2 sons with me in the upper peninsula. We found a very beautiful highway which we assumed was going to Grand Marais. It was not marked on the map. We started on this highway, traveled a magnificent road structure, only to find out after about 30 minutes of travel that we ended up in an old abandoned logging camp, and it was absolutely that's it. That is the end. We had to turn around and come back. I am not so sure whether we could have prevented that by a commission or not. However, we do know that down in my part of the state some of our main trunklines following spring—and again, incidentally, you might come down there today and find the same thing prevailing—we go from chuckhole to chuckhole and it is not exactly a pleasant trip, either.

I would like to submit for your consideration, because we have mentioned the tremendous roadbuilding program in our state in the past 4 years, that I wonder how many people have considered the cost of maintaining these highways in the very near future. We all know that for a 6 or 8 year period for the bulk of these new roads, the cost of maintaining them is very limited. However, unless further revenue, expanded revenue, is brought forth, I am told by some of the people that are in our state government today that we will have a very, very difficult time to maintain these roads and in fact, the thought came to me over the weekend that regardless of whether the highway commissioner be appointed or elected, he is going to face a period in which it will be most difficult to build additional freeways.

I would like to—I see the distinguished Delegate Pollock is not with us at this time, but I was certainly hoping to concur with him that I am against setting up separate empires in the state government. I think this also might be included in civil service. This commission that is recommended by the amendment certainly, because of its very nature, would be much more responsible to the people of the state of Michigan and would also at the same time have the added advantage, as I think of it, as a board of directors to management. I think it has been brought out on the floor before that certainly a board of directors or a body of people who can give counsel and advice to the executive official is certain to give the state a better highway system than one person who has admitted before the committee, according to Delegate Shackleton, I believe it was, that he was not responsible to the governor; that he was purely responsible to the 3 million people who are voters.

I think that we must, on considering the problem before us, consider the record that has been established in the past 4 years, and this alluded to 90 per cent federal funds, and I don't know exactly what per cent, but a very high per cent of the balance, the 10 per cent, to a deficit financing program, and I do not subscribe in any way, shape or form to that form of financing our problems. I certainly hope that the delegates here this afternoon, if we ever get a chance to vote on this particular amendment, will turn it down and again return to the amendment of which I happen to have the privilege of being a cosponsor. Thank you.

CHAIRMAN MILLARD: The Chair recognizes Delegate Higgs.

MR. HIGGS: Mr. Chairman, I would like to ask several questions of any one of the sponsors of this amendment.

CHAIRMAN MILLARD: Name who you want.

MR. HIGGS: Well, I will take Mr. Erickson, since he is first.

CHAIRMAN MILLARD: If Mr. Erickson cares to answer.

MR. HIGGS: Mr. Wood? Mr. Erickson suggests Mr. Wood.

CHAIRMAN MILLARD: Mr. Wood, if he cares to answer.

MR. HIGGS: Mr. Chairman, Mr. Wood, assuming a vacancy in the office of state highway commissioner, would it be true under this particular amendment that the people of Michigan would be limited in their selection of a highway commissioner to a resident of the state of Michigan?

MR. WOOD: I think they would. I would think they should, also.

MR. HIGGS: The second question would be: do you conceive of the office of state highway commissioner as principally an office requiring the services of an engineer or a person with technical training, or do you conceive of the function of this office as a policy or a partisan type of function?

MR. WOOD: I think this office is purely administrative, and it is beside the point whether he is a technical engineer.

MR. HIGGS: Thank you. Well, Mr. Chairman and members of the committee, I feel compelled to oppose this, then, first of all, for the limitation that in seeking a qualified person who, as Mr. Wood has told us, should be an administrative person rather than a policymaking type of person, we should be free to find this man wherever he might be in the United States in whatever state he might reside. Certainly, if we were going to hire a coach for the Detroit Lions we wouldn't want to be limited in this particular way. We might find the most capable, competent person available to fill that coaching position in any state in the United States, and under this amendment we would be absolutely limited if it happened to be at the particular time that the most highly qualified, capable person was a resident in Oregon. We would have no way of bringing him to Michigan to fill this most important and significant position.

Going to one further point, I would not hesitate or be fearful of the electorate or the voters of the state of Michigan in any regard in this matter of appointment. I feel that the people of Michigan, the electorate, are informed and enlightened and having these particular facts before them would not hesitate in one respect to accept an appointment either by a commission or by the governor, or any particular form. I would oppose this particular provision as too restrictive.

CHAIRMAN MILLARD: Delegate Tubbs.

MR. TUBBS: Mr. Chairman, Dr. Nord has asked some questions about the even division of this politically minded commission. I point out to him and the other lawyers of this body that they can find in Michigan Statutes Annotated 28.2141, act 232 of the public acts of 1953—now, I suspect that even 144 nonpartisan delegates, as well as all the newspaper people here, and the people in the gallery, could take judicial notice of the fact that in 1953 we had a partisan governor—this act sets up a commission of 6 people, not more than 3 of whom shall be appointed from any political party. They shall be appointed by the governor by and with the advice and consent of the senate. And what do they do? They appoint a director of corrections, and they run the department of corrections. That is one of the 25 or 30 boards of similar nature in this state.

I suspect, without knowing too much about it except that I have had considerable dealings with the state highway department for the last 30 years, that if a state highway commissioner should leave the state of Michigan tomorrow, the highway department would be run by many thousand public servants who couldn't be fired except for cause and after a hearing and that probably he is simply administering a lot of people who do the actual work. And if we have a commissioner who is skilled—you can call it highway engineering, if you wish, Mr. Ford—Delegate Ford.

Excuse me, Mr. Chairman. I was sorry that Delegate Ford went down the list and forgot that there was a "T" at the end of the list because I was going to give him a quotation: "Fools can ask questions that wise men hesitate to answer."

CHAIRMAN MILLARD: Delegate Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, I would just like to answer this charge that people have made, and I am going to appeal to those people who want the legislature to have flexibility. The first sentence—it is all one sentence, but the first part of this amendment gives the legislature as much flexibility as it already has and would have without it. This doesn't act as a deterrent nor does it act as a straitjacket as far as the legislature has its duties in prescribing the powers and functions of a state department or highway. This is really the most flexible language you could put together as far as letting the legislature have that flexibility. This doesn't take away anything from the legislature.

The question that we are attempting to get to here is whether the highway commissioner is better selected through the election of the people of the state or through the selection by means of a commission appointed by the governor, with the advice and consent of the senate. It has been said that a commission is more responsive to the people of Michigan. I suggest to you there is nothing more responsive than being an elected official, and you cannot by any means justify the idea that a person selected or appointed by a single individual is going to be more responsive to the people than if he were elected.

In this case we have had the experience, and it has been a good experience, of an elective official at the head of the highway department. There is no evidence that you can bring forth that could say that a commission is going to give any more responsive or responsible administration over a highway department than an elected official over that same department. There isn't such evidence available. There have been no comparative studies made with regard to one selection over the other to make this determination, and so in lieu of this and in view of this, I think we are in a position to reaffirm the decision made by the legislature, a decision that has been repeatedly confirmed by the legislature, that this process has been the best; a decision which the people of this state have indicated no displeasure with. Reaffirm this by voting yes on this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I only want to say that it seems to me the most objectionable part of this is that it freezes into the constitution an elected official and essentially deprives the legislature of any say over the question of whether he shall continue to be elective or not. The only reason for putting the highway commissioner into the constitution—it would be better if we could leave it out, but the reason for putting it in is, it seems doubtful whether the legislature will take the necessary action to do that. We believe that such a commission should be established and that the only way to assure that is to put it into the constitution. But the present amendment does an unnecessary thing in moving the highway commissioner into the constitution as a permanently elected official. The amendment which this seeks to amend, of course, would be completely stricken out by this amendment, and that amendment, the amendment which this seeks to amend, represents, I believe, the best view of the majority of those who have considered this question. It represents one portion of the compromise which we have discussed at various times, and I think it is important that the delegates understand this in voting on this amendment and in voting, as I hope they will, to turn this amendment down.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: What my distinguished committee chairman just got through saying was that if you agree with him, it ought to be in the constitution, and if you disagree with him, it ought to be statutory, and I have listened to that throughout the convention. I personally favor the present system, leaving it up to the legislature, not creating any more constitutional officials than we presently have. Of course, under the original amendment you would create 5 additional constitutional officers; under this one you would only create 1. In the absence of something better, I would support this amendment offered by Delegates Wood, Faxon and others. I think it does retain the elected highway commissioner, does keep him responsible to the people, and does not in any way disturb the present system.

I get a little sick and weary of—I guess I have been guilty at times, myself—statutory versus constitutional, but I think we will all agree, Delegate Martin, that what you said was, if we agree with you it ought to be constitutional; if we disagree, it ought to be statutory.

CHAIRMAN MILLARD: The question is on the Wood amendment. Mr. Wood.

MR. WOOD: Mr. Chairman, fellow delegates, Mr. Higgs differentiates between administrative and policymaking. I took administrative to mean he was also a policymaker, and he definitely would be.

I might comment on what Mr. Knirk said. In one statement, his first statement, he said the roads are not good enough, that he jumps from chuckhole to chuckhole, and in the next statement he worries that we have too many roads and that we wouldn't be able to maintain them. I don't know that either one is pertinent to this amendment.

I agree with what Mr. Marshall says about Mr. Martin: he wants to put his program in the constitution and we want to put ours in. Ours is much less dangerous in the constitution than his.

CHAIRMAN MILLARD: The question is on the Wood amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? Sufficient number up. The question is on the Wood amendment. All those in favor will vote aye. Those opposed will vote nay. Delegate Bledsoe asks to have the amendment read, so the secretary will read.

SECRETARY CHASE: Messrs. Wood, Erickson, Faxon, McAllister and Leibrand offer the following amendment:

[The amendment was again read by the secretary. For text, see above, page 1915.]

CHAIRMAN MILLARD: Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Messrs. Wood and others to the amendment of Messrs. Figy, et al, the yeas are 47; the nays are 77.

CHAIRMAN MILLARD: The amendment is not adopted. The question now is upon the Figy amendment, which is a new section h. Mr. Faxon.

MR. FAXON: Mr. Chairman, there has been one argument which is advanced here that I think is most reprehensible, and of which I would wish to have you further consider the ramifications, and that is, namely, that we are making this change because the legislature won't make this change, and the legislature is not going to do it, so let's do it here now. I don't think this is a fair judgment to be made. It has been made. I don't think it should stand without some word, at least from someone, in defense of the fact that the legislature hasn't changed it. I think that a group of people who are elected on a regular basis are capable of making judgments here, and if they have seen fit not to make these changes, I don't think that for our one shot deal we ought to be tampering with institutions which have been in existence for so long and that have proven out to be well.

The second thing I was disturbed by was the fact that some people who spoke against the amendment to this amendment, who were for the amendment that is now before us, referred to this as the best view of the majority of those who considered this subject, and I would wish to consider that too, and I don't believe that I was considered in this, and I am sure there are many others who weren't. I would feel it is necessary for us, if we believe in leaving statutory details out of the constitution, to vote no on the amendment because this is a great deal more statutory and binding than the other amendment offered, and I would urge "no".

CHAIRMAN MILLARD: The question is on the Figy amendment. Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I again want to plead with the delegates to consider voting this amendment down. If it is voted down we will continue with the present system that we have: it will be left up to the legislature. If it ceases to work at any time, the legislature can change it. But writing this into the constitution to me is a very, very, very unwise move on the part of this convention. It is obviously completely ignoring the job that has been done under the present system. It is a Jesse James approach to the people's rights. The only difference is that Jesse James had a gun.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I want to make only one remark. This amendment sets forth a bipartisan commission, and I suppose we all think that a bipartisan approach is a good thing. But I call your attention that this amendment does not have bipartisan support, and it is rather an anomaly that an amendment which is entirely or substantially supported entirely by one party is put forth in the form of a bipartisan amendment. I think there is something peculiar about this situation; I leave it to your judgment to determine what. The amendment is not good on the merits, and as I say, there is something fishy about the way it is being presented.

CHAIRMAN MILLARD: The question is on the Figy amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? There is sufficient number. All in favor of the Figy amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Figy and others, the yeas are 68; the nays are 54.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to section h?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: If not, it will pass.

Section h, as amended, is passed. Mr. Martin.

MR. MARTIN: Mr. Chairman, I move the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, Vice President Hutchinson resumed the Chair.]

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration some committee proposals of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** has considered several amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

VICE PRESIDENT HUTCHINSON: Are there announcements?

SECRETARY CHASE: The following announcement has been requested to be made: Mr. Greer of the Jack Tar hotel wishes to express to the delegates his sincere appreciation for their cooperation in helping him accommodate the visitors of last weekend.

The committee on style and drafting will meet this evening at 8:00 o'clock in room K.

The committee on legislative organization will meet in room D immediately following adjournment today. John Hannah, chairman.

The committee on administration will meet at 1:30 tomorrow afternoon. Mr. DeVries, chairman.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Stamm.

MR. STAMM: Mr. President and fellow delegates, this is a lovely spring day. There are about 2 hours of sunshine left, and I move we adjourn to enjoy the sunshine.

VICE PRESIDENT HUTCHINSON: The question is on adjournment. Those in favor, say aye. Opposed, no.

We are adjourned until 9:30 a.m., Wednesday.

[Whereupon, at 5:00 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Wednesday, March 28, 1962.]

ONE HUNDRED NINTH DAY

Wednesday, March 28, 1962, 9:30 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning comes through the courtesy of Dr. DeVries and is given by the Reverend Clarence Boomsma of the Calvin Christian Reformed Church, Grand Rapids. Will you please rise.

REVEREND BOOMSMA: Almighty God, who art the giver of all good gifts, we thank Thee for the common testimony of Thy goodness in the generosity with which our daily wants are met. For restful sleep, for food to eat and health to do our work, we give Thee thanks.

Thou, who alone giveth wisdom and understanding, guide, we pray, the minds of all to whom Thou hast committed the responsibility of government and leadership in our nation, and in all the nations of the earth, that peace and justice and love may prevail. Strengthen in us the sense of duty in our political life. Deliver us from the love of power and from motives of personal gain that tempt us to sacrifice truth and justice. Forbid that we should lose truth in propaganda, justice in favoritism, fairness in prejudice, loyalty in selfishness, and patriotism in partisanship. Grant us to serve Thee, and the people we serve, with honesty of purpose and uprightness of life. Fill us with Thy divine passion to lift up the weak, to sweep away oppression and wrong, and to give to every man the opportunity of a full life that may be lived to Thy glory and to the service of mankind.

O God, before whose presence we ever stand in judgment, make us mindful of Thy righteous demands for our thoughts, our words, and our deeds. In this awareness may we make all our decisions and choices. Also in this convention may we be as men who must give account before Thee. Forgive us our failures and our omissions, our wrongs and our sins, and enable us to forgive those who have sinned against us. Now may our deepest truth be in Thee, the Lord of nations, and the King of kings, through Jesus Christ our Lord. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present vote aye. Have you all recorded your presence? If so, the secretary will lock the machine and take the roll.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: Will the convention please be in order.

SECRETARY CHASE: Prior to today's session, the secretary received the following requests for leave: Mr. Gadola, from part of the morning session to appear before a legislative committee; Messrs. Haskill and Stamm, from the morning session; and Mr. Habermehl, from today's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Habermehl, Haskill, Mosier, Norris and Stamm.

Absent without leave: Mrs. Conklin, Messrs. Lundgren and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Conklin, Messrs. Lundgren, Wilkowski, Norris, Habermehl, Haskill and Stamm.]

Mr. Romney.

MR. ROMNEY: Mr. President, I take pleasure in notifying the delegates that I was in Dowagiac last night and called at the home of Judge Mosier and he answered the door. He is in a steel brace corset but seemed to be coming along fine, and I think will be rejoining us soon. (applause)

PRESIDENT NISBET: Thank you, Mr. Romney.

I might say this is the best attendance we have had in a long while. Maybe we will get a lot done today.

The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, it was approximately — not quite — 3 weeks ago that the gentleman from Owosso made note of an anniversary regarding a certain judicial article that we were then debating. I am happy to report that the executive article seems now to have become of age, also, and that when we resolve ourselves into committee of the whole this morning we shall be commencing the third week of debate on the executive article. We on the judicial article and particularly the attorneys are very happy to see that the nonlawyers are utilizing their fair share of the words regarding the executive article and that most of us, at least, on our committee have tried faithfully to remain off the floor.

I checked with Mr. Van Dusen, who chaired the committee of the whole, and he and I are very anxious to preserve our record. I suppose there is some sort of a thrill in having the most number of hours. So with that I would hope that we could finish the executive article within the next day. We do not want to celebrate any more anniversaries as far as I can see. Thank you, Mr. President.

MR. BEAMAN: Mr. President.

PRESIDENT NISBET: Mr. Beaman, would you say that was a demand rather than a request?

MR. BEAMAN: I might say that today we are 350,000 words in the red and that is about the number of words used in the late best seller, Gone With The Wind. (laughter)

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, I only want to thank Mr. Danhof for calling this to everyone's attention. I know that the delegates will want to present the chairman of the committee on the executive branch with an anniversary present and nothing could be nicer than to finish up today if possible.

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: No committee reports.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions. Mr. Bentley.

MR. BENTLEY: Mr. President and fellow delegates, the convention will recall that a relatively short time ago we adopted unanimously a resolution requesting all organized religious bodies throughout the state to offer prayers for the success of the convention and of ourselves. It is my understanding that this past Sunday at St. Cyprian's Church in Detroit such prayers were offered. I understand a copy of this particular prayer has been circulated throughout the convention by our esteemed fellow delegate from Detroit, Father Dade. At this point, Mr. Chairman, I move that the letter dated March 26 from Father Dade to the delegates assembled including the text of this prayer be made a permanent part of the convention record.

PRESIDENT NISBET: Thank you, Mr. Bentley. Without objection, it will be made a part of the record. Hearing none, it is made a part of the record.

Following is the letter:

March 26, 1962

Dear fellow delegate:

On Sunday, March 25, 1962, at the early celebration of holy communion and at the 11:00 o'clock service, prayers were offered at the altar of St. Cyprian's Church, Detroit, Michigan, for you as a delegate and the convention.

We face days ahead of serious and tremendous decisions affecting the lives of all the peoples of this great state of ours. It is our feeling that whatever peoples' concerns are at stake and the redemptive process — whether by law or otherwise — is at work that their God has a hand. To this end, may we be so bold as to ask that you use the following prayer in your personal prayer life. We have shared with you many, many prayers offered in the convention on our behalf. Let us in humility in our own private chambers have a conversation with God. This prayer was used at the early service in St. Cyprian's Church.

O God, by whom the meek are guided in judgment, and light riseth up in darkness for the godly, grant us, in all our doubts and uncertainties, the grace to ask what Thou wouldest have us to do, that the spirit of wisdom may save us from all false choices, and that in Thy light we may see light, and in Thy straight path may not stumble; through Jesus Christ our Lord. Amen.

Might we further say that many of you have stated that you have found this prayer most helpful. It has some pertinency at this time also.

Almighty God, if ever we needed Thy guidance and Thy wisdom, it is now as we begin this first meeting of the Constitutional Convention of the state of Michigan in the year of our Lord 1961.

We pray that Thy good spirit may guide and sustain us as we carry the grave responsibilities; accept the challenges ever before us, meet the opportunities afforded us to do a mighty work as delegate representatives of all the people of this great state.

Grant that in all our deliberations and discussions we may do that which is well pleasing in Thy sight. May we be big when we are tempted to be little and petty, dedicated and selfless when we want to be undedicated and selfish, for we shall remember that Thou art concerned in all that we do here, so that our conscience before God and man will be clean. For what we say here will not long be remembered, but what we do in this place we pray will meet the needs and stand the test of the years to come.

Bless each one of us. Bless the homes from which we come, bless the land in which we dwell and bless those to whom leadership shall be entrusted by this convention. Deal graciously with them and hold them and us in strict accountability to Thy judgment and Thy authority. This is our prayer, Almighty God. Amen.

Sincerely,
Canon Dade.

PRESIDENT NISBET (continuing):

General orders. The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. All those in favor will say aye. Opposed, no. The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The Chair reiterates what has been said here — the Chair hopes we do not break any records on the executive branch. The secretary will read.

SECRETARY CHASE: The pending proposal, from the committee on executive branch, **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers, allocation of departments, and so forth. Section g has been considered, amended and passed. A new section h was agreed to and passed.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1903.

Mr. Martin, on behalf of the committee on executive branch, now offers a new section i as an amendment:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. Within 2 years after the adoption of this constitution, the legislature shall establish a civil rights commission within the executive branch to secure the protection of the civil rights guaranteed by this constitution. In the event the legislature does not establish a civil rights commission during this period, the governor under the provisions

of this paragraph shall by executive order establish such a commission.".

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, in presenting this committee amendment, I would like to make a very brief statement. In Committee Proposal 26 from the committee on declaration of rights, suffrage and elections, which was approved on first reading by a unanimous roll call vote, it was stated:

> No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, religion, sex or national origin. The legislature shall implement this section by appropriate legislation.

The committee on executive branch submits the present amendment to Committee Proposal 71 after a study of several delegate proposals, because it has reached the conclusion that it is not sufficient to make general statements in the matter of civil rights but that some action is needed to secure the protection of those rights other than the general statement that such rights exist. The committee therefore believes that a civil rights commission should be established for this purpose.

The members of the committee do not disagree with the view that under ordinary circumstances the establishment of such a commission should be a matter of statute generally and as to details. In this case, however, they feel that the constitutional reference to the commission is justified and is complementary to Committee Proposal 26. Further, they have taken note of the fact that legislation pertaining to the establishment of such a commission has not been considered by the legislature in plenary session in any form. They are equally impressed with the vital character of the rights involved and the necessity for the protection of such rights against discrimination if this state and this nation are to live up to the principles which we profess to the world and if we are going to live in peace and harmony with our fellow men here in the state of Michigan and elsewhere. We appreciate that we may not be able to prevent discrimination in many cases, but we do believe that we cannot evade our responsibility to do whatever lies within our power to prevent such discrimination.

The committee amendment does not attempt to go into the detailed structure and powers of such a commission but limits itself to a clear statement of purpose and policy. The detailed implementation of these matters is left to the legislature. Under this amendment the legislature would have 2 years to establish the commission and implement its functions by statutory action. In the event that the legislature does not establish this commission during such a 2 year period, the governor is given the constitutional mandate to do so by executive order.

This amendment was reported by the committee on executive branch by the nearly unanimous vote of the committee. In view of the urgency of the steps here proposed and the present need for action, the committee proposes that this convention act now to declare its aims and purposes.

Mr. Chairman, I would like to yield to Mr. Bentley, the chairman of the subcommittee which considered this matter and reported it to the full committee.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Owosso, Mr. Bentley.

MR. BENTLEY: Mr. Chairman and members of the committee, this is indeed, I believe, one of the most forward looking amendments yet introduced by any committee at this constitutional convention. Chairman Martin has explained very well the background and the purposes of this particular amendment. Permit me only to add a few supplementary words.

It will be noted that we are proposing that the legislature within 2 years from the date of the adoption of the constitution be requested — actually required — to establish a civil rights commission. In the event the legislature is unable for one reason or another to do so, the governor during the third year would have the constitutional power to establish the commission by executive order. Members of the committee, Mr. Chairman, will recall that this exactly parallels our proposals already adopted by the committee of the whole with respect to the overall reorganization of the executive branch of the state government. In other words, the members of the committee of the whole will recall that we have already approved the right of the legislature within the first 2 years following the adoption of the constitution to reorganize state government and it is further provided that if this reorganization is not completed within the first 2 years that the governor by executive order shall fulfill the provisions of the reorganization. We are attempting to follow that pattern in this committee amendment which we offer for your deliberation at this time.

I think, Mr. Chairman, it probably would be helpful — if this committee amendment is adopted — when the committee on style and drafting works its will on Committee Proposal 71, if this particular portion were included directly under the reorganization section — that is section b of Committee Proposal 71 — since it does relate so closely to this matter. But I might explain, Mr. Chairman, that this question was considered by the committee on executive branch at a rather late date and it was thought more desirable to offer it as a separate committee amendment rather than to incorporate it into the body of a proposal which had already been pretty well drafted.

As Chairman Martin has pointed out, this was referred by him to the subcommittee on executive reorganization of which I am chairman. It was approved within the subcommittee with bipartisan support. It was reported to the full committee and thereupon approved by a vote, as I recall, of 17 to nothing.

I would hope very much, Mr. Chairman — and I speak with all the sincerity of which I am capable — that, although I know this matter is controversial and I know there are pending amendments on the secretary's desk to change portions of the amendment, that I would hope that just as the committee of the whole took action on Committee Proposal 26 by unanimous roll call vote that this proposal of ours, this committee amendment, will receive if not unanimous at least a very substantial degree of bipartisan support because I believe, Mr. Chairman, that this is something which under no circumstances should ever be permitted to become a partisan issue. I believe under no circumstances should this ever be the exclusive province of either party. I would hope that the issue is far reaching, important and, as I said earlier, forward looking enough to merit and receive the overwhelming support of a majority of the delegates to this constitutional convention from both political parties so that we can continue the work of moving forward in this direction which we had already begun when we adopted Committee Proposal 26.

Mr. Chairman, for a further presentation of this matter, with the permission of the Chair, I would like to yield to the distinguished delegate from Detroit, a very valuable member of both the subcommittee and the committee, Mrs. Elliott, who was so active in getting this proposal to the attention of the executive committee and in seeing it brought forward through the committee. I would like to yield to Mrs. Elliott at this time, if there is no objection.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mrs. Daisy Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, fellow delegates, I deeply appreciate the opportunity to bring you these remarks in support of a civil rights commission. Those of us who seek the establishment of a civil rights commission are inclined to agree that this is a legislative matter. We would not have conceived the idea of requesting constitutional provision for the commission had not the legislature refused to adopt any of the civil rights bills which have been introduced during the past 5 years. In fact, you might recall that just 2 weeks ago a proposed bill was not even voted out of committee and given the benefit of floor debate and vote. Under such circumstances as this, it is our position that the legislature has not accepted its responsibility and our proper recourse is to go to the people with this problem.

We believe this matter to be an appropriate one for the convention, since it is the purpose of this body to examine the basic law of the state and to make such changes as are necessary to make it functional and responsive to the needs of our day. Therefore, we present you with the problem of providing the constitutional framework which will guide the legislature in its deliberations and action in the area of human rights.

Between 17 and 18 states have adopted civil rights legislation and created civil rights commissions. Because Michigan has not pioneered in this area of human rights legislation in the face of just reason for this kind of action, does it mean that Michigan is less concerned over the problems of its minorities? As yet Michigan has hesitated, and we believe that this hesitation is more the result of political feuds, urban renewal jealousy and labor-management feuds than it is a lack of interest and conviction in these matters. It is our sincere hope that the delegates to this convention, sensitive to the very basic importance of civil rights in our individual community and national life will rise above these differences and will provide here the strongest provision possible for protection of these rights.

Excerpts taken from the speech of General Eisenhower when he appeared before this convention on the question of equal rights are as follows:

> . . . I believe that every individual . . . possesses a moral responsibility in this field. We are citizens of a free nation and whenever we impinge upon or diminish the freedom of another individual, we impinge upon our own. I believe that self interest demands that every single individual put himself foursquare on this principle. Certainly it is implied and stated as solemnly as it can be in the constitution. I see no reason for any state refraining from making such a declaration. I would be very much in favor of it.

Father Hillsberg of Notre Dame University and the United States commission on civil rights, quoted in section 1, says:

> I don't care if the United States gets the first man on the moon if we down here on our corner of the earth, nursing our prejudice and flaunting our magnificent constitution, ignore the central moral problem of our times and appear hypocrites to all the world.

Bishop Pike of the Episcopal Church says that "God has no need of us as a nation denying justice and brotherhood."

In the eighteenth century the federal union and constitution were possible because of political maturity and experiences in self government of the colonies. Many of the most valuable concepts embodied in the federal constitution came from the state constitutions. Today the people of Michigan through their constitution have a great opportunity to contribute to mankind's progress. I hope you will support the committee amendment. Thank you.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: That is all we want to present at this time, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, in discussing this amendment I think we should take a look at house bill 254 which proposed to establish a civil rights commission in the last session of the legislature, which has been defeated 4 or 5 different times by that body and was defeated this year. I want to read 2 or 3 paragraphs of this bill which in my judgment is not the harmless provision that some of the advocates in this convention have called it. "Section 6e. The commission shall receive, initiate, investigate and pass upon charges of unfair practice." The key word in this particular paragraph is "initiate" —

MRS. HATCHER: Mr. Chairman, a point of order.

CHAIRMAN MILLARD: Mrs. Hatcher.

MRS. HATCHER: Mr. Yeager is not on the subject. He is reviewing matters that came before the legislature and I think the issue on the floor at this time is the question of the civil rights commission before the constitutional convention.

CHAIRMAN MILLARD: Your point is well taken.

MR. YEAGER: Mr. Chairman, I should like to answer that the question before the house is the civil rights commission and I am reviewing this civil rights commission provision which bears directly upon this subject, and I would request permission to continue.

CHAIRMAN MILLARD: The Chair will rule that the bill in the legislature is not before this convention and that you should confine yourself to a discussion of the merits or demerits of the proposed amendment to Committee Proposal 71.

MR. YEAGER: Mr. Chairman, when Mrs. Elliott spoke she quoted General Eisenhower and various other people and their information was not before this convention either. It is simply supporting information and I would request to continue. Is this the final ruling of the Chair?

CHAIRMAN MILLARD: It is.

MR. YEAGER: Is it possible for me in my remarks to make any reference at all to a bill on setting up a civil rights commission before the legislature?

CHAIRMAN MILLARD: The Chair should think that you could mention the fact that a bill had been introduced in the legislature but not discuss the provisions of that bill. The Chair does not think that is before this convention.

MR. YEAGER: Well, Mr. Chairman, I hate to belabor the point but the thing that we are discussing is the possibility that the legislature can establish such a civil rights commission and the possible provisions of such a commission is the basis and crux of the whole argument.

CHAIRMAN MILLARD: Again the Chair says, Mr. Yeager, that the provisions of that bill are not before this convention.

MR. YEAGER: I can make no reference to what the civil rights commission bill contains?

CHAIRMAN MILLARD: Not as part of the argument. If you want to use something to show the defects of this particular amendment, the Chair does not think you should use that bill as a basis.

MR. YEAGER: Mr. Chairman, since I had my remarks prepared around the contents of such a bill and what it can possibly do to the citizens of this state, I must respectfully appeal the ruling of the Chair.

CHAIRMAN MILLARD: The question is upon the ruling of the Chair. All in favor of supporting the Chair will say aye —

MR. KUHN: Mr. Chairman, may I suggest that we follow the rule on an appeal from the Chair which we have not done to date and I would suggest the secretary read it so we know how to do it.

CHAIRMAN MILLARD: The secretary will read the rule.

SECRETARY CHASE: Rule 69 reads as follows:

> On all appeals from decisions of the Chair, the question shall be "Shall the judgment of the Chair stand as the judgment of the convention?" which question shall be decided by a majority vote of those present and voting by a recorded machine vote, unless otherwise ordered by the convention.

Of course, in committee of the whole you do not have a recorded machine vote.

MR. HEIDEMAN: Mr. Chairman, may I just ask a question?

CHAIRMAN MILLARD: What is your question?

MR. HEIDEMAN: If we cannot have free speech at a constitutional convention where can we have it?

CHAIRMAN MILLARD: For what purpose does the gentleman rise, Mr. Higgs?

MR. HIGGS: I would like to make an inquiry, I think, inasmuch as this is very significant. When the committee votes on this particular issue, it is my understanding that it becomes precedent — the decision of the committee. Now I am not sure I understand the full impact of the decision of the Chair, the judgment of the Chair, in this particular and, inasmuch as it is so important, I would like to have the Chair restate the ruling upon which we are voting. There was a certain amount of colloquy between the Chair and the speaker and it is not clear in my mind. I make this point and plea for clarity because it seems to me that I would like to know more about the subject matter upon which we are voting.

CHAIRMAN MILLARD: The Chair ruled that the bill which was before the legislature is not up here for discussion and if we are allowed to go into that we are taking the prerogatives of the legislature. The Chair thinks that the question is strictly upon this amendment which has been proposed by the committee. Judge Dehnke.

MR. DEHNKE: Mr. Chairman, it seems to me that it is most appropriate for us to be reminded to what it is that we are opening the door, what the possibilities are in what has already been attempted under this general theory. I do not consider personally that Mr. Yeager is violating the rules.

CHAIRMAN MILLARD: Mrs. Hatcher.

MRS. HATCHER: When I called the point of order I called the point of order because a precedent had been set. For the last 2 or 3 days we have been talking about the highway commission and on the question of confirmation before the senate. Each time that the delegates attempted to try to use information from the senate with regards to confirmation they were ruled out of order. This is where I drew the precedent. At this time Mr. Yeager has an appeal on the floor to appeal the decision of the Chair and I trust that this decision will be upheld.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, just in the name of consistency, I think — and I was the one who the other day raised a question on whether or not an individual's name could be used on the floor — I think the line, and I agree this is a fine line, is that we are not here to perform the function of the legislature. I think, though, that if the general subject matter is one that affects the amendment that we have been pretty broad so long as people held a general relationship to the subject matter. I am the first to realize this is difficult for the Chairman because then as the talks are given he must occasionally make rulings concerning that as he did the other day, and I think the Chair's ruling the other day after our recess was perfectly proper on not discussing personalities as such but recognizing that at times individuals had to be mentioned in relation to the subject matter. I would hope that whatever the ruling is that it could be construed that we are not trying to set ourselves up as a legislative body that the pros and cons can be discussed in the full public arena.

I might add that it is very possible that Delegate Yeager and I will disagree on the ultimate outcome but I still think that so far as it is within decorum that the delegates should have as broad a right to discuss as possible, so long as it is related to the subject matter and is not trying to redo another branch of government's work.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I would like to respectfully request the Chair to alter its ruling to permit Mr. Yeager to go ahead and give this analysis. I think it is relevant and I think possibly the ruling of the Chair is broader than it should be. It seems to me, as I understand it, that what Mr. Yeager is attempting to do is not to debate the merits of the legislation but the question of what happens if we tell the legislature to do something, what they are likely to do. I think that is what he was starting to do.

MR. YEAGER: Yes.

MR. NORD: If that is what he was attempting to do, he certainly should be permitted to do it, in my opinion, and I would like to suggest respectfully to the Chair that when in doubt it seems to me the best procedure is to let the evidence in and we can give it whatever weight we think it is worth. I think it is a dangerous precedent to shut somebody off who is speaking before he has had a chance to state his point and I hope the Chair will reconsider before we have to decide the question.

CHAIRMAN MILLARD: Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, there are 2 things that occur to me on this rather sensitive — I think — subject and I would like to support what Mr. Downs and Dr. Nord said, for these reasons: first, as I recall it, Mrs. Elliott in her remarks referred to the fact that no bills, although submitted to the legislature for a number of years, had passed, and secondly, I am very anxious to see that Mr. Yeager's civil rights are protected, the right of free speech.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman and fellow delegates, it is my view, too, that Mr. Yeager should be given the right to express himself as long as he is talking on the subject and as long as what he is presenting will help us to make a decision. I agree with Mr. Downs and Dr. Nord on this point.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, could I make this suggestion? The committee has no desire to in any way cut off the debate on this and I think if the Chair were willing to modify its ruling simply to the effect that Mr. Yeager in discussing a bill in the legislature should make it clear that this is not necessarily the bill that is called for here because the amendment gives the legislature full authority to do as much or as little as it sees fit, if he would simply make it clear that this is a bill but that this is not what the amendment is directing the legislature to do, I think if the Chair could modify its ruling to that extent and if Mrs. Hatcher could withdraw her objection, we might proceed in good order here. We do not really have any desire —

CHAIRMAN MILLARD: Mrs. Hatcher.

MRS. HATCHER: Mr. Chairman, in view of the discussion that has just taken place in the last few moments — I still believe that there is a principle involved — however, I will withdraw my objection to Mr. Yeager's comments at this time.

CHAIRMAN MILLARD: Mrs. Hatcher's objection has been withdrawn and Delegate Yeager will proceed.

MR. YEAGER: Thank you, Mr. Chairman, ladies and gentlemen, I will follow Mr. Martin's suggestion and state that what I am about to read from is simply a proposed bill on establishing a civil rights commission in the legislature and is not specifically what this provision would necessarily do.

I should like to start again because we have had some interruptions between the time that I initially started.

> Section 6e. The commission shall receive, initiate, investigate and pass upon charges of unfair practices.

The key word in this particular provision is "initiate."

> Section 6f. The commission shall hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production for examination of any books or papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued pursuant to this section shall constitute a contempt upon the application of the commission punishable by the circuit court of the county in which the witness resides, transacts business, or is found.

This makes it a criminal matter. Section 6g says:

> The commission should utilize voluntary and uncompensated services of private individuals and organizations as may from time to time be offered.

I simply raise the question: does this include political groups? Section 6l of this proposed civil rights commission that was before the legislature states that the commission shall "initiate complaints involving discriminatory practices" — to initiate complaints. Section 7e says, "After the filing of any complaint or upon the initiation of a complaint the commission shall . . ." and so on, giving procedure.

Now the paragraphs which I have just read are part of the proposed bill establishing a civil rights commission and, as I said, was turned down by the legislature this year as in previous years. Now such a bill, if enacted under the possibilities of this constitutional provision, could allow such a commission to initiate for political or any other reason, personal or otherwise, could put any citizen in criminal jeopardy and, upon the initiation of any person or group, anyone could be harassed or jeopardized even without basis in fact. The burden of proof for all practical purposes and the defense against such charges would be upon the citizen. The commission would make all rules. This constitutional provision puts no limitation as to what the commission shall consist of. This is no longer simply enforcing civil rights; this is the creation of an administrative monster. It can be used in many ways to violate freedom. No progressively thinking person denies the need for real civil rights improvement but the abuses that could emerge from such a commission could violate all rights.

Under this provision it states that if the legislature fails to act within 2 years, the governor shall establish a commission, in effect allowing one man — assuming the legislature did not act — one man the authority to create practically unlimited power. If this is adopted I predict great abuse in the name of civil rights.

Let us assume another aspect: that this section is adopted, that the legislature fails to act in the 2 year period, that the governor does act and establish such a commission, and a year later the governor decides to change his original work. The legislature fails to enact such changes. Can the governor just 2 years later rewrite this law? I submit that under the wording of this provision that this is a very real possibility.

I consider the cure here considerably worse than the illness. I think this has more pure political consideration than deep felt concern for civil rights and in my judgment is the height of hypocrisy. The fact that it is referred to as "harmless" by some people indicates the degree of sincerity. I submit it is not harmless; it has great potential danger to individual freedom in the name of civil rights.

It is said that this provision does not do any of the things that I have cited, but I submit this provision certainly does not prohibit any of the things I have cited and such provisions have been introduced into the legislature actually. Because of real concern for individual freedom of thought, on political or any other subjects, I urge you to vote no on this amendment. Thank you.

CHAIRMAN MILLARD: The Chair will recognize Delegate Howes.

MR. HOWES: Mr. Chairman, fellow delegates, I rise to speak in favor of this amendment. I am in favor of the principles used in setting up this civil rights commission. I believe that we should work with every effort and ability which we possess to never allow so called superior groups or races to gain sanction of the law because history has taught us that whenever feelings of superiority of one group or race over another are allowed to come in civility and justice go out, and I believe the danger under the commission is that in a moment of enthusiasm we will establish too many laws under it which will try to force reforms in our society in 1 year which would normally take 10 with the same objectives in view. How much trouble are we willing to encounter in our effort to achieve in a few months or a few years what normally would take a few decades or a few generations?

I am for the civil rights commission but I believe that it should be a part of our job under this commission to not promote too many laws which would, in our haste for reform, open the way for more trouble than that which we seek to avoid. I am also afraid that if we do not open the door to reform in our society by setting up the civil rights commission that door may be broken down by those who are oppressed by its being closed.

CHAIRMAN MILLARD: Delegate Stevens.

MR. STEVENS: Mr. Chairman and ladies and gentlemen of the committee, I am opposed to this amendment, first, because it is statutory in nature. Nobody denies that. The comment of the committee concedes it. I will stipulate, however, that statutory matter in the constitution is neither unique nor unusual.

Second, I am opposed because it appears as if the proponents anticipate enforcement of certain laws by an administrative board instead of the usual and ordinary way in which most laws are enforced. It would create, presumably — looking at the comment, because it is difficult to see from the text — what it might possibly do is to create a quasi legislative administrative board with all the arbitrary characteristics which are so common in these boards. We have heard much of this matter of arbitrary action in which a board serves as the prosecutor and the jury. This, of course, might be worse. It might not be as bad as some others. It would depend a great deal probably upon the personnel of the board. I am particularly concerned, however, as a member of the committee on rights and elections, because I thought we did a very good job there in providing a basic law in the matter of equal protection and antidiscrimination provisions.

Now while this text does not say so, from the comment I assume that it is concerned not with all of the rights of the declaration of rights but those which deal with certain areas of discrimination only. In that field we provided the best we knew how and I think with a great sincerity. These were not intended as pious words or general statements as the committee comment implies and we certainly are, perhaps, a little bit hurt if that is what it means. We expect that they will be enforced. They are enforceable in the courts as any laws are enforced and in the opinion of most of us who worked on it they will be enforced. If anybody believes, if anybody hopes, that they will not be enforced I say to you that they certainly will be and it will not require an administrative board to do it. Thank you.

CHAIRMAN MILLARD: Delegate Higgs.

MR. HIGGS: Mr. Chairman, I would like to direct a question to Delegate Bentley, if he cares to answer.

CHAIRMAN MILLARD: Mr. Bentley, if you care to answer.

MR. BENTLEY: I will be happy to.

MR. HIGGS: Mr. Chairman, Mr. Bentley, I would like to know what thought was given by the committee concerning the question — assuming the legislature does not act within 2 years and assuming that the governor does act — first, what is the scope of his authority in establishing this commission?

MR. BENTLEY: Mr. Chairman, in reply to the question from the gentleman from Bay City, I will say that the scope is equal to the powers which we have already approved for the governor to reorganize by executive decree under the general provisions of the reorganization article in the event the legislature does not reorganize within the initial 2 year period.

MR. HIGGS: Well, Mr. Chairman, Mr. Bentley, my question would be: what is the scope of that authority? Is it the full legislative power that the legislature is given in the first sentence? In other words, in the second sentence does the governor alone have the full power that the legislature would have in the first sentence to set up this commission?

MR. BENTLEY: Mr. Chairman, I am going to yield to the chairman of the judiciary committee for a reply on this but I would like to read for the benefit of the gentleman from Bay City the following language from section b of Committee Proposal 71, which says, "If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make such allocation."

Mr. Chairman, the question of the scope and the authority of the governor to establish this commission by executive order and how far he could go in such a direction has been discussed with the chairman of the judiciary committee, our esteemed delegate, friend and colleague from Muskegon, the well known lawyer, Mr. Danhof. With the permission of Mr. Higgs and the Chair, I would like to yield to him for his opinion on this subject, as a lawyer.

MR. GUST: Would you yield to me first, Mr. Bentley? I have got a matter of pressing and urgent need. I find — we are having a —

CHAIRMAN MILLARD: Mr. Gust, just a minute.

MR. GUST: Can I state my point?

CHAIRMAN MILLARD: The Chair will recognize Delegate Gust so it will be on the record.

MR. GUST: Thank you, Mr. Chairman. Excuse me. We are having a committee on administration meeting in there on a very important matter that came up. It was brought to our attention that we should have secured the permission of the delegates under one of our rules, and I would respectfully request at this time that the delegates to this convention excuse the members of the committee on administration so that we might take this matter up.

CHAIRMAN MILLARD: Mr. Gust, the Chair has been informed that the committee of the whole cannot excuse anyone.

MR. GUST: Well, alright. Maybe you can make — do we have to rise to do this, Mr. Chairman?

MR. BENTLEY: Yes.

MR. GUST: Well, Mr. Chairman, we are meeting and we are taking up the matter on our agenda but one of the members of the minority raised this point and so I thought that I ought to bring it to the attention of the delegates.

CHAIRMAN MILLARD: Now, Mr. Gust, if you want official permission to meet it will have to come from the convention. However, nobody is holding you in your seat if you walk out.

MR. GUST: Alright. Thank you, Mr. Chairman.

MR. BENTLEY: Goodbye. (laughter) Mr. Chairman, again, if I have the permission of the gentleman from Bay City who, I understand, has the floor, and the permission of the Chair, I would like to ask the gentleman from Muskegon to give his legal opinion on this subject.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the judiciary committee, Mr. Danhof.

MR. DANHOF: Mr. Chairman and Mr. Bentley, I feel flattered that you wish to ask my particular opinion in this regard, being but one of 57 lawyers. I hesitate to step into this particular lion's den. In going over this matter — in talking very briefly with you and Mr. Martin yesterday, this particular problem was raised. It would appear to me that only the legislature could grant to this particular commission such powers, duties and rights as it may need or deem necessary. Now it would seem that if the legislature does not act, the governor can establish the commission. I doubt very much — unless there has been a grant by the legislature to the governor and then back to the commission or directly to the commission by the legislature — that such things as subpoena power or enforcement power could be granted to the particular commission and also the particular idea of appropriation.

I do think that under this particular amendment that the governor could create the commission, its size, and in probably some way define what its objects were and could bring the commission into being. He would then probably hope and would request that public pressure and public interest would be such that the legislature would see fit to staff it and give it necessary appropriation and power. But the commission itself could be brought into being. Now I am simply stating my own opinion. I haven't checked this with my committee in any way. Yesterday was about the first time that I looked at it and certainly if there are other constitutional lawyers out of the 57 who have any different opinion, why, they certainly would be welcome to state it.

I don't see how the governor could grant to the commission subpoena power or enforcement power that he has not acquired from the legislature and particularly, also, in the field of appropriations, but the commission could be established, the size, the number, perhaps its scope, what the objects of the commission would be, and it would be brought into being. Now if the gentlemen are willing to serve perhaps without pay for some time, they could bring such pressure as would put the legislature on notice that it should staff the commission and give it the necessary powers. That is my own personal opinion, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, a second question that I would like to raise in this connection would be: assuming the legislature did not act and assuming that the governor did act — I direct this to Mr. Bentley or to any other proponent of the amendment — where would that leave the legislature then? Is this initial enabling provision, the initial enabling provision contained in sentence 1, exhausted at the end of 2 years? In other words, if they fail to act in 2 years, have they exhausted their power under this section and is the power then solely in the governor under the second sentence?

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in reply to this question of the gentleman from Bay City, Mr. Higgs — he being a distinguished lawyer, as we have all learned during the course of the convention, and I not having this benefit of legal training — I would hesitate to enter into an argument with him as to what the particular section might construe, but it would be my personal opinion that the passage of the initial 2 year period would not thereby estop the legislature from taking action in this field if it subsequently decided to do so, since we have already heard from the distinguished chairman of the judiciary committee that the legislature would have to grant certain additional powers to the commission, which have been already enumerated, in the event the commission was to be a properly functioning body.

MR. HIGGS: I would like to yield, Mr. Bentley, to Mr. Martin, who would like to reply, I believe.

CHAIRMAN MILLARD: Mr. Martin, do you want to reply to this question?

MR. MARTIN: Mr. Chairman, Mr. Higgs, it is not the intention in any way to hinder the legislature from further action in this matter. The governor might act. He would even set it up, say, "We are going to have a commission and the commission shall consist of such and such people. The general purpose shall be so and so." The legislature, as Mr. Danhof pointed out, would have to implement that properly and the legislature — regardless of how the governor acted — would have authority to go forward and pass additional legislation if it were not satisfied with the number of persons on the commission or the size of the commission, the term and so on. There would be nothing to prevent the legislature from taking further legislative action.

MR. HIGGS: Well, Mr. Chairman and members of the committee, I feel constrained to oppose this at least in its present form. I think that in examining the constitution the courts will have to take the words at face value unless there is an ambiguity or unless there is contained within the words language which would reserve to the legislature the power to act in this area where the governor has expressly been given the power to act.

Now I do not know whether I have distinguished myself, Mr. Bentley, favorably or unfavorably in this convention, but I raise these questions, I think, sincerely. I am really personally not prepared to support the establishment of such a commission in the constitution — one that I know so little about. I know so little about the structure of the commission that we are authorizing. I know so little about the power that we are granting to both the legislature and the governor to give effect to this.

I am concerned that the proponents themselves concede that this is a legislative matter. Inasmuch as it is a legislative matter then one of the serious responsibilities of the legislature in proceeding to establish such a commission involves a great deal of study, research, examination of the experience of other states with other commissions. I just personally do not have the background as a delegate to support this. I am impressed by the argument of Delegate Stevens that we have provided equal protection of the laws enforceable in the courts. I just don't see how — if we are going to make that enforceable in the courts — how this can supplement that by making it enforceable in an administrative agency, if that be the purpose. I think we are giving a blank check here to the governor as to what he can do.

Now when Delegate Danhof spoke, I noted — being privileged to serve on his committee and respecting his judgment as a lawyer — I noted that he very carefully used the words "could probably" when he was describing what could be done. He used the words "could probably." The governor "could probably determine the size of this commission and possibly the scope," I think he said. But the scope and the power of such a commission are so vital in my mind that we should spell it out; if we are going to legislate in the constitution, let us spell out exactly what the commission is we are creating. Let us spell out exactly its powers, its scope of review, methods of procedure and enforcement. I just do not know what we are doing — as a lawyer, as a layman, or otherwise. I do not know anyone here who is not sympathetic with the desire to move forward in this field and I do not want my action in this regard to be interpreted as not being willing to move forward, but if I am going to move forward I want to know in what direction I am going and I want to know what we are doing and I am just fearful at this point that we are simply creating a commission, a part of government, the outlines of which are entirely vague and ambiguous and very possibly meaningless.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, I well understand the fears of many people of the use or possible abuse of the opportunities for service to be found in such a commission as has been proposed. Indeed, I think that the people who would so abuse it are their own worst enemies and the very ones who make it so difficult for citizens with vision and understanding to work constructively to ease these problems. However, I know both from personal friendships and through civic activities of the problems and their effect not only on individuals but on the whole tenor of community and political life. I am aware that these problems are of the type that require careful handling, and often are best handled in the preventative stage.

Now I believe that the fears against abuse are in good part answered by 3 proposals in our convention and on these proposals I would lean very heavily as curbs against abuse of power: the first is the declaration of rights proposal itself, Committee Proposal 26. This provision for a commission to my way of thinking is for the single purpose of implementing the provision in the declaration of rights. I am not sure that this is exactly the way that Mr. Martin interpreted it but I would like personally to feel that the scope of its power would be confined to implementing the clause in the declaration of rights. The second is Committee Proposal 123, from the legislative powers committee, on which we have not yet acted and which I think would be very important for us to approve. It protects the authority of the legislature over rules made by administrative agencies. In case you have not looked at it, I might just note for you that it authorizes the legislature to establish standards for such rules and subjects them to law. It also says:

> The legislature may require any rule or regulation to be laid before the legislature concurrently with its filing with the secretary of state; and the legislature may reserve the power to suspend or annul any such rule or regulation by legislation. A legislative committee may suspend any rule or regulation until the next session of the legislature in such manner as may be prescribed by law.

Furthermore, in Committee Proposal 95, the convention has already acted on first reading on giving the courts the power of judicial review on the findings and decisions and rulings of administrative agencies.

Now I would think that these 3 clauses would be protection against the extension of power and the abuse of power by any such commission, which would give us all assurance that this commission could be used to solve the problems which are — at least to attempt to solve the problems which I am sure we are all vitally concerned with.

CHAIRMAN MILLARD: The delegate from Detroit, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, I would like to direct a question to Mr. Yeager.

CHAIRMAN MILLARD: Mr. Yeager, do you care to answer?

MR. YEAGER: I will attempt to answer.

MR. BINKOWSKI: Mr. Yeager, the question is: do you know how long there has been civil rights legislation such as house bill 254 introduced into either house of the legislature and, if so, if any civil rights legislation has ever been reported out of committee?

MR. YEAGER: As far as I know I believe it has been 5 years. I don't believe any has ever been out of committee.

MR. BINKOWSKI: Thank you, Mr. Yeager. Well, ladies and gentlemen of the committee, I do not believe that Mr. Yeager's answer is entirely accurate because I think there was civil rights legislation introduced into the legislature at least 10 years ago by Senator Diggs and I think that you have to realize that just recently in the Detroit newspapers there has been publicity of the fact that the proponents of civil rights legislation have not even been able to get an adequate or fair hearing before the house with respect to this legislation, and I think that the reason for this amendment is to give or compel the legislature to act in an area where it has consistently and continually failed to act.

This language which we are considering, in my estimation, is watered down language. I cannot conceive of how you can have any more of a watered down provision before this convention. If you go back to the committee reports, I think you have to take into consideration one of their statements which I would like to quote, "They" — the committee — "are impressed with the fact, however, that the legislative committee handling this matter appears unwilling to permit the legislature to consider these matters in any form."

Therefore, ladies and gentlemen, I think if we want to do anything in this area we are going to have to put it in the constitution.

Now there has been some objection raised as to the fact that this is legislative in nature and I do not think that anybody would disagree with this, but I think that there are many matters which are legislative in nature which we have approved. And of course we have gone a great deal into the area of the civil service commission. Strictly speaking, this is a legislative matter, also.

Now as to the fears which Mr. Higgs expressed, I would like to make this flat statement: that every reorganization plan or every executive decree is subject to legislative change. There is nothing that the legislature cannot handle, cannot amend in any way possible.

The second point and important consideration, which Mr. Danhof has already related to this committee, is the fact that the legislature controls the purse strings. If the legislature does not want this particular commission to do anything, they will refuse to appropriate sufficient funds or any funds whatsoever. And I think we have a nice example of this with the department of labor. The department of labor is not as effective as it could be because of inadequate funds. So, again, if we want to do anything in the area of civil rights, this is the time to do it even with this watered down provision.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I believe that the intent of this is really to implement what was done in the rights, suffrage and elections proposal which, as we recall, basically took the equal protection concept of the United States constitution and put that in the Michigan constitution with the admonition that the legislature should act. I supported that. I would have favored our being more specific, but I think we did make a definite step forward. Now the question comes up as to how we carry out the constitutional provisions of equal protection of the law in the broad concept.

Ordinarily and in many situations, simply saying there shall be a right is adequate and the individual who thinks he is denied that or the corporation, as it may be, can retain an attorney and proceed to solve the problem. There are 2 weaknesses to that approach in this area. The first is that in this highly involved social area if we simply rely on the individual to use his legal remedy, the matter is immediately in an adversary proceeding and — while this is some protection and while I think attorney generals' opinions and prosecutors' opinions have some effect on governmental units — the basic problem of the individual is shoved immediately into the adversary without the preceding conciliatory or other educational means possible. So if the individual uses the right he must immediately for practical purposes get in that adversary proceeding without a governmental unit trying to facilitate the prevention. The second weakness is that those who are affected are often — to use the words of Dr. Hannah — the economically disadvantaged and I suppose the layman's definition of "economically disadvantaged" is a person that cannot afford to hire an attorney.

One of the anomalies of our operation of rights and laws is that often in basic civil rights there aren't many dollars directly involved. If it were a matter of a negligence suit or an auto accident and the individual is economically disadvantaged then an attorney in perfectly ethical practice can take this on a contingent basis, as there is enough money involved so that the attorney can in good conscience take the matter and the individual can be protected. But if instead of a broken arm or a broken leg a man has a broken civil right, the practicing attorney cannot handle it as readily on a contingent basis. So the "economically disadvantaged" are particularly disadvantaged when it comes to enforcing civil rights. So I say that the concept of a commission to carry this out is sound and in many areas I have been critical of the commission concept.

I do not know if this particular language, perhaps, can be improved or strengthened, particularly along the lines talked about to see that it is adequately financed. I will not go into that now. But I do believe in the concept of having a commission review in an orderly manner the field of civil rights and do this so it can include an educational background, a conciliation background, and in many cases prevent the need of adversary proceedings. I just refer very briefly to the civil rights commission of which Delegate Hannah served as chairman, I believe, under 2 different presidents. The reports of that commission in the judgment of many people did a great deal to acquaint the citizens of our country with the problems involved and probably the very reports themselves achieved the accomplishment of many people's civil rights without the necessity of further litigation. So I think that the concept of the commission is sound. I am not sure in my own mind if there should be further strengthening at this point or not. Perhaps that will come up later on in the convention but I feel that the commission concept is good.

I would just point out, and this is a real question: is such an approach an expansion or a reduction of freedom? And I suppose it is a little bit like the idea: do traffic laws improve the individual's freedom or decrease it? Well, maybe it decreases your freedom to prohibit your driving 80 miles an hour down the main street but it increases your freedom to live. I think we recognize that in a nation of law we need to have principles of behavior. I for one think one of the greatest diseases we have is that of discrimination, and I think while we have developed vaccines against polio and smallpox and other things we have not yet developed a simple vaccine in this field. I do think that the analogy, though, is true, that we preserve our freedom of speech so people can argue for or against particular legislative and constitutional proposals off the convention floor or in the newspapers, wherever they seem to have a forum, but at the same time we move ahead by seeing that the sentence that we adopted in the rights, suffrage and election proposal, saying that the legislature shall — if I am quoting it right — pass appropriate legislation to carry that out is simply carried out by this provision. I do not see this as in conflict with the provision we have already adopted but, rather, as the next step forward and perhaps even this needs further strengthening. Thank you.

CHAIRMAN MILLARD: The delegate from Saginaw, Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman and fellow delegates, I have been informed, unfortunately, that this should have been concurrent with rights, suffrage and elections and apparently wasn't. It might have saved a lot of time here. Now it is too late.

There are a few objectives which we set out with that, perhaps, we are not adhering to. One was to reduce the number of commissions. This creates more.

It has been admitted that this is legislative in nature and we are getting too many legislative provisions in our constitution. The civil service is in 3 different sections. It seems to me that if we are going to write a sound constitution we had better take a closer look at getting too much legislative material in the document, and I believe it would be much better, as we have done in a few other instances, to commemorate the legislature to take care of this matter rather than to add it in here as another legislative article or, if it is so important, we had better do as we did with the civil service: put it in every section of the constitution.

CHAIRMAN MILLARD: Mr. Danhof.

MR. DANHOF: Mr. Chairman, if I might, I have a question for the gentleman from Owosso, Mr. Bentley.

CHAIRMAN MILLARD: Mr. Bentley, if you care to answer.

MR. DANHOF: Mr. Bentley, I raise the same problem that we raised at the time the judicial article was passed in regard to an amendment offered then by Judge Pugsley and others. You state, "Within 2 years after the adoption . . ." now you don't mean, as Mr. Hutchinson pointed out, do you, that this is a one shot deal, that if the legislature does not act within 2 years it is prohibited from doing anything after that time?

MR. BENTLEY: Mr. Chairman, in reply to the question of the gentleman from Muskegon, Mr. Danhof, I believe the chairman of our committee has already made it quite clear that we do not intend to estop the legislature from taking action in this field after the initial 2 years. We merely provide that within the first 2 years they shall have exclusive authority to act in this field, and provide for executive order if they for some reason do not so act, but we do not estop them from subsequent action if they desire to do so.

MR. DANHOF: Thank you, Mr. Bentley.

CHAIRMAN MILLARD: Mr. Baginski.

MR. BAGINSKI: Mr. Chairman, I find that most of what I had to say was said by the delegate from Detroit, Mr. Downs. I think in this particular day and age that the concept we are putting forth here is something for which we can well afford the work that it is going to cost. This is 1962, and I think it is most advantageous that the state of Michigan has at this time a constitutional convention and has had the opportunity to adopt a section on rights which is most forward looking and one of the most enlightened of its day. I think that the adoption of this particular clause will serve to emphasize that we are here concerned not just with the structure of government but with the rights of individuals throughout all of the state of Michigan.

The problem is not so much one of judicial enforcement but, I think — as has been pointed out — it is one of enlightenment and education in trying to bring to the people of this state in all the areas of the state the problems that there are with regard to civil rights and discrimination. I can state from personal experience that in the town where I was raised there were no problems of discrimination. It was a small community of less than 3,000 people, but upon graduation from law school I moved to the community where I now reside where there are these particular problems and they have been with us for some time. And I am firmly convinced that adversary proceedings are not necessarily the way to secure rights and to educate the people regarding the real evils of discrimination but, rather, it is a process of education that is not accomplished overnight. Whether or not the commission is given the right to take adversary proceedings to me is not perhaps most important.

I think the civil rights commission of the federal government, which Dr. Hannah has headed, has done a good job in pinpointing and laying before the public the facts and the problems and the recommendations and the solutions, and if this commission can accomplish that over the next 10, 20 or 30 years then I think it is well worth the few dozen words that we may use here. According to research and drafting, there were 23,000 words, plus, in the 1908 constitution, and I, for one, will favor this particular provision and hope that it will pass.

If there is further work that should be done on the wording, then it can be done either in Mr. Cudlip's committee or by the executive committee before second reading. But I am firmly convinced that the concept is good and that it will speak to the entire country of the determination of Michigan to protect the rights and the freedoms of the individual.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I would like to clarify a few things. I do not think that Mr. Baginski intended to misrepresent in any way, but when he was talking about civil rights legislation apparently he had in mind legislation to provide a commission or administrative board. Nobody who knows anything about the history of Michigan can deny that Michigan has been a pioneer in civil rights legislation. I do not refer to the creation of such commissions but to the many laws which have been passed for many years, back further than I can remember, which have in many respects provided protection to people against discrimination. They were not always enforced, to be sure, but in recent years they have been quite diligently enforced and it is my observation throughout the state of Michigan that there are only some isolated places where these laws, common statutes, are not enforced.

With regard to Mr. Downs' statements, I do not believe that any individual would ever have any difficulty in getting any adversary proceedings financed. There are several organizations who stand ready at any time. They are able, willing, and anxious to provide the finances wherever there is anything of this nature worth their trouble.

One other thing: this commission as it seems to be conceived here is not comparable to the federal commission, which is a fact finding commission. This commission seems to be designed — if you can figure out what the amendment means — to provide for adversary proceedings and more particularly for administrative proceedings where persons would be brought before it on charges of violation. Thank you.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from East Lansing, Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and ladies and gentlemen of the committee, when this subject came up this morning I resolved that I would not speak again on the civil rights subject before this convention because I have already done so twice, but when one spends as much time on this subject as I have in the last 4½ years one cannot help but be deeply moved when he hears well intentioned people discuss a matter of this significance with the best of intentions but quite evidently not recognizing what the facts are.

First of all — and this has to do with the amendment and I will tie it into the amendment but I do not think you can discuss this amendment without recognizing what we are talking about when you talk about this problem of civil rights — I have before me the census figures for the state of Michigan as of April, 1960, when the last census was taken. Then Michigan had 7,823,194 citizens, of whom 737,329 identified themselves as nonwhite and of that number 717,581 identified themselves as negroes. The other 19,000 were made up of indians, Japanese, Chinese, Filipinoes, and a few others — I am talking about American indians. Now 737,000 people — or if you want to talk only about the American negro — 717,000 out of 7,823,000 is a little more than 9 per cent, a little under 10 per cent of all the people of this state. But in the last 10 years the number of negroes in Michigan increased by 62.2 per cent. In 1950 there were 442,296; in 1960, 717,581. The negro population increased by 62.2 per cent. The white population increased by 19.7 per cent, and the overall population of this state increased by 22.8 per cent.

Now there are a great many people who are inclined to wring their hands and say, well, this is too bad, because we have this very heavy migration from the south of American negroes, but actually we still have in Michigan a few under 10 per cent of the total and the number of negroes in the United States — depending on whose figures you use — probably is equal to approximately 11 per cent.

When we are talking about American negroes, we are talking about the people who identify themselves as negro when the census is taken. Of course, if they are plainly black or almost black the census taker can identify them as negro but in most cases, if there is any question, they ask the question of them and those that are white in color and can pass for white people, of course, are identified as white. We have somewhere between 19 million, approximately 19 million negroes in the United States.

Now this country has been in business not as long as many people seem to think — 175, 180 years, something like that. I would just like to point out to you people that this American negro problem was not a problem created by the negroes themselves. They were brought to this continent involuntarily as slaves and for the most part they were brought to this country more than 160 years ago.

When the constitution of this state was written, the founders of the nation felt that the negro problem would take care of itself; that through laws and precedents they would eliminate the importation of slaves and that somehow or other this practice would disappear, but it didn't turn out that way. We had to fight a great civil war. Next January we are going to celebrate the centennial of the proclamation of emancipation — next January. The point I want to make is that most of the ancestors of negroes in Michigan came to the United States 300 years ago, 250 years ago, 200 years ago, almost none of them more recently than 160 years ago. Now I would like to look at the white people who make up this convention and the white people in the gallery, and you ask yourselves: when did your ancestors come to the United States? And the average answer for the whites in this room will be that our ancestors came to the United States or came to this continent far more recently than the ancestors of the negroes in this room came to the United States.

Now it is no credit to the United States of America that in 1962 we have a situation where I am as certain as I am that I stand before you this morning that the most significant, single domestic problem that this country faces is the problem of decent treatment for minority groups in the United States and principally we are talking about negroes. Four and a half years ago when I was appointed by Mr. Eisenhower as chairman of the civil rights commission I did not know much about civil rights. I was raised in Grand Rapids. I had lived all my lifetime in Michigan. I knew we had had an unhappy race riot in Detroit a few years ago. I had read in the newspapers about what had happened in Chicago and elsewhere when a negro family for the first time moved into a white community. I knew all about the school situation in the south and some of these things that had been well publicized, but that is about all. But ladies and gentlemen, now I am going to repeat the statement I just made: I am as certain as I am standing on 2 feet in this convention this morning that the most important domestic problem we face is this one from the standpoint of maintaining tranquillity at home, first of all, and we should be eternally grateful to the good nature of the American negroes and their willingness to suffer long.

Now if it was no problem within the United States, I am very certain that it is very important from the standpoint of the role the United States is going to play in world affairs, because the pervading issue of the time in which you and I live is this continuing struggle between ourselves and our basic philosophy and that of the Soviet-Peking communists. And this struggle is not going to be won on the battlefields. As most of you know I spent a year and a half as assistant secretary of defense. I still maintain an office in the Pentagon, and we don't need to go into this one — I am interested in the military point of view, but I recognize that the war with the Soviet communists and the Peking communists is never going to be won on the battlefields. You can lose it there. You get involved in a war and lose it and you have lost, but you can win the shooting war and still have the long time struggle with the communists.

Now the issue in the world is that the world is divided into about 3 camps: about 1/3 committed to the western philosophy, the capital of which at the moment is Washington; almost

1/3 of the people of the world committed to the basic philosophy of the Soviet-Peking communists, and presently the capital is in Moscow; conceivably in a generation it may be in Peking. These lines are firmly drawn, but about 1/3 of the people of the world are noncommitted and these are the people that irritate us so much, because they are willing to play off one side against the other but, ladies and gentlemen, that 1/3 of the world is almost exclusively nonwhite and whether or not we win this struggle — and I repeat again, it is the pervading issue of the generation in which we live — is going to be determined to a large degree by how we treat minority groups at home.

Now, the words that this convention has already adopted in the civil rights committee proposal that has been approved is adequate. Professor Pollock and his committee turned to me, as the chairman of the commission on civil rights, and I turned to our Washington staff and asked them to come up with the words that they thought were adequate to be included in the state constitution. And pretty largely they were accepted by the committee and by this convention.

But this is another issue. There isn't any question but that this is legislative. This is offered and I hope it is adopted only to get through the Michigan legislature what we have not been able to get — and I said "we." I have taken no role in it at all but I have watched the people trying to get through the Michigan legislature some kind of a provision that would do something that needs to be done and for 5 years in a row they haven't been able to get the bill Mr. Yeager referred to or any other bill even out of the committee. They haven't even as yet been able to get an open hearing. The votes were taken behind closed doors. Never did the issue come out on the floor of the legislature at all. Now you can get excited about the provisions of the bill that Mr. Yeager referred to which was — somebody gave me a copy of it yesterday and certainly I am not in sympathy with the objectives of that bill, but this provision does not do that. All this requires is that the state legislature within 2 years shall create a civil rights commission and they determine what the civil rights commission will do. If the legislature wants to create one of these commissions with police power and give them the right to subpoena and be judge, jury, and prosecuting attorney they can do it, but they are foolish if they do, and that isn't what people, including my negro friends, want. They want some sort of an agency with some public acceptance to give concern to this problem. And, ladies and gentlemen, it is not going to go away; you can't just fold your hands and say, "Well, I'm not going to do anything about it because somehow or other this is going to go away." It isn't going to go away.

We are going to continue to have immigration of negroes with all of the problems. They are American citizens and they deserve respectable treatment. And the issue isn't what comes into this commission. The issue is getting into this constitution something that will require the Michigan legislature to take some cognizance of it. If they do not, then the governor is given that responsibility and no Michigan legislature dare not act and give the governor an opportunity to do they know not what. If these words are in the constitution, the legislature will act. If the legislature is wise, it will come up with a commission, fact finding, with such other responsibilities as they want to give the commission and they can add to those responsibilities as they see fit in the years ahead.

I have talked much too long but I am disturbed always by the Michigan people, the Lansing people, the Muskegon people, wherever they are, that want to take the attitude that civil rights is not a problem for Michigan. Ladies and gentlemen, we are not going to do anything in Michigan that is going to change the situation in Mississippi at all. Mississippi is going to have to settle its problems there and the problem we ought to be concerned with is seeing that in Michigan we move in the direction of making progress and, again, as my concluding statement, this is not a problem to be solved through legislation; it is not one you solve with a club; it isn't one in which you are going to enforce progress; it isn't an area in which you have a right to expect that progress is going to be rapid or uniform; but we need to have progress and the emphasis has to be in moving from where we are to something better. And Detroit may move in one way at one rate and Muskegon in another way at another rate and Grand Rapids in another way at another rate, but how any American citizen in 1962 can say with any conviction at all, "I am not interested" I cannot understand.

Ladies and gentlemen, I cannot see how you can do anything else but approve this and leave it up to the legislature to determine what the future civil rights commission will do, and I see nothing but good in it, no loss at all. I apologize for talking so vehemently, because to me this is not one of those issues that you just fold your hands over. This is real, and every decent citizen ought to be concerned with it and ought to be concerned with the problems in the area in which he lives. (applause)

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Greene.

MR. GREENE: Mr. Chairman and delegates, I would do a disservice to the impact of the words, the very profound words of Mr. Hannah, so at this time I should like to pass.

CHAIRMAN MILLARD: Delegate Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, I would not like it to be thought by any delegate here and I don't really believe that it is so thought that in approaching this particular amendment and in speaking to questions concerning the mechanics of operation, the function of the commission, and so forth, that in any way it could be conceived that in approaching the development of such a commission that it indicates in any way a lack of concern for the problem involved. I think that I am as deeply concerned as most other delegates, perhaps certainly not as concerned as some inasmuch as not being personally affected. I would like to move forward but I want to be sure we are moving forward in the right direction.

I think a civil rights commission is the right direction. I am not certain that it is properly in the constitution. And I have not had answered the questions that I raised earlier. I certainly share the sentiment of Dr. Hannah, for his concern for the problem but he did not speak to the questions raised regarding the amendment and what it provides for, what the authority of the legislature is, what the authority of the executive is in the absence of legislative action. These are problems that I think we must, as a constitutional convention, answer. If we are going to incorporate this into the constitution as a matter of constitutional law, we have got to spell out the authority of the legislature and the authority of the executive. If we are going to give the governor this power to act, we must spell it out.

I have been asked by several delegates to prepare an amendment to accomplish this. I am not certain I am able to do it. I would welcome over the noon hour having the benefit of the counsel of other delegates who have given this more study than I have. I assure you I am as interested as anyone in moving forward, but this particular language is fraught with danger, I believe. We are writing a constitution for the next 50 years. We cannot experiment. We have got to be sound. I myself am not prepared to vote for this in its present form and I would welcome the assistance of anyone, any other delegates, who can help me resolve these problems.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Grand Rapids, Delegate Tubbs.

MR. TUBBS: Mr. Chairman, I think I share some of Delegate Higgs' concern over this amendment. I also share Dr. Hannah's concern over the problem in general. What can we do about it and how are we going to do it?

We have remedial legislation now. Since long before 25 years ago, as Delegate Stevens has pointed out, this state was a leader in statutory remedies for discrimination in many public places and in many fields, and the supreme court has been quick to uphold such legislation. I remember a case that went up from Grand Rapids involving people in the theater and the supreme court upheld the statute. I think it is reported in about 1927.

We have a complete fair employment practices statute in Michigan and if you do not think it is operating, then I suggest that if you are on a public board, as I was, the board of education of Grand Rapids and you turn down the application of a person for employment in your system and that person happens to be designated on the application as colored, you are immediately called before the commission. There is no chance to cross examine the person who made the complaint. The complainant doesn't even appear. You have the burden of proving that you were not prejudiced when you denied that application for employment.

Now what else do we need? What is this thing going to do that we set up here? We have a social problem, it is true. I think it lies in the field of education. Perhaps, as Dr. Liggett of Union points out, in order to settle it we have got to raise a whole new generation of people. But how can you do that with legislation, either in this constitution or in the legislature itself? And if this is a question of simple remedy, then why doesn't somebody suggest how the thing spoken of by Dr. Hannah can be remedied? Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Saginaw, Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, I would like to ask Delegate Bentley a question through the Chair, if I may.

CHAIRMAN MILLARD: If Mr. Bentley desires to answer.

MR. LEPPIEN: Delegate Bentley, as you well know, in the city where I come from, the county, we have a human relations commission and we have supported it all the way, which means, of course, that this, too, has our sympathetic understanding but I am disturbed about some of the language and since the committee has had many, many, many weeks to study this with the intent of clarifying anything that has been raised such as the questions by Delegate Higgs, I pose this question: let's assume that the legislature did, within a year after the adoption of the new proposed constitution, pass civil rights legislation to create a commission and it did not meet the approval of the governor and the governor vetoed it; the same thing happened the following year. Would that carry, then, the implication that the governor had more power to create a commission giving it all the powers that have been raised here, such as the right of subpoena and other things?

MR. BENTLEY: Mr. Chairman, in reply to the question from my good friend from Saginaw, Delegate Leppien, I will say that there is an amendment pending on the secretary's desk which I think will answer the question for him, and I wonder if he could defer his opinion and thinking on this particular matter until the amendment is presented?

MR. LEPPIEN: I would be very happy to, Mr. Chairman, thank you.

CHAIRMAN MILLARD: The Chair will recognize the lady from Detroit, Mrs. Daisy Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, I am very touched and deeply moved by the remarks that were made here today by Dr. Hannah. In my opinion this is one of the most brilliant speeches that I have heard on the floor of this convention.

I would like to say to Mr. Stevens, Mr. Shackleton, the Yeagers of the convention, and to those who insist that no action should be taken on these propositions because they are statutory, may I argue technically that the constitution itself is but a compilation of laws and statutes which is generally agreed are of such fundamental significance that they deserve constitutional status. However, there is no fixed distinction between constitutional and nonconstitutional subject matter. This distinction is relative and the opinions of experts in constitutional law vary on many points. However, I believe that we might well be guided by the apparent philosophy and intent of the United States supreme court in its interpretation of the federal constitution in relation to civil rights litigation between 1960 and '62:

> It must be unmistakably clear to all that this court considers the constitution not in the light of a technical manuscript but as an instrument by which American citizens regardless of race, color, religion, or ancestry shall share equally in the opportunities, freedoms, and protection which the majority cherish and enjoy.

What we have asked of you in the area of civil rights has an existing counterpart in our present constitution today, namely, the civil service commission. Without question this provision is specific and detailed legislation that could easily be conceived as statutory. Yet, because it serves to protect a large segment of the population against a common abuse, it has been incorporated in the constitution. We agree with this action and hope that it will be retained regardless of whether or not you recommend inclusion of the civil rights commission, but I remind you that the rights we seek to protect here are even more fundamental, far reaching, and subject to emotional or political evaluation than the matters covered by the civil service commission.

Based upon the experiences at the national level and in other states, it is obvious that if this equality of opportunity and justice for the American negro and other minority groups are to be realized in our lifetime, not only must the appropriate laws be created but realistic machinery for their enforcement must be provided. For example, since 1870, it has been illegal to deny or abridge the right of negroes to vote, yet it is general knowledge that in many parts of this nation this right has been flagrantly abused from that day until this. However, it was not until the United States civil rights commission under the chairmanship of Delegate John Hannah began to publicize the facts and recommend remedial action that any hopeful signs of changes have appeared. Again I would like to thank Dr. Hannah for those remarks.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Father Dade.

MR. DADE: Mr. Chairman, I rise to speak in favor of this provision. I want to commend Mrs. Elliott for her persistence in bringing this before the convention. I believe this is an implementation of the right which you already have in our constitution and which I trust will be approved by the people.

There have been many fears expressed here on the convention floor of the abuse of this provision. I regret that I did not know this was coming up and I could not bring with me or did not bring with me a letter from Governor Rockefeller. Several months ago we addressed a communication to Governor Rockefeller and we asked him specifically the questions which are contained in the fears expressed by some of the delegates, and the last line in his letter was to the effect that there were fears that if a civil rights commission was established in the state of New York to implement their right in their constitution that business would leave the community, that there would be racial disturbances, that there would be great abuses, and he ended by saying that none of these had come to pass, and this had really been an educating matter and had been most helpful. And I think that this is evidence to show that these abuses that we have feared and this flagrant taking advantage of citizens' rights is something that is a matter of our imagination and not real at all.

I favor this provision. Unfortunately, I feel it is just a beginning. It is a step. It is not the soundest and the best step — I mean the strongest step — but it is a beginning, and we need good beginnings in this matter of civil rights in this state.

CHAIRMAN MILLARD: The Chair will recognize another gentleman from Detroit, Mr. Cudlip.

MR. CUDLIP: Mr. Chairman and members of the committee, I am glad that Dr. Hannah spoke and glad that Delegate Higgs spoke before me, because I agree with both of them. I cannot conscientiously vote for this amendment. I am not clear as to the powers of such a commission and it would affect all citizens and their rights. Here we are not talking about any particular group. We all belong to minorities — businessmen, labor, religious groups, on and on and on.

I would not want to see the chief executive of the state put in a position of conflict with the legislature in this vital area. I think if we adopt this amendment we will undo — undo — the great work we accomplished here in adopting the equal protection clause when we all stood and that board was universally green. That clause was forward looking. It says:

> No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, religion, sex or national origin.

Now note:

> The legislature shall implement this section by appropriate legislation.

We have got to trust the legislature ultimately; that is agreed; so why antagonize them, whoever they may be, by a constitutional club?

This is so important, this whole area we are now discussing, that I think the matter should be referred to the committee on rights and elections for quick action. That is where it belongs, if you follow my theory that the governor should have no part of this. It can quickly study the matter in light of our proposed bill of rights which it sponsored. We can then see what other states are doing in this field. Let's not botch this matter. I am fearful that this proud advance we made will be cluttered by this sort of thing. It doesn't belong in the executive branch of government. It belongs in the committee on bill of rights. It belongs in our bill of rights.

We could end up here by saying the legislature shall implement this section by appropriate legislation and then go on and talk about a rights commission — call it what you please — and specify right there what we want that commission to do and when. If this is botched by mixing up the bill of rights with an assembly of language like this, I am extremely fearful that we are going to so mess up the whole subject generally and for the future that we won't know where we are going.

My thought is simply that we haven't studied this carefully enough. The place for the language is as I said. Spell it out. Do a job. See what we need to have this commission do, instead of just talking emotionally with a lot of fine words flying around and leave this convention with such an important matter dangling. Dangling for whom? Everyone. Every citizen. Businessmen included. Working people. Lawyers. Anybody that has a civil right. And I am very sincere when I make these observations. I don't think that we should gloss over this at all. Let's thump this nut until it cracks and not just brush it under the rug to get it over with by 4:00 o'clock or 12:00 o'clock. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I think it is about time for the committee to rise. I do want to say, however, that Mr. Cudlip's point was discussed with the civil rights committee and they felt that this kind of substantive provision was not a proper part of the statement, the general statement, on civil rights, and for that reason they felt that if it was to be taken up, it should be taken up by the committee on executive branch. This is the reason that we took it up; so that it bears, of course, on the committee proposal from the committee on declaration of rights, but after discussion with them it was made clear to us that this was our responsibility and not theirs, and that is the reason we present it to the convention.

At this point, Mr. Chairman, I move that the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. All in favor say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** has considered an amendment thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would just like to remind the members of the committee on rules and resolutions of a meeting immediately following our recess in room R. Please bring your lunch.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President and members of the convention, I wanted to explain to the convention why it was necessary to call the meeting of the committee on administration this morning during general orders. We were told at 9:30 that in order for us to get a supplemental request in for an appropriation we had to have it over there at 11:00 this morning. This necessitated calling a meeting of the committee on administration. I was not aware that we were violating the rules and I apologize for that and call another meeting of the committee on administration for 1:30.

PRESIDENT NISBET: Any announcements.

SECRETARY CHASE: The committee on style and drafting will meet this evening at 8:00 in room K. That is all.

PRESIDENT NISBET: Last Friday Mr. John Hannah presented to the convention a statement relative to the completion of our convention work. He suggested principally that we recess the convention by April 15 and remain in recess until November 12, giving ideas of how this could be accomplished and suggesting that the officers of the convention consider the suggestion and report to the delegates.

The officers, Vice President Romney abstaining, have had meetings and discussions on the suggestion. After these meetings and reviewing the matter with delegates, it has been decided that the suggestion of Mr. Hannah, while it has several good ideas, is not feasible at this time.

The reasons for this decision are basically these:

1. He was hoping we could complete, or nearly so, second reading by the April 15 date, which would give the citizens of Michigan an idea of what the final document would be. This will not be possible. In fact, we will need to shorten our discussions materially if we complete our first reading by April 15. That leaves us only 2 weeks after this one.

2. We would lose our present location with its good facilities. After some investigation, we have determined that we would have difficulty locating a satisfactory place where the delegates could meet in a suitable atmosphere with all of the necessary facilities.

3. Probably the most difficult problem would be our staff, which we would lose. They are efficient, know our work and we would have difficulty with new people who would not know the work of our delegates. The closing days will be most critical, too, and we will need our best staff.

4. Considerable inconvenience would be caused the delegates and make adjustments necessary. Many in their conversation prefer to work through now and complete the document.

5. I hesitate to mention, at this state, momentum. I do not mean speed. The convention, however, is under way and carries itself forward. That would be lost and it would take time to get under way smoothly again. We would also lose the continuity in our discussions and it would take time to pick up the threads again.

The officers want to thank Mr. Hannah for his suggestion, for it has put the convention into focus, has pointed out the need for better action and less waste of time, and has made us realize that May 15 is not too far away. We ask all delegates to use their best efforts to achieve this date for adjournment and at the same time complete our work efficiently.

I would like to call on Dr. Hannah.

MR. J. A. HANNAH: Mr. President and ladies and gentlemen of the convention, as I indicated when I made this suggestion on Friday, it was a suggestion that was seriously made with the request that the officers of the convention as our leadership give consideration to this possibility. It seemed to me to have some merit. I also recognize that it had many defects and shortcomings.

As the president has just indicated, the matter has been considered and he has given us the officers' judgment and, of course, I accept it. The only objective I had in mind in the first place was that, if possible, we expedite our work, number 1; and number 2, if possible, we take out some of the acrimonious debate and colloquy that has taken place on this floor in recent weeks.

I regret very much that my remarks were interpreted by some as critical of individuals or groups. It was not intended because I think, like many of our problems that face this state, it is not a problem, it is not a flaw, that can be directed at either the majority or the minority party or any of their representatives. But the point that the president has just made — and was made by Mr. Allen yesterday — is that unless we find some way of taking out of these sessions the large amount of speechmaking that is totally ineffective and wasted and changes no votes, we are going to find ourselves on May 16 with the pay cut off and some of us faced with the responsibility of finishing a constitution. And so I accept, as I indicated I would, the report, and I am sure the decision that has been made by the officers is a sound one.

I would only hope that somehow or other the leadership of the majority party and the minority party might get together and see if we can't come up within our rules with some procedure so that if we have to have political bickering that we limit it to 10 minutes on an issue or appoint a speaker and not feel that we are all called upon to make accusations. Every time an accusation is made, 15 people on the other side have got to answer it. Thank you very much.

PRESIDENT NISBET: Thank you, Dr. Hannah.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I just wish to say, and I am sure that the report indicates, that Dr. Hannah's suggestion was very seriously considered, very well received, and I personally want to express appreciation for the presentation of the idea. I think it is one of those where the problem was presented and, as so often happens, the answer is more difficult than the problem. But I do think it was of help to the convention to have this called to their attention and just wish to be sure that the delegates realized that. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President, I move that we recess until 2:00 o'clock.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor say aye. Opposed, no.

We are recessed until 2:00 o'clock.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering matters on the **general orders** calendar.

MR. GUST: Mr. President.

PRESIDENT NISBET: Mr. Gust.

MR. GUST: Mr. President, before you place the question — at this time might I respectfully request that the committee on administration be excused for a few minutes? We have a meeting across the hall. We have another item of business to be taken up.

PRESIDENT NISBET: Without objection, the committee will be excused.

The question is on the motion of Mr. Millard. All those in favor say aye. Opposed?

The motion prevails.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers, allocation of departments, administrative reorganization, and so forth. Mr. Martin, on behalf of the committee on executive branch, has offered an amendment to add at the end of the proposal a new section i to read as follows:

[The amendment was again read by the secretary. For text, see above, page 1921.]

CHAIRMAN MILLARD: At the end of the morning session we were receiving discussions and arguments upon this amendment. The Chair will now recognize the gentleman from Bloomfield Hills, Delegate Romney.

MR. ROMNEY: Mr. Chairman and fellow delegates, I discuss this amendment briefly as one who has some background, personal background, and experience from which to draw in this field, because I speak as a member of a minority group that knows the long time harmful effect of persecution and discrimination. As a matter of fact, such persecution prevented my being born in this country and made me at 5 years of age a revolutionary refugee. Now I would like to endorse the substance of what Delegates Hannah and Judd said, and I do not want to repeat it.

The question has been raised by Delegate Higgs and others as to why we should be taking action of this character in a constitution. It seems to me that extraordinary situations require extraordinary action and we have an extraordinary case of human injustice that we are dealing with. Aristotle has said that the greatest injustice is to treat equal things unequally. Now the area of human injustice that we are dealing with is of an extraordinary and abnormal character and, consequently, it needs this sort of treatment in this constitution.

Michigan has been a leader nationally and internationally in many fields — in mass production and education and human welfare — and it is important that Michigan be a leader in eliminating racial discrimination. Negroes have now evidenced their superiority in sports, culture, science and the arts and in many other fields, and our nation and our state today is reliant on them for leadership in these and other areas. Many of our ablest citizens in this state are negroes and it is vital to the future health and wellbeing of our state that we eliminate this discrimination, that we make certain it is going to be eliminated in all fields. This is also essential to this nation's role in the world. As a matter of fact, this nation will not be able to speak and be heard by people unless we eliminate this injustice within America, and I think Michigan should take this dramatic step to help do it.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Mr. Yeager.

MR. YEAGER: Mr. Chairman, I should like to yield to Mr. Boothby for the purpose of offering an amendment.

CHAIRMAN MILLARD: Mr. Boothby is on the list. The Chair will take him in his order. Next is Mr. T. S. Brown.

The Chair wants to make this statement, that there is an amendment — a committee amendment to the amendment — that will be considered first, anyway, and the Chair has several people on the list. We have been doing this: the Chair recognizes these people that have asked for recognition when the amendment is taken up and the Chair would like to follow that order. Without objection, the Chair will do so.

MR. YEAGER: I object, Mr. Chairman.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman —

MR. KUHN: Mr. Chairman, point of order.

CHAIRMAN MILLARD: State your point.

MR. KUHN: The Chair cannot change the rules regarding demand for the floor.

CHAIRMAN MILLARD: The Chair has not changed the rules.

MR. YEAGER: Mr. Chairman, I yield to Mr. Kuhn.

CHAIRMAN MILLARD: Will you wait a minute. The

Chair allows them to yield the floor to the proponents of the amendment or to the chairman of the committee. After they get on the list the Chair has got to recognize them in their order on the list.

MR. KUHN: But you have nothing to say as to whether he can yield the floor to another member, sir.

CHAIRMAN MILLARD: The Chair already had Mr. Boothby on the list.

MR. KUHN: If you will tell me which rule you are following that you are stopping that?

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Is the way clear? Mr. Chairman, members of the committee, I rise, I think, to counterpoint something that has previously been said in regard to this question, in that I do not feel it has been adequately explained that we are not discussing the negro question here but are discussing the question of civil rights now. Because so many of the remarks — as a matter of fact the bulk of them — have been directed to the problem of civil rights as it is manifested in the negro class distinction, I think it is necessary to broaden the scope of our understanding of this total problem.

I object to the strictly color orientation of some of the remarks that have been made today, on 2 grounds. First of all, it focalizes a lot of "anti" feeling upon the negro problem, which is unfair to our negro brothers; secondly, as an adjunct and as a corollary of that focalization it eliminates our appreciation of some other areas of real concern. So I direct my remarks to the gentlemen like Mr. Higgs and so on, who have indicated that they are concerned primarily with this particular manifestation of the civil rights problem in this country.

We must understand that civil rights are much broader in scope than what we have been discussing today. In an ultimate sense, civil rights encompasses 2 facets of protection. It preserves the integrity of the individual within the society from either unwarranted class bias or unwarranted individual caprice. Now what is unwarranted, of course, is spelled out in our state and federal constitutions and we must recognize — and I think we do if we think about this at all intelligently — that while we are intimately and directly concerned with the negro civil rights problem here, that this is only a phase. Historically speaking, this is only a phase in the constant, never ending battle of civil rights that has always gone on in all societies in all the history of the world and probably shall always continue to rear its ugly head in all future societies.

We have been concerned in the past with civil rights in regard to religion, in regard to locality, in regard to various ethnic manifestations and now in regard to skin color. Now if you only understand this aspect of the problem, the aspect we have been discussing primarily, you only understand half of the problem, because civil rights legislation historically in the United States — and I wish that Dr. Norris were here today, because he is so wonderful in his exposition of this entire problem — civil rights legislation has been directed toward helping the minorities to compete on the same basis as the majority of the citizens, but it has also been directed at preventing the individual, regardless of color — the individual — from losing his identity in mass culture.

Now 50 years from now I guarantee you — and perhaps less than that, hopefully less than that — 50 years from now in this state and in this country when our negro brothers are competing with us on an equal basis and they are not laboring under a class bias, all of us will have a greater need for civil rights protection than we realize today — and that goes for all of us. Now, when my wife refuses to join in the local coffee klatsch in our suburban neighborhood, she is becoming ostracized. Now when the coffee klatsch becomes institutionalized perhaps there will be some greater penalties that will travel toward my house from the farther end of the block than simple ostracism. Can a bearded schoolteacher teach school as well as a clean shaven schoolteacher? Can a nonGaelic attorney get a job in the present city of Detroit administration? These are all problems in civil rights. This is a private joke, the latter. These are all problems in civil rights and unless we realize that this is the greater aspect of it from the point of view of culture, from the point of view of history, we just do not understand the present amendment; and the present amendment, I suggest, Mr. Higgs, protects you more than it does in the future Mrs. Hatcher or any other dark skinned delegates here. And unless we understand that fully and completely, then we really do not understand the problem of civil rights.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, through the Chair may I direct a question to either Chairman Martin or Delegate Bentley?

CHAIRMAN MILLARD: Which one?

MR. LEIBRAND: Either one. I'll take Martin.

CHAIRMAN MILLARD: Mr. Martin, if you care to answer.

MR. LEIBRAND: Mr. Chairman and Delegate Martin, what specific rights or claimed rights does your committee consider to be embraced in the term "civil rights" as used in the proposed amendment?

MR. MARTIN: Mr. Chairman, Judge Leibrand, the answer to your question, I think, is this: this involves the rights of the citizen not to be discriminated against in a number of fields. The first of those, of course, is education, the right to get the kind of education which the individual can afford and which he wants to have, whether that might be in a profession or as a teacher or as a secretary or as a nurse, or whatever that might be. Second, it involves the right to nondiscrimination in those areas which are covered by the public nondiscrimination act which covers restaurants, motels, places of amusement, stores, public conveyances, theaters, bowling alleys, and places of public accommodation. Third, it covers employment — the right to nondiscrimination in the field of employment. Fourth, it covers nondiscrimination in the field of voting — the citizen's right to cast his vote and not to be deprived of his franchise. And fifth, it involves his right to buy housing where he can afford it and without discrimination in that field by public agencies or by those licensed by the state. It involves the question of discrimination in all of these fields, and the rights which would be protected by such a civil rights commission would be protected by those rights which are specified in the constitution.

I might answer your question more briefly by simply referring to Committee Proposal 26, which refers to the citizen's enjoyment of his civil or political rights as specified in the constitution, and the right not to be discriminated against in the exercise thereof because of race, religion, sex or national origin. I think Dr. Pollock may be able to give you a more detailed description of these rights than I have been able to, but these are the principal rights which are involved.

MR. LEIBRAND: Thank you.

CHAIRMAN MILLARD: Delegate King.

MR. KING: Mr. Chairman, fellow delegates, I would just like very briefly to talk upon this committee amendment. We have passed on first reading what I consider to be an excellent civil rights section. I think it goes without saying that these provisions will be enforced if brought to the attention of our courts. The question is: do we need an agency of the executive branch in order to secure these rights?

As has been pointed out, about 10 per cent of our population is nonwhite but, as Mr. Brown pointed out so very well, of course civil rights is the concern of all of us. It has nothing to do with color. There is no question in my mind that the distinguished negro delegates to this convention do not need the added protection of a civil rights commission, but it also goes without saying that is not the question here. Every individual is entitled to the protection of our constitution, and those people referred to by Dr. Hannah as being economically disadvantaged do need assistance in order to secure to themselves the equal protection of the laws, that we — all of us — establish and ordain, as citizens and legislators, as delegates to a constitutional convention. If our laws, the laws that we pass, are not uniformly enforced and applied, then I submit that we are the ones who are being discriminated against.

I should like to quote from General Eisenhower's remarks in answer to Dr. Norris' question, because I think it has particular significance here: "We are citizens of a free nation" the General said, "and wherever we impinge upon or diminish the freedom of another individual, we impinge upon our own." He goes on to say, "I believe that self interest" — self interest, mind you — "demands that every single individual put himself foursquare upon this principle."

Now I believe that the protection of the rights of the individual is a prime if not the prime goal of the true conservative. I supported a strong proposal calling for review of administrative tribunal decisions, which I call to Mr. Yeager's attention. Mr. Yeager and I worked hard on that proposal and I feel that that represented the true conservative position. I proposed language which would not diminish the freedom of the individual, guaranteed under the federal constitution, in the matter of unlawful search and seizure. Again, I submit, this is the true conservative position on the rights of the individual. I now support the present committee amendment for the very same reason. This is the position of a true conservative.

CHAIRMAN MILLARD: The Chair will recognize Delegate Boothby.

MR. BOOTHBY: Mr. Chairman, there is on the secretary's desk an amendment. Would it be in order at this time for that amendment to be read?

CHAIRMAN MILLARD: Mr. Boothby, there is a committee amendment to come up first.

MR. BOOTHBY: My purpose in seeking recognition was to speak to the amendment which I placed on the secretary's desk.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment to the pending amendment:

1. Amend the amendment, at the end of the first sentence, after "constitution.", by inserting "Nothing in this paragraph shall prevent the legislature from taking such further action as it may deem necessary at any time after the expiration of such 2 year period.".

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this is just a perfecting amendment to make clear what the committee purpose was. Based upon our discussion, it is intended to answer the question raised this morning as to whether the legislature had any continuing authority to act on this problem. I am sure the committee thought that it did and we wanted to make it doubly clear by adding this sentence. Therefore, I hope that the delegates will support it.

CHAIRMAN MILLARD: The question is on the committee amendment to section i. Mr. Young.

MR. YOUNG: Mr. Chairman, I would like to ask Mr. Martin a question through the Chair, if I might.

CHAIRMAN MILLARD: Mr. Martin, if you care to answer.

MR. YOUNG: Mr. Chairman, Mr. Martin, the way that additional sentence is written, could it be construed that further action might be the abolition of this civil rights commission?

MR. MARTIN: Well, Mr. Young, the legislature can take any action that it wants to, and the committee never had in mind that either the governor or the legislature could take action which was final and permanent and could not be changed; in other words, could take action in effect to set up a sort of constitutional provision which could not be changed.

MR. YOUNG: Well, Mr. Chairman, Mr. Martin, that is precisely the point I am concerned with. Here we are seeking to establish by constitutional provision a civil rights commission. Now if we give the legislature a free hand to take "such further action as it may deem necessary," might not that action be — especially in view of its past inaction — might not that action be to abolish the civil rights commission? Do you want to say that or authorize that?

MR. MARTIN: Well, we never intended to prevent it, Mr. Young, I am sure. At least, it was never the thought of the committee that we were chopping off the legislature and preventing it from ever taking further action in this field. It either can or it cannot, and it was not our intention to prevent it from taking any further action.

MR. YOUNG: Well, Mr. Chairman, and ladies and gentlemen of the committee, I had intended to remain silent on this discussion, because I recognize the importance of setting up a civil rights commission even though, in my opinion, it is a minimum step; this that is being taken is a minimum step. But I certainly would be opposed to any type of amendment that would authorize in the first sentence the legislature to set up a civil rights commission and in the second sentence would provide for the governor's authority or would direct the governor, in fact, to set up such a commission thus giving such a commission constitutional status, and then in the third sentence authorize the legislature to wipe out the intention of this constitutional convention.

MR. MARTIN: Mr. Chairman, could I respond further to Mr. Young's question?

CHAIRMAN MILLARD: Do you yield to Mr. Martin, Mr. Young?

MR. KING: Mr. Chairman, I would like to ask Mr. Martin to yield to me for an answer to part of his question, because I am not in agreement with the chairman of the committee although I was a member of his committee.

MR. MARTIN: May I modify my answer, Mr. Chairman?

CHAIRMAN MILLARD: The Chair will recognize Mr. Martin.

MR. MARTIN: The principal provision provides that the legislature shall set up a civil rights commission. It provides that if it does not do it the governor shall do it. The sentence which I am proposing here would not authorize the legislature to abolish a civil rights commission, but it might authorize the legislature to modify the type of civil rights commission or to make some changes in it. It is not contemplated that whatever change is made can never be modified in any way, shape or manner.

MR. YOUNG: Mr. Chairman, do I still have the floor?

CHAIRMAN MILLARD: Yes.

MR. YOUNG: Well, with that understanding, I would suggest that Mr. Martin or his committee so change the language that it could be very clear to the legislature and to all concerned that among the powers of change and among "such further action as it may deem necessary" shall not be included the further action of abolition.

CHAIRMAN MILLARD: The Chair will recognize Delegate King.

MR. KING: Mr. Chairman, ladies and gentlemen of the committee, it is obvious to me that although the legislature can make modifications, they would in no event have the power to do anything to abolish a civil rights commission within the executive branch to secure the protection of the civil rights guaranteed by this constitution. Now that is my understanding and I would yield to Mr. Martin to be certain that that is his understanding.

MR. MARTIN: Mr. Chairman, Mr. King, if I might add to the amendment the phrase, "but this shall not authorize the abolition of such a civil rights commission," I think this would clarify the question, Mr. Chairman.

CHAIRMAN MILLARD: Is that an amendment, Mr. Martin?

MR. MARTIN: It is an addition to my amendment there.

CHAIRMAN MILLARD: To the committee amendment?

MR. MARTIN: Yes.

CHAIRMAN MILLARD: Will you please restate it so the clerks can get it.

MR. MARTIN: After the period in the last line, add "but this shall not authorize the abolition of such a civil rights commission."

CHAIRMAN MILLARD: Do you wish to —

MR. KING: Mr. Chairman, I would just ask Mr. Martin if he would think that perhaps the wording, "but nothing herein shall diminish the effect of the foregoing parapraphs," something to that effect. It is not just a question of a commission. It is a question of a commission to guarantee the rights —

CHAIRMAN MILLARD: Well, gentlemen, this is not any way to get an amendment before the committee. If you will get together and write it out, then we will present it.

The Chair will recognize Delegate Hodges.

MR. HODGES: Mr. Chairman, I have the same fears that were expressed by Delegate Young on this question. Going further, I suppose this additional amendment would help as concerns the abolition of the commission, but I think it would still allow a legislature refusing to act for 2 years to have the governor then set up a meaningful civil rights commission only to have a ripper bill introduced the next year which for all practical purposes would negate the commission while perhaps keeping it in name only. But that's all that you will accomplish by putting this abolition feature in. It seems to me that this amendment is well intentioned but I think does not materially strengthen the original amendment. In fact, it could well weaken it, especially with the experience we have had to date with this type of provision.

Now it might well be that you could put something in, that the legislature shall be able to strengthen after a 2 year period or some language of this sort, but I think the amendment as it now stands leads to many problems and unless and until new language can be put in there to actually spell out the real intent of it I would be opposed to the amendment.

CHAIRMAN MILLARD: Mr. Hodges, are you through?

MR. HODGES: Well, I would yield — may I yield to Mrs. Hatcher or did you say there were others on the list?

CHAIRMAN MILLARD: There are others on the list.

MR. HODGES: Mrs. Hatcher just made the suggestion that in the amendment on civil rights it describe what the legislature shall do in the field of civil rights and it may well be that this could be — and I am only making this suggestion to the chairman of the committee — that this could be included in this amendment. But I do think that more language is needed at this point because at this point I am not at all satisfied that we are not actually reducing or weakening the original amendment with this amendment.

CHAIRMAN MILLARD: We have so many amendments coming up here now all trying to fix this up — Mr. Secretary, can you straighten them out?

SECRETARY CHASE: Mr. Brown, Mr. T. S. Brown, has offered the following suggestion: after the word "further" in the pending amendment to the amendment insert "implementing and fostering," so that the language would then read, "Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action as it may deem necessary at any time. . . ."

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I have no objection to that language.

CHAIRMAN MILLARD: Does that cover all the objections now?

MR. KING: Mr. Chairman, could I ask the secretary to read my suggestion and ask if Mr. Brown would agree with it?

CHAIRMAN MILLARD: All right, will you read that suggestion?

SECRETARY CHASE: Mr. King has offered the suggestion: after the word "action," insert the words "consistent with the foregoing," so that the language would read, "Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action consistent with the foregoing as it may deem necessary. . . ."

MR. KING: Mr. Secretary, I offer my suggestion as a substitute for Mr. Brown's. That is what I had in mind if Mr. Brown would agree.

MR. T. S. BROWN: Mr. Chairman, Mr. King, I am not sure you would acquiesce to leaving my words in; is that right?

MR. KING: No, I would not object to it but I do not think it is necessary.

MR. T. S. BROWN: May I speak on this matter?

CHAIRMAN MILLARD: Just a minute now. Mr. Brown, what do you want to do?

MR. T. S. BROWN: I would like to speak on this matter and since it has received the explicit acceptance of Mr. Martin I think, therefore, it has become part of the committee amendment. It that not correct, sir?

MR. MARTIN: It is satisfactory, I think, with your language, Mr. Brown. Mr. King's language can be added. I think they go together. I don't think there is any objection to them.

CHAIRMAN MILLARD: Do you want them added together by the secretary?

MR. MARTIN: If Mr. King has no objection, I would suggest that the language of both phrases be added.

CHAIRMAN MILLARD: Mr. King, do you have any objection?

MR. KING: Would the secretary read the 2 of them together again.

SECRETARY CHASE: If both these suggestions are accepted, the language would then read:

> Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action consistent with the foregoing as it may deem necessary at any time after the expiration of such 2 year period.

MR. T. S. BROWN: I would agree to that, sir.

MR. KING: It seems somewhat redundant to me, but I will not object.

CHAIRMAN MILLARD: All right.

MR. YEAGER: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN MILLARD: Then the amendment, as revised, will be accepted as the committee amendment?

MR. MARTIN: Yes, Mr. Chairman.

MR. YEAGER: I have a parliamentary inquiry, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: I should like to ask how, based on your ruling that we would only consider committee amendments, that Mr. King's and Mr. Brown's amendments, which are not committee amendments, are being considered?

CHAIRMAN MILLARD: Mr. Martin, on behalf of the committee, has accepted their suggestions, Mr. Yeager.

The Chair will rule that committee amendments have priority and revisions of and amendments thereto are in order.

Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, I am a little bit confused by what this language as it has been perfected would actually do. Everybody says that we don't mean that the legislature cannot improve the commission or modify it and change it as it goes along, but everybody says that we don't want them to be able to abolish it or to do something which would have, I suppose, the practical effect of abolishing it. Well, if anybody is going to be sure, this has to be provided in constitutional language and I don't see how on earth you can write language which will leave discretion to make improvements and at the same time provide those improvements cannot "weaken" the commission which this original amendment seeks to establish. These words "fostering and implementing" are just as subjective as the whole subject.

CHAIRMAN MILLARD: Mr. Brown, do you want to talk on the amendment?

MR. T. S. BROWN: Yes, sir. In answer to Mr. Wanger, it is my recollection, of course, sir, that you mentioned many things in the area of constitutional law in past debates in this convention, and, as a constitutional lawyer, you have got to realize, I am sure, that there are many similar mandates in our federal and state constitutions in this area of civil rights which do not allow for weakening but only allow for strengthening and "implementing and fostering" by any subsequent statute, either of our congress or state legislature.

Now, had Mr. Martin not suggested this addition here to cure some of the ills raised by objectors who felt that this would permanently deprive the legislature of taking any action in this field — which I think on its face is a legitimate objection — I would not have felt constrained to add these additional words. But once he does, the naked words in the amendment before my suggestion and even Mr. King's suggestion, I think would have possibly led to a weakening of the system, and this is one of those essential guarantees equivalent to our bill of rights that we want to place in that area of strengthening rather than weakening, so I felt that we must add the words "implementing and fostering."

Now I know, Mr. Wanger, you have a thesaurus on your desk and a dictionary. "Implementing" presupposes, as used in this sentence, that the governor or the legislature shall already have established such a commission and that the "implementing" action, if any, shall put additional teeth into the matter for the protection of all of us. And "fostering", I think, would provide a little bit of originality and idealism that is so often lacking in our legislation — and, indeed, in our constitution — that would enable the legislature to pass acts that were on a little higher plane of maturity in regard to this whole area of civil rights, so I think that the 2 words in their connotative senses are very, very essential for the complete understanding and fulfillment of the sense in which I believe Mr. Martin has made this additional amendment.

CHAIRMAN MILLARD: Do you want to be recognized, Mr. Wanger?

MR. WANGER: Yes, Mr. Chairman. I don't need a thesaurus or a dictionary to see the obvious fact that when you take a couple of words like "fostering and implementing" those are constitutional standards which the courts have to apply to any change which is recommended by the legislature and enacted into law.

Now, if we increase the membership of this commission to 9, some people may think that is "fostering" and some people may think that is hurting because the larger group divides authority. If we give it subpoena power in certain cases and none in others, some people may disagree. It is entirely subjective, Mr. Chairman, ladies and gentlemen of the committee. And it seems to me that this is creating a constitutional vagary where, as a practical matter, we ought to have either clearer language such as Mr. Martin for his committee had originally proposed or no language on this subject at all.

CHAIRMAN MILLARD: Mr. Brown.

MR. T. S. BROWN: Mr. Chairman, Mr. Wanger, were you present on the day we voted on the first matter to come out of committee before this convention?

MR. WANGER: No. I do not think that is pertinent.

CHAIRMAN MILLARD: Go ahead with your argument.

MR. T. S. BROWN: I think the essential part, Mr. Chairman, is that the first matter to come before this convention contained the word "encourage" in regard to education. Now, "encouraging" I think is equally subjective according to the criteria that you have set forth, Mr. Wanger, but I don't think that when we are dealing with these matters of education and civil rights and so on that we should stay away from subjective and superlative words, if necessary, because this is one of the few areas in which our constitution or any sacred document can indicate a sense of idealism and a sense of intellectual maturity and appreciation of social problems, and you cannot do this with the black and white, 2 and 2 is 4 terminology of the business world or the mechanical fields. You must get into those sociological superlative words, and I think that no one here at that time, with a few exceptions, had any objection to the word "encourage." And I do not think they should have an objection to the word "foster," because in our educational article and other sections we have used the word "foster" on many occasions without objection.

CHAIRMAN MILLARD: The question is on the revised committee amendment to the amendment. Do you wish to be recognized, Mr. King? Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I would like to address a question to Mr. Brown, for the more I look at these words the more concerned I become. If Mr. Brown would care to answer, I would like to ask him if it is his understanding that in the event the legislature does not arrive at some sort of an agreement to implement this section of the constitution at the end of 2 years and then at that point the governor should do this, is it your understanding that any action taken from that point forward by the legislature would have to be of an "implementing and fostering" nature with regard to what the governor has done, or do your words specifically relate to the body of the committee proposal?

CHAIRMAN MILLARD: Mr. Brown, if you care to answer.

MR. T. S. BROWN: Mr. Chairman and Mr. King, it is a little difficult question to answer, because I had resolved not to take part in this discussion as had Dr. Hannah; I feel rather emotional about it. However, if the additional amendment, that sentence that we are now discussing, had not been offered by Mr. Martin I certainly would not have offered any amendments myself to this degree.

MR. KING: I appreciate that.

MR. T. S. BROWN: Yes, but because of the fact that this amendment contains a latent danger, I do feel that there ought to be some safeguards built into the terminology. Now I have no pride of authorship about "fostering or implementing" because a word is a word. The only thing is, if anyone else would suggest any language at all that would be commensurate with the feelings of Mr. Martin and, I think, the majority of the delegates here that we would not want to allow the legislature to diminish anything that either they had set up or the governor had set up under this main constitutional provision, I would be happy to accept those words. If those words of mine give you any difficulty, please feel free to offer some alternate suggestions. I think the intention is what we should be concerned with here. That is the best answer that I can give you.

MR. KING: Well, Mr. Chairman and Mr. Brown, I certainly agree that the intention is what we are aiming for, but I do not think that the legislature should be prevented from doing anything about the governor's proposal which could be construed in the eyes of the court to not foster or not aid or assist the action taken by the governor. This seems to me to set up a conflict so, for that reason, I will have to change my mind and say that I cannot support the addition of the 2 words that you put in and, quite frankly, if you could assure me that the words "foster" and "implement" only refer to the main body of the committee proposal, then I would have no objection to them.

CHAIRMAN MILLARD: Do you want to answer that, Mr. Brown?

MR. T. S. BROWN: Yes, sir.

CHAIRMAN MILLARD: All right.

MR. T. S. BROWN: Mr. Chairman and Mr. King, I think in this context I can assure you — at least it is my intention — that "fostering and implementing" would be referring to the main body of the proposal in that whatever was done, either by the governor or by the legislature within the 2 years would be the matter that would be fostered and implemented. Now, on the other side of the coin, since Mr. Martin has already accepted my suggested terminology there, I would say that if for any reason we did not have these words "fostering" and "implementing" in our constitution and the legislature were to take some actions that were clearly derogatory in the area of civil rights, then it would be unconstitutional per se, by many other sections in ours and in the federal constitution. But I do not think that we will run into that danger at all. This is simply declaratory of the superlative values that we are attaching to this section.

CHAIRMAN MILLARD: Does that answer your question, Mr. King?

MR. KING: Yes, Mr. Chairman. At this time I would move to strike those 3 words, "fostering and implementing."

CHAIRMAN MILLARD: Get it on paper. The Chair is not taking anything verbal; things are getting too mixed up now.

The Chair will recognize Delegate Karn.

MR. KARN: Mr. Chairman, members of the committee, along the line which Mr. King just suggested I would like to suggest that we vote on these 2 revisions, that we have a division and vote separately on Delegate Brown's suggestion of "implementing and fostering" and then vote separately on Delegate King's suggestion which is "consistent with the foregoing" and in that way we could probably get down to cases.

CHAIRMAN MILLARD: Without objection, the committee will consider these 2 suggested revisions separately. The question now is upon the term "fostering and implementing."

MR. YEAGER: Division, Mr. Chairman, please.

CHAIRMAN MILLARD: Division has been called for. Is there support?

SECRETARY CHASE: Sufficient number up. The question is first on the revision to include after "further" the words "implementing and fostering" as proposed by Mr. T. S. Brown.

CHAIRMAN MILLARD: All those in favor will vote aye. All those opposed will vote nay. Have you all voted? Mr. Austin.

MR. AUSTIN: Mr. Chairman, would you explain exactly what we are voting on? I am not clear.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The position presently is: the committee on executive branch has offered an amendment to the amendment to insert after "constitution" the words, "Nothing in this paragraph shall prevent the legislature from taking further action as it may deem necessary at any time after the expiration of such 2 year period."

Two revisions to this language have been proposed; one by Mr. T. S. Brown to insert after the word "further" the words "implementing and fostering," and the question immediately before us now is on the insertion of those 3 words.

MR. AUSTIN: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the question of inserting the words "implementing and fostering," the yeas are 68; the nays are 48.

CHAIRMAN MILLARD: The revision is agreed to. The next question is on the insertion of some other words. Will the secretary read.

SECRETARY CHASE: After the word "action" insert the words "consistent with the foregoing," as proposed by Mr. King,

CHAIRMAN MILLARD: The question is on the King revision to the committee amendment. Mr. King.

MR. KING: Just very briefly, Mr. Chairman, fellow delegates, I see some danger in court construction of the words we just approved, but that is water over the dam. However, I do think that my language, "consistent with the foregoing" would also apply to those words "implementing and fostering" and for that reason I would urge the adoption of that wording, "consistent with the foregoing," so that everything in the second paragraph would apply to the first paragraph as opposed to having it apply to what a governor might or might not do.

CHAIRMAN MILLARD: The question is on the King revision. All in favor will say aye; opposed no.

The revision is agreed to and the question now is on the committee amendment as revised.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is requested. Is there support?

SECRETARY CHASE: Sufficient number.

CHAIRMAN MILLARD: The question is on the committee amendment to the proposed section i as revised. Mr. Wanger.

MR. WANGER: Is it on the whole amendment or on the amendment to the amendment? I am a bit confused.

CHAIRMAN MILLARD: The amendment to the amendment.

MR. WANGER: Oh, in other words, what is on the wall towards the bottom?

CHAIRMAN MILLARD: That's right.

MR. WANGER: I see. Will the secretary read the amendment.

CHAIRMAN MILLARD: The secretary will read it.

SECRETARY CHASE: The revised amendment to the amendment is as follows:

1. Amend the amendment at the end of the first sentence, after "constitution.", by inserting "Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action consistent with the foregoing as it may deem necessary at any time after the expiration of such 2 year period.".

CHAIRMAN MILLARD: The question is upon the revised amendment to the proposed amendment, section i. A division has been asked for. All those in favor will vote aye and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the committee amendment as revised, the yeas are 95; the nays are 28.

CHAIRMAN MILLARD: The amendment is adopted. Are there any other amendments?

SECRETARY CHASE: Mr. Bentley and Mrs. Daisy Elliott offer the following amendment to the amendment:

1. Amend the amendment, second sentence, after "not" by inserting "pass and present to the governor during this period a bill to"; and on line 6, after "commission" by striking out "during this period"; so that the next sentence will read:

> In the event the legislature does not pass and present to the governor during this period a bill to establish a civil rights commission, the governor under the provisions of this paragraph shall by executive order establish such a commission.

CHAIRMAN MILLARD: The Chair will recognize a proponent of the amendment, Mr. Bentley.

MR. BENTLEY: Mr. Chairman, a short time ago the question was raised by some of us as to what might happen during this initial 2 year period if the governor, through the use of his veto power, should prevent the legislature from enacting a bill to establish a civil rights commission merely to give himself the opportunity to do so thereafter. Therefore, it was felt there was some merit to this criticism and the intent of the pending amendment is to provide that if the legislature has during this 2 year period passed and sent to the governor's desk a bill to establish a civil rights commission, the legislature will have thereby fulfilled the intent of the first sentence of the committee amendment by requiring the establishment of the commission.

I believe that explains the intent of our suggested amendment, Mr. Chairman, in which, I am happy to say, the lady from Detroit, Mrs. Elliott, joined with me as a cosponsor. We do not believe it does anything but give the legislature the authority to establish the commission and prevent the governor by the use of the executive veto from forestalling action by the legislature during the first 2 years.

CHAIRMAN MILLARD: Does the other sponsor wish to talk?

MR. BENTLEY: I will be glad to yield to Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, fellow delegates, Mr. Bentley and I believe that this does not change the meaning of the committee amendment. It is an added safeguard for the provisions provided here on this past vote that we just took. We believe that this is necessary to prevent a token compliance by the legislature.

CHAIRMAN MILLARD: Do you yield the floor?

MRS. DAISY ELLIOTT: Yes, I do.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee is, I am sure, in agreement with this amendment. It clarifies the whole meaning of the thing and makes it clear the governor does not, cannot, prevent the legislature from acting by using his veto.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, I wonder if I could ask Mr. Martin a question about this amendment?

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. AUSTIN: Mr. Martin, I am wondering if this would not make it possible for the legislature to submit a bill which might be totally unsatisfactory to the governor and then he, let's say, would veto this bill and not have the right to set up a commission according to the specifications that he would like to have? In other words, you are saying the legislature has discharged its full responsibility once it has proposed the bill, but we still may not have a civil rights commission.

MR. MARTIN: Well, Mr. Chairman, the intent of the committee was that the legislature should have this responsibility and that the legislature should take this action. If the legislature takes that action then the governor does not have the responsibility for presenting a proposal of his own. That was the express purpose of the committee in the way in which the provision was drafted.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: I would be inclined to oppose this amendment because I believe that it muddies the water and may make it impossible or certainly difficult for us to get the very thing that we are proposing in the first paragraph.

CHAIRMAN MILLARD: The Chair will recognize Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, members of the committee, I feel I must echo Delegate Austin's remarks to some extent in this regard. We are dealing in a very sensitive area, in an area in which I know I have had it expressed to me personally from some of our delegates the feeling that half a loaf is better than none and that while we would like progress in certain areas we do not want to jeopardize a little progress for the sake of seeming to want to bite off more than is acceptable to some other people; we do not want to be out of place, and we are willing to take a little beating or perhaps take a few crumbs at this juncture for the sake of getting those rather than nothing. And I know that this is a very heartfelt feeling on the part of some of our delegates and it is a very heartfelt feeling on the part of some of us who do not really want to get into this at this level and with this degree of thoroughness.

We had hoped that this matter would pass with general good will. Apparently, we are running into difficulty and I feel constrained to jump in with both feet — I hope I am not stepping on too many toes — but this particular amendment, in the words of Dr. Pollock a couple of days ago, is a vitiating type of amendment because it would be possible for your legislature to pass a bill setting up the bare bones of a civil rights commission and thus comply academically with the constitution, and the net result would be no further gain in civil rights. As a matter of fact, it probably would be a retardation of civil rights because those people who were "anti" civil rights would then say, with some degree of justification, "Well, you have a commission to which you can repair for redress of your grievances and that commission will take care of you."

And I am reminded, when I get on that subject, of a remark that was made here earlier this morning by one of our delegates opposed to this general civil rights commission provision in that he said, "Well, you know, those people who get into trouble have several organizations that have money that are just standing by willing to help them." This is not true, fellow delegates. This is not true at all, because those people who get into trouble with civil rights matters generally do not have money and, secondarily, those organizations which help people in civil rights areas do not have money. They are all working on a hand to mouth basis and the majority of work that is given, the legal talent that is given in these areas, is donated legal talent — and I don't think anyone will deny that — and if these people have a hollow victory in the sense that they have a muscleless civil rights commission to which their detractors say they can repair in times of emergency, then they have nothing at all. They have less than what they have now.

At this juncture I feel I must object to this amendment unless it is indicated somewhere substantially that the bill which is submitted to the governor will be a bill that is submitted to foster and implement civil rights and is otherwise submitted in a legitimate and hopeful and faithful and idealistic manner.

CHAIRMAN MILLARD: The Chair will recognize Delegate Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, I heartily support the amendment which has been offered by the committee on executive branch. I think it is a necessary device by which this constitutional convention can force action in a field where action is very much needed. I do not agree, however, that the amendment before us is a vitiating amendment. I think that without the amendment before us the provision which is proposed by the executive branch committee leaves nothing really for the legislature to do and gives the sole authority for the establishment of this commission and its powers to the governor, because any governor even slightly dissatisfied with the provisions of a bill passed by the legislature would have only to veto it to get himself the absolute authority to then establish the civil rights commission and prescribe its powers.

I respect the fears expressed by Delegate Brown but I honestly believe that what we need here in this constitution is a mandate to the legislature backed up by a provision to the effect that if the legislature does not act the governor shall, and I would not support just a mandate to the governor, which is what the provision is in the absence of this amendment. I think this amendment is vitally necessary.

CHAIRMAN MILLARD: The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman and members of the committee, first of all I would suggest to the ladies and gentlemen here that action or inaction by either the governor or the legislature is a 2 edged sword, and it is just as conceivable that nothing would be accomplished in the field of a civil rights commission if the veto power were given to the governor — any case so that he could set it up and maybe set up just as watered down a provision as they are suggesting that the legislature might do.

I would also suggest to every delegate here that he reread the committee amendment. This does not provide for the prescribing of the powers as Mr. Van Dusen has suggested, but rather, provides for the establishment of a civil rights commission. That is all the constitutional provision provides. It is the amendment that we have just adopted that provides the implementation, the fostering, and so on.

Furthermore, I would conceive, as has been suggested by the good secretary here that the houses of the legislature might likely by concurrent resolution set up a civil rights commission which would not be a bill; and in speaking to the amendment, there is one thing that has given me a little bit of a problem and that is should we say "bill" rather than "legislation?" I am not sure about this. I would be happy to have Mr. Bentley and Mrs. Elliott consider the word "legislation" rather than "bill."

But at the outset I think we should keep in mind that this establishes a civil rights commission and that in order to make it effective insofar as legislative authority is concerned at all, you must adopt the amendment that has been suggested by Mr. Bentley and I would urge the support of every delegate here.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman, the last 2 speakers have covered what I had in mind. Thank you.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I regret to say that I differ with some of the speakers who have just stated their support for this amendment and I feel that this is the biggest booby trap I have seen since we have been here. I realize that it was not drafted with that intention. I am positive of that. I have spoken to one of the sponsors. But I would like to point out that this does exactly what is not desired and that the argument given in favor of it by Mr. Van Dusen is wrong.

I think we have to recognize what is the prospect now with this amendment before us. Of course, it is difficult to do it because we cannot see in front of us exactly what the language would be, but as I gather from the reading of the secretary if the legislature presents any bill that provides for a commission on civil rights, no matter what is coupled with that — no matter what is coupled with that — the governor will have substantially no choice in the matter. If he vetoes it, he loses it. There will be no law then. And if he vetoes it, he will not have the power to do it either because the proviso is, I gather, that the only time that he can provide his own civil rights commission is if the legislature has not even presented him with a bill. So, therefore, if they present him with any bill that has the words "civil rights commission" in it, and anything to cancel out any content from that or even to go in the reverse direction, he has no choice but either to accept it or to lose his own power to provide his own civil rights commission. In effect this would strike from the original committee amendment any power whatever of the governor to set up his own civil rights commission, and I would like to give you an example. If I were on the other team, let us say, who wish to prevent this provision from becoming effectuated, I know how I would do it and I would like to explain to you how I would do it. This is exactly what I would provide, what I would ask the legislature to provide: provide a bill which sets up a civil rights commission and then put in it many provisions which are the exact negative of what is desired in civil rights. For example, it might state that rule 9 shall be stricken or some such thing as that. Now, when the governor receives such a bill, what choice has he got? He cannot accept the bill but he cannot set up his own civil rights commission either. Now, in effect, what this does — no matter how well intentioned it is — as far as I can see from the language here, what it does is, it strikes out any power of the governor to provide his own civil rights commission and, therefore, all it says is that the legislature shall within 2 years provide a civil rights commission. They can do that without the constitution and there is nothing really left.

Now the argument was given by Mr. Van Dusen that this is necessary, that this is not a vitiating amendment or a so called ripper amendment but that it is a perfecting amendment and that it is needed, and I gather that the argument is something like this: if we do not do this the governor will automatically veto any bill connected with civil rights so that he will have the power to set it up himself. Now, if that argument is good, it seems to me it can be applied to the rest of 71 as well. If I am not mistaken, in Committee Proposal 71, section b, we have a parallel provision that the legislature shall reorganize the executive branch of the government, and if they do not do that within 2 years, then the governor shall do it by executive order. Does that mean that we can anticipate that the governor is certain to veto the legislative reorganization bill? If that were so, why didn't we take care of it before? It seems to me the argument made by Mr. Van Dusen is an opportunistic argument. It was not heard before. It was not valid before. It is not valid now. And I would like to say we should look this thing over carefully. What we do now is put a little decoration in the constitution but no rights.

CHAIRMAN MILLARD: Mr. Ford.

MR. FORD: Mr. Nord has covered everything I wanted to say.

CHAIRMAN MILLARD: Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I was on the subcommittee that reported this out to the committee on executive branch and I have been in favor of the section of this article from the very beginning, and I think with Mr. Nord's intelligence he ought to look at this a little closer because this amendment to the committee proposal I think does a job that is absolutely necessary for setting up a good civil rights commission.

I would not want to give any one person the power of mandate to tamper with the civil rights commission and that is exactly what you would do if you leave the governor's veto power in there because as soon as you leave the governor's veto power in, he could veto whatever he wanted to and then he could bollix the whole thing up and this would all be wasted.

CHAIRMAN MILLARD: Delegate Bentley.

MR. BENTLEY: Mr. Chairman, members of the committee, it seems we do have a quandary here. I would certainly admit the possibility that the legislature might pass legislation providing for a completely ineffective and ineffectual civil rights commission and thereupon sit back and say, "Well, we have done our job. The governor cannot touch it. This is it." On the other hand, I think that the opponents of this amendment, if they are honest about it, would be equally ready to admit the possibility that an arbitrary chief executive by the use of the veto power, wishing to arrogate unto himself complete credit for establishing the commission, could use his veto power so effectively that the legislature would be estopped from doing anything during the 2 year period.

The question is how are we going to resolve this difficulty, which I think to fair minded people on both sides of this issue appears a difficult one. I submit, Mr. Chairman, the following: I think all of us will have to agree that if the legislature and the governor are going to continually be engaged in open warfare on this question of civil rights and a commission for the future that little or nothing will be done in this direction. I think it is obvious to all of us that the legislature, if by no other means than the use of the appropriating power which it inherently possesses, can cripple even the strongest civil rights commission. Now, all of us hope that will not be done. All of us hope that we will see some area of cooperation between the executive and the legislative branches of our state government in this particular field. I would hope very much that the legislature would act within the 2 years provided for in this amendment to set up an effective and meaningful civil rights commission and that the governor would cheerfully and willingly and gladly approve the same, and that some of the problems that some of us are trying to foresee today would never come to light.

I will admit, of course, that that is not possible, given the record of the past; but I also submit in earnestness to my fellow delegates — all of them — that we would hope that the legislature would be given the opportunity for at least 2 years to take the action in this field which in the past they have either been unable or unwilling to take. And I further submit, Mr. Chairman, that even if the bill which they would pass and set on the governor's desk might not in all respects be something that many of us might desire, or even the chief executive himself might desire to see approved, nevertheless, the fact that we did have a commission enacted into law would, I believe all of us would admit, be a step forward in this important field and we would hope that over the next very few years ensuing thereafter that public pressure, public opinion, and all other forces that are latent in this field might provide further action.

As I say, I would hope this would not be the case, and I would hope that the legislature and the governor could exhibit the cooperation which they perhaps have not exhibited up until now, but I implore you to vote for the passage of this amendment and to give the legislature at least 2 years to take action in this field. Then I think the people of the state will be able to judge after the passage of those 2 years as to whether or not they have done the job that I believe the intent of the majority of the delegates to this convention is that they should do. Thank you.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Battle Creek, Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I think much of the objection to this amendment comes from not reading all of the language which precedes it. This provision does not simply set up a civil rights commission. It sets up a civil rights commission to secure the protection of the civil rights guaranteed by this constitution and the legislature will not fulfill its function if it simply sets up a civil rights commission. It must empower and authorize it and require it to secure the protection of the rights set forth in the constitution. If it fails to do this it has not acted and, consequently, we are not barring the governor's right to get around something which is only a token tribute to this mandate. But what we are doing is to say that the governor cannot dictate the form that the legislation will take, and if we permit him to veto it, we do permit him to dictate it.

In fact, I do not believe that the governor belongs in this picture at all, but if we are going to leave him in we certainly cannot in good conscience say that he may dictate exactly the form that the legislation will take. If we are doing that, we are not protecting civil rights: we are going a long way towards destroying them. I think if this is to be enacted and if the governor is to have this right, then it must be a right which recognizes the legislature's prime function: an obligation to enact legislation; and if they do it and if they do it in conformity with this mandate, then he should not have the power to change this. If he then chooses to do it, it is on his conscience.

I think that if we look at all of the language of the amendment, it cannot honestly and fairly be said that the legislature can avoid the mandate by some action which cannot carry it out.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: I would only support that which Mr. Everett has said. I think that he has analyzed it very well. I think maybe previous speakers have not. Let us analyze it this way: first of all, the legislature must establish a civil rights commission or it has not fulfilled its duty under this and the governor may do so. If it establishes a civil rights commission and then by accompanying legislation vitiates the very thing that it is doing, it, of course, is not complying with its constitutional mandate of establishing a civil rights commission to give protection to the civil rights guaranteed by the constitution and, therefore, to the extent that it violated this mandate, it would be held unconstitutional by the judiciary, and legislation in accordance with it would be, of course, confirmed by the judiciary.

I still am a little bit concerned about the specific language involved where we say, ". . . pass and present to the governor during this period a bill to establish. . . ." I am wondering if Mr. Bentley would agree that if we are going to use the word "bill" that we say, ". . . pass and present to the governor during this period a bill establishing a civil rights commission . . ." rather than a "bill to establish;" if this would make it more certain that this bill will establish a civil rights commission in order to have it be subject to the 2 year period and have the governor have the right to appoint or to establish a civil rights commission if the legislature does not so act.

MR. BENTLEY: Mr. Chairman, if the gentleman would yield, that is exactly what the amendment, if inserted, does. It says it does establish a civil rights commission.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, I just wondered whether Mr. Brown was satisfied with that explanation. The word "establishing" does not change the meaning of the amendment. A "bill to establish" is a "bill establishing." I have no objection to the language, Mr. Chairman.

MR. G. E. BROWN: Thank you.

CHAIRMAN MILLARD: The question is on the Bentley amendment. All in favor will say aye —

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support?

SECRETARY CHASE: Sufficient number.

CHAIRMAN MILLARD: The question is on the Bentley amendment. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Bentley and Mrs. Elliott, the yeas are 81; the nays are 35.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Boothby offers the following amendment to the proposed section 1:

1. Amend the amendment, first sentence, after "branch" by striking out the balance of the section and inserting a period and "It shall be the responsibility of this commission to study, recommend and promote methods to implement recognition and enforcement of those rights set forth in this constitution. At no time shall a majority of such commission be members of the same political party.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Mr. Boothby.

MR. BOOTHBY: Mr. Chairman and ladies and gentlemen of the committee, let me preface my remarks concerning this amendment by saying that I wholeheartedly agree with the remarks that Delegate Brown from Garden City made indicating that he feels that this is not just a question of birth or of color because, as he correctly analyzed, this particular question goes to the heart of the rights of every single person within this room. Some of us may feel more sensitive about it than others, because some of us may have a more definite and certain area of concern, but let me reassure the members of this committee that some of us are part of certain minority groups not only because of birth but because of choice, and we are all vitally concerned with this particular area, as Delegate Romney has indicated.

I feel that it is necessary to review the amendment which the committee has proposed and to look at it very carefully, and in analyzing it to attempt to prove the worth of the amendment which I have proposed here. I think that maybe the wording which the committee on executive branch came up with was a bit unfortunate, the choice of language, and I think maybe this is part of my concern more than the intentions which they have expressed or not expressed. In the wording of the committee amendment, you will find these words:

> . . . the legislature shall establish a civil rights commission within the executive branch to secure the protection of the civil rights guaranteed by this constitution.

You note they use these words, "to secure the protection of the civil rights guaranteed by this constitution."

Now, as soon as I read this committee amendment there were some words in here which flashed back to me, some thoughts about a certain document that I read back in history class and that was the Declaration of Independence. The Declaration of Independence uses almost the same identical words, although they apply it to a little different concept. In the Declaration of Independence it says that to secure these rights governments are instituted among men; in other words, not a commission but the whole of government, which I take to include in our system of government the executive, the legislative, and the judicial. Yes, that to secure these rights governments, not commissions, are instituted among men.

Now it would seem to me that the adoption of this wording infers inadequacy of our courts, our legislature and our executive. In fact, it infers inadequacy of our whole system of government. Sometimes it is up to the courts to secure the protection of these rights which we call civil rights. Sometimes it is up to the executive to secure these rights. Sometimes it is up to the legislative. Now to give you an illustration of what the courts do to secure it, we have a right to counsel and it is for the court to determine that we have a right to counsel in a criminal case.

Now we are saying in the committee's amendment — it would seem to me by the way it is worded that the responsibility, the total responsibility, for securing the rights of the people shall be exclusively placed in the hands of the executive branch of government and I do not believe this is what was actually intended by the committee on executive branch. I do not believe that they ever intended to transfer the total responsibility of securing the rights which were embodied in the constitution in one branch of the government, the executive branch, and I feel that it is bad constitutional drafting. I would not be willing to delegate only to the executive branch the responsibility or even infer that they have the responsibility and the sole responsibility of protecting the rights afforded me in the constitution.

Now I believe that the amendment which I have suggested here does set at least a minimum standard of responsibility for the commission. And this minimum standard which I have suggested looks to the implementing, the recognition and enforcement of those rights set out in the constitution. And this is properly within the field of the executive, so it would be properly a matter which the executive branch of government should look toward.

I think when we have placed into our declaration of rights certain rights and we give to our courts certain responsibilities and to our legislative branch of government certain responsibilities and to our executive branch certain responsibilities that there is maybe still something lacking in this area, and I think that area is the promotion of the recognition and the promotion of the enforcement of these rights. And I do feel that this amendment does fill that very definite vacuum which is still present. I noted that when Delegate Downs made his remarks he indicated that he felt that there was a very definite need for a civil rights commission to implement what was done in the rights, suffrage and elections section. I feel that this amendment will definitely implement what was done in that particular section.

Delegate Danhof indicated that he felt the question before us was as to the matter of enlightenment and education. You can see that what we have provided for here is an arm of the government, the executive branch of government, and a specific commission acting under the executive branch to actually sell, to educate, and to enlighten the people concerning the rights of the people, concerning all the people of the state. This provision would be used to promote methods to implement recognition and enforcement of those rights provided by the constitution.

Now there is one further thought which is also included in this amendment and that is in its last sentence. That last sentence provides that the commission which would be established would at no time be constituted of a majority from one particular party. I do not believe that the question of civil rights is a question on which any political party should have any particular area of more concern than another political party. I think both political parties should have definite concern for this question, and I would not want the matter of civil rights to ever become a political football between the 2 major parties. I believe this would be wrong. It would inject into the very delicate question of civil rights something that should not be there. So I would suggest that this would be a very proper addition to the suggestions which have been made.

I believe that the total effect of this amendment sets out at least the minimum area of concern of the commission, gives the commission a sense of direction. I do not believe that the recommendation which has been suggested by the executive branch committee gives any sense of direction to the legislative branch of government in the setting up of the commission nor do I believe that it gives them any kind of a general minimum standard to meet. I would, therefore, urge the adoption of this amendment when it comes up for a vote.

CHAIRMAN MILLARD: Delegate Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, this morning Dr. Hannah and others gave a very eloquent and forceful presentation in which they outlined the problems that we face in this area. He expressed very well, I think, the scope of the problem and no one denies that this problem exists.

If you will recall my remarks of this morning, which I obviously will not repeat now, my objection has been to the loose wording of this committee amendment and to the undefined scope allowed by the amendment. Now the Boothby amendment takes care of the objections that I have. It defines the scope of such a commission. It puts it on a bipartisan basis. Its tone is not one of force but of persuasion and education, which I believe is the only sound, meaningful, and permanent way that we are going to meet this problem. I therefore strongly support the Boothby amendment and ask for your vote in this regard. Thank you.

CHAIRMAN MILLARD: Delegate Hodges.

MR. HODGES: Mr. Chairman, I rise to oppose the Boothby amendment. It seems to me that while Mr. Boothby is talking about this specific language setting minimums, the actual purpose and intent is to set maximums on the power of this agency.

Now I submit that the remarks of Delegate Boothby could have well been directed against all administrative agencies. It was actually a plea against administrative law. We know that this is a field of expertise, a field that we do need a spotlight on, and it is one that is well and appropriately in the executive branch of government within an administrative agency, and it might well have quasi judicial powers.

Now as for the second part of it. The last line I don't have any particular objection to, but I think that it probably is one that would be difficult to enforce because we all realize that many people in this field — and many people that would be serving on a commission of this sort — would be clergymen of many faiths as well as others. And it might well be that one would not be quite sure of their political identification. For that reason I think that it might well be impractical — that is, the last line. I think that for any governor who is making these appointments, it would be prudent of him to select people who are well qualified and experienced in the field and I am sure that he would draw on these many professions and concerns. For that reason I think the second part, while not too objectionable, is impractical; and certainly the first part of it, the very heart of it, rips out the total purpose of the overall amendment. I would, therefore, urge all the delegates to oppose this amendment.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I am in opposition to the Boothby amendment because it seems to run contrary to the general tenor of the motivation of everything that we have been doing here today. You realize, of course, fellow delegates, that if we really wanted to establish a civil rights commission that would — in my words — foster and implement what some of us feel ought to be done in this area, we here collectively and in some cases individually represent probably the greatest degree of education and awareness in this particular field and far more, I think, than the legislature as it has been constituted in the past and probably will be constituted in the future, because of the diverse nature of our backgrounds and such. Now if we really wanted to do that we could today — perhaps not today but within a very reasonable time — set forth specifically a topnotch, first class, idealistic, futuristic minded civil rights commission. We could do that. There is nothing to prevent us from so doing. I would like to see us do it. However, I realize at this juncture it is perhaps a bit impolitic to be discussing things in those terms.

Now if we cannot do it, then what we have had up to the Boothby amendment has been a bland statement of one sort or another that a civil rights commission should be established. Then we have had the tangential argument as to whether or not the governor or the legislature should establish it, and what we have discussed prior to the Boothby amendment would be simply this: that the legislature could pass as good or bad an act as they would like providing they call it a civil rights commission. Then, in the amendment in which I took part initially, they may implement this by direct implementing legislation to provide teeth to whatever the commission should come up with. Now the whole tenor of that is not, in my estimation, bad. The whole tenor of that is good.

If we were to accede to the Boothby amendment we would be deliberately — instead of encouraging and placing a paternal push on the back of the civil rights commissioners, we would be putting a lid on their aspirations by the very terminology that is suggested here in the Boothby amendment in that it would curtail and delineate the limits of their activity; instead of providing a floor, it would provide a ceiling which would, ab initio, I think, nullify the real effect of what we are trying to do.

In addition to that, speaking in reference to the last sentence, I think historically in government it is traditional to have a bipartisan board in areas where you have real controversy. In other words: shall we have a guaranteed annual wage? Shall we have 3 branches of government or 4 branches or something of that nature? I do not see how a bipartisan commission designed according to this terminology with a built in emasculating clause which would prevent its action, can actually function in this area. It is not a question of whether we will or won't — and if it is a question of whether we will or won't, then I suggest that we take some stand in this convention, that we do say to ourselves that we will or we won't and that we won't continue in any area of sham or hypocrisy by saying, "Yes, we won't but we will make it look as though we will." Now a bipartisan board, I think, in the area of civil rights would have that net effect and I would therefore oppose it.

I recall — not too many years ago, I was working for one of the finest lawyers in the state, as a matter of fact in the country, who achieved some notoriety; and I will not mention his name because he was fond of tackling large corporations — and at the time we were going to trial against one of the monoliths in the corporate field, one of the partners in the organization got a case of cold feet and he didn't know whether or not we should proceed because the matter was very grave and most likely adverse to us. And the attorney of whom I am most proud, the senior partner, turned to his other partner and said, "Coward, stay home. I will go and fight." Now in this particular matter, I think we must all at this point begin to say to ourselves, we should stay home or we should go and fight and we should not set up the kind of a board which is going to sit there at odds and not know whether they should stay home or go and fight. For those reasons I oppose the Boothby amendment.

CHAIRMAN MILLARD: Delegate Cudlip.

MR. CUDLIP: Mr. Chairman, members of the committee, I am going to vote for the Boothby amendment. This morning I expressed some concern, a personal concern, about the executive committee amendment. It was its tracklessness. One of the most awesome responsibilities of this delegation is to handle these civil rights properly. They are rights of all of us. Like I said this morning, we all belong to minorities. Now I am not content at all with dealing with this sacred and important problem in the manner suggested prior to the amendment. At least the Boothby amendment gives some direction to this effort.

It has been conceded on this floor that this other amendment is just a hollow shell to be filled perhaps when, as, and if the legislature chooses to act, and, if not, by the chief executive. This is filling the shell to some extent and properly filling it, and there is nothing to prevent the legislature adding to that and there is nothing to prevent the legislature under the executive committee amendment from doing something or nothing. But at least let us fill this phial with something. I am for this amendment. I think it has some meaning, some orientation. I think the other is a lot of balderdash. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, I do not see the argument here that the language used necessarily puts any lid on the powers of the commission. I think it tends to define their duties and, certainly, the language is broad enough by the use of the word "implementation" to empower the committee to do exactly what it is set up to do. I do feel, however, that there are 2 concepts clearly expressed in this amendment and I would ask that the question be divided so that a separate vote may be taken on the last sentence and a separate vote on the balance of the amendment.

CHAIRMAN MILLARD: Mr. Habermehl, this amendment is to strike out and insert and, therefore, not divisible.

Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, as I explained before, I do not believe that a quasi judicial, quasi legislative administrative board is the proper means or method of enforcing this kind of a law or most laws, for that matter. Such organizations, of course, are necessary in the field of corporations, public utilities, and so forth, but I do not think they are properly used here. However, as provided in this Boothby amendment, I feel that the provision of this board to gather facts by some objective method in such a way that the legislature may have before it without question actual facts and not just statements that people make may be worth while and may be worth putting into the constitution. I, therefore, will support the Boothby amendment. Thank you.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, let us be honest about this amendment. This amendment is designed to cut the heart out of the committee amendment. When the words "to secure the protection of the civil rights guaranteed by this constitution" are stricken out or placed under a simple provision that the commission should study, recommend and promote, this reduces the committee amendment to zero. And let us not fool ourselves about its effect; the effect and the purpose of it is to destroy the committee amendment and I cannot say that any stronger than that. I don't care anything about the last sentence; the last sentence would be entirely acceptable, I think, probably, to the committee and to others here in the convention. But we have to make up our minds right now, or will when we vote on this, whether we believe that something should be done in this field of civil rights or whether we don't feel that something should be done, and that is the line on which this question divides.

There cannot be any question but what if this amendment were approved, the convention would have decided to disregard the entire problem of civil rights other than to make a pious statement in the section on civil rights that there ought to be such a thing as civil rights. Now if you believe that there should be and that some effort should be made to recognize them, then you will support the committee amendment and you certainly will not vote for the Boothby amendment.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Just a comment or 2 on some of the arguments. Mr. Cudlip says that this amendment gives the matter some direction. I agree with him. The direction is backwards. For some 25 years there have been committees and committees and committees and meetings and meetings and surveys in volumes on the subject as far as education goes. There is no use going back into that.

And as for Mr. Brown, I agree with him about the yes and no business. He just isn't old enough to remember the old phrase, "yes, we ain't got no bananas," and that is about what this amendment would be.

I think this convention cannot hide behind the veil of the Boothby amendment. I am sure that we are already found out by the boys [press corps] who sit in the balcony behind me.

CHAIRMAN MILLARD: Delegate Everett.

MR. EVERETT: Mr. Chairman, I originally had asked for recognition to make the very request which Mr. Habermehl made, and I recognize that the Chair's ruling is correct, that we cannot divide this question. Would it be proper to submit an amendment to strike the last sentence from the amendment?

CHAIRMAN MILLARD: That is proper.

MR. EVERETT: I would like to offer that amendment then.

CHAIRMAN MILLARD: Have you got it in writing?

MR. EVERETT: It is very simple. Just strike the last sentence.

CHAIRMAN MILLARD: Can you handle that, Mr. Secretary?

SECRETARY CHASE: Mr. Everett offers the following amendment to the Boothby amendment:

1. Amend the amendment, after "constitution.", by striking out all of the last sentence which reads, "At no time shall a majority of such commission be members of the same political party."

CHAIRMAN MILLARD: The question is on the amendment to the amendment. Mr. Everett.

MR. EVERETT: I offer that, Mr. Chairman, because I join in Mrs. Judd's sentiments and oppose the Boothby amendment. However, I do think that the last sentence is valid and ought to be submitted separately and would like to speak on it if this amendment is adopted.

CHAIRMAN MILLARD: The question is on the amendment. Do you all know what the amendment is? The secretary will read it.

SECRETARY CHASE: Mr. Everett's amendment to Mr. Boothby's amendment is:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: Do you wish to be recognized? Mr. Wanger.

MR. WANGER: Just to ask a question of the Chair, sir. Is it necessary from a parliamentary standpoint to strike out something which, should it fail as part of a whole, you would like to offer as a separate part later on? I think that was the mover's intention here, from what he said, but I question whether it is really necessary from a parliamentary point of view.

CHAIRMAN MILLARD: The question is before us, Mr. Wanger. We have got to dispose of it.

Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I just rise to say that, as Mr. Martin has already indicated, the committee sees no objection to the second sentence of the Boothby amendment. We wish to vote on it separately. That is why we urge a favorable vote on the Everett amendment to separate this unobjectionable sentence from the rest of the amendment which, of course, I hope will be voted down when the time comes.

CHAIRMAN MILLARD: The question is on the Everett amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support?

SECRETARY CHASE: Sufficient number.

CHAIRMAN MILLARD: The question is on the Everett amendment to the Boothby amendment. All those in favor will vote aye. Those opposed will vote nay.

MR. DOWNS: Point of information.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Will you ask the secretary to read the Everett amendment again, please?

CHAIRMAN MILLARD: The secretary will read the Everett amendment.

MR. DOWNS: Thank you.

CHAIRMAN MILLARD: The committee will be in order.

SECRETARY CHASE: The amendment offered by Mr. Everett to the amendment of Mr. Boothby is:

[The amendment was again read by the secretary. For text, see above, page 1943.]

CHAIRMAN MILLARD: Have you all voted? Mr. Gover.

MR. GOVER: Mr. Chairman, explain the amendment again. Which way is which?

SECRETARY CHASE: If the delegates wish to strike out the language, "At no time shall a majority of such commission be members of the same political party," they will vote yes. If they want to leave the language in, they will vote no.

CHAIRMAN MILLARD: Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Everett to strike out the last sentence of the Boothby amendment, the yeas are 72; the nays are 41.

CHAIRMAN MILLARD: The amendment is adopted.

SECRETARY CHASE: Mr. Hodges offers the following amendment to the Boothby amendment:

1. Amend the amendment, after "recommend and" by striking out "promote methods to implement recognition and enforcement of those" and inserting "enforce those"; so that the language will read, "It shall be the responsibility of this commission to study, recommend and enforce those rights set forth in this constitution."

CHAIRMAN MILLARD: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. Chairman, the only reason this was offered is so many people were so worried about the specifics on this, on not having anything, and they wanted teeth and that this would do it, but at the request of the sponsors of the main motion I will at this time withdraw the amendment.

CHAIRMAN MILLARD: Without objection, the amendment of Mr. Hodges is withdrawn. Are there any further amendments? The Chair has 2 names here that want to speak. Mr. Garvin, do you want to speak on the Boothby amendment?

MR. GARVIN: Yes, on the Boothby amendment. I think, Mr. Chairman, that Mrs. Judd just about covered it. I just wanted to mention that it seems the purpose here really is to get rid of this amendment through the back door, meaning by that, the Boothby amendment does exactly that. Then all of the delegates, the 144 delegates, brag about a civil rights provision under the executive branch. The question is, do you want civil rights or do you not? And that amendment says no.

In reference to Mr. Cudlip's statement about implementing, this says nothing but "recommend and promote methods to implement recognition and enforcement of those rights set forth in this constitution." It does nothing at all that the various schools, textbooks and other publications haven't already done. It is there in the event anybody wants to read it. All that does is say some commission is going to put out the very volume that you should read, but it does nothing as far as civil rights is concerned. If you want civil rights, all right. If you don't want them, well, that's another matter. But let's not go in the back door to defeat them.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, just very briefly: I am opposed to this amendment.

CHAIRMAN MILLARD: Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, just a brief statement that applies to a couple of statements that were made. The question was just directed as to whether we wanted civil rights or not. It was stated that those people who favored this amendment did not want civil rights. I can only speak for myself. I can assure the members of this committee that I have as much sympathy for the people that want civil rights as any person here. I am a member of a minority group and I think almost every one of us is a member of certain minority groups. The question is not whether we want civil rights or not. In fact when the committee report from rights, suffrage and elections came before this group, I voted in favor of that, and I understand it is considered as being the strongest civil rights package of any constitution in the states. I am much in favor of what came out in that section. I am only an individual and many times I am dissenting from the multitude. Many times I find myself standing alone. And this is what I understand civil rights to be: to protect that person who wants to stand alone.

My only question is the method to sell civil rights in the various provisions that we have in the constitution regarding civil rights to the people of this state so that it will be more than empty words, so that it will be recognized and understood and honored and revered, and practiced by the people of this state. And I think that is the purpose of this amendment: to see that we have a program throughout this state to sell the various provisions of civil rights to the people of the state and see that it is practiced not only outwardly as some do but inwardly in the heart. This is not a vote on civil rights; this is only a question on what the minimum floor shall be for a commission which will be set up within the executive branch of government.

Mr. Martin says that this will cut the heart out of the committee amendment. Frankly, I have not found the heart which is expressed to have been in that amendment. I cannot find a heart anywhere. I believe that this does set a floor. It does not set a ceiling. I cannot find a floor in the executive branch committee recommendation. I find a floor here. I would like to ask Mr. Martin what is the floor in their committee recommendation. I would urge the adoption of this amendment.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in reply to the remarks just made by my good friend from Niles, I would say that I have never impugned or cast aspersion on the motives of anybody who offered an amendment here and I am not going to start now. I believe the gentleman is sincere when he says he supports civil rights, as I do, and as I am sure we all do here. We may differ on the means to reach the objectives even if we have the same objectives. I merely say that there can be honest differences of opinion and I do not believe the gentleman's amendment would accomplish the objectives which he hopes for. I believe the amendment from the committee would do so. Therefore, I urge that the committee be supported with a no vote on the Boothby amendment.

CHAIRMAN MILLARD: The question is on the Boothby amendment. All those in favor will say aye.

MR. YEAGER: Division, Mr. Chairman.

CHAIRMAN MILLARD: Division has been called for. Is there support? A sufficient number. The question is on the Boothby amendment. All those in favor will vote aye and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Boothby, the yeas are 36; the nays are 78.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Higgs offers the following amendment to the section proposed by the committee:

1. Amend the amendment, first sentence, after "branch" by inserting "without judicial or quasi judicial power"; so that the language will read:

> Within 2 years after the adoption of this constitution, the legislature shall establish a civil rights commission within the executive branch without judicial or quasi judicial power to secure the protection of the civil rights guaranteed by this constitution.

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, inasmuch as we are making this provision in the constitution, I feel that I must take a different approach than I would with regard to legislation.

Now I hope you realize that if you do not accept this amendment you are laying the groundwork for the creation of a court. We have adopted a principle of elective judges, and the members of this commission will likely be appointive people. Without this restriction that would be offered by my amendment we will have appointive members of the commission sitting possibly in judgment upon the rights of people. I think this is inconsistent with the position we have taken in establishing an elective judiciary.

You must bear in mind that in certain of the other commissions in our state and elsewhere that have such broad grants of power the commission may be the investigating agency, it may be the prosecutor, judge, jury and, in short, have larger control over the lives of our people, both complainants and defendants, than the courts themselves. Consequently, if this truly is to be set up within the executive branch, then I believe that in order to preserve what is left of the separation of powers, we should provide, also, that this commission shall be without judicial or quasi judicial power.

CHAIRMAN MILLARD: The Chair will recognize Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I think we will have to recognize that while the language is different, the effect of this amendment is exactly the same as Mr. Boothby's, for it would simply mean that any body set up could not conduct hearings, summon witnesses, issue orders, or do any more than recommend, just as Mr. Boothby's amendment suggested that they should do. This would go a little bit further because it would not only set a floor but it would also set a ceiling. Now many of us have strong feelings against the abuse of administrative powers, but if we are going to have such a commission as this and if it is going to function, then it is going to have to be given the right to function, and the protection of the citizen is going to have to come through the device which we have already created to permit a proper judicial review of the acts of this agency so that the rights of the individuals who appear before them will not be infringed. I would oppose the amendment and feel that we should vote it down.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: Mr. Chairman, I think Mr. Everett put his finger on it that this is merely a more forthright attempt than the Boothby amendment was.

If you are going to be against administrative agencies, I would submit that there should be a blanket prohibition against all of the administrative agencies in the state of Michigan. But here we are trying to pick and choose one and hamstring it much beyond what would be effective for it to be meaningful. I think that we all realize that for an administrative agency to be able to be effective at all it has to have some enforcement power; to negate it would be a meaningless gesture and would be hypocritical. For that reason I am opposed to the Higgs amendment.

CHAIRMAN MILLARD: Mr. Tubbs.

MR. TUBBS: I think my speech has been made, Mr. Chairman. I just wanted to remind my friend, Mr. Higgs, that he is 50 years too late.

CHAIRMAN MILLARD: T. S. Brown.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, I am reminded of — perhaps some of you have visited the island of Formosa and have gone to the local marketplace in the village and have seen the chickens that they have there for sale for consumption by the local populace. And these are chickens — anatomically and structurally I suppose we would recognize them as such — but they are awfully wrinkled and old and skinny, scrawny, and they smell, and they are dragged around the streets by their heads when they are still alive, and finally after they are killed and their feathers are taken away, they are hung up in the marketplace to dry for several days before they are offered for sale; and then the natives take them and they boil them, and they make chicken soup, and they add seaweed and celery and such, and they not only boil them to make one pot of soup but they boil them and boil them and boil them for days on end in different pots of soup, until finally the last vestige and even the smell of chicken is gone. Then they take the meat that remains and carve it up and sell it for meat. Now I suggest that what we have here is a chicken in name only and that Mr. Higgs' amendment in regard to civil rights is actually a Formosan chicken. (laughter and applause)

CHAIRMAN MILLARD: The question is on the Higgs amendment. Mr. Martin.

MR. MARTIN: I only want to add that the committee is certainly opposed to this amendment, and Mr. Everett has clearly stated the case with regard to it.

CHAIRMAN MILLARD: The question is on the Higgs amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? There is a sufficient number up. Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to respond not to Delegate Brown (laughter) but to Delegate Everett. It is not the purpose to prevent the agency from holding hearings and finding facts in the same manner in which, as I understand it, the federal civil rights commission acts. It is my understanding that they do not initiate complaints, hold trials, and make judicial determinations. I would just like to negate that particular concept because there are a number of worthwhile areas for the commission to act in. And second, as far as administrative review is concerned, the committee amendment certainly would not do anything more than give you the right to find out whether or not the court was clearly in error — I said "court;" I mean the commission. The burden of proof has shifted. I urge the serious consideration of this.

CHAIRMAN MILLARD: The question is on the Higgs amendment. A division has been called for and there were enough up. All in favor will vote aye. All those opposed will vote nay. The question is on the Higgs amendment. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Higgs, the yeas are 25; the nays are 88.

CHAIRMAN MILLARD: The amendment is not adopted.

SECRETARY CHASE: Mr. Higgs offers the following amendment to the amendment:

1. Amend the amendment, at the end of the first sentence, after "constitution" by inserting "providing that any grant of

judicial or quasi judicial power to such civil rights commission shall include a right to a trial de novo by any party".

CHAIRMAN MILLARD: The Chair recognizes the proponent, Mr. Higgs.

MR. HIGGS: Mr. Chairman and delegates, I will not speak at length on this, but if you are going to grant to this commission the power of a court to make decisions involving the rights of people, then I seriously and strongly believe that any person who is going to have such rights determined in a judicial or quasi judicial proceeding should have a complete right to have the evidence tested in a circuit court of the state in a trial de novo where he can be protected by the rules of evidence with regard to admissibility.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, this is a question which the legislature should determine. Whether it should be a trial de novo or an appeal is clearly a question that ought to be left to the legislature and has no place in this particular provision. We have tried to strip it down and keep it to the bare essentials, but there is no point in our trying to decide this particular question when the legislature can be given that authority and ought to have the opportunity to make that decision. I would oppose the amendment.

CHAIRMAN MILLARD: The question is on the Higgs amendment. All those in favor will say aye. Opposed, no. The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Miss Donnelly offers the following amendment to the amendment:

1. Amend the amendment at the end thereof, after "commission.", by inserting "This provision shall not be construed to enable the denial to any citizen of any direct and immediate legal remedy in the courts of this state.".

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Miss Donnelly.

MISS DONNELLY: This amendment has been offered for this reason: that throughout the argument we have gone in so many directions that I think everybody has become most confused. It is in here to give a basic right to any citizen to go to the courts of this state to try his own case. Any commission established could so set up their requirements that if they were drafted too loosely without basic thought behind them, I am afraid, the state would force an individual to go through such a commission before his rights could be firmly established. They might exhaust the individual trying to secure his rights by saying that he must first exhaust their legal remedy. I think it is most vital that any person who feels that he has been wronged and who feels he has a cause of action be entitled to have his case tried in a court of this state immediately if he is ready to go, that we would always have this basic right of trial preserved to every citizen. On this I would like to yield to Mr. Martin.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Well, Mr. Chairman and Miss Donnelly, I want to be sure I understand the amendment. I thought that we had no question about it. I just would like to address a question or 2, Mr. Chairman, to Miss Donnelly.

Miss Donnelly, as I understand this amendment, this does not set up new rights. This is simply recognizing the existing rights of the citizen and in effect saying that this committee provision does not do away with those rights. Now am I correct about that?

MISS DONNELLY: Absolutely. This is to indicate that these rights are to be preserved. These are existing rights and they are to be considered in this, that this provision will not vitiate these rights.

MR. MARTIN: Well, we do not intend that the provision shall vitiate the rights to present matters to the courts as they now can be presented, and if that is the meaning of it the committee does not object to the amendment.

MISS DONNELLY: I think the amendment should thus be very clear on its face and I would like to move its adoption.

CHAIRMAN MILLARD: The question is on the Donnelly amendment. Mr. Higgs.

MR. HIGGS: I would like to ask a question of Delegate Donnelly, if she cares to answer.

CHAIRMAN MILLARD: Miss Donnelly, do you care to answer?

MISS DONNELLY: If necessary.

MR. HIGGS: Does she care to answer?

CHAIRMAN MILLARD: Yes.

MR. HIGGS: Oh. Will this provision give any party in a proceeding before the civil rights commission the right to be tried and convicted, if that be the decision upon it, and have that conviction reviewed in a court? Does it give him such a right? Or is that question confusing?

MISS DONNELLY: If I understood your question, I think the language said "direct and immediate legal remedy in the courts of this state." Now if you know what that language means, as a member of the bar, Mr. Higgs, I don't think you need any further help.

MR. HIGGS: Well, I want to be sure that the other delegates know, too. The question that I am concerned with is if a party were convicted on hearsay evidence, for instance, whether the courts would have any power to review that conviction.

CHAIRMAN MILLARD: Do you care to answer, Miss Donnelly? Mr. Higgs, she did not hear the question. (laughter) It appears she does not care to answer. Mr. Martin.

MR. MARTIN: Mr. Chairman, I thought that perhaps Mr. Higgs' question was directed to the idea of whether this guaranteed everybody a trial de novo. It does not guarantee them all a trial de novo except as they may now have such rights. It does not expand their rights. It simply provides that this committee provision will not abrogate those rights to have a court determination.

CHAIRMAN MILLARD: Mr. Ford.

MR. FORD: I would like to ask Miss Donnelly a question through the Chair.

CHAIRMAN MILLARD: Miss Donnelly, do you want to hear the question first?

MISS DONNELLY: Yes.

MR. FORD: Is it fair to say that the intention here, that this language should mean that the rights conferred by this section would be in addition to other rights under the law and not in derogation of any other right? Is that what you intend to get at?

CHAIRMAN MILLARD: Will you answer in the mike so the reporter can get it, please.

MR. FORD: There is language in substance, Miss Donnelly, that is sometimes used, saying — in this case it might say, for example, that the provisions of this section are to be considered as rights in addition to other rights under the law and not in derogation of any other right under the law. Is that the intention of your language?

MISS DONNELLY: Well, maybe I can answer you more directly, because the way you phrase it I am confused. The intent of this is that the commission shall not derogate the rights of legal remedy any citizen wants, that the right that a human has to have his case go to court, if he wants to take his case to court he should be able to take it to court immediately, and it means that if he wants his case tried immediately he should be able to go to court and get damages if that is what the court can award him, that he can have this taken care of. Whatever rights we have under this constitution are intended to be included in this and should also be able to be taken care of directly by any court that a person desires to take it to. They have this legal right and it should not be removed from them. This is to protect the citizen on any right. It could not be construed to take these rights away. Am I making sense to you?

MR. FORD: Yes. I think you and I are in agreement. I would like to ask one additional question: would it be intended that a party could go to court and circumvent the effect of the commission by voiding it in going directly to the court under some other form of proceeding where the subject matter is something covered by the commission under normal circumstances? Let me give you an example, if it will help. For example, the workmen's compensation act requires that the place to go is the compensation commission and the defendant does not go outside of the remedies that are availed to the claimant in this case and he cannot prevent the claimant from getting his remedy before this administrative tribunal. Now would your language permit a person who might be in a comparable position to the employer-defendant in a "comp" case going to the court and asking for relief that would prevent a determination by the administrative body?

MISS DONNELLY: My intent would be that if a citizen wanted to go to court he would not have to go to the commission. If he wanted to bring his action, if he felt that he had been infringed, that he had been injured, that he had a cause of action, that he may directly seek his legal remedy. A citizen does not have to exhaust himself by asking somebody to investigate, get somebody to come in, do all this, whatever the — of course first of all, I don't know what the commission will set up. We are only guessing and we have spent a lot of hours today guessing what they are going to do. Now whatever they are going to do, I don't know, but I do feel that every citizen should have a right to go to trial immediately if he wishes, and this is the point that I have in here; a citizen has a direct right to go to court, and he doesn't have to wait, be exhausted by waiting and trying, that he can go straight, if he wishes to, if he has a cause of action. This is their problem. I mean, how can I guess.

CHAIRMAN MILLARD: Does that answer your question?

MR. FORD: Yes. Thank you. Now in view of that construction, I would like to oppose the Donnelly amendment because it seems to me that you would void the effect of having a commission with any administrative powers if you made it possible to simply void the commission by finding another forum of action because you happen to have a forum of action which might produce similar results; and it seems to me that one very ready way to avoid the consequences of being brought before the commission would be to take the initiative by some sort of injunctive relief, for example, or attempted injunctive relief and keep the person making the complaint away from the commission for a considerable amount of time while you took him up the line and down the line through the courts.

CHAIRMAN MILLARD: That wasn't a question, was it, Mr. Ford?

MR. FORD: If it sounded like one, it was not intended to be.

CHAIRMAN MILLARD: Alright. The Chair will put you down then, Miss Donnelly.

Mr. Downs.

MR. DOWNS: I thought that the delegate, Miss Donnelly, had the floor. I would be glad to yield to her if she wants to make a comment.

CHAIRMAN MILLARD: Miss Donnelly.

MISS DONNELLY: Thank you, Mr. Downs. I would just like to say that I do not think any court would give that kind of an injunction unless the person had good grounds to show that he would be entitled to it. You could not circumvent any commission action without showing good grounds to circumvent it, and there has got to be grounds to get an injunction. As long as I have been practicing law, I haven't been able to get an injunction just signed willynilly — like that — and I don't think anybody else has ever been able to. I do not think your objection is well taken on that basis.

MR. DOWNS: Mr. Chairman.

CHAIRMAN MILLARD: You yielded, Mr. Downs.

MR. DOWNS: All right. Then may I be put back on the list?

CHAIRMAN MILLARD: Yes, sir. You will have her place.

MISS DONNELLY: I would like to yield to Mr. Downs.

CHAIRMAN MILLARD: No, you cannot yield. (laughter) Delegate Nord.

MR. NORD: Mr. Chairman, I suppose I cannot yield to Mr. Downs either, can I? (laughter)

I will say that I am opposed to this amendment. I think it is ill advised. Mr. Ford has made my main point: namely, that this would make it impossible for this board to have certain kinds of powers which it might prove desirable in the future for them to have. Many boards — and, in fact, I believe maybe you could even say most boards — have the power to make the initial determination of fact on an issue within their own jurisdiction. There cannot be any direct proceeding in the courts on many kinds of administrative boards; you must go through the board. That is the reason for the board.

Now we are not providing that that shall be the case in this amendment, in the committee amendment, but we are giving the legislature the power to do that if they see fit, and the point that I make is simply this: why tie the hands of the legislature in advance in this way or in some other way? Let the legislature have this problem for the next 50 years and let them decide if they want to make this board similar to some other board which has the power to make the initial determination of fact or whether they wish to do it differently. This is another matter where we lose flexibility and we gain nothing.

I want to call your attention further to this language. It states in the Donnelly amendment, "This provision shall not be construed to enable the denial to any citizen" and so on. Now this language, "shall not be construed" has frequently been construed itself and has always been interpreted to mean an absolute prohibition. When you say, "This provision shall not be construed to" do a certain thing, it means the legislature shall be prohibited from doing this thing. That means the legislature will no longer have the power under this amendment to provide that the board shall be the fact finder in some area or other that they may wish. Therefore, I am opposed to this on the grounds that it is an unnecessary limitation on the legislature.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, fellow delegates, I rise to support the Donnelly amendment. I do not think that the arguments offered against it look at it very carefully. Today, under the law, if a person is discriminated against — we will say he goes into a restaurant and they will not serve him because of his race — he may sue the proprietor if he wants to. He does not have to go to any commission to straighten it out. He has the right to sue for damages. He has a right to go to the prosecutor and say, "Arrest this man; he has violated the law." Now if I understand it, what the Donnelly amendment says, is that he does not have to go to the civil rights commission as an exclusive remedy. He retains his right to sue. He retains his right to demand prosecution. And I agree with her. It would be absolutely inconceivable that a man could violate the constitution and then go to a court and say, "Give me an injunction to prevent somebody from stopping me from violating the constitution." This couldn't happen. So what she is doing is, she is adding to the rights of the individual, not subtracting from them.

Quite possibly, without this language the commission would not subtract from them anyway, but there is the possibility that by enacting this we would then deprive the individual of any remedy except to go to the civil rights commission. This might not be the remedy he wants at all. I think it is a perfectly proper amendment and I think it should be supported.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, could I, through the Chair, ask the author, Delegate Donnelly, a question regarding the amendment?

CHAIRMAN MILLARD: If Miss Donnelly cares to answer.

MR. DOWNS: I would like to ask you, Miss Donnelly, where you talk about the words "direct and immediate legal remedy," and I say that I think this has been touched on a little more, but I would like to get this a little clearer; that in many of our administrative agencies — and this has been touched on in civil service, for example — if an employee thinks he is wrongfully discharged, he cannot normally immediately go to court but must exhaust his remedies. I know that there is a danger that sometimes a person not only exhausts his remedies but exhausts himself. But I am equally concerned: would this mean that any administrative procedure set up for conciliation could be bypassed by either party by simply going into court before using the established remedies? Maybe I don't make my question clear.

MISS DONNELLY: I do not think you did. You say that you think that by a person starting a lawsuit — now, let's say I am job hunting and I think I am very qualified and they decide they are not going to hire a female. That is my objection. They don't want women. Well, if I could prove that I have all the qualifications, et cetera, that the only thing against me is my sex — now, in my opinion, any person who could prove that, under this constitution as it was before we got on this, could go and sue; could say, "I am a female. I am qualified. They didn't hire me. Now let us sue." Now whether this is the best technique I could use, that is something else, but if I could get some teeth into it, if there were some law that says that there are damages and I could be able to recover damages on this — I do not know that they have ever passed that kind of a law — why should I have to wait for an administrative board to decide that they liked my idea or they did not like my idea and take 2 or 3 years? If I have a cause of action, or if any citizen thinks he has a cause of action because he thinks he is being discriminated against, he should be able to have his case in court without being exhausted elsewhere, in my opinion. This is the purpose of putting this in. I want to preserve to the citizens the right of enforcing their rights to themselves and not waiting for somebody else to do it.

MR. DOWNS: Mr. Chairman, may I ask another question through the Chair to Miss Donnelly?

CHAIRMAN MILLARD: Proceed, Mr. Downs.

MR. DOWNS: If, in the example that you cited, Miss Donnelly, let's say that the prospective employer or that you, not being as legally astute or qualified as you are, did not have legal resources but there was a commission set up for conciliation of such things as this matter, if you then went to that commission, would your amendment permit the prospective employer to enjoin that commission from conciliation or mediation and, instead, require the court to act on the matter and bypass the conciliation efforts of the board that was set up?

MISS DONNELLY: In your hypothetical, have you assumed that I have already had service and I've started my lawsuit?

MR. DOWNS: No, you have not started your lawsuit. You, as the individual who feels aggrieved, have gone to the commission which is starting conciliation. The conciliator from the board against discrimination has gone to the employer and said, "It looks as though this person were qualified; it was only the matter of sex that was involved. We think perhaps you should review your practices." Then the prospective employer says to that board or commission, "I will not let you in the door any more and, further, I am going to court to enjoin you from doing anything further and am going to ask the court to decide this directly."

CHAIRMAN MILLARD: Do you understand the question, Miss Donnelly?

MISS DONNELLY: On my case, I would say this is the only way that I could see that that could arise. In other words, they want to enjoin the board from furthering the issue of whether Ann Donnelly is employable.

MR. DOWNS: In saying that it should be resolved only in the court without going through the commission?

MISS DONNELLY: I don't know. I would see that if I had — you see, I visualize that I have started the legal remedy. I have gone. Then I think there is no question if I have got my service and if I have got my case started, I think we should be able to enjoin the commission from interfering with my lawsuit. Now, having gone the other way around — I didn't have jurisdiction in court yet — then the employer has got to seek an injunctive remedy against the board in my action alone, I would say, and I don't know if they would get it. I don't see how.

If I were sitting on the bench signing it, supposedly, on your facts, I would not sign the injunction. I do not think any judge would, because I do not think he has been given grounds to enjoin in that instance yet. I think maybe you could build up a case far enough so that maybe you might be able to, but — certainly on your facts — I do not think that any judge would ever give the injunction. I don't think there would be grounds for it.

CHAIRMAN MILLARD: Is that sufficient?

MR. DOWNS: Thank you. Yes, thank you, Mr. Chairman, and thank you, Miss Donnelly.

I certainly respect Delegate Donnelly's concern she has shown on the floor repeatedly for the right of individuals to use their legal remedies. I know she has been very avid in their protection. I am just a little concerned that this provision in the constitution might be construed contrary to what I believe was the intent of the author in putting it in.

I am a little more inclined to think that the way to solve the problem is that this board or commission would be set up and would be subject to the established rules of administrative agencies, due process, equal protection of the law, and so on, and their action would be subject to review by court. I would assume that if any board were too long, were dilatory, did not do their job right, the citizen certainly could go into court. I can see the advisability in certain cases of a person having his independent statutory right and the board or the commission being simply a supplemental or additional right.

With having said all of that, I am still inclined to think that while I agree with the intent of the author of this amendment, I think this would be better left out of a constitution and be something that would develop as time goes on. That is as mild a way as I can say that I rise to oppose the amendment but sympathize very much with the intent of the author.

CHAIRMAN MILLARD: Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, I believe that Mr. Everett has spoken about everything that I had to say on it, except that it does appear to me that the 2 delegates, Delegate Nord and Delegate Ford, are making a rather strong plea here for depriving the courts of the right to enforce any matters arising under civil rights and attempting to give the legislature the right to make this the exclusive remedy. If that was the committee's intent in proposing this, I would have to oppose it the entire way.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I had some conversation with Miss Donnelly, and I think one of the problems here is that I believe she is talking about the person whose civil rights have been violated by discrimination and, in effect, saying if your civil rights are violated by discrimination then if you want to seek the remedy in a court you should be able to do it. To this we do not have any objection.

Now, if that is what she means, then I wonder if she would be willing to clarify her statement so that it would read, "This provision shall not be construed to enable the denial to any citizen," inserting, "who claims that his civil rights have been violated by discrimination to resort to direct and immediate legal remedy in the courts of this state." I think the confusion arises over the fact that some people thought her paragraph or sentence applied to persons who were being brought before the commission and who were trying to circumvent the commission by jumping into court and trying to block any consideration by the commission. I do not think that is her purpose.

Now, could I ask, Mr. Chairman, if she would accept the language which I have suggested there?

CHAIRMAN MILLARD: Miss Donnelly, did you hear the question?

MISS DONNELLY: No.

MR. MARTIN: The language which I suggested to be added, Miss Donnelly, would come after the word "citizen" in your second line there and would then read, "This provision shall not be construed to enable the denial to any citizen," and insert there, "who claims that his civil rights have been violated by discrimination to resort to direct and legal remedy in the courts of this state." Would you accept that language?

MISS DONNELLY: Well —

MR. MARTIN: I am trying to perfect this in the —

MISS DONNELLY: I know you are, and I had 3 other people trying to perfect it, too, and actually, I am not sure, but — I am sorry — I think Bill Ford's perfection is a little better. (laughter) I'm getting them coming at me — my point, I thought, was very clear. Now, maybe this is something for style and drafting. I think yours is getting very verbose and his is, too, and I have tried to keep it short.

I mean that you are not going to take away any rights. In other words, it will be not in derogation of any right we have now and maybe you could just throw that in. Frankly, I think this is something for style and drafting at this stage of the game. I think the intent is clear: I want anybody who wants to go to court to be able to go to court.

CHAIRMAN MILLARD: Let us have a little order.

MR. MARTIN: I am willing to have style and drafting work on it, Miss Donnelly, and to go along with the amendment if it can be made clear here that you are talking about the right of a citizen who claims his civil rights have been denied either to follow up on these civil rights through the commission or to go into court to protect them. Is that what you mean?

MISS DONNELLY: Yes, you could have either remedy. You do not have to wait for it. Any citizens who feel they are being denied — I mean, you can have your rights denied in umpteen thousand ways that I can think of —

MR. MARTIN: All right.

MISS DONNELLY: — and I think this could be an employee or an employer whose rights are being denied by harassment, for instance. If they are being abused, they should be able to get some protection, too. This goes every way. I mean every human is entitled to privacy and certain rights and the further we get into this the more we almost should write the entire legislation.

CHAIRMAN MILLARD: Well, Mr. Martin, if you want to work out an amendment, why don't you move the committee rise and work it out and then we will talk about it afterwards? This back and forth is not getting us anywhere.

MR. MARTIN: I agree, Mr. Chairman. I was proposing not to move that the committee rise until 5:00 o'clock. Some of the members of the minority have told me there is a dinner in Detroit at which they are expected and to which they wish to go.

Does this create additional problems for anybody? Are there other amendments, Mr. Chairman, on this section that we have to consider or is this the last one?

SECRETARY CHASE: There are 3 others on the desk, Mr. Chairman.

MR. MARTIN: Well, I wonder, Miss Donnelly, if we could consider the other amendments and pass yours for the time being and see if we can work something out rather than try to do it in this way on the floor?

MISS DONNELLY: I will be happy to.

MR. MARTIN: If that is satisfactory then I move the amendment be passed temporarily and then we could go on, Mr. Chairman.

CHAIRMAN MILLARD: Without objection, the Donnelly amendment will be passed temporarily. The secretary will read.

SECRETARY CHASE: Mr. Leibrand offers the following amendment to the amendment:

1. Amend the amendment at the end thereof, by inserting a new paragraph to read as follows:

"Whenever the civil rights commission, upon its own complaint or the complaint of another, initiates a proceeding based on a claimed violation of civil rights, the party complained against may apply to the circuit court of the county in which he resides for assignment of counsel for his defense and means for the compensation of witnesses he desires to produce, and means for transporting himself, his counsel and his witnesses to and from all hearings held by the commission upon such complaint. Upon showing that the person complained against does not have reasonable means to conduct his defense, the court may make such order or orders as the showing requires, and the costs resulting therefrom shall be paid from the general fund of the state.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, the language of this committee amendment and the comments that have been made thereon are entirely directed, as I see it, to the protection of a complainant. Nobody seems to have considered the possible position of the respondent. The committee's amendment, as I take it, assumes that the state and not the complainant will pay the cost of the investigation and prosecution of a claimed civil rights violation proceeding. That may be all well and good, but what about the plight of the party complained against? I think it is time that some consideration be given to his position and rather than go into a long and involved argument, I propose to give an example of what I am trying to get at; an extreme example perhaps, but I think it will get my point across perhaps better than any other way. Let us say that somewhere in the far western reaches of the upper peninsula — up in Delegate Butler's country — there is a man who is on welfare 9 months of the year and during the 3 other months he goes off welfare and he opens up a little hamburger stand by the roadside and makes his own living during the summer and maybe has a little bit besides. One day he gets a notice from Lansing that a complaint has been made against him alleging that he has failed to sell or refused to sell somebody a hamburger or that he deferred the service unreasonably long and the complainant has reason to believe that this denial of service was based upon his race, religion, national origin, or on his sex. (laughter) I think that a respondent in this position should have some relief and this amendment gives him some measure of relief. I do not think he should be required — perhaps it is impossible for him — to provide counsel, to provide witnesses. He may have a complete and adequate defense. How is he going to get a lawyer from Houghton down to Lansing 2 or 3 times, and witnesses? He may be completely innocent of that charge but how is he going to prove it? This amendment leaves it to the discretion of a circuit judge as to whether his need for public assistance in presenting a defense has been established.

Now, I am not going to talk at great length upon this amendment. We give this same kind of service — counsel, means for the production of witnesses and that sort of thing — to the lowliest defendant in a circuit court, and his problems are generally less grave than those of a respondent before a civil rights commission would be.

Now, in conclusion, I here now appeal to Delegates Norris, Nord, Hodges, and those other delegates in this convention who have been so greatly concerned with civil rights and due process for support of my amendment.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Judge Leibrand, I anticipated you by about a minute when I asked for the floor, and I would be glad to support your amendment with a slight modification, something like the one that Mr. Hutchinson once proposed to you, as I recall — or was it you to him? First of all, I would like to say this sounds like an interesting proposition. It sounds very much like socialized law to me, and I am rather surprised to hear it come from you. (laughter) If it came from me, I wouldn't be surprised.

It seems to me if this is a good idea — and possibly it is a good idea — I don't see why it should be limited to civil rights complaints. Why not go the whole distance and extend it to every kind of a claim, every kind of a lawsuit, every kind of a claim before any board? If you are willing to go along with me on that, Judge Leibrand, I believe I could be persuaded to support your amendment. Otherwise, it would seem to me that your amendment is discriminatory against the assertion of civil rights.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, this amendment again involves a long provision which is strictly statutory and which ought to be left to the legislature. It is reasonable to suppose that at first the legislature will make provision for hearings in places which are reasonably close to the places where the people are involved. That has been the practice with regard to other boards and commissions. And, second, it is to be expected that provision will be made for payment of witnesses and so on if this is necessary and the persons involved do not have funds for making such payment.

But, again, whether this is good or bad seems to me to be a question that should be left to the legislature and I am sure that the committee would feel that way about it: that we ought to leave this, as we have a number of these other amendments, to legislative decision. I hope that the amendment will be defeated.

CHAIRMAN MILLARD: Mr. Austin, did you wish to be recognized?

MR. AUSTIN: Mr. Chairman, I wonder if I could ask Mr. Leibrand a question.

CHAIRMAN MILLARD: If he cares to answer.

MR. LEIBRAND: Willingly, sir.

MR. AUSTIN: Mr. Leibrand, it does appear to me that this is discriminatory because I know of a lot of taxpayers, particularly this operator of a hamburger stand, who might be charged with violation of the sales tax law and who might lose a lot of time trying to prove that he has paid all of his taxes. Would he be entitled to this? Do you feel that he should be entitled to this kind of reimbursement of his expenses?

MR. LEIBRAND: Well, I will have to reply to that, Mr. Austin, by saying that if he can prove his need, the fact that he cannot make a proper defense to the charge brought against him by the revenue department, that somewhere the public should pay for his defense. He should have at least the rights of a man charged with drunk driving, fourth offense — and the man charged with drunk driving, fourth offense, gets an attorney assigned to him.

CHAIRMAN MILLARD: The question is on the Leibrand amendment. All those in favor will say aye. Opposed, no. The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? A sufficient number up. All of those in favor of the Leibrand amendment will vote aye and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Leibrand, the yeas are 32; the nays are 77.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. Norris and Nord offer the following substitute amendment:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor.".

CHAIRMAN MILLARD: The Chair will recognize one of the proponents, Dr. Norris.

MR. NORRIS: Mr. Chairman, ladies and gentlemen, I have listened with keen interest to the debate thus far with regard to the question of establishing a commission. Now there appeared to be, as I understand it, a rather common consensus that there ought to be such a commission, and the main difference and disparity of view seemed to center about who was to establish it and the timing of the establishment of it, namely, that the governor would establish it in the event that the legislature did not act. Then we had the observations of Mr. Bentley and Mrs. Elliott with regard to a matter which was inserted in the committee amendment. Now if there is the desire for certitude in this matter, if there is a desire on the part of this body to establish a civil rights commission, it seems to me and to Mr. Nord, as the cosponsors of this proposition, that there ought to be a simple, self executing provision in the constitution which creates it, so that there isn't the shifting of responsibility and the possibility of time consuming litigation between the executive branch and the legislative branch with regard to this important area.

Now, as I understand it, the main thrust in support of the committee amendment is 2 fold. First, that such a commission would have constitutional status. As I understand it, some of the people who are expert in this field have indicated that with the contemplated legislative organization and contemplated organization of the executive branch, of consolidation, that the present fair employment practices commission might get lost in the shuffle and that its vital work might be disparaged. So that if such a commission were given constitutional status, it would not get lost in the shuffle and would afford an opportunity for such a commission to not only be in existence but continue to be in existence and to provide the second main idea; namely, a basic framework for administration of such other civil rights provided by the constitution and by law as may be adopted. These are the 2 ideas, as I understand it, that motivated those in the committee for such an amendment; namely, that it would have constitutional status and the commission would not get lost in the organizational shuffle and, second, that it would provide a basic administrative framework for the implementation of certain civil rights. Now if that is the intent of the committee amendment, it seems to me that there ought to be, therefore, a simple, self executing provision in the constitution which so declares.

I think that there are infirmities in the whole idea of just a commission. You may recall when the declaration of rights committee proposal was before the floor, there was a proposal which was a modified Hawaiian proposal and it merely states that the civil and political rights of citizens shall not be infringed on the basis of race, color, creed, and so forth, and there was a minority report of preference which sought to spell out these rights in order that they might be declared and protected. Now we are not declaring and protecting certain stated rights. This is an infirmity, in my judgment, in the committee amendment. It is an infirmity, also, in the revision thus far adopted by the committee, in my judgment.

But I do think that if it is the present consensus of a good number of the delegates to support the idea of placing in the constitution a civil rights commission, this is the way to proceed: to do it directly and also indicate that the legislature shall prescribe the duties and powers, provide the funds, and proceed to implement it. This would mean that the legislature as, for example, it has in recent weeks would not be able to say that we are not going to do anything in this field but we are going to wait until the constitutional convention is going to do something about it. As I understand the committee amendment, we are saying, well, we are going to see what the governor and the legislature are going to do about it in 2 years' time.

I think President Truman had a very interesting sign on his desk that is appropriate at this juncture. The sign read, "The buck stops here." That is, you cannot pass the buck any further. If it is the desire and willingness of this convention to support the proposition of a civil rights commission, then this is a simple way of proceeding, a simple and direct way of proceeding, and a useful way of proceeding. I don't think that it is going to accomplish a great deal but I do think it is a step in the right direction and the committee was attempting to take that step, as I understand Mr. Martin to so indicate. But if it is going to take the step, then it ought to take a firm and direct step so that it is a step forward and not a step into litigation. I think this is an amendment which I commend to your discussion on the merits. I hope that it is considered in the light and spirit in which it is advanced. In my judgment it would carry out the purpose of the committee and I so commend it to your judgment.

CHAIRMAN MILLARD: Does the other proponent wish to be heard?

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: It is 5:00 o'clock and we obviously cannot terminate our discussion of this proposal tonight. For that reason I move that the committee do now rise and we will take this up the first thing in the morning.

CHAIRMAN MILLARD: The question is on the motion made by Mr. Martin that the committee do now rise. All in favor say aye. All opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** has considered a number of amendments thereto, has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: Dr. Hannah has requested that the following announcement be made: the committee on legislative organization is having prepared a limited number of copies of the United States supreme court decision of Monday of this week on the Tennessee legislative apportionment case. Individual copies will be available on request beginning Friday morning in room D, downstairs. Because of the length of the several concurring and dissenting opinions totaling 146 pages and the cost of duplication, it is hoped that only those delegates who have real use for or interest in this item will request it. John Hannah, chairman.

I have the following announcement of a committee meeting: the committee on style and drafting will meet tonight at 8:00 o'clock in room K.

Mr. Ford asks for leave of absence from the morning and afternoon sessions of tomorrow, Thursday; and Mr. Gadola requests leave from the Thursday morning session to appear before a legislative committee.

PRESIDENT NISBET: Without objection, the requests are granted.

The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President, on this solemn occasion I rise to move that we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed.

We are adjourned until 9:30.

[Whereupon, at 5:00 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Thursday, March 29, 1962.]

ONE HUNDRED TENTH DAY

Thursday, March 29, 1962, 9:30 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by the Reverend Charles T. Klinksick, of the University Lutheran Church, East Lansing.

REVEREND KLINKSICK: Let us pray. Almighty God, for this assembled convention under its solemn responsibilities, we pray this day for

statesmanship — after silence;
talk — after thought;
trust — after trials;
conscience — after conflicts;
victories — after visions;
forgiveness — after failures;

and the wit and good sense to enjoy the good that is being accomplished here. We ask this in the name of our Master, Jesus Christ. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If you have all recorded your attendance, the machine will be locked, and the secretary will record it.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following request for leave: Mrs. Conklin, from today's session.

PRESIDENT NISBET: Without objection, the request is granted.

SECRETARY CHASE: Absent with leave: Mrs. Conklin, Messrs. Ford and Mosier.

Absent without leave: Messrs. Allen, T. S. Brown and Lundgren.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. T. S. Brown, Allen and Ford.]

Reports of standing committees.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 84,** A resolution relative to time of convention sessions; with a substitute therefor, recommending that the substitute be agreed to and that the resolution, as thus substituted, be adopted.

Following is the substitute for Resolution 84:

A resolution relative to time of convention sessions.

Resolved, That the following be the work schedule for the convention:

Monday
2:00—approximately 5:00 p.m.
6:30—adjournment.
Tuesday, Wednesday* and Thursday
9:30 a.m.—approximately 12:00 noon
1:30 p.m.—approximately 6:00 p.m.
Friday
9:30 a.m.—approximately 12:00 noon
1:30 p.m.—approximately 5:00 p.m.

*Wednesday night sessions, 8:00 p.m. until adjournment unless otherwise ordered by the convention.

R. C. Van Dusen, chairman.

For Resolution 84 as offered, see above, page 1845.

MR. VAN DUSEN: Mr. President, I suggest that in order to make our consideration to this as orderly as possible — I understand there are some amendments — that we first adopt the substitute, and then proceed to discussion of such amendments as there may be.

PRESIDENT NISBET: Mr. Ostrow.

MR. OSTROW: I oppose that.

MR. VAN DUSEN: Mr. Ostrow, I meant, we don't adopt the resolution; we just adopt the committee's substitute; and then you have to vote on the amendments.

MR. OSTROW: No.

MR. VAN DUSEN: If Mr. Ostrow objects, we will proceed in the ordinary course, Mr. President.

The resolution recognizes the absolute necessity that this convention either stop talking or spend more time listening. We have, simply, not enough time left between now and May 15 to proceed at our present leisurely pace and still expect to complete the work. For that reason the committee on rules and resolutions has unanimously recommended an intensified work schedule which is embodied in this resolution, and which provides for sessions from 2:00 o'clock in the afternoon until approximately 5:00 on Monday, followed by an evening session from 6:30 p.m. until adjournment; Tuesday, Wednesday and Thursday we would meet at 9:30 in the morning and work until noon, and then from 1:30 in the afternoon until about 6:00, with an evening session on Wednesday; and then a full day of work on Friday, with a slightly earlier adjournment.

Now, I have been advised that there has been considerable objection raised to the Monday afternoon session from 2:00 to 5:00, and I'm advised further that there is an amendment offered to eliminate that session. While the rules committee believes that the schedule which we have recommended is a necessary and desirable one, I believe that, recognizing reality, we would not seriously oppose the elimination of the Monday afternoon session if the balance of the schedule were firmed up. But we believe that it's absolutely essential that we expand the time available for the conduct of our work, and we therefore urge the adoption of the resolution as we have proposed a substitute for it.

PRESIDENT NISBET: The question is on the adoption of the substitute. Mr. Chase, do you have an amendment?

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend the substitute in the resolving clause, after "convention:", by striking out the balance of the resolution and inserting the following:

"Monday

9:00 a.m. to 12:00 noon; 1:00 p.m. to 5:00 p.m.

Tuesday, Wednesday, Thursday and Friday

8:00 a.m. to 12:00 noon; 1:00 p.m. to 5:00 p.m.

No time off to be granted any delegate except that his pay be cut, and the pay to be figured on the basis of 5 days a week.".

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, fellow delegates, we have been discussing this time situation since about the first or third of October. We talked about delegates taking a lot of time off, with the result that we weren't getting the work done as we should have gotten it done. We discussed the fact that we were wasting too much time in committees because we had to listen to a lot of theory, though we had for a good many years been working in government and we had studied politics, and we said that something should be done to get right into the constitution and stop piddling around.

Now, our time was wasted, and I realize that. And I made several comments on the floor, and at the time a few people thought they were rather funny. Well, I just want to say this: that we sometimes put our chestnuts into the fire, and then we expect others to pull them out. Frankly, I don't like getting my fingers burnt by pulling those chestnuts out for someone else.

Now, I don't like to work nights anymore than anyone else does. In fact, I don't like working nights at all. I also don't like losing any money. I don't make too much, so what I do make I like to keep on getting and hang on to. Some time ago we suggested that we start to work at 6:00 o'clock and work until 10:00, and that passed this convention. It was a vote of 70 some to about 35 or 40 something, and I think that was in force for about 1½ hours when another delegate got up and moved that we start to work at 4:00 o'clock. At that time I explained that it was fine for those who were in business and those who were attorneys or accountants and had practices and had clients and had other money coming in, that that was all right for them; they didn't have to worry. But for those of us who were fortunate enough to be able to work for one day a week to sort of help offset that cost that we had here in Lansing for living expenses, we ought to be able to maintain that and keep it. Yet no one seemed to agree, and said, "Oh, to heck with those guys." That was about the attitude at the time. Now, I don't like to make things any rougher than I can, either. I just don't like working nights. I think that this schedule is a very good schedule, and I move the adoption of the amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I would just like to make an appeal to everyone here to immediately and quickly vote down every single amendment that is offered to this substitute, and as quickly as possible adopt the committee substitute. We have gone through this time thing before. As I recall, the last time we tried it we wasted 1 or 2 hours. There are probably as many ideas here about times as there are delegates present. Just a plea, ladies and gentlemen, to once and for all adopt a committee report, put our personal preferences aside, whatever they may be, and just as quickly as we can vote these amendments down and adopt the substitute resolution. (applause)

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, I would like to know what we are substituting. This says it is a substitute for Resolution 84. I wonder if anybody could tell me where I could find Resolution 84?

PRESIDENT NISBET: Mr. Van Dusen, I think you spoke to that point.

SECRETARY CHASE: Resolution 84 was in Journal 106, page 805.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Would you ask the secretary to read the Monday hours? I'm not sure of that. I think I probably misunderstood it at the time. I thought there was a morning hour on Monday.

PRESIDENT NISBET: The secretary will read the Monday hours.

SECRETARY CHASE: The amendment offered by Mr. Madar is to provide for sessions on Monday from 9:00 a.m. to 12:00 noon, and 1:00 p.m. to 5:00 p.m.

PRESIDENT NISBET: Mr. Follo.

MR. FOLLO: Mr. President, members of the convention, I find no great objection to the substitute from the rules and resolutions committee, except for this: some of us live 400, 500, 600 miles away from here, and we do like to get home on the weekend. I find that it isn't too hard to get here by 4:00 o'clock on Monday, but 2:00 o'clock or earlier is very difficult. And so I personally hope that the substitute from the rules and resolutions committee can be amended so that it would make it more convenient for those of us who live a long distance away. Most of you live within easy driving distance, and not too far away — certainly not as far away as we do. I would ask, for the few of us who do come from a long distance, that it be made 4:00 or 6:30, instead of 2:00 o'clock p.m. or 9:00 o'clock in the morning.

PRESIDENT NISBET: The question is on the Madar amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Kuhn offers the following amendment to the substitute:

1. Amend the substitute in the resolving clause, after "Monday" by striking out "2:00 p.m.—approximately 5:00 p.m."; so that the schedule for Monday will be, Monday, 6:30 to adjournment.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President, this will do exactly what Charles Follo and many other delegates would like to see done for this convention. Someone said in the last few days, "Well, those that cannot make it at 2:00 o'clock on Monday could miss and come later, but let us proceed." But I would like to call the delegates' attention to Resolution 85, as amended, which is going to allow roll call votes in committee of the whole. I'm in favor of this, and I think it is a wonderful thing; but that means you're going to have one chance to be on roll call, and if you're not here when we are in committee of the whole and you do not vote on roll call, you are not going to have your district represented. So it is going to be most important that everybody is here every time this convention meets. And I think that this is a compromise that we can go along with. It's the only change that we have in mind. I therefore would like to yield the floor at this time to Pete Buback, who will speak for his side at this time.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, I support the Kuhn amendment for several reasons. We have been working here 6 straight months, and I know it's quite a burden on the attorneys here, as they like to have a day in the office. Now it's coming time for plowing and seeding for the farmers. I think the farmers should have a day. And I think the officials and government officials should have some time also. I urge you to support this amendment. Let us start at 6:30, and we'll have an evening session, as I understand it, and I think we can accomplish this job.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I would only remind the delegates once again that all of these considerations are very definitely personal considerations, and have nothing to do with getting this convention finished.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I move the previous question on the amendment.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? There is a sufficient number up. Those in favor of putting the previous question will say aye. Opposed, no.

The motion prevails and the previous question is ordered. The question is now on the adoption of the Kuhn amendment.

MR. MADAR: Mr. President, I would like to ask for a division on that.

PRESIDENT NISBET: Division has been demanded. Is the demand seconded? There's a sufficient number up. Those in favor of the Kuhn amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and the totals will be recorded.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Kuhn, the yeas are 82; the nays are 47.

PRESIDENT NISBET: The amendment is adopted.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend the substitute in the resolving clause, after "Tuesday, Wednesday* and Thursday" by striking out "1:30 p.m.", and inserting "2:00 p.m."; and after "Friday" by striking out "1:30 p.m.", and inserting "2:00 p.m."; and by striking out "5:00 p.m.", and inserting "4:00 p.m.".

MR. FAXON: Mr. President, I would like to withdraw that at this time. (applause)

PRESIDENT NISBET: Without objection, the amendment is withdrawn.

SECRETARY CHASE: Mr. Everett offers the following amendment:

1. Amend the substitute in the resolving clause, after "Tuesday, Wednesday* and Thursday" by striking out "9:30 a.m.", and inserting "9:00 a.m."; and after "Friday" by striking out "9:30 a.m.", and inserting "9:00 a.m.".

PRESIDENT NISBET: Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, 30 of us joined in this original resolution which was referred to the resolutions committee, and our objective was exactly the same as I think everybody's here: to increase the work schedule. We have now taken 3 hours out of the work schedule by removing the Monday afternoon session. This amendment would put 2 hours of that back in by moving the starting time of the rest of the week up to 9:00 o'clock. I think that it is simply a realistic measure to give back some work hours which we are going to have to have.

I appreciate that this might mean that the journal wouldn't reach us when we open the day, but I think most of us can struggle along for an hour or so without it. I would hope that this would be supported in an effort to split the difference between the original resolution and the committee substitute.

PRESIDENT NISBET: The question is on the amendment by Mr. Everett. Mr. Ostrow.

MR. OSTROW: Mr. President, I wish to move the previous question on this amendment, and on the substitute as offered by the committee.

PRESIDENT NISBET: The question is on the motion by Mr. Ostrow. The previous question has been demanded. Is that demand seconded? There is a sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails. The previous question is ordered. The question is on the amendment offered by Mr. Everett. Those in favor will say aye. Opposed, no.

The amendment is adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division is demanded. Is there support? There is a sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. Mr. Sterrett.

MR. STERRETT: I would like to ask Mr. Everett, the only amendment here to this is to start at 9:00 o'clock, but leave the adopted amendment the same as it was adopted?

MR. EVERETT: That's correct.

PRESIDENT NISBET: Mr. Chase will read it.

SECRETARY CHASE: The amendment offered by Mr. Everett is to change the hour on Tuesday, Wednesday, Thursday and Friday from 9:30 a.m. to 9:00 a.m.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Everett, the yeas are 87; the nays are 36.

PRESIDENT NISBET: The amendment is adopted. The question now is on the substitute, as amended. Those in favor will say aye. Opposed, no.

The substitute, as amended, is adopted. The question now is on the resolution, as substituted. Those in favor will say aye. Those opposed, no.

Resolution 84, as substituted, is adopted.

Following is Resolution 84 as substituted and adopted:

A resolution relative to time of convention sessions.

Resolved, That the following be the work schedule for the convention:

Monday
6:30 p.m.—adjournment.
Tuesday, Wednesday* and Thursday
9:00 a.m.—approximately 12:00 noon
1:30 p.m.—approximately 6:00 p.m.
Friday
9:00 a.m.—approximately 12:00 noon
1:30 p.m.—approximately 5:00 p.m.

*Wednesday night sessions, 8:00 p.m. until adjournment unless otherwise ordered by the convention.

Any further committee reports?

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 85**, A resolution to hasten the work of the convention and to enable the convention to meet the fiscal deadline of May 15; with an amendment, recommending that the amendment be adopted and that the resolution, as thus amended, be adopted.

Following is the amendment recommended by the committee:

1. Amend the resolution by striking out all the whereas clauses and after "incorporate" in the first resolving clause by striking the balance of the resolution and inserting "the following change:

That when the committee of the whole reports to the convention, the actions of the committee of the whole be accepted. The yeas and nays may be ordered in the committee of the whole.".

R. C. Van Dusen, chairman.

For Resolution 85 as offered, see above, page 1891.

PRESIDENT NISBET: According to the rules, the report will lay over 2 days and be taken up on Monday's calendar.

MR. VAN DUSEN: Mr. President, I think a number of delegates have raised the question as to when the new schedule will take effect. The substitute resolution we have adopted of course would, without any further action by the convention, become effective immediately, and therefore we would work it into tomorrow's schedule. The rules committee did not make a recommendation on this, and we frankly will be guided by the desires of a majority of the delegates. I think my personal recommendation would be that we plan on adjourning tomorrow at approximately 3:00 o'clock in the afternoon, to accommodate those delegates who had made plans to get away early. It's sort of a compromise between instituting it full force tomorrow and waiting until next week.

PRESIDENT NISBET: Thank you, Mr. Van Dusen. Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar for today.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, if I may, I would like to make an oral report to the convention concerning our financial status, and maybe this will have some bearing on the way we conduct the debate for the next month and a half. Our lease expires May 31. There is no escape clause. We have to be out of here by May 15 in order to restore the civic center. On May 15 we will have $100,000 left on which to operate. There will be no more delegates' salaries, of course. We need about $250,000 to $280,000 to complete the convention business. That's the preparation of the address, the convention record, the restoration, and so on. We have every hope that we will get the supplemental appropriation necessary for this. But, again, I repeat to you, the way we see it now, we've got to be out of here by May 15, and there is no escape clause. I urge you to keep this in mind during the next month and a half.

PRESIDENT NISBET: Thank you, Mr. DeVries. Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: Item 11 on the general orders calendar from the committee on executive branch, **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers and so forth.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1933.

When the committee rose last evening there was pending the section i that had been offered by the committee on executive branch, to which several amendments had been adopted, and for which Messrs. Norris and Nord had offered the following substitute amendment:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor.".

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, since last evening the committee has been working to see whether we could work out something which would be satisfactory to the delegates on both sides of the house, or both the minority and the majority. I think we have made a good deal of headway. We would like a little further time on this, and I therefore move at this time that we pass consideration of the remainder of Committee Proposal 71, and move to the balance of the calendar, starting with Committee Proposals 59 and 60, and so on.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin to place Committee Proposal 71 at the foot of the executive branch general orders calendar. All in favor will say aye. Opposed, no.

The motion prevails. The secretary will read.

SECRETARY CHASE: Item 12 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 59,** A proposal pertaining to vacancies in the office of governor. Amends article VI, section 16.

Following is Committee Proposal 59 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. In case of the impeachment of the governor AND CONVICTION THEREON, his removal from office, death, inability, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term or until the disability ceases. [When the governor shall be out of the state at the head of a military force thereof, he shall continue commander in chief of all military force of the state.]

THE INABILITY OF THE GOVERNOR SHALL BE DETERMINED BY A MAJORITY OF THE SUPREME COURT WHEN SUCH DETERMINATION IS REQUESTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. SUCH DETERMINATION SHALL, WHEN RENDERED, BE FINAL AND CONCLUSIVE AND THE SUPREME COURT SHALL UPON ITS OWN PETITION DETERMINE IF AND WHEN SUCH INABILITY SHALL CEASE.

In case of the death of the governor elect before taking and subscribing to the constitutional oath of office, or before entering upon the duties of his office, the powers and duties of the office shall devolve upon the lieutenant governor elect on the commencement of his term of office.

Mr. Martin, chairman of the committee on executive branch, submits the following reasons in support of Committee Proposal 59:

The language of the first paragraph of this section has been retained except that the words "AND CONVICTION THEREON" have been added after "impeachment of the governor" in the first line. This change was suggested by Delegate Stevens in his testimony before the committee and was adopted because the committee felt that the present language was subject to abuse in that the impeachment is analogous to indictment and that the governor should be allowed to continue in office until convicted of the charges. This problem was considered by the 1907 convention, but it was their desire to not allow the governor to hold his office between time of impeachment and conviction or acquittal. Although the problem has not come up in Michigan, impeachment charges were voted against Governor Harrison Reed of Florida in 1868. The impeachment by the house had the effect of automatically suspending him from office under the terms of the Florida constitution, which is similar to the present Michigan constitution, but the senate failed to complete his trial within the prescribed time limit and he was eventually reinstated in office.

The committee was of the opinion that the second sentence of the first paragraph of section a regarding the governor's status while at the head of a military force outside the state was of no value and therefore deleted it in its entirety.

The new language, "THE INABILITY OF THE GOVERNOR SHALL BE DETERMINED BY A MAJORITY OF THE SUPREME COURT WHEN SUCH DETERMINATION IS REQUESTED BY THE PRESIDENT

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. SUCH DETERMINATION SHALL, WHEN RENDERED, BE FINAL AND CONCLUSIVE AND THE SUPREME COURT SHALL, UPON ITS OWN PETITION, DETERMINE IF AND WHEN SUCH INABILITY SHALL CEASE," was felt necessary in order to provide a method of determining the disability or inability of the governor. Only one of the 50 states has solved this problem to a satisfactory degree, although the problem has presented itself many times.

The committee felt that by having the request for determination originate with the 2 highest officers of the legislative branch and the final determination made by the highest court of the judicial branch that adequate safeguards against abuse are devised which will still provide a workable solution to the problem.

No change was thought necessary or desirable to the last sentence in the present section 16.

[Paragraph 1 of section a was read by the secretary. For text, see above, page 1954.]

CHAIRMAN MILLARD: Is it the desire of the chairman to consider this section paragraph by paragraph?

MR. MARTIN: I think we could consider this section in its entirety.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Line 12.

[Paragraphs 2 and 3 of section a were read by the secretary. For text, see above, page 1954.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, the gentleman from Grand Rapids, Mr. Martin.

MR. MARTIN: Mr. Chairman, for the purpose of explaining the details of this proposal, I will yield to Mr. King.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Pontiac, Delegate King.

MR. KING: Mr. Chairman, fellow members of the committee, this proposal, we think, is a very significant proposal, one which changes substantially the present constitution. We hope that there will be no disagreement in principle. What we have tried to do here — well, why don't I read from the journal at page 420, so that we will all have before us the reasons for the changes we have made?

The section starts off, "In case of the impeachment of the governor," and we have added the words, "and conviction thereon." This is in line with the discussion we had on the floor the other day in committe of the whole, wherein it was generally felt that although the matter at present is not clear in the present constitution, nor have we ever had any occasion to give force and effect to the present language, it has been felt by many that merely by instituting impeachment proceedings we could thereby suspend the governor from operation. It was felt that this, while it might be desirable in the case of judicial offices, could be subject to political abuse and was not advisable in the opinion of the committee. We therefore have stated that in the event of impeachment and conviction thereon, the governor shall be replaced.

> . . . his removal from office, death, inability, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term or until the disability ceases.

So as far as that language is concerned, the only change is the addition of the words "and conviction thereon."

I think it might be advisable to divide the question in that manner, Mr. Chairman, for the sake of clarity and simplicity. If we could approve that first change, the words "and conviction thereon," I think that that perhaps would be the best way to handle the matter.

CHAIRMAN MILLARD: Are there any amendments then to the first paragraph?

SECRETARY CHASE: There are none on file, Mr. Chairman.

CHAIRMAN MILLARD: If not, we will proceed, Mr. King.

MR. KING: Thank you, Mr. Chairman. The next sentence we have deleted. It has in the past read, "When the governor shall be out of the state at the head of a military force thereof, he shall continue commander in chief of all military force of the state." It was the opinion of the committee that the governor is not at all likely to be placed in a position where he will have to lead an army out of the state of Michigan. We felt that this wording was superfluous, and for that reason the committee deleted that sentence. I suggest that perhaps we might act upon the deletion of that sentence at this time.

CHAIRMAN MILLARD: The chairman of the committee said we were considering this as a whole. Will you proceed.

MR. KING: I see. Thank you. The next part of the language is of course new, wherein we state:

[Paragraph 2 of section a was read by Mr. King. For text, text, see above, page 1954.]

This language was felt necessary in order to provide a method of determining the disability or inability of the governor. In the opinion of the committee, only 1 of 50 states has solved this problem in a satisfactory manner, and we feel that we have improved upon their solution.

The problem has, of course, presented itself many times in many states, and as I started to point out the other day, here in committee of the whole, the problem has presented itself on the national scene. During President Wilson's term of office, there was a considerable period of time when the president was under a serious physical disability. At that time, and today, there is no means at the federal level to provide for a determination of such disability or inability — and I use those 2 words interchangeably. When the Michigan constitution says "inability," it generally means what we consider to be a suitable definition of the word "disability."

During President Eisenhower's term of office, on 3 different occasions there was some serious question as to how and who would succeed to the powers and duties of the office of president of the United States. Again, congress was not able to come up with a solution to the problem, although many tentative drafts were drawn at that time. You will recall that there was a mutual agreement between the president and the vice president at that time as to an orderly transfer of the functions of the office, but actually there is not even today a suitable solution to this problem.

We feel that we on the committee on executive branch have come up with a solution. Basically, it provides that the president pro tem of the senate and the speaker of the house, jointly, acting together, may request of the supreme court a determination of the governor's inability. The supreme court, on its own petition, may determine when that inability ceases. During the time, of course, that the governor is unable to perform the duties and functions of the office of governor, those duties and functions shall devolve upon the lieutenant governor or the next officer in line of succession.

It's my understanding, Mr. Chairman, that we want to cover the whole section?

CHAIRMAN MILLARD: That was the committee chairman's decision, Mr. King.

MR. KING: In that event, I shall say no more at this time, unless there are questions, and I will go on to the remaining wording in the section which does come from the present constitution.

[Paragraph 3 of section a was read by Mr. King. For text, see above, page 1954.]

This, of course, is merely a proviso to take care of that unlikely situation when the candidate for governor who has been elected but who has not yet commenced his term should for some reason be unable to take on the duties of the office come inauguration day, and this merely provides that rather than holding a separate election, the lieutenant governor

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

elect shall step forward and take over the duties of that office. That concludes the presentation at this time of Committee Proposal 59, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin?

MR. MARTIN: I have nothing further, Mr. Chairman. I yield the floor.

CHAIRMAN MILLARD: The Chair will recognize Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, I have a question relating to line 16, the word "petition."

CHAIRMAN MILLARD: To whom do you direct your question, Judge?

MR. DEHNKE: Mr. King, I think, can take care of it.

CHAIRMAN MILLARD: If Mr. King desires to answer.

MR. DEHNKE: I imagine this is a stenographic mistake. The word "petition" should be "initiative," perhaps? ". . . the supreme court shall upon its own initiative determine if and when such inability shall cease." It's hardly conceivable to ask the court to address a petition to itself.

MR. KING: Mr. Chairman, I would not object to the substitution of the word "initiative" for the word "petition."

CHAIRMAN MILLARD: Well, is there an amendment to that effect?

MR. KING: Judge Dehnke, do you so move?

MR. DEHNKE: Yes.

CHAIRMAN MILLARD: Judge Dehnke, will you make your motion so that the secretary will get it down?

MR. DEHNKE: Mr. Chairman, I move that the word "petition" be stricken out and the word "initiative" be substituted.

SECRETARY CHASE: Mr. Dehnke offers the following amendment:

1. Amend page 1, line 16, after "own" by striking out "petition" and inserting "initiative".

CHAIRMAN MILLARD: Do you wish to be heard, Mr. King?

MR. KING: I would only say, Mr. Chairman, that I would support the amendment.

CHAIRMAN MILLARD: The question is on the Dehnke amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, are we discussing the entire proposal, or any section of it? I just want to get this clear.

CHAIRMAN MILLARD: The whole section a has been offered for adoption.

MR. FAXON: Then I would like to just get something clear. May I direct a question to Mr. King through the Chair?

CHAIRMAN MILLARD: Mr. King, if you would care to answer.

MR. FAXON: Mr. King, I understood you to make reference to the fact that the word "inability" in line 6 and the word "disability" in line 8 could be used interchangeably. Does this mean that you are thinking of them as meaning the same thing?

MR. KING: That is correct.

MR. FAXON: Mr. King, there has been some confusion between the actual meaning of the 2 words. Do you think it might be more consistent, since in line 12 again you use the word "inability," to put the word "inability" in line 8, so that you don't introduce the word "disability?"

MR. KING: Mr. Faxon, Mr. Chairman, I would have no serious objection to that. This is the language in the present constitution, and it has been interpreted by the courts. Research prepared a paper on the meaning of these 2 words for the committee, and we were satisfied that court interpretation had laid the matter to rest. For that reason, we made no change in the existing language. But I don't think that anyone on the committee would object to it, either.

MR. FAXON: Well, if that's the case, Mr. Chairman, to be consistent, I would move that on line 8, instead of the word "disability," we use the word "inability." And I can give some historical evidence to that.

CHAIRMAN MILLARD: Is that offered as an amendment?

MR. FAXON: Yes.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 8, after "until the" by striking out "disability" and inserting "inability".

CHAIRMAN MILLARD: All in favor of the Faxon amendment will say aye. Opposed, no.

The amendment is not adopted.

MR. FAXON: Mr. Chairman, I wanted a chance to explain this a little further.

CHAIRMAN MILLARD: Are you asking for a division?

MR. FAXON: Well, yes.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is a sufficient number up.

MR. LEIBRAND: Will you read the amendment, Mr. Chairman.

SECRETARY CHASE: Mr. Faxon has offered the following amendment:

1. Amend page 1, line 8, after "until the" by striking out "disability" and inserting "inability".

CHAIRMAN MILLARD: All those in favor of the Faxon amendment will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon, the yeas are 42; the nays are 48.

CHAIRMAN MILLARD: The amendment is not adopted.

MR. KING: Mr. Chairman, I should point out something that was brought to my attention which I had not been aware of. Mr. Kirk points out that the word "disability" in line 8 probably refers to, in line 6, not only "inability," but also in lines 6 and 7 "absence from the state," so for that reason I think there is good reason for leaving the word "disability" in.

CHAIRMAN MILLARD: Well, it's in.

MR. KING: I know it is. I merely wanted to set at ease the mind of my friend, Mr. Faxon.

CHAIRMAN MILLARD: That has been passed on. The secretary will read.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 12, after "by a" by inserting "2/3"; so the language will now read, "The inability of the governor shall be determined by a 2/3 majority of the supreme court when such determination is requested. . . ."

CHAIRMAN MILLARD: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, I was not completely aware of the fact that we were going to hit this section this morning, and you will have to forgive me if I'm a little bit spotty in my presentation, because I had hoped to have an opportunity to have reviewed my material on this a little better. But, essentially, we do provide in the constitution for 2/3 to remove judges, and this really doesn't represent anything more than just one more vote, but it is an unusual occurrence where you do remove a governor. It's something where there should be considerable thought. And I'm sure that would be given, but at the same time, since we do have a 2/3 majority provided in the case of removal of judges, I don't think that in the case of the governor there ought to be a distinction made.

I appreciate Delegate King's remarks regarding the question on the federal level. Really, this problem of the inability or the disability of the president to discharge his office has created a series of problems, starting with the death in 1841 of President Harrison, in the succession of Tyler and following on to the other 6 vice presidents that succeeded. There has been a problem as to what this means when we deal with the problems of inability or disability; and I think we have seen what happened where there was a lingering death of the president before Teddy Roosevelt succeeded, and there was of course the famous Evett case which occurred in 1920 with President Wilson.

I think we should understand that this is fertile ground. Where we spell this out in the constitution, we are really dealing with something that hasn't been spelled out before. As the section dealing with this originally came out by agreement of the convention in 1787 it said, "In the case of his removal, death, absence, resignation or inability to discharge the powers and duties of his office, the vice president shall exercise those powers;" and then they changed it a little bit. But the idea is that this was never really spelled out as to who was going to determine the inability or disability. As a result, where there has been a lingering illness or where there has been a stroke or where the president has been incapacitated or unable to perform the duties of office, as long as the president remained alive he was still able to maintain, in name at least, the office itself.

Now, the reason for inserting the 2/3 here is because this is consistent with other removal powers, because it is unusual; and then we ought to remember also that this is a new item, this is not an area where we have any real substantial precedent to go by in the removal of a governor. And this is a rare occasion. But, yet, when these occasions occur there is need for a clear and concise way of handling them. It's for this reason that I feel that a 2/3 here, even though it represents just another vote, should be consistent with other parts of the constitution, and we should treat this whole idea of removing the governor as something which is an unusual occurrence and does require more considered deliberation.

So these are some of the reasons. I would be able to give some more, but I don't want to take too much time on this question. It simply raises the number and keeps it consistent with other removal powers; 2/3 has been the traditional number that we have used, and I would hope that the delegates here would see fit to be consistent on this point.

CHAIRMAN MILLARD: The Chair will recognize Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I don't think that Mr. Faxon's amendment is necessary. I'm not concerned about abuse of this power, especially in view of 3 things: 1, it requires the petition of the president pro tem of the senate; 2, it requires the petition, jointly with the president pro tem of the senate, of the speaker of the house; and 3, under this proposed constitution as of right now, it calls for the election of the lieutenant governor and the governor on the same ticket of the same political party. So I don't really think this will be subject to political abuse.

On the other hand, I have no strong objection to the Faxon amendment, and I would be happy, and I think the members of the subcommittee and the committee would be happy, to leave this matter up to the committee of the whole. Whatever in their good judgment they decide we ought to insert here is certainly all right with us.

CHAIRMAN MILLARD: The question is on the Faxon amendment. The secretary will read it so we will all know what it is.

SECRETARY CHASE: Mr. Faxon's present amendment is:

[The amendment was again read by the secretary. For text, see above, page 1956.]

CHAIRMAN MILLARD: The question is on the Faxon amendment. All those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 15, after "when rendered,", by inserting "be in writing and shall contain a statement of the facts and reasons for such determination,"; so that that sentence will read:

> Such determination shall, when rendered, be in writing and shall contain a statement of the facts and reasons for such determination, be final and conclusive and the supreme court shall upon its own initiative determine if and when such inability shall cease.

CHAIRMAN MILLARD: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, this insertion here is consistent with the language we adopted with regard to the decisions of the supreme court. We made the same statement that where they give a decision, it should be in writing. Now, this is not, in a sense, a decision; it is a determination. And to be perfectly clear on this and to be consistent, the same procedure ought to be followed. That is, where the supreme court makes a determination, then such a determination should be in writing, and should contain a statement of the facts and reasons for such determination.

I realize that there are some delegates here who feel that this shouldn't be so discussed and that we don't have time for it, but this is something new. This whole little section is a new item, and it is something which has not really been carried forth in the past with any clarity. There has been much litigation over it. And so the insertion of this is simply a protection. We have 3 separate branches of government, and we've got to maintain these distinctions and maintain these checks and balances and these powers. And where we are putting in something new, we ought to provide safeguards that these powers, where they are now given, should not be abused.

Now, up until this time the supreme court has had nothing to do with the determination of the inability of the governor. And this is true on the federal level, too; the supreme court is not brought into it. This is the first time that we are bringing the supreme court into this determination, and where we are giving the supreme court this check upon the executive branch we ought to be very clear in spelling out exactly how they are going to make these determinations. For this reason I think we ought to support this and give it consideration, because this is something new. We can't go back to any precedent here. There has been no occasion in the past where the supreme court in this state has had this power. And where we are giving it to it, we ought to spell it out a little more clearly and keep it in line with the other supreme court decisions. Therefore, I would urge that you look at this and realize that this is a new area, this is something that we ought to be a little clear and a little cautious about, where we are granting this new authority to the supreme court with regard to the discharging of the office of governor.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I do not seriously object to this amendment. I would be concerned about the possibility of seriously harming the reputation of the governor in the event the supreme court should find it necessary to go into a lot of detail about his mental capacity. This probably would not arise, but in Louisiana I think there was some question about the late Governor Long's mental capacity. I certainly don't object to the principle of the thing. I just would hope that the supreme court would not find it necessary to seriously damage the reputation of the governor and his family for many years to come. I would yield to Mr. Faxon at this point to see if he would comment on that aspect of it.

CHAIRMAN MILLARD: Are you asking Mr. Faxon a question?

MR. KING: Yes. Has he is considered this possibility?

CHAIRMAN MILLARD: Mr. Faxon, do you care to answer?

MR. FAXON: Mr. King, the amendment leaves out the word "detailed" for that very reason. But I do believe the people of the state ought to know the facts necessary for the decision that would be involving the removal of a governor, and so the word "detailed" is left out. It simply says that there shall be a statement of the facts, with the reasons for the determination, not to bring any embarrassment to anyone; but the people who have elected a governor ought to know why the governor is being removed.

Now, I don't know that this is necessarily going to really occur, and sometimes we discuss things where there is only a probability. But where we are vesting in the supreme court the power to remove an elected governor, which is a very important and all inclusive office, then at least we ought to be able to know the reasons for such removal. Anything could happen as far as who will sit here and who will sit there. And I think that we need a protection, and this doesn't say "detailed." This says "a statement of the facts," because there has to be some reason for removal, and this simply requires that the reason be given. We have to do this to protect the people, to protect the governor, and to maintain our separate system of balances here.

Now I would yield to Mr. King for any further comments, but I did leave out the word "detailed" for the very reason he has brought forth.

CHAIRMAN MILLARD: Mr. King, any further questions?

MR. KING: No further questions.

CHAIRMAN MILLARD: Do you have any comments?

MR. KING: As in the other situation, I will leave this to the good judgment of the committee of the whole, and I will yield to Mr. Martin.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. King has stated the view of the committee, I think, accurately. I think that we could go even a little further and say that this was the intention of the committee; that it was expected that an opinion would be in writing, and there would be a statement of facts and reasons. So I think there is no objection, and this is perhaps an improvement on our proposal.

CHAIRMAN MILLARD: The question is on the Faxon amendment. The secretary will read.

SECRETARY CHASE: Mr. Faxon's amendment is,

[The amendment was again read by the secretary. For text, see above, page 1957.]

CHAIRMAN MILLARD: The question is on the Faxon amendment. All those in favor will say aye. Opposed, no. The Chair is in doubt. All those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon, the yeas are 46; the nays are 49.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. Mahinske and Marshall offer the following amendment:

1. Amend page 1, line 12, by striking out all of paragraph 2, lines 12 through 17.

CHAIRMAN MILLARD: The Chair recognizes a proponent of the amendment, the delegate from Detroit, Mr. Mahinske.

MR. MAHINSKE: Mr. Marshall and I put this amendment in primarily because we are hitting new ground here. There have been no concrete examples of why we should have this in the state of Michigan. There has only been allusions as to why this would be desirable on the federal level. I submit that these are not new reasons why this would be desirable on the federal level; this has been talked about close to 200 years now and nothing has ever been done about it.

Further, I think we are hitting a dangerous area here where we can have the supreme court, which is primarily a court of review, acting as a court of inquisition in this proposition here. The supreme court is not made up of psychiatrists and I think that this is basically what we are talking about — a mental inability on the part of the governor. The supreme court would have to call in outside people and actually follow their determination. And I don't think that this is desirable for the further reason that in the second sentence the supreme court does not have to raise this inability of the governor until they see fit to do so. They are not compelled to raise the inability that they have placed on the governor even if these outside sources inform them that this inability has been removed.

Also, I think we have found out, by the experience in Louisiana with Earl Long, that this is near impossible to do to begin with. Who is going to arrest the governor? Who is going to detain him until he can be examined? Who is going to restrain him from exercising his office, and so forth? Short of impeachment you just can't do it. I think that we are asking for a dangerous potential thing here, and I don't think that this would really ever be able to be put into operation.

For these reasons, and for many other reasons, such as separation of the division of powers, and so forth, I would be opposed to putting this provision in the constitution as it is now written, and I can't conceive of any way that you could write this to make it operative. You have the basic problems of how you are going to detain the governor. Obviously, some determination has to be made before the supreme court even has this before them, properly or improperly. So what you are calling for here is the president pro tem of the senate and the speaker of the house, 2 laymen — not psychiatrists, not doctors of any type — who are the sole movers, the prime movers, in this area here; then we have 9 other legal people taking over.

Frankly, I just think that this would turn into a circus if it were ever attempted to be put into operation, and I don't think we have ever had the experience in our past where this would have been brought into play, and I fail to see or I can't conceive of a situation in the future where we would have this. For these reasons, I would move the striking of the entire second paragraph in Committee Proposal 59.

CHAIRMAN MILLARD: Does the other proponent, Mr. Marshall, desire to be heard?

MR. MARSHALL: Mr. Chairman and fellow delegates, I think Delegate Mahinske covered the amendment rather well. I would point out that there has been no occasion in past history that I know of, nor has anyone pointed out where it was necessary to have this type of language.

This is one of the reasons that we are behind in schedule and are now adopting night sessions and speedups. Because all throughout the convention we have been putting new language in, changing provisions, where there was no real reason to change them, or no suggestions that they be changed. We just feel that this is an unnecessary provision, and there is no past history of its necessity. Delegate Mahinske pointed out the problem in Louisiana when they tried to remove Governor Earl Long, and they sent the troopers down to pick him up. I don't have to tell you what he told the troopers. I can't tell you here in the convention. But they never succeeded there, and I think we know the condition he was in. I just think it is language that is unnecessary in the constitution, and Delegate Mahinske explained it rather well.

CHAIRMAN MILLARD: The proponents of the amendment then yield the floor?

MR. MARSHALL: Yes.

CHAIRMAN MILLARD: The Chair recognizes Delegate King.

MR. KING: Mr. Chairman, fellow delegates, I never anticipated that the Long case would be used as an argument against the inclusion of this sort of language. We have, it's true, been fortunate in Michigan that this problem has not arisen. In many other states it has arisen and, as I pointed out, it has become a problem at the federal level. I could go into detail as to when and where and how the problem has arisen, and would be glad to do so if that's the desire of the committee. I have an unpublished manuscript, to be published by a University of Michigan professor. Dr. McHargue brought this to my attention, and I'm sorry I'm not able to give the name of the professor who wrote it. I asked Dr. Pollock, and he is unable to help me out in this area. But this is not opinion; these are facts. So I'm sure any historian can justify and confirm these to be true cases.

First of all, at the presidential level, presidential disability crises of serious proportions have arisen in 3 different administrations. The first of these was brought about by the assassination of President Garfield in 1881. After being shot on July 2, he lingered in a more or less critical and incapacitated condition until his death on September 20, some 80 days later. The congress was not in session at the time, but his inability came at a critical time when his new administration was just getting underway. The second crisis occurred during the last year and a half of President Wilson's second administration. Wilson collapsed on September 26, 1919, while in the midst of a cross country tour to carry his fight for ratification of the Versailles treaty to the people. Shortly thereafter, on October 2, he suffered a stroke which completely incapacitated him for several weeks. He eventually made a partial recovery, but did not resume meetings with his cabinet until April 13, 1920, and never regained his full vigor during the remainder of his term. A third disability crisis, or series of crises — and this, of course, is more closely related to our own personal recollections — came during President Eisenhower's tenure. On September 24, 1955, over a year before the end of his first term, he suffered what his physicians described as a moderate coronary thrombosis while vacationing in Colorado. His recovery from this attack came gradually, and after some 20 weeks of convalescence, part time activity and physical checkups, he was pronounced fully recovered. In February of 1956 he announced his willingness to be a candidate for the presidency again; but in June of that year he was forced to undergo a serious abdominal operation for ileitis. His recovery from this illness was sufficiently rapid to permit him to accept his party's renomination in August and he went on to win reelection by a large majority. Again, in November of 1957, he was temporarily incapacitated by a minor cerebral hemorrhage, but he was able to attend a conference of NATO heads of government in Paris some 2 weeks after his seizure.

In none of these cases of presidential inability did the vice president concerned actually move to assume the powers and duties of the presidential office. Doubts regarding the location of authority to decide the question of the president's incapacity, as well as uncertainty regarding the effect of a vice president's assumption of presidential powers upon the status of the disabled president and his right to resume those powers after his recovery, proved to be insurmountable barriers to action. And on it goes. I don't want to belabor the point. But there have been, of course, as we can all recall and recognize, serious questions at the federal level. Now, this problem also has arisen in a number of the states, and I could go through, state by state, and point out the problems.

One of the reasons why we are here, it seems to me, writing a constitution, is to improve upon the present document. Now, Delegate Marshall indicates that this is not something we should be trying to do. I could not disagree more strongly with that contention. I think here the committee has provided an adequate and proper solution to an extremely difficult problem which has plagued many, many states, and the good fortune of Michigan to not be included in those many, many states is hardly sufficient reason for not anticipating a very, very likely possibility, something which could cripple our state administration at any time. Incapacity can strike any of us. If the governor dies, then there's no problem; we know what happens, and it's very clear. But if his mental or physical capacity is curtailed to the extent that he cannot perform the functions of the office in a manner prescribed by law, then a great problem arises as to who does perform those functions, if indeed they are to be performed at all. We feel that our solution to this problem is forthright, and we feel that it is an adequate solution to a previously unsolved problem.

Now, Tennessee does have a constitutional provision, but it does not provide nearly the safeguards that we have written into this one. The determination is made by the supreme court there upon petition of the secretary of state, who oddly enough is next in line of succession, or is very close to being next in line of succession. I can't remember; there may be a lieutenant governor between him and the governor. This we felt had serious disadvantages. We have provided that the heads of both houses of the legislature jointly present the problem to the supreme court, and I think we all recognize that the supreme court would have no reason and is not likely to abuse this rather significant power. So, based on that, I very strongly oppose the Mahinske-Marshall amendment to strike out what I consider to be an excellent provision which this committee has seen fit to put into the section.

CHAIRMAN MILLARD: Mr. Mahinske.

MR. MAHINSKE: I would like to admit that all the statements that Mr. King has made on the federal level are true, but at the same time point out that nothing serious has ever been attempted or even suggested as to the remedy of this situation. Now, we have our own remedies right here, in the first paragraph of section a. In the event that there is inability to act, the lieutenant governor shall take over. And when we go back to Committee Proposal 60, in the event that the lieutenant governor takes over and in the event there is an inability on the part of the lieutenant governor, then we have a long line of people who shall act here. This is an automatic thing. This is self executing.

Now I would like to bring out a point that I didn't feel had to be brought out before, but which I will bring out now. Under this proposal I'm at a loss to determine just what is the line of succession if the supreme court shall act. Does this cut off the line of succession at lieutenant governor, or will it still be an automatic, self executing thing in the event that the lieutenant governor acquires one of these inabilities or disabilities, or just when would this come into play?

CHAIRMAN MILLARD: Is this a question, Mr. Mahinske?

MR. MAHINSKE: I direct the question, through the Chair, to Mr. King.

CHAIRMAN MILLARD: If Mr. King cares to answer.

MR. KING: Mr. Chairman, it seems clear that this does not cut off the line of succession. Certainly, if anything happened to the lieutenant governor, the same procedures would be followed right through.

MR. MAHINSKE: Well, then, I would submit that under the other existing sections that we have already adopted, frankly this thing becomes less and less necessary. We have a lieutenant governor who shall take over, and a long line of people who will take over after the lieutenant governor as each of these people become unable to act or disabled to act; and then when the governor is able to act again he shall automatically, without any determination on the part of the supreme court or any other body, assume the powers of his office again.

Now, if this provision ever came into play, the governor, even though he would have all kinds of outside testimony, medical and otherwise, as to his ability to act and assume the powers of his office, could not assume the powers of his office until the supreme court had acted. And in this case we would have — at least, medically speaking — a governor in the state who could act and assume his office and powers, but who could not do this because of the inaction or just plain outright lack of movement on the part of the supreme court itself.

I think that we have many other safeguards in Committee Proposals 59 and 60 that take care of this situation that you are talking about, and these are automatic safeguards that come into action as they are needed, and they are at the same time set aside as the inabilities are removed, without any action from a body outside of the executive department itself.

CHAIRMAN MILLARD: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman, I didn't want to take the floor away from Mr. King. What Mr. Mahinske has just said seems to skirt around the real question: who is to determine whether the governor is disqualified and whether the lieutenant governor's actions, if he stepped in, would be justified or legal? And all the way down the line the very core of the difficulty is the lack of some authority to pass upon the question of when it's proper for the lieutenant governor to step into the governor's shoes, or for the next in line to step into the lieutenant governor's shoes.

CHAIRMAN MILLARD: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman, in answer to what Mr. Mahinske has said, I think we should understand that where this has occurred in the past, the idea that the vice president, let's say, would step in and assume the office of president never did occur. This is the very reason we have the problem. Because there was a hesitancy to act in the face of the fact that the president was still alive. Now, whether that condition of being alive was a condition of being a responsible or responsive person is something else.

I think that this is a necessary thing to put in, because what this leaves and what you get is where you have a governor who becomes incapacitated, let's say he is unconscious, in a coma, who is then to make the decisions for the executive office? Well, in the past, where the president has assumed the office and has become ill, there has been some coterie around the president, or there could be some coterie around the governor, people we can't even identify, people who may not even be elected, who say, "The governor is still alive, you can see him, but the decisions will be coming out of the governor's office." We don't know where the responsibility is.

Now, it's necessary for someone to make this judgment, and then the lieutenant governor might assume the powers and duties of the office. It is still the governor's office. He is still the lieutenant governor. But he may assume the powers and duties until such disability ceases, and this determination has to be made by someone who is not inextricably involved in the executive office. I think the idea of a petition for a determination by the president pro tempore of the senate and the speaker of the house, and then the decision by a majority of the supreme court — and of course I prefer to see a definite majority of the court and a definite statement of reasons — is a valid one. We want to maintain an effective check, and we want to maintain an effective governor or acting governor, and we have to be able to know whether this person is able to function or not to function; and if not, then the duties fall upon the lieutenant governor; and if the governor is able to go on, then he goes on.

I can't go along with the idea that this has worked out well. It hasn't worked out well. It has created nothing but confusion over the past 150 years. The people who framed the constitution themselves weren't able to figure this one out. I think we have something here which is new, but at the same time does offer some sort of a check where there hasn't been any in the past. So I want to support the committee proposal, hoping that my later amendments might be secured, because they did make it a little more qualifying.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, Mr. Faxon and Judge Dehnke have presented very well the arguments that I would have presented. There are many ways to transfer executive power. If you read the headlines in this morning's paper, you will find out how they do it in South America. What we are providing for is an orderly transfer by means of law. I don't see how anybody could object to it. I hope this amendment by Messrs. Marshall and Mahinske will be defeated.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Adrian, Mr. Durst.

MR. DURST: Mr. Chairman, members of the committee, I wish to subscribe completely to the very excellent observation of Judge Dehnke and most of what Delegate Faxon has said. I would just like to add this one comment. Mr. Marshall and Mr. Mahinske have both pointed out to us in detail that we have never had the problem in Michigan, so we don't have to worry about it. But we should realize that we are increasing our exposure approximately double. We are increasing our terms to 4 years; and as Delegate Hutchinson, I think, pointed out some time ago, the longest term for any governor of this state, prior to Governor Williams, was 6 years for Governor Groesbeck. It appears quite likely at this time that if we keep this provision, many governors will serve at least 8 years in this state, thus making the time in office much longer than it has been in the past. I think the proposal is a good one.

CHAIRMAN MILLARD: Mr. Mahinske.

MR. MAHINSKE: In closing, I would just like to repeat, simply, that I feel this is surplus; that we have the other provisions of section a and all the provisions of Committee Proposal 60 that cover this area. I think that we are adopting a cumbersome method here. There is some question, and I think serious question, as to just when this would come into play. For these reasons I would propose that we strike paragraph 2 of the committee proposal.

CHAIRMAN MILLARD: The question is on the Mahinske amendment. The secretary will read, so we'll know what it is.

SECRETARY CHASE: The amendment offered by Messrs. Mahinske and Marshall is:

[The amendment was again read by the secretary. For text, see above, page 1958.]

CHAIRMAN MILLARD: The question is on the Mahinske amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: There are no further amendments on the desk, Mr. Chairman.

CHAIRMAN MILLARD: All right. If there are no further amendments, the Chair will recognize the delegate from Fennville, Mr. Hutchinson, on the committee proposal, section a.

MR. HUTCHINSON: Mr. Chairman, I simply want to ask a question for the guidance of the committee on style and drafting. I refer to the third paragraph of the proposal, which I take to be the language of the present constitution. "In case of the death of the governor elect," the present language says, ". . . the powers and duties of the office shall devolve upon the lieutenant governor elect on the commencement of his term of office." Would there be objection if the style and drafting committee should say that the lieutenant governor elect shall become governor upon the commencement of his term of office? I understand that there is some nice distinction between the powers and duties devolving and the office itself being vested. I think that when you don't have a governor at all, due to the death of the governor, that regardless of what has been in the past, we should make sure that the lieutenant governor at that time would become governor.

My other question — and I point these questions to Mr. King or to Mr. Martin, simply to get a reaction, I think, to anything that we might suggest up in style and drafting — is with regard to this taking and subscribing to the constitutional oath of office. If we should have it read, "In case of the death of the governor elect before entering upon the duties of his office," would we not cover every instance? And doesn't this "taking and subscribing to the constitutional oath of office" language unnecessarily encumber the thought there?

CHAIRMAN MILLARD: Are you directing a question, Mr. Hutchinson?

MR. HUTCHINSON: I am directing a question, Mr. Chairman, if they care to respond, either to Mr. King or Mr. Martin.

CHAIRMAN MILLARD: Which one do you want?

MR. HUTCHINSON: Well, I would ask Mr. King.

CHAIRMAN MILLARD: Mr. King, do you care to answer?

MR. KING: Mr. Chairman and fellow delegates, Senator Hutchinson, I would not object to this change. I think it is a proper function of the committee on style and drafting. I think much is to be said for unencumbering the language of the constitution with some of these phrases. I would at this point yield to Mr. Martin for further reply, if he might care to do so.

CHAIRMAN MILLARD: Do you want Mr. Martin to reply?

MR. HUTCHINSON: Yes.

CHAIRMAN MILLARD: All right.

MR. MARTIN: Mr. Chairman and Mr. Hutchinson, I think Mr. Hutchinson has raised a point which is of some importance. I think the feeling of the committee is that where the office of governor is filled by the lieutenant governor or other person in line of succession by reason of the fact that the governor is out of the picture completely and totally — that is, he is dead, he has resigned, or he has been removed from office — that there he should be viewed as not just simply acting as governor, but that he then becomes governor. I think this is the philosophy behind our thinking. So that if style and drafting wishes to take that into account, the committee would not object.

CHAIRMAN MILLARD: The Chair recognizes Mr. Mahinske.

MR. MAHINSKE: I'm not sure, but was the direction of Mr. Hutchinson by Mr. Martin that they could make this change, deleting the phrase "the powers and duties of the office" in paragraph 3?

CHAIRMAN MILLARD: Are you asking a question?

MR. MAHINSKE: Yes.

CHAIRMAN MILLARD: From whom?

MR. MAHINSKE: For the Chair. Was it Mr. Martin's statement that style and drafting could change this phrase in paragraph 3 which recites "powers and duties of the office" to connote the thought that the lieutenant governor would become governor in the event of death?

CHAIRMAN MILLARD: Mr. Martin, do you care to answer that?

MR. MARTIN: Mr. Chairman, I don't think I really answered that question.

MR. MAHINSKE: Perhaps I could clear this up. I appeared in front of the executive committee on a delegate proposal that stated just exactly that; that I didn't think that the powers and duties of the office of governor made a person the governor himself, because of some events that happened during the time that the governor died in 1939, when the lieutenant governor became governor — so called, at least. Now, it is my thought that there is a difference between being the governor or assuming the office of the governor or assuming the powers and duties of the office, and I was wondering if this would be a substantive change that style and drafting could take into consideration, or whether Mr. Martin had directed them that they could do this.

CHAIRMAN MILLARD: Mr. Martin, do you want to answer that?

MR. MARTIN: Mr. Chairman, I think the point Mr. Hutchinson has raised is a valid one, and I don't think that the committee will object if that is modified to follow the thinking which he expressed.

CHAIRMAN MILLARD: The Chair thinks Mr. Mahinske's question to you, Mr. Martin, is whether it should be done by amendment or whether you should leave it up to style and drafting.

MR. MARTIN: I don't think that we would regard it as a substantive change, or at least we would not object to it.

CHAIRMAN MILLARD: Does that answer your question?

MR. MAHINSKE: That answers my question.

CHAIRMAN MILLARD: Are there any further amendments, Mr. Secretary?

SECRETARY CHASE: There are none on the desk, Mr. Chairman.

CHAIRMAN MILLARD: If there are no further amendments — Mr. Hoxie, do you want to be heard?

MR. HOXIE: I have an amendment I would like to have read.

SECRETARY CHASE: Mr. Hoxie offers the following amendment:

1. Amend page 1, by striking out all of line 14 and "representatives.", in line 15 and inserting "adoption of a joint resolution by a majority vote of the legislature."; so that the language will then read, ". . . when such determination is requested by the adoption of a joint resolution by a majority vote of the legislature."

CHAIRMAN MILLARD: The Chair recognizes the gentleman from St. Louis, Delegate Hoxie.

MR. HOXIE: Would you read that again, please, Mr. Chase?

SECRETARY CHASE: I believe that the amendment is to strike out line 14 and the word "representatives" in line 15, and insert in lieu thereof "adoption of a joint resolution by a majority vote of the legislature."

MR. HOXIE: Will you read it now as it would read with the amendment?

SECRETARY CHASE: So that the language will then read:

> The inability of the governor shall be determined by a majority of the supreme court when such determination is requested by the adoption of a joint resolution by a majority vote of the legislature.

MR. HOXIE: I think it is self evident what this proposed amendment would do. I seriously feel we would be making a mistake to leave it completely in the hands of 2 individuals, the president pro tem of the senate and the speaker of the house, to make such a request of the supreme court. I think it would be much wiser to provide that any action of this kind taken against the chief executive of the state should be by a majority vote of the legislature. I submit that for your consideration.

CHAIRMAN MILLARD: Mr. Mahinske.

MR. MAHINSKE: Frankly, this would answer just about all of the objections I had to this paragraph. My main objection was that we were lodging this power within the discretion of 2 people, the president pro tem of the senate and the speaker of the house. Now I think that we are offered a provision here that will at least guarantee that there will be some type of deliberative action taken before a step like this will be arrived at, or even before the supreme court will be requested to act in this case. I think that this is the least we can do — to make sure that there is some type of deliberative action taken before this machinery is put into motion. I would be in favor of the amendment.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I would be opposed to this amendment. At first blush this appears as though it were an additional safeguard. But I think, if you will think about it, you will realize that this is a possible way of injecting political questions right back into the issue. Now the speaker of the house and the president pro tem of the senate, when they are faced with this grave responsibility, I think, will realize the gravity of the responsibility and will act with a great degree of statesmanship. I'm confident of that. But if, all of a sudden, the governor incurs the displeasure of the legislature, which can happen when the majority of the legislature are of the opposite party to the governor, it may be very easy to find yourself one vote or one voice of many, moving along with the crowd, in an obvious attempt to perhaps embarrass the governor.

I don't view this as a safeguard at all. I think that it is far better to put this responsibility upon 2 individuals, one in each house of our legislature, who have been elected by their members as being people of leadership qualifications and who feel the full weight of this awesome responsibility individually. I think this is the way it ought to be. I don't at all view this as an additional safeguard. I view it as a possible way — and I'm sure it wasn't intended so by the sponsors or the supporters — of injecting political questions into this area.

Perhaps we might question the mental capacity of the governor at times in a joking manner of speaking, and perhaps in the heat of partisan battle it would be possible to get a majority of the elected representatives of our state to go along with this. I hope not. But conceivably it could happen. I think it is far better to pinpoint this responsibility right upon these 2 leaders and let them personally and singly assume and accept this grave responsibility. I think in that manner it would be subject to far less abuse. I therefore oppose the Hoxie amendment.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: I would like to ask Mr. Hoxie a question.

CHAIRMAN MILLARD: If Mr. Hoxie cares to answer.

MR. FAXON: Mr. Chairman, Mr. Hoxie, what happens if the legislature isn't in session and the governor can't perform the duty of calling the legislature into special session?

MR. HOXIE: Well, perhaps that would be something that would be necessary for consideration. However, I can conceive where, if the governor was incapacitated to that extent, perhaps the lieutenant governor, being next in line, might have that authority. But at least it would be some safeguard against this action being taken against the governor by 2 individuals. That is my primary objection.

The question is, of course, that it might delay it for a few months, because we all know that the legislature meets every year — in fact, they are only out of session for about 6 months from the termination of one session to the beginning of another, from sine die to the beginning of the next session. So there would be perhaps a little delay, but I think it would guarantee that any action taken by the legislature to remove the chief executive in another branch of our government would be some protection against 2 individuals who might have some other reasons, other than the fact that the governor might be really incapacitated to the extent that he should be removed.

MR. FAXON: Mr. Chairman and Mr. Hoxie, one more question. Would you not then feel that if this were going to be used — since in the case of judges we require 2/3 for a joint resolution — wouldn't it be advisable, under the circumstances, if you want to take it out of strictly political considerations, instead of requiring a majority, to require 2/3?

MR. HOXIE: Mr. Faxon, I think you would have plenty of safeguards with a majority vote of the legislature. I think they would consider this very seriously. I don't think you would get into party considerations. I don't think a resolution would ever be introduced unless the governor was in serious condition, either physically or mentally, where he couldn't perform his services. I don't think the legislature would ever take that action otherwise. I do feel that with the adoption of this amendment this particular section does have some merit. Without it I certainly cannot support this particular paragraph.

MR. FAXON: Mr. Chairman, Mr. Hoxie, is it your feeling that the lieutenant governor could call the legislature into special session in the event of the disability of the governor?

MR. HOXIE: That, Mr. Faxon, I imagine would depend upon the condition of the governor. If the governor were out of the state of Michigan, or perhaps was confined to a mental institution, for instance, in such a case as existed in another state, I think yes, he could call them into session.

MR. FAXON: That's all.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Grand Rapids, Mr. Tubbs.

MR. TUBBS: Mr. Chairman, Delegate Faxon has asked the question I intended to ask, but I have 2 footnotes to his suggestion. First, if the incapacitated governor did call the legislature into session and they responded, would they not be admitting that he was not incapacitated? Second, if there was claim that the governor was incapacitated, would he be apt to call the legislature into session?

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, this is a problem, as you can see, that is a very troublesome one; and the committee considered these very questions which we are considering now. The committee reached its conclusion to propose it in this way because we felt that if the initiation of the matter were to require a joint resolution of the legislature, you would never get any action at all. Because this would involve, in effect, a sort of trial or hearing before the legislature before you could get any intelligent action from them and if you were going to do that, you would be going through all the same motions, only with a completely cumbersome body of 140 people, which you are trying to go through with the supreme court in getting it to make a determination.

We felt there should be some point of initiation of this question, and that it shouldn't be in the executive branch, and that it couldn't be in the court which was going to hear the matter, and therefore we placed it in these 2 leaders of the house and senate who are both elected leaders, and then in turn elected by their own members. Obviously they are not going to take such an action without consultation with their fellows. But we didn't want to make it necessary to have a formal vote of the body, because that would necessitate the very thing that we want to avoid; what we want is some expeditious way of getting the matter considered by a body such as the supreme court. For this reason I oppose Mr. Hoxie's amendment. The purpose is good, but the result, I'm sure, would be to vitiate the objective that we are trying to achieve here.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, my angle on this is a little different than that of Mr. Martin. Mr. King's argument was certainly sound, but I don't think he has gone far enough. I don't always rush to the defense of a governor, but look what you do to a governor if you attempt this thing. You can't get this as a joint resolution — I take it that it would be a concurrent resolution — you can't get that through the legislature unless you have a debate. And in a debate you have to state facts, or alleged facts. Suppose there is no partisanship in it at all, no party action, but you go on that floor and for days perhaps you debate whether or not the governor is in his right mind, and you cite instances which you think show that he is not in his right mind, that he is disabled, that there's something wrong with him; and then your concurrent resolution fails, you don't get it through. What have you done to your governor? I think that's something that requires a little consideration. This doesn't want publicity. If there is something wrong with him, it ought to be determined with the least possible publicity, until you're sure that you're right and that he is not capable.

CHAIRMAN MILLARD: Mr. Mahinske.

MR. MAHINSKE: In answer to the arguments given by Delegates Brake and Martin, I would say that when a situation is so serious that you're going to have to call the house and senate and discuss this thing, you're going to have publicity whether you like it or not. Because, obviously, the governor is going to be so bad off that it is becoming apparent, and he is obviously refusing to step aside and let the lieutenant governor take over until such time as he determines himself that he can take over. Frankly, you are going to have the publicity whether you want it or not. And I don't think that rushing through this thing, with 2 men getting their heads together and making a decision without a trial and without a review, like Mr. Martin states, is the answer to this proposition.

I think we need these safeguards, and the additional safeguard of getting the house and senate together to deliberate on this thing. And if it is serious, I don't think they will debate for days and days. I think they will act fast and expediently and get the remedy started if—and only if—the majority of the representatives of the people decide that the remedy should be put into action.

CHAIRMAN MILLARD: Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I ask Mr. Chase to correct that amendment. Mr. Brake is correct. It should be "concurrent" instead of "joint."

But I would like to call attention to this. On the argument of whether or not there would be undue publicity which would in any way embarrass the governor as a result of such concurrent resolution, I would like to state this. If at any time the 2 individuals named should make such a request of the supreme court, don't think you aren't going to have plenty of publicity, without any reasons stated why this action is taken.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates I think both sides of the argument have been ably presented. It seems to me that this thing is subject to 2 definite abuses. One hypothetical situation is where the governor is of the same party as are the majority of the legislators. I think Mr. Martin touched upon that. In that case it may be politically expedient not to in any way embarrass the governor and to feel that we have our own people surrounding the governor and they will be able to act in his stead, and no one will ever know the difference. The other obvious situation is where the majority of the legislators are of the opposite party of the governor, where it may be politically expedient to try to embarrass the governor.

I think by putting this awesome responsibility upon 2 well recognized leaders of state government, that you prevent this sort of situation from arising, and that you thereby insure the safeguards that I'm sure each and every one of us feel are so vitally necessary in this kind of action.

CHAIRMAN MILLARD: The question is on the revised amendment of Mr. Hoxie. The secretary will read. It is not on the board, so you'd better read it.

SECRETARY CHASE: Mr. Hoxie's revised amendment reads as follows:

1. Amend page 1, by striking out all of line 14 and "representatives.", in line 15 and inserting "adoption of a concurrent resolution by a majority vote of the legislature."; so that the first sentence in the paragraph will read:

The inability of the governor shall be determined by a majority of the supreme court when such determination is requested by the adoption of a concurrent resolution by a majority vote of the legislature.

CHAIRMAN MILLARD: The question is on the Hoxie amendment. All those in favor will say aye. Opposed, no. The amendment is not adopted. Are there any further amendments to Committee Proposal 59?

SECRETARY CHASE: That's all the amendments on the desk, Mr. Chairman.

CHAIRMAN MILLARD: If there are no further amendments, it will pass.

Committee Proposal 59, as amended, is passed. The secretary will read.

SECRETARY CHASE: Item 13 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 60,** A proposal pertaining to succession to the governorship. Amends article VI, section 17.

Following is Committee Proposal 60 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. After the lieutenant governor the line of succession and order of precedence of state officers who shall act as governor, shall be [secretary of state, attorney general, state treasurer and auditor general] PRESIDENT PRO TEMPORE OF THE SENATE, SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THEREAFTER AS PROVIDED BY LAW. [and]

IF during a vacancy in the office of governor, [if] the lieutenant governor or any state officer or officers in this line of succession die, resign, be impeached AND CONVICTED THEREON, displaced, be incapable of performing the duties of office or be absent from the state, leaving no state officer prior in the line of succession to fill the office of governor, the state officer next in line of succession shall act as governor during the residue of his term or until the absence or disability giving rise to the succession ceases.

In case of the death of the lieutenant governor elect or any state officer or officer elect in this line of succession before taking and subscribing to the constitutional oath of office, or before entering upon the duties of office, leaving no state officer elect prior in line of succession to fill the office of governor, the powers and duties of the office of governor shall devolve upon the state officer elect next in line on the commencement of his term of office.

Mr. Martin, chairman of the committee on executive branch, submits the following reasons in support of Committee Proposal 60:

The only major change made by the committee in this section is to provide that the line of succession and order of precedence after the lieutenant governor shall be "PRESIDENT PRO TEMPORE OF THE SENATE, SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THEREAFTER AS PROVIDED BY LAW." This change was made to conform with the decision of the committee on executive branch to appoint all presently elected state officers except the governor and lieutenant governor and to conform with the desire that, to the extent possible, those in line of succession should be elected officials.

In the second paragraph of section a after the word "impeached," the committee added the words, "AND CONVICTED THEREON," to be consistent with and for the reasons given in the report concerning Committee Proposal 59.

No other change in this section was thought to be necessary or desirable.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

[Paragraph 1 of section a was read by the secretary. For text, see above.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, I will yield the floor to Mr. King to explain the details of this proposal.

CHAIRMAN MILLARD: The Chair will recognize Mr. King.

MR. KING: Mr. Chairman, I suggest that we act upon the first paragraph. There is a committee amendment which reflects the changes made by the committee of the whole in other proposals, specifically, Committee Proposal 71 of the committee on executive branch, and I would ask that the secretary now read that committee amendment.

CHAIRMAN MILLARD: Do I understand that we are taking this proposal up by paragraph?

MR. KING: That would be my preference.

CHAIRMAN MILLARD: If there is no objection, we will take it up by paragraph. Is there an amendment to the first paragraph?

SECRETARY CHASE: Mr. King, on behalf of the committee on executive branch, offers the following amendment:

1. Amend page 1, line 7, by reinserting "secretary of state, attorney general,"; and in line 9, after "law.", by inserting "For the purpose of this paragraph, the senate and house of representatives shall be deemed to be continuing bodies and the president pro tempore and speaker, respectively, to continue in office until a successor shall have been elected in either case.".

CHAIRMAN MILLARD: The Chair recognizes Mr. King, speaking to the committee amendment.

MR. KING: Mr. Chairman, fellow delegates, as you know, contrary to the proposal submitted by the committee on executive branch, we have decided that we will continue to have an elected secretary of state and an elected attorney general. Inasmuch as these 2 state officers are directly elected by the people of the state of Michigan, it seems to follow that they ought to be in the line of succession immediately behind the lieutenant governor. This is the way the present constitution reads. The second part of the amendment merely provides for a continuity of the offices of speaker of the house and president pro tem of the senate so that at no time will we be without these additional 2 state offices in line of succession in the event that we ever need to continue down the line of succession to that point.

CHAIRMAN MILLARD: The question is on the adoption of the committee amendment to paragraph 1 of Committee Proposal 60. Mr. Mahinske.

MR. MAHINSKE: Can we divide the question as to the additions, and so forth?

CHAIRMAN MILLARD: How do you want it divided?

MR. MAHINSKE: After you add the 2 elected administrative board officers.

SECRETARY CHASE: Mr. Mahinske requests that the amendment be divided so that the first consideration shall be:

1. Amend page 1, line 7, by reinserting "secretary of state, attorney general,".

CHAIRMAN MILLARD: Mr. Mahinske, do you wish to be recognized?

MR. MAHINSKE: No. I just wanted to request a division here.

CHAIRMAN MILLARD: The question then is upon the first part of the committee amendment. Do you all understand? Those in favor will say aye. Opposed, no.

The amendment is adopted. The second part of the amendment. Mr. Faxon.

MR. FAXON: Mr. Chairman, in the second part, are we voting upon the president pro tempore of the senate and the speaker of the house, in addition to this sentence?

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The second part of the amendment offered by Mr. King is:

1. Amend page 1, line 9, after "law.", by inserting "For the purpose of this paragraph, the senate and house of representatives shall be deemed to be continuing bodies and the president pro tempore and speaker, respectively, to continue in office until a successor shall have been elected in either case.".

CHAIRMAN MILLARD: The Chair recognizes Mr. Faxon.

MR. FAXON: Does this take care of the consideration that when the senate and the house are not in session, there's no speaker of the house or president pro tempore of the senate?

CHAIRMAN MILLARD: Are you directing a question to someone?

MR. FAXON: Yes, please.

CHAIRMAN MILLARD: To whom, please?

MR. FAXON: Mr. Martin.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. MARTIN: Mr. Chairman and Mr. Faxon, there is a speaker and a president pro tem as long as the body is in existence, I believe. But there can be a period at least when there might not be anybody in existence, the old body having expired at the end of the year and the new body not having met and elected a new president pro tem and speaker. For that reason we wanted to make sure that no question could arise but what one of these persons could be available. That is the sole purpose of this amendment, simply to make sure that the question can't be raised that there is no person of that kind or no office of that kind filled, you see. It's a very remote contingency, but we desired to take care of it.

MR. FAXON: Mr. Chairman, Mr. Martin, one other question. The 1908 constitution did not spell out the succession to include the speaker and the president pro tempore. Now, with the addition of 2 other officers, which are the secretary of state and attorney general, to the original committee proposal, do you think it is necessary to further spell out the line of succession, or do you think that you might be able to just say "or thereafter as provided by law," leaving the rest to the legislature to spell out?

MR. MARTIN: Mr. Chairman, Mr. Faxon, we thought that in these rather perilous times, when numbers of people might be snuffed out at once, that it was desirable to have some additional persons in the line of succession. And since these 2 persons are not only elected by the people, but elected by their fellows to the positions of responsibility which they hold, it was felt that it was desirable to include them in the line of succession, as I believe is done in the federal picture at the present time. In any event, we have provided that beyond that the legislature could provide by law as to who should succeed.

MR. FAXON: My only point, Mr. Chairman, was that under the original committee proposal they provided for the governor, lieutenant governor, and then president pro tempore and speaker of the house, and thereafter as provided by law, so they were taking care of 4. Now, with the amended committee proposal, it becomes governor, lieutenant governor, secretary of state and attorney general; so you still have 4 and your numbers aren't changing.

My only point here was that to go on beyond 4 may be a little presumptive, since we have already taken care of the first 4 in the line of succession to the office, and then we could just put "and thereafter as provided by law." That is what I had reference to.

CHAIRMAN MILLARD: Mr. Mahinske.

MR. MAHINSKE: Mr. Faxon has made the basic point that I wanted to make. In the original proposal we set up 4 alternates. Now, by adding secretary of state and attorney general, we still have 4. Frankly, I can't conceive of a situation where we would run through these 4 people and then have to go through the speaker of the house and president pro tempore, and then go on further to whoever shall be provided for by law. I would oppose the additional language considered herein, because I think we have all the safeguards and all the substitutes that we will ever need at any one time.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, my own position on this matter is that I think that a better solution to this would be for us not to adopt the language now before us, and that we strike from this proposal "president pro tempore of the senate" and "speaker of the house," and I will invite your attention to this further argument in behalf of this position.

While I note that you say only for the purposes of this paragraph the senate and the house shall be deemed to be continuing bodies and that the president pro tem and the speaker of the house shall be deemed to continue in office until a successor has been elected, I would like to suggest some complications that will arise with that language in the constitution. Let us suppose now that the speaker of the house doesn't run for reelection as a state representative. His term expires on December 31, but then you say that for the purposes of this particular paragraph he would be deemed to continue in office until the middle of January, the second Wednesday in January. Well, I suppose then that he could properly contend that he was still the speaker of the house, and was entitled to pay — for the first half of January, at least. All right; there is the first problem.

The next problem — and maybe this isn't of any great importance to the state of Michigan — but, nevertheless, the way the house of representatives organizes itself is that even when you've got a speaker who is expected to be reelected, he is not the speaker of the house of representatives when the house is originally called to order. The clerk of the house of representatives calls the house to order and acts as speaker until the speaker is elected. Under this arrangement, presumably, the house of representatives would find that a retiring speaker would show up on the scene to call the house to order and to organize the house. And maybe he is not even a representative in that term.

So I submit to you that this language here raises some unnecessary complications, and that we will be better off if we vote down this amendment and then support an amendment to strike out of the proposal reference to president pro tempore of the senate and speaker of the house of representatives.

CHAIRMAN MILLARD: The question is on the second part of the committee amendment. Mr. Marshall.

MR. MARSHALL: Mr. Chairman and delegates, Delegates Mahinske, Faxon and I have an amendment on the desk that would cover the remarks made by Senator Hutchinson, and we agree with Senator Hutchinson completely in the remarks that he made. Therefore, I would urge the defeat of the committee amendment at this time.

CHAIRMAN MILLARD: The question is on the committee amendment. Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I take no strong position in this matter. This language was suggested because of an obvious problem which could arise between the first of January and January 15, or thereabouts. I would point out that the old constitution did have 6 officers named in the line of succession, and it has been pointed out that the committee proposal only provided for 4 prior to this amendment. In all honesty, I would admit that there were members of the committee on executive branch who suspected that we might not have a completely appointed ad board, and we conducted ourselves accordingly.

I think that Mr. Martin makes an excellent point when he indicates that these are perilous times, and that perhaps a longer line of succession or an equally long line of succession makes good sense in this day and age, rather than a shorter line of succession being named in the constitution. Senator Hutchinson's remarks are well taken, but I don't think that they really raise that kind of a problem, specifically, because we provide in the amendment that this wording is only for the purposes of this paragraph. So it seems to me that the points he raises are not only remote, but not realistic, in addition.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Muskegon, Mr. Danhof.

MR. DANHOF: Mr. Chairman, members of the committee, I rise to support the remarks made by Vice President Hutchinson, with this observation. You will recall that at one time during the debate on the judicial article we had an amendment to allow the circuit judge to appoint the friend of the court and his court reporter. Now, you are freezing into the constitution, indirectly, 2 offices which are now provided by the rules of the legislative bodies.

When Mr. King states that there was a line of 6 in succession, this may be true, but they were all constitutional officers. Now we are providing for the 4 constitutional officers here. I am in complete sympathy that the line of succession should be the president pro tem and the speaker of the house; I agree with this, but I don't think we should freeze them into the constitution. What if they change their names? These 2 officers are not constitutional officers. They are provided either by the rules or the statutes, and they can be changed.

I think that we can have a succession statute that will follow the 4 that we have lined up. I think it best that we stick with the constitutional officers that we have provided to be elected, and then let the legislature handle it after the 4. And while I subscribe to the idea behind it, I think that it's best that we leave it to the 4 that we have set out, which Mr. King does by inserting the secretary of state and attorney general, as we have provided. Therefore, I would at this time feel constrained to support Senator Hutchinson in this regard.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman and fellow delegates, as I say, I have no strong position in favor of this language, but I would point out to the distinguished delegate from Muskegon that if he wishes to keep the names of the president pro tem of the senate and the speaker of the house of representatives out of the constitution, he arises one proposal too late.

CHAIRMAN MILLARD: The question is on the balance of the committee amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. Hutchinson, Danhof and Faxon offer the following amendment:

1. Amend page 1, line 8, by striking out "president pro tempore of the senate, speaker of the house of representatives"; so that the language will then read:

> After the lieutenant governor the line of succession and order of precedence of state officers who shall act as governor, shall be secretary of state, attorney general, and thereafter as provided by law.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, this amendment simply is offered at the end of the debate. We have already debated this matter.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, since the committee has not gone along with this amendment on the wall here, Mr. Hutchinson's amendment should be adopted.

CHAIRMAN MILLARD: The question is on the Hutchinson-Danhof — and Mr. Faxon wants to get in there, too — amendment. (laughter) All in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Sharpe offers the following —

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we are past 11:30; we need a little time for lunch. I move the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain committee proposals of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 59,** A proposal pertaining to vacancies in the office of governor. It reports this proposal back to the convention with one amendment, recommending the amendment be agreed to, and that the committee proposal as thus amended do pass.

Following is the amendment:

1. Amend page 1, line 16, after "own" by striking out "petition" and inserting "initiative"; so that the language will then read:

> Such determination shall, when rendered, be final and conclusive and the supreme court shall upon its own initiative determine if and when such inability shall cease.

PRESIDENT NISBET: The question is upon concurring in the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Mr. Faxon offers the following amendment to Committee Proposal 59:

1. Amend page 1, line 15, after "when rendered,", by inserting "be in writing and shall contain a statement of the facts and reasons for such determination,"; so that the language would then read:

> Such determination shall, when rendered, be in writing and shall contain a statement of the facts and reasons for such determination, be final and conclusive and the supreme court shall upon its own initiative determine if and when such inability shall cease.

PRESIDENT NISBET: The question is on the Faxon amendment. Mr. Faxon.

MR. FAXON: Mr. President, when this amendment was introduced in committee of the whole, less than 100 delegates voted on it, and it missed by only 2 votes. The committee on executive branch did not oppose it, and they felt that it clarified the proposal. I would yield to Mr. Martin for a statement to that effect.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: That's correct, Mr. President. We don't oppose it. We think it would improve the committee proposal. And if the delegates wish to —

I'm sorry, Mr. President, there's a little confusion. Mr. Faxon asked me if I would support his amendment. The amendment, as I understand it, was turned down, so this is not a pending amendment, is it? If he wishes to have it considered, he will have to move to reconsider, won't he?

PRESIDENT NISBET: The Chair understands that Mr. Faxon offered this amendment in committee of the whole, and now he is offering it in the convention.

MR. MARTIN: Oh, I understand. All right, it is pending then. I simply repeat the fact that we think this will improve the wording of the committee proposal.

PRESIDENT NISBET: The question is on the Faxon amendment. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of the Faxon amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon, the yeas are 55; the nays are 59.

PRESIDENT NISBET: The amendment is not adopted.

SECRETARY CHASE: Messrs. Mahinske and Marshall offer the following amendment to Committee Proposal 59:

1. Amend page 1, line 12, by striking out all of paragraph 2, lines 12 through 17.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: This is a resubmission of the amendment that we had offered before. I think that everybody has given their arguments on this, and I won't burden you any longer with it.

PRESIDENT NISBET: The question is on the amendment of Mr. Mahinske. Mr. Martin.

MR. MARTIN: Mr. President, the committee hopes you will oppose the amendment.

MR. MARSHALL: Can we have the yeas and nays, Mr. President?

PRESIDENT NISBET: The yeas and nays are demanded. Is the demand seconded? There is a sufficient number up. Those in favor of the Mahinske amendment will vote aye. Those opposed will vote no.

MR. YEAGER: Would the secretary restate it, please.

PRESIDENT NISBET: Mr. Chase, would you read the amendment.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 1965.]

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—32

Baginski
Balcer
Binkowski
Bledsoe
Boothby
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hoxie
Jones
Kuhn
Lesinski
Madar
Mahinske
Marshall
McGowan, Miss
Murphy
Pellow
Perlich
Snyder
Wilkowski
Young
Youngblood

Nays—80

Anspach
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover
Gust
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hubbs
Hutchinson
Iverson
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Martin
McAllister
McCauley
McLogan
Millard
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Mahinske and Marshall, the yeas are 32; the nays are 80.

PRESIDENT NISBET: The amendment is not adopted. Mr. Hoxie.

MR. HOXIE: Mr. President, just a request for a statement. It appears in our weekly delegate report of March 23 that we have an invitation to a party on April 4 contingent upon completing our work in committee of the whole. The question, Mr. President, is: does the target date of completing our committee of the whole work still stand, or has the date been changed for the party?

PRESIDENT NISBET: Will you hold that for just a moment until we have completed the report of the committee of the whole please?

SECRETARY CHASE: There are no further amendments to Committee Proposal 59, Mr. President.

PRESIDENT NISBET: **Committee Proposal 59**, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 59 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. In case of the impeachment of the governor and conviction thereon, his removal from office, death, inability, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term or until the disability ceases.

The inability of the governor shall be determined by a majority of the supreme court when such determination is requested by the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall, when rendered, be final and conclusive and the supreme court shall upon its own initiative determine if and when such inability shall cease.

In case of the death of the governor elect before taking and subscribing to the constitutional oath of office, or before entering upon the duties of his office, the powers and duties of the office shall devolve upon the lieutenant governor elect on the commencement of his term of office.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 60,** A proposal pertaining to succession to the governorship; and has come to no final resolution thereon.

The committee of the whole also had under consideration **Committee Proposal 71,** and placed it at the foot of the general orders calendar of the committee on executive branch. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: Mr. White, can you answer Delegate Hoxie's question?

MR. WHITE: Mr. President, Mr. Hoxie, that party referred to has been temporarily postponed.

PRESIDENT NISBET: The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. President, I rise to a point of privilege of the convention.

PRESIDENT NISBET: Will you please state it.

MR. HUBBS: I would like to refer to Mason's rules, section 221, privilege of the house, with regard to an inaccurate statement in one of the daily newspapers.

PRESIDENT NISBET: You may proceed.

MR. HUBBS: Mr. President, delegates to the constitutional convention, interested citizens present and members of the press, on Thursday, March 29, 1962, the Detroit Free Press published an editorial entitled, Miring Roads With Politics. As a delegate to the constitutional convention sincerely concerned with producing an improved constitution for the whole state of Michigan, I am distressed by the misinformation and misrepresentations of this editorial. I arise at this time to protest the irresponsibility of the editorial writer.

On my brief stays at home on weekends I have been discouraged by the attitude of a good many people toward the work of the constitutional convention. I am absolutely certain that every delegate to this convention is convinced that even at this unfinished stage of our work many constructive and beneficial changes have been incorporated into the proposed constitution. The publishing of an editorial which I am certain —

MR. MAHINSKE: Point of order, Mr. President.

PRESIDENT NISBET: State your point.

MR. MAHINSKE: As I understand Mason's Rules of Legislative Procedure, a personal privilege due to a newspaper article is not permissible unless, if you assume all of the facts stated in the article are true, you would then be disqualified from assuming the office that you are assuming. I would like a ruling from the Chair on this. He asked for a privilege of the house, or a point of personal privilege.

PRESIDENT NISBET: Mr. Hubbs, what was that paragraph?

MR. HUBBS: Section 221 of Mason's rules. I did not ask for a personal privilege. I asked for privilege of the convention or privilege of the house, whichever you want to call it.

PRESIDENT NISBET: You are within your privilege to proceed to finish it.

MR. HUBBS: Thank you, Mr. President.

PRESIDENT NISBET: Mr. Mahinske, let me refer you to subsection h, "Conduct of reporters or the press or the accuracy of published reports."

MR. MAHINSKE: I think page 171 covers this.

PRESIDENT NISBET: Page 176. You may proceed, Mr. Hubbs.

MR. HUBBS: On my brief stays at home on weekends I have been discouraged by the attitude of a good many people toward the work of the constitutional convention. I am absolutely certain that every delegate to this convention is convinced that even at this unfinished stage of our work many constructive and beneficial changes have been incorporated into the proposed constitution.

The publishing of an editorial which I am certain will tend to generate public objection to the proposed constitution is reprehensible. The statement is made in the editorial, "The arrangement is offered as sop to the rural Republican areas." This is without foundation in fact.

MR. MARSHALL: Point of order, Mr. President.

PRESIDENT NISBET: State your point, please.

MR. MARSHALL: I don't believe the delegate is talking about the accuracy of the article at all. I think he is talking about his own personal opinions as opposed to that of the daily newspaper. I still think he is out of order.

Delegate Hart and I were mentioned in an article on the editorial pages of the Detroit News the other day, and we didn't take this procedure. We merely wrote a letter to the editor to correct the statement. I would suggest that if the delegate feels that the statement is inaccurate — I have read it, and I see nothing here that indicates it is inaccurate — (laughter) I believe that the delegate is not speaking on the facts of the editorial. He is stating personal opinions on it, and I still think he is out of order.

This is the first unfavorable article in the daily papers that I have seen on the editorial pages toward your viewpoint, Delegate Hubbs, and if we are going to get up on the floor and start speaking on what the daily papers write, we better extend the schedule and change it from what we did this morning.

PRESIDENT NISBET: Mr. Hubbs, according to —

MR. J. A. HANNAH: Mr. President, I should like to move that we recess until 2:00 o'clock.

PRESIDENT NISBET: The question is on the motion to recess. All those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 2:00 o'clock.

[Whereupon, at 11:55 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, at this time I wish to withdraw the point of order that I made prior to the recess. I think possibly that I was in error in raising a point of order, and at this time I would like to move that Delegate Hubbs be permitted to proceed with his statement.

PRESIDENT NISBET: Without objection, Mr. Hubbs may proceed.

MR. HUBBS: Thank you, Mr. Marshall. I have been over the first paragraph once, so I will skip it and start a little further down.

The publishing of an editorial which I am certain will tend to generate public objection to the proposed constitution is reprehensible. The statement is made in the editorial, "The arrangement is offered as sop to the rural Republican areas." This is without foundation in fact. The fact is that the arrangement is the result of a willingness on the part of Republicans to stifle any potential special interest in the hope of attaining better advantage for the whole state of Michigan.

The editorial writer with reference to the compromise asks the question, "Will it build Michigan highways?" I submit that before the editorial was written the writer should have informed himself of the true facts, and then before publishing his poison, asked the question: will this editorial be an objective comment and, if possible, will this editorial generate a positive attitude on the part of the general public toward the proposed constitution?

I suggest unhappily that this editorial will only serve to further divide people in metropolitan and rural areas when there should not be division but a spirit of understanding and cooperation. I suggest that if the writer genuinely desires to serve the public good that a careful evaluation of editorial content and policy is very much in order — and that lacking proper presentation by the press, a failure of the public to accept the new constitution can be laid at the door of irresponsible editorial writers.

Thank you very much.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I have a point of information here for the delegates. This was composed by one of our staff, and the political parties can be switched. Here is the way it reads:

> I have invented a new adult game called con con. The idea is to play government, and the rules are simple.
>
> You place 144 players in a room, each with a desk, chair, a pad, paper and pencil. On each desk is a light switch that will move both to the right and to the left. If it is moved one way a red light flashes on the board, and the other way a green light flashes.
>
> The game begins when one of the 144 players, called delegates, gets to his feet and makes any kind of a silly statement. Immediately after the first player finishes his turn, another player or delegate gets up and says something equally as silly, disputing what the first player has said. This stage of the game is called debate.
>
> A third player now cries, "Roll call demanded" whereupon the head player rings a bell, and all the players who have left the room drop their coffee cups and ice cream bars and rush back to the floor or arena. All players now vote by pushing their little electric switch. If a predominance of green lights shows on the switchboard, it means that the Democrats have won and the government advances 2 paces. If there are more red lights than green, it means that the Republicans have won, and something is rotten in Lansing — still. (laughter) In this event a foul is indicated, and the players must start the game over again.
>
> The pad and pencil are used to write notes to the conductor of the game. The message is always the same, "When do we adjourn?" (laughter and applause)

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: I rise to a privilege of the convention. It's just this. I would like to commend the editorial writer of the Detroit Free Press for giving one of the finest editorials we have seen to date on the happenings of this convention. It seems to me that if this constitutional convention is to be meaningful and is to get the support of the people of the state of Michigan when it is to be voted on, it is time that the convention delegates are stirred by editorials like this and, hopefully, by letters showing the concern of the constituents back home as to exactly what has transpired to date at this convention. Therefore, I commend the writers of this editorial.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention now resolve itself into committee of the whole for the purpose of taking up matters upon the general orders calendar.

PRESIDENT NISBET: The question is on the motion made by Mr. Millard. Those in favor will say aye. Those opposed will say no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the committee of the whole.]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: When the committee of the whole rose this morning, there was under immediate consideration **Committee Proposal 60,** A proposal pertaining to succession to the governorship. The first paragraph has been read, and 2 amendments thereto had been adopted.

Mr. Sharpe offers the following amendment to paragraph 1 of section a:

1. Amend page 1, line 6, after "precedence of" by inserting "elected"; so that the language will then read:

> After the lieutenant governor the line of succession and order of precedence of elected state officers who shall act as governor, shall be secretary of state, attorney general, and thereafter as provided by law.

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Mr. Sharpe.

MR. SHARPE: Mr. Chairman, members of the committee, this is self explanatory, I believe. In view of the increasing interest in the appointive system of our administrative board, there is a possibility in the next 25 years or so that we may have more appointed officials than we are planning for at this time. Because of this fact, I believe that we all would admit to ourselves that we would not want a man to fall in succession to the governorship who was appointed. By adding this word "elected" I think it will take care of the situation, and I urge your support of this amendment.

CHAIRMAN MILLARD: The Chair recognizes Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I should like to address a question through the Chair to Mr. Sharpe.

CHAIRMAN MILLARD: If the gentleman cares to answer.

MR. KING: Delegate Sharpe, is it your feeling that the president pro tem of the senate and the speaker of the house are both elected officials?

MR. SHARPE: Mr. Chairman, Mr. King, weren't they elected to their respective posts in the senate and the house of representatives?

MR. KING: They were elected as senators and representatives by the people of their districts, and they were elected to the leadership in their respective legislative chambers by their fellow members of the chamber.

MR. SHARPE: I would consider these gentlemen elected to their posts.

MR. KING: Thank you, Delegate Sharpe. Mr. Chairman, I have no objection to this amendment, other than it seems to me that in these perilous times — and I know that the governor and all other state officials have already secretly nominated those who would succeed them in the event of a national disaster — it seems to me that we might be putting an undue restriction in the constitution. It would be my hope that we would always have a line of succession wherever possible that would include only elected officials. But in the event that this is not possible as a result of a great calamity or national emergency, I wonder if perhaps we are not writing in an unnecessary restriction which would unduly hamstring the operation of state government.

CHAIRMAN MILLARD: The question is on the Sharpe amendment. All in favor will say aye. Opposed, no. The Chair is in doubt. All those in favor of the Sharpe amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Sharpe, the yeas are 58; the nays are 47.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: There are no further pending amendments to the first paragraph, Mr. Chairman.

[Paragraph 2 was read by the secretary. For text, see above, page 1963.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, I yield to Mr. King on that.

CHAIRMAN MILLARD: The Chair will recognize Mr. King.

MR. KING: Mr. Chairman, fellow delegates, we have made no change in this area, with the exception of the inclusion of the words "and convicted thereon" after the words "be impeached." It is our feeling that the governor should retain the office of governor until actually convicted. The impeachment process, again, is similar to an indictment. It by no means indicates guilt or innocence. That is the only change we have made.

CHAIRMAN MILLARD: Are there any amendments to the second paragraph, Mr. Secretary?

SECRETARY CHASE: There are none on file, Mr. Chairman.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Paragraph 3 reads as follows:

[Paragraph 3 was read by the secretary. For text, see above, page 1963.]

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I yield to Mr. King, Mr. Chairman.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, we have made no change in this paragraph. The remarks that were made in the preceding section for the benefit of the style and drafting committee I presume would apply here, too. If there is any way that this wording can be clarified and simplified, we would certainly be happy to have the style and drafting committee take a look at it. But, basically, this is exactly the same language which is in the present constitution.

CHAIRMAN MILLARD: Are there any amendments to this third paragraph?

SECRETARY CHASE: Mr. Upton offers the following amendment to section a:

1. Amend page 1, by striking out all of paragraph 3.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Upton.

MR. UPTON: Mr. Chairman, ladies and gentlemen of the committee, I feel that this paragraph, as well as the one just passed, is irrelevant to the constitution. Now we put in the succession of the officers as provided by law in the first paragraph. I also meant to strike out the second paragraph, but we went over that too quickly. I was wondering whether the delegates are looking at this. All this verbiage that we have here I think can be taken care of very well by the law and, as we have provided in the first paragraph, handle the whole line of succession. Therefore, I would recommend that we, as delegates, consider this very seriously as to whether or not this paragraph is needed to outline the line of succession. Thank you.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, this is not a case of unnecessary verbiage. This paragraph provides for a contingency which perhaps is not likely to happen, but might happen, and that of course is in the event of the death of the lieutenant governor elect or other officers in line prior to their commencing their term of office. This provides for that contingency wherein the elected officer dies between the date of the election and January 1, when these officers would assume their term of duty. And for that reason it is very necessary. There is no way in which we can avoid this. Without this sort of a paragraph, I suppose you would have to have a general election, and in the meantime I don't know what would happen until you had the election. I guess you would be without any governor. So for that reason I would oppose the amendment.

CHAIRMAN MILLARD: Mr. Upton, do you wish to be recognized?

MR. UPTON: Yes, sir. When reviewing the citizens research council book, they state that Michigan is one of the few states that has this type of language in its constitution. Now, I think we have an opportunity here to eliminate this and to allow us to set up the procedure by law, as we have already stated in the first paragraph.

MR. KING: Mr. Chairman.

CHAIRMAN MILLARD: Mr. King.

MR. KING: The first paragraph does not cover this particular contingency. If I could direct a question through the

Chair to Mr. Upton, what would happen if the governor and lieutenant governor elect die after their date of election, but prior to January 1, when they would assume their office?

CHAIRMAN MILLARD: If Mr. Upton cares to answer.

MR. UPTON: I believe this could be handled by law, Mr. King. And the first paragraph doesn't say anything about being the governor. I mean, it could be set up as provided by law, and could be statutory, as it evidently is in most of the states of our country at the present time.

CHAIRMAN MILLARD: Does that answer your question?

MR. KING: Yes. Mr. Chairman and fellow delegates, I would submit that perhaps this matter could be taken care of by statute, but I frankly see no advantage to it. It would leave a degree of uncertainty in a basic section of our constitutional law which I think would not be advisable. I see nothing wrong with this language. It says very clearly and very briefly what is to happen in the event both the governor and lieutenant governor and other officers should die prior to the commencement of their term. For that reason I would oppose the amendment.

CHAIRMAN MILLARD: The Chair recognizes Delegate Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, Delegate King, I think, is right. I call the attention of the members of the committee to the fact that similar provision is made in the federal constitution, the twentieth amendment, to take care of a very similar situation which might result in the case of the death of the president and/or vice president elect. I think some of this comes from the rather careless use of these terms officers elect and officers elected. These officers have not been elected. They have not taken the oath of office. They aren't anything, except that they are on the way. So I think it is at least desirable, if not necessary, that the constitution should take care of it.

CHAIRMAN MILLARD: The question is on the Upton amendment. All those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: There are no other pending amendments on the desk, Mr. Chairman.

CHAIRMAN MILLARD: Are there any amendments to the body of the section or the proposal? If not, it will pass. Committee Proposal 60, as amended, is passed. The secretary will read.

SECRETARY CHASE: Item 5 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 72**, A proposal to provide for compensation of acting governor.

For last previous action by the committee of the whole on Committee Proposal 72, see above, page 1721.

An amendment to strike the entire section, submitted by Mr. Yeager, is pending. This will be taken up after all other amendments have been disposed of.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this matter was considered earlier and was put at the end of the calendar. I will yield to Mr. King on this.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, this is the language which is in the present constitution. Senator Hutchinson raised an objection to this language. He has shown me the wording which he would prefer, and I frankly am in disagreement with this wording. So I have suggested that he move it as a substitute, and leave the decision then up to the committee of the whole as to which they prefer. I frankly would like to speak in defense of the present language. So at this time I would yield to Senator Hutchinson so that he could move his substitute, if he would like to.

CHAIRMAN MILLARD: We have an amendment on the desk here. Is this Senator Hutchinson's amendment?

MR. KING: I don't know.

SECRETARY CHASE: Mr. J. Burton Richards has filed the following amendment:

1. Amend page 1, line 6, after "succession,", by striking out "while performing the duties" and inserting "upon succeeding to the office"; so that the language will read:

> The lieutenant governor or other state officer in the line of succession, upon succeeding to the office of governor, shall receive the same compensation as the governor.

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Mr. J. Burton Richards.

MR. J. B. RICHARDS: Mr. Chairman, it seemed to me after the discussion the other day that this was the language that would clear up the section so that it would read as the legislature now acts.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, it seems to me here that we are faced with a question as to whether or not the lieutenant governor ought to be entitled to receive the pay of governor when he is performing the functions of the governor. Now, it is my considered opinion that we do not overpay the lieutenant governor. It seems that certainly when a man has the responsibility and the authority of governor, that he is entitled to the pay of governor.

There are attorney general opinions which I would call to your attention. In Opinion 849, issued back in 1948, the attorney general states his case as follows:

> We are of the opinion, therefore, that whenever the governor is beyond the confines of the state, he is absent from the state, and he cannot perform the duties of his office during such absence, the functions of the office are vested in the lieutenant governor. . . .

He goes on to say:

> Like an invisible baton, the democratic scepter known as chief executive power is passed by force of article VI from governor to lieutenant governor at the instant of gubernatorial exit, and the governor is not eligible to its relay until he recrosses the line.
>
> The chief executive power is not, as is supposed in some quarters, the governor's personal property. It belongs to and in his state, and it cannot be flown nor carried elsewhere, there to be executed by the proxy of delegated authority. The moment a governor passes beyond the borders of his state, the constitution automatically vests that power in the lieutenant governor and holds him exclusively responsible for its faithful execution during the governor's absence from the state. Indeed, and if the rule were otherwise, a confused farrago of conflicting orders and directives, issued within and without the state, would undoubtedly lead to a veritable paralysis of indecision, with every subordinate guessing at his peril which of these directives he should obey. The people by their constitution intended no such confusion and, judicial precedent aside for the moment, made their wishes plain in layman's parlance.

And then of course he quotes the constitution, which in substance is the way the committee has recommended it to you.

It seems to me that if the lieutenant governor is the governor during those times when the governor is absent from the state, then he should receive the pay of the governor. I am given to understand by a delegate who served on the attorney general's staff back in 1938, when the lieutenant governor requested payment at the rate of pay of the governor during a month's absence of the governor, that at that time the attorney general's office was prepared to back him up. Now, I guess the lieutenant governor at that time decided that it would not be politic to proceed to press his case. But it seems to me quite reasonable that if the lieutenant governor has to assume all of the responsibilities and all of the duties of the governor, that at that point in time he should be entitled to the pay of the governor. So I frankly think that the language in the present constitution is correct, and I personally oppose the amendment.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, Mr. King, if I may ask you a question; if the lieutenant governor is the governor, then who is the lieutenant governor?

MR. KING: Mr. Chairman, Mr. Faxon, the lieutenant governor becomes the governor in the event of the absence, disability, impeachment or death of the governor, and there is no replacement for him. By the same token, if the president of the United States should die, the vice president would become president, and once again the office of the vice president would not be filled, either by moving up someone below or by reelection.

MR. FAXON: Mr. Chairman, Mr. King, then would the lieutenant governor receive no salary as lieutenant governor while he is acting as governor? Is that the idea behind this section?

MR. KING: That's right. He would receive the pay of the governor for those periods of time during which he had to act as governor, and he would not receive the pay of the lieutenant governor in addition thereto.

MR. FAXON: Well, I just want to make a comment. I support Mr. Richards' amendment here. I think this makes it much clearer than the previous language, because it says that only those who actually succeed to the office would be the governor and receive the compensation of the governor.

I think there is a difference, and I think there is a difference between performing the duties and having the powers of the governor and actually succeeding to the office of governor. And in this case I think we would be better off if we made it clear that only those who actually succeed to the office receive the compensation, rather than just leaving it to someone performing the duties. Because, as I understand it, under the language that we have already adopted, it could fall upon the president pro tempore of the senate to perform the duties of the governor and receive the same compensation. If the governor, lieutenant governor, secretary of state and attorney general are out of the state and the state legislature had designated the president pro tempore of the senate, then he would find himself in the position of receiving the compensation of the governor and acting in his place. I would support Mr. Richards' amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Flint, Mr. McLogan.

MR. McLOGAN: Mr. Chairman, part of the job of the lieutenant governor, it seems to me by its very nature, is that of being required from time to time to assume the duties of governor. I would support Delegate Richards' amendment, because this being an important aspect of his job; in the very first instance his compensation is based on that knowledge. I can see no reason that a day here and a day there should require any change in the constitution to require that his salary be augmented any further.

CHAIRMAN MILLARD: Mr. Upton.

MR. UPTON: I also rise in support of this amendment. I feel, Delegate King, that it looks as though you can compensate the lieutenant governor for every day he might be spending performing the duties of governor. It has already been ruled, I believe, by the attorney general that this wouldn't pertain to this particular point. But I believe the compensation of the lieutenant governor is taken care of in his off and on duties acting as a governor, and only when he succeeds to the office should he be given this compensation.

CHAIRMAN MILLARD: The question is on the Burton Richards amendment. Mr. King.

MR. KING: Mr. Chairman and fellow delegates, Mr. Hutchinson has an amendment which I don't agree with, but which does not go as far as this. This amendment of Mr. Richards, as I understand it, would mean that if the governor were disabled, perhaps disabled to the extent that he could not resume his duties within the next 4 years, the lieutenant governor would find himself governor of Michigan in fact for perhaps 3½ years of the term and trying to live upon the salary that we now pay our lieutenant governor. This to me would be extremely difficult. It would be a most unfortunate situation to put any lieutenant governor in. So for that reason I would definitely oppose Mr. Richards' amendment, and suggest that perhaps the problem is best solved by Mr. Hutchinson's amendment, which in fact will legalize what the legislature has been doing anyway.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Ypsilanti, Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, I wonder if I could inquire as to one point from Mr. King.

CHAIRMAN MILLARD: If Mr. King cares to answer.

MR. LAWRENCE: Mr. King, suppose the governor, under the original wording, is absent say for a week or 2; and, as I understand it, the statement was made that the lieutenant governor then automatically succeeds to the office of governor. Does the governor's pay continue as to the governor during such absence?

MR. KING: Yes, Delegate Lawrence. The governor's pay is not reduced when he leaves the state. That has been decided by an attorney general's opinion. It means, in effect, that we will be paying 2 men the salary of the governor during the time when the governor is out of the state and the lieutenant governor is acting in his stead.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Delegate Lawrence covered part of the question I was going to raise, but I would want to oppose the Richards amendment and support the committee report.

I think, for example, when the senate had adjourned sine die and the governor should happen to be ill, there has been occasion when the lieutenant governor has had to come in and serve and perform the duties of governor actually without pay, because the lieutenant governor's salary is designed to cover the term of the session in the senate. I don't see how anyone could give any sound argument against a lieutenant governor receiving the pay of the governor if he is called in to perform the duties of the governor, whether it be for 1 week, 1 month or 2 months. I don't think the period of time is important at all. And when he is called in to serve for 2 or 3 weeks, he isn't succeeding to the office; he is only performing the duties of the governor. So I would oppose the Richards amendment and support the committee report.

CHAIRMAN MILLARD: The Chair will recognize Mr. Richards.

MR. J. B. RICHARDS: This is really set up to do away with paying 2 people for one office. It follows the testimony we heard the other day that the lieutenant governors were not paid for short terms while they were serving as governor pro tem. I think it is much better for the lieutenant governor to be paid to be a substitute governor. That goes along with his job. I think the only time that he should succeed to the same pay as the governor is when he becomes governor for certain, or for a certain period of time.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to speak on the Richards amendment, because the substitute that I am proposing isn't actually before the body yet, and perhaps you don't know what is in it. As I see Mr. Richards' amendment, I think that it would defeat the only reason in the world for having anything in the constitution upon the subject anyway.

Now, let's look at this thing. Let's take the case back when Governor Fitzgerald died and Lieutenant Governor Luren D. Dickinson succeeded to the governorship. I suppose some people may argue that he continued to be the lieutenant governor acting as governor. But that isn't what he asserted, and that isn't what the fact was. When Governor Fitzgerald died, Luren D. Dickinson again took the oath of office as governor of Michigan, and filed that oath of office with the secretary of state, and then became the undoubted governor of this state. He succeeded not only to the powers and duties of the office, but he succeeded to the office itself. He received the same pay as the governor. He got the governor's pay. And he got it, as I understand it, because he was in fact the governor.

Now, the Nowicki situation was a different situation. Governor Murphy in 1938 went down to Florida for a month's vacation, and Lieutenant Governor Nowicki was acting governor. This provision in the constitution saying that the lieutenant governor shall receive the same compensation as the governor when he is acting as governor was pointed to, and Lieutenant Governor Nowicki asserted, at least initially, that he was entitled to the governor's pay while the governor was out of the state and he himself was acting governor. I pointed out that that didn't work that time. Now I am told that maybe it might have worked if they had pressed it into the courts, but they didn't carry it all the way through.

I think, however, that the history of the present language in this section sufficiently clouds the issue so that we ought to write it clearly on what we intend. Now, if we can so write this constitution to make it clear in these other sections that we have been debating this morning, if we can make it clear in this constitution that when a governor dies then the lieutenant governor becomes governor, there can be no question at all but what he will then receive the pay of the governor. He will get the governor's pay. In fact, under those circumstances the pay of the old governor of course ceases, because he is no longer the governor.

When this was on the floor before, I was impressed with the point that because in other sections of this constitution we say that the pay of an elected state official shall neither be increased nor decreased during the term for which he was elected, that if we don't have something in the constitution regarding this particular problem, then under those circumstances it would be impossible for a lieutenant governor, while acting as governor, there being another governor really in existence, to receive the same pay as the governor. And so if there is any merit, and I think there is now merit, in having something in the constitution in order to assure that the official who acts as governor shall get the pay of the governor — not to take it away from the governor, but get pay equal to him — we should have something in the constitution to accomplish that. But Mr. Richards' amendment would not do that. Mr. Richards' amendment would say that only when there was an absolute succession, an absolute vacancy in the office of governor, under those circumstances whoever succeeded to the office of governor would then get the governor's pay. I argue that that would follow necessarily because the man becomes the undoubted governor of Michigan.

The other problem is where you still have a governor, but he is out of the state, or maybe he is sick or is disabled and unable to perform for a period of time, and the lieutenant governor actually acts. Under those circumstances the lieutenant governor should get the same pay. I have offered a substitute which would assure that that could come about. My position is that the situation Mr. Richards seeks to cover here will be covered anyway by reason of the fact that the man that he has in mind would become the undoubted governor of Michigan for the balance of the term.

CHAIRMAN MILLARD: Mr. Richards.

MR. J. B. RICHARDS: Mr. Chairman, I have read Mr. Hutchinson's amendment, and I think it is much better wording. I will withdraw my amendment, if it's proper.

CHAIRMAN MILLARD: You may withdraw your amendment, Mr. Richards. It is withdrawn. The secretary will read.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section and inserting "The legislature may increase the salary of any state officer to equal the salary of the governor while such officer is performing the duties of governor.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I feel that I have already made the argument for this. I think that this at least clearly states what, so far as I can see, needs to be stated in the constitution with regard to this problem, and there ought not be any doubt about it. Of course, I say the legislature may increase the salary of a state officer to equal the pay of the governor while that other state officer is performing the duties of governor for the reason, number 1, that unless the legislature makes an appropriation to cover it, they couldn't pay it anyway; and, number 2, the situation is that unless we have something like this in the constitution, we have another constitutional prohibition which says this other state officer could not receive anything more during his term of office because you couldn't increase that pay. Well, this will say that you can increase the pay.

Now, in effect, if it turned out that the lieutenant governor was only acting governor, this language would give the legislature the power to write a law and make an appropriation and say that while the lieutenant governor was acting as governor, then at that time the pay of the lieutenant governor should be so much. It will be increased to be equal to the pay of the governor. And in that respect, you see, you are altering the pay of the lieutenant governor during the term, but only under these circumstances.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I would just like to make a brief comment, and then ask Delegate Hutchinson a question, if I may. The only thing that bothers me with this amendment of Senator Hutchinson's is the fact that if you had a lieutenant governor of the opposing party of the legislature, and if they weren't getting along too well — and this has been known to happen — then the legislature could, out of spite, it seems to me, refuse to increase the salary. They might increase it, for example, in one case for one lieutenant governor, but they could refuse to do it the next time, under your amendment. Is that true or not?

CHAIRMAN MILLARD: Mr. Hutchinson, do you care to answer?

MR. HUTCHINSON: I would be glad to respond to the gentleman in this way, and say that in my mind good public policy would expect that the legislature would pass a law, a more or less general law, which would be a substantive statute, and which would remain in force and effect. I do not envision — and I think it would be extremely poor public policy to expect the legislature or to require the legislature or even to encourage the legislature to pass a bill which would apply only to a particular time, or for a particular absence of the governor.

We have many, many laws in this state, many, many statutes, some of them going way back to 1846, relative to the structure of our government, which of course the legislature could change. Yes, and they could change them out of spite. But that isn't likely to happen; and I say that sincerely.

MR. MARSHALL: I believe, Senator Hutchinson, that you are sincere. But I also feel that it leaves room for this type of thing to happen. I was wondering if you would accept a change in your amendment to only change one word, and that is to change "may" to "shall," and then the legislature would enact the statute under which this would be brought about. Your amendment then would read, "The legislature shall increase the salary of any state officer to equal the salary of the governor while such officer is performing the duties of governor." I would ask if you would accept that change of substituting "shall" for "may."

MR. HUTCHINSON: Well, Mr. Chairman, I would reply to the gentleman this way. That if he wants to offer an amendment to my amendment to change that word, I won't fight too strenuously against it, because, Mr. Chairman, I am impressed with the fact that the word "shall" means absolutely nothing at all in the constitution with regard to the legislature. If it will satisfy the gentleman that he has changed the situation, why, I would not object to his amendment. But I don't think he will accomplish anything by it.

CHAIRMAN MILLARD: Does Mr. Marshall desire to offer this as an amendment?

MR. MARSHALL: I don't like to get into a quarrel with the distinguished senator over words and the meaning of them, but I still believe that "shall" would be stronger than "may," and I would like to offer that as an amendment. I was hoping that Senator Hutchinson would accept it as a change and let his amendment stand.

MR. GUST: Mr. Chairman, if I might be recognized, maybe this will shorten the debate some. I am not next in line, I assume?

CHAIRMAN MILLARD: No, you're not.

MR. GUST: Is Mr. King next?

CHAIRMAN MILLARD: Yes.

MR. GUST: Would you yield to me, Mr. King?

MR. KING: Yes, I will yield.

MR. GUST: Mr. Marshall, I have already submitted an amendment such as you proposed. I disagree with Mr. Hutchinson and I agree with you that this will clean it up, and I think "shall" means a great deal and gives this amendment a far different meaning than the word "may." If the secretary could read my amendment, maybe you would like to adopt it.

MR. MARSHALL: Would you read Delegate Gust's amendment, please?

SECRETARY CHASE: Mr. Gust's amendment is:

1. Amend the amendment, after "legislature" by striking out "may" and inserting "shall".

MR. MARSHALL: That satisfies me.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I'm disappointed that we are not going to get a vote at least at this time directly on the issue. The question really is whether the lieutenant governor, in the opinion of this committee, ought to get the same pay as the governor when he is acting as governor. The present language in the constitution does provide for a remedy, of course: it uses the word "shall." And as Mr. Hutchinson has pointed out, the legislature has successfully ignored the mandate of the constitution for a number of years. But the lieutenant governor, if he so elects, could, I assume, although he couldn't mandamus the legislature, could mandamus the state treasurer and thereby receive what he is entitled to under the constitution.

I don't know how to take this Gust amendment, so I won't express an opinion on it. I'd still like to leave the present language, which can be enforced. And, of course, if it were accepted, this debate would clarify the intention of this convention, and I don't think there would be any doubt in the future, even though there may have been in the past.

CHAIRMAN MILLARD: Mr. Marshall, do you desire to talk to the Gust amendment?

MR. MARSHALL: Yes. Just briefly. While I support the Gust amendment as being stronger, I believe, than the one on the board, I want to make it clear, however, that I feel that the committee proposal itself is most desirable, because it is self executing and I think it is clear.

CHAIRMAN MILLARD: The question is on the Gust amendment. Mr. Hatch.

MR. HATCH: Mr. Chairman, I would oppose the Gust amendment, on the grounds that I think what we are concerned with here are those occasions when the governor may be disabled or may be absent for a considerable period of time. It seems to me that the legislature, if the language is permissive, as suggested by Senator Hutchinson, can provide for those occasions. But where the governor is absent only a day or 2 from the seat of government, and the lieutenant governor takes over on that temporary basis, I don't see why he should receive additional compensation. I think if we leave it in the hands of the legislature to take care of those extreme situations when the lieutenant governor will serve for a long period of time, that it's preferable to requiring that the lieutenant governor receive compensation of the governor even though he may only serve a day or 2.

CHAIRMAN MILLARD: The question is on the Gust amendment to the amendment. Will the secretary read, so we will know what it is?

SECRETARY CHASE: The amendment by Mr. Gust is:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: All in favor of the Gust amendment to the Hutchinson amendment will say aye. Opposed, no. The Chair is in doubt. All those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Gust, the yeas are 73; the nays are 40.

CHAIRMAN MILLARD: The amendment is adopted. The question now is upon the Hutchinson amendment as amended by the Gust amendment. Mr. Marshall.

MR. MARSHALL: Senator Hutchinson wants the floor.

CHAIRMAN MILLARD: Senator Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to simply make this argument in answer to Mr. Marshall, who says that the language of the committee proposal is self executing and is therefore stronger. I submit to you that it isn't self executing if there is no money appropriated to pay the salary. How can he get the pay if there has been no money appropriated?

Another place in the constitution says there shall be no money paid out of the treasury except in pursuance of appropriations made by law, and you don't appropriate any money here to do that. And I sure hope that you don't, because I don't believe in constitutional appropriation of money. At the same time, I don't believe that this is self executing in the sense that you have in mind. This still will require some action on the part of the legislature. And really what the problem is, I think, is best stated in the language of my amendment, and I hope it can be supported.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I understand, Senator Hutchinson, that what you say is true. But, on the other hand, if the committee proposal is adopted, it is self executing, I believe, if the legislature complies with the constitution. Now, if the legislature wants to violate the constitution and refuses to abide by it, as it did for many years in this state on apportionment, then I don't know what can be done about that. That would be up to the legal branch to determine. But I do believe that the committee proposal is self executing to the extent that it spells it out clearly, and if the legislature refuses to provide the appropriations to pay the lieutenant governor the governor's salary if he was serving as governor, I would believe that they would be in violation of the constitution.

I would like to ask Senator Hutchinson, if he would care to answer, if it is not his belief, too, that they would be in violation of the constitution if the committee proposal were adopted and they refused to provide the appropriation?

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, no, I don't think they would be in violation of the constitution, because I cannot somehow or other give the same force to the word "shall" that you choose to give to it.

MR. MARSHALL: Well, I would oppose the Hutchinson amendment and support the committee proposal, because I believe the language of the committee proposal is better.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman and fellow delegates, we are now down to the question of whether or not you believe the lieutenant governor ought to receive the pay of the governor when he acts as governor. I think very definitely he ought to. The lieutenant governor's pay is based on the pay of the legislature, based on perhaps 3 or 4 months of work out of a year. Now, obviously, if you ask a man to assume the responsibilities and duties of a much more difficult job, I think it is only fair that you be prepared to pay him for so serving. It's not a great deal of money involved. I think that very definitely this debate and this vote will be a clear indication of what we intend, and I can't believe that the legislature will violate the new constitution. It may be questionable as to whether they have violated the old constitution in this regard, but certainly this debate and this vote will clearly indicate the intention of the constitution. I think that the present wording is correct, and I urge the defeat of the Hutchinson amendment.

CHAIRMAN MILLARD: The question is on the Hutchinson amendment, as amended. All of those in favor will say aye. Opposed, no.

The amendment is adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: A division is called for. Is there support? There is a sufficient number up. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hutchinson, the yeas are 67; the nays are 48.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Yeager has on file an amendment to strike out all of section a.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Yeager.

MR. VAN DUSEN: Mr. Chairman, a point of order. I believe that without the proponent in the room, the amendment is out of order.

CHAIRMAN MILLARD: The amendment cannot be offered. Are there any other amendments to section a of Committee Proposal 72?

MR. YEAGER: I withdraw the amendment.

CHAIRMAN MILLARD: The Yeager amendment is withdrawn. Are there any other amendments to this proposal? If not, it will pass.

Committee Proposal 72, as amended, is passed. The secretary will read.

SECRETARY CHASE: Item 6 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 48,** A provision pertaining to ineligibility to hold office. A substitute for article VI, sections 14 and 15.

For last previous action by the committee of the whole on Committee Proposal 48, see above, page 1724]

When this proposal was under consideration previously, an amendment had been offered by Mr. Faxon, which amendment was:

1. Amend page 1, line 6, after "no" by striking out "member" and inserting "elected official or department head.".

To this Messrs. Downs and Durst had offered a substitute which was pending. This substitute amendment was:

1. Amend page 1, line 6 —

CHAIRMAN MILLARD: Mr. Durst.

MR. DURST: Mr. Chairman, it is my intention to withdraw this substitute amendment, and I'm sure Mr. Downs concurs. We have another amendment to replace it later.

CHAIRMAN MILLARD: The Downs-Durst amendment is withdrawn.

SECRETARY CHASE: Messrs. Durst, Martin, Marshall and Faxon offer the following amendment as a substitute for the Faxon amendment: —

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, may I withdraw the first Faxon amendment so that we are in the right order then?

CHAIRMAN MILLARD: The one you proposed alone?

MR. FAXON: That's right.

CHAIRMAN MILLARD: And you are joining with Messrs. Durst, Martin and Marshall?

MR. FAXON: That's right.

CHAIRMAN MILLARD: The pending Faxon amendment is withdrawn. The secretary will read.

SECRETARY CHASE: Both of the amendments in question have been withdrawn, and now there is pending the following amendment:

1. Amend page 1, line 6, after "member" by inserting "of the unclassified service"; and in line 8, after "thereof" by inserting "except as permitted by law"; so that the language will read:

> No member of the unclassified service of the executive branch of the state shall hold any other office or position for compensation under the United States, this state, or any political subdivision or agency thereof except as permitted by law.

CHAIRMAN MILLARD: The Chair will recognize the first proponent of this amendment, Mr. Durst.

MR. DURST: Mr. Chairman, members of the committee, when this proposition first came before us, it was obvious that several people were opposed to it on the grounds that it was too broad. So we have tried here to reconcile the different points of view and come up with a provision which is rather limited in scope. It is our understanding — or hope, at least — that the unclassified service would include department heads and those exempt personnel who are deputies in the department.

Now, I should explain why again at the end we have placed "except as permitted by law." I understand that occasionally some members of the executive branch in these policy positions perhaps would like to teach a course out at Michigan State, or something of that sort. We would assume that the legislature, in their wisdom, if they thought it desirable, could allow this type of outside activity for a state instrumentality. However, it would prevent, generally, operation in other areas.

I would like to emphasize again — and this was stated 3 or 4 times when this matter was before us before, and there are still people who do not understand it — that within our committee proposal when we use the words "for compensation" we have specifically set forth that we interpret that to mean that the officeholder would be allowed to accept expense money or a per diem in lieu of expenses, so that if the governor for instance was appointed by the legislature to represent this state upon some interstate commission, he could do so and would be allowed to accept compensation in lieu of expenses, but not for the actual time of going. He is receiving one compensation from this state to serve as governor. Now, as it presently stands in the sections that come up to be excluded, 14 and 15 of article VI, the legislature could not appoint the governor to serve on such an interstate body. And in this complex age, when we do have this type of interstate activity going on, it is desirable that the governor or the lieutenant governor, both of whom are prohibited from doing this under the present constitution, be able to serve in other capacities than just as governor or lieutenant governor. We feel that by limiting it to service without compensation, that we are sufficiently taking care of the matter, and we have by this amendment extended it to include all the policymaking people at the top levels of the executive branch of state government.

I don't know whether any of the other sponsors of this amendment wish to speak or not.

CHAIRMAN MILLARD: Do any of the other proponents of this amendment desire to speak? Mr. Marshall, you are on it.

MR. MARSHALL: I thought I was. On the board it says Durst and Martin. But I'll make it very brief. Delegate Durst covered it very well. I'm only too happy to find an amendment that I could cosponsor with my Young Republican Radical friend from Adrian. (laughter)

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the only other comment I would make is that since this covers the people in the unclassified service, the classified service, being under civil service, is subject to the regulations of the civil service to make certain that employees within that service perform their full duty and do not use their time for other purposes to the detriment of the state service. So we think that that is sufficiently covered by the existence of the civil service provisions.

CHAIRMAN MILLARD: The Chair wishes to announce that on this copy the proponents are Durst, Martin, Marshall and Faxon. Evidently it isn't that way on the wall. The Chair will recognize Mr. Faxon as the other proponent.

MR. FAXON: Everything that had to be said has been said. I pass. (applause)

CHAIRMAN MILLARD: The Chair recognizes Mr. Staiger.

MR. STAIGER: I would like to ask Mr. Durst a question.

CHAIRMAN MILLARD: Mr. Durst, if you care to answer.

MR. STAIGER: I am still not clear, after all the debate the other day, on the reason for this section. It isn't a conflict of interest section, we are told. It is apparently to prevent unclassified government workers from getting another job in government. If that is what we are talking about, and if that is the policy consideration, it wouldn't help to do just that. If you only want them to hold one job, there are certainly a lot of nongovernment jobs that they can go into. I just don't see that this is something that should be dealt with at the constitutional level. Is there another reason that I am missing besides that?

CHAIRMAN MILLARD: Mr. Durst.

MR. DURST: Mr. Staiger, presently, section 15 of article VI reads as follows, "No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature, or either house thereof . . ." and it goes on to put some teeth into the thing. Now, first of all, we have recommended exclusion of this, because it is desirable that it be possible to appoint the governor to some other office other than governor. We have in mind particularly the idea of these interstate commissions that are being formed. It was felt that it just shouldn't be left wide open, so that the governor could take any office. And this was felt to be a proper limiting provision;

that the governor, particularly, could be appointed to some other office as long as he served in that office without compensation, interpreting compensation to mean that he could receive expenses. Now, when we got that far, we decided that it was also desirable that we extend this so that members of the state executive branch should not be serving in other positions for other governmental bodies where they would be receiving a salary or part time salary.

Now, you are perfectly correct that they can go out and get another job working in private industry somewhere, and this perhaps isn't desirable. This provision doesn't cover that. But it does prevent them from working in 2 governmental jobs for pay. It is not a very broad provision, but it does at least take care of the problem of the governor, and we have extended it to cover the other policymaking officials of state government.

CHAIRMAN MILLARD: Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I wonder if I might ask a question of the proposer of the amendment.

CHAIRMAN MILLARD: Mr. Durst.

MR. HOXIE: Dealing with no other compensation in the executive branch — the thought occurred to me, Mr. Durst, that we do have in this state secretary of state license divisions located in governmental units, such as the county clerk's office in some instances. I'm wondering, being an executive branch of government, also being perhaps the county clerk, if you aren't eliminating them when you say that no compensation will be involved, as a part of a political subdivision of the state.

CHAIRMAN MILLARD: Mr. Durst.

MR. DURST: Well, my drafting consultant, Mr. Hanna, who actually thought of this language, says "except as permitted by law" takes care of it.

I think there is another problem, and it's one of defining our terms. We actually mean to limit this to heads of departments and those people who are exempt under the civil service section. Now, possibly the term "unclassified service" is too broad. I would like, Mr. Hoxie, to say that this is our intent here. I'm sure it is the intent of all of the proposers of this amendment. And if style and drafting can come up with a better term that defines what we have in mind here, I would say that that would be their prerogative to do so.

MR. HOXIE: I think you could correct it by adding the words "full time unclassified position."

MR. DURST: Well, I would have no objection.

MR. HOXIE: I don't like the implication that you put something in the constitution prohibiting it and then say "except as provided by law." I think that is a bad approach to the question that you are trying to answer.

MR. DURST: Well, of course, what we are trying to establish is a general policy. We realize that there may be on occasion instances where it should be violated. It is difficult to foresee all possible circumstances. But I have no objection, if you wish to add "full time" before that. I might ask the other proposers of the amendment if they have any objection, and will accept it.

MR. HOXIE: I might say, Mr. Chairman, through the Chair, that if it is clearly the intent of Mr. Durst and the proposers of this amendment that it is not intended to be as far reaching as indicated by my statement, and it is agreeable with you that the style and drafting committee clearly understands that, then I have no objection to the amendment.

MR. DURST: That is our intention, Mr. Hoxie.

CHAIRMAN MILLARD: The Chair will recognize Mr. Allen.

MR. ALLEN: Mr. Chairman, I don't rise to object to the proposed amendment, but to ask Mr. Durst, through the Chair, a question on the matter of compensation.

CHAIRMAN MILLARD: Mr. Durst.

MR. ALLEN: Mr. Durst, I understand that you say that "compensation" does not forbid a state officer from receiving expense money, and I would agree on that, or from receiving a per diem. I wondered if you would be getting into any trouble on what is meant by per diem. For example, a nominal per diem of $5 or $10, something like a supervisor receives, I'm sure there would be no objection to. But supposing you got up to a per diem that sometimes is given in some of these high level government bodies, and you are getting up to $100, $150 a day, something like that. Actually, then, if you allow a per diem, you might just as well say that you haven't done anything by excluding him from receiving compensation. In other words, how do you interpret per diem?

MR. DURST: Mr. Chairman, Mr. Allen, as the committee report states, we would accept per diem in lieu of expenses, and I think there would have to be some reasonable relationship between the per diem received and the expenses incurred. Now, if the governor goes to New York City and stays at a hotel, I wouldn't say that $100 a day would be unreasonable. I would say there would have to be some relationship between the two. We can't interpret it here in the constitution. It would have to be a matter for general usage later.

MR. ALLEN: Mr. Chairman, I only asked the question in order that the record would show what was meant by per diem. If you feel that it is the intent here to relate it to the expenses, as far as I'm concerned that's all right. But I do think that perhaps someone would question that later.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to ask the chairman of the committee a question.

CHAIRMAN MILLARD: Mr. Martin.

MR. IVERSON: I believe, Mr. Martin, you stated that the amendment to the proposal eliminated the possibility of moonlighting so far as civil service employees are concerned, because that was a matter for the civil service commission. Do you know whether or not the civil service commission has prohibited moonlighting with respect to classified employees?

MR. MARTIN: I don't know whether they have or not, Mr. Iverson; but I'm satisfied that they have the authority to do that if they feel that the state service is in any way being impaired by persons taking outside jobs.

MR. IVERSON: Then, Mr. Chairman, the way the committee proposal was drafted originally, that would have included classified employees, would it not?

MR. MARTIN: Yes, it would. That is correct.

MR. IVERSON: Then, Mr. Chairman, is this amendment proposed based upon the theory that the civil service either has or will prohibit moonlighting?

MR. MARTIN: Either has, will or can, if it finds it necessary, yes.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Grand Rapids, Dr. DeVries.

MR. DeVRIES: Mr. Chairman, members of the committee, I would like to direct a question to Mr. Durst, if I might.

CHAIRMAN MILLARD: Mr. Durst.

MR. DeVRIES: Is it your understanding that members of boards and commissions would fall into the unclassified service, Mr. Durst?

MR. DURST: Mr. Chairman, Dr. DeVries, they are unclassified and, as I indicated to Mr. Hoxie, it was our intent to include here department heads and the policymaking personnel that are exempt under civil service within their departments. Now, I am not sure whether or not there are commissioners who—most of them receive just a per diem in lieu of expenses, really. There are some who receive full time pay. But I would be satisfied if this was limited just to the department heads and the policymaking personnel in their departments.

MR. DeVRIES: It is your understanding then that it does not include members of boards and commissions? You wouldn't have a situation develop where somebody who would be working for a state university and serving on a board or commission would be prohibited from doing this under this provision?

MR. DURST: I yield to Mr. Martin.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: The state civil service amendment, Mr. Chairman, specifically places the members of boards and commissions in the unclassified service.

CHAIRMAN MILLARD: Does that answer your question?

MR. DeVRIES: Yes.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Battle Creek, Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I think this point was made at an earlier time in this debate, that the original provisions of the Constitution of 1908, which prohibited the governor from accepting an appointment from the legislature, were enacted at a time when the legislature elected the United States senator, and it was quite obvious that they didn't want the power of the governor to be used to a promotion on this level. Now of course we don't do that anymore. The United States senator is elected by a popular vote. I think it would be interesting if the delegates were to take a look at page 68 of the first volume of the citizens research council comparative analysis, in which it says:

> In regard to section 15, it is somewhat difficult to conceive of either the governor or lieutenant governor being appointed to any office by the legislature or either of its houses, particularly since the ratification of the seventeenth federal amendment for the popular election of U.S. senators in 1913. This section, therefore, might well be considered for elimination in a revision of the constitution.

It seems to me, in view of all of the discussion about classified and unclassified employees, and part time and full time, the committee might well have followed that suggestion. I agree with Mr. Staiger that we have set really no policy at all here. It hardly appears to be constitutional. If you don't want a man serving in 2 offices and moonlighting, as Mr. Iverson suggests, then let the legislature take care of it there. It seems to me the whole section ought to be dropped from the constitution. It isn't needed historically. And at the point that we have now reached I don't think it means much of anything, and I would suggest that we consider eliminating it entirely.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Delegate Ostrow.

MR. OSTROW: Mr. Chairman and delegates, I am looking at this map or chart we were given of all the state commissions and boards. Now, from my limited understanding, we have only 3 branches of government — legislative, judicial and executive — so that everything that isn't legislative or judicial would fall into this executive department, including universities, the board of bar examiners, the state board of registration in medicine, and all of the others. Whether we consolidate them or not, there will probably be some subdepartments where people are serving part time and have other full time occupations, many of them with branches of government. Conceivably, under this amendment and proposal, if the legislature were to vote a salary of $500 a year for all the heads of these part time commissions and boards, they would either have to quit their regular jobs or quit the state job.

I'm talking about the language as it is written, and not the explanations we have had on the floor. As an example, if Paul Goebel were still mayor of Grand Rapids, and if the legislature voted the regents of the University of Michigan a $500 annual salary, he couldn't, under this provision as written, keep both of those jobs. I agree, therefore, with Mr. Everett that this whole provision should be left out of the constitution. It will do more harm than good.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman, I agree with what the previous speakers have said respecting the advisability of having this section in the constitution. I believe it is entirely legislative. However, in the present parliamentary situation, I urge you to vote in favor of the amendment, because it does restrict the very broad and sweeping evils which the proposal as it presently stands might bring about. And, following that, I urge you to vote against the proposal as amended.

CHAIRMAN MILLARD: The question is on the Durst amendment. Mr. Madar.

MR. MADAR: I would just like to go on record myself. Frankly, I don't like moonlighting anymore than anyone else does. We have an awful lot of moonlighting that goes on, some of it right here, where we should be paying more attention to these jobs. We have a lot of people who are worrying about whether they are going to be able to take care of their clients. Now, if we could stop this in everything, I would go along with something like this; but, because we can't, and it's an impossibility, let's keep it out of the constitution.

CHAIRMAN MILLARD: The question is on the Durst amendment. All those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Messrs. Nord and Norris now offer the following amendment:

1. Amend page 1, line 6, by striking out all of section a.

CHAIRMAN MILLARD: The Chair will recognize one of the proponents of this amendment, Dr. Norris.

MR. NORRIS: Mr. Chairman, Mr. Nord and I wish, respectfully, to withdraw our amendment at this time. (applause) Part of our amendment has been incorporated in a stronger amendment, to be offered by Mr. Austin and others. The particular problem which our amendment addressed itself to —

CHAIRMAN MILLARD: We are on Committee Proposal 48, and you —

MR. NORRIS: Isn't this the amendment you are talking about? On the civil rights commission? I'm sorry.

CHAIRMAN MILLARD: Dr. Nord, you are the first proponent on this amendment to strike out the entire section.

MR. NORD: Mr. Chairman, I believe that speech that was made made quite a hit, and I would like to repeat it. We would like to withdraw this amendment.

CHAIRMAN MILLARD: The amendment is withdrawn. Are there any other amendments to Committee Proposal 48?

SECRETARY CHASE: Mr. Everett offers the following amendment:

1. Amend page 1, line 6, by striking out all of section a.

CHAIRMAN MILLARD: The Chair will recognize the proponent, Mr. Everett.

MR. EVERETT: Mr. Chairman, I think my speech in support of the amendment has already been given. I just don't think it belongs in the constitution. The way we have done it now I don't know what it says. It is strictly legislative. I think it ought to be taken out.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee on executive branch considered this. It considered carefully the question of whether anything was needed at all, or whether this or something more than this was needed. It was the feeling of the committee that this is an important subject, and that it ought to have some recognition here, particularly if we were going to eliminate the section which Mr. Everett referred to, section 15. For that reason I think it is ignoring a problem if we just blithely do away with this proposal. I think it is for the good of the state, and should be retained. I hope the committee will not support the amendment.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: I support the amendment to strike out the section, for 2 reasons. First of all, because there have been no abuses, to speak of, even indicated on the floor of this convention, in our present state government or any local government that would require constitutional provision of this kind. The second reason is because of the tremendous number of exceptions which the legislature would have to permit by law. And I call your attention to the fact that you have 2 sections or 2 clauses in here which, when drawn together, prohibit a person from holding 2 jobs or positions, whether they are part time or full time. The first is the unclassified service of the executive branch. As pointed out, this includes all boards and commissions of the state government, whether they are paid or unpaid. It includes also all contract personnel, whether full time or part time. It includes all teachers, all educational employees of any kind, employed by the state. The second clause which we must consider is ". . . office or position for compensation under the United States, this state, or any political subdivision or agency thereof." That includes, as was pointed out previously in debate, notaries public, because they are certainly an office under the state, and they are clearly compensated, although on a fee basis. It includes the armed forces reserves of the United States, because that is an office or position for compensation under the United States. It includes any part time or visiting lecturer or instructor at any state institution of education. It includes any person who for compensation is asked to give expert opinion or advice or to consult with any agency of any governmental unit in the country. These are just a few of the problems which would have to be taken care of by the provision "except as permitted by law."

It seems to me quite clear that the legislature is in the best position or the departments involved are in the best position to determine what kind of a job or position a person can have consistent with his duties; and in the absence of any abuses, which has been shown, it seems to me quite clear this is entirely a matter for the legislature. It certainly is a matter for the legislature if we take the language of the section as it stands amended.

CHAIRMAN MILLARD: The question is on the Everett amendment. The secretary will read it.

SECRETARY CHASE: Mr. Everett has offered an amendment to Committee Proposal 48 to strike out all of section a.

CHAIRMAN MILLARD: The question is on the Everett amendment. All those in favor will say aye. Opposed, no.

The amendment is adopted. Are there any further amendments to the proposal? If not, it will pass.

Committee Proposal 48, as amended, is passed. The secretary will read.

SECRETARY CHASE: Item 7 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Exclusion Report 2027,** A report recommending the exclusion of article VI, sections 14 and 15. Substitute for Exclusion Reports 2001 and 2002.

For last previous action by the committee of the whole on Exclusion Report 2027, see above, page 1730.

CHAIRMAN MILLARD: The Chair recognizes the chairman of the committee, Mr. Martin.

MR. MARTIN: I yield to Mr. Durst, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Durst.

MR. DURST: Since we have so overwhelmingly defeated the section that replaces these, Mr. Chairman, I assume we will have no difficulty with these. Section 14 merely provides that no member of congress or any person holding office in the United States shall execute the office of governor, which apparently there's no problem with any longer. And section 15 says, "No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature," which, as Mr. Wanger has just said, we feel perfectly confident to have the legislature take care of at the present time, particularly since the governor is no longer eligible to be appointed as U. S. senator by the legislature. It is the feeling of the committee that there is no longer any need to continue these 2 provisions in the constitution.

CHAIRMAN MILLARD: Are there any amendments to the exclusion report? If not, it will be passed.

Exclusion Report 2027 is passed. The secretary will read.

SECRETARY CHASE: Item 11 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers, and so forth.

At the time this was placed at the foot of the calendar there was pending a substitute amendment by Messrs. Norris and Nord to the proposed section i.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1954.

MR. KING: Mr. Chairman.

CHAIRMAN MILLARD: Mr. King.

MR. KING: I have an amendment on the secretary's desk which I would like to have him read at this time.

SECRETARY CHASE: The amendment offered by Mr. King to the amendment offered by Messrs. Norris and Nord is:

1. Amend the amendment, first sentence, after "created a" by inserting "bipartisan"; so the amendment will read:

> There is hereby created a bipartisan civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I am pleased to rise in support of the Norris-Nord amendment as amended by the word "bipartisan." I think every delegate here is aware of the sincere interest and dedicated labor put forth through the years by these 2 distinguished law professors on behalf of civil rights. The amendment is concise, self executing, workmanlike, and it conforms with good constitutional law practices.

When it was first put forth, I asked one distinguished delegate of the minority party what he thought of it, and he said, "excellent." Now we will find out who sincerely supports constructive action in the field of civil rights. I agree with and I support the Norris-Nord amendment as amended. This noon I heard that this might be withdrawn and replaced by language designed to create a party line vote. Let me state here and now that I do not believe that these 2 gentlemen would participate in such action, and I don't believe any delegate here would have any part of it. I support the Norris-Nord amendment as amended.

CHAIRMAN MILLARD: The question is on the King amendment to the Norris-Nord amendment. Dr. Norris.

MR. NORRIS: Mr. Chairman, I appreciate the expression by Delegate King with regard to this matter, but I had inopportunely offered to withdraw this amendment on a previous occasion. But I did, on behalf of Mr. Nord and myself, want to withdraw the amendment at this time, because of our information that there would be an amendment which would incorporate this amendment and stronger provisions to implement the very distinct direction that Mr. King indicated he was in favor of.

There are infirmities in this particular section i, in the sense that it does not spell out a right to equal opportunity in employment, public accommodations, education or housing. And I think that any civil rights commission that is set up in the constitution ought to be clear in the direction that it is supposed to take with regard to what rights, in addition to others that might be created by law and by constitution, it seeks to protect. And I would like to at this time, Mr. Chairman, respectfully ask on behalf of Mr. Nord and myself to withdraw the amendment.

CHAIRMAN MILLARD: The proponent has a right to withdraw his amendment if he so desires.

The amendment is withdrawn. The question is on the committee amendment to insert a new section i.

MR. BOOTHBY: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Boothby.

MR. BOOTHBY: Ladies and gentlemen of the committee, after looking at the draftsmanship of the amendment which Mr. Nord and Mr. Norris offered, I feel that it is far superior to the amended committee proposal, and I would like to reoffer that amendment.

CHAIRMAN MILLARD: Mr. Boothby reoffers the Norris-Nord amendment.

SECRETARY CHASE: Mr. Boothby offers a substitute amendment:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor.".

CHAIRMAN MILLARD: The Chair will recognize the proponent, Mr. Boothby.

MR. DOWNS: Mr. Chairman.

CHAIRMAN MILLARD: Do you wish to be on the list, Mr. Downs?

MR. DOWNS: Mr. Chairman, I wish to ask that the second sentence be separated, if that's in order now. I would certainly not wish to interrupt Mr. Boothby in his remarks.

CHAIRMAN MILLARD: The Chair will recognize you afterwards. Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, it was suggested that since Mr. King had offered an amendment to it, that the way to dispose of this more swiftly would be to agree to the amendment which Mr. King had suggested, and I would so agree.

CHAIRMAN MILLARD: You have agreed to embody that in your amendment?

MR. BOOTHBY: Yes.

SECRETARY CHASE: Mr. Boothby then revises the language so that it reads:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a bipartisan civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor.".

CHAIRMAN MILLARD: The Chair recognizes Mr. Boothby on his amendment, as revised.

MR. BOOTHBY: Mr. Chairman, I think that actually Mr. Nord and Mr. Norris have made the argument in favor of this particular amendment, and I would not want to detract from that argument by adding any further argument of my own, except to add that the wording which has been suggested by both Mr. Nord and Mr. Norris originally seemed to be very fair, and I think that it would be a step forward. It delineates the responsibilities of the legislature in this particular field, and it is a self executing provision. I think this is probably a step in the right direction, when you consider the fact that there are some who fear that the legislature will not act. I was not one who took that position. But if that is the real fear of this body — that the legislature wouldn't act — I think that this amendment would take care of that fear. It would create a commission which would be able to act in this important area.

CHAIRMAN MILLARD: The Chair will recognize Mr. Downs.

MR. DOWNS: Mr. Chairman, I ask that the second sentence be divided from the first sentence, so that the Chair would then rule that we act on the first sentence first.

CHAIRMAN MILLARD: Mr. Downs, the rule is that when an amendment is to strike out and insert, it is not divisible. You would have to make an amendment to it.

MR. NORD: Mr. Chairman, I have a point of order on that.

CHAIRMAN MILLARD: All right.

MR. NORD: I would like a ruling on this question about striking out and inserting. I realize the rule that has been referred to by the Chair states that a motion to strike out and insert is indivisible, but I suggest to the Chair — and ask for a ruling on this point — that a motion to strike out and insert is only indivisible in the sense that you can't divide it between the striking out on the one hand and the inserting on the other hand. But the text itself is divisible in the same way as any other amendment. I ask a ruling on that.

CHAIRMAN MILLARD: Dr. Nord, you can accomplish the same result by moving to amend by striking out.

MR. NORD: This isn't my motion. I simply ask the point of order.

CHAIRMAN MILLARD: Well, the Chair rules that it is not divisible.

MR. DOWNS: Mr. Chairman, this is a parliamentary inquiry. Would an amendment be in order to strike the second sentence?

CHAIRMAN MILLARD: That's right.

MR. DOWNS: May I have time to prepare that?

SECRETARY CHASE: We will do it here.

Mr. Downs offers an amendment to the pending amendment:

1. Amend the substitute amendment, after "constitution.", by striking out all of the last sentence which reads, "The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor." Is that your amendment?

MR. DOWNS: Yes.

CHAIRMAN MILLARD: The Chair will recognize Mr. Downs.

MR. DOWNS: Mr. Chairman, in doing this — and I realize there is always a problem in making amendments from the floor — I want to say that I agree with Delegate Boothby's analysis on the first sentence; that that does create a civil rights commission within the constitution, and it does not need action by either the legislature or the executive. And I think yesterday afternoon, when some of us were concerned about the legislature and some about the executive, that this was a very happy resolution — I hesitate to use the word "compromise" — of the differences of those 2 positions. And I think to that extent the first sentence stands on its own feet. I am particularly glad where it says "to secure the protection of the civil rights guaranteed by law and by this constitution." That sentence, as I construe it, and I think this is a reasonable construction, sets up the commission to carry out the constitutional rights we have already established through the rights, suffrage and election portion of this document. The amendment would leave that alone. What it does do is strike out — and this is the key word — the "duties and powers" of the commission.

Now, I feel that if in the second sentence there we say the legislature shall prescribe the duties and powers, this may end up being nothing but, with all deference to Delegate Boothby, his amendment, in a different form, that we voted against yesterday afternoon. The concern I have is that while the first sentence says the commission shall guarantee the rights established in the constitution, that the second sentence might permit the legislature to set up the commission and then say its duties and powers shall be to educate and make reports, but not have the duty or power to help enforce those rights guaranteed by the constitution. In that sense I feel that the second and first sentences may be inconsistent.

I will say, in all candor, that if the amendment to delete the second sentence passes, that then it is very likely that we should use some language to specify how large the commission is, how it is created, its term, or the providing of funds, or something like that. But the real concern I have is that the phrase "its duties and powers" might be construed by a legislature to limit the commission in carrying out the protections that we have written into the constitution. I therefore urge that the amendment be supported which strikes the second sentence and would indirectly leave the first sentence intact.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the objection which the committee has to this is that it does not go far enough, and it does not go as far as the amendments of the committee which have already received some approval here on the floor. However, the provisions so far as they go are satisfactory. And I propose, if this passes, to propose additional language which will strengthen this and which will endeavor to make sure that the legislature does go ahead and do something about this.

The language as it now reads is good language; but, as I say, it simply leaves the question entirely in the lap of the legislature, and of course that is where it has been lying for about 15 years or more and nothing has happened. We don't want it to continue to lie in that same lap for another 15 or 20 years while the problem gets worse and worse. So for that reason I'm going to vote for this language, and then I'm going to endeavor to improve it.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I agree with what Mr. Martin has pointed out. It seems to me, though — and I'm not sure that this is not his position, also — that we have something here which was drafted by a couple of distinguished delegates who had in mind the problems which confront our state, and along comes another delegate who wants to strike out half of it without giving us any idea of what he intends to put in its place.

Now, I do not object to a "strike and insert" amendment, but I think the provisions for making it mandatory that the legislature provide sufficient moneys and prescribing that the legislature shall make up the composition of this commission are indeed important. And I think we ought to defeat the Downs amendment at this time, and let's see what he suggests we put in place of the words which we now have, which were carefully drafted by 2 experts in this field.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Birmingham, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, Mr. Downs suggests some inconsistency between the first sentence, which specifies that the responsibility of this commission will be to secure the protection of the civil rights guaranteed by law and by the constitution, and the second sentence, which directs the legislature to prescribe the duties and powers of the commission. I think that if there is such an inconsistency — and, frankly, I don't see it — it would lie in the use in the second sentence of the word "duties," because clearly under the first sentence it is the duty of this commission to secure the protection of the civil rights guaranteed by law and by this constitution.

Therefore, in order to offer those who see this inconsistency the opportunity to act upon it alone, I would request that the Downs amendment be divided so that we are able to vote separately on the question of the right of the legislature to prescribe the duties of the commission.

MR. NORD: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: The question I ask is this: is it possible to divide something where the 2 pieces can't stand separately?

CHAIRMAN MILLARD: The Chair will rule that if you want to make an amendment to the Downs amendment, you have a right to, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, I don't choose to press the point. Although it does seem to me that there are 2 separate questions: the right of the legislature to prescribe the duties, and the right of the legislature to prescribe the powers. For that reason, each could stand independently, and the question could be so divided.

CHAIRMAN MILLARD: Mr. Van Dusen, we should settle this question of whether the sentence is going to be left in or not, and then you can offer an amendment.

MR. VAN DUSEN: Very well.

CHAIRMAN MILLARD: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, I would like to support the original amendment. I don't know that I can add a great deal to what has been said already, except to state that I feel that the deletion of the second sentence, especially in view of the fact that we don't know what is proposed to take its place, would be a serious thing. I would think that we should approve this language as it is written at the present time. I believe that I can support this in the spirit in which it was offered, and recognizing that the legislature is the proper body to do the things which are stated in the last sentence which is now proposed to be deleted.

If this constitutional convention proposes to legislate in this area, I think it is making a very serious mistake. It is also making a very serious mistake if it proposes to take away from the legislature the power to do the things that are outlined in this sentence and transfer them to the governor, as was proposed by the committee. I say this because we must bear in mind that the legislature, while it has the power now to do this, can afford to experiment when it acts in a field of this kind, and can propose various ways of accomplishing this. It can come back next year and redo its work. But we can't do that, and I strongly oppose the convention taking the position that because the legislature has to date failed to act, then it is our responsibility to assume the responsibilities of the legislature. If we don't like the fact that the legislature has failed to act, what we should do is go to the legislature, go to the individuals there that represent us, and urge them to support this kind of legislation.

It is not our responsibility, I think, to come here to the constitutional convention and incorporate into a constitution what we admit and what the committee admits is a legislative matter. It may seriously handicap and tie the hands of the legislature in the future if the people should adopt the final product of our convention. We may be tying the hands of the legislature by transferring these powers to the executive. This would be, I think, a consideration that the people would have when they acted upon the final product of our work. If this is going to have any meaning at all, or any significance, the people must approve what we do.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I would like to say, first of all, that the objections that have been raised by Mr. Downs and Mr. Van Dusen both are part of the reasons why Mr. Norris and I moved to withdraw the amendment until stronger amendments can be offered. There are 2 stronger amendments that we have heard of which are to be offered. One of them I believe is Mr. Bentley's, or Mr. Bentley and others; and another one we believe will be offered by other persons as well which we will join. Those will make the language of the second sentence stronger and more specific in both cases, I believe. We would like the convention to have the opportunity to have a more specific statement in the second sentence before them. In addition, we also agree with the objections that Mr. Downs and Mr. Van Dusen stated about the duties.

I would also like to say further that as far as we can determine, nearly everybody, if not everyone in the convention, does agree without exception to the first sentence. And that is the main point that we hope we have contributed to this discussion, because that is intended to provide a self executing provision to set up a civil rights commission with no ifs, ands or buts. There is no way out, at least in our opinion, with the first sentence, from the creation of a civil rights commission, because it says "There is hereby created a civil rights commission," and then it says "whose members shall be appointed" and those words "shall be appointed" were very carefully selected. We intended them to mean and we believe they do mean that the governor must select members. Even though the legislature enacts no law explaining how the governor shall go about it, he will still have to select some members. That is at least the interpretation we intended, and we believe the language does carry that out. And as to that sentence, as far as we know, as we say, all of the amendments which we have heard of which are intended to be offered in addition to this will go in that direction.

The only question that is left open, really, for decision is whether the second sentence which is before us now is the best, or whether some other sentences could be inserted, which we believe will be advanced. We would ask the delegates to strike the second sentence for the time being, and to adopt this first sentence, which we believe has no controversy whatever in the convention; and then have the opportunity for other amendments to be incorporated or to be offered, rather, which will give substitutes for the second sentence.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Mr. Austin.

MR. AUSTIN: Mr. Chairman, ladies and gentlemen of the committee, I am wondering if I could ask Mr. Downs to withdraw his amendment, so that I can offer a substitute amendment for the amendment offered by Mr. Boothby.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: If it's in order, Mr. Chairman, I would be glad to withdraw my amendment so that Delegate Austin may offer his substitute amendment.

CHAIRMAN MILLARD: The delegate has a right to withdraw his amendment. It is withdrawn.

MR. AUSTIN: Mr. Chairman, I have the amendment at the desk. I am wondering if the secretary will read it.

MR. BENTLEY: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Do I understand that we now have pending before the committee of the whole a substitute to the committee amendment? Do I understand that Mr. Austin's amendment would be an amendment to the substitute?

CHAIRMAN MILLARD: It has to be, because we still have the Boothby amendment before the committee.

MR. BENTLEY: And do I understand further, Mr. Chairman, if I may pursue my parliamentary inquiry, that if the Austin amendment to the Boothby substitute is adopted, that no further amendments are in order until the Boothby amendment has been disposed of?

CHAIRMAN MILLARD: We have to dispose of amendments as they come up, Mr. Bentley; and this is a substitute to the Boothby amendment, as the Chair understands it. Is it a substitute to the whole thing, or just to the Downs amendment?

MR. BENTLEY: Mr. Chairman, if I may pursue my parliamentary inquiry, I understand that the rules of procedure would only permit this to be an amendment to the substitute offered by Mr. Boothby, and if I am correct, this would be an amendment in the third degree, and no further amendments to the Boothby substitute would be in order until this is disposed of.

CHAIRMAN MILLARD: The Chair hasn't seen the amendment yet.

Having now seen the amendment offered by Mr. Austin, it is a substitute to a substitute to a substitute, which is not allowable. We will have to dispose of Mr. Boothby's amendment first.

SECRETARY CHASE: Messrs. Van Dusen, Nord and Norris offer the following amendment to the Boothby substitute amendment:

1. Amend the amendment after "its" in the last line of the amendment, by striking out "duties and"; so that the last sentence would read, "The legislature shall prescribe the composition of this commission, its powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The Chair will recognize the proponent, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, I think that the purpose of the amendment is self explanatory. It is designed to eliminate any inconsistency between the first and second sentences. I think perhaps a more artistic expression of it would involve the inclusion of the word "and" after the word "commission" in the next to the last line, so it would read "shall prescribe the composition of this commission and its powers, and shall provide sufficient moneys therefor." If my cosponsors would accept that amendment orally, I would so offer it at this time.

SECRETARY CHASE: The amendment offered by Mr. Van Dusen is revised so that it will read:

1. Amend the amendment, second sentence, after the word "commission,", by inserting the word "and"; and after "its" by striking out "duties and"; so that the language will then read, "The legislature shall prescribe the composition of this commission, and its powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The question is on the Van Dusen amendment to the Boothby amendment.

MR. LEIBRAND: Division, Mr. Chairman.

CHAIRMAN MILLARD: Division is called for. Is there support? There is a sufficient number up.

MR. KING: Mr. Chairman, I would like to raise a point of parliamentary inquiry. I'm confused at this point. Is this an amendment to an amendment to an amendment?

CHAIRMAN MILLARD: This is an amendment to the Boothby substitute amendment.

MR. KING: And that is in order, I take it?

CHAIRMAN MILLARD: It's in order. Judge Leibrand.

MR. LEIBRAND: May I direct an inquiry to Delegate Van Dusen on his amendment?

CHAIRMAN MILLARD: Surely, you can, through the Chair, if Mr. Van Dusen desires to answer.

MR. LEIBRAND: Mr. Van Dusen, who then will be the actual judge of the specific duties of that commission? If not the legislature, will it be the commission itself?

MR. VAN DUSEN: Mr. Chairman, Judge Leibrand, the duties of the commission are prescribed in the constitution. They are to secure the protection of the civil rights guaranteed by law and this constitution. If there is any question about what securing the protection of the civil rights guaranteed by law and by this constitution means, presumably the question would have to have judicial determination. I think it is reasonably clear.

MR. LEIBRAND: As I understand it, the actual procedure and duties and activities of the commission then would be determined by the commission itself, since the legislature is not to be permitted to prescribe them?

MR. VAN DUSEN: Mr. Chairman, Judge Leibrand, if I may respond further, the answer is no; the duties are prescribed by the constitution.

CHAIRMAN MILLARD: Mr. Bentley, did you want to speak on the amendment?

MR. BENTLEY: I request that the Van Dusen amendment be read again, Mr. Chairman.

SECRETARY CHASE: The amendment offered by Messrs. Van Dusen, Nord and Norris is:

1. Amend the amendment, second sentence, after "commission,", by inserting "and"; and after "its" by striking out "duties and"; so that the sentence would read, "The legislature shall prescribe the composition of this commission, and its powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The question is on the Van Dusen amendment. Division has been called for. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Messrs. Van Dusen, Nord and Norris, the yeas are 99; the nays are 16.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to the Boothby amendment? The question is on the Boothby amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is a sufficient number up. All those in favor of the Boothby amendment, which is a substitute for the committee amendment, will vote aye. Those opposed will vote nay. The secretary will read the amendment.

SECRETARY CHASE: The Boothby amendment, as it is now amended, reads as follows:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a bipartisan civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, and its powers, and shall provide sufficient moneys therefor.".

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: A parliamentary inquiry, please. What will be the posture of the committee if this passes? Where do we stand on the committee amendment, and so on?

CHAIRMAN MILLARD: This is a substitute for the committee amendment.

MR. AUSTIN: So if this passes, it will take the place of the committee amendment; and what about subsequent amendments?

CHAIRMAN MILLARD: They can be offered to it.

MR. AUSTIN: And substitutes?

CHAIRMAN MILLARD: They can be offered.

MR. AUSTIN: Thank you.

CHAIRMAN MILLARD: All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the Boothby amendment, the yeas are 118, the nays are 9.

CHAIRMAN MILLARD: The Boothby substitute is adopted. Mr. Bentley.

MR. BENTLEY: I now desire to offer the entire substitute to the Boothby substitute which is at the secretary's desk. It was marked to be divided, Mr. Secretary, but I would like to offer the entire language as a substitute to the substitute.

SECRETARY CHASE: Mr. Bentley offers the following amendment:

1. Amend page 5, after "Sec. i.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission to secure the protection of the civil rights guaranteed by law and by this constitution. The commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, to be appointed by the governor for 4 year noncoterminous terms. The legislature shall prescribe by law the duties and powers of the commission to accomplish this purpose and shall provide sufficient funds for its effective operation. At any time following 2 years subsequent to the adoption of this constitution, the governor may submit to the legislature a proposed plan or plans to implement further the objectives of the commission as set forth in this paragraph. Where such proposals require the force of law, they shall be set forth in an executive order. The legislature shall have 60 days of a regular session or a full session, if of shorter duration, to disapprove such plan or plans. Unless disapproved in both houses by a resolution con-

curred in by a majority of the members elect of each house, such plan or plans shall become effective at a date thereafter to be designated by the governor.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Mr. Bentley.

MR. KUHN: A point of order, Mr. Chairman. May I ask the secretary, through the Chair, whether this amendment was offered before the Hatch-Kuhn-Upton amendment? I didn't think it was.

CHAIRMAN MILLARD: The Chair ruled that amendments could be made to the Boothby amendment after it was adopted.

MR. KUHN: Well, this was an amendment that was put in right after the Nord and Norris amendment, and I didn't realize there were any other amendments on the desk at that time, and I was wondering how this would come before ours.

MR. BENTLEY: Mr. Chairman, if the gentleman from Pontiac has an amendment to the section that he offered before my amendment, I will be happy to withdraw mine temporarily and permit his to be disposed of.

CHAIRMAN MILLARD: If you have an amendment at the desk, I haven't seen it, Mr. Kuhn.

SECRETARY CHASE: Mr. Kuhn, will you give us a little time, please? We understood that when Mr. Boothby offered the Norris-Nord amendment, that you had indicated that you were not offering yours.

Messrs. Hatch, Kuhn and Upton offer the following amendment:

1. Amend page 5, after "Sec. i.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission to secure the protection of the civil rights guaranteed by law and by this constitution. The commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, to be appointed by the governor, with the advice and consent of the senate, for 4 year noncoterminous terms. The legislature shall prescribe by law the duties and powers of the commission to accomplish this purpose and shall provide sufficient funds for its effective operation.".

Do you wish the rest of the language added, Mr. Kuhn?

MR. KUHN: That was the end of that substitute amendment. You don't have any further language there that I know of.

MR. BENTLEY: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I am wondering if we might solve this situation. The Kuhn-Hatch amendment which the secretary has just read is roughly the first portion of the amendment which I had previously offered. Since I understand that this is not a "strike out and insert" — or is it?

CHAIRMAN MILLARD: It is.

MR. BENTLEY: Then it is not divisible. I'm sorry. I will again be happy to withdraw temporarily to allow the pending Kuhn-Hatch-Upton amendment to be voted on.

CHAIRMAN MILLARD: The Chair will recognize Mr. Kuhn as the proponent of the amendment.

MR. KUHN: Mr. Chairman, this is not very much different from Dr. Nord's and Dr. Norris' amendment. This allows the governor to appoint a 4 man commission, 2 members of each political party, which makes it a bipartisan group. It also prescribes the duties and powers of the commission, and to accomplish this purpose, shall provide sufficient funds for its effective operation. On that basis we are submitting it as a substitute.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I don't have the exact language before me, but assuming that it's the same or substantially the same as that offered by Mr. Bentley, I would offer 2 objections to it. One of the objections is the advice and consent, and I would say that this is an extremely serious objection, for this reason. The first sentence which we have already adopted as the substitute for the committee amendment, the whole idea behind it, and no other idea, is that there shall be a self executing provision for a civil rights commission, and that there's no way at all to prevent that commission from going into effect. That is the reason that we were very careful not to put in "the advice and consent of the senate," because if you have that provision in there, there is one way of preventing the civil rights commission from going into effect, and that is the senate failing to give consent. That prevents it from having the only advantage which we think the first sentence provided, and therefore I feel that this sentence vitiates the whole purpose of what over 100 people here have agreed to.

The second objection I have is not as serious as that, but it still is an objection which I think is sufficient ground for rejecting this amendment or substitute. That is the bipartisan commission of 4 members. To "bipartisan" of course there is no objection. In fact, it is a desirable thing. But a bipartisan commission of 4 members or an even number I do object to, on the same grounds that I objected to it, I believe yesterday or the day before, when we discussed another commission, the highway commission. It is true that a bipartisan commission on civil rights is less likely to deadlock perhaps than a highway commission, but the possibility is still there. I don't think we should have a bipartisan commission provided in the constitution of an even number of persons, with no solution as to what happens when you deadlock. I don't think that that is an insuperable problem, but I do say that if you leave it in the form that it is before us, that it is a problem which is a great problem. There is no reason to provide in the constitution something that is almost certain or, let's say, has a strong tendency to create deadlocks. Those are the 2 objections that I have to the present amendment.

One, as I say, it creates deadlocks, which is exactly what we want to avoid in civil rights. Two, it really vitiates the whole object of the first sentence and, as a matter of fact, of the entire section — which we have already adopted, as I say, with over 100 votes — an absolutely certain, self executing civil rights commission. I therefore can't support this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I think it is highly desirable that on matters of this kind that we have bipartisan action if it's possible. I know that the minority can't accept the advice and consent provision, but I think they could accept the rest of this if that were not in. And the majority can take the responsibility for introducing an amendment to put that in, and for voting on it subsequently.

I would like to ask Mr. Kuhn if he would withdraw that portion of his amendment which specifies advice and consent, and let us introduce it as a subsequent amendment.

MR. KUHN: As far as I'm concerned I would withdraw that. But it would also be up to Mr. Hatch and Mr. Upton.

CHAIRMAN MILLARD: Mr. Hatch, are you on that amendment?

MR. HATCH: Mr. Chairman, I wonder if Mr. Kuhn would be willing to withdraw the entire substitute?

CHAIRMAN MILLARD: Mr. Kuhn, you have heard the request.

MR. KUHN: Well, since Mr. Martin would like to put it all in as one, I would agree to withdraw it at this time.

CHAIRMAN MILLARD: Without objection, the Kuhn-Hatch amendment is withdrawn. The secretary will read.

SECRETARY CHASE: Mr. Bentley offers the following amendment:

[The Bentley amendment was again read by the secretary. For text, see above, page 1979.]

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Bentley.

MR. BENTLEY: Mr. Chairman, members of the committee, the first 3 sentences of this proposed amendment are identical to the Kuhn-Hatch amendment which has just been withdrawn. They do not contain the phrase, "with the advice and consent of the senate." I have another amendment here to offer to include that in the event that the pending amendment should be adopted.

The second 3 sentences are the new part, the addition to what has been spoken of before. There are those of us, Mr. Chairman, who are more than willing to give the legislature initial authority to prescribe by law the duties and powers of the proposed commission to accomplish the purpose for which the commission is being created. There are the same number of people, I suppose, who have different opinions about whether or not there should be some requirement to obtain action in this field in the event the legislature was either unable or unwilling to so act.

The members of the committee will recall, of course, the committee amendment which was discussed at length yesterday which provided that in the event the legislature did not act within 2 years to establish the civil rights commission, the governor would, by executive order, establish the commission himself, with no legislative check. Although, of course, the committee amendment was not voted on, I point out that it was reported out of the executive branch committee by a 17 to nothing vote.

We are now, Mr. Chairman, attempting to follow a pattern which was earlier established by the committee of the whole in the pending Committee Proposal 71, and which I presume if this particular language were adopted, could be reincorporated within style and drafting to perhaps conform to that language and avoid perhaps some possible repetition. But we are proposing to give the legislature the 2 years to set up the commission. The governor actually will make the appointments, but the legislature will lay down the duties and the powers of the commission, and provide the funds for its operation. We are now proposing that at the end of 2 years, should the governor desire to submit a plan to further strengthen the commission and to further implement the objectives of the commission, that he may do so, as we have already approved his doing so with respect to executive reorganization plans in the earlier portion of Committee Proposal 71. The legislature will have the same disposition, the same availability. If they do not approve of the governor's proposed plans within 60 days, by a majority of the members of each house, they can adopt a resolution of disapproval and the further reorganization plans or the further plans for the implementation, strengthening or reorganization will become ineffective.

It seems to me, Mr. Chairman, that we are now faced with somewhat of a question as to just how far the convention wishes to go in the field of civil rights. We have taken an important and constructive step by adopting the Boothby amendment to actually establish the commission. We are now faced with a decision as to whether or not to take a second step and provide for an initial period of legislative-executive cooperation, and further executive ability to strengthen the commission, with the ability of the legislature to disapprove. I understand, of course, that there will be offered in all probability a third possible step, to be submitted by the gentleman from Detroit, Mr. Austin — at least, I understand that is his intention — to go beyond the language that is presently before you and spell out in somewhat more detail the duties and powers of the commission. We can of course adopt that language when we arrive at it.

I think, however, it is merely a matter for us to choose now as to whether we wish to be satisfied with the language of the Boothby amendment which has been adopted, or whether we wish to go another step further and provide for some additional ability to strengthen and reinforce the commission and to implement its objectives if the initial legislative steps in that direction are deemed to be meaningless or not sufficient to carry out the objectives for which the commission has been established. That is all the remarks I care to make, Mr. Chairman. I of course would be happy to answer questions. If not, I will be glad to yield the floor.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Mr. Yeager.

MR. YEAGER: Mr. Chairman, I have a question for Mr. Bentley, please.

CHAIRMAN MILLARD: Mr. Bentley, if you care to answer.

MR. YEAGER: Mr. Bentley, does the provision allowing the governor to issue an executive order having the force of law give the legislature the right to veto such an executive order within 60 days? In other words, does the legislative veto apply only to the plans that you refer to, or to the executive order?

MR. BENTLEY: Actually, the words "plan or plans" in the next to the last sentence, Mr. Yeager, should probably mean order. In other words, where the proposals require the force of law, they shall be set forth in an executive order. And to be consistent, I believe the words "plan or plans" should be stricken, and the word "order" substituted because, obviously, the legislature could only act in a situation where the force of law was involved.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I only want to call the attention of the members here to the fact that this amendment not only contains the language of the Boothby amendment, but insofar as it specifies the membership of the commission, and its terms, and so on, this is exactly the same language as we have in the proposal with respect to the state highway commission. We have tried to copy that language very closely. I think Mr. Bentley has amply explained the balance of the amendment. It is somewhat stronger than the Boothby amendment, and it makes it more certain that action would be taken and this would not be just a pious gesture. I think that's all we have to say at this time, Mr. Chairman. I hope, of course, that it will be approved by the committee.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to direct a question to Delegate Bentley, if I may.

CHAIRMAN MILLARD: Mr. Bentley.

MR. HIGGS: Mr. Chairman, Mr. Bentley, in the last sentence of this amendment it appears to me that the executive would have a power greater than a majority of the members present in the legislature; in order to accomplish a legislative veto of any executive order which would have the force of law, it would require more than a quorum, is that right?

MR. BENTLEY: Mr. Chairman, I believe your interpretation is correct, Mr. Higgs. It would have to be a majority of all the members elected to each house. That we adopted from the language of the executive reorganization paragraph.

MR. HIGGS: Mr. Chairman, Mr. Bentley, in other words, you have given the chief executive of this state a greater legislative power than the legislature itself would have under normal circumstances, is that right?

MR. BENTLEY: Mr. Chairman, if you are referring to the fact, Mr. Higgs, that the legislature can pass legislation through a majority of a quorum, you are correct.

MR. HIGGS: I hope the delegates to this convention will have that in mind when they vote on this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, in response to Mr. Higgs' question, it should be called to his attention that this is exactly the same language which he has already voted for with respect to the proposal on executive reorganization — exactly the same authority in the legislature and in the governor.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I cannot agree that this is the same thing as the one regarding the creating of commissions and boards. That follows a theory which has been worked out in the federal government where the congress gives authority to the administration, to the president, to carry out the principles set forth by law by congress. That seems to be the theory on which we are working here. It is quite a different thing. It does not give the president the powers of congress, except to carry out details.

Now, in here, by constitutional provision, we are handing the governor a legislative power. At least, that's the way I construe it. We are giving him the power to give such things as the power of subpoena, the right to require witnesses to testify under oath, and so forth, to an administrative board, subject only to a sort of veto power of the legislative department. Only once before have we done anything of this sort in the Michigan constitution, and that is the provision whereby the governor may exercise a duty which is essentially judicial in character, or perhaps a duty which might be to the legislature, to remove certain persons from office under certain conditions. It's certainly contrary to this.

Now, I had decided to support the Norris-Nord amendment. It seemed to me it was well drafted, simple, self executing and sensible. I could make out what it meant. I cannot say the same for this. But I certainly think we should do something to eliminate from anything we do the idea of giving the governor legislative powers. Thank you.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: I think Mr. Stevens covered everything I want to say.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I would like to direct a question to Mr. Bentley if I might, through the Chair.

CHAIRMAN MILLARD: Mr. Bentley.

MR. KING: Mr. Bentley, the copy on this side of the room is not clear. I wonder if you could read the last sentence for me.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The last sentence, beginning on line 17:

> The legislature shall have 60 days of a regular session or a full session, if of shorter duration, to disapprove such plan or plans. Unless disapproved in both houses by a resolution concurred in by a majority of the members elect of each house, such plan or plans shall become effective at a date thereafter to be designated by the governor.

MR. KING: My question, Mr. Chairman and Mr. Bentley, is: suppose the date to be designated by the governor was 1999, would that mean that the plan would not go into effect until that time?

MR. BENTLEY: I presume, Mr. Chairman, in reply to the gentleman's question, I assume that would be correct.

MR. KING: Thank you.

MR. BENTLEY: The language, of course, was taken from the executive reorganization proposal.

SECRETARY CHASE: Mr. McLogan suggests an amendment to the amendment as follows:

Amend the amendment, after the third sentence which ends in "effective operation.", by striking out the words "At any time" and inserting "For the next 2 years" so that the sentence there will read:

> For the next 2 years following 2 years subsequent to the adoption of this constitution, the governor may submit to the legislature a proposed plan or plans to implement further the objectives of the commission as set forth in this paragraph.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Flint, Mr. McLogan.

MR. McLOGAN: Mr. Chairman, this amendment would allow the governor only a period of 2 years following the 2 years subsequent to the adoption of the constitution in which to issue this executive order. It could not be deferred beyond that time. I would recommend the adoption of this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: We would have no objection to this whatever. It was not intended to give the governor an unlimited time forever to propose such plans.

CHAIRMAN MILLARD: Does the proponent agree to this change, Mr. Bentley?

MR. BENTLEY: I have no objection, Mr. Chairman.

CHAIRMAN MILLARD: If there is no objection, it will be incorporated in the Bentley amendment. Are there any other amendments?

SECRETARY CHASE: Mr. Austin has an amendment which is in the process of preparation.

Messrs. Austin, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott offer the following amendment to the Bentley amendment:

1. Amend the amendment, after "Sec. i.", by striking out all of the first 3 sentences of the proposed language through "operation.", and inserting "There is hereby created a civil rights commission which shall consist of 5 members, not more than 3 of whom shall be members of the same political party, who shall be appointed by the governor for 4 year noncoterminous terms. The legislature shall provide sufficient funds for the effective operation of the commission. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate violations of, and to secure the protection of the civil right to employment, education, housing, public accommodations, and to such other civil rights as provided by law and the constitution.

The commission shall have power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and the submission of records, to take testimony, to issue appropriate orders and such powers as are necessary to carry out the purposes of this commission.".

CHAIRMAN MILLARD: The Chair will recognize the first proponent on this amendment, Mr. Austin.

MR. AUSTIN: Mr. Chairman, members of the committee, I think the committee is to be commended for recognizing a very vital need to guarantee the rights of all citizens, particularly those who are deprived of some of their rights. The proponents of this amendment that we are proposing to amend have done an admirable job, and we feel that they should be complimented. However, there are some defects which we think ought to be brought to the attention of the committee, to see if we can't put the teeth in this commission that it needs if it is going to do an effective job.

The proponents of this particular amendment have purposely withheld introduction of these amendments until the convention had decided whether it wanted to adopt the concept of a civil rights commission. Now I think the convention at this point has demonstrated overwhelmingly that it is interested in a civil rights commission. We have gone part of the way; let's go all of the way. We all know that the legislature has refused to act in this area, and from expressions of leading members of that body it appears as though the legislature will be very reluctant to act. Now, there are some dangers in the Bentley amendment, and certainly in the amendment which the Bentley amendment seeks to replace, in not providing sufficient specificity with regard to the powers and duties of the commission.

I would like to remind the delegates that there are only 2 other commissions that have been given constitutional status. One is the civil service commission. The other is the highway commission, which was adopted on Tuesday. In each case we provided sufficient specificity to make sure that there would be no question about what was intended in regard to the framework, the political composition of the commission, who makes the appointments, the term of office, the duties, the powers and the funds. Now, the amendment before us — that is, the Bentley amendment — does answer some of these questions or does provide some of the specifics that are required. But certainly it does not go far enough in indicating the areas in which we expect this commission to work, and also in specifying the powers and duties of the commission. If the specifications are not given in the provision which we adopt here, the reference in the constitution to a civil rights commission may be of little value. It may tend to confuse. It could even have the appearance of a political maneuver, and may not encourage the legislature to move any faster than it is moving at this point.

I agree with many of the speakers who have preceded me that progress in the area of civil rights is not made by words on paper, it is made by acts and deeds. At this convention we must not show a reluctance to demonstrate our willingness to insist on positive action. Let's not be confused about what civil rights embraces. Our aim should be to achieve full enjoyment and participation by all citizens without undesirable discrimination in American life in terms of political, economic and other general aspects in the fields of employment, education, housing and public accommodations. And I would like to remind the delegates that the pursuit of happiness is the aim of every human being's dreams. Happiness is difficult for any person or group of persons to pursue when they are preoccupied with the struggle for political and economic freedom, and freedom to other civil rights. Those of us who take for granted our freedoms are not usually fully aware of the terrible handicap suffered by those who are deprived. I would also like to remind the convention that thus far our performance in this general area of providing opportunity for those who are deprived has not been as good as I think it ought to be, and I want to give some examples of just what I mean.

Our action on search and seizure, in my humble opinion, certainly will not redound to our benefit when it is analyzed by those who are deprived. When we consider the regressivity of our tax structure and what we have done in our finance and taxation proposals to date, we will realize also that we have not been as fair to those who are deprived as we ought to be. When you think of voting rights, and when you consider how we have restricted voting rights to property owners, ignoring people who own children and possibly not property, you will realize that we have again taken a backward step in our consideration of those who are deprived. When we took away from the governor the right to fill vacancies on the judicial benches, we again took a step which certainly was not in the best interests of those who are deprived. And now we are about to provide a civil rights commission that has no teeth. Now, I certainly would suggest that you consider carefully the cumulative impact of these steps. I think you will all agree that they are devastating, and they won't go unnoticed.

The amendment which has been proposed here now does several things. First of all, it provides for a commission which has an odd number of members, thus avoiding any opportunity for deadlock along political lines. It also gives the legislature the right to prescribe duties, but it does not require the legislature to prescribe duties. It goes further in designating exactly what the powers of this commission are. And I think it is absolutely essential that we designate those duties in the constitution, so there will be no question about what the legislature or the governor will do should he find it necessary to set this commission in motion. I might add, also, that by being as specific as we are with this amendment, it is now possible for the governor to establish this commission. The duties are outlined, the powers are provided, and whether the legislature acts or not we will have a civil rights commission. I certainly urge the adoption of this amendment, because it provides the needed framework for a commission which we have agreed is essential, and which may not be efficiently established otherwise. And, Mr. Chairman, I would like to yield the floor to other proponents of this amendment who may desire to speak. I would first yield to Mr. Binkowski.

CHAIRMAN MILLARD: The Chair will recognize Mr. Binkowski, one of the proponents of the amendment.

MR. BINKOWSKI: Mr. Chairman, members of the committee, to start out with, I would like to emphasize a point which Mr. Brown and Mr. King emphasized earlier in our deliberations concerning the question of civil rights, and that is that this is not a negro problem. I think, very understandably, that many people associate civil rights with negroes because of the fact of the color of their skin and they cannot pass into society as many of us can. Speaking for myself, 50 years ago, when my grandfather came to this country, in order to get by he had to pass as a German in order to get a job. In the area of religious discrimination, about 3 weeks ago I had the opportunity to attend a meeting at which they were still distributing literature on why Mr. Kennedy should not be elected president of the United States, basically because of his religious convictions. I don't know if they're unhappy about the last election or if they're preparing for the next election.

Basically, I have 3 reasons which I shall discuss very briefly for being in favor of a strong civil rights provision. I will not speak in the order of their importance, but I would like to mention just 3. One is a pragmatic problem, from the dollars and cents angle. Two is the philosophical basis of this. That is, I think that if you have a true democracy, you can only have one by adhering to human rights. Thirdly, I think there is a religious or moral basis for this. Mr. Higgs and some of the other members were wondering when are we going to get into the area of specifics, and I think here we have specific situations which you can consider.

Now, what do I mean by civil rights? Simply this: that each citizen of a community is granted an equal opportunity to a job, a home, an education, to public facilities and a place to worship. While we have eliminated slavery, segregation has taken its place. In the north, segregation is not legal — it's social. Negroes, Mexicans and Puerto Ricans are allowed to live in one section of our city, but not in another.

I would like to mention very briefly, parenthetically, it seems that each generation produces its forgotten man, and I think that this generation's forgotten man is probably the migratory workers who, in the main, are Mexicans and who in this country of course are almost completely unorganized and left to themselves. We have, if you will recall in the Detroit newspapers, a situation where we have all negro schools with all negro teachers, and we try to convince the children that their life in this respect is different in Michigan than in Alabama. I think that history will judge our nation severely on this score.

Now, getting into the area of pragmatism, or the dollars and cents question, it has been estimated by Mr. Elmo Roper that the total cost of discrimination in this country is $10 billion a year. I don't think that we can continue to afford the luxury of racial discrimination any longer in this country. A second consideration is a philosophical one. The cornerstone of a democracy is the spiritual principle of the dignity and worth of the individual. Man has dignity because of his divine origin. The Judaic-Christian concept of man has shaped the political institutions of the western world. Under the Judaic-Christian tradition, man is believed to possess dignity and worth because of his divine origin. American democracy has been built upon this fundamental principle. And Jefferson's eloquent statement that all men are created equal and endowed by their Creator with certain inalienable rights is the cornerstone of American democracy. Few Americans would disagree with the principle of equality. But, nevertheless, there are substantial numbers of people in this country whose race, color, religion or nationality has caused them to question if equality is anything more than a slogan. As a catholic, I subscribe to the Bishops' statement in 1958, in which it was said:

> The heart of the race question is moral and religious. It concerns the rights of man and our attitude toward our fellowman. If our attitude is governed by the great Christian law of love of neighbor and respect for his rights, then we can work out harmoniously the techniques for making legal, educational, economic and social adjustments. But if our hearts are poisoned by hatred, or even by indifference toward the welfare and rights of our fellowmen, then our nation faces a grave internal crisis.

I think that Dr. Hannah eloquently pointed out in detail the importance of this question on a national issue. These rights, according to the Judaic-Christian faiths, are or should be available to everyone, and it is wrong to deny any or all of these rights to a person because of race, religion or nationality. We believe that if a democratic society is to grow and prosper it must bring its deeds in line with its creed. We think that this can only be accomplished by a provision which is meaningful and with teeth in it.

In conclusion, then, it is our belief that the principles of morality and justice demand that Michigan solve its remaining civil rights questions, but it is also essential that we do this to preserve and extend our democratic system. For survival of democracy depends upon an open society in which no arbitrary or superficial restrictions are placed upon any citizen to participate and contribute to that society. Time and world opinion is passing us by on this question. And I will make no appeal, as Dr. Hannah did, to equality, because it damages our international reputation, important as that is; I am speaking on this subject because it is the right thing to do, regardless of any other consideration. Therefore, I move the adoption of this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, at this time I would like to yield to Dr. Harold Norris.

CHAIRMAN MILLARD: Dr. Norris is recognized.

MR. NORRIS: Mr. Chairman, ladies and gentlemen of the committee, I think that the entire experience with the measures that have preceded in this segment of the executive committee's proposals has indicated some of the fruitfulness of the deliberative process in action. And I think that each of the various measures that have come before the body and the amendments thereto have improved the principle which was subscribed to by that committee. I think we are now at the threshold of going further in order to give substantive vitality to a sacred area in a constitution.

Now, I think that the basic proposition which we came to yesterday of trying to rectify a situation where there was constant shifting of responsibility of the executive and the legislative powers to a point where we concurred in very large measure at this convention in the idea of a self executing commission — that is, a commission which would be brought into being by the constitution — indicates that we have made some progress in this area. But some progress may not be enough progress. And I think that the amendment which we now have before us carries that progress forward and gives it the kind of effectuation we want to give to this important proposition.

Now, the major question that I think this amendment addresses itself to is one that has been posed by over 100 years of American constitutional history and that is: what are the civil rights guaranteed by the constitution? We have had a considerable volume of constitutional jurisprudence, some of it vexatious and some of it still with us, addressing itself to 3 questions: 1. What is the nature of the right guaranteed? 2. Who protects it? 3. Against whom is the right protected?

When we speak of the nature of the right, we have provisions in the constitution regarding privileges and immunities, and there has been abundant, ambivalent jurisprudence regarding that proposition. When we speak of the nature of the right we also speak of the rights encompassed under the substantive features of the due process clause, and we also think of them under the denial of equal protection. When we think of who protects, we think, in our dual system of government, of the state and the federal responsibility. And when we think against whom are these rights protected, we think in terms of state action as well as private action.

We are now in the frontier in this nation of moving forward to giving concrete form to answers to these questions. And any step that is to be worth its salt must give some degree of specificity, and not leave it up to the vagaries or the vicissitudes of litigation. I submit that this particular amendment does carry forward this idea of giving specific form to the rights which we seek to protect as the indispensable minimums to full equality and full humanity for all of our citizens. And so when we say there shall be civil rights to employment, education, housing and public accommodations, I think we are touching a responsive chord in the minds and hearts of all of our 8 million citizens — indeed, of all of the people of the United States.

I know that we speak of trying to guarantee the rights guaranteed by law and by this constitution. We have indeed by our declaration of rights sought to make those rights specific, to declare them, to proclaim them, to give them effect; and to give them the specificity that we have set forward in our declaration of rights is precisely the purport of this particular amendment. I think it merits not only your considered and deliberative attention, but your support. You have an opportunity here to make history in these United States. I understand the observations made by Dr. Hannah with regard to the international importance of these matters. I concur in the observations of Delegate Binkowski that we ought to do these not merely because of their impact elsewhere, but because they are morally right, and intrinsically so. I say, too, that an America that is true to itself cannot be false to any nation. And in order to be true to itself, it must in the constitution on the federal level and in the constitutions on a state level say to the people that they have an equal opportunity to a job, to a house, to education and to public accommodations, as the indispensable minimum by which people can be and hold their heads up in dignity as citizens of the United States.

There is, therefore, a clear delineation of rights in this amendment; there is a clear delineation of the way by which these rights are to be secured and protected. I think that this convention has an opportunity here to move forward in a qualitative fashion that would reflect with historic credit upon each of the 144 delegates. I urge and commend to you that our deeds be in line with our creeds, as Mr. Binkowski put it, and that we support wholeheartedly this amendment. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: I would like at this time to yield to Delegate Nord.

CHAIRMAN MILLARD: Dr. Nord will be recognized as one of the proponents.

MR. NORD: Mr. Chairman, I would first like to say that I regard this amendment as an attempt to perfect the principles which the executive committee has brought forth to us, and also to perfect the ideas which the committee of the whole has thus far adopted. I agree with the statements of the previous speakers that what we have done is an extremely important step forward, and now what we wish to do is to perfect that step forward to make it not just a step, but a stride.

Rather than explain why civil rights is a good thing — I think that's extremely unimportant; I believe everybody here knows why civil rights is necessary — what I would like to do, rather, is to analyze the specific amendment and explain why I believe this amendment and this language is the preferred language; and to explain why Mr. Norris and I felt we would prefer to have our names attached to this amendment rather than the briefer amendment that we originally offered.

As to the first sentence, the first sentence says, "There is hereby created a civil rights commission," and so on. That language, of course, together with the language that follows towards the end of the sentence, "the members of which shall be appointed by the governor," is the same as that which we have already adopted in committee of the whole. That is the self executing language, and I believe that that is quite clear. I would also state, while I am at it, that the language of the Bentley amendment differs from this in certain respects, and does not say that the governor shall appoint these members, and it therefore doesn't mandate the governor to do so. This does mandate the governor to appoint such a commission, and therefore we intend and believe that this is self executing in every respect.

The next thing we find in the first sentence is that there is to be a bipartisan commission. We don't think that there is anything debatable about that. As far as we know, nobody objects to that. I believe everyone thinks that it is wholesome and desirable. That is a feature found in both the Bentley amendment and this amendment.

The next feature that we find in the first sentence is the odd number of members. As I pointed out before in discussing the predecessor to the Bentley amendment, the Kuhn amendment, I objected to the even number in a bipartisan commission because it seemed to me it simply invites deadlocks. It seems to me, for example, that what would be very likely to occur, or at least likely to occur, is that the 2 members of the same party as the governor would be likely to induce deadlocks so that the governor would in effect settle it by possibly replacing one of the other members of the other party. That would not be desirable, in my opinion. I believe this is a satisfactory solution. Because here it is certainly not necessary to have both parties of equal strength. It is desirable to have both parties represented, but there is certainly no reason why they must be exactly equal. The provision we have here now is there shall be not more than 3 of the same party, so therefore there will be 3 and 2, and deadlocks on this basis will be impossible.

Staggered terms are also provided at the end of that sentence, and as far as I know that is considered to be desirable in all cases, and I think that is in the Bentley amendment as well. So sentence one, as far as we can determine, takes care of what we have already done, and goes further in the same manner as the Bentley amendment would do, except that it contains a provision for an odd number of members of the commission.

The second sentence simply states, "The legislature shall provide sufficient funds for the effective operation of the commission." We believe that is a quite simple and easily understood provision. That states, in effect, that the legislature has a pocketbook veto, you might say, which is the correct role for the legislature over a commission.

The third sentence spells out the duties of the commission. To a certain extent the language here is the same as the language we have adopted, but it has been expanded, of course, as you can see. It does state that it shall be the duty of the commission — and skipping a clause, we find at the end of the sentence ". . . and to such other civil rights as provided by law and the constitution," and there is additional language here, all of which gets down to the language you have already agreed to. The language that is added in this sentence — and to me it is extremely important, and warranted the introduction of this amendment rather than our original amendment — is the language that it shall be the duty of the commission to investigate violations of civil rights, and that, we believe, presumably, would be unobjectionable. That is really the main function of the commission.

The other things that are added are specific features of civil rights to which we wish to direct attention: employment, education, housing and public accommodations. Now, these 4 types of civil rights are selected for the following reasons: these are, as I recall, the exact terms or the exact civil rights which were mentioned in the report of the declaration of rights committee when it proposed the civil rights provision which we adopted. This simply states pointblank that these civil rights are to be protected, whereas previously we stated in the report that they were to be protected. Here we have the language in the constitution, supplementing the report, and the purpose of the civil rights provision which we have adopted. We think that it is important that the civil rights commission should have some direction, and it should be the same direction substantially as we have provided in our report.

Now, the final paragraph provides the powers. In the original amendment we left that basically blank and asked the legislature to figure out what those powers should be. All of the proponents believe that it is better — in fact, it is very important — to put in the powers, and to put powers into the constitution which are similar to the powers of other commissions; substantially identical, in fact. The language here was taken — I don't remember whether it was taken verbatim — but it was taken substantially from the civil service commission's powers. There are no powers in here which are unusual. The powers are the normal powers of most boards. As I say, they were taken directly from the civil service commission's powers. The powers are to promulgate rules and regulations, which is the case, as far as I know, with nearly all boards; to hold hearings, and of course in order to investigate they must hold hearings; to administer oaths, which is necessary in order to hold hearings; to require the attendance of witnesses, and this is not a subpoena power, but simply the power to ask the court to direct people to appear; to require the submission of records; to take testimony; and to issue appropriate orders. These are the same words, I believe, as in the civil service commission provision.

Therefore, for these reasons, Mr. Chairman, we believe that, as far as we know, every word in here and every provision that has been suggested has some basis in what we have done in the past in other parts of the constitution. As far as we know, there is nothing here that is extreme, and as far as we know it is simply carrying out the desires of the delegates, but expressing it in clearcut language as a constitutional mandate for the civil rights commission which you have created. We certainly hope that you will give full consideration to this, and that you will support this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, there is one more proponent desiring to speak on this, and that is Delegate Young.

CHAIRMAN MILLARD: The Chair recognizes Delegate Young as one of the proponents.

MR. YOUNG: Mr. Chairman, ladies and gentlemen of the committee, this is unquestionably one of the most basically important issues to come before this convention. The issue of civil rights ranks equally in importance with reapportionment and taxation as one of the key and basic reasons why this convention was called in the first place. This is also a bipartisan or nonpartisan question. I think the best proof of that is the fact that various measures in the direction of civil rights have been offered on this floor by members of both political parties here represented. So by no means can this be considered to be a political question, and I hope that it will not become a political football.

As an indication of the bipartisan interest in this commission, we have only to quote Dr. Hannah, who said yesterday that civil rights is the most important domestic issue facing our nation today. And I think that that is a correct assessment of the importance of the issue with which we now seek to deal. But I would extend Dr. Hannah's remarks even beyond the shores of our own country; certainly beyond the boundaries of our own state; because there can be no question that the issue of race discrimination, of white supremacy, is a basic issue around the world today. It has been pointed out that a vast majority of the world's population is nonwhite. It is well known that many of the oppressions of people outside of our country are suffered because of racial considerations. And it is pretty obvious that the eyes of all these people and all democratic people around the world are justly focused on America and the manner in which we handle this question. Now, we here in the state of Michigan have a remarkable and historic opportunity. We have the opportunity to write a new constitution and to take into recognition this new situation, this new freedom wind that is sweeping across the globe, and to see if we in Michigan can modernize our state and bring our state forthrightly and honestly to grips with this very important question. We are the first state given an opportunity to rewrite its constitution since the famous supreme court decisions dealing with desegregation in the field of education, and a whole series of other decisions dealing with this matter. I suspect we will have other important decisions to make because of another supreme court decision a little bit later on in this convention, but that is not the subject before us now. The big question is: are we in Michigan willing to meet the challenge of the times and the challenge of democracy? And I agree with Dr. Hannah that this is the single most important domestic issue we face in America today.

Now, Delegate Romney yesterday on the floor indicated that extraordinary situations call for extraordinary measures. And I think that we will all agree that the matter of race discrimination and second class citizenship is indeed an extraordinary situation in the land of the free. I think that we will agree that it calls for extraordinary measures, and I think that we are addressing ourselves here today to those same extraordinary measures. Mr. Romney said further that it is vital that we eliminate this injustice within America, and I agree. And here is our opportunity.

To quote further bipartisan concern with this issue, Delegate Higgs said yesterday, "Let's spell it out." He also said, "I want to know in what direction I'm going." Well, I think this amendment on the wall spells it out. I would also like to know in what direction Delegate Higgs is going. I would like to hope that it is in the direction of freedom and democracy for all. And I would like to hope that this is the direction of this whole convention.

This is not only a bipartisan question, it might be described as a biracial or multiracial or a nonracial issue. Because it has been clearly demonstrated that what is at stake here goes far beyond the color of an individual's skin, and that black and white alike are affected and degenerated by the denial of civil rights. So I hope that we will approach this basic question on a truly bipartisan level, on an honestly nonracial level; that we will seriously consider the challenge and the opportunity that face us here today.

Now, it is my opinion that the amendment on the wall is an honest amendment. It not only says that we believe there should be a civil rights commission, but it sets up a civil rights commission. And like the civil service commission and the highway commission, we define what that commission shall do. Now, if we mean what we say, then we will go all the way. I honestly solicit your support for this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, this concludes the presentation of the proponents of this amendment. I would just add one remark, and that is that if we want a self executing commission that has the powers and the duties prescribed so that it can actually go to work, whether the legislature acts or not, you've got it here; and for those delegates who are interested in having a civil rights commission set up as soon as possible, I would certainly urge the adoption of this amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Owosso, Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I said earlier that by the adoption of the Boothby amendment we have taken an important and constructive step in this field. The amendment which I offered and which the pending amendment seeks to amend I think represents a second equally important constructive step. The pending amendment offered by my good friend from Detroit, Mr. Austin, represents a third step. I somewhat regret, Mr. Chairman, that we are called upon to vote on the third step prior to a vote on the so called second step.

I might point out that, technically, the pending amendment was subject to a point of order, which I did not seek to make. But I hope very much that if step 3, the pending amendment, is not approved, it will not thereby jeopardize the passage of step 2.

Looking at the pending amendment, Mr. Chairman, I do not find too much to object to in the first paragraph. I think perhaps some of the language may be superfluous in view of the previous action by the convention in adopting Committee Proposal 26, but I think, and I would be willing to admit, that there is language in the opening paragraph that probably improves upon the first portion of my own amendment. It is only with respect to the second paragraph, the so called powers — or, as several delegates have expressed it, the teeth — of the commission, that I must regretfully take exception. Not, I point out, because I would not hope that the commission would not have such powers; but because I think that the legislature should be given the opportunity to present the commission with these powers through legislation. I would hope very much that if this were not done, that the executive would take steps to see that this was done following the 2 year period which my amendment proposes. But I seriously question, Mr. Chairman, the advisability of writing into the constitution specific powers, and thus usurping the legislative function in this respect, needful as these powers are, I fully recognize, for the effective operation of the commission.

As I say, I hope that the committee of the whole and the convention will adopt as forward looking an area of progress in the area of civil rights as we feel able to make. And regardless of the disposition of the Austin amendment, I would hope that we would maintain the step which we have already taken. I certainly commend the committee of the whole for its first step in adopting the Boothby amendment. I hope that the committee of the whole will feel called upon to go beyond that, because as was pointed out earlier, there are many of us who do not regard the language of the Boothby amendment as sufficient in this respect. It is only with respect to this one paragraph of the pending amendment that I am prevented from offering my support to it, and I do commend the authors of the pending amendment, many of whom I have tried to work closely with over the last few days in this important field to develop a civil rights provision that could be truly bipartisan in nature. I commend their earnest and sincere work.

Regardless of the outcome of their own efforts, I hope very much that whatever is finally acted upon by this convention in this field will be to as large a degree as possible bipartisan or nonpartisan in nature, because that's the way that all freedom loving citizens should regard this important area of civil rights. Thank you.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, I intend to support this amendment. I do believe that it meets the test. If we are going to legislate, I think that this body of 144 delegates should assume that responsibility itself, and not pass it along to the legislature and ultimately, potentially, to the governor acting alone. I believe that it is an honest and forthright approach. I think that Delegate Nord, when he stated that these are the ordinary and usual powers of commissions, especially as in paragraph 2, is correct. I think if we are going to give meaning and purpose to this, we should support this amendment; and I prefer this to the committee amendment, because the committee amendment does not spell it out.

Now, I do not believe that I'm being inconsistent with my position in that I would prefer the Boothby amendment. I prefer that because it places the responsibility entirely in the legislature, where I think it belongs; with a body and a group of men and women to assume this responsibility. But if we are going to take the step suggested by Mr. Martin and Mr. Bentley and not spell it out, but leave it potentially to the ultimate power of 1 man alone, then I think I myself would feel much more happy with assuming that responsibility here and now. I think that this is ultimately the direction that the commission established should go. I think these are the powers that ultimately the governor would be compelled to give, to enforce these rights in this particular manner. And I don't think that we should try to conceal that fact in any way. We should take this step forward in this convention if we are going to do it at all.

I would say that there is one further argument: that we are not here writing a blank check to a sole executive power. We are going to write that check, spelling it out ourselves, and submit it to the people for their approval. And I think we should do this in an open, frank manner. I commend the proponents of this amendment, and I will vote for it.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I oppose this amendment. I'm not speaking now to the question of whether there will be 5 men or 4 men, or how they are to be appointed, but rather to the balance of this. I think both Delegate Nord and Delegate Higgs have overlooked an important fact when we write in these powers. I concede that the commission should have these powers, and they should be given by the legislature; because an abuse of these powers, if guaranteed by the constitution, can be corrected by no one — not by the legislature, not by the courts — by no one. As long as the rules and regulations, as long as the procedures, are tied to the very vague sentence to secure these rights, nobody can interfere with the abuse of these powers.

What are the civil rights of education, housing and employment? Does it include the right to work? There are men here who believe it does. What would happen if the civil rights commission insisted that it did? To whom would there be an appeal? To no one. In fact, I don't know whether they would or wouldn't and I don't care. I don't oppose this matter because it is more forward looking than Mr. Bentley's. It is retrogressive. It is not forward looking. What it proposes to do is to create a commission with virtual totalitarian powers in the name of the protection of civil liberties.

I am in agreement with everything Mr. Binkowski said about the immorality of discrimination, and I am perfectly willing to do what I can to eliminate it. This will not do it. And I would remind those who think otherwise that the grant of totalitarian powers did not protect the civil liberties of the Jewish people of Germany, or the negroes of colonial Africa, or the people of Hungary. And I do not think that the grant of such powers will protect the civil liberties of the people of Michigan. It may in fact destroy them.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I move that the committee do now rise.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: I wonder if Mr. Martin might withhold his motion for just a moment, so that I may make a motion about a matter which I think ought to be carried on into the evening session?

MR. MARTIN: I will withhold my motion.

MR. WANGER: It has to do with Exclusion Report 2027. I believe that this should be further considered. And I do not wish to take the time before supper to do it, as I will have to if it's reported out. But at this point, for the purpose of holding it in the committee, I will just make the motion that we reconsider the vote by which we passed it.

MR. MARTIN: I will now move that the committee do now rise, Mr. Chairman.

CHAIRMAN MILLARD: The question is on the motion of the chairman of the executive committee that the committee of the whole do now rise. All in favor say aye. Opposed, no. The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 60,** A proposal pertaining to succession to the governorship; it reports this proposal back to the convention with amendments, recommending the amendments be agreed to, and the committee proposal as thus amended do pass.

Following are the amendments offered to Committee Proposal 60:

1. Amend page 1, line 6, after "precedence of" by inserting "elected"; so that the sentence will read, "After the lieutenant governor the line of succession and order of precedence of elected state officers who shall act as governor, shall be. . . ."

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 2:

2. Amend page 1, line 7, by reinserting "secretary of state, attorney general,"; so that the language will then read:

> After the lieutenant governor the line of succession and order of precedence of elected state officers who shall act as governor, shall be secretary of state, attorney general. . . .

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 3:

3. Amend page 1, line 8, by striking out "president pro tempore of the senate, speaker of the house of representatives"; so the language of the section will then read:

> After the lieutenant governor the line of succession and order of precedence of elected state officers who shall act as governor, shall be secretary of state, attorney general, and thereafter as provided by law.

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: That's all of the pending amendments to this committee proposal, Mr. President.

PRESIDENT NISBET: **Committee Proposal 60,** as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 60 as amended and referred to the comittee on style and drafting:

The committee recommends that the following
be included in the constitution:

> Sec. a. After the lieutenant governor the line of succession and order of precedence of elected state officers who shall act as governor, shall be secretary of state, attorney general, and thereafter as provided by law.
>
> If during a vacancy in the office of governor, the lieutenant governor or any state officer or officers in this line of succession die, resign, be impeached and convicted thereon, displaced, be incapable of performing the duties of office or be absent from the state, leaving no state officer prior in the line of succession to fill the office of governor, the state officer next in line of succession shall act as governor during the residue of his term or until the absence or disability giving rise to the succession ceases.
>
> In case of the death of the lieutenant governor elect or any state officer or officer elect in this line of succession before taking and subscribing to the constitutional oath of office, or before entering upon the duties of office, leaving no state officer elect prior in line of succession to fill the office of governor, the powers and duties of the office of governor shall devolve upon the state officer elect next in line on the commencement of his term of office.

SECRETARY CHASE: The committee of the whole, Mr. President, has also had under consideration **Committee Proposal 72,** A proposal to provide for compensation of acting governor; and reports the same back to the convention with an amendment, recommending the amendment be agreed to, and the proposal as thus amended do pass.

Following is the amendment:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section and inserting "The legislature shall increase the salary of any state officer to equal the salary of the governor while such officer is performing the duties of governor.".

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: That's the only amendment to this proposal, Mr. President.

PRESIDENT NISBET: **Committee Proposal 72,** as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 72 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

> Sec. a. The legislature shall increase the salary of any state officer to equal the salary of the governor while such officer is performing the duties of governor.

SECRETARY CHASE: The committee of the whole, Mr. President, has also had under consideration **Committee Proposal 48,** A provision pertaining to ineligibility to hold office. It reports the proposal back to the convention, with the following amendment:

1. Amend page 1, line 6, by striking out all of section a, the entire proposal.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

Committee Proposal 48, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 48 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

(Note — the complete content of this committee proposal has been stricken.)

SECRETARY CHASE: The committee of the whole has also had under consideration **Exclusion Report 2027,** to which a motion to reconsider has been entered and is pending.

The committee of the whole has also had under consideration **Committee Proposal 71,** has considered several amendments thereto, and has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Could I ask, if it is at all possible, Mr. Secretary, to get copies of the amendments pending on Committee Proposal 71 duplicated for our evening session? I make that suggestion only if it's possible. I know they have been working very hard, and if it's not practical I do not make it in the form of a motion.

PRESIDENT NISBET: I think the secretary will make an effort to do it. If he can do it, it will be done.

MR. DOWNS: Thank you.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: We have no announcements.

We have the following requests: Mr. Ostrow requests to be excused from the session of tomorrow; Mr. L. W. Richards asks leave from the sessions of Monday, Tuesday and Wednesday of next week for business reasons; Mr. Dade requests temporary excuse from the session of Monday; and Mr. Gust requests leave from the sessions of Friday and Monday for the purpose of arguing a case in the United States court of appeals in Cincinnati which has been pending for over a year, and the adjournment of which could not be arranged. These are the requests for leave, Mr. President.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Mr. Cudlip, on behalf of the members of the committee on style and drafting, requests leave for each member to be excused from the evening session so that the committee may meet this evening in room G at 8:00 o'clock.

PRESIDENT NISBET: Without objection, the request is granted. The Chair recognizes Mr. Suzore.

MR. SUZORE: I move that we recess until 7:00 p.m.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor say aye. Opposed, no.

DELEGATES: Division.

PRESIDENT NISBET: The question is on the motion of Mr. Suzore that we recess until 7:00 o'clock. Division has been demanded. Is the demand supported? It is supported. Those in favor of the motion will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to recess until 7:00 o'clock, the yeas are 52; the nays are 60.

PRESIDENT NISBET: The motion does not prevail. Mr. Suzore, do you want to try again?

MR. SUZORE: I move that we recess until 7:30 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Suzore that we recess until 7:30. Those in favor say aye. Those opposed, no.

We are recessed until 7:30.

[Whereupon, at 5:40 o'clock p.m., the convention recessed; and, at 7:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye. Those opposed, no. The motion prevails.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: When the committee of the whole rose this afternoon, the consideration of section i of **Committee Proposal 71** had progressed this far: the amendment offered by Mr. Boothby to insert a new section i had been adopted by a vote of 118 to 9. To that Mr. Bentley offered a substitute. And to that substitute Messrs. Austin, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott had offered an amendment.

[The amendment was again read by the secretary. For text, see above, page 1982.]

CHAIRMAN MILLARD: At the close of the afternoon session we were on the discussion of the Austin amendment. The Chair will recognize Delegate Staiger.

MR. STAIGER: Mr. Chairman, I rise to support this amendment. In doing so, I would first like to mention, however, that I am not satisfied with the 5 man board. I think that a 4 man board, with no more than 2 from each party, has far more merit than having the 5 man board. But I am particularly interested in spelling out the duties and powers of the board.

I think — and I do not mean to take away from the other amendments — that this is a great stride in the right direction. For a number of years I have been a member of a similar board at the local level and we do not have powers or duties so that we can actually move out and accomplish anything. Believe me, it's a frustrating experience. I think that we should spell out the duties. I do not have the fear that Mr. Everett expressed in this area. This commission would still certainly be subject to the other provisions we adopted as to any administrative board, I believe. Also, starting in line 8, "It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate . . ." and so forth, so that we are not leaving that completely free from the legislature. I feel that it spells out the duties and powers, and is an excellent provision, and I intend to support it.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman, I had intended to direct a question to Mr. Binkowski, but I don't see him at the moment, so I will pass.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, it seems to me that there are an awful lot of things which all of us can support in different parts of this particular amendment, and I wondered if the question is divisible, so that we can perhaps make a more comprehensive decision on these parts.

CHAIRMAN MILLARD: This is another one of those amendments striking out and inserting, and it will have to be considered as a whole. But you can offer amendments to strike out certain parts, if you want to.

MR. KING: I'm not personally opposed to any particular part. I just thought we could give it more intelligent consideration if we could divide the question. I will pass then.

CHAIRMAN MILLARD: Miss Donnelly.

MISS DONNELLY: Through the Chair, I would like to ask Mr. Nord, if he is available, a question. He is in conference.

CHAIRMAN MILLARD: If he cares to answer.

MISS DONNELLY: The question would be: in construction of constitutional language is it not the basic law that it must be liberally construed, and not narrowly construed? And in this case — well, it's a 2 part question; would you care to answer the first point first?

MR. NORD: Did you ask a question, Miss Donnelly?

MISS DONNELLY: About narrowly construed or liberally construed constitutional language.

CHAIRMAN MILLARD: Miss Donnelly, we can't hear you up here. If you will direct your conversation through the Chair.

MISS DONNELLY: The question, through the Chair, is: in the construction of constitutional language, is it not a basic legal doctrine or tenet that the construction of the terms of any constitutional language should be liberally construed?

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: I believe that in Michigan the rule — I won't say for sure — but I believe the rule in Michigan is that it should be construed according to the fair import of its terms. I know that is the rule for statutes. I don't know for certain that that is the rule for the constitution. But so far as I know, the rule is, in Michigan, according to the fair import of its terms. I don't say that I know that for certain, but I believe that is the rule.

MISS DONNELLY: Well, through the Chair, does "fair import" mean strictly or liberally?

MR. NORD: It means neither. In other words, it is a rule which avoids strict or liberal interpretation. It is a medium rule. And that is the rule as I understand it.

MISS DONNELLY: Well, through the Chair, another question. I don't agree with you on your first rule, but far be it from me — I'm not teaching bar exams anymore. The next question I would have: if I remember correctly, earlier this afternoon you stated that the language of line 14 forward would not impute that these boards would have a right to issue subpoenas. In other words, that when they hold their hearings, administer oaths, require the attendance of witnesses and the submission of records, take testimony, issue appropriate orders and — I'm sorry, I can't read any further than that from the way it's on the board — but you would state that in your opinion this does not give them the right to do it without seeking court authority for the same?

MR. NORD: Yes. I have been so advised by my cocounsel that the language that is here only requires the board to obtain the assistance of a court. That is my understanding of it from one of the cosponsors, Mr. Norris.

MISS DONNELLY: Well, through the Chair — I realize that he is not here, and frankly I thought you were the next in authority to ask this question — this language is most disturbing to me. Because of its existence and my feeling that you are not correct in your interpretation — there's a very large area in which I think we can do this without that, and there would be no control on this — I am forced to absolutely oppose this amendment. I think there is no safeguard here to the general civil rights of citizens; that under the guise of protecting us, it can harm us. While I think we should be protected — I was a strong person on the search and seizure clause because I felt it was important that our rights not be invaded; that when we start to search and seize we must be very cautious of how we do this and how we treat citizens. I think we have been very careless in searching and seizing — in this instance I think there is no protection, and this is almost in opposition to the original language that we tried to take care of in our so called bill of rights.

I feel this is very dangerous. Rather than secure our liberties, I think in this instance we will deprive our citizens thereof. So I will have to go against this amendment because of this language, which I don't think cuts down or spells out far enough. You either went too far, or not far enough. In either instance I can't support the language because of this.

CHAIRMAN MILLARD: The question is on the Austin amendment.

SECRETARY CHASE: Mrs. Judd offers an amendment to the Austin amendment:

1. Amend the amendment by striking out all of the last paragraph.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Mr. Chairman and members of the committee, I have the same fears that Miss Donnelly has expressed. The other day, when the matter came up, I said that I would favor a civil rights commission, feeling there would be certain safeguards in the constitution. First, that its duties would be confined to the enforcement of the civil rights listed in the declaration of rights. Second, that we would, when it comes up, pass Committee Proposal 123 giving the legislature the power to review rules of administrative agencies. And, third, leaning on the power of judicial review, which we passed a week or so ago.

Now, what I fear — and I'm not a lawyer, and I don't know whether I'm interpreting this correctly — is that in giving constitutional status to the rulemaking power of the commission, and giving it power over its own quasi judicial proceedings, we would not be able to subject the commission to these powers of the legislature and the courts. Therefore, I suggest eliminating the paragraph. Now, I'm not sure that the remainder of the provision gives the legislature power to regulate these aspects of the commission. I would hope some lawyer would look into this matter.

MR. MAHINSKE: Point of order.

CHAIRMAN MILLARD: State your point.

MR. MAHINSKE: Mr. Chairman, I think this is the third amendment in a row here. We have an amendment to an amendment now, and an amendment to this would not be in order at this time.

CHAIRMAN MILLARD: Your point is well taken.

MR. BENTLEY: Mr. Chairman, a point of order. I want to advise Mr. Mahinske that if he makes a point of order against this amendment, that I'll make a point of order against —

CHAIRMAN MILLARD: Just a minute. The Chair doesn't want any threats made on the floor. You're out of order. The question is on the Austin amendment. Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, if this ruling of the Chair is to stand, then there is nothing left for those delegates who cannot bring themselves to vote for this last paragraph except to vote against the entire amendment proposed by Mr. Austin.

I think it is clear that under this language no resort to a court before doing these various things that are listed here is required, or would be authorized. And the trouble with that last paragraph, much as we might sympathize with the objectives of it, is that it involves one of those hearings before a body which, along with others of its type, is a representation of the prosecuting attorney acting also as judge and jury. The defect is that it goes to the extreme of not providing any means whereby the other party to the dispute can have his civil rights protected. And if a motion to strike this last paragraph is out of order, then I repeat there is no option that those of us have who have doubts about this last paragraph except to vote no on the entire Austin amendment.

CHAIRMAN MILLARD: If Mr. Mahinske insists on his point of order, the Chair will have to sustain him.

MR. MAHINSKE: I would yield to Mr. Austin at this point. I just do not see any reason why we should violate the rule. If we have a third amendment to an amendment here, it is a violation.

CHAIRMAN MILLARD: The Chair has ruled with you, Mr. Mahinske.

MR. BENTLEY: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Am I correct in understanding that the Austin amendment is in the fourth degree and the Judd amendment would be in the fifth degree?

CHAIRMAN MILLARD: No, the third degree. The Boothby amendment is now part of the proposal. The Bentley amendment is the first amendment. The Austin amendment is the second amendment. This would be the third, and we don't have them in the third degree. The question is on the Austin amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, since Mr. Mahinske deferred to me, I would like to make it clear that although I do not agree with Mrs. Judd, I would not be opposed to her having the right to make an amendment, if this is the only reason why you do not wish her to offer such an amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, if it's desired to make amendments to this, in order to give people an opportunity to vote it is possible that Mr. Bentley might want to withdraw his amendment, and let this be voted upon first. Now, I don't urge that. I just suggest the possibility.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I make such a request.

CHAIRMAN MILLARD: Mr. Bentley, the Chair thinks, inasmuch as your amendment has not been put to a vote, nor has an amendment to it been put to a vote yet, that if you withdraw your amendment, then tht Austin amendment falls. There is nothing to tie it to. Mr. Martin.

MR. MARTIN: Mr. Chairman, if Mr. Bentley withdraws his amendment and Mr. Austin reoffers his amendment, would that enable people then to consider amendments to the Austin amendment?

CHAIRMAN MILLARD: Yes, sir.

MR. BENTLEY: I renew the request, Mr. Chairman, to withdraw my amendment for the purpose stated by Mr. Martin.

CHAIRMAN MILLARD: The amendment of Mr. Bentley is withdrawn. Mr. Austin, you will have to reoffer your amendment because it is based upon the Bentley amendment.

MR. HOXIE: Mr. Chairman, a point of information. Is the Austin amendment now being offered as an amendment to the Boothby amendment?

CHAIRMAN MILLARD: The Chair hasn't found out yet. (laughter) Mr. Austin.

MR. AUSTIN: I would like to suggest that that be our posture at this point. A while back, when we were discussing the Boothby amendment, I offered at that time to propose a substitute and the ruling of the Chair was that I could not offer a substitute at that time. So I see no objection to our submitting this as an amendment to the Boothby amendment, and then it can be considered on its merits.

SECRETARY CHASE: Mr. Bentley has withdrawn his amendment, and Messrs. Austin, Barthwell, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott offer the following amendment:

1. Amend the section, after "Sec. 1.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission which shall consist of 5 persons, not

more than 3 of whom shall be members of the same political party, who shall be appointed by the governor for 4 year terms. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate violations of, and to secure the protection of the civil right to employment, education, housing, public accommodations, and to such other civil rights as provided for by law and the constitution. The legislature shall provide annually sufficient funds for the effective operation of the commission.

The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and the submission of records, to take testimony, to issue appropriate orders and such other powers as are necessary to carry out the purposes of this commission.".

To this pending amendment of Mr. Austin, Mrs. Judd offers an amendment:

1. Amend the amendment by striking out all of the last paragraph.

CHAIRMAN MILLARD: We are now at the point where the Austin amendment is an amendment to the proposal, which has been adopted formally — the Boothby amendment — and the question is on the amendment of Mrs. Judd to the Austin amendment. Mrs. Judd.

MRS. JUDD: I have made my remarks.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, looking over this amendment, I know there are parts of it that some of the delegates will not wish to vote for. I simply want to state my own views in the matter. The amendment in its present form and the provisions of law which it establishes are about what I would expect the legislature to establish. They are about the same provisions that are in the fair employment practices act. I know that a lot of the delegates did not wish to put this kind of language into the constitution, and for that reason the amendment drafted by the committee — and essentially that's the same amendment as is sponsored by Mr. Bentley and was sponsored by Dr. Nord — provided that this portion of it with regard to hearings and so on should be handled by the legislature. This was as far as the committee felt that it could go in the interests of drawing the support of a good majority of the delegates in both groups here. However, I do want to say this: that this does not violate any provisions of my own conscience as far as what I would expect the legislature to provide, and I can personally vote for this without any qualms.

I do want to say, however, that the committee did not pass anything that went this far, and the committee did not urge you, and I, as chairman of the committee, don't urge you to go this far. I simply say that for those whose convictions are strong on this subject, this is not a violation of what they may feel would be proper if enacted by the legislature. The committee, as a committee, did not urge you to go as far as this amendment goes, but the provisions of it seem to be drawn in a judicious manner and in a careful manner and not to be reaching for more authority or more responsibility than would be proper if the legislature had drafted it and actually implemented it.

I might add that if this is passed, the legislature would have to implement it, and this last paragraph perhaps could properly have a phrase in it "as provided by law;" that is, promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses, and so on, as provided by law. Because the legislature will have to implement that. This is the barest kind of bones of authority to operate. It does not specify how, and it would undoubtedly fall to the legislature to implement this with legislation, filling in gaps as to what needed to be done.

I simply say that this doesn't violate my conscience. I don't think it will violate the conscience of a number of others. But the committee has not urged you to go this far.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to direct a question to either Mrs. Judd or Mr. Martin.

CHAIRMAN MILLARD: Which one?

MR. HIGGS: I presume the committee chairman, Mr. Martin.

CHAIRMAN MILLARD: Mr. Martin.

MR. HIGGS: Mr. Martin, if this second paragraph is deleted, as proposed by Mrs. Judd's amendment, is there any guarantee that the legislature will act? Do you propose to support the first paragraph as it stands, without the second paragraph? Or do you propose to submit an amendment to give the governor powers?

MR. MARTIN: The governor already has powers under this because, as I understand it, this does not strike out — well, this is not an amendment to the Bentley amendment. It does not contain any powers with respect to the governor at all.

MR. HIGGS: If I understand you correctly, you have no objections to paragraph 2, is that right?

MR. MARTIN: I don't, personally, Mr. Higgs. I'm not pressing other people to go that far. That's what I was just trying to explain. I don't think that this calls for anything more than the legislature would expect to do under this provision. It's a question of how much you want to require the legislature to do, or to require it by the constitution.

MR. HIGGS: Mr. Chairman, Mr. Martin, would you say that paragraph 2 is the bare minimum that the legislature must provide in order to effectuate paragraph 1?

MR. MARTIN: I would think that's correct; that it would have to provide at least that.

MR. HIGGS: Mr. Chairman and fellow delegates, I would oppose the Judd amendment, inasmuch as these are the bare minimum powers to effectuate paragraph 1. And I sincerely feel that it is the responsibility of this constitutional convention to effectuate it. Inasmuch as we are providing for it, I think it is only fair and proper that we take that step. We will eliminate any doubt in the minds of people as to what we propose. We will assume the responsibility, instead of passing it to the legislature. I would oppose the Judd amendment.

CHAIRMAN MILLARD: The question is on the Judd amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is. All those in favor will vote aye, and those opposed will vote nay. The secretary will read the amendment.

SECRETARY CHASE: The pending amendment by Mrs. Judd is:

1. Amend the amendment by striking out all of the last paragraph; which reads:

> The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and the submission of records, to take testimony, to issue appropriate orders and such other powers as are necessary to carry out the purposes of this commission.

CHAIRMAN MILLARD: Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mrs. Judd, the yeas are 47; the nays are 72.

CHAIRMAN MILLARD: The Judd amendment to the Austin amendment is not adopted. Are there any other amendments to the Austin amendment?

SECRETARY CHASE: Mr. Van Dusen offers the following amendment to the Austin amendment:

1. Amend the amendment, first sentence, after "consist of" by striking out "5" and inserting "4" and after "than" by striking out "3" and inserting "2"; so that the language will read, "There is hereby created a civil rights commission which shall consist of 4 persons, not more than 2 of whom shall be members of the same political party. . . ."

CHAIRMAN MILLARD: The Chair will recognize Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, this is a very simple amendment designed to make the commission truly bipartisan. It speaks for itself. I will say nothing further on it.

CHAIRMAN MILLARD: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. Chairman, I would rise to oppose this amendment, on the grounds that if we all remember when we were discussing the state supreme court, one of those things that was thought absolutely necessary to do was change the even number of justices we now have to either 1 less or 1 more to make it an odd number. And I submit that the reason for that is justified; that in government you try to stop stalemate as much as possible. Now, it would certainly seem to me that it is certainly bipartisan, 3 and 2, whichever way it would be, Republican or Democratic. And I think that whoever the governing authority would be, he would be appointing responsible people, vitally interested and concerned in this field.

I appreciate the idea that is injected that both parties should be equally represented, but it would seem to me that just for the conclusion of business, whether it would be a Republican or Democratic majority, the one vote would help in those few times — and I'm certain it would be few — when there was a standoff or stalemate. I think in the interests of good government we should defeat the Van Dusen amendment.

CHAIRMAN MILLARD: Mr. McAllister.

MR. McALLISTER: Mr. Chairman, fellow delegates, what has been occurring here reminds me of the Rube Goldberg cartoons. We are having a comedy of amendments, and many of those who voted for the Boothby amendment are attempting to murder it. This doesn't make sense. I recommend the defeat of the Van Dusen amendment, and all others except the Boothby.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I would simply urge the delegates not to adopt the Van Dusen amendment. I would certainly not think that it would do extreme harm if it were adopted; we would still have a civil rights commission. I simply state that, in my opinion — for the reasons I stated before — it is better to avoid any possibility of deadlock. There is some possibility of deadlock, and I don't see any reason why we should take that risk. Simply for that reason alone I believe we would be better off with an odd number.

We know that it was pointed out with the supreme court that we wanted an odd number. It was urged by many delegates that in the legislature it would be a good thing also if there were an odd number. It seems to me the same principle can apply here. And while this is by no means the crucial issue in civil rights — whether you have an odd number or an even number—it appears to me in any event the odd number is preferred, and I hope the delegates will leave that alone and not adopt the amendment.

MR. HIGGS: Mr. Chairman, a point of inquiry.

CHAIRMAN MILLARD: What is your point?

MR. HIGGS: The style and drafting committee is meeting in room G in the basement. There is no bell there, and we will not be on the floor. I wonder if we could be contacted in the event of a vote? I don't want to be absent from the floor without an opportunity to vote or to know that there is a vote being taken. Is there any way we can be communicated with?

CHAIRMAN MILLARD: The sergeant at arms can call you on the phone. We can't hold up the proceedings here while you are running back and forth. You have 60 seconds to get here, you know. (laughter)

MR. HIGGS: Well, a point of parliamentary inquiry. Where is my responsibility?

DELEGATES: Here.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I would rise to support the Van Dusen amendment. I do so for this reason. I don't think that we are talking about the legislature here, or a court. At least, I hope that's not what we have in mind. We have a system for legislation, and a system for justice in our court system. This is a commission. I liken it, as have many other delegates, to the civil service commission. The civil service commission is a 4 man commission, it is bipartisan, with not more than 2 from either party. During our investigation of the activities of the civil service commission the members of the subcommittee which concerned itself with this problem inquired at length as to whether or not there had ever been a problem having 2 Republicans and 2 Democrats on the civil service commission. And we were informed that at no time during the past 20 years has this created a problem.

Now, what we are talking about here, I hope—anyway, I believe we are — is a truly bipartisan effort to do something constructive in this particular area. And it seems to me that the only true bipartisan commission is one made up of 2 Republicans and 2 Democrats. And when it is 3 out of 5, either way, either Republican or Democrat, then as far as I can see it's no longer bipartisan. It is only bipartisan in a token sense, and not in a real sense. So I strongly urge the support of the Van Dusen amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I want to support the Van Dusen amendment, because this would put the matter back in the same form as it was provided in the Bentley amendment. And this is the form that we have for the state highway commission.

The purpose is very simple, and that is not to have a predominant majority of one party on one side or the other of this thing. As a matter of fact, it's extremely unwise, and it would certainly create suspicion if the commission were made up of a majority of one party or the other. This is a particularly sensitive area. When they are on that commission they won't act as party members. But it will afford a feeling of confidence to both parties to have both parties equally represented.

CHAIRMAN MILLARD: Mr. Young.

MR. YOUNG: Mr. Chairman, I would like to ask Mr. Van Dusen a question, through the Chair, if I may.

CHAIRMAN MILLARD: If Mr. Van Dusen cares to answer.

MR. YOUNG: Mr. Van Dusen, if your proposed amendment should pass, would you then support the amendment that is on the board?

MR. VAN DUSEN: Yes, sir.

MR. YOUNG: Thank you.

CHAIRMAN MILLARD: The question is on the Van Dusen amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, we don't have any strong feelings about the amendment proposed by Mr. Van Dusen. I think Dr. Nord made it rather clear that if you don't have a 5 man commission you may have a deadlock. And our principal reason for making it a 5 man commission was to prevent deadlocks. But if it is the feeling of the delegates that a 4 man commission is satisfactory, we won't argue too strongly about it.

CHAIRMAN MILLARD: Mr. Brown.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, I personally support the Van Dusen amendment, on the basis of what Mr. Van Dusen has just stated on the floor. I believe he has concurred in what Mr. Martin has said and what Mr. Bentley has said previously in regard to this total package of 2 paragraphs here, the second paragraph of which we obviously want included in order to make it an effective package and a self executing type of operation. I think therefore the matter of bipartisanship is not too important in this regard. And, certainly, in speaking for my fellow Democrats, if there were a Republican governor we should not mind to have 2 Democratic members on the civil rights commission, and vice versa. I do not think this is asking a lot. I think it is more than fair, and on the basis of the previously made statements on the floor, I'm going to vote for the Van Dusen amendment.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, this is sort of a parliamentary inquiry. Do you have a right to explain why you abstain in the committee of the whole?

CHAIRMAN MILLARD: The Chair thinks that applies only in the convention. Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman, for the purpose and for the reasons stated by Mr. Van Dusen, I would be very happy to support his amendment.

CHAIRMAN MILLARD: The question is on the Van Dusen amendment. All in favor say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? There is. All those in favor of the Van Dusen amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Van Dusen, the yeas are 73; the nays are 40.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Martin offers the following amendment to the Austin amendment:

1. Amend the amendment, second paragraph, first sentence, after "power" by inserting "pursuant to law"; so that the sentence would read, "The commission shall have the power pursuant to law to promulgate rules and regulations, hold hearings, administer oaths, . . . "

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, I offer this amendment simply to clarify and to put into the amendment the statement which I made regarding the power to promulgate rules and regulations, hold hearings, and so on. It is not contemplated, I'm sure, by the proponents of the amendment, to give the commission an absolute freewheeling right to promulgate any rule or regulation, or provision with regard to hearings, or of the administering of oaths, and so on, which it may please. These things are all regulated as to how they should be done, and how hearings should be held, and so on, by legislative provision. This limitation is not in any way designed to prevent them from doing those things, but it is designed to require that they be done in accord with normal provisions. That's all that it's intended for, and I present it on that basis.

MR. DOWNS: Point of information, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Would you ask the secretary to read the amendment again, please?

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Mr. Martin's amendment is:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: The question is on the Martin amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, Mr. Martin, I have a fear that what you are proposing will tend to remove the self executing aspects of this amendment. The first paragraph is self executing, but it is not fully executing because there are no powers spelled out in the first paragraph. If we include your language in the second paragraph, we will in effect be saying that this commission will not be able to operate until the legislature prescribes its powers. What we have attempted to do here is to give the commission powers whether the legislature acts or not. This is a rather substantive change, and I'm not quite sure that it is one we would be willing to accept at this time.

There is one other possibility which I might suggest, and that is, instead of inserting the language that you have added, we might add at the end "except as provided by law."

CHAIRMAN MILLARD: Are you asking a question of Mr. Martin?

MR. AUSTIN: Yes. I want to know how he feels about the suggestion I have made.

MR. MARTIN: Mr. Chairman, I think the effect of those 2 provisions is similar. I think, however, it would have this difference: that they might proceed, unless the legislature passes something to the contrary. I am inclined to feel that this is a little better language, and that there ought to be some procedures for getting this thing into effect; that they ought not to freewheel on it. And for that reason I would think I would prefer my own language there.

MR. AUSTIN: Mr. Chairman, Mr. Martin, our problem has been that the legislature has refused to act in this area, and what we are trying to do at this convention is to establish a civil rights commission. But we are not preventing the legislature from acting. We are saying that if the legislature does not act, we will have a civil rights commission. And I think that this is the posture that the convention ought to assume, if we are sincere about having a civil rights commission, and not being obstructed by the legislature. We certainly want whatever we can get from the legislature, but we do not want to be obstructed by it. So I think it would be better and, Mr. Chairman, I will propose this as a substitute for Mr. Martin's amendment.

SECRETARY CHASE: Mr. Austin offers the following substitute for Mr. Martin's amendment:

1. Amend the amendment, second paragraph, at the end thereof, after "commission" — is this where you want it, Mr. Austin?

MR. AUSTIN: That's right. Right at the end of the paragraph.

SECRETARY CHASE: At the end of the paragraph. Mr. Martin's amendment is to insert, in the first line of the paragraph, after the word "power" the words "pursuant to law." Mr. Austin's substitute amendment is:

1. Amend the amendment, second paragraph, at the end thereof, after "commission" by inserting a comma and "except as provided by law".

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I would like to make one further comment. My amendment gives the commission power to do the things, specifically, and in effect directs the legislature to provide the procedures for doing them. I think it does what should be done there, and provides a reasonable safeguard. I would hope that Mr. Austin's amendment would not carry.

MR. YEAGER: A parliamentary inquiry, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: For the sake of consistency, and so we know a little what we are doing, it was my impression that the first Austin amendment was an amendment to the Boothby amendment. The Martin amendment was 2, and the second Austin amendment was the third. Isn't this the third order?

CHAIRMAN MILLARD: That is under discussion right now, Mr. Yeager. This is the first time the Chair has seen it. It looks to the Chair as though this is not a substitute for the Martin amendment, and therefore the Chair will rule it out of order until we can act on the Martin amendment.

SECRETARY CHASE: The question is on Mr. Martin's amendment:

1. Amend the Austin amendment in the first line of the second paragraph, after "power" by inserting "pursuant to law" so the language will then read, "The commission shall have the power pursuant to law to promulgate rules and regulations, hold hearings, administer oaths, . . ."

CHAIRMAN MILLARD: The Chair recognizes Mr. King on the Martin amendment.

MR. KING: Mr. Chairman and fellow delegates, I rise to support the Martin amendment. I think that these several words make it possible for all of us who are concerned about this problem to support this whole amendment; and it seems to me that this is a very necessary safeguard which, you might say, has to be put in there for the protection of the civil rights of all of us. I think here that we have perfected this amendment to the extent where it is meaningful. There certainly is a constitutional mandate for these powers to be given by the legislature—and I frankly think that they will be provided—and yet at the same time we have not infringed upon the lawmaking power of the legislature to an extent where many of us in good conscience could not otherwise support this amendment. So if the Martin amendment is passed, I for one will support the amendment, as amended. I think that this is very necessary, and once it is in there it makes the whole amendment an excellent amendment, and one that we can all support.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to direct a question to Mr. Martin, if I may.

CHAIRMAN MILLARD: Mr. Martin.

MR. HIGGS: I would like to ask this question, Mr. Martin. There seems to be no question that by your amendment you would reduce this amendment to a non self executing proposition. In other words, it would require the legislature to act before the commission would have any of these powers. Now, that being true, do you intend to amend this proposition further to place the power in the executive or in some other way to force the legislature to act?

MR. MARTIN: Mr. Chairman and Mr. Higgs, I think if this amendment were passed—I have already said I'm satisfied with it, but I think others might be satisfied with this as it stands, without requiring the executive to be brought into this picture. I think that this makes it clear that the commission is to have the power to issue appropriate rules and regulations, to hold hearings, to administer oaths and to require the attendance of witnesses, and that all that this phrase "pursuant to law" does is to require that this follow some legitimate type of procedure in getting these into effect, in promulgating them. I think that that's what it does. So I would vote for the whole thing, with this, without being concerned about having the executive in this picture.

MR. HIGGS: Mr. Chairman, Mr. Martin, I don't understand. Do you agree that this would be non self executing?

MR. MARTIN: I agree that the legislature would need to do something to implement the way in which hearings are held, and so on. But I think it would be perfectly clear that the legislature was under the requirement to make such provisions, and that it could not pass a law which didn't provide for the holding of hearings, or perhaps didn't provide for the attendance of witnesses, and so on.

MR. HIGGS: Mr. Chairman, Mr. Martin, if the legislature does not act, how can the legislature be forced to act?

MR. MARTIN: Well, we are taking that possibility into account in many things that we are doing here in the convention. I think that this provision, the Austin amendment, goes a good deal farther than I had contemplated going, but I think that with the proviso that I have added it is a sound amendment, and I don't see how the legislature can refuse to provide the procedural implementation that is required here.

MR. HIGGS: Well, Mr. Chairman and fellow delegates, I don't know. I am confused here. As I said yesterday, if I were going to sit down to draft a provision for a civil rights commission, I would need a little time, because this is not my field. Inasmuch as I think that the purpose, or the direction in which we are going—if we honestly want to recognize the direction—is to spell it out in the constitution, I would yield to the judgment of the proponents of this amendment, Mr. Austin and Mr. Nord, as to whether or not this will accomplish the purpose.

But it seems to me that Delegate Martin has reversed positions, inasmuch as previously he wanted to force the legislature to act by placing the power in the executive, which I objected to, and I would not want to see us go further by incorporating this particular provision and then have Mr. Martin or another proponent of the committee ask us to place the power in the executive in order to force the legislature to act. I am perfectly willing to give the commission the power in the first instance in the constitution, as long as we have gone that far.

CHAIRMAN MILLARD: The Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, I rise to oppose the amendment now before us. It appears to me that no affirmative purpose can be served by adding the words "pursuant to law." Some purpose might be served, but it could not be an affirmative purpose, by adding the words "pursuant to law." As I understand those words, pursuant means following. Pursue means to follow, and pursuant means following. That means following the enactment of law to this effect, that is, law providing these various different powers, then the commission shall have those powers. Now, that is an absurdity. If you say in the constitution that if the legislature shall provide the following powers to the civil rights commission, then the civil rights commission shall have those powers, what have you said? You have said a lot of nonsense.

I think, as much as we wish to get this amendment adopted, we can't overlook the facts. And the facts are that the entire last paragraph will be wiped out and all you will have left over is a fond remembrance and a residue. You might say you would be making an ash of the last paragraph. The last paragraph will not be there. The first word and the last word will be there. It will be a hollow shell.

It will be the same thing as if you were to say that the legislature shall grant the following powers, period. You could say that the legislature shall grant, but you can't make the legislature grant. If you wish the legislature to grant certain powers, you have it in your power right now to grant those powers yourself. Just say so. And don't say that somebody else should. If you tell the legislature, "Why don't you give those powers to the civil rights commission?" they will just say to you, "If you're so brave, why don't you do it?"

As I say, I can't see what purpose is added by these words. I can certainly see what purpose is subtracted by them. And it seems to me that although I have been importuned left and right by various proponents of this measure who are dying to get this proposition adopted one way or another, and I don't say necessarily that all of the proponents will necessarily come to the same conclusion, but I say that this particular amendment before us cannot serve a useful purpose. It can serve a harmful purpose. Nothing can be gained by adding it. It should not be added. I urge the delegates to consider carefully what value we will get out of this last provision, out of the last paragraph. And when you conclude, as I think you will, that there is no purpose to it, you should decide to oppose the amendment now pending.

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: I would like to say first that I would feel satisfied about the original amendment with this amendment of Mr. Martin's. I would like to say secondly that it takes a lot of courage to disagree with Professor Nord, but I don't think I agree with him on the point that it is quite the same thing for us to put this power into the commission in the constitution rather than asking the legislature to do it. When the legislature can do it, the people of Michigan still have an opportunity to change what the legislature does. When we put it in the constitution, it is a pretty difficult job to change it.

With regard to Mr. Martin's amendment in comparison with Mr. Austin's phrase at the end, this is a conflict in substantive power doctrine which we met up with in the local government committee, and I find that what is known in municipal affairs as the Fordham doctrine—that is, in this case it would be giving the commission the power to determine its own rules and regulations, subject to a veto by the legislature—there are many people in the country concerned with the increase of municipal powers who have some doubt about this doctrine, on the theory that the legislature could veto anything they wanted to at any time. And it might in the long run weaken the commission even more than Mr. Martin's amendment would do.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, Dr. Nord has said substantially what I was going to say, except that I think perhaps it is more easily understandable, especially to Mrs. Judd, if this particular terminology of Mr. Martin's is explained from the point of view of one of the first tricks you learn as a lawyer. That is, when you are dealing with documents and you represent a client whom you are trying to conserve, let's say, in making concessions to the other party, documentarywise, you will say, "We will give you everything that you ask for, according to the terms of this document." And then in the specifics of the document you proceed to cut the heart out of what he thinks he is getting in the bland and broad terminology.

This particular phrase "pursuant to law" is one of the classic legal phrases you use in documents. "Pursuant to this agreement," or "pursuant to our prior understanding," or something of that nature, which actually means nothing. It is one of these little mechanisms by which broad grants are given and then taken away. I think if it is understood in that vein, then you will see that the ultimate purpose, as Dr. Nord has said, is to render the second paragraph valueless.

CHAIRMAN MILLARD: Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, fellow delegates, I have been very patient on these maneuvers, because I have been skeptical, I must admit, from the very beginning. Truthfully, I want this commission as badly as anybody, but if I get it, I want to have something. We sit down, we work on it, and we put the words in it that give us something, and now my good friend, Mr. Martin, comes along and puts the words in it which take it all away, unless this same legislature that we have been trying to get something from for the past 10 years gives it to us. I say this is absolutely nothing if you're going to put this phrase in here that we've got to depend on the legislature to get it. Therefore, I would urge you very strongly to vote against Mr. Martin's amendment.

CHAIRMAN MILLARD: Mr. Romney.

MR. ROMNEY: Mr. Chairman and delegates, it seems to me that the Austin amendment here renders a real service in getting us away from the Rube Goldberg type of approach we had earlier where we were trying to combine the legislative and executive power in order to get action on this problem that is an acute problem and which must be dealt with, and should be dealt with promptly.

It seems to me that the Martin amendment clearly vitiates the self executing aspects of the Austin amendment, and if it should prevail it would be necessary to reoffer the provision authorizing the governor to issue an executive order in order to be certain of the action that is needed under these circumstances. And that would put us right back into the unfortunate position of trying to combine legislative and executive authority to handle a problem that is acute. For that reason, I oppose the Martin amendment, and urge its defeat, and the subsequent adoption of the amendment offered by Mr. Austin, which was technically out of order, but can be reoffered, as I understand it, following the defeat of the Martin amendment. Consequently, I hope that we can take that action and thus have a simple, cleancut situation where the legislature is going to perform its proper functions, but where there will be a self executing meeting of this problem.

CHAIRMAN MILLARD: Mrs. Daisy Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, fellow delegates, as one of the proponents of the Austin amendment and one of the proposers of a civil rights commission on the executive committee, I would like to oppose the Martin amendment. It was our intention that this commission should have self executing powers. Many delegates have asked us to spell out in detail the necessary provisions for a meaningful civil rights commission.

Also, it has been brought to our attention that the legislature should not be held responsible to do that which has been proven a necessity for inclusion in the constitution. As Mr. Higgs, Mr. Cudlip and others on this floor have stated, the civil rights commission should be spelled out in the constitution. This language here, without the Martin amendment, is language that was offered to this convention through previous proposals. During this session we have heard many distinguished delegates to this convention stand proudly on the floor in support of the highway commission, granting certain duties and delegated powers, and may I remind those of you who sought support of that commission that a civil rights commission should not be held second to a highway commission or a civil service commission.

It must be remembered that we are dealing with the rights of human beings, which are far more fundamental and far-reaching and subject to emotional and political evaluations than the matter of your highway commission. I sincerely hope that the delegates at this convention who are sensitive to the basic importance of civil rights in our community and natural life would rise above any differences created here and provide the strongest provisions possible for the protection of those rights. I assure you that it is not the highways that are in need of a commission. The human beings here are the ones that need a commission. And as Mr. Brake so eloquently stated here on the floor while discussing Committee Proposal 88 on local government, the matter being under discussion was detailed and statutory, but it was a dignified way to meet the problems that everybody is trying to solve. I suggest to you, Mr. Chairman, that the same reasoning may be applied to this amendment. Ladies and gentlemen, I urge you to support the Austin, et al, amendment and defeat the Martin amendment.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, there have been a lot of words spoken on the floor of this convention tonight, and many an amendment offered. It seems that most of us in this convention are in accord on the civil rights commission provision. It seems to me that we have been shooting a lot of mice with these amendments while the elephants were all tramping by. I think that you should take note of the words that Delegate Romney spoke just a few moments ago. I don't hesitate to say that I subscribe to those words, too. I think that Delegate Romney made a lot of sense on this issue, and I think he got to the meat of it. I'm not trying to put words into his mouth, but I think what he was trying to say, but in different words than what I'm using, is to stop shooting the mice, get on with the elephant hunt, and let's quit talking out of both sides of our mouth. It is here before us, and we are either for it or against it. And I, too, urge the defeat of the Martin amendment and urge the support of the Austin amendment. Thank you.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I am just as concerned as anybody else to see if we can reach something that doesn't do what some people are afraid of and does what other people want to accomplish here. What I'm trying to accomplish is to find some phrase or wording which will make the activities of this administrative agency subject to the same limitations as other administrative agencies. I'm not trying to prevent them from doing anything that is provided here; neither do I want them to be completely freewheeling as far as doing anything they please.

I have another phrase here which I will suggest, and that is, instead of "pursuant to law," a phrase which is a legal word of art, "pursuant to general law applicable to administrative agencies." Now, what I'm getting at there are the rules for filing your rules and regulations, the general rules applicable to the use of subpoenas, how they can be used, and so on. I think that this might meet the concern and objections of both parties.

Mr. Chairman, if I might, I would like to ask Mr. Austin to consult with his lawyers on the other side of the fence here and see if we don't have something that might meet both problems.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Martin, I have not had an opportunity to check with my legal counsel —

CHAIRMAN MILLARD: Just a moment. Just talk to the amendment.

MR. AUSTIN: I will. Thank you, Mr. Chairman. But I wonder if you would not accept some language that Arthur Elliott and I have gotten together. Instead of the words that you have suggested, why not insert "except as otherwise provided by law?" Now, what we are doing with this language is simply saying, "The commission shall have power, except as otherwise provided by law, to promulgate rules and regulations," and so on, the thought being that the commission would have these powers unless the legislature provided otherwise.

MR. MARTIN: Mr. Chairman, Mr. Austin, would you accept —

CHAIRMAN MILLARD: Why don't you fellows get together here, and not do it across the hall?

MR. AUSTIN: Mr. Chairman, I'm not sure I understand what you are suggesting.

CHAIRMAN MILLARD: You are trying to make an amendment here across the hall. Why don't you go and consult with him and get together?

MR. AUSTIN: I will be very happy to do that. I don't want to hold up the proceedings.

MR. MARTIN: Mr. Chairman, I can't move to recess. If the committee were willing to rise, I would move that they rise for 15 minutes.

CHAIRMAN MILLARD: Is that a motion?

MR. VAN DUSEN: Mr. Chairman, may I simply suggest that the committee stand at ease for 5 minutes?

MR. MARTIN: Could we do that, Mr. Chairman?

CHAIRMAN MILLARD: When you stand at ease, you know what that means in the army; you keep one foot in place. (laughter)

[Whereupon, the committee of the whole stood at ease for 5 minutes.]

The committee will be in order. The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, I should like to withdraw my amendment and offer the following amendment. I don't have it quite prepared here in typed form, but I offer the following amendment at the end of the last paragraph of the Austin amendment, to read "except as otherwise provided by law or this constitution."

CHAIRMAN MILLARD: Mr. Martin has withdrawn his amendment and submitted another. The secretary will read.

SECRETARY CHASE: Mr. Martin's amendment now is:

1. Amend the amendment, second paragraph, at the end thereof, after "commission" by inserting a comma and "except as otherwise provided by law or this constitution"; so the language will read:

> The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and the submission of records, to take testimony, to issue appropriate orders and such other powers as are necessary to carry out the purposes of this commission, except as otherwise provided by law or this constitution.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: I think that this wording, Mr. Chairman, covers the problem that we were struggling with. It will make it possible to reverse any actions which the commission might take, and it also makes it clear that the various provisions of the constitution limiting the activities and governing the activities of administrative agencies, making sure that there is adequate due process in their operation, are observed. And that is the substance and purpose of my amendment, to see that this agency does not operate in any manner different from other agencies, or with any more sweeping powers, or any powers which would violate the provisions of due process.

CHAIRMAN MILLARD: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. Chairman, I rise to support the proposed amendment. I think it might be helpful to say that we have had 3 positions here tonight. The first position was the position of the Austin amendment standing alone. Very frankly, that worried me, because we were simply putting into the constitution, without any other language at all, some very broad powers to compel witnesses to attend, to issue subpoenas, to take testimony —

CHAIRMAN MILLARD: Mr. Allen, let's keep to the amendment, so that we can get on. You will have a chance to discuss the Austin amendment a little later.

MR. ALLEN: I feel, Mr. Chairman, that I can explain this in this manner. The other position which we had was that nothing would happen unless the legislature acted, and that was the Martin amendment. Now we have this third one, definitely on point, which is that the powers are granted, but in effect they are subject to being taken away by the legislature.

Now, of these 3 positions, I think — under the circumstances which we have — that this third one is the best of the 3. I know that it is subject to the objection that if the powers are granted subject to being taken away by the legislature or delimited and as prescribed by the constitution, that the objection will be made that if the legislature should pass laws which will limit the powers of this commission, that they would then be vetoed by the governor, and then nothing which would delimit or describe or implement the powers of the commission would be able to be passed. But I suggest that a governor who is elected by all of the people of the state is going to be very conscious of prevailing public opinion, and I think a governor would hesitate a long time before going too far and vetoing reasonable legislation.

We have a choice to make here. We either have to do it this way, or we have to do nothing — and I certainly think that would be very bad — or we have to say that nothing happens until the law is passed in the first place. I think we are near the solution of this problem, and I favor this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman and members of the committee, the language that has been suggested by Mr. Martin is exactly the same as that which Mr. Elliott and I prepared, and I will accept his language and recommend that the committee adopt it.

CHAIRMAN MILLARD: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, ladies and gentlemen, my convictions on the civil rights problem are well known to all of you, and I shall not restate them now. The real issue again this evening is whether we really want to make progress in this matter of civil rights, or whether we want to approve some words that will make us feel good, but really accomplish very little in the way of progress. I urge all of you to approve the Martin amendment, or whatever we are going to call it, and then finally the original amendment before us, and get on with our work.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, I realize that those of us who are a bit doubtful about some of the things that are proposed on this subject are placing ourselves in line for a misinterpretation of our motives and our sincerity. I have only to add to what Mr. Allen has said. Adopting the amendment now before us means simply this: that the commission can exercise all of the powers granted to it here without restraint, and without accompanying protections for the respondent, unless 2/3 vote can be obtained in both houses of the legislature to overcome a governor's veto.

CHAIRMAN MILLARD: Arthur Elliott.

MR. A. G. ELLIOTT: I will pass. Mr. Austin said it.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I think we have reached a point where I hope we can all be in agreement. I would just like to comment very briefly on what Judge Dehnke said. Of course this is true if you assume that the governor will not act judiciously in the matter. But, certainly, if the legislature proposes reasonable restraints, I am hopeful and of the opinion that a governor would not veto such reasonable restraints. Anyone who is concerned about the civil rights of a few has to be concerned with the civil rights of all of us; and I frankly am hopeful that this amendment, as perfected, can be passed by an overwhelming majority.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, I would like to rise very briefly in support of the amendment. I believe this is a milestone in the convention. I believe it does demonstrate that we can protect civil rights and protect the concept of due process.

To our good friend Judge Dehnke I would only add that our concepts of due process are maintained; our process of judicial review is maintained. I believe that this will get the initiative in the positive field of civil rights. It will provide adequate judicial review for any activities. I strongly urge the support of this amendment.

CHAIRMAN MILLARD: The question is on the Martin amendment. All in favor will say aye. Opposed, no.

The amendment is adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? There is a sufficient number. The question is on the Martin amendment. All those in favor will vote aye, and all those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the Martin amendment, the yeas are 81; the nays are 35.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Everett offers an amendment to line 4 of the Austin amendment:

1. Amend the amendment, first paragraph, first sentence, after "governor" by inserting a comma and "with the advice and consent of the senate,".

CHAIRMAN MILLARD: The Chair recognizes Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I'm going to admit that the motives behind this amendment are about 75 per cent base. I oppose the Austin amendment with every fiber of my soul. If we've got to have it, then let's have it with this. Let me give you an example of why I oppose this. I send my children to a parochial school. Does the civil right of education mean that I may not? Who in this place can tell me that it means I may not? A civil rights commission of 5 men can tell me that it means I may not.

Now, I'm old enough to remember in 1933 when a bunch of well meaning men grouped themselves around an ancient and honorable and semi senile general and said, "Don't worry about that guy with the funny mustache; make him chancellor." And I submit that that's what we are doing here. I don't think that there are 5 Hitlers in Michigan, I'm sure that there are not. But I'm afraid there are 3, each one 1/3 as base as that man, and I will not vote for any measure which permits a governor, unimpeded, to name 3 men, each 1/3 as base as that. And I think that's exactly what the Austin amendment tells us we may do.

If we must do it, then at least let us put some check on total dictatorship in a field of what you gentlemen call civil rights, but I call the very fundamental rights of every citizen of this state. I intend to vote for this amendment, and whether it's carried or whether it isn't, I intend to vote against the Austin amendment.

CHAIRMAN MILLARD: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. Chairman, I oppose the Everett amendment, and I believe Mr. Everett has just conjured up a parade of horribles that doesn't exist. He talks about his children going to a parochial school. There are supreme court decisions, and I believe United States supreme court decisions, upholding the right of children not to attend public schools, but to go to parochial schools of their choice. This is their right under the constitution of this state and the constitution of the United States, under freedom of religion. The sole interpreter of constitutional law remains and still is the supreme court of the state of Michigan of the Michigan constitution and the United States supreme court of the federal constitution.

We have written into this constitution at this date the strongest of appeal rights from administrative decisions of any constitution in the United States. It is even so strong that many of us have certain reservations about portions of it. We have written into the bill of rights for the first time — and only 2 states of the union have this — that people appearing before administrative agencies and executive agencies shall be afforded fair and just treatment. I submit that the argument that Mr. Everett makes does not exist; that all the rights that an individual has and his appeal rights are still upheld; that this is no stronger than any other administrative agency in the state of Michigan. For this reason I oppose the Everett amendment.

CHAIRMAN MILLARD: The Chair recognizes Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I sympathize, from a humanitarian point of view, with the obvious emotional quality of Mr. Everett's remarks. I agree with him that such things as he indicated he was fearful of should not happen. But I think, basically, perhaps we misunderstand the general classification of the type of commission that we are dealing with. As you know, among commissions in our society, be they at the state or federal level, there are generally speaking 2 types. One type is to protect the society against certain transgressions of the individual, and this commission of course is the type that issues licenses, passes regulations, and such, generally in regard to public safety. There are other types of commissions — and the civil rights commission is prime in this category — which are established for —

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Is not the sole question before us Mr. Everett's amendment; namely, advice and consent of the senate?

CHAIRMAN MILLARD: You are right. Confine yourself to the Everett amendment, please.

MR. T. S. BROWN: If you'll give me about 10 seconds, I'll be there, Mr. Hatch. There are other types of commissions which are designed to protect the individual against societal transgressions, and this is precisely this type of commission.

Now, I should think the method of approval by the senate of certain gubernatorial appointees is designed to prevent an obvious rash of appointees who are completely one sided from the point of view of political philosophy. And when we acceded, and I think justly so, to the amendment offered by Mr. Van Dusen which made this truly a bipartisan board, I think we obviated the need for any further amendments and concessions to the senate in that regard. Therefore I oppose the Everett amendment.

CHAIRMAN MILLARD: The Chair recognizes Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman and members of the committee, both as a lawyer and as a citizen of this community and of this commonwealth, I share every apprehension that has been expressed by the opposition to this amendment. I know how you have regarded Judge Dehnke here in our committee. But I think that we have overlooked one thing. I'm going to call your attention to Committee Proposal 95:

> All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, privileges or licenses, shall be subject to direct review by the courts as shall be provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law, and, in cases in which a hearing is required, whether the same are supported by reliable, probative, and substantial evidence on the whole record.

Now, this proposal was passed. It came out of the judiciary committee, and my good confrere and brother of the bar voted for it, and he understands all about it.

I submit it will soon be coming up on second reading, and if there's any further or other misapprehension as to whether or not any circumstance might in any way infringe or modify the rights of any citizen under this law, we'll still have jurisdiction over this proposal; and I submit that even as it now stands it will protect the appearance of any property right or personal or private right commensurate with any administrative tribunal. Now, we have passed this, and it is a part of the records of this convention.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I rise in opposition to the amendment. I want to make it very clear that I completely respect Delegate Everett's candor in his presentation, and realize that there is a very genuine concern. I did support both the Van Dusen and Martin amendments, respecting the concern of the individual delegates as much as the problem. I do feel that the advice and consent concept might severely weaken the splendid job we have done. I urge that we vote down this amendment and support the amendment as it stands. Thank you.

CHAIRMAN MILLARD: Mr. Karn.

MR. KARN: Mr. Chairman and members of the committee, I rise merely to express my support to the Everett amendment.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, we have had a very heartening display of bipartisanship on this area up until now. I imagine on this amendment that may be somewhat strained. I hope it is resumed thereafter. I rise in support of the Everett amendment, and remind the committee of the whole of another portion of the same proposal regarding the definition of advice and consent, which reads as follows:

> Appointment by and with the advice and consent of the senate when used in this constitution or in statutes in effect or hereafter enacted shall mean appointment subject to disapproval by a majority vote of the members elect of the senate if such action is taken within 60 legislative days after the date of such appointment.

I respect the feelings of my friends on the other side of the political aisle in this committee. They have opposed the advice and consent proviso in other respects. They can only be consistent here. I maintain that the majority of this committee has voted in the advice and consent proviso for other executive appointments throughout this proposal. I suggest that we should be consistent in this respect as well.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, when Mr. King offered his original amendment it contained the advice and consent provision. I suggested at that time that he withdraw it in order to let Mr. Bentley offer his amendment, which did not contain it, with the understanding that it would be offered, and that the majority would take the responsibility for voting for it if the minority felt it could not. On that basis, I then also suggested that if they wanted to consider the Austin amendment first, Mr. Bentley might withdraw his amendment. I certainly think that it has been clear from the beginning that whatever bipartisanship there may have been involved also the knowledge that we wanted and intended, if possible, to have this provision in this particular portion of the constitution, and I support Mr. Everett's amendment.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, I rise to concur in the remarks of Judge Dehnke and Delegate Everett. I will vote for the Everett amendment and against the Austin amendment.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I support the Everett amendment, and in doing so I would like to suggest to the members of this committee that the question of advice and consent of the senate is in no way a civil rights issue. It is an issue which has created a lot of discussion as a general principle. But if we look at this amendment as a whole, we see that what it does is to replace any and all other commissions dealing with the problems of civil rights in the state of Michigan, including the fair employment practices commission.

I have before me the statute of the fair employment practices commission, which says that the members shall be appointed by the governor by and with the advice and consent of the senate. It is also provided that that is a bipartisan commission. Now, I haven't heard anyone on this floor say that the fair employment practices commission is not doing a good job. And it seems to me that any fears that the delegates have expressed with respect to action or inaction by the legislature do not apply to this area, and I therefore suggest that you vote on this on your convictions, but with the conviction that advice and consent of the senate is not a civil rights issue.

CHAIRMAN MILLARD: Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, I would like to ask Delegate Everett a question, if I may, through the Chair. I didn't understand exactly all of his comment.

CHAIRMAN MILLARD: Mr. Everett, if you care to answer.

MR. BARTHWELL: Delegate Everett, I just wanted to be sure that I understood you correctly. Did you say that you would not vote for the amendment even if we voted for your amendment?

MR. EVERETT: That's right, Mr. Barthwell, I will not.

MR. BARTHWELL: Thank you. Therefore, ladies and gentlemen, I see no point in us voting for it if it isn't going to change his position. I urge you to vote against the amendment.

CHAIRMAN MILLARD: Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen of the committee, this has been truly an historic day, and certainly I believe in what we have done here. However, before our legislature disappears completely beneath the waves, I would like to rise in support of this advice and consent provision, because I do not think it in any way weakens what we are doing here for civil rights.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman and members of the committee, I'm very reluctant to talk against the concept—or not the concept of advice and consent, but I'm very reluctant to talk against it in regard to this particular amendment. I think the point should be made that we have provided a self executing civil rights commission. What we have done to this point is to suggest that the legislature may participate, but it is not absolutely necessary that the legislature participate. If we now provide for advice and consent of the appointments made by the governor, it is quite possible that we may defeat our purpose if the senate, for example, should feel that it would not confirm the appointments of the governor. There may be some undermining influence here that I think we ought to take into account. For that reason, for this particular commission I would oppose advice and consent.

CHAIRMAN MILLARD: Mr. Allen.

MR. ALLEN: Mr. Chairman, when a body like this body takes a step as new and as firm as we have taken tonight—while it may have one reaction in the Detroit area—I think that I know enough about outstate Michigan, particularly my area, to know there are many people who may worry that we have gone too far. And there are other people who, by extreme statements, will become worried that we have gone too far too fast. Now, I would very much dislike to see what we have done here tonight become overemotionalized or cause fear or cause undue apprehension. And I think one of the best ways to allay some of this worry is to insert the advice and consent provision in this amendment. As a matter of fact, from the statements that were made previously this afternoon that an amendment would be offered to put it in, as Mr. Martin says, I had assumed that that amendment would be put in when I spoke in favor of the Martin-Austin last amendment.

Now, I think also that we should understand very clearly that the advice and consent provision of the new constitution which we are drawing is quite a bit different than the advice and consent provision which we have in the existing constitution. Because, as you know, under the existing constitution a man is not appointed until action is taken. Whereas, the way we have worded it, he is appointed unless within 60 days he is turned down. Now, from a very practical point of view, I think a legislative body finds it more difficult to take the bold step to turn a man down than to appoint him. We reverse the burden of proof. And there's only 60 days. Therefore, in view of what we have done on the advice and consent, we shouldn't think of the proposed amendment which has been offered on advice and consent as we are so apt to think of it as it has existed under today's constitution. And sometimes I wonder if we aren't motivated by the events of the last 5 years much more than we should be. Because we think of our problems today, we think of our problems of this constitution for 50 years we hope, in terms of our most recent experience. But we ought to take a longer look.

So I say to the minority party here that I hope you do not feel that if this amendment passes—and I think it should pass—that we are completely undoing that which you think has been gained here tonight. I actually think that you will strengthen the outstate vote on this issue. I think that the advice and consent provision is reasonable and fair the way in which it has been handled in the new constitution. And I think, above all, you should understand that when these rights are self executing, except as taken away—and a governor's veto can come, as Judge Dehnke points out, and it requires a 2/3 vote to overcome it—the majority party has gone a long, long way, and if we ask for a certain sense of security by the advice and consent provision, I don't think it's unreasonable. I think we will all be better off if we do it. And I certainly don't think it really is taking away, under our new advice and consent provision, any substantial rights. I think we will get a much better overall reaction.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, it is not going to be easy to make a statement at this point on this subject, because a few minutes ago I felt as though we had just reached the high point of the convention, and I wondered how we had got there. Now I feel differently. I don't believe we've got to the high point of the convention. I only believe we thought we had got to the high point of the convention. And let me say why. This amendment when it was offered was stated pointblank to be a vitiating amendment. There was no pretense. It was stated to be so, and it is so.

The reason I take that view and agree with Mr. Everett, who put it forward on that basis, is this. The whole purpose, the entire purpose, of everything that has been done since the time that Professor Norris and I offered an amendment yesterday, and everything we have done on the same subject today — all of it, without any exception — was directed towards one end, and that end was to provide a board or commission which in no way whatever could be prevented from coming into being; that there would be no way, absolutely none, to prevent it from coming into being. It was to be self executing as to the existence of the commission. As to the powers we took various positions, but as to whether or not there should be a commission there were to be no ifs, ands, or buts whatever. That is the way it stands at the moment before the present amendment was offered.

Now, we have to realize that the effect of advice and consent is absolutely to vitiate the self executing feature. There is a way, now, under the amendment, in which the civil rights commission can be prevented from coming into being. You may think it won't happen; I may think it will happen. Regardless of what you think, one thing is absolutely 100 per cent certain, and that is this: it is no longer self executing. You are now relying on the senate. If you wish to rely on the senate, it seems to me you may as well rely on the legislature all the way. There is no particular reason to single out the senate. You might as well admit you do not have a self executing civil rights commission. What you have is this: a civil rights commission, provided the senate wishes there to be one. I have no reason to believe the senate wishes there to be such a commission. I have every reason to believe the reverse.

Now, as to the merits of advice and consent all by itself, I call to your attention that this is a bipartisan board in the first place. There is much less need in the case of a bipartisan board for advice and consent. It can't be a political problem. And I call to your attention that, as far as I can recall, there will be 4 boards or commissions that are provided for in the constitution, in addition to this one — at least, 4 that I can think of — 3 of which do not have advice and consent, and one of which does.

The board of education is a separate board or commission, and there's no advice and consent of the senate, as far as I can recall, in that one; and if I'm mistaken no doubt I will be corrected. The apportionment commission, which I expect will be before you tomorrow or the next day, is a bipartisan commission, provided for in the constitution, and that one is entirely selected by the parties. In that one the governor has nothing to do with it, and there is no advice and consent. In the civil service, the one place where we always wanted to make absolutely certain that politics could not enter in under any circumstances whatever and that we would have an effective system with no possible deadlocks, in the civil service system it provides the same as we provided here, that the governor shall appoint, period; not with advice and consent. The highway commission, as I recall, was the other way. As far as I can recall that does require advice and consent. We have 4 commissions then, and in 3 of them we are not a bit perturbed about not having advice and consent. All 3 of those — the board of education, the apportionment commission and the civil service commission — were either bipartisan or nonpartisan. At least, we hoped they would be such. And in all those cases we did not feel it necessary to have advice and consent.

Now, this is much more important in this provision. We have to recognize that we have given the legislature several vetoes already, but we have not made it possible to prevent the commission from coming into being. The legislative checks that now exist in the provision before us, before this amendment, first of all contain a pocketbook veto, as I mentioned before. If there are no funds coming from the legislature, there is not going to be much function of the commission. Secondly, we provide the legislature may provide for methods of implementing these duties. They may provide that. Thirdly, we now have provided that the legislature may, if they wish, change the powers. There are 3 legislative checks already. The third one was wrung, I can tell you, out of us. We did not wish to give it; and it was a dramatic time when we did give it.

You have gotten 3 provisions in there now in which the legislature can check, but cannot destroy, the commission. With this one that you now ask for, you ask for the power not just to check, but the power to wipe out — in fact, the power to prevent the coming into being of the commission. All I can say to you is that this is impossible. It just cannot be. There is no civil rights commission unless it is self executing. If you wish to vitiate everything we have done over one day and if you wish to wipe out what appeared to be the high point of the convention, especially from a bipartisan position, you have the power to do it. I urge you not to do that. I urge you to stand fast with what we have, and vote down advice and consent.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I will be very brief, Mr. Chairman, because I realize that the debate has gone on far longer than any of us had anticipated. But I want to agree with the remark made by Delegate Wanger that advice and consent is not a civil rights issue. I would oppose the Everett amendment.

When the civil service commission was established, advice and consent of the senate was not granted in the setting up of the civil service commission. The reason I think you do not have advice and consent in connection with the civil service commission was to keep it as far out of politics as you possibly could.

We have reached agreement here on this amendment, and I think we have made history here today and tonight in this convention. I think the eyes of the country will be upon us for the action we have taken in adopting this provision in an atmosphere of bipartisan cooperation in working out the problems. And to now subject this commission to advice and consent of the senate would seem to me to keep this in the political arena, from which we would like to remove it as much as possible, and I see no reason to subject the commission to advice and consent of the senate anymore than you would subject the civil service commission to advice and consent of the senate. I would point out — and I don't know what will happen on apportionment, but again we have to face this — the senate still could be a malapportioned body that was not truly representative of the majority, and in doing this I think we would be taking a step backwards.

In agreeing to the amendment in the first place, I think most of us — I know that I did — agreed to it as it was written, and with some of the understandings that were worked out in the huddles here on the floor, and that did not include advice and consent of the senate. Therefore, I would urge you to adopt the original amendment as I understand it was agreed to, and defeat the Everett amendment. Thank you.

CHAIRMAN MILLARD: Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and genltemen, the statement was made that there is no provision for advice and consent for the state board of education. That of course is quite correct, because we provided that the state board of education is to be elected. But I want to say again that advice and consent does not vitiate this amendment. It does not weaken it. And I wholeheartedly believe in the amendment. I also believe in advice and consent as a fundamental constitutional precept. I believe in the survival of the legislative branch.

CHAIRMAN MILLARD: Mr. Arthur Elliott.

MR. A. G. ELLIOTT: Mr. Heideman has just made the point that I wanted to make about the board of education. I also would like to point out to Dr. Nord that the apportionment board is not a board appointed by the governor, which makes, it seems to me, a significant difference. I further would like to support the remarks of Mr. Heideman that I feel that advice and consent is a consistent and proper position for us to find ourselves in on all boards, and I'm only sorry that my position in the area of civil service did not prevail; because I would have certainly been in favor of including it there.

I would like to urge that we not consider that we have lost the high point, because I think that we are at a point in our convention proceedings which is important. Mr. Everett's statement that his offering of this amendment was represented 70 per cent on a certain basis does not, I am sure, express the views of the members of this delegation, but only his own views, and I certainly would urge the adoption of this amendment for the reasons that I have expressed.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman, I wish to thank Delegate Marshall for agreeing that the issue of advice and consent is not a civil rights issue, and to disagree completely with Delegate Nord's description of it as a vitiating amendment and a low point in the convention.

I have in my hands a memorandum prepared by the research and drafting department dated March 8 for a delegate in this convention regarding senate confirmation. It covers 12 years of the Williams administration and 1 year of the Swainson administration. It points out all of the cases where the senate has rejected gubernatorial appointments, and also those cases where the senate has never confirmed gubernatorial appointments. And nowhere in this research memorandum does it appear that the senate has rejected or failed to confirm a gubernatorial appointee to the fair employment practices commission.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen, we have said about all there is to say on these various subjects. I would like it very much if we could vote, and I respectfully request, because so many people are out in the hall, that we take a division on each one of these votes to get them in here. Thank you.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman and delegates, I rise neither to support nor oppose the Everett amendment. Like Mr. Bentley, my position on the advice and consent of the senate is known. I wish the record to show that my fellow delegate and good friend, Mr. Kuhn, and not myself, offered and withdrew the amendment with regard to advice and consent of the senate. Thank you.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, I agree with Mr. Yeager. Probably too much has been said. Mr. Brown has suggested that I was emotional in this matter, and I plead guilty. I am. I believe that anybody who believes in liberty is going to be emotional when he is faced with what is, to us at least, a real threat to our liberties.

CHAIRMAN MILLARD: The question is on the Everett amendment. Division has been called for. Is there support? There is a sufficient number up. All those in favor of the Everett amendment will vote aye. Those opposed will vote nay. The secretary will read the amendment.

SECRETARY CHASE: The amendment offered by Mr. Everett:

[The amendment was again read by the secretary. For text, see above, page 1995.]

CHAIRMAN MILLARD: Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Everett, the yeas are 74; the nays are 46.

CHAIRMAN MILLARD: The Everett amendment is adopted. The secretary will read.

SECRETARY CHASE: Miss Donnelly offers the following amendment to the pending Austin amendment:

1. Amend the amendment, second paragraph, at the end thereof, after "constitution.", by inserting "These provisions shall not be construed to deny, or enable or allow the denial of, any direct and immediate legal or equitable remedy in the courts of this state, to any person affected thereby.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Miss Donnelly.

MISS DONNELLY: Mr. Chairman, members of the committee, I believe the intent of my language is quite clear. The other day I submitted an amendment that was still on the desk that did not so specifically state all of the elements that I felt it would entail. This very simply gives to the courts power — not power to review an administrative board decision, but power to act immediately. The theory that Committee Proposal 95, as passed by this convention earlier, will protect any individual who feels aggrieved, in my opinion, does not stand up if we read and carefully consider the terms under which this committee acted and drafted this language. The language says:

> All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, privileges or licenses, shall be subject to direct review by the courts as shall be provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law, and, in cases in which a hearing is required, whether the same are supported by reliable, probative, and substantial evidence on the whole record.

This is not a trial de novo, or a complete new trial. This is a review. Also, there must be a final decision or ruling or order of an administrative board which was judicial or quasi judicial. I submit that there's no question, the way we are constructing this rights commission, that it will be judicial. So it would fall within that; but there must be this final decision, and a final hearing, before there could be redress from any action here.

Next, I would like to submit that the so called compromise that is to protect citizens and give the legislature some control, as put in by Mr. Martin to amend Mr. Austin's amendment, to the effect "except as otherwise provided by law or this constitution," does not guarantee any safeguard to the individuals who are abused. It would take, as Judge Dehnke said, a 2/3 vote, or a majority vote with the governor's signature. But this would take a great deal of time, and it would take a great deal of abuse. The legislature will and should move slowly. They could not act without a great deal of pressure. They would not act.

Further, I would like to recall to these delegates certain hearings which occurred in this country when certain persons were seeking out so called unAmerican activities. All this commission takes is one McCarthy. I therefore submit that in the eagerness of this convention and this committee of the whole to establish a self executing provision to protect civil liberties, we have not protected people from potential abuses of this very commission which is set up to protect liberties. In the eagerness of some to call this the high point of the convention, I fear that in a few years time, without limitations such as the language in my amendment, we may find that this was the low point of this convention.

The desire to protect citizens should be most vital to us all, the most important thing, in my opinion, the constitutional convention may do — not taxation, not reapportionment, but rights of citizens and humans who are under this state and who wish to live here. Anyone who suggests that the courts of this state will abuse people and that a commission will not abuse people quite frankly horrifies me. To me the last source of strength and relief of any free people is in the courts of any country, and without such provision giving the courts of this state some right to act, I believe that they cannot act, and they cannot aid any citizen who is feeling abuse, or who is wanting immediate direct relief.

This is constitutional language that we have spelled out. We have left very little to the legislature. For a court to act they must find their authority, in my opinion, in the constitution. Therefore, I feel that if we really wish to protect all citizens from all abuse and we really believe that this is a high point, we must build in this a check and a balance, as we have in all other constitutional documents. I therefore urge the support of this amendment.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: I'm not sure, Mr. Chairman, I have the language of the amendment. Is this it? "This provision shall not be construed to deny, or enable or allow —"

CHAIRMAN MILLARD: The secretary will read, if you are in doubt.

MR. HATCH: We have it displayed up here.

SECRETARY CHASE: The only change from the language on the board is, instead of "this provision," the words in the official amendment on the secretary's desk are, "These provisions shall not be construed to deny," and so forth.

MR. HODGES: Can you give me the whole Donnelly amendment?

SECRETARY CHASE: Add at the end of the section the words:

[The amendment was again read by the secretary. For text, see above, page 1999.]

MR. HODGES: Thank you. Well, it would seem to me that the objections raised to the earlier Donnelly amendments are equally applicable to this one, in that this would allow a defendant to go into court and perhaps get an injunction against other action on the basis that he constitutionally has a right to be heard immediately in a court of law before the proceedings of the administrative agency have come to any conclusion.

I would submit that this would allow much the opposite from what Miss Donnelly's desired results are, to speed up action, by allowing capricious confusions of jurisdiction by trying to stop the administrative agency from acting, tying it up in a court action, perhaps in circuit court, or something, and having it laying on the dockets of those courts, the very purpose of administrative law being to speed up these transactions. I think this would have a detrimental effect on it, and perhaps negate the very idea of having the administrative agency in the first place.

Certainly many of these things that the agency would be protecting would be provided under courts of law under our bill of rights section. I think that if we are to have this commission—and I think we should—then the first action should be through the commission. And at that point we have set up adequate remedies and safeguards for judicial review. For that reason I would oppose the Donnelly amendment.

CHAIRMAN MILLARD: The Chair recognizes the lady from Houghton, Mrs. Butler.

MRS. BUTLER: Mr. Chairman, members of the committee, it seems to me that the new "equal protection" clause that was written into the constitution in the bill of rights should cover all of this extra verbiage that has been put in.

CHAIRMAN MILLARD: Mr. Garvin.

MR. GARVIN: Through the Chair, to Miss Donnelly, a question.

CHAIRMAN MILLARD: Miss Donnelly.

MR. GARVIN: Miss Donnelly, would you say that if either party involved would ask for direct hearing to the court, and it would continue like that, would the commission have anything to do with these matters?

MISS DONNELLY: I'm sorry, right in the middle of your question there was a cough. If each party would stipulate to go to court — and then I lost you.

MR. GARVIN: No, I didn't say "stipulate," because I don't think your wording includes stipulation. They have the right to go to court directly, without going to the commission at all; is that what you intend?

MISS DONNELLY: I intend that any individual who wants immediate legal or equitable remedy in the courts of the state should be able to go there immediately and directly, if that's what they want. I feel this is a civil right of every person.

MR. GARVIN: Through the Chair, then if the parties continued over a period of time to go directly to court, what would be the duties of the commission?

MISS DONNELLY: I would say the duties of the commission would be to handle those who did not choose to immediately go to court. If it was brought to their attention, they apparently would have their powers to go ahead and investigate anybody, to any degree that they felt inspired to investigate anybody for anything. Now, if anybody wants to go to court and enforce their legal right, I believe that this amendment will allow them to do it directly; that they would not have to exhaust themselves through an administrative board awaiting its decision, awaiting its willingness to act, and just wait. I don't know if I'm answering your question directly. Could you ask me again, through the Chair.

MR. GARVIN: Yes.

CHAIRMAN MILLARD: Please state your question.

MR. GARVIN: In the event parties go directly to court under this, what would be the duties of the commission if this should continue over a period of time?

MISS DONNELLY: Through the Chair, if I understand the nature of your question, you mean as to the individual parties, John Doe and Mary Roe? Do you mean the individual plaintiff and the individual defendant, or do you mean by your question, if I can rephrase your question, if all parties did this and nobody went to the commission?

MR. GARVIN: Correct.

MISS DONNELLY: Well, if all parties did this and nobody went to the commission, I would say that the commission would not be functioning very much. The people obviously were seeking their remedies in the courts of this state, which I believe is a perfectly proper place for them to seek their remedies.

MR. GARVIN: Now, one more question, if you please, Mr. Chairman. Would you say that would have been the proper procedure in the civil service commission also?

MISS DONNELLY: Through the Chair, I had a certain amount of trouble with the civil service commission in trying to get some redress of grievances there, too, in exhausting my remedies and taking my client up to Lansing, and having to come back and forth, and back and forth, so I'm not too delighted with that, either, and I'd like to be able to take them directly to court sometimes on that.

MR. GARVIN: Thank you. Mr. Chairman and delegates, I know Miss Donnelly quite well, and apparently this isn't anything that she would intentionally do. I understand the reasoning behind it; but I also understand the results. The result will be that it finishes the civil rights commission. There will practically be no commission whatsoever. We are chopping it up little by little, and if we go through with this, this will be just about the last.

CHAIRMAN MILLARD: Judge Pugsley.

MR. PUGSLEY: Mr. Chairman and fellow delegates, this is the first time that I have arisen to take part in the discussion of one of the most interesting and important matters which has come before this convention. I'm sure that we are all intensely interested in the administration of justice in whatever court or in whatever tribunal issues of law and fact and the rights of citizens are involved. We have taken an important step in creating a new tribunal, designated as a commission to sit and pass upon civil rights. I am in sympathy with the creation of that commission. We are pioneering, it is true. But I think we are taking a very forward step.

I rise, however, to support the position taken by Miss Donnelly. I do not believe that that is intended, either in spirit or in form, to in any way jeopardize the work of the commission which you have seen fit to establish. I do believe, however, that to insure the practicality of its use, that we should not deprive any citizen of his day in court if he feels that his rights can there best be preserved. One of the inherent rights of man which we have recognized from time immemorial is the right of trial by jury. And if an individual feels, where questions of fact and law are concerned, that he can best have those rights protected in a court of law, I do not believe that we want to deprive him of that right. Therefore, I heartily support the amendment offered by Miss Donnelly, and I believe that it will be a safeguard and a valuable addition and asset to the commission which you have established.

CHAIRMAN MILLARD: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, members of the committee, I rise to support this amendment. I think perhaps it may not be too clearly understood, in view of the questions and the final statement made by Mr. Garvin. If you, as members of this convention, have intended that you have created a commission that is to take over people's legal rights and the enforcement thereof exclusively, then it seems to me you should say so, make your intention clear, and not leave it in doubt. If, however, it has been your intention to grant some new rights or the means of investigating and determining whether the constitution is being followed, but it has not been your intention to take away any person's rights that exist—in other words, that you intend that this civil rights provision shall be a 2 way street; that it shall protect everybody—then of course you should vote in favor of this amendment.

Now, this amendment will not give people either legal—I'm sorry, I think we should either adjourn —

CHAIRMAN MILLARD: Talk into the mike. The Chair can't hear you.

MR. LAWRENCE: I think we should adjourn. I think the attention that has been paid here the last half hour on this amendment is nothing that is very complimentary. I move we rise.

CHAIRMAN MILLARD: The question is on the motion. All in favor say aye. Opposed, no.

The motion does not prevail. Proceed, Mr. Lawrence.

MR. LAWRENCE: I'm sorry, Mr. Chairman I'm through.

CHAIRMAN MILLARD: Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, perhaps my training and my experience has been all wrong. I'm beginning to question it, at least, here tonight. I have always been of the opinion that people's constitutional rights have been a long time accruing to each individual; that those rights are expressed in a document we call a constitution. That we have a court or judicial system set up which has a primary purpose of enforcing and safeguarding those rights. If the intention here is to create a commission that would deprive or even unduly delay the rights of the individual to any legal remedy that he might have, I suggest you are doing far more to harm civil rights than you are doing to help it. Certainly we cannot deprive persons, whether plaintiff or defendant, of insisting upon legal rights guaranteed to them. To do so would be a backward step in civil rights, not a forward one. I support the Donnelly amendment.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen, I for one hope that tonight we will stay in session until we get this settled, even if it means 2:00 o'clock, and I hope we don't hear any more motions to rise until we get the whole thing settled. Thank you.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, there seems to be an impression that what the Donnelly amendment proposes is the creation of new rights. As I understand it, it does not do that at all. It merely means that existing rights, the rights that people have had in the past to go to court, to have the issues in which they are interested settled, shall not be lost. It is merely for the purpose of clarifying that issue, so that that argument cannot be made, that this amendment is offered, and I heartily support it.

CHAIRMAN MILLARD: The question is on the Donnelly amendment. Division was asked for some time ago. Is there support? There is a sufficient number. The secretary will read the amendment.

SECRETARY CHASE: Miss Donnelly has offered the following amendment to section 1:

[The amendment was again read by the secretary. For text, see above, page 1999.]

CHAIRMAN MILLARD: All in favor of the Donnelly amendment vote aye. All those opposed will vote nay. Mr. Martin.

MR. MARTIN: I'm sorry. Are we now voting on the Donnelly amendment?

CHAIRMAN MILLARD: We are voting on the Donnelly amendment. All those in favor will vote aye, and all those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the Donnelly amendment, the yeas are 78; the nays are 36.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments, Mr. Secretary?

SECRETARY CHASE: There are none.

CHAIRMAN MILLARD: The question is on the adoption of the Austin amendment, as amended. Division was called for. Is there support? There is a sufficient number up. All those in favor of the Austin amendment, as amended, will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary —

MR. MADAR: May I ask what amendment we are voting on?

CHAIRMAN MILLARD: The Austin amendment.

MR. MADAR: I just wondered, because it doesn't look like it anymore.

CHAIRMAN MILLARD: The Chair has announced it 3 or 4 times, Mr. Madar. Do you want it read?

MR. MADAR: It won't sound like the Austin amendment anyway, Mr. Chairman.

CHAIRMAN MILLARD: The secretary will lock the machine and total the vote.

SECRETARY CHASE: On the adoption of the Austin amendment, as amended, the yeas are 74; the nays are 43.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to section 1?

SECRETARY CHASE: Mr. Wanger offers the following amendment to section 1:

1. Amend the section, at the end of the first paragraph, after "commission.", by inserting "No member of the commission shall be eligible for election or appointment to public office during the term for which he was appointed nor for 2 years thereafter.".

CHAIRMAN MILLARD: The Chair will recognize Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, I realize that it's very late, that we have had a long day, and that the general feeling of this body is that we should definitely accomplish something tonight. This is an admission of the fact that we have both aspirations and also human weaknesses. But I urge you to consider this amendment carefully, for one very simple reason. There is no area today in this very important problem of civil rights which does not have political implications as well as just human rights implications and considerations. It is clear that any public office may be used as a steppingstone, as a means to get votes for the ends of political ambitions. This is perhaps the reason why the constitution provides that judges shall not be eligible for public office during the term for which they were elected or for a certain period thereafter.

I suggest to you that the adoption of this amendment will definitely promote a feeling of confidence in this commission which is very, very important to the effectiveness of its work; that no one on the commission is basing judgments or votes on any matter on desire for political preferment or consideration, but they are basing their judgments on this commission with the true ends of justice in view. I think this is a matter which deserves the most careful consideration of this committee, and I urge its adoption.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Are there any further speakers on your list, Mr. Chairman?

CHAIRMAN MILLARD: No, sir.

MR. MARTIN: May we take a vote on this, then?

CHAIRMAN MILLARD: The question is on the Wanger amendment. Division has been asked for each amendment. Do you want one on this one, Mr. Yeager?

MR. YEAGER: No.

CHAIRMAN MILLARD: All in favor will say aye. All opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is a sufficient number up. The secretary will read the amendment.

SECRETARY CHASE: Mr. Wanger has offered the following amendment:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: The question is on the Wanger amendment. All in favor will vote aye, and all those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Wanger, the yeas are 61; the nays are 55.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to section i?

SECRETARY CHASE: Messrs. Hatch and Everett offer—

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I move that the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. All in favor say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is. All those in favor of the motion to rise will vote aye, and all those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 32; the nays are 86.

CHAIRMAN MILLARD: The motion to rise does not prevail. The secretary will read.

SECRETARY CHASE: Messrs. Hatch and Everett offer the following amendment:

1. Amend the section, after "Sec. i.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission to secure the protection of the civil rights guaranteed by law and by this constitution. The commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, to be appointed by the governor, with the advice and consent of the senate, for 4 year noncoterminous terms. The legislature shall prescribe by law the powers of the commission to accomplish this purpose and shall provide sufficient funds for its effective operation. At any time within 2 years following 2 years subsequent to the adoption of this constitution, the governor may submit to the legislature a proposed plan or plans to implement further the objectives of the commission as set forth in this paragraph. Where such proposals require the force of law, they shall be set forth in an executive order. The legislature shall have 60 days of a regular session or a full session, if of shorter duration, to disapprove such order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elect of each house, such plan or plans shall become effective at a date thereafter to be designated by the governor.".

CHAIRMAN MILLARD: The Chair recognizes Mr. Hatch.

MR. HATCH: Mr. Chairman, this amendment is essentially the same amendment which Mr. Bentley offered at an earlier time during our deliberations, and then withdrew in order that Mr. Austin might offer his substitute and Mrs. Judd's amendment could be considered to it. I think it is, as opposed to the Austin amendment, better language. I certainly prefer it. I think it goes a long way, and is certainly a constructive step forward.

My objections to the Austin amendment—and if I recall the language correctly, it states that it will be the duty of the commission to secure the protection of the civil right to employment, education, housing and public accommodations. Now, I don't know what the civil right to employment is. Nowhere in the constitution have we defined a civil right of employment. As Mr. Everett pointed out earlier, does this include the right to work? Just what does it include? I don't know. The civil right to education. What does this mean? Does it mean that everyone has a right to education, K through 12, through college? Just what does it mean? The civil right to housing. Does this conceivably mean that if I desire to sell my home only to persons of Dutch descent, I would then be in violation of this civil right to housing? And, if so, what can this commission do to me? What is the right to public accommodations?

The whole point is that when we considered Committee Proposal 26, the equal protection clause, we did not include language of this sort, but used the general, recognized legal terms that are used in the federal constitution. I feel that this substitute amendment offered by Mr. Everett and myself, which was previously offered by Mr. Bentley, goes far enough when it says that the civil rights commission is created to secure the protection of the civil rights guaranteed by law and by this constitution. Therefore, I urge the delegates to support this amendment. I would yield to Mr. Everett, if he has any comments.

CHAIRMAN MILLARD: The Chair will recognize Mr. Everett.

MR. EVERETT: Mr. Chairman, I can add little to the presentation which Mr. Hatch has made. I hope that sheer fatigue does not take us away from what we are really looking at. I don't believe any state in the union incorporates in its constitution as strong a guarantee of the civil rights of the citizens of that state as the language which we are proposing here.

When Mr. Austin offered his amendment, I didn't know what it meant; and when we finished amending it I don't think Mr. Austin knew what it meant. We do know what this means. Frankly, there were things about it which some of us had difficulty accepting. Earlier today we did accept it because we believed, as Mr. Binkowski said earlier, the very practice of discrimination is immoral, and it must leave us. We are willing to swallow some scruples so that we can take a step in that direction. Scruples we will swallow, but the surrender of our liberties we cannot.

This guarantees, as much as any written document can guarantee, the protection of the constitution of the state, of the courts, to the individual liberties of every citizen of this state. I don't think any citizen has the right to demand more. I ask you to support this amendment.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, this amendment was drafted some 13½ hours ago by Mr. Martin and myself. I have no idea what Mr. Martin's position will be on this amendment, but I can say that I am supporting it.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, fellow delegates, I also do hope that fatigue does not overcome us or affect or cloud our judgment in this most serious matter in which we are engaged. I really don't think there are many matters that will come before the convention that will have more far reaching effect than the matter that is under debate.

To some extent I share the concern of Delegate Hatch as to what is meant in Delegate Austin's amendment with regard to civil rights to employment, housing, et cetera. It seems to me that in embarking on this legislative matter, we should go forward with it and define it. I think that the proponents of this amendment may have given some thought to this, and I would like to hear what they have to say. I think if this is the particular concern of Delegate Hatch and Delegate Everett as to exactly what we mean in the Austin amendment, we should go forward and spell it out.

Again, I would have to oppose this amendment which they now offer, for the simple reason that we are passing the buck, first to the legislature, and then to the governor—and the governor acting alone. I cannot subscribe, in all conscience, representing the people who sent me here, to a proposition which would pass this along in that manner, ultimately in the sole power of one man. This is too big a responsibility for the governor acting alone. It's a big responsibility for us. It's a big responsibility for the legislature. But because it's a big responsibility, we cannot duck it, we cannot pass it, we must meet it squarely.

I said yesterday that if I were drafting such a provision, I would want to spend some time on it. I'm not prepared to lay out the outlines of this provision myself, but it seems to me that we have delegates in this convention that are prepared to do it. And if they are prepared, I think that we should move forward in preparing this particular provision in a form with which we can go forward and say to the people: this is what we intend and what we mean.

The Hatch-Everett amendment would not guarantee to us anything. It would not guarantee that we would have a civil rights commission in a form satisfactory to protect the rights of minorities. Neither would it guarantee that we would have any of the guarantees which they propose should be provided for defendants or respondents in these administrative agencies. I think that in writing this into the constitution these matters should be covered and provided. I reiterate: I can't add anything to it.

I am not prepared or willing, and I don't think the people of this state on any side of this question are in a position to accept a proposition such as this, which really means very little, and guarantees the rights of no one in a definite way, and merely presents the legislature, first, and then the governor acting alone, a blank check.

CHAIRMAN MILLARD: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, fellow delegates, I want to make one observation before I make my comments about the amendment. That is that I hope that this convention never again asks the delegates to be in a convention session of this kind and not have before us the necessary copies of amendments as long as the Austin or other amendments that have been before us this night. So much for the comment.

Mr. Chairman, as one of the members of the committee on rights, suffrage and elections, it was my pleasure to—shall we use the ordinary expression—sit at the feet of one of the learned gentlemen delegates of this convention, and I refer to Dr. Norris, and hear from him over and over and over that any time we put into the constitution words that have a tendency to appear to give rights, they restrict rights. I like to express it in this manner: if we are talking about the silverware on the table and we mention the knife, fork and spoon, then we forget the butter knife, the sugar spoon and so on that covers a multitude of other silverware that is on that table.

As a result of those long months in which we were studying and finally brought it into being, with the assistance and under the leadership of our very eminent chairman, Dr. Pollock, and with the able work of the commission on civil rights, as headed by the gentleman who is in front of me, Dr. Hannah, who provided us with the necessary wordage and information as to what should go into the constitution, I voted against the Austin amendment—not because I'm against any of these rights being secured for all of our citizens, but because I could not accept the proposition that those spelled out words should be in the constitution. Because then, as Dr. Norris very much explained, they become restrictive. Who knows what rights are going to be necessary to spell out 10, 15, 20, 30 years from now — yes, even 50 years?

You will recall that when the proposition, Committee Proposal 26, came before this convention and ultimately was adopted, the proponents of Delegate Proposal 1621, which spelled out all of these things—and it was agreed in our committee that they would not oppose our committee proposal, which was the majority report of that committee—preferred theirs to ours. And I respectfully point out to these delegates that's a great deal of difference.

I hope, I urge, I beseech the delegates assembled here tonight, to give serious consideration to this, and let's put in there what has been drafted to secure these rights in an orderly manner; and I'm sure that in the years to come no regrets will be had because we had put in some words that now become restrictions under experience rather than rights. Thank you.

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman and members of the committee, I know there was some concern about the unlimited power of the governor to submit proposed plans to further implement the objectives of the commission following 2 years after the adoption of the constitution. You will recall that Mr. McLogan, I believe, had offered an amendment to Mr. Bentley's amendment to limit that power to no more than 2 years. I would call to the delegates' attention that that amendment, although it may not be in the precise language in which Mr. McLogan offered it, is included in this provision.

In other words, the composition of the commission is established by this provision; its duties are set forth in this provision; the term of office is set forth; but the legislature has 2 years within which to prescribe by law the powers of the commission to accomplish the purpose of it. If they did not do so, or if the powers they so set forth did not concur with what the governor thought should be included in the powers of the commission, he then would have a 2 year period within which to submit or promulgate an executive order.

At this time, Mr. Chairman, I would like to state my understanding of what the executive branch committee felt with respect to a civil rights commission; namely—and I think we are still talking about the same commission—that it would not necessarily, if we had a constitutional provision concerning a civil rights commission, have to be one of the 20 principal departments. I would like to direct a question to Mr. Martin at this time to ascertain whether or not he concurs in that statement.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Hatch, I do concur. We did not specify that it should be one of the 20 departments. That would be up to the legislature to determine.

CHAIRMAN MILLARD: The question is on the Hatch-Everett amendment. Mr. Martin.

MR. MARTIN: Just a word on this. Mr. Bentley has mentioned that some work was done on this some 13 hours ago, and that this was the product of that labor. It contained what we thought were all of the provisions of the Nord amendment, and contains the same provisions as the proposal with respect to the highway commission as to terms and as to numbers of members; and it contains the provision which in substance was contained in our original committee amendment with respect to the governor and such part he might have in this. So this is, obviously, an amendment which I can and do support. As I indicated some time ago, I am personally willing to go further. This is what we recommended. This was the amendment that Mr. Bentley and I specifically recommended, however, and we did not recommend more than this at that time.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman, I have on the desk an amendment to strike the last portion there. It was made to fit the Bentley amendment. I understand this is practically the same thing. Is it in order?

SECRETARY CHASE: Mr. Stevens offers the following amendment to the amendment:

1. Amend the amendment, at the end of the third sentence, after "operation.", by striking out the balance of the section.

CHAIRMAN MILLARD: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I see no point in talking longer about this. I have expressed my feelings on the idea of giving legislative powers to the governor, turning the government upside down. I do not favor this method of enforcing this kind of law. But, if we are going to have a commission, let's have one that makes some sense. Let's try to keep our age old tradition of Michigan and the United States of the separation of powers.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, I oppose the Stevens amendment. When I spoke earlier of swallowing scruples, this is one I'm willing to swallow. I agree with him that this violates our traditional concept, but I think that in this area we have to yield our traditions to accomplish what needs to be accomplished.

I am not one who believes that the legislature won't act. I believe they will. There are people here who think otherwise. I am willing to go along with them and say, "All right, if the legislature won't act, the governor shall." I don't think that we can in fairness say that if we strike this, we are substituting for the Austin amendment, because I honestly think we are going to what Mr. Boothby proposed originally. I therefore oppose the amendment and will vote against it, and support the original amendment.

CHAIRMAN MILLARD: Mr. Young.

MR. YOUNG: Mr. Chairman, I oppose the Stevens amendment. I also oppose the previous amendment, the Hatch amendment. I think we ought to be pretty clear on what is happening here tonight. We spent a long time in perfecting or supposedly perfecting the Austin amendment. Many delegates got up on this floor in a spirit of self declared bipartisan unity and indicated that they were willing to go further than this amendment that is on the wall now. Mr. Martin was one of those, and there were many others. Now, I submit that it is physically impossible to go forward and to go backward at the same time. You cannot vote yes on the Austin amendment as it was amended and then turn around and vote yes on the Hatch-Everett amendment and still be going forward.

Now, I think it ought to be clear that what we are doing here is, slowly, by a process of attrition, whittling away and weakening and vitiating whatever progress we have made today. Now, if that is the intention of this committee, then it should be done consciously. I will say to you in all sincerity that a half a civil right is not much better than no civil right. We have definitely reached the point of diminishing returns. Now, how much more chopping can we do?

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I rise in support of Mr. Stevens' amendment. We have a governmental system which through the years, through the generations, has proven to be a system protective of the rights of individual citizens. And in that system we have a legislative process vested in a legislature. Now, it is true that from time to time people and perhaps at times large segments of the people become very impatient at the slowness of the legislative process. But, my fellow delegates, the fact that once in a while the legislature doesn't do as some group wants it to do or doesn't act as quickly as some group wants it to act is certainly no reason at all to just turn the whole system upside down.

These last couple of sentences, starting "At any time within 2 years following 2 years subsequent to the adoption of this constitution, the governor may submit," and so forth, are an open transfer of legislative power to the governor, and the proponents of this amendment, as I listened to the explanation, admit that this is intended so that if the legislature acts, but doesn't act quite in the way that the governor at the time thinks it should have acted, and he wants to go further than the representatives of the people want to go, you vest in him a legislative power to write up a plan and submit it to the legislature, and then you let the governor say to the legislature: veto it, if you will. Now, I understand — I gather from the reading of this language — that this would require the veto of both houses within 60 days of a regular session, or a full session, if of shorter duration; and it would take both houses. You cast upon the legislature the same burden, if you please, as is the burden of legislation, but you leave to it only the power of veto.

Now, it's very apparent to me that there are certainly not very many of you that ever served in legislative bodies. The burden of going forward under this system is completely reversed. In the ordinary course of legislation it is the people who want to effect a change that have the burden of going forward and have the burden of getting together a majority in each house of the legislature. Now, that's their burden, the burden of accomplishing change, to convince a majority of each house of the legislature to make that change. But what does this arrangement do? It completely changes that burden. And the people who desire change have no burden at all. You cast the burden upon the folks who do not want a change to gather together the majority. And that's a great deal different. You are completely changing the burden of going forward in the legislative process, and indeed you are transferring to the governor the power to make the law, and leaving to the legislature the power only to veto it, if it will.

This language here about implementing further the objectives of the commission is very broad. You give to the governor the power to write proposed plans to implement further the objectives of the commission. Now, this goes much further —much further—than simply executive reorganization. In the field of executive reorganization all you do is give to the governor the power to change the structure of his branch of government. But here you give to him, through the apparent process of simply writing a plan, the power to do much more than that; actually, to define substantive rights. You are actually giving him the power to make a law, and you are doing it simply because some of you have become impatient with the legislative process. The expression of your impatience here shows that somehow or other you have lost faith with our American heritage. And I say to you that, in my opinion, this language which Mr. Stevens' amendment proposes to strike—and I endorse Mr. Stevens' amendment—grants a power here which is much worse, much worse indeed, than would be the situation of a self executing civil rights commission. I endorse Mr. Stevens' amendment, and I endorse the striking of this language. I hope that Mr. Stevens' amendment will be adopted.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, I subscribe to what Senator Hutchinson has said, and I sincerely admire his honesty and vigor in stating it; but I still oppose this amendment. To me the matter of discrimination is a cancerous growth in our society, and I'm willing to use strong medicine, even surgery, to remove it. What I am not willing to do is to remove the vital organs of the body and get rid of the cancer, but kill the patient. I think we've got to admit that either we are willing to use strong medicine or back away entirely. Therefore, I am opposing Mr. Stevens' amendment, and I am going to vote for our amendment without it, assuming that the Stevens amendment is defeated.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: Mr. Chairman, Delegate Hutchinson's remarks would be well and good if we had representative government in the legislature. Now, we realize this or we wouldn't be putting this language in. The reason we had to do this is because for 10 long years, in this state legislature, this has been bottled up in committee and has never even been allowed to come out for a vote. This is why we are acting this way, and everyone here knows it. We do not have a responsive legislature, we do not have a responsible body, and for that reason we must oppose the Stevens amendment.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I would like to say just 2 things. First, I would like to assure Mr. Young that so far as I'm concerned this has nothing to do with partisan politics. Second, I would like to remind you people of the committee, for I don't know how many times, that we are not dealing with substantive rights here; we are dealing with procedure.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I just want to say that this amendment would strip this back to essentially the provisions of the earlier Nord amendment. It does not contain any teeth. Rather, it removes any teeth from this amendment. And those who want to go forward in meeting this problem will certainly not vote for this particular amendment.

CHAIRMAN MILLARD: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I am disturbed by some of the statements made recently by some of the delegates that raise the question as to what it is we are talking about when we are talking about civil rights in education, civil rights in employment, and civil rights in housing. If one spends as much time and energy as I have in the past 5 years dealing with this problem at the national level, where one is lambasted on both sides of the head with all of the dead cats that are within reach by both the proponents and the opponents, the time comes when one is required to answer the question that Mr. Hatch raised, and one or two others, that they don't quite understand what it is that we are talking about.

Now, I'm not talking in favor or against specific language. I would just like to refocus the attention of the delegates to this convention as to what it is that civil rights is all about. And I'm not going to repeat the speech that was made the other day because that wouldn't be useful.

What is it that you are really, legitimately trying to do for these 700,000 people in this state or the 18 or 19 million American negroes in the United States?

MR. YEAGER: Point of order, Mr. Chairman. I would like to inquire if the good doctor is speaking on the amendment.

CHAIRMAN MILLARD: Dr. Hannah, we are talking about the Stevens amendment. The Chair would like you to confine your remarks to the amendment, if you will.

MR. DOWNS: Mr. Chairman, I move unanimous consent to let Dr. Hannah continue his talk.

CHAIRMAN MILLARD: The question is on the motion of Mr. Downs. All in favor will say aye. Opposed, no.

The motion prevails. Dr. Hannah may proceed.

MR. J. A. HANNAH: Ladies and gentlemen, I have no intention to take a long time and wear you out beyond where you are. But what is it that you are trying to accomplish when you establish a civil rights commission, or pass civil rights legislation? What is the objective? Finally, you have to think this one through and come up with an answer that is satisfactory, or satisfying to you, to make the effort worthwhile. I'd like to tell you what it is that I have been trying to accomplish, and if you think it's important maybe you want to establish a civil rights commission, and if you don't think it's important and you don't want to establish a civil rights commission, I shall have no less respect for any individual among you.

Actually, what you are trying to accomplish, I hope, is to recognize that these persons that do not happen to be born white should have the same opportunity to develop whatever potential they are born with that all other citizens in this great country of ours have — an opportunity to develop all of the potential that God gave them, so that they may make a useful contribution to our society. Then, once you have given them this opportunity through free education or the same education that you give to white people so that they've developed this potential, then the next step is to see to it that they have an opportunity to use this developed potential in the service of society. Because the one resource that a free society cannot afford to squander is the productive ability of all of its citizens. This is where you get into the employment business. Now, once the man or woman has developed the potential that God gave them so that they can make a useful social contribution, and society provides them an opportunity to make this contribution, then the next step is to make certain that these people have the same opportunity to enjoy the rewards that go to all other people that can make the same kind of a contribution to society. So if they want to live in a decent house, as decent people, they have the opportunity to do so in a decent neighborhood. If they don't want to live in that kind of a situation, of course they can live in the other kind of a neighborhood.

And then you finally get down to the last final analysis: all you are trying to do for the man or woman who happens to be born a negro or a Mexican or an oriental or a Jew or something else — the right to be recognized as an individual. And, ladies and gentlemen, the damning characteristic of the civil rights problem in this country and in all others is the fact that we brand people as a group. All any negro wants, I hope, is an opportunity to be recognized for what he is. If he is decent and respectable and entitled to respect, he has a right to expect it, and not be damned just because he happens to be a negro, or be classed as an inferior individual because of the color of his skin, which he can do nothing about. This is all it's about. Now, I'm sure that when Mr. Hatch and others said they don't know what you're talking about when you talk about civil rights in education or civil rights in employment or civil rights in housing, that isn't what they mean.

Now, you can come back to these amendments and do whatever you want to. There was a time today when it looked like we wanted to move forward. If we don't want to move forward, well, we'll be just where we were. But we've moved up, and now we are going to move back, and we are all tired, and I was opposed to adjourning awhile ago, but maybe we have reached the point where we can't settle this one tonight.

CHAIRMAN MILLARD: The question is on the Stevens amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, I would like to oppose the Stevens amendment.

CHAIRMAN MILLARD: The question is on the Stevens amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: A division is called for. Is there support? There is.

SECRETARY CHASE: The amendment offered by Mr. Stevens to the Hatch-Everett amendment is:

1. Amend the amendment, at the end of the third sentence, after "operation.", by striking out the balance of the section.

CHAIRMAN MILLARD: All those who are in favor of the Stevens amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Stevens, the yeas are 47; the nays are 65.

CHAIRMAN MILLARD: The amendment is not adopted. The question is now on the Hatch amendment. Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, for the reasons I have stated and the reasons so eloquently presented by Mr. Hutchinson, I oppose this amendment. The Austin amendment in my opinion is a much preferable one to this. It is a well drafted amendment. It spells out what it seems to want to say, and I don't know what this does say.

CHAIRMAN MILLARD: The question is on the Hatch amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. Are there any further amendments to the section?

SECRETARY CHASE: There are none, Mr. Chairman.

CHAIRMAN MILLARD: If there are no further amendments, it will pass.

Section i, as amended, is passed. Are there any further amendments to the body of Committee Proposal 71? If not, it will pass.

Committee Proposal 71, as amended, is passed.

MR. WANGER: Mr. Chairman, point of information. Are you talking about all of Committee Proposal 71 ?

CHAIRMAN MILLARD: The Chair is talking about Committee Proposal 71. Are there any amendments to the body of the proposal?

MR. WANGER: Yes. I filed one up there at the desk. It goes way back to a part at the beginning which has nothing to do with civil rights, and I'm awful sorry to burden the committee with this thing this late at night, but if this is what the situation is, we have no choice; because all of these things are in one big committee proposal.

CHAIRMAN MILLARD: If the gentleman has filed his amendment, he has a right to be heard.

SECRETARY CHASE: The secretary misunderstood, Mr. Wanger. I thought you wanted to offer this in the convention. Is this an amendment to amend page 3, line 28?

MR. WANGER: Yes, sir.

SECRETARY CHASE: Mr. Wanger offers the following amendment to the body of the proposal:

1. Amend page 3, line 28, after "constitution.", by inserting "Failure of the governor to act upon such an appointment within 60 days shall operate as approval thereof.".

CHAIRMAN MILLARD: The Chair will recognize Mr. Wanger.

MR. WANGER: As you will recall, Mr. Chairman and members of the committee, this problem was before us at a time previous. It has to do with whether or not the governor should be allowed to suspend action on the executive head of a board or commission heading a principal department so that in effect this man would be serving at his pleasure throughout his term.

It was decided, I'm sure, that we did not want the senate to have this power, and yet it was pointed out that under the language of the committee proposal as adopted previously it would be possible for this to happen. The amendment which I offered before, which as you know said that in order to have the appointee assume the duties of his office he would have to have the approval of the governor, was defeated because of the gap which might thereby be created. This does not cause any problem of a gap. It treats the approval of the governor in the same way as advice and consent of the senate is treated. It means that if the governor is not going to approve of such a person, then it is necessary that he disapprove within 60 days.

CHAIRMAN MILLARD: The question is on the Wanger amendment.

MR. HIGGS: Mr. Chairman, point of information.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: We have made some amendments to this particular section previously, and in reviewing my notes I don't have the complete proposal; so I really don't know how to vote on this particular amendment. I wonder if we could have the whole section on the board, or read, so we can act intelligently here. I don't care how late it is tonight, I want to know what I'm voting on.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, Mr. Chairman, I am not sure that Mr. Wanger still wants to make this amendment. I had some conversation with him this afternoon, and I thought he understood that this was going to be an unnecessary amendment.

MR. WANGER: Well —

CHAIRMAN MILLARD: The question is on the Wanger amendment.

MR. G. E. BROWN: Mr. Chairman, a preferential motion. I would move that the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion that the committee do now rise. All in favor will say aye. All opposed, no.

The motion does not prevail.

DELEGATES: Division.

CHAIRMAN MILLARD: A division is asked for. Is there support? There is a sufficient number up. Those in favor will vote aye. Those opposed, no. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 61; the nays are 58.

CHAIRMAN MILLARD: The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: I move the convention do now adjourn.

SECRETARY CHASE: I have some requests for leave, and some announcements.

MR. MARTIN: I'm sorry.

PRESIDENT NISBET: The convention will be in order, please.

SECRETARY CHASE: I have the following announcements: there will be a meeting of the farmers discussion group at 8:00 o'clock tomorrow morning, Friday, in room A. This meeting will not be open to the press. J. Burton Richards and Edward K. Shanahan calling same.

We have the following requests for leave: Mr. Lawrence files this request, "May I be excused from the Friday afternoon session? Purpose: to see a psychiatrist." (laughter)

MR. LAWRENCE: Mr. President.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: For the past few days I have been keeping some notes. That happens to be a true statement. My best friend is a psychiatrist from Akron. I'm going to spend the weekend with him. If any of you have any requests, if you'll put them in writing and give them to me by tomorrow noon, I'll be glad to see what I can find out. (laughter) I'll report Monday.

SECRETARY CHASE: Mr. Baginski requests leave from Friday's session; Mrs. Butler wishes to be excused from the Friday afternoon and Monday sessions; because of illness, please excuse Mrs. Conklin from the sessions of Friday and Monday; and Mr. Harold Norris asks to be excused from the Friday morning session, tomorrow morning.

PRESIDENT NISBET: Without objection, the requests are granted.

Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention do now adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed, no.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 11:20 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Friday, March 30, 1962.]

ONE HUNDRED ELEVENTH DAY

Friday, March 30, 1962 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order**.

Our **invocation** this morning will be given by the Reverend Edward Viening of the Dunningville Reformed Church of Hamilton.

REVEREND VIENING: Let us pray. Our Father in heaven, we greet Thee again this morning in the name of our blessed Lord and Savior, Jesus Christ. We are grateful for the mercies of the hour, for morning by morning new mercies we see. We thank Thee for Thy care and keeping of the past night and for the privilege of a new day. And therefore, O God, at the beginning of this new day we do beseech Thy continued blessing upon us. We realize our complete dependence upon Thee. Thou art our Father and we are Thy children. It is so easy to do our will and forget Thine. At the outset of this day's activities we pray that Thy blessing may attend this gathering. May all here call upon Thee for counsel and guidance. May we all realize our responsibilities to our fellow man and seek Thy will in them but, more important still, may we realize our responsibility to Thee. We are citizens of this great nation for which we are truly grateful but may we also realize that this world is not our home, we are just passing through. Help us to be good citizens of this land but also good citizens of the kingdom of God.

We would pray then, O God, for help every step of the way. Help us to be witnesses of that which is right and holy so that the world looking at us may see Christ in us. We cannot do this by ourselves so we pray for divine help and guidance. Leave us not, neither forsake us, O Thou God of our salvation. Uphold us with Thy right hand and lead us in the way everlasting. Hear this our morning prayer, O Lord. Incline Thine ear to us, and grant us Thy peace. For we ask this all, not because we are worthy, but we ask it all with the forgiveness of the many sins we have committed against Thee in thought, in word, and in deed. For we pray this in Jesus' name and for His sake. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the machine will be locked and the attendance recorded.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Absent with leave: Mr. Baginski, Mrs. Conklin, Messrs. Gust, Mosier, Norris and Ostrow.

Absent without leave: Messrs. Bledsoe, Cudlip, Dean Doty, Lawrence and Lundgren.

PRESIDENT NISBET: Without objection, those absent from today's session will be excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. Bledsoe, Lawrence, Cudlip and Dean Doty.]

The Chair recognizes Dr. Anspach.

MR. ANSPACH: Mr. President and fellow delegates, for the last several days we have had as our presiding officer in committee of the whole a former assistant secretary of war. That experience should qualify him to be presiding officer of the committee of the whole. But, in spite of this background of experience, he has had some difficulty keeping us in line, and he has asked the question, "What can I do?" So I suggest to him, and as a warning to the delegates, this story:

This young chap was up at the draft board, and the draft board sent him over to the examining physician for an examination. After the doctor was through examining him, he said to the doctor, "What's my classification?"

The doctor said, "4-F."

He said, "What's 4-F mean?"

"It means you're unfit for the armed forces of the United States."

The young man said, "Why?"

"Well," the doctor said, "you have a hernia, don't you?"

He said, "Yes, I've had a hernia for 2 years."

The doctor said, "You wear a truss, don't you?"

He said, "Yes, I've been wearing a truss for almost 2 years."

The doctor said, "That's it. You can't get into any of the armed forces of the United States if you have hernia."

So the young man came out of the office and met one of his friends, who said, "Bill, how did you come out?"

He said, "I'm 4-F."

His friend said, "What does that mean?"

He said, "It means that I'm unfit for the armed forces of the United States."

His friend asked, "Why?"

"Well," he said, "I have a hernia. I've been wearing a truss for about 2 years, and you can't get into any of the armed forces of the United States if you have hernia."

So the friend said, "Let me borrow the truss and see what I can do." So he borrowed it, and after the examination and with the greatest confidence he said to the doctor, "What's my classification?"

The doctor said, "How long have you been wearing that truss?"

He said, "Six months."

"Well," the doctor said, "son, the best I can do for you is 6-E."

"6-E? What does that mean?"

He said, "In 6 weeks you'll be in Egypt. If you can wear a truss upside down, you can ride a camel." (laughter)

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: **Motions and resolutions.**

SECRETARY CHASE: Mr. Dade offers

Resolution 86, A resolution to aid in the harmonious, efficient and expeditious completion of the work of the constitutional convention after the example of the 1908 constitutional convention.

Following is Resolution 86 as offered:

> Resolved, That no member be allowed to speak longer than 5 minutes upon any section of the constitution or amendment thereto in the process of debate without the unanimous consent of the convention.

PRESIDENT NISBET: Referred to the committee on rules and resolutions.

SECRETARY CHASE: That is the only resolution on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders**. The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor say aye. Opposed, no.

The motion prevails.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: **Committee Proposal** 71, a proposal to provide for the election, term and duties of state officers, et cetera.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1988.

When the committee rose last night there was under consideration an amendment to the body of the proposal by Mr. Wanger:

[The amendment was again read by the secretary. For text, see above, page 2005.]

CHAIRMAN MILLARD: The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. Chairman, with the understanding that the language to which this applies is to be deleted subsequent to this time, I withdraw my amendment.

CHAIRMAN MILLARD: The amendment is withdrawn. Are there any further amendments to the body of Committee Proposal 71?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MILLARD: If not, it will pass.

Committee Proposal 71, as amended, is passed. Thank heaven. (laughter)

SECRETARY CHASE: **Exclusion Report 2027,** A report recommending the exclusion of article VI, sections 14 and 15; to which a motion to reconsider is pending.

For last previous action by the committee of the whole on Exclusion Report 2027, see above, page 1976]

Yesterday, before the committee of the whole rose, Mr. Wanger moved to reconsider the action of the committee of the whole in passing Exclusion Report 2027 without amendment.

CHAIRMAN MILLARD: The Chair will recognize Mr. Wanger.

MR. WANGER: Mr. Chairman, this exclusion report was adopted by the committee according to its report in the journal because it believed that sections 14 and 15 of article VI had been better covered by Committee Proposal 48. Now, as you know, the convention voted not to pass Committee Proposal 48. And because of the haste of yesterday's activities, it is my very strong conviction that we would do well to give careful consideration to retaining section 14 of article VI of the constitution. This reads as follows:

> Sec. 14. No member of congress nor any person holding office under the United States or this state shall execute the office of governor, except as provided in this constitution.

Now, the most important words of that section are the words "holding office under . . . this state" because this section prevents the governor of the state of Michigan from concurrently holding, say, the office of governor and also being the mayor of a city.

The annotations show that back just before the turn of the century Governor Pingree was elected to the governorship while he was mayor of Detroit. He desired, as far as we can tell from the case, to hold both offices and perform both offices at the same time. The court held in this case, which is in volume 112 of the Michigan Reports, at page 145, that this section prevented him from doing that. I think it is clear that today, in this modern and much more busy governmental age, we should not allow dual officeholding in this regard by the governor of the state.

Now, the second thing which this language I believe prevents the governor from doing is this: it prevents the governor from appointing himself to a state board or commission, because being on those boards or commissions would be an office under the state. If it were not for this language, I think it might be possible that the governor, if he should not find someone that in his opinion was as well qualified in an area as himself, might appoint himself to the civil service commission, or some other of the various boards or commissions of our state. I think that we all agree that in the long run this would not be in the best interests of the state of Michigan, and it should be prevented.

Now, I believe there may also be a third reason for retaining this section. That is this. In discussing the office of the auditor general, we have talked a good deal about the fact that the legislature imposes sometimes the burden of an additional office or additional duty upon this constitutional officer. The long range result of this is that the officer is burdened with too many offices and too many things to do, and has a difficult time doing the primary functions properly. It seems to me that this section is a protection to the governor, in that it prevents the legislature from assigning to the governor any other office under this state, which the legislature, as you know, by a 2/3 vote of both houses at any time could do. I think this is a protection to the governor, particularly in the times in the future when there might unhappily be great controversy between those 2 branches of government. It is for this reason that I ask you to reconsider the vote by which we passed this exclusion report.

The exclusion report also covers, as I understand, section 15, which says:

> Sec. 15. No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature, or either house thereof, during the time for which he was elected. All votes for either of them for any such office shall be void.

I think it's quite clear that the primary purpose, perhaps the sole purpose, why this was adopted was because at the time of adoption the state legislatures were burdened with the duty of selecting senators. Today, of course, that is not the law. Therefore, it would seem to me that this section 15 gives little, if any, additional protection over section 14, and can therefore be well deleted from the constitution. Thank you.

CHAIRMAN MILLARD: The question is on the motion to reconsider. Mr. Martin.

MR. MARTIN: Mr. Chairman, the provision which the committee had proposed was eliminated yesterday. That was proposed after consideration of the fact that we were eliminating these 2 sections. But it was felt that even with or without it, it was not necessary to retain these 2 sections in the constitution.

As Mr. Wanger has pointed out, section 15 was designed to deal with the problem of the possible appointment of the governor or lieutenant governor to a senatorship, and this is no longer possible under the present federal law, so there was no question about eliminating section 15.

As far as section 14 is concerned, these were the committee considerations. First, ½ of the states have no such provision in their constitution and have never found it necessary to have such a provision. Secondly, the possibility of the governor holding an office which was clearly incompatible with the office of governor is subject, under common law, to court declaration and to the determination that such other office would be incompatible and could not be held at the same time. It is true that the court at the time of the Pingree case relied on section 14, but it is also true that it did not have to rely on section 14; it could have relied upon the common law in this matter. Third, it is clear that the legislature can legislate on this matter if it finds that it is desirable to express a dual officeholding provision of this kind.

For those reasons the committee thought it was unnecessary to include this section, and for the same reasons I think the committee would feel that it is not necessary to reconsider the action which the convention took yesterday.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: With regard to the point that the common law covers the situation, I would say first of all that the common law rule of incompatibility is in many cases quite unclear when applied to specific cases. Secondly, of course, that the common law can always be changed by a simple statute passed by the legislature; of course, by a 2/3 vote, if the governor should happen to veto it.

With regard to the question of the power of the legislature to act in this area, I would suggest that at least with respect to offices created by the constitution itself the legislature would be powerless to prescribe any additional qualifications for the job, and therefore the legislature would not be able to take care of this situation. Inasmuch as this situation includes many boards to which the governor might appoint himself, and since the governor would naturally be politically the most powerful person in the state of Michigan, under practically any circumstances, I think we should follow the good sense of our forefathers who put this into our state constitution, and retain it.

CHAIRMAN MILLARD: The question is on the motion to reconsider Exclusion Report 2027. All in favor of reconsideration will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there a sufficient number up? There is a sufficient number. The question is on the motion of Mr. Wanger to reconsider the action which adopted Exclusion Report 2027. All of those in favor of reconsideration will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion to reconsider, the yeas are 53; the nays are 57.

CHAIRMAN MILLARD: The motion does not prevail. Is there anything further on your desk in regard to the executive branch proposals?

SECRETARY CHASE: Nothing else, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, are we through with all matters?

CHAIRMAN MILLARD: We are through with all matters concerning the executive branch which are on the secretary's desk at this time.

MR. MARTIN: Then I move that the committee rise, Mr. Chairman.

CHAIRMAN MILLARD: Before the Chair puts the motion, may the Chair express its thanks to the committee of the whole, to the delegates, for their very courteous treatment? (applause) The Chair became cornered 2 or 3 times, and you very obligingly helped the Chair out. The Chair thanks you.

MR. MARTIN: Mr. Chairman, before you depart from the rostrum, I think the applause is evidence of the delegates' feelings, but may I, personally, on behalf of the committee on executive branch, as well as the delegates, express our appreciation for your fairness and impartiality in handling our somewhat complicated problems. Thank you very much. (applause)

CHAIRMAN MILLARD: Thank you, Mr. Martin. Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I just want to echo those remarks. I think that the General has been one of the best sparring mates I have ever had.

CHAIRMAN MILLARD: Thank you. The Chair would also like to say that during the course of one of the hot debates, a very encouraging note was received from Delegate Marshall. It says, "Don't just sit there; worry!" (laughter)

The Chair also wants to express its appreciation to our parliamentarian, who helped me out so courageously at times. With that, the Chair will put the question. The question is on Mr. Martin's motion that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Exclusion Report 2027,** A report recommending the exclusion of article VI, sections 14 and 15 of the constitution. It reports this exclusion report back to the convention with a recommendation that it be adopted.

PRESIDENT NISBET: The question is on the adoption of the exclusion report. Those in favor will say aye. Opposed, no. **Exclusion Report 2027** is adopted, and referred to the committee on style and drafting.

For Exclusion Report 2027 as referred to the committee on style and drafting, see above, page 1730.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 71,** (bf) A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. It reports this committee proposal back to the convention with several amendments, recommending the amendments be agreed to, and that the proposal as thus amended do pass.

Following are the amendments recommended by the committee of the whole:

[1. Amend page 1, line 10, after "Sec. a.", by striking out lines 15 through 19, and inserting "The governor, lieutenant governor, secretary of state, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966. They shall, after 1966, serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.".

2. Amend page 1, line 20, after "lieutenant governor" by inserting a comma and "secretary of state and attorney general".

3. Amend page 2, line 17, after "major purposes" by changing the period to a comma and inserting "but at no time shall an examining or licensing board be composed of or governed by a majority of members of a competitive profession.".

4. Amend page 3, line 13, after "attorney general.", by striking out the balance of the line, all of line 14, and through "amended,", in line 15.

5. Amend page 3, line 15, after "executive" by inserting a comma and "other than an elective official,".

6. Amend page 3, line 20, after "thereof" by inserting a comma and "unless elected or appointed as otherwise provided in this constitution,".

7. Amend page 4, line 6, after "governor" by inserting a comma and "unless otherwise provided by the constitution".

8. Amend page 5, line 5, after "officer" by striking out "under impeachment" and inserting a comma and "other than a judicial officer".

9. Amend page 5, line 24, after "appointment.", by inserting "If not disapproved within such period of time the appointment shall stand confirmed.

No provision of this constitution or of law or executive order authorized herein shall shorten the term of any person elected to state office at a statewide election in or prior to November, 1962. In the event the duties of any of such officers shall not have been incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated.".

10. Amend page 5, following section g, by inserting a new section to read as follows:

"Sec. h. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as shall be prescribed by law.

The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, appointed by the governor with the advice and consent of the senate for 4 year terms. No 2 members shall have conterminous terms.

The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state high-

way department and shall be responsible for the execution of policy of the state highway commission.".

11. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a civil rights commission which shall consist of 4 persons, not more than 2 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate violations of, and to secure the protection of the civil right to employment, education, housing, public accommodations, and to such other civil rights as provided for by law and the constitution. The legislature shall provide annually sufficient funds for the effective operation of the commission. No member of the commission shall be eligible for election or appointment to public office during the term for which he was appointed nor for 2 years thereafter.

The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and the submission of records, to take testimony, to issue appropriate orders and such other powers as are necessary to carry out the purposes of this commission, except as otherwise provided by law or this constitution. These provisions shall not be construed to deny, or enable or allow the denial of, any direct and immediate legal or equitable remedy in the courts of this state, to any person affected thereby.".]

MR. IVERSON: Mr. President.

PRESIDENT NISBET: Mr. Iverson.

MR. IVERSON: I move that we recess for ½ hour.

PRESIDENT NISBET: The question is on the motion of Mr. Iverson to recess for ½ hour, to approximately 10:00 o'clock. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 10:00 o'clock.

[Whereupon, at 9:30 o'clock a.m., the convention recessed; and, at 10:00 o'clock a.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I move that the consideration of the report of the committee of the whole relative to Committee Proposal 71 be postponed until the afternoon session of next Tuesday.

PRESIDENT NISBET: The question is on the motion of Mr. Brake. Mr. Downs.

MR. DOWNS: Mr. President, may I ask through the Chair a question of the maker of the motion?

PRESIDENT NISBET: You may. Mr. Brake.

MR. DOWNS: For what purpose do you think we should wait until Tuesday to deal with this problem?

MR. BRAKE: Because we have some studying we want to do on it.

MR. DOWNS: Could I ask, Mr. President, if he thinks we did not have adequate discussion on this proposal?

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: I think we had a great excess of discussion.

MR. DOWNS: That answers my question, Mr. President. I see no reason—if I still have the floor—

PRESIDENT NISBET: You have.

MR. DOWNS: —for postponing discussion. I believe that we had a very long debate. We worked late last night. The matter is still fresh in our minds. We have gone on on this for a long period of time, and I for one would rather see us clear the matter up today, unless some compelling reason can be shown for postponing action.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: May I ask a question of Delegate Brake?

PRESIDENT NISBET: You may, if he cares to answer.

MR. MARSHALL: Mr. Brake, could you tell me if it's all of the report on Committee Proposal 71, or just portions of it, or just one section of it, that brings about the delay?

MR. BRAKE: All of it.

MR. MARSHALL: Mr. President and delegates, I would have to oppose the postponing of the report on the spur of the moment. I think we have had ample discussion on the entire provision. We have talked about it here for days. I think everybody understands it. It is fresh in our minds.

On more than one occasion here, time and time again, this has happened. When we were debating in committee of the whole the report of the executive branch, the chairman of the committee, I think without talking to any of the other members of the committee, and certainly without talking to the minority, would get up on this floor and shuffle the calendar, maneuver it about, and set sections of it to the end of the calendar when we were prepared to proceed with debate. I don't think this is the way to run the committee. It leaves us, in the minority, in the position of not knowing from one moment to the next where we are going, what we are doing, and what we are doing it for. I resent the continual changing of this calendar, shuffling the proposals around to satisfy the wishes of the majority, without even the consideration of discussing it with the minority.

I think it's highly unfair, and I think any fairminded individual would also resent it. And I would oppose putting Committee Proposal 71 to the end of the calendar, or postponing the report of it until Tuesday; and ask that we proceed with the debate and the votes. I might tell you that I had not intended, in the convention, to give any long winded talks on the amendments that we have before the convention because, as Delegate Brake has pointed out, we have had an excess of discussion. We had not intended to have any long discussion of these now; merely to make a few brief supporting remarks on the amendments, and vote on them. I cannot see any good logical reason for postponing the votes on this particular proposal at this time.

Again, I think it is highly unfair to the minority to continually and constantly shuffle this calendar without even discussing it with the leaders of the minority party in this convention.

MR. WOOLFENDEN: Point of order, Mr. President.

PRESIDENT NISBET: You may state it.

MR. WOOLFENDEN: I understand this motion to be a motion to lay on the table, and under rule 48 it is not debatable. Can I have a ruling of the Chair, please?

PRESIDENT NISBET: The motion of Mr. Brake is to postpone until Tuesday, a definite time, the report of the committee of the whole relative to Committee Proposal 71. Mr. Hodges.

MR. HODGES: Mr. President, this is the most shocking thing to date at this convention. (laughter) Laugh if you want, but it happens to be true. At least 2/3 of this constitution was dealt away in a deal 2 weeks ago, and now they want to put it in another caucus and deal away that part of it. If we are going to decide this constitution, let us decide it on this floor. We adopted rules so the public could know what is going on, and we have open committee meetings and open sessions here. Instead, what has happened is that every deal is being made off this floor in the caucus of the majority party, and now we are supposed to help them out by another 5 days' delay. What happens if you can't line your troops up then? Do we have another 5 day delay? You said you wanted to adopt a time schedule here to get things done, and now we are asked for a 5 day delay on what we are doing now. I oppose it.

MR. NORD: Mr. President, a point of convention privilege.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: This raises the same question that we had 2 weeks ago on Friday: whether or not we are going to have a convention with all of the delegates in a position to participate in it. We have debated the question that is now about to be postponed. All of the delegates have debated at terrific length.

PRESIDENT NISBET: Mr. Nord, will you state your question of personal privilege?

MR. NORD: The question is simply this: do the delegates determine the issues of this convention by debate on the floor, and then vote, with a record roll call vote, or do some of the delegates debate off the floor?

PRESIDENT NISBET: Mr. Nord, that's not a question of personal privilege.

MR. NORD: I didn't say it was a personal privilege. I said it was a convention privilege.

PRESIDENT NISBET: It is not a convention privilege, either.

MR. NORD: Mr. President, there are 144 delegates, and 144 of us wish to debate these questions and wish to decide them. We don't wish to have them debated off the floor. I assert that it is a convention privilege to debate them on the floor, decide them on the floor, and to vote on the floor; and not to take them off the floor. I therefore say that this particular proposition that is before us vitiates not just one section of the constitution, it vitiates the convention.

MR. IVERSON: Mr. President, I move the previous question.

PRESIDENT NISBET: The demand for the previous question has been made. Is that demand seconded? There is a sufficient number up. The question now is: shall the previous question be put? Those in favor say aye. Those opposed, no.

DELEGATES: Division.

PRESIDENT NISBET: Is the demand for a division vote seconded?

MR. DOWNS: I demand the yeas and the nays, Mr. President.

PRESIDENT NISBET: The yeas and the nays have been demanded. Is the demand for the yeas and nays supported? The demand is supported. Those in favor of putting the previous question will vote aye. Those opposed will vote no.

MR. VAN DUSEN: Mr. President, I have just a point of information, if I might.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: It is my understanding that the journal of yesterday's proceedings will not be available until Monday, is that correct?

PRESIDENT NISBET: That is correct. Do you have a question, Mr. Marshall?

MR. MARSHALL: Mr. President, I wanted to make a brief statement, if I'm not out of order.

PRESIDENT NISBET: The vote has been ordered, Mr. Marshall.

MR. MARSHALL: I can't make a statement?

PRESIDENT NISBET: No. The vote is on ordering the previous question. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—82

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Durst
Erickson
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Martin
McLogan
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

Nays—46

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
King
Krolikowski
Kuhn
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Rajkovich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

SECRETARY CHASE: On the vote on ordering the previous question, the yeas are 82; the nays are 46.

PRESIDENT NISBET: The previous question is ordered. The question now is on Mr. Brake's motion.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I demand the yeas and the nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? There is a sufficient number up. The question now is on Mr. Brake's motion that the report of the committee of the whole relative to Committee Proposal 71 be laid over until Tuesday afternoon. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. DOWNS: A parliamentary inquiry, Mr. President.

PRESIDENT NISBET: May we finish the vote, please.

MR. DOWNS: Mr. President, this is for before the vote is announced. Could I ask the president to ask the secretary to read rule 67.

PRESIDENT NISBET: Mr. Secretary.

SECRETARY CHASE: Rule 67 reads as follows:

> No delegate shall be entitled to abstain from voting in any roll call unless he shall have stated his intention to abstain before the voting starts. He may voluntarily state his reasons for such abstention. Upon any announcement of intention to abstain, the delegate making such announcement, upon request of 5 delegates, may be required to state his reasons.

MR. DOWNS: I notice, Mr. President, that there are some delegates in the building or in the convention hall who have not voted. I believe that they are in violation of this rule, since they did not ask to abstain. Could I make a parliamentary inquiry as to whether those delegates are in violation of the rules of this convention?

PRESIDENT NISBET: The rules say that he shall not be entitled to abstain unless he has stated his intention.

MR. DOWNS: Mr. President, then could I inquire of the Chair the parliamentary means of seeing that those delegates who did not announce their intention of abstaining and have abstained and are in violation of the rules of the convention could get back into compliance with the rules of the convention?

MR. ROMNEY: Mr. President.

PRESIDENT NISBET: Mr. Downs, you may request the votes. Mr. Romney.

MR. ROMNEY: Mr. President, probably Mr. Downs' inquiry relates to the fact that I have abstained from voting. And in the event that that should happen to be the case, I would like to say to Mr. Downs that I have abstained from voting because the particular things that are being voted upon are not things on which there has been sufficient discussion, either on the floor or off the floor, for me to take a position on. Consequently, I have refrained from voting on these motions.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I'm sorry any delegate implied that I was referring to any particular delegate. (laughter) I mentioned there were several names on the board of delegates who were in the convention hall and had not voted. I believe that because they did not announce abstaining, they are in violation of rule 67. I call this to the attention of the convention, and ask the president, as a parliamentary inquiry: how can we see that the rules of this convention are carried out?

MR. L. W. RICHARDS: Mr. President.

PRESIDENT NISBET: Mr. Richards.

MR. L. W. RICHARDS: Mr. President, I abstained. I have a reason. I had some other plan that I would prefer to this.

PRESIDENT NISBET: Mr. Downs, the Chair is informed that you can request their vote. However, if they refuse to vote there is no procedure to do anything else about it.

MR. DOWNS: Mr. President, I request the vote of all delegates who are in the convention hall and have not voted on this roll call.

PRESIDENT NISBET: The request of Mr. Downs is that all people in this hall who have not voted are requested to vote.

MR. YEAGER: Mr. President.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: I would like to point out that there has been an implication here that a delegate abstaining must state his reasons. I would simply remind you that it says "he may voluntarily state his reasons for such abstention." It is not a requirement.

PRESIDENT NISBET: Have you all voted? The secretary will announce the vote.

MR. DOWNS: Mr. President, just one final question. Is it the ruling of the Chair that this convention then has no means of requiring a delegate to vote, even though he is in violation of rule 67?

PRESIDENT NISBET: The Chair is so informed, Mr. Downs.

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Mr. President, as I understand the rule, on support of 5 other members, even a delegate who announces his intention to abstain must explain his reason for abstention. He may voluntarily explain it without support, and with support he must explain it.

PRESIDENT NISBET: The Chair thinks the ruling has been made, Mr. Mahinske, that there is no way under the convention rules to force a delegate to cast his vote.

MR. MARSHALL: A parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Can a delegate abstain if he hasn't announced his intention prior to the taking of the vote?

PRESIDENT NISBET: As the Chair understands the rule, Mr. Marshall, it is that the delegate, if he has not given his reasons, shall vote. The point is that there's no power to enforce that rule.

MR. MARSHALL: Mr. President, I don't have the rule before me, and I'll have to check it again, but as I understand it a delegate who does not announce his intention to abstain cannot refuse to vote, number 1. And I remember one day on this floor some months ago when I abstained without announcing, and Delegate Van Dusen demanded my vote, and the Chair ruled that I had to cast my vote, and I did. I think Delegate Van Dusen recalls that. And I did the same thing on some other delegate where I demanded his vote where he had not announced his intention to abstain. That's number 1. Now, we just don't want a double standard. We want a ruling that is going to be the ruling of the convention that is going to stand for the duration of the convention.

Number 2, if a delegate abstains, I think on the demand of 5 delegates, under the rules he has to explain his vote. I'm not going to quarrel anymore with the ruling of the Chair. But I want the ruling on both of these points clear, and I want it in the record. Now, may I have the ruling, for the record?

PRESIDENT NISBET: Are you asking for someone's vote now, Mr. Marshall, who has not voted?

MR. MARSHALL: No.

PRESIDENT NISBET: The ruling of the Chair was this: according to rule 67, no delegate shall be entitled to abstain from voting unless he has stated his reasons. The point was this: that the ruling was that the convention has no way to force a vote if the delegate does not want to give that vote. It is the Chair's understanding in this case that the delegate who should have given the vote, or could have given it, did not give it.

MR. MARSHALL: At this time, Mr. President, may I explain my vote on this issue?

PRESIDENT NISBET: Certainly.

DELEGATES: No.

MR. MARSHALL: I believe you did say that I might explain my vote, did you not, Mr. President?

PRESIDENT NISBET: Have you abstained from voting? You have voted, Mr. Marshall, haven't you?

MR. ROMNEY: Mr. President.

PRESIDENT NISBET: Mr. Romney.

MR. WALKER: Point of order.

MR. ROMNEY: Again, I would like to do what I can to facilitate the action of this convention, and—

PRESIDENT NISBET: A point of order was made. Who made that? The Chair didn't get it. Mr. Walker.

MR. WALKER: I wonder if there weren't other delegates up asking for the floor earlier, and I wonder if Mr. Romney is in order in demanding the floor.

MR. MARSHALL: Mr. President, if I can explain my vote, I think it will facilitate things.

PRESIDENT NISBET: Okay, explain it. Let's get it over.

MR. MARSHALL: I spoke against this motion in the first place, and on the vote I voted yes. After sitting down and thinking about it and talking to some of the other delegates, it became obvious to me that there were enough votes to carry this anyway. It's also obvious to me that there's mass confusion among the majority delegates on Committee Proposal 71. Therefore, I would prefer, myself, personally, to give them the 5 days, and this is the reason for switching from talking against it and voting for it. And that's why I wanted to explain it.

As a matter of fact, the question was asked of me by a couple of delegates, one from the majority party, were we seeking publicity, or did we want a sound constitution? And I want to make this emphatically clear to all: that we want as sound a constitution as we can get. But, realizing the voting strength in this convention, and if there is this mass confusion —and it's obvious to me there is mass confusion on this proposal amongst the majority delegates—I do not like these questions being settled off the floor, but I would much prefer to give them the 5 days that were asked for in the motion, and then when they come back to the floor of the convention maybe we can proceed with the rest of the business of the convention. If, after the 5 day delay, they want to come back and negate all that we have done to date, then they would have to assume that responsibility. And that's the reason for my yes vote. And I suggest that we proceed.

MR. DOWNS: Mr. President, I have a motion. I demand the regular order of business, and move that we continue with the business of the day.

The roll was called and the delegates voted as follows:

Yeas—87

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries

Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.

Pollock
Powell
Prettie
Pugsley
Radka
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger

Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Kuhn
Lawrence
Leibrand
Leppien
Mahinske
Marshall
Martin
Millard
Nisbet
Page
Perras
Plank
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

Nays—44

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
King
Krolikowski
Lesinski
Liberato
Madar
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Rajkovich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

PRESIDENT NISBET: The secretary will announce the vote.

SECRETARY CHASE: On the adoption of the motion to postpone consideration of the report of the committee of the whole on Committee Proposal 71, the yeas are 87; the nays are 44.

PRESIDENT NISBET: The report relative to **Committee Proposal 71** is postponed until Tuesday afternoon.

Explanation of vote submitted by Mr. Wanger:

> Because of the excited and unwarranted statements made upon the convention floor this morning regarding the question of postponing consideration of the report of the committee of the whole relative to Committee Proposal 71 from today to the early part of next week, and because of the unfortunate impression those statements may have created regarding the convention's work, I desire to explain my vote pursuant to rule 65.
>
> The principal reason for my vote upon this question was that the convention journal of yesterday's unusually long and involved deliberations on section 1 of the proposal was (due to the lateness of the night session) not available and was not to be available until the first of next week; nor was any other written copy of yesterday's action on section 1 available. Because of the great importance and complexity of this issue and of yesterday's deliberations, it was completely impossible this morning to vote intelligently upon yesterday's action without having a written copy of that action available.

We are now on the order of—Mr. Mahinske.

MR. MAHINSKE: Mr. President, I have a parliamentary inquiry here. I would like a ruling from the Chair if it is proper to put a vote on a preferential motion to the convention while some other party is on the floor speaking. Now, this happened yesterday when we were speaking under privilege of the house. One of the delegates got up during the time that another delegate was speaking and yelled that he wanted a recess, and the question was put, and the delegate was cut off cold. The same thing has happened this morning. The same thing has happened in the past. I just wonder if it is proper, even though the motion is preferential, to put the question on the motion while someone else is speaking at the time.

PRESIDENT NISBET: Mr. Mahinske, the other day that same matter came up, and at that time the Chair ruled that a delegate speaking on the floor should not be interrupted except for a point of personal privilege or a point of order.

MR. MAHINSKE: My question is: is it proper, even when he is interrupted, to put the question or put the vote to the preferential motion?

PRESIDENT NISBET: Well, the Chair would say he should not be recognized.

MR. MAHINSKE: Thank you.

PRESIDENT NISBET: We are now on the order of **general orders**. The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention resolve itself into committee of the whole for consideration of propositions on general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**

CHAIRMAN HUTCHINSON: The committee will be in order. Mr. Marshall.

MR. MARSHALL: Mr. Chairman, may I ask a question? What is the next item on general orders that we are now about to take up?

CHAIRMAN HUTCHINSON: The report of the committee on legislative organization.

MR. MARSHALL: Mr. Chairman, unfortunately, I don't believe that we are prepared at this moment to proceed with this question on legislative organization, because we had expected and spent all of our time yesterday and last night preparing to finish the work on the proposals of the committee on executive branch, and if we are compelled to proceed with it at this moment it puts us at a disadvantage. Of course, we can scurry around and get our presentation prepared, but we had not expected this—this is a spur of the moment thing that was sprung on us—and if there's any way that we could at least postpone this until Monday, or if we could recess until Monday, or recess until the morning and come back, I would greatly appreciate it.

Mr. Chairman, I'm not going to belabor this, but we did a lot of work preparing for the committee on executive branch proposals, and this is kind of an unusual twist that has been taken here where we do what was done this morning, and we certainly are not prepared, I don't think, at this time to proceed on legislative organization. I just wonder if it would be possible to work out something to give us at least ½ day to get our presentation together.

CHAIRMAN HUTCHINSON: Does the gentleman make any motion?

MR. MARSHALL: I would like to move that we postpone the discussion on legislative organization until Monday.

CHAIRMAN HUTCHINSON: The question is upon the motion of Mr. Marshall to postpone consideration and discussion of Committee Proposals 79 and 80 until Monday. Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I should like to say that while it may well be that Mr. Marshall is not prepared, the committee on legislative organization has been continuously prepared to present this subject for at least 6 weeks. We have expected every day for the last week that that day or the next day we would be called upon to present this business.

The members of my committee, including Dr. Nord, the minority vice chairman of our committee, has been aware of the procedure that we propose to follow; and with your permission, sir, I should just like to say that what we intend to do is this. I would like to make the opening statement, and then we will move to Committee Proposal 79, on which there is no minority report. We will do well indeed if we get through this today. Then we will go on to Committee Proposal 80, and begin with the minority report, which Mr. Nord is ready to present, and which in any case we will not get to until Monday or Tuesday.

CHAIRMAN HUTCHINSON: The question is upon Mr. Marshall's motion. Mr. Marshall.

MR. MARSHALL: Mr. Chairman, could I just change the motion? I would agree with Dr. Hannah that we can proceed with Committee Proposal 79, and I would like to amend the motion to take up 79 today, and in the event we should get to 80, I would like to move that that be postponed until the session of Monday.

CHAIRMAN HUTCHINSON: Then you withdraw your motion at this time, Mr. Marshall?

MR. MARSHALL: I will withdraw the motion at this time, and should we get to Committee Proposal 80, I will make the motion then. Thank you.

CHAIRMAN HUTCHINSON: The secretary will announce the proposal.

SECRETARY CHASE: Item 1 on the calendar, from the committee on legislative organization, by Mr. John Hannah, chairman, **Committee Proposal 79**, A proposal pertaining to a commission on legislative apportionment. Replaces article V, section 4.

Following is Committee Proposal 79 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. THERE IS HEREBY ESTABLISHED A COMMISSION ON LEGISLATIVE APPORTIONMENT CONSISTING OF 8 PERSONS, 4 OF WHOM SHALL BE SELECTED BY EACH OF THE STATE ORGANIZATIONS OF EACH OF THE 2 POLITICAL PARTIES CASTING THE HIGHEST VOTE FOR GOVERNOR AT THE LAST PRECEDING GENERAL ELECTION: PROVIDED, THAT IF A THIRD PARTY RECEIVES MORE THAN 25 PER CENT OF SUCH GUBERNATORIAL VOTE THE COMMISSION SHALL CONSIST OF 12 MEMBERS, 4 OF WHOM SHALL BE SELECTED BY THE THIRD POLITICAL PARTY. ONE MEMBER FROM EACH POLITICAL PARTY SHALL BE SELECTED FROM EACH OF 4 REGIONS HEREINAFTER DESCRIBED: (1) THE UPPER PENINSULA; (2) THE NORTHERN PART OF THE LOWER PENINSULA, NORTH OF A LINE DRAWN ALONG THE NORTHERN BOUNDARIES OF THE COUNTIES OF BAY, MIDLAND, ISABELLA, MECOSTA, NEWAYGO AND OCEANA; (3) SOUTHWESTERN MICHIGAN, THOSE COUNTIES SOUTH OF REGION 2 AND WEST OF A LINE DRAWN ALONG THE WESTERN BOUNDARIES OF THE COUNTIES OF BAY, SAGINAW, SHIAWASSEE, INGHAM, JACKSON AND HILLSDALE; (4) SOUTHEASTERN MICHIGAN, THE REMAINING COUNTIES OF THE STATE.

NO PUBLIC OFFICIALS OR GOVERNMENTAL EMPLOYEES OF EITHER THE FEDERAL, STATE OR LOCAL GOVERNMENTS, EXCEPTING NOTARIES PUBLIC AND MEMBERS OF THE ARMED FORCE RESERVES, SHALL BE ELIGIBLE FOR MEMBERSHIP ON THE COMMISSION. MEMBERS SHALL NOT BE ELIGIBLE FOR ELECTION TO THE LEGISLATURE UNTIL 2 YEARS SHALL HAVE ELAPSED AFTER THE APPORTIONMENT IN WHICH THEY SHALL HAVE PARTICIPATED.

SAID COMMISSION SHALL BE APPOINTED IMMEDIATELY AFTER THE ADOPTION OF THIS CONSTITUTION AND WHENEVER REAPPORTIONING OR REDISTRICTING IS REQUIRED BY THE PROVISIONS HEREOF. MEMBERS SHALL HOLD OFFICE UNTIL EACH APPORTIONMENT OR REDISTRICTING PLAN SHALL BECOME EFFECTIVE. VACANCIES SHALL BE FILLED IN THE MANNER OF ORIGINAL APPOINTMENT.

THE SECRETARY OF STATE SHALL BE SECRETARY OF THE COMMISSION WITHOUT VOTE, AND IN THAT CAPACITY SHALL FURNISH, UNDER THE DIRECTION OF THE COMMISSION, ALL NECESSARY TECHNICAL SERVICES. THE COMMISSION SHALL ELECT ITS OWN CHAIRMAN, MAKE ITS OWN RULES OF PROCEDURE, AND SHALL RECEIVE SUCH COMPENSATION AS SHALL BE PROVIDED BY LAW. THE LEGISLATURE SHALL APPROPRIATE THE FUNDS NECESSARY FOR THE SUPPORT OF THE COMMISSION.

WITHIN 30 DAYS AFTER THE ADOPTION OF THIS CONSTITUTION, AND ALSO AFTER THE OFFICIAL RESULTS OF EACH FEDERAL DECENNIAL CENSUS OF THE STATE AND ITS POLITICAL SUBDIVISIONS ARE AVAILABLE, THE SECRETARY OF STATE SHALL ISSUE A CALL CONVENING THE COMMISSION NOT LESS THAN 30 NOR MORE THAN 45 DAYS THEREAFTER. THE COMMISSION SHALL COMPLETE ITS WORK WITHIN 180 DAYS AFTER ALL NECESSARY CENSUS INFORMATION IS AVAILABLE. THE COMMISSION SHALL PROCEED TO APPORTION, DISTRICT, REAPPORTION AND REDISTRICT THE SENATE AND HOUSE OF REPRESENTATIVES ACCORDING TO THE PROVISIONS OF THIS CONSTITUTION. NO FINAL DECISIONS SHALL BE MADE EXCEPT BY A MAJORITY OF ALL OF THE MEMBERS OF THE COMMISSION. SAID COMMISSION SHALL HOLD PUBLIC HEARINGS AS MAY BE PROVIDED BY LAW.

THE FINAL APPORTIONMENT AND DISTRICTING SHALL BE PUBLISHED IN THE MANNER PROVIDED FOR ACTS OF THE LEGISLATURE AND SHALL HAVE THE FORCE OF LAW UPON SUCH PUBLICATION, AND SHALL BE SUBJECT TO THE SAME PROVISIONS OF REFERENDUM AS APPLY TO ACTS OF THE LEGISLATURE. THE SECRETARY SHALL KEEP A RECORD OF ALL THE PROCEEDINGS OF THE COMMISSION WHICH SHALL BE PUBLIC RECORD.

IN THE EVENT THE COMMISSION CANNOT AGREE ON A PLAN, THEN THE COMMISSION MEMBERS OF EACH POLITICAL PARTY SHALL SUBMIT A PLAN TO THE SUPREME COURT. IF ALL PLANS SUBMITTED MEET THE REQUIREMENTS OF THIS CONSTITUTION, THE SUPREME COURT SHALL DETERMINE THE PLAN WHICH SHALL BE ADOPTED BY THE COMMISSION AND PUBLISHED AS AFORESAID.

UPON THE APPLICATION OF ANY QUALIFIED ELECTOR, THE SUPREME COURT, IN THE EXERCISE OF ORIGINAL AND FINAL JURISDICTION, SHALL DIRECT THE SECRETARY OF STATE OR THE APPORTIONMENT COMMISSION TO PERFORM THEIR DUTIES, OR MAY REVIEW ANY FINAL DISTRICTING PLAN ADOPTED BY THE APPORTIONMENT COMMISSION AND SHALL MAKE ORDERS TO AMEND SUCH PLAN IF IT FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS CONSTITUTION: PROVIDED, THAT NO SUCH APPLICATION SHALL BE FILED MORE THAN 60 DAYS AFTER FINAL PUBLICATION.

Mr. John Hannah, chairman of the committee on legislative organization, submits the following reasons in support of Committee Proposal 79:

Reliance on legislatures to reapportion themselves generally has been futile. Most authorities agree that self reapportionment poses so many problems that it is seldom voluntarily undertaken by legislatures.

When legislatures fail to reapportion there are no means to force action since the judiciary, under the separation of powers doctrine, has traditionally refused to mandamus legislatures.

Thus the major problem of representation is the failure of the legislature to reallocate seats. In order to solve this impasse the states of California, South Dakota, Texas, Illinois, Michigan and Oregon provide for an executive officer or commission to reapportion their legislatures in case of legislative failure. Six states, Arkansas, Arizona, Hawaii, Missouri and Alaska, have put this function in bodies other than the legislature. In those states which have established apportionment agencies some type of reapportionment has been effected within the past decade.

The committee on legislative organization proposes to establish a constitutional commission charged with this

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

responsibility. Failure of the commission to act or not to act in accordance with the principles established in the constitution can be remedied by action of the supreme court.

Provision is made in this proposal to permit the political parties to select members of the commission. There is precedent in this state for the use of the political parties or bipartisan boards in administrative activities as is evidenced in the composition of the board of state canvassers.

It is provided that members of the commission shall be distributed equally among 4 regions of the state which are substantially equal in area.

The proposal provides that the commission shall be established immediately upon the adoption of this constitution to reapportion the seats in the house of representatives and to redistrict those counties in the state which have more than one senatorial district. Commissions would also be established in the future at such times as necessary to reapportion and redistrict.

In reapportioning after each federal decennial census, the commission would begin its work when the official census data on the population of the state and its political subdivisions are available. It would have 180 days in which to complete its work.

Persons appointed to the commission would hold office until the apportionment or redistricting plan has become effective. All actions taken on matters of apportionment or redistricting, whether of statewide or local application, would require a majority vote of the whole membership of the commission.

Provision is made for an ongoing secretariat in the office of the secretary of state. This provides a central records office with the availability of personnel experienced in election methods and machinery.

The final apportionment and redistricting plans are to be published in the manner provided for acts of the legislature and upon publication they are to have the force of law. As is the case with acts of the legislature, they are subject to a referendum vote by the people.

In order to assure that apportionment and districting and reapportionment and redistricting will take place as provided in the constitution, methods to compel action are provided. In the event the commission cannot agree upon a plan, the members of each political party shall submit plans which meet the requirements of the constitution to the supreme court which shall determine the plan that shall be adopted by the commission as complying most accurately with the constitutional requirements, and published as prescribed by this article.

The supreme court, upon the application of any qualified elector, in the exercise of original and final jurisdiction, may direct the secretary of state or the commission on legislative apportionment to perform their duties or may review any final redistricting plan and make orders to amend such a plan if it fails to comply with the requirements of this constitution.

CHAIRMAN HUTCHINSON: The Chair recognizes the chairman of the committee, the delegate from the fourteenth district, Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and ladies and gentlemen of the committee, as we begin consideration of the reports of the committee on legislative organization, I would appreciate the indulgence of this committee by permitting me to take a few minutes to make an introductory and explanatory statement. I hope that this general summary statement will, in the long run, conserve the time of the convention through acquainting all delegates with the overall intent of the committee and with the contemplated procedure for the presentation of our proposals. Unless there is objection, after I have completed this opening statement we will proceed to consider Committee Proposal 79 providing for an apportionment commission. The committee will offer a committee amendment to the report as originally submitted. There is no minority report to this proposal, but I understand that there will be some amendments offered by the minority and possibly by others. Delegate Plank will handle the committee presentation and explanation of this proposal.

After Committee Proposal 79 is disposed of, we will proceed to Committee Proposal 80. The committee has 2 committee amendments to offer to this proposal. The minority party has a minority report differing very substantially from the report of the majority of the committee. It is my understanding that Delegate Nord, a vice chairman of our committee, desires to present this minority report and its explanation at length.

After this minority report is disposed of, we will move to the majority committee report; and we propose to present this report divided into its principal parts. Delegate Knirk will present the committee recommendations on senate apportionment. Delegate Donald Doty will present the committee recommendations on apportionment of the house of representatives. Delegate Garry Brown will present the explanation of the system recommended for assignment of seats, known as equal proportions and used by the United States congress for distributing its representation between and among the states. Delegate Blandford will present the section having to do with the disposition of areas in one legislative district annexed or combined with cities in another district. Delegate, and vice chairman of the committee, Judge Dehnke will answer questions that may be raised having to do with the recent decision of the supreme court in the Tennessee legislative apportionment case.

Our committee on legislative organization has worked long and diligently. It gave careful consideration to every proposal and suggestion presented by delegates to this convention, by organizations of citizens, and by individuals, whether presented in person or by letter communications. In addition to the many weeks of hearings conducted in this building, it held formal hearings in Detroit, in Kalamazoo, and in Berrien Springs. The committee invited experts in the field of government from our state government, from Michigan universities, and from universities and organizations outside of the state. It gave serious consideration to the unicameral legislative system of Nebraska and had appear before it, by invitation, a member of the Nebraska legislature and a distinguished member of the faculty of the University of Nebraska. A total of 112 witnesses appeared before the committee, and more than 40 different apportionment proposals were considered in detail.

Apportionment of legislative districts is a knotty and difficult problem in practically every state of the union. Your committee became convinced that fully as important as a fair and valid formula for districting the state is a constitutional provision that will require that the formula be applied and that the districts be redrawn as population shifts or changes dictate. It became convinced that it is totally unrealistic to expect a legislature to redistrict and reapportion seats in its own body. Redistricting inevitably involves the possible denial of seats to members of the existing legislature, and conceivably a fair and equitable redistricting could deprive the most able and respected members of the legislature of their seats. Wholly aside from the political implications involved, the personal relationships alone work to delay, subvert, or prevent prompt and equitable reapportionment of itself by the legislature.

The committee presents Committee Proposal 79, providing for the creation of an apportionment commission with the requirement that the commission redistrict the state after every decennial census if the shifts or changes in population warrant it. If this commission is unable to agree or fails to do so, the responsibility is given to the supreme court to select the plan that most nearly conforms to the requirements of the new constitution; and this plan becomes effective. We believe that this proposal is sound and will be effective and will assure fair districting now and equitable districting in the long decades ahead, avoiding the failures to redistrict and the prolonged delays and divisive altercations between urban and rural areas that are now so common in too many states.

And, ladies and gentlemen, in order that we may all start our discussion of this important subject with the same background information, I would like to review the homework that each delegate has covered. The present constitution by the amendment adopted in 1952 provides for 34 senators serving 2 year terms, elected from single districts. The districts are precisely spelled out in the constitution with the exception of the 2 counties with more than one senator. Kent county is given 2 senators, and Wayne county is given 7. The present constitution provides that the boards of supervisors in those counties should act in 1953 and provide for the determination of the districts in those counties. There is no provision in the constitution for changing these senatorial districts. They are fixed until the constitutional provision is changed by amendment or by a new constitution. This fixed districting without any provision for changes to reflect population changes is the feature most objected to by the critics of the present apportionment.

The present constitution provides for not more than 110 representatives chosen for 2 year terms and by single districts which shall contain as nearly as may be an equal number of inhabitants. When a city or township is entitled to more than 1 representative, the township or city is not to be divided unless it is entitled to 5 or more representatives, when it is to be divided into districts with 2 or 3 representatives each. An exception is provided in the event that a city lies in 2 or more counties, when it may be divided into legislative districts along the county line. The districting of counties entitled to more than 1 representative is the responsibility of the county board of supervisors.

The present constitution provided for a districting of the state in 1953, and a redistricting in 1963 and each 10 years thereafter. In the event that the legislature fails to act, the state board of canvassers is required to reapportion the house seats. The present constitution provides that in arranging the house districts the population of the state shall be divided by 100. Each county or group of counties forming a representative district shall be entitled to a separate representative when it has attained a population equal to 50 per cent of the ratio of representation. This is the so called moiety provision so often attacked by those who insist that it unfairly disadvantages the inhabitants of the cities and urban areas and advantages those living in more sparsely settled communities.

Now I should like to refer to and review with you the folder which was delivered to your desk a few minutes ago, and it has your name typed on the cover page. I believe that it will conserve time if we take a few minutes and all thumb through the contents of this folder together, so that we will all move into consideration of this important subject possessed of the same background information. This is the green book that you have on your desk. As I have already indicated, the committee on legislative organization has worked hard and diligently. You know the members of the committee; I shall not read their names. Without exception they took this assignment very seriously. Then you will move to the index page, which I will not refer to, and then to a green sheet, and then to some maps that show the present districts.

The first one shows the present senatorial districts. You will notice for each district in the circle is a number. That is the specific number of that senatorial district. If you will turn to the northwest corner of the state, you will find senatorial district 32: Ontonagon, Baraga, Houghton and Keweenaw. Or you move down to the southeast corner, and there is senatorial district 19: Lenawee and Monroe.

Now, I should like to point out just the facts shown on this sheet. First of all you notice, of course, that there is a considerable difference in the population of these various senatorial districts. The largest senatorial district in the state from the point of view of populatoin is Oakland county, senatorial district 12, with 690,259 people when the 1960 census was taken; the second most populous senatorial district is 11, Macomb county, with 405,804; and the third largest is senatorial district 13, Genesee county, with 374,313. The 3 least populous senatorial districts are: district 32, in the upper peninsula, with 55,806; district 26, which has a total of 87,016—Mason, Lake, Manistee, Oceana and Newaygo; and district 28, which has a total of 94,026—Crawford, Oscoda, Alcona, and running down there to Arenac and to Osceola.

Now, on the lefthand side you will see the tabulations for the counties with 2 or more senators. I would point out that in Kent county, at the moment, partly due to population shifts, partly due to annexations in the city of Grand Rapids, district 16 has 138,000 and district 17 has 225,000 in the same county. The districting was originally determined, and is not changeable, under the present constitution. And then, Wayne county, with its 7 districts—and I would point out, as you can see, that district 21 has 647,688 people; and on the other hand, district 3 has only 246,068 in the same county. This is the present situation with reference to senate districts.

Now, if you will move to the next chart, you have the representative districts. Here, since the representative districts are not given numbers, they are known by the name of a county. There is only the population of the districts, and again if you start up in the northwest, we have the Gogebic-Ontonagon district, with 34,954; or Monroe county down in the southeast corner, with 101,120.

I have already commented that the present constitution will require a redistricting in 1963, and the technique that is required by the present constitution is that the population of 1960, 7,823,000, be divided by 100, which gives you a quotient of 78,230; and any county or group of counties with more than ½ of that number, or more than 39,115 people, is entitled to one seat; and any present representative district that has less than 39,116 will have to be redistricted; will have to have another county added to it. And if you will look at these districts, I have circled on my chart and you may want to circle on yours the counties that do not have the present moiety number: the Gogebic-Ontonagon district, the Houghton district, the Delta district, the Emmet-Cheboygan district, the Montmorency-Presque Isle-Oscoda-Ogemaw-Crawford district, the Grand Traverse-Kalkaska district, the Manistee-Wexford district, the Gladwin district, the Huron district and the Gratiot district. These districts automatically will have to be redistricted if nothing is done with the present constitution. You can figure out for yourselves the smallest districts in population. The very smallest one, of course, is Huron county, with 34,006; the second smallest district is in Wayne county, with 34,137; the third smallest district is the Roscommon-Missaukee-Gladwin-Arenac district, with 34,613. Or, at the other end of the spectrum, the largest district in point of population is Wayne district 21, with 188,478; the second largest district is Wayne district 19, with 179,218; the third largest district is Macomb district 2, with 172,717. Now, those are the facts so far as the present representative districts are concerned.

Let's move to the next chart, congressional districts. Here I should like to call your attention to the fact that our committee in the beginning gave considerable attention to the problem being encountered by our legislature in redistricting the congressional districts to provide reasonably fair representation in the federal congress for all Michigan citizens. But the management of this convention then referred proposals having to do with congressional representation to another committee, and it was not the concern of our committee, so from this point forward what I say is not speaking for the committee, but only as an individual. As a personal suggestion, not a committee recommendation, I would like to suggest that if this convention approves our Committee Proposal 79 and approves an apportionment commission, you may want to consider assigning the responsibility for the congressional districting to this commission if the legislature fails to act within a reasonable period. Or you may want to assign this item for further study to the committee on emerging problems. The present difficulty that the legislature is experiencing in considering this problem from a statewide point of view highlights the problems faced by legislatures dealing with apportionment. As you know, the governor has just vetoed one bill passed by the legislature.

I would like to direct your attention to this chart just for a moment. The population of Michigan, as of now, is 7,823,000. When we had 18 congressional districts, if they were to be reasonably equal in size they would have had approximately 434,000 citizens in each district. But now, with the extra seat that has been added to Michigan's delegation, divide the 7,823,000 by 19 and you come up with a quotient of 411,535.

So you look at the present districts and their present populations, and any district that has less than 411,535—or let's say that has substantially less, because in sticking to county lines you can never come up with exactly equal districts—any congressional district with substantially less than 411,000 people is over represented. Any district with substantially more than 411,000 people is under represented. And, again, if you will look at these districts, those districts that are over represented by 50,000 people or more are: district 12, at the west end of the upper peninsula, that has 234,000 people short of a full share; the district in the east end of the upper peninsula and the northern part of the lower peninsula, district 11, which is 171,000 people short; district 9, the so called Muskegon district, that is 99,000 people short; the Bay-Midland-Gladwin-Arenac district, that is 103,000 people short.

Now, those figures do not surprise you. But then you go to Wayne county, and in Wayne county, congressional district 1 is 128,000 people short; Wayne county district 13 is 143,000 people short; Wayne county district 15 is 74,000 people short. Or, at the other end of the spectrum, those that are under represented outstate: of course, first is Oakland county, district 18, that has 379,000 people more than a full share; the Macomb thumb district has 250,000 more than a full share; 6, the Genesee-Ingham-Livingston district has 212,000 too many people; 2, the Jackson-Washtenaw-Lenawee-Monroe district, has 72,000 too many; district 5, the Kent-Ottawa district, has 50,000 too many; in Wayne county, district 16 has 391,000 too many, 802,000 instead of 411,000; Wayne county district 17 has 101,000 too many people; and Wayne district 14 has 51,000 too many people. Now, this was not the business of our committee. It is called to your attention, however. Personally, it is my conviction that if this convention does all that it can, it will find some device to give the legislature a reasonable opportunity to redistrict itself and, failing to do so, provide another technique.

Now, if you will turn to the next chart, it gives the geographic shape of the reprsentative districts in Wayne county. I have already commented on those that do not have an appropriate number of inhabitants. You will notice the district in western Wayne county, district 21, the 5 west townships, with 188,000 people. A full share, on the basis of dividing the population by 100, would be 78,000; Wayne district 20 has 15,000; Wayne district 16 has 112,000; Wayne district 19, 179,000; and Wayne district 1, or the Ecorse district, has 129,000. I'm not sure I have the number right.

Now, I want to call your attention to the fact that in Wayne county you have some grossly over represented districts. A full share would be 78,000. A moiety district would be 39,000. Highland Park, with 1 state representative, has only 38,000; and Hamtramck, with 1 representative, has 34,000. Now, these districts, admittedly, were the products of the Wayne county board of supervisors.

Now we move to the city of Detroit. Now you are attracted, I'm sure, by the peculiar shape of the city of Detroit districts. This is largely due to tradition in Detroit, with the original city laid out along the river, and in the old French system the long divisions that later became wards and now have no other purpose in Detroit, so far as I know, except for assessments or perhaps census tracts. The interesting thing about the Detroit city districts is that district 11, with 2 representatives and a total of 75,000 people, or an average of 37,694 per representative, actually has less than a moiety entitlement. Those 2 representatives represent about as small a number as the representatives from any other area of the state. With the exception of that inequity, of course the spread is not great, from 97,000 in west Detroit, district 12, with 2 representatives —and you can figure out the rest as well as I can. But the rest of the city of Detroit picture is not too bad, except for the unusual shape.

Now, you will find another green sheet, and we now have some background information that I'm going to explain, hoping that it may save time that may arise from questions raised by delegates to this convention when you study this material. The first one is merely the figures of the Michigan Manual, giving the populations of every county of this state from 1890 through 1950—and of course you already have the 1960 figures on another map. The next one, if you will turn to the next white page, is a tabulation which gives the percentage increase or decrease in population of the counties of Michigan by decades, 1900 to 1960.

Just to take the top county, in the first decade Alcona county increased 0.2 per cent; the next decade it increased by 3.7, the next decade it decreased by 15.6, the next decade it increased by 9.5, the next decade it increased by 7.2, and the last decade it increased by 8.5 per cent. And you can find your own county and see what happened to the population trend in that county as compared to the total picture in the state.

Then you come to the next map, which is the map that gives the actual population from the census figures of April, 1960, for every county in the state. If you want to do your own mapping—and I hope you don't—you can figure out what the population is of every county and what would be required to come up with equitable districts.

Then the question is asked: well, this is fine; this was the 1960 picture. What will it be in 1970? The next map is a guess as to what the population will be in each county of the state in 1970. And here the committee had many choices. There was a set of figures prepared by the demographers of Michigan State University. There was a set of figures prepared by some guessers of the census bureau. And then there were the figures prepared by the Consumers Power company. The committee decided to accept the Consumers Power company figures, rather than involve itself in whether some other figures were correct, and if these are correct, all right, and if they aren't—and you can be most certain they aren't exactly correct, because something may happen in one county so that growth is less than expected, and something may happen in another county so that growth is greater than expected—but the overall guess is that in 1970, when the next census is taken, the overall population in Michigan will be 9,545,870, more or less, and you can see what the guesses are as to what the population will be in your county.

Now, I am only going to quickly touch on the next maps, because they will be gone into in greater detail as the essential features of our proposals are presented for discussion. The only reason for covering them at all now is so that you will understand what these are all about for your own information. The first one gives the land area of all the counties of the state calculated as a percentage of the total area of the state, because when we get to the senate formula, you will note that the senate formula is based on the percentage of the total state land area that each county has; and another figure based on the percentage that the population of that county is to the total state population. Now, populations will change; but area figures are not likely to change. And to answer the question that will be raised as to this figure, what actually was used in its tabulation—and some question was raised as to whether inland lakes and bodies of water were included—I am informed that this chart is prepared on land area. And, insofar as possible, submerged land is not included in this tabulation.

The next map takes the present population and calculates the percentage that the population of each county is of the state's total. This is as of April 1, 1960. Of course, the figures are not exactly alike now, but, as of April, 1960, Wayne county included 34.08 per cent of all the people of this state; Oakland county had 8.82; Macomb had 5.19; Genesee had 4.78; and Kent had 4.64. Or up at the other end, if you look up clear to Keweenaw, the most northern county that sticks out into Lake Superior, Keweenaw county represented .03 per cent of the state's population. This is just for your own edification.

Turn to the next picture. This takes the Consumers Power guesses for 1970 and gives the percentage of the guess as to what the picture will be with every county in the state. The guess is that Wayne would have 32.4 per cent of the state's population, Oakland 10.7, and Keweenaw will have been reduced so that it will represent .02 per cent.

Then, the next tabulation gives the population by senatorial districts from now until 1970, if the convention follows the committee recommendation. And, as you will recall, the only change will be 4 additional senate seats, one each added to

Wayne, Macomb, Genesee and Oakland, until the apportionment commission shall reapportion all the senate seats after the census of 1970, and this you can figure out. You can start at the top with Kalamazoo-St. Joseph, the sixth district, with 212,044; and Berrien-Cass, 186,797; or you can go down to these counties that will get new senators: Wayne county, with 8, will have an average of 333,000 people per senate seat; Macomb will have an average of 202,000 per senate seat; Genesee will have 182,000; and Oakland will have an average of 345,000.

Now we come to the fictions in this business. Many of you have visited room D, where there are 50 or 60 or 70 large maps, with all sorts of proposals. And these next maps—the first one will be referred to at greater length by Mr. Knirk, and all that this represents is one way the apportionment commission could redistrict the senate seats in 1970 if the Consumers Power population figures are right. And Mr. Knirk has figured this one out so that there would be a minimum of rearrangement of present districts—the least possible rearrangement. Now, the apportionment commission might follow this technique or something else. And the only reason I mention this one at all is, it would be a mistake for any of you to figure this map has any validity at all. It has exactly none. It was prepared by Mr. Knirk to use in his presentation.

The next one will be a map that may be referred to by Mr. Donald Doty when he is talking about the house recommendations, and this one has no validity either. This merely shows—well, this one does have some validity; this one shows what would happen if we were to use the 1960 population—not guessing 1970 population—and redistrict the state in accordance with the formula, because if you approve the formula the committee recommends then, of course, the apportionment commission will immediately redistrict the house seats. And this is one way they could do it. Of course, first of all, they have to assign a seat to every county that is entitled to one representative. Then they've got to group together the other counties as best they can to come up with districts that are reasonably equal. Then they will come up with a total, and the difference between that figure and 110 will be apportioned among these various districts on the basis of population, and this is one way they might do it.

The next map is again one of these things just for interest; because there has been a good deal of discussion, with many questions asked, as to what would happen if you were to take the 1960 population, 110 representatives, staying to county lines, but come up with districts as equal as possible. And this is a production of my own. I have no defense for it, excepting that as I figured it out this was about as equitably as you could do it if you were going to have 110 seats, straight population.

And then the next chart indicates the difference between these various schemes, and there was a mistake made in this one, in that the 5 most populous counties were not cross hatched. If you take the counties of Kent, Wayne, Macomb, Oakland and Genesee and cross hatch them, it will mean more. Now, these are arbitrary divisions. But the upper peninsula has 3.93 per cent of the state's population. Of 110 seats, it's entitled to 4. Under the committee proposal it would get 5. Under straight population it would get 4.

Now, in the northern lower peninsula you have difficulties, because all you have done here is to come out with an arrangement and then drawn a line. You could draw this line, of course, at the north Bay, across to north Oceana, or to north Muskegon, the one we followed here, but this is only presented for information. The northern lower peninsula, as defined here, with 6.10 per cent of the state's population, would be entitled to 7 seats. Under the committee proposal it would get 8. Under straight population it would get 6, one less than it is entitled to. And this is because of the problem of sticking to county lines. If you take the 5 most populous counties, Wayne, Macomb, Oakland, Genesee and Kent, they presently constitute 57.51 per cent of the state's population. They would be entitled to 63 seats. Under the committee proposal they would get 62. On straight population they would get 64. The reason for that is, you take the multi district county and you've got to give it all it's entitled to, and then you group the rest of the counties together, and they may be shortchanged a little. The rest of the state has 32.50 per cent of the state's population, and would be entitled to 36 seats. Under the committee proposal it would get 35, and under straight population it would get 36.

Now you come to a lot of information that has been prepared by Mr. Garry Brown to be used by him when he makes the explanation of this system known as equal proportions. And I'm going to say nothing more about it except that's what it is all about, and when he comes to a discussion of this feature he will explain those figures. That's all I would like to say in the way of bringing us all up to date so we have about the same information.

Mr. Chairman, with your approval, I would now like to call upon Delegate Plank to present the committee position on Committee Proposal 79.

CHAIRMAN HUTCHINSON: Mr. Hannah yields to Mr. Plank. (applause)

MR. PLANK: So the record will be set straight, that applause is for Dr. Hannah. (laughter)

I think, to begin with, we should ask the secretary to read Committee Proposal 79 in its entirety.

CHAIRMAN HUTCHINSON: The secretary will read.

SECRETARY CHASE: Committee Proposal 79:

[The proposal was read by the secretary. For text, see above, page 2014.]

CHAIRMAN HUTCHINSON: Mr. Plank.

MR. PLANK: Mr. Chairman, there are some amendments. However, before we consider those, I would like to make a few remarks. This proposal should be quite noncontroversial, and unlike some other noncontroversial ones, I don't expect too much flack on this proposal. Dr. Hannah has mentioned some of the things that I'm going to mention but I believe, because they are pertinent to what is before us, that I should mention them again.

[The reasons submitted in support of Committee Proposal 79 were read by Mr. Plank. For text, see above, page 2014.]

Now, these, in essence, are the only remarks that we have printed in the journal. I have read them because I had a feeling that you may not have had time to do your homework and would like to have them brought before you and to your attention.

Since there are, to my knowledge, 2 amendments to the proposal, Mr. Chairman, I might suggest that we take the first paragraph first, and that would have to do with the delegate proposal presented by Dr. Pollock, and I might ask, if this is agreeable with the Chair, that the secretary read his amendment.

CHAIRMAN HUTCHINSON: The question is upon the first paragraph of section a of Committee Proposal 79, to which there are amendments to be offered. The secretary will read.

SECRETARY CHASE: Mr. Pollock offers the following amendment:

1. Amend page 1, line 14, after "party.", by striking out the balance of the paragraph.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I find myself in full agreement with the committee's view that we must provide reapportionment machinery that will guarantee the periodic reapportionment provided in the constitution. While a special apportionment commission is not the only possible route to this objective, I think it has much to recommend it, and I hope that I will be able to vote for it. However, I am offering a series of amendments which I consider perfecting amendments to this proposal. These amendments are designed to correct what I believe to be certain rather serious weaknesses in the committee proposal now before us. Without attempting any extended discussion of these provisions, I would like to state very briefly the problems which cause me most concern.

In the first place—and this is the instant amendment before you—I see no merit in a system of area representation on the proposed commission. The committee proposal would require that at all times half the commission should be made up of persons residing above the Bay City-Muskegon line. Not even the most extreme advocates of area representation have contended, so far as I know, that population should be totally disregarded in apportioning the legislature. And I see no reason for applying such an extreme and rigid formula to the appointment of commission members. In fact, I see no necessity for any formula at all. Since the commission members will be nominated by the political parties, I think we can safely rely on the parties to follow the ancient and honorable practice of ticket balancing in their nominations for commission membership.

That's all I think I have to say, Mr. Chairman, about this first amendment. I have 2 other amendments to follow. I find other provisions that need change, but this is the only thing for that amendment.

CHAIRMAN HUTCHINSON: On Dr. Pollock's amendment, the Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, I would rise to support the Pollock amendment. I had intended to offer the identical amendment, but deferred to Dr. Pollock because I knew that he had already submitted it. I simply wish to confirm the statements he made. I see no reason whatever for any area representation. To the extent that area representation is needed in the make up of the commission, it will no doubt be provided by the parties. It certainly should not be rigidly built into the constitution. I think it is a bad principle, just as Dr. Pollock has said, to build into the constitution total area representation. However, I would like to make this further remark, if I may. The majority and minority are in accord with this proposal, with or without this area representation. The proposal itself is too good to be opposed even if the area representation is in. And that is the reason we did not wish to present a minority report. We simply wish to concur in Dr. Pollock's recommendation. We think this should be removed. But it certainly should not be construed that in any way we oppose the overall principle.

CHAIRMAN HUTCHINSON: Mr. Plank.

MR. PLANK: Mr. Chairman, this amendment that Dr. Pollock has put in is not new. It was discussed at great length in our committee, and it was felt that we had a very good reason for doing what we have done. And I believe, without disclosing my thoughts at the moment, I will yield to Delegate Hanna to carry on the discussion on this point.

CHAIRMAN HUTCHINSON: The Chair has a list, and it was going to recognize Judge Dehnke next.

MR. DEHNKE: I will yield.

CHAIRMAN HUTCHINSON: Judge Dehnke yields. The Chair will permit, without objection, Mr. Plank to yield to Mr. William Hanna.

MR. PLANK: Thank you, Mr. Chairman.

MR. W. F. HANNA: Mr. Chairman, fellow delegates, this device of members coming from different portions of the state is not an innovation for the state of Michigan. The Democratic party or the members thereof who participated in writing the Alaskan constitution provided for what they called their reapportionment board. This consisted of 5 members, and they spell out the 4 general geographic areas of the state of Alaska. Let me say at the outset that our testimony as we listened to the problem of apportionment indicated that within both parties there is some fear of the sectional factionalism that creeps into the parties. We have seen this over the years.

Secondly, our experience in the committee as we approached this—and I'm sure if each member will reflect on this, he will find it to be true—was that if you are to do a fair job and are to follow the proposals for reapportioning and districting the state fairly, you can do it best when you are not dealing with your own home territory. I can draw a line easier in Wayne county or in Bay county than I can in Muskegon county. I am in the same position as a surgeon; I can operate on a stranger more easily than I can operate on myself or my child. If the members of the apportionment commission are to fairly and honestly apply, without any reservation, the formulas adopted in this constitution for apportioning both the senate and the house, it requires both the insurance and the assurance that they will be from areas, so that a number of the board can look impartially and draw the lines fairly and squarely. This is the best argument that you can find for having this apportionment commission.

Then, if the rest of the proposal concerning the house and senate is fairly and adequately and accurately stated, the main problem of this board is to draw the lines within a county, because the rest of the state falls largely into place, because the lines of how you do it are drawn very tightly. It is more important to draw those standards for districting the state than it is to worry about the geographical representation. But this geographical representation insures impartial drawing of the lines, much more so than if all of one party comes from a particular area or county or group of counties of this state.

CHAIRMAN HUTCHINSON: Mr. Plank, do you yield the floor?

MR. PLANK: Yes, I yield the floor, Mr. Chairman.

CHAIRMAN HUTCHINSON: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman, ladies and gentlemen, I have very little to add to what Mr. Hanna has said. I think we have 2 things that it would be well to have on this commission. One is some familiarity with every part of the state by at least 1 or 2 members of the commission. The other is a majority of the board situated so that they can objectively view the problem. Under this plan we will have 2 from each area reasonably familiar with that area who can impart their information to the board as a whole. We will have 6 who are not residents of that particular area, and therefore will be able to view it objectively in this matter or redistricting. I think those are 2 advantages that are attained by this method that we have suggested.

CHAIRMAN HUTCHINSON: On Dr. Pollock's amendment, the Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, I rise to support the committee report. In our discussions on this in the committee, we had some other considerations as well. One that has been touched on briefly is the fact that the people from the various areas would have some familiarity with the geography and setup of the various subdivisions. Another point that hasn't been raised, but which should be raised, is the fact that if you have any fear of such an area situation you have the use of referendum, plus supreme court review of any such plan or any disagreement that may result. Therefore, I think that this is an adequate provision. We talked about it quite thoroughly, and I would support the committee report.

CHAIRMAN HUTCHINSON: The secretary will again read the amendment before the committee.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 2018.]

CHAIRMAN HUTCHINSON: All those in favor of Dr. Pollock's amendment will say aye. Opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: Is the demand for division supported? There are a sufficient number up. All those in favor of the amendment offered by Dr. Pollock will vote aye. Those opposed will vote no. The question is upon the amendment offered by Dr. Pollock to section a of Committee Proposal 79, and if there is any further demand the secretary will read again.

MR. BARTHWELL: Mr. Chairman, I would like to have the secretary read it again.

CHAIRMAN HUTCHINSON: All right. We will read it again.

SECRETARY CHASE: The pending amendment is:

[The amendment was again read by the secretary. For text, see above, page 2018.]

CHAIRMAN HUTCHINSON: Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the amendment offered by Dr. Pollock, the yeas are 43; the nays are 77.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The Chair recognizes the chairman of the committee, Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, it now being 11:30, and understanding it is going to be a shorter noon hour, I now move the committee do rise.

CHAIRMAN HUTCHINSON: The question is upon the motion made by Dr. Hannah that the committee do now rise. All those in favor say aye. Those opposed, no.

The motion prevails, and it is so ordered.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 79,** A proposal pertaining to a commission on legislative apportionment; has considered one amendment thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Do you have any announcements?

SECRETARY CHASE: We have the following requests for leave: Mr. Bonisteel requests leave from the latter part of the afternoon session to attend to professional matters; and Mr. Suzore wishes to be excused from Monday's session.

PRESIDENT NISBET: Without objection, the excuses are granted.

The Chair recognizes Mr. Stopczynski.

MR. STOPCZYNSKI: Mr. President, I move that we recess until 1:30 this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. Stopczynski. Those in favor say aye. Opposed, no.

We are recessed until 1:30.

[Whereupon, at 11:35 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Mr. Page has filed with the secretary a request to be excused from the afternoon session.

PRESIDENT NISBET: Without objection, the excuse is granted.

The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention resolve itself into committee of the whole for the consideration of proposals on **general orders**.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee is considering **Committee Proposal 79.** The secretary will read.

SECRETARY CHASE: The committee has under consideration the first paragraph of section a, Committee Proposal 79, to which an amendment offered by Mr. Pollock had been considered and defeated.

Mr. Nord now offers the following amendment to the first paragraph of section a:

1. Amend page 1, line 14, after "party" by changing the period to a comma and inserting "in which event but not otherwise, the vote of each member of said commission shall be equal to the vote obtained by the gubernatorial candidate of his political party in the previous general election."; so that the language will read:

> There is hereby established a commission on legislative apportionment consisting of 8 persons, 4 of whom shall be selected by each of the state organizations of each of the 2 political parties casting the highest vote for governor at the last preceding general election: Provided, That if a third party receives more than 25 per cent of such gubernatorial vote the commission shall consist of 12 members, 4 of whom shall be selected by the third political party, in which event but not otherwise, the vote of each member of said commission shall be equal to the vote obtained by the gubernatorial candidate of his political party in the previous general election.

CHAIRMAN HUTCHINSON: On the amendment offered by Mr. Nord, the Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, the amendment offered here is intended to be a perfecting amendment, the general subject of which was discussed briefly in the committee on the last day, or nearly the last day.

The object of the amendment, first, is to take care of a question which is unlikely to occur, but in the event that it should occur it is suggested that this solution ought to be adopted. The problem that I refer to is the case of a third party receiving more than 25 per cent of the gubernatorial vote. Now, the committee and all of the members of the committee agreed that if that should happen, if there should be a third party with that strength, it ought to participate in the commission. In that case it would not be a bipartisan commission, but it would be a 3 party commission. And according to the proposal that is subscribed to by all the members of the committee, there would then be 12 members on the commission instead of 8.

Now, in that event, it might very well be that one of the parties would have a bare 25 per cent, and another party might have close to 50 per cent—or the maximum it could be would be exactly 50 per cent. In other words, it is possible to have one party with 25 per cent and another party with almost twice as much. That is the maximum thing that could happen. In the event that that should happen, or in the event that there should be 2 major parties and 1 minor party, the minor party would actually carry the balance of power in the apportionment commission. In other words, the party that has the smallest amount of power and is the least well established and just barely gets into the commission could decide the whole issue. In that event, it was suggested to the committee, as I say, in their rush to draft this document, that something should be done to take care of that situation, but the committee decided not to bother with it because it thought that it was a remote contingency—and I agreed that it is a remote contingency.

However, it is possible for this to happen in the next 50 years, and it seemed to me it would perfect the proposal to adopt some solution to that problem which doesn't compromise the rest of the proposal, and which doesn't go into effect except when the need exists. The amendment I have offered is intended to solve that problem in as inconspicuous a way, so to speak, as it can be done. It states that if it occurs that there are 3 parties on the commission, instead of 2, and only in that event, then the votes of each member shall not be equal, but shall reflect the vote of his party as judged by the vote as received in the previous gubernatorial campaign. On this basis, then, no third party having the smallest vote of the 3 could dominate the entire apportionment commission. It is suggested for your consideration that this amendment, if adopted, would simply eliminate one contingency which, though remote, could occur. I therefore urge the adoption of this amendment.

CHAIRMAN HUTCHINSON: On the Nord amendment, the Chair recognizes Mr. Plank.

MR. PLANK: Mr. Chairman and fellow delegates, this was brought up, as Dr. Nord says, in our committee, and it was felt that it was a very remote possibility that this would happen. Number 1, it could only happen once in 10 years, because that's the only time this commission is going to be concerned. Number 2, I submit to you that if it did happen, and they tried to get away with something that was shady in any manner at all, I believe that the Republicans and Democrats, even though they differ greatly, would not stand apart and allow this to happen. So I would say that this possibility is so rare and remote, and even if it did happen the possibility of something very bad happening in reapportionment and redistricting is so small, because of the check and balance of the other 2 groups, that it is not necessary to put this verbiage in the constitution. Therefore, speaking for the committee proposal, I urge you to defeat the Nord amendment. Thank you.

CHAIRMAN HUTCHINSON: On the Nord amendment, the Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, I would like to add a few words to what Mr. Plank has said. If the proposal for the apportionment commission is adopted, the constitution itself will set up pretty strict rules to govern the determination of this commission. The commissioners will not be left free to ramble at will. And it's a matter of the decision by each member within those prescribed limits that is important, and we won't be involved in calling in any adding machine to make the computation.

CHAIRMAN HUTCHINSON: On the Nord amendment, all those in favor will say aye. Opposed will say no.

The amendment is not adopted and if there are no further amendments paragraph 1 of section a is agreed to without amendment. The secretary will read.

SECRETARY CHASE: Paragraph 2:

[Paragraph 2 of section a was read by the secretary. For text, see above, page 2014.]

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Plank.

MR. PLANK: Mr. Chairman, fellow delegates, I think this is very self explanatory. Both the minority and majority have agreed upon it. I see no reason for further delay on this paragraph. I move we pass on to the next one.

CHAIRMAN HUTCHINSON: Are there any amendments to the second paragraph?

SECRETARY CHASE: There are none on file, Mr. Chairman.

CHAIRMAN HUTCHINSON: If not, paragraph 2 is agreed to. Mr. Faxon.

MR. FAXON: I just want to ask a question of Mr. Plank on that. Mr. Plank, where you use the words "local government," are you referring to cities, villages and townships? That's on line 4.

CHAIRMAN HUTCHINSON: Mr. Plank.

MR. PLANK: This was brought up in the committee, and it was decided that if they worked for any governmental units, they are not eligible to be on this commission, Mr. Faxon.

MR. FAXON: I wonder if this is clear language. Does this include schoolteachers, for instance? School districts? Drainage districts? Does this include these other local units?

MR. PLANK: Mr. Chairman, Mr. Faxon, it includes anyone who works for a governmental unit, and I would say that under this interpretation it probably does include schoolteachers. It is not felt that a schoolteacher would be asked to serve on this, for 2 reasons. One is, most schoolteachers are not in political circles. And, number 2, this is a job that is going to be a part time job. It is not going to be one that could be used for sole income. Therefore, it is felt that a schoolteacher would probably not be asked to serve on this commission.

MR. FAXON: Mr. Chairman, I don't think it's at all fair to say that schoolteachers are not interested in politics, number 1. And I think that there are others here who can give evidence to their previous background in the field of education. Secondly, the fact that a commission is part time is another reason why I would say that this would lend itself towards participation of people who are in the employ of the school districts. There is nothing here which would make their judgment any less than the judgment of those people who aren't in the employ of a school district.

I fail to see the need for something which clearly discriminates against public employees as people not able to participate. Is this the intent of the whole committee? That all public employees, whether it be a drainage district or a school district, cannot participate in their political party to the extent that they could at some time serve on such a commission?

MR. PLANK: Mr. Chairman, Mr. Faxon, it was the opinion of the majority that voted on this to bring it out of the committee onto the floor that this would include all employees of governmental units. Now, they had a very good reason for this. If you wanted to exclude certain individuals, you could end up having one section here as long as perhaps the entire constitution. Therefore, after a great deal of comment, it was decided that it would mean, all governmental employees are excluded from being members of this commission. Now, you must realize there are only going to be 8 in the whole state, and it is only going to be every 10 years. Therefore, I don't think we are excluding too many people.

MR. FAXON: Well, Mr. Chairman, I don't want to take issue over the fact that the commission will only number 8. But, at the same time, I think that this is a highly prejudicial type of insertion in the constitution; that people who happen to be in the employ—not elected officials—but people who are in the employ of a local governmental unit ought to be eligible to participate in any type of function of government. I think this is a prejudicial thing. I wonder if I could yield to Delegate Nord, who seems to have something to say with regard to this.

CHAIRMAN HUTCHINSON: Are there any amendments to the second paragraph? The Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, I simply wanted to answer the question which Mr. Faxon appears to have posed, and that is whether all of the committee members agreed to this. I would like to assure him that they all did, insofar as I can recall. There was no dissent whatever to this. And while it may not be 100 per cent to the satisfaction of every single person in the state, I think it is about 99.44 per cent perfect, and I think we ought to approve it without any dissent.

CHAIRMAN HUTCHINSON: Are there any amendments to the second paragraph? If not, it is agreed to.

MR. FAXON: Wait a minute.

CHAIRMAN HUTCHINSON: Oh. There is.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 2, line 3, after "no" by inserting "elected"; so the language will read, "No elected public officials or governmental employees of either the federal, state or local governments," et cetera.

CHAIRMAN HUTCHINSON: The question is on the amendment offered by Mr. Faxon. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman, I think I have said what I care to say on this. It's just that I can see some reason to not want to put an elected official on a commission of this sort, but at the same time I don't think we ought to get into the habit of disenfranchising people who happen to be working for local governmental units, whether it's the city, the county or the local school district. I just feel that we ought to give these people as equal an opportunity to participate in the public life of their communities, and the word "elected" there would clearly make it possible for people who are not elected people, who are in other walks of employ, to participate in a commission of this sort.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Plank.

MR. PLANK: I only say that I would like to have a vote on this as quickly as possible. I think it is rather a small issue. It is not our intention to discriminate against anyone. I think we should go on.

CHAIRMAN HUTCHINSON: All those in favor of the amendment offered by Mr. Faxon will say aye. Opposed will say no.

The amendment is not adopted and paragraph 2 is agreed to without amendment. The secretary will read.

SECRETARY CHASE: Paragraph 3:

[Paragraph 3 of section a was read by the secretary. For text, see above, page 2014.]

CHAIRMAN HUTCHINSON: Are there any amendments to this paragraph?

SECRETARY CHASE: There are none on file, Mr. Chairman.

CHAIRMAN HUTCHINSON: If there are none, paragraph 3 is agreed to and the secretary will read paragraph 4.

SECRETARY CHASE: Paragraph 4 of section a:

[Paragraph 4 of section a was read by the secretary. For text, see above, page 2014.]

CHAIRMAN HUTCHINSON: Are there any amendments to this paragraph? If not, paragraph 4 is agreed to and the secretary will read.

SECRETARY CHASE: Paragraph 5:

[Paragraph 5 of section a was read by the secretary. For text, see above, page 2014.]

CHAIRMAN HUTCHINSON: Are there any amendments to the paragraph? If not, paragraph 5 is agreed to and the secretary will read.

SECRETARY CHASE: Paragraph 6:

[Paragraph 6 of section a was read by the secretary. For text, see above, page 2014.]

Mr. John Hannah, on behalf of the committee on legislative organization, offers the following amendment:

1. Amend page 3, line 12, after "published" by striking out "in the manner provided for acts of the legislature and shall have the force of law upon such publication, and shall be subject to the same provisions of referendum as apply to acts of the legislature.", and inserting "within 30 days and shall become law 60 days thereafter in the same manner as acts of the legislature."; and on line 17 after "record" by changing the period to a comma and inserting "and shall be responsible for the publication and distribution of the report.".

CHAIRMAN HUTCHINSON: Mr. Plank, do you desire to have these 2 paragraphs taken collectively?

MR. PLANK: No, I think we should take them one at a time. And since we have this amendment as it is, I would like to yield the floor to Mr. William Hanna for a few comments on this amendment.

CHAIRMAN HUTCHINSON: On the committee amendment, Mr. Plank yields to Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman and fellow delegates, I believe the language in the amendment proposed by the committee is clear. The intent of this is to make sure that these apportionment plans are published in a manner available to the general public so that they will have the force and effect of law; they shall be published as soon as possible; and because they are subject to appeal to the courts, they should be available. The intent of the language is to get them published as soon as possible and to have them published in the same manner as acts of the legislature, so there is a standard method of publication, and the parties will know when they become effective for purposes of appeal to the court. I urge the adoption of the committee amendment.

CHAIRMAN HUTCHINSON: Mr. Heideman.

MR. HEIDEMAN: I just have a question to address to Mr. Hanna.

CHAIRMAN HUTCHINSON: On the committee amendment?

MR. HEIDEMAN: Yes. Will the amendment still retain the provision for referendum, or is that to be stricken? I didn't understand.

MR. W. F. HANNA: The provision for referendum would come out; because there is no effective way of having a referendum from the decision of the commission. But there is effective appeal to the court if it's an unconstitutional provision.

MR. HEIDEMAN: I see. Would you read that again, please?

CHAIRMAN HUTCHINSON: Would you read the amendment again.

SECRETARY CHASE: The first amendment:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN HUTCHINSON: The question is upon the committee amendment. The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, some time ago I prepared a somewhat similar amendment, and the secretary has it on the desk. Will you please withdraw that second amendment of mine, and I'll say just a brief word in support of the committee amendment, which now adopts language similar to that which I had submitted.

The main thing, it seemed to me, that was defective was the provision submitting it to referendum. And there was no provision for the contingency which would arise if the reapportionment plan were defeated in a referendum, and of course a referendum in any case wouldn't be a major safeguard against unconstitutionality of the reapportionment plan, because the provision is made for judicial review by the court.

If the voters rejected the plan which was constitutional in its provisions, the commission would have no guidelines for writing a new plan, and it's not certain the commission would be empowered to do so in any case. I don't think a referendum is a suitable device for conducting a reapportionment, especially when complex technical rules are involved. If the people of the state come to believe that the constitutional system of reapportionment is inequitable, they may, of course, themselves, through the initiative, amend the constitution to install a new system. I urge support of the committee amendment.

CHAIRMAN HUTCHINSON: On the amendment the Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, in order to have the record clear, and in fairness to the committee and convention, I think I should indicate that I am inclined to agree with the philosophy that seems to interest Dr. Heideman. I think it could well be said that this is one of the most important functions of government, and should be left in the hands of the people themselves, directly, or else in the hands of their elected representatives. And I am not able to agree with the interpretation that has been given that the possibility of a referendum is eliminated by this change in language; because this becomes a law on completion of the process. Our constitution, I assume, will continue to provide for referendum from laws passed by the legislature and any other types of laws, and in the Hildebrand case from the state of Ohio, the United States supreme court held that an apportionment act was subject to the same referendum provisions of the constitution as any other act.

However, I don't think it is too important. The referendum would involve the circulation and obtaining of signatures of a certain number in order to submit the act to the people. If the people are dissatisfied with any such apportionment order as we are thinking of here, they can attain the same purpose by placing upon the ballot a proposal obtained in the same manner. I say this merely in order, as I indicated at the beginning, that there be no misunderstanding about it, and in fairness to the convention.

CHAIRMAN HUTCHINSON: On the committee amendment, Mr. Plank.

MR. PLANK: All I wanted to say, Mr. Chairman, is that Mr. Dehnke's points are well taken. They were discussed at the time this amendment was decided to be brought before the committee. Therefore, I move that we get on with business and pass this into the constitution.

CHAIRMAN HUTCHINSON: On the amendment, Mr. Nord.

MR. NORD: Mr. Chairman, I believe the amendment is basically immaterial one way or the other. That is to say, I neither oppose nor support it. I think on the whole I would support it. But I do think there is a legal problem involved that will have to be straightened out sooner or later, and that is the point raised by Judge Dehnke. It occurred to me also that we can't be sure whether or not there is a referendum possible in this, and possibly we can't be sure until we see the referendum provisions that will be in the constitution. I believe the present referendum provisions relate to a law being enacted, and then it doesn't go into effect for 90 days, whereas the one we have before us now says something about 60 days, and it's not clear whether the referendum provision will apply or won't apply. This question ought to be considered, it seems to me, but I don't think it is something that needs to be debated. It ought to be considered probably by style and drafting to see whether or not referendum will be possible. We can't determine it until we know what is in the referendum provision. For that reason, I believe that on the whole we ought to support the amendment.

CHAIRMAN HUTCHINSON: The question is on the amendment offered by the committee to this paragraph. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted and paragraph 6 is agreed to as amended. The secretary will read.

SECRETARY CHASE: Paragraph 7:

[Paragraph 7 of section a was read by the secretary. For text, see above, page 2014.]

Mr. John Hannah, on behalf of the committee on legislative organization, offers the following amendment:

1. Amend page 3, line 23, after "commission" by inserting "as complying most accurately with the constitutional requirements,"; so the language will then read:

> . . . the supreme court shall determine the plan which shall be adopted by the commission as complying most accurately with the constitutional requirements, and published as aforesaid.

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mr. Plank.

MR. PLANK: The committee decided, after they had composed this section, that this was a little more clear as to just what their intention was. It perhaps could have been left to style and drafting, but since they decided the wording fitted the sentence, they did ask for it to be offered as an amendment. I move that it be adopted.

CHAIRMAN HUTCHINSON: The question is upon the amendment to this paragraph offered by the committee. All those in favor will say aye. Opposed will say no.

The amendment is adopted. Are there any further amendments to this paragraph?

SECRETARY CHASE: Mr. Pollock offers the following amendment:

1. Amend page 3, line 19, by striking out "then the commission members of each political party shall submit a plan to the supreme court.", and inserting "each member of the commission shall submit to the supreme court either individually or jointly with any other members, a proposed reapportionment plan."; so the language will read:

> In the event the commission cannot agree on a plan, each member of the commission shall submit to the supreme court either individually or jointly with any other members, a proposed reapportionment plan.

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I have offered this amendment because I think it closes a loophole in the committee proposal. The original language assumes that any dispute in the commission which prevents a majority decision would be a straight party line split. And it provides that in case of deadlock, each party's delegation shall submit a plan to the supreme court. While it is probable that any deadlocks will be along party lines, it is not certain. And it is clearly possible that disagreements will cut across party lines, or that while one party is united on a single plan, the other party is split between 2 other plans. The proposed amendment clears up this difficulty, I think, by allowing any member or group of members to submit a plan to the court which will then select one of the plans it finds to be in accordance with the constitution.

CHAIRMAN HUTCHINSON: On Dr. Pollock's amendment, all those in favor will say aye. Mr. Plank, do you desire to speak on it?

MR. PLANK: I would just like to ask Dr. Pollock a question. It seems to me that this perhaps is a style and drafting question, but does the word "shall" mean that each member must, or he can't possibly collaborate with another member and submit it jointly, Dr. Pollock?

MR. POLLOCK: Mr. Chairman, Mr. Plank, I think I have simply used the same language you have. You have the word "shall." So what does it mean in your plan?

MR. PLANK: In our plan it means that it is necessary for them, as an individual quartet, so to speak, to submit a plan. There must be 2 plans, 1 from one party and 1 from the other. Both parties would have to submit a plan, unless they could agree on one. In your case here it would seem to me that each member of the commission must submit a plan, and I must say that this might cause a little bit of difficulty.

MR. POLLOCK: Mr. Chairman, we would assume that we are setting up the commission to come to an agreement, and this is only in the case of disagreement. And I insist that the disagreements are not just going to be party disagreements. It would be much preferable if only one plan were submitted but I think the groupings on the commission are likely to differ not merely on party lines, and I simply wanted to make it possible so that you didn't just submit 2 plans, one Republican and one Democratic, but you submitted whatever plans were in controversy.

CHAIRMAN HUTCHINSON: Mr. Plank.

MR. PLANK: Mr. Chairman, Dr. Pollock, I have no objection. I just want to make sure that this could happen, that's all.

CHAIRMAN HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, members of the committee, first, let me say that I don't think the committee had any real objection to the amendment offered by Dr. Pollock. At the time we were considering this of course we were doing it in light of our experience, and to my knowledge ours was the only committee that had a Republican subcommittee and a Democratic subcommittee, and never the twain could meet at times. We have discovered that it sometimes is impossible to get agreement within a political party since we have gotten out of our cubbyhole and come up to the light of day. And I have only one question, then, to ask Dr. Pollock.

Dr. Pollock, would it be better, in your language, to require at least 2 members to agree on a particular plan? As against the possibility of, under your language, 8 members submitting 8 plans, shouldn't there be a requirement that at least the minority submitting a plan of some kind have one other person in agreement? May I ask if we could say that any 2 members of the commission could submit jointly with other members?

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock to respond.

MR. POLLOCK: Well, I was considering it the same as I would a dissenting opinion with the court, and a dissenting opinion is often very important. I have no objection, if you would prefer to make it always 2 to submit a plan; but I would prefer my own language.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Pollock. Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, I would simply rise to support Dr. Pollock's plan. It seems to me that 8 separate reports being submitted is a very remote possibility. But I would suggest that inasmuch as we have prescribed that the various people be chosen on the basis of area to serve on this commission, that it might be well to provide that a minority report or a minority plan could be submitted from one single member. However, I would like to ask Dr. Pollock if he would accept in his amendment the use of the word "may" rather than the word "shall," as an amendment.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock to respond.

MR. POLLOCK: Mr. Chairman, Mr. Yeager, I have no objection to providing that. I followed the committee language, and tried not to vary from that as much as possible. But I believe the chairman of the committee prefers "may" to "shall,"

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: Would the Chair require that in writing, or could we just do this verbally?

CHAIRMAN HUTCHINSON: If Dr. Pollock accepts the change.

MR. POLLOCK: I agree.

SECRETARY CHASE: Mr. Pollock, on the suggestion of Mr. Yeager, revises the amendment to read as follows:

1. Amend page 3, line 19, by striking out "then the commission members of each political party shall submit a plan to the supreme court.", and inserting "each member of the commission may submit to the supreme court either individually or jointly with any other members, a proposed reapportionment plan.".

CHAIRMAN HUTCHINSON: On the amendment offered by Dr. Pollock, the Chair recognizes Dr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen, Dr. Pollock has likened the situation to that in the supreme court with dissenting opinions. If we once are going to differentiate, it would seem logical to me to make it each commission member, and give each one an opportunity.

CHAIRMAN HUTCHINSON: Mr. Plank.

MR. PLANK: Mr. Chairman, all I would like to say is if the convention will adopt our formulas for the districting of the house and the senate, I won't worry about 8 opinions, because you won't be able to draw 8 different plans.

CHAIRMAN HUTCHINSON: Mr. Wanger.

MR. WANGER: Dr. Pollock's amendment has the additional advantage in that under the present language, in case of disagreement, each plan would have to have the agreement of every one of the commission members from that particular party. And if any one of the members should not agree with the other 3, then no plan could be submitted to the supreme court.

CHAIRMAN HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. Chairman, I would like to ask a question of Mr. Plank, if I might. Mr. Plank, I take it that it was the considered opinion of your committee that only as a last resort would you go to the supreme court? I mean, you certainly were not encouraging the submission of various plans to the supreme court, is that correct?

MR. PLANK: That is correct. Our thinking was that the apportionment commission would come to an agreement on their own. The only use of the supreme court would be if they do not come to an agreement. Then they must submit plans to the supreme court, so that they in turn can determine which one of the plans will be used in redistricting.

MR. DANHOF: Now, I further take it from the makeup of this particular commission, being 4 members from each of the political parties—and we will stick with 2, since we don't have a third one getting close to 25 per cent of the vote—that as a very practical matter, if we put 4 Republicans and 4 Democrats together in a room and tell them to come up with a plan, there's going to be a little horsetrading going on in order to come up with a plan. I mean, was this some of the philosophy that was behind the committee's thinking?

MR. PLANK: Well, we had both groups in our committee, and it's pretty difficult to come up with much horsetrading with the formulas we have so designed.

MR. DANHOF: Well, what I'm stating is: when it comes to drawing your districts, somebody is going to have to give a little here and give a little there in order to get a final plan.

MR. PLANK: Mr. Chairman and Mr. Danhof, in my estimation this is a part of the definition of politics.

MR. DANHOF: Thank you, Mr. Plank. Members of the committee, I submit that if that is the intent, then by adopting the language offered in the Pollock amendment you will be defeating in essence what the committee intended to do, for this reason: while it is true that these 4 people come from different parts of the state, they are not there in their individual capacity. They are not there to put forth their pet particular plan, either 1 or 2 of them. They are there to represent a political party, and they are there to represent the overwhelming majority of that political party. If you are going to allow them to submit an individual plan and say, "Well, if you won't take it I can always go to the supreme court," then you will not have what Mr. Plank describes as the fine art of politics, and with this I particularly agree.

I don't think we want, every 10 years, the supreme court deciding the redistricting plans. This was not their intent. This was only if they reached a hard and fast deadlock. Furthermore, with the committee language, it makes the 4 Democrats or the 4 Republicans agree on something, rather than to run in with individual plans, and leaves with the party, if you please, some sort of thing known as party discipline. And on this type of commission, where they are representing political parties, I think it is important that this type of party discipline remain, and that when they go before the supreme court they go either as 4 Democrats or 4 Republicans on a particular plan, and that we not allow them to run in there on their individual likes or dislikes because they come from a particular geographical area. I'm afraid that's what you will have happening. Consequently, for that reason, and because I do believe in party discipline in this case and in party participation, I would oppose the Pollock amendment.

CHAIRMAN HUTCHINSON: Dr. John Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, partially in answer to the question raised by Mr. Danhof, I would refer you to line 7 on this same page, where it says, "No final decisions shall be made except by a majority of all of the members of the commission." This means that if we have only the 2 parties that are entitled to representation, and a total of 8, that at least 5 must agree. Then it would not be possible for the members representing any 1 party to come up with a final agreement. There must be at least 4 of one party and 1 of the other. The only time we are going to come to the supreme court is in the event that no 5 can agree.

Now, Professor Pollock feels that instead of 2 plans to go to the supreme court, in a situation where there is no agreement on the part of 5 and it's going to go to the supreme court, that it might be better to let each individual member of the commission submit his plan.

As has already been indicated by Mr. William Hanna and by Mr. Plank, and as can be verified by other members of the committee, after Professor Pollock submitted his amendments we had a meeting of the committee, and we were in the process of considering this. There was some feeling that there was much merit in the Pollock amendment. However, we were unable to get 11 members of the committee to agree, due to the fact that there were fewer than all of the members of the total committee present, and we felt this should come to the floor.

So it's my feeling — and I think I'm speaking for a majority of the committee — that this is not an important item. It is going to arise only when 5 members of the committee cannot agree. All we are arguing about now is whether the 4 members of each party must agree with 2 plans, or whether we are going to give the individual that insists that his is the best an opportunity to submit his to the supreme court, and give the supreme court the opportunity to look at his, too. I don't think it is so important that we need to take a lot of time with it.

CHAIRMAN HUTCHINSON: On the amendment offered by Dr. Pollock, as revised, all those in favor will say aye. Opposed will say no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Beginning in line 24 — I beg your pardon. Mr. Nord has filed an amendment.

MR. KNIRK: Mr. Chairman, is it too late to have a division on that?

CHAIRMAN HUTCHINSON: Well, we haven't gone on to the next order of business.

MR. KNIRK: I request a division.

CHAIRMAN HUTCHINSON: Mr. Knirk demands a division on the Pollock amendment. Is the demand supported? The demand is supported. All those in favor of the amendment offered by Dr. Pollock will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Pollock, the yeas are 70; the nays are 30.

CHAIRMAN HUTCHINSON: The amendment is agreed to. The secretary will read.

SECRETARY CHASE: Mr. Nord offers the following amendment:

1. Amend page 3, line 19, after "plan.", by striking out the balance of the paragraph and inserting "If only one of said plans satisfies the requirements of this constitution, said plan shall be decreed to be the apportionment plan adopted by the commission. If, however, more than one of said plans prima facie satisfies the requirements of this constitution, the supreme court shall determine which plan most fully satisfies the requirements of this constitution, and said plan shall be decreed to be the apportionment plan adopted by the commission.".

CHAIRMAN HUTCHINSON: On the amendment offered by Mr. Nord, the Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, this amendment is intended to be a perfecting amendment, to spell out what the committee intended. The intention of the committee, as far as I am aware of it, is exactly expressed or as nearly as possible by the language now before you. The reason for the amendment is this: the proposal as it is now in existence simply says, "If all plans submitted meet the requirements of this constitution," and so on. It doesn't state what happens if they don't all meet the requirements of the constitution. The committee did discuss this question, and they did agree in principle that if only one of the plans satisfies the constitution, then that's the end of it; that the supreme court shall determine that fact, and state that is the fact, and then that shall be the law.

Now, it's no doubt implied even by the language in the proposal. But it simply occurred to me, and I note also that the committee will propose in a minute an amendment somewhat in the same direction, but not fully in that direction. Therefore, the amendment that is offered is simply to make it crystal clear that if any one of the plans proposed by either party is unconstitutional, that plan is simply out. It is impossible to be considered. The supreme court will say that the other one wins. But if there's more than one which is prima facie in accord with the constitution, then the supreme court will simply determine, as the committee has suggested, which one is the one which most accurately satisfies the requirements. Again, there is no substantive matter at stake. It simply intends to make sure that the intention of the committee is fully expressed.

CHAIRMAN HUTCHINSON: On the amendment now before you, the Chair recognizes Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, with regard to the amendment offered by Dr. Nord, the first line, "If only one of said plans satisfies the requirements of this constitution, said plan shall be decreed to be the apportionment plan adopted by the commission" is unnecessary; because if only one constitutional plan is submitted to the supreme court, and all the other plans are unconstitutional, then of course this is the end, as he has stated. So the first line is not necessary at all.

The question comes if more than one plan is to be submitted, all of which or both of which meet the requirements of the constitution, but no plan of which can receive the necessary 5 votes. Dr. Nord says that if more than one of said plans prima facie satisfies the requirements of this constitution, the supreme court shall determine which plan most fully satisfies the requirements, and said plan shall be decreed to be the apportionment plan adopted by the commission. Now, the committee has an amendment to line 23 which merely requires the supreme court to determine the plan which most nearly complies or most accurately complies with this constitution.

But there is a substantive matter here, I believe, between the language used by Dr. Nord and by the committee, and it becomes important only as to the next paragraph, dealing with appeal. Dr. Nord, in his amendment, says, "said plan shall be decreed to be the apportionment plan adopted by the commission."

Now, the committee proposal is careful to say the supreme court shall determine the plan which shall be adopted. Perhaps this is a play on words. But we want the adoption to be made by the commission, not by decree of the court, so that you end up with a mandamusable body or a suable body, and reviewable by the court. I believe the language in committee was carefully considered to accomplish this point. So I urge the defeat of the Nord amendment, on the basis that the first line is not necessary, and the second line will be cured by the committee amendment, which preserves what we were very determined to do; that this court would not decree the apportionment plan, but the court would direct the plan that the commission would adopt, leaving the court in a position to review the plan not of their own decree, but to review an action taken by a commission after the direction of the supreme court.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Nord. All those in favor will say aye. Opposed will say no.

The amendment is not adopted and paragraph 7 is agreed to as amended. The secretary will read.

SECRETARY CHASE: Paragraph 8:

[Paragraph 8 of section a was read by the secretary. For text, see above, page 2014.]

MR. NORD: Point of information, Mr. Chairman.

CHAIRMAN HUTCHINSON: State the point, Mr. Nord.

MR. NORD: Am I correct in believing that there is an amendment offered by Mr. Hanna to line 23?

CHAIRMAN HUTCHINSON: No. That amendment has already been agreed to, Dr. Nord. Are there any amendments to the last paragraph of the proposal?

SECRETARY CHASE: There are none on file, Mr. Chairman.

CHAIRMAN HUTCHINSON: If not, paragraph 8 is agreed to. Are there any amendments to the body of the proposal?

SECRETARY CHASE: Messrs. Everett and Faxon offer the following amendment:

1. Amend page 2, line 3, paragraph 2, by striking out all of the first sentence, lines 3 through 6. In other words, by striking out:

> No public officials or governmental employees of either the federal, state or local governments, excepting notaries public and members of the armed force reserves, shall be eligible for membership on the commission.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Everett and Mr. Faxon. The Chair recognizes Mr. Faxon.

MR. FAXON: I just invite you, fellow delegates, to realize that this first sentence does nothing but exclude about 80 per cent of you from ever participating in this type of thing. I don't speak now for teachers, but just imagine township officials, city clerks, county clerks, city council people—a whole slew of officials who are people who know their area, and know the district. Why on earth should they be prevented from participation?

I say that we can leave it to the discretion of the respective state central committees of the political parties to make the necessary selection, regardless of whether the person happens to have the unfortunate position of being a city attorney or a county clerk, or some other official who happens to know his area and participates in the local community thereof. We want people who know their districts, and if their jobs in their counties or townships are going to prevent them from participating, that is not necessary. The whole first sentence is not necessary.

I think what you are looking for here are political eunuchs —people who haven't even had so much as a single political job—to serve on a commission which is obviously representing a political party. I think that the state central committees will be very apt to make the necessary judgments here, and this first sentence does nothing but serve as unnecessary language, and leaves out many, many good people from eventually participating in this type of commission.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Plank.

MR. PLANK: Mr. Chairman, fellow delegates, we have gone over this before, and what I said before applies now. It is not our intention to discriminate against anyone. But let's put it a little differently. You could have some man who was aspiring to become a representative of one of these senatorial or representative areas, and he perhaps could, by virtue of influence on this body, fix it so that he would be more apt to be elected than if he were not available to do that.

Now, we have done 2 things here. One, we have said that he can't run for office for 2 years. But the other is we don't want to make this a political plum of any kind that could be moved around to an advantage. We are trying to do a job here for representation as far as the people are concerned. Therefore, I would urge the committee to defeat the amendment.

CHAIRMAN HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. Chairman, the second sentence clearly takes cares of a person sitting on the commission and districting so as to arrange for himself a convenient spot in the legislature. I am not suggesting that the second sentence be deleted. This is only dealing with who can sit on it. We are still going to make it impossible for them to run for the seats they create. It is just a question of permitting people who know their districts, know their area, who have been active in their area, to participate if the party that they belong to feels they can make a necessary and qualified contribution.

CHAIRMAN HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, fellow delegates, as the father of 5 children, I don't like to be called a eunuch, Mr. Faxon. It's embarrassing. (laughter) But, to go back to our purpose in the committee, if you want to get into the same problem that you have with the legislature, then take out this paragraph. And we might as well put it right back in the legislature, because one of the problems that we have discovered in our committee—and if you will search your souls, you will find this is true in this convention—is that it is not only the fact that I hold a governmental position, but I am a good governmental friend or foe of a particular person now in or who aspires to be in the legislature. The best way to have this be as independent of governmental pressure as possible, whether it is legislative or otherwise, is to adopt the committee proposal.

Now, we want active party participation persons whose main job is that of being a good, active political party person, and who has not a divided loyalty between his loyalty to the local school district, the justice of the peace association, or anything else; but their loyalty is primarily to the political party that chooses them to serve on this commission. And they will be virile individuals, and not eunuchs, I assure you.

CHAIRMAN HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. Chairman, I would simply say that I have faith in the political parties, and I don't think that they will fall into any of the pitfalls that Mr. Hanna has mentioned, who apparently would like to write in that even friends of legislators are not eligible. I would ask for a division.

CHAIRMAN HUTCHINSON: Mr. Everett demands a division upon the amendment now offered. Is the demand supported? There is a sufficient number up. The demand is supported. The question is upon the amendment offered by Mr. Everett and Mr. Faxon. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the amendment offered by Messrs. Everett and Faxon, the yeas are 22; the nays are 70.

CHAIRMAN HUTCHINSON: The amendment is not adopted. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Mr. Prettie offers the following amendment:

1. Amend page 3, line 18, after "event" by inserting "a majority of"; so the language would then read, "In the event a majority of the commission cannot agree on a plan . . . ."

CHAIRMAN HUTCHINSON: Mr. Prettie.

MR. PRETTIE: Mr. Chairman and fellow delegates, our slogan recently seems to have been, "let's leave it to style and drafting." This amendment is for the purpose of relieving style and drafting of a problem of correcting what I conceive to be an inconsistency. I think it is implied in this proposal on page 3, line 8, that action of this commission shall of course be by a majority. But in line 18 we say, "In the event the commission cannot agree . . ." and to me this means all 8 members of the commission. I'm sure the committee intends that in the event a majority of the commission cannot agree, then the procedure in the supreme court may be undertaken. This is a perfecting amendment to relieve style and drafting of a problem they might otherwise have.

CHAIRMAN HUTCHINSON: Delegate Plank.

MR. PLANK: Delegate Prettie's point is well taken. I'm sure I speak for the committee when I say we are happy to go along with the change.

CHAIRMAN HUTCHINSON: All those in favor of the amendment offered by Mr. Prettie will say aye. Opposed will say no.

The amendment is adopted. Are there any further amendments to the body of the proposal? Mr. Hatch.

MR. HATCH: Mr. Chairman, I would like to direct a question to Mr. Hanna, through the Chair, if I may.

CHAIRMAN HUTCHINSON: Mr. William Hanna?

MR. HATCH: Yes.

CHAIRMAN HUTCHINSON: If the gentleman cares to respond.

MR. HATCH: On page 3, in that paragraph which we just amended, is it the intent of the committee that the only time the supreme court can act is if all of the plans which are submitted to it meet the requirements of the constitution?

MR. W. F. HANNA: Mr. Chairman, Mr. Hatch, that is correct. We do not intend to allow the supreme court to adopt an unconstitutional apportionment plan.

MR. HATCH: Well, suppose 8 plans are submitted, and 7 obviously meet the requirements of the constitution and one doesn't. Then, as I read this language, the supreme court would not be able to determine which plan complies most accurately with the constitutional requirements.

MR. W. F. HANNA: Excuse me. You say if 7 do comply with the constitution—

MR. HATCH: Yes.

MR. W. F. HANNA:—then the supreme court could not determine which of the 7 complied most accurately with the constitutional requirements?

MR. HATCH: Well, the first part of that sentence, beginning on line 20, says, "If all plans submitted meet the requirements of this constitution," then "the supreme court shall determine the plan which shall be adopted. . . ." My only point is that it doesn't seem to me that the first part of that sentence is even necessary. It would seem to me that "the supreme court shall determine the plan which shall be adopted by the commission" as complying most accurately with the constitutional requirements is sufficient.

MR. W. F. HANNA: Mr. Chairman, I see Mr. Hatch's construction. Mr. Hatch, if we take out the word "all" we will meet your objection, I believe. "If plans submitted meet the requirements of this constitution . . . ."

MR. HATCH: Would the committee object to the removal of the word "all?"

MR. W. F. HANNA: I can't caucus this fast, Mr. Chairman, but, speaking for myself, I would see no objection, and I think Mr. Hatch's point is well taken. I would urge the deletion of the word "all."

CHAIRMAN HUTCHINSON: Do you offer such an amendment, Mr. Hatch?

MR. HATCH: I do, Mr. Chairman.

SECRETARY CHASE: Mr. Hatch offers the following amendment:

1. Amend page 3, line 20, after "If" by striking out "all"; so the language will then read, "If plans submitted meet the requirements . . . ."

CHAIRMAN HUTCHINSON: The question is upon the amendment. All those in favor will say aye. Opposed will say no.

The amendment is adopted. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: There are none.

CHAIRMAN HUTCHINSON: If not—Dr. Pollock.

MR. POLLOCK: I think the secretary has an amendment of mine to the body of the proposal. I sent 2 copies to the desk this morning.

SECRETARY CHASE: This is to Committee Proposal 80, as it is labeled, and we are on Committee Proposal 79.

MR. POLLOCK: Well, it was improperly labeled.

SECRETARY CHASE: I'm sorry. Mr. Pollock offers the following amendment:

1. Amend page 1, after "Sec. a.", by striking out all of lines 6 through 22; and on page 2, by striking out all of lines 1 through 6, and inserting "The board of state canvassers is hereby designated as the commission on apportionment."; and striking out all of lines 10 through 24.

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I am going to give the committee another chance to avoid what I consider bad constitution drafting. You see, already it would eliminate about 2 pages of this proposal.

In the second place, I don't see the need to create another constitutional commission. We already have one. People seem to be against cluttering up our governmental structure with more bodies. Now we are creating a new one. We have one already in the constitution known as the state board of canvassers, which as far as I can see is just as good a body as would be determined by this proposal. In fact, I think it would be better, because it's already selected by the political parties; it is therefore a somewhat similar purpose. You don't have to freeze all of these districts into the constitution, which may or may not be good in the future. And the state board of canvassers also has the staff. The secretary of state's office provides the staff work for the board of canvassers. And, after all, this is only once in a 10 year period. It would seem to me unnecessary, therefore, Mr. Chairman, to create a new commission when we already have one, and the purport of my amendment is merely to give to the state board of canvassers the additional function. I have been very brief. I don't intend to delay the committee; but I don't want us to make a mistake.

CHAIRMAN HUTCHINSON: On the amendment now offered by Dr. Pollock, the Chair recognizes Mr. Plank.

MR. PLANK: I appreciated, Dr. Pollock, your being brief. Actually, we did consider the board of canvassers, but we decided that since this job was only going to be done once every 10 years, we would prefer to have a commission that did it, and were brought together for the sole purpose of doing this job, and not have them delayed in any way by counting votes or recounting votes someplace else when they ought to be taking care of the job before them.

I submit to you, fellow delegates, that we have considered this possibility, and believe you should defeat the Pollock amendment and stick with the commission as we have arranged it. Believe you me, we've gone over every type of commission for apportioning, and I believe we have the best one in the whole 50 states. Thank you.

CHAIRMAN HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. Chairman, to Dr. Pollock a question. Dr. Pollock, you are the chairman of the committee on rights, suffrage and elections and you have no doubt dealt with the state board of canvassers in one of your proposals, I assume. Is that true?

MR. POLLOCK: Yes. We are continuing the present constitutional provision, and we therefore have retained the present board of canvassers in the proposal that is coming up this week.

MR. FAXON: Mr. Chairman, Dr. Pollock, if this additional duty were asked of the state board of canvassers, would you think it necessary perhaps to increase the membership from 4 to 8 members?

MR. POLLOCK: Not necessarily.

MR. FAXON: One further question, Mr. Chairman. Dr. Pollock, the present wording on the state board of canvassers simply says that a majority shall not be composed of adherents to the same political party, whereas the wording of this proposal leaves it to the respective state central committees to make the selection. Now, are you intending to make a change with regard to the selective process, so that each political party is assured of their representation on the board?

MR. POLLOCK: At the present time the positions on the state board of canvassers are filled by nomination of the political parties. Each political party nominates 2. This simply retains the present bipartisan composition.

MR. FAXON: Well, I wish to support Dr. Pollock's amendment here. I had the same thought when this whole thing came up when I came into the convention; that the state board of canvassers was already an established body, and it had performed well. It is something that has been in our constitution. This is a function which is only going to be given once in 10 years. I think that the state board of canvassers would be able to handle this. The secretary of state is already the secretary of this board. I think this is an amendment that would cut out a lot of unnecessary detail in creating a new commission, and keeping with something that has already demonstrated its effectiveness in our state.

CHAIRMAN HUTCHINSON: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, one of the problems that gave the committee a lot of difficulty was that of assuring a determination in the way of apportionment not any more influenced by political considerations than could possibly be helped. We talked about having the governor make these appointments. We talked about many other ways of setting up such a commission. We talked about the board of canvassers.

This has already been implied, and perhaps I'm stating it a little more bluntly than it has been stated, but the problem was: how do we make sure that those 4 who are chosen from one party and 4 from the other are recognized good standing members of that party, so that no one can claim that they were lukewarm members of the party?

And with reference to the board of canvassers, the appointments are made by the governor, and in order to eliminate any possibility of that being used as an objection to the board, we decided that an independent board was a better answer.

CHAIRMAN HUTCHINSON: Mr. John Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, I only want to reiterate the point that Judge Dehnke has made. This is a matter that received long and careful consideration by the committee. The committee felt very strongly that this apportionment commission should be, as he indicated, persons with strong political feelings, selected by the 2 political parties to do this specific job. I urge strongly that the committee approve the committee report and reject the Pollock amendment.

I was a little surprised by this amendment, because my good friend Dr. Pollock had submitted to me all of the amendments that he indicated he intended to present, and they were given some consideration by the committee, and this was not among them. But that's not important. I hope you go along with the committee that worked long, hard and diligently, and I do not believe you are going to improve the device that has been recommended by the committee.

CHAIRMAN HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I rise to support the Pollock amendment. I regret that I have to take exception to the statement of Dr. Hannah and others. I think all that Dr. Pollock is trying to do is to accomplish the same thing that the majority proposal is intended to accomplish, with the exception that Dr. Pollock is trying to prevent the creation of another commission—another constitutional commission—that is unnecessary. There isn't a thing that this new commission that you are going to create can do, or do better, than the present board of canvassers that we have now in the constitution. I'm afraid that when we get through with this constitution it is going to be 10 times as long as the present one, and I see no reason for the creation of another commission when the present board of canvassers would work. I would urge the delegates to give serious consideration to the support of Dr. Pollock's amendment.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I rise to oppose the Pollock amendment and to support the committee proposal. The plan that has been offered by the committee, it's true, contains many words and every one of us on the committee has tried to find out how to reduce the number of words. But we were more interested in saving the principle, and the principle is to have a commission which you can be almost 100 per cent certain will do the job with no ifs, ands or buts. There is no other scheme that we have found that has a nearer certainty of doing the job. The board of canvassers is not selected the same way as this. It is just chock full of loopholes and problems.

The committee did consider this. I didn't know anyone on the committee who was opposed to this plan, and I certainly think that trying to reduce the number of words on an issue that is as crucial as apportionment is a mistake. Let us have a few extra words where it counts, but let us have the principle of reapportionment solidly founded in the constitution, and there's no way that we know of except this.

CHAIRMAN HUTCHINSON: On the amendment now offered by Dr. Pollock, all those in favor will say aye. Opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: Division is requested. Is the demand supported? The demand is supported. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Dr. Pollock, the yeas are 15; the nays are 82.

CHAIRMAN HUTCHINSON: The amendment is not adopted. Are there any further amendments to the body of the proposal? If not, it will pass. Mr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, 2 members of the convention—and there's no particular reason why they need clear this with me—within the last 5 minutes have indicated that they would like to make certain that there is considered by this convention a proposal that has to do with the responsibility for districting the federal house of representatives.

You will recall that in the presentation this morning I indicated that this committee had given preliminary consideration to this matter, and then it had been decided by the officials of the convention that this was a matter more appropriately for the committee on legislative powers. So I only rise now to ask the judgment of yourself and the others as to whether or not this needs to be considered at this time, or whether the proponents, Mr. Hodges and Mr. Lesinski, can be assured that they will have an opportunity to have their proposal considered when we get to legislative powers.

I might go on and say that unless it is necessary to hold this matter open in order that they may be heard, I propose now to move that the committee rise; but I want to be fair to them.

CHAIRMAN HUTCHINSON: The chairman of the committee of the whole will leave it to the chairman of the committee as to whether he wants to hold this particular proposal in general orders. Certainly the chairman of the committee of the whole could not give any assurance about anything that might take place in something coming out of the legislative powers committee.

MR. J. A. HANNAH: Mr. Chairman, it is my feeling that as chairman of the committee on legislative organization, this matter not having been referred to us, but to the other committee, it is hardly appropriate for me to take any position on it at all.

I think these people who authored this proposal ought to have an opportunity to have it considered by the convention. But it really is not our matter. It was put in the other committee.

CHAIRMAN HUTCHINSON: The Chair will recognize Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I might make this statement to the convention. It is true that the proposal relative to districting of the congressional districts was referred to our committee. We did consider it. We do have on the floor of the convention a minority report on this subject. It was also indicated this morning by Dr. Hannah that perhaps the committee on emerging problems should further consider the districting of congressional districts. I don't see where Dr. Hannah has any concern in his committee on this matter at this time.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: As one of the proponents, I would just comment that the particular board that is to be used in the apportionment of the congressional districts is the one that is in front of the committee at this time. I doubt if there is any other place where it would be appropriate in the convention, once this Committee Proposal 79 is passed, for us to offer it. I am only requesting if this is possible, and I would just ask for the chairman's comments.

Rather than engage on this decision now, if we could have the committee rise at this point, we could discuss it between now and Monday morning, and whatever the pleasure of the leadership was at that time would be all right. I don't think we can settle this now, and inasmuch as the hour is 4 minutes from the time we were supposed to adjourn, I would suggest that, rather than get into that at this time.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: After a brief conversation with the president of the convention, and with the assurance that either this will be brought in and given consideration when the report of the legislative powers is made, or there will be some device found to make certain that this proposal is given fair and adequate consideration, I now move that this committee rise.

CHAIRMAN HUTCHINSON: Mr. Hannah, is it your intention to hold in committee of the whole Committee Proposal 79?

MR. J. A. HANNAH: No.

CHAIRMAN HUTCHINSON: All right. Mr. Hodges.

MR. HODGES: I don't think that it would be asking too much to request that we let the committee rise without passing this, and let this pass the first thing Monday morning, if that's the pleasure of the leadership. But I would caution the president of the convention, and also the leadership, that this does directly pertain and is an amendment to 79. And if we pass it at this point I'm afraid that we will be leading ourselves into some mechanical difficulties in trying to resurrect it at a later time.

CHAIRMAN HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: We may be losing sight of the fact that whatever duty the legislature has on that subject has its origin and roots not in the state constitution, nor in state statutes, but the federal constitution and the enactments of congress. I think the subject matter properly belongs in the committee on legislative powers. And I understand from what has been said that there is a minority report in connection with the report of the committee on legislative powers. I think that assures that there will be an opportunity to discuss that subject when we come to the report of the committee on legislative powers, and I don't think we should hold up the proceedings on Committee Proposal 79.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: I would only point out 2 things in reply to Judge Dehnke's remarks. One is, the question of the substance and the validity of such an amendment is properly in the argumentation on the question itself. Also, this amendment which is being proposed does differ from the one that is a minority report later on, in that it goes to the heart of a different apportioning body. This one uses the apportioning body that is being set up in Committee Proposal 79, where the latter one will use the board of canvassers.

I'm not trying to belabor the point, Mr. Chairman. My only point is I think if we could just rise at this moment it would save more time than trying mechanically to bring this up at a later time with one of these agreements.

CHAIRMAN HUTCHINSON: Mr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, I would like to assure Mr. Hodges and others that feel this is an important matter and should receive the consideration of the convention, while I haven't read his proposal, that if we proceed and rise and dispose of Committee Proposal 79, and prepare a statement that we make certain that this matter will receive the consideration of this convention, I'll join with him, and I'm sure we'll get a great many others, to see to it that it is taken up and given appropriate consideration before we finish.

CHAIRMAN HUTCHINSON: Are there any further amendments to the body of Committee Proposal 79? If not, it will pass.

Committee Proposal 79, as amended, is passed.

The delegate from the fourteenth district, Mr. Hannah, moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal which the secretary will report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 79,** A proposal pertaining to a commission on legislative apportionment. It reports the proposal back to the convention with several amendments, recommending the amendments be agreed to, and the committee proposal as thus amended do pass.

Following are the amendments made to the committee proposal by the committee of the whole:

1. Amend page 3, line 12, after "published" by striking out "in the manner provided for acts of the legislature and shall have the force of law upon such publication, and shall be subject to the same provisions of referendum as apply to acts of the legislature.", and inserting "within 30 days and shall become law 60 days thereafter in the same manner as acts of the legislature.".
2. Amend page 3, line 17, after "record" by changing the period to a comma and inserting "and shall be responsible for the publication and distribution of the report.".
3. Amend page 3, line 18, after "event" by inserting "a majority of".
4. Amend page 3, line 19, by striking out "then the commission members of each political party shall submit a plan to the supreme court.", and inserting "each member of the commission may submit to the supreme court either individually or jointly with any other members, a proposed reapportionment plan.".
5. Amend page 3, line 20, after "If" by striking out "all".
6. Amend page 3, line 23, after "commission" by inserting "as complying most accurately with the constitutional requirements.".

PRESIDENT NISBET: The question is on concurring in the amendments of the committee of the whole. Those in favor will say aye. Opposed, no.

The amendments are adopted.

Committee Proposal 79, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 79 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. There is hereby established a commission on legislative apportionment consisting of 8 persons, 4 of whom shall be selected by each of the state organizations of each of the 2 political parties casting the highest vote for governor at the last preceding general election: Provided, That if a third party receives more than 25 per cent of such gubernatorial vote the commission shall consist of 12 members, 4 of whom shall be selected by the third political party. One member from each political party shall be selected from each of 4 regions hereinafter described: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region 2 and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

No public officials or governmental employees of either the federal, state or local governments, excepting notaries public and members of the armed force reserves, shall be eligible for membership on the commission. Members shall not be eligible for election to the legislature until 2 years shall have elapsed after the apportionment in which they shall have participated.

Said commission shall be appointed immediately after the adoption of this constitution and whenever reapportioning or redistricting is required by the provisions hereof. Members shall hold office until each apportionment or redistricting plan shall become effective. Vacancies shall be filled in the manner of original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, make its own rules of procedure, and shall receive such compensation as shall be provided by law. The legislature shall appropriate the funds necessary for the support of the commission.

Within 30 days after the adoption of this constitution, and also after the official results of each federal decennial census of the state and its political subdivisions are available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to apportion, district, reapportion and redistrict the senate and house of representatives according to the provisions of this constitution. No final decisions shall be made except by a majority of all of the members of the commission. Said commission shall hold public hearings as may be provided by law.

The final apportionment and districting shall be published within 30 days and shall become law 60 days thereafter in the same manner as acts of the legislature. The secretary shall keep a record of all the proceedings of the commission which shall be public record, and shall be responsible for the publication and distribution of the report.

In the event a majority of the commission cannot agree on a plan, each member of the commission may submit to the supreme court either individually or jointly with any other members, a proposed reapportionment plan. If plans submitted meet the requirements of this constitution, the supreme court shall determine the plan which shall be adopted by the commission as complying most accurately with the constitutional requirements, and published as aforesaid.

Upon the application of any qualified elector, the supreme court, in the exercise of original and final jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, or may review any final districting plan adopted by the apportionment commission and shall make orders to amend such plan if it fails to comply with the requirements of this constitution: Provided, That no such application shall be filed more than 60 days after final publication.

SECRETARY CHASE: That completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, as called to our attention by Mr. Hodges, an amendment was proposed to Committee Proposal 79 relative to congressional districts, which I understand is different than the one which was proposed or referred to the legislative powers committee. I'm not sure, Mr. President, exactly what the status of these matters is at the present time; whether it is within the realm of the Chair to refer such matters to a catchall committee known as emerging problems. If it is, I would move that this proposed amendment be referred to that committee. If that is not in order, I would like to suggest that that committee be given the responsibility to study and report to the convention the merits of this proposed amendment.

PRESIDENT NISBET: Are you referring, Mr. Hoxie, to the delegate proposal on congressional district reorganization that was referred to your committee?

MR. HOXIE: Mr. President, as stated by Mr. Hodges—I haven't had a chance to read this—but it is my understanding it is a considerably different proposed amendment than that which was referred to the committee on legislative powers, and our work having been completed as far as reporting proposals out of committee, even though we do have a minority report before the convention, there are some serious problems as to whether it is germane under the rules. And certainly we do not wish to interfere in any way with an opportunity of this convention to fully consider the matter of congressional districts. That is the reason that I'm asking this question; if the proposed amendment relative to congressional districts as submitted by Mr. Hodges and Mr. Lesinski can be referred to the emerging problems committee. If it cannot be, then I would request that the Chair, which I believe has the authority, refer it to the committee, unofficially, to study and make a report to the convention.

PRESIDENT NISBET: Mr. Hoxie, Mr. Hodges, Dr. Hannah and members of the convention, this amendment that Mr. Hodges and Mr. Lesinski are presenting certainly deserves every recognition. If you will let us hold this over until Monday, we will make a ruling as to where it should go and how it will be handled, so that Mr. Hodges and Mr. Lesinki can be certain that it will be given every consideration.

MR. J. A. HANNAH: That is satisfactory.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: The committee on style and drafting will meet at 2:00 o'clock, Monday, in room G. Mr. Cudlip, chairman.

We have had a number of requests for the present language of section 1 of Committee Proposal 71. If the delegates will check their mailboxes before leaving today, you will find therein a copy of section 1 in the form in which it has been adopted by the committee of the whole.

Mr. Ford requests leave of absence from Monday's session.

PRESIDENT NISBET: Without objection, the request is granted.

Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I would only like to remind the delegates to this convention of an announcement made 2 days ago that down in committee room D there have been prepared copies of the long supreme court decision of Monday of this week running to 146 pages. There are not enough to go all the way around, but there are enough for all of the delegates that would care for them. If you will call downstairs, you can get a copy if you wish it.

PRESIDENT NISBET: The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. President, next Monday is that magic date that we set for ourselves 6 months ago. Until that date, I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed, no.

We are adjourned until 6:30 Monday night.

[Whereupon, at 3:05 o'clock p.m., the convention adjourned until 6:30 o'clock p.m., Monday, April 2, 1962.]

ONE HUNDRED TWELFTH DAY

Monday, April 2, 1962, 6:30 o'clock p.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this evening will be given by the Reverend Don M. Gury of the Emmanuel Episcopal Church of Hastings. Will you please rise.

REVEREND GURY: Let us pray. O Lord our God, the high and holy Governor of the Universe, we come now to ask the presence of Thy holy spirit here in this chamber, and in our hearts. Remind us, good Lord, that it is given unto us to be as a conscience for our commonwealth as we formulate a document of sound and righteous government for this great state of Michigan. Save us from all error, ignorance, pride and prejudice. Cleanse our eyes that we may see more clearly Thy will. Open our ears to hear Thy voice above the voices of selfish interests. Give us to know in our hearts the ways of justice and brotherhood, of sound learning and industrious living. May we turn to the wisdom of the ages to illumine our minds, that here may be written a charter that will stand strong in all times of tribulation as well as in all times of our prosperity.

Let the winds of Thy holy spirit breathe through the heats of our desires and temper the metal in which we cast our thoughts, so that our words may endure the stress of usage and the storms of adversity. Accept, O Lord, our differences of opinion in the heat of debate, as befits men of integrity in a free democracy. May the friction of honest debate serve only to light fires that will burn away error and injustice, and melt the chill of doubt and fear, and enlighten with hope our future as a state for generations to come.

In this world of chance and change and shift of circumstance, may there be written here a constitution sure and sound, fixed as a star among the many stars in the constellation of our American states. And may our work show us to be a people united and guided by Thy divine will, unto whom we ascribe all power and glory, forever. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine and record the attendance.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Messrs. J. B. Richards and Shanahan, temporarily from today's session; Mr. Wilkowski, from today's session; and Mr. King wishes to be excused indefinitely due to illness.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Mrs. Butler, Mrs. Conklin, Messrs. Dade, Ford, Gust, King, Mosier, J. B. Richards, L. W. Richards, Shanahan, Snyder, Suzore and Wilkowski.

Absent without leave: Messrs. Heideman, Krolikowski, McAllister, Norris and Seyferth.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Seyferth, Heideman, Krolikowski, McAllister, Norris, Gust, J. B. Richards and Shanahan.]

SECRETARY CHASE: The secretary today was in receipt of a letter from Judge Mosier. He reports as follows:

> After 2 weeks in the hospital I am now home and making such recovery that I hope to be on the job soon.
>
> I do want you to know that I appreciate your interest, sympathy and prayers.
>
> Very truly yours,
> Carl D. Mosier.

PRESIDENT NISBET: Last Friday Mr. Hodges raised the question as to a proposed amendment to our constitution relative to the apportionment of districts for members of congress. Several delegate proposals were introduced relative to this subject. Because, as Judge Dehnke so well said last Friday, "whatever duty the legislature has on that subject has its origin and roots not in the state constitution, nor in state statutes, but the federal constitution and the enactments of congress," without exception all these delegate proposals were referred to the committee on legislative powers.

A minority report dealing with this subject has been filed for consideration with Committee Proposal 113. Because the subject of congressional apportionment has been consistently referred to the committee on legislative powers, the Chair feels that the minority report is in order, that it is germane to the subject of the legislative powers, and that any other amendments in this subject area should be offered to and considered with Committee Proposal 113.

Reports of standing committees.

SECRETARY CHASE: There are no committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Second reading.

SECRETARY CHASE: Nothing on that calendar for today.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: **Motions and resolutions.**

SECRETARY CHASE: No resolutions on file.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that the order of second reading be passed for the week.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The motion prevails.

Unfinished business.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 85,** A resolution to hasten the work of the convention and to enable the convention to meet the fiscal deadline of May 15.

For Resolution 85 as offered, see above, page 1891.

The committee on rules and resolutions has offered the following amendment:

[The amendment was read by the secretary. For text, see above, page 1953.]

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I believe all of the delegates have been furnished with a copy of Resolution 85 as it was reported from the committee on rules and resolutions. Let me just reread what the secretary just read to you:

> Resolved, That the rules of this convention be forthwith amended so as to incorporate the following change:
>
> When the committee of the whole reports to the convention, the actions of the committee of the whole be accepted. The yeas and nays may be ordered in the committee of the whole.

Now, what this resolution and rule change would do is this: as you know, we have had considerable duplication of effort when, after the committee of the whole has arisen, the arguments and the amendments which were considered in committee of the whole have been reoffered for the purpose of obtaining record roll calls, and we have simply replowed the same ground which had previously been considered in committee of the whole.

Belatedly the rules committee has come to the conclusion that this duplication of effort is wasteful, that it could be avoided and the work of the convention and of the committee of the whole made more fruitful if the work of the committee of the whole were made more meaningful by permitting record roll calls in committee of the whole on the same basis that they are permitted in the convention and by requiring the automatic acceptance by the convention of the work of the committee of the whole so that the report of the committee of the whole would be read and the proposal immediately referred to the committee on style and drafting.

I believe you all have on your desks a copy of rule 41 as it would be amended by this resolution. It simply strikes out the requirement that the yeas and nays shall not be called in committee of the whole, and adds at the end that when the committee of the whole reports to the convention, the actions of the committee of the whole shall be accepted.

Let me anticipate one question which is certain to be asked: will this rule change apply to the report of the committee of the whole with respect to Committee Proposal 71? The answer which I can give, after consultation with our parliamentarian, is no, because the report of the committee of the whole with respect to Committee Proposal 71 was made in advance of our consideration of this rule change, and therefore when the report of the committee of the whole is considered by the convention, it will be considered under the rules as they presently are and before adoption of Resolution 85, assuming that it is adopted.

I can state to you that the resolution has the unanimous support of the rules committee, and I would hope that it would have similar support on the part of the convention. I move the adoption of the amendment to Resolution 85 as presented by the rules committee.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I certainly support this proposed amendment to the rules. Speaking personally, I would be prepared to go even further than the committee on rules has done, but I would like to ask the gentleman from Birmingham to refresh my memory and the memory of the convention in one respect. I would like him to advise us once again how many indications from delegates are required for a mere division, and for a yea and nay vote.

MR. VAN DUSEN: Mr. Bentley, my recollection is that it is 10 delegates for a division, and 1/5 of those present for the calling of the yeas and nays.

MR. BENTLEY: Does that mean that it is assumed then in all cases, Mr. President, that a quorum is present when 1/5 is required?

MR. VAN DUSEN: That is correct, Mr. Bentley.

MR. BENTLEY: In other words, let's say a simple quorum of the convention is, of course, only 73. In other words, if we have 15 votes for the yeas and nays, is that sufficient?

MR. VAN DUSEN: If that is 1/5. Your arithmetic may be faster than mine, Mr. Bentley and Mr. President.

MR. BENTLEY: That is the question, Mr. President.

PRESIDENT NISBET: That would be correct, Mr. Bentley.

MR. BENTLEY: A quorum of the convention is 73 delegates so 1/5 of a quorum is only 15. My question is: if we have 15 demands for a yea and nay vote, will that normally be accepted as sufficient?

MR. VAN DUSEN: Mr. President, may I ask the parliamentarian to respond to that?

PRESIDENT NISBET: The rule is 1/5 of those present, Mr. Bentley, so you are correct. Maybe you better ask the question again.

MR. BENTLEY: My question, Mr. President, is this: would it be necessary to have a count of those delegates actually present and then to determine how many 1/5 would be to determine whether you have a sufficiency for a yea and nay vote?

PRESIDENT NISBET: The rule says 1/5 of those present. That would be correct.

MR. BENTLEY: Well, I will let that question come when we arrive at it, Mr. President. Thank you.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I would like to ask Mr. Van Dusen —

PRESIDENT NISBET: Mr. Van Dusen.

MR. HUTCHINSON: — if this rule change is adopted, would it then be in order, after the committee rises, for any delegate to offer an amendment which had not been adopted in the committee of the whole?

MR. VAN DUSEN: Mr. President and Mr. Hutchinson, my interpretation of the rule is in the negative, that the report of the committee of the whole will be accepted as is — no amendments, no changes. It will be accepted and referred to the committee on style and drafting, and any consideration of further amendments would abide consideration of the proposal on second reading.

MR. HUTCHINSON: Mr. President, then I understand that the question would not even be upon concurring in those amendments. The amendments as reported by the secretary would be deemed to have been adopted by the convention and referred without any further action on the convention's part.

MR. VAN DUSEN: Mr. President and Mr. Hutchinson, your interpretation is in accordance with mine.

MR. HUTCHINSON: I think it necessary, Mr. President, to have this understanding, because in just a reading of the words here, I don't think that that is clearly spelled out, and I just hope that we can have a unanimous understanding as to what is intended. I understand, then, that the committee's interpretation of its words is that there no longer will be any amendment in order when a proposal is reported from committee of the whole, and that the committee of the whole's actions on a proposal will simply be referred along with the proposal to the committee on style and drafting without any further action on the convention's part. Now I would like to ask Mr. Van Dusen another question.

PRESIDENT NISBET: Mr. Van Dusen.

MR. HUTCHINSON: When the yeas and nays are ordered, one of the things that is inherent in the idea of a record roll call is the opportunity to call the convention so that you will be sure to have everybody on the floor to vote. However, this rule change does not encompass or infer any right in committee of the whole to issue a call of the convention; is that correct?

MR. VAN DUSEN: Mr. President, Mr. Hutchinson, that is correct.

MR. HUTCHINSON: Well, since you can't call the convention in committee of the whole under this rule change, I take it with the yeas and nays, even though it will be a record roll call, the matter can be adopted in committee of the whole by a simple greater number of votes for than against.

MR. VAN DUSEN: Mr. President and Mr. Hutchinson, that is correct.

MR. HUTCHINSON: Yes, and that the only thing we can do is just ring the bell, and if they don't show up, why, they don't show up.

MR. VAN DUSEN: Mr. President, Mr. Hutchinson is, as usual, correct.

MR. HUTCHINSON: All right. I just wanted to have this understood so that somebody wouldn't get the idea that since we had a yea and nay record roll call, that somehow or other in committee of the whole he could demand a call of the convention.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, one more question of the gentleman from Birmingham. Is it my understanding of the proposed amendment to the rules that after the committee has risen, debate upon whether or not the recommendations or the actions of the committee of the whole are to be accepted will be out of order?

MR. VAN DUSEN: That is correct, Mr. Bentley.

MR. BENTLEY: There will be no debate upon whether or not to accept the recommendations of the committee of the whole?

MR. VAN DUSEN: It is my understanding, Mr. Bentley and Mr. President, that upon the receipt of the report of the committee of the whole, it will be in order for the president to announce that pursuant to rule 41, committee proposal so and so, as amended — if it has been — will be referred to the committee on style and drafting, and that nothing else will be in order.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Mr. President, a question of Mr. Van Dusen. What would be the action or what would be the remedy if, again, a delegate or more delegates refused to accept their responsibility and vote on a specific issue? Is there any remedy provided?

MR. VAN DUSEN: Not in this resolution, Mr. Walker.

MR. WALKER: Thank you.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I want to say I think the idea of combining really what has been the committee of the whole work with the action when the committee arises will help us get through with the convention, and I think the committee is working out a very practical matter on that. I would like to ask the chairman of the rules committee one question through the Chair, if I may.

PRESIDENT NISBET: Mr. Van Dusen.

MR. DOWNS: Mr. Van Dusen, we have a mimeographed sheet, and the last sentence says, in the new language, ". . . when the committee of the whole reports to the convention, the actions of the committee of the whole shall be accepted." I think you added another sentence. Would you read that, or is there another sentence in addition to that? I think you said that the yeas and nays may be ordered in committee of the whole.

MR. VAN DUSEN: Mr. President and Mr. Downs, you will note in the fourth line of the proposed amendment of rule 41 the words, "the yeas and nays shall not be called," have been stricken, and this is all that is necessary to accomplish the rule change which is proposed by the resolution. The resolution was not cast in the precise form of a rule change, and its implementation requires the striking of a prohibition currently found in rule 41.

MR. DOWNS: Mr. President, another inquiry to Mr. Van Dusen. I have just drafted this, which may or may not be good drafting. Would it clarify the point if we would add the sentence, "The yeas and nays may be ordered in the committee of the whole in the same manner as in the convention?" I think if we adopted that language, it might clear up the point that Delegate Bentley raised as to how we compute the 1/5 and such other related matters. I have just offered that as a suggestion. I sympathize completely with the intent of the committee.

MR. VAN DUSEN: Well, Mr. President and Mr. Downs, your suggestion was considered earlier with the secretary of the convention, and I believe it was his conclusion as well as mine that since rule 41 states, "The rules of the convention shall be observed in the committee of the whole, so far as they may be applicable," if we simply strike out the prohibition, which is found 2 lines farther down, "the yeas and nays shall not be called," then the yeas and nays are clearly in order in the committee of the whole on the same basis that they may be ordered in the convention.

MR. DOWNS: I think that logic is pretty hard to dispute and I accept the explanation. I would want to be very clear on this one point, then: in case a delegate wishes to explain his vote, wishes to abstain from voting or any other procedural matter that is now permitted in the rules under the convention, those same rules would now apply in the committee of the whole when the recorded roll call vote is taken; is that correct?

MR. VAN DUSEN: Mr. President, Mr. Downs is entirely correct, in my opinion.

MR. DOWNS: Thank you. And I would like again to say that I think the objective is very commendable and should facilitate the convention. I urge its support.

PRESIDENT NISBET: The question is on the amendment offered by the committee. Mr. Walker.

MR. WALKER: Mr. President, I was in the process of preparing an amendment after "indefinitely" to strike the words "or for a call of the convention shall not be in order" and to insert something to the effect that the other rules of the convention shall apply.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: I would respectfully suggest, Mr. President, that Mr. Walker's amendment is not in order. The language of rule 41 which is before us is before us simply as advice as to the manner of implementation of the resolution which is proposed by the committee on rules and resolutions.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: I would then like to ask, first, what would be the procedure for a remedy for things that might arise here? Another resolution, possibly? And I would like to offer — and will submit to the Chair or to the secretary in a few moments — an amendment to strike, after "indefinitely," the "or for a call of the convention shall not be in order." This is, I believe, part of this resolution and rule.

PRESIDENT NISBET: Mr. Walker, will you bring it up here to Mr. Chase, please.

MR. WALKER: I will as soon as I have prepared it, sir.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, perhaps Mr. Walker is not aware of what is before us. What is before us is the amendment offered by the committee on rules and resolutions to Resolution 85. The words "postpone indefinitely" to which he refers are not mentioned at all in that resolution.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: I am just looking at some of the right forms, if I might. The only thing that I wish to do, for clarification to Mr. Van Dusen's remarks, is to strike the one sentence beginning after the word "indefinitely," the balance of the sentence.

PRESIDENT NISBET: Mr. Walker, would you come up? What rule are you talking about?

MR. WALKER: Rule 41 as amended by Resolution 85 as appears on the paper that has been delivered to us.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Point of order. It seems to me — maybe Mr. Walker intends it this way — this would be another change in the rule, which would require a resolution to be turned in to the secretary and then referred to the rules committee. It couldn't come in as an amendment tonight, if that is what Mr. Walker was intending.

PRESIDENT NISBET: Mr. Allen, your interpretation is correct. Mr. Walker, if you are presenting a resolution, it would not be applicable to the resolution tonight. Do you still care to do that?

MR. WALKER: The resolution is on the floor, Mr. President, and I do feel that such an amendment to the amended rule would be in order. Otherwise it would be adopted as is and there would be no remedy for the rule until such a resolution had been adopted, which might be virtually any time.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, Mr. Walker's amendment, I take it, seeks to strike the prohibition in rule 41 against a call of the convention. There is nothing in Resolution 85 dealing with a call of the convention, even though Resolution 85, when implemented, will apply to rule 41. I would suggest that if Mr. Walker wants to eliminate the prohibition against a call of the convention in the committee of the whole, he should do so by an appropriate resolution dealing with that subject which could be referred to the rules committee, be considered there and, if considered favorably, be reported; it would lie over 2 days in the ordinary course of rule changes. But the rule change which he proposes has nothing to do with the rules changes proposed by Resolution 85, and I don't think it is in order at this time, and if it is ruled to be in order, I will urge that the convention do not adopt it.

PRESIDENT NISBET: Mr. Walker, a rule change is not in order at the present time by amendment. You will submit it, the Chair understands it, as a rule change through the proper procedure.

The question is on the amendment.

SECRETARY CHASE: The question before the convention is the amendment to Resolution 85 as recommended by the committee on rules and resolutions.

PRESIDENT NISBET: Those in favor of the amendment will please say aye. Opposed, no.

The amendment is adopted. The question is on the resolution, as amended. Those in favor please say aye. Opposed, no.

Resolution 85, as amended, is adopted.

Following is Resolution 85 as amended and adopted:

> A resolution to hasten the work of the convention and to enable the convention to meet the fiscal deadline of May 15.
>
> Resolved, That the rules of this convention be forthwith amended so as to incorporate the following change:
>
> That when the committee of the whole reports to the convention, the actions of the committee of the whole be accepted. The yeas and nays may be ordered in the committee of the whole.

Mr. Van Dusen.

MR. VAN DUSEN: Excuse me, Mr. President. I was listening to Mr. Radka. Did you have a question?

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: The secretary now understands that, Resolution 85 having been adopted, as amended, you propose to —

MR. VAN DUSEN: Mr. Secretary, I am grateful for your reminder. I would now move, Mr. President, that rule 41 be amended, as shown to the delegates in the printed forms on their desks, to conform with Resolution 85 which we have just adopted.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The motion prevails.

Following is rule 41 as amended:

> Rule 41. The rules of the convention shall be observed in the committee of the whole, so far as they may be applicable, except that it cannot adjourn the convention, the previous question shall not be ordered, the vote of a majority of the committee shall govern its action, it cannot refer matters to any other committee, and a motion to postpone indefinitely or for a call of the convention shall not be in order. A delegate may speak more than once in the committee of the whole. A journal of the proceedings in committee of the whole shall be kept as in convention. When the committee of the whole reports to the convention, the actions of the committee of the whole shall be accepted.

Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the consideration of proposals on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee has under consideration the proposal having to do with reapportionment, which the secretary will read.

SECRETARY CHASE: Item 2 on the calendar, from the committee on legislative organization, by Mr. J. A. Hannah, chairman, **Committee Proposal 80,** A proposal pertaining to the reapportionment of the legislature: (a) the senate; (b) the house of representatives; (c) districting of territories annexed to cities and municipalities. Replaces article V, sections 2 and 3.

Following is Committee Proposal 80 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. THE SENATE SHALL CONSIST OF NOT LESS THAN 36 NOR MORE THAN 40 MEMBERS, ELECTED FROM SINGLE MEMBER DISTRICTS FOR 4 YEAR TERMS CONCURRENT WITH THE TERM OF OFFICE OF THE GOVERNOR.

FOR THE PURPOSE OF ELECTING SENATORS AFTER THE OFFICIAL PUBLICATION OF THE RESULTS OF THE FEDERAL DECENNIAL CENSUS IN 1970 AND EVERY 10 YEARS THEREAFTER, EACH COUNTY SHALL BE ASSIGNED AN APPORTIONMENT FACTOR ACCORDING TO THE FOLLOWING FORMULA: THE PERCENTAGE OF THE STATE'S POPULATION AS SHOWN BY THE LAST REGULAR FEDERAL DECENNIAL CENSUS COMPUTED TO THE NEAREST 1/100 OF 1 PER CENT SHALL BE MULTIPLIED BY 4 AND THERE SHALL BE ADDED THERETO THE PERCENTAGE OF THE STATE'S AREA COMPUTED TO THE NEAREST 1/100 OF 1 PER CENT.

IN ARRANGING THE STATE INTO SENATORIAL DISTRICTS, THE APPORTIONMENT COMMISSION SHALL BE GOVERNED BY THE FOLLOWING RULES:

(1) FIRST: COUNTIES WITH 13 OR MORE APPORTIONMENT FACTORS SHALL BE ENTITLED TO ONE SENATORIAL DISTRICT FOR EACH 13 APPORTIONMENT FACTORS EXCEPT THAT ANY COUNTY WITH 19.5 OR MORE APPORTIONMENT FACTORS SHALL BE ENTITLED TO NOT LESS THAN 2 SENATE DISTRICTS.

(2) SECOND: THE REMAINING COUNTIES OF THE STATE SHALL BE ARRANGED INTO SENATORIAL DISTRICTS THAT ARE COMPACT, CONTIGUOUS BY LAND AND AS RECTANGULAR IN SHAPE AS POSSIBLE, HAVING AS NEARLY AS POSSIBLE 13 APPORTIONMENT FACTORS, BUT IN NO EVENT LESS THAN 10 OR MORE THAN 16. INSOFAR AS POSSIBLE EXISTING SENATORIAL DISTRICTS AT THE TIME OF EACH REAPPORTIONMENT SHALL NOT BE CHANGED UNLESS THERE SHALL BE A FAILURE TO COMPLY WITH THE ABOVE STANDARDS.

(3) THIRD: COUNTIES ENTITLED TO 2 OR MORE SENATE DISTRICTS SHALL BE FURTHER SUBDIVIDED INTO SINGLE MEMBER DISTRICTS SO THAT THE POPULATION OF ANY DISTRICT SHALL BE NOT LESS THAN 75 PER CENT NOR MORE THAN 125 PER CENT OF THE RATIO OF REPRESENTATION DETERMINED BY DIVIDING THE POPULATION OF THE COUNTY BY THE NUMBER OF SENATORS TO WHICH IT IS ENTITLED AND EACH DISTRICT SHALL FOLLOW INCORPORATED CITY OR TOWNSHIP BOUNDARY LINES TO THE EXTENT POSSIBLE AND SHALL BE COMPACT, CONTIGUOUS, AND AS NEARLY RECTANGULAR AS POSSIBLE.

UNTIL THE REAPPORTIONMENT OF THE SENATE FOLLOWING THE 1970 CENSUS, THE SENATORIAL DISTRICTS UNDER THE 1908 CONSTITUTION, AS AMENDED, SHALL REMAIN INTACT EXCEPT THAT EACH OF THE COUNTIES OF GENESEE, MACOMB AND OAKLAND SHALL BE DIVIDED INTO 2 SENATORIAL DISTRICTS AND WAYNE COUNTY INTO 8 SENATORIAL DISTRICTS. IN ALL COUNTIES HAVING MORE THAN ONE SENATORIAL DISTRICT, THE APPORTIONING COMMISSION SHALL REDISTRICT THE SAME.

Sec. b. THE HOUSE OF REPRESENTATIVES SHALL CONSIST OF 110 MEMBERS ELECTED FOR A 2 YEAR TERM FROM SINGLE MEMBER DISTRICTS APPOR-

Explanation—Matter within [ ] is stricken, matter in capitals is new.

TIONED ON A BASIS OF POPULATION AS HEREINAFTER PROVIDED. THE DISTRICTS SHALL CONSIST OF COMPACT AND CONVENIENT TERRITORY CONTIGUOUS BY LAND.

EACH COUNTY WHICH HAS A POPULATION OF NOT LESS THAN 7/10 OF 1 PER CENT OF THE POPULATION OF THE STATE SHALL BE A SEPARATE REPRESENTATIVE AREA. EACH COUNTY HAVING LESS THAN 7/10 OF 1 PER CENT OF THE POPULATION OF THE STATE SHALL BE COMBINED WITH ANOTHER COUNTY OR COUNTIES TO FORM A REPRESENTATIVE AREA OF NOT LESS THAN 7/10 OF 1 PER CENT OF THE POPULATION OF THE STATE. ANY COUNTY WHICH SHALL BE ISOLATED UNDER THE INITIAL ALLOCATION AS HEREIN PROVIDED SHALL BE JOINED WITH THAT CONTIGUOUS REPRESENTATIVE AREA HAVING THE SMALLEST PERCENTAGE OF THE STATE'S POPULATION. EACH SUCH REPRESENTATIVE AREA SHALL BE ENTITLED INITIALLY TO ONE SEAT.

AFTER THE ASSIGNMENT OF ONE REPRESENTATIVE TO EACH OF THE REPRESENTATIVE AREAS, THE REMAINING HOUSE SEATS SHALL BE APPORTIONED AMONG THE REPRESENTATIVE AREAS ON THE BASIS OF POPULATION BY THE METHOD OF EQUAL PROPORTIONS.

ANY COUNTY COMPRISING A REPRESENTATIVE AREA ENTITLED TO 2 OR MORE REPRESENTATIVES SHALL BE DIVIDED INTO SINGLE MEMBER REPRESENTATIVE DISTRICTS AS FOLLOWS:

(1) THE RATIO OF REPRESENTATION FOR EACH REPRESENTATIVE DISTRICT SHALL BE DETERMINED BY DIVIDING THE POPULATION OF THE REPRESENTATIVE AREA BY THE NUMBER OF SEATS TO WHICH IT IS ENTITLED. EACH DISTRICT WITHIN EACH AREA SHALL CONTAIN NOT LESS THAN 75 PER CENT NOR MORE THAN 125 PER CENT OF THAT AREA'S RATIO OF REPRESENTATION.

(2) SUCH SINGLE MEMBER DISTRICTS SHALL FOLLOW CITY AND TOWNSHIP BOUNDARIES WHERE APPLICABLE AND SHALL BE COMPOSED OF COMPACT AND CONTIGUOUS TERRITORY AS NEARLY SQUARE IN SHAPE AS POSSIBLE.

ANY REPRESENTATIVE AREA CONSISTING OF MORE THAN ONE COUNTY, ENTITLED TO MORE THAN ONE REPRESENTATIVE, SHALL BE DIVIDED INTO SINGLE MEMBER DISTRICTS AS EQUAL AS POSSIBLE IN POPULATION ADHERING TO COUNTY LINES.

Sec. c. IN COUNTIES HAVING MORE THAN ONE REPRESENTATIVE OR SENATORIAL DISTRICT, THE TERRITORY ANNEXED OR MERGED TO A MUNICIPALITY SHALL BECOME A PART OF THE CONTIGUOUS REPRESENTATIVE OR SENATORIAL DISTRICT OF THE MUNICIPALITY WITH WHICH IT IS COMBINED, UPON THE EFFECTIVE DATE OF THE ANNEXATION OR MERGER: PROVIDED HOWEVER, THE FOREGOING SHALL NOT APPLY TO ANY ANNEXATION OR MERGER ACROSS COUNTY LINES.

NO LEGISLATOR SHALL BE DEEMED TO HAVE VACATED HIS OFFICE BY VIRTUE OF THE ABOVE SECTION.

Mr. John Hannah, chairman of the committee on legislative organization, submits the following reasons in support of Committee Proposal 80:

Few problems of state government recur so persistently or are so critical as legislative apportionment and redistricting. As most delegates recognize, this subject conditions the whole matter of constitutional change.

The substantial population shifts which have occurred in Michigan in recent decades pose serious problems for representative government.

At the present time a number of different bases of representation are used for the apportionment of state legislatures. In the early history of the American states emphasis was placed upon population as a basis of representation.

As new states were formed throughout the nineteenth century with large territory and few inhabitants, the people in framing their constitutions recognized territory as a base in addition to population.

Today 6 bases are used in the apportionment of state legislatures. One student of apportionment (Gordon Baker) has categorized the methods used in the 50 states as follows:

	Senates	Houses	Unicameral	Total
(1) Population	19	12	1	32
(2) Population, but with weighted ratios	1	7	—	8
(3) Combination of population and area	17	28	—	45
(4) Equal apportionment for each unit	7	1	—	8
(5) Fixed constitutional apportionment	4	1	—	5
(6) Apportionment by taxation	1	0	—	1
Total	49	49	1	99

One-third of the total legislative houses are based on population alone. Almost half of the legislative houses are based on a combination of population and area. The present Michigan constitution bases house representation mainly on population and the senate on a combination of area and population. The committee is convinced that most Michigan citizens would agree with former President Eisenhower that the major basis for representation should be population, but that most also believe that in a state with large and diverse geographic areas, some consideration should be given to the area factor in determining representative districts in at least one house of the legislature. However, as shifts in Michigan population continue, the senate will move increasingly toward area as the principal basis for representation unless some change is made to maintain the intended balance between the area and population factors. Thus, in its 3½ months of deliberation, it was the intent of the committee on legislative organization to preserve for Michigan an apportionment plan which would be fair, equitable, and as valid 30 or 40 years from now as it is today. It is our belief that this intent is fully realized in the proposal now placed before the convention by the committee. This plan will encourage and foster interest and participation in the affairs of our state by citizens in every part of our state.

Sec. a. The senate: senate districts in the present constitution were established by a majority vote of the people of Michigan in 1952.

The committee, however, recognizes that there has been a population expansion in certain areas of southeastern Michigan since 1952.

The majority of the committee concluded after extended hearings that the representation in the senate should be based on a blend of population and area factors. The committee agreed with former President Eisenhower who, in addressing the convention, stated that population should be given major consideration, but that some consideration should also be given to equitable representation for all areas of the state.

The committee examined over 40 different proposals for apportionment of the senate. All proposals, including those submitted by citizens, were carefully considered.

The majority members of the committee concluded that a formula was needed that would combine area and population factors in a way that would accomplish precisely the balance intended. The committee was impressed by testimony offered at public hearings in Lansing, Detroit, Kalamazoo and Berrien Springs urging that the senate apportionment should reflect area as well as population.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

In the formula adopted, a plan which evolved from many earlier proposals, the majority of the committee feels it has achieved the most effective method of providing the balance that the voters desire.

The majority members of the committee feel that in the interest of an orderly and sound transition, change should be made gradually. The committee proposes that upon the adoption of this constitution, the senate membership shall be increased from 34 to 38, adding one senate seat each to Wayne, Oakland, Genesee and Macomb counties. This proposal recognizes the continued shift of population to southeastern Michigan.

The plan which will go into effect after the 1970 census bases representation 80 per cent on population and 20 per cent on area. This is achieved by calculating the percentage of the state's population living in each county, multiplying this number by 4, and adding the percentage of the total area in the county to that figure. The resulting figure is the county's apportionment factor, and the county unit becomes the major building block in creating senate districts. From 36 to 40 single member districts will be established by the apportionment commission in such a way that districts will have approximately 13 apportionment factors per district.

Established districts that fit the new apportionment specifications will remain unchanged. Multidistrict counties will be districted by the apportionment commission so that each district will not vary more than 25 per cent from the county district population ratio.

The majority of the committee feels this plan offers many advantages. It is responsive to population shifts so that the precise balance of population and area can be maintained. It limits considerably the discretion of the apportioning commission because it is based on a clearly stated formula rather than vague guides. Most important, the plan achieves precisely what it is designed to accomplish, a blend of population and area factors in a logical and effective way.

Sec. b. The house of representatives: under the committee proposal, the membership of the house of representatives will be fixed at 110. The size of Michigan's house thus will continue to stand twenty-first among the states in a ranking from largest to smallest, and the house will be approximately 2.7 times larger than the senate, about average among the states.

On the basis of much testimony emphasizing that larger legislative bodies tend to grow unwieldy and become less effective, the committee recommends maintaining the house at its present size rather than increasing the membership.

All house districts will follow county boundary lines. This is recommended in order to assure citizens clearly identifiable and traditionally recognized voting districts, and to conform to the long established county organization patterns of many groups, including the political parties. Many states follow county lines in districting, and the weight of testimony heard by the committee overwhelmingly favored continuing this practice in Michigan.

Single member districts are recommended in the house. The committee is convinced that single member districts increase the opportunity for meaningful citizen participation and for effective, responsible representation.

By providing one representative to a county or to a group of counties which has not less than 7/10 of 1 per cent of the population of the state, the plan recommended comes as close as possible to basing the house on population without breaking county lines and without combining great numbers of counties into districts of unwieldy and unreasonable size.

After first awarding one seat to each of the single county and multicounty representative areas meeting the 7/10 ratio required, the remaining seats will be apportioned among the districts using the method of "equal proportions," the formula used by the federal government in distributing congressional seats among the states.

Under equal proportions, each remaining representative seat is distributed on an exact population basis, with the first seat being awarded to the district with the highest population ratio, and so on down the list. This formula is included in the constitutions of Alaska and Hawaii. The use of equal proportions assures the allocation of seats upon the basis of population, and precisely determines the priority of various districts in receiving additional representation. This procedure limits the discretion of the apportioning commission.

The plan recommended by the committee thus increases the population ratio required to qualify for representation from the present 5/10 to 7/10 of 1 per cent of the state's total population per district. After one representative is awarded to each district so established, the plan uses a mathematical formula (equal proportions) based wholly on population to distribute the remaining number of seats.

The committee observed that the modern constitutions of Alaska and Hawaii retained the half ratio moiety provisions in their legislative apportionment.

Under the present plan of apportionment, the committee found in its studies that Michigan stands seventh among the states in terms of using population as a base for providing representation in the house. The plan recommended by the committee will give Michigan an even higher ranking among the states. The committee feels that it is equitable and fair now and will be equally valid in the future.

Sec. c. Districting of annexed territories: in some senatorial and representative districts, after extensive annexations have been made from townships or the merger of 2 cities has occurred, election procedures have been complicated by the fact that city residents in the same city wards vote in different legislative districts. Where these combinations of territory do not cross county lines, it is proposed that the annexed territory immediately become a part of the municipality's legislative district. Such change would not, however, unseat a member of the legislature living in the annexed area for the remainder of the term to which he was elected.

Following is the minority report to Committee Proposal 80 as offered and the reasons submitted in support thereof:

Messrs. Nord, Marshall, T. S. Brown, Greene, Hodges, Liberato and Sablich, a minority of the committee on legislative organization, submit the following minority report to Committee Proposal 80:

A minority of the committee recommends that the following be included in the constitution:

Sec. a. THE SENATE: SENATORS SHALL BE ELECTED AT GENERAL ELECTIONS FOR 2 YEAR TERMS AND BY SINGLE DISTRICTS. SUCH DISTRICTS SHALL BE NUMBERED FROM 1 TO 19, INCLUSIVE, AND SHALL BE COMPRISED AS FOLLOWS: THE STATE SHALL BE DIVIDED INTO THE FOLLOWING 4 ZONES OF APPROXIMATELY EQUAL AREA: (1) THE UPPER PENINSULA; (2) THE NORTHERN PART OF THE LOWER PENINSULA, NORTH OF A LINE DRAWN ALONG THE NORTHERN BOUNDARIES OF THE COUNTIES OF BAY, MIDLAND, ISABELLA, MECOSTA, NEWAYGO AND OCEANA; (3) SOUTHWESTERN MICHIGAN, COMPRISING THOSE COUNTIES WEST OF A LINE DRAWN ALONG THE WESTERN BOUNDARIES OF THE COUNTIES OF BAY, SAGINAW, SHIAWASSEE, INGHAM, JACKSON AND HILLSDALE; AND (4) SOUTHEASTERN MICHIGAN, COMPRISING THE REMAINING COUNTIES OF THE STATE LOCATED EAST OF THE LINE DESCRIBED ABOVE. EACH SUCH ZONE SHALL FIRST BE ALLOCATED ONE DISTRICT, AND THERE SHALL THEREAFTER ALSO BE ALLOCATED 15 ADDITIONAL DISTRICTS TO BE DISTRIBUTED AMONG SAID 4 ZONES ON THE BASIS OF THEIR RESPECTIVE POPULATIONS ON AS NEARLY EQUAL

Explanation—Matter within [ ] is stricken, matter in capitals is new.

A BASIS AS POSSIBLE. EACH SUCH ZONE SHALL THEN BE DIVIDED INTO THE TOTAL NUMBER OF DISTRICTS THUS ALLOCATED THERETO, ON THE BASIS OF POPULATIONS WHICH ARE AS NEARLY EQUAL AS MAY BE WITHIN SAID ZONE, EACH SUCH DISTRICT BEING COMPACT AND CONTIGUOUS AND RESPECTING COUNTY LINES. IN DETERMINING THE APPROACH TO EQUALITY OF POPULATION IN SAID DISTRICTS, THE TEST TO BE APPLIED SHALL BE THE MINIMIZATION OF THE SUM OF THE ABSOLUTE VALUES OF THE DEVIATIONS OF THE POPULATIONS OF EACH OF SAID DISTRICTS FROM THE MEAN. THERE SHALL BE ELECTED FROM EACH SUCH DISTRICT 2 OR MORE MEMBERS ON THE FOLLOWING BASIS: EACH POLITICAL PARTY APPEARING ON THE BALLOT MAY NOMINATE NOT MORE THAN ONE PERSON AS CANDIDATE FOR SENATOR FROM EACH SUCH DISTRICT. EACH VOTER IN EACH SUCH DISTRICT SHALL VOTE FOR NOT MORE THAN ONE SUCH CANDIDATE FOR SENATOR. THE 2 CANDIDATES IN EACH SUCH DISTRICT RECEIVING THE LARGEST NUMBER OF VOTES SHALL BE ELECTED, AND ANY OTHER CANDIDATE RECEIVING AT LEAST 25 PER CENT OF THE TOTAL VOTES CAST FOR SENATOR IN SAID DISTRICT SHALL ALSO BE ELECTED. IN THE ORGANIZATION OF THE SENATE THEREAFTER AS A PARLIAMENTARY BODY, IN THE SELECTION OF COMMITTEES THEREIN, AND IN THE ENACTMENT OF LEGISLATION, EACH SENATOR SHALL HAVE A VOTE EQUAL TO THE NUMBER OF VOTES RECEIVED BY HIM IN HIS ELECTION, EXCEPT THAT THIS PROVISION MAY BE WAIVED BY FAILURE TO MAKE EFFECTIVE DEMAND FOR THE YEAS AND NAYS. EACH SENATOR SHALL HAVE AN EQUAL VOTE IN EACH COMMITTEE OTHER THAN THE COMMITTEE OF THE WHOLE. IN THE EVENT OF A VACANCY OCCURRING IN THE MEMBERSHIP OF THE SENATE, SAID VACANCY SHALL BE FILLED BY A RESIDENT OF THE DISTRICT IN QUESTION SELECTED BY THE STATE CENTRAL COMMITTEE OF THE POLITICAL PARTY OF THE MEMBER WHO FORMERLY HELD SUCH OFFICE; SAID RESIDENT SO SELECTED SHALL SERVE FOR THE REMAINDER OF THE TERM AND SHALL HAVE THE SAME VOTING RIGHTS AND PRIVILEGES AS THOSE OF THE MEMBER WHOM HE REPLACES.

Sec. b. THE HOUSE: THE HOUSE OF REPRESENTATIVES SHALL CONSIST OF 115 MEMBERS ELECTED FOR 2 YEAR TERMS FROM SINGLE MEMBER DISTRICTS APPORTIONED ON THE BASIS OF DISTRICTS WHICH SHALL BE COMPACT, CONTIGUOUS BY LAND, ADHERING TO COUNTY LINES, AND AS NEARLY EQUAL IN POPULATION AS MAY BE. IN DETERMINING THE APPROACH TO EQUALITY OF POPULATION IN SUCH DISTRICTS, THE TEST TO BE APPLIED SHALL BE THE MINIMIZATION OF THE SUM OF THE ABSOLUTE VALUES OF THE DEVIATIONS OF THE POPULATIONS OF EACH OF SAID DISTRICTS FROM THE MEAN.

Messrs. Nord, Marshall, T. S. Brown, Greene, Hodges, Liberato and Sablich, a minority of the committee on legislative organization, submit the following reasons in support of the foregoing minority report which accompanied Committee Proposal 80:

I. Introduction

A. Apportionment of the legislature. We dissent from the apportionment systems proposed by the majority of the committee for both the house of representatives and the senate, on the grounds that they are wrong in principle and in practice.

B. Annexation. We also dissent from that portion of the majority report dealing with annexation, on the ground that this matter was not thoroughly discussed in committee, was a last minute decision, is not supported by any reasons, and arbitrarily singles out one particular problem resulting from changes between reapportionments.

II. The need for a new apportionment of the legislature

A. Burden of proof. We believe no changes ought to be made in the constitution unless the proponents are willing and able to carry the burden of proof of showing (1) a need for a change from the present system, and (2) that the proposed system meets such need. In our opinion, the majority report fails to carry these burdens and, for this reason alone, the majority proposal ought to be rejected by the committee of the whole.

We believe a change in the apportionment of the senate is indispensable to effective and representative government in Michigan, and that a change in the apportionment of the house is warranted, though not indispensable. We believe the majority proposal, however, fails to make changes commensurate with the needs.

B. Reasons for a change in the apportionment of the legislature. We believe that a change in the apportionment of the legislature is indispensable for the following reasons:

(1) The majority does not prevail in the legislature. On the contrary, important legislation is enacted by legislators representing a minority of the people. The existence of a gubernatorial veto has been no solution for this, since a veto cannot per se enact any legislation, and excessive use of the veto would paralyze all government in the state.

(2) Some persons' votes have arbitrarily been magnified, while other persons' votes have been arbitrarily diluted. Thus, the basic principle of morality and democracy — that each person shall be entitled to equality before the law — has been grossly violated. This weakens the whole substructure of representative government in Michigan.

(3) In the past 10 years, 10 legislative bodies have been elected in Michigan. On the basis of the popular vote for legislators, 5 of these bodies should have been Republican and 5 Democratic. In fact, all 10 were Republican. Thus, (a) the legislature is not responsive to public opinion, and (b) it is biased against Democratic voters and in favor of Republican voters.

(4) Further, a minority consisting largely of rural Republican legislators has the substantially perpetual power to block any legislation with which it does not concur, while no other minority has such power. As a result, we have a legislature which is (a) biased towards rural Republicans, (b) is subject to perpetual blockage by the same group, and (c) is not subject to the will of the people.

(5) The effect of under representation of the metropolitan voters has been that the state government has failed to provide adequately for the needs of urban residents, and this function is being undertaken more and more by the federal government.

(6) Over 40 proposals have been received from delegates urging one change or another in the legislature. This clearly indicates that the problem is recognized by the delegates to the convention as of paramount importance.

(7) Finally, the overall result of the present apportionment system has been: (a) a failure of popular sovereignty, and (b) a failure of effective state government.

We believe that a solution to the problem of apportionment of the legislature is thus absolutely indispensable to effective representative government in Michigan and that it is the duty of this convention to find such a solution.

C. Reasons for a change in the apportionment of the senate. The problem is especially acute in the senate. In the past 4 elections, the popular vote for Republican senators has ranged from 46.7 to 50.2 per cent. Yet in each case, Republicans controlled the senate by nearly 2:1 majorities.

Furthermore, the present senatorial districts are "frozen" into the constitution. Thus, the deviation from equality of representation in the senate has gone from an allowable maximum of 2:1 under all previous Michigan constitutions, to 6.5:1 in 1952, to 12:1 at present, and to a predicted 28:1 in 1975 if no change in senate apportionment is made.

Further, the present senatorial districts are more or less "frozen" politically, i.e., only 1 of the 34 districts has "swung" from one party to the other since they were set up in 1952.

Thus, while the senate was always the house based on population until recently, it now has lost all contact with the principle of popular sovereignty and is tending towards a condition having no resemblance whatever to popular sovereignty or representative government.

To add to the seriousness of the matter, "advice and consent" by the senate operates as a check on executive appointments. Thus, this one part of the legislature, which is the least representative part of state government, not only can and does blockade legislative action, but also can and does blockade executive action.

It therefore follows that we must return to popular sovereignty and equal representation in the senate if we are to have effective representative government in Michigan.

D. Reasons for a change in the apportionment of the house of representatives. We agree with the majority that the house in Michigan has always been basically on population. The deviation from population at present is 10 area (rural) seats out of 110, or about 9 per cent area, 91 per cent population. This deviation may be small, but it has been enough to maintain Republican control of the house.

In the past 10 years, the popular vote for representatives in the Michigan house favored the Democrats twice and the Republicans 2 times; yet, in each case the Republicans maintained control of the house. Thus, the house has also been unresponsive to the public will, albeit only by a small margin. The point is, however, that this small margin was provided not by the votes of the people, but by the small degree of rural bias in the apportionment of the legislature.

There is therefore ample ground for removing any such bias in favor of one group or another, and placing the house on a straight population basis, with 0 per cent area and 100 per cent population.

III. Reasons for dissent from the majority proposal as to the house

We dissent from the majority proposal for apportionment of the house for this reason: if it is correct that there is a reason for placing the house on a straight population basis in order to make it responsive to the public will, it certainly makes no sense to make half such a change.

The majority proposal reduces the "moiety" (or major fraction) effect from about 10 seats to about 5. (This can be seen if one compares a map based on the majority proposal with one based on a 105 seat house based on population. The difference is substantially only in the addition of 5 more rural seats to the 105 based on population).

It should be emphasized that what is at stake here is not absolute perfection in equality of representation, but rather the more practical question of whether or not one desires to add extra seats in the rural region in order to keep control by a small margin despite the public will.

We have never insisted on perfection or near perfection in equality of representation. Our position is simply that it should be as nearly equal as practical, but that in no event should a bias in favor of any group be thrown onto the scales of justice.

We note further that though the "bias" would now be reduced from 10 to perhaps 5 under the majority proposal, this will also in all likelihood be just enough for the Republicans to maintain control of the house. The reasons it can now be done with fewer "area" seats are: (1) the Wayne county Democratic stronghold has lost population percentagewise, and (2) the proposed provision for single member districts (with which we concur) will, in effect, approach proportional representation in the highly populated areas (thus winning some Republican seats in Democratic strongholds), while in the rural areas there will be no such change (hence the Republicans will continue to win 100 per cent of the seats in their strongholds).

We therefore oppose any half hearted effort to reduce the "area" effect in the house. We believe the house ought to be on a straight population basis. If this is not to be done, the house ought to be left alone altogether. Either make the change or don't. We regard the majority report as deceptive insofar as it leads one to believe that the apportionment proposed by the majority for the house "comes as close as possible to basing the house on population without breaking county lines. . . ."

The record on this point should be perfectly clear: the majority propose a house with 5 per cent area, instead of the present 9 per cent area. The minority on the other hand, propose a house with 0 per cent area seats. There is no difficulty in doing this if you wish to do so. You simply specify a definite number of seats and provide that they shall be apportioned by population "as nearly equal as may be," together with a statistical test for the deviation from equality. In this way, while every district will not be exactly equal in population, there will be no seats added as an arbitrary bonus to any one group. That is, in fact, precisely what the minority proposal provides for the house.

IV. Reasons for our dissent from the majority proposal as to the senate

We dissent from the majority proposal for the senate for 2 reasons:

(1) It is too little; and

(2) It is too late.

If we are correct in believing, as we do, that the senate apportionment is wrong — both in basic principle and in practical operation — we fail to understand what good it does to provide for half a solution, as the majority now propose.

The addition of 4 senate seats to the most populous counties poses the riddle: why? If the reason is that these counties are under represented, the solution is to reapportion the senate so as to eliminate the under representation. This would require the addition of at least 8 more metropolitan seats beyond that proposed if it were to be done in this manner. Thus, it is clear that this type of approach simply cannot cope with the problem. Indeed, it has not been seriously presented by the majority as a solution to the problem, but simply as an excuse for delaying the solution of the problem.

One would think, however, that if one needed such an 8 year delay before making the ultimate senate reapportionment, that at least the ultimate solution really would solve the problem at long last. However, when one finds that the ultimate solution attempts merely to freeze the amount of malapportionment then existing in the senate, one realizes that what the majority intends to do is not to right the wrong, but rather to rationalize the wrong.

It is no answer to argue that half a loaf is better than none. A rope which fails to reach a drowning swimmer by 1 foot is no better than one which misses by 2 feet. In either case, the man drowns. Similarly here, there will be no improvement whatever in principle or in practice if the proposed change is made as compared with the situation if no change is made at all. All the problems which lead us to conclude that a change in the apportionment of the senate is required will continue to remain. The only differences are that they will have been perpetuated, and that what is known to be wrong will be made to look right.

We feel that the ultimate formula provided by the majority for senate apportionment is extremely objectionable from the point of view of principle, and not merely as a matter of practice. For the first time, the bias against the metropolitan voter is made the basis of a monstrous formula which equates people with square miles. What better form could be found for the expression of contempt for people than to equate one person with a specific amount of dirt? We have always thought that only God could make a man from dirt, but now we see that some delegates have arrogated that function for themselves. Where there are people, the formula acts as though many of them weren't there; it conceptually destroys them. And where there are wide open spaces, the formula creates fictitious people — not in the image of God, but in the image of the Republican party — such fictitious people are thus abominations in the eyes of the Lord — in other words, monsters. This is going a long way to find a way to tilt the scales so as to come out with the result you wish.

According to this formula, it is not even people which are represented in the legislature, but 80 per cent people plus 20 per cent area. These "pseudo people" (which have been specially created for the occasion) are what are henceforth to be represented in the legislature on an equal basis. We submit that this fails to meet the test of democratic or even republican form of government, since it is not people which are to be represented, but pseudo people.

Personally, we find pseudo people preposterous. We recognize them for what they are: figments of the imagination, invented specially for the occasion in order to rationalize a wrong by making it look as though at least something is equal, when in fact all that is really provided is that some people shall be more than equal and others less than equal.

V. Reasons for our dissent from the annexation provision

As indicated above, we believe the burden of proof of a showing of need in this area has not been met. Accordingly, we cannot concur in the change recommended by the majority.

VI. The apportionment we propose for the house

In the house, we propose apportionment by population "as nearly equal . . . as may be". We believe this basic principle, which was guaranteed the people of the state of Michigan in the ordinance of 1787, ought to be supported with no qualifications.

For the sake of practical convenience, particularly with respect to partisan elections for the legislature, we have however concurred with the majority in permitting adherence to county lines.

We have also concurred with the majority in the establishment of single member districts, despite the fact that we believe objections in principle can be made with respect to large metropolitan areas, because such "splinter size" districts do not permit effective representation, and despite the further fact that we realize that it is politically disadvantageous for Democrats. We have made these concessions in committee in the hope of reaching agreement with the majority, and we continue to do so now for the same reason, because we do not regard this as a matter of conscience.

We have provided for 115 members, in order to minimize the loss of representation which any region would experience under the new apportionment system.

We have also provided a very simple objective test for determining which of several plans more nearly approaches equality of population in each district. One simply adds up for all the districts the difference between actual population and the norm (ignoring plus and minus signs). Whichever plan gives the smaller total deviation is "more nearly equal." Thus, the amount of discretion which will be available to the apportionment commission will be very small.

VII. The apportionment we propose in the senate

In the senate, we have provided a bipartisan representation system which contains a substantial area factor (21 per cent, as compared with the 20 per cent proposed in the house). The number of seats is the same as that proposed by the majority — 38. The distribution of seats is based upon the concept originally suggested by Dr. Hannah, chairman of our committee, i.e., 2 "area" senators in each of 4 quarters of the state and the rest by population. The overall distribution of seats among the 4 zones is also substantially the same as that proposed by the majority, insofar as this is compatible with the bipartisan representation system (which employs half as many districts, with 2 senators from each district, 1 from each major party). The distribution of seats between the metropolitan and nonmetropolitan areas is also substantially the same in our proposal as in the majority proposal, insofar as is compatible with the bipartisan representation system.

The essential difference, then, between our senate apportionment plan and that of the majority is simply this: we provide 2 senators (1 from each major party) and give them each a vote (in the enactment of legislation) equal to the number of votes they received in their election (in committees, each senator has an equal vote). Provision is also made for third parties, in the event they should ever poll a large vote.

The basic objectives of our plan are to provide: (1) bipartisan representation for every district of the state, (2) a senate which responds precisely to the popular will, (3) equality of representation for all voters, regardless of where they live, even if they live in areas which are strongholds of the opposition political party, and (4) effective representation for all areas, whether sparsely or densely populated. Thus, we believe we have accomplished everything which the majority proposal seeks to do, except one thing — and that is to guarantee perpetual inequality of representation with a perpetual bias in favor of rural and Republican voters. This, of course, we could never agree to do.

We submit that if this convention is to achieve a bipartisan product, it can do so only by providing a bipartisan representation plan for the senate. This is the only way to make sure that no group gets a special advantage.

In support of this view, we suggest that all the members of the legislative organization committee in essence reached this conclusion after long deliberation when they set up a bipartisan apportionment commission, in an attempt at solving what appears to be the insoluble problem. We suggest that there is a remarkable parallel between the apportionment commission proposed by the entire committee and the senate apportionment plan offered by the minority. These are the principal points of similarity:

(1) Dr. Hannah's 4 quarter zones are used in both cases;

(2) In each zone (or district) 2 members of opposite party are selected;

(3) In case a third party polls 25 per cent of the vote, it too is represented; and

(4) There is an equal number of members of each party, i.e., it is bipartisan (assuming no third party problem).

The principal difference, of course, is that the commission members have equal votes, so that no decision can be reached without bipartisan support. Thus, provision must be made for an outside body (the court) to break deadlocks. This, of course, cannot be done in the case of the legislature. Hence, the weighted vote system is needed in the senate.

Other features of our senate apportionment plan, to which we should like to call attention, are the following:

(1) The provision for third parties to participate at the 25 per cent level helps to prevent cheating by a party having great predominance in a district (i.e., by splitting into 2 ostensible parties); since it means that there is some chance of losing votes by this technique, but very little to gain in case of success (an extra senator, but no more votes).

(2) The provisions for limiting elections for the senate to general elections only, and for filling vacancies, prevent cheating at the primaries. A candidate would not be able to run on the opposite ticket in the primary (in order to wipe out the vote of a small minority party) because in such case the real election for other offices is the primary, and persons voting for him on the wrong ticket would not be able to vote in the primary for the other offices because they would be on the opposite ticket.

(3) The same principle of equality of population "as near as may be" within any one zone (but not between zones) is provided, along with the same objective statistical test for equality as provided by us for the house. In any event, under our plan, gerrymandering ceases to be a political problem.

(4) Provision is made for equality of senators in committees.

VIII. Conclusions

We urge the adoption of the minority proposal, because:

(1) It changes the practice to conform to the basic traditional principle of equality of representation, rather than modifying the practice and inventing a new principle to rationalize the result;

(2) To the extent that any weighting of votes is done, it is the votes of senators which are weighted, not the votes of the citizen voters;

(3) The plan gives highly effective representation to each part of the state, because (a) there is provided substantial representation, and (b) representation by members of both parties is provided; and it does this without sacrificing basic principles;

(4) It solves the problem, instead of fumbling with it, and it solves it now;

(5) The solution provided is fair to every voter, each party, every interest, and every region; it is not biased in anyone's favor;

(6) The solutions provided for each house are easier to understand, and more obviously sound in principle, than the majority proposal;

(7) It provides a sound basis of representation for a bicameral legislature — each house having an entirely different type of representation without introducing inequalities among the voters; and

(8) By providing for a bold, new, imaginative plan, which adheres to basic traditional principle and yet provides a modern structure — and which is a truly bipartisan representation plan — we feel that the convention could take the first big step toward producing a bipartisan constitution and ending the partisan "cold war" in Michigan.

We therefore respectfully urge the convention's and the committee of the whole's consideration of the aforesaid minority proposal.

CHAIRMAN HUTCHINSON: The Chair recognizes the chairman of the committee, Mr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, on Friday morning, in introducing this whole subject of reapportionment and Committee Proposals 79 and 80, we went into a discussion of the provisions of the present constitution, the objective that the committee had in mind and the work of the committee. We also presented each delegate with an individual book with your name on it with certain information in it. First of all, I should like to call to your attention an error in those books. It is not necessary for you to make the corrections because we will have the corrections in your boxes in the morning. But you will recall in the section that has to do with the committee recommendations on senate reapportionment there is an outline map chart of the state of Michigan that gives the estimated percentage of the population of each county in 1970, using figures that the committee took from the Consumers Power company. In checking this information on Saturday, it was found that there was an error not in the population figures used but in the percentage figures, and this error was in the material that was furnished to us by the Consumers Power company and they now have called it to our attention with regret, and in your box in the morning will be the letter from Mr. Jefferson with the corrected figures that you can use at that time. It affects only 3 counties: Wayne, Macomb and Oakland, the error being that the Wayne percentage is high and the Macomb and Oakland county figures are low. You will have those figures so that you can correct them.

Now, if we were to follow the procedure that we have been following in this convention, at this point we would next present committee amendments, and the committee has some amendments to this section, but they are to various sections of the proposal, so it has been agreed with Mr. Nord, the vice chairman and minority leader, and your speaker — with the approval of Mr. Chase and the Chair — that we will vary from that procedure and we will not at this time present the committee amendments, but we will rather first go to a consideration of the minority report, and then after that minority report is disposed of, unless it is approved in total, we will then follow the procedure of considering the committee's recommendations by sections. And those sections, as I indicated on Friday, will be presented thusly: that section having to do with senatorial apportionment, by Mr. Knirk; apportionment in the house of representatives, by Mr. Donald Doty; an explanation of the system of equal proportions, by Garry Brown; and the annexation proposal, by Mr. Blandford. I don't think it is necessary to review for you the information we went over on Friday reminding you of the provisions of the present constitution. And the secretary has read Committee Proposal 80 in its entirety and, Mr. Chairman, I would now suggest that you call upon Mr. Nord to present the minority report. He has indicated that he would like to do it at some length.

CHAIRMAN HUTCHINSON: Without objection, the minority report will be next taken up. Mr. Yeager.

MR. YEAGER: Mr. Chairman, I would like to ask a question of Dr. Hannah. I wonder if it is possible for us to consider, regardless of whether it is the majority or the minority report, the senate first and then the house of representatives, or will the minority report present the whole thing in one package?

MR. J. A. HANNAH: It is my understanding that Mr. Nord prefers to present the whole minority report, and I have agreed that so far as I am concerned — and I thought we had discussed it in the committee — that is agreeable, unless the committee of the whole wishes otherwise. I think it is Mr. Nord's desire that he present the whole report, and it would be my recommendation that we have the whole report presented, and then, of course, I shall recommend that it not be concurred in, and then I hope if the committee goes along with me, we will then turn to the committee proposal and consider it by section.

MR. YEAGER: Mr. Chairman, if I may inject one thing here, it seems to me that these 2 bodies are somewhat differently constituted and the reports are different in each case, and it would seem to me for the delegates who are not as familiar with this material, that it would be a great deal simpler for everybody and I should think it would be some help to the minority presentation if we could take the senate up separate from the house. I simply raise that as a suggestion at this time.

CHAIRMAN HUTCHINSON: The Chair will recognize the delegate from Wayne, the minority vice chairman of the committee, Mr. Nord, for whatever statement he would care to make either upon Mr. Yeager's statements, or do you desire to have the secretary read the minority report amendment first, Mr. Nord?

MR. NORD: Mr. Chairman, I would like to adhere to the plan suggested by the chairman of the committee, Dr. Hannah, that the minority present our complete report, that it be read first by the secretary and then we go over our complete report, and then when it is passed — adopted, that is to say — (laughter) if you still intend to insert any other amendments, that you may do so. (laughter)

CHAIRMAN HUTCHINSON: All right. The secretary will read the minority report amendment.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Nord, Marshall, T. S. Brown, Greene, Hodges, Liberato and Sablich,

Mr. Nord offers the following amendment:

1. Amend page 1, line 9, after "Sec. a.", by striking out the balance of the proposal and inserting "Senators shall be elected at general elections for 2 year terms and by single districts. Such districts shall be numbered from 1 to 19, inclusive, and shall be comprised as follows: the state shall be divided into the following 4 zones of approximately equal area: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, comprising those counties west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; and (4) southeastern Michigan, comprising the remaining counties of the state located east of the line described above. Each such zone shall first be allocated one district, and there shall thereafter also be allocated 15 additional districts to be distributed among said 4 zones on the basis of their respective populations on as nearly equal a basis as possible. Each such zone shall then be divided into the total number of districts thus allocated thereto, on the basis of populations which are as nearly equal as may be within said zone, each such district being compact and contiguous and respecting county lines. In determining the approach to equality of population in said districts, the test to be applied shall be the minimization of the sum of the absolute values of the deviations of the populations of each of said districts from the mean. There shall be elected from each such district 2 or more members on the following basis: each political party appearing on the ballot may nominate not more than one person as candidate for senator from each such district. Each voter in each such district shall vote for not more than one such candidate for senator. The 2 candidates in each such district receiving the largest number of votes shall be elected, and any other candidate receiving at least 25 per cent of the total votes cast for senator in said district shall also be elected. In the organization of the senate thereafter as a parliamentary body, in the selection of committees therein, and in the enactment of legislation, each senator shall have a vote equal to the number of votes received by him in his election, except that this provision may be waived by failure to make effective demand for the yeas and nays. Each senator shall have an equal vote in each committee other than the committee of the whole. In the event of a vacancy occurring in the membership of the senate, said vacancy shall be filled by a resident of the district in question selected by the state central committee of the political party of the member who formerly held such office; said resident so selected shall serve for the remainder of the term and shall have the same voting rights and privileges as those of the member whom he replaces.

Sec. b. The house of representatives shall consist of 115 members elected for 2 year terms from single member districts apportioned on the basis of districts which shall be compact, contiguous by land, adhering to county lines, and as nearly equal in population as may be. In determining the approach to equality of population in such districts, the test to be applied shall be the minimization of the sum of the absolute values of the deviations of the populations of each of said districts from the mean.".

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, fellow delegates, I call to your attention first a collection of certain tables and maps which has been put on your desk today. And these maps and tables will be referred to from time to time during the debate. They will not be referred to at the beginning of the debate, but they will be referred to in the second half, and a few of them earlier in the debate. Those tables will refer to the majority proposal and minority proposal for both the senate and the house and comparisons with them and certain other background material.

In general, the plan that we intend to follow for presenting our position is to open with an opening statement which explains as well as we can the underlying basic principles behind our position and the reasons for them and the reasons for our dissent from the majority proposal. Following that we will have a number of delegates explaining various more specific aspects of the problem, and then we will conclude with a careful analysis of the exact differences between the 2 proposals, the majority and minority, and the reasons why we believe you should support ours. I will begin, Mr. Chairman and fellow delegates, with a prepared statement and will deviate from time to time from the prepared statement for other materials, some of which will be found on these notes.

Mr. Chairman and fellow delegates, I speak to you today concerning a problem which I conceive of as the most important we as individuals have faced or shall ever face in our entire lives — the problem of how to provide in our basic law for a legislature which shall truly represent the people and reflect their will. I hope that each of us, in grappling with this problem, will be able to lift ourselves mentally out of our present setting here and now, and see ourselves in a perspective of time and space.

It is a common human failure to picture ourselves as if we were static like a still picture, and to overlook the fact that we are really constantly changing. The "still picture" which represents our concept of ourselves is, however, in reality just one frame of a moving picture. When the 1907 Michigan constitutional convention met, many of us were not yet born. By the time the next convention meets, many of us will be dead. We are not static; we are moving irresistibly into the future, into history. What will history finally say of each of us? Will it say that we added something in the eternal struggle for the improvement of the lot of mankind, that we left the world a little better than when we entered it? Will it place us in its book of minor heroes, as footnotes to the story of the great men of this country who fought a revolution to secure the right of men to govern themselves? Or will it list us with the tories who could see only what had been, but not what was to be? It is up to us first to decide what role we wish to play in history and then, having decided, to play this role with persistence and courage.

Similarly, we must place this problem in a perspective of space. We are not alone in this problem. The problem of how to represent the people in the legislature is one which we share with almost every state of the union. The greater problem of whether the many new nations of the world will be able to build democratic systems is also a part of the perspective which we must perceive. And on an even greater scale, there is the entire question of whether democracy will endure in a world which is half slave and half free. This question is of such paramount importance that it actually threatens to bring all of humanity to the brink of extermination. If we take the narrow view, we add a nail to the coffin of democracy which totalitarians have been building for it ever since it was born. If we think only of the advantage of the moment, only of today's so called "political realities," we fail to see the problem as it really is. If we conceive of our task here as simply requiring us to represent our local constituents, we make a fatal error. If we think only of the desires of the people now living in the districts from which we have been elected, we miss the entire point of why we are here. We are not here merely to record the will of the people of our districts, or even of the entire people of the state.

The reasons for this are obvious if we are willing to stand back and look at our task. In the first place, we do not know where our constituents will live in the next 50 years; they are just as likely to move from rural to urban areas or vice versa, or even to move out of the state, as to remain where they are for the rest of their lives. In 50 years, who can predict where the descendants of the present residents will live? But, aside from that, it must be obvious that we have the duty to provide for people not yet born, who will be born during the next 50 years. These people cannot be represented on the basis of the districts which we supposedly represent; we must all speak for them or no one will. It is not even accurate to regard our duty as requiring us to represent the entire populace of the state, present and future. Our duty really is not to represent at all; it is to deliberate, to think, to plan, to try to provide a plan broad enough and flexible enough and sound enough in basic principle to survive and to deserve to survive for 50 years.

If we each simply register the sentiment of the voters who sent us here, it is obvious that we are useless. The voters could do that for themselves. Our task is not simply to inquire of the public what they want, but rather to try to devise the best possible plan, and then urge the public to ratify it. That is the only possible justification for our being here. We have not been sent here to be followers, but to be leaders of the public. Unless we perceive this fully, everything we do here is a waste of time. If we look to our localities for leadership, instead of providing it ourselves, we fail them and ourselves. If we fail to search our minds and hearts for answers which are sound in principle and fair and flexible in application, if we fail to find the wisdom in ourselves to solve crucial problems, and instead turn to our constituents or our caucuses for that wisdom, we confess our inability to meet our responsibilities. We shall be judged, when we throw the switch on this issue, as individuals. In the vital task of writing a constitution which is to govern the majority as well as the minorities, the present as well as the future, the only sound rule for a man is: let your conscience, not your caucus, be your guide.

Fellow delegates, my general approach to the problem of apportionment is this: let us examine what we have. Let us decide whether it is satisfactory. If we find it satisfactory, let us leave it alone. If, on the other hand, we find it unsatisfactory, let us determine precisely what is wrong, and then let us find and apply the cure. Let us not prejudge whether the present apportionment system ought to be left alone, patched up, or replaced with a new model. There is no virtue in asserting, without proof, that anyone who favors leaving things alone, or of making the changes needed, is irresponsible or an extremist. It is easy enough to take a so called middle course, but it is premature to do so before examining the question of whether a patch job is required in the first place, or whether it will do any good in the second place. I disagree with those who maintain that a middle position is automatically the correct position. Such maxims are no substitute for thinking about the particular problem at hand. Perhaps you are all familiar with the story of the hungry man who was given 2 loaves of bread and told that one was poisoned sufficiently to kill a dozen men, and that the other was perfectly safe to eat. Not knowing which was which, he decided to play it safe, and he therefore ate half of each. The moral of the story is said to be that sometimes half a loaf is better than none, and sometimes it is worse, and that you can't always have it both ways.

I maintain that he who seeks to change the present practice has the burden of proof that the present practice is unsatisfactory. If he fails to make out his case, our deliberations are ended; we leave things alone. If he succeeds we make the indicated changes. Essentially, my position on this matter is that the present practice is unsatisfactory, and that we ought to return to and adhere to the basic and traditional principle of representation under which this state was organized and under which it has operated until recent times.

I have not the slightest intention of inventing any new principles of representation. What I propose is firm adherence to our basic, traditional principle of representation, coupled with whatever machinery or apparatus we need to invent in order to maintain the basic principle intact and at the same time give effect to such other subsidiary factors as we conclude are also significant. Thus, the position I take is as conservative as it is possible to get insofar as principle is concerned, and as inventive and imaginative as necessary insofar as the practice, or apparatus for carrying out the principle, is concerned. This is, and has always been, the basic American spirit.

The American people are among the most stubborn people in the world when it comes to adhering to principle. This country was populated by people who adhered so tenaciously to their convictions that they gave up their homes and possessions to voyage across uncharted seas to a new and unknown world. Principle was all that mattered to them; they gave up every vestige of their practical life in order to adhere to principle. Later they were the patriots of the American revolution, who risked their lives and their sacred honor, who actually became traitors to their country, because they could never surrender the principle of "no taxation without representation." They did not "stand pat" with the practices of their time; they insisted on adherence to principle, even at the price of a bloody revolution. We are diehards on principle in this country. At the same time we are, as a nation, the greatest inventors and innovators of equipment and apparatus that the world has ever seen. We have so little respect for tradition insofar as equipment or apparatus or practice is concerned that we actually have to bring out new automobile models every year, even if there's no change except in the chrome. If we compare life today with life 50 years ago, we can readily see what an insatiable demand for change in apparatus and equipment there is in the United States. We are probably the least conservative people in the world when it comes to discarding old practices, but we are among the most conservative people when it comes to adhering to traditional basic principles.

This is precisely my attitude in connection with the apportionment issue. I believe there has grown up, in this state, an apportionment practice which has seriously eroded the basic principle. New and novel substitute principles are being invented now, and rationalizations are being provided to justify departure from the basic traditional principle of representation. We therefore are faced with a choice. Shall we adhere to the present practice, or shall we adhere to the basic traditional principle? I cannot follow those who would discard both, without proof that either ought to be altered. That is not a conservative attitude. Neither is it a liberal attitude. It is an arbitrary and irrational attitude, and I hope I may be pardoned if I appear to be stubborn in resisting it. I believe, with all my mind and heart and soul, that when we find a serious wrong, we must move heaven and earth —and delegates to this convention—to right that wrong, and not to rationalize it.

When the idea of government by the people was first conceived, the question arose as to how the will of the people was to be determined. In the selection of any public official, or in the decision of any matter, it was immediately obvious that only one rule could possibly work — majority rule. The reason is clear. If you were to provide, for example, that a 40 per cent vote would win, there would be a stalemate, since the side that has 60 per cent inherently has at least 40 per cent, too. Thus, unless the majority prevailed, no one could prevail. It is thus either majority rule, or no rule. This is inherently the basic rule in any voting system. It would no doubt be possible to invent a system in which different classes of citizens were entitled to be counted unequally in voting. For example, first class citizens' votes would count 2 each, and second class citizens' votes would count 1 each. This could be done if the "first class citizens" ever had sufficient power to lay down such a law. Our system of government differs from all forms of totalitarian systems precisely in that point, that a person either is a citizen or he isn't; there is no in between position, no class system. Each voter is the equal of every other voter, as provided in the declaration of independence, and in the federal and state constitutions. There never has been a time in this country when the vote of one voter was worth more than that of another in the selection of any public official.

As Justice William O. Douglas said in the United States supreme court case of South v. Peters:

> There is more to the right to vote than the right to mark a piece of paper and drop it in a box or the right to pull a lever in a voting booth. The right to vote includes the right to have the ballot counted. . . . It also includes the right to have the vote counted at full value without dilution or discount.

And Rousseau, in The Social Contract, said:

> The citizen gives his consent to all the laws, including

> those which are passed in spite of his opposition. . . . This presupposes, indeed, that all the qualities of the general will still reside in the majority: when they cease to do so, whatever side a man may take, liberty is no longer possible.
>
> Sovereignty lies essentially in the general will. It is either the same or other; there is no intermediate possibility.

And in the case of Giddings v. Secretary of State, the Michigan supreme court, in holding a senate apportionment statute to be unconstitutional said:

> There is no higher privilege granted to the citizen of a free country than the right of equal suffrage, and thereby to an equal representation in the making and administration of the laws of the land.

Fellow delegates, in the same connection I also wish to read a few brief selections on the same point from statements by Thomas Jefferson, the author of our declaration of independence. The first quotation reads as follows:

> Every man and every body of men on earth possess the right of self government. They receive it with their being from the hand of nature. Individuals exercise it by their single will; collections of men by that of their majority, for the law of the majority is the natural law of every society of men.

In another quotation Mr. Jefferson said this:

> Our legislators are not sufficiently apprised of the rightful limits of their power that their true office is to declare and enforce only natural rights and duties and to take none of them from us. No man has a natural right to commit aggression on the equal rights of another.

In his first inaugural speech in 1801, Mr. Jefferson said this:

> . . . it is proper that you should understand what I deem the essential principles of our government. . . .

And then he listed a number of them, one of them being the following:

> . . . absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force. . . .

And in another quotation from Mr. Jefferson, he said this:

> Hume, the great apostle of toryism says: "It is belied by all history and experience that the people are the origin of all just power."

And Mr. Jefferson comments on this:

> And where else will this degenerate son of science, this traitor to his fellow man, find the origin of just powers if not in the majority of the society? Will it be in the minority? Or in an individual of that minority?

In another selection, Mr. Jefferson said this:

> The first principle of the republic is that the law of the majority is the fundamental law of every society of individuals of equal rights. To consider the will of the society announced by the majority of a single vote as sacred as if unanimous is the first of all lessons in importance, yet the last which is thoroughly learned. This law once disregarded, no other remains but that of force, which ends necessarily in military despotism.

And again, and finally, Mr. Jefferson stated this:

> Only lay down 2 principles and adhere to them inflexibly. Do not be frightened into their surrender by the alarms of the timid or the croakings of wealth against the ascendancy of the people. The true foundation of republican government is the equal right of every citizen in his person and property and in their management. Try by this, as a tally, every provision of our constitution and see if it hangs directly on the will of the people. Reduce your legislature to convenient number for full but orderly discussion. Let every man who fights or pays exercise his just and equal right in their election.

Fellow delegates, we therefore know that the fundamental principles of our system are these: (1) that all voters have equal voting rights; and (2) that a majority prevails. Whenever the people directly make any choice, whether it is the election of a public official or the use of initiative or referendum, these 2 principles are applied. However, when we come to the question of enacting laws by means of representatives in the legislature, the question which arises is this: how are we going to get the same result as if the people voted individually? Clearly, the purpose of using representatives is not to arrive at a different result than if the voters had directly decided the issue. The answer to this problem has always been some sort of a proxy system, under which, for example, 1,000 citizens in effect give their proxies or authorization to one agent or representative, another 1,000 citizens select their representative, and so on. If equal numbers of voters select representatives in this manner, it is clear that the result will theoretically be the same as if each voter individually voted on the enactment of legislation himself.

In theory, this would be the perfect way of applying the fundamental principles I have just referred to. However, it has never been possible to do so exactly, because we can never know in advance how many voters would vote for a specific candidate. In order to approach this result as closely as possible, we were forced to make the assumption that if the representatives are elected from districts having equal population, they will each represent equal numbers of voters. This assumption is generally correct to within a few per cent, and hence the basic principle of representation has generally been applied in this form, normally being called "proportionate representation."

Thus, the basic principle of apportionment of a representative legislature is equality of representation, or, as it is also called, proportionate representation. This principle is basic, because without it both the principles of democracy I have referred to tend to be subverted. The principle that all voters have equal voting rights is destroyed, and the principle that the majority prevails is jeopardized. Thus, the principle of equality of representation is basic, in the sense that it is basic to democracy. I don't think anyone denies this. It certainly is not denied by the United States commission on civil rights, of which Dr. Hannah is the chairman. On the contrary, in the book, Voting, his civil rights commission says:

> There are many places throughout the country where, though citizens may vote freely, their votes are seriously diluted by unequal electoral districting, or malapportionment.

It also states in the same book:

> In a democratic country nothing is worse than disfranchisement. And there is no such thing as being just a little bit disfranchised. A free man's vote is a full right to vote or it is no right to vote. In most states, voting districts for federal and state legislators are so far from equal in population as to cause gross disproportion in representation. This dilution of the votes of some citizens as compared to others is not commonly defended on the merits. Rather, the controversy has centered upon the feasibility and appropriateness of particular methods of rectifying a condition that is admittedly contrary to democratic ideals.

The principle of equal representation is also basic in other ways as well. The general principle of equality of men—whether in the selection of representatives or otherwise—is basic not only to democracy, but to the systems of religion and morals to which the American people have always adhered. Jefferson reduced to one sentence centuries of thinking in terms of those values when he wrote in our declaration of independence the following:

> . . . that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

Man has some rights, Jefferson said, that derive from God. These are rights which no government can rightfully withhold nor, having recognized, withdraw. These rights honor the spark that is in every human being.

The government of the United States is based on a unique principle. The declaration of independence, endorsed and enforced by the constitution, states that governments are not laws unto themselves, that they are accountable to a Higher Power. It asserts that governments exist "to secure these rights"—the inalienable rights with which these men are endowed by their Creator. It recognizes "the laws of nature and nature's God" as a higher law binding on all governments. The declaration of independence thus affirms the duty of the government to uphold the right and rights as ordained by Divine Law. And it declares that the citizen is obligated in obedience first to the Divine Law, and that he should defend it against the encroachment of even his government. That is precisely what the American revolutionists did.

At the bottom there is one principle that divides a republic from a monarchy or an aristocracy, and that is the natural equality of men, which is as fully recognized in the laws of the Bible as in the declaration of independence. We are all made in the image of our Creator, and thus we are equal. Where some of us tend to go astray from our religious and moral principles is in perceiving our own supposed superiorities over other men. What we fail to realize when we discover to our great satisfaction that we are better educated, more intelligent, wealthier, or more fortunate, as the case may be, than someone else, is that with these assets go equal liabilities. If any of us is "better" than our fellow man in some way, we are worse in some other way. We are worse, for example, simply because instead of realizing our duty to rectify the difference, we take pride in it. Instead of loving our neighbors, we love ourselves. And thus, if we are superior in a material way, we are likely to be inferior in a spiritual way. The books balance. No one can be "more equal" than any other human being. The essence of humanity is equality.

We are, in America, a religious people. Our forefathers came here because of their religious principles, and these were applied in daily life. As such, the basic religious principle of equality of man became a part of our moral system, and also a part of our political system, including our declaration of independence, our constitution, and the bill of rights. Thus, the principles of equality are basic, not merely in political theory, and in democratic principles and law, but in an even more fundamental sense; they are basic in the religious and moral sense. It is not enough for us to declare, as we do in this constitution, that religion and morality are necessary to good government; it is vital that our conduct in writing this constitution be in accordance with the basic moral principles on which both religion and representative government are predicated — the sacredness, dignity, and equality of every human being. We must never match fine words with shabby deeds. Let us recognize that what is at stake here is a matter of conscience, not a matter of political expediency. Let us look to our consciences. Let us search for the soul that is in us, and when we find it we will know and respect and love our fellow man, because his soul is our soul, and ours is his.

Fellow delegates, I would like now to trace with you briefly the history of apportionment in Michigan to see where we have come from and where we are heading. I start with this proposition: that not only is the principle of equality of representation basic, but it is also traditional in this country. In Michigan, in particular, the tradition has been especially strong. The Michigan history of the subject begins with the northwest ordinance of 1787, which was adopted by the Congress of the United States prior to the adopting of the United States constitution — in the same year in fact, as the holding of the federal constitutional convention. This was the first legally effective document prepared by a deliberative body for the government of the people of Michigan. This instrument provided for a house of representatives based on population, and a legislative council indirectly selected by the people, through their popularly elected house of representatives. The ordinance also contained certain "articles of compact," which provided in a bill of rights the following, which I will now quote: "The following articles shall be considered as articles of compact between the original states and the people and states in the said territory, and forever" — and I will emphasize that word again — "and forever remain unalterable; unless by the common consent. . . ." And then it lists in the bill of rights the following: "The inhabitants of said territory shall always be entitled to the benefits" — and it names several of them, and one of them is, "apportionate representation of the people in the legislature."

That was where we started. We started with a guarantee of a permanent perpetual inalienable right to proportionate representation in the legislature. This provision was intended to secure permanently to the territory what was provided in its temporary organization. It was so worded as to constitute an inalienable right to equality of representation, in accordance with the concepts of the declaration of independence.

The legal effectiveness of the northwest ordinance was not impaired by the subsequent adoption of the United States constitution. For example, in 1805, congress reaffirmed the ordinance, in an act separating Michigan from the Indiana territory. When Michigan was admitted to the union under the 1835 constitution, it was understood that the articles of compact of the northwest ordinance of 1787 were still legally in effect, except insofar as they had been changed by common consent; that is, except to the extent that the new state constitution of Michigan conflicted with the articles of compact.

As to proportionate representation, as to that particular provision, there was in fact no substantial change. While the bill of rights of the 1835 Constitution of Michigan did not expressly contain the language of the northwest ordinance relative to proportionate representation, the legislature was in fact organized under the 1835 constitution under a population method, with a slight variation in the house — slighter than was the case later. Apportionment of representatives and senators under the 1835 constitution was provided according to population, with reapportionment following each census. A slight departure from absolute proportionate representation was provided in the house; namely, each existing county was to have at least one representative, but all counties to be organized subsequently were required to attain the normal population ratio in order to be entitled to a representative. This was not a substantial variation, since there were only 15 counties at that time, and their boundaries were continually being revised as they reached the population ratio. Thus, the principle of proportionate representation was retained in the 1835 Michigan constitution; there was no common consent to change this principle. It would therefore appear that the articles of compact of the northwest ordinance of 1787 would still legally bind the state of Michigan to proportionate representation; that is, as in 1835.

As a matter of fact, it was originally held by the courts that the articles of compact of the northwest ordinance were legally binding on the states formed from them, except to the extent that they were contradicted by the state constitution. And I recall to your attention that they were not contradicted insofar as proportionate representation was concerned. That was the original legal rule. However, the effect of these decisions was later overruled by the United States supreme court — and that just goes to show you that they have overruled themselves from time to time — primarily on the basis that each state was admitted on a basis of equality with every other state and hence could not have been subject to additional limitations. State courts, in construing the proportionate representation provision of the northwest ordinance, have therefore held that it is no longer legally binding on the states, except insofar as their own constitutions provide. However, the provision has been held to furnish a historical guide to the meaning of subsequent state constitutions. It has also been referred to by a court of a neighboring state as an inalienable birthright of the people.

Therefore, to recapitulate the history, in the beginning, in 1787, we had a guarantee of perpetual proportionate representation, and that was provided in fact, or substantially so, in the 1835 constitution. Later the rule was changed so that it was not eternally binding on the states and they could change their constitutions.

That brings us to the 1850 Michigan constitution, just shortly before the civil war. This constitution also provided for a senate and house of representatives, each based essentially on population, except that a moiety provision was introduced in the house, and the upper peninsula was allotted at least 1 senator and 3 representatives. And I call that point to your attention. The upper peninsula was given a special provision so that it would have at least 1 senator in 1850 and at least 3 representatives. The original object of moiety in 1850 was not to introduce an area factor into the apportionment of the house. At that time, a large part of Michigan was not organized into counties. New counties were, however, being formed as the population increased, and it was felt that the new counties should get their representation when formed, instead of waiting until their populations reached the full quota for representation. Thus, to recapitulate again, in 1787, in 1835 and in 1850, we had the same rule: substantially equal representation or proportionate representation, with only slight deviations, the biggest one being moiety.

Now, the 1908 Michigan constitution continued the provisions of the 1850 constitution, without substantial change, except for the elimination of special provisions for the upper peninsula. In other words, in 1908 it was no longer considered necessary to say 1 senator and 3 representatives in the U.P. At this time, the reason for the moiety provision was gone, as the state was fully organized into counties. Nevertheless, the moiety provision was retained.

Thus, until 1952, the basic traditional principle of representation in the senate was always, according to the constitution, proportionate representation; and in the house, it was always proportionate representation, with the moiety provision as a minor modification based on historical reasons which no longer retained validity. Certainly this principle was never repudiated at any time prior to 1952; nor was any other basic principle ever enunciated. Minor exceptions existed, as pointed out, basically as historical incidents. However, the remarkable shift of population to urban centers in the years 1910 to 1950 was not accompanied by comparable reapportionments of the Michigan legislature, particularly in the senate. The great departure from the traditional principle in the senate was thus not based on a new principle, but was an accident of history, compounded by a repudiation of the constitution by those sworn to uphold it.

In 1952, the people adopted an amendment to the constitution which, with slight exceptions, retained the then existing senatorial districts. The language of the proposal on the ballot contained no language indicating any "area representation" principle, or any other new principle. It was basically a freezing of the status quo, an acceptance of districts which were initially based on population. In a sense, it was a freezing of time, and of population, a freezing of the status quo, as of 1920. It was, in other words, still based on population — on previous population — instead of present population, as if there were some hope that these extra people in the highly urban areas would eventually go away and leave things as they used to be. They have not done so, but the majority proposal for the senate recalculates the populations as if these people had in fact disappeared from the urban areas — and that point I will document in detail later.

Thus, we can see this: (1) no deliberative body ever meeting to provide basic rules for legislative apportionment for Michigan has ever provided any basic principle of representation except proportionate representation. And I would like to repeat that and challenge anyone to prove differently. It seems to me this is the crucial point on this issue, or a crucial point. We must not forget it: no deliberative body ever meeting to provide basic rules for legislative apportionment for Michigan has ever provided any basic principle of representation except proportionate representation; (2) the constitutionally provided departures from this principle have, until 1952, always been slight and always based on historical conditions, usually intended as temporary exceptions; (3) no other principle of representation has ever been enunciated in Michigan; and (4) even the recent departure provided in the 1952 amendment provided no new principle, but was basically nothing but a freezing of districts based on earlier population levels. Thus, I conclude on this point of the history that the principle of proportionate representation is the one and only basic traditional principle of representation in this state. Such a principle is not lightly abandoned. As pointed out by Michigan supreme court Justice Kavanagh:

> During the course of our history a bloody civil war was fought in the name of equality. Within the past 50 years 2 world wars have been participated in by this nation in the interests of freedom and justice. Free elections and equal representation during the last several years have dominated our foreign policy. . . Would it not be ludicrous were we, in our interest in establishing justice and equality under law in other nations of the world, to find ourselves losing it at home?

It is imperative that the delegates to this convention realize full well what they do if they allow this basic traditional principle of equal representation to be subverted. No deliberative body in Michigan has ever done so before. It ill behooves a supposedly conservative group, such as the majority of delegates to this convention, to pulverize principle, to tread on tradition, and to damn democracy.

Fellow delegates, in continuing with the history of apportionment in Michigan, of course it seems to me appropriate at this time to say a few words about the very recent history on the subject and really the future history on the subject. Developments in this field are going fast. They really came to a point, or nearly to a point, perhaps, last week when the United States supreme court handed down its decision in the case of Baker versus Carr, which has to do, of course, specifically with the question of legislative reapportionment in the states. I first want to make it clear that I do not claim that that case holds that equality of representation is indispensable in every state, because that question has not been decided; it has not yet been before the supreme court and may not be for quite a long, long time. But it does say at least this: it says, first of all, that there are some limits to what the legislature can do — or indeed I believe that it says further that what the people can do — either directly or indirectly in the way of diluting or debasing the right to vote. It says that this shall be a justiciable question and the question may be determined on the principle of law in the federal constitution called the equal protection of the laws. Now, this decision seems to be or can be analyzed as being a very minor holding — that all it says is the courts are not powerless to consider such a question. If you consider that case as being such a minor holding, then you disagree, in my opinion, with all of the justices of the supreme court who acted on that case, both majority and minority. The majority did not think it was a minor point. It took them 2 years to make up their minds. They had to have hearings twice. The minority did not think it was a minor matter, because there was, I believe, a 69 page dissent by Justice Frankfurter which pointed out and hammered home the revolutionary effect of that decision.

People may take different views of that decision. The view that I take is that it is a revolution of a new type. It is a revolution similar to the type that happens in England from time to time, such as when they abolished the house of lords. It is that kind of a thing. It is not just a holding in one case. And it seems to me that we have to extrapolate into the future. We know that what has been going on has been found to raise a question of equal protection of the laws, and I leave it to every delegate to determine for himself whether we can continue in the way we have been going, or whether we can take a half measure, or whether in fact it may not be held ultimately in Michigan, as demanded by the plaintiff in a Michigan case, that the 1952 amendment is unconstitutional. That is future history, I can't answer it for you, and I will therefore depart from that subject and go on to the next.

The subject I wish to deal with next is more specific. It has to do with the extent of the departure from the principle. Prior to 1952, as I pointed out, gross violations of the principle of equal or proportionate representation occurred in Michigan, in both the senate and house, because of the failure of the legislature to reapportion itself as required by the state constitution, in order to meet the tremendous shift of population to urban areas. There never was, during that time, any change in the constitution, or any new principle of representation announced. The change occurred not on the basis of any theory or rationale, but rather because of a refusal of those who make the law to do what the law required of them. It amounted simply to usurpation of power by the legislature, without shadow of right or justification. In 1952 the state constitution was amended to provide in part for an automatic reapportionment of the house, using the mandamusable board of canvassers to make sure that the reapportionment was accomplished. The next reapportionment of the house is scheduled for 1963, based on the 1960 census. There is thus no reason to doubt that there will be reapportionment of the house in 1963 even if the constitutional convention makes no change in the organization of the house. It is true that the moiety system would persist, unless we remove it, but it would be possible to continue to live with it, provided we fully corrected the extreme malapportionment of the senate.

The senate was grossly malapportioned in 1952, because of the historical accident I referred to. The 1952 constitutional amendment froze the existing 32 senatorial districts and added 2 more senatorial districts in populous areas; at the same time the districts were frozen forever, regardless of any future population shifts. At that time, every one of the "metropolitan region" counties was under represented by factors varying between 3 to 1 and 6.5 to 1, as compared with the least populous district. That was the situation in 1952 under the constitutional amendment. The maximum deviation or the maximum ratio in the senate was 6.5 to 1. Of course, under the 1960 census figures, the situation has become much worse. The 2 worst cases are represented now by Wayne county's twenty-first senatorial district, and Oakland county, each having about 12 times as many people as the smallest senatorial district. Now, what the majority proposal proposes to do is to return to a ratio of about 7 to 1; in other words, to perpetuate the malapportionment as it existed in 1952. This also is documented in the papers I presented to you, and I will show it in a little while. As a matter of fact, at this point I would refer — and I hope that you will refer — to the first table in these papers that I have given you. This table shows what I have called the total representation of each county in both the house and the senate, counting each senate seat as worth approximately 3 house seats, for the reason that, of course, there are only 1/3 as many senators, roughly speaking, and this is compared with the 1950 population. This, of course, does not take into account the 1960 changes. But this is the situation. This is the basic apportionment in 1952, and this is substantially — not exactly, but substantially — what is to be continued, or this amount of deviation is to be continued under the majority proposal.

You will note that I have grouped the counties, on the basis of the 1950 population, into 5 different groups depending on whether they are substantially under represented, substantially properly represented, and so on. And I have stated the total representation for each group. And 3, of course, is the total representation which was theoretically correct for 1950, so that those that had less than 3 were under represented; those with more than 3, slightly more, are considered to be just properly represented; and substantially more are over represented. I might add that this method of calculating representation appears now in the United States supreme court decision. In the decision by Justice Clark and also the decision by Justice Harlan, they have a debate going on about whether this is the right way to figure total representation. In any event, the method used is explained in the footnote and is, as I said, in each county it is determined how many representatives they have and how many senators, and we multiply the number of senators by 3 for the reason I mentioned. On that basis you get the amount of representation of each county. And then in the next to the last column, you have the representation per 100,000 population, and then you can see whether it is too little or too much.

In the righthand column I have listed the comment as to whether this is an urban or rural county, and the decision as to whether it is urban or rural is on the basis of note 1 that follows at the end of the table. In other words, the definition of urban and rural was taken to be the same as that offered by Delegate Arthur Elliott in a paper he presented to the legislative organization committee, with the exception that it was required that no county would be counted as urban if it has less than 10,000 people. There are only 2 counties of that type. Aside from that, it is identical with Mr. Elliott's analysis of urban versus rural. And you will note that there are 10 urban and no rural counties which are under represented. Ten urban are under represented; no rural are under represented. And when we come to the next group, group II, there are 7 urban counties that are properly represented and 5 rural. Continuing down the line to substantially over represented counties, it turns out there are 7 urban counties that were substantially over represented as of 1950, and 4 rural. And going down further, you see the urbans disappear. Then you have 15 rural and no urban in each of the last 2 categories. What you can see, then, is that there is over representation of rural counties, under representation of urban counties, and there is a general trend from one to the other depending largely on the population of each county. Now, this was the position of the senate and the house together — most of the malapportionment being in the senate — as of 1950 and as of 1952 and, roughly speaking, this is what is sought to be perpetuated. The last group, group V, has representation of 8.01, and up, as compared to 3, but it goes all the way up to 42, and the overall deviation is large at that point.

This table, as I say, is presented to show you the extent of the departure from the principle. It will therefore be noted that the departure from principle has grown by leaps and bounds, until it can be aptly described as a cancer in the body politic. Palliatives will not suffice; the need is for deep rooted surgery. What is at stake is the survival of effective democratic government in Michigan; the alternative is the collapse of state government and the corresponding growth of federal power. In that connection I simply would like to make 2 comments about the collapse of state government relative to the growth of federal power. One of them is indicated by President Kennedy's recent move, which of course did not succeed, to establish a department of urban affairs. Presumably, at some time or other, that will come to be. If it does, it will be an example of this. Another example which already has come to exist is the recent United States supreme court decision, which unquestionably — without any doubt, anyway, in my opinion — is a blow to those who believe in the rights of states to govern themselves without the federal government interfering. That has already occurred. It had not occurred when this page was typed.

The next question that I would like to deal with, fellow delegates, is the question of the consequences of the departure from the principle. The first effect of the malapportionment built into the 1952 constitutional amendment I have already mentioned in table 1, where we have seen that urban areas are subject to extreme discrimination in favor of rural areas. This is further brought out in the record table to which I now refer, and ask you to refer, table 2, which shows that, in fact, it is only urban counties which are substantially under represented and only rural counties which are substantially over represented, and that substantially half the people of the state were substantially under represented as of 1952 under the 1952 constitutional amendment. And, I repeat, this is approximately what is intended to be continued in the future under the majority proposal.

I suggest that this cannot be explained as a compromise between an area principle and a population principle; it was nothing more nor less than an invitation for democracy in this state to commit suicide. And I call to your attention that it was such a strong and difficult problem and it occurred in so many states that the United States supreme court felt impelled to venture into new and difficult waters.

Collateral to the discrimination against urban areas, insofar as representation is concerned, is the parallel discrimination as to the allocation of state funds. And in table 2, there is presented data representing the average ratio of state aid — you will find that in the second line of each group — to taxes levied locally for counties. These figures were based on the 1956 data and are taken from an article which is referred to at the bottom of the table. Those are the figures relating the state aid to the local communities as compared to the money that the local communities had to raise themselves. You will notice that there is a great discrimination against urban and highly populated areas in this respect. For example, in group I you will notice that the ratio of state aid to local taxes is only 0.61, a little more than half — that is to say, only about half as much state aid goes to the local communities of this type, the under represented type, as compared to locally raised taxes. In group II, where you have proper representation, it is almost twice as much. The average ratio is 1.02; and so on down the line. In general, when you average up the figures for each of the counties within these groups, you find a trend. You find that, for example, in group IV — the table isn't complete as to group V — but as to the first 4 groups which are in there, you will find a ratio of 3 to 1; relatively 3 times as much state aid goes to the over represented counties as to the under represented counties.

Therefore, we find 2 things from tables 1 and 2: 1, that the urban counties on the whole are under represented and the rural are over represented; and 2, that, just about what you might expect, the ratio of state aid to local taxes varies in the same manner. There is discrimination in connection with the taxes whether it is accidentally or on purpose.

This data is also plotted in a graph which is found near the back of the materials. After the tables, you will find a graph which is called Figure 1, and this graph plots the population of a county along the lefthand axis, the 1955 population. This is estimated by the author of the article I referred to from the 1950 population. It plots the population of a county against the state aid per capita and against the total of state aid plus local taxes per capita. It plots those 2 graphs against the population as of that date. If you will look at, let's say, the graph on the left, the state aid per capita, you find that at the top of the graph, where you have large populations, you have a relatively lower amount of state aid. And when you go down to the bottom of that graph, near the bottom of the page, that curve moves to the right, and that means that you are getting more state aid per capita. You will notice where the vertical dotted line shows the average, and you will see therefore that the counties that have high populations are getting less state aid than average, and the counties that have low population are getting more state aid per capita than the average, and it gets to be much more in the smaller and smaller counties. These circles on the graph are averages for relatively narrow groups of counties. The righthand graph shows the total of state aid plus local taxes per capita, and that is used more or less as an index of the total needs for revenue of each county. This, of course, doesn't count the needs that are supplied by the federal government in addition to this, but these are an index of the needs of counties, and you will notice something which never occurred to me before I saw this, before I plotted this graph. That graph does not follow the other graph. It does not run parallel to it except in the beginning, except at the bottom.

When you have counties small in population, the 2 graphs do run nearly parallel, which means that there is not much variation, let's say, between the amount of state aid and the need in the county. They are proportional to each other, roughly, for small counties. That is the way you would think it ought to be, presumably. But you notice something peculiar when you get to populations of rather large amounts. The line that is marked 100 represents 100,000 population, which is a rather large county, and at about that point and higher you find the graph on the right turning around and going in the wrong direction, which means the needs, instead of continuing to decrease, begin to increase. The needs per capita are higher, let us say, for heavily populated counties than they are for medium populated counties and also for low populated counties. This could, no doubt, be explained in many, many different ways, and I think it is probably not worth while to attempt to figure out why that is so, but anyway, it is so. And if you compare the horizontal distance between these 2 from graphs, that is the amount of local taxes per capita that must be raised by these counties. At the bottom of the graph, these distances are small. The local taxes per capita raised by counties small in population are small amounts. When you get near the top of the graph, you can see that it begins to spread and spread, and it becomes, say, 4 times as large for highly populated counties as for sparsely populated counties. The conclusion, then, that you can draw from these graphs which summarize the article I referred to is that state aid decreases when you get to high population counties, but that the needs increase and that the amount of money that must be raised locally increase even more so. It is the total of the 2; and it runs in a direction not to be anticipated.

Now, fellow delegates, I would next like to refer you to other information about taxes, the first of which occurs in table 3 near the beginning of these notes. And you will find at the bottom of this small table the citation of authority from which it is derived. This was information distributed to all the delegates, I believe probably about a month ago or maybe a little less, from the Michigan AFL-CIO research department, and these are numbers I derived from looking at that data. These are not numbers in the material but they are derivable from it. What we have here are the figures for 2 parts of the state for comparison: Wayne county, the relative tax collections in Wayne county, and in the southeast metropolitan area, which consists of the 4 counties in the southeast metropolitan region: Wayne, Oakland, Macomb and Genesee. The per cent of population in those 2 locations are 34 per cent in Wayne and 53 per cent in the metropolitan region.

Now, the percentage of collections of tax other than the business activities and corporation franchise tax — it was not easy to be certain whether they are to be allocated to one county or another, so they were originally excluded from that report. They are 36 and 53. Therefore, those taxes are about what you would expect. Collections of taxes other than business activities and corporation franchise parallel the population. But the other 2 figures, business activities and corporation franchise taxes, are much higher in these 2 areas than population would indicate.

The other table that follows is a more detailed analysis taken directly from the same data, table 4, which shows the net flow of tax revenue or an indication of the net flow of tax revenue from certain specific counties which were included in this report, and I have organized them into groups based on population, and compared the per capita collections and the per capita distributions. There are some reservations in connection with those, but anyway, they are indications of what happens in each of these counties, and also the difference between the 2 per capita, and without going over any of the specific numbers — you have them before you — you will find that these counties do break up into 2 groups. The first group is a group where these numbers are positive. All of them are positive. That is to say there is a net per capita collection. And in the second group of counties having less population, there is a net per capita distribution. So that the conclusion from this chart is that there is a net flow of tax revenue from the highly populated counties to the less populated counties, a net flow.

Taking the 2 tables together, what we can find is this: the highly populated counties raise taxes equal to or in excess of what would be expected by their population. They receive back less than would be expected. That is what we got from the first chart in this connection. And the last 2 show that the result is what would be anticipated: a net flow of revenue from the populated counties to the less populated counties. Now, this is the reverse of what I — and I believe many people — had originally believed. I think that many people believe that the large counties are receiving more money than they pay in taxes and vice versa, but this is the fact, and we have it from 2 different sources not connected at all with each other.

We can conclude this from these data: that if the state government is of and by some of the people, it is also for some of the people. This discrimination against urban dwellers is so serious as to give the highly urban areas no choice but to look to the federal government instead of the state government for assistance in meeting their pressing problems. Thus, the entire state-federal structure of government is imperiled, and this is a result of the impairment of the basic principles of democracy in the states. Nor can we ignore the further fact that the malapportioned legislature in Michigan has contributed to very serious discrimination against members of the negro communities of the metropolitan region of Michigan. In the name of protection for the minority, negroes and other foreign born residents are being grossly discriminated against.

The figures I quote now were submitted in the Michigan case of Scholle versus Hare and submitted to the United States supreme court by the plaintiff in this case. These are the figures they gave: in 1950, 95 per cent of the negroes and 81 per cent of the foreign born residents of Michigan lived in the urban counties of Michigan, according to the U. S. census. On this basis, it is clear that discrimination against urban voters is discrimination against real, honest to goodness minority groups, who are in most urgent need of protection and fair play. What we have in Michigan now, insofar as negroes are concerned is this: (1) a situation in which they are under represented in the senate to a fantastic extent; (2) they are unemployed in alarmingly high percentages; and (3) the cities in which they live are virtually helpless to help them. If they have moved from the south in order to obtain justice, equality, education, and freedom from poverty, they are met here with the plaintiff defense that that is not very important as compared with the noble concept of protecting some other homemade minority. To their astonishment they learn that the reason they are being discriminated against here is because they are the majority.

The discrimination against urban voters, and against the negro and foreign born residents of urban areas is further compounded by a corresponding discrimination against Democratic voters. And in support of this statement, I present the following facts: (1) during the last 5 elections of the legislature, a total of 10 houses of the legislature were selected by the people of Michigan, 5 senates and 5 houses of representatives. In 5 of these cases, the total popular vote of the people favored the Democratic party, and in the other 5 cases, it favored the Republican party; nevertheless, all 10 houses were controlled by the Republican party. Thus, the legislature completely failed to respond to the recurring swing of public opinion as to political preference. You will find, fellow delegates, the statistics supporting that in table 5, and you will find the statement of the number of votes in thousands in each of those elections for Democrats and Republicans. These were added up — and there was no over adding, as has, I understand, occurred at some previous experiments in the same type of calculation. These are the cumulative popular votes for Democrats and Republicans, and they state which party had the majority popular vote. Five of them were Democrats; 5 Republican. The righthand column shows that in each case, in fact, the majority party in the legislature was Republican.

From this table we can conclude the following: the Democratic voters have been systematically discriminated against, too. The next thing we can learn is this: that the discrimination against Democratic voters is especially flagrant in the Michigan senate. Not only did the Democrats gain a majority of the popular vote for 3 of the last 4 senates under the present apportionment provisions and yet fail ever to gain control of the senate, but the margin of Republican control was, in each case, fantastically out of proportion to popular opinion. These statistics, my fellow delegates, you will find in table 6. And in this table you will find for the last 4 elections for the senate — and these are the only ones for which we have had the present districts, 1954 through 1960 — you find which party had the majority popular vote and then you will find the number of Democratic senators elected, the number of Republicans and the percentage of Republicans elected compared to the percentage of the popular vote for Republicans; you will find whereas the Democrats have the majority of the votes in 3 cases out of 4, they are outnumbered approximately or nearly, in some cases, more than 2 to 1. That is the extent of the discrimination in the senate against Democratic voters. The third point that we can discover by analyzing the results in the Michigan legislature is this: that not only is the present Michigan senate apportionment seriously discriminatory against Democratic voters, but it is basically frozen in that manner at the present time, since the size and composition of the senatorial districts are such that they practically never swing in preference from one political party to the other. And this is supported by the figures in table 7. In table 7 we have a list of each of the 34 senatorial districts which now exist and which have existed since the 1952 amendment, and what happened in each of the elections is listed as to whether they went Democratic or Republican, and you will find the only one that ever swung at all in this entire time was district 32, which is the smallest in population of the entire state.

We can conclude from this that if we start out with a senate that unduly favors Republican voters, as we now have, and also as is proposed by the majority to be continued, it has a tremendous tendency to remain that way in perpetuity. I therefore conclude on this point that it must be obvious to any realistic person that it is expecting more than a miracle to assume that Democrats at this convention could ever agree to sacrifice the basic traditional principle of equal representation and, on top of that, do it by introducing nonpopulation factors in such a way as, in effect, to rig the elections for one or both houses of the legislature to guarantee perpetual Republican control therein. This would not be agreement; it would be unconditional surrender. Let no one deceive himself into thinking that that is within the realm of the possible. It is sheer fantasy. Anyone who persists in such an attitude clearly wishes to make of this convention not a bipartisan effort to write a constitution, but rather a Republican caucus to which Democratic observers are invited to accede. Obviously, the only recourse for Democrats under those circumstances would be to refuse to be party to such subversion of the people's mandate for a bipartisan convention.

Whenever I have attempted to discuss this matter with Republicans, I have been met with the same fantastic answer: let's not mix politics into this; it has nothing to do with politics. This matter is, however, much too grave to be shrugged off with any such glib answer. What is at stake is not mere partisan advantage; it is infinitely more vital than that. I have made a study on the subject of the rule of law — that is to say, the conditions under which it is possible to conclude that in the last analysis the choice is always between the rule of law on the one hand, and the reign of terror on the other. When the people consent to the government which rules them, we have the rule of law; when the people do not consent to the government which rules them, but are governed under it because they are coerced into doing so without their consent, you have a naked battle of power against power. The rule of might replaces the rule of right. The people are pitted against each other in a battle for power. The rule of law degenerates into the reign of terror or coercion. And I call to your attention, fellow delegates, that this is the same conclusion as was stated by Thomas Jefferson — and I read that to you in 2 or 3 different selections — that either a majority rules or you can't have a state. It can't be stable. Some sort of a revolution must burst out. And I call to your attention that in other countries, the revolutions that have burst out killed people. In this country the revolutions that have burst out in the past killed people. But, by good luck, the revolution which is solving this problem is a mere legal battle among lawyers in courts.

The lesson of history teaches that no government is stable which is governed contrary to the people's will. Throughout history, only 2 methods have ever been invented to replace a government of which the people do not approve. The most common method has been by revolution. But in a democracy, there is another, and infinitely superior way. The people simply dismiss the government, by telling them to go. They do this by voting one political party out and the other in. The 2 party political system is the crux of the system; it is all that makes it possible to solve our problems peacefully. It is what has made our government the best government ever conceived by the mind of man. But it is absolutely indispensable to this system that when the majority of voters tells a political party to go, they go.

Just imagine what would happen, for example, if Mr. Kennedy were defeated in the next election and he refused to leave, saying, "I've got control of thousands of hydrogen bombs, and I'm not about to leave just because you wish me to." Thankfully that cannot happen here, but we know full well that that is precisely what does happen in communist countries and in other totalitarian states. A system which allows no parties, or only one political party, or which system actually freezes the control by one party over any part of the government regardless of the fact that the majority of voters in a given election vote to dismiss them, is brittle and cannot endure. Sooner or later the people are forced to find some way of emerging from such a system. This is what the cold war is all about. But there is no room for a cold war within a democracy.

Basically, then, what the apportionment issue boils down to is this: the question of whether or not the majority of voters can dismiss the "in party" from any part of the government whenever it chooses to do so. If the legislature is organized in such a way as to militate against this — as it is at present in Michigan — the people will always find a way to liquidate the power of the legislature. In Michigan, fortunately, we have the safety valve of turning to Washington. It may not be the best way out, but it is a way out. This is our way of effecting a bloodless revolution instead of a bloody one.

The words of ex President Eisenhower to this convention eloquently show that such a revolution is under way, and that the only way to reverse it is by making the state government as responsive to the public will as is the Congress of the United States. And here is what President Eisenhower said on the point:

> The tendency of bureaucracy to grow in size and power does not bear the whole of the blame for the march of political power toward Washington. Never under our constitutional system could the national government have siphoned away so much state responsibility and authority without the neglect, acquiescence, or unthinking cooperation of the states themselves. Every state failure to meet a pressing public need has created the opportunity, developed the excuse and fed the temptation for the national government to poach on the state's preserve. Year by year, responding to transient popular demands and localities seeking special advantage, the congress has increased federal functions. The pendulum of power has swung far from our states toward the federal government.

Continuing to quote, President Eisenhower said this:

> Eight years ago, I publicly expressed the conviction that unless we preserve the traditional power and responsibilities of state government, with revenues necessary to assure exercise of that power and discharge those responsibilities, there will not forever be preserved the kind of America we have known. Eventually, we shall have, instead, another form of government, and therefore quite another form and kind of America. That conviction I hold just as firmly today.

And President Eisenhower continued:

> I believe that the preservation of our states as vigorous, powerful governmental entities is essential to permanent individual freedom and to national growth. But it is idle to champion states' rights without upholding states' responsibilities as well. So I hope that the rewritten draft of Michigan's constitution will define carefully the responsibilities that its people believe should belong to Michigan, and that they will forthrightly assume and exercise the authority essential to the carrying out of those responsibilities.
>
> So acting, they will do something positive and effective about problems that directly concern their fortunes, their welfare and their lives.
>
> The responsibilities, best exercised by the people of a state, can be returned to them in all 50 states. And Michigan can lead the way.

Fellow delegates, let us hope we can meet the challenge of these inspiring words, by expressing our faith in democracy by returning to the crucial concept that the majority puts into office and the majority puts out of office. Legislators and political parties subject to such a check never fail to perform in a responsible way, because they are responsive to the public. There is nothing magic about voting, but there is something very like magic in a system in which the government knows it must meet the needs of the people or else be booted out of office. Such legislators are forced to behave responsibly, if they are to survive. And they do survive. As pointed out by Dr. William Anderson, professor of political science, emeritus, of the University of Minnesota:

> The effects upon the minds of young persons resulting from unethical and unconstitutional practices in high places are also worthy of mention. Anyone who has believed in and tried to convey and explain to young people the principles of popular government and constitutionalism knows what can happen in young minds when practice departs so far from principles and pretensions. Here we come to what may be the most crucial issue of all, that of constitutional morality. In state after state, the equal protection principles of the fourteenth amendment are being flouted or ignored. There are some state constitutions that contain rules of legislative apportionment that do not conform fully to the equal protection principle of treating every man as equal to every other one in legal and governmental affairs. This issue of constitutionalism or constitutional morality, of abiding by the constitution, cannot be brushed aside as mere idealism. It lies close to the base of all systems of popular government. These systems rest upon such basic ideas as those of mutual respect and confidence among men, and upon keeping faith with all men in all things. When this basis is seriously undermined, and no way can be found for a peaceful and lawful correction of wrongs and the restoration of mutual confidence, the resort to force and violence is not unthinkable.

Those are the words of a professor, and you will note the similarity to the words of Thomas Jefferson.

To summarize the position of the minority on this general problem of what is our basic principle and why do we adhere to it and why will we not be shaken from it, I have one further group of comments to make before we go into the details of our plan and of the majority plan. These factors that I wish to discuss with you now, fellow delegates, have to do with the suggested justification for departure from the principle, and it seems to me that we must grapple with these problems. I have stated what is the basic principle, what has always been adhered to in Michigan until a few years ago, and no doubt the majority, who wish to depart from this principle, have justification which they will present to us. All I can do at this point is to state to you those which have been stated to me and try to find out whether they are valid or not.

The first one of these has to do with difficulty of representation. It has been argued that if population alone is considered, some legislative districts will be so large that effective representation will not be possible, and that therefore such sparsely populated areas are entitled to additional representation. I would like to answer this question which, after all, is one of the basic problems before us.

There are a number of answers that are available. The first one I offer is this: first of all, there is nothing to show that there really is such unusual difficulty in the areas in question; that is, in the sparsely settled areas. It is a mere assertion. No evidence has ever been offered to show that it really is so in fact. We know that there have been approximately 32 senators in Michigan for over 100 years, distributed most of that time on a population basis. No general complaint was made on that score until after the great population shift had occurred in this state. We also know that congressional districts, in general based on population, cause no tremendous concern even though they are larger than our senatorial districts. During the early days it was obviously much more difficult for the representatives and their constituents to keep in contact with each other than it is now. There were fewer or no railroads, highways, buses, automobiles, airplanes, telephones, telegraph, radio or television during much of that time. If under those conditions a population basis was feasible, how can it have become unfeasible only now, when the conditions of transportation and communication have been so tremendously improved? If under the conditions of travel prevailing when the 1850 constitution was adopted, it was thought necessary to guarantee the upper peninsula only one senator, how can the situation have become worse today? Further, as indicated to us by testimony from the senator from Nebraska who testified before our committee, representation is not less, but more effective in sparsely settled areas for this reason according to the senator. He says the reason is because the people know each other.

An examination of the realities of the situation shows that the real difficulty in obtaining effective representation is actually in the large metropolitan areas, where the legislative districts are much smaller than the city within which they lie. The principal reason for this is that there is no adequate way for news concerning small fragments of a city to be transmitted to its residents. Once you carve a living organism such as a city into atomized segments, you find that most of the pieces are not viable. When you create such fictional communities, you cut off the arteries of communication between the legislators and their constituents. There is no newspaper for a senatorial district, let's say, within a city. Thus, if one were to be concerned about difficulties of effective representation, one would not be especially concerned about sparsely populated areas. There is just as much, or more difficulty in congested areas, and they are not seeking any special consideration on that score.

The second answer to the question about why we don't need extra senators, let us say, in sparsely settled areas is this: even if there is such difficulty of representation, the cure does not require unequal representation. In the first place, we should face the fact that this problem exists only because we make it exist. The obvious cure for districts which are too large is to use districts which are smaller. All you need to do in order to accomplish that is to refrain from using a legislative body which is small, such as the present senate. The obvious cure is to use a larger senate. If we refuse to do this, it is obvious that we insist on bringing the alleged problems on ourselves, so that we can "solve" them by distorting the proportionality of representation. But even if you use a small senate, there is still no need to impair or destroy the proportionality of representation merely in order to bring the senator and his constituency closer together. You can, for example, provide for senators with fractional votes, or with votes weighted by population, or you can use the bipartisan representation system we have proposed in this minority report amendment. Any of these will give extra senators where desired, without any distortion of the basic traditional principle.

Fellow delegates, another excuse or justification given or suggested for the departure from the basic principle is the desire to disperse power all around about the state rather than concentrating it in a small region of the state. I submit, however, that this simply begs the question. The underlying assumption in it is that the amount of area occupied by political power is of some significance, but what that significance is, no one knows. Is there some principle that the amount of power per square foot shall not exceed a certain maximum value? If so, I don't know anyone who knows what that principle is. No one suggests that the political power should be distributed to parts of the state in which no one lives, except, perhaps, the majority in their senate proposal for the future. And, as pointed out by the Republican members of the committee, they do provide for 2 senators in the upper peninsula and the northern part of the lower peninsula, when nobody lives there.

All that can be demanded of a representative scheme is that the voting power follow each person wherever he may go, so that it is distributed in the same way as the people are distributed; in other words, that a voter living in any part of the state, no matter whether it is a city, a farm, a mining area, a lumber area, an industrial area, a recreational area, or whatever, is not deprived of his vote or shortchanged in his voting power. A system in which the value of a man's vote changes greatly as he moves from place to place within a single state is clearly an irrational and arbitrary system. The fallacy in the dispersion of power concept is that you tend to be sucked into it automatically when you start to look at a map, preparatory to inventing an apportionment scheme. To your horror, you see that half the voting power or more is being condensed into a mere flyspeck of area. But the answer is: what of it? It's only because you are looking at a map instead of at people that you are worried. If you think of apportionment as a means of representing people, and not as a means of drawing lines on a map, you will not be led into such error. If, for example, you were to provide 15 senatorial seats for Wayne county on a population basis, you would not provide the county as a whole with those senators. They would not run at large within the county. Instead, they would be divided among single member districts within the county. Each one of those districts would contain just as many people as any other district anywhere in the state. If you refuse to permit that, simply because of the smallness of the area occupied by these people, you are taking an extremely irrational position. What difference does it make that the people in such a district live close together, instead of far apart? Does that entitle them to less right to enact laws than other people? If so, why? If all you are worried about is that there is not enough empty space between the people in Wayne county, the solution is not to decrease the representation of these people, but rather to increase their area. We have plenty of such area bordering on Wayne county which can be added onto it, if you feel it necessary to do so. All we need to do is add on some of the area of the great lakes which border on Wayne county. It's true that such "watered areas" are uninhabited, but they are not more so than the inland lakes and federal forest lands in other counties.

In reality, there is no more inherent virtue in demanding that political power be distributed by geography than that it be distributed by occupation, by number of college degrees, or by race, creed or color. There is nothing sacrosanct about geography. Let us not get hypnotized by maps. Let us keep our mind on each person who is to be represented, without worrying about whether he lives north, south, east or west, or how many people live near him. The only proper distribution of power is that it goes with people wherever they go. Otherwise, what is represented is something other than people, and we then fail to have even a republican form of government.

Another suggested justification I would like to call to your attention is the analogy of the founding fathers' setting up of the United States senate. This is one of the most common arguments; that what we would be doing here is similar to what the founding fathers did in setting up the senate. And I would like to suggest certain answers to this. In the first place, I call to your attention this: the founding fathers did not set up a senate based on area. That is, of course, the most common error. There was no connection whatever between the amount of area of a state and its representation in the senate; in fact the concept of area representation was not even mentioned in the federal constitutional convention. I might add that if anyone thinks differently, I have a nice, big, fat book in front of me and they are at liberty to show me where I am wrong. It was the smallest states, such as New Jersey, which insisted on protection, not the ones which were large in area. It is just the reverse of what you might have thought.

Neither did sparsity of population have anything whatever to do with it; it was never mentioned either. Actually, the small states were not in general sparsely populated — they simply were small in size. Thus, any analogy between the U.S. senate and the idea of extra legislators for large or sparsely populated districts is entirely imaginary. It is not founded on fact, but on fancy.

In the second place, the founding fathers did not set up any senate election system by which the votes of one voter counted unequally with that of another. This is another error that is just about as common as the first one. I might add the reason for that is, at the present time that is the result, but that is not what the founding fathers set up. In the federal constitution, as it was originally drawn up and adopted, the people did not elect the senators at all; they were simply selected by the state legislators. No one suggested to the federal constitutional convention that one person's vote should count more than that of another. It was simply not a question of election of senators at all. What it was, in fact, was this: there was equality of representation of constituents. In the house the constituents were people; in the senate they were states.

The third answer to this analogy about following the founding fathers is this: the founding fathers did not set up any senatorial districts at all. Quite the contrary; the senatorial districts — that is, the states — set them up — set up the union. It was exactly the reverse of what we have to face.

In the fourth place, the direction which the founding fathers took was that of adding a new house based entirely on population to an existing unicameral body in which the representation was by states; whereas in our case, we are urged to go in the exact opposite direction, that is, moving away from a consistent pattern of proportionate representation by introducing an antipopulation element. This kind of difference of direction, of course, is of tremendous importance. Such a change in direction is always based on observation of the features of an imperfect system, seizing on the part which is the necessary evil, and asserting that it is good. That is the precise reason why we must always be vigilant against the introduction or extension of imperfections and irrational factors. I might say that, for an example, in the United States constitution there was another imperfection which could not be avoided, and that was that slavery was not prohibited, but I presume nobody at this date says we should copy that imperfection. Of course, at one time they did state that very vigorously, and we had to kill them to stop them.

In the fifth place, the founding fathers had no choice as to the boundaries of their senate districts. They had no power to change the boundaries of the states. The situation, of course, in Michigan is exactly the reverse. We are not bound by senate districts. Obviously we are going to change the boundaries. I might say there are more answers to this argument than to any other argument. It is the least good one but the most quoted.

In the sixth place, the founding fathers did not select this system finally adopted as a good system. That is another mistake. It was referred to, for example, by Madison in the Federalist Papers as the lesser evil. The history of the way the senate provision was adopted shows fully that the majority of the founding fathers — especially the more prominent ones — were strongly opposed to a senate giving equal voting rights to each state, on the ground that it was a violation of the basic principle of proportionate representation. In fact, they originally won their position in the committee of the whole at the federal constitutional convention, but eventually were forced to surrender to the small states, who in fact threatened to refuse to enter the proposed union and to form alliances with foreign powers. I have before me, in fact, quite a few quotations from the founding fathers exactly on point, in which they admitted over and over again, those who wanted the present senate system, that it was wrong in principle and that they were simply insisting on it because they had the power to insist upon it. I will not read those except privately to people who are not certain that the facts are as I just stated. Nevertheless, the assumption that the founding fathers regarded a senate not based on proportionate representation as a good thing is entirely unjustified. It was a bitter pill for them to swallow. It was not a champagne cocktail; it was a poison daquiri.

Finally, the analogy between the United States senate and the state senate fails because of the sovereignty of the states. This is the point that President Eisenhower called to the attention of the delegates. We have seen that this was the decisive factor in the claim of the states for equal voting rights. They simply said, "We will not join the union. Because of our sovereignty, we can stay out." On the other hand, state senatorial districts are devoid of sovereignty. We must remember, for example, that on account of the sovereignty of the states, unanimity of the states was required in order to form the union; obviously no such problem exists with regard to senatorial districts.

I will also call to the attention of the delegates illustrations of differences between the federal-state system as applied to the state senate and the system within a state. I will not read this table, but I simply call to your attention table 11 which sets forth a few of the differences which occurred to me one morning before I testified before our committee. I jotted down as many things as I could think of at the moment, and I have reproduced it here. These are differences between the federal-state system and the system within a state which show why, when we say that there is sovereignty, we are not just using a word. The state has obligations. The state has rights against the United States; the state has rights against other states. The state has power over its people. None of those things and none of the individual things listed there apply to senatorial districts. For all of these reasons, we can certainly conclude that the analogy between area factors in the state and the founding fathers is entirely fanciful and has no basis in logic, just as was stated by all political scientists of whom I am aware, as well as ex President Eisenhower.

Another argument that has been urged upon us is what might be called the consensus theory. This has been urged as a reason for adding nonpopulation or antipopulation factors. The basis of this theory is this: that it is necessary in order to avoid the tyranny of the majority; that is, to act legislatively only if there is a consensus of the major points of view within the state, rather than a bare majority. Of course, one quick answer to this which has frequently been given is that if the tyranny of the majority is bad, the tyranny of the minority is worse, and that is precisely what we now have in the Michigan legislature, and that is what we will continue to have under the majority proposal in each house.

Of course, if one house were truly responsive to the will of the people — that is, would "swing" as the popular vote swings from one party to the other — it is true that minority rule of a second house would not enable that minority to rule affirmatively, but merely to block action by the majority in the other house. But even in that case the question still remains whether the minority should be able to block action by the majority. Analysis of what is actually involved in a bicameral legislature in which one house is based on proportionate representation and the minority has built in control over the other house leads to the conclusion that what it amounts to is that it takes more than a majority to enact a law. It takes, in essence, a majority in one house plus a majority of the minority in the other house. Of course it is not quite as bad as requiring a unanimous vote, but it tends in that direction. Actually, it amounts in effect to requiring roughly a ¾ vote of the legislature in order to enact certain legislation. The result is thus to make it extremely difficult to pass any laws at all wherever there is a difference of opinion between the majority and the minority, that is if the minority is supporting it. Experience shows that such a system is not feasible for any deliberative body, regardless of whether it is a legislature, a corporation, or any other type of body. Such a system has a tremendous tendency to lead to frustration and to destruction of the effectiveness of the institution concerned. This is the result of compounding fear, lack of faith in democracy, and sheer laziness in analysis.

It, of course, is by no means uncommon to place restrictions on the legislature making it difficult for them to enact certain laws, in order to protect the minority. That is, in fact, the entire basis of constitutional democracy as we know it in this country. Thus, it is common to provide in constitutions that the legislature cannot change certain laws by an ordinary majority, but that a more difficult procedure is required; for example 2/3 or 3/4, as in the amending of the federal constitution. Such a system makes it possible to pass ordinary laws essentially by an ordinary majority, but makes an extraordinary majority, or consensus, necessary in order to make extraordinary changes in the law. Such a system is extremely effective in both respects, that is, it makes it possible for effective actions of ordinary types to be taken, but it strongly inhibits changes of the fundamental law.

On the other hand, the way the consensus theory is applied in states like Michigan is exactly the reverse. It is, and under the majority proposal would continue to be, easier to amend the Michigan constitution than to enact a law which is favored by Democratic voters but opposed by Republican voters, even when the Democratic voters outnumber the Republican voters. The reason is that, aside from procedural problems in getting a constitutional amendment on the ballot, all that is required to change the basic or constitutional law in Michigan is a majority, but in order to enact an ordinary law over the opposition of minority control in a second house, the consensus of about ¾ is required. This is the way the so called consensus theory works in Michigan; it works upside down. However, our consensus system in Michigan does not work even that well. The reason is that most of the time — up to the present, all the time, in fact — the minority controls both houses, not just one, and this would continue under the majority proposal. Under these conditions, it is substantially impossible, not just very difficult, for the majority to enact any law over the opposition of the minority. Thus, in practice, we do not have a consensus system; we have a "nonsensus" system in Michigan. It is strictly a one way street, in the rural Republican direction.

Obviously, therefore, Michigan law must be and is a crazy quilt pattern of constitutional amendment, coupled with a continual failure to meet the general needs of the public. This is what it has been, and this is what it will continue to be under the majority proposal.

Another excuse or justification which has been offered and which I would like to comment on is what might be called the minority protection theory. It is asserted in this argument that the minority must be able to prevent the majority from enacting laws which are beneficial to itself and harmful to the minority. This is usually stated in the form of a fear that the majority, or the metropolitan dwellers, would use state funds for its own benefit, even though these funds are raised from all parts of the state. This must, in my opinion, be recognized as a baseless, exaggerated, inverted, superstitious fear. The fear is baseless, because there is no evidence to show that it has ever in fact occurred, nothing to show that it is likely to occur, and nothing even to show that it could occur. There is, in fact, no way by which the legislature could grossly discriminate, in the use of funds or otherwise, against one portion of the state, because this would violate the "equal protection of the laws" clause of the United States constitution, as well as the uniformity clause of the Michigan constitution, and the "equal protection of the laws" clause which we have adopted for the proposed new Michigan constitution. Thus, the fear is imaginary.

It is true that there could be some substantial inequities in the distribution of state funds, short of violation of the equal protection clause, but there is nothing to show that the metropolitan or urban voters have any such intentions. The fear, in any event, is certainly purely prospective. On the other hand, there is everything to show that that is precisely what the Republicans in control of both houses of the legislature have in fact been doing to the metropolitan areas, as I have already pointed out. Evidently their fear of the metropolitan voters is nothing but a reflection of their own conduct, transferred mentally into the imagined future misconduct of others. In any event, it is shocking to find that anyone could be so afraid of possible inequities of this magnitude that he would be willing, eager, and in fact insistent on destroying democracy in this state over such fears. It is incredible, in the first place, that anyone would place such an extreme value on money that he would destroy democracy in order to protect his pocketbook. In effect, he is willing to sell the equality of man for filthy lucre.

But how much money is really at stake here in any event? The tax collections in Michigan average about 80 per cent for federal, 10 per cent for state, and 10 per cent for local taxes. Thus, what is at stake overall — the full amount — is 10 per cent of the taxes a person pays. It is obvious that he could not be deprived of any major portion of this without violation of the equal protection clause; therefore, let us assume that, at the absolute imaginable worst 3 per cent of the taxes he pays could conceivably be diverted by misconduct of the type feared. This comes to about $30 per capita, as compared to an income per capita of roughly $1500, or about 2 per cent of income. Two per cent of income, in other words, is what is feared. It is feared that 2 per cent of somebody's income might be diverted to somebody else. Once this is observed, it should be obvious that the most that could be at stake could never be sufficient to justify any impairment of democratic principles or ethical concepts of the equality of men.

If anyone feels that such an economic problem is worth worrying about, what shall we say about people in the upper peninsula and in the city of Detroit who have been unemployed for long periods of time and have no real prospects of obtaining employment in the foreseeable future? They have lost 100 per cent of their income through forces beyond their control. If the imagined prospect of a 2 per cent loss of income can so unnerve people as to make them wish to subvert democracy on account of it, can anyone imagine the tremendous emotional charge which is stored in communities in which there exists the fact — not the imagined fact, but the fact of a 100 per cent loss of income for large numbers of persons? If, on top of this, they are convinced that some of the blame lies in the failure of their local government to help them, and that part of this is in turn due to the fact that the state government is so rigged as to make such help impossible, any sensible person will realize that here there is real danger and not just imaginary fears. Further, when we pile on top of this the fact that the great majority of unemployed persons in this state are urban dwellers who are systematically discriminated against in their representation in the state legislature and that, still further, the urban negro community bears by far the greatest amount of this grave burden, the selfish, unworthy nature of the fears of such rural dwellers becomes readily apparent.

If anyone really wishes to indulge his fears, I suggest he tackle a problem worthy of such concern. We are trembling on the brink of annihilation of all mankind, in the struggle of democracy to preserve itself from the depredations of totalitarian governments. This is a problem over which sane people could really be concerned, and even worried. But, in the face of this, is it within the realm of sanity to dump democracy over an imaginary fear of a possible 2 per cent loss of income? Placed in this light, we must conclude that such fears do not really exist in healthy minds. They are simply excuses — pretenses — offered to justify what they know full well is wrong.

How consistent, in any event, have Republicans in Michigan actually been in their contention that the minority should be protected from tyranny of the majority? If we examine the debates of the 1907 Michigan constitutional convention, we find our answer. The committee of the whole accepted, 40-38, a proposal for proportional representation in 3 seat districts — only 2 persons being nominated by any one party — on the theory that this would give the minority party, which was Democratic, some significant representation in the house of representatives but this was later amended to death on the floor of the convention. The arguments of the 2 leading Democrats in favor of the proposal, and of 1 leading Republican at that time, show how the parties faced the issue of protection of the minority from tyranny of the majority at that time.

I quote first from Delegate Snow, a Democrat, in the 1907 convention. He said this:

> When you find the house of representatives, as you find the present one, with only 5 out of 100 who are Democrats, you do not find that they act as very much of a check upon the majority.

That was one of the arguments. Another one by Fall, a Democrat, said this:

> In the fact that we can bring to this hall a house of representatives wholly or almost wholly of the same party lies the danger to that party, in their self satisfaction leading them to do some things that are not altogether creditable to them. It is the nearly equal composition of the 2 parties in which we find the correction of evils that otherwise will creep in. . . . I submit to you that when a party by its ballots deposited one by one in a legal way speak 220,000 times requesting that they have a representation in the house of representatives, that notice is a petition to the people of the state, and it ought to have recognition.

Now, those were the arguments of the Democrats. Here is the answer, which I wish to call to your attention, of Delegate Townsend, a Republican at that convention:

> The only way and the only safe way that we can rely upon a representative government, is by a majority rule; and I am ready to stand by that now. If the Democratic party gets a majority in this state, I am willing to abide by majority rule under the Democratic party.

The words and deeds of the Republican party in Michigan, from that time to this, however, show that: (1) when the Republicans were consistently in the majority, they favored rule by the majority, even to the extent of a house containing 95 per cent Republicans, and rejected any effective representation for the minority; (2) when the Republicans have come to occupy a position of alternating majority and minority, tending towards the minority — as now — they favor giving the minority, in effect, Republicans, built in control for themselves in the legislature; and (3) the Democrats fought for fair representation for both the majority and the minority at that time, when they were the perpetual minority, and they still fight for the same thing now, when they are in a position of alternating majority and minority tending presumably towards the majority.

On this basis, the answer is clear. There is one real motive behind the position of Republicans in Michigan, who talk about minority protection — that of seizing and retaining control of the legislature regardless of how the people vote. This is not based on fear; it is based on greed, lack of faith in democracy, and the lust for power. It is nothing short of a conspiracy to subvert democracy in Michigan, by persons who love words such as religion and morality but who love power over other people even more.

Those of us who sincerely wish to preserve the rights of minorities — and have a practical record to prove it — seek to do so by fighting for the basic principles of the bill of rights which we inherited from the northwest ordinance. We seek to maintain these rights in inalienable form. Basic to all of these is that the people should have a right to make their own laws by a simple majority vote based on proportionate representation, and that this right and other basic bill of rights provisions shall never be taken from the people by amendment of the constitution or otherwise. On both of these accounts we have been betrayed by the Republican conspiracy in Michigan. They have destroyed the right of the majority to make the laws, and they have impaired the right of the minorities by removing from them the inalienable right of a proportionate representation — and I might add, while I am at it, that when we attempt to explain this to them, they are not here. You can tell them when they come back. (laughter)

Finally, in answer to those who would glorify the minority, let me point out that the entire concept of the minority is very intricate. It cannot be approached in the naive manner in which Republicans generally try to do. If we start out with any individual voter, we know that he is always, as an individual, a minority of one. He can never have his own way in a democracy. It is only by joining hands with other individuals to form groups that he can ever hope to do so. The people of a county, or of a senatorial district, may be regarded, for example, as such groups, but they are always in the minority too.

Who, then, is not in the minority? The answer is this: only a group which together adds up to more than 50 per cent of the voters. But which voters do we add up? Do we add up the negroes? If so, they are the minority. Do we add up the Jews or the catholics? If so, they are the minority. Do we add them up by geographical areas? If so, which areas, and why? I suggest that, in reality, the standard way of adding voters is by their label as Democratic or Republican, since that is the way the votes are cast. Thus, the minority, in a political sense, is the party which gets the smaller popular vote. The way this minority is protected is by rules of law which make it possible for it to become the majority in the next election, and thereby change places with the existing majority party. Unless this can be done, there is no protection for the minority in the political sense. This, however, is precisely what the Republicans insist on — and in the name of protection of the minority. In the last analysis, there never can be real protection of the minority, unless the constitution provides (1) only the majority party shall ever be in office, and it shall have the responsibility of governing for the time being; (2) the minority party shall not be impeded from becoming the majority party in the next election, if it can persuade the voters to vote for it; thus the "in party" which becomes the minority party by popular vote must go; and (3) the rights of those who are not able to muster a majority must be protected by constitutional limitations on the legislature, such as the bill of rights, which cannot be amended by vote of the majority. Finally, there can be no protection of minority rights, unless each individual is regarded as a minority of one, and is guaranteed equal treatment in the making and in the enforcement of the laws. This is the kind of government which we are trying to foster throughout the world, but we are strangely persistent in refusing to operate under it in our own home state. We are glad to preach it, but are horrified at the thought that we ought to practice what we preach.

Another argument which I could not afford to ignore is this: it is often asserted that the people of Wayne county would control the legislature if fair play in representation were allowed, that is, that they in turn would be dominated by Wayne county Democrats, and that they in turn would be dominated by the AFL-CIO union, and that they in turn would be dominated by one man, namely August Scholle. Most of the answers to this have been given previously, with regard to the consensus argument. It may be added that nearly every state has apportionment problems similar to ours, despite the fact that in some states there aren't any voters except Democrats, practically, or in some, practically, Republicans, and that neither August Scholle, nor the AFL-CIO, nor any other individual or group has any power there at all. In other words, this is an excuse for failing to do what is right, and not a reason.

But what about the actual position the minority is urging for the senate? What we are proposing is a plan which guarantees, first, that Wayne county Republican votes will offset half of the Wayne county Democratic votes instead of zero per cent, as now, and second, that outstate Democratic votes will also match Wayne county Democratic votes. Thus, there is no way for Wayne county Democrats to dominate. To repeat, the 2 points that we provide in the minority proposal on this exact argument is, one, Wayne county Republican votes will offset half of the Wayne county Democratic votes, instead of being completely discarded as at present. And, secondly, outstate Democratic votes will also match Wayne county Democratic votes. In other words, on this basis, there isn't any way that Wayne county Democrats could possibly dominate.

Unfortunately, there are more arguments or excuses as to why we should not do what is right than enthusiasm for doing what is right. Another one of these arguments or justifications might be classed or categorized as "the better class of people" type theory. I have heard this in the halls frequently. I consider this one to be desperation argument number 1. I have observed that when all else fails, those who are opposed to equality of representation let slip the logical remark that they are opposed to it simply because some people really aren't equal. How they reconcile this view with democracy, with religion, with morality, with law, or with ordinary decency, I leave for them to say. I reject as uncivilized the superiority complex of those who agree with the attitude of Stephen Douglas, expressed in the Lincoln-Douglas debates. This is Mr. Douglas in the Lincoln-Douglas debate:

"In his Chicago speech he says in so many words" — meaning Mr. Lincoln —

> that it includes the negroes, that they were endowed by the Almighty with the right of equality with the white man, and therefore that that right is divine — a right under the higher law; that the law of God makes them equal to the white man, and therefore that the law of the white man cannot deprive them of that right. That is Mr. Lincoln's argument. He is conscientious in his belief. I do not question his sincerity, I do not doubt that he, in his conscience, believes that the Almighty made the negro equal to the white man. He thinks the negro is his brother. [laughter] I do not think that the negro is any kin of mine at all. [laughter and cheers] And here is the difference between us. I believe that the declaration of independence, in the words "all men are created equal," was intended to allude only to the people of the United States, to men of European birth or descent, being white men, that they were created equal, and hence that Great Britain had no right to deprive them of their political and religious privileges; but the signers of that paper did not intend to include the indian or the negro in that declaration, for if they had would they not have been bound to abolish slavery in every state and colony from that day? Remember, too, that at the time the declaration was put forth every one of the 13 colonies were slaveholding colonies; every man who signed the declaration represented slaveholding constituents. Did they mean to say that the indian, on this continent, was created equal to the white man, and that he was endowed by the Almighty with inalienable rights — rights so sacred that they could not be taken away by any constitution or law that man could pass? Why, their whole action towards the indian showed that they never dreamed that they were bound to put him on an equality. I am not only opposed to negro equality, but I am opposed to indian equality.

On the other hand, this is Lincoln's view:

> Our republican robe is soiled, and trailed in the dust. Let us repurify it. Let us turn and wash it white, in the spirit, if not the blood, of the revolution. . . . Let us readopt the declaration of independence, and with it, the practices, and policy, which harmonize with it. Let all lovers of liberty join in the great and good work. If we do this, we shall not only have saved the union, but we shall have so saved it as to make and keep it, forever worthy of the saving. We shall have so saved it, that the succeeding millions of free happy people, the world over, shall rise up and call us blessed, to the latest generations.

History has judged between these 2 views and has decided in favor of Lincoln — that all men are equal — just as they did in Jefferson's time, nearly 100 hundred years before. Let us not join in the fight 100 years and 200 years after it is over, and on the wrong side, at that. But suppose you insist on taking the view that some people are superior and some inferior. It still would not follow that you have selected the right ones to be stamped as inferior. Who is the judge of his fellow man who decides who is superior and who is inferior? And how does he do it? If he does it by selecting people on the basis of the geographic lines artificially drawn around them — in a package, instead of individually — he obviously does a gross injustice to some people within the group. In short, he is guilty of the grossest type of group discrimination. Not everyone in Wayne county could be inferior.

If there is any validity to such a point of view, it would require singling out those who are inferior so as to be denied the right of suffrage, rather than allowing inferiors, unequals, and equals all to vote and diluting the vote of all of them. Therefore, if anyone says that some people are inferior, let him prescribe limiting conditions on the right of suffrage, if he can. But everyone who does vote must have an equal vote.

One of the most common arguments that we have heard around the convention is that other people are doing it too. The proponent of this argument is prone to point out all the defects in every state government, as well as in the federal government, thinking that in this way he proves that what he knows is wrong is somewhat right after all. This is the most common plea of every wrongdoer, "I'm not the only one who's doing it." On this basis, these people probably would not oppose totalitarianism, provided a lot of countries could be shown to be doing it too. Can't they decide what's right and wrong by use of their own consciences? Or have they developed a lowest common denominator type group conscience? If we emulate the wrongs committed by others, we shall be no less wrong; we shall know it, and others will know it too. If we emulate the defective systems of other state governments, ours will be just as defective. It will be no comfort to know that the federal government is taking control away from other states too.

We in Michigan have the opportunity to lead other states in erecting a firm foundation for effective state government. We cannot do so by following in their futile, feeble, foolish footsteps. We in this convention have the opportunity to lead the people of this state out of political bankruptcy. We cannot do so by timidly falling in line with the statistics of other states. We must meet the problem with courage and fortitude. We must not be distracted by those persons who are governed by fear or by the desire to discriminate against their neighbors. We must not let the shallow bleating of unthinking interest groups dominate us. It is up to us — to each one of us as individuals — to come to grips with this basic problem once and for all, to refuse to temporize or compromise with what we know is right, to place this problem where our forefathers left it — on the basis of sound principle. Let us heed the advice of Thomas Jefferson, "Only lay down true principles, and adhere to them inflexibly. Do not be frightened into their surrender by the alarms of the timid." This should be our motto, not "let's copy the foibles of others." Let us resolve to adhere firmly to the one principle that makes government by the people possible in perpetuity — equality of representation.

Mr. Chairman and fellow delegates, that concludes the statement as to the reasons why we differ from the majority, the reasons why we support the minority proposal.

What I propose to do next, Mr. Chairman and fellow delegates, is to analyze the specific differences between the majority plan for the house and the senate, and the minority plan. And at this point, Mr. Chairman, I would like to ask whether it is in order to have the committee stand at ease for 15 minutes.

CHAIRMAN HUTCHINSON: It would not be in order, Mr. Nord. You may move that the committee rise, if you desire.

MR. NORD: I do not so desire, unless the chairman does. I will continue then, Mr. Chairman. I refer you, Mr. Chairman and fellow delegates, to table 8.

MR. FARNSWORTH: Mr. Chairman.

CHAIRMAN HUTCHINSON: For what purpose does the gentleman rise?

MR. FARNSWORTH: Would Dr. Nord care to answer 2 or 3 questions while he is resting? (laughter)

CHAIRMAN HUTCHINSON: That would be entirely up to Mr. Nord, if he desires to be interrupted at this point in his presentation.

MR. NORD: Well, if I were resting, I probably would not be answering questions. Mr. Chairman, I believe it is preferable to complete the presentation if possible before we adjourn. I would, however, of course, be willing to answer questions when we do that.

I think that by going through the tables that follow, or at least some of them, we can see the specific differences between the proposals. Now, let us turn, if you will, delegates, to table 8, which is an analysis of the presently existing plan for the house, with moiety. This is compared — the righthand column presents the districts for the presently existing plan — that is, if no change is made — according to the 1960 census if the house were reapportioned according to the present plan with no change. The staff of the legislative organization committee has shown the following figures which I have in the righthand column taken from a map which they have prepared. It shows, for example, Wayne county with 34 seats; Oakland, 9; in a house of this type with 108 seats total. And I have compared that with a straight population house of 100 seats just for comparison. You will see, Mr. Chairman and fellow delegates, that every one of the numbers is identical except the last one, which is a collection of all the other districts. These other districts are the smallest — on the whole, they are the smallest districts. The largest ones have been included in here. If you will compare the 2 columns, then, you will see there is only one difference between the existing moiety type house and the one that would be proposed, let us say, if we had a straight population. The difference is 8 seats. There are 8 more seats in the rural areas on account of moiety. That is what would be anticipated if we were to use the existing plan without any change in the house.

The first conclusion then — and this is mentioned in the summary at the bottom of the table — is this: the presently existing moiety provision provides 8 bonus seats for the rural areas on the basis of the 1960 census; in other words, about 7 per cent based on area. And, 2, by comparison, on the basis of the 1950 census, 10 bonus seats were and are presently provided, which is about 9 per cent based on area. Therefore, Mr. Chairman and fellow delegates, the first thing we know is this: the present house, with the moiety provision, contains roughly 8 to 10 bonus seats, extra seats, in other words, in the rural areas. That is the extent of the deviation. That deviation is about 8 per cent. So that is the effect of moiety.

Now, Mr. Chairman and fellow delegates, I suggest that you refer to table 9. Table 9 presents an analysis of the majority plan, in the righthand column, for a house of 110 seats distributed in the way that is shown among these various counties, the counties at the bottom being basically the rural counties. And that is compared with another column to the left of that which I have prepared, based upon maps prepared by the staff of the legislative organization committee, for 107 seats based on straight population. Comparing the 2, you will find that the first 2 numbers are switched, 37 and 9 against 36 and 10. Aside from that, however, the only difference is in the bottom of the table where the straight population would give 18 seats to these rural districts and the majority plan gives 21. Therefore, the summary which appears at the bottom of this table shows this: that the majority plan provides, according to this estimate, 3 bonus seats for the rural area, or about 3 per cent based on area. There is one other difference which I have already mentioned.

I will present further statistics tomorrow morning, Mr. Chairman, to show some other examples which will show the maximum deviation will be up as high as 14 per cent, whereas the deviation is dissipated —

MR. MARSHALL: May I make a point of order, Mr. Chairman?

CHAIRMAN HUTCHINSON: What is the point, Mr. Marshall?

MR. MARSHALL: I apologize to Dr. Nord for interrupting. I don't know whether it is a point of order or a parliamentary inquiry. On Thursday night of last week a motion was made that the committee stand at ease for 5 or 15 minutes, and this was permitted. We did stand at ease for that long. And here tonight it is not in order now. In consideration of the ruling of the Chair, Senator Hutchinson, I agree possibly with the Chair that under strict parliamentary procedure I question whether it is permissible, and therefore I would not argue too strongly with your ruling. But it has been permitted in the house of representatives — I am aware of that — and it was done here on the floor of this convention last Thursday night in order that the majority party could caucus for a few minutes, and we did stand at ease for 15 minutes. And I wonder if the rule was good last Thursday night, in all fairness why isn't it good tonight? I would ask at this time if we could not stand at ease for 10 or 15 minutes.

CHAIRMAN HUTCHINSON: The Chair will rule that such a motion is out of order; that a committee of the whole can only rise; that it is the function of a committee of the whole to work and not to stand in recess, and there is no such thing in parliamentary law as standing at ease. This Chair will not entertain any motion to stand at ease. This Chair will entertain a motion to rise at any time any member —

MR. MARSHALL: Senator Hutchinson, in order to clear my point with you, I agree with you insofar as your parliamentary ruling, you are absolutely right. And understanding and knowing your feeling toward parliamentary procedure, I am not going to quarrel with the Chair. I only point out it was done last Thursday night.

But I would like to move at this time that the committee rise.

CHAIRMAN HUTCHINSON: Mr. Marshall moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion does not prevail.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: A division is called for. Is the demand seconded? A sufficient number up. All those in favor of the motion that the committee do now rise will vote aye. Those opposed will vote no.

MR. VAN DUSEN: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: A point of information which I should like to direct to Mr. Marshall, if I might. Is it his intention that the committee rise permanently for the evening or is it his intention that the committee rise for the purpose of a short recess?

MR. MARSHALL: Did you direct the question to me?

MR. VAN DUSEN: I did.

MR. MARSHALL: My intentions were to have the committee rise, and then move that we recess for 15 minutes.

MR. LESINSKI: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Lesinski.

MR. LESINSKI: I suggest to the delegates who will vote against the rising that they remain in their seats, because they were not available here when Mr. Nord was speaking.

CHAIRMAN HUTCHINSON: The motion is not debatable that the committee do now rise. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 55; the nays are 50.

CHAIRMAN HUTCHINSON: The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will make a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President, I move that we stand in recess until 10 minutes to 10:00.

PRESIDENT NISBET: The question is on the motion of Mr. Marshall. Those in favor say aye. Opposed, no.

We are recessed until 9:50.

[Whereupon, at 9:35 o'clock p.m., the convention recessed; and, at 9:50 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention resolve itself into committee of the whole for the consideration of proposals on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Those opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The Chair recognizes the delegate from Wayne, Mr. Nord on the minority report amendment to **Committee Proposal 80.**

MR. NORD: Mr. Chairman and fellow delegates, before continuing, I would like to point out where we are now in the presentation and what we plan to do in the time remaining this evening and tomorrow. First of all I would like to point this out: the arguments we are presenting, of course, have been at some length. I believe they have been about 2 hours or thereabouts, or an hour and a half. (laughter) I believe they have been an hour and a quarter, as I said, (laughter) or thereabouts. And the reason for it, I think, is quite clear. We are taking a position that has been described as extreme on a crucial issue, and we simply wanted to set the record absolutely crystal clear that we do take a position that some people call inflexible, and that we take it for a reason. We stated the reasons as well as we could.

What we have in mind, to continue, at this point is to analyze the specific differences between the majority plan and the minority plan and explain why we reject the majority plan and urge you to do the same. The first point that I made in this connection was with respect to tables 8 and 9. Table 8 shows that the moiety provision of the present house, if no change is made, runs about 8 to 10 seats, depending upon the population of the various counties, or about 7 to 9 per cent, so on an average we might say 8 per cent. There are about 8 per cent extra seats in the rural areas at the present time under the moiety provision, and the question that I was addressing myself to a few moments ago with respect to table 9 has to do with what the effect would be under the majority proposal for the house. And table 9 shows an estimate which I have prepared. It may not be identical with what actually would happen, because we have no map that is official; but anyway, these are 2 different sets of figures based upon estimates of what would happen under the majority plan with 110 seats in 1960 population compared to 107 seats by straight population based on a staff map. This showed a difference of 3 seats, and I call to your attention that the moiety provision would be 8 seats at this time. It is 10 seats as of the present. It would become 8 seats as of the 1960 population. It depends on the population distribution. Similarly, if it is 3 per cent according to the majority plan with the 1960 figures, most likely it would be 2 more than that — at least it is possible it would be 2 more than that based on the 1950 figures. If so, that would range 3 to 5, whereas the present moiety ranges 8 to 10 seats. So, on this basis we can make a rough estimate that the majority proposal apparently would cut down the effect of the moiety by a little more than ½. That appears to be about the result. And the effect of the moiety provision is at present to add about 8 to 10 extra seats in the rural areas, strictly bonus seats. The effect of the formula proposed by the majority will provide bonus seats again — not as many; according to predictions, a little less than ½.

Now I would like to call to your attention some additional figures which I asked the pages to distribute to your desks, 2 separate sheets which were prepared today. Both of them have to do with hypothetical illustrations of the way the house formula proposed by the majority works. Unfortunately, one of these, which was typed during the debate, has one word wrong, and that is in the table that is headed, Hypothetical Illustrations of the Majority Formula for the House. In that table the righthand column should say "deviation" rather than "duration." It is a deviation in the 2 illustrations.

What I would like to do at this point is to make this comment about the house as proposed by the majority: there are 2 elements involved in the majority proposal for the house. One of them is the equal proportions provision. The other one is the 0.7 per cent of population. Now, the 0.7 per cent of population tends to cause extra seats, as we have seen, similar to moiety, but not quite as severe, and the reason for that is that 0.7 is the wrong percentage. Seven-tenths is an abitrary percentage. When you say that 0.7 per cent is sufficient to constitute the minimum size of a district, what you are in effect saying is that .91 per cent or thereabouts is the average which ought to be on a population basis prescribed and that 0.7 for the minimum will probably come out fairly close to .91 per cent average. However, the evidence shows that 0.7 is too low to come out with a .91 per cent average, and there has been no evidence presented, as far as I know, to the committee or to any other person which explained why 0.7 per cent, as the minimum size of a district, would be expected to come out right on a population basis. It would be expected to come out .91 per cent average. So the 0.7 per cent is an arbitrary figure and it is evidently lower than it should be, and that means that it tends to create additional districts, more districts than otherwise would be the case in rural areas.

Now, the equal proportions part of the formula tends in the exact reverse direction. There are 2 compensating factors in the majority proposal for the house. The 0.7 per cent figure tends to give extra seats to the rural areas, but the equal proportions formula, which will be explained by the majority proponents later, deviates, so to speak, in the opposite direction. It tends to give, normally, extra seats to the heavily populated area. And the expectation or the hope is that these 2 opposing factors, each of which is wrong in itself to some degree, will cancel each other out. What I wish to show is whether or not we can predict that these things will balance or won't balance, or whether they depend on factors beyond our control.

I have already mentioned the 0.7 per cent. Now one of the charts I have just referred to is headed, Hypothetical Illustrations of the Equal Proportions Method. This one is just a few examples of how the equal proportions method would work with arbitrarily selected populations of the type that would occur in a state having some areas of high population and some medium and some very small. There is nothing specifically magic about these figures. But anyway, with these figures I have tried to find out what you would get by equal proportions, distributing 14 seats, 23 seats, 29 seats as examples, and I have compared the number of seats which would be distributed by equal proportions with the number of seats that would be distributed by a straight population basis, and the third column in each one of these groups represents the deviation. For example, if you were to distribute 14 seats among these various different districts, assuming that that was to be done, the equal proportions method would give 13 to the 1 million population county and 1 to the 100,000 and none to any of the others.

What you would get if you had straight population is in the next column: 10 for the first line, 1 for the next 4 lines and zero for the others. The deviations are shown in the righthand column. The million population county, let us say, would get 3 seats more than it is entitled to by straight population, and the other 3 would be short 1 each. That is not very untypical of the equal proportions method. You might say that it cheats slightly in favor of, let us say, the heavily populated area. It does that particularly when you don't have very many seats involved, such as 14 seats.

Now, if you had 23 seats to distribute with the same population, you see in the next group of columns what would happen. By equal proportions you would have 22 to the first county and 1 to the second and none to any of the others, whereas by population you should have 17, 2, 1, 1, 1 and 1, and you see the deviations. In this case you could have a deviation of plus 5, for example, and minus 1 for the next 5 counties. Similarly, with 29 seats you might have plus 6.

These are examples, and I believe they are not really outlandish examples, because I recall that when one of the members of the committee and I were going over the equal proportions method prior to the time when we determined what proposals would be submitted, we found that that is the case, that the equal proportions method so to speak cheats slightly — or to some degree anyway — in favor of the highly populated areas. Apparently it always does that to some extent, particularly when there is a big disparity between the highest population and the next to the highest population, and particularly when there are not very many seats involved such as 30 or 40 or 50 or less than that. Apparently, when you have 400 seats to distribute, as in congress, the discrepancy is much smaller. And also when the population doesn't vary as much as this, again it is smaller.

In any event, all I assert from these illustrations is what I believe is recognized, and that is that the equal proportions method cheats, so to speak, in favor of high population areas, and the 0.7 per cent figure in a certain sense cheats in the opposite direction.

Now, the second sheet that I have given you is an attempt to find out whether there are any extreme conditions in which this balance between the two won't really work out or won't even nearly work out. The first illustration, as far as I know, is the biggest deviation that is possible. At least I deduce that by algebra. When I figured out what it was, I cheated the most I could. In other words, as far as I know, I don't believe you can get a bigger discrepancy than I have in illustration 1. But anyway, that is to show you how much unbalance is possible when you add equal proportions to the 0.7 per cent factor and follow the formula of the majority. With this extreme case — and of course it is a hypothetical and extreme case — 1 county with 3 million people, 82 counties each with 50,000 people, you get 1 seat for each of the districts, so you get 1 for the 1 county and 82 for the other counties. Then the equal proportions distributes all the rest of them to the large counties, so you end up with 28 seats in the large county and 82 seats in the 82 smaller counties. The next column shows what you should get by straight population. You should get 42 and 68. So in this case you have a deviation of 14 seats out of 110, whereas we saw that, according to the population as of the 1960 census, we expect it to be about 3 seats off. Here we see that with a very extreme type of population, you might have as much as 14 seats off. And illustration 2, without going into details, shows another group of populations which are not quite as extreme, but anyway they are somewhat extreme, and in this case you will find a deviation of 11 seats.

The 2 results indicate that with some kinds of population distribution you might get as much as 14 extra rural seats; with some other population distribution you might get 11 seats, all extras for the rural areas, whereas with the actual expected 1960 populations, you could expect about 3. The point of this argument is simply this: you have 2 factors, each of which is inaccurate, in the opposite direction. The hope is that they will approximately compensate — at least that they will be off by no more than, say, 3 seats in favor of the rural areas. But you can't guarantee that.

The objections that we have to the house: first of all, it does bias toward the rural areas. We see no reason why it should bias, but it does. Secondly, you can't predict how much it will bias with any degree of certainty, because it depends on the population distribution. We can't predict what that will be forever. It could be something like what we have here — that is, this amount of discrepancy. It certainly would be fallacious, then, to assume that the majority proposal for the house is bound to come close all the time. If it comes close the first time, the reason is because the 0.7 per cent figure which is used in the majority formula was selected in order to have that result; in other words, based on the 1960 population. But if you have different populations in 1970, 1980, 1990 and the year 2000, you have no guarantee that you will still come close to a straight population plan.

What the minority propose is something that isn't just close to population, but is population. It is population as nearly equal as may be, adhering to county lines.

I will skip table 10 because that is merely a summary of the argument I gave as to what various different justifications have sometimes been offered for departing from principle. Table 11 I have also referred to without describing it in detail. What follows in the next few sheets are some examples of senate proposals.

There is one other table, however, which I believe I would rather give before that, and that is table 18. I wish you would turn now to table 18. Table 18 gives an illustration of the way in which the minority plan would work in the house. Under the formula given in the minority plan, we simply say, let the state be apportioned in the house of representatives according to population as nearly equal as may be, and the test of how nearly equal you have gotten, as compared to, let us say, the other team in the apportionment commission, is a statistical test which operates according to the illustration shown here. The object is to minimize the amount of deviation of population from what it should be if you had a perfect scheme. So item 1 in table 18, the 1960 population ratio mean — that is what you should have, the average. What you should have for 115 seats — that is the number which the minority propose — you would get 7,823,194 divided by 115 — the population divided by the number of districts — or about 68,000 people per district. If you had perfect equality of population under the 1960 census, you would have about 68,000 people per district.

Now, to illustrate how this statistical test that we have suggested would work, we have examples here of 3 districts, district 1, 2 and 3, under 2 different plans. In other words, somebody attempts to get at equality of population, and he comes up with districting. Among the districts in plan A, district 1 would have 79,000 people; district 2, 69,000; district 3, 58,000. And he claims that that is a good plan, that that is nearly equal, as nearly equal as he can make it. Plan B, the opponent — let's say the Democrat is one and the Republican is the other — comes up with district 1, 60,000 population; district 2, 71,000; district 3, 75,000. Now, the question is which one of these shall be adjudged to be more nearly equal in population than the other. The test that we propose, a simple statistical test quite commonly used, simply says, find out what the deviation of each of those numbers is from what it ought to be; that is, from the mean. How much discrepancy is there from 68,000? And those numbers are listed in item 3. You will note that district 1 under plan A has a discrepancy or deviation of 11,000, because that is the difference between the actual population of that district, 79,000, and what it ought to be if it was perfect, 68,000. There is a discrepancy or deviation of 11,000. And similarly the numbers are figured for each one without regard to whether it is plus or minus, because it is the amount of the deviation, not which direction it is that matters. Then you add up the total deviation. You add up those 3 columns for plan A and add them up for plan B. Whichever has the smaller total deviation statistically can be said to be the one that is more nearly equal. It has less deviation. That is all there is to the test that we propose.

Therefore, if we had 2 plans submitted to the apportionment commission, and the dispute was all about districts 1, 2 and 3 and everything else was agreed to, then plan B is the winner. Plan B is more nearly equal in population than plan A. I simply give this illustration to show that there is no difficulty in using a formula or, let's say, a proviso in the constitution that the districts shall be as nearly equal as may be, provided you set up some way to determine how you judge what is more nearly equal, and the simplest way to do it is to say that the deviation shall be as small as possible. That is exactly what is stated here. Therefore, the plan suggested by the minority for the house is based exactly on population, with the limitations which we have acceded to which are found in the majority report.

We have made the following concessions in the house: we have gone along with the majority plan as far as we could. To this extent we have gone along: we have said we would adhere to county lines even though this causes a certain amount of anguish among some of our more purist friends, because if you go by county lines you automatically know that there will be deviations of populations of about 2 to 1, and you will find those on the maps that I have prepared. There is a map somewhere in here of the house that we have suggested, and I believe the deviation is marked on it. It is a little over 2 to 1. You can't avoid that with adhering to county lines. In the committee, at first none of us wished to do that —none of us, as far as I know. But it was agreed to, and therefore in our minority proposal we adhere to that too, even though we realize we cannot get perfection; we can expect 2 to 1 ratios. Incidentally, 2 to 1 ratios are the standard ratios that existed in the past under population plans. When it departed substantially from that, they were held to be unconstitutional, as being unnecessarily large. But 2 to 1 is almost unavoidable if you adhere to county lines. Therefore, we are not being purist with no ifs, ands, or buts on that. The word "population" is in our proposal. No other provisions that approximately may come out that way or may not come out that way are used. No bonus seats are given to anybody. And there you have the difference between the 2 plans for the house.

We suggest to you that if you want a house based on population, you can have it. It isn't difficult. I would also suggest this to you too: in the committee I think we all agreed that we wished to have a house with a definite number. Whatever the number should be, it should not be a variable number, because the more variable the number is — let's say if it is to be a range of 110 to 120 — then there is more discretion left to the apportionment commission. But if you tie down the number, you eliminate most of the discretion in the commission and there are not very many possible answers. Therefore, we selected a certain number, 115. The majority selected a different number, 110. We agreed previously, however, to take any number between 99 and 115, and we are still willing to do so. We selected the number 115 simply because — and absolutely frankly we admit it — this would minimize the amount of reduction of seats in the upper peninsula. The least number of seats you could provide would be 115 to keep the number of seats in the upper peninsula at 5, whereas it is now 7, and our thought was that if we wanted to keep a certain number of seats up there, which is the same number as the majority wishes to keep, we can do that without wrecking the principle at all, simply by increasing the number of seats a few seats. I assume that when we complete our presentation there may be questions about that. But that is what we have to say, basically, about the house.

Now I would like to make a few remarks about the senate, after which we will be in a position, I believe, to adjourn for the evening and come back tomorrow and you can ask me all the questions that you can think of, and we will have a few other speakers to present other factors. But now I would like to make a few remarks about the senate, at least briefly, beginning with table 12. Table 12 is an analysis of the majority proposal for the senate. I believe this lists every senatorial district which would appear on the ultimate proposal of the majority for the senate; that is, after 1970. The actual number of people according to the 1970 estimates is listed in the first column. Now, the next column is what I call the pseudo people, and the pseudo people, of course, are not the real number of people. They are the number of people that the Republicans count, you might say. (laughter) And the way that is calculated, there is nothing guessworky about the pseudo people.

I might ask the Chair to turn off the steam in the back of the room. I heard some steamy sound back there.

Now, the way this pseudo people is calculated is as follows: first we use the number of representation factors which have been calculated by the majority in their maps, which we found at the end of this set. We took the number and we made a proportion with the actual population. In other words, we converted those figures to population on a straight proportional basis so that these numbers should add up to the same population as the actual population. The reason for doing this is that the representation ratios which are found in the majority proposal in each district are used as the numbers for setting up the districts; that is, those numbers are put in the various counties originally, and then the county lines are organized into districts just the same way as I would do if I were doing it on a population basis, only there are different numbers in those counties, numbers other than population. So what I did was to calculate what those numbers would be if they were people, and then distribute them according to a straight pseudo people basis, so the distribution that you have here is the same thing as if you had a population basis with these numbers of people. That is the ultimate conclusion. If this number of pseudo people were the number of people and you distributed on a straight population basis, you would end up with the same districts as the majority ends up with. So that is the reason for calling these pseudo people.

And then the third column explains how many people you have either created or destroyed depending on where you are in this particular group. For example, in Wayne county, I calculate you have destroyed 443,000 people; in Oakland county, 250,000 people, and so on. And you can see that you have created people down at the bottom of the list, 163,000 in Iron district and so on. This is one of those nonbloody type slaughters (laughter) and also is giving birth to a new nation, in a certain sense, or a new state. It is a pseudo state. What you are doing, in effect, when you adopt the majority proposal for the senate — that is, the provision that goes in effect after 1970 — is to destroy about a million Democrats and give birth to a million Republicans. That is about what it amounts to. (laughter) I resent the destruction of the million Democrats, and I think that the million Republicans that are born are not created in the image of the Lord, but in the image of the Republican party, and it seems to me they are monsters on that basis. (laughter)

Well, anyway, this is an analysis of how the majority proposal for the senate works. It changes the number of people to make it come out a senate chock full of Republican pseudo people. (laughter) This is summarized in groups in various different areas in table 13. Rather than taking every district, I have taken them in groups. These groups are basically groups that have been suggested by various delegates to the convention. The first group is the southeast metropolitan area which is arbitrarily defined as Wayne, Oakland, Macomb and Genesee counties, making about 53 per cent, roughly, of the people of the state. The actual population is given, and the pseudo people. The seats that they would get by population and the seats that are proposed are given, and you can see that 4 seats are removed by the majority proposal from the southeast metropolitan area. And in the southeast nonmetropolitan area there is no change substantially from population. Then you can see elsewhere: in the southwest they gain slightly, possibly one seat; the northern part of the lower peninsula gains 1.4, and you can say whether that is 1 or 2; and the same with the U.P. They gain a little bit too. The result then is this: every part of the state gets slightly more, or maybe a little more than slightly more, than they would on a population basis except one part of the state — that is the southeast metropolitan part. And all these extra seats come from the same place, from the southeast metropolitan area.

Now, the reason for pointing this out is simply to point out that you really can't create or destroy anything when you have to do with the shifting of seats. If you add seats to certain parts of the state, they don't come from noplace; they come from someplace. They come from the southeast metropolitan area. They are removed from there in order to put them back in these other places. Then you will notice that, to a large extent, there isn't any big increase in the number of seats throughout the state, but there is a substantial decrease all in one small area, the metropolitan area. Therefore, in effect, while we keep talking about wanting to give greater representation to the sparsely settled areas of the state, in effect we can just as well state it the other way around: we want to deprive the densely populated area of representation. This is the effect of the majority proposal. It is a double barreled effect: more representation in sparsely settled — less representation in densely settled. Why one group should get a benefit and the other a demerit is not particularly clear, but no doubt that will be made quite clear when the majority gets up to defend its position.

I am nearing the close of my remarks for the evening, in any event. I say I will not be completely at the end of my presentation, but I will be at the end, anyway, of an analysis of the senate.

In tables 14 and 15, what I have done is dream up a couple of more examples of "population plus area" senates, and the reason I did this is I have heard from many people around the state, such as the league of women voters and so on, that we must have population plus area in one house. It is, of course, my object to show you that those words "population plus area" don't have any distinct meaning unless you have some reserve meaning in your mind. Every population plus area scheme, substantially, that I remember ever seeing always works out similar to the one we just looked at. That is, it takes seats away from the metropolitan areas and it distributes them here, there, with kind regard to other parts of the state. But the point I make is this: you could do practically anything you wish to if you are sneaky enough with the population plus area senate, and I propose to show how sneaky it is possible to be.

In table 14 we have a population plus area senate, and let us see what kind of effects we have here. Number 1. In this one, I used the present senatorial districts with no changes in boundaries. I distributed 21 population seats among these districts using the equal proportions priority list proposed by the majority in connection with the house of representatives. I used their list. And I distributed one area seat to each of the present senatorial districts, or 27 area seats.

Now, you can see what a conservative approach this is; the identical districts that you have now, just changing the number of senators on the basis of equal proportions. And here is a list of the results for Wayne, Oakland, Macomb, Genesee, Kent, and all of the single seat districts added together. The area seats are listed. The population seats, based upon equal proportions, are listed. They are added up, and you get your figures, and you will note there that there is really no departure from a population basis — that is in the righthand column — in Wayne county or in Oakland county, and practically substantially none in Macomb and Genesee. In other words, they just sneak a little bit here, 2/10 of a seat from this place, 3/10 from that, and they add up to 1½ extra seats for the single seat districts.

The moral of this story is that if you wish to, you can have population plus area which does not discriminate against the metropolitan area or the heavily populated area at all. Not only that; you will see at the bottom that this is a senate of 44 per cent population and 56 per cent area, and you will see that it works no substantial prejudice to any region of the state, and it doesn't decrease, really, the representation of any district. You can do that if you want — 44 per cent population, 56 per cent area. I considered at one time that we should put this forth with the motto "44-56 or fight." (laughter) This shows you that when you want population plus area, you don't really want population plus area; you want extra seats for rural Republicans. I don't believe I surprised anyone by saying that, but I think it is interesting to know anyway. You can cheat with these things in either direction. It depends on who has the most votes.

Now, take a look at table 15. Table 15 gives a second example of a population plus area senate. This one provides a bonus for Wayne county. I just want to show you that I can cheat too. This time I distributed 22 population seats among the present senatorial districts by means of the equal proportions priority list. Then I redistributed 16 area seats among all the counties which failed to get any of these seats, any of the population. Using that method, you see the results that have been achieved. Wayne county gets 2 seats more than it is entitled to, and those seats are just sneaked here and there from various different places in an inconspicuous manner. And this is 58 per cent population, 42 per cent area. Now, of course, if I were to put this one in seriously, I would certainly be in plenty of trouble. I don't propose anything like this. I simply show you to illustrate that population plus area is an absolutely meaningless phrase. It reminds me of that book, Animal Farm, in which the people were taught to say, "Four legs good, 2 legs bad, 4 legs good, 2 legs bad." That means that animals are good; people are bad. We could probably change it to, "area is good; people are bad," and we come out the same as we have here. It is not a meaningful expression. I hate to say that leagues of women voters could go around saying meaningless expressions, but there it is. They are saying that. And when you adopt their proposal, you are doing a meaningless thing, but I believe that you have the sense to make it meaningful, and that is to use the population plus area method, the one that works to your benefit.

Now, finally, what does the minority proposal for the senate propose to do? What we propose to do is to get as close to absolute accuracy — equality of representation — as we can, and at the same time to beat you by area by 1 per cent. In your method you have 20 per cent area and 80 per cent population. In ours we want to go a little bit better. We have 21 per cent area and 79 per cent population. I don't believe it is feasible to go into the details at this point, but anyway, with that method, which is a bipartisan method — and which I believe I will have to explain further in detail tomorrow morning — you will get a bipartisan representation in which the number of Democrats and the number of Republicans is exactly equal, but the voting strength is not exactly equal. The voting strength of the 2 parties will be exactly equal to the popular support behind them. And the method of doing that is to provide for 2 senators from each of 19 districts, normally 1 Democrat and 1 Republican. The details I will leave for tomorrow night.

Table 16 merely shows approximately what kind of voting powers each senator can be expected to have in each of the 19 districts that we have used as illustrations. Of course these senators will have unequal voting powers. Otherwise this scheme will not work. This shows you the extent of that voting power discrepancy just so that you will know; that is, I don't want you to be fooled into thinking there is no discrepancy or it is just a few per cent. There is this much: the maximum is about 5 to 1. Most of them are within about 1½ or 2 to 1, but some senators will have less power than that; some senators have more power than that, because they represent more people. This scheme will have a number of advantages, including the fact that there will be bipartisan representation from every part of the state, and that every person's vote for either of the 2 major parties, which at the present time represents 99.9 per cent of the vote, will be exactly equal.

Mr. Chairman, at this point I believe I have reached the time which Dr. Hannah suggested that we should rise, and I would simply like to close with this remark: we are nearly completed with our basic presentation, and I believe we can complete in probably ½ hour tomorrow morning. Then we will have other proponents making some additional remarks. I would now yield to Dr. Hannah if he wishes to make a motion.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, I move that the committee now rise.

CHAIRMAN HUTCHINSON: All those in favor of the motion will say aye. Opposed will say no.

The motion prevails and the committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal. The secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** pertaining to the reapportionment of the legislature; and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: We have the following announcements of committee meetings for tomorrow:

The committee on judicial branch will meet in room B Tuesday morning, immediately after the morning session. A very short meeting. Robert J. Danhof, chairman.

The committee on emerging problems will meet Tuesday, April 3, in committee room H on the third floor at 11:30 or immediately after the morning session. Frank G. Millard, chairman. Bring your lunch to committee room H.

I have the following announcement: Delegate Joe Snyder won reelection to the St. Clair Shores city council. He had the high vote in the field of 6. He is very elated about it. (applause)

The following requests for leave of absence: Father Dade requests leave from tomorrow morning's session; and Mr. Hubbs requests leave from the early part of tomorrow morning's session.

PRESIDENT NISBET: Without objection, those requests are granted. The Chair recognizes Mr. Thomson.

MR. THOMSON: Mr. President, after listening to this rather lengthy dissertation, I am compelled to believe that there is some foundation for the statement I have heard made on this floor that the speaker was the best educated man who was a delegate. Now, there must be an extreme from that, and I want to claim that privilege of being the most ignorant and, after listening to that talk, the most confused delegate here.

I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Those opposed, no.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 10:30 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Tuesday, April 3, 1962.]

ONE HUNDRED THIRTEENTH DAY

Tuesday, April 3, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning comes to us through the courtesy of Delegate Walker, the Reverend Lonnie C. Cash of the New Mt. Vernon Baptist Church of Ferndale. Reverend Cash.

REVEREND CASH: Let us pray. Our God and our Father, that mercy that came from Heaven and walked with us in human flesh, we thank Thee for a people who were satisfied to become orphans centuries ago, in order to freely serve Thee as sons and daughters. Too, we thank Thee, our God, for noble and august people who can sit in high places, such as these delegates assembled in Michigan's capital city, and yet realize that they art but dust minus Thee. Therefore, we beseech Thee, our God, to draw nigh unto us, for in Thy presence we discover our dignity and our destiny.

Motivate the minds of the members of this convention in such a fashion, as they come today for the great and gigantic purpose of continuing to form an instrument which has much to do with the molding of the lives of men. May they be ever mindful of the cries of their fellow men back home. Stimulate these assembled minds that they may formulate this twentieth century document in the style of the Holy Writ. Let the words be acceptable in Thy sight, O Lord. Let our prime concern be for people and then property.

Gracious God, we are pleased that Thou hast made us inhabitants of a land which allows us to perform these illuminating functions. Speak daily to our faith that it might assert itself. Make us to remember that Thou art still our refuge and strength, a very present help in the time of trouble.

Grant us the mercy of beholding Thee in the common rounds and ordinary labors of our days in order that these poor lives of ours might know the splendor and strength which Thou, and Thou alone, canst give. Now and again our own resources are spent and exhausted and we are tempted to despair. We ask, for times like these, a sense that we are not alone. Save us from craven cowardice and give us courage to stand fast midst the perils which surround us.

Send forth evidences of Thy care to those who today sit in the shadow of great sorrow or who are bound in the slavery of spiritual or political oppression, that we may serve well our day and generation. Lift us, lead us toward the high places where Thou wouldst have us stand. We pray because Jesus taught men to pray and we accept His teachings. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your presence? If so, the secretary will record the attendance.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Hoxie, temporarily; Mr. Habermehl, from today's session; and Mrs. Conklin, indefinitely, due to illness.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Mrs. Conklin, Messrs. Dade, Habermehl, Hoxie, Hubbs, Mosier and L. W. Richards.

Absent without leave: Messrs. DeVries and Figy.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. DeVries, Dade, Habermehl, Hubbs, Figy and Hoxie.]

The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, with your permission I should like to make a few remarks which I think are relevant to the future work of the convention. First of all, I do not want March 31 to pass without appropriate obsequies and appropriate recognition of its deleterious influence on the work of this convention. Also, I think it is necessary now to look forward to the conclusion of our labors in a more orderly fashion and to avoid in our final days the tension and pressure which an arbitrarily set deadline has had upon our work thus far. Mr. President, I see this matter in some perspective as another milestone in the long march toward effective popular government. We are here as direct representatives of the people in the preparation of a document which, subject to their approval, will become the supreme law of this great commonwealth.

Our labors—and I use the word advisedly—should in no way be hampered, restrained, or influenced by any agency, branch, or institution of the people in this state. Our mandate and authority is clear and it is in the spirit of our popular mandate that everything necessary to complete "the business of the convention," to use the words of the constitution, should be put at our disposal. Unfortunately, the attorney general, the governor and the legislature have all at various times expressed strictures on our work, and doubt remains, not only in the minds of many delegates but among the people of the state, as to their estimate of our powers, and of their willingness to facilitate and promote our work. This is all, I think, in derogation of the position and powers of this body and I should like to be assured that such condescension and interference will not affect the next state constitutional convention which comes after us in the state of Michigan.

Mr. President, I could elaborate at some length on what I consider to be the authority and power of this convention, but because of my self imposed sense of brevity I will only say that in my opinion there can be no sound legal argument for any departure from the intent of the present constitutional provisions governing the submission of a new document to the electorate. However, when the existing provision incorporates a procedure which would, as interpreted, delay submission to a time when the work of the present convention is no longer fresh in the minds of the electorate, or when its attention might well be diverted by newer and more dramatic issues, there is reason to consider the nature of the convention, its powers, and its responsibilities.

A constitutional convention is a creature of a sovereign people. It is created by them in an exercise of their constitutive power—the ultimate power in democratic political societies. Although called into being by the procedure endorsed by the people in the last expression of their sovereign will, its mandate is to articulate this will anew. When the new articulation is ratified it supersedes all previous ones.

There can, of course, be no indifference to procedures in democratic societies. Means and ends are inseparable, but clearly the former should control the latter in those cases where the question arises as to which should control the other. Procedures are never self justifying. They are justified only as they consist with and serve something more ultimate. This principle has never been stated so forcefully as by John Marshall:

> Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the constitution, are constitutional.

Here the end is clear and having been contained in the mandate, its legitimacy admits of no doubt.

The people of Michigan have commissioned this convention to draft a new constitution which they shall then judge. In the submission of our work to them the prime considerations should be those relating most clearly and directly to the facilitation of their judgment. Surely, no existing agency of the state government has a clearer mandate than we, and surely there should be no intermediary between a people and the agency of its sovereign power. Who shall judge whether we have acted contrary to our trust or only have exercised our due prerogative? To this I reply, as did John Locke:

> The people shall be judge; for who shall be judge whether his trustee or deputy acts well and according to the trust reposed in him but he who deputes him and must by having deputed him, have still a power to discard him when he fails in his trust?

If this be reasonable in particular cases of private men, why should it be otherwise in that of the greatest moment where the welfare of millions is concerned?

I conclude these remarks, Mr. President, by raising the following questions: will you and the officers of this convention take such immediate steps as are necessary to inform the delegates, and the people, and to make the necessary preparations for whatever action is needed by this body to complete its work; and, second, to assure that in the document we present to the people provisions will be included which will accord to future constitutional conventions in this state a status and a facilitation which will be adequate for the complete and proper performance of their duties? I am aware, Mr. President, of the proposal of our committee on miscellaneous provisions and schedule, Committee Proposal 68, providing for submission of our document at the forthcoming November election, and I heartily approve of this proposal. But there are those in the state and apparently even in this convention who, for reasons best known to themselves, believe that we, a sovereign body, do not know best and should be guided by what I think are imagined limitations on our powers.

I request therefore, Mr. President, that the officers of this convention present to this convention at the earliest convenient time, plans, procedures, and provisions necessary to complete our work—in addition to those already very capably dealt with by the committee on administration, and to insure that this great institution of popular government which is not even known in many parts of the world be able to hand on to its successors, as direct representatives of the people, a sound heritage and a clear title. Thank you.

PRESIDENT NISBET: Thank you, Dr. Pollock. The Chair recognizes Mr. Upton.

MR. UPTON: Mr. President, ladies and gentlemen of the convention, as we start our seventh month together in our search for a better constitution for our state, we have had the rare opportunity to become well acquainted with 143 other sincere and devoted citizens from all parts of Michigan. I am sure it has been an experience which will not only benefit each one of us but will also give to Michigan a constitution second to none in our country. In working toward this objective, I know we have been impressed with the various abilities of our fellow delegates. No doubt we have made numerous errors, however, in this judgment. I don't plan to outline these mistakes through charts and tables, but to point out that the evidence is here today that we have been misled by one of our delegates. Yes, it was just 3 weeks ago that he was granted and accepted a degree of Young Radical.

Ted McLogan, esteemed delegate from Flint, today is starting his forty-third year in our state of Michigan. He is still young in spirit and will, however; and to wish him well, I would like to yield, Mr. President, to a delegate whom we have learned has great talents of his own, poet laureate Herb Turner.

PRESIDENT NISBET: Mr. Turner.

MR. TURNER: Mr. President, ladies and gentlemen of the convention,

Another day is starting but in time it too will close,
I did not know what history would be made when I arose.
But before this day sinks into the history of the past,
I must relate what happened in the years that went so fast:

On April second in 1920 when I was 12 years old,
An east wind blew from a hazy sky with a threat of snow and cold.
A tax deduction came that day to a family in Flint.
The husband looked it over and believed he'd found a mint.

His treasure kept on growing, soon was big as he himself
And he found it was impossible to keep upon the shelf.
His treasure went to college, the U of M found it was Ted;
And he led his class with honor, at least that's what they said.

While Ted was on the campus, he was chased by a "Bea"
And if he got stung, it does not show, 'cause it looks like love to me.
In taxes he's an expert, his explanation always sticks;
He has favored tax deductions, as of now they number 6.

He was a retail merchant, but the con con caught his eye
And to rise to fame and build his name, he could not pass it by.
"Just be quiet, don't start a riot" has always been his slogan.

And now in closing, I must say, "Happy Birthday, Ted McLogan."

(laughter and applause)

PRESIDENT NISBET: Judge Leibrand, did you care for the floor?

MR. LEIBRAND: Mr. President, may I inquire as to what order of business we are working under at the present time. (laughter)

PRESIDENT NISBET: Are you asking for the regular order of business today?

MR. LEIBRAND: I just want to know where we are. I have something to state and I don't want to be out of order.

PRESIDENT NISBET: We are just ahead of reports of standing committees.

MR. LEIBRAND: Well, Mr. President, may I at this time make an inquiry of Delegate Nord. The reason I make it now rather than in committee of the whole is that I have learned that the powers of the convention are considerably greater than the powers of the committee of the whole. May I inquire for a moment of Delegate Nord?

PRESIDENT NISBET: If you care to.

MR. LEIBRAND: Mr. President, Delegate Nord, I would like to inquire of Delegate Nord if he has completed his remarks on apportionment which occupied this convention for about 3½ hours last night, or whether there will be supplemental remarks in committee of the whole this morning by Delegate Nord.

PRESIDENT NISBET: Would you care to answer, Mr. Nord?

MR. NORD: Mr. President and Judge Leibrand, first I would like to call to your attention that in the federal constitutional convention the debate on apportionment lasted 2 months. Secondly, I would like to call to your attention that in this convention, we expect it to last about 3 or 4 days, and that our side will be through in about 1½ days, which means that sometime this morning we hope that our side will be in. I expect to give about half an hour of final remarks. There will be at least 2 other speakers that will follow. Does that answer your question, Judge Leibrand?

MR. LEIBRAND: Half an hour. Yes, that answers my question. (laughter)

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, I would just like to give notice that this afternoon when we convene, I expect to make a motion that we change the action that was taken last Friday when it was decided to defer final consideration of the committee of the whole report on Committee Proposal 71 until this afternoon, and I propose to make the motion that we defer this action until we have finished action on apportionment. I think it would be most unfortunate to interpose this issue in the middle of the apportionment discussion. I am not making the motion now. It is just for the information of everyone that this afternoon when we convene, I expect to make that a formal motion.

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: **Motions and resolutions.**

SECRETARY CHASE: Mr. Walker offers

Resolution 87, A resolution to amend rule 41 regarding application of convention rules.

Following is Resolution 87 as offered:

> Resolved, That rule 41 be amended in the first sentence, after "indefinitely" by striking out "or for a call of the convention" so that the rule will read as follows:
>
> > The rules of the convention shall be observed in the committee of the whole, so far as they may be applicable, except that it cannot adjourn the convention, the previous question shall not be ordered, the vote of a majority of the committee shall govern its action, it cannot refer matters to any other committee, and a motion to postpone indefinitely shall not be in order. A delegate may speak more than once in the committee of the whole. A journal of the proceedings in committee of the whole shall be kept as in convention. When the committee of the whole reports to the convention, the actions of the committee of the whole shall be accepted.

PRESIDENT NISBET: It is referred to the committee on rules and resolutions.

Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders..** Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the consideration of proposals on general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor of the motion will say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee has under consideration **Committee Proposal 80.** The Chair recognizes the delegate from Wayne, Mr. Nord.

MR. NORD: Mr. Chairman and fellow delegates, last night when we adjourned we were considering the 2 senate proposals, and I propose now to complete analyzing the differences between the senate majority proposal and the senate minority proposal. I would ask you to refer, for that reason, to figure 3 of the materials that I gave to you. Figure 3 is a map illustrating the way the minority proposal would set up the senate. I believe by referring to that, perhaps we can make it reasonably clear what is proposed.

The first thing I would like to call to your attention in connection with figure 3 is that the state is divided into 4 quarters or 4 zones, constituting the upper peninsula as zone 1; the northern part of the lower peninsula as zone 2; the southwest part of the state as zone 3; and the southeast as zone 4. These zones, Mr. Chairman and fellow delegates, are identical with the ones we adopted on Friday for the apportionment commission. They are also identical with zones—I think they are exactly identical—which were originally suggested by Dr. Hannah in a proposal for the senate before the legislative organization committee. In addition, they also happen, more or less by accident, to be incorporated within the map shown by the majority for the senate reapportionment as of 1970. Figure 2, which is the majority proposal, is not a prerequisite, but it happens to come out that way in any event. So these 4 zones are common to a number of different plans, and we have already adopted them in connection with the apportionment commission. Each one of these zones represents roughly 25 per cent of the area, and that was the basis on which they were originally designed.

As you will notice in the table at the left of figure 3, the per cent area of each of the zones is listed, and you will note that the upper peninsula is 29 per cent, roughly, and the others are 25, 23 and 23 per cent. These zones were selected originally by Dr. Hannah and suggested to our committee on the theory that one thing is certain not to change with time, and that is the amount of area which any part of the state occupies. And if you divide the state into some definite number of zones such as 4, you can be sure that they will remain the same as to per cent of area. So there are the 4 zones. And in the minority plan for the senate, we begin in the same way as Dr. Hannah suggested in his proposal to the legislative organization committee for the senate; that is, by providing 2 senators on an area basis for each of the 4 quarters. Now, in the bipartisan representation plan which the minority proposes, the senators come in pairs. That is to say each district will contain a Democratic senator and a Republican senator, with certain exceptions which I will mention later. So, as a result the table at the left of the map shows area districts, one area district for each of the 4 zones, which means 2 area senators for each of the 4 zones. And, as I say, the basis for this original distribution is simply an attempt to, you might say, duplicate. It is an exact duplication, in fact, at this point of the original senate proposal of Dr. Hannah. You will also note this: up to this point, we have a Democrat and Republican from each of the 4 quarters of the state. This is exactly the same as the apportionment commission which we adopted on Friday. There will be a Democrat, there will be a Republican, from the same 4 quarters of the state. In other words, there will be a bipartisan representation in the apportionment commission from these zones and there would also be the same thing in the senate according to the minority proposal.

In addition to the area senators, 8 senators of 4 districts, additional senators are proposed in the minority senate plan. Fifteen more districts, or a total of 30 more senators, are to be distributed on a population basis. You will see the population districts in the table next to the area seats. Then you will find the total number of districts. For the upper peninsula there would be 2, and they are illustrated on the map, divided according to population as nearly equal as may be. And you will notice in the upper peninsula one zone which can be drawn would have 153,000 people, and the second zone would have in this case the same number of people. Similarly in zone 2; they would be entitled, according to this system, to 2 districts, each again containing 2 senators, one Democrat and one Republican, and they would be divided according to population as nearly equal as may be, and a suggested division is shown on the map. District 3 would have 165,000, and district 4 would have 164,000, and so on. Continuing the same way throughout the state, each of the zones would be districted on a population basis; that is to say, as nearly equal as may be according to population, but the number of districts in each of the quarters depends on 2 things. It depends, first, on the area distribution of districts, then on the population distribution as well. On this basis you can see from the table on this chart that there will be 4 area districts out of 19 total districts or 8 area senators out of 38 total senators, so 8 out of 38 is 21 per cent. Therefore, this proposal is based on 21 per cent area, 79 per cent population.

But, as I pointed out last night, each senator will have a weighted vote in the enactment of legislation, and I referred last night to table 16. I won't refer again to it; but there I gave some examples of what the amount of vote might be for a Democrat from one area and a Republican from the same area. Each senator will have a vote according to this plan which is exactly identical with the number of votes he received in his election. It will not be smoothed out a bit. It will be the exact number of votes he received. In the table I smoothed it out for simplicity, but in the actual proposal the vote of the senator in enacting any law would be exactly identical with the number of votes he receives.

Now, the underlying reason for that is to make the people, the voters realize that every single vote that is cast counts, and counts every time a law is enacted—every single vote and not statistical groups of votes. Every time a senator would vote under such a scheme, he would cast in effect a number of ballots, a number of proxies, if you wish, equal to the number of people he represents or equal to the number of people, in any event, who voted for him. On this basis, assuming there were a certain issue, which is exactly, perfectly a partisan issue, had no other factor involved—let us assume there is such an issue—then assuming that each Democrat voted on that issue as a Democrat and each Republican as a Republican, or assume that over a long period of time it statistically averaged out that way, the result would be that if the popular vote for this particular senate in a certain year were Republican, then the Republicans would control the senate by the exact margin of the popular vote. And vice versa, the next year it might be that the Democrats would control by another margin. Statistics from the past indicate that the margin would always be up or down, let's say, 3 or 4 per cent maximum. In other words, the margin would always be quite close because the popular votes are always quite close, and the number of senators who are Democrats would be exactly equal to the number of senators who are Republicans, and the number of senators from any one portion of the state, the number of Democrats would be exactly equal to the number of Republicans.

So, therefore, if we take any part of the state, let us say Oakland county, for example, which on this map is district 13, that county, of course, has a very big population and its senators would have a big vote, bigger than any other senators' because of that fact. There would be one Democrat and one Republican. The actual number of votes based on the 1960 votes are in table 16. I won't refer to them again. The point, however, is this: that any area of the state, any district, would have bipartisan representation, and would have bipartisan representation exactly corresponding to the votes cast by the voters for the 2 parties in that district, so that not only would the entire senate be bipartisan, but so would every district of the state. It would be bipartisan. It would be bipartisan equal in number of senators but unequal in voting strength, but equal to the voting support. That is the basic idea behind the minority plan for the senate.

The only other feature that I think is necessary to mention is the fact, which we also used in the apportionment commission, that if any third party gets 25 per cent of the vote, it too shall participate. In this case if any third party gets 25 per cent of the vote in a certain district—let's say Oakland county or let's say Genesee, Lapeer, for example, whatever the district might be—if a third party in that district gets 25 per cent of the vote for senate, then it too would send a senator. In that case there would be 3 senators from the district instead of 2. That is not to be anticipated as far as we can tell, but the provision is here similar to the provision in the apportionment commission, and therefore we have in this proposal, let's say, a pretty fair analogue of the apportionment commission. The apportionment commission, which after all must deal with strongly political matters, is to be bipartisan. It is to have an area representation exactly the same as this, and it is to have participation by third parties on a method which is identical with this method, and it is suggested in the minority proposal—and in the reasons for it—that there is just as much need for a bipartisan approach to representation in the senate as in the body that will be apportioning the legislature. There is need in the state for a coming together of parties, for working together and for following closely the demands of the people and the number of votes of the people. This is the plan.

The only other thing I want to say will be found in one of the tables which compares this plan with the majority plan. That is table 17, which will be the final thing to which I will refer. I will simply call to the attention of the delegates what the majority plan is without going into detail, because that will be done, of course, later by the majority.

Basically, the majority plan for the senate is in 2 parts. The first part would continue, I believe, until after the 1970 census the present districts, with the addition of 4 new ones, 1 in Wayne, 1 in Oakland, 1 in Macomb and 1 in Genesee. And then after that time there would be a new apportionment scheme based upon 80 per cent population, 20 per cent area, in each county. That is to be contrasted then with the proposal which the minority is presenting, and the comparison is given in table 17. I simply would like to run through this with you to point up the differences and why we oppose the majority senate plan and why we urge the minority plan.

First I have listed under category A the similarities between the 2, and then will be the differences. The first similarity I suggest is the number of senators. And you will note it is the same or substantially the same. Under the majority plan it is 38 now — that is immediately — and later it is to be 36 to 40. Under the minority plan it is also 38. There we are the same. Another similarity is the population plus area representation. That is also substantially the same. The majority plan would have 20 per cent area. The minority plan would have 21 per cent area. I perhaps should point out at this point, since it looks as though the 2 plans are practically identical, so to speak, at this point, that the 2 differences are, of course, that in the majority plan there is 1 senator from each district, and it is a winner take all proposition and there is no balancing taking into account the number of votes for any individual senator.

Secondly, in the minority plan, although there is weighted voting for the enactment of law, there is no such weighted voting in committees, and that is the reason that this 21 per cent area factor which we propose is not a meaningless gesture. It is not meaningless because you will have additional senators from sparsely settled areas and they will have an equal vote in committees; in fact, they will have an equal vote on everything except enactment of legislation. When it comes to enactment of legislation, the vote will be equal to the vote cast for them. So there is the relationship between areas in the 2 plans.

Now, the third is the regional zones. I have already pointed out that the majority plan in fact suggests for the next reapportionment the same 4 regional zones, and that that was taken from 2 other sources: Dr. Hannah's original proposal to the committee and also the bipartisan apportionment commission which we adopted. The minority plan has the exact same 4 zones.

The fourth similarity is the distribution of area seats. Now, this is not similar to the majority plan. It is identical, rather, as I pointed out a minute ago, with Dr. Hannah's plan, 2 senators for each of the 4 area zones.

Fifth, the next similarity has to do with distribution of total seats among the zones, and this is approximately or substantially the same, taking into account the fact that there is bipartisan districting in the Democratic plan, which means that there have to be even numbers of senators in each district. On that basis you can see that in the upper peninsula, the majority plan, based on the 1960 census, would be 3 senators. The bipartisan minority plan would give 2 districts or, in the next column, 4 senators. And in the final column the minority plan, based on the 1960 census, then is 4 as compared to 3 according to the majority plan. Similarly, you can see that for each of the 4 zones there is quite a close correlation: 3, 3 plus, 8 plus and 21 plus for the majority; 4, 4, 8 and 22, which are substantially identical—of course, they are not exactly identical. Therefore, the distribution of seats throughout the state is very close in both plans.

Finally, as to the similarities, 6, the relative distribution of seats to the metropolitan areas as compared to the rest of the state—that is, Wayne, Oakland, Macomb and Genesee, or the southeast metropolitan area. These are also approximately the same in the 2 plans. The majority plan would give 14 seats to this area. The minority plan gives 12 plus, or because of the way the districts are set up, it isn't an exact number, but that turns out to be approximately 14 as well.

Now, as to the basic differences between the 2 plans: of course, the most important difference is the basic principle. Number one is the basic principle. And the minority plan is an exact effort to achieve the basic principle of democracy; namely, rule of the people, by the people, and for the people or, as we have called it, equal representation of people. The majority plan for the 1970 era and in the future I call, rather than a democracy, "areastocracy." It is the rule of the area plus people, by the area plus people, and for the area plus people, or as I pointed out yesterday, it amounts to equal representation of pseudo people. There is the big difference between the 2 plans, and this difference makes all the difference in the world.

The second basic difference is in the principal result. The minority plan, first of all, recognizes that there is a wrong and rights it. It rights the wrong. It takes out all malapportionment in the senate. The majority plan, so far as I can determine, admits that there is something wrong, because it attempts to make a change? It admits there is something wrong, but it rationalizes the wrong. And when I say that it rationalizes the wrong, I mean this: the amount of malapportionment in the 1952 census was 6½ to 1; that was the maximum ratio—or 7 to 1. It will be the same in the next period under the majority plan, still about 6 or 7 to 1, and in the future it is also calculated, again, to be about 6½ or 7 to 1. And those figures you will find in maps in this group. And they were stated point blank to be for that purpose. The 20 per cent area of the majority proposal was indicated to be for the purpose of keeping the situation in the status quo. Therefore, what is suggested is that the majority has recognized something is wrong and insists on keeping it, but insists on rationalizing it and making it seem right.

The third difference which is called to your attention is the principal technique of the 2 plans. The minority plan, of course, weights the votes of senators. The majority plan in effect weights the votes of the people. You have to recognize that you really don't have any choice; you must do one or the other. If you make the votes of the senators equal and they represent unequal numbers of people, you will weight the votes of the people. The alternative is the one that I have suggested in the minority plan: weight the vote of the senators and do not weight the vote of the people. Therefore, there is always weighted voting in either of these plans and probably in every plan that can be conceived. The only question is whose votes are to be weighted, the voters or the senators? We suggest the vote of the senators should be weighted because they represent people. The majority plan in effect does the reverse—weights the votes of people.

As to the type of representation, the fourth difference, this is pointed out as follows: in the minority plan there is bipartisan representation in each district and in the state; and in the majority plan there is one party domination in each district and also in the state. One party domination means winner takes all in each district, and one party domination in the state means that the Republican party will continue to have about 2/3 or maybe a little less of the votes in the senate even when they have slightly less or when they have slightly more than half of the votes of the people.

The next comparison—and the final comparison—has to do with the overall objective. What are the 2 plans trying to do? As to equality of representation, the minority plan, we suggest, is 99 per cent perfect. That is to say it does give equal representation for all voters who vote for the parties which elect anybody at all, and that at the present time means 2 parties. About 1/10 of 1 per cent of the voters in Michigan vote for a splinter party. Assuming that that should continue, then the minority plan would be, as it is suggested, 99.9 per cent perfect: that is, only 1/10 of a per cent of the people who vote will not have their votes directly effectuated.

In the majority plan, of course, equality of representation is abandoned, and I wish to emphasize the word "abandoned." As I pointed out last night, the Democrats certainly did not invent at this convention the idea of equality of representation. It has always been the basic principle, and in fact really the only substantial principle ever enunciated by any deliberative body trying to work out an organic law for the state of Michigan. The majority plan will, for the first time, abandon that basic principle. The minority plan will still be able to give area representation and dispersion of powers without any abandonment, and in fact with a greater achievement of equality of representation than has been possible before.

The second overall objective that is called to your attention has to do with majority rule, whether or not that is achieved. In the minority plan, that is guaranteed and, as has been pointed out numerous times by various delegates to the convention making public speeches—and I don't mean Democrats; I mean Republicans—whenever we think of a system, and we try to find out can we guarantee that it will always respond to the majority, never to the minority, it is always tentatively assumed that that is impossible even with a population district plan. But then there is the exception. The exception is some sort of proportional representation which is highly accurate, or the equivalent, which is what we have here—a bipartisan representation scheme. Such a scheme as this does swing exactly in accordance with the vote of the people and therefore guarantees majority rule.

Under the plan proposed by the majority, you have the exact reverse. Neither the house nor the senate, in fact, can be expected to comply with the majority wishes. And I would like to make one further point at this stage: when you have population districts such as the minority has proposed in the house, you do not guarantee majority rule, because some votes are wasted in one section of the state, opposite votes are wasted in another part of the state and they may not cancel. Evidence, which is not difficult to find on the basis of past voting records, indicates, for example, that in a house or in a senate based on population, there would still be rule by perhaps 48 per cent of the voters, and in addition the fact that the Democrats would be behind, say, 2 to 4 seats in the house, and probably the same number, 2 seats or thereabouts, in the senate. You do not get majority rule guaranteed even in the population districts. You get it almost guaranteed.

But under the proposal that we have for the senate, you get an absolute guarantee so long as you have a bipartisan public. Of course, if you had a one party public, you only need one party, a one party system. If you have a 2 party public, you need a bipartisan system. If you had a 3 party public, you would need a tripartisan system to make this true.

As to the third point, effective representation, whether or not we get that under one plan or the other, the minority plan which we are proposing provides effective representation in every district by virtue of the area effect and of the bipartisan effect. I would like to emphasize these 2 things: every area of the state will have representation and will have its voice in the councils of the senate—that is to say in the committees—on an equal basis, more so than it would have on a population basis. But beyond that, not only is there participation by every area in the senate and on an equal basis in the committees, but further it is my opinion that the bipartisan representation in each part of the state itself would be extremely valuable to any section. For example, I believe the upper peninsula, as an example, and also Wayne county, as another example, would benefit greatly in the legislature if they were represented by both parties, or to the extent that they are represented by both parties, they are better represented than if they are represented either entirely or nearly entirely by one party. Those effects would be achieved by the minority plan, and therefore it is believed that you would have the most effective representation by this scheme. Now, under the majority plan for the senate, you would have one party over representing in some districts and one party under representing in other districts. In other words, you will not have as effective a representation under the majority plan as you would have under the minority plan.

The fourth overall objective which I have listed is the treatment of group interests. This has to do with whether the minority is protected and so on. As to the minority plan, group interests follow the rule that is suggested here. The plan is absolutely impartial as to all interests, as it does not give any extra benefit to rural voters, to metropolitan voters, to Democratic voters, to Republican voters. But, on the other hand, the majority plan, we can see, is not neutral. It is not absolutely impartial to interest. It favors some; it disfavors others. As it is pointed out here, it favors rural and Republican voters. Both the house and the senate under the majority plan favor rural or Republican voters. Perhaps stating it the other way, the majority plan discriminates against metropolitan and Democratic voters. I call to your attention that this point is quite crucial. The plan that we are proposing does not favor Democrats. It does not disfavor Republicans. It doesn't favor or disfavor rural or urban voters. It treats them all in as impartial a way as we have been able to figure out. The majority plan does not treat the voters in an impartial way. It favors the voters who favor them.

As to point 5, responsiveness — that is, swinging according to the preference of the voters — the minority plan is guaranteed to swing as the political preference of the public swings; that is to say if it votes Democratic for the senate, the senate will be Democratic. If it votes Republican for the senate, the senate will be Republican. The majority plan is guaranteed not to swing but to remain Republican for the foreseeable future despite popular vote swings; that is to say, based on past voting records since these districts which we now have were organized—that is as far back as I have gone—there will continue to be nearly a 2 to 1 majority of Republicans, and therefore it is safe to predict that under the majority plan, the senate would continue to be Republican and would pay no attention to whether the voters are Democratic or Republican.

The sixth overall objective to which I call your attention is the minority treatment. The minority plan, the plan that we are proposing for the senate, prevents control by large localized minority groups. It prevents virtual disenfranchisement of minority groups in areas which do not swing. I would like to emphasize both of these points. They are quite crucial and they do not exist in any other plan with which I am familiar. Any other plan misses both of those. The first one of those points is that it prevents control by large localized minority groups, and I think we have to recognize—I do recognize in any event—that many of the Republican delegates to the convention in discussing this issue with me have stated that one of the reasons they are afraid to give Wayne county a vote which is proportional to its population is that the voters in Wayne county are in a position—that is to say the Democratic voters —to win the entire vote of that county, and thereby to have an effect bigger than their numbers. In other words, if there are 34 per cent voters in Wayne county, they are not all Democrats, but they come out all Democrats when the Democrats win the elections in nearly all of the districts. And therefore, there is, so to speak, a bloc voting.

Now, the proposal that we are offering does not do that. As a matter of fact, it is the only proposal which makes that impossible, and I tried to point that out last night. It does so in 2 ways. The first thing it does, it does not provide for winner take all. In an area such as Wayne county, the Democrats could not take all. If they get 2/3 of the vote, which is about what they have been getting, they would only get 2/3 of the vote in enacting legislation. The Republicans, assuming the votes would remain as they are now, would get 1/3. That 1/3 of the Republicans cancels out, so to speak, 1/3 of the Democrats or half, actually, of the Democrats, so that by using this bipartisan representation scheme, half of the strength of the Democrats, let's say, in Wayne county is neutralized just by that fact alone. And secondly, there will be Democrats going to the senate and participating in politics from all parts of the state, and they will have a voice in the councils of the Democratic party. The exact same thing could be said in the reverse manner for the Republican party. The political power will be distributed throughout the state. It cannot ever accumulate in any one part of the state. When I make that statement, I suppose I have to reckon with the fact that that is probably not what some people wish, but I believe that is what the people wish; the people wish the power to be where the people are and not where some of the people are, or where there are clumps of people or sparsely settled areas of people.

This plan has this effect then: it prevents any group from dominating, and in that respect it is unique. Similarly, it does the other thing which is correlated to that: it prevents disenfranchisement of minority groups in areas which are perpetually one way or the other. As an example, in Wayne county, a Republican vote for senate is nearly worthless, because there is not much chance of winning. That is based on past voting records. Voters who vote that way don't get any real representation. In fact, they are represented by the person against whom they voted. And similarly in the middle of the state, let us say, a Democrat who votes for a senator sees his candidate lose, and a Republican always goes, and again a Democratic voter is represented by somebody who is exactly the person he voted against. Therefore, voters all through the state are, in effect, disenfranchised, and really not only are they disenfranchised, they really are misrepresented, because they are represented by the person whom they voted should not represent them. This could not happen under the minority plan. Under the minority plan, the person who represents a voter is the person for whom that voter voted, and therefore in, let's say, Wayne county, a Republican vote is absolutely just as useful and valid as if it were not in Wayne county or as if it was a Democratic vote, and a Democratic vote in the middle of the state is never lost either. It counts one vote in the enactment of legislation. So that groups of voters who at present really cannot participate at all in the deliberations of the legislature, or at least of the senate, let us say, will be able to deliberate. Their vote will count. It will count the same regardless of where they live and regardless of for whom they vote.

The seventh point among the overall objectives of the 2 plans is the effect on gerrymandering. The minority plan eliminates gerrymandering insofar as political significance is concerned. That is to say when the lines are to be drawn by the apportionment commission for a senate under a proposal such as the minority plan, it doesn't make much difference where the lines are drawn as far as the political effects are concerned. It has no difference whatever insofar as the political balance of power is concerned. It makes no difference at all, really, where the lines are drawn insofar as the political balance of power is concerned. It makes differences, possibly, to individual candidates, but since they would not be on the apportionment commission, that is pretty nearly ruled out too. So that in effect you would eliminate with a plan of this type any real problem of gerrymandering. But under the majority plan, as pointed out in these notes, the majority plan continues the political problems of gerrymandering. It is true that we have now set up an apportionment commission, but the point is the drawing of those lines will still be a political dispute between Democrats and Republicans, and possibly if there is a third party, they will be involved as well. It will be a political problem. The place where you draw that line determines who wins the senate, Democrats or Republicans. Under the minority report, the place where you draw that line makes no difference whatever as to who controls the senate, Democrats or Republicans.

Number 8—and the next to the last point which I will make —has to do with the legality. The minority plan, it seems to me, no one would question. It is unquestionably legal. That is to say it is based on a rational system and one which provides equality of represention. There is no discrimination of any sort whatever in favor of or against anyone at all. Now, as to the majority plan, I point out here—and this, of course, was prepared quite a long time ago, a month or so ago—that it unquestionably invites attack on the grounds of violation of equal protection of the laws, and even on the ground of republican form of government. I would like to emphasize what I mean by those 2 things. As to the violation of equal protection of the laws and that this unquestionably invites attack, first of all I would like to break the majority plan into 2 parts.

As to the first part, up until the 1970 census, the constitutionality of that particular portion of the majority plan would be the same as the constitutionality of the present senate, because all that would be done would be to add 4 senators. Therefore, if the present senate is being attacked, as it is, as you know—it is being attacked on the grounds of a violation of equal protection of the laws, as not being rational, even, to say nothing of not being fair, not even being rational; then the interim period provided by the majority would still not be rational—again, regardless of whether it is fair, it would not even be rational, and therefore whatever attack is leveled and has been leveled against the present senate would apply equally well to the proposed senate for the first period, for about 9 years.

As to the second portion of the majority proposal for the senate, there is no question in my mind that 2 of the stumbling blocks have been removed, but in my opinion the third one lasts and that, of course, will be a matter of dispute probably with no limitation until the court determines the dispute. But I can see that 2 things have been done: one, the plan is rational in the sense that it has a rhyme or reason. This is the 80-20 system; and 2, it is not frozen in districts as the present senate is. My opinion is—and of course, as I say, this will be a matter for each lawyer to estimate for himself, and for the supreme court, no doubt, in the end to determine—but that plan is extremely vicious in every respect and could not be supported as an example of equal protection of the laws. It unquestionably and intentionally discriminates against one group of voters after another, and the only rationale behind it is that square miles should have something to do with representation. I call to your attention that when delegates from the other party, the Republican party, such as, for example, Mr. Romney and others, testified before our committee, they were vehement in saying—and I believe they still are—that representation must be of people; it can never be of anything but people. We might not agree on how the people will be represented, but I believe we have all previously agreed that it cannot be representation of something else. It cannot be representation of square miles. It can be only of people.

I therefore suggest to you that, as to the majority proposal, there is good ground for believing that the first portion of it is unconstitutional and that the second portion no doubt would be attacked as unconstitutional. I believe the attack would succeed. But that, of course, remains to be seen. I point out further that not only do we have a question of violation of equal protection of the laws with the majority senate—that is, the 80-20 provision—but it even raises a question of whether you have a republican form of government. And the reason for that is this: of course, the word "republican" has the word "public" in it, and that is the same word as people. A republican form of government means that people are represented. But under the majority senate proposal, it is not people, and it is distinctly spelled out that people are not represented. Pseudo people or 80 per cent people plus 20 per cent area are represented. That is not the representation of people. It does not even claim to be the representation of people, and therefore is not a republican form of government. You have to invent a new name for it, and I suggest that the name is "areastocracy."

Of course, lawyers will argue that the republican form of government can never be raised as a legal issue, and there are many cases which say that. I suggest, however, that many cases previously said that equal protection could not be raised either, and I can suggest to you further how the question of the republican form of government will be raised at the appropriate time if necessary. The Supreme Court of the United States has now held that if there is a substantial charge of violation of equal protection of the laws, the court will say that that is a justiciable question. That means the court will hear the case. And when the court hears the case, they will hear every claim of unconstitutionality and not just the one that made the case justiciable. They will hear then, in the end, the question of whether the republican form of government even, has been satisfied, and even if they don't do that, ostensibly they will do that in some other manner. I therefore suggest—and I think it is a matter for concern of every lawyer and of every delegate to the convention—not to adopt something which is certainly of questionable legality, and in addition to that, most likely unconstitutional as well as unfair.

Finally, the last point I make is as to the general philosophy. The minority plan, the one we are proposing, as to principle it adheres—that is the main word, it adheres. It doesn't invent, but adheres to the basic, traditional principle of equal representation of people. And as to practice, it is in keeping with the modern age and its needs and possibilities. It solves the problem. And what is meant by that is this: as to practice, it is new. It suggests new things. It suggests a method of counting which is different from the method of counting used in any legislature at the present time. The method of counting that is suggested is derived from the method of counting used in corporations when stockholders vote by means of proxies. This was the suggestion of a political scientist who prepared an article in the Western Political Quarterly, portions of which were circulated to all the delegates when we first arrived, with the national municipal league bulletin on apportionment.

Therefore, to summarize the minority plan, as to principle, we have not invented anything. Quite the reverse; we refuse to let you invent anything. We insist on sticking, adhering to the principle. But as to practice, we take the reverse view. We take the view that whatever practice is necessary in order to adhere to the principle, that practice should be adopted. And when I say that this is in keeping with the modern age and its needs and possibilites, what I refer to is this: the plan that we propose—and this is pointed out by Professor Engell in his original presentation of the subject—would not have been practical at all in any legislature until possibly 3 or 4 years ago. It would be impossible in practice for this reason: if there were a vote in the legislature, and let's say one senator votes 156,422 votes and another one votes 72,568 votes, you have to add up all of those votes, each one of them having 5 or 6 digits in them, on each side before you know who wins.

Experience has taught me in doing my arithmetic lessons on this plan that you don't always get the right answer the first time when you add up that many numbers. If you add up 34 or 38 numbers on the Democratic column and the same number on the Republican column with 5 or 6 digits, you will have to have an umpire for arithmetic. It wouldn't be feasible. It is not impossible, but it certainly is a very undesirable thing to do. It would certainly take a long time and there would be disputes as to who won a certain vote. That, however, at the present time is no longer a problem. We know now that we have voting machines, with adding machines included within them, right on our desks in this hall and in the legislature. When you throw your switch to the right or left one vote is registered. It is no more difficult to register for each switch 165,422 votes instead of one vote. This is not a problem. The adding machine is there. All you need is a different adding machine instead of the one you have. But this, of course, was not possible until adding machines of the modern type were in existence.

Finally, as to the majority plan and as to its general philosophy, I suggest first as to its principle—and this is probably the most crucial feature—for the first time in any deliberative constitutional body—that is, in this state—the basic principle of equality of representation is to be extinguished and a new principle of inequality of people and of equality of pseudo people is to be created. I resist this with all the force that I have within me, and as you all know, I have used up my voice in trying to oppose it. I think it is a desperately wrong thing and it is the first time it has been sought to be done in this state. It is not a good principle; it is a bad one.

Finally, as to the majority plan, as to its practice, it fails to solve a problem which is admitted to exist. And not only that, it makes sure that it can't get better in the future. Both phases of the senate plan will keep the situation substantially frozen in the amount of malapportionment, even though not in the details of malapportionment.

Mr. Chairman and fellow delegates, for these reasons the minority opposes both the house and the senate plan as well as the annexation feature. That feature is mentioned in our report. I won't go into it at this point. We oppose all phases of the majority proposal, and we urge upon the delegates full consideration of the consequences of adopting a plan of that type, and we urge the adoption of the minority report amendment.

Before closing and yielding the floor to some other proponents, and before, following that, answering questions which might be asked, I simply want again to call to your attention that every delegate on this issue will have to be voted individually. When he throws the switch, it will be his decision and not just his party's decision. And if he takes a step in the direction which is indefensible, he will have to defend it for his life. Mr. Chairman and fellow delegates, at this point I would like to yield to one of the other proponents of the minority report amendment, Mr. Theodore Brown.

CHAIRMAN HUTCHINSON: Mr. Nord yields to Mr. Theodore Brown.

MR. T. S. BROWN: Mr. Chairman, in view of the fact that we have a full gallery and a half empty chamber and the magnitude of the discussion in hand, could you possibly ring the bell, sir?

CHAIRMAN HUTCHINSON: Are you ready to proceed, Mr. Brown?

MR. T. S. BROWN: Yes, sir, I am.

CHAIRMAN HUTCHINSON: The committee will be in order, please.

MR. T. S. BROWN: I want to apologize to the delegates who just entered the hall for ringing the bell. I think the gravity of the topic warrants that and not necessarily the personality of the present speaker.

In view of the antipathy which the length of Dr. Nord's remarks met with on the part of a lot of delegates, I threw away my long prepared speech which would have lasted an hour and a half, approximately—I think some of you will be very happy with that—and instead have a few brief generalized notes of a survey type in reference to and in support of the minority amendment. I should also like at this time to tell a very unfunny story in point, on which I think we as a convention failed this morning, concerning the very famous French couple who were having a discussion at home, and a very heated discussion. The husband said, "I disagree with what you say, my dear, but I will defend to the death your right to say it." And Mrs. Rousseau said, "Aw, shut up." I think that that particular attitude of Mrs. Rousseau was expressed this morning in reference to some attempt at curtailment of Dr. Nord's remarks, and I don't think it is befitting our convention that this should have occurred.

What I am going to discuss this morning very briefly is an eternal dilemma that we face as men, as individuals, as people, as classes, as representatives of all humanity, and it concerns what is actually a very simple topic: adjustment to reality. And the theme will be that in all of history, in all of our individual lives, in all of the stories of nations, when progress or change or retrogression, if you want to call it that, faced a people, they had a choice: they could either build an ark or build a dam. And this is the essential choice that we face today. The Freudians call it life adjustment. We call it survival of democracy in the face of world communism, et cetera. You build an ark or you build a dam. And I submit that in all of recorded history, in the face of change, those people who built dams were damned and died, and those people who built arks had their ideas, their ideologies, their kind survive and live in a new and different world.

So this morning I will be speaking briefly on actually what is the dialectics of practicability. When I was in the marine corps I learned very early from one of my instructors that the way you teach something, even if you have a very short course, is to first tell them what you are going to tell them, and then you tell them what you wanted to tell them, and then you tell them what you told them. So, 1, we are going to be working with the aspects of reality; and 2, a very basic—and I think the most basic—undercurrent of feeling in this convention, and that is the feelings of fear and superiority in regard to the problem of apportionment—fear and superiority as motivating forces. And, 3, if you will pardon me, those of you who are on the conservative side of the fence, I will attempt to discuss the true nature of conservatism and how it relates to this specific problem.

Again about practicality in reality and about adjustment to what is as opposed to what you would like things to be, we all adjust necessarily every day in our own individual lives to the vicissitudes of practicality. The 2 physical forces of attrition and gravity change our bodies from the bloom of youth and the heavy musculature to the picture that is presented in most of us when we get to advanced years of lack of musculature and worn out internal organisms by 2 very simple processes that are inexorable in their operation. Gravity pulls the muscles down and attrition wears out the parts that are rubbing against each other. Now, these changes occur outside of our individual will to prevent them, and everyone knows that, and everyone accepts that. But when we transform the same forces into societal action we think—and man has always thought, from what is actually an anthropocentric point of view, but that is a quick word and I am trying to stay away from that—we think that we do have some control over what is happening in our society. We do feel that we can control the nature of the democratic process as it is reflected in the state of Michigan, and we are therefore collectively guilty of what is called now wishthink rather than thought. It is a dream, it is an apparition, it is not material. Another gentleman of who I am very fond refers to this particular attitude as the journalistic reflex that passes for thinking in today's American culture.

I say—and if I had a longer speech, of course, I feel I could prove—that change is irrevocable, irrefutable and iridescent. And when I say it is iridescent, I mean that it shows to us, if we are aware of it, what is going on. It shows to us the nature of change and what is going to happen. And if we use the right tools, if we are empirical in viewing society instead of indulging in wishthink, then we know what is going to happen, what changes will occur, and we will know, then, how to adapt ourselves to those changes. There are certain statics in life that have always remained unchanged. I refer to man's universal folly, man's inhumanity to man—things of this nature are universal and unchanging and immutable. But what we often confuse in this juncture is form with substance. Those certain immutable things remain with us all the time, but the form of this substance changes all the time, and we shouldn't confuse the eternal verities of nature with the methods of our society.

Now changes have occurred since 1908 in the state of Michigan that the founders of our 1908 constitution never dreamed of, of course: the automobile, the Democratic party, the megopolis cities, the immigration of negroes, the labor unions, and the laws which result from the operation of all of these factors. These things have occurred. These changes have occurred outside of our individual or collective will that they should not occur, and these things will occur in greater magnitude again in the future outside of our individual or collective will that they should not occur. And we should attempt to preserve the idea of democracy, the idea of free government, rather than the particular structure in which that idea is presently contained. In the face of change, when you have to decide whether or not you are going to build an ark or build a dam, religion knows that you build the ark; science knows that you build the ark; poets and artists know that you build the ark; and nature knows that you build the ark; because the mere trickle in the western part of this country cut through hundreds of feet of mountains and is now the Colorado river and the grand canyon, and nature knows that you build the ark, that these changes are irrefutable even if they occur through eons of time. The only one who doesn't know it, is man collectively, and I submit at this juncture that the thing that we want to survive in the state of Michigan is the idea of popular government and not necessarily the precise and definitive form in which this popular government exists today.

The second thing I am going to discuss is superiority and fear as motivating factors in this convention, and this is a most grave matter. It is a matter that is not verbalized on the floor because we simply can't get into it. It is bad form to talk about these things. But I suggest that it is at the heart, really, of the problem that we face in all of the matters in this convention.

Now, as a member of the apportionment committee, I was fortunate to travel to Berrien Springs to talk to the people of Berrien Springs, as a result of mutual feeling on our committee that we should attempt to gauge the feeling of people in various parts of the state if at all possible. And I say this: before and after the visit, I have the utmost regard for the people of Berrien Springs and Berrien county, but I was—and I hate to use the word "shocked" because apparently that gives rise to nervous or Freudian laughter here, but I was shocked at what happened when we visited Berrien Springs, because I came there simply wanting to know the real feelings of the people there in regard to this apportionment problem, and my attitude was no more difficult or complex than that. And I found as a result with all other speakers, with 1 exception, that they feared me because I was a Democrat, because I lived in Wayne county and because I was prounion. And I couldn't get over that—I really couldn't get over that. And I think it is a very important point. Now, these were good people. These were generally farmers. These were God fearing people. These were people probably, I assume—if you look into the statistics—with a low crime rate. These were people that represent a lot of the good that has built this country, and yet they hated us and feared us because of the above mentioned factors. And I find this a little inexplicable in the face of today's world. Why should this exist?

Is this feeling of fear or hatred or this feeling of superiority nurtured in the very political structure which we are attempting to maintain and preserve in the state of Michigan today? I think it is. And I think this is a very poor basis upon which to build a modern society, and a very poor basis upon which, if you will, to conduct the business of the state of Michigan for the next 50 years. After all, we are genetically the same. I don't feel that there is a different blood stream in the people of Wayne county as opposed to the people of Berrien Springs. If you take a man from Wayne county—you take an arbitrary man—and you make him a union man, and you make him an active worker in the Democratic party, and you give him a Jewish nose, and you put melanin in his blood stream so his skin will be dark, and you add "ski" on the end of his name and, in the words of one of the proponents of the present plan when it was before our apportionment committee, "you even make him a third generation recipient of welfare in Taylor township," and you take that man and you say, "Is this man as good as anyone else in the state of Michigan?" and if you say "no," then I think you are guilty of prejudgment—prejudgment which ill befits the nature of the work that we are doing.

As long as we are talking about this particular matter of motivation and fear, I want to talk about an old gentleman who lives in the Roosevelt hotel who many delegates here fear as the one hundred forty-fifth delegate to this constitutional convention. I know this gentleman, and I know him to be a grandfather who is sincerely motivated in representing his particular organization. And there is no element of power grab; there is only a feeling for the good of all mankind in his total makeup. Now, in regard to this feeling of superiority or differences—or, we are a certain kind of people and you are a certain kind of people—I suggest that the only real differences in men are those differences which are measured by variances from those eternal verities that I spoke of, man's inhumanity to man, man's universal folly, and so on, and those are the only measurable differences. There is no difference between Democrats and Republicans and city dwellers and farmers except in those terms, in terms of the eternal verities. And I submit also that the difference or the lack or the difficulty of communication between men is not a problem of miles. It is not a problem of 600 miles between one part of the state of Michigan and another. It is a problem of the difference in men's hearts, and the lack of communication is directly a problem of heart and not miles.

Now, lastly, about what I consider—and I apologize to those of you who are philosophically attuned to conservatism—the true nature of conservatism as espoused by a liberal: I think that conservatism in its best sense has always meant to save what is good in the face of inexorable change and to go slow in the changing process so that you will avoid some of the excesses and the catastrophies that inevitably occur in quick change. I have read Locke and Hume and Spencer. A long time ago Plato was a favorite of mine. I was even once a devotee of Nietzsche. I understand Barry Goldwater—I don't condone him but I understand him, I think. And I should like to say this: in the traditionalist or conservative approach we often lose sight of the real essence of what should be saved, and we cling to the form rather than the substance. And there is nothing sacrosanct about the written word except as that particular written word expresses an idea. The idea is sacrosanct—the idea of freedom, of humanity, of democracy, of the republican form of government. These are the things that are sacrosanct. These are the things that should be saved, and not the very base structure in which these things are presently contained. Otherwise you get into the aspects of sheer, raw, naked and culpable acquisition and maintenance of power, and then we are all indefensible.

Caesar said, "All Gaul is divided into 3 parts." Now this is a classic statement. But all Gaul isn't divided into 3 parts and wasn't then. Are we saying now the state of Michigan shall have 38 senators and then proceed from that point? And are we to say, if we are conservative and traditionalist in approach, that because it is written in that document, that the state of Michigan then shall always have 38 senators, and this receives the imprimatur of God as such because it is written in a document that we consider sacrosanct? I think not.

I remember studying in military history the Napoleonic campaign in Russia where the armies of the Czar were faced with a very tactical problem. They obviously could not beat the French armies, so they simply harassed and withdrew and absorbed and tickled while Napoleon marched through the long winter to Moscow, and he got to Moscow and there was nothing there. There was no wood to burn and no food to eat, and ultimately this led to his demise and the disastrous retreat back to France. The Russians, I think, recognized that certain things could not be met head on, that certain things had to be attacked tangentially and had to be modified if they were to preserve themselves. They were not interested in preserving the Czarist armies; they were interested in preserving the country.

When the Redcoats in our early history marched against the savages, they were concerned with form—so many abreast, so many fifers, so many drummers, so much instilling of fear into the hearts of the massed ranks on the other side. But there weren't the massed ranks on the other side; they were savages—and the Redcoats were beaten.

Another aspect of the same problem: if we had not had 2 federal constitutional amendments concerning prohibition, today a prohibition of speech would receive, I think, some degree of attention.

A girl who is afraid of the vicissitudes of kiss and tell may possibly end up an old maid.

This particular problem, I think, pervades our life to such a degree that it is omniscient, really.

Now, what we are doing, I think, if we follow the majority proposal instead of the minority proposal in this convention is to just do a touchup job on our present document, and we are, therefore, I think, violating these eternal verities and the rights of the majority of the people of the state of Michigan. And I suggest to the conservatives that there may come a day very soon when you will want the rights that you are now about to deprive the majority of.

In conclusion, there is a flow that occurs through all life in its mundane and its grandiose aspects that I think is irrefutable. In the automobile industry, you know, if they run a series of models for 3 years, the first year the design is classic and simple and devoid of doodads. In the second year it is modified somewhat, with a little more chrome. In the third year, because of constant change, public demand for change, it becomes overloaded and gawky, and you lose the simplicity of the lines. In architecture, of course, you have the classical example: the doric, ionian and corinthian. In art and in every other area of activity you have the final stage of a given mode of society which becomes baroque where the document or the mode becomes so encumbered by the doodads and the tricks and the flimflams and the thousands of adjustments that you must go through, through years of making a document work, until finally its basic form is unrecognizable and becomes ugly and hideous and you get into the monster element of expression.

I suggest the same thing has happened in the history of our constitutions in the state of Michigan. Where our original documents—1835, 1850—were pure and simple, they were doric; our document of 1908 was ionic. The document we are writing today is corinthian and baroque. The system which we have tortured and twisted and changed only to preserve its basic element, I think, is a dying system, because we have sought to preserve the wrong things. We have sought to preserve the form and the power rather than preserve the substance and the ideas of freedom. So we are at this time about to place a dying hand on the document that the people of the state of Michigan may use for the next 50 years.

In the laws of physics there is no immovable object; there is only an irresistible force. And the brittle bones, I think, are the ones that will crack eventually instead of giving and molding itself and adapting itself to new situations. For those reasons, fellow delegates, I support the minority report amendment.

CHAIRMAN HUTCHINSON: Mr. Nord, to whom do you yield now?

MR. NORD: Mr. Chairman, I yield now to Mr. Greene.

CHAIRMAN HUTCHINSON: The Chair recognizes the delegate from Wayne, Mr. Greene.

MR. GREENE: Mr. Chairman, delegates, I shall speak to you for approximately 7 minutes. And I should like to steal from Ted Brown, for the want of a better title for the remarks I shall attempt to make, another aspect of reality, because I have listened with avid interest to the considerations and debates on this issue of apportionment for several months. I have read many articles prepared by political scientists and others. In all of these instances I have been very impressed—impressed to the extent that I have become very confused—very confused at the use of one word: minority. Having borne this cross of minority designation, in a social context, with all of the reprehensible connotations it has meant to me, with the terrific malapportioned benefits it has heaped upon me, now by virtue of an apprehension, the concern for protecting the welfare of a minority of another description, not the one with which I am usually identified, I feel that I am no longer a minority entity, for I most certainly have not received the legislative protection through apportionment now emphasized as necessary for a minority, and I feel—if you will excuse the word—that I am a "minutian."

In listening to what has seemed like millions of words of explanation used by both proponents and opponents of theories, et cetera, advancing reasons why apportionment of the state should be this way or that way, there seems to be one aspect of the matter that has been carefully avoided. And while I honestly believe the aspect I shall refer to has always been filed away somewhere in the minds of the apportionment study group and others, I repeat, it appears to me this matter has been carefully avoided in discussion. And this is the most serious effect apportionment has on certain segments of our population, primarily the negro.

A population, if you please, is made up of all minority groups, nationally or ethnically speaking. But, here is a situation where we find the majority group of these many minorities, who for expediency, control and purposes of exploitation has constantly been pitted against the lumped together group of other minorities by a standard of color that places it into a category where skin pigmentation seems to be the criteria for division.

I, like so many of you delegated representatives of the people, feel that I, too, am or should be considering the writing of this important document, the constitution, without fear or favor, without political, partisan or ethnic group special priority interest. But, unfortunately, just like so many of you have expressed fears for your district, your people and protection, I, too, because of the malapportioned attitudes prevailing in our society find myself concerned and almost psychotically adopting a protective representational approach in my interest and meager contribution to this great effort. An apprehensive protective demeanor, worried that I, and those with whom by accident of birth I am identified, the negro, will lose some of the small gains we have had doled to us by a malapportioned paternalistic political and social permit. It may be—in fact, I am sure it is now—being felt by some and it will be capriciously projected by others that my remarks are an injection of a component, the race element into the whole of this matter. And as so many tritely say in instances of this sort, such injections are out of place. But I submit to you that many articles written on this subject—apportionment—by most authorities in pure evaluation of this problem, seldom omit pointing out with abysmal clarity that there is a most important factor of race involvement in most problems of apportionment.

By example, may I refer here to excerpts from 2 statements appearing in the United States commission on civil rights reports? Chapter 7, captioned, Gerrymandering and Malapportionment. And I read:

> This chapter will examine the controversy and 2 separate but related problems which give rise to it: "mal-

> apportionment," which is political districting in which one group of voters has disproportionate strength as against other groups of voters in the same election; and "gerrymandering," which is political districting in which, although voting strength may be proportionate, district lines are drawn in such a way as to put particular groups of voters into, or out of, particular districts for the purpose of limiting the effectiveness of their votes. Each of these problems has ramifications in terms of racial discrimination, and each may be a denial of equal protection of the laws.

The second quote:

> The significance of the racial aspects of malapportionment has been stressed by V. O. Key, professor of government at Harvard University, who observed in 1950, "by the over representation of the rural communities, state legislatures gain an extremely disproportionate strength in state lawmaking." This gives excessive weight "to those areas in general the most conservative and in particular the most irreconcilable on the negro issue."

In addition to these 2 statements of findings and fact, I should like to add another that cites the problem in Michigan by one of our own delegates, who says:

> Nor can we ignore the fact that the so called "balanced legislature" in Michigan—as exemplified by the senate—has contributed further to a feeling of quiet desperation among members of the negro communities of the metropolitan region of Michigan. In the name of "protection for the minority," negroes and other foreign born residents are grossly and scandalously discriminated against in Michigan. On this basis, it is clear that discrimination against urban voters is discrimination against real, honest to goodness minority groups, who are in most urgent need of protection and fair play.

And I shall finalize my attempts to sustain my contention and quiet the abhorrence of those whose sensibilities may be offended by my injection, as they maybe want to say, of the race element into this issue. Those of you who may believe that it is me who is injecting this issue—you are in error because we are dealing with, as attorneys say, a de facto situation. It so happens that the minority of the negroes in the state of Michigan reside in those districts which suffer most from the inequities of representation. I am reminded of the quote of a southern judge who said very recently:

> I can see no difference between partially disfranchising negroes and partially disfranchising Republicans, Democrats, Italians, Poles, Mexican-Americans, catholics, blue stocking voters, industrial workers, urban citizens, or other groups who are euchred out of their full suffrage because their bloc voting is predictable and their propensity for propinquity or their residence in certain areas, as a result of social and economic pressures, suggests.

And I add these words to the quote: suggests the dire necessity to use the undemocratic techniques of partial disfranchisement by gerrymandering and malapportionment. These items noted, comprising but a brief summary of the many citations of race involvement by authoritatively interested persons in this apportionment matter, gives me, I feel, license to inject this damnable regressive thing called the race question into the deliberations at this time. And if blame is to be placed, then place it on our state of society, on our state legislature which has failed to reapportion properly and has ill considered the science of demography, all of which now forces the injection of this issue. And what do I aim to do by doing this? Merely hoping and praying that you in your deliberation, in your consideration will not inadvertently overlook this human equation as you study maps, consider ratios, weighted votes and other mechanical factors pertinent in apportionment.

One of the major social ramifications involved, which we shall prove is greatly affected by our apportionment problem, is the problem of delinquent behavior, both adult and juvenile. And there is no doubt in my mind that certain justifications for concern about antisocial behavior patterns noted among large groups of disadvantaged people is good cause for concern; except the justifications that usually lead to broad and unmitigated conclusions do not usually consider the base of the causes. Without full and complete understanding of the causatives, any conclusion reached must be suspect. The one social incidence relative to the previous comment, an incidence too often used statistically as positive criteria to justify negated conclusions, is the question of juvenile delinquency among negro youth.

Therefore, I should like to call your attention to an editorial I have placed upon the desk of each delegate. And while I shall not fracture the courtesy you have shown to this point, manifested by your quiet attention, by reading the full text, there are certain excerpts I think most important to note:

> Whether delinquency in Detroit schools is "overwhelming," as a University of Michigan educator found it, or "no worse than in other large cities," as a city official claims, is certainly not worth debating. The only interesting question is what to do about it.
>
> The delinquents are mostly negro. The problem is first economic, second cultural. Too many negro families who moved here to work in the automobile plants are now unemployed. For most, there are no prospects of jobs. Many are unemployable and either illiterate or nearly so.
>
> We are under no delusion that answers will be found easily. We are perfectly certain that none can ever come from isolated observations of one or another aspect of the problem accompanied by bursts of indignation exhorting this or that agency to do something.

I, too, am of the impression that, as the last paragraph of the editorial says, I am under no delusion that answers will be found easily; but I am positive that if proper apportionment is effected and representatives of the people exposed to this and other urban problems are given equal legislative representation and responsibility, a most important primary beginning will be made to solve this and other tax draining dollar problems.

To further spell out my contention, I refer you to a recent matter that was introduced in our legislature. The attitudes of certain legislators seemingly in control of the present legislature, negative, pretexted by a supposedly great concern, using an old shibboleth; the encroachment of federal government on our—excuse the term—states' rights, shows me and most of the more than 3/4 of a million negroes in our state the result of the ravages of the inequity that exists in the malapportioned legislature of our state.

The example I offer, the debilitating effects of apportionment, an old Parkinson type of disease, and the side effects of the virus of disregard for human suffering that results from this illness is best denoted by the action and subsequent action of our legislature, when it refused to take advantage of a $25 million relief grant from the federal government to give assistance to the children of unemployed fathers in Michigan. The chronology of events was as follows: at the regular session of the legislature, 1961, the bill proposed to accept the grant was defeated. In a special session called to reconsider the matter, a statement of rejection is reputed to have been prepared before the deliberations began. In another effort, it failed to get out of the ways and means committee of the house. It is pertinent to note here the areas from which the majority of this committee hail. Eleven of the 13 members came from areas where urban problems are not prevalent. This year, it was reintroduced. This time, the questionable distinction of being the grant's executioner was conferred upon the committee on health and welfare of the senate. It is important to note, too, that a predominance of this group's membership comes from similar areas noted, and 5 out of 6 members of this committee have had no experience or exposure to urban problems.

During a hearing before the executive branch committee, I asked state representative Arnell Engstrom of Traverse City why had the legislature been, seemingly, so adamant and reactionary on this ADCU matter. His answer, given later by letter, said in part:

> Let me first say I introduced the first bill to take advantage of the ADCU program. However, after the bill was introduced we found many objections, paramount being the federal participation in the control of relief

> given. There was considerable objection to the formula of payment and the cash payments to be substituted for relief orders. The new act provided that if any ADCU person did not want to work, he could not be compelled to be a part of work relief shifts, et cetera.
>
> I would like to discuss the matter further with you, Mr. Greene, but you might be interested in the editorial about it over WILS which is attached. . . .

which you have on your desks. Mr. Engstrom's answer with its overtones of concern for federal encroachment and his rationalizations of harm by virtue of the mechanics which he felt posed question on the distribution of the funds if accepted, shows very clearly the thinking of a man, and indicative of other lawmakers who by fortune have not had to come face to face with the realities of urban life and therefore do not or cannot give impartial representative consideration to such matters competently. His reference to the editorial enclosure, in the main repeating the attitude of Mr. Engstrom, does in the final analysis draw the obnoxious smell of an aged herring over the basic problem involved in the grant matter. And its Newburgh, New York, type illustration, very false in fact and premise, would only be dignified by answer here, and I shall not accord it such dignity.

But in answer to the Engstrom letter, I observed as follows:

> I fully appreciate the problems involved in the administration of relief programs. On the other hand we cannot afford to get lost in the technical detail and overlook the humanitarian considerations involved. The deplorable situation among certain groups of our people, especially among certain groups of negroes, is the result of a whole series of continuing social evils. While it is easy to censure these people, the basic causes are not their responsibility. In connection with this I am enclosing a booklet which I hope you will read, a booklet titled, Causes Behind High Negro Crime Rate.

Much to my surprise, in a recent letter from Legislator Engstrom he did, in a most apologetic manner, confess he had not considered the human element of the equation, the effects of refusing this grant to the succor of defenseless deprived children of the disadvantaged to a great measure by circumstances over which they have little or no control; the unemployed fathers of Michigan. Here, I repeat, I claim is ample proof that the apportionment of the Michigan legislature, relegating dominant control to men far removed from the major areas of tremendously large social welfare problems, is obviously unbalanced and indefensibly bad. Social welfare is a comparatively new appellation given to an old but increasing problem, a problem whose growth is unfortunately nurtured by population explosion, migration, increase in longevity of life, automation, et cetera, under the aegis of so called progress. And this demands a more equally distributed type of legislative representation for all of the people, especially additional representatives of those in close proximity to the urban problems of Michigan.

When we proclaim so loudly that the present apportionment has inbuilt safeguards for the minorities, we are evidently speaking of a minority entity of expedient class creation. For even the most unobserving person can easily discern that the safeguards provided to protect those with true racial minority designation are inadequate, insufficient and the checks and balances so glibly referred to as instruments provided for real minority group protection, even if mechanically or legislatively effective, are in reality seldom used in their behalf. I know of no better example of the capriciousness of this now stereotyped cliche that falliciously presents a so called honest basis for the present system than to quote from the words of Creighton Coleman, who with affected urbane sincerity, when opposing equality at the ballot box for all citizens in 1952, said:

> It merely treats people as cattle going through a gate; you count them, whether they are black or white. It simply treats people statistically not as human beings with knowhow.

Meaning to me that, by some imaginary standard created in the Coleman mind as proper prerequisite for the right to franchise, that if certain people did not meet Coleman's standard, then the checks would be applied that would imbalance in favor of those Mr. Coleman would classify as the more qualified, determined by his standards of qualification. This attitude, of course, emasculates the precepts couched in the preamble to our federal constitution, and the amplification of those revered principles as enunciated by the fourteenth amendment to our federal constitution.

And, my friends, whether you are conversant with or willing to accept this fact or not, there is a new strong wind blowing throughout this old world of ours, a wind increasing to hurricane velocity the demands of gerrymandered, malapportioned people of color for relief. And whether they yell for this relief on the steps of a university in Istanbul, whether they fight for and die or are killed like dogs on the streets in South Africa, whether at a lunch counter, in a library in the south, or in a subtly gerrymandered housing or school district in Michigan, the protest, the demand, is the same. Those who cry for relief will not have their voices stilled by gerrymandered or malapportioned devices, whether political boundaries, legislative imbalances, or social restrictions. And any attempt to maintain the status quo of under representation, whether in Mississippi or Michigan, will not only damage the image of America's greatness, and further enhance the arguments of those who seek to control the minds of men with an ideology contrary to that of our vaunted way of life, but will cause vindictive reaction at the first opportune moment that will create a monster of disregard for the interest and welfare of the so called political minority who now so foolishly or thoughtlessly refuse to consider the potential reaction as described, in the inevitable future.

If those of you who so dogmatically adhere to the format of maintaining the imperceptible change from the status quo are not interested in the effects this will have on your posterity, then I suggest you continue to cling to your present principle. But to those of you who can read into the signs of times the potentiality described, the harm that can be imposed upon your posterity, but who are torn between immediate need for self protection and the welfare of those born of the seed of your body and worthy of your interest for the future, then to you I suggest that you make reparatory adjustment now and provide ample protection to those who shall come after you. And so I say to you, we too must face up to this dilemma with firm humanitarian constitutional policy to equalize legislative representation according to the requirements of people.

It is evident that the prospect of our legislature ever recognizing these full and growing problems, will ever meet them without partisan or provincial reservations, is amplified by the many arguments advanced on the floor of this convention. So therefore, I submit, as I conclude, that the only sure way to resolve this and all of our problems, where this peculiar matter of race involves problems so dependent on responsive, properly apportioned representation in our legislature, is that we must—I repeat, we must—write into our constitution an honest formula, for as one delegate said some months ago:

> I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it. . . .

And I translate the word "it" in this instance to mean not to take away the sovereign weight of each individual's vote, but to inform them of their discretion by education. I implore you to consider this human equation as you deliberate on the matter of apportionment. (applause)

CHAIRMAN HUTCHINSON: To whom do you now yield, Mr. Nord?

MR. NORD: Mr. Chairman, I now yield to Mr. Norris.

CHAIRMAN HUTCHINSON: Mr. Norris.

MR. NORRIS: Mr. Chairman, ladies and gentlemen of this committee, I think we would be remiss in our responsibility to ourselves in this deliberation if we did not take more than judicial cognizance of the fact that a recent decision of the United States supreme court came down which has, in my judgment, an intimate bearing upon our thinking. I am somewhat disturbed by certain observations made by some of the delegates with regard to the time in relation to the matter we are now discussing. I had hoped that we would, with regard to this matter as well as with other matters, come to it with a spirit of "come, let us reason together" as a deliberative body should, and not with preordained clearcut formulations which decide the issue in advance. And it may be that some observations regarding the Supreme Court of the United States might have some view and relevance regarding the preordained conceptions in relation to the subject matter.

I know, too, that this matter has been given a great deal of thought by each delegate and, on behalf of myself and others, in 2 capacities I have filed Friend of the Court briefs with the United States supreme court, which briefs are matters of record in some of the cases dealing with the issues to which we are addressing ourselves here this afternoon.

And I note with great interest as part of my preparation for this and other matters before the convention that the constitutional convention which founded this nation dealt with the question of reapportionment as no other question was at that convention. The United States government printing office puts out a volume in which are reproduced the complete notes of President Madison as he chronicled what transpired at that convention. There are some 600 pages, 300 pages of which deal with reapportionment. So I am, as I say, somewhat disturbed when one or more delegates indicates, with regard to the excellent presentation made by Dr. Nord here, that 2 hours and some minutes are irrelevant to our proceedings. We have before us Baker versus Carr, a case that went up from the state of Tennessee to the United States supreme court which was the product of some deliberation and concern for over 2 years and which was the subject of at least one rehearing as well as the original hearing. That case decided, in essence: 1, that the federal court has jurisdiction over the question of apportionment and will review the matter; and 2, that the federal court will exercise its jurisdiction principally on the test of whether or not the plan of apportionment comports with the standard of equal protection of the laws. And I, regard this decision, in the framework in which it comes to us in history, as the most important constitutional and civil liberties case since the civil war. There is no question that it is intended to and will alter the balance of relationship between state power and federal power. State rights have been states' wrongs, and the government of the United States, through the agency of the United States supreme court, is now about to rectify the wrong. It does so in a spirit of implementation of the intent of the civil war and the aftermath of the civil war.

The 2 propositions that emerged from that war in history, in politics and in constitutional jurisprudence, were, first, that majority shall rule; that no state and no segment of the people has a right to secede; that the majority shall govern in a republican form of government, and the union will only be preserved by majority rule; and second, there shall be no discrimination—no discrimination on the basis of irrelevant criteria. And if there is such discrimination, it will be a denial of equal protection of the laws or a denial of life, liberty and property without due process of law, 2 of the cardinal postulates incorporated in the fourteenth amendment. In other words, the reasons for my observation that this case is so significant, if not in its direct holding, certainly in its momentum and thrust, reach and potentiality, is that it is an implementation of the great purposes of the civil war.

This proposition which we are addressing ourselves to here today is also, in quintessence, an implementation of those great purposes. The issue here before us boils down to 2 main ideas: 1, whether or not the majority and the minority plans are constitutional; and 2, if constitutional, whether they are wise. The question is, which plan will meet the constitutional standards or tests to be anticipated to be formulated by the United States supreme court — which plan will most likely accord to the people of this state the equal protection of the laws.

There is no question that certain observations can be made with regard to how far the decision goes, and perhaps at this point I am reminded of a little symbol that my son gave to me a little while back, a little turtle and on which was inscribed, "Behold the lowly turtle. He only makes progress when his neck is out." And perhaps at this particular preliminary and illconsidered stage in the whole debate regarding the significance of this decision, I am moving my neck in that direction, but I hope by doing so perhaps to encourage a more intimate appreciation of this case, and perhaps also to influence the way in which the case is interpreted. First, it seems to me that a failure to reapportion at all would be a denial of equal protection. Second, it seems to me under these decisions — and I say "these decisions" because, after all, Baker versus Carr was a decision which was a consummation of previous decisions, particularly the Gommillion case, the gerrymandering case in Tuskegee, Alabama — the second proposition is that a failure to reapportion at all would be especially a denial of equal protection if there was no initiative or referendum or no way by which the people could effect the change that was contemplated by reapportionment. I think those 2 propositions would be pretty clear. Then there emerges from the deliberations not only of the majority in the Brennan decision, but in the Douglas and Clark decisions, the proposition that perhaps to follow the test with regard to apportionment as the constitution of that state proclaims the test to be would, in itself, also be a denial of equal protection; that is, if it sets up a standard, and the state by practice refuses to follow the standard, I think that too would be a denial of equal protection.

When we get into the more tender areas, I think we can make these observations: there would be a denial of equal protection if the ratio between the value of the vote in different geographical districts would be 10 to 1 or 11 to 1 or 9 to 1. We would be getting into an area of the denial of equal protection. As a matter of fact, Justice Douglas puts the question:

> The extent to which a state may weight one person's vote more heavily than the weight of another person's vote is a matter germane to deciding whether or not the test of equal protection applies.

So that the question here with some relevance to us is whether there is equal protection of the laws in plans which dilute the vote by factors other than population. By this I don't mean to suggest that there is concurrence in any sense in these opinions that population alone would be the only standard that would comport with equal protection of the laws. But there seems to be a pretty strong intimation that there must be a rational, reasonable, nonarbitrary standard for apportionment for the relationship of people to representatives in order to comport with the standard of equal protection of the laws. The court refers in some of the opinion to incommensurables of magnitude and frequency, and I suggest that that language merely means the question of what is the standard and whether that standard is a reasonable, nonarbitrary standard of apportionment.

Now, we have before us several plans; 80-20 is a percentage distribution which is a basis used in the majority report, and I suppose it could be rational in one sense — in the sense that it could be explained, but there is a sincere question that could be raised as to whether it is or is not arbitrary in terms of the considerations that move for the development of an 80-20 relationship; whether or not the 20 per cent accorded to area or 25 per cent accorded to area or 30 or 19 becomes any kind of consideration that could be classified as nonarbitrary. And I suggest that that kind of question is pregnant with potentiality for constitutional litigation and adjudication in the future.

We have before us the proposition of 0.7 of 1 per cent for a given stage and then a formula of equal proportions put on top of that, all of this bottomed upon an 80-20 relationship. And I think that you can make this point: that while there is very little question that the minority report would comport with the standards of equal protection of the laws, there is some question as to whether or not the majority report might comport with the standards of equal protection of the laws, and I raise that question. I don't mean by that to suggest or to predict which way the court would move under the Michigan plan adopted in the majority report, but I suggest that it is certainly a basis for the invocation of a standard set forth by the supreme court here that might challenge it, that might upset it, and I think that more thought could be given to appraising the intimate details of the majority proposal than has been given thus far. And I know we have received an opinion by one of the research people with regard to it, but I think it requires more time for analysis than that which has thus far been accorded to it.

So I come to the conclusion with regard to the question of constitutionality that there is very little question in my mind regarding whether or not the minority report would comport with what we can anticipate to be the standard or the test of the supreme court, but there is some question as to whether or not there would be this same finding with regard to the majority report.

We have, as you see in the supreme court decision, the proposition that the test is whether it meets the standard of equal protection of the laws. This concept of equal protection means several things. In a general sense it means no unreasonable, arbitrary or irrational classification. But I submit that it has a larger context in terms of the purpose of this decision, its purpose in history, its function in history as an implementation of the concept of majority rule and eliminating discrimination on the basis of irrelevant criteria, and that is this: that there can be little protection of the law for all without a right to an equal value to the vote. In other words, there can be little equality of right without equality of power. There cannot be equality of right without equality of representation in the legislature. There cannot be equal protection of the laws without people being represented in the legislature to see that they are protected equally.

The first sentence which we have been thinking about for our constitution here and in the 1908 document as amended reads as follows, "All political power is inherent in the people. Government is instituted for their equal benefit, security and protection." The question, I submit, is: can you have a government instituted for the equal benefit, security and protection when there is unequal representation? And whether or not there can be equal protection of the laws when you have an unrepresentative legislature. In other words, when you have less than equal representation produced by a diluted vote, in my judgment there is a question of having a corresponding will in the legislature to meet the needs of people. To the degree that you have dilution of the vote, you have a decrease in the will of the legislature to meet the needs of people, to bring about the necessary changes, to respond to the needs and to the desires of all of the people of the state of Michigan.

This is brought to focus in our history in some of the other states of the union. I don't mean to suggest that the same situation that prevails in Michigan prevails in other states, or that which prevails in other states prevails in Michigan in all senses, but just to make this point clear that power is related to right. Unless there is equal distribution of power, there isn't equal recognition of right. And unless there is equal recognition of right, there isn't equal recognition of need. In Mississippi, for example, the right to vote is abridged. There is no gainsaying that proposition. That also means—and we have the state to confirm it—that the needs of people to education, employment, housing, public accommodations are also substantially unmatched. There is a direct relationship between the absence or infringement or abridgement of the right to vote and whether or not the needs of people are met.

Similarly, unless people have the right to vote, there is a question of whether they have the bill of rights at all. The right to vote is a key to freedom of speech, press and assembly, the right to fair trial, to fairly selected jurors, to counsel, and it seems to me that we have to understand that there is a relationship between the abridgement of the right to vote, in the sense that it is not given its full value, to whether or not some of these other rights also are impaired. In fact, the whole problem appears to be in the south, as I understand it, how can a people without a bill of rights get the bill of rights? And that is why, I think, we have the recent evidences of what was known as passive resistance and the sit ins and so forth. The avenues of change are restricted and limited. The bill of rights is not there in order that there might be stable and responsible change, so the people have to move in these directions in order to get there.

Now, in Michigan the proposition emerges from this context, the one proposition that was stated by the highest court of this state in the Giddings case, that the right to equal suffrage is the right to equality in the making of laws. In other words, there cannot be the equal protection in the making of laws unless there is the right to equal suffrage, and to the degree that there is a variance from equal representation to something less than equal representation, to that degree do you have an inequality in the power to make laws that meet the needs of all the people. To the degree that area is induced, to that degree that kind of consideration becomes the main consideration or one of the considerations in the making of laws, and the needs of people are proportionately less the factor to be taken into account. I think that from this emerges a fundamental idea, and that is some of those who say: well, when you boil these plans down, it just means a couple of people more or less. There isn't the plotting of a trajectory of what this might mean in the future. There is also a feeling: well, perhaps the arithmetic is as close as you can get to the principle. There isn't such a substantial variance in some particulars. What is the shouting all about?

The main idea here, it seems to me, is simply this: that this convention was principally called because there has been government by deadlock in Michigan. There has been a built in veto power in the state senate over the way in which government operates. There is a sense of frustration in the state with regard to the manner in which the government operates and the fact that the needs of people in industry are not being met in the way that they ought to be. So that there is a clearcut challenge to this convention to meet this problem, and I dare say that unless we overcome, to some appreciable degree, this government by deadlock, we will not be acquitting ourselves of our constitutional duty, and I think that there would be then a continued sense of frustration on the part of our people, a frustration which has led, in my judgment, to a relatively dangerous state of affairs where people feel they don't count, where there is a sense of apathy and inertness, where as a matter of fact so much of this feeling has penetrated that we 144 delegates represent only 25 per cent of the registered voters of this state, because only 25 per cent of them turned out to select us to draw up this constitution.

This prodigious gap between what is and what ought to be with regard to representative democracy in our state constitutes certainly a challenge and maybe an indictment, and I think we have a long way to go in our state and we have to rise to the occasion particularly on the issue which is before us. And I do hope that in the spirit of "come, let us reason together" we can discharge this responsibility in a better fashion than what appears to be the case.

This is not only significant for us in Michigan; it is significant for us as a nation in the councils of the world. If there is one thing that this nation stands for to most of the world, its morality and its politics and its power, it is that in this country the ordinary fellow has a chance. He has more chance than in any other nation in the world. And what we are debating is whether or not he can have a chance to make the necessary change in problems of local and national government by a system of reapportionment which recognizes people equally.

I do hope with this kind of perspective that we can think in terms of some kind of formula. I submit that the minority formula does that better than the majority formula, but perhaps we may come up with some formula here which comports with the equal protection of the laws which carries out the main ideas about which this country has devoted 250 years so that we can acquit ourselves of our responsibility to overcome the sense of frustration of the people of the state of Michigan, to overcome their apathy, inertness and sense of lack of confidence. And if we do that, in my judgment, Mr. Chairman and members of this committee, we will acquit ourselves of our historic responsibility. Thank you.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman and fellow delegates, I would like now to close the presentation with a few remarks, after which I am going to ask Dr. Hannah whether he wishes the committee to rise. Following that, when we come back I presume that we will be ready then for yielding to delegates who may have questions upon the minority proposal.

The only remarks I would like to make in closing first have to do with remarks made by Professor Norris about the fourteenth amendment and the case of Baker versus Carr. I simply wish to recall the words of the fourteenth amendment to you and to ask your judgment as to what they will ultimately be construed to mean. And the words are these. "No person shall be deprived of equal protection of the laws." And I wish to call to your attention 2 words in particular: the first is "person" and the second is "equal." "No person shall be deprived of equal protection of the laws."

I pose those questions for every delegate to reflect upon: what can this mean? Can this expression, which was wrought out of a civil war, be reconciled with equal protection not for persons, but for persons plus square miles, or pseudo people? I ask you to consider whether it is persons who are to get equal protection or whether it is fictional entities which do not exist. If you can satisfy yourself that something other than persons shall be in the category of the fourteenth amendment, then you are safe in adopting the majority report. But I say to you that in my opinion it is not persons that you are protecting but something that does not exist.

And the second question I ask you to reflect upon in connection with the language of the fourteenth amendment: can the fourteenth amendment language be reconciled with unequal protection of persons? That is also what you are providing, as I pointed out in great detail last night.

You have 2 propositions to consider and reflect upon. It is not just a question of what the court has said so far. If you consider only what the court had said just before that, you would think that the court has nothing to say on the subject. Now they have something to say. And what they will ultimately say, I believe you can determine for yourself by reading the words, "No person shall be denied the equal protection of the laws." I assert to you that the majority proposal fails because it does not guarantee persons equal protection. Or, looking at it the other way, persons are given unequal protection.

Finally, I suggest to you, fellow delegates, that the ultimate decision on the whole matter of apportionment does not rest solely with you. It seems to me that is a stupendous error that the delegates have been making on all subjects since we arrived here. We are not in the position of the legislature. We do not make law. All we do is deliberate and put something on the ballot. We do not have any decisions ultimately to make on our own. The ultimate decisions will be given by the people at the polls and by the judges of the courts. And there are delegates amongst us who have been already appealing to the judges of the courts and who, if necessary, will be appealing to the people at the polls. All you can do is to decide to take your place in history along with those who have fought and continued to fight for justice and equality, or else to take your place in history along with those who have fought and continue to fight to destroy the basic principles of democracy. This issue is a worldwide, continuing issue. You have a place in it. You can select your individual place. You cannot decide the issue, but you can select your place in the issue. You can only decide where you stand as an individual. Then the people and the courts will decide whether you are correct.

Mr. Chairman, I now yield to Dr. Hannah in the event he wishes to make a motion.

CHAIRMAN HUTCHINSON: The Chair understands now that the presentation of the minority is completed upon their report; is that right?

MR. NORD: Mr. Chairman, I would prefer to retain the floor only for one limited purpose when we return, and that is to answer questions in the event there are any. But aside from that, we are through.

CHAIRMAN HUTCHINSON: The Chair will, of course, follow the wishes of the committee of the whole in this matter. The Chair understands the procedure in the committee of the while as it has evolved in this convention is that the proponents of a minority report amendment make their presentation, after which they yield the floor and the question is then upon debate upon the question. The Chair would assume, unless the committee of the whole otherwise directs in this case, that if you have completed your presentation, Dr. Nord, you would no longer retain the floor. You would, of course, subject yourself to whatever questions any delegate desires to ask you in debate, but the floor would be his and not yours.

MR. NORD: All right. In that event, Mr. Chairman, we are perfectly satisfied. We are through with the presentation of our case, and we will yield the floor at this time.

CHAIRMAN HUTCHINSON: Thank you. The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, we have now reached a good time to close our deliberations for the morning, and in a moment I shall move that we rise. But before doing so, I should like to indicate how we propose to proceed this afternoon. As the Chair has indicated, the matter before us will be the consideration of the minority report amendment that has been presented to us at length. This was worked out some weeks ago when Dr. Nord, on behalf of the minority, requested an opportunity to have as much as 6 hours uninterrupted to present the minority proposal, which they have now had and presented well. There will be a brief statement this afternoon as we reconvene or move back into committee of the whole, and then, instead of following the procedure that I had indicated, in view of the emphasis that has been placed on the supreme court decision, I shall ask the vice chairman of our committee, Mr. Dehnke, to make some comments on that subject. Then I hope we will dispose of the minority report amendment, and then we will follow the procedure that we had indicated previously. Mr. Chairman, I move now that this committee rise.

CHAIRMAN HUTCHINSON: The question is upon the motion of Dr. Hannah that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails. The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** pertaining to the reapportionment of the legislature, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: The committee on rules and resolutions will meet briefly in room F today immediately following the afternoon session. R. C. Van Dusen, chairman.

The committee on judicial branch will meet immediately for a very short meeting in room B this noon. Robert J. Danhof, chairman.

The committee on emerging problems will meet at 11:30, or immediately after the session this morning, in room H on the third floor. Frank G. Millard, chairman. Notice to the committee members: please bring your lunch to committee room H.

We have the following requests for leave: Mr. DeVries requests to be excused from the balance of today's session; and Mr. Allen wishes to be excused from tomorrow afternoon's session to attend the funeral of his father in law in Grand Rapids.

PRESIDENT NISBET: Without objection, the excuses are granted.

SECRETARY CHASE: The apples today were furnished by Delegate Rush. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Turner.

MR. TURNER: Whereas, I have sat so long that I am tired of haunch, Whereas, my mind has gotten numb from arguments so staunch,

Whereas, I need some food for thought,

Of this I must confess;

I move, Mr. President, that we do now recess. (laughter)

PRESIDENT NISBET: The question is on the motion of Mr. Turner. Those in favor say aye. Opposed, no.

We are recessed until 1:30.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I move that further consideration of the report of the committee of the whole relative to **Committee Proposal 71** be postponed until after the convention has completed action on the report of the committee of the whole relative to Committee Proposal 80 and Exclusion Report 2046. That is the motion that I indicated this morning I would make this afternoon.

For last previous action on the report, see above, page 2013.

PRESIDENT NISBET: The question is on that motion of Delegate Hannah. Mr. Hodges.

MR. HODGES: I have a couple of questions I would like to ask Dr. Hannah.

PRESIDENT NISBET: If he cares to answer.

MR. HODGES: What is the reason for this further delay?

MR. J. A. HANNAH: This is no further delay, Mr. Hodges. When we put over 71 last Thursday, and it was put over until a time certain, this afternoon, at that point I raised the question with the president of the convention and others and indicated that it was my hope that when we begin to consider the recommendations of the committee on legislative organization, that we might proceed until the completion, and the reason for my recommendation is just that; the fear that if we now return to 71 that was before the committee of the whole for approximately 2 weeks, and we go through the usual routine of having offered from the floor all of the amendments that were defeated in committee of the whole, we are likely to extend this discussion for a long period. We have just finished listening to a 6 hour presentation by the members of the minority party, and I should very much dislike to arrive at a situation where we have to have large sections of that repeated before we can proceed with our business.

MR. HODGES: Dr. Hannah, if you will recall, this is the very reason that we objected last Thursday to the putting over of this section in the first place. I would like to ask one further question: will the time used for this delay be used to further water down the Austin amendment that has had substantial bipartisan support and, I think, had 78 votes at its last count?

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, Mr. Hodges, of course I am not in a position to answer that. Mr. Hodges knows full well what my feelings and convictions are with reference to this matter of civil rights, and anything that would result in the coming up with a proposal that was meaningless would be thoroughly distasteful to me and I would not be a party to it.

MR. HODGES: Well, Dr. Hannah, I fully appreciate your concern in this field and I don't think anyone can question it. My only concern, though, as a delegate, is that this time that you request would be used to further water down this amendment. If I can be given this assurance through yourself or through the majority party that this is not the purpose and that this time extension will not be used to further emasculate the Austin amendment, then I, for one, will go along with this request. If, though, I am to be voting on a request which would in effect allow for the emasculation of what I feel was a fine civil rights provision, which did have substantial support and 78 votes last Thursday, and which could have been settled in 10 minutes after we had gotten done but it was the desire of the majority party to caucus on this thing further—if I can be given this assurance, I will go along. If not, I don't see how I, in good conscience, nor members of my party, can go along with this request.

PRESIDENT NISBET: Dr. Hannah.

MR. IVERSON: Mr. President, I move the previous question.

MR. J. A. HANNAH: Mr. President, I would like to give Mr. Hodges assurance, if it is in order, that I do not believe that what Mr. Hodges predicts might happen will happen. This is certainly not the motive that causes me to make this motion, and I give him that assurance with conviction.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? A sufficient number up. The question now is—

MR. MAHINSKE: Point of order, Mr. President. This is a prime example of what I directed to the Chair the other day. As I recall, Mr. Iverson right now was not recognized. He did exactly what I pointed out—

A DELEGATE: Mr. President, I think he is out of order.

PRESIDENT NISBET: Mr. Mahinske, when the Chair—

MR. MAHINSKE: I don't know that a point of order can be out of order. I would like a ruling on that.

PRESIDENT NISBET: Mr. Mahinske, when Mr. Iverson rose and addressed himself to the point, he was not recognized. The Chair had already recognized Dr. Hannah. Dr. Hannah completed his statement. Then the Chair recognized Mr. Iverson.

MR. MAHINSKE: Did Mr. Hannah have the floor? Had he yielded the floor at that time?

PRESIDENT NISBET: He didn't need the floor. He had completed his statement.

MR. MAHINSKE: This is your ruling?

PRESIDENT NISBET: That is right. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails. The question now is on the motion of Dr. Hannah.

DELEGATES: Division.

PRESIDENT NISBET: A division—

MR. VAN DUSEN: The question was: shall the previous question be put?

PRESIDENT NISBET: A division has been demanded. Is that demand seconded? A sufficient number up. Those in favor—

MR. MADAR: Mr. President, I would like to request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Not a sufficient number up.

Mr. Brown.

MR. T. S. BROWN: Mr. President, I have a parliamentary inquiry. Is it possible at this time to entertain a motion to divide the question?

PRESIDENT NISBET: The only question, Mr. Brown, is: shall the previous question be put? The Chair doesn't know how you are going to divide that one. (laughter)

MR. T. S. BROWN: All right. I will make that motion in a minute, then.

PRESIDENT NISBET: The question is: shall the previous question be put? Those in favor of the putting of the previous question will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the vote on ordering the previous question, the yeas are 82; the nays are 30.

PRESIDENT NISBET: The motion prevails, the previous question is ordered. The question now is on the motion of Dr. Hannah—

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Just a minute. The question now is on the motion of Dr. Hannah that consideration of the report of the committee of the whole relative to Committee Proposal

71 be postponed until the completion of legislative organization. Mr. Brown is recognized.

MR. T. S. BROWN: Mr. President, is a motion to divide the question now in order?

PRESIDENT NISBET: What can you divide, Mr. Brown?

MR. T. S. BROWN: I would like to move that that portion of the report on 71 concerning the civil rights commission be separated and voted on separately.

PRESIDENT NISBET: That is not in order, Mr. Brown. Mr. Marshall.

MR. MARSHALL: Mr. President, I wish to announce my intention to abstain from voting on this question, and I would like at this time to have the privilege of explaining my abstention.

PRESIDENT NISBET: You may.

MR. MARSHALL: As vice chairman of the committee on executive branch, the rules have been changed on several occasions postponing, tabling, delaying proposals that were before the convention without consulting with the minority vice chairman on the committee.

I think that the display here a moment ago of Mr. Iverson's is evidence of the contempt with which the majority holds the opinions of the minority, the obvious attempt to move the previous question in order to avoid hearing the position or the opinions of the minority. This was tabled. Another reason that I am abstaining is that to my knowledge, this is the only committee—and I am talking about the committee on executive branch—that had proceeded throughout all of its debate and deliberations in the committee of the whole and was ready to rise and to proceed in the convention to dispose of the committee on executive branch; because of some obvious problems within the majority, this was tabled until today. Now we are going to have a further postponement of the discussion.

I am the one that argued in the beginning that we should have taken apportionment up early in the convention and disposed of it, as so many of the other issues were directly related to that of apportionment. I do resent—and I cannot vote on this—the move that was made a moment ago on the part of the leader of the Republican caucus to not hear the minority viewpoint. Of course, this has been evident throughout the convention that this has been the case, and I could not in good conscience vote on this issue because I am not in accord with it. I do not think that the majority has been fair. On occasions here the rules have been changed from time to time as it suits the fancy of the leaders of the Republican caucus. I am not so sure that it wouldn't be wise if we might recess for 2 weeks, let the Republican caucus decide what the constitution is going to be, and call us back to vote on it.

PRESIDENT NISBET: The question is on the motion of Dr. Hannah to postpone consideration of the report of the committee of the whole regarding Committee Proposal 71. Those in favor will vote aye. Those opposed, no.

The motion prevails. The report of the committee of the whole on **Committee Proposal 71** is postponed until after the report on Committee Proposal 80 and Exclusion Report 2046 by the committee of the whole.

The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of proposals on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will vote aye. Opposed, no. The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.]**

CHAIRMAN HUTCHINSON: The committee will be in order. The Chair recognizes the chairman of the committee on legislative organizaiton. Dr. Hannah, on **Committee Proposal 80.**

MR. J. A. HANNAH: Mr. Chairman, it is my understanding that we now have before us for consideration the minority plan that has been presented at some length, and before I urge the committee not approve the minority report amendment, I should like the privilege of calling upon the vice chairman of the committee on legislative organization, Judge Dehnke, to make some comments with reference to the supreme court decision of last week that has already been referred to several times as we were considering this matter.

MR. PELLOW: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Pellow.

MR. PELLOW: The question that I have to ask is this: is it not proper now to ask questions of the minority rather than yield to the vice chairman?

CHAIRMAN HUTCHINSON: The parliamentary situation as the Chair understands it is that the question is upon the minority report amendment. Dr. Hannah, the Chair understands, has completed his statement and he has suggested that Judge Dehnke be next recognized, and the Chair is prepared to recognize Judge Dehnke. After Judge Dehnke completes his debate—and this is the debate upon the minority report amendment—the Chair will then recognize Mr. Blandford. The Chair will then recognize Mr. Yeager, and then anyone else who desires recognition. But that is the list as it now stands. It is not the Chair's understanding that Dr. Hannah is assuming to control the floor. Is that correct, Dr. Hannah?

MR. J. A. HANNAH: That is correct. I would like the opportunity at some stage, and I do not care whether it is before the gentlemen you have mentioned; it may be desirable to put me on the list next. I have some comments to make with reference to the minority report amendment, but it makes no particular difference when I do it.

MR. DOWNS: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: I certainly look forward to hearing Judge Dehnke's comments on the case that is before us. I take it from your ruling then that any of us who wish to make comments on his comments would get in the order and it might mean there had been several speakers intervening, and it is not the intent then to have the discussion confined to the subject matter of Judge Dehnke's comments? I am just asking for information.

CHAIRMAN HUTCHINSON: You are correct, Mr. Downs. There is no intent to confine the discussion to one phase. The question before the committee is the adoption of the minority report amendment, so anything having to do with the minority report amendment would be in order. The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, if anyone is apprehensive that I intend to use the entire afternoon reviewing some 150 pages of judicial opinion, I would like to disabuse him now. This is one of those opinions which I think can be summarized for our present purposes in very short order. The question that we are all interested in is: what did the court hold and what did it not hold?

I refer first to page 11 of the controlling opinion written by Justice Brennan, in which he makes this summary of what he holds:

> In light of the district court's treatment of the case, we hold today only (a) that the court possessed jurisdiction of the subject matter; (b) that a justiciable cause of action is stated upon which appellants would be entitled to appropriate relief; and (c) because appellees raise the issue before this court, that the appellants have standing to challenge the Tennessee apportionment statutes.

The rest of his 50 pages of opinion are devoted to a discussion of earlier cases and to explain that they do not stand in the way of this finding that the court makes.

I proceed next to the opinion of Mr. Justice Douglas, who on page 4 of his opinion uses this language:

> There is a third barrier to a state's freedom in prescribing qualifications of voters and that is the equal protection clause of the fourteenth amendment, the provision invoked here. And so the question is, may a state weight the vote of one county or one district more heavily than it weights the vote in another?
>
> The traditional test under the equal protection clause has been whether a state has made "an invidious dis-

> crimination," as it does when it selects "a particular race or nationality for oppressive treatment." . . . As we stated in Williamson v. Lee Optical Company, 348 U.S. 483,489, "The prohibition of the equal protection clause goes no further than the invidious discrimination."

Mr. Justice Clark, on page 2 of his opinion, says:

> I take the law of the case from MacDougall v. Green . . . "It would be strange indeed, and doctrinaire, for this court, applying such broad constitutional concepts as due process and equal protection of the laws, to deny a state the power to assure a proper diffusion of political initiative as between its thinly populated counties and those having concentrated masses, in view of the fact that the latter have practical opportunities for exerting their political weight at the polls not available to the former."

The word "proper" is italicized and the last sentence is italicized. On page 4—beginning at the bottom of page 3—he again refers to the fact that not every discrimination is subject to constitutional condemnation. It must be an invidious discrimination. And a statutory discrimination will not be set aside if any state of fact reasonably may be conceived to justify it, quoting from McGowan v. Maryland. On page 9, he calls attention to the fact that the people of the state of Tennessee were practically powerless, because they do not have, as we have in Michigan, referendum provision, so that it was beyond their power to do anything by either the initiative or referendum process.

I don't think it is necessary to refer to the dissenting opinions of Justices Frankfurter and Harlan, except to say that Justice Stewart's opinion was obviously written after the dissenting opinions had been filed, and Justice Stewart writes an answer to the dissenting opinions which I think is significant. In his interpretation on page 1, he says, "The court today decides 3 things and no more . . ." and he repeats what I quoted to begin with from Mr. Justice Brennan's opinion. He says:

> The court does not say or imply that there is anything in the federal constitution "to prevent a state, acting not irrationally, from choosing any electoral legislative structure it thinks best suited to the interests, temper, and customs of its people." . . . And contrary to the suggestion of my brother Douglas, the court most assuredly does not decide the question, "may a state weight the vote of one county or one district more heavily than it weights the vote in another?"
>
> In MacDougall v. Green, 335 U.S. 281, the court held that the equal protection clause does not "deny a state the power to assure a proper diffusion of political initiative as between its thinly populated counties and those having concentrated masses, in view of the fact that the latter have practical opportunities for exerting their political weight at the polls not available to the former."

That was recited previously in Justice Douglas' opinion.

> In case after case arising under the equal protection clause the court has said what it said again only last term—that "the fourteenth amendment permits the states a wide scope of discretion in enacting laws which affect some groups of citizens differently than others."

He says further:

> Today's decision does not turn its back on these settled precedents. I repeat, the court today decides only: (1) that the district court possessed jurisdiction of the subject matter; (2) that the complaint presents a justiciable controversy; (3) that the appellants have standing.

I think it should be noted that although Justice Clark was in the best possible position to interpret what the majority meant, of which he was a member, his opinion was not formally joined in by the other justices so far as this report available to me shows.

I have seen this morning an attorney general's opinion of this state which calls attention to some phases of this decision, and the meat of that is that the prospect of our senate apportionment being held invalid is materially increased. The importance of this decision, I think we have to agree, rests not so much in what it holds or says as in what it may foreshadow.

Facing realities, we have this situation to remember: the court may hold that it will not pass upon the Michigan case at this time; will take judicial notice of the fact that a constitutional convention is in session, as the result of which there may be a new formula for apportionment; it may hold that the apportionment made by the people in 1952 by initiative is not beyond the realm of reasonable difference of opinion; or it may hold the contrary, that it is outside of the realm of reasonable difference of opinion and therefore invalid. But if it does so hold, then we will have plenty of company in the readjustments that will have to be made in at least 45 of the 50 states of the union.

In Justice Brennan's state of New Jersey, for instance, they have a senate composed of 1 senator from each county, with a differential of 13 to 1 as between the most populous and the least populous. In the chief justice's state of California they have 1 senator from the tremendously populous county of Los Angeles, and no senate seat contains more than 3 counties.

Another question that might arise is whether the provision we have made in our report for the next 10 years is constitutionally defensible. If not, then we may need to consider whether we should at this time and immediately proceed to apply the apportionment formula set forth in our proposal. These are all speculative matters, and it may well be that the decision will be of such a nature that a stay of proceedings might be ordered until the people have an opportunity to pass upon the constitution which we are working on and trying to hammer out. This is a speculative situation that we are in. We have lawyers among us who believe that a proposal to apportion the senate on a strict population basis and to set up a house of representatives on a basis of one representative for every county could be defended successfully in the supreme court. It seems to me that the formula has been set up in the senate of 80 and 20, remembering that the word "area" includes not merely square miles, but differences in social and economic conditions, difficulties of communication, difficulties of the people knowing their candidates, and their representatives being acquainted with the district. Those are all included within that term.

Nobody knows what the future holds, and as others have been obliged to do continuously, we cannot forecast the future and our future action will have to be governed by what happens in the future. My own personal opinion is—and I by no means set that up as infallible—that there is no need by reason of anything said in the course of this opinion that need cause us any serious doubts as to the constitutional validity of the proposal made by the majority of the committee. I think that is all that is necessary to say at this time, Mr. Chairman.

CHAIRMAN HUTCHINSON: The Chair recognizes the delegate from Kent, Mr. Blandford—Dr. Nord, for what purpose do you rise?

MR. NORD: I would like to be put on the list to speak.

CHAIRMAN HUTCHINSON: Very well, sir.

MR. BLANDFORD: Mr. Chairman, fellow delegates, at the outset I would like to compliment Dr. Nord, Ted Brown, Bill Greene and Harold Norris on a very complete and learned dissertation on apportionment and other matters. I cannot agree with the conclusions of these gentlemen, but I do acknowledge that Dr. Nord and his cohorts have given this problem long and painstaking study.

My reply will consume no more than 5 minutes of your time. I hope you won't feel shortchanged. I would like to discuss one phase of the minority report amendment. This is Dr. Nord's senate plan of tote board voting. The key to this is, of course, that each senator shall have a vote equal to the number of votes received by him in the election. As you all know, this idea has never been tried in a legislative body. Since we lack any history, some of us wondered how Dr. Nord's plan would work if applied to the votes that elected the delegates to this constitutional convention, so we dug up the results of the September 12 election. To say the least, we came up with some interesting and very amusing results. For example, the delegate receiving the highest number of votes at this convention is George Romney. I might say, George, that many of us hope this pattern continues for you. (laughter) If the voting was done at this convention on the tote system advocated by Dr. Nord, every time we voted, Delegate Romney would be able to cast 42,000 votes. This is more than the combined vote totals of Democrats Bob Hodges, Sam Ostrow, Ted Brown, Tom Downs, Art Madar and the author of the plan, Mel Nord. I am using names here, delegates, not to try to embarrass anybody, but only to enable you to double check any figures that I may be using this afternoon. On the other side of the ledger, the top Democrat vote getter at the convention is our good friend Bill Marshall. Delegate Marshall under the tote system would be able to cast 25,900 votes. This is more than the combined totals of 8 Republicans—Ray Plank, Jeff Hoxie, Shuford Kirk, Elmer Radka, Ervin Haskill, Clyne Durst, Glenn Allen and Charles Anspach. As we all know, Bill has pushed hard for the one man, one vote concept. This even goes beyond his dreams, as this would be 1 man, 8 votes.

I am sure that Dr. Nord has some doubts as to the practicality of his tote idea, since he suggests that this tote voting should not apply to committee voting in the senate. In committees, except the committee of the whole, every senator would have an equal vote under Dr. Nord's plan. Now, if you will bear with me for just a minute, can you imagine the frustration of some senator who was elected to the state senate with about 80,000 votes. He could possibly be placed on a 5 man committee with 4 senators who possibly only received 10,000 votes apiece—and this could happen. We have districts in the state where the winning senator oftentimes polls 8 times more votes than the man running second. The four 10,000 vote senators on the committee could naturally outvote the man who has the 80,000 votes. However, on the floor he could outvote them 80,0000 to 40,000—if he could ever get anything on the floor, because he would have to rely in committee on just 1 vote, and he would have to be able to convince 2 of the other puny little 10,000 vote senators to work with him and help get this thing on the floor.

Now, getting ridiculous for just a minute—if I haven't been already—I can visualize a sort of a caste system emerging among senators. Senators would probably become known as "big vote" senators and "little vote" senators. The 80,000 vote senators, having 8 times more importance than the 10,000 vote senators, would be prime targets, of course, for the lobbyists, because by bagging the vote of one of these so called "big vote" senators, a lobbyist would gain as much support for his project as he would receive from 8 of the 10,000 vote senators.

I am not going to belabor this any longer. I think we have raised the curtain far enough so all of you can see the utter unworkability of Dr. Nord's senate plan, and consequently I urge all of you to vote no on the entire minority report amendment. Thank you very much.

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, I rise in opposition to the minority report amendment, and I specifically want to talk at this time about the question of the senate plan put forth by Dr. Nord and the minority. As to the proposal for the house of representatives, I would like to reserve discussion of this until an amendment, which will be brought up at a later time by Mr. King and myself, is before us.

I find it impossible to answer several hours of statistics in any reasonable time so my remarks on this question will relate to the central idea of the plan. There are 2 questions, in my judgment, which need to be answered in any apportionment plan: 1, does the plan give effective representation to all of the people of the state regardless of problems of density or geography; and 2, does the plan safeguard the 2 party system which is the bulwark of democracy in the state and this country? The minority report amendment which has been presented, particularly on the senate, tries, I think, to answer the first problem—that of representation—but I think it fails quite severely in the question of safeguarding the 2 party system.

This minority proposal for the senate provides that from each of the 19 districts, there shall be elected 2 senators—1 from each party, a total of 38—which election shall be decided by the primary, and that each of these senators shall be able to vote in the senate body the number of votes equal to the votes he receives in the general election. Let me give you an example. If the nominated Republican candidate from district 1 receives 40,000 votes in the general election and the nominated Democrat from district 1 receives 60,000 votes in the general election, both will serve in the senate representing district 1, by virtue of having been nominated; but the Republican will have a weight of 40,000 votes, the Democrat a weight of 60,000 votes. This minority report for the senate also provides that should a third party receive 25 per cent of the vote, he too will serve from that district. Some questions at this point must be raised: what happens if one party receives 90 per cent of the vote and the other party receives 10 per cent of the vote? Does this mean that only one senator would serve? If we have a 90 per cent—10 per cent split, could the majority 90 per cent party run someone in the minority 10 per cent party and end up with 100 per cent of the vote of that district in the legislature?

I think this concept is a very dramatic and complete change in our traditional concept of representative government; and while this considerable and new concept purports to cure an illness, I submit that the cure is a far greater evil than the illness ever was. Let me discuss with you some of the fallacies in this plan and my reasons for opposing it may become evident. First, the minority plan will lead to splintered parties and will weaken the 2 party system. The decision as to whom will be serving in the senate under this plan will be made in the primary election and not in the general election. This, therefore, will mean that there will be several Republican groups and several Democratic groups vying for the primary vote; and this will tend to factionalize and tend further to make multiple parties or splintered parties within the major party. It also leaves room for any group to undermine a party because the election will really be decided in the primary election which generally has had smaller participation. In my own political experience, I have found it difficult enough to maintain party purpose, unity and continuity without weakening it in this way. In France, the splintered parties became one of the major factors in the weakening of that government. Splintering parties will not only be encouraged by this proposal, but will be a predictable fact.

Second, the minority plan will lead to government by coalition rather than responsibility. Again, if I may use France as an example—and let me say here that France's problem was not just splintered parties, but was also a weak executive in connection with it—each of the many parties were brought together at various times into the government in the form of a coalition; and since each party had a piece of the government, so to speak, the parties could bypass responsibility. Any action taken or not taken by a legislature so constituted could be blamed upon a party faction winning the primary rather than the total party. It would reduce the militancy of the 2 party opposition. A senator might have a few less votes, but if he wins the primary, he is elected to serve—so why bother to fight in the general election to get out additional voters. Who would spend money on such a project to get out additional voters? Voters in turn would say, "Why vote for this office? The decision has been made." That is, in the general election. It's true that a voter voting in the general election would be casting a vote for that senator of his party to use. We would theoretically be permitting that vote to be cast in the legislature, but I submit that in the minds of many people there would be a reluctance to grant this vote.

Third, this minority plan will break down the traditional concept that when a man is elected on a "winner take all" approach, he then serves all of the people of that district in the common good. I believe, as an elected Republican to this convention, that I serve all of the constituents of my district—the Democrats included. Under this minority plan, this concept would be completely destroyed. The plan would vastly increase partisanship considerations far beyond their usefulness. To be specific, the Democrat would serve only the Democrats in his district, and the Republican would serve only the Republicans in the district so that the common good would no longer be the concept. The minorities with less than 25 per cent of the vote would have no representation. All decisions would be purely, factionally partisan. I am convinced that the people of this state do not wish such a radical plan in their governmental representation. I am further convinced that the so called balanced legislative approach with one house on the basis of population and the other on the basis of population plus area or other factors is the plan that most people of this state favor.

There has been made a rather accurate poll conducted for the Detroit News by an organization called Opinion Research which has had remarkable accuracy in the past on finding out views on public questions. This poll showed that most people favor a 2 house legislature based as I have stated. This applies even to urban dwellers and in so called under represented areas. I think the result of this con con election also indicated that in the urban areas where the question of apportionment was the major issue, those advocating a balanced legislature won in many normally Democratic districts.

I would like to review very briefly again the 3 major reasons why I think the minority plan for the senate is unworkable and dangerous to our traditional concept of representative government: 1, the minority plan will lead to splintered parties and will weaken the 2 party system; 2, the minority plan will lead to government by coalition rather than responsibility; and 3, the minority plan will break down the traditional concept of "winner take all" for the common good and will increase partisanship to be the primary consideration, possibly taking the place of the common good concept. I therefore urge the defeat of the minority report amendment. Thank you.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, in order that we may have an orderly procedure as we consider Committee Proposal 80, I think in fairness to the whole committee, I should indicate that it is my intention, since we convened at 1:30, about 3:30 to move that we rise for the purpose of a recess for 10 minutes, and then that we reconvene until about 5:30, and with that announcement I hope that it may be possible for us to maintain good interest in the hall.

Mr. Nord and Mr. Brown, Mr. Greene, Mr. Norris made a very careful, fully prepared presentation last evening and this morning, and I don't want to review it all. I think I should just like to remind the members of the committee of the realities of the situation in which we find ourselves. This whole matter of legislative apportionment, whether we like it or not, is a partisan issue. Perhaps it shouldn't be, but it has become so. And the 2 parties have consistently taken radically different positions. The minority party has rather consistently insisted that the apportionment in both houses of the legislature should be on the basis of population only, and the majority party has insisted that at least one house of the legislature shall have in its apportionment some consideration given to other values, and the committee determined that this house should be the senate, and because of the difficulty in defining economic interest, diversity of interests, some of these other values that were presented as deserving of consideration, the committee decided that the only practical area other than population that should be given consideration is the one of area, and the recommendation that will come before you, once the minority report amendment is disposed of, will be based on that concept.

I should like to make it clear that, as I urge you to reject the minority report amendment, it is not for the purpose of, in any way, discouraging debate. We set a fine record on Friday in considering Committee Proposal 79 when we disposed of it completely in less than a day. There is no desire on the part of anyone to cut off debate or to prevent coming before the floor for your consideration all of the points that some of our members think have validity or should be considered, but I should hope we could save a lot of time which could be consumed in discussing the merits of the majority proposal as we are talking about the minority proposal. If we are able to limit our discussion to the minority report amendment and dispose of it, then there will be a full opportunity for every delegate of both parties, as we consider the majority proposal section by section and paragraph by paragraph, to have presented all of the points that any of the delegates would like to call to your attention.

Now, the point that Dr. Nord and his colleagues emphasized in the presentation of the minority proposal had largely to do with the senate. There were some questions with reference to the house. And one of the points that Dr. Nord made, if I understood him correctly, was that in the recommendation in the minority report having to do with senate apportionment, they took the majority report objective in mind in which the majority report gave a value of 80 per cent to population and 20 per cent to area. And if I understood Dr. Nord, he indicated that, according to his calculation, the minority report put an emphasis of 21 per cent on area and 79 per cent on population, and that sounds well enough until you look at it.

The whole validity for considering area or some other value besides population is based on the assumption that there is validity in representation for those areas that spread over wide geography to give some consideration to something besides gross headcount, and one of the points made before our committee was the fact that the federal census is taken the first of April. The census of 1960 was taken April 1, 1960, or as near that date as possible. If the same census was taken in July or August, the northern part of the state could have had a substantially different population, although, of course, this depends upon the census definition of what constitutes official domicile for census purposes. The only point I want to make before I sit down is—since we are talking about the senate—or this was the principal emphasis of Dr. Nord's remarks, if I understood him, and he may have left the notion that the minority report gives 21 per cent emphasis on area and 79 per cent on population, I would like to call these figures to your attention: if you will turn to the red book that you have on on your desk or in your desk or under your desk, you will find that the total vote for the state senators in the last election was 3,180,100, and if the count that the vote of each senator is to be given in the senate is dependent upon the number of votes that he received, there would end up in the senate under the minority scheme a total of 38 senators representing 3,180,100 in the present senate—of course, in the next senate it will be whatever the number of votes cast are —and the majority vote would be more than half of that number or some figure more than 1,590,500. It really wouldn't make any difference how many senators sat there, because when a controversial issue was up, the only vote that would count would be this tote system of the number of votes received by each senator when he last ran for election.

If my calculation is correct—and I computed it only this morning when our colleagues were making their presentation —if you leave out the minority parties and include only the vote given to the Republicans and the Democrats in the senate, in Wayne county in the last election there were a total of 1,115,106 votes cast for the Republican or Democratic senatorial candidates. If you add Oakland's 288,656 and Macomb's 160,798, and you are excluding the minority parties, you place in the hands of the people in those 3 counties 1,564,560 out of a total of 3,180,000, which is 26,000 less than a majority, but any single senator anywhere else in the state added to the total representation of Wayne, Oakland and Macomb would represent a majority of the voting power in the senate, or the point that was made by Mr. Blandford when he used the figures for this convention.

The 2 senators that received the largest number of votes in the last election were Mr. Doyle, a Democrat in district 21, with 161,929, and Mr. Roberts, in the Oakland district 12, with 156,295. Either of those gentlemen would have more votes than 5 of the majority senators that were elected—if you add together the votes of the gentlemen now representing in the senate the senatorial districts 20, 26, 27, 28 and 29—either of those 2 senators would have more votes than the 5 of them. Or, if we had the minority system, either of them would have more votes than 10 of the minority senators, more votes than the minority senators from districts 2, 4, 8, 20, 25, 26, 27, 28, 29 and 32. Those 10 minority senators would have a total effective vote of 154,882 as against Mr. Roberts' 156,000 and Mr. Doyle's 161,000.

The points that have already been made by Mr. Blandford and Mr. Yeager need not be repeated, and I only emphasize that the business of area representation is a complete myth in the minority plan. If you feel that it is important that area and other values besides straight population be given consideration, than you will certainly reject the minority report amendment, consider the majority report. And if you have improvements, let's consider and debate those improvements as the majority report is before us. Again I urge the committee to reject the minority report amendment so we may get on with our work.

CHAIRMAN HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I wish to briefly introduce a further statistical observation upon the effect and the meaning of the minority plan. This observation has not yet been made and it is of some importance. The proponents of the minority plan have placed supreme emphasis upon the desirability of having an apportionment system which treats people equally regardless of where they reside. However, it is interesting, in turning to their recommendation with regard to the senate, to discover that it is not people who are represented in voting power, but it is rather, as stated in lines 14 through 16, in the enactment of legislation, each senator shall have a vote equal to the number of votes received by him in his election, so it is only voters and only those in the particular election who determine the voting strength.

I would like to ask you: who are the people of the state eligible to vote? And we know that practically all of those people who are over the age of 21 years are the ones who are eligible to register and vote. So I will turn very briefly to the population report of the United States census for Michigan and disclose that on page 41 of that report, which has been available to all of us, appear the figures which show the number of people in each of the areas of the state, the urban and the rural, who are above the age of 21 years of age, and I would point out that in the areas known as central cities, a total of 62.47 per cent of the population is above the age of 21 years, as opposed to the total rural population of the state where only 56.36 per cent of the people are above 21 years of age. If you take the entire urban area of the state, which includes urban fringe, cities of 10,0000 or more and cities between 2,500 and 10,000 combined with the central city, you find that even that figure, of all the population there, 59.34 per cent of them are above the age of 21 years as opposed, as I said, to 56.36 per cent for all of the people in the rural areas. That makes it eminently clear that under the minority senate proposal, each central city resident and each urban resident is given, regardless of his party, more representation in the senate than he would have even if the senate were apportioned on a pure population basis.

I will conclude my remarks by saying that under this analysis and considering the generally accepted political composition of the central city areas of our state taken as a whole, the minority proposal, at least on the senate, instead of being a Godiva, as represented, actually looks much more like a member of the Democratic state central committee in disguise. (laughter)

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman, fellow committee members, I would like to respond to remarks made by the various speakers. One, I would like to start out with Judge Dehnke and his interpretation of the Tennessee case. Judge Dehnke does what every good laywer would do; he picks and chooses through the brief those points which tend to favor his side. I would point out several things, though—and I think Judge Dehnke emphasized this—this case only determines 3 things: that the supreme court decided that there is jurisdiction for the federal courts to decide an issue of this type; that the issue is justiciable; and that there is standing to sue by the parties involved. I think it is very important to remember this, because this is actually all that is relevant in the case, not the various opinions of others, concurring opinions or what they would feel would be just or would not be just. This might be well for further speculation, but at the present time what is decided is that there is a federal question involved. With that, I would assume that it would not be too hard to assume that the United States supreme court will remand those cases that it has now before it, as it has the Tennessee case, because the issue that has held up most of those was the very question of jurisdiction. I would submit to those that would read the opinion in the Michigan case that was decided by the state supreme court in the first instance, and then appealed to the U. S. supreme court, that the very question of jurisdiction was the one that stumped the state supreme court, and they used the case of Colegrove v. Green, which for all practical purposes has now been overruled, to decide that the Michigan supreme court could not answer this question. And I submit that a further reading would show on the opinions of the justices that a very good case could be made, now that Colegrove is not ruling; that at least a majority of the justices, if they feel inclined as they did just a short time ago, would find that the Michigan apportionment is unconstitutional. I would further submit if this is appealed, as it would likely be, to the U. S. supreme court, the U. S. supreme court would be very reluctant to turn over a state supreme court decision that is moving toward equity, which indeed it would be if the state supreme court declared the Michigan apportionment unconstitutional. I am sure that this is something that attorneys can disagree upon, but I believe that my thesis is every bit as sound as that of Judge Dehnke's, and I don't think for a moment that you can preclude the importance of the Tennessee case in our deliberations here.

I would point out again the attorney general of the state of Michigan, who after all was the moving party and represented the defendant in the Scholle case, came down today saying that, at the very least, there is a large question whether or not the Michigan apportionment is now unconstitutional.

I would now turn to some of Mr. Blandford's remarks when he commented about the delegate from Oakland county and the delegate from senatorial district 21 having a great deal more voting power than myself and various other members of this convention if we were on the minority's plan voting here at the convention. I would only point out that myself and, I believe, most of those that were mentioned, come from house districts which obviously are of much smaller numerical count and in fact are not even involved in this question. And, I would submit, Dr. Hannah also pointed out discrepancies, but again this was based upon the senate as it presently is apportioned and not as, if you will look at it, the minority report plan calls for apportioning. Obviously it does allow for discrepancies in the numerical balance of votes from one senator to the other, but the discrepancy is much less than that stated on the floor thus far.

Now, Mr. Blandford pointed out as a mechanical deficiency of this that, after all, the committee members who all have equal votes on the committee could hold up deliberation on a matter by keeping it in committee. Well, I believe I am right in assuming—I can be corrected by those with more legislative experience—all that has to be done in committee of the whole or on the floor is to vote to discharge a committee of a bill. Therefore, it would not be possible or practical for those that do not represent a majority to frustrate the will of a majority of the people of this state. It has also been pointed out that Senator Roberts and Senator Doyle represent a tremendous number of voters and would be able to control a great deal, but I am sure if the voting records were reviewed, that Senator Doyle and Senator Roberts, on those issues which are termed controversial, would be shown to split on most occasions. We are aware that certainly, under this plan, if all the senators from Wayne, Oakland and Macomb were to vote together, that this would almost be a majority, but I submit if you are sending for the first time Republican senators from Wayne county with a substantial number of votes, on many occasions up to 20,000, 30,000 votes—we have several close districts—that you would not find the Detroit representatives voting together, because we know as a practical consideration on those things that are controversial, for the most part it is the political consideration and the philosophical considerations and not the area considerations which dictate.

As to the plan, it is called untried and unused, and I think we will further demonstrate that it is not the minority's position that this represents some epitome, some acme to be reached in terms of mechanics. We are not so much concerned with the mechanics of reaching the principle as we are reaching that principle by some mechanics which are fair. And I would further submit that upon a review of the minority report and a review of the majority report, it is much more understandable and intelligible to people to understand what the minority is saying when you can reflect that every man's vote is actually registered on a board in Lansing than talking about these factors of 13, 15 and so on.

And as to the remarks concerning this being voters rather than the number of people in a district, I believe this is a healthy thing. What would be better for a democracy and enthusiasm for voters than to actually know that every time they cast a vote either way, that that vote would never be lost but would actually be reflected by the individual they would desire to vote for? I think this comes closer to being truly a representative form of government than any other possible mechanical means. But I again point out that what is important is the principle involved, and that some mechanical means, whatever it may be—and I think this one meets those tests—be used. Thank you.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I would like to reply to the various remarks of the speakers, beginning with the remarks of Judge Dehnke. I believe they have served a useful purpose to a very great extent and they should be correlated with the remarks of Professor Norris which, to a large degree, I believe are the same. Neither one of them predicts what the result will be, and I certainly don't intend to either. It would be a very unlawyerlike thing to say what the court is going to do next and, as the saying goes, to stick your neck out. It is, of course, a different thing to urge the court to come to a certain result. But to state what it would be would certainly not be useful. Nevertheless, I think we ought to call to your attention, fellow delegates, what the minority of the court said, the dissenting justice, particularly Justice Frankfurter's opinion which is an extremely long—69 pages, I believe—dissenting opinion. I will read only 2 paragraphs out of it. The reason I read from the dissent is that I believe it throws into good light what the dissenters think has been done. Now, I think all lawyers recognize that when a court makes an abrupt change with the past, it likes to deny that. It isn't supposed to make abrupt changes with the past. They will do everything they can to show there is no such change here at all. "We are only doing what we always did." It denies that there is any change. But, on the other hand, when that happens, the dissenting judge's opinion is the most useful, because it lambastes the majority of the judges, showing what a terrific change it really is. And here you have a 69 page dissent, 1 of 2 dissents. This is what Justice Frankfurter says in opening his dissent:

> The court today reverses a uniform course of decision established by a dozen cases, including one by which the very claim now sustained was unanimously rejected only 5 years ago. The impressive body of rulings thus cast aside reflected the equally uniform course of our political history regarding the relationship between population and legislative representation.

He goes on to state that this is a massive repudiation of the experience of our whole past. And then, of course, he goes on to criticize it vehemently and to prove that that is what is taking place. To recapitulate those few words of Justice Frankfurter, it reverses a uniform course of decision relating to population in connection with legislative representation and, secondly, it is a massive repudiation of the experience of our whole past. So therefore we have to put this case into perspective. If this were a case that had been decided 40 years ago and there had been no subsequent cases, then there is, of course, no question that Judge Dehnke's analysis would be the ultimate analysis. It doesn't hold very much. It only holds that they are going to hear lots of cases. In other words, it tells us that this is not the end of a process, but it is the beginning of a process. What we need to know in evaluating this case is where this will lead, and Justice Frankfurter wrings his hands in 69 pages saying he can't tell where it will lead. He certainly gives me the impression that he feels it is likely to lead exactly where the majority justices say that it is not going to lead, namely to population being the only substantial factor in legislative representation at the end of the process.

The only other selection from the opinion that I care to read to you is from page 59 of Justice Frankfurter's dissent, just a few words. The reason I read this is it bears on the relationship between the Tennessee case and the Michigan case of Scholle v. Hare. Justice Frankfurther says this:

> It is settled that whatever federal consequences may derive from a discrimination worked by a state statute must be the same as if the same discrimination were written into the state's fundamental law.

That is an extremely interesting statement, in my opinion. Justice Frankfurter says that it doesn't make any difference whether it is the state constitution or a state statute which violates the federal constitution, and he cites many cases to prove it. That is the connection, actually, between the Tennessee case and the Michigan case, the distinction being that in one case we have a constitution which is alleged to have violated the federal constitution; the other one is a statute; or either that or an inability to enact a statute; or, if you wish to put it the other way, an old statute which has not been changed. Therefore, according to Justice Frankfurter's remark and the cases he cites to support it, you can certainly draw the inference that there is a very good probability that there will be no distinction drawn between whether the claimed inequality is in a statute or in a constitutional amendment. Of course, we can't be certain that that is the result, but we know that that is what he says. What you can determine from this is, I believe, only about the following: there is now a very substantial risk that the 1952 constitutional amendment may be held to be invalid. I don't say that it will and Judge Dehnke doesn't say that it won't, but I believe we all agree that there is a very substantial risk that it would be held to be invalid. And you have to take that into account. I don't believe you can go on the assumption that all is well and that all is to remain well, and you should take into mind what that consequence would be. It would be—if the relief were given as requested, the 1952 amendment would be declared void. You would then be back to the 1908 constitution, and the 1908 constitution provides for population in the senate.

Therefore you certainly must recognize, I believe, that in the event this contingency which has been talked about by a few of us should occur, you will have a population basis unless some other basis is provided in our constitution in the convention, and secondly, that our constitution is adopted. I think those are 2 distinct questions. One, you have to put something in the constitution from this convention that first of all will be legal, and you have to take certain risks as to what is and what is not likely to be legal. And, 2, then you must get the constitution adopted. And that is not, as I say, an open and shut case.

Or, let's say, to put it in a different way: if this contingency is to be taken into account—and it seems to me prudent lawyers, investment bankers and so on will take these contingencies into account—then you must provide a system in this constitution which is defensible in court and also is defensible before a majority of the voters at the polls. Therefore, it certainly could not be any proposal which is not satisfactory to the people who called for the convention. If it were to the people who were opposed to the calling of the convention, that would not be sufficient. That is all I have to say at the moment on the case, and probably I wouldn't be surprised if we had said all that is of any value to say on it, but in any event, I would like to go now to some remarks made by Mr. Blandford.

Mr. Blandford raises a question, first of all, about how valuable the vote is of any senator in the senate that we would propose—and I believe Dr. Hannah also made a similar comment—that some senators would not be very valuable as their vote would be small and they would be overweighted, so to speak, by other senators. Therefore, their influence would be small.

First of all, I would like to emphasize how much that disparity would be so we know what it is, and that is provided for you in table 16 which I referred to last night. You will see that there only are a few cases which are as big as about, let's say, 5 to 1. Usually they will run about 2 to 1 on the average. The most common cases would be about 2 to 1 between one senator and another. But there are some cases where we have given extra senators in regions where it is stretching imagination to do so. In those cases, of course, their votes would be worth less. They would be worth about 1/5 or possibly even 1/6. It is not correct, at least on the basis of the latest voting records, to take a figure on 1/10. I estimate that on the average about 2 to 7 senators will swing any vote in the senate on this plan. That is the determination you can make by looking at table 16; that 2 senators from certain areas together could swing, could provide the margin, or if they had less votes, say 7 of them could swing the vote.

The question then is, are they less powerful than the present senators or are they more powerful than the present senators? If you will recall, in the present senate there is a gap of about 10. As a matter of fact, now that our colleague, Mr. Lundgren, has been elected, I believe the gap is bigger than that, perhaps 12 or 14, I don't recall. The gap, anyway, runs normally between 10 and 12 between one party and the other. Now, in order to swing a vote there, you have to get a collection of 10 senators together somehow or other to make up the gap, whereas under the plan that we propose, you have to get together a collection of only 2 to 7 senators. Actually, in either case, to swing the vote you really actually only need half of that if they change their vote from the other direction. Therefore, the point I make is this: that the value of any senator's vote is certainly not less in influencing the final outcome under the minority plan. It is slightly more, perhaps more than slightly more. At least it is not less. Every senator will have an influence, and the reason he has that influence is because the margin between the 2 parties in this state is very close, only a few per cent, and each senator represents somewhere between 1 and perhaps 5 or 4 per cent of the entire vote. I therefore feel that Mr. Blandford's and also Dr. Hannah's statements that some of these senators would be rather frustrated are not so. They would be less frustrated than they are at the present time where their votes are not very important whichever way they may vote.

I might point out also that that is parallel to the situation of the voters too. The voters, of course, are frustrated under the present system, because in most areas of the state it doesn't really matter whether they vote one way or the other. There is such a big margin in many parts of the state—of course, not in every part, but in many parts of the state—it isn't worth voting for either party, because the margin is almost an open and shut case in a general election. But under the system proposed, every vote will always count, and will always count one. And as pointed out a variety of times, several times, every vote will be registered on the tote board, so to speak, in the legislature and will count.

Therefore, what I assert is this: there will be less frustration of senators under the minority plan than there is under the majority plan, and there will be less frustration of voters also under the minority plan than there is now under the present plan, and I believe there isn't enough difference between the present plan and the majority plan to alter that conclusion.

Mr. Blandford also states or asserts or assumes that I have doubts as to the system because I don't use the weighted vote system in committees and use equal votes in committees. Now, that is an error in judgment as to what our intention is on that point. We have 2 reasons in mind why we prefer to have equal votes in committees. One of them is simply that it is much simpler. In a committee you don't want to have to run out in the hall and push that machine. It is a nuisance to do that, and it would really go beyond the limits of the necessities. After all, the committees don't decide ultimately the issue. They do have an important part to play, but it is safe enough to trust people having unequal votes in a different room to have equal votes in the committees. So as a practical matter, we felt it was not worthwhile and not a good idea to have the senators have unequal votes in committees. But that was not the principal reason. The principal reason was different. Or really I shouldn't say the principal, but there is a second reason equally valid which is different, and that also relates to the remark of Dr. Hannah that we are not really providing any area factor. That is not so. We are providing an area factor. And the area factor is effective precisely in the committees. That is where it is totally effective. It is not totally effective in the vote, but it is totally effective in the vote in the committee. I will refer to that a little further when I get back to the remarks of Dr. Hannah.

I now would like to turn to some of the remarks of Mr. Yeager, many of which were in the form of questions. I would like to make this comment first, however, that Mr. Yeager says this system is so new that its operation would be unpredictable. Then he goes on to predict how it would operate. That seems to be a rather peculiar approach. If you can't predict it, how come you can predict that it will be terrible in consequence? Mr. Yeager states that he assumes that the purpose of the minority proposal for the senate—or there are 2 purposes. One is effective representation of all people regardless of density or sparsity of population, and I believe he admits that this does achieve that. Now, I would say that if it achieves that, it is quite an achievement. No other system has ever been claimed to achieve that. No other system that I know of can really achieve that. Therefore, if we did achieve that, possibly we could take some losses on the other side, on some other factors. However, the only loss that he suggests that I recall as a major loss is the question of whether this safeguards the 2 party system. I will state to you that I considered that very carefully. The same thing that occurred to Mr. Yeager occurred to me, that where you have 2 parties you might possibly have a tendency to split into 4 parties, because the real election will be in the nomination in the primary. That is actually the only real election, in the primary, and therefore you might tend to split into 2 parties. And if I were convinced that was so, I would cancel this plan immediately and move on to another one. I certainly don't intend to damage the 2 party system. Obviously, if I proposed a bipartisan plan which mentions the parties—not by name but indirectly—and attempts to keep them in balance, clearly I don't intend to break up the parties.

Now, the reason that I assert the reverse of what Mr. Yeager says upon, let's say, repeated and continued reflection is that I believe it will strengthen the 2 party system in many, many ways. First of all, we have an example of situations something like this where the primary is the entire election. This would not be a novelty. There are many parts of the country right now—in fact even in Michigan—right in Michigan. I would say in most parts of Michigan the primary is all that matters in the election. But in the south of the country, in the southern states, in all parts of the southern states the primary always, without any doubt, is the election. In none of those cases where there is a certainty of one party winning has it ever caused a split into 2 parties in the way that is suggested by Mr. Yeager, and that is one of the main points which has convinced me that this fear—which I believe should be raised, however—would not in effect eventuate. We have had a test of that, as I say, in many places in the country, including Michigan, and the mere fact that the nomination is tantamount to an election has not caused splits in parties. In addition to that, I also assert that this minority plan would strengthen the 2 party system for another reason—for 2 other reasons, in fact.

One other reason is this: if there is a Republican elected, he realizes that it was not very much of a personal victory for him to win. Once he got past the primary, he couldn't lose. He is elected to represent Republican voters, and Republican voters expect him to act like a Republican. And if he doesn't, they will be quite disturbed. If he breaks the party lines in the senate, it will always be noticed. It will be extremely noticeable and he won't have a great opportunity to come back and do it again the next time. In other words, there will certainly be strong party pressure and, therefore, whatever tendency you might believe there is to unravel the parties—which I say doesn't really exist—you have also the opposite effect. There is no reason, really, to believe the parties would unravel. They actually would be stronger, in my opinion. They would also be more responsible because they know they can be booted out and they can be put in as a party. Quite frequently, in fact, they can be put in and taken out as a party.

Now, Mr. Yeager also refers to this question: suppose there is 90 per cent of the votes, let us say Democratic in some area and 10 per cent Republican, does that mean that only one senator would be elected? Well, the answer to that is perfectly clear. If you read the text, you will see there can never be less than 2. You don't need 25 per cent to win. You only need 25 per cent if you come in third to win. You come in with 10 per cent and you are second and you win. So there is absolutely no problem there whatever. The actual problem there is the other half of it that was mentioned by Mr. Yeager, and that problem has been very carefully considered, because I thought of the same thing. What happens if a candidate runs in the wrong party in order to capture the whole election? In other words, he says there is 90 to 10, and the 90 per cent party would like to make it 100 per cent. They wish to do that. Now, there are 2 reasons why in my opinion this is not very likely to occur, and then there is another reason why it wouldn't make much difference if it did occur. Let me give you the last one first. Suppose there is 90 to 10, and suppose the majority party should win. That wouldn't make a stupendous difference in any event when it is such a terrific margin, and it certainly will make much less difference than it does now where that happens every time. Every time now, whoever gets more votes always wins. Therefore, what is feared here is that this system might in some cases—and I don't know of anyplace where there is the 90 to 10 split in Michigan—but in some cases it is conceived, the possibility that the system might not work perfectly, but the point I make here is that the imperfection that is worried about here is the precise imperfection which happens in every district every election under every other senate proposal. Therefore, if this system is said to be imperfect on this point, every other system is much more imperfect.

But to get to the merits of the real probabilities here, what chance is there that a candidate can run in the wrong party and win, and therefore wipe out the other party in that election? One of the things that was put into the proposal was intended to prevent that from being a real threat or a real probability, and that is the 25 per cent figure for a third party. There is always a possibility that if a party should split into 2 fragments with an attempt to come in in first place and second place that its lower half, let's say, will come below 25 per cent. It might in that event come in third rather than second. It hopes to come in second, but suppose it comes in third? If it comes in third and has less than 25 per cent of the vote, it will lose votes. They will have less votes. Only its winner will go and its loser will not. Therefore, any party that takes this gambit, takes this risk unless it can be certain that its second party will get 25 per cent of the vote takes a risk that it loses many votes. But it has no possibility of gaining votes, really. Its chance of losing is bigger than its chance of winning. If it starts with 90 per cent, it may end up with 70 per cent or thereabouts. It has a big chance of losing and not much chance of winning.

The real possibility that Mr. Yeager mentions is that the candidate would not run on a separate ticket, but would run in the wrong party; that is to say if he is a Democrat, he runs on the Republican ticket in the primary. Now, that also has been considered carefully. That, of course, is not an impossibility. But there is again too much risk, in my opinion, for this to be more than a very rare, improbable event, and the reason is this: if a candidate runs in the wrong party, everyone who wishes to support him in the primary loses their right to vote in the primary, and since by hypothesis this is a case where the primary is the only election, that means everybody who votes for him doesn't vote at all in that election. That being the case, he will have to be quite an outstanding candidate to make so many people give up the ship. And in addition there isn't very much to gain, because by hypothesis they had 90 per cent of the vote to begin with, and they may end up losing in this manner. Therefore, I believe that the fears that are expressed by Mr. Yeager, while they are not dreamed up for the occasion—they have been considered. I had the same fears at first. I have considered them. I discussed this with practical politicians who are newspapermen, let us say, and others, and found out how this thing really works and what would happen, and I am satisfied that the worst that you could possibly conclude is that this system may not work perfectly every time, but you can guarantee that the present system and any other system proposed will always work the same trouble that you suppose might sometimes occur here.

I also would like to talk about splinter parties. Mr. Yeager raised these questions, and the reason I answer these at length is, in my opinion, every one of these is a good question and ought to be answered. Each one of these things caused me a considerable amount of concern and hesitation, and I understand why other people would hesitate too. But they deserve a substantial answer. Mr. Yeager is concerned that we may have splinter parties. Now, by "splinter parties" I assume he means many parties as they have in France, such as 7 or 8 or some such thing as that. That would be a terrible catastrophe, no doubt. But I point out that this system with the 25 per cent figure for a third party to participate absolutely guarantees that there never can be 4 parties in any district. There is no way that 4 parties could do it unless each one had exactly the same 25 per cent. That is a chance of about 1 in 100 billion, and therefore we can neglect that chance. And that being the case, there can never be more than 3 parties in any one district, and therefore there is really no reason why any fourth party should ever attempt to get into the act. There is a possibility there could be 3 parties. There is no likelihood there would be 3 parties, but there is that possibility, there is no question about that. We have to be fair to third parties. We can't put into the constitution that only Democrats and Republicans can ever be elected. But the point is it is impossible to develop a multiplicity of parties. The maximum thing that can happen is, 3 parties might exist.

Another point that Mr. Yeager makes is also well taken and also requires an answer. It also occurred to me to question this. Why bother to fight in the election when the election is a shoo-in? You can't lose. There is really no reason to fight. Why would a candidate for senator fight after he has won the primary, or why would anybody fight for him in the election? In fact, would people even vote for him? Those questions are good questions. These are the answers that I finally found after thinking about this for many months, this and the other questions. In the first place, the elections must be only at general elections. If we don't do that, the whole system fails. If you ever have any special elections, the exact trouble that bothers Mr. Yeager would occur, and that is why we provide in our proposal a provision that it must be at general elections and that vacancies also shall not be by special elections. They have to be filled temporarily by the party as a replacement simply to prevent special elections. The point is that if there is a general election, the people are at the polls for other reasons. They are there. They are all set to vote. And if they are there, they may as well vote for the legislature, for the legislators, the senators, and so on. They will be voting for their representatives anyway. Then they will vote for a senator of the same party as their representative. Therefore, the election there will be, no doubt, basically a straight party vote. It is really quite close to that in any event.

Now, why would a candidate go out and campaign when he knows he can't lose? Well, I don't know whether he would campaign, or whether his party would just run him on the ticket. It is hard to tell. But I believe this is the case: a campaigner, let's say a candidate for senate, who knows he is a shoo-in and then disappears from the scene and takes a trip to Mexico City for about 3 months, when he comes back he may find that the votes that he received are about, say, 75 per cent of what his party set as his quota. They need his votes in order to get control of the senate. If he doesn't provide them—they don't care that he is there; they want him to help them get control—he won't be back next time. Therefore, it seems to me he will be campaigning for proxies just as in any proxy battle. In any proxy battle in a corporation, everybody knows how many teams will show up and who they will be. The only thing they don't know is how many proxies they will have, and that is the crucial question. Similarly here.

Therefore, all the points that Mr. Yeager made, I believe every single one of them, are well taken and they ought to be considered, and if you come to the opposite conclusion on any of these, I believe you should vote against the plan or else find how to correct it. You shouldn't vote for it unless you are satisfied you know the answers to these questions. But I have thought about this over and over again, consulted with others, and those are the answers that I have arrived at.

Mr. Yeager also states another point: he is convinced that the people do not want this plan. That seems to me to be rather a mindreading stunt. I don't know how he can tell they don't want this plan. The plan has just been rolled off the presses, so to speak, and it is a little bit early to tell whether the people want it or not. I think the best way to find that out, really, is to ask them. Give it to them on the ballot and find out whether they want it or not. He also says that a poll showed that people wanted a so called balanced legislature. I examined that poll. It never said a thing about balanced legislature. I believe something like 30 per cent or 40 per cent or maybe more than that said this: they were opposed to 2 houses based on straight population; that at least 1 house should have something other than straight population. That is not necessarily a balanced legislature. For example, the minority proposal for the senate does have another element besides population. It has 2 other elements besides population. First of all it has an area factor and, second of all, the votes cast are what count and not the population of the districts. So it has other factors and it unquestionably satisfies the poll. It is a little bit early to predict whether the people want this or not, and I think the only way we can judge this is on its merits. If we thought it was a good plan, I believe it wouldn't be difficult to convince the people as well. If we think it is a bad plan, no doubt we will get the reverse result.

Mr. Yeager also complained that this is a new concept, and as to that I have 2 things to say. First, the principle of equal representation is not a new concept. There is a new concept here in the mechanical system of how you add the votes. But don't forget there is a new concept in the opposing proposal as well. In the majority proposal you have a new concept of how to count people also. In our proposal it is how you count senators, but in the majority proposal it is how you count people, if you count them with 80 per cent and the 20 per cent and so on. And, of course, we may say that as far as the state of Michigan is concerned, the equal proportions method is new to them as well, and I might add it is new to everybody when you don't have fixed districts to start with. I don't say that it has never been done anywhere, but it is not the system that is used in congress. In congress you have fixed districts. I realize that it is not zero years old. I believe it has been adopted in a few of the new constitutions a few years ago. But that is a new system and in Michigan it has never been heard of, and I believe you can only find approximately 3 people on the committee who can explain that proposal. So that in any case we have something novel. We either have a new principle or we have a new practice.

Now, the next speaker was Dr. Hannah, who said: let us look at the realities of the situation. He says it is a partisan issue. I certainly don't wish to take issue with him when he says it is a partisan issue, although I will say that I had lunch with a delegate who said point blank that this is not a partisan issue, and he was of the same political faith as Dr. Hannah. I would like to point this out: this is unquestionably a partisan issue. You can't divorce partisan politics from this issue, because it affects the whole political strength of the 2 parties in the state. It certainly is a partisan issue. On the other hand, it is also true that it is not only a partisan issue; it contains basic issues beyond partisanship. If we look at it only as a partisan issue we make a mistake, and if Dr. Hannah suggests that we look at it only as a partisan issue, I believe he makes a terrific blunder, and I believe every delegate who follows that makes the same blunder. That blunder is to fail to recognize that all we can do at this convention is put it on the ballot. You can put your position on the ballot if you wish. That is not enacting a law. The people still have to accept it. And the people who asked for this convention did not ask for it on that basis; on that you can be sure.

Dr. Hannah also says that we insist on population in both houses in the minority party. I would like to scotch that for the last time. Every time Dr. Hannah says that, I deny that. Then he says it again, and then I finally say I wish he would stop saying it. However, my wishes have never come true; he still says that the minority insists on population in both houses. However, I will just call to the attention of the committee of the whole, the delegates, that the proposal we insist on in the minority plan has population in one house, and in the other house it is not based on population; it is based on area and on votes. If you would like to see a plan that is based on population, we have a few ready and we will submit them at an appropriate moment if the worst should happen. I don't know that the worst will happen, but if the worst should happen, if Dr. Hannah fears that he may have to go on with his own proposal, if that should eventuate, then we could submit some plans that, you will see, are straight population. But we have not submitted any plan that is straight population. We have submitted plans in every event, however, that are based on equal representation.

I also call to your attention that all those people in the polls and all the people at the convention who earlier said that we must have one house on population, the other one on something different, are in a somewhat embarrassed position now, because only the Democrats have come out with a house on population and another one on population plus something else. In the Republican plans that have been submitted, neither house is on population.

I believe as to the 21 per cent area, it is not necessary for me to repeat actually what I said. The 21 per cent area factor in our plan provides a voice for every part of the state. That is what they are entitled to. Every voice should be heard, but every voice should not win. The only way you can tell who should win is who has the greater number of votes, who is backed in the public, not who has the greater number of voices.

Dr. Hannah also states that if you add up the votes of 3 counties under our plan, the minority plan, you will get nearly a majority. Well, the answer to that: it should be quite obvious that that is so. If you add up a majority of the voters, you will end up with a majority of the votes in our plan. That is precisely what it is intended to do. If you don't wish a majority of the voters to be able to decide, that, of course, is another question.

Finally, the other speaker was Mr. Wanger, who says we don't represent people but only voters, and that is, I believe, an important question too. I considered that too, and I think it is not something that should be dismissed without thinking about it. It is true that the relative strength of any senator under the minority plan would be based entirely on the number of people who voted for him. It would not be based on the population. And I emphasize that: it would not be based on the number of people; it would not be based on the population. It would be based only on those who are entitled to vote and do vote. The question then is, according to Mr. Wanger: what happens to the rest of the people? How are they to be represented? The answer is, they are represented the same way as people who don't vote under any other plan. Not everybody votes, but the person who represents them represents all of the people of the district, not just the people who vote for him. For example, who represents the Tax Cut party at the present time and who represents the Tax Cut party under the minority plan? Both senators represent them. Neither one represents them exclusively. Both of them represent them. Who represents the children? Both of them represent them. But one of the senators represents specifically the wishes of the people who can't balance.

The point is this: under the minority plan, the result to be achieved in enacting legislation is intended to be and is expected to be the same as if the voters themselves cast their votes for the enactment of legislation. As has been mentioned on the floor earlier in this convention, it is as if every voter at home had a switch in his house, and every morning there was a television set which said, "How do you vote on the following issue?" He says yes or no, and it is added up in Lansing. It is as if that were done. Instead of it being done that way, it is done through representatives. But the result is intended to come out the same as if that were done. Now, if that is done—and of course that is done in enacting laws by initiative—nobody complains that only some people voted. The question of who is to vote is a different question from how the result of the vote should come out.

Mr. Chairman, I believe this, as far as I can recall, answers the questions raised by some of the delegates, and many of them, as I said, I believe are very good points. They should have been discussed, and I hope this answers the questions. If not, I will be glad to answer some more.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. King.

MR. KING: Mr. Chairman, fellow delegates, for fear of raising further questions, I will pass. (laughter and applause)

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. T. S. Brown. Not in the room. Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, ladies and gentlemen of the committee, I personally don't care whether this committee adopts the majority or minority plan, but I think you ought to at least have the facts straight, and having listened to a lengthy presentation by Dr. Nord, I would like to set some of the record straight and some of the facts straight. A good deal of what Dr. Nord has said was presented to the committee, was listened to and considered carefully, and for one reason or another was rejected, but rejected mainly because it did not reflect the views and wishes of the people of the state of Michigan.

I would like to discuss some of the things very briefly that he mentioned. First, he makes a point that he would like to return to the senate under the 1850 and 1908 constitution, and then proceeds to say that this was apportioned based upon population. I ask that the delegates, before they leave this room and before they vote, look at both the Constitution of 1908 as originally drawn and the Constitution of 1850 and show any specific language in there that says that the senatorial districts shall be arranged according to population. This does not say that. It says, "the legislature shall by law arrange the senatorial districts and apportion anew the representatives among the counties. . . ."

During one of the hearings I asked Dr. Nord if he would allow us to write a formula apportioning the senate under the language of the 1908 constitution as it had been put into practice, because this is what he wanted to return to. And if you examine those maps—and I have them here from 1900, the senate as it was in 1900, 1910, 1920 and subsequent to the 1920 apportionment—the senate of the state of Michigan was districted on more than a population basis, and you can see how the senatorial districts changed, how they attempted to keep counties of like economic considerations together, and that the discrepancies in 1900, 1910 and 1920 are substantial on simply a population basis. Those maps are here at my desk, and you may look at them. But I call to your attention that in 1900 the discrepancy was as much as 175 per cent; in 1910 as much as 185 per cent; and in 1920 as much as 400 per cent, and it was not improved materially after the apportionment in 1923 or '24.

Secondly, I would like to point out that history has a short memory. The only time the house of representatives was not apportioned according to the constitution in the last decade, or since the 1908 constitution, was in that period of time when the Democratic party controlled both the house and the senate. I was amazed after listening to Dr. Nord talk in our committee to realize that a man as young as Hale Brake had served in a senate controlled by the Democrats in the state of Michigan. This I would never believe had I listened to the testimony advanced by Dr. Nord, but it merely shows that history has a short memory, and we are writing a constitution and not dealing with what has happened in the past 10 or 12 years.

A point made by Dr. Nord was that a malapportioned legislature fails to pass laws. I ask every delegate to go down to the library and look at the volumes of compiled laws since 1950, and if this lacks the number of laws being passed, I would hesitate to imagine how many laws would have been passed by a legislature apportioned on any other basis. You can't keep up with them now, and I would hope that we would pass fewer rather than more.

Dr. Nord gave us a table dealing with taxes, and he labels these taxes as being derived from one county and paid out to another county on the basis of a malapportioned legislature. I ask him, to what extent does he lay in the legislature's lap the sales tax diversion amendment which diverts sales taxes based upon population; the gas and weight tax diversion, which diverts gas and weight tax on the basis of population and mileage; the welfare aid, which is apportioned back on the basis of the population and deductible millage; and the school aid, which is again apportioned back on the school census and deductible millage. Are you saying, Dr. Nord, that a well apportioned legislature would apportion back for schools, welfare and local government these moneys collected by the state from a state derived tax on the basis of where it is collected, and that you in Wayne county have no responsibility along with the responsibility of Muskegon county to our less fortunate and less wealthy friends in the rural areas and those parts of the upper peninsula suffering economic distress? If your argument is correct, then you would return state collected revenues in direct proportion to which they are collected, and if so, then education derived from state funds would be less in the poorer counties than in the rich counties. I tell you that this is the trouble that is causing the disintegration of the Belgian Congo where one wants to keep the diamonds and the other the people.

I think we are a state of Michigan and our legislature should represent all of us, and we should be careful in making such analysis that we are not trying to ride the same horse in 2 directions by pretending in one breath to want sales tax diversion on a population basis, and in the next, blaming on a malapportioned legislature the result of such sales tax diversion amendment.

Mr. Greene raised the point of race relations. If one will examine those legislatures which are the most nearly akin to population, I submit that they include the states of Arkansas, Kentucky, Massachusetts, New York, Oregon, South Dakota, Virginia, West Virginia and Wisconsin, and I submit to you that the problems of race relations are as serious in Virginia, which has one of the best apportioned legislatures of any state, as they are in Michigan with its malapportionment, according to the report of Mr. Greene. I doubt that race relations and malapportionment have a very high correlation.

Now, Dr. Nord referred to table 9 and then gave us a hypothetical illustration, the majority formula for the house. This was presented to us yesterday and makes it difficult of analysis, but I submit to Dr. Nord—and I submit to any delegate here—take the minority proposal, apply it to his first illustration of 1 county with 3 million and 82 counties of 50,000 and you will come up with exactly the same result under both the minority and majority proposal. You cannot allocate the seats differently in the house. Move down and apply the minority proposal to illustration 2 and you will find that you need a house of 116 members, and this is the problem found in any proposal to allocate a fixed number of house seats by the means used in the minority proposal or the deviation, harmonic mean or any other plan based upon deviation from the norm. You cannot always work a given fixed number of seats without creating some paradoxes. And it was for this reason, after competent testimony, that congress decided to discard any test of deviation and go to the equal proportions. But I ask every delegate here, regardless of political party, to apply the minority proposal to illustrations 1 and 2, and I believe you will come to this conclusion. I think the true analysis is one in which you have to analyze the majority and minority formula for the house of representatives. In both cases—and I repeat, in both cases—47 per cent of the people of this state can elect a majority of the house of representatives under either the minority or the majority plan. I submit to you, however, that after considerable testimony by expert mathematicians, the fairest method is by the method submitted—equal proportions—which will be more fully explained to you, but the minority proposal has objections many in number, and it will be clearly shown if you apply it to the illustration given to us by Dr. Nord.

The other issue in Dr. Nord's senate plan is this: am I to go to the senate of the state of Michigan to vote my best judgment, or am I to call my county chairman or my political party and vote the party issue? If we are merely to vote one from each party to a senate, may I ask the good doctor why we don't just send the party committeeman from each senatorial district because he will be less likely to be honest and forthright and independent in his judgment than a person who has to ultimately appeal to those people who are not closely aligned with either party. Under the minority plan for the senate, those people not closely aligned with either party have no home and no effective voice in politics. They can go and vote in a primary, but when it comes to a general election as applied to the senate, most people who do not classify themselves as either Democrats or Republicans have no home, and only the staunch, blind partisan will govern the senate of the state of Michigan under the minority plan.

The minority also make a great issue of the area factor in their senate plan. I ask you to look at your map submitted under figure 3, and I think you will find that there is only a stone's throw from Holland in the lower part of Ottawa county to Midland on the eastern side in senatorial district 5, you will see how little area is taken into consideration. I urge you to defeat the minority proposal concerning the senate for the reason that it over emphasizes party politics and under emphasizes the rights of all the people of the state of Michigan.

CHAIRMAN HUTCHINSON: The Chair now recognizes Dr. Hannah for a preferential motion.

MR. J. A. HANNAH: Mr. Chairman, it now being 3:30, I move that we rise for the purpose of a 10 minute recess.

CHAIRMAN HUTCHINSON: All those in favor will say aye. Opposed will say no.

The motion prevails and the committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will make a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I move that we recess for 10 minutes and reconvene at 3:40.

PRESIDENT NISBET: The question is on the motion of Mr. Hannah. Those in favor will say aye. Opposed, no.

We are recessed until 3:40.

[Whereupon, at 3:30 o'clock p.m., the convention recessed; and, at 3:40 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the purpose of consideration of **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor say aye. Opposed, no.

The motion prevails.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee is considering **Committee Proposal 80,** and the Chair recognizes the vice president of the convention, Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, before I start talking, I would like to just say a few words, and this is particularly—(laughter) Well, I didn't know it was that good. (laughter) But, leaving my prepared script here, our Delegate Bill Hanna commented about the states that did have proper apportionment. I would like to say that some of those were the poll tax states where people who were economically disadvantaged or poor people could not vote, and I think that the difference is largely one of degree; that in Michigan, unfortunately, and many other northern states, we let everybody vote, but we discount the value of the ballot in apportionment. Now, having said those few words, I will get on with what I had planned to say in the first place, which will be brief.

As far as the supreme court decision goes—and I think Judge Dehnke very properly pointed out that it is not only the particular decision, but the import and the curtain, really, that opens—the thrust of this decision and, I think, for our purpose the main significance is that the United States supreme court will take jurisdiction over what the states do in the matter of apportionment. And this is a breakthrough in constitutional law. This is the first time that the United States supreme court has in clear cut and unequivocal language said that it will review what the states do in the matter of apportionment. Prior to that time there had been the argument made that regardless of how a state set up legislative districts, that that creation of districts could not be reviewed by our federal judiciary. And to my way of thinking, this is a landmark and it does pertain to what we do here today and in this convention, because from this point on it is no longer a matter of debate; it is a matter of decided law that the United States supreme court is looking over our shoulders when we make decisions on apportionment.

Now, I am the first to say that the United States supreme court never has and never has been asked to draw up maps of the respective states showing what legislative districts should be, but I do feel that the thrust of this decision is that the United States supreme court will increasingly review what is done by the respective states. And I would like to point out particularly that the court has never said that the one man, one vote concept is unconstitutional; that so far as any state goes that has created a one man, one vote concept in any election, that that has never been held violative of the United States constitution. So, from the constitutional viewpoint, that is the one safe way to go. Even if we accept the concept of one man, one vote, this does not mean we need to be in what is really any kind of a legislative or political straitjacket. I think, for example, that the plan of Dr. Nord, the so called tote system based on votes, is a method resulting in one man, one vote because each voter's vote is equal, and it means that the Republican and Democratic counties do get a more direct representation than at the present time. I think on the representatives, the minority plan does, too, attempt to use one man, one vote on the basis of a census and not on the ballots cast. Delegate Wanger pointed out the difference between ballots cast and the census. To my way of thinking, each one of those fits into the broad category of one man, one vote. I would have preferred the minority plan more if it hadn't, as is so often done, made a sacred cow out of county lines, though I can see practical arguments sometimes for that.

Now, the real problem facing those who do not want one man, one vote is simply the matter of classification. I do not know of anybody who, on a rational basis, will justify any classification for the present Michigan state senate. The only constitutional defense I ever heard was that this was a question the United States supreme court could not review. Therefore, it did not matter in what form or shape that system was.

Now, with our recent supreme court decision, I believe that that argument is destroyed once and for all, and any system we face will have to have a classification and, as I have said repeatedly here, the one man, one vote, to me, is a sound classification. The difficulty of those who do not accept this principle is that once they have to justify it, they have to work out some rational system. I feel sometimes a result is obtained and then people try to rationalize backwards. But what is to be a rational system? Can we, as Delegate Bill Hanna says, have 18.2 acres equal one man? Then 18.2 acres of swamp equal 18.2 acres of industrial property in Flint.

I think probably on the classification system, we should point out that the whole thrust of American democracy has been to expand the franchise set up by our founding fathers. When the country was set up, only about 1 out of 9 people could vote. It was only the freed man, the male, the property owner and, yes, even occasionally religious requirements for voting. As time has gone on, those various limitations have been removed. Year by year, with women's suffrage, the result of the civil war, we have constitutionally removed limitations. And I, for one, think the next big limitation is the matter of geography.

I think perhaps this classification problem can best be illustrated—and some may have heard it—in the story of Abraham Lincoln and the pig. It seemed that many years ago in a small town in Illinois, they were setting up their local government, and the problem came up as to who should vote. And some people said, "Well, everybody should," and others said, "No, that's going too far; we should make some requirement so we don't just let anybody vote." And the recommendation was that people own some amount of property. And then the question came up as to how much property. Well, at that time inflation was a problem. It was an agricultural community. So they decided that the person in order to vote should own property equal in value to that of a pig. And Abraham Lincoln was president—at least this is one of those Lincoln stories. If he weren't, I am sure this is what he would have responded with. He said, "Now, in our classification system here, the man without the pig can't vote. The man with the pig can vote. Who then is voting; the man or the pig?" (laughter)

CHAIRMAN HUTCHINSON: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, at this point I want merely to take a minute or 2 to supplement what Delegate William Hanna said about the provisions of our constitution concerning reapportionment of the senate. We have heard it said over and over again, as if there were no doubt and no possible difference of opinion about it, that under our constitutions for 100 years back the legislature has been under an obligation to apportion the senate every 10 years on a population basis. The language is confusing principally because a comma was omitted in the writing of it originally. This proviso reads:

> At the session in 1913, and each tenth year thereafter, the legislature shall by law rearrange the senatorial districts and apportion anew the representatives among the counties and districts according to the number of inhabitants. . . .

If a comma had been put after "senatorial districts," there couldn't be any possible doubt about it. But there are 2 ways of judging what the people who used that language intended it to mean. One is the historical practice ever since that time and, as Mr. Hanna has pointed out, the senate has never been apportioned on a population basis even in those days when the population was distributed more evenly over the state than it is now.

I have before me here a volume that you all have had, Legislative Apportionment in Michigan, on page 4 of which is this:

> The controversy revolved around the question of whether the "rearrangment" of the senate districts was to be according to the number of "inhabitants" or whether this phrase applied only to the house apportionment.

And in the volume, The Legislative Department, furnished by the citizens advisory committee, on page 8 of that is a similar paragraph quoting this section and proceeding, "This subcommittee notes the difference in language applicable to the senate "rearranged" and the house of representatives "apportioned." But I think the most conclusive evidence of what that language was intended to mean is in the Address to the People that accompanied the proposed Constitution of 1907. That explanation of this section reads as follows, "This section abolishes the state census and bases the decennial apportionment of representatives upon the United States census." Not one word about that applying to the senate. That is perhaps not of very much importance except for historical purposes, and for that reason I have included it here.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, some of the questions raised by Delegate Hanna and another one which has been raised by Judge Dehnke certainly warrant further study, and I would like to state some more of my conclusions with respect to them. These questions have to do with whether or not the 1908 constitution required a population basis in the senate. This is important for a number of reasons. One of them is that it has been asserted by the minority, including myself—especially myself—that the population basis was the basis ever since the beginning of this date until 1952. The other reason that it is important is because I also asserted that in the event the 1952 amendment should be declared unconstitutional by the Michigan supreme court or the United States supreme court, that we would then revert to the 1908 constituion, which would be a population basis, and that would make a difference to what the convention might wish to do. Therefore, it is important to know whether the 1908 constitution did provide for population or not. And I would like to state the reasons in support of the position I have taken that the 1908 consitution did require population basis and would still require it if we were to go back to it by judicial decree.

Judge Dehnke's point, of course, is well taken. It has been argued by a number of people that the language of the 1908 constitution is ambiguous, and the ambiguity is the exact one that he has pointed out. That ambiguity has to do with the fact that a comma is missing or at least is not present in the language which he read, and therefore there are 2 possible ways of interpreting that. One of them is that you must reapportion the house, and the other one is that you must reapportion both the house and the senate on a population basis. It could be interpreted one way or it could be interpreted the other, and doubts have been raised as to which is the proper interpretation.

I would like to point out 2 reasons why I assert that if we were to go back to the 1908 constitution, we would find that we have a population basis. I will start with the historical reason having to do with the construction or interpretation of the constitution, and the second would be an attorney general's opinion. The first reason is this: in 1850, there was no doubt about whether it was a population basis in the senate or not. If you wish to compare the 1850 provision with the 1908, you will find the language to be substantially identical at this point about reapportionment, but the precise comma that Judge Dehnke says is missing in 1908 was present in 1850. Therefore, on the basis of Judge Dehnke's statement, if that comma is there, it was a population basis, then it certainly was a population basis in 1850.

Now, the historical rule of interpretation which I urge the delegates to take note of is this—first of all, I would like to state this: it is not very likely in any event that a court would construe that a substantial change of this type would be intended to be effectuated by putting an ambiguity into the constitution rather than stating point blank that there was intention to change. However, that doesn't necessarily solve the problem. But there is this historical rule having to do with the 1787 ordinance. The 1787 ordinance prescribed that there should always be a population basis for representation in the legislature, that it should be forever. I pointed out to you last night that that was originally intended to be and was held to be legally binding on the states. It later was held not to be legally binding for reasons of equality among the states as they were introduced into the federal system, but when it was held no longer to be legally binding, it was held by the courts to still have some effect; namely, as a historical guide to the intention of the framers of the constitution as to what is intended, and that has been held by court decisions which I have cited to the committee and I could produce to you, if you wish, court decisions in other states which come within the northwest territory. They have held that when there is a doubt as to the meaning of the constitutional provisions of any of the states carved out of the northwest territory, that you can look to the northwest ordinance as a historical guide. Of course if you do that, the result is crystal clear. When there is any doubt as to whether or not there is a population basis, the answer by historical guide is that there is a population basis, because the ordinance of 1787 says there should be forever a population basis. That is an argument which I make on my own hook, so to speak. In addition to that, I present the opinion of the attorney general. This you will find also in your Michigan Statutes Annotated. In the appropriate section you will find a citation of 2 attorney general opinions of 1923 and '24, and 1925 and '26. This is 1923 and later. That means the 1908 constitution was then in effect. This holds that the senate district should be apportioned according to population. You will find that on page 292 of the Michigan Statutes Annotated, in the righthand column near the bottom, a citation of those 2 attorney general opinions. Now, I suppose if the delegates were concerned that those attorney general opinions might not be the last word on the subject, it wouldn't be impossible, I suppose, to get another one as of today. You could get it yourself if you wish. All I assert to you is this: all the evidence that is on the subject indicates that if you go back to the 1908 constitution, you will have a population basis. If you wish to permit that possibility to go unnoticed, of course you have that prerogative.

Now, the other remarks I have to make relate to Delegate Hanna's statements, some of which I can pass upon at the moment, others which will require more study. Delegate Hanna says the legislature has passed lots of laws. He says the libraries are chock full of them, some of them in basements, I believe, and other places. The point, however, is not whether they passed many laws, but whether they passed any laws that were required and needed by Democratic voters and by metropolitan voters. It isn't how many; it is how good, and it is how vital. If the legislature had passed all the laws that were needed, or even most of the laws that had been needed, there would be no demand in this state or any other state for a department of urban affairs, or there would be no need for the federal government to engage so deeply in state affairs. There is a need for laws of the type that favor not just one part of the state, but favor every part.

Delegate Hanna also made an argument with respect to taxes, and he asked this question, which I think is a good question and it certainly requires an honest answer. He asks, to what extent do I lay in the legislature's lap certain items of taxation—that is to say, to what extent do I believe they have not distributed them properly; and further, do I say that Wayne county should withhold its tax money from other counties which need it. The answer to this in my opinion is as follows: as to the first part of the question, to what extent do I blame the legislature for distribution of funds, I blame them fully, not because they distribute on a population basis or some other basis, but because they fail to apportion the tax money according to needs. They should have considered the needs. And when they considered the needs, they would find this: they would find as I have shown in figure 1 of the charts that I gave you, a graph; they would find that the needs are big at both ends of the scale and not only at one end of the scale. They are big in Wayne county and in metropolitan areas. There is a big gap between the money that is supplied by the state to finance local activities and the actual needs. There is a big gap in the heavily metropolitan areas, and there is another big gap in the heavily rural areas. They should have apportioned according to needs on both ends. If they had done so, there would have been no move toward Washington.

As to the other half of the question, whether Wayne county should withhold tax money from counties that need it—and this, I say, is a question that is important and should be given a frank answer—the answer is, no, I do not say that any county that has tax money available or can raise it should withhold it from other areas that need it. That is not what I say. All I say, however, is this: if you will look at the data provided from 2 different sources in the report I gave you, you will find that the needs are not just in the place where you think they are. They are in 2 places. They are in the rural areas and they are in the heavily populated areas. I do say that wherever there is a greater supply of money than a need for money, there ought to be some flow of tax money in those directions. I am not opposed to that by any means. All I say is this: take into account the needs at both ends and not just at one end.

Delegate Hanna raises certain other questions. Some of them perhaps I cannot answer because I don't know the philosophical basis that he would use. One of those is this: is a senator to vote his best judgment or to vote on the basis of a party issue? Somebody else raised this question, I believe, a week or 2 ago, and I believe he said a republican—with a small "r"—would always vote his conviction, if I recall, and a democrat—with a small "d"—would always vote to represent the people in his area. I don't know if this issue has ever been resolved. I haven't got the slightest idea what is the right thing for a legislator to do. I don't know the answer. Anybody who does is welcome to tell me. I don't think that the answer will depend particularly on the type of system. I believe most likely it will depend on 2 things: the nature of the constituency and the nature of the legislator himself. So I will simply have to pass on that. I don't know the answer. I am amazed to find I don't know the answer to some questions. (laughter) Not very, because my students point it out to me all the time.

The other question that Delegate Hanna raises is, why not send the party committeeman instead of the elected representative or the one who is nominated at a primary? The answer to this, I think, is quite simple. I believe that is a strawman type issue. I would send him if the people selected him as a representative. If somebody else is selected, I will send them. Therefore, Mr. Chairman, I believe of the comments raised by Mr. Hanna, basically the most important one is the same one as Judge Dehnke raised, and that is have we had a population requirement in the constitution practically forever, and would we return to it if the 1952 amendment is declared void. I have answered that to the best of my ability.

CHAIRMAN HUTCHINSON: The question is upon the minority report amendment. All those in favor will say aye. Opposed will say no.

The minority report amendment is not adopted.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: A division is called for. Is the demand supported? The demand is supported.

MR. NORD: Mr. Chairman, I demand a recorded roll call vote.

CHAIRMAN HUTCHINSON: Is the demand supported? All those in favor will rise. The demand is supported. All those in favor of the minority report amendment will vote aye. Those opposed will vote no. This is a recorded roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—39

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Dade
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Sablich
Snyder

Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Kelsey
Krolikowski
Lesinski
Madar
Suzore
Walker
Wilkowski
Young

Nays—95

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 39; the nays are 95.

CHAIRMAN HUTCHINSON: The minority report amendment is not adopted. The question reverts to the committee proposal. The Chair recognizes the chairman of the committee, Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, now that we have before us the report of the committee, I should like to suggest that we first consider the 2 brief amendments submitted by the committee, and then that we call upon Mr. Knirk to explain section a as amended.

CHAIRMAN HUTCHINSON: The secretary will read the first committee amendment.

SECRETARY CHASE: Mr. J. A. Hannah, on behalf of the committee on legislative organization, offers the following amendment to Committee Proposal 80:

1. Amend page 1, line 11, after "terms" by striking out "concurrent with the term of office of the governor.", and inserting "to be elected at the same time as the governor and serve terms concurrent with the term of office of the governor."; and on page 2, line 23, after "be" by inserting "as nearly equal as possible but"; so that the language will then read:

> The senate shall consist of not less than 36 nor more than 40 members, elected from single member districts for 4 year terms to be elected at the same time as the governor and serve terms concurrent with the term of office of the governor.

And the language on page 2 will then read:

> . . . counties entitled to 2 or more senate districts shall be further subdivided into single member districts so that the population of any district shall be as nearly equal as possible but not less than 75 per cent nor more than 125 per cent of the ratio of representation. . . .

CHAIRMAN HUTCHINSON: On the committee amendments, the Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, I shall not take the time of the committee. The amendments are self explanatory. They are for the purpose of clarifying the language. They do not change the intent.

CHAIRMAN HUTCHINSON: The question is on the committee amendments. All those in favor will say aye. Opposed will say no.

The committee amendments are adopted. Dr. Hannah.

MR. J. A. HANNAH: Then I yield to Mr. Knirk, a member of our committee, to explain section a, the section that has to do with apportionment of the senate.

CHAIRMAN HUTCHINSON: Dr. Hannah yields to Mr. Knirk.

MR. KNIRK: Chairman Hutchinson, in section a we provide:

> The senate shall consist of not less than 36 nor more than 40 members, elected from single member districts for 4 year terms to be elected at the same time as the governor and serve terms concurrent with the term of office of the governor.

I am wondering if it would not be best just to take that particular paragraph at this time and see if there would be any questions in regard to that paragraph.

CHAIRMAN HUTCHINSON: Do you desire to inquire for amendments?

MR. KNIRK: Questions.

CHAIRMAN HUTCHINSON: Just questions? The Chair thinks that you might proceed. Unless you are interrupted by questions, you can assume that there are none.

MR. KNIRK: All right, sir. The second paragraph, line 13:

[Paragraph 2 and the balance of section a was read by Mr. Knirk. For text, see above, page 2034.]

Of course, we have just adopted the committee amendment to subsection 3, line 23 of page 2.

Now, Chairman Hutchinson, ladies and gentlemen of the committee and guests, I would like to make some comments here as to the reasoning back of this proposal that is made by the majority of the legislative organization committee. My address to you is with all sincerity and faith that what has been stated before in the last 24 hours does not in the least affect my appreciation of fair play. I sometimes wonder why I was selected to present the majority report of the legislative organization committee to you. I shall not attempt to answer this for you, but I will say I am very proud to have been asked to do this, and I feel that it is indeed a privilege which I shall always cherish. I believe that this report is expected by an overwhelming majority of the people of this state—as I hope will be borne out as I proceed with this report.

In an approach to legislative organization there are certain facts that must be given full weight in the final determination of a plan for legislative apportionment. They are: this is a highly partisan issue; people always resist change; resistance will always come from legislators whose district might change; and we will have to defend our decisions in explaining the new constitution to the people.

From a purely idealistic point of view, the following questions need to be answered in the affirmative on any plan: does it have a formula which is based upon principle? Is it fair? And I think inasmuch as comments have been made in regard to the expression of last week, I would like to comment on a study and brief detailed report of Dr. Joiner's in regard to Baker v. Carr, known as the Tennessee case. For purposes of brevity, I would like to read for the record only the concluding statement of Dr. Joiner. He says:

> Therefore, I conclude that there is nothing in the opinions or decision in this case that directly affect the action of the convention. The apportionment plans that I have seen and that are being given serious consideration would meet the test of an apportionment plan based on reason and a rational approach. If, on the other hand, a plan adopted by this convention is not implemented by the appropriate state agency and the representation in the state does not correspond with the provision of the constitution, a federal question will be created.

I started here by saying there were 3 questions that must be answered in the affirmative, and I will list those first 2 again: does it have a formula which is based upon principle? Is it fair? And, thirdly, is it easily explained? That is, is there some simple way to get the intent of the plan across to the people?

The senate districts in the present constitution were established through the adoption of a constitutional amendment by a majority vote of the people of Michigan in 1952. Our committee recognized that there has been a substantial population expansion in southeastern Michigan since 1952. The majority of the committee concluded after extended hearings that the representation in the senate should be based on a blend of population and area factors. The committee agreed with former President Eisenhower who, in addressing the convention, stated that population should be given a major consideration, but that consideration should also be given to equitable representation for all areas of the state. Our committee was impressed by a resolution that was sent to us by the Detroit common council, approved in regular session on Tuesday, October 17, 1961. I will quote from the resolution addressed to the legislative organization committee:

> Now, therefore, be it resolved that this honorable body go on record as recommending the following:
>
> A. The house of representatives be apportioned on a population basis as nearly as possible, eliminating the present "moiety" provision to facilitate this;
>
> B. The senate be apportioned on a population basis recognizing area and economic factors—

I want to reread that statement because this is what I hope that all of us will recognize as a resolution adopted by the city council, and I will again read B:

> B. The senate be apportioned on a population basis recognizing area and economic factors;
>
> C. Provisions for a periodic reapportionment and redistricting be placed in a board or commission, subject to mandamus by the courts, and in a manner designed to prevent gerrymandering.

This was approved: Nathaniel H. Goldstick, corporation counsel. It was adopted as follows: yeas; Councilmen Carey, Connor, Patrick, Rogell, Smith, VanAntwerp, Wise, Youngblood and President Beck. That is 9; nays, none.

Now, Delegate Yeager touched on this next point that I wish to bring into focus here. However, I think I have some additional information I would like to bring to your attention. This was the preponderant view expressed to the committee by individuals and groups from all over the state. A poll taken and published in the Detroit News on January 30, 1962, reported:

> A preponderance of Michigan's citizens—both in Wayne county and outstate—want senate seats apportioned on the basis of both population and area in the new state constitution.

In their poll 3 plans were offered for the Michigan voters to choose among: first plan, a state senate based solely on districts; second plan, a senate on pure population; and the third plan, a senate which would reflect a combination of the 2 bases—population and geographic area. The results showed that 35.3 per cent of those voting preferred the combination; 26 per cent preferred the present system; 20 per cent preferred a senate based purely on population; and 17.9 per cent of those polled expressed no opinion. The poll indicated that among Democrats, 32.4 per cent preferred an area compromise; 26.8 per cent preferred seats based on population only, and 18.2 per cent wanted the present state districting maintained. This poll should be impressive to members of both political parties.

The majority members of the committee feel that in the interest of an orderly and sound transition, change should be made gradually. The committee proposes that upon the adoption of this constitution the senate membership shall be increased from 34 to 38, adding one senate seat each to Wayne, Oakland, Genesee and Macomb counties. The committee report recommends:

1. Single member districts adhering to county lines. The research staff—that is, here in our own facilities—found in a recently published pamphlet by Paul David and Ralph Eisenberger that, in general, county lines are followed for legislative districting, except in New England. In those states, town boundaries are followed. Traditionally in Michigan the legislative districts have followed county lines. The staff also found in a study by Maurice Klein, published in December of 1955 in the American Political Science Review, that there is a distinct trend toward single member districting. Among the states with single member districts are California, Delaware, Kansas, Kentucky, Missouri, Nebraska, New York, Rhode Island and Wisconsin;

2. The term of office for senators is to be 4 years "to be elected at the same time as the governor and serve terms concurrent with the term of office of the governor." At present, 31 states have 4 year terms for senators and 2 year terms for house members;

3. That there be not less than 36 nor more than 40 senators. According to a study of all other state bodies, we find that the range is from 17 to 67. The most popular sizes of the senates are 33, 35, 40 and 50, with the average being 38;

4. Districts comprised of more than one county shall be compact in territory, contiguous by land and as rectangular in shape as possible; and

5. That reapportionment of the senate districts shall occur after each decennial census.

The plan which will go into effect after the 1970 census bases representation 80 per cent on population and 20 per cent on area. This is achieved by calculating the percentage of the state's population living in each county, multiplying the number by 4, and adding the percentage of the total area in the county to that figure. The resulting figure is the county's apportionment factor, and the county unit becomes the major building block in creating senate districts. From 36 to 40 single member districts will be established by the apportionment commission in such a way that districts will have approximately 13 apportionment factors per district.

I have read to you Committee Proposal 80 from page 2, line 1 through line 11 of page 3, so I will not refer to that for the moment. But I would like to summarize by stating what you might expect from Committee Proposal 80 in regard to the senate.

The first question that every delegate has and that every voter back home asks is, "how will it affect our district?" And incidentally, if you will go back to the material that was given to you folks last Friday within the green folder and refer to a map there, you will probably be able to follow me in my comments here very accurately. If you will turn to about the midsection in your green folder, you will find a map there which has shaded areas and some cross hatched counties. It states on it, 1970 Apportionment Factors of Present Districts—40 senators. I might say we use the number 40 senators there because of the fact that only yesterday it was brought to our attention there was an error in Wayne county, and you might make this correction: instead of having 130 apportionment factors, I believe you would have 124. I thought I would have this information on my desk today and I have not received it, but I understand I will have it soon. This may make a difference. Instead of 40, it might be 39 in 1970.

Now, let's refer, if I may, beginning at the upper peninsula. Of the present districts—and we are going in reverse here—if our 1970 population estimates are correct, comparatively few districts would need be changed. I am sure all delegates recognize that these lines could be drawn in various ways. In fact, I might make a comment. The day that I was cross hatching a large map down in the committee room, Mrs. Butler and our departed Mr. Lundgren came down in the committee room and they didn't have exactly kind words to say in regard to my crosshatching the county, but let me just say this: anybody can draw these lines. Anyone can use their own estimation, and this is purely my own method of trying to point out the problem that we have.

Based upon the Consumers Power projection population figures for 1970, the following changes would be necessary. This is purely my individual opinion. Starting in the upper peninsula, district 32, as it is known, would have to be increased by at least one county and, just for illustrative purposes, Gogebic county would have to be added to that district. District 31 then would have to have added to it, by the subtraction of Gogebic, Menominee and Alger counties. And you will notice—following the arrows there, I am sure that you can see the change—therefore, that would leave senatorial district 30 with 2 less counties. Then you would have to take senatorial district 29 and leave that with Delta, Schoolcraft, Luce, Chippewa and Mackinac counties. That, incidentally, would qualify each one of those areas according to the apportionment factors that have been established by the committee report, leaving 3 senators in the upper peninsula.

Now, as we cross the bridge coming into senatorial district 28, we find that would be the same with the exception of Osceola which would have to be added to senatorial district 26. Senatorial district 15 would be a little short in population but most likely Livingston county—that is not very plain on my map; if you will locate Livingston county just to the east of us here—would have to be added to that district, which is Clinton, Eaton and Shiawassee counties. Now, again Livingston county might have to be dropped down and connected with Washtenaw county; nobody can tell at this particular time, based upon these projected figures by the Consumers Power projection on population.

We have 2 senatorial districts which I want to call to your attention—they are shaded—and you will note those as being 20 and 34, which are Tuscola, Huron and Sanilac counties, and then the senatorial district of St. Clair and Lapeer. These 2 senatorial districts are very difficult to consider. Based upon the population figures as projected, in 1970 they would fall just short of the requirement. However, we must acknowledge these are projection figures so they may not be accurate enough. If the formula was applied today, both of these districts would comply.

Now, down in the southeastern part of the state we add 1 in Oakland and 1 in Wayne in 1970, bringing the Wayne county number from the present 7 to at least 9 at that time; Oakland county from the present 1 to 3; Genesee from 1 to 2; and Macomb from 1 to 2. You see, Genesee and Macomb both would pick up their second seat soon after the ratification of the constitution and if this proposal is supported by this body; and likewise Oakland county would pick up one, as stated earlier, and Wayne county would pick up one.

This is very tentative, and of course the commission could draw districts different than shown on my tentative districting. I recognize that maps are dangerous and could lead to more heat than light. But, ladies and gentlemen, let me just say this: I recommend this proposal to you in the firm belief that it is sound, equitable, sensible, fair, and easily explained. I hope that you will approve the recommendations of the committee majority.

I have taken into consideration on another map which I am not going to necessarily show you here because I think, unless there is a question on it, it would be rather ambiguous and silly to do so, but we will suppose that the senatorial district of Huron, Tuscola and Sanilac, Lapeer and St. Clair does not qualify. I would just point out that in that case Bay county would most likely have to be added to Tuscola and Huron counties. Sanilac, Lapeer and St. Clair would become another district, and in doing so, then you would have Isabella and Midland counties which would have to be added to one or the other senatorial districts. In other words, one senatorial district now present would not exist. So it will be possible that in 1970, rather than having 40 senate districts, you might end up with 39. This is purely an assumption. And, as I stated earlier, no one knows at this hour.

Now, I would like to again go back to Committee Proposal 80 and take it paragraph by paragraph, starting with line 9 in the first paragraph of section a, and I would like to, Mr. Chairman, if we might, see if we can approve or, if there are any amendments, amend this particular paragraph. So may we do that at this time?

CHAIRMAN HUTCHINSON: We may do that unless there is objection. The ordinary way of doing it is to consider general debate upon section a, after which we proceed to get into amendments. The Chair has a request from Mrs. Cushman to be heard. I suppose on the section as a whole; is that right?

MRS. CUSHMAN: I have a question.

CHAIRMAN HUTCHINSON: She has a question. Mr. Knirk, do you yield to Mrs. Cushman for a question?

MR. KNIRK: Yes, Mr. Chairman.

MRS. CUSHMAN: I would like to inquire of Mr. Knirk, through the Chair, in regard to the dates when these reapportionments are to take place. I see that it says, ". . . after the official publication of the results of the federal decennial census in 1970 and every 10 years. . . ." Exactly how long does it usually take to get this official publication?

MR. KNIRK: It is my understanding that normally that is not available until fall. I mean it will be taken in April, and in the fall of the same year, which would be in 1970, this would become available.

MRS. CUSHMAN: So you would anticipate then that the reapportionment would be done within the year that the census is taken?

MR. KNIRK: I would say yes.

MRS. CUSHMAN: That was my question at this particular time. Thank you.

MR. KNIRK: I would invite any member of the committee that helped in this, if they have any other answer to any question, to feel free to answer.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, the questions asked by Mrs. Cushman were answered in the action already taken by this committee on Committee Proposal 79, and rather than take the time, I would refer Mrs. Cushman back to the final apportionment and districting provisions that begin on page 2 of 79 where this is all spelled out with specific time periods. While it is true that the commission cannot be appointed until the federal decennial census figures are available, our staff contacted the bureau of the census and we were informed that if the apportionment commission would provide for a rather modest cost involved in tabulating these figures earlier, they might be made available to a state agency several months earlier than they would be available through usual publication. I think those questions are answered, spelling out specifically how many days for each step.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I have some general remarks which I would like to make in addition to the amendments which I have filed with the secretary. I will do what the committee wishes. I think it is more orderly, since the committee has now started to take it up paragraph by paragraph, that I make my general remarks now and my individual remarks on each amendment.

CHAIRMAN HUTCHINSON: The gentleman may proceed.

MR. POLLOCK: Mr. Chairman, in the remarks that I wish to make regarding legislative apportionment and the amendments that I have offered, I think I can say that I have 2 principal objectives. I am not here to bury Caesar; I merely want to improve what Caesar has brought forth. I want this convention to make it plain to all the people of the state whether or not the convention favors any substantial reform of present apportionment practices, and secondly I want to be sure that the constitutional provisions we approve will accomplish the intent of the convention, whatever that may be.

I am very much afraid that the committee proposal before us is another unfortunate result of the unseemly haste which has been imposed on the convention by our artificial deadlines. Let me add at once that I am not insensitive to the many and difficult problems the committee and its very able chairman had to face. This isn't the first apportionment proposal I have studied, although I do hope it is the last one. (laughter) I know very well that the committee has labored very diligently for 4 months under the leadership of its very able chairman, but the plan before us is not one that was considered for 4 months. It is a plan that was seized upon by a majority of the committee a few days before the deadline for committee reports, and after there was an apparent breakdown of the process of conciliation and compromise. I am afraid that not even all those members of the committee who voted for the plan really understand it, and I am certain that very few members of the convention fully appreciate the implications and consequences of the proposal we now have before us.

My misgivings about this proposal were somewhat deepened by the committee report, which I assume all of you have read and studied. The report states:

> . . . it was the intent of the committee on legislative organization to preserve for Michigan an apportionment plan which would be fair, equitable, and as valid 30 or 40 years from now as it is today. It is our belief that this intent is fully realized in the proposal now placed before the convention by the committee.

This is a very laudable statement of objectives, except perhaps for the ambiguous use of the word "preserve." I believe that one can only preserve something he already has. I do not wish to quibble about the choice of words in a report written under pressure of a deadline, but this is a significant point because, as I shall try to establish, the committee proposal, and especially the section regarding the senate, seems to me likely to preserve the status quo or something very close to it.

Mr. Chairman, it is certainly a legitimate position, although I think it is an unwise one, to maintain that no substantial change is needed—that, for example, there is nothing wrong with our senate as presently apportioned, except that perhaps 4 or 5 more seats might be added and given to the Detroit metropolitan area. If that is the position of the convention, let us have the courage to go before the people and say so, and let the people in their wisdom decide whether we are right. But what puzzles me, and I think a good many other delegates, is that while the committee report seems to favor reform, it fails to explain precisely how and why its proposals will produce that reform. I do not know whether the committee had time to do any exhaustive analysis of its own plan. If so, the results of that analysis have never come into my hands, and certainly they are not to be found in the committee report or the exhibits. The committee has recommended a system of apportionment involving some rather complicated statistical techniques, formulas, quotas, factors, weighted percentages, and so on. But why did they adopt precisely this factor, that formula, this quota, or that factor? You read the committee report in vain if you seek a rational explanation of the decisions that went into the plan.

The data I think necessary for a decision on this proposal were not made available, and I have therefore laboriously myself, with the help of some staff people — not here connected with the convention because I didn't have the big staff at my disposal that the committee did, and it has been a very laborious job — analyzed these things very carefully, and I think it is my duty to report briefly to the convention on my findings. As Dr. Hannah and the committee know, I have done this very sympathetically. I have made available to the committee my comments and my proposed amendments, and I have even attempted to advise them in their deliberative stages.

I want to stress that, because of the essentially mechanical characteristics of the apportionment plans suggested by the committee, my findings for the most part are not subjective or matters of opinion. They are matters of fact, and I am prepared to document them. The computations and calculations I have made can be made by anybody who takes the time and who has access to a good sized calculating machine. My conclusions, of course, are matters of opinion; but given the facts, I am persuaded that a majority of this convention will agree with my major contention, which is that the proposals before us are in part defective and need some amendment, and that they would not give us the fair and equitable representation we desire now and particularly not in the future.

Mr. Chairman, the heart of the committee proposal regarding the senate is the area-population formula usually referred to as the William Hanna plan. Under this plan, each county is assigned a score which determines its weight in apportionment proceedings. As we all know by now, this score is computed by multiplying the county's percentage of the state's population by 4 and adding the county's percentage of the state's area. I have said on another occasion that I find such a mechanistic approach a bit distasteful. I have said that this formula would establish in Michigan's constitution a mathematical equation between people and acres of land or water, and that under the 1960 census, it would make 19.04 acres equal to 1 person. But I don't want to pursue that argument at the moment. I have a very slight amendment which I hope the committee has no objection to which would relieve that difficulty.

The question I wish to raise is this: why was the precise formula of 4 to 1 chosen? The committee report leads one to believe that there is some precision, some scientific value to the formula. The report says:

> The majority members of the committee concluded that a formula was needed that would combine area and population factors in a way that would accomplish precisely the balance intended.

Later, the committee said:

> . . . the majority of the committee feels it has achieved the most effective method of providing the balance that the voters desire.

And finally, they said:

> . . . the plan achieves precisely what it is designed to accomplish, a blend of population and area factors in a logical and effective way.

Mr. Chairman, I find such language a bit fuzzy. There is all this talk of precision, and then there is a complete failure to discuss even briefly in the report the derivation of the formula, or its future consequences. Quite obviously there is nothing magic about the number 4 which is used in the committee report. But why not 3, or 5, or 6? The plan can only be judged by its consequences, and we are told nothing whatever about them, except that they will be good, fair, equitable, and so on. Since the committee, for reasons that aren't clear to me, did not choose to analyze its own plan, except what we have just heard from Mr. Knirk, let me tell you briefly what the consequences of the plan will be in actual practice — and I have amendments designed to correct these because they are not fatal defects.

First, however, you must keep in mind that senate seats will not be allotted purely on the basis of the so called apportionment factors. If they were, in a 40 seat senate, each district would have 12.5 apportionment factors. But to begin with, the larger counties are allotted one seat for each 13 full factors. This I think is quite serious, because it means that if a large county has a remainder of, let us say 12 apportionment factors, it gets nothing whatever for those factors, although they represent 3 per cent of the population of the state. Apparently this is perfectly acceptable to the committee if it is Wayne, Oakland or Macomb counties that will be so penalized. But rather embarrassingly, I should think, if the precise committee formula were followed without change, it would also deprive Kent county of a seat it now enjoys. Consequently, there is a special exception written into the committee report to protect Kent county, and one that in the process would make it possible for Genesee county to have a second seat, since its population is very close to that of Kent. As the proposal is now written, therefore, a remainder of 12 apportionment factors in Oakland county is worthless, but a remainder of 6½ factors in Kent or Genesee is worth an extra seat. So much for the alleged precision of the formula.

Now, let us project ourselves a few years into the future, and imagine we are looking over the shoulders of this reapportionment commission that we have created. We have gone through the transitional period since the committee, I think very wisely, has suggested that "in the interest of an orderly and sound transition, change should be made gradually." After the constitution was accepted by the people, we added one seat each to Wayne, Oakland, Genesee and Macomb. But now, at last, we are ready for a real reapportionment—1970. We are ready to remedy the inequities of long frozen senatorial districts — inequities, I might say, that are by no means confined to the Detroit area. The reapportionment commission meets. It peruses the constitution for guidelines to follow in its work of reapportioning the senate. The commission reads that it is to construct districts that have as nearly as possible 13 apportionment factors, but in no event less than 10 apportionment factors. The districts are to be compact, contiguous by land, and as nearly rectangular in shape as possible—I will have something to say about that word a little later—but the commission also reads that "Insofar as possible existing senatorial districts at the time of each reapportionment shall not be changed unless there shall be a failure to comply with the above standards."

Well, the existing districts are all contiguous by land, and as compact and nearly rectangular as any districts that might be drawn following county lines which the constitution requires. So it all comes down to the number of apportionment factors in each district. What will the commission do? Clearly it will compute the apportionment factors for each district. It will change only those districts which have less than the minimum of 10 factors or more than the maximum of 16 factors, plus any adjacent districts that are necessarily involved in boundary changes of districts which are outside the allowable range of apportionment factors. After all, there is a specific constitutional mandate to avoid unnecessary change. Well now, what change will be necessary?

We cannot exactly foresee the results of the 1970 census — and population experts disagree about what is the best way to project population figures, so we don't know exactly what the apportionment factors of each district will be. But we can apply the 1960 figures. These would still be valid in 1970 if there is uniform population change in all counties. Alternatively, we can use projections of the 1970 population, assuming that in each county the population will increase or decrease in the same percentage and direction as it did in the 1950-1960 decennial period. But using the 1960 figures, here is what the commission would find: Wayne county would be entitled to 2 additional seats, for a total of 10. Unfortunately again for Oakland county, it has the awkward total of 36.82 apportionment factors. Twenty-six factors would be enough for 2 seats, but the additional 8.82 factors must be cast into the wastebasket, although it represents more people — 2.2 per cent of the state population — than live in most senate districts; so Oakland gets nothing; nor does Macomb nor Kent nor Genesee.

The commission examines the 22 districts outside the metropolitan areas. Presumably reform is on the way here — or is it? The commission members scan the list of apportionment factors and they note a very interesting coincidence — the district scores tend to cluster just above 10 — the minimum necessary to avoid change. In fact, of the 22 districts, only 3 fail to qualify for retention: district 26, which has 9.70 factors; district 30, which has 20.42 because of its very large area, although it has one of the smallest district populations; and district 32, which has 9.57 factors. So the commission will have an easy job. It will have to redistrict Wayne county, and that will be the hardest part of the chore, but once that is done the rest will be very easy. To beef up the somewhat anemic district 26, it merely moves Osceola county from the area-rich district 28 to district 26. This gives the twenty-sixth district 11.38 factors, and the twenty-eighth district a near ideal of 12.67. That is all that needs to be done in the lower peninsula.

Crossing the straits to the upper peninsula, the committee notes that the upper peninsula has a total of 44.83 factors, so it would be possible to add a fourth seat here. Unfortunately, however, 40 seats are already spoken for, and that is the maximum allowed. So by moving 4 counties from one district to another, all 3 upper peninsula districts are brought within the constitutional requirements. Alger and Menominee counties move from district 30 to district 31 and Gogebic and Iron move from district 31 to district 32. The work is done. Only 6 counties have been involved in any way in the 10 year period. The other 77 are totally unaffected. Only in Wayne county and the upper peninsula is there any significant change.

But what if we assume that population change will not be uniform between 1960 and 1970, but that the process of urbanization will continue in the 1950-1960 pace — that fast growing areas like Oakland county and Macomb will continue to grow at the explosive rate maintained in the preceding decade? Of course, this is by no means certain to happen. The growing problems of metropolitan areas, exacerbated by the insensitivity of an unrepresentative senate, have put a brake already on the growth of our urban economy. But let us be optimistic for a moment and assume the growth continues at its 1950-1960 pace. The state's population would then be over 9½ million, of which over 52 per cent would be living in Wayne, Oakland and Macomb counties. Wayne county, however, has not been growing very rapidly since 1950. Consequently, it would be entitled to only 1 more seat after the 1970 census, if our projection holds. Oakland county would contain 1,198,000 people, 8.82 per cent of the state's population. It would gain 1 additional seat, for a total of 3. But unlucky again, Oakland would just miss qualifying for an additional seat. It would have 51.62 factors, while 52 are required for 4 seats. So 12.62 factors go down the drain and count for nothing, although 14 senate seats are given to areas with respective apportionment factors of less than 12.62. The same sad fate would befall Macomb county. Although it would contain 889,500 people or 5.19 per cent of the state population, it would get no additional seat, for it would just miss qualifying for a third seat. It would have 37.99 apportionment factors, and 39 are required for 3 seats in large counties. Our reapportionment commission notes with surprise that although the combined populations of Oakland and Macomb county have increased by almost a million people, this massive population increase results in only 1 more senate seat — and Macomb county, which on our projection has more than doubled its population, gets nothing at all in the way of additional representation.

What about the rest of the state? In lower Michigan, under the 1970 projections, there would only be one significant change. As under the 1960 census figures, Osceola county could be moved from district 28 to 26. District 27 would need a slight transfusion so the commission could move Crawford county from district 28 to 27, and again districts 26, 27 and 28 would all be comfortably within the constitutional range. The same 4 counties in the upper peninsula would have to be moved from one district to another. The only awkwardness would be created by the fact that both of the thumb districts, 20 and 34, would fall under the minimum and, since this area is surrounded by large counties, neither district can borrow a small county from an adjacent district. Apparently district 20 would have to move to Wayne county; Tuscola county would be attached to district 22, and the remainder of old district 20 would be combined with district 34. One seat would thus disappear, and there would be a 39 seat senate. The extra seat could not be used to alleviate the inequities we noted in the representation of Macomb and Oakland counties.

As I noted before, the 1970 projection is probably too optimistic a view of the future growth of the state population. But the 2 sets of census assumptions I have employed probably are the extremes that we can expect, and the actual population will almost certainly fall someplace in between. So there are a very few marginal possibilities — things which may or may not happen. The upper peninsula may or may not get an extra seat. District 20 may or may not disappear.

But this much is certain. There will be practically no change in the present 22 nonmetropolitan areas. So that great thaw of 1970 will prove to be only a slight rise in temperature. The Michigan senate will continue to have a majority made up of the very same districts which were put into the constitution in 1952, and created many years before that. Now I ask: is this what we wish? Do we wish only to add a few seats to the metropolitan areas, to ignore the inequity that exists in the representation of middle sized cities such as Lansing, Muskegon and Kalamazoo, and to preserve indefinitely the kind of a senate majority which we have today? If so, let us announce it to the people very plainly. Let us not write a promissory note for reform that cannot be paid off when it comes due in 1970. Let us not confuse the issue by erecting a constitutional mountain that will labor every 10 years and then give birth to a mouse.

Those, Mr. Chairman, are my general remarks about the proposal. I have perfecting amendments which the secretary has at his desk, and whenever the chairman of the committee and chairman of the committee of the whole desire me to present them, I can then give individual explanations of those amendments. (applause)

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, first of all I should point out that the arguments and statements that have been made by Professor Pollock were made by Professor Pollock before our full committee both when we were considering the content of the report and then more recently when he indicated that he had some perfecting amendments, and he was again invited to appear before the committee and his amendments were discussed and 1 or 2 of them were adopted, and some of them the committee is not unfriendly to as we shall discover when we come to them.

I do not want to belabor the committee report. It stands on its own feet. I should only point out that it is very easy to make destructive criticisms of most any proposal. The committee that was appointed by this convention faced difficult problems and, as I indicated when I reviewed briefly the work of the committee last Friday, they did very well indeed. They were struggling with the most difficult problem, I think, that faces this convention, the one that has the most partisanship attached to it, the one that is approached by practically every delegate to this convention objectively from far off, but when he comes close to it, he approaches it from the standpoint of: what does it do to my district? And the committee, as I indicated, reviewed all of the advice from all of the experts within the convention, all of the political scientists and government experts we could inveigle in from outside, held its hearings, and so forth.

I should start off by answering in the affirmative the last question asked by Professor Pollock. It was the conclusion of your committee that it was in the best interests of the state, and in their judgment likely to be the judgment of this convention, that what we propose is what is in the best interests of the state and what this convention wants.

Dr. Pollock rather criticizes it because he says that the committee report doesn't factually point up how we arrived from where we started to where we finished. We started with the notion, as I have indicated before, that at least one house of the Michigan legislature was going to take into consideration some factor besides straight population, and the decision was finally made that that was going to be the state senate.

Then the next question that had to be answered was: what factors are you going to give consideration to? We were importuned that we should give consideration to area for many reasons which I will not repeat and bore you with this afternoon. Points were made that if you were doing this ideally, we ought to somehow or other make certain that in the legislature all of the important economic groups of the state have representation, that the northern part of the state with its sizable resort and tourist interests should have representation, agriculture should have representation, mining should have representation, the varied manufacturing interests of the state should have representation, people living in the urban areas certainly should have representation and so forth. The question became: how are you going to do this? And we spent weeks at it. And finally the William Hanna proposal, the genesis of it — and there was never any secret about it; all of our meetings were open; many of you attended them — we came up with the decision tentatively that we ought to be honest about it and that some fraction of the senators should be assigned on the basis of something besides population. And the proposal that I made before the committee and that they finally improved upon was that we say forthrightly that 8 members of the senate should be apportioned on factors other than population, and then the difference between 8 and whatever the total was to be, 34, 38 or 40, we would apportion on population.

Mr. Nord made reference earlier this afternoon to the districting of a state into 4 geographic areas. The upper peninsula constitutes 29.2 per cent of the land area in the state. The line across the state from the Muskegon-Midland line represents a little more than 25 per cent of the state. The northern part of the lower peninsula is 25 per cent of the area, and then you divide the southern half of the state as equally as you can and you get 2 districts with about 23 per cent of the land area each.

So we started off with a notion that we were going to be fair about it because of all of the commotion that is made about representing stumps, acres, water, cows, all sorts of things, and we said we want to just be honest about it. We will put 2 senators in the upper peninsula, 2 senators in the northern half of the lower peninsula, 2 senators in southeastern Michigan, 2 senators in southwest Michigan, based on area. The U.P. gets 2; southeastern Michigan with all of its population gets 2. You treat them exactly alike. And then we will distribute the balance on the basis of population. Now you come up with the problem: you put 2 senators on an area basis in the upper peninsula. Then you are going to have a population factor put in. Then you come up to the question of districting the upper peninsula or districting southeastern Michigan. How do you district it? Well, you finally face up to the fact that when you get whatever representation in the senate you are going to have in an area, you have to about do it on population, and so the great fault in my scheme was in southeastern Michigan, when we put 2 senators on area, and then they came up with all they are entitled to on population, and you add the area senators to the population senators and then divide the total on a population basis, the end result is that you put the area senatorial representation into Wayne, Oakland and Macomb counties. You end up putting the area factor where the people are, and that isn't what you started out to do. That is when the committee came to the William Hanna plan, which proposed to put a value for each county, an area value and a population value on each county, and use these county factors as the building blocks. This gets away from the problem in my scheme of when you got all through, you ended up putting the area senators where the population was.

Now, instead of going into the various statements that could be made in defense of some of the other points that Dr. Pollock made—he emphasized that if you were going to divide 500 into 40, you come up with 12½ instead of 13. Well, we all recognize that. But you have to have some basis to start with—13 or 11 or 10 or whatever you want to come up with. The present constitution provides that there shall be not more than 110 representatives in the house, and you arrive at the districting in the house in the present constitution by dividing the total population by 100, and then any county or group of counties with more than 50 per cent of that entitlement gets a seat. They had to put in the extra 10 to take care of these districts that are going to have less than 1 full share. That is what the other 10 are there for. Now, if you are going to start off and give any county that has 10 or 11, or some other value less than 12½, a senator, you have to find some place to pick up whatever deficiency that senatorial district has. If you give a district a senator with 10, you are short 2½ points and you have to pick it up somewhere. Well, the only way you can pick it up is, of course, from these counties that will have more than an entitlement to an exact number but less than an entitlement to the additional number.

Professor Pollock makes a point of Kent county, and I know there are amendments that are coming on the floor, because your committee started with the conviction that it should not make change for change's sake, and if possible it ought to preserve the existing districts, and admittedly the 19½ protecting 2 senate seats takes care of Kent county.

Just one final point. The point that Dr. Pollock makes against this proposal as a weakness I think is its strength. I think that it isn't in the best interests of the people of the state to redistrict just for the exercise of redistricting. People become accustomed to being a part of a senatorial district. If you elect a senator from a senatorial district, if population changes dictate that there is sufficient inequity to warrant it, then of course whatever districting is required should be engaged in. But unless you put in the proviso that you stick to the present districts insofar as possible, so far as they meet the formula requirements, then you face the possibility that a whimsical apportionment commission, just for the exercise of doing something, can totally disregard what you have and draw totally new districts, make a great many counties come into different districts than they need to come into, unseat senators that need not be unseated.

If your committee has judged your wishes wrong, of course, you now have the opportunity to correct it. The 14 members of the majority of the committee thought we were doing what you wanted us to do. And I would only restate the point that Mr. Knirk has made: we make no apologies for the plan. I think it is very good. I think it is defensible. I think it is legitimate that there be a little more representation than population entitles you to in the northern counties of the state. I don't think it is realistic at all not to recognize that it is a different kind of a job to get elected in the first place from a district that extends over 150 miles than it is one that is a portion of a big city; that it is a different kind of a job to represent people.

You could come up with a districting to give the upper peninsula 1 senator, but the senator that represents the upper peninsula—and it is almost 600 miles long—with its mining interests and its agricultural interests and its forestry interests and its tourist and resort interests—will have a different kind of a job entirely than the senator that represents a fraction of a big city.

So again I apologize, but I came into this thing objectively and I make no apologies at all for the senatorial scheme. It is not perfect. Dr. Pollock has amendments, Mr. Perras has amendments, some of the rest of you have amendments. Some of them may improve it. But by and large what we have is defensible, and I hope in the end you are going to approve it. That is all I have to say, and I hope now we will return to considering this proposal paragraph by paragraph, and in about 10 minutes I shall move that we rise for the evening. (applause)

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. Chairman and delegates, I would like to make this comment on the remarks that Dr. Pollock made. I think that when he made this statement that what we did was in haste—

MR. MARSHALL: I just want to make a parliamentary inquiry or a procedural inquiry if I may. I am sorry to interrupt Delegate Knirk.

CHAIRMAN HUTCHINSON: What is your inquiry?

MR. MARSHALL: How do we take this paragraph by paragraph when all of the paragraphs in section a are so interrelated? Shouldn't we take it up by section rather than by paragraph?

CHAIRMAN HUTCHINSON: The Chair would first state that in his opinion the matter that you raise is not really urgently necessary to have interrupted Mr. Knirk's presentation to make, Mr. Marshall.

The policy of the committee in the past has been to proceed in the consideration pretty much along the line that the committee chairmen directed, and for the most part they have suggested consideration paragraph by paragraph, and of course it is within the power of the committee of the whole to otherwise direct, but unless otherwise directed the committee will follow the precedure suggested by the chairman of the substantive committee. We have done it in the past; we intend to do it now. However, if the committee of the whole shall otherwise direct, of course, this Chair will follow the directions of the committee of the whole.

MR. MARSHALL: Well, I don't want to delay it. It just seems to me, though, that we should have the majority report of the entire section and have it discussed, and then have the amendments to the entire section and proceed in that fashion. Of course, if it is in order to take it paragraph by paragraph, then I am in error.

CHAIRMAN HUTCHINSON: The Chair will remind the delegate that we are discussing section a, having to do with the senate; that the entire section a has been read not only by the secretary but also by Mr. Knirk; that Mr. Knirk's presentation was upon the whole of section a and that has to do with the senate.

Now, in the manner in which amendments to the proposal are to be treated, as the Chair has said, it is the intent of the committee chairman, as this Chair understands it, that the matter should be offered paragraph by paragraph. We are not yet to that, probably will not be to that tonight. The matter will come up tomorrow morning.

MR. MARSHALL: The reason I asked the question, I had a few remarks I wanted to make on the majority proposal, but my remarks are tied into the whole, so at this time I will withdraw any objection if you wish to proceed paragraph by paragraph.

CHAIRMAN HUTCHINSON: Do you desire to speak upon the senate only?

MR. MARSHALL: Not at this moment. I don't desire to speak at all. I was asking the question whether or not we could take it paragraph by paragraph or did we have to take the whole section in acting on the majority proposal.

CHAIRMAN HUTCHINSON: The Chair has a list of delegates who desire to speak upon section a. Do you desire to speak upon section a ahead of the consideration of any amendment?

MR. MARSHALL: Not at this time.

CHAIRMAN HUTCHINSON: Well, do you expect to renew your request tomorrow?

MR. MARSHALL: Yes.

CHAIRMAN HUTCHINSON: Before the consideration of any amendments?

MR. MARSHALL: Not necessarily before the consideration of any amendments. The only thing I was trying to clear up, Mr. Chairman: in some of these committee reports that have come before this committee, we have acted on the section as a whole. On others it is my understanding we have acted on it paragraph by paragraph. I was trying to clear up in my own mind as to whether or not it was proper to act on each paragraph or to act on it by section. That is the only question at this time.

CHAIRMAN HUTCHINSON: It is the intent of this committee, as expressed by the committee chairman of the substantive committee that amendments to this section a will be taken up paragraph by paragraph. We are not, however, to that point. At the present time we are debating section a as a whole. After the matter has been concluded on this point and we begin to take up these amendments paragraph by paragraph, then the only thing that can be discussed is the subject amendment. So if you desire to speak upon section a as a whole, you will be advised to speak upon it before we get into the matter of amendments.

The Chair now recognizes Mr. Knirk, who has the floor.

MR. KNIRK: Thank you, Mr. Chairman. I would like to answer a statement or 2 of Dr. Pollock's. First of all, I would like to say I do not think that Dr. Pollock is correct when he makes a statement that the decision was made in haste without due consideration, because I am sure that each and every member that endorsed the majority proposal certainly considered this at great length after much deliberate discussion and study, and after, as I indicated and others have indicated, some of the trips which we have taken and by the advice that people have given us, we considered our recommendation to be very sound and deliberate. I also would like to point out that anyone can take a map of the state, take our proposal, that states we do not just change for the sake of change. If you read the last statement, it states we do not change just for the sake of change, as I think Dr. Hannah has indicated.

If you remember the remark that I made that over in the thumb district of Tuscola, Huron and Sanilac, Lapeer and St. Clair, because of this questionable area, you remove one senate district which in number is known as district 24, and attach that to the districts of 28 and 25 and 20 respectively, you will find that you do increase your apportionment factors materially in those said districts, and that the only districts that are low on the totem pole, so to speak, again are your district 27 and then the district down in the southern part of the state, which is senatorial district 9, and district 10 and district 33. Those particular districts will be just over the 10 and under the 11 apportionment factors, because they are surrounded by large metropolitan counties. And I think that when you adhere to county lines—and this has been a concept that the majority and minority reports have indicated—you necessarily build in discrepancies or differences and you do not have absolutely 12½ or 13, as Dr. Pollock indicated.

I also might bring this to your attention, because I did remap this and, as I say, anybody can end up with a different districting plan. If you end up with 39 districts, you will find Saginaw with 15.03 apportionment factors. You have 12.55 in district 29; 11.66 in district 28; and in district 26, 12.70; and over in district 23, 14.87. I mean you can just do pretty near anything you want to. So I think that these are purely guides. I think the formula is very adequate to give instruction to any commission. I think that we passed Committee Proposal 79, and it is clearcut enough that here I don't think we need to worry about a given map but only the principle that really counts.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, I indicated earlier when we asked for the recess that we would rise at approximately 5:30. I recognize that our working hours are to approximately 6:00, but it has been a long day with many speeches, and if it pleases the committee, I move we rise.

CHAIRMAN HUTCHINSON: Dr. Hannah moves the committee do now rise. All those in favor will say aye. Opposed say no.

The motion prevails.

[Whereupon, the committee of the whole having risen, Vice President Downs assumed the Chair.]

VICE PRESIDENT DOWNS: The convention will be in order. Delegate Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80;** has considered 2 amendments thereto; has come to no final resolution thereon. This completes the report of the committee of the whole.

VICE PRESIDENT DOWNS: Delegate Perras.

MR. PERRAS: Mr. President, I move to return to the order of motions and resolutions.

VICE PRESIDENT DOWNS: Is there objection? If not, we will return to the order of **motions and resolutions.**

SECRETARY CHASE: Messrs. Perras and Dell offer **Resolution 88,** A resolution of congratulations to Mr. Kent Lundgren on his election to the senate of the state of Michigan.

Following is Resolution 88 as offered:

Whereas, Mr. Kent Lundgren has served the people of the state of Michigan and his constituents loyally and faithfully these past months as a delegate to this convention; and

Whereas, Mr. Lundgren has toiled diligently for the committees on legislative organization and rules and resolutions and for this convention in the service of his state; and

Whereas, The voters of the thirtieth senatorial district of this state have seen fit to elevate him to the senate of this state and thereby taken him from this convention; now therefore be it

Resolved, That this convention extends to the former delegate and new Senator Lundgren our congratulations on his election and our thanks for his service as a delegate.

VICE PRESIDENT DOWNS: Delegate Van Dusen.

MR. VAN DUSEN: Mr. President, in view of the nature of this resolution and its timeliness, I would move that the rules be suspended for its immediate consideration at this time.

VICE PRESIDENT DOWNS: Is there objection? Hearing none, the rules are suspended for the immediate consideration.

SECRETARY CHASE: Following is the resolution:

[The resolution was read by the secretary. For text, see above.]

VICE PRESIDENT DOWNS: The question is on the adoption of the resolution. Is there any discussion? All those in favor will signify by indicating aye. Those opposed by nay.

Resolution 88 is adopted.

Announcements.

SECRETARY CHASE: We have the following announcements:

The committee on rules and resolutions will meet immediately after the session today in room F. Please note: room F downstairs. R. C. Van Dusen, chairman.

The committee on style and drafting will meet at 8:00 o'clock tonight in room G, also downstairs.

We have the following requests for leave: Mr. Norris asks to be excused from the morning sessions of Wednesday and Friday of this week; Mr. Danhof asks to be excused from the afternoon session of tomorrow; and Mr. Garvin asks to be excused from the session of tomorrow, Wednesday.

VICE PRESIDENT DOWNS: Are there any objections? Hearing none, the excuses are granted.

Delegate Tweedie.

MR. TWEEDIE: Mr. President, I move that the convention do now adjourn.

VICE PRESIDENT DOWNS: All those in favor signify by saying aye. Opposed by nay.

The motion prevails. The convention is adjourned until 9:00 a.m.

[Whereupon, at 5:35 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Wednesday, April 4, 1962.]

ONE HUNDRED FOURTEENTH DAY

Wednesday, April 4, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning is to be given by Delegate Wanger's pastor, and incidentally, my own pastor when I am in Lansing, the Reverend John W. Claxton of the Plymouth Congregational Church of Lansing. Please rise.

REVEREND CLAXTON: Our God and Father, who art the guardian and ruler of men, we pause in the labors and concerns of this day to ask for wisdom and the spirit of kindness and truth as we go about our appointed tasks.

Into our hands Thou hast entrusted great privileges and responsibilities. Matters of human destiny have been given into our determination. Ours is the power to give and to take away, to make happy and to make sad. We pray therefore, for minds and hearts to use this power wisely. In all our deliberations give us the willingness, after we have listened to the voices of men, to listen finally to the voice divine, and when we act, always to seek to do unto others as we would have them do to us. Then, at eventide, give us glad hearts and quiet minds, knowing that we have Thy favor. This we ask in the name and spirit of Jesus Christ, our Lord and Master. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. If you are present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave:

Messrs. Dean Doty and A. G. Elliott, temporarily, from today's session; Mr. Beaman, from the morning session; and Mr. DeVries requests indefinite leave because of illness.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Anspach, Beaman, Mrs. Conklin, Messrs. DeVries, Dean Doty, A. G. Elliott, Garvin, Mosier, Norris and L. W. Richards.

Absent without leave: Messrs. Cudlip, Dade, Ford, Mrs. Hatcher, Messrs. Hodges, Marshall, McCauley, Murphy, Walker and White.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Hatcher, Mrs. Conklin, Messrs. Walker, Murphy, Ford, Hodges, A. G. Elliott, Marshall, Dade, Cudlip, Beaman, McCauley, Dean Doty, Norris, White, Garvin, Allen and Danhof.]

Reports of standing committees.

SECRETARY CHASE: Mr. Millard, for the committee on emerging problems, introduces

Committee Proposal 126, A proposal to affirm the state's primary concern in public health;

with the recommendation that it pass.

Frank G. Millard, chairman.

For Committee Proposal 126 and the reasons submitted in support thereof, see below under date of April 18.

PRESIDENT NISBET: The proposal will be referred to the committee of the whole and placed on general orders.

SECRETARY CHASE: That is the only standing committee report, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: **Motions and resolutions.** Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, fellow delegates, this morning marks once again a deadline in our convention schedule, and unless the convention takes action, today is the last day for completing the work of the committee of the whole under **Resolution 45** as amended. On behalf of the committee on rules and resolutions, which has unanimously authorized this action, I move, therefore, that all of the deadlines specified in that resolution as amended be advanced for a period of 2 weeks. I would call to the attention of the delegates that this is the last time that this can be done.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails and Resolution 45 is so amended.

Following is Resolution 45 as amended:

A resolution to provide a schedule for completing the work of the convention by May 12, 1962.

Resolved, That:

1. All public hearings by substantive committees shall be completed on or before December 21, 1961, unless otherwise authorized by the convention. This shall not preclude a committee from hearing witnesses invited by the committee.
2. All substantive committee hearings on delegate proposals shall be completed on or before January 5, 1962.
3. All substantive committee proposals and supporting reports shall be submitted to the convention and placed on general orders in accordance with ruel 57, paragraph 2, on or before January 31, 1962.
4. The committee of the whole shall complete its consideration of all committee proposals and make its reports in accordance with rule 57, paragraph 4, on or before April 18, 1962.
5. The committee on style and drafting shall complete its consideration of all committee proposals and make its records in accordance with rule 57, paragraph 5, on or before April 20, 1962.
6. Second reading of all committee proposals shall be completed on or before April 27, 1962.
7. The final report of the committee on style and drafting shall be made in accordance with rule 57, paragraph 8, on or before May 4, 1962.
8. The convention shall finally adjourn on or before May 12, 1962.

Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into a committee of the whole for the further consideration of Committee Proposal 80.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. All those in favor say aye.

Mr. Hoxie.

MR. HOXIE: I wonder if I could make a motion. I think we all appreciate that we are nearing our deadline. We have had a report from Mr. Van Dusen that we are not complying with them. At this time I would like to move that the reports on proposals from the legislative powers committee be accepted without debate. (laughter)

PRESIDENT NISBET: The Chair thinks you would get a lot of support on that, Mr. Hoxie. Mr. Madar.

MR. MADAR: Mr. President, strange as it may seem, there are some of us who feel we might just as well, because of the majority party's ability to do it if they so wish. They have 96 or 97 votes. I can't see why you don't go ahead and wrap up the package, bring it in, go ahead and vote for it, instead of fooling around kidding us and kidding the public. Save a little dough.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.]**

CHAIRMAN HUTCHINSON: The committee will be in order. The committee has under consideration **Committee Proposal 80,** and specifically section a thereof, and we are under the phase of general debate on section a.

For last previous action by the committee of the whole on Committee Proposal 80, see above, page 2086.

The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, especially in the light of what has just been said about deadlines, I hesitate to extend the debate upon this proposal, and yet I feel that there are some things that should be said in order to clarify or complete the record, to use the phrase we lawyers are so fond of. We have been together now for a period of 6 months. We have learned to know each other as individual fellow human beings. We have come, I judge, to the point where we do not look upon a difference of opinion as a personal insult or as the equivalent of a declaration of war. We have learned that recriminations, the questioning of each other's motives or intelligence or sincerity, or accusing each other of being afflicted with an autogenous hemiopia; in short, a general inability or unwillingness to see more than half of the picture before us, profits neither side. Judging from the course of the debate so far it even seems that we are able to discuss so explosive and emotional an issue as we have before us without personal offensiveness, and I only hope that these congratulations are not premature.

We have made some remarkable discoveries along the way. Among them are these: the unreasonable people are always those who do not agree with us. The indefensible positions are always those of other people. Our own positions are always based upon sound principles—the positions of others are based on what they think are sound principles, but in fact are not. The nonthinkers are always those on the other side, and we have the opportunity to develop a degree of patience to help us bear up under this affliction. We might remember—I am trying to remind myself of what I once read—that a speech, to be immortal, does not have to be everlasting. I am sure this speech which I have in mind making will not be in danger of being considered immortal, and I hope it will not seem everlasting.

We have been told that we ought to approach our problems in the spirit of objectivity and impartiality; which makes appropriate repetition of something I read not long ago: there are only 2 ways to be unprejudiced and impartial; one is to be completely ignorant, the other is to be completely indifferent. Bias and prejudice are attitudes to be kept in hand, not attitudes to be avoided. Someone has said that the determination to have our own way grows in geometrical ratio to the amount of opposition that we encounter. We may have a bit of difficulty at times to distinguish between action and reaction, between cause and effect. The story goes that 2 ladies were walking along the street in front of an automobile salesroom not so long ago, and as they passed, one said to the other, "I wouldn't advise you to buy any car in here. The one they sold me is always running into something."

I suppose we might begin our discussion by trying to determine what really is the meat, the issue, the root of our differences. It might have been suggested, by some of the things that have happened, that this is a struggle between the people living in the metropolitan areas and those living outstate, so called; and yet that can't be true because in the metropolitan areas there are those who do not agree with the one man, one vote proposition, and in the outstate there are a substantial number of people who vote with the one man, one vote theory in elections. It has been suggested that this is a party issue, a political issue, and I can't go along with that completely, because I think it has acquired the appearance of a party or political issue largely by accident; because early in the campaign for the election of delegates an announcement was made that those who ran under one banner would be considered committed to the one man, one vote theory and nothing else in both houses. That naturally led to the other side taking the position that a balanced legislature is preferable in accordance with the expression of the one man, one vote of the people in 1952. It is not unanimous in either area, and that demonstrates certainly that there are some people in all areas who are not controlled by their personal interest or preferences; because if they were, the vote would be unanimous in both areas.

I think this clash that we find ourselves in is due to 2 sound, basic principles coming into conflict with each other. The one is the one man, one vote theory, the other is the balance of power theory. Standing by themselves, I think we would none of us quarrel with either one of them. One man, one vote, and equality at the ballot box, as a basic principle standing by itself, I think will have the assent of all of us, and I don't think there would be very many who would disagree with the other principle standing by itself, that of balance of power.

The basic characteristic of American democracy is the division of powers. In our schools I am afraid that has been confined almost exclusively to the one principle of the division of powers into executive, legislative and judicial, when the fact is that there is much more to it than that. Equally important is the division of powers between the federal government, limited to those things supposedly authorized in the federal constitution upon one side, and the remaining powers left to the people of the states and the local communities on the other side. And, although it is not frequently stated in so many words, there is another part to this system of power checks and balances: that is that in practically every state, as in the federal constitution itself, provision is made to protect a minority of the population against what might happen as a result of unrestricted and unrestrained power placed in the hands of the majority. And that becomes more and more acute as the area in which the majority is found becomes smaller and smaller and the area in which the minority is found becomes larger and larger in proportion. So the problem is too important to be solved by an appeal to slogans or symbols or shibboleths, or by doctrinaire propositions or absolutes; the danger of a generally sound principle being elevated to the stature of an article of religious faith transcending all others, applied literally to the exclusion of other generally sound and pertinent principles. We have to decide here whether one of these is so inferior to the other that it must be completely ignored.

Another way of stating the issue might be that it reflects a different understanding of what we mean by democracy. So many times we are reminded that it is important to define our terms. Not so long ago I read an editorial in which the editor managed to convince himself that democracy and republic were synonymous, and the definitions that he gave justified that conclusion. That presents a question of whether one man, one vote is the ultimate test of democracy under our American system as we have it in our constitution and historical development. Our opinions of democracy, I suppose, vary from time to time. They depend on how the last election came out. If it suited us, we think democracy is a grand system; if it didn't suit us, we have some doubts about it.

We have heard the term "malapportion" used quite frequently. That term is not accurate unless population is in fact the only proper factor to be considered in the matter of apportionment as to both houses. We speak of pure democracy, we speak of limited democracy, we speak of constitutional democracy or a balanced democracy, and we speak lately of a majoritarian democracy, which I think is a term used to describe pure democracy on a large scale. And that, it seems to me, is what we see reflected in the spreading of the idea that absolute equivalents in both representative chambers is the sole test. It is one of the indications that we are moving from a limited democracy with constitutional and historical restraint to a pure democracy on a state and national scale.

Now I have said these 2 principles would be recognized as sound, standing by themselves. We find ourselves faced with the problem of accommodating them to each other, and this isn't the only area. This isn't the first time that such problems have been faced. For instance, if anyone were to ask us: here is a man who had loaned $100 to a neighbor, the neighbor refuses to pay; should the creditor have the right to resort to the court to enforce collection of that debt? We would say, certainly. No hesitation about that at all. But then we come to a case of somebody who isn't able to pay the debt unless he is compelled to give up his home, the tools of his profession, and other things of that sort, and so we say it wouldn't be fair, it wouldn't be good public policy to tie that individual down and compel him to give up the last cent that he might possibly raise. So we have exemptions; we have bankruptcy laws; we have garnishment limitations. We have free speech, free press; and they sometimes come in conflict with the idea of the fair trial, and so we restrain free speech and free press to the point necessary to prevent interference with the right to a fair trial. I am sure that we would all grant that our court proceedings would be so much more interesting than they are if the participants and spectators were free to exercise their right of free speech as they do at a baseball game: when the judge makes a ruling ½ of the audience crying out "Who paid you for that one? Buy yourself a law book;" and he makes another ruling and the other half of the audience have some other remark of that kind. But in the interest of orderly court procedure we accommodate those rights to each other.

So we are faced with this necessity here of making a fair accommodation between these 2 basically sound principles. We have heard a great deal about extremes which we of course should avoid. It isn't necessary in order to keep away from one extreme to run pell mell to the other, or in our anxiety to keep out of the ditch on the left side of the road to head diagonally across into the ditch on the other side. That is what the committee in this case has tried to do; a reasonably fair accommodation.

Some fault has been found with the formula that has been used, and the books are full of cases in which apportionment formulas, made up in good faith by people who have carefully studied the problem, have been picked to pieces in the same fashion, and the question is asked, for example, "Where do you get the figure of 80 and 20 in the senate apportionment?" I reply, "How does a jury decide how much to allow for damages for pain and suffering?" Nobody can fix an absolute dollar value on things of that kind. The law can furnish no yardstick or scale by which to measure those things. The decision is reached on an interchange of opinion; in that case by 12 individuals who think about it and arrive at a common judgment. They start by being far apart. They express their different ideas to each other, eventually manage to settle upon a figure that appeals to all of them as fair, and that is what happened in our committee on this matter of 80-20. Nobody can demonstrate mathematically that it is sound or unsound. It reflects the judgment of the committee as the nearest approach that can be reached to a fair solution of that perplexing problem.

Now it has been recognized—it became clear early in our proceedings before the committee—that the delegates from both sides were agreed that it would not be advisable to permit the cutting of counties in forming legislative districts in either house. Practical considerations convinced both groups that this would not be advisable and should not be done if it could possibly be avoided. Counties, of course, are not sovereign entities. I don't know of anyone who claimed that they were. But, historically, our counties have been formed for the convenience of the state, to facilitate the administration of government. They may be said to be the agents of the state, as a convenient unit for the administration of state laws and the maintenance of law and order; for judicial administration, for welfare administration, for keeping records of deeds, probates, and so on. And our court decisions have recognized that. I quote from only one or 2. In an Illinois case the court said, speaking of an apportionment statute:

> The intention is plainly manifest in the constitution to preserve the integrity of the several counties in the formation of districts—the county being the most important political division of the state, its autonomy is expressly guarded by the constitution in the formation of these legislative districts, and in importance it is placed above the requirements of compactness of territory and equality of population.
>
> It might be far less difficult to divide the state into 51 districts, formed of contiguous and compact territory, and each having substantially the same number of inhabitants, if no regard were paid to county lines. But it cannot be doubted that such an apportionment would be plainly unconstitutional, notwithstanding it would secure a compactness of territory and equality of population not otherwise attainable.

Nothing is more proved, however, than that the integrity of the counties was considered of more importance than the equality of population.

And from our own supreme court, in the case of Board of Supervisors versus Blacker, this language appears:

> Under our constitution and form of government the county has come to be regarded as of much importance in the administration of the affairs of the state and in the matter of local self government. The boards of supervisors may have conferred upon them, under section 38, article IV of the constitution, powers of a local, legislative and administrative character. Such powers have been conferred from time to time, so that the county, with its county seat established, and its own officers to manage its affairs, represents the interests of the state in that part of the territory designated as a county.
>
> The interests of the people of a county center around its seat of government, and the people of a county in the past have always been represented in the lower house of the legislature by one of its own constituency.
>
> As was said by Mr. Justice Orton in State vs. Cunningham, a Wisconsin case, the people have a commendable pride in their own counties, and have more or less a common feeling and interests, and participate together in all their county affairs. They have a right to be represented by their own members of the legislature, and the members themselves can better represent them, and promote and protect their interests.

Of course, that was the original start in many states, with each county, regardless of size, having one representative in one house, at least, of the legislature. Ohio still has what is left, and some other states also, of that system. Each county, regardless of population, has one representative. Those with a larger population have additional representatives. The state of New Jersey, at least, still has one senator from each county regardless of population. As reflecting the care the legislators have exercised in this matter, I quote briefly from a New York case, in which there were 10 specifications set up to be followed by the legislature in making reapportionment. One was no county shall be divided, except to make districts within the county. No county shall have 4 or more senators unless it shall have full ratio for each senator. Another one, no county shall have more than 1/3 of all the senators.

Now, coming to the problem of why we need some consideration to be given to the question of the protecting of minorities of population against the possibility of harm coming from concentrated majorities in a small area, I have a quotation from Locke, on restraints of government in which he says:

> The best government is not one in which the popular will rules undisputed and unchecked. Laws, based on natural

> law and reason, alone can safeguard against both popular tyranny and popular licentiousness.

From the Federalist, I quote:

> It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

James Madison said, speaking of inevitable human conflicts:

> All civilized societies would tend to divide into different factions and interests, as they happen to consist of rich and poor, debtors and creditors, the inhabitants of this district or that district, the followers of this or that political leader. In all cases, where a majority are united by a common interest, the rights of the minority are in danger.
>
> In Greece and Rome the rich and poor alternately oppressed each other. Debtors have defrauded creditors. The holders of one species of property have thrown a disproportion of taxes on another species. The lesson we are to draw from the whole is that where a majority are united by a common sentiment, and have an opportunity, the rights of the minor party become insecure.

That does not imply that the majority is presently and consciously planning to do anything unjust to a minority. The feeling of the American people, as demonstrated in history, is that it is not safe to create the possibility of such a thing occurring. John Adams said the same thing in a more blunt way in these words:

> To expect self denial from men when they have a majority in their favor and consequently power to gratify themselves is to disbelieve all history and universal experience.

So I think a case can be made for the proposition that population apportionment in both houses represents a departure, a radical departure, from the system of checks and balances, of restraints and limitations on official and governmental powers which is so overwhelmingly and unmistakably reflected as an essential characteristic of American democratic government by our history, by the United States constitution and by those of the states from the beginning to Alaska and Hawaii. The proof of the pudding, an old proverb says, is in the eating, and when we try to understand what is American democracy, properly understood, I don't think we can have any better guide than the way in which the American people, over their history, have reflected their understanding of it.

Just one word on the subject of moiety. You will note that in the committee proposal that figure is raised from 5/10 of 1 per cent as a minimum requirement to 7/10, an increase of 40 per cent. Here is a little news item from just a day or 2 ago, which I think graphically illustrates what I mean by this comparison. That is the new bridge at Sault Ste. Marie.

> "Actually, it's 2.76 miles long," said David W. Ripley, secretary of the bridge authority, "but we lost nearly a mile back there when we started."

It goes on:

> "It was a 2 miles plus, long bridge, so we just called it a 2 mile bridge. But then, someone pointed out that it was a 3, minus, miles long bridge, and they proved their point by quoting the old accepted rule that anything over a half is rounded out to the nearest whole."

And that is all that is meant by this topic of minimum requirements for representation starting with the counties.

This problem of outstate areas against the concentrated majorities in the cities is not a new one. It is as old as our nation, and this is reflected graphically by a quotation from a New York supreme court decision, a court of appeals decision of 1916. An amendment had been adopted to the constitution dealing with the subject of apportionment, and this is quoted from the letter to the people explaining what this particular amendment was intended to do:

> Since 1846 the great increase in population in the cities entitling them to additional representation in the senate has required a corresponding decrease in the representation of the country districts, so that those districts have been constantly made larger, and their representation in the senate has been constantly decreasing.
>
> The object of the proposed increase is to restore the country districts to substantially the same position in which they were in 1846, and to provide for the increased representation of the country as well as of the city districts. We believe the provision to be sound in principle, that somewhere in every representative government there should be a recognition of variety of interest and location.
>
> Such a departure from the rule of strict numerical representation is recognized by the Constitution of the United States in the organization of the senate—

They might have added at that point, in the house of representatives itself where every state, no matter how small its population, is entitled to its first representative. The quotation continues:

> by the Constitution of the state of Pennsylvania in limiting the representation which the city of Philadelphia may have in its senate to 1/6 of its members, and by the Constitution of the state of Maryland in limiting the representation which the city of Baltimore may have.
>
> Similar provisions have been adopted by the state of Ohio affecting Cincinnati and Cleveland, the state of Missouri affecting St. Louis, and the state of Rhode Island affecting Providence, and by other states of the union having large cities. It is the rule, rather than the exception, throughout the union.

An editorial recently brought to my attention summarizes this in these words:

> The principle of protecting legislative processes against domination by populous centers of population, with their powerfully organized special interests, has been imbedded in the structure of American government from its very beginning. That is why Nevada, with a population of 285,000, is given the same number of United States senators as the great state of New York with a population of 16 million. That is why similar provisions to guard law making against domination by metropolitan areas was incorporated into the constitution of nearly every state east of the Mississippi as state governments took form. Arguments at Lansing surely should be arguments of reason against this background of federal and state structure.

We have heard a great deal in the course of our committee discussions, and somewhat on this floor, that one of our present day evils is running to Washington, and for that reason you might find this item interesting:

> In the course of the debates before the adoption of the Constitution of the United States in 1787 one of the delegates said this: "Where do the people look at present for relief from the evils of which they complain? Is it from an internal reform of their governments? No, sir. It is from the national councils that relief is expected."

So even that complaint is not new.

We have heard some quotations from Thomas Jefferson, and here is one that I have:

> Confidence in the men of our choice is everywhere the parent of despotism; free government is founded in jealousy and not in confidence. It is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power. Let then no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution.

I wonder what Mr. Jefferson would say if he could appear among us today and note how weak those strong chains have become not only in other departments, but in the judicial department of the government.

I would like to summarize what I have tried to cover in these remarks by quoting briefly from a law day address made about 3 years ago by a noted constitutional authority, namely, myself.

> The basic principle which the framers of our constitution used as a guide was the conviction that human experience through the ages had shown that no person, however honest

or well intentioned he may be, can be safely trusted with unlimited power, and that majorities can at times be as arbitrary and unfair as individuals. This was why they devised a system of checks and balances. It is this system of checks and balances which, if respected and followed, makes it impossible for one man or group, or majorities, to exercise arbitrary power.

What I am trying to emphasize is that ours is not a "pure democracy" in the sense that a majority at any given moment has the right to do anything it pleases, forthwith. Ultimately, the considered and abiding will of the majority will prevail. But the recent suggestion for a one house legislature, apportioned strictly on a population basis, is obviously an expression of impatience with constitutional checks and limitations on majority powers. Government needs these checks and limitations in the same sense, and for somewhat similar reasons, that brakes and other controls are needed on automobiles: to prevent harm through rash or uncontrolled action.

Now it has been suggested that the proposal made by the committee would ignore the interest of the urban populations of the state. That certainly cannot be accepted as true.

On a basis of one man, one vote, the concentrated majority can amend the constitution to suit itself at any time it decides to vote as a unit, with considerable help outstate, if necessary. They have it in their power, on the basis of one man, one vote, to elect all the state officers. They have done that now to the extent that they have the governor, lieutenant governor and secretary of state from the same county, and the other state officers know on whom their reelection depends. They can elect not only a majority but all the justices of the supreme court. They can and have elected both United States senators from one county, and on a population basis they can control one house of the legislature; which means that they can control 5/6 of the state government on the basis of one man, one vote. And the question comes down to this: is it good policy to enable a majority of the majority to control the other 1/6 of the state government also?

Now, when we speak of outstate we include some populous counties outside of this immediate metropolitan area. Someone has computed that at the present time the cities and counties of over 100,000 elect 20 of 34 senators. Under the committee's proposal, for the next 10 years they would elect 24 of 38, and after that, 26 out of 40. I was interested in making a computation the other day of the delegates to this convention. And 101 of the 144 represent counties containing more than 100,000 population, excepting one which contained 98,000. So on that basis there is certainly reason to give careful consideration to this matter of balance of power.

Now, it has been suggested that the committee's proposal preserves the status quo, and to my judgment, nothing could be more inaccurate. I think the most important concession that the committee report makes to the majority group—the metropolitan areas—is the appointment of a commission to do the reapportioning. If you had nothing else to take home from this convention you could return home in triumph, bringing in the sheaves; and we who are from outstate will be the ones who will be embarrassed in trying to defend that part of the proposal. We have gone further than that. We have unfrozen the senate districts. They were frozen in 1952, but it is not accurate to say they were frozen in forever, because the same one man, one vote majority which froze them in could at any time unfreeze them. We have raised the minimum requirement for representation in the house by 40 per cent; from 5/10 of 1 per cent to 7/10 and that, all the authorities agree, is as near to complete equality as is possible to get in preserving county lines, and by that process the inequalities in population have been greatly reduced.

I appreciate your careful attention, ladies and gentlemen, and I hope I haven't spoken too long. But in connection with remarks I made at the beginning of this address, I would like to add something further: I think we all came here and are still here with an ambition which could be reflected by the words of Paul of old when he said, "I have fought a good fight; I have finished my course; I have kept the faith." Our ambition has been and is, each being loyal to the spiritual mandate within himself, that when our work here is completed we can go home and in good conscience say, "I have fought a good fight for the principles in which I believed. I have kept the faith with my constituents and with my conscience." Must we wait, my friends, until we have separated before we become conscious of this? That in the future whatever time may be left to us, be our days few or many, one of the precious recollections we will have will be looking back to our labors here and thinking of those who accompanied us in our labors and worked with us. Our fondest memories will be those of respect and affection for those who here fought valiantly for their convictions, and that will not be limited to those who fought on our side, but much of that respect and affection will go to those who fought valiantly and courageously on the opposite side of these battle lines.

An impression may have been created from the heat of some of our discussions that Michigan is a divided state. True enough, we are divided here in our opinions, and we will continue to be divided, and we may even find ourselves on opposite sides of the battle that is coming before the public when this document we are hammering out with blood, sweat and tears comes up for approval or rejection. But I am sure that we are also conscious that however strongly and deeply we may differ on some of these problems, in our loyalty and affection for and to the state of Michigan we are not divided—all one body we. When it comes to our belief in the principles of our government and its future we are one in faith, and doctrine, and, Mr. Chairman, I hope, one in charity. Thank you. (applause)

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, I didn't anticipate coming after this distinguished address, but I think that I, too, must stand here in good conscience with my constituents and, if nothing else, speak on behalf of those voices that have been responsible for me being here today. I want to refer specifically to a comment which was made yesterday with regard to the job of representing people in large cities as opposed to the job of representing people in sparse areas, and the expression was used that it was a different problem than that of a fraction of a big city.

I know that those of you who come from cities, and large cities, will understand some of the things I am going to talk about. Maybe those of you who don't represent large cities might not be aware that we have problems in large cities. I represent one of the senatorial districts in the city of Detroit and the county of Wayne, and when it is said that it is a small area, it is an easy group to reach, I can't say anything to that effect. This is true. As a matter of fact, I think the problems are greater, and I would just point out to you, as I pointed out to the committee on legislative organization, some of those factors which make it harder to represent people in a large city than to represent people in sparse areas.

First of all, in the large city you don't have access to the mass media of communication. You don't have access to the press, to the radio, to the television. I have noticed a number of delegates here turn out delegate columns. They send back to their home town newspapers articles and pictures, and I have noticed that these newspapers have been diligent in recording what these respective delegates have done. We in a large metropolitan community have no such advantage. There is nothing I can send back to our Detroit newspapers—and I don't mean to make them any smaller on this account, but there is nothing that I can send back that would be of any import to them. I am just one of many, and as far as they are concerned, they do the job of selecting. So I can't reach my constituents on the basis of putting an article in the newspaper; and I can't reach my constituents on the basis of a television program because TV time is a precious and costly item in the city of Detroit. Nor can I hope to reach my constituents through the use of a radio system, which is again another costly item.

The district may look small on a map when you compare it to large areas such as a senatorial district, but to those of you who are familiar with Detroit and its traffic and congestion, I would tell you that on a day, an afternoon when people are going home from work, or in the morning hours, for me to reach one end of my district from another may take longer than the mileage might indicate on a map. There are many problems in reaching from one end to another, and those of you who have been fortunate or unfortunate enough to be caught in traffic congestion know that it is no easy matter going in and around this district. How do you reach people in an area that is a fraction of a city? You can't depend on the newspapers, you can't depend on radio and television, you can't even depend upon reaching the people in person, because here again you've got another problem.

These communities that make up these districts in the city are a polyglot of different groups. Just because a person lives on one side of the street or the other side of the street doesn't make that person any more knowing of his neighbor. If I go to a meeting—and this is, I think, a big difference from people who have the fortunate opportunity of representing what we call sparse areas—but if I go to a meeting, I go in there and I always ask at the end of the meeting: how many of you live between this street and this street and between this part of Detroit and that part of Detroit, and if I get 20 per cent, I think I have scored well. But more often than not, we get a few. Even people who invite me to speak in the district don't have a majority of the people living in that district at the meeting—I am talking about the district that I am representing. So that we can't even reach them at meetings, the ordinary process. At least in a large area where it is spread out, you go to a town, you know that the people you are talking to are people that are your constituents. In a large city, even if you go to the supermarket, or if you go to any place in that district, you know that over half the people don't live in your district. In addition to this, of course, you have the whole problem of a multiplicity of different groups—different economic incomes, different nationality groups—and all these factors make it increasingly more difficult to have contact with your respective constituents.

I don't want us to leave here with the impression that it is any easy matter to represent a part of a city. In the final analysis it is a constant drudge and constant hard work. You have got to visit people all the time, possibly door to door, if you want to be certain that you are actually visiting the people of your constituency. And so there are problems, and I received some letters from people in the district, and they said they felt the problems of representing large city areas, parts of large city areas, were greater in terms of trying to reach people. They felt this deserved special consideration. I don't think we want any special consideration in having a factor in our favor, but certainly we ought to think seriously about the disadvantages, the problems in representing urban areas.

Now, the people of the district—and this was, I think, known to you—have felt they needed apportionment, and I think there was some feeling that might have been echoed in the past when people in Hamlin Town felt that they needed some improvement, and I just recall from one of my memorizations:

> At last the people to the town hall came flocking:
> "'Tis clear," cried they, "our mayor's a noddy.
> And as for our corporation—shocking
> To think we buy gowns of ermine
> For dolts that can't or won't determine
> What's best to rid us of our vermin.
> Rouse up, sirs! Give your brains a racking
> To find the remedy we are lacking,
> Or, sure as fate, we'll send you packing."
> At this the mayor and corporation
> Quaked with a mighty consternation.

I think that we might look realistically in terms of having some pied piper attempt to rid us of our excess population, and if they would be so good as to disperse the population throughout the state and the respective counties we would have no quarrel with apportionment, if we could only hope that this pied piper would come through the county of Wayne and have this rewarding effect upon the whole state population. Unfortunately, though, such a piper has not appeared and, in absence thereof, I hope and trust that you will attempt to look more fairly upon the plight of our poor city dwellers.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. Chairman, fellow delegates, trying to analyze the majority proposal before this convention, I am reminded of the story of the statement that was made repeatedly in the committee by Delegate Knirk when he would say, "Keep it simple, stupid," and I have to admit that probably I am in the category of being stupid. I am having extreme difficulty in understanding this very complex monstrosity that has been presented to this convention.

I have been a member of the committee on legislative organization which brought forth the majority report relating to the subject of reapportionment which is now under discussion here in the committee of the whole. As I recall it, during the period of time wherein we held public meetings and listened to various proposals on this topic there were numerous simple, understandable proposals made. But simplicity obviously was not one of the objectives of the majority of this committee. As a matter of fact, if we started out with the sinister purpose of concocting a program to create a monstrosity which requires the mentality of a genius, or perhaps a head of one of our major institutions of higher learning, to comprehend, we could never have arrived at a more complex and confusing proposal for a perpetuation of the malrepresentation incorporated in this proposal under discussion here today.

This again is a part of the package deal which was concocted in the caucus rooms of the Republican party several weeks ago. It is inconsistent and contrary to the promises made by many prominent delegates to this convention when they promised the people in their election campaigns that remedy would be provided by the constitutional convention for the maldistribution of representation in our legislative bodies. These commitments, as well as other commitments have been sacrificed on the noble pedestal of a package deal for the purpose of bringing about harmony within the majority party. If the purpose of this convention is to bring about harmony in the Republican party at the cost of perpetuating a cancerous political and social growth, then the majority of the delegates in this convention will obviously joyously vote for this proposal. Politics obviously must prevail regardless of whether it is necessary to violate the very fundamental and basic principles upon which this great state and nation was founded.

A tax study which has been made available to all the convention delegates indicates very clearly that the people of this state, under our present system of representation as well as under the majority proposal, if adopted, would be subjected to taxation without their consent. But under this proposal the felony will be compounded. Not only will the majority of the people be taxed without their consent, their taxes will be allocated and spent by the representatives of the minority of the people who, by this device of maldistribution of representation, can perpetuate government by minority and bring about ultimately the same tyranny which caused our founding fathers to write into the Declaration of Independence against the British ruler, "he has imposed taxes upon us without our consent." The majority of the people will pay the bills and the minority will tell them how much to pay and the minority will distribute very magnanimously the moneys paid in by the majority to benefit the minority. And this reflects the majority party's concept of a democratic form of government or a "Republican" form of government, if you please.

Now for a moment let's get down to specifics in the proposed majority report. In the first place, if this formula is a meritorious one, why is it that we must wait until 1970 before any section in the proposal is put into effect? This year, 1962, comes right on the heels of the results of the 1960 federal census which was published in 1961, yet we are told that we must wait until the results of the 1970 census are available, which undoubtedly would be in 1971, before any real adjustment could be made. In the interim 9 years we are thrown a few bones, that is, a few senators; one additional senator to be elected from Wayne county, one from Macomb county, and one from Oakland county, and one from Genesee. Presumably this is in order to adjust the most glaring inequities in the present apportionment of senatorial seats. As a sop for the growing population in these areas, we would then get an average 1960 population per senatorial district in Wayne county of 333,342, in Oakland county of 345,291, in Macomb county of 202,902, and in Genesee county of 187,156. Why was this particular number decided upon in these particular areas if equality was the basis? Genesee county, for instance, now has a total of 374,313 for one senatorial district. The new adjusted districts full of this "proposed equity" in Wayne county would have almost as much population as the total population of Genesee, which the majority have chosen to divide into 2 districts. But, on the other hand, there would be districts such as district 23, with 248,000, which would be far greater than either Macomb or Genesee by the new standard, and district 18, with 225,000, and district 14, with 249,529.

Now, my friends, let's take a good close look at the majority proposal. Instead of talking about representation of people—and get prepared to be confused—the proposal deals with factors and formula, area, 80 per cent plus 20 per cent, a 19½ per cent factor, 13 factors, 1 per cent of 100 per cent, multiplied by 4, add the percentage of the state's area, compounded to the next 1/100 of 1 per cent. Now, if we were to appropriately add to this a few spoonsful of gerrymander, perhaps it would clarify for the uninitiated mind exactly what we meant. Some of the delegates may not know why the 19½ factor was incorporated in this proposal. It is one of those confusing devices which could much more readily have been spelled out in plain language so that every one of the delegates could have understood its meaning. Now for the benefit of those delegates here who may not yet understand its purpose, this strange factor happens to be the mathematical formula in this hodgepodge which maintains the status quo of 2 senators for Kent county, with no rationale whatsoever. In other words, when the first deal was made—before the latter super deal was made in committee by the majority—the first deal that had to be made was to retain 2 senators for Kent county so that the Grand Old Party delegates here would not be confused and divided by that factor. So our reapportionment program here had to be based on starting off with 2 senators for Kent county, and then, of course, with a program that suited this formula.

It is unfortunate that somebody could not have set this to music. I can visualize some of our great political science professors explaining this to their classes in some of our major universities, or perhaps this prodigious task will, of necessity, fall into the hands of the presidents of our universities. And I can picture foreign delegations sponsored by our federal government in the exchange of students program having explained to them that we really don't have government of the people, by the people and for the people, but in its place we have substituted a quaint formula wherein a certain number of acres equates a human being, and particularly a voter; that we explain, of course, that the acres cannot cast a vote and that these acres are an abstraction in our form of government which equates human beings: 1 abstraction for each 4 voters. Then we proceed to tell them that in designing this basis of representation, because we were going to equate an abstraction to a vote we had to use some mathematical formula and we decided to call them factors, in which we have government of factors, presumably for the people.

If this is confusing to the uninitiated, perhaps we can request again our legislature to appropriate a couple of million dollars to explain it in a simplified pamphlet so that both the voters, people, and perhaps area, too, will thoroughly understand this complicated formula. Area having no mentality might pose a problem, but I am confident that some of our great educators can find a solution to this problem too, if we could not be sacrilegious and still change the sanctified areas of Kent county and its basis of representation in the senate.

In relation to the specific formula which they propose for representation in the senate, even if we put aside the fact that we must wait an additional 9 years before the plan which is proposed by the majority will be put into effect, here is what can happen under this plan which the sponsors and their Republican colleagues purport to be a great improvement in senate representation. First, as I explained, area is given 1 vote for every 4 people by giving each county an apportionment factor based on 20 per cent area and 80 per cent population. Obviously, as you are aware by my previous arguments, we in the minority dispute the validity of such a proposal. But this is not the end of it. According to the language of the majority proposal in subsections 1, 2, and 3 of section a on the senate, even after we have given 20 per cent to area, the apportionment factors, including area and population, could vary so much that one county could have an apportionment factor of as much as 16, which would be 12.8 on population and 3.2 on area, and another county could have an apportionment factor of as little as 10 according to the same section; or if you really want to do some arithmetic, according to subsection 1, which provided that any county with an apportionment factor of 19½ gets 2 senators and subsection 3, which provides for splitting the population on lines as various as 125 per cent in one district and 75 per cent in the other, you could have an apportionment factor of as little as 7.8 per cent in one district and 11.7 in the other. Thus you could have one senate district with a factor, including area, of as much as 16 and another in a split district county of as little as 7.8, 5.85 on population, and 1.95 on area.

The majority of the committee likewise finds it impossible to sully the sanctity of our county lines for the basis of representation in the house of representatives. We cannot divide a county for the purpose of bringing equality in the house of representatives either. The closest we can come is, possibly, making some voters 7/10 as good as some other voters. The county lines remain sacred until they get into the populous areas. Here, strangely enough, we find that when we get into the populous counties, there is nothing sacred. We must, under no circumstances, permit the combining of representative districts as they now prevail where these members of the house of representatives can be elected from a single district, which seemingly satisfied even the majority party several years ago, but now we must divide legislative districts through alleys and around precincts, and narrow down their confines to a dozen blocks.

This intrinsic formula diverges from one extreme to another. There is no consideration, for instance, for area in the populous counties, either for the senate or the house of representatives. It seems rather strange to me that if we were considering area from the point of view of its dollar cash value, and were to compare Cadillac square in Detroit with a great many areas in other sections of the state, that if those areas in outstate districts should be given representation, Cadillac square, being worth many times more in cash dollars than these other areas, should be given at least one senator and one representative. The question of who would cast the vote would become very important again. There is no consideration in the majority proposal, for instance, for the voters who live in apartment houses and in our many fine housing projects, running as many as 25 stories high. It seems to me that it would be as valid to give the voters who live above the tenth floor in an apartment building a little more weighty vote because they are far above the average voter. They obviously are in direct contact with more area above the ground than those people who are planted firmly on terra firma. However, there is no sanctity so far as geography, area, or any other abstraction is concerned when it comes to populous counties. And we can divide a county into 50 districts to suit the whims of the majority, and to further confuse the electorate to make it more difficult for candidates and to, in this way, create greater confusion in the minds of the electorate. The argument has prevailed on the floor of this convention that a candidate running in large geographic area has more difficulty in contacting the electorate than has the candidate in a compact contiguous county area divided by alleys, blocks, streets, and so forth. Some of these candidates, or the intelligensia who profoundly acclaim the ease with which candidates can contact their electorate in the populous areas, should at some juncture attempt to get into a 10 story apartment house and try to even get by the janitor. This argument, to me, should be put to rest once and for all; this problem of contacting the electorate.

The audacity of the majority members of the committee on legislative organization in making these proposals is in actual fact a calumny on the integrity of the electorate. Where and when is this convention going to recognize that there is a need for a pragmatic reappraisal of the era in which we are living? Can there really be any delegate to this convention who actually believes that the people of this state are so sublimely ignorant that they are going to vote in favor of a proposal which will permit a small handful of people, comparatively speaking, to elect a majority of both houses of our legislature, impose taxes upon us, and then spend them according to their own capricious whims? If so, then my own appraisal of the electorate has been far too lofty, and I might have to engage in an agonizing reappraisal of the intelligence of the average voter.

Unlike the campaign of 1952, when the scare campaign of the CIO capturing control of the state government was effective, the people today are informed on the question of representative government sufficiently, in my opinion, to overwhelmingly veto this proposal. The compounding of the felony which this proposal would impose upon the people of this state is the proposed apportionment commission, and the manner in which it is to reapportion after 1970. First, let's take the manner of selection of the members of this apportionment commission. For this purpose, according to the majority proposal, the state has been divided into 4 areas, each of which will elect one Democrat and one Republican to serve on the commission. Apparently the majority of this committee are only concerned with getting equal numbers of Democrats and Republicans on the commission, and not with representation of the interests of the people as a whole.

MR. W. F. HANNA: Mr. Chairman.

CHAIRMAN HUTCHINSON: For what purpose does Mr. Hanna rise?

MR. W. F. HANNA: I would like to call to the Chair's attention that I believe Mr. Marshall is now discussing Committee Proposal 79, and I believe that was passed, and I believe that our discussion now is limited to section a of Committee Proposal 80. I may be in error, but I would request the Chair, if I am right, to caution the delegate to confine himself to section a of 80.

CHAIRMAN HUTCHINSON: The point made by Mr. Hanna is well taken. The discussion should be restricted to the discussion of section a, which has to do with the senate.

MR. MARSHALL: I think it is well taken too, Mr. Chairman. I just thought we might slip it in. I am sorry.

MR. W. F. HANNA: I am not slipping, William.

MR. MARSHALL: You just took a page away from me. That will cut it short. Well, I will adhere to the wishes of the Chair and try to remain on the subject.

I might go on to say that I have been particularly perplexed by the reaction of the Republican majority of this convention to the recent U. S. supreme court decision in the Tennessee case on reapportionment, wherein that court clarified the question of jurisdiction in relation to matters of representation of legislative bodies of our various states by clearly indicating that any citizen has the constitutional right to appeal to the courts for relief under the fourteenth amendmeen where due process and equal protection of the law has been violated.

I am very reliably informed by my friends in the legal profession that when a case of this nature has been joined in the fashion in which Scholle v. Hare, which is now pending before the U. S. supreme court, was joined in the Baker v. Carr case, that decisions would be imminent. It would seem to me that the majority in this convention, rather than hide their heads in the sand like ostriches, would take cognizance of this new development which deals directly with the subject matter under discussion, would face this realistically, and attempt to abide by the obvious intent of the supreme court decision. We have every reason to believe that a determination of the Michigan case pending before the U. S. supreme court will be decided in a relatively short period of time. Even though the majority of this convention is loathe to accept the verdict of the court, I would strongly urge the convention to delay action on this entire question and make it the final question for disposition on the agenda in the event that the U. S. supreme court remands the question before it back to the Michigan supreme court. Rather than step up the tempo, move the apportionment question in face of the impending decision, round out a proposal that was under discussion that was done here, we should have taken a close look and not have been so hasty; at least until we could receive the supreme court decision, which might have a very direct bearing on what we are doing here. Of course, this should be the course of intelligence, superseding emotionalism and wishful thinking. I recognize, being a practical person, that there may be no desire for realism at this juncture in this convention. My suggestion to this committee undoubtedly will be looked upon derisively by the majority. If there is any honor left among the dealers, I will nevertheless try to appeal to that vestige of reasonableness and sanity which could conceivably still be present, and implore the delegates to delay action on this question in the hope that some guidance will be forthcoming from the U. S. supreme court.

In conclusion, Mr. Chairman, I am not going to make a motion at this time, but I am going to ask the delegates in this committee to very seriously give consideration to delaying any further action on the majority proposal pending the decision on the Michigan case before the U. S. supreme court, and I might discuss it at some length later on in the debate. Thank you.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman, I have a question for Judge Dehnke, if he cares to answer. Judge, do you believe the traditional protection of minorities in a democratic society is giving them control of the legislative branch of government?

CHAIRMAN HUTCHINSON: Judge Dehnke.

MR. DEHNKE: I don't think, Mr. Chairman, anything is to be gained by cross examination, and I decline to answer. I have stated my position, and the other side can state theirs, and I think that is the orderly way to proceed.

MR. HODGES: Mr. Chairman, I request to ask a question of the chairman of the committee, Dr. Hannah. Same question, Dr. Hannah: do you believe the traditional protection of minorities in a democratic society is giving them control of the legislative branch of government?

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Much as I dislike to refuse to answer a question, I think we are now engaging in delaying tactics, and that nothing is to be gained by this kind of a cross examination, and I decline to answer.

MR. HODGES: Mr. Chairman, it is obvious that the proponents of this measure do not care to answer this question, although they were the ones, I submit, that raised the validity of a minority being protected through control of the legislative branch of government. This is not the traditional way that we have ever protected minorities in this country. We have protected them through the bill of rights and through the courts, and I submit if we start on this road of protecting minorities, whatever those minorities may be, by giving them control of a branch of the legislature we would indeed have to set up, probably, in the state of Michigan 200 separate branches of the legislature, one for every conceivable minority group that exists in this state, in order to adequately give them the same protection that an outstate minority now asks for in this constitution.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I would like to ask Delegate Bill Hanna a question, if he cares to answer. On page 2 of Committee Proposal 80, on line 15, is the language "but in no event less than 10 or more than 16." Would Delegate Hanna tell me how the figure 10 was arrived at?

CHAIRMAN HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, Mr. Downs, the figure 10 or more than 16 was an attempt to apply to the 13 apportionment factors the same rationale that is applied in the third paragraph of section a and the first numbered paragraph of section b: 75 per cent of 13 is 9.75, computed to the nearest apportionment factor, is 10 points; 125 per cent of 13 apportionment factors, computed to the nearest apportionment factor, is 16. This is the way it was arrived at.

MR. DOWNS: Just one other question, Mr. Chairman, to Mr. Hanna, if he cares to answer. Would this result in Kent county continuing to have 2 state senators?

MR. W. F. HANNA: No, sir.

MR. DOWNS: How many state senators would Kent county have on this basis?

MR. W. F. HANNA: Are you referring to the "10 or more than 16," Mr. Downs?

MR. DOWNS: And the other provision relating to single counties.

MR. W. F. HANNA: Under the first paragraph dealing with single counties, the 19½ has the effect of allowing 2 senators in Kent, Macomb and Genesee.

MR. DOWNS: So that line 9 on page 2 sets that as the portion that would guarantee Kent county 2 senators?

MR. W. F. HANNA: Along with Genesee and Macomb.

MR. DOWNS: Thank you. Mr. Chairman, I believe, in arriving at the figures used in the majority proposal the delegates have pointed out, in trying to justify the formula, that there was no particular reason for picking any particular formula. I suggest that the reason reminds me of the TV show where the master of ceremonies gives the answer and asks the question; that this would preserve the 2 senators for Kent county, and that much of the formula was worked around that. Whether it is good or bad is beside the point. I just want to bring that out very clearly.

There are a few other comments I would like to add here that have been discussed at some length. The matter of the problem of campaigning in sparsely settled districts has been gone into in some detail. I would just like to touch a little more on that.

Dr. Nord's proposal of the so called tote system would permit the area with thin population to have additional state senators who could conceivably campaign easily, but when they voted, they would vote the actual number of people they represented. This to my way of thinking answers, once and for all, the argument of those who talk about the long travel distances in part of the state because of the small population.

I would like to point out again that in the large cities —and this applies to not only Wayne county, Macomb, Genesee, Oakland, Kent and others—the problems of campaigning and reaching people both from the candidate's viewpoint and the voters' are extremely difficult. Delegates Faxon and Marshall have both touched on this. It happened in my own primary, which was a vigorous one. I gave what, in all modesty, I thought was one of the better talks to what then was a large group of 200 people, and I felt good until I questioned the people as to how many lived in the district in which I was running, and it was exactly 11 people out of the 200. When a person goes to buy ads in a newspaper in a metropolitan area, he knows that that ad will reach at least 95 per cent of the readers who could not vote for him even if they wanted to. In other words, in budgeting a campaign, a person buying an ad in a large paper in Detroit must discount the cost by knowing that of every dollar he spends, at least 95 cents will go to people that cannot vote for him even if they wanted to. The same is true of TV.

When it comes to the voter who may perhaps look at political ads in large papers, he finds in turn that many of the people whose ads and material appear are not living in the district so he could vote either for them or against them and—because of the cost of ads—the person, to be effective, in addition to mentioning the representative and senatorial district, practically has to draw a map to show where he comes from. I emphasize that this applies not only in Wayne county; it applies in other counties where there are multidistricts within the county. Probably the easiest county to campaign in is where there is one county with one newspaper and one legislative or senatorial district.

The same problem is true of supermarkets. A person can pass out leaflets and cards in supermarkets until he is blue in the face, only to find that in most cases the majority of the people do not even reside in his district. This is also true of meetings, whether it is veterans' meetings, labor union meetings, fraternal organizations or business luncheons. The person who is campaigning will find that in most cases the majority of his audience could not vote for or against him, and frankly, very often audiences get a little tired of hearing from people for whom they can vote neither for nor against. So I say, if we are concerned about this problem of representation in campaigning, that those of us that live in large cities probably have more of a problem than anybody else in the state.

Now, the only proposal here on the house is a matter of reducing districts to single districts, and while there may theoretically be some reason for this, I wish to point out that, from both the voter's viewpoint and the candidate, this may in some cases aggravate the situation. At the present time, when 3 are elected from a district, 3 people can campaign as a team, can campaign on a cosmopolitan basis and can speak for each other in the campaign and take a programmatic based approach. I am concerned that if these are made single districts, aside from the apportionment problem, it may further fractionalize both the voters' and the candidates' approach. Enough of that.

Now, as far as the proposals themselves of the majority, there is one point I wish to make very clear, and that is that neither house is based on strict population, and the chairman of the committee yesterday in his report said that the majority of the committee wanted one house, and I believe his terms were, "something besides population." I wish to point out that neither house is on strict population. In fact, in the year of the 100 year celebration in commemoration of the civil war victory, I think it is particularly significant that one of the factors there was the resistance to the Calhoun theory of government by majorities. I charge that this proposal does not have government by concurring majorities, but it has government by concurring minorities. In other words, to get legislation passed, it would take a majority of 2 minorities, one in the house and one in the senate. And the way to protect the minority is not to give them powers to rule over the majority. The way to protect minorities is to establish in our bills of rights strong provisions on freedom of speech and assembly and religion in our traditional bill of rights, so that the minority of 35 per cent cannot overrule the majority of 65 per cent; so that the smallest minority in the state, one person, has the constitutional protection and the judicial system to protect that right of that minority.

As I have said before on the floor and I will summarize again, if those that are concerned and fearful of majority rule will come forth on the floor of this convention, explain and show what their genuine and real fears are, I would be glad to cosponsor provisions in our bill of rights that will protect any minority from reasonable fears of unfair domination by the majority. I have said that before; I want to say it again now that we are on this subject. Because the correction, the check is in seeing that that minority of one is protected through constitutional guarantees in the judicial system. This is the way, rather than the so called check and balance of government by minority.

I would like to point out to the convention that people have problems. People are going to solve those through their state government many times, if they can. If the state government does not react to the majority will, people will find other avenues. The most simple avenue is to run down to Washington, where the United States congress more clearly represents people on a closer to a one man, one vote basis than do many of our state legislatures, including Michigan. And it is a little ironical that those who are the most concerned about people going to Washington are often the ones that support the very legislative structure that forces people to go to Washington, because the states do not respond to the needs. The other avenue the people have is on the various constitutional amendments that have been passed on earmarking, and

I know there has been great discussion on earmarking, but again I wish to point out to the delegates that when people vote on constitutional amendments, whether you agree or disagree with the action of the people, this is a one man, one vote ballot, and this, in my opinion, is why much of the earmarking and tax provisions of our present constitution have been written by the initiative and the constitutional amendment procedures. I, for one, think that this is only a final step; I would rather see a normal legislative process used that is subject to review and correction and growth as time goes on, rather than freezing items into the constitution. But there is no alternative when the body is not responsive to the needs of the people.

Finally, I would just have one quote here that I think, perhaps, when we are talking about principles, is worthy of the attention of the convention. This goes back a long time. I will read the quote and then, I think, the history of it. It is just one sentence which is of some interest. This quote is a follows:

> No invasions of the constitution are so fundamentally dangerous as the tricks played on their own members, apportionment, and other circumstances respecting themselves and affecting their legal qualifications to legislate for the union.

This was written on April 4, 1792, and was a memorandum from Thomas Jefferson, the then secretary of state, to George Washington, who was then president. At that time the then congress had apportioned congressional seats other than on a population basis, and George Washington had asked both Alexander Hamilton and Thomas Jefferson for their views. Alexander Hamilton, as one might anticipate, did not have quite the insight as Thomas Jefferson did into the problem. And I am glad to say that President Washington's first veto, the first veto in the United States history, was that of a congressional apportionment other than on the basis of people, and it was on the basis of a memorandum written by Thomas Jefferson.

I think the final decision we have to make is, if we don't have government by people on a one man, one vote basis, what kind of government do we have? And I think our next big step in democratic government has been indicated by the United States supreme court decision in the Baker case, which we discussed yesterday, and that the concept of having true representation of a one man, one vote government within a framework of constitutional guarantees is the direction we are moving. I hope we face that, and I hope we develop a constitution that meets those standards. I urge the rejection of the majority report on Committee Proposal 80, and again point out that it does not provide strict population in either house. Thank you.

CHAIRMAN HUTCHINSON: Mr. Blandford.

MR. BLANDFORD: Mr. Chairman, fellow delegates, the deviation from the one man, one vote principle in the committee proposal appears to be the source of some uneasiness on the part of some delegates. I would like to point out that restrictions on the "population only" concept is not unique to just legislative bodies. Other groups and associations follow this same principle. I hope to illustrate beyond a shadow of doubt the fallacy of the one man, one vote principle. I will show in the next few minutes that the people who shout it the loudest practice it the least. Certainly if this convention is going to give any credence to the argument of one man, one vote, it should examine closely the records of the advocates of the principle.

I have before me the constitution of the Michigan State AFL-CIO. As you know, this is a group headed up by Gus Scholle. Delegate Bill Marshall is vice president of this organization. In at least 5 different ways the Michigan State AFL-CIO in its constitution has established artificial barriers to the one man, one vote concept. On page 5 of the constitution of the Michigan AFL-CIO we find the first 2 restrictions. These restrictions deal with representation to the all important biennial convention. In setting up representation to the convention, it is stated that there shall be one delegate for the first 200 members, one additional delegate for the next 300 members and one additional delegate for each 800 members or major fraction thereof. It is evident that delegate 3, representing 800 members in the convention, is representing 4 times as many members as delegate 1, who represents only 200 members.

Restriction 2, resulting in a further deviation from the one man, one vote principle, is a clause that states "No delegate to the convention—"this is the Michigan state AFL-CIO convention—"No delegate to the convention can carry more than 1,000 votes." This is an obvious restriction against a large union dominating the convention. On page 14 of the constitution of the Michigan state AFL-CIO we find the final 3 restrictions that prevent a true one man, one vote representation. Here the makeup of the executive board is covered. One requirement—

MR. LESINSKI: Point of order, please.

MR. BLANDFORD: I thought maybe one of you would be up pretty quick.

CHAIRMAN HUTCHINSON: What is your point of order?

MR. LESINSKI: I think we are concerned with the Michigan constitution and not other types of constitutions.

MR. BLANDFORD: I think this ties in. It shows that apportionment is more than just apportionment of legislative bodies, Mr. Chairman. There is a history here that I think we all should be aware of.

MR. MARSHALL: Mr. Chairman.

CHAIRMAN HUTCHINSON: The Chair has received a point of order from Mr. Lesinski.

MR. MARSHALL: Mr. Chairman, advise Delegate Blandford to stick to the question before the body. If we want to go into other things, we will take the manufacturers association constitution, the lawyers, and so forth.

CHAIRMAN HUTCHINSON: Well, the Chair has received only one point of order at this time. Mr. Lesinski has raised the point of order that Mr. Blandford is not talking upon Committee Proposal 80. I think that there has been a considerable amount of illustration and expressions of philosophy, and everything else, in connection with this general debate. However, the Chair will admonish Mr. Blandford to restrict himself to the discussion of the apportionment of the senate, since the point of order is raised. The Chair thinks that it is only—in fact, it is necessary, in view of the time element, that we restrict ourselves to the subject, and will admonish the delegates accordingly.

MR. SNYDER: May I have a point of personal privilege, Mr. Chairman?

CHAIRMAN HUTCHINSON: It is out of order in committee of the whole. The Chair recognizes Mr. Blandford.

MR. BLANDFORD: I am admonished, Mr. Chairman.

MR. MARSHALL: Point of order.

CHAIRMAN HUTCHINSON: What is your point now?

MR. MARSHALL: The point that I want to make is we adopted a resolution where we operate in committee of the whole—the same rules that apply in the convention where applicable would apply in committee of the whole. Why would the point of personal privilege be out of order in light of the change of the rules?

CHAIRMAN HUTCHINSON: There have been no changes in the rules along that line, Mr. Marshall. The Chair has ruled that the order of personal privilege is not in order in the committee of the whole.

MR. MARSHALL: Will you put me on the list to speak, please?

MR. BLANDFORD: I have 3 other points, Mr. Chairman, that I probably won't cover. I won't say, for instance, that they have a requirement that 2 members of the executive board must reside in and represent affiliates of the upper peninsula. I won't mention that. But there are 2 others, also, but I am out of order, so I will just wind up by saying this: I hope my statements haven't embarrassed any delegate to this convention. They certainly were not meant to.

MR. DOWNS: Mr. Chairman.

CHAIRMAN HUTCHINSON: Pardon me, Mr. Blandford. For what purpose does Mr. Downs rise?

MR. DOWNS: I rise to make a motion.

CHAIRMAN HUTCHINSON: What is the motion?

MR. DOWNS: The motion is to permit Delegate Blandford to continue his discussion on the subject, and that other delegates have equal time to discuss the same subject.

CHAIRMAN HUTCHINSON: The Chair is afraid that such a course of action will lead us so far astray from the subject before us that we will never get back to it, and the Chair would request, unless you are very serious in the matter, that you might withdraw the motion. We cannot take the time, Mr. Downs, to permit this meandering.

MR. DOWNS: The only point I would like to make is that the question has been raised; I would rather answer it than leave it unanswered, but if the Chair feels it will facilitate the convention not to, I do withdraw the motion.

CHAIRMAN HUTCHINSON: Mr. Blandford, confine yourself to Committee Proposal 80.

MR. BLANDFORD: Mr. Chairman, I think that I have pretty well made my point. I just wanted to make the point that it is common practice among many groups, legislative, union or otherwise, to not follow the one man, one vote principle, and that many of them have restrictions built into their constitutions that deviate from this policy, and I am certain that the members of this convention recognize the fallacy of the one man, one vote approach, and certainly will heartily endorse the apportionment proposal recommended by the committee on legislative organization. We can continue this debate maybe some other time, some other place, in some union hall.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. William Hanna.

MR. DOWNS: Mr. Chairman—I am sorry. I will wait until the convention rises. I wanted to rise on personal privilege. Are you ruling that we can rise on personal privilege when the committee rises, on something that was brought up in the committee of the whole?

CHAIRMAN HUTCHINSON: You are right. Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, fellow delegates, Mr. Marshall asked some good questions, and I think some of them or all of them should be answered, if possible. He made a rather slurring remark that only a genuis could understand it. This proposal—and I am sorry that there are maybe 90 genuises in the convention and the rest are not, but it is not that complicated, and it is unfortunate that Mr. Marshall had 2 very heavy committees that burdened him to that extent. But, to answer his question, and because Mr. Marshall was not in committee, a good deal of the time, I will take the time to answer them, and they may be of interest to the other delegates.

His first question was: why wait until 1970 to put it into effect? There is no real good answer to this question. It was proposed by Dr. Pollock, and certainly he can give the rationale for this proposal to delay until 1970 the rearrangement of the senate; but suffice it to say that a majority of the committee went along with this idea in an effort to find a common meeting ground in readjusting and reworking the senate proposal.

Number 2, why were 19½ factors placed in the proposal? Since 1850 we have had the principle of moiety applied to the first representative. Many other constitutions contain a fractional proposal. This merely allows a major fraction to be applied in getting the second senator, and this was to place the counties of Kent, Genesee and Macomb in somewhat better position than they would have under the straight 13 factors. We could apply the rule of major fractions across the board, but we will have to enlarge the number of senators beyond the 40. We could go in either direction. And had Mr. Marshall been working with us on perfecting this, I am sure that this discrepancy, as he sees it, could have been ironed out in committee. There is no attempt, Mr. Marshall, to equate acreage with human beings, any more than moiety equates that, any more than the minority proposal equates that, and all legislative proposals under any device end up with some equation of distance and sparsity versus people. There is none that does not take this equation into cognizance unless and until you completely vitiate county lines and ignore them.

I have answered the question of Mr. Downs of the relationship of 10 to 16 and 75 to 125. There are future amendments on the 75-125, but suffice it to say that our testimony seemed to say that if you want to stick—within a county—to city, township or ward lines such a discrepancy is necessary.

Mr. Marshall, however, you made a mathematical computation which illustrates your lack of reading or understanding the majority proposal, because you said it was possible to have 7.8 per cent. The 75 applied to 13 gives me 9.75. I will be glad to show you your mathematical miscalculation or the misreading of the proposal, but suffice it to say to the delegates that if you multiply 13 by 75 I assure you that you will get 9.75 and not 7.8, and this 75 to 125 applies only in those counties having 2 or more senators, and therefore it is impossible to multiply 10 by 75, as Mr. Marshall has done. I think you will have to read all of page 2 and not just parts of it.

Now, one other point made by both Mr. Marshall and Mr. Downs was that the proposals are not based upon population. If you will take the minority proposal and the majority proposal concerning the house of representatives, in both cases 47 per cent of the people of the state of Michigan can elect the majority of the house of representatives. Now, if you apply the senate, the area is given different consideration. Area is given consideration in the majority proposal because of the difficulty in traveling from one place to another in large areas. The minority proposal purports to take care of area, but would have the person running from the Ottawa county district traveling all the way to Midland in his campaign. I submit to both Mr. Marshall, Mr. Downs and Mr. Faxon that I can go up a 25 story elevator in less time than I can drive from Holland, Michigan, to Midland, Michigan, and effectively campaign.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I speak in opposition of the minority report. I just had a very short discussion with our learned Dr. Hannah here. He asked me to yield. I thought that I could not; I felt there were some issues raised here that were so important that I had to stand up and be counted. I only deeply regret, ladies and gentlemen of this committee—

MR. PLANK: Point of order, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Plank.

MR. PLANK: Delegate Snyder said he is talking on the minority report, and I would just like to bring it to the attention of the Chair that the minority report has already been passed on.

MR. SNYDER: Excuse me. I speak on the majority report. I thank you very much for correcting me, Mr. Plank. I am probably a little bit more emotionally involved than I should be. I only deeply regret a large portion of the school children left after having heard Mr. Blandford's remarks. I feel that there should be some explanation given. He used his remarks to support his position on a majority report. I will say this: that he missed me in his remarks. I am also a member of organized labor. I have very proudly held this office for many, many years. In 1934 was my first participation with the union. It has been a very wonderful thing, and I will say that the delegates to this convention, with very few exceptions, have been very understanding; they have been very sympathetic; they have felt that with the 57 attorneys, the housewives, the educators, that we from organized labor also had an opportunity and should have an opportunity and have an equity in the constitution. I certainly appreciate this.

Now in regard to one of the points that was brought up in computing the one man, one vote to the convention representation, let me say this: that I feel that my organization that I represent personifies the one man, one vote. Having sat as a member of our convention for a good many years, in computing the delegate strength, I am very cognizant of how this is done. We carry to our convention a weighted vote such as the good Dr. Nord here presented. We select our delegates based on a formula. They in turn are allocated a per capita strength using almost the same and identical formula that was developed in the minority report.

I know it is very difficult for you people sometimes to evaluate our participation here. I know that when we speak of this one man, one vote you may think we are not sincere. Let me assure you that we are sincere. Mr. Blandford, may I say, in all respect to you, I think you are a man of honor and a man of integrity. However, if you have some argument, do not use the approach that you do not permit the proper defense; that you say a word and let it go into the air and fall elsewhere. We all have an opportunity. I would be more than glad to make our constitution available to you, Mr. Blandford, to show you the democratic ideals of our organization. I see you do have a copy. Thank you very much.

Thank you very much. It is very difficult to express these words at this time. I certainly appreciate the opportunity, and Dr. Hannah, I am very sorry I couldn't follow your suggestion to pass this one up.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Marshall.

MR. MARSHALL: I will pass at this time because I want to rise on a point of personal privilege when the committee rises.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, we started consideration of Committee Proposal 80 Monday evening, and we have now spent all of Monday from 6:30 until 10:30, yesterday morning from 9:00 until 11:30 and the afternoon from 1:30 until 5:30, and more than 2 hours this morning, and we have not yet reached the point where we are giving consideration to this proposal section by section.

I have great respect for the minority members of this committee, Mr. Downs, Miss Hart, Mr. Marshall, Mr. Hodges, and all the rest of them. But we certainly have reached the point where we have had a great deal said on both sides that has little to do with the issues before us, and I recognize that under ordinary procedure of general orders we have unlimited discussion, letting everyone talk as long as he wants to and as often as he wants to, but I came to this convention this morning hoping we might finish consideration of Committee Proposal 80 before we finish our work this evening.

I call to your minds that we meet this morning, this afternoon and this evening according to the schedule. We could go on indefinitely with the kind of discussion we had this morning and not be much further ahead at 11:00 o'clock tonight than we are now. I would appreciate it greatly if this committee would go along with me in approving a motion that I am going to make, and that is that we agree that we have had ample discussion of 80 in its entirety, and that we now proceed to the consideration of the amendments to section a, and then take up the subsequent sections. Mr. Chairman, that is a motion.

CHAIRMAN HUTCHINSON: Mr. Hannah moves that the committee of the whole now proceed to consideration of the amendments to section a. All those in favor will say aye. Opposed will say no.

The motion prevails, and the secretary will read the amendment.

MR. LEIBRAND: Mr. Chairman.

CHAIRMAN HUTCHINSON: Judge Leibrand.

MR. LEIBRAND: May I inquire the number of amendments on the desk and the order in which they will be presented?

CHAIRMAN HUTCHINSON: The secretary will respond.

SECRETARY CHASE: We have at the present time 14 amendments to section a, and the usual procedure is to take them in the sequence in which they appear in the section.

MR. MARSHALL: Point of order.

CHAIRMAN HUTCHINSON: What is the point, Mr. Marshall?

MR. MARSHALL: I want to make it clear I do not object to proceeding as Dr. Hannah suggested, but for the record I believe that motion would be out of order, would it not?

CHAIRMAN HUTCHINSON: No, it would not. The committee of the whole has within its power to direct its own course of action.

MR. MARSHALL: If it has the effect of cutting off debate would it be in order?

CHAIRMAN HUTCHINSON: It has this effect: that general debate upon the proposal has now been cut off until after the amendments have all been considered.

MR. MARSHALL: Well, I still think, Mr. Chairman that under our rules that in committee of the whole a motion that would limit or cut off debate is not in order.

CHAIRMAN HUTCHINSON: The committee of the whole has it within its power to direct its course of action, and the Chair so rules.

SECRETARY CHASE: The first amendment to section a, offered by Mr. Pollock:

1. Amend page 1, line 21, after "state's" by inserting "land".

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I believe the committee agrees that what they are figuring in their figures is land area, and this is not clear to me even though they explained that they used the census figures. My amendment is merely to insert the word "land" in front of "area" so that we are not representing submerged land, waters of the state; of which there are some 40,000 acres.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. Chairman, on behalf of the committee, I am sure that the committee did discuss this, and if Dr. Pollock feels more assured, I am sure that there is no objection to adding the word "land" after "state."

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

The Chair has been requested by the secretary to state to the delegates that there is, at times, so much noise on the floor that the court reporter has difficulty in taking the testimony. So please be governed accordingly. The secretary will read the next amendment.

MR. KNIRK: Mr. Chairman, may I ask, do you have these in order, Mr. Secretary?

SECRETARY CHASE: Yes. The next amendment on file is offered by Dr. Pollock:

1. Amend page 2, by striking out all of lines 7, 8 and 9 and inserting "and one additional seat for any remainder of 7 or more apportionment factors."; so that the language will read:

> First: counties with 13 or more apportionment factors shall be entitled to one senatorial district for each 13 apportionment factors and one additional seat for any remainder of 7 or more apportionment factors.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, the language which I have proposed be stricken was obviously intended, as I explained last evening, to insure 2 seats for Kent and Genesee counties. Under the 1960 population Kent would have 20.05 apportionment factors and Genesee would have 22.47. Under the projections of the 1970 population Kent would have 20.49 and Genesee 22.47.

In view of the fact that districts composed of less populous counties need a minimum of only 10 factors per seat, in many cases derived mostly from the area component of the apportionment formula, it certainly seems equitable to make it possible for Kent and Genesee to have 2 seats each. However, the proposed language has the following weakness—the committee language—it would violate the minimum standard of 10 factors per district. It also works a particular hardship on Macomb and Oakland counties in that while it would be easy for any large county to qualify for 2 seats, that is 19½ factors, it would require 39 factors to qualify for a third seat. A difference of 18½ factors between the second and the third seats, and 13 for the difference between 3 and 4 seats, because, under their formula, 52 factors would be required for 4 seats.

Let me give you a specific example. One projection of the 1970 population, assuming continuance of 1950-60 trends, would produce the following results under the committee proposal: Kent with 445,000 population in 1970, apportionment factor 20.49, 2 seats; population per seat, 227,000. Genesee, 511,000, 1970 population, apportionment factors 22.47, 2 seats; population per seat 255,000. Macomb county, 1970 population, 889,000, 37.99 apportionment factors, 2 seats; 444,000 per seat. Oakland with 1,198,000, 1970, with 51.62 seats, only 3—51.62 apportionment factors with 3 seats; a population per seat of 399,000.

This is clearly inequitable. Under the amendment that I have proposed, Macomb and Oakland would each get an additional seat. The amendment would accomplish the objectives of the committee with regard to Kent and Genesee, and it still would be equitable to Macomb and Oakland, as well. It should be noted that granting the additional seat for any remainder of 7 or more will in no case allow a county to have an average of less than 10 factors a seat. Two seats would require 20, 3 require 33, 4 seats, 46, and so on. Therefore, I consider this just a perfecting amendment. I don't believe it was the intent of the committee to discriminate against Macomb and Oakland, but under the present formula it takes care of Kent and Genesee without taking care of Macomb.

I understand that there are some differences between my figures and those of the committee. Experts occasionally disagree, and it has to do with projection of population. I have no objection if I understand the committee is interested in substituting 6.5 for 7, because under their calculations I believe 6.5 would be necessary to take care of Kent county.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Knirk.

MR. KNIRK: Mr. Chairman, we did consider this in committee, and after considerable deliberation, discussion, the committee preferred the language which you have before you in the committee proposal, and so I would have to suggest that you not concur with the particular amendment.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I should like to address a question to Mr. Knirk. Mr. Knirk, is it my understanding that any county, when it attains 19½ apportionment factors is entitled to 2 senators?

MR. KNIRK: That is correct.

MR. KING: How many apportionment factors would it require for a county to attain the third seat? Dr. Pollock suggested 39. Do you agree?

MR. KNIRK: Thirty-nine.

MR. KING: The fourth seat then would be 39 and 13, is that right?

MR. KNIRK: Correct.

MR. KING: Thank you.

I have an amendment in on this same section, but I am moved to first consider very carefully Dr. Pollock's amendment here. Judge Dehnke, quoting from the Baker vs. Carr Tennessee decision speaks of invidious discrimination. Being one of those delegates who is sometimes forced to look in a dictionary for definition of words that he is not sure of, I consulted my good friend Webster to find out what invidious meant, and I find that it means exciting envy. I would be hopeful that my fellow delegates would not feel that Oakland county, which is larger in area and nearly twice as large in population, is envious because it only has ½ as many senators as Kent county. However, I will not at this time deny the charge. Judge Dehnke, quoting from Justice Clark on page 4, who in turn was quoting McGowan vs. Maryland as follows: "Statutory discrimination will not be satisfied if any state of facts reasonable may be construed to justify it." Now, I have looked for a reasonable state of facts to justify this and I can't find it. For that reason I will support Dr. Pollock's amendment.

CHAIRMAN HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I rise in support of the principle of the Pollock amendment without condoning the whole section to which it is directed, and since Mr. King mentioned the definition of invidious, as quoted by Justice Brennan, I believe, in Judge Dehnke's remarks yesterday, I think the secondary meaning of invidious is creating ill will, and certainly subsection 1, to my mind, creates ill will, and is therefore invidious—but that's in passing. If the factor was 6.5 instead of 7, I think for the sake of the internal consistency of the section that you have offered—although I will not agree with the section in toto and will not vote for it—you would be much better off in that you would have a logicality that would be more explainable in case of any future controversy, which I am sure will arise in setting the basic tenets of this section. After all, 19½ is 6½ more than 13, and 6½ is ½ of 13, and therefore you will have a consistency which will not inure to the benefit of Wayne county but will inure to the benefit of those outstate counties which are growing—and I refer specifically to Genesee, and so on.

If we are going to make at the outset an illogical and arbitrary exception in the case of Kent, then in order to be consistent, I think we should do the same with the other counties that are growing in the outstate area. I would therefore amend, or, if it is acceptable to Dr. Pollock, suggest that he accept the amendment of 6.5 in lieu of 7. May I ask Dr. Pollock if that is acceptable to him, sir?

MR. POLLOCK: I am sorry. Will you repeat your question?

MR. T. S. BROWN: I was asking if you would accept the figure 6.5 instead of 7 in your amendment.

MR. POLLOCK: Yes, I will.

SECRETARY CHASE: Mr. Pollock revises his amendment to read as follows:

1. Amend page 2, by striking out all of lines 7, 8 and 9 and inserting "and one additional seat for any remainder of 6.5 or more apportionment factors.".

May the secretary interrupt at this point to state that the sheet of amendments that was just recently passed out by the pages is the corrected sheet in accordance with some corrections made by Dr. Pollock in his amendments, and that should be used in considering the amendments from now on.

CHAIRMAN HUTCHINSON: On Dr. Pollock's amendment, the Chair recognizes Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, fellow delegates, Dr. Pollock is now applying to those counties having 13 or more apportionment factors the rule of major fractions. I merely want to point out that if the committee adopts this major fraction—and we had both sides in our committee—that then the first part dealing with the size of the senate will be out of whack. If you adopt this we will have to increase the maximum size of the senate to somewhere around 42 members for this reason: looking at the demographer's predictions in Michigan, those counties which might well have major fractions are Kalamazoo, Ingham, Saginaw, Kent, Genesee, Macomb, Oakland and Wayne, and if we are to give each one of those a major fraction, and then attempt to get the rest of the state in districts as nearly 13 as possible, we will have difficulty in doing it with the number 40. And I will withhold any amendment to change the number of senators, having passed over that line, until the committee acts on this.

There is another way out of this dilemma, for which I have language prepared, and I have discussed it with Dr. Pollock; but I think the explanation should be made, and if it is the desire of this committee to give one additional senator for each 13 points or major fraction thereof, this can be done, but there will need to be a material change either in the number of senators or in the method of allocating the surplus senators to those counties having over 13 apportionment factors. I merely ask the delegates to keep this in mind.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, the points that I had in mind have been made. I merely, therefore, will say that I believe Dr. Pollock's position is well taken and ought to be supported.

CHAIRMAN HUTCHINSON: Dr. John Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, as chairman of the committee, I think that the suggestion made by Dr. Pollock is an improvement. It will have the effect of making it perfectly precise. Since it is agreeable to the delegation from Kent county that are most concerned, I suggest that the committee go along with the amendment as proposed by Dr. Pollock, and with the understanding that we will ask the committee staff and the staff of the convention to restudy during the day, and before we finish consideration of Committee Proposal 80, if it appears that this eventually, or might eventually, require an additional senate seat, we will have an appropriate amendment to cover that item. I suggest that we go along with the amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. All those in favor say aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: May the secretary now inquire of Mr. King and Mrs. Cushman as to the amendment that they have on file to strike out all of lines 7, 8 and 9?

MR. KING: Mr. Secretary, under the circumstances I am willing to withdraw, and I would suggest you ask Mrs. Cushman.

MRS. CUSHMAN: I will withdraw the amendment.

SECRETARY CHASE: The amendment is withdrawn. Mr. Hodges—

MR. POLLOCK: I have another amendment, or is there one before mine?

SECRETARY CHASE: Mr. Hodges had one with this same language.

MR. POLLOCK: You mean the 7, 8 and 9, Mr. Secretary?

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman, mine is merely a clarifying amendment, and I think if—well, I would like to have it read, and if Dr. Pollock would want it withdrawn I would go with his request on it.

SECRETARY CHASE: Mr. Hodges' amendment is:

1. Amend page 2 by striking out all of lines 7, 8 and 9 and inserting "except that Kent county shall always have 2 senators.".

MR. HODGES: Mr. Chairman, this is obviously for the reason that we have talked about school children and others reading the constitution, and certainly if this is the intent and purpose of this language, I think we should clarify it and spell out exactly what we mean.

MR. POLLOCK: Mr. Chairman, since we have already taken care of this with my amendment, I think, if Mr. Hodges would—

MR. HODGES: Did your amendment pass?

MR. POLLOCK: Yes.

MR. HODGES: I will withdraw mine.

SECRETARY CHASE: Mr. Hodges withdraws his amendment.

Mr. Pollock offers the following amendment:

1. Amend page 2, line 11, after "shall" by inserting "thereafter"; and in line 13, by striking out "rectangular" and inserting "regular"; so that the language will then read:

> Second: the remaining counties of the state shall thereafter be arranged into senatorial districts that are compact, contiguous by land and as regular in shape as possible. . . .

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, these 2 little words, I think, are important. I think the word "thereafter" is needed to make it clear that the allocation of seats to counties with at least 13 apportionment factors shall be the first step in the reapportionment process, and shall take priority over the subsequent allocation of seats to other districts. If this is not done, a situation could arise where because of a large number of districts clustering around the minimum of 10 apportionment factors, it would not be possible to allocate one seat to a larger county for each 13 factors or major fraction thereof. And since the more populous counties are already disadvantaged by the area representation formula and by the fact that smaller population districts can be formed with as little as 10 factors, while 13 are required in the larger counties, it is to be hoped that the metropolitan counties can at least be assured of their entitlement under the committee's first rule which is in lines 4 to 9. I therefore move the insertion of the word "thereafter."

In the second part the second word, "rectangular," I don't feel strongly about this, but I think my proposed language is better. The word "rectangular" I think is of doubtful value. The intent is presumably to avoid a misshapen district that sometimes results from gerrymandering. However, a district need not be rectangular to be well and fairly constructed. A rectangle, if I remember correctly, is a right angle parallelogram. So long as it has 4 right angles it can take on a wide variety of appearances. A corridor 10 feet wide and 300 miles long would be a rectangle, but it would hardly be a model for a representative district. On the other hand, in many instances some other geometrical figure would produce an excellent legislative district. For example, Berrien, Cass and Van Buren counties together form a rough trapezoid. My amendment simply would avoid the pitfalls of geometry, while accomplishing the laudable purposes of the committee. I have those 2 different words, then, that I propose to be inserted in the proper place.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: I would like to say to the convention delegates that I would like to have this question divided, because we did consider both of these words individually, and we felt that in the case of "thereafter" that could be inserted, and we would have no objections. However, when it comes to replacing the word "rectangular" with "regular" we do object to that for the simple fact that in our description we have said that the districts must be compact, they must be contiguous by land, and I do not believe that it would be humanly possible to gerrymander or to construct a district a mile wide and 500 miles long if you are talking about compactness. Therefore, the committee would oppose the second word, but would have no objection to the first word. Therefore I would like to have the question divided.

CHAIRMAN HUTCHINSON: The question is divided, and the question first is upon the insertion of the word "thereafter." The Chair recognizes Mr. Buback on that part of the amendment.

MR. BUBACK: Mr. Chairman, I want to talk about the rectangular phase of this amendment.

CHAIRMAN HUTCHINSON: You want to wait until we dispose of the first amendment, which is to add the word "thereafter." All those in favor of the amendment to add the word "thereafter" will say aye. Opposed will say no.

The amendment is adopted. The question now is upon the substitution of the word "regular" for the word "rectangular." The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: If we are going to have debate on this word, Mr. Chairman, I move that the committee do now rise.

CHAIRMAN HUTCHINSON: Dr. Hannah moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails. The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The convention will please be in order. The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80**, has considered several amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I ask unanimous consent of the convention to make a statement not exceeding 3 minutes relative to some of the discussion in the committee of the whole.

PRESIDENT NISBET: Any objection? If not, Mr. Downs, you may proceed.

MR. DOWNS: Mr. President, what I would like to say, very briefly, is the matter raised about representation in certain union conventions. The system that is very commonly used is to have the delegate elected and then vote the number of people that he represents determined on a definite mathematical formula. Delegate Snyder referred to his own international where the regional directors are elected on an area basis, but their votes as regional directors are on the basis of the per capita paying members at the last count. The Michigan AFL-CIO also uses the weighted vote so that the delegate to the convention votes the number of people that are represented. This is a practice not only in labor organizations, but I believe in many veterans organizations, and others use it to solve the practical problem of election, but seeing that the person votes the actual number that are represented. If a delegate wants to cosponsor such an amendment to our constitution to follow that same system I would be very glad to join him. (applause)

SECRETARY CHASE: The delegates are asked to check their mailboxes at the noon hour.

PRESIDENT NISBET: The Chair recognizes Mr. Upton.

MR. UPTON: Mr. President, having been thoroughly forewarned, I move that the convention recess until 1:30 this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. Upton. Those in favor say aye. Those opposed, no.

We are recessed until 1:30.

[Whereupon, at 11:35 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into a committee of the whole for the further consideration of Committee Proposal 80 on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee has under consideration **Committee Proposal 80,** specifically amendments to section a thereof. The committee has before it a particular amendment which the secretary will read.

SECRETARY CHASE: This is an amendment to page 2, line 13, by Dr. Pollock:

1. Amend page 2, line 13, by striking out "rectangular" and inserting "regular"; so that the language will then read, "the remaining counties of the state shall thereafter be arranged into senatorial districts that are compact, contiguous by land and as regular in shape as possible. . . ."

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mr. Buback.

MR. BUBACK: Mr. Chairman, ladies and gentlemen of the committee, I rise to support the amendment of Dr. Pollock relative to striking out the word "rectangular" and inserting the word "regular" in page 2 of line 13 of Committee Proposal 80. I do this for the simple reason that it does create quite a problem in Wayne county. In Wayne county we have 6 congressional districts, we have 7 senatorial districts—

CHAIRMAN HUTCHINSON: For what purpose does the gentleman rise, Mr. Hanna?

MR. W. F. HANNA: Mr. Buback, I don't want to appear rude. We have "regular" in 2 places. Here in line 13 the "rectangular, regular" has nothing to do with Wayne county. The rectangular and regular difference comes in line 3, page 3.

MR. BUBACK: I stand corrected. Am I in order to speak also on that?

CHAIRMAN HUTCHINSON: Well, the Chair would hold that the particular amendment has to do with the amendment on page 2, line 13. Does Dr. Pollock intend to offer a similar amendment on the next page?

MR. POLLOCK: Yes. I have it prepared.

MR. BUBACK: I would be glad to wait, Mr. Chairman. I am in error.

CHAIRMAN HUTCHINSON: Perhaps you should, Mr. Buback. The question is upon the amendment offered by Mr. Pollock. Mr. Knirk.

MR. KNIRK: Mr. Chairman and delegates, we vigorously oppose the change of this word from "rectangular" to "regular" and I think that it is very obvious that we believe that the word "rectangular" is explained in detail when you use the entire sentence ". . . be compact, contiguous," and so forth. So therefore I urge you to turn down the amendment.

CHAIRMAN HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: I wonder if I might address some questions to Mr. Knirk through the Chair, please?

CHAIRMAN HUTCHINSON: You may proceed.

MR. T. S. BROWN: Mr. Knirk, you mentioned this morning that the committee decided that "rectangular" was the proper word, and yet you didn't give us any reasons for it, and I understand that the terminology that we are now considering on line 13 applies only to those outcounty areas which would not have at least one senatorial seat on the basis of population alone. But it seems to me in just looking at the map of the state, in which we have direct north and south lines upon which our counties are based, and we don't seem to have any propensity toward lineology east or west or north and south, that the most logical shape would be somewhat of a square, at least, and I don't see any real reason why you must get into the geometric certainty of a rectangular district. Do you have any specific reason for that word?

MR. KNIRK: I am only taking the position, as you know, Ted, of the committee. I would like to yield to Bill Hanna. He has made this very explicit in his remarks before the committee. Bill, would you like to say a word on this?

CHAIRMAN HUTCHINSON: Mr. Brown yields to Mr. Hanna to answer a question.

MR. W. F. HANNA: Mr. Chairman, Mr. Brown and members of the committee, first we were searching for a word that would cut down, as much as possible, the possibility of gerrymandering by creating districts by merely touching the points of corners of counties, and so forth. Rectangular expresses to us a shape as square as possible, and we have said rectangular in shape as possible, so that you don't have a series of diamond connected areas. The word "regular" has no meaning. As far as that, you could have a regular series of diamonds, a regular series of circles; but rectangular in shape has a definite connotation.

Now, if you follow the survey lines of our counties, in general they follow their north and south lines, are parallel except as the lake interferes, and I recognize, Mr. Brown, as do all people, that to have it truly square in shape or truly rectangular, we would have to complex the state of Michigan. But to the extent possible is the language used. Rectangular in shape as possible is an effort in the outstate areas to have gerrymandering reduced to a minimum, and it has to be taken in context with compact, contiguous by land and rectangular in shape. And in my opinion, and in the opinion of the committee, "rectangular" in shape had more meaning than "regular."

CHAIRMAN HUTCHINSON: Mr. Brown.

MR. T. S. BROWN: Mr. Chairman, Mr. Hanna, it seems to me that you have already indicated that your intent and purpose was to have the districts as nearly square as possible.

MR. W. F. HANNA: No, sir.

MR. T. S. BROWN: Didn't you just say that?

MR. W. F. HANNA: As nearly rectangular as possible.

MR. T. S. BROWN: Well, in describing why you came up with the word "rectangular" you said you wanted to get them as square as possible, and that is why you used the word "rectangular," if I am correct in your remarks.

MR. W. F. HANNA: Mr. Chairman, Mr. Brown, if I did I misquoted myself.

MR. T. S. BROWN: Then I should like to speak on the Pollock amendment, sir. It seems to me that the word "regular" has a connotation, if you will excuse a military analogy, which means that the individual—in the military, of course, the soldier, in this case the individual district has the least total variation from the whole. In other words, there is a certain uniformity. If something is regular it is uniform; considered in the mass. And a logical shape for the outcounty districts would probably be more of a square than anything else because of the fact that our county lines and meridians, and such, go directly north and south and directly east and west except as they are interfered with by natural boundaries.

Now, it would seem to me that to be regular would mean that the logical shape, if a topographer were to simply be laying out these districts, and not a politician, the most logical and ordinary consequential shape he would come up with would be something like a square because of the fact that we are sticking to county lines which give you the right angles. Now, I don't see any real reason why you would say rectangular unless you had some predisposition to run those districts in a certain way, either north or south, east and west, and because I am not acquainted with the particular problems in the outstate districts, in how they could be worked out in different combinations, I suggest that there must be some reason which at this point has not been explained to me, and I would therefore support the Pollock amendment.

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: I was wondering if Mr. Hanna would explain to me the shape of some of the districts on the map which he provided us with here? How many of them would he call rectangular; particularly this Clinton-Eaton-Shiawassee district?

MR. W. F. HANNA: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: To that which Dr. Pollock refers, I deny all authorship. I had nothing to do with that map. It does not meet my definition of rectangular.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. Mr. King.

MR. KING: Mr. Chairman, I would like to address a question to Delegate William Hanna, if I might.

CHAIRMAN HUTCHINSON: You may proceed.

MR. KING: Delegate Hanna, it is my understanding that a rectangle is a right angle parallelogram which would have four 90 degree angles. Now, it would seem to me that the ideal situation—and this is where I seem to have lost the trend of thought, apparently. I realize we are not striving for a rectangle because this is going to really happen. It says as nearly rectangular in shape as possible—but wouldn't a square be a more suitable objective to strive for? My understanding of a rectangle would favor a horizontal discrepancy relative to the vertical, whereas the square, of course, would not favor such a discrepancy, and would strive for an equality between the height and width, if you may.

MR. W. F. HANNA: Mr. Chairman, Mr. King, I want to call your attention to counties like Macomb, Kent, Newaygo, Oakland, all of which make it impossible to start out even talking about squares. A rectangle is a parallelogram with 90 degree angles, but then, "in shape as possible" I assume we can deviate to 89 degrees, 30 minutes, if we have to. I realize we did not say perfectly rectangular, but it does express that the senatorial districts will be—it keeps the theory of compactness in that 2 counties, one on top of the other, are more rectangular than 2 counties joining only at the tips of the southeast and northwest corners. That is the intent that we intend to convey.

MR. KING: Mr. Chairman, Mr. Hanna, I understand that. I understand that this is only an objective; that this is going to be achieved in but very few, if any, circumstances. However, my point is that I am trying to find out whether you are striving for a discrepancy between the horizontal and the vertical, or whether you are not striving for that discrepancy. If you are not striving for such a discrepancy, then very obviously you should use the word "square" and not "rectangular."

MR. W. F. HANNA: Mr. Chairman, Mr. King, I have no real objective here to have a horizontal rectangular shape or a vertical rectangular shape. Either would be acceptable if it is compact and contiguous.

MR. KING: Well, Mr. Chairman, Mr. Hanna, you are missing my point, I am afraid. I shan't belabor it beyond this. It seems obvious to me that what we are striving to do here is to get something which is as nearly square as possible; that we are not striving to favor a discrepancy between the height and the width, and the difference between square and rectangular in this context is exactly that. We would be telling the courts and the world forevermore that this is what we are striving for, and I don't frankly understand it, and I still don't. Thank you.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I am kind of puzzled that anyone can really be vehement about this question one way or another. I don't believe Mr. Pollock is vehement, and I am surprised that any member of the committee could be extremely vehement one way or another.

As far as I can make out, the matter stands this way: regular, as far as I know, merely means that it is not some arbitrary shape; that it is any shape that has got some rhyme or reason to it. Rectangular, of course, means a specific type of nonarbitrary shape, and, as a matter of fact, the limitation to rectangular as distinguished from the broader term regular means it is an arbitrary type of regular. Therefore, it is an arbitrary limitation on the word "regular" and since the only object of the word regular is to make sure it is nonarbitrary, I see no particular advantage—there is no advantage that I know of—in the word "rectangular." I would just simply point out one other thing: square, as has been pointed out by Mr. King, is more compact than rectangular, and further, circular is more compact than square. The most compact thing there is is a circle. Therefore, I believe we are about to get into a circular argument which is not worth while getting into.

I believe all we really care about is it should be as compact as possible, and I believe that there is no need to add any word except "compact." I think that you have a little broader term when you use Dr. Pollock's term "regular." It seems to me it means only one thing: nonarbitrary in shape and compact. I therefore support the Pollock amendment.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I should only reiterate the point that has been made by Mr. Knirk. This is a word that received a great deal of discussion in the committee when it was first included in the recommendation, and then after Dr. Pollock presented his proposed amendments to the committee, it again was thoroughly discussed, and after a lot of time it was decided that "rectangular" suited more people than any other word. I therefore suggest that we vote down the Pollock amendment and proceed with our business.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: I will pass. He said exactly what I intended to say.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock to substitute the word "regular" for "rectangular." All those in favor will say aye. Opposed, no. The amendment—

DELEGATES: Division.

CHAIRMAN HUTCHINSON: A division is demanded. Is the demand supported? The demand is supported. All those in favor will vote aye. Those opposed will vote no. For what purpose does the gentleman rise, Mr. Madar?

MR. MADAR: I believe that under the new rules now in the committee of the whole we may ask for a record roll call vote.

CHAIRMAN HUTCHINSON: Are you demanding the yeas and nays?

MR. MADAR: I am, sir.

CHAIRMAN HUTCHINSON: Mr. Madar demands the yeas and nays. Is the demand supported? Not a sufficient number up; 14 is not a sufficient number. The question is upon a division. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment of Dr. Pollock to change the word "rectangular" to "regular" the yeas are 49; the nays are 70.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend page 2, line 14, after "factors" by changing the comma to a period and striking out all of line 15; so that the language will then read:

> Second: the remaining counties of the state shall thereafter be arranged into senatorial districts that are compact, contiguous by land and as rectangular in shape as possible, having as nearly as possible 13 apportionment factors.

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman and fellow delegates, I offer this amendment which deletes the range of 10 to 16 factors in this particular proposal. Now, my reason for deletion is, in the first place, I am afraid that any range such as this would tend to become a standard rather than a limit. In the second place, I don't think this works, at least according to the committee's projection as shown on their own map which they gave us. You will notice that this 10 to 16—in all probability you will find a great many districts that are very close to the 10 factors. What this means, actually, then, is that you are going to be counting areas twice.

Now, I favored consideration of area in the senate, but it seems to me if you are going to count area, let's count it as we already have in our apportionment factors. We've got a 20 per cent consideration of area in that apportionment factor. What we are doing here, then—and the map that the committee has given us bears this out—we are counting area the second time, and I want to point out that this is not being either fair with ourselves or with the people of the state of Michigan.

The second reason, as I say, is that it doesn't really work according to the committee's projection that they have given us. They have 2 districts in the thumb area here which are under 10. Now, this raises questions in our minds. Is the committee being honest in saying that these are the limits that they are going to stick to? If so, why did they show us as a projection 2 districts under 10? They are showing us, as an example, something that under their own words is unconstitutional. We can only assume, then, that they are doing the best job they can, and that they couldn't come any closer than this to the limits of 10 to 16. If this is true, it is obvious that this is an unworkable thing, and I think this is the danger that you are always going to run into if you put a specific number in here such as 10 to 16.

I feel that we have a standard very clearly outlined, and our standard, as modified in our work this morning, is 13 factors for your first senator, and I think that this is a standard that we can stick to as an average. I think that you may only run yourselves into a great deal of difficulty which is needless in putting a range in there that in many cases you may not be able to adhere to; if you do adhere to it, it may really get you into more trouble than you would if you had no such standard in there, but merely stuck to our own 13 apportionment factors. Thank you.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Knirk.

MR. KNIRK: Mr. Chairman and delegates, and Delegate Cushman particularly, I think if you will go back to the statements that were made yesterday by myself, that I very definitely indicated and—in your green book that was presented to each one of you, you will note the 2 districts of 20 and 34 in the thumb area—I brought out very vividly and very plainly that they were questionable and, based upon the Consumer Power projection for 1970, those 2 districts would fall short of the 10 to 16. Therefore, I indicated at that time that I had another map which you do not have in your book—and I again would like to reiterate the point that maps can draw more heat than light—and pointed out that on this other map I have included Bay in the Tuscola and Huron district, which is your district 20, and then have added Sanilac to Lapeer and St. Clair. That changes those factors considerably. By doing so we take one senate district out of the center of the state, which I believe is known as district 24 and, of course, that increases the size of the nearby districts; particularly 28 and 25.

Now, we of the committee felt very definitely in our entire deliberations that we do have to have a range, we have to be practical, and we felt that the 10 to 16, which is 3 each side of the 13, did give a range and it did give a standard to those people who would have the task, say 10 years from now, of redistricting the state. I think it is very clear, very plain, and I certainly would urge the delegates here to turn down the amendment that has been offered by Mrs. Cushman.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mrs. Cushman. Mr. Nord.

MR. NORD: Mr. Chairman, I haven't seen this amendment before, but from what I gather, what is intended is, if I am not mistaken, to strike out all of line 15. Yes, that is right. Now, this seems to me to be an improvement, a slight improvement on the committee proposal. Of course, it is not a great matter one way or the other. But I believe that on the whole it's got some advantage for this reason: if you leave out that line "but in no event less than 10 or more than 16," what you are left with is as nearly as possible 13. In other words, you have an expression something like this: as nearly equal as may be. That is what it boils down to. Now, if you are distributing on any basis, whether it is population or area, or apportionment factors, and you wish to distribute as nearly equal as possible, it seems to me that the easiest way to make sure that that happens is to say as nearly equal as possible, period. I realize that is not the only way to do it, but it seems to me to be the best.

I also believe that Mrs. Cushman's point is well taken that if you state some limit, such as 10, on the one side and 16 on the other, it tends to suggest that 10 would be satisfactory. It seems to me that is an unnecessary thing to do, especially when you are adhering to county lines. It might be quite easy to come up with 10. I think the situation would be different if you were not adhering to county lines, and I think there the picture is somewhat different. When you are adhering to county lines, you may have a tendency to come up with 10 more often than you should, more often than you would if you stuck to the words, "as nearly as possible." Therefore, I believe that the best way to leave this would simply be with the words "as nearly as possible." I therefore favor the Cushman amendment.

CHAIRMAN HUTCHINSON: Mr. John Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, I do not want to shut off debate or discussion, but this is a matter that had considerable consideration by the committee, and I recommend that the amendment offered by Mrs. Cushman be voted down, not be concurred in.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mrs. Cushman. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Dr. Pollock offers the following amendment:

1. Amend page 2, line 18, after "changed" by striking out "unless there shall be a failure to comply with the above standards.", and inserting "except to comply with the standards of compactness, contiguity by land, regularity of shape, and the

closest possible approach to 13 apportionment factors per district.".

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, members of the committee, this amendment, I think, is needed to remove a possible ambiguity in the proposed language. I think the intent of the committee is to prevent promiscuous reshuffling of districts that are in compliance with the stated requirements. Clearly, however, it will sometimes be desirable to alter 2 districts in order to remedy the defects in one. But the committee language could be interpreted to mean that unless a given district is itself defective it shall not be changed. If so interpreted, the effect would be to make it impossible to remedy defects in a district because the adjacent district or districts exhibited no such failure.

Finally, the restatement of the standards, I think, is advisable to emphasize that all standards are to be taken into account in deciding whether an existing district should be retained. Unless it is done, there seems to be a likelihood that any district capable of retaining 10 apportionment factors will in fact become frozen. Suppose, for instance, 2 districts are established, each having 13 apportionment factors. Then after a subsequent census, one district drops to 10 factors and the other increases to 16. Suppose, further, it would be possible to redraw the boundary between the 2 districts in such a way as to make each include 13 factors again. The language proposed in my amendment would clearly authorize such a reapportionment change. Whether the committee's language would do it, seems to me to be open to serious question.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. Chairman and fellow delegates, I think that this might be enlightening, because I just sat here and figured if you take 500 apportionment factors, divide them by your 40, as has been pointed out earlier, you will have to have 12½ factors. If you take the map that I have in my hand, not the one you have in your book, where I have changed the one particular district that I referred to in Mrs. Cushman's statement, you find that 9 of the districts fall on a single—without the districts within a county being multiple, in other words, where you combine several counties together or where one county itself applies to the standard, you find that 9 of them are greater than 12½ and 10 of them are smaller than 12½. I think that the range is very fair. Now, I had not figured that out until this comment. The committee very definitely has discussed this proposition that Dr. Pollock suggested here, and we felt that the language that we have is less wordy and is plain, and we recommend to you not to accept the amendment.

CHAIRMAN HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I should like to explain that I think the reason that Dr. Nord and myself are making comments on these amendments is not because we feel that the entire package is a good thing, because obviously we will vote against it, but rather because of the fact that Wayne county is not involved in all of these amendments that are now under discussion. We should like to perfect this thing so at least you will have some internal consistency within the outstate areas.

Now, it seems to me that when you are working with the outstate areas—and all of you delegates, of course, know what your own local situations are much better than I do—that you must have some logicality and consistency within those areas after you have gotten done with your major assignments in Wayne county and so on, and if you arbitrarily set a limitation, this necessarily presupposes that certain counties will be favorably treated and other outstate counties will not be so favorably treated. Whereas if you have a standard setup such as in the Pollock amendment, you will necessarily be treated the same among the outstate counties, which I think is definitely a much more fair arrangement within the context of the whole situation.

There is a different and mathematical way—and I believe this has been described a few times on the floor previously—there is a different, mathematical way in which you can arrive at nearly equal as possible 13 factors in the outcounty areas, and you can do this without the necessary boundary lines of 10 and 16. And if you would have a plan say, for instance, which would affect some of the thumb districts on a 9.8 group of factors set up in 1970, it may be possible that even those factors would be all right if there were the least total variation from the whole of 13, considering all of those outcounty areas. In other words, it is a statistical evaluation which is very easily ascertainable, and eliminates the possibility of internal squabbling among the outstate counties to the detriment of some of them. I therefore support the Pollock amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment now offered by Dr. Pollock. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Pollock offers the following amendment—

DELEGATES: Division.

CHAIRMAN HUTCHINSON: Division has been requested on the last vote. Is the demand supported? The demand is supported. All those in favor of the amendment offered by Dr. Pollock will vote aye. Those opposed will vote no.

MR. KNIRK: Mr. Chairman, may I make a comment here for the folks who are just coming in?

CHAIRMAN HUTCHINSON: The question is not debatable after the vote has been called for. All those in favor of the amendment now offered by Dr. Pollock will vote aye. Those opposed will vote no. The matter is not on the board. If there is any question, the secretary will reread the amendment. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Dr. Pollock, the yeas are 53; the nays are 60.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Dr. Pollock offers the following amendment:

1. Amend page 2, line 23, after "less than" by striking out "75 per cent" and inserting "90 per cent"; and in line 24, after "more than" by striking out "125 per cent" and inserting "110 per cent"; so the language will then read:

> Third: counties entitled to 2 or more senate districts shall be further subdivided into single member districts so that the population of any district shall be as nearly equal as possible but not less than 90 per cent nor more than 110 per cent of the ratio of representation determined by dividing the population of the county by the number of senators to which it is entitled. . . .

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, members of the committee, this amendment would limit the population variation in any district within a single county to a range of 90 to 110 per cent of the quota for that county. The range permitted in the committee proposal seems to me very excessive. I have heard of no model or even near model proposal about apportionment that would permit a deviation of more than 30 points. This permits 50. There is no reason why district lines within a given county cannot be drawn within a spread of 20 percentage points, as proposed by this amendment. The committee proposal would permit the construction of abnormally large population districts and, read in conjunction with the subsequent committee language on line 28 and line 1 on page 3 regarding city and township boundaries, the committee language strongly suggests that central city areas would be discriminated against in the interest of following boundary lines, and that such discrimination would be facilitated by the wide population variance which they permit. While it certainly is reasonable to follow city and township lines where feasible, it should not be possible to do this at the expense of further under representing heavily populated areas which are already disadvantaged by the principle of area representation.

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Knirk.

MR. KNIRK: Mr. Chairman and fellow delegates, we oppose this amendment because we feel it is very impractical. I think, as Dr. Pollock has indicated, that we state there, beginning on line 27—and we are talking about areas within a given county where there are going to be 2 or more districts—that each district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly rectangular as possible. Now, this is all within a given county, and we feel very definitely that this variation certainly is much more practical than the 90 to 110, because you are going to cut cities in two, you are going to cut normal sociological communities in two, and we certainly believe that the 75 to 125 is far more practical and can be used without people having to wonder where they are and who they are voting for. Therefore, I would certainly recommend, in behalf of the committee, that you turn down the amendment offered by Dr. Pollock.

CHAIRMAN HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, again I would like to point out that there is apparently, at least to me, a certain reason for all of these figures that resort back to a lot of things, I think—or revert back to a lot of things we discussed in the committee in regard to who was going to get what, and what counties were going to be disenfranchised and, within certain counties, how you were going to chop up the piece of pie.

Again I am not concerned about Wayne county in this particular matter, except for the fact that I do feel that in the outstate counties where you have a populous city within a given county you will be again increasing, as Mrs. Cushman has said, the area factor to the detriment of the populous urban areas. I think it is rather inconsistent. The spread is very, very large. A spread of 50 per cent coupled with a lot of the other matters that have already been passed upon favorably could mean that within a certain county you are allotting the second or third senatorial seat not on the basis of an 80-20 per cent population, but on the basis of a, say, 40 population 60 per cent area, or something of that nature. I don't think that it is logical, and that the motives behind the particular figure are necessarily explicable. They have not been explained to my satisfaction; I don't think they have been explained to your satisfaction. This is not a Wayne county problem; it is an outstate problem, and I just would like some decent explanation as to why you got into a 50 per cent spread. Why not 49 per cent or why not 51 per cent? As Dr. Pollock has indicated before, in all of your model spreads, the total variance is no more than 30 per cent.

CHAIRMAN HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman and fellow delegates, prior to the committee amendment that these counties were to be divided into senatorial districts having population as nearly equal as possible, I think Dr. Pollock's amendment might have had some validity, but ceases to have it now.

Secondly, in our committee, those of us who worked diligently on attempting to draw maps, being as fair as we know how in counties like Wayne, Oakland, Muskegon, or any of them, whether you apply it to the senatorial districts or the house, if you wish to stay within city-township boundaries, we found that the 75-125 was a practical limitation, and this was substantiated by the testimony of election officials and other research. Now I submit to you that once you get them as nearly equal as possible you then only have to put a floor or a bottom before you start breaking city or township lines.

I want to point out to this delegation that to adopt the Pollock amendment means that a great many of these cities and townships will violate the state election law, which we must keep in mind, in that whenever you create a senatorial or representative district, you are further circumscribing that city's or township's right and power to establish its precincts for election machinery, because you cannot very practically have a precinct straddle a senatorial or representative district line. From the standpoint of pure practicality, all the evidence we were able to gather and all the research we were able to do on our own as individual members, and with the staff, the 75-125 is the most compatible with our present election laws and our city and township boundaries, and I urge that you do not adopt the Pollock amendment here.

CHAIRMAN HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. Chairman, ladies and gentlemen of the committee, if this is true, that this will go through cities and townships and senatorial districts, then I will have to oppose that, because in Wayne county it certainly would not be practical to have a senatorial district going through townships and cities. It is just not feasible and I would have to oppose that amendment.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I believe we can now determine that this one is certainly not a political issue. I urge support of the amendment. I believe the remarks made by Mr. Hanna in support of the opposing view are quite erroneous as a matter of law. He said that to make this amendment that Professor Pollock suggests, the 110 and 90 instead of 75 to 125, that this would cause a city to violate the election law. I suppose I must have misunderstood that, because if the constitution provides that they shall do it, how can they be violating the law? That argument, I believe, is not one of the best we have heard. I believe the arguments that we have heard on the other side are the best. We should stick as close as possible to whatever ratio we are using. If we are using a wrong ratio, like 20-80 population area, whatever we are using, let us at least try to make it as nearly equal as we can. I therefore believe that on this evidently unpolitical problem, Dr. Pollock is right and should be supported.

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. Chairman, fellow delegates, today I have been reminded more and more and more of the work that I have been doing over the past 28 years wherein we have been regulating the manufacturers of bedding and furniture, manufacturers who have been trying to do a lot of cheating, and I have often told them that I was watching them put in 10 times as much work—

MR. PERRAS: Point of order, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Perras, will you state the point.

MR. PERRAS: I do not think Mr. Madar is talking on the issue at hand.

CHAIRMAN HUTCHINSON: In the opinion of the Chair he hasn't got there yet. (laughter)

MR. MADAR: You are correct, Mr. Chairman, but I am getting around to it. You see, this is similar to the attorney who has a right to bring up something, somebody opened the door, and so we'll try to creep along, but we will get there. I am sorry, Mr. Perras, to make you feel bad, but I didn't know you were a manufacturer of bedding and furniture.

Now, as I stated before, we have tried to correct the situation there, and I tried to tell them that they were wasting more time to be crooked, and to try to pull something underhanded, than it would take them if they just came out and were fair about things. Now today, with this particular—

MR. KING: Point of order, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. King, what—

MR. KING: I consider these remarks a direct reflection upon Mr. Buback, and I ask the delegate to refrain.

MR. MADAR: Mr. King, may I tell you that Mr. Buback is neither a Republican nor a manufacturer.

CHAIRMAN HUTCHINSON: Mr. Madar, will you kindly bring your remarks into line with the subject matter?

MR. MADAR: I am bringing them in.

CHAIRMAN HUTCHINSON: The Chair means directly.

MR. MADAR: Well, just don't listen to the Republican side. Please listen to this side, too.

CHAIRMAN HUTCHINSON: The Chair is willing to listen to both sides, Mr. Madar, but is asking you and admonishing you to speak upon the subject at hand.

MR. MADAR: I will. And I will still say the same thing about one thing one time, and I will say it again the next time; not as it has been done by the Chair today and yesterday.

Now, we have been saying that we have to work on these figures, we have got to get 50 per cent. Well, I think we can mighty easy, mighty easy arrange these districts if we will stick to 20 per cent. We could stick to 10 and do it very, very, very nicely. There isn't a one of you who are on the committee who, down deep in your souls, weren't sure that you could do it. You knew you could.

I sat here and listened this morning when one of the delegates got up and talked about integrity. Well, I would tell him to read The Man in the White Marble Toga in the Reader's Digest, because it would tell him something about George Washington and integrity, and it certainly wouldn't take anybody here who was working on this committee into consideration when they were talking about integrity; because you can stick to 10 or 20 per cent, and you know you can. Why not be fair to all of the voters, and all of the people, not just the voters, of the state of Michigan. Please don't get angry, Mr. Brake. I am sorry. Smile like you did before.

CHAIRMAN HUTCHINSON: Mr. John Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I would remind you that when we began consideration of this proposal there were 2 committee amendments adopted and one of them was adopted to line 23 when the words were inserted "of any district shall be . . ." and the new words "as nearly equal as possible but not less than 75 per cent nor more than 125 per cent. . . ." All previous comments to the contrary, the committee started with the conviction that these districts within the county should be as nearly equal as possible. And then it consulted with election officials in the various counties, middle sized counties and particularly Wayne county, and they emphasized over and over again the importance of putting into this constitution provisions that made it possible to come up with representative and congressional districts that would fit into the usual and logical patterns used in conducting elections.

The committee very carefully went into this and started with the notion that the limitation should be as nearly 100 as possible. Ideally every district in Wayne county would be identical. Actually, as you will note from your green book, at the moment—you are talking about senatorial districts in Wayne county—at the moment, they run from 246,000 to 647,000 people, with some districts almost 3 times as large as others. Obviously that is undesirable. The same thing is true in Kent county, where the 2 present districts are quite different in size. That is why there is in the proposal that you have already approved, Committee Proposal 79, the requirement that all of the counties with more than one senatorial district be redistricted by the reapportionment commission, in accordance with the formula.

The committee faced the same necessity that you face: how closely can you do it and still come up with something that is practical, and on the advice of the election people, looking at the actual tract figures, with the population shown for every census tract, it became obvious that to be practical and to stay with city and township and the usual lines, about 75 to 125—you are going to do pretty well if they stay within those limits. But that doesn't mean they shall vary that far, because you have already put in the language so that "the population of any district shall be as nearly equal as possible but not less than 75 per cent nor more than 125. . . ." If they can make it 100 per cent exactly, that is what they should do.

I don't want to differ with Mr. Madar or anyone else, but the committee started with no preconceived notions at all; the ideal was to come up with something practical and as nearly equal as possible, and I think what we have is it, and I urge you to reject the Pollock amendment.

CHAIRMAN HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, I think we have made an assumption here that I don't think is quite fair; namely, that a representative or a senator has difficulty representing an area that includes more than just the part of the city he represents; in other words, includes other communities. As far as I am concerned, I don't see anything wrong with a senator who would represent a part of a city and a few communities besides. As a matter of fact, the district that I come from includes part of Detroit and also a couple of the suburbs of the city. And this is a good thing. I think it is good that the person who represents this area gets a chance to not only see city problems, but they have a chance to see the problems that are occurring outside of the city.

I think the question comes down to this: sure, we want them as nearly equal as possible, but are we going to write up a provision here which is going to be best for the people or best for election officials? If the election officials—and no doubt they want it convenient. They would probably divide the state up along convenient lines for their purposes. The 75 per cent to 125 per cent range is license to act within that range. It doesn't say 100 per cent, and even if you put it nearly equal as possible, it's still equivocal language. As far as the actual representation is concerned, for a person to represent an area outside of the city and still be in the same district may cause grief to the election officials, but it is not unfair to the people, and I would therefore support the Pollock amendment.

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, the principal point is whether or not you want to permit such a wide deviation that it invites gerrymandering. That is the precise point. I know a little bit about election administration too, and it would take more than Mr. Hannah's statement that this is going to so interfere with the drawing of district lines that it shouldn't be accepted. Twenty per cent is plenty of spread; 50 is a sheer invitation to gerrymandering, and I certainly, myself, couldn't be a party to permitting any apportionment commission or any apportionment body having so much leeway.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: Division has been requested. Is the demand supported? The demand is supported. All those in favor of the amendment—

MR. MADAR: How about a record roll call vote?

CHAIRMAN HUTCHINSON: Mr. Madar demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Twenty-two.

CHAIRMAN HUTCHINSON: Sufficient number up. All those in favor of Dr. Pollock's amendment will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—50

Austin
Balcer
Barthwell
Bledsoe
Brown, T. S.
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Ostrow
Pellow
Pollock
Sablich
Snyder
Staiger
Stamm
Stopczynski
Suzore
Tweedie
Walker
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—77

Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Prettie
Pugsley
Radka
Rajkovich
Romney
Rood
Rush
Seyferth

Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Hubbs
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
Millard
Nisbet
Page
Perlich
Perras
Plank
Powell
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Starrett
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Dr. Pollock, the yeas are 50; the nays are 77.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: The next amendment is to page 3. Dr. Pollock offers the following amendment:

1. Amend page 3, line 3, by striking out "rectangular" and inserting "regular in shape".

MR. POLLOCK: Mr. Chairman.

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: Since the committee of the whole has already rejected the same words in another context, there is no point in repeating the procedure, so I will withdraw that amendment.

CHAIRMAN HUTCHINSON: Dr. Pollock withdraws his amendment. Before the amendment is withdrawn, by unanimous consent Mr. Buback would like to express himself upon it since the Chair restricted him on a point of order before.

MR. BUBACK: Mr. Chairman, ladies and gentlemen of the committee, if I could offer a substitute, or offer that as an amendment, I would like to offer that amendment and speak on it.

CHAIRMAN HUTCHINSON: Dr. Pollock withdraws his amendment; Mr. Buback offers the same amendment.

SECRETARY CHASE: Mr. Buback offers the following amendment:

1. Amend page 3, line 3, by striking out "rectangular" and inserting "regular in shape"; so that the language will be, "and shall be compact, contiguous, and as nearly regular in shape as possible."

CHAIRMAN HUTCHINSON: Mr. Buback on the amendment.

MR. BUBACK: Thank you, Mr. Chairman. In Wayne county, ladies and gentlemen, we have a little different situation. In Wayne county we have 1742 precincts, we have 1,365,565 registered voters, 24 cities and 14 townships. Now when this senate is going to be divided on a rectangular basis in Wayne county, the reason I am objecting to it, it will create more ballot forms. At the present time in Wayne county we have 58 ballot forms. We are adding 17 additional legislative seats in the city of Detroit. That is going to make 92 ballot forms to distribute amongst the voters in Wayne county. Generally in all the counties in the state of Michigan you have one ballot form. Now, just imagine what is going to happen to Wayne county when we have to produce 92 ballot forms, if we just simply divide the legislative and leave senatorial districts as they are.

As soon as you make the senatorial districts in rectangular shape, you are going to have additional ballot forms because in a rectangular shape of the senatorial districts you are going to go into several—at least 2 congressional districts. By going into congressional districts, for that person who must be able to vote for a senator, a representative and congressman, that will again increase the number of ballot forms that we have to have. The increase in cost would be at least $50,000 without making the senatorial in rectangular shape.

I would certainly not want to tie the hands of the reapportionment commission and say that it must be rectangular or it must be square. Let's give them some leeway so that if in case we want a senatorial district of a rectangular shape we can have it, or a square shape we can have it, or a regular shape, which is most feasible in the situation in Wayne county. I have spoken on this matter to Miss Donnelly, to Mr. Stevens and Mr. Yeager. I want them to know the terrific job we have out there. It is a question of printing the ballots on time. We have 2 types of voting machines out there. We have the Shoup and the Automatic. We have paper districts out there where we have to print at least 50 to 60 thousand. It is a practical printing job that we are confronted with here, and I urge you to support the amendment where we allow the reapportionment commission to create these senatorial districts in a regular shape manner. Thank you.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. Chairman and Delegate Buback, for the same reason that we had before, we, the committee, feel that the word "rectangular" is much more appropriate. I might call to your attention, Mr. Buback, that we think that also your voters in Wayne county would have a greater chance to the same voting strength per vote. That is, one vote, each one of them counting, and I think that if the districts are more of a square or rectangular shape, you will have a tendency to have that accomplished. I think that our youngest delegate on our committee gave a dissertation on the 2 words "rectangular" and "regular" in our committee meeting, and I would like to have Lee Boothby—Mr. Chairman, I would like to yield the floor to Lee Boothby to give his definition.

CHAIRMAN HUTCHINSON: The Chair will put Mr. Boothby down on the list, and will recognize next Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, we talked about this problem a great deal in the legislative organization committee, and as Pete Buback said, he talked to me today about it. We have several districts in Wayne county which run across not only outside of Detroit but other townships. For instance, senatorial district 18 takes in Livonia, Redford, Northville, Plymouth, Northville township, Plymouth township and ward 22 in Detroit. We have within that area 5 representatives at the present time. We have one congressman at the present time and one senator.

I don't understand from the brief time that I talked to Mr. Buback what the rectangular in shape definition has to do with extra ballot forms to the tune of $50,000. I haven't had that cleared up in my mind, and I would like to ask him. This thing simply specifies that it shall be rectangular in shape. But the first consideration under this language is that it shall follow township and city lines. Therefore, I don't see where he is getting $50,000 cost on this.

CHAIRMAN HUTCHINSON: Are you asking a question?

MR. YEAGER: I would like to ask Mr. Buback, through the Chair, Mr. Chairman.

CHAIRMAN HUTCHINSON: The gentleman may respond to the question, Mr. Yeager retaining the floor.

MR. BUBACK: Mr. Chairman, Mr. Yeager, this $50,000 is based on the 17 legislative districts, not counting what might happen if we have the senatorial on a rectangular shape. It will be much more than that, I will assure you. The $50,000 extra is because we are adding 17 legislative districts within the city of Detroit, and this does not apply to the outcounty areas at all.

MR. YEAGER: Mr. Chairman, Mr. Buback, are you contending that because we are having single member districts that you are getting this additional expense?

MR. BUBACK: That is true.

MR. YEAGER: This is not the point at issue in this particular amendment. Your amendment has relationship to whether or not the districts shall be rectangular in shape, and not that there shall be single member districts. This is a separate issue.

MR. BUBACK: Mr. Chairman, Mr. Yeager, this definitely has something to do with it, because when you spread your senatorial—and I saw your map, and this is the first time I saw it—the way the senatorial districts are going to be apportioned in Wayne county, they are rectangular, you are going to go clear across the city where you are going to hit 2 congressional districts, and therefore every time a senatorial district goes into 2 congressional districts, you are going to have to have more ballot forms, and every time you have additional ballot forms, it means additional money from the taxpayers of Wayne county.

MR. YEAGER: Well, I don't know what map you are referring to. If you are referring to this map that I have here, this was really a proposal which was made up some time ago, which has no relationship to anything that is—

MR. BUBACK: That is the only map I saw. Mr. Chairman and Mr. Yeager, that is the only map you showed me, and I can see what a rectangular shape area in the city of Detroit would do as far as a printing job is concerned and the cost is concerned; it would be tremendous. And I still think we should leave it up to the commission itself to make that determination.

MR. YEAGER: Mr. Chairman, if I may continue with the floor, I would simply like to oppose the Buback amendment. I don't think that the cost here—although I know Mr. Buback is an expert in this field, I don't think that what he has envisioned is going to happen, and I respectfully ask that you defeat this amendment.

CHAIRMAN HUTCHINSON: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, I would like to ask Delegate Buback a question through the Chair, if I may.

CHAIRMAN HUTCHINSON: You may proceed.

MR. LEPPIEN: Mr. Chairman, Delegate Buback, would you agree that it would assist Wayne county in its problem—and I understand it, I believe, having been in the same line of work—if we just struck out the word "rectangular," leaving in "compact and—" what is the other word—"contiguous and compact?"

MR. BUBACK: I would approve that very much, Mr. Leppien, for the simple reason that when this commission comes to Wayne county we will be able to sit down with them and discuss this thing at length. It will not be frozen that they must accept rectangular shapes. I would agree with that very much.

MR. LEPPIEN: I might suggest to Delegate Buback, Mr. Chairman, that he amend his amendment to just strike the word "rectangular."

MR. BUBACK: I will so amend it, Mr. Chairman, if it is in order.

CHAIRMAN HUTCHINSON: Well, the Chair thinks that you offer a substitute amendment. Withdraw your previous amendment and offer a new one.

MR. BUBACK: I will withdraw that amendment, Mr. Chairman, and offer a substitute amendment as suggested by Delegate Leppien.

SECRETARY CHASE: There is some other language involved, Mr. Buback. The language in the first 2 lines, "and shall be compact, contiguous, and as nearly rectangular as possible," perhaps the language should be, "and it shall be as compact and contiguous as possible."

Mr. Buback asks that the amendment be revised as follows:

1. Amend page 3, line 2, after "shall be" by striking out the balance of the sentence and inserting "as compact and contiguous as possible.".

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. William Hanna on the amendment in its present form.

MR. W. F. HANNA: I would like to ask through the Chair a question of Mr. Buback, whether or not he would accept the language "compact, contiguous and as nearly uniform in shape as possible?" This will accomplish what we intended in the committee; that you couldn't have a hot dog shaped district in one place and a circular or square in another place, but there be some uniformity and some reason for the lines in these districts, first to correspond with city and township lines, and then—otherwise, Mr. Buback, we were attempting to eliminate districts for districts' sake and politics' sake, which seemed to be occurring not only in your county but in mine and several others as we examined what boards of supervisors have done. Would you accept the language "uniform in shape?"

MR. BUBACK: Mr. Chairman, Mr. Hanna, I would accept that. I would do anything that would help the ballot printing situation in Wayne county, because it is a terrific job. We have problems that no other county has, and anything that would alleviate our condition I would be willing to accept.

MR. W. F. HANNA: Mr. Chairman, Mr. Secretary, can you amend the Buback amendment with his consent to read "compact, contiguous and as nearly uniform in shape as possible?"

SECRETARY CHASE: Mr. Buback's amendment as he has now revised it would read:

1. Amend page 3, line 3, by striking out "rectangular" and inserting "uniform in shape"; so that the language of lines 2 and 3 will then read, "and shall be compact, contiguous, and as nearly uniform in shape as possible."

CHAIRMAN HUTCHINSON: Mr. Madar on the amendment in its present form.

MR. MADAR: Well, Mr. Chairman, all I wanted to do was to get into the record that I didn't think Mr. Yeager was qualified to tell us whether Mr. Buback was an expert in these matters. He has been in charge of the elections in the county of Wayne for the past 22 years. As a Republican, we all thought—and I am speaking of myself—I, as a Republican, thought him quite a man and as a Democrat, I still think he is as good now as he was then. So, let's get this into the record properly; Mr. Buback is an expert.

CHAIRMAN HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, as a delegate from Wayne county, I appreciate Mr. Buback's attitude in this matter. I am certain that he is sincere, that he is speaking from a practical viewpoint, and as a technician who knows about it. I think we should give every consideration to his viewpoint in this matter. I am sure he is speaking as a deputy county clerk and not as a party member. Thank you.

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. Chairman, I would like to go along with this amendment that Bill Hanna read, "in uniformity." The real purpose that we were trying to do here was get away from the possible gerrymandering of districts. Those weren't necessarily intentionally done, but by following ward lines we got some very odd shaped districts in Wayne county, and this language was an attempt to try to at least alleviate this situation. Thank you.

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: As I started out when I first got here, I would always set things straight. I would like to set Mr. Yeager straight in informing him that it was the people in the —the leaders in congressional district 17 who gerrymandered our Wayne county. It was the Republican party who did it at the time.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. Chairman, I find that it is very difficult for me to follow Mr. Madar. I would like to ask if there are any members of the committee, however, that have any questions in mind upon the change of that word, that is the change of the phrase, I should say; and if they do have, I would certainly like to have them speak to it; because otherwise I am going to recommend that we accept this amendment. Seeing no objection, I suggest we accept the amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Buback. All those in favor say aye. Opposed say no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Nord, Marshall, Hodges, T. S. Brown, Greene, Liberato and Sablich offer the following amendment:

1. Amend page 3, following line 3, by inserting:

"(4) Fourth: in the enactment of legislation, in the organization of the senate as a parliamentary body, and in the selection of committees therein, each senator shall have a vote equal to the population of his district as reported in the latest federal decennial census. Each senator shall have an equal vote in each committee other than the committee of the whole.".

CHAIRMAN HUTCHINSON: The question is upon the amendment. The Chair would recognize the first sponsor of the amendment, Mr. Nord.

MR. NORD: This amendment which is now on the wall is a modified version of the minority report eliminating the bipartisan features and simplifying it to a considerable extent. In fact, the amendment that is now offered to the committee adopts the entire senate that the majority report proposes and makes only one change rather than making numerous changes, as we did otherwise. It is the identical senate with weighted votes, weighted by population of the districts.

Some of the objections that were raised to the minority report would, of course, not apply to this. Many of the objections had to do with the bipartisan feature, and in this case that is not present. Nothing is present, whatever, except the clearcut issue of whether you wish to have equal representation or not with whatever type senate you prefer; that is, on the basis of distribution of members. This gives you, so to speak, a blank check as to what members, how many, where they shall be, where the line shall be—you put them where you wish, we adopt them, and then we say you can still do that and still have one man, one vote, if you wish. And this is one way in which that can be done. As pointed out previously, the reason for one man, one vote has been given in detail. There is no point in mentioning it again. We simply offer this to indicate that there are many ways of getting one man, one vote, not just one way. This is one way, and we offer it to the delegates, and hope that it will be favorably considered.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Nord and others. Mr. Knirk, do you desire recognition?

MR. KNIRK: Mr. Chairman, fellow delegates, this is a backdoor entrance to the minority report. I don't know that it makes much difference, particularly, as to where they live. Actually what you are doing here and what is offered is the tote system in total; the only difference being that in this case, whether they be Republican or Democrat, they have the voter strength to the numerical number of who voted for them. I certainly assume that each and every one of you know from the discussion of 8 hours on this floor Monday and yesterday that this is just dressed in a different skirt, maybe gingham this time, and I certainly hope that the delegates will not consider this seriously and will turn it down with a vote against it.

CHAIRMAN HUTCHINSON: Mr. Pellow.

MR. PELLOW: I would like to ask Dr. Nord a question. I tried to get this in yesterday but apparently the floor was controlled. Doctor, if you are willing to answer, I would like you to assume a couple of facts. On Saturday, September 2, 1961, the Marquette Mining Journal—this was previous to the election—reported a speech given by the honorable Governor John B. Swainson on television regarding the position of the governor as far as the upper peninsula is concerned, and I would like to ask you whether or not—and I ask that you assume that this fact is true, as reported September 2, 1961, in the Marquette Mining Journal—that the governor of this state stated, and I quote from the Marquette Mining Journal, "There has been some talk that the Democrats want to take representatives and senators away from northern Michigan, but this is emphatically not true." Now I will ask you whether or not, Doctor, this statement of the governor would affect the amendment that you offer, in order that we may be consistent not only with the platform of the Democratic party, but with the people of the upper peninsula so that we do not take any representation away from them?

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I believe the best answer I can give to this is the following: Mr. Pellow has me confused with a different person. I am not a candidate for governor. I know there are some of that type here, but I am not one of them. I can't speak for the governor, or for any candidate for the governor. I have no idea what he said. I don't know whether the governor favors this amendment or not. But I feel this: if he were to be apprised of this amendment he would think it nifty because it is nifty.

CHAIRMAN HUTCHINSON: The question is upon the amendment now offered. All those in favor—Mr. King.

MR. KING: Mr. Chairman, fellow delegates, in order to vote intelligently upon this proposition, I would have to pursue a little further the line of questioning that Mr. Pellow has opened up, but I would like to address a question to Mr. Pellow, if I may.

CHAIRMAN HUTCHINSON: You may if the gentleman cares to answer.

MR. KING: Mr. Pellow, are you trying to indicate to this committee that the governor of the state of Michigan does not favor the principle of one man, one vote?

MR. PELLOW: I did not say that, sir. I just merely reported what was in the Marquette Mining Journal as of that date. Incidentally, for the record, I appeared on television with the governor. So now, give me a direct question and I would be glad to give you a direct answer.

MR. KING: What do you interpret, Mr. Pellow, the meaning of the governor's statement that you quoted to us?

MR. PELLOW: That the people of the upper peninsula should not be deprived of their just and true representation. Since we have 29 per cent of the total representation, all we ask for is 29 per cent of the total vote.

MR. KING: And you believe that the governor does not intend that that amount should be lessened in any way by the actions of this convention? Is that right, Mr. Pellow?

MR. PELLOW: I did not say that, sir. All I said was the governor said that no representation should be taken away from the people of the upper peninsula, and I believe that the governor honestly believes that, except for the fact that the Republican party has ignored the people of the upper peninsula, and their reactionary senate has not seen fit to grant the people of the upper peninsula true, just representation (applause) and furthermore, without yielding the floor, Mr. Chairman, I would like to say this—

CHAIRMAN HUTCHINSON: Mr. Pellow, you do not have the floor.

MR. PELLOW: Yes, sir, I do have the floor.

CHAIRMAN HUTCHINSON: The gentleman will please take his seat.

MR. PELLOW: I appeal the ruling of the Chair. I had the floor, and he asked me a question, and I had the floor before he asked me the question—

CHAIRMAN HUTCHINSON: And you answered his question, and you are not holding the floor on your own.

MR. PELLOW: Mr. Chairman, I appeal the decision of the Chair, and I ask to speak on the appeal.

CHAIRMAN HUTCHINSON: The Chair will direct the sergeant at arms to escort the gentleman to his seat.

MR. PELLOW: All right. Can I appeal the decision of the Chair?

CHAIRMAN HUTCHINSON: The Chair has instructed the sergeant at arms to escort the gentleman to his seat. Will the gentleman please take his seat?

MR. PELLOW: Are we going to have a gag rule or are we going to have a democracy?

CHAIRMAN HUTCHINSON: If the gentleman will respect this Chair—

MR. PELLOW: I will.

CHAIRMAN HUTCHINSON: You will respect this Chair? Then you will sit down. The question is upon the—Mr. Gadola.

MR. PELLOW: Point of order.

MR. GADOLA: We have about the hall attendants here in red coats. I think that—

MR. PELLOW: Point of order.

MR. GADOLA: I am asking for information—

MR. PELLOW: Point of order.

MR. GADOLA: —and I was wondering—

MR. PELLOW: Point of order.

MR. GADOLA: —if it would be possible for the executive committee to get those proverbial men in white coats here in attendance, too. (laughter)

MR. PELLOW: Point of order.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Nord and others. All those in favor will say aye. Those opposed will say no.

MR. PELLOW: Point of order.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. John Hannah—

MR. MADAR: Mr. Chairman, we didn't actually get a decent vote on that, and I would like to ask for a division and record roll call vote.

CHAIRMAN HUTCHINSON: The request is in order, Mr. Madar. Mr. Madar demands the yeas and nays on the last amendment. Is the demand supported?

SECRETARY CHASE: Twenty-three.

CHAIRMAN HUTCHINSON: The Chair is advised by the official records of the convention today that it takes 26 votes to demand the yeas and nays. The demand is not supported. The gentleman now asks for a division. Is the demand supported? Sufficient number up.

MR. KUHN: Point of inquiry, Mr. Chairman.

CHAIRMAN HUTCHINSON: What is the inquiry?

MR. KUHN: Doesn't the rule state that it's 1/5 of the members present?

CHAIRMAN HUTCHINSON: That is correct.

MR. KUHN: How many members are present, sir?

CHAIRMAN HUTCHINSON: According to the records, there are 127 members present today.

MR. KUHN: I thought it was "present at this time."

CHAIRMAN HUTCHINSON: That isn't the question.

MR. MADAR: Mr. Chairman, I rise to a point of order.

CHAIRMAN HUTCHINSON: What is the point, Mr. Madar?

MR. MADAR: There weren't 127 at the time that I asked, and had you counted, you would have noticed that.

CHAIRMAN HUTCHINSON: There were 127 on the last record roll call vote. There are that many present.

MR. MADAR: They weren't in the hall.

CHAIRMAN HUTCHINSON: The demand for division has been supported. As many as are in favor of Mr. Nord's amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Nord and others, the yeas are 39; the nays 89.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. Chairman, I would like to make a parliamentary inquiry. Since we have changed the rule on taking roll call votes in committee of the whole, I would like to ask: can a demand for the yeas and nays be made after a vote has been once taken, or does the request have to be made before the vote is called as opposed, of course, to a division?

CHAIRMAN HUTCHINSON: It is the ruling of the Chair that a voice vote can be superseded by a demand either for the yeas and nays or by demand for division, and that it is in order so long as no other business has been undertaken.

The secretary will read the next amendment.

MR. MADAR: Mr. Chairman, may I make a request of the Chair?

CHAIRMAN HUTCHINSON: Yes, Mr. Madar.

MR. MADAR: I would like to make a request that in the future, in asking for the votes on a division or the yeas and nays, that it not be taken until after the bell has been rung so that we can get them into their seats. There could have been 26 here at the time. As I understood, we needed 26, and there could have been that many here had we waited for the bell to be rung first before we took the count.

CHAIRMAN HUTCHINSON: Thank you, Mr. Madar. We will attempt to comply.

SECRETARY CHASE: Mr. John Hannah and Mr. William Hanna offer the following amendment to section a:

1. Amend page 1, line 10, after "36" by striking out "nor more than 40"; so that the language will read, "The senate shall consist of not less than 36 members, elected from single member districts. . . ."

CHAIRMAN HUTCHINSON: The question is upon the amendment now offered by Mr. John Hannah. Mr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, before noon when we adopted the Pollock amendment, it had the effect of granting a second seat to all counties with 19½ apportionment factors or, beyond the second seat, at any time that any single county has 6½ factors in excess of the number of senators already allotted they automatically are to get the additional senator in accordance with the language already adopted. It was pointed out that this could have the effect, unless the number of senators was increased, of making it necessary for the apportionment commission to provide a smaller number of senatorial districts made up of the counties not entitled to a senator by itself, since naturally the apportionment commission would have to start off by allotting senators to all of the counties entitled to one or more up to their entitlement. Then they would have the responsibility of grouping the other counties in the state as best they could.

At that time I indicated that we would ask our staff to make a study to see what the potential was, and they report that there is a possibility that there might be necessity for as many as 2 additional senators. Not a great probability, but the possibility. Rather than writing in the specific words, "36 to 42," the amendment offered by Mr. William Hanna and myself, in accordance with the commitment made this morning, is that we leave the upper limit open, because in your formula you are determining the number. This would be simpler. We will not have the effect of promising 42 and then coming up with 40. So after a good deal of thought and discussion over the noon hour, it was our judgment that this was the best way to handle that commitment that we made before the luncheon adjournment. Then there is a second amendment which will come later after this one.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, fellow delegates, this morning, as Dr. Hannah said, I called your attention to the effect of the Pollock amendment. There are 2 parts that have to be cleared up now. Dr. Hannah has asked you to pass the first one, and I urge you to adopt this one and the second amendment which will be forthwith coming up to section a, and clarify the entire problem.

CHAIRMAN HUTCHINSON: All those in favor of the amendment now offered by Dr. Hannah and Mr. William Hanna will say aye. Opposed will say no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. William Hanna offers the following amendment:

1. Amend page 2, line 10, after "counties" by striking out "of the state" and inserting "shall be entitled to one senatorial district for each 13 apportionment factors and major fraction thereof and"; so that the language will read:

> Second: the remaining counties shall be entitled to one senatorial district for each 13 apportionment factors and major fraction thereof and shall thereafter be arranged into senatorial districts

and so forth.

CHAIRMAN HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, Mr. Secretary, I don't think the word "thereafter" is any longer needed after this amendment. It was not the intention that the "thereafter" be retained; "shall be entitled to one senatorial district for each 13 apportionment factors and major fraction thereof and shall be arranged into senatorial districts. . . ."

SECRETARY CHASE: The amendment will be revised.

MR. W. F. HANNA: Mr. Chairman, ladies and gentlemen, once you apply this to the major counties, the purpose of this is to make sure that the remaining counties of the state—those counties which in and of themselves have less than 13 apportionment factors, taken as a group—all the rest of the state, shall be entitled to one senatorial district for each 13 apportionment factors or major fraction thereof. This treats the rest of the counties in the same manner as you treat the so called metropolitan counties.

Now, then, within these counties outstate the districts, it is true, may vary from 10 to 16 apportionment factors, as the apportionment commission may determine under the standards we have set for them. But to the extent that an outstate senatorial district is at 10, another outstate senatorial district, theoretically, will be at 16, and thus there is no give and take, no shortchanging of the outstate senatorial districts by reason of the Pollock amendment affecting the metropolitan districts, nor is there any taking away from the metropolitan district counties to let the outstate districts violate the principle. I therefore urge this necessary amendment to correspond with the Pollock amendment offered this morning.

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Everett.

MR. EVERETT: Mr. Chairman, I would like to address a question to Mr. William Hanna.

CHAIRMAN HUTCHINSON: You may proceed.

MR. EVERETT: Mr. Hanna, if I understand the tenor of your amendment, it is to permit one additional seat for a major fraction beyond a figure evenly divided by 13; is that correct?

MR. W. F. HANNA: The Pollock amendment this morning, if you will recall, said 6½, as revised by Ted Brown. More than 6½ is a major fraction, and usually—from what I have seen of constitutional provisions, the usual way you talk about apportionment is to talk in terms of a full ratio and a major fraction thereof.

MR. EVERETT: Well, I guess that didn't quite answer my question. Suppose you have 14 left over, don't you have the major fraction of 13 twice?

MR. W. F. HANNA: No, sir. You have 13 plus 1, which is a minor fraction.

MR. EVERETT: I thought that was your intent, but I wonder if your amendment says that.

MR. W. F. HANNA: All I can say, Mr. Everett, is that it is copied from standard language used, and that is the way it is interpreted: that you get a full ratio, a full ratio being 13, and then after you divide the total apportionment factors by 13, if the remaining fraction is more than 6½, that is a major fraction.

MR. EVERETT: In other words, what you are saying is that after the even multiple of 13, if what is left over is more than half, you get 1; if it is less than half you don't?

MR. W. F. HANNA: That is correct.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, as the saying goes, there is a certain amount of puzzlement in these quarters, and strangely enough, I believe Mr. Knirk and I share the puzzlement. One of the reasons for the puzzlement is it appears that not enough is striken. I would like to find out from Mr. Hanna if I am correct in reading this proposal the way it would be as amended. As I understand it, the way it would read as amended, it would read as follows:

> Second: the remaining counties—

then you pick up what is on the wall—

> shall be entitled to one senatorial district for each 13 apportionment factors and major fraction thereof and—

then, I gather, you continue with line 11, which says:

> shall thereafter be arranged into senatorial districts that are compact, contiguous by land and as rectangular in shape as possible, having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16.

Now, have I got the language correct, Mr. Hanna?

MR. W. F. HANNA: Mr. Chairman, except for taking out the "thereafter," I think you have it. Does he, Mr. Chase?

SECRETARY CHASE: The language, then, of the amendment, with the approval of Mr. Hanna, would be as follows:

1. Amend page 2, line 10, after "counties" by striking out "of the state shall thereafter" and inserting "shall be entitled to one senatorial district for each 13 apportionment factors and major fraction thereof and shall"; so that the language would read:

> . . . the remaining counties shall be entitled to one senatorial district for each 13 apportionment factors and major fraction thereof and shall be arranged into senatorial districts that are compact, contiguous by land

and so forth.

MR. NORD: It is the "and so forth," Mr. Chairman, that puzzles me, because it looks as though we are stuttering. It says in the beginning, now, of this paragraph that they shall be entitled to one senatorial district for each 13 apportionment factors, and then it says it once more later on down in the same sentence. Am I mistaken about that?

MR. W. F. HANNA: Mr. Chairman, Dr. Nord, would you repeat your question. I was getting conversation in both ears, and I couldn't think that fast.

MR. NORD: I believe I probably haven't got that straight, but I would like to get it straight before I vote on it.

MR. W. F. HANNA: I would like to help you.

MR. NORD: Mr. Chairman, I would like to ask Mr. Hanna whether I am correct in understanding this sentence. You say here in the beginning of it that there shall be one senatorial district for each 13 factors, and then at the end of the sentence you repeat it again, that they shall be based upon 13 factors.

MR. W. F. HANNA: I think I can explain, Dr. Nord. It falls within the first 2 lines. Mr. Chairman, Dr. Nord, fellow delegates, this language says that you take all the counties not covered by subsection 1, the total apportionment factors for all those counties, divide that by 13. This determines the number of senatorial districts to be allocated to the counties not encompassed with step 1. Thereafter you divide this number of senatorial districts between the number of counties in such a manner that each senatorial district will be as near 13 as possible but not less than 10 nor more than 16.

MR. NORD: Mr. Chairman, I must confess that I am not in a position to vote on this. I believe there are 2 things wrong with this, although I can't be quite certain because this is new to me. It appears to me as though the sentence repeats itself. It says that they shall be entitled to one senatorial district for each 13 factors, and then later on it says the same thing substantially again; that it shall be based upon 13 factors but in no event less than 10 or more than 16. As far as I can see the language that is before us, not the intent, but the language, there is something mixed up in it, or else it has caused me to become mixed up.

It also appears as though there is a conflict between the first part of the sentence and the second, in that the first part of the sentence seems to require 13 factors, but at the end of the sentence it says it doesn't necessarily require 13 because it could be between 10 and 16. I would also like to speak against the substance of it, assuming that the language could be made clearer to me or I could be made clearer to it.

If I am not mistaken as to the intent, it seems there is something problematical there too, and that is—and perhaps Mr. Hanna could clear this up too—that now we would go to a major fraction which would be half of 13 or 6½, and therefore you wouldn't need 10. Now, perhaps this can be cleared up by Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, Dr. Nord, in the first place I think your first question, Dr. Nord, could be probably easily corrected if we say "shall be arranged into single member senatorial districts," because it is the intention to treat the remaining part of the state in the same manner as Dr. Pollock wanted to treat the metropolitan counties this morning. This is a necessity once having adopted the Pollock amendment. But to obviate the lack of clarity which you have raised, you can say "shall be arranged into single member senatorial districts."

Now, the language that we have put in here simply serves one purpose, and that purpose alone is this: to make sure that the outstate is treated equally with the metropolitan counties, and having adopted the Pollock amendment, and the Hannah amendment taking the lid off the number of senators, this amendment is clearly necessary.

MR. NORD: Mr. Chairman, I would like to request of the proponent—I would like him to consider this request before I make any further statement about it, and that is this: in view of the fact that this has not been before us up to this point—and I believe there are many other delegates around me who seem to share my confusion, and I hope I haven't created it—would he be willing to postpone considering this particular question until we get to the end of the entire committee proposal? Hopefully, perhaps, we could have dinner in between and we could find out—or perhaps it could be redrafted. Would he be willing to do that?

MR. W. F. HANNA: Mr. Chairman, Dr. Nord, I have no feeling either way. The purpose of this language is simply as I stated, to make sure that the outstate counties get their fair share of the senatorial districts, no more and no less, and this is the language that I feel would do it, and if it could be more clear, I would be glad to work it out. This is the sole and only purpose, Dr. Nord. If it doesn't say this, I will get together with you and make sure it does say this.

MR. NORD: Mr. Chairman, apparently Mr. Hanna has not moved to postpone.

CHAIRMAN HUTCHINSON: The Chair does not understand that he has.

MR. J. A. HANNAH: Mr. Chairman.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: If it would meet with the approval of the Chair, I would certainly favor complying with Dr. Nord's request, hoping that we may go on and finish the rest of the section a, and passing all of it but subsection 2, holding that open until we finish up with the balance of Committee Proposal 80. Is that agreeable?

CHAIRMAN HUTCHINSON: It certainly is not for the Chair to say. If the introducer, Mr. William Hanna—if it is his wish to have the matter acted upon now, it is in order. If he desires to withdraw it at the present time, that is in order, or if someone wishes to move to postpone consideration, that is in order.

MR. J. A. HANNAH: I will move that we postpone the consideration of this specific amendment, leaving subsection 2 open, hoping that we may go on and finish the balance of this whole section a and passing it before we move to rise for a recess in about 10 or 15 minutes, when I shall move that we rise for the purpose of a 10 minute recess.

CHAIRMAN HUTCHINSON: The Chair understands the sense of your motion to be that you move to postpone further consideration upon the pending amendment until the consideration of other amendments offered to section a of this proposal has been completed.

MR. J. A. HANNAH: No; until after we complete consideration of all of the amendments to 80, when we will then come back to it.

CHAIRMAN HUTCHINSON: All of 80?

MR. J. A. HANNAH: Correct.

CHAIRMAN HUTCHINSON: The question is upon the motion of Dr. Hannah. All those in favor will say aye. Opposed will say no.

The motion prevails. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend page 1, line 9, after "Sec. a.", by striking out the balance of the section and reinserting section 2 of article V of the 1908 constitution, which language is as follows:

"The senate shall consist of 34 members. Senators shall be elected for 2 years and by single districts. Such districts shall be numbered from 1 to 34, inclusive, and shall consist of the territory within the boundary lines of the counties existing at the time of the adoption of this amendment, as follows: first through fifth, eighteenth, twenty-first, Wayne county; nineteenth, Lenawee and Monroe counties; tenth, Jackson and Hillsdale counties; ninth, Calhoun and Branch counties; sixth, Kalamazoo and St. Joseph counties; seventh, Cass and Berrien counties; eighth, Van Buren, Allegan and Barry counties; fourteenth, Ingham and Livingston counties; twelth, Oakland county; eleventh, Macomb county; twentieth, Tuscola, Sanilac and Huron counties; thirteenth, Genesee county; fifteenth, Clinton, Shiawassee and Eaton counties; sixteenth and seventeenth, Kent county; twenty-third, Muskegon and Ottawa counties; twenty-fifth, Mecosta, Montcalm, Gratiot and Ionia counties; twenty-second, Saginaw county; twenty-fourth, Bay, Midland and Isabella counties; twenty-sixth, Newaygo, Oceana, Mason, Lake and Manistee counties; twenty-eighth, Osceola, Clare, Gladwin, Arenac, Iosco, Ogemaw, Roscommon, Crawford, Oscoda and Alcona counties; twenty-seventh, Missaukee, Wexford, Benzie, Grand Traverse, Kalkaska, Leelanau and Antrim counties; twenty-ninth, Charlevoix, Emmet, Cheboygan, Otsego, Montmorency, Alpena and Presque Isle counties; thirtieth, Chippewa, Mackinac, Luce, Schoolcraft, Alger, Menominee and Delta counties; thirty-first, Marquette, Dickinson, Iron and Gogebic counties; thirty-second, Baraga, Keweenaw, Houghton and Ontonagon counties; thirty-third, Washtenaw county; thirty-fourth, Lapeer and Saint Clair counties. Each of the 34 districts shall elect 1 senator. Counties entitled to 2 or more senators shall be divided into senatorial districts as herein provided equal to the number of senators to be elected; said districts shall contain as nearly as may be an equal number of inhabitants and shall consist of convenient and contiguous territory; and said districts shall be arranged during the year 1953, by the board of supervisors in such counties assembled at such time and place as prescribed by law.".

CHAIRMAN HUTCHINSON: Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen of the committee, this long amendment no doubt sounds familiar to you. It is the present wording of the 1908 constitution as amended by the 1952 amendment.

The committee on legislative organization was advised by Professor Charles Adrian of the political science department of Michigan State University as follows:

> There probably are no real experts on apportionment in the sense of being able to say how you should apportion a state. I think there are no political scientists who are completely objective on this question, or who have no views of their own.

This is quite a confession for one who is a political scientist. Can the politician, then, be any more objective? The discussion thus far on the floor of the convention and in the committee room proves to me that neither side of the issue will be able to convince the other. Sometimes I have the feeling that the delegates to this convention are outthinking the people. Pushed aside in the discussion of apportionment is the fact that we here are acting as representatives of the people. It would then seem that one important function of our work is to represent the wishes of our people.

The present system of apportioning the seats in the house and senate was chosen by the voters in 1952. Three plans were available to electors at that time: 1, they could retain provisions then in the constitution; 2, they could adopt the plan placing both the house and senate on a population basis; or, 3, they could adopt what was known as the balanced legislative plan, what is now the present plan in the '52 amendment. If anything can be said of the vote of the people in 1952, it was the fact that they did not want senatorial districts that would be fluid. The plan they chose was the only plan that froze the districts. They created units of representation which were to remain as governmental units just as counties are fixed governmental units. This choice was made by a strong majority of the people of the state at the ballot box.

As the then Attorney General Paul Adams stated in his brief in the case of Scholle versus Hare, which was recently before our Michigan supreme court:

> The majority of the people of the state of Michigan at a regularly conducted election established the senatorial districting system of which petitioner complains and which he seeks to sweep aside. It is the petitioner, then, who seeks to impose the will of the minority upon that of the majority. It is the petitioner whose disregard of the principle of majority rule represents, in his own words, "a contemptuous disregard of the democratic concept."
>
> The people have spoken.

Yes, the people have spoken, and what right do we 144 delegates have to tell the people that they were wrong? Can we impose our idea of apportionment on them when they have so recently made that decision for themselves?

I think it might be of some value at this time if I would read to you from the brief which was submitted by Attorney General Paul Adams—who, incidentally, is not a member of my own party—in the case of August Scholle versus James M. Hare. He says as follows:

> The Michigan supreme court has made several pronouncements concerning the meaning of the equal protection of the laws provision.
>
> > . . . the guarantee of equal protection of the law is not one of equality of operation or application to all citizens of the state or nation, but rather one of equality of operation or applicability within the particular class affected, which classification must, of course, be reasonable.
> >
> > Accordingly, equal protection of the laws does not prevent, and is not violated by, a reasonable classification by legislative enactment, if it applies alike to all persons within such class and reasonable grounds exist for making a distinction between those who fall within such class and those who do not.
>
> In regard to what type of classification is permissible, the Michigan supreme court has held:
>
> > The fundamental rule of classification is that it shall not be arbitrary, must be based on substantial distinction and be germane to the purpose of the law.
>
> We will now apply these basic principles to the instant situation.

This is Attorney General Adams continuing in his brief:

> The people in 1952 established a classification; a determination of senatorial districts by geographical area. It is absurd to contend, as petitioner has done, that in order for an area classification to be upheld, the districts would have to be equal in size. Are the states of the union equal in size? Would not the division of this state into districts exactly equal in terms of square miles result in the type of arbitrary classification which the cases prohibit?
>
> It is apparent that petitioner does not perceive the meaning of representation by geographical area. What is meant is representation of specific parts of the state, and not the representation of an equal amount of square miles. The latter would, indeed, be arbitrary; the former is not.
>
> The people have thus determined a reasonable classification. The case law cited above (in regard to the meaning of equal protection of the laws) now requires us to determine whether there is an "equality of operation or applicability within the class affected," here the senatorial district. There can be no question that each citizen within the chosen classification (senatorial district) has the right to cast a vote for senator equal with that of all other citizens within the same classification.
>
> Thus, the test has been met. The classification arrived at, by the people themselves, is reasonable, and there is an equality of operation and application within that classification.

Attorney General Adams continues:

> It is defendant's contention that the United States constitution contains no prohibition, either specific, indirect, or by inference, forbidding the people of a state from choosing some criterion of representation in a branch of their state legislature other than population.
>
> In the Congress of the United States, of course, the senate is composed of 2 senators from each state. Thus, New York state, with a population of over 18 million has the same representation in the senate as does the newly admitted state of Alaska, which has less than 200,000. Petitioner attempts to explain away this obvious similarity by arguing that the plan for representation in the United States senate was the result of some kind of deal by which the smaller colonies gave up their sovereignty in return for equal representation in the senate. This is an argument not based upon demonstrable fact, and it certainly does not explain how the 37 states that have been admitted to the union since the adoption of the constitution were affected by this bargain. Indeed, a different and more logical explanation is set down in the very words quoted from the Federalist Papers by petitioner:
>
> > Another advantage accruing from this ingredient in the constitution of the senate is, the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then, of a majority of the states.
>
> Well might this quotation be paraphrased to indicate the system of representation adopted in Michigan—merely substitute the words "senatorial districts" for the last word in the quotation which is "states." We then have an excellent explanation for the decision by the people of the state of Michigan in 1952. . . .

And here is the way Attorney General Adams paraphrased that statement in the Federalist Papers:

> Another advantage accruing from this ingredient in the constitution of the senate is, the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then, of a majority of the [senatorial districts]. (Brackets added)

These are not my words, ladies and gentlemen of the committee. These are the words of the then Attorney General Paul Adams, and now Supreme Court Justice Paul Adams.

In addition to the fact that the people have already told us what they want, we should look to what the effect of the committee's report would be with regard to both the senate and the house. Rather than having a situation where the people outside of the metropolitan areas could check the will of those with a unity of interest, we would have a situation where the following would result: at the present time, Wayne county has 7 senators, Oakland county has 1, Macomb county has 1, Genesee has 1, and Kent county has 2. You therefore now have a situation where the 5 big metropolitan counties of the state have 12 senators. In 1963, under the committee's recommendation, Wayne county would have an additional state senator, or 8; Oakland would pick up an additional senator, or 2; Macomb would have an additional senator, or 2; Genesee would have an additional senator, or 2; and Kent county would keep its 2 senators. So between now and 1963 the 5 metropolitan areas of the state, counties of the state, would jump from 12 to 16 senators.

Now, the committee recommendation does not stop there. In 1970 they are going to reverse the decision which the people of the state of Michigan made in 1952. They unfreeze the senate. Wayne county then picks up another senator, moves to 9, Oakland county moves to 3, Macomb moves to 2—or remains 2, Genesee remains 2, and Kent remains 2. Now, these figures that I have just given you are according to the population projection which Consumers Power company has come up with. And I want to comment more on that in a few minutes, because you will remember that the maps which are in the booklet which has been distributed by the committee are only projections. This is nothing you can rely on. You are buying a pig in a poke. But if you accept the projection of Consumers Power, the 5 counties would jump from 12 senators at the present time to 18 senators in 1970.

Now, the committee recommendation was a few minutes ago amended by Dr. Pollock, which you recall. This makes a substantial change, and I fear that maybe the members of this committee did not realize what was going on when the amendment was voted upon, because what happened was that Wayne received another senator; they moved to 10. Oakland received another senator; they moved to 4. Macomb received another senator; they continued with 2. Genesee continued with 2 and Kent continued with 2. In other words, what happened when you voted a few minutes ago in favor of the Pollock amendment was, you voted for a situation in which 5 of the counties of the state, under the Consumers Power company projection, would have 20 of the senators of the state senate.

In other words, where they now have 12, they move to 20, and when you realize that if our state senate continues at the present membership of 40 and they have 20, 5 of the counties of the state of Michigan will wind up with ½ of the senators in the state senate.

I would like to also call to your attention some additional information. I mentioned a couple of minutes ago that the projections which were handed to you by the committee were those of the Consumers Power company. Now we also had in our committee some additional figures regarding population trends. These were given to us by Professor J. F. Thaden, of the institute for community development of the continuing education service of Michigan State University. He came up with some completely different figures as far as population trends are concerned, and in keeping with the Pollock amendment, the change that you would have would be that Kent county would lose a senator; they would wind up with 1 senator in 1970, and Macomb county would add a senator; they would have 3 senators. There would still be 20 senators in those 5 counties. Kent would lose 1, Macomb would pick up 1. In other words, 5 of the metropolitan counties with only 2 seats short of half of all the senate seats—5 counties would have at least 50 per cent of all the senate seats.

Does this provide for a check against the majority? Is this area representation, I ask you? Can you convince the people back home that they have a balanced legislature when you take into account that in the house of representatives the same 5 counties of the state will have 62 of 110 representatives, or something slightly better than a majority of the representatives? In other words, 5 counties of the state in both the senate and the house would have at least a majority of the representation in the state legislature. Who will listen then to the needs of the rest of the outstate area?

It should be noted that in 1789 the whole nation contained something less than 4 million people, but these 4 million people feared the concentration of all power and authority in one super state where the tyranny of the majority went unchecked. Today Michigan has a population of over 8 million people, more than twice the number of people our nation contained when the United States senate was created to give equal voice to each state unit of government. We should question the wisdom of giving unbridled control of state government to a few counties of the state just as in 1789 the smaller states feared the few larger states.

One main benefit which Madison saw, the one main benefit which Madison saw in giving each state unit of government equal representation was to prevent, as Madison said, "the facility and excess of lawmaking." And Madison went on to say that this seemed to be the disease to which our governments are most liable. In other words, Madison believed that the senate apportionment was a check on the excess of law making. He believed that the excess, not the lack of law making, was the disease which our government was most liable. Here again, the 8 million people of Michigan find that with the demand for more and more services from each special interest group, geographical location, unit of state government, and all the other demanding factions expressing themselves in hundreds of unstudied legislative bills, it is the disease of excess of law making to which our state government is most liable.

Hamilton was also more interested in holding down hasty and ill considered legislation, legislative action, than in legislative efficiency. He said:

> In the legislature promptitude of decision is oftener an evil than a benefit. The difference of opinion and the jarrings of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority. When a resolution, too, is once taken, the opposition must be at an end. That resolution is a law, and resistance to it is punishable.

Some assail the present state legislature for not immediately curing all our problems, but forget that they do prevent the excess of the majority without the state losing its position as being one of the most progressive of the 50 states. Some who attack the legislature for not passing certain legislation forget that when the law is passed, opposition must be at an end. Some who berate the legislature for not acting with speed and dispatch forget that once a law is passed, the majority will is imposed upon the individual, and the resistance thereupon is punishable. We must keep in mind that all laws either take property from a citizen or restrict his freedom, or both; that all laws impose the will of the majority over the individual. Lost sight of is the fact that our concept of government traditionally only allows the majority to control when its action is within constitutional limits, and then only when necessary, not just when it is convenient for the majority. Shunned is the Rousseau theory which caused chaos in France when the general will of the multitude prevailed over the natural rights of the individual.

Now I have heard it said that we now have minority rule in our state legislature because the minority can stop legislation. I would like to direct your attention to a court jury. The jury, 12 men, decides whether a man must pay money to another man. This jury decides whether a man's freedom shall be restricted. How do we protect the individual in this case? By a simple majority? No. By an absolute 100 per cent majority. Why should not the people of this state, standing as individuals, also have a check on the will of the masses, with the power of tyranny within their grasp, with the power, by law, to take property from the individual and to restrict his freedom? The minority under the present constitution cannot pass a law to take property away from the majority or restrict the majority's freedom. They act only as a check. It is not minority rule. It merely protects in the same manner as that of a court jury.

I urge the adoption of the plan the people have voted for. I urge the adoption of this amendment. Incidentally, before I conclude, I would like to say that during the morning hours the research department has been very kind to draw a map of the senatorial districts remaining, keeping them as much intact as possible with Dr. Thaden's projection for 1970, and you will notice that there are considerable changes in various areas. And so that you will not be misled, I would like for you to look at these maps, compare them with the maps which were prepared by the committee, and then realize that both of these maps may be wrong in that the projection population may go one way or the other. We are not sure. I urge the adoption of this amendment.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, in accordance with the commitment earlier made—I regret we are not going to be able to finish this one before we rise—I move, for the purpose of a 10 minute recess, we now rise.

CHAIRMAN HUTCHINSON: Dr. Hannah moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration Committee Proposal 80 of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** has considered several amendments thereto and has come to no final resolution thereon.

I have an announcement: there will be a meeting of the committee on legislative powers during the recess. It is of historical importance to the convention; a committee picture. T. Jefferson Hoxie, chairman.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I move that we now recess until 3:55.

PRESIDENT NISBET: The question on the motion of Dr. Hannah. Those in favor say aye. Opposed, no.

We are recessed until 3:55. Please return when the bell rings.

[Whereupon, at 3:45 o'clock p.m., the convention recessed; and, at 3:55 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee has under consideration **Committee Proposal 80** and in particular an amendment offered by Mr. Boothby. The question is upon the amendment. The Chair recognizes Mr. Knirk.

MR. KNIRK: Mr. Chairman, fellow delegates, I rise with some hesitation to oppose the great liberal, Lee Boothby, but I think that the committee proposal, with a little clarification of a point which we have bypassed for the moment, is certainly a much more reasonable approach to this problem of representation than what Mr. Boothby offers, and I think that we should be very proud of the fact that the legislative organization committee did take the approach that it has very objectively. They did consider Mr. Boothby's suggestion, in the committee, of the status quo, and I feel that the committee very, very solemnly said that they did not want any part of that, and I would like to review for you 2 or 3 items that I think all of us should consider as delegates here in 1962 in writing a document for the next 50 years, realizing what has taken place in the courts in the last very short span of time—less than 10 days—but I think that we can say with a lot of pride and sureness that the steps we have taken have been sound and reasonable.

First, we did unfreeze the districts that were frozen in 1952. Secondly, we did come up with a formula which is fair, and I do realize that some delegates have referred to the fact "not easy to understand," but I think it is easy to understand. I think it is just a matter of a person's study of the proposal, and then his or her attitude toward it, as to whether or not it is easy to explain. Thirdly, I think that in Dr. Joiner's remarks and comments upon the Baker vs. Carr case, known as the Tennessee case, he reminded our committee, through Dr. Hannah, that he felt what we had offered was sound, and that it was an apportionment plan based upon reason, and had a rational approach, and I certainly hope—though I knew that the great liberal, Lee Boothby, was going to make this address today and I am sure he has made it for whatever purpose it might have been—and may I suggest that we just vote on it at this time with no further comment, and vote it down.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. Chairman, I want to demand the yeas and nays.

CHAIRMAN HUTCHINSON: On the Boothby amendment Mr. Yeager demands the yeas and nays. Is the demand supported? The demand is supported. The question is upon the amendment. The Chair recognizes Mr. Pellow.

MR. PELLOW: May I speak on this amendment?

CHAIRMAN HUTCHINSON: You may proceed.

MR. PELLOW: I would like to make a few references regarding this amendment. I would like to start with what the Republican chairman said about the senate, the Republican state chairman, Mr. Van Peursem. I am going to make a few quotations which I had made before regarding the governor.

Prior to the election there were a few talks about this as regarding the upper peninsula, when the various chairmen and so forth come up before an election and they tell the people from the upper peninsula that they don't want to take any representation away from them, and this is a quote also from the Marquette Mining Journal dated August 28, 1961. Now I am going to quote the great Republican state chairman regarding this, when he stated this—Mr. George Van Peursem, the Republican state chairman—regarding the Republican party's position prior to the election, and this was given over television with Mr. Richards, who is a delegate from the Marquette district wherein I ran. I represent, for the record, senatorial district 31, consisting of the counties of Gogebic, Iron, Dickinson and Marquette counties. Mr. Richards also represents that county, the representative district, and he appeared on television with Mr. Van Peursem. This is a quote from the Marquette Mining Journal of August 28, 1961. I think it is pertinent to all of the delegates here to realize what is said now that the convention is called, and what was said prior to the time that the convention was called by the people of both parties in order that not only the delegates but that the people may realize that apparently the positions of the parties and the leaders change depending upon whether or not there is or there is not an election. Mr. Van Peursem stated, and I quote—and if I am incorrect you may check the Journal, the Marquette Mining Journal where this was reported, and this was an actual quotation on Monday, August 28, 1961, and prior to that—I don't know whether or not Mr. Richards is here, but the question was asked him specifically whether or not the Republican party was to take any representation away from the people of the upper peninsula, and the answer of Mr. Van Peursem was that not one representative or one senator would be taken away from the people of the upper peninsula by the Republican party.

Now we have seen what is apparently going to happen down here at this particular convention; that the people of the upper peninsula are going to lose, according to the package deal that was agreed to by the Republican party, 2 seats to Oakland county because that is where the deal has apparently originated. And I quote:

> "If the program endorsed by the Democrats wins in con con," said Van Peursem, "the upper peninsula will lose 4 representatives and 2 senators. They will be reduced by 3 representatives and 1 senator. Can you imagine a senator representing a 15 county area that stretches from Ironwood to the Soo with all the different economies of this big area?"

And he goes on to state in this very long report that he gave to the people of the state of Michigan that the Republican party was against any loss of representation for the people of the upper peninsula. And in the same breath the Republican party comes down here and they are taking away a minimum of 2 seats from the people of the upper peninsula, and they justify this, now that the election is over, that they are at least holding what the people have. For the purpose of the record I want to call this to the attention of all the delegates, and I am very disappointed that the Republican party chairman says one thing before the election, and as soon as the election is over they want to endorse a house of representatives strictly on population and give the upper peninsula 1 or 2 senators and call it a day. Thank you.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Boothby. The yeas and nays have been ordered. Mr. Nord.

MR. NORD: Mr. Chairman, I simply want to say a few words about the Boothby amendment, and these words are as follows: the Boothby amendment is based certainly on logic. If you start with this premise that no change is needed he has a perfect cure. If no change is needed, of course you make no change. And therefore I believe he has put the issue point blank to us: is any change needed or not? I believe, in fact, he has put the issue to us as squarely as anyone in the convention can put it. And I believe we should answer that question, and we should all answer it the same way: a change is needed; and a change being needed, the logic will not arrive at the result that Mr. Boothby asks, and I certainly oppose this amendment.

CHAIRMAN HUTCHINSON: All those in favor—

MR. DEHNKE: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: I think before this discussion is concluded somebody ought to state for the record, for the information of Delegate Pellow and those who may hear from him in the future, that if the proposals made by his colleagues in this convention by a 100 per cent support, except for himself and the colleague from his county, had prevailed, the Republican proposal or the majority proposal, as he may prefer to call it, would have looked most attractive indeed.

CHAIRMAN HUTCHINSON: The Chair recognizes Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, I rise to announce my wholehearted support of the Boothby amendment. I do so for 2 reasons, possibly for 2½ reasons. Each year the voters of this state are faced with a multitude of ballot issues. Some arise out of city charters, some come from statutes referred by the legislature and some come on constitutional amendments.

Now my experience has been that when the voters don't understand—don't thoroughly understand—what they are voting on, they almost invariably vote no. I have done this myself on a number of occasions. I feel that probably every delegate in this convention, except possibly my good friend Delegate Hale Brake, has also done the same thing. Now I feel that the complexity of this Committee Proposal 80 is beyond—not beyond the average voter's comprehension, but it is complex to the degree that he will not give—he or she in deference to Delegate Butler—that he or she will not give the time to it that is necessary to understand it.

We have been in debate here—I have read this proposal several times. It has been debated for at least a day and a half, and I can't honestly and sincerely say that I understand the effect of this proposal either presently or as it may be projected into the future. And it is my fear, and a sincere fear, that—since representation means a mighty lot, legislative representation means a great deal to the people of the state—not understanding this Committee Proposal 80 as it has been several times amended, they will turn out in great droves and defeat the entire constitution.

My second reason has been touched on to some extent by Delegate Boothby, but I have, perhaps, a little different slant on it, and that is within the last 10 years this very question that we are called upon to vote upon next year has been decided by the people. It was decided by a majority of 300,000 votes in favor of the identical language that Mr. Boothby places before us today and, for the benefit of the one man, one vote advocates in this convention, I will say that it was decided back in 1952 on a one man, one vote basis. And I will say further that if the one man, one vote advocates thought that they could get this out of the constitution by a direct vote of the people they would long ago have placed an initiative proposal upon the ballot and would have done it. I don't think they could have done it in the past; I don't think they could do it today. In 1952 the voters froze in the senatorial districts. As has been stated, 80 out of 83 counties gave a favorable majority to the freezing, and they weren't small majorities; they were majorities of 2, 3, 4, 5 and 6 to 1 in favor of the freezing. For those who want to check on their own counties, I have on my desk, on the temporary desk loaned me by Dr. Hannah, the 1953-1954 Michigan Manual, and if you wish to check on the sentiment of your own counties in 1952, I hope you will do that. Now I don't know that the sentiment has changed since 1952. As a matter of fact, I don't believe it has changed. I feel that the voters knew what they were doing in 1952, and they would do it again today if presented with the Boothby amendment.

Finally, for my half reason: I don't care what others do, but I am not going to panic about this supreme court decision. I don't think there is a delegate in this convention who has really any concept of what that decision means. As a matter of fact, I don't believe the Supreme Court of the United States knows what ultimately they are going to do, why they are going to do it or when they are going to do it, and if the supreme court itself doesn't know it, how can we be expected to anticipate and guess and surmise what the ultimate outcome of the supreme court cases may be? Now, in completion, I once again urge support of the Boothby amendment.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I have great respect for Judge Leibrand and others that feel as he feels; they would like to retain the status quo as it is. I am also a great believer in the committee system in legislative bodies, including this convention. Mr. Boothby was a member of our committee. His championship of the proposal which he has now reintroduced, that we stand pat, do nothing with redistricting the legislature, was vigorously presented in the committee and was unanimously rejected in that no other member of the committee subscribed to his feeling about it. Without belaboring the matter further, I should hope that this committee will stand with the organization committee and with, I hope, the minority party and reject the Boothby amendment.

CHAIRMAN HUTCHINSON: The question is upon the Boothby amendment, and the yeas and nays have been demanded. Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen of the committee, just a few short remarks. Mr. Knirk has raised the question, to a certain degree, as to what my purpose was in submitting this amendment before this delegation. I am most happy to reply to Mr. Knirk's indirect question, because I think it brings actually the question to issue. The reason I offer this amendment is because the people of the state of Michigan in 1952 spoke in favor of it. I can understand why we should believe in the committee system. This apparently is the great American tradition. It was once said that when there was an airplane flying rather high and the motor conked out, that a group of American passengers aboard said "Well, we had better get a landing committee ready." This apparently is the American tradition. But even further than this tradition of looking to committees, when there is a chance I would rather look to what the people themselves say, and the people did say in 1952.

Now my second purpose is this: on not too many issues did the people of my district, Berrien and Cass counties, ask me how I would vote when I came to this constitutional convention. They said they would leave it in my hands. But they did ask me this question every single place I went: how will you vote on apportionment? How will you vote on senate apportionment? Will you allow for any greater control in the metropolitan areas or will you provide us with a balanced legislature? It was my solemn commitment that I would provide a balanced legislature if it was within my power, and would speak in that behalf. And I would like to say that what the committee has amended on the floor, has come up with according to Dr. Thaden's figures, is a situation where Wayne, Oakland, Macomb, Genesee, the 4 great county complex of the southeastern area, now would have 19 senators. That is an increase from 10 to 19, an increase of 9 senators. Can I go back to my people and say that I didn't vote in favor of any increase in that metropolitan complex representation in the senate; that I have preserved the balanced legislature when the 4 counties of the state can pretty much control both houses of the legislature? I feel that I cannot, and for that reason I did submit this amendment. That is the second purpose.

The third purpose is that when our legislative organization committee, of which I was a member, traveled through the state, we had 3 stops. We went to Wayne county. In the afternoon in the city of Detroit we heard 104 people speak—or we heard people speak and there were 104 people present. In the evening there were 111 people present when certain individuals were speaking. Some of the people who spoke in the city of Detroit spoke of the straight population one man, one vote. There were many people, however, that spoke for the present apportionment plan.

Then we went to the city of Kalamazoo. What did we meet in the city of Kalamazoo? We found almost—with just 2 or 3 exceptions—a situation where the people speaking at that meeting were in favor of the present 1952 amendment, the present amendment which is before you. There were, I think, about 125 to 150 people in Kalamazoo.

We went to Berrien Springs. Berrien Springs had as many people as you could jam and pack into the local county building. People were there from several counties. It has been estimated at between 600 and 800 people were present in that building. The reason why they couldn't find out exactly how many people were there is because they were piled up behind the stage and some in adjoining rooms. And, with one exception, every single speaker there either spoke in favor of the 1952 amendment or in favor of the plan where every county would receive one vote in either the house or the senate.

So the hearings that we had throughout the state convinced me that the majority of the people of the state had not changed their minds from the time that they had voted in 1952. They had the same ideas then, just 2 or 3 months ago, that they had in 1952. I believe that their voice spoke much louder than our committee's voice spoke.

Now, one further thought, and that is this: I think that when New Jersey held its constitutional convention they gave consideration to this question of apportionment, and they came up with a very, very wise decision. The people of New Jersey said we do have some things we need to change in our constitution. There are certain areas that we must change, and we must see that there is nothing in the constitution which we will submit to the people that will cause it to go down, which will cause the constitution to go down the drain. So very wisely the people of New Jersey, meeting in their constitutional convention, said: we will not in this convention consider that matter of apportionment. It is too vital, it is too great, it is too important to sandwich in a package with all the other questions before that constitutional convention body. So they decided not to consider apportionment. I think it would be a wise choice for us to retain the 1952 amendment; in other words, not to materially alter the situation. If there is something to be changed, then let the people speak. Let the people, each and every one of them throughout the state, speak according to whether it should be changed. I think the people of New Jersey were very wise. I think they contemplated a situation which could have caused the defeat of the New Jersey constitution. So I would submit this as being a very wise consideration, and would urge you to think about this matter when you come to vote on this amendment, because the amendment which I have placed before you does not even change one comma of the amendment which the people adopted in 1952. I do not want this constitution to go down the drain because we have sandwiched in the package a very controversial question.

Now, one additional thing that I would want to point out because the question was raised in the hall. Someone asked me if this map that I passed around was my amendment. It is not my amendment. It is not even the committee's amendment, because the committee's amendment no longer stands before you in this hall because it was amended a few minutes ago when Dr. Pollock's amendment went in. The metropolitan area picked up at least 2 more senators. So you don't even have before you the report that came out of the committee on legislative organization. The map which was passed around is the map of the committee's recommendation with the Pollock amendment attached thereto, and taking into consideration the population projection of 1970 that Dr. Thaden testified and gave us in the legislative organization committee. I would like to point out there are many changes throughout the state. For instance, the Allegan-Van Buren-Barry county senatorial district, senatorial district 8, would have to have Eaton county added to it. The Montcalm-Gratiot-Ionia district has Clinton and Shiawassee added to it. Then you take the district over about midway in the state, next to Lake Michigan, and you have a 1, 2, 3, 4, 5, 6, 7 county senatorial district, which is materially different than the present senatorial makeup.

I say if you look at this map you will see that your senatorial districts, if Dr. Thaden's projection is correct, will be materially changed and altered. I think the people of the state of Michigan are going to think twice before they adopt a constitution which materially alters and changes the amendment which they adopted in 1952. I urge the adoption of this amendment by each and every one of you that made commitments to your people back home.

CHAIRMAN HUTCHINSON: Mr. Norris.

MR. NORRIS: Mr. Chairman, ladies and gentlemen of the committee, just a brief comment, and perhaps a question to Mr. Boothby. He did preface his observations with regard to certain quotations from the Adams brief in the Scholle vs. Hare case, and sought to establish that there was a reasonable classification here which would comport with the standards of equal protection which have been only in part elucidated in the recent Baker vs. Carr decision.

We have before us a proposition in the Boothby amendment which would continue the freezing of the senatorial districts. In 1952, if we took senatorial district 32 and compared it with senatorial district 12, district 32 being the Keweenaw area and the Oakland county area district 12, there would be a disparity of 6½ to 1. That is, a vote for the state senator in the Keweenaw area would be worth 6½ times the value of a vote in Oakland county for the state senator in that district. I understand in 1960 the population changed so that in the Keweenaw area a vote for the state senator in that area would be 12.3 times the value of a vote for state senator in Oakland county. I understand that the committee on legislative organization had before it data which indicated that in 1975, if this procedure continued unabated, the value of a vote for state senator in the Keweenaw area would be 28 times the value of a vote for state senator in Oakland county.

I would like to address this question, then, to Mr. Boothby, and indeed to those who argue that the present 1952 amendment ought to continue: does this constitute a reasonable classification, especially when the classification which accounts for this disparity in the value of votes will be frozen and continue to be frozen?

MR. BOOTHBY: Mr. Chairman, Mr. Norris and ladies and gentlemen of the committee, my answer to this was actually made in my presentation when I read from Attorney General Paul Adam's brief, where he indicated that the classification was reasonable and that the people of the state, when they adopted the 1952 amendment, were acting reasonably in the classification. This is a little different than if the legislature, or if the constitutional convention would make this classification. Here the people of the state decided that this would be the classification, and as Attorney General Adams indicated in his brief—and I do not want to read further from it—he said that the people of the state had the right to decide, in looking at the state of Michigan, whether they were going to group certain economic areas together, whether they were going to group together various other factors in senatorial districts, and whether they were going to give some economic weight and population weight and some other weight in the senatorial districts. He merely stated, and my answer is, that when the people of the state made their choice they set up a classification which Attorney General Adams argued—and I am not going to dispute his word—was reasonable.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I will be very brief. I rise to oppose the Boothby amendment. I think it should be pointed out to Delegate Boothby, when he refers to the fact that 4 counties, Wayne, Oakland, Gensee and Macomb, would have under the committee proposal, as I understand it, 19 senators, I think it should also be pointed out that these 4 counties have well over 50 per cent of the total population of the state. Mr. Boothby had a lot to say about the hearings that were held in Detroit, Kalamazoo and Berrien county. Mr. Boothby is well aware that you couldn't really get a good cross section of opinion on this issue from those hearings, because the one in Detroit, as all the delegates of the committee know, was soft pedaled. There was no concerted effort to pack a hall or make a traveling circus out of the hearing. On the contrary, in Berrien county there was a concerted effort. There were cards sent out that were misleading. I got a hold of one of the cards. Cards were mailed out—I am not sure by which organization, and I will not attempt to say which organization, but Delegate Boothby knows. On this card it said simply, "Stop Wayne county domination. Attend hearing at Berrien county." Now anyone knows that this was misleading information, because even on a straight population basis, the one man, one vote principle, Wayne county could not dominate. I agree with Delegate Boothby, however, from my experience at the Berrien Springs hearing, that it was obvious that the people did not want any change in that area, and I got the impression if anything they didn't even want the status quo; they would rather go back and have more malrepresentation.

I think, while I am not happy with the committee report—I call it a "flirtation" with equality; and my definition of that is "attention without intention"—but I would say to Delegate Boothby in closing: slumber not in the tents of your forefathers, Delegate Boothby, and swim not in the sea of indifference; the state, the world and the nation is on the move. Let's advance with it.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Boothby. The secretary will read an amendment to the amendment.

SECRETARY CHASE: Messrs. King and Walker offer the following amendment to the amendment:

1. Amend the amendment in the third sentence, after "twelfth" by striking out the comma and inserting "and seventeenth,"; and after "sixteenth" by striking out "and seventeenth".

CHAIRMAN HUTCHINSON: On the amendment the Chair recognizes Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I shall try to be brief. First of all, I want to point out to Mr. Boothby that some of us in that invidious metropolitan complex of Wayne, Oakland, Macomb and Genesee—I know that you didn't use the word invidious, but I once read in a book that every time you learned a new word you should try to use it the same day, and I gathered that you were thinking along those lines—but I would like to point out that we are not always bad, and in a little time you could come to like us. But I am aware of the fact that the clock on the wall is moving, and the calendar on the wall is changing, and I think it says 1962, but from our side of the hall Mr. Boothby and I can't see that. But, it is 1962, and it is April 4.

I have only 2 regrets, really. First of all, I know this is a day for home consumption and I had quite a lengthy speech prepared. I was going to send the original to the Pontiac Press and a carbon copy to the Marquette Mining Journal, (laughter) but in the interest of saving time I will not read it. My other regret is that Lee Walker and I are at long last together, and it is with great sorrow that Lee and I have decided that perhaps we shouldn't take the committee's time with this amendment. But all is not lost, because Lee and I have agreed that in the interest of time we will withdraw our amendment, and at this time I would like to yield to my good friend Lee Walker.

CHAIRMAN HUTCHINSON: Pending withdrawal of the amendment the Chair recognizes Mr. Walker.

MR. WALKER: To be even more brief, I will say, me too.

CHAIRMAN HUTCHINSON: The amendment is withdrawn. The question is upon the amendment offered by Mr. Boothby. Mr. Dell.

MR. DELL: I don't wish to belabor this discussion any further. I think it has been debated well, but I did study the proposal that came in from the committee, and I am prepared to support it. Now this morning there was an amendment attached to that proposal, and I must admit that I do not know what the results will be in the future under this amendment. I do know what the Boothby amendment will do, and I therefore am going to support the Boothby amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Boothby. The yeas and nays have been demanded. Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I have listened to Mr. Boothby's presentation of his amendment, and I would like to compliment him on a job well done. I may argue the substance of what he has said, but at the same time I have a bit of a problem reconciling the position that has been taken by the minority on several issues. The minority has spoken here for about 6 months now of equality at the ballot box. They have referred constantly to the people speaking at an election at large with respect to the retention of earmarked gas and weight taxes, with respect to the retention of an elective administrative board, with respect to the earmarking of sales taxes, with respect to the earmarking of penal fines, with respect to the selection of the judiciary, and on and on. Most of these, as you will recall, were by constitutional amendment, adopted by the people with equality at the ballot box, one man, one vote. The people have spoken much more recently with respect to apportionment of the senate, especially, than any of the foregoing issues which I am sure you will recall; in 1952 and more recently in an issue that was raised and made an issue by the very minority in the selection of delegates to this convention.

In spite of all the logical, reasonable arguments in favor of eliminating the earmarking of funds, the appointment of administrative boards, the minority has said the people like it this way, we should therefore retain it. Do not the people, in view of the elections mentioned, like apportionment, especially of the senate, this way? Although Emerson has said that "foolish consistency is the hobgoblin of small minds," I would only remind the minority that there is a limit to poetic license. Thank you.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, I regret that Mr. Brown has finished so soon. I hardly had time to jot down around 8 or 9 points to answer him. As a matter of fact, I only have one that I can read.

First of all I would say that I, in any event, who have certainly spoken strongly for the minority report on apportionment, I have never taken the position at all that we must do what the people have done in the past just because they have done it. Quite the reverse. I, for example, took the position that I was against highway earmarking and in favor of school earmarking for different reasons, and I will go further; I stated on the floor—and if I omitted to, I certainly wish to make a correction and do it now—I am in favor of removing all earmarking for penal fines and all the earmarking you can think of, whatever I may not think of. I am in favor of all of those in the event that we have a legislature which is based on one man, one vote, whatever mechanical system may be the way of accomplishing that.

Not only that, I have taken pains all along to say this: if the people have spoken, and that's all there is to it, why have we got a constitutional convention? All we have to do is find out what's in the constitution, because everything in the present constitution was put there by the people, without any exception. Nobody forced it on them. They voted for every single provision that is in the present constitution. But they also voted for the constitutional convention, and the constitutional convention was called for the purpose of finding out whether all of the various things they had agreed upon in the past make sense together or whether they should be taken apart, removed one at a time or jointly.

I think, therefore, that the argument of Mr. Brown is certainly not a valid argument, it doesn't fit the facts. The only thing I could say to conclude this subject is this: give us a legislature based on one man, one vote and you will find no sign of earmarking, and you will find us reversed on a great many crucial issues, if not every crucial issue, and we attempted to say so every time these issues came up. I believe our position is about as consistent as a human being can be when he is speculating on what kind of a legislature he may have.

CHAIRMAN HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, utilizing the same argument given by brother Garry, in 1960 the people of the state of Michigan elected John Swainson governor, and I suggest, therefore, that since they have spoken once, and are correct in all of their judgments, that we not hold a gubernatorial election this year.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Chairman Hutchinson, ladies and gentlemen of the committee, I think we have spent an hour and 20 minutes on this particular amendment. I think everyone has had their say. I certainly hope that, in all seriousness, we will get down to work here and put this to a vote. And I am just going to say this; let your conscience be your guide.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Boothby. Judge Dehnke.

MR. DEHNKE: Mr. Chairman, this matter is of considerable importance to a great number of us. Thinking back to the 1952 election, I am sure you would be interested in the fact that there was only one county in the state which voted no on both the proposals that were submitted to the people at that time. That county was Oakland. They turned down the strict population apportionment by a heavy majority, but they also turned down by a much smaller majority the so called balanced legislature program, which reflected an opinion, in which I think they were justified, that even in 1952 the disposition that had been made of that particular county was not equitable; and that situation has been made worse, from their viewpoint, by the population changes since that time. I would find it much easier to support the Boothby amendment if provision had been made to correct that outstanding inequity, and perhaps some others that should have attention. I think that is all I care to say at this time.

CHAIRMAN HUTCHINSON: The question is upon the amendment of Mr. Boothby. The yeas and nays have been ordered.

MR. W. F. HANNA: Is this a record vote?

CHAIRMAN HUTCHINSON: This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. MARSHALL: Mr. Chairman.

CHAIRMAN HUTCHINSON: For what purpose does the gentleman rise?

MR. MARSHALL: Would I be in order to demand Delegate Hodges' vote?

CHAIRMAN HUTCHINSON: The gentleman is admonished that he has no power to decline to vote, but you have no power to demand it.

MR. MARSHALL: Boy, that one got me.

CHAIRMAN HUTCHINSON: Does Mr. Hodges wish to vote?

MR. HODGES: Mr. Chairman, it seemed to me that the difference between the plans didn't justify the effort that is required to push the button, but I will vote no.

CHAIRMAN HUTCHINSON: Mr. Hodges votes no.

The roll was called and the delegates voted as follows:

Yeas—20

Boothby
Brown, G. E.
Dell
Doty, Dean
Doty, Donald
Erickson
Everett
Finch
Gover
Hatch
Higgs
Hoxie
Leibrand
McAllister
Powell
Prettie
Richards, J. B.
Shanahan
Tweedie
Wood

Nays—111

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Brake
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Dehnke
Donnelly, Miss
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Goebel
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hubbs
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Nisbet
Nord
Norris
Ostrow
Page
Pellow
Perlich
Perras
Plank
Pollock
Pugsley
Radka
Rajkovich
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Starrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Boothby, the yeas are 20; the nays are 111.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Hodges and Lesinski offer the following amendment:

1. Amend page 1, line 9, after "Sec. a.", by striking out the balance of the section and inserting "The senate shall consist of 35 members elected for 4 year terms concurrent with the term of office of the governor. Senators shall be elected from single districts which shall be composed of contiguous territory and be compact. Each district shall contain, as nearly as may be, an equal number of persons, but in no case shall the districts vary in numbers of people more than 15 per cent above or below the ratio of population determined in the state as a whole, according to the latest federal decennial census, by dividing the total population of the state by 35.".

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Hodges.

MR. HODGES: Mr. Chairman and fellow delegates, this is merely offered to get at probably the heart of the question, as it is quite obvious this is a straight population in the senate with the deviation of 15 per cent, which has been considered by the experts that we have at least studied as the maximum allowable deviation to take into consideration the problems of districting. This has no mechanical weighting or anything else. It is straight population. I am not going to belabor the point. I think this is very clear. I would demand the yeas and nays on it, and I will yield to Mr. Lesinski, the cosponsor, for more remarks.

CHAIRMAN HUTCHINSON: Mr. Hodges demands the yeas and nays on the amendment. Is the demand supported? Sufficient number up. The demand is supported. The yeas and nays are ordered. The Chair recognizes Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates, I believe we have a very good amendment. It is very simple. I believe it meets Judge Leibrand's—answers his question on simplicity. It is easy to understand. All believers in good and fair representation would vote for this if this was brought up to the people of the state of Michigan.

CHAIRMAN HUTCHINSON: The question is upon the amendment, and the yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—41

Austin
Baginski
Balcer
Barthwell
Bledsoe
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Young
Youngblood

Nays—83

Andrus, Miss
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Starrett
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Hodges and Lesinski, the yeas are 41; the nays are 83.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: That is all of the pending amendments on the desk to section a at this time.

CHAIRMAN HUTCHINSON: Are there any further amendments to section a? If not, section a will pass.

Section a, as amended, is passed. Mr. Downs.

MR. DOWNS: Now that we do not have the committee rise and revote on the committee report, if any of us wish to vote for or against this, will we get the opportunity when we are done with the whole section, or would we need to put in an amendment to strike the whole section in order to indicate a record vote against a particular part?

CHAIRMAN HUTCHINSON: You are asking the chairman of the committee of the whole to rule upon that matter, are you?

MR. DOWNS: I am asking you as chairman of the committee of the whole which also has the function of the convention in the sense of having a record roll call vote, yes.

CHAIRMAN HUTCHINSON: It is the understanding of the Chair and what you are asking, in effect, is whether it would be in order in the committee of the whole to make a motion for the adoption of the proposal in the form in which it is finally amended and completed in the committee of the whole before the committee rises?

MR. DOWNS: Yes.

CHAIRMAN HUTCHINSON: As the rules now stand, it is not my understanding that that would be in order. It is not the function of the committee of the whole to adopt the proposals. It is the function of the committee of the whole simply to adopt amendments which it recommends to the convention. Under the rules as we have now amended them, the recommendations of the committee of the whole are agreed to by the convention without further action. The matter comes back from the committee on style and drafting and then is before the convention, and at that time any proposal may be voted up or down by a record roll call.

MR. DOWNS: Another parliamentary inquiry, Mr. Chairman. Am I in order to make another parliamentary inquiry?

CHAIRMAN HUTCHINSON: Certainly.

MR. DOWNS: If then, before the committee rises, and we still have this Committee Proposal 80 before us, would it then be in order to offer an amendment to strike the whole proposal or to strike particular parts thereof and get recorded roll call votes on that?

CHAIRMAN HUTCHINSON: The Chair thinks it would be—

MR. DOWNS: Thank you.

CHAIRMAN HUTCHINSON: —if and unless the situation is presented in such a way that the committee of the whole has already acted upon the precise question once before. For instance, if you should again offer an amendment which this committee has already acted upon, you see, the point could be raised that the committee has acted upon that one. But if you were going to offer an amendment, for instance, to strike out everything after the enacting clause, the Chair supposes it would be in order.

MR. DOWNS: Thank you.

MR. WOOLFENDEN: Parliamentary inquiry.

CHAIRMAN HUTCHINSON: Mr. Woolfenden.

MR. WOOLFENDEN: I believe the Chair announced that section a has been passed. It was my understanding that part of it is yet to be drafted. There is a reservation, I believe. Am I correct in that?

CHAIRMAN HUTCHINSON: The committee passed section a, but of course, after we get through section b, then before the entire proposal is passed by this committee finally, it is in order to offer amendments to the body of the proposal, and at that point it is in order to offer further amendments to section a.

MR. WOOLFENDEN: Mr. Chairman, it was my understanding that Dr. Hannah expressly requested that a portion of section a be withheld from final action by the committee of the whole to permit possible redrafting.

MR. W. F. HANNA: Subsection 2, Mr. Chairman. We asked that subsection 2 be held, and I think it was agreed to and put at the end of Committee Proposal 80.

CHAIRMAN HUTCHINSON: The Chair is reminded of that, and therefore revokes its previous order that section a has passed, and we will proceed to the consideration of section b. The Chair recognizes Mr. Nord.

MR. NORD: Point of information, Mr. Chairman. There appeared on my desk a short time ago an amendment to section a, I believe, offered by Dr. Pollock, and I wondered whether that is not before us or whether it is before us at this time?

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I am sure the secretary did this inadvertently, but I did put in a substitute to the whole section, but in the light of the action of the committee of the whole in accepting important amendments and perfecting amendments which I offered, I withdraw that amendment at this time.

CHAIRMAN HUTCHINSON: Thank you, Mr. Pollock.

SECRETARY CHASE: Mr. Pollock withdraws his amendment to section a.

CHAIRMAN HUTCHINSON: If there are no further amendments to section a at this time, the committee will proceed to the consideration of section b, and the Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I should now like to yield to Mr. Don Doty, a member of the committee, who will present the committee report and recommendations, and such comments as he cares to make on section b.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Doty of Monroe.

MR. DONALD DOTY: Mr. Chairman, fellow delegates, the report of the committee on legislative organization will be found on page 455 of the journal.

To properly analyze the report of the majority members of the legislative organization committee, I believe that it would be wise to briefly review the situation as it now exists. The 1850 constitution established a moiety provision, saying that when any county or group of counties reach ½ of the population ratio of the state, it should be entitled to its first representative. The population ratio is arrived at by dividing the state's population by 100. When this provision was first adopted, moiety districts were given the first seats and with the maximum established at 100 house seats. Wayne county was allowed only the balance, thereby causing gross under representation. Upon the adoption of the 1952 amendment, the house of representatives was raised to 110 members and Wayne county was allocated an additional 11 seats, bringing its total to 38, thereby bringing it in line on a population basis. Under this plan a wide variance of population among the districts resulted. This was equally true within the highly populated areas where the boards of supervisors were charged with the responsibility of setting up the districts as in outstate areas. In fact, the 1960 census indicates that the extremes of the state were found within Wayne county. On a per representative basis, representative district 14, with a population of 34,137, was the low while representative district 21, with a population of 188,478, represented the most highly populated district in the state. At the time these districts were set up in 1953 by the board of supervisors in Wayne county, the range was from a low of 43,355 to a high of 94,994, or almost 2.2 to 1.

The committee on legislative organization was faced with several decisions regarding the organization of the house. Our objective was to provide for its organization on a population basis as nearly as possible. First we had several districts where there was more than one representative elected. After considerable study, it was deemed advisable that single member districts be established. Secondly, much to the amazement of the committee, we soon found that we had to accept some discrepancy between the population of districts or ignore county lines. In our discussion it was pointed out that our outstate people are closely identified with counties, and that if in instances small parts of one county were joined with another county, that for all practical purposes those people, by their inability to elect, would not be represented in the legislature. In other circumstances one county might be divided into 2, 3 or 4 legislative areas to form legislative districts. Also the political aspects; the difficulty of maintaining political organization in counties that might be split up into 3 or more legislative areas. Of the 2 principles, our committee resolved to remain with county lines.

Thirdly, we had to decide on the size of the house of representatives. This was resolved at 110 members for 2 reasons. First, quality of representation is not increased by quantity; and secondly, the present chambers of the house are fully utilized, and we did not desire to force the state to build a new capitol building. We are aware of the argument that the house should be on an odd number, but for the above reasons and others, we do not believe the convention should become involved in the numbers game.

Fourth, the term of office. Presently the 2 year term prevails in 46 of our 50 states. The committee believes that the precedent of the federal government in providing longer terms for the senate than for the house of representatives is accepted logic and should also prevail at this level.

After hearing testimony from 112 witnesses, experts and representatives of many organizations, and studying over 40 delegate proposals, the majority of the members of the committee concluded that a fair method for allocating the seats and eliminating the problem created merely by increasing moiety was to use the system by which the United States government allocates congressional seats to the various states. This method, known as equal proportions, is also the method accepted by the constitutional delegates of the states of New Jersey, Alaska and Hawaii for the establishment of their houses of representatives.

After adopting the method of equal proportions, our next duty was to fix a minimum requirement for a seat. With a house fixed at 110 members, our study indicated that .7 or .75 was the maximum per cent applicable and stay within county lines. The difference between 7/10 of 1 per cent and 75/100 of 1 per cent is the difference between 4 seats in the upper peninsula and 5 seats. After considerable discussion, the majority of the committee adopted 7/10 of 1 per cent of the state's population as the minimum requirement. A study indicates that this is as representative as the minority proposal or as ¾ of 1 per cent in that under the committee proposal 47.2 per cent of the state's population can elect a majority, 56 members, of the house of representatives. According to a study by our research department, this would make Michigan's house of representatives the most responsive of any of the 50 states, even more so than that of the state of Wisconsin or Virginia or any other state whose houses are based on so called population.

A fair comparison of the 2 plans before the convention can be best compared by referring to the map in your booklet of the 4 major areas of the state. The majority members of the committee, the majority report, does not specifically district the state. If the committee report is accepted and the constitution adopted, the commission on legislative apportionment, which you have heretofore created, will district the state. The house of representatives map in your booklet is an interpretation as to how it might be done. However, there are only slight variations that can be made, most of these in the upper part of the lower peninsula and still conform with the provisions of this section. In any distribution of seats with a 7/10 of 1 per cent of population as a required minimum for a seat, 40 districts known as legislative areas are created. Each such legislative area shall be initially entitled to 1 seat. After the original allocations, the remaining 70 seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions. The equal proportions priority list in your booklet which lists seats 1, 2, 3, 4, and so forth, means that for equal proportions seats only. Actually this is the distribution after the 40 legislative areas are created, and means seats number 41, 42, 43, 44, and so forth, on through to 110.

Section b of the committee proposal further provides that any county comprising a legislative area entitled to 2 or more seats shall be divided into single member districts, with each district containing not less than 75 per cent nor more than 125 per cent of the area's ratio of representatives. The area's ratio of representation is established by dividing the number of seats in the area by its population. The districts created shall be compact and contiguous and as nearly square in shape as possible, and shall follow city and township lines where applicable. The last paragraph in section b provides for the exception to the rule. We find that under any house apportionment plan presented there are counties that will be isolated. Earlier in this section we have provided that any county so isolated shall be joined with an adjoining legislative area having the smallest percentage of the state's population. In one area where this provision applies the legislative area so established is entitled to a second seat based on the equal proportions formula. This paragraph provides that when this condition exists, the area shall be divided as equal as possible in population adhering to county lines.

This concludes my presentation, and I will yield the floor to Delegate Garry Brown, who will give an explanation of the method of equal proportions.

CHAIRMAN HUTCHINSON: The Chair recognizes Delegate Garry Brown for further presentation of the committee proposal.

MR. G. E. BROWN: Mr. Chairman, ladies and gentlemen of the committee, the hour is probably late to begin a discussion of equal proportions. However, I would just note in passing that equal proportions as used here is not a formula by which you derive a 38-19-38 figure, but rather, it is a distribution of seats in a legislature, or a congress, as is the case in our national government.

Before explaining the method and effect of a distribution of seats in the house of representatives by the method of equal proportions, it is best to briefly note the historical use and validity of such method. Although the federal government from time to time since its formation has at one time or another used other methods in its attempt to obtain the fairest distribution of congressional seats among the states, it finally determined the method of equal proportions to be the fairest and most valid way in which to distribute such seats, and in approximately 1940 settled upon equal proportions as the method to be used for all time, or at least until another method unknown at the present time is devised which would provide a fairer system of distribution—if such a method can be devised. That equal proportions is the fairest method is further substantiated by the fact that the new states of Alaska and Hawaii and—as mentioned by Mr. Doty—New Jersey decided to use such method, and have so provided in their constitutions, even though all of the other suggested methods were available to them at the time such constitutional provision was adopted.

At the outset it should be pointed out that the method of equal proportions is not a districting formula, but rather it is an apportionment formula. In other words, legislative areas or districts cannot be set up initially by the method of equal proportions, but rather the seats to be allocated in any size house of representatives are distributed to the legislative areas under this formula. To further explain, the federal government distributes congressional seats to the states, legislative areas, if you please, by equal proportions, but equal proportions has nothing to do with the setting up of the legislative areas, that is, the states'. Just as the federal government provides that every state—a legislative area as used in our contemplation—shall be first given one representative, the plan that is presently proposed for Michigan likewise would give one seat to each legislative area. The remaining seats, after the allocation of one seat to each legislative area, are then distributed by equal proportions to the predetermined legislative areas irrespective of how such legislative areas are initially determined. The equal proportions method then distributes the remaining seats on as near a straight population basis as is possible, and to a mathematical certainty reduces the relative deviation of one representative district to another to a minimum. The relative deviation of the representation of one district to another where equal proportions is used, therefore, is determined to a great extent by the deviation of one legislative area to another in the initial establishment of the districts. In other words, in a 100 member house of representatives an equal representation would result if each legislative area contained 1 per cent of the population, whereas any deviation from the 1 per cent of population in the establishment of the legislative areas will of course, to an extent, result in a deviation in representation proportionate to the deviation permitted in the setting up of legislative areas. Inasmuch as all of the seats to be allocated, other than the one originally assigned to the legislative area, are allocated in an attempt to secure equal representation to all districts, legislative areas with a high population ratio, as determined after the assignment of the first seat, will have priority in the granting of additional seats. The ultimate effect of this method of equal proportions as above stated is to reach equality of representation among all districts irrespective of any inequality in representation which might have been created in the setting up of the legislative areas.

Here, of course, parenthetically, I would say that in Michigan we are setting up the legislative areas on a 7/10 of 1 per cent basis, whereas in the United States the legislative areas, the states, are arbitrarily determined by their own boundaries.

It should be pointed out that the using of a fraction of a full ratio of representation, that is, 5 per cent or 5/10 of 1 per cent or 7/10 of 1 per cent, in the establishment of the legislative areas, when combined with equal proportion, does not result in a moiety principle for allocation of seats, because the use of a fraction or full ratio in setting up the legislative areas on equal proportions does not in any way affect the subsequent allocation of seats. Moiety, to the contrary, not only includes in its principle the setting up of legislative areas, but also has application to the allocation of seats. For example, a 5/10 moiety provision for the distribution of seats usually provides that an additional seat shall not be granted to a legislative area until it has attained at least 1.5 per cent of the population. Under equal proportions, if the legislative areas are established on a 5/10 of 1 per cent basis, the next seat very likely would be given to that legislative area upon attaining or having a population of less than 1.5 per cent of the population, such as mentioned previously. Seats other than the seat initially granted to each such legislative area are allocated to the legislative area having the highest priority, which priority number in effect reflects the under representation of one district to another.

You have been furnished in the material that has been given to you a priority list. If you have not referred to it previously, I would suggest that you do, either now or at some later time, because this priority list has been established on the basis of equal proportions. This priority list, as indicated in the explanation of the material, is good under almost any legislative area setup that you might have or you might come up with up through seats 82. This is because all of these districts under a full ratio representation would have the necessary population to follow this priority list.

Now, in the discussion of the committee in arriving at a decision to use the method of equal proportions after setting up the legislative areas at 7/10 of 1 per cent, the committee was concerned with minimizing the discretion which an apportioning body or commission might exercise with respect to the assignment of seats after the first initially given, not only for this decennial census, but for every decennial census. It was felt that a formula that will eliminate, to the extent possible, discretion in the apportioning body will prove to be a fairer and more equitable way of distributing house seats, not permitting the gerrymandering and the malapportionment that can exist when a great deal of discretion is left to the apportioning body, which up until the time we adopted Committee Proposal 79, of course, was the legislature.

We also thought desirable in the committee to adopt a fixed number of seats for the house of representatives, having arrived at the figure of 110. We arrived at this decision upon the decision in congress, for instance, to set the seat numbers at 435. You will recall that with the addition of the states of Alaska and Hawaii, they being each entitled to one additional seat, it would be logical that the house of representatives move to 437 seats. A bill to that effect was proposed and was defeated. The congress has decided to stay at 435 seats.

The committee also felt, in arriving at the 7/10 of 1 per cent provision, before application of equal proportions, that the house should be based upon a population basis, or should provide for reasonable tolerance for those districts which involve a combination of counties. Now, why the method of equal proportions? The ultimate purpose of any apportionment formula should be a minimizing of the relative difference of one district to another, both with respect to the population of the legislative districts as well as the share a person in one legislative district has in a legislator as compared with the share a person in the other legislative district has in a legislator. In other words, the method of equal proportions tests this relative deviation better than any other system that has been devised to this date. We have a horizontal comparison, a comparison of one district to another insofar as the population that a representative represents is concerned. We also have the vertical comparison, so to speak; that is: what about a person in a particular district? what share of the representative, what fractional share of the representative does this person have as compared with a person in another district? Basically it would seem that the best way to accomplish this would be to divide the total population of the state by the number of representatives and establish the number of people which each representative should represent. In setting up legislative districts adhering to county lines and to a 7/10 of 1 per cent formula, it is apparent that one cannot prevent fractions of various size being left over when the ratio of population per representative above mentioned is compared with the county's or legislative area's population. Therefore, it is the determination of the weight to be given to these fractions that constitutes the real problem of equitable apportionment.

The minority report views the fairest determination of the weight to be given to these fractions to be based upon the absolute difference between them, whereas the method of equal proportions, the majority report, views the fairest determination of the weight to be given to these fractions to be based upon the least relative difference between the districts. The absolute difference between 2 districts is obtained by subtracting the smaller from the larger number; the relative difference between the districts is the percentage by which the larger exceeds the smaller. Thus, if one representative district has a population of 50,000 per representative and another district has 60,000 per representative, the absolute difference between the 2 is the same as the absolute difference between 2 districts, one of which has 100,000 per representative and the other which has 110,000 people per representative. Otherwise, there is a 10,000 absolute difference in both cases. But the relative difference between the 2 is obtained by dividing the smaller population figure into the difference in each case, which results in the relative difference between the 50,000 and 60,000 population districts being 20 per cent, whereas the relative difference between the 100,000 and 110,000 districts is 10 per cent.

To the end of equitable apportionment, one could divide a district's population by its next higher seat number, doing so for all districts, and thereby developing a priority list which would, in effect, divide its population into 1/2, 1/3, 1/4, 1/5, 1/6, and so forth, as additional seats for that district are contemplated. Another method, entitled the method of major fractions, uses the arithmetic mean as the divisor for each district, and under such method each district's population is divided by ½ the difference between the present seat and the next higher seat, or 1½, 2½, 3½, 4½, 5½, and so on.

The method of equal proportions, however, uses as its divisor the geometric mean, the square root of the product of the seat numbers, of each successive seat for each district which as a divisor is always slightly less than the arithmetic mean. For example, the arithmetic mean of seats 1 and 2 is 1½, whereas the geometric mean of seats 1 and 2 is 1.414.

You have been furnished with a copy of part of the material that I have been reading. I will refer you to page 3, and don't attempt to do it now, but here is given a comparison of the use of the 2 methods which I have just described, and you will see that the priority numbers are substantially different. Then, in effect, from seat 64 on down to seat 73, which of course would be seat 104 through seat 113, since the priority numbers really start with the 40 basic legislative areas, and from that point on you give one each time. You will see that the Bay and St. Clair legislative areas would move down in the listing, whereas Wayne county and Macomb and some of the others would move up in the listing. This is a graphic or a numerical example of what happens when you use a different formula, and you base upon absolute differences rather than relative differences. In this material you will note that the effect of the use of the other methods is to give priority to absolute differences rather than relative differences, and that is why the priority numbers in the priority list would be different. In each case, regardless of the method used, a priority list could be formed which would establish, without a discretion in the apportionment body, the seat numbers for each of the legislative areas.

I would like to point out to you in connection with the material that has been furnished to you previously showing the priority list, that in each case the priority number as is shown on the right, if you will treat it to the left of the decimal point as being in thousands, you will arrive at that figure as the geometric mean of the seat involved and the prior seat, and this is the quotient that is derived. Otherwise the figure of 1885 for Wayne county, that is, the population of Wayne county, divided by its geometric mean—and this is true of all of them —it is a fraction, the geometric mean fraction, of the population of the county.

Now, very briefly, since I am sure that over the dinner hour you are going to spend a lot of time on this and have a chance to—(laughter) I would like to point out a comparison between the majority and minority reports. In the majority report the legislative areas are fixed by a reasonably certain formula, thereby assigning one seat, which is the seat as given by the 7/10 formula. The additional seats are assigned by the formula of equal proportions. There is a certain and definite priority list for each of the additional seats beyond the first that is to be assigned. Under the minority proposal—the minority proposal leaves the determination of the arrangement of the legislative areas to the apportioning body. In other words, the apportioning body sits down and attempts to draw legislative areas that have the minimum sum of deviation among seats.

The second point is that there is a discretionary assignment of the additional seats under the minority proposal. In each case it leaves almost complete discretion to the apportioning body insofar as the adjustment of initially setting up the districts, and then secondly, assigning the additional seats. Too, by using the method they use, the deviation should be limited on an absolute basis; but in our case the legislative areas are set up by a certain formula, the additional seats are assigned by a priority list.

It should be pointed out that the minority formula very likely would be used within multiseat counties and multiseat areas in setting up those legislative districts, because there is no formula in the majority proposal for the setting up of representative districts within the basic multiseat county area.

It being 5:30, and everyone having such a good grasp of the thing so far, I would conclude. I would like to point out, however, with respect to the minority report—and this even was a little bit amazing to me until I worked it out today— if you take the population of the state as 100 per cent and divide it by the number of seats, 110 seats under the majority proposal, you basically should come up with a percentage of the state's population representing each legislative area of 90.9. Taking all of the outstate districts under the majority proposal, the average population, percentage of state population, behind each representative is .89037735. Under the minority proposal, you will recall, they attempted to reach .91. Of the southeastern counties, the 4 large southeastern counties, the fraction there is .9275. There is then, in effect, and in fact, only 3/100 of 1 per cent variance between the average of the outstate districts and the average of the 4 populous counties in the southeastern corner of the state, and in each case there is not a deviation of even .015, which is as slight a deviation as you can possibly get, in my estimation at least.

There is a further factor I would like to discuss with you, if anyone has a question regarding it, and that is with respect to the deviation that is present about the distribution of congressional seats, to the congressional districts, in which case the deviation is much greater than we would provide for the state of Michigan. I thank you very much. (applause)

CHAIRMAN HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman, I think we should thank Delegate Brown for this very careful explanation of equal proportions. I think I understand it quite well. I believe it works quite similar to the application of equalization to the assessed valuation, as discussed by our supervisor, equalized by the state board of equalization and the application of the 15 mill limitation. (laughter)

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman, I just hope that Delegate Brown will be available when I go back to teaching school to give this presentation to the students, because as of this time I don't really feel competent to handle it.

CHAIRMAN HUTCHINSON: The question is upon section b. The secretary will read the first amendment.

SECRETARY CHASE: Mr. Pollock offers the following amendment:

1. Amend page 3, line 14, after "of" by striking out "110" and inserting "111"; so the language will read, "The house of representatives shall consist of 111 members elected for a 2 year term from single member districts. . . ."

CHAIRMAN HUTCHINSON: The Chair recognizes the gentleman from the thirty-third senatorial district, Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I shall be brief, as I always try to be. I would say that the point here is a very simple one. I do not believe in having policymaking bodies of even number. Despite its impact on the formula that has been figured out, I think it's a great deal sounder to have a house of 111 than a house of 110. It is quite abnormal, as a matter of fact, to have policymaking bodies in even number. This may be a minor matter, but I think it is worth raising.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. Mr. Doty.

MR. DONALD DOTY: Mr. Chairman, fellow delegates, testimony before our committee indicated that we should look to lowering the number of seats in the house rather than raising it. As I have already indicated, the chamber of the house of representatives is already overfilled beyond its capacity. The committee had several proposals before it which indicated that the house of representatives might have ranged from 98 members to a high of 120 members.

There are those among us who might well argue that if we are to enlarge the number of seats in the house of representatives, that it would be to our advantage, for we would then be allocated the additional seats on the method of equal proportions on up to any given number. I don't believe that the convention should get itself involved in a numbers game. I know that there are others in the convention who might very well move to raise the number to 115 and so on. We are fully aware of the argument that the possibility of a tie vote would indicate that there should be an uneven number of representatives. However, with the creation of single member districts it is almost impossible to forecast that this might ever occur again in the near future, and so, on behalf of the committee, I would request, respectfully request the rejection of this amendment.

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, I would simply rise to oppose this amendment and give you 3 or 4 brief ideas to consider in this regard. First of all, we have established many deliberative bodies, I think, in the constitution based on an even number of members. So the idea of having odd numbers on some of these commissions or in the legislature, I don't think is a particularly important point. Once in many, many years we have had an even number come out in the legislature. As you recall, a year or 2 ago we had a 55-55 split. The argument has been raised: how does the body organize itself, or how do you make a determination on the vote. It so happens that in that situation one member of the body became ill, and the body was organized by a 55-54 balance. Now, had they had a 56-55 arrangement, as has been advocated by this odd number, and the person had been ill, they might very well have been back to a tie. Since this happens about once in every 50 years, I don't think this is an important consideration.

We have a problem in the present house of representatives with physical facilities. Everyone says: well, we can build a new building. But I think that if you have visited the house recently you will realize that there is a condition of some crowding there, and I think that the body of the house of representatives is a deliberative body, and instead of tending toward a larger number, if you must have an odd number, I would tend toward the smaller size and reduce the number rather than increase it. Therefore, I recommend the defeat of this amendment.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I believe this is again one of these nonpolitical subjects, but many of the persons who testified before the committee, including the present chairman, suggested the idea that the bodies of the legislature ought to be odd. I remember asking at that point whether they weren't pretty odd already, but he suggested odd in number. I think the explanation given by Professor Pollock is the right one. As far as I personally am concerned, I am willing to move up or down, but we know we have had experience in Michigan with an even number where there was a deadlock, and we have had other problems in connection with deadlocks we have considered, and wherever we were able to avoid a deadlock without any complicated maneuvering we have always done it, and I therefore would support either Professor Pollock's amendment, or in the event Mr. Yeager or if someone else has in mind to go in the other direction, to a smaller number, I would support that. I think it would be worth while to make it impossible for deadlocks.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. All those in favor will say aye. Opposed will say no.

Well, by voice vote the Chair would say the amendment did not prevail.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: Division is called for. Is the demand supported? It is; more than 10 are up. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Dr. Pollock, the yeas are 36; the nays are 70.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, this seems to be a good time for the committee to rise, since I understand—how many amendments do you have to section b, Mr. Secretary?

SECRETARY CHASE: Seven.

MR. J. A. HANNAH: I should just comment that we are going to make a valiant effort to finish Committee Proposal 80 this evening. I now move that the committee rise.

CHAIRMAN HUTCHINSON: The question is on the motion of Dr. Hannah that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails. The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration Committee Proposal 80, of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** has considered several amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: Dr. Hannah announces a brief meeting of the committee on legislative organization immediately following this session in room D to consider questions that have arisen on subsection 2 of section a of Committee Proposal 80.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move the convention recess until 7:30 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor say aye. Opposed, no.

We are recessed until 7:30.

[Whereupon, at 5:40 o'clock p.m., the convention recessed; and, at 7:30 o'clock p.m., reconvened.]

Will the pages please inform the delegates in the hall we are ready. The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve into a committee of the whole for consideration of matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee is considering **Committee Proposal 80,** and the secretary will announce the next amendment.

SECRETARY CHASE: Mr. Perras offers the following amendment:

1. Amend page 3, line 14, after "for a" by striking out "2" and inserting "4"; so the language will read:

> The house of representatives shall consist of 110 members elected for a 4 year term from single member districts apportioned on a basis of population as hereinafter provided.

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mr. Perras.

MR. PERRAS: Mr. Chairman, at this time I would like to withdraw this amendment.

CHAIRMAN HUTCHINSON: Mr. Perras withdraws his amendment. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Cushman and Mr. Hodges offer the following amendment:

1. Amend page 3, following line 17, by striking out the balance of section b and inserting the following paragraph:

"The population of any district shall not vary more than 15 per cent from that of any other district.".

CHAIRMAN HUTCHINSON: The Chair recognizes Mrs. Cushman on the amendment.

MRS. CUSHMAN: Mr. Chairman and fellow delegates, what this does is to get us on record on the basis of a house that is on straight population, and it is disregarding county lines. I felt that this was something that ought to be before the members of this convention. This is the thing that we have been talking about a great many times, the question of straight population. This is putting the house on straight population, disregarding the problems that you get into by sticking to county lines. For that reason I am offering it at this time, Mr. Hodges and I.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. Chairman and fellow committee members, this deviates for the first time, breaking county lines. It was the minority of the committee's, of which I was a member, plan to stick to county lines based on the premise that this was somewhat of a compromise on the question of straight one man, one vote apportionment.

Now, many of us came here dedicated, and still are, to the principle that both houses of the legislature should be based on population. Many others came here advocating and campaigning on the fact that one house should be based on the area plus population and the other house should be based on strictly population. As it stands today, under the majority report neither house will be based on straight population. There is only one way to get straight population, and that is with the type of amendment that Mrs. Cushman and I now offer.

I ask those not only of my own party and own faith who feel that the only representation base is straight population, but those who came here dedicated to at least one house on strict population, to give serious consideration to this, and, Mr. Chairman, I ask for the yeas and nays on this question.

CHAIRMAN HUTCHINSON: Mr. Hodges demands the yeas and nays upon this amendment. Is the demand supported? Sufficient number up. The demand is supported, and the yeas and nays are ordered. The Chair next recognizes Mr. Garry Brown on the amendment.

MR. G. E. BROWN: Mr. Chairman, members of the committee, Mr. Hodges, I realize that it was late in the afternoon when I gave my little pitch relative to equal proportions and what it resulted in as far as the population basis for the house goes, but I would again repeat those figures, and I trust that you will recognize them now; that basically, even under the minority report, and if we take the population of the state, divide it by 110, or 100 per cent of the population and divide it by 110, you end up with a provision that every district, every representative district, should represent .909 per cent or .91 per cent of the state's population. I pointed out to you early today that the average district outstate will have .89037735 per cent of the state's population; that the average of the 4 populous counties in the southeastern corner of the state will have .9275. Now, this is just about as close as you could possibly get on a straight population basis. I would further remind you that even if you do this in 1960 or 1963 or 1973, by 1964 or by 1974 you are going to be off this much or more. I therefore would suggest that a straight population basis, with a 15 per cent deviation—we have a .03 per cent deviation under the present plan, so this certainly would be within the 15 per cent requirement.

Mr. Hodges sat on the legislative organization committee and heard all the sessions that we had, all the testimony regarding maintaining county lines; that it was very important that we do so. I believed and the majority of the committee believed this. In fact, all, I believe, except Mr. Hodges, believed this as far as the membership on our committee was concerned. I would also suggest to Mr. Hodges that possibly he might look into the index of constitutions down in the library, and he will find that practically every—I shouldn't say practically every, but a majority of the states recognize the necessity of maintaining regional or county lines in coming to a population basis in the selection of house seats.

CHAIRMAN HUTCHINSON: The Chair next recognizes Mr. Nord.

MR. NORD: Mr. Chairman, I would like to call to the attention of the delegates that a number of remarks just made by Garry Brown are far from accurate, and I would like to show wherein they are inaccurate. First of all, he states point blank, as I understand it, that the majority proposal is as close to straight population as may be, close as you can get. That is unquestionably not so. As a matter of fact, I call to your attention that in the committee Mr. Brown suggested another proposal which he stated was perfect, which he believed was perfect, although it was not, and that was not the same proposal as this. It differed between .7 per cent and, I believe, 1 per cent; that is to say the present one, which is .7 per cent population, is enough for a district, and the other one required 1 per cent.

But be that as it may, the reason that the majority proposal is not based strictly on population is that it has 2 compensating errors, or errors that tend to compensate. One of the errors is in the .7 per cent or the .7 per cent figure. That figure is low. It is lower than it should be, and if it were .5 per cent, the deviation would be, based on past experience, about 9 per cent of an area factor. Going from .5 per cent to .7 per cent does not solve the problem. We showed last night or the night before that it goes slightly more than half the way based on expected population. It also showed that you cannot predict what it will do unless you know what the population will be in the future, and that is the one thing that we cannot predict.

The 2 compensating errors to which I referred, and I will refer you to again, are the .7 per cent, which is too low. On the one hand, that, as I said the other night, cheats, so to speak, on the side of the rural areas. Then there is the equal proportions method, and that cheats, so to speak, on the opposite side. Those 2 things do tend to cancel each other out. They do not cancel each other out perfectly. They do not do it on the basis of the present population or any other population that we know of. There is a significant deviation. It is about 3 seats on the basis of the 1960 population, and I showed figures that it might be as high as 11 or 14. I therefore point out that it is not close—it is not straight population. Put it that way. There is unquestionably some difference on the basis of the present figures, and, secondly, that you can never tell what that deviation will be in the future.

I also wish to call to your attention another error Mr. Brown made. I heard him state, and I wrote it right down, that he has only a .03 per cent deviation. A .03 per cent deviation would be quite a good record, of course, but the deviation is much greater than that. I don't have the figures directly before me, but I am quite certain there is more than a 2 to 1, that is to say over 100 per cent deviation from one county to another, and not less than 1 per cent, and not less than .1 per cent and not .03 per cent specifically. I think the delegates have got to face up to one fact: if you really want straight population, there is only one way to get it, and that is the way that you have it on the wall. State it, that you insist upon straight population. This goes further than the minority proposal. There is no question about it. And it goes much further than the majority proposal. There is a distinct difference between the amendment on the wall as now offered and the majority proposal, and you should not make an error thinking that they are the same.

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. Chairman, all I want to do is to reiterate what I said before, that we ought to start doing with this constitution exactly what a well beloved man in the Republican party stated to the delegates the night of our dinner: "Let's make it so easy to understand that even the supreme court justices will understand it." I heartily believe in what he said that evening, and all I have heard here is a lesson, or what someone is trying to give us is a lesson in mathematics. I don't know how we intend to try to con the public into believing that we are giving them something, and I am now talking about that particular portion of the public that is not represented in the state capitol though they are paying more than their share of taxes.

I am going to say something here tonight that I said to a gentleman in Detriot—I don't want to start any fights so I won't mention party—but I said to him that you can't make good American citizens just by waving the American flag. No, that isn't the way you do it. You do it fairly in a constitutional convention, and you eliminate the 2 words, con con, because what you are doing is trying to con them.

Fifteen per cent. Very simple. I didn't have to get through high school to learn what 15 per cent was, and to know that you could stick to that. A while ago we talked about another amendment that went from 75 to 125 per cent, which was a variance of 50 per cent. I never saw such a variance in anything in my life, unless it was to do some conning with. Do you know that unless you do something like this you aren't going to get anything? You are going to have wasted over $2 million; you will have been taking away from your families all the time that you should have spent with them; but you would have been doing more good than you are doing here right now, because here you are not being fair. Here you are trying to see what you can take away from somebody else, and you call it politics, statesmanship, diplomacy, whatever you think it is, and you are wrong—oh, so wrong. And because I see that some of you don't believe it, it is just like the example that I used when I first ran for the constitutional convention—when we first talked about it, I should say—and I said we shouldn't have it because I didn't think we would get anything out of it because, you see, first you would have to get everybody thinking fairly, not legally; fairly, morally, and I used this example: I said if you found a man who had $300 in his pocket, and there were 2 men right alongside of him who should each have $100 of that 300, but he had it in his pocket legally, but immorally—but legally—you wouldn't get that 200 bucks. And we have the same situation.

Outstate we have representation which they shouldn't have. Yes, it is there legally, and you say, too, that it was voted on. Yes, I remember the vote. I also remember who helped you get it. I also remember what publicity was used. I remember the editorials, the stories. Oh, yes, and I helped push it. I thought I was right, too, in those days. But, you see, you grow up sometime, and you learn a little bit, and then you try to correct things, and this is what I have been trying to do, and I hope you will try to do the same thing and start being morally right, morally honest, instead of legally right and legally honest. Because, believe me, they don't go together in the eyes of God. Let's wake up.

CHAIRMAN HUTCHINSON: Mr. Doty of Monroe.

MR. DONALD DOTY: Mr. Chairman, we have prior to this evening discussed the minority committee proposal for the house, but I would like to point out that in the deliberations of our committee, with the sole exception of, I believe, Mr. Hodges, there was complete agreement on that fact that we should maintain districts along county lines.

In regard to statements by Dr. Nord, I think that I should let Garry Brown answer his own argument that he made, but I would like to point out that according to the minority report, and as it is mapped, that there is practically no difference in the deviations allowed between the minority report and the majority report. So that in effect they are one and the same as far as the deviations are concerned. It is important that we maintain county lines for reasons that I have heretofore pointed out, and I would strongly urge that this amendment be rejected and that the committee report be upheld.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I rise in strong support of the Cushman-Hodges amendment, and I would like to speak both on what it does do and what it does not do. First of all, it sets a limit of population differences among representative districts. There is always the question when somebody says that all districts must be equal in population as to just what equality is. This says categorically that each district must be within 15 per cent population of any other district. I think this is sound, I think it is simple, I think it is clear cut.

The point I would like to make in reference to Delegate Garry Brown, and I think I am correct on this, is that an apportionment commission, in arriving at its work, could use equal proportions. It could even use the cube root instead of the square root, which I think would be a closer approach. It could follow county lines, it could follow city lines so long as it ended up within the 15 per cent formula. What this amendment does is put the formula of people first, and does not make a sacred cow out of county lines or any other factors. I think that it is very sound. The only one I think that is any simpler was one I put in the committee that they could not vary more than a certain absolute arithmetical number, such as 100 or 1,000 or 2,000. But this concept of 15 per cent is also valuable, and as the population of the state changes, this would permit absolute arithmetical changes to fit into the percentage basis.

I assume that an apportionment commission could work within the concept of compactness, of uniformity, of regular districts if the constitutional standard that is established is that of 15 per cent. Personally, I would even go as low as 10 or 5 per cent, but I believe that this is not an unreasonable standard. And I would urge those delegates who have talked about wanting one house on population, that this amendment does meet the requirements of assuring that at least one house would be on a population basis. I again in summary urge the delegates to support the Cushman-Hodges amendment. Thank you.

CHAIRMAN HUTCHINSON: Mr. Brown of Schoolcraft.

MR. G. E. BROWN: Mr. Chairman, members of the committee, especially Dr. Nord, when Dr. Nord says that the statements I made were patently incorrect, he proceeded, I thought, to say where they were incorrect, but then in turn recited the fact that I had proposed to the committee on legislative organization a proposal which was on straighter population, if this can be qualified.

Of course we have got to remember that if we are setting up a minimum amount to set up a legislative area, such as 7/10, if we set up a minimum amount such as 1/10, or in effect a full ratio, that you must exceed that in the very first instance in order to come up to your straight population basis. Otherwise you are exceeding it when you start. The idea of equal proportions applies to districts which are not equal in nature; running from .7 all the way up to 34.08, which is Wayne county. Equal proportions spreads these seats back on a population basis so that you have an average deviation outstate, and this has not been an argument between outstate people; this has been an argument here on the floor between the southeastern part of Michigan and outstate Michigan. Going back, it gives to the oustate districts an average population per district percentage wise of .8903, and so forth. The average population per district in the southeastern part of the state, which is a social economic group which has the same community of interest, I would think, has an average percentage of .9275. This is slightly over 3/100 of 1 per cent deviation as an average between outstate districts and the populous area of the southeastern corner of Michigan.

Now, I have a little bit of difficulty with Mr. Downs' statement, because I recall sitting up in the legislative powers committee one evening when, in connection with the question of congressional redistricting, Mr. Downs said that the congressional seats are spread through the states in as fair and equitable manner as could be accomplished. The congressional seats, of course, are spread and assigned on the basis of equal proportions, starting out with a far greater variance among the legislative areas than we established for the house of representatives in Michigan by using 7/10. That difference being —the difference there being, as far as the legislative areas are concerned, that in the United States the states vary at a ratio of the greater to the smaller of 74 to 1. The legislative areas in the state of Michigan as set up would vary, the greater to the smaller, 48.7 to 1. The ratio by representative district would be approximately 1.8 to 1 in the state—and both of these, by the way, the minimum and the maximum, are outstate districts —whereas the ratio in the United States is approximately 2.14 to 1. So in each case this is much better than we would do on a national level with congressional seats to the states.

Now, as Mr. Downs suggested, maybe congressional district seats should be spread through the states not adhering to state lines—likewise, should we break off 3 or 4 counties in Michigan, add them to the state of Indiana and form a congressional district between the states of Indiana and Michigan? Now, this is in effect what he is saying. I think that he sees that subjectively this would not be acceptable to the people. It is no more acceptable to the people on a county line basis than it would be on a state line basis on the congressional level.

CHAIRMAN HUTCHINSON: Mr. Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, several times this afternoon and again tonight I heard this formula is too complicated. I don't recall who said it before, but due to Mr. Madar's usual good show, I recall him saying this. I would like to point out first that this has been accepted for congress, the theory of equal proportions, I believe since the late '20s. It has been accepted by the voters and never questioned by the voters.

And, secondly, I would also like to point out that the majority or just about all of the people in the state of Michigan pay an electric light bill. Do you think that for one minute the majority of these people will question how many ohms, watts and amps go into their electric light bill? Of course not. They pay the $10 a month or $15 a month. And this is exactly what we are to do here in this constitutional convention. We will work out the formula for them and we will set up the proper apportionment plan.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman, fellow committee members, I would desire to set one point straight because it has been mentioned at various times that the minority members were in favor of retaining county lines. The first time this ever came up in the committee was out at Kellogg center, and on the first vote on this thing the minority voted against retaining county lines. At that time the question was put over, and it was decided that we would not consider this because, in the opinion of the minority, these things could not be separated. We did in our minority report retain county lines in the house, because of one thing: we realized that some compromise was necessary, and we realized that this should be in the house because historically in the state of Michigan, since 1850, the only deviation from the population standard of representation was in the state house of representatives, and that being the moiety factor. Therefore we realized that if there was any validity at all to any disparity, it should be in the house of representatives. It was based on this factor that brought us to the conclusion that we would adhere to county lines in the minoriy report in the house of representatives.

However, at this point we are beyond that fact. We have now adopted a senate which is, by no stretch of the imagination, on population. Therefore, it seems to me that it is incumbent upon those that came here saying that one house should be based on population to make that house based on population now. And if Mr. Brown is right in his conclusions, then I would say he should recommend the support of this amendment, because this makes it perfectly clear to the people of the state of Michigan, which his does not, I am sure, to the average citizen, that at least one house is to be based on population.

CHAIRMAN HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: We have heard considerable discussion here on this question of the minority report and the majority report on both sides of the fence, and I don't believe it is pertinent. I did not vote for the minority report, and I do favor this particular method. I think that all this discussion about equal proportions, for example, equal proportions is a method that, as my understanding goes, is only valid when we have districts already set. If you are going to go to a system in which you set up districts to be equal, then you have to use something else. And that is why debating equal proportions versus this 15 per cent is not a real debate at all.

You can set up quite equal districts if you don't have to worry about county lines. Your use of your county lines results in a great many built in inequities. This is very obvious if you look at the projection shown. You see that Van Buren county is given a representative with .62 per cent of the state's population. Monroe is also given one representative, and it has 1.29 per cent of the state's population, or over twice as many people as Van Buren. This is a good example of the type of inequity which results in the use of county lines. This is the reason why I favor this amendment which does away with county lines. Thank you.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, Garry Brown again refers to the use of the equal proportions method in congress, and I believe on that particular point one of the 2 answers has been given directly by Mrs. Cushman. I simply recapitulate without arguing. And that is, the equal proportions method has never been devised for anything except distributing seats among fixed districts. That doesn't mean you couldn't attach something else to it to apply, and that is what is being done here. But this is not the equal proportions method. This is the equal proportions method plus something else, and the equal proportions method has not been devised for this purpose. It is not used for that purpose in congress. That is entirely erroneous.

Secondly, I pointed out on discussing this subject earlier that the equal proportions method works much better when you have a large number of seats to distribute. At that point it gets to be no difference practically between the geometrical mean, the arithmetical mean, and all the other different ways of calculating. In other words, the equal proportions method works best when there is no difference between it and any other statistical method. In our own congress you have 385 seats to distribute, and the method works quite well. Here you do not have anything like that. You will have, say, 1/10 of that, and it is not quite the same story.

Garry Brown also asked a question: shall we break up the state lines in congressional districts? I assume that that is some sort of a nonhumorous type joke. I presume that he realizes that this can't possibly be done under the federal constitution, and I would point out to him that that was considered. In the federal constitutional convention that exact point was considered. They said: let's divide the states up into equal sizes as far as population is concerned; and, of course, the states were not enthusiastic about that. They could prevent it because they had to ratify the constitution, and they put it into the constitution that that could never be done; cannot be done without amending the constitution.

Mr. Sterrett then brings up another point, that is that the people should have faith in what we at con con do. He said: we will set up the formula. We will figure out the table. We will tell the people what is right; they won't understand, but they will have inspiration to believe that we know what we are doing. I have not been able to convince people at the convention or anyplace else that I know what I am doing unless I can explain exactly why, and even then it has sometimes failed. I believe that Mr. Sterrett has a great deal of faith in his ability to sell things; more faith than is really justified. I think that in fact he thinks the con con can con people into buying a pig in the poke. I don't think that they can.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, I again rise in support of the Cushman-Hodges amendment, and I would like to point out that since the matter of our congressional apportionment has been made, and reference made to my testimony—and I just happen to have a copy of the United States constitution with me—that article I, section 2 of the United States constitution says, "Each state shall have at least one representative." In other words, in our federal system the state of Nevada is guaranteed by the United States one representative, regardless of the population of that state. Now, that might end up in the state of Nevada's people being over represented in the United States congress, but after each state gets one representative, there is then, under the equal proportions, the deviation that Mr. Brown mentioned. I think the point needs to be made that the smaller the number of units and the larger the number of people to be distributed, the better it works out. In other words, if we had equal proportions where the state of Michigan was considered one unit, then the division would work out very accurately on the whole.

Now, the difference is that the states are established under the constitution with sovereign, independent rights, whereas in the states the creations of the districts are by necessity on an artificial basis. But I again wish to emphasize that the 15 per cent formula does not preclude the use of equal proportions in the state if that comes out to have no greater variance than 15 per cent. I think really it is a safeguard. I would hope that an apportioning body would, in using its judgment, do more than just see that the maximum 15 per cent were met, and try to get the smallest average variance using either equal proportions or other means to achieve that so long as they met the 15 per cent formula. The same applies in county lines and city lines. This make no sacred cow of them. If they met within the 15 per cent formula, that is fine and dandy. I do think that having said this, Mrs. Cushman made the best summary when she said we are talking about the state of Michigan and not about the United States congress.

I believe that this is a realistic figure. It is one that can easily be understood, and those delegates who came to this convention pledged to have at least one house on population can, with the adoption of this, return to their constituents and say that they did get one house on population.

CHAIRMAN HUTCHINSON: Mr. John Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, this committee report was completed more than 2 months ago. No committee of the convention had more complete coverage in the newspapers or was more thoroughly followed by the delegates of this convention. There are few if any facets of any of the recommendations that aren't well understood by all the delegates of this convention, that haven't been discussed often.

Now, what the Cushman-Hodges amendment actually proposes to do is not only what it says on the board, that the population of any district shall not vary more than 15 per cent from that of any other district, but it throws out all of the language of section b after line 17, which throws out the 7/10 proposal entitlement for a county or group of counties to a representative that has been much discussed for the last 2½ days; it throws out county lines. I came to this convention with the notion that county lines were not important, but after listening to the leaders of both political parties, we concluded that it was important to both parties, and I am convinced that it would be a mistake to come up with a districting, even of the house of representatives, that was not based on county lines.

It throws out a much more important feature—and what I think is one of the great contributions that this committee report makes to improvement of the quality of the government of this state, quality of the legislature of this state, if this convention buys it and the people approve it—and that is, it throws out the requirement for single representative districts in the cities, which I think is very important. What this actually does is just what Mr. Downs indicated in his summary: it moves directly to equal representation regardless of all other considerations, county lines, single representative districts, and so on.

Now, certainly no one has any desire to cut off debate, but this has been debated for a long time. I think every member of the convention understands what it is all about. I think the committee has done well indeed with its recommendations on the house of representatives. What we propose is not difficult to understand, and I urge that the committee vote no on the Cushman-Hodges amendment.

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: Fellow delegates, I like this about not wanting to cross county lines. That sounds very good. It seems to me that people in one county would sort of be lost if we changed those county lines. And you worry about that, you cry about it. I bet you even lose sleep over it. Yet there aren't any of you who ever stopped to think that maybe we have something that is just about as holy as your county lines are: that is our ward lines. As Mr. Buback, or anyone who has lived in the city of Detroit who has worked in elections, can tell you, those have been holy to us, and we break off our districts on ward lines. I, in ward 21, would be lost if you shoved me into something over in ward 17 or 19 or 1 or 15. Don't we deserve the same as you do? I think we do. And you are going to hurt us just as much when you start shoving us together that way; when you break us apart, rather, because there you do insist on breaking us apart; because we have compactness. There, unfortunately, we can't spread way out. We have to go up, and we do go up. We are going to go up more, too, in the near future when we build more apartments downtown. I hope that you will stop and consider this about us.

I was very pleased to hear Dr. Hannah mention these things, because I have had a lot of respect for Dr. Hannah for a good many years. I wonder, though, why he can't start treating me the same as he treats those people that are out there with the county lines. I hope, Dr. Hannah, you will feel that we deserve something too. Let's not dicker on deals because this has been all set up. Actually, this even fits in with the civil rights. That is what I respected you for, because you fought so hard for it. I am wondering today: will you give us a break, too?

I am sorry I disturbed the speaker when I was talking to Delegate Sterrett. But I had to make sure that Delegate Sterrett meant what he said, that he could con the people into believing that he was doing right for them.

I urge the adoption of the Cushman-Hodges amendment. Thank you.

CHAIRMAN HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, may I direct a question to Mrs. Cushman?

CHAIRMAN HUTCHINSON: You may proceed.

MR. W. F. HANNA: Mr. Chairman, Mrs. Cushman, under your amendment would you also ignore city and township lines?

MRS. CUSHMAN: We provide merely for districts to be as compact—I forget the exact wording, but the first part there. We don't specify any more details beyond that. Also in this regard we do not provide that cities will be kept as single—

as one district. We do provide for this breaking up of—all the districts should be single member districts. In other words, therefore, the cities would be divided into single member districts.

MR. W. F. HANNA: Mr. Chairman, Mrs. Cushman, however, you say you would have single member districts?

MRS. CUSHMAN: Right.

MR. W. F. HANNA: Now, in order to achieve this 15 per cent deviation, you would have to also ignore city and township lines, would you not?

MRS. CUSHMAN: In all probability, yes.

MR. W. F. HANNA: You would also have to ignore existing precinct lines, would you not?

MRS. CUSHMAN: I don't think so, no.

MR. W. F. HANNA: Mr. Chairman, Mrs. Cushman, have you ever attempted to map the state of Michigan on this basis?

MRS. CUSHMAN: No, obviously not. This is the estimate that was given us, and that is all I know.

MR. W. F. HANNA: Mr. Chairman, Mrs. Cushman and fellow delegates—

MRS. CUSHMAN: You want to make it 20 per cent?

MR. W. F. HANNA: I do not want to say that it cannot be done. I merely want to say that when a couple of fellows tried it—and I participated in the tail end—with a 25 per cent deviation, 10 more than you have, we ended up jumping off into Lake Superior in the Keewenaw peninsula with a couple of thousand people left over with no place to go. And it created a real problem. We did stick to precinct lines. We ignored county lines. We stuck to city and township lines as far as we could. We got up there in the ice; we jumped off; we had no place to go. We couldn't convince Port Arthur to come. I say to you in all honesty, from a practical matter, you've got us lighting in Lake Superior and it is awful cold.

MRS. CUSHMAN: You may be quite correct. I would be quite willing to accept a change to say 25 per cent.

MR. W. F. HANNA: I think it's interesting, Mr. Chairman and fellow delegates, that Mr. Clark and a group of men belonging to the citizens for American democratic action, or some citizens' group with a similar title, coming out of Pennsylvania, recognized this, and in a proposed constitutional amendment, if you read his pamphlet, provided that the difference could be as much as 50 per cent, and in doing this he says, "The suggested standard takes into consideration problems of physical topography, natural community boundaries and political boundaries that may exist for other purposes." I submit to you that to take a representative and put him out in the pasture and make him run in a completely strange political field, with no relation to any other political or election machinery, is to completely degrade the legislature to a position of nothingness, and this was recognized by Mr. Clark in his proposed amendment, and is recognized by anyone who attempts to draw the maps and comply with the standard that Mrs. Cushman would like to uphold. I appreciate her sincerity, but ladies and gentlemen, it is nigh impossible.

CHAIRMAN HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I do not wish to belabor this point, but I suppose that I am. Getting back to the question of the matter of the use of equal proportions to establish districts, at the outset it should be pointed out that the method of equal proportions is not a districting formula, but rather is an apportionment formula. In other words, legislative areas or districts cannot be set up initially by the method of equal proportions, but rather, the seats to be allocated in any size house of representatives are distributed to the legislative areas under this formula.

Do those words sound familiar? They were said to you about 2 hours ago, or 3. I realize that nothing much was being accomplished at that late hour, but I do feel that I should commend Dr. Nord and Mrs. Cushman, because apparently they heard it. It was said then. I trust that Mr. Downs has heard it now, and we will not have this question raised about equal proportions being a districting formula. Your legislative areas are set up first, and then you apply equal proportions. There has never been any question about this.

Dr. Nord has said that it is clear that the matter of not adhering to state lines for congressional seats cannot be done because the present United States constitution says it can't be done. That is exactly what we are saying should be done in this constitution, that it can't be done with respect to county lines for practically the same purposes. The substance is the same, that we didn't provide in the federal constitution for the breaking down of state lines to form congressional districts. And so I respectfully thank Mrs. Cushman and Dr. Nord for their kind support of the defeat of this amendment.

CHAIRMAN HUTCHINSON: Does Mrs. Cushman desire further recognition?

MRS. CUSHMAN: I certainly didn't support that, because I don't believe that this business of the ratio of 2 to 1 is really any different in the minority report and the majority report in that area. I quite agree with you on that one.

CHAIRMAN HUTCHINSON: Mr. Sterrett.

MR. STERRETT: Mr. Chairman, delegates in the committee of the whole, you are not permitted to rise on a point of personal privilege. Therefore, I waited my turn. I would like to point out that the statement I just made was a statement intended to show that this convention and the delegates, including myself, were taking a responsible position by supporting the committee proposal and, through the Chair, I would like to ask a question of the 2 delegates that referred to my statement. The first would be Delegate Nord.

CHAIRMAN HUTCHINSON: You may proceed.

MR. STERRETT: Mr. Chairman, Delegate Nord, would you please answer in the words of "yes" or "no," did I say that we intended to con the people of the state of Michigan, or I intended to con the people of the state of Michigan?

MR. NORD: Yes or no. (laughter)

MR. STERRETT: Would you give me one or the other, please?

MR. NORD: I beg your pardon?

MR. STERRETT: Would you answer that with a responsible answer?

MR. NORD: No, I will not.

MR. STERRETT: Mr. Madar, would you answer the same question? Yes or no.

MR. MADAR: Not being in a court—

MR. STERRETT: I asked for a yes or no answer.

MR. MADAR: Not being in a court, we haven't a judge here, we haven't an attorney sitting on the bench—

MR. STERRETT: Well, I realize that, Mr. Madar, but you haven't answered my question. Thank you.

MR. MADAR: I will not take the fifth, I will answer your question. The fifth was taken twice today, and I won't take it. So I will answer your question, but not with a yes or no answer, and I would even give this to the newspapers so that they could know that you are trying to do something—frankly, I don't know whether you beat your wife or don't, but you don't pose questions the same way here with me. I just refuse to let you pull a stunt like that.

MR. STERRETT: Mr. Madar, would the answer be—

MR. MADAR: Now, if you will let me answer it in a responsible manner, I will do that.

MR. STERRETT: That is all right. No. I asked for the answer.

MR. MADAR: Oh, you don't want an honest answer.

MR. STERRETT: Well, generally the answer you give we can't understand, so I thought we could understand a "yes" or "no."

MR. MADAR: I think you have understood me every time. You said that you could sell it, and you wouldn't have to worry about it even though they didn't understand it. Now, if that isn't conning them, I don't know what is.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. Chairman and fellow delegates, I would like to just take a moment or 2 of time here to straighten out some thinking in some of the delegates' minds, at least in the statements they have made; and I would also like to take this opportunity and privilege of informing the press and the commentators of radio, because this morning as I was coming in here to the convention Jim Kendall, on the news of

WJR, made the statement—and this is a very important broadcast out in our area, because many of the people listen to it —that we here at this convention were for status quo on apportionment. Now I would like to just refer to another statement that was made in the Booth newspaper of 2 weeks ago. Two weeks ago they said it was far short of population.

Now I am sure that all you have to do as delegates here is to forget districting the state, but divide the state into 3 sections. At this time I would like to do that for you. If you will take a map of the state of Michigan and draw a line from the bottom of Oceana county across to the bottom of Bay county, excluding Bay county, you will find that 10.3 of the population of our state lives in this portion of the state. On a straight population basis they would receive 11 seats. On the majority proposal that is before you folks here, and the proposal that I certainly hope will be before the people of this state to vote upon, they receive 13 seats.

Now I want to feel sorry—Mr. Madar at times very nearly draws tears to my cheeks when he tells me how much he is being misused and abused by the people in my community and others outstate. Kent county, Genesee county, Oakland county, Macomb county and Wayne county, we will consider those as the metropolitan counties of this state. They have approximately 57½ per cent of the total state population. On the majority proposal that you have before you to consider tonight, they are awarded 62 seats. If you will take 57½ per cent of 110, you will find that they are entitled to 63 seats. I am not going to shed very many more tears over the loss of that one particular representative.

Now the balance of the state—and I am referring to the line again that I referred to earlier from Oceana county across to Bay, excluding Bay, and excluding the far metropolitan counties—referring then, in other words, to all the rest of the state, the thumb area down through the center of the state where we are here, over to Lake Michigan below Oceana county, 32½ per cent of the total population of the state lives. And again, if you would just take and multiply that out, delegates, you will find that they are entitled to 35¾ seats. By the majority proposal that is before you tonight they receive 35 seats.

Now, I ask you, in all fairness, quit kidding yourselves and, for land's sakes, don't make the statement that this is far short of population, or make the statement that it is status quo. It is not. It is very, very close to straight population. This formula is sound, it is equitable, and it gives a formula for any body, and the body which you have set up in Committee Proposal 79. It gives them a formula on which they may establish these districts, and we certainly shouldn't have any question over them. I thank you, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, I find we have had some pretty tough acts to follow here tonight. I came to this convention originally committed on the question of apportionment to having one house on the basis of population. Now, this amendment admittedly is dedicated to the principle of population, but I find that I cannot support this amendment for 2 principal reasons.

The first one is that it breaks county lines. As the people on the committee will recall, when I first started sitting with the committee, I was very much dedicated to the proposition that we should break county lines, and we had that one out in the committee one afternoon, and I still remember, from the scars that I carry, on a vote of about 16 or 17 to 1 that we would not cross county lines, and since then I have talked to enough people in the election area and citizens from various areas of the state to be convinced that this is not a good procedure. Therefore, I could not support it because it does offer to cross county lines.

The second point I think that I—the reason I could not support this amendment is because in establishing the apportionment commission before our committee to take care of the periodic reapportioning on the basis of the census, we made the commitment and came up with the proposition that we would allow no discretion or very little discretion to such an apportioning body, and it would simply be a physical act of following a specific, well defined formula within the constitution. And this was the basis and the theory upon which the apportioning commission was established. This does not take away that discretion. As a matter of fact, it allows a great deal of discretion, and for these reasons I could not support this proposition relating to a population basis in the house. Thank you.

CHAIRMAN HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, speaking in support of the Cushman-Hodges amendment, I recall quite clearly the morning we discussed a similar proposal in our apportionment committee, and we discussed whether or not it was feasible to have a variance of this sort, and whether or not it was possible to even have generalized language, principal language of this sort in our constitution, and the same difficulty of drawing the map, the physical problems of drawing the map was expressed that morning, and similar arguments to what Mr. Bill Hanna has just enumerated were mentioned, and then he said you got into topographic problems, and you simply couldn't do it. At that point I suggested, and I still suggest, that if you can't do it within a variance of 15 degrees, it is because you don't want to do it. It is no more simple or complicated than that.

I recall mentioning that a graduate student in political science at Michigan State University could do this overnight on a map, and when Dr. Hannah took a little umbrage at that, perhaps feeling that I was picking on him, I then suggested that an intelligent monkey could do this, because it's merely a matter of statistics and a graphical analysis. You have your population charts, and so on, if you really want to do it. It was suggested facetiously in a manner after that that as long as it was a monkey from the Detroit zoo, it would be all right.

But basically, fellow delegates, I think the proposition remains the same. I am not concerned that one legislator would slide off the tip of the Keewenaw peninsula, and I am not concerned as Bill Hanna has just expressed a concern that you would have legislators running in districts to which they were not accustomed. This should not be our concern. And if we want to do this thing, and if you really feel that you can have one house based on population come out of this convention, then you can do it, and by the very, very simple expedient of adopting the Cushman amendment. I am very, very serious about this matter. An intelligent monkey could actually draw the map resulting from this particular amendment, and you would have the house based approximately on population within this state.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, I will rise very briefly. I am still in support of the amendment after the discussion. I did want to point out that our good friend Garry Brown was absolutely correct when he said that equal proportions was not a system of making geographic districts, but rather a unit for computing the apportionment; and if I gave the other impression, I was incorrect, and I want to see that the committee is assured of our agreement on that point.

I do think, though, we come down to the problem of one question raised by Delegate Bill Hanna: can it be done? And perhaps if they had started from the Keewenaw peninsula and Ironwood and worked down through the southwest to the southeast part of Michigan, you will find it could be. I am not saying it is simple to do. I admit that there would need to be a certain amount of computations and statistics. Perhaps ward lines would need to be divided, census tracts would need to be reviewed. But the point is this: if we want one house on population basis, the way to do that is to establish a formula and make that as our first standard.

I would certainly assume within a rule of reason that the apportioning body would respect county lines, would adopt equal proportions, would use city lines as far as feasible. But we now have many state senatorial districts that cross city lines, get into different townships, and if our standard is a legislature with one body based on population, I urge that those delegates who believe in either one or both houses on population support this as the practical means of putting the mathematical limitations so that we do have at least one house based on population. Thank you.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, several of the speakers—Dr. Hannah, Mr. Sterrett and Garry Brown—have each stated that equal proportions method is easy to understand, or at least it is not difficult to understand, and it seems to me that that is an important question, because if it is a method that works and can be explained to the people an argument could be made that we don't need the Cushman amendment. On the other hand, if the facts are the reverse, then the answer can be the reverse. Therefore, it is necessary to know, in my opinion, whether these statements are correct which are offered in opposition to the amendment that is now before us.

As to Dr. Hannah's statement that the equal proportions method is easy to understand, I believe that probably is somewhat of an exaggeration, because I recall at the committee meetings when Bill Hanna attempted to explain it, at that point I recall that after he had explained it for the first time some of us who had been in on the secret of how it works found out it didn't work that way; it worked a different way, and several of us, including Dr. Hannah at that point, were ready to give up, and we agreed at that point, several of us, including Dr. Hannah and myself, it was not such an easy plan to understand. I am not at all certain at this point that anyone in the convention besides Bill Hanna, who brought the plan to us, knows how the plan works. I don't recall that anyone has explained it to us, including the 3 people who said it is easy to understand. I don't recall that Dr. Hannah has explained it. I don't know that he can explain it. I don't believe Mr. Sterrett has explained it, and I don't know that he can explain it. I don't recall Garry Brown explaining it, and I don't know that he can explain it. If any of these people can explain it, it ought to be explained.

I would also like to ask Bill Hanna a question, and I would like to ask a question as well of Garry Brown, in view of the various statements made by them. Bill Hanna says it is impossible to do what this man says, or else he believes it is impossible, substantially so. I assert that that statement couldn't possibly be correct. If you know where the people are in the state, all you have to do is draw lines. You could get within a zero per cent, if you wish. There is no limit to how close you can get it if you put no arbitrary limits on it. And I would just challenge Bill Hanna on this point: if I produce a map meeting the requirements of this amendment, would he support the amendment? I happen to have an intelligent monkey around that is available to help me. I would like to say in this connection—I'll yield the floor to Bill Hanna in a few minutes—I would like to say in this connection that where there is a will, there is a way, and where there is a won't, there isn't.

Before departing from this position, I also would like to ask Garry Brown whether he could explain some of the factors involved in the equal proportions method, and I would like to ask him this question first: Mr. Brown, I wonder if you would be willing to explain to us some of the various features of the equal proportions method? I note, for example, that it is described that you take the square root of various numbers and you do various things with them, and I have a slide rule ready, and I would like to find out if you would please explain to the members of the committee how you get the square roots.

CHAIRMAN HUTCHINSON: Mr. G. E. Brown.

MR. G. E. BROWN: Mr. Chairman, Mr. Nord, for approximately 30 minutes this afternoon an attempt was made to explain equal proportions. I feel that I have a reasonable understanding. I certainly wouldn't, possibly, say I have a better understanding than Dr. Nord, but from what has been said here, I am inclined to think that possibly I do. Now, how do you get the square root? Is that your question?

MR. NORD: Yes, that's my question.

MR. G. E. BROWN: Well, I went to the World Almanac, to be honest with you. I figured out by hand on some of them, longhand. As you sat down with me one day, we both tried to figure out how we used to do it back in the seventh grade. We finally came to a conclusion and we got the square root. But now I don't do that. I go to the World Almanac where the square roots of numbers up to approximately 100 are provided.

MR. NORD: In other words, are you able to tell the delegates how they can get the square root? Or do you tell them to go ask somebody else, such as the almanac? There is some method of doing—.

MR. G. E. BROWN: I would say go to the World Almanac, yes.

MR. NORD: All right, then, that is what we will tell the delegates. That is what we will tell the people: go to the World Almanac. We may have to cross the word "World" out because perhaps that is a plug. All right, if you feel that you have satisfied everybody, I have no further question with you.

I would like to ask Bill Hanna, though, whether he is willing to support this amendment if I can get my intelligent monkey to work and bring in a plan, for example, by tomorrow morning.

MR. G. E. BROWN: Dr. Nord, I would like to say in reply that I don't think that I have explained it to everyone. I don't think that everyone understands it. I don't think it is essential that everyone understands it. I would have thought that conceivably you would have understood it.

MR. NORD: I do, sir, I do. I didn't ask you whether I understood it. I know the answer to that. I want to know whether you understand it. I don't know that.

Mr. Chairman, the question I asked of Mr. Bill Hanna was not a rhetorical question, it was a challenge: will you accept this plan and support it if I get my intelligent monkey to work and he brings a map in?

CHAIRMAN HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, Dr. Nord, if he is a duly certified delegate replacement for yourself I would be glad to examine his facts. (laughter)

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mrs. Cushman and Mr. Hodges. It is on the wall. All those in favor of the amendment—the yeas and nays have been demanded and ordered. This is a record roll call vote. The yeas and nays have been ordered. This is a record roll call vote on the amendment before you. All those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—38

Baginski
Balcer
Barthwell
Bledsoe
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Nord
Norris
Ostrow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young

Nays—83

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger

Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover
Habermehl
Hanna, W. F.
Kuhn
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Stamm
Starrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mrs. Cushman and Mr. Hodges, the yeas are 38; the nays are 83.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Yeager and Pollock offer the following amendment:

1. Amend page 3, line 19, by striking out "7/10 of 1 per cent" and inserting "75/100 of 1 per cent".

CHAIRMAN HUTCHINSON: The question is upon the amendment. The Chair recognizes Mr. Yeager, the sponsor.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, if I may, Mr. Chairman, I would like to make a few remarks on this briefly, and then yield to 2 other speakers who have requested to make additional remarks. I agree with the statement that has been made here and at other places in the convention that the present .7 proportion amendment, or proposition from the committee is 2 seats off of population. The amendment that we are offering here increases the basis on which the first seat will be offered to an area from .70, which is the committee report, to .75.

A day or so ago we put on your desks an analysis showing the various areas of the state and their percentage of state population, how many seats they are entitled to, based on population, and a comparison of the committee's report of .70 and our amendment at .75. The real test on a population basis, actually, is the percentage of the state's population in that area times the total number of seats in the body. This should give you the basis on how close you are to population.

Now, what we are doing with this amendment is placing the house on the basis of population as nearly as we can do it under a definable formula and keeping to county lines. Now these 2 concepts are very important; a definable formula and keeping to county lines. The question is often raised: why not make the first seat on 100 per cent rather than 75? The answer is that if you did not keep to county lines this most certainly could be done, but because of the difference in geography layout and population spread among counties, the closest you can come by formula is .75. This is for distribution, of course, of the first 38 seats which go into legislative areas. The 72 remaining seats are distributed on equal proportions, and I won't go into that again because we have just had a lengthy explanation and question period on equal proportions, which some understand and some do not. I don't feel that a detailed understanding of equal proportions is a requirement in order to have this work in this formula.

Now, as you increase nearer to 100 from 75, you disproportionately over represent the highly populated centers. As you go under 75, you under represent the populous center. The next question asked about this amendment is: why not accept the minority report which was working on the basis of the principle of the least deviation or sum of deviations? As I stated earlier, when the Cushman-Hodges amendment was up, one of the stipulations the committee went into quite thoroughly was in having an apportionment commission that was going to be working within the constitution with defined formulas which would allow as little discretion to such a commission as possible. This was done frankly to eliminate political trading as much as possible within this commission. We feel that this formula of allotting the first seat based on the .75 and distributing the balance of the seats on equal proportions is a definable formula, and leaves very little discretion with that body. The minority report, on the other hand, would have left a great deal of discretion with that body, and if you drew the lines one way you got an entirely different deviation from the other.

Now, if we are to keep to county lines as I have stated, we can be as close with this formula Dr. Pollock and I are advocating as we can in any other way. This is a definable population formula; discretion is removed from the apportioning commission. In further support of this amendment, I would like to read a paragraph from a news release today from an organization called, the committee for a sound constitution. I think perhaps some of you received it. It is:

> Detroit, April 3. The committee for a sound constitution announced today it is prepared to support the constitutional convention's majority committee proposal for legislative reapportionment if the yardsticks are tightened to further reduce the amount of over representation allowed to less populous districts. Cochairmen Dewey Barich of Ypsilanti and George Petritz of Benzonia in a joint statement declared—

and this is the meat of the thing—

> "The new proposal for apportioning the house of representatives has increased the requirement for representation in a given district from only 50 per cent of the population factor to 70 per cent of the factor. This should be further increased to more adequately approach the ideal of one house apportioned according to straight population. The method of allocating additional seats according to equal proportions formula is fair and is the method used in allocating seats in the U.S. house of representatives among the states."

As I mentioned earlier, also, I campaigned on the issue of one house being on the basis of population. I was elected on this issue, I believe. I think it is a correct position. If you support the concept of the house of representatives being on a population basis, I would urge you to support this amendment and vote yes. I would like at this time to yield to Dr. Pollock for further statement.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, while there has been, I think, a good deal of disagreement regarding the desirable base or bases of representation in the senate, I had supposed that there was near unanimity on the proposition that the house should represent population. I have heard about a deal—or an accommodation, as it is sometimes called—that the house should be on population, and I have heard Dr. Hannah, Mr. William Hanna, and other committee spokesmen frequently assert that the house under the committee proposal will represent population as accurately and as completely as possible. Well, to me there seems to be little question that the house should represent population. The question is: will it, under the committee proposal? Statistical analysis of the committee proposal indicates that representative districts in Oakland county may include up to 95,580 people. Those in Wayne county up to 92,580 people. Those in Macomb county up to 84,543 people. On the other hand, Van Buren county, with 48,395 people, will have a seat of its own despite the fact that it contains only 62/100 of the state's population. Tuscola county, with 43,305 people, .56 per cent of the state's population, and Lapeer county, with 41,926 people, .54 per cent of the state's population, can legally be given separate representation, and no doubt under the committee plan they will receive it. So, under the committee proposal, the largest district could be considerably more than twice as large as the smallest district in population. In a body presumably based on population, it seems hard to defend such vast population differences.

Well, how do they arise? The committee proposal—I don't know whether I will say rather cleverly or what the proper adjective is—at any rate embodies 3 devices which distort straight population representation. These devices have an interlocking and accumulative effect which ultimately produces the gross inequities which I have just referred to.

First of all, we have already had a vote on the question of whether county lines shall be used or whether we shall develop district lines. It is perfectly obvious that by using county lines, however unanimous and insistent people are that because this is a great political unit of organization it must be used for every other purpose regardless of what the county is or what it represents, this is one of the ways in which the gross inequities have been produced. If you took this amendment which has just been defeated, that would remedy part of it. But that is only one of the devices. The other one is an attenuated but still potent moiety clause. The committee proposal would allot a seat to any county or group of counties having .70 per cent of the state population. If all districts were of equal population, in a 110 seat house, each would contain .91 per cent of the state population. So that this refurbished moiety clause grants representation to the areas that are approximately 23 per cent short of a full population ratio.

To me this is over representation, and it can only be accomplished by a corresponding under representation elsewhere. But this is only the beginning of a 50 percentage point spread, to which I have an amendment pending a little bit later, in the permissible population size of districts within a single county. This is another way in which it is accomplished.

The committee proposes that in counties entitled to more than one seat districts shall contain not less than 75 per cent or more than 125 per cent of the county ratio. Well, it is very difficult to comprehend why the committee felt it necessary to allow a variance of 50 percentage points in districts which are all within a given county. Such a loophole is an open invitation to gerrymandering. I think I pronounced it correctly. There is no reason why districts cannot be so constructed as to remain within a range of 90 to 110 per cent of a given ratio. However, in the metropolitan counties there will be at least some gesture of assuring a semblance of equality in district population.

When we move to the representative areas, as the committee calls them, where districts will include several counties, it is no longer possible to impose any percentage limitation, however broad, and this of course is because of the third limitation that I mentioned earlier about county lines.

I had originally intended to introduce an amendment for .8. I think the simplest thing for this convention to have done was to have adopted the preceding amendment, but being a practical man, and being, I think, a fair man, and wanting to present this to the people of the state in the most acceptable way, I joined with Mr. Yeager very gladly to support his .75 amendment, which I think comes a great deal closer and is a much more equitable scheme and will enable this convention to say that we have tried to do the best we can on a practical basis to make the house of representatives on a population basis. Therefore I support the Yeager amendment.

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. Chairman, at this time I would like to yield to Mr. McLogan.

CHAIRMAN HUTCHINSON: Mr. McLogan.

MR. McLOGAN: Mr. Chairman, members of the committee, a relatively simple line of choice can be drawn in the matter of apportionment in the house. Unfortunately, such a delineation does not evolve in the more complex issue of senate apportionment. The question before us, of course, is this: should one legislative body be apportioned on population with the added proviso of embracing county lines? To me the answer is a clear "yes." Following next, therefore, is merely selecting the plan which, within practical demands, most nearly accomplishes this. My preference is for the Yeager amendment. To my mind this question is a moral issue and not properly one in the area of compromise, though I would agree that most other matters coming before us could be probably so defined.

The difference between .75 recommended here and the majority committee report is, admittedly, not large. Therefore one hears frequent rationalizations that since the seats involved are few, why dispute the painstakingly arrived at results recommended by the committee? To that, fellow delegates, I would simply point out that this saw cuts both ways, and for me the genuine plum of achieving full population is far more weighty than whether or not to shift the 1 or 2 seats involved. If the House truly is based on population, and can be advertised as such, how much more salable would be our product than attempting to constantly explain that there really wasn't much difference between full population and a modified moiety; the latter an appellation which will cast a long shadow on the reapportionment settlement.

Urban areas have been too long under represented. I firmly believe the proper house reapportionment may allow for resolving of urban problems with us now, here in Lansing, and not later in Washington. Let us hope that in this issue of full population in one house versus something less, that right is might, and we shall resoundingly affirm this precept in voting aye on the Yeager-Pollock amendment. Thank you.

MR. YEAGER: Mr. Chairman, one thing I notice in rereading the amendment up here, there should have been 2 other references in the amendment; lines 21 and 24, where 7/10 of 1 per cent is mentioned, both should have been changed to 75/100. I would like to ask the secretary if that change could be incorporated without my writing it out.

SECRETARY CHASE: Mr. Yeager, without objection, revises the amendment to read as follows:

1. Amend page 3, lines 19, 21 and 24, by striking out "7/10 of 1 per cent" and inserting "75/100 of 1 per cent".

MR. YEAGER: Mr. Chairman, I should like at this time to demand the yeas and nays.

CHAIRMAN HUTCHINSON: Mr. Yeager demands the yeas and nays upon the amendment. Is the demand supported? Sufficient number up. The Chair next recognizes Mr. Downs.

MR. DOWNS: Mr. Chairman, through the Chair, could I ask Delegate Yeager a question or 2?

CHAIRMAN HUTCHINSON: You may proceed.

MR. DOWNS: Delegate Yeager, in shifting from .7 to .75, could you tell me what the practical effect would be on shifting house seats?

MR. YEAGER: Yes. Under the population figures, the upper peninsula, which has 3.93 per cent of the state's population, under 110 seat house, is entitled to 4 seats. Under the 70 plan of the committee, it gets 5 seats. Under the 75 plan it gets 4 seats. There would be an additional seat going to Oakland county, which under 8.82 per cent of the state population is entitled to 10 seats; under the 70 plan it has 9 seats; under the 75 plan it has 10 seats, to which it is entitled. There would also be an extra seat go to Monroe county under the 75; it has 1 under 70. Under 1.29 per cent of the population it is entitled to 1. It gets 2 under 75, but it is a growing area under the 1970 population.

MR. DOWNS: Does that complete your answer?

MR. YEAGER: Yes, sir.

MR. DOWNS: Mr. Chairman, I perhaps didn't hear. There would be one seat lost in the upper peninsula, Oakland would have one more and Monroe would have one more. I am sorry I didn't hear from you where the other seat would be lost from. Would you please be kind enough to repeat that?

MR. YEAGER: I would if I could give you a specific answer to that. It would be a combination of the way the seats are set up in the arrangement of the counties, and would not come from a specific definable area. It would be generally from the central part of the state.

MR. DOWNS: It would not be from southeast Michigan or the upper peninsula, would that be safe to say?

MR. YEAGER: Yes.

MR. DOWNS: Thank you, Mr. Yeager. I believe, Mr. Chairman, that putting this in another term—and I certainly don't want to sound partisan to the convention—would be that we would lose a democratic seat from Marquette and Oakland county would pick up—I hesitate to say it—a Republican seat, and some Republican seat outstate would be shifted perhaps to the Monroe area, which under present election statistics might also be Republican. In other words, there would be a net gain of one Republican seat, and there would be a shift from the upper peninsula and central Michigan to Oakland county and southeast Michigan, or the Monroe area. Having pointed that out, I imagine I shall still vote for this amendment because it is a little bit closer to the concept of one man, one vote.

I cannot, before I sit down, help but commend our good friend Dr. Pollock for his excellent talk on the need for not having county lines sacred, and their vitiating effect on the one man, one vote concept. I would just say that I wish the good doctor had made his talk at the time we were voting on the previous amendment, and if somebody wishes to reconsider that, with the added support of pointing out the basic weakness of county lines, I would be glad to return to that subject. I am afraid perhaps some of us are wearing our practicality and often, perhaps, forgetting the idealism of our political science professor.

Having said that, with no great enthusiasm I am inclined to support this because it is a very small step, almost a begrudging step, which gets a little bit closer to the one man, one vote concept in one house. But I want to make it clear that even with this amendment adopted, we still would have under the proposal as it now stands 2 houses of the Michigan legislature, neither one of which was established on a concept of one man, one vote. Thank you.

CHAIRMAN HUTCHINSON: Mr. Doty of Monroe.

MR. DONALD DOTY: Mr. Chairman, delegates, there seems to be an implication in regard to the majority report that there is something sinister about our proposal. As has been pointed out by the previous speaker, there is nothing sacred to the Republican party in attempting to maintain 5 seats in the upper peninsula as far as regards its political position. This is the major difference between the proposal as submitted by the committee and the one presented to you now as the Yeager-Pollock amendment. We do, however, and I personally, feel that it is just as important for the people in the farthest corner of Gogebic county to be fairly and equitably represented in the legislature as it is for Monroe county, my county, which under the proposed amendment would be entitled to its second seat.

I think it behooves us all to be the statesmen that we were supposed to be when we came here 6 months ago, and to not consider each and every amendment in light of its political perspective, but in light of its fairness, its equitability, and its equitably apportioned seats which we are trying to get in the majority committee proposal.

Dr. Pollock points out in his statement that under the committee proposal, Van Buren, with .62 per cent of the state population would receive a seat, and that Monroe, with 1.29 would also receive one seat. The variance being over 2 to 1. I submit to you by the mere changing of the proposal from .7 to .75 per cent of the population of 1 per cent, that this discrepancy would be nearly as great. According to the amendment, Van Buren would still be entitled to one seat, and the next greatest discrepancy would be Ottawa, with 1.26 per cent of the state's population. So, if I may borrow the word from Dr. Norris, we are indeed dealing with minutia.

I would urge upon you the rejection, in the interest of fair and equitable apportionment, of the Yeager-Pollock amendment, and the adoption of the committee proposal. Thank you.

CHAIRMAN HUTCHINSON: Mr. Brown of Schoolcraft.

MR. G. E. BROWN: Mr. Chairman, members of the committee, it is really difficult to either support or deny support to a 75/100 plan. I think that we should, once and for all, set certain things at rest, however, that have been said here, for the benefit of the delegates and for the benefit of the press. It has been used many times, it has been constantly referred to that the committee report is a modified moiety plan. The committee report is no more a modified moiety plan than would be the 75/100 plan. Moiety is not a feature of the new apportionment provisions for the house.

The committee for a sound constitution—in the document that we received, to which Mr. Yeager referred—speaks with approval of the new proposal for apportioning the house of representatives which has increased the requirements for representation in any given district from only 50 per cent of the population factor to 70 per cent of the population factor.

Now, the only place where the so called .7 or the 75/100 comes into play is in the setting up of the basic legislative areas to which, by the constitution, would be assigned one seat. The remaining seats of a 110 man house—and with both of these proposals the legislative areas to be set up would be approximately 40—under both of these plans, then, there would be approximately 70 seats distributed on the formula of equal proportions. These 70 seats do not relate back to a 7/10 proposal. These 70 seats in fact will be given to populous areas on more than a straight population basis; "more" meaning giving more credit to densely populated areas. The effect of this is, as I mentioned this afternoon and will mention again—and I trust that we will not have this brought up again; that it will be understood—is that basically, under the minority report or under a completely fair, equitable—if every district in the state of Michigan could have the same amount of population, those districts each would contain .9, or approximately 9/10 of 1 per cent of the state's population. How do we arrive at that fraction? Basically we have 110 seats. The population of the state of Michigan equals 100 per cent, regardless of how you cut the pie. If you say 110 seats into 100 per cent, you end up with a .9 per cent being the proper percentage of the state's population which that district should contain.

Now I gave you the figures earlier with respect to the 7/10 proposal as worked out with a map, the map that has been furnished. The figures that are derived—and once again I have constantly approached this question, I think the committee has, as well as the delegates here, the speakers, those who have been very vehement in their support of a straight population plan, they have approached this question as being a question not of one district in Kalamazoo county to another district in Kalamazoo county, but rather the southeastern part of Michigan as compared to, say, the upper peninsula or the southwestern part of Michigan. It is a zone or area influence that we desire to have. We are not concerned, for instance, that the first district that is here represented by Glenn Allen in Kalamazoo has 57,000 people, and the second district in Kalamazoo county that is represented by Tony Stamm has 113,000 people. We are not concerned about that, and you are not concerned as much about the discrepancy in the Detroit area as you are concerned about the high population in a district in the Detroit area as compared to a district outstate. So therefore it seems to me only fair, logical and sound that we refer to the average outstate district as compared to the average downstate district, if I may call it such, referring to the southeastern corner of the state.

The average district, the population of the average district outstate, excluding Genesee, Macomb, Oakland and Wayne counties, the average district has .89 of 1 per cent, almost 9/10 again of 1 per cent of the state's population. It varies approximately 1/100 of 1 per cent from the norm. In turn, the average population of the districts of the 4 counties that I mentioned in the southeastern part of the state have a population, an average population, of .9275. This is slightly over .9, of course, by 27/1000, a little over 2/100 variation from the norm.

Now, how this can be said—when you are within 1/100 on one side, 2/100 on the other side—how this can be referred to as a moiety proposition is more than I will ever know. And I can't see the people that have spoken here referring to this as a moiety plan if you would figure the present apportionment of the legislature by any manner or scheme and come up with anywhere near the near population feature that you have with a .7 legislative area plan, with the rest of the seats going by equal proportions. You just can't get that close. This is not a moiety program. The .7 refers to the setting up of the legislative areas, and only that. It relates to 40 seats, and no others. In fact, the remaining 70 seats tend to diminish the effect of the over representation of setting up 7/10 districts because once again you are within 1/100 of the norm if the districts were all equal. On the outstate districts you are within 2/100 of the norm insofar as the populous districts. This is not moiety. It should not be classified as moiety, and anyone that concerns himself or is interested enough to look the figures over will know this is not moiety, and it is improper to refer to it as such.

Now, with respect to whether there should be a 7/10 plan or 75/100, why not a 76, why not a 74? The indication has been made that it is very close to population. I cannot argue against a 75/100 plan, but I do not think that it really accomlishes what the proponents of it think it does. I would like to see, for instance, the deviation that I have suggested here with respect to the 7/10 plan figured out. Very likely I could then support the 75/100 plan. Thank you.

CHAIRMAN HUTCHINSON: Mrs. Butler.

MRS. BUTLER: Mr. Chairman, members of the committee, I didn't believe that my good friend Will could do me so wrong; 4 members of the house from the upper peninsula. Now, when I came down here, I came down dedicated to the proposition of having 7 from the upper peninsula. But since all this study has been made, I feel that I have to go along with the committee and give those 2 representatives to Wayne and Macomb, or whatever. But 4, I might as well go to Siberia. I would get a warmer reception there than I would in the upper peninsula if I went back with that.

Even giving those 2 away, I feel a little like the woman in a court case where justice was meted out which was at least questionable, and she said:

There ain't no justice in this here land.
I just got a divorce from my old man.
I sure did laugh at the judge's decision.
He gave him the children and the children weren't his'n.

(laughter)

CHAIRMAN HUTCHINSON: Mr. Sleder.

MR. SLEDER: Mr. Chairman and fellow delegates, I can assure you, Mrs. Butler, that the delegates are taking away from us all of ours in this case.

I was very happy that Mrs. Butler rose to speak, because for the last 3 days, fellow delegates, we people from the upper part of the lower peninsula and the upper peninsula have sat here and listened to the metropolitan areas talk about how the outstate, the upper peninsula, the upper part of the lower peninsula was completely carrying the ball, was running the whole show, and after hearing this for 3½ days, I am glad that Mrs. Butler was the first to rise after Judge Dehnke this morning to speak in behalf of the people of the northern part of our state.

Certainly you all know the number of us that are here. We are elected from the same areas that our component parts are in the capitol, and I know that you fully realize that we here cannot muster up enough votes among ourselves to make any great dent in the future or the jurisdiction or the laws that are going to be written in this convention any more than those representatives or senators in the house can do. Therefore I think a lot of your fears are unfounded as to what the outstate representatives are going to do to the state of Michigan.

I fully feel that every one of the delegates that come from our areas here came down here with an open mind. I think they fully realized, as I did, that there was some injustice, some misrepresentation in our state. I think they felt that they were willing to go along and make fair and equitable adjustments with the people in the metropolitan areas. I would like to point out we felt from our area we had 2 very fine representatives in Judge Dehnke and Ray Plank on the legislative organization committee. We kept in contact with them continually. We were willing, and we expressed to them some desire, as I stated, to cooperate with the metropolitan areas.

We have, we feel, as Judge Dehnke pointed out, gone along with the commission that we set up in the proposal, the 8 member commission on reapportionment, that we somewhat—if we wanted to be mean we could all sit here and vote no on it. We have gone along with the unfreezing of the senate seats, which we feel is right and just. We have likewise gone along with increasing the number of senate seats, which we feel is just. We likewise have gone along in the house with the .7 per cent, which will mean an increase in the representation of 40 per cent. Now comes on the floor an amendment, after we have already given up in the upper peninsula 3½ seats and in the northern part of the lower peninsula 3 seats, another amendment to take another 1½ seats from our area.

We too, I want to point out, have pledged faith to the people who have voted for us, who we are representing. These people—you people, too, I know—have said that you felt that you should have more representation in your areas. I think, though, there is a point where we, as statesmen and delegates to this convention, when we are thinking of the good of the state of Michigan, must think of real fair play.

I think you, too, should realize that we have problems, that we represent maybe not as many people, but we represent people from all types of business, all types of income, in every branch and every form of living that we have here in the state. I therefore would wholly want the support of each one of you delegates who feel that you are full statesmen, and feel that you want to make a good state, and that you want to play fair not only with your people but with all the people of the state of Michigan to defeat the Yeager amendment. Thank you.

CHAIRMAN HUTCHINSON: Mr. Perras.

MR. PERRAS: Mr. Chairman, fellow delegates, I think what I was going to say has been pretty ably said by Mrs. Butler and Mr. Sleder, but I just wanted to point out that I felt the same way as the others. I could go along and sell the idea of losing 2 representatives from the upper peninsula, but I don't know how we would explain the other one that Dr. Pollock and Mr. Yeager are trying to take away, so I oppose the amendment.

CHAIRMAN HUTCHINSON: Mr. Howes.

MR. HOWES: Mr. Chairman, fellow delegates, I rise to speak against the amendment and for the committee proposal. It has been said that in the outlying districts of Michigan we are representing stumps, and we will have to admit that you are right. We have been representing stumps for a long period of time. In fact, we have been representing stumps and cutover areas which have contributed no substantial amount to the economy of Michigan for so long that a mistaken idea has developed in the minds of many people as to the future value of these areas to the economy of Michigan. Let us look at the value of these areas to Michigan now and in the future.

Seventy-three million dollars worth of wood is now produced annually from 19,000,000 acres of forest land in Michigan; $600 million is added to the economy in processing, this with only 8 per cent of the state's potential private forest land with trees large enough to provide saw timber, according to Lester Bell, Michigan State University forester. It is estimated that the forests of Michigan can provide 5 times the economic activity which they now provide when and if they are made to reach their full potential. Can you visualize what $2½ billion per year added to the economy of Michigan would do? If you can, then you will know what it will be when we come back to our full potential forest production in Michigan.

You can see from this what the potential of Michigan is if private forestry is promoted with every effort which we can put forth in planting and improvement of our potential forest land. Forest improvement is now being done in national and state forests, but it is up to everyone to encourage improvement and rebuilding of our private forest lands which comprise 2/3 of the total forest lands in our state. As early as 1908 Theodore Roosevelt demanded that conservation and reproduction of our natural resources become a permanent and continuing policy of our nation. I say it is our bounden duty as good Americans to defend and promote the reestablishment of our forests to their full potential. The admonition in the Bible that the sins of their fathers shall be visited upon them even unto the seventh generation could never be more true than in the case of the forest industry in Michigan. It is also true that we must forgive them for they knew not what they did when our forefathers cut, slaughtered and burned our forests to the ground. But this does not ease our burden, and now we must continually and forever work at the heartbreaking task of rebuilding our forests.

We have a very good start, and in Michigan we have come a long way. Michigan recently was the first state in the nation to have 1 million acres of planted pine trees, and at present we are nearing 1½ million acres. But at the present rate of 50,000 acres per year, we will be 60 years yet planting the 2½ to 3 million acres which need planting in Michigan at the present time. The good thing about the forest industry is that it fits hand in glove with tourist and resort, hunting and fishing and winter and summer sports, and with our help these industries can and will grow together in Michigan during the next few years.

So, we in the outlying districts will not always and forever be representing stumps. We need a little more than one vote, one representative in the legislature of Michigan. You say we have been representing stumps. We say we must continue to represent a few stumps until these stumps turn into trees and these trees into raw products as a base for the future economy of our state and our nation. (applause)

CHAIRMAN HUTCHINSON: Mr. Follo.

MR. FOLLO: Mr. President, I wish to be very brief, but I would not have you think that all of the people of the upper peninsula were unalterably opposed to losing any of their representation. I have talked to a lot of people. When they understand the situation in our county I know that many, and perhaps a majority, would be opposed, but I think when they understand what the situation is—many have said to me that they think it is unconscionable that we sometimes have 8, 9 and 10 times the power in our votes than in other parts of the state—they are willing to give up some of this. I don't wish to pass on the merits of this particular amendment, because I don't know enough about it yet, but I would want to correct the idea that all of the U.P. people are unalterably opposed to any change at all.

CHAIRMAN HUTCHINSON: Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen of the committee, it is one thing to advocate increase in representation—I certainly have favored that as far as the more populous areas are concerned where there has been such increase, to correct inequalities and injustices in representation. It is even a matter which might be defensible to be able to adhere or to hold fast to the representation that one has presently—but to ask representatives or delegates to go back to their people and to tell them with a straight face, or with any face at all, that they come back with a good constitution, a better constitution than we have now, and at the same time to tell them that they are giving up 1 or 2 or 3 or more representatives, that I think is a very difficult task and calls for statesmanship, or something, and self sacrifice of very high order, and it is almost beyond human credulity to ask people to be able to comprehend that at the same time. It is one thing for them to be able to take it, and it is another thing to ask them to positively come forth to support the new constitution. That, indeed, is a rough task.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Yeager and Dr. Pollock. Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, first I would like to apologize to my good friend Ruth Butler. I don't know of anybody in the convention I would rather give a seat to, but unfortunately, according to population basis, she is going to have to have more of "his'n" in order to qualify for those extra seats on the basis of population.

To Mr. Howes I would simply like to say that I have never made the statement that you were representing stumps. I think this is a very crude and untrue statement. I would simply remind you very briefly that Wayne county is losing a seat on the basis of population. They go from 38 to 37 seats. My plea on the basis of population is for the suburban areas, a sort of moon shaped figure ringing Wayne county. Macomb, Oakland and Monroe counties are the growing areas, and these are the areas that are most under represented.

The rural upstate area has a voice in the legislature under the present section that we have passed on the senate. The urban area simply would like to have a voice in the legislature too. I think it is a very necessary thing, and it gives us the balance in this state. I don't really believe this is asking too much. Therefore, again I urge you to adopt this amendment.

CHAIRMAN HUTCHINSON: Mr. Staiger.

MR. STAIGER: I just have one question I would like to ask of Mr. Yeager.

CHAIRMAN HUTCHINSON: You may proceed.

MR. STAIGER: This sheet passed out the other day; I assume these are your figures on this, is that correct, Mr. Yeager?

MR. YEAGER: Yes.

MR. STAIGER: A checking over—you have the ideal of what straight population would be, and I also share this idea that the house certainly should be on a straight population, or as close as we can get to it, but in checking your .75 plan against the .70, it appears to me from your figures, if I added them up correctly, that actually you would be 4 seats away from the ideal, whereas the .70 is 3 seats deviation. Is that the way it actually works out under the 1970?

MR. YEAGER: In the first place, there are no 1970 figures here. These are based on 1960.

MR. STAIGER: Then 1960. It isn't listed.

MR. YEAGER: I didn't quite get that.

MR. STAIGER: Here is what you have: under the .70 in the upper peninsula you are 1 off from the ideal and ½ off in the upper part of the lower peninsula. Then you drop down to the 25 counties, the next item there, and they are ½ off under the .70. Oakland county is 1 short. So you have a total of 3 that the .70 is off from the ideal, from the absolute, under your figures. You go to the .75, you are ½ off in the upper part of the lower peninsula, ½ off in the 25 counties that come next; the 16 counties east of the line from Bay to Hillsdale you are 2 off there, and 1 off in Monroe for a total of 4. So comparing the figures you are actually 4 away from what you established as the ideal of what they should be, whereas .70 is only 3 away from straight population.

MR. YEAGER: There are many people here, I think, that would agree that I am half off, but these figures do not relate in up and down columns; they relate only across. They weren't intended to relate up and down.

I can't answer the question you have asked me, because I don't think what you said is the case, and I would have to sit down and go into some detail with you on it. But we are much closer under .75 than we are under .70. The lower figures there are specific small areas, and do not necessarily tie into the upper areas, plus the fact that there are some duplications. In other words, Wayne, Oakland and Macomb counties—that should be Macomb instead of Monroe county—are mentioned above separately. So those 2 figures don't relate either.

CHAIRMAN HUTCHINSON: The question is upon the amendment, as revised, offered by Mr. Yeager and Dr. Pollock. The yeas and nays have been ordered. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—37

Austin
Balcer
Barthwell
Bledsoe
Buback
Cushman, Mrs.
Donnelly, Miss
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Greene
Hatcher, Mrs.
Jones
Kelsey
Krolikowski
Lawrence
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Nord
Norris
Ostrow
Pollock
Snyder
Stopczynski
Suzore
Walker
Wanger
Wilkowski
Woolfenden
Yeager
Young

Nays—81

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Plank
Powell
Prettie
Pugsley
Rajkovich
Romney
Rood

Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Garvin
Goebel
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
Millard
Nisbet
Page
Perlich
Perras
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Starrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood

SECRETARY CHASE: On the amendment offered by Mr. Yeager and Mr. Pollock, the yeas are 37; the nays are 81.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Dr. Pollock offers the following amendment:

1. Amend page 4, line 15, after "less than" by striking out "75 per cent" and inserting "90 per cent"; and after "more than" by striking out "125 per cent" and inserting "110 per cent".

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, my purpose in offering this amendment is to give the delegates a chance to vote on a better plan than that proposed by the committee. These figures are the same as those I presented in connection with the senate. But the seating in connection with the house is a good deal different. What I mean to say is that the problem in districting the house is somewhat different than the senate, and the spread which is permitted by the committee proposal seems to me to be excessive.

If the house is really to be apportioned strictly on population, I think it is obvious that one requirement we must insist upon in any plan is one to insure that there is relative equality of population size among the districts. That seems to me to be elementary and self evident. If some districts have abnormally small populations, they will be over represented, and such over representation can be accomplished only by under representing other districts. Naturally you can't provide that all districts have identical population. Some variance has to be allowed, but that variance must be kept to the minimum that is necessary administratively.

There is no practical reason why districts cannot be held to a range of approximately 20 percentage points; that is within 10 per cent, plus or minus, of the average population per district. The amount of variance allowed in the committee plan will be beyond anything that can be justified by administrative convenience and necessity. Under the committee's plan it will be quite possible for some districts to have twice as many people as some other districts—

I can't hear myself talk, Mr. Chairman.

CHAIRMAN HUTCHINSON: The committee will please be in order.

MR. POLLOCK: Under the committee's plan it will be quite possible for some districts to have twice as many people as some other districts, and if we adopt such a plan, how can we go to the people and say that we put the house on a straight population basis?

Mr. Chairman, I really wonder whether the committee is aware that its plan would allow some districts to have twice the population of other districts? There is no word of defense in the committee's report for this disproportion, and I wonder whether this again is the result of the failure, due to time pressure, to secure adequate analysis of the committee proposals before they are brought to the floor.

In case anyone has any doubt as to the correctness of my allegations, let me illustrate it with a few specific facts. I will give you only one example of an abnormally small district and one of an abnormally large district. Without any doubt Van Buren county will be isolated in the initial allocation of seats provided in the committee plan. That is, it will not have 7/10 of 1 per cent of the state's population, and so it cannot be a representative area of its own. Also it is surrounded by poorly qualified representative areas, Allegan county, Kalamazoo county, Berrien county, and on the south by the present Cass-St. Joseph district which also qualifies as a representative area.

Under the committee proposal such isolated counties must be joined to the adjacent representative area which has the smallest percentage of the state population. In this case Van Buren county would then be joined to Allegan county. Then when we assign the seats with a method of equal proportions, we find that this Allegan-Van Buren representative area qualifies for the one hundred ninth seat, and so it gets 2 seats. Since the boundary between the 2 districts must be drawn at the county line, Van Buren county which did not qualify for a seat under the 7/10 rule will get a seat, nevertheless. So we have a representative district with 48,305 people. I am sure this will not be the smallest district, but it certainly would be undersized. To be precise, it has only 67.2 per cent of the average population of all districts. So it is 32.8 per cent below normal, or almost 1/3.

At the other extreme we have Oakland county. Poor Oakland always seems to get it in the neck. Oakland just misses qualifying for a tenth seat, so its average population per district will be 76,695. But the committee proposal allows districts to exceed the average in a given representative area by 25 per cent. Therefore, Oakland county districts can range up to 95,868, almost twice the population of Van Buren county.

Now, there are other counties—I could give other illustrations—smaller than Van Buren which can legally be given separate representation, so this will not be the extreme case by any means. But it illustrates my point that the committee proposal would allow excessive variation in population size, and I can only ask each delegate to vote his own convictions on this matter, regardless of how you feel about the senate. If you want a house based on population, you are going to have to amend the committee proposal.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, at the outset, Dr. Pollock, your reference to the Allegan-Van Buren situation, of course, is not covered by your amendment. Your amendment relates to page 4, line 15, after "less than" by striking out "75 per cent" and inserting "90 per cent" and after "more than" by striking out "125 per cent" and inserting "110 per cent." That of course is the second subparagraph under the initial language which reads as follows:

> Any county comprising a representative area entitled to 2 or more representatives shall be divided into single member representative districts as follows. . . .

And then this, of course, is in the second paragraph you wish to amend. This relates to any multiseat county, not multiseat legislative area consisting of more than one county.

Now, it is true that in the final paragraph of the committee proposal it does say that any representative area consisting of more than one county, otherwise a multiseat legislative area, "consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines."

I certainly would agree with you that the variation that you have suggested is entirely possible. I would say, however, that is is very improbable, for the very reason that you will note that under equal proportions, if the population of an area such as the Allegan-Van Buren situation—which is very unusual on equal proportions—if it was much higher you would be entitled to the seat and you would be much nearer a straight population basis, and very little deviation. So this is the extreme. You will notice that this seat is given as one of the last seats, if not the last seat—I can't remember—under the committee proposal. So any time that you have a situation where the last seat is given, and the next legislative area would be entitled to the next seat, you are going to have this deviation, and this is one of the fallacies of equal proportions. But it nevertheless is the system that reduces the amount of relative deviation between districts to a minimum, and this is an accepted principle by all of those who have worked on this subject. Now, anyone can see that when you go to a set number of seats, such as 100, and you give the one hundredth seat to a county such as Wayne, and the next county is Oakland, that having given an extra seat to counties that are side by side in the priority list, you are going to add a great variance, a substantial variance, which still is not a highly relative variance, between these 2 districts.

Now, of course, the reason that this proposal says 75 and 125 rather than 90 and 110 has been adequately explained on the floor, and I am sure that you, Dr. Pollock, know why it is. That is because we were attempting to adhere to, first of all, in the first instance, county lines, and in the second instance, in the multiseat county, which is a legislative area, we were trying to adhere to city and township lines. We could go through that whole debate again, but this is the committee's reasoning. You may think it is fallacious; we think in any case there is an abuse. In one case you may have greater deviation, which we don't like, in the other case you may have violation of city and township lines which the committee felt, and I feel, is a greater abuse than the slight abuse that will exist by having counties not quite the same in population, when overall your relative deviation is kept to within 3/100 of 1 per cent between the districts.

CHAIRMAN HUTCHINSON: The Chair next recognizes Mr. Doty of Monroe.

MR. DONALD DOTY: Mr. Chairman, fellow delegates, the arguments have already been made on both sides of this question in regard to the senate; the same arguments apply, and I would therefore respectfully urge the rejection of the Pollock amendment.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Pollock.

MR. POLLOCK: I think it is interesting, Mr. Chairman, that Mr. Brown in his apologia for the committee's proposal referred to his long discussion about equal proportions as a defense, but I didn't hear him deny that this will result in having districts twice the size of other districts, and he didn't explain why it was necessary to have the 25 per cent variation instead of the 10 per cent variation that I am talking about. These are the 2 points at issue.

CHAIRMAN HUTCHINSON: Mr. Brown.

MR. G. E. BROWN: Mr. Chairman, if I may answer Dr. Pollock, I think that I did answer. The reason I gave was the same answer that was given previously to the same proposition that was offered with respect to the senate as far as concerns county lines, and in this case it was offered with respect to township lines. This is the reason you have to do this.

Now, then, I don't consider that my presentation was an apology for the committee report, nor that going into equal proportions was intended to in any way be tangential to the subject we were talking about. I would likewise say that although what you say is possible, I have said I think it is very improbable. I think that as a lawyer and so on, you know that this might be covered by the doctrine or the axiom of reductio ad absurdum.

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, Mr. Brown, I would merely reply that I don't know anybody who is expert in this field who finds it necessary under any system to have a spread of 50 per cent in the adjustment of districts. I have said before and I will repeat again, and you can't prove otherwise, that this is an invitation to gerrymandering, and I think you know it.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman and Dr. Pollock, if you examine the language in subparagraph 1 under this section, a fourth grade arithmetic student can see that within the multiple county district you cannot have a 2 to 1 representation ratio. The language here is 75 to 125. If the average is 100, 75 is 75/1000 and 125 is 125/1000, and to drag the red herring of comparing the multiple county districts with the exception noted where it comprises more than one county entitled to one representative is to serve confusion or to illustrate a lack of complete reading of all of page 4. I do deny your accusation, and it is impossible if you carefully read page 4.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I rise very briefly in favor of this amendment. It does make a floor of 90 per cent, a ceiling of 110 per cent, it will be closer, at least within counties, to the concept of one man, one vote, and I therefore favor the amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I think I should say at least if this is not gerrymandering, it is "Garrymandering."

CHAIRMAN HUTCHINSON: The question is upon the amendment. All those in favor will say aye.

MR. DOWNS: I demand the yeas and nays.

CHAIRMAN HUTCHINSON: Mr. Downs demands the yeas and nays. Is the demand supported? Sufficient number up. The question is upon the amendment. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—41

Austin
Balcer
Barthwell
Bledsoe
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hood
Jones
Kelsey
Krolikowski
Lawrence
Lesinski
Madar
Marshall
McCauley
McGowan, Miss
McLogan
Nord
Norris
Pollock
Prettie
Sablich
Snyder
Staiger
Stamm
Stopczynski
Suzore
Walker
Wilkowski
Woolfenden
Young

Nays—77

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
Millard
Nisbet
Page
Perras
Plank
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Starrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood

SECRETARY CHASE: On the adoption of the amendment offered by Dr. Pollock, the yeas are 41; the nays are 77.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Dr. Pollock offers the following amendment:

1. Amend page 4, by striking out all of lines 19 and 20, and inserting "where the utilization of such boundaries shall not conflict with the aforementioned requirements of compactness, convenience, contiguity by land, and population size."; so that the language will then read:

> Such single member districts shall follow city and township boundaries where applicable and where the utilization of such boundaries shall not conflict with the aforementioned requirements of compactness, convenience, contiguity by land, and population size.

CHAIRMAN HUTCHINSON: On the amendment the Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, may I ask Dr. Hannah whether the committee has an amendment on this subject? If the committee has an amendment I would be glad to withdraw mine.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: The committee has no amendment.

MR. POLLOCK: This is the problem I think raised by Mr. Buback, Mr. Chairman, and I wonder if he hasn't something to say on this subject.

CHAIRMAN HUTCHINSON: Will the amendment please be placed on the wall.

SECRETARY CHASE: This amendment of Dr. Pollock's was put on a master sheet and handed to all the delegates at your desks. It is part of the 2 sheets that were passed out this afternoon, on the second page.

CHAIRMAN HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. Chairman, ladies and gentlemen of the committee, this same item applies to the house of representatives the same as it applied to the senate. When we changed the districts in the city of Detroit, we have now 12 legislative districts. In other words, in 5 districts we elect 3 representatives and in 4 districts we elect 2. This gives us 17 additional ballot forms because we are going to have 17 additional state representative districts in the city of Detroit; making altogether 29 legislative districts in the city of Detroit. This creates 17 additional ballot forms. So this very same thing applies to the senate as it does to the house of representatives. It creates completely 92 ballot forms for the county of Wayne. It is a cost of at least $50,000 additional, because of this change, and what we are trying to delete is to—instead of making these districts in square formulation, we would like to have that left up to the reapportionment commission as to whether it should be a square or whether it should be rectangular or regular in shape. So I would urge the committee to adopt this amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Pollock. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: Division is called for. Is the demand supported?

MR. MADAR: I also ask for the yeas and nays on this.

CHAIRMAN HUTCHINSON: Mr. Madar demands the yeas and nays on this amendment. Is the demand supported?

SECRETARY CHASE: Twenty-eight.

CHAIRMAN HUTCHINSON: Sufficient number up. The yeas and nays are ordered. Mr. Brown, do you desire to speak upon the amendment?

MR. G. E. BROWN: Mr. Chairman, I just discussed with Mr. Buback the substance of what he said, and I think that in view of what he has said, he is opposed to the amendment rather than in favor of it, because it says that this shall be used, but it shall not conflict with the compactness, contiguity and population size. So if he wants to maintain his city boundaries, and so forth, for election districts, he is opposed to this, I think.

CHAIRMAN HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. Chairman and ladies and gentlemen of the committee, I may be slightly confused. I do have my own amendment up here. I thought my amendment would be the same as Dr. Pollock's, and my amendment shows that we strike out "square" and insert "uniform." That is the intent. That is my intent on this. If that isn't it, then I would withdraw my support to this and move for my own amendment.

CHAIRMAN HUTCHINSON: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, we are trying to accomplish the same thing. Obviously the committee didn't—by the use of the word "square," there is something wrong. I was trying to improve the language. I am quite willing to agree with Mr. Buback on any language that suits the actual administrative situation. Obviously the proposal with the word "square" does not. He is opposed to that, and so am I.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: I had intended—when Mr. Buback drafted his amendment he had conferred with me, and we had agreed that we would substitute the same language for "square" that we did in the senate provision earlier today. But this is not the Pollock amendment. Now, if we are talking about the same thing, if Mr. Pollock will withdraw his amendment, and we all agree on Mr. Buback's amendment, the committee agrees to what Mr. Buback wants.

CHAIRMAN HUTCHINSON: The secretary will read Mr. Buback's amendment just in order to inform the committee what it is.

SECRETARY CHASE: Mr. Buback has offered the amendment:

1. Amend page 4, line 20, after "nearly" by striking out "square" and inserting "uniform"; so the language will read, "shall be composed of compact and contiguous territory as nearly uniform in shape as possible."

CHAIRMAN HUTCHINSON: Mr. Pollock.

MR. POLLOCK: I shall be glad to withdraw my amendment in favor of Mr. Buback's.

CHAIRMAN HUTCHINSON: Dr. Pollock withdraws his amendment. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Buback has offered the following amendment:

1. Amend page 4, line 20, after "nearly" by striking out "square" and inserting "uniform".

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Buback. All those in favor—Mr. Iverson.

MR. IVERSON: May I ask Mr. Buback a question?

CHAIRMAN HUTCHINSON: If he cares to answer.

MR. IVERSON: Mr. Buback, if this amendment were passed, would you consider that the present multiple districts which stretch from the river up to Eight Mile road could be spread in those cases where perhaps there are 3 present representatives; split the district straight down the middle and make them long?

MR. BUBACK: I don't follow your question, Mr. Iverson. My intent here in this amendment is to allow the apportionment commission to come in and make the division in any way they see fit, but not to tie down in the constitution that they must make it in a square form.

MR. IVERSON: All right, but see if you can answer my question. You know how the districts are presently running.

MR. BUBACK: Are you talking about north and south by ward lines?

MR. IVERSON: That is right.

MR. BUBACK: Yes.

MR. IVERSON: Now, Mr. Chairman, I would like to have his construction of this amendment. Would this amendment permit 3 districts in one of those situations to run also from the river to Eight Mile road?

MR. BUBACK: It all depends on how many—what the population is in there, whether they would be entitled to a representative.

MR. IVERSON: So that if the population were there, and it was contiguous territory, they could run from the river to Eight Mile road?

MR. BUBACK: I would say yes.

MR. IVERSON: Then I am opposed to the amendment, and I think it destroys exactly what we intend to do.

MR. BUBACK: On what basis?

MR. IVERSON: For the simple reason that you have a long finger from Eight Mile to the river, and I think it's utterly impossible.

MR. BUBACK: But this is going to be left entirely up to the reapportionment commission, and that is why we are taking out the word "square" or "rectangular." Now, if the commission sees fit to run it rectangular in some areas—let me just give you a "for instance" here: let's take, for instance, here, the Grosse Pointe areas. They are strictly rectangular, and if you say in the constitution they shall be square, it is impossible. You have Highland Park and Hamtramck. Put together, their population is less than 72,000. If you should want to make one legislative district there, that is also rectangular. You couldn't make that square. For instance, the downriver area of Wayne county, where you have Lincoln Park, Southgate and all those other areas there, they are not in a square area now; they are rectangular. So we want to give some leeway to this commission so they don't have to go into a square formulation.

MR. IVERSON: Mr. Chairman, I think Mr. Buback's answer is the very thing which I suspected in this amendment, and if it will permit them to make a legislative district which will be like a finger from Eight Mile road to the river, then they are destroying everything we are trying to do, and I am certainly opposed to that. Now if he wants to use some other language, such as rectangular or as near thereto as possible, I will agree to it.

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. Chairman and ladies and gentlemen of the committee, I rise to oppose this amendment. I think the original proposition that the committee had in mind when it put in the words "square in shape as possible" was to eliminate these long thin districts as a possibility. We put that in with a specific purpose in mind, and I would oppose this amendment which might change that.

The language of the proposal specifically states that the first consideration will be given to county and township lines. The second consideration is square in shape; not perfectly square, but square in shape. And I think that Mr. Buback has failed to prove the case that being square in shape or regular in shape is going to make that much difference in the printing bill. I therefore oppose this amendment.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, I would like to ask, through the Chair, Mr. Buback another question; one somewhat similar to Delegate Iverson's.

CHAIRMAN HUTCHINSON: You may proceed.

MR. DOWNS: If a district now has, say, 3 state representatives, and it's 6 miles long and 1 mile wide, would this amendment, using the word "uniform," permit the apportioning commission to divide that into 3 single districts each 2 miles long and 1 mile wide?

MR. BUBACK: Actually it could.

MR. DOWNS: So the matter would be up to the discretion of the apportionment commission to establish what would, in their judgment, be the closest to a uniform definition?

MR. BUBACK: I want to say this, Mr. Chairman: I misunderstood Delegate Iverson's statement here. In some of these narrow wards—and that's what he had reference to, narrow wards—where you have only 2 elected in legislative district 11, it would be foolish to try to put that into a narrow area like he is speaking of. I would be against having a legislative district in that shape. I think that could be worked out into more of a square shape or rectangular shape.

Does that answer your question? I didn't have reference—I was talking about the upper part of the city of Detroit when you mentioned the long finger shape of a legislative district.

MR. IVERSON: Well, Mr. Chairman—

CHAIRMAN HUTCHINSON: Wait a minute. We are getting all confused here. Mr. Downs has the floor.

MR. DOWNS: I would be glad to yield to Mr. Buback if he wishes to speak further.

CHAIRMAN HUTCHINSON: He has asked a question of Mr. Iverson. The Chair doesn't want to get all confused. Do you wish to hold the floor? The Chair wishes you would complete your statement, and then Mr. Buback can be recognized in due order.

MR. DOWNS: I will then hold the floor, Mr. Chairman. I think that the problem here is one where this committee does seem to be in agreement, and I would think that the apportionment commission would, with the standards of uniformity, be relied upon to use some good judgment. I think when cities by their nature are not square, it is pretty hard to say they've got to be square. At the same time, I can see if there is a long narrow district now—Mr. Buback did say his construction was the long narrow ward could be divided for the purpose of establishing single districts. While the language may not be perfect, I am satisfied this would permit a state apportionment body to do its job on a reasonable basis.

CHAIRMAN HUTCHINSON: The Chair next recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I supposed when Mr. Buback made his request for uniform districts to accomplish the objective that he outlined effectively when he was talking about the senate, he was talking about the same thing; about something that would permit these house seats to fit into senate seats and congressional seats, and get away from the additional number of separate kinds of ballots that he indicates will cost so much money.

If you will turn to the green book that was given you—you have one on your desk; the information on apportionment that we distributed last Thursday—the second green sheet shows the present situation. Then if you will turn to the fourth map, or fifth map, you will find a sheet that looks like this one. This is the present state representative districts in the city of Detroit. One of the things that concerned our committee as much as anything else was these unusual shapes of the districts. It was pointed out that this was historic; that these were the old Detroit wards; that the councilmen of Detroit are now elected at large, no longer elected by wards, but that the senate and house districts had been based on those original wards.

Now, understanding Mr. Buback's explanation of the question asked by Mr. Iverson, we certainly cannot go along with his request, because it is very important to the committee, and I think it is very important to you, that we eliminate the kind of shaped districts that are shown here. So I therefore withdraw the very quick approval in view of his explanation.

CHAIRMAN HUTCHINSON: The Chair next recognizes Mr. Knirk.

MR. KNIRK: Mr. Chairman, Dr. Hannah has brought to the attention of the delegates—I certainly hope that they have looked at this map, because I certainly feel that the committee could not support Mr. Buback, Delegate Buback on this selection of words. We are not about to allow this to happen. We don't think it's correct. And so, therefore, may I encourage the delegates to vote down this amendment?

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. Chairman, I don't know just what Mr. Iverson and Mr. Yeager are trying to do. Mr. Iverson doesn't want to tell anybody what he wants to do. He has a plan. There isn't any doubt in my mind that he has a plan. But let's see how stupid that plan is. Now, look, I am not pleased. I am not—please, will you let me answer this?

MR. A. J. ELLIOTT: Point of order.

CHAIRMAN HUTCHINSON: What is your point?

MR. A. J. ELLIOTT: Speak to the amendment, please.

MR. MADAR: I am speaking to the amendment, Mr. Elliott. Let me show you how I am, and I will let you prove it; my point is right.

CHAIRMAN HUTCHINSON: Mr. Madar will confine himself to the amendment.

MR. MADAR: I am. Now let me show you just exactly what's wrong in trying to put this in squares. You all know how the city of Detroit is laid out, and if you were to try to put this in squares, you couldn't possibly go along street lines. We would have to start saying that we have to go out here to such and such a telephone pole, out here by the surveyor's line, and this is something we can't do there. We've got to break these down according to streets. Now, the only way we can do this is just as Mr. Iverson inquired about: can we put them along these lines from the river to Eight Mile road, because there we can get the streets running that way so we can break them up.

I am not trying to do anything here for the Democratic party or for myself; I am trying do something here that we know is right. I'll bring anybody up here from Detroit. I'll bring in Republicans, and we will show you that Mr. Iverson was right in 1952 when he, with Mr. Shaffer, Mr. McNally and a few others drew up this district map. Not me, not anybody else. It was they who did this. They did it with the board of supervisors; not because they were trying to pull something funny, but because they couldn't do it any other way and do it right. So, why don't we try to do this; and please, Dr. Hannah, check these things before you take somebody else's word, and don't take mine, either. Let's put it over and get some facts and figures in here.

CHAIRMAN HUTCHINSON: For what purpose does the gentleman rise, Mr. Dehnke?

MR. DEHNKE: I want to call attention to 2 or 3 words that are being overlooked.

CHAIRMAN HUTCHINSON: Mr. Dehnke, unless you raise a point of order, the Chair will recognize you in due order.

MR. DEHNKE: Very well, I didn't know anybody else was ahead of me.

CHAIRMAN HUTCHINSON: The Chair next recognizes Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I didn't have anything to do with drawing this map, but I have looked at it so many times I almost know it by heart. The newer part of the city to the west, Miss Hart's district, my district, Mr. Iverson's and Mr. Sterrett's district, they are not bad. But if you go into the older part of the city—which was done earlier—you can't find, in my opinion, any worse sample of gerrymandering than you have right here.

I can appreciate Mr. Buback's problem. I am inclined to try to do something to help him with it, but I certainly cannot do it at the expense of permitting even the possibility of the continuance of this gerrymandering in the city of Detroit.

CHAIRMAN HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. Chairman, members of the committee, maybe I haven't made myself quite clear in this matter. What I am trying to say here is: if these legislative districts are made square, how large will "square" be? When you start making square districts, you may extend just like you do in senatorial districts; you may get into 2 or more congressional districts, and when you do that, it creates more ballot forms.

Now, let me say this to the committee: merely by taking this map that you have before you and dividing that across all the way equally, it creates 17 legislative districts in the city of Detroit. That means 17 different forms. We now have 12 districts in the city of Detroit electing 29 state representatives. We are now going to have 29 representative districts, because we are going to make them all single districts. I am fearful that if we try to make these square, they may overlap into more than one congressional district, which will create another additional ballot form. By merely dividing these things equally, as the map is now set up, would create 17 legislative districts in the city of Detroit, which will mean at least $50,000 additional in printing cost.

Now, I am not interested so much in the printing cost; the point that I am trying to put over is to get these ballots printed in time. We have a time element involved here. This means that we are going to have 92 ballot forms even if we don't go into squares. I am trying to leave this up to the commission as to how they are going to formulate the districts. I am not saying to follow ward lines. I am not saying whatever they want to do with this map, the commission, let them set up these forms square, rectangular, but let's not freeze it into the constitution that these must be square. I say that this can be in any form that the commission wants to make up. Let's not freeze in square or rectangular.

As I stated before, we have some districts that are rectangular, and we can't do anything about it. I would certainly like to see you give the commission leeway in this matter. I am not satisfied with this setup. We didn't have anything to do with making up this map. This map was given to us back in 1953, and we certainly don't like it. I am not in favor of these lines, and if I have anything to do with sitting down with this commission when its meets and comes to Wayne county—and they are going to have to come to us for our suggestions on this thing—I will assure you a lot of these will be square, but I don't want to hold it to square. Because in some areas you have got to have rectangular shaped legislative districts. I am not talking only about Detroit; you have Highland Park and you have Hamtramck; you have the Grosse Pointes. You have this map here in the city of Detroit.

I agree wholeheartedly that there must be some squares, there must be some rectangular districts in the city of Detroit, but let's not freeze it into the constitution that they must be square. What I am fearful of—with the present setup, as I have stated, if we merely divide these into 3 equally populated areas we will have 92 forms. As soon as you start so called gerrymandering or getting into square formations you are going to have more than 92 ballot forms, and then it becomes a serious problem as to whether we are going to be able to print these ballots in time.

Mr. Iverson, you know that we have a very difficult situation in Wayne county. As far as I am concerned, this is nonpolitical. We have 2 types of voting machines; we have paper ballots, and—I didn't mention this before—this also applies to our tally and return sheets. We have to have just as many tally and return sheets to get the election results from these ballot forms as we do the ballot forms themselves. It becomes very expensive, and if the fellows here have had anything to do with elections—and Dr. Hannah, if you have been misled, I am sorry. My contention was not to follow ward lines here, but to leave it entirely up to the commission. After all, it is a bipartisan commission. It takes it out of politics. But I don't want to freeze it in the constitution where you are going to tell the commission that you have got to follow square shapes. Just as much as I opposed the rectangular areas for senatorial districts in Wayne county, in the city of Detroit I am doing the same thing. I am being consistent in that I do not want it frozen in the constitution on the square in the legislative seats.

That not only applies to Detroit; we have problems also outside the city of Detroit. We have 9 districts that are in all types of shapes: rectangular, round and square. So I am trying to get a little consistency here, and I hope that you will bear with me and see this from a technical and mechanical standpoint, and not from any gerrymandering or any other way or form or fashion of shape. I would appreciate it if you would go along with me on this.

CHAIRMAN HUTCHINSON: Mr. Plank.

MR. PLANK: Mr. Chairman, fellow committeemen, being a member of the legislative organization committee, I would like to tell you that we did look into this very seriously. We were concerned about the problem that it was going to cause the commission in redistricting, and with all due respect to Mr. Buback, I don't think he's going to be a member of that commission because of the way it is set up. He is already a governmental employee, and probably won't have the problem.

I want to point out to him that if he reads the language as the committee has proposed it, the territory shall be as nearly square in shape as possible. This does not mean that you shall have each one square; it does mean, however, that you will do something with what we have there now, and if you put in the new verbiage such as Mr. Buback's amendment does —it says "as nearly uniform;" they are uniform now. They are uniform, but they are also in such long, finger like, uniform sections that they do tend to make districts that are easily gerrymandered. Thank you very much.

CHAIRMAN HUTCHINSON: Judge Dehnke.

MR. DEHNKE: I pass.

CHAIRMAN HUTCHINSON: Mr. Iverson.

MR. IVERSON: Mr. Chairman and members of the committee, first of all I want to answer Mr. Madar about this map, and I will deny now for the benefit of the members of this committee that I had anything to do with it. I don't know whether he had more information than I did, but at least I had nothing to do with it.

Now let me say further that the very thing that I fear in this amendment, and I don't know that Mr. Madar is any authority on it, or not, but he indicated the only way these districts could be split up was by splitting them from Eight Mile road to the river, and the only reason it could be done was that that's the only way the streets run. Now, I suggest to the committee that we have cross streets in Detroit, also, and we also have precincts, and they can certainly set these precincts off in almost squares, or as near as possible, and I see no problem whatever. I am opposed to this amendment.

CHAIRMAN HUTCHINSON: Mrs. Hatcher.

MRS. HATCHER: Mr. Chairman, I have a question, and before I ask the question I would like to make an observation. I would like to say that I live in congressional district 13 in Wayne county, and I think a goodly portion of it is located in the heart of this map that we are discussing here now on the question of state representative districts. As the outline areas are presently constituted, they appear to be rectangular. I would like to say that in congressional district 13 the lower section of the district, which is located down near the river, represents, to a large extent, industry and business offices. The midcentral section of congressional district 13 is perhaps where a great deal of density, where a number of people are housed in that area. As you go out nearer to Eight Mile road I imagine the population would become a little more sparse in terms of single home dwellings rather than the multiple dwellings that you find in midcity.

My concern and my question—and I suppose I would like to direct this question to Mr. Iverson—is whether or not we are concerned with the shape of representative districts or are we concerned with the number of people these representative districts will represent, because I seem to think—that is my question, and I should close at that point. However, I do feel that certainly—and I agree with Mr. Buback that a goodly portion of gerrymandering of these districts should be left to a bipartisan commission, and we certainly cannot effectuate all of this information or all of the ideas in this convention here, because I believe it would be quite a task for us to go into it very systematically, because it is a question of whether or not we put so many precincts into one representative district.

As an example, the senatorial district in which I ran, there were 3 wards located in congressional district 13 and 3 in congressional district 15; which made it quite a cumbersome problem for me to have to work between the 2 congressional districts, and it seems to me that a good bipartisan commission would take into consideration these factors. I certainly trust that these are some of the things that we would hope that a good commission would deal with.

Now, I will repeat my question for your benefit, since I have talked so long since I asked the question. Are we concerned with the shape or how we divide these areas, or are we concerned with the number of people that will be represented by these representative districts?

CHAIRMAN HUTCHINSON: Mr. Iverson.

MR. IVERSON: Mr. Chairman and Mrs. Hatcher, I think we are concerned with both, and I think that you, Mrs. Hatcher, would agree with me if you took your district—which presently, I believe, has 3 representatives, does it not?

MRS. HATCHER: Yes, it does.

MR. IVERSON: I question very much, if you were running for representative, if you would want a finger from Eight Mile road to the river in which to run. And I say again, you must have the shape of the district as well as population.

MRS. HATCHER: Mr. Chairman, Mr. Iverson, I would like to say first of all, that I am opposed to dividing up the multiple districts into single districts. That is my first opposition. I would much rather have 3 chances to run for state representative if I were to run than to have one single shot at it, as it would be under this plan. Likewise I feel that the possibility and the opportunity of running in a representative district from the river to Eight Mile road is no problem, because we are quite accustomed to representing that type of constituency in Wayne county, and it wouldn't be a problem at all.

What I do think you are going to do in trying to divide it up into blocks, as you seem to have in mind, is create a greater degree of segregation and discrimination in selecting representatives, because if you cut Detroit off half way, it would mean that certain representatives would come from one area and certain from others, and I am afraid again that this would be another way of perpetuating segregation in the legislature.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen, I would like to bring to your attention a couple of statistics here. In the county of Wayne the Republican party pulls 35 per cent of the vote and now enjoys 2 per cent of the representation. I submit to you that out of a million or so votes in that county we have one representative, and in some of the districts which Mr. Madar referred to as being gerrymandered by the Republicans several years ago, there is a band of Republican voters through the middle and a band of Democratic voters to the north and a band of Democratic voters to the south. And if you make enough fingers with enough bands across the top and bottom, you never get anybody elected. Now, I don't care if Mr. Madar does his gerrymandering as a Republican or a Democrat, I am opposed to it, and I am opposed to this amendment.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, I hesitate to speak again, and shall try to be very short. I would point out to the delegates that on line 19 of page 4 is the language that they shall be composed of compact and contiguous territory. I think the term "compact" takes care of the problem that Delegate Iverson raised, and I certainly would not conceive of a district being a half mile wide and 8 miles long as being compact.

In looking at this map that the chairman of the committee pointed out to us, I do see in representative district 10, which Delegate Iverson and Delegate Hart represent jointly, that if we say as nearly square as possible, that there could be 2 long, narrow, 4 sided rectangles drawn that are not as compact as what, for euphemism, I would call two 6 sided squares, and I think the concern that Delegate Buback pointed out was that if we use the term "square," even staying as nearly square as possible, we are trying to fit it into city boundaries that are not square or rectangular, and from just looking at the map I can see where we would need 9 and 10 sided squares. They might be more compact than a 4 sided square.

I am inclined to think that using the terms "compact" and "contiguous" sets a reasonable standard, and that the difficulty —I am surprised nobody has talked about square pegs and round holes—is that we just physically can't get squares unless we use the term "as nearly as possible" which then, as the present language is, is almost meaningless. I am still inclined to think that the key words are "compact and contiguous" and that the commission doing the apportioning would have some judgment. I frankly don't think this is a major issue before the convention, and perhaps we have spent too much time on it, but I just again say that I think "compact and contiguous" are the key words.

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: I will make it brief, Mr. Chairman, because I realize that once Mr. Iverson has said we will not do this, Dr. Hannah says we will not do this, and a couple of other gentlemen who might say we shall not do this, it will not be done regardless of whether we are going to save the taxpayers of this state money, regardless of whether it's the proper thing to do, if they say no, it won't be done. Let's vote. We can lose. We can lose again. We can go back and tell the people who did it, and I am hoping and praying that the newspapers will do likewise.

CHAIRMAN HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. Chairman and ladies and gentlemen, making a last plea here, I have never indicated that this is going to be our plan. This is the plan of the entire city of Detroit and the county of Wayne which is going to be gone over again by the commission. Our congressional district lines now are set up by wards, presently, and I am fearful if we make these square, they are going to overlap into congressional districts and create more ballot forms.

And as I indicated, if they are nothing but divided equally as it is, it is going to give us 92 ballot forms. If it is changed more than that, it will go over 100. This is not what we are going to have; we are not going to recommend it. If the commission is going to come in, it is going to be a bipartisan commission, and we are going to start from scratch. I don't see why there is any argument here at all. All we are asking is so that the commission will not be misled into going into a square formation of these legislative districts. We don't want that frozen in the constitution.

I would certainly appreciate it if you would give us some consideration. This is not gerrymandering; this is strictly: let the commission decide on what it's going to do.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Buback. Does anybody desire to have it read again? No. It's on the board. All those in favor—

MR. MADAR: Mr. Chairman, I had asked for the yeas and nays on that, if you recall.

CHAIRMAN HUTCHINSON: You asked for them on Dr. Pollock's amendment.

MR. MADAR: It was on Mr. Buback's amendment.

CHAIRMAN HUTCHINSON: Well, all right, the Chair will so construe it. The yeas and nays have been ordered. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—41

Austin
Balcer
Batchelor
Bonisteel
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Farnsworth
Faxon
Follo
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Nord
Norris
Ostrow
Perlich
Perras
Pollock
Prettie
Sablich
Snyder
Stopczynski
Suzore
Thomson
Wilkowski
Woolfenden
Young

Nays—76

Allen
Andrus, Miss
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Erickson
Everett
Figy
Finch
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Plank
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Starrett
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Buback, the yeas are 41; the nays are 76.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: There are no further amendments to section b, Mr. Chairman.

CHAIRMAN HUTCHINSON: There are no further amendments to section b. The section will pass.

Section b is passed. The secretary will read.

SECRETARY CHASE: There are no amendments to section c.

CHAIRMAN HUTCHINSON: If not, the section will pass.

Section c is passed. Are there any amendments to the body of the proposal?

SECRETARY CHASE: There are 4 on file.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, I think the secretary informs me that there are 4 or 5 amendments still pending to the body of the proposal, or to the section that was passed over earlier today. Is that correct, Mr. Chase?

SECRETARY CHASE: That is correct.

MR. J. A. HANNAH: What is the total number of amendments left?

SECRETARY CHASE: We have 4.

MR. J. A. HANNAH: Then, sir, since it is now a quarter to 11:00, I move the committee rise.

CHAIRMAN HUTCHINSON: Dr. Hannah moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails. It is so ordered.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration Committee Proposal 80. The secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** has considered a number of amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Any announcements?

SECRETARY CHASE: We have the following requests for leave: Mr. King phoned in and wishes to be excused indefinitely because of illness; Mr. McAllister requests leave from the session of Friday, he is required to be in court on that day; Mrs. Conklin requests to be excused from tomorrow morning's session; Mr. Leslie Richards called in and wishes to be excused from the sessions of Thursday and Friday as he has been detained on business; and Mr. Rood is requesting leave of absence from the sessions of Monday and Tuesday, April 9 and 10. His wife is to undergo major surgery.

PRESIDENT NISBET: Without objection, the requests are granted.

The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. President, I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. All those in favor will say aye. Opposed, no.

We are adjourned until 9:00 o'clock.

[Whereupon, at 10:50 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Thursday, April 5, 1962.]

ONE HUNDRED FIFTEENTH DAY

Thursday, April 5, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning comes to us through the courtesy of Delegate Rush, to be given by the Reverend Ellis Hart of the Methodist Church of Durand.

REVEREND HART: Let us pray. Almighty God, may we open the windows of our souls toward Thee, for we need the inspiration of the heavenly vision for our nearby task. Grant us strength and serenity of mind and heart as we meet the challenge of problems and questions for which our human wisdom does not seem to have a satisfactory solution and a right answer. Help us to see more clearly how important and vitally necessary it is for us to spend some time in being still and listening to Thy voice if we would gain a better perspective and know the right approach to the duties and responsibilities which baffle us.

May we daily avail ourselves of the great moral and spiritual resources which Thou hast placed at our disposal, lest we thwart our souls and do violence to our highest nature. May we not be stubborn or ill willed so as to cloud our minds that we may not be able to discern the thoughts and aspirations of others. May we accept the right solution to each problem even if it is not our own. Grant that the constitution which shall be completed will be so well written that it will be accepted by all of the people. This we ask in our Father's name. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present will please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Baginski, temporarily, from today's session; and Mr. Liberato, from today's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Anspach, Baginski, Mrs. Conklin, Messrs. DeVries, King, Liberato, Mosier and L. W. Richards.

Absent without leave: Messrs. Murphy and J. B. Richards.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Mrs. Conklin, Messrs. J. B. Richards, Murphy and King.]

Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: No resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for further consideration of Committee Proposal 80.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The secretary will read.

SECRETARY CHASE: The committee of the whole has under consideration **Committee Proposal 80,** pertaining to the reapportionment of the legislature. The proposal has been considered by sections. There are now pending some amendments to the body of the proposal.

For last previous action by the committee of the whole on Committee Proposal 80, see above, page 2135.

The first amendment on file to the body of the proposal is by Mr. Norris:

1. Amend page 1, line 9, after "Sec. a.", by striking out the balance of the proposal and inserting "The legislature shall be composed of a single chamber consisting of one member to represent each legislative district. The number of members shall be prescribed by law, but shall not be less than 100 nor exceed 125.

For the purpose of electing members of the legislature, the state shall be divided into as many districts as there shall be members of the legislature. Each district shall consist of compact and contiguous territory. All districts shall be so nearly equal in population that the district with the greatest population shall not exceed the district with least population by more than 15 per cent thereof.".

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. Chairman, fellow delegates, it is the purpose of this amendment to formally place before you the principle of the provision of the model state constitution of the national municipal league calling for a single chamber legislature. It is my opinion that we would not be fully regarded as a deliberative body by the people of this state if, on the agenda of matters which deal with reapportionment and the composition of the legislature, we did not dispositively have before us the question of a single chamber house.

In speaking to numerous groups throughout the state, particularly those who are students and associated with universities and colleges, the question frequently arises as to what is the position of this convention regarding a single chamber house. And I can tell them that the matter was brought up before the committee on legislative organization, that I was instrumental in bringing to that committee the vice chancellor of the University of Nebraska, Dean Breckenridge, and a state senator from the Nebraska legislature, a Republican from Omaha, who described in detail the operation of the Nebraska one house chamber. I am certain that the candor and learnedness with which these gentlemen described the operation of that single house chamber had an effect upon the committee, at least in terms of enriching its understanding with regard to the matter before us. I think it is most germane that we bring this matter up at this time.

I do hope that there will be a sufficient number of delegates here to record their conscience in history, because I believe the single house legislature, if not part of the constitution that emerges from this assembly, will be part of Michigan's future. Judge Charles Simons, the last survivor of the 1908 Michigan Constitutional Convention, recommended to the delegates of the 1961-62 convention at our opening banquet that we bring forth a document that represents the best thinking of our day. I submit that the best thinking of our day supports a single chamber legislature.

The basic premise and keynote of this amendment at this time in Michigan is simply this: no single recommendation could emanate from this convention to dramatize more effectively to the people of this state and the people of this nation that Michigan means "business and jobs" than the proposal for a single house legislature. By adopting a single chamber now, we demonstrate that Michigan is not only our state, but our cause; not only our home, but our mission; not only our responsibility, but our purpose. We announce by this act that we are again on the road to national leadership of the states of this union. The extremity of our state can also be the opportunity for greater service. It is the task of leadership in Michigan to capture the imagination, to inspire, to make issues clear, to harness and direct the creative energies of the people on behalf of Michigan as a cause, a mission, a purpose. We must project the spirit of audacity in democracy, on behalf of effective liberty and good government. The people will support and vote for a positive proposition if leadership provides a rational way for people to relate their pocketbook, their rights, their property and their pride of country to that proposition. Washington wrote that "The masses of people always mean well and will always act well when they can obtain a right understanding." Leadership in our state and in this convention must provide that "right understanding." Mr. Justice Brandeis, in developing his theory that each state in the union is a laboratory on behalf of democracy, urged that "If we would be guided by the light of reason we must let our minds be bold." I respectfully urge that the exercise of that public and private initiative and boldness necessary for democratic progress recognizes the need for a single house legislature.

What is the main problem in Michigan? Michigan's unfairly apportioned legislature is characterized by deadlock, dead center and stalemate. President Hannah of Michigan State University in an address to the Michigan municipal league on September 14, 1961, stated:

> Certainly Michigan began to lose caste among her sister states when she developed such alarming symptoms as persistent treasury deficits, inability to pay her bills, payless paydays for state employees, and the curtailing of essential public services, coupled with pessimism bordering on melancholia, nostalgia for the good old days, and paralysis of the will to do something about it. We need above all else to substitute political intelligence for political intransigence.

The Detroit News, in an editorial on November 14, 1961, stated:

> The legislature's main claim to fame and campaign contributions has not been what they may have done for ruralites, or saved them from, but what they have saved business and commercial interests from. But we cannot see that they've done much constructive for business and commerce. Some of what they blocked needed blocking. But not doing what they shouldn't is only half of the job of a legislature. The other half they've too often slighted. Their main theme has been "veto," but it's not enough. It is the preservation of this veto power, not the representation of rural areas, which has been the product, if not the intent, of the "balanced legislature" in its present form. It is this negative theme which must lead ultimately to its downfall.

The constitutional amendments on education and highways reflect this basic distrust. Michigan needs to be moved off of dead center and to inspire trust and confidence. A single chamber legislature based on population would move decisively in this direction, but it is logically possible, however, to have a one house legislature based on some new or other formula. When Delegate Proposal 1026, which is the forerunner of this amendment, was introduced the Detroit Free Press commented editorially, on October 18, 1961, that "A single house legislature could embody and express the purpose of needed change and needed compromise." I submit that a single house would inspire confidence and trust and help give Michigan a needed sense of mission and purpose.

Now the case for a single house legislature in Michigan is composed of the following arguments: first, that the people's sovereignty is more possible when direct. Representative government by the people must be direct and responsible. One body can be more directly representative of the sovereign will of a democratic people than 2 or more bodies. Woodrow Wilson declared, "Simplification — simplification is the task that awaits us." It is the opinion of many that 1 house rather than 2 is the simplest of simplifications that we require. In addition, we have the fact that the single house legislature is widely used. Professor Garfinkel's study prepared for our convention notes:

> The unicameral system is not new or untried. It is found in all the 25 largest cities of the United States, and no city has returned to a bicameral council after adopting the unicameral form. All the Canadian provinces, with one exception, are so organized. Unicameralism is a widely used form throughout the democratic world, and in no way is it a "radical experiment." It has been operating with marked success for a quarter century in the state of Nebraska. The national municipal league has strongly endorsed the plan, and it is the basis of their model constitution

a model constitution which has indeed served as a frame of reference for every committee operating in this convention.

> Most professional students of state government favor a unicameral legislature. . . . No private business . . . is governed by a bicameral board of directors. A 2 chamber system promotes factional strife and deadlock.

We may also remind ourselves that a convention composed of 1 house rather than 2 was universally recommended to draw up Michigan's constitution and was recommended even by our 2 house legislature.

I submit further that the one house legislature has more balance and fewer checks. It is recognized that 2 houses are required to operate as a balance and check upon each other and prevent the enactment of unwise legislation. In practice the so called check between the 2 houses results in trades and in the absence of the real responsibility required of trustworthy representatives of the people. Nothing is more common than for one house to pass a bill and the members who voted for it to urge the other house to defeat it or for a little group in one house to hold up legislation from the other until they extort from it what they demand. Professor James K. Pollock observed before this convention on November 7, 1961:

> A plan of having 2 houses is one of the most admirable buckpassing arrangements ever devised, and by making it difficult to fix responsibility, selfish interests are given leeway. They have many more opportunities of getting their way in secret than would be the case under a different system.

This political shell game was characterized by the late Senator George W. Norris of Nebraska as "the dual network of procedural intricacies" when Nebraska's 2 house legislature failed to meet the problems of the depression in that state. In short, 2 houses rather than 1 help prevent the direct accountability and responsibility necessary for effective representative government.

I submit further that the one house chamber is more deliberative. It is argued that 2 houses are necessary to prevent hasty legislation by requiring more time and machinery for the enactment of a law, thus securing deliberation and reflection. To this argument it may be replied that deliberation and reflection do not now characterize the work of a 2 house legislature that passes most its acts in the last 10 days of a session. Relatively smaller bodies, with a more direct responsibility upon each member arising therefrom, would produce greater deliberation than the present system. Professor Pollock observed that the present legislature

> does not adequately reflect nor does it deliberate on the most important questions after having received adequate information and expert advice. In other words, it deals with the most complicated problems of modern government in a haphazard and helter skelter manner, frequently in the midst of confusion and petty bickering.

Theodore Roosevelt told the Ohio Constitutional Convention of 1912 that "you cannot get good public service from the public servant if you cannot see him." Chester Bowles told the 1950 governor's conference:

> There are some people who have a vested interest in confused government. I don't believe they think that out deliberately or carefully, but when they come right down to staring into the face of effective government, one really reflecting the will of the people, they honestly don't like it.

In short, 2 house legislatures are more confused than deliberative. They frustrate rather than express the popular will. Two houses manipulate and render citizens impotent and apathetic rather than reflect, or responsibly influence, the consent of the governed.

The only argument that remains for a 2 house legislature is that weight may be given to factors in representation other than population. Historically, bicameralism and the distinction between upper and lower houses were rooted in the feudal class structure of thirteenth and fourteenth century England. Professor Garfinkel noted that "bicameralism reflected a historical desire for representation for different orders or classes of citizens in respect to wealth, education or social position." The spirit of American institutions, however, has been to abolish class distinctions in government, to diffuse education and wealth and to lessen the political value of social position. However, it is submitted that whatever weight is given to factors other than population may be expressed in a single house legislature as well as in a bicameral legislature. I would suggest that the purposes of a single house legislature — accountability, responsibility, equity, deliberativeness — could be more realizable when based on population. But sufficient progress could be made for visible and effective, rather than invisible and ineffective, government in Michigan by a single house legislature to justify its adoption on its own merits.

Every level and unit of government in the United States is now being tested to demonstrate whether a democratic, representative, self governing people can meet with efficiency, fairness and adequacy the technological and human problems of this century. No less than the survival of government by consent of the governed is in the balance. No less a responsibility is in the hands of the delegates to this convention. We shall either have vision, disenthrall ourselves, and be adequate to the challenge of our age, or we shall diminish our nation, our state, and ourselves. We need not only to enact, as one delegate stated, a "model" constitution; we need to understand that state and local government as expressions of the will of the people are on display for the whole interrelated world to examine. The people of the world will express their judgment of us and relate themselves to us to the degree that all of our governmental units express with precision the will of the American people.

The problem is this: given the people of Michigan as they actually are, how may a government be organized among them that will be impelled promptly and anxiously to learn their desire and perform their will? Article II, section 1 of our constitution states that "All political power is inherent in the people. Government is instituted for their equal benefit, security and protection." I submit, a single house legislature is a good means toward that good end in Michigan. Perhaps an assessment of the political facts of life of Michigan and of this convention might dictate that such a proposal is that of a political idealist. To that judgment I plead guilty with honor. But I remind this committee and this convention of one of Lord Acton's political axioms, "Ideals in politics may be never realized but the pursuit of them determines history." I believe this amendment is on the side of the people and of history. Michigan will change more rapidly in the next 5 years than it did in the last 50. Adopt it now or not, the single house legislature will be part of Michigan's future. I hope this convention will also be part of Michigan's future. I repeat, no single recommendation could emanate from this convention to the people of this state and nation that would more effectively indicate that Michigan means "business and jobs" than the amendment now before you for a single house legislature. I hope that we have the vision and the will that go with our duty and our power. I respectfully urge upon you the adoption of the amendment now before you.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Norris. Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, a great many people in the state have urged, from the beginning of the discussion about the possibility of this constitutional convention, that serious consideration be given to the advantages of the unicameral legislature — and it has advantages. Our committee moved into its deliberations interested in learning what the situation was in Nebraska where they have had a unicameral legislature for a long period of time. As Mr. Norris indicated, we had a member of the unicameral legislature, and the vice president of the University of Nebraska, a political scientist, visit us, spend part of a day with us, and we had a good deal of discussion. All of the advantages and the disadvantages were carefully considered, and the decision of the committee was overwhelming — I believe it was unanimous — that we would recommend to this convention the continuance of the bicameral system.

Professor Norris has made a good statement. There are many people who feel that there are advantages but, without taking your time in enumerating the advantages and disadvantages, since this whole matter was gone into carefully and there was no substantial support for the unicameral provision, I urge that the committee vote no on the Norris amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I would just like to point out, in comparing the Nebraska unicameral legislature with the model constitution presented by Delegate Norris, there are 2 or 3 very significant differences that, in my judgment, mean that they, basically, are not comparable. The model language that Delegate Norris has calls for districts on an equal population basis and, by implication, I would assume that the legislature would continue the partisan elections.

The Nebraska unicameral legislature has 2 basic weaknesses; one is that the districts are not equal in population and the second is that they are not elected on a partisan basis. In addition, as I understand, the pay is unusually weak, and other factors are involved. Without going into the merits of the unicameral versus the bicameral, I would just point out that Delegate Norris does follow the concept of equal representation, and I think we should distinguish this from the Nebraska experience. Thank you.

CHAIRMAN HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, one of the most compelling reasons against a one house legislature was succinctly stated in a book by our secretary, Mr. Fred I. Chase, published in 1946, entitled, "How Michigan Makes Her Laws, on page 29. The paragraph reads as follows:

> A great deal has been said about a 1 house legislature in comparison with the 2 houses that we have always had in Michigan. This subject apparently was considered by the delegates to the constitutional convention, and one prominent delegate, who was definitely opposed to a 1 house legislature, was asked at the breakfast table why he insisted upon a 2 house legislature. He had just poured some coffee into his saucer, and he replied by saying to his questioner, "Why do I pour my coffee into my saucer?" His questioner said, "To cool it." Whereupon he answered, "Exactly the reason why I favor 2 houses in a legislature." In other words he was saying that after a proposed law has been passed by 1 house, it is well to have it "cooled off" before it is finally enacted into law and presented to the governor. In support of this thesis, the examples mentioned earlier in this text with reference to the bank code and the probate code should be considered. The senate worked long and diligently upon both these measures. After they had "cooled off" in the house for a time they came back to the senate with 88 and 504 amendments respectively. Had there been no such opportunity for additional consideration by the house, the benefits derived from the perfecting of these bills by the house amendments could not have been had.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman, I think Mr. Wanger's remarks would probably be well taken if we were worrying about cooling the coffee. The only problem in Michigan is getting it before it's so cold nobody can drink it. (laughter)

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: I would just supplement Mr. Hodges' statement. I thought, perhaps, "embalm" sometimes might be a better word for it than "cool." With all deference to our secretary's great experience, I think it is particularly a problem when one house is based on population, even to a large extent, and the other is not; we have a built in, perhaps, not so much checks and balances as roadblocks to getting action done. I feel that if there is a unicameral house or legislature, then we do need some of the procedural checks to assure committee hearings, full discussion, a certain time of laying over bills within the unicameral body and other checks that can be done reasonably.

I would also like to point out that every other governmental unit, practically, is a unicameral body. City councils are, township boards are, school boards are, private organizations are unicameral in their concept of one policy body, and while I doubt that this has a great deal of chance of passing here, I do think that the concept of the unicameral body warrants very serious consideration, recognizing that this is not a panacea, but it has been recommended as model language.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Norris. Mr. Norris.

MR. NORRIS: Mr. Chairman, may I respectfully ask that there be yeas and nays on the roll call?

CHAIRMAN HUTCHINSON: Mr. Norris demands the yeas and nays upon his amendment. Is the demand supported? The demand is supported. The yeas and nays are ordered. This is a record roll call vote. The question is upon the amendment offered by Mr. Norris. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 34

Austin
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Dade
Downs
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Krolikowski
Lesinski
Madar
Marshall
McCauley
McGowan, Miss
Nord
Norris
Pellow
Perlich
Pollock
Sablich
Snyder
Walker
Young
Youngblood

Nays — 88

Allen
Andrus, Miss
Balcer
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Norris, the yeas are 34; the nays are 88.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Faxon and Perlich offer the following amendment:

1. Amend page 1, line 9, after "Sec. a.", by striking out the balance of the section and inserting "The senate shall consist of not more than 50 members, chosen from single member senatorial districts such as are determined by the apportionment commission. These districts shall be composed of convenient, compact and contiguous territory, within or bounded by county lines, and shall as nearly as possible be the districts now established for the senate, and such districts shall be as nearly as possible equal in population, as set forth in 1 below.

Senators shall be elected on the following basis:

1. One for each 2 per cent of the population residing in any district as of the last preceding federal decennial census: Provided, That when a district contains 1½ per cent of the population as of the last preceding federal decennial census in excess of the 2 per cent of the population or a multiple thereof that district shall be entitled to an additional senator for each such 1½ per cent;

2. One senator shall also be elected from each of those districts which shall contain less than 2 per cent, but not less than 1½ per cent of the state's population as of the last preceding federal decennial census and which also contain not less than 2½ per cent of the total land area of the state;

3. One senator shall also be elected from each of those districts which shall contain less than 1½ per cent but not less than 1 per cent of the state's population, as of the last preceding federal decennial census and which also contain not less than 5 per cent of the total land area of the state.

In no event shall a senatorial district be composed of less than 1 per cent of the state's population, nor shall any district be awarded senatorial seats under more than one of the provisions herein contained.".

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, it seems interesting, as I look back in history, to find a statement of this sort, and I am just going to quote this. It is just one sentence, too:

> Both of our political parties, at least the honest portion of them, agree conscientiously in the same object, the public good, but they differ essentially in what they deem the means of promoting that good. One side believes it best done by one composition of the governing powers, the other by a different one. One fears most the ignorance of the people, the other the selfishness of rulers independent of them. Which is right, time and experience will prove. We think that one side of this experiment has been long enough tried and proved not to promote the good of the many and that the other has not been fairly and sufficiently tried.

These were the words of Thomas Jefferson writing to Abigail Adams back on September 11, 1804, and somehow they still seem to ring clear and true today.

This plan which I am submitting for your consideration is one which has within it a concept and a doctrine that has long been the practice in the state of Michigan — in fact, in many of the states in this country. It is, in effect, a moiety provision, a moiety provision for the senate. Although I, personally, would have preferred the keeping of the moiety or area factor in the house of representatives, which is the more numerous body, this same principle can be applied with some degree of accuracy to the senate. Let us just examine how this principle would work as it would be applied to the senate. With the exceptions of the thumb area and the upper peninsula, all districts are the same as those which are now established. Only in those 2 areas have 1 or 2 counties been shifted from one district to another so that they may be more equitable. The representation in the upper peninsula doesn't diminish; it is simply a shifting of a couple of the counties to add to senatorial district 32. The plan which has been submitted by the majority attempts to do much the same that this plan attempts to do — that is, to keep the present seats and to prevent as much change from occurring as possible.

Under this plan, in 1970, as in 1960, the figures and districts would remain, as I am told by research, the same. The only difference that we have here is the additional seats that are added to those counties where the population warrants it. So, essentially, this is a conservative plan. It is a plan, I believe, that would have merited consideration at other times, a plan that would serve both interests of the state — that is, those interests who seek to keep the present senate seats and those who seek to change the present seats. It is not a question of changing if you can add, and here we would have the benefits of both area and population in formation of a senate.

I am a little bit concerned at a deviation from traditional conservatism when we go ahead and approve a plan for the senate which has no parallel in history. I recognize moiety as a legitimate factor. It's appearance in previous constitutional conventions was discussed at length. But I have never before seen a plan such as that which has been devised here. For this reason, I am a little bit conservative. I would prefer to hold onto something such as a moiety principle if it can be in any way accurately applied to the present senate situation. It would be consistent with the decisions made by previous constitutional conventions, and it would be consistent with our own traditional pattern of government here in Michigan. I just think it is necessary for us to have a little more faith, as Thomas Jefferson did, in the people, in letting them choose that form of senate representation that would give them an opportunity to be represented on an equitable basis, and at the same time not take away from those areas that already have senators.

I am going to quote again from Jefferson, and this is with regard to the idea of the sacred principle of government:

> Though the will of the majority is, in all cases, to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights which equal law must protect, and to violate would be oppression. Let us then, fellow citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life, itself, are but dreary things.

Those are words that Jefferson echoed back in 1801, as he took the oath of office for the presidency of the United States.

This plan has already been discussed and it was submitted before the legislative organization committee. I have maps and charts indicating land areas and populations to show how it would apply, and if any of the delegates wish to question me on this particular aspect, I would be happy to oblige.

My own concern here is, first of all, that we recognize there are many ways to skin a cat, and there are other ways to devise a senate which would still keep with us the present senatorial seats. This plan would do that thing and at the same time give to those areas that are presently under represented an opportunity to have their voice effectively heard. We must all bear in mind, however, that in the final analysis, the rule of the majority has been the basic, democratic philosophy from the time of Jefferson on. In closing, he used this as one of the high points of his inaugural address, "absolute acquiescence in the decisions of the majority." And, in concluding that speech of his, he said:

> These principles form the bright constellation which has gone before us and has guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment. They should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust, and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which, alone, leads to peace, liberty and safety.

CHAIRMAN HUTCHINSON: The question is on the amendment offered by Messrs. Faxon and Perlich. Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I could take a substantial amount of time and review the arguments that were made yesterday and the day before in favor of the committee proposal, which could be used, of course, in opposition to the amendment offered by Mr. Faxon and Mr. Perlich. We have had plenty of words; we have much business to do, and I shall spare you any additional ones from me on this subject. I recommend that the committee vote no on the Faxon-Perlich amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman, I request the yeas and nays so that all posterity might look at my no vote on the plan of our good conservative friend from Detroit.

CHAIRMAN HUTCHINSON: Mr. Farnsworth demands the yeas and nays. Is the demand supported? Sufficient number up. This is a record roll call vote. The question is upon the amendment offered by Delegates Faxon and Perlich. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 25

Balcer
Barthwell
Bledsoe
Buback
Cushman, Mrs.
Dade
Douglas
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
McCauley
Pellow
Perlich
Stopczynski
Suzore
Walker
Young
Youngblood

Nays — 89

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Brown, T. S.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Madar
Martin
McAllister
McLogan
Millard
Nisbet
Nord
Norris
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Faxon and Perlich, the yeas are 25; the nays are 89.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Nord offers the following amendment:

1. Amend page 1, by striking out all of section a.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, my intention was to offer this amendment and amendments to strike each section, one at a time, only when the debate is completely finished for the purpose that was mentioned yesterday, mainly to give everyone a chance to vote, a roll call vote on each of the sections. Therefore, I would ask the Chair whether we are at that stage at this point; I believe we are not. Am I right?

CHAIRMAN HUTCHINSON: The Chair is informed that the only amendments presently upon the desk are your amendments.

MR. HODGES: We have an amendment.

CHAIRMAN HUTCHINSON: You have an amendment just offered?

MR. HODGES: No, we have had it in all the time.

CHAIRMAN HUTCHINSON: Mr. Nord withdraws his amendment temporarily.

SECRETARY CHASE: Mr. Hodges offers the following amendment:

1. Amend page 5, following line 7, by inserting a new section to read as follows:

"Sec. d. In the event that the house of representatives adopts a legislative measure and the senate fails to adopt the same within the same legislative session, the house of representatives may enact said measure into law despite lack of concurrence by the senate if it shall readopt said measure at the next session of the legislature or if it shall readopt said measure at the same session of the legislature by a 3/5 vote at least 60 days after its first adoption thereof, anything in this constitution to the contrary notwithstanding.".

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mr. Hodges.

MR. HODGES: Mr. Chairman and fellow delegates, I would hope that you would give this some serious consideration. This was perhaps the one plan that was put up by the minority members that was given at least some bipartisan consideration and some serious thought in the committee and at least for one day was felt to be a possible way out of the dilemma that we are in.

I think if we just look back, and there has been a great deal of discussion of the recent history of the Michigan legislature, that we realize one of the greatest problems is that of stalemate and not being able to come to any conclusion on the important facets of government. I think this has one of the redeeming features, in that it gives this checks and balances that has been so well talked of —

MR. DEHNKE: Mr. Chairman, a point of order.

CHAIRMAN HUTCHINSON: The gentleman will state the point.

MR. DEHNKE: It seems to me this is a matter of legislative powers rather than of legislative organization.

CHAIRMAN HUTCHINSON: Judge Dehnke raises the point of germaneness upon this amendment?

MR. DEHNKE: Yes, Mr. Chairman.

CHAIRMAN HUTCHINSON: While it is true that it has to do somewhat with legislative powers, it is in a very broad principal sort of way and it would certainly create a much different kind of legislature than the proposal now presents. It has to do, in the opinion of the Chair, sufficiently with the organization of the legislature that the Chair will rule the amendment is germane, and will recognize Mr. Hodges.

MR. HODGES: Thank you, Mr. Chairman. As I was saying, the feature which has troubled Michigan perhaps more than any other has been the stalemate between the legislative branches themselves and the legislative branch and the executive. I think this would have a redeeming feature to it.

All the majority, I think, of the people ask for is a chance at some place in time and in history to be able to enact a program. The charge is oft made against my party that we are a party of irresponsibility, of pie in the sky, of promising things we know we can't deliver. I submit, without going to the truth or fallacy of this charge, that it is allowed, if it would be true, it would be because our present system of government in Michigan allows for this.

For the past 12 years our party has had a program which it has taken to the people. At least, as Mr. Nord has pointed out, 5 of the last 10 legislatures would have been democratic if it had been up to the majority of the people to make it so. But what this allows, under the present system, is that no program can be enacted, that we have a continual conflict, and that nothing really can ever be resolved once and for all. I think the healthy thing in government is when both political parties put up a program and that program is taken to the people and they decide whether they want it or not, and then 2 or 4 years later, after they have tried that program, they then vote on whether they want to continue it or reject it. This is the only way a truly stable and democratic government can work. If we are not allowed to carry out a program, then all the charges, even if they were true, would be to no avail, because of the continual frustration and knowledge that we know before we go into an election that we cannot possibly deliver our program, regardless if it has the stamp of approval of the people or not.

This would give you your checks and balances. This would entitle the senate to hold up legislation for one session. This would give sufficient time and thought so that the people could reflect if something new was being tried, but it would prevent one body, not representative of a majority of the people, from continually and from all the time preventing and frustrating the desires of a majority in carrying on a program.

As I say, this was given bipartisan consideration in the committee for a short time, and I think that many of the majority members saw some merit in this plan. Mr. Chairman and fellow committee members, I request that you do give this serious consideration as I believe this is the last of the minority amendments, at least, minority committee member amendments, and if you adopt the present senate, there is all the possibility in the world that what we have had for the past 12 years will continue under the present senate plan if it is adopted by the people of this state. This only allows that after time and consideration, an opportunity will be given to enact a program. I request the yeas and nays.

CHAIRMAN HUTCHINSON: On the amendment, Mr. Hodges demands the yeas and nays. Is the demand supported? The demand is supported. There is sufficient number up. The Chair next recognizes Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I support the sentiments expressed by Mr. Hodges, and should like to tell you a story that I told in the committee. It is an apocryphal story by Ambrose Bierce concerning the house of lords, and I think it is very pertinent. The story goes that in the early days of the parliamentary system in England, the king first established a 100 member parliament composed of 50 members of the house of lords and 50 members of commons, and they divided the house into 2 sections, and it came to pass that the house of lords passed some measures that fell on unsympathetic ears, as far as the king was concerned, and he became very angry. So he took 40 of the 50 members of the house of lords and he killed them and had their bodies embalmed and placed back in the chambers and registered an automatic no vote in perpetuity for these 40 dead embalmed members of the house of lords and then required that thereafter 60 per cent of the total 100 member body be required to pass legislation, and as the story goes, the kingdom prospered thereafter under that particular system.

I think the experience in England, the experience in Canada and other parliamentary countries indicates that this is a workable system, a good system, and in many, many more respects, a more democratic system than what we might have. I, therefore, support this amendment.

CHAIRMAN HUTCHINSON: Mr. John Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, this is a very radical proposition that has been placed before you. I think it could be better handled by one with much experience in the legislature and the state government, and, therefore, I yield to Mr. D. Hale Brake, asking that he answer this one.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. Chairman and ladies and gentlemen of the committee, we have spent so much time in this convention entirely off the beam in talking about the inefficiency, the ineptness of our legislature. Many of us, knowing that many of the charges were wide of the mark, made no attempt to answer them. That isn't the problem that we have to decide. Most of the charges are answerable.

This is an attempt to do what we just said we would not do — namely establish, for all practical purposes, a one house legislature. Certainly, when the people themselves — and that was by a one man, one vote procedure — established the 2 houses of our legislature and reestablished them in 1952, they expected them to function as they were established.

There is nothing imaginary about the importance, the validity of the one house checking the other. Sometimes that is a matter of checking on policy, a matter of when the 2 houses do not agree as to the general policy that ought to be followed. People intended it that way. They want it that way. Aside from that, there is the check on technicalities, the check on mistakes that are made, and no one who has not tried it can possibly appreciate how difficult it is to draft an important statute and foresee the different problems that that statute will run into.

Reference was made this morning to the probate code. I introduced that bill. I worked on it a long time before it was introduced, not alone, but with some competent people. In the senate, we worked on it for months, hearing after hearing, committee meeting after committee meeting. We thought we had it in pretty good shape. It went to the house and came back with a great load of amendments and nearly all of them improvements. That kind of thing is worthwhile. We get in a hurry. We want everything done today. It should not be done today. Those statutes affect people for a long time. They should have care and consideration and they should have consideration of different people who get at them with a different viewpoint.

There is one phase of this, too, and it doesn't apply particularly to this amendment, but I want to mention it to you, that is almost always overlooked entirely as one of the benefits of the 2 house system —namely, that that gives a chance for the public to know what is going on before it is too late. Newspapers give very little attention to bills as they are introduced, but when one house has passed a bill, if it has any significance it gets some space. People know what is happening. Then there are at least 5 days in which they can favor it or can oppose it, can have their say about whether or not their representatives pass it.

Now, we are setting up in this new constitution 2 houses of the legislature. We are going to say how they shall be set up. If the people approve that constitution, that means that is the way they want them set up and that means that is the way they want them to function. Certainly, we are not in a position to go before the public and recommend that they put one house here as an ornament, a sort of a luxury, with only one house actually functioning. This is a rather fantastic scheme and certainly one that should be defeated. If we wanted one house, we should say one house and not encumber the records and the payroll with one that would be useless. I trust that we will defeat this and do so promptly.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Hodges.

MR. HODGES: First of all, Mr. Chairman, in response to Mr. Brake's remarks, I am not trying to make any accusations at the ineptness of either branch of the legislature. I don't believe this is the question we have here. I am quite willing to admit that those state senators from the rural areas properly reflect the views of their constituents and, in doing that, are properly doing the job that they are supposed to be doing, just as many of the rural delegates to this convention are doing. I have no quarrel with this, and I think Mr. Brake has pointed up a few points which are valid and certainly I would be willing to amend this. I am not at all, for example, too concerned with the 3/5 vote. I think that could be knocked out, and I would even go so far as to make it 3 consecutive sessions of the legislature to meet the problem that Mr. Brake speaks of, of giving people time, and I think that this would also make the state senate something more than a useless ornament.

The only question and the only problem is: is there a way that the majority, through a legislative process, can, at some point in time, want a program and enact that program without the veto power of a minority of this state? I am not saying that they should not be able to slow legislation down to make us soberly reflect on what we do, but somewhere in a democratic society there has to be a place in the legislative process for those in the majority to enact the program they want to enact and try it out. This is, after all, the genesis of a democracy, the trying out of new plans to see if they work or not. If they don't then let the voters reject it at the next election, but under the present system — and I think Mr. Brake would have to agree with me — there is no way under the legislative process, if a majority wants to enact a program, to be able to enact that program if it does conflict with the views of a minority of this state.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, I would like to answer some of the comments made by Mr. Brake which I think are really wide of the mark by a mile. He states that this amendment would, in effect, create a one house system. I take strong issue with that, and I think it is easily demonstrable that that is not so, and it is clearly not so. Quite the reverse. A one house legislature has been attacked here on the floor and elsewhere as having the merit of not providing additional deliberation. As far as I am aware, nobody has come forth and stated that a 2 house system is, per se, better than a 1 house system. The reason that it is considered to be better is that you can be certain that errors that are made by one house will be reviewed by another; there will be more deliberation.

Now, I point out to the delegates that in this particular amendment that we have before us, there would be more deliberation than in a 2 house system of a standard type. There would not be less. There would be more and the reason is this: first of all, normally, in order to enact a bill, both houses would have to adopt it, the same as at the present time. Secondly, in the event that the second house, the senate, failed to do so, there would have to be a third deliberation. As Mr. Hodges pointed out, we would even be willing to go along with an amendment which would require a fourth deliberation. Therefore, this type of provision could absolutely guarantee more deliberativeness than any other we have ever seen. Since that is the principal attribute that is claimed for a 2 house system above a 1 house system, this amendment that we have accentuates the advantage of a bicameral system rather than decreasing it.

The other point I would like to make as to the merits of the amendment itself is this, and I think this is the crucial point in the entire proposition that we offer. Mr. Chairman, we are proposing in this amendment to adopt whatever house and senate the majority wishes, whatever form it may be, provided you have the override feature that is expressed here, and the reason for it and the philosophy for it is this: if you have one house that is nearly or exactly, whichever the case may turn out to be, nearly based upon majority rule, and then you have another house which is admittedly not based on majority rule but gives, in effect, a veto to one block, namely, in this case, the rural areas — if it gives them a veto in the senate, which is what the majority plan clearly does, then the question is this: do you provide any way around that veto, or is that a permanent, absolute veto? What we are suggesting is this: that any veto that we are familiar with which doesn't produce an absolute deadlock and stalemate has some way to get around it, some way to override it, and we have proposed 2 different ways of getting around it in this particular amendment. We are not thrilled with either particular way, and we simply want to point out that some way must be provided to overcome a veto. We have suggested 2 different alternative ways in this amendment. One is by the house passing it at the next session; the other one is passing it at the same session after a further deliberative period of 60 days, by an excessive or unusual majority.

Therefore, the philosophy behind this amendment is not to decrease deliberativeness but to increase it and, basically, to provide that if you must have a veto, if any group in the state must have a veto, there must be some provision to override the veto. The reason for that is simply this: you must, in the end, have majority rule or you can't have any rule. Mr. Chairman, for those reasons, I support this amendment and urge its adoption.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman and fellow committee members, if this would be all right with my colleagues, in order to make this amendment crystal clear and to make the issue more clear, and to meet some of the objections that Mr. Brake has raised, I will, on behalf of the backers of this amendment, move to amend in 2 particulars here. One would be in line 7, by striking the word — pardon me, not striking, insert after "next," "2 consecutive sessions" and striking, in line 7, the rest after the word "legislature," starting with "or." Therefore, under this amendment, what we are saying is that if a bill passes the house of representatives in 3 consecutive sessions and it is still not concurred in by the state senate, it can become law. This means, at the very least, 3 different years. This means the people have 3 years to be able to do something about it, but I submit to you under the majority plan, if we do not adopt this, that it won't make a bit of difference if the majority of the people want a program for 15 years; they still won't get it.

This allows a slowing up or a check for 3 straight years, and I would submit that a bill would have to have merit and validity to pass 3 consecutive sessions of a body which reflects the entire population of the state of Michigan, and would still be subject to the governor's veto.

CHAIRMAN HUTCHINSON: The secretary will read the amendment as it is now offered.

SECRETARY CHASE: Mr. Hodges has revised the amendment to read as follows:

1. Amend page 5, following line 7, by inserting a new section to read as follows:

"Sec. d. In the event that the house of representatives adopts a legislative measure and the senate fails to adopt the same within the same legislative session, the house of representatives may enact said measure into law despite lack of concurrence by the senate if it shall readopt said measure at the next 2 consecutive sessions of the legislature.".

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, the principle involved is still the same, and the objections are still the same. Incidentally, there will be an election in between so that that can be corrected if there is anything wrong.

One statement that Mr. Nord made that I wish to give a moment's attention to, and that is all; he referred over and over, as others have here, to the veto that the senate has. I wonder if Dr. Nord ever stopped to think about the veto the house has on what the senate may wish to do? Do you think you can get through the house of representatives of this state anything that is distasteful to the metropolitan part of the state? If you do think so, try it.

It is unfortunate, I think, unfortunate for the people of Michigan that we have here the disrespect that we have for the legislature of this state, and I understand that is pretty much mutual. They tell me that the other day when a bill was before the legislature to sell us our furniture — this furniture, I mean — somebody jumped up and said, "If they will get out of here right away, we will give it to them." That is not the attitude that ought to prevail in the legislature. It is the attitude that we have invited; the attitude we have here is not the attitude that we ought to have here. If we are to serve the people of the state to the best of our ability, and they to the best of theirs, there should be some mutual appreciation of the problems that each body has. (applause)

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, in order that we may move forward with our work, I urge that we now vote and that we vote no on the amendment as revised by the minority members.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: I am sorry I cannot defer to Dr. Hannah and sit down without speaking. In other words, I will have to ask you to vote no to Dr. Hannah's suggestion that you vote no.

Now, as to Mr. Brake's comment that I have used the word "veto," I would like to explain why I have used the word "veto" and what I mean by it. I do not mean to imply that the senate is doing something wrong or derogatory when they do check the other house. That is not the point I make. The point I make is this: normally, we expect the government of the people to behave on the basis of majority rule, and one of the reasons for having a second house, such as the one proposed by the majority in this particular convention, is so that you will have a consensus. It will not be sufficient for the majority to act.

Let us say you give to some group — in this particular case, to the rural areas — you give them a right to insist on, let's say, interferring and actually to checking — let's put it like that; that is the word usually used — to checking the action of the majority. I have used the word "vetoing" the action of the majority. I see no difference between the word "check" and the word "veto." However, if the word veto is offensive, I will strike that from the record and say this: you have a system in which the minority — that is to say, the rural areas of the state — have a possibility, an opportunity to check, to prevent the rule by the majority. What we have argued is that it is okay to check that, but it is not okay to stop it permanently. I simply reiterate, finally, what Mr. Hodges stated. By preparing the amendment in the form that he has now done it, he has made the issue as crystal clear as any issue I have ever seen. The issue here now is not whether there is deliberativeness; no other body could be as deliberative as the one that is now suggested. The only issue is this: do you wish to allow the majority to rule at some time or other, or do you wish to have a possibility, and a practical fact as well, that a minority, a specific minority selected by a certain part of the people of the state, shall have a right perpetually, without limit, to obstruct the majority rule? I, therefore, believe that the amendment states the issue pointblank and when you vote, you vote on the issue pointblank.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I rise in support of the amendment. I want to point out that Delegate Brake is perfectly correct when he says, under our present legislative system, the house can veto or block something the senate does. The senate, in turn, can block or veto something the house does, and I would add one other factor: that the governor, in turn, can veto what the house and senate both do, subject, of course, to overriding the veto, which is a very unusual occurrence. The net result of this is that it is very difficult for us to get things done through the governmental processes at the state level; that the senate that is not based on a people representation has a nonpeople factor able to block something that is done. The house, that is a little bit closer on a people basis, has often a built in conflict with the senate, and of the 3, the governor is the only one that is elected on a one man, one vote basis, and he, of course, cannot — and none of us are advocating should be able to — initiate or pass legislation without the legislative bodies acting. But the net result is that we have 3 separate ways of stopping something from being done, and very often the urgent needs, particularly of industrial and urban areas, just don't get solved through lack of information or other factors.

Then, when people cannot get their problems solved at the state level — and this perhaps is the beauty of the American people and our approach to government; basically, we are pragmatic and, having talked to many citizens of this state, I think the primary concern is to get something done. I am inclined to think people would rather have it done at the state or local level than the federal. But, when these built in roadblocks prevent action from being done at the state level, then people turn to Washington. I am always a little mildly amused at our friends who are so insistent on keeping these veto blocks within the state legislature, who are so often the very first ones to wail and complain about people running to Washington.

I just, from the feeling of the convention, if I were betting, would bet that this amendment would not pass. But I do think that it does have the approach of letting the people, through the more representative body — and I still have hopes we get at least the house on a one man, one vote basis before this convention adjourns — take the action subject to, shall we say, a reasonable cooling off period of 1, 2 or 3 sessions, depending upon the status of the amendment at the present time. I think that those who are concerned about democracy moving too fast will get, in my judgment, more than adequate protection on this, and that since this is a compromise, the compromise is with time.

But I think that many of our fears, perhaps, go back to our fears of the king of England and the British government, and I think that we are past that stage. When we have a government that responds to us, I, for one, have faith in the people and the government, so long as we have a representative government, have our bill of rights to criticize the government, and have the right to, in the parlance of the street, throw the rascals out if we don't like what was done. With these checks, I think that the amendment here will give us a responsible form of government that can move forward and move forward with the only compromise being on the time factor. I, therefore, urge support.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman, I was somewhat confused by one of Mr. Brake's remarks, and I would like to ask him a question, if he cares to answer. He made the remark that this would carry it through 3 consecutive sessions and, therefore, an election; and if the people wanted something, they could change it at election time. I would ask Mr. Brake how, if a majority from the urban areas wanted something, and the next election came around under the present senate apportionment plan, it would make any difference whether that election was held or not?

MR. BRAKE: Mr. Chairman, ladies and gentlemen, it might not, if the election had to make a change in the senate because we are talking about 4 year terms. That is very possible and, again, it might, depending on which year it is.

MR. HODGES: Well, Mr. Brake, let's assume that it is the year that the senate is reelected.

MR. BRAKE: Well, that depends on the people. It is their business whom they elect. We are setting up the system under which they will do it.

MR. HODGES: Except that a majority cannot be elected by a majority of the people. Then what do we do? We are caught in our same dilemma, are we not?

MR. BRAKE: We have been arguing that question for 6 months. How long shall we continue?

MR. HODGES: Until we get equity, I assume, Mr. Brake.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I would like to say just 3 things: first, without going into a long dissertation on the subject, I do not believe that this British concept would work in the United States. We started out probably with the idea of England, but our system today, in which the 2 houses of a bicameral legislature have substantially equal powers, has changed materially from its origin. Secondly, I agree with Delegate Brake that it is about time we quit this foolish, unreasonable criticism of the legislature. No doubt you people are getting letters from some of your constituents which are just as critical of what we are doing here and often just as unreasonable. Third, and most important, I suggest that we quit this constant wrangling between the cities of the state and the rural element. As a delegate from Detroit, it seems to me that the paramount issue is what is good for the state of Michigan, not just what is good for my particular constituency. Thank you.

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: I just wanted to say one thing in regard to this idea of whether it might not be good over here, but all right in England. It seems to me that the majority of this group here is today, and has for the last 6 months, been trying to foist on the people of the state of Michigan the right of only the lords and earls to rule, and they are trying to decide on who is going to be the lords and the earls, and it should not be the working people, but just a few ruling masses, and they are not masses; they are just a very few.

CHAIRMAN HUTCHINSON: The question is upon the amendment and the yeas and nays have been ordered. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 35

Austin
Balcer
Binkowski
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Madar
Marshall
McCauley
McGowan, Miss
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Wilkowski
Young
Youngblood

Nays — 87

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hodges, the yeas are 35; the nays are 87.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I move that the committee now rise for a 30 minute recess.

CHAIRMAN HUTCHINSON: The delegate from the fourteenth district moves that the committee do now rise. The motion is not debatable. The committee cannot order a recess. All those in favor of the committee rising will say aye. Opposed will say no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration Committee Proposal 80, and the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** has considered several amendments thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Mr. Iverson.

MR. IVERSON: Mr. Chairman, I move we recess for ½ hour, and I believe the secretary has a couple of announcements.

SECRETARY CHASE: Miss Hart announces a Democratic caucus in room C during the recess, and Mr. Iverson announces a Republican caucus in room A during the recess.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor will vote aye. Opposed, no.

We are now recessed until 11:00 o'clock.

[Whereupon, at 10:30 o'clock a.m., the convention recessed; and, at 11:00 o'clock a.m., reconvened.]

The convention will come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee is considering **Committee Proposal 80.** The secretary will read the next amendment.

SECRETARY CHASE: The next amendment on the secretary's desk was an amendment to section a offered by Mr. William Hanna on yesterday and consideration of it was postponed until the completion of the pending amendments on the desk.

Mr. Hanna's amendment is page 2, line 10, after "counties" —

MR. W. F. HANNA: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: I withdraw my amendment.

CHAIRMAN HUTCHINSON: Mr. Hanna withdraws his amendment. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Mrs. Cushman has filed an amendment. Mrs. Cushman has withdrawn her amendment.

CHAIRMAN HUTCHINSON: Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Dr. Nord offers an amendment:

1. Amend page 1, line 9, by striking out all of section a.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Nord. Dr. Nord.

MR. NORD: I would like to repeat what I stated before, that I wish to offer these only as formal amendments when I am sure that there is no further debate so that it will conclude the debate. I, therefore, ask whether anyone intends to offer any further amendments? I don't wish to put this in as a stumbling block to any part of the debate. If this is the end of the debate, I would like to go ahead, but if anyone wishes to do something in the way of other amendments, or reconsiderations, or any other matter, I will defer. If no one suggests that, then I would go ahead and urge the amendment. Am I correct, Mr. Chairman, in assuming there are no other amendments filed and no other matters in the debate left?

CHAIRMAN HUTCHINSON: Well, if there are no further amendments filed, the next order of business, of course, is the declaration by the Chair that the proposal has passed.

MR. NORD: All right, then, Mr. Chairman, have you read the amendment to strike section a?

SECRETARY CHASE: Right.

MR. NORD: All right then, Mr. Chairman, I will offer that amendment for the purpose that I explained. I have no intention to debate it. I just want to make it clear what the object of this amendment is. As we understand the parliamentary procedure, now that we have combined the committee of the whole and the convention, so to speak, and we have taken the yeas and nays in the committee of the whole, there needs to be some way to vote for or against the committee proposal in sections, and I have offered 3 amendments, to be taken up one at a time, one is to strike section a, the others, to strike section b and section c, and I would ask the yeas and nays on each one seriatim, if I may.

CHAIRMAN HUTCHINSON: Mr. Nord demands the yeas and nays on his amendment. Is the demand supported? The demand is supported and the yeas and nays are ordered. The Chair recognizes Mr. Plank.

MR. PLANK: I would like to know if it is in order to ask Mr. Nord a question?

CHAIRMAN HUTCHINSON: It is in order if he cares to answer.

MR. PLANK: Mr. Nord, what is hoped, as far as you in the minority party are concerned, by placing these amendments before us?

MR. NORD: Mr. Chairman and Mr. Plank, what is hoped is the same thing as was hoped on each of the other amendments that were before us and proposals that were before us. On each of them, or a great many of them, recorded roll call votes were taken, but no recorded roll call votes have been taken on the majority proposal, as such. We simply want to do the same thing.

MR. PLANK: Well, don't you think that this is a majority position, that they want this or they wouldn't have had it up until now? What I am trying to figure out now is why are you interested in whether I vote for or against this? This is what I am trying to find out.

MR. NORD: Mr. Chairman and Mr. Plank, I am not particularly interested in whether you vote for it or not. That is your own personal consideration. But I believe I have the right to demand the yeas and nays on this, as has been demanded by both parties on many of the proposals, simply to find out how many people want to vote for or against each of the proposals, and particularly for the main proposal, the one that might be adopted by the convention. We want to know how many votes there are, 52 or 73 or whatever the number might be.

MR. PLANK: I don't think you have answered my question, really. I want to know the answer behind that one.

MR. NORD: Mr. Chairman, I might continue a debate — I said I would not debate this — I might ask Mr. Plank, what is his motive behind each section, section a, section b? I don't care to do that. As far as I can recall, this is the first time anyone has asked the motive for demanding the yeas and nays. I think the answer to it is: I want to find out the answer to the yeas and nays.

CHAIRMAN HUTCHINSON: Mr. Elliott.

MR. A. G. ELLIOTT: May I ask Dr. Nord a question through the Chair?

CHAIRMAN HUTCHINSON: If he cares to answer.

MR. A. G. ELLIOTT: It seems to me that if we are going to get into the position, now, of amending a committee proposal by striking, that the proponents of the amendment should be able to explain to us the purport of each of the amendments. So, what I would like to ask, and section a involves step by step several paragraphs, maybe 6 or 7 in number, I would ask Dr. Nord not to be hesitant at all in elaborating, for me, so that I will properly be able to know how to vote on his amendment, the reasons behind what he is doing. I would like him to start with the first section where we talk about the 36 to 40 members and explain what happens then, and then take it paragraph by paragraph, and I will be very attentive.

MR. NORD: Mr. Chairman, I believe I could oblige Mr. Elliott by redelivering my 4 or 5 hour speech, but I think he is in a minority when he asks me to do that. I think I prefer not to — as I said in the beginning — redebate the issue again, but simply to vote on the issue.

Now, of course, if he wishes to debate it, I suppose a debate could be worked out, but judging by Dr. Hannah's remarks, I believe he is ready to vote, and I know that I am, and I suspect that everybody around here is just dying to vote. I don't know why we should debate that question.

MR. A. G. ELLIOTT: Mr. Chairman, may I ask, then, so that I will be perfectly clear: Dr. Nord, in this first paragraph of section a, the language recites that there should be "not less than 36 nor more than 40 members elected from single member districts for 4 year terms concurrent with the term of office of the governor." Could you outline for me, briefly, sir, your objections to the —

MR. NORD: Point of order, Mr. Chairman. Mr. Chairman, I hate to interrupt Mr. Elliott, but it's been called to my attention by a few neighboring delegates that, in their opinion, the demand for the yeas and nays is not debatable. Is that correct, Mr. Chairman?

CHAIRMAN HUTCHINSON: The yeas and nays have already been ordered. This is not debating the yeas and nays. This is debating the question before the house, which is section a of the proposal.

MR. NORD: Thank you, Mr. Chairman. I am sorry, Mr. Elliott.

MR. A. G. ELLIOTT: I will repeat my question to the doctor, then. If he would kindly explain to me the rationale which his amendment obviously adopts by the striking of these first 4 lines of section a, which limits — puts a floor and a ceiling upon the number of members of the senate, and the 4 year term.

MR. NORD: Mr. Chairman, without attempting to go into a word by word analysis, I can simply say this: this is not my proposal. This is a proposal as offered by somebody else. I presume they are in a position to support it. I do not support it, and I have spoken many hours pointing out, in as many different ways as I could think of, why I was opposed to any system which did not provide equality of representation; I pointed out that the house does not, as suggested by the majority; I pointed out that the senate does not, and I am opposed to it. And that is the reason I am not going to vote for it, and that is the reason I want to be able to vote against it. Mr. Chairman, I believe I will take my seat. I think that will satisfy most of the delegates, even if it does not satisfy Mr. Elliott.

CHAIRMAN HUTCHINSON: Mr. Elliott has the floor.

MR. A. G. ELLIOTT: Mr. Chairman, Dr. Nord, I recognize your rationale that you used on another section, but all I am simply asking you, sir, is to explain to me why a senate, consisting of 36 members, as a minimum, or 40 members, as a maximum, elected from single member districts for 4 year terms, is not consistent with good governmental practice and one that is legislatively sound, and I think that before I can vote on your overall amendment that I am entitled to an answer. You made the amendment. And, then, I have several other questions, Doctor, which are involved here, which I would like to have an answer to.

MR. NORD: Well, Mr. Chairman, this is one time I believe I can take the same side, the same position as Judge Dehnke. Judge Dehnke said that he thought cross examination would not be productive of anything, and I believe that if we are going to get into any cross examination, we would have to have the right to counsel and so on. I think this could go on and on forever. Possibly there is some desire to delay the yeas and nays. I was not aware of that, if that is the case. In any event, I do not intend to be cross examined any further, after I have delivered my views at the greatest length that I believe is known to man or beast. I would hesitate, I would hesitate greatly to repeat them. If you are not satisfied with my views, Mr. Elliott, you can support your own. I will not engage in any further cross examination, however.

CHAIRMAN HUTCHINSON: Mr. Elliott has the floor.

MR. A. G. ELLIOTT: Mr. Chairman, Dr. Nord, I think that I have made my point. As I look through these sections and, paragraph for paragraph in section a, I find that there are many portions of this section which should be palatable to anyone who is interested in developing a legislative body: the first section which limits the size of the membership, both in the floor and the ceiling; the second section which establishes the position on the frequency of apportionment, and where it establishes that it will be done every 10 years; and the section that establishes that it will be computed to the nearest one-one hundredth of 1 per cent, and so I intend, doctor, to ask you some questions about amendment for section b when that comes up, too, but I will yield the floor at this time.

MR. G. E. BROWN: Mr. Chairman, parliamentary inquiry.

CHAIRMAN HUTCHINSON: If the gentleman will state it.

MR. G. E. BROWN: Mr. Chairman, the effect of Dr. Nord's amendment would be to strike the provisions, and I assume from what he has said that he intends to go down through it paragraph by paragraph, section by section, with respect to the senate. A striking of the language of the committee report would be to revert back to the 1908 constitution as amended presently. This being true, an amendment was offered by Mr. Boothby previously, which was to reinsert the language of the 1908 constitution, and it is therefore my question to the Chair: is not this amendment out of order since it has been passed upon by virtue of the defeat of the Boothby amendment to reinstate the language of the 1908 constitution?

CHAIRMAN HUTCHINSON: It would be the opinion of the Chair, Mr. Brown, that the striking of section a from this proposal would not reinsert the 1908 provision. It would simply provide no provision for the creation of a senate, and therefore, the amendment now offered is in order.

MR. G. E. BROWN: Mr. Chairman, a further inquiry, then: if this is true, I don't recall that an exclusion report has been adopted relative to this language. Reverting back to our original discussion of exclusion reports and what is put into the constitution and what is not put in, it seems to me that in the absence of the adoption of an exclusion report, this language would be back in; because we have the 1908, we have to exclude that which we do not intend to incorporate in the new of the old. We, therefore, are required to adopt exclusion reports. If we don't adopt the exclusion report, this amendment is out of order.

CHAIRMAN HUTCHINSON: The Chair would state that as a logical matter, if this convention has been proceeding upon the proposition that it is writing a new constitution, the Chair will confess that logically he has never been able to understand the importance, if any, of the so called exclusion reports. The Chair thinks that probably it is beyond the proper function of the chairman of a committee of the whole to rule upon the matter that Mr. Brown asks now.

The Chair does, however, rule that, for purposes of this committee at this time, Mr. Nord's amendment is in order and that for whatever it is worth, if this amendment were adopted, in the opinion of the Chair, it would leave the new constitution without any provision for a senate.

The Chair has a long list of delegates seeking recognition and he has listed them as they have sought recognition. Does Mr. Elliott relinquish the floor? The Chair next recognizes Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, I am wondering if I could direct a question to Dr. Nord.

CHAIRMAN HUTCHINSON: I recognize Dr. Hannah for a motion of precedence.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, there are all sorts of maneuvering going on that I don't understand. I move that we rise.

CHAIRMAN HUTCHINSON: Mr. John Hannah moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails.

[Whereupon, the committee of the whole having risen, Vice President Romney assumed the Chair.]

VICE PRESIDENT ROMNEY: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80** and at this sitting has made no progress. (laughter)

SECRETARY CHASE: That completes the report of the committee of the whole, Mr. President.

VICE PRESIDENT ROMNEY: One announcement.

SECRETARY CHASE: The committee on legislative powers will meet in room H today at 12:30. T. Jefferson Hoxie, chairman.

VICE PRESIDENT ROMNEY: Mrs. Koeze.

MRS. KOEZE: Mr. President, this reminds me of a story: yesterday, Delegate Tubbs and his wife had their charming little red headed grandchildren at the convention. Our own delegate, Herb Turner, went up and said to the child, "Sonny, did you come to the circus today?" He said, "What circus? Is there a circus?" And Delegate Turner walked away and pretty soon the child turned to his grandmother and said, "Where are the monkeys, grandma?" (laughter)

VICE PRESIDENT ROMNEY: Mr. Hodges.

MR. HODGES: Mr. President, it was my intention to move to recess 1½ hours, to a time certain, but since it is obvious from the display on the floor that the Republican caucus has come to no conclusion on their vote to reconsider and are going to stall until they get that opportunity to caucus, I will withdraw my motion.

VICE PRESIDENT ROMNEY: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, as announced by the secretary, the legislative powers committee is meeting at 12:30 for the purpose of considering any suggestions from any delegate on the first 15 proposals as shown on your final calendar. We request anyone that has any proposed amendments or any suggestions on any of the first 15 proposals, that you meet with us from 12:30 until 1:30.

VICE PRESIDENT ROMNEY: Mr. Brown.

MR. G. E. BROWN: Mr. President, I move that we recess until 1:30.

VICE PRESIDENT ROMNEY: You have heard the motion. Those in favor say aye. Opposed, no.

We are recessed until 1:30.

[Whereupon, at 11:25 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

PRESIDENT NISBET: The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: May I, as your president, be given the privilege of slightly violating one of the rules of the convention? I would like to present to you a very gracious lady, the wife of the secretary of the 1908 convention, who is sitting in our gallery today, Mrs. Paul King. Mrs. King.

[Whereupon, the delegates present accorded Mrs. King a standing ovation.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention resolve itself into a committee of the whole for the further consideration of matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee has under immediate consideration an amendment offered by Delgate Nord to strike all of section a from **Committee Proposal 80.** The Chair recognizes Mr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, in order to keep faith with Mr. Nord, the understanding was this morning that his amendments would be offered only after all other amendments to this proposal had been considered and acted upon. I am now about to offer another amendment. I am not certain what the parliamentary procedure is, whether it is necessary for him to withdraw or whether we get permission of the committee to proceed in this order.

CHAIRMAN HUTCHINSON: The parliamentary situation is that if Dr. Nord insists upon his amendment at the present time, he is in order. If he desires to withdraw it temporarily, that is his prerogative.

MR. NORD: Mr. Chairman, am I in order now to answer the question that you just urged or do I have to wait until a list of 11 or 14 speakers precedes me?

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Nord.

MR. NORD: On that basis, I would like to thank Dr. Hannah for calling this to my attention. As I stated at the beginning, I didn't want this to come up until the very end of the debate, and now that we know there is something to debate I respectfully request that the 3 amendments, all 3, to sections a, b and c be withdrawn for the time being.

CHAIRMAN HUTCHINSON: Mr. Nord withdraws his amendments. Are there any further amendments? Dr. Hannah.

MR. J. A. HANNAH: Yesterday, in considering subsection 1 of section a of Committee Proposal 80, an amendment was adopted, and you will find it on page 864 of yesterday's journal. This amendment amended page 2 by striking out all of lines 7, 8 and 9 and inserting in place thereof, "and one additional seat for any remainder of 6.5 or more apportionment factors." I now move, sir, that that language be stricken so that the section will then read, "counties with 13 or more apportionment factors shall be entitled to one senatorial district for each 13 apportionment factors."

CHAIRMAN HUTCHINSON: We will first have the secretary read the amendment.

SECRETARY CHASE: Mr. John Hannah offers the following amendment:

1. Amend page 2, line 6, after "factors" by striking out all of lines 7, 8 and 9 and inserting a period; so that the language will read, "counties with 13 or more apportionment factors shall be entitled to one senatorial district for each 13 apportionment factors."

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: I would like to make a motion, but to be in order, make a very short statement. I would like us to have a recess similar to the one that was called by Delegate Iverson this morning, and I believe to be in order I must first move that the committee rise. Therefore, I do so, and I wanted the delegates to know what the purpose of the motion was.

CHAIRMAN HUTCHINSON: Mr. Downs moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails and the committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80** and has made no further progress thereon.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I move that we stand in recess for ½ hour.

PRESIDENT NISBET: The question is on the motion of Mr. Downs. Those in favor will say aye. Opposed, no.

The motion prevails. We are in recess until 2:05.

[Whereupon, at 1:35 o'clock p.m., the convention recessed; and, at 2:05 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I again move that the convention resolve itself into a committee of the whole for the further consideration of matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The committee has before it an amendment to **Committee Proposal 80** offered by Dr. Hannah, which the secretary will read.

SECRETARY CHASE: Mr. Hannah's amendment is:

[The amendment was again read by the secretary. For text, see above, page 2165.]

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, a word of explanation of the amendment before you. You are all familiar with the language of the committee recommendation and with the action that was taken yesterday in substituting the words that were substituted for lines 7, 8 and 9. What this amendment, as approved yesterday, does is to provide that any county with one senator or more that has apportionment factors of 6.5 or more, in excess of the 13 required for the first senator, shall be entitled to an additional senator. This caused some concern on the part of some of our delegates. It was not in the original committee language. They thought it was approved, without their knowing exactly what was approved, but they were concerned because of 2 possibilities. One possibility is that not only Kent county would get the second senator when they had 19.5, or Genesee, but there was the possibility for all time to come, as long as this constitution was in effect, that Wayne county and Oakland county and Macomb county and such other counties as in the near future might be involved, entitled not only to the second senator, but the fourth or the fifth or the sixth or the tenth senator, might get the additional senator for as little as 6½ additional apportionment factors.

The second concern was the fear that this somehow or other might result in a reduction in the number of senators in outstate Michigan that might otherwise be entitled to one; so there has been a good deal of discussion and finally, being convinced that the best interests of this convention and of the people would be served by eliminating both the original language already eliminated and yesterday's amendment, we would leave the section as has been read by the secretary. This makes certain that no county, until this language is changed, if it is changed at some later date, is going to get a second senator until it has a full entitlement or until some figure is arrived at at less than a full entitlement.

What we are doing now, I think, satisfies the people who feel uncertain about the action taken yesterday. I would be less than honest, however, if I didn't indicate that I personally feel that between now and the time this matter comes back on second reading there will have to be consideration given, and eventually this convention is going to have to decide on some figure; if it isn't 6½, it is going to be 7 or 8 or 9 or 10 or specifically say that no county will get an additional senator until it has a full 13 factors, which I do not believe is the intention of the convention or the committee. But I am satisfied that as of now the best interests of this convention will be served if you approve the amendment that is before you, deleting the language that was written in yesterday, and at the same time all of lines 7, 8 and 9, leaving only the language in lines 4, 5 and 6, and then going on to the second subsection.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Nord.

MR. NORD: Mr. Chairman, in the short time that we have had to analyze the effect of the amendment, we have been able to come to certain conclusions; at least we believe they are quite sound even though they have been rather hurried. First of all, we believe that under the Pollock amendment, which would now be removed, there was worked out a system whereby the urban areas, that is to say, the ones that are in the subsection marked "first," would be on the same footing, as nearly as could be, as the rural counties, the ones that are in the subsection marked "second." And as to that, we think that is a good principle. We would not wish to depart from that unless we could be sure that we would continue that parity.

Now, in analyzing the effect of the change that is now proposed, we find this: we find that there would now be created a disparity which does not exist under the language so far adopted which we can call the Pollock amendment, and the reason for that disparity, as we see it, is this: the counties that are in the subsection marked "first," that is, the ones with 13 or more factors, will get their senatorial district for each 13 factors. That is, they will get it for 13 and 2 for 26 and so on. Therefore, counties that are in this group, particularly the counties that are near the beginning of this group, will have 13, 14, 15 and so on, and all the way up to 25 before they get a second seat. Therefore, it is quite clear that the counties in this first group, which we can for brevity call the urban counties, since they have the highest number of these factors, will have an average apportionment factor which exceeds 13. It is not possible to know how much it will exceed. For the counties that are the size of Macomb, Genesee, Kent, for example, they will probably be half way between 13 and 26; in other words, about 19 or 20. That will be the average figure for counties of the urban size that are not as big as Wayne county, under the proposed amendment.

On the other hand, if we look to the second subsection as it appears at the present time, there is arranged a system which attempts to get each district to have an apportionment factor as close to 13 as may be, and therefore we can assume that the average of those districts will be 13, or very close to 13. Therefore, under the proposed amendment, we can anticipate that the rural counties will be getting one district every time they have 13 apportionment factors and the urban counties will not. They will have to have more than 13, and especially Kent, Genesee, Macomb, Oakland and thereabouts; they will be having somewhere around 20 apportionment factors, 19 or 20. Wayne county would not be that far away from 13. It would be close to 13. But that means that there will be a distinction between the 2 kinds of counties, and I know of no reason why there should be such a distinction.

I raise this question not only on the merits but also as a legal question. Suppose you assume, for the sake of argument, that the 80-20 mixture which we have accepted up to this point by a vote of the committee, suppose that that is a legal, permissible doctrine under the equal protection of the law. Suppose we assume that. I don't believe that, but let's assume that. We have assumed that. The question will then still be whether all counties or all persons within the same category are treated the same way. That is the next question in any equal protection of the law case. After you set up the categories, even if they are on a reasonable basis, then you must treat all the constituents of that category on the same basis, identical basis. But, as I just indicated, they certainly would not be on the same basis. Urban counties would unquestionably be discriminated against, as compared to rural counties or within the same basis of representation, 80-20. It is my opinion on this basis that you have a clear cut violation of the equal protection of the law within this basis of representation.

I don't believe this amendment, therefore, has been well thought out. I am not opposed to the first portion of it, as such, and, as a matter of fact, Mr. Chairman, in order to try to get this thing worked out without obstructing traffic but promoting it, I have submitted, with Mr. Faxon, a substitute amendment, and I wish the secretary would read the substitute amendment we have offered.

SECRETARY CHASE: Messrs. Nord and Faxon offer the following substitute to the Hannah amendment:

1. Amend page 2, line 6, after "factors" by striking out all of lines 7, 8 and 9 and inserting a period; and in line 15, after "less than" by striking out "10" and inserting "13".

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Nord on the substitute amendment.

MR. NORD: Mr. Chairman, you will see that what we have attempted to do is to go along with the amendment that has been offered to us, that is to say, the striking of lines 7, 8 and 9, but at the same time to eliminate this discrimination which we believe is clearly demonstrable; and it seemed to us in making this work, to make the results the same — that is, between the 2 groups of counties, rural and urban — we should make another change to make sure that in each case there will be as nearly 13 as possible, but not less than 13. That is the situation you have substantially with the urban counties, and by changing the number from 10 to 13, you will again require that in the urban counties they, too, must start with 13. They are not likely to get up to 26 — the rural counties — because when you group them, there is no need to group them if they are going to get to be 26 when you put 2 together, so they will only need to have 13.

I will say this: that this does not completely cure the discrimination between urban and rural. There is still some discrimination in favor of the urban because they will still average above 13, and substantially above 13. The rural, I believe, will average also above 13, but they will be much less — that is, they will be much closer to 13. Nevertheless, in the spirit of trying to get this thing settled without obstructing traffic, we have offered this amendment and we hope that this won't cause you to recess, but we do hope that you will consider it carefully, and if you feel that it does require more time, perhaps rather than voting it down, we wish you would consider it and, if necessary, pass over it in some way. But, we think that this does give reasonably close equity to both types of counties.

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I regret very much that Dr. Nord and some of his colleagues apparently smell foul play in every amendment that comes up. Dr. Nord made the assertion, if I understood him correctly, that the amendment now before us, unless it is subsequently changed, would have the effect of providing inequitable treatment for the populous counties as compared to the less populous counties.

First of all, the only counties that are affected at all are the counties that have more than one senator. There is nothing in this language in 7, 8 and 9 that has anything to do with the counties not entitled to a full senator. If you look at the population predictions, which you have in the books that were given to you, in 1970 there will be 5 counties that either up until that time or at that time might qualify with 2 senators or more: Wayne, Oakland, Macomb, Genesee and Kent. The same number that will have 2 senators immediately, if this constitution is approved.

It is going to provide an additional senator for Oakland, Macomb and Genesee; and Wayne and Kent already have 2 or more. Actually, under the language as it is and with the Consumers Power projections as corrected by the supplementary material you have, in 1970 Wayne county will have 124.38 apportionment factors and will be entitled to 9 senators. Oakland will have 47.54 and would be entitled to 3, plus, senators. Macomb would have 28.68 and would be entitled to 2. If my arithmetic is correct, and I am not sure that it is now that I add it again on my feet here — Dr. Pollock says he is sure it is not, and his mathematics may be better than mine. (laughter) Dr. Pollock, have you got the arithmetic done?

MR. POLLOCK: Mr. Chairman, Dr. Hannah, your apportionment factors don't agree with mine, but perhaps we calculated them differently. Macomb, in my list, would have 37.99 apportionment factors. On a projection, we are talking. Are you talking projection 1970?

MR. J. A. HANNAH: I am talking about 1970, and 28.68 is the figure that I have; Oakland county 47.54; and Wayne, 124.38. He is using different figures.

Well, perhaps, Mr. Chairman, before I finish my statement I'd better recheck my arithmetic to make sure my figures are correct. But the emphasis on what I wanted to say is not changed by the figures anyway. The point I want to make is that there is no gimmick in this recommendation at all. There is no feeling that there is anything that disadvantages anyone. The point I really want to emphasize is that there is no intention to treat the 5 more populous counties either less well or better than the other counties of the state.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. T. S. Brown on the substitute.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, before I begin I would like to — before I forget about it — demand the yeas and nays on the pending substitute.

CHAIRMAN HUTCHINSON: Mr. Brown demands the yeas and nays upon the substitute amendment. Is the demand supported? The demand is supported. The yeas and nays are ordered. The question is upon the substitute. The Chair recognizes Mr. T. S. Brown.

MR. T. S. BROWN: In specific answer to the last mentioned statements of Dr. Hannah, I should like to say that when you begin with an 80-20 factor or a 4 to 1 factor, as we did in our committee — over the Democrats' objections — you have, then, something that you can logically call an 80-20 factor; but then when you make a gross distinction between the outcounty areas and all heavily populated areas, then you no longer have an 80-20 factor plan. You have something which amounts to a 60-40 plan in ultimate workings out, which is approximately the mathematical basis upon which our present senate is constituted. So it represents a net improvement of zero per cent over our present situation. Yesterday we unanimously, almost, voted down the Boothby amendment which would allow for the continuance and perpetuity of the present situation, and I assume you want something better.

This particular proposal, as proposed to be amended now, is not anything better. It is not any more than zero per cent better, and it actually reminds me of how penguins take a swim. At the south pole, you know, when the penguins want to go for a swim, they have a natural enemy in the water below the icebergs, the sea walruses and such; so they all stand on the edge of the ice cliff with their flippers at their sides and they jostle each other. Finally, one of them is jostled to the extent that he falls in the water. And if he is eaten by the walruses, then they move on to another place in the ice cliff because it is too dangerous to swim there. And this proceeds until finally one penguin falls in the water and swims about and he is not eaten, and then they all dive in at that spot for their swim.

Now, the same thing occurred in our apportionment committee down in the basement, over which we labored many months, and the first penguin that was not eaten by the walruses was Bill Hanna's plan, and this plan was taken and adopted, and I think tortured out of original context, and I am sure that the author, with all due respect to himself, is not now proud of the plan because it is an expedient plan. It offers a quick, easy substitute. On the surface you can say it is an 80-20 plan, but it is really shot full of holes.

In yesterday's proceedings with Dr. Pollock's amendments, on which Mel Nord and I spoke, we attempted, at least, to make it an 80-20 plan, considering the fact that we disagree with the 80-20 figure and the 80-20 concept. Before the Pollock amendment, you had holes big enough in this plan that you could drive a truck through. The Pollock amendment, I think, closed some of those holes. Now you are attempting to reopen them. This morning we were asked by Mr. Elliott what some of our objections were, because I think the sum total of this convention right now does not know the ultimate size and position of the holes that do exist in this particular plan.

Now, Reinhold Neibuhr, in his book, The Immorality of Nations — and I am sure some of you protestants know him; he is an eminent protestant theologian — spoke about the collective immorality of nations and how individuals in their individual capacity can be very right and can be very just and well meaning and honorable, but when they get in a group called the "nation state," then they make war, albeit none of them individually want to go to war.

I think the experience of this convention has been that all of you, generally speaking — the people that I have come in contact with — want to give some improvement in our present senate, especially. You are well meaning, well intentioned; I ascertain this over dinner, over cocktails and such. But, collectively, when we sit here in a mass, something happens and we are not then 144 well meaning, well intentioned, constructive, far sighted individuals. We tend to revert to the lowest common denominator and I don't know what that is, but apparently the lowest common denominator is no progress. Specifically the net result of the present proposal, if the substitute proposed by Mel Nord and Jack Faxon is not accepted, will be to leave us with a situation very similar to that in George Orwell's Animal Farm, in which the communist leader of the pigs said that all animals are equal, but some animals are more equal than others.

I therefore suggest that if we, individually and collectively, really want an 80-20 plan, that you vote for the substitute amendment because that would perfect it. We in the minority party at this point find ourselves in a very difficult position of trying to make something whole that we really don't want, but I think, for the sake of consistency, the substitute amendment must be accepted.

CHAIRMAN HUTCHINSON: Dr. Pollock, on the substitute amendment.

MR. POLLOCK: Mr. Chairman, in order to decide about voting on the substitute amendment, I wanted to have a very clear statement; I think I understood from Dr. Hannah that the purpose of his amendment was to eliminate the amendment which I sponsored and which was passed yesterday with the definite end in view of providing some substitution for it. May I ask you that question, Dr. Hannah?

MR. J. A. HANNAH: The answer is, that assumption is correct. I stated that obviously some figure is going to have to be put in to entitle the county already entitled to one senator, with some excess — some point has to be put in, 10, 9, 8, 7, 11, 12 or 13.

MR. POLLOCK: Which, presumably, will be as good as the one that is being stricken.

MR. J. A. HANNAH: Well, I assume it is going to be better.

MR. POLLOCK: You assume it is going to be better. All right, Mr. Chairman, I merely want to say that this amendment which is now sponsored by the minority is obviously sponsored by way of reaction to the action taken by Dr. Hannah, and if his action is only partial action, with remaining action to come, I would say this amendment was premature and therefore I see no reason for voting it.

CHAIRMAN HUTCHINSON: Mr. Downs on the substitute amendment.

MR. DOWNS: Mr. Chairman, fellow delegates, I rise in support of the substitute amendment. What the substitute amendment does is simply say that there shall be the same number of apportionment factors to establish a state senator regardless of the geography of the state.

As has been pointed out, the apportionment factor is, in itself, a mix of people and area. I do not want now to go into that. We have debated that thoroughly, but what I do call to the committee's attention is, if the delegates favor this 80-20 mix, let's have that mix equally applicable throughout the state. All this substitute amendment does is say that there must be 13 apportionment factors, not based on one man, one vote, but based on a mix of people and area, in order to have a senator. If we are going to have equality of apportionment factors, have apportionment factors mean anything, there should be the same figure in both cases and I, for one, will not quibble over whether it is 13, 12, 10 or 9.7, so long as it is the same figure. All we are asking for is equal inequality within the state. (laughter)

What this amends — and I want to make this clear — is that at the present time, as the majority report came out, if a county had 13 apportionment factors there would be one senator for 13 factors. If, however, that county had an additional 6.5 factors, there would be a second senator. Then if there were an additional 19.5 factors, there would be a third, except provided that if the county did not have 13 factors, then a combination of counties with 10 factors would have one senator. I say this is not a 1 price system; it is not a 2 price system; it is a 4 price system. You can have a senator in one place for 6.5 factors, another place, 10 factors, another place, 13 apportionment factors, and another place, 19.5 apportionment factors.

If there is any validity to the apportionment factor — and I do not argue there is, but if there is — it should certainly stand the test that an apportionment factor has an equal value throughout the state. This is a Rube Goldberg approach: now you see it, now you don't. Apportionment factors have been gimmicked to meet the convenience of I know not what, but if we are going to have these, I urge support of the substitute amendment as preferable to what we have now before us because it will, at least, make consistency within our inconsistencies.

CHAIRMAN HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, I think sometimes we get off on points which really ought not to be concerning us right now. Nobody is going to be around in 10 years to award the prize to the person who will know how to guess how many apportionment factors any one county is going to get. We ought not to be concerned with what the number is going to be, so much as the practice by which these numbers are arrived at.

Now, it is true that these actions that have taken place in the last day have come suddenly, but this is the time at which we are gathered together to deal with the whole problem of legislative organization, and I, for one, do not believe in putting off today what can be done today. What is going to be gained by a delay? The chairman of the committee says: well, we are going to figure it out and then bring it back, but you know as well as I do that the time factor that is working against us is going to put us in a difficult position when these things come up on second and third reading, and the time to deliberate is here in the committee of the whole. The time to act is here and now. And if it is a question of 6.5 or 7 or 8 or 9, these are numbers and we are delegates that know numbers. If we want to have an explanation, we have people here who can give it to us. Let's not try to hide the real question and let's come to some decision now.

Now, this amendment doesn't amount to any tremendous change as far as the overall proposal is concerned. It simply asks for fair and equal treatment, and where it comes to the question of the range of apportionment factors, it simply makes it 13 as a minimum, upon which counties will be grouped. I don't believe that this is anything premature. These are questions that were brought up yesterday. There were remarks made by a number of delegates — I am not going to repeat now — dealing with certain loopholes that were present in this amendment.

The question is: are we going to try to reach an agreement upon which we can stand together here or is this going to be another one of those situations where anything that emanates from the minority party is going to be voted as such? I would hope that you would look at this and realize that it doesn't represent such a terrific departure; that it is something that is palatable and acceptable and it does clear up some loose language and make for more equity as far as the apportionment is concerned. If we are concerned with doing what is in the best interests of the people, we ought to try to make this language as clear as possible and try to make it equitable.

It seems where you provide for 13, the number should stay 13. I don't know that there is a need for me to make any intellectual appeal here. I am sure that any statements by any professors or any expertise would have little validity. The only point I want to make is that this is a concern that many delegates have. It is a concern that should be for all of us to feel, not just those who represent a minority party. It is a question here of improving the language, of improving the intent. Surely this is not asking too much from the magnanimous gesture you could make to accept this amendment.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, of course, we could prolong this for a long period. All of the arguments which were used yesterday when we were talking about the senate apportionment could be repeated. The points that Mr. Faxon is making now are the objections to the proviso that counties are not entitled to one full senator. The proviso which we have before you which has been tentatively approved provides that any combination of counties with 10 may be entitled to one, if necessary, but that the average number shall be 13. They may run from 10 to 16, minimum, with an average of 13.

I am not going to repeat those arguments because they were gone over yesterday, but I only wanted to repeat what I started to say and then was a little awed by some discussion around me that my arithmetic was wrong. The point I wanted to make was that the only counties that are affected in any way by the amendment now before you, unless you take the amendment of Mr. Faxon, which he is offering as an objection, are the 2 counties of Genesee and Kent. No other counties are affected at all. If there was no change at all and no figure was ever inserted and we were going to stay with this language, as I hope you are going to amend it, not accepting the Faxon amendment, you would end up in 1970, with Wayne with 9 senators, Oakland with 3 and Macomb with 2, a total of 14, and total apportionment factors of 210.60, or an average of 15.04 apportionment factors per senator. No other counties are affected now besides Genesee and Kent. Genesee and Kent are going to lose one, unless you subsequently put in some other figure to take care of them. Genesee with 21.09 will have one and Kent with 19.99 will have one. You add them together — that's 41.08 for 2 senators and they will have 2 senators with an average apportionment factor of 20.54.

The point I want to make is, if you accept my amendment, reject the Faxon amendment, the only counties that are affected in any way are Genesee and Kent. They are adversely affected unless, subsequently, as I expect, we are going to write in some figure to take care of them or any other counties that have 19½ or 20 or 21 or 22 or any other figure less than 26. That can be determined later. I urge you to defeat the amendment that is before you and then urge you to approve the amendment that I offered earlier.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman and fellow delegates, Dr. Hannah, in making his first remarks in response to mine, stated that he thought I smelled a rat or that I suspected foul play. I want to assure him that I do not. I do not suspect any foul play and I do not suspect any rats are lurking in the middle of this amendment that has been offered.

What I only state is this, and what I state is point blank fact, and I have been able to use this slide rule which I happened, by good luck, to have here since my demonstration last night, which backfired. I used this slide rule to find out whether my mental arithmetic was correct, and now I have the entire arithmetic; I can read it to you number by number and guarantee you that on the basis of 1970 — which is probably as typical as any other — there will be a discrimination against the urban counties, and I will read the figures into the record so there can be no question and you can look at them later; I have them here. I will read them in a few minutes. But I will just summarize: if you take the largest counties, Wayne, Macomb, Oakland, Genesee and Kent — I haven't had time to go down through other counties which could be included; I believe there may be a few others as well, but these are the ones that are the multiple seat districts or are normally thought to be the multiple seat districts. On this basis, for those counties, you would have, according to the projected figures for 1970, 14.9, an average of 14.9 apportionment factors, and if you leave out Wayne county — because I pointed out that the discrimination against Wayne county is substantially negligible in this case because it has so many, relatively so many seats — it is a discrimination mainly against the smaller counties within this group. If you take in account Macomb, Oakland, Genesee and Kent only, you will find that the average apportionment factor would be 16.3 under the proposed amendment of Dr. Hannah; 16.3. And, as Dr. Hannah himself has said — and I believe everyone can easily see is true — as to the rural counties, or at least the counties that are not entitled to more than one senator, they are not all rural — but anyway, the counties of a smaller size will have very close to 13. There is a substantial guarantee of that in subsection 2. Therefore — and I suggested when I was on my feet before doing mental arithmetic — I would estimate on the average you would have about 19 to 20 apportionment factors in the middle sized counties, the counties just below the biggest, Macomb, Oakland, Genesee and Kent. I estimated 19 to 20, and the figures show for the particular projections of the population for 1970, 16.3.

Now, I would like to point out this: not only do we know that the projected figures will lead to a discrimination, which has no basis in theory or fact or even in desire, but I am also extremely disturbed by Dr. Hannah's remarks in which he says no counties are affected except Genesee and Kent. To me, this is an extremely serious statement to make. Every county in this state is affected for this reason: you don't know what the populations of any counties will be in 1980, 1990, 2000, 2010 and ad infinitum. You have got to adopt a constitution which is not just good for 1970; it's got to be good forever. It's got to be one that is right in principle, as much as you are willing to make it right. You can't just design it for one set of figures. It's got to be correct.

Now, as to my conclusion on the statistics, I will read the figures into the record. There only are a few figures. These figures are obtained directly from Mr. Knirk, who has, I believe, the latest figures on population and how they affect the apportionment factors. In Wayne county — I hope that this can be put into the record. If not, I will hand it to the secretary — in Wayne county there are 124.38 apportionment factors which would entitle them to 9 senators under the Hannah amendment. Macomb county is 28.68; that would entitle them to 2 senators. Oakland county would have 44.38 apportionment factors, which would entitle them to 3 senators. Genesee has 21.09 — these are the estimated figures for 1970 — and they would be entitled to one senator, and Kent would be estimated at 19.99, and they would get one senator. Those are the figures that I have used. If they are incorrect, no doubt that can be pointed out.

On the basis of those figures, the results that I have mentioned follow. They follow on the basis of a trusty slide rule, and they may be off by one decimal point. They demonstrate that even on the basis of predicted figures, there will be a certain discrimination between the, let's say the suburban counties. It is not Wayne county that is involved. I hope that is quite clear. It is Macomb, Oakland, Genesee, Kent and probably the next 2 or 3 counties below them in population.

They are going to be discriminated against, and you can't be sure that they won't be discriminated against more than this when you get to 1980 and 1990 and 2000 because you don't know those statistics.

I hope that this analysis that we are presenting can be taken just on the merits, and I am afraid that when I state this, you will say that you smell a rat, but I hope that you will look it over carefully and find out that these are the correct facts.

Now, finally, as to the remarks of Dr. Pollock. Dr. Pollock says that the proposed amendment, the one that is marked on the wall, is premature because it attempts to correct something and we don't know what it is that it is correcting. I believe that there is, certainly, a great deal of truth in that. It is premature in this sense: that what it is attempting to correct is premature and incomplete. But the point is this: we have got to vote now. We were supposed to vote immediately on the amendment without knowing what else might ever be put in besides that. Now, if something else is to be put in in the future, we can take this one out, the one that we put in. We are by no means adamant.

I might say further, in case it makes any difference, this amendment that we have offered is, by no means, as good as the Pollock amendment in the first place. I much prefer the Pollock amendment. It is much more equal than this. We are only doing this to make sure that we don't give a blank check. If Dr. Pollock will agree, and perhaps he will, that we ought to resist the Hannah amendment itself and wait until we find out what is in it before it is adopted, I would agree with him. I believe that is the correct procedure. We are only doing this to make sure that we don't leave ourselves giving a blank check. Those are the only comments I have and — on the basis of what we are faced with, a decision that we must either accept or reject the Hannah amendment; and my belief that presumably it would be accepted — it seemed to us that the only thing we could do to make it in a safe condition is to put in the substitute amendment. I still believe that Dr. Hannah will be able to endorse this if he will go over my arithmetic.

CHAIRMAN HUTCHINSON: The Chair next recognizes Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, when I was about to come up to this convention I was speaking to an old line politician in my area, a Democrat who had a lot of experience in Lansing affairs, and in the course of discussing possible errors that we, as Democrats, individually and collectively might make here, this oldtime politician said, "Well, don't be concerned about that because the other side has an infinite capacity for making one more mistake than you do." I suggest that this is a manifestation of that infinite capacity, because you had laid before you in the last few minutes not an argument for one man, one vote, not an argument for the Democratic side, but the rather weird situation of Democrats arguing for equality within your own ranks in the outstate areas.

I hope that you all realize that collectively we are acting as a witness in a lawsuit, a lawsuit which is now pending, and that the specific stands of the parties taken here today on this particular matter will become matters of record in that lawsuit, and that wilfully and culpably, as I feel you will, you have indicated or you will indicate today that you are not concerned with equality within the 80-20 factor proposition. I think that, therefore, the Nostradamus in my neighborhood was correct in that this is a gross and grievous error and it is one more mistake that we could possibly make here today.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, I will just speak very briefly. There have been comments made that the amendments affect just 1 or 2 or maybe 3 counties. I would like to point out that we are talking about people here for the entire state, and if one person is over represented in the state, then everyone else is under represented, or if one is under represented, then others are over represented. Because every one of us in this state is affected by the votes not only of his own legislators, but just as much by the legislators from other parts of the state. So I urge the delegates, when voting on this amendment, to support it and to realize that we are talking about standards on a statewide basis and not just the people of a particular county. Thank you.

CHAIRMAN HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. Chairman and ladies and gentlemen of the committee, I think I would like to point out, for the record here, the fact that on this proposal that has been offered by the majority — Dr. Hannah — we must state that 14 seats would have 200 apportionment factors, which would average out at 14.28. The 23 seats outstate would have a total of 300 apportionment factors, or an average of an even 13.

I think one other point that is being made here on this particular amendment, that we are not fair unless you have the 13 to 16 being the only factors that would be considered for a total district, is unfair because there would be 10 districts that would be over the 12½ factors and 13 districts below. That is not such a large discrepancy as they would have you believe. I would certainly urge that each and every one of you vote against this amendment that is being proposed and then make it possible to vote for the majority amendment. Thank you.

CHAIRMAN HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, delegates, to get back to the subject of the amendment submitted by Dr. Nord and Mr. Faxon, if I read this, this creates a real conundrum because, as it will read, starting on line 13, it will say "rectangular in shape as possible, having as nearly as possible 13 apportionment factors, but in no event less than 13." I can't get as close to 13 and also be not less than 13 in the same situation. Perhaps there is more to be stricken out, but as I read the language, that is the effect of it.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I would also like to address these remarks specifically to Mr. Bill Hanna. I recognize the apparent incongruity of those words. Nevertheless, despite the fact that we only had 2 minutes to find out whether they were right or wrong, I can prove to you that they are right and there is no difficulty whatever with them. I realize nobody else has had 2 minutes either. Let me just go over those words to show you that there is nothing wrong with them. What you are asserting, I believe, is that this is a conundrum — in other words, that it appears to be impossible to do this. Let me demonstrate how you do this: it states here that each of these districts, which is made up of multiple counties, should be as nearly as possible to 13, but not less than 13. Now, that isn't impossible to do.

The reason we didn't strike "as nearly as possible 13" is this — of course, we don't have any objection to striking it. If you would strike that and also strike "or more than 16" we would think it's great, but it wouldn't be fair. Here is the reason it would be great to strike that: that would mean it has to be at least 13, but it could be a million. If you wish to do that, of course, that would be fine; that would, absolutely, take away all of the rights of the rural areas. But what we are saying is this: we want it to be as close to 13 as possible but not less than 13.

Now, as to the "or more than 16," we are willing to put that any place you wish. You can have a blank check to change it. The only reason we didn't change it is simply because it was here. We didn't wish to change anything more than we could prove was correct. Therefore, what we are saying is this: just as in the first paragraph, the counties should have as close to 13 — actually they have more than 13, but they start with 13, and in the second group, which I will call the rural counties, they also start with 13 but they are not required to go to 14, 15 or 16. If possible, they should stay at 13, 13.1 or 13.2.

All of that is for the protection of the rural areas. Therefore, these words that we have left in here are by no means a conundrum unless you just can't believe that we want to be equal between rural and urban. We do want to be equal and I say this: this is still discriminating to some extent in favor of the rural counties, whereas Dr. Pollock's is not. Anyway, I hope that this settles the supposed conundrum. There is no ambiguity, there is no inconsistency, there is no possibility, and if there is thought to be any, we would be glad to strike a great many other words here that are supposed to cause that trouble.

I believe on analysis you will find that what we have presented has the same motive as what you presented. I wish to make that clear. We do not think that the Hannah amendment was presented with the thought in mind that it would discriminate. The reason I make that point again is we didn't discover that at first ourselves. We were ready to support it. But in analyzing it, we found that it is bound to cause a discrimination. We are satisfied that the Hannah amendment was put in in good spirit, so to speak, but I don't know whether you can ever believe that we can put something in in the same spirit. If you can find it in your hearts to believe it, then I believe you can adopt this.

CHAIRMAN HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. Chairman, Mr. William Hanna, who serves as a distinguished member of the committee on style and drafting, is well aware that the committee in their infinite wisdom will make all necessary changes so that the language is clear, and I am certain that Mr. Hanna could find better criticism to make than to find a slight incongruity of the language.

I think the meaning is quite clear. That second paragraph deals with combinations of counties, and rather than have the range extend from 10 to 16, the range would be from 13 to 16. Whether you use the words "a minimum of 13 apportionment factors and a maximum of 16," the overall intent remains the same.

The first paragraph deals with the question of the urban counties where there are 13 or more apportionment factors. The second paragraph deals with the question of the remaining counties. Now, I am aware of the fact that in the first paragraph the substitute amendment is no different from the amendment submitted by the chairman of the committee; so this isn't even a question in point. The question which you are being asked to direct your attention to is the content and subject matter of the second paragraph, that dealing with the remaining counties, where, if you are going to take out the leeway that exists in the first paragraph for the populous counties, you are going to remove that eventually to put something else in — so I am told — then, in the second paragraph, which deals with the remaining counties, you have the same prerogative to later change it if there are going to be changes made in the first.

The only question here is, we should be consistent and where we make an adjustment in the case of the urban counties, where there are 13 or more apportionment factors, we should make a similar adjustment, to be consistent and equitable, in the case of the second paragraph. That is all this amendment does that is more than what the original Hannah amendment did. To include the second paragraph within the scope of this so that the range for those factors, for those combinations of counties remaining after the urban counties have received their senators, would be 13 to 16 rather than 10 to 16.

So let's not look at this as a question of Kent and Genesee counties, because in both amendments the same case holds true, it is the deletion of lines 7, 8 and 9 in the first paragraph. That isn't the question in point. The question is simply whether, in the process of deleting lines 7, 8 and 9, dealing with urban counties, might it not be just as well to deal, in the second paragraph, with the range permitted for combinations of counties so that we are in both cases being consistent and equitable. This is the question upon which you are being asked to vote.

CHAIRMAN HUTCHINSON: The Chair next recognizes Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Chairman and fellow delegates, I, and I believe every other delegate here, am strongly in favor of unlimited debate in committee of the whole. However, speaking for myself, and I believe for many other delegates in the chamber, I made up my mind many minutes ago, nearly an hour ago, as to what my vote is going to be, after the early statements on this, very ably given by Dr. Hannah, Dr. Pollock, Dr. Nord and others. This debate has continued now for 62 minutes, and it has cost the taxpayers $1550. I earnestly hope that we can get a vote on this subject without further debate. (applause)

CHAIRMAN HUTCHINSON: The question is upon the substitute amendment. The yeas and nays have been ordered. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 44

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Pellow
Perlich
Perras
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays — 87

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the substitute amendment offered by Mr. Nord and Mr. Faxon, the yeas are 44; the nays are 87.

CHAIRMAN HUTCHINSON: The substitute amendment is not adopted. The question reverts to the original amendment offered by Dr. Hannah, which the secretary will again read.

SECRETARY CHASE: Mr. John Hannah has offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2165.]

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Hodges on the amendment.

MR. HODGES: Mr. Chairman, I rise to oppose this amendment. I would like to go back for a short time in the history of this amendment and the amendment before it. The majority members of our committee were willing to set up any artifice or facade necessary to save the 2 Republican senators from Kent county. I had an amendment yesterday, which was a clarifying one, which I withdrew after Dr. Pollock's passed, and which spelled out exactly what the committee's intent and purpose was on the 19½ factor, and that was to keep Kent county's 2 senators, and this was admitted on the floor by the proponents of the majority proposal. But when it was discovered by others on this floor that they felt they should get the same treatment as Kent county and that some of these others were from the metropolitan area and it would be slightly possible, under the Pollock amendment, and conceivable that Oakland and Macomb and Wayne might pick up an additional senator or 2 in 1970, there was a hurried up effort to have the committee meet again and vote to recommend to reconsider the Pollock amendment.

It seems to me that the most dismaying part was, we had a delegate on our committee from Oakland county who was perfectly willing to set up the possibility of Kent county keeping her 2 senators and saw nothing wrong with it and was willing to reconsider the amendment of Dr. Pollock which possibly would have given some slight equity to his own county of Oakland. If this had come up in the first place, we of the minority would have fought this specific provision to single out Kent county and give them special treatment. But I don't think now you should retreat from that position, retreat from that position of giving Kent county special consideration just because by doing this you might give slight equity to the metropolitan areas, and therefore, I would say that I cannot, and I doubt if many of the members of my party can, in good conscience, vote for this amendment.

CHAIRMAN HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I rise to oppose the Hannah amendment. I vigorously object to the extent to which some of the delegates in this convention will go to preserve the deal that was worked out by certain delegates in this convention and to keep united the dissident factions within the majority party.

The debate on this issue on the floor of this convention has turned into a real fiasco. We used to know from one day to the next where the majority was going. Now we don't know from one hour to the next. It was pointed out that it was the factor that was built into the proposal which was obviously designed to take care of Kent county. I would like to ask the question of Delegates Martin and Goebel: just which one of the seats will be lost, Paul Goebel's or John Martin's? There is a double standard built into the proposal, as was pointed out earlier, for in the urban areas you start out with an apportionment factor of 13 and you can go as high as 26; where in the rural areas, you start with an apportionment factor of 10, with an average of 13. I happen to come from and represent, in this convention, the second largest senatorial district in the state of Michigan, with approximately 680,000 people. The only other district that exceeds this is Oakland county, which I believe has a population of approximately 690,000. By the defeat of the Pollock amendment and the adoption of the committee amendment, both Wayne and Oakland will be robbed of a senate seat on the 1970 projection. If the delegates from Oakland are willing to sell their district short for the sake of unity behind the package deal, they may do so. I, for one, do not intend to do that to the twenty-first senatorial district, and I oppose the Hannah amendment.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I rise to oppose the Hannah amendment and also, before I forget to do so, I wish to demand the yeas and nays, and then I will wish to speak upon the Hannah amendment as soon as I know whether the yeas and nays are effectively demanded.

CHAIRMAN HUTCHINSON: Mr. Nord demands the yeas and nays on the pending amendment. Is the demand supported? The demand is supported. The yeas and nays are ordered. The Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, I have 2 questions to ask the proponent of this measure, this amendment, and I hope that we will get an answer to these 2 questions, because I have had no explanation of why this amendment ought to be adopted. I don't recall having heard why it ought to be adopted. I therefore ask Dr. Hannah these 2 questions and I hope that he will give me the best answer that he can. First, what rationale justifies the amendment that he proposes, and second, if the Pollock amendment which is now to be stricken was right yesterday, and you, personally, took the floor, as I recall, and said so, why is it wrong today?

CHAIRMAN HUTCHINSON: The Chair recognizes Dr. Hannah to respond to the questions.

MR. J. A HANNAH: Mr. Chairman, Dr. Nord, members of the committee, I think I have already answered the questions asked by Dr. Nord very forthrightly in my beginning explanation of why this amendment was proposed. I am perfectly willing to restate it for the record, and that is, number one, that when the Pollock amendment was adopted yesterday, which had the effect of giving to all counties with more than one senator, having 6½ or more leftover apportionment factors, an additional seat, this was a matter of real concern to a considerable number of delegates to this convention. They feared 2 possibilities. One was, they feared that this would give not only to the counties entitled to a second seat, but those counties already with 2 or more seats, an additional senator with less than what they thought was a reasonable entitlement, that Wayne and Oakland and whatever other counties might be involved, might have an additional seat for 6½ or 7 or 8 apportionment factors, instead of a larger figure. This was one fear. Another fear was that somehow or other this might take away from the outstate counties the assurance that they thought the language provided by the committee originally assured them. Because of this uncertainty, I made the recommendation and proposed the amendment now before you that we strike out all of this language, leaving only the first 3 lines, with the expectation and the personal hope that between now and second reading there will be some figure written in to take care of the overage entitlement of those counties that are entitled to more than one seat. I think I said all that before. I am glad to say it again.

CHAIRMAN HUTCHINSON: Do you yield the floor, Dr. Nord? Mr. Kelsey.

MR. KELSEY: Mr. Chairman, members of the committee of the whole, I rise to oppose the amendment, representing Macomb county, who have waited long and patiently for their just representation, and it would certainly be normal for me to take this position. Even though the eminent Dr. Pollock's amendment of yesterday, which was adopted, had a built in flaw which would guarantee Kent county, with a population of somewhere in the 50,000s or more less than Macomb, I had no objection and went along with the amendment.

A few months ago, one of the delegates of the majority party put in what he thought was a clever resolution. I refer to the resolution of Delegate Kuhn, to the effect that we vote first and then the lights go on, hoping that it might trip the minority party. Let me say that Dr. Nord may be a little bit more rapid with the slide rule than myself, but I would like to take credit for having a little better political nose. I do smell fish and foul, and I say, when we talk about deadlines, we will soon be close to May 15, and in all sincerity to the majority party members, who have the votes to pass something, that now that they find out it is almost fair, they want to change it. I don't think it is right and I think that we should certainly end debate on this question and vote and move toward a rapid adjournment. (applause)

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Hannah. The yeas and nays have been ordered. This is a record roll call vote.

MR. MARSHALL: May I ask just one question of Dr. Hannah?

CHAIRMAN HUTCHINSON: If he cares to answer.

MR. MARSHALL: Dr. Hannah, I believe in previous remarks that you made, you stated that it would be all right for Kent county and, possibly, Genesee to get an additional seat on a 6.5 factor but yet, if I understood you correctly, this would not be okay insofar as Wayne, Oakland and Macomb is concerned. Am I correct?

MR. J. A. HANNAH: I made no statement of what was right or what was wrong. I indicated what was the concern of some of the delegates. I indicated what this amendment does, if you approve it, and what I hope the eventual outcome will be. There was no comment on what was right or wrong.

MR. MARSHALL: May I ask you one further question, if — and in line with your remarks of the possibility of putting something in to take care of Kent county and possibly Genesee — would you not, if that is done or what you contemplate doing, would that not be giving preferential treatment to those 2 counties as opposed to Wayne, Oakland and Macomb?

MR. J. A. HANNAH: The answer, Mr. Marshall, is no. I expect that whatever is done will apply to all counties if there is an entitlement due to an overage over and above whatever their total factors divided by 13 would come to, and I can't conceive that this convention is going to approve anything that isn't equitable and fair for all the counties of the state.

CHAIRMAN HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. Chairman, I think I owe an explanation to those who joined me in the majority in adopting the amendment I proposed yesterday, when I say that I am voting for the Hannah amendment on the distinct understanding that in the place of the amendment which is now stricken there will be replaced something equally good.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Hannah. This is a record roll call vote. Mr. Jones.

MR. JONES: Through the Chair, I should like to ask Dr. Hannah a question.

CHAIRMAN HUTCHINSON: If he cares to answer.

MR. JONES: You have made several references to a substitute language that you would intend to offer to take care of this overage. Do you have a substitute at this time?

MR. J. A. HANNAH: I do not, Mr. Jones, and I have indicated, I think, specifically once, and inferred on other occasions that between now and the time this comes back on second reading, it is my hope and my expectation that there will be included some figure to replace the figure that is now taken out, and certainly, when that comes before this convention on second reading, it will be available and eligible for complete and full discussion, and eventually will have to be approved by this convention.

MR. JONES: I should like to remind the delegates that if they vote for the Hannah amendment, they are voting for a pig in a poke.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Hannah. The yeas and nays have been demanded and have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 86

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays — 45

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
King
Krolikowski
Kuhn
Lesinski
Madar
Mahinske
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Nord
Norris
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hannah, the yeas are 86; the nays are 45.

CHAIRMAN HUTCHINSON: The amendment is adopted. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend page 1, line 9, after "Sec. a.", by striking out the balance of the section and inserting "The senate shall consist of not less than 39 members elected from single member districts for 4 year terms to be elected at the same time as the governor and serve terms concurrent with that of the governor.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) First: each county with 1/39 or more of the state's population shall be given one senatorial district for each 1/39 of the state's population. Each such county shall be divided by the apportionment commission into single member districts which are compact, uniform in shape, and varying no more than 25 per cent in population, giving consideration to city and township boundaries to the extent possible.

(2) Second: the remaining counties of the state shall be arranged into senatorial districts that are compact, convenient and contiguous by land, and each containing as nearly as possible 1/39 of the state's population, but no district shall contain more than 10 per cent of the state's land area.".

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman and fellow delegates, this amendment, as you will notice, sticks to the majority proposal which we have before us, in that it saves for single member districts 4 year terms, the same term as the governor, and so on. It provides for not less than 39 members, and there is no upper limit in that it may be possible to — well, I mean, it is a little bit difficult to tell exactly how many more you may want.

In arranging the state into senatorial districts, we follow the same procedure as in the present proposal, giving each county with 1/39 or more of the state's population a senatorial district for each 1/39, and dividing these counties into single member districts that are compact, uniform in shape and varying no more than 25 per cent in population, giving consideration to city and township boundaries to the extent possible. And secondly, we divide the remaining counties of the state into senatorial districts that are compact, convenient, contiguous by land, each containing, as nearly as possible, 1/39 of the population, and then this is the consideration of area which I believe is necessary in our senate: no district shall contain more than 10 per cent of the state's land area.

This gives us, in the map which I have before us, 3 districts in the upper peninsula and about the same in the upper half of the lower peninsula, and then the rest of the state is split pretty much on a population basis. It is my belief that the chief reason that we need consideration of area is because of the vast, sparsely populated areas in the northern part of the state. This gives them the consideration that they need without, in my opinion, over emphasizing this as an area factor. This is the reason that I offered it and I think it is the simplest means that I have yet found of giving consideration to area. Thank you.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mrs. Cushman. Mr. Nord.

MR. NORD: I simply would like to say that many parts of this amendment, of course, are good, but the area factor in there is one which I, personally, cannot go along with. Of course, if Mrs. Cushman were to strike the area factor at the end, it would be the exact reverse. But with that area factor included at the end of it, I, personally, would have to oppose it.

CHAIRMAN HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, ladies and gentlemen, I urge that the committee vote no on the Cushman amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mrs. Cushman. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Messrs. McAllister, Leibrand, Wood, Boothby, Shanahan, Hoxie and Erickson offer the following amendment:

1. Amend page 1, line 9, after "Sec. a.", by striking out the balance of the section and inserting "The senate shall consist of 83 members, one from each county, as presently constituted. Senators shall be elected by partisan ballots for terms of 4 years. The first of such elections shall be the next general fall election after this constitution becomes effective.".

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mr. McAllister.

MR. McALLISTER: Mr. Chairman, fellow delegates, when I went to school I had fairly good marks in arithmetic, but during the past day or 2 I've heard all sorts of calculations and, actually, I have become quite confused. I do realize that the present apportionment plan for the senate will give the rural areas less representation and, in effect, will place the full control of the senate in the largely populated and urban areas. I think we can readily get away from this jigsaw puzzle that has been presented here by adopting the amendment that my group proposes. It is true that as far as population is concerned, the rural areas don't compare with your urban areas, but there are a few factors we have overlooked. While the population may not be great and while there may be some sparsely settled areas, there is great wealth in those areas. I can speak only of my own county, particularly, but the per capita wealth in my county, according to my computations, is approximately $8,000 per person. I would say that the wealth, comparatively, is greater than most of the urban areas if not all of them. We have another factor. We have resort areas through all this territory, and these people contribute tremendously to the wealth and prosperity of Michigan because the dollars that they earn and the services they render benefit people from all parts of the state.

The convention here has spent days trying to protect the rights of minorities. It seems the one minority group, if you may call them that, is the rural, outstate Michigan. The upper peninsula and practically all of the counties with the exception of 7 or 8 are in this class.

The United States senate is composed of 2 representatives from each state, whether it is Nevada with 500,000 or New York with 20,000,000. There has never been any thought, as far as I know, of changing this plan, and I believe the theory is that all of these areas should be represented regardless of population.

Our county governments have performed and functioned well. Each county is an independent unit, and in order to have effective representation in Lansing, each county in this state should have someone there to act in its behalf because we all know that when you hire somebody else to do things for you, they don't do them as well as you do them yourself; and if you have a representative from your county, he is going to be interested in that county and he can contribute considerable to the thinking of the legislature and considerable for the benefit of all the people of Michigan. When our state is widely diversified in industry and each particular area of the state has some outstanding industry — your upper peninsula has mines, has timber, it has fishing, it has the resort industry and many other things, it is just as important that Houghton county or Chippewa county be represented individually here at Lansing by one of their people as it is for Wayne county with its millions.

Even the United Nations, which is worldwide, follows a pattern that I ask you people to support here. It doesn't make any difference whether it is Ghana — practically an uncivilized country, or Russia, they both have one representative at the United Nations, and I don't see why Michigan should follow any different policy.

It is my contention that this amendment will not only protect rural Michigan and the smaller counties, but that it will just as effectively support or protect the big cities; Detroit, Saginaw, Flint and these other areas couldn't exist if it weren't for their rural patronage they have. So I say to you folks here that this is not a whim. It is something that I have given consideration and our group has given consideration, and we ask you to support this amendment so that all areas of our state will be adequately represented. I yield the floor to Mr. Leibrand from Bay City.

CHAIRMAN HUTCHINSON: For further presentation of the amendment, the Chair recognizes Mr. Leibrand.

MR. LEIBRAND: Mr. Chairman and members of the committee, the McAllister amendment is identical with Delegate Proposal 1405, originally introduced in this body on November 29, 1961, by 39 members of this convention. I wish to point out some of the merits of the amendment. First, the McAllister amendment is brief. It contains but 43 words, in contrast to section a of the committee proposal which, with its current amendments, contains about 450 words. Second, the McAllister amendment is easy to understand. It can be read in 2 seconds and understood in the same 2 seconds. No electronic computing machine is required to ascertain its present or future effect. You don't even need to take Dr. Nord's slide rule. Any schoolboy or schoolgirl in the balcony can tell you its effect in just a minute. Now, I honestly can't say the same for the committee proposal. Even after 3 days of debate and discussion, I must confess that I don't yet understand fully the import of the committee proposal and I honestly don't believe that there are a dozen members of this convention who do understand it. Third, under the McAllister amendment, senatorial boundaries will be fixed and perpetual. There will be no place whatever for the frequent changing of boundaries by a legislative apportionment commission. Under the committee proposal there will not only be frequent boundary adjustments, but there will also be constant efforts, to benefit one section of the state or another, to change the constitutional apportionment factor from the factor which is now written into it.

As has been pointed out, the McAllister amendment follows the federal pattern of senatorial apportionment of senators. That pattern, based on political units, gives 2 senators to each state irrespective of the population or area of that state. The McAllister amendment gives one senator to each county, irrespective of area or population. I am also informed that many of the New England and Atlantic seaboard states where our republican system of state government was born, since their original organization have apportioned one or the other of their legislative bodies on county and town lines.

Finally, of all the senatorial apportionment plans that have been presented to this convention, we believe the apportionment of senates by counties is least apt to suffer interference by the United States supreme court. This is so because county lines are fixed. They are fixed, long established lines, so that no one can ever be accused of gerrymandering the districts. I hope that the McAllister amendment will be adopted and I request a record roll call vote on the measure when it comes before the committee.

CHAIRMAN HUTCHINSON: Mr. Leibrand demands the yeas and nays on the pending amendment. Is the demand supported? The demand is supported. The yeas and nays are ordered. The question is upon the amendment offered by Mr. McAllister and others. Mr. Madar, are you seeking recognition?

MR. MADAR: Because my friends would like to have me just let him ride, I will let him ride. I will give Mac a free ride this time, and believe me, it is a free ride, too, Mac.

CHAIRMAN HUTCHINSON: This is a record roll call vote. Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, I am sure it isn't necessary for me to express the hope that the members of this committee will vote no on this amendment. I am not going to take more words than that. I just hope you will vote no.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I would like to echo the words of Dr. Hannah and state that I believe there are some flaws in the amendment that is before us. I think it doesn't quite make the grade. I believe that — for example, I think the disparity between Keweenaw and Wayne county would be 1,000 to 1. I believe that is somewhat excessive, quite a bit, in fact. I also note that the analogy offered between this system and the federal system is faulty as well. I think it is gravely in error because, in the federal system, there are 2 senators from each state, and here there is only 1 senator from each county and I can't understand why we don't have 2 senators from each county. That would be much more parallel. That is another objection I see to this.

No, I am not going to amend it that way, but I do have an amendment which Mr. Faxon and I are presenting. I don't know whether it has arrived as yet. I would like to ask the Chair and the secretary whether that amendment has yet arrived. It is an amendment to this, a perfecting amendment, you might say.

SECRETARY CHASE: There is none here, Mr. Nord. Oh, there it comes. Messrs. Nord and Faxon offer the following amendment to the amendment:

1. Amend the amendment, at the end thereof, by changing the period to a colon and inserting "Provided however, That for purposes of carrying out the provisions of this section, there shall be 34 counties varying in population no more than 25 per cent according to the last federal decennial census. Following each federal decennial census the apportionment commission shall rearrange the counties in accordance with this section.". (laughter)

MR. NORD: Mr. Chairman, I believe this speaks for itself, and in case it doesn't, I would like to yield to Mr. Faxon who will speak for it.

CHAIRMAN HUTCHINSON: Mr. Faxon.

MR. FAXON: I have felt friendship with Messrs. McAllister and Leibrand and the other distinguished delegates who put in the preceding amendment which we are trying to perfect here, and I don't want it to be said that we are not willing to go along with them on their amendments. We realize that ours haven't too much of a chance by themselves, and I think this clearly perfects it so that we can support it with all our heart and effort, and I urge every delegate to go along with this amendment to the amendment so that we can really reach an accord here which will have the full impact of the joint spirit of all the delegates together. This will do it. Thank you. (laughter)

CHAIRMAN HUTCHINSON: The question is upon the amendment to the amendment now offered by Messrs. Nord and Faxon. All those in favor of the amendment to the amendment will say aye. Oppose will say no.

MR. FAXON: Division, please.

CHAIRMAN HUTCHINSON: A division is requested. Is the demand for a division supported? The demand for division is supported. Division is ordered. On the amendment to the amendment, all those in favor will vote aye, those opposed will vote no. This is not a record roll call. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the amendment to the amendment offered by Messrs. Nord and Faxon, the yeas are 36; the nays are 73.

CHAIRMAN HUTCHINSON: The amendment to the amendment is not adopted. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I have listened in the last few moments here to a discussion. I did not believe that either one of the proponents of this, and I do not want to question their sincerity, but I doubt very seriously if either the proponents of the first amendment or the amendment to the amendment could be real serious about either one of them.

This is a very, very serious matter that we are discussing here. I feel very strongly about this one. It is the most important issue before this convention, insofar as I am concerned. In speaking against the amendment, I would ask our delegates, on this topic particularly, to let's be serious. Let's act in a serious manner. I am not prejudiced at all. I have listened to the discussion here and the explanation with an open and unbiased mind, to what I am convinced was nothing but pure rubbish.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. McAllister.

MR. McALLISTER: Mr. Chairman and fellow delegates, I wish to advise Mr. Marshall, through the Chair, that this is strictly no joke, as far as I am concerned, and I also want to say that there is another little matter which I did not discuss when I was on the floor before, and that is a case involving Mr. Gus Scholle which is now pending in the United States supreme court, and if that case is decided favorably to Mr. Scholle, this amendment becomes much more important than it is right now, because we may have considerable problems, and this particular pattern of this amendment here is not something that is brand new. Either the house of representatives or the senate, in several states of our country, now is elected on this basis. So there is nothing here that is new, nothing that is novel, but it is a definite protection against an adverse decision or a decision in favor of Mr. Scholle, in the case pending in the Supreme Court of the United States. It is my contention that if Mr. Marshall or any of the other delegates here who have spoken about a civil rights commission or about civil rights are really sincere, that this amendment will provide more civil rights for the people of Michigan than anything that is now in the constitution or anything that may be placed in the constitution, because these people will be represented in Lansing on an individual county basis. So I again urge that you support this amendment.

CHAIRMAN HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I just want to briefly make it clear to Delegate McAllister that I was not questioning his sincerity, as such. I doubted whether in any of the previous discussions we were real serious about it. But I should probably be supporting this amendment instead of opposing it, because if there is anything that the court would upset about this apportionment that comes out of this convention, it would be this one, and I might also say to Delegate McAllister that, when you refer to Mr. Scholle as Mr. Scholle, his horns come out. (laughter)

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Madar.

MR. MADAR: I just wanted to bring out one thing and that is this: I wanted Mr. McAllister to know something about our taxes, apparently, and the economic figures of our state. When we start figuring what representation we ought to get by taxes paid to the state, I'd like to remind him that Huron county paid $1,456,410.87 for the years '60-'61. Wayne county, on the other hand, paid out to the state $188,272,166.55.

Why not wipe out those other 82 senators and give them to the city of Detroit and Wayne county where they belong? We are keeping up the state. Let's give them some representation.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. McAllister and others. The yeas and nays have been ordered. This is a record roll call vote. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 14

Boothby
Butler, Mrs.
Erickson
Figy
Habermehl
Hodges
Hoxie
Leibrand
Mahinske
McAllister
Richards, J. B.
Sablich
Shanahan
Wood

Nays — 107

Allen
Andrus, Miss
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Brake
Brown, T. S.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Faxon
Finch
Follo
Ford
Gadola
Garvin
Goebel
Greene
Gust
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hood
Howes
Hubbs
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Lesinski
Madar
Marshall
Martin
McCauley
McLogan
Millard
Murphy
Nisbet
Nord
Norris
Page
Pellow
Perlich
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. McAllister and others, the yeas are 14; the nays are 107.

CHAIRMAN HUTCHINSON: The amendment is not adopted. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Mr. Nord now offers his amendment:

1. Amend page 1, line 9, by striking out all of section a.

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, this is 1 of the 3 amendments which I am offering at this time on the understanding or the assumption, I suppose I should say, that there are no further matters of debate expected to come forward on the entire Committee Proposal 80, and, as I stated earlier, the only object of offering these amendments to strike is to get a vote on the record to find out how many people favor the committee proposal and how many do not. I hope I will not be engaged in any cross examination by Mr. Elliott or any other person, and I hope that no speeches are needed. I believe we can vote on all 3, one after the other, without any debate.

CHAIRMAN HUTCHINSON: Mr. Wanger.

MR. WANGER: In case there is any doubt, Mr. Chairman, I would like to ask for the yeas and nays, and I will look with great interest to see how many people here will vote for no legislature at all.

CHAIRMAN HUTCHINSON: On this particular amendment, the yeas and nays have already been ordered. All those in favor of the amendment now offered by Mr. Nord will vote aye. All those opposed will vote no.

SECRETARY CHASE: The amendment offered by Dr. Nord, which is now pending, is to amend the body of the proposal by striking out all of section a.

CHAIRMAN HUTCHINSON: This is a record roll call vote. The question is upon the amendment. All those in favor will vote aye; those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—38

Balcer
Barthwell
Bledsoe
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Leibrand
Lesinski
Madar
Mahinske
Marshall
McCauley
Murphy
Nord
Norris
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Wilkowski
Young
Youngblood

Nays — 82

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Dr. Nord to strike out all of section a, the yeas are 38; the nays are 82.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment. Mr. Hoxie.

MR. HOXIE: Mr. Chairman, may I make an observation? I am surprised that the amendment wasn't adopted with all the criticism we have heard through these past months of our legislature.

CHAIRMAN HUTCHINSON: The secretary will read the next amendment.

SECRETARY CHASE: Mr. Nord offers the following amendment:

1. Amend page 3, line 13, by striking out all of section b.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I believe that it might be in order for me to say that perhaps Mr. Hoxie will be surprised again when the constitution is submitted to the people.

But as to the merits of the particular proposal before us, it simply invites those who are in disagreement with the committee proposal to strike it, and I believe no comment beyond that is required. Those who are not satisfied with the committee proposal as to section b are urged to vote yes.

CHAIRMAN HUTCHINSON: On the amendment Mr. Nord demands the yeas and nays. Is the demand supported? The demand is supported. The yeas and nays are ordered. The question is upon the amendment. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, I don't think Dr. Nord's statement is exactly correct. A vote no on this proposal at this stage of the proceeding is an expression that you do not want one house of the legislature based on population.

CHAIRMAN HUTCHINSON: Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 40

Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Habermehl
Hart, Miss
Hodges
Hood
Jones
Kelsey
Lesinski
Madar
Mahinske
Marshall
McAllister
McCauley
Murphy
Nord
Norris
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays — 84

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment of Dr. Nord to strike out all of section b, the yeas are 40; the nays are 84.

CHAIRMAN HUTCHINSON: The amendment is not adopted. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Mr. Nord offers an amendment, page 4, beginning on line 26, by striking out all of section c.

CHAIRMAN HUTCHINSON: On the amendment the Chair recognizes Mr. Nord.

MR. NORD: Again, Mr. Chairman, I simply repeat: those who are not satisfied with section c should vote yes, meaning they wish to strike it, and I urge those to vote yes.

CHAIRMAN HUTCHINSON: Mr. Nord demands the yeas and nays. Is the demand supported? The demand is supported. The yeas and nays are ordered. The amendment will again be read.

SECRETARY CHASE: Mr. Nord has offered an amendment:

1. Amend page 4, line 26, by striking out all of section c.

CHAIRMAN HUTCHINSON: Mr. Higgs.

MR. HIGGS: Could we have the board cleared?

CHAIRMAN HUTCHINSON: Will the delegates please clear the board? Mr. Finch.

MR. FINCH: Mr. Chairman, I don't believe we ever had section c explained as of yesterday. I was wondering if maybe it should be done for the record?

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Dr. Nord to strike section c. All those in favor will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 41

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Yeager
Young
Youngblood

Nays — 81

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Nisbet
Page
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment of Dr. Nord to strike out section c, the yeas are 41; the nays are 81.

CHAIRMAN HUTCHINSON: The amendment is not adopted. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN HUTCHINSON: If not, it will pass. Committee Proposal 80, as amended, is passed. (applause)

SECRETARY CHASE: Item 3 on the calendar, from the committee on legislative organization, by Mr. John Hannah, chairman, **Exclusion Report 2046,** A report recommending the exclusion of article V, sections 2, 3 and 4.

Following is Exclusion Report 2046 as read by the secretary, and the reasons submitted in support thereof:

The committee on legislative organization recommends that article V, sections 2, 3 and 4 of the present constitution be excluded from the new constitution.

Mr. John Hannah, chairman of the committee on legislative organization, submits the following reason in support of Exclusion Report 2046:

These sections are being eliminated because they are being covered in a new series of sections reported as Committee Proposals 79 and 80.

CHAIRMAN HUTCHINSON: The question is upon the passage of the exclusion report. All those in favor will say aye. Opposed will say no.

Exclusion Report 2046 is passed. Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, I should like to express appreciation on behalf of all the members of the committee on legislative organization for your patience and goodwill through the consideration of this very difficult problem and the understanding that you have given us in the consideration of our report. We missed our schedule a little. We hoped we might get through last evening. We actually thought we would get through by noon today. We missed it by a few hours, and for that we beg your indulgence. Thank you very much. (applause) I now move that the committee rise.

CHAIRMAN HUTCHINSON: Dr. Hannah moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a committee proposal and an exclusion report on which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 80,** A proposal pertaining to the reapportionment of the legislature: (a) the senate; (b) the house of representatives; (c) districting of territories annexed to cities and municipalities. The committee of the whole has made several amendments thereto, reports the same back with the recommendation that it do pass.

[The following are the amendments adopted by the committee of the whole:

1. Amend page 1, line 10, after "36" by striking out "nor more than 40".

2. Amend page 1, line 11, after "terms" by striking out "concurrent with the term of office of the governor.", and inserting "to be elected at the same time as the governor and serve terms concurrent with the term of office of the governor.".

3. Amend page 1, line 21, after "state's" by inserting "land".

4. Amend page 2, line 6, after "factors" by striking out all of lines 7, 8 and 9 and inserting a period.

5. Amend page 2, line 11, after "shall" by inserting "thereafter".

6. Amend page 2, line 23, after "be" by inserting "as nearly equal as possible but".

7. Amend page 3, line 3, by striking out "rectangular" and inserting "uniform in shape".]

PRESIDENT NISBET: Pursuant to rule 41, **Committee Proposal 80,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 80 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The senate shall consist of not less than 36 members, elected from single member districts for 4 year terms to be elected at the same time as the governor and serve terms concurrent with the term of office of the governor.

For the purpose of electing senators after the official publication of the results of the federal decennial census in 1970 and every 10 years thereafter, each county shall be assigned an apportionment factor according to the following formula: the percentage of the state's population as shown by the last regular federal decennial census computed to the nearest 1/100 of 1 per cent shall be multiplied by 4 and there shall be added thereto the percentage of the state's land area computed to the nearest 1/100 of 1 per cent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) First: counties with 13 or more apportionment factors shall be entitled to one senatorial district for each 13 apportionment factors.

(2) Second: the remaining counties of the state shall thereafter be arranged into senatorial districts that are compact, contiguous by land and as rectangular in shape as possible, having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible existing senatorial districts at the time of each reapportionment shall not be changed unless there shall be a failure to comply with the above standards.

(3) Third: counties entitled to 2 or more senate districts shall be further subdivided into single member districts so that the population of any district shall be as nearly equal as possible but not less than 75 per cent nor more than 125 per cent of the ratio of representation determined by dividing the population of the county by the number of senators to which it is entitled and each district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Until the reapportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution, as amended, shall remain intact except that each of the counties of Genesee, Macomb and Oakland shall be divided into 2 senatorial districts and Wayne county into 8 senatorial districts. In all counties having more than one senatorial district, the apportioning commission shall redistrict the same.

Sec. b. The house of representatives shall consist of 110 members elected for a 2 year term from single member districts apportioned on a basis of population as hereinafter provided. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than 7/10 of 1 per cent of the population of the state shall be a separate representative area. Each county having less than 7/10 of 1 per cent of the population of the state shall be combined with another county or counties to form a representative area of not less than 7/10 of 1 per cent of the population of the state. Any county which shall be isolated under the initial allocation as herein provided shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one seat.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to 2 or more representatives shall be divided into single member representative districts as follows:

(1) The ratio of representation for each representative district shall be determined by dividing the population of the representative area by the number of seats to which it is entitled. Each district within each area shall contain not less than 75 per cent nor more than 125 per cent of that area's ratio of representation.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. c. In counties having more than one representative or senatorial district, the territory annexed or merged to a municipality shall become a part of the contiguous representative or senatorial district of the municipality with which it is combined, upon the effective date of the annexation or merger: Provided however, The foregoing shall not apply to any annexation or merger across county lines.

No legislator shall be deemed to have vacated his office by virtue of the above section.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Exclusion Report 2046,** A report recommending the exclusion of article V, sections 2, 3 and 4; reports this back to the convention without amendment with a recommendation that it do pass.

PRESIDENT NISBET: The report of the committee of the whole is accepted and **Exclusion Report 2046** is referred to the committee on style and drafting.

For Exclusion Report 2046 as referred to the committee on style and drafting, see above, page 2178.

SECRETARY CHASE: That completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: **Unfinished business.**

SECRETARY CHASE: Under the postponement order of April 3, the report of the committee of the whole relative to **Committee Proposal 71,** A proposal to provide for the election, term and duties of state officers, allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. The committee proposal was reported from the committee of the whole with several amendments with the recommendation that the amendments be adopted and the proposal, as thus amended, do pass. The report was postponed until the conclusion of the reports on the committee on legislative organization from the committee of the whole.

For last previous action on the report, see above, page 2075.

PRESIDENT NISBET: The question is on concurring in the amendments adopted by the committee of the whole. The secretary will read.

SECRETARY CHASE: Amendment 1.

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will say aye. Those opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Amendment 2:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is upon concurring in the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 3:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is upon concurring in the amendment. The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. President, I move that the convention do not concur in this amendment.

PRESIDENT NISBET: Mr. Wanger, those who are opposed to the amendment will vote no. Those who are in favor will vote aye.

MR. WANGER: Mr. President, speaking to this amendment — which was adopted, as I recall, by a narrow majority of the committee during a prolonged session — in examining this language, which is on page 844 of your journal, you can see that it is primarily legislative in nature. It was supported by people who, by their own admission, were concerned with one particular profession and I suggest did not make a sufficiently detailed analysis or case even on the basis of that profession alone for including such a restriction in our constitution.

As the business of the people of the state of Michigan becomes more specialized in this modern age and as the number of recognized professions in the state becomes larger, it is going to become increasingly more important to give the legislature complete latitude with regard to the subject of licensing those professions which it is determined by policy of the state should be licensed. I suggest that putting such a provision into the constitution will impede the legislature in effectively or most effectively carrying out that policy, and, therefore, I urge you not to support this particular amendment.

PRESIDENT NISBET: The question is upon concurring in the amendment. Those in favor will vote aye. Opposed will vote no. The Chair is in doubt. Mr. Stevens.

MR. STEVENS: May I have the amendment read again, please?

PRESIDENT NISBET: The convention will be in order. The secretary will read the amendment.

SECRETARY CHASE: This is amendment 3.

[The amendment was again read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote no.

MR. KUHN: Mr. President, in order to save time I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? A sufficient number up. The yeas and nays have been demanded. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 78

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford

Finch
Follo
Ford
Goebel
Gover
Greene
Hanna, W. F.
Hannah, J. A.
Hart, Miss

McAllister
Murphy
Nisbet
Page
Perlich
Powell
Prettie
Pugsley
Radka

Bledsoe
Bonisteel
Boothby
Brake
Buback
Conklin, Mrs.
Dade
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Farnsworth
Faxon
Figy
Haskill
Hatcher, Mrs.
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Kelsey
King
Kirk, S.
Leibrand
Leppien
Lesinski
Madar
Marshall
Romney
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Stafseth
Sterrett
Stopczynski
Suzore
Thomson
Walker
White
Wilkowski
Young
Youngblood

Nays — 44

Binkowski
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Durst
Elliott, A. G.
Erickson
Everett
Gust
Habermehl
Hatch
Heideman
Higgs
Hodges
Judd, Mrs.
Karn
Kuhn
Lawrence
Martin
McCauley
McGowan, Miss
McLogan
Millard
Norris
Perras
Plank
Pollock
Rajkovich
Richards, J. B.
Sablich
Seyferth
Sleder
Spitler
Staiger
Stamm
Stevens
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
Yeager

SECRETARY CHASE: On the question of concurring in the committee amendment to page 2, line 17, the yeas are 78; the nays are 44.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Amendment 4:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 5:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on the amendment. Those in favor will vote aye. Those opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 6:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 7:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Those opposed, no.

The amendment is adopted.

SECRETARY CHASE: And amendment 8:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is upon concurring in the amendment. Those in favor will vote aye. Those opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 9:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 10:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, I would like to call for the yeas and nays, a record roll call vote.

PRESIDENT NISBET: Is the demand seconded? Sufficient number up. Mr. Downs.

MR. DOWNS: Is it in order to speak on the proposed amendment at this point?

PRESIDENT NISBET: It is.

MR. DOWNS: Mr. President, I urge that we do not concur in the amendment. This would create a constitutional highway commission which would dilute responsibility. In the committee of the whole I believe I was unusually silent on this question and would very briefly like to state the objections.

At the present time we have a highway system that has proved to be better than satisfactory, as far as the users of the highways are concerned. The legislature can change this now, if there is sufficient desire for this. The proposal we have before us would create another commission. It does not mean the governor would have the responsibility of appointing the highway commission. It would dilute the authority.

I say to those who favor an elected highway commissioner — of which I am one — this does not meet the standard of election. And to those who favor the governor appointing the highway commissioner, I say that this does not meet their demands because the governor would not appoint the highway commissioner, but rather a 4 man board and there would be a constant question as to who was the administrator, who had charge of policy, and whether deciding where a road went was a question of administration or policy. It is a built in booby trap against an efficient, productive highway system that we now have. I urge that we vote no on this and maintain our present system.

PRESIDENT NISBET: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, Delegate Downs covered most of what I would have said. I gave all of the arguments that I could think of in committee of the whole. I stated then and I reiterate now that this is the most — without a doubt — the most ridiculous proposal that has been before this convention. I cannot urge too strongly the defeat of this amendment.

How you are going to take the highway system out of politics by appointing a 4 man commission which would be at odds with each other constantly, would be haggling among themselves, would have pressure applied to the highway director to build roads in certain sections of the state, depending upon who had the most political pressure? We also, inasmuch as the commission is appointed by the governor, would have tremendous pressure to trade roads for other items. I do not understand how this came about, other than I do know that it was part of the package deal that was worked out between 2 of the prominent delegates to this convention. This may satisfy the ego of a governor or a would be governor, but I don't think we are here to try and satisfy the eccentricities of governors or would be governors. You should give this serious thought, because I think that if this amendment passes and you set up this type of monstrosity, it would be worse than a troika going in 3 different directions; that you will have driven one more nail in the coffin of this constitution.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the delegates are all familiar with this proposed amendment. It has been debated at length. We have pointed out the advantages of having a highway commissioner who has some real competence in matters of highway engineering and the possibility under this proposal of getting the best man in the country to do this job. The members of the convention are fully familiar with the manner in which local highway commissions operate and operate well. They are also familiar with the fact that Governor Williams — and I say this for the benefit of our minority friends — Governor Williams strongly recommended that this be by appointment rather than by a choice by election, and the many reasons for selecting the highway commissioner in this manner have been fully stated. This was one of the several things which the majority agreed upon as being a sound proposal, and I am sure that the delegates will, therefore, want to support it with a resounding affirmative vote.

PRESIDENT NISBET: The Chair recognizes Mr. Wood.

MR. WOOD: Mr. President, fellow delegates, I wish to suggest that we do not concur in this amendment. We now are rated number 1 in the nation as to our highway system. Is that any reason to change from an elective system to a commission? The highway commission now is a child of the legislature and should be left that way. If, at any time, we lose our standing with regard to the highway system or if, at any time, the people of Michigan should decide that in order to maintain our excellence in this field a new system is necessary, it can easily be accomplished by the legislature. By not concurring in this amendment, we leave it in the legislature where it has been for the past many years and where we have obtained top rating in the nation as to our highway system.

PRESIDENT NISBET: The Chair recognizes Mr. Figy.

MR. FIGY: Mr. President and fellow delegates, I urge you support this amendment. It was thoroughly discussed in general orders. I think there is much precedent for it, as we brought out before. Many, many departments have such a system. I think every county in the state of Michigan, county highway system, is supported under this procedure. I think it is sound. I think the board adds stability to the department rather than having all the decisions placed on one man. I, therefore, urge you to vote to concur in this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Gust.

MR. GUST: Mr. President and fellow delegates, I find myself in the uneasy and unfamiliar position of having to disagree with my friend from Morenci, Mr. Figy, and having to agree with my fellow delegates, Downs and Marshall. As a member of the committee on executive branch, I strongly urge — and it was a part of the original committee proposal — that this office be appointive. You saw fit to do otherwise with it and, as a result thereof it is now being amended in its present form. There isn't anyone who has been familiar with the highway department and roadbuilding, in general, who is enthusiastic about the present language, and I, for one, feel constrained to put on the record here that as long as you deem it unwise to have the governor appoint the highway commissioner, I strongly urge you to leave him a legislative officer, so if in the future the legislature deems it wise to change the form or mode of election, they will have the flexibility to do so.

PRESIDENT NISBET: The Chair recognizes Mr. Marshall.

MR. MARSHALL. Mr. President, before I make my remarks, and they will be brief —

MR. FIGY: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Figy.

MR. FIGY: Can a person speak more than once in general session?

PRESIDENT NISBET: They cannot. Your point of order is well taken. Mr. Marshall has already spoken once. The Chair recognizes Miss Hart.

MISS HART: Mr. President and fellow delegates, I am delighted that after 14 years the majority party is now quoting Governor Williams as an authority. This is a new and a delightful experience. The only thing is, I wish he could be quoted in context. I wish he could be quoted accurately. Governor Williams did testify for the appointment of the highway commissioner but because the spring elections at this point had not been put out of operation. He felt that spring elections were expensive and extremely difficult for those candidates who had to run in them, and this was his reason. It had nothing to do with the quality of the highway commissioner. I just want to make this very clear. I happen to know how Governor Williams feels about this and I'd be glad to take anybody on in debate on that topic.

PRESIDENT NISBET: The Chair recognizes Mr. Erickson.

MR. ERICKSON: The last constitutional convention in 1907 could not envision the highway system that we have today. They left it fragmented with the counties and townships. I envision that the highway system in a highway department in the future should have the construction of airports, their maintenance, snow removal, things of that kind; so I definitely urge the defeat of this amendment and urge that we leave it with the legislature so that we can keep up with the times.

PRESIDENT NISBET: Mr. Tubbs.

MR. TUBBS: Mr. President, this was debated fully in committee of the whole. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up. The question now is, shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails, the previous question is ordered. Those in favor of concurring in the amendment will vote aye. Those opposed will vote nay.

MR. DOWNS: Mr. President, have the yeas and nays been demanded?

PRESIDENT NISBET: They have been demanded.

MR. DOWNS: Thank you.

PRESIDENT NISBET: The yeas and nays have been demanded. This is a record roll call vote. Those in favor of concurring in the amendment will vote aye. Those opposed will vote nay. Have you all voted? Is so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 59

Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Haskill
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Leppien
Martin
Millard
Nisbet
Page
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White

Nays — 53

Allen
Austin
Balcer
Barthwell
Binkowski
Bledsoe
Greene
Gust
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Nord
Norris
Perlich
Perras
Plank
Sablich

Boothby
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford
Garvin
Hoxie
Jones
Kelsey
Kuhn
Leibrand
Lesinski
Madar
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Shanahan
Snyder
Stafseth
Stopczynski
Suzore
Walker
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the question of concurring in the amendment of the committee of the whole to add section h, the yeas are 59; the nays are 53.

PRESIDENT NISBET: The amendment is adopted. The secretary will read.

Mr. Madar.

MR. MADAR: I believe we have a right to insist that those that are in the hall vote.

PRESIDENT NISBET: It is too late, now, Mr. Madar. The vote has been announced.

MR. MADAR: They are still here.

PRESIDENT NISBET: The vote has already been announced.

MR. MADAR: Okay, if they don't have the courage.

SECRETARY CHASE: Amendment 11:

[The amendment was read by the secretary. For text, see above, page 2010.]

PRESIDENT NISBET: The question is on concurring in the amendment.

SECRETARY CHASE: Messrs. Van Dusen, J. B. Richards, John Hannah, Goebel, King, Martin and Bentley offer the following substitute amendment:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms not more than 2 of which shall expire in the same year. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have such other powers as may be provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.".

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I am sure that the delegates noted, as Mr. Chase read the Austin amendment and the proposed substitute, a considerable similarity between the 2. That similarity is intentional. I think all of the delegates will recall that the section which we are now considering was adopted in the closing hours of a long day's session which ran on well into the evening. Many amendments were made to it rather hastily and without the opportunity for detailed consideration. One of the reasons for the delay of the consideration of Committee Proposal 71 from last Friday until today was to give some opportunity for some careful consideration of this section, with the opportunity and hope of making clarifying amendments which would improve it, which would make clear its intentions.

Let me, simply, detail for you very briefly the changes which are proposed here. The Austin amendment would have created a civil rights commission consisting of 4 members, 2 from each party. The substitute proposes a commission of 8 members, not more than 4 of whom should be members of the same party. The purpose of expanding the commission is to make sure that there would be adequate opportunity for representation from a broad segment of our community and our society.

The section with respect to the duty of the commission has been changed, largely as a matter of style, to read as follows:

> It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination.

I have discussed this sentence with the proponents of the original Austin amendment and I think it is reasonably clear that there is no substantive change here. The principal change in language has been the elimination of the mention of 4 specific civil rights which were enumerated in the amendment as adopted by the committee of the whole. Those civil rights, it's clear under Committee Proposal 26 and the committee report thereon, are within the purview of the civil rights guaranteed by law in this constitution. Mentioning them again in this section would, in our opinion, be redundant. There is no intention to change, in any respect, the nature of the civil rights protected by this commission from the amendment, as adopted by the committee of the whole, to the substitute.

In the next sentence, there has been a slight style change eliminating the word "sufficient" with respect to the appropriation, which was felt might be productive of litigation. The sentence now would read, "The legislature shall provide an annual appropriation for the effective operation of the commission."

In the final paragraph, which spells out the powers of the commission, it has been made clear that the powers granted by the constitution are self executing, as in the case of the Austin amendment. Those powers have not been significantly changed. They have been somewhat clarified. It has been made clear that the powers of the commission would be exercised in accordance with the existing statutes governing the conduct of the affairs of administrative agencies; the statutes in question are the administrative code act and the administrative procedures act adopted by the legislature to guarantee due process in the conduct of the affairs of all administrative agencies of the state. These are existing statutes. No new law would be necessary. The commission is granted the powers in the constitution, and the statutes being those which are generally applied to administrative agencies would automatically apply. There are 2 particular changes, one specifying that the rulemaking power of the commission is the power to promulgate rules and regulations for its own procedures and making it clear that if the commission found it necessary to subpoena witnesses, they would have to, as all other administrative agencies do, apply to the court for the subpoena power.

Finally the last sentence, which was the so called Donnelly amendment, has been changed as a matter of style to clearly provide that nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

There is nothing in the substitute which in any way vitiates the amendment adopted by the committee of the whole. It establishes a civil rights commission. It provides for the powers of that commission. It is self executing in both of those respects. I believe it is a distinct improvement, in that it is clear, and it spells out the due process requirements attendant upon the exercise of the powers of the commission.

I would like, Mr. President, if I might, to ask Dr. John Hannah if he would comment on 2 or 3 aspects of the proposed substitute which resulted from his experience as chairman of the federal civil rights commission, particularly the limitation of the rulemaking power to the rules and regulations for the procedures of the commission, and the subpoena power, and Dr. Hannah might also want to make some comment about the increase in the size of the commission. I yield at this time, Mr. President, to Dr. Hannah.

PRESIDENT NISBET: Mr. Van Dusen yields to Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, I shall not repeat the points that Mr. Van Dusen has already covered. I was responsible, partly, at least, for the suggestion with reference to the increase in size of the members of the commission. I felt that this was important because I feel that it is important that a majority of the commission — if their work and recommendations and actions are to be accepted by most people, it is important that a majority of the members be not members of minority races or groups that are discriminated against. Just in the practicality of things, in a bipartisan commission, the probabilities are pretty good that each party would feel that it would be necessary to have at least one negro member and possibly at least one member from some other minority group. With a commission of 4, it would be possible, in fact I think it would be probable, to come up with a commission of not more than 1 or 2 representing the great bulk of the public that are not members of minority groups or groups discriminated against. I think this is a distinct improvement which makes it possible for full representation by the minority groups and at the same time the maintenance of equal or majority membership by folks that are not generally discriminated against.

The next point that Mr. Van Dusen has raised is the one that gives the commission the power to make rules, and I was a little concerned by the wording. Certainly they must make rules for their own operations. They must have an opportunity to carry on their work and to issue orders and this sort of thing. I am concerned because of some of the experiences that I have had in the civil rights commission, the federal civil rights commission. The commissioners, I am sure, here, would be generally fair and objective in operating in the public interest; but there is a tendency, always, on the part of staff people, the full time employees, to sometimes forget the public interest and they are inclined to throw their weight around, sometimes to the embarrassment of the commissioners, and the commissioners find themselves, finally, the tools of their employees. I think that the change in language here is a distinct improvement.

Then, the last one, is the subpoena power. I don't believe that it was Mr. Austin's intention — it was certainly not my intention in supporting his amendment — to frighten people by giving them the notion that this was going to be one of those commissions absolutely independent and with the unquestioned power to subpoena individuals or records. Obviously they must have the opportunity to get unwilling witnesses before them or to get before them records that are necessary for them to make judgments, but there is nothing wrong about requiring that they go through the courts. The federal civil rights commission has the subpoena power, and I am sure you appreciate that the federal bureau of investigation does not have it, the department of justice does not have it. I think we have not abused it, but I have seen opportunities where we could have abused it unless we had been very conscious of this opportunity. I think we take nothing away at all.

I think we've protected the public interest, and so on those specific changes, I concur wholeheartedly, and I have no reservations about the rest. I think this is a distinct improvement over the action that we took the other evening. At some later time, if other amendments are offered, I may have an individual opinion, but I endorse this as it appears before us.

SECRETARY CHASE: Mr. Austin and Mrs. Daisy Elliott have filed an amendment to the substitute:

1. Amend the amendment, first paragraph, second sentence, after "constitution" by inserting a comma and "including but not limited to civil rights to equal opportunity in employment, education, housing and public accommodations,".

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, I am wondering if we could defer action on this amendment until the amendment that Mr. Norris has is considered. I would like to be called upon after his amendment has been considered.

PRESIDENT NISBET: Do you care to withdraw your amendment at this time?

MR. AUSTIN: At this time; but I would like to be called on after his amendment has been considered.

SECRETARY CHASE: Mr. Norris offers the following amendment to the substitute amendment:

1. Amend the amendment, second paragraph, first sentence, after "issue" by inserting "and obtain court enforcement of"; so the language will there read:

> . . . through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue and obtain court enforcement of appropriate orders.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, fellow delegates, the general thrust of the entire problem of creating a civil rights commission in the constitution began with the touchstone of the committee report which did not have, at that juncture, a self executing provision in the constitution regarding such a commission. The general amendments that have been made since that time have been in the direction of securing a self executing commission. It is the intent of the proposed language here to implement the self executing character of the proposition we have before us. Over the weekend I spent considerable time trying to evaluate some of the language to which we had been giving deliberative care in relation to the matter before us.

If we are to create a commission which has the authority to issue appropriate orders, if there is a provision here regarding review, as there apparently is in terms of the general laws governing administrative agencies, it seems to me that the gap must be filled between the issuance of the order and the obtaining of the review by insertion of language regarding the enforcement of the order. There are, of course, by the law in relation to administrative agencies, the standards or tests of review of those who may be adversely affected by the order of the court and the order of the commission. This is a very important provision that we have before us. I urge that it be favorably considered and adopted. I think it is intrinsic to the general spirit and letter of Committee Proposal 71, section 1, as amended, and offered by Mr. Van Dusen and others.

I have some other reservations regarding some of the other sections, lines of this particular amendment, but I do think that this would comport with their intent. I don't think it is a strain or any seismic innovation against what they have in mind. I do think that it would implement it and I think that it is the general thinking of those who have professionally studied the operation of the F.E.P. law here in the state of Michigan, and its operation, and particularly in relation to 2 decisions, one involving the city of Highland Park, that such language be inserted in this formulation. I respectfully urge favorable consideration by this body of the appropriate language suggested.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, I would like it understood that I am simply making a few comments in regard to Mr. Norris' amendment, and I would still like to be called for my own amendment following the decision on this one. I agree with Mr. Norris that there is a gap that needs to be filled. If we are going to make this commission effective, we ought to make it clear that whatever orders are to be issued are enforceable in court, and I would certainly recommend that we vote yes on this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, if I might direct a question or perhaps 2 to Mr. Norris.

PRESIDENT NISBET: Mr. Norris, do you care to answer?

MR. VAN DUSEN: Mr. Norris, your amendment takes me somewhat by surprise and because there are so many cosponsors on this proposed substitute, I am in no position to take a position pro or con on it. I would like to have one point clarified, however. Is it your intention that if your amendment were adopted the commission would be automatically entitled to enforcement by a court of any of its orders merely upon the application therefor, or would it be your intention that before a court would issue an order enforcing a commission order it would have to go through a hearing at which the court would make determinations as to the factual basis for the commission order and the desirability and legality of the commission order?

MR. NORRIS: First of all, under the F.E.P. practice, as now exists, which I suspect would be a model for the operation of this commission, they would go through the voluntary procedures that they have. First a complaint is filed. There is an investigation conducted. If necessary, if there is a case in which there is probable cause, there is a hearing for the determination about the nature of the probable cause. Then an order is issued.

If there is noncompliance with the order of the commission, it would then, under this language, have the right to go to court to implement its order, and the party who would be adversely affected by the pursuit of this avenue by the commission would have a right of review, which review, according to the language which you have submitted, sir, would be in accordance with the general laws governing administrative agencies.

MR. VAN DUSEN: Mr. President, well, I don't think, Mr. Norris, you have precisely answered my question, and it is for that reason that I remain somewhat troubled by your amendment.

MR. NORRIS: I am trying.

MR. VAN DUSEN: That is, I would like, if possible, some description of the kind of proceeding which might take place in court upon the application by the commission for an order enforcing its own order.

MR. NORRIS: Well, I would prefer that the review by the court be by certiorari. But you have here a provision which says, "general laws governing administrative agencies," so that if this is an administrative agency, and you apparently are defining this commission as an administrative agency in the context of this language, then the review by the court of the order issued by the commission would be in accordance with the standards of the general laws governing administrative agencies. The only function here of the opportunity on the part of the commission to go to court would be in the event that there would be noncompliance on the part of the person to whom the order was directed, with regard to nondiscriminatory activity, and the party to whom that order was directed would have a right of review by the court.

MR. VAN DUSEN: Mr. President and Mr. Norris, I am perfectly aware of the scope of review available to a party aggrieved by an order of the commission. I am not, however, certain of the nature of the proceeding and the rights of the parties to the proceeding which might take place in the event the commission found noncompliance with one of its orders and sought to enforce compliance. My question is, what would take place in court when the commission applied for an enforcement order? I am not talking at this point about review. I am talking about an application by the commission for an enforcement of an order.

I might say, before Mr. Norris answers the question, that the reason for my difficulty on this point is that the precise point now covered by the Norris amendment was not embodied in the provision adopted by the committee of the whole and I therefore had no opportunity to review it prior to this immediate moment.

MR. NORRIS: Well, I appreciate, Mr. President, Mr. Van Dusen, the point that you raise that it was not in the original matter, but I take it that since the matter was first introduced, there has been considerable intellectual gestation on this matter in regard to all points of view with regard to it.

As a product of my concern, I have offered this proposed language. I see no difference here between any cease and desist order by any administrative tribunal being directed toward — that is, you have a complaint; you have a hearing; you have an order. The order says, cease and desist from the discriminatory activity. The party continues to engage in the activity. Then the commission has to make up its mind as to whether it wants to go to court. It goes to court and asks for the appropriate relief to be directed by the order to the people continuing the activity. The parties who are adversely affected also can come into court and say that the order was issued without compliance with the rules and regulations of the commission, or it was invalid or unconstitutional and all the normal defenses can be available to the party who is adversely affected.

I don't think that the rights of the party who would receive the order are in any way jeopardized by this particular matter. It is just that if you are going to have a self executing commission, it ought to have the right to go to court to get its order implemented. If you do not give them that right, and if the legislature here, as provided in lines 17 and 18, says, "The commission shall have such other powers as may be provided by law to carry out its purposes," and no court enforcement avenue is given to the commission, I think it is very seriously weakened. As a matter of fact, I think it is decisively weakened, so much so that I raise the question of support for it, although I commend the thinking that is involved here. I know of no other way of answering Mr. Van Dusen's question, other than what I have indicated.

I don't think this involves anything different from what you had in mind, sir, with regard to this matter. I am sure you intended that before any order of the commission took effect, which somebody adversely affected didn't want to follow, there would be a challenge in the court.

MR. VAN DUSEN: Mr. President, if I may, I don't want to protract this colloquy between Dr. Norris and myself, I would state that the difficulty which Mr. Norris and myself have had in reaching a common understanding on this is such that would impel me, at this point, to oppose the amendment. I would suggest that if it is one which Dr. Norris feels is desirable, I would be glad to give some further consideration to it with him between now and the occasion when this will again be before us on second reading. I am not completely unsympathetic toward it, but frankly, I don't have sufficient understanding of its implications, at this point, to support it, and I would only say that one of the reasons that I don't have that understanding of it at this point is because it was not a part of the amendment originally offered by Mr. Austin and adopted by the committee of the whole. Therefore, I respectfully oppose the amendment at this time.

PRESIDENT NISBET: May the Chair break in. Mr. Heideman has to catch a plane. He asks to be excused. Without objection, the excuse will be granted. There is no objection, Mr. Heideman.

SECRETARY CHASE: We have a request from 2 of the delegates to have the amendment projected on the wall. I believe you each have this particular amendment offered by Mr. Van Dusen and others — the amendment by Mr. Norris is in the process of preparation, so we can't project it.

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, my question was coincidentally along the same lines as Mr. Van Dusen's, and I would like to ask this question of Professor Norris: it would seem to me that what you are really asking is that we include the words, "and to request court enforcement of appropriate orders." Is that not so?

PRESIDENT NISBET: If you care to answer, Dr. Norris.

MR. NORRIS: I had thought of the word "obtain" in the sense of "request." I think the word "request" is perhaps more clearly expressive of the intent. If I may, I would like to revise my amendment, sir, to use the word "request" instead of "obtain."

SECRETARY CHASE: Mr. Norris revises the amendment to the substitute amendment to read as follows:

1. Amend the amendment, second paragraph, first sentence, after "issue" by inserting "and request court enforcement of".

PRESIDENT NISBET: The Chair recognizes Mr. Bledsoe.

MR. BLEDSOE: Mr. President, may I ask Mr. Van Dusen a question if he cares to answer?

PRESIDENT NISBET: Mr. Van Dusen.

MR. BLEDSOE: Mr. Van Dusen, would it not be determinable that the issue that you have raised would be governed by procedural law? Could we at this juncture indicate in this instrument just what remedy the administrative tribunal might seek of the court? As you know, we have several; one could be by a show cause, possibly certiorari, mandamus or other extraordinary writs. Is it your position that you want to know which one or either of these may be sought in the enforcement of an administrative tribunal order?

MR. VAN DUSEN: Mr. President, Mr. Bledsoe, the thing which troubles me here is that we are writing into the constitution powers which are essentially statutory in character. I am perfectly prepared to write them in, and, quite obviously, the substitute amendment which Mr. Richards and Dr. Hannah and myself and many others have offered indicates that willingness. However, whenever you write something into the constitution, it is there for a long, long time, and therefore, I am reluctant to write into the constitution anything which I do not fully understand at the time. This has been offered suddenly without any prior warning to myself. I am sympathetic to the idea of court enforcement of the orders of the commission. However, I would want to have very carefully spelled out the basis on which the commission should apply and the opportunity for a hearing which all of the parties to the proceeding might have. I think that is essentially statutory in character and, frankly, until I am persuaded otherwise I would prefer to leave the substitute in the precise form in which it is presently offered, and for that reason I continue to oppose the amendment.

MR. BLEDSOE: Mr. President, Mr. Van Dusen, wouldn't that still be determinable by the type of remedy you sought to have or relief you sought from the tribunal?

MR. VAN DUSEN: Mr. President, I think I have given all the answer to Mr. Bledsoe that I can on this. If I thought I could amplify it, I would.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I think Dr. Norris has made a contribution here. My first inclination would be to support this amendment; I am persuaded, however, that I should vote no at the moment, but I would hope that this would be pursued in connection with some of the other questions and answers that have been given here on the floor, and I think Delegate Bledsoe raised another one that has been in my mind. I had intended to say nothing at this first reading and vote in favor of this amendment. I think that the amendment has been very much improved.

As you know, I had originally felt that it was a statutory matter and should be left to the legislature, but that inasmuch as we were going to place it in the constitution, we should place it there carefully and work out the details carefully. I think most of the details have been worked out very carefully. The only area that I am concerned about is the area that Dr. Norris has raised and Delegate Bledsoe, and in this connection, between first and second reading I would like the committee that worked on this provision to also consider the question raised by Delegate Bledsoe, as to what types of orders are included in appropriate orders which the commission would seek the court to enforce, and in particular, I am thinking about the body of legislation in the civil rights area wherein money judgments are rendered, for instance. I think it should be clear and worked out. I think a contribution has been made here. My indication of voting no at this particular point is solely that I would like to see the committee work that out.

PRESIDENT NISBET: The question is on the amendment of Mr. Norris to the substitute. Those in favor will vote aye. Those opposed will vote no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Austin and Mrs. Elliott offer the —

MR. NORRIS: Am I too late, Mr. President, in asking for the yeas and nays on it?

PRESIDENT NISBET: You ask for a division, Mr. Norris?

MR. NORRIS: Yes, and roll call, if I may.

PRESIDENT NISBET: A roll call vote has been asked. Is the demand seconded? Sufficient number up. This is a roll call vote. Those in favor of the amendment of Mr. Norris to the substitute will vote aye. Those opposed to the amendment will vote nay. This is a vote on the amendment of Mr. Norris to the substitute. Those in favor of Mr. Norris' amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 38

Austin
Balcer
Binkowski
Bledsoe
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Perlich
Staiger
Stopczynski
Suzore
Wilkowski
Young
Youngblood

Nays — 77

Allen
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Goebel
Gover
Habermehl
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Norris to the substitute, the yeas are 38; the nays are 77.

PRESIDENT NISBET: The amendment is not adopted. The question is now on the substitute.

SECRETARY CHASE: Mr. Austin and Mrs. Daisy Elliott offer the following amendment to the substitute:

1. Amend the amendment, first paragraph, second sentence, after "constitution" by inserting a comma and "including but

not limited to civil rights to equal opportunity in employment, education, housing and public accommodations,".

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and members of the convention, on Thursday evening, March 29, sitting as a committee of the whole, by a very decisive vote of 74 to 43 the committee freely derived, with the delegates voting their individual consciences, an admittedly essential civil rights commission. This commission that we adopted on Thursday was a satisfactory and effective commission. It was self executing. There may have been some minor drafting defects in the provision, but we did have satisfactory agreement on the concept.

We are now asked to accept a substitute which is less effective, bearing in mind, of course, the high purposes we are seeking to accomplish. There is no need at this time to enumerate our purposes because they have been very adequately enunciated by previous speakers. In the substitute amendment, which has been submitted there are admittedly some notable changes that tend to strengthen the amendment as adopted by the committee of the whole. There are some style and drafting improvements. We have cleared up some of the ambiguities, especially with regard to the so called Donnelly amendment, and we have deleted the so called Wanger amendment. The sponsors have kept me, as well as other sponsors of the so called Austin amendment, well informed of their deliberations, and I must say at this point that I am deeply appreciative of their efforts in this behalf.

However, there are some notable weakening changes that have been made. For example, we have deleted reference to the provision for sufficient funds. We have increased the size of the commission. I don't mind admitting that originally the sponsors of the so called Austin amendment felt that the commission should have 8 members, but we were persuaded by the executive branch committee that it might be more effective to have a 4 man committee. I don't think that we need to make a great issue of whether it should be 4 members or 8 members. I think we can go along with the 8 man commission instead of the 4 because it does permit broader participation.

There are other weaknesses, though, and the one that we are most concerned about is the deletion of reference to specific fields of discrimination. These are the major fields of discrimination: employment, education, housing and public accommodations. I am a little disturbed that the sponsors of the substitute do not wish to enumerate these fields of discrimination. They do not create any new rights. They are not enumerated elsewhere in the constitution and yet the executive committee, in submitting its report on recommending that we establish a civil rights commission, did list them and inferred, not only inferred, but stated that the commission should direct its attention to all of these fields.

There is one other point which I think should be made in regard to the deletion of these specific fields of discrimination, and that is that on Thursday night the committee of the whole included these fields in the amendment that it adopted at that time. There is some serious question as to how the deletion of these fields will be interpreted by the courts at this time. We are concerned also that the powers of the commission have been reduced. We have now stated that the powers are in accordance with general laws governing administrative agencies, and they are certainly more vulnerable to legislative adjustment. Despite the fact that the weakening changes in the substitute amendment are numerous, I shall not at this time, on behalf of my cosponsors, seek to remove all of them. Neither shall I seek to remove the advice and consent clause which my cosponsors and I find objectionable.

It is our intention to attempt to be reasonable and practical and to approach the whole matter in a spirit of compromise. Let me remind you again that when we adjourned on March 29, we had come a long way in that we had reached agreement on an effective commission. Any changes we accept at this time that make the commission less effective and less independent than it was when the committee of the whole adopted it would, in effect, be a retreat from the commendable advance that we had made at that time. In a spirit of compromise I am going to suggest, subject, of course, to consideration of the Norris amendment, which the sponsors of the substitute have agreed ought to be subject to more study, I am going to suggest that we adopt the substitute, including these weakening changes, with one exception, and that is that we reinsert reference to the major fields of discrimination. I feel that this is a must. They do not create any new rights. They are not enumerated elsewhere in the constitution. The executive committee enumerated them in its report and the courts may construe omission as indicating that we do not intend the scope of the commission to extend to all of these major fields of discrimination. This construction is exceedingly important in view of the fact that we have already agreed that the scope of the commission's probative duties and powers should extend to all of these fields. Our deletion of this language could mean that we intend a narrowing of the scope of duties. I therefore offer this amendment to the substitute and I urge its adoption. If we do not vote for this amendment, I submit that we will have retreated from our initial position and will thereby weaken our commission. We cannot afford to do this. Mr. President and fellow delegates, I urge the adoption of this amendment and I request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen, for the record I would like to defer to Mr. Van Dusen because I think that this point should be clarified, in case we have a judicial review of this section so that it is clear that if this convention does not go on record as adopting the Austin and Elliott amendment, certainly it is not to be construed that we do not want a civil rights commission operating in those enumerated areas.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would answer Mr. Binkowski's question very clearly: I don't think that the substitute amendment intends any substantive difference in this area. I thought I made that reasonably clear in my opening remarks. The only reason for omitting the 4 enumerated areas of discrimination was that in view of the report of the committee on declaration of rights, suffrage and elections in connection with Committee Proposal 26, that committee made it very clear that among the civil rights protected by the constitution and among the civil rights, therefore, to be within the area of concern of this commission, are the matters of equal opportunity in employment, education, housing and public accommodations. If I may, in further response to Mr. Binkowski's question, I would like to just read very briefly from this report, in which the committee on declaration of rights stated:

> Several factors have impressed the committee with the advisability of incorporating an equal protection and civil rights section in the new constitution. Delegate John Hannah, who, it will be observed, is the chairman of the United States commission on civil rights, gave impressive and moving testimony before the committee upon the wisdom and necessity of such a clause to protect negroes and other minorities against discrimination in housing, employment, education and the like.

Later on in the the same report they state that "The principal, but not exclusive, areas of concern are equal opportunities in employment, education, housing, and public accommodations."

The only reason for the omission of these specific areas of discrimination from the substitute amendment now under consideration was that it would be redundant to mention them in the light of the action already taken with respect to Committee Proposal 26, and further, that it would be construed perhaps as a limitation upon the powers of the commission, which was not intended by the sponsors of the Austin amendment or by the sponsors of the substitute now before the convention.

PRESIDENT NISBET: The Chair recognizes Mrs. Hatcher.

MRS. HATCHER: Mr. President, a question to Mr. Van Dusen or a comment to Mr. Van Dusen. I think, as a matter of clarification, you mentioned the report of the declaration of rights, suffrage and elections committee. I think the material that you are reading and referring to, in answer to Mr. Binkowski's question or inquiry, is in the report of the declaration of rights, suffrage and elections. It is not part of the content that we recommended to be inserted in the constitution. I believe at the time that we adopted Committee Proposal 26 into the constitution, we mentioned the question of equal protection and we mentioned civil rights, but we did not spell out the meaning of civil rights. I believe in our committee meeting we accepted the language to be inserted in the comments that the areas of civil rights would mean housing, education, public accommodations and the like. We felt that this was a strengthening feature, inasmuch as Committee Proposal 26 did not carry these explanatory areas of civil rights. I just wanted to clarify your answer. I think it adds some clarity to what you answered because a person listening to you may get the impression that we recommended that language that you just read for the constitution content, but it is not for the constitution. It is for the comment and for the committee's report.

MR. VAN DUSEN: Mr. President, Mrs. Hatcher is entirely correct, of course. The civil rights provision of Committee Proposal 26 is, of course, a short and general one. I was reading from the report of the majority of the committee on declaration of rights, suffrage and elections in explanation of Committee Proposal 26, which will be a part of the constitution.

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President and ladies and gentlemen of the convention, having heard many of these arguments previously and with the hope that we can finish the report relative to Committee Proposal 71 tonight, I would move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded?

MR. DOWNS: I have a preferential motion.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: To move the previous question after 20 more minutes debate.

PRESIDENT NISBET: Mr. Downs, your motion is to limit debate to what?

MR. DOWNS: To 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Downs to limit debate to 20 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Debate will continue until 5:45. The Chair recognizes Mr. Pollock. Pardon me. Mr. Downs.

MR. DOWNS: No, I just wanted to get my name on the list within 20 minutes, if possible, Mr. President.

PRESIDENT NISBET: Okay, the Chair hopes you can make it. Dr. Pollock.

MR. POLLOCK: Mr. President, I merely wanted to make this observation, as the chairman of the committee on rights, suffrage and elections, that precisely this same point as Mr. Van Dusen has pointed out was thoroughly discussed in our committee. It was then thoroughly discussed on the floor of this convention in connection with the minority report which Mr. Norris prepared, and we agreed, unanimously, a little bit later, that these words were not necessary; they were not good constitutional language, and that it is nobody's intention to exclude these areas, but that it is not wise to put them in the constitution. It seems to me that we have now gone so much farther than my committee had imagined. We thought that everyone would be so satisfied and happy with the civil rights amendment that to carry it on to set up a commission and put the commission in the constitution, and now to add this very specific language, seems to me to be going so far it isn't very good constitution making. Therefore I am opposed to this amendment and I see no reason why it needs to be discussed, because precisely the same words were discussed in connection with their possible insertion into the constitutional amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: I have a question for Mr. Van Dusen.

PRESIDENT NISBET: If he cares to answer.

MR. HODGES: Mr. Van Dusen, I gather from your remarks that you would feel that this would include these fields of inquiry anyway. Wouldn't it seem, since this is the main differing point between many members and we are desiring bipartisan support, and since we are all agreed that these fields should be covered, to solve or at least arrest the fears of those that think this ought to be in, if we could get together and support the inclusion of these, if that is the intent?

MR. VAN DUSEN: Mr. President and Mr. Hodges, I feel that it is extremely important that action which is taken by this convention in this field have the broadest possible degree of support from all of the delegates to this convention. I was very grateful for the very gracious remarks of Mr. Austin with respect to the spirit in which the substitute is offered, with respect to the degree of cooperation which has gone into the drafting of this substitute. The inclusion of the matter covered by the amendment offered by Mr. Austin does appear to be a point of difference.

I, personally, as I have stated in response to Mr. Binkowski's question, believe, and I believe all of the delegates believe, because it is stated in the majority report supporting Committee Proposal 26, that these enumerated areas are clearly covered by the scope of the work of the commission. I do not believe it is necessary to include them. I think that if they are not included we will have a broad degree of support for the substitute. I hope that all of the delegates will vote for it.

MR. HODGES: Well, my only comment would be, then, from Mr. Van Dusen's remarks, that we are obviously agreed that these areas of endeavor should be considered, and it would seem to me that when there is a genuine request from many members that feel that this language is necessary, and we all agree that the intent should be there, adding 5 or 6 words to the constitution would really not take away anything since it is merely going to be declaratory of what Mr. Van Dusen and the other members of this provision state that it means. If this is so, I submit that we can easily solve this difference and get on with the vote by just according to those that feel that this is necessary, the inclusion of this language.

MR. VAN DUSEN: Mr. President, if I might respond, very briefly, further to Mr. Hodges, I can say, only as Professor Pollock very ably said earlier, that there are many of us who believe these words are unnecessary.

PRESIDENT NISBET: The Chair recognizes Mr. Young.

MR. YOUNG: Mr. President, ladies and gentlemen, I think that this convention started off with high hopes based on its relatively unique bipartisan organization. Certainly those of us in the minority party had no right to expect, based on precedent and other legislative bodies, that a strict 2 to 1 relationship would abide among the officers and in the committee assignments. I think that the people of Michigan in electing delegates to the constitutional convention expected and, indeed, demanded this type of bipartisan consideration of all of the basic matters spelled out in our constitution, and it was at a point and at the point that this convention deserted the bipartisan road that we have run into trouble. It is my firm belief that when this convention arrived at a point that it was impossible to settle issues by a free exchange of ideas and debate between the 2 parties, and determined that all basic decisions would be made by deals within 1 party alone, then this convention took the road toward the eventual betrayal of the hopes of the people of this state.

Last Wednesday and Thursday we debated this matter of the civil rights commission. My hopes for some type of successful convention that had been seriously weakened by the deal, by the desertion of bipartisan consideration, were somewhat revived by the fact that we attempted to approach this civil rights commission and this matter of civil rights on a bipartisan basis and irregardless of partisan politics. But now it would seem that civil rights has been thrown into the deal and the question remains whether it shall be dealt off the bottom or the top of the deck. It is unfortunate that we should have to consider what shall happen within a civil rights commission exclusively within 1 party. It is unfortunate that the ideas of what is necessary and what is not necessary in a civil rights commission should be exclusively the property of 1 party.

I might indicate, as an aside, that those of us in this convention who are most affected by the issue of civil rights happen to be members of that party which is excluded from any consideration.

Certainly I respect Mr. Van Dusen's judgment, Dr. Pollock's judgment that it is not necessary to include this specific language, but it is my humble opinion, as one who has been a constant victim of discrimination, that this language is necessary. I campaigned as a delegate to this convention on a program of spelling out civil rights. I can tell you that almost a million negro citizens in the state of Michigan want their rights not only generally included and inferentially guaranteed in a supporting statement, they want those rights spelled out, and that is, in my opinion, what the debate before us amounts to. If it is true that there is no vitiation of the Austin amendment by the language which is before us, if it is true that there is no intent to weaken, if the committee on declaration of rights meant what they said when they refused to spell it out in the constitution, but did spell it out in supporting language, then what can the objection to spelling it out be? What is the difference between having it in the constitution and in the supporting language? I think the difference is quite clear. The rights are not spelled out and are not guaranteed in the constitution if you have to resort to supporting language. I must believe, I am forced to believe that there must be some further objection other than a style and drafting objection to the including of this specific language.

I would like to ask a minimum honesty from any of those who insist on deleting this language, just which of these specifics do you object to? Is it employment? Education? Housing? Or public accommodation? Certainly, if the fear is that in spelling out the language we will narrow the constitution, I think that is covered in the first clause on the wall which says, "including but not limited to civil rights." So it seems to me that if we are to do what we started out to do last week and take concrete and specific steps to guarantee civil rights, and if we mean, as we say in the supporting statements, that it includes the opportunities for civil rights in employment, education, housing and public accommodations, well, then, let's say what we mean in the constitution. I believe it is just that simple.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise in favor of the Austin amendment. I believe that Mr. Austin gave more than adequate reasons for that, as well as other delegates speaking about it. I would just like to comment very briefly about those who say we don't need this. I am pleased that at least those who on the floor have said we don't need this have said that these provisions are in there by implication. This I am pleased to hear. I would just call to the delegates' attention, though, that constitutions are not mere words. They are human documents reacting to the needs of the time and it has fascinated me, in studying our earlier constitutions of Michigan, as well as those of other organizations, that there is almost always in those the problem that was the deepest and most specific, spelled out even in statutory language. The reason was that those things people feel the strongest on, they feel should be written into the basic document. This problem is one that I believe our delegates and societies agree is one of the most serious, if not the greatest, challenge to America, if not to the world, and this is the reason I favor the inclusion. I do hope that when the next constitutional convention meets, the delegates will decide to delete this because it is completely unnecessary and will move on to other problems because we will have set the tone for the solution of these problems before us. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I would like to direct a question to Delegate Austin, if I may.

PRESIDENT NISBET: If he cares to answer.

MR. HIGGS: My question is this: is it your intent in inserting this language to create any civil rights or to define any civil rights beyond the civil rights presently guaranteed by law or by this constitution in other sections?

MR. AUSTIN: Mr. President, Mr. Higgs, it is not our intention to create any new rights, only to focus attention on the fields in which we have discrimination.

MR. HIGGS: Thank you. Well, Mr. President and fellow delegates, I think that we should pay particular attention to what Delegate Van Dusen has stated. Real progress in this field will only come through the broadest support, not only on the part of the delegates here assembled but upon the part of the people of the state of Michigan who will be called upon to pass upon the work we do. It will not come by partisan bickering, by appeals to prejudice in the name of civil rights, or any such emotional reasons. I urge that you vote against this because it is unnecessary. I think it may raise questions that are not intended to be raised and I think if you believe in the real sincerity of this purpose, you will oppose it.

PRESIDENT NISBET: The Chair recognizes Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President, fellow delegates, I think that all of the delegates can recall Thursday, March 29, 1962, when bipartisan delegates were communicating one wonderful half hour and issues were being resolved on the floor. They will recall that the weekly newspapers and radio stations were communicating with the delegates to confirm the news that Democrats and Republicans had finally gotten together on one of the most important issues facing our state and nation. The minority delegates, among the minority, will long remember the morning of Friday, March 30, when Delegate D. Hale Brake moved for a 5 day delay for further consideration of the report on Committee Proposal 71. A delay from action after days of debate and when delegates were ready to vote on a civil rights commission which was self executing, with teeth, and stated simply and clearly the intent and rights, the declaration of rights of all persons to opportunity including employment, housing, education and public accommodations as explicit political civil rights.

Mr. Martin, our chairman on the executive committee, stated emphatically, in the supporting reasons regarding the civil rights commission, that we may not be able to prevent discrimination in many cases but he believed that we would not evade our responsibility to do whatever is in our power to prevent it; also that the need is now and that the purpose of this committee was to take the necessary steps and declare its aims and purposes. If this was the intent, as Mr. Van Dusen and Dr. Pollock stated, concerning these provisions of including employment, housing, education, public accommodation, I fail to understand why they were not included in the constitution. This substitute offered here has tended to deviate from the proposed amendment adopted in the committee of the whole. It is decidedly weakening, is much weaker than the previous language adopted in the committee of the whole, and certainly I am surprised that Dr. Hannah would join a revision, after his forthright position taken here on this floor supporting a strong civil rights that contained these provisions which we are now asking for.

Michigan's residents have expressed a growing awareness of discrimination procedures. The question of civil rights is now an issue which is being widely discussed and much debated and has caused much concern. It is regrettable that the course of a nation or the future of the world should have to hinge on the fact that there are depressed people and there are people still under the yoke of despotism and living in a form of slavery. You wonder why this issue should be so important. Let us examine the question in the United States. We, being the personification of freedom in the world and the leader in the fight for a free people, with rights and privileges accorded to all men, have failed, in our own right, to recognize the minority groups in our backyard. Some of the delegates have said to me, what does the negro, as one minority, want? Why are they pushing so hard for these rights? We are going to give them to them but it takes a little time for these things. I guess, Mr. President, you would have to be in the position of a negro to understand what is in their hearts and souls. To ask for the rights accorded to one under our constitution is not pushing. To want equal opportunities is not being impatient. To want to be free is not wanting to impose upon a society that has been closed to you. The negro has just reached the point to know and recognize what he needs for a better way of life and is willing to fight, and if need be, die for it.

The real problem in attacking the question of segregation and discrimination is not a question that can be resolved by legislation; nor can it be resolved by force. You cannot overnight stop a tradition and a way of life, although known to be wrong, is nevertheless a situation that has been conveniently overlooked. In a free America, we cannot control the thoughts of men and women and I don't believe we would want to. We must learn to accept in our minds and hearts that this is wrong; this is not good for our nation or our people. When this point has been reached, then even partially, if not totally, the end of racial strife is near, if not finished. Mr. President, we should not hope to be accepted solely on the basis that we are Americans —

PRESIDENT NISBET: Mrs. Elliott, the Chair is sorry, the time has expired.

MR. FARNSWORTH: Mr. President, I move that the time be extended to Mrs. Elliott to complete her statement.

PRESIDENT NISBET: The question is on the motion of Mr. Farnsworth that time be extended to Mrs. Elliott to complete her statement. Those in favor will say aye. Opposed, no.

The motion prevails. You may continue.

MRS. DAISY ELLIOTT: Thank you, Mr. President and fellow delegates. Further, the negro, along with coming of age educationally, politically and socially, must become in part a self sustaining people by investing in our industry, greater participation in business and greater overall participation in governmental and community affairs. Therefore, as I stated before, we would not hope to be accepted solely on the basis that we are Americans, but we are a part of the whole and not a segment of the least. The world that we are now living in presents the challenge to all people more vividly now than ever before in history. There is no place for any nation or any people or any group that would deny the rights of free men.

Mr. President, I would like to sum up in these few words just how I think the average negro feels: the children of Israel in their exodus from Egypt into the promised land, having been lost in the wilderness for 40 years, saw in view the promised. Joseph, their leader at that time, became ill and could go no farther. Dying, he delegated to the leadership a duty. He told them that when they reached the promised land, to return and dig up his bones because free bones would never rest easy in a slave grave. This is generally the feeling of negroes today, not so much what we would accomplish for our day and time, but to delegate unto the future generations of negroes a better way of life and a greater chance to be free, and when they have reached the promised land, come back and dig up our bones, for free bones will never rest easy in a slave grave. (applause)

PRESIDENT NISBET: The time for debate has expired. The question is on the Austin-Elliott amendment. Mr. Madar.

MR. MADAR: Mr. President, I am asking for the yeas and nays, a recorded vote, and to call in all of the delegates.

PRESIDENT NISBET: The yeas and nays have been ordered. This is a record roll call vote. The question is on the Austin-Elliott amendment. Those in favor will vote aye. Those opposed will vote no. Mr. Madar.

MR. MADAR: I believe what I was asking for was a call of the convention. We want everybody in here on these votes.

PRESIDENT NISBET: Would the pages see if there are any delegates in the hall and ask them to come into the chamber. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 44

Austin
Balcer
Bentley
Binkowski
Bledsoe
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
King
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Perlich
Prettie
Romney
Sablich
Stopczynski
Suzore
Tubbs
Wilkowski
Young
Youngblood

Nays — 73

Allen
Andrus, Miss
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Staiger
Sterrett
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Austin and Mrs. Elliott, the yeas are 44; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garvin and Hood offer the following amendment to the substitute:

1. Amend the amendment, second paragraph, second sentence, at the end thereof, after "purposes.", by striking out the balance of the section.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President and delegates, this amendment, of course, as mentioned, is to strike out after "purposes," the portion which states, "Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state." I submit to the delegates, just in case you don't know, that this just happens to be a sleeper in the entire section, in this entire amendment, because it practically eliminates, as the proposer last week of this part admitted that it did, the 8 persons that you have here. It eliminates the commission because anyone can go to court and bypass the commission.

Is that wise? Is it wise to bypass the commission, and why? First, the commission investigates. If you go directly to court, there is no investigation and as a result, everyone is in court on their own. This does not mean the claimant or whoever he might be or the defendant or the respondent; it means either one of them. I imagine what would happen is this: once someone makes a complaint, there is no investigation or anything. If the other party, the other side, wants to say, "We will take this to court," that eliminates the commission and its investigatory powers, and it just might be, you know, that the person who is requesting this can afford counsel while the person whose rights have been violated cannot afford counsel. It will be one thing after another over a long period of time so that the commission may not be of any effect whatsoever, particularly when there are situations involved in which one can have a court hearing, can employ counsel and can go to further extremes and the other one cannot afford to do the same. That is what this does.

In addition to that, we notice in lines 12 and 13, the commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules, and so forth. Now, we have it. This is just a duplication. You have it in Committee Proposal 95 brought in by the judicial branch, where all administrative agencies can have their rights in court and their day in court, which should include this commission. Is this commission any different from any other? Is there any reason why you say we are establishing a commission with 18 lines, and taking it out in 2½ lines? That is what is happening here today with this amendment of Mr. Van Dusen and others.

We have gone through this Thursday and part of Friday, perhaps, and this afternoon, with all of this good wordage, 8 persons, and the commission has the power to investigate, and then on top of that provides they can do other acts under our own Committee Proposal 95, governing administrative agencies. But then we slip in here and say, "or you can take that back to your constituents which, perhaps, you already know, and you can tell them that this really doesn't mean anything because you can go directly to court and you do not have to go through the commission." Now, I am bringing that to you, so no one can say that they didn't understand that that is what this last sentence is all about — exactly that; so there will be no commission whatsoever to investigate. So if a person isn't financially able to go to court, well, in that case it is too bad, because he can't get to the commission either.

There is absolutely no way in the world, under this paragraph, a person can get to the commission unless both parties agree to go to the commission. Any person can say, either one of the parties can say, "We don't want the commission. Goodbye. I'm going directly to court." I think, as I have stated before, that the judiciary of Michigan is one of the best in the United States at this minute, meaning by that, while we are in con con here. I don't know about later, but I know it is one of the best in the United States at this time. But that isn't the point, of getting justice in court or not. The point is, you may never get to court. The person whose rights are violated may never see a court, or if he does, he will be defaulted because he cannot be properly represented, and that is a problem.

I say to you delegates, do not use all of this space, these 18 lines, to establish a commission, 8 members who have the right to investigate and other very fine language, and then put the sleeper in there, but the commission has no value; anybody can go to court and bypass the commission. I am asking you, what is the purpose of the commission? Are you establishing it for a purpose, are you establishing it for wordage? Are you establishing it so that the words can read that we did this, and then go back to your constituents and say, "Yes, we did.", or say, "Don't worry about it because you don't have to go before the commission anyway." I am asking that you adopt this amendment and at this time I will ask for the yeas and nays on a roll call vote.

PRESIDENT NISBET: The yeas and nays have been demanded. Is there a sufficient number up? Sufficient number up. The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, it is my understanding that a motion was made to move the previous question which was delayed by request of Mr. Downs for 20 minutes. I think this area is a very important area and needs full discussion. The point I would like to make is: it is now 6:00 o'clock, our adjournment time. Do we have other amendments on the secretary's desk?

PRESIDENT NISBET: There are 2 more amendments on the desk to this section and 13 to the body of the bill.

MR. HOXIE: Mr. President, in view of the fact that certainly we want to hear a full discussion, we don't want to deny anyone those rights — we do have a few minutes left, I assume, for announcements by the secretary and whatnot — I would like to move at this time we adjourn.

PRESIDENT NISBET: The question is on adjournment.

MR. MARSHALL: Point of order. Mr. Garvin, if I am correct, was still speaking and he was interrupted.

PRESIDENT NISBET: No, he had finished.

MR. MARSHALL: I am sorry.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye; those opposed, no. Just a minute. We have a few announcements.

SECRETARY CHASE: We have the following requests for leave: Mr. Stamm asks to be excused from the session of tomorrow and Tuesday's session to meet with the county board of supervisors; Mr. Dade requests leave from the Monday evening session; Mrs. Conklin asks leave from tomorrow morning's session; Mr. Shackleton from the sessions of Monday and Tuesday; and Messrs. Bentley, Ostrow, Sablich, Tweedie and Millard ask to be excused from tomorrow's session.

PRESIDENT NISBET: Without objection, they are excused.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 6:00 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Friday, April 6, 1962.]

ONE HUNDRED SIXTEENTH DAY

Friday, April 6, 1962, 9 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning is to be given by one of our own delegates, Mr. Julius Sleder.

MR. SLEDER: Our heavenly Father, we thank Thee this day for the opportunity Thou hast given us of being able to serve as a delegate to this constitutional convention. We thank Thee for the opportunity Thou hast brought before us; the opportunity of knowing and associating with dedicated men and women, dedicated to a better life, a better state and a better government for all. We ask Thy guidance to fully explore these opportunities. We ask Thy guidance to develop these opportunities. We ask Thy guidance for the fulfillment of these opportunities. We also ask Thee to guide and direct each of us, and we pray that we may be more considerate and more tolerant of each other as we proceed to debate the issues, that our end result will be acceptable, not only to the people of Michigan, but also in the sight of Thee. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. J. A. Hannah, temporarily from this morning's session; Messrs. T. S. Brown and Krolikowski, from today's session; and Mr. Baginski, indefinitely, because of illness.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Barthwell, T. S. Brown, Mrs. Butler, Mrs. Conklin, Messrs. DeVries, J. A. Hannah, Heideman, Krolikowski, Millard, Mosier, Norris, Ostrow, Rajkovich, L. W. Richards, Sablich, Stamm, Stevens and Tweedie.

Absent without leave: Messrs. G. E. Brown and Wilkowski,

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Mr. Wilkowski, Mrs. Conklin, Mr. G. E. Brown and Mr. J. A. Hannah.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 52 of that committee, reporting back to the convention **Committee Proposal 90,** A proposal pertaining to the judicial branch;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 90 as reported by the committee on style and drafting, see below under date of April 23.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 53 of that committee, reporting back to the convention **Committee Proposal 91,** A proposal pertaining to the supreme court;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 91 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 54 of that committee, reporting back to the convention **Committee Proposal 92,** A proposal pertaining to a court of appeals;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 92 as reported by the committee on style and drafting, see below under date of April 23.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 55 of that committee, reporting back to the convention **Committee Proposal 93,** A proposal pertaining to the circuit court;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 93 as reported by the committee on style and drafting, see below under date of April 23.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 56 of that committee, reporting back to the convention **Committee Proposal 94,** A proposal pertaining to the probate court;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 94 as reported by the committee on style and drafting, see below under date of April 23.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 57 of that committee, reporting back to the convention **Committee Proposal 95,** A proposal pertaining to appeals from administrative tribunals;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 95 as reported by the committee on style and drafting, see below under date of April 23.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 58 of that committee, reporting back to the convention **Committee Proposal 96,** A proposal pertaining to general and special provisions relative to the courts of the state;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 96 as reported by the committee on style and drafting, see below under date of April 23.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

[Mr. Bentley, having been previously granted leave from today's session, left the chamber.]

PRESIDENT NISBET: **Unfinished business.**

SECRETARY CHASE: Under the order of unfinished business, the president lays before the convention the report of the committee of the whole relative to **Committee Proposal 71,** on which is pending a substitute of Messrs. Van Dusen, et al, for section i, as reported by the committee of the whole, and immediately pending to this substitute is an amendment by Messrs. Garvin and Hood, which amendment reads as follows:

1. Amend the amendment, second paragraph, second sentence, at the end thereof, after "purposes.", by striking out the balance of the section.

PRESIDENT NISBET: The question is on the amendment of Mr. Garvin and Mr. Hood to the substitute. Last night when we adjourned we were discussing that amendment. Mr. Garvin, do you care to speak on the amendment?

MR. GARVIN: Mr. President and delegates, I don't know that I need to—at least, myself—go over this matter again that I went over yesterday, because I believe that I pointed out to you the fallaciousness of this last sentence in the amendment, which was to the effect that it destroys the commission, with the parent intent to destroy any effectiveness that the commission might have, and by these words, it leaves nothing, only words in the constitution, 18 lines here and using 2½ lines to destroy that which you did; creating 8 members of the commission and also giving them the authority to investigate. And, in addition to that, it is noted in line 13 that already, before this last line was put in, it is stated how they should proceed according to general laws governing administrative agencies. And Committee Proposal 95 of the judicial article definitely states how administrative agencies should operate. It is in here once, and now the last line takes it all out.

Like I stated, I believe most of you were here yesterday when this was offered, so at this time I won't go over the same thing again, only to say that if you want a civil rights commission, very good; but don't pass it with this sentence just for the purpose of saying that a civil rights commission has been enacted in the constitution and not meaning it at all. If you don't mean it, you don't mean it. But if you do mean it, you have got to take this last line out, because it gives everybody the right to bypass the commission, and 8 members will be sitting up there doing nothing. I might ask Mr. Hood if he wants to say anything. I would yield to him.

PRESIDENT NISBET: Mr. Hood, you pass? Have you finished, Mr. Garvin?

MR. GARVIN: Yes, I have finished.

PRESIDENT NISBET: The Chair recognizes Mr. Batchelor.

MR. BATCHELOR: Mr. President and fellow delegates, I wish to speak on the Garvin and Hood amendment, and speak about 2 points which I want the delegates to consider very seriously. First, we are writing a constitution for the great state of Michigan and not for a state below the Mason-Dixon line. The state of Michigan has announced on the record since 1850 its attitude towards minority groups, and especially the colored people, and we are proud of it. In writing a sound and flexible constitution, our goal should be to keep legislative language out of it. In America, we believe in a true, American way of justice; that is, you may be accused, but you are innocent until proven guilty. Also, you have the civil right of a trial by jury.

This amendment has a tendency to reverse the process. That is, you are accused by someone and are considered guilty and must prove your innocence. The abuse of this would remind us of the days of witchcraft during the colonial period of New England, and I am sure no one wants that. I believe in and practice civil rights for all citizens. Therefore, I am against this because it is more legislative and leads to the direction of reversing the process of justice.

PRESIDENT NISBET: The question is on the Garvin-Hood amendment. Mr. Ford.

MR. FORD: Mr. President, members of the convention, you may recall that when we were in committee of the whole on this subject, 2 or 3 of us attempted, on the floor, to put together some language, and a little bit of that language is in the last 2½ sentences which Mr. Garvin's amendment seeks to strike. As the language now reads, and as the intention seems to be indicated by at least one of the sponsors, I would have to oppose it.

What is happening here, when we look at it in the first instance, is that we are creating an administrative body which we hope will have the general characteristics of an administrative body and that when the legislature defines its powers, the legislature is going to be directed to do certain things, but is not going to be restricted any more than necessary. It is possible to construe this language to be a restriction on the legislature never to ever give to this administrative body original jurisdiction over any matter involving civil rights in the first instance.

There isn't anyone, I am sure, including Mr. Garvin, who would advocate an administrative remedy to the exclusion of your rights in the court, but the whole principle of administrative law is that you have a specialized tribunal that deals with special subject matter and has people especially trained to deal with that subject matter, and because they are dealing only with a certain limited area, have day to day actual knowledge of the conditions that exist. For example, let's say that we are talking about public housing in Detroit. It is conceivable that it might be wise, and the legislature might find it wise to say that anybody who is complaining about discrimination in public housing would first go to the civil rights commission. I am not suggesting that this is how it will work, but this is possible. And then if he was dissatisfied, or if the persons whom he complained against were dissatisfied, they would have the same right as they have in front of any other administrative body, to appeal from the decision or finding of the administrative tribunal.

But think of the burden that you would place in a place like Detroit, for example, if everyone who wanted to could capriciously avoid the necessity of first exhausting what the legislature thought was a valid, and in most instances, complete and adequate remedy for your problem. Imagine, if you will, if, instead of going to a board of appeals when you had a problem involving zoning, you could simply go to the court and say, I don't think I would like to go to the board of appeals because those fellows are all aware of the zoning problems of my city, and they are likely not to give me what I want, but it is possible if I could get in front of a jury I could fool them. Now, this doesn't happen. There is a well established, very solid and very sound rule of administrative law that is adhered to by our courts, that where an administrative remedy is provided, that you must first avail yourself of that remedy before you turn to the court with your problem. It doesn't say that you are stuck with the remedy that you get before the administrative tribunal, and it doesn't say that we will refuse to interfere, but it says you must first give the administrative tribunal its opportunity to make the decision. Why does it say this? For the very simple reason that if you are involved with a question of zoning or a question of civil rights or a question of civil service, or any one of these things that we are talking about being handled by an administrative body, you are involved in a field where a group of experts familiar with not only the law but also the facts involved in the entire situation can do a better job in the first instance of investigating and making the original finding.

It is for these reasons that I support the Garvin amendment. I certainly support any language that someone can come up with that would guarantee that nothing we are doing here would diminish anyone's rights. But, I would oppose any language which, on its face, appears to prevent the legislature from ever, at any time, giving this administrative body exclusive jurisdiction over any subject matter. When I am talking about exclusive, I don't mean to the exclusion of the court, I mean exclusive jurisdiction in the first instance at the initiatory stage, when you start the proceeding. There is no question in anybody's mind that you should be able to finish it ultimately, if you are dissatisfied, as far up as the United States supreme court, if that is necessary.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would simply like to say, on behalf of the sponsors of the substitute amendment, that we would oppose the amendment offered by Mr. Garvin.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President, to the secretary, is there an amendment before you by Judge Pugsley and Mr. Woolfenden?

SECRETARY CHASE: Mr. Pugsley and Mr. Woolfenden have filed an amendment:

1. Amend line 20, after "state" by changing the period to a colon and inserting "Provided however, That no proceeding is pending before the commission.".

MR. GARVIN: Now, I understand from Judge Pugsley and Mr. Woolfenden that the purpose of that is to clarify it, because many of the delegates were of the opinion that this language would amount to exactly that, but to clarify this language, I believe that is the reason they are offering the amendment. However, it isn't in order, I don't suppose, so I would accept that as part of this if either one of them wanted to discuss the matter.

PRESIDENT NISBET: Mr. Chase, has that amendment been proposed?

SECRETARY CHASE: It has been filed, Mr. President.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, I am a little confused. I understood that that amendment—and I believe Judge Pugsley likewise did—was an amendment of Mr. Garvin's to be proposed by Mr. Garvin which we agreed to cosponsor. If I am mistaken—this amendment, as I understood it, was a clarifying amendment drafted by Mr. Garvin. Judge Pugsley and I, according to my understanding, agreed to cosponsor it with him, but if that is not correct, I would withdraw my support.

MR. GARVIN: I think the result is the same. I wish to change my amendment according to the language there. You can place my name thereon as a substitute—

SECRETARY CHASE: The secretary then understands, Mr. Garvin, that you are withdrawing the present amendment and you and Judge Pugsley and Mr. Woolfenden are offering this other one.

MR. GARVIN: I am offering that other one.

PRESIDENT NISBET: The amendment is offered by Mr. Garvin, is that correct, Judge Pugsley?

MR. PUGSLEY: I wish to make my position in this matter very clear. I did have a conference with Mr. Garvin in which I suggested to him that if there was any question about a loss of jurisdiction on the part of the commission because of this provision, perhaps something should be added. I do not wish to be placed in the position of being as enthusiastic as some may be with reference to the necessity of this provision. I do believe, however, that if we are to have a provision providing for such a commission, that it would be inconsistent to raise any question about its efficiency being destroyed because there may be a concurrent remedy in a court of law. My thinking has been that the parties interested should have the option of selecting either a remedy in court or before the commission, but once they had selected that remedy they should exhaust the same before going into the other remedy.

PRESIDENT NISBET: Mr. Chase, do you have a new amendment before us now?

SECRETARY CHASE: I am trying to ascertain the status of this. I think this is due to some confusion here at the desk, perhaps. Mr. Garvin, are you now offering the amendment?

MR. GARVIN: As a substitute, and I withdraw my other amendment and offer that.

SECRETARY CHASE: Mr. Garvin, without objection, withdraws his first amendment to strike out the last sentence, and in lieu thereof, offers the following amendment:

1. Amend the amendment, at the end thereof, after "state" by changing the period to a colon and inserting "Provided however, That no proceeding is pending before the commission.".

MR. GARVIN: To repeat partially what Judge Pugsley said, the only purpose of this is so that if a person selects his remedy, he stays in that jurisdiction. If one selects the commission, good. However, if they select the court, good. But, it doesn't give the right of one party to select the court and one select the other. Whichever party starts his action, he must stay there and then not change once any petition or complaint is filed. If it is true that many of the delegates thought that that was exactly what this meant, well, it is merely for the purpose of clarification of the language, and I do repeat that in the event that is not placed in here, you are putting the commission in the position of a do nothing commission, which, as noted, has not been offered for any other commission created here.

We are talking about, perhaps, discrimination partially, and what we do have here is a discriminatory committee proposal. We have had proposals in reference to commissions, but the civil rights commission has to have something special about it. Maybe the thing of being special in this state or country is something that is not so, because being special isn't what a civil rights commission is created for. It is created to keep out the specialties. Now, why the committee decided to make this commission any different from any other commission, and why in line 13 they placed in there what a person might do according to the laws governing administrative agencies—and adding this, it is quite apparent that they didn't want a civil rights commission. So, this is to clarify, the addition of those words, any thought that anybody might have had that the last sentence, as it reads now, would have still allowed the commission to have some power. That is the purpose of this amendment and addition of words.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, you may recall that when we were in committee of the whole, I spoke on this matter. I don't care to repeat what was said at that time, but I do oppose the present amendment or any amendment that would vitiate or in any way dilute the right of a party involved in a matter of civil rights to go before the courts. I will make it very brief.

If you do that, you are in an anomalous situation. You are passing a provision to protect civil rights and at the same time would be preventing one or both parties from going to the courts of this state to protect their own civil rights. I think we have a duty in this case. I don't agree with Mr. Garvin that this isn't a little different than the ordinary administrative matter. This is a provision to protect civil rights, and at the same time they are afraid to allow any party involved to protect his own civil rights by going to the courts. This amendment should be defeated.

PRESIDENT NISBET: The Chair recognizes Reverend Dade.

MR. DADE: Mr. President, believing in the spirit of the amendment Mr. Garvin has proposed, and—am I correct that Judge Pugsley and Mr. Woolfenden have withdrawn as cosponsors?

PRESIDENT NISBET: That is correct.

MR. DADE: If Mr. Garvin has no objection, I think this hails the situation and I would like to join in cosponsoring this amendment with him.

MR. WOOLFENDEN: Mr. President, when my turn comes I would like to be heard, but I would like to at least state that I have not withdrawn my cosponsorship. I am a sponsor.

PRESIDENT NISBET: The Chair understands the amendment is sponsored now by Mr. Garvin and Mr. Woolfenden and Father Dade. Mr. Woolfenden, you have the floor.

MR. WOOLFENDEN: Mr. President and fellow delegates, yesterday, following the conclusion of the session, Mr. Garvin and Judge Pugsley and I had a conference in which—I will speak for myself; if Judge Pugsley cares to be heard, he may speak—but it was my view that Mr. Garvin misunderstood the intent of the language of the proposal as submitted by the committee.

I will state frankly and unequivocally that I favor the committee language. However I felt it was unfortunate that Mr. Garvin misinterpreted, in my view, the intent of the committee language and we agreed to try to find language that would clarify that intent. In my judgment, this language now submitted, this amendment which I have cosponsored with Mr. Garvin does not change, substantively, the intent of the committee language, but merely clarifies it, and I believe, in the light of this clarification, which should disabuse anybody's mind of any possible misinterpretation of the intent, that I earnestly request that the delegates support this clarifying clause.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, I would like to call for the yeas and nays on this, please.

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand seconded? Sufficient number is up. The yeas and nays will be ordered. The Chair recognizes Mr. Everett.

MR. EVERETT: I support the intent of Mr. Garvin's amendment and believe I can support it, but I would like to, with the permission of the Chair, ask Mr. Garvin a question.

PRESIDENT NISBET: If Mr. Garvin cares to answer it.

MR. EVERETT: Mr. Garvin, it is not your intent, is it, by this language, to prohibit an appeal to the court after the commission has acted? That is not your intent?

MR. GARVIN: Oh, no, indeed, because you still have, in line 13, that you still have the rights that any other commission would have.

MR. EVERETT: I assumed that was not your intent but I thought that the record ought to be clear that this was not your intent. All you are suggesting, then, is that once the action is started you can't jump from one side of the fence to the other; you pick your court.

MR. GARVIN: That is all.

MR. EVERETT: Mr. President, in view of that explanation, I would support Mr. Garvin's and Mr. Woolfenden's amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I wish also to rise to support the Garvin, Woolfenden, Dade amendment. I believe that this does clarify the situation and, as I understand it, the individual would really have an election of remedies. He could go before the commission or he could use his legal remedy. I think this does answer the problems that have been raised, and I, therefore, urge support of the amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Garvin and Mr. Woolfenden. Mr. Pugsley.

MR. PUGSLEY: I don't want any misunderstanding about the clarity of my position in this matter. My thinking has been this: if there is any question about the efficiency of the commission provision and any question to be raised on the provision recognizing the jurisdiction of a court of law, all doubt should be removed. I think the issue purely boils down to one of, do you want a commission with these provisions or don't you want it. I think if the provision is to stand, it should contain this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the sponsors of the substitute have attempted to confer and reach some sort of conclusion with respect to the amendment now offered by Mr. Garvin, and, frankly, we find ourselves much in the same position as we did yesterday when confronted with Mr. Norris' amendment.

The problem is one which is technical and difficult and we are unable to reach a conclusion which even a majority of our legal minds can agree upon as to exactly the effect of the Garvin amendment. But, personally, I am not at all unsympathetic to the approach, and I have great respect for Judge Pugsley's opinion on it, and for Mr. Woolfenden, and I further respect Mr. Brake's judgment, and he indicates that he sees no particular difficulty with it. On the other hand, Judge Dehnke and Mr. Hutchinson, other esteemed members of the bar, see problems in it which may or may not be there. Consequently, all I can say for the moment is, I personally intend to vote no, but without any feeling that I would not give careful consideration again to it upon second reading.

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, fellow delegates, since my name is on the sponsorship of the original substitute, I want to be perfectly clear, since Mr. Van Dusen has indicated that he is going to vote no, that I am going to vote yes.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Now that this new amendment is on the board where we can see it, I merely want to point out to you that if you vote for this amendment, you are allowing one party, by starting the proceedings before a commission, to deny the civil rights of the other party to have his right in court.

PRESIDENT NISBET: Judge Pugsley, just as a matter of record, is your name on this amendment or is it not?

MR. PUGSLEY: It is not.

PRESIDENT NISBET: The question now is on the amendment offered by Messrs. Garvin, Woolfenden and Dade. The yeas and nays have been ordered. Judge Dehnke.

MR. DEHNKE: Mr. President, only because my name has been mentioned in the discussion, I feel it necessary to state that I am opposed to this amendment, not because I am unsympathetic with its purpose, but because I think it adds nothing that is needed. It creates no new rights. I think the amendment, as it stands, without the addition of these words, will protect the rights of both parties to go to court only in those instances in which there is some specific state of facts which justifies going to court, and I am sure the courts will not entertain any actions of this kind that properly belong before the commission.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I just want to support Mr. Van Dusen's comments, that this is a question which involves, I think, some further examination, and I don't think we can decide here on the floor as to what the precise effect of this amendment is, and for that reason I am going to vote no and recommend that others do the same, but with the intention, as far as I, personally, am concerned, of examining this rather carefully in between here and second reading.

PRESIDENT NISBET: The Chair recognizes Mr. Nord.

MR. NORD: Mr. President and fellow delegates, I wish to state that I support the amendment, but I would like to state further that I believe that this language—or language of some sort equivalent to it, such as, for example, instead of the language here, "except as otherwise provided by law," at the end of the existing sentence—possibly could take care of the problem. The point I make, however, is this: there is certainly a problem in the last sentence. This is a problem that just gradually dawns on you as you read it, and it seems to me that it is a problem that does have to have some attention, and I would like the convention to be on record as indicating that they do intend to solve the problem.

The reason for the problem is simply this: in the last sentence, we put into the constitution a restriction on the legislature—at least that is the way I interpret it—that it is not permitted to do something which otherwise it would be permitted to do. As I understand the last sentence which is in the substitute, its effect is that whereas at present the legislature could, if it wishes, give exclusive jurisdiction to the commission in certain areas, selected areas, whichever areas they would select, such as, for example, employment, they could do that or they could withdraw it later, or they could give it in 2 or 3 fields, as they wish. But, I believe that under the language that we have the legislature cannot do that. It is impossible for them to make it exclusive in any area. Now, this causes a great concern in me, and, as I say, this is one that is not clear in other people's minds. I have discussed it with many other people.

Others are not as concerned, but I am, for this reason: I believe, for example, that the fair employment practices commission—I am not positive of the facts—but I believe that they have exclusive jurisdiction, at least to some extent, as provided by the legislature, and that they would lose that by this language of the last sentence.

If that is true, then it raises all kinds of questions in one's mind whether we actually take a step forward or a step backwards in this entire field of civil rights because of this last sentence. It appears to me, in any event, that this sentence certainly is chock full of problems which were not anticipated before, and we ought to be on record, when we adopt whatever we adopt in the convention, as putting some language in there to mitigate that factor. Even if we don't feel that the language we put in, or the language, let's say, as it is on the wall, is the perfect language, I believe that it is better than requiring people to vote for something where they have great concern that they can't tell, for sure, which direction the thing is going. Even though, perhaps, most people are satisfied it goes in one direction, others are afraid it goes in the other.

I believe that the idea that we should hold this for second reading could just as well be argued the other way around, that is, we could adopt the amendment on the wall and change that on second reading, and I believe that is the preferred course. I think we should adopt that language, because everyone seems to be in favor of it, nearly everyone, because they say they are sympathetic to its motives and objects. If that could be done, then it could be changed later, but the intention should be clear that we do intend to do something with the last sentence. As I say, I am fearful that the last sentence, with no change whatever, will cause a great deal of concern, and we can't tell whether we are going backwards or forwards.

PRESIDENT NISBET: The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. President, I think I share the views of Dr. Nord. There is one other element, and I mentioned it the other day in committee of the whole. Let's take the F.E.P.C. act as an example. It is a criminal statute. The person who discriminates against a person in a public place, or the owner of a public place, may be proceeded against by the public authorities criminally. But the courts have held that the person discriminated against also has an action for damages. I think I agree that this ought to be left to the legislature. I think I also agree with Dr. Nord that we might adopt this amendment and then settle it on second reading.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen, my name also has been used in this discussion. I think this is a good example of what we get into when a far reaching amendment is thrown at us on the floor without a moment's preparation for it, no committee consideration. I think I shall go along with those who think we should wait until second reading before making the change.

PRESIDENT NISBET: The Chair recognizes Mr. Dean Doty.

MR. DEAN DOTY: Mr. President and fellow delegates, here again we have an example of the layman wondering what is going to happen next. The language offered by Dr. Norris and Dr. Nord originally, before something went haywire, was good constitutional language. I intend to oppose this amendment and every other amendment that is offered on this floor.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I would like to ask Mr. Garvin a question, if I may.

PRESIDENT NISBET: If Mr. Garvin cares to answer.

MR. HIGGS: Mr. President, Mr. Garvin, it appears in the second to the last sentence that the commission would have the power to issue appropriate orders, which I would understand to include injunctions or cease and desist orders. In a court of law, once a cease and desist order is entered, the court reserves jurisdiction over the matter. I would presume the commission would reserve jurisdiction over a matter in which it had issued a cease and desist order. Would it be your thinking that as long as the commission reserved the jurisdiction, that this matter would not be removable to a court of law by the defendant?

MR. GARVIN: I didn't get the line that you were reading.

MR. HIGGS: Well, the commission has the power to issue cease and desist orders or injunctions, does it not?

MR. GARVIN: After getting permission and the proper authority from the court, yes. This committee proposal does not go as far as the right to subpoena and so forth. Before they can get any records in or get any witnesses, they would still have to go to the court to get them, to show cause why they couldn't bring them in. They could send letters to them, but if they don't appear, they have no power to make them appear without a court order.

MR. HIGGS: This would not apply to a cease and desist order would it, or would it?

MR. GARVIN: No. On anything, it necessitates—if the persons do not wish to comply, it necessitates a court order to get them, and the only place you can get a court order is in court.

MR. HIGGS: Once a cease and desist order was entered, would the commission reserve jurisdiction over the matter?

MR. GARVIN: They have no power of enforcing, as far as I can see, by this Committee Proposal 71. They do not have the power to enforce, excepting going to court to enforce their orders.

MR. HIGGS: Thank you, Mr. Garvin. I am not at all certain; I think I understand Mr. Garvin but I am not sure that we understand each other. I am not certain whether the commission issued the order or whether the court issued it pursuant to a request of the commission, but once a cease and desist or an injunction was entered, whether by the commission with court authority or not, I am not certain whether the defendant would be in a position to remove the matter to the court for the original jurisdiction, if he otherwise had a right. I am frankly getting lost in this matter. I think that I don't understand it or the direction in which it is going and I now am inclined to vote no and see what we can work out between first and second reading.

PRESIDENT NISBET: Mr. Garvin.

MR. GARVIN: Mr. President, I wanted to point out to Mr. Higgs, please, on line 14, beginning there, where the commission has the right "to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders." I think that is very clear that the commission is just about limited to an investigation and, perhaps, recommendations. They still have to go to court to get these orders, to get witnesses, to get documents, or anything that they want. They have to show to the court that they need it in order to go ahead with their matter.

PRESIDENT NISBET: Mr. Bledsoe.

MR. BLEDSOE: Mr. President and fellow delegates, I think if we should begin our thinking—and I am addressing my remarks primarily to the legal areas that have been discussed here this morning and yesterday—we will have to go back to Committee Proposal 90, which is up now and was announced here this morning, for our second reading, and it reads as follows:

> The judicial power of the state is vested exclusively in one court of justice, which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one pro-

> bate court and other courts of limited jurisdiction that the legislature may establish by a 2/3 vote of the members of each house.

Since this convention has already gone on record and this proposal is up for second reading, in my judgment the judicial power of this state, when this instrument and document is completed, is exclusively in the courts, and I think we all want it there, at least we voted for it. And anything else to the contrary, in my judgment, would be of no moment. Certainly, as long as it is here, there shouldn't be any question about where the rights of the individual are, or what tribunal has paramount jurisdiction to determine those rights.

The civil rights commission is purely an administrative tribunal, and it could not and cannot, in contemplation of what we have done here with reference to our courts, be anything else but an administrative tribunal, and not a court. I think if we keep that in our thinking with reference to this commission, I don't see how we could get too far afield in our differences as to really what we are dealing with.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly.

MISS DONNELLY: I must strongly oppose this amendment, as well as any other language that goes in this direction, for the very reason that although Mr. Bledsoe has said the judicial power is exclusively vested in the courts of this state, we are merely building up in this constitution—not in the legislature but in this constitution—a judicial body. We are going to call it quasi judicial. We are going to call it administrative. But when you put these words in, "Provided however, That no proceeding is pending before the commission," you have ousted the courts of this state from their jurisdiction on this subject matter until it has been exhausted through this administrative tribunal.

The issue to me is, what right does a citizen have and what right should he have? We come to the conclusion that the courts may not act until this body has exhausted itself, with its remedies, and done all things it wishes to do, then the court may review it. I think we have gone a very wrong direction toward rights of people, and I mean all people. To determine that they must exhaust themselves and nothing can happen in a court of this state if a proceeding is pending before this commission is to say that the courts may not act.

I think the issue is squarely in front of us, do you want the courts to have jurisdiction in this matter or don't you? I must very strongly oppose this. The reason I put the original amendment in that passed in committee of the whole was to have an immediate and direct legal or equitable remedy in the courts of this state. If a citizen has a cause of action he should be able to exercise it. If he has a defense, he should be able to exercise it. It would not have to be exhausted this way. Therefore, I oppose this amendment or any other amendment, on second reading or any other way, that would tend to vitiate any person's right to go directly to the court.

PRESIDENT NISBET: The Chair recognizes Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, I think that Delegate Bledsoe has put his finger on exactly what we ought to be considering here. Some weeks ago, by unanimous action of this convention, we put into the place that we considered to be the most inviolate part of our constitution, into the bill of rights, a strong provision guaranteeing exactly what this entire amendment would hope to do. We then spent quite a number of days setting up a court system, one of whose major functions would be to guarantee just exactly that sort of constitutional right. Now, by this amendment—and I speak of the Garvin, et al, amendment, we would apparently try to take away from these courts one of their major functions.

I would like to point out to all the delegates who feel a personal interest in this matter that the advances that have been made in this field have been made as a result of court decisions, going back quite a long way, and particularly a number of them in the last few years. Would you then give up the protection that our court system would afford to this type of constitutional right? Certainly each judge of any court in this state is sworn to uphold the constitutional provisions that we adopted several weeks back.

It seems to me that the Garvin amendment, in one way, would say that the courts would have no jurisdiction until this commission has finished its proceeding. In line 15, on the other hand, we state that this commission, in order to take any sort of effective action must go to the courts to get authorization. These 2 provisions would certainly be contradictory, for there is only one way to get before the court, and that is to bring an action to secure the authorization, and certainly the court would not act in that way alone, simply to grant the commission authority. It would retain jurisdiction over the matter. I ask each delegate here, let's place a little bit of trust in the courts of this state. Let's assume that they will uphold the constitution of this state, and will enforce constitutional provisions that we put in, particularly in the bill of rights.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think we have rather fully explored the matter. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up. The question is now: shall the previous question be put? Those in favor will say aye; opposed, no.

The motion prevails. The yeas and nays have been ordered on the amendment of Mr. Garvin and Mr. Woolfenden and Mr. Dade. Those in favor of the amendment will vote aye. Those opposed to the amendment will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—42

Austin
Balcer
Binkowski
Buback
Cudlip
Cushman, Mrs.
Dade
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Ford
Garvin
Greene
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Lesinski
Liberato
Madar
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Pugsley
Romney
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Woolfenden
Young
Youngblood

Nays—69

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Sterrett
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Garvin, Woolfenden and Dade, the yeas are 42; the nays are 69.

PRESIDENT NISBET: The amendment is not adopted. Mr. Bledsoe.

MR. BLEDSOE: Mr. President, I would like to make a statement on the record, if I may, as to my not voting. I would like to make a statement on the record. My reason for not voting is because of the lack of clarification as to the legal problem evolving around this amendment, and the exclusive jurisdiction of the courts of this commonwealth.

PRESIDENT NISBET: May the Chair make just 2 observations at this time. We are now operating in the convention and rule 24 applies, that a delegate may speak only once on an issue. That was not violated in this, although 30 different people did speak on this amendment.

The second thing the Chair would like to mention is this: the Chair appreciates the necessity of conferences on issues such as this that are very critical and crucial; there were many conferences being held in the room. A conference between 2 people is not too difficult, but when you get 3 or 4 or 5 talking, it does disturb the convention, and the Chair would hope that those conferences could be held in the hall or the anteroom so the convention could proceed and the delegates would be able to hear the speaker. The Chair really appreciates its value, but would call your attention to it.

The secretary will read the next amendment. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, before the secretary reads the next amendment, may I first apologize to the president as one of the conferees, and, second, I would like to move the previous question on any further amendments and on any substitutes to section i.

PRESIDENT NISBET: The previous question has been asked on subsequent amendments.

MR. DOWNS: Parliamentary inquiry: is there any way to indicate I would like to support Delegate Van Dusen in his motion?

PRESIDENT NISBET: Is that demand seconded? Sufficient number up. The previous question has been ordered on future amendments.

MR. FAXON: Mr. President, a preferential motion: could we at least have 5 minutes for each of those amendments so that the person who sponsored it might explain it, at least? I would move a 5 minute debate for each of the amendments.

PRESIDENT NISBET: The motion of Mr. Faxon is that a debate of 5 minutes be allowed on each of the amendments. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question now is: shall the previous question be ordered on the following amendments? Those in favor will say aye. Those opposed, no. Well, that wasn't very loud. The question is now: shall the previous question be put on future amendments and on the substitute? Mr. Wanger.

MR. WANGER: Mr. President, I move that we limit debate to 10 minutes on each of the, I believe, 2 pending amendments.

PRESIDENT NISBET: The question is on the motion of Mr. Wanger that 10 minutes' debate be allowed on the following amendments. Those in favor will say aye. Those opposed, no.

The motion does not prevail. The question now is: shall the previous question be put on the amendments?

MR. WANGER: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: Is that demand seconded? Not a sufficient number up. The question now is: shall the previous question be put on the following amendments? Those in favor will say aye. Those opposed, no.

The motion prevails. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Young offers the following amendment to the substitute for section i:

1. Amend the amendment, second paragraph, by striking out all of the first sentence and inserting "The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and submission of records, to take testimony, to issue appropriate orders, and such other powers as are necessary to carry out the purposes of this commission, except as otherwise provided by law or this constitution.".

PRESIDENT NISBET: The question is on the amendment of Mr. Young. Those in favor of the amendment will vote aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mr. Wanger offers the following amendment:

1. Amend the amendment, first paragraph, at the end thereof, after "commission.", by inserting "No member of the commission shall be eligible for election to public office during the term for which he was appointed nor for one year thereafter.".

PRESIDENT NISBET: The question is on the amendment. Mr. Wanger.

MR. WANGER: Mr. President, I ask for the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded. Not a sufficient number up. Mr. Madar.

MR. MADAR: I hope that you will at least give us time enough to look over this before you call for the yeas and nays or before you call for a vote. I don't mind having a gag rule imposed, but I would like to check it to see what it is.

PRESIDENT NISBET: The question is on the amendment by Mr. Wanger. The secretary will read the amendment.

SECRETARY CHASE: Mr. Wanger's amendment is:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: The question is on the amendment by Mr. Wanger. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mrs. Daisy Elliott, Mr. Young and Miss Hart offer the following amendment to the amendment:

1. Amend the substitute by striking out all of the language and inserting "There is hereby created a nonsalaried civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party—"

MRS. DAISY ELLIOTT: Mr. President, I would like to withdraw that amendment.

PRESIDENT NISBET: Without objection, the amendment is withdrawn.

SECRETARY CHASE: That is all of the amendments on the desk to the proposed substitute, Mr. President.

PRESIDENT NISBET: The question is now on the substitute as proposed by Mr. Van Dusen and others.

MR. VAN DUSEN: The yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. The previous question has been ordered on this substitute, Mr. Cudlip.

MR. CUDLIP: Mr. President, is there no right to speak on it? I asked for the privilege of the floor. Others did. I didn't know whether it was carried over or not. If it is in order, I wish to speak.

PRESIDENT NISBET: Under the present order, Mr. Cudlip, it is not in order. Mr. Van Dusen, did you include the substitute in your request for the previous question?

MR. VAN DUSEN: With fear and trembling, I am sorry, Mr. President, I must say I did.

PRESIDENT NISBET: The Chair thought you did. The previous question, then, has been ordered. The Chair might say in this connection that yesterday Mrs. Cushman, Mr. Cudlip and Mr. Austin had asked to speak on this subject. The only way it could be accomplished now would be by unanimous consent. Is there unanimous consent for Mrs. Cushman, Mr. Cudlip and Mr. Austin to speak on this question?

MR. YEAGER: I object.

PRESIDENT NISBET: There is objection. The previous question has been ordered.

MR. YEAGER: Could we have the amendment read, please?

MR. VAN DUSEN: Mr. President, I would move that we reconsider the action by which the previous question was ordered on the substitute.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen to reconsider the ordering of the previous question on the substitute. Those in favor will say aye. Those opposed, no.

The motion prevails.

A DELEGATE: Division.

PRESIDENT NISBET: Division has been asked. Is the demand seconded? Sufficient number up. Those in favor of reconsidering the vote on ordering the previous question on the substitute—Mr. Madar.

MR. MADAR: Mr. President, before voting, I would like to explain why I won't vote either way on this. I just don't believe in tying a gag rule onto certain groups and then letting it go for someone else. If we are going to invoke a gag rule, let's make it for everybody.

PRESIDENT NISBET: Those in favor of reconsideration of the ordering of the previous question will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and total the vote.

SECRETARY CHASE: On the motion to reconsider the ordering of the previous question, the yeas are 52; the nays are 60.

PRESIDENT NISBET: The motion to reconsider does not prevail. The question now is on the substitute. Mr. Chase will read the substitute.

SECRETARY CHASE: Following is the substitute for section i offered by Messrs. Van Dusen, J. B. Richards, John Hannah, Goebel, King, Martin and Bentley:

[The substitute for section i was read by the secretary. For text, see above, page 2182.]

PRESIDENT NISBET: The question is on the substitute offered by Mr. Van Dusen and others.

MR. AUSTIN: Mr. President, is it permissible for me to explain my vote?

PRESIDENT NISBET: You may—

MR. AUSTIN: Thank you, Mr. President.

PRESIDENT NISBET: —after the vote is taken, Mr. Austin. Those in favor of the substitute offered by Mr. Van Dusen, et al, will vote aye. Those opposed will vote nay. Mr. Ford.

MR. FORD: Mr. President, I would like to state my intention to abstain from voting and exercise the privilege of explaining my abstention.

I don't intend to vote on the substitute for the reason that it has been offered as a complete substitute for an amendment that was adopted after many perfecting amendments that took several days of debate on this floor, and is now being offered to us in a complete package form, with no opportunity for debate. It is apparent from what has been said here that several people had sought the floor to talk on this. To my recollection, none of the proponents have indicated to me and to the other delegates, in what ways the proposed substitute is superior—

MR. HOXIE: Point of information, Mr. President. Are we in the process of voting? Has the vote been announced?

PRESIDENT NISBET: No.

MR. HOXIE: I object to these remarks at this time, until after the vote.

PRESIDENT NISBET: You may make your remarks, Mr. Ford, after the vote has been announced. Mr. Hoxie is correct.

MR. FORD: Mr. President, it is my understanding of the rule that a statement of the intention to abstain must be made in advance of the taking of the vote, not after the taking of the vote.

PRESIDENT NISBET: You are stating your intention to abstain.

MR. FORD: It is my intention to abstain, because I am trying to say that I am abstaining because I don't believe we have had adequate debate on this; we are being asked to vote on it without the opportunity of having a complete comparison made on what was already adopted by the committee of the whole. I don't feel it is fair to me, as a delegate, or to the people of the state, to ask us to vote under these circumstances. For that reason, I don't feel capable of voting yea or nay on this substitute.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I wish to announce that I, too, wish to abstain because I don't feel that the people had an opportunity to fully express themselves on this subject because of the limitations.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Mr. President, I, too, wish to announce my intention to abstain because of the gag rule that has been imposed here. I do not feel that we have had an ample opportunity to delve into the workings of this thing and I could not intelligently express myself with a yes or no vote.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I feel exactly the same way about it, and I am abstaining.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, I intend to abstain. My reason is that the whole section is legislative and not constitutional.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—101

Allen
Andrus, Miss
Anspach
Austin
Balcer
Batchelor
Beaman
Binkowski
Blandford
Bonisteel
Boothby
Brake
Buback
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Howes
Hoxie
Iverson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Nisbet
Nord
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Sterrett
Stopczynski
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—9

Brown, G. E.
Hubbs
Hutchinson
Jones
Lesinski
Liberato
Shackleton
Suzore
Yeager

SECRETARY CHASE: On the adoption of the substitute to section i, the yeas are 101; the nays are 9.

PRESIDENT NISBET: The substitute is adopted. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, fellow delegates, I am fully aware that is has been difficult to bring many of the delegates to the point where they are willing or have been willing to accept the concept of an effective, self executing civil rights commission; one that will be able to accomplish our high purposes. It has been my purpose in the debates to keep the delegates constantly aware of the necessity for making the commission both self executing and effective. I have not been quite as successful as I would like to have been. There are 1 or 2 clarifying amendments that have been put over to second reading, and I am very hopeful that the delegates, in the spirit in which they have arrived to this point, will consider seriously these clarifying amendments, particularly the Norris amendment and the Garvin-Woolfenden-Dade amendment, which was precipitated by the discussion of Mr. Garvin.

I voted yes for this substitute amendment, because I believe it is an improvement over what was submitted to us in the beginning. It does not go quite far enough, but I am very hopeful that when it comes up for second reading, we will be able to adopt these clarifying amendments, and to make this provision exactly what we would like it to be. I do believe that a splendid spirit of compromise has been shown by the delegates. I believe that the people, generally, will appreciate what has been done. Thank you, Mr. President. (applause)

Following is further explanation of vote submitted by Mr. Austin:

> I am aware it has been difficult to bring many of the delegates to the point where they are willing to accept the concept of an effective, self executing civil rights commission, one that will be able to accomplish our high purposes.
>
> It has been my purpose in the debates to keep the delegates constantly aware of the necessity for including a provision for an effective commission. I confess I have not been as successful as I would prefer. We have retreated from the position we had arrived at on Thursday, March 29, when the amendment proposed by myself and a few other delegates was adopted by the committee of the whole. I am especially concerned that we have not included the major fields of discrimination in which the commission is expected to direct its probative attention: employment, education, housing and public accommodations.
>
> I have voted in the affirmative on this substitute in the same spirit of compromise in which it was derived. At the same time I wish to express the firm hope that we will give serious consideration before second reading to perfecting amendments which were introduced on the floor by Delegate Norris and by Delegates Dade and Woolfenden (precipitated by the comments of Delegate Garvin), both of which appear to be necessary to give the commission effective powers.
>
> The provision adopted by the convention does not go far enough in accomplishing our purpose, but it is a halting step in the right direction. The people of Michigan will render the final judgment when considered along with all other provisions of the new constitution.

PRESIDENT NISBET: Mr. Bledsoe.

MR. BLEDSOE: I want the record to show that I have abstained from voting on this issue, because I do not believe that there is a consensus of the convention as to the other and proposed clarifying amendments that have been suggested on the second reading, and unless and until the delegates assembled have arrived at a consensus relating to the proposed clarifying amendments suggested for the second reading, I want the record to show that I stand unalterably in favor of the action that this convention took last week on the civil rights issue, at which time I thought that a consensus had been arrived at.

Following is further explanation of abstention submitted by Mr. Bledsoe:

> On Thursday, March 29, 1962, Messrs. Austin, Barthwell, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott offered the following amendment:
>
> 1. Amend the section, after "Sec. 1.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission which shall consist of 5 persons, not more than 3 of whom shall be members of the same political party, who shall be appointed by the governor for 4 year terms. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate violations of, and to secure the protection of the civil right to employment, education, housing, public accommodations, and to such other civil rights as provided for by law and the constitution. The legislature shall provide annually sufficient funds for the effective operation of the commission.
>
> The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and the submission of records, to take testimony, to issue appropriate orders and such other powers as are necessary to carry out the purposes of this commission.".
>
> The amendment was adopted on a division vote (yeas 74; nays 43) in the committee of the whole.
>
> Over the weekend, despite the fact that the amendment had bipartisan support, for reasons better known to themselves, certain delegates performed a complete "turncoat act," the result of which leaves great doubt as to whether or not an effective civil rights commission, as acted upon today in the nature of a substitute amendment, which likewise was passed, has completely nullified the intent and purposes of the action taken on March 29, 1962, as set forth in the Austin, et al, amendment which, I repeat, represented a fine consensus of bipartisan action with a vote of 74-43.
>
> In the light of the foregoing action taken to date, it is my firm conviction that the substitute amendment, passed today, is against the best interests of the people of Michigan, and until and unless bipartisan consensus is achieved in conformity with the action taken on March 29, 1962, under the Austin, et al, amendment, on the second reading, I will be constrained to vote against the Van Dusen, et al, substitute amendment, which was passed today; at which time I neglected to vote because of its lack of clarity and effectiveness, as indicated by its proponent on the floor, which further sustains my conviction that its enactment as a part of the constitution having to do with a civil rights commission will not be in the best interests of the people of Michigan; its patent inability to carry out the purposes which it was the obvious intent to achieve, such as set forth in the Austin, et al, amendment.

PRESIDENT NISBET: The Chair calls the attention of the convention to rule 65. Mr. Austin had proceeded to explain his vote before the rule was called to the Chair's attention. Rule 65 is that any delegate is privileged to explain in writing his vote on a record roll call. The written explanation shall be included in the journal if presented to the secretary. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I desire to make such a written explanation.

Following is the explanation of vote submitted by Mr. Hutchinson:

> On Thursday, March 29, I voted in favor of the amendment first offered by Messrs. Norris and Nord and later by Mr. Boothby, which provision would have created a civil rights commission. I voted against the substitute just adopted because it is filled with legislative detail. Every one of these details serves to limit the power of the legislature in this expanding area of governmental concern, where legislative discretion should be broad.

By these details we impose rigidity where the requirements of the future demand flexibility. The convention should not do the work of the legislature for it.

PRESIDENT NISBET: Mr. Greene.

MR. GREENE: Mr. President, I desire to make such a written explanation.

Following is the explanation of abstention submitted by Mr. Greene:

I see here demonstrated a weakness very prevalent, I regret to say, in many delegates in this convention. The lack of intestinal fortitude to stand by the courage of their convictions is shown so vividly by this convention, which voted overwhelmingly in favor of the original civil rights commission proposal. I see here, not an attempt to have mind meet mind in a real effort on a total delegate level to adjust our differences. I see here but the effects of a coercive effort to have mind submit to mind on another level. And I commend the 34 with conviction opposing the original proposal standing steadfast and for their ability to persuade regardless of the method used, the less courageous to change their original position on the issue.

Here we see the success of a compromise on a moral situation, but made, in my opinion, on the definition quoted by Mr. King recently; the definition of compromise that says, "A committal to something objectionable; a prejudicial concession, a surrender as a compromise of character, right or principle."

I am at a loss to understand the unfounded fears that seem to consume especially those who, by incidence of place of abode, will probably never be threatened by or exposed to the overly blown up potential of contamination, or subjected to some arbitrary attitude that may prevail in a civil rights commission. Therefore I can only conclude that the fears are insincere, and the use of such fear producing psychosis intimates its use is but a medium of arm twisting to achieve some other insidious, selfishly cherished objective.

So by virtue of my repugnance to all that seems to be happening in a chipping away method of emasculation, I refuse to join those courageless individuals either who compromise or remain in steadfast opposition. Therefore, I abstained from voting with maledictions.

Following is explanation of vote submitted by Mrs. Daisy Elliott:

As one of the sponsors of the Austin, et al, amendment, I would like to explain my reasons for supporting the Van Dusen, et al, substitute. I am sure that my reasons stated here on the floor of this convention will help to substantiate my strong feelings on this issue.

Because the legislature has not accepted its responsibility in the area of civil rights, there can certainly be no denial of the fact that the Van Dusen substitute has taken a giant step forward in the area of civil rights.

In view of the bipartisan consideration of the efforts of Miss Hart and myself in the committee on executive branch to report this issue out of committee as a committee amendment for delegates' discussion on the floor and considering the bipartisan spirit that remained during the long discussions held here, including the added intents of Chairmen Martin and Bentley in their supporting statements on this issue, I feel that their efforts shown here and substantive matter in the Van Dusen, et al, substitute amendment merit my support and that of any member of my party.

Following is explanation of vote submitted by Mr. Yeager:

I ask the privilege of explaining my vote of no on the question of the establishment of a civil rights commission in the constitution. At the very outset let me say that, in my judgment, the establishment of such a commission is not properly a constitutional question but legislative. It has been refused enactment by the legislature even though it has been introduced each year for the past 5 years. This constitutional commission is an attempt to bypass the legislature. The commission will have most extraordinary powers. It takes on the aspect of "thought police" such as contained in the Orwell book, 1984 (big brother is watching you). It will be possible to place an individual in criminal jeopardy by a telephone call by lodging a complaint of alleged discrimination if the legislative bill is any indication. Contrary to the usual presumption that any citizen is innocent until proven guilty, in a complaint before such a commission the burden of proof rests with the citizen.

The amendment to establish such a commission was introduced through committee action without any public hearing, without any publicity, at a meeting of the committee held after such meetings had been officially discontinued by the convention. I believe the establishment of this commission is not the way to attack the problem of discrimination. I earlier supported an amendment which took the position of finding methods through education and investigation. This commission approach uses force. I do not believe the solution to this problem is force. I believe that this problem cannot be solved by a legislative approach alone. The solution must ultimately come from within people through education, understanding and effort by minorities to work from within themselves. I believe this amendment to be motivated more by politics than by sincere desire to solve the problem.

For all of these reasons I must vote no on this provision.

Following is explanation of vote submitted by Messrs. Young and Binkowski:

We voted yes on the Van Dusen substitute civil rights commission, notwithstanding the fact that, in our opinion, it falls far short of what is needed. As cosponsors of the so called Austin amendment, the record will show the Van Dusen substitute is not what we wanted and is not what we have fought for on the floor and in the committee rooms of this convention. It is regretfully, however, as far as a reluctant majority, insistent on embroiling civil rights in the partisan horsetrading of political deals, have been willing to go.

As delegates to this convention, we feel a deep responsibility to fight, on each and every issue, for what, in our opinion, is the maximum that can be won in the best interests of our constituents and the people of Michigan.

Our affirmative vote on any specific issue can in no way be construed as an endorsement of a document which we are in the process of writing. In all candor, we must declare that if we had to make an overall judgment of this constitution at this point, we would without hesitation recommend an emphatic "vote no."

PRESIDENT NISBET: The question is now on concurring in amendment 11 recommended by the committee of the whole, section i, as now substituted by the amendment just adopted. Those in favor will say aye. Opposed, no.

The amendment, as substituted, is adopted. The secretary will read.

SECRETARY CHASE: Miss Hart, Mr. Marshall and Mr. Downs now offer the following amendment to the body of Committee Proposal 71:

1. Amend page 1, line 2, after "secretary of state" by inserting a comma and "state treasurer, auditor general, highway commissioner, superintendent of public instruction"; so that the language will read:

> The governor, lieutenant governor, secretary of state, state treasurer, auditor general, highway commissioner, superintendent of public instruction, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966.

PRESIDENT NISBET: The question is on the amendment offered by Miss Hart, Mr. Marshall and Mr. Downs. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I will be very brief in my remarks as I made all of the points that could possibly be made on this subject in committee of the whole. This is an amendment that would continue to give to the electorate the right to vote on the state officials that would serve them in their state government. We in the minority, and those of us who offered the amendment, believe that the elective process brings government closer to the people. We believe that it works in the best interests of all the people. We believe that the delegates in this convention will be undermining the very principles of our American form of government if we in any way diminish the people's right to say who shall govern them.

We feel that the majority proposal is a hodgepodge that was worked out when the deal was arrived at by the majority caucus to throw a bone to the various dissident factions in order to bring unity within the majority caucus. To have a system where you continue 2 elective officials, the attorney general and the secretary of state; to give the governor the right to appoint one, the state treasurer; to have the superintendent of public instruction elected by a board of education; to have the auditor selected by the legislature; and to have the highway commissioner—and this is the most ridiculous of all—selected by a so called bipartisan highway commission; there just doesn't seem to me to be any rhyme or reason to the majority proposal.

It is obvious, by looking at the hodgepodge, that it was a deal, and a deal worked out to satisfy or an attempt to satisfy all of the dissidents within the majority caucus. I don't believe, personally, that the electorate of this state will be deceived or misled, nor do I believe that they will fall for this type of political chicanery disguised in the form of good government. I urge the delegates to give serious consideration to the amendment now before you, and that we do not take away from the electorate of this state their inherent right to a voice, at the ballot box, over who shall govern them in the state offices.

Much was said about Governor Williams' remarks about the highway commissioner in particular, that he should be appointed. I would only want to take this opportunity to point out that he was not talking about some highway commission that would be established, and at the same time, in his remarks before the committee, he raised the question of apportionment, and I think he was talking in terms of a highway commissioner being appointed by the governor with the advice and consent of a senate that was truly representative of the people. The only person who appeared before the committee on the executive branch who had served both as governor of this state and highway commissioner as well—and I am speaking of former Governor Van Wagoner—went into detail to point out what you would get into under an appointive system where pressure would be on the governor constantly to trade highways for something else. Here was an individual who had served his state both as highway commissioner and as governor, advocating and recommending that we continue the elective system.

I say that to change, and to change to this type of hodgepodge that was created here, that the burden of proof should be upon those who demand the change, and there have not been any logical, sensible reasons given as to why this convention should adopt the type of proposal that has been brought forth on the floor of this convention by the majority. I urge you again, in conclusion, because I do not want to infringe upon your time and patience and repeat what I said in committee of the whole, but I urge you to give serious consideration and adopt the amendment. Let the people continue to voice, at the ballot box, who they want to serve them in the state positions. Thank you.

PRESIDENT NISBET: The question is on the amendment.

MR. MARSHALL: And I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded?

MR. LEIBRAND: Mr. President, may the question be divided so that we may vote on these officers separately?

PRESIDENT NISBET: The Chair rules that it can be divided, and we can vote on each of them separately. The yeas and nays have been demanded, and it will be ordered. It will be a record roll call vote. Mr. Martin.

MR. MARTIN: Mr. President, members of the convention, the arguments which Mr. Marshall just recited were all recited in detail before our committee on executive branch. They have all been gone over at great length here on the floor. I think the convention is well aware of the fact that the action taken was the result of discussion among the majority of the delegates, and that they were satisfied with the action taken by the committee. For that reason, I urge that you oppose the amendments as they are voted upon under the ruling of the Chair which divides the question; that you vote no on each of these proposed amendments.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: I would like to announce my intention to abstain from some of these votes, in view of the fact that neither of the alternatives provided is satisfactory.

PRESIDENT NISBET: Thank you. Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, I am confused as to how we are doing this. We are going to vote on these officers separately, and as to all of them we have already made a decision. We are going to vote whether or not we will elect the secretary of state. What we are going to do is say yes, we are going to do what we have done. And the same thing with the attorney general. We have voted to have the board of education—

PRESIDENT NISBET: May the amendment be clarified.

SECRETARY CHASE: The language to be inserted does not affect the office of governor, lieutenant governor, secretary of state and attorney general. It is to insert the following officers: state treasurer, auditor general, highway commissioner, superintendent of public instruction. Judge Leibrand has demanded a division on those 4 offices, to be voted upon each one separately.

The question now is on the following amendment:

1. Amend page 1, line 2, after "secretary of state" by inserting a comma and "state treasurer".

MR. BRAKE: All right, let's look at those. Superintendent of public instruction; we have already put into the constitution, as far as first reading is concerned, the method of picking the superintendent of public instruction. Ought we not now to be amending that place in the proposal instead of putting 2 different provisions in the same proposal?

MR. DOWNS: Point of order.

PRESIDENT NISBET: Mr. Brake, if this should be adopted, we would have to change that section a little later. Mr. Downs.

MR. DOWNS: My point of order is whether Delegate Brake was trying to debate the issue or was raising a point of order. Your ruling clarifies that. Thank you.

PRESIDENT NISBET: The question is now on the question of the state treasurer. The yeas and nays have been demanded. Those in favor—Mr. Downs.

MR. DOWNS: Mr. President, I wish to speak in favor of the amendment as divided.

PRESIDENT NISBET: You may proceed.

MR. DOWNS: The amendment, as it is divided, would call for the election of the state treasurer. There has been much discussion in this convention whether the people should elect the officers or whether the governor should appoint them. I wish to point out that this would provide for the election of the treasurer. What it replaces is the provision that the governor would appoint the treasurer with the advice and consent of the senate.

I want to make it clear that the amendment both strengthens the people's right in the vote, and if we have the same method of convention nomination, it strengthens the governor's right to help, through the convention process, select the treasurer. The advice and consent concept, as the majority proposal now stands, and what we have before us, would weaken the governor's power and weaken the power of the people. I plead with those who want a strong governor and a responsible governor, and with those who want the people's rights guaranteed, to support this because the amendment strengthens both the governor's power, as compared to the majority proposal, and the people's power of election.

PRESIDENT NISBET: The question is upon the amendment as it applies to the state treasurer. Those in favor of the amendment will vote aye. Those opposed will vote nay. The question is on the amendment offered by Miss Hart, Mr. Marshall and Mr. Downs, as it applies to the state treasurer. Those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—40

Austin
Balcer
Binkowski
Bledsoe
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hoxie
Jones
Kelsey
Leibrand
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McGowan, Miss
Murphy
Nord
Perras
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

Nays—77

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bonisteel
Brake
Brown, G. E.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McCauley
McLogan
Nisbet
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the question of inserting the state treasurer, the yeas are 40; the nays are 77.

PRESIDENT NISBET: The amendment is not adopted.

The question now is on the following amendment:

1. Amend page 1, line 2, after "secretary of state" by inserting a comma and "auditor general".

Those in favor of the amendment as it applies to the auditor general will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—35

Austin
Balcer
Binkowski
Bledsoe
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McGowan, Miss
Murphy
Nord
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

Nays—81

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bonisteel
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McCauley
McLogan
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the amendment to insert the office of auditor general, the yeas are 35; the nays are 81.

PRESIDENT NISBET: The amendment is not adopted.

The question now is on the following amendment:

1. Amend page 1, line 2, after "secretary of state" by inserting a comma and "highway commissioner".

Mr. Martin.

MR. MARTIN: Mr. President, a point of order. I believe we voted on this specific question in committee of the whole. Are we in order in again voting on this same question?

PRESIDENT NISBET: The point of order of Mr. Martin is well taken. This was voted on and decided by amendment 8 concurred in by the convention yesterday afternoon. It is not in order at the present time in its present form.

MR. MARSHALL: Point of order, Mr. President, if I may. We voted, as I understood, on creating a highway commission. We did not vote on whether or not we are going to elect a highway commissioner, and I would like for the Chair to reconsider the decision. What we voted on was a commission. The amendment says that we will elect a highway commissioner.

PRESIDENT NISBET: Your point of order is well taken, Mr. Marshall. The Chair was in error. Mr. Martin.

MR. MARTIN: Mr. President, I should like to move the previous question.

PRESIDENT NISBET: Is the demand seconded? Sufficient number up.

MR. MARSHALL: Point of order. As a matter of clarification, Mr. President, is it permissible to move the previous question in the middle of a division? I am not sure on parliamentary procedure, and I am getting a good lesson.

MR. DOWNS: Point of order, Mr. President. Does not the offerer of the amendment get to speak on it regardless of the previous question?

PRESIDENT NISBET: No, he does not, Mr. Downs. The previous question has not been ordered at the present time. The Chair's ruling was that we can vote on this in the convention. The question now is on the election of the highway commissioner in this amendment. That is what is before us. The previous question has been demanded.

MR. MARSHALL: Mr. President, I don't question your ruling in regard to the fact that even though you are the mover of the amendment that you cannot speak after the previous question has been ordered. If the previous question has not been ordered, it is my understanding that the mover of the amendment or the person submitting the amendment can speak twice. The question that I raise is, is it proper to move the previous question in the middle of a division?

PRESIDENT NISBET: Mr. Marshall, the Chair will rule that since the division provides for consideration of 4 substantive propositions, a motion for the previous question on any of them, separately or collectively, is in order.

Your point with reference to speaking is well taken as one that was upheld the other day. You are permitted, under the rules, to make your statement, and then the question will be on ordering the previous question. You may make your statement.

Mr. Martin.

MR. MARTIN: Mr. President, point of order. Do I understand the ruling to be that Mr. Marshall and everybody else who wants to speak on this will be permitted to speak?

PRESIDENT NISBET: They will not. Mr. Marshall had the floor, Mr. Martin, and he can complete his statement. Then the question will be put as to whether the previous question shall be put.

MR. MARTIN: Mr. President, I wish to have my motion with respect to the previous question cover this item and the next item as well.

PRESIDENT NISBET: That will be taken care of at the proper time. Mr. Marshall has the floor.

MR. MARSHALL: Would I be in order, since I spoke once, to yield and let someone else speak? Well, I was trying to do the delegates a favor, was all. Would you rather hear someone else or me?

PRESIDENT NISBET: The convention will be in order during this little predicament. Mr. Marshall, you have the floor and you can yield the floor to one person.

MR. MARSHALL: Mr. President, I am not going to yield to Madar. I will yield to Delegate Hoxie.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, thank you, Mr. Marshall, this comes as a surprise.

Once in a while it is well to remind yourself of your commitments to your people. I have before me a copy of the Gratiot County Herald, Con Con Delegates Answer Herald Questions. It so happens that in this particular edition, as well as the Alma Record and the St. Louis Leader Press, each of the aspiring delegates was asked certain specific questions as to his position on the question of our elected state officials. It so happens that I had 3 primary opponents. It so happens that because of my answers the people of Gratiot county elected me to this office. Among my commitments to the people of Gratiot county, as well as the district board of supervisors that met, in which all of the delegates were there, some of them sitting in this convention, we were again asked the question regarding our position on retaining the election of our state officials. As far as I am concerned, I made a commitment to retain the election of our state officials with the exception of the auditor general and the superintendent of public instruction.

On the vote to retain the election of the state treasurer, I voted aye. I complied with my commitment to the people. On the election of the auditor general, I voted no. On the election of the highway commissioner, I intend to again fulfill my commitment to my people and vote to elect the highway commissioner, and I think each of us should remember those commitments that we made to the people back home and not be influenced by any other consideration, and that, I think, is the responsibility that we owe to our constituents.

PRESIDENT NISBET: The demand for the previous question was seconded. The previous question is demanded on the amendment for the highway commissioner and superintendent of public instruction. Mr. Mahinske.

MR. MAHINSKE: Point of order, Mr. President. This happened once before and the ruling of the Chair was, once the question is divided each division of the question becomes a separate amendment. Now, the superintendent of public instruction is not before us as a separate amendment at this point and I don't know how the previous question could be ordered on it before it is before us.

PRESIDENT NISBET: The previous question, Mr. Mahinske, can be ordered on the series as requested.

MR. MAHINSKE: Would this still cut the proponents of the amendment off from their speaking time that they are permitted to have?

PRESIDEINT NISBET: That is correct. Mr. Iverson.

MR. IVERSON: Point of order, My recollection is yesterday we did vote on this question of highway commissioner by an amendment striking out the creation of a highway commission, which, had it passed, would have automatically provided for the election of the highway commissioner by statute. I submit that we have voted on this question yesterday.

PRESIDENT NISBET: Mr. Iverson, the Chair has ruled that that vote yesterday was on the question of the highway commission. This is on the highway commissioner.

The previous question has been demanded. The question now is: shall the previous question be put? Those in favor will say aye. Those opposed no.

The motion prevails. The question now is on the election of the highway—Mr. Habermehl.

MR. HABERMEHL: Point of order, Mr. President. I think if you will refer to yesterday's journal, at the end of section h, as adopted by the committee of the whole, the last paragraph says:

> The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state highway department and shall be responsible for the execution of policy of the state highway commission.

I believe that this question—

PRESIDENT NISBET: Your statement is correct, Mr. Habermehl, but this amendment is for the election of a highway commissioner.

The question is on the election of highway commissioner. Those in favor will vote aye. Those opposed will vote nay.

MR. DOWNS: A point of information: the yeas and nays have been demanded?

PRESIDENT NISBET: The yeas and nays have been demanded. The question is on the amendment on electing the highway commissioner. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—46

Balcer
Binkowski
Bledsoe
Brown, G. E.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Ford
Garvin
Greene
Gust
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hoxie
Jones
Kelsey
Leibrand
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McGowan, Miss
Murphy
Nord
Perras
Plank
Prettie
Shanahan
Snyder
Spitler
Stafseth
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

Nays—69

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Brake
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McCauley
McLogan
Nisbet
Page
Pollock
Powell
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Staiger
Sterrett
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the amendment to insert for the election of the highway commissioner, the yeas are 46; the nays are 69.

PRESIDENT NISBET: The amendment is not adopted.

The question now is on the following amendment:

1. Amend page 1, line 2, after "secretary of state" by inserting a comma and "superintendent of public instruction".

The previous question has been ordered. Those in favor of the amendment as it applies to the superintendent of public instruction will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—33

Austin
Balcer
Binkowski
Bledsoe
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Ford
Greene
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
Murphy
Nord
Plank
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Youngblood

Nays—80

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Brake
Brown, G. E.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McCauley
McLogan
Nisbet
Page
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Sterrett
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment to insert the office of the superintendent of public instruction, the yeas are 33; the nays are 80.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Follo, King, Stamm and Sterrett offer the following amendment:

1. Amend page 3, line 17, after "consent of the" by striking out "senate" and inserting "house of representatives"; so the language will then read:

> When a single executive, other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the house of representatives, appointed by the governor and he shall serve at the pleasure of the governor.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Follo and others. The Chair recognizes Mr. Follo.

MR. FOLLO: Mr. President, you caught me unawares. I didn't realize this was coming up so soon. The delegates may remember what I said the last time about this. I thought that in view of the way in which the senate has delayed and sometimes abused the privilege—at least it seems to some of us that they have abused the privilege of the consent—and since the house is closer to what we feel is representative of the people as a whole, closer to being chosen by population, or closer to that ideal, we feel it would be better to have consent in the house rather than in the senate. I don't think I need to say any more about it than that. Perhaps Mr. King, or Mr. Stamm or Mr. Sterrett wish to add to my comments.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this was offered before. It was defeated in committee of the whole. I hope that you will vote no on it.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I would just like to support the Follo-Sterrett amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Sterrett.

MR. STERRETT: I would just like to mention, Mr. President, that I still support this amendment, without just saying nothing. I hope that it is approved by the convention.

PRESIDENT NISBET: The question is on the adoption of the amendment. Those in favor will say aye. Those opposed, no.

A DELEGATE: Division.

PRESIDENT NISBET: A division has been demanded. Is that demand seconded?

MR. MARSHALL: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—44

Austin
Balcer
Binkowski
Bledsoe
Buback
Conklin, Mrs.
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Follo
Ford
Garvin
Hart, Miss
Hodges
Hood
Jones
Kelsey
King
Lesinski
Liberato
Madar
Mahinske
Marshall
McGowan, Miss
McLogan
Murphy
Nord
Perras
Pollock
Romney
Snyder
Staiger
Sterrett
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays—72

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McCauley
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment to strike out the senate and insert the house of representatives for the advice and consent, the yeas are 44; the nays are 72.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Marshall and Miss Hart offer the following amendments to be considered together, all applying to the same subject:

1. Amend page 3, line 17, after "senate" by inserting "and house"; and in line 21, after "senate" by inserting "and house"; and on page 4, line 27, after "senate" by inserting "and house"; and on line 29, after "senate" by inserting "and house"; and on page 5, line 2, after "senate" by inserting "and house"; and in line 20, after "senate" by inserting "and house"; and in line 22, after "senate" by inserting "and house voting separately".

PRESIDENT NISBET: The question is on the amendments offered by Mr. Marshall and Miss Hart. The Chair recognizes Mr. Marshall.

MR. MARSHALL: I think the amendments are self explanatory, and it is obvious that to speak on these amendments is probably useless at this point, but I am in no position to withdraw it, so this merely requires advice and consent of both the senate and the house.

PRESIDENT NISBET: The question is on the amendment of Mr. Marshall and Miss Hart. Those in favor will say aye. Opposed will say no.

The amendment is not adopted. The next amendment, Mr. Chase.

SECRETARY CHASE: Messrs. Durst, Hatch and Brake offer the following amendment:

1. Amend page 3, line 23, after "law.", by striking out the balance of the paragraph and inserting a new paragraph to read as follows:

"No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".

PRESIDENT NISBET: The Chair recognizes Mr. Durst.

MR. DURST: Mr. President and members of the convention, this is the part of the amendment which was offered before which formerly was called the Durst-Hatch amendment. It was debated probably at length some 2 hours, at least, and we have added another distinguished cosponsor.

The part of the amendment that has been deleted is the part that refers to the governor's approval of the chief executive officer of elective boards, and all this does is limit the term of commissioners to 4 years so there would be a maximum term of newly created commissions, and strikes the provisions which, in the committee proposal, gave the governor the approval of the chief executive officer of any board or commission. I think it has been discussed at length, and everyone should, by this time, understand what it concerns. I would, at this time, like to yield to cosponsor Mr. Brake.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen, I understand that we were remiss or at least careless when this matter was before the committee of the whole, in that we did not indicate with sufficient clarity that this is a part of what we are now calling, I believe, the accommodation, the compromise agreement that has been talked about rather frequently on the floor, and that some of the delegates did not understand, as they voted, that this was part of that agreement. It is, and a very important part of that agreement. I think that I may add this: in my judgment, it is not only a part of an agreement, but it is very definitely the right policy to follow from the viewpoint of service to the people of this state.

I spoke to the merits of it when it was in the committee of the whole, and I shall not go over that ground again, but there is something I wish to add because of something I have learned since then. I gave as an illustration at that time, the department of conservation. Since that time, I have had the opportunity to talk at length with the lady who was secretary to the director of the department of conservation just before the reorganization and for several years after the reorganization. You will recall that the reorganization changed the setup from a director appointed by the governor and serving at his pleasure to the long, staggered term commission, the commission picking the director. The story she told me about the political pressure from the governor's office, and from prominent politicians of the party and officeholders outside of the governor's office would make your hair stand on end: pressure to fire experienced and competent employees and replace them by political workers; pressure to modify the policy of the commission in accordance with the wishes of politicians, including politicians in office; and little tantalizing things that perhaps we wouldn't think of. Maybe we think they are just minor but you don't know, unless you have been in the field, some of the things that they will do to you or try to do to you in positions of this kind.

You wouldn't know, for instance, I am sure, what a nice little package of enemies you make by a very simple little thing which stopped, and stopped for 12 years, the practice of carrying the IOUs of prominent people, many of them in public office, in the cash box of the state treasury. That kicked up an awful dust.

In the conservation department, you know that from time to time the conservation officers confiscate guns and other equipment of people found violating the game laws. They regularly sell that equipment. But in those early days, politicians wanted to continue the habit of getting those guns for nothing, not at a sale, and there was plenty of pressure to keep that up.

A little thing like this, a very considerable group of political brass coming to the director and saying, "We want" — not "May we please have" — "We want enough pheasants from the game farm so that we can stage a dinner." Fortunately, the director says, "I won't do it," and he didn't do it, and he didn't lose his job, although that was threatened.

That is the kind of thing that we want to get away from, certainly. And all the experience we have had in Michigan down through these years indicates that the chance of getting away from that kind of thing is better with the commission setup than it is with the direct appointment by the governor and that is what this amendment is all about.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: First, Mr. President, I want to be sure that we stick to Justice Dethmers' admonition that everything be plain, simple, understandable, and so I would like to first ask a question of Mr. Durst, and ask whether this does mean that no member shall hold office for more than 4 years at a time?

PRESIDENT NISBET: Mr. Durst.

MR. DURST: Mr. Madar, Mr. President, what this means is that commissions which presently exist either in the constitution or by law would remain as they are. All new commissions which might be created by the legislature would provide that their commissioners would hold office for 4 year terms. I see nothing here that would prevent the governor from reappointing them to another 4 year term, if he so desires.

MR. MADAR: You don't mean, then, that he would not be able to reappoint.

MR. DURST: I do not believe the amendment has that intention whatsoever.

MR. MADAR: As long as we get it on the record, that is all I wanted to get. Then, to go on, I like this idea of people coming out and showing colors. I have been castigated on several occasions because I have thrown aspersions on certain people, one party; no one has liked it. I can understand that. However, when they are deserved, I don't believe that anyone should complain, and as long as they are true, they shouldn't complain. I have heard quite a few aspersions cast this morning, and on this particular question. I didn't hear anybody casting any aspersions on any delegate here, though, whose name was in the paper not too long ago about advice given while that gentleman held office. We all were very, very gentlemanly and kept still about it, but I couldn't any longer because I notice that they started throwing aspersions on people in office, and with that I'll just keep still from here on in on this question. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Walker.

MR. WALKER: Mr. President —

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Preferential motion.

PRESIDENT NISBET: The Chair has recognized Mr. Walker, Mr. Martin, and under the ruling he is entitled to make his statement, and then the Chair will recognize you.

MR. WALKER: I am forced to agree with Mr. Brake that things surely must have been bad and real rough and corrupt in the old days, and I am most gratified to see that they have been cleaned up substantially, in fact entirely to the best of my knowledge in the last 14 years. This amendment therefore appears to me to be a matter of locking the doors after the horse has been stolen and considered unnecessary.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I think we have heard all of the arguments on this and I can only confirm what Mr. Brake has said. I move the previous question.

PRESIDENT NISBET: Is there support? There is support.

MR. DOWNS: I have a preferential motion, Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I move that additional debate be limited to 30 minutes with 15 minutes each, for and against.

PRESIDENT NISBET: On the motion of Mr. Downs that debate on this be limited to 30 minutes, 15 for and 15 against, those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of the motion will vote aye —

MR. DOWNS: Mr. President, I have another preferential motion. I move that the debate be limited to 10 minutes, with 5 minutes on each side.

PRESIDENT NISBET: Do you withdraw the first motion?

MR. DOWNS: Yes, I withdraw my first motion.

PRESIDENT NISBET: The question now is on the motion of Mr. Downs that debate be limited to 10 minutes, 5 for and 5 against. Those in favor will vote aye. Those opposed, no. The motion prevails. Mr. Gust.

MR. GUST: Mr. President, I have a preferential motion. I would like to move that the debate on Committee Proposal 71 be cut off at noon.

MR. DOWNS: Point of order, Mr. President. Did I get a ruling on my motion?

PRESIDENT NISBET: Just a moment. Mr. Gust, your motion is not in order at this time. At the conclusion of debate under Mr. Downs' motion, we will consider yours.

MR. GUST: Excuse me. I thought the results of Mr. Downs' motion had been announced.

PRESIDENT NISBET: The debate will continue on this for 10 minutes, until 11:23. Mr. Chase has a stop watch. Five minutes for proponents of it, 5 minutes against it. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I rise to oppose the amendment. I am also alarmed at this haste to cut off debate because there are some amendments here that are related to 71 that are new amendments.

This amendment before us would weaken the governor. We have heard a lot of talk about a strong governor in this convention. I think the talk about a strong governor has been only for the ears of the people and you have not carried out the intent in this convention. This would permit department heads and commission heads to thwart the will of the governor, to go in opposite directions. It certainly would not be in the interest of good government, and it would not strengthen the governor. And there is reason, also, on some of these commissions, that they should have terms, particularly on mental health, as an example, of longer than 4 years, and I oppose the amendment.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays on the amendment, and speak in opposition to it.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Mr. Downs.

MR. DOWNS: This amendment, as Mr. Marshall said, would weaken the governor. If we want a governor who is responsible for administration, he should at least have something to say about the chief executive officer of the department that is to do his administration. I, therefore, urge the defeat of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the amendment that is offered here recognizes the fact that the governor has a considerable authority over the boards and commissions by virtue of the fact that he has an appointive power with respect to those boards and commissions. In view of the fact that his term is being extended so that he will have authority to appoint, in most cases, a majority of the members of these boards and commissions during the course of his term, it is felt that this gives the governor a direct influence with respect to those boards which is adequate, and that therefore the executive director need not be subject to approval by the governor.

Now, the second portion of this relates to the fact that it is not desirable to have these terms extended further. If they are extended further, it works in the opposite direction. It takes away from the governor some influence that he may have in the appointment of the boards and commissions. So this is a balancing amendment. The amendment as it stands, therefore, will not weaken the responsibility or the authority of the governor, particularly if terms are not extended beyond their present length in the case of existing boards and commissions, and not extended further beyond 4 years, in the case of those which are created in the future.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded and ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—74

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Blandford
Bonisteel
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Haskill
Hatch
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer

Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Martin
McAllister
McLogan
Nisbet
Page
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Thomson
Tubbs
Turner
Upton
Van Dusen
White

Nays—41

Austin
Binkowski
Bledsoe
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Perras
Pollock
Snyder
Sterrett
Stopczynski
Suzore
Walker
Wanger
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Messrs. Durst, Hatch, and Brake, the yeas are 74; the nays are 41.

PRESIDENT NISBET: The amendment is adopted. Mr. Gust.

MR. GUST: Mr. President, am I in order now to make a preferential motion, since the last preferential motion had only to do with the amendment then before the convention? I would like to move that debate on Committee Proposal 71 and all pending amendments thereto, terminate promptly at noon today. I would like to say in support of this motion that all of the amendments that are on the secretary's desk have been debated at length in committee of the whole. Everybody in this room knows exactly where they stand on them and it shouldn't take more than the remaining 40 minutes to vote on these pending amendments.

PRESIDENT NISBET: The question is on the motion of Mr. Gust. Mr. Marshall.

MR. MARSHALL: Mr. President, I don't know that all of the amendments that are on the desk of the secretary were offered and debated in committee of the whole. I don't know. Maybe Delegate Gust has some information that I don't have. I think it has been obvious that we have not today tried to delay this, nor have we made long winded talks on getting these recorded roll call votes. I have told many of the delegates in this convention I did not intend to do that, that I had had my say in committee of the whole, but I oppose this move to cut off debate not knowing—because I don't intend to spend time and I have not spent time this morning on those things that we debated in committee of the whole, but if there are amendments on the secretary's desk that were not offered in committee of the whole and that we did not have time to debate, then I think it is ill advised to move to cut off debate at this point at a given time, and I would like Delegate Gust to consider that.

MR. GUST: I have considered it, Mr. Marshall. I do disagree with you, in all sincerity. But I would like to raise a point of order, Mr. President. Is this preferential motion debatable?

PRESIDENT NISBET: The Chair thinks it is because you have set a definite time.

MR. MARSHALL: May I ask Delegate Gust a question?

PRESIDENT NISBET: Yes.

MR. MARSHALL: Is it your intention, Delegate Gust, to decide these decisions in the Republican caucus, bring them on the floor of this convention and deny the minority delegation here an opportunity to discuss them on the floor of this convention?

MR. GUST: Mr. Marshall, you are one of the most astute politicians in this room, and you know, very well, that that isn't the case and I have no such intention.

PRESIDENT NISBET: The Chair recognizes—pardon me, Mr. Marshall. Are you finished?

MR. MARSHALL: For the moment.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: I wonder if we could have this understanding: I have looked over all the amendments that I know of which are pending, copies of which have been sent to me from the secretary's desk, and as far as I can see, they are all amendments which I believe the committee would oppose. I would suggest, perhaps, that if Mr. Gust would withdraw his motion, we may be able to dispose of these—I believe we can—by 12:00 o'clock. If not, I would make such a motion at 12:00 o'clock, that at that point we simply vote on them without further debate.

PRESIDENT NISBET: Mr. Gust.

MR. GUST: With the understanding of my committee chairman that he will do that at noon, I will withdraw my motion.

PRESIDENT NISBET: The motion is withdrawn. The secretary will read the next amendment. Mr. Marshall.

MR. MARSHALL: Mr. President, I just want to make one point that I have made before, repeatedly, and I hope that I don't have to make it any more: if our distinguished and esteemed delegate from Grand Rapids, my fellow Rhodes scholar—you know, I happen to be a "Rhodes scholar," too, only it is spelled r-o-a-d-s, I drove a bus on all the roads in Michigan—but anyway, when he is referring to the committee, I would ask him to say, "The majority members of the committee." Thank you.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Mr. Hodges offers the following amendment:

1. Amend page 1, line 10, after "Sec. a.", by striking out the first paragraph; and on page 3, line 16, by striking out "he shall be nominated and, by and with the advice and consent of the senate,"; and after section g, by striking out all of section h.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. President, the intent and purpose of this, of course, is to give you an all appointed administrative board with the sole responsibility to the governor to select his administrative board and to replace them at his pleasure.

MR. MARTIN: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The amendment with respect to section h, I think, is out of order. We have already voted on that, both in committee of the whole and subsequently. I believe that is out of order.

PRESIDENT NISBET: Your point of order is well taken on section h. Mr. Hodges may continue on the part of his amendment which reads as follows:

1. Amend page 1, line 10, after "Sec. a.", by striking out the first paragraph; and on page 3, line 16, by striking out "he shall be nominated and, by and with the advice and consent of the senate,".

MR. MARSHALL: May I make a parliamentary inquiry?

PRESIDENT NISBET: You may, Mr. Marshall.

MR. MARSHALL: Delegate Martin stated that he had a copy of all the amendments to Committee Proposal 71. Do you think it would be asking too much if the distinguished and esteemed second vice chairman of the committee could have a copy also?

MR. MARTIN: Mr. President, I will share my copies with Mr. Marshall. They are available.

PRESIDENT NISBET: Thank you. Mr. Hodges, you may proceed.

MR. HODGES: I would like, as a point of clarification, Mr. President—I offer this not as a series of amendments, but as an overall proposition and it would seem that, in light of the other parts of the amendment, that it would be, in my estimation, in order.

PRESIDENT NISBET: The first 2 parts of your amendment are in order. The third part is not in order. Would you please proceed on the other 2?

MR. HODGES: Mr. President and fellow delegates, I came here with the conviction that the state administrative board officials—the treasurer, the secretary of state, the highway commissioner and so on—should be elected by the people, and that gave authority to the governor, through the party convention, to select his body and do the kind of job that we think should be done. However, there have been many arguments made and many groups dedicated to the appointment of the state ad board.

I did not personally agree with this, but it seems to me if I have to choose between an elected ad board and the type of Rube Goldberg situation that we have at the present time, that I would prefer an appointive ad board which would give authority to the governor, which would make it plain that he is the sole executive, and therefore, I submit that those of you who came here committed to an all appointive ad board can join with those of us who, in our hearts, do not feel that this is the best situation, but at least it is an improvement over that which has been offered thus far.

PRESIDENT NISBET: Mr. Gust.

MR. GUST: May I ask a question of Delegate Hodges?

PRESIDENT NISBET: If Mr. Hodges cares to answer.

MR. GUST: I have been looking at your proposed amendments, Mr. Hodges, and although I see what you have done with reference to the language concerning advice and consent of the senate, I am at a loss to know how inclusion of both of your amendments would result in an all appointive administrative board, as you stated in your argument.

MR. HODGES: Mr. Gust, I will have to check it. If, mechanically, I have somewhat slipped, I apologize. My purpose and my intent for this series of amendments is to make an all appointive ad board without advice and consent.

MR. GUST: I thought that was your intention, and I would like you to know that as a proponent of the original Committee Proposal 71, although again I am uneasy with the company I may have, I am going to support you on it, but I can't do it if you think these 2 amendments will do it, because I don't think they will.

MR. HODGES: I don't know if you are right, Mr. Gust. I don't want to delay the floor debate by trying to correct it on the floor. Is it something that can very easily be corrected? I would be glad to—

MR. GUST: Unfortunately, I don't think it can easily be corrected, if the Chair please, because I think you are going to have to make a series of amendments throughout the proposal, because in the form that it came out of committee of the whole, I think that it would need several other amendments other than these.

MR. HODGES: Well, Mr. President, Mr. Gust, I am somewhat at a loss at this point. It was somewhat my estimation that these 2 amendments, plus the one that was called temporarily out of order, that this would give us an all appointive ad board. Now, I will go on that assumption unless you point out somewhere where there is something missing, and I will stand corrected, and I will be happy to make any other change that is necessary to arrive at the desired result.

MR. GUST: Mr. President, Mr. Hodges, just to start off with, the first thing which confused me—and I was trying to do this while conferring with Dr. Pollock, and looking at some notes in front of me, but let me ask you the first inquiry: it looks to me like you have abolished the office of governor, to start off with, in your amendment. That may be an improvement, I don't know. (laughter)

MR. HODGES: Mr. President, I see what has been done, I think. This may improve it. I think there was a change from what I sent up to what was typed out. I wonder, would this help, if I withdrew the first part of the amendment and change it to amend page 1, line 10, after "governor," by inserting "and the," and after "lieutenant governor" by striking out "secretary of state, and attorney general?"

MR. GUST: That would appear to be getting "on the road to Mandalay."

MR. HODGES: I would move that revision.

PRESIDENT NISBET: Mr. Hodges revises his amendment. Mr. Chase.

SECRETARY CHASE: Mr. Hodges, on the suggestion of Mr. Gust, revises the amendment to read as follows:

1. Amend page 1, line 10, after "governor" by inserting "and the" and after "lieutenant governor" by striking out "secretary of state, and attorney general"; and on page 3, line 16, by striking out "he shall be nominated and, by and with the advice and consent of the senate,".

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President and fellow delegates, I would just like to speak briefly on this. It has been my feeling during this convention, and I think if you would look at the votes on these various proposals, I was not in favor of an elected ad board, as proposed by the majority of the minority group, nor was I in favor of the method whereby the majority of the committee reported this out.

It has been my feeling for a long time that, actually, state problems are closely akin to what we in city work have experienced. I felt in order to have a strong chief executive, you certainly should have a strong team with you. I can see no need or no necessity for having a check and balance, and that is what it amounts to, when you have some of these people elected in the executive branch of government. I am in favor of a strong governor. I am in favor of him appointing his team without the advice and consent of any body. I think there are sufficient safeguards in this field whereby the judicial article covered it. If there is misfeasance or malfeasance in office, I think that the people that are responsible for those acts certainly can be turned out of office.

I would like to point to the governor's Citizens Advisory Committee Report, which reads as follows:

> The committee recommends that the other administrative officials, other than the governor and lieutenant governor, who are presently chosen by election, be selected by other means. In the case of the secretary of state, attorney general, state treasurer, superintendent of public instruction, highway commissioner, and all other department heads, the committee favors appointment by the governor, without the consent of the senate, and service at the governor's pleasure.

I think that this appointing power vested in the governor will give us a strong executive, and give us somebody that can give us suitable leadership in the state of Michigan. The minute you cut into his powers, you are actually cutting into the people's rights, because you have nobody that is directly responsible for a strong, efficient executive organization in the state of Michigan.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, I should like the Chair to admonish the delegates to examine rule 22, and adhere to it, if they can. For the second time I heard a delegate refer to the method that this convention has arrived at for the selection of an ad board as a Rube Goldberg type of contraption. Now, as a person who followed Rube Goldberg, during his lifetime, as an avid reader, I submit that he was famous for devising the most unwieldy and totally unacceptable—from all principles of physics—machines, but he had one thing that our plan doesn't have, and he had this consistently, and it was a characteristic of all Rube Goldberg machines; they worked. They didn't work well, but they worked. We have no assurance that the plan for the ad board proposed by this convention at this point, is going to work and, in behalf of Rube Goldberg, I caution the delegates to leave him out of it. He would not accept responsibility for the mess we are making out of the ad board.

PRESIDENT NISBET: The question is on the amendment of Mr. Hodges. The secretary will read.

SECRETARY CHASE: Mr. Hodges' amendment, as revised:

[The amendment was again read by the secretary. For text, see above, page 2208.]

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The majority of the committee opposes this amendment. We hope you will vote no on it.

PRESIDENT NISBET: The question is on the amendment. Those in favor will vote aye. Those opposed, no.

The amendment is not adopted.

A DELEGATE: Division.

PRESIDENT NISBET: Division has been demanded. Is that demand seconded?

MR. HODGES: I request the yeas and nays.

PRESIDENT NISBET: And the yeas and nays have been demanded. Is that demand seconded? Sufficient number up.

MR. McLOGAN: Mr. President, am I allowed to speak on this?

PRESIDENT NISBET: Yes, you may, Mr. McLogan.

MR. McLOGAN: This is a position, this amendment shown here on the board, which a considerable number of delegates once espoused, some with and some without advice and consent of the senate. A very honest effort was made to achieve bipartisan support for this on which we feel very strongly. I believe, however, that the amendment is now politically motivated, and at this late date, despite my previous feelings in the matter, I am unable to support it.

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote nay. We are voting on the amendment offered by Mr. Hodges. Those in favor will vote aye. Those opposed will vote nay. Mr. King.

MR. KING: Mr. President, I wish to abstain and state my reasons after the vote is announced.

MR. ROMNEY: Mr. President, I would like to be able to file in writing a statement for my vote.

PRESIDENT NISBET: You may do that.

MR. HODGES: Mr. President, I hesitate to rise again when the vote is being taken but, as the sponsor of this amendment, because of Mr. McLogan's remarks, I think maybe some clarification on my point should be made.

PRESIDENT NISBET: You are out of order. The vote has been started, Mr. Hodges. Have you all voted? If so, the secretary will lock the machine and the vote will be recorded.

MR. MARSHALL: Mr. President, I rise to a point of privilege of the convention.

PRESIDENT NISBET: Without objection—

MR. MARSHALL: On this amendment that was offered with my name on it, I want to make it clear to the convention that my name was not supposed to be on the amendment. I just had a few words with Delegate Romney, wherein my motives were questioned on this amendment. And for the record, and there are at least 2 or 3 people that can substantiate this, when Delegates Hodges first talked to me about this amendment, I told him that I did not care—he had it typed up and had my name on it—to cosponsor the amendment, that I favored the election of the state officials. I am still unalterably opposed—I am still unalterably in favor of the election of the state officials.

I did say to Delegate Hodges and to Delegate McCauley and others, that if I failed and could not succeed in retaining the elected officials, that if I could not succeed in that, in the absence of that, I felt appointment by the governor without the advice and consent of the senate would be preferred over the system that the committee proposal adopted. I would, under no circumstances—and I also told Delegate Hodges and others—support the appointment of the officials, if the advice and consent of the senate was left in. I think it is unfortunate that my name remained on the amendment. I think it is also unfortunate that Delegate Romney and I had the words that we had, but I want it for the record and I want it for Delegate Romney, that I did not cosponsor this amendment that is before the floor.

In closing, let me say again that I still favor, and have favored the election of the state officials. I would prefer this, though, in the absence of being able to elect them. But I did not cosponsor this, and therefore I can probably see where Delegate Romney arrived at his charges, but I want it clear that I was not a cosponsor of this amendment, and Delegate Hodges can so verify it.

PRESIDENT NISBET: Mr. Marshall, your name will be taken from the amendment. [Correction made above, page 2207.] Mr. Higgs.

MR. HIGGS: I have no objection to the statement that Mr. Marshall made, except I would not want it entered in the record as a privilege of the convention.

The roll was called and the delegates voted as follows:

Yeas—29

Brown, G. E.
Conklin, Mrs.
Cushman, Mrs.
Douglas
Durst
Elliott, Mrs. Daisy
Follo
Ford
Garvin
Greene
Gust
Hodges
Kelsey
Kuhn
Lesinski
Liberato
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Pollock
Sterrett
Stopczynski
Suzore
Walker
Young
Youngblood

Nays—81

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Blandford
Bonisteel
Buback
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Downs
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
Madar
Martin
McAllister
McLogan
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hodges, the yeas are 29; the nays are 81.

PRESIDENT NISBET: The amendment is not adopted. Mr. King.

MR. KING: Mr. President, I abstained from the last vote with the understanding that I would have an opportunity to explain my reasons for abstention at this time, and in order to conserve the taxpayer's money and the size of the verbatim record, for those historians interested, I would refer for a reason as to why I am abstaining to the remarks of the distinguished delegate from Genesee, Mr. McLogan, which can be found just a few words back. Thank you.

Following is explanation of vote submitted by Mr. Marshall:

In explaining my yes vote on the Hodges amendment, I accept the explanation of Delegate Hodges in explaining the support of his amendment to have the state administrative board appointed by the governor, without advice and consent of the state senate.

Following is explanation of vote submitted by Mr. Hodges:

I take this opportunity to explain my submission and support of my amendment to have the state administrative board appointed by the governor without advice and consent of the state senate.

It has long been, and still remains my position, that our present system of electing our state administrative board in a statewide election is vastly superior to their appointment by the governor. In my opinion, the election of these officials brings them closer to the citizens whom they serve.

It has also been my observation from years of political participation that the governor has a strong voice in who is to be selected at party conventions to run with him on the statewide ticket.

The history of the present elective system has proven with few exceptions to be beneficial and satisfactory to the people of the state.

However, when given the choice between an all appointive ad board without advice and consent of the state senate, and the abortive method of allowing for 5 separate ways of selecting 8 administrative board officials, I find that reason, clarity, and consistency dictate the former.

I would be derelict in my duty in not opposing this part of the Republican caucus "package deal" which no delegate publicly advocated before this convention convened and which no delegate has yet admitted is the best way to select state administrative officials.

I offered this amendment when it was patently clear that there was no longer any opportunity to save the people's franchise in the election of the members of the state ad board.

It is for this reason and no other, that I offered this amendment in good faith and in all sincerity.

Following is explanation of vote submitted by Mr. Romney:

This is the explanation of my no vote on the Hodges amendment to the executive article during this morning's session.

I voted against the amendment for the reasons stated by Delegate McLogan. The amendment, in my opinion, represented the use of political subterfuge.

PRESIDENT NISBET: Are there other amendments? Mr. Wanger.

MR. WANGER: Mr. President, I believe that I have an amendment on the secretary's desk. If the copy which I gave is not clear, I have additional copies.

PRESIDENT NISBET: Will you bring the amendment up, please, Mr. Wanger?

SECRETARY CHASE: Mr. Wanger offers the following amendment to the body of the proposal:

1. Amend section i, at the end of the first paragraph, by inserting "The members of the commission shall not be eligible for election to public office during the term for which they were appointed nor for one year thereafter.".

PRESIDENT NISBET: The Chair recognizes Mr. Wanger.

MR. MARTIN: Point of order, Mr. President. I believe this question was taken care of when we voted on section i this morning, wasn't it? Specifically, didn't Mr. Van Dusen's amendment specifically eliminate that from the Austin amendment?

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Speaking to the point, I can assure the delegate that the wording of this amendment is different from the wording of the amendment previously acted upon.

MR. PERRAS: Mr. President, I move the previous question.

MR. WANGER: Mr. President, I have the floor, and I don't believe anyone can make a motion unless they have the floor.

MR. KUHN: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: You may state it.

MR. KUHN: My recollection, Mr. President, is that Mr. Van Dusen, some time ago, moved the previous question to section i and all amendments thereto. Now, if that is correct, no subsequent amendments can even be offered at this time. They had to be offered before he made that motion, and if they were offered, there can be no talk at this time.

MR. WANGER: Mr. President, speaking to the additional point of order raised by Mr. Kuhn, the motion for the previous question, first of all, was made to the substitute, but if it did not, if it included section i, nevertheless, that was at a time when we were considering only that section. Now we have gone to a different stage of the proceedings and are considering, in addition thereto, amendments to the body of the whole proposal.

PRESIDENT NISBET: The Chair will rule that the operation of the previous question has been exhausted by the adoption of the substitute for section i. The Wanger amendment is to the body of the proposal and is therefore in order. Mr. Wanger, you may present your amendment.

MR. WANGER: Thank you, Mr. President.

MR. MARTIN: Mr. President, it seems to me that this is exactly the same amendment which Mr. Wanger has offered once before. It was put in and then it was taken out and he is now offering it again.

MR. WANGER: Point of order, Mr. President.

MR. MARTIN: I raise a point of order on that.

PRESIDENT NISBET: The ruling is that the amendment is enough different in form to be considered. Mr. Wanger, you may proceed.

MR. WANGER: Thank you. Mr. President and members of the convention, I will pause briefly so that we can take care of some typing up at the podium.

PRESIDENT NISBET: You may proceed.

MR. WANGER: I wish to present briefly the reasons for this amendment. As you know, this amendment is somewhat similar to the amendment which was adopted last Thursday to section i. This convention, then in committee of the whole, adopted that by a vote of 61 to 55, and it passed. However, when the substitute was presented by Mr. Van Dusen, et al, today, that sentence was omitted. During debate, no reason whatsoever was given for the omission of that sentence, although every other change was given some consideration. It is a substantive change in the provision, the section i, Mr. Van Dusen's statement to the contrary notwithstanding.

I believe it is important that this sentence be included in section i. You will notice it is different from the original amendment which was presented in committee of the whole, providing that members of the commission shall not be eligible for election to public office, whereas the previous amendment included appointment to public office as well, and also that the term for which they were appointed is now 1 year instead of 2 years.

We must face the facts, ladies and gentlemen of the convention, that we are dealing with an area, that of civil rights and the civil rights commission, which, in addition to being a great problem of social justice, is also an area of great political sensitivity; probably the most sensitive issue politically in modern times, in our state and in our nation. Therefore, I think we must realize that the political facts of life are that the temptation is, and indeed has been, very great to use this issue for political or partisan ends, or even occasionally, regardless of the ends of justice in a given case.

If we go to the part of our constitution providing for the courts, we find that in article VII, section 9, that circuit judges shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. That provision was thought wise by the founding fathers of 1908 for circuit judges. It was taken almost verbatim from the Constitution of 1850 of this state, and was discussed on the floor of the convention and inserted. When we acted on Committee Proposal 96, we included substantially the same provision, but we, as a convention, and as a committee, enlarged it to include all judges or justices of courts of record. Now, I submit to you that in this area the commission, a constitutional commission which we are creating, will not only be the judge of these issues and matters which come before it, but as all other commissions are, they will be prosecuting attorney and jury as well. How much more necessary, then, would it be to have such a provision attached to the constitutional provision for this commission?

I notice that among the proponents of the substitute we adopted today is the chairman of the committee on legislative organization, and I call his attention to and remind all the other delegates of the fact that in Committee Proposal 79, on page 2, lines 3 through 9, we provided extensive language with respect to the members of the commission not being eligible for election to the legislature until 2 years shall have elapsed after the apportionment in which they have participated. This area is not nearly as sensitive as the issues with which this commission deals, and yet we provided a similar limitation there.

I would further bring to the attention of the convention, Mr. President, the fact which has not been discussed but which should be considered and that is this: that unless such a limitation is put into the constitution, it cannot later be added by an act of the legislature.

With commissions in the area of civil rights or any other area, which commissions are created by the legislature, the legislature always has the power to add such a provision in case it was felt that the commission or any members thereof might be using their power for ends other than the ends of justice in the individual case. However, in the constitution we cannot, except by constitutional amendment, put such a limitation on this commission. Therefore, I earnestly ask you to affirm the action which, by fair majority, you took previously on this issue, to adopt this amendment as a safeguard against the political temptations which are admittedly so powerful and so prevalent in this area. This amendment would in no way weaken the power or the functions of the commission and it will add, I believe, public confidence in the work of the commission, insofar as words can do so.

We know that politics will not be kept out of anything in our lives in which people are interested and, of course, that applies to this, but there are occasions when words can help to keep politics out of an area where politics should not enter. These are such words. I urge you to vote in favor of this amendment for the reasons which I have given.

PRESIDENT NISBET: The question is on the amendment of Mr. Wanger.

MR. WANGER: I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded?

MR. MARTIN: Mr. President, the subject of the amendment has already been rejected once. I urge you to vote no on the amendment.

PRESIDENT NISBET: Not a sufficient number. Those in favor will say aye. Those opposed will say no.

The amendment is not adopted. Any further amendments?

SECRETARY CHASE: None, Mr. President.

PRESIDENT NISBET: **Committee Proposal 71**, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 71 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. The governor, lieutenant governor, secretary of state, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966. They shall, after 1966, serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.

The lieutenant governor, secretary of state and attorney general shall be nominated by party convention in a manner provided by law. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

Sec. b. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He shall perform such additional duties as may be delegated to him by the governor.

All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the offices of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments, so as to group them as far as practicable according to major purposes, but at no time shall an examining or licensing board be composed of or governed by a majority of members of a competitive profession. Temporary commissions or agencies for special purposes and with a life of no more than 2 years may be established by law and need not be allocated within a principal department.

The allocation of departments by law pursuant to this section shall be completed within 2 years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make such allocation.

Subsequent to such allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have 60 days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved in both houses by a resolution concurred in by a majority of the members elect of each house, these orders shall become effective at a date thereafter to be designated by the governor.

The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer, and an attorney general. When a single executive, other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the senate, appointed by the governor and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, the members thereof, unless elected or appointed as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and removal of such members shall be as prescribed in this constitution or by law.

No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.

Sec. c. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government, except as otherwise provided by law, superintend them in person and perform such duties as may be prescribed by law.

Sec. d. Each principal department shall be under the supervision of the governor, unless otherwise provided by the constitution. The governor shall take care that the laws be faithfully executed; shall transact all necessary business with the officers of government; and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may, by appropriate court action or proceeding brought in the name of the state, enforce compliance with any constitutional or legislative mandate, or restrain violations of any constitutional or legislative power, duty, or right by any officer, department, or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize any action or proceeding against the legislature.

Sec. e. When the senate is not in session and a vacancy occurs in any office, appointment to which requires advice and consent of the senate, the governor shall fill the same by appointment. Such an interim appointment may be disapproved by the senate as with other appointments requiring such advice and consent. A person so appointed shall not be eligible for another interim appointment to such office if the appointment shall have been disapproved by the senate.

Sec. f. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, other than a judicial officer, until he shall be acquitted or until after the election and qualification of a successor.

Sec. g. The governor shall have power and it shall be his duty, to examine into the condition and administration of any public office and the acts of any public officer, elective or appointive; to remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the causes of such removal or suspension to the legislature if in session or otherwise at its next session.

Appointment by and with the advice and consent of the senate when used in this constitution or in statutes in effect or hereafter enacted shall mean appointment subject to disapproval by a majority vote of the members elect of the senate if such action is taken within 60 legislative days after the date of such appointment. If not disapproved within such period of time the appointment shall stand confirmed.

No provision of this constitution or of law or executive order authorized herein shall shorten the term of any person elected to state office at a statewide election in or prior to November, 1962. In the event the duties of any of such officers shall not have been incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated.

Sec. h. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as shall be prescribed by law.

The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, appointed by the governor with the advice and consent of the senate for 4 year terms. No 2 members shall have conterminous terms.

The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state highway department and shall be responsible for the execution of policy of the state highway commission.

Sec. i. There is hereby created a civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms not more than 2 of which shall expire in the same year. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have such other powers as may be provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

PRESIDENT NISBET (continuing): A few announcements.

SECRETARY CHASE: Mr. Danhof requests a short meeting of the committee on judicial branch directly after this morning's session in room B.

I have the following requests for leave: Mr. Douglas requests to be excused from the afternoon session; Mrs. Cushman requests to be excused from most of the afternoon session to keep a doctor's appointment; Mr. Suzore wishes to be excused from the session of Monday and the session of Tuesday morning; and Dr. Nord wishes to be excused from the session of next Monday because of a business commitment.

PRESIDENT NISBET: Without objection, the excuses are granted. Mr. White.

MR. WHITE: Mr. President, I move this convention recess until 1:30 this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. White to recess. All those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 1:30.

[Whereupon, at 12:00 o'clock noon, the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Martin.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MARTIN: The committee will be in order. The secretary will read.

SECRETARY CHASE: Item 1, from the committee on declaration of rights, suffrage and elections, by Mr. Pollock, chairman, **Committee Proposal 45,** A proposal to guarantee the right of disposition to the owner of real property. Amends article II by adding a new section.

For text of Committee Proposal 45 and the reasons submitted in support thereof, see below, page 2272.

CHAIRMAN MARTIN: Professor Pollock.

MR. POLLOCK: Mr. Chairman, due to the absence of the vice chairman, Harold Stevens, may I ask that this pass until Monday?

CHAIRMAN MARTIN: Without objection, it will be passed. Committee Proposal 45 is passed for the day. Mr. Downs.

MR. DOWNS: Mr. Chairman, just a parliamentary inquiry: I would just like us to be consistent. If we pass because one delegate is not here, I want to ask a ruling from the

Chair; does that imply that we will pass for any other request? I do not feel one way or the other. I just want us to be consistent.

CHAIRMAN MARTIN: The Chair was going to accept the suggestion if there were no objection, Mr. Downs. If there is an objection, Dr. Pollock can move that it be passed. Mr. Downs.

MR. DOWNS: Could I make an inquiry to Mr. Iverson? I would be glad not to object to passing this because the proponent of the language is not here if, in turn, he would indicate that if Miss Hart or myself requests something be postponed until the delegate particularly interested is here, he would agree to that.

CHAIRMAN MARTIN: Mr. Iverson.

MR. IVERSON: Mr. Chairman, Mr. Downs, I am not handling this matter; Dr. Pollock is, and I think you ought to ask him.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, I would like to remind Mr. Downs that this particular section was passed over once before by request because Mr. Nord was absent. I think it is only fair, now that Mr. Stevens is absent, that we do the same.

CHAIRMAN MARTIN: Dr. Pollock, do you wish to put this as a motion?

MR. POLLOCK: I will be glad to, Mr. Chairman, if that is proper.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: Mr. Chairman, I was not objecting. I am glad that Mr. Yeager called that to my attention, and I am satisfied with the principle that has been established.

CHAIRMAN MARTIN: Mr. Nisbet.

MR. NISBET: Mr. Chairman, may I just make a statement on this because I think there is a little confusion here? The reason that Dr. Pollock asked that this be passed over on account of Mr. Stevens was not because of the fact that Mr. Stevens was a member of the committee, but it was because Mr. Stevens was to discuss this section for the committee. He was excused today to attend a meeting in the northern peninsula. Now, it isn't the idea that just because a person isn't here it ought to be passed over, but this is a peculiar situation where he is to discuss the matter. He was the one that was planning on doing it, and he isn't here to do it. That is the reason that Dr. Pollock asked that it be passed for the day.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, there is an additional reason: I did not sign the majority report with reference to this proposal and, therefore, I was dependent upon my vice chairman, who was the author of it, to present it. Do you want me to move now that the matter pass?

CHAIRMAN MARTIN: The Chair would prefer that you do, Dr. Pollock.

MR. POLLOCK: I so move, Mr. Chairman.

CHAIRMAN MARTIN: Then we don't rely upon understandings. Mr. Downs.

MR. DOWNS: Mr. Chairman, I would like to speak in favor of the motion.

CHAIRMAN MARTIN: The question is on the motion of Dr. Pollock that Committee Proposal 45 be passed for the day. All those in favor will signify by saying aye. Opposed, no.

The motion prevails and Committee Proposal 45 is passed for the day. The secretary will read.

SECRETARY CHASE: From the committee on declaration of rights, suffrage and elections, by Mr. Pollock, chairman, **Committee Proposal 58,** A proposal pertaining to the elective franchise. A substitute for article III amending sections 4, 8, 9 and substituting new language for the other sections thereof.

Following is Committee Proposal 58 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. EVERY CITIZEN OF THE UNITED STATES WHO HAS ATTAINED THE AGE OF 21 YEARS, AND HAS RESIDED IN THIS STATE 6 MONTHS, SHALL BE AN ELECTOR AND QUALIFIED TO VOTE IN ANY ELECTION, EXCEPT AS OTHERWISE PROVIDED IN THIS CONSTITUTION. THE LEGISLATURE SHALL BY LAW DEFINE RESIDENCE FOR VOTING PURPOSES, AND MAY IMPOSE A LOCAL RESIDENCE REQUIREMENT OF 30 DAYS.

Sec. b. THE LEGISLATURE MAY BY LAW EXCLUDE PERSONS FROM VOTING BECAUSE OF MENTAL INCOMPETENCE, OR COMMITMENT TO A JAIL OR PENAL INSTITUTION.

Sec. c. FOR PURPOSES OF VOTING FOR ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES ONLY, THE LEGISLATURE MAY BY LAW ESTABLISH LESSER RESIDENCE REQUIREMENTS FOR CITIZENS WHO HAVE RESIDED IN THIS STATE FOR LESS THAN 6 MONTHS AND MAY WAIVE RESIDENCE REQUIREMENTS OF CITIZENS OF THIS STATE WHO HAVE REMOVED THEREFROM. THE LEGISLATURE MAY PROVIDE THE MANNER OF VOTING BY SUCH PERSONS BUT SHALL NOT PERMIT VOTING BY ANY SUCH PERSON WHO MEETS THE VOTING RESIDENCE REQUIREMENTS OF THE STATE TO WHICH HE HAS REMOVED.

Sec. d. THE LEGISLATURE SHALL ENACT LAWS TO REGULATE THE TIME, PLACE, AND MANNER OF ALL NOMINATIONS AND ELECTIONS, EXCEPT AS OTHERWISE PROVIDED IN THIS CONSTITUTION, OR IN THE CONSTITUTION AND LAWS OF THE UNITED STATES. THE LEGISLATURE SHALL ENACT LAWS TO PRESERVE THE PURITY OF ELECTIONS, THE SECRECY OF THE BALLOT, GUARD AGAINST ABUSES OF THE ELECTIVE FRANCHISE, AND SHALL PROVIDE FOR A SYSTEM OF VOTER REGISTRATION AND ABSENTEE VOTING.

Sec. e. ALL ELECTIONS FOR NATIONAL, STATE, COUNTY AND TOWNSHIP OFFICES SHALL BE HELD ON THE TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER IN EACH EVEN NUMBERED YEAR, EXCEPT FOR SPECIAL ELECTIONS TO FILL VACANCIES.

Sec. f. Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money [or], the issue of bonds OR THE INCREASE OF TAX LIMITATIONS ON REAL OR PERSONAL PROPERTY, only such persons having the qualifications of electors who have property assessed for taxes in any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon.

Sec. g. Laws shall be passed to [preserve the purity of elections and guard against abuses of the elective franchise, and to] provide for the recall of all elective officers, except judges of courts of record and courts of like jurisdiction upon petition of 25 per centum of the number of electors who voted at the preceding election for the office of governor in their respective electoral districts.

Sec. h. A board of state canvassers consisting of 4 members shall be established by law. No candidate for an office to be canvassed by the board shall be eligible to serve as a member of said board. A majority of the board shall not be composed of adherents of the same political party.

Mr. Pollock, chairman of the committee on declaration of rights, suffrage and elections, submits the following reasons in support of Committee Proposal 58:

The proposed article III, which the committee recommends herewith to the convention, represents the first complete revision of the elections article since 1835. Article III of the 1908 constitution includes almost all of the language of the elections article of the 1835 constitution, which was excellent for its time. Unfortunately, the succinct and economical language of 1835 has become encrusted

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

over the years with a mass of legislative detail. In addition, language which was once highly appropriate has in some instances become totally obsolete today.

For example, the present constitution allows indians to vote even though they are not citizens of the United States. For many years, American indians have been citizens of the United States by birth, and there is no reason to retain language designed originally to meet the long forgotten needs of a frontier state.

Again, the present constitution, as amended, attempts to specify the categories of persons who should be allowed the privilege of absentee voting. Changes in the occupational patterns of American society have gradually made the categories highly arbitrary and artificial — for example, railroad employees, who once operated the only extensive system of public intercity transport, are granted the constitutional right to absentee voting, but airline and bus line employees are not, since their occupations came along after the present language was written.

Another example of obsolescence is found in section 6 of the old constitution, which exempted electors from militia duty "except in time of war or public danger." This also is a heritage of the frontier days, when every able bodied male citizen was considered a member of the militia, and might be required to drill from time to time in order to be ready to ward off attacks from those indians not sufficiently placated by the right to vote granted them earlier in the constitution.

To cite only one more example, section 7 of the present constitution allows the legislature to exempt township elections from the requirement of a secret ballot. This was appropriate many years ago when the handful of electors in a frontier township needed only a show of hands to elect township officers. The practice of secret voting in township elections has long been established, and there is no longer any practical reason for the present exemption.

No purpose would be served by an exhaustive catalog of obsolescent provisions or terminology, but these few examples will suffice to illustrate the problem.

Consequently, the committee on declaration of rights, suffrage and elections decided to write an entirely new article rather than to attempt another piece of patchwork on the old article. Wherever possible, the old language was retained, but never at the expense of the major objectives of the committee. Briefly stated, these objectives were:

1. To specify clearly the qualifications for voting, and to delimit clearly the scope of legislative authority over voter qualifications and disqualifications.
2. To assign to the legislature, in unequivocal language, the power and the responsibility to deal with the problems of election administration.
3. To make specific provision for legislative authority to deal with certain other important problems such as presidential voting by persons not technically residents of the state, the recall of elected officers, and the establishment of the state board of canvassers.

The resulting article is in conformance with the principles followed in the model state constitution and in the recently adopted constitutions of Alaska and Hawaii. While it is brief, the proposed article establishes a constitutional framework for a system of free and fair elections; but it recognizes that only the legislature is equipped to provide for the administration of such a system.

Comment on section a. This section establishes the basic qualifications for voting, and assigns to the legislature full responsibility for defining residence for voting purposes.

The committee considered carefully the question of changing the voting age to 18, 19 or 20 years, there being delegate proposals in the convention for all of these ages. A majority of the committee concluded that there is much to be said for retaining a voting age which is identical with the age of legal majority. The committee felt that experience in other states makes it doubtful that a lower voting age would improve the quality of the electorate. Moreover, young people in the 18-21 year old group are not likely to display a high degree of interest in the electoral process. Available evidence indicates that participation in elections is poorest with the youngest group of voters. Age qualification is necessarily arbitrary, but young people can look forward with certainty to the day when they will take their place in the adult world, as fully competent citizens and voters.

The section also retains Michigan's traditional 6 months' state residence requirement. No state has a shorter residence requirement and in the absence of contrary evidence, the committee concluded that the present requirement is sufficient to insure that new voters will be bona fide residents of the state.

The section would also permit the legislature to adopt a local residence requirement of 30 days. This would represent no change from present provisions, except that it would allow the legislature some flexibility in fixing the unit of local government to which the 30 day residence requirement would apply. At present, it applies to cities and townships, but it is conceivable that at some future time a countywide system of registration might be instituted. If so, the proposed language would allow the legislature to alter the local residence requirement to conform to the needs of the new registration system.

The present 30 day period was retained because in the judgment of the committee a shorter period would not be administratively practical, and a longer period might unnecessarily disfranchise otherwise qualified voters.

A major feature of the proposed article is found in the last sentence of the first section, which reposes in the legislature the duty of defining residence for voting purposes. Past attempts to define residence in constitutional language have, in this and other states, been highly unsuccessful. Constitutional language, however well considered, tends to leave gaps and ambiguities in the definition of residence, and courts have been reluctant to allow legislatures leeway to modify in any significant way what appears to be the intent of the constitution. Again, any constitutional language is subject to obsolescence. The committee has concluded that it is not humanly possible for this convention to define residence in a manner which will offer any assurance of future adequacy, and has therefore proposed to leave the matter to the legislature, as one of its continuing responsibilities in the field of elections.

The committee on local government does concur in the language of this section.

Comment on section b. This section permits, but does not require, the legislature to exclude from voting 2 categories of persons generally felt to be unsuitable members of the electorate.

The provision regarding mentally incompetent persons simply recognizes that the act of voting should be the act of a person possessed of his mental faculties, and that if a person is incapable of disposing of his own affairs, the legislature should be empowered to prevent him from participating in voting.

Inmates of jails and prisons are presently effectively excluded from voting simply because, while they are not disqualified, there is no way in which they can vote. The present absent voting law provides that jail and prison inmates are not eligible for absentee ballots. The proposed provision, therefore, gives the legislature specific authority to do directly what has long been accomplished in an indirect fashion.

Comment on section c. This section is designed to give the legislature discretionary authority to deal with a problem that has grown more serious as the American people have become more mobile: the problem of disfranchisement of citizens who move from one state to another and are thereby unable to meet residence requirements in either state. Residence requirements are justifiable on the grounds that the voter should have an opportunity to become familiar with issues and candidates before he is called upon to vote. But this justification loses much of its force when applied to presidential elections. The same candidates and issues are before the people of all 50 states, and a voter does not lose whatever knowledge he may have had of the presidential campaign simply by moving from one state to another.

The proposed section would authorize the legislature to allow presidential voting both by persons moving out of the state of Michigan, who cannot yet meet the residence requirements of their new states of residence, and by persons who have arrived in Michigan during the 6 months preceding a presidential election.

It should also be noted that in 1956 the United States congress formally expressed the approval of this special type of presidential voting, and recommended to the states that consideration be given to the type of provisions herein proposed.

Comment on section d. This section accomplishes one of the major objectives of the committee. It vests in the legislature full authority over election administration, subject to other provisions of this constitution, and to the national constitution and laws. The legislature is specifically enjoined to enact corrupt practices legislation.

The provision regarding the secrecy of the ballot is designed to insure that in the future the legislature will be empowered to adopt any new techniques of casting and recording voter choices, so long as the secrecy of the ballot is preserved.

Both voter registration and absentee voting are placed on a statutory basis. The complicated language in the Constitution of 1908, as amended, regarding absentee voting proved inadequate, and absentee voting in Michigan today has a primarily statutory base. Since previous attempts to define eligibility for absentee voting in the constitution have not been successful, the proposal avoids any repetition of this mistake.

Comment on section e. The major change effected by this section would be the elimination of the spring state election. Testimony before the committee has convinced us that the spring election has so many undesirable characteristics that it should be permanently retired.

In the first place, election statistics clearly prove that voter participation in spring elections is very poor compared to turnout in fall elections. The argument for highly frequent elections on the grounds that they keep government close to the people is not convincing when applied to an election that has consistently failed for many years to attract a high level of popular participation.

The committee also was impressed by the potential financial benefits to units of local government which would be possible if the spring elections were eliminated. We are reliably informed that the cost of a single spring election is upwards of $600,000, not including the cost of any associated primaries.

Another objection, and one no doubt related to the poor voter turnout discussed above, is the intrinsic awkwardness in timing of the spring election. They seem to come on the heels of the preceding fall election, thus creating an unreasonable burden on voters, party workers, and election officials. The timing of spring elections requires that nominating petitions be circulated during the holiday season, when a respite from politics would be welcomed by most people.

Finally, the statewide election campaign required by spring elections seems to interfere unduly with legislative activity. At a time when both executive and legislative officials need to devote their attention to the emerging problems of a new legislative session, they are often called away by the demands of the spring campaign.

The committee therefore believes that the passing of the spring election will be mourned by few, if any, of our citizens, and that its abolition will be a major accomplishment of this convention.

It should be pointed out that the proposed section would still allow city, village and school board elections to be held at times other than the biennial fall election prescribed.

Finally, whether a given officer will be elected in presidential or off years will be determined by other articles of the new constitution.

Comment on section f. The proposed language is identical with that contained in article III, section 4 of the old constitution, except that the property qualification is extended to include voting on the increase of tax limitations on real or personal property. The committee recognizes that some delegates are opposed in principle to any property qualifications, and a minority of the committee favored the deletion of the property qualification altogether. However, if, as a majority of the committee believes, the property qualification should be retained as a safeguard against excessive tax burdens on real or personal property, it is evident that if only property owners and their spouses should be allowed to vote on direct expenditures or the issuance of bonds, it is hardly rational or consistent to allow nonproperty owners to vote on the increase of tax limitations. It is believed that the proposed additional language will eliminate much present confusion regarding eligibility for voting on local taxing and spending proposals.

The committee on finance and taxation does concur in the language of this section.

Concurrence of the committee on education has been requested, but not yet received.

Comment on section g. This section adopts without change the language of the present article III, section 8, except that the clause referring to the purity of elections is deleted from this section, where it is extraneous, and inserted in the proposed fourth section dealing with the powers and duties of the legislature in the field of election administration.

The committee believes that no change is warranted in the language governing the recall of elected officials and recommends its continuance.

Comment on section h. This section adopts without change the language of article III, section 9. The committee considered delegate proposals to increase the membership of the board of state canvassers, but in view of the general satisfaction with the work of the board as presently constituted, has concluded that no change is needed.

Following is minority report A to Committee Proposal 58 and the reasons submitted in support thereof:

Messrs. Norris, Pollock, Dade, Mrs. Hatcher, Messrs. Hodges and Buback, a minority of the committee on declaration of rights, suffrage and elections, submit the following minority report to Committee Proposal 58:

A minority of the committee on declaration of rights, suffrage and elections urges opposition to the proposed new language of Committee Proposal 58, article III, section f.

Messrs. Norris, Pollock, Dade, Mrs. Hatcher, Messrs. Hodges and Buback, a minority of the committee on declaration of rights, suffrage and elections, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 58:

We urge opposition to the proposed new language for the following reasons:

1. Not necessary. The new language added by the committee is particularly and unnecessarily restrictive. There has not been any dispositive showing that the recommended voting restriction is made necessary by experience since the adoption of the 1908 constitution. On the contrary, a showing may be made that this recommendation will endanger present and anticipated needs for schools, port developments and other public structures. At the time of adoption of the Constitution of 1908, ad valorem

property taxes provided revenues not only for local units of government but for the state as well. For the state, this is no longer the case. Also, at the time of its adoption, property was considered a fair measure of ability to pay taxes. This is no longer the generally accepted view. The state today relies mainly on specific taxes which are primarily designed to tap nonproperty tax sources reflecting relative ability to pay.

In a recent publication of the United States office of education (Monograph number 5, 1961), it is reported that only 3 other states (Arizona, New Mexico and Utah) limit voting on school taxes to property owners. On the basis of this report, the proposal does not accord with general practice in the country.

2. Wrong fiscal principle. Whatever justification existed for this restriction when real property was the exclusive source of tax revenue has decisively diminished. For some years it has been evident that there has been a steady decline and an obvious inadequacy of property taxes as a principal means of financing modern government. There has been an accelerated trend in the diffusion of the revenue base. It is as difficult to relate property taxes to the payment of debt service as it is to relate other revenue sources to specific expenditures.

In addition, the restrictive recommendation of the committee apparently assumes that renters do not pay property taxes. Although it is conceded that renters are not listed on the property tax rolls, it may certainly be argued with plausibility that landlords of rental property pay taxes from rents collected from tenants. We invite the attention of the convention that the amount of taxes to be paid is one of the factors taken into account in determining rent. For example, the O.P.A. during world war II granted rent increases where it could be shown that taxes had been increased.

Apartment house dwellers, moreover, who are an increasing proportion in city populations would be barred from any voice on a matter which could significantly affect the cost of their rentals.

3. Wrong fiscal policy. The committee recommendation is based upon the fiscal policy that only those who pay a tax shall have a voice in determining the amount of tax to be levied and how the revenues from that tax are expended. This policy leads to the rebuttable premise that only those who hold title to an automobile should decide the disposition of gasoline taxes and only those who buy liquor should determine the disposition of liquor taxes. On this premise only those who have taxable income should decide the uses of the income tax, and the unemployed who have no income, would have to be disfranchised.

The proposal to restrict elections on exceeding tax limitations to persons who directly pay property taxes would deprive thousands of citizens who indirectly pay such taxes from participation in vital decisions on the conduct of public schools.

Property taxes no longer constitute the bulk of taxes paid. It can well be that a family renting a home pays a larger portion of its income in taxes than another family which lives on property that it owns. When forms of taxation are to be limited or increased or decreased by only those electors who would be subject to each particular form of taxation, the likelihood of discrimination is greater.

4. Contrary to the concept of expanded franchise. At a time when we need positive constitutional provisions that will expand and encourage voter participation in the election process, we are confronted with a negative proposal to do just the reverse. The trend in democratic and constitutional reform since the adoption of the United States and Michigan constitutions has been in the direction of extending the franchise, expanding the popular responsibility for government, and encouraging the maximum participation in the electoral process. This proposal runs in the opposite direction of this historical tradition and contemporary need.

It is ironical that the original section which was placed in the constitution to extend the franchise to women on property matters who could not then vote, is now being turned into a restriction on the franchise.

Accordingly, we urge opposition to the proposed new language.

Following is minority report B to Committee Proposal 58 and the reasons submitted in support thereof:

Messrs. Norris, Pollock, Dade, Mrs. Hatcher, Messrs. Hodges and Buback, a minority of the committee on declaration of rights, suffrage and elections, submit the following minority report to Committee Proposal 58:

> A minority of the committee recommends that the following be included in the constitution:

Sec. a. EVERY CITIZEN OF THE UNITED STATES WHO HAS ATTAINED THE AGE OF 19 YEARS, AND HAS RESIDED IN THIS STATE 6 MONTHS, SHALL BE AN ELECTOR AND QUALIFIED TO VOTE IN ANY ELECTION, EXCEPT AS OTHERWISE PROVIDED IN THIS CONSTITUTION. THE LEGISLATURE SHALL BY LAW DEFINE RESIDENCE FOR VOTING PURPOSES, AND MAY IMPOSE A LOCAL RESIDENCE REQUIREMENT OF 30 DAYS.

Messrs. Norris, Pollock, Dade, Mrs. Hatcher, Messrs. Hodges and Buback, a minority of the committee on declaration of rights, suffrage and elections, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 58:

1. American tradition. The extension of the franchise is in keeping with the basic American tradition. The United States and Michigan have removed disqualifications on the right to vote based upon property, sex and race for the purpose of permitting the maximum effective expression of the popular sovereign will. The greater the effective suffrage, the more sensitive is government in meeting the needs of all.

2. Maturity. It will enhance the maturity of our young people and stimulate the incentive to assume greater responsibility. We encourage the development of greater experience, wisdom and maturity by according to people the duty and power to make independent decisions. It would also encourage the parents and entire family to participate more actively and frequently in the political processes of democracy.

3. Economic citizens. A higher proportion of young people today assume the duties and responsibilities of adulthood long before attaining their twenty-first birthday by entering the full time labor force and by contracting marriage. They are, in fact, economic citizens and should be political ones. It seems equitable, therefore, to integrate them in the community of adults at a correspondingly earlier age.

4. Balance the electorate. It would help produce a more balanced composition of our electorate in the national and state interest. By 1980 a larger ratio and percentage of our population will be over 65 years of age then ever before. Our young people are relatively more affected by governmental decisions than our older citizens. Those affected by such decisions should have a part in making them by electing policymakers and voting on issues. Moreover, the international challenges in space and technology require a greater maturity and judgment upon the part of all of our citizens, and that maturity and judgment can be effectively encouraged by changing the voting age to 19. As one young person stated to our committee, "The blare of rock and roll does not drown out the echo of a 50 megaton bomb."

Explanation—Matter within [ ] is stricken, matter in capitals is new.

5. Greater education. Since the 1908 Michigan constitution, there has been the development of higher standards of education and the tremendous increased incidence of high school instruction in government, civics and American history which have made our young people more informed on public affairs than many of their elders. There is, therefore, every reason to hope that lowering the voting age would improve the quality of the electorate. The potentiality for good in making some 180,000 young people eligible to vote far outweighs the potential for harm. The gap between young people prepared for voting and not being able to vote until reaching 21 leads to frustration and apathy. We should encourage the interest and enthusiasm of young people in political life. In many respects the matter of changing the voting age was comparable to the matter of suffrage for women. The maturity, status, judgment and participation of women in the life of the nation in the national interest was enhanced by the nineteenth amendment and this same result can reasonably be anticipated if the voting age were changed to 19.

6. Prominent citizens say young people are already military citizens. It has been said that the highest duty, the defense of the nation, merits the citizens' highest privilege, the right to vote. Young people are in fact military citizens, though not political ones. President Eisenhower reflected this judgment when he stated:

> For years our citizens between the ages of 18 and 21, in time of peril, have been summoned to fight for America. They should participate in the political processes that produce this fateful summons. I urge congress to propose to the states a constitutional amendment permitting citizens to vote when they reach the age of 18.

Numerous other prominent citizens have concurred in the recommendation of a lower voting age. The late Senator Vandenberg in 1942 introduced an amendment to the national constitution providing for 18 year old voters. His successor, Blair Moody, followed suit in 1952.

Four states today have abandoned the traditional voting age. In 1944 Georgia became the first state to allow its citizens to vote at 18. Kentucky followed suit in 1955. The constitutions of the new states of Alaska and Hawaii provide for voting at 19 and 20 years respectively. Thus, there are 4 different voting ages in effect in the United States at the present time.

Accordingly, we respectfully urge that the right to vote and political citizenship be granted to those who have reached the age of 19.

[Section a was read by the secretary. For text, see above, page 2213.]

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, it has been a long time since our committee, which was first in with its report, has had an opportunity to make its report, and I am afraid the delegates are somewhat rusty. If they ever did read the report of our committee, they are certainly rusty on it right now; so I think, perhaps, the easiest thing would be for me to just introduce the matter briefly along the lines of the committee report, and say just a few additional matters.

We have completely revised the article and, although it contains 867 words in the present constitution, we have reduced it to 451 — almost in half.

[Paragraphs 1 through 8 of the supporting reasons were read by Mr. Pollock. For text, see above, page 2213.]

Finally, Mr. Chairman, I think I should say that our committee has come up with 2 or 3 new and important suggestions, such as the elimination of spring elections and this provision I have just mentioned of permitting people who are otherwise disqualified to vote in presidential elections. Those new provisions, of course, will be adequately discussed in connection with the appropriate section. Also, we have considered, in connection with the old provisions, such matters as extending the vote to 19 year olds, the idea of keeping or eliminating the property qualifications. Those are all matters which will be discussed in detail in connection with the appropriate sections.

I shall now, Mr. Chairman, if it is in order, call upon Judge Shaffer to explain section a. Do you care to read section a first, Mr. Secretary?

CHAIRMAN MARTIN: Dr. Pollock yields to Judge Shaffer. The secretary will read section a.

SECRETARY CHASE: Section a:

[Section a was again read by the secretary. For text, see above, page 2213.]

CHAIRMAN MARTIN: Judge Shaffer.

MR. SHAFFER: Mr. Chairman, delegates,

[The comment on section a of the supporting reasons was read by Mr. Shaffer. For text, see above, page 2214.]

CHAIRMAN MARTIN: Judge Shaffer, were you yielding the floor back to Dr. Pollock?

MR. SHAFFER: I intended to. I do so.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Thank you. Mr. Chairman, I have no further explanation of section a unless there are questions from the floor.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would direct a question to Dr. Pollock, or, if he desires, I would be glad to have Judge Shaffer answer it. It is simply this: listening to the judge's explanation — and I am referring to the last phrase of the proposal, "and may impose a local residence requirement of 30 days," I understand it is the intent of the committee that there shall be no shorter period and there shall be no longer period, but I think that it is the intent of the committee that there shall be a 30 day period of local residence requirement. However, the language here suggests to me that the legislature would have the choice of imposing no local residence requirement at all or imposing one of 30 days. Is it the intent of the committee that the legislature would have the power to decline to impose a local residence requirement?

MR. POLLOCK: Mr. Chairman, will Judge Shaffer answer that question on behalf of the committee?

MR. FAXON: Point of order, Mr. Chairman.

CHAIRMAN MARTIN: State your point.

MR. FAXON: I understand there is a minority report pending, and we are getting into the discussion of the majority report now. Wouldn't it be proper, as we've followed in previous procedures, after the explanation has been made, then to submit the minority report and then to deal with the questions dealing with the substance of the report?

CHAIRMAN MARTIN: We are simply permitting the proponents of the report to answer questions on it. We will come to the minority report very shortly, Mr. Faxon, but it is part of the explanation to permit them to, at least, answer questions with regard to it. Judge Shaffer.

MR. SHAFFER: I can only say, in answer to your question, Senator, that it is the present requirement of the present constitution, isn't it — the 30 day period?

MR. HUTCHINSON: Mr. Chairman, I don't want to unduly prolong this point at this time, if the minority is anxious to get on to its minority report. But, Judge, I grant that the present constitution says that there shall be a 30 day local residence requirement. I read the word "may" in the language here to grant to the legislature, in its discretion, to require no local residence at all, so far as time is concerned. It says that they "may," "The legislature . . . may impose a local residence requirement of 30 days." That doesn't constitutionally impose such a requirement, and whether or not the legislature imposed that requirement may be academic, Judge, but, as a constitutional matter, I point out that the present language, at least, suggests to me that the legislature could decline, under this language, to require any local residence whatever.

MR. SHAFFER: Is it your idea that the language should be "shall" rather than "may?"

MR. HUTCHINSON: Yes.

MR. SHAFFER: I see.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman, may I answer the question of Senator Hutchinson? Senator Hutchinson, the reason we put the word "may" in there was to allow the legislature in the future — they are talking about the county having county registration boards and a registration center for counties; so it may take a little more than 30 days. That is why we put the word "may" in there; because in the future you may have countywide registrations instead of city and township registration boards. If that is a matter for style and drafting, we will be glad to send that over. This is intended to allow for counties in the future. That is why the word "may" is in there. If you make it "shall," there isn't sufficient time for counties to have their own registration centers.

MR. HUTCHINSON: Mr. Chairman, it is apparent now that there is a difference of understanding on the floor in regard to this matter, and if you are willing to let style and drafting iron it out, we will attempt to come up with something.

MR. BUBACK: I will defer that to our chairman.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: That is all right with me, Mr. Chairman. I think, now, unless there are some other questions with reference to section a, there is an amendment and a minority report, which it would now be proper to bring up.

CHAIRMAN MARTIN: We will proceed to the minority report. The secretary will read.

SECRETARY CHASE: Pursuant to minority report B of Messrs. Norris, Pollock, Dade, Mrs. Hatcher, Messrs. Hodges and Buback,

Mr. Pollock offers the following amendment:

1. Amend page 1, line 8, after "age of" by striking out "21" and inserting "19"; so that the language will then read:

> Every citizen of the United States who has attained the age of 19 years, and has resided in this state 6 months, shall be an elector and qualified to vote in any election, except as otherwise provided in this constitution.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I am in a bit of an embarrassing position here, since I, as the chairman of the committee agreed with the minority, and the vice chairman, minority vice chairman, is not here today, and it was his duty to present the minority report. But, in his absence, I feel quite capable of doing it myself, if the committee understands that I do so with a little embarrassment, due to the absence of the minority vice chairman. I will then expect other members of the minority who signed the minority report, to say whatever they care to say in its behalf.

This question is not a new question, as far as I am concerned. Over 20 years ago I assisted the late Senator Arthur Vandenberg, one of our great statesmen from the state of Michigan, to prepare for presentation in the senate a proposal to permit 18 year olds to vote. I have, at various times, assisted in similar moves made both within this state and in congress, and only recently President Eisenhower came out in favor of this provision, adding his name and that of the leadership of the Republican party at the time, to what had been a very widely supported proposal in other quarters. So, I approach it, as I say, as one who has given a great deal of thought in his life to the questions of election and voting, and I believe that with the passing of time, my convictions are as strong as they ever have been before. Perhaps a little stronger because now this amendment, as you see, says 19 instead of 18, which takes the edge off some criticism which some people might consider legitimate, without destroying the principle of dropping the voting age and including a group of bright young people who nowadays are studying their lessons about government but who aren't given the opportunity of practicing them.

I might say that as chairman of the committee, I received perhaps more mail on this question than on any other question except civil rights, and the overwhelming majority of the mail, as perhaps you might expect, has been in favor of lowering the voting age. I have here in hand a petition: 450 students of Port Huron Junior College, signing a petition supporting the move to reduce the age to 19. I think, Mr. Chairman, that this is a matter which we should face up to. The whole move, in the extension of the suffrage, and it has been always in the direction of extension, has been to eliminate disqualifications and to add other groups of intelligent people to the voting register. Whatever the argument might have been 10 years ago or 25 years ago, that young people are not able to understand the problems that they are confronted with at the polls, seems to me to be no longer true. As a matter of fact, this amendment would only include some 180,000 additional voters on the rolls. It is not, therefore, a world shaking revolution in the composition of our electorate. It adds, in other words, a relatively small number of new voters, and in my view, voters who have every right to vote and, above everything else, the competence to do so.

I think, Mr. Chairman, I have said enough to indicate that there is not only real support for this amendment, real arguments for it, but I should add a final point before I finish, and that is, I think it would be a feather in our cap and add luster to this new constitution which we have worked on so hard if we could include such a new and fresh idea in an otherwise fairly dull document. May I now yield the floor to anybody from the minority who cares to speak?

CHAIRMAN MARTIN: Mrs. Hatcher.

MRS. HATCHER: Mr. Chairman and fellow delegates, in the absence of the second vice chairman of the declaration of rights, suffrage and elections committee, I would like to present the prepared material that he would have presented here today along with whatever personal comments he may have had to make on the subject. The matter can be found in Journal 72, page 511, and it reads as follows:

[The supporting reasons accompanying minority report B were read by Mrs. Hatcher. For text, see above, page 2216.]

Mr. Chairman, I would like to say, in concluding, that I had the pleasure of submitting to this convention, I believe, one of the first proposals on the question of lowering the voting age from 21 to 18. Later during the same week I paired with Jack Faxon, who joined me in attempting to get some support in this behalf. During the deliberations of our committee hearings, we had the pleasure of participating in open hearings in Detroit, Saginaw and Flint, at which time we had a large group of young people who came before our committee and presented their case very well. It just so happens that we haven't as yet come across any young individuals who felt that they were not mature enough to vote. The opposition that we have received on the question of lowering the voting age from 21 to 18 came from our older citizens, and this is perhaps understandable. I think that perhaps there are many arguments, and most of them, I believe, have been thoroughly and sufficiently covered in our minority report; so at this time I would like to yield the floor, if I am in order, to Jack Faxon who is a cosponsor of this matter.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, of course, I feel very close to this kind of a question because it wasn't so long ago that I was in the position of being a teenager, and I also feel close to the question because I am in the ordinary occupation of teaching teenagers, especially social studies and civics. And so, first of all, I want to tell you about some of the things that students and people and youngsters I have worked with said before the committee when they spoke in Detroit. I am just going to read a sentence or 2 from their testimony so that you can understand that not all teenagers are the kind that we have seen popularized in fiction and on T.V.

The first statement that I am going to make reference to is one made by Mark Couzens who lives in my district. He pointed out in his testimony that in several states, volunteer organizations of young adults, serving as nurses aides in hospitals, have been formed. These organizations consist of teens between the ages of 16 and 18. The work they are doing is invaluable. Again, young adults are proving themselves responsible. In the last 2 elections — and then he goes on to state that they helped in the regular campaigns that were going on and the elections. Another point is that the members of junior achievement corporations have proven themselves to be capable and competent businessmen. When entrusted with adult responsibilities, they performed as adults, responsible adults.

Now, I think what we will see, as some of these words unravel, is that the young people need a feeling of confidence. That is, if the adult world is willing to place confidence in them, they will respond in kind. Here is a statement that was made by David Ruhland, another student at Mumford high school, and he pointed out these factors. He said:

> In the first place, 2/3 of these people in our country—

he's talking about 21 year olds—

> receive no more education after their eighteenth birthday, and the other 1/3 are going on to higher education, and, therefore, are at least as qualified as the other 2/3 to vote. Because of this, in general, 21 year olds are no more mentally qualified to vote. Another reason I have for extending the vote—

and here it is to 18 year olds—

> is that these days of great world tension and struggle, there has become an increasing awareness on the part of the teenager as to what is going on. An 18 year old today is intelligent and responsible and ready enough to accept the right of franchise. It is the duty of every state in our federal union to realize this and extend the vote to these young men and women. It is unfair to deny the right of franchise to those who are qualified to exercise this right.
>
> And then another very important reason for my stand is that an 18 year old is an adult in the eyes of the law. The young man or woman 18 years of age who commits a crime must pay as dearly for it as an adult. Because the 18 year old must assume equal responsibility for his actions, it seems only fair that this 18 year old should have an equal right in making the laws which govern his actions.

Here is another statement, this one from Michael Heideman, who says, "18 year olds should be given the voting franchise as a matter of right," and he points out that times have changed from the time the provision was written in 1908.

Harvey Hurvitz, another student, said:

> When the student finishes high school, he is aware of the society around him and the problems of the society that he faces. A 16 year old boy or girl is considered responsible enough to take life into his hands after he has taken driver education courses. So must an 18 year old man or woman be considered responsible enough to take his future and the future of others into his hands after he has taken civics and the other related courses in school.

Marty Slobin, the president of an organization of teenagers in northwest Detroit made this statement:

> Today's teenager cannot escape the world in which he lives. Necessity forces him to accept the unpleasant realities of his time as well as those of his environment. Knowing about the problems that his generation must solve, the teenager feels a deep concern, not only for his state and his nation, but for the world as well. The social studies departments of the public schools have trained him to vote intelligently. The teaching of civics begins in the eighth grade so that even the high school dropout has received more training than his parents did. If he were permitted to apply this knowledge at 18 it would be far better than making him wait 3 years during which his acquired skills would lie dormant. This is especially true of the majority of high school graduates who will not go on to college. Those who continue their education will be even more acutely aware and desirous of the right of franchise.
>
> If the 18 year old is qualified to vote and desires to vote, the voting age should be lowered. Nothing is to be gained by requiring the imposed status quo to prevail if these conditions be true. The average teenager is concerned. He wishes to express this concern by exercising the right to vote. When he graduates from high school, he will have been trained to vote intelligently.

Now, these were just some of the words that came from several of the youngsters that participated and came before a hearing of the committee. I commend the youngsters, first of all, for their real interest and civic mindedness. Here is a group of young people, teenagers—some of them are 16, some 17, and some were going to be 18, who were speaking before the impressive and the dignified committee of the constitutional convention, and they spoke with conviction. And they meet regularly. Each week this group of teenagers and others that I know of meet where they discuss public issues, they invite people from city government, state government and national government, if they can get them, to speak to the group. I will speak to this group. Their congressman spoke to the group, judges have spoken to this group, and this is a group of youngsters who have a real concern with the society in which they live.

Now, I think we should understand, too, that as a social studies teacher, one of my responsibilities is to make the youngsters aware of their need to become citizens and their need to participate in the voting process. Every time an election is held in the city of Detroit, the school rooms of Detroit have their own mock elections. We pass out the ballots. We have used voting machines where we have turned to voting machines. They have started to learn to use the voting machines.

By the time they have finished with their social studies program—which, by the way, begins earlier than the eighth grade; it begins in elementary school—and it is a program that, I should add, emphasizes through the elementary school, through the junior high school and through the high school a repeated interest in American history and in American government so that a student who attends school there will have these courses. Then, in the final year of high school they have another course in civics, which brings together their experience that they have had in American history, and it brings together all of their social studies skills and once again they have their election. It is in this kind of a setting, with this kind of a background, and with this kind of training that the youngsters of today are better able to meet these responsibilities than were they in 1908.

You know as well as I do that 50, 60 years ago the number of students that went on through high school and graduated were smaller in number; the number of people that were exposed to citizenship training courses, courses in government structure were much smaller than they are today. Today — I think this is true — there is a state law requiring American government as a required course in the high school so that they get this background.

Now, the question really doesn't involve any great magic for us to figure out. The number right now is 21. The minority report amendment here asks that this number be lowered to 19. It represents but 2 years, and in those 2 years much can happen. If the child who graduates from high school can move right there from the high school experience where he is told to register and take an interest, move right there and go out and register to vote, he will become a good citizen when he is ready. To let this go on for a few years does not serve any useful purpose. I have heard it said, "Well, the person of 21 has a few years to knock around and gain some experience that makes him a more qualified voter." I don't think this generalization can be true. I don't believe that you can make this generalization and prove it to be true. I would even suggest that the student that graduates from high school will probably perform better in a test on American government than anyone who registers to vote at 21. The trouble is that these few years are important years. When a person is interested, you don't say, you can have it later. You give it to them when they are ready to put their enthusiasm and their interest in this type of process. You wouldn't want to tell a person, if you are hungry, we will feed you in 3 days because then you will be hungrier, and in this case if a person is ready and willing to take an interest and vote at 19 there is nothing useful in delaying this until 21 for the idea that this is going to make his appetite greater for this privilege.

I think that the arguments have been put forth very neatly in the minority report that Mrs. Hatcher read. I think that the thing we want to do here is look at this from the overall point. We have provided an educational system which has responsibility—a board that has responsibility. We are taking a concern and we have shown a united concern for the problems of the youth and their maturity. Now we have one further step to go. If we have confidence in the judgments we have made with regard to the proposals that this committee has already approved on the educational proposals, if we have confidence in the judgment and in the process of an education which is going on in our state today, then surely a yes vote for the 19 year old will be your way of furthering that feeling of confidence. If we want people to be responsible we must assign to them responsibility, and this is a major responsibility, it is a responsibility that the ones who are interested will take to and take to warmly.

Remember, this doesn't mean that every 19 year old is going to, necessarily, run out to vote or run out to register, but it is going to mean that the youngsters that have indicated their interest, and there are many; the youngsters who have had their training, and there are many; the youngsters who are interested will get out, register, and take part in the elective process so that we can have a broader franchise in the state and we can take a forward look for our own state constitution along with the recent developments that have taken place in other states. Thank you, Mr. Chairman.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman, ladies and gentlemen, as a signer of the minority report, I rise to support the minority report amendment, and what I would have to say would be repetitious of what Dr. Pollock, Mrs. Hatcher and Mr. Faxon have said, so I will just urge you to adopt the minority report amendment.

CHAIRMAN MARTIN: Miss Andrus.

MISS ANDRUS: Mr. Chairman and members of the committee, I didn't know whether I should speak or not, but I received a letter this morning which makes me feel that I should take a little of your time. I knew there were going to be others from the committee speaking and I didn't know whether I could add a great deal.

A month or so ago I wrote a friend who lives in Kentucky, to ask her the results of 18 year olds voting in Kentucky. I wanted a little more evidence than I had been able to get from general reading. I began to wonder when the letter would arrive but it came this morning, and so I would like to tell you what she said. She is a teacher at Maria College and she has been observing this for several years and then made inquiries to send to me for use here today.

Of course, in Kentucky there was much illiteracy in early days. She said they have noticed 2 things that she wanted to speak of — how applicable they will be here in Michigan, I don't know — but she said they find that the young people, the 18s and the early 20s, are going to the polls in larger numbers than the older ones have gone, and this is what has interested her: they talk about election issues at home and more older people are going than did before; that is, ones who have children. They want their children to start out right, or they become interested in talking to their children and so they are going to the polls.

The other point that she made is one that has already been spoken of. I would like to express it again because she is a person of very wide experience. She said that she believes these young people are voting much better, they are more qualified, more informed, voting more intelligently than many of the older ones. Of course, there is quite a little illiteracy there. But, she said, the very old people get so set in their ways. Now, there are a number of us who come under the category of senior citizens, and I don't know just how you like that. But it is true that many people don't seem to have new ideas after a certain time. She said, "If we had to cut off our 18 to 21 year olds or older ones, we would cut off those older ones. We think that the younger ones are adding much more to our electorate."

Now, I would like to add this to what Jack Faxon said. I don't have quite the recollection he has; but when I was 19 years of age, women did not vote. I can still remember wondering why my brother could vote and I couldn't. I thought I was just as good a student in school as he was and that was the problem. I wasn't thinking so much about 19 year olds voting at that time. But I have been working with people in the late teens and 21 through 25, in that age group, for about 45 years, and I think that if you would talk to your children, to young people seriously about this, you would find that they really know quite a lot about government. As Jack said, we have these courses today; we find the young people very interested. When we have these mock elections, most of them vote. In our young Republican and our young Democratic clubs there is a great deal of interest.

And then they get out of school, some of them go away to college where they are separated from the local issues, they get jobs at other places, and then they go into their life's work, they marry and are establishing their families, and they are so preoccupied with other matters. I have been convinced, for many years, that if our young people could vote right out of high school, and then if they go away from home, could cast an absent voters' ballot until they become acquainted with their new environment and the problems of their new location, they would not be the group that we have today. Anyone who is connected with elections will tell you that our lowest voting group is between 21 and 30. It is because they are so busy, and there has been that thought, especially if they go to live someplace else.

Now, I was talking to one of our judges today, and he doesn't agree with me about young people, and I got to thinking as I left him, almost all of his connections with young people have been with that small group that make the headlines. You know, the news is the unusual. It is the person who gets into trouble who makes the news. So I think many people have a completely wrong impression of our young people. It is so different from what we who work with them all the time observe, people who really know them, and so here he has—he wouldn't trust those people who come up before his court to vote. I have the select group in college. I think everyone of them would make a good voter. Well, there are a lot in between.

Now, what I would like to leave with you is something that I have thought very keenly about this constitution. We want a forward looking constitution. We want something that people will look at 40 or 50 years from now, and are not going to say, "Weren't they old fogies? They couldn't see problems of the future. They wanted to keep things as they were at that time." I voted in every way I could to help to make us forward looking. Our newer constitutions are 19 and 20, Alaska's and Hawaii's. We are planning for quite a while in the future. The trend today is to put more responsibility on young people. Any of you who work with boys know this draft question isn't something that is just a joke, no matter how much they joke about it.

The world today is changing so rapidly; our problems are so serious. These are the people who are going to have to make our laws; these are the ones who are going to have to live under them. I would like very much to have people of the future look at this constitution and say, "That 1962 constitutional convention saw the problems of the future. They had confidence in their young people and they put responsibility on them." I am sure the young people will meet that responsibility, and I hope you will vote for the minority report amendment.

CHAIRMAN MARTIN: Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman, members of the committee, it is always a pleasure, of course, when you can agree with someone, and I am pleased to agree with my conservative seatmate, Jack Faxon, on this issue. I would like to support the minority amendment and urge you to adopt it.

I think it was Mark Twain who said that when he was 14 he was positively ashamed of his father because his father was so ignorant. He said when he got to be 21, it was surprising how much his dad had learned in 7 years. I believe that was an inverse way of saying that the kid himself had learned quite considerably in 7 years. Here we are today. What are we talking about—19 or 21? No, we are talking about exactly 2 years, because we are saying in the majority report when you are 21 you can vote, but we are saying 2 years prior to that, you just aren't smart enough. I submit to you that 2 years just isn't long enough to learn that much.

Some 35 years ago, at the time I was 19, the federal government at that time had given me the privilege of paying income taxes for one year. I can well remember that first return. The amount of the tax was $1.46, believe it or not. If we are old enough to be working, to be paying taxes, to be serving in the army, which has already been covered, or navy or whatever you have, surely we are old enough to vote.

Take our friend Faxon, for instance. He graduated from college when he was 19. He got a job teaching school. He was teaching government at that time. I think he still does. Here he was actually teaching the kids all about their government and how to vote, and he couldn't even vote himself.

Now, let's take the last convention. In the last convention, the matter of women's suffrage was a question; it was a hot political issue. The men of that convention decided not to give the women the franchise at that time. They waited some 12 years after that and then they did so. I ask you and I plead with you today, let's not wait 12 years on this one.

Now to my traditionalist friends I just want to say, the only reason that you are arguing about 2 years today is because of tradition and for no other reason.

CHAIRMAN MARTIN: Mr. Jones.

MR. JONES: Mr. Chairman, before speaking to this amendment, in support of it, I should like to request the yeas and nays on this amendment.

CHAIRMAN MARTIN: Is the demand seconded? Sufficient number up. Mr. Jones, will you proceed.

MR. JONES: Thank you. It is my speculation that within the next 2½ months perhaps some of you, as delegates, will be asked to address high school graduations throughout our state. It is also my feeling that most of you who will be asked to speak would be telling these seniors who are graduating from our high schools that they are now ready to assume their rightful positions as adults in our society. If you tell them this—and if you don't many other adult speakers will—then I think you should also be willing to assume that you are according them all of the privileges and rights of adulthood, and certainly the right to vote is one of the most precious rights that they could have. I also feel that it is very unfair to educate our young people in the responsibilities and duties of politics in government and then to delay their right to participate in the government of our state for 3 or 4 years. Therefore, I urge you to support the amendment.

CHAIRMAN MARTIN: The Chair might say for the benefit of the delegates' that there are 10 speakers ahead; so if you can confine your remarks to reasonable length, it will be helpful to everyone concerned. Mr. McLogan.

MR. McLOGAN: Mr. Chairman, if I didn't already have the green light, I would pass. There are certain momentous comings of age in the life of every youth. One is the spring of the year, that time when a young man's fancy lightly turns to thoughts of love; another is that day when the legal right to get behind the wheel of a car and drive is first his; and the third is the time when one reaches his majority and can cast a vote, his own vote, by and with his own counsel and in secret. This urge to vote is felt most keenly when a youth recognizes his own awareness and understanding of government and an urgent desire for direct participation. Generally that is at age 18. This amendment provides an added year of maturity. I would support the amendment, and only add that it will provide approximately 180,000 additional yes votes for the new constitution on an issue that is clear to every youth.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, I think first we should determine how many we are talking about. If we take the population characteristics from the census, we will find the 18 year olds were 170,000 odd; the 19 year olds, 19,000 odd; and the 20 year olds, 86,000 odd.

In the years of my service in government, one of the things that I learned, I believe, is the fact that we ought to look about us and see what our fellow citizens throughout the United States of America are doing in relation to a problem that is before us; and if you read from the articles of the New York Times, of which I have a list going back many years, 57, there were many rejections. Hartford, Connecticut refused it; Illinois refused it; Columbus, Ohio refused it; Nashville, Tennessee refused it; Washington, D. C., the congress itself—in spite of the fact that our former president and former esteemed senator from this state, Arthur Vandenberg, urged it—has not arrived at a satisfactory solution, except to say that the house has already passed a bill fixing the age for voting at 21. Other states, likewise, have had this question before them. I don't think it is a question on which we should get emotionally upset, for the reason that there are many things to think about in addition to just being better educated.

No one disagrees that our generation today, coming out of our schools and attending our higher institutions of learning, we believe, are better qualified to face the issues that face them as students of the community where they are now living. But there are a few things that I think some of the minority group have failed to mention that ought to be mentioned and that is why, Mr. Chairman, I am taking the time of this committee to do it, although I realize that words are not necessarily always adequate to express what we think. The age of 21 is a natural age for maturity, because of many things, many things in relation to our way of life in this republic in which we live. The age of 21 requires that we have a great deal of judgment. Our good delegate from St. Clair county, Miss Andrus, referred to the fact that only the few get before the judges, but those few point up one fact—and I want every delegate to note this one fact—that the 19 year olds who come before our judges, and our judges testify to this, lack judgment; they say it is a lack of judgment because of age. While we are only talking about 2 years, as Delegate Farnsworth well pointed out, you can learn a great deal and accumulate a great deal of judgment.

We have heard a great deal about the military service, if they are willing to fight and should fight for this country then, of course, they should be allowed the privilege of voting or the right to vote. I respectfully point out this: that before a boy or girl in the military service serves in any capacity of consequence, they go through a very intensive, very intensive training period in order that they are qualified to then face the task before them. We do not have, in the same sense, an intense program of education because if we did have and it was intense in the years when it was being accomplished, then I would say that is great.

Our good friend, Delegate Faxon, pointed out that we were only talking about 1/3 of that age group, for the reason that the other 2/3 drop out of school. I respectfully point out, that being true—and I am not going to dispute his figures because I think they are accurate—we will find that 1/3 of the boys and girls best qualified to vote, because they are going on to higher education, are away to school as well as those boys who are in the military service, and therefore, are not at home in complete touch, so that they can study and acquaint themselves and come to a judgment as to the issues that face their local government. One of those issues, my friends, can be: shall we increase the tax for some school or some other facility, public in nature, where these 19 year olds would vote?

On our committee on suffrage, rights and elections, or whatever we call it, one of the amazing things to me—and I am sure to some of the other members of that committee—was that we had 2 minority groups, who are now joined together in one majority report, one recommending 18, another 20, and I think there was one in the middle, with 19, and then because they saw the reason that they couldn't have all 3, they joined and came up with 19. So, you see, there was no unanimous agreement there as to what this age should be. They, too, were not sure whether it should be 18, 19 or 20, or what it should be. I want to finish my remarks, Mr. Chairman, with a quote from the Elective Franchise and the Michigan Constitution by John P. White, who was our consultant on the matter of elections, and this is what he said:

> Those opposed to any change also point out that the present tendency is for a later rather than an earlier entrance into the labor market and the responsibilities of adulthood. A higher and higher percentage of young people remain in school after attaining the age of 18.

He goes on to say again, and I want to repeat this in closing, that those young people are away from home. They are absolutely engrossed, and should be, in the problems of their studies at college or wherever they may be, and as a result of that, are unable to keep abreast of the issues that have faced them on the local level. Therefore, it is their problem of voting on somebody else's considered judgment.

Mr. Chairman, at this time, if I may, as a member of the majority group of this committee, I would like to yield to Mr. Brake for further remarks in this connection.

CHAIRMAN MARTIN: Mr. Leppien, the Chair has Mr. Brake on the list, but doesn't think at this stage we can yield from one to the other. The Chair will call upon him, however, in due course here. Mr. Kelsey. Mr. Kelsey, do you want to yield to Mr. Downs? He has reentered the room.

MR. KELSEY: Yes, sure.

MR. DOWNS: Thank you, Delegate Kelsey. I, just briefly, want to rise in support of this amendment. I believe the arguments have been very well made about the increasing maturity of youth. There is just one point I would like to add, and that is that our age of adults increases and our longevity increases, and I think we need more of the vigor of youth to help provide a real balance in voting. I think the idealism of youth is a very good element. We need more of that, particularly as the length of life for the rest of us increases, when people tend to have maybe not quite the imagination that youth does have. I urge the support of the amendment.

CHAIRMAN MARTIN: Mr. Kelsey.

MR. KELSEY: Thank you, Mr. Chairman and members of the committee. Because I was so slow last time I thought I could take the liberty of taking a little time because I usually don't say too much when I rise, and the same will remain true now. At the outset—I have quoted this language before and I would like to do it again and each time I rise, because the language is so beautiful and, I would like to believe, so meaningful. That, of course, is article II, section 1 of our present constitution, "All political power is inherent in the people. Government is instituted for their equal benefit, security and protection."

I suggest, Mr. Chairman and members of the committee, that 19 year olds are people, and those who will argue that 19 year olds are not responsible are prepared to indict each parent, each primary educational institution and educators. I would suggest that it would make more sense and logic to prohibit the consumption of alcohol and tobacco until the age of 21 [25], and in its place allow the right of 19 year olds to vote.

Let us examine some ridiculous facts for the moment. The present law allows a citizen to leave school at the age of 16. That same law prohibits that same citizen from gainful employment until he or she is 18 or 19. That is, of course, if they are fortunate. Could I suggest here that this could be the prime cause of juvenile delinquency, knowing that idleness is man's worst enemy? The present law allows those 19 years of age to enter into the bonds of matrimony, even though those of us who have children of this age would not advise this step. Nevertheless, there are many who do marry at this age, and what happens? The inevitable: children paying taxes of all sorts, including income, social security and property, paying into pension funds and many others; and again the inevitable, the call to arms. We know, from a child, he or she was taught to pledge allegiance to the flag and answer this call, which includes flying a plane, pulling a ripcord, driving a tank, operating a tailgun, sailing a ship, and yes, in the modern day, riding a space capsule. Who among you who have sat here and argued over tangible and material assets would not expect those angels of God and your brothers and sisters to protect these interests and on the other hand say, by voting against this amendment: you shall have first attained the magic age of 21 years before you can partake in the affairs of this wonderful, free republic where some day your son or daughter may become president?

Mr. Chairman and members of the committee, if I seem a little emotional, I certainly am; and in brief, let me give you my reasons: on August 5 of 1942, at the age of 20 years and 7 months I enlisted in the army of the United States to defend the freedoms that many of us here enjoy and cherish. I was handed 2 metal tags by my immediate superior officer. On those tags was my name, address, rank, serial number and blood type, and I was told very bluntly, because at that age you are not supposed to be a baby, that I was to wear those tags on this small chain permanently because if any misfortune should befall me—an emergency—my blood type would be needed for a transfusion, or if I were to meet some other unfortunate fatal accident, one would stay with my body and the other would be to notify the next of kin. I suggest at this point that I made many, many inquiries into just what life was all about, and I made a dedication to myself then and there—and that is the reason that as a young man of 40 I've got pretty near 20 years of political experience behind me, which includes 10 years of elected office—and I said that if I was ever in the position to do anything about this wrong, I would stand up and be counted because I thought that had I had the franchise, just for 2 years or 1½ years, and, if maybe a decade or 2 before me, the citizens of my age had had that franchise, perhaps we could have avoided this war; that particular world war II.

Look at the state of affairs today and who can argue that he who has the youth has the army? We are the most politically backward country in the world and I don't care what other states do, incidentally. I suggest that President Eisenhower had more means of research at his command than I and he has endorsed for many years the right of the 18 year old to vote.

I served the fifth largest city in the state of Michigan as its municipal judge and I had many, many youngsters before me on offenses—not crimes—known as misdemeanors. It disturbed me, and I always took time from my busy schedule to talk with these youngsters and, invariably their answer was, "We are not wanted; why should we live by the laws? We can't find employment. We can't do this. We have to pay taxes. We have to fight."

Anyone here, when we are fighting for the minds of men, which we have been doing for the past 25 years, who will deny this franchise, I say, cannot rest in good conscience. I support the minority report amendment. Thank you. (applause)

CHAIRMAN MARTIN: Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman and fellow delegates, I doubt very much if I can come up to the heights of the preceding speaker. I won't attempt it. There is a great deal involved in anything of this kind. There is a great deal that has been said about maturity. Maturity, of course, is a variable. It varies from individual to individual and it is a variable in an individual. An individual does not reach maturity overnight. I believe doctors will tell you that the eye is probably the first part of the body that reaches maturity, of the specific organs. In an individual, in the adolescent, that's one of the problems that they have, the extreme rapidity with which they will change from being an adult to a child and back to an adult again right within a very few minutes sometimes.

On 3 different occasions I have been on the panel of our local senior government day in Charlevoix county, and each time this question came up as to the vote for people younger than 21—generally it was mentioned as 18—among the senior students of Charlevoix county, I have never seen any overwhelming enthusiasm for it, and even less so when it was presented that with the vote—in other words, assuming the adult responsibility of voting, if the corollary would go—there would be the full adult responsibilities. The enthusiasm, after first thought of getting away from parental control, was practically nil.

I think we are losing sight of something here when we talk about giving the vote to the 19 year old, because that is not so much conferring of a right or a privilege as it is a responsibility. Adult responsibility does imply certain privileges that minors do not have. On the other hand, minors have certain privileges that adults do not have. It is only a matter of time until you grow out of one and into the other under our present laws.

A great deal could be said in regard to the granting of the franchise to, in this case, 19 year olds. Are we ready at the same time to hold them responsible for their contracts? Should they be responsible for their livelihood? Should it be proper that a parent, if he so desired, could shuck all responsibilities as regards his children at age 19? And, does it go that the 19 year old inevitably would be considered as an adult in cases of misdemeanor or crime? Should the 19 year old, when being given the vote, be given the unbridled right to availability of alcoholic beverages, as 21 and over are today? I think that those are serious questions that should be searched in anyone's mind when considering such a grave responsibility as lowering the franchise age. Where do you set the precise line?

Much has been said here on the floor about the fact that people are being educated better and longer and that this is justification for lowering the age of voting. I think it could be equally well argued that because of the greater complexity of life today, it requires more education to qualify a person for the competition of adulthood and that the argument is just as strong that the person, perhaps, gets the experience, the matured judgment, in the complex life at a later time than in the case of, well, 1908.

I do not have precise figures in regard to this, but I have heard, by what I believe is good authority, that the voting record in the ages of 18 or 19 to 21 follows the same sort of pattern, on a time schedule, as it does in the ages from 21 to 31; that in the vast majority of cases it is not until people get around the age of 30 that they begin to be really interested in politics, public affairs and voting. I am not saying that that is proper. I am just saying that that is the observation: that the voting record among the 18 to 21 year olds, as in Georgia, is no better than it is from 21 to 25 or 25 to 30; in fact, it is not as good. In the first election, there is a great deal of interest because of the novelty, but after that there is not any particular novelty.

A good deal has been said in regard to the fact that an 18 year old is old enough to fight for his country, and I have heard the argument that if he is old enough to fight, he is old enough to have a drink, and I am not saying whether that is right or not; it is beside the point right here. The thing is that the very features or the characteristics of the young man from 18 to 21 that makes him a topnotch soldier would not make him a topnotch elector. The thing about the 18 to 21 year olds is that they are not afraid of anything. They do not anticipate the future. They do not consider the future, and as a result, they make very good shock troops which they would not make in the future. If that is a feature that would make them vote wisely, I am very badly misinformed. Thank you very much.

CHAIRMAN MARTIN: Mr. Sharpe.

MR. SHARPE: Mr. Chairman, at this time I would like to pass.

CHAIRMAN MARTIN: Mr. Sharpe passes. (applause) We still have some 8 speakers ahead. The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, I note the applause when Mr. Sharpe passed and I know his position. He is against letting 19 year olds vote. I am also against lowering the voting age to 19. I think that a great many speakers thus far have favored this, and I would like to go into a lengthy speech on why we should not do it, but I do believe that the majority of the delegates have their minds made up.

I would only point out a very few things. I feel that the motivation behind reducing the voting age to 19 has not been clearly stated. I feel it is motivated more by the possibilities of political gain than genuine concern for young people. I feel that those in the field of education who are interested in having young people vote are motivated by high ideals and theories unproven and that, naturally, they have pride in their product. That is why they want these young people to vote. I think it would be fine if education in the field of government could be nonpartisan. I don't feel that it is.

I would like to point to the statement that Miss Andrus made, that between 21 and 30 is an age spread in which few people vote, and I submit that this is good. The fact is that at 18 years of age, I didn't have the slightest idea what was going on in politics. When I reached 21, I voted by absentee ballot for the first time, and at that time it was, as I look back on it, really a waste of time and effort because I didn't know what I was doing. I have talked to a lot of young people. I am not so far removed from the age of 21 that I cannot look back and remember how I thought and what I felt and how I was influenced. I submit that the question is not whether they are old enough to fight, but whether they are mature enough to make decisions that are based on a sound political philosophy, and I submit that a sound political philosophy has to be based on a sound economic philosophy. I maintain that you do not develop a sound economic philosophy in high school or in college because most of the time you don't really know where the money is coming from.

I would like to point out one other thing: the actuaries who sell insurance to young people these days are unwilling to insure automobiles for young people who are not married or are under 25 years of age. There must be a good reason for this. It's been proved that driving an automobile requires some degree of maturity. It's a relatively simple skill, but it requires some degree of maturity. The insurance companies, you know, don't sell insurance to these young people because the accident rate is the highest in this group, and this is because they lack the maturity to make the simple decision to keep the speed of that automobile under control and their habits while driving under control. I submit that the maturity required to drive an automobile is far less than that required to make intelligent decisions when you go into the voting booth to vote. Lack of maturity is a very good reason for not lowering the voting age.

I would like to point out something else: in today's Detroit Free Press on the editorial page—I don't intend to attack the Free Press today—I think they had a very thoughtful editorial on the subject of General Walker's testimony before an investigating committee. As you know, I think General Walker was removed from office because he violated the Hatch act. The gain that he made was nominal. It amounted to nothing—sir?

CHAIRMAN MARTIN: Will you confine yourself to the subject under discussion.

MR. HUBBS: I am trying to illustrate a point, Mr. Chairman. I submit that the gentleman under question was a fine military man. He was well trained. He had a tremendous record of combat duty in Korea. I submit that he knew his job, he did his job, that he is a loyal citizen and he really knew how to do that job. But I submit that in his dedication to his profession and his technical training, he didn't have time to develop a political philosophy based on sound economic philosophy and that when he was faced with a situation as he saw it, he over reacted and he went off the deep end and he made statements which I think that some day, as he gains more knowledge in this field, he will live to regret.

I would like to close by saying that I think there are enough thoughtful people here who will realize that 21, of course, is an arbitrary age. I think possibly it might be wise if we raised it up to approximately 27, and maybe we could thereby exclude some lack of maturity in the voting booth.

CHAIRMAN MARTIN: Reverend Dade.

MR. DADE: Mr. Chairman, I rise to support this amendment to lower the voting age to 19 as one of the signers of this minority report. I can't see where General Walker has anything to do with lowering the voting age to 19. I think that is beside the point.

I am reluctant to speak because out of the experience of the clergymen, after you've gone about 15 minutes, the collection begins to change from $2 to $1 and finally gets down to 15 cents if you go as long as we have gone this afternoon. But I couldn't sit here without answering some of these questions that have been brought up.

First, we are not talking about the youth who come before some of these judges. We are not talking about the young man who gets in trouble. There are many of the 90,000 young people who never get in trouble. When you drive your car on a Sunday afternoon and a young man whizzes by you, you immediately say, "Why, these young people; they don't know how to drive. They are just whiz bugs or something." He is just one. There are hundreds and thousands of young people who do not drive like that. I'd be extremely interested to know from insurance figures, not general statements, how many of the young people that are insured, how many of them do get into trouble and do cause insurance companies real risk; figures, not general statements. And then, too, when we talk to young people who are in trouble—being a chaplain of one of the penal institutions—we find they don't say that it is a question of lack of judgment; we find that they say the trouble comes from lack of parental care and parental assistance. It goes back to us who are parents. We failed them, not that they lacked the judgment. We didn't give them the proper growing up sort of atmosphere and background, so we bear the responsibility.

It is so easy when you are 60 or 70 or in your 50s or in your 40s, from a high point on the mountain, to look back on 21 or 19 and project what you think it ought to be, forgetting that they live in a day which you cannot even appreciate. I wonder how some of us at 19 or 21 would have acted if we had reached our majority in these complex times? I think these young people are doing a mighty fine job. You only have to go out in the corridors and talk to young people who are under 19 and see the scrutiny and the careful judgment they give our actions here to realize there is a lot of common sense in these young people today.

I think we should write a forthright document. We should come off from our perch of profound wisdom about many things we do not know and look at this as an opportunity to move ahead and write something that will spell audacious courage and foresight and give these young people a chance. Good gracious, if the high standards we are projecting for voting were projected upon us, I wonder how many of us would be eligible to vote.

CHAIRMAN MARTIN: Thank you, Dr. Dade. The Chair has also heard it said that there are few souls saved after the first 20 minutes. We have been quite a few more than 20 minutes. Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, with the very evident impatience at more speeches on this subject, I would not presume to take your time, except that I think that I have had a rather unusual opportunity to make observations in this particular field. A great deal has been said here about the eagerness of these young people for the right to vote. I think it has been my privilege, and it is one that I esteem very highly, of having heard this matter debated with and among more senior high school students than has any other person in Michigan. Since 1949, in the senior government day program, which my organization has sponsored, I have met each year with all of the high school seniors of 41 or 42 counties, including not only the public schools but the parochial schools of those counties. This question practically always comes up. When you ask these kids right cold, "Do you want to vote at 18?" the great majority of them say, "Yes." When you take the time to lay the issues before them —I don't mean when I take the time, when anybody debates it enough, discusses it enough so that they have some view of both sides of the question—they are likely to split about 50-50. Some counties will be a little on one side, some on the other.

We have here in Lansing each year what they call the Hi-Y, Tri-Hi-Y mock legislature. These are selected kids, usually juniors in high school, who meet for 2 days, after training, and debate various issues and conduct the affairs of a mock legislature. Mr. Chase's information would be more complete than mine, although I have participated to a considerable extent, but I believe, Mr. Chase, that in all the time since this program has started, there has not been once when after debate and careful consideration these kids did not turn down the question of 18 year olds voting. I think it has been one year right after another they have decided against it.

I had an experience in the edge of Ohio where we go for a little missionary work of a less enlightened nature. Williams county, Ohio, on the border, has a senior government day and when I was down there some years ago, the then Governor Lausche of Ohio attended and spent the entire day with those kids. I have a great deal of respect for that gentleman. They asked him the question and he told them in just so many words, "You are not mature enough to vote." That isn't talking like a politician. He must be one or he wouldn't keep getting elected all the time. But that is what he said to them.

Generally, most of these youngsters themselves will stop a long time and be very careful in their consideration if they are asked just 2 or 3 questions, without any argument at all. This is one of them: do you think people ought to be running our government who are not taking all the responsibilities of adult life, who are not liable for their own contracts, not liable for their own torts, not liable for their own support, not dependent upon their parents? Or, taking it the other way, are you ready to take all of these responsibilities, be liable on your own contracts, for your own torts, liable for your own support? That makes a lot of them stop and think a long time. I suggest it to you for your consideration. Another question is this: what are you going to do about the kids who never finish high school? Certainly those who graduate at 18 or thereabouts have just had a senior course in government. If the teacher is competent, they know a little something about the actual operation of government. There are those here, I am sure, who know more accurately what this percentage is than I do, but I understand it is somewhere between 30 and 35 per cent who never graduate from high school. You can't let the high school graduates vote and not let those who do not graduate from high school vote. What about their preparation for the job?

Of course, it would be ideal, and I wish we knew how to do it, to let every person take the responsibility of the ballot when he is individually qualified for it. Some of them would do an excellent job at 15 or 16 years of age, and there are others of us who are not qualified at 70. There isn't any question about that at all. There isn't any way of carrying that out. We have got to pick an arbitrary age. The age we have picked has been that of attaining legal majority in every way, that of 21 years.

I don't have the idea for a minute that letting 19 years olds vote would send Michigan to the dogs. I don't think that at all. I think they'd follow what has happened in Georgia, and it was pointed to here—the record of the young voters; after the novelty wore off, they paid little attention to it. I don't think they do the state any good. I doubt if they'd do too much harm, but it seems to me the safer procedure is to stay where we are until it is demonstrated that they have the qualifications. The test isn't what they would like; the test is what is best for the state of Michigan.

Personally, as I go from one of these senior government days to another—one of the things I have against this convention is that it's keeping me from going this year—I would like to hear fewer questions from these kids about Hollywood mufflers, drag strips, what authority the police officer has to interfere with a private conversation in a parked car, such things as that, and more questions showing some insight into what the actual problems of government are.

It is my judgment—and I would rather be on the other side, I will tell you that very frankly—it is my judgment that we would not gain, that we would lose to some extent were we to make this change.

CHAIRMAN MARTIN: Mr. Beaman.

MR. BEAMAN: Mr. Chairman and delegates, in drafting the bill of rights and the election franchise, our committee found very few areas of dissent. The voting age was one of them and after considerable discussion, the majority of the committee felt that the 21 year age should be retained. It is a subject that has been discussed for many years. The arguments on both sides are well known to all of us and I question whether any debate would change many of our minds, and I oppose the minority amendment.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I will try to be very brief. I think I had a number of points here which I had hoped to cover and just about all of them have been covered. Of course, all of our lives we are subject to arbitrary dates and cutoffs. The age when we can be responsible for contributory negligence; the capacity to commit crimes; the capacity to get married without our parents' consent; the age at which we can drive a car, make a contract, buy a drink, serve in the armed forces; all of these dates are arbitrary. There is no question about it, and this figure is arbitrary. I personally think that I had the capacity to vote intelligently before I was 21, and there are, maybe, those here who think I haven't that capacity yet, I have heard it said.

CHAIRMAN MARTIN: Mr. King, we are willing to give you the benefit of the doubt. (laughter)

MR. KING: Thank you, Mr. Chairman, but what we are really talking about here, of course, is a very grave and a very great responsibility. It is not a privilege. The word franchise to me is not appropriate. It is a responsibility, a serious responsibility and I think it is extremely important that we carefully consider what we are discussing here with that view in mind. I think there is no question but what many, many people have the capacity and the ability to vote at the age of 19 or 17 or maybe even 15, and many others of us never do develop this capacity.

When we get a license to drive a car, of course, we have to take a test and that is some assurance. Any such test in this country would be looked upon with great disfavor, I am sure, beyond a basic literacy test, and perhaps it ought to be, but we have to have other safeguards. Even with this driver's license that we get at 16, as has been pointed out, you have to pay a much higher rate of insurance, if you are single, up until the time you are about 26. This is because, I think, young people—and I am talking about 21 through 26, too—make a lot of irrational judgments which, as you get older you do not do. I think that there is no question in my mind but what, although this is a purely and completely arbitrary date, it has proven to be as satisfactory as any other date that could be so selected, and for that reason I would support the committee position and urge the defeat of the minority amendment.

CHAIRMAN MARTIN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, I have just one thought that I would like to add to this discussion. We have passed a proposal providing that no person shall be denied the equal protection of the laws, nor shall any person be denied the enjoyment of his civil or political rights or be discriminated, and so forth. I just pass this along for your thought and consideration. I think most of the other ideas have been expressed by other delegates.

I think Delegate Shanahan and Delegate Brake covered pretty much the rights of adulthood with regard to buying liquor in a tavern and other matters that are quite serious — serving on juries, the rights with regard to contracts, and such matters — and I wondered if Delegate Andrus, in thinking upon the maturity of her students, had considered these aspects of maturity; whether or not she felt that these students were mature enough not only to vote but to walk into a tavern and sit down with other people who may be there. I think under the proposal we have already adopted, there could be no question but what they would have an absolute civil right to do so.

CHAIRMAN MARTIN: Mr. Karn.

MR. KARN: Mr. Chairman, members of the committee, just a brief statement expressing my opposition to the minority amendment before us. I would like to comment very briefly on 2 or 3 remarks that have been made, one by Miss Andrus. Her experience is far different than mine, but I have had scores of young people, high school and college people, through my home as my children were growing up and I have to say that I have not found any of them that were frustrated or even concerned about the fact that they were not able to vote until they were 21. I think in that connection, also, that if those of us who are far enough away from our youth — and there are a few here that perhaps are not; one, especially — but I think those of us that can remember back to our youth will admit that most of our decisions at the age of 18, 19 or 20 even, were motivated more on emotion than based upon knowledge or experience or any degree of maturity that we might have had. That was referred to earlier by one of the delegates in a slightly different way.

It does seem to me, in connection with Delegate Kelsey's statement, it is rather difficult for me to believe that a lower voting age might have resulted in no world war II. That might be entirely possible, but it is rather difficult for me to see how that might have happened, in spite of the fact that I have the greatest respect for my seatmate, John. I certainly would oppose the amendment that is before us.

CHAIRMAN MARTIN: Mr. McAllister.

MR. McALLISTER: Mr. Chairman and fellow delegates, I will introduce exhibit a: when I was 13 years of age, I started in business. I had a great variety of them. I was a newsboy, a newspaper reporter, a fish peddler and junk dealer, all at one time. Between that time and the time I became 17 years of age, during 5 days of the week, I made $25 a day, which was a stupendous sum at that time. When I arrived at 17, I obtained a job with an uncle of mine and started in July. On November 4, I was making $400 a month and expenses. At that time I asked my uncle for a raise, and he gave me a raise right out the front door, and one month later I was insolvent and working for $12 a week. Like most young people at that time I thought my parents were old fashioned and way behind the times. Three years later, I was amazed by the tremendous judgment that they had. Some time later I realized that it was my judgment that had been bad and not theirs.

I have 3 teenage daughters approaching the age of 19 years. They are better than average students. Two of them are on the honor roll. One is in college and 2 of them are in high school. But I would certainly dislike leaving the fate of this nation or this state to their votes (laughter) because they have never earned any money. They have money which I guard carefully, because if I didn't, it would be gone instantly. So, I say that we certainly don't want to entrust votes in the hands of people 19 years of age.

CHAIRMAN MARTIN: Mr. Turner.

MR. TURNER: Mr. Chairman,
I have made up a speech that'll take a long time.
And then with great labor I've put it in rhyme.
But at this time of day I would just like to vote.
I've dropped most of the language and I say now, "let's vote." (applause)

CHAIRMAN MARTIN: Mrs.—Judge Gadola.

MRS. JUDD: Mr. Chair—

MR. GADOLA: Mr. Chairman and members of the committee, in spite of that beautiful poem, I'm not going to talk very long. The only reason I rise to talk is that I am a member of this committee. I am very sorry that the person that was supposed to present the majority report of this committee is not present because the chairman of the committee, of course, was not in favor of the majority report and he presented the report of the committee, which I do not like. However, most of the statements that have been made from committee members here have been made by people on the opposite side, not the majority of the committee. Therefore, I am going to just take your time for a moment. I have had a great deal of experience, and I think I led the discussion relative to this in the committee, relative to being against the age of 19 or anything under 21, because of the experiences I have had — remember this: no matter what you say about the age to fight, that doesn't mean anything. I happened to have been on a training cadre and I interviewed hundreds of recruits, talked to them, knew what they were. They had no idea of government. They had no interest in government.

I was on the Mexican border in 1916 when Wilson was elected to keep us out of war. Well, I happened to be one of the older guys there, you know. We didn't have the absent voter's ballot at that time. The outfit that I headed was 24 men of a special outfit, and only 4 of us above 21 years of age, and not anyone — and there were 100,000 of them scattered up and down that Mexican border — I never heard anybody interested at all in politics, and they were all youngsters.

And, have you ever been in port when the fleet came in? Did you ever see shore leave? And they are youngsters. Let me tell you this: it is something to witness. (laughter)

Besides that, today look at the teenage gangsters that are wandering around, and there are teenage gangs. Remember this: statistics show us that the greatest number of divorces come from too early marriages, teenage marriages. Remember that we have handled this and we have handled all of these boys before the courts. Well, Miss Andrus said she talked to a judge. It was me she talked to. I've had the experience, of course. She said, "Well, you've had them from one side. I have had the good ones and you have had the bad ones." Well, I have had both the good and the bad, and I've had 3 youngsters, a daughter and 2 sons, in college at the same time and I have been to those colleges, and one of them was Dr. Hannah's college, and by the way, in passing, I want to quote Dr. Hannah. Dr. Hannah, in a speech I heard some years ago, and he was talking about the benefit of education, said, "When my grandfather finished the eighth grade, he was sufficient to go out in life as an adult. When my father was graduated from high school, he was sufficiently educated to go out in life as an adult. When I was graduated from college, my academic career was sufficient. But now you need a doctor's or a master's degree to be qualified." I want to quote him. He wants to go back to 18. He wants to go back to his grandfather's day. (laughter) There you are, my friends.

So, let's maintain a little reason. Let's get a little balance in this age proposition. Let's get it down to the proposition where they reach maturity. If you want to reduce the voting age to 19, let's reduce the age of qualification for a representative in the congress. Let's reduce the age qualification of a senator. Why, even the president has got to be 36 before he knows anything. There you are. Let's reduce all those ages if you are going down.

You know, a few weeks ago I advocated raising the age so that we could protect young boys of 16 from a criminal record. You voted it down, you people. So you didn't want to make the young boy of 16 — you wanted him to be responsible as a criminal. I wanted to oppose that and I did oppose it. Now, I am opposed to reducing this other one to make the boy of 19 responsible as an adult, because his contract is no good.

I was surprised at Kelsey here. He didn't know anything about the law. He said: well, maybe you're opposed to him having a drink at 21. Well, they certainly cannot get a drink before they are 21 or they get over before the liquor control commission. That is a wonderful place to go to. (laughter) So I say that we should maintain the age as it is at the present time. Thanks. (applause)

CHAIRMAN MARTIN: Mrs. Judd.

MRS. JUDD: I am sometimes called Mrs. Judge, so I made a mistake a few moments ago. Mr. Chairman, members of the committee, I only want to speak on one angle of this question. It has been mentioned several times that because young people today marry and have families at the ages of 19 and 20, they are therefore qualified to vote. I protest the idea that marriages at 19 and 20 are an indication of responsibility.

There was a time when young men believed that they should not marry until they could support their families. Today it doesn't seem to be considered necessary, and I think particularly in the case of coeds who marry while they are still in college and give up their college and go to work to support the boys, this shows a great lack of vision as to their future needs, and these facts are evidences of irresponsibility, and I think also this would apply to voting.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: Mr. Chairman and delegates, we have seen some interesting divisions in this committee of the whole. We have seen Democrats and Republicans splitting up. We have seen people from farm and urban areas splitting up, and now I think is the first time we have seen anything that looks like a division between the youth and the aged, but I know that isn't true because many of the older people have seen fit to place more confidence in the youth of our society.

I just want to make 2 points very briefly: one is that many delegates have spoken to the question of 18 year old voting and, of course, you are aware that this is 19 year old voting. This was an effort to compromise in the committee. So we are not dealing with the 18; we are dealing with the 19. We are dealing with the student who has already graduated from high school, or if he dropped out of school at 16, has had several years between the time he may register to vote and the time he was in school in which to give consideration and gain a little experience. So from the standpoint of actual education, I think that the person that is out of school a few years gains the same experience, whether he leaves at 18 or 16. I can say, too, that the student who quits school at 16 gets his civic courses just as much before that time as after that time, and I want to point out one further argument here, this idea of insurability. If the method of franchise is to be determined on the basis of insurability of the people, then we should extend this to all ages and I am afraid it is going to apply not only to younger people who may happen to have higher premiums at this time, but it may apply to other people who are able to vote who are not insurable either.

The final point that I want to make is that other states are moving in this direction, which means that their votes are counting. They are not only counting in those states but they are counting in terms of the results of national elections. By our not permitting 100,000 or 200,000 more people to vote, we are losing that degree of influence which our state of Michigan can have in the determination of the national scene. I think we should think twice before we are willing to give up our influence because this is a potential Michigan can have and a potential which Michigan should.

I urge you, once again, don't get taken in by stories of teenage gangs. More of them are working and interested and will be interested if we give them our vote of confidence here.

CHAIRMAN MARTIN: Mr. Sterrett.

MR. STERRETT: Mr. Chairman, delegates, I would like to support what the good judge said about shore leaves at the age of 19. (laughter) I was in the navy and I'm sure there are many others who at that same age along with me, weren't thinking of our state representatives and state senators. But today, thank goodness, I am.

CHAIRMAN MARTIN: Mrs. Hatcher.

MRS. HATCHER: Mr. Chairman, as one of the proponents of this amendment, I would like to say that I have certainly learned a lot from listening to both sides of the argument, those for and against this particular question. I want to say that it certainly has been discussed thoroughly here and it was also discussed thoroughly in the declaration of rights committee.

The reason for the minority members who supported this amendment favoring 19 instead of 18 was not because there was so much division or lack of agreement but we found that there were more members of the minority point of view who favored lowering the voting age from 21 to 19 than there were to 18, so naturally we made a compromise. I think that was the sensible thing to do in our committee meeting.

I want to say too that if the voting age is lowered to 19 it means that all young people who are eligible to vote under the state law may register and may vote. It does not mean that they are compelled to register. Neither does it mean that they are compelled to vote. Those young people who are not interested in voting certainly will not be forced or compelled to vote. Thank God we are living in a country where voting is not compulsory. It is a voluntary measure, a voluntary measure of citizenship that each person, when he is old enough, may or may not participate in.

I would like to say that during the course of our discussion of the matter of lowering the voting age, the question of the age of responsibility under the Michigan state law was discussed in part, and I would like to share with this committee at this time the few points that we gathered through our research department, and it states as follows:

> Under the Michigan law the 18 year old is held responsible as an adult for his crimes. He may contract for necessities of life. Otherwise all his contracts are voidable at his discretion. He may engage in individual banking. He may pay federal income tax. He is subject to compulsory military draft. He may not purchase or consume alcoholic beverages or enter into a marriage contract without his parents' consent. Girls may marry without consent at the age of 18.
>
> Legally a minor, he must have a guardian to pay such taxes as state intangibles, own real estate, or have an estate probated; settlement of tort claims must be processed through the probate court.

There was a good deal of discussion about whether or not this would permit young people to go into bars and what have you, and I think also from these same newspapers in which we read some of these unpleasant stories, we see that there are times that older people are the main instigators of furnishing and permitting young people to indulge in alcoholic beverages; and I think a lot of them do it by choice, anyway, and this is not a question of permitting young people to enjoy many of these — not necessities but luxuries of life. This whole amendment deals primarily with the opportunity of registering and voting; no more and no less. So, at this time, I would like to urge the support of the minority amendment.

CHAIRMAN MARTIN: Mr. Kelsey.

MR. KELSEY: Mr. Chairman, just a brief statement: in the minds of many, I suppose, they may think my skin is a little thin, and maybe it is. I thought I made it very clear in the early stage of this convention that I didn't appreciate being quoted out of context. To my good friends, and I do mean good friends, Judge Gadola and Dan Karn, whom I hope to see at the next constitutional convention, even though I think I enjoy a slight advantage: Judge, I said that it would make more sense and logic to prohibit the consumption— I did say 21 and I corrected the record with Mr. Chase— [Correction made above, page 2222.] it would make more sense and logic and reason to prohibit the consumption of alcohol until 25 and in its place give the 19 year old the right to vote. And I didn't say, as far as Mr. Karn is concerned, if those in my age bracket had had the franchise maybe a decade or 2 before, we might not have had world war II on the basis that peoples' minds or the human mind sometimes can come up with answers that maybe not even Dr. Nord's slide rule can come up with. Thank you very kindly. I just wanted to correct the record. I don't want to take up any more time.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, fellow delegates, I think everything has been said that needs to be said except one or 2 things. (laughter) I thought it was about time we had a laugh. That is why I said that.

Let's not get emotional. (laughter) Let's not worry about what effect we are going to have on the national scale or what we are going to lose whether we adopt one or the other. Let's just face plain realities. The plain reality, my friends, is this: that when we lower the voting age beyond 21 downward, we simply give those boys and girls, those young men and women the right to vote taxes which they are not qualified to vote on because they are not mature adults. Thank you.

CHAIRMAN MARTIN: Mr. Leppien, the Chair is glad you didn't say you were going to say a few words before you began to talk, as Mr. Downs did the other day.

MR. LEPPIEN: Mr. Chairman, I respectfully urge the rejection of the minority report amendment and the adoption of the committee proposal.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Do you have any other speakers?

CHAIRMAN MARTIN: No, there are no other speakers. The Chair is sorry, Mr. Woolfenden has indicated a desire to speak.

MR. WOOLFENDEN: Mr. Chairman, I suggest to the delegates that this question may be academic because unless we find some means of concluding this debate, the 18 year olds will all be 21. (laughter)

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, as chairman of the committee, I merely want to say this and, particularly for the record, to correct a statement made by Judge Gadola. He apparently was not in the room when I called on Judge Shaffer to present the majority report, because I had joined the minority report. You had an implied impropriety suggested there which I wanted the record to show did not exist. Judge Shaffer is the one who is presenting the majority report, and he did so present it. I have nothing to say further on this subject, Mr. Chairman, and I suggest that we vote, if everybody has had his say.

CHAIRMAN MARTIN: Judge Shaffer.

MR. POLLOCK: Yes, Judge Shaffer should be called on, certainly.

MR. SHAFFER: Mr. Chairman, delegates, I think everything has been said, as so many people have said already, about this subject that can possibly be said. I think everyone has his mind up. I urge the rejection of the minority report amendment and the adoption of the committee proposal.

CHAIRMAN MARTIN: The question is on the minority report amendment. Mr. Hubbs.

MR. HUBBS: Mr. Chairman, I would like to make one brief statement to this effect: the speech that I made with regard to the 18 or 19 year old vote is the first time that I have spoken this week, and I would say that I have been deliberately keeping quiet, gaining maturity since I have been at the convention, learning to keep my mouth shut, and I am only doing this to set the record straight, and I would like you to know that the reason I spoke is that I am a member of the majority of the committee on rights, suffrage and elections. Thank you.

CHAIRMAN MARTIN: The question is on the minority amendment.

The Chair might say for the benefit of the delegates, while we are waiting for others to assemble, that we have broken 2 records today. We considered Committee Proposal 71 this morning, to which there had been offered 56 amendments and 18 after the committee rose, which I think was a record, and this afternoon we have had 31 speakers on this particular subject.

MR. YEAGER: Mr. President, have the yeas and nays been ordered on this?

CHAIRMAN MARTIN: The yeas and nays have been ordered. The question is on the minority report amendment insofar as it amends section a. The secretary will read.

SECRETARY CHASE: The minority report amendment is:

[The amendment was again read by the secretary. For text, see above, page 2218.]

CHAIRMAN MARTIN: The question is on the minority report amendment. The yeas and nays have been ordered. This is a record roll call vote. Those in favor of the minority report amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—37

Allen
Andrus, Miss
Anspach
Binkowski
Buback
Dade
Downs
Durst
Elliott, Mrs. Daisy
Farnsworth
Faxon
Follo
Garvin
Gover
Greene
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Lesinski
Marshall
McCauley
McLogan
Murphy
Nord
Perras
Pollock
Romney
Snyder
Spitler
Wilkowski
Young

Nays—78

Balcer
Batchelor
Beaman
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Figy
Finch
Gadola
Gust
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Liberato
Madar
Mahinske
McAllister
McGowan, Miss
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Sterrett
Stopczynski
Suzore
Thomson
Turner
Upton
Van Dusen
Walker
Wanger
White
Wood
Woolfenden
Yeager
Youngblood

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 37; the nays are 78.

CHAIRMAN MARTIN: The amendment is not adopted. Are there any other amendments, Mr. Secretary?

MR. HOXIE: Mr. Chairman, I sent an amendment to the secretary's desk which I would like to withdraw after due deliberation and consideration. The amendment simply provided striking "21" and inserting "27" and prohibiting them from speaking on the floor of the convention. (laughter)

CHAIRMAN MARTIN: Mr. Hoxie, did you have sponsors for that amendment? Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, I am very happy that he set the age at 27.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I understand there is an amendment to this section offered by Mr. Hutchinson.

SECRETARY CHASE: Right.

MR. POLLOCK: Would the secretary read?

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 12, after "requirement of" by inserting "no less than"; so the language will then read, "The legislature shall by law define residence for voting purposes, and may impose a local residence requirement of no less than 30 days."

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I offer this amendment simply to be able to be sure just what the committee intends. The committee on rights, suffrage and elections, speaking through Judge Shaffer, as I understood them, stated that it was their intention that the legislature should not be able to impose anything but a 30 day local residence requirement. On the other hand, I believe it was Mr. Buback, who I believe is also a member of the committee, who stated that it was their intention that the legislature should not be permitted to impose less than a 30 day local residence requirement, and I left this earlier on the basis that we could fix it up in style and drafting, but I am of the opinion that unless this convention decides whether or not it wants to give the legislature any discretion at all on this subject, style and drafting may not know in which way to go. That is why I offered this amendment.

CHAIRMAN MARTIN: Mr. Pollock.

MR. POLLOCK: Mr. Chairman, I feel sure that I can speak for the committee in saying we have no objection to this amendment. The reason was given by Mr. Buback that we might come to county registration systems, and we wanted the matter to be covered. This, I think, handles it very well.

CHAIRMAN MARTIN: The question is on the Hutchinson amendment. All in favor will say aye. Opposed will say no.

The amendment is adopted. Are there further amendments to section a?

Section a, as amended, is agreed to. Dr. Pollock.

MR. POLLOCK: Mr. Chairman, will you have the secretary read section b? Mr. Chairman, I have no amendments posted to this, and if we can finish this expeditiously, I think I am ready to move that the committee rise. If we run into difficulty, it may be different.

SECRETARY CHASE: Section b:

[Section b was read by the secretary. For text, see above, page 2213.]

There are no amendments on file.

MR. POLLOCK: May I call, please, upon Mr. Leppien to present this on behalf of the committee.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, if you will turn to Journal 69, page 409, that is the section under consideration and I would ask the secretary to read section b, please.

SECRETARY CHASE: Section b:

[Section b was again read by the secretary. For text, see above, page 2213.]

MR. LEPPIEN: You will find the comments as far as section b is concerned in the same journal on page 411 and they are quite brief:

[The comment on section b of the supporting reasons was read by Mr. Leppien. For text, see above, page 2214.]

Mr. Chairman, I don't think this needs any further explanation and I urge the adoption of it and insertion in the new constitution. Thank you.

CHAIRMAN MARTIN: Are there any amendments to section b?

Section b is agreed to and the Chair recognizes Dr. Pollock.

MR. POLLOCK: The next section, Mr. Chairman, is a new section and it deals with a problem which has been called to the attention of all the states of the union by the congress of the United States.

[The comment on section c of the supporting reasons was read by Mr. Pollock. For text, see above, page 2214.]

The committee has discussed this very thoroughly. We have the advice and judgment of the director of elections of the state of Michigan. We also have had the advice of the county clerks association, those who are concerned with the administration of elections, and so far as the committee is concerned, we find this a feasible and workmanlike arrangement to secure wider participation in presidential elections.

CHAIRMAN MARTIN: The secretary will read the section.

SECRETARY CHASE: Section c:

[Section c was read by the secretary. For text, see above, page 2213.]

Messrs. Erickson and Higgs offer the following amendment to this section:

1. Amend page 1, line 16, after "voting" by striking out "for electors" and inserting "in the election"; so that the language will then read:

> For purposes of voting in the election of president and vice president of the United States only, the legislature may by law establish lesser residence requirements . . . .

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, my first comment on that is this: you say "presidential election." There are other people elected in presidential elections, too, besides electors, and we tried to tie it specifically to the vote for president and not just in a presidential election.

CHAIRMAN MARTIN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, I think that more appropriately we should refer to the purposes of voting in the election, and I think that the following, "of president and vice president" qualifies this. The purpose behind this amendment, in striking the words "for electors," is with the thought in mind that the electoral college may be abolished sometime before this constitution becomes outdated.

Now, I don't think this bears a great deal of argument, but I thought you might be interested. Sometimes in this day of advanced electronics and nuclear physics, we think we have new ideas. Delegate Erickson has brought to my attention a volume from his library entitled, The General Principles of Constitutional Law, and, reading briefly several excerpts — reading from the preface:

> The manual which follows has been prepared for the use of students in law schools and other institutions of learning. The design has been to present succinctly the general principles of constitutional law, whether they pertain to the federal system or to the state system or to both.

Skipping,

> The reader will soon discover that mere theories have received very little attention and that the principles stated are those which have been settled, judicially or otherwise, in the practical working of the government.
>
> Thomas M. Cooley, University of Michigan, Ann Arbor, March, 1880.

Now, reading briefly with regard to the electoral college, "Checks and balances in government. The American system of government is an elaborate system of checks and balances." Skipping through a list of 8 to the eighth one, "The electors are balanced against the people in their choice of president and vice president and this, it is added, is a complication and refinement of balances which is an invention of our own and peculiar to this country," speaking of the electors of president. Then skipping, "Of the checks in American government above enumerated, some have proved wholly" —

MR. VAN DUSEN: Point of order, Mr. Chairman. I don't think Mr. Higgs is speaking on his amendment.

CHAIRMAN MARTIN: Mr. Higgs, are you confining yourself to that amendment?

MR. HIGGS: Well, I think, Mr. Chairman and Mr. VanDusen, that it is not necessary to complete that paragraph. It adds merely a matter of historical interest that Delegate Erickson had brought to my attention and I wanted to pass it along to you. If it is out of order, we will omit it.

CHAIRMAN MARTIN: The Chair would appreciate it if you would confine yourself to the amendment.

MR. HIGGS: I have nothing further to offer on this. I think it is merely a matter of clarification that we may, at some time in the not too distant future, not be voting in the manner set forth.

CHAIRMAN MARTIN: The question is on the amendment of Mr. Erickson and Mr. Higgs.

MR. DEHNKE: Mr. Chairman, may we have it read again, please?

SECRETARY CHASE: The amendment offered by Mr. Erickson and Mr. Higgs:

[The amendment was again read by the secretary. For text, see above.]

MR. DEHNKE: I want to be sure, Mr. Chairman, that this is not intended to give the voter affected in that way the right to vote for anybody else except president and vice president or the electors. With that understanding, I would be willing to leave it to the committee on style and drafting, whichever form is adopted.

CHAIRMAN MARTIN: Mr. Erickson.

MR. ERICKSON: I just wanted to add this short statement: we have all heard a lot about the possible revision of the electoral college, and I don't think we should freeze in our constitution something that applies only to the electoral college; I think that it should be made broad enough so it would cover any future changes that might be made.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Higgs, I think, has a change in his proposed amendment which he would like to offer.

CHAIRMAN MARTIN: Mr. Higgs.

MR. HIGGS: Mr. Chairman, Mr. Erickson and I would like to substitute the word "for" for the word "of," so it would read "in the election for."

MR. POLLOCK: Mr. Chairman, this overcomes the objection I mentioned, that the way it read in the first place, there are other people voted for in a presidential election besides the president, and this way, I think the wording takes care of it. I see no objection to the amendment as changed, but you must give it to the secretary, Mr. Higgs.

SECRETARY CHASE: Mr. Higgs, without objection, revises the amendment to read as follows:

1. Amend page 1, line 16, after "voting" by striking out "for electors of" and inserting "in the election for"; so the language will read, "For purposes of voting in the election for president and vice president of the United States only, the legislature may by law establish lesser residence requirements. . . ."

MR. POLLOCK: I see no objection to this amendment, Mr. Chairman.

CHAIRMAN MARTIN: The question then is on the Higgs-Erickson amendment as revised. All those in favor will say aye. Opposed the same.

The amendment is adopted. Are there any other amendments?

SECRETARY CHASE: There are no further amendments on the desk to section c.

MR. POLLOCK: Mr. Chairman, considering the fact that there are several pending amendments to the next section, and it is a rather difficult section, I would like to move now the committee rise.

CHAIRMAN MARTIN: First, are there any further amendments to section c?

Section c, as amended, is agreed to. Then the question is on the motion that the committee do now rise. Those in favor will say aye. Opposed with say nay.

The motion prevails. The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee has had under consideration a number of matters on which the secretary will give a report.

SECRETARY CHASE: Mr. President, the committee of the whole has, in committee, postponed consideration of **Committee Proposal 45** until Monday. The committee of the whole has also had under consideration **Committee Proposal 58,** A proposal pertaining to the elective franchise; has considered several amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Do you have any announcements, Mr. Chase?

SECRETARY CHASE: We have the following requests for leave: Mr. McCauley asks to be excused from the Monday evening session and the Tuesday morning session; Mr. Prettie asks to be excused from the early part of the Monday evening session; Mr. Snyder asks to be excused from Monday evening's session; Mr. Ford asks to be excused from the sessions of Monday and Tuesday; and Mr. McAllister asks leave from the morning and afternoon sessions of Wednesday to confer with the Huron county board of supervisors.

PRESIDENT NISBET: Without objection the excuses are granted.

To the delegates of the convention, let me say, Mr. Baginski has made this suggestion; it has been developed by Mr. Van Dusen. It will be printed in the journal. I would like to read it to you, briefly, in order to assist in the work of the convention:

> Much of our time in committee of the whole has been spent debating amendments which the committee sponsoring the proposal has not previously considered. The result has been that in some cases, even where the idea embodied in the amendment is acceptable, long debate has been devoted to consideration of the language. We simply cannot afford the time which this involves.
>
> Therefore, I would like to make this suggestion to delegates planning to submit amendments to committee proposals still pending on general orders, and to the committees sponsoring those proposals. I urge these committees: legislative powers; declaration of rights, suffrage and elections; and miscellaneous provisions and schedule to arrange evening meetings prior to the consideration of their proposals in committee of the whole. I urge delegates contemplating amendments, and even those who just have questions, to attend these meetings, and to present their amendments and questions. I hope that the result of such informal consideration will be to put amendments into the most acceptable form, and to shorten debate in committee of the whole.
>
> I would also suggest to each of the substantive committees whose proposals have been acted on by the committee on style and drafting, that they meet and consider carefully the recommendations of that committee, so that our debate on second reading can be expedited.
>
> I believe that if these suggestions are followed, we may be able to work faster and more efficiently. I hope you will give them your serious consideration.

Copies of this will go to the committee chairmen and it will be printed in the journal. The Chair recognizes Mr. Wilkowski.

MR. WILKOWSKI: Mr. President, I now move that we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed, no.

We are adjourned until 6:30, Monday.

[Whereupon, at 4:10 o'clock p.m., the convention adjourned until 6:30 o'clock p.m., Monday, April 9, 1962.]

ONE HUNDRED SEVENTEENTH DAY

Monday, April 9, 1962, 6:30 o'clock p.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** for this evening's session will be given by one of our own delegates, Bill Greene.

MR. GREENE: Lord of all mercy and blessings, we humbly **beseech** Thee at this time to give us the competency of Thy divine wisdom that we may be better enabled to do properly the work in which we are engaged, in accordance to Thy divine injunction.

Enjoin us to inculcate into our **efforts** those attributes of truth, temperance, prudence and justice. And when we shall have finished this day's labor, if it be Thy will, permit us to lie down with undisturbed conscience, with a prayer of thanksgiving to Thee on our lips. This is our supplication. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave:

Messrs. Binkowski, Gust, Lawrence and Radka, temporarily, from today's session; Mr. Downs, from today's session, as he has a commitment for a TV appearance in Detroit; Mr. Heideman and Mr. Wilkowski, from today's session; Mr. Cudlip, from the sessions of today and tomorrow because of the death of a partner in his law firm; and Mr. Howes, indefinitely.

PRESIDENT NISBET: Without objection, the requests for excuse are granted. Mr. Millard.

MR. MILLARD: Yesterday I called Judge Gadola. He is going to the hospital tonight and have x-rays in the morning. I move that he be excused from the sessions of tonight and tomorrow.

PRESIDENT NISBET: The motion prevails.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Binkowski, Cudlip, Dade, Downs, Ford, Gadola, Gust, Heideman, Howes, Lawrence, McCauley, Mosier, Nord, Radka, Rood, Shackleton, Snyder, Suzore and Wilkowski.

Absent without leave: Messrs. Bledsoe, G. E. Brown, Douglas, Higgs, Mrs. Koeze, Messrs. Krolikowski, McAllister and Seyferth.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Mrs. Koeze, Messrs. Seyferth, Binkowski, Douglas, Bledsoe, Dade, McAllister, Krolikowski, Lawrence and Radka.]

Mr. Hodges.

MR. HODGES: Mr. President, I rise on a question of personal privilege.

PRESIDENT NISBET: State it.

MR. HODGES: Mr. President and fellow delegates, last Friday I introduced an amendment to make the entire state administrative board appointive by the governor without the advice and consent of the senate. At that time, inferences were raised as to my motives for submitting this amendment on the floor by certain delegates. Rather than taking the time of this convention to answer these innuendos, I intended to enter the reasons for the support of my amendment in the journal under rule 65 and let it go at that.

However, a prominent delegate to this convention saw fit to issue a press release in which my motives and personal integrity were questioned. To leave this charge unanswered would serve as an admission of guilt to many. For the sake of my friends and constituents, as well as myself, I cannot allow this impression to stand. While I realize that the defense of my actions is not as newsworthy as the accusations hurled by my accuser, since he is a candidate for governor and I am not, it is hoped that the press will show its usual sense of fair play and will allow me the same prominence in my defense in their newspapers as they gave the candidate who made the charge.

It is my position, and still remains my position, that the state administrative officials should remain directly responsible to the voters of this state. If given the opportunity, I shall again vote for the retention of these officials as elected officers. However, last Friday, when it became apparent, after a series of roll call votes, that the convention would not support this position, I offered my amendment in good faith, with a firm belief that if these officials were not to be directly responsible to the people, that they at least should be directly responsible to the chief executive of this state with the sole power in his hands to appoint and dismiss these officials. Believing that the hobgoblin board that was adopted by this convention and the way that it was approved as part of a package, was the worst of all alternatives, I felt it was my duty to offer this amendment. Under the plan that has been adopted, responsibility does not run to the people nor the governor, but is diffused in boards, commissions and legislative boards in such a way to make any student of government shudder.

In statements made by 2 chief proponents of this compromise, Mr. Brake is quoted as saying the only thing we lost was the state treasurer and Mr. Romney as saying all he lost was the secretary of state and the attorney general. It would seem by these statements that victory is not obtained by achieving what you believe is right, but in what you can prevent the other fellow from getting. Therefore, we look to some neutral ground which no one believes in to find an answer. In this way, both sides may claim they are not losers. The only losers are, in fact, the people of the state of Michigan.

The delegate who makes these charges against me claims the reason I submitted this amendment was to force him to vote against what he believes in. I submit no one can force any delegate to vote against what he believes. This delegate states he became a party to the deal when an all appointive ad board became impossible to obtain. By what mechanism did he ascertain that it was impossible to obtain? No vote had yet been taken in committee of the whole, and the executive committee had in fact recommended an all appointive ad board before this deal was consummated. Yet, by some psychic phenomenon, he was able to predict what the exact outcome on the vote would be, despite the fact that no vote had yet been taken.

I can say in all good faith, I have voted the dictates of my conscience and what I believed was good for the state of Michigan at all times at this convention, never ready to surrender my position until this position was conclusively voted down on the floor, and at that point fight for the next best thing, if I could do so in all good faith. If my accuser cannot say the same, and he has not always voted for what he believes in, then I suggest he look within himself for the answer to this problem and not elsewhere.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, although I was here Friday morning to answer the roll call, I was officially excused for that same session and I request that Journal 116 of April 6 be corrected accordingly to show my official excuse. [Correction made above.]

I would also, Mr. President, like to announce that had I been here, I would have voted for the minority report amendment, the so called Pollock amendment, to reduce the voting age from 21 to 19.

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Select committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Second reading. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that the order of second reading be passed for the week.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails.

Motions and resolutions.

SECRETARY CHASE: Messrs. Garry Brown and Hatch offer

Resolution 89, A resolution to provide an additional paragraph to rule 50 relative to amendments to committee proposals.

Following is Resolution 89 as offered:

Resolved, That the rules of this convention be amended to provide in substance:

> No amendment to a committee proposal shall be in order and subject to consideration by the convention including a session of the committee of the whole unless such amendment shall have first been presented to the applicable committee for its consideration and approval or rejection: Provided however, That amendments shall be in order and subject to consideration by the convention including sessions of the committee of the whole, even though not complying with the foregoing, if such amendments relate to language of the committee proposal which has been amended by the committee of the whole. Committees shall provide reasonable opportunity for the presentation of such amendments to such committees by the proposers thereof prior to consideration of such committee proposals by the convention.

PRESIDENT NISBET: Referred to the committee on rules and resolutions.

SECRETARY CHASE: That's the only resolution on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering matters on general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Martin.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MARTIN: The committee will be in order. When the committee rose on Friday, we had under consideration **Committee Proposal** 58 and had agreed to the first 3 sections of that proposal, a, b and c.

For last previous action by the committee of the whole on Committee Proposal 58, see above, page 2213.

We are now on section d, and the secretary will read.

SECRETARY CHASE: Section d:

[Section d was read by the secretary. For text, see above, page 2213.]

CHAIRMAN MARTIN: Are there any amendments? Dr. Pollock.

MR. POLLOCK: Mr. Chairman, continuing our explanation of the various sections of this article, I will call on Delegate Buback to explain that and the background of section d. I yield the floor to Delegate Buback.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman and ladies and gentlemen of the committee, the comments on section d will be found on page 412 in Journal 69:

[The comment on section d of the supporting reasons was read by Mr. Buback. For text, see above, page 2215.]

Mr. Chairman, I would move that this be adopted.

CHAIRMAN MARTIN: Are there any other proponents who wish to speak on this, Dr. Pollock?

MR. POLLOCK: No, unless there are questions.

SECRETARY CHASE: I have an amendment. Messrs. Yeager, Erickson, Mrs. Conklin, Messrs. Leppien, Hodges, Snyder, Young, Youngblood, Iverson, Gust, Mrs. Koeze, Messrs. Stevens, Powell, Blandford, McAllister, T. S. Brown, Everett, Boothby, Plank, Dean Doty, Anspach, Stopczynski, Cudlip, Shanahan, Wood, White, Seyferth, Hubbs, Dehnke, Kirk, Leibrand, Habermehl, J. B. Richards, Lawrence, Brake and Bentley offer the following amendment:

1. Amend page 2, following line 8, by inserting a new paragraph to read as follows:

"All qualified electors voting in any partisan primary election held within the state shall cast their vote by political party on separate ballots after declaring and registering party affiliation under rules and regulations prescribed by the legislature.".

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, I should like to make a short statement on this amendment and then yield to 4 or so other speakers. This amendment for a closed primary, you will notice, has some 40 sponsors and also has some bipartisan sponsorship.

The amendment provides that the legislature shall prescribe how this will be set up. We've had a closed primary in this state — I believe the last year was 1937. A closed primary is now had in many states, including Ohio, Illinois, California, New York, just to name a few of the major ones, and both of the new states, Alaska and Hawaii, have closed primaries. Now, closed primary means that to vote in a primary election, the voter must declare his party. The primary election, after all, is a party matter. The party people, both active and nonactive, decide in the primary who will be nominees of that party. This makes it a party affair. The general election in which everyone participates is a public affair.

A legislative bill on this subject, I am sure, would provide that anyone may register by party as a nonpartisan or as a Democrat, Republican, Dixiecrat, or whatever parties may be involved. This particular amendment simply provides that there will be a closed primary. The implementation of it will be taken care of by the legislature. A nonpartisan, who for any reason does not wish to declare his party, should certainly have that right; but he should not help to select the nominees of the various parties. When nominees are chosen in convention, it is a party affair. It should also be a party affair in the primary election as well. This amendment would strengthen the 2 party system and I believe this is highly desirable. It is no more legislative in character than having minimum age in the constitution.

In this new proposed constitution, we have provided for several bipartisan commissions and we have many bipartisan legislative boards and commissions; and registering by party is a great help in the selection of true bipartisan bodies. In the interest of a strong 2 party system, which ultimately means good government, I urge strongly the adoption of this amendment. I should at this time like to yield to Mrs. Conklin for a few words.

CHAIRMAN MARTIN: Mrs. Conklin.

MRS. CONKLIN: Mr. Chairman, fellow delegates, I rise to support this amendment. It has long been my opinion, as a party worker, that in the selection of a party's candidates, only those people who subscribe to the general philosophies of that party should be allowed to select the candidates for the party. I have a sincere belief that the word "politics" is much misused in our country. I believe a closed primary will upgrade politics in general and encourage the general public to more closely identify themselves with a party and take more interest in party activities. We certainly cannot be proud of the fact that we can only succeed in getting 64 per cent of the voters to vote even in a presidential election, and perhaps this will help.

Both parties spend much time and money in the attempt to identify their party members. Often the results of these surveys are inconclusive and incorrect. I am sure both parties have been subjected to having candidates appear on the ballot who, if nominated, would prove embarrassing to the party and would not be the type of candidate of whom members of the party nor the general public could be proud. I have seen this happen in my own congressional district, and only through the united efforts of the active participants in the party have these persons been defeated in the primary. It is my sincere hope that through a closed primary we can upgrade the subject of politics and encourage ethical improvements and principles of both major political parties. I urge the adoption of this amendment.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, I should like to yield to Mr. Hodges.

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: Mr. Chairman and fellow delegates, I rise in support of this amendment. I believe if this was 20 years ago, I would be diametrically opposed to it. I think there was a day and time in our country where the closed primary was dangerous in terms of workers being singled out by employers and so on, knowing what their political affiliation was, and reprisals. I think those days are pretty much past. I think what Mr. Yeager and Mrs. Conklin said about party responsibility is true. We go to party conventions to nominate state officers and to adopt a platform. I don't think any of us would question trying to find out whether these people that are delegates to the state conventions are true partisans or not. And we do know that they are the most avid of all partisans.

I think it is equally true in terms of a primary, that that primary should be limited to particular persons within that political party. I think it would help. I think we've gone too far in the other direction. We've gone as far as California and some other states where they even allow cross filing and so on to get away from partisan flavor of government. But I think the trend is reversing itself. I think responsible partisanship is showing itself to be the real answer within the framework of our society. And I give my wholehearted support to this amendment.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, I should like to yield to Mr. Bentley.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, fellow delegates, I am completely in accord, and have been for a long time, with this proposed amendment to institute a closed party primary in our state of Michigan. I certainly feel that avowed members of both political parties should have the right to choose their nominees and I feel furthermore, that the nominees so chosen will more closely reflect, if they are chosen by a closed primary, the philosophies and the ideologies of their particular party and therefore do a better job of representing those parties in the ensuing campaign. I strongly support this particular amendment.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, I should like to yield to a former county clerk, Mr. Leppien.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, fellow delegates, a great deal could be said as to the real need in this nation for a return to party responsibility when it comes to political matters that affect this nation. Likewise, the same thing could be said for what affects this state. And I believe that one of the forward looking items or provisions that we should adopt into this constitution that we are writing is a proviso for the closed primary. The United States of America and all of its states have grown strong because of the 2 party system and I certainly urge everyone to give consideration to the support of this amendment to be added to the constitution.

MR. YEAGER: Mr. Chairman, our last speaker, Mr. Brake.

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I think the field has been well covered. I was in the legislature at the time this change was made to the open primary and Mr. Hodges has covered the reason for it. Partisanship was very sharp at that time. Jobs were scarce. It was claimed that people were being fired because they belonged to the wrong party and that's the reason the change was made.

Somebody is certainly going to say that this is legislative material, and not constitutional material, and ordinarily that would be true. Most of the regulation of the primary is statutory. But I am confident we will not get this change in the legislature. I tried several times to interest members of the elections committee in making this change and I always got the same answer: "No, no. I get Democrat votes in the primary. I'm not going to make that change." And if you talk to somebody in the other party, he gets Republican votes in the primary and he's not going to make a change. If we want the change made, we're going to have to make it here.

MR. YEAGER: Thank you, Mr. Chairman. I yield the floor.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, on behalf of the committee, I would just like to say a few words. Both Mr. Leppien and Mr. Hodges were on the committee and I was not aware that they favored this specific proposition which was before the committee and rejected.

There are, of course, sound arguments on both sides of the question of the closed versus the open primary. Michigan has in the past used both types, as well as a hybrid type which required voters to ask for a party ballot, but did not require party registration. Under the present constitution, the choice, of course, of the types of primary is a statutory matter. Unless we are convinced that one or the other type is better under all circumstances and at all times, it seems to me that we would be better advised to leave this in the hands of the legislature.

The major argument for a closed primary is that in an open primary, members of the opposition party may "raid" a party primary — that is, attempt to help nominate the weakest candidate so that their own party candidate will have an easier time in the general election. Certainly, if this were to take place regularly and in a widespread manner, it would be a great evil — perhaps great enough to warrant a constitutional provision of the kind before us in this amendment. However, I know of no convincing evidence that such "raiding" is a major problem in Michigan. Some years ago, I made an exhaustive study of the operation of the primary in Michigan and after long analysis, I concluded that primary raiding is very rare indeed. To be sure, voters do sometimes cross party lines in an open primary. But apparently they do so to support candidates they genuinely favor, and they tend to carry their support into the general election.

On the other hand, we should remember the considerations which prompted Michigan to adopt the present open primary. Only the open primary preserves the secrecy of party choice. Some voters may belong to a political party opposite from that of most of their friends, their business associates, or their fellow workers, and they may be quite reluctant to register a party affiliation which they fear might make them unpopular. The open primary, then, is a way of protecting minority party members and encouraging them to participate in their own party primary without fear of possibly adverse social and economic pressures. Whether such fears are well founded is not the question. They do exist. We must remember that while the state of Michigan is a competitive 2 party state at the present time, most local communities do not have close party competition. In some places, Democrats are overwhelmingly dominant; in others, the Republicans are invincible. The open primary, then, protects the Republican in Hamtramck and the Democrat in Sanilac county. (laughter)

Finally, let us not forget that the closed primary does not and cannot prevent a minority party member from registering in the majority party. So a really determined raider can still vote for one party in the primary and the other party in the general election. It is a notorious fact that in the 1 party south, most Republicans are registered Democrats. In those states, the closed primary has prevented the Republican party from achieving any significant interest or turnout in Republican primaries.

Mr. Chairman, my major purpose in these remarks is not, however, to argue for the permanent retention of the open primary. Conditions may change. If local party competition should become the rule rather than the exception, the case for a closed primary would be strengthened. I conclude, therefore, that it would be unwise to write into the constitution either the open or the closed primary, and I therefore urge the defeat of the amendment.

CHAIRMAN MARTIN: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and members of the committee, I will be very brief because most of what I was going to say has been said already. I rise to oppose the amendment. I think that most of the reasons that Delegate Brake gave for being in support of it are many of the reasons that I would have for being opposed, not because those remarks were made by Delegate Brake, but I think the reasons are obvious. And I find myself in complete disagreement with Delegate Hodges. If he feels that the problem that he talks about doesn't exist any longer, then he forgets the many thousands of white collar workers in the state that have no protection whatsoever. And if he believes this, then he is guilty of the same thing that I accused some delegates the other day of being guilty of: slumbering in the tents of their forefathers.

Now, it seems to me that a man's politics ought to be his own personal business, unless he himself wants to announce publicly what his politics are and be active in a political party of his choosing. What do you do under a closed primary with the independent? You might have 4 candidates for governor on a given ticket, or on each ticket. The independent couldn't declare himself as an independent. He would have to declare himself as either a Republican or a Democrat, the 2 major parties, at least, and he would be disenfranchised.

And there are candidates in both parties, in times past — and I am sure that will probably be true for the future — that will appeal to the independent vote which has the swing of balance in many an election. And to me, to adopt a closed primary would be a step backwards. And if we are to adopt a closed primary, it seems that this is a matter that could better be left to the legislature at their discretion rather than try to write it into the constitution. I oppose the amendment.

CHAIRMAN MARTIN: Mr. Madar.

MR. MADAR: Mr. Chairman, fellow delegates, coming up here to the convention today, Delegate Buback happened to read a letter to me that he received from the director of elections of the city of Detroit, and I asked him to allow me to read this letter if this particular subject came up.

> Dear Delegate Pete,
>
> With reference to the so called open primary which is presently being discussed by the convention, I wish to state I am very definitely opposed to the adoption of such a measure. In the first place, we strive on a continual basis to preserve the sanctity and secrecy of our elective franchise. The adoption of this measure would eliminate the secrecy feature in that anyone could determine how an elector voted simply by referring to either the poll book or application.
>
> Just what is the purpose or objective relative to adoption of this proposal? Is it for the purpose of using coercion on the electorate by unscrupulous persons or organizations so that they will vote in accordance with the desires of such persons or organizations rather than with the dictates of their own thinking or conscience? I am opposed to the removal of the secrecy in casting a ballot.
>
> My second objection is due to the belief that many persons will forego their civic duty if they are required to declare a political party preference. I am sure a large number will feel as I do, feeling that it is no one's business but my own as to how my ballot is cast. The mere fact that this could be determined by anyone if this measure would be adopted is reason enough for its defeat. There is too much of a possibility of unethical pressures and coercion being used to accomplish possible desired results, be they good or bad.
>
> It is possible that the proponents of this measure may state that no record would be kept insofar as the political party preferences of the voters are concerned. Despite this, it would still be necessary for the voter to declare such preference to the inspectors of election. As I vote in an auditorium in which 3 voting precincts are located, I am certain that immediately upon my departure, every election inspector in this auditorium would know that I voted for a particular political party. I have a lot of faith in the honesty and integrity of our inspectors of election but I am also certain those of the opposite party for which I voted could possibly resent my political views while those of my preferred party could possibly feel that certain privileges could be assumed in the line of election duties.
>
> For the reasons above mentioned, I am opposed to the adoption of this proposal. By the same token, if it is adopted, I do want the opportunity to vote for any nonpartisan candidate which may appear on the voting machine ballot label in any primary in which partisan candidates also appear, without the necessity of being required to declare a partisan preference.
>
> Sincerely yours,
> City Election Commission
> Lou Urban,
> Director of Elections
>
> P.S. While this may be of an incidental nature, sight should not be lost of the fact that a time and cost consuming job will be required in all communities equipped with voting machines in the adjustment of machines from the present secret primary levers to that of the open primary levers.

Now, this is the letter, as I said, from Lou Urban. Mr. Urban did give Mr. Buback the right to have this read today.

Now, I feel like Mr. Urban, Mr. Buback, Mr. Marshall, Dr. Pollock, and a good many more here today: how I vote is my business. I don't think it's anyone else's business how I vote.

Certain delegates here would have you believe that party candidates should be nominated by the party. Very true. I will agree with them on that. However, since when have they ever gotten to think that you can't do it any other way except by this particular method? A couple of those who spoke ahead of me for this, know full well that if you want to nominate certain people by the party, you can do it in convention. We have a state convention, just as we have a national convention. We have a county convention. We have a congressional convention. And if we wish to go ahead and nominate our state senators, our state representatives and others in convention, we can arrange to do that very, very easily. We don't have to do it by this method, which is strictly a coercion method. This is the type of thing that is used to put pressure on the voters and this is the type of thing that we eradicated with the help of the newspapers in the city of Detroit and the state of Michigan, and I hope we continue to keep it out, just as I hope we'll never again bring back ward politics as we had them in the city of Detroit. These 2 things, the ward politics and this closed ballot, are the type of thing that are used by the politicians who have no ethics. I am opposed to this amendment.

CHAIRMAN MARTIN: Miss Hart.

MISS HART: Mr. Chairman, fellow delegates, I am not going to belabor this point. I oppose the amendment and I should like to add that everything I might have said has been said, with the exception of one piece of evidence that I received rather by surprise a couple of years ago when I visited a nearby state which does exactly what the amendment proposes. I visited in that state 9 congressional districts and talked with people in each of these districts. I saw their very beautiful, but very beautiful, files in each of the Democratic offices where every bit of information was available that made precinct work simple. There were many reasons why anyone who was involved politically might like to have this. But when I talked with these people, I learned what really happens in this state is that large numbers of people do not register and do not vote simply because they are not willing, because of jobs or possibly because of social status or something of the kind, nevertheless are unwilling to register and to vote.

And so, to me, the benefits that might be derived are made useless by this kind of thing. It is far more important that everybody register and everybody vote than that parties have the names on hand so that the precinct workers don't have as much to do. Personally, I like the effort that the precinct worker has to make to get into his precinct and meet his people personally and find out where they stand, how they feel, and encourage them to vote because of something they believe rather than to be hauled out simply because their name is in a file and they are on record.

CHAIRMAN MARTIN: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and ladies and gentlemen, it seems to me that some of the opposition to this proposal or amendment is based on failure to realize that party primaries are not elections in the constitutional or ordinary sense. Parties are separate organizations. They should be allowed to control and direct their affairs through their membership, and I personally cannot understand why anyone who is not a member of a particular party should want to have a voice to participate in the nomination of the candidates of that party any more than I could understand anyone who belongs to one church wanting to participate in the annual meeting and the election of officers of another church.

It is said that this causes people not to register and not to vote. It seems to me it is not anybody's duty to vote in the primary of a party of which he is not a member. He can wait and see who is nominated by each of the parties and then make his choice in the election that follows.

CHAIRMAN MARTIN: Mr. Perras.

MR. PERRAS: Mr. Chairman and fellow delegates, I rise in opposition to this amendment, my reason being that as a former resident of Cook county in the city of Chicago, Illinois, I know what happens there in the primaries. People will stay away from elections because of fear of their positions or some relatives' positions in the city or county government. I've seen times there when people would not vote in the primary. I think that it is our duty to vote in the primary elections. That is why I am opposed to this amendment.

CHAIRMAN MARTIN: Mr. Young.

MR. YOUNG: Mr. Chairman, fellow delegates, I have been greatly persuaded by some of the arguments of previous speakers. When I get struck down, I'm among the first to admit it. I hate to leave Delegates Yeager, Brake, et al, hanging, but I hereby take rather hasty French leave of my cosponsors on the wall and announce my intention to vote no against my amendment. (laughter and applause)

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, leave is granted. (laughter)

CHAIRMAN MARTIN: The question is on the Yeager, et al, amendment. Mr. Buback.

MR. BUBACK: Mr. Chairman, ladies and gentlemen of the committee, I rise to oppose the Yeager, et al, amendment for several reasons. I wholeheartedly agree with Mr. Urban. We had quite a discussion this afternoon on this. This in the very large metropolitan areas is very serious from the standpoint that this involves the businessman, the clergyman and professional man. As soon as you make your party affiliation known, if you're in business, you're going to make enemies on either side. You're going to have people resent your party affiliation. The same way with clergymen. You're putting them at a disadvantage by asking them to openly declare their party affiliation in the primary, because he may vote Republican in one primary and Democratic in the next. It isn't fair to put them on the spot in that manner.

There is a question of the cost of paper ballots. How is an election official going to predict how many Republican ballots to print and how many Democratic ballots to print? You've got to have an equal number of these ballots, and you're never going to know how to agree or how to decide on how many ballots to print. There is another feature on the voting machine that there is going to have to be an additional strap or different apparatus attached to all these machines. There is going to be additional expense involved. And because of these various reasons, I would certainly urge you to oppose this amendment.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: Mr. Chairman, I'd like to call for the yeas and nays.

CHAIRMAN MARTIN: The yeas and nays are demanded. Is the demand supported? Sufficient number up. Mr. Madar.

MR. MADAR: Mr. Chairman, is this for a record roll call?

CHAIRMAN MARTIN: Yes. This is a record roll call. The Chair hasn't called for it yet. Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I have no personal experience with what the closed primary does but I do have experience in this area where there are thousands and thousands of people employed by our state government and by other branches of government, both federal and local. I've campaigned among these people and I've gone door to door, and I know a great number of them and I am satisfied that there are probably thousands of people in this community who for reasons known best to themselves desire to keep their party affiliation to themselves and not have it made a matter of public record, as this amendment would force them to do if they were to participate in the primary, which after all, is the real guts of the political process — the primary, not the election.

Now, we have not had raiding in this area, as far as the people who have been in politics in this area can determine, and I know that these people are good citizens and have contributed to good political choices in this area, and I suggest that this same situation will apply to several other areas in the state of Michigan. No one on the floor has presented any evidence whatsoever that raiding is a serious recurrent problem in this state. And in light of that fact, I urge you to vote no on this, first of all because the case for it, even as a legislative matter, has not been clearly established here on this convention floor; and secondly, because in any event, it is not a matter which should be frozen into the constitution.

CHAIRMAN MARTIN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee of the whole, I rise in support of this amendment, of course, and I would like to point out that some of the arguments against it have been relatively vague. In particular, I think that Mr. Buback would find that after he went through an election he would be able to estimate very accurately about how many there were on each side and he wouldn't have any trouble printing the ballots in the future.

Somebody mentioned the effect of open allegiance to a party on a businessman. I would state that in a small town, and as the county chairman and a small businessman, I would be as subject as anybody would be to discrimination by somebody who was going to hold my politics against me. And I am happy to say that the Democrats in my area are very enlightened people. The last expensive car I sold, I sold to the town's leading Democrat, and he and I had a cup of coffee this afternoon and we're getting along fine. The only thing, the horn doesn't work right.

As far as I'm concerned, I think I'd like to point out to you that we all know that, on numerous occasions, politicians and statesmen have arisen and said that the freedom of this country depends on 2 strong political parties, and I submit to you that a great many things have happened lately to so weaken political parties that the freedom of the country in time will be in jeopardy if we don't do something to strengthen these political parties.

I would suggest that the closed primary might make possible a little gimmick that I had in mind tonight. Suppose when we went in and registered, that the state collected a couple of dollars from each Democrat and each Republican. The state could keep one dollar to finance the cost of conducting the party's election and the other dollar could go to the political party. This would serve 2 functions. It would relieve the state of the burden of financing a party function and would provide the parties with money to finance their own functions.

And the last thing I would like to say is that if anybody is so eviscerated of courage and character when they go into a voting booth that they are afraid to declare their politics and what they stand for in this country today, I feel sorry for them, and I think that we should vote in favor of this amendment.

CHAIRMAN MARTIN: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, when Mr. Yeager first approached me with this amendment, I thought about it for a while and prior to becoming a signatory party, I thought that the objectives were laudable because—and this reasoning may be a little abstract, but it is my wont to engage in those things — I felt that participation in partisanship and the philosophical results of this type of partisanship participation were what is necessary in the long run in our country in that, among today's children especially, there is a laissez faire attitude about responsibility about government, about the cleavage between political philosophies and so on. I thought this would tend to help in the long run to stimulate participation from a meaningful point of view and tend to further involvement in our government in one party or another. But in the interim, I feel that the short run consequences of this amendment, as have already been described this evening, would be deleterious. And since — again, from my point of view — this convention has not always seen the far picture and has generally tended to be short run, I should not like to see a rose among the thorns, and at this particular juncture, I have decided to withdraw my sponsorship of the amendment.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, fellow delegates, I merely wanted to say in concluding what I hope will be a very brief debate on a not very important matter, that the committee thinks it simply unwise to write into the constitution either the open or the closed primary and therefore hope that you will defeat the amendment.

Apropos of Mr. Brake's comment that he realizes that this is a statutory matter, we've had so many violations of this principle as we've been grinding out this constitution, that if we continue to put statutory matter, I think, of a very minor sort such as this is, into the constitution, I suggest this week when we come to consider problems of legislative powers, that we just abolish the legislature and stay in session ourselves. (laughter and applause)

CHAIRMAN MARTIN: Mrs. Conklin.

MRS. CONKLIN: Mr. Chairman, fellow delegates, I would remind Dr. Pollock that last week we decided that the legislature never gets around to doing anything, so we passed an important civil rights commission, which everyone hailed as a great act. So I agree with Delegate Brake, that if we're going to get this in, maybe we better act on this too.

I would like to ask Delegate Buback a question, if he would care to answer. Pete — excuse me — Mr. Buback, when you get your election workers who are assigned to the election booths in the city of Detroit, how do you select these people, or whoever does select them? How are they selected?

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: That function is a matter of the city clerk's office. I have nothing to do with selecting election inspectors. But I understand they have to take a test and they have to pass an examination there and they're selected on that basis.

MRS. CONKLIN: Mr. Chairman, Mr. Buback, am I incorrect then in understanding that when they sign up to work on the election board that they declare themselves by party?

MR. BUBACK: That is true. Under the law, they're supposed to be 50 per cent from one or the other parties. First their qualifications are scrutinized and qualified people are always chosen first.

MRS. CONKLIN: I would point out, Mr. Chairman, that apparently this doesn't work too well because a couple of years ago, when I worked in my party headquarters and the subject of workers for census came up, I had any number of people come in who had registered for working for the city of Detroit as election workers, and when I asked them if they had a party preference, they said no, they were independents. So somewhere along the line something slipped apparently.

I would point out that I don't know what happens outstate but I know that in Wayne county, where we have such huge precincts and such a tremendous job of everybody watching to see that everybody is handled properly, the challengers are used in every poll by both parties. And the purpose of these people is to sit there from morning to night to watch the election workers and make sure that nothing is done that's illegal.

I would point out that if you had a real basis and a real means of selecting your election workers, where they do declare themselves other than just coming in and saying, "I'm anything that you think you need on the board," that you would know that you had a 50-50 board and each party is going to watch the other party and you don't have to worry about getting your challengers in there all day to watch each other. I know of one instance — and I won't name the party, I won't name the city — but I do know that one election worker was signed up and said she wanted to work on the election board. She was asked what party she preferred. She stated her case, her party. It was suggested to her, "Why don't you say you're a Democrat? I need Democrats." I submit that this is one way of being sure that your election workers are of the party that they say they are and I would submit that this would be a better way in Wayne county, no matter what you do outstate. But I would feel a lot more comfortable if, when I went in to vote, I knew that there were 6 people sitting there, 3 of whom were watching the other 3. (laughter) I'd like to support this amendment.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman, fellow delegates, I have been very heartened to see that we have given deliberation to this subject matter and I am disturbed to see that some people feel that when we speak more than 15 or 20 minutes on any particular subject matter, that this is too much for a deliberative body. I am most happy to see that this has happened.

I want to advance this proposition in a brief manner, if I may: first, that I don't think the court would regard this as a constitutional concern, but there are constitutional considerations which enter. I submit that freedom of speech includes freedom to remain silent, freedom of conscience, freedom of private belief. And if you establish as a condition precedent to the right to vote in a primary the declaration of political preference, that this becomes a substantial infringement upon the right of silence, the right of conscience, the right of private belief. And I think this matter ought to be left up to the legislature to see whether or not we can, in this state of ours, reach a state wherein there would be the hospitality, the acceptance, the encouragement of political difference, of political concepts, of political declaration of beliefs without public obloquy, and without economic coercion. This is an ideal to be sought, it seems to me, and this is the kind of consideration that I'd like to advance for our concern as part of the deliberative process in this matter. I would support the position against the amendment, Mr. Chairman.

CHAIRMAN MARTIN: Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, I think we ought to accept the fact that for at least several decades, the 2 party system, 2 parties of approximately equal strength, has been our form of government, and I think that most of us here are well convinced that this is exactly the form of government, the basics of our government that we want to see continued. I think possibly nothing has done more harm to the idea of approximately 2 equal parties than the idea of the open primary.

In response to Mrs. Conklin, we have outstate great numbers of candidates who make their decision as to which party they belong to when they decide they want to run for election. If the area is strongly Republican, they are Republican candidates. We have as a result candidates elected and nominated that disavow any idea of any loyalty to their party, the party under whose banner they are running. On the contrary, we have had quite a few instances where, after a candidate was nominated under a particular party label, the party itself disavowed the candidate. This is not responsible government. It we want to restore any idea of responsibility to the 2 major parties, it seems to me this is one way to do it. No party could, if the person has registered as a Democrat, disavow its own candidate, and a person must then make his decision as to the principles of which party he believes in before he decides it on a matter of political expendiency. This, I believe, is a very important question and I agree that this is the only place it could be done. It couldn't be done in the legislature.

CHAIRMAN MARTIN: Mr. Madar.

MR. MADAR: Mr. Chairman, I just wanted to give Mrs. Conklin some information, but that was taken care of very nicely by Mr. Buback, so I'll just pass.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, I just want to defend the elections in the city of Detroit which are conducted very fairly. The people who are in the employ of the city elections commission are doing a very fine job. Any aspersions upon these people are unfairly cast. I want you to know that the machines have been working out very well there and the present system there doesn't really need any alterations. (laughter)

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, this is the first amendment I think to have been on the floor that lost 2 sponsors before we got the vote, and if there are any people who would like to volunteer to join us, we'll take applications here.

There have been a few arguments made that I'd like to give a short answer to in the course of the discussion here tonight. The statement was made that the committee decided this and turned it down. Now, that is true in a sense, but I submit that it was the subcommittee of the committee which took a look at it, namely, 3 members, and the chairman of that subcommittee stated to me that they turned it down as being legislative. As one of the original sponsors of the original delegate proposal, I never had an opportunity to come before that committee and make a case for this thing.

The point was made also that a closed primary would not stop raiding from one party to the other. Well, I submit that in most states where there is a closed primary, there is usually a 6 months time period before the election which prohibits you from changing your party registration so that if you were going to do any raiding, you would have to make that decision 6 months prior to the primary.

Mr. Norris raised the question of freedom of a person in this connection and being permitted to have secretive elections. I submit that this closed primary does not interfere with individual freedom; that the person would have the option, I think, of being a nonpartisan if he so chose.

The states of Ohio, California, Illinois, New York and New Jersey have these, as well as Hawaii and Alaska. If this is so detrimental to freedom, I'm surprised that these states retain these. They have very strong votes in those states. Nonpartisans are not forced to declare their party. They can vote in the general elections without any inhibition. Most of the primaries in this state only have a 20 per cent vote of people eligible to vote anyway.

It seems to me from some of the statements that have been made, there seems to be a great deal more concern for the cost of election and printing and election machinery than for the kind of government we get. I am concerned with the cost of these things, but I simply submit that if you're going to have a system, then that system applies equally throughout the state, and if it's a good system, if there is some additional cost to it, and it accomplishes the end of good government, then I would support it. I really don't believe there have been any real good reasons given for not adopting this amendment to strengthen the 2 party system, and again I urge you to vote yes on this amendment. Thank you.

CHAIRMAN MARTIN: Dr. Anspach.

MR. ANSPACH: Mr. Chairman, fellow delegates, I condense a 15 minute address with the very simple sentence: I support the amendment, and I do so now because I don't want to become confused like this drunk who walked up to a policeman and said, "Where is the other side of the street?" He said, "Over there." The drunk said, "That's peculiar. I was over there a while ago and they told me it was over here." (laughter)

CHAIRMAN MARTIN: Mrs. Koeze.

MRS. KOEZE: Mr. Chairman and fellow delegates, I think all of you know my party affiliation. I'm not only the national committeewoman of the Republican party, but I am also my own precinct worker. I have worked in my precinct many, many times canvassing. I have never had any trouble with anyone, Democrats or Republicans, in asking for the information that I needed in regard to their party. No one has ever turned me down.

Two years ago, when I was campaigning in my precinct for the Nixon-Kennedy campaign, I found one gentleman that said to me, "Well, isn't this supposed to be secret?" And I said, "You can have it secret if you like, but I'm sure if you're a Democrat or if you're a Republican, you should be very, very proud of the party that you belong to."

In my work as a party official, working with both independents and my party people, I have always pointed up that people as such and voters should have some party responsibility. I have stressed in my work with young people that they pick a party that comes closest to their ideals, principles and purposes. It won't always be 100 per cent to a person's liking, but pick a party, work for it and support it. I believe this is essential. And particularly in this day and age, when we have a group of youngsters growing up that are intellectuals, but who think there is some aura about being an independent, I think we should point up all the more to them that it is their responsibility to pick one of 2 of the major parties in the United States. I have done this in all my work with the young people, with the women's groups and, on many, many occasions, I've been asked to speak to independents, people whose politics I didn't know, and this has been my approach to it, that there is a responsibility. It always reminds me, the people that run around and pride themselves on the fact that they're independent, of the people that belong to a church, or they go with their church papers in their pockets from one church to another, but never support the church that they should be supporting.

So I point out that I am definitely in favor of this. I don't think there is any ulterior motive behind it. I think it's about time the people in America are stressing and pointing up to the fact that it's about time they're picking a party and being proud of the party that they pick. (applause)

CHAIRMAN MARTIN: Mr. Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, I'd like to join one of the spots that were left on this amendment. I have for several years now worked on the encouragement of political action and given talks to groups, urging them to join the political party of their choice. Occasionally I would have the comment come up that I've heard here several times tonight about, "Oh, I couldn't declare a political party because I'd get in bad with my employer." I have challenged that on occasion and I asked this person who he was employed by. Upon finding out, I went to the employer myself and I found that this is a bunch of baloney. It makes me sick, because I've stood up for my own political convictions. I can recall a conversation recently with the president of my firm and it was about a legislative matter over across the street. And I said, "Oh, he's an old dyed in the wool conservative and I'd never go along with that." He said, "Now, don't be silly. That's a good idea." And I said, "That's your opinion and that's my opinion," and we were all happy. We both had our own opinion. I'm not fired. I'll have a job when I go back. Stand up for what you believe in.

CHAIRMAN MARTIN: The question is on the Yeager amendment. The yeas and nays have been called for. The secretary will ring the bell. The question is on the Yeager amendment.

MR. YEAGER: Mr. Chairman.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, could I ask that we clear the board before we vote, since this is the first vote of the evening?

CHAIRMAN MARTIN: We will do that, Mr. Yeager. The question is on the Yeager amendment. The Chair will ask the secretary to read the amendment, please.

SECRETARY CHASE: The amendment now offered by Messrs. Yeager, Erickson, Mrs. Conklin, Messrs. Leppien, Hodges, Snyder, Youngblood, Iverson, Gust, Mrs. Koeze, Messrs. Stevens, Powell, Blandford, McAllister, Everett, Boothby, Plank, Dean Doty, Anspach, Stopczynski, Cudlip, Shanahan, Wood, White, Seyferth, Hubbs, Dehnke, Kirk, Leibrand, Habermehl, J. B. Richards, Lawrence, Brake, Bentley and Sterrett:

[The amendment was again read by the secretary. For text, see above, page 2232.]

CHAIRMAN MARTIN: Will you clear the board, please. The question is on the Yeager amendment. Those in favor will vote aye; those opposed will vote nay. Have you all voted? If so, the secretary will lock the voting machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—55

Andrus, Miss
Anspach
Bentley
Binkowski
Blandford
Bonisteel

Finch
Habermehl
Hanna, W. F.
Haskill
Hodges
Hoxie

Powell
Prettie
Pugsley
Richards, J. B.
Rush
Seyferth

Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Millard
Page
Plank
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Stamm
Sterrett
Stevens
Thomson
White
Wood
Yeager

Nays—60

Allen
Austin
Balcer
Barthwell
Batchelor
Beaman
Buback
Cushman, Mrs.
DeVries
Donnelly, Miss
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Goebel
Greene
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Higgs
Hood
Jones
Judd, Mrs.
Kelsey
King
Kuhn
Lesinski
Liberato
Madar
Mahinske
Marshall
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Pellow
Perlich
Perras
Pollock
Rajkovich
Richards, L. W.
Romney
Sablich
Sleder
Staiger
Stopczynski
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Yeager and others, the yeas are 55; the nays are 60. (applause)

CHAIRMAN MARTIN: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend page 2, line 8, after "voting" by changing the period to a colon and inserting "Provided however, That no law shall be enacted which permits a candidate in any partisan primary or election to have a ballot designation except when required for identification of persons who are candidates for the same office and have the same or similar surnames.".

CHAIRMAN MARTIN: The committee will be in order. Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, to me, this is one of the most important things that will come before this convention because all I've heard here is the question raised as to whether or not the legislature is responsive to the will of the people. To me, a little known act has made the legislature less responsive to the will of the people. I don't know how many of the delegates are aware of this statute that passed in the year 1957. I'd like to read it to you. It says this:

> Each candidate for nomination who qualifies pursuant to section 163 and who at the time of qualification is an incumbent of the office for which he so qualifies shall be entitled to have printed on the primary ballot under his name the words "state senator" or "state representative," according to the office he holds, upon making application therefor at the time of his qualification.

Now, what does that mean? It means simply this, ladies and gentlemen: for any reason an incumbent legislator may wish, he can ask for a ballot designation. In other words, for example, he files to be a candidate and some person of some notoriety decides to run against him — a con con delegate, for example. He merely asks for this ballot designation. I ask you this question: what other candidate for any political office in the state of Michigan has that privilege? The answer is, none. The legislature did this solely for themselves. One member of our group, who was a member of that legislature in 1957 when the statute was enacted, told me — I am referring to Senator Hutchinson, and I am happy to announce this now — that he voted against this particular statute.

Certainly, no one acquainted with the elective process and the general tendencies of the electorate can deny that this designation extends an advantage to the incumbent of the office. To allow the legislature to provide themselves with such an advantage is certainly to allow them to violate other candidates' rights to the equal benefit of government guaranteed by article II, section 1. The constitution provides for the qualifications, eligibility, time and term of elections for the executive officer in article VI, section 1; for the state educational officials, in article XI, sections 2, 3, 4, 5, 6, 7 and 8; and for the legislative department, in article V, sections 2, 3, 5, 6, 7 and 12.

CHAIRMAN MARTIN: Can we have a little more order, please? It is difficult for the speaker to be heard.

MR. KUHN: Finally, in article III, section 8, the constitution commands the legislature to make such laws as shall "preserve the purity of elections and guard against abuses of the elective franchise." Mr. Chairman, taken as a whole, the constitution clearly is meant to restrict the right of the legislature in the field of elections to the right to enact laws concerning the formalities of procedure and to the prevention of abuses and assurances of purity in the elective process.

Now, many of you will say, "Well, just how much of an advantage is this?" I discussed this with Pete Buback the other day and I think he can remember when we were discussing the judicial article, that it is an advantage that exceeds 25 to 30 per cent of the vote.

Let me read to you what the supreme court said in Elliott vs. Secretary of State, 295 Michigan at pages 249 and 250 and this had to do with the election officials not rotating names. In other words, the election officials allowed a certain candidate's name to be at the top of the ballot. The supreme court said this:

> It is not consistent with fairness nor purity of elections or the avoidance of misuse of elective franchise for election officials to prepare ballots in such a condition as will afford one candidate or nominee an unfair advantage over rival candidates or nominees.

And then they said at the bottom of page 249:

> It is a commonly known and accepted fact that in an election, either primary or general . . . those whose names appear at the head of the list have a distinct advantage.

And I submit to you, ladies and gentlemen, that if your name appears at the top of the ballot, and you have such a distinct advantage that the supreme court says you're not having a fair election, when one group of public officials, at their own will, can have a ballot designation, we are destroying the purity of elections.

I asked the legal research to look into this problem just to see what the results were since this statute came about. I did not tell them what I wanted it for. I said, "Would you kindly check the elections from 1950 to 1960?" This is the result of that poll: they said, "In 1950 —" and they made comments which I did not ask for — "a good year for the underdog, 11 incumbents were defeated." Eleven incumbents were defeated in 1950. "In 1952, 7; in 1954, 6; in 1956, 7." And then in 1958 he has this remark next to it, "A bad year for the underdog, 4." And I said, "You forgot 1960." He said, "Oh, I didn't know you wanted that." He went back and checked out 1960 and came back, "A worse year for the underdog, 3."

Ladies and gentlemen, I submit to you that if we do not do something at this time to correct this abuse, we will not have fair and pure elections. And I therefore urge the adoption of this amendment so we will have a more responsive legislature and so we will not have 144 people running for public office and only allowing 3 to be defeated. And I also would like you to remember this: that this does not apply just to the legislature, but it applies to all elective officials on a partisan ballot, and it also gives anybody who tries to fool or surprise the public by a same or similar surname the right to have the designation. Thank you.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I reply to Mr. Kuhn's amendment similarly to what I said before in connection with previous amendments. I repeat again that one of the principal purposes of our committee was to assign to the legislature in unequivocal language the power and the responsibility to deal with the problems of election administration. There may be merit in Mr. Kuhn's opposition to ballot designation. I am not arguing that question. But this is just one of hundreds of possible details of election administration that we considered in our committee. We've attempted to avoid such statutory detail and this amendment, whatever its substantive merit, is essentially a legislative matter. I therefore urge the defeat of the amendment.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I support this amendment. I think that the reasons advanced by Dr. Pollock are not valid in this particular case because this particular amendment deals with something which the legislature themselves would be hard pressed, obviously, to deal with. Now, if you were a guard in a bank and a man came in with a mask on, you wouldn't give him your gun and badge and ask him to watch the place while you went for a cup of coffee. And I don't think that this is the time when we should or want to trust the legislature. If you believe that the legislature or any other elected official, except judges, should not be entitled to this ballot designation, then this is the time to take care of it.

CHAIRMAN MARTIN: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Chairman, I too would like to urge the delegates to think carefully about this amendment and to give it some very serious affirmative consideration. It seems to me that when the legislative organization committee in its wisdom faced the problem of establishing an apportionment commission, that they obviously saw the impossibility of asking the legislature to do it and that there was testimony to the effect that many of the legislators urged that the commission be formed in order to take it from them, as it was a difficult assignment and one which was almost impossible for them to do. For the same reason, I feel that the legislature would be hard pressed now to reverse their position on this ballot designation. And it seems to me further that the people of our state and of our various local units of government should have the right of freedom of choice without a silent salesman in the ballot booth. So I would urge the adoption of this amendment.

CHAIRMAN MARTIN: Mr. Marshall.

MR. MARSHALL: I'm inclined to go along with Delegate Kuhn with his reasoning because there are some state senators and representatives of both parties that I would like to see clobbered. (laughter) But I am reluctant, however, to write this into the constitution because I don't think that you can cover every phase of the election process in the constitution. I don't think, even if this was put into the constitution, that it would really correct the matter; because I recall before this was done, all a candidate had to do was to go out and get another Kowalski or another Smeekens and stick his name on the ballot and he got the incumbent designation anyway. And, he would under this.

I agree that there is some validity to the argument that if there was a Jack Faxon running who was the incumbent and he had another Jack Faxon run just in order to get the incumbency designation, it might not work to his advantage as much as it would if he had the incumbency without another Faxon. Because I can recall the situation in Wayne county where a very good friend of mine — I think it was his cousin or his wife or someone ran, and she almost won. And he was the incumbent.

But I seriously do not believe that this should be in the constitution. I think it's statutory. And if we should set about to write all of the details, all of the amendments to cover every phase of the election process, we would be here until this time next year. And I would urge the defeat of the amendment and it can best be left to the legislature. Thank you.

CHAIRMAN MARTIN: Mr. Allen, would you take the Chair for a moment so that the Chair might express himself on this subject?

[Whereupon, Mr. Allen assumed the Chair to preside as chairman of the committee of the whole.]

CHAIRMAN ALLEN: The Chair recognizes Delegate Martin.

MR. MARTIN: Mr. Chairman, I haven't exercised this privilege but I can't speak from the Chair and I did want to express myself on this particular point. It seems to me that this designation provision provides a grossly unfair situation. There is no question but what the figures that Mr. Kuhn gave you are correct, and that the possibility of anyone running successfully against an incumbent when that designation is on the ballot is very remote. It seems to me — and I would feel this if I were in the senate, as I was at one time — that incumbents have a great advantage in any event, through the fact that their activities give them publicity and give them an opportunity to be known. In their constituency they already have a tremendous advantage in running for reelection, and perhaps they should have at least that opportunity. But to give themselves this designation goes far beyond what seems to me to be reasonable. I believe that the Kuhn amendment has great merit and that careful consideration ought to be given to it by the delegates. Thank you, Mr. Chairman.

CHAIRMAN ALLEN: The Chair recognizes Delegate DeVries.

MR. DeVRIES: Mr. Chairman, members of the committee, I am going to have to disagree with my distinguished colleague from the University of Michigan. I think that this amendment is a constitutional principle because we're dealing with equality of access to public office. The rationale here is that elected officials are close to the people. If this is true, then people know their elected officials and they can evaluate their performances. Therefore, I would conclude: why do you need an incumbency designation on the ballot if officials are so close to the people who have elected them? Because by definition, an elected official must be well known and must have made some kind of creditable performance. Further, the incumbency designation for any other purpose than similar names is undemocratic because the officeholder, by definition, has enough advantage over challengers. So I would urge you to support this amendment because I think it is a constitutional principle. It is not rational, democratic or in a spirit of fair play to have an incumbency designation on the ballot primarily because it denies equal access to people who seek public office. And I would urge you to support the amendment, and I would demand the yeas and nays.

CHAIRMAN ALLEN: Mr. Martin, I am very happy to turn the Chair back to you.

[Whereupon, Mr. Martin resumed the Chair to preside as chairman of the committee of the whole.]

CHAIRMAN MARTIN: The yeas and nays have been demanded. Is the demand supported? Sufficient number. Mr. Stevens.

MR. STEVENS: Mr. Chairman, I want to speak very briefly on this. As a member of the committee on rights and elections, we have no opposition to the idea presented here — to the substance of the matter — but we tried so far as possible to turn all these details over to the legislature. I know Dr. Pollock told you about this. It was the consensus of the committee that we should put as little detail into the constitution as necessary, leaving the legislature free to take care of these things. Thank you.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, once again this argument is brought up that this should be left to the legislature. In direct rebuttal, I'd like to point out that the sheriff, the drain commissioner, the clerk and the register, all of these people don't have this advantage. Congressmen don't have it. United States senators don't have it. The vice president of the United States doesn't have it. The president of the United States doesn't have it. We are only talking about the legislature; very obviously, they're the last place in the world where you should expect relief. And if I were there, you probably couldn't expect it from me either. So let's take care of it right now while we have the chance.

CHAIRMAN MARTIN: The question is on the amendment of Mr. Kuhn. Mr. Norris.

MR. NORRIS: Mr. Chairman, I rise to support the Kuhn amendment on the basis that it's not merely a matter, as Mr. DeVries indicated, of equal access to office; it is a question of the responsiveness of those who run for office and those who have been elected who are running for reelection. One of these reasons that I was disturbed with regard to the question of apportionment is that we want to achieve a responsive and representative legislature and, in my judgment, experience has shown pragmatically that the incumbency designation is a serious impediment to a responsive legislature. This means to the person who is running that he has a substantial vote to start with and he doesn't have to get close to the people, he doesn't have to watch the trends, he doesn't have to be with them to sense their judgment, to assess what their needs are and to make his job one of reflecting their needs and reflecting the wisdom necessary to make the legislature properly exercise its legislative power.

I think, as Mr. King suggested, there are limitations in the matter of regarding this as a legislative matter, and I think, both as a matter of principle and as a matter of service to the people, we ought to support the amendment.

CHAIRMAN MARTIN: The question is on the Kuhn amendment. The yeas and nays have been demanded. Mr. **Danhof.**

MR. DANHOF: Mr. Chairman, if I might, may I make an inquiry of the sponsor of the amendment, Mr. Kuhn?

CHAIRMAN MARTIN: You may ask a question, if Mr. Kuhn wishes to answer.

MR. DANHOF: Mr. Kuhn, on line 3, I notice the word "partisan" before "primary." I take it that the "partisan" refers also to the election. Is that correct?

MR. KUHN: That is correct.

MR. DANHOF: Thank you.

CHAIRMAN MARTIN: The question is on the —

MR. KUHN: Mr. Chairman, I'd like to make a last statement on this, please.

CHAIRMAN MARTIN: Mr. Kuhn.

MR. KUHN: It's been brought out that this is legislative. I'd like to remind my friend, Dr. Pollock, that we put a governor's mansion in the constitution and I don't know of anything that could be more legislative than that. He wanted the civil service commission in the constitution and we went along with him on that—which is strictly legislative. We put in a civil rights commission, which is strictly legislative. We put in a highway commissioner to be appointed by a commission, which is strictly legislative. We have earmarking, which is legislative.

This is something that is so important—I've been following elections for 26 years, and I'm only 32 (laughter) but I want you to know this: you cannot have a fair election when you allow one group, one body, to say, "When we feel like it we'll ask for ballot designation." And that is exactly what we're allowing them to do. And this will not only apply to the legislature; it will apply to everybody in the state of Michigan on a partisan ballot.

CHAIRMAN MARTIN: The secretary has an amendment to the amendment, which he will read.

SECRETARY CHASE: Mr. Hubbs offers the following amendment to the amendment:

1. Amend the amendment, after "any" by striking out "partisan"; so that the language of the amendment will read, "Provided however, That no law shall be enacted which permits a candidate in any primary or election to have a ballot designation. . . ."

CHAIRMAN MARTIN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, it seems to me if the legislature is the primary source of political power in the state and they shouldn't have the incumbency designation, I agree with this idea. But I don't believe anybody should have this kind of advantage in seeking public office or having someone run against him to remove him. And I think by striking the word "partisan" here we can make this thing apply to all elected officials in the state. Everybody — that's right, Mr. DeVries.

In addition, I'd like to make one comment. A moment ago, we voted 55 to 60 on the question of closed primaries. I don't see how you can have a partisan primary when there's nothing partisan about it. It's a public primary. It's a nonpartisan primary. That's what it is. Thank you.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: I wanted to ask Mr. Hubbs a question, Mr. Chairman. Does this preclude the circuit and supreme court justices and all of the nonpartisan judges from getting a designation?

MR. HUBBS: I would assume that it does, Mr. Buback.

MR. BUBACK: If this is adopted, what happens to the judicial article, where we have approved automatic designations for supreme court justices, circuit court judges and probate judges?

MR. HUBBS: I didn't quite hear how you started your question.

MR. BUBACK: In the judiciary article we have provided that the probate judges, circuit court judges and the supreme court justices automatically be given designations without requesting them. Would this preclude them from getting that automatic designation?

MR. HUBBS: I would say that it might. In other words, it's going to eliminate a sort of closed shop agreement amongst the pettifoggers. (laughter)

MR. DANHOF: Point of order, Mr. Chairman.

CHAIRMAN MARTIN: Mr. Danhof. State your point.

MR. DANHOF: Mr. Chairman, some 2 or 3 weeks ago this committee, then the convention decided specifically on giving judges an incumbency designation. It is obvious that this amendment is to vitiate the action taken by the convention by a record roll call vote. I submit that this matter has been passed by this convention and cannot now be considered at this time. But the proper time will be upon the second reading of the judicial article. I ask for the ruling of the Chair.

CHAIRMAN MARTIN: The Chair thinks, Mr. Danhof, that your point of order is well taken and that the matter has been passed on by the convention. Mr. Hubbs, it would be possible for you to offer an amendment at a later stage to the section relating to the judiciary. But the Chair thinks your amendment is out of order at this time and will so rule.

MR. HUBBS: Mr. Chairman, I will withdraw the amendment.

CHAIRMAN MARTIN: Thank you, Mr. Hubbs. The question is on the Kuhn amendment.

SECRETARY CHASE: Mr. Kuhn's amendment is:

[The amendment was again read by the secretary. For text, see above, page 2238.]

CHAIRMAN MARTIN: The question then is on the Kuhn amendment. The ayes and nays have been demanded. The secretary will ring the bell. All those in favor of the Kuhn amendment will vote aye. Those opposed will vote nay. The question is on the Kuhn amendment. Have you all voted? If so, the secretary will lock the voting machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—92

Allen
Andrus, Miss
Anspach
Balcer
Beaman
Binkowski
Blandford
Bonisteel

Goebel
Gover
Greene
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch

Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.

Boothby
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Faxon
Figy
Finch
Garvin
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Madar
McAllister
McGowan, Miss
McLogan
Millard
Norris
Page
Pellow
Perlich
Romney
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Staiger
Stamm
Sterrett
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—24

Austin
Barthwell
Batchelor
Bentley
Dade
Douglas
Elliott, Mrs. Daisy
Erickson
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Judd, Mrs.
Lesinski
Liberato
Mahinske
Marshall
Murphy
Pollock
Stevens
Stopczynski
Tubbs
Walker
Young

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Kuhn, the yeas are 92; the nays are 24.

CHAIRMAN MARTIN: The amendment is adopted. Are there any other amendments, Mr. Secretary?

SECRETARY CHASE: That's the last amendment on the desk on section d.

CHAIRMAN MARTIN: Are there no further amendments? Section d, as amended, is agreed to. The secretary will read.

SECRETARY CHASE: Section e.

[Section e was read by the secretary. For text, see above, page 2213.]

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: The major change affected by this section would be the elimination of the spring election. Testimony before the committee has convinced us that the spring election has so many undesirable characteristics that it should be permanently retired. We considered other alternatives, but we decided this was the wisest measure to take.

In the first place, election statistics have clearly proved that voter participation in spring elections is very poor compared to fall turnout. The argument for highly frequent elections on the grounds that they keep government close to the people is not very convincing when applied to an election that has consistently failed for many years to attract a high level of popular participation. The committee as a whole was very much convinced by the arguments and the plan proposed by Delegate Buback, who was a member of this committee and a member of the subcommittee that brought forth this proposal. I will now yield the floor to Mr. Buback.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman and members of the committee, this plan to eliminate spring elections was taken up with Mr. Robert Montgomery, state director of elections; Mr. Bernard Apol, former assistant state director of elections; Mr. Louis Urban, Detroit director of elections; Mr. Stanley Kilpatrick, Grand Rapids city clerk; Mr. Kenneth Lybold, chairman of the Michigan municipal clerks association; Mr. Donald Strong, associated with Doubleday of Kalamazoo who prints ballots for 30 counties; and Mr. Frank Niederstadt, city clerk of Saginaw.

Now, in this proposal to abolish spring elections, we are merely transferring the so called spring offices into the even numbered years. The president will run along with the offices that are now run in the spring election, and in the off presidential election, you have the governor, state senator, congress, United States senator, and county offices run as a group. We feel this will save the local governments, the counties and cities and townships in the neighborhood of $1½ million.

We have absolutely no voter participation in spring elections. I have some statistics here I'd like to read to you. In the spring elections of '57, '59 and '61, in the primary elections, 15 per cent of the vote turned out. In the April election, it was 36 per cent, 45 per cent, 31 per cent, and 22 per cent. Compared to the even year elections, we have 32 per cent in the primaries in '54; 36 per cent in 1956; 26 per cent in 1958; and 34 per cent in 1960 — more than double the amount of people voting in the primary elections. In general elections for these years: in 1954, 65 per cent of the people voting; 82 per cent of the people voting in '56; 64 per cent of the people voting in '58; and 79 per cent of the people voting in 1960.

So, by eliminating the spring election, we would be getting greater participation in the elections, and for several reasons I would certainly urge the adoption of this proposal that we eliminate spring elections and adopt this section.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: One item that has not been pointed out that I think should be in the record is that for those townships which have primaries, it is necessary for the candidate to file his petition somewhere around January 2 or in that area. This makes it very difficult in large townships, and I submit that that is just another reason, a very valid reason why this election should be eliminated along with all the others that have been enumerated.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to inquire whether the committee gave any consideration to the matter of wisdom in spelling out the day of election as being the Tuesday after the first Monday in November in each even numbered year. Really, that day is the day for the election of members of congress and the day for the election of members of congress is, of course, something controlled by the Constitution of the United States, which in this particular case kind of pulls a joker. Because they said the times, places and manners of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof, but the congress may at any time by law make or alter such regulations, except as to places for choosing senators. What that amounts to is that we will be holding a congressional election in this state at whatever time the congress of the United States prescribes by federal law. And I am wondering, as a matter of constitutional provision, whether the committee had given any thought to simply saying that the elections for national, state, county and township offices shall be held on the day prescribed for the election of members of congress.

MR. POLLOCK: Mr. Chairman, if I may reply to Delegate Hutchinson.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: I think the committee did not give consideration to this because in Michigan, unlike some other states, we never had our state elections, I believe, in modern times at a time other than the date specified by the law of congress. And we were merely accepting this November date as sort of a law of the Medes and the Persians and not daring to interfere with it. But I do think the delegate has an important point.

MR. HUTCHINSON: Mr. Chairman, I do not at this time have an amendment proposed because, although I confess to have thought of this many times during the course of this convention, I didn't get down to the committee to speak to it and it just occurred to me as we came again upon this section. I plead guilty to something I think that Dr. Pollock is sometimes critical of, and that is just reaching for these things more or less off the top of your head without any real preparation for them. But the problem has occurred to me before.

I do think that this convention, before final adoption of this constitution, could seriously consider the possibility that, in the future, the congress of the United States might prescribe a different day for the election of congressmen, particularly in view of the fact that we even hear from time to time some speculation as to a different inauguration day. I think that President Eisenhower once suggested that they change the Constitution of the United States to provide for the inauguration of the president as early as the middle of October and so on, which would completely set a different election schedule. And if that should come about, our Michigan constitution would be completely out of kilter and we would have to go to the people and amend our Michigan constitution in order to comply.

MR. POLLOCK: Mr. Chairman, if the committee has no objection, I can confer with the members of our committee, and when the matter comes up in style and drafting, perhaps we can work out more appropriate language. The intention, of course, was merely to concentrate the election of our principal officers in the even numbered years at a specified time which always has been November, and I'm afraid we hadn't thought any further.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman, I'd like to address a question to Mr. Hutchinson. Could we change that by saying every 2 years unless otherwise prescribed by the legislature? Would that give it enough discretion just in case congress should change the law? I wouldn't want to leave this so wide open unless that would be the answer.

MR. HUTCHINSON: Mr. Chairman, I would presume perhaps, but on the other hand, I don't think it would be the intent of this convention to leave the time for elections wholly up to the legislature. I think that if there is any problem here at all, it would be only in case our state elections fell on a day different from the national election. And we don't want that. And that's a matter which is to be governed by the congress of the United States.

CHAIRMAN MARTIN: Does the secretary have any other amendments to the section?

SECRETARY CHASE: Messrs. Van Dusen, Danhof and Arthur Elliott offer the following amendment:

1. Amend page 2, line 9, after "county" by inserting a comma and "city, village, school district"; and in line 11, after "November" by striking out "in each even numbered year" so that section e will read:

> All elections for national, state, county, city, village, school district and township officers shall be held on the Tuesday after the first Monday in November, except for special elections to fill vacancies.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, I applaud the effort of the committee on elections to eliminate those elections at which participation has been so light as to defeat the system of representative government under which we operate. I suggest, however, that in one respect they have perhaps not gone far enough and in another, they have perhaps gone too far.

It seems to me that the most desirable thing we could introduce into our election process is complete predictability of when people go to vote. The problem which we have in low turnout largely derives from the fact that we have a proliferation of elections at odd times. Let me give you the catalog of my experience during the period from roughly August, 1960 until September of 1961. We had, in August of 1960, a primary election. That was followed by a general election in November. There was then a general election the following April. Following that, in May we had a village election; and in June we had a special school election; and in July, we had a special primary election for delegates to the constitutional convention; and in September, a special election for delegates to the constitutional convention. I think this experience has been duplicated in many other voting areas in the state and it contributes to what some of my constituents, I think, quite appropriately call "voter fatigue." You just have to go to the polls too often. People, as a consequence, don't get there.

Now, the consequence of the amendment which Messrs. Danhof, Elliott and myself have offered would be this: each year in November there would be an election. Now, in one year you'd elect the president of the United States and such other officers as might be on the ballot that year. Now, the next year in November, there might be an election for judicial officers and perhaps educational officers. The following year there would be a gubernatorial election. The following year there might be a municipal and school district election. But every year along about September, people would get the notion that in November they were going to be called upon to vote for something and they would start thinking about what it is they're going to vote on. I believe that the consequence in general would be a larger participation in elections by better informed voters. Now, this would further have the advantage which is not present in the committee proposal in its present form that, as I mentioned, judicial elections and school elections, which are essentially nonpartisan in character, could be eliminated from the November election in the year in which we vote for president or for governor and would therefore have the special and undivided attention of the voters, which they would not have as long as they are coupled with the gubernatorial election and with the presidential election.

Therefore, the whole purport of the amendment which we offer is one designed to obtain a greater participation in the system of representative government by a larger number of better informed voters. I heartily solicit your support of the amendment which we have offered.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I should reply to Mr. Van Dusen by saying that the committee did consider this provision of an annual November election in trying to get all elections held at that time. We had, I think, a rather eloquent argument made to us, and testimony in Detroit. We had several arguments made before the committee and the committee did consider this matter but, for a number of reasons, decided against it. I think they had much merit and I am speaking heartily against the amendment until I am convinced that some of these objections can be removed.

First of all, it seems to destroy the requirement that national, state, county and township offices would be elected at the same time. And, in the second place, it seems to require city, village and school district elections to be held in November only. This obviously runs into home rule problems, runs into school law problems. This presumbly is what you want to accomplish. But it struck us as being a source of very considerable opposition. And then finally, your amendment would allow the legislature to determine which elections would be held in even numbered years and which ones in odd numbered years. And we wanted to specify rather definitely when these important elections should be held. Am I correct in my analysis, Mr. Van Dusen?

MR. VAN DUSEN: Mr. Chairman, Dr. Pollock, you are correct in your analysis. If I might briefly comment, I think that one of the problems inherent in the committee proposal is the requirement that all state elections be held in the even numbered years, thus making it impossible to separate judicial elections, for example, from gubernatorial and presidential elections which, it seems to me, would be a desirable consequence of the amendment which I have offered. Now, it is correct, of course, that school district elections would be required to be held in November. While, to some extent, this may contravene the home rule principle, of course, home rule is subject to such general prescriptions as is contained in the constitution and the general laws, and it seems to me that this is a desirable thing. One of the reasons we have such poor participation in school elections is that they come at such odd times that nobody is prepared for them; nobody knows they're coming.

MR. POLLOCK: Mr. Chairman and Mr. Van Dusen, the committee proposal was designed principally to reduce the frequency of major elections, while avoiding an excessively long ballot. City elections weren't required to be held in November because, as I have said, city charters have varying provisions that in some cases, as particularly in the city of

Detroit, holding a municipal primary at the same time as the state primary would produce extremely serious administrative problems, such as overloading the capacity of the voting machines. Our committee felt that its proposal offers a rational and a workable schedule. If your amendment should be adopted, no one can exactly say what the election schedule would be.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: I'm sorry, Mr. Chairman. When I asked for recognition, I overlooked the fact we were on the Van Dusen amendment. I should like to be moved up for the question on the general amendment.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, we had very strong opposition to this from the city of Detroit, which holds its elections in the off year and does not wish to have them mixed up with partisan elections. It may not be too apparent to some of you younger people, but the city of Detroit is supposed to have nonpartisan elections, and it is not consistent with the idea to have the election at the same time we have party elections. There may be other cities that have the same situation. I presume there are. It really would be inconvenient and undesirable to them.

Now, as a delegate from Detroit, I certainly haven't asked for very much just for the city of Detroit, but in some of these things that are mechanical in nature, it seems to me we ought to give some reasonable consideration. I'd like to yield to Mr. Buback, if I may, or at least, I'd like to hear him speak on this because of his knowledge of elections.

CHAIRMAN MARTIN: The Chair will call on him in due course.

MR. VAN DUSEN: Mr. Chairman, I wonder if Mr. Stevens would yield to me for a very brief comment on his point, so we don't lose continuity.

MR. STEVENS: Yes, I would Mr. Van Dusen.

MR. VAN DUSEN: Let me simply say that there is nothing in this amendment which would require that the municipal elections in Detroit be held at any other time than they are now held and nothing in this amendment which would require that they be confused with partisan elections. What might very well occur is that the municipal election in Detroit might be on the ballot at the same time that nonpartisan judicial elections are on the ballot. But I don't think this would either be likely to overload the machinery or to confuse the voters of the city of Detroit.

MR. STEVENS: I agree with you, Mr. Van Dusen. That's exactly my point and exactly the objection these people concerned with election machinery in Detroit raised before the committee.

CHAIRMAN MARTIN: Mr. Danhof.

MR. DANHOF: Mr. Chairman and members of the committee, as the committee is aware, the main election for judicial officers in this state is in the spring election. It is at that time that we elect our supreme court justices, and every 6 years all of our circuit judges. Now, at the time that our committee considered this particular matter, we did not make any recommendation to this committee regarding when the election of judges should take place. We did, however, discuss the particular matter and there was considerable sentiment within the committee that if it were possible, it would be well to separate the judicial elections from the strictly partisan elections which occur in the even numbered years, that is, when we elect for the governor, for United States senators, U. S. representatives and president. We thought we would leave this matter to the committee, having heard that an amendment such as this would be offered. For myself, and I speak only for myself, I can only state that I think it would be wise if we could allow for the election of the judiciary in the odd numbered years, although we set up a definite time schedule whereby we have regular fall elections. I think that if you will examine the ballot, you will find that the judicial officers will tend to be overlooked in the heat of a strictly partisan campaign, which will either involve the chief executive of this state or the chief executive of the nation. It was not unanimous in the committee, but there was considerable support and sentiment for this type of an election if it could be worked out. Therefore, it is with that in mind that I joined Mr. Van Dusen and Mr. Elliott in supporting this particular amendment.

CHAIRMAN MARTIN: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Chairman and members of the committee, I rise in support of the substance of this amendment and also the committee proposal as amended. However, I feel that further study should be given to draftsmanship because as I read section e as amended by this amendment, it provides that all elections shall be in November as a constitutional mandate and I think that, of necessity, primary elections will have to be held ahead of November, and I believe that there is some draftsmanship that should be cleaned up. I have no amendment to propose at this time but I invite the attention of the committee of the whole and also the attention of Dr. Pollock's committee to the fact that as this language is drafted, I don't think it's possible to have a primary election.

CHAIRMAN MARTIN: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Chairman and ladies and gentlemen of the committee, just a quick answer to Mr. Woolfenden: it seems to me that under section d, the legislature would there have a right to enact laws which would regulate the time of primary elections. What we are talking about here is general elections.

Now, let me just point out to you one of the very major advantages of the adoption of this amendment. One of the points that Mr. Van Dusen made was the point of voter fatigue. Having been an extremely active citizen in this election process for many years, I can assure you that the lack of awareness on the part of our citizens in some of these elections is appalling. This amendment would have a tendency to focus on an annual basis the attention of all of our people upon the election process. It would make it possible for us to have a uniformity so that people could, over a period of time — it wouldn't happen in 1965, but over a period of years — would learn to expect this election to take place in November of each year.

It does this too: it places the local elections, that is, your city, village, school district elections and the judicial in the odd numbered years to separate them from the issues which are of more statewide or national concern. I don't believe that it in any way affects the charts that Mr. Buback worked so hard over. It would mean the revision of charters in some of our governmental units. But the advantages to be gained far outweigh, in my judgment, these amendments to the charters that would be required.

CHAIRMAN MARTIN: Mrs. Judd.

MRS. JUDD: Mr. Chairman and members of the committee, I'm in full agreement with the amendment in the respect that nonpartisan elections should certainly be separated from partisan elections.

I note that on the amendment is Mr. Danhof, who represents the judiciary committee, and Mr. Elliott, who represents the local government committee affecting cities and villages. I am wondering whether the education committee has been consulted as to the effect of this on school elections. I do feel it is very important to get school elections placed at a time when more people are aware of what is going on, but there are problems of terms under the state school laws that I should think the education committee should be consulted on.

Then I have another question I think I'd like to ask Dr. Pollock in relation to this timing of the elections. Am I right in thinking that although this provision does not say which November the governor would be elected, that we are leaning on Committee Proposal 71, which does set the years in which the governor would be elected, which would be different from the presidential election years?

MR. POLLOCK: Yes, exactly.

MRS. JUDD: Then I'd like to ask one more question: as long as we are departing from our trust in the legislature on this point, why don't we, while we're about it, get rid of that August primary and put it up into September, when people are at home from their vacations?

MR. POLLOCK: Mr. Chairman and Mrs. Judd, I think the answer again is that this is not consistent with our committee's philosophy that such a matter is a matter of determination by the legislature.

MRS. JUDD: Thank you.

MR. POLLOCK: I agree with you, however, as to the undesirability of the August primary date.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I just wanted to reply to the lady from Grand Rapids. I don't know if she was asking me a question or not, but I'll be glad to assure her that the committee on education has not been consulted, so far as I know, on this particular amendment and I doubt that the committee would have any immediate opinion on it until we had a chance to consider the matter further.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman and ladies and gentlemen of the committee, this was given some very careful and serious consideration. We had many clerks appear before our body. Mr. Stanley Kilpatrick spoke and said he was very much against having state and county elections held in the odd year. Mr. Kent Lybold, who represents the municipal clerks association, spoke very much against it, along with Frank Niederstadt. The city of Detroit has indicated in a letter, and the common council adopted a resolution opposing any state and county election being held in the odd year in the fall when they're having their elections.

Now when we proposed this schedule of elections — and I'd like to point out to you that we projected this over a 10 year period; in 1962 we proposed that the governor, lieutenant governor, the secretary of state — or in the primary — first we had the governor, lieutenant governor, secretary of state, attorney general, treasurer and auditor general nominated at party convention. We had representatives to congress, state senators, state representatives and the county officers, also the precinct delegates in the county of Wayne and the counties where they elect their precinct delegates and judges of probate. In the fall election, we had the governor and the ad board, representatives in congress, state senators, state representatives, the county officers and the judges of probate. In 1964, the presidential election — we have no primary in '64; I understand this would go into effect in '66 or so, but just projecting it in '64, if this went into immediate effect — we have no primary elections for any state officers because they're elected in the off presidential election. We did have the United States senators, representatives in congress, county auditors in counties where they elected a county auditor, and a precinct delegate and judge of probate.

Now, in the even year, we had the president, and then we took the spring election officials, the regents of the University; the board of trustees of Michigan State University; we had the superintendent of public instruction, which has now been eliminated; we had the state board of education, the highway commissioner, which has now been eliminated from this phase; we had the board of governors of Wayne State University; the United States senator, representative in congress, justices of the supreme court and judges of probate. Now, that was in '64.

We went into '66 and we had the governor and lieutenant governor in the primary, and the United States senator, representatives in congress, state senators, state representatives and your county officers. Then we had the circuit court judges, because now is the time they're up for election, probate judges and circuit court commissioners as they're presently constituted, but they're out also now. In the 1966 general election we had the governor, lieutenant governor and whatever ad board is to be elected, United States senator, congressmen, and your state senators and state representatives and county officers; and we had the circuit court judges, the probate judges and circuit court commissioners.

Then in 1968, the presidential election, we had no primary because you had a primary for congress, county auditor, precinct delegate and judge of probate again. In the '68 election, when you have the president running, you go right back to the regents of the University, the superintendent of public instruction, state board of education, the board of trustees of Michigan State University, highway commissioner, board of governors and your congress, your auditor and your justices of the supreme court, judges of probate.

This schedule was based on presently constituted officers. Now, there are a lot of deletions going to be made where we have eliminated them during this convention.

Then we went into '68, back to the governor's election: governor, lieutenant governor, United States senator, in the primary, representative in congress, state senator. Now, in some instances where we elect a state senator on a 4 year term, we would not elect a state senator. It would just be the state representative elected every 2 years. You have your county officers. You have had your precinct delegates, judges of probate, because they run every — this was based on a 4 year term; now they have a 6 year term, so these terms would change a little.

You go back again in 1970 and you elect your governor and your ad board, United States senator, representative to congress, your state representatives, state senators, and your county officers. And then you'd have your supreme court justices and your judge of probate because previous to that, you elected your circuit judges.

Then you come back in 1972 to the presidential election. In the primary, all you'd have is the primary for United States senator and representative to congress and the precinct delegates. Again, at this time, you would elect your circuit court judges and probate judges; and I had circuit court commissioners, but that is now being deleted. On the general election side you would elect your president, a vice president, and again you'd go back into the regents of the University because you elect 2 every 2 years; superintendent of public instruction, board of education, the trustees of Michigan State University. In other words, we've taken the spring officials and put them over with the presidential election.

This was the way we figured this out on a 10 year basis. We showed this to the various election technicians and to the various county officials that are involved in elections, and they all approved this plan 100 per cent. There were no objections found to this plan whatsoever in the question of how you select and what election years you elect your nonpartisan judges. But this is based on either a supreme court justice or circuit court judges, because they're all on staggering terms. They'd be elected every 2 years for a 6 or 8 year term.

We have a lot of objections and certainly I don't quite understand Mr. Van Dusen's proposition. But if you're going to separate the supreme court justices and the circuit judges or probate judges, then you are going to get into an entirely different kind of ballot. If you try to add them to the present setup, you just wouldn't have room on the voting machine ballot to put the state, the county and the city elections and the school board elections and all the other various elections. We have school board elections now being held in April, some held in June and some held in July in the city of Detroit and in certain situations in Wayne county. It's not feasible. We've had a lot of complaints from the various clerks who say, "Do not tie us in with state and county elections." They are governed by home rule. They have their home rule elections that they have in the fall in the odd years. They purposely got away from state and county elections, from nonpartisan judicial elections because they feel that should be with state and county elections.

This plan has the approval of all the city and township officials. It has the approval of the state director of elections, the director of elections from the city of Detroit, and we've got unanimous approval on it. Now, if you change this and add something else to it, or turn it around, this is just not going to work out, particularly in the city of Detroit and the county of Wayne.

CHAIRMAN MARTIN: Mr. Richards.

MR. L. W. RICHARDS: Mr. Chairman and fellow delegates, I'm a little disturbed over one issue in this particular amendment. I believe I'll have to oppose it on that ground, and that's the fact that the school district is included in there. I'm sure that approximately 2 years ago, if I understand Pete in his remark, stated the school election was held in April. I understood there was a statutory law where all school elections are held on the second Monday of June in the state of Michigan. I believe it's important enough to the school districts to be separated. It has been mentioned from the floor that school district elections are not supported. I've had a lot of experience in that and I find the school district elections in our area, that I can speak for, are where the greatest interest is, where there are a lot of issues that are of great importance. And I believe from a budget standpoint ofttimes the biggest budget in each community should be a separate election. And certainly I would oppose this amendment as long as the school district is included in it.

CHAIRMAN MARTIN: Mr. Allen.

MR. ALLEN: Mr. Chairman, it seems to me that the practical effect of the Elliott-Van Dusen amendment of course would be to have all of our elections in November, and I would assume, though it wouldn't be definite, that the national, state, county and township elections would be in the even numbered years, and for practical purposes, this would put the city and school district elections in the odd numbered years in November.

Now, it's been my experience that it is not wise to have your school election combined with your city election. I have seen city administrations going in one direction and I've seen school boards going in another. Or to put it another way, I have seen city administration sometimes blamed for what the people think — and they may think it erroneously, but nevertheless, they believe it — are too many expenditures on the part of the school board. And I've occasionally seen it turned around just the reverse way, where the school board has held its budget very tight, whereas the city has been in some sort of necessary expansion program and it works the reverse way.

Now, the practical effect of this amendment, as I see it, would be to combine these 2 elections, because if you don't combine them in the odd numbered November, then you're going to put your city election in the even numbered November and you run into objections which the city of Detroit has made.

I believe personally it would be better to keep our school board and our city elections separate. Or to put it another way and perhaps more precisely, if the city administration feels that it wishes to have its city election at the same time as the state sets by law an election for the school district, the city could, if it's a home rule city — and most of our cities are — by its charter, change its charter, to conform with the school district election. Then they could do what they wanted in that particular community. But if we pass this amendment, by necessity, we have the 2 rolled into one. And it is my own feeling that it is not wise to say that for always and ever they shall be at the same time. And therefore, while I think the motivation is sound behind the proposed amendment — the voter fatigue — I think that you will cause as much trouble as the evil which is attempted to be cured.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I'm afraid we're not going to get to finish this particular section for at least a little while and for the purpose of moving for a recess, I now move that the committee rise.

CHAIRMAN MARTIN: Dr. Pollock moves that the committee rise. Those in favor will say aye. Opposed, say nay. The motion prevails. The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee has had under consideration a number of matters, on which the secretary will give a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 58**, has considered several amendments thereto, has come to no final resolution thereon.

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, I move we take a recess for 10 minutes.

PRESIDENT NISBET: The question is on the motion of Dr. Pollock. Those in favor will say aye. Opposed, no. We are recessed until 9:10.

[Whereupon, at 9:00 o'clock p.m., the convention recessed; and, at 9:10 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move the convention resolve itself into committee of the whole for the consideration of matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Martin.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MARTIN: The committee will be in order. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, because I have sensed during the recess that the school district question may create some special problem, I'd like to ask that the question be divided so that we can first vote on the question of including or excluding "school districts" and second, vote upon the balance of the amendment.

CHAIRMAN MARTIN: It has been requested that the question be divided. It is so ordered. Mr. Perras.

MR. PERRAS: Mr. Chairman, my concern was over the school districts so I'll pass at this time.

CHAIRMAN MARTIN: Mr. Beaman.

MR. BEAMAN: Delegates, as Delegate Buback has stated, our committee gave a great deal of consideration to section e. We had all the experts in and we felt that we made a lot of progress in section e as it is now drafted in our proposal, and I would just hesitate to confuse and complicate it with this amendment. Therefore, I would have to oppose it.

CHAIRMAN MARTIN: Mr. Gover.

MR. GOVER: Mr. Chairman and fellow delegates, I believe that this amendment has a lot of merit to it, getting the elections in a particular time of year or particular season so that they're understood pretty well. But it seems that there's a lot of confusion in this as to whether the school elections should be in with the villages and cities. Mr. Allen said he didn't think the city elections ought to be in there. As a village man, I'm inclined to think that the villages ought to be left out and not have to vote with the others because usually the village elections are nonpartisan elections. And I think with all the merit in that, that this probably ought to be held over and studied and a better time figured out to take care of some of those drawbacks that Mr. Buback speaks of. And if it can't be studied, I think I'll have to vote against it.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, in addition to the committee's study that was conducted during the life of this convention, a great many other officials were in recognition of the problem of elections, what they create and all the things that go with it. It was the desire of the committee, based on the testimony and the experience of election officials of both state and county, city and otherwise, that the committee proposal should be passed as it is, and that no amendment should be admitted at this time. The legislature has all the authority in the world to accommodate the cities, the villages and the school districts.

I just want to point out — and, of course, now the sponsors of this amendment have asked for a division of the question — remember when you talk about school districts, there are 4 kinds of school districts in the state of Michigan: school districts 1, 2, 3 and 4. And as a result of that, I can't answer which one of these they're talking about, or which ones even.

So I respectfully urge the rejection of the amendment and the adoption of the committee language.

CHAIRMAN MARTIN: Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman and members of the committee, I rise particularly to oppose the inclusion of the matter of school districts in this amendment. There are too many areas here which might cause considerable confusion not only in the local areas involved but also areas on jurisdictional lines, fractional school districts and all that sort of thing. I think that Delegate Allen has stated a situation which I have seen happen repeatedly where there are these conflicts of interest.

I think this is a matter that ought to be left largely to the discretion of the legislature in its wisdom. And I think also that we ought not to get ourselves so involved in trying to throw a package in order to save some time and perhaps some money, that we defeat the very purposes which we have in mind in dividing up these various groups as separate entities. For that reason, I feel that we ought to go very, very slowly as we approach this matter, particularly as it relates to the schools, because the problem of schools and election of school district members involves nonpartisanship. It involves a lot of areas which I am not prepared to talk about at the moment nor am I prepared at the moment, because of this amendment, to cite a case in point involved under the statute as it now exists.

If we adopt this sort of an amendment, I am sure that it will cause more confusion in the areas involved than anything else that we can possibly do. Therefore, I shall certainly oppose the matter of leaving school elections in this amendment.

CHAIRMAN MARTIN: The question is on the Van Dusen amendment. It has been divided. The secretary will read the first portion of the amendment.

SECRETARY CHASE: The amendment as now divided would provide:

1. Amend page 2, line 9, after "county" by inserting a comma and "school district"; so that the language would then read, "All elections for national, state, county, school district and township offices shall be held. . . ."

CHAIRMAN MARTIN: The question is on the amendment as read. Those in favor will say aye. Those opposed will say no.

The amendment is not adopted. The secretary will read the balance of the amendment.

SECRETARY CHASE: The amendment as now constituted provides:

1. Amend page 2, line 9, after "county" by inserting a comma and "city, village,"; and in line 11, by striking out "in each even numbered year"; so that the section would then read:

> All elections for national, state, county, city, village, and township offices shall be held on the Tuesday after the first Monday in November, except for special elections to fill vacancies.

CHAIRMAN MARTIN: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, you will note that as a result of the action of the committee in eliminating the question of school districts, this now simply provides that all national, state and municipal elections, whether county, city, township or village, would be held in November. The legislature would have complete discretion as to which November. City elections can be held in the odd year. The judicial election could be held in a different odd year. I think this provides for an orderly election process and one which will not infringe upon the election process or the mechanics of the election process at all. I urge your support of it and I ask for the yeas and nays.

CHAIRMAN MARTIN: The yeas and nays are requested. Is the demand supported? Sufficient number up. The yeas and nays will be asked for. Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I again repeat that if you do this, the trouble in Detroit or any other city that wishes to have elections in the off year when other elections are not being held still remains with us. Not only that, but after diligent and careful research and study, the subcommittee worked out a plan which, in the opinion of election officials, would be workable throughout the state. Whether it will be workable with this amendment is a grave question.

CHAIRMAN MARTIN: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Chairman, ladies and gentlemen, I merely wish to make it perfectly clear that I am in complete disagreement with Mr. Stevens; that this does not in any way make it more difficult for the cities, but this should make it easier for them. There should be no conflict here with the purpose of the committee, and I urge the adoption because if there is anything that we need, it is that we need to awaken our people to their responsibilities at the ballot box, and this will certainly, by developing an annual election day, focus attention upon this very precious right.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman and members of the committee, I strongly oppose this amendment. It affects, as I stated before, the city of Detroit and the county of Wayne. It affects other cities — Saginaw, Grand Rapids. All cities that hold their elections in the spring will now be forced to hold them in the odd year. We have school elections being held in April, in June or July. Of course, school elections are out now. The amendment was defeated. But you're taking the local home rule away from the cities that do not want to participate in state and county elections in odd years; especially the cities that have a spring election. You're forcing them to hold fall elections in the odd years. They have home rule charters. If they wish to join state and county elections in the even years, they can amend their charters and do so. I strongly urge you to vote against this amendment.

CHAIRMAN MARTIN: The question is on the Van Dusen amendment as divided. The yeas and nays have been requested. The secretary will ring the bell. The question is on the Van Dusen amendment as divided. The secretary will read the amendment in its present form.

SECRETARY CHASE: The amendment in its present form:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MARTIN: The question is on the amendment as read. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the voting machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—37

Blandford
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Danhof
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Faxon
Figy
Gover
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Higgs
Hoxie
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
McGowan, Miss
Millard
Romney
Sablich
Seyferth
Stafseth
Staiger
Tweedie
Van Dusen
Yeager

Nays—75

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Bonisteel
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Hatch
Hatcher, Mrs.
Hodges
Hood
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Krolikowski
Leibrand
Leppien
Lesinski
Madar
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Rush
Shaffer
Shanahan
Sleder
Spitler
Sterrett
Stevens
Stopczynski

Dehnke
Dell
Douglas
Elliott, Mrs. Daisy
Erickson
Follo
Garvin
Goebel
Greene
Habermehl
McAllister
McLogan
Murphy
Norris
Ostrow
Page
Pellow
Perlich
Perras
Plank
Thomson
Tubbs
Turner
Upton
Walker
Wanger
White
Wood
Woolfenden
Young

SECRETARY CHASE: Mr. Chairman, on the adoption of the amendment offered by Messrs. Van Dusen, Danhof and Elliott, the yeas are 37; the nays are 75.

CHAIRMAN MARTIN: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Pollock, Stevens and Prettie offer the following amendment:

1. Amend page 2, line 11, after "year,", by inserting "or such other date as may hereafter be provided by the Constitution of the United States or by congress for election of members thereof,"; so that the section would read:

> All elections for national, state, county and township offices shall be held on the Tuesday after the first Monday in November in each even numbered year, or such other date as may hereafter be provided by the Constitution of the United States or by congress for election of members thereof, except for special elections to fill vacancies.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, the committee will remember that Delegate Hutchinson raised some question about this matter and with the assistance of Delegate Prettie and our vice chairman, Mr. Stevens, we've come up with this improving language, which I trust will be satisfactory to Mr. Hutchinson.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would say that the language appears satisfactory to me, and I am happy to support it.

MR. POLLOCK: Thank you.

CHAIRMAN MARTIN: The question is on the Pollock amendment. All those in favor will say aye. Those opposed will say no.

The amendment is adopted.

Are there any further amendments, Mr. Secretary?

SECRETARY CHASE: That's all the amendments to section e.

CHAIRMAN MARTIN: If not, section e, as amended, is agreed to. The secretary will read section f.

SECRETARY CHASE: Section f.

[Section f was read by the secretary. For text, see above, page 2213.]

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Before calling on Mr. Shanahan, a member of the committee, to explain this section, I'd merely like to clarify the issues because there are 2 or 3 amendments pending. The present constitutional provision is related to bond issues. The majority of the committee decided to add "or the increases of tax limitations on real or personal property." The amendments will provide something different. So, you have these various alternatives and they all relate to the question of whether there shall be and if so, what kind of a property qualification to vote. The whole thing relates to property qualifications. I'll call now on Mr. Shanahan, representing the committee on this question.

CHAIRMAN MARTIN: Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman and fellow delegates, before I start my presentation, I am going to, for the benefit of those of you who may wish to follow me and my comments, which I'll take right out of the journal, pages 412 and 413 of Journal 69, invite your attention to the top of the page in the lefthand column on page 413 where the word "majority" appears in the first line. That should be "minority."

[Correction made. The comment on section f of the supporting reasons was read by Mr. Shanahan. For text, see above, page 2215.]

Now, I might explain — there are a great many people who are aware of this, I know — that when it comes time to vote for a bond issue for any purpose, such as building a school, building a hospital, it is necessary for 2 proposals to be presented to the electorate: the one on the issue of the bonds, the bonding of the personal property, real estate property that's involved requires that the people be property owners. However, that's for the issuing of the bonds. For the taxes to pay for the bonds, that does not require the person voting thereon to be a property owner. It was the feeling of the committee that if one is required, then the other should be required and that it would be representation without taxation for people who are not property owners to vote taxes on the property owners. I believe that there is a minority report and there are also some amendments to be presented at this time.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I merely wish to refer to the remarks of Mr. Shanahan in which he said that the position of the committee on education had not been received. That was true at the time, which was some time ago when the supporting reasons from the committee on rights, suffrage and elections were prepared. We subsequently, however, advised the committee on rights, suffrage and elections that the question had been considered in the committee on education and the committee on education at that time was unanimous in favoring the deletion of the revised provisions and to return to the present language of the constitution. However, I believe that the majority, if not all the committee on education, are now prepared to support a suggested amendment or possibly an amendment to an amendment which will be offered in due course. I merely wished to state the position of our committee at this time.

CHAIRMAN MARTIN: Mr. Powell.

MR. POWELL: Mr. Chairman and ladies and gentlemen of the committee, I feel that I should speak with reference to the inclusion of the new language in section f, lines 15 and 16, because these words were included in the committee report in conformity with a delegate proposal which I sponsored and which I advocated to the committee. I feel that a little historical review of this particular section would be in order. At the time when the 1908 constitution was drafted, the franchise had not been granted to women —

MR. NORRIS: Point of order, Mr. Chairman.

CHAIRMAN MARTIN: State your point.

MR. NORRIS: I'm sorry to interrupt Delegate Powell, but I do have a minority report which was entered on behalf of 6 members of the committee and I did understand that this minority report would be given treatment at this particular juncture. As I say, I apologize to Delegate Powell for interrupting.

MR. POWELL: I'm perfectly willing to delay, if that is what is going to be before the house. I thought the explanation of the proposal was in order at this time and then the various amendments, including the minority report, would be before the house. But whatever the Chair decides, I'll cooperate here.

CHAIRMAN MARTIN: Are you speaking on behalf of the committee?

MR. POWELL: I desire to speak at this juncture on behalf of the inclusion of this new language and then I'm prepared also to speak against certain amendments that I know of, including the minority report in due order.

CHAIRMAN MARTIN: The Chair will permit you to proceed with your statement.

MR. HODGES: Mr. Chairman, point of information.

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: I believe the right order for this is that once the explanation is made by the committee itself on the majority report, then the minority report is in order. Is that not true?

CHAIRMAN MARTIN: The Chair understood that Mr. Powell was speaking on behalf of the committee.

MR. POWELL: I'm not a member of the committee. I was the father, you might say, of the delegate proposal which is represented by this particular new language that is included in this section.

CHAIRMAN MARTIN: In that event, Mr. Powell, the Chair will ask you to withhold your presentation for the time being and the secretary will read the minority amendment.

SECRETARY CHASE: Pursuant to minority report A of Messrs. Norris, Pollock, Dade, Mrs. Hatcher, Messrs. Hodges and Buback,

Mr. Norris offers the following amendment:

1. Amend page 2, line 14, after "money" by striking out the comma and reinserting "or"; and in line 15, by striking out "or the increase of tax limitations on real or personal property"; so that the language would then read:

> Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money or the issue of bonds, only such persons having the qualifications of electors who have property assessed for taxes

and so forth.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman and fellow delegates, on behalf of Professor Pollock, Father Dade, Mrs. Hatcher, Mr. Hodges, Mr. Buback and myself, I prepared the following minority report, the thrust of which is to oppose the new language which has been suggested by the committee, which would in essence require that when there was an issue of the increase of tax limitations on real or personal property, real property ownership would be the basis for permitting one to vote. This is a major matter before the convention and I would like to put before the convention and on the record this report. We urge opposition to the proposed new language for the following reasons, and these reasons are stated in Journal 72, pages 512 and 513:

[The supporting reasons for minority report A were read by Mr. Norris. For text, see above, page 2215.]

In further support of the position of the minority, I'd like to bring to your attention a position which has been formerly expressed by the city of Detroit in a communication to us by Mr. Robert Reese, corporation counsel for the city of Detroit, who indicated on February 1, 1962, as follows — any part of the language was incorporated in the minority report, but I want to underscore its pertinency here:

> At the time of the adoption of the Constitution of 1908, ad valorem property taxes provided revenues not only for local units of government, but for the state as well. For the state, this is no longer the case. Also, at the time of its adoption, property was considered a fair measure of ability to pay taxes. This is no longer the generally accepted view. The state today relies mainly on specific taxes which are primarily designed to tap nonproperty tax sources reflecting relative ability to pay.
>
> As the recommended sections indicate, it no longer appears to be desirable that constitutional provisions rigidly control property tax structure. It would be an improvement, we believe, to leave to the legislature the authority to add such ad valorem or other taxes as well as such standard of value as it may determine will equalize tax burdens. Uniformity when frozen by constitutional provision does not always imply resulting equitable contributions to revenue requirements. In other words, it is the official position of the city of Detroit by resolution of the Detroit common council to oppose the suggested language of the committee.

And accordingly, may I respectfully urge support for the amendment proposed by the minority.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman, ladies and gentlemen of the committee, I also have a statement here I'd like to read into the record relative to this minority report.

The constitution adopted by the people of this state in 1908 conferred the title and privileges of elector on male inhabitants only. Males meeting the qualification of electors were permitted to vote on all questions submitted to a vote. Section 4 of article III of that document, as originally adopted, extended the voting privilege to women who were owners of property assessed for taxes in the district affected, in all elections involving the direct expenditure of public money or the issue of bonds. Women did not achieve the status of general electors until many years later, in 1920. This same section 4 of article III, which was designed originally to expand voting rights, was amended in 1932 to deprive electors of their right to vote in any election involving the direct expenditure of public money or the issuance of bonds, if they were not owners of real or personal property assessed for property taxes in the affected district or lawful husbands or wives of such persons.

It is now proposed that section 4 of article III, as restrictively amended in 1932, be included in the new constitution with its restrictive provisions extended to elections to increase property tax rate limitations. Those who favor classifying the voting privilege apparently feel that decisions which may result in increased property taxes should be made only by electors who pay property taxes directly. This means that the renter or lessee, who actually pays property taxes through his landlord or lessor, is deprived of his vote although he is affected by the result as much as is the property owner.

Rationalizing the adoption of the restrictive amendment to section 4 of article III in 1932 is less difficult than comprehending the logic of the current proposal to continue and extend this section's restrictions on the voting privilege. In 1932, property taxes were the main source of tax revenue for all purposes, including state purposes. They were virtually the only revenues of most local governments. At that time, there was no sales tax, no use tax, no business activities tax and no intangibles tax. Today, the state derives no revenues from property taxes. The role of the property tax in local government financing is declining rapidly and this trend is likely to continue. Less than 60 per cent of the tax money required currently to operate our public schools comes from property taxes. An issue of bonds may be part of a project which is also financed from tax sources other than property. A vote to increase tax rate limitations may be required primarily as security for an issue which will be paid off in part with sales or intangible tax revenues. Yet all nonproperty taxpayers in the district are disfranchised by the proposal.

Section 4 of article III does not belong in a modern constitution. If it were eliminated, the voting privilege would be restored to all electors as they enjoyed this unclassified privilege under our constitution in 1920 — that is, 42 years ago. I urge you to adopt the minority report amendment.

CHAIRMAN MARTIN: Delegate Austin.

MR. AUSTIN: Mr. Chairman and members of the committee, I am speaking in favor of the minority report amendment although I do not believe that it goes far enough in this matter. It appears to me that the whole concept of a denial of nonproperty owners the right to vote on direct expenditures, the issue of bonds and rate limitations is certainly taking a step backward in providing what we consider to be a better concept of the elective franchise.

Consider that at the time of the adoption of the 1908 constitution, property tax revenue was the only source of revenue available to local units of government and the better part of the revenue of state government was derived also from the property tax. However, today local units of government, particularly school districts, do not rely entirely on the property tax for their revenue. They get a considerable amount of their revenue in the form of state aid and state aid is afforded out of taxes that are not based on property ownership. The state aid received by school districts and also cities, villages and townships is derived from the sales taxes paid by individuals on the basis of what they spend for tangible property and is not based on their real property ownership.

Now, there is a very definite inconsistency here and we've got to recognize this trend. When you consider that at the local level, direct expenditures and bond payments are made out of the total revenue received by a local unit of government, it is impossible to relate the payment of debt service and direct expenditures to property tax only. These expenditures are paid out of the total revenue received by the local units of government, and that revenue includes income derived from sources other than the property tax. And when we consider this carefully, I don't see how we can conclude that only those who own property should vote on these direct expenditures and certainly rate limitations.

There is one other point that I think should be stated here, and that is that a good deal of even the property tax that is paid at the local level is paid by business. Business does not vote. When you consider that in urban centers a large percentage of the residents live in apartment dwellings that may be owned by corporations and people who do not reside in the community, and when you consider also that a good deal of the property tax is paid by the local industry, you will realize that only a small percentage of the residents who are individual home owners are direct property taxpayers. The rest of the property tax is paid indirectly by renters and by those individuals who pay the business taxes. And let's not kid ourselves into believing that individuals do not pay business taxes. Businesses pay their taxes out of either their sales revenue or through a reduction of their profits and ultimately individuals must bear the burden of all business taxes, and the individuals who bear these taxes are not bearing them on the basis of the property that they own.

Now, when you consider all of this, you will have to concede that there is absolutely no basis for continuing this trend toward restricting the voting franchise to only those who own property. As I stated when I began, I do not believe that the minority report amendment goes far enough in just suggesting that we delete reference to rate limitations. It is my feeling that we ought to go further and delete this section altogether. But certainly, we can do no less than to delete the reference to rate limitations. I support the minority report amendment.

CHAIRMAN MARTIN: Mr. Tubbs.

MR. TUBBS: Mr. Chairman, when Professor Norris speaks, I usually listen and enjoy his dissertation. But I am afraid that he does not know some of the facts about financing school districts. And his arguments have been echoed by the CPA — perhaps I should call him Delegate C. P. Austin — who usually is pretty sound in his arguments. I call their attention and the attention of the other delegates to the fact that all school districts in this state must finance capital improvements out of ad valorem taxes on real and personal property, and that is exclusive. So the very arguments which Professor Norris made for putting this amendment in, are actually the arguments which should be made to keep it out.

I have represented many school districts during the past 10 to 15 years in bond issues amounting to several millions of dollars, and I don't know how many bond issues have been raised by the school districts of this state for capital improvements. It amounts to several hundred millions, I think. And the thing that the people of the school districts and the members of the boards of education, especially of the smaller school districts, have been utterly unable to understand, was why there should be a division and why the people who voted to increase the millage could be anybody who lived in the district, while those who voted simply to borrow the money on bonds could be only owners of property. Now, I think just for the sake of clarity, if nothing more, the committee report should be accepted.

I grant, however, and I agree with Mr. Austin, that there are arguments in favor of knocking the whole business out. But if we're going to have this division between voters and this qualification of voters, I think we should adopt the committee language.

CHAIRMAN MARTIN: Mr. Powell.

MR. POWELL: Mr. Chairman and ladies and gentlemen of the committee, I want to thank Delegate Tubbs for most of the things that he said, which are in tune with my thinking on this subject.

Earlier I started to comment that I thought a little historical review of this particular section would be in order. Some of that has been given by these other speakers. I'd like to present it from my own point of view. At the time when the 1908 constitution was drafted, the franchise had not been granted to women and the delegates felt that it was only fair that a provision should be included to permit any woman having the qualifications of a male elector and who had property assessed for taxes in any part of the district to be affected by the result of an election to be entitled to vote on any question involving the direct expenditure of public money or the issuance of bonds.

I was interested to note that the Address to the People issued in connection with the 1908 constitution stated that the purpose of this section, that is, the extension of the elective franchise in certain elections to women property owners was, and I quote, "in keeping with the principle that no person's property should be directly affected without the consent of the owner thereof." You will note that the purpose of this provision as included in the 1908 constitution was to extend the elective franchise in certain elections specifically to women property owners. However, by 1932 that feature was no longer significant in the light of the earlier adoption of the extension of the right of suffrage to women, which I think occurred in 1920; so the section was considerably modified to limit the franchise in elections involving expenditure of public money or the issuance of bonds to property owners and their spouses who were qualified electors in the district affected by the result of the election.

The language resulting from the adoption of that amendment — I'm referring now to the amendment of 1932 — was the same as that in the proposed section f, not including the new provision which appears in capital letters in lines 15 and 16. I might point out that this amendment was adopted by the voters in the same election at which the 15 mill limitation was submitted and adopted. And I have the feeling that if the 15 mill limitation had been in effect at that time, no doubt the voting on increasing of tax limitation on general property would have been included along with the direct expenditure of money or the approval of a bond issue. Now, of course, that could not be done under the circumstances because the 15 mill limitation was not a part of the constitution when this present language was adopted simultaneously.

All 3 of these restrictions, I feel, are in the same category. They impose a continued obligation on general property which is virtually a mortgage or lien on that property, since clear title to it cannot be maintained unless the resulting taxes are kept paid currently until the obligation has been fully met.

In the Comparative Analysis of the Michigan Constitution prepared by the citizens research council of Michigan — that's this big book with which you all are very familiar here — on page 10 of the portion pertaining to article III, I was interested in the following paragraphs — it is just a couple of short paragraphs quoted from that portion of the citizens research council report:

> In respect to local governments, which do rely on the property tax to finance general obligation bond issues and a large portion of their direct expenditures, this provision presents an interesting anomaly. Only property owners and their spouses can vote to issue bonds or make direct expenditures, but all electors, whether property owners or not can vote to increase the limitation on the amount of property taxes which can be levied by the local governing body. Thus, on a local bond issue on the ballot, only property owners and their spouses can vote, but on the question of increasing the property tax limitation to raise the funds to pay the debt service on the bonds, all qualified electors can vote.

I was particularly interested in this last brief paragraph in that report:

> As noted previously, the more recent state constitutions do not contain provisions of this type. If this section is to be continued, the convention may wish to consider the question of whether voting on millage increases should be similarly restricted.

I think the whole thing ought to go together here and not be separated.

Now, with more particular reference to the minority report amendment which is immediately before us, I was interested in analyzing this minority report as I read it in our journal and as it's been read for us here tonight by the first signer, Delegate Norris. And to my mind, there is very little of it that has any bearing on this new language. That is, it seems to me to have more to do with other matters than it does as to who should vote on increasing millage to be paid by property owners. They point out, very properly, that "There has been an accelerated trend in the diffusion of the revenue base." And then in another place here they say, "Property taxes no longer constitute the bulk of taxes paid." Well, I think that's more of an argument on my side than theirs, as I think I am bringing out here. They go on to make the questionable statement that "It is as difficult to relate property taxes to the payment of debt service as it is to relate other revenue sources to specific expenditures." That statement would be pertinent if the issue were as to who should be eligible to vote to approve a bond issue. May I emphasize that virtually the only source of revenue available to a school district or other local units of government is the general property tax. However, I do not see just what the statements quoted from the minority report have to do with the issue under discussion here.

The point I wish to make is, if the property tax rate is raised above that available within the 15 mill limitation, the only people who will pay that added tax will be the owners of general property in the district. This is true regardless of what the purpose of the millage increase may be, that is, whether it is for capital improvements or for operating purposes. It is also true regardless of the length of time for which the increase is granted, that is, whether it is for 1 year, 5 years or any period up to the maximum of 20 years permitted under the 15 mill limitation as it now stands. The minority report gives the implication that renters would join in the payment of these added property taxes. I think it is highly improbable that rental rates would be adjusted periodically to keep in tune with current imposition of added millage rates. Certainly, the bulk of all of these payments would come directly from the property owners against whom they would be levied.

The suggestion has been made that the restrictive qualifications which I am advocating for voting on millage increases should be imposed in the case of increases for capital improvements, but not for operating purposes. While I feel that half a loaf is better than no bread, I fail to see the logic behind such a distinction. Both are levies which will be paid only by the property owners. Millage increases for operating purposes are frequently made for periods of 5 years or longer. Also in many cases, the rate may be increased periodically as soon as one term expires so that the increase is virtually continuous and constant.

It has been the settled policy of our state for 30 years that only property owners can vote on the approval of bond issues. I submit that authorizing increased millage for a period of years is as much an obligation or a virtual mortgage on the general property in the district as a bond issue and the same qualifications for voting thereon should prevail.

I support the language as recommended to you by the committee on declaration of rights, suffrage and elections and oppose the minority report amendment or any other weakening or watering down of the provisions as presented in the committee proposal.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, in replying to Professor Norris' statement, which he so frequently makes, that we in Michigan have constantly increased the number of voters, that is not entirely true. I suggest that up until 1924, many persons could vote in Michigan who were not citizens of the United States, but by constitutional amendment, it was provided that after that date, no person could vote in Michigan unless he was a citizen of the United States. In 1932, of course, the amendment was passed to provide that only taxpayers, their wives and husbands could vote upon the question of direct expenditure of funds and bonds, the subject about which we have been talking in part.

I merely would like to announce — and I think it's relevant — that Mr. Brake and I have an amendment to this which would make it consistent with the provision we have already passed in the committee, providing that persons must be taxpayers or the spouses of taxpayers to vote on the increase in millage for capital purposes, but permitting all registered qualified voters to vote on millage which would be used for maintenance purposes only. I am sure Delegate Austin knows about this provision in finance and taxation. The provision there is the one that would be accepted by this amendment. It would be a compromise between the provision of the committee proposal and the existing provision of the constitution. Thank you.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, one would think from the amount of discussion that this pertains only to the property of the home owner being assessed for taxes. We very well heard tonight by, I believe, Delegate Austin that business likewise pays property tax but has no vote. And I want to cite some figures that were taken from various sources, as gotten together by our reseach department at my request for some figures for tax purposes in a study that I was making. I'll briefly read it:

> For the past 10 years, the total property taxes levied locally in Michigan for all purposes have risen from $375 million to $875 million, or 133 per cent. In the same period, the property tax for all school purposes has increased from $148 million to $451 million, which is an increase of 205 per cent.

Mr. Chairman and fellow delegates, if you will study these figures as they have been studied, you will have to reach one conclusion. That one conclusion is that property is bearing too much of the tax burden, not only the home owner, but the business property as well.

Now, in addition to that, our legislature has seen fit to create a lot of other taxes that we've heard about: the business activities tax, which must be paid, profit or no profit; the other kind of taxes, nuisance taxes, some of which can be passed on to the consumer and some of which cannot. And as a result of this, we have a climate here in Michigan in relation to property taxes that, I submit to you, is not healthy, industrially speaking. It is my firm opinion that this convention could well afford and should look this question full in the face and establish some guide lines for our legislature to follow in the future in order that our tax burden can be properly spread on all facets of human endeavor. Thank you.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, I am wondering if I could ask Mr. Powell one or 2 questions.

CHAIRMAN MARTIN: Mr. Powell, do you care to answer?

MR. AUSTIN: Mr. Powell, have you considered what protection ought to be given to corporate property owners? Just to clarify my question, you seem to be concerned that we should not increase the millage on electors who are property owners. What about corporate property owners who do not have a vote?

MR. POWELL: Well, it seems to me, Mr. Chairman, Delegate Austin, that the interests of the individual property owners and the corporate property owners would be comparable. In many cases, they would be the same folks as the owners of corporate property. They probably own personal property — that is, individual property, real and personal property. I don't know how you seek to get around the point that you raise. But I cannot understand why there should be a different rule for approving a bond issue, let us say, than for providing the millage that will repay it. I think it should all be leveled off and made comparable and harmonious and equitable, logical, defensible, and a lot of other big words. (laughter)

MR. AUSTIN: Actually, the point that I wanted to make — and I think you probably know what it is — is that in some communities, the bulk of the assessable property is owned by corporations, either the industrial property or apartment dwellings, multiple dwellings. And it is quite conceivable that only a few home owners living in a community may be able to vote for millage increases but the bigger portion of the residents who may happen to be apartment house dwellers or multiple house dwellers, renters, would have no vote at all. And since all of the property is involved, and not just that that is owned by the few home owners, it would seem as though all of the voters ought to have a right to vote, and not just the few who might happen to own individual homes. Of course, that's an oversimplification of the situation.

But now I'd like to go to another question. Are you aware that there is a trend toward exemption of certain property from taxation, such as, let's say, industrial personal property, and to replace it with an alternative state tax? Have you heard of such a plan?

MR. POWELL: For the last 2 years I have.

MR. AUSTIN: Have you considered what the impact — Mr. Chairman, I know this is colloquy. Maybe I should be directing these questions to you — have you considered what the impact will be of this new type of taxation at the state level on the bond issues at the local level? Do you understand my question?

MR. POWELL: Mr. Chairman, Mr. Austin, I partially do, I think. But I still don't see any reason why there should be one classification for voting on a bond issue and another on whatever millage increase may be necessary to make that bond issue solvent. Of course, if at the time of selling the bond it can be made plain that there is other revenue that is going to retire the bond issue, then I wouldn't think that an added millage increase for the full amount would be indicated.

MR. AUSTIN: I think you understand what my point was. It is possible that revenue other than property tax will be required to pay off some of these bond issues and that revenue will not be derived from property; it will be derived from other sources. And the main point that I want to make is that there is a trend toward, let's say, reducing the property tax wherever it can be done and a shift toward other forms of taxation. These other forms of taxation will be more generally participated in by the electors. They will not just be the property owners.

MR. POWELL: Mr. Chairman, may I get a word in edgewise?

MR. AUSTIN: Oh, yes.

MR. POWELL: If, as and when that happy day comes — a consummation devoutly to be wished and toward which I look forward with great and glorious anticipation — why would we have to have such a large increase in millage than would otherwise be the case? That is, if a large portion of the revenue is going to be forthcoming from these new methods, then would it not be possible that you wouldn't have to have as high an increase in the millage rate, possibly none at all?

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman, I think we ought to recognize the fact that since we can anticipate new forms of taxation at the local level — for example, down in Detroit, they are now considering an income tax. That income tax will be used to pay bond issues, that is, to pay the debt service as well as other expenditures of government — it would seem to me that it would be unwise to fix into the constitution at this point a limitation on voting when there is a trend away from complete reliance on the property tax as the source of revenue at at the local level.

I believe that this is a very dangerous trend in view of the fact that we are contending for some relief from the property tax and more reliance on other forms of taxation. And it would appear to me that we ought to try to avoid writing more of these restrictions in our constitution.

CHAIRMAN MARTIN: Mr. Powell.

MR. POWELL: Mr. Chairman, if I still could have the floor for a moment, it just appears to me that the only thing at stake here, the new language that is involved in the committee proposal, is a qualification for voting on increased millage, and if that isn't going to be needed, why, then, this new language doesn't do anything. It doesn't become operative. It becomes operative only in the case where property tax millage increase is proposed.

Now, much that has been said here is so far aside from the point, that it rather irks me. For instance, earlier today, Professor Norris started off by saying here, "There has not been any dispositive showing that the recommended voting restriction is made necessary by experience since the adoption of the 1908 constitution." Now the fact of the matter is, of course, that at the time of the adoption of the 1908 constitution, nobody had ever heard of the 15 mill limitation. And then in 1932, when the present language, to which this committee proposal makes an insert, was adopted, the 15 mill limitation was being submitted simultaneously and was not then a part of our constitution. I am sure that if it had been a part of the constitution and they changed the voting requirements for direct expenditure of public money or for approval of a bond issue, they would certainly have added along with it the increasing in property tax millage.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I merely want to repeat, because apparently many people didn't listen or didn't understand that if this amendment is defeated, there will be offered an amendment in the shape of a compromise which will take care of the conflict now existing, because we have already passed in the finance and taxation provisions a provision that only taxpayers and their spouses may vote to increase limitations for capital expenditures but in that, it was provided that any registered, qualified voter could vote on the increase in millage for expenditures for maintenance. I understand there's another amendment that sets up the time at 5 years, but in any case, this would be a compromise between the 2 ideas. And since we have already passed the one, it wouldn't add anything to what already exists. So my suggestion would be that we vote this down and vote for the amendment which makes this provision the same as the one we've already passed. I'd like to yield to Mr. Brake. Did you want to submit that as a substitute? Then my suggestion is that we vote this down and vote for the amendment which will do away with the conflict which would result if we adopt the committee proposal. We can't have both of them in the same constitution.

CHAIRMAN MARTIN: Mr. Powell.

MR. POWELL: Mr. Chairman and ladies and gentlemen of the committee, just another brief word. Many of you will recall that when the report of the committee on finance and taxation that referred to this point was before the committee of the whole, I proposed an amendment to make this provision comparable with what is now in this provision that the committee has reported, and at that time the suggestion was: let us wait until the report having to do with elections is before the delegates, and then we will reach the decision there, and that will be the governing decision; that is, the decision we reach relative to elections will later be worked into the report of the committee on finance and taxation, and with that assurance and on the strength of that agreement, I withdrew my amendment at that time, and waited until this occasion here today. I am sure you all understand that the report of the committee on finance and taxation isn't written into the new document yet. It has not been before us on second reading. Whatever we want to decide here will be appropriate and then we can make the other one fall in step with our action here tonight.

CHAIRMAN MARTIN: Mr. Perras, do you care to be heard?

MR. PERRAS: Mr. Chairman, through the Chair, I would like to ask Mr. Austin a question, if I may.

CHAIRMAN MARTIN: Mr. Austin.

MR. PERRAS: You mentioned in your statement a few minutes ago that there are new taxes forthcoming relative to property taxes, millage on bond issues, in other words. In my neighborhood the people voted in a new high school — it was a $3 million high school — and in order to get the proper financing of these bonds at a low interest rate, we had to sell nonredeemable bonds. In other words, no matter how high our value went, we would have to pay the amount that we had agreed on on these bonds and pay for those for 25 years. Now, you say that there are taxes forthcoming. You mentioned the income tax, possibly in the Detroit area. Now, how would that help people that have bonded themselves with these long term bonds when you're already committed to that type of bonding or paying payments for 25 years? So you see, that's why we've got to be very careful here.

MR. AUSTIN: Mr. Chairman, I did not want to go into detail on what I had in mind here because I thought most of the delegates were aware that there have been several programs that have been submitted. One is the governor's program which would provide for the exemption of personal property — that is, certain industrial personal property — from property ad valorem taxation and the state would replace this revenue from a new source of revenue that the state would have, probably a state income tax. Now, actually where the local unit of government is now receiving a certain amount of revenue from this property tax, that money would be replaced by state aid. The state aid will be derived from a tax which all of the taxpayers pay, and it is not just restricted to the property owners who live in the area, and yet this state aid money will be used just like the other moneys that are received by the local unit of government, for the payment of debt service and any other expenses that the local unit of government incurs. And I might add this: that 3 years ago, when I served on the Conlin committee, we recommended the repeal of all personal property tax except on inventories and the revenue would be replaced —

MR. TUBBS: Mr. Chairman, I rise to a point of order.

CHAIRMAN MARTIN: Mr. Tubbs.

MR. TUBBS: I appreciate very much the philosophical discussion by Delegate Austin, but we are here dealing with elective franchise and not theories of taxation.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: I'll await the ruling of the Chair.

CHAIRMAN MARTIN: Confine yourself as closely as you can to the question of taxation.

MR. AUSTIN: If I may say this, Mr. Chairman and Mr. Tubbs, what I had in mind was simply to illustrate as near as I could that local property taxes may be replaced by revenues derived from taxes other than property taxes and in the process many of the bond issues and direct expenditures that were initially expected to be paid out of property taxes will be paid by revenue from other sources and these other sources will be derived from taxes that will be paid by all of the people and not just the property owners. And if we at this time attempt to restrict in the constitution the voting rights of the people on direct expenditures and bond issues, we may be unfairly disfranchising them for the future.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, are there any more speakers on the minority report amendment?

CHAIRMAN MARTIN: The Chair thinks not; that's all on the minority report amendment.

MR. POLLOCK: I was going to say if we could get a vote on it, then I would make the proper motion.

CHAIRMAN MARTIN: All right. Mr. Shanahan had his hand up. Mr. Shanahan, do you wish to be heard?

MR. SHANAHAN: Mr. Chairman, ladies and gentlemen, there has been a good deal said in regard to this. There have been arguments made that I think probably could be used with equal validity for those in favor of the position of the committee as well and if not even better for the minority group. In the presentation, there was a comment made about the accelerated trend of other sources of taxation for support of government in this so called modern age. Well, now, whether that is an argument for imposing more taxes on what is generally considered to be an overburdened tax source — namely, property, both real and personal — it is difficult for me to see how that would be. One thing that we have been hearing from time to time is something about the business climate and one of the factors in that has been the increasing taxes on business, on the inventory of the man in business. I've heard considerable about the small businessman and the problem that he is confronted with in regard to personal property taxes, real estate taxes.

As a farmer, it is perhaps significant that any farmer is confronted every morning when he gets up with a tax bill of $4 or $5 or $6, or even more than that. Every day whether he makes a nickel or not, whether he is working that day or not, it is a burden that he has to bear.

A good deal was said a little while ago that renters do pay taxes through their rent, which in theory is so. In actual practice it is hard to demonstrate. The rental market is a competitive market and it is difficult to raise rents because taxes have been raised on the property. Sometimes it does. The example was given that during world war II, the OPA granted rent increases where it could be shown that taxes had been increased. But that was a special situation. Rent controls were imposed because there was a shortage of housing and without the controls, we were told, the cost of rents would skyrocket so that in places where the availability of rental properties for the resident was scarce, it was not a problem of passing the cost of taxes on to the renter, provided you could get the authority to do so. That is not the situation so much today. Apartment house dwellers who are an increasing proportion of city population would be barred from any voice on a matter which could significantly affect the cost of their rentals. I question that statement. For one thing, there are apartment house dwellers who are owners of the property. This is a continuing trend, a growing trend, and I do not believe that that is anything that we would want to prevent here at this time.

Another statement was made that said: it could well be that a family renting a home pays a larger proportion of its income in taxes than another family who lives on property that it owns, but it can more likely be that the family renting does not pay a larger proportion of its income in taxes. I don't believe there is an argument there at all.

Something else has been mentioned about the property owners and what they would do in regard to schools. I can't speak from my own observation throughout the state, but I can talk of my own area. All the communities in and around Charlevoix in the last 12 years have built at least once, and some of them have built twice. They've added school properties, and they've done it on a vote of the people, including the property owners. They have met their responsibility; they know what their responsibility is in regard to certain of these things, and it is also true that they have turned down certain proposals. They have also turned down certain proposals for operating purposes for a limited time because apparently they felt that they were being asked to pay more taxes than they thought they should. Now, that is nothing I am going to try to talk about right now. What I am saying is that in case you have people able to vote taxes for a long period of time who do not have the responsibility of paying them, you have a situation, as I mentioned earlier, of representation without taxation. They can vote the taxes on somebody else and not have to be concerned about the payment thereon. An obligation against property, as has been mentioned, is a permanent one until the obligation is satisfied. It may go for 10 years, 20 years, I even heard mentioned 25 years. And that could be a very real burden on the property. I certainly urge that the minority report amendment not be adopted.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman, I only want to make one very simple statement on behalf of the minority report amendment, and that is simply this: that the only thing before us is whether you believe the elective franchise in relation to increase in tax limitations on real or personal property ought to be restricted to property owners. If you agree that it ought to be so restricted, then you vote no. If you feel that it ought not to, then you ought to vote yes for this amendment. I submit that the whole trend of American history has been on the side of removing property qualifications. All the majority of the committee wants to do here is to add another basis for restricting the elective franchise. We already have, in this particular amendment to the constitution, bonds and direct expenditures. Now they want to put in their tax limitations, and this is the wrong trend. If you want to reverse the trend, then vote for the minority report amendment. I urge that you vote yes on the minority report amendment.

CHAIRMAN MARTIN: The question is on the minority amendment. The secretary will ring the bell.

MR. FAXON: Mr. Chairman. Have the yeas and nays been ordered?

CHAIRMAN MARTIN: They have not.

MR. FAXON: May I so request?

CHAIRMAN MARTIN: The yeas and nays have been requested. Is there sufficient number to support it? Sufficient number up.

SECRETARY CHASE: The question is on the minority report amendment to section f:

[The amendment was again read by the secretary. For text, see above, page 2248.]

CHAIRMAN MARTIN: So that it will read how, Mr. Secretary?

SECRETARY CHASE: So that the language will read:

> Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money or the issue of bonds, only such persons having the qualifications of electors who have property assessed for taxes in any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon.

CHAIRMAN MARTIN: The question is on the minority amendment. The yeas and nays have been demanded. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—38

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
King
Lesinski
Liberato
Madar
Mahinske
Marshall
McGowan, Miss
Murphy
Norris
Ostrow
Perlich
Pollock
Rajkovich
Van Dusen
Walker
Young

Nays—80

Anspach
Batchelor
Beaman
Bentley
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Danhof
Dehnke
Haskill
Hatch
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Radka
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
McAllister
McLogan
Millard
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the minority report amendment to section f, the yeas are 38; the nays are 80.

CHAIRMAN MARTIN: The amendment is not adopted. Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I move the committee rise.

CHAIRMAN MARTIN: The question is on Dr. Pollock's motion that the committee rise. All those in favor will say aye. Opposed, no.

The motion prevails and the committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a more detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 58**, pertaining to the elective franchise, has considered several amendments thereto and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there announcements?

SECRETARY CHASE: The committee on administration will meet Wednesday immediately after the morning session. Walter DeVries, chairman.

The committee on legislative powers will meet in room H Tuesday, tomorrow, immediately following the afternoon session. Any delegate desiring to offer an amendment to any committee proposal reported by the committee on legislative powers or any delegate wishing to discuss any of these proposals is invited to meet with the committee after the session. T. Jefferson Hoxie, chairman.

The committee on emerging problems will meet Tuesday, tomorrow, at 11:30 a.m. or immediately after the morning session in room H on the third floor. Frank Millard, chairman. P.S. Bring your lunch.

There will be a meeting of the committee on finance and taxation tomorrow morning, April 10, at 8:00 o'clock in room E to consider committee proposals as submitted by the committee on style and drafting.

We have the following requests for leave: "Like to be excused from the early part of the session Tuesday," Mr. Gover; requesting leave from the sessions of Tuesday and Wednesday, Donald Doty; Mr. Kirk would like to be excused from the sessions of Tuesday and Wednesday to attend sessions of Tuscola county board of supervisors; and Mr. Van Dusen would like to be excused from the session of Tuesday morning and early Tuesday afternoon to attend the funeral of one of his law partners.

PRESIDENT NISBET: Without objection, the excuses are granted. The Chair recognizes Mr. Wood.

MR. WOOD: Mr. President, I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned until 9:00 o'clock tomorrow.

[Whereupon, at 10:45 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Tuesday, April 10, 1962.]

ONE HUNDRED EIGHTEENTH DAY

Tuesday, April 10, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by the Reverend Jacob Hasper of the Seymour Christian Reformed Church of Grand Rapids.

REVEREND HASPER: Let us unite in prayer. Our eternal God and heavenly Father, we thank Thee for access to Thy throne through Jesus Christ our Lord. We pray that these sacred moments of prayer may not be mere custom but may they be the expression of our real sense of need of Thee. We thank Thee for Thy love which flows endlessly into our lives.

Thou who art the ruler of nations, in whose hands are all the times and circumstances of men, we praise Thee for the heritage of freedom which is ours to enjoy. We thank Thee for noble men who are willing to dedicate their lives to maintain this heritage. We thank Thee for these men who work to present our state with a new constitution which will be beneficial to all the people.

This morning we pause to ask Thy continued benedictions upon us as we begin the work of a new day. We need Thy Spirit to give us light and vision and wisdom to formulate a constitution founded upon truth and justice. We need Thy Son to free us from the terrible bondage of self and pride and to lead us in paths of holy service and a right decision. We need Thy grace, Father, to rededicate ourselves to the principles of freedom and righteousness and peace revealed in Thy Holy Word.

Release then Thy benedictions upon us, we pray, that we may today be diligent in serving Thee and our fellow man. In Jesus' name we pray. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. If you are present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Marshall, from the morning session; Mr. Austin, from the afternoon session to attend a meeting of the board of supervisors; Mr. J. A. Hannah, from the middle of the forenoon session and part of the afternoon session to attend the funeral of Mr. Alfred G. Wilson, who made a contribution of $10 million to Michigan State; and Mr. McLogan, from the latter part of the afternoon session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Cudlip, Donald Doty, Ford, Gadola, Gover, Howes, Kirk, McCauley, Marshall, Mosier, Rood, Shackleton, Stamm, Suzore and Van Dusen.

Absent without leave: Messrs. DeVries and Gust.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. DeVries, Gust, Cudlip, Gadola, Gover, Marshall, Mosier and Van Dusen.]

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move the convention resolve itself into committee of the whole for consideration of matters on general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Martin.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MARTIN: The committee will be in order. The secretary will read.

SECRETARY CHASE: Item 2 on the calendar, from the committee on declaration of rights, suffrage and elections, by Mr. Pollock, chairman, **Committee Proposal 58,** A proposal pertaining to the elective franchise. Sections a through e have been agreed to. Under present consideration is section f on page 2.

For last previous action by the committee of the whole on Committee Proposal 58, see above, page 2232.

Messrs. Brake and Stevens now offer the following amendment:

1. Amend page 2, line 13, after "Sec. f.", by striking out the balance of the section and inserting "Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money, the issue of bonds or increased millage for capital outlay purposes, only such persons having the qualifications of electors who have property assessed for ad valorem taxes in any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon.".

CHAIRMAN MARTIN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, this has been referred to as a compromise position. It is a compromise in the sense of being in between the extremes but not a compromise in the sense of being something arrived at by agreement or by negotiation.

The committee on finance and taxation wrote into the 15 mill provision as we presented it to the convention, this provision. The committee agrees, however, that the restriction or the qualification ought not be in 2 different places in the constitution and that the election article is the proper place for it. The position that the committee took was that increased millage for capital outlay should require the vote by people on the tax roll but that operating millage should not. The difference is principally a matter of time. We thought that the argument that a tenant is paying taxes in his rent generally would apply perhaps in operating millage for a short time: 1 year, 2 years, and possibly 5 years, but that when it comes to putting a mortgage on the property, as in effect it does, for a capital outlay on a long term basis, that the qualification should be just the same as for voting on a bond issue.

I understand that there is an amendment on the secretary's desk by Delegates Page, Spitler and Follo, which places it squarely on a time basis; that if it's under 5 years, just ordinary electors would have the right to vote; if it's over 5 years, it would require property on the tax roll. I think Mr. Stevens and I are willing to accept that as part of our amendment, if we may do so, so just 1 decision will have to be made instead of the 2. We think this is a sound distinction;

that a short term millage may well be voted upon by any qualified elector but that the long term millage should have the vote of those who are on the tax roll.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members, Mr. Brake has very adequately explained the purpose of this amendment. It is obvious that you can't have 2 conflicting statements in the constitution. The committee on style and drafting can obviously correct this if the floor will decide what it wants. It would not be right for the committee on style and drafting to decide which of these to have, but if the committee of the whole can now decide what it wants, then the 2 parts can be rewritten, or perhaps be taken out of the finance and taxation and just appear in this 1 place. So the only thing now is to decide just what you want to do about this and make it at any rate harmonize throughout the constitution.

CHAIRMAN MARTIN: The Chair will ask the secretary to read the amendment with the Page-Spitler-Follo addition and then if the sponsors of that amendment wish to speak, the Chair will recognize them.

SECRETARY CHASE: The amendment as now revised by the acceptance by Messrs. Brake and Stevens of the amendment offered by Messrs. Page, Spitler and Follo, is as follows:

1. Amend page 2, line 13, after "Sec. f.", by striking out the balance of the section and inserting "Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money, the issue of bonds or increased millage for a period of more than 5 years, only such persons having the qualifications of electors who have property assessed for ad valorem taxes in any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. In all other questions involving increased millage all persons having the qualifications of electors may vote thereon.".

CHAIRMAN MARTIN: Mr. Page.

MR. PAGE: Mr. Chairman and members of the committee, as Mr. Brake has so clearly pointed out, it seemed to us that the issue in this situation was primarily one of time. We felt that the fear that communities or property owners in communities might be subjected to long term millage levies for either capital outlay or operating purposes was a justifiable fear and at the same time as a compromise and to point up what we considered to be the issue, we put the 5 year period in as an amendment to the Brake-Stevens amendment.

It is our feeling that shortening this period to 5 years will very definitely eliminate practically all, if not all of the hazards involved in allowing electors who are nonproperty owners to vote on millage levies for short periods of time. Anything in excess of 5 years would require the property owner qualification in order to be eligible to vote on such levies, whether for operating or capital outlay purposes.

CHAIRMAN MARTIN: Mr. Knirk.

MR. KNIRK: Mr. Chairman and ladies and gentlemen of the committee, I have been quite disturbed over this particular issue for a long time and I think as chairman of our local school district down home, I am very much concerned with it because I think that many of us here in the convention—and I was hoping that Delegate Austin would think about this just a little other than just the metropolitan areas because he mentioned last evening that people should be allowed to vote on this extra millage because all they need to do was transfer this additional cost to the renters of apartment houses and so forth. I come from an entirely different community, a community which is primarily made up of farm properties. In fact, in our particular school district, nearly 70 per cent of the total value of our school district is farms and the balance are homes within a small community.

I am not in favor of this particular amendment—the one offered by Mr. Brake and Mr. Stevens originally or the amendment as revised—due to the fact that I do not believe this is the way to solve our financial problems primarily with education. I think this is really what we're trying to do. The only real concern we have here is primarily with educational problems and we're trying to finance our school systems from ad valorem taxes, both property and real. I think it's a very unfair way of trying to bail ourselves out. I think the tighter we keep the restrictions so that only those property owners—the people that are paying the burden, paying the cost—have the responsibility of voting upon the particular issue that is offered to the people, the sooner we'll get a more realistic approach to the problem. And as long as we have the back door open or left ajar and allow people to vote on this question of financing primarily on the problem of education here, we will never have adequate funds.

I have the dubious experience tomorrow, Wednesday, of being, I might say, investigated—that would be the wrong word, but at least passing out information and knowledge of our school district for a particular senator within our state because he has charged that we have mishandled our funds. Ladies and gentlemen, we operate the lowest per capita cost school in our county and some $60, $75 less than the state average, and we are having difficulty, real serious difficulty in operating for this next year. And I think that we very definitely have to look at this from an objective standpoint and admit that we have to have more funds to operate our educational plants, to man the kind of a staff that we want, but the answer is not necessarily just raising taxes.

You take a farmer who has a state equalized valuation of $20,000 to $30,000—and that's not at all unusual today, because as things have developed over the past 20 years, in order to have and be able to use the best knowledge, technological advances in agriculture, you have to have this large investment—but by having this large investment and having this size operation to be efficient, we should not be abused in the heavy tax burdens that are essential because we are forced to own this type of a setup in order to be efficient. And if we should have adverse weather conditions or markets, it does not mean necessarily that we have the ability to pay this tremendous burden. I don't want to become personal on this, but I think that each and every one of us owe to our people back home, and particularly to the rural people of this state—and I certainly hope and plead with the metropolitan areas that they consider what this would do to us. I think it's very important that we not leave this back door ajar and try to survive and continue to place upon the property owner the burden of this load that they should not have to carry.

We are absolutely going to destroy the incentive and the desire, in my book, to own property if we continue on the trend that we have in the past. And I hope that Mr. Austin was correct last night when he said there is a tendency to reduce property tax. It has not been true in my community and I don't know where it has applied. I certainly hope that sooner or later that the legislators and people in this convention will wake up to the fact and will do something about it. But up to now, they have not and I don't think that we should reduce this restriction. In fact, we should make it more rigid than it is today. And I hope that you will turn down this amendment. (applause)

CHAIRMAN MARTIN: The Chair might interrupt the debate to make a short statement. Since the debate last night, 1 or 2 delegates have complained that during the debate they were unable to hear the speakers clearly because of the noise within the hall, with people conversing. The Chair realizes that it is necessary to discuss some of these matters as we go along, but would like to suggest this: that if you simply have a comment you want to make to a friend or to a seat mate or someone, that you make it in as low a voice as you can, and not try to outspeak the speaker. If you have a conference—if you've got something that is going to take some work—that you retire to outside the hall, because if conferences are going on in full voice in several places within the hall at once, it is difficult for the speaker to be heard and difficult for him to speak and the Chair doesn't like to keep pounding the gavel. So the Chair just asks your consideration for the speaker, whoever he may be or she may be, and for the general decorum of the committee. In that way we will be able to proceed more efficiently and more rapidly.

Next the Chair will recognize Mr. Spitler.

MR. SPITLER: Mr. Chairman and delegates, first of all I would like to say that I agree with Delegate Knirk that the time must come when there is other revenue than property tax. And when that time does come, with the support of schools and the local districts, then it will not be necessary to take the stand that we are taking in some of these amendments. First of all, I would like to say that this amendment recognizes that there is merit in both the majority and the minority reports. From a discussion with some of the delegates, it appears that there are many who find it difficult to support or oppose either the majority or minority report. This amendment offers these delegates a middle ground, a compromise, if you prefer to call it that.

Most bond issues are voted for long periods of time, usually 10, 15 or 20 years. Under the present constitution, 2 ballots are used in voting on these bond issues. The one ballot is for the increase of millage to provide the necessary funds. On this ballot, any qualified voter may vote. The other ballot provides for the direct expenditure of the funds for these bonds. On this ballot, only qualified property owners may vote. Both issues must carry by a majority of the voters qualified to vote on each issue. If either fails to secure a majority of the vote, the bond issue fails.

This amendment continues the provision that on the bond issues only qualified property owners may vote. It further provides that in the election for the increase of millage for periods in excess of 5 years, whether the millage be for operation or for capital outlay, only property owners are eligible to vote. To this extent, it carries out the intent of the majority report. It further provides that in the elections for the increase of millage for periods of 5 years or less, either for operation or for capital outlay, only qualified electors shall be eligible to vote. It takes into consideration the argument of the minority report that in some districts those who are not owners of property, through rentals, may be paying indirectly more taxes than some of the property owners. It also makes possible a means of securing funds in those districts where property is owned to a large extent by a few property owners, such as industry, corporations or large apartment buildings. The amendment attempts to protect the property owners against the increase in taxes for long periods of time by voters who may have moved out of the district before the obligation has been fully met.

Again let me say that this amendment is offered strictly as a compromise for those delegates who find it difficult to support or oppose either the majority proposal or minority amendment. It protects property owners against taxes voted for long periods of time. Yet it does not disfranchise the nonproperty owner in elections for increase of millage over a short period of time, when in many cases, these people may be paying indirectly as much or even more than many of the property owners.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman and fellow delegates, I've already spoken at length on this subject and I don't feel that I should take the time this morning to repeat some of the arguments that I made last night. However, in answer to Delegate Knirk, I would like to say this: that I can give no guarantee that there will be a reduction of the property tax; but I think that we will all agree that there is a trend away from total reliance on this source of revenue at the local level. We have certainly moved away from reliance on this source of revenue at the state level.

I am joining in an amendment to delete the whole of section f because I believe that section f has no place in a modern constitution because of the trend away from reliance on property taxes. However, if this section is to remain in the constitution, I believe that the least we can do is make the adjustment that is embodied in the present amendment. I would therefore urge a yes vote on this compromise amendment.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members, Mr. Spitler has pretty much explained what I want to repeat: first, that this is a compromise, not in the sense of a deal or anything but in the sense of trying to resolve differences as previously stated. I would merely like to point out first that this has no reference to bonds and direct expenditures. That was in the constitution. This amendment does not in any way touch that. Second, that you did have about 3 choices, or maybe it's 4 now: we can eliminate the whole section; that's Mr. Austin's amendment to come up. You had an opportunity to eliminate the part on tax limitations; you turned that down. Now you have a choice between the committee proposal where all persons voting on limitations would have to be taxpayers or the wives or husbands of the same, or the proposal as it now stands; or where, as provided by this amendment, you have to be a taxpayer to vote on anything over 5 years. You do not have to be a taxpayer if it's under 5 years. This 5 year period simplifies the original proposal.

CHAIRMAN MARTIN: Mr. Powell.

MR. POWELL: Mr. Chairman and fellow delegates, I assume that most of you who were here last evening followed the debate on this issue at that time. I pointed out that this section was inserted in the constitution before the adoption of women's suffrage and its original purpose was to permit any woman having the qualifications of a male elector and who had property assessed for taxes in any part of the district to be affected by the result of an election, to be entitled to vote on any question involving the direct expenditure of public money on the issuance of bonds. In 1932, this section was substantially revised. In its new form, it provided that voting on direct expenditure of public money for the issuance of bonds was limited to property owners. As I pointed out in the debate last evening, this amendment was submitted to the voters simultaneously with the 15 mill limitation. It is interesting to note that it was approved by the voters by a substantially larger margin than was the 15 mill limitation.

I looked in the red book this morning and I have here in my hand the figures as to the margin by which these 2 proposals were written into our constitution, and the excess of yes over no votes in the case of this restriction of requirements for voting on direct expenditure of money and issuance of bonds was more than 6 times the margin by which the 15 mill limitation was written into our constitution. I thought that was significant. It was called to my attention last evening by one of my fellow delegates and I looked it up and I feel that it is an indication of how the folks felt on that matter at that time. I hope that you'll keep it in mind if an amendment is proposed, as I just heard hinted here, to knock out this entire section. I feel certain that had the 15 mill limitation been in effect at that time, the vote required to raise extra millage would have been made subject to the same qualifications as the vote for direct expenditure of public money or for the approval of a bond issue.

Probably I should mention that in the original language of the 15 mill limitation, a 2/3 majority was required to approve extra millage and the increase was limited to not to exceed 5 years. However, in 1948 these restrictions were liberalized. The vote requirement was reduced from 2/3 to a simple majority and the period for which there could be an increase as the result of one election was lengthened from 5 to 20 years. Reducing the majority from 2/3 to a simple majority makes it all the more imperative that the voting should be restricted to property owners who are the only ones who will be footing the bill.

Last night, we delegates decided by an overwhelming vote, 38 to 80, against adoption of the minority report amendment. Now amendments are being offered which would materially weaken the language as recommended by the committee. I am unable to justify these changes on any basis other than that of compromise or expediency. I am at a loss to comprehend the logic behind these changes. Certainly it seems that this limitation should apply only to those who will be paying the bill. This is true regardless of what the purpose of the millage increase may be; that is, whether it is for capital improvements or for operating purposes. It is also true regardless of the length of time for which the increase is granted; that is, whether it's for 1 year, 5 years or any period up to the maximum of 20 years permitted under the 15 mill limitation as it now stands.

As I pointed out last evening, in many cases this business of an extra millage for operating purposes is a sort of a continuing ritual and each time one extension is about to expire, it is extended and it goes on and on so it's a more or less perpetual part of our local budget system. I also would point out that it is possible that before we get done here, we will have in our constitution a provision which would make it possible to have 18 mills instead of 15 mills in the counties that desire that limitation. Now, I am glad of the prospect for property tax relief hinted at by Delegate Austin and some others here. When that time comes, probably millage increases will not be as necessary as they are right now. That isn't here today.

A few days ago, I was interrogated out in the corridor by one of the reporters from a metropolitan paper and he asked me a rather soul searching question. He said, "Do you think when this convention is over that you folks can go outstate and sell the new document to the rural parts of Michigan?" And he reminded me that some 79 counties voted against calling con con; that this thing was going to have a lot of sales resistance out there in those areas that didn't want it in the first place. And I did some thinking. I said, "Well, I think there are going to be quite a few things that are better. I think we're going to eliminate some deadwood. I think we're going to clarify some language. I'm on the committee on style and drafting. We think we're doing a good job there. I think many of the committee reports are resulting in an improvement," and so on. But while I didn't tell him this, I got to thinking in my own mind how I'd go outstate and talk on this, and thought: well, I can say that, in this regard, what we've got is about the way it used to be; and in this regard, we didn't lose much; and in this regard it isn't much worse, and so on. But what is there that I could say that was a real decided definite improvement to make this a salable package?

During the last 6 months, I've been talking and writing, trying to give a favorable image of us as delegates and of our work. I just this morning sent to The Michigan Farmer magazine, which goes to some 142,000 rural homes—about 95 per cent of the farm families in the state, rural people, get that magazine. My article for next week's paper—those of you who read The Michigan Farmer know that twice a month throughout the convention I've been telling about what we've been doing here. I do the same in The Michigan Farm News, the county farm bureau publications and The Michigan Patron, the official organ of the state grange. And everywhere I've been trying to make this sound good: we're really doing a good job and we're going to have something that will be acceptable. I do that despite the fact that I was active in trying to head off having a con con. I do hope that when we get done here we'll have something that those of us that associate with the rural people of Michigan can commend as representing progress and a desirable package. I am sure that, in my contacts with the rural folks of Michigan, if we could say that we have adopted the committee report just the way the committee on declaration of rights, suffrage and elections sent it out to the floor—without any watering down, without any of these pending or proposed amendments—that we'd have something there that we could relish, that we could really talk up, and that I think would help a lot in making this something that, we trust, will be approved when our labors are ended here.

CHAIRMAN MARTIN: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I cannot, of course, speak for the entire committee on education regarding the pending amendments, but I feel that a substantial majority of the committee would be inclined to favor the proposed Brake-Stevens amendment as revised by the Spitler-Page-Follo amendment pending at the present time. I think, Mr. Chairman, that this represents a fair and equitable compromise—and I see nothing particularly wrong with the use of that word. We've used it before and we'll undoubtedly use it again. I feel that this makes a distinction which is necessary between operating expenses and capital outlay for our schools. It does provide that in case of long term issues that only property owners should be qualified to vote on those—and that, I think, is proper—and in case of short term, up to 5 year matters, principally in questions regarding operating millage, I think those people who not only own property, but who reside within a particular district whose children plan to attend the schools and who if not directly at least indirectly through their rents will be contributing to the property taxes of the district, should be entitled to have a vote on this matter, and yet, by putting in the 5 year deadline, we take care of those who may be of a temporary or transient nature and would not be around in the event of a long term issue to continue supporting the payments of that issue afterwards. So I respect the feelings of my good friends, Mr. Knirk and Mr. Powell. I know that their constituents—and after all, I represent a rural district here at this con con—feel that property taxes are as high as they should go and I am inclined to agree with them. I think that, by and large, property taxes are just about as high as they should go and I, like both of them and many others here, hope that some form of property tax relief will be imminent. I suggest that that form of relief will be much more imminent when the legislature, as it has now the opportunity to do, will be resourceful and courageous in finding other sources of needed revenue for the public services desired by the people of this state.

I think, as I say, that the pending amendment is a good one. I support the Brake-Stevens amendment. I support the Spitler-Page revision to it. And I strongly urge that we vote on this as representing the best possible and most equitable arrangement which can be made between those people who want no form of any restriction on any form of votes of this type and those people who want the suffrage limited entirely and exclusively to property owners. I think that the pending amendment offers a fair and equitable compromise and defensible in any part of the state and I strongly urge your support for it.

CHAIRMAN MARTIN: Mr. Follo.

MR. FOLLO: Mr. Chairman and members of the committee, I just want to explain that I regret that at this time, when schools are crowded, when we have more and more youngsters, when many of our schools are getting old and obsolete, we seem to be taking a step backward and making it more difficult to build schools. I would have wished that we could have left things the way they were. It seems impossible to pass the amendment which was offered last night and so I have lent my name to this compromise, which I feel is fully justified. Thank you.

CHAIRMAN MARTIN: Mr. Knirk.

MR. KNIRK: I sometimes feel like I might be, Mr. Chairman, a heel when it comes to education, yet I've been in it since I was in the kindergarten. I've never been out of it, in one capacity or another, either as a teacher, as the school board chairman, or in the colleges and universities and so forth, trying to obtain a little knowledge. I think I'd like to answer one of the charges here of Mr. Bentley saying that this was a justifiable means to an end. I'd like to know just when the people of our state are going to really face the issue. I think the educational people had better quit looking for gimmicks and means of attempting to secure enough funds through this—I call it the back door process—the process of levying a tax upon people who are outnumbered. I think that it's very, very unfair. It reminds me we are, in desperation, trying to finance a program that is not adequately financed today. So therefore we try to build a gimmick. We, incidentally, presently have a gimmick as far as I'm concerned—and I've been very much involved in trying to raise in our community 4 extra mills for operating our schools. It's not a pleasant task to sit down with the other board members of a community and take the teachers of art, music and physical education and the librarian off of your staff, as I had the responsibility to do 2 weeks ago tonight. It's not fun. And I think that only points up one of our problems. But when a person is faced with a $400, $500, up to, and I'm going to be personal, over $1,500 tax on my own little operation—and incidentally, I say for the record here that I definitely voted for the 4 mills because I knew that our schools needed it definitely and pleaded with others to vote for it. But the point is this: this is not the way to finance our program. It reminds me of the national agricultural subsidies that we have developed in this country. They are the soothing syrup; they're not treating the real cancer. I remember as a boy, my mother would say they act as a sugar tit, if I may use the expression—I guess I did. (laughter) I think we have to be practical about this thing and I think we might just as well face up to the fact that the past approaches that we've attempted to make in regard to financing and getting enough funds to operate our schools is not adequate, it's not proper. I think the more realistic and the more difficult it becomes to approach the answer in this way, the quicker the people in the state of Michigan will actually face the issue and we will make progress toward a tax reform in this state that makes it possible to give the kind of an educational program that we want for our boys and girls; and you'll never do it through this particular gimmick that is being offered in this amendment. I certainly hope that you folks defeat this—it's like it is today, what we have in this amendment—and I do not believe it is fair and I certainly hope that you will defeat this and go back to the majority report. Thank you, Mr. Chairman.

CHAIRMAN MARTIN: Mr. Page.

MR. PAGE: Mr. Chairman, members of the committee, it seems to me that we have been subjected to, in this debate this morning, a lot of confusing issues. We've had the question of women suffrage brought in as it existed in 1908 and as it was changed in 1920. We've been asked to consider what might have happened 30 years ago in 1932 if the 15 mill limitation had been a part of our constitution. We've been faced with the constant differences of opinion as to whether taxpayers are the only people who pay taxes or whether rental occupants of property pay taxes. As a renter of property, I can testify from my own landlord as to just why my rent has been raised twice in the past 8 years—to help pay an increased taxload on his property. All of these things may be good debate; they may be interesting to many of the delegates, but it seems to me we ought to get down to the issue of education.

Delegate Knirk just said that what we have before us now is the same as what we now have. That is not true because there is a 5 year limitation on what we now have, as far as the eligibility of voters is concerned, if the revised amendment is adopted. The education committee, as Mr. Bentley told you last night, was unanimously against the wording in the committee proposal. We did not concur in that wording. We have not had a meeting of the education committee, but subject to their having been swayed by the eloquent oratory that we've listened to this morning and last evening, there were this morning 16 out of the 21 members of that committee who felt this revised amendment that is now before you was good for education and was a fair compromise agreement, not a gimmick. I urge that you vote yes on the revised amendment in the interest of education.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman and fellow delegates, as one of the subscribers to the minority report which was offered on the floor last evening, I think I am duty bound to make a very short statement with regard to the present amendment now offered. I want to call your attention to the fact that the minority report rejected the majority inclusion of language requiring property ownership as a qualification for voting simply on the additional language of the increase of tax limitations on real and personal property. In other respects, the minority report favored what was in the 1908 constitution without any change. Some people, I understand, were somewhat confused as to the minority report amendment that was on the board last night. All we were suggesting was that the majority language not be included, and not that there be any other substantial alterations in the 1908 constitution, but that was defeated and we have now before us this revised amendment.

It seems to me there is a basic question of philosophy—I am moved by many of the comments that have been made thus far—but the question of philosophy is whether or not you believe that a responsible and responsive democracy is best promoted by the attachment of property qualifications on the suffrage. I happen to subscribe to the idea that the removal of these property qualifications on the right to vote for anything is not in the best interests of democracy or responsible or responsive democracy, and I would be in favor of deletion of the entire section in the constitution. However, I do think that the people who have formulated and proposed the amendment now before us are making a good faith effort to resolve some of the basic controverted contentions of last night's debate and, while I prefer a different formulation—in fact, no formulation—I still would urge that those who subscribe to the minority report amendment and the minority position last night would vote for the amendment now before us.

CHAIRMAN MARTIN: The question is on the Brake-Stevens, Page-Spitler-Follo amendment. The secretary will ring the bell.

MR. PAGE: Mr. Chairman, have the yeas and nays been requested?

CHAIRMAN MARTIN: They have not.

MR. PAGE: I so request.

CHAIRMAN MARTIN: The yeas and nays have been requested. Is the demand supported? Sufficient number up. The question is on the Brake-Stevens amendment as revised. Will the secretary please read the amendment.

SECRETARY CHASE: The amendment as now revised is as follows:

[The amendment was again read by the secretary. For text, see above, page 2255.]

CHAIRMAN MARTIN: Mr. Knirk.

MR. KNIRK: Mr. Chairman, I'd like to ask a question here if any delegate knows of a school district that presently levies an operating millage for more than 5 years. I do not know of any. I've never seen one in the newspaper before for that length of time. Therefore, I don't think that this 5 year limitation has any bearing or any meaning. Does anyone have news to the contrary?

CHAIRMAN MARTIN: Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman, fellow delegates, speaking on behalf of the committee, we are opposed to the amendment and the amendment as revised for reasons that I will develop here in the next few minutes. Yesterday, we discussed this same situation at some length and overwhelmingly defeated it. Today, apparently there is an effort to so weaken it that it will accomplish the same thing that was proposed by the minority report amendment of yesterday.

Chairman Bentley of the education committee has mentioned this as being a compromise and I wonder if it is a compromise. I don't see it that way. There are some things that are not subject to compromise, and I believe this is one of them. Either you have this kind of a limitation or you don't have this kind of limitation. I'm going to mention further his comments that property taxes are high. Well, I agree they are high. I can repeat practically verbatim, Delegate Knirk's comments—

MR. KING: Mr. Chairman, point of information.

CHAIRMAN MARTIN: State your point of information, Mr. King.

MR. KING: Mr. Chairman, I'd like an interpretation of rule 65, which states:

> After a question has been stated by the president, and the call of the roll has been started by the secretary, the president shall not recognize a delegate for any purpose, except upon points of order, until after the announcement of the vote by the secretary.

CHAIRMAN MARTIN: Mr. King, the roll call had not been called. The Chair had started in that direction but had not called the roll. You may proceed, Mr. Shanahan.

MR. SHANAHAN: Thank you. If we are going to do something about taxes on property, let us do it in a straightforward manner. Much has been said about the renter who does pay. Obviously he does pay through his rent, but they do not always reflect increases in taxes, but if he thinks that he is paying too much rent, he has the option of moving, whereas the property owner does not. He is literally stuck with the situation.

Now, consider the full impact of the present limitations of 50 mills—that's 5 per cent over a period of 20 years. That means that a property owner in that case has to buy his property back in that length of time. Now, prior to some of these limitations that have been imposed upon property taxes—I am referring to the conditions in 1932, when property was bearing the burden not only of local, but of state costs—conditions were getting confiscatory and it was actually a matter of desperation that by initiative—not by action of the legislature—the question went on the ballot and was adopted.

We as individuals, for the most part, found out we have to live within our means. That is something that some of our levels of government apparently are not realizing. If there is to be a limitation on property taxes, there must be some way of controlling it. As you think about various situations, proposals that have been in your own communities—I can talk about my own community, where the voters, including property owners, have voted to increase millages for certain definite purposes; where voters, exclusively property owners, have voted to bond themselves, with their property as security over the last, I'll say, 12 years. The property owners have been straightforward. They have recognized needs and they have voted to do these things. They also have turned some things down. There was a proposal in my home community for building a school plant that the people thought ridiculous. The cost would have been about 3 times what the local community believed we could afford, and it was roundly defeated. So a second proposal was made, cutting out some of the frills, and that was defeated. Finally a proposal was made that the people would adopt.

Now, on any bonding proposal of this kind, there are decisions that must be made. The decision must not be made on the basis of "we need", so much as "can we afford?" or "can we afford not to?" In many cases, the decision is between the last 2 much more so than on "we need." Oftentimes what we need is somebody's idea that is not necessarily the majority's. Now, it has been hinted and suggested that in increasing taxes on real and personal property—the impact that it has on business, on inventories—it is pushing certain business out of the state. I believe that is so because I've seen it operating in that manner. I believe that taxes can be increased to the extent that it results in diminishing returns. I believe that we are coming toward that as regards real and personal property. There is one comment that was made quite recently on this floor that the amendment would be good for education. I am wondering if education has a good that is inseparable from the whole state of Michigan. I am wondering if the proposition that something is good for education means that it has to be good for the state of Michigan. I believe that that comment can cut very deeply.

In conclusion, I just wish to say, simply, the committee had this under consideration. The committee, by a majority vote, took the position as it is in section f in the committee proposal, and I strongly urge a no vote on the pending amendment to section f. Thank you.

CHAIRMAN MARTIN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman and members of the committee, I feel very strongly on this subject and I've written a 5 page speech. If there is anyone here who hasn't made up his mind, if he'll hold up his hand, I'll deliver it. (laughter)

CHAIRMAN MARTIN: Mr. Hubbs, the Chair suggests you don't pay any attention to those who hold up their hands. (laughter)

MR. HUBBS: Mr. Chairman, I think you're absolutely right and I'm not going to deliver this speech. I would only ask that, being a member of the majority of the committee, I feel that this amendment should be defeated and the reasons have been amply stated.

CHAIRMAN MARTIN: Mr. Page.

MR. PAGE: Mr. Chairman, members of the committee, I'm so glad that Mr. Knirk asked that question. He asked if there was any school district in the state that was levying operating millage for more than 5 years. I happen to be in a good position to answer that, and the answer is yes. In 1953, the Flint school district voted by an overwhelming majority a 5 mill levy for 10 years, 60 per cent, or 3 mills, of which was to be used for capital outlay, and 40 per cent, or 2 mills, for operation. That levy is still in effect and still being collected.

CHAIRMAN MARTIN: The question is on the Brake-Stevens, Page-Spitler-Follo amendment. The yeas and the nays have been called for. The secretary will ring the bell. The secretary has read the amendment unless you wish it read again. The question is on the Brake-Stevens amendment. All those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—74

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Bentley
Bledsoe
Bonisteel
Brake
Brown, T. S.
Buback
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Figy
Follo
Garvin
Goebel
Greene
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Judd, Mrs.
Karn
King
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
McGowan, Miss
McLogan
Millard
Murphy
Nord
Norris
Page
Pellow
Perlich
Pollock
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Sablich
Seyferth
Snyder
Spitler
Stafseth
Sterrett
Stevens
Thomson
Tubbs
Tweedie
Upton
Walker
Wanger
Wilkowski
Young
Youngblood

Nays—39

Batchelor
Beaman
Brown, G. E.
Butler, Mrs.
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Erickson
Everett
Farnsworth
Finch
Habermehl
Haskill
Hatch
Hoxie
Hubbs
Hutchinson
Iverson
Knirk, B.
Koeze, Mrs.
Leibrand
McAllister
Perras
Powell
Prettie
Richards, J. B.
Rush
Shaffer
Shanahan
Sharpe
Sleder
Stopczynski
Turner
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment, the yeas are 74; the nays are 39.

CHAIRMAN MARTIN: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: The amendment previously filed by Mrs. Judd has been withdrawn.

Messrs. King, Austin, Nord and Norris offer an amendment:

1. Amend page 2, line 13, by striking out all of section f, lines 13 through 20, inclusive.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I have been pleased to receive the support of some Democrats who wished to join with me in sponsoring this amendment. I have advised them that they run the risk of being branded as "young radicals" but they apparently are willing to take that chance.

I should like to talk first of all about my own district, the city of Pontiac. Here we have 56 per cent of the property taxes paid by one taxpayer, apparently a retired army officer named General Motors. Now, who really pays this tax? Well, I suggest that perhaps the employees, the management, the stockholders—yes, and the customers pay this tax. But if you feel that the good "General," he and he alone pays this tax, I don't know why it wouldn't be logical in view of some of the arguments we've heard, to allow him to cast 56 per cent of the vote on all bond issues and money issues at the polls. No—you would rebel at this idea, and rightly so. Of course, once only property owners could vote in this country, and inasmuch as property was the only source of taxation at that time, I submit that there may be more logic in that idea than in the committee proposal today.

It has been pointed out that renters pay taxes indirectly. But of course, those who lease property on a long term basis usually pay the taxes on the leased property directly. It is not part of the regular arrangement. But certainly, anybody who rents property does pay the taxes indirectly. The law of supply and demand, which still exists in this country, to a degree anyway, takes care of this. Now, in my school district—and I believe this is true throughout the state as the result of a general law—one must be on the assessor's roll and a taxpaying property owner in order to run for the school board. Because this question is related to the question before us, let's think about this one for a moment. Should it be that only property owners can be interested in school affairs? Many—if, indeed, not most—of these property owners are elderly people with no children in school, or bachelors, or young couples without children. Still others may have their children in private schools or parochial schools. Under these rules, you can almost predict the future of school millage propositions on the ballot. But don't take my word for it; check the record; school millage proposals are being defeated in all parts of the state. But to you—and I quote—"conservatives" let me say: all is not lost. Just as a department of urban affairs will make home rule for counties that are necessary, perhaps the comprehensive federal aid to education bill will solve this problem to your satisfaction. As for me, I shall continue to work for effective and efficient government close to the people.

The history of this section has been well gone over and I shall not belabor it. It was founded as a device to introduce to our way of lives, suffrage for women. Of course, almost half a century later, the question of women's suffrage seems remote, even quaint, perhaps silly. I submit that 50 years from now, the committee proposal as amended will look just as quaint and old fashioned.

I don't expect my amendment to pass. But at least it will give those of us who are concerned with a forward looking constitution the chance to express ourselves. It will give to those who wish to prevent further federal and state encroachment in the field of education a chance to express ourselves. Of course, with my amendment in effect—in other words, section f completely stricken—the legislature, as long as it feels that this is necessary and in the interests of good government and reflecting the needs of the people of the state of Michigan, can put such limitations in by statute. I frankly don't know that this would be too long a period of time. But it certainly leaves the door open for that possibility. For these and other reasons, I urge the support of the pending amendment.

CHAIRMAN MARTIN: Mr. Austin.

MR. AUSTIN: Mr. Chairman and members of the committee, I do appreciate your calling on me at this time. I'm already late for my meeting down in Detroit, but I did feel keenly that I should make a few remarks in connection with the deletion of section f.

The main points that I would like to make in favor of deleting section f are as follows: first, local units of government no longer rely entirely on the property tax for revenues for the payment of debt service and other expenditures. Since voters at the local level are going to be contributing to the payment of these items from other sources of revenue, there is no reason why they should not have the right to vote on them. Secondly, there is a marked trend away from total reliance on property taxes as a means of raising revenue for local units of government. Constitutional restrictions of this nature on voting have no place in the modern concept of expanded participation by all voters. Thirdly—this point has been made very clearly—renters do pay property taxes although they pay them indirectly. Fourth, taxation at the state level, which affords state aid to local units of government, is paid by all taxpayers and is not based on property ownership. If there must be any restriction of this kind it ought to be in the form of legislation and not in the constitution so that the legislature may shift the requirements as the need warrants. And finally, I would say that if you wish to reflect an enlightened appreciation for the dynamics of modern industrial society, you must delete this section from the constitution. I urge a yes vote on the amendment.

CHAIRMAN MARTIN: Mrs. Cushman.

MRS. CUSHMAN: I rise to support the King amendment. We have been proud, as we should be, of the civil rights provision that we are putting into this new constitution. But here it seems to me we're putting in additional restrictions on the most fundamental of all of our civil rights, that of voting. The question will naturally be raised: are we serious about our civil rights provision? There is an old saying: put your money where your mouth is. And I suggest that in this particular case, we think about this thing very seriously.

The great majority of states have no property qualifications whatever for voting in their constitutions. Thirty-six states have no such qualifications. None of the recent state constitutional conventions have put such qualifications into their constitutions. And I suggest to you that we'll be making a very serious mistake indeed if we do such an action. Thank you.

CHAIRMAN MARTIN: Mr. Tubbs.

MR. TUBBS: Mr. Chairman, despite some of the things I may have said last evening, and despite some of the reasons given for it by people who have spoken for it this morning, I am in favor of this amendment. It saves a lot of confusion. When I say "reasons" I am reminded—I didn't intend to say this, but I will—of a dictum by Lord Mansfield. All of the lawyers here know—and probably some of the laymen—that Lord Mansfield was probably the greatest common law judge who ever lived. He is the father of business law in this country and England. He was asked one time by a young man who had been appointed to be a magistrate and administrator over one of the island possessions of Great Britain, what he should do. He had never been in a courtroom and out there he would have to sit as a judge. And Lord Mansfield looked at him and said, "Young man, remember this: when you have a matter to decide, decide it quickly and give no reasons. Your decision is apt to be right. Your reasons are bound to be wrong." (laughter)

CHAIRMAN MARTIN: Mr. Young.

MR. YOUNG: Mr. Chairman and members of the committee, I support this amendment for 3 closely related reasons: 1, I feel that the present proposal as amended is a step in the wrong direction; 2, it's undemocratic; and 3, it exacerbates all the painful impact of a regressive tax structure. All these reasons have been stated before and I'll try to be brief.

I believe that this convention should very delicately approach any restriction of the franchise. In fact, it should be our concern—and I'm very disappointed that to date, no proposal has yet come forth—to expand the franchise. I believe that such an expansion is a basic democratic need and that we could perform a real service to our constituents by expanding rather than restricting the franchise. Secondly, it's been pretty clearly established that all people pay property taxes. Now, if that's true, all people could participate in all decisions on all tax questions. My third point: this is a further imposition on low income groups. The tax structure, as we have noted, is regressive. There is a disproportionate burden on citizens at the lower rung of the economic level. There can be little question that this proposal would deny the right to vote to more poor people than rich people. Thus, those who are the principal victims of an unfair tax structure are denied a voice in the principal forms of taxation.

CHAIRMAN MARTIN: Mr. Nord.

MR. NORD: Mr. Chairman, before stating my reasons for supporting this amendment, I would like to demand the yeas and nays.

CHAIRMAN MARTIN: The yeas and nays have been demanded. Is there support? Sufficient number up.

MR. NORD: Mr. Chairman, in support of the amendment, I would simply like to state very briefly and very simply my convictions on this matter. My position, I think, might be described as extremely naive and idealistic and uncomplicated. I am not particularly concerned about the specific outcome which anybody can predict. I am not concerned about the specifics in the situation at all as to how many people or which people will be deprived of a voice to vote and how that will affect schools, or any such matter. To me, it is a much simpler problem. It is just a question of whether you believe as I do; and I believe, extremely briefly, that every man should have one vote. One man, one vote, I believe, is involved in this issue. I don't believe in drawing arbitrary lines of any sort to limit the suffrage or to dilute the value of the vote. I think it is wrong to manipulate the right to vote in order to attempt to reach some specific desired end, whether that might have to do with taxation or schools or any other matter. I think that it's wrong to take the approach in this issue, as in many issues, that the means could justify the end. I think it is too basic a matter to permit any such approach. It seems to me that what is involved is the equality of all persons before the law. All that we are asking here is that every person who is qualified to vote should vote and that no arbitrary limitation on that right to vote should be permitted. I therefore urge support for the amendment.

CHAIRMAN MARTIN: Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman and fellow delegates, on behalf of the committee, I will be very brief. Just a few minutes ago, you took away our hide. At least leave us with a squeal. We are opposed to the pending amendment.

CHAIRMAN MARTIN: Mr. Knirk.

MR. KNIRK: Mr. Chairman and ladies and gentlemen, I feel very sincere about this next statement and I only hope that you delegates here will lean back and look up toward the ceiling and do a little quiet thinking about the action taken a few moments ago. I'll abide, of course, by the majority rule. I have no other choice. And you certainly, in my humble opinion, delayed proper educational financing of our schools in this state for another decade. All I can say is: shame on you. I feel just that way about it.

I certainly am opposed to the amendment here now to strike out this particular section. I think that Delegate Nord put his finger on the sensitive chord when he said he might seem a little idealistic. Believe me, I concur with that statement. He appears very idealistic on this issue. I think that we have something that's very basic to our way of life and one that has made this country what it is. I am wondering—and when I hear someone bandy the idea within this room of federal aid to education—I am wondering what they are thinking of: a state such as Michigan going down this type of a socialistic road?

Folks, you cannot continue to place a burden upon people who have taken the individual initiative and the desire to achieve and to own and to prosper and to save and to sacrifice, and destroy that and expect to build a free people and a people that are the proudest people in the world, the most successful people in the world, if you are going to tax until you destroy the incentive to own. Now, I wish to just say this: that you will destroy the very foundation of America and its educational program will mean little to anyone. Let's think before we take this next leap and maybe as Mr. Shanahan said, please leave us a squeal. Thank you.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman and fellow members of the committee, I don't think anyone misunderstood what I said about federal aid to education, including Mr. Knirk. But in the unlikely event that he did misunderstand what I said, I shall repeat it: I suggested that by continually voting down school millage proposals across the state as the result of a discriminatory method of deciding who is interested in schools, that we are forcing the hand of the federal government. I said—and I quote—I'll say it again and I'll quote again: "As for me, I shall continue to work for effective and efficient government close to the people." This means that as far as I am concerned personally—and let there be no mistake about this—as far as I am concerned, I believe that the only way we can keep government close to the people is to recognize that problems exist and to get out and solve those problems. Now, by hiding our head in the sand, we don't solve problems. We force the federal government to step into these vital areas and seek solutions to these problems. As I said before, I don't think anybody misunderstood what I said. But in the event that anyone did, I shall repeat myself.

CHAIRMAN MARTIN: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, once again in the course of this debate, we have heard a suggestion that we've heard frequently before, namely, talk about broadening the base, expanding the franchise. That, I think, makes pertinent recalling what was said last week on the subject of democracy as we understand it in America: that we have a pure democracy. I think the great majority of the students of government agree that our form of government is not based on the concept of pure democracy, except perhaps in the case of townships or school districts where the voters can get together and talk things over and express their opinions directly. This to me represents an attempt to approach the idea of pure democracy on a statewide or federal level to broaden the base so that the majority of the moment, whether they are in a position to be directly responsible for the consequences or not, can express the desire of the majority of the moment forthwith and directly rather than through representatives and within the limitations of constitutional restraints that history has taught to be necessary. Of course, there are extremes; there are extremes either way, and I don't think that this amendment represents either extreme. Thank you.

CHAIRMAN MARTIN: Mr. Sleder.

MR. SLEDER: Mr. Chairman and fellow delegates, on the last amendment, I had difficulty in sitting in my seat. I had hoped and probably had thought that we had a sufficient number of practical thinkers rather than the ideal thinking that would defeat the past amendment. I feel this: I agree fully and I think all of us agree as delegates that we do support and do want to see the furthering of education in our state. However, I feel that we sometimes look towards one tax source to too great an extent to support education and our local and county governments. To date, of course, our local and county and city government is supported on a local basis only through real estate and personal property tax. Our schools likewise from a local area are supported only on real estate and personal property taxes. Now we have expanded this area further relative to supporting local government only through real and personal property again. We have heard a great deal, of course, about equality and we cannot get equality in taxation when we're speaking about real estate and personal property taxes for several reasons: 1, on assessments; and 2, on area location.

I hesitate in bringing any personal examples before this committee but I find it necessary. For instance, in the business that I'm engaged in, in a small meatpacking plant, we compete with another plant located in the same county that we are. However, our plant is located in an area in a school district that is partly residential and partly agricultural. Our competitor is located in an area that is a great deal industrial. Their tax, their school millage, is much lower than ours. Now, I don't argue with them. I have no brief against them whatsoever. The only thing I do oppose is this type of taxation and its unfairness. We heard here on the floor that the product can be increased in cost. In this situation, you cannot increase your product costs because your competitor will not let you. You are operating under a higher tax base than he is. Likewise the same with the property owner who has rental property. The renter can move within a short period of time—within 30 days—to an area that has a lower tax base, a matter of a few blocks or a few miles. They can locate in an area where the school tax or the county tax or the township tax is not as great. So therefore, we do not have equality. We have inequality.

If we need more support—and we all know we need more support in the schools—certainly it is time, and the time is here now that it must be a uniform tax throughout the state of Michigan. And certainly in our manner in maneuvering here today we are not going for a uniform tax, but we're talking ununiform. I feel if we are to expand and grow in the state of Michigan, we must endorse free enterprise and we must give the right for people to enter into any area of business or any area of living in support of their living as they desire. And when we tax one area beyond the logical means of its own support, we are destroying this free enterprise. I therefore urge you very, very definitely to defeat the amendment that is now on the floor.

CHAIRMAN MARTIN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, a few minutes ago, I refrained from delivering my 5 page speech because I thought there was a possible hope that there were people here who were thinking seriously of the welfare and the future of this great nation. And I am appalled by what has just transpired and I wish you had listened more carefully to the words that have been spoken here in the past by Mr. Knirk when he spoke of incentive and the future of this country; and to someone the other day who spoke about the tremendous amounts of money that we property taxpayers have voted upon ourselves voluntarily to pay the tremendous, fantastic and monumental cost of education in this country. I'm not against education. I voted for every bond issue that's come up in my community and I'm paying my taxes. But I want to tell you here today that the need of education is one thing, but the need of other people, property owners, is another thing. We're entitled to food, clothing and shelter. And I'm getting sick, sick, sick of paying taxes until I'm blue in the face, for spendthrift occasionally—not always—but spendthrift occasionally for education.

I submit that on several occasions in last night's debate it was said that ownership of property is no longer a true gauge of ability to pay taxes, and this is certainly very, very true. Ownership of nonproductive property is a serious disadvantage. The final result of excessive taxation of real property will be state ownership. This nation is going down the road so fast to state socialism and dictatorship that it makes me sick, sick. There was a time when a man seeking to live in dignity and security in his old age could acquire through long years of toil, a place to spend his final days not subject to the handout or the welfare of the state. But I submit to you today that excessive property taxation is most unfair to senior citizens who live on minimum incomes, and the biggest welfare expense in my county is the support of senior citizens who can no longer take care of themselves. Eventually their property will be confiscated by the state too because they can't afford to pay the excessive property taxes that are being levied upon them and feed themselves and clothe themselves in any manner of respectability.

It has been said that there is a trend away from property taxation. It seems logical to assume that if there is a tendency away from property taxation, it's because property is paying the entire burden that it can bear. By what manner of logic, then, are we to assume that you can take off any restriction whatsoever on property taxation? It just doesn't make sense. I submit that if you take away any limitation whatsoever on property taxation, property is one of the easiest things that there is to tax. The removal of owner control by vote will lead to sure and certain spending authorized by voters who think they do not pay, even if they do.

The educational plant is already provided by property owners. Let those who provide the problem begin to think about providing some of the money for operating instead of going to the property owners for their increased costs of operation at every turn. I have long felt that the theory of a free education was fine, but I also feel that government tax programs, which in effect stimulate the population explosion, are basically wrong. We must have responsibility in this country. It's about time we start thinking about it.

Many might think that my argument is far afield, but I say that we are here concerned with fundamental law and that therefore we must be concerned with fundamental principles. And I say that property ownership without excessive taxation, taxation which is confiscatory, has got to be changed. And if you vote for this amendment, as you did for the previous one, you're asking for some very serious consequences in this country in the future.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman, just a brief comment in support of the amendment which Mr. King and others have introduced. I don't think it's exclusively a question of idealism and I don't think it's exclusively a question of pragmatism or practicality. I think it's an indication of both here. You have a principle with regard to the right to vote, free from property qualifications. You also have a duty and responsibility to share the cost of all the community services. With the creation of the right to vote, there is also the duty to have responsibility. And those who may look upon a favorable vote for this particular measure, in my judgment, are not seeking a free ride on the backs of those who have toiled and sweated, as Mr. Knirk has so eloquently said. Rather, it is a new stage which we have reached in our state and our nation, where all people are assuming more responsibility taxwise for governmental services in the metropolitan community of Detroit. The most pressing question today is the tax question and the financing of government. And there is discussion of local income taxes and payroll taxes. So that I submit that there is a principle here with the regard to vote, free from property qualifications. There also is a corresponding and competent duty on the part of people to shoulder responsibility for new needs and for the higher costs that these new needs entail.

I think that an affirmative vote for this amendment would constitute, to Mr. Knirk and all those who are like minded, a most effective argument—the most effective argument they have—for the distribution and diffusion of the tax base. I think it is short sighted to suggest that this means exclusively additional burdens on the property owner. On the contrary, it becomes an argument just in reverse, for the diffusion of tax. And maybe it will be, in the disposition of Mr. Young, an enhancement of the regressive character of our tax structure, and I fear that that may happen. But I do think that with that happening, there is also an increased understanding, an enhanced consciousness of the fact that all people, regardless of what ladder rung they are on in the economic scale, have the duty to shoulder the responsibility for meeting the kinds of needs necessary to insure the survival of this country in a world of crisis.

CHAIRMAN MARTIN: The question is on the King-Austin-Nord-Norris amendment. The yeas and nays have been requested. This is a record roll call vote. The secretary will ring the bell. Those in favor will vote aye. Those opposed will vote no. The question is on the King-Austin-Nord-Norris amendment. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—40

Andrus, Miss
Balcer
Barthwell
Bledsoe
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Kelsey
King
Lesinski
Liberato
Madar
Mahinske
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Pollock
Rajkovich
Richards, L. W.
Sablich
Tubbs
Walker
Young
Youngblood

Nays—70

Allen
Anspach
Batchelor
Hatch
Heideman
Higgs
Richards, J. B.
Romney
Rush

Beaman
Bentley
Bonisteel
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Habermehl
Hanna, W. F.
Haskill
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
McAllister
McLogan
Millard
Page
Perras
Powell
Prettie
Pugsley
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Wanger
White
Wilkowski
Wood
Yeager

SECRETARY CHASE: On the amendment to strike out section f, the yeas are 40; the nays are 70.

CHAIRMAN MARTIN: The amendment is not adopted. Are there any further amendments to the section, Mr. Secretary?

SECRETARY CHASE: Not to this section, Mr. Chairman.

CHAIRMAN MARTIN: Section f is agreed to as amended. The secretary will read the next section.

SECRETARY CHASE: Section g:

[Section g was read by the secretary. For text, see above, page 2213.]

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: In behalf of the committee, I will give just a very brief explanation of this section.

[The comment on section g of the supporting reasons was read by Mr. Pollock. For text, see above, page 2215.]

I am informed that Mr. Garry Brown has a perfecting amendment which he will offer which takes care of some judicial interpretation which apparently still beclouds the issue.

I conclude by saying that the continuance of the institution of the popular recall seems to us to be highly desirable. This, in a sense, is a broom in the closet which can be taken out and used. It has not been used too frequently in Michigan, but its use at any rate is justified in many cases and the committee recommends its continuance in our constitution. That's all the committee has to say, Mr. Chairman.

CHAIRMAN MARTIN: Mr. Brown has an amendment. The secretary is going to read the amendment.

SECRETARY CHASE: Mr. Garry Brown offers the following amendment:

1. Amend page 2, line 24, after "petition of" by striking out the balance of the section and inserting "electors comparable in number to 25 per cent of the number of electors voting at the preceding election for the office of governor in the electoral district of the officer sought to be recalled. Any statement of reasons or grounds procedurally required shall be deemed to pose a political rather than a judicial question.".

CHAIRMAN MARTIN: Mr. Brown.

MR. G. E. BROWN: Mr. Chairman, in view of the words of Dr. Pollock, I'll be as brief as possible. I discussed this matter with Dr. Pollock and did appear before the committee with respect to the amendment, the substance of which is currently before you. The amendment is divided into 2 parts, really. The first is of a procedural nature, where the language is changed to say that the petitions shall be signed by electors comparable in number to 25 per cent of the number of electors who vote at the preceding election for the office of governor. This is necessitated, I believe, by the fact that the legislature has in effect violated the constitutional provision in a statute which has been adopted and which is presently on the books with respect to fractional school districts. Fractional school district lines oftentimes cut across precinct lines and there is no way to determine the number of votes cast for governor in the preceding election. So in this case, the legislature adopted the language that provides in effect that the number of signers on petitions for recall in a fractional school district shall be 25 per centum of the taxpaying electors of the district. This was felt to be comparable in number to 25 per cent of the people who vote for governor in the preceding election and is an effective way to have the number of signatures required for the petitions. So when we say "comparable in number," this would give the legislature constitutional authority to provide the flexibility in an impossible situation that is the present case. So this merely is to comply with what the legislature has already done but gives it constitutional authority in effect.

The second aspect of the amendment is substantive in nature. In order to understand this—and I think that each of us should because it basically is a policy determination by this convention to clearly set forth what is intended by recall—we should go back into history a little bit to see how this developed. First of all, we had the language as it presently is written in the constitution, which provided for and required legislative implementation. On the basis of this constitutional provision, legislation was passed, which said in part that petitions for recall—and I am, in substance, quoting—shall be printed or typewritten and shall clearly state the reason or reasons for the demand for recall. Following the enactment of this statute, cases were brought before the Michigan supreme court, starting back about 1924, and the supreme court of the state of Michigan, by what I prefer to refer to as judicial legislation, interpreted the statute to mean that the reasons required by the statute must be such that if true, they would constitute misfeasance, malfeasance and nonfeasance in office. This is the case of Newberg vs. Donnelly. These words, you will recall, have been put into either constitutional or statutory language insofar as the removal of officers is concerned where cause is a factor. Recall in the contemplation of the proponents of the initiative, the referendum and the recall as being those 3 basic rights of the electorate, never contemplated that cause would be a factor in recall, but it would be in removal, of course. This was the rule. This requirement of the reasons stated in the petitions to constitute misfeasance, malfeasance or nonfeasance, that was the rule from approximately 1926 to 1960. In the case of Wallace vs. Tripp, which was decided in 1960, the Michigan supreme court, reviewing the constitutional right of the Michigan supreme court to do what it had done back in Newberg vs. Donnelly, correctly determined that cause was an element of removal proceedings, but not of recall.

As I have said, like the initiative and the referendum, this is the right of the electorate to, first of all, initiate legislation without giving reasons, to review legislation without giving reasons, and to recall elective officers without giving reasons. By the court interpretation, it meant that at any time petitions for recall of an officer were filed with the appropriate officials, that then by an action of mandamus or by a writ of injunction, or petition for a writ of injunction, that the sufficiency of the reasons stated in the petitions could be the subject of judicial inquiry and any recall proceedings could be nullified and stopped at that point if the court determined that the reasons were not sufficient. If you are familiar with the procedure for recall, those proponents of the recall must circulate petitions, acquire the necessary number of signatures, file them with the appropriate official; the election is called, and then at this point is when the injunction or the mandamus proceedings are usually started to test the sufficiency of the reasons. After this, of course, there would be an election to determine whether or not the office should be declared vacant and a new election held for the filling of the vacancy.

Now, if we agree—and I think this committee should agree—that recall is a political question rather than a judicial question and that cause is not a feature of it or a factor or an element of it, it is necessary that we clarify the present language of the constitution. This is done by the amendment in the last sentence, and only the last sentence is additional language to the basic provision in the 1908 constitution, that sentence being, "Any statement of reasons or grounds procedurally required shall be deemed to pose a political rather than a judicial question."

Many of you will ask, "Why is it necessary to put this in?" I don't think that we can say that the legislature can do this because, of course, we have had this same language for many years and this was never completely clarified by the legislature, and through court interpretation over a 30 year period it has been in a state of flux, and finally determined for 26 years, approximately, as having an entirely different basis than it has now, otherwise previously having the element of cause in it.

The decision which has established the law, as I contemplate it should be, and as I trust the members of this committee consider it should be, was decided by a divided court, a 4 to 3 decision. I think that the followers of the dissenting opinion in this case, of course, were basing it upon the decisions of the court in previous years, where the constitutional question really had never been raised. In fact, that was an element that the court first had to decide. I think it clearly is a matter of substance that needs to be put in the constitution because it defines the policy of recall.

I would just like to mention to you very briefly some of the wording of the court in this decision because it encompasses the whole idea of recall as it has been understood not only in this state, but in other states. One of the leading cases in the country which has dealt with the question of recall is the case of Dunham vs. Artery. It's an Oklahoma case but has been followed and has been relied upon in many of the other decisions in other courts. And I quote:

> We understand that the principle underlying the recall of public officers means that the people may have an effective and speedy remedy to remove an official who is not giving satisfaction—one who they do not want to continue in office, regardless of whether or not he is discharging his full duty to the best of his ability and as his conscience dictates. If the policies pursued do not meet the approval of a majority of the people, it is the underlying principle of the recall doctrine to permit them to expeditiously recall the official, without form or ceremony, except as provided for in the charter.

Justice Edwards, speaking for the majority of the court—and for those lawyers here who are interested in the majority of the court, since I think you will not find this majority on any other case; at least, I have not seen it yet, the 4 members of the majority court who decided this case were Justice Edwards, Justice Talbot Smith, Justice Dethmers and Justice Carr—Justice Edwards, speaking for the majority of the court, said:

> The basic power is held by the people in both our nation and our state. Our state constitution as presently drawn places much confidence in the proper functioning of an intelligent and informed electorate. The recall provision is illustrative of that confidence. We feel bound to uphold its provisions against the aberration contained in the Newberg case and subsequently followed in the cases cited.

Many have said that, with respect to recall, this may lead to vexatious or spurious recall attempts. This has not been the history of the recall provision as it has been found in other states, nor has it been the fact in Michigan since the deciding of this case.

The requiring of signatures, the burden that is placed upon the proponents of a recall movement, to recall an officer and call an election for that purpose; the burden of getting the signatures and getting people to sign for this purpose has proved to be a very adequate deterrent to any vexatious or spurious recall movements. So I would therefore urge that the present amendment be put into the constitution as a declaration of policy, which is the judicial interpretation of this state at the present time. Thank you.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I personally consider this a perfecting amendment, and although it hasn't been possible to consult all the members of the committee, if any of the members of the committee object to this amendment, I wish they would now say so.

CHAIRMAN MARTIN: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, if I may, I'd like to ask a question of brother Garry. Under the proposed amendment here, as I understand it from your explanation, it would be possible in an assumed case to have an elected public official, say a member of normally a minority party who won election by a close margin in a certain area, who thereafter was the subject of petitions signed by 25 per cent of, roughly, the people that voted in that total election in which he was elected, submit these petitions without reason as to whether he is good, bad or indifferent, or without allegation of malfeasance, nonfeasance or misfeasance, and therefore have held a general election, at which time 51 per cent of the people voting in that particular election could declare this office vacant. Is that the actual net effect of your amendment?

CHAIRMAN MARTIN: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, Mr. Brown, the net effect of the amendment is that this could happen. There could be a movement for recall of an officer because they don't like the way he parts his hair. As a practical matter, this may be done. As a technical matter, of course, the petitioning does not recall the officer. The petitioning merely says that there shall be an election called to determine whether or not the office shall be declared vacant. But let me remind you that there is no vested right in the office to which a person has been elected. This has never been the situation in this state and it has never been contemplated that there was any vested right in an office. It is not a matter of contract merely because you've been elected to that office. I'd like to quote further from the case, in further answer to Mr. Brown's question, because this is one that is oftentimes raised, and I quote:

> It has been argued that absurd reasons may be stated in the petition, and that an officer may be called upon to defend his position against frivolous attacks. Doubtless the provisions requiring 30 per cent—

or in this case, 25 per cent—

> of the electors to sign the petition before the council are compelled to act was designed to avoid such a contingency. The legislature apparently assumed that nearly 1/3 of the electorate would not entail upon the taxpayers the cost of an election, unless the charges made approved themselves to their understanding and they were seriously dissatisfied with the services of the incumbent of the office.

The petitioning, once again, is for the calling of the election. The petitioning itself does not result in the office being declared vacant. I trust that that answers your question, Mr. Brown.

CHAIRMAN MARTIN: Mr. Brown.

MR. T. S. BROWN: Then, Mr. Chairman and fellow delegates, with some degree of hesitancy, because I am not well versed in this particular matter, it would seem to me that I should oppose this amendment because of the fact that historically we have always provided a juxtaposition in elections as between 2 conflicting personalities and 2 conflicting ideologies and such, and that if there were no proper reason given, mal-, mis-, or nonfeasance, in the execution of an elected official's duty, it would seem to me the most logical thing to do would be to wait the required number of years and have this particular rascal thrown out in the classic American style.

I can see—let's say for instance, I can think of 2 or 3 local elected officials in my area whom I would just as soon see thrown out but I must of necessity wait until the next election to do this. If this were adopted, it would seem to me actually that we would get into the frivolous type of election in those specific areas where you might have an unusual election in which an unusual candidate were elected from a party which does not usually elect candidates in that particular district.

CHAIRMAN MARTIN: Mr. Allen.

MR. ALLEN: Could I ask that the question be divided?

I think that there is general agreement on the first sentence and some dispute on the second.

CHAIRMAN MARTIN: You mean on Mr. Brown's addition?

MR. ALLEN: On Mr. Brown's addition. It's in 2 sentences.

CHAIRMAN MARTIN: The question will be divided. Mr. Brown.

MR. G. E. BROWN: Mr. Chairman, I believe that an amendment that strikes and inserts is not divisible.

CHAIRMAN MARTIN: The Chair will have to sustain your point, Mr. Brown. You are correct.

MR. G. E. BROWN: Mr. Chairman, ladies and gentlemen of the committee, I think that red herrings are being thrown into this matter. As I say, the present judicial interpretation is as this section reads. It is a correct judicial interpretation. However, there has been this lack of complete unanimity among the courts as to what the language, as it originally was, means. And I think that since we have determined that this is the law today in this state and this is the way the law should be, I think that any person that isn't willing and doesn't have reasons for what he does in political office, even if it's only a matter of policy, that if he can't give reasons, if there isn't any justification for his actions, that whether or not this constitution — misfeasance, malfeasance or nonfeasance should preclude the electorate from having an opportunity to recall him.

Now, as a practical matter, when you subject this to judicial review, you nullify the effect of recall. In the first place, if you say that the reasons stated in the petitions constitute misfeasance, malfeasance or nonfeasance, it is true, the court does not decide the truth of these allegations. This is the difference between removal and recall as far as the court has previously interpreted it. But as a practical matter, these reasons must be true or the proponents of such petitions and the movers of such recall movements must be subject to a libel and slander action if these reasons are not true. So in effect, you have recall adopting all of the substance and the removal aspect of removal, and recall was never intended to be this. Recall was intended to be and should be the right of the electorate to recall an officer without giving reasons for the recall except to inform the electorate in connection with their voting as to whether or not this officer should be recalled.

The red herrings that are thrown into the matter, I think, are completely out of order. I think it hasn't been true. Anyone that can document this, that there have been vexatious or spurious recall actions where misfeasance, malfeasance or nonfeasance were not required might have a point. But I challenge them to be able to sustain such a position.

CHAIRMAN MARTIN: The secretary advises that he has an amendment to this amendment.

SECRETARY CHASE: Mr. Faxon offers this amendment to the amendment:

1. Amend the amendment by striking out all of the last sentence, which reads, "Any statement of reasons or grounds procedurally required shall be deemed to pose a political rather than a judicial question."

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: This would, in effect, do what one of the previous delegates had requested, that the question ought to be divided. Each of the sentences embraces 2 separate ideas and I may feel sympathetic with one and less sympathetic with the other. I, for one, do not feel that the second sentence is a necessary matter to be put into the constitution and would urge that the amendment be accepted.

CHAIRMAN MARTIN: The question is on the Faxon amendment. I'm sorry. Mrs. Judd had asked to be recognized. Mrs. Judd. Speaking on the Faxon amendment, Mrs. Judd?

MRS. JUDD: Yes. It was that portion of the amendment to which I wish to speak. I had some experience with recall, as Mr. Goebel grinningly recognizes. In fact, I think I was party to a suit in the supreme court on the question back in 1949. As I understand it, the court at that time was in the position of having to state or determine that the charges on the petition, if true, would constitute malfeasance, misfeasance and so on; in other words, valid reasons for such a recall. One would get the feeling in reading the decision that this put the court in a very difficult position of having almost to decide what is in fact a political question. In fact, I remember that we all felt the decision was one of great victory politically for us.

I would like to say also, agreeing with Mr. Brown, that the need to resort to the courts does in fact nullify the whole purpose of recall unless you are fortunate, as we were in that particular case. It happened to be at a time when the supreme court was about to adjourn, and the case, of course, is always brought by the official against whom the recall is started. He goes to court for the exact purpose of delaying the recall until public opinion has cooled off. In this case, we were almost going to be up against waiting from May until October for the next session of the supreme court, but we happened to have some very brilliant lawyers on our side and they persuaded the supreme court at the last minute in June to intervene, and so we did get a decision in time to make an effective move, which didn't happen to result in recall because the official in question resigned when the supreme court decision came down. But I have read many of the cases in the history of recall throughout the country throughout the years in connection with this experience, and I think that Mr. Brown has hit upon a very important point, that the need to go to court does delay and therefore nullifies the purpose of recall.

CHAIRMAN MARTIN: Dr. Nord.

MR. NORD: Mr. Chairman, I gather that we are now dealing with the Faxon amendment which would strike the last sentence and I rise to support that amendment for this reason: I believe that whatever objective is sought to be achieved —and I believe there is a good objective—could be achieved without the disadvantages of this sentence, which I believe are quite big. I can't recall any place in the constitution offhand, either in this one or any other constitution, where we have a provision of this type that a certain question of law shall not be a judicial question but shall be a political question. I believe that stating that something or other is the law, but there is no way to test it, is not the right way to go about this matter. If it is a question of delay, I think all these other means could be worked out. For example, it could be provided that no judicial review shall abate the recall proceeding, but that if it is found later on that there is something wrong with the proceedings, that even if the man was voted out of office, he still is in office. Something like that can be done. But to put into the constitution a provision that something which is a law can just be violated with impunity seems to me to be inviting a terrifically bad precedent.

The whole question of what is a political question really is always a judicial question anyway. They must decide that they are not equipped to cope with a certain problem. If you decide that for them, it wouldn't surprise me as a matter of fact if they would conclude that you were wrong, that it is a judicial question. In fact, it seems to me they have done that recently in a different situation. Basically, what a political question is boils down to the kind of situation which the court feels like ducking—it feels like ducking and when it stops feeling like ducking, then it says it is not a political question. As a matter of fact, I believe that if you want to absolutely preclude the court from any judicial review at all, you have to say point blank not that it's a political question, but that it is not subject to judicial review. I think that whatever the object of this sentence is it doesn't do it, but worse than that, it puts into the constitution a statement that courts are supposed to duck something, even though they're sure that what's going on is wrong. I feel that this is a very bad precedent and something instead of that last sentence ought to be inserted.

CHAIRMAN MARTIN: Mr. Goebel.

MR. GOEBEL: Mr. Chairman and members of the committee, for the reasons that were ably stated by Mrs. Judd, I think it is very imperative that we retain the last sentence in this amendment. If we do not, as she says, the whole process of recall is nullified and I therefore urge the defeat of the Faxon amendment.

CHAIRMAN MARTIN: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee and Dr. Nord, you stated you do not believe it is correct that we should put into the constitution a judicial interpretation; that you know of no others like this. I would only point out to you that only 2 other areas comparable to this one, the matter of recall, are the matters of the initiative and the referendum. You will recollect that the provisions relative to the initiative and the referendum are specifically and expressly detailed in the constitution so that the question of cause could not come up because, very conceivably, if they were not, people who wanted to initiate legislation as a popular movement would have to give reasons for the initiating of such legislation. And with respect to the rejecting of legislation on the referendum, they would have to give reasons why this legislation should be rejected and this would be subject to judicial review. I am certain that this is not what you contemplate with respect to the initiative and the referendum and it shouldn't be contemplated with respect to recall.

I would also like to point out that the Comparative Analysis that many of you may be relying upon that dealt with this subject that was furnished to you, the 2 volume work annotating the judicial decisions and so on, included the last case that Mrs. Judd and Mr. Goebel were talking about; in other words, the case of Amberg vs. Welsh but it didn't cover the case of Wallace vs. Tripp, which was a more recent case and which is the case which has decided the question for Michigan on this subject. So maybe some of you have gotten a mistaken interpretation because the Comparative Analysis that you have read with respect to this question does not show the judicial interpretation that is presently the law of Michigan.

CHAIRMAN MARTIN: Mr. Millard.

MR. MILLARD: Mr. Chairman and members of the committee, during my experience, I've happened to be on both sides of this recall question and I have seen some very spurious recall petitions and I think we're opening the door to a lot of questionable tactics on the part of people. Maybe they're a little more honest in their political relations in Grand Rapids than they are in my community. But I have seen a lot of spurious recall petitions and I'm for the Faxon amendment to strike this out.

CHAIRMAN MARTIN: The question is on the Faxon amendment. Mr. Brown.

MR. G. E. BROWN: A question of Mr. Millard, Mr. Chairman, if I may: how many elections have been held, to your knowledge, Mr. Millard, based on spurious reasons or which were vexatious in nature?

CHAIRMAN MARTIN: Mr. Millard.

MR. MILLARD: I can't answer the number but I know of several that have been thrown out by the court because they didn't think there were sufficient grounds.

CHAIRMAN MARTIN: The question is on the Faxon amendment.

MR. FAXON: Division.

CHAIRMAN MARTIN: A division has been requested. Is the demand supported? Sufficient number up. All those in favor will vote aye. Those opposed will vote nay. The question is on the Faxon amendment to strike the last sentence of the committee-Brown amendment. Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. NORRIS: I think there is confusion, Mr. Chairman, with regard to what a vote yes and a vote no means on this.

CHAIRMAN MARTIN: A vote yes is to strike the last sentence. A vote no is to retain the last sentence. You may change your vote when the vote has been recorded here and before the secretary announces it.

SECRETARY CHASE: On the adoption of the Faxon amendment to strike out the last sentence of the amendment proposed by Mr. Garry Brown, the yeas are 46; the nays are 55.

CHAIRMAN MARTIN: The amendment is not adopted. The question is now on the original amendment. The secretary will read the amendment.

SECRETARY CHASE: Garry Brown has offered the following amendment to section g:

[The amendment was again read by the secretary. For text, see above, page 2263.]

CHAIRMAN MARTIN: The question is on the amendment. All those in favor will signify by saying aye. Opposed, say nay.

The amendment is adopted.

DELEGATES: Division.

CHAIRMAN MARTIN: Division is requested. Is the demand supported?

MR. G. E. BROWN: The yeas and nays, Mr. Chairman.

CHAIRMAN MARTIN: The yeas and nays are requested. Is the demand supported? Sufficient number up. This is a record roll call vote. The question is on the committee amendment.

MR. MADAR: Mr. Chairman, I ask that the board be cleared. There were several votes on there before—

CHAIRMAN MARTIN: The board will be cleared.

MR. POLLOCK: Mr. Chairman, the question is not on the committee amendment. It is the Brown amendment to the committee proposal.

CHAIRMAN MARTIN: Mr. Secretary, the Chair understood that had been accepted as a part of the committee proposal. Dr. Pollock, you did not accept this as a part of your proposal?

MR. POLLOCK: That's right. I said we had no objection to this amendment.

CHAIRMAN MARTIN: The Chair is not sure whether this was accepted as a part of your proposal or whether this is a separate amendment to your proposal.

MR. POLLOCK: I did not accept it as a part of the committee's proposal. I said we had no objection to this.

CHAIRMAN MARTIN: Then the question is on the Brown amendment to the committee proposal. Mr. T. S. Brown.

MR. T. S. BROWN: Matter of inquiry. If you were to vote no on the Brown amendment, you would still have an opportunity to vote yes then on the committee proposal, were the Brown amendment to fail?

CHAIRMAN MARTIN: That's correct. The question is on the Brown amendment. Mr. Norris.

MR. NORRIS: Mr. Chairman, if I may, I should like to add just one observation: I respectfully want to pay my debt to Mr. Brown for the reasons that he advanced with regard to this and the research and study that he displayed with regard to it, but I think that closer inspection of this particular matter might indicate that it raises more problems constitutional, statutory and pragmatic than would justify its insertion in the constitution. I would respectfully urge that you vote no on this amendment.

CHAIRMAN MARTIN: Mr. Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I would only suggest to Dr. Norris that maybe closer inspection by him of the inspection that he has already done would prove that it's advisable to have this in the constitution.

CHAIRMAN MARTIN: The question is on the Brown amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—62

Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Douglas
Durst
Everett
Farnsworth
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Hoxie
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Plank
Pollock
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Romney
Rush
Shaffer
Sharpe
Spitler
Stafseth
Staiger
Sterrett
Stevens
Tubbs

Figy
Follo
Goebel
Gust
McAllister
McLogan
Page
Perras
Turner
Upton
Yeager

Nays—45

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Bledsoe
Bonisteel
Brown, T. S.
Buback
Dade
Doty, Dean
Elliott, Mrs. Daisy
Faxon
Finch
Garvin
Greene
Hart, Miss
Hood
Hubbs
Hutchinson
Jones
Krolikowski
Lesinski
Liberato
Madar
McGowan, Miss
Millard
Murphy
Nord
Norris
Pellow
Perlich
Sablich
Seyferth
Shanahan
Snyder
Stopczynski
Thomson
Tweedie
Walker
Wanger
White
Wilkowski
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Garry Brown, the yeas are 62; the nays are 45.

CHAIRMAN MARTIN: The amendment is adopted. Are there any further amendments?

SECRETARY CHASE: No further amendments to section g, Mr. Chairman.

CHAIRMAN MARTIN: So the section will be agreed to. Section g is agreed to as amended.

SECRETARY CHASE: Section h.

[Section h was read by the secretary. For text, see above, page 2213.]

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: This is the final section of article III, the committee proposal. I will call on Mr. Leppien to present it.

MR. LEPPIEN: Mr. Chairman and fellow delegates, section h has to do with the state board of canvassers established by a constitutional amendment as a result of a joint resolution in the legislature in 1955. Before we proceed, maybe the secretary should read that, or have you read it?

CHAIRMAN MARTIN: The section has just been read.

MR. LEPPIEN: Okay. The section that we are presently considering is found in Journal 69 and the comments are found on page 413.

[The comment on section h of the supporting reasons was read by Mr. Leppien. For text, see above, page 2215.]

The one thing that we had in the committee was testimony from the director of elections, Mr. Montgomery, and his associates in that field, that the work of the present state board of canvassers was such that it was something that we should retain in the constitution, although, of course, we realized too that it is somewhat legislative in character. On the other hand, back in '55 when the legislature in its wisdom submitted this question to the people, it was approved by a vast vote, and those of us who have had to work with the state board of canvassers dealing with a statewide recount certainly know from experience that this is a very wise and able piece of legislation that should be retained in the constitution.

CHAIRMAN MARTIN: The secretary has an amendment, which the Chair will ask him to read.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 2, line 27, by striking out all of section h.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I offer this amendment to strike section h because it does not appear to me to be necessary to create a state board of canvassers in our constitution. We don't feel it necessary to create local boards of canvassers by the constitution. We are entirely satisfied to let the legislature provide for the creation of county boards of canvassers by statute. And as a matter of fact, section h is not self executing. I know quite a little bit about section h because I'm the author of it. The language that is now in the constitution of Michigan, I drafted. The constitutional joint resolution back in 1955, when I was a member of the senate, quite like lots of things which the legislature undertakes to do, was very statutory in phraseology. It was filled with detail. My recollection of the joint resolution as it came to the senate floor was that it required a couple or 3 pages in bill form and it set forth all the duties of the board and all that sort of thing, and in the end, this section h as you have it before you, was adopted by the legislature, submitted to the people and adopted by them. Now there wasn't any real reason, even back in 1955, for the constitutional creation of a board of canvassers except for the fact that we already had a constitutional state board of canvassers. It was an ex officio board. It was made up of the secretary of state, the state treasurer and the superintendent of public instruction. Since we already had a state board of canvassers in the constitution, it occurred to the legislature it would be quite unreasonable and unlikely that we could simply recommend to the people that that board of canvassers be abolished. So we had to submit a positive statement in the constitution to take care of the positive statement that was already there.

But fellow delegates, you and I are not in that position. We are writing a new constitution and there isn't any reason for a constitutional reference to a state board of canvassers. If you are honestly looking for opportunities here to remove from the constitution boards and commissions which need not have constitutional reference, then this is one of them. I say again, nobody is shocked at the idea that the legislature may by statute and without any constitutional direction create county boards of canvassers. It follows that the legislature will create by statute state boards of canvassers, and as a matter of fact, there wouldn't be any state board of canvassers even today if it were not for a statute, because the present language of the present constitution says that a board of state canvassers consisting of 4 members shall be established by law. And so the existence of the board is dependent upon that law.

The reason for the present provision is, as I said, merely an accident of history whereby the legislature had to find some words to supersede what everybody agreed was no longer a satisfactory arrangement so far as the state board of canvassers is concerned, that ex officio board. And if it had not been a constitutional board back in 1955, if the constitution had been silent in 1955, and if the state board of canvassers had rested entirely upon the creation of a legislative act back in those days, the legislature could have changed the situation simply by amending the law and it would have been unnecessary to go to the people at all.

I submit to you that for those reasons, it would be an improvement, from the standpoint of constitutional structure, to remove from this constitution the state board of canvassers, just as you have seen fit to remove the state board of escheats and so on.

MR. MADAR: Mr. Chairman.

CHAIRMAN MARTIN: Mr. Madar.

MR. MADAR: Mr. Chairman, fellow delegates, I am sort of reminded of the time when I happened to head a civic organization in which I thought we ought to make the rules and regulations just as stringent as we possibly could, and we wanted the best of everything in there. Included in there, one of the bylaws, was that no officer could run for political office without resigning from the organization. Mr. Hutchinson reminds me of that today very much.

I remember very well when they established the board of canvassers, and I think it was a very good thing. I still think so today. Maybe the thought just doesn't work out quite so well for Mr. Hutchinson today as it did at that time, just the same as that particular bylaw didn't work out so well for me later on because I wanted to run for political office and I thought how nice it would have been had I been able to remain an officer. Of course, Mr. Hutchinson wasn't a member of the board of canvassers. But there are other very good reasons why it wouldn't be the best thing to have a board of canvassers such as we have today. I believe that we ought to continue with this board of canvassers. It's one of the finest things that I believe Mr. Hutchinson has ever done or ever will do. (laughter)

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I would like merely to say a word in reply to Mr. Hutchinson. This matter, of course, was reviewed by the committee and, as Mr. Leppien indicated, the judgment of the committee was that this is an institution which is working very satisfactorily and we saw no reason to change it. It is an institution, a commission, which is at a very sensitive point in our election machinery and, although theoretically I agree with Delegate Hutchinson, practically, it seems to me safer and better to retain an institution that is working satisfactorily than to remove it from the constitution.

CHAIRMAN MARTIN: Mr. Faxon.

MR. FAXON: Mr. Chairman, I'd like to call for the yeas and nays.

CHAIRMAN MARTIN: The yeas and nays have been requested. Is the demand supported? Sufficient number. Mr. Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I rise in opposition to the amendment. I think the argument is well made that normally matters of detail should not be in the constitution, but I consider this an important part of the concept of purity of elections and, as pointed out by the proponent of the amendment, that prior to this language certain members of the then ad board were ex officio members of the state board of canvassers doing a final election procedure. There was perhaps a question in people's minds, when they were all of one party or the other—that this system we now have of assuring that the board of canvassers shall be bipartisan is, in my judgment, something that contributes to the purity of elections and should be maintained in the constitution. I think the other provision giving the legislature the right to set up details of all functions is also very proper and, as Dr. Pollock has said, this system is working satisfactorily. People are pleased with it. And I therefore urge its retention and a no vote on the amendment.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman, ladies and gentlemen of the committee, I rise to oppose the amendment. One of the reasons that this state board of canvassers was created was because the county clerks association and the municipal clerks association got together and urged its inclusion in the constitution. At the time we had 2 recounts back in 1950 and 1952 on a statewide basis. The secretary of state was a member of the board of canvassers and actually was counting his own votes and we thought, at that time, is wasn't proper and we urged at that time that it be included in the constitution. And that's why the legislature was asked to put this on the ballot and the people spoke when they voted to have this in the constitution. It is working very well. There is no objection from any quarter that I know of. And I would urge you to oppose this amendment.

CHAIRMAN MARTIN: The question is on the Hutchinson amendment. It is a record roll call vote. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—23

Blandford
Brake
Brown, G. E.
Danhof
Dehnke
Erickson
Everett
Farnsworth
Figy
Finch
Hanna, W. F.
Higgs
Hutchinson
McAllister
Powell
Pugsley
Rush
Seyferth
Sharpe
Staiger
Tweedie
Upton
Yeager

Nays—82

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Bonisteel
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Dell
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Goebel
Greene
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hood
Hoxie
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
McGowan, Miss
McLogan
Millard
Murphy
Nord
Norris
Page
Pellow
Perlich
Perras
Plank
Pollock
Prettie
Rajkovich
Richards, J. B.
Richards, L. W.
Shaffer
Shanahan
Snyder
Spitler
Stafseth
Stevens
Stopczynski
Tubbs
Turner
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young

SECRETARY CHASE: On the adoption of the amendment to strike out section h, the yeas are 23; the nays are 82.

CHAIRMAN MARTIN: The amendment is not adopted. Are there any other amendments to the section, Mr. Secretary? Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I am having another amendment prepared. I am convinced now of the wisdom of having the principle of a board of canvassers in the constitution; I agree to the soundness of providing that no candidate for an office to be canvassed by a board of canvassers should be eligible to sit upon that board; I think we should also provide that the majority of any board of canvassers should not be members of the same political party, and these things should be written into the constitution in order to cover all canvassing boards, whether they be local or county or state.

I think that section h, as it stands, is applicable only to the state board of canvassers while these principles are equally applicable to local elections, equally applicable to county elections. So I think those principles should be written into the constitution. For that reason, I am now offering an amendment to, in a sense, broaden the present provisions of section h to include all boards of canvassers.

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: I'd like to move that the committee rise.

CHAIRMAN MARTIN: Dr. Pollock moves the committee do rise. All those in favor say aye. Opposed, say nay.

The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a more detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 58** pertaining to the elective franchise, it considered several amendments thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, with your permission and that of the convention, I have the honor and privilege of presenting to you 4 distinguished Japanese guests: Professor Takayanagi, who is chairman of the cabinet committee on the constitution; (applause) Mr. Kojima, who is a member of the Japanese Diet; (applause) Professor Tanaka, dean of the law school of Hitotsubashi University of Tokyo; (applause) and Mr. Takeoka, secretary of the constitutional committee. (applause)

PRESIDENT NISBET: Thank you, Dr. Pollock. Our gentlemen guests are very welcome. I had a very delightful visit with them in my office this morning and I assure you that they are having some of the same problems that we are having in their work. They inform me that they have been at it now for almost 4 years. (laughter) They expect to be through next fall. So, to our Michigan delegates: let's not get too worried—I guess. (laughter)

Mr. Chase, do you have some announcements?

SECRETARY CHASE: All of the women delegates are requested to meet in the president's office immediately upon recess this noon.

PRESIDENT NISBET: That's not with the president, incidentally. (laughter)

SECRETARY CHASE: The committee on emerging problems will meet this noon immediately upon recessing, in committee room H on the third floor. Frank G. Millard, chairman. P. S. Bring your lunch. Those are all of the announcements, Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. Woolfenden.

MR. WOOLFENDEN: I move the convention now recess until 1:30 this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. Woolfenden. Those in favor will say aye. Opposed, no. We are recessed until 1:30.

[Whereupon, at 11:45 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move the convention resolve itself into committee of the whole to consider matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no. The motion prevails.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MARTIN: The committee will be in order. The secretary will read.

SECRETARY CHASE: Presently under consideration is **Committee Proposal 58,** pertaining to the elective franchise. The present section under consideration is on page 2, section h, to which Mr. Hutchinson offers the following amendment:

1. Amend page 2, line 27, after "Sec. h.", by striking out the balance of the section and inserting "No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers; nor shall a majority of any board of canvassers be composed of adherents of the same political party.".

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I offer this amendment in the form of a substitute to section h because the committee this morning determined very decisively that there is room in the constitution for some rules relative to boards of canvassers. The trouble with section h as it stands is that it applies only to a state board of canvassers and I can see that the principles, the restrictions, the guides that are written in there are valid ones, that the board of canvassers should not be composed of adherents of a political party; that is, that the 2 major parties, at least, should have equal representation on such a board. I also think it is a sound proposition that a candidate for office should not be eligible to serve as a member of the board of canvassers canvassing the vote at which he is elected. I also believe that it would be a sound proposition to say that an election inspector, one who sits on a board of election inspectors, ought not to, on the day following, sit as a member of the board of canvassers.

Now, these principles we recognize to be sound insofar as the state board of canvassers is concerned. They should be equally sound for a county board of canvassers or a local board of canvassers. Therefore, my present amendment, as a substitute for the present section h, is to extend these principles to all the canvassing activity in the state and not simply to write it so far as the state board is concerned, but to make these same principles apply to county boards and to local boards. For that reason, I would ask the support of the amendment now before you.

SECRETARY CHASE: May the secretary call the attention of the committee of the whole to the fact that after the words "to be canvassed" on the amendment on the wall, Mr. Hutchinson has inserted "nor any inspector of elections," so that the language reads, "No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. . . ."

CHAIRMAN MARTIN: Mr. Madar.

MR. MADAR: Mr. Chairman, fellow delegates, this morning I opposed Mr. Hutchinson on his amendment. This afternoon I'll switch around and certainly support him. I want one thing to be known. I'm proud of our election commission in the city of Detroit. It's been a good many years since we've had any trouble with elections down there since we got rid of the Carmichaels and the Barnetts and a few others. We've done a mighty fine job. Now we don't worry and we won't have to worry with a bipartisan board of canvassers. It's what we like. We also know too, that the majority of the counties outstate are made up mostly of Republicans and I'm glad that Mr. Hutchinson is watching them so closely. I'm heartily in accord with his amendment.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I'll make just a few comments on this latest amendment of Delegate Hutchinson's. The first thing to observe is that his amendment strikes out the first sentence of our proposed section h. You will recall, we just defeated Delegate Hutchinson's amendment to do that. By this amendment, he would abolish the state board of canvassers and apply his language to boards of canvassers everywhere. This strikes me as clearly going into the field of election law and misses the point which the committee tried to establish: that the board of state canvassers is justified in having a constitutional position because it stands at the top of our election administration to be used in that very critical situation when a recount occurs. Then all boards of canvassers are subordinate to the state board of canvassers and it is that situation that is really of great importance to us. I do not deny that the county boards of canvassers are also important at their respective levels. They are already provided for. If not, they can easily be provided for by law, and there is nothing particularly critical about this detail of the election administration.

The whole philosophy behind our reorganization of this entire article is that the legislature shall be responsible for providing all the details of election administration, and the exception we made to it was the state board of canvassers because of its critical and sensitive position in the event of a recount. Mr. Hutchinson's amendment would abolish that state board of canvassers in accomplishing these other objectives. His other objectives, it seems to me, can better be handled by legislation. I trust, therefore, that you will defeat this amendment, as you did the previous one.

CHAIRMAN MARTIN: If the Chair might interrupt the debate, it is appropriate to call attention to the fact that one of our most distinguished and most beloved delegates is back with us today. Judge Mosier is sitting in the rear of the room. (applause)

MR. MOSIER: Mr. Chairman and fellow delegates, it's nice to be back. It's nice to be among friends. While I was away on my enforced absence from this delightful body, I was treated by many fine letters, cards and notes urging my return and hoping for my recovery. And I want to say to you that in a situation in which I found myself, the help of friends is a great morale booster and I think it had a lot to do with the speeding of my recovery. I had one note on a card from Sam Ostrow and among other things, he said, "Come back. All is forgiven." (laughter) I've been away from this convention for so long, I don't know whether Sam speaks for the majority of the delegates or only for 1/3. (laughter) But I accept his invitation, I think given in good faith, and I'm going to try it, and I hope I may make a contribution. Thank you for your welcome. (Standing ovation)

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to answer the remarks of Mr. Pollock in this way: first he points out that my present amendment would strike from the constitution the first sentence of section h which says, "A board of state canvassers consisting of 4 members shall be established by law." That is true. It would strike that language from the constitution. But when he goes on further and says that this would abolish the state board of canvassers, he is mistaken for the reason that the state board of canvassers is now under the present language and will continue to be a board established by law. The only thing is that the board of state canvassers conceivably could consist of some number other than 4. However, it would always have to be bipartisan. ". . . a majority shall not be composed of adherents of the same political party," which in effect establishes and assures that there would be an even number there. Whether it be 4 or 6 might be left to the discretion of the legislature, whereas under the present language there has to be 4, no more and no less.

The good professor also mentions that the committee felt that it was very desirable to establish the state board of canvassers in the constitution because it sits at the pinnacle of the election machinery in the state and that it has an extremely important and critical function when it comes to recount. Now, that power of the state board of canvassers is wholly statutory. There isn't anything in section h which assures that the state board of canvassers shall continue to exercise any power over recounts. And I would invite the attention of the members of this committee of the whole to the fact that this committee of the whole on prior sittings has already stricken section 4 of article XVI of the present constitution, which directs that in cases of tie votes or contested elections, except for members of the legislature, that the recount should be conducted by the state board of canvassers. That has been stricken. We've left that entirely up to the legislature. There isn't any doubt in the world but what the legislature will continue to vest that function in a state board of canvassers created by it, but there isn't any reason in the world why a state board of canvassers as such, has to be created by this constitution.

The canvassing function is certainly an important and essential part of the election procedure, but it isn't a function or a part that is going to be completely done away with or ignored if it isn't mentioned in the constitution. Of course, there has to be a canvassing procedure, and this procedure will be set up in law just as the rest of the election machinery is set up. But I sense from the debate this morning that it is the opinion of the delegates to this convention—and I don't disagree—that there are certain principles with regard to the canvassing function which should be set forth in the constitution. I think that the amendment now before you sets forth those principles. Those are the principles and the guidelines which, if anything needs to be in the constitution, should be there, with regard to the canvassing function.

Now then, if we have these principles in the constitution relative to the canvassing function, the precise machinery the legislature might prescribe for it may vary according to the times, the conditions and the demands of the people. And I just cannot understand why, if the convention is desirous of cutting down these boards and commissions so far as constitutional recognition is concerned, this isn't a good place to start.

CHAIRMAN MARTIN: Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, I think the entire point that has been missed in the discussion as far as Senator Hutchinson is concerned is, we are questioning whether some time in the future we would want more members than 4. All the testimony that we had before the committee, plus the experience of those of this convention who have had experience in this field, indicates that 4 will always be a sufficient number for any time in the future to be the head of the election processes in the area where they serve as canvassing boards.

I am disappointed that Senator Hutchinson doesn't add the first sentence of the committee proposal to his amendment, for then I think the thing would be acceptable in every way, because we, too, agree that the local board of canvassers as well as the county board, should be strengthened, and as a result of that, if we could add the first sentence of the committee proposal to his amendment or his substitute, I think it would be acceptable.

CHAIRMAN MARTIN: Mr. Leppien, are you proposing that as an amendment?

MR. LEPPIEN: If Senator Hutchinson would accept it, I would so propose, Mr. Chairman.

CHAIRMAN MARTIN: Do you care to respond to that, Mr. Hutchinson?

MR. HUTCHINSON: Mr. Chairman, if the members of the committee of the whole desire to adopt an amendment which might be offered to my amendment I cannot, of course, obstruct it. But I would not accept the amendment as such and incorporate it into my own for the reason that I offer this amendment in the belief that this is not a matter that needs to be established by the constitution.

CHAIRMAN MARTIN: Mr. Madar.

MR. MADAR: I would like to be given the time to offer a substitute amendment which would include the first portion of the committee proposal, along with this amendment of Mr. Hutchinson's.

SECRETARY CHASE: Mr. Leppien offers the following substitute amendment for Mr. Hutchinson's amendment:

1. Amend page 2, line 28, after "law.", by striking out the balance of the section and inserting "No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers; nor shall a majority of any board of canvassers be composed of adherents of the same political party.".

CHAIRMAN MARTIN: The question is on Mr. Leppien's amendment. Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, I believe now that we have a provision for insertion in the constitution that will retain the 4 member board on the state level and sufficient guidelines for the balance of the board of canvassers on the county and local level, that will handle the situation for future time.

CHAIRMAN MARTIN: Mr. Buback.

MR. BUBACK: Mr. Chairman, fellow delegates, I rise to support the amendment as substituted by Mr. Leppien. If that is defeated, than I'd be opposed to the amendment of Senator Hutchinson.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to simply invite attention to the fact now that with that first sentence in there, it is possible and not really unlikely that the judicial interpretation of such a section in the constitution might be construed to limit the whole thing only to the state board of canvassers. Since in the first sentence you created a state board of canvassers, it is to be presumed that the sentence that follows that creation would be deemed to have been intended to apply only to the state board of canvassers and thereby you defeat the purpose of the other language.

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I should think that would be a very strange construction. It says "a board of canvassers" and a little later it says "any board of canvassers." How could it apply then to "the state board of canvassers?" There must be some legal logic and mumbojumbo that I don't understand. (laughter)

CHAIRMAN MARTIN: The question is on Mr. Leppien's substitute amendment for the Hutchinson amendment. Those in favor will say aye. Those oposed will say no.

The substitute amendment is adopted.

The secretary has an additional amendment.

SECRETARY CHASE: Mr. Jones offers the following amendment:

1. Amend page 3, line 1, after "party.", by inserting "No person shall be deemed eligible to serve on the county board of canvassers unless approved by the county chairmen of the 2 major political parties.".

CHAIRMAN MARTIN: Mr. Jones.

MR. JONES: Mr. Chairman and fellow delegates, since one of the intents of Mr. Hutchinson's amendment was the creation of county boards of canvassers, I feel that this amendment is necessary for 3 reasons: 1, I feel that this amendment which I have proposed would insure that responsible party people would be placed on the county board of supervisors; 2, it would also guarantee so called independence. They cannot masquerade under a mask or guise of Republicans or Democrats to thereby get themselves placed on the county board of supervisors.

CHAIRMAN MARTIN: You mean supervisors, Mr. Jones?

MR. JONES: I mean board of canvassers. Pardon me. Also, that this amendment would prevent officials that select the county board of canvassers from violating the spirit of Mr. Hutchinson's amendment, which I feel calls for a bipartisan board of canvassers. Now, I use this reason from personal experience. In my own county, which is Ingham, in many of our townships within the county, we have difficulty in getting a bipartisan election board established. Some of our township clerks and supervisors will willingly let Republicans come down and register as Democrats to serve on the board of elections, and I certainly don't feel this is proper. This is why I am urging that the county chairmen of the 2 major political parties in the county be the ones to approve the members of the county board of canvassers. Thank you.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman and ladies and gentlemen, I see some problems with this, particularly in Wayne county, because the so called county committee in Wayne county has no legal status. The organization in Wayne county is by congressional districts. Therefore, under this wording, this really wouldn't mean very much. So I would suggest you either amend it or defeat this amendment.

CHAIRMAN MARTIN: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I'd like to ask Mr. Jones if it is his intent that these 2 county chairmen must concur on each and every appointment. That's the way it seems to read: that the Republican and the Democratic county chairmen both should have to agree, for instance, that Mr. Jones is a Democrat.

CHAIRMAN MARTIN: Mr. Jones.

MR. JONES: Mr. Hutchinson, Mr. Chairman, I would assume that the respective county chairmen would be primarily concerned with their own political party nominees for this post.

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: I would say that the language doesn't say that, and I think Delegate Hutchinson's point is very well taken. The objection of Delegate Yeager also is well taken. It seems to me only to add the point that county chairmen are the ones to really select boards of county canvassers. I am not aware that this is very badly handled now, and if it is by the boards of supervisors this is a matter that can easily be changed by legislation. I don't see any point in putting this in in addition to what has already been put into the constitution. As for myself, I would be opposed to it. If the other members of the committee have an opinion, I wish they would express it.

CHAIRMAN MARTIN: Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I wish to support the principle of the amendment. It might be that style and drafting is another problem: can we find the language? But having participated in several recounts throughout the state, I can say that one of the real concerns of people was to be sure that canvassing boards were in fact bipartisan, and I say this in reference to no political party: that there have been comments made as to how this can best be done.

I believe that the amendment which we just adopted states a principle. The question that does arise from time to time is: how do you know who is a Democrat and who is a Republican? What is the role of the so called independent? I think that if there is some kind of party approval of the person going on the canvassing board, that is about the most practical way to make that party identification.

As I see this language, it does not mean that person would automatically be on, but certainly would need to meet the appropriate qualifications. But this, to my way of thinking, does solve one of the very serious problems. I think Delegate Yeager very properly pointed out that in Wayne county, while we do have chairmen, it's a county with more than one congressional district. I would not object either to that being the congressional district chairman or hope that there will be additional legislation to provide that the county chairmen as now existing in fact be the ones to take the action. I would assume that the county chairmen of the respective parties could jointly submit a panel of names or whatever other mechanism that was provided by law, but it would carry out a true bipartisan concept and it would apply in counties that were predominatly from one party or the other with equal effectiveness.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, as a member of both the election committee and the committee on style and drafting, it seems to me this poses a little bit too much of a problem for style and drafting to change this situation. If anything is to be done about it, certainly you ought to correct this one provision whereby both county chairmen would have to approve all members, and even if you correct that, you still have the problem of what to do in a county like Wayne. I don't believe style and drafting would want to take the responsibility of rewriting this, on the basis that it is too substantive in nature.

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, I would just like to say to Mr. Downs, I'm sorry he wasn't here yesterday because he could have helped us support a closed primary, which would have told you which party was which. (laughter)

CHAIRMAN MARTIN: Mr. Beaman.

MR. BEAMAN: Mr. Chairman and delegates, I personally felt that section h as it came out of the committee was a good one and I'd hate to see anything more added to it which isn't necessary and does not accomplish anything. I therefore would oppose this amendment.

CHAIRMAN MARTIN: The question is on the Jones amendment. Those in favor will say aye. Those opposed will say no.

The amendment is not adopted. Mr. Secretary, do you have additional amendments?

SECRETARY CHASE: There are no more amendments on file, Mr. Chairman.

CHAIRMAN MARTIN: Are there any further amendments to the body of the proposal?

SECRETARY CHASE: None on file.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: I was going to ask that question, whether there were any amendments to the body of the proposal.

CHAIRMAN MARTIN: There being no further amendments to the body of the proposal, it will pass.

Committee Proposal 58, as amended, is passed. We will proceed to the next proposal.

SECRETARY CHASE: Item 1 on the calendar, from the committee on declaration of rights, suffrage and elections, by Mr. Pollock, chairman, **Committee Proposal 45**—

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Could I ask that we take care of Exclusion Report 2041 first?

CHAIRMAN MARTIN: Without objection, it is so ordered.

SECRETARY CHASE: Item 3 on the calendar, from the committee on declaration of rights, suffrage and elections, by Mr. Pollock, chairman, **Exclusion Report 2041,** A report recommending the exclusion of article III, section 1.

Following is Exclusion Report 2041 as read by the secretary, and the reason submitted in support thereof:

The committee on declaration of rights, suffrage and elections recommends that article III, section 1 of the present constitution be excluded from the new constitution.

Mr. Pollock, chairman of the committee on declaration of rights, suffrage and elections, submits the following reason in support of Exclusion Report 2041:

This exclusion report is being prepared because the substance of this language is included in section a of Committee Proposal 58.

MR. POLLOCK: Mr. Chairman, we ask for passage of this exclusion report because the substance of the language is already included in section a, which we have already adopted.

CHAIRMAN MARTIN: Are there any amendments to the exclusion report?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MARTIN: In that event, it will be passed.

Exclusion Report 2041 is passed. The secretary will read the next proposal.

SECRETARY CHASE: From the committee on declaration of rights, suffrage and elections, by Mr. Pollock, chairman, **Committee Proposal 45,** A proposal to guarantee the right of disposition to the owner of real property. Amends article II by adding a new section.

Following is Committee Proposal 45 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. THE RIGHT OF THE OWNER OF REAL PROPERTY TO CONVEY, GRANT, OR DEVISE SAID PROPERTY SHALL BE LIMITED ONLY BY GENERAL LAW. THE LEGISLATURE SHALL NOT DELEGATE THIS POWER.

Mr. Pollock, chairman of the committee on declaration of rights, suffrage and elections, submits the following reasons in support of Committee Proposal 45:

This proposed new section in the declaration of rights is essentially declaratory in character. It creates a specific constitutional guarantee of the long established principle of the common law whereby the individual, subject to the police power of the state, possesses a right to control the disposition of his real property. The committee points out further that the provision is not at odds with the proposed civil rights section already reported to the floor. That section would require statutory enactment to authorize any infringement upon the right of conveyance in pursuance of civil rights guarantees and the present proposed section simply confirms that requirement in specific terms for real property. The prohibition upon legislative delegation of the power to control or limit conveyance means that an administrative decree to that end, otherwise unauthorized by statute, would be in violation of the constitution.

Following is the minority report to Committee Proposal 45 and and the reasons submitted in support thereof:

Messrs. Norris, Dade, Mrs. Hatcher, Messrs. Hodges and Buback, a minority of the committee on declaration of rights, suffrage and elections, submit the following minority report to Committee Proposal 45:

A minority of the committee recommends that Committee Proposal 45 be not adopted.

Messrs. Norris, Dade, Mrs. Hatcher, Messrs. Hodges and Buback, a minority of the committee on declaration of rights, suffrage and elections, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 45:

We oppose Committee Proposal 45 because (1) it is unnecessary as it does not declare or enlarge any right not now amply protected under the due process clause of federal and state constitutions; (2) it creates the risk of harm to existing powers, rights and agencies; and (3) it does not accomplish its purpose.

1. The right stated to be declared in the committee proposal is already stated and declared in the due process clause of both the United States and Michigan constitutions. The fifth and fourteenth amendments of the federal constitution state that "No person shall be deprived of . . . property without due process of law." The 1908 Michigan constitution and the contemplated declaration of rights declare in section 16 that "No person shall be deprived of . . . property without due process of law." The committee proposal is intended to protect the right of private property. This minority report submits that the due process clause does adequately guarantee to protect the right of private property as a natural and fundamental right.

Under the federal and all state constitutions each person has the right to private ownership of private property free of any unreasonable restriction. The state, however, has the inherent "police" power to regulate the use and enjoyment of private property to protect the health, welfare and safety of the public, and when reasonably exercised this power is supreme. The meaning of reasonableness and of due process are matters for judicial construction. If a regulation is unreasonable, it is a deprivation of the right to property without due process of law. If the regulation is reasonable, there is no such deprivation. Similarly the meaning of "general law" under the committee proposal would be a matter of judicial construction. It may be stated that the legal tests to be employed in interpreting "the right of an owner to convey, grant, or devise real property limited only by general law" would probably be the same judicial tests traditionally used in interpreting due process and reasonableness.

A further pertinent inquiry is whether or not an order or decree of a court that affects the conveyancing, granting or devising of property is comprehended within the "general law" of this state. It may well be that the court's power in relation to dower rights, specific performance in real estate transactions or any judicial act in relation to real estate might be adversely affected. If so, the reach of the committee proposal may produce complications not intended by its proponents, and not intended by this convention.

It is submitted therefore, that Committee Proposal 45 does not declare or enlarge any right not now amply protected under the due process clause of federal and state constitutions.

2. Moreover, the sentence, "The legislature shall not delegate this power," presents certain additional problems. One of the problems raised is whether a specific injunction against the delegation of legislative power as to this right suggests that the legislature does have the power to delegate its power in relation to other rights. Under the rule of judicial construction, expressio unius est exclusio alterius, the express mention of one thing implies the exclusion of another. In other words, the exclusion of delegatability in relation to this property right suggests the inclusion of delegatability in relation to other rights in the constitution. Moreover, there is a certain degree of ambiguity both as to the meaning and antecedent of the words delegate and power in the last sentence of the committee proposal. Is it a delegation of power for the legislature to state by general law that the Michigan public service commission shall regulate public utility rates?

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Is it a delegation of power for the legislature by general law to permit municipalities to enact zoning ordinances which effect the conveyancing, granting, or devising of real property? Is it a delegation of power prohibited by this proposal to implement the condemnation procedures by the executive and judicial branches of government? It may be suggested that a whole range of administrative tribunals developed for the purpose of applying expertise to specific technical activities may be placed in jeopardy by the committee proposal.

3. One of the possible purposes of Committee Proposal 45 is to prevent the promulgation of such administrative regulations as rule 9, the rule that declares as unfair the use of the brokerage function to carry out a discriminatory purpose.

It is submitted that whether or not the corporation and securities commission had the power to promulgate rule 9 is precisely one of the questions now being adjudicated by the Ingham county circuit court. If the committee proposal becomes law, precisely the same question would arise as to whether the corporation and securities commission had power under "general law" to promulgate this rule. Under present law or under the committee proposal, whether or not action of the corporation and securities commission was ultra vires, that is, beyond the power conferred upon it by the statute or by "general law," would still have to be decided by the same court using the same judicial tests. Perhaps a better means to accomplish the end sought by the committee proposal would be by appropriate enactments extending the degree of judicial and legislative review of the rules of administrative agencies. In its effort to reach rule 9 and similar rules the committee proposal not only does not accomplish its purpose but creates a grave risk of causing unwarranted harm to a whole structure of agencies set up to protect the public interest.

For the aforesaid reasons, this minority report urges that Committee Proposal 45 be not adopted.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I'll ask the vice chairman, Mr. Harold Stevens, on behalf of the committee, to present this proposal.

CHAIRMAN MARTIN: Mr. Stevens.

MR. G. E. BROWN: Mr. Chairman.

CHAIRMAN MARTIN: Mr. Brown.

MR. G. E. BROWN: Point of order. I'll be very brief. We have just done something that we had a discussion on the other day when it appeared more to be a dilatory tactic than substance. Since you have done it, I wanted to bring it to your attention; that is that we have adopted, we have passed an exclusion report. At that time the debate, you will recall, was whether or not, if we adopted Dr. Nord's amendment to strike the whole section, this would leave us with the 1908 constitution. The discussion at that time was that an exclusion report is not formal action by this convention; because if it is considered to be formal action by this convention it necessarily means that if we don't take this formal action the 1908 language is in. So I would therefore suggest to the officers of the convention that we adopt some rule to the effect that an exclusion report is not formal action by the convention; that they are brought to the attention of the convention only for the purposes of information, and not for the purposes of formal action. Thank you.

CHAIRMAN MARTIN: Your comment will be called to the attention of the rules committee, Mr. Brown. Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, in the committee on rights and elections, we gave long attention to the rights of individuals, and most of them, it's true, were those traditional rights which you will find in the present constitution. We did consider new things, and we passed the now well known provision wherein we included from the federal constitution the provision that no one should be denied any rights, the equal protection of the law clause. We also added to that to be sure that certain persons should not be deprived of their rights under the law. This was passed in the committee of the whole by a unanimous vote. However, many of us in the committee believed that the property owner was entitled to just some little protection in his rights as a property owner. The lawyers well know—and the laymen probably know pretty much too—that property is a bundle of rights containing many rights; that any time any of those rights are taken away from the owner, his property is somewhat less valuable to him than it was before. I'm not speaking of monetary value but the use of the property, the happiness which he may get from it, particularly if it's his home. I shall speak briefly to explain this provision, after which I shall probably want to speak again as to the arguments of the minority report. However, I would like to pause briefly and temporarily yield on a matter which I think you need to understand in order to understand the minority report which will come up later too.

One of the arguments used in the minority report is the application of that well known rule of law, expressio unius est exclusio alterius. Since some of you who are now lawyers may have become a little bit rusty on your Latin, I'm going to yield just briefly to the well known expert on Latin who will explain this to you. I refer to Delegate Ruth Butler. I yield to Mrs. Butler. (laughter)

CHAIRMAN MARTIN: Mrs. Butler.

MRS. BUTLER: Mr. Chairman, fellow delegates, my Latin is that which might be described as small Latin and less Greek. For about 50 years, I was not interested at all in Latin. Last year my grandson was failing first year Latin in high school. So grandma got out the Latin book and by keeping one lesson ahead of him, I was able to at least get him through with a creditable mark.

I was awfully glad that Dr. Norris put in the meaning of this word in his report: to expressly name one is to exclude the other. This rule can really have no effect on civil rights, as the new declaration of rights provides, "The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people." I will yield at this time to Mr. Stevens.

MR. STEVENS: Thank you, Mrs. Butler. Now that we know what we're talking about, I will briefly state what I think of the merits of this issue. We're going to try to avoid so far as possible getting into a judicial discussion of this, with all the things that some bright young lawyer might imagine could happen in the interpretation by the courts.

This section is said to be declaratory in nature. Such a statement is no argument against this or any other proposal in the constitution or statutory law if there is any reason to foresee the possibility of any effort to change the existing law or to evade it. We are willing to concede that it is declaratory. The majority of the committee, favoring wholeheartedly the previously passed new section on equal protection and nondiscrimination, feels that property rights are a type of human rights equally important with any other human right. It concedes that the state under its police power may, by due process of law, reduce the bundle of rights which an owner has, but emphasizes that each of such actions reduces the value of the property owned. One of the valuable rights in this bundle of rights is the owner's right to sell, give or devise; that is, to will his property as he pleases, subject to certain laws, such as eminent domain, dowry or some similar restriction usually known to him when he purchases the property.

A provision which denies him this right in any degree takes from him a portion of his bundle of rights. If he is to be required to defend his sale, gift or devise of such property, the right has been substantially reduced. It is true that under this provision the legislature could, by general law applying to a reasonable classification of owners, reduce certain owners' present rights in this regard. But it could be done only by the legislature, the representatives of the people, and not by one individual or a board or a commission acting arbitrarily under political pressure for political gain.

We are concerned primarily with the home owner and we repeat that property rights are just as much a human right as those cherished rights of freedom of speech, religion, press, and so forth. No one right should be enforced at the expense of another. The proposal is considered the minimum of protection to the owner of real property, particularly to the home owner. I shall be glad to yield for any questions, after which I would yield the floor.

CHAIRMAN MARTIN: Any questions directed to Mr. Stevens? Mr. Binkowski has a question.

MR. BINKOWSKI: Mr. Stevens, does any other constitution in the United States equate property rights with human rights?

MR. STEVENS: Well, I don't think any constitution in the United States distinguishes between those human rights, which are the right of a property owner and those human rights which are not the right of a property owner, but of everyone.

MR. BINKOWSKI: In other words, Mr. Stevens, there is no other constitution in the United States which does contain this provision?

MR. STEVENS: Your first question is not the same as your second.

MR. BINKOWSKI: Well—

MR. STEVENS: First you asked if there was any constitution—or the effect of the question was—that distinguishes between those human rights which deal with property and those which do not. The answer was that no constitution, so far as I know, distinguishes them in any way. Your second question: is there any such provision in any other constitution? I can't answer it because I don't know.

MR. BINKOWSKI: My third question, Mr. Stevens, is that I'd like to quote from a newspaper article in the State Journal last night, Monday, April 9, 1962. The heading is, Spotlight is Again on Rule 9, and I quote:

> Rule 9, with all its pressures and controversial background, will again be in the spotlight when the constitutional convention convenes Monday at 6:30 p.m.

Is this provision designed to eliminate rule 9 or a type of rule 9 or rule 10, or anything of this sort?

MR. STEVENS: I did not read the article, so I don't know anything except your quotation from it. This is to protect the property owner, to keep him out of jail, perhaps, because he doesn't want to sell his property after he said he would; he might have changed his mind. He might not have wanted to sell the property to certain persons, and under certain conditions action might be brought against him in this administrative board. Certainly, nobody except himself would know why he didn't want to sell it. But for all practical purposes, it would be up to him to prove it.

As to rule 9, I don't know. It depends partly on what the courts decide. We would hope—and I'll be frank about this—that the owner of property may dispose of his property through an agent, the same as he would himself. Under the laws of agency, if he can lawfully dispose of his property, we would hope that he could do it through an agent. This does not give the agent any power, nor does it take away from the owner the power, to sell his property if he wishes to do so. It simply protects him. He does not have to answer to anyone as to why he will not sell his property, that's all. There is no catch in it. There is not intended to be any. It's a very simple provision and it means just what it says.

MR. BINKOWSKI: Mr. Stevens, since I believe that you are very familiar with rule 9, the question is: if this existing provision were in our present constitution, then it would appear to me that rule 9 could not have been enacted by the corporation and securities commission. Is that true?

MR. STEVENS: Well, let's put it this way: the Michigan corporation and securities commission could not enact this law if—

MR. BINKOWSKI: It's a rule, Mr. Stevens, not a law.

MR. STEVENS: I'm sorry. It could not enact this rule under the proposed constitution. It just couldn't do it. It would have to be done by the legislature. I am assuming, of course, that the courts will hold that an agent may sell property as directed by the owner. This has nothing to do with what the agent may do except in compliance with instructions of his principal.

MR. BINKOWSKI: Mr. Stevens, again my question is: is this provision intended to vitiate rule 9 or rule 10 or other rules which might be enacted in the future by the Michigan corporation and securities commission?

MR. STEVENS: I just tried to explain. It might or it might not. As I interpret the law of agency, it probably would. But whether it does or not, it would still protect the property owner at that time when some rule might be passed to apply directly to the property owner. Rule 9 does not apply to the property owner directly, of course; so at the present time this would not touch it except through the law of agency. I can't answer the question. It's in the Ingham county circuit court.

MR. BINKOWSKI: That's right. And I think that the governor has requested that the supreme court rule upon it. And because of this, I think that our intention here should be clarified for the record, so that my question is: do you intend that this provision would vitiate rule 9? Do you intend—

MR. STEVENS: Let me state this then: that I hope that it would but I am by no means certain that it would. Whether it does or not, it still protects the home owner or the property owner himself in case of any future action.

MR. BINKOWSKI: Well, Mr. Stevens, it is your personal intention that this provision would vitiate rule 9?

MR. STEVENS: I've already told you under my construction of the law of agency, it would.

CHAIRMAN MARTIN: Mr. Nord.

MR. NORD: Mr. Chairman, I also would like to ask some questions of Mr. Stevens relating to the meaning of the words that are found in this proposal. I have a question, Mr. Stevens, about a number of them. I'd like to ask one at a time, if I may, and see whether you care to answer. To begin with, reading the beginning of the first sentence, it says, "The right of the owner. . . ." I first ask you what exactly you mean by the "owner," in the legal sense.

MR. YEAGER: Mr. Chairman, could I raise a point of order, please?

CHAIRMAN MARTIN: Mr. Yeager.

MR. YEAGER: It seems to me we got into this situation the other day. I understand there is a minority report on file and questions are not supposed to be taken until the minority report is presented. Is that correct, sir?

CHAIRMAN MARTIN: In general, that is correct, Mr. Yeager, but Mr. Stevens indicated his willingness to answer questions and there being no objection, the Chair permitted the questions to be asked.

MR. STEVENS: I am sure, Dr. Nord, you know what an owner is.

MR. NORD: Pardon me, Mr. Chairman, I was interrupted by Mr. Yeager. I hadn't finished the question. It's true that I believe I know what "the owner" is in general. But before I continue, I would like to ask Mr. Stevens whether he prefers to go on with these questions rather than to do as Mr. Yeager suggests. The only reason I stood up at this point was that questions were asked and I was afraid there would be no other opportunity to ask them later.

CHAIRMAN MARTIN: It occurs to the Chair, gentlemen, that it might be well to have the minority report presented and then develop these matters which are really arguments, apparently, related to the minority report. Is that satisfactory to you, Mr. Stevens?

MR. STEVENS: That's satisfactory to me, Mr. Chairman.

MR. NORD: Mr. Chairman, for the record, I would hope that you would strike from the statement that these are arguments. Our arguments will no doubt be forthcoming, but what I had in mind are legal questions.

CHAIRMAN MARTIN: The secretary will read the minority report, which is in the nature of an amendment.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Norris, Dade, Mrs. Hatcher, Messrs. Hodges and Buback,

Mr. Norris offers the following amendment:

1. Amend the proposal by striking out all after the enacting clause.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman and fellow delegates, I rise at this point to present to the committee the minority report on Committee Proposal 45 on behalf of myself, Malcolm Dade, Lillian Hatcher, Robert Hodges and Peter Buback. This matter was considered at length in our committee and we have arrived at a report which we commend to you.

Before I do so, let me state for the record again the precise wording of Committee Proposal 45 so that we know what we're talking about. It reads in its entirety as follows:

> The right of the owner of real property to convey, grant, or devise said property shall be limited only by general law. The legislature shall not delegate this power.

[The reasons submitted in support of the minority report were read by Mr. Norris. For text, see above, page 2272.]

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman, it seems that the minority proponents of this amendment are well aware of the intent and purpose of the provision, that they have no difficulty in construing it, but they go a long way out of their way to try to find some reason for objecting to it other than the purpose for which it was proposed.

Mrs. Butler has pointed out to you very clearly that the rule of expressio unius est exclusio alterius can have no application to anything within the declaration of rights in the new constitution. These other arguments are pretty much the same thing; they are arguments which a lawyer would use in trying to win a case but not the reasons why he wanted to win it.

I think that it certainly would be ultra vires for an administrative board to try to act on this matter when it expressly states it must be by general law rather than by special law. There is nothing weird nor unusual about this. It simply means the legislature could not under any circumstances do this by a special act which is applied, say, to one county and not to another.

It's true that the legislature, by the constitution, is required to use general law whenever it can; that it may only use a special act where general law will not do the job, will not suffice. But it is also true that it is well to be careful in that matter. Certainly, we don't want one rule one place and one another. It also makes it quite possible for the legislature to act in the field of one class of property owners while not acting in the field of another which might possibly be true. In other words, the legislature might feel that this given restriction could apply to business property but not to residential property, or maybe not to home owners but it might apply to property owned by persons who did not live in that home. That would, of course, require reasonable classification. Does anybody else want to speak on this? If not, I'll be glad to answer Dr. Nord's questions, if I can.

CHAIRMAN MARTIN: Dr. Nord has requested recognition but the Chair believes Mr. Mahinske was first. Mr. Mahinske.

MR. MAHINSKE: I would like to direct a question to Mr. Stevens through the Chair. In your opening remarks, Mr. Stevens, you made the statement that the intent here could take care of a situation where an owner decided not to sell and he would not be required to answer or to respond to any inquiries as to why he decided not to sell. Now, actually I understand this is to be that an owner could have a good legal binding agreement or contract to sell and then decide to change his mind and you are willing to protect him here. He is not even responsible for this activity in court, and I am not talking about any type of discriminatory sale or otherwise. What you're doing here, if what you say is what you intend, then a written agreement to sell is just not worth the paper that it's written on.

MR. STEVENS: That is not true. It simply means he wouldn't have to sell. That's the situation today. If he doesn't sell, he's subject to suit for damages. He still would be if he is bound by contract.

MR. MAHINSKE: But you said that your intent here would be that he would not have to answer or respond as to why. He wouldn't have to give any reasons.

MR. STEVENS: What I meant—it's quite clear and I think you probably understand—he could not be called before some arbitrary administrative board and questioned on the matter. For all practical purposes, he would become the defendant in the case. In other words, instead of the burden of proof being on the board for practical purposes, it would be upon him.

MR. MAHINSKE: There are a number of other points. The zoning ordinance type was touched on by Delegate Norris here. I think that under your wording here—

MR. STEVENS: It has nothing to do with zoning.

MR. MAHINSKE: Well, I think if we read this thing as it's written, you'll find that the right of the owner of real property to convey, grant or to devise this property shall be subject only to limitations as are enacted by general law. Now, of course, zoning ordinances are limitations on the use of the property, of the ownership of the property and so forth, and these are all local. We have already written into the constitution that all laws shall be by general laws and in the event that you do use a special act which refers to the local areas, that this would have to be voted on in that area. I think that you're really injecting a cumbersome type of operation here.

MR. STEVENS: There is nothing to do here with zoing or even control. The word "control" which was in the original provision was taken out in the committee. This has merely to do with the sale of the property or the devising of it.

MR. MAHINSKE: We're not talking about sales now. We're talking about conveyances, grants and devises here and we're talking primarily, as I read this, that the limitations shall be by general law only.

MR. STEVENS: Without the conveyance of the title. What has that to do with zoning?

MR. MAHINSKE: Zoning is a restriction. It's a limitation on ownership.

MR. STEVENS: How?

MR. MAHINSKE: It limits your use.

MR. STEVENS: It doesn't limit your right to convey.

CHAIRMAN MARTIN: Gentlemen, if you'll direct your questions through the Chair.

MR. STEVENS: I'm sorry, Mr. Chairman.

MR. MAHINSKE: I'd like to go on to another point. I notice you have left out of this section here that such limitation shall be by general law only. Now, was it your intent to leave out of this section limitations that may be written into this constitution or do you consider this implied?

MR. STEVENS: I don't understand the question, Mr. Chairman, Mr. Mahinske.

MR. MAHINSKE: There are certain property limitations: ownership rights, conveyance rights and so forth, and acquiring rights. I think Committee Proposal 63 deals with aliens. Now, there are limitations there as to ownership in conveying. Now, do you intend that those limitations shall be applicable here or that section a should override Committee Proposal 63 and that a general law would have to be enacted, repeating the same language?

MR. STEVENS: If you just remember we're talking merely about the right of an owner to convey his property—

MR. MAHINSKE: This is exactly what we're talking about in the case of aliens.

MR. STEVENS: What has this to do with aliens?

MR. MAHINSKE: We're dealing with ownership on the part of aliens.

MR. STEVENS: It would apply to an alien the same as a citizen.

MR. MAHINSKE: Right. Then in other words, what you are saying—maybe I am presuming too much here—is that the constitutional provision would be pertaining to aliens and the other part of the constitution would be overridden here, and that a general law would have to be enacted covering the same situation, if there is none. What I am trying to get at is basically this: by putting this provision in, you're leaving so much doubt in the area of the common law. There are a lot of limitations on ownership under the common law. We've seen fit here in the convention to abolish the reference to the common law in this proposed new constitution.

As I read this thing here, we're just leaving too much to the courts that has been decided already, not on the basis of statutory law as we have it written today, but on the basis of common law. Now, none of these common law decisions would stand, and no decision would stand in the absence of a general law covering the restrictions on ownership or conveyance or devise or grant. I think this is what you're doing. I don't know if you intend to do this, but this is how this thing may well be interpreted.

MR. STEVENS: Mr. Chairman, Mr. Mahinske, you well know that any act derogatory to the common law will be strictly construed. I don't feel that the courts would have any more difficulty in understanding this than any of us have. I feel these are questions raised which you might well raise in a lawsuit if you had nothing else to raise. But certainly, they're not going to bother the court. The court is not going to hold anything derogatory to the common law unless it is very clearly stated.

MR. MAHINSKE: You're assuming that there is an act that they are determining in the face of the common law. We're talking about the situation where we have no act. In other words, what does this do, possibly, with married women's estates, when it is basically defined by the common law what a married woman's estate is? Just what do we do here when we talk about devising, when we talk about granting? And when you're talking about an owner here, you don't say "an owner;" you say "the owner." Now, are we talking about real persons only or are we talking about artificial persons? Are we talking about municipal owners, corporate owners, or are we just talking about people here?

MR. STEVENS: We're talking about all owners.

MR. MAHINSKE: Have you looked at this in view of the state's power of eminent domain and a delegation of that power by the legislature?

MR. STEVENS: It isn't any question about eminent domain. It's provided for in the constitution.

MR. MAHINSKE: Yes. But then you go on to say it shall be limited only by general law.

MR. STEVENS: Well, what is it?

MR. MAHINSKE: I'd like to ask just one more question: are you willing to read this provision here with the thought in mind that anything contrary to this within the constitution itself will override this provision in the constitution?

MR. STEVENS: Certainly not. Each one would stand by itself. This has to do only with the right of conveyance. Anything else in the constitution would stand by itself, just as it does in the United States constitution.

MR. MAHINSKE: But then you're not saying anything else in the constitution notwithstanding?

MR. STEVENS: We're not saying it because we didn't think it was necessary.

CHAIRMAN MARTIN: Mr. Nord.

MR. NORD: Mr. Chairman, do I now have the floor?

CHAIRMAN MARTIN: You have the floor.

MR. NORD: Then I would like to begin by asking Mr. Stevens certain questions, after which I would like to reserve the right to make a statement of my own. I am referring to certain specific language—many of the words in the proposal—and I would like to know for sure whether we can get into the record definitive answers as to what they mean so that we know what we are voting on. The first question I would like to ask Mr. Stevens is: why is it that this proposal is limited only to real property rather than, for example, to tangible and intangible personal property?

MR. STEVENS: I don't see any reason the question would be raised in case of personal property.

MR. NORD: Well, then, the question that stems from that is this: don't you believe that if you state the right of the owner of real property shall not be limited, except in certain ways, that it implies that the right of personal property could be?

MR. STEVENS: No, I do not. Another thing which I probably should have said in answer to your first question: personal property is quite something else. If you go into a store and you're a well behaved person and the owner refuses to sell to you, he ought to be answerable, probably, for his act. It's quite a different thing. A person holds things up to sell to the public. I see no objection to having laws of this sort.

MR. NORD: I don't intend to pursue each question with you except simply to get your answer. The next question I'd like to ask Mr. Stevens, through the Chair, has to do with the question that I attempted to ask before, and that is this: what is meant by "the owner," and, specifically, does this mean the owner of any legal or equitable interest in property or only one or the other?

MR. STEVENS: I think it would under Michigan law include the owner of an equitable interest. You have in mind a person buying on land contract?

MR. NORD: Or mortgage, or a beneficiary of a trust.

MR. STEVENS: I would say that would be included.

MR. NORD: You would say that would include the owner of a legal or an equitable interest?

MR. STEVENS: Yes.

MR. NORD: Would you say that this includes every type of owner, such as, for example, the owner of a freehold, leasehold or a life estate or any incorporeal hereditament, in other words, all kinds, every kind, including—

MR. STEVENS: The answer is yes, so far as his interest may appear.

MR. NORD: That being the case, may I ask you this: when you say that "the right of the owner of real property to convey, grant, or devise said property shall be limited" in such a way, then you mean to include the owner of a leasehold estate. Then do you not mean to also state that the right to convey, grant or devise is included, but the right to lease is excluded?

MR. STEVENS: It does not include the right to lease.

MR. NORD: The right to lease, then, is not covered by this?

MR. STEVENS: That's right.

MR. NORD: May I ask if there is a particular reason why—

MR. STEVENS: May I be clear as to your question? You mean the right of the owner to lease this to a lessee?

MR. NORD: Yes.

MR. STEVENS: It is not included.

MR. NORD: May I ask why you distinguish then between convey, grant, or devise on the one hand and lease on the other, especially when you said that it doesn't include the owner of a leasehold estate? Obviously the owner of a leasehold estate, all he can convey is a leasehold estate, in other words, all he can do is lease.

MR. STEVENS: He can convey what he has to convey, nothing more.

MR. NORD: All right. I believe there is a contradiction at that point. Now, a more important question, Mr. Stevens and Mr. Chairman, has to do with the exact meaning of the words "general law." So I'd like to ask you whether this is meant to include statutes only or common law and other things?

MR. STEVENS: This would apply as to limitations. It would have no effect on the common law except as some statute is passed derogatory to said common law. The idea is that the legislature in acting upon this must do it by general law.

MR. NORD: I'm not clear on that answer. That is a crucial point. I'd like to rephrase the question and see if we can get this into the record straight. The language says, "The right of the owner . . . shall be limited only by general law." Now do I understand, therefore, it can not be limited by anything other than statute?

MR. STEVENS: You mean by common law?

MR. NORD: For example, by common law. That the right to convey cannot be limited except by a statute; not only that, but by a general type—

MR. STEVENS: I don't think there is any question it would be limited by any common law that would apply. But to change that common law by statute would require a general act rather than a special act.

MR. NORD: Well, then, can we have a direct conclusion as to whether this constitutional provision means that the right of the owner to convey shall be limited only by statute or by existing common law? Is that what you mean?

MR. STEVENS: If I understand your question, the answer is yes.

MR. NORD: Then—if I am clear—by general law, I gather, you do mean to include the existing common law?

MR. STEVENS: Yes.

MR. NORD: Now may I ask you whether you mean to include any such specific decisions as may be made by a court in a specific case rather than the common law in the abstract?

MR. STEVENS: You mean a new decision?

MR. NORD: Yes. Not necessarily on a point of law, may a court decree that an owner shall not convey to a certain person for some reason or other?

MR. STEVENS: There is nothing in here about an owner being required not to convey. There is nothing in this that prevents an owner from conveying.

MR. NORD: The language here says, "The right of the owner . . . to convey . . . shall be limited only by general law." The question in my mind then is whether a court can take it upon itself to say: I hereby limit you from conveying to a certain person because, for example, you ought to convey to some other person. Can a court do that under this constitution, under this provision?

MR. STEVENS: That's a rather difficult question to answer in the abstract.

MR. NORD: Mr. Chairman and Mr. Stevens, in order to make that specific, I am concerned about 4 different situations that I can envisage that relate to that point. One of them has to do with the specific performance of a contract. In other words, suppose the owner has contracted to convey to Y and he also contracted to convey to X and he wishes to convey let us say to X, but the court says no, he must convey to Y. Could the court give that order? Specific performance?

MR. STEVENS: I would say yes in the case of specific performance. Otherwise the remedy would be damages. He has himself agreed to do it.

MR. NORD: Yes, but the point is the language of the constitution says, "The right . . . to convey . . . shall be limited only by general law."

MR. STEVENS: He has exercised his right of his own initiative and will.

MR. NORD: Yes, but not by general law. I don't wish to argue, but I would wish to point out that the language that you've got in here is just chock full of boobytraps which need to be repaired, in my opinion. To illustrate further on the same point—

MR. STEVENS: May I ask you a question, Dr. Nord?

MR. NORD: Not while I have the floor, Mr. Stevens.

MR. STEVENS: All right.

CHAIRMAN MARTIN: Mr. Nord.

MR. NORD: Yes, sir.

CHAIRMAN MARTIN: It seems to the Chair that we are getting into simple cross examination here and Mr. Stevens was willing to answer. The Chair has no objection but the language is before you and it seems, if you have a position you want to take, it ought to be taken. You ought to go ahead and state your position.

MR. NORD: Mr. Chairman, before I state my position, I wish to know what the language is intended to mean. I could just go ahead and assume that it means certain things if it is desired that I do so.

CHAIRMAN MARTIN: The language is whatever it says and the Chair doesn't think that Mr. Stevens' view on it is going to change the legal impact of it one way or the other.

MR. NORD: Mr. Chairman, I believe I have the right to find out whether the proponent of this language knows what it means or what legal effects it will have, but I assert that he does not know what it means and that he does not realize the great legal impact this will have on a widespread basis, and one of the best ways to find that out is to ask him.

All right, Mr. Chairman, I will continue and I will not ask Mr. Stevens any further questions.

MR. STEVENS: Mr. Chairman, Mr. Nord, may I quickly answer your statement?

MR. NORD: Mr. Chairman, may I continue? I believe I have the floor. I don't know of any procedure where somebody can answer a statement.

CHAIRMAN MARTIN: The Chair thinks your last question was a question to Mr. Stevens. If he wishes to answer that, then the Chair would permit him to do so, but then the Chair would encourage you to go ahead and state your position.

MR. NORD: Mr. Stevens, if you have an answer to a question that you have not yet been asked I wish you would answer it.

MR. STEVENS: No, I didn't. I just wanted to reply to the statement you made implying that I didn't—

MR. NORD: I object to that one, Mr. Chairman. It is not his turn to object to any statement. I haven't had a real good chance to warm up on statements as yet. (laughter)

CHAIRMAN MARTIN: The position is well taken. Mr. Stevens, we'll give you an opportunity to answer in full as soon as Mr. Nord has made his statement. You may proceed, Dr. Nord.

MR. NORD: Mr. Chairman, in addressing myself to the language of this particular proposal, I feel that it brutally violates all of the law of real property. I feel it is just chock full of difficulties. There is nothing in here that doesn't cause trouble, except a few of the words "the," and I believe Mr. Mahinske wasn't satisfied with some of them. The owner, we have found out, includes the owner of a leasehold estate, but "convey, grant, or devise" does not include lease. That is an inconsistency without any question.

The words "general law" have been construed, I believe, twice on the floor: once to mean only statute, and the second time to mean existing common law. When the question was raised whether it will include something beyond existing common law, meaning the decisions of specific cases, it certainly is not clear what is meant by that and I believe the language itself truly indicates that general law would not include case decisions, and I assert the following types of cases would be excluded by this language. First of all, specific performance of a contract: the court could not decree that under this language. It could not say to a certain person who had entered into a contract that "you shall not convey to X but rather, you shall convey to Y." It cannot say that you cannot convey to X because there is no general law that says he cannot convey to X.

Similarly, it would impair the whole doctrine of equitable liens in which an equitable court, rather than giving specific performance of a contract, would attach an equitable lien and say to a certain person: you cannot convey this land until you pay a debt and if you don't pay the debt, the lien will be foreclosed. The same thing is true of an equitable mortgage. The equity court could not construct an equitable mortgage, which again would impede the owner of property from devising or conveying or granting his property. The reason the court could not do that is because that clearly is not by general law. Similarly, I can't see how a court could give a decree in a divorce case involving a property settlement in which it would say to the husband: you cannot convey this land. You must do something different with it. It appears to me, Mr. Chairman, that all of these various parts of the law, particularly the part of the law relating to equity, are definitely damaged by this first sentence.

Now, as to the second sentence, which states, "The legislature shall not delegate this power," it seems to me that the question that first arises is: what power are we talking about? The first sentence doesn't give the legislature any power. It reserves a right to the owner of real property. What power are we talking about? If we are talking about the power to pass any general law, or if we are talking about the power to pass a general law in this particular field, then the question arises: does it then apply that the legislature does have the power to delegate in some other area? I certainly would like someone to answer these questions. Does the legislature have the power to delegate any legislative power whatever, either in this area or any other area? Does this imply that they do? I assert that the legislature never has the power whatever to delegate any legislative power. This is a clear violation of the separation of powers doctrine. And I also assert that in the committee proposal where it says this last sentence, "The legislature shall not delegate this power," that that means that the legislature could not delegate this power to an administrative board. Now, I assert that that statement does not square with administrative law principles under the language of the last sentence, "The legislature shall not delegate this power." The administrative boards have frequently been given rulemaking power. This would have no effect on that language and, therefore, I assume it must have some other effect; but what the other effect is, I have no idea. Nevertheless, the language in the second sentence causes trouble for this reason: it implies that the legislature shall not delegate certain powers which it seems they should have the power to delegate—for example, the power of eminent domain. Now, the power of eminent domain does relate to real property. The legislature has always been held to have the power to delegate the power of eminent domain, and that is a limitation on the power to grant, devise or convey the land, because they can take the land away from you. I would say that the second sentence would clearly attempt to nullify the entire power of eminent domain. Somehow that would have to be squared with whatever else we have in the constitution to the contrary. But in any event, it certainly would make it impossible—there is nothing in the constitution, I believe, to the contrary—it would make it impossible to delegate the power of eminent domain to public utilities or municipalities.

I also believe that the language before us would impair, as Mr. Mahinske has pointed out, the enactment of zoning ordinances, because those clearly are not general law. Those are local law. And yet they do limit the right to real property, including the right to convey, because you could otherwise convey property for a specific purpose and yet, by the language here, you would not be able to convey for a specific purpose and therefore real covenant might be destroyed.

Mr. Chairman, those arguments are the ones that have occurred to me in reading some time ago the argument made in the minority report. I believe the point of the minority report relating to this particular aspect of the problem, namely, that it raises many problems in a manifold manner, none of which need to be raised, is very well taken. As to the merits of the case itself, I also agree with the minority report. It seems to me that this proposal does not do anything affirmatively; it does not create any right which is not guaranteed by due process. It singles out a specific type of situation without any reasons being given therefor. It fails to provide any such right, but what it does do is cause havoc in the entire law of real property.

Now, as to the underlying motive, I have no comment to make, except insofar as the comment was made by Mr. Stevens that he does intend this should impair rule 9. On that I can only say this: I don't believe that it could do that, but even if it could, I certainly would be opposed to it even more so on that basis.

CHAIRMAN MARTIN: Father Dade.

MR. DADE: Mr. Chairman, fellow delegates, I'd like to reaffirm what we said in the committee on declaration of rights in reference to this proposal. We have listened very intently to the remarks of Mr. Stevens. We listened very intently because we wanted to see exactly what further this meant. Our feeling then and now is: one, that this is clearly unnecessary. In this end, we reecho the opinion of our distinguished chairman, Dr. Pollock, when this was presented to our committee; I believe, and I may stand to be corrected, that his words were: what does this do? Why is this necessary? And I say again, that my distinguished colleague from Detroit has not yet shown why this is necessary.

Second, I am a property owner. I am not a lawyer. But as a property owner and a layman, I feel that the rights of property owners are adequately provided for in the federal law and the law of this state. The proponents have not shown that to be to the contrary. And I believe in civil rights. I believe in the protection of rights. But I think that listening again to the interchange between the distinguished lawyers here, this appears to be cumbersome, it appears to present many difficulties, and in the light of a true interpretation of constitutional law it is clearly unnecessary and does not belong in the new constitution. And therefore I would not favor the proposal of my colleague, Mr. Stevens.

CHAIRMAN MARTIN: Mrs. Hatcher.

MRS. HATCHER: Mr. Chairman and fellow delegates, I rise in support of the minority report amendment and to ask the committee's indulgence for me to present some features of testimony that was presented to the declaration of rights, suffrage and elections committee at the time that we were holding public hearings here in Lansing. During that time, the coordinating council on civil rights, representing more than 21 state organizations that embrace various religious groups, ethnic groups, women's organizations, labor groups, and so forth. To name a few, they are as follows: the coordinating council partial list includes the Michigan council of churches, the Michigan catholic welfare conference, the Jewish community council of metropolitan Detroit, the UAW fair practices and antidiscrimination department, the national association for the advancement of colored people, the united church women of Michigan, the national council of catholic women, the American Jewish congress, the antidefamation league of B'nai B'rith, the Detroit archdiocese social action department, Detroit council of churches, the Grand Rapids chapter of the Michigan committee on civil rights, the workmen's circle, the national council of Jewish women, the catholic interracial council, the women's international league for peace and freedom, the American Jewish committee, the Michigan labor committee for human rights, the Jewish labor committee and the Michigan state AFL-CIO. Now, I named these organizations because I do think that they represent a point of view in the state of Michigan and certainly are on record in support of the dignity of man and have so expressed themselves by forming the organization of the coordinating council, of which I happen to be a member as well.

I want to say that the proposal submitted by Mr. Stevens is quite similar to the proposal that was presented by Mr. Yeager, Delegate Proposal 1007. During the time that we were holding the hearings before the declaration of rights committee and at the time that we heard testimony from Mr. Yeager relative to Delegate Proposal 1007, there were a large number of home owners groups that came to Lansing in support of 1007 and also the concept of rule 9. I raise this comparison because, as a member of the declaration of rights, suffrage and elections committee, there were several proposals that embrace the contents of Mr. Steven's proposal that we are dealing with here today, and I raise this merely as a comparison between the language which I refer to as the long and the short form. Mr. Yeager's proposal was the long form and it went into detail, which you can find in your proposal material, and Mr. Stevens' proposal cuts it perhaps down to a few words but it says in part somewhat of the same thing.

Mr. Stevens' proposal is very cleverly drawn. I believe that the proposal in itself is quite unnecessary to become a part of the constitution of the state of Michigan. I do not think that it really covers the intent that I personally feel is in back of the entire proposal. That's my opinion. I also believe that it is a subterfuge for really what the proponent of this idea is attempting to get at. And so with that, Mr. Chairman, I'd like to say that I would like to at this time quote—and I might not be able to quote him directly, so I merely will say that I will make a statement that our very honorable chairman of that committee said many times in the course of our action, and I believe he has said it here in the committee of the whole on our convention floor: that we are here in this constitutional convention to write and to revise the constitution of the state of Michigan. We are not here attempting to rewrite the Bible. And I am sure that if this august body had that job, it would be too monumental for us to tackle because I do not believe that we are sufficiently tempered to do such a job from what I've seen in session here, including myself.

So with those few words I'd like to, for the record, share with the delegates who were unable to hear the quality and the content of the testimony that was presented before our committee—I'll ask you to bear with me while I present a few of the salient points that I think are worth repeating here.

It was never intended that a state constitution should take the place of public acts properly passed by the legislature. That matter which can, without affecting the rights of citizens, be properly disposed of by the state legislature should not be placed in the constitution. A constitution is the organic law by which a system of government is created and set up, to which all branches of government must look for their proper powers and authority. The term "constitution" is ordinarily employed to designate the organic law in contradistinction to the term "laws" which is generally used to designate statutes or legislative enactments. The essential difference between a constitution and a statute or an ordinance is that a constitution generally states principles and establishes a foundation of law and government, whereas a statute or ordinance must provide detail on the subject which it treats. A constitution, unlike a law, is intended not merely to meet existing conditions, but to govern future contingencies. Constitutions announce principles, while statutes apply them. Accordingly, when the constitution makes definite provisions covering a particular subject, that provision is exclusive, final, and must be accepted unequivocally. A right granted by the constitution, when unconditional, cannot be nullified even in part by statute. Without belaboring the proposition, it is apparent that the subject matter in Committee Proposal 45 should not be made a part of our constitution, but should be dealt with by the state legislature, which could enact the law and amend it from time to time as changed circumstances might require.

This proposal, if adopted, would elevate bigotry and discrimination to the level of constitutional principle. Secondly, it would reverse the state policy of eliminating discrimination and would set Michigan back at least 100 years in the field of civil rights. Let us examine this proposal. It is our contention that it will constitutionalize bigotry and discrimination in our state. It reads:

> The right of the owner of real property to convey, grant, or devise said property shall be limited only by general law. The legislature shall not delegate this power.

Now, what does this mean? Any subdivision owner, whether a private individual or corporation, no matter how large or small, could refuse to sell the property or the homes built thereon to persons because of their race, color, religion, and so forth. Every apartment house owner, no matter how large the number of units therein contained, could with impunity refuse to rent or lease for the same discriminatory reasons. Even hotels, motels, summer resorts, which cannot now discriminate against those using the facilities, with the passage of this proposal would be free to refuse to rent. In other words, discrimination in housing would be constitutionalized in Michigan. Discriminatory systems set up by owners or realtors, such as the Grosse Pointe point system, would be perfectly legal and would be encouraged. No act of the legislature could ever change this. Michigan would be undertaking a gigantic step backwards in the field of equality of opportunities for its citizens.

The recent report of the United States commission on civil rights concludes:

> Housing seems to be the one commodity in the American market that is not freely available on equal terms to anyone who can afford to buy. Many nonwhite families have no choice but secondhand homes. The results can be seen in the high rates of disease, fire, juvenile delinquency, crime and social demoralization amongst those forced to live in such conditions.

Committee Proposal 45 is a complete repudiation of a long established policy in Michigan. The principle that all persons are entitled to equal accommodations in the matter of lodging must be said to go back to the middle ages, where the innkeeper was required by AngloSaxon law to accord equal access to every traveler.

The Michigan advisory committee of the United States civil rights commission—composed of a number of well known and responsible Michigan citizens, under the chairmanship of Charles Wilson of Birmingham, the former president of the General Motors corporation—in its report to the United States commission on civil rights in 1959, after a detailed study, found that in Michigan, negroes are still the major victims of discrimination in obtaining housing, saying—and I quote, "A negro gets less for his housing dollar at all levels of economic, social and cultural development than does his white counterpart."

What has been the public policy in Michigan towards equal opportunity for all? Article II of the Michigan constitution of 1908 recites that all political power is inherent in the people and that government itself is instituted for their equal benefit, security and protection. The Michigan state platforms of both the Democratic and Republican parties for the year of 1960 were very explicit in protecting these rights. The Democratic platform states—and I quote:

> The Democratic party of Michigan has always supported the aspirations of the people of our state for greater economic security, individual fulfillment and for freedom, justice and equality for all.
>
> We enthusiastically endorse the civil rights plank of the national Democratic convention of 1960 as the most forthright and explicit statement of the rights of man ever adopted by any political party anywhere. We recommend it in its entirety to all citizens of Michigan and urge that everyone become familiar with the courageous statement of principles it contains.
>
> We are proud of our record in Michigan for enlarging opportunities in employment, education, medical care, housing and public accommodations for all people. We urge enactment of the comprehensive Democratic civil rights bill introduced in the 1960 session of our state legislature. This bill would create a civil rights commission with authority to prohibit discrimination in employment, education, public housing and in all publicly assisted housing, including housing with FHA and VA insured mortgages, and in privately owned multiple dwelling units.

The Republican platform states—and I quote:

> We declare the striking down of barriers blocking full equality, regardless of race, color, religion or national origin, the most pressing unfinished business of our country and our state. Our national party platform states this with clarity and vigor:
>
> > Equality under law promises more than the equal right to vote and transcends mere relief from discrimination by government. It becomes a reality only when all persons have equal opportunity, without distinction of race, religion, color or national origin, to acquire the essentials of life—housing, education and employment.
>
> Toward this goal, we pledge our best and the most constructive legislative and political efforts. We pledge that we will work for constructive legislation which will guarantee full equality of opportunity for every citizen in the field of public accommodation, education and employment.
>
> We believe that in the matter of the sale or rental of private property, no group should be allowed to interpose itself between the individual owner and the would be buyer or renter. We vigorously condemn such actions as a screening system whereby brokers and salesmen licensed by the state establish a point system for the disqualification of some buyers on the grounds of race, creed, color or national origin.
>
> We observe that in our state today, the only commodity that an individual family cannot buy on a free and open market is a house. This, in turn, creates school and community segregation and generates prejudice. It causes crowding, lowers civilian morale and makes for substandard living conditions. We pledge that we will work for constructive legislation aimed at abolishing discrimination in the sale or rental of housing and that will make more for an open housing market in this state.

> We pledge our support for legislation authorizing a civil rights commission. This commission would be charged with the responsibility of protecting the individual against discrimination in regard to any form of public accommodation, job, opportunities, education and public housing facilities.

That ends the Republican platform of the section dealing with this particular question.

Further, the passage of this provision in Michigan would place Michigan out of step with all the other states in the union and with national policy and progress, would reverse the direction of our attempt in Michigan to afford every man equal opportunities. This would set us back at least 100 years. This proposal is incompatible with existing statutory and common law precedents. It would result in chaos and confusion among our present laws pertaining to real property: its use, its ownership, regulations and police power pertaining thereto.

From ancient times, with the organization of civilized societies, man has had the right to purchase, own, use and sell his private real property subject to certain restrictions contained in the common law relative to real property and subject to regulations by the police power of the state. This proposal introduces further complication by stating that a man has an absolute right to, or not to, sell, lease or rent his property to persons of his own choice. Such language abrogates and takes away from the state the right to exercise in many instances police powers which have become an important part of our judicial and legislative systems.

The power to condemn property for public uses, zoning laws, building regulations and codes have all been challenged in the courts. In most instances they have been called constitutional under existing constitutions. But Committee Proposal 45 also attempts to change our constitution and it is doubtful whether the police powers could be sustained under its particular wording.

In addition, what this will do to the law of dower rights of married women is a question. Under the common law and state statutes, a married woman is entitled to a 1/3 interest in the real property of her husband. No married man can sell his privately owned real property until and unless his wife signs away her dower rights. Under Committee Proposal 45, there is a real threat as to whether or not a woman would still be entitled to dower rights.

Committee Proposal 45 would interfere with the right of our state to regulate real estate brokers and agents. At the present time, a real estate broker or agent must be licensed by the state after passing a qualifying examination before he can pursue his profession. This proposal authorizes an owner to hire an agent to buy, sell or lease, or to refuse to sell or to lease or to rent at the absolute discretion of the owner. It is not required that the agent be licensed by the state or answerable to the state for his conduct.

As noted in another portion of our remarks here, under our civil rights statutes, owners of motels, hotels or resorts cannot discriminate in the renting of their accommodations for reasons of race, religion or color. This act would vitiate that important part of our civil rights statute.

This proposal would open up new fields of litigation in many areas. Legal questions already resolved would be reopened for costly and complex litigation. Uncertainty would exist concerning the rights of the individual in many important fields of law. In our opinion, protecting the right to sell, without a similar protection of the right to buy, conflicts with the purpose of the fourteenth amendment, which was to protect the negro against discriminatory legislation by the states. It would probably violate the equal protection clause of the fourteenth amendment. The federal civil rights act provides that "all citizens of the U.S. shall have the same rights in every state and territory as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property."

Committee Proposal 45 is a transparent attempt to deprive negroes and others of the right to purchase, lease and hold real property by preventing the state from exercising its police power in such a way as to prevent prejudicial discrimination by would be sellers. This constitutional amendment cannot be used as an instrument to protect a property owner in acts of discrimination, since its purpose was to protect the recently freed negro from discrimination or state action. The right to buy without discrimination cannot be equated with the right to sell with discrimination. The discriminatory limitation, if imposed or enforced by the machinery of the state, is condemned by the fourteenth amendment. Writing Committee Proposal 45 into the Michigan constitution would be state action to protect and preserve individual or organized discriminatory conduct, just as clearly as court enforcement of restrictive covenants was unconstitutional state action.

Finally, our government has been engaged in a cold war with communism for many years. This is in great part, and perhaps fundamentally, a struggle for the hearts and minds of men. It is a struggle for the commitment to a way of life, for commitment to what men see and understand of democracy and what they see and understand of communism. American lives have been laid down in this struggle. Billions of dollars have been spent in keeping the military might of the United States strong enough to discourage any attack. Other billions have been spent in aiding many nations to keep up their military strength and to improve their economies so that communism shall not spread. Communism and democracy are locked in a worldwide struggle.

The nonwhite nations of the earth constitute a majority of its people and its nations. New nations are rapidly joining the United Nations organization. Since 1950, 60 nations have been accepted into the United Nations. Of these, most belong to what has been termed the AfroAsian bloc. In the near future, several more nations of Africa will achieve their independence and will be accepted into the circle of organized nations of the world.

We have seen our president make a personal appeal against the scandal of discrimination on main highways from New York to Washington, D. C. We have seen specific efforts made to stop housing discrimination in Washington because of the direct effect on representatives of African nations at Washington. With African nations now members of the United Nations, exercising their votes in issues affecting our interests and security, we are endeavoring to convince them by our treatment of negro citizens here that democracy means equal opportunity, equal rights and equal treatment for all, both in theory and in fact. Every incident appearing in our press or given publicity, in which negroes or other nonwhites in this country are deprived of rights or of equality of treatment, is apt to receive worldwide coverage.

All of us remember how Americans in every major city of the world and throughout Africa were bitterly embarrassed by the outbreak of violence in Little Rock, Arkansas. They were asked to explain this again and again. Very often their explanations were scoffed at. The rabble rousers of the New Orleans school situation is another of too many examples.

Pictures showing negroes sitting at lunch counters insisting on their right to be served have been seen around the world. African students who encounter discrimination and observe it, report back home. Informed persons in Europe, Asia and Africa know that since our supreme court decision in 1954 we have made very little real progress in integrating school systems in the south. They know that de facto segregation is the rule in the north. The striking and eye catching negative incidents can and do obscure in the eyes of the new nations the progress we are making.

If one of the great industrial states of the north were to place in its constitution the encouragement to bigotry and discrimination contained in Committee Proposal 45, this would in fact make world headlines. Our enemies would stimulate further the publicity it would receive. If Michigan takes this backward step and makes it a constitutional principle that negroes and others can be discriminated against in their right to purchase or rent housing, that the state countenances and approves the organization of discrimination, this news will constitute a calamitous blow to our prestige and leadership. We could not explain this away as the irresponsible act of extremists or as not representative of the real aims and the intent of the people of Michigan. This is not like a mob of hooligans smashing someone's window, vicious as that may be. This is a proposal for the supreme law of this state. If passed, it will have the most serious repercussions around the world. Our role as a leader of the free world should not be seriously undermined. Democracy would be discredited and communism would be encouraged.

With those words, Mr. Chairman and fellow delegates, thank you for your attention. I want to say that I urge defeat of Committee Proposal 45, without naming the proponent, and to say that I urge the support of the minority report amendment.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee—

MR. YEAGER: Mr. Chairman, before Mr. Stevens starts, I'd like to suggest the absence of a quorum.

CHAIRMAN MARTIN: Mr. Secretary, will you determine whether a quorum is present.

MR. HOXIE: Mr. Chairman, I suggest that the secretary be instructed to ring the bell.

CHAIRMAN MARTIN: Seventy-one. The point is well taken. The secretary will ring the bell.

SECRETARY CHASE: There are now 73 delegates in the hall, which is a quorum.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman and quorum, most of what Mrs. Hatcher talked about is quite irrelevant. This has nothing to do with the following things: bigotry; that was in Delegate Proposal 1007. Rent; this has nothing to do with rent. It has nothing to do with public accommodations. It has nothing to do with restrictive covenants. There is nothing here that prevents a person from selling to whom he wants. In fact, it protects him in selling property to whomever he wants, or not selling it, as the case may be. It has nothing to do with integration of schools or lunch counters. It has nothing to do with communism. And it has nothing to do with Grosse Pointe, except as it would apply to the whole state of Michigan. It does not protect agents or brokers. It would, we hope, enable a person to use a broker by directing him to do what he wanted him to do, but would not give the broker any license to set up any rules or to adopt any actions on his own part.

For 30 years and more—possibly more—we've had laws in Michigan covering almost all of these things. We already have the law so there couldn't be any question about it. But if you will carefully read the proposal, you will see that it has nothing to do with anything except conveying, that is, to use layman's terms, selling; or devising, to use a layman's term, leaving your property to somebody else by will; or granting, which is also selling.

I had anticipated, having read the minority report, that every effort would be made to go all out to try to find something where the court might be convinced that this interferes with some other well established law. For example, Mrs. Hatcher raised the question about dower. If there is any question about it, there is a statute which provides that a widow may elect to take her dower rights under the common law or to come under the will of her deceased husband or to take under the statute dissent and distribution which, of course, is already on the statute books. This very simple procedure is intended to give the home owner and the property owner just a little bit of protection at that time when he is called upon to defend himself because he doesn't want to sell his property to somebody. As I stated before, he is probably the only one who knows why he doesn't sell the property. Perhaps he changed his mind. Perhaps he doesn't like the person. Perhaps it's the lot next to him and he doesn't want somebody living next to him, regardless of the reason. The point is he would then be required to defend himself. The burden of proof, for all practical purposes, would be on him as a defendant. Of course, theoretically, the burden of proof is always on the prosecution but in the case of these administrative boards practice for all practical purposes is often something else.

CHAIRMAN MARTIN: The question is on the minority report amendment. If there are no further comments on the minority report amendment—

MR. DOWNS: Mr. Chairman, I demand the yeas and nays.

CHAIRMAN MARTIN: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Yeager.

MR. YEAGER: Mr. Chairman, I should like, before beginning some remarks on this question, to ask a question of Mr. Pollock. Dr. Pollock—is he in the audience? I could ask it of the vice chairman then, Mr. Stevens. Did I understand correctly when it was stated here on the floor that all members of the committee voted for this proposal in the committee?

MR. STEVENS: No. A majority did.

MR. YEAGER: The people on the minority report did not vote for this particular proposal?

MR. STEVENS: They did not vote for Committee Proposal 45.

MR. YEAGER: I misunderstood Dr. Pollock. I thought he said everyone on the committee voted for it. I'm sorry. Mr. Chairman, ladies and gentlemen of the committee, I rise to support Committee Proposal 45 and ask that you defeat the minority report amendment.

Some people still declare that human rights are more sacred than property rights despite the absurdity of this distinction. Property itself has no rights, despite save only as human interests are involved. There are no rights but human rights. Now, what are spoken of as property rights are only human rights of individuals to property. As you know, there has been much publicity and discussion concerning the right of property owners to dispose of property through real estate brokers, resulting from an administrative ruling called rule 9. This is still under litigation in the courts. Now, while this ruling applied only to real estate brokers, many people looked upon this as an eroding of traditional rights by an administrative agency to dispose of their property as they saw fit. And this action has built up a fear that there will be no rights of ownership of property in due time for a variety of reasons. This so called eroding of rights was done without an act of the legislature, in fact, was contrary to their express act which was vetoed by the governor. In order to mitigate this real fear, I urge the support of the committee report which states the basic right to dispose of property shall be subject to change only by general law. And that's all it says: that the basic right to dispose of property shall be subject only to general law.

I do not believe that the due process clause which has been talked about here is sufficient in its broad application to meet this fear. This proposal in no way interferes with the legislature to make any restrictions. It in no way relates to realtors or rule 9. It does guarantee the individual property owner that no one will interfere with his rights except his elected representatives of the legislature. After all, property owners are the largest single class of taxpayers in this state and I urge the committee report be supported by defeating the minority report amendment. This declaratory reassurance to individual property owners is proper and desirable. Thank you.

CHAIRMAN MARTIN: Mrs. Hatcher.

MRS. HATCHER: I would like at this time to request a call of the convention so all the delegates may have the opportunity of voting on this.

CHAIRMAN MARTIN: The committee of the whole cannot order a call of the convention, the Chair is advised, Mrs. Hatcher. We will, however, ring the bell and provide adequate time for people, but there are one or two more speakers. Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, as an attorney, I do not understand the legal effect of Committee Proposal 45 and I certainly would enjoy it if Mr. Stevens or any other member of the committee on declaration of rights and suffrage or this committee would explain the legal effect. Now, we have had both Mr. Stevens and Mr. Yeager say this is nothing more than being declaratory of the common law. If this is true, then I submit that we do not need this proposal. Now, if there is some other intention or some other legal effect which this proposal will have, then I think we should all know about it so that we can vote intelligently upon this question. As of this time, I cannot vote intelligently on Committee Proposal 45 because I do not understand its legal effect. I believe, if I understood correctly—and Mr. Yeager can correct me if I'm wrong—he claims that this proposal does not affect rule 9. As I understand rule 9, it only affects agents, that is, brokers who are licensed by the state of Michigan. It does not affect individual home owners. So as a practical matter and as a legal matter, I do not see how Committee Proposal 45 will affect rule 9 in any way.

I think—and the lawyers here will agree—that when you insert some language, you intend that it has some meaning. And I would like to know what would be the meaning of Committee Proposal 45—if this is the only intention—other than merely being declaratory of the common law. Because if it is only declaratory of the common law, then why do we need it?

CHAIRMAN MARTIN: Mr. Gust.

MR. GUST: Just about everything that I was going to say, Mr. Chairman, has been said, although I'll answer that question, Mr. Binkowski. We need it because the corporation and securities commission saw fit to usurp the common law in this state and make a declaration of a rule which is now in the courts being tested as to its constitutionality.

I just want to add one or two comments on this: I am in favor of the committee proposal. I do not feel, as does Mrs. Hatcher and others who have spoken on this matter, that this has anything to do with civil rights as such or as defined or discussed by her. I feel it has to do with the right of an individual to dispose of his property as he sees fit.

I'd just like, as a lawyer, to make one comment; and this may, Mr. Binkowski, answer part of what you had to say previously. I think you will agree it has been a basic tenet of the Anglo Saxon law from time immemorial that what a man can do directly he can do through an agent whom he will appoint to do it for him and, provided there is no law to the contrary, he can limit the action and the authority of this agent to deal for him and in his behalf. Because of rule 9, this basic right of both the agent and the individual has been taken away, and I am hopeful that this committee proposal will clear the situation up so that we will not have to rely upon the interpretation of future commission rulings or legislative matters in order to define what this convention thought was the proper area of action for constitutional proposals.

CHAIRMAN MARTIN: Dr. Pollock.

MR. POLLOCK: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN MARTIN: Yes?

MR. POLLOCK: Have you other speakers?

CHAIRMAN MARTIN: Yes, the Chair has 6 other speakers, Dr. Pollock. Do you wish to move that the committee rise for a short recess?

MR. POLLOCK: I move the committee rise, yes. I make a motion that the committee rise.

CHAIRMAN MARTIN: The question is on Dr. Pollock's motion that the committee rise. All those in favor will say aye. Opposed, no.

The motion prevails. The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a more detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 58,** A proposal pertaining to the elective franchise; has adopted several amendments thereto, recommends that the proposal as thus amended be accepted.

[Following are the amendments adopted by the committee of the whole:

1. Amend page 1, line 12, after "requirement of" by inserting "no less than".

2. Amend page 1, line 16, after "voting" by striking out "for electors of" and inserting "in the election for".

3. Amend page 2, line 8, after "voting" by changing the period to a colon and inserting "Provided however, That no law shall be enacted which permits a candidate in any partisan primary or election to have a ballot designation except when required for identification of persons who are candidates for the same office and have the same or similar surnames.".

4. Amend page 2, line 11, after "year,", by inserting "or such other date as may hereafter be provided by the constitution of the United States or by congress for election of members thereof,".

5. Amend page 2, line 13, after "Sec. f.", by striking out the balance of the section and inserting "Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money, the issue of bonds or increased millage for a period of more than 5 years, only such persons having the qualifications of electors who have property assessed for ad valorem taxes in any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. In all other questions involving increased millage all persons having the qualifications of electors may vote thereon.".

6. Amend page 2, line 24, after "petition of" by striking out the balance of the section and inserting "electors comparable in number to 25 per cent of the number of electors voting at the preceding election for the office of governor in the electoral district of the officer sought to be recalled. Any statement of reasons or grounds procedurally required shall be deemed to pose a political rather than a judicial question.".

7. Amend page 2, line 28, after "law.", by striking out the balance of the section and inserting "No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers; nor shall a majority of any board of canvassers be composed of adherents of the same political party.".]

PRESIDENT NISBET: **Committee Proposal 58,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 58 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. Every citizen of the United States who has attained the age of 21 years, and has resided in this state 6 months, shall be an elector and qualified to vote in any election, except as otherwise provided in this constitution. The legislature shall by law define residence for voting purposes, and may impose a local residence requirement of no less than 30 days.

Sec. b. The legislature may by law exclude persons from voting because of mental incompetence, or commitment to a jail or penal institution.

Sec. c. For purposes of voting in the election for president and vice president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than 6 months and may waive residence requirements of citizens of this state who have removed therefrom. The legislature may provide the manner of voting by such persons but shall not permit voting by any such person who meets the voting residence requirements of the state to which he has removed.

Sec. d. The legislature shall enact laws to regulate the time, place, and manner of all nominations and elections, except as otherwise provided in this constitution, or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, the secrecy of the ballot, guard against abuses of the elective franchise, and shall provide for a system of voter registration and absentee voting: Provided however, That no law shall be enacted which permits a candidate in any partisan primary or election to have a ballot designation except when required for identification of persons who are candidates for the same office and have the same or similar surnames.

Sec. e. All elections for national, state, county and township offices shall be held on the Tuesday after the first Monday in November in each even numbered year, or such other date as may hereafter be provided by the constitution of the United States or by congress for election of members thereof, except for special elections to fill vacancies.

Sec. f. Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money, the issue of bonds or increased millage for a period of more than 5 years, only such persons having the qualifications of electors who have property assessed for ad valorem taxes in any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. In all other questions involving increased millage all persons having the qualifications of electors may vote thereon.

Sec. g. Laws shall be passed to provide for the recall of all elective officers, except judges of courts of record and courts of like jurisdiction upon petition of electors comparable in number to 25 per cent of the number of electors voting at the preceding election for the office of governor in the electoral district of the officer sought to be recalled. Any statement of reasons or grounds procedurally required shall be deemed to pose a political rather than a judicial question.

Sec. h. A board of state canvassers consisting of 4 members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers; nor shall a majority of any board of canvassers be composed of adherents of the same political party.

SECRETARY CHASE: The committee of the whole has also had under consideration **Exclusion Report 2041**, A report recommending the exclusion of article III, section 1; reports this back favorably and without amendment.

PRESIDENT NISBET: **Exclusion Report 2041**, without amendment of the committee of the whole, is referred to the committee on style and drafting.

For Exclusion Report 2041 as referred to the committee on style and drafting, see above, page 2272.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 45**, is in the process of considering a minority report amendment thereto, has come to no final resolution thereon. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, I move that we recess for 10 minutes.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor will say aye. Opposed, no.

We are recessed until 3:55.

[Whereupon, at 3:45 o'clock p.m., the convention recessed; and, at 3:55 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention resolve itself into committee of the whole to consider matters on **general orders**.

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Those opposed, no. The motion prevails. Mr. Martin.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the **committee of the whole.]**

CHAIRMAN MARTIN: The committee will be in order. At the time we recessed, there were several delegates who had requested recognition on the minority report amendment to **Committee Proposal 45**. At this time, the Chair will recognize Mr. Page.

MR. PAGE: Mr. Chairman, members of the committee, I rise in opposition to the minority report amendment and in support of Committee Proposal 45. It has been said here this afternoon this proposal would breed discrimination; that it would encourage bigotry, that it would set Michigan back 100 years. I can't agree with any of those conclusions. I think that this convention has made marked progress in the area of rights, the progress of which all delegates and the state of Michigan should be justifiably proud.

Committee Proposal 45 provides what Delegate Stevens has accurately characterized as some little protection of another right. It is the right of all property owners—and that includes any minority groups who own property—to convey, grant or devise their property. I don't believe this is setting Michigan back. I think that it is a step forward and it is consistent with the rights action that we have taken in this convention in the past and I again urge a vote against the minority report amendment and for the proposal.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman, I was apprehensive in some of the discussion that the major propositions of the minority report were somewhat obscured and were lost sight of, and I want to underscore here the main thrust of the minority report in the 3 conclusions which we reached regarding it: 1, that it is unnecessary as it does not enlarge or declare any right now amply protected under the due process clause of the federal and the state constitutions; 2, that it creates the risk of harm to existing powers, rights and agencies; and 3, that it doesn't accomplish its purpose as stated in response to some of the colloquy on the questioning of Mr. Stevens.

Now, we have the basic right of alienation of property, of ownership of property, historically, constitutionally, statutorily protected and enforced and reinforced by court decision over 1,000 years. This is the basic right which runs through all of the common law and what we are seeking to do here, in my judgment, is not so much to protect the right as to introduce the risk of harm, both to the right and to its impact upon other powers, duties and agencies. I think the disadvantages of this particular proposition outweigh its advantages and the declaratory intent of assurance which apparently is the main argument given for this proposal, I think, doesn't take into account the fact that the assurance which is given is going to be overcome by rendering precarious fundamental rights in relation to property in innumerable relations, in relation to specific performance, in relation to dower, in relation to contractual rights of a number of kinds, the full import of which we may not immediately foresee.

I respect the protection which is sought as the intent of this particular proposal, protection of the right to own and to alienate property as a natural and fundamental right, and I think that it ranks equally with any other right in the bill of rights and ought to be protected for all and by all. I don't think, however, that the full inspection and examination of the intricacies of this proposal would come to any other conclusion than there is raised a genuine risk of harm, which will undermine the very protection which is sought, namely, all the assurances of the common law to the protection and guarding of private property rights. I respectfully urge again the support of the minority amendment, which is to oppose Committee Proposal 45.

CHAIRMAN MARTIN: Mr. Young.

MR. YOUNG: Mr. Chairman and ladies and gentlemen, I'd like to refer briefly to a remark that Mr. Yeager made in relation to property rights and human rights. Mr. Yeager said, I believe, that there was no question of the equation of property rights with human rights. In fact, he said that property had no rights except as they were derived from humans. And I agree with this statement. I think it's theoretically correct. There can be no question that throughout the history of democracy there has been a big struggle between property rights and human rights. In fact, we just concluded a discussion in which we said that the ownership of property in itself entitled a citizen to certain rights of franchise above those of the rights of a citizen who did not own property. And so I think that the question of property rights versus human rights is still a very live question at this convention, and I believe that that question is basically involved in the proposition that we are now discussing.

Now, whenever a proposal is made to include a new right in the bill of rights, it would seem to me to be the responsibility of the proponents to indicate the need for such a new right. I haven't heard anyone here today indicate that there is indeed a threat to the right to convey private property unless rule 9 can be conceived as such a threat. Now, as I understand rule 9, it does not even touch upon the right of an individual to convey his own property. It does deny the right of an individual to use the apparatus of the state, to use the apparatus licensed in the common good in order to carry out discrimination and to violate the human rights of any citizen in the state. I don't believe anyone can quarrel with this legitimate objective of rule 9.

I believe the proposal is dangerous because it is a foot in the door. It marks for the first time in the history of any state in the United States the elevation of the right to discriminate to constitutional sanctity. And I say this is a dangerous foot in the door. First of all, I question the right even in disposition of private property of an individual to violate the human rights of his neighbor. But over and above that, we just finished a long and drawn out discussion on 2 separate occasions on the inclusion of specifics in the bill of rights and in the civil rights commission. We argued long and some of us argued vainly in favor of the inclusion of specific items. We said that we should spell out that there should be no discrimination in public housing or in housing and public accommodations, in employment, in education. Some argued on this floor that there was no need for such an inclusion; that these rights were automatically included in the general statement. The attack now on the right of freedom from discrimination in the area of housing must give us all pause and for me it opens up the question: does this inferentially endanger the right against discrimination in areas such as employment, public accommodation and education? I say we open the door to dangerous mischief and deprivation of the rights we say we wish to preserve when we include such an amendment as proposed here in the new constitution.

There is also the danger that in elevating the right to discriminate to a constitutional level, we nullify the limited gains made thus far in the civil rights field in this constitution. The lawyers among us have indicated we come into serious conflict with the federal constitution. I, myself, raise the question that here again might be the ugly doctrine of interposition, if indeed, there is any question of conflict with the federal constitution. We endanger the nullification of many civil rights fights in our federal courts and in our state and local courts, such as the fight against protective covenants. I agree with Mrs. Hatcher: this state would take a long step backward—indeed, a 100 year step backward— were we to adopt the proposal. It would be a serious blow to civil rights, another nail in the coffin of this already partially embalmed constitution.

CHAIRMAN MARTIN: Mrs. Butler.

MRS. BUTLER: Mr. Chairman, I would like to ask a question of Mr. Binkowski or Dr. Norris.

CHAIRMAN MARTIN: Dr. Norris, do you wish to reply to a question?

MRS. BUTLER: This afternoon I've heard the agent referred to as the state agent and I don't quite understand this and I wondered if we also consider doctors and lawyers and others who are licensed by the state as state agents.

MR. NORRIS: The question, Mr. Chairman, Mrs. Butler, relates to whether or not an agent under the licensing power of the corporation and securities commission is one who might be called a state agent so that his action would be state action. I am not prepared to go that far, but I do suggest to you that there is a whole line of decisions that indicates that the state may, in the bestowal of any privilege or license, attach thereto certain conditions; and in this particular matter with regard to the corporation and securities commission, what they did apparently was to attach a condition to the operation of the license that a broker in his brokerage function may not implement a discriminatory purpose. Now, there is some question here of whether or not the corporation and securities commission had that power. That matter is now being adjudicated before the Ingham county circuit court. I think that is all I can say with regard to your specific question and the context into which it fits.

MRS. BUTLER: I wonder—I was going to ask if the state agency could make the laws, if they made the laws, if they were not elected, or if the legislature makes the laws. We have a commission that has the power to make laws.

CHAIRMAN MARTIN: Mr. Norris.

MR. NORRIS: Mr. Chairman, Mrs. Butler, I think we ought to have fairly before us what really was involved in the rule 9 case. The commission has the power to adopt rules and regulations with regard to unfair real estate behavior, behavior on behalf of its agents, and it construed the word "unfair" to mean the implementation of a racially discriminatory purpose in the alienation of property, and that matter is now being reviewed by a court.

I think implicit in this whole matter is the fact that some people feel they have the right to sell on a discriminatory basis and that right which has been a right is now being reexamined by legislatures, by constitutional bodies, by courts, and I think that the effort which is now before us in the form of the committee proposal is one means of seeking to restrict this trend toward a protection of the right of the people to buy without discrimination. I don't know whether argument in the public forum is going to prevail in one direction or another. But I do suggest that in this particular matter that we now have before us, that the wording of the instant proposal is going to raise the possibility of more harm than perhaps what you, Mrs. Butler, and some of the other people may want to see happen.

MRS. BUTLER: Mr. Norris, Mr. Chairman, I'd like to say I don't want anything to happen that's going to be to the disadvantage of anyone. I just don't understand that remark. In the first place, I feel that this afternoon the discrimination that we have talked about has been racial discrimination. Where I live, that's not a problem. But there are other problems. I'm a property owner with property for rent and for sale and we have at the Michigan College of Mines a group of people—where there is a big turnover in one department. I've told my agent if he let one of them in my house, he'd sure hear about it, (laughter) because of personal reasons. I have rented to them and I've had such terrific destruction that I certainly don't want anything to do with them. And they're college people and they're from one department, which I won't mention. But that has nothing whatever to do with race.

This is my first experience, I must say, with knowing negroes, and I want to say this: it has been a very wonderful experience for me and that I have deep respect for every person in this room and deep affection for those I have been closely associated with, and as far as I'm concerned, I wish only the best for everyone.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, in further response to your question, Mrs. Butler, I don't believe that an attorney is regarded as an agent of the state. However, he is an officer of the court and we are licensed by the state of Michigan and we are subject, of course, to legislation. Now, with respect to rule 9, which I have before me—perhaps I should read it because we have been discussing it. I'll read it:

> A broker or salesman acting individually or jointly with others shall not refuse to sell or offer for sale or to

> buy or to offer to buy or to appraise or to list or to negotiate the purchase, sale, exchange or mortgage of real estate, or to negotiate for the construction of buildings thereon, or to lease or offer for lease, or to rent or offer for rent any real estate or any improvements thereon or any other service performed as broker or salesman—

and this is the important language—

> because of the race, color, religion, national origin or ancestry of any persons or person. A broker or salesman acting individually or jointly with others shall not refuse to sell or offer to sell or to buy or to offer to buy or to receive an option to sell or to buy or to lease or offer for lease or to negotiate the purchase, sale or exchange of a business opportunity or the good will of an existing business or any other service performed as broker or salesman because of the race, color, religion, national origin or ancestry of any person or persons.

Now, it's because of this latter language that I don't quite understand Mr. Gust's statement that he had hoped or expected this proposal to eliminate rule 9, because it would seem to me then that this would be inconsistent with the establishment of our equal protection clause as well as the establishment of the civil rights commission. It would seem to me that this is one of the areas that we are trying to correct and to eliminate discrimination based upon race, color, religion, national origin or ancestry.

I've been listening intently outside the hall, as well as inside the hall. I would say that no one has really explained all of the ramifications or the possible effects of Committee Proposal 45. We have heard differing opinions. Some say the intent is to eliminate rule 9. Others hope so, but are not quite sure that it will vitiate rule 9. I'd also like to suggest this: that while this matter is being litigated, and if the Michigan supreme court should find rule 9 valid, and it would appear that some action will be taken on rule 9 prior to any vote on this constitutional convention, that as a very practical matter, I just wonder what effect at all this proposal will have in the future if rule 9 is found valid and if those proponents of Committee Proposal 45 will then find themselves with meaningless language in our state constitution.

CHAIRMAN MARTIN: Mr. Mahinske. The Chair has you on the list, Mrs. Butler.

MR. MAHINSKE: I would just like to point out again that, in view of the remarks made by Delegate Stevens in response to whether or not this would cover equitable ownership, on a real fast check here, it appears to me, Mr. Stevens, that this is really going to pull the rug out from a number of trustees who have an estate here under various trusts.

Now, all trust property is taken subject to limitations within the trust itself. In the event that any of these limitations are not covered by general law, then the trustee would be in a peculiar situation. He would either be in a position to convey in disregard to the limitations within the trust agreement itself or he would be in a position to convey due to the restrictions in the trust limitations itself which are not covered by general law, and possibly be subject to some type of action by other beneficiaries of the trust or possibly the state itself, seeing as we have just enacted new legislation and the attorney general is acting in this whole area of charitable trusts. I'd just like to repeat that I think that you are opening the door on something here that you just don't intend to; and when you use such broad language such as is used here, I think all you're going to do is to guarantee the lawyers of this convention and in the state a lifetime job, trying to straighten this thing out after it is adopted.

CHAIRMAN MARTIN: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I would announce that if this amendment is defeated, I will propose an amendment to delete the word "general" in deference to the opinion of some attorneys who feel that that might exclude the common law in constitutional law. So that would take care of those arguments. I think the rest of them are pretty well taken care of.

I have just had handed to me a decision which came down, I think just a day or two ago. The supreme court of the United States refused certiorari on a question which holds that an administrative rule in the state of Washington requiring a person refusing a sale because of racial discrimination in publicly owned housing—the certiorari was refused. The effect of it—I haven't had time to study it all—but the effect of it is that this would be unfair to people living in publicly aided housing as distinguished from those who have homes under nonpublicly aided housing under the equal protection clause.

It seems that there are 2 arguments which seem rather inconsistent. First, that this is already the law and it won't accomplish anything. The other, the long list of arguments, some of which are entirely irrelevant, about the awful things that this would do. If you intended simply to protect the home owner from being required to explain why he will not sell his property to any person for whatever reason, that's all there is to it.

CHAIRMAN MARTIN: Mrs. Butler.

MRS. BUTLER: Mr. Chairman, I felt that my question was not answered. I would like to know whether doctors and lawyers who are licensed by the state are state agents.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: Mrs. Butler, in my off the cuff opinion, the answer to your question would be no.

MRS. BUTLER: Thank you.

CHAIRMAN MARTIN: Mr. Gust.

MR. GUST: Mr. Chairman, I'd just like to clear the record on one thing. Mr. Binkowski, I think I stated after I said that I did not feel that this committee proposal had anything to do with civil rights, that I thought the proponents thereof thought that it in some way vitiated rule 9 or some parts of rule 9. I personally, for the record, do not think that it has anything to do with civil rights or rule 9. And if the proponents had that in mind, I think they missed the boat. I'd like to further say that I think Mr. Mahinske is right. Probably all this will do is perpetuate a new field of litigation for the lawyers. And as someone who has taken the floor twice with reference to the proposal, maybe in the future I'll be considered an expert on it and get a piece of that law business. I intend to support it, but I want to say on the record I have no idea what it's ultimate intentions are.

CHAIRMAN MARTIN: Mr. Walker.

MR. WALKER: Despite what some people have said here today, there is very little question in my mind but what this is aimed directly at rule 9. I am reminded of a story that one of the delegates told here outside of the convention a few days ago when he was a candidate for city councilman in his home city. He was asked, by a group of realtors who were interviewing him, what his position would be here at the convention regarding anything that had to do with rule 9. He answered that it didn't seem like a question that he could answer other than one way: that they were giving him a choice between being a councilman in his own city or being a Christian. I personally agree with him, that I would like to stand as a Christian. Thank you.

CHAIRMAN MARTIN: Mr. Hodges.

MR. HODGES: Mr. Chairman, I was just going to say in further answer to Mrs. Butler's question, that both attorneys and doctors have certain ethical codes which could be supported if their license to practice in the state is removed. And I would submit that if an attorney failed for some reason to take a client in certain circumstances, for instance, where a court ordered him to appear for a client and he refused, or if a doctor refused to give medical care to a person because of one of these factors, that he deserved to have his license removed.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I'm beginning to get concerned about the insertion of an administrative rule known as rule 9 into the debate. I have read this language and I've read it and I've read it and I can't for the life of me understand how this has anything to do with rule 9. Now, if Delegate Binkowski or some other attorney here thinks he can see it in here, I would surely appreciate having it explained to me. In answer to his question, if rule 9 is involved here, and if rule 9 is found valid by the courts, what is the result of what we are doing here? Well, 2 things

—there are 2 alternatives, I guess: first of all, if this involves rule 9 and the constitution was passed, then the courts would be overruled. That's very clear, I think. At least, it was clear when I went to law school. But if rule 9 isn't involved, then nothing happens. That too is clear, or was clear when I went to law school. I'm at a complete loss here and I would certainly appreciate any help. If anybody can show me how this in any way has anything at all whatsoever to do with rule 9, I wish that he would stand up and explain it or stop talking about it.

CHAIRMAN MARTIN: Mr. Binkowski.

MR. BINKOWSKI: For the record, Mr. King, I did not say that this Committee Proposal 45 affects rule 9. I asked that question in the beginning of Mr. Stevens, and as I recall, he answered that he had hoped that it would. Now, if my understanding is wrong, Mr. Stevens will correct me. I agree with you, Mr. King. I don't see how it does either. I would think that Committee Proposal 123 would directly affect rule 9 or any other related rules. I don't see how Committee Proposal 45 does. However, I still don't understand and I wish that you had continued on to explain why you think we need this type of proposal in the constitution because I don't see what the effect would be.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman, Mr. Binkowski, I never said that. I'm not indicating in any way how I am going to vote on this matter. I am listening to the debate and trying to make up my mind and you people keep confusing me by insertion of this rule 9, which is completely irrelevant. I've listened to some wonderful, irrelevant, emotional arguments about this subject which had absolutely nothing to do with the subject before us and I am hoping for some light. If a little less heat and a little more light could be generated, I'd be very pleased.

CHAIRMAN MARTIN: Mr. Snyder

MR. SNYDER: Thank you, Mr. Chairman. I would like to reply very briefly to Mr. King's question. The story that Mr. Walker just related just a little while ago is a question that was posed to me, and this question was posed to me in a real estate office with a group of realtors who could not, away from this constitutional convention, differentiate between rule 9 and the proposal that we have here.

We may be motivated by the most laudable of all objectives here, but there are people at home that are not quite as discerning as you, Mr. King, and that is why, when we make our decisions here, they must be so clear cut and so concise that there can be absolutely no confusion of our intent.

CHAIRMAN MARTIN: Mr. King.

MR. KING: Mr. Chairman and delegates, I want to thank Delegate Snyder for admitting that he sees no inclusion of rule 9, and inasmuch as no one has stood up and said that rule 9 is involved here, I hope that we can lay this issue at rest once and for all and vote on the merits of this question.

CHAIRMAN MARTIN: Mr. Nord.

MR. NORD: Mr. King is a former student of mine, as I recall, and he said what he used to know when he went to law school but I believe he has forgotten many things since that time. (laughter) And he also stated that nobody has stood up and said that this thing relates to rule 9. He must have been out of the room when Mr. Stevens said it relates to rule 9.

Now, I believe the real question is: why does anybody think it relates to rule 9? Mr. Binkowski and I both agree that we think that this would have no effect on rule 9. But Mr. Stevens said he hoped that it would. And I think it is worthwhile stating why anyone could reasonably hope that it would. In other words, in case Mr. Binkowski and I are wrong in our interpretation and Mr. Stevens is right in his hope, then we ought to know what the consequence would be. As I see it, there are only 2 sentences in this proposal, each one of which is directed, it seems to me—directed obliquely, but, nevertheless, directed at rule 9. The first one has to do with the capacity to alienate property. Of course, that is related to rule 9. That one had to do in a remote manner, in a roundabout manner, with the possibility of selling property in a certain manner. This first sentence seems to imply, or attempts to set down a rule that there can be no such restriction on the power to sell except in a certain manner. Then it states what that manner shall be, and it states at the end of the first sentence and in the second sentence that "only by general law." Now, that raises a big question: what is meant by general law? If that means by statute or if it means what the next sentence seems to imply, namely, that it might any other way you wish, except one way, which means by administrative board, that directly slams into rule 9 again.

In other words, as far as I can determine, what is hoped that this thing would accomplish is: first, that no administrative board shall in any way prepare any rules which in any way limit the right of an owner of real property to convey, grant or devise, on the assumption that that is what rule 9 does. Now, I believe that many of us who have analyzed rule 9 agree that that is not really what rule 9 does, but that is what it appears to do. Rule 9 does not have any effect on the right of an owner to convey property, but it indirectly seems to have such an effect because it tells him that if he wants to convey property through a real estate broker, then the broker can't do certain things. The man himself who owns the property can do as he pleases, according to rule 9, but he cannot use a real estate broker who is licensed. Therefore, it certainly is not far fetched to assume that this provision is intended to strike, or undermine let's say, rule 9. And I will state further that while it is my opinion and the opinion of Mr. Binkowski and I believe many other lawyers that this wouldn't have that effect, the only thing that we can conclude on the basis of the language and the assertion of Mr. Stevens, and the demand that this ought to be in the constitution, is that there is a desire and the hope that this would impair rule 9.

One further thing before I close, and that is this: it seems to me quite obvious that in preparing this proposal, the proponents have selected one particular subject, the right to convey or grant real property, and tried to, let's say, put their finger in the dike at that point, to protect or bolster that right. It seems to me that in doing so, they select an arbitrary instance and say: let us elevate that specific thing to a constitutional right. Whatever is involved underneath this Committee Proposal 45 is much bigger than the right of an owner of real property to convey, grant or devise. It is a very, very complicated, deep, philosophical and legal problem and I don't see that the way to attack that problem is to pick on some little piece of it and say: this we will bolster in the constitution. If we want to face up to the problem all the way, that is one thing. If we don't, I don't believe we should tamper with it and I don't believe we should have any half baked measures. In my opinion, this is a classical half baked measure.

CHAIRMAN MARTIN: The question is on the minority report amendment. The yeas and nays have been called for. The secretary will ring the bell. Mr. Norris.

MR. NORRIS: I just wanted to ask the parliamentary posture on this matter.

CHAIRMAN MARTIN: We are voting on the minority report amendment, which is, in effect, an amendment to the committee proposal, so those in favor of the minority report will vote aye and those opposed will vote no. The secretary will read the amendment.

SECRETARY CHASE: The amendment pursuant to the minority report is to amend the proposal by striking out all after the enacting clause.

CHAIRMAN MARTIN: The question is on the minority report amendment. For those who have just come into the room, those who favor the minority report will vote aye; those who are opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—63

Allen
Andrus, Miss
Balcer
Barthwell
Batchelor
Farnsworth
Faxon
Follo
Gadola
Garvin
Martin
McGowan, Miss
Murphy
Nord
Norris

Bentley
Binkowski
Bledsoe
Brown, T. S.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
DeVries
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Greene
Habermehl
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Judd, Mrs.
Krolikowski
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
Ostrow
Pellow
Perlich
Prettie
Romney
Sablich
Snyder
Staiger
Sterrett
Stopczynski
Van Dusen
Walker
Wilkowski
Woolfenden
Young
Youngblood

Nays—59

Anspach
Beaman
Bonisteel
Brake
Brown, G. E.
Butler, Mrs.
Dehnke
Dell
Doty, Dean
Elliott, A. G.
Everett
Figy
Finch
Goebel
Gust
Haskill
Hatch
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Karn
King
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Millard
Mosier
Nord
Page
Perras
Plank
Pollock
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 63; the nays are 59.

CHAIRMAN MARTIN: The minority report amendment is adopted. Are there any other amendments then? There are no other amendments. Father Dade.

MR. DADE: Mr. Chairman, could I say that the action of the convention on an almost bipartisan basis is one of the reassuring bits of business in this convention. It is most heartening and I am proud of the delegates.

CHAIRMAN MARTIN: If there are no further amendments, the proposal as amended will pass.

Committee Proposal 45, as amended, is passed. The Chair will recognize Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I move the committee now rise.

CHAIRMAN MARTIN: The question is on the motion of Dr. Pollock that the committee now rise. All those in favor will say aye. All those opposed will say no.

The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The convention will be in order. The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 45**, A proposal to guarantee the right of disposition to the owner of real property. The committee has striken out all after the enacting clause. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: **Committee Proposal 45**, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 45 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

(Note—The complete content of this committee proposal has been stricken.)

Announcements.

SECRETARY CHASE: I have the following announcements: the apples today are from Mr. Turner. (applause)

MR. WOOLFENDEN: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Yes, Mr. Woolfenden?

MR. WOOLFENDEN: I understand that the proposal as amended was referred to style and drafting. My inquiry is if that is accurate. There is nothing to go to style and drafting after the amendment, is there?

PRESIDENT NISBET: Mr. Woolfenden, the Chair might say this occurred once before; where all of the language of a proposal was stricken. It has gone to style and drafting only for their information as to what disposal was made on the proposal. Any other announcements?

SECRETARY CHASE: The committee on administration which had scheduled a meeting for tomorrow immediately after the morning session, has changed the time of meeting, please note, and will meet immediately after the afternoon session tomorrow. Mr. Walter DeVries, chairman.

The committee on legislative powers will meet in room H this afternoon immediately following the session. Any delegate desiring to offer an amendment to any committee proposal reported by the committee on legislative powers or any delegate wishing to discuss any of these proposals is invited to meet with the committee after the session. T. Jefferson Hoxie, chairman.

A meeting of the miscellaneous provisions and schedule committee immediately after the session Thursday, April 12, in room E. Committee amendments and delegate amendments will be seriously considered at that time. Mr. Claud Erickson, chairman.

We have the following requests for leave: Mr. Woolfenden asks to be excused from tomorrow's session because of professional commitments; Mr. Hood would like to be excused from the morning session of tomorrow, April 11; and Mr. Pollock wishes to be excused from the sessions of Thursday and Friday so that he may participate in the sessions of the American society for public administration in Detroit.

PRESIDENT NISBET: Without objection, the excuses are granted. The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, I want to propose something that may get passed: I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned until tomorrow morning at 9:00 o'clock.

[Whereupon, at 4:45 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Wednesday, April 11, 1962.]

ONE HUNDRED NINETEENTH DAY

Wednesday, April 11, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our delegates, Mrs. Judd. Will you please rise.

MRS. JUDD: May we pray together. Hear us, O God, as we seek Thy help. In the long, often tedious and sometimes frustrating hours of debate, help us to recognize this democratic process as a privilege—a privilege almost unique in a world struggling for freedom and groping for the understandings and techniques required of those who would be free. Help us to look upon this democratic process as a long, painfully won outgrowth from the ancient councils of the Anglo Saxons, through the medieval parliament of Britain and the hard but independent pioneer life of our American continent.

May we look upon the privilege of writing together this basic law of our state as a challenge to our capacities as citizens of a government built upon this heritage—a challenge to prove ourselves worthy of the spirit, the courage, the steady light of freedom burning down through the centuries in the hearts of those who have evolved our liberty and our democracy.

As the task that still lies before us seems increasingly difficult to perform, give us the faith of the poet who wrote:

I said to the man who stood at the gate of the years:
"Give me a light that I might tread safely into the unknown."
And he replied:
"Go out into the darkness and put your hand into the hand of God;
That shall be to you better than a light and safer than a known way."

Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. If you are present, please record your attendance. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Ford, temporarily from today's session; Mr. Norris, from the morning session; Mr. Rood, from the morning session as his wife had a serious operation; Mr. Brake, from part of the afternoon session; Mr. Young, from today's session; and Mr. Shackleton, from today's session as he has been taken suddenly ill and had to be rushed to the hospital.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Ford, Garvin, Hood, Howes, Kirk, McAllister, Norris, Rood, Shackleton, Woolfenden and Young.

Absent without leave: Mr. Bledsoe, Mrs. Butler, Mrs. Conklin, Messrs. Douglas, Mahinske and Ostrow.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Conklin, Mrs. Butler, Messrs. Ostrow, Bledsoe, Douglas, Ford, Mahinske, Rood, Shackleton, Hood and Norris.]

Reports of standing committees.

SECRETARY CHASE: No committee reports.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: No resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering items on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Bentley.

[Whereupon, Mr. Bentley assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN BENTLEY: The committee will be in order. The convention is in committee of the whole for the purpose of considering items on the general orders calendar, which the secretary will read.

SECRETARY CHASE: Item 1, page 7 of the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 99,** A proposal to provide that the legislature may provide for a jury of less than 12 in civil cases. Amends article V, section 27.

Following is Committee Proposal 99 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. IN CIVIL CASES the legislature may authorize a trial by a jury of less number than 12 [men] JURORS.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 99:

The committee recommends the retention of this section with slight modification. The words "in civil cases" are added to make it clear that the traditional jury of 12 is maintained in criminal cases.

The word "jurors" is substituted for the word "men" to conform with the changes in article II and to insure that there will be no discrimination in sex.

Provisions of this type are found in many state constitutions and they provide a more speedy administration of justice.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and members of the committee, the hour has arrived for consideration of the committee proposals reported to the convention by your committee on legislative powers. I wish to make this brief statement relative to the work of the committee. As you know, we divided our workload by appointing 4 subcommittees and assigning them certain articles and sections of the constitution under our jurisdiction for study and research.

There were 152 delegate proposals referred to our committee by the president. All delegates introducing these proposals were invited to appear before the committee to present their views. In addition, invitations were issued to legislators, civic leaders, labor, state, county, township and municipal representatives, judges, college professors and interested citizens to testify on the various proposed provisions of a new constitution.

It was not the intent of the committee to recommend extensive changes except in the interest of clarification or to facilitate and improve the operation of state government, particularly

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

in the functions of the legislature. It is our sincere hope we shall succeed in explaining, to the full satisfaction of each of you, the reasons for our recommendations based on our well considered deliberations on each proposal. We make no claim of being infallible and invite your constructive criticism and suggestions.

As chairman of the committee, it has been a great source of satisfaction and pleasure to me that the members have worked in such complete accord irrespective of political beliefs. Committee decisions were not confined to voting along party lines, but according to the best beliefs of the individual delegates. The minority reports presented on certain committee proposals were only minor differences of opinion, and members of the committee were encouraged to take this action on any proposal with which they were not in complete agreement. Thank you.

In consideration of the first proposal before the committee, I yield to the subcommittee chairman, Mr. Powell.

CHAIRMAN BENTLEY: The gentleman from St. Louis yields the floor. The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and fellow delegates, I am going to start off with an easy and a noncontroversial proposal. (laughter) The explanation is very brief. I don't know if you care to turn to it or not. If you do, it is in Journal 71, page 477.

You will notice that there are only 2 changes here. The words "in civil cases" are added at the beginning, and then at the end where it did say "12 men," it now says "12 jurors." The explanation is:

[The supporting reasons were read by Mr. Powell. For text, see above, page 2288.]

CHAIRMAN BENTLEY: Are there amendments to Committee Proposal 99?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Battle Creek, Mr. Everett.

MR. EVERETT: Mr. Chairman, I have no amendment, but I would like, through the Chair, to address a question to Mr. Powell.

CHAIRMAN BENTLEY: The gentleman from Battle Creek yields to the gentleman from Ionia, Mr. Powell. The gentleman will proceed.

MR. EVERETT: Mr. Powell, it is, of course, true that traditionally we have 12 men in civil juries. This is not true in most justice court juries or municipal court juries. Is it your intention to say that the legislature may not authorize 6 man juries in those courts?

MR. POWELL: I could comment on this, but I think I will refer it to our legal counsel of our 4 member subcommittee, Don Habermehl. You might get me snarled up before you get finished with me if I start in on the legal part of this.

CHAIRMAN BENTLEY: The gentleman from Battle Creek yields to the gentleman from Alpena, Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, Mr. Everett, no. This provision simply authorizes the legislature to authorize a jury of less than 12. In other words, the judicature act could set up a number of jurors less than 12 in any type of proceeding in civil cases. The jurisdiction of the legislature over criminal matters in justice courts I don't think would be affected by this. This has been the provision that has been in the constitution right along.

MR. EVERETT: Thank you, Mr. Chairman.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Dowagiac, Judge Mosier. Does the gentleman from Dowagiac desire recognition?

MR. MOSIER: Yes.

CHAIRMAN BENTLEY: You are recognized, Judge Mosier. The gentleman will proceed.

MR. MOSIER: Mr. Chairman and fellow delegates, on behalf of the 6 retired judges of this convention, an amendment was filed that was intended to be brought up on second reading, the purpose of which was to allow in civil cases a verdict to be received when 10 of the jurors in circuit court had come to an agreement.

I was not aware of the matter that is before the committee at this time. I have talked with 2 of the retired judges who joined with me in the amendment that was filed, and it is their opinion and it is mine that we would have no objection to the proposal that is now before the committee. In preparing for this, I talked with many circuit judges. I have letters from 12 or 14 of the present presiding circuit judges. I have the word of the former chief justice that this was something that should have been in the law many years ago.

As you understand, in the trial of civil cases, it is the law today — and has been in Michigan — that there should be a unanimous verdict of 12 of the jury, and this has resulted many times in mistrials because 1 or 2 or 3 jurors could not bring themselves in accord with the remaining 8, 9 or 10, and for that reason it was necessary — and has been in many cases — to declare a mistrial. This resulted in the case being tried again by the same attorneys, the same parties, the same witnesses and usually a verdict received. It was at the expense of the parties and the expense of the public. Therefore, in lieu of bringing this up on second reading, as I had expected it would be, I am sure that the other judges who joined with me would be satisfied with this arrangement by which the legislature could set forth such terms as in their opinion would be proper in civil cases.

I might say that I asked Mr. Joiner to make an investigation of the rule as to how it was applied in other states, and he advises me that there are 23 states that permit verdicts to be taken by less than 12 in civil cases in trial or circuit courts. In some states it is a verdict of 8; in some 9; and in some 10 and possibly 11. But the principle is to permit the legislature to fix the terms under which a verdict of less than 12 may be received. And personally, and on behalf of the 2 members that I have talked with, we are in favor of this.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, I would like to ask a question of Mr. Powell or any other member of the committee who would care to answer.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Ionia for the purpose of answering a question. You will state your question.

MR. NORD: The question is this: should this section be expressly limited to courts not of record, in view of the fact that the citizens research material which we have indicates that under the 1850 constitution, which has the same language, it has been held in a case that that is what was intended, and also under the present statutes that is the way it has been limited? Would there be any objection to limiting it to courts not of record?

CHAIRMAN BENTLEY: Mr. Powell.

MR. POWELL: There was no such suggestion that came before our committee. And I think in all these legal matters I prefer to yield to Delegate Habermehl and let him handle that part.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Alpena, Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, Dr. Nord, I am inclined to think that this section should be limited to courts of record. We tried to avoid any conflict with the provision that was brought out by the committee on declaration of rights, suffrage and elections, but in this case I think the case of the municipal courts or courts not of record and jury trials there in criminal cases probably ought to be excepted from this provision, so I would, at least for myself, and to Mr. Powell and to Mr. Hoxie recommend that the insertion of the words "in courts of record" might be a very desirable amendment.

MR. NORD: Mr. Chairman, I simply would like to call to the attention again of Mr. Habermehl that the language to which I referred stated in a case that the language that we have before us would be construed to be applicable only to courts not of record, so that it certainly would be useful to put in whatever language is desired, whether it is "courts not of record" or "courts of record." I have no amendment, however.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I would like to raise the same question that Delegate Everett raised. I don't want to disagree with eminent counsel for the committee, but there are police courts in some of the municipalities of the state where criminal cases are tried by juries of 6 people, and this is limited to civil cases. It is an extension, perhaps, of the powers of the legislature or you can say it is a limitation. I don't care which it is. The traditional jury under the common law is 12, and I am afraid that the criminal cases could not be tried by 6 people in these lower courts in the municipalities of the state.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I make the same point as Mr. Tubbs. I don't know that it is necessary to elaborate upon it very much, except that I hope the subcommittee will see the effect of the proposal as it now stands, whereas in the past the legislature has been given the power to authorize a jury of less than 12 jurors and that has been judicially interpreted as being applicable to courts not of record. Therefore, in the past the legislature has had power to provide for a jury of less than 12 in these municipal courts where they are trying misdemeanors. By this language starting out and saying that this power in the legislature shall vest only in civil cases, the result of this inevitably will be that whenever you try anybody for a misdemeanor and he demands a jury in a municipal court, there will have to be 12 jurors.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Flint, Mr. Millard.

MR. MILLARD: Mr. Chairman, when this matter came before the legislative powers committee, we had 2 other sections with which to reconcile, and I refer both Mr. Tubbs and Mr. Hutchinson to the 2 sections in article II, jury trial, section 13:

> The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

Then in section 19:

> In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 men in all courts not of record; to be informed of the nature of the accusation;

and so forth. Now, the problem that came before the legislative powers committee was to reconcile these 2 sections with this section. We found — and research so advised us — that there had been no provision made for civil cases for trial with less than 12 men, so we inserted the words "civil cases." Criminal cases were taken care of under the other section that I read, so that this matter applies only to civil cases, and all we changed was to put "civil cases" in there where it had not been mentioned before and to add "jurors" instead of "men." It is just a clarification that with the other 2 sections should satisfy everybody.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman, I pass. Delegate Millard made the statement I wanted to make relative to the declaration of rights. I would only suggest that the delegates turn to article II and read that again.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Harrisville, Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, part of my question has been answered, but it seems to me that if this provision is limited to courts of record, wouldn't it follow that by inference the point might be raised that the legislature did not have the power to authorize trial by less than 12 in courts not of record? I suggest that to members of the subcommittee.

CHAIRMAN BENTLEY: Are there amendments to Committee Proposal 99?

SECRETARY CHASE: None.

CHAIRMAN BENTLEY: If not, it will pass.

Committee Proposal 99 is passed. The secretary will read.

SECRETARY CHASE: Item 2 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 100,** A proposal to provide the legislature shall not authorize lotteries or the sale of lottery tickets. Retains article V, section 33.

Following is Committee Proposal 100 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 100:

The committee is of the opinion that this section should be retained. Much testimony was heard upon this subject. The committee reached its decision after long deliberation.

The prohibition against the authorization of lotteries or the sale of lottery tickets has been in the Michigan constitution since 1835. As late as 1954, a proposed amendment to this section, which would have modified its prohibition for nonprofit, charitable organizations, was defeated at the polls.

The committee does not feel there is any reason to remove or change prohibition of this section. Any relaxing of the prohibition against lotteries would open up the state to the evils of organized gambling which would work to the detriment of the people.

Following is the minority report to Committee Proposal 100 as offered and the reasons submitted in support thereof:

Messrs. Baginski, Lesinski, Murphy and Youngblood, a minority of the committee on legislative powers, submit the following minority report to Committee Proposal 100:

Add a new sentence after the language included in Committee Proposal 100 to be included as a part of Committee Proposal 100, but to be offered to the people as a separate proposition on the ballot distinct from the document as a whole when the constitution is submitted to the vote of the people.

A minority of the committee recommends that
the following be included in the constitution:

HOWEVER, THE OPERATION OF BINGO SHALL BE ALLOWED IF CONDUCTED BY CHARITABLE OR FRATERNAL ORGANIZATIONS AS DEFINED BY LAW: PROVIDED, THAT A MAJORITY OF THE ELECTORATE IN ANY COUNTY AGREES TO SAME.

Messrs. Baginski, Lesinski, Murphy and Youngblood, a minority of the committee on legislative powers, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 100:

The minority wishes to stress that the report is one of "preference" rather than "opposition" to the report by the committee on legislative powers.

It is constrained to agree that article V, section 33, as it is in the present constitution should be retained.

However, there can be no dispute that the hearings conducted by the committee on legislative powers indicated widespread interest for and against bingo and/or lotteries.

It is our conjecture that the delegates to this constitutional convention have received more mail, pro and con, on the question of bingo/lotteries than any other issue before this convention.

It is noted that the various veterans' organizations all over the state favored lotteries and the prosecuting attorneys association went on record favoring the regulation of lotteries.

As the majority report indicated, the vote in 1954 was very close. In fact, we want to emphasize that 944,388 disapproved that 1954 amendment and 903,303 favored it so that there was a difference of 41,085 in a 1,847,691 vote cast.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

As the Detroit Free Press editorial of December 21, 1961, indicated, this is a tough decision. For your consideration, the following is the Free Press editorial:

As We See It

> How Much Gambling Is the Right Amount?
>
> The mere fact that a constitutional convention subcommittee is holding hearings on whether to legalize lotteries and such related forms of gambling as bingo indicates that this issue cannot be lightly dismissed.
>
> Should a lottery clause be written into the constitution, it would most likely be a very general provision, only authorizing the legislature to make the ground rules, and to decide whether Michigan would have a state lottery, or whether bingo or similar games for charitable purposes should be allowed on a local option basis, with the state taking its share through a tax or license fee.
>
> As a matter of fact, state lotteries and legalized bingo are 2 separate questions which should be studied separately.
>
> The pressures for legalized bingo come largely from church and fraternal groups seeking to raise funds for commendable purposes. The dangers are that such activities often are taken over by private promoters who, in the name of sweet charity, are likely to come out better than the causes they are supposed to be helping.
>
> The problem of control and policing would be a difficult one under the best of conditions.
>
> There is a great deal of emotionalism involved in the bingo question, and it appears in such claims as were heard by the con con committee in Detroit Tuesday. The committee was told that bingo provides a form of recreation for elderly people, and that it gives people with the urge to gamble a legal outlet for the impulse.
>
> If bingo is to be determined wholly on a moral basis, neither of those 2 arguments is very impressive.
>
> A state operated lottery could be something entirely different, although here again the moral issue always pops up.
>
> The difficulty is that the public concept of what is and is not moral has a tendency to change with the years. Thus, if public sanctioned gambling is wrong, Michigan has no right to permit it at race tracks.
>
> On the plus side, a state lottery, if it could be properly controlled and administered, would undoubtedly bring large revenues into the state treasury.
>
> It has been suggested that such money be dedicated to educational purposes exclusively. And while the moralists will throw up their hands at that suggestion, they could be reminded that the University of Michigan was given its original start in 1817 by the proceeds of 2 public lotteries. That, of course, was before Michigan's first constitution was adopted.
>
> Still another argument advanced in favor of a state lottery is that it would reduce racketeering by letting the state instead of the underworld syphon off the hundreds of millions of numbers racket dollars which now go into private pockets. Other states have put the stamp of official approval on bingo or other forms of lottery. That the sentiment is strong for this kind of liberalization in Michigan is evident in the fact that in 1954, in a statewide election, a proposal to legalize bingo was beaten by only 40,000 votes out of a total of nearly 2 million votes cast.
>
> We doubt if that desire is going to die out overnight if the convention decides against legalizing lotteries.
>
> That is one of the hard facts of life which the con con delegates have to face, and which makes their decision, whatever it is, a tough one to arrive at.

Moreover, the minority is disturbed about the inconsistencies in our existing legislature in Michigan as reflected by the following editorial which originally appeared in the Lapeer County Press but which was taken from the Michigan Tradesman, December 1961, at page 42:

> If bingo is illegal, why shouldn't there be a law against betting the horses, too? Instead of con con delegates trying to legalize bingo, why aren't they trying to get the state out of the horse book business?
>
> Could it be because of all the important money invested in those fancy Detroit racetracks? Could it be because the horses have more influence than little old ladies in Lansing? Or could it simply be because the state gets a cut of the horse betting money but hasn't yet figured out how to drag the bingo pot?
>
> Such trivia as bingo has no place in a basic charter of government. We didn't elect con con delegates to sit in Lansing and talk about games. But if there must be such talk, we'd be inclined to listen a lot harder to a delegate with guts enough to ask for answers to the questions we've asked.

Because of the widespread interest in bingo, it is felt it would be more economical and it would represent a savings to the people by presenting this proposition, as a separate proposition, to determine this controversial issue at the next election instead of allowing another initiatory petition drive.

In conclusion, without going into the merits of the advisability of allowing bingo or not allowing bingo, we would like to say that we agree with Mr. Romney who quoted Thomas Jefferson, the author of the Declaration of Independence, as follows:

> I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education.

Therefore, we recommend that the amendment be placed on the ballot as a separate proposition as a proposed amendment to article V, section 33.

CHAIRMAN BENTLEY: The Chair appreciates the enthusiasm with which some gentlemen have greeted this proposal, but would request order. (laughter) The Chair recognizes the gentleman from St. Louis, the chairman of the committee, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I want to be perfectly honest with all the members. This, perhaps, was one of the most highly controversial sections of article V. Correspondence was heavy. In addition to what I received and the members of our committee received, we know that many of you also received numerous letters, because many of them were referred to me. The question is one which is highly controversial. It is a matter of the individual position or belief of each member of this delegation. I received many communications from individuals who recommended the amendment to this section allowing charitable bingo. I received communications from those that wanted it deleted. I received many communications from church groups and other groups that felt it should be retained. For a full and complete discussion of this proposal, I yield to Mr. Powell.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and ladies and gentlemen of the committee, in the division of work in our committee, our subcommittee 2 was assigned sections 24 through 40, inclusive, which of course included this secion 33 which is the existing prohibition against lotteries.

Early in the session 4 different delegate proposals dealing with this general subject were introduced. There was 1520, which was the one on which we finally worked, which would retain the present language in the new constitution; there was 1211, which would delete this section from the constitution leaving the entire field to legislative discretion; 1064, which would amend the present language by providing an exception for lotteries conducted by charitable or fraternal organizations, subject to county referendum; and 1294, which would amend the section by adding an exemption for controlled, legalized bingo for charitable purposes after an approving vote in any city, village or township.

We discussed the matter from time to time in our subcommittee and the full committee and decided to hold hearings on the subject. We did have 2 very well attended hearings prior to the holiday recess, the first in Grand Rapids and the second in Detroit. As we had expected, the testimony in Grand Rapids was preponderantly in favor of retaining the status quo of the prohibition against all types of lotteries. In Detroit the testimony was more evenly divided, I think with the preponderance in favor of some change, that point of view being expressed by veteran and fraternal groups. We also had testimony delivered before the committee by the representative of the state association of prosecuting attorneys.

The final action in the committee was taken the last evening that we were permitted to report out committee proposals, January 31, and after a whole series of amendments and proposals to change or modify or do something about it, all of which were rather decisively defeated, the proposal that has been read to you to retain the current language was adopted by a vote of 14 to 1. Our comments as recorded on page 477 of Journal 71, are very brief, just 3 paragraphs:

[The supporting reasons were read by Mr. Powell. For text, see above, page 2290.]

As Chairman Hoxie has said, I think this has been a source of very heavy correspondence. I have heard several delegates who were not even on this committee comment that they personally had received more correspondence on this subject than on any other. Now, as chairman of the subcommittee which had this particular section, maybe I got more than my share. Here in my hand is the correspondence that I have had currently (laughter) on this particular subject. And the suggestion has been made that it might be well if I read them — I mean read them to you. (laughter) That I have no purpose in doing.

On the other hand, I did pick up rather at random out of this bunch just a few samples here, and without taking very much time — I will look over there at the clock — I will comment on a few of them. And I could give the names and addresses. I don't know as that would be necessary. They are all here. I will be glad to have any of you go through the file and sort them out and see how they go.

> It has come to my attention that efforts are being made to secure legal charity bingo in Michigan. Not only do we know that such activity encourages various forms of racketeering, but the activity itself encourages the philosophy of getting something for nothing. In an age in which we have so many "free loaders" making use of public funds, it hardly seems wise to encourage the "something for nothing" philosophy in any way. Therefore, I urge the rejection of this proposal and of every form of legalized gambling.

This little note says:

> I wish to express my wishes to you and your committee, opposing all lotteries and gambling in our state. It is always accompanied with a bad element and we cannot be proud of revenue from this source. Let us try to keep Michigan clean.

Another says:

> I would appreciate everything you can do to prevent lottery in Michigan. It is true that in states where lottery is legalized, organized criminals move in and reap rewards.
>
> Charities should be able to collect funds on the merit of their services. The torch fund and church world service both prove this point.
>
> It is a step backward for Michigan to legalize gambling at a time when we need to move forward. Our state needs to lead our people in the best and highest moral climate possible.

This man says:

> I'm enclosing a copy exactly as Roman Catholic archbishop Paul Emile Leger of Montreal gave his answer to, What's Wrong with Bingo? put out by Knights of Columbus.
>
> The church is not a financial organization, much less a school of games. Our churches are the visible expression of Christ's sanctity and it is in these "vestibules to heaven" that the Christian must learn to practice virtues, particularly charity. People who assemble in basements, very often at the time that the evening prayer should be recited, do not go there to praise God. On the other hand, these games of chance destroy the real spirit of charity because the money is given in hope of being able to gain more, not for a supernatural reason and to help the poor and needy.

This says:

> Please do everything in your power to uphold legislation against legalized gambling in the state of Michigan. I refer primarily to bingo games used at fundraising meetings of lodges and churches. This must never be allowed in the interest of building good character of our citizens.

Here is another, from a man and his wife:

> May we urge you to use your influence to prevent the legalizing of charity bingo or any other form of lottery.
>
> To do so would be to exploit human weakness, in many cases resulting in loss of money which the participants cannot afford. It would strengthen the hope in individuals of getting something for nothing, thus weakening their determination to pay their own way in life.
>
> If a man wins it is because many others have lost. It is immoral for a man to seek gain at the expense of others. The charitable ends do not justify the means. For these and other reasons we feel that gambling in any form should not be legalized.

Another person writes:

> Am writing in regard to legalizing lotteries. We surely are not in favor of this clause in our new constitution that would legalize lotteries. Please use your power to put it down. The children of many homes would be robbed of food and clothing if any such steps are taken.

A minister writes:

> I have been informed you are interested in this con con bill to make lotteries legal in Michigan. I hope you are not in favor of this bill. We must try and vote such a bill out. Lotteries are such a waste of good money needed for milk and groceries, to keep families intact and homes safe.

This particular letter, which I think is the last one I am going to read to you, I thought was especially interesting. It is written on the letterhead of the First Wesleyan Methodist Church here in Lansing and is signed by R. Stephen Nicholson, Jr., who seems to have some information I thought would be of interest to you. I will read just part of it, just a little section of the first page:

> I am primarily interested in the new constitution's relation to gambling. For the past years, about 10, I have lived in Japan where, at the close of the war, lotteries, racing, and various forms of gambling were legalized as a source of revenue. Both municipal and national governments were the sponsors of these events.
>
> It is now a clear matter of record that Japanese cities enjoying a substantial portion of their income from local race tracks are now voting to abolish legal gambling. These Japanese authorities, aside from any sort of Christian teaching, have come to a purely pragmatic conclusion that gambling does not pay, even though their sources of revenue from it are substantial.
>
> Kyoto, one of the largest cities in Japan, recently voted to abolish its race tracks as of this coming year. The social disorder, family confusion, and overall misuse of family funds which these open tracks encouraged resulted in a demand from the rank and file of the population that these centers be closed.

The only substantial number of communications which I received favoring any change from the present provision were a number of identical letters, all worded exactly the same, which were sent to me by various locals of the eagles lodge.

After the hearings to which I have referred, the committee on legislative powers considered the various delegate proposals which have been referred to us and which I have already mentioned. And, as I have said, a motion was made that we report favorably the retention of the present language. After all sorts of substitutes and alternative proposals were presented and after full debate, they were all decisively defeated, and by a vote of 14 to 1, as I have told you, the proposal which is now before us was reported from committee.

In view of the sentiment which, I think, is widespread throughout this state on this whole subject, I feel that for us now to make any change in these provisions would subject our new document to unnecessary adverse pressure. I would suggest that if any group seeks to attempt an amendment, let it be done later and stand on its own merits and not jeopardize the precious and constructive end product of our convention. I now yield the floor to another member of our subcommittee, a man who has had extensive experience with this problem as a prosecuting attorney and who understands the legal implications, Delegate Don Habermehl.

CHAIRMAN BENTLEY: The gentleman from Ionia yields to the gentleman from Alpena, Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman. Thank you, Mr. Powell. This, as Mr. Powell has indicated, has been one issue that has generated a lot of heat. I think I received about the same number of letters as Mr. Powell did, and I think most members of our committee did. The question always seemed to revolve around the use of gambling for charitable purposes. That seemed to be the desire of those people that wrote in and those people that submitted proposals to this section. Usually, I have felt at least, they did not realize at the time they submitted these proposals the sort of difficulties that they could get into. As Mr. Powell has stated, I had a little experience with this myself. Back about 10 years ago it was necessary in my county to ban all forms of gambling since it had become so widespread that the law enforcement officers no longer could ignore the matter.

The first problem that we always run into is the fact that under our corporation act, there is not any good way to determine the purpose for which a nonprofit corporation is formed. Any one of us can form or set up a nonprofit corporation. If, then, a nonprofit corporation were to be established for the purpose of running organized gambling, certainly some sort of provision must be put in, some sort of policing power must be given to the corporation and securities commission to set up rules under which such corporations might be formed. The legal problems here would be pretty tremendous.

The next problem from a law enforcement angle would involve the policing of the operations of such a corporation or such a group. If an organization is going to run gambling games — bingo, lotteries, raffles — for charitable purposes, of course, there must be some way set up whereby the state could insure that the proceeds from this gambling went for those purposes, and if you will stop and think for a moment, you will realize the problems involved there. Every organization in the state that would run charitable gambling from these games would be subject to some sort of audit to make sure that the proceeds from the games did not go or accrue to the benefit of any one individual, but went for the purposes for which they were run. This of course anticipates a very large investigatory staff. In fact, in those states that have tried it, it has been necessary to set up a gambling commission, staffed actually by far more people than now staff our liquor control commission. Practically every game that was operated would have to be checked by state investigators. The size of that bureaucracy would certainly astound you.

The next problem that we would face — and this is borne out by experience, as the next delegate that speaks on the subject will tell you — is the possibility and in fact the inevitability that organized gambling will in some way infiltrate this field. It has happened in Michigan. It has happened in other states. In the states, for example, that allow legal gambling, wide open gambling, the political influence of the gambling fraternity would surprise and amaze most of you. There are a number of places in this country where the influence of gambling people, people that are connected with the organization, over the election of public officials has become widespread.

The infiltration comes about generally in 2 ways. The first of them, a charitable front is set up, an organization that purportedly is set up for some charitable purpose. Perhaps a small part of the proceeds of this gambling would go to charity, but the major part accrues to the benefit of the individuals setting up the charity. I don't think that we have to go very far to remember a case of that here in Michigan where one organization was set up to run bingo games and after some 83 days of trial in the city of Detroit, the operator of the game was finally sent to prison. The other method is a more subtle one. The organizations that run these games of course designate some of their members to conduct the games, and inevitably the same people find themselves time after time running the games, and it becomes quite a chore. Then they are approached by an organization that says, "We will operate and run the games for you and we will take a percentage of the proceeds." When this is done, surprisingly enough, the administrative costs of running those games mount up very high and the proceeds to charity become very small indeed. There have been instances on record where after a game was finished there were no proceeds for charity whatsoever.

This is not, as many people think, a matter of very small moment. A bingo game is one of the most profitable types of gambling that anyone could imagine. The odds can be strictly controlled. You sell so many cards. You pay off so much in the way of prize money. The gain then is assured. There is no gamble whatsoever, and the figures do run into very sizable figures, especially in a large metropolitan area where a game is conducted over a long period of time. And when this much money is involved, of course, there are always people around that are attempting to get their share. We in the committee felt that the law enforcement problems alone posed by trying to permit any such charitable gambling would be fantastic and would simply result in an entirely new state commission staffed by a very large number of people in order to be policed properly. Most of us on the committee could not face the prospect of that happening.

CHAIRMAN BENTLEY: Does the gentleman from Ionia desire to make further presentation?

MR. POWELL: My only comment at this time is to suggest that we proceed now to the minority report, if that might be in order, and I know there are certain other amendments that will follow that.

CHAIRMAN BENTLEY: The Chair wishes to ask the gentleman from Detroit, Mr. Madar, if he desires to ask a question or to speak on the minority report amendment when it is proposed?

MR. MADAR: It doesn't make too much difference to me, Mr. Chairman, because all I wanted to do is to talk to the point, and frankly I was going to talk almost entirely on hypocrisy.

CHAIRMAN BENTLEY: The Chair will recognize the gentleman from Detroit after the minority report amendment has been presented. The secretary will read.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Baginski, Lesinski, Murphy and Youngblood,

Mr. Lesinski offers the following amendment:

1. Amend page 1, line 6, after "tickets.", by inserting "However, the operation of bingo shall be allowed if conducted by charitable or fraternal organizations as defined by law: Provided, That a majority of the electorate in any county agrees to same.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates, speaking for the minority, I wish to state that we have come to a very minor section that has generated a lot of interest throughout our state. I will not take the time of this committee to go into detail on this section, but I wish to state that it is an archaic section and its origin has been lost in antiquity.

The section is neither fish nor fowl as it does not restrain gambling in our state, as in the case of parimutuel betting, which is a true lottery. And I wish to state at this time for myself that I agree in part with Mr. Powell, because I put in an amendment to strengthen the section by prohibiting all gambling, and it was soundly defeated by our committee. For further details of the minority's views on these subjects, you may turn to page 566 of Journal 75.

At this time I wish to yield to Mr. Binkowski for further comment.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Detroit, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, I think that at the outset we should make our point very clear. This is not being proposed as an amendment to section 33. Our approach in this case is a novel one, because this is the first time this question has been presented to the convention. What we would like to do is to present this proposition, which you see, on the ballot separately from the document itself so that the people themselves could decide whether they wanted to make an exception to the prohibition as to lotteries.

Again, I want to reiterate this because it is very important: this is not being offered, at this time in any event, as an amendment to section 33. Section 33 I presume will be intact and will be an integral part of the document itself. However, as Mr. Powell and Mr. Habermehl and so many of you here know, this is probably the most popular issue at the convention if, of course, you use the criteria of expression from people themselves. I mean I don't think there was any question that we have received more mail, all of us, on the pros and cons of lotteries and bingos, parimutuel betting, gambling, etc. Therefore, since it is such a popular issue, and since there are so many pros and cons and so many differences of opinion, and particularly since there is such a widespread interest to legalize bingo, particularly down in Detroit, we have offered this amendment in the form that we think would avoid getting into the merits of gambling — avoid getting into the merits of bingo, whether you like to play bingo or not play bingo. All we are asking this committee to do is to let the people decide.

Now, I don't know if it was brought out, but there was a constitutional amendment proposed in 1954. There were over 1,800,000 votes cast, and that proposal lost by 41,000 votes. It is my understanding that at that time that proposal did not provide for local option, and this is what we have done. And again this is not opening the door to all lotteries; this is just one form of lottery, and that is bingo. We think there is such widespread interest in this game that charitable organizations or any kind of organizations which would be defined by law would be able to play if the people in any particular locality decided that they felt they wanted to play this particular game.

I think that Mr. Powell has indicated to you that the prosecuting attorneys association has gone on record favoring the regulation of lotteries, and although Mr. Habermehl has spoken after the difficulties of it, I think that we have difficulties in parimutuel betting, in gambling, and so forth; so I don't think that this is such an insurmountable problem that we could not solve it. So again, the question before you is whether you want to put this on the ballot as a separate proposition.

There have been various communications from the American legion, the veterans of foreign wars, the AMVETS. Of course, I had a whole slew of letters from the order of eagles which Mr. Downs received, and of course Mr. Powell commented upon the great number that he has received.

I at this point do not want to get into the merits of gambling or whether you consider bingo gambling, because I know a great number of our senior citizens do not regard this as gambling, but more of a form of recreation. So it is with this idea in mind that we have proposed this proposition.

Now, there was a very interesting article in the Lapeer County Press, and excerpts of it will be found on page 567. But I would just like to take a few minutes of your time to read this to you, and I quote:

> If bingo is illegal, why shouldn't there be a law against betting the horses, too? Instead of con con delegates trying to legalize bingo, why aren't they trying to get the state out of the horse book business?
>
> Could it be because of all the important money invested in those fancy Detroit racetracks? Could it be because the horses have more influence than little old ladies in Lansing? Or could it simply be because the state gets a cut of the horse betting money but hasn't yet figured out how to drag the bingo pot?
>
> Such trivia as bingo has no place in a basic charter of government. We didn't elect con con delegates to sit in Lansing and talk about games. But if there must be such talk, we'd be inclined to listen a lot harder to a delegate with guts enough to ask for answers to the questions we've asked.

Well, we could talk about this at great length. I don't want to spend too much time on this amendment, but I think again we are writing a document for the people. The people have indicated, beyond any question, an interest in this, so I think that if we want to get people out to vote on the document itself, and since we know that this is such a controversial issue, I think, borrowing a little trick from you people who are active in township politics, by putting a controversial question on the ballot, you certainly will get the people to turn out. So if you want to get the people to turn out to vote on the basic document itself, let's put this proposition on as a separate proposition and let them vote on it.

CHAIRMAN BENTLEY: Does the gentleman from Detroit, Mr. Lesinski, desire to yield further? The Chair recognizes the gentleman from Detroit, Mr. Madar, to speak on the minority amendment.

MR. POWELL: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Ionia.

MR. POWELL: Mr. Chairman, I would like to raise a parliamentary inquiry or —

CHAIRMAN BENTLEY: The gentleman will state it.

MR. POWELL: Is this proposition properly before us at this time? We are in an unprecedented situation here where something is offered as a part of a proposal and yet is to be separate from the proposal, to be separately submitted. It is not made clear either in the remarks of Delegate "Bingokowski" (laughter) or in the —

MR. BINKOWSKI: Thank you, Mr. Powell. That is better than Delegate "Baginski." (laughter)

CHAIRMAN BENTLEY: The committee will be in order.

MR. POWELL: — whether this is to be a substitute or somehow impede the inclusion of the language of the committee proposal. May I just clarify my confusion by reading here, from page 566, the beginning of their submission of the minority report. They say:

> Add a new sentence after the language included in Committee Proposal 100 to be included as a part of Committee Proposal 100, but to be offered to the people as a separate proposition on the ballot distinct from the document as a whole when the constitution is submitted to the vote of the people.

And then at the end of their report, they summarize by saying:

> Therefore, we recommend that the amendment be placed on the ballot as a separate proposition as a proposed amendment to article V, section 33.

But it is not clear to me whether that would be just this new language or the whole thing, or whether in our complete document there would be any reference to the material now found in article V, section 33. Now, if this is something totally separate and distinct and apart, I would think that it might better be separately debated and that it not come into the consideration of what is currently before us here in committee of the whole.

I maybe haven't made a very clear parliamentary question, but this is so new and so revolutionary and so unprecedented that I hardly know how it is expected that we are to proceed, and I suggest that a little time be spent by our chairman and parliamentarian and, to use that word that we hear quite a little about, define the posture of the situation right now.

CHAIRMAN BENTLEY: In response to the parliamentary inquiry propounded by the gentleman from Ionia, the Chair will state the following: the committee of the whole is obviously unable to decide the manner in which the proposed new document or any portion thereof will be presented to the voters. That is a question for the convention itself to decide.

With reference to the amendment offered by Messrs. Baginski, et al, the Chair will rule that this amendment is being offered in accordance with a minority report properly prepared and submitted. It is being offered as an amendment to Committee Proposal 100 to add additional language in line 6 and thereafter, and therefore the amendment is germane at this particular time.

The Chair will recognize the gentleman from Detroit, Mr. Madar, to speak on the minority amendment.

MR. MADAR: Mr. Chairman, I believe at this time that I would like to pass until we get to the main motion here, and I would like to speak on that. I believe that that is where this will do much more good than it would on this particular amendment.

CHAIRMAN BENTLEY: The Chair will advise the gentleman from Detroit that at the time this amendment and other amendments thereto which are pending are disposed of, if there are no further amendments, the proposal will pass whether it is amended or not. The Chair will be liberal with the gentleman if he desires to speak on the minority amendment even though a portion of his remarks may be directed to the committee proposal, and would suggest that he take advantage of this present opportunity. (laughter)

MR. MADAR: Frankly, Mr. Chairman, I wouldn't try to take advantage of you at any time. (laughter) First I would like to read a definition of hypocrisy: "an act or practice of feigning to be what one is not, or to feel what one does not feel; especially the false assumption of virtue or religion; ranting simulation of goodness."

I had quite a bit of conversation on gambling, and we have here the definitions of gambling and lotteries — I am glad it was put on my desk — but what I was discussing was gambling, playing poker, such things as that — running lotteries. We thought that — or rather others, not I, because I am not opposed to gambling. If one wishes to do so, that is his business, just the same as it is a person's business if he wants to take a drink or if he wishes to smoke.

In this great state of ours we had prohibition, and I never saw so much hypocrisy in all my life, because the very people who were against it did as much drinking if not more than I or anyone whom I knew. In fact, we used to have a little place over here close to the Olds hotel. It was around the corner, in fact. The legislators used to go over there and drink like hell — excuse me (laughter) — and then go over and vote for prohibition. (laughter) These people that I am speaking of thought that it was awful if we would put on a lottery to try to raise money for a good purpose just the same as the Irish are today putting on such a wonderful sweepstakes to help their hospitals. I wouldn't put my name on a sweepstakes ticket for love nor money. Frankly I don't go for it. I don't like it. However, that is their business, and it is a good cause. And I hate to see all those millions of dollars go to Ireland. They are a wonderful people, but I think we ought to support our own, not someone else's. As I said, I was talking to these people about lotteries, and "Oh, we can't hold a lottery. Why, that's awful. It's sinful. It would be teaching our children to gamble." Oh, yes; righteous, virtuous people.

We went to the convention at Grand Rapids, and I had to look for some of my good friends — and this, incidentally, wasn't in the last 5 years, I'll tell you that — and you know how long I have been a Democrat. (laughter) I started to look for these virtuous, wonderful friends of mine. And where do you suppose I found them? In a private room playing — no, no, not poker. Poker is sinful. It is one of the devil's methods of getting us to do wrong. They weren't playing poker, uh uh. They were playing bridge, a nickel a point. (laughter) That isn't gambling. I can't afford it. (laughter) There are a few around here that I believe could afford it, but not too many.

Frankly, I think it is sinful to even include the word "lotteries" in this constitution. It doesn't belong here. It belongs over there in that domed building just beyond us here a little ways where those legislators sit. Let them continue to be hypocrites; let's not us do it. We are writing a constitution. Let's be honest with ourselves. Don't you children do any applauding (laughter) because I want you to learn what is right. Don't do any gambling — but don't do any, none at all.

MR. WANGER: Mr. Chairman.

MR. MADAR: You know, when you play a penny a point poker —

MR. WANGER: Mr. Chairman, a point of order.

CHAIRMAN BENTLEY: The gentleman will suspend a moment. What does the gentleman desire?

MR. MADAR: Let him speak.

MR. WANGER: Point of order, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. WANGER: I know that Mr. Madar can express himself very interestingly, particularly with regard to his personal problems with the devil. However — (laughter)

CHAIRMAN BENTLEY: The gentleman will state the point of order.

MR. WANGER: However, I really don't think that this is at all germane to the constitutional issue which is before the body, and since we are operating under a very difficult time problem, I would make the point of order that the gentleman's remarks are not really germane to the issue which is before us.

CHAIRMAN BENTLEY: In response to the gentleman's point of order, the Chair will state that he had already promised the gentleman from Detroit a certain amount of latitude to proceed with his remarks, which the Chair is inclined to regard as inevitable; they might as well be made now as any other time. (laughter) The gentleman will proceed.

MR. MADAR: Thank you very much, Mr. Chairman. You may rest assured that when this convention is over, I will not have 1/3 of the number of words on these reports or records as Mr. Wanger has. He has 10 times as many as I have already — even to tell us we should work for nothing when he has clients up here and can live at home. (laughter)

CHAIRMAN BENTLEY: The gentleman will proceed.

MR. WANGER: Point of order, Mr. Chairman. (laughter)

CHAIRMAN BENTLEY: In this case the Chair sustains the point of order, and the gentleman will confine his remarks to the subject at hand and avoid personalities.

MR. WANGER: Mr. Chairman, I believe under our rules of procedure when a point of order is sustained against the speaker, he loses the floor.

CHAIRMAN BENTLEY: The Chair believes that the gentleman will proceed in order.

MR. MADAR: He will, Your Honor. (laughter) Now, Mr. Chairman, fellow delegates, lottery isn't a bit worse than horse racing, not a bit worse. In fact, horse racing is, I would say, 1,000 per cent worse than lotteries or bingo, and if you don't think so, you just don't know anything about it. You haven't watched the suffering in homes where the husband is foolish enough to keep putting the bets on those horses. And to make sure that this isn't put into the constitution, I am going to address my remarks to those people who love horses, who raise horses, who train them. That is not done in the city of Detroit. Most of that is done outstate. You love your horses. You love to see them race with the little sulky behind them. You bet on them. You bet on your horses. You bet on the horses of your friends.

Let's be honest. Let's vote against that too just as well as we vote against lotteries. Let's do things just as we should do them. Let's not one minute say one thing and the next minute say something else which is just the contrary to what we have said. This should not be in the constitution.

You have faith in your legislature even though a lot of you say you haven't. One minute you have and the next minute you don't. Let's search our own souls and see whether it should be in here. Let's kick it all out, every bit of it, because you are not just hurting yourself. Remember that these are lotteries here in the state of Michigan when you permit soap manufacturers, when you permit automobile manufacturers to give out tickets. They are just stimulating business. They are trying to make more money. You don't make any. They have put the cost of that prize that they are going to give you into the price of the soap, into the price of coffee, into the price of the automobile. So, as I said before, let's stop being hypocrites. Let's write a good constitution.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Allegan, Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman, members of the committee, I will be very brief. I was intrigued by the book that Chairman Bentley gave to us, Finance and Taxation in Michigan. And so much has been said about horses that I thought the convention should know that on page 49 of this manual in 1951 the state did collect, on an item entitled, Horse Race Wagering Tax, $3,652,051. In 3 short years, in 1954, that had built up to $7,681,218. We have not done so well since. We are back down to $7,564,330.

I quite agree with Mr. Madar that we are being a little bit hypocritical. However, I am against further extending gambling in Michigan, and I shall vote against the minority report amendment.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, to clarify any misunderstanding relative to this subject of horse racing, I don't think that the mere fact that the state does receive revenue is the important issue. I think the important issue is that the Supreme Court of the state of Michigan declared that parimutuel betting was not in violation of this particular section. Whether we individually can agree with that decision is not important. They did say in their opinion in substance that horse racing was a game of skill (laughter) and to me the supreme court is still the chief determining body of interpretation of the constitution and the laws of the state of Michigan. So let's not be critical, brother Madar, my kind Christian gentleman, in saying that the supreme court doesn't know what they are talking about.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: In light of Mr. Madar's statement, Mr. Chairman, members of the committee, with regard to myself which was out of order, I regret the necessity to state as a personal matter upon the floor of the convention — but I nevertheless find it a necessity, since this is to be part of the convention record — that during the course of the constitutional convention, I have devoted full time to the —

CHAIRMAN BENTLEY: The gentleman will suspend a moment. Does the gentleman desire to raise a point of personal privilege, in which case he must await our return to plenary session?

MR. WANGER: Well, I had assumed, Mr. Chairman, that sufficient latitude would be granted to me inasmuch as such great latitude had admittedly been granted by the Chair to Mr. Madar.

CHAIRMAN BENTLEY: The Chair will point out to the gentleman from Lansing that the gentleman from Detroit was called to order when he indulged in personalities. If the gentleman from Lansing desires to speak on the minority amendment, he is recognized for that purpose. If he desires to speak on a point of personal privilege, he will have to await the return to the plenary session.

MR. WANGER: Well, I merely wish to answer Mr. Madar's vicious and irregular statement.

CHAIRMAN BENTLEY: The Chair is certain that the gentleman will be recognized for that purpose when the committee has risen if he so desires to do so.

The Chair will recognize the gentleman from Flint, Mr. Millard.

MR. MILLARD: Mr. Chairman, members of the committee, there has been a lot said here about horse racing and bingo and gambling and lotteries. I would just like to point out that I am quite familiar with all of those things, because in my capacity as one of the law enforcement agents of the state of Michigan some of those things came to my attention, and particularly bingo and horse racing. Wherever I went when I was attorney general, I was asked, "Why can't we play bingo if we can go down and bet on the horses?" So I would just like to go a little further than the chairman of the committee did. I want to point out the reason — and I had to do this time and time again — why parimutuel horse betting — not horse betting in its generality — is legal in the state of Michigan.

I am now reading from the Michigan Reports the case of Rohan vs. Detroit Racing Association in 314 Michigan. Judge Starr wrote the opinion which was concurred in by Judges Carr, Sharpe and Reid; Bushnell concurred; Boyles concurred; and Butzel and North concurred with Boyles; so that the supreme court in its entirety upheld this opinion, and they based their reasoning upon the case of the People vs. Monroe, of Illinois, in which

> . . . the court determined that a state statute referred to as the horse racing act, which provided for parimutuel betting on the result of horse races, did not violate a provision of the state constitution prohibiting lotteries.

And

> In the case of Commonwealth v. Kentucky Jockey Club, 238 Kentucky 739, a statute permitting parimutuel betting on horse races was held to be constitutional and not in violation of a provision of the state constitution prohibiting lotteries.

Those states had the same provision that our state did, and so our supreme court used that as a basis for their opinion. And this is what they said, "Under the above authorities it is clear that parimutuel betting on a horse race is not a lottery."

Mr. Lesinski made this flat statement: parimutuel betting is a pure lottery. And I want to correct him by stating that the supreme court has said that it is not a lottery. Now, they went on and gave their reasons, and some of them brought the laugh when Mr. Hoxie mentioned that it was a game of skill, but they do go on and state their reasons:

> In a horse race the winner is not determined by chance alone, as the condition, speed, and endurance of the horse and the skill and management of the rider are factors affecting the result of the race. The bettor has the opportunity to exercise his judgment and discretion in determining the horse on which to bet. . . . Horse racing, like foot racing, boat racing, football, and baseball, is a game of skill and judgment and not a game of chance.

I think that that settles once and for all — and should settle as far as this convention is concerned — the fact that parimutuel horse betting is not a lottery. That does not mean that the bookie down here on the corner is not engaged in gambling, for he is, under our supreme court decision. You have to be on the track. You have to be there to see the rider and see the horse and see the track, and then it becomes a game of skill, as our court has said.

Now, what about bingo? Well, our court has many times stated that bingo is gambling. Even before the parimutuel betting case came down, our court decided in the case of The People vs. Welch, in 269 Michigan on page 449 — this came up from Grand Rapids — reading from the syllabus:

> Scheme of club, in selling to its members "beano" cards giving holders a chance to draw prizes of sugar and other food stuffs, is clearly a lottery within the meaning of act 328.

They point out here that beano is another name for lotto and keno. This was decided in 1934.

Now, after the horse racing decision, our courts have spoken twice. One of them was pointed out by one of the members here, and that is the case of Society of Good Neighbors vs. Mayor of Detroit in 324 Michigan on page 22:

> It is the claim of plaintiff that for some years it has been operating a charitable organization which renders assistance in emergency cases to all persons regardless of race, color or religion. It has financed itself by voluntary contributions and operated with the aid of volunteer workers, in addition to about 30 individuals on its payroll.
>
> . . . It is stated that several years later an instance arose which brought about a prejudiced attitude on the part of the police department toward plaintiff's operations, which developed into an animus on the part of defendants, resulting in "a campaign of inquisition. . . ."

In other words, they claimed they were being discriminated against because some others were allowed to run bingo games. And the court said, "Bingo is essentially the same as 'beano', 'keno', and 'lotto', described in the Welch case." And they held that this man was conducting a gambling game and he had to pay the penalty.

Again in the case of Eastwood Park Amusement Company vs. Mayor of East Detroit, in 325 Michigan on page 60, in this case an amusement park in Detroit was running a bingo game, and his claim was:

> Plaintiff claimed that charitable and other nonprofit organizations were permitted to conduct bingo games with impunity. Even if this be true it does not in any way legalize bingo forbidden by law.

So we come to this conclusion, legally, that horse race betting is legal and bingo is not legal. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Martin.

MR. MARTIN: Mr. Chairman, I only have one brief remark. I agree with Mr. Habermehl that the principal problem here is not incidental gambling at all but the problem of organized gambling and how to keep it at a minimum in the state of Michigan, and I can only add one thing to the devices that he has referred to which influence this picture, and that is that where organized gambling gets into a community or into a state, the problem is further that the organized gamblers, who have large amounts of funds coming in, begin to contribute not only to political campaigns but to churches and charitable organizations and various worthy causes to make sure that gambling is protected and that the good citizens of the community, if any question is raised about its operations, don't protest. And sooner or later — and this has been the experience in many of the communities in many other states — the entire community becomes corrupted. So it is quite clear we can't prevent all gambling in the state of Michigan of an incidental nature, but certainly we want to give no encouragement — I am sure all of us feel that way regardless of how we might feel even about this particular amendment — to organized gambling, and this proviso on the wall is a wedge which would allow organized gamblers to put their foot in the door, and we certainly don't want that in the state of Michigan, so I am opposed to the amendment and very much in favor of the committee report.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Blandford.

MR. BLANDFORD: Mr. Chairman and fellow delegates, my good seatmate, Mr. Binkowski, and myself have disagreed on many items before this convention in the past and I guess we will probably continue our disagreement upon this particular issue, because I hold an opinion on this, I think, that is probably 100 per cent in the opposite direction from his.

He mentioned about the little old ladies that like to play bingo. I served on a city commission in Grand Rapids for 6 years when these little old ladies used to appear with their little old husbands (laughter) before our various commission meetings and before our city tax assessor, wanting reductions in their taxes and they showed us, illustrated to us very forcibly, that they were on fixed incomes and that some kind of relief should be given to them in their tax payments. These were the same little old ladies with their little old husbands that used to go over and spend their little old money playing little old bingo (laughter) 4 or 5 times a week, and some of the little old husbands didn't like that too well either, because when they got around to looking in the cookie jar, the money wasn't there; it had been spent in the bingo game. Some of them testified before us on occasion that the wives were spending as much money playing bingo in one month as they would need to pay their taxes for the next 5 years.

I think there are plenty of activities for the oldsters in the community to take part in without having to take part in bingo. There is plenty of volunteer work, plenty of hospital guilds, plenty of church groups — some of them can run for con con; (laughter) there is a lot of party political work they can do.

In Grand Rapids we lived with bingo for a few years, and then we elected a man called "Noble Paul Goebel" (laughter) mayor. He swept in there with a big broom and a few of us came along with him, and the net result was that we don't play bingo in Grand Rapids any more, and we are quite proud of that. We found that bingo is nothing that the community looked upon with great pride. When you brought visitors to your city, you never rode down the street and pointed out the bingo establishments to them. You might show them the churches and the parks, but you never showed them the bingo establishments. So we finally got rid of it, and we are happy to be rid of it. We found it required a lot of additional police surveillance. But the thing that bothered us the most in Grand Rapids was the fellow travelers that came along with bingo. We had reasons to believe that some of the people that may have been connected with bingo also were the same people that on occasion were preying upon the youth with dope and other such items that none of us want to see our children subjected to. So when we pointed this out to little old ladies and got them finally to realize that their desire for bingo might bring an element into the community that would not be of the best nature for their own children and grandchildren, they pretty well went along with us and sacrificed their bingo.

I have always maintained, of course — and this has gotten me in hot water on a couple of occasions with some charitable groups — and have often said directly to them that any group that has to depend upon bingo for its revenue must have a very weak message. That doesn't go over very good in some circles. (laughter)

In conclusion I would like to just read a little poem that my good friend Judge Dehnke has given me permission to read to you. I think it ties in. It goes something like this:

Vice is a monster of such frightful mien
As to be hated, needs but to be seen;
But seen too oft, familiar with her face,
We first endure, then tolerate, then embrace.

Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, by request, it is now 10:30. I move that the committee rise for 10 minutes.

CHAIRMAN BENTLEY: For the purpose of taking a recess, all those in favor of the motion will say aye. Those opposed will say no.

The motion prevails. The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items of a detailed nature of which the secretary will give a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 99**, A proposal to provide that the legislature may provide for a jury of less than 12 in civil cases; reports this back to the convention without amendment, with the recommendation it do pass.

PRESIDENT NISBET: **Committee Proposal 99** is referred to the committee on style and drafting.

For Committee Proposal 99 as referred to the committee on style and drafting, see above, page 2288.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 100**, A proposal to provide the legislature shall not authorize lotteries or the sale of lottery tickets; has come to no final resolution thereon. This completes the report of the committee of the whole.

We have the following announcement: when we recess this morning, will the members of the committee on executive branch go to committee room C immediately for the taking of a committee picture. Thank you. John Martin, chairman.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, a brief statement of personal privilege regarding the disorderly words of Delegate Madar in committee of the whole. In his statements, which were made under the considerable latitude granted in the committee of the whole, referring particularly to the general subject of hypocrisy, he personally attacked me by pointing out I had previously suggested this convention should finish the job regardless of the continuation of our salaries after the deadline when, according to his statement, which was in fact false, I was engaged in the practice of law here in the city of Lansing.

Since he made this statement, I want to set the record straight in this regard: during the course of this convention I have not been actively engaged in the practice of law, and I have been devoting my full time to the work of the constitutional convention.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Mr. President, I would also like to rise on a point of personal privilege in view of some of the remarks made by Mr. Blandford. He has from time to time risen on the floor and used his authority as a commissioner in Grand Rapids as sort of a general knowledgeable background for all commissioners. And I wish to state at this particular point that when Mr. Blandford speaks as a commissioner, he speaks as a commissioner for the city of Grand Rapids alone.

We have a procedure in our town that the very fine senior citizens, when they appear for tax reduction, do not have to be forced to the indignity of appearing publicly before the city council. We have an equitable board of review. We have all these propositions before us. And I would say that in deference to the very fine senior citizens of our state who have to, from time to time, seek help and guidance from the city fathers, we have a means in our community that permits them to do so.

There have been other occasions in which the city commission of Grand Rapids has been used as a criterion. We have our own rules and regulations.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, I move we recess for 10 minutes.

PRESIDENT NISBET: Those in favor will say aye. Opposed, no.

We will recess until 10:45, and please be back promptly.

[Whereupon, at 10:35 o'clock a.m., the convention recessed; and, at 10:45 o'clock a.m., reconvened.]

The convention will come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of items on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion by Mr. Bentley. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Bentley.

[Whereupon, Mr. Bentley assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN BENTLEY: The committee will be in order. The pending business before the committee is **Committee Proposal 100,** to which Messrs. Baginski, Lesinski, Murphy and Youngblood have offered a minority amendment. The Chair will recognize the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, I would like to speak briefly on the subject of hypocrisy. (laughter) I am concerned because Mr. Madar pointed out that he felt that a lot of people would, when they vote on this thing, be hypocrites, and I don't feel that this is so. I plan to vote against this, and I am going to vote against any form of legalized gambling, but it is a known fact that I am the kind of a guy that would hold 2 diamonds and draw 3 and hope for a flush and end up with a straight. (laughter)

As far as hypocrisy is concerned, I have a clergyman friend who has told me a number of times that the most serious state that an individual can be in is what he calls separation — that is separation from God. The second thing that he says that I find most interesting is that sin isn't exactly what you do; it is how much of it you do. (laughter) So if you really think about it, every time you buy some stock in the stock market, you are gambling because you are taking a risk. Practically everything you do amounts to a gamble. And I don't consider gambling sinful, nor do I consider a mild amount of poker playing sinful, and because I do it, I'd hate to be called a hypocrite when I vote against legalized gambling, and I would rationalize it in this way: I believe that people should have a choice in what they do and would tend to make it possible for them to do what they want, but here is the situation with regard to legalized gambling. It is fortunate, from my point of view, that gambling does not involve the production of real wealth and because of its evil aspects is therefore rejected by a large segment of the public. I will be able to vote against legalized gambling without any feeling of hypocrisy whatever.

The fact is that gambling would be a new competitor for a share of the consumer's expendable dollar, and as a man involved in the retail business I am much concerned with getting some of those dollars into my till and I don't want to be competing with gambling. Gambling produces no real wealth. It is a waste of time. It is unlikely that gambling profit will produce any new jobs by extending our industrial plan. Industry will produce, in the long run, more tax revenue for the state than gambling could possibly produce. Aside from any moral considerations whatsoever, a vote against legalized gambling can be justified on the basis of sound economic philosophy: it is just too much competition and it isn't productive and it isn't good for society on the basis of the fact that the more real property and real wealth we produce by our economic activity, the better off our state and individuals will be, and I therefore suggest that we vote against this and forget all this talk about hypocrisy.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, I regret I cannot agree with Mr. Hubbs, especially in his remarks about hypocrisy, since I have some notes written down and that is one of the words in them.

I would like to start out, Mr. Chairman, however, by commenting on the remarks of Mr. Millard which relate to this point. Mr. Millard says that gambling in connection with horse racing is legal and that bingo is illegal and that has been held by the courts, and I believe there is no question about it that it has been held by the courts. Horse race gambling is legal under the language of the present constitution. Bingo is illegal under the language of the present constitution. But the point I make is this: the question before us is not what is legal under the present constitution. The question before us is what ought to be legal under the new constitution, and that has not been settled by the supreme court or by anybody else, and nobody else will settle it unless it is us or unless we leave it to the legislature. Therefore, it seems to me that all of the comments of Mr. Millard directed toward that particular point would not be of any value whatever to us. We have to face up to the issue: do we want to prohibit gambling or do we want to prohibit certain kinds of gambling or don't we want to prohibit any kind, or do we want to leave the whole thing to the legislature? We should not be bound nor feel bound by what has been the holding in the previous cases, because all we need to do to change those holdings is to change the language of the section immediately before us.

A number of delegates have raised the question of the validity of drawing any constitutional distinction between one kind of organized gambling and another, and I am in accord with those people. In my mind if the language of the present constitution is, as has been held, limited to one form of organized gambling, that ought certainly to be corrected. It should either not prohibit organized gambling at all or it should prohibit all organized gambling. As several delegates have stated, I do feel that there is hypocrisy in this area and for this reason: not because some people may gamble and yet vote against gambling, but because we allow certain kinds of gambling and do not allow others. We allow gambling for the benefit of the state, and I think that has become fairly easy for us to justify because it is for the benefit of the state in parimutuel betting. On the other hand, many of us in the past have opposed gambling for the benefit of charitable institutions, and yet it seems to me that those 2 are extremely parallel to each other, and if we are really sincere in opposing organized gambling because of the moral issue behind it, then I think we ought to go all the way. We should prohibit all organized gambling. Either we should do that in the constitution or else we should urge the legislature to do that.

I do think that we are subject to attack as being hypocritical if we — in the knowledge, in the face of the holding of the supreme court — were to continue the same language that is now before us in the committee proposal. We would be subject to criticism because we would be saying that it is immoral for churches and charitable institutions to permit gambling for their benefit, but it is moral for the state to do the same thing for its benefit. I can't follow that particular argument and I think that we ought to rectify the difference. I would not want anyone to misconstrue my remarks to think that I favor the amendment that is on the wall. I believe like many of the delegates here; I am very strongly opposed to all types of organized gambling with no exceptions whatsoever, and I mean parimutuel betting; and it doesn't make any difference whom it benefits. I think it is a vicious thing. I think it is a way of obtaining money from the very people who can least afford it, and I think it brings forth in people the worst possible motives. I don't see anything in favor of organized gambling of any sort, and I certainly could not support an amendment such as the one that is on the wall which says that bingo is to be elevated to a constitutional principle. It seems to me that if you bring bingo up to the level of the constitution, you don't increase the stature of bingo, but you do degrade the constitution. Those 2 things just don't belong in the same place.

I think that we should make every effort to prevent this amendment that is on the wall from being adopted. I don't think it is right to put in the constitution that some kind of gambling is bad and to put another provision in that another kind of gambling is good. I think that we should be consistent. And it seems to me that our proper course of conduct would be either one of 2 things, both of which would require voting down the present amendment: one of them would be to strengthen the language of the section to preclude all organized gambling; and the other, which I think is the best, would be to strike the whole section, because it seems to me that it is a legislative matter.

However, those remarks, I realize, are not directly to the point. Nevertheless, it seems to me that we are in a bad position to start with when we prohibit only lottery. We make the situation worse if we adopt this amendment, because then we will have just one more inconsistency in the constitution. I therefore urge that the amendment be defeated.

CHAIRMAN BENTLEY: The Chair will advise the members of the committee that there are, in addition to the pending amendment, 3 other amendments presently at the desk, one to delete the entire committee proposal; one to specifically illegalize parimutuel betting; and one to specify the word "gambling" in line 5 after "any" with the deletion of the balance of the section. The Chair thinks that some of the remaining speakers might wish to wait until these other amendments have been offered and speak more specifically on them. The Chair recognizes the lady from Grand Rapids, Mrs. Koeze.

MRS. KOEZE: Mr. Chairman and fellow delegates, as a member of the legislative powers committee, I had prepared quite a lengthy statement to give to this committee, but I realize that the time is long past when I can do any converting, so don't get excited about all these papers up here. I had hoped that I might read into the record the testimony of Mr. James W. Bristah of Detroit, Michigan, who gave a very interesting paper to the legislative powers committee, but I understand all of you have a copy of that. It is well worth reading. I will not repeat it at this time.

Mr. Madar, I feel like a real hypocrite. I must add these remarks, as my husband and I raise thoroughbred American saddlebred horses. These are not racers; they are show horses. For your information, occasionally entrants into a show will put ginger under a horse's tail, burrs under their saddle and needles into their legs to win. Mr. Koeze and I, however, do not use these instruments to win. But I might suggest that we might put some burrs under the saddles of our delegates here in this committee and get to the vote. I am sure all of you know how I am going to vote and how I stand. I am for retaining the present language in the constitution.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Reverend Dade.

MR. DADE: Mr. Chairman, I really wanted to rise to a question of personal privilege and to remind the delegate, Mr. Hubbs, that I do not know what authority he is quoting, but I understand the best authorities say that sin is indivisible. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Alpena, Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, some of the remarks in support of this amendment I believe do require some denial. The impression has been given that the prosecuting attorneys association in some way approved this pending amendment. Yet, if we refer to the statement that they gave the committee, we find this language:

> Manifest throughout all our deliberation, however, is the overwhelming belief that the most difficult part of permitting the operating of such enterprises would be the policing aspect, the control by the state and the prevention of infiltration of immoral and illegal elements into our state. The degenerative effect of such a climate is obvious when one visits those areas where widespread gambling operates with full approbation of the law.

I would like to say too that I don't believe that there is very much way that this convention can do anything about horse racing. The supreme court, it has been stated, has held that that is a game of skill, and of course we are not in any position here to try to outlaw games of skill. Every football match, every baseball game, every golf tournament, all those would be classified as games of skill and would, according to the supreme court, be on a par with the matter of horse racing.

I believe that the committee here has attempted by its language to use the broadest possible terms. They have —

MR. WALKER: Point of order, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. WALKER: I don't believe that the references to horse racing are at all germane to the amendment before us at this time, and I think that if we all confined our remarks to the subject at hand, we would get through a little bit faster.

CHAIRMAN BENTLEY: The Chair, without ruling on the point of order, would state that the gentleman is basically correct. The Chair has permitted references to parimutuel betting and horse racing before, and would ask the gentleman from Alpena if he can defer those remarks until the amendment is presented on that subject.

MR. HABERMEHL: Yes. I simply was leading up, Mr. Chairman, to this: that the committee attempted here to use language that would be as broad as possible in order to prohibit actually legalized or state sponsored gambling. They used the word "lottery." And "lottery" is a broad word. It was defined, again, by our courts as being a scheme by which a result is reached by some action or means taken, and in which result man's choice or will has no part, nor can human reason, foresight, sagacity, or design enable him to know or determine such result until the same has been accomplished." That citation, for the lawyers here, is from People vs. Elliott, 74 Michigan 264.

It, then, was the intent of the committee to bar any type of gambling, any type of state sponsorship of gambling. I think that point is important. We are not here as moralists. We are not here to prevent other people from sinning. Certainly no delegate here, with the exception perhaps of Pastor Dade, need worry about anyone's sins but his own. We are here as a constitutional convention and a lawmaking body; so our concern is the state's participation in this type of enterprise.

I, of course, on behalf of the committee, would oppose the pending amendment and support the majority report.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, I just want to come back to my original comments that I did not anticipate getting nor did I expect us to get into the merits of this question, because I thought that the people themselves should decide this issue for themselves, and that is the reason why we put this proposition before you. And, Mr. Chairman, if it has not been requested, I would like to request the yeas and nays on this.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number. The yeas and nays will be ordered. The Chair now recognizes the gentleman from Bay City, Mr. Higgs.

MR. HIGGS: Mr. Chairman, fellow delegates, I anticipate voting in favor of this amendment with the understanding and belief that it is the intention that the words "as defined by law" are intended to qualify "bingo" and "charitable or fraternal organizations" and the words "if conducted by." It is my understanding that the legislature would have the power to determine what bingo is, how it should be conducted and what charitable and fraternal organizations are qualified under this section. If that is not the understanding and intention, I would appreciate it if the sponsors of the amendment or anyone else would so indicate.

CHAIRMAN BENTLEY: Does the gentleman desire to yield for an answer to his question?

MR. HIGGS: Yes.

CHAIRMAN BENTLEY: The gentleman from Bay City yields to the gentleman from Detroit, Mr. Binkowski, to reply to the question.

MR. BINKOWSKI: Mr. Higgs and members of the committee, this is exactly our intention, that we want the whole problem of bingo to be in the hands of the legislature. The legislature then would have the full authority to define bingo, to define fraternal or charitable organizations, to specify in great dètail the regulations if they wanted to license them. If they wanted to go ahead and charge for the licenses this would be completely in the hands of the legislature. Bingo could only be played under those circumstances where the organization qualified, by the legislature's definition, as being a charitable or a fraternal organization.

MR. HIGGS: Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates, the subject under discussion is lotteries, bingo and gambling. And in answer to Mr. Millard's statements, we are not concerned with what is legal or illegal, but what is gambling. You have a sheet of paper on your desk and it states:

> Bet: that which is laid, staked, or pledged, to wager; also, the act of giving such a pledge.
>
> Betting: to stake upon the event of a contingent issue; to wager.
>
> Gamble: to play or game for money or other stake; to hazard; wager.
>
> Parimutuel: mutual stake or wager.

Now, the letters that Mr. Powell referred to referred to gambling.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, I would simply like to apologize to Father Dade if I offended any of his sensibilities when I mentioned the subject of sin. Of course, I didn't mean to make such a broad statement. I presume that there is a lot about sin that I don't know (laughter) and I only wanted to point out to him that I might, however, be acquainted with some varieties of sin that were divisible.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske.

MR. MAHINSKE: I rise in opposition to this amendment here. I don't think that the term "bingo" or "beano" or any other type of gambling phrase is good constitutional verbiage. Although I would agree with the intent here, I just can't bring myself to voting for this kind of language in the constitution.

I wonder if any of the proponents of the amendment would respond to a question. It seems to me that, as mentioned by Delegate Nord, when you mention bingo or any other type of game of chance, you are, by mentioning this, excluding all the others. Would you remark on this? Have you taken into consideration a different type of language here that would include the operation of any type of game of chance by a charitable or fraternal organization as defined by law?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Detroit, Mr. Binkowski, to reply to the question.

MR. BINKOWSKI: Mr. Mahinske and members of the committee, I think that the sponsors would be amenable to any type of expansion of the term from "bingo" to "lotteries" if the committee so desired. However, it was our feeling that the sentiment in this convention was so strong to retain section 33 as it is presently in the constitution, and because from our area in any event the interest was mainly for playing bingo, that we limited the language to just "bingo" and not "lotteries." So, if the committee would like to expand the concept or, of course, if they would like to delete section 33 entirely so everything would then be in the hands of the legislature, I think that the sponsors would go along with anything of that sort.

MR. MAHINSKE: Although I won't win any popularity contests in my own area, I feel I would vote against this amendment with the idea that when the amendment comes up to strike the entire section 33, I would vote for that, because I don't think this is good language and I don't think that even the lottery language should be in the constitution itself.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stopczynski.

MR. STOPCZYNSKI: I demand a yea and nay vote.

CHAIRMAN BENTLEY: They have been ordered, Mr. Stopczynski. The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Are we still on bingo? (laughter)

CHAIRMAN BENTLEY: That is right.

MR. MARSHALL: I didn't know. I knew we were on it at 9:00 o'clock this morning, and I don't think that I will infringe on the time and patience of the delegates any further. It seems to me that we have had all the discussion that is necessary on this subject, and I am quite sure that all of the delegates know now and knew this morning how they are going to vote on this issue; so I hope that the rest of the delegates will take a lead from me and not talk on the subject any further. (applause)

CHAIRMAN BENTLEY: The question occurs on the pending minority amendment offered by Messrs. Baginski, et al. The yeas and nays have been ordered. The secretary will ring the bell. Those in favor of the amendment will vote aye. Those opposed will vote no.

MR. HOXIE: Mr. Chairman, may I make one observation which I believe hasn't been brought out on this proposed amendment? This, by the use of the word "shall" is mandatory upon the legislature that they shall authorize, by law, bingo for charitable purposes. So just bear in mind this is a mandate to the legislature in your vote.

CHAIRMAN BENTLEY: For what purpose does the gentleman rise, Mr. Barthwell?

MR. BARTHWELL: Mr. Chairman, I just wanted to ask a question. This would only be a mandate if the majority of the voters vote for it. Am I right?

CHAIRMAN BENTLEY: Does the gentleman desire to yield to the chairman for a reply?

MR. BARTHWELL: Yes, I do.

MR. HOXIE: In my interpretation, it would be mandatory on the legislature to establish by law. Then it would be on a vote by the people in the district, but it would be mandatory upon the legislature by the use of the word "shall" to provide by law for charitable or fraternal orders.

MR. BARTHWELL: Thank you.

CHAIRMAN BENTLEY: The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—25

Balcer
Barthwell
Binkowski
Bledsoe
Buback
Ford
Greene
Hatch
Hatcher, Mrs.
Higgs
Hodges
Kelsey
Krolikowski
Leibrand
Lesinski
Liberato
Madar
Murphy
Pellow
Perlich
Sablich
Stopczynski
Suzore
Wilkowski
Youngblood

Nays—91

Allen
Andrus, Miss
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Brown, T. S.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Mahinske
Martin
McCauley
McLogan
Millard
Mosier
Nisbet
Nord
Ostrow
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Walker
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment offered by the minority, the yeas are 25; the nays are 91.

CHAIRMAN BENTLEY: The amendment is not adopted. The secretary will read the next amendment.

MR. MADAR: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Madar.

MR. MADAR: Before we go to the next section, may I ask that in the future, because of the fact that we did ask to have all the lights out until we were ready to disclose the vote, that from here on in we keep those lights off until everybody has voted when they come in. This idea of them coming in later to see how they were supposed to vote isn't any good.

CHAIRMAN BENTLEY: The secretary will read the next pending amendment.

SECRETARY CHASE: Messrs. Faxon, Everett and Binkowski offer the following amendment:

1. Amend page 1, line 5, by striking out all of the proposal.

CHAIRMAN BENTLEY: On this the Chair will recognize the gentleman from Detroit, Mr. Faxon, in support of his amendment.

MR. FAXON: Mr. Chairman, fellow delegates, I do not intend to give any long diatribe with regard to this section. (applause) Your approval is most noteworthy. (laughter) I do feel, however, we have spent practically an entire morning dealing with the subject of lotteries, and more specifically bingo, and as a matter of form I just can't see that this is a necessary section in the constitution. I have listened to the lengthy explanations made by these distinguished delegates and members of the committee as to its historical implications, and I also realize that in many other instances we do not prescribe in the legislative powers that the legislature may not, for instance, make robbery legal or something of this sort, and I fail to see the need for dealing with this in the constitution at all. I think this gives dignity to lotteries that it doesn't need to have, as far as I am concerned. I think the legislature has legislation already on the books which deals with the whole subject and which can adequately handle this. We are trying to modernize the constitution and take out unnecessary language.

I would suggest that this doesn't mean that I am for gambling. I am certainly not for it, and I don't intend to participate in it, but at the same time I don't think it is necessary for the constitution to have to spell out the fact that the legislature can't do something. I think we can trust the legislature enough to take care that this is adequately handled without putting in the constitution this kind of language. For this reason, I would ask you to go modern for a change — and certainly it is a departure for me — and ask for the deletion of this particular section.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske.

MR. MAHINSKE: At this point I would like to yield to any of the other sponsors and hear their remarks first before saying anything.

CHAIRMAN BENTLEY: The gentleman from Detroit yields to the gentleman from Battle Creek, Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, my sentiments are those of Mr. Faxon. I don't believe this belongs in the constitution, and I think this can be documented. I have taken a quick glimpse at the criminal code of this state, and there are 16 sections in which the legislature has prohibited gambling — not simply lotteries and bingo but all forms of gambling, the only exception being parimutuel betting. They not only have prohibited gambling; they have provided penalties for it including the right of the prosecutor to seize personal property and even real property where it is used in violation of the law.

Now, it is true we have deviated from the theoretical proposition that legislative matters ought to be left out of the constitution, but when we have done so, we have done so on the urging of delegates that we had to act either because the legislature would not or could not act. Here the legislature has clearly acted. By removing this matter, we are not legalizing gambling. We are not opening the door to organized gambling, because the door has been shut and very firmly shut by the legislature. I think that is the proper body to do it.

Incidentally, for any of you who may play poker like Mr. Hubbs does, one of those 16 sections is rather interesting. It says that if you lose, gambling, you must sue to get your money back or you are subject to criminal penalty. I know Mr. Hubbs has many good legal counsel over in that corner who will be glad to take care of it.

I think it is unfortunate that the suggestion has been raised that there is hypocrisy in this matter. I know there are many, many sincere people who oppose gambling and therefore think this ought to be in. I think the letters Mr. Powell read clearly show this. But I think what we should realize is that by eliminating this language, we are simply taking something out of the constitution which doesn't belong there. We are not legalizing gambling. We are not even suggesting that it be legalized. But rather we are suggesting that the constitution is not the place to set forth trivia of this kind and detailed elaborations of what is or is not moral conduct, and therefore I was happy to join in the sponsorship of this amendment, and will support it.

CHAIRMAN BENTLEY: The Chair again recognizes the gentleman from Detroit, Mr. Faxon.

MR. FAXON: Just to call for the yeas and nays, Mr. Chairman.

CHAIRMAN BENTLEY: Is the demand supported? A sufficient number up. The yeas and nays will be ordered. The question occurs on the Faxon amendment. The yeas and nays have been ordered. The secretary will ring the bell. Does the chairman of the committee desire recognition?

MR. HOXIE: Yes.

CHAIRMAN BENTLEY: The gentleman is recognized.

MR. HOXIE: Mr. Chairman and fellow delegates, I think there is one fundamental principle that we should recognize in this proposed amendment. It is true that its removal would then place within the hands of the legislature complete discretion as to whether or not they would authorize gambling of any nature in the state of Michigan. To me it is a fundamental principle that the people of the state of Michigan through the 2 last constitutions felt this was such a major and important issue that it should be a part of our constitution.

We have written into this constitution many places where there are restrictions on the legislature where it was felt in the public interest that those restrictions should be placed in the constitution, and for the reason that I think the vast majority of the people of Michigan approved the present provision of the constitution, I urge you to vote no.

CHAIRMAN BENTLEY: The question occurs on the Faxon amendment. The gentleman from Detroit, Mr. Mahinske.

MR. MAHINSKE: In response to the remarks just made by Mr. Hoxie, I would point out that this would not be left within the complete discretion of the legislature if we abolish section 33 of article V. The legislature would have to take action that I am afraid they would be very reluctant to take. They would have to repeal the existing enabling statutes that we have on the books making various types of lotteries and gambling devices illegal. Frankly, I don't think that we would see the day in the very near future that they would do this, because they are just as responsive to their electorate as we are responsive to the people who have been writing to us telling us that they want to gamble or that they don't want to gamble. Frankly, I don't conceive of the legislature going any further than possibly the bingo amendment that we had here, if they would go that far, in view of the last vote that was taken on this.

Now, to repeat, actually what we are doing here is, we are singling out one particular act that we consider criminal and we are putting it in the constitution. I submit that there are other acts that are slightly more heinous than this such as murder and adultery and so forth that don't find themselves in the constitution at all. It is not unconstitutional to commit murder, but it is a crime, whereas it would be unconstitutional for the legislature or anyone else to enter into lottery operations. As I see this, whether you want to admit it or not, by prohibiting the legislature from passing any type of law or act — or allowing anyone else to do the same — to permit a legal lottery, what we are doing here, in effect, is, we are protecting the gamblers or the illegal operations from any type of competition that may come out of the state on a legal level. If this is what you want to do, this is your right. It is actually what you are doing. Frankly, I can't see protecting anybody that is doing anything illegal by making it impossible for them to ever have any type of competition at all.

Now, I am not advocating that we start competing with the numbers game or anything else here, but what we are doing is just exactly that. We are protecting these people from any type of a legal competition by writing this into the constitution. We are freezing it in. And who knows but that some time or another the legislature or the state itself may view a lottery as a source of revenue in one form or another, and of course at that time they would have to put this on as an initiative referendum for the people to ratify. I would be in favor of deleting section 33 from the constitution.

CHAIRMAN BENTLEY: The question occurs on the Faxon amendment. The yeas and nays have been ordered. The secretary will ring the bell. All those in favor of the Faxon amendment will vote aye. Those opposed will vote no. The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—53

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Conklin, Mrs.
Dade
Doty, Dean
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Follo
Ford
Hatch
Hatcher, Mrs.
Hodges
Jones
Kelsey
Krolikowski
Leibrand
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Ostrow
Pellow
Perlich
Perras
Rajkovich
Sablich
Shaffer
Sleder
Snyder
Sterrett
Stopczynski
Suzore
Thomson
Tubbs
Walker
Wilkowski
Youngblood

Nays—71

Allen
Andrus, Miss
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment to strike out all of the proposal, the yeas are 53; the nays are 71.

CHAIRMAN BENTLEY: The amendment is not adopted. The secretary will read the next pending amendment.

SECRETARY CHASE: Mr. Walker offers the following amendment:

1. Amend page 1, line 5, after "lottery" by inserting "or parimutuel betting,"; so the language will read, "The legislature shall not authorize any lottery or parimutuel betting, nor permit the sale of lottery tickets."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Madison Heights in support of his amendment, Mr. Walker.

MR. WALKER: Mr. Chairman, ladies and gentlemen of the committee, as far as bingo is concerned I do not have any strong feelings either way, but I do recognize that gambling is gambling no matter what form it takes. The purpose of my amendment, then, is to allow all of the delegates an opportunity to clearly go on record as either being for or against gambling in any or all of its forms, and I would like to ask the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the request supported? A sufficient number up, and the yeas and nays will be ordered. The Chair recognizes the gentleman from Detriot, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman and ladies and gentlemen of the committee, the only thing that I can say about this amendment is that this is the moment of truth (laughter) and let's see how things come out. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Madar.

MR. MADAR: This sort of gives me a chance to answer Delegate Koeze. Though I have only made one bet in my entire life on a horse — no, I didn't — in fact, I always said that if anyone was absolutely certain that a horse was going to win, even if they had the race fixed, all I would have to do is put $2 on its nose and it would run the other way. I want to say this, though, to Mrs. Koeze: I have done a lot of reading, and I have heard it said quite often that they use burrs, they use needles and they do other things. I, of course, wouldn't know. I have never raised any horses, nor have I ever tried to race any. But I certainly think that parimutuel betting is just as bad as any lottery. It is just the same as when you go ahead and play canasta for a cent, or if you play 5 or a cent a chip poker, or if you play a twentieth of a cent gin rummy or bridge. It is all gambling.

Now, I do go along with the theory, though, that it is not sinful to gamble if you don't hurt anyone else by doing it. However, that isn't the way it is in parimutuel betting. Parimutuel betting is one of the worst evils that there is in this country today. More women and children starve, go without the things that they ought to have from this than from any other form of gambling. And I hope that now Mrs. Koeze and any of her other friends who don't believe in raising horses for racing, that you will get up here and stand and be counted by voting yes for this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Hillsdale, Mr. Prettie.

MR. PRETTIE: I think the committee, Mr. Chairman, should be advised in the present financial circumstances of this state what the implications of this proposed amendment might be to the fiscal situation of the state. The harness horse tracks in Michigan have yielded a revenue to this state of something over $2 million in each of the last 3 fiscal years. A portion of this, aggregating for those 3 years, $1,370,000, has been returned to help maintain the fairs of all kinds throughout the state.

The thoroughbred horse or running tracks of the state, I am informed by the secretary-treasurer of the Michigan association of fairs and exhibitions, has yielded a revenue to the state of $5,473,000 in the fiscal year 1959-60, and a revenue of just under $6 million in the fiscal year of 1960 and '61. A small portion of this, aggregating from $54,000 to $59,000 in these respective years, was returned as breeders' awards and supplemental purses for Michigan bred colts.

Now, matters of morality should probably not be intermingled with something so mundane as the income derived from parimutuel betting in Michigan, but I think this committee should be advised of the fiscal implications that might result from the adoption of this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske.

MR. HOXIE: Mr. Chairman.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee.

MR. HOXIE: Do we have several other speakers?

CHAIRMAN BENTLEY: The Chair will advise that there are 4 speakers after Mr. Mahinske.

MR. HOXIE: Mr. Chairman, I have a request that the committee rise. I wonder if that would be agreeable to the committee. There are several meetings that are scheduled immediately following. I wonder if Mr. Mahinske would withhold his remarks until we convene at 1:30?

MR. MAHINSKE: Yes.

MR. HOXIE: I therefore move that the committee now rise.

CHAIRMAN BENTLEY: The question is on the motion that the committee do now rise. Those in favor will say aye. Those opposed, no.

The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 100**; has considered several amendments thereto; has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: We have the following announcements —

PRESIDENT NISBET: Mrs. Koeze.

MRS. KOEZE: I would like to rise to a point of personal privilege. As a member of the legislative powers committee, I have taken some time to make my presentation as to the wording of the section that was reported out by our legislative powers committee. We got a little bit fouled up on this this morning, and I want to set the record straight. Mr. Hoxie got up to yield to Delegate Powell, the chairman of this subcommittee, and then he asked Mr. Habermehl to give the legal connotation of this particular proposal. Then I had prepared something of the history, but in the meantime Delegate Lesinski got up and was going to raise a point of order on account of the minority report having to come up first, and then of course this happened. I wasn't recognized by Delegate Powell, and so Mr. Lesinski got up and offered his minority report amendment, and by that time I was lost in the fog.

Then slightly after that there were a great many people ready to be recognized on debate, and we had gone on and on, and in the interest of time I was asked if I could perhaps reduce mine, and I felt it necessary to do that, but in the meantime I got a little bit angry because of the fact that I had spent some time on that. And here I am. I got up and made a silly little report to you which didn't amount to a hill of beans. But now at this point I am going to ask you, the delegates to this convention, to do something for me, because I was literally worked out of my talk. If you will let me make a motion to the extent that I would like Mr. Bristah's letter or hearing or testimony to our committee to be printed in the journal, I will be satisfied. Thank you.

MR. BENTLEY: Mr. President, I move that the remarks of the lady from Grand Rapids be included in the verbatim transcript of the proceedings of the committee of the whole, whatever she cares to submit.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor will say aye. Opposed, no.

The motion prevails.

Following is the material submitted by Mrs. Koeze:

Article V, section 33 of the 1908 constitution reads, "The legislature shall not authorize any lottery nor permit the sale of lottery tickets." The constitutions of 1835 and 1850 had similar provisions. The wording of the 1908 constitution was carried over from the Constitution of 1850. A proposal of amendment by an initiative petition intended to permit the legislature to modify the prohibition for "nonprofit, charitable organizations" was defeated by some 41,000 votes in November of 1954. There are some 35 states containing some provision of this type or similar ones in their constitutions.

The subject of section 33, article V, is 14 words long. It is a highly controversial subject. A great deal of mail both pro and con has come from all parts of Michigan to the members of the legislative powers committee. The committee held public hearings in Grand Rapids and Detroit. It was generally agreed that the majority of people testifying in Grand Rapids were against legalizing any form of gambling and lotteries, just as the majority of the people in Detroit were for legalizing them. However, testimony both pro and con on this issue was given in both Grand Rapids and Detroit.

An outstanding brief was presented by Mr. James W. Bristah in Detroit, Michigan. Because I feel this worthy of the record of this convention I have asked the approval of Mr. Bristah to let me read his testimony into the record. This is his testimony:

> Mr. Chairman, may I thank you for this opportunity to testify at this hearing on behalf of the present constitutional provision of article V, section 33, which reads, "The legislature shall not authorize any lottery nor permit the sale of lottery tickets." My name is James W. Bristah, and I have been asked to appear here on behalf of the Michigan council of churches. Also, since I work for the methodist church as director of the board of Christian social concerns, I am here in this capacity as well.

The various protestant Christian churches of the state are concerned about the issue of legalized lotteries for many reasons: the catering to the "something for nothing" philosophy, the effect on persons and families involved, the strengthening of racketeering and the criminal world, and other aspects of its immorality. In addition, the churches are concerned, as is the constitutional convention, as to whether or not it is sound community policy for this to be included in the constitution and whether or not it is sound community policy to permit legalized lotteries in any form.

History of this provision.

It is important for the delegates to the constitutional convention, as well as the public, to understand the background as to why this provision is found in many state constitutions. The experiences that led to this provision too easily can be forgotten or remain unknown. This history is of added importance because many persons erroneously think such provisions were a part of the period of "puritan" influence in our society and that now we have moved beyond this "narrow" approach.

Actually, the background history of such provisions — the story is found in Virgil Peterson's Gambling, Should It Be Legalized?, pages 48-92, and David Allen's The Nature of Gambling, pages 68-82 — shows that lotteries were legalized in the United States at the time when supposedly the puritan influence was the greatest. The opposition to lotteries developed from other sources. The United States had nearly 2 centuries of practical experience with legalized lotteries. Both in the colonies and in the states of the new born country, lotteries were turned to as a source of money for every conceivable worthwhile cause, both public and private. Bridges were built, colleges and schools were established. When Faneuil Hall burned in 1741 it was rebuilt by money raised from a lottery; streets were paved, public buildings were enlarged. Through the continuing experience over many years, certain results consistently were obtained. Abuses of these lotteries were commonplace. Counterfeit lottery tickets were printed, unscrupulous promoters took over, "fraud reached scandalous proportion," legislatures were bribed. The society for the prevention of pauperism in New York City declared in 1817, "the lottery business was one of the principal causes of poverty." A special investigating committee reported in 1817 to the New York general assembly:

> The foundation of the lottery system is so radically vicious that your committee feels convinced that under no system of regulation that can be devised, will it be possible for this legislature to adopt it as an efficacious source of revenue, and at the same time divest it of all the evils of which it has hitherto proved too baneful a cause. The only recommendation of the system of raising money by lottery, is the cheerfulness with which it is paid. (Peterson)

The experience in Pennsylvania and other states was similar. In Pennsylvania "the intended beneficiaries of the lottery schemes received but a relatively small amount of the millions of dollars donated largely by laborers and clerks in the false hope of winning a prize." Peterson goes on to say:

> The economy of the entire nation was being disrupted by the dubious lottery business which was flourishing with the sanction of the various state governments. Frauds committed by the operators of legalized lotteries assumed monstrous proportions. Corruption was commonplace. Elaborate advertisements urged the poor and the ignorant to buy lottery tickets to help them obtain "easy money" during "these hard times." The response was enormous. The public was virtually being bled to death financially and the needy and ignorant suffered to the greatest extent. "The lotteries," said Philip Hone, a prominent New York businessman of the time, "constituted the most ruinous and disgraceful system of gambling to which our citizens have been exposed."

The evils became intolerable. The people, out of deep concern, abolished lotteries. This came after a century of experimentation, after deliberate consideration and after repeated attempts to curb the abuses to no avail. The people not only made lotteries illegal; with the evils fresh in their minds, they inserted provisions in the constitutions of the various states to take this out of the hands of the legislators who were vulnerable to the graft of the unscrupulous promoters so that future legislatures would never be tempted to the folly of raising revenue through legalized lotteries. It was at this level of the evil effects on community life that these provisions were written into state constitutions. Leadership for this came not from the "puritans" but from business and community leaders. As William Christie MacLeod points out:

> The great mass of worthy citizens of New York and Massachusetts and Pennsylvania a century ago was opposed to public lotteries, not on abstract ethical grounds, but on the ground that they had become a serious social evil. The campaigners against lotteries were primarily businessmen and professional men who saw around them everywhere the growing menace of the public lottery of the day. (Peterson)

Recent historical experience.

Has more recent experience by the states which have legalized lotteries been of the same nature? The answer is yes. Montana in 1947 permitted some forms of gambling in "private clubs." Conditions soon were out of hand. The number of "private clubs" jumped from 179 in 1947 to 600 in 1949, many of which were "fronts" for gambling interests. The governor of that state referred to the legislation he signed to permit this as the "outstanding mistake" of his administration.

Massachusetts in 1934 permitted cities to allow charitable organizations to operate beano games. In one city in one year the charities received $700 out of a total take of $32,000. In Worcester a church sponsored a beano drive that raised $550,000, but the promoters failed to turn in a single cent to the church.

More recently, 1958, New York state permitted, through local option, charitable, religious and veterans' organizations to conduct bingo. This year, spring 1961, Governor Rockefeller appointed a state investigation committee. An associated press release of April 25, 1961, stated:

> The state investigation commission charged today that professional gamblers have seized control of legal bingo games. The commission declared corruption and widespread illegality have attended the playing of legal bingo. Commission Chairman Jacob Grumet said evidence shows "many serious abuses, acts of corruption and widespread violation of the law have occurred.

Dummy charities were created; public officials were bribed, including the chief investigator of the commission to control bingo; known racketeers moved in; and charities were milked by the promoters.

These recent state experiences illustrate the maxim that crime experts categorically and repeatedly claim, "Whenever any form of gambling is legalized the illegitimate offspring of legalized gambling increases by leaps and bounds."

Knowing this continuing experience Governor Thomas E. Dewey said 11 years ago in his message to the New York legislature:

> The entire history of legalized gambling in this country and abroad shows that it has brought nothing but poverty, crime and corruption, de-

moralization of moral and ethical standards, and ultimately a lower living standard and misery for all people.

Position regarding constitutional proposals.

1. With this historical — both contemporary and otherwise — background, the Michigan council of churches urges the constitutional convention to retain the present wording of article V, section 33 as found in Delegate Proposal 1520 before your committee.

2. Delegate Proposal 1211, which would delete this section and leave it up to the legislature, opens the Pandora's box of political corruption. Lotteries as a form of gambling is too lucrative an enterprise to expect that the underworld and racketeers will not move in. Allen, in The Nature of Gambling, points out this as the "American variable," that the criminal class is not only in the gambling business, it is the economic base for the underworld, as the Kefauver investigations showed. It always moves in. And from it the underworld has gained its money to purchase murders, gain political control, corrupt some labor leaders, et cetera. This is a type of enterprise not comparable to other forms over which the legislature could rightfully be given control. The experience is too overwhelming to leave this important social issue exposed to the temptation of the bribe and fraud that has always crept into the legislature and control commissions. The people of Michigan have a right and the need to place this issue beyond such temptation.

3. Delegate Proposals 1064 and 1294, which would permit local option for so called charitable organizations to use lotteries or bingo for fund raising, also open up communities and organizations to the kind of political corruption, dummy charities and invasion by racketeers that has happened in other states. Through direct giving and united fund appeals, the people of Michigan have demonstrated they know the true meaning of charity. When they give in this way they know their dollars really go to the cause that needs it and is not siphoned off in "overhead expenses," promoters' profits, et cetera. Those who support "charity" gambling unthinkingly give moral support to all forms of gambling. "If gambling is right for some, why not for others?" is the opening wedge used by the professional gambling interests. Charity gambling gives either direct or indirect support to the gambling syndicates and thus to the entire criminal underworld of this country since this is its economic base.

Other considerations.

1. Can lotteries be controlled? This is raised as a reason for permitting the legalization of lotteries for charitable purposes. We believe every legitimate charity and fraternal group, when it knows the full story of legalized lotteries, would turn to sounder ways of raising money that wouldn't open up opportunities for graft and corruption. Further, the history of this shows that illegalization of lotteries can be enforced. (see Allen, op. cit., pages 83-128) The 3 ingredients needed are sound law, which we are urging in Delegate Proposal 1520, sound enforcement and sound public opinion. We are not so cynical that we believe the people and political leaders of Michigan would not add these last 2 ingredients. Further, it is questionable to reason that if we cannot control the present constitutional provision that then our enforcement agencies will be better equipped to enforce a weakening of the law which would open up the control problem to many, many more difficulties: screening those who wish to use lotteries, policing their use of them, checking and double checking against the many unscrupulous opportunists who will move in. As pointed out earlier, the crime experts say that experience shows legal gambling leads to greater illegal gambling and makes the problem of enforcement more difficult.

2. There is a legitimate suggestion that the state constitution should be made briefer. However, article V, section 33 is exactly 14 words long. Few sections are as brief. In view of the social evil which this section 33 controls, it would be disastrous to our community life if these few words were deleted, allegedly for purposes of brevity.

3. There has been some public and newspaper coverage regarding permitting the state to conduct lotteries for purposes of relieving our tax problems. We have already considered the history of states doing just this. Peterson, page 146, says, "A scheme of this kind would fail," and he agrees with Mayor Fiorello LaGuardia who said in 1946 that "It would require a miracle to find the men and the system which could make it workable," to prevent graft, corruption and fraud from entering. Further, using lotteries for tax revenue amounts to a tax on those least able to pay it: the gullible, the uneducated, the poor, the low income wage earners tempted to get rich quick, the poor housewife stimulated by the ads to get all the comforts and conveniences through some shortcut. It is tragic enough that some low income persons don't spend their money wisely, but it ill behooves a great state to tempt and stimulate them to spend their money on lotteries and to exploit human weakness. It would be the poorest type of political leadership. Michigan has serious tax problems. However, to think lotteries can offer us a solution shows an unfamiliarity with the experience of lotteries in this country. In addition, the problem of overall and major tax reform, which responsible people now recognize as needed in Michigan, is a far larger issue and won't be resolved by the stopgap and inadequate solution of legalizing lotteries.

Voters recently considered this constitutional issue.

Among the many constitutional issues the convention has to consider, it is important to realize that this is one issue about which the citizens of the state have voted in recent years. In 1954 there was a constitutional amendment on the ballot which would have permitted lotteries conducted by charitable organizations. After widespread voter interest and discussion of the issues involved, this amendment was defeated by the voters. Certainly any evidence which has come to light since that vote would not weaken these decisions, and in fact would only give added strength to the desire on the part of Michigan citizens to keep this provision in the constitution without any deletion. If a majority of the voters felt so strongly against even permitting so called charities to use lotteries, how much stronger might be the opposition to a more serious surgery or elimination of this provision. If any such changes were introduced it could well become an issue that might jeopardize the passing of a new constitution regardless of other merits it might possess.

For these many reasons the Michigan council of churches supports the retention of article V, section 33 in any proposed constitution.

James W. Bristah
1500 Kales Building
Detroit 26, Michigan

December 19, 1961

As a citizen of Michigan, I have watched with interest the workings of organizations to raise money by the playing of bingo, lotto and keeno. There must be some other way of raising money for charitable purposes without resorting to gambling.

I am unalterably against any form of gambling. It is against the law. I do not believe that by legalizing gambling we will cure the social problem involved. There is no such thing as a little gambling. The minute we open the doors to legalize lotteries, we open the doors to those characters who are unscrupulous. It is an invitation to

those racketeers and henchmen to move in, to gain control, to further their own interests. With the legalizing of lotteries come more opportunities for graft and corruption. Then it becomes a matter of police control, which in most instances means additional police force.

In New York state where we have legalized bingo, it is stated some 13 million people play the game. This is a take of about $47 million. The thing has become so out of hand of the state officials and the law that Governor Nelson Rockefeller had to appoint a special investigating committee with subpoena powers to look into the matter. Along with the gambling getting completely out of control in New York state, the matter has strong political overtones. Mayor Wagner, a Democrat, is making his off track gambling bill a major part of his effort to obtain some $261 million additional state aid. I don't believe the people of Michigan want this sort of thing.

I might add as a note to this report that I wrote to Governor Nelson Rockefeller January 25, 1962, asking for a report of the state investigation commission. On February 16, 1962, I had a letter from Howard A. Jones, assistant counsel for Governor Rockefeller, stating that the work of Commissioner Thomas B. Gilchrist, Jr., was completed and the final report of the commission would be made public soon and that they would send me whatever materials were available. However, to date I haven't received this material.

I have raised 5 children, 4 sons and 1 daughter. I have had to teach these children the way to a good life, and a clean one. I have always tried to teach them right from wrong. I wanted them to grow up to be good citizens, to be proud of their country, their political party, their church, and to realize that they had responsibilities in life. In teaching them right from wrong, I had to teach that gambling in all forms was wrong. There are no 2 ways about this. It is right or it is wrong. It is as simple as that.

This has been considerably long testimony, but one that I hope the delegates to this convention will give serious consideration to. The testimony of Mr. Bristah reflects in much better language and thought exactly how I feel personally about gambling and lotteries and about the social problem involved.

SECRETARY CHASE: The committee on education will meet next Tuesday, April 17, immediately after the session in room d.

Delgates are asked to please check their mail boxes this noon.

The secretary has this request: several delegates have indicated their desire from time to time to have the action journal show that they have been excused from parts of the daily sessions. To be sure that the time of your actual departure and return are correctly shown in the action journal, please notify the journal clerk or the assistant when you leave and when you return. Your careful observance of this little ritual will assure a complete and accurate record of your attendance appearing in the action journal. Thank you.

PRESIDENT NISBET: Mr. Hoxie, do you wish the floor? Do you want recognition, Mr. Hoxie?

MR. HOXIE: Are you ready to recess or do you have some more reports?

PRESIDENT NISBET: No.

MR. HOXIE: Mr. President, I would personally like to apologize to Mrs. Koeze. She was scheduled to present her views on this matter and I thought it would be to the interests of this convention to know the position of a wife and mother on the subject of gambling.

At this time I move that we recess until 1:30.

PRESIDENT NISBET: The question is on the motion to recess until 1:30. Those in favor will say aye. Opposed, no.

We are recessed until 1:30.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for the purpose of further consideration of items on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor will say aye. Opposed, no.

The motion prevails.

[Whereuopn, Mr. Bentley assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN BENTLEY: The committee will be in order. When the committee rose, the item under consideration was the amendment offered by the gentleman from Madison Heights, Mr. Walker, to **Committee Proposal 100.** The secretary will read the pending amendment.

SECRETARY CHASE: Mr. Walker has offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2302.]

CHAIRMAN BENTLEY: Is the gentleman from Taylor, Mr. Marshall, who was seeking recognition, in the chamber? If not, the Chair will recognize the gentleman from Warren, Mr. Kelsey. Is Mr. Kelsey in the chamber? If not, the Chair will recognize the gentleman from Detroit — Mr. Kelsey.

MR. KELSEY: Mr. Chairman, I am in a hurry too. (laughter) Mr. Chairman and delegates, let me register my complete and wholehearted contempt for those who have chosen to use the senior citizens as a whipping boy in this question of lottery. May I suggest that a more handy and factual word for the plight of the senior citizen is "inflation" and not because they might have spent a dollar or two on bingo. I further suggest that in the earlier part of this convention we had a communication addressed to each delegate outlining 6 points as to a solution of the state's fiscal problems by giving constitutional status to language that would allow the state to put $100 million of full faith and credit behind research and development, scientific research, business development, and so on and so forth.

Let me suggest to Delegate Blandford, who said that those groups that need to play bingo or do something else to obtain money have a weak message, that I feel, in supporting the proposed amendment, that if the state has need for this revenue — which it apparently has, based on all the logic and all the facts in this debate — that its message is weak. I support the amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Madar.

MR. MADAR: Fellow delegates, if you will recall, this morning I started my words by saying that I was opposed very much to hypocrisy. Now I am going to speak strictly to the point of parimutuel betting.

I have here 2 votes taken this morning, one against bingo on the bingo amendment, and then the other on the amendment which would strike out the words about lotteries from our constitution, and I notice some names here that opposed both amendments; in other words, as much as saying that it was a sin, that it was the wrong thing to do to legalize bingo or to permit lotteries even though it might be approved by the state legislature. I have seen some acts of hypocrisy, but I think this one takes the cake. But maybe I am wrong. Here I have a copy of Compiled Laws of Michigan, 1948, the first volume, chapters 1 to 211. Now, the idea that they are the laws or that they are for 1948 or that it is chapters 1 to 211 doesn't mean a thing, except that they are laws, and so we will go from that to the supreme court. Everybody here — not everybody, excuse me; excepting those of you who aren't going to be hypocritical and are going to vote for this particular amendment — the supreme court ruled that this was a skill game, a skill game, and they permit parimutuel betting.

Well, you know, we are getting mighty, mighty bad and we are going far afield when we start putting attorneys, judges, laws ahead of the Holy Bible and God. Yes, you stop and consider it. Do you think that because the judge said that it is right, that that made it all right and made it all holy? I don't think so. I don't think anything is right unless it is right in the eyes of God — and I don't care what law you pass, you can't legalize it. Now, you can't have good here and call that good/bad over there. It's got to be good on both sides, and bad is going to be bad on both sides. You can't change it just by going to the courts and having some judge or group of judges saying it is so. There was never, in the history of this state, a more political decision than that one was.

Why do some people speak well for parimutuel betting? Is it because they have stock in the race tracks? Is it because it makes those fairs better in their particular areas? Is it because it takes care of something in the state that they are in favor of? I believe this is what is happening here today. We are not thinking about what is right in the eyes of God and whether we are being hypocritical or not; it is, what's good for me, my pocket; and if not my pocket, for what I like personally.

And I am going to tell you something: just because I may like something personally doesn't make it all right for everybody else. I have to think that maybe even though I may like it, there are a lot of other people who don't, so I have to go the way the majority of the people feel. And I say this to you: if you turn down bingo and you turn down lotteries, then — I would make my life a forfeit — if you put it to a vote of the people, they would vote down parimutuel betting, since you voted down the other 2.

I know there are a lot of you who are going to say, "Oh, to heck with him. He makes me angry. Who does he think he is?" Well, I am not too good, believe me. I have made a lot of mistakes in my life, and maybe I will continue to make them, but at least I am going to be honest with them and they are going to be honest mistakes and they are not going to be made in favor of me — I'll bet dollars to doughnuts on that. And I am going to ask you to do the same thing on this particular amendment. I am not going to give the Algers — and I can't think of the names of some of the other owners of race tracks around this state — we talk about how much money it brings into the pockets or into the coffers of the state. Has anybody told you how much is going into the pockets of those who own the stocks from those race tracks? Oh no, that hasn't been mentioned.

I heard Mr. Habermehl say this morning that it is going to give too many people profits. What does parimutuel betting in this state do? What do these race tracks do? You talk about gangsters, racketeers and everything else. Is it because you call it parimutuel betting that makes it better? Does that make it honest? Oh no.

I'll tell you what you're doing: you are saying that the elderly people of this state — and believe me it is usually the elderly people; it is those who are retired, and 10 chances to 1 it may even be your wives who love to play bingo. That's no good. You are going to regulate and say they can't do that. But the man with an awful lot of dough in his pocket can build a race track and get himself a lot of money from that parimutuel betting. Oh, wonderful. Well, there is no use me berating you. You know deep down in your heart that what I have said is true. Let's let it come out. Vote yes on this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Flint, Mr. Millard.

MR. MILLARD: Mr. Chairman, members of the committee, all I want to say is that this morning I pointed out where this is legal and not gambling. I have heard this parimutuel betting bandied around here by some of the speakers as being a lottery or being gambling, and I just want to say that my position is still with the court. I am a lawyer and I believe the courts, and the courts have said that parimutuel betting is legal. Therefore, as far as I am concerned, it is legal, and if you vote against this, if you vote to pull out parimutuel, you are voting to put out a legal business.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, there has been so much talk about the subject of sin and hypocrisy on the floor of the convention that I would like to point out a consideration which came before the committee which has not yet been brought to the attention of the committee of the whole, and that is this: this problem for some people seems to be only a moral problem; that is to say, a problem of right and wrong, a problem of good or evil. But I think the committee in general realized that it is also — and from a purely social standpoint for many more people — the problem of social control, and that viewed in this light it was quite easy to see that anything in the nature of horse racing, trotting, which involved a race track was something which was large and obvious and could be easily subjected to rigid state controls, whereas other forms of wagering — or in the broad sense and not the legal sense, gambling — are easily concealed, can be operated on a fly by night basis, and even with the most strict statute would be a very, very difficult enforcement problem. And I call this to the attention of the members of the committee because I think that the discussion so far has been so overladen with the moral side of the question that the social control side of the question should be emphasized.

Now, as to the matter of whether horse racing involves skill, I think many members of the committee were willing to leave this question up to those who raise or race or seriously follow horses, and to the courts, who obviously had these matters under serious consideration.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, may I make this suggestion: that you stop worrying about us hypocrites and you stop talking about us senior citizens and get to the point of the question. (applause)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Madison Heights, Mr. Walker.

MR. WALKER: Thank you, Mr. Chairman. In more or less summary of the arguments that I have heard here today, about the only argument that I have heard that has any real bearing on the issue at hand is the fact that parimutuel betting brings into the state coffers some $7 million a year. I submit that the $7 million a year brought in by the tax on parimutuel betting doesn't begin to pay the down payment on the welfare and the ADC that is caused by broken homes that are directly attributable to people losing their entire pay and the like on parimutuel betting and other forms of gambling. As another delegate said here today, this is the moment of truth. This is the time to put yourself squarely on the line as being for gambling or against gambling in any or all of its forms. I would appreciate your yes vote.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske.

MR. MAHINSKE: Well, from the outset, I would like to say that I am really not too concerned about these people that go out and gamble, because I don't see any state agents or other agents dragging them out to the track. I intend to vote no on this proposition, signifying that I am for racing and gambling and other forms of vice. (laughter) But the proposition is that my basic argument stands, that I object to this type of language in the constitution. I don't think that these are constitutional phrases to start mentioning in your master legal document of the state, items like lotteries, parimutuels, bingo, beano, lotto and so forth.

Frankly, I have never been to a race track. I don't trust horses. You just can't talk to them like they do in the movies and on TV, (laughter) you have no idea what they are going to do. If some people want to go out and bet money on these things, win, place or show, that is their business. The thing that I mainly object to, I think, is the intent of this amendment. This is basically a "put your money where your mouth is" amendment, and I don't think that many of the people here who were willing to include the language prohibiting lotteries in the constitution are willing to go so far as to pull all the race tracks out of business in the state here. Whether or not they bring $7 million or $7,000 into the state treasury each year is beside the point. If we are going to measure this in terms of money, then I think that we should go back and strike the whole provision, because then we could bring more money in. This is not the basis of the whole thing here.

We have an existing condition. I have heard no big outcry about these people. I have never seen the tracks being picketed by the league of women voters or anyone else. (laughter) In fact, there are probably more on the inside than the outside. (laughter) But, frankly, this is a voluntary proposition. The kids are not over there spending their lunch money. They don't let them in, from what I hear. And like I say, the basis of the amendment here, I think, is just a "put your money where your mouth is" proposition, and I would be opposed to this because of that and because of the fact that I think it would do much more damage than it is intended to do good.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ann Arbor, Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman and members of the committee, I have just had placed on my desk, as all of you had placed on your respective desks, a proposed schedule for completing the work of this convention. It seems to me, Mr. Chairman, that if we are going to abide by any plan to get through with the work of the convention, we must move forward. I think we have heard all the debate that we should hear, and I think all the speeches have been made and all the points have been raised, and I wish we could get on, take a vote on this matter and dispose of the question before us. (applause)

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Madison Heights, Mr. Walker. The yeas and nays have been ordered. The secretary will ring the bell. Those in favor of the Walker amendment will vote aye. Those opposed will vote no. The secretary will lock the machine and record the vote. Mr. Walker.

MR. WALKER: Mr. Chairman, it is indeed gratifying to find that my esteemed senatorial delegate and I are finally on the same side of a question. Thank you.

CHAIRMAN BENTLEY: The secretary will announce the results.

The roll was called and the delegates voted as follows:

Yeas — 80

Andrus, Miss
Anspach
Balcer
Barthwell
Binkowski
Bonisteel
Boothby
Brown, T. S.
Buback
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Farnsworth
Faxon
Finch
Ford
Gadola
Goebel
Gover
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Heideman
Higgs
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lesinski
Liberato
Madar
Marshall
Martin
Murphy
Nord
Ostrow
Pellow
Perlich
Perras
Plank
Powell
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shanahan
Sharpe
Sleder
Snyder
Stafseth
Stopczynski
Suzore
Thomson
Tubbs
Turner
Walker
Yeager
Youngblood

Nays — 42

Allen
Austin
Batchelor
Beaman
Blandford
Bledsoe
Brown, G. E.
Butler, Mrs.
Cudlip
Erickson
Everett
Figy
Follo
Greene
Habermehl
Haskill
Hatch
Hoxie
Iverson
Lawrence
Leibrand
Leppien
Mahinske
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Page
Pollock
Prettie
Pugsley
Spitler
Staiger
Stevens
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Walker, the yeas are 80; the nays are 42. (applause)

CHAIRMAN BENTLEY: And the amendment is adopted.

Following is explanation of vote submitted by Mr. Binkowski:

According to rule 65, I submit the following statement as my reason for voting yes on the Walker amendment to Committee Proposal 100:

Since the committee of the whole decided to continue the prohibition against lotteries so that "little old ladies" could not enjoy a form of recreation known as bingo, it seemed highly inconsistent to allow others to "play the ponies," known as parimutuel betting. Both can either be gambling or recreation depending upon the intent of the player. The decision is a moral one which is personal and individual. Prohibition proved that we cannot legislate morals.

Who ever heard of a bank employee embezzling money to play bingo? However, we have heard of such employees embezzling money to play the horses.

It would appear that the real solution is to strike section 33 from the constitution.

The secretary will report the next amendment.

SECRETARY CHASE: Messrs. Perras and Pellow offer the following amendment:

1. Amend page 1, line 5, after "any" by striking out the balance of the section and inserting "gambling."; so the language will read, "The legislature shall not authorize any gambling."

MR. G. E. BROWN: Point of information, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. G. E. BROWN: Would this be an appropriate place to put in an amendment relative to prohibition? (laughter)

CHAIRMAN BENTLEY: The Chair will not rule on amendments which have not yet been offered. The Chair will recognize the gentleman from Bessemer, Mr. Pellow.

MR. PELLOW: Mr. Chairman, in view of the previous vote, I have consulted with Delegate Perras, and we will withdraw this amendment.

CHAIRMAN BENTLEY: Mr. Perras and Mr. Pellow withdraw their amendment. The secretary will report the next amendment.

SECRETARY CHASE: Mr. Tubbs offers the following amendment:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section and inserting "Gambling is hereby prohibited in this state.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Tubbs.

MR. TUBBS: I suppose if I were completely free, I would, in line with what has just been done, withdraw this amendment, but I think it had better stay in and we will abide by the vote. And if you thought the other one was the moment of truth, here is where we segregate the people into 2 groups. (laughter)

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Grand Rapids. Those in favor will say aye. Those opposed? The Chair rules the amendment is adopted.

MR. GOVER: Division.

CHAIRMAN BENTLEY: The gentleman from Sheridan, Mr. Gover, requests a division.

MR. DEHNKE: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Harrisville.

MR. DEHNKE: I want to call attention to the fact that if this amendment is adopted, it vitiates and reverses what we have just done about parimutuel betting, because the supreme court has said that was not gambling, and it goes back in again if we adopt this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to raise a point of order, since I take it that this demand for division reopens the matter for debate, that the committee has already acted upon this matter, and since we have acted upon the matter, that further amendment at this time is out of order. It seems to me as though, under the rules of parliamentary procedure, any proposition to be amended must be perfected by amendment before it is adopted.

CHAIRMAN BENTLEY: Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I would like to propose an addition or an addendum to my amendment. Have it read "Gambling and parimutuel betting are hereby abolished in this state," or "are hereby prohibited in this state."

CHAIRMAN BENTLEY: The gentleman has the right to revise his amendment. The secretary will read the amendment, as revised.

SECRETARY CHASE: Mr. Tubbs' amendment now reads:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section and inserting "Gambling and parimutuel betting are hereby prohibited in this state.".

MR. HUTCHINSON: Mr. Chairman, I raise the same point of order.

CHAIRMAN BENTLEY: The Chair will have to rule, on the point of order propounded by the gentleman from Fennville, that the Tubbs amendment is actually a substitute to the committee proposal because it purports to strike out the entire section as amended and insert new language, and does not see how it could be ruled out of order at this particular time. The gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, I simply want to make a comment about a statement that was made a minute or two ago, I believe, that the supreme court had ruled that parimutuel betting is not gambling. Now, it seems to me that that is in error. As I understood the statement that was read to us, the supreme court simply said it was not a lottery. I don't believe they said it was not gambling. I think they imply that it is gambling, but nevertheless that gambling was never prohibited. But in view of the amendment now proposed by Mr. Tubbs, I suppose this remark is not needed, and I will leave it there.

MR. HUTCHINSON: Mr. Chairman.

CHAIRMAN BENTLEY: For what purpose does the gentleman rise?

MR. HUTCHINSON: I rise further in regard to the point of order I raised.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. HUTCHINSON: The Chair, I understand, has ruled that since this is a substitute, that it would be in order, while I understand the rules to be that a substitute is always to be voted upon and disposed of ahead of the main motion. My point is that if Mr. Tubbs had wanted to offer this amendment or this substitute, he should have done it ahead of the action of the committee upon this section.

CHAIRMAN BENTLEY: The Chair will advise the gentleman from Fennville that from a parliamentary point of view he is probably correct. However, the amendments have been disposed of as they have been received in order. The pending Tubbs amendment or the pending Tubbs substitute was not so labeled at the time. It was filed for disposal after the other pending amendments had been considered, and the Chair would permit the substitute to be offered at this particular time. The Chair recognizes —

MR. HUTCHINSON: Mr. Chairman, I would like to make just one further observation. Then if this is the procedure under which this convention proceeds, it is apparent that we can never have any final action upon anything. And I am not going to appeal the decision of the Chair, but I want the verbatim record to show that I think the Chair is mistaken in this position.

CHAIRMAN BENTLEY: The record will so state. The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I am inclined to go along with Senator Hutchinson on his point of parliamentary inquiry, but while I have the floor, I would also like to ask Delegate Tubbs a question, if I may, if he would care to answer.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids, Mr. Tubbs. He may state the question.

MR. MARSHALL: Delegate Tubbs, does your amendment imply that the farmers of this state will have to quit farming? They claim that is one of the biggest gambles of all. (laughter)

MR. TUBBS: I presume that all businesses will have to close up, Mr. Marshall —

MR. MARSHALL: This is the point —

MR. TUBBS: — because every business venture is a gamble, but not a gamble as stated in Mr. Webster's dictionary as I read it.

MR. MARSHALL: I will close with this, then, Mr. Chairman: I again want to support the position taken by Senator Hutchinson on his parliamentary inquiry. I also think that Judge Dehnke was correct in the observation that he made concerning parimutuel betting. I think that we are completely out in left field on this, that we have spent entirely too much time. We have spent the entire day on this one question. And there is an old saying going around that blessed are those who run in circles, for they shall be known as wheels (laughter) and obviously we have a lot of wheels. And I am opposed to any mention of this subject in the constitution. I think that we are getting into a question of statutory language. We should leave this question up to the legislature. And to waste an entire day debating whether or not we are going to legalize gambling constitutionally or prohibit it constitutionally and to waste the time of the delegates to this convention on this question is ridiculous, and I would urge the delegates to not spend too much more time on this and let's get on with the business of the committee. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Madison Heights, Mr. Walker.

MR. WALKER: First I would like to join Senator Hutchinson in, let's say, his protest or what have you. Secondly, I would like to ask the yeas and nays on this question.

CHAIRMAN BENTLEY: Is the demand for the yeas and nays supported? Not a sufficient number up. The yeas and nays are not ordered. The gentleman from Grand Rapids, Mr. Tubbs.

MR. TUBBS: Mr. Chairman, in view of the parliamentary discussion, I will withdraw the amendment.

CHAIRMAN BENTLEY: The Tubbs amendment is withdrawn. There being no further amendments, the proposal, as amended, will pass.

Committee Proposal 100, as amended, is passed and the secretary will read.

SECRETARY CHASE: Item 3 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 101,** A proposal to provide that the state shall not engage in internal improvements except in certain specified areas and except that the legislature may empower local subdivisions to act in the area of internal improvements. Amends article X, section 14.

Following is Committee Proposal 101 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except:

1. In the development, improvement and control of or aiding in the development, improvement and control of public roads, harbors of refuge, waterways, airways, airports, landing fields and aeronautical facilities;

2. In the development, improvement and control of or aiding in the development, improvement and control of

rivers, streams, lakes and water levels, for purposes of drainage, public health, control of flood waters and soil erosion;

3. In reforestation, protection and improvement of lands in the state of Michigan;

4. In the expenditure of grants to the state of land or other property.

NOTHING IN THIS SECTION SHALL PROHIBIT THE LEGISLATURE FROM AUTHORIZING COUNTIES, TOWNSHIPS, CITIES AND VILLAGES TO BE A PARTY TO OR INTERESTED IN, ANY WORK OF INTERNAL IMPROVEMENT FOR ANY PUBLIC PURPOSE OF THE KIND IN WHICH THE STATE IS NOT PERMITTED TO ENGAGE, AT THEIR OWN EXPENSE.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 101:

Section 14 of article X has long been a part of the Michigan constitution. The section provides guidance for the legislature and prevents the state from engaging in a multitude of local internal improvement projects which would not be of benefit to all the people of the state and which, in many instances, might better be performed by private interests.

The committee is of the opinion that the limitation imposed by this section is desirable. Not only is the section a limitation on the state, but it has also been interpreted to be a limitation on the political subdivisions and instrumentalities of the state. Hence, this section has acted as a major deterrent for many desirable improvements by local units of government.

The amendment proposed by the committee maintains the limitations on the state while allowing local units, with legislative authorization, to make internal improvements in which the state could not engage. In this manner many desirable local internal improvement problems can be satisfactorily resolved without committing the state to an almost unlimited number of purely local projects.

The amendment also protects the state against the added costs of internal improvements by providing that the costs of local improvements shall be borne by the political subdivision authorized to engage in the project.

Following is the minority report to Committee Proposal 101 as offered and the reasons submitted in support thereof:

Messrs. Downs, Lesinski and Murphy, a minority of the committee on legislative powers, submit the following minority report to Committee Proposal 101:

A minority of the committee recommends that Committee Proposal 101 be not adopted and that article X, section 14, be excluded from the new constitution.

Messrs. Downs, Lesinski and Murphy, a minority of the committee on legislative powers, submit the following reasons in support of the foregoing minority report which accompanied Committee Proposal 101:

Michigan needs to move ahead into the changing needs of a dynamic economy. The state of Michigan should be prepared to help develop great scientific research centers in cooperation with our universities and private industries as is done by the states of Massachusetts and California. Michigan should be able to assist in economic development of nuclear energy based on water resources, reforestation and mining development, bridging the scientific knowhow of universities with the practical needs of industry.

Local units of government and the community may need special assistance in the years to come on problems of transportation, resources and community development. Article X, section 14 makes unnecessary limitations because it precludes the state from any internal improvements and then lists specific exceptions. It is impossible to anticipate the expectations for the next 50 years, so it would be better to delete the entire section and leave it up to the legislature to meet its responsibility for the generations to come.

The provision in the present constitution developed as a result of the panic of 1837. We do not believe there is a danger of the recurrence of such a panic. We would prefer to remove any legislative straitjacket and permit the legislature to meet the challenges and opportunities with wholesome cooperation with local units of government, private industry and universities.

CHAIRMAN BENTLEY: The Chair will recognize the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, this particular subject matter fell under the jurisdiction of Claude Wood, vice chairman of our committee.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Brown City, Mr. Wood.

MR. WOOD: Mr. Chairman, fellow delegates, this proposal is a proposal to provide that the state shall not engage in internal improvements except in certain specified areas, and except that the legislature may empower local subdivisions to act in the area of internal improvements. A majority of the committee, after holding hearings and debating this subject for several days, decided that it should stay in the constitution with an amendment or an added section at the bottom of it.

[The supporting reasons, except the last 2 paragraphs, were read by Mr. Wood. For text, see above.]

If you will look at the bottom of Committee Proposal 101, in capital type you will notice that we have taken care of that part of the section by adding:

> Nothing in this section shall prohibit the legislature from authorizing counties, townships, cities and villages to be a party to or interested in, any work of internal improvement for any public purpose of the kind in which the state is not permitted to engage, at their own expense.

Just as an example of what we mean by that, we had in the hearing a question of sewer or drainage conditions in Dearborn, Garden City and Livonia which necessitated the working together of those municipalities to effect an improvement, and the old constitution didn't permit them to join for that purpose or didn't permit the legislature to permit them to join. Under the new section they are permitted to do that.

[The remainder of the supporting reasons were read by Mr. Wood. For text, see above.]

It seems to me that this is one of the most important sections in the constitution. At this time, when every branch of state government, as well as every branch of the federal government, is in trouble financially and our newspapers are full of the various efforts to secure more money by almost any means; when our business corporations are leaving the state because of excessive taxation; and when the farmers of our state are going out of business because taxation is out of line with income, it behooves us to consider seriously this and other limitations on the power of the state to expend money and to go into debt. Committee Proposal 101 gives the state the power to enter into the fields where individual municipalities or private interests cannot act efficiently and, of course, in the future if some development came out which we can't think of at the present time in a field in which the state should act, this section can be amended.

The philosophy that activities financed by the state do not cost individual municipalities or private individuals anything, of course, is wrong, as well as the belief that the state can do these things more efficiently or more cheaply than private or municipal interests.

Now, just to mention some of the things that are happening, we have heard all winter here about the federal government establishing a large park on the west side of the state, and I understand that most of the people on that side of the state wish they would stay in Washington. Today if you look in your newspaper, the boat owners of Michigan are going to be taxed $4 million to take care of recreation areas in parks,

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

no doubt to take care of that particular park known as "the dunes" on the western side of the state. That is just one of the things that are happening. We also heard a candidate, or a man who is considering running for governor in the state, some 3 or 4 months ago in several instances recommend that the state build buildings in various locations to invite industry in those locations, and I don't know what he was thinking of either, because those people who would rent those buildings or would be given the use of them free would still be competing with private industry. And I am not speaking of a man who is a delegate in this convention either. But that has been proposed, and that is being proposed today by the economic development commission. They are recommending that the state do just that. This section would prohibit that. There are many other things that the state, if we eliminate this section, will find themselves doing. And we might say that the present legislature will not do such things if we leave it to the legislature. We won't always have the present legislature. We don't know the makeup of future legislatures. I think it is a very necessary article in our constitution.

I would like to defer at this time to the legal counsel of our committee who has a lot more statistics regarding this matter, Gil Wanger.

CHAIRMAN BENTLEY: The gentleman from Brown City yields to the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I ask your very serious attention to this matter. There is, quite naturally, some detail which must be presented in connection with as important a constitutional item as the restriction against internal improvements, and while — pardon me, Mr. Chairman, I think I hear some noise around on the other side of the hall. Maybe —

CHAIRMAN BENTLEY: The committee will be in order.

MR. WANGER: I was going to say, perhaps a plaintive whinny.

An examination of the materials which the committee studied revealed that Michigan is 1 of the 8 or 9 states which contains in its constitution a type of restriction against internal improvements. If you will look at the committee proposal before you throughout this discussion you will be considerably aided in your understanding of the subject matter. I would like to make these comments with regard to the language which is before you in this committee proposal. The language in small type is the language of our present constitution as contained in section 14 of article X. You will notice that it restricts the state from engaging in internal improvements in the language there set out. It also contains certain exceptions.

Now, there is language at the bottom which was added by the committee. This language, of course, is not presently in our constitution, but it is language which, in the opinion of the committee, should be added to the old language and inserted with it into the revised document. This prohibition against internal improvements applies to the state as the central authority, but it also applies, through court interpretation, to all subdivisions of the state and all local units of government, so that under the exceptions the state may indeed engage in many activities which perhaps were previously prohibited. These exceptions, however, are not self executing with regard to local units of government, because under the law of Michigan, local units of government may engage in activities which are expressly authorized by the legislature in statutes or, of course, by express constitutional grants. This is not an express constitutional grant, and therefore these exceptions do not allow local units of government to directly engage in these activities except as authorized by the state legislature, and this is an important matter which we should keep in mind throughout the course of this discussion.

In addition to the exceptions which are contained in this particular section under the present constitution, there are additional exceptions which have been established and have been uniformly excepted by law, and they are 3 in number. The first is this: that this prohibition against the state or its local units engaging in internal improvements does not, of course, apply to necessary governmental functions, or functions which are exercised under the general police power. This has been long excepted by the law and has been established by court interpretation. The second exception which is established by law but expressly listed, down in section 14, is the exception created in article VIII of our present constitution. Article VIII deals with local units of government, and particularly sections 22 and 23 of article VIII. Section 22 of article VIII says:

> Any city or village may acquire, own, establish and maintain, either within or without its corporate limits, parks, boulevards, cemeteries, hospitals, almshouses and all works which involve the public health or safety.

This, of course, supersedes the restriction set out in section 14 of article X. And, of course, section 23 also, similar to 22, empowers local units of government to "acquire, own and operate, either within or without its corporate limits, public utilities for supplying water, light, heat, power and transportation" and so on and so on. These 2 sections of article VIII of the 1908 constitution were basically transferred by the committee on local government to sections c and d of Committee Proposal 83, and so we can assume that those also would apply to the new constitution. That completes the second exception which has been established by law. The third exception is this: it has to do with self liquidating projects. Neither the state nor any local unit of government is prohibited by section 14 of article X from engaging in self liquidating projects. These projects, of course, are defined, generally speaking, as projects which must be paid for out of the revenue which the project itself produces, such as is established by revenue bond that I am sure practically all of the delegates in this convention are familiar with. This section, of course, does not prohibit engaging in that type of activity.

Now, to complete the explanation of what this does, I direct your attention to the new language at the bottom which has been added by the committee, and which reads as follows:

> Nothing in this section shall prohibit the legislature from authorizing counties, townships, cities and villages to be a party to or interested in, any work of internal improvement for any public purpose of the kind in which the state is not permitted to engage, at their own expense.

As we have pointed out, this section has previously been construed to prohibit local units of government from engaging in any nonexcepted work of internal improvement. This language which we added would permit the local units of government — subject, of course, to the authorization which must come from the legislature — to carry on any work of internal improvement, but it would be at the expense of the local unit of government which was undertaking that particular project, and it would also have to be for a public purpose, not for a private purpose of any kind.

Now, when we argued this matter in the committee and considered it, we of course realized that in a modern age it was not possible to look ahead for 50 or 100 or 200 years and determine exactly what the government should do in a particular given situation. However, we thought it best to leave the language as it is, so that in the future the enlargement of the area of activity in which the state could engage would be subject to a vote of the people and would not be subject to the whim or caprice or pressure within the legislature.

In order to understand exactly why the committee took this point of view, it is important to present briefly the history of this provision to acquaint the committee of the whole with that history. As was pointed out earlier, the Constitution of 1835 contained not a restriction against internal improvement but a mandatory article requiring the state and the legislature to enter into this area, and as Kent Sagendorph, the historical biographer of Stevens T. Mason, said in his book published in 1947, "Most democratic of all state constitutions, Michigan's was at the same time the most socialistic." That is from page 215, in speaking of the 1835 constitution. If you take your blue book and turn to page 147, you will find there on the righthand side of the leaf this section of the 1835 constitution. It is article XII, section 3. It reads as follows:

> Internal improvement shall be encouraged by the government of this state; and it shall be the duty of the legislature, as soon as may be, to make provision by law for ascertaining the proper objects of internal improvement in relation to roads, canals and navigable waters; and it shall also be their duty to provide by law for an equal, systematic, economical application of the funds which may be appropriated to these objects.

That was in 1835. And it wasn't long before the state began to get into this area in a very large degree. As Sagendorph describes these projects on page 319 of his work:

> Some of the projects on the list had no immediate value and were frankly designed to provide local employment and relief for out of the way communities hardest hit by the wildcat banks. Others were obviously political, being thinly disguised bribes by which the local legislator had bought reelection. Conrad Ten Eyck, one of Mason's good friends, was U. S. marshal by Mason's appointment and also was slated to receive $13,000 for the railroad right of way across his farm. This was the chief motive behind the Whig bombardment of the plan. The Whigs, naturally, wanted all these spoils for themselves.

If we wish to turn to an additional and widely known authority to state the history behind this provision of the constitution, we turn to the language of Mr. Justice Cooley in the case of Bay City against State Treasurer, 23 Michigan on page 504, where Mr. Justice Cooley states as follows in regard to the prohibition against internal improvements which was inserted into our constitution first in the Constitution of 1850:

> Our state had once before had a bitter experience of the evils of the government connecting itself with works of internal improvement. In a time of inflation and imagined prosperity, the state had contracted a large debt for the construction of a system of railroads, and the people were oppressed with heavy taxation in consequence. Moreover, for a portion of this debt they had not received what they bargained for, and they did not recognize their legal or moral obligation to pay it. The good name and fame of the state suffered in consequence. The result of it all was that a settled conviction fastened itself upon the minds of our people, that works of internal improvement should be private enterprises; and that it was not within the proper province of government to connect itself with their construction or management, and that an imperative state policy demanded that no more burdens should be imposed upon the people by state authority for any such purpose. Under this conviction they incorporated in the Constitution of 1850, under the significant title of "finance and taxation," several provisions expressly prohibiting the state from being a party to, or interested in, any work of internal improvement, or engaged in carrying on any such work, except in the expenditure of grants made to it; and also from subscribing to, or being interested in, the stock of any company, association or corporation, or loaning its credit in aid of any person, association or corporation.
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> All these provisions were incorporated by the people in the constitution as precautions against injudicious action by themselves, if in another time of inflation and excitement they should be tempted to incur the like burdensome taxation in order to accomplish public improvements in cases where they were not content to wait the result of private enterprise. The people meant to erect such effectual barriers that if the temptation should return, the means of inflicting the like injury upon the credit, reputation and prosperity of the state should not be within the reach of the authorities. They believed these clauses of the constitution accomplished this purpose perfectly; and none of its provisions had more influence in recommending that instrument to the hearty good will of the people.

There is, of course, additional material which could be added by way of illustration and citation to the above background, but I am not going to add it unless further debate upon the subject indicates that it is necessary as a matter of clarity. I wish instead to close by briefly discussing the significance of the language which the committee has added to this section. This language does open the door to activity in areas in which the state and its municipalities are now prohibited from engaging. However, you will notice that this language only authorizes these municipalities to enter into internal improvements for a public purpose. We believe this is very important. We do not wish — I am speaking for the committee — that this power should be granted for private purposes by any local unit of government in the state, and we have also added the language at the end which requires that for municipalities to engage in such an improvement — that is to say an improvement which the language above it would prevent it or the state from engaging in — it must do so at its own expense.

Now, not the only reason, of course, but the primary reason for this language is to guard against the problems which are always prone to face a legislature, no matter how fine a legislature it may be, when bills are introduced to appropriate money for improvements in various parts of the state; the problem, plainly speaking, of log rolling, back scratching and boodle, with which this state had a bitter experience, and as long as human beings are human beings will always be a possible danger to state and local and federal government. We thought that this language was necessary to prohibit, insofar as possible, this type of situation from developing and to strengthen local governments in their determination to solve problems at their own level without running up the tier to some higher level of the state in order to get money to solve those problems within this limited area. Also, we believe that when a project is being financed by people locally, those local people are going to take considerable care to see that the project is being wisely managed or wisely constructed in their area, and since it will be in their area they will have the ready means for ascertaining the facts on that particular project, whereas they would not have that if it was a matter which was taken entirely over by the state itself.

Naturally this last paragraph does not apply to all internal improvements, but only those internal improvements which are otherwise prohibited. This concludes my presentation on this subject initially, and I yield the floor back to Mr. Wood.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Brown City, Mr. Wood.

MR. WOOD: I would like to defer at this time to a man who has had a lot of experience with the legislature, Delegate Powell.

CHAIRMAN BENTLEY: The gentleman from Brown City yields to the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and fellow delegates, I feel that this subject has been very adequately covered by the presentations of Delegates Wood and Wanger. It is true that I have spent many years observing legislative activities. I don't know as that makes me any greater authority than many of you here in this room on such matters as pork barrel legislation and log rolling and vote swapping and the other things that are often a part of programs of internal improvements, so called.

I certainly hope that we will retain the main portion of the language here as it has been found in our constitution, and that we will add this feature that permits the local units of government to carry on desired programs of internal improvement. We had presented before us the needs of the metropolitan area in matters of water supply and sewage and other things that are beyond the confines of a municipality in many instances and require joint action, and we think the machinery should be made available whereby things that are needed on an area basis could be worked out, but not through some state program that would be like the allocation of the TB sanitariums and other things that we could allude to that have come within recent years.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Brown City, Mr. Wood.

MR. WOOD: Mr. Chairman, that completes the presentation of the majority of the committee. There is a minority report, I believe, on this.

CHAIRMAN BENTLEY: The Chair will state to the gentleman from Brown City that he understands there are certain delegates who desire to pose questions before the minority report amendment is offered. Will the gentleman yield for questions?

MR. WOOD: Yes.

CHAIRMAN BENTLEY: Will the gentleman yield to the lady from Dearborn, Mrs. Cushman?

MR. WOOD: Yes.

MRS. CUSHMAN: Mr. Chairman and Mr. Wood, I wonder if you could give us some examples of how this section has prevented the state from engaging in undesirable purely local projects.

MR. WOOD: No, I don't think I am prepared to do that at the present time. In fact, after reading this limitation in the constitution, I don't think those things were ever presented.

MRS. CUSHMAN: What type of purely local projects do you think that the section will prevent that are undesirable in the future?

MR. WOOD: Well, it will prevent these projects being promoted by the economic development commission at the present time whereby they recommend that factory buildings, for example, be built in my town or yours in order to draw industry to that town. That is one.

MRS. CUSHMAN: Mr. Chairman and Mr. Wood, I wonder if you could answer then: do you not feel that the public interest is protected in this regard when we have these particular prohibitions against the use of the state's credit for the benefit of public or private corporations, and the prohibition about investment in stock and so forth?

MR. WOOD: No, I don't. I think that without this section they probably could get that done. Naturally any town would be glad to have it, considering their own local interest.

MRS. CUSHMAN: And how would it be possible for them to get around this particular provision about benefiting private corporations in this regard?

MR. WOOD: I think they are permitted at the present time to set up a public corporation to do these things. I think I have one in my town right now, but it was financed by local people rather than by the state.

MRS. CUSHMAN: Excuse me, Mr. Chairman and Mr. Wood, but I thought you earlier stated that this was also a prohibition against local governments in the interpretation of this particular section.

MR. WOOD: Well, it certainly is. It certainly is. And I think in your testimony before the committee you stated that you would like to see the state participate with Dearborn and some other municipalities in a drainage problem which you have in Dearborn, and this, of course, would prohibit that unless you did it at your own expense. It would prohibit the state spending money for that purpose.

MRS. CUSHMAN: Well, excuse me. That wasn't quite my testimony as I recall it. How is it possible — I am still not quite clear — that this section which has been interpreted as applying to local communities doesn't prohibit the thing that you say you have in your own home town of a development for private corporations?

MR. WOOD: It does prohibit the state putting any money in it. It simply allows them to form a public corporation. And they collected the money locally. There is no state money involved, only the services of the economic development commission in the setting up of this arrangement.

MRS. CUSHMAN: Well, I am sorry. My interpretation of what was said earlier would seem to prohibit this in any case. It would be interesting to know how this has been done. Thank you.

CHAIRMAN BENTLEY: Will the gentleman yield to the lady from Grand Rapids for a question?

MR. WOOD: Yes.

CHAIRMAN BENTLEY: Mrs. Judd.

MRS. JUDD: Mr. Chairman, I would like to ask a question of Mr. Wood. In the first place, I agree with you very much that neither the state nor cities should go into this business of building factories and trying to get factories to come to Michigan. I don't think this has been economically sound in the south, and I don't like to see us go into it even to compete with the south. However, I would like to ask a legal question on this point as to just how this section, as it now stands, does prohibit the state from building and leasing a factory building. In other words, what is the judicial interpretation of the words "internal improvements" and how does a factory building come under that interpretation?

MR. WOOD: I don't think a factory building does come under it at the present time. That is the reason I like the section in the constitution. But if you eliminate it or amend it, such as some of the amendments I have seen here, they will be able to do those things.

MRS. JUDD: But you have just said that this present section does prevent the state from doing these things.

MR. WOOD: I think it does, because it only allows certain things to be done. There are exceptions listed there which wouldn't cover that.

MRS. JUDD: But I am talking about the prohibition in the first sentence, which says: "The state shall not be a party to, nor be interested in, any work of internal improvement. . . ." What I am trying to get at is, just exactly what is prohibited by this provision? How does the court interpret that term "internal improvement?"

MR. WOOD: Well, I have no court interpretation, but my own interpretation would be that the state can only spend money on the exceptions listed in this section.

MRS. JUDD: I understand that, and yet you seem to be greatly concerned about retaining prohibitions —

MR. WOOD: I am.

MRS. JUDD: — and I think the definition of this phrase "internal improvement," which is the thing that is prohibited, then becomes very important as to the effectiveness of this provision. Thank you, Mr. Chairman.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Pontiac, Mr. King, for a question?

MR. WOOD: Yes.

MR. KING: Mr. Chairman, fellow delegates, I should like to direct a question through the Chair to Mr. Wood. First of all, because I have been misunderstood apparently in the past, let me say that I hold no brief with the way the federal government spends some of the money in the state of Michigan that it takes from the taxpayers, but I can't change the tax structure, and 1 state against the other 49 can't do a great deal. So, with that preface, let me ask you this question: if the federal government offered federal aid for a local activity which required state matching funds or state supervision, would the local unit of government have to refuse such aid if it were in a field not listed in the exceptions permitted to the state under this committee proposal?

MR. WOOD: I would think they would.

MR. KING: They would have to refuse that state aid. Thank you.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Escanaba, Mr. Follo, for a question?

MR. WOOD: Yes.

MR. FOLLO: Mr. Chairman, Mr. Wood, if a work of internal improvement is something so dangerous for the state to engage in, why didn't the committee define "internal improvement" directly and positively in constitutional language and thus eliminate the need for much indirect negative and statutory language as is found in the long list of exceptions?

MR. WOOD: I would think that answers itself. There is probably more than one definition on the floor here of "internal improvement." That is why the exceptions that the state is permitted to become involved in are listed.

MR. FOLLO: Thank you.

CHAIRMAN BENTLEY: Has the gentleman completed the committee presentation, Mr. Wood?

MR. WOOD: Yes, we have.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Kalamazoo, Mr. Allen, for a question?

MR. WOOD: Yes.

MR. ALLEN: Mr. Wood, I am bothered about the last words in the exception you create; that is, provided it is done at a city's own expense. For example, some of our large cities, particularly Detroit, have gone in with federal funds on urban renewal projects, and some have gone in on Hill-Burton funds for construction of hospitals so that when the city does this work, it is doing it with part of its own money and it is also doing it with part federal money, and I suppose if you followed the funds specifically, that if they used any of the sales tax, it is part of the state money. It seems to me that when you add the exception, "at their own expense," you may create a situation, without intending really to do so, where it could be argued that cities are precluded from in any way using any money that might come from the sales tax. They might be precluded also from using any federal money because the entire project is not paid for by the city.

MR. WOOD: Mr. Allen, I believe that after the sales tax is returned to the city, they can use it any way they want to, can't they?

MR. ALLEN: But if you have in this exception here, Mr. Wood, that they cannot engage in internal improvements, you see, except as authorized by the legislature and at their own expense, you certainly would shut out the federal funds.

MR. WOOD: Well, I could see where it would shut out the federal funds, and I think we probably missed that point, and if you want to submit an amendment I think the committee would be glad to accept an amendment permitting the use of federal funds, but I believe the sales tax funds would be their money once it is returned to them.

MR. ALLEN: I have a perfecting amendment that would come after some other amendments that I know are on the desk which may correct it. Now, my second question is —

MR. WANGER: Mr. Chairman, Mr. Allen, would you yield at this point —

CHAIRMAN BENTLEY: Mr. Wanger, the gentleman from Brown City has the floor.

MR. WANGER: Oh, pardon me. I was wondering if the gentleman would care to yield for a further answer to Mr. Allen's first question.

MR. WOOD: Yes.

MR. WANGER: Thank you. Mr. Chairman, Mr. Wood, Mr. Allen, I think you missed my statement which covers your question completely, which is that the cities and villages have the power, notwithstanding the prohibitions expressly stated in section 14 of article X, to take care of this matter. They are contained — and I read them — in sections 22 and 23 of article VIII of our constitution, which expressly empower any city or village to acquire, own, establish and maintain, et cetera, many things, including hospitals, which is the express point which you raised. So that covers the matter completely, and there is no problem whatsoever in that regard as far as the committee could determine.

MR. WOOD: Mr. Chairman, may I —

CHAIRMAN BENTLEY: The gentleman from Brown City has the floor.

MR. WOOD: Does that answer your question, Mr. Allen?

MR. ALLEN: Not completely, Mr. Wood, because if the cities are able to do all these things, then there is no purpose in writing the exception.

MR. WOOD: Yes. They are not enabled to do it with state funds. The state isn't allowed to participate with them. And I can see a great danger if they were. You might wind up with the state paying 70 per cent and the municipalities engaged in the project paying the other 30.

MR. ALLEN: Mr. Chairman, I don't think we should have an argument. This is for purposes of questions. I am not satisfied with the answer, although I am satisfied that an effort has been made to give an answer. I think the point remains that you may shut out the federal funds.

Now, the second question is this: Mr. Wood, I am really afraid that something of a bogey man is raised here — it has come up on these other questions — and that is: I take it that you and Mr. Wanger feel that this is the section which would prevent the state from going into something along the lines of a state economic development corporation where the state puts up $50 million as was proposed on the amendment that was turned down.

Now, I have here the Constitution of 1908, and I really think that the state can't get into this kind of thing, nor can the cities, because of 2 other sections: that is article X, sections 12 and 13. Section 12 very clearly says that the state may not loan its credit for any private purpose. And then when it comes to making a grant of money, as distinguished from loaning credit, section 13 picks up and says, "The state shall not subscribe to, nor be interested in the stock of any company, association or corporation." And I understand that the attorney general's rulings have been that these are the 2 exceptions which prevent the state from going into this type of thing, and also the municipal subdivisions, and if this is so, then it isn't the internal improvement section that blocks the state from doing the thing you don't want the state to do, but it is these other 2 sections.

MR. WOOD: Well, they might have some bearing on it, but I think I would have to study them a little. Do you have an answer to that, Mr. Wanger, through the Chair?

MR. WANGER: Mr. Chairman, Delegate Allen, I think you are right when you say a stumbling block to those activities are contained in sections 12 and 13, but they are not the only ones, because, you see, that has to do with the credit of the state or buying or being interested in stock and it does not prohibit direct expenditures or any type of activity which is not covered by the term extending the credit of the state or of the municipality in that regard. So you're right when you say — and of course we had considerable discussion when the finance committee's recommendation in this area was before us on this subject, but this also does relate to that problem.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Grand Haven, Mr. Stafseth, for a question?

MR. WOOD: Yes.

MR. STAFSETH: Mr. Chairman and members of the committee, I would like to pose to Mr. Wood a hypothetical problem and ask him what the possibilities would be. I can read 2 possibilities into it. With the depletion of the ground water in the central part of the state of Michigan, I could envision the possibility in the future of a pipeline going from Lake Michigan to Lake Huron, and that probably one of the methods of doing this would be by setting up a state authority, much as the Mackinac bridge authority, with the purpose of using the state's credit to borrow money to serve municipalities with their necessary water supply. Now, in the process of bonding, I could also see that maybe in order to accomplish it, it may require some money from the state to guarantee a bond issue. Under your subparagraph 2 you have included the words "public health." It could conceivably mean that "public health" would mean water supplies. Is it the intent of the committee that this would be the case, or that this would be a project it wouldn't be possible for the state to do?

MR. WOOD: Mr. Chairman, my thinking is "public health" would adequately cover that subject. There is no question but what adequate water supply is necessary for public health, and that will be taken care of.

MR. STAFSETH: Thank you, Mr. Chairman.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Muskegon for a question, Mr. William Hanna?

MR. WOOD: Yes.

MR. W. F. HANNA: Mr. Chairman, Mr. Wood, I am wondering whether or not your committee considered couching this language in terms of a local or private act, rather than getting into all this enumeration, which certainly will change from time to time, a provision that simply would say that the state would not be a party to or engage in works of internal improvement except by a 2/3 vote of each house of the legislature and stop there. That would cast it in the same language as a local or private act and would allow us to develop new works of internal improvement without amending the constitution from time to time.

MR. WOOD: Yes, through the Chair, we did consider that, and considering the present legislature, we would have no fears along that line. But in the future we don't know the makeup of the legislature, and with the present trend of both the federal and state government to get into private business and to take part in all individual activities of the states as well as the federal government, we thought it best to make it firm in this section.

MR. W. F. HANNA: Mr. Chairman, Mr. Wood, if we said "internal improvements for public purposes," would this solve your problem? This would not allow them to build or engage in private business as such.

MR. WOOD: Well, you are thinking of this situation where they might build a factory building. That could still be called a public improvement, I believe, if you wish to call it that.

MR. W. F. HANNA: Mr. Wood, I believe that has been interpreted as not a public purpose. We have not seen fit to so interpret it as to cities, townships and counties.

MR. WOOD: It seems to me, Mr. Chairman, that if we don't want the state to take part in these various fields, that there is nothing wrong with having this section in the constitution. We know with it in there they are not going to take part. It seems to me that when you want to change it, in most cases there is some reason for wanting someone to take part in something.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Escanaba for another question?

MR. WOOD: Yes.

CHAIRMAN BENTLEY: Mr. Follo.

MR. FOLLO: Mr. Wood, you may recall that President Eisenhower in his speech to us here told us that very often, because of certain prohibitions in the constitutions of the states, they were unable to attack some of the very problems that were besetting them. It has been mentioned by some here, I think, that there are certain problems such as water problems in some of the counties where it may involve as many as 8 counties, and these counties find it difficult to get together to do something about this, feeling that these prohibitions have kept them from doing so. In your mind, would this preclude the state from taking leadership and perhaps acting as a catalytic agent in getting those counties together to work on the problems to solve them by mutual and cooperative action?

MR. WOOD: Mr. Chairman, Mr. Follo, there is nothing here that would prevent such branches of state government as the economic development commission and others — and I understand from the time they spent up in my town, they need something to do — there is nothing to prevent them helping set up that organization as long as they don't put state money into it. I think that is the purpose of such groups as the economic development commission, to assist in getting various municipalities or counties together and mapping a program. That is all they have to do.

CHAIRMAN BENTLEY: Is the chairman of the committee, Mr. Hoxie, seeking recognition?

MR. HOXIE: Mr. Chairman, fellow delegates, I think there is a lot of confusion relative to this particular proposal. Mrs. Judd stopped on the first sentence and failed to read the balance of that sentence, "The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except. . . ." Now, the exceptions are set forth. In other words, anything that is enumerated here, the state can engage in as being internal improvements within the scope of the language as it has existed in our constitution for some 50 years.

In answer to Mr. Allen, the particular sections that he was referring to are completely foreign to this provision. He is referring to loaning the credit or to pledging the credit of the state of Michigan. These are exceptions which the state can engage in. Other things are prohibited. So the particular sections of the constitution he is referring to are on a completely different basis of loaning the credit or guaranteeing certain expenditures. The state does engage in certain types of activities such as cooperation with the federal government in the matter of hospitals. That is federal money. But the state itself doesn't go out and spend money to build hospitals.

We do have an amendment on the secretary's desk which provides as follows: on line 19, after "property," by inserting "The provisions of this section shall not apply to local units of government unless otherwise provided by law," which I think completely would answer the question that has been raised relative to any possible federal funds that might be available in which the state would act as a participant with local units of government.

Now, coming back to Mr. Hanna's statement as to what constitutes internal improvements, I think any activity the state might engage in could be construed as internal improvements. Whether it be in St. Louis or whether it be in Jackson or whether it be in Detroit in the building of Cobo hall, for example, it is something of an internal nature that would be to the benefit of all of the people of the state of Michigan. You can stretch the interpretation of "internal improvement" to any extent.

Now, the whole question in this proposal is this — we know that under the local government proposal, local units can get together. They can finance projects at the local level and share the costs. We know that they can bond for those improvements if they see fit. There is nothing in this proposal that would prohibit that. The question is whether you wish to have any reasonable restraints on the legislature of the state of Michigan as to the extent to which they can engage in any type of activity that can be considered as internal improvements in the state. I think the possibilities and the dangers involved have already been called to your attention. Certainly if this convention wishes to take that chance, these things can be done.

I think it was wise on the part of the framers of our 1908 constitution to feel that the legislature shouldn't be given the opportunity to engage in any type of improvement to the detriment of the taxpayers of the state of Michigan.

CHAIRMAN BENTLEY: The Chair desires to ask the gentleman from Brown City if this completes the committee presentation.

MR. WOOD: This completes the committee presentation.

CHAIRMAN BENTLEY: The secretary will report the first of 12 proposed amendments to Committee Proposal 101.

SECRETARY CHASE: Pursuant to their minority report, Messrs. Downs, Lesinski and Murphy offer the following amendment:

1. Amend page 1, line 7, by striking out all of the proposal.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs, in support of his amendment.

MR. DOWNS: Mr. Chairman, I would like to yield to Delegate Lesinski to summarize the report.

CHAIRMAN BENTLEY: The gentleman from Detroit yields to the gentleman from Detroit, Mr. Lesinski.

MR. KING: Mr. Chairman.

CHAIRMAN BENTLEY: For what purpose does the gentleman rise?

MR. KING: I would like to raise a question of parliamentary inquiry. Yesterday we had before us a section relating to the ownership of private property and its sale by owners. I personally found the language of the committee unacceptable. However, I was advised by the committee chairman that he proposed an amendment which I thought would help clarify it, and I understood there were other amendments.

It is my understanding of parliamentary procedure that all perfecting amendments are in order to a proposition or a proposal before an amendment to strike is in order. I recognize we have here a conflict between what I consider good parliamentary procedure and precedent as established in this convention of considering the minority report amendment first, but at this time I ask for a ruling from the Chair with regard to this matter.

CHAIRMAN BENTLEY: The Chair would advise the gentleman from Pontiac that perfecting amendments are, of course, in order if they have been offered by the committee. He is not aware that there are any amendments that are so called committee amendments on the desk. Are there any committee amendments in the nature of perfecting amendments to be offered?

MR. HOXIE: No.

CHAIRMAN BENTLEY: The chairman of the committee has advised me that there are none, and therefore the Chair feels constrained, in accordance with previous practice, to recognize the minority amendment in first order.

MR. KING: Mr. Chairman, I don't intend to appeal the decision of the Chair, but I just point out that it is my personal belief: 1, that any perfecting amendment should be ordered and handled and acted upon prior to an amendment to strike the whole section; and, 2, that the chairman of the committee, Mr. Hoxie, has endorsed on the floor — whether in order or not, I am not sure — a certain amendment which he related to us, and if it is not a committee amendment, it is certainly endorsed by the committee chairman.

CHAIRMAN BENTLEY: The Chair will advise the gentleman from Pontiac that there are no pending amendments on the desk with the name of the committee chairman on them. If he desires to offer one, it has not been submitted at this time. The Chair further understands that the amendments at the desk are the minority amendment, which has already been offered, a substitute amendment by Mrs. Judd and others, and a number of amendments to the body of the proposal which the Chair is unable, without having read them all, to say whether they fall in the nature of perfecting amendments or not.

The Chair will permit the minority to proceed in order at this time with their amendment. The gentleman from Detroit has yielded to the gentleman from Detroit, Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates:

[The minority report and supporting reasons were read by Mr. Lesinski. For text, see above, page 2310.]

Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit. Mr. Downs has the floor.

MR. DOWNS: Mr. Chairman and delegates, I shall try to be very brief on this. First I would like to demand the yeas and nays on the amendment.

CHAIRMAN BENTLEY: The yeas and nays have been demanded. Is the demand supported? The Chair rules that there is a sufficient number supporting. The yeas and nays will be ordered.

MR. DOWNS: Thank you, Mr. Chairman. This amendment, in my judgment, is one of the most important we can have in the constitution. It would permit the people of Michigan, through the legislature, to look ahead to the new problems of internal improvement, research and industrial development. It is perfectly true that when the question is asked, "What would the majority report preclude?" nobody could answer, because we don't know just what will happen, nor can I say for sure what the elimination of this language would permit the legislature to do, because none of us knows what will happen in the next 10, 20, 30 or 40 years. I regret that the majority report seems to be thinking in terms of the fears of past abuses rather than the hopes of future needs.

The areas I see that would be included in the type of internal improvement if this language would be deleted would be first in the field of research. Our great universities — whether in the field of agriculture, low grade ore development in the upper peninsula, or atomic plant development in the Charlevoix area — could, with the use of this, work on a constructive basis with private industry, local government and federal funds to develop practical and pure research that would in turn make a wholesome scientific and industrial development.

In the field of transportation, all we know is that we know not what the means of transportation will be in the years to come. Our past constitutions would put in language such as post roads. Then we needed laboriously to amend that to include airports. Will the transportation of tomorrow be monorails or some new system of off the road transportation that is on the scientist's drawing board today? Will the federal government make available money for metropolitan area transportation for 3 and 4 counties, perhaps a system where the local community or state by participating on a matching basis could receive the advantages of a great deal of federal assistance as has been done in water development?

I just point out that if we do not do this, other states, I am sure, Delegate King, will have been able to take advantage of these developments.

On the question of industrial development, of which there was so much discussion, certainly I do not recommend that this be used for an unwholesome economic development, but feel that a responsible legislature — and in this field I feel we certainly could trust the legislature — can work with our university and industrial centers on a constructive private and public program to do that research that will particularly help those new industries requiring great skills, whether it is chemical, automation, nuclear or whatnot, that will benefit not only the development of scientific knowledge but the economic development of our state, and for that matter, the nation. I would like to point out that only 8 other states have these limitations on internal improvements.

I therefore urge support of the amendment which would strike out all reference to this material and give the legislature the responsibility of meeting new needs. This concludes the minority report. If there are any questions, Mr. Chairman, I would be glad to yield for those. If not, I will yield the floor.

CHAIRMAN BENTLEY: Does the gentleman from Pontiac desire to ask a question or make a statement?

MR. KING: I would like to ask the indulgence of the Chair and the committee to pursue my point of parliamentary inquiry a little bit further. I would refer the Chair to page 270, section 397, paragraph 5 of Mason's Manual, which states as follows:

> A motion to amend a paragraph takes precedence over a motion to approve, to insert or to strike out the paragraph, and a motion to amend a section takes precedence over a motion to approve, to insert or strike out a section.

As I stated before, I will not appeal the decision of the Chair, but I do think that you put the delegates in a rather difficult position in forcing a decision at this time on striking the committee proposal before we know how it is going to look, if it ever had a chance to look that way, after amendment.

CHAIRMAN BENTLEY: The Chair would state to the gentleman from Pontiac that he has accurately quoted Mason's Manual, but would point out, on the other hand, that the practice followed in committee of the whole up until this time, so far as the Chair is aware, has been to accept the committee proposal, committee amendments thereto, the report of the minority, and then subsequent amendments and, although the Chair admits that the point raised by the gentleman from Pontiac is strictly in accordance with Mason's Manual, it is in conflict with the practice followed hitherto in committee of the whole, and the Chair would feel constrained to adhere to the practice followed up until this time unless the gentleman has further serious objections. And the Chair recognizes the gentleman's point and might point out to the gentleman that there is pending a substitute for the minority amendment; and amendments to the substitute, of course, would be in order if it is the desire to offer them. The gentleman from Pontiac.

MR. KING: Mr. Chairman, are you saying that the substitute can be moved before the minority report amendment?

CHAIRMAN BENTLEY: If this is a substitute, which I understand it is, for the minority report or the minority amendment, the substitute will be voted on after amendments have been offered thereto before the minority amendment.

MR. KING: Thank you, Mr. Chairman.

CHAIRMAN BENTLEY: Is the gentleman from Lansing seeking recognition? He is recognized.

MR. WANGER: Mr. Chairman, members of the committee, the implication was made in the preceding speech supporting the minority report amendment that the present language of section 14, article X, or the language of it and the committee's recommended addition somehow restrain the universities or colleges of our state from engaging in research or engaging in education. Nothing of this kind has been discovered by the committee either in its research or in its deliberations, and we submit that there is no restriction placed by this language upon research or education in any way unless, of course, you want the universities to enter into partnership with other state authorities and start running internal improvements around the state. But as far as research and education are concerned, this section has absolutely nothing to do with it as far as we can see. And we call the attention of the committee to the fact that our colleges and our great universities have always carried on research in many, many areas, and so far as we have been given to understand, there has never been at any time any legal objection raised to that activity, and particularly none based upon the language of section 14 of article X.

CHAIRMAN BENTLEY: The Chair understands that there is a substitute to the minority amendment at the desk, which the secretary will read.

SECRETARY CHASE: Mrs. Judd, Messrs. King, Farnsworth, Rajkovich, Follo and Mrs. Cushman offer the following substitute for the minority amendment:

1. Amend page 1, line 7, after "Sec. a.", by striking out the balance of the section and inserting "The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except for such public internal improvements as may be authorized by law.".

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids, Mrs. Judd, in support of her substitute amendment.

MRS. JUDD: Mr. Chairman and members of the committee, I have in front of me the little pin with the robin on it that was distributed to us all, and it says, "Michigan marching forward." I can't help but feel that anyone who has read the pamphlet from the Upjohn institute that we all received prior to the convention, called, What's Ahead For Michigan, must realize that unless we begin to look at Michigan's present and future needs rather than the fears of the past and measuring everything by the penny, that we are not going to be able to supply Michigan with the hundreds of thousands of jobs that will bring in the pennies a great deal faster ultimately.

I would like to outline briefly the reasons why we believe that the committee proposal is not a proper provision for the constitution, but why we do believe that it should be retained in a modified form rather than be deleted as proposed in the minority report amendment. We have found authority for much of what we propose coming from the citizens research council and from the law school at the University of Michigan. Their research center has a booklet which treats of this matter entitled, Constitutional Limitations to Metropolitan Area Problems, and also from the Michigan municipal league.

I would like to just give you briefly the outline of the reasons, and then perhaps some others in the committee would like to develop them a little further. If you were to read your big volume 2 of the Comparative Analysis on this section, you would see that the original objectives of it in 1850 were to keep the state and its subdivisions out of private business, as has been stated, and to protect the public purse against burdens of ill advised ventures. Now, let us look upon its operation as a prohibition against government ventures in, hopefully, self supporting and self liquidating projects. One, it is no longer very effective in this direction. First of all, the field of "internal improvements" has been so prohibited and continuously narrowed by constitutional amendment and judicial interpretation. Secondly, as Mr. Wanger stated, judicial interpretation has excepted self liquidating improvements from the field of prohibited internal improvements, and this indeed contravenes the original objective of the provision, which was to keep the state out of possibly ill advised ventures.

Again, as a prohibition we have considered that it was not necessary. I know Mr. Wood apparently differs from us on this, but we have thought that the 2 provisions in the finance article that prohibit the state and also one in the local government article that prohibits cities and villages from loaning their credit for any private purpose, and the provision that prohibits the state from subscribing to stock in any company, association or corporation, would be a deterrent to the state's entering private business. We believe further that Committee Proposal 23, which requires a 2/3 vote of the legislature and a popular vote to approve of general obligation bond issues for capital improvements, would also be a deterrent. We have noted that other states, as I believe Mr. Downs indicated, have achieved this objective without such a prohibition. This is also indicated in the research council analysis.

Then, looking upon its operation as a direct authorization of legislative power through the listing of exceptions, this listing of exceptions is in fact restrictive, since any such enumeration of powers by implication prohibits all but those that are enumerated. It breeds frequent constitutional amendment to provide for new, changing and unforeseeable needs. Mr. Hoxie, I believe, has admitted this, and they apparently do not disapprove of the necessity of frequently amending the constitution, although I thought we were trying to write one that would not need frequent amendment. Again, it creates extensive litigation, partly due to the fact that the area of uncertainty between what is strictly governmental and what is strictly private continues to exist and will continue to exist as long as this provision is in the constitution. Again, as an authorization we believe it is unnecessary, since all such powers would be inherent in the legislature if the prohibition itself were either deleted or if all the exceptions to the prohibition were left to law. We believe it is an unsuitable vehicle for authorizing powers to solve potential metropolitan area problems and needs.

We think that the language that the committee has proposed in this respect is very cumbersome and very illogical, and we don't know how to write any better language for it when we are trying to put it into the framework of a prohibition. Our third reason for wanting to change this provision is, we believe it is unsuitable constitutional language; that the exceptions are statutory; that they are only needed in order to circumvent a prohibition, and this seems like a paradox. Proof of its unsuitability lies in the number of times it has been amended. I think it would be interesting just to follow those amendments historically a moment.

Point 4 about lands was in the original provision in 1850. Then in 1893 it was amended to provide for the improvement of Grand river by the city of Grand Rapids. This was deleted by the 1908 convention. In 1905, when the single cylinder automobiles were trying to chug along the roads and the little boys were saying, "Mister, get a horse," they amended the constitution to provide for "public wagon roads." In 1908 the convention added reforestation and protection of lands, but it wasn't until 1945 that the word "wagon" was taken out of the constitution and all of these were added in 1945 and 1946 that you now see in the provisions. In other words, these things have not been in the constitution for 50 years. Most of them have only been in since 1945 and '46.

Returning to my argument, we believe it is also unsuitable for the constitution because of the amount of litigation that it creates, and I would like to refer you to the big blue book — most of which now have all the delegates' names written in the front — to show you the number of pages that relate the cases that have come before the court. You will find about 5 pages of cases, some 20 or more cases and numerous attorney generals' opinions, and I feel confident that the new exception with respect to local government will certainly create more litigation in view of the very fuzzy definition of "internal improvements" that still exists.

Now, just a word or 2 about our proposed amendment. First, we believe it removes the unsuitable constitutional language. Second, it implies, insofar as the absence of a clear definition of "internal improvements" can imply, that internal improvements of a nonpublic nature are still prohibited. You will note that in the second line, where it simply speaks of prohibiting internal improvements. There is no certainty that they are so defined, but after reading all of the decisions one comes to the conclusion that the definition points in that direction. Third, we believe that we can still rely on other constitutional provisions to protect the people against state activity in the field of private enterprise and unwise public projects. Fourth — and this is a point that was made by Mr. Nicholas Olds of the attorney general's office — we admit that the provision otherwise is largely hortatory in nature and that it does serve as a warning to administrative agencies not to embark on capital improvements without legislative authorization. Fifth, we think that it leaves intact legislative control over the substantive powers of local government in line with the power doctrines we have tried to embody in the local government article. We fear that the amendments proposed really contravene this doctrine that the state should not have power over things that its children do. And lastly, we believe that it enables the legislature, and through the legislature, local government, to authorize such improvements as future technological, social, economic and political changes may require for the growth of our state.

Mr. Chairman, I would like to yield to any of the cosponsors of the amendment that would like to speak.

CHAIRMAN BENTLEY: The Chair would like to advise the lady from Grand Rapids of the following problem which the questions of the gentleman from Pontiac have brought to the attention of the committee. We have the minority amendment offered by the gentleman from Detroit, Mr. Downs, to strike the entire proposal. We have the substitute amendment offered by the lady from Grand Rapids to strike the proposal and insert new language. The gentleman from Pontiac pointed out correctly that there are pending at the desk several amendments to the original committee proposal, some of which, if not all, may be of a so called perfecting nature.

It has been suggested that the situation might be resolved by having the amendments to strike the proposal, the 2 amendments, the Downs amendment and the Judd amendment, withdrawn temporarily, permit the committee of the whole to work its will on the so called perfecting amendments to the committee proposal, and then when those have been disposed of and the final version of the committee proposal is before the committee of the whole, to have the Downs and Judd amendments reoffered at that time. The gentleman from Detroit, Mr. Downs, and his cosponsors have agreed to withdraw their amendment. The Chair would inquire of the lady from Grand Rapids, Mrs. Judd, how she would feel about this suggestion.

MRS. JUDD: I think it would be a good idea, a very instructive exercise to try to perfect this provision.

CHAIRMAN BENTLEY: Without objection then, the minority amendment and the Judd substitute amendment will both be temporarily withdrawn, and the committee of the whole will now proceed to consider perfecting amendments to Committee Proposal 101, following which the Downs and Judd amendments will be offered at the proper time. The secretary will report the first amendment to the committee proposal, which I believe has been offered by the lady from Grand Rapids and other sponsors.

SECRETARY CHASE: Mrs. Judd, Messrs. King, Farnsworth, Rajkovich, Follo and Mrs. Cushman offer the following amendment:

1. Amend page 1, line 10, after "roads,", by inserting "ports and"; so the language will there read, "In the development, improvement and control of or aiding in the development, improvement and control of public roads, ports and harbors of refuge. . . ."

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids in support of this amendment.

MRS. JUDD: This is kind of a reverse action, Mr. Chairman. I didn't expect to be back here so soon. This was an amendment we were going to offer in case the convention turned down our substitute amendment and turned down the deletion. However, I think it is quite fun to see what we can do with this. I put all of these in as one amendment, Mr. Chairman, but I see, when it came back to me, you separated them so it looks like a lot of amendments.

CHAIRMAN BENTLEY: Would the lady like the amendments offered en bloc?

MRS. JUDD: It seems to me it would be easier for the convention, although they may wish to vote on them separately.

CHAIRMAN BENTLEY: The secretary will read the various amendments offered by Mrs. Judd, Messrs. King, Farnsworth, Rajkovich, Follo and Mrs. Cushman, and they may be considered as the committee of the whole shall dictate.

SECRETARY CHASE: The amendments are:

1. Amend page 1, line 10, after "roads,", by inserting "ports and"; and in line 14, after "waters" by inserting a comma; and in line 15, by striking out "and"; and after "erosion" by changing the semicolon to a comma and inserting "domestic, agricultural, industrial and recreational use;"; and in line 17, after "Michigan" by changing the semicolon to a comma and inserting "including state owned land for park and recreational use;"; and by striking out all of lines 18 and 19 and inserting "4. In the protection of air against pollution."; and on page 2, line 1, after "in" by inserting "or engaging in"; and in line 2, after "purpose" by inserting a period and striking out the balance of the sentence.

CHAIRMAN BENTLEY: The Chair will suggest to the lady that we only consider those amendments that can be shown on the wall. I am not sure they will all fit on there.

MR. KING: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. King.

MR. KING: It seems as though I am right back in the parliamentary position which I tried so desperately to avoid earlier. I would like to suggest to the sponsors of these amendments — I being one of the sponsors — that we at this time withdraw this series of amendments with the intent of, if necessary, reoffering them at a later time. Could I get the consent of the other sponsors to do that?

CHAIRMAN BENTLEY: The Chair will state to the gentleman from Pontiac that he has been endeavoring to accommodate the gentleman and the other sponsors by having the amendments to strike out temporarily withdrawn so that the committee of the whole could work its will upon the perfecting amendments which you described beforehand. If the gentleman now desires to have the so called "strike out" amendments of Mr. Downs and Mrs. Judd acted upon before these amendments are considered, of course, he may withdraw them subject to the approval of the other sponsors.

MR. KING: I would move to do that at this time.

CHAIRMAN BENTLEY: It doesn't take a motion. It is merely a question of securing the concurrence of the others.

MRS. JUDD: I would always follow Mr. King's advice.

CHAIRMAN BENTLEY: Is there objection on the part of Messrs. Farnsworth, Rajkovich, Follo and Mrs. Cushman? Hearing none, the collective amendments are temporarily withdrawn. The secretary will now report the next amendment to Committee Proposal 101 offered by the gentleman from Kalamazoo, Mr. Allen.

The Chair will recognize the gentleman from St. Louis.

MR. HOXIE: Mr. Chairman, it has been suggested that we make a motion that the committee rise for our afternoon recess of 10 minutes. I so move.

CHAIRMAN BENTLEY: The question is on the motion that the committee do now rise. All those in favor will respond by saying aye. Those opposed?

The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 100**, A proposal to provide the legislature shall not authorize lotteries or the sale of lottery tickets; reports this proposal back to the convention favorably with one amendment thereto.

The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 5, after "lottery" by inserting "or parimutuel betting,".

PRESIDENT NISBET: **Committee Proposal 100**, as amended by the committee of the whole, is referred to the committee on style and drafting.

Following is Committee Proposal 100 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature shall not authorize any lottery or parimutuel betting, nor permit the sale of lottery tickets.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 101,** A proposal to provide that the state shall not engage in internal improvements except in certain specified areas and except that the legislature may empower local subdivisions to act in the area of internal improvements; has considered several amendments thereto; has come to no final resolution thereon. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: Before putting the motion to recess, may I suggest to the delegates that they make every effort to get back here within the 10 minutes. Lately we have had trouble getting a quorum after recess. The Chair recognizes Mr. Balcer.

MR. BALCER: Mr. President, I move we recess for 10 minutes.

PRESIDENT NISBET: Mr. Balcer makes the motion we recess for 10 minutes. Those in favor say aye. Opposed, no.

We are recessed until 3:50.

[Whereupon, at 3:40 o'clock p.m., the convention recessed; and, at 3:50 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: Without objection, we will return to the order of **communications from state officers.**

SECRETARY CHASE: State of Michigan, office of the governor,

Lansing
March 30, 1962

The Honorable Stephen S. Nisbet, President
Michigan Constitutional Convention
Constitution Hall
Lansing, Michigan

Dear Mr. Nisbet:

Thank you for transmitting to me the resignation of Mr. Kent T. Lundgren as a delegate to the constitutional convention from the thirtieth senatorial district, effective March 31, 1962.

I have accepted the resignation of Mr. Lundgren according to its terms, and notified the secretary of state that a vacancy exists in this office.

Sincerely yours,
John B. Swainson,
Governor.

The following message from the governor:

State of Michigan
Office of the Governor
Lansing
April 11, 1962

Mr. Stephen S. Nisbet, President
Michigan Constitutional Convention
Constitution Hall
Lansing, Michigan

Dear Mr. Nisbet:

Please be advised of the appointment of Mr. Russell W. Bradley, 1103 First street, Menominee, Michigan as delegate to the Michigan constitutional convention, representing the thirtieth senatorial district, succeeding Mr. Kent T. Lundgren, resigned.

With best wishes,

Sincerely yours,
John B. Swainson,
Governor.

PRESIDENT NISBET: Will Delegates Perras, Dell, Follo and Sablich please escort our new delegate, Mr. Bradley, to the rostrum for the purpose of being sworn in?

[Whereupon Messrs. Perras, Dell, Follo and Sablich escorted Mr. Bradley to the rostrum.]

Mr. Bradley, will you raise your right hand, please?

Do you solemnly swear that you will support the Constitution of the United States and the constitution of this state, and that you will faithfully discharge the duties of the office of delegate to the Michigan constitutional convention to the best of your ability?

MR. BRADLEY: I do.

PRESIDENT NISBET: We welcome you to the convention, Mr. Bradley. We hope you will enjoy the work of the convention. If you will please sign the oath, you are a member.

MR. BRADLEY: Thank you, sir. (applause)

PRESIDENT NISBET: The convention will please be in order.

MR. DADE: Mr. President.

PRESIDENT NISBET: Mr. Dade.

MR. DADE: Continuing this bipartisan spirit, may I correct an omission. A short time ago the committee on declaration of rights, suffrage and elections finished its work. And in continuing a very delightful custom established in this convention, I would like — and I am sure my colleagues on the committee agree with me — to felicitate the distinguished chairman of that committee, Dr. Pollock. Dr. Pollock did a very competent job as chairman. There were times when he said, "I have no other course to follow but the right course," and he disagreed both with Republicans and Democrats and did what he believed was right. He was at all times eminently fair. At times we thought he was pushing us too fast, but we realized it was in the interest of the convention and the efficiency of our committee. Now, we hail him and we place upon the record our appreciation, our commendation and our deep respect for a fine chap. (applause)

PRESIDENT NISBET: Thank you, Mr. Dade. Congratulations, Dr. Pollock. Those remarks, of course, will be in the verbatim record.

The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of items on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Bentley.

[Whereupon, Mr. Bentley assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN BENTLEY: The committee will be in order. The secretary will read the amendment offered by the gentleman from Nadeau, Mr. Perras to **Committee Proposal 101.**

SECRETARY CHASE: Messrs. Perras and Perlich offer the following amendment:

1. Amend page 1, line 16, after "reforestation,", by inserting "mineral resources research,"; so that this language will read, "In reforestation, mineral resources research, protection and improvement of lands in the state of Michigan. . . ."

CHAIRMAN BENTLEY: Mr. Perras.

MR. PERRAS: Mr. Chairman and fellow delegates, I have an editorial here from the State Journal dated April 8 that I would like to quote in reference to this amendment, and then I will make my remarks after, if it is all right with the delegates.

CHAIRMAN BENTLEY: The gentleman has the floor.

MR. PERRAS: This is quite interesting. I think a lot of people will enjoy hearing it:

> The upper peninsula folks have not forgotten — and probably never will — that their area, geographically unrelated to the big mitt of Michigan's lower peninsula, came into the state as a consolation award when Michigan lost its dispute with Ohio over the city of Toledo.

As it eventually turned out, the consolation award proved to be a far more valuable piece of real estate than the main prize, because the iron and copper deposits of the upper peninsula, not to mention the vast virgin timberlands, provided much of the sinews of a young nation struggling for economic importance in the world.

Before discovery of the fabulous Mesabi iron range in Minnesota, Michigan's upper peninsula was the major source of iron in the new world. The great copper mines of the upper peninsula, producing almost pure copper from the rich veins of the Keweenaw peninsula, helped to found great industrial dynasties in this country.

The iron and the copper and the timber are no longer as abundant in the upper peninsula as they were in bygone generations, although these natural resources still play an important economic role in the area.

Since the mining heyday of the upper peninsula, the area has gradually been losing population. There has been considerable economic distress, too, but by and large, the people of the upper peninsula are hardy folks, unusually self reliant, a distinctive virtue in an era of creeping socialism.

Now, the reason for introducing this amendment, Mr. Chairman and fellow delegates, is that by so doing, the various colleges and agencies of the state could, by investing a small amount of money, get research to find how to produce and make this low grade ore that we have up in that country able to be manufactured into pellets and otherwise. That is the reason we are introducing this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, the state is already engaged in that type of activity. I very definitely recall appropriations that were made, particularly to the Houghton School of Mines for wood research and for research on how to use low grade ore to the advantage of the mining companies. The University of Michigan does work for different automobile plants in the field of research. Certainly that is a part of the present activity of our state government. I can see no disadvantage to incorporating this in the constitution if it is the desire of the committee.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grosse Pointe Shores, Mr. Cudlip.

MR. CUDLIP: Mr. Chairman and members of the committee, just briefly, I think this is very desirable if needed. Mr. Hoxie seems to agree, but he is not sure whether it is needed.

I know something about that country and that industry, and I think we should follow the practice of encouraging research in connection with the vast ore lands up there that are second grade right now. Minnesota is doing the same thing, and we can't do too much, within limits or prudence, to engage in research to find out whether these vast lands of second grade ore, so called semi taconite ores, can be made commercially available.

I think this is the kind of thing we can do to help that part of our great state. There are too few things we can do in this area, but that is one. I think we would be allwise if we vote for such an amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I oppose this amendment in speaking, I believe, for the majority of the committee, and for 3 reasons. The first reason is that this insertion in line 16 of the committee proposal is verbally improper. As proposed the language reads in line 16, "3. In reforestation, protection and improvement of lands in the state of Michigan." We are proposing here to insert "mineral resources research" after "reforestation," so the language will read, "In reforestation, mineral resources research, protection and improvement of lands in the state of Michigan." This does not make sense. The second reason why I oppose the amendment is that it is, I believe, legally unnecessary. At present the great College of Mines up in the upper peninsula has been appropriated money, according to Delegate Hoxie's statement, and, as I pointed out earlier, there has been no showing that there is any restriction on research imposed by the language of the committee proposal or of the old constitution. The third reason why we oppose it is that it seems to me that if this clause has any added meaning, it might be meaning which would allow the state to get into the area of operating mines or mineral fabrication or processing industries or activities. Inasmuch as the courts use a rule of construction which says if you add language you definitely intend it to have some additional or different legal meaning than the original, I would suggest that unless you are in favor of having the state go into this area and actually take over some aspects of the operation of these activities, then you should vote against it.

The position of the committee is certainly that nothing should be put into the constitution which would be construed as permitting the state to get into this area, particularly on such short notice as this. This was not thoroughly explored by the committee and was not presented, at least to the best of my recollection, before the committee. Mr. Perras was a member of the committee, and I myself do not recall that this particular amendment was discussed at that time, although Mr. Perras will correct me if I am in error. Nevertheless, we oppose it for the 3 reasons stated and not for that reason alone.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Just a question to Mr. Wanger, if you please, Mr. Chairman. Mr. Wanger, you suggested that the state might follow this up by getting into the business of operating mines. I would like to ask how it is that you define the words "internal improvement" to mean the operation of a business.

CHAIRMAN BENTLEY: The lady yields to the gentleman from Lansing, Mr. Wanger, for reply.

MR. WANGER: Because the language says, starting in line 7, "The state shall not be a party to, nor be interested in, any work of internal improvement," and this exclusion would certainly cover the operation, although the word "operation" is not expressly used by the language.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Nadeau, Mr. Perras.

MR. PERRAS: Mr. Chairman and fellow delegates, in answer to Mr. Wanger's remarks, I don't see where he gets the idea that the state could go into the mining business, but if it did and it brought that part of our state back economically the way it should be, I don't think that would be all bad either, because there definitely has to be something done up in that area where the mines are gone. And if you remember back in the time of the Korean war and world war II, the federal government went in and put a subsidy on copper because we needed the copper at the time. And under the conditions as they are today, it is too costly to mine it. I move that you support this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Houghton, Mrs. Butler.

MRS. BUTLER: Mr. Chairman, Mrs. Judd brought out one of the things that I wanted to ask Mr. Wanger about: how in the world he thought the state was going to get into the production of something by doing a little research. At the Michigan College of Mining and Technology they now have 2 quite large research centers. One is forest products research and the other is mineral research. And we have a vast area up there where there is no research of any kind going on, and we have 2 other at least medium sized colleges, and it seems to me that there would be a lot of place for research to find out what might help our depressed area.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. Chairman, I don't oppose in any way the proposed amendment of Mr. Perras, provided we keep the record clear; because I can see where we may be getting into a future legal problem on this, and that is this: it wouldn't be my own opinion, having studied this section, that mineral research would be an internal improvement. Now, I am not positive of it. The reason I am not positive of it is that no one seems to know exactly, the way the court interprets this section, what an internal improvement, within the prohibition of the section, means.

I know that we have other universities doing other types of research. Ann Arbor is doing some in the atomic field. I am sure that President Hannah's college is doing quite a bit, and if we add this here, I am not opposed to it. I would like to have it made clear on the record that this convention is not by implication saying that unless we have in this whole list of exceptions all the other research done by all of our other universities, that all of this research, from the time this constitution is adopted, is illegal because it is or might be an internal improvement. In other words, it would be my feeling that no one here wants to preclude what is being done in the field of research by other schools, and that we aren't saying, by putting in these words "mineral resources research" that all other research is an internal improvement. I think we ought to keep the record straight on it in order not to get into this future possible legal difficulty.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bessemer, Mr. Pellow.

MR. PELLOW: Mr. Chairman, fellow delegates, I rise to support this amendment. Since we have recently taken the state out of the gambling industry, perhaps now we may get some help in the upper peninsula from the state. And on this particular question I request the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number is up, and the yeas and nays will be ordered. The question occurs on the amendment offered by the gentleman from Nadeau, Mr. Perras. The yeas and nays have been ordered. Is the gentleman from Brown City seeking recognition?

MR. WOOD: Yes.

CHAIRMAN BENTLEY: The gentleman is recognized.

MR. WOOD: Mr. Chairman and fellow delegates, the committee, I think, would have to recommend that you didn't adopt this amendment. I believe most of the mines and lands in the upper peninsula are privately owned. And while I am sympathetic with the economic condition of the upper peninsula, it also reminds me of my own economic position. I happen to own a lumber yard, and I will be forced to introduce an amendment to institute some research whereby I may find some customers to sell my lumber to. It amounts to about the same thing. I urge that you defeat this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Escanaba, Mr. Follo.

MR. FOLLO: Mr. Chairman, I am going to abstain on this vote for this reason: that I chose not to speak against this because it was proposed by my friends from the upper peninsula. I am heartily in sympathy with the objective expressed by the amendment. However, I believe this could be readily accomplished if our legislature would just appropriate enough funds to Michigan Tech for this purpose.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Nadeau, Mr. Perras. The yeas and nays have been ordered. The secretary will ring the bell.

Is the gentleman from Detroit seeking recognition?

MR. STEVENS: Mr. Chairman, I would like to join Mr. Follo in refraining from voting for the same reason he stated, plus the fact that I do not think the langauge is necessary to accomplish the purpose.

CHAIRMAN BENTLEY: The secretary will ring the bell. The gentleman from Hancock, Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen, may I just read a couple of paragraphs here. This is Michigan Tech Broadens Scope from the Detroit News. I think the various delegates got copies of this:

> Tech's newest state financed building, housing its civil-geology department, was erected in 1957. Its institute of mineral research building, erected in 1956, ended a drouth of state financed building that had endured since 1931.

And then down here:

> Tech's institute of mineral research, operating on a state appropriation of $125,000 a year, has the mission of hunting new and improved uses of the state's mineral resources with the view of increasing industry and employment.
>
> The institute recently developed a new process which, its researchers say, offers new hope to the state's sulphide copper mining industry, and may, if additional research bears fruit, be applicable to nickel and cobalt mining.

Then the other department:

> Tech's forestry products research center, occupying a temporary wartime barracks type building, operates under a legislative dictate to seek new products for the utilization of the upper peninsula's timber.
>
> The feasibility of making a composition board from Michigan hardwoods, in predominant supply, was proved several years ago by Tech research, resulting, researchers said, in the building of a $12 million Celotex plant that employs 200 persons in the L'Anse area.

So that there is an appropriation made annually by the legislature both for mineral research and for forestry products research. Naturally I cannot be opposed to an amendment of this kind. I am in favor of it. But there is a program of this kind at the present time.

CHAIRMAN BENTLEY: The gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, in light of Delegate Heideman's statement and his experience, I submit this is additional proof that this amendment is absolutely unnecessary to accomplish the purpose which is already being accomplished under present law. This will add new language to our constitution and, as implied by Delegate Allen, it might be construed to indicate that other types of research were in the category of prohibited internal improvements. This interpretation, if a court should adopt it, would unduly restrict the institutions of higher learning and research in this state, and this is an additional reason for voting against this unnecessary amendment.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, I just wish to announce that I intend to abstain from this vote knowing that there is an amendment coming up, a substitute amendment, which will comply with the wishes of Mr. Wanger and eliminate a lot of unnecessary language.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Nadeau, Mr. Perras. The yeas and nays have been ordered. The secretary will ring the bell. All those in favor of the Perras amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—84

Allen
Anspach
Balcer
Barthwell
Batchelor
Beaman
Blandford
Bledsoe
Boothby
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Ford
Gover
Greene
Habermehl
Hanna, W. F.
Hart, Miss
Heideman
Higgs
Hodges
Hood
Jones
Kelsey
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Page
Pellow
Perlich
Perras
Plank
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Sablich
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stopczynski
Suzore
Thomson
Tubbs
Upton
Van Dusen
Walker
Wilkowski
Yeager
Youngblood

Nays—32

Andrus, Miss
Bradley
Brown, G. E.
DeVries
Donnelly, Miss
Finch
Gadola
Goebel
Haskill
Hatch
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Knirk, B.
Millard
Mosier
Pollock
Powell
Prettie
Pugsley
Rush
Seyferth
Shackleton
Shaffer
Turner
Tweedie
Wanger
White
Wood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Perras and Perlich, the yeas are 84; the nays are 32.

CHAIRMAN BENTLEY: The amendment is adopted. The secretary will report the amendment offered by the gentleman from Grand Haven, Mr. Stafseth, to page 1, line 11.

SECRETARY CHASE: Messrs. Stafseth, Goebel and William Hanna offer the following amendment:

1. Amend page 1, line 11, after "waterways,", by inserting "water supply,".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Haven, Mr. Stafseth.

MR. STAFSETH: Mr. Chairman and members of the delegation, when I asked the question of the committee relative to a water line, if the state ever wanted one across the state, and got an affirmative answer, I took a second look at the second paragraph and talked to Bill Hanna, and there was a reasonable doubt. So, by inserting these words in the first paragraph after "waterways," there would be no doubt as to the ability of the state if this had to be the case in order to supply water to the internal cities of the lower peninsula or any other part of the state.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Brown City, Mr. Wood.

MR. WOOD: Mr. Chairman, the committee has no objection to this amendment.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Grand Haven, Mr. Stafseth. All those in favor —

MR. HOXIE: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Hoxie.

MR. HOXIE: Mr. Chairman, this question was considered in our committee and it was our belief that the language was broad enough to cover what Mr. Stafseth has in mind, so I would also like to endorse the amendment, if there is any question.

CHAIRMAN BENTLEY: Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I think you should realize that if this amendment is adopted in this particular place, into exception 1 on line 11, this will authorize the state to pass legislation to provide water facilities for industry and promote industrial development in the way we have previously sought to prohibit, by giving them economical, long range help in terms of water. If you want to do this, you should remember that water is one of the biggest problems for industry; that in the past we had hoped to leave this area up to local government. But standing where it is, I suggest that this, in effect, would partially vitiate the intent of this committee as previously expressed. Therefore, I also urge you to vote against this amendment because the problem can be adequately solved under the existing provisions which have already been explained to the committee.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Mahinske.

MR. MAHINSKE: I would like to direct a question through the Chair to one of the proponents, either one that cares to respond.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Haven. The gentleman will state his question.

MR. MAHINSKE: Would it be your interpretation of this new language that the state could enter into competition with local municipal governments in supplying water either to the residents or the industrial users?

MR. STAFSETH: No; this isn't the intent of the amendment. The intent of the amendment basically is that if the natural ground waters in the internal cities such as Lansing or other cities were seriously jeopardized, and if you had to set up an authority such as the Mackinac bridge authority and sell bonds, that it may be necessary that the legislature would have to participate in order to make the bonds salable and that the state would supply the waters to these municipalities as a substitute source. That is the intent of it.

I might say one thing in answer to Mr. Wanger, and I might be wrong in my English, but at the beginning it says "public roads, harbors of refuge," and so forth, and I am assuming that the word "public" applies to this water supply. If it doesn't it should be put in.

MR. MAHINSKE: Well, this raises a further question. This would be interpreted as a public water supply, but to whom?

MR. STAFSETH: To the various municipalities that would need it. In other words, they would buy from this authority.

MR. MAHINSKE: But your intent is that this would not be public water supplied directly to the users other than the municipal users?

MR. STAFSETH: No, that is right. The intent is that this would be only to public agencies that are now distributing water. It wouldn't be in competition to them.

MR. MAHINSKE: That answers my question.

CHAIRMAN BENTLEY: The question occurs on the amendment of the gentleman from Grand Haven, Mr. Stafseth. All those in favor will respond by saying aye. Those opposed?

The amendment is adopted. The secretary will report the next amendment.

SECRETARY CHASE: Mr. Allen offers the following amendment:

1. Amend page 1, line 19, after "property.", by striking out the balance of the section and inserting a new paragraph to read as follows:

"The provisions of this section shall not apply to local units of government unless otherwise provided by law or this constitution.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Kalamazoo, Mr. Allen, in support of his amendment.

MR. ALLEN: Mr. Chairman, I think we can accomplish with this shorter language everything that is intended in the new language which the committee suggested and at the same time not run into some problems which the new language possibly invites.

Now, the first point I would like to direct myself to is that the committee language, in effect, says that nothing will prevent the legislature from authorizing these various local units of government to engage in internal improvements. I would like to say this: counties, townships and villages do not act without authorization from the legislature anyway, and for the most part cities don't either, although cities do have some reserved powers that the other units do not have. So we are really restating something that has already been stated and would already, under our form of local government, have to occur, that the legislature would authorize these units, so the legislature has the protection in that it may or may not make the authorization anyway. The second difficulty we clear up by the new language is the omission of the words "or engage in," which were omitted in the committee language.

The third difficulty which I think we get away from is a rather technical one. You will notice the committee language says that the legislature may authorize the local units of government to do those things which the state is prevented from doing, and it might be implied that the legislature may not allow cities, townships and counties to do those things which the state could do.

I think the most serious problem is the one I referred to before, the phrase "at their own expense," because it won't be entirely at their own expense if they come in under participating federal grants. Now, Mr. Wanger has said that doesn't make any difference, because in the example which I used of a hospital for a city, hospitals are mentioned in the constitution as a power of cities. But this doesn't solve the problem, you see, for counties or for townships; we have a growing number of townships and I think we also will have counties which will be participating in federal grants. I know that we already have metropolitan townships doing it, and there is nothing in the constitution which grants the specific authority.

I think we can eliminate all of these problems by adopting the language which I have suggested here, but at the same time leave with the legislature the right to take away the power of any local unit of government to engage in an otherwise forbidden so called internal improvement if it wishes to do so. In other words, what I have attempted to do by this is to eliminate the problems which the committee — and, I know, in good faith — probably didn't realize might come up, and at the same time it reserves to the legislature the control. If at any time the legislature feels any of these units shouldn't be engaged in an internal improvement, it simply has to pass a general act saying so and that is it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, the committee is definitely opposed to this amendment for 2 reasons which I don't believe the proponent of it even mentioned. The first reason is, if you will look at the language you will see that it implies that the local units of government have the power to do these things without an express grant of the legislature rather than pursuant to a grant or an authorization by statute. We think that this is contrary to Michigan's tradition in this area where the local units of government can only do those things which are expressly granted to them either in a statute or in the constitution itself. While this is not expressly set out, it seems to me that the language proposed by Delegate Allen leaves itself very clearly, in the last line, open to that construction, and I think that creates a very serious problem and should not be handled in that way. The second matter which is of importance, and perhaps even of more importance in the long run in the opinion of the committee, is that this removes the requirement that such improvements must be done at the local unit's own expense. Without that language being added to this section, this section could be construed to allow these units to do it; however, with money provided by the state legislature. This is a great deal of the substance of the argument of the committee for retaining this entire section, and we very seriously urge you not to vote in favor of this amendment for that reason.

I think the other arguments presented by Delegate Allen can be cleared up with a slight revision in language, if they are problems. I fail to follow 2 or 3 of his points, although I was listening very carefully, and I think that any difficulty with the actual operation of the language merely as far as technicalities and substantive matters go can be cleared up either by an amendment to them here on the floor or by style and drafting. But as far as the substantive changes which this works, they are as I have stated them, and for that reason I urge you to vote no.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: In reply to Delegate Wanger on his first point, you would have to read, Mr. Wanger, this language as a grant of power to cities to engage in internal improvements. Now, if you read the section, you will find that this is a limitation on power. There is no grant of power here to cities to engage in internal improvements. This language simply says that the prohibitions on the state which are listed in section a — this whole section does not apply to the local units. In other words, it doesn't grant power; it simply says that the restrictions which are on the state are not on the local units.

If you don't have this language, because local units are children of the state, the law has said they do follow; they are restrictions also on the local units, although the courts haven't been consistent. What I am saying here on your first point is that my language, in fact the committee's language, is not a grant — well, at least my language is not a grant of power. It simply says that what we have said in the preceding paragraph does not apply to local units. That doesn't grant the power.

Where does the local unit get its power? It gets it from the legislature. None of our local units may function without a grant from the legislature. They can't do anything without the legislature granting the power, you see. The legislature is already in control. So on your first point I think you have it completely turned around. This is not conferring power. It is simply an exclusion clause that says the prohibitions on the state do not apply to the local units of government.

And on your second point — I don't recall right now what the second point was. I had an answer on your second point, but I think it was your first point that was your major point. I think you get into all kinds of trouble or possible trouble with the suggested committee language, and therefore I think we can get away from this trouble. We grant no more power to the cities or the counties or so on. We leave the control in the legislature.

CHAIRMAN BENTLEY: Does the gentleman from Lansing again desire recognition?

MR. WANGER: Merely to remind Delegate Allen of the second point, if he should desire to have his recollection refreshed.

MR. ALLEN: At their own expense?

MR. WANGER: Yes, the fact that this language as it stands in your amendment would permit the state government to make appropriations for any of these improvements which the local units were going to undertake in any part of the state.

MR. ALLEN: No, I would say it would not, because as long as you keep the prohibitions you see in subparagraph 1 of section a on the state, then the state would not be able to make a matching grant or participate with a local unit in those off limit fields, nor would it be able to grant the money.

The language is, it "shall not be a party to, nor be interested in. . . ." If it gives some money rather than doing the work itself, it certainly is "interested in." Or if it somehow goes into a joint contract with the local unit, it is a "party to." We had this kind of situation on airports where the state is a party to an improvement, for example, in the airport of Kalamazoo or Lansing. The way the state is able to do this is because it comes within the first listed exception, so that the state would not be able to grant any money in any way to a local unit. It would leave the local unit in these off limit fields entirely on its own except as it might come in under the federal grants.

MR. WANGER: Mr. Chairman, in light of that, I wish to disagree completely with Delegate Allen's interpretation of this section. The state, I would say first of all, may make a grant perhaps under this language without being necessarily "a party to" or "interested in." The whole history of the interpretation of this section as we have considered it in the committee indicates quite clearly that the only way to be sure that grants will not be granted by the state for the purposes of being used by the local units in this regard is to expressly say so. If you do not expressly say so, as the committee has done, then you leave the question in very serious doubt.

In my opinion, the very strongest way of stating Delegate Allen's argument is that the best it would do is leave it in very serious doubt, and there is no question but what we do not want to create doubts in this area of the law regarding our municipal and local units of government.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman from Kalamazoo, Mr. Allen. All those in favor will say aye. Those opposed will say no. The Chair rules the amendment is adopted.

MR. YEAGER: Division.

CHAIRMAN BENTLEY: A division is demanded. Is the demand supported? A sufficient number up. All those in favor of the Allen amendment will vote aye. Those opposed will vote no.

MR. WANGER: Mr. Chairman, in order to save time, I request the yeas and nays on this. We could do it by one vote.

CHAIRMAN BENTLEY: Is the demand for the yeas and nays supported? Not a sufficient number up for the yeas and nays. The vote is a division vote. The secretary will lock the machine.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Allen, the yeas are 63; the nays are 39.

CHAIRMAN BENTLEY: The amendment is adopted. The secretary will report the next amendment, offered by the gentleman from Detroit, Mr. Murphy, to page 2, line 3.

SECRETARY CHASE: Mr. Murphy offers the following amendment:

1. Amend page 2, following line 3, by inserting a new section b to read as follows:

"Sec. b. Nothing in this section shall prohibit the legislature from authorizing the state or its political subdivisions from participating in federal programs in cooperation with the federal government or its agencies as may be provided by law.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Murphy, in support of his amendment.

MR. MURPHY: Mr. Chairman, fellow delegates, the proposal as it was formally submitted is the same as article X, section 14. The proposal could serve as a major deterrent for many improvements which were generally desired by the people in this state. In 1946 this section was largely rewritten in the present broadened form. Even in its broadened form, however, the proposal could serve as a deterrent on the ability of the state to effectively participate jointly with the federal government in projects which may have been unacceptable years ago, but which now or may in the near future be necessary for the welfare of our state. I feel that we need to do something whereby, if it becomes necessary, we can work jointly with any grant that we might be able to get from the federal government.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I would observe first of all that it has become apparent, both in private conversation and from the actions here on the floor, that it is quite probable that the strategy of those opposed to the entire committee report under our procedure newly adopted today is, of course, to try to amend the section to death and then knock it out altogether when everyone is reduced to a state of confusion. (laughter) I make this observation not in any feeling of anger, because there may be many people who don't go with that attitude, but I want to alert the delegates to that impression which has been received.

I would like to oppose this amendment because, quite frankly, ladies and gentlemen, if you leave a restriction of any kind in the constitution against internal improvements but say that notwithstanding that, the people in the state can go to Washington, you see, and get the money to do something which the constitution prohibits the state from doing, you are driving to Washington those people that don't want to take the trouble to amend the constitution to accomplish their purpose directly. If you want to do this, you go right ahead. But it will be interesting, of course, to see how many of those people vote to do it who, during the course of this convention, have been talking so strongly about having the state solve its own problems and having the local units of government solve their own problems without going one branch up the ladder. I demand the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been demanded. Is the demand supported? A sufficient number. The yeas and nays will be ordered. The Chair recognizes the gentleman from Ann Arbor, Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I approve the idea and most of the language of this amendment because I think it clarifies a point which, in my study of the committee proposal, badly needed clarification. I myself have prepared a similar amendment but have not introduced it because I thought perhaps someone would have a better one.

But could I suggest to you, Delegate Murphy, that the language is a little bit awkward. ". . . prohibit the legislature from authorizing . . ." don't you mean "the participation of the state or its political subdivisions in . . .?" Then you do away with "from authorizing" and "from participating." Wouldn't it be an improvement to say "shall prohibit the legislature from authorizing the participation of the state or its political subdivisions in federal programs?" I suggest that as a possible improving amendment.

MR. MURPHY: I would accept Dr. Pollock's revision.

CHAIRMAN BENTLEY: The secretary will read the amendment as it has been revised.

SERCETARY CHASE: The language will now read:

1. Amend page 2, following line 3, by inserting a new section b to read as follows:

"Sec. b. Nothing in this section shall prohibit the legislature from authorizing the participation of the state or its political subdivisions in federal programs in cooperation with the federal government or its agencies as may be provided by law.".

CHAIRMAN BENTLEY: The question is on the amendment of the gentleman from Detroit. The yeas and nays have been ordered.

The Chair recognizes the gentleman from Grand Rapids, Mr. Martin.

MR. MARTIN: Mr. Chairman, I don't think anybody here wants to encourage the local units to go to Washington for assistance, but there are many federal programs which everyone approves which are available to local units and which do require some participation on the part of the state or some approval if they are to be available to those local units. It seems necessary, if you are going to have this present provision in the constitution, to have a proviso of this sort to make it possible for the legislature, if it so desires and feels that it is necessary and wise, to permit the political subdivisions to participate or to permit the state to participate. Without this provision you may completely cut the state and its local subdivisions out from programs which are necessary and desirable; so I would support this amendment as revised on Dr. Pollock's suggestion.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Mr. Chairman, I am concerned about the fact that although I am not in favor of an increasing amount of federal intervention in state and local affairs, I still feel we should not prevent local units of government from accepting that money if they so desire. On the other hand, although I would like to see all these exceptions wiped out, as you know from my amendment, still I can't conscientiously vote for this if we are to keep the entire provision from the committee proposal, because I think it does contravene the whole spirit of the committee proposal in permitting the state to do anything.

I would think that perhaps there might be added in place of the last clause "as may be provided by law" the phrase "in such internal improvements as are permitted by this provision." I do not have any amendment in for that. I would like to ask Mr. Wanger if this would bring it within the scope of his proposal.

MR. WANGER: I am sorry. I didn't hear you.

MRS. JUDD: Didn't you hear me? I guess Mr. Wanger wasn't listening. Maybe he doesn't want my vote.

CHAIRMAN BENTLEY: The question should be directed to the gentleman from Detroit as to whether or not he is willing to accept your additional suggestion.

MRS. JUDD: Oh, Mr. Murphy, yes. Didn't you hear it either? I am suggesting that in order to keep this amendment within the scope and spirit of the committee proposal, if the projects in which the state could participate should be limited to those in which they could participate under the provisions of the whole proposal.

MR. MURPHY: Mrs. Judd, I like it as it is presently worded. Last time I spoke to the chairman, Mr. Hoxie, he told me that he would approve this wording.

MRS. JUDD: Oh, excuse me. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, the question arose earlier in the discussion relative to certain programs that might be made available to the state by our federal government. I believe one that Mr. Allen referred to was the possibility, for instance, of shelters. Certainly I don't think that we should, in any way, prohibit the state from participating in some program, and I have confidence that the federal government would only participate in such programs as were of a national interest, and so I feel that it would be wise to adopt this amendment.

CHAIRMAN BENTLEY: Does the gentleman from Lansing seek recognition?

MR. WANGER: Mr. Chairman, I just want to ask a question of Mrs. Judd or of —

CHAIRMAN BENTLEY: The gentleman yields to the lady from Grand Rapids. The gentleman will state the question.

MR. WANGER: The question is: has there ever been a time when this language has required the state or any unit of local government of the state to reject a federal grant?

CHAIRMAN BENTLEY: The gentleman yields to the lady from Grand Rapids, Mrs. Judd, for reply.

MRS. JUDD: Would you please repeat the question, Mr. Wanger?

MR. WANGER: Has there ever been a time when the language of article X, section 14, which we are discussing, has ever required the state or a municipal branch of it to reject a federal grant?

MRS. JUDD: I cannot answer that question. Perhaps Dr. Pollock can. As I understand it, the federal government is more and more tending toward the policy of going through the state to local governments, and I think this is at the urging of the federal intergovernmental commission. Am I correct, Dr. Pollock?

CHAIRMAN BENTLEY: Does the gentleman desire to yield to the gentleman from Ann Arbor?

MR. WANGER: Yes, I do.

MR. POLLOCK: My only comment would be, we want now to improve the language of the committee proposal so there can be no doubt about this, and we certainly can't look into the future and say that this circumstance will not happen in the future. I am not at the moment, without reviewing all federal programs, able to say whether any of them have been held up or not. My impression is yes.

MR. WANGER: I would like to ask the same question of Delegate Allen because of his experience in this area.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Kalamazoo for a reply to his question. Mr. Allen.

MR. ALLEN: I can't give you a specific example, but I can say this which may be helpful: if you have the state set up in a field where it can participate in a federal program such as aviation or in roads, because these are exceptions here, then the federal government goes to the state.

There are some places where the federal government has a program where it can't go to the state because there is an off limits sign posted by this section. It can't go to the state on an urban renewal project; it can't go to the state on a sewage disposal plant; it can't go to the state on some drainage, unless in the sewage disposal plant it is tied in with a river or a stream, and they are not always done that way. Therefore, the federal government goes directly to the cities or the metropolitan townships; and what happens, of course, is that the state loses its control because the state has no machinery set up for it and you find direct dealing between the federal government and the cities. Only 9 states have prohibitions like we do in this section. Now, the federal government in the case of the 9 states deals differently in part — I can't give you all the ramifications — than it does in the other states.

MR. WANGER: Delegate Allen, do you think it would be desirable, then, that the federal government should have to deal with the state government in Lansing in seeking to make improvements under, say, the urban renewal program in a municipality, or do you think it would be better government for it to deal directly with the municipality as it can, as you say, under present law?

MR. ALLEN: Well, personally I would rather see it, if we had a framework without all these prohibitions, where we could deal through the state government, because what is happening is states are growing weaker because we have all these roadblocks set up.

MR. WANGER: Mr. Chairman, we would submit that, under the language here proposed, it is very clear that regardless of any restriction in the constitution on internal improvements, the state or any local unit thereof could go to Washington, and in those prohibited areas it would be forced either to go to Washington or to amend the constitution. At present it has been seen that under this urban renewal project, and of course under any water supply project under sections 22 or 23 of article VIII, any federal grant can be dealt with directly by the municipality. In this limited area the problem is certainly solved.

However, the problem still remains as originally stated. If we want to keep in the constitution any restrictions on internal improvements, then it would be very unwise to adopt this particular provision, as it stands now at any rate, because you are forcing the units of government rather than to try and do it the proper way by correcting the constitution, to take the avenue of going directly to Washington again and again, and it would be entirely defeating the principles which many of the delegates in this convention have voiced, namely that we should try to solve our problems within the state or, better yet, within the localities of the state.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Clair Shores, Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I would like to direct a question to Mr. Wanger, if I may.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Lansing for an answer to his question. You may state the question.

MR. SNYDER: Mr. Wanger, your concern is for a local municipality seeking assistance from the federal government in large and costly projects. Now, I do know that there are many areas in which are multimillion dollar projects that cannot be handled by the municipality alone. We do not have the framework, we do not have the structure to work these matters out on the state level. It is very necessary in many instances to appeal to the federal level, and we have done this on many occasions in our municipality. I certainly would be hesitant in taking away the opportunity that we do have to get the help and the assistance of the federal government, and apparently your position is that if we voted this down, this would put us in that position.

MR. WANGER: That is a very interesting question. However, I would say in response to the statement that it is not the intention of the committee to prohibit local units of government — or the state, for that matter — from participating in federal grants in aid in those areas in which the constitution or the statutes permit the state or the local units of government to operate, but if we are going to have restrictions on what the state or the local units of government may do — I believe that we should have some such restrictions, and the committee position was that we should — it would be very foolish to say, "but it's all right to do anything else to go get the money from Washington." That is what this provision actually does, and that is what we don't want to do. It is obvious that this would seriously weaken the intention of the committee and the efficacy of the proposal, and it seems to me it would be very foolish to vote in favor of this if you wanted to retain any restrictions at all.

MR. SNYDER: Thank you for answering my question, Mr. Wanger. I do not agree with your overall sentiments, because it has been my experience on several of the programs that when we did refer the matters to the state level, they did become bogged down. I think that there is a direct line of communications that is very necessary on some of these very vital areas so that we don't lose these matters, sometimes, in bureaucratic affairs of the state.

We recently had the condition in our community where we had a 701 program and several other programs that were lost in the shuffle, and if we had had the opportunity to present our problem directly on the federal level we wouldn't have run across this. I would, in view of the experience that we have had, support this particular amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I rise to support the amendment and also to advise the delegates that we have 23 more proposals on legislative powers, and at the rate we are going, we will be here until May 15 completing legislative powers.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Detroit, Mr. Murphy. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—82

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Blandford
Bledsoe
Bonisteel
Bradley
Brown, G. E.
Buback
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
DeVries
Doty, Donald
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Follo
Ford
Gadola
Goebel
Greene
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Jones
Kelsey
King
Krolikowski
Kuhn
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Ostrow
Pellow
Perlich
Perras
Pollock
Prettie
Rajkovich
Richards, L. W.
Romney
Sablich
Seyferth
Snyder
Spitler
Stafseth
Staiger
Stopczynski
Suzore
Tubbs
Upton
Van Dusen
Walker
White
Wilkowski
Youngblood

Nays—34

Boothby
Brake
Butler, Mrs.
Dell
Elliott, A. G.
Figy
Finch
Gover
Gust
Haskill
Hubbs
Hutchinson
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Powell
Pugsley
Richards, J. B.
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stevens
Thomson
Turner
Tweedie
Wanger
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Murphy, the yeas are 82; the nays are 34.

CHAIRMAN BENTLEY: The amendment is adopted. For what purpose does the gentleman from Lansing, Mr. Wanger, rise?

MR. WANGER: To ask the unanimous consent of the committee on a matter of procedure, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. WANGER: The request which I would like to make is this: I have noticed from these votes which have been very substantial in favor of these amendments that there is a great deal of sentiment against certain parts of the restriction, and I also note from personally talking to delegates here that there are a number of delegates who don't want to see any restrictions at all.

If we had followed the course of procedure this convention followed during the first 6 months of its proceedings, we would have been able to determine that question in advance. There are a tremendous number of amendments that are now waiting. It seems to me that while I believe restrictions should be retained —

MR. MARSHALL: Point of order, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. MARSHALL: May I ask what amendment or proposal the delegate is speaking on?

CHAIRMAN BENTLEY: Delegate Wanger was making a unanimous consent request which has not yet been stated.

MR. WANGER: —and there are other delegates who do not —

MR. MARSHALL: He is making a speech.

CHAIRMAN BENTLEY: The gentleman will state the request that he wishes to propound to the committee of the whole.

MR. MARSHALL: Well, he doesn't have unanimous consent. I don't want to belabor this. Is he speaking on the amendment that was just voted on?

CHAIRMAN BENTLEY: The gentleman, as I understand it, has risen to request to make a unanimous consent request of the committee of the whole. The request has not yet been made. The gentleman will state the unanimous consent request.

MR. WANGER: Do I have the floor?

CHAIRMAN BENTLEY: You have the floor. State the request, please.

MR. WANGER: I request that we now consider and vote upon the minority report amendment which would strike out all of the exceptions in the constitution, strike out the entire section. My reason for doing this is not because I favor it; I am opposed to it. But I think if we go on in the present procedure, we are going to consider amendment after amendment. We are going to be here a long time.

CHAIRMAN BENTLEY: All right. The gentleman has stated his request. The gentleman from Lansing, Mr. Wanger, has made a unanimous consent request that we immediately proceed to consider and dispose of the pending minority amendment. Is there objection?

MR. HOXIE: I object, Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Hoxie objects. Therefore, the Chair will at this time recognize the lady from Grand Rapids, Mrs. Judd, to offer the amendment which was earlier withdrawn.

SECRETARY CHASE: Mrs. Judd, Messrs. King, Farnsworth, Rajkovich, Follo and Mrs. Cushman offer the following amendment:

1. Amend page 1, line 7, after "Sec. a.", by striking out the balance of the proposal and inserting "The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except for such public internal improvements as may be authorized by law.".

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids.

MRS. JUDD: Well, Mr. Chairman, I believe I have already made my presentation on it, and so I will yield the floor to any of the other sponsors, if I may, or otherwise free the floor for debate.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I will try to keep this as brief as possible. We withdrew about 7 amendments at my request; so I think that casts some doubt upon Mr. Wanger's assertion that we are trying to amend this thing to death. Obviously if we were trying to do that, we would have left those 7 amendments in. We found ourselves in this parliamentary position with no way out of it.

Just very briefly, Mr. Stafseth has very ably represented the advocates of decent water supply along with Mr. William Hanna. Mr. Perras and others have capably represented the interests of mining in the U.P. Mr. Allen has helped clarify the problem of local government, and Mr. Murphy has removed one other serious doubt. Mr. Wanger said that he does not want to create doubts in this section, but I submit there is nothing but doubts here. It is a section comprised of doubts.

Now, these are just some of the amendments which come to the minds of 144 people on April 11, 1962. At a future date with another group of people, there would be others, of course, that would come to mind. I had quite a lot of authority here on judicial interpretation of this section which would clearly prove, I think, to the delegates here that this thing is loaded with problems and doubts and controversies over the years and conflicting judicial decisions; and believe me, it certainly wasn't planned this way, but I do think that the delegates have been treated to a demonstration of some of these doubts, and that anything I would say at this time would be quite redundant.

Of course, if this fails, we will submit our 7 amendments which will further perfect and clarify this committee proposal, but I would say right now that we have already reached the point where we are patching the patches, and I move for the adoption of a new pair of pants.

CHAIRMAN BENTLEY: The secretary will report the amendment offered by the gentleman from Muskegon, Mr. Hanna, to the pending amendment.

SECRETARY CHASE: Mr. William Hanna offers an amendment to the amendment:

1. Amend the amendment, at the end thereof, after "law" by inserting "enacted by the affirmative vote of 2/3 of the members elected to and serving in each house of the legislature"; so that the language will then read:

> The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except for such public internal improvements as may be authorized by law enacted by the affirmative vote of 2/3 of the members elected to and serving in each house of the legislature.

CHAIRMAN BENTLEY: The gentleman from Muskegon is recognized in support of his amendment.

MR. W. F. HANNA: Mr. Chairman, fellow delegates —

CHAIRMAN BENTLEY: The gentleman will suspend until the committee is in better order. The gentleman will proceed.

MR. W. F. HANNA: — this is somewhat more restrictive than the present constitution. However, it casts the internal improvement section in the same language, substantially, with the same requirements as are required for local or private acts. This was the question I asked Mr. Hoxie prior to this.

It seems to me that each time you enumerate any given series of items in the constitution, you are only dealing with what is current today, and what is current tomorrow will have to be amended. If our provision is to prevent log rolling or the abuse of the internal improvements section, I believe that the 2/3 majority required for local and special acts, required for bank charters, required for court systems, the so called extraordinary majority, is a safeguard. And I believe Mrs. Judd's amendment and others clearly puts this issue now before the committee as to whether or not there is so much bad about a state's participation in internal improvements that you should require something more than an ordinary majority.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Allegan, Mr. Farnsworth, on the Hanna amendment.

MR. FARNSWORTH: Mr. Chairman, members of the committee, as one of the sponsors of the particular amendment that is before you now that Mr. Hanna proposes to amend, I want to say that I am in complete agreement with Bill Hanna's proposed amendment requiring this 2/3 majority. It appeared from the beginning that the reason the committee wanted to retain the old language was out of fear that something was going to happen in one particular part of the state that the other part of the state would be required to pay for, and they didn't like that. Now, I only say to you: if it requires a 2/3 vote of both houses of the legislature, that should remove all fear from your mind. You should be able to adopt the Hanna amendment and go ahead and adopt, then, our amendment as amended.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I have changed microphones. I think the one I was at before was a bit unlucky. (laughter) Perhaps this one might be a little bit different, and it is from this point that I raise a couple of questions about this Hanna amendment which requires a 2/3 vote. As you remember, one of the basic reasons for retaining the restriction on internal improvements was, of course, because of the danger, which exists to some extent even in the best governmental bodies, of log rolling, back scratching, pork barrel type of legislation. Of course, as you know, log rolling means getting votes, and if you can't get someone's vote on the merits of your proposal, you get it by trading a vote you have or by including something in your proposal that the other fellow wants. It doesn't seem to me that this amendment to increase the requirement to 2/3 necessarily resolves this problem. It is something for you to consider.

And another thing for you to consider is this: that if this is adopted as part of the constitution, there are going to be a lot of laws in this state that are going to have to be repassed by a 2/3 vote of both houses, laws which cover every one of the exceptions which are set out in the committee proposal regarding this.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Hodges.

MR. HODGES: Mr. Chairman and fellow committee members, this is just another attempt to allow a veto power of a minority of the people to determine what the majority of the people want in this state. I think it should be voted down. If the majority wants something, they should be able to have it, and if they find it is not right, then they can vote it out.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I would like to address a question to Mr. Hanna.

CHAIRMAN BENTLEY: The gentleman will state the question.

MR. KING: It seems to me, Delegate Hanna, that in all of these areas which previously were excepted from this provision, the development of public roads, harbors, airports, any of these things, drainage, control of floor waters, all of these things would require now a 2/3 vote; is that not right?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Muskegon, Mr. Hanna, for a reply.

MR. W. F. HANNA: Mr. King, I clearly stated that to that extent it was more restrictive.

MR. KING: Thank you. In that event, I think I would have to be opposed to this because this would be an undue restriction upon the necessary internal improvements.

With regard to this argument about log rolling, believe me there are more provisions and restrictions in our constitution as we have drafted it through today than perhaps any other constitution in the country to prevent this sort of thing. I know many of them have been pointed out before, but perhaps they ought to be pointed out again. There are provisions against lending the credit of the state, against being interested in stocks and bonds and so on. I won't point them all out because they have been pointed out before. I would urge the defeat of this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Battle Creek, Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I rise to support the Hanna amendment. I think many of us have been sitting here in our chairs trying to figure out some middle ground in this conflict, the middle ground lying somewhere between striking the section entirely and adding amendment after amendment to it to come up with what we think today we want and without knowing what we may want tomorrow. I think Mr. Hanna has found a way out for us.

As he says, it is restrictive. It does require a 2/3 vote, and certainly it should have a tendency to mean that whatever is going to be adopted is going to, necessarily, be good for the state because it would have to be very strongly supported in that line to get that type of vote. I think he has pointed a way in which we can permit the state to move and only in directions in which it should move without the evils which striking this provision would have. I support the amendment, and if it is adopted will support the amendment to which it is added.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I support this amendment to the amendment because it appears to me to solve the problem as well as it can be in a practical manner. It is surprisingly easy to get a 2/3 vote when you have a strong popular desire for something that is good for the state. It has worked well in the case of banking, the courts, one or 2 other places. I see no reason why it shouldn't work here. And it avoids the difficulty of trying to do what we seem to be unable to do in enumerating all these exceptions.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske.

MR. MAHINSKE: Well, I wasn't going to speak until Mr. Everett and then especially Mr. Stevens spoke. Mr. Stevens mentions that if you have a proposal or a proposition that is good for the state, it is surprising how fast you get a 2/3 vote, and he mentions banking. Now, in front of the subcommittee that handled the proposition of banking and so forth, the bankers themselves were all in favor of keeping the 2/3 requirement, for the simple reason that it prevented any type of hasty action at all or any type of quick action at all because all propositions would have to be thoroughly debated, thoroughly open to public hearings and so forth before you could glean a 2/3 vote from each house.

I would submit that, in the particular area that we are talking about, we are not talking about any proposal or proposition that would be for the benefit of the entire state. We are talking about local improvements and I think that the tendency would be toward much more difficulty in acquiring a 2/3 vote, and what, in effect, we are doing here is we are putting a 1/3 veto power in the hands of any 1/3 group that could get together and stymie any kind of activity in local government. I would be opposed to placing a 2/3 requirement for any local improvements where the state is involved in these improvements.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. Chairman, I feel that Mr. Hanna has his 2/3 vote in the wrong place. By putting it at the very beginning, what it will do is require the legislature, if the constitution is adopted, by a 2/3 vote to pass legislation which restates the present, 1, 2, 3, 4 exceptions and also to do the same thing by a 2/3 vote on anything that we have added by way of amendment. In fact, it wouldn't even be corrected by legislative action. I think there is a defect in omitting the provisions concerning local government which we have just taken care of and which even the committee report as it came out partially took care of. If you are looking for a compromise or anything, I would say that one of the problems here is this: we find that wherever you say all internal improvements, and we still are always vague on what this means because the court keeps shifting, are forbidden except — and we have them; the problem we get into is, as time rolls along, in the next 50 years there are just bound to be some things that come up which most people would feel and the legislature would feel the state should be in, but because it is set up by way of constitution, the legislature can't do anything about it until a constitutional amendment is made.

Now, if you want a 2/3 provision, you might, for example, put it on the end of everything we have done, in the nature of saying that the state may be a party to any other internal improvements providing you have a 2/3 vote. That would eliminate the requirement, possibly, if there is general agreement on this, of going back to the people and adding another amendment to the constitution. But I don't think it serves the purpose now to put it at the beginning, because it does require the legislature by a 2/3 vote to reenact the exceptions and it doesn't take care of the local government provision.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Allen has stated the very point I was going to make, so I won't make it over again. But this would absolutely destroy all of the exceptions in the present law which everybody seems to agree are desirable and force them to be put back in by a 2/3 vote, which would make it practically impossible.

So the joint amendment, the Judd-Farnsworth amendment, is entirely acceptable, it seems to me from my own personal standpoint; but if you add this, you will make it impossible to get all those exceptions back in and nobody will want that, I am sure. I would vote against the Hanna amendment and then vote favorably on the Judd amendment, if I were making recommendations.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Dearborn, Mrs. Cushman.

MRS. CUSHMAN: As one of the sponsors, I too would have to oppose this amendment. It seems to me that the programs that the state already has underway — development and improvement and control of streams, lakes and water levels, for purposes of drainage and so on, improvement and control of public roads, airports, reforestation and all these things — it seems to me that to require a 2/3 vote to have projects of this kind would certainly defeat the entire intent of our amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Birmingham, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, Mr. Hanna's amendment, as I see it, is a built in pork barrel. The only way you would accumulate in the legislature the necessary 2/3 vote for any internal improvement would be by adding together projects desired by particular members of the legislature until you accumulated enough of them to build the required 2/3 majority. Take an airport, for example. A bill to build a necessary airport would never pass until you added enough unnecessary airports to get 2/3. I can't understand Mr. Hanna, a man of considerable character and judgment in the field of government (laughter) putting in a true pork barrel proposition of this kind. I am distinctly opposed to it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Harrisville, Judge Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, I have been trying to determine just where we stand parliamentarily. As I understand it, what we have before us is Mrs. Judd's amendment which would strike out the original proposal and do away with all these exceptions. I see 2 objections: if we are not going to attach any conditions, why put it in the constitution at all? Are we giving the legislature any power it does not already have by merely saying that the state shall not engage in any internal improvements except such as may be authorized by law? It seems to me that if we don't want to put the 2/3 provision in, then, by adopting the original amendment, we are giving the legislature no power which it does not already have.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Traverse City, Mr. Rajkovich.

MR. RAJKOVICH: Mr. Van Dusen already made my speech.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Muskegon, Mr. Hanna. The gentleman from Muskegon is recognized. Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, fellow delegates, in answer to Mr. Van Dusen, he is entirely correct. It would be a race between bad projects and good legislators. (laughter)

CHAIRMAN BENTLEY: All those in favor of the Hanna amendment will respond by saying aye. Those opposed will say no.

The amendment to the amendment is not adopted. The question now occurs on the amendment offered by Mrs. Judd and others. Does the chairman of the committee seek recognition? The gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, I don't wish to make any speech on this, but I do feel the amendment in its present form, now that we have defeated the 2/3 vote, is a completely asinine proposition: that is, we aren't giving the legislature any power that they wouldn't have if we didn't adopt it. Judge Dehnke just very well said what was on my mind. I think we would have everything in the constitution without this that we would have with it. It is just going through some motions. It is just sticking some words in there that mean nothing, because the legislature would have complete power without this grant if this weren't in there, and I certainly hope that we will defeat this amendment and that we can salvage as much as possible of the committee report.

MRS. JUDD: Mr. Chairman.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: I will have to admit to most of what Mr. Powell has said, with one exception: there is a little word in there he may not have noticed. In the first line we speak of prohibiting internal improvements, but in the last line we make the exception of public internal improvements, with the hope that the court might interpret this to mean that private enterprises are forbidden, but that public ones would be possible.

CHAIRMAN BENTLEY: The question is on the amendment offered by the lady from Grand Rapids, Mrs. Judd and others.

MR. HOXIE: Mr. Chairman, I would just like to call the attention of the committee to the fact that the particular word Mrs. Judd referred to was "public," and we already have provisions in the constitution which would prohibit private appropriations of moneys without a 2/3 vote, so I don't think that the matter of "public" means anything. And I would like to ask for the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been demanded. Is the demand supported? A sufficient number. The yeas and nays are ordered. Those in favor of the Judd amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—70

Allen
Andrus, Miss
Anspach
Austin
Balcer
Batchelor
Beaman
Binkowski
Bledsoe
Bonisteel
Bradley
Buback
Cudlip
Cushman, Mrs.
Danhof
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Finch
Follo
Ford
Habermehl
Hart, Miss
Hatch
Heideman
Higgs
Hodges
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Ostrow
Pollock
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Sleder
Spitler
Staiger
Stopczynski
Suzore
Tubbs
Tweedie
Upton
Van Dusen
Youngblood

Nays—42

Blandford
Boothby
Brake
Butler, Mrs.
Dehnke
Dell
Figy
Goebel
Gover
Gust
Haskill
Hood
Hoxie
Jones
Kelsey
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Nisbet
Nord
Norris
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Shaffer
Shanahan
Snyder
Stafseth
Stevens
Thomson
Turner
Walker
Wanger
White
Wilkowski
Wood

SECRETARY CHASE: On the adoption of the amendment offered by Mrs. Judd and others, the yeas are 70; the nays are 42.

CHAIRMAN BENTLEY: The amendment is adopted. The question before the committee of the whole now recurs to the minority report amendment offered by Messrs. Downs, Lesinski and Murphy, and the Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: It has been a long time, Mr. Chairman. I would still urge support of the minority report amendment. This is very close to the Judd language, (laughter) but I think the minority report amendment does make it clear. I think that our language could include the possibility of a university research actively cooperating with a private industry for something that would be of a public as well as of a private concern and it would require legislative action to do it. I therefore, without making a long speech, say we have gone this far; we have cut the tail off an inch at a time. Let's complete the job and adopt the minority report amendment.

CHAIRMAN BENTLEY: The yeas and nays were demanded, and they will be ordered. The secretary will read the minority report amendment again.

SECRETARY CHASE: Pursuant to their minority report, Messrs. Downs, Lesinski and Murphy offer the following amendment:

1. Amend page 1, line 7, by striking out all of the proposal.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Niles, Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, I would like to abstain from voting and have it indicated in the record that the reason for my abstention is that I can't decide which one is worse. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, there is a very slight difference between Mrs. Judd's amendment and nothing, and she pointed it out and it deserves reemphasis, and that is this: under the language which the committee has adopted by such a substantial majority, the state at least cannot engage in internal improvements of a private nature. Now, if you want to authorize the legislature or enable it to get into internal improvements of a private rather than a public nature, then vote yes. But if you want to leave it like it is under the Judd amendment so that the state can engage in any internal improvement as long as it is of a public nature — for the benefit of the public, in other words, not for the benefit of some private interest — why then it is very clear how you should vote. And I urge you to vote against the minority report amendment. Vote no because, little as it is, the Judd amendment is better than nothing at all.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bay City, Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, for the reasons indicated by Mr. Boothby, I also will abstain from voting.

CHAIRMAN BENTLEY: The question occurs on the minority report amendment offered by Messrs. Downs, Lesinski and Murphy, on which the yeas and nays have been ordered. All those in favor of the minority report amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—53

Austin
Balcer
Barthwell
Binkowski
Bradley
Buback
Cushman, Mrs.
Dade
Dehnke
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Greene
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Kelsey
Krolikowski
Kuhn
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Perras
Sablich
Snyder
Stafseth
Staiger
Stopczynski
Suzore
Walker
Wilkowski
Wood
Youngblood

Nays—61

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bledsoe
Haskill
Hatch
Higgs
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shaffer

Bonisteel
Cudlip
Danhof
Dell
DeVries
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover

Karn
King
Knirk, B.
Leppien
Martin
McLogan
Mosier
Nisbet
Plank
Pollock
Powell
Prettie
Pugsley

Shanahan
Sharpe
Sleder
Spitler
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Yeager

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 53; the nays are 61.

CHAIRMAN BENTLEY: The amendment is not adopted. There being no further amendments, the proposal, as amended, will pass, and the secretary will read.

MR. ALLEN: Mr. Chairman, this all happened so fast; I do have an amendment.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. ALLEN: The Judd amendment had the effect of taking out the exception on local units, and I would therefore like to add to the Judd amendment the exception we had previously adopted for local units of government. I have my carbon copy of the language which we formally adopted. Mr. Secretary, I can give it to you if you would like. It would simply add to the Judd amendment the exception for local units of government.

CHAIRMAN BENTLEY: Is this the amendment that you originally offered to page 1, line 19?

MR. ALLEN: Yes.

CHAIRMAN BENTLEY: The secretary will read the amendment offered by the gentleman from Kalamazoo.

SECRETARY CHASE: Mr. Allen now offers the following amendment:

1. Amend page 1, section a, at the end thereof, after "law.", by inserting "The provisions of this section shall not apply to local units of government unless otherwise provided by law or this constitution.".

CHAIRMAN BENTLEY: The gentleman is recognized in support of his amendment. Mr. Allen.

MR. ALLEN: As the Judd amendment stands, internal improvements are prohibited to the state unless the legislature does something about it. I think we still ought to carry out the spirit of the original committee report and then the perfecting amendment which was adopted, which is exactly this language, and not make this apply to the local units of government unless the legislature wishes to do so.

I can foresee where the legislature would not want the state to go into a so called local internal improvement, but be very willing to have the local units of government go into it, and unless we have this language, we wouldn't be able to have this situation come up.

CHAIRMAN BENTLEY: The gentleman from Fennville.

MR. HUTCHINSON: Mr. Chairman, I rise in opposition to the amendment that Mr. Allen now offers because I don't believe that his amendment is at all necessary. There hasn't ever been any such language in the present section 14 of article X. So far as I know, that language has never been interpreted to place any prohibition upon the local governments. It is a prohibition against the state itself.

I don't think that the language of the Judd amendment could be interpreted any more broadly than the interpretations of section 14 of article X. Why is it necessary to say that this thing doesn't apply to local governments when there isn't any reasonable basis for believing that anyone ever would interpret that it would? It never has been so interpreted in the past.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, fellow delegates, my comments were almost precisely the same as Senator Hutchinson's, and I would yield to Delegate Allen for an answer to those comments. I do not see any necessity for it.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. Chairman, there have been a series of supreme court cases. In fact, most of the supreme court cases have been cases involving either counties or cities rather than the state, and they always start on the supposition that since this is a prohibition that applies against the state, it also applies against the children of the state unless the children of the state fall within one of the exceptions in the statute or unless it comes up under some other exception, so that the prohibition does apply unless you can find a way around it. For example, in Oakland County Drain Commission vs. City of Royal Oak — and I am quoting from the excerpt in the blue book which we have — "proposed sewage disposal system held not work of internal improvement within the constitutional prohibition since the project was self liquidating." In other words, they got around it by saying it was self liquidating. But this was a case involving a county and a city, and the court was faced with a prohibition by this section unless they could find a way around it.

Here is another excerpt from the same case: "The provisions of this section apply to the county as a political subdivision and instrumentality of the state." So we have a whole series of cases which say, Mr. Hutchinson, it does apply unless you can come within one of the exceptions, and the case has always been whether you come within one of the exceptions.

CHAIRMAN BENTLEY: The gentleman from Pontiac retains the floor.

MR. KING: Mr. Chairman, Mr. Allen, couldn't the purposes of your amendment be accomplished by saying "The state, but not its political subdivisions, shall not be interested . . . ?" Would this effect your purpose?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Well, I think it would open it up then without as much limitation on the political subdivisions by the state or control by the state as some people would like, and I don't think we should say to the political subdivisions, "You can go out and do any improvements you want to." I know that they are going to be tied down anyway by enabling legislation, but I think that you have more protection and control by the legislature under my language than as you suggest.

MR. KING: Mr. Chairman, would it be possible for that amendment to be put on the wall? Is that a possibility even though it originally applied to a different amendment?

CHAIRMAN BENTLEY: The amendment has been acted on once by the committee of the whole and was approved. If the amendment can be located, it can be displayed again.

SECRETARY CHASE: It was the amendment to page 1, line 19, after "property."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Could I ask Delegate Allen a question?

CHAIRMAN BENTLEY: State your question.

MR. DOWNS: As I understand it, there is a possibility that we will have increasing moneys available for such things as urban renewal and area redevelopment, which often require certain matching funds from the city or local community. The utilization of these funds includes primarily private industry but it is done with the public purpose of improving economically distressed areas or slum areas and so on. Now, the question I have, Mr. Allen, is this: without your amendment, would there be a danger that the local community could not participate in that, and would your amendment make it easier to assure that a local community could participate in such a federal-local program?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Kalamazoo, Mr. Allen, for a reply.

MR. ALLEN: Mr. Downs, I would have to think about it some more, but offhand I would say on that point I wouldn't think that it would make any difference either one way or the other. If it did make any difference, I think my amendment would make it perhaps more possible to accept the funds than without it, but I really don't think it makes, on this point, very much difference. But what it does do is, it stops all these cases where a political subdivision tries to do something and then runs into this prohibition.

We had a case back in 1909 where the city went out and tried to improve its docks and ran into this section. Traverse City had a big problem on it when they had the park out there between the lake and their new highway. Now, the court found a way around in these cases, but it was clear that the prohibition applied to the city or to the county unless it fell within one of the exceptions. Now we no longer have any exceptions, you see, unless the legislature acts, and therefore I think it is wise to have this limitation, this exclusion clause saying that it doesn't apply to local units unless the legislature does act. The legislature keeps some control this way.

MR. DOWNS: Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, the committee would definitely oppose this amendment. I would like to say, first of all, that I have been following Mr. Allen's argument very carefully and I am fairly familiar with the cases of which he speaks because I have studied them. There happen to be 33 of them that even mention this subject in the whole state's history, and I cannot see any substance whatsoever to the argument that he has made.

It is true that in the past the courts have construed this prohibition to apply to local units of government. However, we have abolished the restriction with the Judd amendment and we have allowed the local units of government to enter into any kind of public internal improvement which the legislature by law authorizes them to enter into. Therefore, I don't think there is any substance whatsoever to this argument. But there are 2 very substantial substantive changes which this amendment would work upon the proposal, as changed by the Judd amendment, which have not yet been mentioned. One of them is this: it gives all local units of government what in effect would be self executing constitutional power to enter into these areas unless the legislature would pass a special law prohibiting them from entering into any particular area. That is entirely contrary to our present concept of local government, which is that local units of government operate within powers which are granted to them expressly. And the second thing which this would permit which, in my opinion, is even more serious, is that it would permit the legislature to authorize local units of government or any combination thereof to promote or provide private internal improvements.

Now, we just defeated that. But this says that local units of government could get into any internal improvement whatsoever, public or private, so the effect of this is to vitiate entirely the original purpose of the Judd amendment which was to restrict internal improvements to those which were public in nature. Adopting this, we allow the legislature to authorize or perhaps allow the local units of government to do automatically, unless prohibited, private works of internal improvement. You should understand this before you vote, and I urge you to vote against the Allen amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Clair Shores, Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I have a question of Mr. Allen, again, similar to the one I posed to Mr. Wanger some time ago. He made reference to a case in Oakland county between a city and the drain commission of Oakland county. My primary concern is this: in all of the areas that I am familiar with, this question of population explosion, in which the counties must provide for additional and adequate drain facilities, is one of the greatest and gravest problems that we have. Under your proposed amendment, Mr. Allen, would this assist rather than deter the thing? Would it give the local units of government the right to enter into these massive programs without the additional authority required?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Kalamazoo, Mr. Allen, for a reply.

MR. ALLEN: Yes, Mr. Snyder, it would. You see, what happened in those cases is that the drain commission and the county started doing some work and they were challenged by a taxpayer who said, "You can't do it because the rule of law is that a state can't become involved in an internal improvement, and since the state can't do it, the political subdivisions can't." Now, the court found a way around it for them. What they said was this, "Since it is on a revenue bond basis, we don't consider it an internal improvement." So the answer would be, this does allow the cities to move ahead, or the counties or the townships, without running afoul of this provision, but it reserves to the legislature the control to say to any of these units, "We think you had better not do thus and so." In other words, they may act, but the legislature may take this right away from them, so you do have control.

The Judd amendment does not do what Mr. Wanger says it does. He says there are no restrictions now. I think everyone ought to know that the restriction is here: the state shall not be a party, under the Judd amendment, unless the legislature does something and then allows the legislature to go ahead. Now, supposing the legislature didn't want the state to go ahead, but very conceivably wanted a city to go ahead. My amendment takes care of that kind of situation. If the legislature doesn't want the state to go ahead and doesn't want the city to go ahead, it can say nothing on the state level and the state doesn't have the power. And it can say to the cities: "You can't do this sort of thing." So there is nothing lost at all. But I do think if we don't add the amendment on, we leave the local units of government out there dangling.

MR. SNYDER: I think in view of your explanation, Mr. Allen, that this does add substance to it, and it will certainly anticipate and recognize a problem that we are running into every day. In view of the explanation, I would urge support of the Allen amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: I wish to point out quite clearly that this argument is completely incorrect with respect to the restrictions upon local units of government which do not apply to the state. Under the Judd amendment, the legislature has complete power to pass a law which authorizes the cities to do any public work of internal improvement, any one at all. It doesn't have to say the state is going to have to do it too because the cities and the townships and the counties and the villages legally are part of the state. Therefore, all they have to do is pass a law which says the local units of government or any specific classification of them can engage in this type of public internal improvement. Now, that is the law. It is also the law under the Judd amendment, as I pointed out, that only public internal improvements can be engaged in, and the question has not been answered by Delegate Allen or any of the other delegates with respect to the fact that the Allen amendment would permit the legislature indirectly through any and all local units of government to authorize and provide for private works of internal improvement.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon.

MR. FAXON: I would just like to call for the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number. The yeas and nays are ordered. The question is on the amendment offered by the gentleman from Kalamazoo, Mr. Allen, on which the yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—47

Allen
Andrus, Miss
Anspach
Austin
Balcer
Blandford
Bledsoe
Bonisteel
Bradley
Buback

Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Follo
Ford
Goebel
Gover
Greene
Hart, Miss

Mahinske
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Ostrow
Sleder
Snyder

Cudlip
Cushman, Mrs.
Doty, Donald
Douglas
Downs
Elliott, A. G.
Hood
Jones
Kelsey
Krolikowski
Liberato
Madar
Staiger
Suzore
Upton
Walker
Youngblood

Nays—56

Barthwell
Batchelor
Beaman
Boothby
Butler, Mrs.
Danhof
Dehnke
Dell
Durst
Everett
Figy
Finch
Haskill
Hatch
Heideman
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Knirk, B.
Kuhn
Leibrand
Leppien
Martin
Mosier
Nisbet
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Stafseth
Stevens
Stopczynski
Tubbs
Turner
Tweedie
Van Dusen
Wanger
White
Wilkowski
Wood

SECRETARY CHASE: On the Allen amendment, the yeas are 47; the nays are 56.

CHAIRMAN BENTLEY: And the amendment is not adopted. There being no further amendments, the proposal, as amended, will pass.

Committee Proposal 101, as amended, is passed. The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I move the committee do now rise.

CHAIRMAN BENTLEY: All those in favor of the motion that the committee do now rise will respond by saying aye. Those opposed, no.

The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on the general orders calender of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 101,** A proposal to provide that the state shall not engage in internal improvements except in certain specified areas and except that the legislature may empower local subdivisions to act in the area of internal improvements; has adopted an amendment thereto and recommends that the proposal as thus amended do pass.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 7, after "Sec. a.", by striking out the balance of the proposal and inserting "The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except for such public internal improvements as may be authorized by law.".]

PRESIDENT NISBET: **Committee Proposal 101** as amended by the committee of the whole is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 101 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The state shall not be a party to, nor be interested in, any work of internal improvement, nor engage in carrying on any such work, except for such public internal improvements as may be authorized by law.

SECRETARY CHASE: This completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, I would like to remind the members of the committee on administration that there will be a brief meeting immediately following the session.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, I had handed to me a few mintues ago a series of amendments, one of which affects the next proposal under consideration, Committee Proposal 102. So that the committee can study these proposed amendments and intelligently discuss them before the committee of the whole, I would like to move that Committee Proposal 102, the next one on the calendar, be moved to a position following 116.

PRESIDENT NISBET: Without objection —

MR. KUHN: I object.

PRESIDENT NISBET: The question is on the motion, then, of Mr. Hoxie that Committee Proposal 102 be placed after Committee Proposal 116 on the general orders calendar.

MR. KING: Mr. President.

PRESIDENT NISBET: Mr. King.

MR. KING: I should like to speak in opposition to the motion. I think that a lot of us have thought that we should in some way attempt to strengthen the legislative branch of the Michigan state government at this convention. This is a sincere effort, coordinated, explained, printed in advance and handed out to the delegates to do just that.

Now, of course, we didn't have to make known our intentions ahead of time, I don't suppose, but it seemed as though this was the proper thing to do, and so those of us who have been working on this did just that. I don't think there is anything here which is going to come as a great surprise to either Mr. Hoxie or anyone else. I think most of these items were discussed in his committee. I am sure Dr. Pollock in his presentation presented many of these items, and I frankly see no great need to postpone this matter and I would prefer to take it up in the normal course.

PRESIDENT NISBET: The question is on the motion of Mr. Hoxie. Mr. Hoxie.

MR. HOXIE: I would just like to answer: in accordance with the suggestion of the president, the legislative powers committee has held 2 hearings in which delegates were invited to appear to present any proposed amendments so that we could give them due consideration.

Certainly I think the members do realize that these proposed amendments are just being distributed at this time. They were handed to me during the discussion on the proposal which was just adopted. I do feel that, in fairness to the committee and in fairness to the delegates, you would desire that the committee be in a position to intelligently discuss these proposed amendments. Exactly what they contain, I don't know myself because I haven't had a chance to study them.

MR. A. G. ELLIOTT: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been asked for. Is that demand seconded? A sufficient number up. The question is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails. The question now is on the motion of Mr. Hoxie that Committee Proposal 102 be placed following Committee Proposal 116.

MR. WANGER: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Not a sufficient number up. Those in favor of the motion will say aye. Those opposed say no.

The motion prevails. Announcements.

SECRETARY CHASE: We have the following requests for leave, Mr. President: Mr. John Hannah would like to be excused from the sessions of this evening and tomorrow morning due to a meeting of the federal commission on civil rights in Washington. He expects to return by midafternoon tomorrow; Mr. Durst requests to be excused from the first part of the morning session tomorrow; Mr. Garry Brown asks to be excused from the evening session today as he has a speaking engagement in Kalamazoo; Mrs. Koeze asks to be excused from tomorrow's session; and Mr. Hodges asks to be excused from Thursday's session, April 12, to speak before the national conference of the American society for public administration concerning the constitutional convention.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: We have the following announcement: there will be a special important meeting of the committee on local government Friday morning at 8:00 a.m. in room A. All delegates who wish to discuss the local government article as returned to the convention by style and drafting should appear at this time. Arthur Elliott, chairman.

PRESIDENT NISBET: The Chair recognizes at this time Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen of the convention, in accordance with the request of the president and of the officers of this convention, we are holding this meeting on Friday morning. It was originally scheduled for tomorrow after the session, but because many of our members had made previous commitments, we have postponed this. If any of you here have any suggestions or comments to make on the work of style and drafting, we would like to hear it Friday morning at 8:00 o'clock, room A. Thank you.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: The committee on emerging problems will meet Thursday, tomorrow, committee room H, on the third floor at 11:30 in the morning or immediately after the morning session. Frank Millard, chairman.

PRESIDENT NISBET: Mr. Dade.

MR. DADE: Mr. President, without comment, I would like to move that the action taken on **Committee Proposal 100** from legislative powers be reconsidered.

For last previous action on Committee Proposal 100, see above, page 2318.

PRESIDENT NISBET: The question is on the motion of Mr. Dade that the action on Committee Proposal 100 be reconsidered. Those in favor will say aye. Those opposed, no.

The motion does not prevail. The Chair recognizes Mr. Youngblood.

MR. YOUNGBLOOD: Mr. President and fellow delegates, I move that we recess until 8:00 o'clock tonight.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor will say aye. Those opposed, no.

We are recessed until 8:00 o'clock.

[Whereupon, at 6:05 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of items on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor say aye. Opposed, no.

The motion prevails.

[Whereupon, Mr. Bentley assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN BENTLEY: The committee will be in order. The convention is in committee of the whole for the consideration of items on the general orders calendar. The secretary will read.

MR. POLLOCK: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Ann Arbor.

MR. POLLOCK: Considering the motion made by the chairman of the committee, Mr. Hoxie, about postponing the next item on the scheduled calendar, also considering the fact that I have to be necessarily absent the next 2 days to perform a professional engagement of many months standing, I think I should just take a moment to explain the little package of material which has been distributed to each of the delegates.

CHAIRMAN BENTLEY: Without objection, the gentleman from Ann Arbor, Dr. Pollock, may proceed.

MR. POLLOCK: Thank you, Mr. Chairman. Only one of these proposals is, of course, 102. There is a package of materials dealing with the whole process of the legislature and its organization. Some of us were concerned because although we had 2 committees, one called legislative organization and the other called legislative powers, neither one of these committees had really come forth with proposals which were pointed toward the improvement of the legislative structure and procedure and organization. Consequently, over the weeks, as time has permitted, a number of us have been trying to fill these gaps as best we could within the proposals offered by the committee on legislative powers, and for your convenience we merely pulled these together. They have to be introduced in connection with the existing proposals, but together they form a package which in our opinion is sincerely intended to rehabilitate the legislature in the public confidence.

As we have now developed a strong governor, we feel that we should also have a strong legislature. And these amendments are all pointed in the direction of making a more efficient as well as a more representative and responsible legislature; one with the necessary powers to perform legislative functions which are certainly going to be necessary in the 50 years ahead of us. Without introducing any of these, I merely wanted to explain why we had pulled these together in this package so that you can understand they are not isolated amendments. They have been brought together as a package and they are presented to you for your thoughtful consideration. Thank you.

CHAIRMAN BENTLEY: The secretary will read the next item on the general orders calendar.

SECRETARY CHASE: Item 5, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 103,** A proposal to provide that sessions of the legislature be open and that a concurrent resolution is necessary for adjournment for more than 3 days. Amends article V, section 18.

Following is Committee Proposal 103 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The doors of each house shall be open unless the public [welfare] SECURITY requires [secrecy] OTHERWISE. Neither house shall, without the consent of the other, adjourn for more than 3 days, nor to any [other] place OTHER THAN where the legislature may then be in session.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 103:

Two changes are suggested in the existing language. The secrecy provision has never been used and for the most part in a democratic society, it should not be. However, if there is a serious threat to the public security, the legislature might be better able to perform in secret. The committee feels that the words "public security" are more descriptive of a possible situation requiring secrecy than "public welfare."

The transposing of words in the second sentence clarifies its meaning. Neither house may adjourn and then recon-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

vene in any other place than the seat of government. The present provision does not make this clear.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, the subcommittee responsible for explaining this proposal is headed by Mr. Kuhn. At this time I will yield to him.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, in this particular proposal we have only made 2 changes. If you would like to read the committee report, it is located on page 479 of Journal 71.

The only changes we made in this one were: one, to strike the word "welfare" and put in "security." We felt that if there ever was a need and public security required it, they could have a secret session. And the other change is to make it very clear what they mean by this sentence, "Neither house shall, without the consent of the other, adjourn for more than 3 days, nor to any place other than where the legislature may then be in session. This is the same as the language in the federal constitution as far as concerns the 3 day adjournment and so forth.

CHAIRMAN BENTLEY: Are there any amendments to Committee Proposal 103? There being none, it will pass.

Committee Proposal 103 is passed, and the secretary will read.

SECRETARY CHASE: Item 6 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 104,** A proposal to provide for 3 readings of a bill before passage and for passage of bills by a majority of the members elected. Retains article V, section 23.

Following is Committee Proposal 104 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. Every bill shall be read 3 times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills, the vote shall be by yeas and nays and entered on the journal.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 104:

The committee recommends the retention of this section. The first sentence has a well recognized meaning in parliamentary law. Every bill shall be considered 3 times by each house prior to passage.

The provision requiring a concurrence of the majority of the members elected to each house to pass a bill is the rule of the constitutional majority. Without the limitation on the legislative process, it would be possible to enact legislation by a majority of a quorum which is one more than ½ the members elected.

The provision that the final vote on all bills be by yeas and nays and entered on the journal puts the legislature on record before the public.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I believe the committee has an amendment on the desk.

CHAIRMAN BENTLEY: The secretary will report the committee amendment.

SECRETARY CHASE: Mr. Hoxie, on behalf of the committee on legislative powers, offers the following amendment:

1. Amend page 1, line 9, after "elected" by striking out "to" and inserting "and serving in"; so the language will there read, "No bill shall become a law without the concurrence of a majority of all the members elected and serving in each house."

MR. HOXIE: Mr. Chairman and fellow delegates, I would like to state that this is an amendment which is recommended by the committee as a result of our hearing in the committee. This language, I believe, was suggested by Delegate Hutchinson who felt that it would be an improvement. At this time I yield to Mr. Kuhn.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, on page 479 of the journal the members can find our report on this particular proposal also. This particular proposal says every bill shall be read 3 times in each house. This is the general procedure in most legislative bodies. It is the way it is done today in the Michigan legislature. In other words, at the time of introduction, the bill is read twice by title, and then through your committees and through the committee of the whole, and then when they are ready for final passage, it gets its third reading.

The change that is suggested was to keep it in accord with our earlier recommendations that a quorum would be of the members elect. For example, in our senate today, where we usually have 34 senators — well, today Kent Lundgren was sworn in, so they would have 33, so the quorum would be consisting of 33. Before the swearing in today, they only had really 32 senators because of 2 vacancies. Well, we could have a major disaster and the amount would be much less, and they thought, to be consistent, we should use the quorum of those serving, and we do not mean those that are ill or those that are home or those that are on vacation, but only to take care of a disaster. The rest of this is exactly the way it is in our constitution today.

CHAIRMAN BENTLEY: The question occurs on the committee amendment. Those in favor will respond by saying aye. Those opposed?

The amendment is adopted. There being no further amendments, the proposal, as amended, will pass.

Committee Proposal 104, as amended, is passed, and the secretary will read.

SECRETARY CHASE: Item 7 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 105,** A proposal to provide that bills must be printed 5 days prior to passage and for limitation of extraordinary sessions. Amends article V, section 22.

Following is Committee Proposal 105 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. No bill shall be passed or become a law at any regular session of the legislature until it has been printed OR REPRODUCED and in the possession of each house for at least 5 days. WHEN THE LEGISLATURE IS CONVENED ON EXTRAORDINARY OCCASIONS IN SPECIAL SESSION no bill shall be passed [at a special session of the legislature] on any other subjects than those expressly stated in the governor's proclamation or submitted by special message. No bill shall be altered or amended on its passage through either house so as to change its original purpose[.] AS DETERMINED BY ITS TOTAL CONTENT AND NOT ALONE BY ITS TITLE.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 105:

The committee is of the opinion that this section should be retained and strengthened somewhat. The first sentence of the section is a preventive against hasty and careless legislation. It allows publicity to be given to pending legislative action so the electorate becomes informed. This provision does not prevent unprinted amendments, but the last sentence of the section prevents any change in original purpose.

The new language regarding legislation during special session is only to clarify existing meaning. It conforms

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

with the provisions of article VI, which allow the governor to convene the legislature on extraordinary occasions.

The last sentence was first found in the 1908 constitution. The provision that no amendment is allowed which would change a bill's original purpose is to preclude the possibility that the publicity insured by the 5 day provision will not be nullified or evaded.

The new language strengthens the provision. By reference to the title alone, a title too broad would circumvent the provision confining bills to their original purpose.

The committee is of the opinion that the "original purpose" provision along with the requirement that bills must be printed for 5 days prior to passage is a limitation which should be retained. Action taken in haste is likely to prove itself not in the best interests of the people.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, this is another proposal that was under the responsibility of Mr. Kuhn and his subcommittee, and I yield to him.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, part of this proposal was put in from the 1908 constitution. One of the main reasons for this is that the public would be apprised of what the legislature was doing so you would not have snap legislation and things of that nature. This one says that no bill should be passed or become a law at any regular session of the legislature until it has been printed, and we put in the words "or reproduced." One change we added in the first section is "or reproduced." And the reason the word "reproduced" was included is this: I understand — and maybe Mr. Lesinski would like to talk about this later if you have any questions regarding this — that there is a technicality in the printing business on what is really printing and what is reproduced, and I understand that this will save the state of Michigan possibly many, many thousands of dollars in being able to reproduce rather than using the technical word "printing."

Mr. Prettie of Hillsdale brought to our attention during our discussion on the executive department the words "on extraordinary occasions," so we changed this sentence here on line 10, which says, "When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any other subjects than those expressly stated in the governor's proclamation or submitted by special message." This is the rule we are following today in Michigan. This is the way it is done. It is a good way. The people are apprised of why the legislature is being called, and therefore they are to act only on what the governor wants. But this language as it was changed on line 10 was merely to keep it consistent with the way we drew up the executive article, and this was a suggestion by Ken Prettie.

Toward the end, we use this language starting on line 14, "No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title." Once again, if you will read the Address to the People of the 1908 convention, they wanted this air tight so the people were aware of what was to be before the legislature when a bill was up so they have some idea. This is only going a step further to make it tight so the people will have some idea of what is in a particular bill and so they can't change the purpose.

CHAIRMAN BENTLEY: Are there any amendments to the body of Committee Proposal 105? There being none, it will pass.

Committee Proposal 105 is passed, and the secretary will read.

SECRETARY CHASE: Item 8 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 106,** A proposal to allow the legislature to pass laws regarding indeterminate sentences. Retains article V, section 28.

Following is Committee Proposal 106 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature may provide by law for indeterminate sentences, so called, as a punishment for crime, on conviction thereof, and for the detention and release of persons imprisoned or detained on said sentences.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Commitee Proposal 106:

The committee is of the opinion that this provision should be retained. Prior to the adoption of this section, it was held laws relating to indeterminate sentences invaded the judicial function.

The section allows for some statewide consistency in sentencing, while at the same time leaving a measure of flexibility in the courts so the circumstances of individual cases might be considered.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, this section falls under the jurisdiction of subcommittee 2, headed by Mr. Powell, and I yield to him.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and fellow delegates, the committee comment relative to this proposal is very brief. It is found on page 480.

[The supporting reasons were read by Mr. Powell. For text, see above.]

The comment in the citizens research report here of the citizens research council of Michigan is found in the article relating to the legislative section, article V at the top of page 46. I will just read a very brief paragraph there:

> The Constitution of 1835 did not contain a provision of this type. This provision originated in 1903 as an amendment to the Constitution of 1850. . . . Before this amendment was adopted, the Michigan supreme court had held that a law of the type later authorized in the amendment was a legislative invasion of the judicial function. After the adoption of the amendment, an indeterminate sentence law pursuant to it was upheld.

CHAIRMAN BENTLEY: Are there any amendments to the body of Committee Proposal 106? There being none, it will pass.

Committee Proposal 106 is passed, and the secretary will read.

SECRETARY CHASE: Item 9 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 107,** A proposal to provide that legislators shall be elected on the first Tuesday after the first Monday in November. Amends article V, section 12.

MR. HOXIE: Mr. Chairman, I believe there is an amendment which deletes this particular section. I believe Mr. Pollock and his committee took care of the question of the election of the senators and representatives. At the time your legislative powers committee reported this matter to the floor, it had not been determined, and I would like to have the deletion amendment read and ask Mr. Pollock to respond if the senators and representatives as provided in his proposal are taken care of so that we can delete this particular section.

CHAIRMAN BENTLEY: The secretary will complete the reading of Committee Proposal 107, when the committee amendment may then be offered.

SECRETARY CHASE: Section a:

Following is Committee Proposal 107 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The election of senators and representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, [1910] —— and on the Tuesday succeeding the first Monday of November of every second year thereafter.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 107:

The committee recommends the retention of this section. However, the date is left blank. This matter will be governed by the action of the committee on declaration of rights, suffrage and elections.

There would appear to be no need to change the date of election from the traditional first Tuesday after the first Monday in November.

The question as to the term of the legislators is not touched by the committee and is left to the decision of the committee on legislative organization.

SECRETARY CHASE (continuing): Mr. Hoxie, on behalf of the committee on legislative powers, offers the following amendment:

1. Amend page 1, by striking out all after the enacting clause.

CHAIRMAN BENTLEY: Does the gentleman from Ann Arbor, Dr. Pollock, seek recognition?

MR. POLLOCK: Mr. Chairman, I don't understand the chairman of the committee. I have no amendment in my package of amendments dealing with this particular subject. It may be the committee on legislative organization.

MR. HOXIE: Mr. Chairman, maybe I am mistaken as to the committee. I yield to Mr. Kuhn.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, after we reviewed the work of the committee on legislative organization which set up the terms for the representatives at 2 years and the senate at 4 years, and after the committee on rights, suffrage and elections decided the elections would be in November for national, state, county and township elections, we decided that this was not necessary, it was completely surplusage, and we are therefore recommending that it be deleted.

CHAIRMAN BENTLEY: The gentleman from St. Louis.

MR. HOXIE: I would like to apologize to Dr. Pollock. I got my doctors mixed up. It was Dr. Hannah's committee. And I might state that the chairman of the executive branch committee led me astray. (laughter)

CHAIRMAN BENTLEY: The question occurs on the committee amendment. Those in favor will respond by saying aye. Those opposed?

The committee amendment is adopted.

Committee Proposal 107, as amended, is passed, and the secretary will read.

SECRETARY CHASE: Item 10 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 108, A proposal to provide a limitation against general revision of the laws and a method of compilation. Amends article V, section 40.**

Following is Committee Proposal 108 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. No general revision of the laws shall hereafter be made. Whenever necessary, the legislature shall by law provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles. [Such compilation shall be prepared under the direction of commissioners, appointed by the governor, who may recommend to the legislature the repeal of obsolete laws and shall examine the compilation and certify to its correctness. When so certified, the compilation shall be printed in such manner as shall be prescribed by law.]

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 108:

The committee recommends the retention of the first 2 sentences of this section. It is felt that allowing a general revision of the laws would create many dangers.

Such a revision includes within a single legislative act all of the statute law. While such an act might remove the obsolete from the statutes, it is quite likely to bring about unseen change through oversight in rephrasing and rearrangement.

The section provides methods of compilation. Compilations make no change in existing law, but only make it easier to find. An erroneous compilation in no way affects the law.

At the present time the legislature has broad general revisory powers through the method of codification of a single subject of law. This power allows flexibility and modernization, while eliminating the dangers inherent in a sweeping revision.

The only change is a deletion of the last 2 sentences. This deletion has the effect of removing unnecessary detail. It also vests the power to compile laws under the direction of the legislature. At the present time the governor has the power to appoint commissioners. The committee is of the opinion that this is a completely legislative matter.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, this particular section fell under the jurisdiction of Mr. Powell and his subcommittee, and I ask him to make an explanation.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and fellow delegates, the committee report relative to this proposal is found on page 480:

[The supporting reasons were read by Mr. Powell. For text, see above.]

Now, we appreciate that this particular proposal may stir up some discussion, because there were those who appeared before the committee from the legislature and from our own delegate body to comment upon it in various ways. However, it was the opinion not only of our subcommittee but of the entire committee on legislative powers that we favor the language as shown in this committee report. We feel that a general revision of the statutes, so called, which hasn't been carried out in Michigan for, I believe, well over 100 years, would be a very dangerous and confusing procedure. Delegate Don Habermehl of our subcommittee had some comments about the experience of our neighboring state of Ohio in that connection. We did feel, however, that the provisions relative to compilation and codification were ample and have been worked out to good advantage through the years in keeping our laws reasonably current.

We felt that if the latter half of this proposal as you find it printed ever was appropriate, it is no longer the case. It mixes up the legislative and executive branches of government, and we have serving the legislature a legislative service bureau which would be a proper place to give service of this kind. There is no necessity for having a special commission appointed by the governor get into the act of this statutory revision or anything along that line. I yield the floor now with the comment that Don Habermehl has information along this line. I am sure various other people, including Vice President Hutchinson, will undoubtedly wish to make contributions in support of the committee report.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Binkowski; for a statement or a question?

MR. BINKOWSKI: A question.

CHAIRMAN BENTLEY: A question of Mr. Powell?

MR. BINKOWSKI: Yes.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

CHAIRMAN BENTLEY: Will the gentleman from Ionia yield to the gentleman from Detroit for a question?

MR. POWELL: I had already yielded. Here I am. (laughter)

MR. BINKOWSKI: Mr. Powell, I wonder if you would tell the committee what is the status of your Resolution 74 and what success have you had with the legislature in having them refrain from submitting house joint resolution G which would place this question on the ballot in November?

MR. POWELL: As far as I am aware, Mr. Chairman and Mr. Binkowski, there has not been any action along that line over in the legislature. Now, in case some of you are not aware of what this little discussion pertains to, I will say that a year ago the legislature, for some reason that seemed good to them — I couldn't quite follow it — took the necessary action by joint resolution to place on the ballot a general revision of this particular section, and of course we assumed at that time that both their amendment and our new constitution would be finding their way on the ballot this coming November, which certainly to me seemed as though it would be a very confusing situation to have an effort being made to patch up the old constitution at the same time when a new document was being proposed to replace it in its entirety.

Early in the session we discussed this matter up in our committee on legislative powers, and I was asked to go over and consult with certain legislators and see if they could rescind their action or defer it or in some way keep this matter from going on the ballot. I talked to various key people over there, the chairman of the committee that had this under consideration a year ago and to Norman Philleo, clerk of the house, but as far as I am able to learn, nothing ever came of it; so I assume that this particular constitutional amendment, which has already, of course, been filed with the secretary of state and everything, will find its way onto the ballot this coming November with or without the accompaniment of a report from us as to an entire new document. Does that answer your question, Delegate Binkowski?

MR. BINKOWSKI: Yes, Mr. Powell. I would hope that, in your presentation, someone would explain the reason for the legislature placing this question upon the ballot, and I would just like to read the proposition so the committee is aware of it, "The legislature shall provide by law for the general revision of the statutes at such time and in such manner as it shall determine." It appeared to me that if the legislature has taken such recent action, we should be fully apprised as to why they are doing it or what the rationale is behind it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Alpena, Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, I believe the crux of this question is an understanding of the difference between the terms "revision" and "compilation." A revision attempts to actually enact new law. When the revision goes into effect, anything omitted from the revision is no longer law. A compilation, on the other hand, simply attempts to collect all the existing laws in one place or one volume or one set of volumes.

The compilation we certainly would like to have the legislature have the power to do. The revision is dangerous for a couple of reasons: first of all, under the guise of a revision, new legislation not then in effect might well be enacted, and when the members of the legislature attempt to go all the way through the revised statutes, it is entirely possible for them to overlook legislation that they did not intend to enact, but enacted as a part of a complete revision.

The one incident that, at least, I have heard of — I can't speak from personal knowledge — actually occurred in the state of Ohio when they undertook to revise their criminal laws. As a part of doing so, they abrogated the common law. That will mean probably more to the lawyers here. Because some crimes are common law crimes, we don't need a statute to leave them in effect. But Ohio attempted to abrogate the common law as a part of their codification or revision of the criminal laws. Unfortunately, they forgot to include the crime of burglary in the revision, and while they did correct it as soon as it came to their attention, this was some time afterward, and during that time burglary was not a crime in the state of Ohio. (laughter) This only points up the danger in attempting to make sure that everything is taken care of in a revision of the statutes. On the committee we felt that the compilation certainly has served an excellent purpose. It has been used twice and was adequate without providing for a general revision of the laws.

I might say, in reply to Mr. Binkowski, that the legislature seemed to feel that by having this power of general revision, it would be unnecessary for them to pass the type of act that is passed in practically every session, a sweeping repealer bill, where they have to go all the way through the statutes, pick out those that are obsolete and specifically repeal each bill. But the advantage gained by that, we felt on the committee, was outweighed by the dangers involved.

CHAIRMAN BENTLEY: The secretary will report the pending amendment to Committee Proposal 108.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section and inserting "The legislature shall provide by law for the general revision of the statutes at such time and in such manner as it shall determine.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon, in support of his amendment.

MR. FAXON: Mr. Chairman and fellow delegates, I have had an opportunity to meet with the legislative powers committee and hear the persuasive arguments of Delegate Habermehl and Delegate Powell, and also its illustrious chairman, Mr. Hoxie, and on their advice I would at this time withdraw that amendment.

CHAIRMAN BENTLEY: The amendment is withdrawn. Are there any other amendments to the body of Committee Proposal 108? There being none, it will pass.

Committee Proposal 108 is passed, and the secretary will read.

MR. KING: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. King.

MR. KING: I knew there was an amendment in. I did not expect it to be withdrawn. Is it too late for me to address a question to Mr. Powell?

CHAIRMAN BENTLEY: The proposal has been passed, Mr. King.

MR. KING: Thank you.

CHAIRMAN BENTLEY: The secretary will read.

SECRETARY CHASE: Item 11 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 109,** A proposal to provide that the legislature may enact laws whereby public employment disputes can be settled. Amends article XVI, section 7.

Following is Committee Proposal 109 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. [The legislature may establish courts of conciliation with such powers and duties as shall be prescribed by law.] THE LEGISLATURE SHALL HAVE POWER TO ENACT LAWS WHEREBY DISPUTES IN PUBLIC EMPLOYMENT, EXCEPTING STATE CIVIL SERVICE, MAY BE RESOLVED.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 109:

The purpose of this section is to make it clear that the legislature has power to establish procedures for settling disputes in public employment. This section does not say what the procedure should be, but leaves that decision up to future legislatures.

The state civil service is exempted because the constitution has specific provisions for the operation of the state civil service.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

This is a substitute section for article XVI, section 7, and it is felt this language is more consistent with modern conditions than article XVI, section 7.

The committee recommends to the committee on style and drafting that this section be placed in article V next to the present section 29.

CHAIRMAN BENTLEY: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, this is one of the proposals on which your committee on legislative powers spent considerable time. We had a public hearing in the committee. We consulted with those interested in the area of labor. This is a conclusion from the committee based on our findings, along with those directly interested in the subject. This proposal falls under the jurisdiction of our subcommittee headed by Mr. Wood, and at this time I yield to him.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Brown City, Mr. Wood.

MR. WOOD: Mr. Chairman, fellow delegates, you have heard the proposal read. The purpose of this section is to make it clear that the legislature has power to establish procedures for settling disputes in public employment. It does not say what the procedure should be, but leaves that decision up to future legislatures.

The state civil service is exempted because the constitution has specific provisions for the operation of the state civil service.

And I might say too that the legislature has already enacted some laws in this regard, and we are leaving it up to them whether they should make more or not. We are simply relating that they have the power to do this. I wish to defer at this time to Mr. Downs, who will go further into the subject.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, there was considerable discussion in the committee on this. There was a certain amount of give and take. This does replace the former language of the 1908 constitution which referred to courts of conciliation, and I believe our research shows this had been used but once.

I believe that the explanation of Delegate Wood was very complete, but I think the delegates should be aware that while this is one sentence, it does replace the former power of the legislature to establish courts of conciliation and probably has a little broader aspect as to just how this should be done and, as is so often the case, leaves the matter to the legislature.

CHAIRMAN BENTLEY: The secretary will report the pending amendment to Committee Proposal 109.

SECRETARY CHASE: Mr. Binkowski offers the following amendment:

1. Amend page 1, line 9, after "shall" by striking out "have power to"; so the language will read, "The legislature shall enact laws whereby disputes in public employment, excepting state civil service, may be resolved."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Binkowski, in support of his amendment.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, I believe — and I say this after having conferred with Senator Hutchinson, and he will be able to substantiate it or change the impression — that the legislature has this power, and not only has it the power but it has already used it. I think it is act 336 of the public acts of 1947 which is commonly known as the Hutchinson act, which prevents public employees from striking and sets out methods or procedures of mediating or resolving the dispute. The Hutchinson act was questioned, and the constitutionality of it was upheld in the Michigan supreme court, volume 332, page 237, a case arising out of Detroit. So I think that the question is very well settled that the legislature has this power.

I think that we want to set out the policy and declare it and tell the legislature that they should enact other legislation which is needed in this field, and therefore in order to clarify this, I believe that we should just eliminate these 3 words "have power to," and say that the legislature shall enact such laws. That would be much more meaningful.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske, to speak on the Binkowski amendment.

MR. MAHINSKE: I have a general question which does not pertain to the amendment; so I would defer until the time we get back to the proposal as a whole.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bay City, Judge Leibrand, to speak on the Binkowski amendment.

MR. LEIBRAND: Mr. Chairman, may I direct a question to Mr. Binkowski?

CHAIRMAN BENTLEY: State your question.

MR. LEIBRAND: Mr. Chairman, Mr. Binkowski, we all recognize that the legislature has the power to enact general laws relating to county or city employees. That is all right, a general law. But would what you have in mind here give the legislature the power to enact a law to intervene if the prosecuting attorney, for instance, in Midland county should fire his assistant, or the treasurer get into a dispute with the clerk and fire the clerk? Would it be your thought that the legislature had a duty to enact laws that would provide some sort of a forum or a court or something of that sort to try to reinstate the assistant prosecutor or the clerk in the treasurer's office?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Detroit for an answer to his question. Mr. Binkowski.

MR. BINKOWSKI: Well, Judge Leibrand, this amendment does not propose to increase any of the existing powers of the legislature. Whatever powers the legislature had they still possess, and it doesn't change it, either increase it or diminish it, in any way. As to your specific question, I do not believe that a prosecutor is considered a public employee. However, whatever the legislature would do, Judge, I believe it would be within its wisdom and decision to do whatever it saw best.

Again I think we have to look at existing legislation, and the only one that I am just passingly familiar with is the Hutchinson act which applies to public employees, generally speaking, and not specifically to a clerk or certainly not to a prosecuting attorney. I think, however, that perhaps Senator Hutchinson would be in a much better position to give you a more definitive answer.

MR. LEIBRAND: Well, Mr. Chairman, I would appreciate, then, hearing from Senator Hutchinson if he cares to answer.

CHAIRMAN BENTLEY: Do you wish to ask the same question?

MR. LEIBRAND: The same question of Senator Hutchinson.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Fennville, Mr. Hutchinson, for a reply to his question.

MR. HUTCHINSON: Mr. Chairman, if I understand the question of Judge Leibrand, it is whether under this language the legislature would have power to enact a law, or if Mr. Binkowski's amendment was adopted, would be mandated to enact a law whereby, for example, the state labor mediation board might be called in if the prosecutor of one of the counties discharged his secretary in his office; is that right?

MR. LEIBRAND: I said his assistant prosecutor, but it might just as well be his secretary, either one.

MR. HUTCHINSON: I think the secretary would be a better case in point. I have no doubt but what under this language the legislature would have that power. I think it has the power without even mentioning it in the constitution. The effect of Mr. Binkowski's amendment would be to have one of these "the legislature shall enact." It is not a matter of statement of power or permissive action; it is a mandate to act.

As a matter of fact, the legislature has acted in this field, not in the way that your illustration would suggest, but it has acted by an act in 1947 and by 2 or 3 amendments since that time to the Bonine-Tripp act, the state labor mediation act, which provides procedures for the mediation of disputes which arise in public employment.

CHAIRMAN BENTLEY: Does the gentleman from Bay City desire the floor?

MR. LEIBRAND: I yield, Mr. Chairman.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Brown City, Mr. Wood.

MR. WOOD: Mr. Chairman, I just wanted to state that the committee proposal was adopted unanimously by the committee, and I would like to defer to Delegate Habermehl for further discussion.

CHAIRMAN BENTLEY: The gentleman from Brown City yields to the gentleman from Alpena.

MR. HABERMEHL: Mr. Chairman, fellow delegates, this is a little bit off the Binkowski amendment. Perhaps it does refer pretty specifically to it. We attempted in the committee to try to put together 2 existing sections of the constitution. One section is the one that will follow this, Committee Proposal 110. It had been decided by the supreme court that Committee Proposal 110 did not cover public employment. Therefore, we wanted to try to cover both public and private employment. We did not wish, however, to impose any sort of mandate upon the legislature to act in any particular way, nor to require them to act, which we wouldn't have the power of doing anyway. Therefore, we wanted to insure that both in the field of public employment and the field of private employment the legislature had power to enact statutes. This may seem a little bit elementary that they should have that power, and I think in this day and age there is probably very little doubt that they do have that power, but it must be remembered that for quite a long period in our history of labor relations there was a good deal of doubt about whether or not the legislature could act in this field.

There are no cases in Michigan, but there were federal cases and cases in other states which held that any legislative enactment in this field was an impairment of the right of private contract, that the legislature could not state anything relating to employment because that was a matter between employer and employee. None of us wish to continue that, and we wanted to insure that that line of cases would never come up again, so all we attempted to do was to insure that the constitution made clear that the legislature had power to act in these fields. For that reason I would personally oppose the Binkowski amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Madar, to speak on the Binkowski amendment.

MR. MADAR: Mr. Chairman, in regard to this particular amendment, when we first went before the legislative powers committee, I appeared before that committee and tried to explain — in fact, we did explain — to them why we needed something there. We know that the legislature has passed some legislation which Mr. Hutchinson said is supposed to take care of this. Yes, it was supposed to take care of it; but let's see what happened. After Mr. Hutchinson's act was passed, they immediately said that this right to strike which had been taken away from us — and this we were happy about. We had no quarrel with the idea that city or state or county employees shouldn't strike. We felt the same way about it. However, they didn't stop there. They immediately took every bit of power away from us. When they passed the various acts to provide for mediation in private employment, they also said that it did not refer to municipal, state or county employees, all because of the Hutchinson act. In other words, we weren't people anymore. We weren't slaves or anything else. No laws pertained to us. So we could never do anything about it.

To give you an idea of just how things started to work, we have one particular group that I might mention, and this happened to be in the inspection department of the health department and the building department in Detroit. They take the same examinations; they do the same type of work. However, they never could get the same pay, even though the civil service ruled that the health department inspector should get the same rate of pay that the building department inspectors were getting. We tried to bring it before the mediation board, and the mediation board took it under advisement and then said, "Sorry, we can't do a thing for you, not until you do something with the legislation or with the constitution, but you must get it spelled out." When the constitutional convention convened, we immediately brought this before the committee on legislative powers, and this particular amendment we thought would be just the thing that we needed so that we could be treated just the same as anyone in private employment.

Now, so far as I am concerned, I think that we have within the city of Detroit and the county of Wayne the best employees — and I am now talking about governmental employees — that there are anywhere in the United States. We have some very good people. We have dedicated people working there, and they should get some protection. This is one way you can give it to them. And I hope that you will say yes to this amendment.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman from Detroit, Mr. Binkowski. As many as are in favor of the amendment will respond by saying aye. Those opposed will say no.

The amendment is not adopted.

MR. MADAR: I ask for a division and a roll call vote.

CHAIRMAN BENTLEY: The yeas and nays have been demanded. Is the demand supported? A sufficient number. The yeas and nays are ordered. Those in favor of the Binkowski amendment will respond by voting aye. Those opposed will vote no. The gentleman from Detroit, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, I would just like to make one short statement. I think it is obvious by now — or at least it should be — that you can't mandamus the legislature, so there is no problem that the legislature must act in this area. By eliminating these 3 words, all you are doing is making a declaration of public policy that is in the best interest of the state of Michigan that the legislature act to make sure that there is sufficient legislation so that any disputes in public employment can be resolved.

CHAIRMAN BENTLEY: The question is on the amendment of the gentleman from Detroit. Those in favor will respond by voting aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—37

Andrus, Miss
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Butler, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Greene
Hart, Miss
Hatcher, Mrs.
Hood
Jones
Kelsey
Krolikowski
Lawrence
Madar
Mahinske
Marshall
McCauley
Murphy
Nord
Norris
Ostrow
Pellow
Romney
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski

Nays—74

Allen
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Habermehl
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McLogan
Mosier
Perras
Plank
Powell
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Staiger
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
Wood

Goebel
Gover
Prettie
Pugsley
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Binkowski, the yeas are 37; the nays are 74.

CHAIRMAN BENTLEY: The amendment is not adopted. The secretary will report the next amendment.

SECRETARY CHASE: Mr. Seyferth offers the following amendment:

1. Amend page 1, by striking out all after the enacting clause.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Muskegon, Mr. Seyferth, in support of his amendment.

MR. SEYFERTH: Mr. Chairman, delegates, with reference to Committee Proposal 109 and the amendment before us, first of all, my experience with labor mediation boards has been considerably different than Mr. Madar's, evidently. I have sat in on 2 or 3 of them in the last couple of years involving public employees, and I have another question that comes to mind in reading section a.

The committee has stricken out, "The legislature may establish courts of conciliation with such powers and duties as shall be prescribed by law." And it seems that they have replaced the first sentence with something entirely different. Courts of conciliation, as written in the first sentence, indicates to me that the court of conciliation is open to everyone, not just public employees. And then they have installed the last sentence which restricts such laws as the legislature may enact to only public employment. I certainly don't take exception to having a medium of conciliation or mediation for public employees. I think they very well deserve it. But we do have very definite operations in the conciliation process in the state labor mediation board, and they are certainly at our call on either side in order to attempt to settle any disputes in the public employment section. To me this seems to be superfluous language in the constitution. We are well protected both from the employees' standpoint and from the administration standpoint. I thereby, then, ask you to support the striking out of this section a and concur in the amendment that is before us.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I rise in opposition to the amendment to strike the wording of this proposal. First I would like to state that neither agencies, cities, anyone hiring public employees, nor labor subscribe to the theory of courts in the way of settling their disputes. That is the reason that language was stricken. They have never been used even though the provisions of the constitution so provided, because employers of public employees as well as organized labor did not want to resort to that particular provision.

I think we have to recognize that private employees have the protection, if you call it that, or the right to seek an opportunity to arbitrate their disputes with their employer. It was the feeling of the committee that that right should exist to public employees as well. Therefore, I feel that Mr. Seyferth is taking a step backward in recognition of the rights of individuals, and I hope that you do not vote favorably on his amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: I think Delegate Hoxie covered most of the points that I was going to speak to, Mr. Chairman.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, after Mr. Habermehl explained this, for the first time I saw some reason for having it in there. Now I am more confused about it. If Mr. Habermehl's reasoning is sound, and it seems to be, historically at least, there seems to be some point to this. May I ask Mr. Seyferth, if he cares to answer, Mr. Chairman, if he disagrees with Mr. Habermehl's reason for this. I refer to the fact that Mr. Habermehl pointed out that in the past, courts have had some tendency to say that this legislation was void because of the due process clause.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Muskegon, Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman, Mr. Stevens, my experience has been exactly the opposite. However, I am not an attorney and I haven't had the opportunity to be exposed as possibly Mr. Habermehl has. But my experience to date has been that that has never been a stopping point in either party calling in a state labor mediator to settle differences.

While I am on the floor, if I may answer Mr. Hoxie, this state mediation is not a court; it is a conciliatory system or conciliation system very similar to that which is used in arbitration in private industry.

MR. STEVENS: Mr. Chairman, could I respectfully request Mr. Habermehl to repeat his explanation? It does not seem to have been clear to everyone.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Alpena, Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, Mr. Stevens, Mr. Seyferth, I don't believe this could fall within the experience of Mr. Seyferth because it is a rather ancient doctrine. As I stated, there never has been a case so holding in the state of Michigan. There have been cases, however, in the federal jurisdiction, although they are old cases by now. I myself have considerable doubt that any court would ever rule that way again. But there was some fear expressed by the witnesses that appeared — and some extremely well qualified witnesses — before the committee. In order to insure that there was no question about the legislature having this power, and that this power did not violate the protection of the fifth or the fourteenth amendment, we felt it advisable to put it in the constitution.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Stevens, retains the floor.

MR. STEVENS: Mr. Chairman, just one statement: for the reason stated by Mr. Habermehl, I would support the proposal here and oppose striking it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Murphy.

MR. MURPHY: Mr. Chairman, fellow delegates, I am opposed to striking the proposal. Since 1850 the legislatures have had the right to establish courts of conciliation. After many long hours of public hearings and debate within the committee on legislative powers, the committee properly recognized the importance of giving the legislature the flexibility it needs to set up the necessary and appropriate machinery to solve legal problems in public employment without freezing into the constitution a particular agency which might be outmoded before we finish this constitution. I am opposed to striking out the entire proposal.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Binkowski.

MR. BINKOWSKI: I would like to ask Mr. Seyferth a question about labor mediation.

CHAIRMAN BENTLEY: Will you state your question, Mr. Binkowski.

MR. BINKOWSKI: Mr. Seyferth, I am certainly not an expert in this area, but it seems to me that under the Hutchinson act, all the labor mediation does is go in and try to bring the parties together; that they can't compel them to settle anything; and that the most that ever happens under that act is that findings of fact and a recommendation result, but it is not binding upon any of the parties; and that under the act the only thing that the public employer has to do, as such, is just to sit down and talk, but he doesn't have to settle the thing at all.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Muskegon, Mr. Seyferth, for an answer.

MR. SEYFERTH: Mr. Chairman, Mr. Binkowski, your question is an eye opener. I didn't realize that that is what you were trying to get out of this section a.

MR. BINKOWSKI: I'm sorry. I wasn't trying to get anything out of it. You made some reference to labor mediation not settling these cases.

MR. SEYFERTH: Excuse me. I was assuming, innocently, that you were substituting the legislature to enact some rules and regulations and laws to take the place of the present conciliation methods that we have. Rereading this now, it is evident that we are requesting the legislature, in the revision of this section a, to have the power to enact laws to settle the disputes.

In other words, are we asking the legislature to move in with laws to settle the disputes beyond the 2 parties interested, so that now the 2 parties have to listen to the third party for a solution? If that is the case, I am doubly against section a. I assumed it to be, when I first put my amendment in, that it was merely changing the conciliation to the laws that would be laid down by the legislature and bypassing the state labor mediation. The state labor mediation is exactly as you state it, an attempt to get the 2 parties together to resolve their differences.

CHAIRMAN BENTLEY: The gentleman from Detroit has the floor.

MR. BINKOWSKI: It is my understanding that this language will not change that in any way, Mr. Seyferth. And I see Senator Hutchinson on the floor. Maybe he will verify this.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, the statement by Mr. Stevens and Mr. Habermehl brought me to my feet. If I understood the theory that Mr. Habermehl expounded, it was that it was necessary to have some statement of power in the constitution in order to avoid some difficulties in the concept of due process, at least anciently so. Now, this language of this proposal as it stands, I notice, is limited only to the resolution of disputes in public employment, excepting the state civil service. Does that mean that the legislature would not have power to enact similar methods for settling disputes in private employment? Does it mean that the labor mediation act, for instance, that is now on the books might be in jeopardy? Because if it is necessary to have a constitutional statement of this kind in order to base the power, then that power must extend further than simply to the settlement of disputes in public employment. I direct my question to Mr. Habermehl.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Alpena, Mr. Habermehl, for a reply to his question.

MR. HABERMEHL: Mr. Chairman, Mr. Hutchinson, Committee Proposal 110 which follows and which we hope to hand to the committee on which you serve, style and drafting, to combine with Committee Proposal 109.

MR. HUTCHINSON: Then I understand, Mr. Chairman, the answer to be that so far as private employment is concerned, Committee Proposal 110 takes care of it. So far as public employment is concerned, 109 is necessary.

MR. HABERMEHL: That was the intent of the committee.

MR. HUTCHINSON: Thank you.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Muskegon, Mr. Seyferth, to strike the proposal. Those in favor of the —

MR. MARSHALL: May we have the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number, and the yeas and nays will be ordered. Those in favor of the Seyferth amendment will respond by voting aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—23

Blandford
Boothby
Elliott, A. G.
Everett
Figy
Finch
Goebel
Gover
Haskill
Hatch
Karn
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Plank
Pugsley
Radka
Seyferth
Shackleton
Thomson
Turner
Yeager

Nays—82

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Bonisteel
Bradley
Brake
Brown, T. S.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford
Greene
Habermehl
Hart, Miss
Hatcher, Mrs.
Heideman
Higgs
Hood
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Kelsey
King
Kuhn
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McLogan
Mosier
Murphy
Nord
Norris
Ostrow
Pellow
Perras
Powell
Prettie
Rajkovich
Romney
Rood
Rush
Sablich
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Staiger
Stevens
Stopczynski
Suzore
Tubbs
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Seyferth, the yeas are 23; the nays are 82.

CHAIRMAN BENTLEY: The amendment is not adopted. Are there any further amendments to the body of Committee Proposal 109? There being none, it will pass.

Committee Proposal 109 is passed, and the secretary will read.

SECRETARY CHASE: Item 12 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 110,** A proposal to provide that the legislature may enact laws relative to hours and conditions of employment. Retains article V, section 29.

Following is Committee Proposal 110 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature shall have power to enact laws relative to the hours and conditions under which men, women and children may be employed.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 110:

Section 29 of article V first appeared in the 1908 constitution. It represented, at that time, a significant step forward in the area of public welfare.

The committee is of the opinion that the right of the state through the legislature to regulate hours and conditions of employment and thereby safeguard the health and morals of its residents should not be open to question.

Prior to the adoption of this section, there was feeling that legislation regulating working conditions was open to attack as a violation of freedom of contract. Section 29 put this doubt to rest in Michigan.

The committee recommends the retention of this section, so that the constitutionality of legislation regulating hours and conditions of employment will not be questioned.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, this particular proposal falls under the jurisdiction of Mr. Powell, and I yield to him.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, the explanation on behalf of the committee is found on page 481:

[The supporting reasons were read by Mr. Powell. For text, see above, page 2341.]

Mr. Chairman, I would venture the personal opinion that even without this section the legislature would have about the same power, not all the power that it would have with this section, but we felt that it would not be expedient to remove from the constitution this brief section that has been in here now for these many years and which is cherished by a number of our citizens, and we feel that it would be well to have it retained. You will notice that there was distributed to the desks of the delegates today a statement by Delegate Youngblood in which he endorsed this proposal and the one that we have just acted on previously.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bay City, Mr. Higgs.

MR. HIGGS: Mr. Chairman, Mr. Powell, I would like to ask several questions, if I may.

CHAIRMAN BENTLEY: The gentleman will yield to the gentleman from Ionia for the purpose of answering his questions. You may state your questions, Mr. Higgs.

MR. HIGGS: Mr. Chairman, Mr. Powell, I think I know the answers to some of these questions but I think it is important to have this in the record at this particular point. Is it the understanding and intention that the legislature have the power to establish different conditions under which men and women may work doing the same work?

MR. POWELL: I think they could, and in this current session of the legislature, you know, they have had legislation out on uniform compensation, but I think the conditions might certainly be different because of the relative strength. I think there are limits as to the amount of weight that the persons of the various sexes can lift and the types of work that people of certain ages may or may not do.

MR. HIGGS: Yes. Mr. Chairman, Mr. Powell, would it also then be true that the legislature would have the power to enact laws relative to different working hours for women as opposed to men?

MR. POWELL: I would think so, yes.

MR. HIGGS: I think that this is just something to keep in mind, because I think we have a developing conflict with regard to our bill of rights section which prohibits discrimination on account of sex. (laughter)

CHAIRMAN BENTLEY: Are there any amendments to the body of Committee Proposal 110? There being none, it will pass and the secretary —

MR. GOVER: I have a question on this.

CHAIRMAN BENTLEY: The gentleman from Sheridan.

MR. GOVER: I don't know whether this is a technical question or not, Mr. Chairman, but I would like to know why it is that the legislature may enact laws of that nature for employment of men, women and children, and then the legislature and the constitutional convention may employ women and children lots longer hours than what the other people are entitled to hire them for.

CHAIRMAN BENTLEY: Who do you yield to for your question, Mr. Gover?

MR. GOVER: I would like to ask the chairman of the committee or else Dr. DeVries. I will take the chairman of the committee, please.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from St. Louis, Mr. Hoxie, to reply to his question.

MR. HOXIE: Mr. Chairman, fellow delegates, perhaps I am familiar with the question Mr. Gover has raised because at one time I recall this question came up in the legislature relative to our pages, and it was felt advisable by the legislature, because they had passed certain laws relative to working conditions and hours and so forth relative to minors, to arrange so that they were excused after those hours had expired. Now, as to whether Mr. DeVries is violating the law, I do not know. (laughter)

CHAIRMAN BENTLEY: The gentleman from Sheridan.

MR. GOVER: Well, I would like to know if we shouldn't practice what we preach; in other words, do as we do and not as we say, on that. It just seems that we are getting off the beam a little bit on that. I would like to have Dr. DeVries' expression on that anyway.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids, Mr. DeVries, for an answer.

MR. DeVRIES: Mr. Chairman and Mr. Gover, Mr. Hoxie, I recall researching this for the legislature last year. We thought surely there was something in the act regarding the pages in the legislature. We found out, as I recall, that there was nothing. But there was a provision in there that people involved in entertainment could be excluded (laughter) from the provisions of this, and I think we somehow rationalize that perhaps the pages there could come under this provision. As for the constitutional convention, I think we have been very careful to abide by the law, but I would remind the delegates we are a sovereign body. (laughter)

CHAIRMAN BENTLEY: The Chair would remark that if the pages don't come under the heading of entertainment, perhaps the delegates might. (laughter) Are there any amendments to the body of Committee Proposal 110? If not, there being none, it will pass.

Committee Proposal 110 is passed, and the secretary will read.

SECRETARY CHASE: Item 13 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 111, A** proposal pertaining to the employment of chaplains. Amends article V, section 26.

Following is Committee Proposal 111 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. The legislature may authorize the employment of [a chaplain for each of the state prisons;] CHAPLAINS IN STATE INSTITUTIONS OF CONFINEMENT. [but no money shall be appropriated for the payment of any religious services in either house of the legislature.]

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 111:

The committee is of the opinion that this section should be broadened. At the present time chaplains are authorized to be employed in state prisons, but are also employed in mental institutions and training homes.

This provision is not the establishment of a religion. Chaplains are employed by the state in these institutions to aid in the rehabilitation of inmates. Also, the committee feels that preservation of religious liberties requires that where persons are confined and are not permitted to attend services outside of the institutions, provision for religious counseling and worship should be made.

In view of the prohibition of article II, section 3, against appropriation of money for the support of ministers of the gospel, the committee feels that clarification of the legislature's power in this area is necessary.

The committee does not intend to give any power to the legislature to authorize the appointment of chaplains to all state institutions such as schools. The right is strictly limited to prisons, mental institutions and other places where people are voluntarily or involuntarily confined.

There seems to be no probability that the legislature would resort to hiring a chaplain. The prohibitions of article II, section 3, and the tradition of inviting clergymen and others to offer the invocation at the opening of each daily legislative session, make the last sentence of this section unnecessary.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, you will note that there is some deletion from the present language of the constitution, with some addition. I would like to com-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

pliment Mr. Faxon, who appeared before our committee because he was concerned about this subject. After hearing the discussion of the committee and our reasoning for these deletions and the inclusion of new language, he was completely satisfied. That was one of our accomplishments last evening. At this time I yield to Mr. Powell.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman, fellow delegates, the committee comment relative to this proposal is found on page 482:

[The supporting reasons were read by Mr. Powell. For text, see above, page 2342.]

May I say that my own interest in this matter developed last summer when I was serving as a member of a committee appointed by the governor to study the legislative article in the state constitution. Delegate Glenn Allen was another member of that 11 man committee. And when we came to this particular section, I was intrigued by the reference to prisons, and it mentioned no other state institutions, so I took it up with the budget office and the civil service people and got quite a little information at that time. And after this matter was referred to us up in the committee on legislative powers and to our subcommittee, I once more contacted the civil service people. I have in my hand their report as to the chaplains now serving in state institutions. They gave me their names and their classifications and the institutions in which they serve, a couple of pages here. I will not give you this in detail, but for instance Institution Chaplain II: there are 2 of them at the veterans' facility, 3 at the boys' training school, 2 at the girls' training school, 1 at Kalamazoo state hospital, 2 at Newberry state hospital, 2 at Traverse City state hospital, 3 at Ypsilanti state hospital, 2 at Northville state hospital. And then Chaplain II-A — and don't ask me whether that is higher or lower, but it is a different classification anyway — we have one at the Ionia, Michigan reformatory, 2 at the Jackson prison, 2 at Marquette prison and 1 at the prison camp program. And then we have a number, 16 in all, of chaplains hired on a contractual basis. I say 16 people. There are 16 different institutions here, starting with Kalamazoo state hospital, which has one of those in addition to their classified personnel I mentioned before, ending up with the Lafayette clinic and a number of other institutions of various assorted kinds in between. And so we do have a great many chaplains at institutions now that hardly come within the purview of the old language where it said "a chaplain for each of the state prisons."

So we have proposed striking out that language in line 6 and inserting in lieu thereof the words "chaplains in state institutions of confinement." And then, as mentioned in the committee report, we didn't feel it was necessary to put this prohibition against the employment of a chaplain by our Michigan legislature for reasons that are brought out in the report.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I am not opposed to the proposal, but there are a couple of questions that I would like to ask, and one is this: the old constitution provided that no money would be appropriated for the payment of any religious services in either house of the legislature. By striking the last sentence, this means now that, if I understand it correctly, if the legislature wants to, they can appropriate a salary or a per diem or something in payment for this.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Ionia, Mr. Powell, for a reply.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, my view would be that that would not be possible in view of the prohibition that is contained in article II, section 3, that makes it illegal for the state to make any appropriation for support of ministers of the gospel. I would think any contribution that the legislature might give to a chaplain would be contrary to this other provision.

MR. MARSHALL: That satisfies me. Then, when we change the language where it says, "The legislature may authorize the employment of a chaplain for each of the state prisons," and we now authorize the employment of "chaplains in state institutions of confinement," could this — and again this is a touchy subject — not get us involved in a controversy, maybe, over how many chaplains we were going to have, as to whether we are going to have 2, 3, 4, 5 or 6 representing several denominations? I am not necessarily opposed to it. I am just asking what the intent is.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Ionia, Mr. Powell, to answer.

MR. POWELL: Mr. Chairman, the gentleman from Ionia was talking about material to go up to the court reporter and didn't catch the question. I am sorry.

MR. MARSHALL: I have one question and then a suggestion, and I again want to make it clear that I am not against the proposal, but where we say "employment" it seems to me it would be more appropriate to say that the legislature may authorize the service of chaplains in state institutions of confinement because they are not employed as such. The question was: the old language provided for a chaplain for each of the state prisons, in the singular, and we strike that and now we say "chaplains in state institutions of confinement." Could we or could we not possibly — and I can't conceive of it at the moment — get involved in some controversy over how many chaplains we might have in a given institution?

MR. POWELL: Mr. Chairman and Delegate Marshall, the material that I read from the civil service commission listed the number of chaplains that were employed, some in one classification and some in another, on a salaried basis, and others on a special contractual basis. Now, we inquired as to the policy in connection with various denominations, and at the larger institutions they have at least one for catholics; one for protestants; and in many cases, I think, one also for those of the Jewish faith; and then for other groups that are not as numerous, in most cases that religious service is performed on a voluntary basis. But those that serve generally large numbers of inmates and patients are compensated, and some of them are full time people and it is regarded as a part of the rehabilitation, particularly in the case of mental illness.

MR. MARSHALL: I think that answers the question sufficiently. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids, Mrs. Koeze.

MRS. KOEZE: Wyoming, sir. Mr. Chairman, as a member of the legislative powers committee I would just like to make a comment: I objected to the word "confinement." The committee couldn't think of a better word, so I am hoping style and drafting will do something about this.

CHAIRMAN BENTLEY: Are there any amendments to the body of Committee Proposal 111? The Chair recognizes the gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, I don't have any amendment but I would like to ask Mr. Powell a question, if I may.

CHAIRMAN BENTLEY: The gentleman will state the question.

MR. NORD: Mr. Powell, I am not quite clear on one of the answers that you gave as particularly relating to the striking of the last part of the paragraph. I understood you to say that the reason that the last part was stricken was that there wouldn't be any possibility in any event of appropriating money for the payment of chaplains. Then I also thought I understood you to say that money was appropriated for the chaplains in the state institutions. Do I have those 2 facts both correct?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Ionia, Mr. Powell, to reply.

MR. POWELL: Mr. Chairman, Dr. Nord, I think you have that correct.

MR. NORD: Well, Mr. Chairman, Mr. Powell, could you explain the apparent inconsistency that they cannot appropriate money for chaplains in the legislature but that they can for chaplains in the other institutions.

MR. POWELL: Mr. Chairman, the answer is because we so specifically provide. Now, at first when we got into this matter, we were for a time under the impression that we could just forget this whole thing and leave it out, because here for years the great bulk of the state institutions had had the service of chaplains and they had not been specifically mentioned in the constitution, the only reference being to the prisons, and so we said to ourselves: well, let's just forget the whole thing.

And then some busybody — I think it was Delegate Wanger, I'm not sure (laughter) — came up with this other section and he read that, and then we got our research people on the job and we decided that if we didn't specifically exempt these people that are offering religious services to state institutions, we would run afoul of that other prohibition. So that is why we put it in; as long as we spell that out here that the legislature may authorize the employment of these people, I think that contradicts the other prohibition.

MR. NORD: Well, Mr. Chairman, Mr. Powell, I don't wish to appear to be a busybody, but I must say that I am still just as confused as to how come it is not permissible to pay chaplains in some places, but in other places it is permissible. Did you state that there is some part of the constitution that expressly excludes the payment of money to chaplains in the legislature, but not other places?

MR. POWELL: Mr. Chairman, there is a prohibition against using any state money for the support of a minister of the gospel. Now, here goes Delegate Wanger to the microphone. I am sure he will clear this up very nicely. (laughter) But in view of that cloud on the situation, we thought we should have a specific exemption for these state institutions where it seemed that we should have this pastoral counseling and religious service made available.

It was brought out in our committee that particularly when you incarcerate a person or when they are there involuntarily and you deprive them of the opportunity to worship according to the dictates of their conscience, then you should bring that ministry to them, and so that means chaplains, and in some cases it means employed chaplains. In other cases you get adequate service on a voluntary basis. So that is why we put the first part in here. But then we thought there was no necessity of having this last section because that other prohibition against the use of public money for the payment of a minister of the gospel would take care of that very nicely. I yield to Delegate Wanger.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, the section to which Delegate Powell so rightly refers is in our present constitution in the declaration of rights, article II, section 3. If you will take the words there, you will see the second sentence, I believe, reads as follows:

> No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion.

We believed that under these circumstances it would be best indeed to follow the language which was laid out in the 1908 constitution to make it clear that this prohibition would not prohibit the state from providing religious counseling by chaplains who, of necessity, must be ministers of the gospel, to those unfortunates who are confined in places where they naturally cannot obtain religious counsel unless that counsel is brought in and provided to them by the state or by a voluntary basis when that is possible.

This section which is proposed in the committee proposal now under consideration removes all doubts upon this point. And our search in the 1908 constitutional debates indicates that their purpose in putting in this provision was also to remove all doubt upon this score. Without this, if you read the declaration of rights literally, there could be a legal problem involved which, if litigated through the courts, might prohibit this sort of religious counseling to these unfortunate persons.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Dearborn, Mrs. Cushman.

MRS. CUSHMAN: I have a question regarding the meaning here, if I could ask it through the Chair.

CHAIRMAN BENTLEY: The lady will state the question.

MRS. CUSHMAN: As I understand it, then, your distinction here is between those institutions where people find it difficult to get out or impossible to get out to attend church and those institutions where it is quite possible for people to leave and attend the church of their choice freely. Now, what about, for example, TB hospitals and schools for the deaf and blind, this sort of thing?

CHAIRMAN BENTLEY: The lady yields to the gentleman from Ionia, Mr. Powell, for a reply.

MR. POWELL: Mr. Chairman, Delegate Cushman, in that list of names that I had here of those that are employed, I don't recall those institutions having been enumerated, although I would like to look at it again to be positive. But I would say that any institution from which people cannot be excused, as you have said, would certainly be places where they should employ chaplain service.

You will notice that there was, in the explanation that we read from the committee, language that involved not only those who were involuntarily confined but some that are voluntarily. Now, there are certain people who ask to be committed to a certain type of institution for treatment but might not find it convenient to get out to a place of public worship.

May I look very hastily over this list? These all seem to be penal and mental institutions that I see on that page. Over here are TB sanitariums. There is the northern Michigan TB sanitarium that I catch readily here, and Lapeer state home, Howell state hospital — I suppose at that time that was for tubercular patients. There is the Coldwater state home. Most of these are for people that are either confined because of crime or mental condition or for some type of treatment where these employed chaplains are serving. Does that answer your question as best I may?

CHAIRMAN BENTLEY: The lady from Dearborn has the floor.

MRS. CUSHMAN: Yes. I have a further question, if I can ask it through the Chair. One suggested wording has been "state penal, correctional and rehabilitation institutions." Would this convey the meaning?

MR. POWELL: Are you suggesting that for a floor amendment or for consideration by style and drafting? Your colleague, Delegate Koeze, has been very much concerned that we improve the language of this proposal.

MRS. CUSHMAN: Well, we probably can't decide this right now. Certainly it is something we want to consider.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Warren, Mr. Kelsey.

MR. KELSEY: Mr. Chairman and members of the committee, in view of the action we have taken earlier today on Committee Proposal 100, I suggest that we are going to have need here for this proposal, and I support it.

CHAIRMAN BENTLEY: Are there any amendments to the body of the Committee Proposal 111? The Chair recognizes the gentleman from Menominee, Mr. Bradley.

MR. BRADLEY: May I make a suggestion on this one? Why not end with the words "chaplains in state institutions as designated by appropriate act of the legislature?" I think this is a proper area in which the legislature might make the selection of the type of institution and the specific institution which has a need of a chaplain.

CHAIRMAN BENTLEY: Does the chairman of the committee, the gentleman from St. Louis, wish to respond?

MR. HOXIE: Mr. Chairman, fellow delegates, one of the problems we have in this area, and the reason the proposal is worded as it is, is that we don't want any misinterpretation as to the intent of this proposal. With the suggestion that was made, then, it would appear that the state could employ chaplains for religious services in other institutions such as schools of higher learning. I think we all agree that we do not wish that.

I might say in addition to those enumerated chaplains that Mr. Powell referred to, there are many other institutions such as referred to by Mrs. Cushman. Take for instance the school for the blind, the school for the deaf — many of the church organizations within the community furnish that service free to the various children or inmates of an institution of that nature. The list that Mr. Powell read only related to those that were hired for a specific institution.

I don't think there would be anything to prohibit the civil service commission, which selects these personnel the same as they do other personnel, from employing those individuals in those other types of institutions suggested by Mrs. Cushman if it was necessary, but I know in Lansing that the various denominations within the city of Lansing do furnish that service to the school for the blind, and that is true also in the school for the deaf in Flint.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: I wish to further supplement Chairman Hoxie's comment. I believe in the committee's deliberations here we wanted to make it clear that we were not getting involved in the church-state issue which was more appropriately handled by the education committee, and we did not want to open up the question of state supported chaplains for universities or schools. When we did use the term "confinement" we were sort of, you might say, limiting it to where there was a captive audience and there were citizens who would not normally be able to go to religious services of their choice simply because there was a wall between them and the church, and that we did not think this broke down the separation of the wall between church and state, but did make it possible to have what had been the practice in many institutions which apparently had kind of developed that did make the matter much more clear.

CHAIRMAN BENTLEY: Are there any amendments to the body of Committee Proposal 111? There being none, it will pass.

Committee Proposal 111 is passed, and the secretary will read.

SECRETARY CHASE: Item 14 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 112,** A proposal to provide that certain officeholders shall be ineligible for the legislature. Amends article V, section 6.

Following is Committee Proposal 112 as read by the secretary, and the reasons submitted in support thereof:

> The committee recommends that the following
> be included in the constitution:
>
> Sec. a. No person holding any office under the United States or this state or any county, TOWNSHIP OR MUNICIPAL office, except notaries public[,] AND officers of the militia [and officers elected by townships], shall [be eligible to or] have a seat in either house of the legislature. [; and all votes given for any such person shall be void.]
>
> Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 112:
>
> The committee is of the opinion that it is improper to allow township officers, along with city and county officers, to serve in the legislature.
>
> County, township and municipal officers who sit in the legislature cannot properly serve 2 offices and the people who elect them.
>
> However, notaries and members of the militia are in a position to properly serve in the legislature.
>
> The striking of the last phrase and of the language prohibiting eligibility is recommended.
>
> This would allow people in the enumerated offices to run for the legislature, but since dual officeholding is prohibited a legislator elect would be obliged to resign his prior office as a condition precedent to taking his seat.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, this proposal came under the jurisdiction of our subcommittee headed by Mr. Kuhn.

I would also like to comment that again Mr. Faxon appeared before our committee last evening. He was concerned about the word "militia." And I would like to state in behalf of the committee that it is our intent that if there is any question about the interpretation of "militia" not being broad enough to include reserve officers, that that should be corrected in style and drafting. It was our opinion and the opinion of Mr. Hutchinson, who is present, that that would include that type of personnel. However, I would like to state that it is our intent, and if it should be found that the word "militia" isn't adequate to cover reserve officers, that that should be corrected in the committee on style and drafting.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, this is another great step forward for the people of the state of Michigan. It showed real courage on the part of our committee to give the people a good responsible legislature. In 1835, state and United States officials were prohibited from being legislators. And in 1850 they decided to make county officials not eligible to be legislators. Now, in 1962, the committee on legislative powers has gone a step further and has decided to prohibit all township, county and municipal officers from being legislators.

We have also provided that any of these particular officeholders could be candidates for the legislature, which is a relaxation of the rule, but then they must make up their mind and decide which hat they want to wear. We feel there are enough people, both in the rural and urban areas, to have these different jobs. We do not think that anybody is so indispensable that he must be a member of a township board or be a township official and a member of the legislature. And we think it is imperative, to have a good legislature, that we make them decide which hat they want to wear, and therefore we recommend that this proposal pass.

CHAIRMAN BENTLEY: The secretary will report the first amendment to Committee Proposal 112.

MR. SLEDER: I have a question, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will proceed.

MR. SLEDER: What position does this put members of the educational boards in, such as college boards or boards of education of local school districts?

CHAIRMAN BENTLEY: The gentleman from Traverse City yields to the gentleman from Pontiac, Mr. Kuhn, for answer.

MR. KUHN: Well, a school board member, the attorney general ruled in 1958, could not be a member of the legislature and he had to resign or the office was vacant. That was independent of this section.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Taylor, Mr. Marshall?

MR. KUHN: Yes, I would be glad to yield.

MR. MARSHALL: Mr. Chairman, may I ask a question of Delegate Kuhn through the Chair? By inserting the language "township or municipal office" am I to take it that a township trustee, who maybe attends one meeting a month, would not be eligible to serve in the state legislature? Or, for example, we have some state legislators now that are doing a very able and capable job and have served a long period of time, who hold part time offices in a township government, and it seems to me that this is a highly unfair provision to have a provision where a township trustee in a small township who maybe only attends one meeting a month for an hour or 2 hours a night for the one night a month should be prohibited from serving in the state legislature.

MR. KUHN: Well, he can be a candidate. We have allowed that. But you are correct in assuming that he cannot be a member of the legislature. We took this all under careful consideration and decided that we should make them decide which hat they want to wear. Now, if they are only serving their township board for one night a month, then I think it is not too much to ask them to get off that if they would like to sit in the legislature.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. MARSHALL: Well now, I just can't quite agree with that. We have in many townships and I live in a township where we have some very capable trustees who serve at a great personal sacrifice in the township on the board of trustees, and we, the citizens of the township, might not want them to get off, and yet we might want to support them for the state legislature. Now, I don't mind giving you an example. My own state representative holds a part time position as a township clerk in Dearborn township; yet he still serves in the legislature.

I personally saw nothing wrong with the original language that was in the old constitution. I think it was sufficient. But I would like to have some good, sound reasons why we are going so far as to prohibit a part time or a township official who may only attend a 2 hour meeting once a month from being able to hold a seat in the state legislature. It seems to me that in many cases they could make a great contribution.

MR. KUHN: The sound reason is equality, Mr. Marshall. You see, we do not want to discriminate against the county official who is prohibited under our present constitution, or the municipal officer or the township officer; so we are taking them all out to make it uniform.

We do not think there is a shortage of talent. We were very sure when we sat looking out our window over toward the legislature that those 144 people could hardly believe that there could be 144 people over here doing a job of writing the constitution, (laughter) and we said to ourselves then that if they had to have another body of 144 in the state of Michigan on top of the body sitting here and the body across the street, that we honestly thought they could find another body of 144 good people, and on that basis we decided the people that wanted to be in public office should wear one hat.

MR. MARSHALL: I am sure there are many delegates here that feel there isn't any shortage of capable candidates, but I am still concerned with this and I have a very strong opinion on it, and I would like to offer an amendment but I haven't got it ready; so maybe I can sit down and go to work on it and get it offered. But I am at a complete loss to see why we are going to prohibit, and I say again, a township or a municipal official who might hold some minor office that doesn't require much of his time from being able to serve in the state legislature if the people of that district should want to elect him.

MR. KUHN: We gave you our reasons, sir, and I would like to say that the vote on this very controversial thing was the yeas 11, the nays 2, and one passed.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, in answer to Mr. Marshall's question, I am sure that it is not a question of pay or of holding 2 jobs or of moonlighting. It is a question of compatibility.

The law in Michigan will not permit a person to sit in the legislature if that position is incompatible with some other position he holds at the same time. However, the attorney general himself doesn't know just where to draw the line in the case of incompatibility. He sent us a letter way back in October, I think, asking us to define this matter of incompatibility. I think all the committee is trying to do is to define, at least in certain instances, that the 2 offices are incompatible; so you take one or you take the other. You can't have both.

CHAIRMAN BENTLEY: The Chair recongizes the gentleman from Detroit, Mr. Norris.

MR. NORRIS: Mr. Chairman, Mr. Kuhn, I would like to address a question following through on what Mr. Stevens mentioned, the question of compatibility or, more properly, the question of whether there is any conflict of interest. First of all, is there in the exclusion historically a recognition of a conflict of interest, and is it the intention of the committee to continue a policy against a conflict of interest by this proposed language? And, more specifically, what are the indicia of this conflict? In what way is it the judgment of the committee that there would be a conflict between membership in the legislature and acting as a township or municipal officer?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Pontiac, Mr. Kuhn, for reply.

MR. KUHN: Well, quite obviously: 1, if you were a member of the legislature and a member of a township board, you would have to be, obviously, quite subservient to your township board in their wishes, not that you wouldn't represent your district; 2, there is a great possibility that you could miss some time; and, 3, the overall effect, we thought, of having these 2 jobs was not warranted with the amount of people around today that certain people thought they had to hold so many offices, and we thought the most important one would be the availability and to devote your full time to what the people want you to do, and that is to be a member of the legislature or do the other. In other words, if you read your citizens advisory council book, they sort of recommended something like this, but they did suggest that we ease it so people that came under this category of being prohibited to be a member of the legislature would at least have the right to run for the job. They have the right to run. But then, when they get elected, they must get off the other. And we just say you can't have your cake and eat it too.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Madar.

MR. MADAR: I thought at first that we were discussing something that we had here once before, and at that time we talked an awful lot about moonlighting, and frankly that is just about what this is, moonlighting.

Though I know this isn't going to help me defeat this, I can't help but make the remark that there is certainly an awful lot of incompatibility of attorneys who have partners who are doing all their work back home and still holding jobs in the legislature. Why don't you go ahead and kick them out of there, too, as you should? After all, let's cut out all this moonlighting. You want to needle; I'll shove it all the way in. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, I simply want to ask a question of Mr. Kuhn, if I may. It is simply this: I would like to know what is meant by the word "municipal?" Does that mean the same thing as city or village, or is it broader?

MR. KUHN: That is correct.

MR. NORD: It means city or village?

MR. KUHN: That is correct.

MR. NORD: Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Ford.

MR. FORD: Mr. Chairman, members of the committee, I have had an opportunity to discuss this proposed language with a number of people since it first came to our attention, and there are many people who have looked into it who feel that the language as it is now could reach much further than anybody has talked about thus far. There is no definition at this point of a township or municipal officer. Everybody has been talking as if this language by magic means only an elected official of a city or a township.

Now, when you are talking about a municipal officer, what do you do about the people in the villages, for example? What are they? And how far down the line do you go? Is a township attorney a municipal officer? I think presently he is, because he is provided for by statute. I think that a city attorney, or corporation counsel as he is called in some charters, is a municipal officer. A city engineer is a municipal officer. The city auditor in many charters is provided for, although he certainly doesn't make his full time living out of auditing the accounts of one small city or one small village.

And we are here inviting the people in the legislature once more to say, "It looks to me like all those fellows over there are trying to do is create some vacancies for themselves when they get through in May — if they get through in May."

As Mr. Marshall has already indicated, I represent the nineteenth representative district which he lives in also, and our representative has been, for about 12 years, the clerk of Dearborn township and he has been elected under the new charter as the city clerk of the new city that was incorporated out of that township. And in drafting the charter, I am aware of the fact that some of the charter commissioners, knowing of his many years of experience, took this into consideration in making the city clerk a part time job so that there would be no question about his ability to serve in both capacities.

Now, I submit that there are far more people who serve only for an honorarium, if anything, in these positions, by numbers, than there are who make a full time living at it, and it would seem that we are arbitrarily placing a barrier on everyone who serves in any kind of a public office capacity at the local level. If you want to just see how far reaching this might be, look around the room and see how many people are sitting here right now who could not be here if there was a similar provision concerning constitutional convention delegates. There must be at least 30 delegates to this convention who would be disqualified by this language. And would you say that these people are not able to perform because of the part time job they have as a member of a township board in a small rural township? I don't think that this is really what is intended.

I have no sympathy at all for Mr. Kuhn's attitude "let's let them decide what hat they are going to wear" because there are many, many communities in the state of Michigan where the councilmen or the township trustees serve for little or nothing. I think that about $10 a month is par for a great many townships in this state, and something around $10 a month and in some places $15 is par for the small cities and villages.

Now, what you are saying is, if a man has the respect of his community and is contributing at that level, you don't want him in the legislature. I think that we have done quite well in the state of Michigan with a well established principle of conflict of interest, and when the attorney general says that he has trouble with compatibility, that is correct, but the fact that the attorney general from time to time has trouble with the definition is no excuse for giving him a new problem, because if you don't think this one is going to cause problems with the attorney general rendering opinions on what is a township officer or a municipal officer within the meaning of this language, then you are kidding yourself. There is a well established doctrine of conflict of interest.

Someone mentioned the board of education. It is very clear why a member of a board of education wouldn't be here. It is a conflict of interest problem. It has nothing at all to do with the constitution alone. And there are many other positions that there would be a conflict on. But quite obviously there has not been a conflict with respect to most municipal officers or they wouldn't be serving, because there are plenty of people who have challenged this from time to time. With respect to the gentleman that I have already mentioned, the challenge was made. It was tested.

I would oppose the language, and I have prepared and presented to the desk an amendment to strike the reference to the townships, and I want to call your attention to the fact that by "municipality" you are including a lot more than just cities, because this word "municipality," anyone on the local government committee will tell you, is capable of a great many definitions in the state of Michigan and may be capable of a great many more in the future, because we are creating some new animals here that might properly in the future be termed "municipality," and I think we ought to be very, very careful before we put this sort of language into the constitution.

And I think we ought to have an awful lot better reason than just the opinion of one member of the committee that he doesn't think it is right for any person to hold 2 public offices. And I don't know just how we would do it, but if you take a quick look at the biographies that you were handed early in the convention of all the delegates here, you will find that there are an awful lot of people in this convention who are serving in more than one capacity while they are here and who would very well be able to serve in more than one capacity over in that legislative hall.

With respect to what Mr. Madar said, there might be some merit to this, because if you are going to talk about conflicts and try to define them in the constitution rather than by statute from time to time, then we ought to make a thorough analysis of all of the possible conflicts and do the job well, because what you are actually doing now is discriminating against certain attorneys. I don't happen to be a candidate for the legislature. I should hope that, from what I have seen over there, I won't be. But I belong to a category of attorneys that is being discriminated against here, and I think we have some city attorneys that are being discriminated against. If you are going to keep us out, then maybe you better keep the other attorneys out.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, I would like to remind the gentleman who just spoke last on this subject that there is much more than the opinion of one delegate behind this proposal; it is the substantial majority of the committee behind this. As Delegate Kuhn pointed out, I believe, there were 11 votes in favor of this, 2 nays and but 1 abstention at the meeting, and I can personally assure the delegates that this matter consumed a considerable portion of the debate before the committee.

Now, there are always problems of conflicts of interest or incompatibility when you talk about people holding 2 offices at once, and you can do no more than establish a general rule which you believe will generally work for the best of the people in the long run in this area. It is also very clear that such a rule has to be established in the constitution. We have seen that a rule has been established with respect to county offices for many years, and this has not caused the construction or interpretation problem which Mr. Ford indicates would somehow be created by inserting "township or municipal."

It has been the impression of the committee and it has been, I believe, voiced on the floor on a number of occasions that a person holding an office is different from a person who is classified merely as an employee. It is also very clear that the legislature has to pass laws which affect not only counties but also, today more and more, townships and municipalities, and that there is very clearly the problem of a conflict of interest when a person sits in the legislature and at the same time sits as either an elected or an appointed officer or officeholder in a municipal unit. How can he be, as a general rule and over the long pull, considered completely free from any conflict of interest with respect to legislation which the people connected with the unit of government of which he is a part may consider either advantageous or detrimental to their particular interest, which interest may or may not be in accordance with the interest of the people generally?

CHAIRMAN BENTLEY: The Chair will point out that there are 5 amendments at the desk and would suggest that delegates who still desire to speak might wish to withhold their comments until those amendments are offered. The Chair recognizes the gentleman from Detroit, Mr. Norris.

MR. NORRIS: Mr. Chairman, I would like to make a comment. I had asked a question previously of Mr. Kuhn with regard to the question of conflict of interest and the manner by which this conflict might be appraised. I thought there was a disproportionate emphasis in Mr. Kuhn's observations on the question of the right of individuals to run for office rather than upon the public interest which I thought was intended as the committee proposal.

It seems to me there is a public interest involved, and the incompatibility is the incompatibility not merely between the offices but with the public interest, as I understand it, and certainly we are able to see the headlines today and in recent weeks with regard to taxes as a momentous question that our state is called upon to face, and I detect a degree of incompatibility and conflict of interest between those who may be the kind of officials sought to be proscribed from being members of the legislature and this question. Township officers have a matter of taxes coming before the legislature. The first question, it seems to me, is: how does it affect my township and the taxes in my township? And I think that there is a question as to whether or not the overriding public state interest is the first consideration. I think that that is a very important proposition.

We have had some experience, too, with regard to conflict in terms of time of service where I understand, for example, in the present legislature, there are members of the boards of supervisors of some of the communities who are full time members of the boards who are nevertheless members of the legislature, and I think that they have to make, at some juncture, some decision with regard to where are they going to be at a given time. And I think both the public interest of the community that sends them and the state public interest is in some way disparaged by this. We have had an experience too in Detroit where some constables were members of the legislature and they certainly acted in the legislature to preserve their jobs, and that was the first and foremost objective that they had for a long time.

In addition to that, I think some very considerable constructive thinking was performed for this body in the proposals that are going to be before us by Dr. Pollock, Mr. DeVries, Mr. King and Mr. Durst in the materials that have been distributed to us, and one of the propositions is Committee Proposal 116. In relation to that committee proposal, they ask that we support the proposition that the legislature shall be a continuous body during the term for which —

MR. HOXIE: Point of information. What proposal are we discussing at the present time?

CHAIRMAN BENTLEY: At the present time, the Chair will state, we are still discussing the committee proposal. No amendments have yet been offered. The gentleman may proceed.

MR. NORRIS: I merely want to suggest, Mr. Chairman, in support of the proposal that if we are going to promote the idea of a full time legislature, the idea of a fully responsive, fully operating legislature, that this idea of removing conflict of interest and inserting the language proposed by the committee would serve a very useful public interest purpose, and I support it.

CHAIRMAN BENTLEY: The secretary will report the first amendment to Committee Proposal 112.

SECRETARY CHASE: Mr. Ford offers the following amendment:

1. Amend page 1, line 6, after "county" by striking out the comma and "township or municipal"; so the language will read:

> No person holding any office under the United States or this state or any county office, except notaries public and officers of the militia, shall have a seat in either house of the legislature.

CHAIRMAN BENTLEY: The gentleman from Taylor is recognized in support of his amendment.

MR. FORD: Mr. Chairman, I think I have already stated most of the reasons for this, except to point out that we are not really here eliminating from the legislature a great area of conflict of interest. All we are saying is that we are not going to have the courage to say that we should have a full time legislature with basic qualifications so that they can devote their full time to the legislature, but we are saying that it will continue to be, so far as anything that is passed in this convention thus far, a part time legislature, and we are saying it is all right for you to be a bank president and come down here and represent the banking interests as a member of the legislature, or an officer of a corporation, whether you make automobiles or tricycles. That is all right. You can be in the legislature and take part in all of the discussions and the votes concerning that industry, and you can be a member of the bar association, or you can be a barber or a doctor or anybody else who has problems as a group coming before it or a member of a labor union, but you must not be a public servant and come down here and have any possible conflict because you might have a point of view oriented toward a city if you are a city employee, or toward a township or a village if you happen to be an officer of one of those. So really we are not by this section eliminating the vast majority of the conflicts that do in fact exist over there. We all know that there are few, if any, of the legislators who do not have some other source of income, because they are not paid enough at the present time to live on what they make. They all have some other business or profession. Should we say that automobile dealers should be disqualified from sitting because we deal in areas of workmen's compensation that the automobile industry is involved in? Of course not. And I see an automobile dealer over here getting excited now. (laughter)

This isn't really a section that is going to define the conflict of interest or eliminate conflicts from the legislature. It is merely going to eliminate a certain group of people and create some vacancies in the legislature at the present time, and I surely hope that there is no motivation here for the creating of vacanices for any particular people in this convention.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. Chairman, I happened to serve on a committee with Stanley Powell and Larry Lindemer and Neil Staebler and some others that had to do with this same section as part of a governor's advisory committee, and the recommendation that the committee turns in to us is the same recommendation as was the conclusion of that preparatory committee, and I think it is a wise one and I want to support it.

First of all, I don't see why we should bar county officials but allow city officials or township officials to come up here. We have counties that are just as large and just as important as many of our cities. In fact, Wayne county and Oakland county are larger and more complicated, I think, than most of our Michigan cities. So I don't think it is right to bar one and not the others.

Secondly, I think that in the good old days when we had less government, it was possible without a conflict in time alone perhaps to serve the 2 offices, but I don't think government today is that simple and I don't think anyone in this room thinks government is that simple today, and frankly I don't see how anyone holding an elective office in a city or a township or a county has the time to adequately perform the 2 duties.

And, thirdly, I feel also, just as Dr. Norris and others who have spoken, that you just inevitably run into some very serious conflicts. If you are a city official and you have this problem of whether or not there shall be a tax on people who live outside of the city, you can see the conflict that you get into, or if you have an annexation question, and you can't help but be motivated in part by the district from which you come and the other duties which you hold. I think this is a salutary thing. I think it is a wise thing. I don't think any harm will come from it, but a lot of good. And I support the committee proposal and oppose the proposed amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, in the first place, may I comment that I don't quite agree with the analysis of my colleague, Delegate Allen, relative to the report of the citizens advisory committee. I have compared the language recommended therein with the language of this committee report and there is substantial difference. I have this report of the citizens advisory committee out here because I wish to read you the last 2 sentences of it. It starts:

> Rather than take away the right of township officers from holding a seat in the legislature it was felt that the right should be given these other officers —

referring to municipal officers —

> so as not to eliminate too many people who might serve well in more than one office. It was felt that if there was too much conflict in holding more than one office the people electing such a person should decide if they want that person to hold more than one office.

It just so happens that my own representative in the Michigan legislature, who has been there for several terms, has been for all of these years a township supervisor, and is today. As far as I know, these offices have not been incompatible with him or with many other members of the legislature who hold positions such as township supervisor or mayor or other positions.

I think that we can safely trust the voters to use their judgment in selecting members to serve in the Michigan legislature. I would approve language to restore this provision as close as possible to the existing language, and I would like to ask Delegate Ford, if he is available here, this question: have you considered restoring the stricken language in lines 7 and 8 where its says "officers elected by townships" in the exemption or exception? I think that that was put in there to take care of township supervisors.

You will notice in line 6, the words that you seek to strike "township or municipal" are new words. They are printed in capital letters. And when you take them out, you just put that part back to the way it was. But it does not cover this point that I raise, I think, as to lines 7 and 8, "and officers elected by townships." The question in my mind is whether we are sure as to the status of a township supervisor; is he a township official or is he a county official? And with that language restored there, I think there would be no doubt. Have you given that matter consideration, Delegate Ford?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Taylor, Mr. Ford, for reply.

MR. FORD: Well, the township supervisor has a little different status than anybody else in the township because he is mentioned elsewhere in the constitution and provided for with a 2 prong function. He is covered under the section on townships, but there is also a provision that there shall be a supervisor who is a member of the board of supervisors from each township.

Now, it happens that by law these 2 people are the same. I don't know that the constitution would require that the person elected to be the supervisor where the word is used in the township section would have to be the same person referred to as the supervisor in the section referring to the board of supervisors, but it always has been in Michigan, and apparently it has been so construed, so I assume that his problems arise out of the fact, as you have indicated, that he is considered to be a county officer in that he serves as a member of the board of supervisors by reason of the present language in the constitution.

MR. POWELL: Well, may I comment that I think Delegate Ford and Delegate Powell would both be more comfortable if he would accept the suggestion to restore those stricken words there.

MR. FORD: I would have no objection to that at all, Mr. Powell, if the intention would be to get us closer to the situation we were in before they put the 2 words in. I didn't mean by neglecting to reinstate them to imply that their previous exemption should be taken away, but I don't really see a reason for giving township officers, as opposed to other municipal officers, special treatment.

I might call your attention to the fact that most of the townships in Wayne county are larger than all but the top 25 cities of the state of Michigan. As a matter of fact, some of the townships rank within the top 5 to 10 municipalities of the state of Michigan by population. This township can be anything from 36 people to 100,000 people and, as you have indicated, when the job gets to be big enough, the fellow gets in a position where he has to make a choice.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Quincy, Mr. Knirk.

MR. KNIRK: Mr. Chairman, ladies and gentlemen, I find myself agreeing with my near mate here, Mr. Norris, in his comments, and disagreeing with my long standing friend, Mr. Powell. For the life of me I can't see how a person can serve objectively in the legislature if he is serving as an official of a township or city. I think that we wouldn't have to go too far from this particular hall to remind ourselves of, I think, some conflict of interest. I have noticed it here, and I don't want to be picking on any particular group, but it has been so titled as a "courthouse gang," Mr. Brake. (laughter) I think there has been an inference many times that this particular gang, as it has been referred to here, had a conflict of interest, and I think that this could also apply in the legislature. Whether this was an innocent implication or an intended implication, I do not wish to declare, but I think that we should support the committee proposal. I think it is sound. I think it is fair. I hope that we oppose the Ford amendment and vote it down.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Stanton, Mr. Brake. (laughter)

MR. BRAKE: That timing, Mr. Chairman, was just right. (laughter) As long as I have known the legislature, we have had a scattering of township officers as legislators. Many of them have been very excellent legislators, chairmen of committees, prominent and influential in the legislature. The legislature has been definitely better because they have been there.

The difference between the township officers and the county officers in this prohibition, Mr. Allen, is that the township officers are generally not full time officers. I think I have never known of one in the legislature who was a full time officer. It would be a mistake, in my judgment, to bar them. Now, if their service in the legislature results in poor service to their township back home, the people there have a very prompt remedy to take care of that situation. I am definitely in favor of the Ford amendment, township gang or county gang or not. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: I would first like to ask Delegate Ford one question, through the Chair, then I would like to make a brief comment.

CHAIRMAN BENTLEY: State the question.

MR. MARSHALL: Delegate Ford, would you accept in your amendment — I have one, too — to strike the words "township or municipal office" and also reinsert in lines 7 and 8 and lines 9 and 10 the stricken language?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Taylor, Mr. Ford.

MR. FORD: I would, except that I just noticed something in going back to the 1850 constitution. Actually, what they did in 1908 was pick up the 1850 language, and if we take a quick look at one of the major changes that was made in 1907 that got into the 1908 constitution, we came up with this home rule city for the first time, although cities were mentioned, and I wonder why they had this language. It would appear that by omission — and there are some cases cited under the 1850 language — the types of local government that are omitted are not prohibited. Townships are specifically exempted and counties are specifically prohibited, and it looks like we would be going back to this same conglomeration. I think we ought to treat people in townships, villages and cities the same, and changing it the way you are asking me to change it wouldn't accomplish this.

CHAIRMAN BENTLEY: The gentleman has the floor.

MR. MARSHALL: Well, from the standpoint of partisanship, from the standpoint of legislative accomplishment and from the standpoint of differences in philosophy, I probably should be supporting the committee proposal because I think that the farm bloc would suffer more under this than any other group in the state, because they do have more township officials in the legislature than you do in the metropolitan area. As a matter of fact, I can only recall one. But it seems to me it would be a little bit silly when we say that there can be a conflict of interest because a member of the board of trustees in Taylor township, who draws $15 a meeting and he makes his livelihood from some other source, should be prohibited from serving in the legislature.

Now, I have to disagree with my good friend, Blaque Knirk, on the conflict of interest. There is no more a conflict of interest for a $15 a month or a $20 a month member of the board of trustees in a township serving in the legislature than there is a representative of the manufacturers association, the table-toppers, the AFL-CIO, the grange, the farm bureau and literally dozens of other lobbying groups in the state capitol.

Now, if we are worried about conflict of interest, I think we ought to probably spell it out that no one who holds any position in the particular spots mentioned in the proposal, or membership or in any way representing any of these groups that are registered as lobbyists — now, again I don't want to use the word hypocritical, and maybe that isn't the right word, but let's don't have a 2 way street. And I say to the delegates in this committee that if the people in my district want to elect one of the minor township officials who has the time and can perform the service and the duty and can carry to the office some experience, we ought to have that right, and I don't think we ought to prohibit this constitutionally.

And I think, brother Knirk, if you would think this over, that you would have to agree with the remarks that I just made concerning conflict of interest. Where does it stop and where does it begin? Or where does it begin and where does it stop? And I don't think that the statements that you made are appropriate to the proposal because we could debate from now on or for at least a week on questions of conflict of interest, and I don't want to do that. But I am seriously concerned whether or not a minor township official who may presently be serving in the legislature or who may in the future want to be a candidate will be denied that right solely because he is drawing a wage of $20 or $25 a month from a township government, and I would ask support of the Ford amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pleasant Ridge, Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Chairman, I wasn't going to speak on this particular amendment until Mr. Ford opened up such a vista there when he started talking about these conflicts of interest. I just wanted him to know that I will join with him on an amendment of the kind that he offered if he would like to make an amendment to that effect.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Jackson, Mr. Thomson.

MR. THOMSON: Mr. Chairman, delegates, what few words I have to contribute are based upon my experience as a member of the legislature and as a representative of the county officers association before the legislature for the past 15 or 16 years.

I have observed that the person always carries some of the ideas from home with him, and when you go there and discuss matters before them, they have a preconceived idea which they obtained as a public official in some other capacity, and I have never yet known in my contacts as a member of the legislature or as a person asking favors from the legislature, but what the man who was serving in only one capacity was much more conscientious and did a much better job than did the person who was holding or trying to do 2 or 3 jobs at once.

CHAIRMAN BENTLEY: Is the gentleman from St. Louis seeking recognition?

MR. HOXIE: I wonder, Mr. Chairman, if I could ask Mr. Ford a question.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. HOXIE: Apparently Mr. Ford is only concerned about township and municipal officers. We are not talking about elected officials; we are talking about officers, which includes appointed officials as well. I am wondering if, to be consistent, Mr. Ford, you shouldn't also strike county officers. I am thinking of an individual who happened to be a friend of the court in Gratiot county. Under the ruling of the attorney general, there was a conflict of office there. There would be a conflict in the county health officer, which is a part time job.

If we are going to consider this on the basis of eliminating, and allowing township and municipal officials to serve in the legislature, shouldn't we give that same right to county officials as well? How can you distinguish between the 2?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Taylor for a reply, Mr. Ford.

MR. FORD: I think that is a good point, and I didn't really intend to, because I was aiming at the specific problem, but this seems to get more complicated as you get into it. Perhaps we shouldn't be mentioning any type of officer at all, but should merely have a general statement that no person should serve in the legislature when he occupies any position of public or private employment or public or private office, the duties of which are in conflict with the performance of his duties as a legislator.

We have a common law rule, if you please, or a set of statutes in many cases — the school code takes care of those people now — and we have the separation of powers that keeps all the judicial officers off; and we have this language which keeps a county officer off, but there are numerous cases on what this means when you say county officer. As I recall, a deputy clerk or a deputy treasurer, even though he isn't elected, is a county officer, but an employee of the road commission is not a county officer. He may get more money and he may have more responsibilities and he may have, in fact, a more direct interest in the appropriations of the legislature, but he is not a county officer.

I think you raise a good point, and I would be glad to join in any amendment that would get a single standard here so that we get at the real problem, which is a conflict of interest.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Alpena, Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, just a very brief comment. Most of the groups that there has been reference to here — and I understand a number of the bigger counties and cities — hire a legislative agent. Other townships, it would appear, would prefer to elect them. I think that probably has some bearing on the question.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, I would like to straighten out Mr. Marshall. He said that they would like to be able to elect their township officials to the legislature. Under our proposal he will be able to do that, but if he is elected, then he must resign his seat on the township board.

In answer to Mr. Powell, I think he was confused on one statement and I know he didn't do it intentionally, but he inadvertently said that the citizens research recommended more or less the status quo. It is the governor's group that recommended status quo. And he is holding the governor's book, the blue book, in his hand and he quoted that absolutely correctly. The citizens research is recommending what we are recommending. And I say to you that this is 1962, and if you want to go back to 1850, you will adopt the Ford amendment, and we are definitely opposed to it.

CHAIRMAN BENTLEY: The vote occurs on the amendment offered by the gentleman from Taylor, Mr. Ford. Mr. Kuhn.

MR. KUHN: Mr. Chairman, I demand the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been demanded. Is the demand supported? A sufficient number. The yeas and nays are ordered. Those in favor of the Ford amendment will vote aye. Those opposed will vote no. Mr. Stevens.

MR. STEVENS: May we have the amendment reread?

CHAIRMAN BENTLEY: The secretary will read the Ford amendment.

SECRETARY CHASE: The pending amendment which is being voted upon is to amend page 1, line 6, after "county" by striking out the comma and "township or municipal".

CHAIRMAN BENTLEY: The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—41

Balcer
Boothby
Bradley
Brake
Buback
Dehnke
Dell
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Figy
Finch
Ford
Gover
Greene
Hart, Miss
Hatcher, Mrs.
Hood
Hutchinson
Kelsey
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McLogan
Murphy
Powell
Radka
Richards, J. B.
Sablich
Shanahan
Snyder
Stafseth
Stopczynski
Suzore
Walker
Wilkowski

Nays—66

Allen
Andrus, Miss
Anspach
Austin
Barthwell
Batchelor
Beaman
Binkowski
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Iverson
Prettie
Pugsley
Rajkovich
Richards, L. W.
Rood
Rush
Seyferth
Shackleton

Bledsoe
Cudlip
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Durst
Elliott, A. G.
Everett
Farnsworth
Faxon
Follo
Goebel
Habermehl

Jones
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Nisbet
Nord
Norris
Perras
Plank

Sharpe
Sleder
Spitler
Staiger
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Ford, the yeas are 41; the nays are 66.

CHAIRMAN BENTLEY: And the amendment is not adopted. Does the gentleman from St. Louis desire recognition?

MR. HOXIE: Mr. Chairman, a good many delegates over in this corner desire to have the committee rise. I understand there are 5 more amendments on the secretary's desk. As so ably expressed by the secretary of the convention, 9:00 o'clock comes early in the morning; so I move that the committee rise.

CHAIRMAN BENTLEY: The motion is on whether the committee shall rise. Those in favor of the motion will vote aye. Those opposed? The Chair is in doubt. A division is requested. Those in favor of the motion to rise will vote aye. Those opposed will vote no. The secretary will lock the machine.

MR. MARSHALL: Mr. President, I must have voted wrong. I notice that Miss Hart and Mr. Downs voted aye; so I better change my vote so I can follow my leaders. (laughter)

MR. WANGER: Mr. Chairman, I trust you will note that I did not vote, but I couldn't make up my mind without the advice and counsel of my esteemed senatorial delegate, and he wasn't here to vote. (laughter)

SECRETARY CHASE: On the motion that the committee do now rise, the yeas are 66; the nays are 36.

CHAIRMAN BENTLEY: The motion prevails. The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had certain items on the general orders calendar under consideration of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 103,** A proposal to provide that sessions of the legislature be open and that a concurrent resolution is necessary for adjournment for more than 3 days; **Committee Proposal 105,** A proposal to provide that bills must be printed 5 days prior to passage and for limitation of extraordinary sessions; **Committee Proposal 106,** A proposal to allow the legislature to pass laws regarding indeterminate sentences; **Committee Proposal 108,** A proposal to provide a limitation against general revision of the laws and a method of compilation; **Committee Proposal 109,** A proposal to provide that the legislature may enact laws whereby public employment disputes can be settled; **Committee Proposal 110,** A proposal to provide that the legislature may enact laws relative to hours and conditions of employment; and **Committee Proposal 111,** A proposal pertaining to the employment of chaplains; reports these proposals back to the convention without amendment and with a recommendation that they do pass.

PRESIDENT NISBET: **Committee Proposals 103, 105, 106, 108, 109, 110** and **111** are accepted and referred to the committee on style and drafting.

For Committee Proposal 103 as referred to the committee on style and drafting, see above, page 2333.

For Committee Proposal 105 as referred to the committee on style and drafting, see above, page 2334.

For Committee Proposal 106 as referred to the committee on style and drafting, see above, page 2335.

For Committee Proposal 108 as referred to the committee on style and drafting, see above, page 2336.

For Committee Proposal 109 as referred to the committee on style and drafting, see above, page 2337.

For Committee Proposal 110 as referred to the committee on style and drafting, see above, page 2341.

For Committee Proposal 111 as referred to the committee on style and drafting, see above, page 2342.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 104,** A proposal to provide for 3 readings of a bill before passage and for passage of bills by a majority of the members elected; reports this proposal back to the convention with an amendment and recommending that the proposal as amended do pass.

[Following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 9, after "elected" by striking out "to" and inserting "and serving in".]

PRESIDENT NISBET: **Committee Proposal 104,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 104 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. Every bill shall be read 3 times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of all the members elected and serving in each house. On the final passage of all bills, the vote shall be by yeas and nays and entered on the journal.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 107,** A proposal to provide that legislators shall be elected on the first Tuesday after the first Monday in November.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, by striking out all after the enacting clause.]

PRESIDENT NISBET: **Committee Proposal 107,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 107 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

(Note — The complete content of this committee proposal has been stricken.)

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 112,** A proposal to provide that certain officeholders shall be ineligible for the legislature; has considered an amendment thereto and has reached no final conclusion thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: We have the following announcements: the committee on emerging problems will meet tomorrow at 11:30 or immediately after the morning session; the committee on judicial branch will meet in room B on Friday at 8:00 o'clock in the morning; and the committee on local government will meet Friday morning at 8:00 o'clock in room A.

We have the following requests for leave: Mr. Bledsoe asks to be excused from the session of Friday. It is necessary for him to appear in court on business started before the convention began.

PRESIDENT NISBET: Without objection, he is excused. The Chair recognizes Mr. Rush.

MR. RUSH: Mr. President, I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed, no.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 10:45 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Thursday, April 12, 1962.]

ONE HUNDRED TWENTIETH DAY

Thursday, April 12, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our own delegates, Lillian Hatcher.

MRS. HATCHER: Let us pray. Heavenly Father, great and eternal God, we are thankful for the privilege of addressing ourselves to Thee, in this place, at this hour and on behalf of this constitutional convention as individual delegates.

We beseech Thee, please make us to realize that the magnitude of this task can be properly accomplished only by including Thee in our mediations; direct our deliberations with constructive thinking; temper our thinking with wisdom; mold our wisdom in understanding; so much so, that it be impregnated with justice and humility that herefrom shall emerge a physical structure, better for the state of Michigan, better for our fellow beings, better for ourselves and better for the oncoming generations of tomorrow's children.

These blessings grant us, dear Lord, for Jesus' sake. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. All those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary was in receipt of the following requests for leave: Messrs. Arthur Elliott, Garvin and Young, temporarily, from today's session; and Mr. Krolikowski, from today's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Durst, A. G. Elliott, Garvin, J. A. Hannah, Hodges, Howes, Krolikowski, Pollock and Young.

Absent without leave: Messrs. Allen, Bledsoe, Dean Doty, G. E. Brown, Ford, Greene, Gust, Murphy and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. Bledsoe, Greene, Gust, A. G. Elliott, Durst, Allen, J. A. Hannah, Murphy, G. E. Brown, Wilkowski, Dean Doty, Ford, Garvin and Young.]

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for consideration of items on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor will say aye. Those opposed?

The motion prevails.

[Whereupon, Mr. Bentley assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN BENTLEY: The committee will be in order. The convention is in committee of the whole for consideration of items on the general orders calendar. The secretary will report the next amendment to Committee Proposal 112, which is the current order of business.

SECRETARY CHASE: **Committee Proposal 112,** A proposal to provide that certain officeholders shall be ineligible for the legislature.

For last previous action by the committee of the whole on Committee Proposal 112, see above, page 2345.

Messrs. Marshall, Powell and Mahinske offer the following amendment:

1. Amend page 1, line 6, after "county,", by striking out "township"; so that the language will read:

> No person holding any office under the United States or this state or any county, or municipal office, except notaries public and officers of the militia, shall have a seat in either house of the legislature.

MR. KUHN: Mr. Chairman.

CHAIRMAN BENTLEY: For what purpose does the gentleman from Pontiac rise?

MR. KUHN: I rise for a point of order.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. KUHN: It is my understanding that when an amendment is offered and the amendment is divisible, and they fail to use that privilege of dividing it, they waive their rights; and since we voted on township and municipal last night, I contend that this is out of order this morning.

CHAIRMAN BENTLEY: In response to the point of order raised by the gentleman from Pontiac, Mr. Kuhn, the Chair will rule that this is a different amendment from that which was offered last night. The question of divisibility could have been raised and was not raised at that time. The amendment is in order, and the Chair will recognize the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Thank you, Mr. Chairman. We spoke on this last night. I think we gave all the reasons. I do not buy the argument that there is any conflict of interest if some minor township official happens to be called upon by the people of his district to serve in the state legislature. That's all that this amendment is intended to do — to make it possible for a minor township official to be able to serve in the legislature, and also to make it possible for those who are presently serving to continue to serve if the people in their district want them to serve. Insofar as any conflict of interest is concerned, if any, I think that the people themselves can determine that, and I would urge your support of this amendment.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Taylor, Mr. Marshall. All those in favor will respond by voting aye. Those opposed will say no.

The amendment is not adopted. The secretary will report the next amendment.

SECRETARY CHASE: Messrs. Faxon and Nord offer the following amendment:

1. Amend page 1, line 7, after "notaries public" by inserting a comma and "members of the armed forces reserves"; so that the language will then read:

> No person holding any office under the United States or this state or any county, township or municipal office, except notaries public, members of the armed forces reserves and officers of the militia, shall have a seat in either house of the legislature.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon, in support of his amendment.

MR. FAXON: Mr. Chairman and fellow delegates, this amendment was discussed with the committee on legislative powers the other night, at which time the committee informed me that it was their intention that this language be included. Now, Mr. Hoxie made a statement yesterday to the effect that this was the intention of the committee, and this was in line with the previous action of the convention taken on Committee Proposal 79 with regards to the apportionment commission, whereby they excluded those people, notaries public and members of the armed forces reserves.

Now, in the light of Mr. Hoxie's statement that style and drafting will take care of it, and unless Mr. Kuhn wishes to make any further comments, I would just as soon withdraw that, in the event that style and drafting would handle it adequately.

MR. KUHN: We are in accord with Jack Faxon's statement.

CHAIRMAN BENTLEY: Without the objection of Mr. Nord, the amendment will be withdrawn. The secretary will report the next amendment.

SECRETARY CHASE: Mr. Mahinske offers the following amendment:

1. Amend page 1, line 9, after "legislature" by striking out the period and reinserting the semicolon and "and all votes given for any such person shall be void.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske, in support of his amendment.

MR. MAHINSKE: Mr. Chairman, members of the committee, as I understand it, the intent behind striking this language is that at the present time an officeholder may run through a primary and through a general election without having to put up any kind of security, so to speak, for his doing this. Under the present article in the constitution, any elected officeholder recited here, once he goes beyond the primary, has to resign from his office before he can run through the general election. Otherwise all the votes cast for him are void and he can't be elected no matter how many votes he gets, because none of them are counted.

Now, the intent, as I said before, is to remove this possibility and allow officeholders — township, municipal, county, and even other state officeholders and federal officeholders — to run through a primary, run through a general election, and then make a choice of which office they want. It is my opinion that this is just going to encourage people who are holding offices of one repute or another to use this office to attempt to gather votes for a next higher office or a better office without jeopardizing a thing. In other words, they will run through the primary, and they will take their chances at the general election, and if they get the votes then they will resign the office that they are in. And very possibly there may be quite a waiting spell for the local people before they can replace this man.

Now, we heard all these arguments last night about how the voters on a local level will speak, and they will determine whether or not a person can hold a second office, and so forth. Frankly, I don't believe that this is a good argument. It seems to me that if somebody wants to run for one office who is holding another office, he should at least be required to vacate the one office prior to going through a general election for the next highest office that he desires.

For these reasons, I would reinsert or propose to reinsert the language in lines 9 and 10 and leave the situation exactly as it is today, so that after a primary election an officeholder that is recited here would have to resign from his office before going through a general election.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, this was done because of the fact that we did include the township and county officials. Now, I'll submit to you today that I spoke with Paul Mahinske about this a little earlier, and I honestly think that it's shocking how many can really run today. This is only to allow the township officials. How many people that would have a higher office would want to run for the legislature?

This is in accordance with fair play. It is not something that would cost the people of Michigan any money. For example, if they were in a common council or a township board and they were so elected to the legislature, and resigned, because they'd be forced to, they could be appointed by their township board to a vacancy on the city commission, and so forth. To us this is fair play. It was recommended by the citizens research council, if we were to put these other provisions in.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Detroit.

MR. KUHN: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Kuhn.

MR. KUHN: I would like to say the committee is definitely opposed to this amendment.

CHAIRMAN BENTLEY: The question occurs on the amendment submitted by the gentleman from Detroit, Mr. Mahinske. Those in favor will say aye. Those opposed will say no.

The amendment is not adopted. The secretary will report the next amendment.

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend page 1, line 9, after "legislature" by inserting "or serve as constitutional convention delegates".

CHAIRMAN BENTLEY: The Chair recognizes the lady from Dearborn, Mrs. Cushman, in support of her amendment.

MRS. CUSHMAN: Mr. Chairman and fellow delegates, my purpose in offering this amendment is obviously the fact that I think that serving as a con con delegate is a full time job. I have been acquainted with many people holding other offices here, and I feel that they made a real contribution to the convention. But after going through this constitutional convention, it seems to me that there is just no time and energy left over to do a good job in another capacity as well. For that reason I offer this amendment.

MR. KUHN: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: I hate to do this, but I would like to raise the point of order that this is not germane to this section; that the qualifications and conditions for a constitutional convention delegate are brought up in the committee on miscellaneous provisions. And when we come to that, I would go along with Mrs. Cushman, and I would like to see a lot stronger language as far as who can be a candidate, and for how many years afterwards they could run for office; but this is not germane to the legislature.

CHAIRMAN BENTLEY: With regard to the point of order raised by the gentleman from Pontiac, Mr. Kuhn, the Chair notes that the title to Committee Proposal 112 is, "A proposal to provide that certain officeholders shall be ineligible for the legislature." Having that in mind, the Chair would rule that this amendment is not germane to this particular proposal, and therefore would sustain the point of order, and would suggest to the lady from Dearborn, Mrs. Cushman, that it be reoffered at the time mentioned by the gentleman from Pontiac, Mr. Kuhn.

MRS. CUSHMAN: I'm not at all surprised. I rather felt that way myself. I merely was sort of offering this as an indication of what I intend to do when we get to that point.

CHAIRMAN BENTLEY: The point of order is sustained.

MRS. CUSHMAN: I would like to speak further on this section when —

CHAIRMAN BENTLEY: The point of order is sustained. The lady from Dearborn will be recognized when the amendments are disposed of to speak on the body of the proposal. The secretary will report the next amendment.

SECRETARY CHASE: Messrs. Marshall and Mahinske offer the following amendment:

1. Amend page 1, line 6, after "office,", by inserting "or any person having any direct or indirect financial transactions for profit with the state or any subdivision thereof,"; so that the language will read:

> No person holding any office under the United States or this state or any county, township or municipal office, or any person having any direct or indirect financial transactions for profit with the state or any subdivision thereof, except notaries public and officers of the militia, shall have a seat in either house of the legislature.

MR. WANGER: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Lansing, Mr. Wanger.

MR. WANGER: I must raise a similar point of order on this amendment, because this does not relate to the subject of incompatibility. It relates to the subject of conflicts of interest, which is, I believe, Committee Proposal 115, which undoubtedly will come up this morning, and this will be appropriate there. But the 2 subjects are entirely distinct, entirely different. They are dealt with by 2 different sections in our present constitution, and it's the committee's intent that we should consider them the same way in the revised constitution.

CHAIRMAN BENTLEY: Does the gentleman from Taylor, Mr. Marshall, desire to be heard on the point of order?

MR. MARSHALL: Yes. I think that Mr. Wanger is incorrect in his remarks. The movers of the committee proposal talked about conflict of interest in explaining why they were taking out the 1908 language, which was good language and should have remained in, and substituting it with something else. And while there is a proposal, 115, which deals with conflict of interest, the language is not the same as this, and I do feel that the amendment that I offer is germane to the question that we are talking about. Because, in explaining the proposal, practically the entire explanation dealt with conflict of interest.

MR. WANGER: Mr. Chairman, just briefly. I know the word conflict of interest was used. But from the standpoint of constitutional subject matter and also the title of the proposal, this proposal we are now dealing with is the incompatibility between different offices, and the 2 subjects are really entirely distinct. While this amendment may be a very good one, I think it ought to be in a separate section of the constitution, and should be considered separately from the incompatibility between 2 offices; because one is not germane to the other.

MR. MARSHALL: Mr. Chairman, I would then have to ask for a ruling of the Chair. I get the impression that many of these proposals that are being introduced here to change provisions in this constitution where there has been no demand whatsoever from the people to change them are motivated by some personal experience that some delegate or group of delegates might have had somewhere along the line; and if we're going to talk about conflict of interest and if we're going to say that a little township trustee that earns $15 a month can't serve in the legislature, then I think that anyone who holds a contract with the state for profit or deals in any way with the state or any local unit of government should not be able to serve either. I think that it is germane, and I would ask for a ruling from the Chair.

CHAIRMAN BENTLEY: Does the gentleman from Detroit, Dr. Nord, desire to be heard on the point of order?

MR. NORD: I do, if I may.

CHAIRMAN BENTLEY: The gentleman is recognized.

MR. NORD: I simply wish to point out, Mr. Chairman, that Committee Proposal 115 deals with a different matter than the matter before us on the wall. Committee Proposal 115 says that somebody who is a member of the legislature shall not have a conflict of interest. That means that if he is a member of the legislature, he must divest himself of the conflict of interest. It doesn't say he must stop being a legislator or must not start being a legislator. It seems to me there is a difference, because the amendment on the wall offered by Mr. Marshall says he shall not become a legislator. I therefore think that the point of order is not well taken.

CHAIRMAN BENTLEY: Does the gentleman from Detroit, Mr. Stevens, desire to be heard on the point of order?

MR. STEVENS: Yes, Mr. Chairman. It seems to me we ought to have cleared this matter up yesterday. We brought in this matter of conflict of interest, and so on, but it was carefully explained that we are talking here only about incompatibility of 2 offices. It has nothing to do with whether he gets $15 a month, $5 a day, or no pay at all. The idea of this particular section is simply that 2 offices do not go together; that a man can't serve in both offices in a fair and impartial way, or that he might not. I don't see that it has anything to do with the thing which Delegate Marshall is talking about. I think his amendment should be well considered, but I don't think it should go here.

CHAIRMAN BENTLEY: The gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I don't agree with Mr. Stevens. I think we are talking about more than just incompatibility of offices here. We are also talking about conflict of interest. I still think the amendment is germane to the proposal before the body. If a sewer inspector of Taylor township can't serve in the legislature, I don't know why some individual who has a contract for profit with the state should be able to serve there either. I think this is germane to the issue before this committee.

CHAIRMAN BENTLEY: The Chair is ready to rule. The Chair has examined Committee Proposal 112, which is the current order of business, as well as Committee Proposal 115. The title to Committee Proposal 112 states, "A proposal to provide that certain officeholders shall be ineligible for the legislature." The title to Committee Proposal 115 states, "A proposal to provide that no member of the legislature or state officer shall have a substantial conflict of interest with the state." The Chair would assume that the restrictions in Committee Proposal 115 with respect to officeholders could logically also be taken to include candidates for those offices, as well as incumbent officeholders.

Therefore, since Committee Proposal 112, the current order of business, deals only with people who may hold certain local offices and at the same time offer themselves as candidates for the legislature, and there is no reference to conflicts of interest arising outside of their dual officeholding, the Chair would sustain the point of order, and suggest to the gentleman from Taylor, Mr. Marshall, that this amendment be reoffered at the time that Committee Proposal 115 is before the committee of the whole.

MR. MARSHALL: Mr. Chairman, I will accept the ruling of the Chair, as I have no other alternative. But would I be in order at this time — I don't have it written, but I intend to hand it to the secretary later — to offer an amendment to strike the entire section, all of Committee Proposal 112? What I actually want to do is reinsert the language that was in the 1908 constitution in toto.

CHAIRMAN BENTLEY: The Chair will advise the gentleman from Taylor, Mr. Marshall, that an agreement was made to recognize the lady from Dearborn, Mrs. Cushman, to speak on the body of Committee Proposal 112. There are no other amendments. If the gentleman can prepare an amendment before the proposal is ready to be passed, of course, it will be acceptable.

MR. MARSHALL: Thank you.

CHAIRMAN BENTLEY: The lady from Dearborn, Mrs. Cushman, is recognized to speak on the body of Committee Proposal 112.

MRS. CUSHMAN: I have a couple of comments on this. Mostly, I don't think we have completely made ourselves clear, and being a member of the committee on style and drafting, I think we ought to try to resolve any possible problems here in committee of the whole. For example, it isn't really clear whether we mean no person holding any elective office or whether we mean no officer or employee. I think that is one conflict that we have got to make clear in our own minds. It isn't clear in mine, in any case.

Then, I think we also want to clarify what we mean by "municipal." If we mean "city and village," I think we ought to say that; because "municipal" in Michigan has somewhat of a vague meaning, as we have been finding out in style and drafting, and I think that this would be a help. I wonder if I could inquire of whichever member of the legislative powers committee would like to answer whether it would be possible to change "municipal" to "city and village," if that was what they intended.

CHAIRMAN BENTLEY: The lady from Dearborn yields to the gentleman from Pontiac, Mr. Kuhn, to reply to the question.

MR. KUHN: Last night we went over this word, I thought, rather thoroughly. We would not be in favor of changing this word because we do not know in the next 50 or 100 years what "municipal" might mean. We want it to be all inclusive. Dr. Nord asked the direct question, "Do you mean at least cities and villages?" and the direct answer was, "Yes, definitely so." We cannot say what "municipal" might mean at a later juncture. I think it is quite important that this word stay in. Our intent is quite clear.

MRS. CUSHMAN: Thank you. Now, what about this "no person holding any office?" Do you mean elective office, or do you mean officer or employee?

MR. KUHN: Pardon? I'm sorry, I didn't hear that.

MRS. CUSHMAN: Do you mean no person holding any elective office, or do you mean any officer or employee?

MR. KUHN: We do not mean employees. Generally, an officer is one who has to take an oath of office. We are not intending to get at the employees. I would say, basically, for example, in the township we mean the supervisor, the clerk, the treasurer and the trustees.

MRS. CUSHMAN: Would it be possible to say, "No person holding any elective office?"

MR. KUHN: No, that wouldn't be possible; because we are having appointive state officials and things of that nature. We went over all this, and this is the best we could do, and we think it does cover the subject.

MRS. CUSHMAN: Well, I'm afraid it isn't too clear exactly how we can word it to express what we mean; but thanks anyway.

MR. HOXIE: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: I might add this to the observations of Mr. Kuhn, for the benefit of Mrs. Cushman: the attorney general has ruled repeatedly that when they say "office" they are referring to an elected official as well as an appointed official. The distinction is whether they are an official.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Madar.

MR. MADAR: Mr. Chairman, the answer that Delegate Kuhn gave to Delegate Cushman wasn't any too clear. I have to hark back to Judge Dethmers again, and I want to be sure that he is going to understand it if he is still a justice. When he was asked about employees, he said all they meant was those who might have to take an oath of office. When I went to work for the city of Detroit, and on 2 or 3 occasions since then, when I changed positions with the city of Detroit, I had to take an oath of office. Now, does this pertain to the employees that have to take an oath to do their duty? The policeman has to take an oath to do his duty. And I would like to get this on the record clearly, because I don't want any mistakes, and I don't want someone saying this means this or this means that. Let's put it in the record here clearly.

MR. KUHN: I would say we definitely do not mean policemen or any other employees.

MR. MADAR: Or employees?

MR. KUHN: Or employees.

MR. MADAR: Any that are not elected or appointed?

MR. KUHN: Employees are not prohibited to be members of the legislature.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I did hesitate to talk for fear I would further confuse the issue, but I think one protection here we are forgetting about is the voter himself. Now, I feel that if we make too many limitations here on who can run, we are not only telling that individual he can't run, but we are telling the electorate that you may want Joe Doaks to be your legislator, but we are constitutionally precluding you from being able to get petitions filed, get him to run, and support him. I think the real protection comes in a vigorous campaign, with the voter making the decision.

I think, on the problem of conflict of interest, that the committee wrestled with this very diligently, and the more we got into it the more problems that were raised. Somebody asked if a person who is a friend of the court should be precluded from running even though the people want him to run. I just want to point out what I consider a very important protection. I think we are moving to the point where disclosure, so that the voters know what the relationship is, is often more important than the particular position. We even had the extreme example in the matter of financial interests: if a man owns 2 shares of stock in an automobile factory, and the state buys automobiles from that company for the state police, is that a conflict of interest?

At some point we get to a rule of reason, and I think Delegates Marshall's and Mahinske's amendment, in a sense, shows us that we do need to use some rule of reason here, and finally have the confidence in the electorate in making their decision.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman, I am on the committee of style and drafting, and I'm sure that aside from Mrs. Cushman we will have no trouble with any of this, except possibly the question of armed forces reserves, and I'm sure we can find out about that from our own delegate reserve officer, Delegate Millard, so we can clear that up. I think this is excellently drafted. The courts have certainly ruled on the question of who is an officer and who is an employee.

CHAIRMAN BENTLEY: The secretary will report the next amendment to Committee Proposal 112.

SECRETARY CHASE: Messrs. Marshall and Mahinske offer an amendment to strike out the present section a and reinsert the language of the present section of the 1908 constitution, so that the language will read:

> No person holding any office under the United States or this state or any county office, except notaries public, officers of the militia and officers elected by townships, shall be eligible to or have a seat in either house of the legislature; and all votes given for any such person shall be void.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac —

MR. KUHN: Point of order, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. KUHN: As I understood the Ford amendment last night, it struck the words "township or municipal." Now, if they strike those 2 words, the amendment would be identical to the original language.

CHAIRMAN BENTLEY: The Chair will state, in reply to the point of order raised by the gentleman from Pontiac, Mr. Kuhn, that the pending amendment makes other changes by restoring the language of the present constitution, and the Chair will therefore have to rule that the amendment is germane. The gentleman from Taylor, Mr. Marshall, is recognized in support of his amendment.

MR. MARSHALL: Mr. Chairman and fellow delegates, all we are attempting to do is try to get some sense back into the committee as relates to this particular question that is before us. As I stated earlier, I am convinced in my own mind that many of these proposals are motivated by some personal experience that a delegate or group of delegates might have had at some time that he thought was unfortunate in a political campaign, et cetera, as it might have affected some incumbent legislator that he was involved in a dispute with.

All this does is put the 1908 language back into the constitution. It has worked, and it has been tried and proven. There has not been any great problem in this area. I know of no great demand — and no one has pointed any out on the part of the people of this state — to change this particular provision or, as a matter of fact, to change many of the other provisions that have been changed.

Now, I get a little bit weary listening to this conflict of interest or this incompatibility of office argument. Here we say — and I point this out again, and I think that the delegates ought to be reasonable about this — that the vice president of General Motors can run for the state legislature. Now, certainly none of us are going to deny that there might be a conflict of interest there. But certainly he should have the right to run, and if the people of his district elected him, he ought to have the right to serve. And I say that if a top official of any corporation or any labor union of this state is eligible to serve in the legislature, then we should not put into the constitution any provision that would deny a township official or a village official, who serves for little or no compensation at all, the right to serve in the state legislature. I believe that the 1908 language is much better than the language of the committee proposal, and I urge its adoption. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Muskegon, Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, a question to Mr. Marshall, if I may, please.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. W. F. HANNA: Mr. Marshall, under this language would you say that the township treasurer and township clerk could serve in the legislature?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Taylor, Mr. Marshall, to reply.

MR. MARSHALL: Under this language, Delegate Hanna, if a township clerk or a township treasurer, or any township official, was an official of a township of a large enough size to require his full time services, I think the decision would be up to that person and the people within his district as to whether time would permit him to serve in the legislature. Now, my clerk could not serve because he is a full time clerk. But there are townships in this state where the clerk is a part time job, where the clerk has time to serve and he should be permitted to serve, and the answer is, yes. As a matter of fact, we have had township clerks who have served in the legislature, some presently.

MR. W. F. HANNA: Mr. Chairman, a second question to Mr. Marshall. You have another provision in the old constitution, carried over into this one, that no holder, disburser or collector of money may hold a seat in the legislature. And I submit to you that a township clerk and a township treasurer is a holder, collector or disburser of money. How do you reconcile the 2 conflicting provisions, one of which we passed some time ago, and this one?

MR. MARSHALL: I don't recall the one that we passed some time ago, Delegate Hanna. And if that is true, then I would have to admit that it would be hard to reconcile the 2.

MR. W. F. HANNA: Mr. Chairman and fellow delegates —

MR. MARSHALL: But I'll tell you what we could do. We can go ahead and pass my amendment, and then we can let the attorneys worry about reconciling it. That will give you some business.

MR. W. F. HANNA: I think the proposal that came out of the finance and taxation committee was not understood by a great many delegates, and I don't think it is clear what it did or even intended to mean. But it's obvious in the language that a township clerk and township treasurer could not serve in the legislature under the provision that came out of finance and taxation. And you have a definite conflict between this and the other.

Now, there is some confusion in the township code as to whether or not the supervisor is responsible for disbursements in a township, in his capacity as a purchasing agent. He does not sign the warrants, and he does not have custody of the money; but in a lot of townships, because the township code refers to him as a purchasing officer, he also countersigns the warrants, which makes him a disburser of public money.

This amendment, if the other provision remains in, just gets us down to nothing but township trustees. Obviously, under this language, also, the office of township justice of the peace or judicial office, which may come out of the legislature at a future date, would be in conflict, because we have said that justices of the peace cannot be in the legislative body. On the other hand, this language says any township officer may be in the legislative body.

I believe that the original committee proposal is much clearer, much better, and eliminates all the conflict that was in the old constitution; and certainly we should not knowingly carry forward this complete conflict. I'm satisfied that under the 1908 constitution any township clerk or treasurer could have been barred from the legislature had his opponent read the constitution.

CHAIRMAN BENTLEY: Does the gentleman from Muskegon desire to yield further to the gentleman from Taylor, Mr. Marshall?

MR. W. F. HANNA: Yes.

MR. MARSHALL: Delegate Hanna, the proposal that you referred to, Committee Proposal 55, out of the finance and taxation committee, is the same language that was in the old constitution, and it has just been reinserted into this one. My amendment would also reinsert the language of the 1908 constitution. And I would remind you that presently, under the language of these 2 proposals, there are township clerks serving in the state legislature. This language in Committee Proposal 55 does not prohibit, as I read it, a township clerk from serving. It says:

> No collector, holder or disburser of public moneys shall have a seat in the legislature, nor be eligible to any office of trust or profit under this state, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

I submit there is no conflict.

So I again would urge the adoption of this amendment, because no one has given me any good reasons for changing this, nor have they given me any substantiating evidence that the people requested or wanted a change in this section. I urge its adoption.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Stevens, to speak on the Marshall amendment.

MR. STEVENS: Mr. Chairman and members, it seems to me quite clear that all this proposal is intended to do is to bar a person from office, in this case a seat in the legislature, while holding another seat which is incompatible with that seat. And all it does, in addition to that general statement, is to provide that certain enumerated, designated offices are by constitutional decree declared to be incompatible. All the rest of this has nothing whatever to do with this provision. It is entirely irrelevant.

I think Delegate Marshall understands. I think he simply refuses to accept the explanation of the committee — and what seems to me to be absolutely clear — that it deals with nothing except incompatibility of 2 separate offices. If we accept that, and that seems to be the purpose, then what is the point of all the rest?

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Austin, to speak on the Marshall amendment.

MR. AUSTIN: Mr. Chairman and fellow delegates, this is a rather involved subject. The committee on emerging problems is interested in this matter of dual officeholding, and the committee on style and drafting has also registered a considerable amount of interest, because we have discovered that there are several sections of the constitution dealing with this same question. I might add that both committees have assigned me the responsibility of coordinating these various provisions of the constitution that relate to dual officeholding.

I would underscore the remarks of Delegate Hanna with regard to the conflict where an official is handling money. We have already taken care of that provision, and the new language which style and drafting has decided upon is as follows:

> No person having custody or control of public moneys shall hold a seat in the legislature nor be eligible to hold or continue in any public office unless he shall have complied with the requirements for accountability of public moneys as provided by law.

In other words, we have already taken care of the problem of any person who happens to be handling public moneys attempting to hold a seat in the legislature. So it doesn't matter whether he be a local official or any other person, for that matter. If he is handling public moneys he can't hold a seat in the legislature.

So, I don't think we need to confuse the subject now by this matter of handling money. Let's just forget about the handling of the money, and deal with the problem strictly from the standpoint of compatibility. I don't have strong feelings on the subject one way or the other. I'm not too sure as to whether or not we should prevent township officers and municipal officers from holding seats in the legislature. And I'm not going to attempt at this time to influence the delegates one way or the other on it. I simply want to make the point that you don't need to concern yourselves at this time about whether these people are handling money. We have already taken care of that problem, and you can merely deal with it on the matter of compatibility.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn, to speak on the Marshall amendment.

MR. KUHN: Mr. Chairman, I don't like to talk about things that people raise by innuendo, but since it was raised I definitely would want the record straight. It's not that I think it was cast upon any particular delegate, but it seems to me, since this is a committee proposal, that it was cast upon the whole committee. They think there are some sinister motives behind this. I submit to you that the only motive behind this is good government.

And now I would like to speak for myself, in case it was directed at me. I represent 14 townships and 1 city. Neither are prohibited to be in the legislature. I'm sticking my neck out, I feel. I'm certain that these township officials might not approve of this. I'm not worried about it. I'm trying to do what is right. The citizens research council advocates this. In fact, when we had the research department going over these different problems of incompatibility, and so forth, this suggestion came up. It was sent to us in a memorandum. We went over it and studied it, and it was the consensus of our committee that this was the best thing.

Now, in my particular township where I live my supervisor did run for the legislature, but he resigned from the township office. No one asked him to. He thought it was his duty. But we don't want to get into personalities, and we don't want people to throw what we call red herrings over the table. We want you to vote on this on its merits.

Do you want to go back to what was in the 1850 constitution, or do you want to come up to 1962 and say: anybody can run for it, but if you're elected to the legislature, you can decide to wear that hat and devote your time to that office? We are opposed to the Marshall amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske, to speak on the Marshall amendment.

MR. MAHINSKE: Most of my points have been made. I just wanted to point out that the argument from Mr. Hanna was not germane here. This in no way would override the provisions of Committee Proposal 55. They spoke in that area as to disbursers of money. The intent here is to reinsert the language that is in the existing constitution. There's a whole body of case law and attorney general opinions backing this up and I, for the life of me, can't see any reason for changing the language that we currently have. I would recommend the reinsertion of the existing language.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Stanton, Mr. Brake, to speak on the Marshall amendment.

MR. BRAKE: Mr. Chairman, I ask for a roll call vote.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? There's a sufficient number. The yeas and nays will be ordered. The Chair recognizes the gentleman from Taylor, Mr. Marshall, to speak on his amendment.

MR. MARSHALL: Mr. Chairman and fellow delegates, I regret that Delegate Kuhn took exception to the remarks I made. I can assure him that I was not casting any aspersions at all toward any delegate. I merely said — and I will repeat what I said — I sometimes wonder, with the number of changes that we have been making where there was no request for a change, no reasons for a change, if it could not be motivated by some personal reason or personal experience that some of us have had at some time or the other. Now, this is what I said. I don't agree that just because you are making a change that you're going forward in 1962. There can be many changes where you can be going backwards 50 years or so. Change just for the sake of change does not necessarily move us forward. And I can assure you that there is no thought in my mind that there is any sinister motive behind your proposal.

I also want to comment — and this is the last time I want to speak on this; I think we have spent enough time on it — in answer to Mr. Stevens: whose interpretation of "incompatibility" are you going to take, mine or yours? Or Mrs. Koeze's? Or Miss Donnelly's? I think it is a question of how you interpret it. I would remind the delegates that the legislature itself determines the qualifications and the fitness of its members. And if there is any incompatibility, they can handle the problem themselves. I don't think that we are here in this constitutional convention to lay down all of the rules and all of the guidelines, and to tell the legislature: you are going to do this, you are not going to seat this person if he is elected, or this person can't run for the legislature. To me it isn't sound government. If you have an outstanding individual in a given respresentative or senatorial district who might also happen to be a part time township official, who can receive the overwhelming vote of the people of his district, and it's the people's desire that he serve them in the legislature, I think that we in no way should thwart their efforts to have him there.

Don't be misled. I urge the delegates not to be misled by the constant mention of the word "incompatibility;" because, again, as I say, it's a question of whose interpretation you're going to take. I urge the support of the amendment which would insert the 1908 language, which has worked for a good many years, and concerning which there has been no problem raised. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Jackson, Mr. Thomson, to speak on the Marshall amendment.

MR. THOMSON: Mr. Chairman and delegates, I have a question of Mr. Marshall, if he cares to answer.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. THOMSON: I believe the other day you stated that you came from the district which was second in population?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Taylor, Mr. Marshall, to reply.

MR. MARSHALL: That's true. My senatorial district has 680,000 people.

MR. THOMSON: And the township which you mentioned with a trustee, would have what population, approximately?

MR. MARSHALL: My township has a population of approximately 50,000.

MR. THOMSON: Is it your contention that you couldn't find in that number of people somebody qualified to serve as perhaps trustee?

MR. MARSHALL: It is not my contention at all that we couldn't find one. We have very many able and capable people that could serve, including myself; (laughter) but that isn't the question at all. The question is that I don't think that we should deny the individual the right to run for the legislature, nor do I believe that the people should be denied his services in both spots, if he can perform the duties.

MR. THOMSON: I also believe you made the statement that no one has presented any reason why they shouldn't serve. Might this supposition be true, that the person who was serving there might feel that he owed greater allegiance to the smaller unit of government by reason of holding both offices at the same time?

MR. MARSHALL: I don't think so, Mr. Thomson.

MR. THOMSON: Well, I will conclude my remarks by apologizing to Reverend Dade for this biblical quotation, which says: you cannot serve 2 masters. You will either hate one and serve the other, or you will serve the one and hate the other. You cannot serve both God and man.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Garden City, Mr. T. S. Brown, to speak on the Marshall amendment.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, I could not let this moment pass, since we are so concerned with the term "incompatibility," without reminding you of the definition I once read of that term, which goes as follows: when the gentleman loses his income, the lady loses her "patability." (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King, to speak on the Marshall amendment.

MR. KING: Mr. Chairman and fellow delegates, I don't want to take up the time of the committee in talking about this, but I do recall, when I was a young lad living outside of Boston, we had a mayor in Boston who ran for office who, I think, had a clearly incompatible position which occupied all of his time. And by "all" I mean 24 hours a day; and yet the people did elect him to be mayor of Boston. His other position was that of a convict in jail.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Taylor, Mr. Marshall. The yeas and nays have been ordered. As many as are in favor of the amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—35

Balcer
Boothby
Brake
Brown, T. S.
Buback
Dehnke
Dell
Doty, Donald
Downs
Elliott, Mrs. Daisy
Erickson
Finch
Greene
Hart, Miss
Hatcher, Mrs.
Hood
Hutchinson
Kelsey
Kirk, S.
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Pellow
Perlich
Powell
Prettie
Snyder
Stopczynski
Suzore
Youngblood

Nays—82

Andrus, Miss
Austin
Barthwell
Batchelor
Beaman
Blandford
Bledsoe
Bonisteel
Bradley
Brown, G. E.
Cudlip
Cushman, Mrs.
Danhof
Donnelly, Miss
Durst
Elliott, A. G.
Everett
Farnsworth
Faxon
Figy
Follo
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Hoxie
Hubbs
Iverson
Jones
Karn
King
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Nord
Norris
Ostrow
Page
Perras
Plank
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Marshall and Mahinske, the yeas are 35; the nays are 82.

CHAIRMAN BENTLEY: The amendment is not adopted. Are there any further amendments to the body of Committee Proposal 112?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN BENTLEY: There being none, the proposal will pass.

Committee Proposal 112 is passed and the secretary will read.

SECRETARY CHASE: Item 15 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 113,** A proposal to provide that the legislature may submit bills to the people for referendum. Retains article V, section 38.

Following is Committee Proposal 113 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. Any bill passed by the legislature and approved by the governor, except appropriation bills, may be referred by the legislature to the qualified electors; and no bill so referred shall become a law unless approved by a majority of the electors voting thereon.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 113:

The legislative power is vested by this constitution in a senate and house of representatives. However, there may be matters of such importance to the public welfare and of such controversial nature, that the electors should speak.

Without express provision, it is doubtful that the legislature may delegate to the people a power the people have vested in the legislature. The committee, therefore, recommends the retention of this section.

For the minority report to Committee Proposal 113 as offered, and the reasons submitted in support thereof, see below, page 2392.

CHAIRMAN BENTLEY: The Chair understands that the proposed minority report amendment to Committee Proposal 113 is to be withdrawn at this time, and resubmitted when Committee Proposal 118 is before the committee of the whole. The Chair would inquire of the gentleman from Detroit, Mr. Downs, if that understanding is correct.

MR. DOWNS: Mr. Chairman, I have talked to as many of the other cosponsors as I could find, also the chairman of the committee, and this is perfectly agreeable, so long as the minority report gets floor discussion at some point under legislative powers. Thank you, Mr. Chairman.

CHAIRMAN BENTLEY: Without objection, the proposed minority report amendment will therefore be withdrawn. The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, this is another proposal that fell under the jurisdiction of subcommittee 1, Mr. Kuhn. He will proceed.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, at this time I would like to yield the floor to Mr. Hubbs.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, as a member of Mr. Kuhn's subcommittee on legislative powers, it is my duty to present this section. It is the old article 5, section 38 of the present constitution. We have brought it back to you without making any changes whatsoever. The calendar tells you which journal covers this subject, and there is a brief explanation there of our position. I would refer you to the Comparative Analysis of the Michigan Constitution for further details if you are interested in reading it.

The only comment I would like to make is that this provision is quite necessary in view of the fact that the legislative power is delegated to the legislature by the Michigan constitution, and that they may not delegate that legislative power without specific provision for that delegation. It is, therefore, necessary that this section be included in the constitution because occasionally questions arise as to very controversial bills, as to whether the public really would want this thing or not. So this provision is made to submit those things to a test of public opinion, so that the legislature can go to the people for guidance. The committee recommends that you adopt the proposal as it is. Thank you.

CHAIRMAN BENTLEY: Are there any amendments to the body of Committee Proposal 113? If not, it will be passed. Committee Proposal 113 is passed, and the secretary will read.

SECRETARY CHASE: Item 16 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 114,** A proposal to provide that each house of the legislature shall keep a journal and the yeas and nays be recorded on a demand of 1/5 of the members present. Amends article V, section 16.

Following is Committee Proposal 114 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. Each house shall keep a journal of its proceedings and publish the same [, except such parts as may require secrecy]. The yeas and nays of the members of either house on any question shall be entered on the journal at the request of 1/5 of the members present. [Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason for his dissent entered on the journal.]

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 114:

The committee recommends 2 changes in this section. The right to keep parts of the proceedings out of the journal and secret is deleted. This right has never been exercised and the committee is of the opinion it should not be.

The committee also recommends the final sentence be deleted. This right of protest has been in all 3 constitutions. However, it has been abused in recent years by becoming a method of attack on fellow legislators and a method to continue argument after a vote.

The right to request yeas and nays has been in the constitution since 1835 and 22 other states also require some minimum number for a recorded vote. The committee feels that there should be a time at which legislators should publicly declare themselves and the present requirement that allows 1/5 of the members present to request such a declaration is fair.

The constitutions of 45 other states require a journal and the committee is of the opinion that this requirement should remain in the Michigan constitution. A journal provides an easy and convenient method whereby the public can be appraised of legislative action.

Following is the minority report to Committee Proposal 114 as offered and the reasons submitted in support thereof:

Messrs. Downs, Lesinski, Youngblood, Wood and Wanger, a minority of the committee on legislative powers, submit the following minority report to Committee Proposal 114:

A minority of the committee recommends that the
following be included in the constitution:

Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason for his dissent entered on the journal.

Messrs. Downs, Lesinski, Youngblood, Wood and Wanger, a minority of the committee on legislative powers, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 114:

We believe this constitutional right encourages the individual legislator to vote his conscience knowing he can have the reason for his dissent printed in the journals.

This proposal is identical to the wording in the present constitution and should be retained.

The constitutional right of a legislator to protest on the record has been a rule of legislative procedure written into all 3 Michigan constitutions: 1835, 1850 and 1908.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I yield to Delegate Kuhn.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, I would like at this time to yield to Mr. Perras, a member of the subcommittee.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Nadeau, Mr. Perras.

MR. PERRAS: Mr. Chairman and fellow delegates, in sections a, b and c we incorporated article V, section 16 from the old constitution; we shortened this language some, and combined all the sections.

[The supporting reasons were read by Mr. Perras. For text, see above.]

CHAIRMAN BENTLEY: The secretary will report the amendment to Committee Proposal 114.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Downs, Lesinski, Youngblood, Wood and Wanger, Mr. Downs offers the following amendment to Committee Proposal 114:

1. Amend page 1, line 9, after "present.", by reinserting "Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason for his dissent entered on the journal.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs, in support of his amendment.

MR. DOWNS: I would like to yield to Delegate Lesinski.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates, a minority of this committee recommends that this amendment be adopted, for the following reasons:

[The supporting reasons for the minority report were read by Mr. Lesinski. For text, see above.]

I wish to yield to Delegate Wanger for a few words.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, the bipartisan minority report amendment here seeks to reinsert this clause, for this reason: it is felt that the greatest freedom should be allowed the legislators in being able to cast their vote according to their convictions. Times can arise,

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

and occasionally do arise, when a legislator would not be able to dissent, as a practical matter, unless he was able to state his reasons in writing in the journal at the time that he did so. This therefore encourages good government.

It was pointed out in the presentation of the majority report that this provision can be abused. It, of course, is possible to abuse this. However, no one has said before the committee that this has been generally abused, and it's my understanding that it has not. I would like to point out that even such abuses as have happened are, in all probability, within the control of the house of the legislature where they originate. In support of that proposition, I would like to cite an instance which is given in the book entitled, Michigan Legislative Decisions, by Fred I. Chase and Myles F. Gray, on page 28, item 92, which happened under similar language in the 1850 constitution. It says this:

> The constitutional provision relative to individual protests cannot be held to require the senate to enter on its journal insulting and contemptuous matter, under color of a protest; and the senate may insist that the protest contain nothing but the member's "dissent" and the bare statement of his "reasons" therefor.

That ends the quotation. It is precedent for the Michigan legislature in the rules of its proceedings, and it gives the house control over such abuses as might arise.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon, to speak on the Downs amendment.

MR. FAXON: I would like to call for the yeas and nays, Mr. Chairman.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number. The yeas and nays will be ordered. For what purpose does the gentleman from Hancock rise?

MR. HEIDEMAN: I just wanted to make a short statement.

CHAIRMAN BENTLEY: The gentleman from Hancock, Mr. Heideman, is recognized.

MR. HEIDEMAN: I should also like to rise to support this amendment. The right to dissent is one of the most precious rights of a free society. And we are here writing a constitution for a free society. I think we should restore this to the constitution.

CHAIRMAN BENTLEY: The gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I also rise in support of the minority report amendment. I think that this provision should be reinserted in the new constitution. Some mention has been made of the possibility that it has on occasion been abused, but I agree with Mr. Wanger that the matter of abuse and the protection of the house or senate against such abuse is within the powers of that house.

I also would invite your attention to the fact that there is no verbatim journal of the debate in either house of the legislature; and since there is no verbatim journal, there is no way for a member to put upon the record the reasons why he votes as he does, except through this method. And while most members of the legislature rarely use this opportunity, on occasion the right or the necessity to place upon the record the reasons for a vote and why you voted the way you did is of extreme importance to the member. You can well understand, from your experiences here, perhaps, that if there were no record made here of your views, that you would deem it of extreme importance that somewhere you have the right to place those views upon the record. This assures to the members of the legislature that right. I don't think that we should deny it. I think that this matter should be reinserted.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Dr. Nord, to speak on the Downs amendment.

MR. NORD: Mr. Chairman, I simply want to add my support to the minority report amendment. I want to call to the attention of the delegates that the only reason for removing it was certain abuse that might occur in overcoming the effect of cutting off debate when the previous question has been moved, and to continue the debate afterwards. I would like to point out to the delegates, however, that sometimes the use of the previous question itself is an abuse, and we are not in a position at this point to judge which abuse is worse than the other.

It seems to me that Mr. Hutchinson and the other speakers are correct in stating that we should not cut off a basic right just because it might be abused. Rather, we should treat the abuse, and not extinguish the right. This right is a very important right, as pointed out by many of the speakers, and it is one that has been in the constitution ever since the beginning of the state. I therefore agree, too, that the minority report amendment ought to be accepted.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn, to speak on the Downs amendment.

MR. KUHN: Mr. Chairman, the reason the committee deleted this was because the governor's committee recommended it. They wrote us a report saying this: that this has been abused; that even though a particular proposition was defeated and was not the law, those who had voted no would still get up and make an abuse of this rule. Another thing pointed out was that this could be put in the rules of the particular legislative body.

I have really no strong feelings on this, and if there are no members of our committee that have an objection, I would just accept the amendment.

CHAIRMAN BENTLEY: The chairman of the committee, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I think think the issue is clearly before us. Delegate Hutchinson is correct in a certain respect. I think he will also agree that the rules of the house could control this. However, as far as I'm personally concerned, I can see no harm in having it in the constitution, if that's the will of the convention.

CHAIRMAN BENTLEY: The question occurs on the minority amendment offered by the gentleman from Detroit, Mr. Downs, on which the yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—100

Andrus, Miss
Austin
Balcer
Barthwell
Beaman
Binkowski
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Follo
Gadola
Gover
Greene
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hood
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Mosier
Murphy
Nord
Norris
Ostrow
Page
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Romney
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays—7

Koeze, Mrs.
Radka
Stamm

Kuhn Rood Thomson
McAllister

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 100; the nays are 7.

CHAIRMAN BENTLEY: The amendment is adopted. Are there further amendments to the body of Committee Proposal 114?

SECRETARY CHASE: There are none.

CHAIRMAN BENTLEY: There being none, it will pass, as amended.

Committee Proposal 114, as amended, is passed, and the secretary will read.

SECRETARY CHASE: Item 17 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 115,** A proposal to provide that no member of the legislature or state officer shall have a substantial conflict of interest with the state. Amends article V, section 25.

Following is Committee Proposal 115 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. NO MEMBER OF THE LEGISLATURE OR STATE OFFICER SHALL BE INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE STATE OR ANY SUBDIVISION THEREOF WHICH SHALL CAUSE A SUBSTANTIAL CONFLICT OF INTEREST. THE LEGISLATURE MAY IMPLEMENT THIS PROVISION BY APPROPRIATE LEGISLATION.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 115:

The proposed section amends article V, section 25. The committee is of the opinion that it should be clearly expressed that persons who serve the state in elected or appointed positions should not have conflicting interests.

The detailed restrictions of section 25 were inserted in the 1850 constitution and are legislative matter which do not deserve inclusion. There is no question of the legislature's power to act in these fields and it should be free to do so.

The prohibition against conflict of interest is self executing in form, but flexibility is given so that the legislature may pass suitable legislation.

The committee does not feel that a detailed prohibition had to be written concerning conflicts of interest and that a self executing statement of principle is sufficient.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, this is one of the proposals that we spent considerable time on in trying to devise language that we thought would meet the requirements for the protection of the state, and at this time I would like to yield to Mr. Powell.

CHAIRMAN BENTLEY: The gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, the recommendations of the committee with reference to this proposal are found on page 483, and they are relatively brief.

[The supporting reasons were read by Mr. Powell. For text, see above.]

Many of you will recall that the crusaders who campaigned for the con con and, earlier, for the revision of the provisions of the constitution pertaining to calling a convention, used this old language of article V, section 25, as a glaring example of things that were in the constitution that didn't belong there. You remember this is the section that started out with the words, "Fuel, stationery, blanks, printing and binding for the use of the state shall be furnished under contract," and so on and so forth. Now, we have left all that out. The last sentence of the old section said, "No member of the legislature nor officer of the state shall be interested directly or indirectly in any such contract." We feel that these 4 or 5 lines that we have written take care of this matter of conflict of interest without going into any unnecessary legislative detail.

CHAIRMAN BENTLEY: The secretary will report the first amendment to Committee Proopsal 115.

SECRETARY CHASE: Messrs. Marshall and Mahinske offer the following amendment:

1. Amend page 1, line 7, after "officer" by inserting "shall be involved directly or indirectly in financial transactions for profit to which the state or a political subdivision thereof is a party or"; and in line 9, after "cause a" by striking out "substantial"; so the language would then read:

> No member of the legislature or state officer shall be involved directly or indirectly in financial transactions for profit to which the state or a political subdivision thereof is a party or shall be interested directly or indirectly in any contract with the state or any subdivision thereof which shall cause a conflict of interest.

CHAIRMAN BENTLEY: The gentleman from Taylor, Mr. Marshall, is recognized in support of his amendment.

MR. MARSHALL: I'll be very brief. Mr. Chairman and fellow delegates, I think the amendment is self explanatory. We discussed it when it was offered as an amendment to a previous proposal. At this point I'm not quite clear, though, whether we are attempting to write provisions for better government or to enforce the Ten Commandments. But, in any event, I think this amendment will do both, and I urge its adoption.

CHAIRMAN BENTLEY: The gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and fellow delegates, I'm sure that I can say, on behalf of our subcommittee and the full committee on legislative powers, that we would not favor the inclusion of this language in the proposal. To my mind it seems very idealistic and puritanical and impractical. For instance, under its terms a member of the legislature that happened to have any business back home couldn't transact any business with any local governmental agency. If he was a coal dealer, he couldn't sell a ton of coal to the local school board. If he were a printer, he couldn't do any printing for any governmental unit. If he had a general store, a department store or any sort of retail establishment, he couldn't sell to any unit of government.

And then, by striking out this word "substantial" you open up a whole field of technicalities in this age when there is widespread distribution of stock in big corporations. A person who held a share of stock in General Motors would be in trouble if he were in the legislature and the state purchased a General Motors car for the state police, or for the state motor vehicle pool. And so on with utilities. It seems to me that this is totally impractical and unrealistic and unreasonable. I think the report of our committee goes far enough and that this is just making the matter ridiculous.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Birmingham, Mr. Van Dusen, to speak on the Marshall amendment.

MR. VAN DUSEN: Mr. Chairman, a question for Mr. Marshall, if he cares to answer.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. VAN DUSEN: Mr. Marshall, I presume the language of your amendment would preclude any member of the legislature from continuing in public employment if he happened to be, at the time of his election, a public employee?

CHAIRMAN BENTLEY: The gentleman yields to the delegate from Taylor, Mr. Marshall.

MR. MARSHALL: I don't know how you arrive at that conclusion, Delegate Van Dusen. Maybe I'm a little thickheaded. You'll have to explain it.

MR. VAN DUSEN: I presume that most public employees are paid by the municipality or by the public unit of govern-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

ment by which they are employed, and the receipt of compensation would certainly be a financial transaction for profit. I don't think there's any question. My question was largely rhetorical, but I wanted your comment on whether your amendment would exclude any public employee from service in the legislature.

MR. MARSHALL: I don't believe it would. I hate to disagree with the very distinguished and learned attorney from Birmingham, but my answer would be that state employees offer a service, and it is not a business transaction. Maybe I didn't get my law degree from the same school, but that's my interpretation.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Martin, to speak on the Marshall amendment.

MR. MARTIN: Mr. Chairman, my seat mate and I don't usually find ourselves on the same side of the same question. However, I think that the Marshall amendment has merit.

The committee proposal deals only with contracts. Obviously, this is only a very small fraction of the situations in which conflict of interest may arise. The amendment as proposed deals with a broader area. We have some fairly rigid provisions with respect to this in the federal government. I think we should have same fairly rigid provisions with respect to conflict of interest in the state government so far as state officers and members of the state legislature are concerned. I therefore favor this amendment. It is a little stringent, but it is intended to be so. I think it is a desirable provision.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Mahinske, to speak on the pending amendment.

MR. MAHINSKE: In order to cut off any further debate on this proposition, I just consulted with Mr. Marshall, and we are willing to withdraw the section that deals with the deletion of the word "substantial." We feel that this could lead to difficulties here. We would let the balance of the insertion stand.

CHAIRMAN BENTLEY: The amendment will be revised.

SECRETARY CHASE: The amendment, as revised, now reads:

1. Amend page 1, line 7, after "officer" by inserting "shall be involved directly or indirectly in financial transactions for profit to which the state or a political subdivision thereof is a party or".

MR. MAHINSKE: Which would amount to a reinsertion of the word "substantial" here, so there would have to be a substantial conflict of interest. I think this would take care of the complaint that Mr. Powell had about the local hardware store and so forth.

I think, as Mr. Martin pointed out, this goes a little further, but it points out the clear rock bottom intent of the proposal itself, and I would recommend the adoption of the amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Clair Shores, Mr. Snyder, to speak on the Marshall amendment.

MR. SNYDER: Thank you, Mr. Chairman. I am rising in support of the Marshall amendment, because I feel that although it doesn't go the whole way, it as least corrects part of the elimination that was made by the committee.

Certainly I am quite concerned about the elimination of the language that would award the contract to the lowest bidder. I feel that the question of requiring a public bid and awarding the contract to the lowest bidder would be very helpful in continuing to maintain lower costs of services for the state. I don't know what the thought of the committee was when they removed this particular language which says that certain items for the use of the state shall be furnished under contract or contracts with the lowest bidder or bidders, who shall give adequate security.

Now, although the Marshall-Mahinske amendment doesn't cover this particular area clearly, I feel that it does in a round about way provide for the philosophy of a lower bid. In view of this, I would support the amendment. I feel that even this doesn't strongly enough cover the thing, and if there is no amendment on the desk to cover this matter of the lowest bid, I would like to offer one. Is there such an amendment there?

CHAIRMAN BENTLEY: The Chair is not advised that there is any such amendment.

MR. SNYDER: I will prepare one. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon, to speak on the Marshall amendment.

MR. FAXON: Mr. Chairman, I would like to call for the yeas and nays.

CHAIRMAN BENTLEY: The yeas and the nays have been requested. Is the demand supported? There is not a sufficient number.

MR. MADAR: Would you mind counting them again, Mr. Chairman, if it wouldn't be too much trouble?

CHAIRMAN BENTLEY: A sufficient number. The yeas and nays will be ordered. The Chair recognizes the gentleman from Lansing, Mr. Wanger, to speak on the Marshall amendment.

MR. WANGER: Mr. Chairman, members of the committee, I wish to point out that merely by reinserting the word "substantial" we do not solve this problem. If you will read the section before you, as amended, you will see that we now have 2 conflict of interest provisions, the one inserted and the one which remains. You also will notice that the one which is inserted says:

> No member of the legislature or state officer shall be involved directly or indirectly in financial transactions for profit to which the state or a political subdivision thereof is a party or . . .

and then it goes on with the rest.

It is those words "or indirectly" which make it impossible, if you read the language in its ordinary sense, as we should, for anybody that owns even one share of stock in a company which is dealing with the state to be in the legislature. And there are other examples which came up in the committee when we discussed this. I just want to point out that the reinsertion of the word "substantial" does not solve the problem at all as far as the first conflict of interest provision which Mr. Marshall and Mr. Mahinske seek to insert is concerned.

CHAIRMAN BENTLEY: The gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman, in reply to Delegate Wanger, I think he is looking at the gloomy side. Certainly, not being an attorney, I guess I'm at a disadvantage in debating with Delegates Wanger and Van Dusen. But this amendment does not deal with a person who might have a share, or 2 or 5 or 10 shares of stock in a corporation, because the stockholder himself would not be involved in the transaction. This is where you contract with the state government to supply material, or any form of a legal transaction between an individual legislator and the state government. And I don't agree with the interpretation that Delegate Wanger placed on this amendment.

CHAIRMAN BENTLEY: Does the gentleman from Detroit, Mr. Mahinske, desire recognition?

MR. MAHINSKE: Yes. This word "indirectly" is primarily directed at the proposition where you have a wife who owns a business that's doing business with the state — and on this proposition here I'm not citing any exact cases. This is what we have in mind. Where you have, for instance, a wife, a brother or a sister of a state officer doing business with the state, this would be an indirect proposition. We are not talking about some character who has one share of stock in General Motors. I think we can trust the courts to find in a situation like this that there is no direct and not even an indirect bearing involved here that would disqualify this man from sitting in office. I think that you are looking at the extremely dark side of this when you think in these terms.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Alpena, Mr. Habermehl, to speak on the Marshall amendment.

MR. HABERMEHL: Mr. Chairman, I believe that some of the difficulty here on the part of the proponents of this amendment is occasioned by the fact that they haven't given the proper interpretation to the word "contract." "Contract" is a very, very broad word. If the state goes in and buys a manila folder, in effect they have a contract. The language proposed by the committee here is actually broader than the language proposed by the proponents of this amendment. It includes both direct and indirect interests, and it uses the all inclusive word "contract." The purchase of a box of matches by the state or any subdivision is a contract.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Mahinske.

MR. MAHINSKE: I think the point has been missed here. We are not striking that part of the committee proposal which refers to contracts. This is in addition to that language in the committee proposal.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Taylor, Mr. Marshall, on which the yeas and nays have been ordered. The gentleman from Detroit, Mr. Nord, to speak on the Marshall amendment.

MR. NORD: Mr. Chairman, I'm rising to speak in support of the Marshall amendment, for the following reasons: I also am concerned about the meaning of the word "contract" and whether it is broad enough to cover everything we wish it to cover. Although we are moving very fast here, I'm not certain we can decide that question. However, it appears to me that there may be a substantial difference—I believe there is a substantial difference—between "contracts" and the "financial transactions" which appear on the wall in the proposed amendment.

It occurs to me that not every kind of a claim against any person or against the state or a political subdivision is a contract claim. I can think of 2 kinds of claims, off the cuff, which are not contract claims, which are excluded by the language of the proposal. One of them is a quasi contract claim, and the other is a tort claim. I don't know whether that is likely to arise, but I certainly do think the word "contract" is narrower than it ought to be.

I also think that by adding the words "financial transactions for profit" which appear in the proposed amendment, that certainly that can't be narrower than what we have now, because that is to be added in addition to the word "contract." I do think something ought to be added to the word "contract" and although the language on the wall is probably more words than are needed, I think that the words that are on the wall ought to be added.

I therefore think that Mr. Habermehl's point is not well taken. "Contract" is not as broad as he thinks. We ought to have some more words, and the only words that are before us in addition are the words on the wall, and I think they ought to be supported.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Taylor, Mr. Marshall. The yeas and the nays have been ordered. Those in favor will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—53

Andrus, Miss
Austin
Balcer
Barthwell
Binkowski
Blandford
Bonisteel
Bradley
Buback
Dade
Dehnke
DeVries
Douglas
Downs
Durst
Erickson
Everett
Faxon
Follo
Greene
Hart, Miss
Hatcher, Mrs.
Hood
Jones
King
Leppien
Madar
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Ostrow
Page
Perlich
Rajkovich
Richards, L. W.
Romney
Snyder
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Van Dusen
Walker
Wilkowski
Woolfenden

Nays—60

Beaman
Bledsoe
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Donnelly, Miss
Doty, Donald
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Millard
Mosier
Pellow
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Spitler
Stafseth
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Wanger
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Marshall and Mahinske, the yeas are 53; the nays are 60.

CHAIRMAN BENTLEY: The amendment is not adopted. The secretary will report the next amendment.

SECRETARY CHASE: Messrs. DeVries, King, Pollock and Durst offer the following amendment:

1. Amend page 1, line 10, after "interest.", by striking out "The legislature may implement this provision by appropriate legislation.", and inserting "It shall be incompatible with the office of any member of the legislature knowingly to receive, directly or indirectly, from any person or organization, any payment, retainer, fee, stipend, salary, gift, or other compensation, monetary or nonmonetary, which is made for the purpose of influencing, directly or indirectly, the deliberations or decisions of the legislature or any member thereof.".

CHAIRMAN BENTLEY: The Chair will recognize the gentleman from Grand Rapids, Mr. DeVries, in support of the pending amendment.

MR. DeVRIES: Mr. Chairman, I will yield to Mr. King.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. King, is recognized.

MR. KING: Mr. Chairman, fellow delegates, this amendment is an attempt on the part of its sponsors to try to guarantee the independence of judgment of our legislature. I think it is worthwhile at this time. I had not originally intended to do this, but I think it should be pointed out that this is part of a package—and I use that word with some trepidation—but it is a package, not "the" package, but a package intended—(laughter) I'm not against a package; it has been suggested that it should be called a bundle—this series of amendments, some of them to proposals which are coming up right away, and one of them to a proposal which has already been passed and would of course have to be considered on second reading, taken together, should go a long ways toward strengthening the legislature and public confidence, to contribute to a more efficient and economical legislative process, and to attract to its membership the best available talents.

Some of these provisions are partly based on the experience of this convention. Others rely generally on the American experience with state legislatures. Of course, the individual amendments will be offered at the appropriate time. But they should be considered together in order to understand their collective and overall significance. This first one which we are now dealing with obviously concerns itself with the problem of conflict of interest.

The amendment to Committee Proposal 116 concerns itself with making the legislature a continuous body, which does not—

MR. KUHN: Mr. Chairman, a point of order.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. KUHN: I ask that he refer only to Committee Proposal 115 and stay germane, so that we can get rid of this proposal today.

CHAIRMAN BENTLEY: The Chair would remind the gentleman from Pontiac, Mr. King, that the pending amendment is on Committee Proposal 115, and his remarks will have to be confined to that.

MR. KING: I will try to so confine myself, Mr. Chairman. Concerning ourselves now with Committee Proposal 115, what we are attempting to do here is provide for a strong legislature. We are suggesting to the delegates that this is the proper time and the proper place to include provisions which very clearly will make it

> incompatible with the office of any member of the legislature knowingly to receive, directly or indirectly, from any person or organization, any payment, retainer, fee, stipend, salary, gift, or other compensation, monetary or nonmonetry, which is made for the purpose of influencing, directly or indirectly, the deliberations or decisions of the legislature or any member thereof.

This does not change in any way the fine work that the committee has already done. It is merely an addition. It does not deal with the problem of conflict between the legislators and the state, but rather concerns itself with the problem of conflicts of interest between legislators and those persons who are interested in or who have an interest which is coming before the legislature.

I'm sorry the amendment is not available for projection on the wall at this time, but I think everyone has a packet of these amendments which, as I say, would have to be considered together as a package. And if you will turn to the amendment to Committee Proposal 115, you can see just precisely what we are trying to do. At this time I would yield for questions, in event that there might be any.

CHAIRMAN BENTLEY: Would the gentleman yield to the gentleman from Detroit, Mr. Yeager, for a question?

MR. KING: Yes.

MR. YEAGER: Mr. Chairman, Mr. King, I notice here that one of the considerations you have listed is a gift. I have a hypothetical question here. Supposing a lobbyist or a constituent wants to take his senator or legislator out to explain to him his position or, in fact, influence his position, with regard to a given question. Is this buying of a dinner or a drink in the course of explaining his position considered a gift?

MR. KING: Mr. Chairman, Mr. Yeager, it is not the intention of this amendment, let me say first of all, to eliminate the normal courtesies of social intercourse. We do not anticipate that that is the case. However, I would ask you a question — and you don't have to answer it — but just by asking it I think you will come to understand what our position is, by merely having me relate the question. The question would be: what sort of a gift do you think that a legislator ought to be able to receive — knowingly be able to receive — which is given for the purpose of influencing, directly or indirectly, the deliberations or decisions of the legislature, or any member thereof? I won't ask you to answer it, but my answer to it is that no legislator should knowingly receive any gift which is made for that purpose. Now, I can't believe that if somebody buys you a cup of coffee or hands you a cigar, that it is made for that purpose; so I wouldn't concern myself with that possibility.

MR. YEAGER: This is the way you feel about it, but this isn't what you're saying here.

MR. KING: I am exactly saying that: that no member of the legislature shall knowingly receive any gift which is made for the purpose of influencing, directly or indirectly, the deliberations or decisions of the legislature or any member thereof. If the legislator knows that this meal is being given as a gift for the purpose of influencing him, then I say he should not accept it. That's my position.

CHAIRMAN BENTLEY: Would the gentleman yield to the gentleman from Muskegon, Mr. Danhof, for a question?

MR. KING: Yes.

MR. DANHOF: Mr. Chairman, Mr. King, may I inquire whether you and your cosponsors are prepared to offer amendments which would make this apply to state officers in addition to the legislature?

MR. KING: Certainly we would not object to that, although I'm not sure that it's an amendment which ought to be added to the legislative powers section.

MR. DANHOF: Mr. Chairman, assuming violation of this particular section, what happens, Mr. King? You state that it shall be incompatible. According to what Mr. Brown's definition of "incompatibility" was, I still want to know what is going to happen if it is incompatible.

MR. KING: Well, in the event of a violation of this section, the legislator involved has done something which is unconstitutional.

MR. DANHOF: It's certainly immoral, too. But I still want to know what happens.

MR. KING: Well, I suppose there are means of censuring a member of the legislature. By a 2/3 vote he may be expelled, as I understand it. There may be procedures for impeachment. I don't know what might happen to him. Obviously, if he violates the law, he is subject to prosecution, I suppose. If you wish to insert an amendment which makes this a felony, we will support it, Mr. Danhof.

MR. DANHOF: Mr. Chairman, Mr. King, you make a statement that it shall be incompatible. You put nothing behind it to investigate it. You put nothing behind it to enforce it. You endeavor, I assume, to make it self executing. You have no criminal or penal sanctions thereon, although you allude, by innuendo, to a bribery statute. Now, if you are going to make this self executing, then I would suggest that it be perfected. Otherwise, leave it as the original committee proposal has it; that the legislature shall implement it by appropriate legislation.

If I may ask another question, who investigates this particular thing to determine the purpose of whatever these gifts or retainers are? You have to have some investigation. Is this to be done by the criminal investigation arm of this state, or by the house directly involved?

MR. KING: Mr. Chairman, Mr. Danhof, of course the legislature may implement this section by appropriate legislation. You suggest that perhaps perfecting amendments should be submitted. I understand Mr. Faxon has submitted such an amendment, which you certainly may vote for when it comes up. But I think that we can't try to write all of the law into the constitution. We are clearly stating that this constitutes a conflict of interest, and we are stating it in the constitution because this is the only place where it would be appropriate.

Now, you and I may disagree as to whether or not we go far enough, and perhaps we don't. But certainly there is nothing in this section which anyone who believes in good government can't support, as I see it, and I don't believe that any of the questions you have raised have caused me to change my mind in that regard in any way.

MR. DANHOF: Thank you.

CHAIRMAN BENTLEY: Does the gentleman from Taylor, Mr. Marshall, desire to ask a question?

MR. MARSHALL: I want to speak on the amendment and answer a question.

CHAIRMAN BENTLEY: You will be recognized. Does the gentleman from Detroit, Mr. Mahinske, desire to ask a question?

MR. MAHINSKE: Yes.

CHAIRMAN BENTLEY: Does the gentleman yield to the gentleman from Detroit, Mr. Mahinske?

MR. KING: Yes.

MR. MAHINSKE: I would like to direct my question to Mr. DeVries. Is the primary intent of this amendment here directed at lobbying, as such?

MR. DeVRIES: I would say that is correct, Mr. Mahinske.

MR. MAHINSKE: In your last sentence here you talk about "which is made for the purpose of influencing, directly or indirectly, the deliberations or decisions of the legislature or any member thereof." Now, would this language cover this type of activity that has nothing to do with pending legislation in either the house or the senate?

MR. DeVRIES: Mr. Chairman, it will cover, Mr. Mahinske, the deliberations and the decisions of the legislature.

MR. MAHINSKE: Would these decisions be current decisions or future decisions? In other words, what I'm steering at is: would it be permissible to do this if this lobbyist — and we might as well bring it out into the open that this is what we are talking about here — was trying to initiate legislation, and not curtail legislation? Would this activity be permissible?

MR. DeVRIES: Mr. Chairman, Mr. Mahinske, that would be under the definition, I think, of the word "deliberations."

MR. MAHINSKE: But these would be deliberations which were not in existence.

MR. DeVRIES: These are deliberations which would be in existence. You should look at the rest of the language: ". . . which is made for the purpose of influencing, directly or indirectly, the deliberations . . . ." There is no specification here as to time. Except, obviously, it is not retroactive.

MR. MAHINSKE: What I mean is this. A lobbyist or any interested elector comes up here to attempt to initiate legislation which is not before either house, and possibly either house may not even be in session at the time this is done. These people are still legislators, they are still senators. Now, his constituents invite him out to dinner. They buy his dinner. And they don't buy him one drink — they buy him as many as he can handle, or to the point where they find out where they are going with him one way or the other. Does this language cover that situation?

MR. DeVRIES: In my opinion it does. You are talking about the initiation of legislation. Obviously, you are going to have to have contact with the legislature and with legislators, and you are concerned about their deliberations, at least in the future.

MR. MAHINSKE: Now, would this language be intended to cover campaign contributions?

MR. DeVRIES: If it can be shown — I think it can — that campaign contributions are used for the purpose of influencing, directly or indirectly, yes.

MR. MAHINSKE: I think we all understand the fact that you only contribute money to the campaigns of candidates who you think are going to be favorable to you if they get elected, isn't that true? I can't conceive of anyone going out and contributing money to their opposition. You feel that this would cover campaign contributions?

MR. DeVRIES: I think it would, yes.

MR. MAHINSKE: Is it the intent of the proponents of this amendment, or your feeling, that this is stronger than the lobbying act that we have in the state of Michigan, which provides the shortcomings that Mr. Danhof spoke of?

MR. DeVRIES: Mr. Chairman, Mr. Mahinske, I think as a result of my study of lobbying in 5 years, almost anything is stronger than the present lobbying act.

MR. MAHINSKE: Now, one other question. Has there been any move on the national level, in the house of representatives, along this line?

MR. DeVRIES: Yes, there has. If Mr. Bentley were not in the Chair, I think that question could better be directed to him.

MR. MAHINSKE: Rather than have Mr. Bentley step down, I will just stop at this point and yield the floor.

MR. DeVRIES: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: I have a few comments about this proposed amendment. It has been said it is offered as a part of a package to strengthen legislative organization, but I think it stands on its own feet, and I'm delighted to be able to offer this amendment along with the others with my colleagues. I'm not going to assure you that my motivations are pristine, but I can assure you that I don't intend to run for the legislature. And the amendments we have proposed here are the result, I think, of my study and my 5 years' experience over there.

The purpose of this amendment is to strengthen the conflict of interest provision. It is tied in with the other parts of the package. We hope to make legislators financially independent by paying them enough money, and giving them adequate expenses. The adoption of this amendment, it seems to me, is essential to guarantee financial independence for legislators. This amendment places in the constitution the intent of the delegates here to place a strong statement of policy in our constitution regarding the financial independence of our legislators. I strongly urge that you seriously consider adoption of this amendment.

CHAIRMAN BENTLEY: Does the gentleman from Sheridan, Mr. Gover, desire to ask a question or make a statement?

MR. GOVER: I would like to ask a question, Mr. Chairman. I would like to ask Mr. King a question or two. Mr. Mahinske more or less brought it out, but I don't think he brought it out enough. How would this affect contributions for political campaigns by committees that are formed to work for individuals, the individual not knowing too much who all is working on his committee?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Pontiac, Mr. King, for a reply.

MR. KING: Mr. Chairman, Delegate Gover, first of all I would reemphasize the 2 essential ingredients here in order to put a legislator or a candidate for the legislature, I suppose, in a position of conflict: 1, he must knowingly receive this compensation, or gift, or whatever; and 2, he must know that it is being given for the purpose of influencing, directly or indirectly, the deliberations or decisions of the legislature or any member thereof. Now, let me say for myself that I would not accept a campaign contribution which I knew was made for that purpose. I would not do it. Of course, every candidate has to make up his own mind about those things. For further comment I would yield to Delegate DeVries.

MR. DeVRIES: Mr. Chairman, I think what we are talking about here are incumbent legislators who are campaigning for reelection. We are not talking about people who are not incumbents.

I think the point should be emphasized again that what we are interested in here is a statement of policy in the constitution regarding this. We want to make the legislative salary high enough and the expense allowance high enough so that these people can have financial independence, and we think this is one way to do it. But in the campaigns it refers only to incumbent legislators who willingly and knowingly receive retainers or salaries or fees for the purpose of influencing their deliberations or decisions when reelected.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie, chairman of the committee.

MR. HOXIE: Mr. Chairman and fellow delegates, I think there is perhaps some misunderstanding or perhaps some misconception as to what the wording of this amendment does. Having served in the legislature for some 14 years, when we talk about "lobbyists" I think it is an incorrect term. I think they are legislative agents, representing legitimate organizations within the state of Michigan. The municipal league has a representative who discusses their problems with the legislature. The township association, the manufacturers' group, all of our leading industries, labor organizations, all have representatives discussing their problems which come before the legislature.

I can't truthfully say that I am influenced because I talked to a legislative agent who explained his problems and how this particular piece of legislation may affect him adversely or favorably. I think that is one of the aids that a legislator has, to be able to discuss these problems with those representatives of those groups. Now, as far as whether you are influenced, that is a question for the individual to determine: whether he is honest, whether he is sincere, whether he is trying to do the job in the best interests of the people of the state of Michigan.

I think this amendment doesn't say anything, because who is going to determine whether your deliberations were influencing you in your vote? I have seen the time when legislative agents — lobbyists, if you please — have talked to me and have given me a completely different concept of the effect of a certain proposed piece of legislation. And just because they changed my views, then according to this I might have been influenced to the extent where I would be violating this provision, if it is adopted. So I think you should consider carefully the import of this particular amendment, and vote against it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall, for the purpose of making a statement on the pending amendment.

MR. MARSHALL: Mr. Chairman and fellow delegates, I am sure that the delegates will not approve this amendment after turning down the Marshall-Mahinske amendment, which was nothing more than a clarifying amendment. We have a lot of verbiage here that adds a lot of words to the constitution, but I don't believe that they are really necessary. I would like to ask Dr. DeVries a question, if I might.

CHAIRMAN BENTLEY: The gentleman will state the question.

MR. MARSHALL: Dr. DeVries, is this an attempt, by adding all this verbiage, to give constitutional status to your doctor's thesis on lobbying?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids, Mr. DeVries, for a reply.

MR. DeVRIES: Mr. Chairman, is there any provision for taking the fifth amendment in a constitutional convention?

CHAIRMAN BENTLEY: The gentleman is not required to answer.

MR. DeVRIES: Mr. Marshall, if I may comment on that for just a moment, and also Mr. Hoxie's remarks, this is not directed at lobbyists. I don't know if you read my dissertation — and, frankly, I'm bored with it now, Mr. Marshall — but if you had you'd find out that the major premise of it was that lobbying was essential to the democratic process. We need lobbyists. We need them for the research and advice and other things they can give us.

This is an attempt to prevent built in lobbyists in the legislature — people who are legislators and who knowingly take retainers or salaries or fees and then represent the interests of an organized group in that legislature. This I think is wrong. This is what we are trying to get at. We are not trying to do away with lobbying. Again, as I state, the essential premise of the whole thesis was that these people were absolutely essential. That's why I studied them. I thought they were important.

MR. MARSHALL: It looks to me like we are trying to eliminate our old, time honored institution of lobbying. It also looks like we might be attempting to eliminate the legislature in order that many of us could move over there. But there might be some of the delegates, if your amendment is adopted, who might not think it's worthwhile moving over there. I have an amendment to offer.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon, to speak on the pending amendment.

MR. FAXON: Mr. Chairman, I just wanted to call to the attention of the delegates that there is an amendment pending which Mr. King referred to and which would meet with the needs that Mr. Danhof raised with regard to the self executing provisions of this particular amendment. And if the secretary would just read the amendment, then questions relating to that particular area might wait until that comes up.

CHAIRMAN BENTLEY: The Chair inquires: does the gentleman wish to offer his amendment at this time?

MR. FAXON: No. I just thought if the secretary would read it, then the delegates would have some idea as to what thoughts are being given to the self executing provision here.

SECRETARY CHASE: According to the secretary's understanding, Mr. Faxon, your amendment is to the body of the proposal, in line 10, after "may" by inserting "further." It is not an amendment to the pending amendment.

MR. FAXON: This wouldn't be an amendment to the pending amendment. This is the one dealing with the attorney general having the authority. It would be at the end of the proposal.

SECRETARY CHASE: Messrs. Faxon and Nord have filed an amendment to add at the end of line 11, after "legislation," "The attorney general shall have the authority to seek a court determination of whether a particular action involves a conflict of interest."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Martin, on the pending amendment.

MR. MARTIN: Mr. Chairman, I just want to comment that Mr. Danhof's point seems well taken, and I wonder whether the proponents of this amendment would consider accepting a reinsertion of the provision which their amendment takes out — that is, "The legislature may implement this provision by appropriate legislation." This does not weaken it in any way, but it makes it possible for the legislature to provide some kind of implementation of the sort that Mr. Danhof has pointed out is absent from this. If that could be done, it seems to me the amendment would be greatly strengthened.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Grand Rapids, Mr. DeVries, for a reply?

MR. MARTIN: I do.

MR. DeVRIES: Mr. Chairman, Mr. Martin, the cosponsors of the amendment have no objection to reinserting that language.

CHAIRMAN BENTLEY: Without objection, the pending amendment will be revised by reinserting the words, "The legislature may implement this provision by appropriate legislation." The Chair recognizes the gentleman from Detroit, Mr. Norris, on the pending amendment.

MR. KING: Mr. Chairman.

CHAIRMAN BENTLEY: For what purpose does the gentleman from Pontiac, Mr. King, rise?

MR. KING: A point of information. Where did you intend to reinsert that? At the end?

CHAIRMAN BENTLEY: It is desired to be reinserted at the end, Mr. King.

MR. KING: Thank you.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Norris.

MR. NORRIS: Mr. Chairman, by way of preface, I would want to defend Delegate DeVries' rights with regard to Mr. Marshall's question, which question posed the question of the third degree in public. I feel that Mr. DeVries has the right of free speech here to oppose that question.

I think the point made by Mr. Danhof is yet to be raised and effectively answered by the language thus far before us; the question of the enforcement of this particular proposition, and the question of who is going to make the determination regarding incompatibility. I had heard that the Faxon-Nord amendment would deal with this question. I understand that the attorney general is ostensibly given some power in this area. But unless there is some method by which an order of a court can be entered to divest the legislator of the office, or of the proceeds of this particular transaction, there isn't any real implementation of it.

It is perhaps conceivable that the legislature would implement it by appropriate legislation. I think that is more a pronouncement of hope than of fact. But I think some kind of amendment would be in order to give this otherwise good proposition some teeth. And I look forward to some kind of amendment to that effect.

CHAIRMAN BENTLEY: For the information of the members of the committee of the whole, the secretary will read the pending amendment as it has now been revised by its cosponsors.

SECRETARY CHASE: Mr. DeVries, without objection, revises the amendment to read as follows:

1. Amend page 1, line 10, after "interest.", by inserting "It shall be incompatible with the office of any member of the legislature knowingly to receive, directly or indirectly, from any person or organization, any payment, retainer, fee, stipend, salary, gift, or other compensation, monetary or nonmonetary, which is made for the purpose of influencing, directly or indirectly, the deliberations or decisions of the legislature or any member thereof.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Stanton, Mr. Brake, to speak on the pending amendment.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, sometimes we over extend ourselves. I think we are over extending ourselves in this proposed amendment.

Nobody denies that from time to time there is some abuse in the legislature in the way of lobbying. It is over emphasized. It doesn't exist to the extent that many people in the public think it exists. And the only ethical standards that are ever really going to be effective in the control of any evil that there is here are going to have to be the standards within the legislature. Nothing else is going to be effective. It is like trying to legislate morals. You can try it, but you are not going to be very successful in carrying it out.

Much of this amendment — there's no question about it at all that the legislature itself, by practically unanimous consent, would condemn a retainer to a member of the legislature. Practically everybody in the legislature would condemn a gift of money to a member of the legislature to influence his decision. There's no question about those things. But the legislators do accept, as a regular practice, the gift of a lunch — and let's not fool ourselves by thinking a lunch isn't a gift. Of course it's a gift. So is a drink or a dinner. Those things are not frowned upon by most of the members of the legislature. Most of them expect the one who gives the gift of a lunch or a dinner to behave himself and not go too far. But it is generally acknowledged as not wrong to accept a gift of a lunch or a dinner or a drink. Very frequently that is the only time that the member of the legislature has the time, the opportunity, to get the viewpoint of that person.

If you carry this thing to what it actually says, you can have a legislative agent take a legislator to lunch and not mention an item of legislation at all, either pending or in the future, just to gain his confidence — and every lobbyist knows he has got to have the confidence of the legislature or he doesn't go anywhere — if he just takes him to lunch in order to talk with him and visit with him and gain his confidence, he is indirectly influencing some legislation in the future, and is condemned by this amendment. We just go too far with it.

I told you once before when we were talking about lobbying here in the convention, and I repeat it now, the only effective control of lobbying insofar as there is an evil connected with it is in the election of legislators who will not be improperly influenced. That goes right back to the people and that's where it's got to go before you can cure any evils that do exist.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ypsilanti, Mr. Lawrence, on the pending amendment.

MR. LAWRENCE: I think that much of what I had in mind has been covered by Mr. King and Mr. DeVries, but it seems to me that it would bear repeating, in view of some of the remarks that have been made, particularly in connection with the claim that this would prevent lobbying.

This proposed amendment, it seems to me, is very clearly designed to prevent only one thing, and that would be the improper payment or gift or stipend or anything you wish to call it for the purpose of influencing legislation. I don't see how any of us can object to that. I recall, it seems to me, that early in the convention, when we passed our own rules, Mr. Marshall made some statement to the effect that he got stuck with the dinner check perhaps because of our own requirement. I don't see any reason why the legislator can't pay for his own meal. I don't see any reason why he should be taken out to dinner. I can assure you of this: that if you have anything to do with the internal revenue department and are discussing the matter with an agent, and it comes meal time, you pay for your meal and he pays for his.

It seems to me that this is very laudable; it should be passed and I can't see how anyone could object to passing a provision that would prevent the improper payment of money to influence legislation. Our legislators are supposed to represent the people.

CHAIRMAN BENTLEY: The Chair will inquire of the lady from Grand Rapids, Mrs. Judd, if she is seeking recognition.

MRS. JUDD: Yes.

CHAIRMAN BENTLEY: The lady is recognized.

MRS. JUDD: It seems to me that the question at issue here is whether this is something that should have force and people could be punished for this, or whether it is simply, as Mr. DeVries has stated, and as I think it seems to be intended, a means by which the people through their vote on the constitution can express their ethical standards for legislators; and it offers, through that, some assurance that legislation will be in the public interest. I think that the remedy lies not in an attempt to punish or penalize or put somebody out of the legislature, but lies rather in the hands of the people in the next election. This is in the nature of a declaration of policy.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Flint, Mr. Millard, to speak on the pending amendment.

MR. MILLARD: Mr. Chairman and members of the committee, I think Mr. Lawrence has just stated the express purpose of this proposed amendment. He says it is to prevent the improper payment of money to influence legislation.

Ladies and gentlemen of this committee, that is a criminal act, and I don't think we are here to put criminal legislation into the constitution. We are starting out with the idea or with the assumption that every man who runs for the legislature is a crook, and we are trying to put something in there to prevent him from being a crook. I don't think that's our job. Our job here is to give good principles of government, and not to be a legislator and try to define a crime.

I hope that you vote this amendment down. It is absolutely improper. I think it is superfluous, and has no business in the constitution.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Harrisville, Judge Dehnke, to speak on the pending amendment.

MR. DEHNKE: Mr. Chairman and delegates, this presents one of those embarrassing occasions when we are asked to vote on a pious declaration and a no vote puts you in the position of favoring bribery. Nevertheless, I expect to vote no on this particular amendment.

This goes much wider in its wording than has been stated to be its purpose. Reference has been made to what happens when you have dinner with an income tax representative, and in the language of the street, "that ain't the way I heard it." This is a matter that involves bribery, a heinous crime which, if proven, should be punished, and punished severely. But it is one of those things that may be charged without much foundation, a charge easily made and tremendously damaging.

Now, it is foreshadowed that in addition to what we now have here before us, it is proposed to give the attorney general the power to make investigations as to whether this provision has been violated. That puts it in his power, if he desires to use it that way, to embarrass the legislator by letting him know that he proposes to investigate whether or not a dinner furnished by somebody representing an interested person in legislation was an expensive, high priced dinner, and whether it was for the purpose of influencing legislation. This is now covered by statute. It is bribery, pure and simple. And adding this pious declaration to the constitution, in my judgment, is not justified.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall, to speak on the pending amendment.

MR. MARSHALL: Mr. Chairman and fellow delegates, after listening to Mr. Brake and Mr. Millard and Judge Dehnke, I don't think that I could have anything further to say on this. I think they covered the points that I would have made much better than I could have.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Alpena, Mr. Habermehl, to speak on the pending amendment.

MR. HABERMEHL: Mr. Chairman, most of what I was about to say has been said by Mr. Millard, Mr. Brake and Judge Dehnke. I think they have done a good job of defending the subcommittee on this matter. I would like to point out, however, that the language used by the proponents of the amendment is not what they state that it is. This would make it incompatible to knowingly receive. We presume the legislator, if he got it, knew that he received it. But he need not know that it was made for the purpose of influencing, directly or indirectly, the deliberations. Certainly, unless we put that in and charge the legislator with the knowledge that that's the purpose for which it was made, he can't be accused of any wrongdoing. Then, if we do put it in, it is nothing but a bribery statute, pure and simple, and it should not start out with, "it shall be incompatible;" it should start out with "it shall be criminal." And I don't think we are prepared to write penal statutes in this part of the constitution. I think probably the discussion has indicated the difficulty that the subcommittee had with this problem in trying in some way to solve it. I think Mr. Brake has pointed out that it is insoluble; that you finally have to depend upon the integrity of the people that you elect.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries, on the pending amendment.

MR. DeVRIES: Mr. Chairman, I don't wish to prolong the debate. I think we should try to bring it back into focus, if we can. Now, if you can convince me that there aren't any legislators who are receiving salaries, retainers, fees, contracts, bonds, and so on, and receive them and know that they are receiving these for the purpose of having their decisions influenced, then I'll be happy to withdraw this amendment.

I'm not talking about gifts. We shouldn't obscure the issue by talking about lunches and dinners. Let's talk about people who are on salaries, who are on retainers, and people who try to go out and get these because of their legislative position. Let's talk about these people, and assume that there are some. I know of some. Let's talk about these, and let's not talk about gifts.

Now, this is designed for the protection of the legislator as much as it is for the people of this state. It is, as Mrs. Judd said, a statement of ethics in the public interest, and we are saying to the legislature we think these kinds of practices should not be engaged in, and we are going to leave it up to you to implement this statute. I do not agree with putting in a provision here that would allow the attorney general to investigate. I think, as Judge Dehnke points out, this could be used to embarrass, perhaps for political reasons, a legislator. But certainly we can leave it to the legislature to implement this statement of ethics. Now, we have done this before in the constitutional convention. It is nothing new. We just did it in civil rights. It is a statement of ethics in the public interest, to be implemented by the legislature. It is our statement to them from the people of Michigan at this point: this is what we think the ethics should be — and that's all it is.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell, to speak on the pending amendment.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, during the interval that this particular amendment has been under discussion, several delegates have been at my desk, wondering if I would make any comment on it, on behalf of our subcommittee and the whole committee. And I said it was almost embarrassing to try to speak on behalf of anybody else relative to something that had not been brought to our attention. The sponsors of this amendment and this whole sheaf of amendments have not been before our committee, although opportunity has been made available. We have had 2 open meetings, I believe this week, for anyone that had any suggestions or comments relative to any of our proposals to come up and discuss them with us.

Now, it was also said that as a person who has spent his lifetime, you might say, in the field of public relations and representing an organization around the legislature, that maybe I would have some comments on it. I can say that the Michigan farm bureau that I represented most of the time since 1921, over a period of more than 40 years, has been notorious as a thrifty group, and we have had very limited spending and entertainment and hospitality of any kind. For instance, Dan Runnells, who used to be the agriculture writer for the Booth papers over at Grand Rapids, connected with the Grand Rapids Press, had a habit of writing an article every once in a while in which he alluded that more members of the legislature took me to lunch than I took to lunch, and so on. I don't think that was exactly factual, but at least he got a chuckle out of it.

I will say that one activity of our organization was that every year we had a series of legislative seminars, and members of county farm bureau legislative committees came in for a day; and during the lunch hour they had with them members of the senate and house who came in, and generally there was a good group there. And those who came in from around the state paid for their own lunch, and the Michigan farm bureau paid for the legislators who were there.

Now, this practice was continued during the con con for con con delegates when some of you were over there. The Michigan farm bureau paid for those who were there as delegates. I don't think that there is anything reprehensible about a procedure like that.

As I read this language and meditate upon it, it looks to me as though an effort is being made here to control lobbying by making criminals out of legislators. I second the comments of Delegates Brake and Millard. I think they have analyzed this very well. I intend to vote against this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, it is our hope to recess in 5 minutes. I would suggest, unless somebody feels a strong urge to speak further on this subject, that we proceed to vote.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Ostrow, to speak on the pending amendment.

MR. OSTROW: I won't repeat what any of the others have said. We all recognize the condition, but the trouble is that Dr. DeVries talks about the condition and the things that he hopes to cure, but that is not what this amendment purports to do.

This amendment is so broad that if one member of the legislature took another member of the legislature out to lunch and picked up the check, and tried to talk him into voting the way he does, he would be in violation of this section. It says any member of the legislature who shall receive from any person — and we assume that a member of the legislature is a person — any gift, which could be a lunch, is in violation of this section.

Their objectives are fine. But this is not the cure for it. And while everybody wants to get at the reprehensible person, it is always the innocent people that get entangled in these things.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries, for the purpose of making a change in the pending amendment.

MR. DeVRIES. Mr. Chairman, I have not consulted the cosponsors of the amendment, but it seems that all of the debate is directed at the word "gift." If it will make you feel better and encourage your support of the entire amendment, I will strike the word "gift" so we can stop the discussion on that point, at least.

CHAIRMAN BENTLEY: Without objection, the amendment will be so revised. After the word "salary" the comma and the word "gift" in line 4 will be withdrawn. The Chair recognizes the gentleman from Taylor, Mr. Marshall, to speak on the revised amendment.

MR. MARSHALL: Mr. Chairman, I'll be very brief. I desire to ask Dr. DeVries a question.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. MARSHALL: In view of the remarks made a moment ago, Dr. DeVries, under this amendment are you saying that no legislator or senator could have other employment? I happen to know, the same as you do, that we have some who are employed by Edison, we have several legislators that are employed by different groups, or corporations or labor unions. Recognizing the fact that the legislative job is not a full time job, and does not have a salary with it that makes it full time, is your amendment intended to prohibit a legislator from having other employment? And, if so, are you prepared to set a salary of about $15,000 or $20,000 a year?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids, Mr. DeVries, for a reply.

MR. DeVRIES: Mr. Chairman, Mr. Marshall, the sponsors of this amendment and the others keep emphasizing it's part of a package. Now, we intend to offer on second reading an amendment which provides that members of the legislature will receive ½ of the congressional salary — that's $12,500 — plus additional expenses as may be provided by law. This, we think, is an adequate wage. We also have an amendment which intends to make the legislature a full time body, providing for a continuous session. This is our intent. We want our legislators to spend full time at their job and be paid adequately. That's one of the reasons for this particular provision.

MR. MARSHALL: Mr. DeVries, it is obvious now that in a roundabout way you intend to prohibit this. Do you believe that a salary of $12,000 a year would attract the very high caliber and the best equipped candidates for these positions?

MR. DeVRIES: Mr. Chairman, Mr. Marshall, when we get to the proposal on second reading, I will not argue that a better salary necessarily means better legislators, because this is a judgment on the present legislature which I am not willing to make. I will argue this, however: that the present salary —

MR. KUHN: Point of order, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. KUHN: They are taking too much time on things which are not germane to the issue. We are trying to get through with this today. The salary of legislators has already been determined by this body on first reading. It is not before us today. The surprise package came up way too late to get that. We took care of it earlier. It is not in order to even discuss it now. Let's keep to the amendment, and let's get finished with our job. (applause)

CHAIRMAN BENTLEY: You will confine your discussion to the amendment.

MR. MARSHALL: When the applause dies down, I would say to Delegate Kuhn that in view of the remarks made by Dr. DeVries as it relates to legislators having other employment, the question is germane. I would ask for a ruling of the Chair.

CHAIRMAN BENTLEY: The gentleman will proceed in order.

MR. MARSHALL: I am finished. I hope that the people will take the advice of Mr. Millard and Judge Dehnke and Stan Powell.

MR. DeVRIES: May I respond and finish the answer to the question?

CHAIRMAN BENTLEY: If the gentleman will continue to yield for that purpose to Dr. DeVries.

MR. MARSHALL: Yes.

MR. DeVRIES: The answer was to be this, Mr. Marshall: I was not going to argue that better pay necessarily means better legislators. I was going to argue that if you pay $12,500 you open the office to the people of this state. I think right now 70 or 80 per cent of the people of this state can't run for the legislature because they can't afford it. This gives equal access to the office, and that's one of the reasons for the $12,500. The other reason is the concept of the full time legislator.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Webberville, Mr. Jones, on the pending amendment.

MR. JONES: Through the Chair, I should like to ask Dr. DeVries one further question.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. JONES: In this amendment here you have singled out the legislators and applied, as you say, the statement of ethics towards them. What about the other state employees?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids, Mr. DeVries, for a reply.

MR. DeVRIES: Mr. Chairman, Mr. Jones, I believe that question was raised previously, and since this is the section dealing with legislative powers, I don't feel that we could include state officers, although I have no objection to placing the same code of ethics on them at the appropriate time.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon.

MR. FAXON: I call for the yeas and nays.

CHAIRMAN BENTLEY: The Chair wishes the gentleman would withhold that request, because there are 2 amendments to the pending amendment which have not yet been offered. The Chair recognizes the gentleman from Pontiac, Mr. King, on the pending amendment.

MR. KING: Mr. Chairman, fellow delegates, we have heard a lot of immaterial and irrelevent arguments. We have talked about lunches and drinks and cigars and that sort of thing. I think it is pretty clear what we are trying to do here. To give you an example, I might point out, first of all, that I have no intention of running for public office. Secondly, that a group of my constituents have already approached me and asked me if I would run for the legislature, and I pointed out quite frankly and quite honestly that I can't afford to.

I don't mind coming here before you and telling you that I can't afford to; I can't. I have a wife and 3 children, and the job doesn't pay enough money. It was pointed out, however, that I could make a great deal of money in the legislature; that I could represent clients before the liquor control commission. I think the racing commission was mentioned, too, but I guess that doesn't exist any more. (laughter) But there are enough that do exist. There are enough that do exist so that probably that man is right. I don't really know, but this man has had more experience in government than I have. Maybe I could make a lot of money. But that is not the way I want to make my money.

I would love to represent people before the liquor control commission right now, because I'm not in — not right now, but when I'm through with con con — because I'm not involved in government. But anytime that I sit in the legislature, if that should ever come to pass, then I certainly don't want to do that to supplement an inadequate income. And that's the sort of thing we are talking about. This is a statement of policy, there is no question about it. Mrs. Judd was precisely right.

I don't know that it's illegal to represent these people before the liquor control commission as a member of the legislature. I guess perhaps it isn't. The man told me it wasn't, I don't know. But I don't want to do it that way, and I don't think any of the others of you do either. So let's not be misled by certain arguments of certain delegates. Let's really look at this thing and see if we can't stand for good government.

CHAIRMAN BENTLEY: The Chair will point out that there are 2 amendments to the DeVries, King, Pollock, Durst amendment. There are 3 additional amendments to the body of Committee Proposal 115. The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: I would like to ask Delegate King a question, if he would care to answer.

CHAIRMAN BENTLEY: The gentleman will state the question.

MR. DOWNS: You gave the example, Mr. King, which you assumed was improper, of a legislator practicing law before a state agency, such as the liquor control commission, the public service commission, and some others. Where in this language would there be any prohibition of that occurring?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Pontiac, Mr. King, for a reply.

MR. KING: Well, I would think — I think that's a good question. (laughter) I'm not sure that there is any direct prohibition. But it is this sort of thing that I was trying to get at. I could seize upon lots of examples of improper conduct, and I'm sure that all of us could. We know that there are attorneys over there who are on retainer. It's a well known fact that this is a gold mine for attorneys — and I've got nothing against attorneys, being one.

This is just a step in the right direction, we think. This is a statement of policy as to how we should conduct our affairs of government. I don't think I answered your question, because I'm not sure I can. I would have to examine it very carefully. Offhand, I don't think it does cover this particular type of situation.

MR. DOWNS: May I ask another question, through the Chair, of Delegate King?

CHAIRMAN BENTLEY: You may proceed.

MR. DOWNS: Would you favor an amendment that would require an attorney to list any additional retainers he received after becoming a member of the legislature?

MR. KING: Yes.

MR. DOWNS: Or an insurance agent any additional clients he received after becoming a member of the legislature?

MR. KING: I personally would not object.

MR. DOWNS: Thank you, Mr. King. Well, Mr. Chairman, I raised these questions because what concerns me a little here is we have the word "knowingly" and then "the purpose of influencing," and then limiting this directly to the legislature. I don't know if this means too much or too little.

What has bothered me a little are comments that have been made by Delegate King in our discussion, which I think most of us would agree with, on the possible abuses, but I don't see anything in here that would take care of those real abuses. I would suggest, perhaps, that the sponsors might want to get some teeth in it along with the lines Delegate King mentioned, and I assume we will have a noon recess before we finally act on this. I'm not going to try to tell another delegate how to write his amendment, but I just did want to draw that to the attention of the committee.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, it was my hope that we would get through this proposal before we recessed. However, it is my understanding that there are several amendments to the pending amendment, so it does not seem possible. I'm certainly happy that this amendment wasn't a part of the constitution presently, because I probably would have been guilty of violating it. Last week I took a member of the legislature to dinner and lobbied him to try to get the finances we need to complete this operation. (laughter) I now move, Mr. Chairman, that the committee rise.

CHAIRMAN BENTLEY: The question is on the motion that the committee shall rise. All those in favor say aye. Those opposed no.

The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 112,** A proposal to provide that certain officeholders shall be ineligible for the legislature; and **Committee Proposal 113,** A proposal to provide that the legislature may submit bills to the people for referendum. It reports it has made no amendments to these 2 proposals, and recommends their passage.

PRESIDENT NISBET: **Committee Proposals 112 and 113,** as reported from the committee of the whole, are accepted and referred to the committee on style and drafting.

For Committee Proposal 112 as referred to the committee on style and drafting, see above, page 2345.

For Committee Proposal 113 as referred to the committee on style and drafting, see above, page 2358.

SECRETARY CHASE: The committee of the whole, Mr. President, has also had under consideration **Committee Proposal 114,** A proposal to provide that each house of the legislature shall keep a journal and the yeas and nays be recorded on a demand of 1/5 of the members present; has adopted an amendment thereto, and recommends that the proposal as thus amended do pass.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 9, after "present.", by reinserting "Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason for his dissent entered on the journal.".]

PRESIDENT NISBET: **Committee Proposal 114,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 114 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. Each house shall keep a journal of its proceedings and publish the same. The yeas and nays of the members of either house on any question shall be entered on the journal at the request of 1/5 of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason for his dissent entered on the journal.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 115,** has considered some amendments thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Any announcements?

SECRETARY CHASE: Mrs. Butler has requested the following announcement to be made: The Right Reverend Robert DeWitt Suffigan, bishop of the episcopal diocese of Michigan, will be host to the episcopal delegates at a dinner, preceded by a celebration of the Holy Communion, Thursday, at 6:15 at St. Paul's Church in Lansing.

We have the following committee announcements:

The committee on emerging problems will meet immediately in room H on the third floor. Bring your lunch. Frank G. Millard, chairman.

The committee on judicial branch will meet tomorrow morning at 8:00 o'clock.

The committee on local government will meet tomorrow morning at 8:00 o'clock.

We have a request for leave from the afternoon session from Mr. Tubbs. An emergency in his office requires him to be absent. He requests excuse from the afternoon session.

PRESIDENT NISBET: Without objection his request is granted. I might say that May 15 is approaching rapidly. We must be through by that date. We've got to get through with these proposals, and the only way to do it is stay in session until we do it. I appreciate that many of you have commitments tonight, but I see no way of getting through this unless we stay with this committee and finish this up tonight. If we don't do it we are going to be in trouble.

The Chair recognizes Mr. Bonisteel.

MR. BONISTEEL: Mr. President, I move this convention do now recess until 1:30 this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. Bonisteel. Those in favor will say aye. Those opposed no.

We will recess until 1:30.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: Without objection, we will return to the order of **motions and resolutions.** The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, fellow delegates, yesterday, I believe, each of you received a proposed schedule for completing the work of the convention. That schedule contemplates beginning second reading on Tuesday of next week, April 17. I won't review the details of the schedule, but I would like to call to your attention one correction made at the request of Delegate Ford; and with the concurrence of Delegates Danhof and Brake, the work on the finance and taxation article would be moved to Thursday, April 19, and the work on the judicial article would take place on Monday, April 23. As I said, this was done to accommodate Delegate Ford, who planned to be absent on the day the judicial article had originally been scheduled to take place. Therefore, Mr. President, at this time I would like to move that the convention adopt as its work schedule for the remainder of our term the schedule which has been presented to the secretary and of which all of the delegates have copies.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen on the schedule you have all seen. Mr. Buback.

MR. BUBACK: Mr. President and members of the convention. I would like to ask Mr. Van Dusen a question, if I may, through the Chair.

PRESIDENT NISBET: You may.

MR. BUBACK: Mr. Van Dusen, this 2:00 o'clock on Monday, how late do you expect to work Monday night?

MR. VAN DUSEN: Mr. Buback, as long as it would take to complete our business. The 2:00 o'clock starting time on Monday, of course, does not begin until Monday, April 23. It follows a Friday, when we would have a Good Friday recess. It is just going to be necessary, in order to get the work done on the judicial article on Monday, April 23, and on the miscellaneous provisions article on April 30, to have 2 sessions that day; and actually it would be better if we could come in in the morning, but 2:00 o'clock in the afternoon, I think, is about as much as we can ask of the delegates on Monday.

MR. BUBACK: What about 4:00 o'clock in the afternoon, and work 2 hours later in the evening?

MR. VAN DUSEN: I don't think, Mr. President and Mr. Buback, that that is feasible. I would call to your attention again that the schedule includes a Good Friday recess. It includes a recess from Tuesday, May 1, through Friday, May 4; and it includes a recess on May 10, on all of which dates the committee on style and drafting would be working, but the rest of the delegates would be able to pursue their private pursuits.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President, Mr. Van Dusen, I thought if we were going to be able to get through about 8:00 o'clock, we could extend that to 10:00 and start Mondays at 4:00 as we have in the past.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, Mr. Buback, all I can say is that I just don't think it is going to be possible to complete the work on the judicial article on Monday, April 23, unless there is at least the time from 2:00 o'clock until an evening adjournment to get it done.

PRESIDENT NISBET: The question is on the motion of Mr. VanDusen. Those in favor will say aye. Opposed no.

The motion prevails.

Following is the schedule:

Schedule for completing the work of the constitutional convention:

Monday, April 16 (6:30 session)
General orders to be completed.
Tuesday, April 17
Second reading: Local government.
Wednesday, April 18
Second reading: Education.
Thursday, April 19
Second reading: Finance and taxation.
Friday, April 20
Good Friday: Recess.
April 23 (2:00 p.m. session)
Second reading: Judicial branch.
April 24
Second reading: Executive branch.
April 25
Second reading: Legislative organization.
April 26
Second reading: Declaration of rights, suffrage and elections; emerging problems.
April 27
Second reading: Legislative powers.
April 30 (2:00 p.m. session)
Second reading: Miscellaneous provisions and schedule.
May 1
Recess: Style and drafting to work.
May 2
Recess: Style and drafting to work.
May 3
Recess: Style and drafting to work.
May 4
Recess: Style and drafting to work.
May 7 (2:00 p.m. session)
Third reading, article by article.
May 8
Third reading, article by article.
May 9
Third reading, article by article.
May 10
Recess: Style and drafting to work.
May 11
Final third reading. Approval of address to the people. Adjourn to August 1.

PRESIDENT NISBET (continuing): I realize that tonight a lot of people have made commitments. Basically, we can finish this article this afternoon, if we get down and go to work and quit arguing about nonsubstantive matters. Now, there is no way to complete this thing, if we don't finish it this evening, but to come back tonight and do it. I know we hate to do it because I know of the commitments you have made, but there just isn't any other way of completing this convention. So may I suggest, in committee of the whole this afternoon, let's go to work and get this done. Mr. Bentley.

MR. BENTLEY: Mr. President, I move that the convention resolve itself into committee of the whole for consideration of items on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor will say aye. Those opposed no.

The motion prevails.

[Whereupon, Mr. Bentley assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN BENTLEY: The committee will be in order. The Chair will recognize the gentleman from Grand Rapids, Mr. De Vries.

MR. DeVRIES: Mr. Chairman and members of the committee, I would just like to make a brief statement, and then withdraw the amendment, with the cooperation of the cosponsors.

The amendment that we put in this morning was aimed at a situation we all know exists, and our amendment represented our best efforts in trying to make a declaration of intent on this matter. To summarize the debate and where we are right now, when this thing was first introduced this morning, I had the feeling that we had the support of a good many Republicans and Democrats. Since then many amendments have been added. It has become very complex and I think it would take most of the afternoon to dispose of. I don't want to waste any more time on the amendment. Therefore, I request, Mr. Chairman, that the amendment be withdrawn.

CHAIRMAN BENTLEY: Without objection, the amendment will be withdrawn and will take with it any amendments to the amendment. The secretary will report the first amendment to the body of **Committee Proposal 115.**

SECRETARY CHASE: Messrs. Faxon and Bonisteel offer the following amendment:

1. Amend page 1, line 10, after "legislature" by striking out "may" and inserting "shall further"; so the language will read, "The legislature shall further implement this provision by appropriate legislation."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon, in support of his amendment.

MR. HOXIE: To eliminate the debate, Mr. Chairman, the committee will accept the amendment.

CHAIRMAN BENTLEY: The amendment is accepted. The question is on the amendment offered by the gentleman from

Detroit, Mr. Faxon. Those in favor will say aye. Those opposed no.

The amendment is adopted and incorporated in the pending proposal. The secretary will report the next amendment to the body of the committee proposal.

SECRETARY CHASE: Messrs. Faxon and Nord offer the following amendment:

1. Amend page 1, line 11, after "legislation.", by inserting "The attorney general shall have the authority to seek a court order terminating the conflict of interest.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon, in support of his amendment.

MR. FAXON: Mr. Chairman, I'm still a little bit overwhelmed at the response of Chairman Hoxie to the last amendment, and I just want to make a brief statement on this amendment, which maybe Dr. Nord would want to add something to. It's just a question of providing in the section some degree of self execution. It says that the attorney general will have the authority to seek a court order terminating the conflict of interest. It is not a question that the person involved is guilty of any criminal action. It is simply a question of enjoining a contract where there was evidence of conflict of interest and permitting the courts to make the decision here. If it is the intent of the committee that this be a self executing prohibition, then I think in order for it to be self executing it would be necessary to give this additional meaning and statement to the provision.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Detroit. The Chair recognizes the other sponsor of the amendment, the gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, I simply would point out, as stated by Mr. Faxon, that this would put teeth into this provision. It would change it from what some people have called the present section, attempting to legislate morals without any legislation. This would put teeth in the provision. It would state point blank that the conflict of interest provision in this proposal is intended to be effective.

But, further than that, it would place the responsibility in some particular place, the chief law enforcement officer of the state; and it would show that the way it is to be enforced is through the courts; and, finally that what is to be done when there is a conflict of interest is to terminate the conflict of interest if a court sees fit to do so, but not to interfere with the capacity of the legislator as a legislator. So it is directed, we believe, at the problem, which is a conflict of interest, and not at the legislator as a legislator per se.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Mr. Chairman, members of the committee, I urge that you not adopt this amendment. It seems to me that the legislature is the judge of the qualifications of its members, and that would fit into this context. Furthermore, it might be open to the charge that an administrative board member could politically harass members of the legislature. I urge you to defeat the amendment.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Detroit, Mr. Faxon. Those in favor of the amendment will respond by saying aye. Those opposed will say no.

The amendment is not adopted. The secretary will read the next amendment to Committee Proposal 115.

SECRETARY CHASE: Mr. Snyder offers the following amendment:

1. Amend page 1, line 11, after "legislation" by inserting "which will provide for a method of competitive bids"; so the language will read, "The legislature shall further implement this provision by appropriate legislation which will provide for a method of competitive bids."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Clair Shores, Mr. Snyder, in support of his amendment.

MR. SNYDER: Thank you, Mr. Chairman. Fellow delegates, I feel that in the section involved we have 2 principles, one of which we discussed at great length the entire morning. That is the question of conflict of interest. The second one would be that of the philosophy of keeping costs down and the question of competitive bids.

The subject that I'm about to present is not quite as exotic as what we have discussed previously, but I feel that the long range interests of the state have a great bearing on the decision that we make. I want to point out that I have no pride of authorship on the amendment offered. Primarily I'm concerned with the end result. I feel that if this is adopted it would assure the maximum benefit to the citizen for the tax dollars that they pay, and I do feel that we have a responsibility in this area.

Any deficiency in the language can be corrected in the committee on style and drafting. I feel that the amendment keeps in the constitution the vital concept of competitive bidding and that this would place a definite responsibility on those in our state administration who consummate the contracts. It would make them accountable for their decisions, knowing full well that should they decide for reasons other than costs they would have to prove their position. There may be valid considerations for not accepting the rock bottom bid, in all cases, but the procedures that we outline would alert the vendors to the fact that they are in a competitive market and would also alert them in advance that personal contacts alone would not assure them of a contract. I have seen bids in my experience that varied as much as 400 per cent. The rationale behind this would be that the highest bidder would deliberately put in a high bid in the hopes that he would be the only one bidding. He would be speculating on a high profit rather than a close profit.

The issue is clear cut. I feel that we should continue in the new constitution a safeguard that has worked well for over 100 years. Again, I point out that this is not a matter that would require extensive debate. I do feel, however, in view of the experience that I have had and many of you have had, we should carry over in some form into the new constitution one of the safeguards that the framers of the 2 original constitutions felt was vital and necessary. I feel that if we take affirmative action on this amendment we will be doing much to save the citizens of our state the tax dollars that they work so hard for and which they part with so reluctantly. Thank you very much.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell, to speak on the Snyder amendment.

MR. POWELL: Mr. Chairman and ladies and gentlemen of the committee, on behalf of our subcommittee and the committee on legislative powers, I think I'm in a position to say that we do not feel that this is necessary or appropriate. The old language of the constitution talked about lowest bids. This doesn't go quite that far. It speaks of a method of competitive bids.

While we were discussing this matter before our committee, the situation of the painting of the capitol dome was brought up, and the details have gone from me now, but I recall that the job was not let to the lowest bidder. There were some other elements involved. I forget whether it was the time element, or one of the employers didn't have all union labor, or didn't have adequate insurance, or his record of dependability wasn't all that it might be, or just what the consideration was. There are often many other factors besides that of mere price.

Peter Buback and I have served on the Michigan state fair commission for a number of years, and there are occasions when, in letting a contract there, we feel that there is something more important than a slight difference in price. We know the experience that we have had with various concessionaires or suppliers, and that has to be taken into consideration.

We felt that in state government today we have a department of administration, they have a purchasing program, they purchase on specifications. The procedures of that purchasing department and the department of administration and the state administrative board we feel are totally adequate without inserting this legislative feature into our constitution.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Madison Heights, Mr. Walker, to speak on the Snyder amendment.

MR. WALKER: I think possibly Mr. Powell is confused. He speaks of the old constitution containing lowest bids. This does not limit the legislature or any other body to that extent. It just says competitive bids. In that way everyone will know where they stand, and they are not forced by this language to accept the lowest bid, but just by good sense to accept the best bid, the most sensible bid. Thank you.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from St. Clair Shores, Mr. Snyder. All those in favor will respond by saying aye. Those opposed will say no.

The amendment is not adopted. Are there an further amendments to the body of Committee Proposal 115? There being none, it will pass.

Committee Proposal 115, as amended, is passed and the secretary will read.

SECRETARY CHASE: Item 18 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 116,** A proposal to provide time and place of legislative sessions and that bills and resolutions pending at the end of a session shall be considered introduced at the next session. Amends article V, section 13.

Following is Committee Proposal 116 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. The legislature shall meet at the seat of government on the second Wednesday in January of each year [and at no other place or time unless as provided in this constitution;] and each such annual regular session shall adjourn without day, at such time as shall be determined by concurrent resolution, at 12:00 o'clock noon. [No motion, bill or resolution, pending in one session of any term shall carry over into a later regular session.] NO BUSINESS PENDING IN ONE SESSION OF THE LEGISLATURE SHALL CARRY OVER INTO A LATER SESSION, EXCEPT THAT ANY BILL OR JOINT RESOLUTION PENDING AT THE FINAL ADJOURNMENT OF A REGULAR SESSION HELD IN AN ODD NUMBERED YEAR SHALL CARRY OVER TO THE NEXT REGULAR SESSION AND REVERT WITHOUT REPRINTING TO THE STATUS OF A BILL OR JOINT RESOLUTION FIRST INTRODUCED.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 116:

The committee recommends 2 changes in the existing language. The phrase "and at no other place or time" is redundant in conjunction with the first phrase. The legislature must meet at Lansing, which is specified in another article as the seat of government.

The provision which forbids a motion, bill or resolution to be carried over from one session to the next is unusual in a state constitution and the committee is of the opinion that modification is necessary.

The committee recommends that bills or joint resolutions pending during the first session of a particular legislature can be carried over to the second session of the same legislature. This would save much expense in printing costs and in time. At the end of the session prior to an election, bills and resolutions should die, since there is a new legislature and business should not be carried from one legislature to the next.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie, for the purpose of offering a committee amendment.

SECRETARY CHASE: Mr. Hoxie, on behalf of the committee on legislative powers, offers the following amendment:

1. Amend line 7, after "year" by inserting "at 12:00 o'clock noon"; so the language will read, "The legislature shall meet at the seat of government on the second Wednesday in January of each year at 12:00 o'clock noon."

CHAIRMAN BENTLEY: The gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, you will notice that the proposal does provide, as the present constitution, for an hour for adjournment. It does not at the present time provide for an hour for convening. It was thought advisable that we should not only have a time set for adjournment, but a time for convening. The committee recommends the adoption of this amendment.

CHAIRMAN BENTLEY: The question is on the committee amendment. All those in favor respond by saying aye. Those opposed?

The amendment is adopted. The secretary will report the next amendment to Committee Proposal 116.

SECRETARY CHASE: Messrs. DeVries, King, Pollock and Durst offer the following amendment:—

MR. KUHN: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. KUHN: I don't believe we explained the section yet.

CHAIRMAN BENTLEY: The secretary will report the next amendment.

SECRETARY CHASE: The amendment is:

1. Amend page 1, line 6, after "Sec. a.", by striking out the balance of the section and inserting "The legislature shall be a continuous body for each 2 year legislative period. It shall meet each year in regular sessions as provided by law. It may be convened at other times by the governor, or, at the request of a majority of the members.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries, in support of his amendment.

MR. DeVRIES: Mr. Chairman, I yield to Mr. McLogan.

MR. NORD: Point of order.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. NORD: It is my understanding that when a committee proposal is first brought forth, the committee chairman or someone at his direction is supposed to explain it. I further understand that there is somebody from the committee who is dying to do so. May I ask that he be permitted to do so or be required to do so?

CHAIRMAN BENTLEY: The gentleman from Detroit may make the request, but the Chair would state the following: it is my understanding that certain delegates have some very important commitments later on this afternoon. The Chair is endeavoring to accommodate them and believes that the debate will provide sufficient opportunity for both the committee and the proponents of amendments to explain their positions, and the Chair would suggest that we permit the debate on the pending amendment to continue at the present time. The gentleman from Flint, Mr. McLogan.

MR. McLOGAN: Mr. Chairman, members of the committee, I desire to make a brief statement on the background of this amendment. This is in the interest of expediting action. Then I will yield to one of the sponsors for his remarks. I would hope that any other delegates who favor our position will be brief or even silent after that.

I would ask that the delegates refer to this stapled sheaf of green papers, on next to the last page, Committee Proposal 116. The new language is largely self explanatory, providing for a continuous body for each 2 year legislative period, meeting in regular sessions, but not necessarily longer sessions or more frequent sessions than we have today; that they can be convened at other times by the governor, or a majority of the members.

Let me give just a little background and rationale as to why we believe that our new language will lessen confusion, conflict and collusion. Most states — about ¾ of them — hold regular biennial sessions. Michigan is one of only 15 which meets

Explanation—Matter within [ ] is stricken, matter in capitals is new.

annually. But the trend of new constitutions is to provide for an annual rather than a biennial session. However, the actual practice among those states having an annual session is almost a universal one. Only a few states have really managed to avoid special sessions. All of us I'm sure will recall that Michigan amended its constitution to provide for annual sessions in 1951 instead of the biennial sessions as we had prior to that time. But for each of the 10 years before that at least one special session was held — as a matter of fact, 11 during that decade. It can be argued that increasingly complex governmental problems do call for more frequent legislative sessions. Despite our annual sessions, we have had several recent special sessions, one on medical care for the aged, the 4 cent sales tax matter, highway billboard regulations, aid to children of unemployed — all very recent things.

The argument in essence settles down to whether one acknowledges the legislature to be essentially part time or continuous. The complexities of an atomic era and the magnitude of running a billion dollar corporation would seem to dictate a preference for the latter. In addition, and with regard to cost — that is, the cost of a continuous legislature — it would probably vary very little from what we have today. The total session days need be no longer. They need be no greater.

We will not have a full time session in the literal sense that the legislators would be in Lansing 365 days a year, or even any more than they might be there today; but we would be recognizing that the legislature is a full time job. We would be upgrading the position in the matter of pay, and certainly in the matter of prestige. Legislators would also be on hand at all times for emergencies. Items other than those which the governor might wish to introduce in a special session could be considered at any time if we were to adopt this amendment. Printing costs will certainly be a major savings.

We are simply recognizing that just as the biennial session was inadequate since 1940, that a 4 months session is not always all that is needed in the year 1962 and those to come. Keep in mind that this provision is only rounding out the whole legislative area and is not a total solution unto itself.

In summation, the model constitution, professionals, scholars, and technicians have common agreement here that a modern legislature is a continuing body, and we ask your support. Mr. Chairman, I should like to yield —

CHAIRMAN BENTLEY: The gentleman does not have the floor. The gentleman from Grand Rapids, Mr. DeVries, has the floor. Does he desire to yield further?

MR. DeVRIES: I would like to speak on the amendment, Mr. Chairman, if I may. I should like to point out to the delegates that there should be a correction made in the copy of the amendment that you have. It should read, "The legislature shall be a continuous body for each 2 year legislative period." This was necessary because of the provision for 4 year terms for state senators. So that should read, "The legislature shall be a continuous body for each 2 year legislative period." [Correction made.]

As Mr. McLogan has pointed out, I think this provision will strengthen the legislative process and result in a good deal of savings. This pattern here is modeled after the congressional system, which is a continuous body for 2 years. It allows the legislature to meet when it wants to. It could meet quarterly, it could meet twice a year, it could meet for 6 months in a row, it can do whatever it likes. I urge your support of the amendment.

CHAIRMAN BENTLEY: Does the gentleman desire to yield further? The Chair is prepared to recognize the gentleman from Pontiac, Mr. Kuhn, and will permit him the widest possible latitude, either discussing the pending amendment or the committee proposal.

MR. KUHN: First, Mr. Chairman, I would like to yield to Mr. Hubbs, who will state briefly what the committee had in mind and explain the committee's position.

CHAIRMAN BENTLEY: The gentleman retains the floor, and yields to the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, I am happy to report that I wasn't dying to do this. I would merely like to state that for 4 months the committee studied this proposition and considered some of the things that the amendment recommends, and we rejected most of them. As far as the business of saving money in connection with the printing of bills, we have provided for that in the committee report. I recommend that you adopt it, and reject the amendment in the interests of saving time. Thank you very much. (applause)

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, in the wishes of this convention, I think Mr. Hubbs has done an excellent job of explaining to you what we have done. I think the amendment is not in keeping with, and I don't think it quite understands, the legislative procedure. It says something about a continuous body, and then at the bottom it provides that it may be convened at other times by the governor, or at the request of a majority of the members. I submit to you that if it is a continuous body it would not have to have anybody bring it into session.

Now, they said they are following the federal practice. I wish they would study the majority report. That's exactly what we are doing — following the federal practice. We investigated what the costs of bills are. We made provision that the bills would not die at the end of each year. We allowed the bills to go over to a new year, which is not the case today. We provided that they would have the status of a bill being introduced, Mr. Chairman, for one purpose, and that is to save this tremendous cost in printing. We found that one bill, the judicature act, cost over $4,000. We found that this year there were introduced into the legislature 1,195 bills. There's no reason why they should have to be introduced each year.

We are following the congressional practice right down the line in saving the people of the state of Michigan money. We have gone a long ways in doing this. And we submit that our proposal takes care of the inequities which are in the present constitution, and there is absolutely no need for this amendment, which was not brought to our attention and really has no place in front of us today.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King, to speak on the pending amendment.

MR. KING: Mr. Chairman, fellow delegates, apparently there is some misunderstanding as to what the word "convene" means. It is bandied about here rather loosely that we convene every morning at 9:00 o'clock. I have had no legislative experience except for what I'm getting here, but that's my understanding of the word.

I was going to answer the question myself, but I would like to yield to Dr. DeVries to point out the difference between the amount of money that we are saving and the amount of money that the committee proposal saves. But, before I do that, I would like to point out something else. Continuously we hear this objection that this was not brought to the attention of the committee. Many of these things were brought to the attention of this committee. Dr. Pollock made a presentation before a committee. Now, I don't know which subcommittee had jurisdiction the day that Dr. Pollock made his presentation. It was bandied about between 2 subcommittees. But I do recall his lengthy presentation, which included some of these points, before the committee which had the jurisdiction at that time. Without saying more I will yield to Dr. DeVries.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Mr. Chairman, I would like to address this to Mr. Kuhn. I think if you will read the language again, Mr. Kuhn, you will know what we mean by continuous body. It is not what you suggest at all. "The legislature shall be a continuous body for each 2 year legislative period." That means a legislative term is 2 years.

Furthermore, and this is the question I would like to direct to you — you say that yours does the same thing as ours does, and better — then what does it mean in the committee proposal that no business pending in one session of the legislature shall carry over into a later session, and then with your exceptions? Ours provides that all of it carries over.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, being recognized in his own right, yields to the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Here is exactly what it means. We have heard testimony, and I'm aware of the federal practice, and that is if a committee reports on any one bill in a year, it would carry over; and if either the house or the senate passed it, it would carry over and take up from that juncture on. We were told this is very bad — we have a tremendous lobby and pressure — and it might not be a good thing. But we were told if we let it go back to the status of being introduced, we would save a tremendous amount of cost, which we agreed to.

Now, he says that this is a continuous body and that I read it wrong, and yet he used the term federal practice. I can assure him that I understand the federal practice quite well, and he knows that I was down there for a few years and that when the federal congress adjourns sine die, it is out, and that's just the way it can be done here. I submit to you, ladies and gentlemen of this committee, it has only been a few years that we have met each year. The legislature used to meet once only every 2 years. Now we are meeting every year.

What are they going to do in session all year? I say they are in session maybe too long now to get their work done. With the hours this constitutional convention has put in since we have been here, since January 3, I submit we could have finished more than what they have. But I am not judging them. I want them to judge themselves and be able to do what they want to do. We should not put restrictions on them. We are providing in our amendment something like the federal constitution. Let them be the judge. Let them decide what they need to do. Now, if the legislature wants to stay in longer, they can stay in longer. There is nothing in our amendment, there is nothing in the present constitution, that says they must go home this week, next week or 6 months from now. They can stay in session as long as they wish.

I submit to you that the committee has gone over this most carefully, and has found great savings to the people of the state of Michigan — not a way to cost the people of the state of Michigan more money at a later date, but a method to save the people of the state of Michigan a great deal of money. And I say that what the people want is savings in government and not loopholes and openings so they can spend more of the taxpayers' money at a later date. (applause and laughter)

CHAIRMAN BENTLEY: The committee will be in order. The gentleman from Grand Rapids, Mr. DeVries, retains the floor.

MR. DeVRIES: Mr. Chairman, I don't think I can follow that with anything. (laughter) I would just like to make these comments if I may. The question is always raised that the legislature perhaps is in session too long. This year close to 1,500 bills were introduced. The session will probably last until the middle of May. Now, somebody has got to try to convince me — the budget bills aren't out yet, parenthetically — that the budget bills and all of these bills are going to receive adequate consideration between the time of their introduction and the adjournment date scheduled for April 20, or the sine die for May 15. If you can convince me that rationally this can be done in that period, I'll buy that. I don't think it can be done.

I think one thing that should be pointed out about our amendment that is not in the committee proposal is that it provides that the legislature may be convened by the governor, or at the request of the majority of the members. I think this is a distinct advantage. The legislature would not be bound by the topics listed in the governor's call. They could consider other topics. Thy wouldn't need to wait for the governor's call for a special session if they had adjourned sine die. I think this is a major improvement and should be considered in the context of this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I believe, Dr. DeVries, in referring to the legislature being a continuous body, similar to congress, in looking through the Book of the States and the legislative sessions of the various states, I find that no state has any such provision as recommended by this amendment. I would also like to state that, to me, there is a considerable difference in comparing the state of Michigan with the responsibilities and the activities of the United States congress, which in reality looks after all of the states. Just bear in mind that we would be the first to adopt such a proposal in the United States, as suggested here.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Norris, to speak on the pending amendment.

MR. NORRIS: Mr. Chairman, I appreciate the desire of the Chair and of the members of the delegation to accommodate people who may have other commitments this evening and to hasten the proceedings and to dispose of these matters. I understand yesterday we dealt with horses and race tracks and I suggest that the race track is now in this hall and we are running pretty fast, and I say "neigh" to that, as I did yesterday. (laughter)

CHAIRMAN BENTLEY: The gentleman will confine himself to the pending amendment. (laughter)

MR. NORRIS: I hope to introduce, if I may, Mr. Chairman, a note of caution and hope that we can meet more deliberately on these matters. I think it is the intent of the DeVries-King-Pollock-Durst amendment to promote a higher concept of a deliberative body for the legislature. It may be that what is contemplated is somewhat unique, as Mr. Hoxie suggests, but I see nothing wrong in projecting in a unique fashion a higher concept of continuous public service for the legislature.

What is involved in the word "continuous," as I understand it, in the language of that first sentence, is that the legislature should look upon its service as not in terms of deadlines and guidelines and something that we have had at this convention, which has in my judgment seriously impaired the deliberative quality of our concerns, but one in which the legislators look upon their service as one to study and to research and to investigate and to do the kind of work necessary to enhance the deliberative quality of their proceedings.

It seems to me that the kind of complex questions which governmental bodies are called upon today to deal with, with taxes and labor relations and a whole host of questions — we, as a matter of fact, at this convention have developed a committee on emerging problems, because we recognize, taking a long view, that some of these things are awfully complicated and require a searching inquiry.

I think that there is some constructive, solid thinking behind this amendment; that there is an intent here to perhaps establish a precedent for the rest of the 50 states to regard the legislature as not merely a part time avocation, but a full time vocation of public service. And that is what is behind this, and I vigorously support it and urge that all of the rest of the delegates do likewise.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn, to discuss the pending amendment.

MR. KUHN: Once again, Mr. Chairman, I want to make it crystal clear the word "continuous body" means nothing. There is nothing in the committee proposal that would tell the legislature when to go home. They can stay until December 31, if they so desire. We are not telling them when to go home. They don't need the word "continuous" to tell them when to go home. They are the judge of that body. I submit to you the only difference that word "continuous" makes in here is that if anything is passed in one house, it would be taken up the next year. That, to us, is of insignificant consequence. The testimony that we had did not favor that point of view. In fact, not too many of them favored even leaving the bill printed, to save the taxpayers' money. They thought that the legislature should be required to reintroduce it, but this the committee could not go along with.

The only other difference in theirs is that the legislature may call themselves back. And we submit to you that this is very weak. Why should they have to call themselves back? If they know what they have to do, they should do it. If they haven't got the courage to do what they should do when they are there, then they should not have to come back later for some unknown reason. Now, if an emergency arises, the governor has the power to call them back. That is in our proposition. That is in our report. So those are the only 2 differences — very insignificant, and I say we should vote them down.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Grand Rapids, Mr. DeVries. As many as are in favor will respond by saying aye. Those opposed will say no. The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN BENTLEY: Who demands a division?

MR. KUHN: Mr. Chairman, to save time, we might as well have the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number. The yeas and nays are ordered. Those in favor will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas — 55

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Cushman, Mrs.
Dade
Danhof
Dell
DeVries
Donnelly, Miss
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Follo
Ford
Gadola
Garvin
Goebel
Greene
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Higgs
Hood
Jones
Judd, Mrs.
Kelsey
King
Lawrence
Madar
Martin
McGowan, Miss
McLogan
Murphy
Nord
Norris
Perras
Rajkovich
Romney
Spitler
Staiger
Tweedie
Upton

Nays — 72

Batchelor
Beaman
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Dehnke
Doty, Dean
Doty, Donald
Farnsworth
Figy
Finch
Gover
Gust
Habermehl
Haskill
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Mahinske
Marshall
McAllister
Millard
Mosier
Nisbet
Page
Pellow
Perlich
Plank
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Stafseth
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Messrs. DeVries, King, Pollock and Durst, the yeas are 55; the nays are 72.

CHAIRMAN BENTLEY: The amendment is not adopted. The secretary will report the next amendment.

SECRETARY CHASE: Mr. Martin offers the following amendment:

1. Amend page 1, line 12, by striking out "No"; and in line 13, after "session" by striking out the comma and "except that" and inserting "of the same term and"; so the language will then read:

> Business pending in one session of the legislature shall carry over into a later session of the same term and any bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over to the next regular session

and so forth.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Martin, in support of his amendment.

MR. MARTIN: Mr. Chairman, this amendment does only one thing, and I think it's a useful thing. It makes it possible for business which was begun in one session to be finished in the next session in the same term. In other words, if a bill is presented and heard by a committee, the committee finally reports it out, it is acted upon by the house and goes over to the senate, and the legislature then adjourns; the bill is not dead, but it is available then for consideration in the senate when the next session begins.

This saves taking the matter back and running it through all the same processes again for the same committee, the same personnel, in both the house and the committee where it is considered; and it saves a great deal of waste motion and certainly a great deal of waste time. It seems to me that this certainly is an advantage, and it goes along with the proposition which the committee proposes that the bill does not die from one session to the next session of the same term.

I think the latter is a very good provision, and I think this other provision which permits business begun in one session to be considered in the next session is a real advantage. I would like to see the amendment adopted because I think it would expedite work in the legislature greatly.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: I yield to Mr. Hutchinson.

CHAIRMAN BENTLEY: The gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, reading Mr. Martin's amendment leaves me somewhat in a state of confusion. Obviously, if his amendment were adopted the business referred to would be business other than that having to do with bills, because the provision that the committee propounds would govern bills, and a bill would revert to its status right after introduction. But other business presumably would carry on for an entire legislative 2 year term. Now, then, what is that other business? I imagine that most of that other business has to do with resolutions. And I don't know really what business is referred to if you strike out of it bills. Certainly there is no need or sound reason that I can see for providing that business carried from one legislative session should go over to the next if you are not talking about bills.

Further, this also confuses me with his amendment. The first part of the sentence there would say that business pending in one session of the legislature shall carry over into a later session. Now, that later session might be a special session, an extraordinary session, and it would carry over. While the latter part of the thing seems to talk about general sessions, or regular sessions, it seems to me as though the end product is going to result in confusion. Either Mr. Martin didn't have his amendment well thought out, or else I'm not thinking straight. I oppose the amendment.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. Martin.

MR. MARTIN: Mr. Chairman, this does not strike out the word "bill." It reads, "Business pending in one session of the legislature shall carry over into a later session of the same term," and it leaves the word "bill" in there. The committee proposal, while it permits the bill to be considered further and it doesn't have to be reprinted, puts the bill back into the original committee, and you go through all the same mechanics in the same house where you went through it once before. All that my amendment does is to avoid having to go back and retrace all of those steps a second time.

CHAIRMAN BENTLEY: The gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I just don't believe that the words say that, and I would ask the secretary to read the provision as it would stand with Mr. Martin's amendment adopted, and let's see.

CHAIRMAN BENTLEY: The secretary will read.

SECRETARY CHASE: If Mr. Martin's amendment were adopted, the language beginning in line 12 would read:

> Business pending in one session of the legislature shall carry over into a later session of the same term and any bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over to the next regular session and revert without reprinting to the status of a bill or joint resolution first introduced.

MR. HUTCHINSON: Mr. Chairman. You see, that last phrase on line 16 is the thing that vitiates what you are trying to do, Mr. Martin.

CHAIRMAN BENTLEY: Does the gentleman from Grand Rapids, Mr. Martin, seek recognition?

MR. MARTIN: Mr. Chairman, it may require some revision of the last wording there, in that event. But it is not intended that bills go back to the original committee where they started; that's all. They stay right where they have arrived during that session, and then they go on from there. There is tremendous saving in this and tremendous duplication of effort if you don't do it this way.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, Mr. Martin is putting a completely different concept into the committee proposal. It was the thinking of the committee that if a bill, for instance, passed the house and was defeated in the senate, or was not reported out of a senate committee, that it should return to the house; it should return to the committee.

Now, he stresses all the duplication of effort. I have seen many times, and I'm sure Mr. Martin has, where perhaps one branch made a mistake on the particular legislation that they passed. It's an opportunity for them to review, and there certainly isn't any expense involved. It is returned to the committee from whence it came and is reviewed for the purpose of determining at that next session of the legislature, within the term, whether or not they feel it has justification for further effort on the part of that particular branch.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Battle Creek, Mr. Everett, to speak on the pending amendment.

MR. EVERETT: Mr. Chairman, with your permission I would like to address a question to Senator Hutchinson.

CHAIRMAN BENTLEY: The gentleman will state the question.

MR. EVERETT: Senator Hutchinson, is it your thought that if Mr. Martin's amendment were to strike out the words "and revert without reprinting," and so forth, that this would then accomplish what he has in mind — to keep a bill alive from one session to another until it was finally acted upon?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Fennville, Mr. Hutchinson, to reply.

MR. HUTCHINSON: Mr. Chairman, I would agree with Mr. Everett that I believe, in my opinion, that that would accomplish what Mr. Martin has in mind. But I don't want anyone to misunderstand. I am not in favor of the end result.

MR. EVERETT: Thank you, Mr. Hutchinson. Mr. Chairman, I wonder then if I can address a question to Mr. Martin.

CHAIRMAN BENTLEY: The gentleman may state the question.

MR. EVERETT: I wonder, Mr. Martin, if, in light of Senator Hutchinson's comments, you would agree to amend your amendment to strike the words "and revert" and the rest of that sentence?

MR. MARTIN: Yes, I would. Mr. Chairman, I ask the secretary to do that, and I think that will perfect the amendment.

CHAIRMAN BENTLEY: The secretary will read the amendment as revised.

SECRETARY CHASE: I'm sorry, Senator, I didn't get it.

MR. MARTIN: It would strike out the words "and revert without reprinting to the status of a bill or joint resolution first introduced." Just put a period after the word "session."

CHAIRMAN BENTLEY: The secretary will read the entire amendment as revised.

SECRETARY CHASE: Mr. Martin revises his amendment:

1. Amend page 1, line 12, by striking out "No"; and in line 13, after "session" by striking out the comma and "except that" and inserting "of the same term and"; and in line 15, after "session" by striking out the balance of the sentence and inserting a period; so that the language beginning in line 12 would read:

> Business pending in one session of the legislature shall carry over into a later session of the same term and any bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over to the next regular session.

CHAIRMAN BENTLEY: Does the gentleman from Grand Rapids, Mr. Martin, desire recognition?

MR. MARTIN: No, Mr. Chairman. I think that perfects the amendment and I think that's the way it should be.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Mr. Chairman, I urge support of the amendment. I would suggest, however, to Mr. Martin, that he might consider one other revision. It should read "of the same 2 year term," because the senate will have a 4 year term. If you do that, and take out that last clause, I think you will have a very excellent amendment.

MR. MARTIN: I accept that.

SECRETARY CHASE: Mr. Martin's amendment as now revised is:

1. Amend page 1, line 12, by striking out "No"; and in line 13, after "session" by striking out the comma and "except that" and inserting "of the same 2 year term and"; and in line 15, after "session" by striking out the balance of the sentence and inserting a period; so the language will then read, if Mr. Martin's revised amendment is adopted:

> Business pending in one session of the legislature shall carry over into a later session of the same 2 year term and any bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over to the next regular session.

CHAIRMAN BENTLEY: Does the gentleman from Grand Rapids desire recognition?

MR. MARTIN: No, Mr. Chairman. I think that's satisfactory.

MR. HOXIE: Mr. Chairman.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis.

MR. HOXIE: A question of Mr. Martin, through the Chair, if I may.

CHAIRMAN BENTLEY: The gentleman will state the question.

MR. HOXIE: As I interpret your amendment, it would appear that your language then would be the same procedure that is followed in congress, is that correct?

MR. MARTIN: That is correct, Mr. Hoxie.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bloomfield Hills, Mr. Woolfenden.

MR. WOOLFENDEN: I'd like to ask Mr. Martin a question, through the Chair, if I may.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. WOOLFENDEN: Mr. Chairman, Mr. Martin, it would seem to me that if a period was put after the word "term" and the balance stricken, that accomplishes exactly what you're after, and would eliminate what is just surplus language.

MR. MARTIN: Mr. Chairman, Mr. Woolfenden, I think the language is satisfactory as it is. I'm perfectly willing to have style and drafting work on this, if they so desire, with that understanding.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I confess that not being in favor of this amendment, I don't know why I get up here trying to help Mr. Martin perfect his amendment. (laughter) But, Mr. Chairman, I would like to ask Mr. Martin: now, the first part of that sentence refers to a later session. That later session might be a later regular session or a later special session; for the last part of your wording says that the final adjournment of a regular session is held over to the next regular session. All right then. Let us suppose that here is the final adjournment of a regular session in 1963, and then the governor calls the legislature into special session in the fall of 1963. Now, then, the bills that are half way through would just lay dormant until the next regular session, is that right? Is that what you have in mind?

MR. MARTIN: That's right. They would lie dormant, unless they were in the governor's message and therefore were subject to special consideration.

MR. HUTCHINSON: So it is your intent to make that distinction? The word "business" would carry over to any session, whether it is regular or special, but bills would carry over only from regular to regular?

MR. MARTIN: I intend that business is carried over from one regular session to the next.

MR. HUTCHINSON: Regular session?

MR. MARTIN: That is correct.

MR. HUTCHINSON: So you want a "regular" in there. All right. Style and drafting will keep that in mind. Thank you.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Grand Rapids, Mr. Martin. As many as are in favor will respond by saying aye. Those opposed?

DELEGATES: Division.

CHAIRMAN BENTLEY: Division is demanded. Is it supported?

MR. FAXON: Mr. Chairman, I ask for the yeas and nays.

CHAIRMAN BENTLEY: Is the demand for the yeas and nays supported? It is supported. Those in favor of the Martin amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—68

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Beaman
Binkowski
Blandford
Bradley
Brown, G. E.
Buback
Cudlip
Cushman, Mrs.
Dade
Danhof
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Faxon
Follo
Garvin
Goebel
Greene
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Jones
Judd, Mrs.
Kelsey
King
Leppien
Lesinski
Madar
Marshall
Martin
McAllister
McLogan
Murphy
Nord
Norris
Plank
Pugsley
Rajkovich
Richards, L. W.
Romney
Rood
Shackleton
Shaffer
Snyder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Tweedie
Upton
Walker
Young
Youngblood

Nays—56

Anspach
Batchelor
Bledsoe
Bonisteel
Boothby
Brake
Butler, Mrs.
Dehnke
Dell
Doty, Dean
Doty, Donald
Figy
Finch
Gadola
Gover
Gust
Habermehl
Haskill
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Liberato
Mahinske
Millard
Mosier
Page
Pellow
Perlich
Perras
Powell
Prettie
Richards, J. B.
Rush
Sablich
Seyferth
Shanahan
Sharpe
Sleder
Stopczynski
Suzore
Thomson
Turner
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Martin, the yeas are 68; the nays are 56.

CHAIRMAN BENTLEY: The amendment is adopted. Are there further amendments to the body of Committee Proposal 116? There being none, it will pass, as amended.

Committee Proposal 116, as amended, is passed, and the secretary will read.

SECRETARY CHASE: From the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 102,** A proposal to provide that each house of the legislature may choose its officers, determine its rules, judge qualifications of its members and other matters. Amends article V, section 15.

Following is Committee Proposal 102 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected from discharging a committee from the further consideration of any measure. Each house shall judge of the qualifications, elections and returns of its members, and may, with the concurrence of 2/3 of all the members elected, expel a member. The reasons for such expulsion shall be entered upon the journal, with the [names] YEAS AND NAYS of the members voting UPon the question. No member shall be expelled a second time for the same cause.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 102:

The committee recommends the retention of this section with one clarification. It is felt by the committee that the legislature should control its own rules and proceedings and elect its own officers.

The limitation that there shall be no rule passed prohibiting the majority from discharging a committee from consideration of a bill is maintained. This provision is a safeguard which allows the legislature to pass on any bill or resolution it desires rather than having it die in a committee. While this right is seldom exercised, the committee is of the opinion it should remain.

The one change suggested requires that when a member is expelled, this be done by a vote taken by the yeas and nays. This clarifies the present language which only requires that the "names" of those voting on expulsion of a member be listed upon the journal.

Following is the minority report to Committee Proposal 102 as offered and the reasons submitted in support thereof:

Messrs. Downs, Lesinski and Murphy, a minority of the committee on legislative powers, submit the following minority report to Committee Proposal 102:

A minority of the committee recommends that the following
be included in the constitution:

Sec. b. THE LEGISLATURE MAY ESTABLISH SUCH COMMITTEES AS MAY BE NECESSARY FOR THE EFFICIENT CONDUCT OF ITS BUSINESS. EACH COMMITTEE SHALL KEEP A RECORDED ROLL CALL VOTE BY YEAS AND NAYS UPON THE DEMAND OF ⅕ OF THE MEMBERS OF THE COMMITTEE. SUCH VOTE SHALL BE AVAILABLE TO PUBLIC INSPECTION.

Messrs. Downs, Lesinski and Murphy, a minority of the committee on legislative powers, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 102:

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[1] Explanation—Matter within [ ] is stricken, matter in capitals is new.

The purpose of this amendment is to encourage public participation in government by having firsthand knowledge of how the individual committee members vote on proposed legislation in committee.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I yield to Mr. Kuhn for an explanation of this proposal.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, I yield to Mr. Hubbs who will give you the committee's position.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, I'm sure you have all read the journal on this subject, and you have read the minority amendment, and you have probably read the digest of the Michigan constitution.

There are 2 things I would like to point out. This is no great change from what has been done in the past. Traditionally, legislative bodies should have the right to organize themselves and make their own rules. There is one provision here which we have maintained which I consider extremely important, and that is that a majority is required before a bill can be discharged from a committee. To do any tampering with this thing would be making a serious change, and I would not recommend it. I recommend that we adopt the committee's report.

CHAIRMAN BENTLEY: The secretary will report the first amendment.

SECRETARY CHASE: Pursuant to their minority report, Messrs. Downs, Lesinski and Murphy offer the following amendment:

1. Amend page 1, following section a, by inserting a new section to read as follows:

"Sec. b. The legislature may establish such committees as may be necessary for the efficient conduct of its business. Each committee shall keep a recorded roll call vote by yeas and nays upon the demand of ¼ of the members of the committee. Such vote shall be available to public inspection.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs, in support of his amendment.

MR. DOWNS: I shall be very brief. What this amendment does is simply assure that there can be a public record of what transpires in committee. The demand by the ¼ of the members, we feel, is more than adequate protection to see that it is not abused. I understand there are some amendments to this that may strengthen it further. But the objective is simply that the public will know what legislators do on key issues within committee meetings.

CHAIRMAN BENTLEY: The secretary will report the amendment to the pending amendment.

SECRETARY CHASE: Mr. Brake offers an amendment to the minority amendment:

1. Amend the amendment after "upon" by striking out "the demand of ¼ of the members of the committee.", and inserting "all action on bills and resolutions taken in the committee."; so that the sentence beginning in line 3 of the minority report will read, "Each committee shall keep a recorded roll call vote by yeas and nays upon all action on bills and resolutions taken in the committee."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Stanton, Mr. Brake, in support of his amendment.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I am very strongly in favor of this change. I think the greatest procedural weakness we have in our legislature lies in the fact that there is no published permanent record made of what takes place in committee. In many states — I think in the great majority of the states — that is not true. There is a public record, and a permanent record, made of what the committee does. This proposed amendment of mine doesn't require the demand of ¼ of the members, or any other demand, but automatically the action in the committee will be recorded, and it will be a public record.

That is the procedure that we have followed in this convention. We make a record of whatever we do, and it is open to the public. I think that should be the rule in the legislature. And there are 2 reasons for it. In the first place, I think a constituent has just as much right to know what his representative does in committee as he has to know what he does on the floor. Under the present legislative practice, the only way you can find out is to get some other member of the committee to tell you, if he wants to. That is often inaccurate. And it isn't the way that it ought to be done. That is one purpose of the amendment.

The other is for the direct benefit of the public, or any part of the public that wants to know what happened in committee. I was chairman of the judiciary committee of the senate for 3 terms. For 10 or 12 years, after I was out of the senate altogether, I would get calls or letters from lawyers around the state asking: was this amendment offered? Why wasn't this amendment adopted? What was the thinking behind this particular action of your committee? Sometimes I could remember. More generally I couldn't remember. And there was no way of finding out.

I realize that requiring such a record means something in staff help in the senate and the house. It means a little expense. It means filing space. But I think the public is entitled to that service. We do it here in this convention. The legislature will not do it voluntarily. This ought to be statutory. But they will not do it, and the reason they will not do it is that they like to be able to hide, and to take action on bills without taking individual responsibility for it. I can see their viewpoint. It's very human, indeed. But it is not good public service.

MR. DOWNS: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Downs.

MR. DOWNS: I have conferred with the cosponsors of the amendment, and we support the amendment to the amendment that Mr. Brake has offered, and if it's agreeable to the committee, would be glad to incorporate that, to facilitate the proceedings, if that's agreeable with Mr. Brake.

CHAIRMAN BENTLEY: Does the gentleman from Pontiac desire to speak on the amendment to the amendment? The gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman and fellow delegates, it gives me great pleasure to rise in support of this amendment.

CHAIRMAN BENTLEY: Does the gentleman from Pontiac, Mr. Kuhn, desire to speak on the amendment to the amendment?

MR. KUHN: I might as well. Mr. Chairman, I want to give you the committee's rationale why this is not in. It is true, like Mr. Brake says, this is strictly legislative. We came here to write a constitution. When we came down to Lansing on October 3, no one said: gentlemen of the constitutional convention, you shall have open meetings. No one said: you shall do this and you shall do that. We decided what to do.

The constitution of the United States does not tell the United States congress what it shall do. They make up their own rules and regulations, and they're the judge and so forth of the qualifications and actions of their members.

I think it's wrong for us to sit over here and say: well, this really is statutory, but you sinners won't do it; so we'll do it for you. I don't like to put myself in that position. I'm not too strong on this, but as a strict constitutional matter I shall vote no because of the reasons that I have just stated.

CHAIRMAN BENTLEY: The vote occurs on the amendment to the amendment. Does the gentleman from Lansing, Mr. Wanger, desire to speak on the amendment to the amendment?

MR. WANGER: I desire to speak on the entire minority report amendment, Mr. Chairman.

CHAIRMAN BENTLEY: The only remarks in order at this time are on the Brake amendment to the minority report amendment.

MR. WANGER: I thought that was incorporated by the members of the minority.

CHAIRMAN BENTLEY: It has not yet been decided by the committee of the whole. Does the gentleman from Grand Rapids, Mr. DeVries, desire to speak on the amendment to the amendment?

MR. DeVRIES: Mr. Chairman and members of the committee, I also support the Brake amendment. This accomplishes what we had in mind in our amendment which we submitted to you the other day. I think it is important that the people of this state have a right to know what actions are taken in legislative committees, and this will provide for that.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by Mr. Brake to the minority amendment offered by Messrs. Downs, Lesinski and Murphy. All those in favor of the Brake amendment will respond by saying aye. Those opposed?

The amendment to the amendment is adopted.

[The minority report amendment, as amended, reads as follows:

1. Amend page 1, following section a, by inserting a new section to read as follows:

"Sec. b. The legislature may establish such committees as may be necessary for the efficient conduct of its business. Each committee shall keep a recorded roll call vote by yeas and nays upon all action on bills and resolutions taken in the committee. Such vote shall be available to public inspection.".]

The Chair now recognizes the gentleman from Lansing, Mr. Wanger, to speak on the amendment as amended.

MR. WANGER: I wish to direct a question, Mr. Chairman, to Mr. Brake, because of his great experience in this area. There are provisions in the constitution which must be complied with, with respect to laws, and in enacting them. Now, it has been held by our courts that many of these procedural requirements set forth in the constitution must be complied with or the bill itself is null and void, even after it has been signed by the governor and promulgated as an act. Is this requirement such a provision? In other words, if the question were raised later on, and no one could find the record in the committee journal of yeas and nays being taken on it while in committee, would this mean that the bill would be null and void?

MR. BRAKE: The court will have to answer that question, Mr. Wanger. If so, that would certainly put teeth in the provision.

MR. WANGER: If there is any possibility of that, would it not be wise to provide for a publishing of these votes in some permanent fashion, rather than just saying there shall be a record kept? We all know that it's very difficult over a long range of years to keep papers unofficially, or even to keep an official handwritten or typewritten ledger, unless there is some official depository designated.

MR. BRAKE: There would be an official depository, in the office of the secretary of the senate and the clerk of the house.

MR. WANGER: I have a further question which I would like to ask, and that is this: the language speaks in terms of yeas and nays, and it's very explicit on that point. We have seen in this body, and we know in other bodies the desirability often occurs for a person to announce his intention to abstain, and to abstain. It would seem that this should be allowed in committees as well as in the general body. Isn't it true that under this present language no one in committee would be allowed to abstain?

MR. BRAKE: I don't think so. The clerk of the committee would call the roll, and those who answered would be recorded, and anybody that didn't, wouldn't.

MR. WANGER: So there is no intention then to remove the ability of a person to abstain if he desires to do so in a committee?

MR. BRAKE: I have no such intention.

MR. WANGER: Finally, I have a third question. We have already passed in committee of the whole and referred to style and drafting in the convention the provision which says that the doors of the houses of the legislature shall be open unless the public security requires otherwise. That, of course, was to take care of the possible but, we hope, very remote situation where there would be such a disaster or uprising to affect the public safety and require the legislature to undertake matters with regard to the security of the state.

It would seem that even if the public security did require secrecy of action, if this particular provision would not make allowance for that it would therefore be impossible, even when the public security would require it, to have any secret proceedings in committee. Is this desirable?

MR. BRAKE: I think it is desirable. I think that records should be made, and I don't foresee anything in which the public interest would demand secrecy of what takes place on the committee.

MR. WANGER: Mr. Chairman, I would think that language certainly should be added to this to provide at the end that such votes shall be available to public inspection unless the public security would require otherwise, and for this reason: the general sentiment in the committee was in favor of striking out any possibility of any secret action, but it was pointed out that in this age of nuclear energy, it is possible, although we all hope remote, that the United States could be reduced to a point where it was necessary for the state to undertake matters of its own defense; and that if this were the case, it would be in the best interests of the people to retain a civil control over that defense whenever possible, rather than handing the entire problem over to one military commander or military junta. This civil control would be the legislature. Military operations and matters connected therewith in time of such disaster would under many circumstances require secrecy.

That was the rationale behind keeping it in the original, and I would strongly suggest to the proponents of this that they add similar language to this area to take care of such a remote contingency which, though remote, could bring great disaster upon the state of Michigan.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs, to speak on the amendment as amended.

MR. DOWNS: I demand the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been demanded. Is the demand supported? A sufficient number. The yeas and nays will be ordered. The Chair recognizes the gentleman from Alpena, Mr. Habermehl, to speak on the amendment as amended.

MR. HABERMEHL: I'd just like to call the delegates' attention to the necessity for this, Mr. Chairman, especially in view of the supreme court decision of last November 30. There is no way now, under that decision, for the intent of the legislature in passing a bill to be determined. As Mr. Brake has stated, there are no recorded minutes of either the senate or house actions. And the supreme court on November 30 of last year said that not even the chairman of the committee is competent to testify as to what went on in the committee. His testimony is not a matter of weight of evidence, but he is not competent to testify. Therefore, as the law now stands, without recorded minutes there is absolutely no way for any lawyer to prove what the legislative intent was in the passage of a bill. More than ever this amendment is needed.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Detroit, Mr. Downs, as amended by the amendment of the gentleman from Stanton, Mr. Brake. The yeas and nays have been ordered. Those in favor of the Downs amendment as amended will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—124

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Bledsoe
Bonisteel
Boothby
Bradley

Gover
Greene
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Hoxie

Perlich
Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich

Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Nord
Norris
Page
Pellow
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—3

Everett
Hubbs
Kuhn

SECRETARY CHASE: On the adoption of the minority report amendment, as amended, the yeas are 124; the nays are 3.

CHAIRMAN BENTLEY: The amendment as amended is adopted. The secretary will report the next amendment to Committee Proposal 102.

SECRETARY CHASE: Messrs. DeVries, King, Pollock and Durst offer the following substitute for Committee Proposal 102:

"Sec. a. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine the rules of its proceedings and provide for a staff. Each house shall judge of the qualifications, elections and returns of its members, and may, with the concurrence of 2/3 of all the members elected, expel a member. The reasons for such expulsion shall be entered upon the journal, with the yeas and nays of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. b. The legislature may" —

MR. HOXIE: Mr. Chairman, I would like to move that we consider each section separately.

CHAIRMAN BENTLEY: It will be so considered after it is read.

SECRETARY CHASE: "Sec. b. The legislature may establish such committees as may be necessary for the efficient conduct of its business. Each committee shall keep a journal of its proceedings and actions as a public record. A recorded roll call vote on any matter before a committee shall be taken on demand of any member of the committee. Adequate notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal. One-third of all the members of either house of the legislature shall have power to relieve one of its committees of further consideration of a bill when the committee to which it was assigned had not reported on it.

Sec. c. There shall be a legislative council consisting of such legislators as the legislature shall prescribe. The legislature shall appropriate adequate funds for the council's operations, provide for a staff of the council which shall maintain bill drafting, research and other services for the members of the legislature. The council shall examine from time to time the various laws of the state and recommend to the legislature revision of such laws.".

CHAIRMAN BENTLEY: Pursuant to the request of the chairman of the committee, the gentleman from St. Louis, the pending substitute amendment will be considered by sections. The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries, on section a of the proposed substitute.

MR. KUHN: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Pontiac.

MR. KUHN: I'm wondering if we should raise a point of order at this time. The only words that are different from what we have in our committee proposal, as I understand it, are "provide for a staff." Therefore, I would like to raise a point of order, saying that there is not that much of a difference in the total content to allow us to waste so much time on it.

MR. DeVRIES: Mr. Chairman, I was about to make the point that I would like to withdraw section a, and make an amendment to the section as it now stands, "and provide for a staff," if that is possible from the floor.

CHAIRMAN BENTLEY: Without objection, section a of the proposed substitute will be withdrawn. The gentleman desires to make an amendment to section a of the committee proposal as it now stands?

MR. KUHN: That would be out of order.

CHAIRMAN BENTLEY: The amendment is out of order at this time, Mr. DeVries, until the balance of the substitute is disposed of.

MR. DeVRIES: Then we will offer it later if we can, Mr. Chairman.

CHAIRMAN BENTLEY: The question occurs on section b of the proposed substitute.

MR. DeVRIES: I would like to point out to the members of the committee that the committee has already acted on the first 5 lines in section b, so you can strike that from the proposed substitute for section b. Beginning in line 10 with "The legislature may establish" and ending up on line 14, with "member of the committee," that can be stricken. That was adopted in the Downs amendment.

CHAIRMAN BENTLEY: The secretary will read the balance of section b, as it now appears with the material stricken.

SECRETARY CHASE: Section b, as now revised, will read beginning in line 14:

> Adequate notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal. One-third of all the members of either house of the legislature shall have power to relieve one of its committees of further consideration of a bill when the committee to which it was assigned had not reported on it.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. DeVries, is recognized.

MR. YEAGER: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. YEAGER: Mr. Chairman, I believe that under the DeVries-King-Pollock-Durst amendment, the reading is "by striking out the balance of the section," so if you in turn take these out, you will not be tacking the part onto what you have, because you don't have it. If it is adopted, it will have been stricken.

CHAIRMAN BENTLEY: Does the gentleman from Adrian desire to address himself to that point?

MR. DURST: It is submitted as a substitute, Mr. Chairman.

CHAIRMAN BENTLEY: The Chair will suggest that since this is being offered as a substitute, it would be better to retain the entire language as it is. It is noted, of course, that the first 3 sentences of section b, which is now before the committee of the whole, are identical with the committee proposal as amended. The Chair understands that the gentleman from Grand Rapids, Mr. DeVries, desires to point out the additional language contained in section b, beginning on line 14; is that correct? Does the gentleman desire to proceed on that? The gentleman from Adrian, Mr. Durst, is recognized.

MR. DURST: Mr. Chairman, members of the committee, before proceeding, I would like to point out that each of the 2 remaining sentences in section b take in 2 completely different concepts and ideas, and I would like to have the permission of the Chair to divide the question at this time when we consider them on a vote. I ask to divide the question between the 2 sentences, Mr. Chairman, in consideration of this section.

CHAIRMAN BENTLEY: I'm sorry, the Chair didn't hear the request of Mr. Durst. Will you repeat the request for division?

MR. DURST: The 2 remaining sentences in section b cover or contemplate 2 completely separate and different ideas. We ask that they be considered separately by the committee.

CHAIRMAN BENTLEY: The Chair will point out to the gentleman from Adrian that the entire section b of the proposed substitute will have to be offered, because the first 3 sentences are not identical with section b of the committee proposal as it has been amended.

MR. DURST: All right, then, Mr. Chairman, we will proceed in that way. Then I would ask that we amend section b by striking at the end of line 13 the words "shall be taken on demand of any member of the committee" since that is a different requirement from that already adopted by the committee.

CHAIRMAN BENTLEY: Are you proposing to perfect your substitute to that point?

MR. DURST: I would, Mr. Chairman.

CHAIRMAN BENTLEY: Does the secretary have the requested perfection of section b of the substitute?

MR. DURST: It would be, Mr. Chase, to strike out the words starting in the middle of line 13 "shall be taken on demand of any member of the committee."

CHAIRMAN BENTLEY: And a period after the word "committee" in line 13?

MR. DURST: That is correct.

CHAIRMAN BENTLEY: Section b of the substitute will be perfected accordingly.

MR. DURST: Members of the committee —

CHAIRMAN BENTLEY: Just a moment, Mr. Durst.

MR. KUHN: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN BENTLEY: Just a moment. Will you read section b as it has now been perfected?

SECRETARY CHASE: As the language now reads, section b would read:

> The legislature may establish such committees as may be necessary for the efficient conduct of its business. Each committee shall keep a journal of its proceedings and actions as a public record. A recorded roll call vote on any matter before a committee —

CHAIRMAN BENTLEY: You have no balance of the sentence, Mr. Durst.

SECRETARY CHASE: "shall be taken in the committee."

MR. DURST: The way Mr. Chase has it would be it.

CHAIRMAN BENTLEY: Is that the way you desire to perfect it?

MR. DURST: Yes. I'm sorry.

CHAIRMAN BENTLEY: Now, the gentleman from Pontiac will state his parliamentary inquiry.

MR. KUHN: Do I understand that they are trying to divide something in this amendment?

CHAIRMAN BENTLEY: The request for a division has been withdrawn.

MR. KUHN: You are not trying to divide it?

MR. DURST: No.

MR. FAXON: Point of information.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. FAXON: Mr. Chairman, is this a substitute amendment, or is this an amendment to what has already been approved as a new section b?

CHAIRMAN BENTLEY: The pending business before the committee of the whole is the substitute amendment offered by Messrs. DeVries, King, Pollock and Durst, of which section b, which has just been perfected, is now pending before us.

MR. FAXON: Well, is section a then the same that has already been approved by the committee? Is section b added on to what has already been approved?

CHAIRMAN BENTLEY: This is an entire substitute, including 3 sections: a, b and c. The sponsors of this substitute are offering the entire 3 sections as a substitute for the committee proposal as amended.

MR. FAXON: So there is nothing in this language that has already been included in our action and what we have already approved in the Downs amendment?

CHAIRMAN BENTLEY: No. Section a of the substitute and section a of the committee proposal, as amended, the Chair understands, are identical.

MR. FAXON: Oh; thank you.

CHAIRMAN BENTLEY: The gentleman from Adrian.

MR. DURST: Mr. Chairman, I'm confused as to where we will be when we end up. If this is a substitute, and we have withdrawn section a, there will be no remaining section. May we offer section b as an amendment to the committee proposal already on the floor?

CHAIRMAN BENTLEY: The Chair understands then that the sponsors of this substitute desire to withdraw the substitute section a and to add their sections b and c to the committee proposal as amended; is that correct?

MR. DURST: That would be fine, Mr. Chairman. Do I understand then that the Downs-Brake amendment now is before us; we have passed it, but we are presenting an amendment to it?

CHAIRMAN BENTLEY: You are presenting an amendment to the committee proposal as amended.

MR. DURST: All right. Then may we strike out from section b all of the language which precedes the word "Adequate" in line 14, and present the balance of the amendment?

CHAIRMAN BENTLEY: The problem is that the suggested language in your section b of the substitute is not identical with the committee proposal as amended in section b.

MR. DURST: Well, we are satisfied with the language that has presently been adopted by this committee, and all we are asking is that we be able to add, as an amendment, the last 2 sentences.

CHAIRMAN BENTLEY: In other words, as the Chair understands the procedure, the gentleman wishes to withdraw the proposed substitute and offer an amendment beginning with the words "Adequate notice of all . . .?"

MR. DURST: That is correct. And to present it as an amendment.

CHAIRMAN BENTLEY: And to present it as an amendment to the committee proposal as amended?

MR. DURST: That is correct.

CHAIRMAN BENTLEY: Without objection, it is so ordered.

[The amendment reads as follows:

1. Amend section b, at the end thereof, after "inspection.", by inserting "Adequate notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal. One-third of all the members of either house of the legislature shall have power to relieve one of its committees of further consideration of a bill when the committee to which it was assigned had not reported on it.".]

The gentleman may proceed.

MR. DURST: Then may I request that the 2 sentences be divided for consideration, as they do encompass completely separate ideas?

CHAIRMAN BENTLEY: The 2 sentences may be divided.

MR. DURST: All right, Mr. Chairman. Thank you very much. (laughter) Mr. Greene has just said we're right where we started from.

Mr. Chairman, the first sentence would provide that "Adequate notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal." It is merely an additional concept to the one we have already adopted that there may be a roll call vote with the yeas and nays upon any bill or resolution which the committee considers. This would only mean that there would be some notice. People may not know, but at least they would have the opportunity to know that a hearing is taking place or the committee was considering some particular matter. This is practically the same procedure which the convention has followed in holding the committee hearings and the committee activities during the forepart of this convention. It seems to us that it is desirable that this type of notice, at least in a minimal form, be published so that the people who are interested in what is going on before the legislature will have advance notice and will be able to be present if they so desire at all public hearings.

Now, is it the desire of the Chair that I finish discussing both questions, and then we'll divide?

CHAIRMAN BENTLEY: Yes.

MR. DURST: The second part is one which many people have indicated they are not exactly entranced with. It provides that 1/3 of the members of either house of the legislature shall have the power to relieve one of its committees of further consideration of a bill when the committee to which it was assigned has not reported on it. Now, it is not our desire here that the legislature be continually discharging its committees. Rather, it is our intent and our feeling that it would be desirable that the committees change their procedure and make a regular practice of reporting worthwhile legislation to the floor.

Now, it's no attempt to discuss past proceedings in either house of the legislature, but I would like to indicate, as a member of the majority party here and what is, most of the time, a majority party in the legislature, that I do not feel that any great service is done to our party, if you will, by an individual committee bottling up legislation. If the bill is bad, and if we, as a party, or any given party, oppose a particular bill, then far better that they put it on the floor, debate it, present their reasons, and vote it down. The reaction of the public would be far better. The public would appreciate and understand the reasons why a given party has taken the stand that it has. I think it is unfortunate at the present time, and I know as I talk to people of my party, back in my home district, that sometimes they are just disillusioned with what the legislature does, and 9 times out of 10 it is not because they are opposed to the particular legislation that is prevented, but because they misunderstand what is going on.

We feel that, by this method, what would happen is that the committees would actually function as they are supposed to if this threat of being discharged were in existence; that they would in effect act as a body to screen and weed out those bills which are not desirable or which are not important for a particular session; that they would perfect and do what they could to make the bills that are before them reasonable and report them out, with their recommendations, to where they should be, on the floor, for the consideration of the entire legislature. If it's bad, vote it down, and put the reasons on the public record so that the people of this state know why a particular party takes a particular position, or it could be the other way around.

It is our feeling that both of these sentences would be a worthwhile addition to legislative action, and would not weaken the legislature. Our purpose is to increase the strength of the legislature. This committee and this convention have created, in part, at least, what will be called a strong governor system. You have created a governor who will stand at the pinnacle of an entire executive administration and command a great deal of respect in this state.

MR. KUHN: Point of order, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. KUHN: We are not speaking about the governor; we are speaking about the legislature. I wish the remarks would be confined to what is germane.

MR. DURST: Mr. Chairman, I think it is important to point out why these things are necessary in relation to the other branches of government.

CHAIRMAN BENTLEY: The gentleman will endeavor to confine himself to the subject under discussion.

MR. DURST: I will, Mr. Chairman. With a governor of this type, it is necessary that we have a legislature that can speak out strongly and present its views concisely to the people as to why it takes the positions that it does on various points of legislation. It can only do this, I submit, ladies and gentlemen of the committee, if it has the courage to debate and to state its reasons and to take the action that is necessary and stand up and be counted upon what its opinions are. It will never be able to stand up and to equally battle a governor if it takes its positions by bottling up legislation in committee, and never getting it out for a public airing, and never getting to the people why it takes the position it does. We submit that both of these sentences should be adopted and I ask for the yeas and the nays, Mr. Chairman.

CHAIRMAN BENTLEY: The yeas and nays have been demanded. Is the demand supported? There is a sufficient number. The yeas and nays will be ordered. The Chair recognizes the gentleman from Sheridan, Mr. Gover.

MR. GOVER: Mr. Chairman, I have a question for Mr. Durst.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. GOVER: In the second sentence there, you say that 1/3 of the members of either house of the legislature shall have the power to relieve one of its committees of further consideration of a bill when the committee to which it was assigned has not reported on it. What is the present amount necessary in both houses of the legislature to take care of that action?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Adrian, Mr. Durst, for an answer.

MR. DURST: Probably, Mr. Hutchinson could give you a more accurate answer. I believe it is a majority. A majority of the members elect, Mr. DeVries informs me.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Hillsdale, Mr. Prettie.

MR. PRETTIE: On this same point to which Mr. Gover addressed himself, I call the committee's attention to the fact that you have already adopted section a, as I understand our parliamentary position here, which provides in part as it is before us that neither house shall adopt a rule that will prevent a majority of the members elect from discharging a committee from consideration, which to me seems quite inconsistent with the provision of the second sentence now before us that 1/3 of the members have the power to relieve a committee, which is tantamount to discharging it, I presume. Secondly, I wish to point out that I oppose at least the second sentence of this, for the reason that certainly the 1/3 concept is not a democratic concept.

MR. FAXON: Point of information, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. FAXON: Was the question divided?

CHAIRMAN BENTLEY: The question was divided.

MR. FAXON: Then the only thing we have under consideration are those 2 sentences of section b that I have on my sheet?

CHAIRMAN BENTLEY: The gentleman's understanding is correct.

MR. FAXON: Just those 2 sentences, and that's the question upon which we are going to vote?

CHAIRMAN BENTLEY: The gentleman's understanding is correct.

MR. WANGER: A parliamentary inquiry, Mr. Chairman. I thought the 2 sentences were divided between themselves, so we'd just have the first sentence under consideration at this time.

CHAIRMAN BENTLEY: For the purposes of debate and consideration, we are considering both sentences. The question will be divided and the votes will be taken separately. Does the gentleman desire recognition?

MR. WANGER: Yes.

CHAIRMAN BENTLEY: The gentleman is recognized. Mr. Wanger.

MR. WANGER: I wish to speak only at this point with regard to the first sentence, and to point out that this will have legal effect. This is not merely a statement of purpose, and it will have this legal effect: if this sentence is not complied with in a hearing, it will be impossible to compel any witness to testify under oath, because the hearing will not have been held in accordance with the constitution. Therefore, I would like to ask Mr. Durst if he would consider striking out the first word, "adequate." It seems to me that having a clear statement of all subjects to be considered at each hearing and having them published in advance of the hearing is fully sufficient. If you put in the word "adequate" you're going to have to have a supreme court case to determine what is "adequate" the first time a witness refuses to testify.

MR. DURST: We agree with you, Mr. Wanger. We'll agree to delete the word "adequate."

CHAIRMAN BENTLEY: The word "adequate" in the first sentence will be deleted.

[The first sentence of the amendment, as revised, reads as follows:

1. Amend section b, at the end thereof, after "inspection.", by inserting "Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal.".]

The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, I wish to speak in favor of both parts of the divided question. I think this will strengthen our governmental operation. And I just say to my good friends who are worried about 1/3 not being democratic, if we had 50 per cent representing 50 per cent of the people, I think I would be more inclined to follow that argument. But as long as we have a situation where it may require 1/3 of the legislators or 2/3 to represent 1/2 of the people, I think there is justification for that provision in getting something from a committee onto the floor.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I must oppose the second sentence. I have no objection to the first sentence.

There are 2 principal objectives in connection with our committee system in the legislature, the same as with our committee system here. The first is to let the committee make a much more intensive study of the particular bills referred to it than the membership of the house or senate can make. This sentence would not interfere with that at all. But the other objective is to reduce the number of bills coming before the full membership for determination. It's an absolute impossibility for all of the members of either house to make a careful, detailed study of the 1,500 bills that we have had mentioned here this afternoon. That number is increasing, and we don't know where it is going to end.

The second purpose of the committee system is to screen out undesirable bills so that the members who are not on that committee can concentrate on the bills that are reported out of committee and can make a more detailed study of those bills. This would mean, with 1/3 having the power to call any bill out of committee, that you would have practically all of the bills introduced on the floor of the 2 houses, which would simply take the job out of hand altogether.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Muskegon, Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, fellow delegates, I would question Mr. Brake's statement, for this reason. I have no experience, and Mr. Brake has a great deal of experience, but I once researched this problem, and there are 2 legislatures, Massachusetts and Nebraska, which require by legislative rule that every bill introduced in either house of the legislature must be reported by the committee back to the floor before the end of such annual session. Now, I submit to you that if the state of Massachusetts, with its 241 members in its house of representatives, can survive the mass of paper that must come out of such a legislature, that our little house of representatives with only 110 members ought to be able to stand such a mass coming out of the committees. I suspect, perhaps, that the effectiveness of this rule comes from the fact that the legislators are not so prone to introduce bills, knowing that some day they are going to have to face the light of day on the floor.

But when we had 2 people here testifying on the unicameral legislature from Nebraska, one a legislator and one a professor who had made a study on it, I questioned them at length after the session about their committee system. And all their committees there are open to the public. They keep a journal record. They keep a vote. They give notice. And they do discharge all bills. He was of the opinion that this has a good effect in keeping down the usual bills that are introduced by a legislator for home consumption, with the legislator running around the next day and saying to the committee chairman or committee members, "Kill it; it was only for home consumption."

I suspect that such a provision, if you required that all bills be reported back, would reduce the number of bills introduced for home consumption, and this was their opinion. Now, this amendment only goes part way. It says that those bills which should see the light of day by a minority of 1/3 may be reduced, and I suspect it has a good effect on the whole legislative process. I would support it.

CHAIRMAN BENTLEY: The question occurs on the reduced and revised section b of the DeVries, et al, amendment, to the committee amendment, as amended.

MR. KUHN: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: As to the first part, it's like "marriage is a good thing; who can fight it?" and so forth. It has absolutely no place in the constitution. What is a "clear statement?" I can see constitutional questions that can come up. But I guess if what we want to do is put in all these legislative rules in our constitution, we are going to go forth. But, as to the second one, we would be definitely opposed. "One-third of all the members of either house of the legislature shall have power to relieve one of its committees. . . ." Why waste the time of the legislature? Let's look back at the history of this. To discharge a committee in the federal congress, you must have at least a majority of the members, and it should be this way in the legislature. For if you can't get a majority to bring it out, don't waste the time of the legislature.

Now, you have corrected some of the inequities. You are going to get to see how they voted in their committees. They are not going to be hiding behind closed doors. So let's not put such a ridiculous thing as this in the constitution, to burden down the floor debate and the time of the legislature on the floor. They should have at least a majority. The committee clearly took this up and rejected it, and I think the committee of the whole should turn this part down.

CHAIRMAN BENTLEY: The question occurs on the pending amendment, the revised and reduced portion of section b. The question has been divided. The secretary will read the first sentence, on which a separate vote has been requested.

SECRETARY CHASE: The first sentence reads, "Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal."

CHAIRMAN BENTLEY: Those in favor of the sentence as read will vote aye.

MR. DOWNS: I demand the yeas and nays, Mr. Chairman.

CHAIRMAN BENTLEY: The yeas and nays have already been ordered. Those in favor of the first sentence will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—101

Allen
Austin
Balcer
Barthwell
Batchelor
Beaman
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof

Goebel
Gover
Greene
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Jones
Judd, Mrs.
Kelsey
King
Knirk, B.
Koeze, Mrs.
Lawrence

Page
Pellow
Perlich
Pugsley
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shaffer
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stopczynski

DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Follo
Ford
Gadola
Garvin
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Mosier
Murphy
Nord
Norris
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Young
Youngblood

Nays—20

Dehnke
Farnsworth
Figy
Finch
Hoxie
Hutchinson
Iverson
Karn
Kirk, S.
Kuhn
Perras
Plank
Powell
Prettie
Richards, J. B.
Shackleton
Shanahan
Sharpe
Sleder
Wood

SECRETARY CHASE: On the question of adding the sentence, "Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal" to section b, the yeas are 101; the nays are 20.

CHAIRMAN BENTLEY: The first sentence of the amendment is adopted. The vote now occurs on the second sentence. The board will be cleared.

MR. KUHN: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Kuhn.

MR. KUHN: On the second question, on this amendment, this is a very fundamental question. The committee definitely takes a positive stand on this and we say it should be voted down. As we said earlier, this is against the federal practice and the practice in most of the states, and it does not make sense to allow 1/3 to control the legislature.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Mr. Chairman and members of the committee, I would just like to point out 1 or 2 things. The 1/3 provision for discharge is recommended by the council of state governments, and you can find it in your model state constitution. Second, I think the point that Mr. Hanna made is a very good one. This should decrease sandbagging in the legislature and cut down the number of bills that are introduced purely for home consumption. For that reason alone it has plenty of merit. Third, it makes the legislature more responsible. I urge the adoption of the amendment.

MR. HOXIE: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: I wonder if I might ask Mr. DeVries a question, through the Chair.

CHAIRMAN BENTLEY: State your question.

MR. HOXIE: Did you vote for the rules of this convention, Mr. DeVries? And will you kindly tell us how many votes are necessary to take a proposal away from a committee?

MR. DeVRIES: Mr. Chairman, Mr. Hoxie, it takes a majority vote in order to get something out of the committee in this convention. However, this convention provides for something unusual in the legislative process, and that's a minority report. This serves the same purpose, it seems to me. It provides that 1/3 may discharge a committee. I think the minority report system has worked quite adequately here. We have no reason to discharge a committee, when you can get 3 members of a committee to prepare a minority report.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Martin.

MR. MARTIN: Mr. Chairman, I hate to disagree with my colleague from Grand Rapids, but this goes a little too far. And with 800 bills introduced in the legislature, I think this creates the possibility that you might have pretty nearly all 800 out on the floor, and the legislature would never get its job done under those circumstances. For that reason I intend to vote no on this part of the amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, fellow delegates, it seems to me that if other legislatures, like the one in Massachusetts, can handle these matters, I see no reason, as pointed out by Mr. Hanna, why we can't. I would just say this, though, in answer to Mr. Kuhn's comment that he doesn't want 1/3 of the legislators controlling the legislature: I think that we overlook a point here. A majority of the legislators decides the make up of the committees, and in the event that a bill should be reported back to the legislators, in order for them to do anything about it one way or another, it would still take a majority and not 1/3.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Birmingham, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, members of the committee, as one who, when a legislator, participated in the first successful effort to discharge a committee of the house of representatives in this century, I think I speak with some background and experience on this point. And I oppose this amendment.

I think the motion to discharge a committee is a drastic remedy which should be used only where a committee has clearly operated contrary to the desire of a majority of the members of the body to debate the issue. I don't think it is something which should be used lightly. I don't think it is something which should be entrusted to a minority of the body. I oppose the amendment.

CHAIRMAN BENTLEY: The vote is on the second sentence of section b. The yeas and nays have been ordered. Those in favor will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—55

Andrus, Miss
Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Cushman, Mrs.
Dade
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Ford
Gadola
Garvin
Goebel
Greene
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Hood
Jones
Kelsey
King
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Pellow
Perlich
Rajkovich
Romney
Sablich
Snyder
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Walker
Young
Youngblood

Nays—69

Allen
Batchelor
Beaman
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Finch
Gover
Hatch
Heideman
Higgs
Howes
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Nisbet
Page
Perras
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood

Habermehl
Haskill
Plank
Powell
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment to add the sentence, "One-third of all the members of either house of the legislature shall have power to relieve one of its committees of further consideration of a bill when the committee to which it was assigned had not reported on it," the yeas are 55; the nays are 69.

CHAIRMAN BENTLEY: The second sentence of the amendment is not adopted.

SECRETARY CHASE: Messrs. DeVries, King, Pollock and Durst offer the following amendment:

1. Amend section b, at the end thereof, after "journal.", by inserting "A majority of the members present of either house of the legislature shall have power to relieve one of its committees of further consideration of a bill when the committee to which it was assigned had not reported on it.".

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Mr. Chairman and members of the committee, this is the obvious compromise position. I hope you will support it.

MR. WANGER: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Lansing, Mr. Wanger.

MR. WANGER: Since we got so involved in the discussion on the last one I did not have time to raise this point of order, but it seems to me we have already passed upon the section to which this is germane in the body of the proposal. It would seem to me, therefore, that this is an improper time to consider this particular amendment, and also the improper place in which to consider it in the proposal.

CHAIRMAN BENTLEY: The Chair will rule that the proposed insertion of the word "present" in the sentence changes the meaning, and therefore the amendment is germane.

MR. KUHN: A parliamentary inquiry, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Pertinent to what? What section? I submit if it's in section a, and we are down at the end of section b, where are you going to put it? You can't just jump back up to section a.

SECRETARY CHASE: Mr. DeVries has offered the following amendment:

[The amendment was again read by the secretary. For text, see above.]

MR. KUHN: In section a, Mr. Chairman, in argument of my point of order, we provide that "a majority of the members elect. . . ." Now, he should have offered an amendment at that juncture, or wait until we finish the body and go back. We just can't put them in in each section.

CHAIRMAN BENTLEY: The Chair has ruled that the amendment is in order and may be offered. The question occurs on the amendment offered by the gentleman from Grand Rapids, Mr. DeVries. Those in favor —

MR. HUTCHINSON: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, the only explanation for this offering by Mr. DeVries at the present time is that he says that this is an obvious compromise position. I don't know that we have anything here to compromise. I think the decision was made, and I don't know why we have to find a middle ground. Seriously, Mr. Chairman and ladies and gentlemen of this committee, this is perhaps one of the most fundamental concepts to come before this convention. It is simply the power — the responsibility if you please — of the majority in the legislature to meet and to control and to govern the responsibility for which it is going to be charged anyway.

Now, if a majority of the members elect in a house can be gotten together and to agree that a committee should be discharged from further consideration of a measure, that's one thing — and that's something that we're used to, and nobody is quarreling about that at all — but to reduce that requirement and to make it easier for discharge simply introduces an irresponsibility within the majority; the majority has this responsibility, but you make it harder for it to control. The majority in a legislative body, having the responsibility for the end result, has the responsibility not only of organizing the body, but to a large extent determining the program and determining the measures that are to be considered.

Now, if a thing as drastic as to take away from a committee the control of a measure is to come about, then they should get all of the members of the body there so that they all can vote upon the matter and not simply wait until some day when there may be a bare quorum of say 18 in the senate, or a bare quorum of 56 in the house, and then give to a majority of that quorum the power to discharge a committee. And that's what Mr. DeVries' amendment would now do. "A majority of the members present." All you need is a quorum: 18 in the senate. With 18 being present, 10 of them could discharge the committee. That's even less than a third of the senate.

In the house it would be a comparable situation. And once in a while we do have days when the attendance is very little more than a quorum. It's a very common thing to have that situation arise on a Friday morning. Nevertheless, there is a quorum there, and once just a bare quorum is there, Mr. DeVries would let a majority of that quorum discharge a committee. This goes too far.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, I take strong exception to the remarks just made by Mr. Hutchinson about the responsibility of the majority. Mr. Hutchinson says the majority has the responsibility to enact the laws, and therefore it appears to him they have the responsibility to run the entire legislature in every respect. I dissent very vigorously from that, even though very briefly. It seems to me that his view is simply this: that the majority in the legislature has not only the responsibility to enact the laws, but also the responsibility and the power and the duty to throttle the minority to such an extent that their bills cannot even see the light of day, cannot even be debated on the floor, so that they cannot even have a voice in the legislature. I don't believe that that is proper. I believe that the amendment that is now offered is certainly reasonable.

CHAIRMAN BENTLEY: The gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I oppose this amendment because it seeks to accomplish indirectly what the previous amendment sought to do directly. We have passed provisions which say that any bill to become law must be voted upon favorably by a majority of the members elected and serving in the legislature. This provision, if enacted, would create the opportunity for using the discharge for political purposes when there was no chance of getting the majority of the members elected and serving to vote in favor of the bill on passage. It would create a jockeying situation in every session when hot political matters were under consideration to try to seize an opportunity, when someone had left the room or was temporarily indisposed, in order to use the discharge for political purposes, and this should not be done.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Grand Rapids, Mr. DeVries. Those in favor —

MR. KUHN: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: I rise in strong opposition to this. Once again the word "compromise" comes up today. This "compromise" is starting to bother me a little bit. I think we should vote more for our conviction and what we think is right than to compromise. As Senator Hutchinson said, what do we have to compromise? We passed this.

And I wish to call your attention to the federal constitution of the United States. It takes a majority of the members elected, which is 218 when they have 435. I think we should oppose this amendment.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by Mr. DeVries. Those in favor will say aye. Those opposed will say no. The amendment is not adopted.

MR. KELSEY: Division.

CHAIRMAN BENTLEY: Who demands the division?

MR. KELSEY: I demand the division.

CHAIRMAN BENTLEY: All right. Is the demand supported? There is a sufficient number. Those in favor of the DeVries amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. DeVries, the yeas are 48; the nays are 72.

CHAIRMAN BENTLEY: The amendment is not adopted. The question now occurs on section c.

SECRETARY CHASE: Messrs. DeVries, King, Pollock and Durst offer the following amendment:

1. Amend page 1, following section b, by inserting a new section to read as follows:

"Sec. c. There shall be a legislative council consisting of such legislators as the legislature shall prescribe. The legislature shall appropriate adequate funds for the council's operations, provide for a staff of the council which shall maintain bill drafting, research and other services for the members of the legislature. The council shall examine from time to time the various laws of the state and recommend to the legislature revision of such laws.".

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. DeVries, is recognized.

MR. DeVRIES: Mr. Chairman and members of the committee, this is the last amendment I intend to offer. I think the committee of the whole has significantly strengthened the committee system in the legislature this afternoon, and now I would like to urge your support to strengthen the staff and the research facilities in the legislature. In the papers that we passed out to you last evening is section c relating to a legislative council. I hope you have had a chance to look at some of the supporting information. I'll make just a few brief remarks about legislative councils and why I think it is necessary for us to place one in the Michigan constitution.

The first legislative council was successfully created in 1933 in Kansas. Michigan had experience with a legislative council from 1933 to 1939, but it wasn't successful. However, Michigan has been the only state to abandon a council on other than a temporary basis. Since 1933 councils and council type agencies have been created in 39 of the 50 states.

Essentially, a legislative council is a bipartisan, permanent, joint committee of the state legislature, assisted by a full time professional research staff, appointed by the council on the basis of merit. Most legislative councils are made up of an equal number of members from each house. The average size of a council is about 18 members. Some councils meet 4 times a year; some meet almost continuously.

Now, here are some of the functions that I think this council could perform, and it would render a very valuable service to our legislature: 1, it can collect information on state government and on legislative proposals; 2, it can prepare research reports on major issues of state policy; 3, it can recommend legislation; 4, it can draft bills; 5, it can investigate administrative agencies to effect economies in state government; 6, it can cooperate with administrative agencies or special legislative committees; 7, it can study legislative procedures and organizations; 8, it can study the effect of statutory and constitutional provisions; 9, it can study the financial needs of state government; 10, it can study the revision of statutes; 11, it can prepare legislative programs; and 12, it can prepare recommendations to the legislature in advance of the sessions.

I think by adopting the provision to provide for a legislative council we will effectively strengthen the legislative process from the staff point of view and the research point of view and the investigatory point of view. I think it will result in substantial savings, and I urge you to adopt this amendment.

I might point out, parenthetically, the closest thing we have to this now is the legislative service bureau, the primary functions of which are to draft bills and provide technical assistance, but not to do basic research or to conduct investigations. I strongly urge the support of this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, Mr. DeVries introduced a delegate proposal. He appeared before our committee and explained his philosophy in this field. The proposal was assigned to the subcommittee headed by Mr. Millard, and I would like to call on him for an explanation of the findings of the committee.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Flint, Mr. Millard.

MR. MILLARD: Mr. Chairman and members of the committee, the subcommittee of which I was the head had under consideration this proposal which had been proposed as a delegate proposal by Dr. DeVries. He appeared before our committee as did Mr. Martin, who also was on the proposal. We heard all they had to say about it. Dr. DeVries had been with the legislature, and he gave us some of his experience and some of his background and the reasons why he thought there should be a legislative council. We asked him why it should be in the constitution, inasmuch as there's only one state in the whole union — and that is Alaska — which has it in the constitution. Well, he said the reason is that the legislature won't provide for a legislative council. Finally, he said they do have a legislative service bureau.

That led to further investigation, and we had several of the members of the legislature appear before us. We asked them about it, and this is the conclusion that we came to: that the legislative service bureau is doing the same job that a legislative council would do. Possibly not to the extent that a council would, because the service bureau doesn't have as much money as some of the legislative councils do which are provided by statute in some other states. But the legislators were of the opinion that the service they are getting out of this legislative service bureau is satisfactory. As I understand it, they now have 4 lawyers and 20 clerks on the legislative service bureau staff. It started out as a drafting service, and going into research, and the legislators told our committee that they planned to put on more people to handle research as soon as the funds were available.

Then it came to our attention that in the past Michigan had had a legislative council, which was a dismal failure. It failed to do anything it was supposed to do. It was passed in 1933 and repealed in 1939. That legislative council provided, as this amendment would, that members of both parties would be on the council. But, as it turned out, our legislature was shifting power every 2 years; first the Democrats had it and then the Republicans. So when one party had it they appointed their people on the council and they got all the information. They didn't disclose the information to the minority party; so it didn't serve the purpose that it should have served. And that shifted back and forth, as I say, from 1933 to 1939 and was repealed.

Now, in 1941 the legislature passed this act for a legislative service bureau, which has been operating satisfactorily to the legislature and, as I said, now has over 20 people on its payroll. I think they have a budget this year of $200,000, plus, and are doing very well. And inasmuch as this is a legislative matter, purely and simply, only one other state having it in its constitution, I think it should be left to the legislature for implementation as they see fit.

We have with us one of the persons who wrote the legislation and has seen this legislative service bureau operate. And with the consent of my chairman, I would like to yield the floor to Senator Hutchinson, who can tell us about the legislative service bureau as it is in operation today and why we do not need this in the constitution.

CHAIRMAN BENTLEY: Does the gentleman from St. Louis, Mr. Hoxie, yield to the gentleman from Fennville, Mr. Hutchinson?

MR. HOXIE: Yes sir.

MR. HUTCHINSON: Thank you, Mr. Chairman. I didn't notice that the proponents of the legislative council made any particular point of the fact that we have anything in this state that is comparable, but we do have. As Mr. Millard has already stated, back in 1939 the legislature at long last decided that its experience with the legislative council had been a failure, and it repealed the law which set up this legislative council.

It was a failure because of what Mr. Millard mentioned. Somehow or other the true function and purpose of the council didn't seem to get into the legislature at that time. The members of the legislature who were members of the legislative council seemed to have some peculiar advantage or insight which the other members of the legislature did not have. I'm told that the members of this council were guilty sometimes of simply traveling all over the country on what amounted to nothing but junkets and it didn't work. So in 1941, when the legislature came back into session after having repealed its act in 1939, they created the legislative service bureau. Now, the government of that bureau, in the beginning years, was vested in an ex officio board made up of the secretary of the senate, the clerk of the house, the director of the bureau itself and — I don't know; there may have been 1 or 2 others, but no members of the legislature.

Back in 1957 the legislature wanted to strengthen materially the legislative service bureau, and I'm happy to take some credit for the fact that I drafted the legislation and introduced the legislation which is now the law and which greatly strengthened the legislative service bureau and really brought it and is bringing it much closer to the concept of a legislative council. We don't call it a legislative council, but we have introduced many of the legislative council concepts. For instance, the governing board now of the legislative service bureau is made up according to the statute. It is called an executive board, and it

> shall consist of the chairmen of the committees on judiciary, taxation and appropriations in the senate, the minority leader in the senate or some other senator appointed by him, the chairman of the committees on judiciary, general taxation and ways and means in the house of representatives, and the minority leader of the house of representatives or some other member of the house appointed by him.

So that we have introduced the concept of the governing board made up of members of the legislature itself, as is the case of a legislative council. We have also assured minority representation upon that council. In that way we are assured that the majority won't simply have the information for itself, but that the information shall be made available to all members of the legislature. And, as a matter of fact, it is.

The directions in the statute which govern the attitude of the staff are very clear, and they have been scrupulously observed, with the result that the members of the staff — and as Mr. Millard mentioned, they are now becoming numerous — all perform their services in a very bipartisan or nonbipartisan technical way. They are as available to the members of the minority as of the majority and are doing a good job. The present director of the bureau is Mr. C. J. McNeill, former budget director of the state of Michigan. He came into the legislature back along about 1949 as what the legislature called the legislative controller, to assist the ways and means committee and the committee on appropriations in the senate in their financial matters in a technical way.

The bureau has as an immediate subordinate of Mr. McNeill at the present time, former Senator Elwood Bonine. The chief of its drafting service is Mr. Sanders, who came to Michigan from service in connection with the constitutional convention in the state of Missouri. There is good legal talent in the bureau. It isn't merely a bill drafting service. For many, many years the legislature had a bill drafting service. But the bureau is much broader than that. In fact, the statute under which it works would permit it to go into all of the functions of a legislative council. And as the available manpower becomes apparent and the means become available, that is being done.

For instance, the statute says that the bureau shall, to the extent facilities are available, examine into the common law and the statutes of the state and the current judicial decisions, for the purpose of discovering defects in the law. And for the furtherance of this purpose, the bureau shall receive and consider proposed changes in the law as recommended by the commissioners for the promotion of uniformity in legislation, the American law institute, and other learned bodies. The bureau shall recommend from time to time changes in the law as it deems necessary to modify and eliminate antiquated or inequitable rules of law, to bring the laws of this state, civil and criminal, into harmony with modern conditions. It shall provide technical assistance to committees having to do with appropriations; it shall provide technical assistance to committees having to do with taxation; it shall provide other technical asssitance to legislative committees as may be authorized by the legislature or the executive board. This executive board, you see, that is created or made up of these committee chairmen, plus the minority leaders, has power right there under that section to provide other technical assistance, which is research and examination.

I submit to you that, on a legislative basis, the legislature has already provided this. It is unnecessary, and a pure legislative matter, to write this into the constitution. It isn't necessary. The concept of a legislative council, called a legislative council, still leaves a bad taste in the mouths of many people in Michigan because of our former experience. All right, we are reaching the same conclusion, but we don't call it a legislative council.

Keep in mind, too, that the state of Michigan is a member of the council of state governments. We have, by statute, provided for an interstate cooperation commission, of which members of the legislature and other state officers are, by statute, made members. The entire research facilities of the council of state governments are available in Michigan, and are used here, and are used by the legislative service bureau.

I might also just point out to you that in addition to the things I have mentioned, the legislature back in 1957 by these same amendments that I earlier referred to transferred over to the legislative service bureau the compilation function of the compilation commissioners. You know, the present constitution provides that whenever there shall be a compilation of the laws, the governor shall appoint some compilation commissioners, and the staff work of that commission is vested entirely in the legislative service bureau.

CHAIRMAN BENTLEY: The gentleman is wandering a little far afield from the provision before us, and I would urge the gentleman to confine his remarks, if possible, to the subject of the legislative council.

MR. HUTCHINSON: Mr. Chairman, I'm endeavoring to do that. I'm endeavoring to point out that, in effect, we have statutorily created a legislative council here without calling it so; that it is unnecessary to put it into the constitution for that reason. And I want to point this out because I don't want this committee to be left with the impression that somehow or other the state of Michigan has done nothing in this field and that the legislature needs prodding. This is definitely an area where the legislature does not need prodding. Without any particular fanfare, it has really accomplished and is building a program. I would say, just in closing, that I checked this morning to ascertain what the present budget of the legislative service bureau is, and it is $225,000 a year.

CHAIRMAN BENTLEY: The gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, when I asked for recognition, I didn't anticipate that Mr. Millard and Senator Hutchinson would explain why a legislative council failed in Michigan. I think there are only 2 of us in this convention who were in the legislature at any time while the legislative council was in existence. The reason has been explained. The legislative council in this state never had a chance. It wasn't properly set up. It was made partisan from the beginning. The party in power took the majority of the control, and in the next session that party was out of control, and therefore nothing very much was done about it.

I'm going to surprise the sponsors of this particular amendment by voting with them. I think that nobody would deny that the legislative service bureau is doing a splendid job — there isn't any question about that — and they are doing nearly everything that a legislative council does. I think, taking the country over, there are 2 things that the legislative councils are doing that are not being done by the service bureau. One is that there is a much larger participation by legislators themselves than there is under our legislative service bureau. Now, that could be changed. It could be changed without changing the name. The other is that they have a much greater control through the legislative council over this matter of interim committees. The senator spoke about junkets. You talk about junkets; in spite of the fact that we have the legislative service bureau, one of the interim committees, for instance, just went on a junket all the way to California, to study something that could be studied from here just as well as it could be studied in California. I would like to be in on such a thing as that once in a while.

If the service bureau would expand, or we had a legislative council, that kind of thing, the necessity of study in between sessions — which exists, there's no question about it — could be coordinated and centralized so that there would be much less wasted effort; and a great deal of it is wasted effort. I certainly have nothing to say against the service bureau which we have, which is doing a fine job; but I think we could add those things, either under the name of a legislative council or otherwise.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Faxon.

MR. FAXON: Mr. Chairman, I have a point of order on this last sentence here, where it states, "The council shall examine from time to time the various laws of the state and recommend to the legislature revision of such laws." Just yesterday, in Committee Proposal 108, we adopted a provision which stated that there shall be no revision of the laws. I would ask the Chair to rule whether we can act upon this after our action of yesterday.

CHAIRMAN BENTLEY: The Chair will rule that the sentence is germane and may be acted on at the present time, and we will assume that the committee on style and drafting will eliminate any inconsistencies that may be discovered. The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Mr. Chairman and members of the committee, it's tough to argue against former legislators, particularly when I was employed there for 5 years, and I want to thank Mr. Brake for his comments.

I certainly didn't mean to imply or suggest — and I don't think I said this — that the legislative service bureau would be done away with under this amendment. Neither do I mean to suggest that they are not doing a good job. I know. I worked there 5 years. They are overworked, and they don't have the facilities and the staff to do what they are supposed to do.

This legislative council, as far as I can see, only gives a new name to the legislative service bureau and extends its functions and duties. Again, if I may just cite some of these functions, you can make the comparison yourself between the present service bureau and the legislative council as proposed. Mr. Hutchinson says that we are moving in the direction of a legislative council through the bureau, but I want to go further than that. I want to make sure that they perform these functions. One of the most important functions they could perform is to provide basic research on major issues for state policy in between the sessions. Secondly, to investigate administrative agencies, if necessary, to effect economies, or to see if the legislative intent is being carried out. I don't think that anyone can argue that the legislature now has the staff and the facilities necessary to do this. And there are a good many other functions that I cited in my remarks that could be assigned to this council that are not performed by the service bureau.

I mentioned in my remarks also that we had a council in 1933 set up by a Democratic legislature — I guess I didn't mention Democratic — but it was set up by the legislature in 1933. This council, as I understand it from our research department, received in 1933, $5,000 for their operation. One of the reasons for its failure, I understand, was lack of appropriations, and it got into a partisan wrangle.

Again, let me state that we are not criticizing the legislative service bureau. We are trying to strengthen it and broaden its functions and powers with additional staff to give the legislature the help they need. If we are moving in this direction, Senator Hutchinson, then it seems to me we ought to move all the way and give them all the authority and power they need to do an adequate job. Again I urge your support of the amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, I have a one word amendment. Could I ask the secretary to read the amendment to the amendment.

SECRETARY CHASE: Mr. Downs offers the following amendment to proposed section c:

1. Amend the amendment, at the beginning thereof, after "shall be a" by inserting "bipartisan"; so the language will read, "There shall be a bipartisan legislative council consisting of such legislators as the legislature shall prescribe."

MR. DOWNS: Mr. Chairman, the purpose of this amendment is simply to assure that the council would be bipartisan, to reflect what would be the bipartisan nature of the legislature itself. I spoke to the chairman of the committee after this was introduced, and I hope the delegates will see fit to adopt the amendment to the amendment.

CHAIRMAN BENTLEY: The question is on the amendment offered by Mr. Downs to the pending amendment. Those in favor will say aye. Those opposed.

The amendment to the amendment is adopted. The Chair recognizes the gentleman from Grand Rapids, Mr. Martin, on the amendment, as amended.

MR. MARTIN: Mr. Chairman, I only want to say that we did have a very courteous reception from Mr. Millard and Mr. Hoxie, and we had ample opportunity to present our views to them. We felt, however, that there was a reason for adding this provision in the constitution, in that it gave additional strength to the one single thing which the legislature can do to make itself the strongest possible kind of a legislature, to go along with a strong governor here in Michigan. I think, therefore, that the support which this kind of a provision would give to such a council would be very useful and that the proposal or the amendment is worthwhile and ought to be adopted.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Flint, Mr. Millard.

MR. MILLARD: Mr. Chairman, the last 2 speakers have said that they are giving the legislature some power. That is absolutely incorrect. The legislature has the power today to do anything that it wants to do along this line. They are not giving it any power at all, and I would like to have that understood. They are not helping the legislature a bit. All they are doing is demoralizing the legislature and telling them what the ideas of this convention would be if it were adopted. It is absolutely unnecessary to put it in there. Because every time you try to give the legislature power you take something away from them. They have the power today. They have done it once, they can do it again. They are going in that direction. There is no need for this amendment, and I urge a strong no vote upon this amendment.

CHAIRMAN BENTLEY: Before recognizing the next speaker, the Chair is going to make a statement to remind the members of the committee of the whole to the effect that there are still 8 proposals reported out of the committee on legislative powers. There are at least 3 minority reports to those 8 proposals. The Chair would remind the members of the committee of the whole of the hope expressed by President Nisbet that we would complete action on these committee proposals today. The Chair recognizes the gentleman from Adrian, Mr. Durst.

MR. DURST: I call for the yeas and nays, Mr. Chairman.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number. The yeas and nays will be ordered. The question is on the amendment, as amended, offered by the gentleman from Grand Rapids, Mr. DeVries.

[The amendment, as amended, reads as follows:

1. Amend page 1, following section b, by inserting a new section to read as follows:

"Sec. c. There shall be a bipartisan legislative council consisting of such legislators as the legislature shall prescribe. The legislature shall appropriate adequate funds for the council's operations, provide for a staff of the council which shall maintain bill drafting, research and other services for the members of the legislature. The council shall examine from time to time the various laws of the state and recommend to the legislature revision of such laws."]

Those in favor will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—72

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Bonisteel
Bradley
Brake
Brown, G. E.
Buback
Cushman, Mrs.
Dade
Danhof
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Higgs
Hood
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Lawrence
Lesinski
Liberato
Madar
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Perlich
Perras
Rajkovich
Romney
Seyferth
Snyder
Spitler
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Van Dusen
White
Wilkowski
Woolfenden
Yeager
Young

Nays—49

Batchelor
Beaman
Bledsoe
Boothby
Butler, Mrs.
Cudlip
Dehnke
Dell
Erickson
Everett
Farnsworth
Figy
Finch
Haskill
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Millard
Page
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stevens
Thomson
Turner
Tweedie
Upton
Walker
Wood

SECRETARY CHASE: On the adoption of the amendment to add section c, the yeas are 72; the nays are 49.

CHAIRMAN BENTLEY: The amendment, as amended, is adopted. Are there any further amendments to the body of Committee Proposal 102?

MR. DURST: Mr. Chairman, may I say on behalf of Mr. DeVries that this is our last amendment, and it doesn't matter how many games you lose during the season if you go out in a crowning glory of victory.

CHAIRMAN BENTLEY: There being no more amendments to the body of Committee Proposal 102, it will pass.

Committee Proposal 102, as amended, is passed, and the secretary will read.

SECRETARY CHASE: Item 19 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 117,** A proposal to provide that votes on elections and nominations in the legislature be recorded. Amends article V, section 17.

Following is Committee Proposal 117 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. In all elections by either house or in joint convention the votes shall be [given viva voce.] BY RECORDED ROLL CALL. All votes on [nominations] APPOINTMENTS RECOMMENDED to the senate FOR CONFIRMATION shall be taken by yeas and nays and published with the journal of its proceedings.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 117:

The committee recommends 2 changes in this section. The right of the legislature to hold an election by voice is changed to a recorded roll call. This is to insure a more responsive legislature.

In the second sentence clarification is offered, "nominations to the senate" is ambiguous. The phrase applies to nominations for state office referred to the senate for approval. The new language clarifies this intent. The yeas and nays will force every legislator to declare himself.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: I yield to Mr. Kuhn for an explanation.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman, at this time I'd like to yield to Mr. Perras, who will give our explanation.

CHAIRMAN BENTLEY: The gentleman from Nadeau, Mr. Perras.

MR. PERRAS: Mr. Chairman and fellow delegates:

[The supporting reasons were read by Mr. Perras. For text, see above.]

CHAIRMAN BENTLEY: Are there any amendments to the body of Committee Proposal 117? There being none, it will pass.

Committee Proposal 117 is passed, and the secretary will read.

SECRETARY CHASE: Item 20 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 118,** A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people. Amends article V, section 1.

MR. HOXIE: Mr. Chairman, under our rules, is it necessary that it be read? If it isn't, I'd like to move that the proposal be considered as read.

CHAIRMAN BENTLEY: Without objection, Committee Proposal 118 will be considered as read.

Following is Committee Proposal 118 as considered read, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. The legislative power of the state of Michigan is vested in a senate and a house of representatives [; but the people reserve to themselves the power to propose legislative measures, resolutions and laws; to enact or reject the same at the polls independently of the legislature; and to approve or reject at the polls any act passed by the legislature, except acts making appropriations for state institutions and to meet deficiencies in state funds. The first power reserved by the people is the initiative. Quali-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

fied and registered electors of the state equal in number to at least 8 per cent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected, shall be required to propose any measure by petition: Provided, That no law shall be enacted by the initiative that could not under this constitution be enacted by the legislature. Initiative petitions shall set forth in full the proposed measure, and shall be filed with the secretary of state or such other person or persons as may hereafter be authorized by law to receive same not less than 10 days before the commencement of any session of the legislature. Every petition shall be certified to as herein provided as having been signed by the required number of qualified and registered electors of the state. Upon receipt of any initiative petition, the secretary of state or such other person or persons hereafter authorized by law shall canvass the same to ascertain if such petition has been signed by the requisite number of qualified and registered electors, and may, in determining the validity thereof, cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated, for properly determining the authenticity of such signatures. If the same has been so signed, the secretary of state or other person or persons hereafter authorized by law to receive and canvass same, determines that the petition is legal and in proper form and has been signed by the required number of qualified and registered electors, such petition shall be transmitted to the legislature as soon as it convenes and organizes.]

Sec. b. THE PEOPLE RESERVE TO THEMSELVES THE POWER TO PROPOSE LAWS AND TO ENACT AND REJECT LAWS, CALLED THE INITIATIVE, AND THE POWER TO REJECT LAWS ENACTED BY THE LEGISLATURE, CALLED THE REFERENDUM. THE POWER OF INITIATIVE DOES NOT EXTEND TO LAWS THAT THE LEGISLATURE MAY NOT ENACT UNDER THIS CONSTITUTION. THE POWER OF REFERENDUM DOES NOT EXTEND TO ACTS MAKING APPROPRIATIONS FOR STATE INSTITUTIONS OR TO MEET DEFICIENCIES IN STATE FUNDS. TO INVOKE THE INITIATIVE OR REFERENDUM, PETITIONS SIGNED BY A NUMBER OF REGISTERED ELECTORS NOT LESS THAN 8 PER CENT FOR INITIATIVE AND 5 PER CENT FOR REFERENDUM OF THE TOTAL VOTE CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST PRECEDING GENERAL ELECTION SHALL BE REQUIRED.

The law proposed by [such] INITIATIVE petition shall be either enacted or rejected by the legislature without change or amendment within 40 days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If [any] THE law so petitioned for [be rejected, or if no action is taken upon it] IS NOT ENACTED by the legislature within [said] THE 40 days, the secretary of state or such other person or persons [hereafter] authorized by law shall submit such proposed law to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by the secretary of state or such other person or persons hereafter authorized by law to the electors for approval or rejection at the next ensuing general election. [All said initiative petitions last above described shall have printed thereon in 12 point black face type the following: "Initiative measure to be presented to the legislature."]

[The legislature may prescribe penalties for causing or aiding and abetting in causing any fictitious or forged name to be affixed to any initiative or referendum petition, or for knowingly causing any initiative or referendum petition bearing fictitious or forged names to be circulated.]

[The second power reserved to the people is the referendum. No act passed by the legislature shall go into effect until 90 days after the final adjournment of the session of the legislature which passed such act, except such acts making appropriations and such acts immediately necessary for the preservation of the public peace, health or safety, as have been given immediate effect by action of the legislature. Upon presentation to the secretary of state or such other person or persons hereafter authorized by law, within 90 days after the final adjournment of the legislature, of a petition certified to as herein provided, as having been signed by qualified and registered electors equal in number to 5 per cent of the total vote cast for all candidates for governor at the last election at which a governor was elected, asking that any act, section or part of any act of the legislature, be submitted to the electors for approval or rejection, the secretary of state or other person or persons hereafter authorized by law, shall canvass said petition to ascertain if the same is signed by the requisite number of qualified and registered electors. The secretary of state or such other person or persons hereafter authorized by law may, in determining the validity thereof, cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated, for properly determining the authenticity of such signatures. If the secretary of state or such other person or persons hereafter authorized by law to receive and canvass the same determines that the petition is legal and in proper form and has been signed by the required number of qualified and registered electors, he shall then submit to the electors for approval or rejection such act or section or part of any act at the next succeeding general election; and no such act shall go into effect until and unless approved by a majority of the qualified and registered electors voting thereon. An official declaration of the sufficiency or insufficiency of the petition shall be made by the secretary of state or such other person or persons as shall hereafter be authorized at least 2 months prior to such election.]

Any act submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote by the secretary of state. No act initiated or adopted by the people, shall be subject to the veto power of the governor, and no act adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in said initiative measure, but the legislature may propose such amendments, alterations or repeals to the people. Acts adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof[: Provided,]. However, if 2 or more measures approved by the electors at the same election conflict, the measure receiving the highest affirmative vote shall prevail. [The text of all measures to be submitted shall be published as constitutional amendments are required by law to be published.]

[Any initiative or referendum petition may be presented in sections, each section containing a full and correct copy of the title and text of the proposed measure. Each signer thereto shall add to his signature, his place of residence, street names and also residence numbers in cities and villages having street numbers, and date of signing the same. Any qualified and registered elector of the state shall be competent to solicit such signatures within the county in which he is an elector. Each section of the petition shall bear the name of the county or city in which it is circulated, and only qualified and registered electors of such county or city shall be competent to sign such section. Each section

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

shall have attached thereto the affidavit of the person soliciting signatures to the same, who shall be required to identify himself by affixing his address below his signature, stating that he is a qualified and registered elector and that all the signatures to the attached section were made in his presence, that each signature to the section is the genuine signature of the person signing the same, and no other affidavit thereto shall be required.]

[Each section of the petition shall be filed with the clerk of the county in which it was circulated, but all said sections circulated in any county shall be filed at the same time. Within 20 days after the filing of such petition in his office, the said clerk shall forward said petition to the secretary of state or such other person or persons as shall hereafter be authorized by law.]

THE LEGISLATURE BY GENERAL LAW SHALL PROVIDE FURTHER NECESSARY METHODS FOR THE EXERCISE OF THESE POWERS NOT IN CONFLICT WITH THE PROVISIONS OF THIS SECTION.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 118:

The committee is of the opinion there is much within the existing section 1 of a purely legislative character and therefore several exclusions and changes are suggested.

The new language proposed specifically reserves the initiative and referendum powers to the people, limits them and sets out the number of electors necessary to implement them.

The committee is of the opinion that the language of the present section retained is of importance in that it places certain mandatory obligations upon the legislature. The legislature must act upon initiative provisions within certain limits, but they are given a right to propose counter measures to the people.

Provision is also made to place laws passed by vote of the electors on a higher plane than those passed by the legislature. The people's will should not be changed by veto or repeal unless it is provided in the act. Only the people themselves have the right to change or repeal what they have enacted.

Removed from constitutional status are the provisions on content and time of filing petitions, canvassing of names on petitions, type sizes, and right of the legislature to prescribe penalties. Also removed is the date of effectiveness of legislative acts which is covered in article V, section 21.

All of these matters are left to the legislature in the last sentence. However, the language of the last sentence also makes it clear that the section is self executing and the legislature cannot thwart popular will by refusing to act.

Following is the minority report to Committee Proposal 118 as offered and the reasons submitted in support thereof:

Messrs. Downs, Powell and Murphy, a minority of the committee on legislative powers, submit the following minority report to Committee Proposal 118:

A minority of the committee recommends that line 30 of page 2 of Committee Proposal 118 be amended to read as follows:

TO INVOKE THE INITIATIVE OR REFERENDUM, PETITIONS SIGNED BY A NUMBER OF REGISTERED ELECTORS NOT LESS THAN 5 PER CENT FOR INITIATIVE AND 5 PER CENT FOR REFERENDUM OF THE TOTAL VOTE CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST PRECEDING GENERAL ELECTION SHALL BE REQUIRED.

Messrs. Downs, Powell and Murphy, a minority of the committee on legislative powers, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 118:

We believe the change from 8 per cent to 5 per cent for the initiative will make this figure consistent with the 5 per cent needed for a referendum. It will also make it twice as hard to get a constitutional amendment as initiative legislation.

The result will be that voters will be more likely to use the legislative initiative and less likely to freeze statutory provisions into the constitution.

Both the states of Massachusetts and Ohio permit such initiative legislation on the basis of 3 per cent of the vote for governor and we believe 5 per cent is an adequate figure to prevent any abuse. The initiative legislation has been used very rarely and this will encourage its more frequent usage instead of the constitutional amendments.

Following is the minority report to Committee Proposal 113 as offered and the reasons submitted in support thereof (to be considered in conjunction with Committee Proposal 118, in pursuance of the order previously made. See above, page 2358.):

Messrs. Downs, Lesinski and Murphy, a minority of the committee on legislative powers, submit the following minority report to Committee Proposal 113:

A minority of the committee recommends that the following be included in the constitution:

FOR THE PURPOSE OF ELECTING REPRESENTATIVES TO THE HOUSE OF REPRESENTATIVES IN THE CONGRESS OF THE UNITED STATES, THE STATE SHALL BE DIVIDED INTO DISTRICTS CORRESPONDING IN NUMBER WITH THE REPRESENTATIVES TO WHICH IT MAY BE ENTITLED, WHICH DISTRICTS SHALL BE COMPOSED OF CONTIGUOUS TERRITORY AND BE COMPACT. EACH DISTRICT SHALL CONTAIN, AS NEARLY AS MAY BE, AN EQUAL NUMBER OF PERSONS, BUT IN NO CASE SHALL THE DISTRICTS VARY IN NUMBERS OF PEOPLE MORE THAN 15 PER CENT ABOVE OR BELOW THE RATIO OF POPULATION FIXED BY CONGRESS OR THE RATIO OF POPULATION DETERMINED IN THE STATE AS A WHOLE BY DIVIDING THE TOTAL POPULATION OF THE STATE BY THE NUMBER OF REPRESENTATIVES ASSIGNED TO IT BY CONGRESS. NOTWITHSTANDING THE ABOVE PROVISIONS WITH RESPECT TO THE POPULATION REQUIRED FOR EACH DISTRICT, THE POPULATION COMPRISING THE UPPER PENINSULA OF THE STATE OF MICHIGAN SHALL BE ENTITLED TO ELECT ONE REPRESENTATIVE TO THE HOUSE OF REPRESENTATIVES IN THE CONGRESS OF THE UNITED STATES.

IF THE LEGISLATURE SHOULD FAIL TO APPORTION ANEW THE REPRESENTATIVES IN CONGRESS IN ACCORDANCE WITH THIS SECTION WITHIN 6 MONTHS FOLLOWING JANUARY 1, 1963, AND EVERY 10 YEARS THEREAFTER, THE BOARD OF STATE CANVASSERS, WITHIN 90 DAYS AFTER THE EXPIRATION OF THE 6 MONTHS, SHALL APPORTION ANEW SUCH DISTRICTS IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND SUCH APPORTIONMENT SHALL BECOME EFFECTIVE FOR THE NEXT SUCCEEDING FALL ELECTIONS.

Messrs. Downs, Lesinski and Murphy, a minority of the committee on legislative powers, submit the following reasons in support of the foregoing minority report which accompanied Committee Proposal 113:

We support this amendment to the constitution because it will set standards that will assure congressional districts are as nearly equal in population as possible. This proposal will provide that congressional districts must be equal in population with none varying more than 15 per cent except the upper peninsula which is guaranteed one congressional seat.

We believe this proposal, while it is not perfect, will establish a standard for legislative action that will help insure that congressmen from the state of Michigan equally represent their constituents in Washington.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

This is particularly needed because Michigan's congressional districts vary in population as follows: first, 283,302; second, 483,343; third, 427,899; fourth, 366,991; fifth, 461,906; sixth, 623,842; seventh, 661,556; eighth, 398,106; ninth, 312,854; tenth, 308,917; eleventh, 240,793; twelfth, 177,431; thirteenth, 268,040; fourteenth, 462,192; fifteenth, 337,017; sixteenth, 802,994; seventeenth, 512,752; and eighteenth, 690,259.

CHAIRMAN BENTLEY (continuing): Mr. Hoxie.

MR. HOXIE: There are some committee amendments, I believe.

CHAIRMAN BENTLEY: Does the gentleman desire to make an explanation of the proposal before the committee amendments are offered?

MR. HOXIE: No.

CHAIRMAN BENTLEY: The secretary will report the pending committee amendment.

SECRETARY CHASE: Mr. Hoxie, on behalf of the committee, offers the following amendment:

1. Amend page 3, line 13, after "the" by striking out "secretary of state or such other person or persons" and inserting "state official"; so the language will there read:

> If the law so petitioned for is not enacted by the legislature within the 40 days, the state official authorized by law shall submit such proposed law to the people for approval or rejection at the next ensuing general election.

And in line 19, after "the" by striking out "secretary of state or such other person or persons hereafter" and inserting "state official"; and on page 5, line 11, after "vote" by striking out "by the secretary of state"; so the language will there read:

> Any act submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No act initiated. . . .

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: At an official meeting of the committee, Senator Hutchinson appeared before our committee and called attention to what he considered an improvement in the language by the deletion of the words "secretary of state or such other person or persons" and placing this authority in the state official authorized by law. The other part of the amendment is also clarifying, striking the secretary of state's name. I don't believe any explanation is necessary. If there are any questions anyone would like to ask, we will refer you to Senator Hutchinson.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, Mr. Hoxie, I'm concerned about this purported change, and I would like to ask you whether this does not prevent the whole initiative and referendum provision from being self executing, on the ground that now, unless the statute exists, there is no person designated, and therefore perhaps the whole provision might tumble.

CHAIRMAN BENTLEY: The gentleman from St. Louis.

MR. HOXIE: As the individual who suggested these amendments, Mr. Hutchinson, would you like to answer?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I suppose that as a very technical kind of a situation maybe Dr. Nord has a point, except I don't think it is a very practical one. It's inconceivable to me to believe that any legislature would refuse to empower or direct an official to handle this thing. As a matter of fact, we already have statutes on the books. The general election law is already there.

This would be the height of suspicion and distrust of the legislature, if he wouldn't even leave to the legislature this responsibility of providing the machinery insofar as initiative and referendum are concerned. They are going to do it. And if they didn't do it, they wouldn't stay in the legislature very long. So I don't think this is a very practical problem. I don't think it is a very practical point. There is extreme improbability, as Judge Gadola says.

MR. NORD: Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Nord.

MR. NORD: I would like to speak further to the point, if I'm in order. I believe these amendments are before the floor. The reason I raise this question — and this is the first moment I have had a chance to see these suggested amendments — in going through the initiative and referendum before today it occurred to me that the whole initiative and referendum is different from any other part of the constitution, in that this is a way in which the people reserve to themselves the right to enact laws. Therefore, they don't wish in this case, it seems to me, to rely on the legislature to make this effective. Otherwise, they wouldn't reserve this right to themselves. Therefore, when they reserve the right to themselves, it appears to me that the theory behind this initiative and referendum is that they want to be absolutely certain that it is to be self executing and that it is not indispensable that the legislature do anything.

I'm quite certain that Mr. Hutchinson is right. I don't believe the legislature ever would — at least in the foreseeable future — repeal the statute which now exists. Nevertheless, it seems to me, to keep in accordance with the theory of initiative and referendum, and the general purpose behind it, it ought to be self executing. And the easiest way in the world to keep it self executing is simply not to make the changes offered. If we don't adopt these changes, then there is the name of a person provided in the proposal; namely, the secretary of state or such person as authorized by law. If no person is authorized by law, the secretary of state must act. Therefore, it is self executing. And, therefore, it seems to me that the only effect that would be achieved by adopting this amendment is to change from a self executing provision to one which is not self executing; I see no reason to do it, and all the reasons I can think of go in the opposite direction.

CHAIRMAN BENTLEY: The question occurs on the committee amendment offered by the gentleman from St. Louis, Mr. Hoxie. As many as are in favor of the amendment will respond by saying aye. Those opposed.

The committee amendment is adopted.

MR. BARTHWELL: Division.

CHAIRMAN BENTLEY: Who demands a division? Is the demand supported? A sufficient number. Those persons in favor of the committee amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

SECRETARY CHASE: On the adoption of the committee amendment offered by Mr. Hoxie, the yeas are 71; the nays are 39.

CHAIRMAN BENTLEY: Then the committee amendment is adopted. The secretary will report the minority amendment.

SECRETARY CHASE: Pursuant to their minority report, Messrs. Downs, Powell and Murphy offer the following amendment:

1. Amend page 3, line 2, by striking out "8 per cent" and inserting "5 per cent"; so the language will there read:

> . . . signed by a number of registered electors not less than 5 per cent for initiative and 5 per cent for referendum of the total vote cast for all candidates for governor at the last preceding general election shall be required.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs, in support of the amendment.

MR. DOWNS: Mr. Chairman, I demand the yeas and nays.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number, and the yeas and nays will be ordered.

MR. DOWNS: What this does, Mr. Chairman and fellow delegates, is lower the requirement for the initiative from 8 to 5 per cent. I believe that with our growing population, this still makes an adequate protection from having superfluous initiative proposals without adequate support. Getting 5 per cent is certainly enough work to assure that. Michigan's legislative history shows that this has been used very seldom. I believe the oleo issue was the only time it was used successfully.

Another argument is that this makes a bigger spread between initiating legislation and adopting constitutional amendments. At the present time, it takes 10 per cent for constitutional amendments and 8 per cent for the initiative. I think often when people are trying to decide which to do, they may say: well, let's just get 2 per cent more and get a constitutional amendment. And that may be one of the reasons that it's said we have much legislation in our constitution.

I think by making it half as difficult to initiate legislation, we will then encourage that process, rather than the constitutional amendment process. And it does then give the legislature a chance to review what was done; either adopt it, do nothing, or provide an alternative in case the legislature, after hearings, can work out a better proposal. I therefore urge a yes vote on this, and believe that this would be one of the more significant improvements in the document.

CHAIRMAN BENTLEY: The gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, Mr. Downs submitted this amendment to the committee. The majority of the committee did not see fit to adopt it. I would like to yield to Mr. Kuhn for an explanation of our determination.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, we gave this problem a great deal of consideration, and I would like to assure Dr. Nord that no one on the committee has any idea that this will not be a self executing proposal, and that if the legislature failed to move, that it would be my intent — and I would want it on the record — that that state official, as we put it in there, would mean the secretary of state if they do not act; that it is a mandatory thing upon the legislature to move; that we have carried out all of the self executing features; so the legislature could not thwart the will of the people.

Now, as far as 10 per cent goes, there are several states that have 10 per cent for the initiative. We have kept it at 8 per cent. You might remember that former President Hoover wrote and said he thought the initiative and referendum should be done away with. That, however, is not our conclusion. We think it is a good thing. It was a very close vote in the convention of 1907 on this question, but the delegates did not decide to put it in. And just in the year 1913 the people took it upon themselves to include this rather lengthy proposal on the initiative and referendum. The only thing that we really cut out was the way of executing it. That has to do with the content and size and printing, and things of that nature. We did cut out many, many words. But we left it so it would be self executing and so it would be strong.

Now, Alaska, one of the last states to adopt a constitution, requires that 10 per cent of their people sign a petition asking for this initiative. Also, I think it should be noted that even California, one of the largest states in our union, requires 8 per cent. Yes, it's true, Michigan says 8 per cent. Why is this important? It's important because the legislative power should be in the house and senate. Now, if they do not see fit to move on a proposition that the people seem to think is important, then the people have a right. It was only used once successfully. Now, this doesn't mean that it is not a good thing; because the legislature can always keep this in the back of their minds.

I think it is also interesting to note this. I know we do not have a lot of time to explain this very complicated thing, but what are the rights of the legislature after the people start this petition and have the 10 per cent of the people who voted for governor? They must accept it within 40 days, and accept it in toto, or they must place it on the ballot. Now, what happens if they place it on the ballot and the people adopt it? They lose control of it. They can't amend it, they can't repeal it, and they can't change it in any way unless the people give them consent in their initiative petition, or unless they go back to the people and ask them to do this. This makes it rather strong.

The only time we have had an initiative matter that went through was the oleomargarine back in 1950. The legislature saw what the people wanted, and had the pulse and feeling, and adopted it to get away from this control factor so that they could keep control of the matter.

This is a very good thing. It's tough. We want to make it tough. It should not be easy. The people should not be writing the laws. That's what we have a senate and house of representatives for. But they should have the power, which they do not have in our federal government, but they do have it in this matter, and we are asking you to retain the committee's position and keep it at 8 per cent.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Schoolcraft, Mr. Brown.

MR. G. E. BROWN: Mr. Chairman and members of the committee, I shall be very brief, but I would just like to attempt to cause the delegates to give a little thought to this in relation to this amendment. It also relates to the amendment of the constitution by initiatory petition.

There are 2 elements to initiative and recall. One is the circulating of the petitions and obtaining the signatures; the second is the vote as to whether or not the proposition that has been put on the ballot by the petitions initiating this legislation or constitutional amendment, whichever it may be, shall carry. It has always been my thought — and I think being my thought, that it is the wise thought, of course, — that the method of petitioning should not be made more difficult; that the number of signatures should not be increased. That aspect of it — getting the proposition on the ballot — should not be made more difficult. But, especially with regard to the initiative, whether it is initiative legislation or initiative amendment to the constitution, that the approval by the voters should be made more difficult. And with respect to the constitutional amendment stage, when we come to that in miscellaneous provisions and schedule, I intend to suggest a 3/5 vote of approval.

I only suggest to you that it is the vote I believe which should be made more difficult, and not the petitioning aspect of the matter. I think that when you reduce the percentage of people that have to sign petitions to initiate legislation, you make it possible for so called do gooders to circulate petitions, and I'm favoring them at this time. When you make the circulating of petitions more difficult, what you do in a sense is place a premium on the special interest group who can afford to get petition circulators, and to have done all of the work that is necessary to get petitions signed and to get the matter on the ballot. It is then much easier, I think, to get a simple majority vote at the election. I do not think that the proper perspective to accomplish that which the committee has suggested be accomplished is by increasing the number of voters who sign the petitions, but rather by increasing the percentage of the votes that the proposition must be adopted by after the election.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Nord.

MR. KUHN: Mr. Chairman, I was wondering if he would yield for a question to straighten him out on some facts?

MR. G. E. BROWN: I would be happy to.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: I'll make it very short, Mr. Brown. The committee did not increase at all the percentage of signatures required.

MR. G. E. BROWN: Excuse me. This was an incorrect statement. I shouldn't have said "increase." But the minority report would decrease it.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, I should like to ask Mr. Kuhn 2 questions, if I may. I'll ask him if he will tell us the percentage required to enact a law under the committee proposal, and the percentage required to repeal a law. Those 2 questions.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Pontiac, Mr. Kuhn, for the answer.

MR. KUHN: I'm not sure I have your question exactly clear. Do you mean the percentage of signatures they need to start a petition?

MR. NORD: Yes. To enact a law.

MR. KUHN: On initiative, it is 8 per cent of all votes cast for all candidates for governor.

MR. NORD: That is to enact a law; is that it?

MR. KUHN: That is correct.

MR. NORD: And to repeal a law?

MR. KUHN: Five per cent.

MR. NORD: Now, I would like to raise this one further question, if I may, with Mr. Kuhn. Is it your understanding then that in the so called initiative the people could not enact a law which in terms, or else impliedly, repeals? In other words, in enacting a law, doesn't that include the possibility of enacting a new law, or amending or repealing an old law?

MR. KUHN: If I understand the question correctly, they can enact a law which would repeal another law?

MR. NORD: Yes. The legislature can do that. They can enact a law which repeals in terms, or else impliedly, another law.

MR. KUHN: Well, the people can do that, yes.

MR. NORD: If that's the case, doesn't it seem as though there is an inconsistency, in that in order to repeal a law under the initiative provision it requires 8 per cent, but in order to repeal it under the referendum provision it requires 5 per cent, and yet there's no difference between the initiative and referendum; they both require petitions?

MR. KUHN: There is a difference, sir.

MR. NORD: What is the difference?

MR. KUHN: The difference is the time limit. After a statute is passed by the legislature, there are 90 days before it goes into effect. And the reason for this 90 days is to give the people time to go out and get those petitions.

MR. NORD: Mr. Chairman, Mr. Kuhn, I understand that when there is a 90 day provision, that is the case. But am I mistaken in assuming that that has been stricken from the provision?

MR. KUHN: Oh, no; that 90 days is still there.

MR. NORD: That is still in this proposal?

MR. KUHN: It is not in this particular article, but it is in our article V, section 21, I believe.

MR. NORD: Oh, I've got you, then. All right. Thank you.

CHAIRMAN BENTLEY: Is the gentleman from Lansing seeking recognition?

MR. WANGER: Yes. A brief question for Mr. Kuhn, Mr. Chairman. Mr. Kuhn, isn't there another difference between initiative and referendum, namely: that referendum cannot result in having a statute on the books which it takes a popular vote to repeal? Whereas, the initiative, if the initiated statute is adopted, means that the people, in order to make any change in that statute, have to vote; and the legislature cannot vote to change it.

MR. KUHN: Well, not exactly. I'll try to explain this a little bit, Mr. Wanger. If the legislature sees fit to adopt the petition of the initiative as being sent out, if the legislature in their wisdom feel it looks like it is going to be good, and they adopt it in toto, then they have full control. They can amend it and do anything they see fit. But if they do not, and you start an initiative petition and it goes through and is adopted by the people without the legislature doing it, then they are precluded from disturbing it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Adrian, Mr. Durst.

MR. DURST: Mr. Chairman, members of the committee, having worked in the area of revision of the constitution by amendment, and the initiatory petition put on the people, I'm aware of this problem. Very, very seldom has this particular provision of initiative been used, because with the requirement of 10 per cent necessary to put a constitutional amendment on, most groups have taken the alternative of putting the constitutional amendment on, and thereby writing into the constitution many, many things which are really legislative in detail, their theory being, we'll put it in the constitution and the legislature can't change it.

If this were reduced to 5 per cent as suggested by the minority report amendment here, it's quite likely that many groups would take this course, thus leaving us with statutory material that could be changed by the legislature at some subsequent date when it was necessary, rather than taking the course of writing it into the constitution. I would favor the minority report amendment.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman from Detroit, Mr. Downs, on which the yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote no. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas—54

Allen
Austin
Balcer
Barthwell
Bledsoe
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
DeVries
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Gadola
Garvin
Greene
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hood
Jones
Kelsey
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Pellow
Perlich
Powell
Prettie
Romney
Sablich
Snyder
Stopczynski
Suzore
Thomson
Tweedie
Wilkowski
Woolfenden
Yeager
Young
Youngblood

Nays—69

Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover
Habermehl
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Martin
McAllister
McLogan
Millard
Page
Perras
Plank
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stamm
Stevens
Turner
Upton
Van Dusen
Wanger
White
Wood

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 54; the nays are 69.

CHAIRMAN BENTLEY: The amendment is not adopted. The secretary will report the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 5, line 16, after "a vote of" by striking out "the electors unless otherwise provided in said initiative measure, but the legislature may propose such amendments, alterations or repeals to the people" and inserting "3/4 of the members elected and serving in each house of the legislature"; so that the language will then read, going back to the sentence beginning in line 12:

> No act initiated or adopted by the people, shall be subject to the veto power of the governor, and no act adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of 3/4 of the members elected and serving in each house of the legislature.

CHAIRMAN BENTLEY: The gentleman from Fennville, Mr. Hutchinson, is recognized in support of his amendment.

MR. HUTCHINSON: Mr. Chairman, this is a very complicated procedure, and it is difficult without a great deal of thought and analysis to follow it through. But, briefly, as I understand it, let us assume this situation: let us assume that the people initiate a statute and it is referred to the legislature, which has 40 days in which to enact it without any change. Let us suppose the case where the legislature failed to act in the 40 day period. Under that situation the initiated legislation would go to the people and the people, let us assume then, would adopt that initiated measure.

Now, under the present constitution and under the constitutional provision here before you, under those circumstances the situation would be that the legislature could never amend that act in any respect. All they could do would be to submit amendments to the people. Although this hasn't arisen in the past — because, as a matter of fact, it has been pointed out that this procedure has only been effectively used once in all of Michigan's history — I can well imagine this kind of a situation: an act can be initiated by petition, and there's a great deal of public clamor for it, a great deal of public support, and it's adopted by the people, although the legislature for some reason or another was so far out of step at the time that it didn't adopt it, and it had to go to the people, and it was adopted. Then they have a law, which might in some respects be quite detailed. Then let us say that 5 years later, 10 years later, another problem arose, and the legislature found itself in the situation where in order to bring this act into kilter with some other act in a very minor detail, it was necessary or desirous to amend it. In fact, to make the law conform, it would have to amend this initiated act. Now, it can't do it under the present procedure. It couldn't amend this initiated act. It would have to go back to the people. But, understand, it would go back to the people 5 or 10 years later, when there wasn't any clamor for it, there wasn't any public interest for it and, as a matter of fact, the particular minor detail which it was necessary to amend in order to accomplish some procedure in the law might be something for which you couldn't get public attention or support at all. What I'm saying to you is this: I think I see here in this present procedure a way in which it would be practically impossible to amend statutory law by the legislature, and you couldn't get public support for it because it isn't one of these issues that would draw public attention. In order to remedy that situation, which I say has never arisen yet in Michigan, but we don't know when it might, I offer this proposition: that the legislature be empowered to amend or even repeal these initiated statutes, but only by a 3/4 vote in each house. Now, that will put in a tremendous, extraordinary majority requirement, and it isn't likely that these initiated acts would be repealed, and it certainly isn't likely that they would be amended, unless there was a real necessity for it, due to changed conditions, totally changed conditions, but under an atmosphere where, while the legislature could see the need for the change, the people generally couldn't be stirred. I mean, there wouldn't be this public appeal for the matter.

I think this is a necessary amendment which certainly will not weaken the initiative in the least. But it will simply provide the machinery whereby in the future the legislature might be able to make necessary changes even in initiated legislation.

MR. KUHN: Mr. Chairman, would the gentleman yield for a question?

CHAIRMAN BENTLEY: Would the gentleman yield to the gentleman from Pontiac?

MR. HUTCHINSON: Yes.

MR. KUHN: I was wondering if the gentleman would include in his proposed amendment something to the effect of this being done in a subsequent legislative session; so we wouldn't have to worry about amending it instantly, like it provides down below in a few sentences. If we could perfect something like that, I don't think the committee would have any objection.

MR. HUTCHINSON: Mr. Chairman, if Mr. Kuhn or any other delegate would desire to offer an amendment to this amendment that way, I would be very happy to accept it. However, the reason I didn't offer it at this time is because in talking with the members of the committee, including Mr. Downs, we thought that this 3/4 vote requirement would be a sufficient safeguard and that the time element would become very secondary. In fact, Mr. Downs, indicated to me — and he can speak for himself on it — that he didn't know whether the time element would work out very well.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs, on the Hutchinson amendment.

MR. DOWNS: Mr. Chairman, fellow delegates, I believe that Delegate Hutchinson pointed out what technically and theoretically could be a problem; that if the initiative process got something into the statutes, and then a technical amendment was wanted later on, it would be almost impossible. Now, what we wanted to guard against, and I felt very strongly about it, was a situation where the people go to all the effort of an initiative campaign, which is hard work, win it, and then have the legislature by a 51 per cent vote reverse it. I think that the protection of the 3/4 would be such that it would mean the change would not be on the basic substance of what the people had gotten through the initiative process, but on what Delegate Hutchinson has referred to: some technical part that might need to fit into some other statute. Therefore, I think the 3/4 is a reasonable requirement. I prefer it a little bit to the time concept. I think it is a little better way to handle the problem. I therefore will speak in support of the amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Schoolcraft, Mr. Garry Brown, to speak on the Hutchinson amendment.

MR. G. E. BROWN: Mr. Chairman, members of the committee, the question of Mr. Kuhn prompts a question by me to either Mr. Hutchinson or Mr. Kuhn. I talked to Mr. Hutchinson briefly about this. If you refer back down to the sentence that Mr. Kuhn was talking about, where it relates to the next session, that sentence says, "Acts adopted by the people under the referendum provision of this section. . . ." Now, I respectfully submit that there are no acts adopted by referendum in the section of the committee report that we are presently considering. All the referendum does is repeal legislation. It doesn't enact legislation. The only time we had a reference to what would be commonly called the referendum was back in Committee Proposal 113, in which case we talked about the legislature being able to submit to the people for their approval acts of the legislature. I think this needs to be clarified. If we are only speaking of the initiative, then of course the question that Mr. Kuhn posed to Mr. Hutchinson, which he agreed to, would be all right. But I question very much the leaving of this language as it is if we are only talking of the initiative, because I think that is what we must be talking about, and not the referendum.

CHAIRMAN BENTLEY: Do you want to yield to the gentleman from Fennville for an answer?

MR. G. E. BROWN: Yes.

CHAIRMAN BENTLEY: The gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would much rather have the gentleman yield to Mr. Kuhn on that question, because admittedly I don't know the answer off hand. Probably, a member of the committee who has given much more study to this than I have might be able to answer Mr. Brown more authoritatively than I.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn. The question occurs on the amendment offered by the gentleman from Fennville, Mr. Hutchinson. The gentleman is recognized.

MR. HUTCHINSON: Mr. Chairman, I would like to make a revision in this amendment in one respect. Mr. Secretary, I want to insert that amendment after the word "electors," where it says "a vote of the electors". You see, I want to make it read, "a vote of the electors or 3/4 of the members elected and serving in each house of the legislature."

Mr. Wanger very quickly pointed out to me that we might end up with this thing in such fashion that the people themselves might not be in a position to amend this initiated statute by a referendum in the future, and I wouldn't want that. I simply want to provide a way, in addition to the action of the people themselves, that the legislature by an extraordinary majority might be able to amend an initiated statute because of the problem that I previously raised. Do you have the change in the amendment?

SECRETARY CHASE: May the secretary check with you, sir? As we have it now, the amendment, as revised, would read:

1. Amend page 5, line 16, after "electors" by striking out "unless otherwise provided in said initiative measure, but the legislature may propose such amendments, alterations or repeals to the people" and inserting "or 3/4 of the members elected and serving in each house of the legislature"; so that the language would read:

> No act initiated or adopted by the people, shall be subject to the veto power of the governor, and no act adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or 3/4 of the members elected and serving in each house of the legislature.

CHAIRMAN BENTLEY: The gentleman from Lansing, Mr. Wanger, is recognized.

MR. WANGER: I would like to ask a question of Mr. Hutchinson. In quickly rereading this, I note that the language "unless otherwise provided in said initiated measure" is left out. Now, this might be surplusage; I really don't know. But I wonder if that language perhaps ought not be inserted to make it clear that if the people wanted to provide in an initiated measure that it could be amended or repealed like other bills, then they could do so.

MR. HUTCHINSON: Mr. Chairman, I would prefer not to further complicate a very complicated situation by that amendment. I don't think that it is necessary. I really don't.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Fennville, Mr. Hutchinson. As many as are in favor will respond by —

MR. HOXIE: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Hoxie.

MR. HOXIE: So that the delegates can clearly understand what this amendment will do, I think you should recall that the proposal provides, in the first place, that in order to invoke the initiative you must secure the signatures of 8 per cent. That is difficult. However, it can be accomplished. I think you should also remember that the legislature, on initiatory petition, has 40 days in which to enact the substance of that initiatory petition. Upon failure, then it goes to the people. And if the people adopt it, then it's written as statutory law.

The point that I would like to make is that if the legislature doesn't see fit to enact it, what is to prohibit them, under the wording of this proposed amendment — and granted it is difficult perhaps to get 3/4 of the legislature to repeal, but at the same time you must remember that they didn't want to enact it into law, and so I can logically assume that there may be just as many that would like to repeal it. And all of the efforts of those people in circulating the initiatory petitions will come to naught. I say that the people have the right to the protection of their efforts on something on which they feel strongly enough to secure the necessary signatures, and if the legislature doesn't enact it, then it's their responsibility to go back to the people and ask for an amendment of that act if they see fit.

CHAIRMAN BENTLEY: The gentleman from Harrisville, Judge Dehnke.

MR. DEHNKE: I think we need to have in mind, Mr. Chairman and ladies and gentlemen, that one of the difficulties with the initiative and referendum procedure is the number of proposals that the people may be called upon to vote on at one election. I have read of as many as, I think, 30 or more proposals having been submitted to the people of California, at least, at one election to be voted on as separate propositions. I would hesitate about leaving the door open for repeal or amendment of such a statute, even by a ¾ vote, immediately or within a year or 2. But I would strongly favor the ¾ amendment and the possibility of disposing of it in that way if we can be assured that a time limit would be put on there of not less than 4 years, or something of that sort.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Fennville, Mr. Hutchinson. As many as are in favor will respond by voting aye. Those opposed?

The amendment is adopted. The secretary will report the next amendment.

SECRETARY CHASE: Pursuant to their minority report which had been filed to Committee Proposal 113, withdrawn therefrom, and now offered to this proposal,

Messrs. Downs, Lesinski and Murphy offer the following amendment:

1. Amend page 6, after line 24, by inserting 2 new paragraphs to read as follows:

"For the purpose of electing representatives to the house of representatives in the congress of the United States, the state shall be divided into districts corresponding in number with the representatives to which it may be entitled, which districts shall be composed of contiguous territory and be compact. Each district shall contain, as nearly as may be, an equal number of persons, but in no case shall the districts vary in numbers of people more than 15 per cent above or below the ratio of population fixed by congress or the ratio of population determined in the state as a whole by dividing the total population of the state by the number of representatives assigned to it by congress. Notwithstanding the above provisions with respect to the population required for each district, the population comprising the upper peninsula of the state of Michigan shall be entitled to elect one representative to the house of representatives in the congress of the United States.

If the legislature should fail to apportion anew the representatives in congress in accordance with this section within 6 months following January 1, 1963, and every 10 years thereafter, [the board of state canvassers] the apportionment commission, within 90 days after the expiration of the 6 months, shall apportion anew such districts in accordance with the provisions of this section and such apportionment shall become effective for the next succeeding fall election.".

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs, in support of his amendment.

MR. DOWNS: Mr. Chairman, I demand the yeas and nays. I ask for one technical correction. That is, on line 18, to change the word "article" to "section," and I ask unanimous consent for that. [Correction made.] And I would like to yield to Delegate Lesinski to explain the amendment.

CHAIRMAN BENTLEY: The yeas and nays have been requested. Is the demand supported? A sufficient number. The yeas and nays will be ordered. The gentleman yields to the gentleman from Detroit, Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates, we of the minority give you the following reasons:

[The first 2 paragraphs of the supporting reasons to the minority report to Committee Proposal 113 were read by Mr. Lesinski. For text, see above, page 2392.]

You have on your desks a 3 page folder relating to congressional redistricting. Possibly you will be able to follow this easier. Following are the reasons why this should be inserted in the constitution:

> The constitution of the United States requires that representatives be apportioned among the several states on the basis of population. There is, however, no express provision in the constitution for a reapportionment following each decennial census, but over the years the requirement clearly has been inferred from the location of the population enumeration clause in the apportionment section.
>
> Congress has followed the practice of providing for reapportionment after each enumeration except after the census taken in 1920. Under the automatic reapportionment act of 1929, as amended in 1940, the size of the national house of representatives is fixed by law and the number of representatives due each state is computed after each decennial census and the states are notified of the results. After assigning one seat to each of the several states, the remaining seats are distributed among the states

in accordance with the formula known as the "method of equal proportions."

The constitution states that congress may at any time by law make or alter the regulations made by the states as to the times, places and manner of holding elections for senators and representatives. It would appear from this language that congress has the power to regulate the drawing of congressional district lines. However, congress has never done so, and the 1929 to 1940 legislation still leaves it to the states to redistrict themselves after each census, should any adjustment in the number of representatives alloted a state be made as a result of the census.

From the beginning of our government to 1842, elections were held both on a district and on an at large basis. In 1842, the congressional act required the election of representatives in single member districts composed of contiguous territory. For many years, also, with the exception of the period from 1850 to 1862, the apportionment acts of congress provided that districts should be composed of contiguous territory.

In 1872 the apportionment act added the provision that districts should contain "as nearly as practicable an equal number of inhabitants." No further changes in substance were made until the enactment of the apportionment act of 1901, which added the words "compact territory" to the previous requirements. These standards were repeated in the act of 1911.

Thus, on the basis of a series of statutes enacted during the years from 1842 to 1911, congress established 3 standards or tests applicable to districting: 1, contiguity of territory; 2, compactness of territory; and 3, substantial equality of population. These standards, however, proved to be ineffective in bringing about any degree of uniformity in the districting by the states. The failure seems to have stemmed largely from the lack or unwillingness on the part of. congress to provide adequate enforcement procedures during these years.

I will skip page 2, and I wish to point out on page 3, citation 7:

> No categorical answer may be given to the question whether congress has power to set aside a state districting act or to define the boundaries of districts. Congress so far has not attempted to exercise any such power. Neither are there any judicial precedents for testing the possibility that this might be done, at least negatively by judicial remedies.

Thus it appears that as of today there are no immediate adequate remedies available for the failure of a state to apportion its congressional districts equitably. The most satisfactory solution of the problem, authorities agree, is "an aggressive public opinion" which will "force the state legislature to take proper action."

In this connection, it would be constitutionally proper for a state constitutional convention to place in the state constitution a provision imposing upon the legislature a requirement to create congressional districts as nearly as possible in accordance with the standards of contiguity, compactness and reasonable equality as fixed by the older standards of federal law. Such a constitutional provision might well allow enough leeway to the legislature to enable it, in districting the state, to insure that no incumbent congressman would suddenly be dispossessed except where that proves absolutely necessary, and to maintain some stability in the political balance of the state. These standards appear to be compatible with and in the best interests of representative government.

I wish to make this statement and quote from the governor's veto message on congressional reapportionment:

> There is no more important matter to be dealt with by the people of a democracy, and consequently by their elected representatives, than that of equal representation in the councils of popular government. Enrolled senate bill 1007 and the arguments that have been presented in behalf of it are unworthy of the crucial public question at stake.
>
> The suggestion that there is some imaginary relationship between the geographical size of a congressional district and the quality of representation afforded by its elected congressman is without basis in fact.
>
> Underlying the arguments presented in behalf of senate bill 1007 has been the implied rule that congressional redistricting must be accomplished in the manner desired by incumbent congressmen. This is a dangerous implication which threatens the foundation of democratic representation. Redistricting is a function of the people. We cannot preserve the basic right of the people to govern themselves if the whole process of redistricting is perceived to be for the benefit of incumbent officeholders.
>
> I cannot believe that incumbent Michigan congressmen place a higher value on retaining their offices than on insuring the people fair and equal representation in the house of representatives.

I yield now to Delegate Downs.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, I wish to speak in favor of the minority report amendment. Michigan has the unusual distinction of having one of the congressional districts with the largest population in the United States, and one with the smallest.

The question of need often arises on this floor. Our history has shown that in order to get congressional districts so each vote is equal, we need to have some protection in the constitution. This will provide that. It provides it on a reasonable basis. And we urge those who have talked about having the Michigan legislature like the national one, with one house on population, that we at least, as a very minimum, get congressional districts that are equal in population, as was the intent of the founding fathers. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I support the concept of area sovereign unit representation in the United States senate. But I feel strongly that the house of representatives should represent people. Here on this floor I opposed preferential treatment for Kent county in our Michigan senate apportionment plan, and I strongly oppose any such plan as this which will preserve in our constitution any such blatant discrimination as would permit for all time one area of our state to be entitled to one representative. I fully realize that the minority party here may be the majority party there, but this is the sort of thing which I think has no place in our constitution, and for that reason I would have to be opposed to it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from East Lansing, Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, members of the committee, I recognize that everyone is anxious to proceed with their work and not very anxious to spend much time on this matter. You will recall that when we were talking about legislative apportionment there was discussion at that time with reference to the districting for the federal house of representatives. Mr. Hodges proposed an amendment, and he was assured by the president of this convention that at an appropriate time this would be given attention by the convention. This has been designated as the appropriate time.

I commented at the time, in the little green books that were distributed — you will recall the book that looks like this; and you have one of them on your desk — there is a map which shows the congressional districting of this state, with the populations of the 18 districts which we now have. Every citizen of this state is aware of the difficulties the state legislature has been having in trying to come up with a redistricting of the congressional districts. They have proposed 2 or 3 measures, none of them adequate. And I should like to say — and I'm not talking now for the committee on legislative organization, I'm only talking for myself — that I think it is as unrealistic to expect the legislature to apportion seats in the house of representatives on a population basis as it is to expect them to redistrict the state for seats in the legislature.

I would only like to point out, if you look at this map, what the situation is as of now. You will find there the districts, all listed, with the populations. The state is now entitled to a nineteenth representative. And I should just like to call to your attention that as of now Wayne district 16 has 802,000 people.

If you divide the population of Michigan, 7,823,000 by 19, you come up with a quotient of 411,535. If these congressional districts were apportioned equitably, they would be apportioned as nearly as possible with 411,000 in each congressional district, plus or minus a few to make it possible to adhere to county lines, or city or township lines within the counties which have more than one, which of course is only Wayne county. But I point out that Wayne 16, with 802,000 people, has almost twice an entitlement. They have 391,000 people more than a share. Oakland has 279,000 people more than a congressional district should have. The thumb district has 250,000 more. That's district 7. District 6 has 212,000 too many.

At the other side, the other end, in the upper peninsula, western district 12 is short 234,000 people. The other U.P. district that runs down into the northern end of the lower peninsula is short 171,000 people. And then Wayne 13 is short 143,000; Wayne 1 is short 128,000; and Wayne 10 is short 103,000.

Now, any scheme that proposes to redistrict congressional seats must take into consideration the vast inequities in the city of Detroit or in Wayne county. Can anyone in this convention contend that there is any equity at all in Wayne county, with 6 districts running in size from 268,000 to 802,000? Can we say we just aren't going to do anything about that?

Now, this amendment that Mr. Downs has proposed gives the legislature the opportunity to redistrict the state if they want to. And this would provide, as of now, that they would have until the middle of 1963 which is 3 years after the census is taken. This provides that no one does anything about it until 1963 or 1973 or 1983, after the legislature has had plenty of time to act. Then, if they fail to act, it provides that this responsibility should be assigned to the apportionment commission. This is one way it could be done.

If you want to give the legislature an additional opportunity, you can suggest or you can write into the constitution the proviso that the apportionment commission shall come up with a districting and propose it to the legislature.

The only point I want to make is just because we are in a hurry, we shouldn't pass this one over lightly. Nor should we be unduly concerned because every congressman in Washington wants to be sure that you don't change the districts, and they have put pressure on some of you and on me to say that this isn't the business of the constitutional convention, that this is the forte of the legislature, and nothing should happen to upset it.

Well, the legislature hasn't acted. They aren't likely to act. We are apparently going to elect a congressman at large. And then maybe sometime later they'll come up with some kind of a scheme that some governor will approve, making a little readjustment here and there, but this is not going to be adequate. So I urge, in spite of your haste to get on with your work, that you give serious consideration to this amendment. And unless there are amendments that will perfect it, I expect to vote for it.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: I believe Mr. Downs has a question he would like to ask first.

CHAIRMAN BENTLEY: The gentleman from Detroit.

MR. DOWNS: Mr. Chairman, Delegate King convinced me by his statement that there should not be specific area reference, and if the other cosponsors of this would be agreeable, I would like to withdraw the last sentence of the first paragraph, which was the portion that I believe was offensive to Delegate King, and I believe it would then be an even more consistent document.

CHAIRMAN BENTLEY: The gentleman withdraws the last sentence of the first paragraph, beginning in line 9, "Notwithstanding the above provisions with respect to the population required for each district, the population comprising the upper peninsula of the state of Michigan shall be entitled to elect one representative to the house of representatives in the congress of the United States." Is that correct?

MR. DOWNS: Yes.

CHAIRMAN BENTLEY: The amendment is so revised. The gentleman from St. Louis.

MR. HOXIE: Mr. Chairman, fellow delegates, I would like to state to the committee that we had this before our committee. We discussed it thoroughly. It was assigned to Mr. Millard, and I would like to have a report from him at this time.

CHAIRMAN BENTLEY: The gentleman from Flint, Mr. Millard.

MR. MILLARD: Mr. Chairman, members of the committee, Mr. Lesinski has given somewhat of a history of the provisions of congress to allocate itself, its members. Dr. Hannah has taken our time talking about numbers. I feel that the numbers haven't anything to do with this, because it's purely a question of where the power lies. I think that this amendment which is before you is strictly out of line, because it puts the power in places where it should not be.

The constitution of the United States conferred upon congress the exclusive authority to secure fair representation by the states in the popular house and left to the U.S. house of representatives the determination of whether states have fulfilled their responsibility. I would like to read article 1, section 4 of the United States constitution:

> The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

I think it is very important to keep in our minds the fact that congress has given to the state legislature the right to apportion the representatives going from that state.

The annotations to this section of the United States constitution, as set forth on page 171, paragraph 43 of the rules and manual of the United States house of representatives, include the following significant statement:

> It has been argued generally that the legislature derives the power therein discussed from the federal and not the state constitution, and therefore that the state constitution might not in this respect control the state legislature.

Article 1, section 5 of the U.S. constitution further provides, "Each house shall be the judge of the elections, returns and qualifications of its own members. . . ."

It is clear that the authority of a legislature to enact laws relating to congressional districting and redistricting is derived from the United States constitution and from the laws of congress, and not from the state constitution.

There exists a long history of legislation by congress specifying methods and standards by which the state legislatures shall accomplish congressional districting and redistricting. There are statutes of 1842, 1850, 1862, 1872, 1911 and 1929. Under the apportionment act of June 18, 1929, as amended by the act of April 25, 1940, and further amended by the act of November 15, 1941, an automatic reapportionment of the 435 seats in the house of representatives following the eighteenth — 1960 — census gave Michigan an additional seat — formerly 18, now 19 — beginning with the eighty-eighth congress convening in January, 1963.

For a long period, beginning in 1842 and extending until 1922 — with the exception of a 10 year period following 1852 — the congress in each apportionment act required representatives to be chosen from single member districts of compact and contiguous territory and containing as nearly as practicable an equal number of inhabitants. In enacting legislation on the subject in 1929, cited above, congress omitted these standards to guide the state legislatures. The United States supreme court on October 18, 1932, ruled that insofar as federal legislation setting up standards is concerned, none now exist. In the case of Wood v. Broom, 287 U.S., page 1, the court said:

> There is thus no ground for the conclusion that the act of 1929 reenacted or made applicable to new districts the requirements of the act of 1911. That act in this respect was left as it had stood, and the requirements it had contained as to the compactness, contiguity and equality in population of districts, did not outlast the apportionment to which they related.

Although there is presently no federal law as to standards of redistricting, the house of representatives could be the final authority on a state redistricting law, under its power to judge the elections, returns and qualifications of its members.

Like the great majority of states, Michigan has no provision in its present constitution relating to congressional districting. There are a few states which have some reference to this subject, and typical of this provision is the Colorado state constitution, "When a new apportionment is made by congress, the general assembly shall divide the state into districts accordingly."

Since it is clear that the U.S. congress has exclusive jurisdiction in this field, and is likely from time to time to change and amend its laws, it would not be wise policy for a constitutional convention to attempt to legislate on this subject in the state constitution. It is my contention that this proposed amendment is legislation. It sets forth conditions which were not even in the law which has gone out of existence because of being repealed by the congress.

I'm glad that Mr. Downs finally found that the one condition in there would probably nullify the whole act, and I think that the 15 per cent provision in there would nullify it also. As I stated before, the United States constitution gives this power of redistricting to the state legislature, and I don't believe that we as a constitutional convention have the right and the power to delegate that authority to a board of canvassers or to an apportionment commission which has been suggested in this amendment. I therefore urge you to leave the redistricting where it is, where it has always been, and to vote no on this amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Muskegon, Mr. William Hanna.

MR. W. F. HANNA: Ladies and gentlemen, I think there are several questions to be answered in this field, part of which were discussed by Delegate Millard and partly by other delegates. The first question that must be answered is whether or not the federal law in any way, through its constitution or the federal statutes, providing for the allocation of congressmen to the several states prohibits the state constitution from setting a standard as to how these districts shall be measured.

I think a thorough examination of the federal statutes and the federal constitution would in no way indicate that there is a federal prohibition against the people of a given state to set, by constitution or referendum, a standard to be applied to congressional districts. And we have seen that out of the 50 states a number have set definite standards.

It is interesting, as I made a study of this, to find that the Virginia constitution provides simply for a 2 house legislature, a senate and a house of delegates, and it says nothing as to how they will be apportioned. It arrives at no complicated formulas, and yet has a well apportioned legislature by any test. But it is very careful to provide that congressional districts will be contiguous, compact and contain as nearly as practicable an equal number of inhabitants. I think this should amaze us. I think it is safe to say that no one has ever challenged the laws of congress or the apportionment or the districting in Virginia because of the state constitution.

And while Mr. Millard makes the charge that the federal government has usurped this field, I do not believe that this is borne out to the point that the states cannot act in this field and cannot act through their constitution in setting certain standards.

Now, analyzing the federal law as it does exist, however, in light of the Downs proposed amendment, I think there is a problem in that the federal law clearly vests this power in the legislature, and his second paragraph provides that if the legislature should fail to apportion, then the state board of canvassers can apportion. Or if we take the other amendment proposed by Mr. Hodges, he proposes that the apportionment commission submit a plan to the legislature, which would require a 2/3 vote of each house to reject it. I submit to you that both of these plans before us are defective in the attempt to circumscribe federal law by giving it to the legislature.

Now, that then raises a question which should be in our minds, that if we see fit to set a standard in our state constitution, and if the only people that we can give this prerogative to is the legislature, what means do we have to enforce apportionment of congressional districts? If we cannot, as we did in '52, provide that if the legislature shall fail to act, we give it to the board of canvassers; or if we cannot give it to an independent commission, as the legislative organization committee provided, what power do we have to force the legislature to act?

I think there are 2 things that might be done if we see fit to act. One is that the apportionment commission could submit a proposed districting plan to the legislature, asking for its adoption by the legislature, and the force of public opinion, if such apportionment plan or districting plan were fair, would be a tremendous pressure upon the legislature so to act. We have seen in the past history of Michigan that when the governor has specifically proposed an apportionment plan that is fair, and not political, and has brought public pressure to bear upon the legislature, that at the subsequent session of the legislature the legislature has enacted a reasonably fair apportionment.

Now, we can certainly go that far. What if the legislature still fails to act? If it is true, as I interpret the law, that you cannot take it away from the legislature, can you impose a penalty? An examination of a number of state constitutions as providing for legislative penalties if the legislature fails to act in the field of apportionment would indicate that we can provide that if the legislature shall fail to apportion according to the standard of our Michigan constitution, the congressman will be elected at large. This type of penalty has been sufficient to secure districting of state legislatures and congressional districts and has been especially effective in our sister state of Illinois. I see nothing in the federal law that would prevent such a penalty, and it would clearly comply with federal law and the federal constitution.

I think, in addition, the minority report amendment would have to have included in it language that would provide that if, subsequent to the adoption of this constitution, the federal law would provide more restrictive standards, that the federal law, insofar as it was more restrictive, would supersede the state law. Having gotten to this point, I ask the sponsors of either the Downs-Lesinski-Murphy amendment or the Hodges amendment to so amend their amendments, if possible, to comply with this analysis of federal law.

Now, there is a further problem. I'm worried about it only because I know Mr. Downs' philosophy. The requirement of a deviation of not more than 15 per cent is, as far as I can see, practical within county lines. I know that Mr. Downs has no great love or respect for county lines, at least not the love nor respect that I have for county lines, and it comes from a study of this problem and discussing it with outstate members of both parties, that to require somebody to run in an area that has no relationship as far as political organization to our other existing political organizations — and outstate this means along county lines — will cause political havoc. And I would ask Mr. Downs, specifically, if he intended or if he would consider that before this is put to a vote, we perfect it by requiring that insofar as possible districts comprising a single county or one or more counties follow county lines and we not carve up counties in creating congressional districts unless that county in and of itself would fairly be entitled to 2 or more congressional districts.

I believe, personally, that this is an essential problem; that we have the jurisdiction, and that we should not cloud it with the question of whether or not we have the jurisdiction; but we should face our responsibility and decide here and now whether or not we are going to set standards in the Michigan constitution that congressional districts be on population as nearly as possible, along county lines.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bessemer, Mr. Pellow.

MR. PELLOW: Mr. Chairman, ladies and gentlemen of the committee, I rise at this time in opposition to this amendment. I am somewhat surprised at this time that the chairman of the legislative organization committee can stand up here now and talk about equality for congressional districts, and yet when we were talking about the state senate, then there necessarily had to be an area factor.

Now, I would say this, also: that not all of the Democrats are in favor of a congressional redistricting of the state of Michigan. In fact, the Gogebic county Democratic committee, of which I'm a member, went on record, sending a telegram to Governor Swainson, opposing the loss of the twelfth congressional district to the people of the upper peninsula. I say to this body that the only hope that the people of the upper peninsula have left is through their congressional representation, since we cannot get anything from the presently malapportioned state senate. And since this body does not want to correct the situation all the way, I don't believe at this time that we should start to get self righteous and get up here and proclaim that now we should have equality of representation.

I think the point has also been made, and made very well, that this is a matter for the legislature. And if this body wants to stay in session long enough to do all of the legislature's work, then that is one thing. But I do not think that is the purpose of this body.

At this time I would like to read into the record a letter from Congressman John B. Bennett, dated December 27, 1961, addressed:

Honorable Paul C. Younger
The Senate
State of Michigan
Lansing, Michigan

Dear Senator:

Thank you for your letter of December 21 enclosing a proposed bill by the senate interim committee on congressional reapportionment for the state of Michigan.

I am not in a position to comment on the committee's recommendations except its proposal to consolidate the present eleventh and twelfth congressional districts. In my opinion, this particular proposal is absurd and ridiculous and in complete disregard for the welfare of the people who would be vitally concerned.

To consolidate the eleventh and twelfth districts would establish a new district whose size in area would comprise approximately ½ of the total area of the entire state. I recognize that the northern part of the state — particularly the upper peninsula — is more sparsely settled than the areas in the middle and the lower parts of the state. But certainly, population in and of itself is not the only factor to be considered in reapportionment. It would be a virtual impossibility for one member of congress to adequately serve the people of the eleventh and twelfth districts. The mail that comes into my office daily from the twelfth district at least equals and probably exceeds the mail from most other districts in the country. Furthermore, it would take a member of congress several months each year to even make a casual contact with the people in 24 counties. I do not know whether you or your committee have ever traveled north of Grand Rapids. But if you could find the time to make an automobile trip through the 24 counties you want to put into one district, I think you would revise your thinking.

I am also sure you will agree with me that the people in the 24 counties you want to consolidate are entitled to the same type of representation in congress that is given to the remaining districts in the state. This would be an utter impossibility under the suggestion you have made.

I would appreciate it if this letter could be made a part of the record of your hearings on this proposed legislation.

I think this letter is applicable to this particular amendment.

I would also like to point out to the members of the committee of the whole that Texas has the second smallest representative district, and that is where the late Speaker Rayburn was from. So I don't think that we have a unique situation here when the upper peninsula has 2 congressmen, and one congressman, for the eleventh district, serves part of the lower peninsula. After all, southeastern Michigan is going to get another congressman. At least, let us have what we have left. Thank you. (applause)

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I don't believe that many votes are going to be changed, and as soon as the vote is taken on this it is the expectation that the committee will rise. I know that many have commitments for this evening, so if there aren't any amendments, and somebody doesn't feel the urge to speak, let's dispose of it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Harrisville, Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, I think the careful study reflected by Mr. William Hanna's remarks here has indicated something that is of utmost importance to us. This amendment not merely undertakes to make it specifically the duty of the legislature to perform a redistricting of the congressional districts, but it proposes to lay down the rules by which that redistricting shall be made and the procedure that is to be followed. I think we need, in this connection, to remember further that whatever might be true at some other time, at this time we have to face the fact realistically that this whole matter is in a state of uncertainty and of flux by reason of the decision in the Tennessee case, just a week or two ago.

This amendment brings before us again the one man, one vote idea in connection with apportionment. It's difficult enough to determine what procedure and regulations should be adopted for the organization of our legislature in this present situation, but the circumstances force that duty upon us, regardless of anything else; but they do not force us to burden ourselves at this particular time to take on the additional load of going into a field primarily of federal authority.

There was a time when the federal statute stated that congressional districts should be apportioned on a basis of being compact and contiguous and as nearly equal in population as was practicable. But as the supreme court pointed out in the case that has already been referred to in 1932, the 1929 act eliminated that requirement, and that is an indication that in the judgment of congress population was not to be the sole factor, or even the controlling factor. And I suggest to you that if in connection with the federal congress any consideration is to be given to anything else except population in apportionment, the only place in which it can be done is the house of representatives, because it cannot be done in the senate.

Now we are asked to adopt this amendment which lays down a hard and fast rule of no more than a 15 per cent deviation from exact equality of population, and without knowing whether or not the future decisions of the supreme court are going to make that necessary. I suggest, members of the committee, that regardless of any other consideration, we have at this time no sufficient guidance to enable us to determine what the rules should be. We simply have to wait for further decisions in which the supreme court of this state or of the United States will give us that guidance; will give the people of Michigan that guidance; will determine whether or not population is to be the controlling factor, the sole factor, or what other factors may be considered along with it.

For that reason I think we would be making a grave error in attempting at this time to write into the constitution the specifications that should be followed. And I think there would be grave doubt as to the constitutionality of any attempt to take away from the legislature, or from the people themselves, the right to make this decision and to confer that responsibility upon some other board.

Another question that we need to consider is the effect on the people's response to including this in our constitution under present conditions. It seems to me that the people of Michigan appreciate that at this particular moment it is advisable for them to wait and see, until these lines and specifications are more definitely stated. We can't solve all of the problems of the future in this convention. We have to leave something for the future to determine. In spite of all of our hopes for the product that we may be hammering out here, we can be assured that within 10 years, or possibly within 5, the people will find it necessary to amend the constitution as we present it, in case they should adopt it. And I think they would concur with the idea that at this time, and in a hurry, with all the uncertainty there is in the air as to what the rules will be, it would be a mistake to attempt to lay down ironclad and hard rules by which to attempt to solve this problem.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from — for what purpose does the gentleman rise?

MR. DOWNS: I rise for a preferential motion, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. DOWNS: I move this item be put over to a time certain, 8:30 Monday night.

CHAIRMAN BENTLEY: The question is on the motion. The gentleman from St. Louis.

MR. HOXIE: Mr. Chairman and fellow delegates, we have debated now for at least 1½ hours on this question. I think everybody knows how they are going to vote. I suggest we proceed to vote and dispose of the matter and adjourn.

CHAIRMAN BENTLEY: The question is on the motion by the gentleman from Detroit, Mr. Downs, which the secretary will repeat.

SECRETARY CHASE: The motion by Mr. Downs is that consideration of this particular amendment and proposal be postponed until Monday evening at 8:30.

MR. HOXIE: I request a division.

CHAIRMAN BENTLEY: Division is requested. Is it supported? A sufficient number. Those in favor of the Downs motion will vote aye. Those opposed will vote no. The board will be cleared, please.

MR. MARTIN: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Martin.

MR. MARTIN: May I inquire whether there are others who wish to be heard on this matter?

CHAIRMAN BENTLEY: There are 5 speakers on the list.

MR. MARTIN: Then it seems to me that it is essential that they have an opportunity to be heard. The complications I understand that are arising are that we are about to adjourn for tonight, and we are advancing the time to come back on Monday, which is going to create complications for many of us who want to be here when this is voted on. So that it seems to me desirable, if we are going to adjourn now, that we not take this up until, say, 8:30 Monday night.

CHAIRMAN BENTLEY: Those in favor of the Downs motion will vote aye. Those opposed will vote no.

MR. DOWNS: Point of information. Would you repeat the motion? I wanted Delegate Martin to know that the motion was to postpone until 8:30 Monday night.

MR. MARTIN: I understood that.

CHAIRMAN BENTLEY: Those in favor of the Downs motion will vote aye. Those opposed will vote no. If you have all voted, the machine will be locked.

SECRETARY CHASE: On the motion to postpone, the yeas are 49; the nays are 67.

CHAIRMAN BENTLEY: The motion does not prevail. The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I suppose each delegate to the convention thinks that the minority report he has cosponsored, or the majority, as the case may be, is the most important item before the convention and that people should put everything else aside. I confess that I consider this one of the main issues before this body. I know it is late in the day. I had hoped that we could wait until a more favorable time to discuss it.

The question I ask my good friends, Judge Dehnke and others, who say, "Do nothing," is "Where do we get equity?" We have waited for years and for decades for the legislature to act on this matter and the legislature has not acted. Each day we delay we do not have a static situation, we have a situation where more and more people move into the industrial areas; and as each person moves into that industrial area, those of us who welcome our neighbors must realize that as each one moves in he is diluting the vote of each one of us because there is not apportionment. Now, as to the remedy on this, the merits on it, the equities, I believe everybody favors the idea, and at least does more than pay lip service to it, that basically in congressional districts we should have one man, one vote.

Technical questions have been raised, and I assume not to put sand in the eyes, and those can be met. I have 2 amendments I will be glad to put in if they will satisfy my good friend, Bill Hanna. One is on the matter of county lines. The amendment would be — and I can draw it up in a few minutes, and I want to see if Delegate Bill Hanna will agree — that "county lines shall not be divided unless necessary to meet the 15 per cent formula." That one sentence amendment would show that our intent is not to violate the age old county lines, but is to preserve them, unless they counteract the formula, and then while we respect county lines, we do not make sacred cows of them. I would be willing to do this, and I'm sure the cosponsors would, too.

The other question that has been raised is a legal one, a constitutional one. We are told: leave it up to the legislature; they have the constitutional authority. Granted they do. But I just call my jurist's and both my attorney and my nonattorney friends' attention to the 3 page green sheet that I had the research department prepare, and I will not bore you by reading it. But the emphasis in this is on the most recent case, in Tennessee, the Baker vs. Carr case. The court went to great length to show that the Colegrove case had not been construed as the court is now construing it. I'll just quote one sentence from page 46:

> No constitutional questions, including the question whether voters have a judicially enforceable constitutional right to vote at elections of congressmen from districts of equal population, were decided in Colegrove.

I will not go into details, but simply say that I believe that Baker v. Carr, in the thrust of the supreme court decisions, is to encourage and sanctify those things which develop the mechanics of getting equality of votes.

But I could be wrong on the legal interpretation. And it may be that my friend, Bill Hanna, is wrong when he suggests we go from the legislative to election at large. That is a drastic remedy. His proposition would be that if the legislature does not make the apportionment on a population basis, then the next election would be, in Michigan's case, 19 congressmen at large. I believe constitutionally we can take the intermediate step of saying if the legislature does not act, the apportionment commission or board of canvassers can, subject to court review and mandamus.

I do not know which of us is right, but I have a second amendment; and this amendment, I believe, Delegate Hanna, permits us to eat our cake and have it too. This amendment says, "If this paragraph" — and that refers to the second one, Delegate Hanna, and with the permission of the Chair I will try to dictate this very slowly; it is one sentence — "If this paragraph is found unconstitutional, congressmen shall be elected at large if the legislature has not met the standards of this section."

I believe that language would provide that if I am wrong and Delegate Hanna is right, we would go directly from the legislative operation into congressmen at large. If, on the other hand, the court would find that Delegate Hanna was wrong — which is inconceivable — and I were right, then there would be that intermediate stage between the legislative action and election at large. I would request those 2 revisions if that will answer the technical questions that have been raised.

I again urge support of the concept of congressional districts on a population basis, and I ask any critics, if they do not go along with this: where, or where are we to find our relief and our remedy?

[Mr. Downs, without objection of Messrs. Lesinski and Murphy, revised the amendment at the end of the first paragraph by adding: "County lines shall not be crossed unless it is necessary to preserve the 15 per cent provision contained herein."; and at the end of the second paragraph by inserting: "If this paragraph is found unconstitutional, congressmen shall be elected at large if the legislature has not met the standards of this section.".]

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bloomfield Hills, Mr. Romney.

MR. ROMNEY: Mr. Chairman, I am not certain I understand the present provisions of this amendment now. I don't know whether the revisions just made by Mr. Downs are a part of the amendment or not. Are they?

CHAIRMAN BENTLEY: They are.

MR. ROMNEY: Well, I rose for this purpose, Mr. Chairman: I rose to suggest a division on the amendment between the first paragraph and the second paragraph. It seems to me that the first paragraph, which establishes standards, is clearly within our right as a state constitutional body, and certainly it seems to me that there is a need for an improvement in the apportionment of the seats in the federal house. On the other hand, the second paragraph has the federal constitutional defects that have already been mentioned. I don't want to elaborate on them. But a division of the question would permit a more exact expression of viewpoint, and I therefore propose a division of the question.

CHAIRMAN BENTLEY: The question will be divided as requested. The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, at the time Delegate Hoxie made his statement that he thought everything had been said on this issue that could be said and that he felt it was time that we should vote, I was inclined to agree with him. But, after listening to some of the discussion, I feel that I, too, would like to say a few words in support of the minority report amendment.

If you will note, throughout the afternoon very few of the minority party in this convention spoke on the floor of this convention. This did not just happen. We knew that there was pressure here to finish this article today, even to the extent of possibly coming back tonight. So this afternoon we were trying to avoid taking up too much time, and it was the majority party who dominated the discussion here this afternoon. And I must say, after listening to a great many of the majority party people speak, I think I have heard just about everything.

Now, the erstwhile militant proponents of states' rights and valiant resisters to confiscatory federal encroachment have now become champions of the exclusive jurisdiction of the U. S. congress and supreme court of the United States as opposed to the state legislatures in the matter of the reapportionment of congressional seats. I agree with the distinguished delegate, Delegate Millard from Flint, that the question before us — and I believe I quote him correctly — is one of "where the power lies," in the people or in area.

Now, we have already adopted an apportionment plan through the state senate and state legislature. In my considered and humble judgment it does not provide true population apportionment. Now, are we to be denied the one man, one vote principle in the apportionment of the congressional seats? I think not. And I would call upon those who constantly talk about the encroachment of the federal government upon states' rights to reappraise some of the statements that have been made here; because now, all of a sudden, this question of apportionment of congressional seats becomes the exclusive jurisdiction of the U. S. congress and the U. S. supreme court.

I support the minority amendment. I think all has been said that can be said on this question, and if I am in order at this time, Mr. Chairman, I would like to ask if there are any more speakers on this question.

CHAIRMAN BENTLEY: The Chair has 4 more speakers listed.

MR. MARSHALL: At this time, Mr. Chairman — I want to state my reasons — because of previous commitments that were made 3 weeks ago which the minority party has committed themselves to, and because of the fact that we are over half an hour late now, I would move at this time that the committee do now rise.

CHAIRMAN BENTLEY: The question is on the motion that the committee shall rise. All those in favor will respond by saying aye. Those opposed. The chair is in doubt.

MR. HOXIE: I ask for a division, Mr. Chairman.

CHAIRMAN BENTLEY: Division is demanded. Is the demand supported? A sufficient number. Those in favor of the motion to rise will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine.

SECRETARY CHASE: On a motion that the committee rise, the yeas are 81; the nays are 35.

CHAIRMAN BENTLEY: The committee will rise.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 117, A** proposal to provide that votes on elections and nominations in the legislature be recorded. It reports this back to the convention without amendment, and with the recommendation that it pass.

PRESIDENT NISBET: **Committee Proposal 117** is accepted and referred to the committee on style and drafting.

For Committee Proposal 117 as referred to the committee on style and drafting, see above, page 2390.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 115,** A proposal to provide that no member of the legislature or state officer shall have a substantial conflict of interest with the state; reports this proposal favorably, with an amendment.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 10, after "legislature" by striking out "may" and inserting "shall further".]

PRESIDENT NISBET: **Committee Proposal 115,** as amended, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 115 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. No member of the legislature or state officer shall be interested directly or indirectly in any contract with the state or any subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 116, A** proposal to provide time and place of legislative sessions and that bills and resolutions pending at the end of a session shall be considered introduced at the next session; reports this proposal favorably, with amendments.

[The following are the amendments adopted by the committee of the whole:

1. Amend line 7, after "year" by inserting "at 12:00 o'clock noon".

2. Amend page 1, line 12, by striking out "No"; and in line 13, after "session" by striking out the comma and "except that" and inserting "of the same 2 year term and"; and in line 15, after "session" by striking out the balance of the sentence and inserting a period.]

PRESIDENT NISBET: **Committee Proposal 116,** as amended, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 116 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. The legislature shall meet at the seat of government on the second Wednesday in January of each year at 12:00 o'clock noon and each such annual regular session shall adjourn without day, at such time as shall be determined by concurrent resolution, at 12:00 o'clock noon. Business pending in one session of the legislature shall carry over into a later session of the same 2 year term and any bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over to the next regular session.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 102,** A proposal to provide that each house of the legislature may choose its officers, determine its rules, judge qualifications of its members and other matters; it reports this proposal favorably, with an amendment.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, following section a, by inserting 2 new sections to read as follows:

"Sec. b. The legislature may establish such committees as may be necessary for the efficient conduct of its business. Each committee shall keep a recorded roll call vote by yeas and nays upon all action on bills and resolutions taken in the committee. Such vote shall be available to public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal.

Sec. c. There shall be a bipartisan legislative council consisting of such legislators as the legislature shall prescribe. The legislature shall appropriate adequate funds for the council's operations, provide for a staff of the council which shall maintain bill drafting, research and other services for the members of the legislature. The council shall examine from time to time the various laws of the state and recommend to the legislature revision of such laws.".]

PRESIDENT NISBET: **Committee Proposal 102,** as amended, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 102 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected from discharging a committee from the further consideration of any measure. Each house shall judge of the qualifications, elections and returns of its members, and may, with the concurrence of 2/3 of all the members elected, expel a member. The reasons for such expulsion shall be entered upon the journal, with the yeas and nays of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. b. The legislature may establish such committees as may be necessary for the efficient conduct of its business. Each committee shall keep a recorded roll call vote by yeas and nays upon all action on bills and resolutions taken in the committee. Such vote shall be available to public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in advance in the journal.

Sec. c. There shall be a bipartisan legislative council consisting of such legislators as the legislature shall prescribe. The legislature shall appropriate adequate funds for the council's operations, provide for a staff of the council which shall maintain bill drafting, research and other services for the members of the legislature. The council shall examine from time to time the various laws of the state and recommend to the legislature revision of such laws.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 118,** has considered several amendments thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, during the afternoon period I had a conversation with President Nisbet and Mr. Iverson and others and many of the Democratic or minority delegates, as well as the majority, concerning this question of trying to get through with this matter of legislative powers today and the question of a possible night session tonight. I want to make it clear to the convention and to the delegates that we, too, want to get through, and it is not our desire to prolong or to stall in any way.

In talking to President Nisbet and Mr. Iverson — and I might say I received some opposition from some of our own minority party on the thing that we reached an agreement on — and when I say we reached an agreement it doesn't mean that anyone is bound by it, and I certainly want to say this to the minority party in particular, that if any of them feel that they couldn't go along or do not want to go along with this — but it seemed to me, and I agreed with President Nisbet, that we ought to try to finish this as rapidly as possible, in order that we can get through by May 15. If anyone thinks that I want to stay here any longer than is necessary, you're crazy. I want to get out just as badly as the rest of you, and I want to complete the work.

Now, what we talked about — and we can either act on it today or hold it in abeyance until tomorrow, and see what progress we make, and if necessary take action tomorrow afternoon — but I make this as a suggestion: that, if necessary, instead of having a night session that has been talked about tonight, we could return at 3:00 o'clock on Monday for the one day, instead of 6:30 in order to take care of this problem. And I believe, unless I am incorrect, that Mr. Iverson and President Nisbet agreed to this, if we could reach accord on it. I think it makes sense, and I support it, and I ask all of the other delegates, if it's necessary to do this, that we take action tomorrow to come back here at 3:00 o'clock Monday in order to make up and complete the work. Thank you.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President, I wanted to talk about this for a moment, too, particularly before anybody moves that we adjourn, since that is not debatable. I'd like to offer a compromise on this thing. It was announced from the Chair this morning that we would be working tonight, and I, along with several other people here, have made some arrangements on some commitments we had so that we could do this. I discussed this briefly with Mr. Downs, and I would like to propose the following: since the only controversial proposal left in the legislative powers, or at least the one with the minority report, seems to be Committee Proposal 123 on administrative agencies, perhaps we could move that over until tomorrow morning, and come back tonight on a recess until 8:00 o'clock, and finish up these others. Mr. Downs doesn't seem to think this is a bad idea. We would keep the Monday time at 6:30.

People have made plans based on the hours that this convention has set, and every time you get some plan worked out the thing is changed again. We are going to have prolonged sessions next week. If that schedule is any indication, you are going to stay in session each and every night until that particular second reading section is finished. And with this long time, it would seem to me that 6:30 on Monday is not an unreasonable time.

I offer this as a suggestion: that we agree to move Committee Proposal 123 over until tomorrow morning and that we come in on 6:30 on Monday.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, I don't know who is speaking for Delegate Downs at this point — himself, myself, or Delegate Yeager, but apparently I'm not. But let me say this: we will have no problem working this out. I think it's more sensible to come back early on Monday. We will accomplish the same thing.

It is impossible for the minority party, if it is to fulfill its previous engagement planned 3 weeks ago, to return tonight. I ask the delegates to give consideration to this between now and tomorrow, and at this time, Mr. President, I move we adjourn.

PRESIDENT NISBET: The motion will be accepted. We have an announcement to make first.

SECRETARY CHASE: We have the following notices of committee meetings:

The committee on judicial branch will meet in room B tomorrow morning at 8:00 o'clock. Robert J. Danhof, chairman.

The committee on local government will meet tomorrow morning at 8:00 o'clock in room A. Delegates who wish to discuss local government articles are requested to meet with the committee at that time tomorrow morning.

We have the following requests for leave: Mr. Page asks to be excused from tomorrow's session and Monday's session; Mr. Bentley asks to be excused from the latter part of tomorrow morning's session; Mr. Norris asks to be excused from tomorrow morning's session; Mr. Kirk, Mr. Binkowski, Mr. Kelsey, Mr. T. S. Brown and Mr. Ostrow ask to be excused from tomorrow's session; Mr. Karn wishes to be excused from the session of Monday; Mr. Dade requests to be excused from the early part of Monday's session; and Mr. Bonisteel requests to be excused from the sessions of Monday and Tuesday.

PRESIDENT NISBET: Without objection they are excused. The question is on adjournment.

MR. MADAR: Mr. President, you did recognize me awhile ago, and you wrote my name down before Mr. Marshall was recognized the second time.

PRESIDENT NISBET: The question is on adjournment, Mr. Madar. Those in favor will say aye. Opposed, no.

We are adjourned until 9:00 o'clock.

[Whereupon, at 6:15 o'clock p. m., the convention adjourned until 9:00 o'clock a. m., Friday, April 13, 1962.]

ONE HUNDRED TWENTY-FIRST DAY

Friday, April 13, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our own delegates, Mr. Karn. Will you please rise.

MR. KARN: Let us pray. O God, our heavenly Father, we thank thee for the heritage that is ours and for bringing us safely through another night to the responsibilities of a new day.

Give us the courage and the vision, O God, to carry on the discussions of this day with tolerance and understanding of man's needs. Inspire our efforts that we may bring forth a document that will be just, reasonable and acceptable in Thy sight.

As we approach this Easter season, may we be mindful of Thy promise to mankind and may we exemplify Thy teachings in our deliberations for the advancement and welfare of the people of this state.

Hear our prayer, O God, and fill us ever with Thy knowledge and Thy wisdom, as we pray through Jesus Christ, our Lord. Amen.

PRESIDENT NISBET: Thank you, Dan. The **roll call** will be taken by the secretary. All present please vote aye. Have you all recorded your attendance? The secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Mahinske, Mrs. Conklin and Mrs. Hatcher, temporarily, from today's session; and Messrs. J. A. Hannah, Liberato, Sablich and Youngblood, from today's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Binkowski, Bledsoe, T. S. Brown, Mrs. Conklin, Mr. J. A. Hannah, Mrs. Hatcher, Messrs. Howes, Kelsey, Kirk, Liberato, Mahinske, Norris, Ostrow, Page, Pollock, Sablich and Youngblood.

Absent without leave: Messrs. Gust, W. F. Hanna, Hodges, Krolikowski, Marshall, Thomson and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Conklin, Messrs. Wilkowski, Mahinske, Hodges, Krolikowski, Gust, Marshall and J. A. Hannah.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 59 of that committee, reporting back to the convention **Committee Proposal 6,** A proposal to preserve the state's responsibility under sections 20a, 23a, 24, 25 and 26 of article X of the 1908 constitution; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 6 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 60 of that committee, reporting back to the convention **Committee Proposal 36,** A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 36 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 61 of that committee, reporting back to the convention **Committee Proposal 37,** A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 37 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 62 of that committee, reporting back to the convention **Committee Proposal 38,** A proposal with reference to the earmarking of the gas and weight taxes for highway purposes covering the subject matter of article X, section 22 of the 1908 constitution;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 38 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 63 of that committee, reporting back to the convention **Committee Proposal 39,** A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 39 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 64 of that committee, reporting back to the convention **Committee Proposal 49,** A proposal with reference to the borrowing of money by public corporations and bodies;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 49 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 65 of that committee, reporting back to the convention **Committee Proposal 51,** A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 51 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 66 of that committee, reporting back to the convention **Committee Proposal 52,** A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 52 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 67 of that committee, reporting back to the convention **Committee Proposal 55,** A proposal to include article X, section 19 of the 1908 constitution in the new constitution;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 55 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 68 of that committee, reporting back to the convention **Committee Proposal 56,** A proposal to limit the ad valorem taxation of property covering the subject matter of section 21, article X of the 1908 constitution, commonly known as the 15 mill limitation;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 56 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.
Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: No resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention resolve itself into committee of the whole for the further consideration of proposals on general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed no. The motion prevails.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The secretary will announce the present situation.

SECRETARY CHASE: Item 20 on the general orders calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 118,** A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people. Two amendments have been adopted and pursuant to their minority report, Messrs. Downs, Lesinski and Murphy have offered an amendment to insert 2 new paragraphs on page 6, after line 24.

For last previous action by the committee of the whole on Committee Proposal 118, see above, page 2390.

Last evening Mr. Downs had revised the amendment by the addition of a sentence to the first paragraph and another sentence at the end of the second paragraph. This revised amendment has been prepared, and is ready to be projected on the wall. It reads as follows:

1. Amend page 6, after line 24, by inserting 2 new paragraphs to read as follows:

"For the purpose of electing representatives to the house of representatives in the congress of the United States, the state shall be divided into districts corresponding in number with the representatives to which it may be entitled, which districts shall be composed of contiguous territory and be compact. Each district shall contain, as nearly as may be, an equal number of persons, but in no case shall the districts vary in numbers of people more than 15 per cent above or below the ratio of population fixed by congress or the ratio of population determined in the state as a whole by dividing the total population of the state by the number of representatives assigned to it by congress. County lines shall not be crossed unless it is necessary to preserve the 15 per cent provision contained herein.

If the legislature should fail to apportion anew the representatives in congress in accordance with this section within 6 months following January 1, 1963, and every 10 years thereafter, the apportionment commission, within 90 days after the expiration of the 6 months, shall apportion anew such districts in accordance with the provisions of this section and such apportionment shall become effective for the next succeeding fall election. If this paragraph is found unconstitutional, congressmen shall be elected at large if the legislature has not met the standards of this section.".

CHAIRMAN HUTCHINSON: The question is upon the minority report amendment. The Chair will recognize Mr. Richards of Marquette.

MR. L. W. RICHARDS: Mr. Chairman, fellow delegates, I appreciate the opportunity to speak relative to this amendment. In my opening remarks I should say I definitely oppose this amendment. I will try to give my reasons and I hope you concur with my thinking in this matter. I would like to make a preliminary comment relative to the comment made by our good friend, Delegate Marshall, yesterday that he did throttle his minority group and kept them very quiet yesterday afternoon, which I think he should be commended for. If he can continue and insure us this situation will continue to exist, I would suggest one of the leaders of the Republican party concur with Mr. Marshall and endeavor to try to get the Republicans to act accordingly, so we can proceed. Of course, I wouldn't want this to be done until I had finished with my remarks. (laughter)

I want to state that I concur heartily with the comments made in opposition to this amendment yesterday by my good friend and my senatorial delegate, Bill Pellow. Bill said he was in shock at the time he rose to his feet due to the action of the chairman of the committee. The shock to me wasn't quite as great as it was when one of the delegates here whom I have a lot of respect for, for his intelligence, his very able presentation, and up until yesterday, his good judgment — and I refer to my good friend, Tom Downs. They just had an opportunity to flash this on the wall, and the page had hardly had time to place the light on, when Tom stated, "Let's strike that last sentence in the first paragraph." And I see that that last sentence, where there was assurance that we would have a congressman from the U.P., has been stricken. Now, how my good friend Delegate Tom Downs could put this amendment up and in one minute take that sentence out without any disturbance bothers me somewhat, and I'm sure that Mr. Downs will have the answer. Whether that answer will be acceptable, Mr. Downs, I do not know; I doubt it very much. But I hope you will be able to have a reason for that.

I would like to be serious for a few minutes, just to analyze on behalf of the delegates from the U.P. just what you delegates have done for us in the U.P. at the present time. We have been deeply concerned about conditions in Wayne county. I have voted in favor of things that would help and benefit Wayne county, and that has been true about other parts of the lower part of the state. Up until now, I don't believe that any particular consideration or concern has been manifested by any delegate toward the U.P., and this is one chance that you have. You talk about minority groups and civil rights. We are in a minority in the U.P. Let's show the U.P. that you believe in civil rights, and certainly assure us at least a congressman to represent 30 per cent of the area of the state, if you don't think that enough people live up there.

I have been asked: how can you justify all you have up in that area with just some 300,000 people, a lot of stumps and a lot of holes in the ground? I want to call to your attention that the reason for some of those stumps up there and the holes in the ground, my good friends, is due to the fact that a lot of the people in lower Michigan today have derived the benefits from the lumber taken from the trees up there and have left those stumps; and those holes in the ground are from the minerals that have been taken. I'm sure that the iron ore has helped to allow you to drive around in your cars which are made of steel.

If you are sincere — one of our good delegates brought up the chance or the possibility of the people being hypocritical here. I think by the vote just the other day that we have removed all doubts that there are any hypocrites among us. (laughter) But I'd like to have this confirmed. If you believe in civil rights and if you believe in minority groups, you will vote against this, and I believe this is the only time that you'll ever vote in favor of helping us in the U.P.

We are a part of your state. The state of Michigan goes beyond Wayne county lines, and even the Bay City line. We are a part of you. And I hope that when you state that you are writing a constitution for the welfare of all of the people in the state of Michigan, you will consider us in the upper peninsula. I hope when this vote is taken that this will be completely stricken, and I'll watch this board and vote, and determine whether I can go along with some of the thinking in lower Michigan. Thank you.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, fellow delegates, in consultation with the congressman from the eighth congressional district, James Harvey, I have a letter, and I wish to quote from it in opposition to the revised minority report amendment before us. It is very short, and I quote in part:

> There are now at least 5 separate bills pending before the judiciary committee of the United States house of representatives which, if enacted, would provide different or additional standards and requirements in establishing congressional districts. I think you can understand why I therefore feel it would be a grave mistake for the delegates to adopt the minority report in this regard.

I simply add this to the record for the reason that I think we are treading on something here on which this delegation in this convention has no place to tread. I urge the adoption of the majority report, which deletes anything in relation to congressional apportionment of the districts.

CHAIRMAN HUTCHINSON: Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen of the committee, Mr. Downs yesterday raised a rhetorical question. He said, "Where, oh where, do we find relief?" And this was after he had indicated that he didn't feel that he could seek relief in the state legislature. The constitution of the United States answers Mr. Downs' question. Article 1, section 4, says that congress may at any time by law make or alter such regulations, except as to places of choosing senators. I understand that the majority of the members of the United States congress are members of Mr. Downs' own party, and I think that he would have a group of people that he could talk to and seek relief.

Now, Mr. Marshall has indicated that he felt that to those of us who believe in states' rights, our position that the federal government might take care of this problem is not consistent with our general all over theory of states' rights. Let me remind Mr. Marshall that those of us who do believe in states' rights believe in it to this effect: we say that in those matters that the constitution has not reserved for the federal government, under the tenth amendment, they are reserved to the states. But under article 1, section 4, the federal government has specifically reserved to its own self, to the federal congress, the right to decide these questions. Now, I think there is a good policy reason behind this, and this is what I would like to speak to at this time.

When you are considering an all over, long range policy matter, I would like to submit that the place to have this done is the federal government. And the reason for it is very simple. The members of the United States congress come not from 1 state, but from the 50 states of the union. This being true, it would seem that the very logical place to have an all over policy as to how members of the federal congress should be selected would be that federal body. Let me give you a reason for that, a specific example. Just very recently, during the last year, the state of California has had several new congressmen added to its state. And the legislature in the state of California, controlled incidentally by members of the opposite party, has seen fit to gerrymander those districts so that the city areas — not the suburban areas that have been growing, but the city areas — have received extra disproportionate representation in the federal congress. Now, if we have some states giving disproportionate representation to the cities, and other states giving disproportionate representation to the rural areas, it would seem that the place to handle any problem that may exist is in the federal congress so that we will have a general, all over policy.

I think that it is not proper to write into the constitution of the state of Michigan something which the congress of the United States by statute could circumvent. I think it is not logical. I would therefore oppose writing into the constitution the long, over all policy and leave to the federal government any writing of policy. As indicated by Mr. Leppien in reading a letter from his congressman, there are pending right now in the federal congress 5 bills. The congress of the United States in the past has acted. This is not an area where congress has not seen fit to act. It is an area where they have acted. And I think it is the place to leave it, especially when you consider that what is now on the board in the way of an amendment is a long range policy which affects the United States and not just the state of Michigan.

CHAIRMAN HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. Chairman, I don't want to rehash the various arguments that have been made, but I do want to make a brief statement.

First of all, to quote from the Colegrove v. Green case, which was and still is, in spite of the Tennessee case, the controlling federal court decision on this matter, the majority states this — after quoting the section of the constitution which Mr. Boothby has just recited to you, the court says:

> The short of it is that the constitution has conferred upon congress exclusive —

and I emphasize the word "exclusive" —

> authority to secure fair representation by the states in the popular house and left to that house determination whether states have fulfilled their responsibility. If congress failed in exercising its powers, whereby standards of fairness are offended, the remedy ultimately lies with the people. Whether congress faithfully discharges its duty or not —

and I stress this last sentence —

> the subject has been committed to the exclusive control of congress.

And in that regard, I simply want to say of this amendment on the board that the second sentence in the second paragraph is clearly unconstitutional in attempting to transfer this authority to a separate board other than the legislature and that the first paragraph is completely unnecessary. I think that the legislature is where this is placed by the constitution and that this is where it should be left. For that reason I hope and urge that the Downs-Murphy-Lesinski amendment will be defeated.

CHAIRMAN HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, it has been suggested here that the whole idea of the federal congress demands a one man, one vote principle in the selection of its congressmen. It was earlier suggested by the minority party, with respect to the senate of the state of Michigan, that the idea of the federal senate does not apply to the state of Michigan because of the sovereignty doctrine on the federal level.

Now, if we believe that the sovereignty doctrine is correct and that the states have representation in the senate on the basis of 2 senators for each state and the congressmen shall be selected on the basic of population among the states, then certainly under the sovereignty doctrine, the same doctrine that we say makes the U.S. senate not analogous to the state senate, we cannot say that there is any essential reason for saying that congressmen must be elected on a one man, one vote principle. If we believe in the sovereignty doctrine, we have to say that the states may select their congressmen as they care to; and as a matter of policy there is no necessity from a federal standpoint that these be selected on a straight population basis within the states.

CHAIRMAN HUTCHINSON: Mrs. Butler.

MRS. BUTLER: Mr. Chairman, fellow delegates, I rise to support my colleagues from the upper peninsula, Mr. Pellow and Mr. Richards, and ask you to defeat the Downs amendment.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, in rising to support the amendment before us, I would like to comment on some of the remarks made by Mr. Boothby this morning. Mr. Boothby says that we get relief from congress. He says that's where we get relief. But I call to Mr. Boothby's attention, by remote control, that if congress is malapportioned then we are not going to be able to get relief from congress. And that is the same type of situation we have had in the state legislature. If the body which is to provide the relief in the way of apportionment is itself malapportioned, the tendency is for it to perpetuate its malapportionment. Therefore, you cannot rely upon, for relief, the very body that is becoming more and more malapportioned.

In various magazines and newspapers in the last few months there appeared statistics to show how the house of representatives of the United States is becoming more and more malapportioned, in a manner resembling the state legislatures. Therefore, we cannot expect to get relief there, just as we have not been able to get relief from about 40 of the state legislatures. And I suggest to the delegates that what you are doing with respect to this issue, having to do with the congressional reapportionment, is the same thing as you have done with respect to apportionment of the state legislature. You have failed to act, looked for excuses, and waited for the United States supreme court to get into the business of settling this type of issue. That is precisely what you are requiring in this issue as well. You are not admonishing congress to act. As far as I know, nobody here has sent any letters to his congressman saying: get into the business of acting. Therefore, you are, in effect, urging the other delegates to this convention to send letters, so to speak, to the United States supreme court, asking them to act. That is exactly what you can expect to occur. It seems to me that you simply duck your responsibilities when you require the United States supreme court to settle every issue whatever.

Now, as to the legal merits of the amendment on the wall, it has been argued by a number of delegates that various things in here are unconstitutional because congress has the principal power. The answer to that legal argument is this: if congress should act, it unquestionably would supersede anything we do. But if congress does not act, it cannot supersede anything we do. Therefore, nothing we do here can be illegal until such time as congress decides to act. And, if it does act, it simply supersedes what we do. The point, therefore, is this: there is nothing to prevent us from acting. If we act and congress does not act, we have accomplished something. If we act and congress does act, in addition, we do not impede congress. There is no reason to delay. There is no reason to duck, and I also point out there is no possibility of ducking the issue. If we don't act, somebody else will be asked to act, and they will act; namely, the United States supreme court.

I also want to call the attention of the delegates to this point; suppose congress says and the United States constitution says the legislature of a state shall do the apportionment. I call to the attention of the delegates that unless the Michigan constitution provides for a legislature, there isn't any. And if there isn't any, how does the federal law operate? The point, in other words, is this: no matter what the federal constitution or congress may say, unless we provide the legislature with certain powers, they cannot act. And we do reserve certain powers to the people in connection with initiative and referendum. And if we do, I submit that we can reserve these particular powers that we have before us this morning.

Finally, in closing this brief debate on my part, I would call this remark to the attention of the delegates, as well: in the case of Baker v. Carr, Judge Frankfurter stated in very elegant words that rather than going to the United States supreme court to solve everybody's problems, the correct solution would be — and I quote as closely as I can recall: to sear the consciences of the people. He says that is the way to solve apportionment problems: to sear the consciences of the people. He said: don't ask the supreme court to act; ask yourself to act. That is precisely what we are doing at this point. If this does not succeed, we will have to use the other approach. I therefore believe that we have the opportunity to act, and we should act by adopting this amendment.

CHAIRMAN HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, just a reminder at this point. We have heard a good deal said about the senatorial districts in our state being frozen into the constitution. We have unfrozen those. If we assume for present purposes that we have the right to put something into the constitution on the subject, then this amendment is still objectionable, because it proposes to freeze into the constitution a rigid population requirement before we know what the eventual rules will be as they come down from the courts: 15 per cent above or below the strict quotient developed by dividing the population of the state by the number of congressional districts.

The effect of that you can picture to yourselves when I tell you that on that proviso the eleventh and twelfth districts, including the entire upper peninsula and 9 counties in the lower peninsula, would have to be put together in order to meet the 85 per cent requirement, and still more counties would have to go in if the full 100 per cent is adopted.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I want to express appreciation to the committee for listening to one of my longer than usual talks when we were all tired yesterday afternoon, and I don't plan to make a long talk this morning. In fact, I do feel that about all that can be said on the subject has been said. I don't suggest that after I finish talking we vote. But I do suggest that in the near future we do vote on this.

There are just 2 or 3 points that have been raised that I would like to answer very briefly. The first is on this matter of the constitutionality of acting in this area. And I hoped, after Delegate Bill Hanna raised the question, that the last sentence that was added to the second paragraph would take care of it.

I would like to point out to our eminent attorney, Mr. Martin, who raised this question further, that in Baker v. Carr, the most recent case in this matter, on page 46 is the one sentence:

> No constitutional questions, including the question whether voters have a judicially enforceable constitutional right to vote at elections of congressmen from districts of equal population, were decided in Colegrove.

I believe that a thorough study of Baker v. Carr will make people agree that as a matter of law the thrust of the court decision is to support this concept that we have in the amendment.

I would point out particularly, in answer to my good friend, Judge Dehnke, that the courts have never said that one man, one vote, or a 15 per cent formula, was unconstitutional. They have been very careful in a double negative fashion often to say what they did not approve, without going into the details of what they did approve. I'm referring particularly to the Baker case. Certainly, if the United States congress would preempt this field to the extent of making a 5 per cent formula, that would override what we did in this particular issue. However, the fact that there have been 5 bills introduced doesn't mean any have been passed. There have been bills introduced over a number of years.

From a practical viewpoint, we have the situation where, as I understand it, the opponents of this tell us to go to congress. But a legislature that is not created on a one man, one vote basis establishes congressional districts which are not on a one man, one vote basis, and those congressmen go to Washington, and being human, among other factors, do not vote themselves out of their jobs. So the whole tendency is a vicious circle where, through no individual's wishes, but the whole process, we freeze in the status quo which denies equality of voting.

Finally, to my good friend, Delegate Richards, from the upper peninsula — and I, too, yield to no man in his appreciation of the upper peninsula — I just want to say again that the protection of minorities does not come about by over representing some and under representing others, but by having a bill of rights that protects the minority not of the upper peninsula and not of one county in the upper peninsula or in the lower peninsula, but protects the minority of one individual. That is the minority we protect through our bill of rights, through our due process clauses, through our equal protection clauses, through our separation of powers, and then permit the majority to operate within that framework. From the practical viewpoint, I believe the voting records will generally show that those from industrial areas have supported education, highways, conservation, health facilities and other services that are just as vital to our friends in the upper peninsula as any place else.

I understand now, from a parliamentary viewpoint, that the question has been divided on the 2 paragraphs. I think this does make a clear cut division, the first stating the principle and the second paragraph stating the enforcement technique. I urge support of both, but on the basis that we vote on one at a time, I do think that the first paragraph very clearly states the formula, which is rigid in the concept of putting representation on the basis of people; and the second paragraph has what we consider a practical means of translating that principle into action. Thank you.

CHAIRMAN HUTCHINSON: Mr. Turner.

MR. TURNER: Mr. Chairman,
In all respect to my friend, Tom Downs,
On this plan I'm sure we are out of bounds.
That speech by Richards on the old U. P.
Sure made a lot of sense to me.
So when the voting lights show their head
You'll find that mine is a shiny red.

(applause)

CHAIRMAN HUTCHINSON: The question is on the amendment now offered by Mr. Downs, Mr. Lesinski and Mr. Murphy. The question has been divided. The question is upon the first paragraph of the amendment, as revised. The yeas and nays have been ordered. This is a record roll call vote. All those in favor of the first paragraph of the amendment will vote aye. Those opposed will vote no.

MR. ROMNEY: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Romney.

MR. ROMNEY: I would like to abstain on this vote and state my reasons in writing for the record.

CHAIRMAN HUTCHINSON: All right. Have you all voted? The secretary will lock the machine and record the votes.

The roll was called and the delegates voted as follows:

Yeas—34

Austin
Bradley
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Hart, Miss
Higgs
Hodges
Hood
Jones
King
Lesinski
Madar
Mahinske
McLogan
Murphy
Nord
Snyder
Staiger
Stopczynski
Suzore
Walker
Wilkowski

Ford
Garvin
Greene
McCauley
McGowan, Miss
Woolfenden
Young

Nays—81

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the first paragraph of the minority report amendment, the yeas are 34; the nays are 81.

CHAIRMAN HUTCHINSON: The first paragraph is not adopted.

Following is the statement explaining abstention from voting submitted by Mr. Romney:

> My abstention from voting on the first paragraph of the Downs amendment to Committee Proposal 118, section a, was not because I approve of the present apportioning of the federal house districts. I believe they should be redistricted because their present population spread is excessive.
>
> However, I do not completely concur with the proposed standards.

MR. FORD: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Ford.

MR. FORD: Mr. Chairman, calling the Chair's attention to rule 67 of the convention, I ask, if 5 delegates may request the reasons when a delegate announces his intention to abstain and then says he will give the reason at some later date in writing, if we can request and receive at this time his oral explanation of his reasons for not voting.

CHAIRMAN HUTCHINSON: The last sentence of rule 67 reads as follows, "Upon any announcement of intention to abstain, the delegate making such announcement, upon request of 5 delegates, may be required to state his reasons." It doesn't say that he will be required to state his reasons upon the floor. (laughter)

MR. FORD: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Ford.

MR. FORD: What do you suggest is the alternative to stating the reasons on the floor?

CHAIRMAN HUTCHINSON: He may be compelled to state them on the record.

MR. FORD: And how do you state something on the record quietly and surreptitiously without doing it on the floor?

CHAIRMAN HUTCHINSON: Well, the delegate announced that he was going to submit his reasons in writing. It will be a matter of public record upon the journal of these proceedings.

MR. FORD: Then the only way that we could read this statement of reasons, as delegates, would be to check with the secretary and after it has been filed, ask to have that part of the verbatim record read to us?

CHAIRMAN HUTCHINSON: It will then be a part of the verbatim record. It will be printed in the action journal.

[Mr. Bentley, having been previously granted leave of absence, left the chamber.]

The question occurs upon the second paragraph of the amendment before you. The yeas and nays have been ordered. Mr. Nord.

MR. NORD: Mr. Chairman, now that I see what is left over in the second paragraph, I question whether that can stand by itself. It seems to me that it makes no sense without the first paragraph. That being the case, I also wonder whether it was proper to divide it in the first place. I wonder what the ruling of the Chair is on whether we can even vote on the second paragraph now.

CHAIRMAN HUTCHINSON: The Chair would like to inquire of the proponents, in view of the fact that the wording of the second paragraph is tied in with the wording of the first paragraph, do the proponents wish to withdraw the second paragraph?

MR. DOWNS: I had been so sure of the paragraph passing that we hadn't considered this contingency. Would the Chair permit the proponents to confer for about a minute to see what the others think on this point? Could I have the permission of the Chair to do that?

CHAIRMAN HUTCHINSON: You go ahead and confer. The Chair recognizes Judge Leibrand in the meantime.

MR. LEIBRAND: May I suggest, Mr. Chairman, that Delegate Nord's point of order came too late. He should have pressed it at the time that the question was divided, and not having done so, he has waived it.

CHAIRMAN HUTCHINSON: It is the opinion of the Chair that Judge Leibrand is correct that the point of order did come too late; that the question of division should have been raised at the time that the division was requested. The Chair recognizes Mr. Downs.

MR. DOWNS: I have conferred with the other proponents, and we agree. We respectfully request to withdraw the second paragraph since the first paragraph was defeated, and the second paragraph hinges on the passage of the first.

CHAIRMAN HUTCHINSON: The remainder of the amendment is withdrawn. Mr. Hodges.

MR. HODGES: Mr. Chairman, I have an amendment. The secretary is just finishing typing it. I will bring it to the desk.

CHAIRMAN HUTCHINSON: Are there any further amendments to the body of Committee Proposal 118? Mr. Hodges has an amendment. Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I believe Mr. Hodges had his amendment here the other day, which the chairman ruled was germane. It would appear that this body, in its deliberations, should not be delayed because Mr. Hodges has failed to get it here in time. I would like a ruling from the Chair whether any amendment should be at the desk.

CHAIRMAN HUTCHINSON: Here it comes.

SECRETARY CHASE: Mr. Hodges offers the following amendment:

1. Amend page 6, after line 24, by inserting 2 new paragraphs to read as follows:

"For the purpose of electing representatives to the house of representatives in the congress of the United States, the state shall be divided into districts corresponding in number with the representatives to which it may be entitled, which districts shall be composed of contiguous territory and be compact. Each district shall contain, as nearly as may be, an equal number of persons, but in no case shall the districts vary in numbers of people more than 15 per cent above or below the ratio of population fixed by congress or the ratio of population determined in the state as a whole by dividing the total population of the state by the number of representatives assigned to it by congress. Notwithstanding the above provisions with respect to the population required for each district, the population comprising the upper peninsula of the state of Michigan shall be entitled to elect one representative to the house of representatives in the congress of the United States.

Any plan adopted by the apportionment commission regarding election of representatives to the house of representatives to the congress of the United States shall be submitted to the legislature, which may reject the same by a concurrent resolution of 2/3 of the members elected to each house.".

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Hodges on his amendment.

MR. HODGES: Mr. Chairman and fellow delegates, I believe that my amendment helps meet several of the various questions that were raised on the former amendment. One is that it guarantees the upper peninsula one congressman. And I would submit to those delegates from the upper peninsula that they are going to be farther ahead in the long run accepting this built in guarantee of one congressman than wishfully hoping they can ever retain the 1½ they have now. I'm quite sure that reason dictates that they cannot possibly maintain the 1½.

On the other point — I'm sorry it isn't on the board yet; I hope it will be in a moment — you will note that in the last analysis this does go to the legislature, which meets some of the constitutional questions that have been raised here. This would allow — after the apportioning commission gets done — the legislature, by a 2/3 concurrent vote of both houses, to reject the plan. I think this is a safeguard. It does bring the legislature back into the picture, and in the last analysis they will vote on it, which would be in compliance with the federal statutes, for those that feel this would be necessary. But I submit that those of you who use the federal argument against reapportionment of the state legislature in both houses, talk of patterning it on the federal system, and talk about a house based on population — which we did not achieve in our own legislature — at least when you talked about it in the federal government, you did accede to the idea that the house should be based on population in the federal government.

We know that no legislative body can successfully apportion itself. This has been proved time and time again, not only by the federal house, but also by our own legislature. We saw that it was necessary in our own body to get an apportionment commission to take care of this problem. I submit that there is nothing in my amendment which would be unconstitutional. This would set up the guide lines, and in the last analysis the legislature would have the last say on it. But it would give us what everyone here has at least paid lip service to, a house based on state population. To reject this is to say that you do not believe in the concept that at least one house of our federal government or one house of our legislative body here should be based on population.

Mr. Chairman, I will check again to see if it's possible to get it on the board. If there are any questions, or if anybody doesn't understand it beforehand, I will be glad to answer questions.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Millard on the amendment.

MR. MILLARD: Mr. Chairman and members of the committee, yesterday I spoke at length on the reasons why we should not put anything in regard to the apportionment of congress into our constitution. I'm not going to repeat that argument. I think that the argument applies to this proposed amendment the same as it did to the Downs amendment. I urge a no vote against the Hodges amendment.

CHAIRMAN HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, the previous statutory matter that was on the wall and the substitute statutory matter which is now on the wall is so clearly in contravention of the federal law that there seems to be no reason for spending any more time on it.

CHAIRMAN HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. Chairman, I would submit that there are reports from our research committee, made up of attorneys and respected constitutional authorities, which differ from this view. Dr. Kelley, for one, has a treatise here which was reproduced, in which he feels that this would be constitutional. I suggest that when we get down to it, we better start talking about what we mean and quit making superfluous argument.

If we are here to say that we want a guarantee that there will be retained a certain number of Republican congressmen or a certain number of Democratic congressmen, or any other thing that gets down to the base political motivations behind it, let's argue it on those terms. Let's not use high flowing phrases when we talk about a house based on population, but we won't do anything when it is in our power to do it to guarantee this.

Other constitutions in the United States have mention of congressional districting in them. None of them has ever been challenged. Congress has never said that these were illegal. The courts have never said that these were illegal. Why don't we just say what we mean? If we don't want to do it, let's give the reasons here on the floor, for the record. Let's not use these superfluous arguments of legislative versus constitutionality.

CHAIRMAN HUTCHINSON: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, would Delegate Hodges yield to a question?

CHAIRMAN HUTCHINSON: The Chair recognized you. You have the floor, Mr. King.

MR. KING: I would like to address, through the Chair, a question to Delegate Hodges, Mr. Chairman.

CHAIRMAN HUTCHINSON: You may proceed.

MR. KING: Delegate Hodges, you talk about a concept of population. At the same time you reserve to a certain section of the state the concept of area representation. Now, there was a lot of talk about hyprocrisy here the other day, and I think that maybe the question has been brought up anew. How do you justify this? How in your mind, as a one man, one vote representative, do you account for this? I don't understand it.

MR. HODGES: Mr. Chairman and Mr. King, I recognize a certain continuity to the U. P. I realize that this at one time was separate from the state of Michigan, and I realize that its whole base is one that has differentiated from the rest of the state of Michigan. While its population would not justify one in toto, I think it makes more sense in terms of a congressman being allowed in a contiguous area. This is the only other contiguous area we have, save the lower peninsula itself. I think there can be justifications made for it.

I think it is true, there's no question about it, that this amounts to a certain inconsistency of position. But I think rationalizations and justifications for it can be made. Some of them have been made by the delegates from the U. P. on this floor. I don't think that you could expand this beyond that sole exception.

MR. KING: Mr. Chairman, Mr. Hodges, I guess these are the high sounding phrases you were talking about, and they are certainly impressive, but it seems to me that if you are dealing with principles, and basic principles, as you say you are, this is entirely inconsistent.

I take it that under this provision, if there were only a handful of people left living in the U. P., that one of them would be a congressman; is that right?

MR. HODGES: Well, this would probably match what we have now in several of our other districts in the legislature. But I again reiterate that I think there is a justification for the U. P. as a contiguous area. I don't think we are going to see the day that fewer people live there. It is hopeful that if we can expand the economy of the U. P., it will be built up. I'm not going to say that this makes it straight population. I don't think it's that much off the criteria, considering the uniqueness of the area itself.

MR. KING: Mr. Chairman, thank you. I would just comment, in closing, that I think it all depends upon whose ox is being gored.

CHAIRMAN HUTCHINSON: Mr. Nord.

MR. NORD: Mr. Chairman, I believe I would like to make some comments with respect to the remarks just made by Mr. King, which I assume were meant in all sincerity. I believe, however, that his position, if I'm not mistaken, can be summarized about as follows: if we do provide one seat for the U. P., then he is opposed to that. And if we take it out and do not provide the one seat for the U. P., then he is in favor of that. In other words, I believe he can satisfy his conscience easily because whatever goes on the wall, if it's put up by a Democrat, that is exactly what is wrong.

Now, as to the merits of the situation with respect to the U. P., I personally prefer leaving it out. I think that there should be a population basis. I have pointed out all during the convention, however, that I am not a purist on this subject. For example, I'm not opposed to the plus or minus 15 per cent. That is not a perfect population basis either. Further, I'm not opposed to the concept of contiguity. And in the legislative organization committee this precise question came up, whether or not the upper peninsula is contiguous with any portion whatever of the state of Michigan. And it is not at all certain whether it can ever be claimed that the upper peninsula is contiguous with any part of the state of Michigan at all. It depends on how you define contiguity. If you require contiguity by land, obviously the upper peninsula is not contiguous with any portion of the state. Even if you assume that they can cross over the straits and still be contiguous, the question still remains whether they are contiguous anyway, because there's always the problem of whether contiguity at a point should be counted as contiguity.

In my opinion it is better, if you are going to use the term "contiguity" at all, to insist that contiguity be of such a nature that there is a substantial contact between the 2 parts and not a point contact. A point contact means that there's only an infinitesimal amount of contact between the 2 portions. In this case the upper peninsula is in contact with the rest of the state only by means of a bridge, which is really a point lengthened out so that it is even more narrowly constricted than normal.

Now, the reason for the use of the word "contiguity" in my opinion in any of the apportionment formulas is to make sure there is some substantial flow of people back and forth across the border between the 2 portions that are connected. When you consider the upper peninsula, however, you will find that they are only in contact with each other by means of the bridge, and that bridge is not a free flowing traffic lane, for this reason: it costs $7.50 to cross back and forth. Therefore, whatever portion of the state might be tested for contiguity with any other portion, the upper peninsula is the least contiguous with any other portion of the state.

It seems to me that it is proper, if we choose to, to say that the upper peninsula is not contiguous with any portion of the state. If we say that, the conclusion we have to arrive at is this: we do not require the upper peninsula to cross over the straits to finish up its population quota. That would mean this: if they have any number of people whatever, starting with one, I suppose, that means that they have a fraction of a quota, and if they have a fraction of a quota, normally we would expect them to cross over the straits to finish their quota. But if they are not allowed to cross over the straits because it is not contiguous, they don't have to cross over the straits. Now, on that logic you can come to the conclusion, if you wish, that the upper peninsula is always entitled to one of any type of representation, whether it is a congressman, representative or senator.

I also call to the attention of the delegates that in the 1850 constitution the same question was considered, and it was treated in the following manner: they provided that there should be always a certain guarantee of state senators and state representatives in the upper peninsula. Part of the reason, no doubt, was the same one I have just given. Therefore, I think that the remark that was made by Mr. King that this is a hypocritical view — that it is not possible to be in favor of one man, one vote and at the same time be in favor of guaranteeing one representative or whatever type it may be to the upper peninsula — is not a correct argument. I think it misses the entire point of the analysis that we made in the legislative organization committee at length as to what is contiguous and what is not contiguous. And, as I stated before, I believe that if you wish to knock down an amendment if it's in one form and then knock it down if it's in the other form, that your argument cannot really be taken at face value.

CHAIRMAN HUTCHINSON: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I would just point out that I have supported the area sovereign unit concept in the United States senate, the area population concept in the Michigan senate, the population concept in the house here in Michigan, and the population concept in the house of representatives in Washington. There is no inconsistency in my position. While the good doctor was developing rationalizations for an irrational position, we took a vote and my name appeared on the board and I supported it. Under the circumstances I think that he is quite mistaken.

CHAIRMAN HUTCHINSON: The question is on the amendment offered by Mr. Hodges to Committee Proposal 118.

MR. ROMNEY: Mr. Chairman, I would like to abstain again and submit my reasons in writing.

CHAIRMAN HUTCHINSON: All right. Mr. Hodges.

MR. HODGES: Mr. Chairman, since this is the last chance that we will probably have for a majority vote on anything — we've done away with it in the state senate and the state house — this is the last chance for the majority party to show that they mean what they say when they say they believe that one house should be based on population, and therefore I demand the yeas and nays.

CHAIRMAN HUTCHINSON: The yeas and nays have been demanded. Is the demand supported? The demand is supported. The question is upon the amendment offered by Mr. Hodges to Committee Proposal 118. The yeas and nays have been ordered. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—31

Austin
Barthwell
Bradley
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hodges
Hood
Jones
Lesinski
Madar
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Snyder
Stopczynski
Suzore
Wilkowski
Woolfenden
Young

Nays—83

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hodges, the yeas are 31; the nays are 83.

CHAIRMAN HUTCHINSON: The amendment is not adopted.

Following is the statement explaining abstention from voting submitted by Mr. Romney:

My absention from voting on the Hodges amendment to Committee Proposal 118, section a, was not because I approve of the present apportioning of the federal house districts.

I abstained for the same reason as in the case of the Downs amendment plus the lack of authority for this convention to delegate the redistricting responsibility to the apportionment commission rather than leaving it with the legislature as provided by the federal constitution.

Are there any further amendments to the body of Committee Proposal 118?

SECRETARY CHASE: Mr. Down offers the following amendment:

1. Amend page 6, after line 24, by inserting a new paragraph to read as follows:

"Unless otherwise provided by federal law, congressional districts shall not be less than 85 per cent nor more than 115 per cent of the ratio of representation as the same is determined by dividing the state's population by the number of seats to which it is entitled.".

CHAIRMAN HUTCHINSON: On the amendment, the Chair recognizes Mr. Downs.

MR. DOWNS: Mr. Chairman, I demand the yeas and nays.

CHAIRMAN HUTCHINSON: Mr. Downs demands the yeas and nays on his amendment. Is the demand supported?

MR. MILLARD: Mr. Chairman, point of order.

CHAIRMAN HUTCHINSON: Will the gentleman state the point of order?

MR. MILLARD: I think this same proposition has been voted on twice, and I don't think it is proper to be brought up again.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, rather than raise a fine parliamentary point, I would like to change the figure "85" to "90" and the figure "115" to "110."

CHAIRMAN HUTCHINSON: The amendment is revised, and the yeas and nays are ordered.

[Following is the amendment as revised:

1. Amend page 6, after line 24, by inserting a new paragraph to read as follows:

"Unless otherwise provided by federal law, congressional districts shall not be less than 90 per cent nor more than 110 per cent of the ratio of representation as the same is determined by dividing the state's population by the number of seats to which it is entitled.".]

The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, we did discuss this whole matter very seriously and at great length yesterday afternoon. We have further discussed it this morning. I wish we could impress upon people that this is perhaps the most vital problem affecting not only those of us from urban areas but, we believe, the whole state of Michigan. This one sentence amendment is a bare skeleton of the basis of representation on population. We have left out the enforcement provisions, relying on the principle of the Tennessee case to carry that out.

I think that this answers entirely the arguments of those who raised the question of federal law, such as Delegate Boothby, with the provision there. I believe that it is about as clear cut an expression as can be done. While it doesn't have the same enforcement provisions of the others, the principle is stated; and if we want a constitution with principles I can think of no better principle to put in than this. I urge support of this amendment.

CHAIRMAN HUTCHINSON: Mr. Millard.

MR. MILLARD: Again, for the same reasons, I recommend that the committee vote no on this revised Downs amendment also.

CHAIRMAN HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I would like to move to amend the amendment. It's a very simple amendment, so I don't think it's necessary to write it out, really; but I would change the 90 and 110 to 75 and 125.

CHAIRMAN HUTCHINSON: The question is upon the amendment to the amendment. Mr. Downs.

MR. DOWNS: Mr. Chairman, for the sake of the principle, while I think 75 and 125 is a little large, I will accept that, if it will facilitate the operation of the committee.

CHAIRMAN HUTCHINSON: Mr. Downs accepts the amendment. The amendment, as further revised, now reads 75 to 125.

[Following is the amendment as further revised:

1. Amend page 6, after line 24, by inserting a new paragraph to read as follows:

"Unless otherwise provided by federal law, congressional districts shall not be less than 75 per cent nor more than 125 per cent of the ratio of representation as the same is determined by dividing the state's population by the number of seats to which it is entitled.".]

The question is upon the amendment now offered by Mr. Downs. The yeas and nays have been ordered. Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I think this is the same principle that we voted on before; in effect, the legal authority of this constitutional body to write in a districting system. Now, when you write figures above or below, actually you are establishing districts. I hope you vote no.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Downs. This is a record roll call vote. The yeas and nays have been ordered. All those in favor will vote aye. Those opposed will vote no. Have you all voted?

MR. ROMNEY: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Romney.

MR. ROMNEY: Am I correct in understanding that 75 and 125 have been substituted?

CHAIRMAN HUTCHINSON: That is correct. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—44

Andrus, Miss
Austin
Bradley
Brown, G. E.
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Ford
Garvin
Hart, Miss
Hatch
Higgs
Hodges
Hood
Jones
King
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Rajkovich
Romney
Snyder
Staiger
Stopczynski
Suzore
Walker
Wilkowski
Woolfenden
Young

Nays—71

Allen
Anspach
Balcer
Barthwell
Batchelor
Beaman
Blandford
Boothby
Brake
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Farnsworth
Figy
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
Millard
Mosier
Pellow
Perlich
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Tubbs
Turner
Tweedie

Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Downs, the yeas are 44; the nays are 71.

CHAIRMAN HUTCHINSON: The amendment is not adopted. Are there any further amendments to the body of Committee Proposal 118?

SECRETARY CHASE: Mr. Lesinski offers the following amendment:

1. Amend page 6, following line 24, by inserting a new paragraph to read as follows:

"When the number of representatives to which the state is entitled in the house of the congress of the United States under the census of 1970 and each census thereafter is certified to the governor, the legislature shall by law divide the state into districts corresponding with the number of representatives to which the state is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be.".

CHAIRMAN HUTCHINSON: Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates, you have on your desks a copy with 2 paragraphs added by myself, of a memorandum sent to many delegates here by the greatest unregistered lobby in this convention, your congressman. Now, this memorandum was read as an argument against my proposal in the committee on legislative powers. And on page 3 it refers to 15 states making reference to this matter in their constitution. One of the constitutions that has this wording is the Missouri constitution. I believe that no delegate will object to this language because it is legal.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered. Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, it appears, as I read this amendment, that this would completely carry out the concept of one man, one vote.

CHAIRMAN HUTCHINSON: Mr. Millard.

MR. MILLARD: Mr. Chairman and members of the committee, just glancing at it in the short time that I have, I think this is worse than the other amendment. This requires 100 per cent allocation. I would recommend that everybody vote no on this one. (laughter)

CHAIRMAN HUTCHINSON: Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, I wish to ask for the yeas and nays at this time.

CHAIRMAN HUTCHINSON: Mr. Lesinski demands the yeas and nays. Is the demand supported? The demand is supported. The yeas and nays are ordered. Mr. Lesinski.

MR. LESINSKI: I don't know how this can be wrong, because these are practically the exact words of the Missouri constitution, and this presentation, as I stated before, was read in legislative powers. So I can't understand Mr. Millard's remarks.

CHAIRMAN HUTCHINSON: The question is upon the amendment now offered by Mr. Lesinski. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Mr. Woolfenden, for what purpose does the gentleman rise?

MR. WOOLFENDEN: I wish to abstain from voting, and I would like to state my reasons when it is appropriate.

CHAIRMAN HUTCHINSON: You will be recognized for that purpose.

MR. WOOLFENDEN: I have lost my vote on the last 3 amendments. I think that the —

CHAIRMAN HUTCHINSON: Mr. Woolfenden, the Chair will recognize you to explain your vote after the vote has been recorded.

MR. TUBBS: I wish to announce that I will abstain from voting.

CHAIRMAN HUTCHINSON: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—30

Andrus, Miss
Balcer
Barthwell
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Hart, Miss
Hodges
Hood
Jones
King
Lesinski
Madar
McGowan, Miss
McLogan
Murphy
Nord
Romney
Snyder
Staiger
Stopczynski
Walker
Wilkowski
Young

Nays—77

Allen
Anspach
Batchelor
Beaman
Blandford
Boothby
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
Millard
Mosier
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Lesinski, the yeas are 30; the nays are 77.

CHAIRMAN HUTCHINSON: The amendment is not adopted. The Chair recognizes Mr. Woolfenden for the purpose of explaining his abstention.

MR. WOOLFENDEN: Mr. Chairman, I voted on the side which lost in the 3 previous amendments. I think that the will of the majority of the delegates — and I might also note it is not on party lines — is crystal clear, and I object to continuing amendments which are merely delaying the proceedings of the convention. I certainly hope we can get on to the next order of business.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I abstained from voting partly because I didn't want to vote yes, although it was in the Missouri constitution, and I'm in favor of a lot of things from Missouri. But I was against it in principle; so I refrained.

CHAIRMAN HUTCHINSON: Are there any further amendments to the body of Committee Proposal 118? If not, it will pass.

Committee Proposal 118, as amended, is passed. The secretary will read the next proposal.

SECRETARY CHASE: Item 21 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 119,** A proposal to provide that the legislature shall not pass local acts when general acts can be made applicable and that local acts require a 2/3 vote of the legislature. Amends article V, section 30.

Following is Committee Proposal 119 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. [No local or special act, excepting acts repealing local or special acts in effect January 1, 1909 and receiving a 2/3 vote of the legislature shall take effect until approved by a majority of the electors voting thereon in the district to be affected.] NO LOCAL OR SPECIAL ACT SHALL TAKE EFFECT UNTIL APPROVED BY 2/3 OF THE MEMBERS ELECTED TO EACH HOUSE OF THE LEGISLATURE AND BY A MAJORITY OF THE ELECTORS VOTING THEREON IN THE DISTRICT TO BE AFFECTED. ANY ACT REPEALING LOCAL OR SPECIAL ACTS NOW IN EFFECT SHALL REQUIRE ONLY A MAJORITY OF THE MEMBERS OF EACH HOUSE AND SHALL NOT REQUIRE SUBMISSION TO THE ELECTORS OF SUCH DISTRICT.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 119:

The committee recommends the retention of this section first found in the 1908 constitution. The purpose of the section, along with the home rule provision, is to lift the burden from the legislature of passing private and local legislation.

The only changes recommended are to clear up ambiguous language and to remove a date, now unimportant.

The requirement of a 2/3 vote of both houses and a majority vote in the area affected protects localities against arbitrary action.

By allowing a majority of the legislature to repeal existing local laws, uniformity will be easier to obtain.

CHAIRMAN HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I yield to Delegate Powell for an explanation of this proposal.

CHAIRMAN HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, the committee comment on this proposal is found on page 487 and reads as follows:

[The supporting reasons were read by Mr. Powell. For text, see above.]

I might comment that the latter part of the existing section to which this is a revision was pretty foggy, and I think we have cleared it up in good shape. We would be glad to explain the comment on this at considerable length. Don Habermehl gave it a great deal of thought and study. But it seems to me we are getting quite behind schedule this morning, and unless there are questions, I will subside.

CHAIRMAN HUTCHINSON: Are there any amendments to the body of the proposal? If not, it will pass.

Committee Proposal 119 is passed. The secretary will read the next proposal.

SECRETARY CHASE: Item 22 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 120,** A proposal to provide that a member of the legislature shall not be appointed to certain other offices during the term for which he is elected. Amends article V, section 7.

Following is Committee Proposal 120 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. No person elected a member of the legislature shall receive any civil appointment within this state [or to the senate of the United States] from the governor, except notaries public, [or] from the governor and senate, from the legislature, or FROM any other state authority, during the term for which he is elected. [All such appointments and all votes given for any person so elected for any such office or appointment shall be void. No member of the legislature shall be interested directly or indirectly in any contract with the state or any county thereof, authorized by any law passed during the time for which he is elected, nor for 1 year thereafter.]

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 120:

The committee recommends that the provision preventing the civil appointment of a legislator be retained with one change. The prohibition against appointment to the United States senate is deleted. It is the opinion of the committee that if a vacancy in the office of United States senator occurs, there is no reason why a legislator, who is qualified, may not be chosen to fill it.

The deletion of the sentence that makes appointments and votes for legislators void is recommended. The language is surplusage since the first part of the section provides there shall be no such appointments. If a legislator were to be appointed in violation of this prohibition, he would be subject to answer a writ of quo warranto.

The final sentence regarding interest of a legislator in contracts with the state is deleted because the committee feels the matter is covered in Committee Proposal 115.

CHAIRMAN HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I yield to Mr. Kuhn for an explanation.

CHAIRMAN HUTCHINSON: Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, in this particular provision, the committee was of the opinion that a member of the legislature should not be prohibited from being appointed a United States senator. Of the 50 states in the union today, the only state besides Michigan which has this prohibition is the state of Minnesota. The experts on political science, as well as others, did not think this was a reasonable prohibition. We therefore recommend its deletion.

As to the balance of it — that no member of the legislature shall be appointed to any particular office — that would be one that the governor would have, or the legislature, or the governor and the legislature. This has been in our constitution since 1835, and we think it is definitely needed. The balance of this, which has to do with conflict of interest, is provided for in Committee Proposal 115. We therefore recommend its adoption.

CHAIRMAN HUTCHINSON: Are there any amendments to the body of the proposal? If not, it will pass.

Committee Proposal 120 is passed. The secretary will read the next proposal.

SECRETARY CHASE: Item 23 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 121,** A proposal to provide that no law shall embrace more than one object and that no act shall take effect until 90 days from the end of a session and other incidental matters. Amends article V, section 21.

Following is Committee Proposal 121 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. No law shall embrace more than one object, which shall be expressed in its title. No law shall be revised, altered or amended by reference to its title only; but [the act revised and] the section or sections of the act altered or amended shall be reenacted and published at length. No act shall take effect or be in force until the expiration of 90 days from the end of the session at which the same is passed, except that the legislature may give immediate effect to acts making appropriations and acts immediately necessary for the preservation of the public peace, health or safety by a 2/3 vote of the members elected to each house.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 121:

Explanation—Matter within [ ] is stricken, matter in capitals is new.

The committee recommends the retention of this section with one change. The first sentence of this section requires the object of acts to be expressed in the title. This is a safeguard against the legislature passing acts without being fully aware of their effect.

The requirement of a single object in a bill prevents the legislature from combining diverse subjects in order to secure a favorable vote. Most states have similar requirements as to single object and title.

The requirement that the sections of an act revised must be set forth in full allows the revision to be put in proper context. However, the requirement that the whole of the act revised be reprinted is costly and unnecessary, and the committee recommends deletion of this wording.

The 90 day provision regarding effective date of statutes is to allow adequate communication of a law throughout the state. The committee is of the opinion that the complexity and multitude of laws passed during a legislative session requires a sufficient period of notice and that 90 days is fair. The provision allowing the legislature to give immediate effect to certain acts is retained. "Immediate effect" statutes must meet requirements of preserving either the public health, safety or welfare or for appropriations.

CHAIRMAN HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I yield to Mr. Kuhn for an explanation of this proposal.

CHAIRMAN HUTCHINSON: Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, on this particular proposal, we kept it intact as to what the practice is in Michigan today. You will note on line 8 we struck out the words "the act revised." That would mean that if the legislature were to pass any statute today which would affect a statute in being, that you would have to republish the whole statute. This is not the practice in Michigan today. It is not the sensible thing to do. Therefore, those words were deleted by our committee. In practice, what is done if you amend a statute today in a particular section or sections, is reprint those sections in full, which is the correct thing to do, in our judgment. Therefore, we ask that this be adopted.

CHAIRMAN HUTCHINSON: Are there any amendments to the body of the proposal? If not, it will pass.

Committee Proposal 121 is passed. The secretary will read the next proposal.

SECRETARY CHASE: Item 24 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 122,** A proposal to include in the constitution the substance of section 5 of article XVI entitled "Vacancies in office; continuity of government in emergencies."

Following is Committee Proposal 122 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature may provide by law the cases in which any office shall be deemed vacant and the manner of filling vacancies, where no provision is made in this constitution.

[The legislature, in addition to and not in derogation of the power heretofore conferred in section 5 of this article XVI,] In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, THE LEGISLATURE shall have the power to such extent as [the legislature] IT deems advisable (1) to provide by legislative enactment for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt by legislative enactment such other legislation as may be necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred [by this amendment] ABOVE, elections shall always be called as soon as possible to fill any elective vacancies in any office temporarily occupied by operation of any legislation enacted pursuant to the provisions of this paragraph.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 122:

The subject matter of the first paragraph of section 5 was first introduced into the constitution of 1850, and was retained in the constitution of 1908 except for changes in improving the phraseology.

This provision is self explanatory. There have been no judicial decisions on the section, and it seems to have worked very well for over 100 years. As is stated in this paragraph, this provision only applies where there is no other provision made for appointment in the constitution.

The legislature has implemented this first paragraph by statute. Public act 40 of 1954 defines the instances in which an office would be deemed vacant. Public act 116 of 1954 sets forth in detail how vacancies in certain offices (those for which no specific constitutional provision is made) shall be ascertained and how those vacancies shall be filled.

The second paragraph to this section was adopted in the April 1959 election by the people as an amendment to this section. The purpose of the amendment was to give the legislature power to provide for continuity for state and local governmental operations in periods of emergency only caused by enemy attack. This 1959 amendment was implemented by public act 203 of 1959.

This act authorizes the passage of local ordinances or resolutions providing for emergency interim successors to local political subdivision offices, except for judicial and civil service offices. Officers included were to designate 5 emergency interim officers and specify the order of succession. It is interesting to note that the temporary successors are to receive no compensation beyond actual expenses.

No other state has such detailed emergency provisions, but the committee feels that inasmuch as this was thoroughly publicized and voted on by the people in 1959 and has been implemented by statute, that the emergency paragraph should be included in the new constitution.

Your committee, therefore, recommends that the substance of section 5 of article XVI be retained in the new constitution, including both (1) the first paragraph to fill vacancies; and (2) to provide for continuity of goverment in case of emergency; and recommends its adoption by the convention.

It is further recommended that the committee on style and drafting be requested to consider putting this section into the legislative article.

CHAIRMAN HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I yield to Mr. Wood for an explanation of the committee's report.

CHAIRMAN HUTCHINSON: Mr. Wood.

MR. WOOD: Mr. Chairman, fellow delegates, a report on this section will be found in Journal 71, pages 488 and 489. I might also say that this proposal received 14 votes out of our 15 man committee, and I think the other man was absent at the time we passed it.

[The supporting reasons were read by Mr. Wood. For text, see above.]

Mr. Chairman, I defer to Mr. Downs for a further statement on this article.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I believe that Delegate Wood has given a very detailed summary of the principles. This simply is to provide for continuity of govern-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

ment. As Mr. Wood said, this received unanimous support in the committee on the vote. I believe we can all urge the adoption of this to take care of any possible emergency in succession in government. Thank you.

CHAIRMAN HUTCHINSON: Are there any amendments to the body of the proposal? Mrs. Koeze.

MRS. KOEZE: Mr. Chairman, a correction please. I was on the committee. Mr. Wood said "14 men." (laughter)

CHAIRMAN HUTCHINSON: Mr. Tubbs.

MR. TUBBS: What a gal she would have been back in the women's suffrage days. (laughter) Mr. Chairman, I wonder if I could ask, through the Chair, a question of Mr. Wood.

CHAIRMAN HUTCHINSON: You may proceed.

MR. TUBBS: The language of the section appears to make the only thing that would require its action an attack on the United States by an enemy. It is possible, I would think, that there could be a disaster within the state of Michigan other than an enemy attack. I wonder if the language should be "a disaster or enemy attack against the United States."

CHAIRMAN HUTCHINSON: Mr. Wood, do you wish to reply to the question?

MR. WOOD: Mr. Chairman, Mr. Tubbs, doesn't the first paragraph take care of that? I believe the first paragraph would cover a situation of that nature.

CHAIRMAN HUTCHINSON: Mr. Tubbs, do you retain the floor?

MR. TUBBS: It is my thinking that the first paragraph would not take care of it. My thought was that the disasters should occur in the state, but an enemy attack would be anywhere in the United States. Perhaps the word "caused" could be stricken out in line 13 and just put the word "or" there so it would read "resulting from disasters occurring in this state or by enemy attack on the United States."

CHAIRMAN HUTCHINSON: Are you offering an amendment, Mr. Tubbs?

MR. TUBBS: I thought maybe Mr. Wood would accept it. I'm not sure. If they have discussed it and passed over it, I'll pass.

MR. WOOD: I don't see anything wrong with that; I think the committee would accept that.

CHAIRMAN HUTCHINSON: Will Mr. Tubbs state his amendment?

MR. TUBBS: By striking out the word "caused" in line 13 and putting in the word "or."

SECRETARY CHASE: Mr. Tubbs offers the following amendment to Committee Proposal 122:

1. Amend page 1, line 13, after "state" by striking out "caused" and inserting "or"; so the language will then read, ". . . resulting from disasters occurring in this state or by enemy attack on the United States. . . ."

CHAIRMAN HUTCHINSON: Mr. Wood, on the amendment.

MR. WOOD: I think the committee would be glad to accept that amendment.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Tubbs. Mr. Millard.

MR. MILLARD: I would like to speak to that amendment. We discussed that in the committee. There is no definition of a disaster. A disaster might be anything. We tried to define "disaster" and we finally left it the way the people had voted on it in 1959, and I think it's proper. I'm against that amendment.

CHAIRMAN HUTCHINSON: Mr. Madar.

MR. MADAR: I just wonder if we have a quorum, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Wood.

MR. MADAR: I don't think we have. We ought to have a count.

MR. WOOD: Perhaps we had better vote on the amendment then. It would seem to me that any disaster that made it necessary to fill those offices should be taken care of.

CHAIRMAN HUTCHINSON: A quorum is present. There are 80 on the floor. The question is upon the amendment now offered by Mr. Tubbs. All those in favor will say aye. Opposed will say no. The amendment appears to have been adopted by a voice vote.

DELEGATES: Division.

CHAIRMAN HUTCHINSON: Division is called for. Is the demand supported? The demand is supported. There are 10 or more up. All those in favor of the amendment offered by Mr. Tubbs will vote aye. Those opposed will vote no. This is a division vote, not a record roll call. The secretary will read the amendment.

SECRETARY CHASE: The pending amendment to Committee Proposal 122:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN HUTCHINSON: Have you all voted? This is not a record roll call vote. This is a division vote only. If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Tubbs, the yeas are 48; the nays are 30.

CHAIRMAN HUTCHINSON: The amendment is adopted. Mr. Hatch.

MR. HATCH: A parliamentary inquiry, Mr. Chairman. I would like to know what the interpretation of rule 1 is. How many delegates do we officially have present today? I wonder if 48 votes constitutes a majority of the quorum which is present today.

CHAIRMAN HUTCHINSON: The Chair would advise the delegate that in committee of the whole any question may be carried by a greater vote for than against. And so — what was the vote on that last one, Mr. Secretary?

SECRETARY CHASE: The yeas were 48; the nays were 30.

CHAIRMAN HUTCHINSON: So there were 78 votes cast, which is a clear majority of the convention.

MR. HATCH: It is just a matter, then, of the number of delegates voting on the particular question then?

CHAIRMAN HUTCHINSON: In committee of the whole, that is correct. Are there any further amendments to the body of the proposal? If not, it will pass.

Committee Proposal 122, as amended, is passed. The secretary will read the next proposal. Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I move the committee rise.

CHAIRMAN HUTCHINSON: Mr. Hoxie moves the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion does not prevail. The Chair recognizes Mr. Iverson.

MR. IVERSON: I ask for a division.

CHAIRMAN HUTCHINSON: Mr. Iverson demands a division on the motion that the committee rise. The motion itself is not debatable. Is the demand for a division supported?

MR. PERRAS: Mr. Chairman, I would like to know the reason for wanting to rise.

MR. IVERSON: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Iverson.

MR. IVERSON: We desire a Republican meeting. That's the reason for this.

CHAIRMAN HUTCHINSON: The division is requested and ordered. All those in favor of rising will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 77; the nays are 13.

CHAIRMAN HUTCHINSON: The motion prevails. The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration various proposals on which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 119,** A proposal to provide that the legislature shall not pass local acts when general acts can be made applicable and that local acts require a 2/3 vote of the legislature; **Committee Proposal 120,** A proposal to provide that a member of the legislature shall not be appointed to certain other offices during the term for which he is elected; and **Committee Proposal 121,** A proposal to provide that no law shall embrace more than one object and that no act shall take effect until 90 days from the end of a session and other incidental matters. It reports these 3 committee proposals back without amendment and with the recommendation that they do pass.

PRESIDENT NISBET: The report of the committee of the whole is accepted and **Committee Proposals 119, 120** and **121** are referred to the committee on style and drafting.

For Committee Proposal 119 as referred to the committee on style and drafting, see above, page 2414.

For Committee Proposal 120 as referred to the committee on style and drafting, see above, page 2415.

For Committee Proposal 121 as referred to the committee on style and drafting, see above, page 2415.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 118,** A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people. It reports this proposal back to the convention favorably with 2 amendments.

[The following are the amendments adopted by the committee of the whole:

1. Amend page 3, line 13, after "the" by striking out "secretary of state or such other person or persons" and inserting "state official"; and in line 19, after "the" by striking out "secretary of state or such other person or persons hereafter" and inserting "state official"; and on page 5, line 11, after "vote" by striking out "by the secretary of state".
2. Amend page 5, line 16, after "electors" by striking out "unless otherwise provided in said initiative measure, but the legislature may propose such amendments, alterations or repeals to the people" and inserting "or ¾ of the members elected and serving in each house of the legislature".]

PRESIDENT NISBET: The report is accepted and **Committee Proposal 118,** as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 118 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislative power of the state of Michigan is vested in a senate and a house of representatives.

Sec. b. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to reject laws enacted by the legislature, called the referendum. The power of initiative does not extend to laws that the legislature may not enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds. To invoke the initiative or referendum, petitions signed by a number of registered electors not less than 8 per cent for initiative and 5 per cent for referendum of the total vote cast for all candidates for governor at the last preceding general election shall be required.

The law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so petitioned for is not enacted by the legislature within the 40 days, the state official authorized by law shall submit such proposed law to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by the state official authorized by law to the electors for approval or rejection at the next ensuing general election.

Any act submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No act initiated or adopted by the people, shall be subject to the veto power of the governor, and no act adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or ¾ of the members elected and serving in each house of the legislature. Acts adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. However, if 2 or more measures approved by the electors at the same election conflict, the measure receiving the highest affirmative vote shall prevail.

The legislature by general law shall provide further necessary methods for the exercise of these powers not in conflict with the provisions of this section.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 122,** A proposal to include in the constitution the substance of section 5 of article XVI entitled "Vacancies in offices; continuity of government in emergencies." It has made an amendment to this proposal and, as amended, recommends that it do pass.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 13, after "state" by striking out "caused" and inserting "or".]

PRESIDENT NISBET: The report of the committee of the whole is accepted and **Committee Proposal 122,** as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 122 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature may provide by law the cases in which any office shall be deemed vacant and the manner of filling vacancies, where no provision is made in this constitution.

In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state or by enemy attack on the United States, the legislature shall have the power to such extent as it deems advisable (1) to provide by legislative enactment for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt by legislative enactment such other legislation as may be necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred above, elections shall always be called as soon as possible to fill any elective vacancies in any office temporarily occupied by operation of any legislation enacted pursuant to the provisions of this paragraph.

SECRETARY CHASE: This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. Iverson.

MR. IVERSON: Mr. President, I move the convention recess for ½ hour.

PRESIDENT NISBET: The question is on the motion of Mr. Iverson. Mr. Madar.

MR. MADAR: Mr. President, we've been doing a lot of talking along here in the last couple of days about getting this convention over with. That's exactly what I'd like to do — get it over with. Here we are talking about a recess today for ½ hour. Yesterday the leaders of this convention knew very well that we had appointments at 5:30 —

MR. WANGER: Point of order.

MR. MADAR: We asked that we be allowed out of here at 5:00 o'clock —

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Everything was done to keep us from doing this so that we couldn't attend the party that we had arranged —

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: — and I say that we ought to save time. You yelled about it yesterday. Let's stay here and work.

PRESIDENT NISBET: What is the point of order?

MR. WANGER: The point of order is, this motion is not debatable.

PRESIDENT NISBET: The motion is debatable because it was made to a time certain. Mr. Madar have you concluded your remarks?

MR. MADAR: Yes sir. And I knew I was right; so I let him bellow.

PRESIDENT NISBET: The question is on the motion of Mr. Iverson. Those in favor will say aye. Opposed will say no. The motion prevails. We are recessed until 11:20.

[Whereupon, at 10:50 o'clock a.m., the convention recessed; and, at 11:20 o'clock a.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of the proposals on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will say aye. Opposed, no. The motion prevails.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN HUTCHINSON: The committee will be in order. The secretary will report the next proposal.

SECRETARY CHASE: Item 24 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 123,** A proposal to permit administrative agencies to promulgate rules and regulations and to provide for legislative review thereof, and for judicial review of the findings of such agencies. Amends article V by adding a section.

Following is Committee Proposal 123 as read by the secretary, and the reasons submitted in support thereof:

> The committee recommends that the following be included in the constitution:
>
> Sec. a. The legislature may authorize any governmental agency to establish rules or regulations of general applicability under standards and subject to restrictions prescribed by law. No such rule or regulation shall take effect prior to its filing with the secretary of state in such manner as shall be prescribed by law. The legislature may require any such rule or regulation to be laid before the legislature concurrently with its filing with the secretary of state; and the legislature may reserve the power to suspend or annul any such rule or regulation by legislation. A legislative committee may suspend any rule or regulation until the next session of the legislature in such manner as may be prescribed by law.

Mr. Hoxie, chairman of the committee on legislative powers, submits the following reasons in support of Committee Proposal 123:

The committee proposal authorizes legislative delegation of rulemaking power to administrative agencies subject, however, to legislative review of same.

The committee language is designed, further, to permit a legislative committee to suspend an administrative rule or regulation. This in effect increases the power that can be presently exercised by a legislative committee. Under the present law as interpreted by the attorney general, a legislative committee is restricted simply to expressing its disapproval of an administrative rule or regulation but is powerless to suspend same.

Following is the minority report to Committee Proposal 123 as offered and the reasons submitted in support thereof:

Messrs. Downs, Lesinski, Youngblood, Baginski and Murphy, a minority of the committee on legislative powers, submit the following minority report to Committee Proposal 123:

> A minority of the committee on legislative powers recommends that Committee Proposal 123 be not adopted.

Messrs. Downs, Lesinski, Youngblood, Baginski and Murphy, a minority of the committee on legislative powers, submit the following reasons in support of the foregoing minority report which accompanied Committee Proposal 123:

Unfortunately this complicated proposal on administrative law was presented to the committee a half hour before the committee on legislative powers adjourned on the deadline date, Wednesday, January 31. This did not give ample time to review and discuss the subject matter.

However, a very cursory examination of this language indicates that it violates the separation of powers concept already approved by the convention. The proposal, if adopted, would lay a constitutional foundation for the confusion of the separation of powers concept. There is no clear definition of "rule" or "regulation," and this might result in the interference with the normal executive functions of administrative agencies.

The net result of this proposal can very well be the undue interference with the normal executive process, and can be a roadblock in the way of efficient governmental operation.

This matter should not be frozen into the constitution, but should remain as at present as a matter of current legislative, judicial and executive review.

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, as you all know, the legislature today has the power to amend or repeal any rule or regulation that is made by any agency. The only purpose of this proposal was to allow a legislative committee, when the legislature was not in session, to suspend a rule until the next session of the legislature. Everything else that this proposal has in it is already allowed today. The only purpose for this proposal is to allow them to suspend it — not kill it or anything of that nature. Therefore, at this time, we will pass, and wait for the minority report to be explained. I would like to say at this time that we are preparing a substitute amendment to this, which will make that intent very clear and leave the rest out.

CHAIRMAN HUTCHINSON: The secretary will report the first amendment.

SECRETARY CHASE: Mrs. Daisy Elliott has offered the following —

MR. DOWNS: Mr. Chairman, I have a preferential motion.

CHAIRMAN HUTCHINSON: You will state it, Mr. Downs.

MR. DOWNS: I move that this item be laid over until after lunch; and, having made the motion, I believe I can speak on it? I have the floor, do I, Mr. Chairman?

CHAIRMAN HUTCHINSON: Yes. You may proceed.

MR. DOWNS: I understand from Delegate Kuhn that a substitute has been prepared. I think it would be a waste of the committee's time for us at this point to discuss a minority report to something that is apparently being withdrawn.

When Delegate Iverson asked for a recess, after a little discussion we acquiesced in that. We are not now asking for a recess, though we think we should have the same opportunity, but we feel that if the substitute is prepared and we get copies before our noon recess, those of us from the Democratic party will work on our lunch hour so that we will have time to review this and discuss it after lunch. We think this will facilitate the convention and help us complete the document. If this does not happen, then of course we will either have to ask for a recess or discuss the minority report which asks that we strike the majority report that apparently is being removed.

CHAIRMAN HUTCHINSON: Mr. Yeager.

MR. YEAGER: I should like to support Mr. Downs' position in this and suggest that we take up the exclusion report, which we should be able to finish before lunch, and then we would be finished with the legislative powers section.

MR. KUHN: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Kuhn.

MR. KUHN: May I respectfully request Mr. Downs to let us go on to the exclusion report, and we can talk to him and maybe we can agree before it's over. Otherwise, he can renew his demand.

MR. DOWNS: I am just so cooperative, Delegate Kuhn, that I'll be glad to do that and help facilitate the convention.

CHAIRMAN HUTCHINSON: In order to facilitate the convention, Mr. Downs moves that the further consideration of Committee Proposal 123 be temporarily passed. All those in favor will say aye. Opposed will say no.

The motion prevails. The secretary will report the next order of business.

SECRETARY CHASE: Item 26 on the calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Exclusion Report 2045,** A report recommending the exclusion of article V, section 34.

Following is Exclusion Report 2045 as read by the secretary, and the reasons submitted in support thereof:

> The committee on legislative powers recommends that article V, section 34 of the present constitution be excluded from the new constitution.
>
> Mr. Hoxie, chairman of the committee on legislative powers, submits the following reason in support of Exclusion Report 2045:
>
> It is our conclusion that the safeguard against possible abuse in this area would appear to be adequate if article V, section 24, and article VI, section 20, are retained.

CHAIRMAN HUTCHINSON: On the exclusion report, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I will call on Mr. Powell to make an explanation.

CHAIRMAN HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. Chairman and members of the committee, probably I should read the little section that is involved here. It's entitled "Private Claims," section 34 of article V, "The legislature shall not audit nor allow any private claim or account."

The report of our committee is exceedingly brief. It is found on page 494, and it probably would need some explanation. It just reads like this, "It is our conclusion that the safeguard against possible abuse in this area would appear to be adequate if article V, section 24, and article VI, section 20, are retained."

I'll identify those 2 sections to which reference is made. Article V, section 24, is the portion of the constitution which requires a 2/3 vote for appropriations for local or private purposes. Then, the other article to which reference is made, article VI, section 20, has to do with the board of auditors and the procedure for adjusting claims against the state. This was cleared with the other committees involved, and we feel that the report from the committee on executive branch adequately takes care of any situation which might arise. We see no need for retaining this section.

CHAIRMAN HUTCHINSON: The question is upon the exclusion report. All those in favor will say aye. Opposed will say no.

Exclusion Report 2045 is passed. The secretary will read the next item of business.

SECRETARY CHASE: The only remaining item of business is Committee Proposal 123.

CHAIRMAN HUTCHINSON: Committee Proposal 123 is next in order. Mr. Hoxie.

MR. HOXIE: Mr. Chairman, I'm looking for Mr. Downs. He made a motion a moment ago. It is my understanding Mr. Downs wanted an opportunity to review the proposed new amended proposal. Mr. Downs do you wish to proceed at this time, or do you want the committee to rise?

MR. DOWNS: Mr. Chairman, I would just as soon continue this. This is a one sentence one, and I don't want to speak on it, but the minority report for striking still applies to the new language. And if it will facilitate the committee to continue on this now, we are perfectly willing to.

CHAIRMAN HUTCHINSON: The next order of business is the consideration of **Committee Proposal 123.** The secretary will read the proposal.

SECRETARY CHASE: Committee Proposal 123.

[The proposal was again read by the secretary. For text, see above, page 2419.]

Messrs. Kuhn, Hutchinson, Hatch, G. E. Brown and Allen offer the following amendment:

1. Amend page 1, line 8, after "Sec. a.", by striking out the balance of the section and inserting "The legislature may by concurrent resolution empower a joint committee of the legislature acting in the interim between sessions to suspend any rule or regulation of an administrative agency promulgated when the legislature is not in session until the end of the next regular legislative session.".

[Mr. Bentley reentered the chamber and took his seat.]

CHAIRMAN HUTCHINSON: The Chair recognizes Mr. Kuhn on the amendment.

MR. KUHN: Mr. Chairman and members of the committee, this is the purpose which I explained earlier which the committee had in mind. Now, what does this allow? This allows the legislature, by a concurrent resolution, to form a joint committee, so when any administrative agency promulgates a rule when the legislature is not in session, this committee is merely allowed to suspend it until the legislature comes back into session. It does not allow this joint committee to kill the rule, or anything like that, or to alter it, but merely to suspend it. We found that, too many times, these administrative agencies have adopted rules when the legislature was not in session. It was thought that this would make it a better method to carry out the legislative intent.

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Downs.

MR. DOWNS: Mr. Chairman, we do have our minority report. Now, at what point does that come in, inasmuch as I assume this is really a substitute for the majority report?

CHAIRMAN HUTCHINSON: The minority report proposes to strike out everything. Therefore, the order of business properly should be that the proposal itself should first be perfected and, then, having been perfected, the minority report, being an amendment to strike out, would be next considered.

MR. KUHN: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Kuhn.

MR. KUHN: I would like to say also that we tried, and thought it suitable, justifiably, we thought, to have a much stronger provision in this, even in our committee. Most of the intent that we have here was an amendment offered by Mr. Murphy and some of his colleagues on the legislative powers committee, and we think that this is a very mild proposal to take care of a problem that could arise, and that it really has no effect to hurt anybody, but merely gives the legislature, the ones that are really responsible for making our legislative acts, a chance to look at it.

CHAIRMAN HUTCHINSON: The question is upon the amendment. Mr. Staiger.

MR. STAIGER: I would like to ask Mr. Kuhn a question, through the Chair, if I could. Mr. Kuhn, under this amendment, a rule is made by an administrative agency while the legislature is not in session. The committee, under this language, would then have power to suspend the rule until the next session of the legislature. Now, suppose the legislature does not act on it at that session? The committee would then, as I read it, have no further power to suspend it again, is that correct?

MR. KUHN: You are absolutely correct.

MR. STAIGER: Thank you.

MR. BLEDSOE: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Bledsoe.

MR. BLEDSOE: May I propound a question to the proponent of this amendment?

CHAIRMAN HUTCHINSON: You may proceed, sir.

MR. BLEDSOE: Mr. Chairman, Mr. Kuhn, during this period of suspension, presumably there are some rights involved, are there not? Presumably?

MR. KUHN: Presumably, yes.

MR. BLEDSOE: What position are our courts in with reference to the persons whose rights are involved while this period of suspended animation is being engaged in by the legislative committee, so called?

MR. KUHN: Well, they would be in abeyance. The truth is that now if the agency comes out with a rule, it's the rule unless the legislature kills it. The only change here, Mr. Bledsoe, if I may continue for half a minute, is to the effect that when the legislature is not in session and a rule is promulgated, then the committee can suspend it. Chances are they may never use this power. But this is the one power the attorney general said they do not have unless it is in the constitution.

MR. BLEDSOE: During this period the courts are still in session, aren't they?

MR. KUHN: Yes, sir, they are.

MR. BLEDSOE: Aren't you conferring a judicial power on this phantom legislative committee, while the rights of the people are being involved before this tribunal? You can answer that question yes or no.

MR. KUHN: The answer is no.

MR. BLEDSOE: No?

MR. KUHN: No.

MR. BLEDSOE: Don't these administrative tribunals initially take jurisdiction in matters cognizable within the purview of their enactments?

MR. KUHN: Yes, sir.

MR. BLEDSOE: Mr. Chairman, Mr. Kuhn, suppose the legislative committee decides to suspend indefinitely the action under this so called transitory procedure suggested by this amendment. What will happen to the litigants involved before this administrative tribunal?

MR. KUHN: Mr. Bledsoe, I believe that you're referring now to an order of an administrative body. We are speaking of rules and regulations. One is judicial and one is not. We are not speaking about a judicial order, as I understand it.

MR. BLEDSOE: Could either party, Mr. Chairman and Mr. Kuhn, apply to the court in the meantime to have the question determined?

MR. KUHN: Mr. Bledsoe, I would say the only thing this affects is rules and regulations. It has nothing to do with an order, which I think you are injecting at this time.

MR. BLEDSOE: No. With reference to this action that you are talking about, Mr. Chairman and Mr. Kuhn, could either one of the parties apply to the court during this period?

MR. KUHN: You can always apply to the court, but I don't know what relief you would get.

CHAIRMAN HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I think perhaps an explanation is in order to Mr. Bledsoe. In the first place, the legislature has the right to suspend the rule or regulation promulgated by the agency if they feel it is not within the scope of the intent of the legislature. This only extends to that interim committee the right to suspend, if they feel that that rule promulgated by the administrative agency is not within the scope of the intent of the legislature, until the legislature reconvenes.

And, Mr. Bledsoe, as a very capable attorney you know, of course, that even though an agency does adopt a rule, it is always subject to attack in the courts as being within the intent of the legislature. This only protects the people during that interim period against an agency making a rule that is not intended by the legislature and would be injurious to the people. We are only doing this, Mr. Bledsoe, to protect the interests of the public for that interim period between the time the legislature adjourns and until they return. May I stress, again, the only purpose of this is to give an interim committee that right, and that it will be subject to the action of the full body of the legislature, which authority and power the attorney general has ruled they presently have.

CHAIRMAN HUTCHINSON: Do you yield to Mr. Bledsoe?

MR. HOXIE: Yes.

CHAIRMAN HUTCHINSON: Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman, Mr. Hoxie, may I ask this question? Do not we in America apply to our courts for protection?

MR. HOXIE: That is true. But I don't see where that has any bearing on the question before the committee.

MR. BLEDSOE: What order would that committee issue for the protection of the people, and who could enforce it?

MR. HOXIE: Mr. Chairman, Mr. Bledsoe, the committee would not issue any orders. They would merely decide that that particular rule — and I will say that many, many agencies have made many, many rules that were entirely within the scope of the authority of the legislation which gave them the power to administrate a certain piece of legislation. But once in a while we do have an agency which promulgates a rule that the legislature did not intend within the scope of that authority. They do not make any orders, as referred to by yourself, any more than the legislature, when they convene and pass upon the rules and regulations of an agency when they come into session, are making any more rules. But this committee would only have the authority to delay the operation of that particular rule until the legislature convenes.

MR. BLEDSOE: Mr. Chairman, Mr. Hoxie, do I understand that it is your position here that once the legislature makes an enactment, it has the power then to enforce its enactment?

MR. HOXIE: Apparently Judge Dehnke has requested the floor.

MR. BLEDSOE: Will you answer that?

MR. HOXIE: I can answer it, but I think —

MR. BLEDSOE: I would like you to answer that, if you can.

MR. HOXIE: Will you repeat the question.

MR. BLEDSOE: I say, is it your position that once the legislature passes an enactment, it has the power to enforce it?

MR. HOXIE: That is not the point.

MR. BLEDSOE: I'm asking you that question.

MR. HOXIE: I'm saying that you are proposing a question which is not at all in point in this particular thing. The legislature does not enforce acts, as you well know. They only pass legislation for the purpose of carrying out activities for the benefit of the people of the state of Michigan. But they do have the authority, presently, under the attorney general's ruling, to determine if the rules and regulations promulgated by an agency are within the scope of authority granted to an agency.

CHAIRMAN HUTCHINSON: The Chair next recognizes Mr. Martin.

MR. MARTIN: I thought perhaps just a short word of explanation might help here. The sole purpose of this provision would be to avoid the situation which you get into when a rule or regulation is promulgated while the legislature is not in session. If you don't have such a provision as this, you can have all kinds of court actions arise in the meantime, just as you have in the past, to prevent the rule coming into effect. All this does is to give the legislature, through its interim committee, an opportunity to delay the effective date of it until the legislature meets, when it can consider the matter, and if it wants to act, which it has the power to do, it can act. If it doesn't want to act, it needn't; and of course the rule then goes into effect at the end of the session. So this is simply a device to prevent court actions from arising, and from all kinds of entanglements occurring, in the event that an administrative agency promulgates a rule in the period when the legislature is not in session.

It seems to me that both sides could agree that this was a desirable and necessary thing and that it does not in any way interfere with the rights of litigants. It doesn't affect any existing orders of the commission, or anything of that sort. It simply relates to new rules or regulations which may be promulgated for the future by administrative boards or commissions.

CHAIRMAN HUTCHINSON: Mr. Jones.

MR. JONES: Through the Chair, I should like to ask Mr. Kuhn a question. Mr. Kuhn, under the proposal which you have presented here for this interim committee, under what procedures would this committee operate? For example, would a public hearing be held before this committee issued its decision? Just what do you have in mind?

MR. KUHN: That would be a legislative detail, sir, and I do not think that would be necessary to put in this constitution. I would assume that they would probably do something to that effect, quite naturally.

MR. JONES: Thank you.

CHAIRMAN HUTCHINSON: There is an amendment to the amendment. Mr. Nord.

MR. NORD: Mr. Chairman, am I in order to speak before the amendment is read? I would like to speak on the amendment that is on the wall.

CHAIRMAN HUTCHINSON: You may proceed.

MR. NORD: Mr. Chairman, I rise to oppose the amendment that is now before us, on a number of grounds. First of all, I take issue on the entire theory on which it is based. Then, I also take issue on some of the details in the way in which it would operate. First of all, I think this is certainly a new concept, and unless it can be justified clearly on the basis of some principle, it ought not be adopted.

I do take issue with the basic principle on which it is proposed. The principle on which it is proposed, as I understand it, is this: the legislature is the one who has adopted the statute in the first place, setting up the administrative board. Therefore, the legislature ought to know what its intent was better than the board. If that is a correct theory, then of course there is some justification for such a proposal. But I argue that this is not a correct theory, for this reason: the legislature is not a correct judge of the legislative intent because it may not be the same legislature that is going to do the judging.

You might have an administrative board set up in the year 1900, and in the year 1950 there is a rule or regulation adopted by the board, and the new legislature 50 years later says it is going to judge the original legislative intent. Now, I can't see why these new legislators 50 years later are in a good position to know the original legislative intent. They are certainly in no better position than anybody else — any other lawyer or any judge. Therefore, I think for that reason the entire premise on which the whole concept is based is fallacious. It would seem as though the legislature is the best judge of the legislative intent, but that is not so.

Furthermore, if they are only judging their own intent, how do we know that they don't change their intent in the meantime, and in this manner basically enact a new law changing their intent without going through the ordinary due process of law? We can't be certain that when they say their original intent was so and so, that it really was their original intent. They may have changed their intent, even if it's the same legislators involved. But, especially in view of the fact that you might have all new legislators, they certainly are not in a better position than anybody else.

Now, the question arises: in the absence of a provision such as the one that now appears on the wall, what provisions are available for determining the legislative intent? The answer to that is clear, in my opinion. The courts determine the legislative intent. That is the normal provision of law in every state, everywhere, as in the common law; that if the legislature enacts a law, and the question is raised, "What was their intent?" That's a judicial question. I therefore think we are getting extremely mixed up in the separation between the legislature and the judiciary and are introducing a concept which, in my opinion, we will not like a bit after we adopt it. That's my first objection: that the theory is just superficially good. But when you look at it carefully — and of course we haven't had a real chance to look at it carefully — but when you begin to look at it, you begin to get quite nervous as to the theory.

Now, as to the practical application of this amendment. Again, as I see it, we have this basic rationale behind it. The legislature has adopted a certain act setting up a board. Now, we say: let's not trust the board. All right, now, if we don't trust the board, and I realize there are some cases where some people do not trust the board, the next question is: whom do we trust until the legislature decides to repeal the statute or the rule? We know, of course, that we could trust the legislature in the end to change the rule by enacting a law. The question is though: whom do we trust in the meantime? Do we trust the board which was set up by the legislature, or do we trust the committee which is now proposed? And I raise this point: the legislature set up the board. Now the legislature will set up the committee. The committee will not act as a legislature; it will act as a board. It is just another board. In fact, it is an administrative board because its sole function is to determine whether or not a certain rule should go into effect. It is doing the same kind of thing as the board itself. And the question is: which one of these 2 should we trust during the interim period, the board that was set up for that specific purpose, or the committee which will have to act in the same way, but without the same knowledge, without the same expertise? I therefore feel that by substituting one board for another, substituting a board which certainly has no expertise in the matter for a board which the legislature set up to have expertise, we are again damaging the administrative process, and I can't see any good rationale on behalf of that.

The final point that I would make relates to and reinforces the points that I believe Mr. Bledsoe made as well. That has to do with this problem. Suppose a rule goes into effect in the year 1950. In the year 1960, I believe, under the language here — I may be wrong — the joint committee could still suspend it. I'm not sure of that, but I think that as long as the rule was adopted when the legislature was out of session, I don't think that the right to suspend it automatically is determined. But in the event that that could be repaired; I suppose it could be repaired, but maybe I'm wrong on that point.

Suppose the board enacts the rule, let's say in May, and the legislature is not in session, let us assume. And suppose we have a case like this: a rule that sets forth the amount of contaminants that can be emitted from a factory into a stream. We have a water resources board. Suppose they were to adopt a rule, as is done in many states, stating you can emit so many parts in a million of a certain effluent. Now, a company desires to build a factory, and taking into account that rule, they begin to build a factory, or else they let out a contract to build a factory based on that assumption. The reason I mention this particular subject is this is one in which I have expertise myself as a consultant. And I know that, as an engineer, a factory that is being built needs to consider what you are permitted to do in the way of discharging effluents. Now, if we were to design a plant which would be based on the theory that we are permitted to emit a certain amount of effluents, and then the rule is suspended — and under the provisions of the amendment on the wall it could be suspended for about a year, I believe — now what will happen to the people who are building this factory during that period? Mr. Bledsoe, I believe, has pointed out that they have certain rights when they let the contract to build that factory. Now they don't know whether they have those rights or not. If they don't know whether they have those rights or not, it seems to me they are being deprived of certain rights.

I hope no one will think I am crying crocodile tears in favor of factories because operating factories has been my life until a few years ago, and water pollution and air pollution have always been big problems with us. It is a serious factor.

I'm quite certain if we think this matter over carefully we will find many other examples where a retroactive effect would be given, even though it is only temporary, by a committee. And I question whether a committee should have any right to engage in any retroactive changes in the law. I question further whether that does not violate the fourteenth amendment principle of due process of law because somebody's liberty — namely the liberty to build a factory of a certain type — is being taken away from him without due process of law. No law has been enacted, and no court decision has been given, and yet he no longer is in position to go along with his contract. In fact, he may have to breach his contract.

I will say this. I don't take a dim view of the whole objective behind this. I also don't think this will kill the whole state of Michigan if it should pass. But I do think it is ill conceived and hastily drawn. And although I see some people walking around the floor, attempting to perfect it on the floor, I just don't think this can be perfected that fast. In fact, I really hope that it can be reconsidered, or maybe postponed if necessary. But I think it has booby traps in it, and we ought not to adopt it blindly.

CHAIRMAN HUTCHINSON: The secretary will report the amendment to the amendment.

SECRETARY CHASE: Mr. Faxon has offered an amendment to the amendment:

1. Amend the amendment, after "joint" by inserting "bipartisan"; so the language will read, "The legislature may by concurrent resolution empower a joint bipartisan committee of the legislature acting in the interim between sessions. . . ."

CHAIRMAN HUTCHINSON: The question is upon the amendment offered by Mr. Faxon.

MR. FAXON: Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Faxon.

MR. FAXON: I don't think there is any need for me to go into any explanation as to what the purpose of this is. If there is to be a provision of this sort, the least that it should include is some recognition of the need for a bipartisan committee if it's to act in this way during the interim between sessions of the legislature. That's all I care to say on it.

CHAIRMAN HUTCHINSON: The question is upon the amendment. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. The question recurs on the amendment offered by Mr. Kuhn and others. All those in favor will say aye. Opposed will say no.

The amendment is adopted. The secretary will read the next amendment, the minority report.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Downs, Lesinski, Youngblood, Baginski and Murphy, Mr. Downs offers the following amendment:

1. Amend page 1, line 8, by striking out all of the proposal.

CHAIRMAN HUTCHINSON: The question is upon the amendment to strike. Mr. Downs.

MR. DOWNS: Mr. Chairman, I believe the discussion on the other amendments has in a sense covered this, so I shall try to be very brief. The whole matter of administrative law and what is an executive agency and what is a quasi judicial one is probably one of the most complicated as well as important fields in public law. I feel that the way the majority report stands, even as amended, it's a grave interference with the executive branch of government, and really holds everybody and nobody responsible.

The legislature, in creating agencies, whether quasi judicial or administrative, can and very properly has the right to make certain statutory and other limitations. But I'm concerned that if the majority report passes, the public service commission, for example, could be very much hamstrung in the operation of its day to day administration, where rules and regulations must come out.

Now, we use the words "rule" and "regulation" rather lightly here. I don't want to embarrass anybody by asking him to define what a rule is and what a regulation is; and what an agency might do in a court construction of what is a rule or regulation, or something a little this side or that side of it. I do feel that the field of administrative law is one of the growing areas, and that this above all we should not try to put in a straitjacket in the constitution. We have our broad protections of equal protection of the law, due process of law, and in our rights, suffrage and election we very properly put in the concept of fair hearing before administrative and all governmental agencies, which I think are fine concepts. I therefore urge the support of the minority report amendment that strikes this entire language, and then we leave this problem to the legislature and the courts to develop as time and situations change in the years to come.

CHAIRMAN HUTCHINSON: The question is upon the amendment to strike.

MR. DOWNS: I demand the yeas and nays, Mr. Chairman.

CHAIRMAN HUTCHINSON: On which Mr. Downs demands the yeas and nays. Is the demand supported? The demand is supported, 1/5 of the members present agreeing thereto, and it is thereby ordered. Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, since Mr. Downs would like a definition of what a rule is and what a regulation is, I would like to read it to him. A rule and regulation is the same thing. And under the administrative code, in Michigan Statutes Annotated, volume 2, page 334, it is defined:

> Rules include every regulation, standard or statement of policy or interpretation of general application and future effect, including the amendment or repeal thereof adopted by an agency, whether with or without prior hearing, to implement or make specific the law enforced or administered by it or to govern its organization or procedure.

And it has a few more things, if he would like to read what rules and regulations are. But the main thing is: it is to carry out the intent of the legislature and to implement their substantive law.

CHAIRMAN HUTCHINSON: The question is upon the amendment offered to strike. Those in favor of striking the proposal will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—31

Austin
Balcer
Barthwell
Bledsoe
Bradley
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss
Hodges
Hood
Jones
Lesinski
Madar
McCauley
McGowan, Miss
Murphy
Nord
Rajkovich
Snyder
Suzore
Walker
Wilkowski
Young

Nays—77

Allen
Andrus, Miss
Anspach
Batchelor
Bentley
Blandford
Boothby
Brake
Hatch
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan

Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Finch
Goebel
Gover
Gust
Habermehl
Haskill
Karn
King
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Perras
Plank
Powell
Prettie
Pugsley
Sharpe
Sleder
Spitler
Staiger
Stamm
Sterrett
Stevens
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the minority report amendment to strike out the body of the proposal, the yeas are 31; the nays are 77.

CHAIRMAN HUTCHINSON: The amendment is not adopted.

Following is explanation of vote submitted by Messrs. Dade, Hood, Hodges and Miss Hart:

We wish to state the reasons to delete amended Committee Proposal 123, regarding administrative agencies

> The legislature may by concurrent resolution empower a joint committee of the legislature acting in the interim between sessions to suspend any rule or regulation of an administrative agency promulgated when the legislature is not in session until the end of the next regular legislative session.

This proposal, as passed by the committee would permit the legislature to create a committee of an unknown number, who could meet secretly and suspend any and all new rules and regulations of administrative agencies when the legislature was not in session.

The definition of agency and rule and regulation is so vague that this might mean a civil service rule could be suspended during this interim period. Universities who thought of themselves as separate constitutional agencies might be found to fit within the definition and find that their actions of constitutional governing boards were subject to suspension by this interim committee. Certainly state agencies such as the corporation and securities commission could find that if they proposed a rule similar to rule 9, that this special legislative committee could suspend its operation — without even a recorded roll call vote of who on the committee supported and opposed this suspension.

But worse yet, when the legislature came back into session the suspension could continue until the end of the legislative session, if there was no action by the legislature. Then the interim committee might, the very day after the adjournment of the legislature, resuspend the rule. Thus the administration of the executive branch of government could be completely frustrated by such an interim committee.

The conservation commission might find that its ordinary new and temporary rules and regulations regarding hunting, fishing, game and land preservation could be held up indefinitely through this devious means.

The public service commission and highway department might find that new rules and regulations relative to weight and even safety measures for trucking and other matters could be suspended indefinitely.

This proposal does not belong in the constitution, and should be held for the action of the legislature during regular sessions in creating administrative agencies, and should be the responsibility of the executive branch to see they operate effectively.

This proposal weakens the executive branch of the government and weakens the people's control of the government by having an interim committee make decisions without even the necessity of a recorded roll call vote.

This committee could be set up by a legislative concurrent resolution without any power of the governor to veto or right of referendum by the people.

Following is explanation of vote submitted by Mrs. Daisy Elliott:

In explanation of my vote on the substitute language of Committee Proposal 123, I wish to state here that I do not concur with the present language adopted here. My amendment to delete the same was withdrawn for the expressed purpose of expediting time to help complete the convention's work schedule. However, I hope that all delegates will have ample time to consider this language before the second reading.

I believe that the language in this proposal would permit the legislature by itself to strike down administrative rulings and stifle administrative process. This proposal is another aim at rules similar to rule 9, possibly rule 10 or 11 and could suspend their operations indefinitely.

It is clear that the legislature can authorize or prohibit rulemaking by an administrative agency. At the present time the legislature may change any rule by passing a bill and having the governor sign it. The legislature has attempted to alter administrative rulings in the past by concurrent resolution. The attorney general has ruled this unconstitutional.

The interm committee with the power to suspend administrative rulings defeats one of the main concepts of administrative agencies. Such agencies are created with the idea that they will have special competence within their area. To allow a legislative committee the power to suspend rules is to create a super agency without the necessary expertise. Such a committee could effectively halt agency work for long periods of time. Where a rule is unconstitutional or illegal, the courts can act by injunction to halt the agency. If a rule is within the scope of an agency's power, that agency is acting under a bill passed by the whole legislature and ratified by the governor. It should take the whole legislature and the governor to change the law under which the agency acted. A small part of the legislature should not have the power to stifle the administrative process.

CHAIRMAN HUTCHINSON (continuing): Are there any further amendments to the body of Committee Proposal 123? If not, it will pass.

Committee Proposal 123, as amended, is passed. The Chair recognizes Mr. Hoxie.

MR. HOXIE: Thank you, members of the committee. Mr. Chairman, I move that the committee rise.

CHAIRMAN HUTCHINSON: Mr. Hoxie moves that the committee do now rise. All those in favor will say aye. Opposed will say no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the committee of the whole has had under consideration a certain proposal on which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 123, A proposal to permit administrative agencies to promulgate rules and regulations and to provide for legislative review thereof, and for judicial review of the findings of such agencies;** has adopted an amendment to this proposal, and recommends its passage as thus amended.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 8, after "Sec. a.", by striking out the balance of the section and inserting "The legislature may by concurrent resolution empower a joint committee of the legislature acting in the interim between sessions to suspend any rule or regulation of an administrative agency promulgated when the legislature is not in session until the end of the next regular legislative session.".]

PRESIDENT NISBET: **Committee Proposal 123,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 123 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. The legislature may by concurrent resolution empower a joint committee of the legislature acting in the interim between sessions to suspend any rule or regulation of an administrative agency promulgated when the legislature is not in session until the end of the next regular legislative session.

SECRETARY CHASE: The committee of the whole has also had under consideration **Exclusion Report 2045,** A report recommending the exclusion of article V, section 34.

PRESIDENT NISBET: The action on **Exclusion Report 2045** is accepted and it is referred to the committee on style and drafting.

For Exclusion Report 2045 as referred to the committee on style and drafting, see above, page 2420.

SECRETARY CHASE: That completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: We have one request for leave. Mr. L. W. Richards asks to be excused from the afternoon session.

PRESIDENT NISBET: Without objection, it is granted.

There has been considerable discussion and questions concerning the date of this constitutional convention proposal on the ballot. In order to clear it up for the convention as much as possible, we are appointing a special committee to study completely this matter and make a report back to the convention. The secretary will read the committee.

SECRETARY CHASE: **The president appoints** the following delegates to the select committee to study a mandamus action against the secretary of state to place the new constitution on the November ballot: Mr. R. C. Van Dusen, chairman; Mr. Henry Woolfenden, first vice chairman; Mr. Ray Krolikowski, second vice chairman; Messrs. Roscoe Bonisteel, Russell Bradley, Robert J. Danhof, Herman Dehnke, Edward Douglas, Stanley Everett, William Ford, Kenneth Prettie and Earl Pugsley.

PRESIDENT NISBET: Without objection, they are approved. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, there will be a very brief meeting of the members of the committee just appointed by the president in room F immediately following the recess.

PRESIDENT NISBET: The Chair recognizes Miss Andrus.

MISS ANDRUS: Mr. President, I move that we recess until 1:30.

PRESIDENT NISBET: The question is on the motion of Miss Andrus. All those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 1:30.

[Whereupon, at 12:10 o'clock p.m. the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: Without objection, we will return to the order of **reports of standing committees.**

SECRETARY CHASE: Mr. Millard, for the committee on emerging problems, introduces

Committee Proposal 127, A proposal for a section on atomic energy;

with the recommendation that it pass.

Frank G. Millard, chairman.

For Committee Proposal 127 and the reasons submitted in support thereof, see below under date of April 25.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders.

SECRETARY CHASE: Mr. Millard, for the committee on emerging problems, introduces

Committee Proposal 128, A proposed section on intergovernmental agreements;

with the recommendation that it pass.

Frank G. Millard, chairman.

For Committee Proposal 128 and the reasons submitted in support thereof, see below under date of April 25.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders.

SECRETARY CHASE: Mr. Millard, for the committee on emerging problems, introduces

Committee Proposal 129, A proposal to describe legislative authority over state public lands;

with the recommendation that it pass.

Frank G. Millard, chairman.

For Committee Proposal 129 and the reasons submitted in support thereof, see below under date of April 25.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders.

Any announcements, Mr. Chase?

SECRETARY CHASE: The secretary, on behalf of the committee on style and drafting, has been requested to call to your attention a chart which has been prepared by that committee to help each delegate keep track of the second reading proposals. This chart has been placed in your status books.

PRESIDENT NISBET: Just one other announcement. There has been some communication and discussion with the state bar of Michigan asking us to be their guests on law day, which will be held on May 1. It is my understanding that they are arranging a program that will not interfere with the convention. A definite announcement will be made of this a little later. I'm sure we should participate in it as much as possible. It will be on Tuesday, May 1, during the noon hour.

The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering items on the **general orders** calendar.

PRESIDENT NISBET: The question in on the motion of Mr. Yeager. Those in favor will say aye. Opposed, no.

The motion prevails.

MR. RUSH: Mr. President, are we supposed to have those committee proposals on our desks? Some of us over here don't seem to have them. I'm referring to Committee Proposals 127, 128 and 129.

PRESIDENT NISBET: No, they are not on the order for today, Mr. Rush. They are placed on the general orders calendar. They just came in from the committee. Mr. Yeager.

[Whereupon, Mr. Yeager assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN YEAGER: The committee will be in order. The secretary will read the first item of consideration.

SECRETARY CHASE: Page 9 of your general orders calendar, the committee on miscellaneous provisions and schedule.

Item 1 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, Exclusion Report 2029, A report recommending the exclusion of article XVI, section 6.

Following is Exclusion Report 2029 as read by the secretary, and the reasons submitted in support thereof:

The committee on miscellaneous provisions and schedule recommends that article XVI, section 6 of the present constitution be excluded from the new constitution.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Exclusion Report 2029:

The committee recommends that the substance of section 6 of article XVI of the constitution of 1908 be deleted from the new constitution. This section directs that the laws, public records and the written judicial and legislative proceedings of the state shall be conducted, promulgated and preserved in the English language.

Such a constitutional provision would seem to be entirely unnecessary. The English language is the language of our people and our society is largely monolinguistic. That the laws and other works of this state would not be promulgated in the English language is unthinkable.

Section 6 of article XVI as it stands does not prohibit the use of other languages; it assures that at least the English language will be used. Such assurance is unnecessary in the opinion of the committee for the reasons stated above.

CHAIRMAN YEAGER: **The Chair will recognize the chairman of the committee, Mr. Erickson.**

MR. ERICKSON: We have an all star cast this afternoon. Fortunately, our work is 2/3 complete; so it shouldn't take too long. What we will cover this afternoon is a matter of boundaries, and there will be a minority report. One report wants it in and the other one doesn't. Miss Donnelly has done considerable work on delineating the boundaries. We will also have another one on married women's estates. Amendments and revisions will come up, and there will be a discussion on that. The committee also reports a proposal that the legislature, by a majority vote, can order an amendment on the ballot. There will be a minority report that it should be 2/3, which presently prevails. There is also one for initiative. Presently it takes 10 per cent of the people voting for governor, and the committee has written in the alternative of 300,000 signatures, whichever is less. We will also be coming along to the schedule, and eminent domain. Then there will be another discussion on section 4 of article XII in the corporation code, which makes the stockholders liable for labor debts in case of default or bankruptcy. Then, also under the schedule, will be coming up the time of voting on this proposed constitution.

I would like to yield now to Mr. Hutchinson for Exclusion Report 2029.

CHAIRMAN YEAGER: **Mr. Erickson yields to Mr. Hutchinson.**

MR. HUTCHINSON: Mr. Chairman, has the exclusion report been read?

SECRETARY CHASE: Yes.

MR. HUTCHINSON: Mr. Chairman, the present constitution in section 6 of the miscellaneous provisions article XVI says:

> The laws, public records and the written judicial and legislative proceedings of the state shall be conducted, promulgated and preserved in the English language.

The committee recommends that this section be excluded from the constitution as entirely unnecessary in this day and age because we recognize that in our society our people are, I think the word is, monolinguistic, that the English language is the language of our people, and it is unthinkable that any of the laws, the public records and the written judicial and legislative proceedings of the state would not be promulgated and preserved in the English language. We don't think it is necessary to carry this injunction forward in the constitution for that reason. Very few states, if any at all, have similar provisions in their constitution.

CHAIRMAN YEAGER: Are there any amendments on file, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: **If not, it will pass.**

Exclusion Report 2029 is passed. The secretary will read.

SECRETARY CHASE: Item 2 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Exclusion Report 2030,** A report recommending the exclusion of article XIII, section 2.

Following is Exclusion Report 2030 as read by the secretary, and the reasons submitted in support thereof:

The committee on miscellaneous provisions and schedule recommends that article XIII, section 2 of the present constitution be excluded from the new constitution.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reason in support of Exclusion Report 2030:

The committee on miscellaneous provisions and schedule recommends the exclusion of section 2 of article XIII of the present constitution for the reason that a new proposed section will replace the existing section both in substance and in form.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson.

MR. ERICKSON: Mr. Chairman and members of the committee, at this time I yield to Delegate Mahinske.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: The committee on miscellaneous provisions and schedule recommends the deletion of the present section 2 of article XIII because there has been practically a complete rewrite of this section, and rather than give you a section with the majority of the language stricken out and new language fitted in between, we recommend striking section 2 of article XIII, and then we have a proposal that brings all 5 sections of the new article before the convention itself.

CHAIRMAN YEAGER: Are there any amendments on file, Mr. Secretary, to Exclusion Report 2030?

SECRETARY CHASE: There are no amendments, Mr. Chairman.

CHAIRMAN YEAGER: If not, it will pass.

Exclusion Report 2030 is passed. The secretary will read the next item.

SECRETARY CHASE: Item 3 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Exclusion Report 2031,** A report recommending the exclusion of article XIII, section 4.

Following is Exclusion Report 2031 as read by the secretary, and the reasons submitted in support thereof:

The committee on miscellaneous provisions and schedule recommends that article XIII, section 4 of the present constitution be excluded from the new constitution.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reason in support of Exclusion Report 2031:

The committee on miscellaneous provisions and schedule recommends the exclusion of section 4, article XIII, for the reason that the content of the existing section 4 is contained in a totally new proposed section of the article on eminent domain.

CHAIRMAN YEAGER: Mr. Erickson.

MR. ERICKSON Mr. Chairman and members of the committee, I would like to yield to Mr. Mahinske for the next 2 exclusion reports.

CHAIRMAN YEAGER: Mr. Mahinske is recognized.

MR. MAHINSKE: Perhaps to save some time, I can give, primarily, exactly the same reasons for Exclusion Reports 2031 and 2032. There have been enough substantive changes in the next 2 exclusion reports to exclude the present sections and substitute rewrites of the present sections, except in the case of Exclusion Report 2032; when we get to that I'll mention one item.

CHAIRMAN YEAGER: Are there any amendments on file, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: If not, it will pass.

Exclusion Report 2031 is passed. The next item.

SECRETARY CHASE: Item 4, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Exclusion Report 2032,** A report recommending the exclusion of article XIII, section 5.

Following is Exclusion Report 2032 as read by the secretary, and the reasons submitted in support thereof:

The committee on miscellaneous provisions and schedule recommends that article XIII, section 5 of the present constitution be excluded from the new constitution.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reason in support of Exclusion Report 2032:

The content of the existing section 5 of article XIII is contained in a totally new proposed section of the article on eminent domain.

CHAIRMAN YEAGER: Mr. Mahinske.

MR. MAHINSKE: The existing section 5 of article XIII of the constitution is replaced by a proposed new section, the language of which is the last phrase in the present section 5 of article XIII, and there is a tentative movement on to replace the content or the import of the beginning language with a new section in the eminent domain article. This has not yet been printed up and distributed, but I anticipate it will be in the near future, before we get to the body of the article itself.

CHAIRMAN YEAGER: The Chair will recognize Mr. Madar.

MR. MADAR: Well, Mr. Chairman, I'm just wondering. We are putting through these exclusion reports, and we haven't seen any of these other proposals. I wonder if we are not just going ahead just a little bit too fast here. We don't know what we are getting. I think we ought to take a look at these proposals. Certainly, I'm opposed to excluding these until we know what we are doing.

CHAIRMAN YEAGER: Mr. Erickson.

MR. ERICKSON: Mr. Chairman and members of the committee, these are more or less housekeeping things that we are doing now. If, when you come to the others, you aren't satisfied with what the committee has done, I shall move to reconsider.

MR. MAHINSKE: I might add that the whole eminent domain article of 5 sections as it stands now in the sections as we have proposed them are so interwoven that it would almost be unintelligible to offer these sections one at a time to you. Committee Proposal 67 sets forth the whole article in one committee proposal. When we get to this you will be able to read the sections as they are set forth, and you will see that there is a connection between each individual section. I think that we would just be asking for a lot of extra debate and difficulty by proposing one section at a time in a separate committee proposal. This is the procedure that we have adopted to present this whole new article.

CHAIRMAN YEAGER: Are there any amendments on file, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: If not, it will pass.

Exclusion Report 2032 is passed. The secretary will read.

SECRETARY CHASE: Item 5 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Exclusion Report 2034,** A report recommending the exclusion of article I, section 1.

Following is Exclusion Report 2034 as read by the secretary, and the reasons submitted in support thereof:

The committee on miscellaneous provisions and schedule recommends that article I, section 1 of the present constitution be excluded from the new constitution.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reason in support of Exclusion Report 2034:

The committee recommends that the substance of section 1 of article I of the constitution of 1908 be deleted from the new constitution for the reason that the new proposed section a will replace the existing section by providing a new, correct boundary description.

CHAIRMAN YEAGER: Mr. Erickson.

MR. ERICKSON: Mr. Chairman and members of the committee. This is an exclusion report. It's another housekeeping item. Instead of having to write up all of the present boundaries and running a line through them and using up a lot of extra paper, it was felt that it was best to have this exclusion report. I ask the adoption of this exclusion report without prejudice to the merits of whether the boundaries should be included in the new constitution or not. If you agree to this, then Miss Donnelly will carry on on Committee Proposal 69.

CHAIRMAN YEAGER: Are there any amendents on file, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: If not, it will pass.

Exclusion Report 2034 is passed. The secretary will read the next item.

SECRETARY CHASE: Item 6 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 69,** A proposal pertaining to the boundaries of the state of Michigan. A substitute for article I, section 1.

MR. ERICKSON: Mr. Chairman.

CHAIRMAN YEAGER: Mr. Secretary, just a moment. Mr. Erickson.

MR. ERICKSON: I think this is rather dry reading — all these metes and bounds of the state — and I move this be considered read and hope there won't be any objection.

CHAIRMAN YEAGER: If there is no objection, it will be considered read.

Following is Committee Proposal 69 as considered read, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. THE STATE OF MICHIGAN CONSISTS OF AND HAS JURISDICTION OVER THE TERRITORY EMBRACED WITHIN THE FOLLOWING BOUNDARIES, TO WIT: COMMENCING AT A POINT ON THE EASTERN BOUNDARY LINE OF THE STATE OF INDIANA, SAID POINT BEING THE NORTHWEST CORNER POINT OF THE STATE OF OHIO, AS ESTABLISHED BY ACT OF CONGRESS, ENTITLED, "AN ACT TO ESTABLISH THE NORTHERN BOUNDARY LINE OF THE STATE OF OHIO, AND TO PROVIDE FOR THE ADMISSION OF THE STATE OF MICHIGAN INTO THE UNION UPON THE CONDITIONS THEREIN EXPRESSED," APPROVED JUNE 15, 1836; THENCE EASTERLY WITH SAID BOUNDARY LINE OF THE STATE OF OHIO, THROUGH THE POINT DESCRIBED BY POST 71 AS ADOPTED IN 1917 BY JOINT RESOLUTION NUMBER 6 OF THE LEGISLATURE OF THE STATE OF MICHIGAN, TO THE MOST NORTHERLY CAPE OF THE MAUMEE (MIAMI) BAY ACCORDING TO SAID ACT OF CONGRESS OF JUNE 15, 1836; THENCE NORTHEASTERLY THROUGH LAKE ERIE TO TURNING POINT 160 ON THE INTERNATIONAL BOUNDARY LINE BETWEEN THE UNITED STATES AND CANADA IN LAKE ERIE, AS SAID INTERNATIONAL BOUNDARY LINE IS ASCERTAINED AND REESTABLISHED PURSUANT TO ARTICLE IV OF THE TREATY BETWEEN GREAT BRITAIN AND THE

Explanation—Matter within [ ] is stricken, matter in capitals is new.

UNITED STATES, SIGNED APRIL 11, 1908; THENCE WITH SAID INTERNATIONAL BOUNDARY LINE THROUGH THE DETROIT RIVER, LAKE ST. CLAIR, THE ST. CLAIR RIVER, LAKE HURON, THE ST. MARYS RIVER, AND LAKE SUPERIOR TO POINT N ON THE SAID INTERNATIONAL BOUNDARY LINE IN LAKE SUPERIOR, NEAR TURNING POINT 267, IN THE VICINITY OF PIGEON POINT; THENCE WITH THE BOUNDARY LINE OF THE STATE OF MINNESOTA IN LAKE SUPERIOR TO POINT A, BEING THE MIDPOINT OF LINE N-M; THENCE WITH THE BOUNDARY LINE OF THE STATE OF WISCONSIN IN LAKE SUPERIOR TO POINT M IN THE MOUTH OF THE MONTREAL RIVER, AS SAID POINTS AND BOUNDARY LINES ARE DEFINED IN THE ACT OF THE LEGISLATURE OF THE STATE OF MICHIGAN, APPROVED JUNE 27, 1947; AND RATIFIED BY CONGRESS JUNE 30, 1948, DEFINING THE BOUNDARIES BETWEEN MINNESOTA, MICHIGAN AND WISCONSIN AND ADOPTING AN INTERSTATE COMPACT IN RELATION THERETO; THENCE WITH THE BOUNDARY LINE OF THE STATE OF WISCONSIN THROUGH THE MAIN CHANNEL OF THE MONTREAL RIVER TO THE HEADWATERS THEREOF AND WITH THE OVERLAND BOUNDARY TO THE SHORE OF LAKE BRULE AND WITH THE SOUTHERLY SHORE OF LAKE BRULE TO THE CENTER OF THE MAIN CHANNEL OF THE BRULE RIVER, AND DOWN THE MAIN CHANNEL OF THE RIVERS BRULE AND MENOMINEE TO THE MOUTH OF THE MENOMINEE RIVER, AND WITH THE BOUNDARY LINE OF THE STATE OF WISCONSIN IN GREEN BAY, AS SAID BOUNDARIES ARE DEFINED IN THE DECREE OF THE UNITED STATES SUPREME COURT DATED MARCH 16, 1936; THENCE WITH THE SAID BOUNDARY LINE OF THE STATE OF WISCONSIN TO POINT G IN LAKE MICHIGAN, AS DEFINED IN THE ABOVE MENTIONED INTERSTATE COMPACT BETWEEN THE STATES OF MINNESOTA, MICHIGAN AND WISCONSIN; THENCE ALONG THE BOUNDARY LINE OF THE STATE OF WISCONSIN IN LAKE MICHIGAN TO POINT A, THE SOUTHEAST CORNER POINT OF THE STATE OF WISCONSIN, AS DEFINED IN SAID INTERSTATE COMPACT; THENCE SOUTHERLY THROUGH LAKE MICHIGAN WITH THE BOUNDARY LINE OF THE STATE OF ILLINOIS TO THE NORTHERN BOUNDARY LINE OF THE STATE OF INDIANA, AS THAT LINE WAS ESTABLISHED BY THE ACT OF CONGRESS OF THE NINETEENTH OF APRIL, 1816; THENCE EASTERLY WITH THE NORTHERN BOUNDARY LINE OF THE SAID STATE OF INDIANA TO THE NORTHEAST CORNER POINT THEREOF; AND THENCE SOUTHERLY WITH THE EASTERN BOUNDARY LINE OF THE SAID STATE OF INDIANA TO THE PLACE OF BEGINNING.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 69:

The committee recommends the inclusion in the constitution of a description of the boundaries of the state. Both the 1850 and the 1908 constitutions set forth the boundaries in article I.

We believe that compelling reasons exist for the new constitution to continue this practice, although we are cognizant that an Indiana case held that the constitution does not fix boundaries, but merely serves as a memorandum. Reasons for including the description, among others, are:

1. A state is a territorial sovereignty. Its jurisdiction is coterminous with its territorial boundaries. Hence a description of its boundaries serves as an assertion of its claim of jurisdiction to exercise its police power over persons and things within the area.

2. The constitution is the most logical source of reference for any person seeking knowledge of the state's boundary and the people rightfully expect it to be there.

3. Such delineation in the constitution gives notice of the assertion of a claim which, if long acquiesced in, may become final and binding in the event of a dispute or the necessity of formally establishing the correct boundary. This is especially important because of the extremely complicated nature of our boundaries which has, in the past, given rise to problems. Should additional problems arise, it seems important to us to have on record an expression of the assertion of the territorial rights of all the people of Michigan by their adoption of this constitution.

The last assertion of territorial rights was by the legislature in a joint resolution in 1947 (2.341 MCL 48) when it attempted to correct its 1945 (2.321 MCL 48) error in which it arbitrarily renounced claim to 70 square miles of Michigan territory because it did not sufficiently understand the issue.

4. Failure to assert claim in the constitution to all territory could be construed as a waiver of our rights to said territory. The committee directs attention to the fact that a large portion of this state's territory includes water—a natural resource wherein mineral, oil, gravel, fishing, boating, swimming, etc., inure to the benefit of all of the citizens of this state.

In addition, we are presently involved in litigation concerning diversion of water from the great lakes and it is particularly important that we do not omit the boundaries and subject the state to the adverse claim that it has relinquished its right.

The inclusion of this section in the constitution could not be construed to be against the best interest of the people of the state of Michigan. Conversely, the exclusion of this section from the constitution may well work to the detriment of the people of the state of Michigan.

No argument of those who oppose inclusion of this provision in the constitution is of enough weight to overcome the probable benefits that will result from continuing the past practice of setting forth the boundaries in the constitution.

Following is the minority report to Committee Proposal 69 as offered and the reasons submitted in support thereof:

Messrs. Hutchinson, Binkowski, Seyferth, Durst and Snyder, a minority of the committee on miscellaneous provisions and schedule, submit the following minority report to Committee Proposal 69:

A minority of the committee recommends that the substance of article I, section 1 of the constitution of 1908 be excluded from the constitution.

Messrs. Hutchinson, Binkowski, Seyferth, Durst and Snyder, a minority of the committee on miscellaneous provisions and schedule, submit the following reasons in support of the foregoing minority report which accompanied Committee Proposal 69:

We recommend that the substance of section 1 of article I of the constitution of 1908, being a description of the boundaries of the state, be excluded from the new constitution.

The limits of Michigan's territorial jurisdiction are not determined by her recital of boundaries in her constitution. Between sovereignties, boundaries are settled by treaties. Within the United States, the boundaries of states are to be determined first by the acts of congress admitting them to the union, and second, by interstate compacts entered into between states with the consent of the congress. Disagreements between states in the interpretation of congressional acts and compacts upon their common boundary are settled in the supreme court of the United States.

Almost half of the states do not recite their boundaries in their constitutions. We believe that even when state boundaries are set forth, the recitation is in the constitution but not part of it. Since boundaries must be deter-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

mined by agreement between equal parties, the assertions and claims of one of the parties, even though set forth with the solemnity of a constitutional provision, is given no weight by the other.

The constitution of Indiana sets forth the boundaries of that state. Yet the courts of Indiana have said (Watts vs. Evansville R. Co. 123 N.E. 709):

> The constitution of Indiana did not fix the boundary line now under dispute. Indeed the people of Indiana, by adopting a constitution, could not fix the boundaries of the state. Our impression is that the congress fixed that boundary and that recital in the Indiana constitution is merely a memorandum of it.

Neither can the people of Michigan, by adopting a constitution, fix the boundaries of our state. We are of the opinion that the boundaries should not be recited in the constitution, as such recitation serves no legal purpose.

But, it is pointed out, the boundary line between Ohio and Michigan in the waters of Lake Erie is not settled. Might it then be of value to assert in our constitution what we claim the boundary to be? We think not. The majority disagrees with us, and in the committee proposal has defined the boundary in such a way as to set forth Michigan's "best claim."

In following this reasoning, the majority falls into the same error that the constitution writers of 1908 fell into. In 1908 the boundary between Michigan and Wisconsin had not been settled in the upper peninsula. Michigan in her constitution was persuaded to put forth her "best claim." In 1926 the United States supreme court decided against Michigan. Between 1909 and 1926 the boundaries as set forth in our constitution were at best clouded, being only a claim of right; since 1926 they have been erroneous in the light of the court decree. By setting forth Michigan's claim as against Ohio in constitutional description, we are again describing uncertain boundaries. Errors in our constitutional description were used against us in the 1926 decision; it would have been better not to have included the boundaries in the constitution. We think it better policy to exclude them from the new one.

In the present dispute with Ohio, it is worthy of note that Ohio does not describe her boundaries in her constitution; while our constitutional recitation refers to the northern boundary of the state of Ohio.

As a source of reference, constitutional recitation of our boundaries will be of little authority. Our actual boundaries are to be determined by the congressional act admitting Michigan to the union and interstate compacts already in existence between Michigan, Wisconsin and Minnesota. It is likely that in the future our common boundaries with Indiana and Ohio in the waters of the great lakes will be similarly settled.

We think it better policy for the legislature to provide as a duty of the secretary of state that he maintain accurate descriptions of the boundaries of the state of Michigan, as they are from time to time agreed upon; and that interested citizens could from that office ascertain what the boundaries of the state are.

CHAIRMAN YEAGER (continuing): Mr. Erickson.

MR. ERICKSON: I would like to yield at this time to Miss Donnelly who has done considerable work on this.

CHAIRMAN YEAGER: Miss Donnelly will make the presentation.

MISS DONNELLY: I would like at this moment to make a correction. It's a minor technicality, but if we are going on the record —

CHAIRMAN YEAGER: The Chair believes the record will stand as printed, Miss Donnelly.

MISS DONNELLY: I hope it will stand as printed and not as printed in the journal. The journal is incorrect. I hope it will stand as printed in the green sheets.

CHAIRMAN YEAGER: If you would like to offer the corrections for the record, we will accept it.

SECRETARY CHASE: We could correct the journal, Miss Donnelly, if you will simply make reference to the point you want corrected.

MISS DONNELLY: It is the northwest corner point of the state of Ohio, and not the northeast. It has been corrected in the green sheets, and I understood that the journal would have been corrected to reflect the correct entry.

SECRETARY CHASE: It should be the northwest corner point of the state of Ohio; is that correct Miss Donnelly?

MISS DONNELLY: Yes.

SECRETARY CHASE: Thank you. The correction will be made. [Correction made.]

CHAIRMAN YEAGER: You may proceed, Miss Donnelly.

MISS DONNELLY: Having taken care of this original detail, which is rather large, I will go over the history of the problem to a slight degree, so people will understand why, originally, we are changing the description as in the constitution of 1908. Between 1925 and 1934 there were 3 matters of litigation taken to the United States supreme court determining the boundaries between Wisconsin and Michigan. The original suit was brought to determine the boundaries between them, and their borders. The enabling acts between Michigan and Wisconsin created the difficulties. They were not identical. The dispute over this border and its finalization was not on language alone; rather, it had to do with the doctrine of adverse possession. And the court, in determining all these, stated that:

> The rights of the character here claimed may be acquired on the one hand and lost on the other by open, long continued, and uninterrupted possession of a territory is a doctrine not confined to individuals, but applicable to sovereign states as well.

The Wisconsin enabling act gave Wisconsin the color of title and, coupled with the jurisdiction exercised, it was enough to invoke the doctrine of adverse possession.

As with other tracts of disputed land, the court found that Wisconsin had exercised long, open and continuous possession of and sovereignty over the islands and different lands set forth in these different disputes; that Michigan had full knowledge of such possession, and its silence amounted to acquiescence. The court, quoting from Indiana v. Kentucky, further stated, in United States Federal Court Decisions, 136 U.S. 510:

> It is a principle of public law universally recognized, that long acquiescence in the possession of territory and in the exercise of dominion and sovereignty over it, is conclusive of the nation's title and rightful authority.

This is a brief statement as to why the description change that you will find primarily set forth in the new description proposed by the committee to be included in the constitution. For the benefit of those who wish to examine the actual description as set forth, I have available up here maps that will clearly set forth each point as we go along.

Before I go further into this argument on the issues generally, I would also feel that the committee should take particular cognizance of the work of others and give particular thanks to George May, who helped in writing the article, though there are certain errors that we later went into; the assistant attorney general, Nick Olds; Mr. Robert Kelly of the Michigan department of conservation; Mr. Robert Jay, Monroe county abstract and title company; and Robert Bolton of our own research department.

The committee recommends the inclusion in the constitution of a description of the boundaries of the state for various reasons. These reasons for including them are particularly those set forth in Journal 70 of February 1, but for the benefit of those who do not recall them, I will read them. They are more or less stated in broad terms, and as succinctly as possible.

[The supporting reasons were read by Miss Donnelly. For text, see above, page 2428.]

This practice, as you probably all know from reading your history, has been set forth in all of our constitutions except in 1835, wherein we were involved in a dispute with Ohio, where we had the supposed war with Ohio where no shot was actually fired in any way. But we did not set it forth then because Michigan had not been admitted to the union, and until that dispute over the territory had been settled, Michigan was not admitted to the union. This completes the general report. I yield the floor.

CHAIRMAN YEAGER: The secretary has on file a perfecting amendment.

SECRETARY CHASE: Messrs. Seyferth, Hutchinson and Van Dusen offer the following amendment:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section (the entire proposal) and inserting "The secretary of state shall maintain accurate descriptions of the boundaries of the state as they are presently defined or as they may be defined in the future by the legislature of this state in cooperation with the properly constituted authorities of adjoining states and with the approval of the congress of the United States.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Seyferth on his amendment.

MR. SEYFERTH: Mr. Chairman, delegates, we have a little switch in signals here at the moment. We didn't properly write up this amendment. What we would like to do, if the Chair approves, is for me to yield to Delegate Hutchinson who, in support of this amendment, will more or less go through the rationale of the minority report, which in effect supports the amendment that is before us at the moment. If that is in order, I will yield to Delegate Hutchinson.

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman and members of the committee, a minority of the committee on miscellaneous provisions is of the opinion that the constitution of Michigan ought not to delineate the boundaries of the state. The minority report has been properly filed and is printed in the journal.

The argument that we make is based upon the following reasons:

[The supporting reasons for the minority report were read by Mr. Hutchinson. For text, see above, page 2428.]

Basically, our argument is this: that to recite these boundaries is nothing but what we right now at the moment claim them to be. Even if they are recited, they are not limiting upon the legislature; they are not limiting upon the courts. They are certainly not limiting upon the claims of our sister states whose boundaries adjoin ours. They are not limiting upon the congress of the United States. At most, they are a mere memorandum, if accurately set forth, and that is a great problem in view of the fact that Michigan's boundaries are perhaps the most difficult of any state's boundaries to describe by metes and bounds; but if they are accurately set forth, they are nothing but a memorandum, at great length, very uninformative reading to anyone.

As a matter of fact, we believe that if anybody wanted to ascertain the legal descriptions of the boundaries of the state of Michigan, they would not rely upon the statement in the constitution as to what they are. For instance, if the sheriff of, shall we say, St. Clair county wanted to ascertain where the boundaries of his jurisdiction lay in the waters of the lake, he would be ill advised to simply rely upon the recitation of the boundaries in the constitution. He would want to get that information from the legal surveys and the very best authorities.

It has been repeatedly pointed out that our boundaries are not necessarily constant, that they are amended and altered by agreement and by interstate compact. And it will materially shorten the length of this document if we do not recite these boundaries in our constitution. Therefore, we of the minority think that the best interests of the state would be served by not repeating them here. And we of the minority believe that the boundaries as set forth in this committee proposal should be stricken.

Certain members, two of whom are members of the committee, have offered this amendment which would strike this recitation of the boundaries, but would at the same time set forth in the constitution the department in the state government where anybody should go to ascertain what the legal boundaries of Michigan are so that anyone can, by reading the constitution, know where in the state government to inquire as to what the proper, true, current boundaries of the state are as of the time the inquiry is made.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder on the Seyferth-Hutchinson-Van Dusen amendment.

MR. SNYDER: Thank you, Mr. Chairman. I rise to speak in support of the Seyferth, Hutchinson and Van Dusen amendment, for this reason: I participated briefly in the minority report mentioned by Mr. Hutchinson, and I do not believe that I can add anything to his complete remarks on the subject matter.

I speak not as a surveyor, not as a member of the legislature, or one who has any great knowledge of boundaries or its effect. I reached my decision primarily by my discussions with people who I felt knew the subject. And in view of the fact that the majority of the people whom I talked to felt that this should not be included in the constitution, I arrived at this decision. One of the cosponsors of the minority report, Mr. Binkowski, who is not here at the present time, also came to the same conclusion.

I feel that our constitution should be something that should be concise and kept to a minimum. If I could see any good effect of including the 2 page description of our boundaries in the constitution, I would be glad to support it. However, I feel that the amendment does give us the opportunity to clearly define the boundaries of our state by the people responsible and who have the greatest knowledge of the matter. I feel that the many people involved would not jeopardize the best interests of the state just in order to make this a shorter constitution. I feel that this amendment does put the matter in good hands, and it certainly does take care of what we attempted to accomplish in the minority report. I would urge that we do support the amendment as proposed.

CHAIRMAN YEAGER: The Chair will recognize Mr. Woolfenden on the pending amendment.

MR. WOOLFENDEN: Will Mr. Hutchinson yield for a question? Mr. Chairman and Mr. Hutchinson, am I correct in my understanding that Michigan has one boundary?

MR. HUTCHINSON: Mr. Chairman, I don't know that I understand just what the purport of your question is. It has boundaries with 4 or 5 other states.

MR. WOOLFENDEN: But is it not true, Mr. Hutchinson, that Michigan has a single boundary? We don't have an inner boundary and an outer boundary, or an upper boundary and a lower boundary; we have a single boundary?

MR. HUTCHINSON: In that sense there is only a boundary. You never can put a qualifying adjective to a boundary. Of course you never have an outer boundary or an inner boundary, or an upper boundary or anything. You have a boundary.

MR. WOOLFENDEN: Then shouldn't this language be amended to put boundary in the singular instead of the plural? It seems to me imperfect language as it is written.

MR. HUTCHINSON: I think, Mr. Chairman, that the word "boundaries" is in this sense properly used. But if Mr. Woolfenden can convince Mr. Cudlip that better phraseology would be so served, I will bow at the stage of style and drafting.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: In response to Delegate Snyder's request for some reason why this should stay in the constitution, and for the general information of the delegation itself, I would like to point this out: currently the state of Michigan, among other states — and I'm not sure whether it has come to pass yet, but it is pending whether or not Canada will enter into the water diversion cases which are primarily between the states in the great lakes water basin level, and the state of Illinois, primarily Chicago. Now, in these cases we have a situation where Chicago is draining quite a bit of water off of Lake Michigan, and then as they use this water, rather than dumping their sewage in the water as refined back into Lake Michigan, which would be the great lakes tidal basin, they are flowing this water through the city, out the other side, and down into the

Mississippi water basin. Now, the state of Michigan is quite concerned over the fact that this reduces the level of the great lakes basin about an inch or 2 inches a year. Currently there is this dispute going on before one of the committees of the department of interior in Washington.

Now, one of the reasons why Michigan has standing in this committee is the fact that in our current constitution, although the boundaries are incorrect, we do claim title to parts of the great lakes. Without this claim we have been led to believe that there would have been a good possibility that Michigan would not have standing in front of this committee in Washington that is now trying to resolve the issues involved in the water diversion cases. For this, among other reasons, we maintain that we don't want to pull the rug out from under our conservation department and our attorney general's department which are currently going through this litigation in Washington. They maintain that they need this in the constitution.

Now, after looking this over here, I was wondering — and I would direct this question to Mr. Hutchinson or any other proponent — if they would be willing, rather than make this an amendment to strike and insert, to just add this to the end of our boundary description so that when and if the boundaries ever do change, the secretary of state or some other person could have an up to date, accurate description of them, and possibly even insert the new descriptions in any publications of the constitution from that date on.

I think what we are doing here is pulling all of this reference out, which may be termed self serving and may not, and putting it in the hands of the secretary of state, who I don't think properly has jurisdiction in this area involved in the water diversion cases. We would have an executive member of the state doing exactly what we are being accused of doing here: just writing up self serving statements. I think we can write up our statement now, and if it turns out, in the Lake Erie area, that the 70 square miles is adjudicated to belong to Michigan, and we get it, we are correct. If it's adjudicated to belong to Ohio, then this provision can be taken care of by the secretary of state under your insertion here. Now, I'm not offering these remarks on behalf of the committee, but just on behalf of myself.

CHAIRMAN YEAGER: Mr. Mahinske, do you yield to Mr. Hutchinson for an answer to your question?

MR. MAHINSKE: Yes.

MR. HUTCHINSON: Mr. Chairman, I am happy to respond to the question put to me by Mr. Mahinske this way: that I am not impressed with the weight of his argument that it is necessary to recite these boundaries in our constitution in order to preserve our rights either in connection with Canada or any of the other states. I invite his attention to the fact that if we are involved in this water diversion against Chicago, or Illinois, I don't know whether all of the great lakes states feel themselves aggrieved that way or not, but I would invite his attention to the fact that the state of Ohio also has some frontage on the great lakes. The state of Ohio does not have any recitation of her boundaries in her state constitution. I don't understand how Ohio's rights are jeopardized by the fact that they don't recite their boundaries in their constitution. I can't understand how Michigan's rights would be jeopardized by failing to make these self serving statements in our constitution. And I'm not persuaded yet of the wisdom of leaving all of this lengthy, detailed description in the constitution and then adding to it such a phrase as this.

In further answer to Mr. Mahinske's argument that he doesn't see just exactly how the secretary of state would obtain any jurisdiction in these matters of the diversion cases: of course the secretary of state wouldn't have any jurisdiction and wouldn't have any jurisdiction under this language. The secretary of state is an administrative officer. He is a repository of state records. Certainly his function here is administrative. His function here is to maintain the descriptions of the state as they have been defined by the act of congress admitting Michigan, by the interstate compacts between Michigan and other states, and by the judicial decisions which have interpreted those. Therefore, that would be the boundaries of Michigan.

Now, I sincerely hope that Michigan can obtain this 70 miles of area of water down in Lake Erie, but it would not be anything in Michigan's favor and against Ohio's that Michigan had recited this in its constitution. Ohio hasn't recited her boundaries in her constitution, and I can't see how the courts could give any weight to the fact that Michigan had asserted something in her constitution as against the rights of Ohio. Ohio and Michigan are equal sovereignties. The whole problem of a boundary is a treaty matter. And simply the claims or assertions of one party cannot work disadvantageously to the claims of another party which is an equal.

MR. MAHINSKE: I have no further remarks.

CHAIRMAN YEAGER: Do you yield the floor, Mr. Mahinske?

MR. MAHINSKE: Yes, I do.

CHAIRMAN YEAGER: The Chair will recognize Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman, Mr. Hutchinson has covered pretty much all of our points. I think I must add this, though: it is with a sense of reluctance that we offer this amendment, only because we realize how diligently and conscientiously Delegate Donnelly researched this boundary situation over the past months, and to go contrary to her desires makes it a little difficult.

However, we do feel, very definitely, that because of the situation that the boundaries committee did find, particularly in the fact that the description as we find it even now in our committee proposal is not entirely accurate — it is open to possible contention, and over the years to come it could be in further contention insofar as specifics are concerned — and because of what Delegate Hutchinson has told us about the compacts and treaties forming the basis for the boundaries, rather than what is written into a constitution, per se, we feel that it is merely a good constitutional presentation to boil it down to that which is necessary, and that's what we feel we have in our amendment in the new section a. We request your support of the amendment that is now before you.

CHAIRMAN YEAGER: The Chair would ask Mr. Prettie if he wishes to be recognized.

MR. PRETTIE: Thank you, Mr. Chairman. A question to Senator Hutchinson, please: I happen to come from a county which is located at the starting point of the boundaries contained in the majority report of the committee. I can stand at a point in my county with one foot in Michigan and one foot in Indiana and a hand over into Ohio. Let us assume a murder committed at that point, and the question becomes whether the murder was committed in Michigan or in other jurisdictions. Now, it would seem to me that the court could take judicial notice of the boundaries in the constitution at least for the purpose of determining jurisdiction. Under the amendment proposed, I take it that it would be necessary to obtain some type of certification from the office of the secretary of state to establish jurisdiction. Would that be a fact?

MR. HUTCHINSON: Mr. Chairman, I do not believe so, because I understand the fact of the matter to be that the boundary between Michigan and Ohio has been marked pursuant to an interstate agreement between the 2 states, that there are boundary markers and so on, and the boundary determined according to that survey is the boundary. Now, then, the court can take judicial notice of that.

CHAIRMAN YEAGER: The Chair will recognize Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, I don't know that I'm prepared to go as far as Senator Hutchinson with regard to this particular declaration of jurisdiction.

If my understanding is correct, Mr. Hutchinson indicates that he doesn't know any reason why a claim of right between sovereign states would have any weight in a proceeding such as the water diversionary problem.

I note that in the proposed substitute language there are several differences between the existing constitution and the proposal. The first thing that I noticed was the deletion of any claim of jurisdiction over the territory; and second, no direct incorporation by reference as I would expect to find in a legal document. I think Mr. Mahinske brought out the problems with regard to the water diversionary case, and unless this has been thoroughly gone into, I would not be prepared to say that a claim of right as between the states would have no effect on that proceeding. If I understood Mr. Hutchinson correctly, he said he did not know how it could have. But to me that doesn't mean that necessarily it could not have. In the Toledo war, my recollection is that it became very important. A claim of jurisdiction over the territory involved became so important that in order to establish a claim of right in the Toledo territory the state of Ohio, under the cover of night, brought in a judge with his court officers and held a session of court in the city of Toledo in the dead of night and then quickly returned to the Ohio territory, in order to establish a claim of right. My recollection is that that was of some weight in later proceedings. So I'm a little bit — I'm sympathetic, certainly, with the objective in deleting the boundary lines, but I'm not satisfied that we have the foundation here to take this step.

CHAIRMAN YEAGER: The Chair will recognize Mr. Lawrence on the Seyferth amendment.

MR. LAWRENCE: Mr. Chairman and members of the committee, as a member of the miscellaneous provisions committee, although not on the subcommittee on boundaries, I can assure you that I realize this is probably not the most interesting matter to come before us. However, I would feel somewhat remiss in my duty to the committee and to the people of the state if I did not speak against this proposed amendment and in favor of the committee's majority report, based on what I know about it. I think that it is well for us to consider that we should follow the pattern set in 1908 and in 1850 in setting out our boundaries. I have not heard any claim made that setting them out would in any way damage the state. The most that has been claimed in support of this amendment is that setting out the boundaries will do no good, and I'm not willing to concede that.

I'm certain that if you were buying a piece of property, none of you would take a deed that contained a description that the boundaries of that property would be those that are set up by agreement with adjoining neighbors. And yet that is exactly what this amendment asks us to do. We have a matter of taxing power. Our tax authorities, in describing property, should know what the boundaries of the state are as claimed by the people of the state and should use those boundaries both in limiting and extending the taxing power. I don't know whether you are aware of it or not, but there is oil in Canada within a very short distance — I believe some 25 or 30 miles — of the portion of the territory Michigan has claimed sovereignty over in Lake Erie that is in dispute.

I do not feel that it behooves us at all, as representatives of the people of the state of Michigan, to simply say: we are going to abandon our former procedure; we are simply going to say nothing about what we claim our boundaries are at this time and are going to leave it up to future determination by parties, ourselves included, and by parties other than ourselves, without having stated specifically what our claim is.

Now, I do know that authorities were consulted and diligent work was put on this by the subcommittee, and the descriptions were checked and rechecked with the best information available. As I stated, I was not on that subcommittee, and when I saw the work that was done and the hours that were put in on this rather dry matter, I appreciated very much the fact that Mr. Erickson had not put me on that subcommittee. But in view of the time that has been spent, and the fact that the arguments that have been made in favor of this amendment merely claim it doesn't do any good to put it in the constitution, which I don't conceive, I urge you to vote against the proposed amendment and for the committee proposal.

CHAIRMAN YEAGER: The Chair would advise that there are 4 speakers awaiting recognition. The Chair will recognize Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, one observation on the language of this amendment. The language concerns me because it says:

> The secretary of state shall maintain accurate descriptions of the boundaries —

and I emphasize "the boundaries" —

> of the state as they are presently defined or as they may be defined in the future by the legislature of this state in cooperation with the properly constituted authorities of adjoining states and with the approval of the congress of the United States.

I emphasize "in cooperation with" and "with the approval of." It seems to me that if there's a dispute going to arise, we are not going to get the cooperation of the adjoining states, and there might even be a time when we might not get the approval of congress, but we would have to take it to the supreme court. It seems to me that this could be interpreted to require that in settling boundary disputes we have to get the cooperation of adjoining states, and of course as Mr. Higgs pointed out, we had what is historically known as the Toledo war over some boundary in the southern part of our state. And at present we are having difficulty with other parts of our state, and with water rights and subsurface rights. And unless this difficulty could be corrected by an appropriate amendment, I would think that would be a sufficient reason for voting nay.

CHAIRMAN YEAGER: The question is upon the Seyferth amendment. The Chair will recognize Miss Donnelly.

MR. MARSHALL: Point of order, Mr. Chairman.

CHAIRMAN YEAGER: State your point, Mr. Marshall.

MR. MARSHALL: I don't believe it is proper for the Chair to announce how many speakers there are, because all it does is scare people out into the hall. (laughter)

CHAIRMAN YEAGER: Thank you, Mr. Marshall. The Chair will recognize Miss Donnelly.

MISS DONNELLY: I rise in opposition to the amendment before us at this time for 3 reasons. Initially, I believe that if you have been mindful of the report originally given, and if Mr. Hutchinson would go back and check, you will recall that the legislature was erroneous in 1945, and in 1947 they were forced to correct their error. So when we throw this back to the legislature to look at, when we realize that they did it incorrectly because they just tossed it in, I don't know why we should assume that they will do it correctly. And setting it forth in the constitution that they shall do it puts a unique approach on the subject because they, in the first instance, have no real right or authority to act in this manner.

As Mr. Hutchinson has said, and this is the truth, the law will be determined finally in the supreme court. But Mr. Hutchinson also erroneously forgot, I think, in citing his Indiana case, that that's a case of the state of Indiana; it is not a federal case. The federal court, in determining their actions in our other disputes which are determinative and binding, said that the Wisconsin enabling act gave Wisconsin the color of title. Now, to say that the failure to set forth in writing is not important in the constitution is an arbitrary ignoring of the term "color of title."

As was pointed out prior, the courts went off on adverse possession. I'm sure that Mr. Hutchinson is sufficiently cognizant of the law on that subject: that you must give notice. The most logical place for notice under color of title would be in the constitution, not in the legislature, where they have erroneously set it forth in a resolution, and then they took it out in another resolution. This is the last thing our legislature has done on this, and it still remains on our statute books.

To leave it to the legislature to do in cooperation with the properly constituted authorities of adjoining states is not sufficient because, as pointed out by some of the previous speakers, you cannot expect cooperation when there is a dispute. Certainly we are not going to have any cooperation with the state of Indiana. We are just fighting them and Ohio. And there is the water diversion dispute, as set forth earlier. You can't expect cooperation when you are going to fight about who owns this land. The only way to determine this is in a claim of right, then occupy it and continue your jurisdiction over it. This is the same as any way of getting adverse possession or true possession or title to any land or water involved within this state or without the state between other states.

To put this language in the constitution as proposed now argues with the argument of the minority report, where they said it couldn't be effected. If they are right in the minority report — right in the first instance — it can't be effected this way. So they can't make it effectual by putting it in this way because they will not be able to make this binding. The approval of the congress of the United States would have to be definitely secured. It has been secured in many of the areas as has been set forth in this description as we have described it in our proposed committee report.

In my opinion it is far better to say absolutely nothing on the subject of boundaries whatsoever or spell out boundaries completely. I therefore very strongly oppose this proposed amendment because I think it is far more harmful than silence. I think the best thing we can do is make a claim of right, set it forth with notice, and after having the people of the state pass upon it, they will also assert their claim of right. To put this language in does us more harm than silence. I therefore object very strenuously to this proposed amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I have been opposed to putting these boundaries in the constitution for many reasons, which have been previously stated. I realized that I had not given this the detailed study that some had; so I listened carefully to the arguments in favor of retaining them. I have also listened to Mr. Hutchinson, and any doubts that I may have had as to my opinion have been dispelled. I am in favor of the proposed amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I agree with practically everything that Mr. Hutchinson and the others who are in favor of this amendment have said. You don't create title to land by standing in the middle of it and talking about it, or even by writing a letter to yourself about it. Title to land is created by grant. And we are not putting in this constitution the original grants of land. We are merely talking about it and telling the world what we think it is. This, in my judgment, is our opportunity to create the most massive and copious elimination of useless verbiage that we have had so far in our deliberations. And, if we pass this amendment, I hope on second reading it is not regurgitated.

CHAIRMAN YEAGER: The Chair will recognize Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman and delegates, personally, I don't feel that this subject in itself warrants this much debate. The intention, I think, has pretty well been spelled out. We definitely have presented reasons why the verbiage in the proposed constitution covering boundaries is nothing more than a statement and cannot be used as a court document to prove anything. The records will be someplace else, and if mistakes have been made in the past, those records will be corrected someplace else.

Now, in attempting to amend the committee proposal as we have, the intent is merely to indicate, in the body of the constitution, where one goes to determine the exact boundaries of our state, and that shall be in the office of the secretary of state, who will maintain an up to date description of the boundaries of this state. I move support of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, through the Chair I would like to ask Delegate Hutchinson a question, if I may.

CHAIRMAN YEAGER: State your question.

MR. LEPPIEN: Delegate Hutchinson, would you be kind enough to state for the record just where, publicly, the claim to the boundary of the state of Michiagn would be?

MR. HUTCHINSON: They would be in the office of the secretary of state.

MR. LEPPIEN: As established by whom?

MR. HUTCHINSON: As established by the laws admitting Michigan to the union and as established by the text of the interstate compacts entered into from time to time between Michigan and her sister states, acting with the consent of the congress, as is required by the constitution of the United States. He would also have there the text or the effect of judicial decisions which have interpreted those acts.

MR. LEPPIEN: Mr. Chairman, if I may, one more question. Agreeing with what you have stated thus far, then where, publicly, would be the claim for the 70 square miles that we have referred to so much in our committee discussions? I'm talking about the public claim for those 70 square miles for Michigan.

MR. HUTCHINSON: Mr. Chairman, in answer to Mr. Leppien, as I understand the claim of Michigan to the 70 square miles, it is because of language already in the acts admitting Michigan to the union. It says thence northeast to a particular point on the boundary between the United States and Canada. Michigan's claim is based upon what is meant by northeast. And if Michigan's claim can be substantiated, it certainly must look to something other than what it, itself asserts in its constitution.

MR. LEPPIEN: Thank you, sir. Mr. Chairman and fellow delegates, I think, based on the answers that we have heard of the proponents of the amendment, we must conclude that there is a claim. This constitutional convention is the first in some 53 years. Now, the claim in question has been in existence apparently that long, because from the words of Delegate Hutchinson we have now heard that the question of the 70 square miles is in the original admission of Michigan to the union of states.

I submit to you that on that very basis we must retain the full description, even though it contains a great deal of verbiage, as someone has said, in order to continue the claim that we have, and not in any way, by implication or intent, except the intent to continue to claim those 70 square miles, which has been pointed out could become very valuable in a mineral sense or in an oil sense, plus the fact that it is some of the greatest hunting area of this nation.

MR. HUTCHINSON: Mr. Chairman, will Mr. Leppien yield to me for a question?

CHAIRMAN YEAGER: Do you yield to Mr. Hutchinson, Mr. Leppien?

MR. LEPPIEN: I do.

MR. HUTCHINSON: Mr. Leppien, if instead of being in Michigan you were in the state of Ohio, and you as a citizen of the state of Ohio were interested also in claiming that 70 square miles — keeping in mind that the state of Ohio has never found it necessary to make any assertion of claim in their state constitution — where would you lay your claim? You would lay your claim, would you not, sir, on that same language: thence northeast to a particular point described on the boundary between the United States and Canada? Now, then, I ask you, sir: if that is true, do you think that Michigan's assertion in her constitution would give her any weight as against Ohio in a judicial action?

MR. LEPPIEN: Mr. Chairman, Mr. Hutchinson, I can only say this: your question, as I understood it, takes in the field of law, the field of engineering, the field of surveying, and being just an ordinary laymen I don't know. I do know this: that for the little difference in the words that we are writing in this document, I have been convinced for sometime that we should keep the language of the committee report in our constitution so that there's no question of what we intended to say about it.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: Many of my points have just been made by Mr. Leppien, but I would remind Delegate Tubbs that you can acquire title to land by standing in the middle of it and just saying that it's yours. I think if you can keep yourself there for 15 years in the state of Michigan, this gives you title. Now, what we are basically talking about here — and I don't know that it's worth all of this debate — when we talk about the difference between the committee proposal and the amendment, we are talking about whether we are going to have ¼ of a page in the constitution or ⅓ of a page in the constitution; and for what we stand to lose or what we could lose by putting the amendment in rather than the committee proposal, I think that extra difference between ¼ and ⅓ of a page would call for adopting the committee proposal and rejecting the amendment.

I would also like to point out that under the amendment, if this is adopted, then the legislature would necessarily have to draft up an incomplete description of the boundary of the state of Michigan, for the simple reason that there is this dispute over the 70 mile triangle in Lake Erie. When they got to that point, they could not resolve this or they couldn't put this part of the boundary into the description that the secretary of state would have without first going to the Ohio legislature, arranging an agreement with them, and then going to the U.S. congress and having this ratified there. I just can't see how, under the proposed amendment language, they could write a complete description of the boundary of the state of Michigan. And in view of all of the problems that we would get ourselves into, I think it would be much simpler and much safer to adopt the committee proposal as opposed to the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Tubbs.

MR. TUBBS: Mr. Chairman, for more than 20 years I have been a teacher of real estate law on a part time basis. I think I can assure both Mr. Leppien and Delegate Mahinske that the words in this constitution would have absolutely no evidentiary value in establishing any part of the boundary of Michigan. You do not establish boundaries by that kind of evidence.

Now, there is a delegate in this convention who has had considerably more experience in this field than I have had, and I think he had some experience when he was in the attorney general's office. I'm not sure that Judge Mosier wishes to speak on this subject, but I think he would probably more nearly qualify as an expert in this field than any of the rest of us.

CHAIRMAN YEAGER: The Chair will recognize Mr. Austin.

MR. AUSTIN: Mr. Chairman, I personally favor this amendment. There is one matter which I think may have been overlooked, and I have proposed an amendment which I would ask the secretary to read.

CHAIRMAN YEAGER: The secretary will read the amendment.

SECRETARY CHASE: Mr. Austin offers the following amendment to the pending amendment:

1. Amend the amendment, at the end thereof, after "United States" by changing the period to a comma and inserting "and as defined by appropriate judicial authority.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Austin on the amendment to the amendment.

MR. AUSTIN: It has already been stated that there are some boundaries that are in dispute. And when the disputes are settled, they more than likely will be settled by the courts. The court decisions will represent boundaries to be recognized, too. So I think that that should be included in the language, so there will be no question about these disputed boundaries.

CHAIRMAN YEAGER: Mr. Leppien.

MR. LEPPIEN: Would Delegate Austin submit to a question, please?

CHAIRMAN YEAGER: State the question, please.

MR. LEPPIEN: Delegate Austin, you said, if I understood you correctly, that when the changes in the boundaries would be made, they would be made by judicial decision. Is that right? Did I understand that from you?

MR. AUSTIN: No; that was not the point I was trying to make. I was merely stating that there appear to be some boundaries in dispute — or at least one.

MR. LEPPIEN: That's right.

MR. AUSTIN: And when the court makes the decision, that boundary will be recognized as the new boundary. I merely am saying that I think we ought to now recognize the fact that there will be boundaries established by the courts.

MR. LEPPIEN: Mr. Chairman, Delegate Austin, pursuing this just one step further, let's assume that there was no court decision involved, and it was only a matter of the 2 states, by their proper commissions duly appointed, agreeing and then a ratification by congress. There would be no court decision involved then. Have you taken that into consideration?

The reason I am posing this question, Mr. Chairman, is because, not being an attorney, I do not always understand the language as proposed in the amendments.

MR. AUSTIN: We are 2 of a kind. Neither of us is an attorney. Maybe we should leave it to the attorneys to settle this one question.

MR. LEPPIEN: It is a question, though, isn't that true?

MR. AUSTIN: That's true.

MR. LEPPIEN: Thank you.

CHAIRMAN YEAGER: Mr. Mahinske is recognized on the amendment to the amendment.

MR. MAHINSKE: I would oppose the amendment to the amendment, because it corrects none of the objections that I have to the original amendment, and in addition it adds a mandatory requirement.

Now, we would be calling for agreement between adjoining states, with the approval of congress "and as defined by the appropriate judicial authority," which in this case is the United States supreme court. This is even worse than I think that you would intend it to be. Because after getting the approval of our own legislature as to what the boundaries are and, say the legislature of Ohio in this particular case, and then the approval of congress, then you would have to go on to the U.S. supreme court. And what would happen in the event the U.S. supreme court, one, would not hear the case; or two, did not approve? You are making this a mandatory requirement.

MR. AUSTIN: Mr. Chairman.

CHAIRMAN YEAGER: The Chair will recognize Mr. Austin.

MR. AUSTIN: Mr. Mahinske, it was not my intention to include a judicial review of decisions made by those other authorities. This was only in the case where it was required. Maybe the word should be "or" rather than "and" there.

MR. MAHINSKE: This would perfect your amendment, but I still would not be willing to buy it. And I don't think we have a quorum on the floor.

MR. AUSTIN: But do you think that would settle the question you raised about an additional review?

MR. MAHINSKE: It would resolve the problem of an additional requirement.

MR. AUSTIN: Mr. Chairman and Mr. Secretary, would you merely change that first word to "or" instead of "and?"

SECRETARY CHASE: Mr. Austin revises his amendment to read:

1. Amend the amendment, at the end thereof, after "United States" by changing the period to a comma and inserting "or as defined by appropriate judicial authority.".

CHAIRMAN YEAGER: The revision is accepted. The question is on the Austin amendment to the amendment. Mr. Mahinske, did you wish to speak further?

MR. MAHINSKE: I think we might go a little further and mention that there is only one appropriate authority under the U.S. constitution, and that is the United States supreme court. You might want to spell that out — or possibly this might be a problem for style and drafting. But I would like to make it plain that I am still opposed to the amendment to the amendment, and the amendment itself to the committee proposal.

CHAIRMAN YEAGER: The question is upon the Austin amendment to the amendment. As many as are in favor will say aye. As many as are opposed will say no. In the opinion of the Chair, the amendment to the amendment is not adopted.

MR. FAXON: Division.

CHAIRMAN YEAGER: Division is requested. Is there support? There is sufficient support. As many as are in favor will vote aye. As many as are opposed will vote no.

MR. SEYFERTH: Mr. Chairman.

CHAIRMAN YEAGER: Mr. Seyferth.

MR. SEYFERTH: The proposers of the original amendment accept the Austin amendment, if it is of any assistance.

CHAIRMAN YEAGER: The vote has been called, Mr. Seyferth. We will wait for just a moment. The question, for those arriving late, is on the Austin amendment to the amendment. Have you all voted? For what purpose does the gentleman rise, Mr. Leppien?

MR. LEPPIEN: Will the secretary read the amendment again?

CHAIRMAN YEAGER: The secretary will read the amendment again.

SECRETARY CHASE: The question is on Mr. Austin's amendment to the amendment offered by Messrs. Seyferth, Hutchinson and Van Dusen by adding at the end thereof the words "or as defined by appropriate judicial authority."

CHAIRMAN YEAGER: Have you all voted? The secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the revised Austin amendment to the amendment, the yeas are 70; the nays are 28.

CHAIRMAN YEAGER: The amendment to the amendment is adopted. The question now is on the Seyferth amendment, as amended which the secretary will read in its amended form.

SECRETARY CHASE: The Seyferth-Hutchinson-Van Dusen amendment, as amended, now reads:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section (the entire proposal) and inserting "The secretary of state shall maintain accurate descriptions of the boundaries of the state as they are presently defined or as they may be defined in the future by the legislature of this state in cooperation with the properly constituted authorities of adjoining states and with the approval of the congress of the United States or as defined by appropriate judicial authority.".

CHAIRMAN YEAGER: Mr. Faxon.

MR. FAXON: I want to call for the yeas and nays on this.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? A sufficient number up.

MR. HOXIE: Mr. Chairman, I wonder if I might ask a question, through the Chair, of Mr. Hutchinson.

CHAIRMAN YEAGER: State your question.

MR. HOXIE: If the amendment is not adopted, would it preclude the state from claiming any other territory other than that defined in the proposal, in your opinion?

MR. HUTCHINSON: Well, Mr. Chairman, I assume that Michigan would be making her "best claim," and if it looked better 5 years from now to claim something more, somebody might argue, of course, that it wasn't claimed in the constitution and so there wasn't any weight to it. But, as a matter of fact, I don't think that the recitation of the boundaries of the state of Michigan in the constitution has any legal effect at all. I think that that has been brought out clearly in the debate. So I don't know how important the point you make is; although I'm willing to concede that somebody might make that argument: that since you didn't claim this particular strip of territory when you wrote your constitution, you aren't in very good shàpe to claim it now. Whereas, of course, if this constitution were silent on it, nobody could make that claim.

CHAIRMAN YEAGER: The Chair recognizes Mr. Gover.

MR. GOVER: Mr. Chairman, fellow delegates, it seems that when most of us own property we like to have a description of that property somewhere so that we can refer to it. I believe that the state of Michigan should be in that same position; that we should have at our fingertips a description of the property that we own as the state of Michigan. The constitution, when it is printed every year in the Michigan Manual and other places, should contain the description of the property we own. I also feel that school students would like to have the boundaries where they can get at them and read them and know what we've got in the state. Therefore I oppose the amendment.

CHAIRMAN YEAGER: The question is upon the Seyferth-Hutchinson-Van Dusen amendment. The yeas and nays have been demanded. Mr. Madar.

MR. MADAR: I would just like to tell Mr. Gover how easy it would be. I am quite sure that he doesn't carry around in his pocket the description of the properties that he owns. And I don't believe that we have to have them in the constitution. When he wants to find out what the descriptions are of his properties, he goes to wherever he has them, whether they are in the safety deposit vault, whether they are in his home under a bed, or anywhere else; but I don't think he is going to carry them around. Now, the same thing goes here. So far as we are concerned, we can always find out from the secretary of state's office, and if we want the school children to know, we can send them the description and they can all learn it that way. So I believe that he has a mighty poor excuse for not wanting this amendment to pass.

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, speaking on behalf of the students of the state, I can assure all of you that the omission of this particular language will not be of any great significance to the student body. I'm sure that they will support this.

CHAIRMAN YEAGER: Do you wish recognition, Mr. Mahinske?

MR. MAHINSKE: Yes.

CHAIRMAN YEAGER: You may proceed.

MR. MAHINSKE: With the absence of this in the constitution, I think your most readily available means of finding out what the description of the state of Michigan is is the official state highway map of Michigan, which concedes Menominee, in the upper peninsula, to Wisconsin. We have had this out with the highway department and the attorney general's department, and they didn't think it was very humorous. But, at the same time, the most available official document that you can get from the state of Michigan is the official highway map. Now, the current one puts Menominee in Wisconsin. I'm not saying that this is conceding Menominee to Wisconsin, or that this might not be a good idea, (laughter) but at any rate, this argument about putting our best claim forward — as far as I'm concerned — putting our best claim forward in this position here is putting it in the constitution and having a majority of the people of the state of Michigan ratify the language in the constitution itself.

I think that this is a better claim to what your state is composed of, as opposed to what, if at all, the legislature will say the state is composed of. They well may not act until the time comes that they have to act. And I concede, assuming that they do, they will still not be able to resolve this issue between Michigan and Ohio that is currently going on. When they get to that point of the boundaries, they are going to have to enter into an agreement with the state of Ohio. They are going to have to go to the congress of the United States to get it ratified there, and then there will be a possibility of having this reviewed, under the adopted amendment to the amendment, in the United States supreme court.

I think the difference between just writing in this 1/3 of a page or 1/4 of a page, whichever you adopt — if you adopt the majority proposal you are writing in 1/3 of a page; if you adopt the amendment, as amended, you are writing in 1/4 of a page — I don't think it is worth all of this grief and litigation to go through this. The difference is just that. The legislature will not be able to write in an accurate description of the state of Michigan. I would be opposed to the amendment here.

CHAIRMAN YEAGER: The Chair will recognize Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, let me just briefly bring together some facts to those who might not have heard them when they were under discussion previously. It has been pointed out here that the recitation or the inclusion of the majority report in the constitution will serve no purpose. Those of us on the committee who considered this for quite some time disagree very much with that. We believe it does serve a purpose, the purpose being that we, the constitutional convention, which convened after 53 years of absence or thereabouts, have said in the document that we are writing what we believe to be the boundaries of the state of Michigan. From there the proper authorities take it over and do the adjudicating as to the disputed territory, wherever it may be. I urge the rejection of the amendment, as amended, and the adoption of the majority report.

CHAIRMAN YEAGER: The Chair will recognize Mr. Higgs.

MR. HIGGS: Mr. Chairman, point of information. Am I correct in understanding that the Austin amendment now reads, "or as defined by appropriate judicial authority?"

CHAIRMAN YEAGER: That is correct, Mr. Higgs.

MR. HIGGS: I don't know just what that means now, and I think Mr. Leppien has very adequately and thoroughly argued the point, and I am going to support the committee that heard the testimony in this regard. It seems to me that we are taking an awful lot of time to accomplish merely the cleaning up of language.

CHAIRMAN YEAGER: The question is upon the Seyferth amendment, as amended. The yeas and nays have been demanded. This is a recorded roll call vote. As many as are in favor will vote aye.

I'm sorry, Miss Donnelly.

MISS DONNELLY: Somewhere along the line I think we've gotten a little confused as to the issues. If the issue is to put the boundaries in the constitution or not, that's one issue. But this language doesn't answer that issue. I definitely am opposed to this language because I think it does a great deal more harm than silence. If you don't want the boundaries in, I would rather have you vote no on the committee proposal and have silence, rather than to put this in and vote yes on this. Because we will be doing more harm, in my opinion, by putting in this language, which really does nothing, than by being silent. So if you object to the committee report because you don't want to spell the boundaries out at all, I would suggest that you vote no on this and then vote no on the committee proposal, rather than to put in this language instead of the boundaries. I definitely oppose this because I think it is much worse than silence.

CHAIRMAN YEAGER: The question is upon the Seyferth amendment, as amended. The yeas and nays have been demanded. This is a record roll call vote. As many as are in favor will vote aye. As many as are opposed will vote no. Have you all voted? If you have all voted, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—59

Allen
Austin
Balcer
Beaman
Blandford
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Downs
Durst
Everett
Farnsworth
Faxon
Finch
Garvin
Goebel
Hannah, J. A.
Hart, Miss
Hatch
Hodges
Hubbs
Hutchinson
Iverson
Jones
Karn
King
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nord
Perras
Plank
Pugsley
Radka
Rajkovich
Romney
Rood
Seyferth
Shaffer
Snyder
Stafseth
Staiger
Stamm
Stevens
Suzore
Tubbs
Tweedie
Upton
Van Dusen
White

Nays—47

Andrus, Miss
Batchelor
Bentley
Boothby
Bradley
Brake
Butler, Mrs.
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Follo
Gover
Greene
Gust
Habermehl
Haskill
Heideman
Higgs
Hoxie
Judd, Mrs.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Powell
Prettie
Richards, J. B.
Rush
Shackleton
Shanahan
Sharpe
Spitler
Sterrett
Stopczynski
Turner
Walker
Wanger
Wilkowski
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Seyferth, Hutchinson and Van Dusen, as amended, the yeas are 59; the nays are 47.

CHAIRMAN YEAGER: The amendment is adopted. The next amendment on file is a minority report to strike. The Chair would like to ask Mr. Hutchinson if he wishes to withdraw it at this time or continue it.

MR. HUTCHINSON: Mr. Chairman, unless there is any other signer of the minority report who would disagree with me, I would withdraw the amendment based on the minority report.

MR. MAHINSKE: The minority report amendment that is being withdrawn now is the minority report amendment to strike everything and leave the constitution silent?

CHAIRMAN YEAGER: That is correct.

MR. MAHINSKE: Well, I would, from the floor, move this. Rather than have this language in the constitution which binds us to a hard and fast routine to follow, which I don't think is going to work, I would rather leave the constitution completely silent on this matter. If it is proper, I would so move.

SECRETARY CHASE: Without objection, Mr. Hutchinson withdraws the minority report amendment.

Mr. Mahinske offers the following amendment:

1. Amend page 1, after line 4, by striking out all of the proposal after the enacting clause.

CHAIRMAN YEAGER: The question is on the Mahinske amendment. Do you wish to be recognized further, Mr. Mahinske?

MR. MAHINSKE: No. I have stated my reasons, basically. I think this language that has been adopted just now is more cumbersome than not mentioning anything with reference to boundaries in the constitution. I think it's more dangerous than silence, and I would prefer silence myself, on this matter.

CHAIRMAN YEAGER: Mr. Lawrence.

MR. LAWRENCE: I think, Mr. Chairman, the committee has indicated its desire not to have the description of what we claim in the constitution. By all means I support Mr. Mahinske's amendment. Let's not say we don't know what our boundaries are, which is the position we are in now.

MR. FAXON: Mr. Chairman.

CHAIRMAN YEAGER: Mr. Faxon.

MR. FAXON: I call for the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? There is a sufficient number up. The yeas and nays will be demanded. Mr. Habermehl.

MR. HABERMEHL: I would just like to say, as a member of the committee, that I believe, too, it is far better to have nothing in the constitution at all than the present language that now appears as a result of our last action.

CHAIRMAN YEAGER: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. Chairman and fellow delegates, I feel that we ought to have some description, and it does state in there that the secretary of state shall take care of this, and he will have the description in his possession with the records. I believe that we ought to have them and there's no reason why we shouldn't. Then, if anybody wants to get a copy of them, they can.

CHAIRMAN YEAGER: Miss Donnelly is recognized.

MISS DONNELLY: I definitely support Mr. Mahinske's amendment that we have silence, rather than this, as I stated before.

In response to Mr. Madar, the way this is written at this time, the secretary of state cannot, because this amendment says, as it presently is, and as it presently is, it's incorrect. And if you want them to go there and get something that's incorrect, I think you're sending the people of the state on a strange errand. I therefore support the theory of having nothing and support Mr. Mahinske's amendment to strike.

CHAIRMAN YEAGER: The question is upon Mr. Mahinske's amendment to strike the entire proposal. The yeas and nays have been demanded. This is a recorded roll call vote. As many as are in favor will vote aye. As many as are opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—74

Allen
Andrus, Miss
Balcer
Batchelor
Beaman
Finch
Goebel
Gover
Greene
Gust
Leppien
Lesinski
Mahinske
McAllister
McLogan

Bentley
Blandford
Boothby
Bradley
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dell
Donnelly, Miss
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Erickson
Farnsworth
Faxon
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Nord
Powell
Prettie
Radka
Romney
Rood
Rush
Shanahan
Snyder
Spitler
Stopczynski
Turner
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden

Nays—29

Austin
Brake
Dehnke
Doty, Donald
Everett
Karn
King
Madar
Martin
McCauley
McGowan, Miss
Millard
Mosier
Perras
Plank
Pugsley
Rajkovich
Richards, J. B.
Seyferth
Shackleton
Shaffer
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Tubbs
Tweedie

SECRETARY CHASE: On the adoption of the amendment by Mr. Mahinske to strike out all after the enacting clause, the yeas are 74; the nays are 29.

CHAIRMAN YEAGER: The amendment is adopted. The secretary will read the next item.

SECRETARY CHASE: Messrs. Seyferth and Wanger offer the following amendment:

1. Amend page 1, line 5, by inserting:

"Sec. a. The secretary of state shall maintain accurate descriptions of the boundaries of the state.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, this sentence was put in because it is believed that the duty of keeping the boundaries of the state should be fixed constitutionally and that there should be a constitutional duty in this regard because of the immense importance of the subject matter.

CHAIRMAN YEAGER: The question is on the amendment by Messrs. Seyferth and Wanger. Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman, members of the committee, I can only conclude from the last vote that this convention would like to give constitutional status to silence. (laughter and applause)

CHAIRMAN YEAGER: The question is on the Seyferth-Wanger amendment. As many as are in favor will say aye. Opposed will say no.

The amendment is not adopted. Are there any further amendments to the body of the proposal? If not, it will pass.

Committee Proposal 69, as amended, is passed. The secretary will read the next item.

SECRETARY CHASE: Item 7 of the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 63,** A proposal pertaining to estates of married women. Retains section 8, article XVI.

Following is Committee Proposal 63 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 63:

The committee recommends that section 8 of article XVI of the constitution of 1908 be carried forward into the new constitution. It gave serious consideration to broadening this provision. It is not essential that any such provision be incorporated into the constitution. The rights of married women, as regards their property, are defined and governed by the married women's act of 1855. The legislature has broadened their rights beyond the strict construction of this constitutional provision.

The committee was of the opinion, however, that to leave the provisions of this section out of the new constitution might be misunderstood by some people.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson, chairman of the committee.

MR. ERICKSON: We have all heard it said that one of the greatest joys of owning property is quarreling over the property lines, and I still think that is true.

Now, I believe there are some amendments —

CHAIRMAN YEAGER: Before we take the amendments, Mr. Erickson, don't you want to make an explanation of the proposal? Are those committee amendments, Mr. Erickson?

MR. ERICKSON: Yes. And before you read that amendment, Mr. Chase, I would like to state that the amanuenses of this amendment are Miss Donnelly and Mr. Hutchinson, instead of myself. I do support these amendments. These amendments are a further extension of the rights of women. After they are read, I will yield to Miss Donnelly.

SECRETARY CHASE: Mr. Erickson, on behalf of the committee on miscellaneous provisions and schedule, offers the following amendment:

1. Amend page 1, line 6, after "Sec. a.", by inserting "The disabilities of coverture are abolished."; and in line 7, after "all" by inserting "real and personal"; and in line 8, after "entitled" by striking out "by gift, grant, inheritance or devise"; and in line 11, after "may be" by inserting "contracted, sold, transferred, mortgaged, conveyed,"; so that the language will read:

Sec. a. The disabilities of coverture are abolished. The real and personal estate of every woman, acquired before marriage, and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be contracted, sold, transferred, mortgaged, conveyed, devised or bequeathed by her as if she were unmarried."

MR. ERICKSON: I yield to Miss Donnelly.

CHAIRMAN YEAGER: Before we yield to Miss Donnelly, the Chair would like to ask if we could have those amendments on the wall. I'm sorry; the Chair understands you have them on your desk. The Chair will recognize Miss Donnelly on the committee amendment.

MISS DONNELLY: Members of the committee, I'm confronted with a problem, and I think I should yield to Mr. Hutchinson, but I will set forth generally that the constitution of 1908 had language which we had originally, in our committee, proposed to retain. This committee proposal — we are on the amendment of the committee and not on the whole situation, first, am I right? You have in your book the exact language of the 1908 constitution. We have, in the committee amendment set forth simply that the disabilities of coverture are abolished. We are going back to the 1908 language, with the insertion later of the real and personal estate a woman acquired before marriage and all real and personal property to which she may afterwards become entitled. This language would mean everything to which she might be entitled, not just gift, grant, inheritance or devise. Those words were

struck because they were words of limitation. And "afterward entitled" would include everything that a married woman would either earn by her paycheck or a gift, grant, inheritance or devise, and "shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband," which does not change the 1908 language. We have added the words, as you notice, "contracted, sold, transferred, mortgaged, conveyed" to make it more extensive in her rights to treat the property; as opposed to limiting it to "devised or bequeathed by her as if she were unmarried." In the last 2 lines, "devised or bequeathed" refer only to the actions of devise on real property, and "bequeathed" on personalty, as set forth in her will. I would like at this time to yield to Mr. Hutchinson.

CHAIRMAN YEAGER: Miss Donnelly yields to Mr. Hutchinson. Mr. Erickson, technically, yields to Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I don't know that I can add anything to it. Miss Donnelly has explained what the committee amendment as it is before you provides.

Quite frankly, I will say that the constitutional provision as we find it in the 1908 constitution for its day was quite forward looking. As a matter of fact, it simply was a carry over from the 1850 constitution. It was started way back in 1850. In 1850 the present provision was put into the constitution of Michigan in order to lay the foundation for what became the married women's act. As a matter of fact, the married women's act goes further than the constitutional provision.

Let me say this: frankly, at one time I was of the opinion that we didn't need to say anything at all about this in the constitution because, certainly, the legislature by statute has gone further than the constitution went, and there is no doubt but what the legislature could provide all of this by statute law. But then — I'll have to confess this — I became a little apprehensive and fearful lest, if the constitution is silent upon this matter, that not only the lady delegates in this convention would become aroused, but that perhaps a majority of the potential voters of the state, who are women, would become alarmed and not favor the work of this convention when, as a matter of fact, their rights really rest upon statute law and judge made law, and this constitutional provision is more or less declaratory. However, yielding to the political practicalities of the situation and recognizing that from that standpoint we needed to say something, at that point I was ambitious to make it as broad as we could possibly make it.

I think that if we write into the constitution that the disabilities of coverture are abolished, then the rights of a married woman will be the same as the rights of an unmarried woman, and she will be able to do everything with her property that she could do if she were unmarried. At the same time I do not think that her privileges are denied her. By this provision she will gain all of her rights and will not lose any of her special privileges.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: I would like to point out what I think is probably a big error we made here, to either Mr. Hutchinson or Miss Donnelly. In the existing language of the constitution we talk about after-acquired property that she is entitled to by gift, grant, inheritance or devise. In the amendment we are talking about all of the property that she may become entitled to.

Now, as I read this, this also would include dower.

A woman could contract, sell, transfer, mortgage, convey, et cetera, her dower interest here. I don't think this is what we intended. If you will read the existing language, you will see this glaring possibility here.

CHAIRMAN YEAGER: Miss Donnelly.

MISS DONNELLY: I presume, by the nature of your question, you're referring to inchoate dower.

MR. MAHINSKE: Pardon?

MISS DONNELLY: I presume by the nature of your question that you're referring to inchoate dower, and not choate dower, because choate dower she would be entitled to do with as she wishes.

MR. MAHINSKE: Right. Now, the language under the existing constitution deals with — in fact I'll recite the language to you:

> The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise shall be and remain . . . .

Now, we have said in our amendment here:

> The real and personal estate of every woman, acquired before marriage, and all real and personal property to which she may afterwards become entitled shall be and remain the estate . . . .

I think we are going much further than the married women's act, and we're going further than the existing constitution.

CHAIRMAN YEAGER: Miss Donnelly.

MISS DONNELLY: I once again refer you to the question: are you not referring to inchoate dower?

MR. MAHINSKE: I'm referring to any dower.

MISS DONNELLY: Now, does one really become entitled to inchoate dower? Certainly, she is not entitled in fee to anything but choate. The inchoate is a claim but she is not entitled thereto, it being vested to her. I am wondering, if you would like to include gift, grant, inheritance or devise, we also wish to extend it.

CHAIRMAN YEAGER: The Chair would suggest that we might proceed in better order if the questions and answers would come through the Chair, please.

MR. MAHINSKE: Are you trying to say then that the husband could convey property that he acquires after marriage without the signature of the wife?

MISS DONNELLY: No, we are certainly not trying to abolish inchoate dower.

MR. MAHINSKE: Fine. Then I think you are saying here that she can contract, sell, encumber, and so forth, her inchoate dower rights.

MISS DONNELLY: I'm sorry, I can't hear you.

MR. MAHINSKE: I can hardly hear you, either.

CHAIRMAN YEAGER: The committee will be in order, please.

MR. MAHINSKE: I think that we are going that far, that we are saying that she can encumber this inchoate right. If you will compare the language that is stricken here, you will see that we originally were talking about after-acquired property that she is entitled to only by gift, grant, inheritance or devise. Now, by striking that language, we are talking about all after-acquired property and interest.

MR. WALKER: Point of order.

CHAIRMAN YEAGER: Who raised the point of order?

MR. WALKER: Walker, back here.

CHAIRMAN YEAGER: State your point.

MR. WALKER: May I suggest, Mr. Chairman, that the conversation could be better carried out in the hall, and maybe we could get on with this thing and come up with something. The questions and answers certainly are not being directed through the Chair, and it is digressing to sort of a little tete a tete between the 2.

CHAIRMAN YEAGER: The point is well taken. The Chair has requested that the delegates come through the Chair on their questions and answers, and the Chair would ask them to do so and stay on the question at hand. You may proceed, Miss Donnelly.

MISS DONNELLY: I'm sorry, I didn't think we were off the issue.

MR. MAHINSKE: Frankly, I didn't feel we were either. If some people don't understand — (laughter)

CHAIRMAN YEAGER: Do you wish to proceed in order, or do you wish to have a seat?

MR. MAHINSKE: Pardon?

CHAIRMAN YEAGER: Do you want to proceed in order, sir?

MR. MAHINSKE: Yes.

CHAIRMAN YEAGER: Thank you. Mr. Mahinske is recognized.

MR. MAHINSKE: I believe you just recognized Miss Donnelly, in order.

CHAIRMAN YEAGER: Miss Donnelly is recognized.

MISS DONNELLY: I certainly wish to state that it is not the intent of the committee to involve itself with inchoate dower. The married women's statute is further extended than our present constitutional language. Also, we have statutory language and, I believe, constitutional language on dower. I may be a little hazy on some of the changes we made on dower in the constitution, but I think we have retained it. I gather that your point may well be that we have raised a question between those 2 issues. This is certainly not the intent of the committee.

MR. MAHINSKE: I would like to point out, through the Chair, and direct a question to Mr. Hutchinson, if he feels that due to the changes, especially in punctuation here, we have opened up the possibility of protecting more than we desire to protect here?

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, in answer to the question directed to me, I would say that I do not have the text of the statute before me, but it is my recollection that in drafting the amendment we copied the language right out of the married women's act. If this problem with regard to inchoate dower that you raise here now has any validity, it could probably have been raised way back as early as 1859 by the married women's act.

MR. MAHINSKE: Well, I was not aware of the fact, Mr. Chairman, that this was the exact language from the married women's act. I do recall last night at our committee meeting that this was done rather hastily, and I thought perhaps something had been overlooked in view of changing this punctuation here.

We are talking about all after-acquired property of a woman now, and not primarily about after-acquired property which she gains title to or interest in by virtue of a gift, grant, inheritance or devise. I thought this was a very important point, and I'm sorry not everybody here understands these terms, but perhaps if they would indulge us a little bit they would get the gist of our conversation. I am satisfied that if this is the exact language from the married women's act and it has not been contested since 1911, it probably is proper language.

CHAIRMAN YEAGER: The Chair will recognize Mr. Austin.

MR. AUSTIN: Mr. Chairman and fellow delegates, I feel that perhaps only a nonlawyer would be stupid enough to ask the question I'm going to ask, but we have here deliberately written into the constitution a form of discrimination, and I have a natural aversion to all forms of discrimination. I am just wondering, for the record — and I'm quite serious about this — if we should not have Miss Donnelly or some other proponent explain exactly why we feel it necessary to write this type of discrimination for married women into the constitution.

CHAIRMAN YEAGER: The question is still on the committee amendment. The Chair will recognize Mrs. Butler.

MRS. BUTLER: Mr. Chairman, fellow delegates, I was amazed to have Mr. Hutchinson recognize the women, as the Republican men don't usually do that — and it was not as women of equal brain power or anything else, but as potential voters. La-de-da, Mr. Hutchinson! (laughter)

CHAIRMAN YEAGER: The Chair will recognize Mr. Danhof.

MR. DANHOF: Mr. Chairman, I do not wish to talk on the committee amendment. I think we ought to get it voted on. I want to speak on the proposal as perfected.

CHAIRMAN YEAGER: Do you wish to be recognized, Miss Donnelly, on the committee amendment?

MISS DONNELLY: Just to give an answer to Mr. Austin. This is not a case of discrimination. This was to remove the discrimination. I hope that will clear your mind. The common law disabilities of coverture were discriminatory against married women. This language of the constitution is to remove discrimination, not to cause discrimination, Mr. Austin.

MR. AUSTIN: Mr. Chairman, I think my question was misunderstood. When a man marries, he does not have the right to dispose of his property as freely as if he were not married. But now we have made it possible for women to dispose of their property acquired before marriage, freely, without the husband participating. I merely feel that the record ought to show why we feel that it's necessary to do that.

CHAIRMAN YEAGER: The question is on the committee amendment. As many as are in favor will say aye. Opposed will say no.

The amendment is adopted. Does the secretary have any further amendments on file?

SECRETARY CHASE: That is the only amendment on file to Committee Proposal 63, Mr. Chairman — I beg your pardon, Mr. Upton has an amendment.

Mr. Upton offers the following amendment:

1. Amend page 1, by striking out all of the proposal after the enacting clause.

CHAIRMAN YEAGER: The Chair recognizes Mr. Upton on his amendment.

MR. UPTON: I'm here all by myself, I guess. I believe when this article was enacted back in 1850, the women had entirely different status than they have now. We have been seeing since we have been here at the constitutional convention how able and capable our ladies have been, and I'm sure they can manage their debts as well as the men. I'm sure they can manage their property as well. I agree with Dick Austin. I want to know why we need to have this in our constitution to protect women above men when women are supposed to be equal to men now. In fact, in our Committee Proposal 26 we claimed there can be no discrimination based on sex and other items. (laughter)

CHAIRMAN YEAGER: The committee will be in order.

MR. UPTON: To me, by inserting this in our constitution, we have an item for style and drafting to take care of, because it is a completely controversial issue and conflicts with Committee Proposal 26. I'm sure that most of the women throughout our state of Michigan prefer to be respected as equal to men, and I see no reason to have it in our constitution that they should be protected as to their property before they got married. When you get married you take on a partner, and together you work out your problems. To me both the property of the man and the woman should be common property among their family. Therefore, I object to this proposal and recommend that you strike out the entire language. Thank you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Danhof on the Upton amendment.

MR. DANHOF: Mr. Chairman, members of the committee, I didn't know Mr. Upton's amendment was coming, but both Mr. Austin and Mr. Upton have voiced the matter which I raised. Now, I know we have laughter over the fact that we talk about the rights of married women. But we go ahead here in Committee Proposal 26 and we say, "nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, religion, sex or national origin." Now, if this has made equality on the basis of civil and political rights, then I suggest that the ownership of property is one of those civil rights.

Now, I understand that there are those who believe that in line 4, the word "sex" in Committee Proposal 26 should be stricken, but it is in there as passed by this committee. I think that Mr. Austin has raised a very valid point and that we might be creating a conflict. Now, either we do or we don't mean what we say in Committee Proposal 26. If we want a simple sentence in there to state that the disabilities of coverture are removed, I think we should have it. But I'm wondering if we really need all of this other language in view of that; with a simple statement that the disabilities would be removed, period, and let the legislature carry it out.

I submit that there might be some time when a court, looking at these 2 sections and trying to read them together, would really wonder whether or not we meant what we said when we said that persons are equal, regardless of their sex, in their civil and political rights, on the basis of what we said in Committee Proposal 26, or whether we didn't mean it; and we go on and talk some more, and the more we talk and the more we put down, the more doubts we are going to raise. I would at this time seriously consider supporting Mr. Upton's amendment.

CHAIRMAN YEAGER: The Chair will recognize Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I rise to support the Upton amendment somewhat hesitantly, never having been known exactly as a ladies' man and then having a wife who approaches all of the problems and property problems of life as a question of what's mine is half hers, and what's hers is her own. (laughter)

In seriousness, I think we do have a real problem, a constitutional conflict, in the provision that we previously adopted relative to discrimination because of sex and this provision. Many of you, of course, are familiar with the fact that a woman today can elect against a will, against taking under a will and taking her statutory share. This cannot be done by a man. It can be done in some states by men. We have all of these provisions which, in effect, give a woman substantially different rights than a man.

Now, we had better reappraise our whole outlook on the question of male and female rights, both with respect to the prior proposal and with respect to this proposal, before we write a conflicting provision now. I think there is much to be said, in all seriousness, about doing away entirely with this proposal.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Koeze.

MRS. KOEZE: Mr. Chairman, I would like to ask Mr. Upton: what makes you think that things have changed since 1850? (laughter) You talk about taking on a partnership; sure, but that partnership is usually 80-20. To keep things going, I would just like to remind you gentlemen that occasionally we like to have evidence of what you really mean. You keep this in the constitution. This is just like your telling us, "I love you" every morning. How many of you forget to say this every morning?

CHAIRMAN YEAGER: The Chair will recognize Miss Donnelly on the Upton amendment. (laughter)

MISS DONNELLY: Obviously, following Mrs. Koeze, there's a certain amount of humor, and my fellow colleagues on this side have reassured me that they love me every morning, which is very nice for the record. As a single woman — (laughter)

CHAIRMAN YEAGER: The committee will be in order.

MISS DONNELLY: However, I believe that as we enjoy these jokes, we may get off the issue. The issue here has nothing to do, in my opinion, with the rights section. We are dealing here with property rights of a married woman, not of a single woman. A single woman's rights are unimpaired by any disabilities of coverture. A single woman may contract as she wishes. What she does with her property is her own business. This may lead into obvious arguments about why I retain the freedoms. However, the issue before us, to me, is not quite as simple as the gentlemen are laughingly twisting it. Here we are confronted with: what rights does a married woman have? The 1908 constitution saw fit to spell them out because of the common law disabilities. We are still confronted with many of these disabilities. We have gone far, to the degree of stating that they should not be discriminated against on the basis of sex. However, the gentlemen also did not wish to put this in in the civil rights section.

The action of Mr. Upton in his comments is perhaps laudable for his wife and her opinion on this issue. However, it is not exactly the facts throughout the state of Michigan. To me this paragraph must be retained because of the many problems that are inherent if it is not left in the constitution. To say that the married women do not need protection is to ignore the facts of life.

Now, gentlemen, you obviously have this within your control. There are 11 women members of this convention, and their vote on this issue is as important as if they were not here. I think it is very necessary that this be retained in the constitution because of the problems which are inherent in conveying property: whether they will mortgage or not; whether they will be liable for their husband's debts.

Now, we may laughingly talk about the fact that it is a partnership, but in many instances it is most important for the wife to be able to retain property in her name, for her control. In the long run the married woman, if she does beget children, is the person most primarily interested in protecting their rights. To remove any control from a married woman to protect her rights and her children's rights by knocking this language out and laughingly feeling that we have covered it in another article, I think, is very erroneous.

To argue the case of all married women in the state is a unique thing for me, but I think it is most important that we do not treat this matter as a joke. We are writing the constitution, and we should strongly consider what direction we are going. I suggest that it is very important to retain this language and that Mr. Upton's amendment be defeated.

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon on the Upton amendment.

MR. FAXON: I call for the yeas and nays on this.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? A sufficient number is up. The yeas and nays will be ordered. The Chair will recognize Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I must agree with the previous speaker, Miss Donnelly, that this is indeed a sober matter that we are discussing. I just wanted to thank Mrs. Koeze for pointing out to us where the formula of 80-20 came from. I know this was something we all wondered. Now I think we are aware of where Mr. Hannah did get this. (laughter)

However, I will say this: I think that we have a responsibility as delegates to the convention to protect one of the most basic and fundamental divisions of American life — that is the family. I feel that as males and females, brother and sister delegates to this convention, we are obligated to put into this constitution something that will protect the focal center of family life, the woman.

Now, I think it would be quite trite to say that women have progressed to the point in the last 50 years that they are able not only to vote at the regular elections but also are able to represent us at the constitutional convention. I feel that this has been a tremendous progressive step forward by the women. I do not feel that we, as males, have made the same progress from a social point of view that we can delineate or take out from the constitution the present provision. This is my understanding of the problem that we have confronting us. Taking away all of the legal jargon and all of the legal technicalities, the problem we have before us is this: shall a woman who had certain property before her marriage be able to maintain this property during the course of her marriage? Or shall we take away this property and put it into a community property once the marriage vows are consummated? I say this with all seriousness: that because of the makeup, the biological makeup of people, women are more trusting, and once the marriage vows are consummated, they are willing to share and share equally, and sometimes give away some of the rights that they have. And if they are not fully protected, there are those who would take advantage of this.

I feel that this is a very sober matter before us. I feel that we, as delegates, should protect this basic ideological right that we do have, and I certainly would oppose any amendment that would take away from the family something that is so definitely required to perpetuate this at an age where our marriages are so volatile and our family life is so much exposed to the jet age.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: Mr. Chairman, members of the committee, at first I was opposed to the amendment to delete this section, but I must confess at this time that I am inclined to go along with it, for one or two basic reasons. I think that a primary reason is the present married women's act, which goes much further than the language proposed in this new section to the constitution. I think it could be construed by putting this section in the constitution, revised as it is at this point, that we are intending to limit the award of rights to the women under the married women's act. Under the married women's act it goes so far as to say that she shall have the right to all of this property, whether it be real, personal or otherwise, which has come to her possession by the various means that we set out, and then they throw in an all inclusive clause here that says, "or in any other manner." Now, it is conceivable that the present proposed committee proposal here could be construed as to limit this last phrase in the married women's act.

The second reason why I would be inclined to go along with the amendment here as opposed to the committee proposal is that the committee proposal starts off by abolishing all the rights of coverture. Now, I'm not exactly sure what all the rights of coverture are, and I don't know that I'm willing to concede any rights that I may have that I'm not aware of. Frankly, I would say that the women have much more to gain under the married women's act than they do under the constitutional provision, which is practically verbatim to the existing constitutional provision, but does go further and grant them the right to the property that they acquire in any other manner, whether it is recited or not. I would have to say that I would be inclined to favor the amendment to the committee proposal.

CHAIRMAN YEAGER: The Chair will recognize Mr. Upton.

MR. UPTON: Mr. Chairman, ladies and gentlemen of the committee, I'm really surprised at the women not really wanting to take on this responsibility. I thought they wanted it all this time. I didn't realize it would cause quite the furor it has. I would hope that we are able to review this and vote our conscience, and vote the way we think our wives would like to have us vote at home also. And I hope that we can vote on it very soon. Thank you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, Delegate Donnelly referred to the married women's rights, and implied, in my opinion, that the rights section referred only to a single woman. But I'm sure that the rights section doesn't discriminate against the married woman. I think if it did we would have heard about it before now. Also, I believe that the situation in this proposal is covered by statute presently. I would be in favor of the Upton amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I thought I knew how I would vote on this issue, and then the more I listened to the discussion here, the more confused I got. Listening to Mrs. Koeze, with her 80-20 formula, I thought we were back on apportionment, and I couldn't figure out whether this was one man, one woman, or where we are. (laughter)

Seriously, what bothers me — and I'm inclined at this point to support the Upton amendment — the thing that bothers me is this: this is the provision that, as I understand it, was in the 1850 constitution; it was in the 1908 constitution, and there hasn't been one single word or one single comma changed. It hasn't been a problem and no one has raised a question on this up until we came into this convention.

Here we have spent all of this time hassling back and forth and debating on this thing. And, as I said, I originally intended to vote for the proposal. Now, I'm inclined to vote for the Upton amendment, for this very simple reason: I resent all of this discussion. My wife happens to be sitting out in the lobby, and I had her convinced that she didn't have any rights. Now you fellows have her thinking. And I think we ought to vote on this, because I don't want her to hear any more discussion about it. (laughter)

CHAIRMAN YEAGER: The Chair will recognize Mr. King on the Upton amendment.

MR. KING: Mr. Chairman, fellow delegates, I would support any provision in the constitution to the effect that property rights of men and women should be the same. Yesterday some of the delegates of the fairer sex, I understand, were invited to witness the governor signing a bill which would provide for equal pay for women who do equal work; and certainly I applaud this sort of legislation. But I can't really understand the meaning of this language. Mr. Austin has asked for an explanation, and others have asked for an explanation, and I intend to stand here and yield to someone who will explain what these words mean. I really don't know, and I couldn't vote if I wanted to one way or the other, because I don't know, and I'm an attorney. So I assume that there must be others here who also have doubts about this wording — legitimate, real doubts — and I know that we made light of it —

CHAIRMAN YEAGER: The Chair would remind Mr. King that the motion is to strike the entire proposal.

MR. KING: I would think that a question as to what the language means would be quite in order, Mr. Chairman. I so intend to yield to anyone who would offer such an explanation. Is there anyone who would care to offer such an explanation?

CHAIRMAN YEAGER: Would you care to yield to Mr. Hutchinson?

MR. KING: Yes.

CHAIRMAN YEAGER: The Chair will recognize Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I don't know that I can satisfactorily answer Mr. King, and I do not hold myself out as any expert in the field of property law. However, I would invite the committee's attention to this fact: the rights accorded to married women by virtue of the married women's act are broader in scope than is the language of the present constitution, and the proposal now before you would abolish all of the disabilities of coverture and in that regard would be broader than the present married women's act. Now, if you should adopt the Upton amendment and strike this section from the constitution, we will be left with the present married women's act, which is not as broad as this section before you would make it, because the married women's act does not pretend to abolish all of the disabilities of coverture — and, in fact, the courts have so held — so that, really, this first sentence here, "The disabilities of coverture are abolished" is just as broad a statement as possibly could be made to assure that the rights of a married woman will be equal to those of a single woman and, so far as I know, the rights of her husband. It may go even so far as to be construed to mean that the disabilities of coverture on the part of the husband are also abolished, if any there be.

CHAIRMAN YEAGER: Mr. King.

MR. KING: Mr. Chairman, that was primarily what I had intended to ask. Does this first sentence include men and women? And would the married men be under any greater disability in this area than the married woman under this language? That specifically is the question.

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, so far as I can think off hand, as a legal matter, there is only one disability that a married man has with regard to the disposal of his real property, and that is, because of the inchoate dower right of his wife, he has to obtain her signature in order to convey a marketable title to his property. Now, I would be happy to yield to Mr. Tubbs, who I believe is a much better expert in this field of property law than I, and maybe he can clear this up.

CHAIRMAN YEAGER: Do you yield the floor, Mr. King?

MR. KING: I would yield to Mr. Tubbs.

CHAIRMAN YEAGER: Mr. Tubbs is recognized.

MR. TUBBS: I think I agree with Mr. Hutchinson. I think, basically, though, Mr. King, this section of the constitution is sort of a clumsy attempt to bolster the married women's act, which I think was adopted in 1849, and the removal of this section would simply throw it back to the legislature, where I think it belongs.

CHAIRMAN YEAGER: Mr. King, do you wish to proceed?

MR. KING: I have one other question, Mr. Chairman. Under the wording — and I would direct this to anyone, again, who would care to answer; Mr. Hutchinson or Mr. Tubbs — is it proper to assume that if a married woman should hold a job and should bring into the household income from this job, in the form of money or a substitute for money — property or something like that — is it my understanding that in the event that the husband and wife became divorced and should seek a property settlement, that this money or property would not be included as property to be divided at such time?

CHAIRMAN YEAGER: To whom is your question directed?

MR. KING: Mr. Tubbs or Mr. Hutchinson, whichever would care to answer.

CHAIRMAN YEAGER: Which one do you prefer?

MR. KING: Mr. Tubbs.

CHAIRMAN YEAGER: Mr. Tubbs, do you wish to answer?

MR. TUBBS: Would you mind repeating it, Mr. King?

MR. KING: My question, briefly, is: if a woman should hold down a job while married and earn money or some other form of remuneration, perhaps even property, would this property then be subject to a division of property upon the termination of such marriage, or would it be hers and hers alone?

MR. TUBBS: I think that is a matter of discretion for the judge that hears the testimony in a divorce action. The circuit judge has pretty wide discretion in determining property rights of the parties. I don't think there is any law that says it is hers absolutely without reference to the family situation.

MR. KING: Mr. Chairman and Mr. Tubbs, I understand that there is no law, but we may be writing one, and I'm trying to find that out. The judges of the state are bound by the constitution, as I understand it.

MR. TUBBS: You may be right on that, sir. This constitutional provision might be taken by the judge as a clear indication that all property she acquired during marriage is hers regardless of any family matters.

MR. KING: Is that your opinion?

MR. TUBBS: That is my opinion.

MR. KING: Thank you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Austin.

MR. AUSTIN: Mr. Chairman and ladies and gentlemen of the committee, very briefly — I did not intend to open up Pandora's box when I raised this question in the first place — but I, too, have a wife at home whom I hope someday to get back to when this convention is over, and under the circumstances I would be opposed to the Upton amendment. Even though this is a clumsy attempt, I think we need to show the ladies that the age of chivalry is not dead.

CHAIRMAN YEAGER: The Chair will recognize Dr. Nord.

MR. NORD: Mr. Chairman, I rise to support the Upton amendment. One reason I bother to rise is because of statements made by certain delegates that the issue is whether we wish to protect the rights of married women. If that is the issue, I'm going to vote the same as everybody else. I want to protect the rights of married women. But I don't think that is the issue, and since I intend to vote in favor of the Upton amendment, I think it is incumbent upon us to make it clear that that is not the issue. The issue is not whether we wish to protect the rights of married women. The issue is only this: do we wish to place something in the constitution which removes the possibility of any flexibility of the legislature whatever in this area? Do we wish to put in legislative matters which we can't be quite sure are in a form which we wish to mummify? I suppose you could say this question all has to do with "mummy," in a way — whether we wish to mummify these words which are in the constitution, or whether we wish the legislature to have an opportunity in the next 50 years to go over them from time to time and change them and improve them.

It seems to me there are 2 parts to this provision as it is now before us, and I'm not a bit satisfied that any changes we have so far made are good changes. The 2 parts, as I see it, are: first of all, we have the first sentence, which says, "The disabilities of coverture are abolished." That of course is in constitutional form. It is a statement of a principle. But, on the other hand, everything else beyond that is clearly in the form of legislative detail. I think everything after the first sentence is certainly legislative detail and is very objectionable on any constitutional basis because we don't want to make it impossible for the legislature to handle these questions. We don't want to take any risk that we narrow down what they have already done. We don't want to take any risk that we make it impossible for them to make any improvements later on. So I feel that everything that is after the first sentence is not needed, and we can't be sure whether this protects women or whether it protects them the way we wish them to be protected 50 years from now.

As to the first sentence, of course, that is in constitutional form. But I believe there are problems there also — the problems that have been raised pretty much by Mr. King — and they boil down to questions such as this: what disabilities of coverture are we talking about? Are we abolishing any new ones that have not already been abolished, or are we merely restating the present status of the law? Are we limiting this sentence to the disabilities that men have in connection with coverture or the disabilities that women have? Are we talking only about property, or other disabilities besides property? Everything that follows that first sentence relates to property. But the first sentence seems to be much broader than that, and nobody has been able to give an exact statement of what the first sentence will do.

As far as I can make out, the only object of the entire paragraph is to make sure that there is no difference between married and unmarried women. And I was thinking of putting in such an amendment myself — that there shall be no difference between married and unmarried women — but it seems to me that that's got some defects in it too. (laughter) In other words, I believe that if we were not worried about what our wives would say when we went home, we would just strike this entire section because it is clearly legislative. It is full of mysteries of which we are not aware, and I think a gesture of this sort can be explained to our women so long as we have on the record that a vote in favor of the Upton amendment does not mean we hate our women, and a vote opposed to it doesn't mean that we love them. When we get home we can probably find some other way to demonstrate which is which. (laughter) I say: fellow men, arise! Let us strike this from the constitution.

CHAIRMAN YEAGER: The Chair will recognize Mr. Blandford.

MR. BLANDFORD: Mr. Chairman and fellow delegates, after 6 months at this convention Mr. Nord and I have finally found an issue that we agree upon. (laughter) What I'm about to say can just as well be stricken from the record. In fact, it probably would be better if it was. I certainly wouldn't want my wife to ever read it. But it appears to me that in this Committee Proposal 63 — and I have given it some long and concerted study; I have been researching it for quite some time — we have talked a lot about discrimination on this floor, and it appears to me that in this one I'm being discriminated against, so I'm standing shoulder to shoulder with Mr. Upton on this.

Mrs. Koeze mentioned the 80-20 formula. I kind of go along with that in a way, but from my experience it is more 20-80 than 80-20, but that's beside the point, and since I'm never going to be a candidate for public office again I think that this will probably insure it. I can speak very honestly on the subject. I can say that I like women, and that includes all the women at this convention, all the delegates and others. (laughter) But it appears to me that we men are kind of on a one way street. The way I analyze it, especially after looking this over, everything that is ours is theirs, and everything that is theirs is still theirs.

I agree with what Mr. Nord has just said. I think we men must stand together on this, and we will welcome the support of some of you women delegates who would like to vote against discrimination. I hope you will stand with us and support us on this and vote for Mr. Upton's amendment. There are 11 women delegates. I am hopeful of at least 133 votes on this, and anything above that I will welcome. Thank you very much.

CHAIRMAN YEAGER: The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, fellow delegates, we have had a lot of fun on this one, but it isn't really a funny matter. This provision in the constitution is one of the really hard won provisions in our constitution, and if we adopt the Upton amendment and strike out this entire thing, we are going to be subject to a lot of misunderstanding by a lot of groups around the state who look upon this as a guarantee that is not existent in the mere existence of a statute. Now, my suggestion, therefore, is that you turn down the Upton amendment, and then you turn down the committee amendment. And then you reenact the provision which the committee originally suggested, which is the present language of the constitution, because that is a guarantee with which we have had no trouble. It has not created any difficulty. But if you take that out, it is not going to be just a matter of explaining to your wives; it is going to be a matter of explaining it to a lot of other people around the country who represent about half the voters in the state of Michigan, and I don't think that's a very sensible thing for us to be doing here this afternoon. So I would vote against the Upton amendment, vote against the committee amendment, and then I would like to see this adopted as it is now in the constitution.

CHAIRMAN YEAGER: The Chair will recognize Mr. Gover.

MR. GOVER: Mr. Chairman, fellow delegates, I've got a question for Dave Upton. It has kind of bothered me, and I thought maybe he could give me an answer.

CHAIRMAN YEAGER: State your question.

MR. GOVER: I would like to know what would happen over in his neighborhood if we would knock this committee proposal out — whether he would dare go home. I don't know if the rest of us men would dare go home. Maybe he would. But it seems like the women have won these things through years of work, and I think we should give it back to them and leave it in the constitution — at least, the original wording, the way it is in the present constitution.

CHAIRMAN YEAGER: The Chair will recognize Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, just a few words with reference to the fears that have been expressed that this provision may be considered as a limitation on the power of the legislature. As has been mentioned by other speakers, the statute has gone beyond what our present constitution contains. That has been construed as a floor, and not as a ceiling. There isn't anything here whatever to suggest that this proposed amendment will be construed in any other way. It will be construed as a floor, as a limitation below which the legislature cannot go without any restriction on how much farther it may go in promoting the purpose of the entire amendment.

On the other hand, I do not agree that it is advisable to go back to the old proviso. The 1908 constitution, and perhaps others before it, established a floor beyond which the legislature has gone. We are merely raising the floor by what we are putting in here, and the legislature can build from there on.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman and fellow delegates, this is a fine subject for joking, but I think there has been enough joking about it. All joking aside, women still need the protection of this section. Socially and economically, women are still in a disadvantaged position, as any intellectually honest person will acknowledge. Women generally find it more difficult to get higher paid jobs. Statistics show this very clearly. The governor just yesterday signed a bill that provides equal pay for women for equal work. The fact that only 11 out of the 144 delegates in this convention are women indicates that they are at a disadvantage politically as well. Our social attitudes change, very clearly. This is not to say that women are not building a better position for themselves in this world; but at the present time they are in a disadvantaged position. The common law provides for a disadvantaged position for women, and there is no doubt in my mind that they need this type of protection. Thank you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Lesinski.

MR. LESINSKI: Mr. Chairman, fellow delegates, I just wish to point out that in your analysis it states that 14 state constitutions have the provision safeguarding the property rights of women, and 2 others provide that laws shall be passed on the subject. None of the newer state constitutions are included in this group. The model state constitution contains no similar provision. This is strictly statutory.

CHAIRMAN YEAGER: The Chair would ask if Mr. Hoxie wishes to be recognized.

MR. HOXIE: Mr. Chairman, just for the purpose of making a request. I desire to exercise my right to refrain from voting on the Upton amendment, with the right to explain to Mrs. Hoxie. (laughter)

CHAIRMAN YEAGER: Mr. Kuhn is recognized.

MR. KUHN: Mr. Chairman and members of the committee, I shall definitely vote against the Upton amendment. To me this might be legislative, it might not be necessary, but, like I said in a crucial test yesterday, it seems that the convention is set to put in certain things in our constitution even though they are clearly legislative. To me we do have to respect and honor the women. This is strictly for their protection, and I'm willing to go along with it.

CHAIRMAN YEAGER: Mr. Madar.

MR. MADAR: Well, I just want to say that I'm going to go ahead and vote for the Upton amendment. I've been married now for 38 years, and my wife still trusts me, and she still believes that I'm going to protect her rights.

CHAIRMAN YEAGER: Mrs. Butler.

MRS. BUTLER: Mr. Chairman, I would like to refrain from voting. I'm going to leave this up to the gents.

CHAIRMAN YEAGER: The question is on the Upton amendment to strike the language of the proposal. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor will vote aye. As many as are opposed will vote no. Mrs. Judd.

MRS. JUDD: Make it clear that this is on the question of striking it.

CHAIRMAN YEAGER: The secretary will read the amendment again.

SECRETARY CHASE: The amendment offered by Mr. Upton, upon which you are voting at present, is to strike out all after the enacting clause of Committee Proposal 63.

CHAIRMAN YEAGER: Do you wish recognition, Mr. Marshall?

MR. MARSHALL: I wish to abstain from voting.

CHAIRMAN YEAGER: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—32

Blandford
Boothby
Bradley
Brown, G. E.
DeVries
Doty, Donald
Elliott, A. G.
Faxon
Finch
Garvin
Goebel
Haskill
Hatch
Higgs
Jones
Lesinski
Madar
Mahinske
McGowan, Miss
Nord
Rood
Seyferth
Shackleton
Stamm
Sterrett
Stopczynski
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wilkowski

Nays—72

Allen
Andrus, Miss
Austin
Balcer
Batchelor
Gover
Greene
Habermehl
Hannah, J. A.
Hart, Miss
McLogan
Millard
Perras
Plank
Powell

Beaman
Bentley
Brake
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Downs
Durst
Erickson
Everett
Farnsworth
Follo
Heideman
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Martin
McCauley
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rush
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stevens
Walker
Wanger
White
Woolfenden
Young

SECRETARY CHASE: On the Upton amendment to strike out all after the enacting clause, the yeas are 32; the nays are 72.

CHAIRMAN YEAGER: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Tubbs offers the following amendment:

1. Amend page 1, line 12, after "unmarried" by changing the period to a colon and inserting "Provided however, That the common law right of dower is hereby abolished.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Tubbs on his amendment and ask the sergeant at arms if we can have it on the wall, please.

MR. TUBBS: Mr. Chairman, I think there's so much noise in the room that nobody heard the reading of it.

CHAIRMAN YEAGER: The committee will be in order, please. Proceed, Mr. Tubbs.

MR. TUBBS: Since there have been some charges of levity on the part of some people here, and since I have also been accused of backing away from this proposal since I got married, I ought to withdraw it, but I assure you that this is not levity. The common law right of dower has been abolished in a great many states. The latest one was New York state, one of the oldest of the common law states. It is simply a hindrance to married men. It does absolutely no good for married women. A married woman is the absolute heir of her husband in this state. Now, true enough, that is statutory. But the legislature would no more dare remove that heirship than it would to remove any other things that are for the good of the people of this state.

Now, here's the way it works: if a man owned a $100 vacant lot over here in Lansing somewhere, he couldn't sell it unless his wife joined in the conveyance, nor could he mortgage it, because of this inchoate dower right. He can own a $1 million worth of General Motors stock and other securities and, unless it is owned jointly with his wife, he can sell every nickel of it or give it away and his wife can do nothing about it.

This suggestion came out of a committee of the Michigan state bar. A couple of years ago at the state bar meeting the chairman of the real estate law committee was making a report, and in that report he made mention of dower. I asked him on the floor of the meeting whether he would consent to the abolition of dower in this state, and he said he would and his committee would unanimously endorse it. I was then chairman of the probate and trust law section, and we formed a joint committee to study it, and the unanimous recommendation of the committee was that dower be abolished. Here is your chance to do it.

CHAIRMAN YEAGER: The question is on the Tubbs amendment. As many as are in favor will say aye. Opposed will say no. In the opinion of the Chair, the ayes have it. The amendment is adopted.

DELEGATES: Division.

CHAIRMAN YEAGER: Division has been requested. Is there support? A sufficient number up.

MR. KUHN: Mr. Chairman, in order to save time, I demand the yeas and nays.

CHAIRMAN YEAGER: Mr. Kuhn demands the yeas and nays. Is there sufficient support for that? A sufficient number up. The yeas and nays are ordered. This is a recorded roll call vote.

MR. HUTCHINSON: Mr. Chairman.

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: I would like to ask Mr. Tubbs to explain to me if there is a difference between the abolition of a right of dower and the problems that I can foresee whereby a man, without the concurrence of his wife, might even be able to sell or mortgage, without this right of dower, the home in which they live. Would that be possible?

CHAIRMAN YEAGER: Mr. Tubbs.

MR. TUBBS: If that home is not owned jointly with his wife, as tenants by the entireties, yes.

MR. HUTCHINSON: For that reason, Mr. Chairman, I would have to oppose this amendment. For the reason that I do not believe that a married man should have the right, constitutionally — certainly constitutionally he should not have the right — to sell or mortgage the homestead without the agreement of his wife.

CHAIRMAN YEAGER: The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I would only like to remind Mr. Hutchinson that, of course, the answer that Mr. Tubbs gave him would not be true if, in fact, they were husband and wife at the time they acquired the property, because in the laws of the state — and I cannot see that it will be changed — they automatically take property as tenants by the entireties. If they take it in their names, of course. (laughter)

CHAIRMAN YEAGER: Does Mr. Tubbs wish to be recognized further?

MR. TUBBS: No. I thought I was going to be asked a question, Mr. Chairman. That's why I came here to the microphone. But, of course, it is possible for a man to sell or mortgage his property subject to his wife's dower. But no lending institution would take it. Now, there are individuals who will take mortgages without the wife joining in if the property is owned by the husband alone, taking a chance that she will die before he does. But all dower is, is the life income from the property — 1/3 of the income. It is not an interest in the property itself. She never gets a nickel's worth of that property. All she has is the right, during her lifetime or during her widowhood, to receive 1/3 of the income from that property.

CHAIRMAN YEAGER: The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, this is a highly technical point, and Mr. Tubbs is an expert on it, but I don't think it is one that we want to resolve here in 5 minutes of debate on the floor of this convention. I am opposed to putting this into the constitution. I think this is a right which can clearly be eliminated by the legislature if the legislature sees fit, after proper hearings, and so on. I'm not for taking this action just in a casual way. I'm going to vote against the amendment.

CHAIRMAN YEAGER: The Chair will recognize Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, will Mr. Tubbs yield for a question?

CHAIRMAN YEAGER: State the question.

MR. LEIBRAND: Mr. Chairman, Mr. Tubbs, would you accept as an amendment, at the conclusion of your amendment, the phrase "except as to the homestead?"

MR. TUBBS: I would. I should have had it in, Judge Leibrand. I'm glad you mentioned that.

CHAIRMAN YEAGER: Mr. Tubbs accepts that. Would the secretary read the amendment as it is now perfected.

SECRETARY CHASE: As revised, the language now reads:

1. Amend page 1, line 12, after "unmarried" by changing the period to a colon and inserting "Provided however, That the common law right of dower is hereby abolished, except as to the homestead.".

CHAIRMAN YEAGER: The question is on the Tubbs amendment as revised. Mr. Higgs.

MR. HIGGS: I have a question for Judge Leibrand.

CHAIRMAN YEAGER: State the question.

MR. HIGGS: If this is added to the provision as an amendment, would it not be limiting us to the legislature abolishing dower? If you say dower shall be abolished except as to homesteads, would that not be a limitation on the legislature?

MR. LEIBRAND: I think it would. I think the legislature couldn't abolish dower as to homesteads either.

MR. HIGGS: Thank you.

MR. LEIBRAND: I think it would protect women, as to the homestead, from any possible legislation.

MR. HIGGS: Mr. Chairman and fellow delegates, if this particular proviso is not adopted as it was before revision, then I would recommend we don't adopt it at all. I do not pretend to be an expert in the field of property law, but I am acquainted with lawyers who are, and I feel that there is merit in this proposal, inasmuch as dower in itself is not a valuable thing to the wife, in view of her other rights. She can elect to take against the will, she has rights that are superior to this, and as Mr. Tubbs has said, it's merely a right to the income to 1/3 of the property for life. This is a cumbersome thing to handle in property law. But if you choose not to write it in the constitution, I think it would be better not to write it in with the other provision attached because it would be a limitation.

CHAIRMAN YEAGER: The Chair will recognize Mr. King.

MR. KING: Mr. Chairman, it seems to me that this is a matter which can better be left to the careful deliberation of the legislature, and having offended all of the jockeys in the state, I'm not sure we can afford to offend all of the women.

CHAIRMAN YEAGER: The Chair will recognize Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, since yesterday we could not trust the legislature to provide their own rules and regulations, we could not trust them to even give out when they are going to have committee meetings and what they might discuss, I would certainly want to be on record to say that I can trust my wife, and I hope that the rest of the delegates can trust their wives that when they have a property transaction they can get their wives to sign on it. This is a very minimum protection for the wife, as it has been pointed out — a very minimum right that she has — and I'm not one that is going to vote against it.

CHAIRMAN YEAGER: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, I merely have this thought in connection with the amendment, which I would vote against: if a husband performs his duties, he does the business, does the work; and the wife, if she fulfills her obligations, takes care of the home. It seems to me that regardless of what dower accomplishes, it does mean that a husband who normally takes care of things cannot get rid of all his property without his wife having to sign off. It seems to me it's a minimum protection. I urge you to vote against this amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I move that we limit debate on this question until 4:45.

CHAIRMAN YEAGER: That motion is not in order in committee of the whole.

MR. MARSHALL: It is just a motion to limit debate. Can I move the previous question?

CHAIRMAN YEAGER: Not in committee of the whole, Mr. Marshall.

MR. MARSHALL: Thank you, Mr. Chairman.

CHAIRMAN YEAGER: Mr. Madar.

MR. MADAR: Having fought considerably here against the gag rule, I certainly want to fight against it right now, and I'm glad you ruled him out of order.

CHAIRMAN YEAGER: Miss Donnelly.

MISS DONNELLY: Through the Chair, if Mr. Tubbs would —

CHAIRMAN YEAGER: If Mr. Tubbs cares to answer. Proceed, Miss Donnelly.

MISS DONNELLY: I believe you stated on the record that the rights of the married woman as an heir of her husband sufficiently protect her and that this clause is not necessary for her protection. Is that correct, Mr. Tubbs?

MR. TUBBS: I see you are trying to trap me, Miss Donnelly. That's all right. I will be trapped. I said, I think quite clearly, that her right as an heir is given by statute. I also said —

MISS DONNELLY: Through the Chair; Mr. Tubbs, as a member of the bar, an heir occurs only on death, is that not correct? We are not talking about during the lifetime when you talk about the intestate laws?

MR. TUBBS: I'm sorry, I didn't get all of that.

MISS DONNELLY: The word "heir" occurs, and you know heirs win only through death; is that not correct, Mr. Tubbs?

MR. TUBBS: I'm sorry, Miss Donnelly, I still don't understand what you said.

MISS DONNELLY: Do you know who a person's heirs are while he is alive?

MR. TUBBS: They are a series of people, or one person, or somebody — maybe the state of Michigan — who is determined by the death of the person —

MISS DONNELLY: It occurs only when they are dead?

CHAIRMAN YEAGER: Miss Donnelly, let's give him a chance to finish his answer, please.

MR. TUBBS: Heirs do not exist prior to death.

MISS DONNELLY: Then, Mr. Tubbs — through the Chair — what protection has a married woman in the event of a divorce action?

MR. TUBBS: She has the protection of the court before whom the divorce is being tried.

MISS DONNELLY: And before the divorce action, when it is being contemplated, if your amendment is adopted, may not the husband so alienate all of his property that the married woman, whether she has children or not, has nothing left to talk about in a property settlement?

MR. TUBBS: I think that the general chancery rules involved in divorce proceedings, as well as the statute of fraudulent conveyances, would adequately protect the wife and children.

MISS DONNELLY: I cannot understand how the statutes of fraudulent conveyances which have to do with "hinder, delay and defraud your creditors without sufficient consideration," and numerous other things, are at issue here. The issue in this instance has to do with the protection of a married woman in the event of a divorce action.

I, regrettably, have been involved in representing women in this situation and I know very well it is most vital that we have this signature and this dower clause to protect them in the event that they are having difficulties with their husbands.

They may alienate this property — not only the homestead, but any other land. He may have $1 million in stocks; but he may have it in apartments, he may have it in land, and the woman who maybe has helped him to acquire this will have no control and no strings whatsoever if they are having difficulty. Now, if there is no marital difficulty, the husband can readily get his wife's signature. If there is marital difficulty and the husband wishes to get rid of the wife and get rid of his property from her name and her control, it can be accomplished if you will adopt Mr. Tubbs' amendment.

To, at this moment, remove by this amendment rights of married women when there is marital difficulty, as far as real property is concerned, I think is a very nonchalant act on the part of all parties, and I think it must be very seriously considered. This is not simply on the case of death. Inchoate dower rights are of vital interest to the women before that happens, not only in homesteads, but in any real property assets they may have. I therefore must speak against this clause, for the benefit of the married women who would be having this difficulty.

CHAIRMAN YEAGER: The Chair will recognize Mr. Beaman.

MRS. CONKLIN: Point of order, Mr. Chairman.

CHAIRMAN YEAGER: State the point of order.

MRS. CONKLIN: I would like a ruling on this. Rule 65 says:

> After a question has been stated by the president, and the call of the roll has been started by the secretary, the president shall not recognize a delegate for any purpose, except upon points of order, until after the announcement of the vote by the secretary.

There seems to be general confusion as to when we consider the call of the roll has been started.

CHAIRMAN YEAGER: In the opinion of the Chair, the roll call has started when the machine is locked.

MRS. CONKLIN: Hadn't this been done by a voice vote, and then division was asked for?

CHAIRMAN YEAGER: The secretary advises that there was a division asked for after the question was put, and any time up until the machine is locked the question is still before us.

MRS. CONKLIN: Does this just mean only when you have a roll call vote? In other words, it has to be a machine? In other words, we voted on it vocally, and the question had been put. As I understand the rules, when the voice vote was asked for, that meant the question had already been put.

CHAIRMAN YEAGER: The Chair is informed that after the result of viva voce vote has been announced and before proceeding to other business, it is in order to demand a division or to demand the yeas and nays; that this does not provide for, nor permit, further debate; that after the question has been stated and the delegates have started to vote, the provisions of rule 65 apply.

The Chair will recognize Mr. Beaman.

MR. BEAMAN: Mr. Chairman, this is developing into another 3 ring circus for the lawyers. Let's turn down this amendment and get on with our work. (applause)

CHAIRMAN YEAGER: The question is on the amendment. The yeas and nays have been ordered. The secretary will restate the amendment.

SECRETARY CHASE: The amendment of Mr. Tubbs, as revised, now reads:

[The amendment was again read by the secretary. For text, see above, page 2444.]

CHAIRMAN YEAGER: This is a recorded roll call vote. As many as are in favor will vote aye. As many as are opposed will vote no.

MR. STERRETT: Mr. Chairman.

CHAIRMAN YEAGER: For what purpose does the gentleman rise?

MR. STERRETT: It seems that the Chair has been pretty free today on his declaration of the vote on these issues, and I demand the vote of the Chair.

CHAIRMAN YEAGER: You can't demand the vote of the chairman in committee of the whole, the Chair is reliably informed. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. STERRETT: Mr. Chairman, this is a roll call vote, and I believe the same rules would apply as in convention.

MR. MARSHALL: Mr. Chairman.

CHAIRMAN YEAGER: For what purpose does the gentleman rise?

MR. MARSHALL: May we have a ruling on Delegate Sterrett's inquiry?

CHAIRMAN YEAGER: The Chair will vote in due course.

MR. MARSHALL: What does the Chair interpret as due course?

CHAIRMAN YEAGER: As soon as the vote is ready to be tallied, if it's the desire of the committee.

MR. MARSHALL: Thank you, Mr. Chairman.

CHAIRMAN YEAGER: The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—19

Blandford
Brown, G. E.
Elliott, A. G.
Faxon
Follo
Higgs
Leibrand
Leppien
McCauley
Rood
Seyferth
Shackleton
Shanahan
Stevens
Tubbs
Upton
Van Dusen
Wilkowski
Yeager

Nays—84

Allen
Austin
Balcer
Batchelor
Beaman
Bentley
Boothby
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Erickson
Everett
Farnsworth
Finch
Goebel
Gover
Greene
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Madar
Mahinske
Marshall
Martin
McAllister
McLogan
Millard
Nord
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rush
Shaffer
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stopczynski
Turner
Tweedie
Walker
Wanger
White
Woolfenden
Young

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Tubbs, the yeas are 19; the nays are 84.

CHAIRMAN YEAGER: The amendment is not adopted. The secretary will read.

MR. WALKER: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN YEAGER: Mr. Walker.

MR. WALKER: Mr. Chairman, you just acquiesced to vote on this question after being asked to. Are we to interpret that as the ruling of the Chair, to be binding on us in the future? That any delegate's vote can be asked for during this kind of a vote?

CHAIRMAN YEAGER: The Chair is of the opinion, Mr. Walker, that it would be the privilege of the Chair to make its own decision on each occasion. The Chair wouldn't pretend to rule for future chairmen.

MR. WALKER: What is your ruling in this case, Mr. Chairman?

CHAIRMAN YEAGER: The Chair did vote, Mr. Walker.

MR. WALKER: In other words—

CHAIRMAN YEAGER: The Chair doesn't look upon it as a requirement. I simply voted because I was asked to.

MR. WALKER: Mr. Chairman, I don't understand your ruling. Do you rule that during your tenure in the Chair you can or cannot be asked?

CHAIRMAN YEAGER: In any ordinary parliamentary procedure the chairman presides and does not vote. If he votes, it is because of his own wish. I so wished, and I so voted, Mr. Walker. I do not rule for future chairmen.

MR. WALKER: I was speaking of the vote of any delegate, Mr. Chairman, not your own, necessarily.

CHAIRMAN YEAGER: The Chair thinks the rule would apply, Mr. Walker, as to whether or not a delegate would vote.

MR. WALKER: Does the rule of the convention apply to the committee of the whole in this case?

CHAIRMAN YEAGER: Do you wish to ask for the vote of some delegate?

MR. WALKER: No, I don't, Mr. Chairman. I'm just asking as a matter of information. It's a parliamentary inquiry.

MR. A. G. ELLIOTT: Point of information. Should this not be taken up when we are back in convention instead of within the committee of the whole? I don't think that you necessarily could rule on this, particularly.

MR. HUTCHINSON: Mr. Chairman.

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: Might I suggest to the Chair that he not unnecessarily make interpretations, and that since no demand for anybody else's vote has been requested, that the matter is moot at the present time and that it is not properly before the Chair?

CHAIRMAN YEAGER: The Chair will so rule. (laughter) The secretary will read the next amendment.

SECRETARY CHASE: Mr. Wanger offers the following amendment:

1. Amend page 1, line 6, after "coverture" by inserting "applicable to women"; so that the first sentence of section a will read, "The disabilities of coverture applicable to women are abolished."

CHAIRMAN YEAGER: The Chair will recognize Mr. Wanger on his amendment.

MR. WANGER: Mr. Chairman, the purpose of this is to take care of dower. A disability of coverture standing alone includes dower, because it seems to me very reasonable and very clearly possible, in fact probable, to interpret that to include dower. It is a disability upon the man just as a restriction against the woman to convey her property is a disability upon the woman in the marriage. Therefore, I think if we want to really settle this and not have any question raised after this constitution is promulgated to the people, we better adopt this language. I yield to the gentleman from Fennville.

CHAIRMAN YEAGER: Mr. Wanger yields to Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would simply say that I, too, think that in order that there be no doubt, Mr. Wanger's amendment should be adopted.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson, the chairman of the committee.

MR. ERICKSON: Well, I'm just wondering if this is necessary. As I understand it, coverture is only the condition or the state of a married woman. It doesn't go to a man at all.

CHAIRMAN YEAGER: Mr. Garry Brown.

MR. G. E. BROWN: I would pose a further question to Mr. Wanger. Do you interpret this to mean only coverture with respect to property, or do you think it applies to all disabilities of married women as such? The condition of marriage?

MR. WANGER: The present language, it seems to me, applies to all disabilities of coverture, both covering men and women. The only one I can think of that covers men is dower. Since we have settled it with respect to the previous amendment, I think we had better settle it with respect to this language.

MR. G. E. BROWN: Mr. Chairman, members of the committee, Mr. Wanger, even under this language, wouldn't this mean that a woman could not be convicted of bigamy?

MR. WANGER: I fail to see how you reach such a conclusion, Mr. Brown.

CHAIRMAN YEAGER: The Chair will recognize Father Dade.

MR. DADE: Mr. Chairman, I wonder if Delegate Wanger would be kind enough to define for the uninitiated what is coverture?

MR. WANGER: Mr. Chairman, Father Dade, coverture is usually spoken of in terms of married women. However, it can also be described, legally, as being just the state of being married, without respect to whether or not you are talking about the husband or the wife. Now, of course, we all would hope that the language standing as it is would be interpreted not to apply to husbands because if it did, then dower would be abolished. It is to make it clear in this case that it is applicable only to women, and therefore that the right of dower is not abolished by this section, that I offer the amendment.

CHAIRMAN YEAGER: Mr. Cudlip is recognized.

MR. CUDLIP: Mr. Chairman, members of the committee, I think that the language suggested there, "applicable to women" is redundant and surplusage. The definition of coverture, according to Bouvier's Law Dictionary, volume 1, is, "The condition or state of a married woman." It has nothing to do with a man.

CHAIRMAN YEAGER: The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I would like to ask Mr. Wanger if he would accept the word "property" in between as part of his amendment, "applicable to the property of women," because I'm certain that as you have defined coverture, this means the disability of being married will be removed for a married woman and that she could marry again without having first terminated the first marriage.

CHAIRMAN YEAGER: If Mr. Wanger cares to answer.

MR. WANGER: Well, if this objection applies to this, Mr. Brown, it seems to me that under the present language it could apply to the husband as well.

CHAIRMAN YEAGER: The Chair will recognize Mr. Woolfenden.

MR. WOOLFENDEN: I rise in opposition to this amendment. I agree with Mr. Cudlip, and I quote Webster's Dictionary, which states that the definition of coverture, in law, is, "The status of a married woman." I have never in my life heard it applied to a man. I think Mr. Wanger is completely off base, and I urge the defeat of the amendment. Let's get on with the business.

CHAIRMAN YEAGER: Dr. Nord is recognized.

MR. NORD: Mr. Chairman, I rise to support the amendment, for this reason: despite the arguments made that the definition of coverture means the status of a married woman, which is undoubtedly correct, I think Mr. Wanger's point is well taken, just the same. The language that we have in the present proposal says "The disabilities of coverture," and the question that is arising, apparently, in Mr. Wanger's mind is, what disabilities? Not what "coverture" means, but what disabilities? Now, if the language "The disabilities of coverture" should be possibly interpreted as meaning the disabilities arising out of coverture, the question then will be: which disabilities are you talking about? There are disabilities on a married woman, but there is also one disability on the man, the husband, and that is the disability that he can't convey his property without the wife's consent, without her joining, as a matter of fact, in the deed on account of the dower.

While that is really a strained interpretation of this language, it certainly could be so construed. And especially when it is believed that this language, "The disabilities of coverture are abolished," is intended to increase the abolition — that is to say, to extend the whole present law. And if the courts are looking to find out in what ways you intended to extend it, they could do just as Mr. Wanger says. I think Mr. Hutchinson and Mr. Wanger are right, that no harm can come by putting those words in but that, with a stretch of the imagination, some harm could come by leaving them out. Therefore, I think the amendment is well taken.

CHAIRMAN YEAGER: The question is on the Wanger amendment. As many as are in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: That's all of the amendments on the desk relative to Committee Proposal 63.

CHAIRMAN YEAGER: Are there any amendments to the body of the proposal? If not, it will pass.

Committee Proposal 63, as amended, is passed.

MR. PRETTIE: A parliamentary inquiry. Mr. Chairman, are we passing the committee proposal as amended, or the committee proposal as originally submitted?

CHAIRMAN YEAGER: As amended.

SECRETARY CHASE: The amendments proposed by the committee, offered by Mr. Erickson, were adopted. The amendments proposed by the commiittee, as adopted, you have on the green sheets that were given to every delegate. You will find them on the first page. The language of section a, as it now appears, you will find on the second page, so section a as amended now reads:

The disabilities of coverture are abolished. The real and personal estate of every woman, acquired before marriage, and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be contracted, sold, transferred, mortgaged, conveyed, devised or bequeathed by her as if she were unmarried.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson, chairman of the committee.

MR. ERICKSON: When we convene again we hope to take up the next proposal, which has to do with amendment of the constitution; whether amendments should be permitted by a 2/3 vote of the legislature, or by a simple majority. The committee report has a simple majority specified; but there is a minority report to make that 2/3. At this time I move that the committee rise.

CHAIRMAN YEAGER: The question is now on the motion of the chairman of the committee that the committee do now rise. All in favor say aye. Opposed?

The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Exclusion Report 2029,** A report recommending the exclusion of article XVI, section 6; **Exclusion Report 2030,** A report recommending the exclusion of article XIII, section 2; **Exclusion Report 2031,** A report recommending the exclusion of article XIII, section 4; **Exclusion Report 2032,** A report recommending the exclusion of article XIII, section 5; **Exclusion Report 2034,** A report recommending the exclusion of article I, section 1. It reports these exclusion reports back to the convention favorably, without amendment.

PRESIDENT NISBET: **Exclusion Reports 2029, 2030, 2031, 2032** and **2034** from the committee of the whole are accepted and referred to the committee on style and drafting.

For Exclusion Report 2029 as referred to the committee on style and drafting, see above, page 2426.

For Exclusion Report 2030 as referred to the committee on style and drafting, see above, page 2426.

For Exclusion Report 2031 as referred to the committee on style and drafting, see above, page 2426.

For Exclusion Report 2032 as referred to the committee on style and drafting, see above, page 2427.

For Exclusion Report 2034 as referred to the committee on style and drafting, see above, page 2427.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 69,** A proposal pertaining to the boundaries of the state of Michigan. It has adopted an amendment to this proposal and recommends, as thus amended, it do pass.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, after line 4, by striking out all of the proposal after the enacting clause.]

PRESIDENT NISBET: **Committee Proposal 69,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 69 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

(Note: — The complete content of this committee proposal has been stricken.)

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 63,** A proposal pertaining to estates of married women. It reports this proposal back to the convention favorably, with one amendment.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 6, after "Sec. a.", by inserting "The disabilities of coverture are abolished."; and in line 7, after "all" by inserting "real and personal"; and in line 8, after "entitled" by striking out "by gift, grant, inheritance or devise"; and in line 11, after "may be" by inserting "contracted, sold, transferred, mortgaged, conveyed,".]

PRESIDENT NISBET: **Committee Proposal 63,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 63 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The disabilities of coverture are abolished. The real and personal estate of every woman, acquired before marriage, and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be contracted, sold, transferred, mortgaged, conveyed, devised or bequeathed by her as if she were unmarried.

SECRETARY CHASE: That completes the report of the committee of the whole.

PRESIDENT NISBET: Any announcements?

SECRETARY CHASE: We have the following committee meeting announcements:

The committee on style and drafting will meet Monday at 2:30 in room G. Mr. Cudlip, chairman.

The committee on education will meet Tuesday, at 8:00 o'clock a.m., in room D. Those delegates having questions, suggestions or proposed amendments to the education committee proposals are invited to appear at that time.

There will be a meeting of the committee on finance and taxation at 8:00 a.m. on Tuesday, in room E. Any delegates having suggested amendments for the finance article as it has come from style and drafting should appear at that time. Mr. D. Hale Brake, chairman.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The committee on executive branch will also meet at 8:00 a.m. on Tuesday morning in committee room C, for the purpose of considering style and drafting changes and delegate suggestions.

PRESIDENT NISBET: Let me say again that people who have suggested amendments are asked to please meet with these committees.

SECRETARY CHASE: We have the following requests for leave: Mr. Hoxie requests leave from Monday's session to personally assist his Uncle Sam and his nephews; Mr. McCauley asks to be excused from Monday's session; Mr. Martin asks to be excused from the first part of the session on Monday; Mr. Bentley from the Monday session; Miss Donnelly from the first part of Monday's session; Mr. Wood from Monday's session; Mr. Anspach from Monday's session; Mr. Suzore from the session of Monday; Mr. Prettie from the session of Monday; Mr. Ford asks to be excused from the sessions of Monday, Tuesday and Wednesday to fulfill commitments made in anticipation of an April 15 adjournment; Mr. Pellow asks to be excused indefinitely as of Monday, April 16; and Mr. King asks to be excused from the first part of the session on Monday.

PRESIDENT NISBET: Without objection, the excuses are granted. The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, I move that we stand adjourned until 3:00 o'clock Monday.

PRESIDENT NISBET: The question is on a motion to adjourn. Those in favor will say aye. Those opposed, no.

We are adjourned until —

MR. MADAR: Division.

PRESIDENT NISBET: Division has been demanded. Is that demand seconded? There is a sufficient number up. Those in favor —

MR. KUHN: Mr. President, I would like to amend that. I would like to amend that 3:00 o'clock to 5:00 o'clock.

MR. MARSHALL: Mr. President, point of order. When a motion is made to adjourn, and in the motion to adjourn the time to reconvene is included, I don't believe you can amend it, can you?

PRESIDENT NISBET: Yes, you can amend it. The question is on the amendment of Mr. Kuhn —

MR. YEAGER: Mr. President, I would like to ask a question of the Chair. When a motion for adjournment is to a time certain, isn't that debatable?

PRESIDENT NISBET: It is not debatable, Mr. Yeager, but it is subject to amendment.

MR. WOOLFENDEN: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: Is the amendment in order after the question has been put and voted on? It has been voted on. Now you are merely asking for a count.

PRESIDENT NISBET: A division was demanded, Mr. Woolfenden, and it is not settled until the final vote is taken. So the question now is on Mr. Kuhn's amendment. Mr. Kuhn has moved that the time be fixed at 5:00 o'clock. Those in favor will say aye.

MR. MARSHALL: Mr. President, can we speak on the Kuhn amendment?

PRESIDENT NISBET: You cannot. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The question is now on Mr. Allen's motion, on which a division has been demanded.

MR. LESINSKI: Mr. President.

PRESIDENT NISBET: For what purpose do you rise?

MR. LESINSKI: I would like to ask a question. There are many delegates who are not present here at the moment. Will they be notified of the new time so we can have a quorum present?

PRESIDENT NISBET: Mr. Chase says they will be notified.

MISS DONNELLY: How?

PRESIDENT NISBET: It is up to Mr. Chase to notify them. The Chair doesn't know how he is going to do it. Mr. Heideman.

MR. HEIDEMAN: Mr. President, ladies and gentlemen, on the basis of this green sheet and what has been said before, I made plans for 6:30—

PRESIDENT NISBET: Mr. Heideman, this is not debatable. The question is on—

MR. MADAR: Mr. President, I'm not going to debate. I want to get some information.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: Am I incorrect in believing that the time of adjournment is debatable?

PRESIDENT NISBET: The time is not debatable. It can be amended. Mr. Kuhn did offer to amend it. The amendment failed. The question now is on the motion.

MR. MADAR: Mr. President, I wanted to ask a question. May I?

PRESIDENT NISBET: Yes, you may.

MR. MADAR: Thank you. All I wanted to know is whether or not we could take a roll call this afternoon so that we can send notices to those people who are not excused who you don't know weren't here. Because that's the only way you are going to know whether they were here or not.

PRESIDENT NISBET: Mr. Chase says that will be done. Those in favor of the motion will vote aye. Those opposed will vote no.

MR. YOUNG: Mr. President, I would like to amend the motion.

PRESIDENT NISBET: It is too late to amend now. The vote has been asked for. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. KUHN: Mr. President, before you make your announcement, after you record the vote, I have a statement to make. It is a preferential motion.

PRESIDENT NISBET: Let's have this first, Mr. Kuhn. Mr. Chase informs me — I guess the Chair better be sure about this one — that this was not a motion to adjourn, this was a motion to fix the time to which to adjourn.

SECRETARY CHASE: On that motion, the yeas were 58; the nays were 31.

PRESIDENT NISBET: The motion prevails. Now, Mr. Kuhn.

MR. KUHN: I read the journal today, and yesterday the rules committee asked us to adopt a new schedule, which passed unanimously, and the first thing I read in the journal was that we will meet Monday at 6:30. Therefore, I would like to move at this time, since the time to which to adjourn is still open, that we give you a break and come back at 6:00 and finish it that night. We could have worked last night. We were told we were going to, and we were here waiting to go to work, but they decided to go to a party. Now, Monday we made some plans, and I would like to move at this time that we go to 6:00 o'clock.

PRESIDENT NISBET: A motion to fix the time has already been settled, Mr. Kuhn.

MR. KUHN: Mr. President, remember the day we used every hour on the hour, and they said none of them was out of order, as long as we had a different time? I submit to you that I don't like to see it changed at this late date.

MR. HEIDEMAN: On the basis of these announced plans, I have a witness coming to Houghton on Monday morning from Grand Rapids, and I should think we have a right to rely on our leadership. I think we should hold to our word at the constitutional convention. We changed things for Bill Marshall.

PRESIDENT NISBET: Ladies and gentlemen, let me say this: let's get things settled —

MR. MARSHALL: Point of personal privilege, Mr. President, and I think I am definitely in order.

PRESIDENT NISBET: Mr. Marshall, will you state it?

MR. MARSHALL: I will let you speak first, and then I want the floor on a point of personal privilege.

PRESIDENT NISBET: The Chair would like to say this: I appreciate that we are in tough times. We are in a tough situation. Our first responsibility is to this convention. For the last 6½ months every effort has been made to work to the accomplishment of this end. We have allowed considerable freedom to our delegates to meet their commitments. You were informed a matter of a month ago that we should make every effort to save this month from now on for this convention. I'm sorry if you can't make it. I know some people can't be here. But, basically, this convention has got to go to work and finish this job, and we can't do it without time. Now, you wouldn't start this afternoon, and I think we have just got to settle down to the fact that this is our first responsibility now if we are to complete this convention. Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I have a lot of respect for Delegate Heideman, and this I'm very sincere about. But when Delegate Heideman makes a statement on the floor of this convention that they changed the rules yesterday for me — he said for Delegate Marshall, and pointed at me — I just want to tell the convention and Delegate Heideman that the rules were not changed for me.

The minority party, the minority delegates in the convention, had a commitment that had been planned some 3 weeks in advance of last night. And on yesterday around noon we received notice that there was a possibility of a night session. I discussed it with the president, with the Republican caucus chairman, with many of the other delegates, and with most of the minority delegates. I got involved because I had first asked Tom Downs to go out and talk to Mr. Nisbet, and we were in the middle of a debate which Mr. Downs was interested in, and he asked me to talk to our delegates and see what we could work out. I recognize that there is a time element involved, and I was trying to do what I could to cooperate to help avoid the night session last night and to get back on Monday.

Now, insofar as these people having other commitments on Monday or on Friday or any other day of the week, I have commitments, too, but this comes first. And you were elected as constitutional convention delegates, and no one said that you could practice law on Monday and Friday afternoons and work Tuesday, Wednesdays and Thursdays. I realize that we've got to complete the work of this convention. Very frankly, I want to get out of here. And I wanted to explain this, Mr. President, because the inference was made by Delegate Heideman that something was involved here where it was done for me, and it wasn't done for me. Not having a night session last night was done for the entire minority delegation because of the previous commitment.. And I agreed to get what support I could to come back here early on Monday to make up the time we lost.

PRESIDENT NISBET: In order that the people may be able to be notified by Mr. Chase, will those present please vote aye, so the record will be there. During that time, Mrs. Cushman, would you like to make a statement?

MRS. CUSHMAN: Along the lines of what Mr. Marshall has just been saying, I have a question, too. That is, we are going to be getting into second reading when some 73 votes are going to be required. I think that up to now we have been excusing people, myself included, very freely. But I'm beginning to wonder whether we aren't going to have to make it a little more difficult for people to leave if we are going to get the 73 votes required for passage of these things on second reading.

PRESIDENT NISBET: I think our delegates mostly will accept their responsibilities. Have you all recorded your presence?

MR. KUHN: I don't know what we are voting for.

PRESIDENT NISBET: This is for the information of the secretary, so he can notify those who are not present of the time we are to convene on Monday afternoon.

SECRETARY CHASE: Messrs. Heideman, Dell, Everett, Austin and Mrs. Koeze ask to be excused from the early part of Monday's session.

PRESIDENT NISBET: Without objection, the requests are granted. Mr. Allen.

MR. ALLEN: Mr. President, I move we adjourn.

PRESIDENT NISBET: All those in favor say aye. Opposed, no.

We are adjourned until Monday at 3:00 p.m.

[Whereupon, at 5:05 o'clock p.m., and in pursuance of the order previously made, the convention adjourned until 3:00 o'clock p.m., Monday, April 16, 1962.]

ONE HUNDRED TWENTY-SECOND DAY

Monday, April 16, 1962, 3:00 o'clock p.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this afternoon is to be given by one of our own delegates, Jim Shackleton.

MR. SHACKLETON: Let us pray. Lord, God of hosts, we are eternally grateful to You and give everlasting thanks to You for life, for our freedoms — freedom of choice, freedom of rights, freedom of liberty, freedom to pursue happiness. We thank You for the privilege of being ruled by laws and not by men, and for the right to make our own laws and our own form of government.

We beseech You to help keep us steadfast in the preservation and protection of our rights and our form of government. Keep us honest with ourselves and with each other. Grant us, O Lord, the ability to use good judgment in our tasks here today, that we may be tolerant, free of prejudice and bigotry. Deliver us from lying lips and deceitful tongues. Forgive us our sins of omission as well as those of commission. Show us the way, the light, the truth, the strength to produce an enlightened and exemplary constitution for our state, that it may be an example for other states and an example of righteousness for all. May it be said at the conclusion of our efforts here, "Well done thou good and faithful servants." Amen.

PRESIDENT NISBET: **The roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Messrs. Binkowski, Dell, Douglas, Downs, Greene, W. F. Hanna, Higgs, Hood, Kelsey, Lawrence, McAllister and Stamm, temporarily, from today's session; and Mrs. Hatcher and Mr. Murphy, from all of today's session.

PRESIDENT NISBET: Without objection, the requests are granted. **Mr. Sablich.**

MR. SABLICH: Mr. President, I move that Messrs. L. W. Richards and Perlich be excused temporarily from today's session.

PRESIDENT NISBET: Without objection, the motion prevails.

SECRETARY CHASE: Absent with leave: Messrs. Austin, Baginski, Bentley, Binkowski, Bonisteel, Dade, Dell, Douglas, Downs, Ford, Greene, W. F. Hanna, Mrs. Hatcher, Messrs. Heideman, Higgs, Hood, Hoxie, Karn, Kelsey, King, Mrs. Koeze, Messrs. Lawrence, McAllister, McCauley, Martin, Murphy, Page, Pellow, Perlich, Prettie, L. W. Richards, Stamm, Suzore and Wood.

Absent without leave: Miss Andrus, Messrs. Bledsoe, Boothby, G. E. Brown, T. S. Brown, Donald Doty, Gust, Krolikowski, Marshall and Tubbs.

PRESIDENT NISBET: Without objection, they will be temporarily excused.

MRS. CUSHMAN: Mr. President, I object.

PRESIDENT NISBET: Mrs. Cushman objects; therefore, they will be unexcused.

[During the proceedings the following delegates entered the chamber and took their seats: Miss Andrus, Mrs. Koeze, Messrs. Marshall, Boothby, T. S. Brown, G. E. Brown, Stamm, Gust, Lawrence, Downs, Bledsoe, Higgs, McAllister, Dell, Austin, Donald Doty, Heideman, Perlich, L. W. Richards, Douglas, Martin, Greene, Binkowski, Kelsey, Krolikowski, W. F. Hanna, Bentley and Hood.]

The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. President and members of the convention, on behalf of the members here of the style and drafting committee, I would request leave of absence from the afternoon's session for the following members:

Messrs. Cudlip, Hutchinson, Sablich, Austin, Blandford, Mrs.

Cushman, Messrs. Dehnke, Gadola, W. F. Hanna, Higgs, Krolikowski, Norris, Powell, Staiger and Stevens. This request is made in order that we can keep abreast with convention work and I am happy to report that we are about even.

PRESIDENT NISBET: Without objection, the excuses will be granted.

Reports of standing committees.

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits the following report:

The committee on administration respectfully submits to the convention the following budget information and requests that it be printed in the journal.

Walter DeVries, chairman.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, I move that the report be considered read and printed in the journal. Basically, it is a summary, line item by line item, of our fiscal situation as of March 31.

PRESIDENT NISBET: Without objection, it will be so ordered.

Following is the budget information:

Michigan Constitutional Convention Budget

Item Budgeted	Amount Budgeted	Amount Expended	Actual Balance 3/31/62	Estimated Balance 5/15/62
I. Salaries and wages — delegates	$1,080,000.00	$ 864,000.00	$216,000.00	$ ———
II. Other salaries, wages, contractual services, supplies, materials, rent and equipment				
A. Rental, lease and purchase of equipment	149,622.64	148,567.25	1,055.39	1,000.00
B. Office supplies and printed matter				
1. Delegates' stationery	2,011.83	2,566.69	— 554.86	— 554.86
2. Journal	76,950.00	37,355.90	39,594.10	17,665.10
3. Office supplies	15,675.00	19,045.05	— 3,370.05	— 4,370.05
C. Rental and lease of building				
1. Civic center	111,200.00	112,607.53	— 1,407.53	— 1,000.00
D. Other contractual services				
1. TV — closed circuit	4,200.00	3,375.00	825.00	825.00
2. Sound system	12,000.00	8,369.93	3,630.07	———
3. Clipping service	500.00	481.42	18.58	— 200.00
4. Freight for chairs, etc.	1,158.48	1,115.70	42.78	42.78
5. Convention reporter	20,000.00	8,123.90	11,876.10	———
6. Police	15,600.00	12,129.37	3,470.63	1,500.00
E. Postage	15,000.00	8,153.31	6,846.69	2,000.00
F. Telephone	15,000.00	6,011.84	8,988.16	6,400.00
G. Fees and compensation	2,000.00	1,983.22	16.78	———
H. Maintenance services	1,950.00	1,664.18	285.82	———
I. Travel and subsistence				
1. Delegates — 2 monthly trips	46,012.40	39,521.60	6,490.80	— 3,400.00
2. Reimbursement for committee trips	5,000.00	2,642.00	2,358.00	2,000.00
J. Educational supplies and library				
1. Purchased for library	2,203.90	1,654.50	549.40	549.40
2. Additional materials	200.00	76.00	124.00	124.00
K. Insurance and bond				
1. Fire	4,455.00	1,963.25	2,491.75	2,491.75
2. Comprehensive general liability				
3. Bond for finance clerk and secretary				
4. Workmen's compensation on employees				
5. Social security	9,879.20	4,477.51	5,401.69	3,600.00
L. Other salaries and wages	329,306.52	254,390.30	74,916.22	14,000.00
M. Contingency fund balance 3/31/62	60,388.13	320.30	60,067.83	60,067.83
N. Office of public information	17,557.05	8,555.16	9,001.89	———
O. Michigan constitutional convention handbooks	2,086.60	2,086.60	———	———
Eisenhower fund	43.25	43.25	———	———
3/31/62 — Sub Total — Category II	920,000.00	687,280.76	232,719.24	102,740.95
3/31/62 — Grand Total	$2,000,000.00	$1,551,280.76	$448,719.24	$102,740.95

PRESIDENT NISBET (continuing): Mr. DeVries.

MR. DeVRIES: The line items will show, ladies and gentlemen of the convention, that we will end up on May 15 with $102,740, which is about $30,000 more than we had anticipated. We were able to do this through some economy cutbacks since around the first of March. What we have done is terminated the employment of several people in the research department. We have not filled 11 vacancies. We have discontinued the closed circuit television. We no longer have the third floor, with the exception of one room; and in the last month alone we have been able to effect economies of about $7,000. I would call this to your attention also: the staff will be released from the convention by May 15. If you have a lot of work that should be done, I urge you to get it done within the next month.

Mr. President, that concludes the report of the committee on administration.

PRESIDENT NISBET: Thank you, Mr. DeVries. Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Second reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: I move, Mr. President, that we pass the order of second reading for today.

PRESIDENT NISBET: The question is on the motion of

Mr. Van Dusen to pass second reading for today. Those in favor will say aye. Opposed, no.

The motion prevails. Motions and resolutions.

SECRETARY CHASE: No resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering items on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Yeager. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Yeager.

[Whereupon, Mr. Yeager assumed the Chair to preside as chairman of the **committee of the whole.]**

CHAIRMAN YEAGER: The committee will be in order. The secretary will read the first item for consideration.

SECRETARY CHASE: Item 8 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 64,** A proposal to amend article XVII, section 1 of the present constitution pertaining to amendment to the constitution; proposal by legislature and submission to electors.

Following is Committee Proposal 64 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. [Any amendment or] Amendments to this constitution may be proposed in the senate or house of representatives. If the same shall be agreed to by [2/3] A MAJORITY of the members elected to each house, such [amendment or] amendments shall be entered on the journals, respectively, with the yeas and nays taken thereon; and the same shall be submitted, NOT LESS THAN 60 DAYS THEREAFTER, to the electors at the next [spring or autumn] GENERAL OR SPECIAL election thereafter, as the legislature shall direct; and, if a majority of electors [qualified to vote for members of the legislature voting thereon] VOTING ON THE PROPOSED AMENDMENTS, shall ratify and approve such [amendment or] amendments, the same shall become part of the constitution.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 64:

History: The constitution of 1835 contained a provision that an amendment to the constitution could be proposed in either house of the legislature, and if agreed to by a majority of the members elected to each house, was to be referred to the next legislature. If 2/3 of the members of each house of the next legislature agreed to the proposal, it was submitted to the people. In the constitution of 1850 this provision was amended to its present form, and the 1907 convention continued this provision without change.

Committee recommendation: It is the recommendation of the committee that this provision be changed to allow a majority rather than 2/3 of the members elected to each house of the legislature to propose an amendment. The reason for our recommendation is that it is the unanimous belief of the committee that this method of amendment of the constitution should be encouraged. Any citizen or group of citizens wishing to accomplish a change in the constitution should find it easier to get the proposal introduced in the legislature than to obtain a large number of signatures on an initiatory petition. This then would give nearly any citizen or group the right to propose an amendment to the constitution to the legislature. A majority of amendments are now proposed by the legislature and we would prefer to see this method of amendment encouraged. Another conclusion reached by the committee was that this section is hardly logical as compared with the initiatory procedure. In this section, 67 per cent of each house of the legislature are required to propose an amendment. In the initiatory procedure, only 10 per cent of the electors are required.

There is no substitute for full debate to bring out all relevant facts about any issue. In this matter of a proposed constitutional amendment, the importance of bringing out all facts relative to the proposal is many times more important than in the case of statutes. Statutes can be repealed by the next legislature, but correcting errors in the constitution is a difficult, expensive process. Another advantage of full debate by the legislature is the publicity given to such debate. It is most difficult for most electors to understand fully the complicated legal language that appears on the ballot in the election that must be held to adopt constitutional amendments. Any information that can be given to the electors about any proposed amendment is most helpful. Amendment by the initiatory method may not provide any opportunity for debate, while amendments proposed by the legislature always provide for full debate, and full coverage of that debate, by all forms of news media.

Another great advantage of legislative proposals for amendment is the opportunity to carefully investigate and research the issues involved, and to carefully draft the language used in the proposed amendment. Without our committees to investigate each section and without our research and drafting services, few of us here would be very well equipped to vote. But, in the initiatory process, this is what the electors of the state are expected to do.

The committee was not unanimous in its decision on this matter; the vote being 11 in favor and 4 against. The minority, while agreeing that there was great benefit in having amendments proposed by the legislature, felt that this section would make it too easy to amend the constitution, and that the legislature could err. The majority, while agreeing that the constitution should not be too easily amended, felt that this method would still be difficult. Constitutions and amendments thereto, by their very nature, usually are limitations on legislative powers, and effect changes in the status quo. Therefore, legislatures are not very likely to look upon amendments with enthusiasm. Also, the majority of the committee pointed out that the legislature can not amend the constitution, but can only provide a method whereby the electors of the state can amend the document. If there is a real need for amendment, it would seem to be poor political practice to permit 1/3 of either house of the legislature, plus one member, to prevent the electors from exercising a power to amend that belongs only to them. Much criticism has been directed toward the legislature for its failure to act. The committee felt that we should not put any obstacles in the path of legislative action.

The committee on declaration of rights, suffrage and elections did not concur with the committee on miscellaneous provisions and schedule for the following reasons:

1. The proposed section would make the constitution very easily amendable. This raises the definite possibility or probability that a new constitution would soon be cluttered with unnecessary, possibly ill considered, and often essentially statutory provisions. Thus, the new constitution would quickly take on many of the faults of the present constitution.

2. The constitution is, or should be, fundamental law. As such, it should be subject to amendment only by extraordinary procedure, as is the case with the federal constitution. The requirement of only a legislative majority and simple majority of the electors voting on the question seems to us to degrade the constitution to something less than fundamental law.

3. The proposed section would make it extremely easy for the legislature to avoid responsibility for con-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

troversial decisions, since they could readily pass the buck to the electors on any matter. We feel that the legislature should be required to face up to controversial issues, and in any case to allow them to be resolved by easy constitutional amendment seems unwise.

4. Experience in other states, such as California, which have made it too easy for amendments to be submitted to the voters should warn us against such action. In these states it is not unusual for the voter to be confronted by 10, 20 or even more constitutional amendments. We fear that such a situation might arise in this state under the proposal before us.

Following is the minority report to Committee Proposal 64 as offered and the reasons submitted in support thereof:

Messrs. Hutchinson, Lawrence, Seyferth and Miss Donnelly, a minority of the committee on miscellaneous provisions and schedule, submit the following minority report to Committee Proposal 64:

A MINORITY OF THE COMMITTEE RECOMMENDS THAT COMMITTEE PROPOSAL 64 BE AMENDED TO REQUIRE THE CONCURRENCE OF 2/3 OF EACH HOUSE OF THE LEGISLATURE RATHER THAN A SIMPLE MAJORITY TO SUBMIT AMENDMENTS OF THE CONSTITUTION TO THE PEOPLE.

Messrs. Hutchinson, Lawrence, Seyferth and Miss Donnelly, a minority of the committee on miscellaneous provisions and schedule, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 64:

We recommend that 2/3 of the members of each legislative house, rather than a simple majority, be required to submit constitutional amendments to the people.

The 2/3 majority is traditional, and is justified by the reasons pointed out by the committee on rights, suffrage and elections who had concurrent jurisdiction in this section. The traditional 2/3 requirement is also justified for the following reasons:

When the legislature makes laws, it acts by a simple constitutional majority in each house; but its action is subject to concurrence of the governor. Only with the governor's approval can the legislature pass a law by a majority. Without his approval, a 2/3 vote of each house is required. Constitutional amendments are not submitted to the governor for his approval or veto.

If we place requirements in addition to simple majority legislative action in the enactment of statutory law, how unwise it is to permit the submission of amendments to the fundamental law—upon which statutes are based—by a simple legislative majority. The majority of the committee on miscellaneous provisions and schedule would make it easier for the legislature to submit constitutional amendments than to enact statutes.

All of the experience of the past supports the wisdom of making constitutions harder to amend than statutes. The requirement that 2/3 of each house must concur in the submission of an amendment, in the words of James Madison in the Federalist Papers, "guards equally against that extreme facility, which would render the constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults."

CHAIRMAN YEAGER: The Chair will recognize the committee chairman, Mr. Erickson.

MR. ERICKSON: This Committee Proposal 64 has to do with the amendment of the constitution by proposal by the legislature. Essentially, there is only one question to determine here: whether the legislature can put amendments on the ballot by a majority vote of both houses or by the 2/3 vote of both houses as presently prevails. Delegate Habermehl will present the majority report. Delegate Pollock will present the nonconcurring report from his committee. Then Mr. Hutchinson will present the minority report. I yield to Don Habermehl.

CHAIRMAN YEAGER: Mr. Erickson yields to Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, members of the committee, the majority report and the accompanying explanation can be found in Journal 70 at pages 422 and 423. We will assume that you have all read it. The committee here has a rather unpleasant duty to perform in recommending the adoption of this proposal and the 2 to follow. After our long hours of deliberation here, after our careful selection of words and after style and drafting has polished these words, we must now submit to methods by which perhaps some less discriminating people can change our language.

The committee or, rather, the chairman of the subcommittee, gave briefly some consideration to the wisdom of recommending the exclusion from the constitution of all these 3 sections. This, then, would make our words truly immortal. No one could ever change them for the rest of time. There would be some practical political advantages to that, too, particularly on the part of an outstate Republican member of the convention. We were persuaded, however, that this might be considered rather unseemly pride of authorship and, since we must provide a method for amendment of the constitution, the committee decided to provide the one method now in use and now provided for in the present constitution. And there is only one method for amending the constitution: that is by affirmative vote of a majority of the electors of the state.

There are, in the present constitution, 3 means of permitting these electors to make this decision. These 3 means are by legislative proposal, by initiatory petition, and by constitutional convention. All 3 of these, though, I think it is important to keep in mind, are only mechanical means of framing ballot questions, questions upon which the people of the state can express their will. The committee proposes to continue all 3 of these means, and the first of these is Committee Proposal 64 that we now have under consideration.

I believe that the committee has found — through its investigation of this matter — and believes that the method of legislative proposal is the best method of the 3, although that may offend our pride slightly. The legislature can, if it will so do, propose amendments to this constitution so that it might be kept current and a radical revision of it might not be necessary. The legislators are familiar with the need for changes since this is their day to day business. They have available to them research and drafting services through the legislative service bureau, and last week we provided for a new legislative council, which would be a very adequate body to review the need for constitutional changes. And this is most important: on a legislative proposal for amendment there is a forum for complete debate of the issues. I think probably our own experience here has pointed up the importance of debate to bring out all relevant facts concerning these issues. We believe, too, that the chance of press coverage of the issues involved in a constitutional amendment are much greater in the legislature, the press covers the debate that occurs on the floor of the legislature — and in that way the people of the state, the electors, may be more fully advised on the issues on which they are going to be called upon to vote.

We believe, finally, that the legislative method of proposal, of proposing amendments to the constitution, is probably the most democratic. We think of the initiative as a democratic method but most of us realize that the individual citizen has little opportunity to initiate constitutional amendments. The job is a difficult and expensive one and it does require the interest and activity of a particular group. Sometimes these groups, of course, are special interest groups who are more interested in their particular problems than they are in the problems of the state as a whole.

We will not discuss the initiative and the convention methods except only as a means of comparison to this method of legislative proposals of amendments. The difficulty of the convention method principally, as we found out, is its expense. The expense of a new body, of a new staff to revise the constitution is a very considerable expense. If the legislature

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

can do the job, it can do it in the regular course of its business, with its available staff, and it does not put the people of the state of Michigan to an added burden of expense. The convention method, of course, is one that is rarely used, and it is really only used when the document has not been kept current and a radical revision of the constitution seems to be necessary.

If, then, the method of legislative proposal is best, the committee believes that it should not be made more difficult. It should not be made impossible for the legislature to do this job. For that reason the committee proposes that we reduce the requirement that such a proposal receive a 2/3 vote of each house, so as to require only a majority of the members elected to each house. If we are to expect action from the legislature, we must not make it difficult for them to act, or impossible.

The legislative process differs from our own procedure here in quite a number of ways. For example, the chairman of the legislative committee is reluctant to report out any proposal or any bill unless he can be assured that there are enough votes on the floor to pass it. It is a human reaction. He does not care to be turned down on the floor of the legislature. And when you require a 2/3 vote of each house, it means that many of these proposals for amendment of the constitution would never be reported out of committee. A nose count is made. They find they do not have the necessary votes to pass it and the bill dies in the committee — or the proposal. Then the proposal does not get the benefit of floor debate. It does not get the benefit of the press coverage of that debate.

At present and for quite a number of years, we have had a fairly close party division in the one house of the legislature, particularly. This means that if an issue, a proposed amendment, has any partisan connotations, it may be an impossibility to secure a 2/3 majority of that house. Even in the other house where there is not a close party division, 12 votes — the votes of 12 senators — could prevent around 7 million people of the state from exercising a power that only they possess, and I doubt that we would want to give 12 men that veto power. Thus, if we do make it too difficult, if the proposed amendment is one that is clearly needed and popular, we only insure that if it cannot be done by the legislative process that the sponsors or backers of this amendment would be forced to use one of the other mechanical means, most likely the initiative petition method.

In this matter the committee was not unanimous as 4 members of the committee and also the committee that had concurrent jurisdiction with us on this proposal did not concur. In order to save the time of the convention and with the permission of the Chair, we would like to present our arguments on the points that they raised. We are not unmindful of the fact that there is also some advantage in meeting the arguments before they are made, but in view of the caliber of the opposition here I need all the advantage that I can get.

The opponents of the simple majority make these arguments: that reducing the majority from 2/3 to a simple majority would make the constitution too easy to amend. The majority of the committee do not wish to make the constitution too easy to amend, but we believe that the opponents are confusing the end with the means. If they are sincerely interested in making the constitution difficult to amend, they should direct their attention to the vote of the electors, which is the only way by which a constitution may be amended. They should then require more than a simple majority of the people voting upon the proposed amendment. They should not prevent the people from exercising this power by putting a veto power in a few people — in a few men in the legislature. We believe, too, that this would not in fact make the constitution difficult to amend, because the proponents would simply use a different method in proposing an amendment.

The opponents make the argument, too, that this action does not have — that the veto power of the governor is not available here and that, therefore, an extraordinary majority should be required, but the committee felt that there is a most direct veto power here, the veto power of the people themselves. This is not legislation. This is only a mechanical means of framing a ballot question.

And they make the point that traditionally, particularly in the federal constitution, the 2/3 vote is required. We do not believe that we can draw an analogy here between the federal constitution and the constitution of our state. The federal constitution resembles in some ways a contract between states, a delegation of power to a federal government. Here, instead, we provide a method for amendment by the people themselves in the exercise of a power that only they possess.

In conclusion, by the proposed change that we would make in this language, the committee hopes to encourage this method of proposing constitutional amendments. It is hoped that the proponents of change will look to the legislature to propose amendments. We hope that the legislature can and will distinguish between what is legislation and what is properly constitutional amendment. We feel confident that the legislature will do so, for we have, I believe, found that they are going to be most reluctant to give up powers that belong to them.

We proposed one other change, a rather minor one: on line 12, we require that the legislature submit the amendment to the people not less than 60 days after the proposed amendment has been approved. We have inserted the 60 day period. It was called to our attention by the elections division that on one occasion a proposed amendment was submitted just 13 days before the vote was to be had upon the proposed amendment. It become an impossibility or a near impossibility to get the matter on the ballot. In fact, we were told that they only got it on the ballot by breaking every election law that there was on the books. We were advised, too, that the 60 day period would be sufficient.

With the permission of the Chair and the chairman of the committee, I would like to yield the floor directly to the chairman of the committee that had concurrent jurisdiction, Delegate Pollock.

CHAIRMAN YEAGER: If Mr. Erickson wishes to yield the floor to Dr. Pollock, Dr. Pollock is recognized.

MR. POLLOCK: Mr. Chairman, the committee on declaration of rights, suffrage and elections, having considered the proposal submitted to us for concurrence, in the report dated January 25, refused concurrence and stated the following reasons for refusing this concurrence:

First, the proposed section would make the constitution very easily amendable, that is, to propose amendments to it. This raises the definite possibility or probability that the new constitution would soon be cluttered with unnecessary, possibly ill considered, and often essentially statutory provisions. Thus, the new constitution would quickly take on many of the faults of the present constitution.

In the second place, the constitution is or should be fundamental law. As such, it should be subject to amendment only by extraordinary procedure as is the case with the federal constitution. The requirement of only a legislative majority and a simple majority of the electors voting on the question seems to us to degrade the constitution to something less than fundamental law.

The proposed section, in the third place, would make it extremely easy for the legislature to avoid responsibility for controversial decisions — as they seem to show a tendency to do — since they could readily pass the buck to the electors on any matter. We feel that the legislature should be required to face up to controversial issues and, in any case, to allow them to be resolved by easy constitutional amendment seems unwise.

In the fourth place, my committee argued, experience in other states — such as California — which have made it too easy for amendments to be submitted to the voters should warn us against such action. In these states it is not unusual for the voters to be confronted by 10, 20, or even more constitutional amendments. We fear that such a situation might arise in this state under the proposal before us.

This is the end of the committee objection, but I just add a personal remark: Delegate Habermehl was arguing that if we want to make the process difficult we ought to make it difficult for the people to adopt it. Well, of course, it is already very difficult for the people to adopt an amendment. It is difficult for the people to put an amendment on the ballot and our experience in studying the vote of the people on constitutional amendments indicates that they are sufficiently conservative about such matters. But if we authorize the legislature by a mere majority vote, as they pass a law, to do the same thing, I feel certain that the ballot will be cluttered up unnecessarily and, therefore, I think the proposal is not a sound one.

CHAIRMAN YEAGER: Does the chairman, Mr. Erickson, wish to yield further?

MR. ERICKSON: There is a minority report.

CHAIRMAN YEAGER: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members, Mr. Pollock has very ably presented our committee's view. I would just like to add one thing: there are in our constitution instances where a 2/3 vote of each house of the legislature is required to pass certain legislation. Under this, it would be easier to pass a resolution to put a proposed constitutional amendment on the ballot than it would be to pass laws on banking or some special act. It is not too difficult under certain circumstances to get a 2/3 vote of the legislature. I have seen the legislature get a 2/3 vote when there were barely more than 2/3 of the members present. It is not too unusual, if the matter really has popular demand. It seems to me the purpose of the initiative is to guard against any refusal of the legislature to do this if the people feel that they have been unnecessarily unwilling to do it. Thank you.

CHAIRMAN YEAGER: The secretary will read the minority report amendment.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Hutchinson, Lawrence, Seyferth and Miss Donnelly,

Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 9, after "by" by striking out "a majority" and reinserting "2/3"; so the language will read:

> If the same shall be agreed to by 2/3 of the members elected to each house, such amendments shall be entered on the journals, respectively, with the yeas and nays taken thereon. . . .

CHAIRMAN YEAGER: The Chair will recognize Mr. Hutchinson on his amendment.

MR. HUTCHINSON: Mr. Chairman and the members of the committee, the minority in the committee on miscellaneous provisions offered this amendment because we think that this is a revolutionary departure, in fact, that the majority wishes to make in the concept of the adoption of constitutional amendments.

We make this argument — first, we agree with the arguments made by Dr. Pollock—but we make this further argument: when the legislature makes a law, it acts by simple constitutional majority in each house, that is true, but its action is subject to the concurrence of the governor and if the governor vetoes any bill it takes 2/3 of the members of each house to enact the legislation. In other words, the legislature within its own confines and acting under its own power has to demonstrate a 2/3 majority to make any law. Even in the statutory provisions, even in the making of statutes, we place this additional burden upon the lawmaking process. We say that the legislature cannot make a law except it have the concurrence of the governor, and if it cannot get that concurrence then a 2/3 vote is required merely to write a statute.

Now, certainly, it is completely changing our concepts, putting the cart before the horse, and everything else, to make it easier for the legislature to submit a constitutional amendment than it is for the legislature to enact a statute law. Mr. Habermehl, for the majority, argues that it is the desire of the majority to make it very easy for a legislature to submit proposed amendments, thereby discouraging the use of the initiative, but the history of the situation does not bear his argument out. Certainly, at least 2/3 of the constitutional amendments which have been submitted to the people — and more than that — have been submitted by the legislature. Most of them are submitted by the legislature. Even by a 2/3 vote requirement it is easier, in a sense, to submit a constitutional amendment through the legislative process than it is to go out and get these initiatory petitions.

We feel very strongly about this thing. We think you are making a grave mistake if you let a simple majority in each house of the legislature submit constitutional amendments to the people, because, as I say, in permitting the legislature that power, you make it easier for the legislature to submit a constitutional amendment than you impose upon it to enact a law. That just is not sound.

The concept of tradition, also, should be respected here and we must remember that, somehow or other, constitutions are not supposed to be too easy to amend; they are supposed to be the fundamental law. They are supposed to be the law which the legislature cannot change, and they should be made amendable in that context. They should not be made too hard to amend, but certainly they should not be made too easy to amend. For that reason, then, we offer this amendment asking that you reinsert into this proposal the traditional concept of a 2/3 majority of each house in order to submit an amendment to the constitution.

CHAIRMAN YEAGER: The question is on the minority report amendment. As many as are in favor will say — Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, members of the committee, just a few remarks in rebuttal to Delegate Hutchinson's and Delegate Pollock's remarks: they would fear that the constitution would be easily amendable if a majority of the members elected to each house were permitted to propose them. I think that comes down to a fundamental question that has been before this committee on quite a few occasions: that a constitution is a limitation upon the authority of state government and that the legislature, by its very nature as one of the instruments of state government, is not going to be too anxious to limit its power. As a matter of fact, past history has shown that in recent years the difficulty has not been that the legislature tried to amend the constitution; the difficulty has been that the legislature refused to so act, making it necessary in many, many important fields — such as civil service and, for that matter, the calling of this convention — for the people to undertake the expensive and costly and unsatisfactory method of initiatory petition.

I do not fear in any way that this is going to result in a great number of amendments to the constitution appearing on the ballot. I think our own experience with the legislature will demonstrate a reluctance to act rather than an over eagerness in this field. The legislature cannot by this method pass the buck. As Delegate Pollock said, if it wishes to do so, all it needs to do is attach a requirement for a referendum on any statute that it passes. If the legislature is attempting to avoid responsibility for a particular piece of legislation, it is far simpler for them to simply call for a referendum on that legislation. They certainly would not go to the point of proposing a constitutional amendment merely to pass the buck to the people.

The experience cited by Dr. Pollock in California has been true. It has not been true as a result of legislative proposals, however. It has been true because California requires a very small percentage of the voters' signatures on initiatory petitions and the proposals that appear before the California electors are there as a result of this system of initiatory petition, not because of legislative proposals.

We had a number of witnesses before the subcommittee. The farm bureau representative was there; the representative from the AFL-CIO; the representative from the league of women voters; the representative from the American association of university women. Practically all of these and — as I remember — all of the witnesses that appeared felt that there was no necessity for the 2/3 majority and that it did a positive harm. We must remember that by the retention of this 2/3 majority you are giving to 12 senators the right to prevent 7,800,000 people in the state of Michigan from exercising a power that only those people possess: the right to amend the constitution. We believe that the veto in this direction is going in the wrong direction and that it should not be made mechanically impossible for the people of this state to express its will. We do not believe that that is good government.

We do not propose that you make it easy to amend the constitution and we do not believe that this proposed change would result in doing that. We simply believe that this proposed change would direct the attention of those of our citizens who want to see a change made to the legislature rather than to the use of an initiatory petition.

CHAIRMAN YEAGER: The Chair will recognize Dr. Nord.

MR. NORD: Mr. Chairman, I rise to support the minority report amendment for several reasons. I would like to start out by saying that I agree with all of the remarks made by all of the opponents of the committee proposal and I would like to state exactly why with a further reason in addition. Before doing so, however, I would like to make this comment: it seems to me that this is an extremely crucial question and I am very concerned that because of the many absences and, possibly, for other reasons as well, it might be that this thing will be decided with very little reflection. I note that we are about ready to vote on the matter, apparently, and that there are not very many people here, and it seems to me that not enough cognizance has been taken of how crucial this question might be. The whole problem of amending the constitution should certainly be dear to our hearts because that is all we have been doing for about 6 months already and it seems to me we should not ignore any of the lessons learned by being here.

I would start out by stating as a reason for favoring the minority report amendment, that is to say requiring 2/3 of the members of each house instead of a majority, I would start out by concurring exactly in what Dr. Pollock said: the constitution must not be easy to amend. And I point out to the delegates that one of the reasons for holding the present constitutional convention was because the constitution itself has been too limiting and, as a result, too many amendments have been needed and too many have been adopted. If we go ahead and do the same thing all over again, it seems to me we confess our failure. Our job here is not to make it easy for constitutional amendments to be adopted later but to find out what changes are needed now and to make those changes and then to provide a document that is clear and flexible which will not need to be changed frequently.

But it is not only for that mechanical reason that I think the constitution should be difficult to amend. It seems to me that we ignore the whole idea of what a constitution is for when we reduce it close to a legislative matter. And the reason I state that is this: the constitution has some purpose beyond that of legislation, mainly — or partly, let us say — to protect minorities. We do not have a straight democratic system in any of our states; we have a constitutional democracy, which means that the majority has always to be limited by the minority, by the minority as is provided in the constitution. Minorities must not be subjected totally to the will of the majority under our system of government and the way that they are to be protected is by the constitution. Well, if you make the constitution easy to change, then there is no protection for minorities whatever. I have always asserted from the beginning that the proper way to protect minorities is by having a constitution which is not easy to change. It is not by letting the minority have any majority powers but, rather, by having a constitution which makes it difficult for the majority to take away the rights of minorities. Therefore, I concur first of all with Dr. Pollock's point that we must not make it easy to amend the constitution.

Secondly, I also concur with the remarks made by Mr. Stevens. The remarks made by Mr. Stevens pointed out that some kinds of legislation require a 2/3 vote of the legislature; whereas, in this case, it would be easier for the legislature to initiate a constitutional amendment than it would be to pass certain kinds of laws. Mr. Hutchinson also pointed out — perfectly correctly, in my opinion — that if the legislature passes a bill and it is vetoed by the governor, at that point, unless the legislature can get a 2/3 vote, the legislature is out of luck; but under the committee proposal the legislature would no longer be out of luck. They would have a further recourse: they could override the governor's veto in a different way by putting the legislation on the ballot and labeling it a constitutional amendment. There is nothing to prevent legislation from being put on the ballot as a constitutional amendment and in that way they could override or hope to override the governor — and it seems to me that it is quite likely that a great deal of that would happen. Every time the legislature is determined to pass something and the governor is determined that it shall not, the legislature is likely to put it on the ballot; so it would be easier in certain respects for them, again, to pass or to initiate a constitutional amendment and possibly to get it through than it would be to pass a law over the governor's veto.

One other point which has not been made by anyone, as far as I can recall, is this — yes, I am quite sure it has not been made; as a matter of fact, it was made in reverse by Mr. Habermehl and quite incorrectly — Mr. Habermehl said that this proposal, the committee proposal, will not permit the legislature to duck its responsibilities and he said that the reason for that is, this: they already have the power, he says, to submit a bill, an ordinary legislative matter, to a referendum by the people and this would just be rather similar to that. However, I would like to point out that in this particular spot we can easily see how reverse a logic we have fallen into.

If you would refer — and if you do not, I will do so for you — if you will refer to Committee Proposal 113, which is the one to which Mr. Habermehl refers, you will find this: that if the legislature wishes to duck its responsibilities, so to speak, by passing a bill and then submitting it to a referendum, it is easier for them to do it in the form of a constitutional amendment than as a bill, because under Committee Proposal 113 the legislature cannot — and I emphasize — they cannot submit a bill to a referendum unless it has been approved by the governor. But in the committee proposal before us at the present time, Committee Proposal 64, the legislature can submit a constitutional amendment to the people without the approval of the governor and it would be by a simple majority, by an ordinary majority. Therefore, it is perfectly clear that it would be easier for the legislature to put a referendum on the ballot to amend the constitution than it would just to adopt a law, the reason being the legislature can do it, can change the constitution or submit it to the people anyway, have a referendum on that, without the governor's approval, but if they wish to merely adopt a law it does require the governor's approval. It seems to me that we couldn't possibly have Committee Proposal 64, as it is now before us, and Committee Proposal 113 in the same constitution. That clearly degrades a constitutional amendment to a status lower than legislation.

I wish to point out in closing that we cannot be in a position of allowing a constitutional amendment or any part of the constitution to be easier to adopt and to have a lower status or anything resembling the status of legislation. To some extent we have already been guilty, no doubt, of putting legislation into the constitution but let's not make it even easier for that to happen in the future. I think that we should think this one over carefully. I feel that if we do, we will have to accept the minority report amendment and I urge all delegates to do so.

CHAIRMAN YEAGER: The Chair will recognize Mr Faxon.

MR. FAXON: Mr. Chairman, I concur with the remarks that have been made in support of the minority report amendment and would like to ask for the yeas and nays.

CHAIRMAN YEAGER: Mr. Faxon demands the yeas and nays. Is there support? A sufficient number up. It will be so ordered. Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, fellow delegates, I merely rise to affirm what has been said and urge the affirmative vote on the minority report amendment for the reasons stated by the previous speakers.

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I will not presume any further, since Dr. Nord covered the point that I had further to make, that is the point that, after all, you are making it easier — you are providing a method whereby the legislature can circumvent the veto power of the governor if you adopt this majority report. So I hope that you will go along with this minority report amendment and stick with tradition here.

CHAIRMAN YEAGER: The Chair will recognize Mr. Farnsworth on the minority report amendment.

MR. FARNSWORTH: Mr. Chairman and members of the committee, I want to briefly support the minority report amendment. I think it is highly important that the 2/3 majority go in there. I would like to take issue with Don Habermehl for just one moment. He said that the legislature would not, in all probability, use the necessary majority, the lower majority, simply to duck their responsibility. Now I submit to you folks here today that that simply does not square with the facts as they exist right on this very day. We have over in the senate — and Delegate Hutchinson and I come from a county where on the north of us we have a senator and on the south of us we have a senator, and at this very moment they are endeavoring to pass the responsibility on to the people by proposing to put the question up to the people as to whether they will or will not have an income tax. I say to you, Delegate Habermehl, that the legislature will duck their responsibility and they are doing it this very minute and you should not make it any easier for them to do it.

CHAIRMAN YEAGER: The Chair will recognize Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, most of my points have been made by others. I would simply like to state the case of California — as an example of putting on the ballot so many proposals that the people cannot possibly handle them with intelligence — could well be the case of Michigan. It does not make any difference how you get them on there; if you have too many it is beyond the competence of even an unusually well informed voter.

Another point: Mr. Habermehl makes much of the technicality that the majority report is dealing merely with the provision for suggesting the amendment. That is certainly a part of the whole method of getting the constitution amended. If the proposal is not put on the ballot the people cannot vote on it, and if you put too much on the ballot they cannot possibly vote on it with any great intelligence. We couldn't either.

CHAIRMAN YEAGER: The Chair recognizes Mr. Powell.

MR. POWELL: Mr. Chairman and fellow delegates, I think it is very unusual to find a proposal on which such divergent spokesmen and leaders here are in such unanimous agreement. For instance, it is not very often that we find Dr. Nord, Dr. Pollock, Vice President Hutchinson, Harold Stevens, the great conservative, Jack Faxon, Delegates Leppien and Farnsworth all teamed up here in favor of the same proposition, and I would like to be a part of that kind of hodgepodge group here. (laughter)

I have been waiting with some concern to get this vote, so I could get down to style and drafting, because I am going to be sort of out of luck when I get down there, I think, because Chairman Cudlip wanted us to come down as soon as we could get away from here. I am afraid that I am going to be down there when that other thing that is somewhat along the same line comes along, and that is what kind of a vote we have to have to order a general revision of the constitution.

I know I am a little out of order mentioning that right now, but I wish we could restore that so we would have a majority of those that are voting in the election instead of a mere majority of those voting on the proposition. But I think after we have worked so hard to get a constitution in the best possible shape it should not be too easy to keep botching it up with too many amendments, so I hope that we will adopt this minority report amendment.

CHAIRMAN YEAGER: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, after we have heard so much for 6 months about the sovereignty of the people, I am a bit upset to hear the advocates of 2 opposing political philosophies so concerned all of a sudden about the possibility that the people might have an opportunity to override their governor's veto.

Personally, I am impressed by the arguments on both sides. I think 66 2/3 per cent is a bit too high in both places. Possibly, a majority is a bit too low, but as between the 2, I would have to go along with the majority proposal.

CHAIRMAN YEAGER: The question is on the minority report amendment. The yeas and nays have been demanded. Did you wish recognition, Mr. Habermehl?

MR. HABERMEHL: For just a few remarks, Mr. Chairman. I would ask all the delegates to keep this in mind: you have heard — and I am facing quite a coalition on this minority report amendment — you have heard so many references to legislation; well, now, stop for a moment and think that this is not legislation. We presume that the legislature has power to pass bills. We presume that they would prefer to keep that jurisdiction within their own power. What we are talking about here is something entirely different from legislation. Think back to your fundamental principles of political science: no one in the state of Michigan but the people of the state have the right to amend the document. The governor's veto is certainly not involved, because no one here — I hope — would give the governor the power to prevent the people from amending the constitution. Yet here the minority amendment would say 12 people in the senate have got the right to prevent the people from exercising this power.

I ask each and every one of you: what kind of constitutional law is that? Do you want to put that kind of control in the hands of 12 people to prevent the electors of the state from exercising the power that only they possess? Don't be distracted by this talk of legislation. Lord knows the legislature is not going to freeze something in the constitution beyond their control if they can avoid it.

CHAIRMAN YEAGER: The Chair would ask the members of the committee to clear the board, please, before we take the vote. The question is on the minority report amendment. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor of the minority report amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—94

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Blandford
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Donnelly, Miss
Doty, Dean
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Garvin
Gover
Gust
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Howes
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Kirk, S.
Knirk, B.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Marshall
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Nord
Norris
Ostrow
Perras
Plank
Pollock
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Young
Youngblood

Nays—9

Dehnke
DeVries
Durst
Erickson
Goebel
Habermehl
Mahinske
Snyder
Woolfenden

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 94; the nays are 9.

CHAIRMAN YEAGER: The minority report amendment is adopted. Are there further amendments on file to this proposal?

SECRETARY CHASE: Judge Dehnke offers the following amendment:

1. Amend page 1, line 9, after "by" by striking out "2/3" and inserting "60 per cent or more"; so the language will then read:

> If the same shall be agreed to by 60 per cent or more of the members elected to each house, such amendments shall be entered on the journals. . . .

CHAIRMAN YEAGER: The Chair will recognize Judge Dehnke on his amendment.

MR. DEHNKE: Mr. Chairman and members of the committee, I indicated a few minutes ago that I inclined to the opinion that 2/3 was a bit too high; possibly a bare majority a bit too low. I agree that it ought not to be made easy to amend the constitution. Personally, I would prefer to see 60 per cent in both places, but the amendment I am offering merely refers to the vote of the legislature required to submit it. It seems to me that requiring 60 per cent of the vote in both houses, a point about halfway between the majority and 2/3, affords all the guarantees that are necessary to prevent rash action and still go a bit further to make it less difficult to give the people an opportunity to pass upon proposed amendments.

CHAIRMAN YEAGER: The question is upon the Dehnke amendment. As many as are in favor will say aye. Opposed, no.

The amendment is not adopted. Are there further amendments, Mr. Secretary?

SECRETARY CHASE: Messrs. Rush, Powell, J. B. Richards and Rood offer the following amendment:

1. Amend page 1, line 16, after "voting" by striking out "on the proposed amendments" and inserting "in that election"; so that the language will then read:

> . . . and, if a majority of electors voting in that election, shall ratify and approve such amendments, the same shall become part of the constitution.

CHAIRMAN YEAGER: Who is the first proponent there, Mr. Secretary?

SECRETARY CHASE: Mr. Rush.

CHAIRMAN YEAGER: Mr. Rush, do you wish to be recognized?

MR. RUSH: Mr. Chairman, ladies and gentlemen, I think that for this amendment we could give the same reason that Dr. Pollock gives for the other one, and that is we do not want to make it too easy to clutter up the constitution. That has been the fault that many people have found with our present constitution. It has been amended too many times. That was one of the reasons advanced for having a constitutional convention. And this amendment would accomplish that. In other words, people when they do not understand an amendment, a proposed amendment, will ofttimes refrain from voting on it instead of voting against it, and in many cases if they do not vote at all it amounts to almost a yes vote if you do not take into consideration the entire vote cast at that election. And so we are submitting this proposed amendment to make it a little bit more difficult to amend our constitution.

CHAIRMAN YEAGER: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, fellow delegates, it seems to me that there is hardly any question but what our present procedure, a 2/3 vote in both houses and the majority vote of those voting on the question, is a difficult procedure. Most of the amendments which have been passed have been passed after they have been submitted by the legislature, but nobody, I think, can contend that it is an easy procedure. In other words, the argument that Mr. Rush makes is that we want to make it hard, and we have already done that. It is difficult now, very difficult, and I think should remain so, but it should not be loaded and unfair, and it would be if Mr. Rush's amendment carried.

May I remind you that we would not be here in a convention if we had not removed a similar provision which existed with reference to the calling of a constitutional convention. We had to pass the "gateway" amendment to remove just such a provision before it was possible for the people to summon this convention.

Now when you say a majority of those voting in the election, you are talking, of course, about the highest vote in the election and it is everybody's experience, I am sure, that we have a smaller vote on propositions than we do on governors and presidents. Therefore, you are making it so unfair, you are loading it so much against it, that it is most unlikely that amendments would ever carry and it was just that experience, may I remind you, which led to the adoption of the "gateway" amendment which made this convention possible. I think Mr. Rush is going far too far and making quite an unfair requirement.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Cushman. Did you wish recognition, Mrs. Cushman?

MRS. CUSHMAN: I think Dr. Pollock has already said what I was going to say, thanks.

CHAIRMAN YEAGER: The question is on the Rush amendment. As many as are in favor will say aye. Opposed, no.

The amendment is not adopted. Are there further amendments, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: Are there any amendments to the body of the proposal?

SECRETARY CHASE: None.

CHAIRMAN YEAGER: If not, it will pass.

Committee Proposal 64, as amended, is passed. The secretary will read the next item.

SECRETARY CHASE: Item 9 on the calendar, from the committee on miscellaneous provisions and schedule, by **Mr. Erickson**, chairman, **Committee Proposal 65,** A proposal to amend article XVII, sections 2 and 3, pertaining to amendment and revision of the constitution.

Following is Committee Proposal 65 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. Amendments may also be proposed to this constitution by petition of the [qualified and] registered electors of this state. Every such petition shall include the full text of the amendment so proposed, and be signed by [qualified and] registered electors of the state equal in number to [not less than] AT LEAST 10 per centum of the total vote cast for all candidates for governor at the last preceding general election, at which a governor was elected[.], [Petitions of qualified and registered electors proposing an amendment to this constitution shall be filed with the secretary of state or such other person or persons hereafter authorized by law to receive same at least 4 months before the election at which such proposed amendment is to be voted upon. The legislature may prescribe penalties for causing or aiding and abetting in causing any fictitious or forged name to be affixed to any petition, or for knowingly causing petitions bearing fictitious or forged names to be circulated. Upon receipt of said petition the secretary of state or other person or persons hereafter authorized by law shall canvass the same to ascertain if such petition has been signed by the requisite number of qualified and registered electors, and may, in determining the validity thereof, cause any doubtful signatures to be checked against the registration records by the clerk of any political subdivision in which said petitions were circulated, for properly determining the authenticity of such signatures. If the secretary of state or other person or persons hereafter authorized by law to receive and canvass same determines the petition is legal and in proper form and has been signed by the required number of qualified and registered electors, the proposed amendment shall be submitted to the electors at the next regular election at which any state officer is to be elected. An official declaration of the sufficiency or insufficiency of the petition shall be made by the

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

secretary of state or such other person or persons as shall hereafter be authorized at least 2 months prior to such election. Any constitutional amendment initiated by the people as herein provided, shall take effect and become a part of the constitution if the same shall be approved by the number of qualified electors required in section 1 hereof for the approval of amendments proposed by the legislature, and not otherwise. Every amendment shall take effect 30 days after the election at which it is approved. The secretary of state or such other person or persons as may be hereafter authorized by law shall submit all proposed amendments to the constitution initiated by the people for adoption or rejection in compliance herewith. The petition shall consist of sheets in such form and having printed or written at the top thereof such heading as shall be designated or prescribed by the secretary of state, or such other person or persons hereafter authorized by law to receive, canvass and check the same. Such petition shall be signed by qualified and registered electors in person only with the residence address of such persons, showing street names and also residence numbers in cities and villages having street numbers, and the date of signing the same. To each of such petitions, which may consist of 1 or more sheets, shall be attached the affidavit of the qualified and registered elector circulating the same, who shall be required to identify himself by affixing his address below his signature, stating that each signature thereto was signed in the presence of such qualified and registered elector and is the genuine signature of the person signing the same, and that to the best knowledge and belief of the affiant each person signing the petition was at the time of signing a qualified and registered elector.] OR 300,000 SUCH REGISTERED ELECTORS, WHICHEVER SHALL BE LESS. SUCH PETITIONS SHALL BE FILED WITH SUCH PERSON AUTHORIZED BY LAW TO RECEIVE THE SAME, AT LEAST 120 DAYS BEFORE THE ELECTION AT WHICH SUCH PROPOSED AMENDMENT IS TO BE VOTED UPON. ANY SUCH PETITION SHALL BE IN SUCH FORM, AND SHALL BE SIGNED AND CIRCULATED IN SUCH MANNER AS SHALL BE PROVIDED BY LAW. UPON RECEIPT OF ANY SUCH PETITION, THE PERSON AUTHORIZED BY LAW TO RECEIVE SUCH PETITION, SHALL DETERMINE, AS PROVIDED BY LAW, THE VALIDITY AND SUFFICIENCY OF THE SIGNATURES ON SUCH PETITION, AND MAKE AN OFFICIAL ANNOUNCEMENT OF SUCH DETERMINATION AT LEAST 60 DAYS PRIOR TO THE ELECTION AT WHICH SAID PROPOSED AMENDMENT IS TO BE VOTED UPON.

Sec. b. [All proposed amendments to the constitution and other questions to be submitted to the electors shall be published in full, with any existing provisions of the constitution which would be altered or abrogated thereby, and a copy thereof shall be posted in each polling place. The purpose of any such proposed amendment or question shall be designated on the ballots for submission to the electors in not more than 100 words, exclusive of caption. Such designation and caption shall be prepared by the secretary of state or by such other authority as shall be hereafter designated by law within 10 days after the filing of any proposal and shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against such proposal] ANY AMENDMENT PROPOSED BY SUCH PETITION SHALL BE SUBMITTED TO THE ELECTORS AT THE NEXT ELECTION AT WHICH ANY STATE OFFICER IS TO BE ELECTED, PROVIDING THAT SUCH ELECTION IS HELD MORE THAN 120 DAYS AFTER THE FILING OF SUCH PETITION. SUCH PROPOSED AMENDMENT SHALL BE PUBLISHED IN FULL, TOGETHER WITH ANY EXISTING PROVISIONS OF THE CONSTITUTION WHICH WOULD BE ALTERED OR ABROGATED THEREBY AND TOGETHER WITH THE QUESTION AS IT SHALL APPEAR ON THE BALLOT USED IN SUCH ELECTION, AND A COPY OF SUCH PUBLICATION SHALL BE POSTED IN EACH POLLING PLACE, AND SHALL BE FURNISHED TO NEWS MEDIA AS PROVIDED BY LAW. THE BALLOT TO BE USED IN SUCH ELECTION SHALL CONTAIN A STATEMENT OF THE PURPOSE OF SUCH PROPOSED AMENDMENT, EXPRESSED IN NOT MORE THAN 100 WORDS, EXCLUSIVE OF CAPTION. SUCH STATEMENT OF PURPOSE AND CAPTION SHALL BE PREPARED BY THE PERSON AUTHORIZED BY LAW SO TO DO, AND SHALL CONSIST OF A TRUE AND IMPARTIAL STATEMENT OF THE PURPOSE OF THE AMENDMENT IN SUCH LANGUAGE AS SHALL CREATE NO PREJUDICE FOR OR AGAINST SUCH PROPOSED AMENDMENT. IF SUCH PROPOSED AMENDMENT APPEARING ON THE BALLOT SHALL BE APPROVED BY A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION, THE PROPOSED AMENDMENT SHALL BECOME A PART OF THE CONSTITUTION, AND SHALL ABROGATE OR AMEND EXISTING PROVISIONS OF THE CONSTITUTION 45 DAYS AFTER THE DATE OF THE ELECTION AT WHICH SUCH AMENDMENT WAS APPROVED.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 65:

History: The 1908 convention provided for an indirect initiative, which was subject to veto by the legislature. This initiative required signatures of not less than 20 per cent of the electors voting for governor.

The present section 2 was added by an amendment proposed in the legislature in 1913 and approved by referendum in April, 1913. Further amendments were made, again by a proposal of the legislature, which were approved by referendum April 7, 1941.

Section 3 was added to the constitution by amendment proposed by the legislature in 1917 and approved by referendum in November, 1918. It was further amended by legislative proposal in 1941.

Committee recommendations: The committte has undertaken a rather extensive rewriting of these sections 2 and 3, with the aim of eliminating matters which we were convinced were statutory detail, and with the aim of rearranging these 2 sections into what we believed is a more logical sequence. In this new draft, we tried to include in the first section, section a, all provisions concerning the initiative petitions, and have tried to include in the next section, section b, all necessary provisions relating to the submission of such amendment to the electors.

It is admitted that these 2 proposed sections still include many provisions that ordinarily would be part of an election code or statute. The committee, however, felt that this method of constitutional revision should be spelled out in some detail because of the nature of these sections. Section 1 of this article provides a method of constitutional revision that the legislature can use, and, as a matter of fact, most constitutional revision amendments have been proposed by the legislature. These proposed sections, sections a and b, then, would ordinarily be used only where the legislature has failed or refused to act. For that reason, the committee felt that essential detail ought not be left to the legislature to enact.

The committee believes that these proposed sections do not substantially affect the ease or difficulty of proposing constitutional changes. A minimum of 300,000 signatures has been inserted, as an alternative to the requirement that initiatory petitions be signed by 10 per cent of the total vote for governor, which figure was approximately 360,000 in the 1960 election. This seemed desirable to the committee to provide for possible rapid increase or decrease in the population of the state. A great increase in population could result in a situation where the sheer bulk of

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

petitions signed by 10 per cent of the electors could pose serious problems. The committee felt that it was sufficiently difficult to get 300,000 signatures so that hasty revision of the constitution would not result.

The first section, section a, was adopted by the full committee by a vote of 9 to 1, and the second section, section b, was adopted by the committee by a vote of 10 to 2.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson. The Chair would like to inquire, do you want to take section a by paragraphs, Mr. Erickson, or as a total?

MR. ERICKSON: Let's take it as a total, because this all ties together.

CHAIRMAN YEAGER: You are recognized, then.

MR. ERICKSON: The Constitutional convention of 1907 and '08 had 3 subjects that took up most of its time: they were wine, women and initiative, (laughter) and the constitutional convention did not do anything on any of those 3 subjects — (laughter) liquor was not included and the vote for women was let go by for a later date, and so was initiative.

Even today Michigan is only 1 of 14 states that permits the citizens to amend its constitution, and after the other constitution it was not until 1913, by joint resolution of the legislature, that people voted to have this in. Mr. Habermehl has asked that I yield the floor to Delegate Durst for the presentation of this interesting subject.

CHAIRMAN YEAGER: Mr. Durst is recognized.

MR. DURST: Thank you, Mr. Erickson. Mr. Chairman and members of the committee, after what happened to Mr. Habermehl I am a little apprehensive but I shall proceed nevertheless.

The proposal that has just been read by the secretary eliminates a great deal of material that was previously in the constitution. We have tried to include the bare skeleton of the provision in order to still keep it self executing without providing all the varied material as to how names are to be set forth and all of this type of thing which is presently provided for in the statutes of this state. It was the opinion of the committee that in the event the legislature refused to act to provide the things that are called for here by this constitution that in one way or another it would still be possible to get an amendment on the ballot with the amount of material which is still left, which is still greatly statutory in nature. But since this is a provision in derogation of the power of the legislature, so to speak, it seemed desirable that it be self executing in nature, and that is why there is still a great deal of material here but far less than there was before.

As far as I know, there is not too much conflict with elimination of this material. However, there is one very substantive change here which has occasioned some conflict of opinion and a split in opinion, and that is the provision that provides that the petitions either be signed by 10 per cent of the total vote cast of all candidates for governor in the last preceding general election in which a governor was elected or 300,000 such registered electors, whichever shall be less. Now the net effect of this provision is to place a ceiling on the number of signatures that are necessary to place a constitutional amendment on the ballot.

Now I think it is desirable here to review just a little history of this provision. As Mr. Erickson has pointed out, it was not included in the constitution of 1908 but was added by amendment and placed on the ballot by the legislature in the year 1913. Now it is significant to note that the 10 per cent figure at that time and for many years prior thereto had averaged around 40,000. In the year 1898, 421,000 people voted in this state, making a requirement of approximately 42,000 signatures. In 1902, it was 402,000 or 40,000 signatures. In 1906, 373,000, so there was a drop to 37,000 signatures required. In 1910, 383,000, the requirement, 38,000. So this was the history and these figures go back to about this level even prior to this time. This was the history which the legislature had before it when it proposed this amendment with the 10 per cent figure in it in 1912. Now what has happened since?

There has been a very, very slow rise in the requirement up till very recent years: in 1920, a presidential year, a little over 1 million people voted in this state, meaning that you would need 105,000 signatures to put an amendment on the ballot. In 1930, a nonpresidential year, only 850,000 people voted, so there was a drop of 250,000 and only 85,000 signatures were needed. In 1940, another presidential year, the vote count rose to 2,030,000, so 203,000 signatures were needed. And in 1950, a nonpresidential year, 1,819,000 people voted, so 187,000 signatures were needed. In 1958, just 4 years ago, 2,312,000 people voted for governor, so 231,000 signatures were needed. And in the 2 year span to 1960, the vote count increased in this state by almost 1 million, to 3,281,536 people, so that you now would need, to put a constitutional amendment on the ballot today — if you were to try it, you would have to collect 328,153 signatures on the petition in order to put the amendment on the ballot. As you can readily see this is quite an increase from the 40,000 which the legislature experienced for a great number of years prior to the time this amendment was adopted to what we have today.

Now it is the contention of the committee that as this figure rises — and it is conceivable that it will rise quite a bit more in the years to come as the percentage of people voting increases, as well as the population increases — what you do in effect is erode the very right that is created by this particular section. I say that because as the figure gets larger, you make it virtually impossible for anyone else to use this particular provision except a large, well organized organization. Now I don't think there is any doubt that no matter how high this figure gets — even if you have to get millions of signatures in the state of Michigan — that the UAW-CIO would be able to put an amendment on the ballot if they so desired. Sure, it may cost them a little more. It may take a little more time and a little more effort, but they can do it. By the same token, Mr. Powell's organization, the farm bureau, if it really wants to put an amendment on the ballot has got the membership and also, I presume, the money — that I am not so sure of — but at least they have the facilities to put an amendment on the ballot if they really want to. I suppose there are other organizations that are similarly well organized. Probably the school groups, if they had an amendment they were particularly interested in, would be able to organize the manpower and the funds to put that particular amendment on the ballot. But I submit that the great bulk of the rest of the people in this state, who belong to none of these well organized organizations, would not be able to significantly participate in a drive to put an amendment on the ballot when this figure gets so high that it becomes too costly. Now I am concerned about this because I do not belong to either one of the large organizations I mentioned — as a former member of the teamsters union they probably wouldn't let me in the UAW-CIO — and when they see the "young radical" badge that Mr. Brake gave me, they probably wouldn't let me in the the farm bureau back home either. (laughter)

Now I know a little bit — not a great deal — about the difficulty of putting an amendment on the ballot. I participated back in my home area in a drive to fluoridate the water supply, and I know how long it took to go out and get 30 signatures on a petition, because everybody wanted to know everything about it before they signed — and I don't blame them for that — but it was virtually impossible if you went out at 6:00 o'clock at night and got done at 10:00 to get more than 30 signatures, and most people hardly got more than 10 or 15. It is a time consuming, very difficult job. And as the issue gets more complex, of course, it gets more difficult. Now I think we only need to look at the drive that was put on to enable the calling of this convention to see how difficult this situation is. I participated in that drive as a member of the junior chamber of commerce and I know Mrs. Judd participated and perhaps some others did as members of other organizations. And I say this without consulting with members of the league of women voters here: that I am convinced that the league of women voters and the JCs together could never have obtained the necessary number of signatures to put the proposition on the ballot in November that made possible the calling of this convention. It simply was impossible. And the reason was that in order to do it, even though we had the cooperation of the newspapers in this state, you still had to arouse public interest and you still had to have money. And without the help, I am sure, of the organization known as citizens for Michigan which provided both of these assets, particularly money, and also provided a little spur of public imagination, I don't believe the necessary number of signatures would have been obtained even though there were many, many very sincere people working very hard for this purpose in the state of Michigan.

Now, if we put these 2 alternatives in: the 10 per cent or the 300,000, what we are actually doing is making it just about the same as it presently is. In other words, there were 231,000 signatures required in 1958. Today there are 328,000 and probably in the election of 1962, a nonpresidential election, the vote count will drop somewhat and you will have a lesser requirement, but somewhere right around the 300,000 figure. We are not intending to increase or reduce the difficulty as it presently exists, but I submit to you that any organization, whatever they may be, that goes to the effort and the work to get the signatures, 300,000 valid signatures, in this state, that they have a proposition that is worthy of being put on the ballot and being passed on by the people of this state.

This is not an easy proposition. It takes many, many thousands of dollars, and it takes many, many man hours. I don't know how much money was spent to arrive at the full number of signatures necessary in 1960, but I would estimate certainly that it was in excess of $20,000 to $30,000, and that is a lot of money. Now, as I said, it is easy — not easy, but it is possible for the large, well organized organizations to do this, and if we allow this 10 per cent figure to continue to rise in the future, then, in effect, we are eliminating this particular provision as far as it has any application to smaller, organized civic organizations in the state of Michigan.

Now, what are some of the arguments against this? Some people believe it should be harder to put an amendment on the ballot. There were recommendations before our committee that this number should be increased to 15 per cent, and I believe somebody at one time even suggested 20 per cent — I am not sure — with the idea that we should not amend the constitution. They don't want to amend it. And if this is the prevailing philosophy in this convention, then by all means strike out the 300,000 and keep the 10 per cent.

Now I submit, again, that it will always be possible, as long as you keep some provision of this sort, for some organizations to use the provision and not others. On the other hand, there are other people who seem to have the idea of a general fear of what the people will do and what they will approve if they are given the opportunity to vote on any large number of proceedings. Now I think this is somewhat optimistic because the record shows that the people have turned down far more, a greater majority of constitutional amendments put on the ballot by initiative than they have approved.

On the other hand, it must come back, as far as I am concerned, to a basic question of trust in the people. Now, lest I be accused of being inconsistent, I would point out that when we were discussing the question of election or appointment of the ad board, I stated that I was in favor of appointment because I did not feel the people of this state, by and large, were interested in the members of the ad board. Now, some people turned this around to say it was a matter of trusting the people. I do not think that issue was involved there at all, but in this particular instance it is: whether or not we trust the good judgment of people to pass upon proposals as they are presented on the ballot.

Now I think that on issue elections, where issues are involved, people do think them through. I would just call attention to my own home county of Lenawee. For the election which sent me and my compatriot, Charlie Figy, to this convention, there were approximately 6,000 people in my county turned out to vote. The other day, 2 weeks ago, there was a proposition in a special election calling for the establishment of a junior college which involved, among other things, the spending of some money and the raising of millage. Over 12,000 people in my district turned out to vote on that issue because it was an issue that they were concerned with, and issues do concern people, and I do not think they vote blindly on them. They do attempt to think them through, and I think there is a great deal of interest in these issues as they come up and are presented on the ballot.

On behalf of the committee, I am sincerely convinced that it is desirable that the people have the opportunity to consider proposed changes and if there are 300,000 people in this state — no matter what the population may be — 300,000 people who believe the proposition is good enough to be presented to the people, then they should have the right to place it on the ballot and have the people pass on it. Thank you.

CHAIRMAN YEAGER: Does Mr. Erickson wish anyone else recognized on behalf of the committee? The Chair will recognize Miss Donnelly.

MISS DONNELLY: I rise to speak against the committee proposal in the amount of the 300,000 for the simple reason that our next proposal calls for it for every 16 years as does the constitution presently. To me the need for a specific, special amendment to be put on the constitution by 300,000 voters ignores the fact, one, that this state will grow as it has continued to grow in the past and eventually when you reduce it to a fixed figure as opposed to a proportionate number of citizens that are eligible to vote, you would have so lowered it that you will not have 10 per cent, you will not have 5 per cent, if we grow as we continue to grow. In addition to that, in the next proposal we automatically will have one for every 16 years if the people wish to vote thereon. Therefore, I feel that there is no great crying need — as there was perhaps in the past — for arranging for a constitutional amendment to be placed upon the ballot by the people working in their united groups outside of any organized situation for parties. I therefore oppose the committee proposal as to the figure of 300,000, but I support the rest of the committee proposal.

CHAIRMAN YEAGER: Mr. Habermehl, there is an amendment coming up; do you wish to speak on the question of the committee proposal or do you want to wait for the amendment?

MR. HABERMEHL: I would like to speak on the committee proposal.

CHAIRMAN YEAGER: You are recognized.

MR. HABERMEHL: I would like to call to the attention of the delegates that this 300,000 figure is not a reduction. The figure quoted to you by Mr. Durst — the 328,000 requirement — was one that came about as a result of the last presidential election.

The election schedule, in effect, that we have adopted here calls for the governor to be elected in a nonpresidential year and a quick check of the red book will show that in nonpresidential years the 10 per cent figure would amount to about 220,000. From this point on, in other words, the governor will not be elected at the same time as the president, and our past experience has been that the vote in Michigan will be much lower. I suspect that for quite a few years to come this 300,000 figure will be the greater of the 2 figures that appear in the committee proposal.

I would like to say, too, that there is — before the amendment is offered, Mr. Chairman, the committee on declaration of rights, suffrage and elections had concurrent jurisdiction on this matter and I would ask that the floor be yielded to Delegate Pollock.

CHAIRMAN YEAGER: Does Dr. Pollock wish to speak on this for the concurrent jurisdiction committee?

MR. POLLOCK: I have nothing to say, Mr. Chairman, except that it met with the approval of our committee and it certainly meets with my approval.

CHAIRMAN YEAGER: Dr. Norris, did you wish to be recognized?

MR. NORRIS: Mr. Chairman, I just wanted to make a very few brief comments regarding supporting the committee proposal. I believe it does 2 things: it promotes certainty with regard to the procedure and promotes flexibility as well. With regard to certainty, at least, it indicates to the people in a relatively informative fashion that what is required is an approximate 300,000 signatures, and this seems to me to give to the people some kind of information which would be helpful in appraising the nature of the task and what is involved in this kind of procedure. Second, you have the 10 per cent still there and there is an enhancement of flexibility. You also have flexibility in another sense: in the sense of responsiveness to change in permitting what is, after all, the reserved power of the people to be reflected in constitutional change.

Now I notice Miss Donnelly mentioned the question of the hope and aspiration that the people of the state of Michigan will grow in numbers. And there is no question about it, they will also grow in problems. They will also grow in the number of ways in which the constitution impinges upon the life of the people and we do have to keep open the way in which the reserved power of the people may operate upon the constitution so that the constitution can be flexible in meeting the needs of the people. Indeed, that is our very province here. That is what brought us into being. And I do think some constructive thinking has been done by the committee and it ought to be supported in this amendment.

CHAIRMAN YEAGER: Will the Secretary read the first amendment on file?

SECRETARY CHASE: Mr. Stevens offers the following amendment:

1. Amend page 1, line 11, after "elected" by changing the comma to a period; and on page 3, line 7, by striking out "or 300,000 such registered electors, whichever shall be less."; so that the sentence will then read:

> Amendments may also be proposed to this constitution by petition of the registered electors of this state. Every such petition shall include the full text of the amendment so proposed, and be signed by registered electors of the state equal in number to at least 10 per centum of the total vote cast for all candidates for governor at the last preceding general election, at which a governor was elected. Such petitions shall be filed. . . .

CHAIRMAN YEAGER: The Chair will recognize Mr. Stevens on his amendment.

MR. STEVENS: Mr. Chairman and members of the committee, the declaration of rights, suffrage and elections committee did not vote unanimously to endorse this proposal as it did vote almost unanimously against the 2/3 proposition. I was the delegate who introduced the proposal to make amending the constitution require 15 per cent of the number of votes cast for all candidates for governor and nobody in the committee seemed to pay much attention to my reasons for it. The reasons were not so much to make it more difficult to amend the constitution as to provide a greater differential between the constitutional initiative and the statutory initiative. As it stands now it takes 8 per cent for a statutory initiative and 10 per cent for a constitutional initiative. As a result of that, time after time certain organizations have proposed constitutional amendments where an ordinary statute would have done this work as well or possibly better, because it is just as easy or almost as easy to get a constitutional amendment on the ballot by the initiative as it is to get a statute on the ballot by an initiative. So my reason here is not so much to make it more difficult to amend the constitution as to do something to discourage people from putting statutory matter into the constitution. Even as it is, most of the constitutional amendments proposed by this method are very statutory in nature. That seems to be the way they do it. You have had some of the figures. The figure for the initiative for the statute as of the last election would be to require 8 per cent, or 262,522 signatures. In the future, as the state grows — and I see no point to this except that it is based upon future growth — as the state grows in the future in population, it will become easier to put a constitutional amendment on the ballot by the initiative than it is to put an ordinary statute on the ballot by use of the initiative. And this to me does not make any sense.

CHAIRMAN YEAGER: The Chair will recognize Mr. Plank.

MR. PLANK: Mr. Chairman and fellow delegates, Delegate Perras and I have an amendment very similar to this and we would like to join Mr. Stevens. I would like to point out to you that if you just listen to the proponents of this committee proposal, without very much thought you can see that almost all the reasons they give actually are good reasons for striking out the 300,000 figure.

The same organized groups that Delegate Durst talked about could with a lot less effort put forth an initiative referendum and, therefore, I would like to support Delegate Stevens' amendment and just urge you to think twice, and be sure, and hesitate, when you think about writing a fixed number in the document which we might live with for the next 50 years.

CHAIRMAN YEAGER: The Chair would inquire of Mr. Plank: do he and Mr. Perras wish to withdraw their amendment and join with Mr. Stevens?

MR. PLANK: That is correct, Mr. Chairman.

CHAIRMAN YEAGER: That is agreeable, Mr. Secretary? Mr. Kuhn.

MR. KUHN: I would like to support the Stevens amendment. I think most of the reasons have been given, but it is very important to remember that we are not writing legislation here. I think too many delegates think this is the legislature. We are hoping to write a document that will be good for at least 50 years and maybe 100. Now it seems to me that if this state would grow into a population as high as 14 or 15 million people, we do not want a 300,000 ceiling to have a constitutional amendment placed on the ballot.

As was pointed out earlier, only 14 states now allow their people to amend the constitution. I believe in the principle of amending the constitution and being able to do so, but I do not want it to be too easy and, therefore, I think to keep good, sound constitutional principles in our document we should leave it the way it is — 10 per cent of all people voting for the office of governor — and not put this foolish, small limit in our constitution.

CHAIRMAN YEAGER: Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman and delegates, anybody who has worked in that business of getting enough names on petitions to have this constitutional convention would know that 300,000 names is an awful lot of names and that it is not some foolish, small limit. Now, believe me, it takes a tremendous amount of organization, particularly where you are dependent on volunteers, to get this many names and valid names. I think that unless it were a professional organization I don't think that a much bigger limit could be reached, and I mean by a professional organization one that had enough money to pay for their names and their circulation of it. It is a tremendous job to get this many. I want to repeat that; because, having gone through it, I know and I am quite sure that it would not be an easy matter to get something reviewed by the people for possible consideration in the constitution with a requirement of 300,000. Thank you.

CHAIRMAN YEAGER: The Chair would like to remind the committee that for this evening's work we have 6 more proposals, 1 exclusion report, and 5 proposals on emerging problems to finish by the time we close tonight if we are to follow any schedule. It has been said that brevity is the soul of wit; the Chair hopes we will be very funny today and will recognize Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I just want to point out that we have a proposition here that determines how responsive our government will be, and I certainly would oppose the amendment to the committee report as such. The committee had many people come in to testify as to their feelings: many people from civic groups, and included was the league of women voters. Gus Scholle was down there. The farm bureau was down there. There were many people.

In fact, I sponsored a proposal originally that would have permitted this thing to 100,000, and I do not think that when you get up to a 300,000 figure that this is much of a compromise. But I do feel very strongly that if we are going to have a responsive government we are going to have to give the people back home the opportunity, not to put legislative matters into the constitution but to act as a sort of a check and balance to an unresponsive legislature.

I think that this is very important and I feel that if the delegates could have heard the testimony of some of these groups who were instrumental in getting the present constitution on the ballot and successfully passed, they would have realized the tremendous — the tremendous — obstacles that were in their way. The people that appeared before us were sincere. The people felt that they had a message that they had to get to the delegates to the constitution. I just hope that their efforts have not been in vain. I do hope that the amendment to the proposal — which would completely defeat the work of many people who worked hard and long at this particular matter — does not pass. This amendment would do great damage to this group. It would take away from them the feeling of participation in government and, I think, once we take this feeling away we will not have a government that is as responsive. I certainly would encourage the defeat of the proposed amendment and the support of the committee proposal that we have.

CHAIRMAN YEAGER: The Chair recognizes Mrs. Judd.

MRS. JUDD: Just 2 points, Mr. Chairman. I would like to ask if there is anyone here who has opposed the 300,000 figure who has ever worked to get a petition signed on a voluntary basis. Please raise your hands. I mean who spoke against the 300,000. Secondly, I am not a good lawyer but as I have heard the reports of the Tennessee case in the supreme court, it seemed to me that one of the important things for Michigan to pass muster is to be sure that the people have a remedy to the problem of reapportionment, and that ease of amending the constitution would be an important remedy.

CHAIRMAN YEAGER: Mr. Stevens is recognized.

MR. STEVENS: Mr. Chairman and members of the committee, it is not my belief that we are talking about calling a constitutional convention or apportionment, except, of course, I suppose the initiative could be used for amending the constitution to make apportionment easier or changing the apportionment easier.

What I wanted to say, however, was that it is not too difficult to get these signatures if anyone really wants them. We do not want to make it easy to amend the constitution. The recent vote shows that. What we want to do is to keep it rather difficult to do it, but we do not want it easier to amend the constitution than it is to pass an ordinary statute, and that is what this amounts to. Any organization that wants to spend the money or do the work and has the organization can get all the signatures it wants, and it is not common that neighbors in a block or two are going out to try to get the constitution amended by use of the initiative.

CHAIRMAN YEAGER: The Chair recognizes Mr. Kuhn.

MR. KUHN: I want to make my remarks very brief. Dorothy Judd helped me answer it. I did work on that and I was a member of the JCs. And then I agree with what Harold Stevens said at the end: we do not want to make it easy; we want to make it very difficult.

Sometimes you wonder just how many people wanted it and, obviously, it was very closely divided and that is why it was so difficult. But I am sure that anything that really has to be done, if there is a great demand, will be that much easier. It did take a lot of work and I was not a professional and I did work toward getting the signatures.

CHAIRMAN YEAGER: The Chair will recognize one of the proponents, Mr. Perras.

MR. PERRAS: Mr. Chairman and fellow delegates, I will be brief, as you suggested, Mr. Chairman, but in view of the fact of how we voted on giving the legislature a lower number than 2/3, here is what it says in the book here:

> If there is need to facilitate the submission of constitutional amendments to the voters, somebody argued it would be preferable to make it easier for the legislature to submit amendments by reducing the extraordinary majority requirements of 2/3 of the members elected to each house to some smaller number and, it is argued, legislative proposals of amendments tend to be more carefully drafted and considered in relation to the remainder of the constitution.

Now, in view of the fact of what we have just done by the big vote — how we voted this reducing the 2/3 vote of the legislature, I think we should be consistent and vote for this amendment. I demand the yeas and nays, Mr. Chairman.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? A sufficient number up. The yeas and nays are ordered. The Chair recognizes Mr. Wanger.

MR. WANGER: In brief reply to Mrs. Judd, as one who had the privilege of working very actively both as a member of the junior chamber of commerce and citizens for Michigan for the constitutional convention amendment and votes, I would like to say that on ballots this amendment should be supported because the constitution should not be easy to amend and it should not be easy for a citizens' group to put a constitutional amendment on the ballot.

In viewing this history of the Michigan initiated constitutional amendments, we find there have been 34 to this constitution all the way from 1914 to 1960 and 10 of these have been adopted by the people. It seems to me that as the population of the state grows, so will the total number of people who vote for all candidates for governor; and as that grows so will the strength of those citizens' groups who really represent the people. So, therefore, it will not be, as a social matter, more difficult in the future to amend the constitution, proportionately, than it has been in the past.

CHAIRMAN YEAGER: The Chair recognizes Mr. Romney.

MR. ROMNEY: Mr. Chairman, I think there are 2 or 3 things about this that might be brought to the attention of the delegates before we vote. One is that when you require 300,000 in order to have a safe number of signatures you have to have about 25 per cent more than that or about 400,000 signatures. Getting 300,000 signatures is a really sizable task unless you have a well organized statewide structure of a political character or economic character.

As I see this proposal, it is designed primarily to enable citizens to use this route to secure constitutional amendment. Now as a rule they are not too well organized, and I want to emphasize what has been said here about the great difficulty in securing the votes needed to call this convention and then we only required 225,000, but we secured over 300,000 in order to have the overage to make good any signatures not properly secured, because there is a great deal of technicality required in securing valid signatures. So I think that if we should strike out the 300,000 figure we would make it very unlikely that a genuine citizens' petition drive could bring about an amendment for a constitutional convention of this character. It took a great deal of organized effort to get this one called on this basis and I certainly hope that you will defeat this amendment because I think the citizens of the state should have a target that is within their reach.

CHAIRMAN YEAGER: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I urge the members of this committee to support this amendment. I call your attention to this. When a constitutional amendment is initiated by petition, is is written by a group which wants to accomplish something, of course, and however it fashions its proposal that is what is submitted to the people. In other words, when you have an initiated constitutional amendment, you have no forum for debate — at least no organized forum for debate. There is no way that an initiated amendment to the constitution can be submitted to a body like the legislature which can amend it and can perfect it in the course of debate to improve its language, to see the weaknesses of what is proposed, to bring it back into kilter, perhaps, with other provisions of the constitution, and so forth. All of this is missing when a constitutional amendment is initiated. For that reason the use of the initiative should not be made easier. And I am impressed with Mr. Stevens' argument that as the population of this state increases and as the voting electorate increases the 300,000 ceiling may in time be reduced to perhaps a mere 5 per cent rather than 10 per cent of the electorate. Now, this is my philosophy and I feel very clear and strong about it: that because the initiative procedure does not provide the forum for debate where you can perfect the proposal before it is submitted to the people, I think that the initiative procedure should not be made easier. Therefore, I support the striking of the 300,000, leaving it 10 per cent of the electorate.

CHAIRMAN YEAGER: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. Chairman, I believe we are debating something very fundamental and I do urge the body to recognize some of the points that were raised by Mr. Hutchinson. There is no question that a deliberative body can give attention in a deliberative fashion to some of the matters and adapt the proposal to what is necessary, but deliberation need not only take place in a deliberative body. It can take place in the body politic. And if I sense anything — as a person who has been active in the last 25 years in a variety of efforts — it is that most people feel that the political wall is too high to jump, that ordinary citizens cannot accomplish change, and this leads to a state of apathy and inertia which, in my judgment, is very dangerous in a democratic society. There has to be a holding forth of the possibility to adjust to change on behalf of ordinary people, not merely — and I think that Mr. Romney made an excellent point here — not merely people who are organized in a political group or on an economic basis but citizens' groups, generally. There has to be the possibility of change and it is not making it easy for this possibility to occur when you put in the constitution a 300,000 number.

A point again made by Mr. Romney: about the fact that you need another quarter, another 100,000 signatures. This is a formidable undertaking and I submit that when you make the walls too high to jump, when you hold forth a right unaccompanied by fulfillment, you lead to frustration and this is a dangerous state of mind in a democratic society.

With regard to the point made by Mr. Stevens, the question of the facility of proposing legislation: it seems to me that you do have that margin of difference now and perhaps on second reading we might alter that figure. I do not think that we ought to compound the felony by making both wrong. I think we might very well reconsider our action with regard to the percentage required in proposing legislation. And I do think he has a point to be considered. In fact, I think that is about the strongest point the amendment has. But I think we can reconsider that at the appropriate juncture.

I do think that before us now we have a question as to whether or not in the kind of world and kind of nation and kind of state we are heading into, where the need for change has to be evaluated constantly and the way in which change can be brought about, admittedly you do not want to permit a situation where it is so easy that error is formed; but it seems to me, too, that you do have to keep the promise open to ordinary people that they can change things in order to meet needs. And I think that is the fundamental philosophy regarding this whole question of initiative. This was one of the prize contributions of the 1908 constitutional convention and I think we would be keeping with the great tradition of the state and of its constitutional conventions if we kept alive the purposes of the initiative petition, making it a service of sovereignty, a service of self government, a service of people responding and adapting to change. I urge, therefore, Mr. Chairman, a vote no on the Stevens amendment.

CHAIRMAN YEAGER: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I submit that the body politic has not had too much trouble in submitting proposed amendments to the constitution. In the last several years they have appeared on the ballot. They have had the necessary 10 per cent. I do not think it should be easy for organizations to do this and I do not think any of us have the idea that any small group of citizens is going out and do this, whatever the percentage required or whatever the number of signatures required. It does require the work of one or more organizations to do it and it probably should remain that way.

I would also repeat, by way of emphasis, Mr. Kuhn's remark that there was much opposition to calling this convention. That is why it was so hard to get the signatures in many places. However, they did get them and they got them in a relatively short time. It seems to me that that only proves the fact that it is not too difficult and it will not be too difficult to amend the constitution by getting 10 per cent of the signatures for an initiative.

CHAIRMAN YEAGER: The Chair recognizes Miss Donnelly.

MISS DONNELLY: I rise to support the Stevens amendment and I would like to recall to this body that our next proposal is for a constitutional convention every 16 years wherein people will have the opportunity to discuss any amendment, make sure it falls in line with the rest of the constitution, and have a forum to make sure of all the ramifications of it, as to its drafting, as to its balance, as to its real importance and its overall effect on the entire document.

To allow a very readily available amendment of one section or one point by these 300,000 signatures, when the population grows it is going to be very, very easy. I cannot imagine anything that is so vital that it couldn't take 1 year or 2 years if it has to be done, for life goes on rather slowly. Regardless of how rapidly we think we do progress, in the long run we do not do it. Anything that is very vital to be handled, can be handled in the complete constitutional revision as we have already taken care of in the next section, and we do not need this emergency device to handle it, in my opinion, and certainly to lower the requirement to let it be done arbitrarily is a capricious act.

CHAIRMAN YEAGER: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I should like to just make a brief reply to what Delegate Hutchinson said. The question here is not whether we are in favor of the initiative and referendum as a process. The question is, I assume, how can we improve that process? Now, I seem to gather from Delegate Hutchinson's argument that he finds the initiative essentially a defective instrument. I think if he were to talk a little longer, he probably would demonstrate that he does not like the initiative as an institution, and I think the same probably can be said of Mr. Stevens. In other words, I do not consider this a friendly amendment. I believe they are actually arguing against the initiative as a process, and by making this provision so difficult it seems to me they are weakening it.

Second, the committee, in my view, went over this very carefully and very realistically, taking a good deal of testimony and having a good deal of discussion about it, and I think their figure of 300,000 is a very fair, realistic one considering the circumstances of the modern Michigan electorate.

In the third place, I just want to remind you that not only did the committee itself give this careful consideration and, I believe, maybe with only one vote in the committee against it, but it was referred to the committee on rights, suffrage and elections and with only one vote against it in our committee, namely Mr. Stevens, it was approved. So you have had 2 substantive committees go over this and it meets with their approval.

CHAIRMAN YEAGER: On the Stevens-Perras-Plank amendment, the Chair recognizes Mr. Durst.

MR. DURST: Mr. Elliott tells me to sit down, so I will be very brief. First of all, let me make it clear that 300,000 is not lowering present requirements, as some people have implied, but merely is maintaining the present status quo, granted it will carry on into the future. Second, many people have implied that 300,000 somehow or other is easy and they state that if the population grows and we have 14 million people in Michigan it, therefore, becomes much easier to get 300,000. True, there are more people to get the 300,000 from, so you may find 300,000 kindred souls easier, but the task of talking to 300,000 and explaining the issue to 300,000, and getting the valid signatures of 300,000 is no easier. And I submit that that is a gigantic task which takes the energy and effort of a very large, well organized group no matter who they may be.

Now the question has been raised here that one reason it was hard to get the question on the ballot in November of 1960 was because there were people opposed to calling a constitutional convention. Well, I do not know how widespread that was in other areas, but in my county of Lenawee, I submit, it was hard to get signatures. We secured about 2,000 and contributed them to the joint effort and in the election itself on the amendment in November the vote was 11,000 in favor and 4,000 opposed. So I do not think that in my area you can say that people were opposed to approving that particular amendment. But it was still difficult to get signatures because it is difficult to reach people. And I cannot in my memory remember any individual to whom I explained the proposition who refused to sign the initiatory petition.

Now, Miss Donnelly has made the point a couple of times here that the question can be submitted to the people every 16 years whether they want a constitutional convention and, apparently, she is suggesting that the 2 alternatives are equal in some way, that you do not need to amend it because the people can call a convention every 16 years if there are things out of line. I submit that this is completely unrealistic. We cannot and I do not think we should convince the people of this state that they should have a body such as this meet every 16 years to correct some trivial matters — not trivial, but at least limited matters — but that, more properly, amendment either by legislative action or by initiatory petition is a better method for limited areas of discussion than a constitutional convention.

CHAIRMAN YEAGER: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: I just wanted to correct the statement of Miss Donnelly to the effect that there was — it sounded as though she thought there was going to be a convention every 16 years and, of course, this is not at all true nor would it be desirable, as Mr. Durst has already said. Thank you.

CHAIRMAN YEAGER: The Chair recognizes Mr. Wanger.

MR. WANGER: I wish to correct the statement of Mr. Durst. According to the figures of votes for governors on page 457 of our '61-'62 Michigan Manual, 10 per cent of the total vote for governor in the last election, in the 1960 election, would be 328,154. Since the population and the votes are increasing, under the figure of 300,000 it would never again in Michigan's history require as much as 10 per cent of the total vote for governor to put a matter on the ballot.

CHAIRMAN YEAGER: The question occurs on the Stevens-Perras-Plank amendment. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor will vote aye. As many as are opposed will vote no. Does anyone wish the amendment read?

A DELEGATE: Please read it.

CHAIRMAN YEAGER: There is a request for rereading of the amendment, Mr. Secretary.

SECRETARY CHASE: The Stevens-Perras-Plank amendment is as follows:

[The amendment was again read by the secretary. For text, see above, page 2462.]

CHAIRMAN YEAGER: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—47

Batchelor
Blandford
Boothby
Bradley
Brake
Conklin, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Everett
Farnsworth
Finch
Gadola
Gover
Haskill
Hatch
Hubbs
Hutchinson
Iverson
Kirk, S.
Knirk, B.
Kuhn
Lawrence
Leibrand
Leppien
Millard
Mosier
Nisbet
Perras
Plank
Powell
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Turner
Tweedie
Upton
Wanger

Nays—57

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Beaman
Bledsoe
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
DeVries
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Faxon
Figy
Follo
Garvin
Goebel
Habermehl
Hannah, J. A.
Hart, Miss
Hodges
Howes
Jones
Judd, Mrs.
Lesinski
Madar
Mahinske
Marshall
McLogan
Nord
Norris
Ostrow
Pollock
Pugsley
Rajkovich
Romney
Sablich
Shaffer
Snyder
Stamm
Sterrett
Stopczynski
Thomson
Van Dusen
Walker
White
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Stevens, Perras and Plank, the yeas are 47; the nays are 57.

CHAIRMAN YEAGER: The amendment is not adopted. Are there further amendments on file, Mr. Secretary?

SECRETARY CHASE: Messrs. Garry Brown and Boothby offer the following substitute:

"Sec. a. Amendments may also be proposed to this constitution by petition of the qualified and registered electors of this state. Every such petition shall contain the full text of the amendment so proposed and shall be signed by qualified and registered electors of the state equal in number to at least 10 per centum of the total vote cast for all candidates for governor at the last preceding general election, at which a governor was elected, or signatures of 300,000 such qualified and registered electors whichever shall be less, not more than 10 per centum of such signatures to be obtained from residents of any one county.

The legislature shall implement this section by appropriate legislation with respect to the form and filing of such petitions, the time for submission of the proposition to the voters and the ministerial determination of the validity and sufficiency of the signatures. Such law shall also prescribe other terms and conditions appropriate to consideration of the proposition by the electorate and the method of informing the electorate of the substance of such proposed amendment.

If any proposed amendment shall be approved by 3/5 of the electors voting on the question, the proposed amendment shall become a part of the constitution and shall abrogate or amend existing provisions of the constitution 45 days after the date of such election or at such other effective date as shall be provided in said proposed amendment, but in no case shall the same be effective prior to 45 days from the date of such election.".

CHAIRMAN YEAGER: The Chair will recognize Garry Brown on his amendment.

MR. G. E. BROWN: Mr. Chairman and members of the committee, at the outset, Mr. Chairman, I would move to divide the question between the first, second and third paragraphs.

CHAIRMAN YEAGER: It will be so ordered.

MR. G. E. BROWN: I would next like to distinguish between the question that is presently before the committee and those amendments that are proposed by the legislature, which we have already passed upon, where a 2/3 vote of both houses of the legislature is required to get the matter on the ballot and only a simple majority vote is required for the approval of such amendments.

Basically, I think that we should recall that we are a republic and that legislative amendments or amendments proposed by the legislature will have had ample consideration by the legislature before the 2/3 vote is obtained and that a majority vote, therefore, for approval by the electorate is adequate. The same thing is not true when we go through the straight democratic process, so to speak, of initiatory petitions proposing amendments to the constitution. Here, the due consideration has not been given the subject by the legislature or by anyone, by a group as such, other than the proponents of such amendment. With this in mind, it occurs to me that the matter of approving amendments initiated by petition should be greater and more difficult than those proposed by the legislature.

Before discussing that aspect of it further, however, I would like to point out to the members of the committee the first change in the substitute language as distinguished from the committee's language: that is that signers of the petition to place upon the ballot the matter of amendment to the constitution could not all come from one county, under the substitute. No more than 10 per cent could come from any one county. This, I believe, is essential because in this way only is it necessary that at least 10 counties will be touched upon in the circulation of petitions and in that way 10 counties, at least, will be informed more adequately of the substance of the amendment or the proposed amendment.

We have required that petitions for the nomination of governor be limited so that a certain number have to come from more than one county. This is for the same purpose, I believe, that a self starter cannot be nominated and put on the ballot from one county. I think that a self starter in the way of an amendment should not come from only one county, and, therefore, it seems to me it is entirely logical and proper that we say that not more than 10 per cent of the signers of a petition to put an amendment on the ballot should come from one county. A constitutional amendment will have statewide significance; it certainly should have statewide support in its original proposition as far as the petitions are concerned.

Now then, another change from the committee proposal that is suggested in the substitute is that we eliminate much of the statutory language that is presently in the committee proposal and even in the present constitution. Much of the language that is in the present proposition — either the committee proposal or the present constitution — is legislative in nature and deals with the sufficiency or the qualifications of signers and of the form of petitions. This is a legislative matter, and I think insofar as concerns the sufficiency of the petitions or the sufficiency of the signatures on the petitions that the Michigan supreme court has ruled that this is a ministerial matter. I think if we describe it as such in the constitution, this is adequate to take care of the legislative function and the legislature will enact appropriate legislation. We will not have all this language in the constitution which does not belong there in the first place.

Finally, the last change — and there are just these 3 basic changes: first of all, the requirement of 10 per cent, not more than 10 per cent from any one county as far as signatures are concerned; secondly, the elimination of statutory language — and thirdly, the increasing of the number of electors who must vote to approve a constitutional amendment to 3/5 rather than a simple majority. The matter of 3/5 is not excessive. It merely says that there will have to be more than a 51 per cent vote, or a 50.1 per cent vote, in order to approve a matter which will be in our constitution forever and ever — or almost.

I would like to point out to you that much of the criticism of the present constitution, which the citizens for Michigan espoused — the league of women voters, and the JCs — much of the criticism related to the many amendments that had become too detailed. I would challenge these constitutional purists to once again examine their thinking and support a 3/5 provision.

Those amendments which were most criticized as being improperly in our constitution you will find on page 11, under the amended provisions of your analysis of the Michigan constitution, and I will mention some of them: 1, the establishment of a liquor control commission; 2, property tax limitation; 3, earmarking gas and weight taxes for highways; nonpartisan election of judges; state civil service; earmarking of sales tax; and others. Now, these are the areas where those who proposed the constitutional convention were most critical. These were the areas that they said that we had written in too much statutory detail. Now I shouldn't say "they" because I was one of those who was lukewarm in support of calling a constitutional convention and it was basically for this reason. And so, therefore, I think that if we are right in saying that we want to do away with statutory detail, that we want to write a good constitution, a good fundamental law, let's not leave it so it is going to be changed in another year or two by everyone who has a little axe to grind getting aboard a petition and putting it on the ballot and getting it to carry and having our constitution sufficiently or adequately detailed so that we will have to have another convention in another 10 years.

I would urge support of this substitute. Basically, I will remind you again, it does 3 things — they will be voted upon separately: the first one I don't think anyone could have any objection to, and that is that you cannot have more than 10 per cent of your signatures from any one county. This means you have got to promulgate it statewide, that there will be statewide knowledge of it, and it will be a statewide matter so it should have statewide support; second, that we will eliminate much of the statutory language by use of words which have been interpreted and will continue to be interpreted to mean that which we say in many words; and thirdly, that we put our vote where we put our mouth before we called this convention and that is to limit that area of constitutional revision where it has been most improperly used, that is, in the initiatory petition.

CHAIRMAN YEAGER: The Chair would like to advise Mr. Brown that in rereading this amendment or substitute, in light of the request for division, the Chair is of the opinion some difficulty is going to be experienced here because these other paragraphs do not stand alone. If, for instance, you defeat the first paragraph and this is a substitute, the other 2 would not have sufficient substance to stand as separate propositions.

MR. G. E. BROWN: Mr. Chairman and members of the committee, I believe you are partially correct. The first paragraph will stand by itself because only the language at the end has been added. That is the 10 per cent requirement, I mean the maximum 10 per cent from any one county. That could stand by itself. The second paragraph if adopted could stand by itself.

CHAIRMAN YEAGER: But it is there as a substitute, you see. It presents difficulties. Therefore, the Chair thinks we would be better advised to reverse the previous ruling and not permit a division on this substitute. The Chair will so rule.

MR. G. E. BROWN: Might I merely point out to the Chair that the first paragraph could stand by itself. The second paragraph could stand by itself. The last paragraph would be in lieu of the committee proposal's paragraph. So, in any case, the matter would stand individually because the last paragraph is the last paragraph of the committee proposal.

CHAIRMAN YEAGER: If the first paragraph is defeated, Mr. Brown, what happens in the second one? What does the legislature implement?

MR. G. E. BROWN: The very same thing it would with the committee report because all you have added are the last — the only thing that has been added to the committee language is the last phrase which says that not more than 10 per cent shall come from any one county.

CHAIRMAN YEAGER: Well, you see, it is a substitute rather than an amendment, so there would be no committee report.

MR. G. E. BROWN: Conceivably you are correct, Mr. Chairman.

CHAIRMAN YEAGER: Mr. Downs.

MR. DOWNS: I would like to start now with a point of parliamentary inquiry: do we have the whole substitute amendment before us?

CHAIRMAN YEAGER: That is correct.

MR. DOWNS: Then I will not attempt to pull out part of the first paragraph as I had planned to but, rather, speak against the whole substitute. I believe this is another one of those amendments that is based on the theory that all people are equal, except that people in Wayne county are less equal than other people. (laughter)

Now, it does happen that we have 3 times 10 per cent of the population of the state and to those who are concerned about making it more difficult for our signatures to count in Wayne county, I would point out that on something of particular interest, perhaps, to the upper peninsula or western Michigan, they might very well find that a county that did have less than 10 per cent would still want to deliver more than 10 per cent of the signatures for a particular proposal.

I believe that this should be defeated and I believe that the majority report of the committee is a much better way to handle it. Once something is on the ballot, I do feel it should be decided by a 51 per cent vote. While there may be some occasions for having more than a majority vote to take a particular action, it would seem to me when the people vote on this type of thing a simple 50 plus 1 percentage vote should be adequate. I therefore urge the defeat of the substitute and support of the majority.

CHAIRMAN YEAGER: On the Brown-Boothby substitute, the Chair will recognize Mr. Durst — for what purpose does the gentleman rise?

MR. G. E. BROWN: Mr. Downs yielded to me, Mr. Chairman.

CHAIRMAN YEAGER: All right. Proceed, Mr. Brown.

MR. G. E. BROWN: I would like to answer Mr. Downs. I trust that he is not suggesting that we would be writing a constitutional provision for only Wayne county but that this constitutional provision would apply to the whole state. I think that the suggestion he has made that because there are more people in Wayne county that, therefore, their votes should count more or that we should have a special rule for Wayne county, is completely without philosophical basis. The whole purpose of requiring that you get not more than 10 per cent coming from any one county is that this is a statewide provision, that it will have statewide effect, and that there should be more than a self starter in one county insofar as any provision is concerned that is going to become part of our basic and fundamental law.

I note that Mr. Downs did not criticize the fact that we required gubernatorial signatures to nominate a governor to come not only from Wayne county or that Wayne county should be able to have more than somebody else, but for some reason he decides that this is bad so far as a constitutional provision is concerned but it is not bad with respect to an elective officer that we elect every 2 years — in the past, at least.

CHAIRMAN YEAGER: Mr. Downs, you retain the floor.

MR. DOWNS: Thank you. I did not mean to get into a long winded debate with my good friend, Delegate Brown. I would suggest that for him to show that he is not picking on the good citizens from Wayne county, instead of 10 per cent he use the figure 3/100 of 1 per cent. That happens to be the population of the smallest county in the state of Michigan, and if we could say that no more than 3/100 of 1 per cent of the petitions could come from any one county, that would show that we were not simply confining ourselves to Wayne.

But, frankly, I feel that the delegates here are satisfied that on the matter of petition people should be allowed to circulate those in the areas where people are and get a total number of signatures. I have no desire to further discuss this. When the matter of gubernatorial signatures, which is largely statutory, and other matters come up I would be glad to debate them. As far as I am concerned, the subject is closed and I yield the floor.

CHAIRMAN YEAGER: The Chair will recognize Mr. Durst.

MR. DURST: Mr. Chairman and members of the committee, I would like first to point out that all of the material, new material, contained in Mr. Brown's and Mr. Boothby's substitute was considered and given serious consideration by the committee on miscellaneous provisions and schedule.

Now as to the first substantive change they make, the 10 per cent, I think the committee was generally in favor of the idea that perhaps it might be desirable to have some limitation in here that all petitions could not come from the same county. We discussed several different alternatives, one of which was to say that no county could provide more signatures than its per cent of the state's population or something of that sort. But on further reflection it was the committee's opinion that no serious attempt to amend the constitution would ever be made with all the signatures obtained or even the major fraction of them out of line with population obtained from one county. And I think upon serious reflection, it must be realized that any particular amendment in order to proceed must have some statewide support. I think it would be very difficult if just the citizens of Wayne county wanted some change and all the signatures came from Wayne county. They would find themselves some very serious opposition outstate. It would behoove the supporters of an amendment to go outstate and get as many signatures as they could in support of their proposition.

So, on reflection of the committee, it was felt that it was unnecessary to provide any such provision. Wayne county, having a major portion of the state's population, of course, would normally account for a major portion of the signatures on any amendment or in any petition drive. But it was felt that they would also be almost compelled to go outstate to get support there. So that is why that particular provision was not put into the proposal presented to the committee of the whole.

Now Mr. Brown has done some shortening here on our proposal. It is difficult to analyze in a short time whether or not his provision is better than ours. However, there were some things included in ours which the committee felt very strongly should be there. One was the provision that you could not submit the amendment to the voters in less than 120 days prior to the time the petitions were filed. The reason for this is because it was felt there should be some time for the people to become educated and to discuss and to think about the proposition they were voting on before it was tossed at them. And I think the committee was pretty unanimously in favor of at least including this 120 day provision which Mr. Brown's and Mr. Boothby's substitute eliminates.

We also include the requirement that the announcement of determination of the validity of the petitions had to be made 60 days prior to the time the amendment was to be voted upon. This was put in there mainly at the urging of Mr. Leppien, who has had some considerable experience, as a county clerk, in arranging the ballots and getting ready to submit these propositions to the people, and there was at least one instance when, I believe—if my memory serves me right—the thing was certified 13 days prior to the time of the election which presented an almost insurmountable obstacle for the election officials. This 60 days was to take care of that.

Now Mr. Brown completely eliminates those provisions and he eliminates almost all of what is contained on page 4 of the proposal, and here are some things which the committee also thought should be included for a good, self executing provision: one was that the state was required to publish the proposal along with setting forth the material that it was expected to delete or change and that this publication be listed in the polling places. There was considerable discussion that we should go further and require even the preparation of a pro and con pamphlet in order to educate the people. This was decided to be impractical and what is included here was thought to be a minimum that was necessary, that at least it should be set forth clearly and concisely and placed in the polling places and presented to the news media so there would be an opportunity for the people of this state to be thoroughly advised upon the amendment they are voting on.

Also contained in the language which Mr. Brown eliminates is the requirement that the proposed amendment be expressed in not more than 100 words and setting out some requirements for that 100 words. Since it is necessary on voting machines which are largely in use in this state today to use a 100 word caption, we felt that this was a very, very necessary part of the amendment and that there be some constitutional direction here.

Now as to the 3/5 provision, I do not know that this was seriously discussed in our committee. The committee was very much in favor—at least it voted in favor of retaining the majority provision which is in the present constitution. On the whole I would think that Mr. Brown's and Mr. Boothby's substitute is inadequate from the committee's point of view and should be rejected.

CHAIRMAN YEAGER: The Chair recognizes one of the proponents, Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen of the committee, I rise to support the Brown-Boothby substitute. The requirement as to the 10 per cent, not more than 10 per cent in one county, has been covered, I think, very well by Mr. Brown. I would add this: that a law generally affects not a complete state but, generally speaking, only a part of the state or a part of the whole. The constitution affects the whole and, for that reason, it should reflect more of a general, all over policy rather than a policy of one particular area.

Now as to the 3/5 provision: this is the matter I wish to speak to at this point. I would like to remind the members of this committee that a constitution contains in it some items that are not contained in laws, and there are some very definite differences between a law and a constitution. First of all, a law imposes the will of the state upon the individual. It imposes the will of the majority upon each individual within the state. A constitution does not have the same function. It has a contrary function. It protects against the imposition of the will of the state upon the individual. In other words, a law imposes the will; a constitution protects against the imposition of the will.

Now it should be remembered that, for instance, article II of our constitution contains the declaration of rights, and this declaration of rights sets out in written form certain specific, named items which are protection for the individual against the imposition of the will of the state. In other words, the constitution is the boundary line from which the legislature may not stray in the imposing of the will of the majority or the will of the state upon the individual. And I would like to liken a constitution to a football field. The constitution is actually the boundary line of a football field and once you go outside those boundary lines, the constitution provides that the game must stop and the legislature must get back inside those boundary lines. Now what is actually proposed when you say that a majority may change the boundary lines is to say that one team when they go outside the bounds may change those boundary lines so that they will be within those boundary lines. And I submit that this is not fair, that this is not a proper way to handle those boundary lines.

You have here, actually, 2 different basic concepts: you have some people who believe, as was so expressed, that the general will should always control. Other people feel that the majority should be checked and that the state should not be able to impose its will upon any minority group. Those of you who are lawyers would not, I believe, allow any client of yours to enter into a corporation which would allow a majority to change the constitution of that particular corporation. You would want some added guarantee to your client who would become a member of that corporation, and one of those guarantees which is always in a constitution of a corporation or the bylaws of a corporation is to provide that the constitution may be changed by something more than a simple majority. It is usually a 3/4 or a 3/5 or some other type of a majority more than a simple majority.

I would like to make this one further comment in closing: it appears as though those people who favor a simple majority are favoring the concept that was once expressed back in old English times, that the king could do no wrong. What they are saying at the present time is that the majority can do no wrong. In other words, they are saying that we have a divine right of the multitude to control. I say, when we are dealing with something as fundamental as a constitution, which is a protection against the imposition of the will of the state, that we should be very careful in the allowance of those particular guarantees to be changed because the constitution is a compact with the people. It represents not only what the position of the people is for the present day but also for the future, for those yet unborn children. I feel that it is very necessary to make it more difficult to change and alter the basic law and constitution of the state. I would urge the adoption of this substitute.

CHAIRMAN YEAGER: The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, I believe the committee will have to oppose the substitute as offered. I find some of Mr. Brown's ideas rather interesting myself and had they been submitted in some other form than an entire substitute I think they might be given more serious consideration. I think Mr. Brown has overlooked, however, that this is, by its very nature, a self executing proposal. This assumes that the legislature has failed or—thanks to our action in the past proposal —has been unable to act in this field and some other method must be provided for amendment of the constitution. For that reason the detail that is contained in it is essential. We have tried to limit it. You will note from the proposal that we have been able to eliminate 2 full pages of detail from this section, leaving only such items there as would make the proposal self executing. It cannot be subject to the failure of the legislature to act, as the Brown-Boothby substitute would have it. If the legislature did not act in this field, initiative would be useless. The committee, therefore, must oppose the substitute.

CHAIRMAN YEAGER: The Chair will recognize Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I rise to oppose the Brown-Boothby substitute and I would point out just a few simple figures as to what this actually means.

I will take Mr. Boothby's own county of Berrien county with a population of slightly less than 150,000 or approximately 150,000. They could produce, could register 20 per cent of the total signatures out of this 150,000. There are 25 counties in the state with less than 30,000 people. They could produce up as high as, could get signatures of—take a county with 70 per cent—might register 70 per cent or 80 per cent of the total registered voters in that county. This would mean, also, that out of the total required, 4 counties, which have well over a majority or approximately 60 per cent of the total state population, would only be able to produce 120,000 signatures based upon the last gubernatorial election. The county of Wayne, based upon the Brown-Boothby substitute, would be restricted to 30,000, only contributing 30,000 signatures and this would be less, slightly less than 1 per cent. This is completely and totally —I had not intended to speak on it, frankly. I want to point these figures out, but I had not intended to speak because I thought it was so ridiculous that the delegates probably would not give much consideration to it anyway.

I think everyone is well aware of what the substitute means, what it is intended to do, that it would practically make it impossible for — you could conceivably have a minority, an extreme minority of the population in a large percentage of the thinly populated counties who would have complete and absolute control over whether or not there would be any constitutional amendments submitted to the people. I oppose the Brown-Boothby substitute.

CHAIRMAN YEAGER: The Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, I believe also, along with Mr. Marshall, that this substitute is not entitled to a great deal of discussion, but I take the floor for one reason, and that is because there is one point which I believe is well taken and I would like to isolate that from the others if I can. There is one point the proponents of the substitute have made which I think is a good point, but I do not think it is good enough standing with the rest of the amendment to be able to support the amendment. Mr. Boothby made the point that I refer to and that is, as I understood him to say, that the constitution ought to protect the minority from the majority. Particularly that is so with respect to the bill of rights and, therefore, the majority ought not to be able to change the bill of rights; it ought to take more than a majority to change the bill of rights. I agree with that myself. I think that point is absolutely correct. I think it is dangerous for the majority to be able to change the bill of rights; that is to say, to change it in the sense of removing the rights of minorities or individuals. And on that point, if that were the only point here, I would certainly go along with the amendment. In fact, I personally think that 2/3 is the right amount of the people to change, to derogate from rights guaranteed in the bill of rights. But, unfortunately, that is not the amendment that is before us. It has a great many other features each of which, I believe, previous speakers have pointed out to be quite unsatisfactory.

For example, the one about the counties has been discussed. I think it is clear that that is wrong. As to the fact that they have reduced the amount of language, I think that is completely a fallacy. This is not a matter for the legislature or legislative detail; this is supposed to be self executing. Without laboring the point as to the rest of the substitute, I believe that too many things have been put together and although there may be one thing, as I see it, that is good, there are too many things that are bad in it. If the sponsors of the substitute wish to submit at this time or later, possibly, each one of the ideas in a separate package they might be able to get some of them through, but as it stands now I agree with many of the previous speakers that the substitute just cannot be supported as is.

CHAIRMAN YEAGER: The question is still on the Brown-Boothby substitute. The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, at the outset I would like to point out—in derogation of what Mr. Habermehl has said that this is not a self executing provision—I want to direct your attention to the comparable language in the provision of the constitution relative to recall. If you can say that this is not self executing in providing the right of recall, then you are probably correct in saying that the present language, the language in the substitute, is not self implementing.

I would only remind the people that when you provide that an amendment may be initiated by the people, this is a constitutional directive upon the petitioning of a certain number. If the legislature fails to implement it, there is nothing to stop that number of people from circulating petitions, signing them, and filing them with the secretary of state, and I will challenge anyone to say that mandamus action will not apply. So it is self implementing. Further, I appreciate the support of Dr. Nord with respect to the final paragraph. I thought that probably he might support the idea of taking out the legislative language, since I think that he would agree as a matter of constitutional interpretation that the first paragraph does make it self executing and only implementation is provided in the second paragraph.

I would also like to point out that there is not—at least this proponent of this substitute does not hold a great brief for the 10 per cent provision. If that is too limitive, conceivably 20 per cent would be better. But I think the point is that we should make sure that these petitions to put an amendment on the ballot to amend the fundamental law of the state should not come from a single county. They could very well come from Kalamazoo county or maybe Kent county or some other county, but the point is that at least 3 or 4 counties, or 5 or 6 counties should have some knowledge of the matter before it is actually put on the ballot through the circulating of petitions. This is a good way to campaign. It gives the proponents of the measure a chance to get out and to circulate on behalf of their proposition and, at the same time, it informs the electorate where they are circulating the petitions.

With respect to the matter of the 3/5 vote, I would only remind the delegates here that in order to amend the federal constitution it takes a 3/4 ratification of the states, and I would further remind the delegates here that in many states there are certain issues which may not be subject to the initiative or the initiated amendment and that, therefore, when you are permitting all provisions of the constitution to be subject to initiating amendment that a 3/5 vote is not too difficult a provision.

CHAIRMAN YEAGER: The Chair will recognize the last speaker on his list, Mr. Hodges.

MR. HODGES: Mr. Chairman, we have seen various attempts through the legislative apportionment to gerrymander this state but now we seem to be getting some "garrybrowning" in terms of the question of petitions, and I think that gerrymandering or "garrybrowning" is all the same; that it is unjust and, therefore, we should defeat the substitute.

CHAIRMAN YEAGER: The question is on the Brown-Boothby substitute. As many as are in favor will say aye. As many opposed will say no.

The substitute is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Rush, Hutchinson, J. B. Richards, Rood and Powell offer the following amendment:

1. Amend page 4, line 19, after "voting" by striking out "on the question" and inserting "in the election"; so the language will read:

> If such proposed amendment appearing on the ballot shall be approved by a majority of the electors voting in the election, the proposed amendment shall become a part of the constitution. . . .

CHAIRMAN YEAGER: The Chair will recognize Mr. Rush on his amendment.

MR. RUSH: Mr. Chairman, fellow delegates, when I proposed a similar provision, it was pertaining to an amendment that would be instituted by the legislature, by a 2/3 vote of the legislature. Now we are talking about an amendment that might be proposed by initiatory methods. We do not have in this case the protection of the 2/3 vote of the legislature. I would point out to you that the constitution could be amended by a 51 per cent vote. This is indeed making it rather easy to amend our constitution, and I do not think that we should adopt a proposal or put in our constitution a provision that would make it so easy to amend the constitution. In this case it will make it much more difficult to amend the constitution and I think that this amendment should be given serious consideration.

CHAIRMAN YEAGER: The Chair will recognize Mr. Durst.

MR. DURST: Mr. Chairman, I will yield to Mr. Hutchinson, one of the proponents of the amendment, if he desires to speak.

MR. HUTCHINSON: Mr. Chairman, I am not—it doesn't make any difference to me. I will be very happy to wait my turn. However—

CHAIRMAN YEAGER: You may proceed, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I was happy to lend my name to the support of this amendment because of the fact that here, again, is a situation where—and I agree with Mr. Nord in this—I believe conscientiously that constitutions are for the protection of minorities and that simple majorities of people voting upon questions and so on and a very small percentage of the electorate initiating questions without the benefit of the debate of any forum is something that should be made difficult. Consequently, I think that in the case of an initiated constitutional amendment, one that is initiated by petition, that it would be wise to require a greater percentage of the electorate to approve such an amendment than would be required to approve a constitutional amendment submitted by the legislature, the legislature submitting a constitutional amendment to be adopted by a majority of the people voting on the question; but I think that if there is to be an initiated petition, then we should require a greater percentage of the vote to carry it.

While that was a feature of Mr. Brown's amendment, which you have just defeated, this puts the same problem to you but in a different form and one which I hope that you will adopt because we, after all, are interested in protecting minorities in constitutions and we do not want to make it possible for a simple majority to trample over the constitutional rights of the individual citizens of this state, namely, the minority.

CHAIRMAN YEAGER: Mr. Durst.

MR. DURST: Mr. Chairman and members of the committee, on behalf of the committee on miscellaneous provisions and schedule, I feel that I must oppose the amendment which is on the wall. We did not particularly discuss or vote on this issue, in regard to this provision, but we did, in Committee Proposal 66, discuss the same question. The committee almost unanimously disapproved an amendment of this type.

Mr. Hutchinson brings up the question of protecting minorities and certainly this is a laudable ambition and certainly should be considered. However, in this regard, I think we should keep one thing in mind; that is this: at least in the past—I am going to make a rash generalization—there has been a sizable group of the electorate in this state which votes no on anything. I know some of them in my district. They are naturally suspicious—perhaps with justification—but anyway, there is a general lethargy on the part of the people that must be overcome before any constitutional amendment is approved, and to point this up I think it is important to review just once again that of the 34 amendments proposed to this constitution, the one of 1908, by initiative, only 10 of them have obtained the approval of the people.

Mr. Brown was using the argument a few minutes ago that this was a good point for making the unusual majority, because what the people approved was not necessarily good. On the other hand, I think we should keep in mind that most of the things which the people have approved by amendment we, as delegates of this constitutional convention, are continuing. We have continued civil service and we have continued the nonpartisan election of judges. We have continued the earmarking of funds—at least, I think we still intend to continue them in part, certainly for roads if for nothing else. We have continued a great many of the things that have been put into this constitution by initiative. So at least the delegates, or several here, must assume that there was some wisdom in those particular items. I think that the problem of overcoming the general reluctance on the part of many people to vote yes on any issue is sufficient to keep any amendment from being approved easily.

CHAIRMAN YEAGER: The Chair will recognize Dr. Nord.

MR. NORD: Mr. Chairman, I take the floor simply because Mr. Hutchinson has referred to me by name. Mr. Hutchinson says he agrees with me on this point. However, I disagree with him as to whether he agrees with me. (laughter) I think he disagrees with me. At least, I disagree with him.

Referring now to the handwriting on the wall, I disagree in the following specific respects with the amendment: first of all, while I do agree with the basic principle, as I stated before, that the rights of individuals, the rights of minorities, ought to be protected from the majority at all times, that refers to the bill of rights and I specifically pointed out before that I had reference to the bill of rights. I would certainly prefer to see a provision in the constitution stating that the bill of rights could not be amended by a simple majority, but the amendment before us on the wall is not limited to the bill of rights. It extends to many other—all other—parts of the constitution, as I understand it, and that means that even as to matters relating to the skeleton of government which ought to be changed from time to time there will be this limitation. And that I can see no justification for.

Secondly, I disagree with the amendment on the wall or with its proponents in this respect: I do not see why there should be any exceptional majority required only for initiated amendments. If the principle is to be applied—and I think it ought to be for the bill of rights—then it should be used uniformly for every kind of amendment and not just for initiated amendments. Therefore, it seems to me that the amendment on the wall is too broad in that it does not pick out the place where minorities are being protected—that is, in the bill of rights—it extends to the whole document, which is, in my opinion, wrong. Secondly, it discriminates between one type of amendment—method of amendment—and another, that is, initiatory amendments and others. I see no reason whatever to justify that. For those 2 reasons, I certainly cannot say I agree with Mr. Hutchinson as to the amendment. I do agree with him as to the underlying principle. I think something like that ought to be in the constitution, but this will not do it.

CHAIRMAN YEAGER: The Chair recognizes the last speaker seeking recognition on this, Mr. Finch.

MR. FINCH: Mr. Chairman, members of the committee, I hope you will support this amendment. I do not know how many of you have sat on election boards and seen people come in, go into the booths, come out and say: well, I didn't know what it was all about, so I just didn't vote on it.

Now you want to remember in this proposal we have before us, an organized group initiated and got the petitions signed. They are also working. They are working at the polls. They are getting out a group of people to vote yes and they are the ones that are working in favor of this. We do not have another group working opposed to it, usually. And this is why the people who go to the polls usually are in favor of this. The ones that are not well informed, which are the majority of the voters, just do not vote on the question. I think we should vote in favor of this and, Mr. Chairman, I would like to call for the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? Sufficient number up. It is so ordered. The Chair will recognize Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Chairman and members of the committee, I rise in opposition to this amendment. What this does, in fact, is to permit those citizens who abdicate the responsibility of their citizenship and who fail to vote on the question, to be counted as voting no. I think that is undemocratic. I think it puts a premium on lack of responsibility in citizenship and I think it defeats the will of the majority of the citizens who consider the questions seriously enough to inform themselves and then cast their votes. I am strongly opposed to counting as no votes the citizens who either carelessly or otherwise do not vote on questions.

CHAIRMAN YEAGER: The Chair will recognize J. B. Richards.

MR. J. B. RICHARDS: Mr. Chairman and delegates, I believe in constitutional government and I am beginning to think that I may like this constitution, and so I would like to see something put in that would make it more difficult for the constitution to be changed — so that the people of the state of Michigan would really have to want to change the constitution—so that 30 or 40 per cent of the people who go out to vote are not given the opportunity to change the constitution. And that has been the record pretty much in the last number of years, as people voted on amendments: that it only took about 30 to 40 per cent of the people who went to vote that day to adopt an amendment to the constitution. And so, since we have voted here to limit the number of signatures required on initiatory petitions so that at times this will be below 10 per cent, it seems as though we have to increase the number of votes required to amend the constitution. At some place it should be difficult. If it is not in the number of signatures required, then it must be here; so, I am definitely supporting this amendment.

CHAIRMAN YEAGER: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I should like to associate myself with the very cogent argument made by Mr. Woolfenden. It is unfair to count those who do not participate on an issue as no voters and I strongly support that argument.

In the second place, I would say that if this amendment carries, you have practically done away with the effective use of the initiative. If you really do not believe in the initiative, why, then, I suppose you can support this amendment.

I think it was one of the great institutions developed in the progressive era. I think that the history of its use in the state of Michigan has been good and, as long as we cannot be assured of a completely representative and responsible legislative body, it seems to be doubly necessary. Anything which impairs the effective use of the initiative, particularly the constitutional initiative, I would oppose. And I consider that this would render the instrument quite ineffective.

CHAIRMAN YEAGER: The question is on the Rush-Hutchinson-J. B. Richards-Rood-Powell amendment. The yeas and nays have been ordered. This is a recorded roll call vote. Mr. Powell.

MR. POWELL: Mr. Chairman, if I am in order, as one of the sponsors of this amendment, I would just like to say a word in its behalf.

It has been my experience over the years that the proposals that are not put on the ballot as a result of legislative action are frequently not as carefully prepared, not as deserving of acceptance, as those that have gone through the legislative process and the various hearings and committee considerations and votes in the 2 chambers. I think that we should have a higher voting requirement on these proposed amendments that have not had legislative approval and that we should not allow merely a minority that is egged on by some interest group that promotes a certain amendment to go to the polls and write that change into the constitution. If the proposal has sufficient merit, it can be sold to the majority of the people of the state so that folks will go and take an interest in it, and if the majority of those voting in the election will support it, well and good; but if just a fraction of the people are going to write it into the constitution I think that is not sound. I hope that you will support this amendment.

CHAIRMAN YEAGER: The Chair will recognize the first proponent, Mr. Rush.

MR. RUSH: Mr. Chairman, fellow delegates, I would like to say one more thing before we vote on this. We have gone to great lengths here in writing a constitution costing the state a great deal of money. Our committee on legislative organization has spent a great deal of time on the reapportionment problem and, if you stop to think of it, a large organization in this state could by initiatory procedure change a great deal of that, make some very substantial changes in it, by a 51 per cent vote and, probably, with maybe only 30 or 40 per cent of the electorate voting. So this is quite an important matter.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Judd.

MRS. JUDD: Mr. Chairman, the last 2 speakers are still speaking for a larger than a simple majority vote, but this convention, as I understand it, has already voted down a 3/5 vote. That might have been a fair way to get a larger majority, but to permit people who either are not able to understand an amendment or are too lazy to try to find out about it to determine the outcome is, indeed, not good for the future of our state. And that is what we do when we put the result on the basis of total people voting in the election rather than on the question.

CHAIRMAN YEAGER: The question is on the Rush amendment. Mr. Brown, do you wish recognition?

MR. G. E. BROWN: Mr. Chairman, members of the committee, strangely enough, I would oppose the amendment, also, because I think it is wrong in philosophy to relate it to the question rather than to the majority whether it be a 3/5 or what it may be. There is no justification for relating it to the question or to the election because those who would not care about voting are going to be counted in determining the result of the vote on the proposition. So I would oppose the amendment.

CHAIRMAN YEAGER: The question is on the Rush amendment. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor of the amendment will vote aye. As many as are opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 40

Batchelor
Beaman
Bledsoe
Boothby
Brake
Dehnke
Dell
Figy
Finch
Gover
Haskill
Howes
Hubbs
Hutchinson
Iverson
Kirk, S.
Knirk, B.
Leibrand
Leppien
McAllister
Millard
Mosier
Nisbet
Plank
Powell
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Turner
Tweedie
Van Dusen

Nays — 67

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Blandford
Bradley
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Follo
Gadola
Garvin
Goebel
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Hatch
Higgs
Hodges
Jones
Judd, Mrs.
Kuhn
Liberato
Madar
Mahinske
Marshall
McGowan, Miss
McLogan
Nord
Norris
Ostrow
Perras
Pollock
Pugsley
Rajkovich
Romney
Snyder
Staiger
Stamm
Sterrett
Stopczynski
Thomson
Upton
Walker
Wanger
White
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Rush and others, the yeas are 40; the nays are 67.

CHAIRMAN YEAGER: The amendment is not adopted. The Chair will recognize Mr. Erickson—

SECRETARY CHASE: Mr. Garry Brown offers the following amendment:

1. Amend page 4, line 19, after "by" by striking out "a majority" and inserting "3/5"; so that the language will read:

> If such proposed amendment appearing on the ballot shall be approved by 3/5 of the electors voting on the question, the proposed amendment shall become a part of the constitution. . . .

CHAIRMAN YEAGER: The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I realize the hour is late. There are many who have spoken on this subject. There is much indication for support for the 3/5 provision. I will not attempt to influence people by arguing it and I trust that we can vote upon this and I trust that you will vote favorably upon it.

CHAIRMAN YEAGER: The question is upon the Brown amendment. As many as are in favor will say aye. As many as are opposed will say no.

DELEGATES: Division.

CHAIRMAN YEAGER: There is a division indicated in the mind of the Chair as well, and the division will be ordered.

MR. G. E. BROWN: Mr. Chairman, I demand the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? A sufficient number up. The yeas and nays will be ordered. This is a recorded roll call vote. As many as are in favor will vote aye. As many as are opposed will vote no. Ring the bell, Mr. Secretary. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 51

Batchelor
Beaman
Boothby
Brake
Brown, G. E.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Higgs
Hubbs
Hutchinson
Iverson
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
McAllister
Millard
Mosier
Nisbet
Plank
Powell
Radka
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Turner
Tweedie
Upton
Van Dusen

Nays — 56

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Blandford
Bledsoe
Bradley
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
DeVries
Downs
Durst
Elliott, A. G.
Everett
Faxon
Follo
Garvin
Hannah, J. A.
Hart, Miss
Hatch
Hodges
Howes
Jones
Judd, Mrs.
Liberato
Madar
Mahinske
Marshall
McGowan, Miss
McLogan
Ostrow
Perras
Pollock
Pugsley
Rajkovich
Snyder
Staiger
Stamm
Sterrett
Stopczynski
Thomson
Walker
Wanger
White
Wilkowski
Woolfenden
Young

Elliott, Mrs. Daisy
Erickson
Nord
Norris
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brown, the yeas are 51; the nays are 56.

CHAIRMAN YEAGER: The amendment is not adopted. Are there further amendments to the body of the proposal?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: If not, it will pass.

Committee Proposal 65 is passed. The Chair will recognize Mr. Erickson.

MR. ERICKSON: I move the committee now rise.

CHAIRMAN YEAGER: The motion is on whether the committee shall rise. All in favor say aye. Opposed?

The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, the committee of the whole has had under consideration certain proposals upon which the secretary will make a more detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 64,** A proposal to amend article XVII, section 1 of the present constitution pertaining to amendment to the constitution; proposal by legislature and submission to electors. It has adopted an amendment to this proposal and recommends that the proposal as thus amended do pass.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 9, after "by" by striking out "a majority" and reinserting "2/3".]

PRESIDENT NISBET: **Committee Proposal 64,** as amended by the committee of the whole, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 64 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. Amendments to this constitution may be proposed in the senate or house of representatives. If the same shall be agreed to by 2/3 of the members elected to each house, such amendments shall be entered on the journals, respectively, with the yeas and nays taken thereon; and the same shall be submitted, not less than 60 days thereafter, to the electors at the next general or special election thereafter, as the legislature shall direct; and, if a majority of electors voting on the proposed amendments, shall ratify and approve such amendments, the same shall become part of the constitution.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 65,** A proposal to amend article XVII, sections 2 and 3, pertaining to amendment and revision of the constitution; it has made no amendments to this proposal and recommends its passage.

PRESIDENT NISBET: **Committee Proposal 65** is accepted and referred to the committee on style and drafting.

For Committee Proposal 65 as referred to the committee on style and drafting, see above, page 2458.

SECRETARY CHASE: That completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: Mr. Iverson reports that the meeting scheduled for immediately after the session has been cancelled, the Republican meeting.

The committee on public information will meet in room 2, the conference room, immediately after the afternoon recess—this evening, right now. Ink White, chairman.

The committee on finance and taxation will meet in room E; the committee on education will meet in room D; the committee on local government will meet in room A; all tomorrow morning at 8:00 o'clock.

The committee on judicial branch will meet in room B Wednesday, at 8:00 o'clock. Robert J. Danhof, chairman.

That is all we have in the way of announcements.

PRESIDENT NISBET: The Chair recognizes Mr. Balcer.

MR. BALCER: Mr. President, I move we recess, the time to be given by the president. (laughter)

PRESIDENT NISBET: The question is on the motion of Mr. Balcer to recess until 7:30. All those in favor say aye. Opposed, no.

We are recessed until 7:30.

[Whereupon, at 6:05 o'clock p.m., the convention recessed; and, at 7:30 o'clock p.m., reconvened.]

The convention will come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, I move the convention resolve itself into committee of the whole for the purpose of considering items on the order of **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Yeager. All those in favor will say aye. Those opposed?

The motion prevails. I might say to the convention that we have 7 proposals left on miscellaneous provisions to finish tonight before we start second reading tomorrow morning. Mr. Yeager.

[Whereupon, Mr. Yeager assumed the Chair to preside as chairman of the **committee of the whole.]**

CHAIRMAN YEAGER: The committee will be in order. The secretary will read.

SECRETARY CHASE: Item 10 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 66,** A proposal relative to amendment and revision. Amends section 4 of article XVII.

Following is Committee Proposal 66 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. At the [biennial spring] GENERAL election to be held [in the year 1961] IN THE YEAR 1978, AND in each sixteenth year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors [qualified to vote for members of the legislature] OF THE STATE. In case a majority of the electors voting on the question shall decide in favor of a convention for such purpose, at an election to be held not later than 4 months after the proposal shall have been certified as approved, the electors of each house of representatives district as then organized shall elect 1 delegate for each state representative to which the district is entitled and the electors of each senatorial district as then organized shall elect 1 delegate for each state senator to which the district is entitled. The delegates so elected shall convene at the capital city on the first Tuesday in October next succeeding such election. [and shall continue their sessions until the business of the convention shall be completed. A majority of the delegates elected shall constitute a quorum for the transaction of business.] The convention shall choose its own officers, determine the rules of its proceedings and judge of the qualifications, elections and returns of its members. In case of a vacancy by death, resignation or

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

otherwise, of any delegate, such vacancy shall be filled by appointment by the governor of a qualified resident of the same district. The convention shall have power to appoint such officers, employees and assistants as it may deem necessary and to fix their compensation, [and] to provide for the printing and distribution of its documents, journals and proceedings, TO COMPLETE THE DISSEMINATION OF INFORMATION ABOUT AND AN EXPLANATION OF THE PROPOSED CONSTITUTION TO THE PEOPLE AND TO COMPLETE THE BUSINESS OF THE CONVENTION IN AN ORDERLY MANNER. Each delegate shall receive for his services [the sum of 1,000 dollars and the same mileage as shall then be payable to members of the legislature, but such compensation may be increased by law] SUCH COMPENSATION AS MAY BE PROVIDED BY LAW. No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner AND AT THE TIME provided by such convention. [on the first Monday in April following the final adjournment of the convention, but, in case] HOWEVER, an interval of at least 90 days shall [not] intervene between such final adjournment and the date of such election. [then it shall be submitted at the next general election.] Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon such constitution or amendments shall take effect [on the first day of January following the approval thereof] AS PROVIDED BY SUCH CONVENTION.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 66:

History: The 1835 constitution provided for the calling of a constitutional convention when proposed by 2/3 of each house of the legislature and approved by a majority of the electors voting at the election. If so approved, the legislature was required to provide by law the calling of the convention to be held in 6 months and to have a number of members not less than both houses of the legislature.

The 1850 constitution originated the requirement of submitting the question of calling a convention every 16 years and at other times as provided by law. The legislature again was required to provide by law for the election of delegates.

The 1908 constitution continued the requirement of submitting the question of calling a convention each 16 years, and provided the present detail to enhance the independent power of a convention and to restrict legislative control over such convention.

Committee recommendations: The committee believes that section 4, as amended in 1960, is so recent an expression of the wishes of the people of the state that no substantial changes ought to be made. For that reason only minor changes are proposed. Since no biennial spring election may be provided in the new constitution, we propose the submission of the question of calling a convention at the general election to be held in 1978 and each sixteenth year thereafter. We retain the present provisions calling for only a majority of the electors voting on the question and providing for 1 delegate from each senatorial and each representative district. We have deleted some provisions relating to the organization of such convention, since such matters can best be provided by law, or by the rules adopted by such convention. But since the powers of a convention are determined by the constitution existing at the time they convene, we have tried to spell out the powers of the convention in broad terms. Mindful of the difficulty that this convention faces concerning the date of submission of the proposed constitution to the voters, we prefer to leave the time and manner of submission of any proposed constitution to such convention, except that we would provide that at least 90 days would elapse between final adjournment and the election to allow time for proper presentation to the voters. The matter of the time when such constitution or amendments should take effect, we also felt ought to be left to such convention.

Section 4, as amended, was adopted by the committee by unanimous vote.

MR. GADOLA: Before we decide on this, I would like to pose a question. Would any of the members of the present convention be put on as incumbents to the next convention? (laughter)

CHAIRMAN YEAGER: The Chair will let the secretary answer that. Before recognizing the chairman of the committee, Mr. Erickson, the Chair would like to advise that there are 7 amendments to this section now on file. The Chair will now recognize Mr. Erickson.

MR. ERICKSON: Regarding the judge's remark, I will just have to tell you now that at the last meeting of our committee it seemed to be the consensus of opinion that this convention has 144 clowns and no straight men.

Well, this next Committee Proposal 66 has to do with calling the next constitutional convention and I am sure that every one of the delegates here is an expert on this subject after these 6 months and that the subject matter is such that no one will have to say he is not an attorney. On the last count I had there were 9 amendments to this section. Mr. Habermehl, who is chairman of the subcommittee that handled this, has requested that I yield to Delegate Snyder.

CHAIRMAN YEAGER: The Chair will recognize Delegate Snyder.

MR. SNYDER: Thank you. Mr. Chairman and fellow delegates, in the proposal now before us, Committee Proposal 66, we will attempt to write the ground rules for the next convention. I am sure you will agree that the experience of this convention makes it obvious beyond doubt that the delegates at the 1908 constitutional convention left many grey areas on this subject and some of the knotty problems that we have encountered can be, with thought and effort, avoided in the future.

The rationale for the committee proposal is contained in Journal 70 on page 427. I will not read to you the history of the conventions, but I feel that it is worth while to dwell briefly upon the committee recommendations:

[The committee recommendations of the supporting reasons were read by Mr. Snyder. For text, see above.]

You will note that the people have in this proposal, as they had in 1850, the right to act to generally revise the constitution. Every generation, in other words, will be able to express its own views on this matter. We feel that the constitutional convention is an autonomous body and we try to make its powers as broad as possible to prevent the necessity of going to the legislature for assistance.

All delegates were given an opportunity to appear in behalf of their proposals on this subject. Many took advantage of this and presented their points of view on the qualifications of the delegates and to the partisan or nonpartisan aspects of the convention. I was particularly delighted to hear the point of view expressed by Dr. Pollock on the question of partisan election, and I certainly hope that he will express this to the convention as a whole.

Preliminary convention arrangements and the compensation of delegates were discussed also in our committee meetings. One delegate even suggested that a select committee of delegates be set up as a continuing body for advice and guidance. I think that this will probably answer somewhat Judge Gadola's question. We could not agree as to how to select this committee and the idea was abruptly dropped. Maybe we all felt that we would not be elected, so we felt that the democratic processes of the people should continue.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Our committee had concurrent jurisdiction with the committee on declaration of rights, suffrage and elections on this matter and I was going to yield to Dr. Pollock for a report of his committee's feelings on the thing, but he is not here. However, I did discuss this matter with Mr. Stevens last week, and he has indicated that he will give us the views of the committee on rights, suffrage and elections.

CHAIRMAN YEAGER: Mr. Erickson yields to Mr. Stevens. Mr. Stevens is recognized.

MR. STEVENS: Mr. Chairman, members of the committee, I am somewhat taken by surprise. I anticipated that Dr. Pollock would be here and I do not have the memorandum on this. I do not know whether I can find it very easily.

The committee on rights and elections concurs with this proposal. We feel, as has been indicated, that we should not materially change this from the existing provision but that we should provide that the convention itself would be able to set the time at which the voters would vote on the proposed constitution.

We also feel that in this particular case a majority of those voting on the proposal should be enough to call a convention. This should not be confused with the previous provision dealing with constitutional amendment. It is not a constitutional amendment we are talking about but, rather, the question of calling a convention.

The arguments stated to make it more difficult to amend the constitution by use of the initiative do not apply to the constitutional convention because a constitutional convention, a deliberative body, may amend and change ideas, proposals. It may tidy up the language and perfect all the proposals which may be introduced to it by the delegates. Also, it represents the people as a whole rather than some interested group trying to seek something which it thinks is very important but which may not so appeal to all the people of the state. If there are any questions, I would be glad to answer them on behalf of the rights and elections committee.

CHAIRMAN YEAGER: The Chair will ask the secretary to read the first amendment. Mr. Erickson, do you have something further before we read?

MR. ERICKSON: No, Mr. Chairman.

CHAIRMAN YEAGER: All right. Proceed, Mr. Secretary.

SECRETARY CHASE: Mrs. Cushman, Mrs. Judd, Miss Andrus and Mr. Arthur Elliott offer the following amendment:

1. Amend page 1, line 18, after "entitled.", by inserting "No officer or employee of the United States, of this state, or of any governmental subdivision, except notaries public, officers of the militia and members of the armed forces reserve, shall be eligible to serve as a delegate.".

CHAIRMAN YEAGER: The Chair will recognize Mrs. Cushman on the amendment.

MRS. CUSHMAN: Mr. Chairman and fellow delegates, this is the amendment which I promised you the other day. This, of course, prevents dual officeholding and it makes it very clear that we expect that people in a constitutional convention are assuming a full time job and to that end, to the best that we can, we are prohibiting it. People who have been elected will then have to make the choice about which job they intend to hold. I imagine that some of the others in this group may have comments on this, but I think that it is basically a question — mostly — of the amount of time it takes to serve with a constitutional convention and the possibility of any conflict of interest, of serving 2 masters. Thank you.

CHAIRMAN YEAGER: Do you wish to yield to any of the other proponents, Mrs. Cushman?

MRS. CUSHMAN: I don't know.

CHAIRMAN YEAGER: Are you going to speak on this?

MRS. CUSHMAN: No, Mr. Chairman.

CHAIRMAN YEAGER: The Chair will then recognize Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I rise in vigorous opposition to this amendment for several reasons. The first and primary reason is that this deprives the voters of the chance to select somebody who happens to work for a governmental unit. This would mean in the very convention we have here that Dr. Pollock, for instance, could not serve, Dr. Hannah could not serve, Delegate Hart could not serve, Delegate Jones could not serve, and I could go on with a list of several of our distinguished delegates. The important thing here is that the people should have the maximum right to choose who should serve them. If we are in effect making second class citizens of those who received a paycheck from government, we are not only depriving them of the right to run, we are depriving the people of the right to nominate and elect them.

The point was made that people should not have a conflict of interest or dual obligations. If that is the intent, then I suggest that the proposal read that during the time of the convention the person can have no other employment or source of income. He must resign any position with any corporation, labor union, farm bureau, cash in all his government bonds, cash in all his stocks, give up all his retainers of all his clients if he happens to be an attorney; if he is an insurance salesman, refuse to take any additional business for the duration of the convention.

Let us not kid each other. I think we should have in this country full disclosure of what people are doing, but to segregate those who have their payroll from government service — whether it is a college professor or a lowly employee of a township form of government — those persons should have the right to run and, more important, the people should have the right to choose them. If we do want to isolate people from society, then let us make that isolation complete by saying the individual must sever all his economic connections directly and indirectly during the term of the constitutional convention. Thank you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman, I feel that the amendment as such would be a crippling amendment to the proposal that we have before us. The wealth of material that we have at the present time —

CHAIRMAN YEAGER: The committee will be in order, please.

MR. SNYDER: The wealth of material that we have here at the present time, right in this constitution, I think, will work for the ultimate benefit of the state. We have representatives from every point of view. We take many divergent points of interest from many sections of the state. We pull them together. I am sure that brother Madar, who would be excluded by such a proposal, would sadly be lacked by this convention. There are many: the judges, the attorneys who hold some sort of office — these are people who we feel are highly qualified and highly competent. We must establish this communication between our home base and this constitutional convention, and if we lack this communication we lack the contact we have with the people. We must have people who are daily exposed to the problems of the state, who understand their points of view, who have had a wealth of experience in the daily work that they are doing. I certainly feel that a majority of the committee would oppose the amendment as it is presently presented.

CHAIRMAN YEAGER: The Chair will recognize Mr. Art Elliott.

MR. A. G. ELLIOTT: Mr. Chairman, ladies and gentlemen, I think that Mr. Downs was, of course, trying to make the amendment sound ridiculous, which I take some exception to. I believe that it has much merit and should be given serious consideration.

The constitutional convention is unique in that it basically and fundamentally is dealing with the matter of government and government alone, and the attempt here is not to prevent some people who are serving in public office or on the public payroll from making their contributions to the constitutional convention, because I think they should and I think they can. They have the full right of testimony during the many weeks of deliberations before you get to the substantive decisions, but for them to be within the constitutional convention as delegates with their particular points of view on the specific issues seems to me to be unwise and I would urge that there be careful consideration given, as there was previously in the discussion on legislative powers.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, I think this is perhaps a very difficult question to consider from a purely objective point of view because we have all become very fond of the delegates in this convention who do hold other public office, but I think that we must try to divorce personalities in this convention from consideration of a future convention.

I do not think that we would be making secondary citizens of such individuals in denying them the right to run for this convention. We have already made them very primary citizens by electing them to other public office. I have great respect for the government officials who are in this convention, but I believe that it is very difficult for such officers and governmental employees to take a completely objective viewpoint about a constitution.

I might indicate here, too, that I think that Mr. Snyder mentioned the judges of this convention. I believe that they are all retired judges and no longer active on the bench. But I think if there is any reason which justifies such a provision with respect to the legislature, it also justifies it even more so with respect to a convention that is framing the basic law of our state.

CHAIRMAN YEAGER: The Chair will recognize Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, if I follow Mr. Downs correctly, all that would be left in the next convention would be farmers and housewives. (laughter) I think that would be an excellent idea. (laughter) But just for fear that Mr. Downs' interpretation does not hold, the next convention is going to need some governmental experience, not just theory, and that experience ought not to be entirely from people who have already retired. I am opposed to the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, I would just like to get one point clear, if I may direct a question to Mrs. Cushman.

CHAIRMAN YEAGER: If she cares to answer. State the question.

MR. FAXON: Mr. Chairman, Mrs. Cushman, does this include employees of school districts?

CHAIRMAN YEAGER: Mrs. Cushman.

MRS. CUSHMAN: I am delighted to answer that. Yes; (laughter) but they would not be able to continue. (laughter)

MR. FAXON: Mr. Chairman, I just want to get this point clear. This is another effort that is being made here to disenfranchise the effective participation of the thousands of well educated and effective schoolteachers in our state and I for one will not —

CHAIRMAN YEAGER: Order, please.

MR. FAXON: — I for one would strongly object to the broad inclusion of the whole schoolteaching profession — people who are specifically trained in fields and people who also teach in universities, well known scholars and professors — I would think this is a real sad point for the convention to consider disenfranchising these people from participating in future constitutional conventions.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Butler.

MRS. BUTLER: Mr. Chairman, I would like to ask a question of Mr. Snyder. Mr. Snyder, did I understand you to say that the judges had made a great contribution to this convention?

MR. SNYDER: I — (laughter) there are more of them than there is of you, Mrs. Butler — I would say yes.

MRS. BUTLER: Well, I am happy to hear it. I thought they were just out to pasture, chewing their cud. (laughter)

CHAIRMAN YEAGER: The Chair will recognize Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Chairman, ladies and gentlemen, just one brief comment: it was not my intention that these people could not serve in the convention if they felt that their service to the state would be of more value as a member of this convention than as a person testifying. All this amendment says is that they cannot serve and hold these positions. Any of them could serve. All they have to do is resign their positions.

CHAIRMAN YEAGER: The Chair will recognize Mr. L. W. Richards.

MR. L. W. RICHARDS: Mr. Chairman, I think Mr. Brake summarized it very well. The fact is that these people, with the training they have, have contributed greatly and any future members would contribute in the same manner. I would like to point out that Mr. Tom Downs, whom I disagreed with very strenuously Friday, has his good judgment back. (laughter) I would oppose this amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, this seems to be an issue that we have had quite a little fun about, but I think we should keep in mind that by this amendment we would be trying to write qualifications for candidates that might be elected in the year 2012. It takes a great deal of foresight to try to guess as to who the people might want as their representatives in a constitutional convention 50 years from now.

This matter, of course, can be settled by the legislature. This section contemplates action by the legislature. They would set the qualifications for the delegates either by prohibiting, as they do now, certain officers from being delegates or by writing in their qualifications in the act.

It seems to me that, rather than for us here to try to determine who the people might want 50 years from now, we might better wait until that time comes and let the people decide that for themselves. We cannot draw a comparison here to the action we took in respect to the legislature because the real issue there was: can a man serve 2 masters? Can a man serve the state of Michigan as well as a particular district or area or form of government? A constitutional convention delegate is a one shot proposition and it is not a matter of continuing service in 2 capacities. On behalf of the committee, I strongly urge you to vote no on this amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Marshall.

MR. MARSHALL: Mr. Chairman and members of the committee, I rise to oppose the amendment that is before the committee of the whole. I think the amendment goes way too far. I am inclined to the view to support any reasonable amendment that would probably place a prohibition against anyone who is holding a public office from being a candidate for delegate to a constitutional convention, but I want to point out that what this means is, if you place this type of prohibition — and I agree with Delegate Brake and some of the others that you would need some people who were experienced in government in any constitutional convention. I would not want to see a future convention with nothing in it but housewives and farmers, frankly.

If we are going to go this far, it would seem to me that we should also have a prohibition against anyone who belongs to the AFL-CIO, the manufacturers association or any number of other groups that might exist throughout the state and, going to the ultimate conclusion, there would be no one left actually to serve but housewives; not even farmers, because most of them either belong to the grange or the farm bureau. I think I am correct in my statement and I am willing to support any reasonable amendment along the lines of prohibiting anyone holding public office, and also a prohibition against running for public office for a period of time after the conclusion of the constitutional convention. I would oppose the amendment that is on the board presently.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Cushman. Does she wish to be recognized further?

MRS. CUSHMAN: Thank you. I would like to say again that we are not prohibiting anybody from running. We are merely prohibiting them from holding 2 jobs of public employment at the same time.

CHAIRMAN YEAGER: The Chair will recognize Mr. Perras.

MR. PERRAS: Mr. Chairman, I merely have to say I think we have had enough on this. I think we all know what we are going to do, how we are going to vote, and I would like to have us vote now. I demand the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? There is sufficient support. The yeas and nays are ordered. The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: Although I am in sympathy with the intent here, I would like to point out one thing: under this provision there is only one person who would qualify to serve as a con con delegate and that would be an officer in the militia because everybody else that is in the militia — if you are not an officer you are not excluded here. You could even be a notary and so forth but still be an enlisted person in the militia. I think this problem came up before and these people did not want to recognize it, but here it is on the wall in front of us. It says nothing about other members of the militia being eligible to run except officers, and I think there are probably only about 35 officers in the militia in the state today. So, under its own weight here, I think we are approving too much if we adopt this thing here and I would be opposed to it.

CHAIRMAN YEAGER: The Chair will recognize Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, so that the record is straight, I would like, through the Chair, to ask Delegate Marshall a question.

CHAIRMAN YEAGER: If Delegate Marshall cares to answer.

MR. LEPPIEN: Delegate Marshall, if I understood you correctly, did you say that you were opposed to anybody holding public office from becoming a candidate for delegate?

MR. MARSHALL: I said I would support an amendment, I believe — and maybe I did not state it correctly; I will try to restate it — that I would support an amendment that would prohibit anyone holding public office from being a delegate to a constitutional convention. For example, I would have no reservations about supporting an amendment that would prohibit a member of the board of supervisors of a township from both serving as supervisor and at the same time a delegate to the constitutional convention. I would support an amendment that would — let us take, if such a case could be, that you might have a state official heading — well, you couldn't have because our present proposal prohibits a legislator or a senator from being a delegate. What I am saying is that I would support an amendment that would prohibit any public official from serving in a dual capacity as a public official and a delegate to the constitutional convention.

MR. LEPPIEN: Mr. Chairman, Delegate Marshall, just so the record is straight: in other words, you do not oppose the public official becoming a candidate — if he is elected — from resigning and then being a delegate; is that right?

MR. MARSHALL: No, sir.

CHAIRMAN YEAGER: The Chair will recognize Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen, I would like to oppose this amendment as an unnecessary restriction upon the rights of the people to make their own choice and, especially — on a high, idealistic plane — I would like to object to the favoritism shown to those of us who are notaries public. (laughter)

CHAIRMAN YEAGER: The Chair would request order, please. Mr. Kuhn.

MR. KUHN: I would just like to take a minute in saying we are comparing this to the prohibition against legislators. This goes way beyond that, ladies and gentlemen, and, therefore, I am opposed to it because we definitely did not discriminate against any employees and we made it quite clear.

CHAIRMAN YEAGER: The Chair will recognize Mr. Millard.

MR. MILLARD: Mr. Chairman and members of the committee, I would just like to explain to Mr. Mahinske about the militia and the reserve forces. I think there is a duplication up here. It says, "No officer or employee of the United States. . . ." That refers to officers of the armed forces. And when they say down here, ". . . except . . . officers of the militia . . ." then they are referring to the temporary forces; but "members of the armed forces reserve" is not necessary, for the "members" probably refer to enlisted men and they are not officers because they do not take the oath of office. And although you might use either "militia" or "armed forces reserve" you do not need both of them here and all you need is "officers" and you do not need "officers . . . and members." If this amendment is passed, I will certainly offer an amendment to it.

CHAIRMAN YEAGER: The Chair will recognize the last speaker on the list, Mr. Madar.

MR. MADAR: You mean no one else has tried to get the floor? First, I would like to ask a question. Now I heard Mr. Millard just say that that meant no officer or employee and something about — was that army officers?

CHAIRMAN YEAGER: Are you directing the question to Mr. Millard?

MR. MADAR: To whoever could answer.

CHAIRMAN YEAGER: Mr. Millard, would you care to answer?

MR. MADAR: Well, I think it should be to Mrs. Cushman.

MR. MILLARD: I did not say "officer or employee." I said "officers of the United States" and "officers of the United States" includes officers of the armed forces.

MR. MADAR: Well, Mr. Chairman and fellow delegates, I am trying to figure out why they are picking on us. Good gosh. The officers and the militia, I think, are representing personal interests there, too, like we might be. And then, too, I am beginning to wonder — I did not think that the racing group could possibly get to anybody in this place and just kick us out to make sure we would not be here 16 years from now.

CHAIRMAN YEAGER: The Chair will recognize Mr. Millard.

MR. MILLARD: I do not think Mr. Madar has read the amendment. It says "except . . . officers of the militia. . . ."

MR. MADAR: I did not misunderstand it, Mr. Chairman. I understood it very well. I am just trying to figure where the army, navy and marine corps are so much better than anybody else. I do not mind telling you, Mr. Millard, that there are a good many of us around here that fought for our country. We do not have to worry about those guys who are officers now.

CHAIRMAN YEAGER: The Chair has been informed that there is a substitute amendment for this one and will ask the secretary to read it.

SECRETARY CHASE: Mr. Everett offers the following substitute amendment:

1. Amend page 1, line 18, after "entitled.", by inserting "No elected official of the United States, of this state or of any governmental subdivision shall be eligible to serve as a delegate.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Everett on his amendment.

MR. EVERETT: Mr. Chairman and fellow delegates, most of the objections seem to be that this amendment would bar schoolteachers and military personnel. The substitute would do neither of those things.

It seems to me there is a definite question whether a man should be serving in public office and also be here. Part of this has already been determined for us as far as the constitution of 1908 is concerned, because it has been determined that circuit and probate judges may not serve in this convention and members of the legislature may not serve in this convention. This amendment would simply go a step further and say that no elected public official could hold office here; so that although it is true, in a sense, that it does limit the choice of the electorate, it does not limit it greatly beyond where the 1908 constitution limited it, and if it was correct in principle there it seems to me it is correct as to all elected officials.

CHAIRMAN YEAGER: The question is on the Everett substitute amendment. Does Mr. Mahinske wish to be recognized?

MR. MAHINSKE: Would you read that back again?

CHAIRMAN YEAGER: Would the secretary read the Everett substitute amendment again, please?

SECRETARY CHASE: Mr. Everett has offered the following substitute amendment:

[The amendment was again read by the secretary. For text, see above, page 2476.]

MR. MAHINSKE: I would like to direct a question to Mr. Everett, through the Chair —

CHAIRMAN YEAGER: Mr. Everett.

MR. MAHINSKE: — if he is listening. Under your amendment, this — at least, on the face of it — would not cover appointed officials as we have proposed them in the new constitution; this would not include the appointed members of the ad board. Is that correct?

MR. EVERETT: That is correct. It would not eliminate any appointed official of any governmental unit.

MR. MAHINSKE: Do you see much of a difference between an appointed ad board member and, say, possibly an elected ad board member?

MR. EVERETT: Well, I just have a feeling that a member of the ad board would not run whether he was appointed or elected, but this certainly would permit him to do it.

MR. MAHINSKE: Now, under your provision, you also do not call for a resignation of this person from the office that he is holding if he becomes elected to the convention. Would you propose that they would hold both offices or should resign one?

MR. EVERETT: Well, it seems to me the clear meaning is that he could not take office as a delegate if he held office as an elected official. If he preferred to resign and take office as a delegate, he would have that right.

CHAIRMAN YEAGER: Is the incorrect amendment posted on the wall?

MR. MAHINSKE: The incorrect one is on the wall. This is why I am having a little difficulty here.

MR. EVERETT: Well, I am not so sure, Mr. Chairman, that the amendment is incorrect that is up there.

CHAIRMAN YEAGER: Incorrect for the purposes of the question.

MR. EVERETT: Mr. Mahinske, the language of the substitute is that he shall not be eligible to serve; so the elected official could run. If he were elected as a delegate, he would have a choice of doing one of two things: resign as an elected official and serve, or not take his position as a delegate.

MR. MAHINSKE: Well, fine. This is what I wanted to know: that it does not cover an appointed official.

MR. EVERETT: It does not cover an appointed official.

MR. MAHINSKE: Thank you.

CHAIRMAN YEAGER: The question is on the Everett substitute amendment. Mr. Faxon.

MR. FAXON: Mr. Chairman, a question of Mr. Everett: by "governmental subdivision" are you referring to counties, cities, villages and townships, or would this include school districts — and I am now referring to an elected school board member; would this exclude an elected school board member?

MR. EVERETT: I think it would, yes.

MR. FAXON: Mr. Chairman, Mr. Everett, do you think that it is wise to exclude school board members who serve really not in a regular manner of employment? They meet just, maybe, once or twice a month. Do you think that we might better spell out the "governmental subdivision" to refer to cities, villages, towns, counties and townships, or do you prefer that this include school districts and drainage districts and other such governmental subdivisions?

MR. EVERETT: Mr. Chairman and Mr. Faxon, if, as a matter of principle, it is correct that elected officials should not serve — and I think it is correct — then it does not seem to me you should eliminate any of them. All elected officials ought to serve in the office to which they were elected, or as delegates, but not both. And if you are going to eliminate school districts, then I think you could make equally as good a case for eliminating city commissioners who meet once a week or every other week. It just appears to me that elected officials should not serve in both capacities.

MR. FAXON: Well, Mr. Chairman, fellow delegates, I happen to have had the great opportunity of serving on a committee with the very distinguished gentleman from the upper peninsula, who I found to be a member of a school board, and I would certainly hate to see the services of a person of the caliber of Mr. Leslie Richards denied to any future constitutional convention.

CHAIRMAN YEAGER: The Chair will recognize Mr. Dell on the substitute amendment. The committee will be in order, please.

MR. DELL: Mr. Chairman and members, I would like to ask Mr. Everett a question, please, if he would not mind answering. Mr. Everett, in considering this position here as delegate to a constitutional convention, are we looking at it as a permanent position?

CHAIRMAN YEAGER: Mr. Everett.

MR. EVERETT: Mr. Chairman and Mr. Dell, I did not come here looking at it in that light, but I am not so sure we should not. (laughter)

MR. DELL: I agree with you on that part, but the point I am trying to make is that everyone knows that I am a county official. Now then, this is only a temporary assignment. I was elected because the people thought that I had some past experience that could be used here. I agree that there are times that a question may come up where it is difficult for me to make a decision, and it may look as if I am making my decision based upon what effect it is going to have on my particular position, but I have tried to make my decisions on other matters. The thing is that I realize there are a lot of us who come here that have some experience that you would deny. Given the fact that this is not a permanent position, I do not think it would be fair to ask these people to resign their present positions.

CHAIRMAN YEAGER: The Chair will recognize Mr. Rush on the Everett substitute.

MR. RUSH: I have a question for Mr. Everett.

CHAIRMAN YEAGER: If Mr. Everett cares to answer.

MR. RUSH: Our supervisors, of course, are elected, our township supervisors; however, many members of the board of supervisors in the county are appointed by cities. Why do you make the distinction there?

MR. EVERETT: Mr. Chairman, Mr. Rush, I am not so sure it is a valid distinction, except that, of course, at least in most counties — I do not think this applies to Wayne — but in most counties appointed supervisors very frequently are also elected officers of a municipality. But I think you have a valid point and if you prefer to make it "officials" without regard to whether they are appointed or elected, I certainly would not quarrel with you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I think if this committee passes any of these amendments, it is making a grievious mistake. It seems to me to sacrifice the knowledge, experience and knowhow of many of the members of this convention would be a serious blow to the work of the convention, and I presume it would be the same in some future years.

CHAIRMAN YEAGER: The question is on the Everett substitute amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The question now is upon the Cushman-Judd-Andrus —

There is another substitute amendment.

SECRETARY CHASE: It is not a substitute amendment, Mr. Chairman. It is an amendment to the amendment.

Mr. Marshall offers an amendment to the amendment:

1. Amend the amendment, after "officer" by striking out "or employee"; so the language will read, "No officer of the United States, of this state, or of any governmental subdivision," and so forth.

CHAIRMAN YEAGER: The proponent, Mr. Marshall, is recognized.

MR. MARSHALL: Mr. Chairman and members of the committee, some of the delegates on the floor tonight are taking a reverse position from that which they took the other day as it related to local township officers and municipal officers serving in the legislature.

Now, I happen to be one of those that took a reverse position, only my position was different from most of those tonight that are arguing that this should not be put into the constitution, and I think that we ought to make a differential between the two. Here, we are talking about a group that will be drafting a constitution that is hard to change once it is adopted, that could live for 50 years. You have altogether a different situation than you have where you send someone to the legislature. The legislature at the most is a 2 year term and I assume when this convention is over, if the constitution is adopted, in the senate it will be a 4 year term. But if mistakes are made or the wrong man is sent to the legislature, the mistakes can be corrected in the following session of the legislature — the mistakes can be corrected in the following session of the legislature or the people themselves can remove that individual legislator at the next election. That is not the case — that is not the case at all in a constitutional convention, as we all know. We are dealing with the basic law of the state and we are dealing with a situation where we have to live with it for a good number of decades and where it is hard to change once it is done.

I think that we have altogether a different situation from that that exists in the legislature and we should — and I realize that it is impossible to completely remove politics from a constitutional convention — but to that degree that we can, we ought to; and to the degree that we can eliminate incompatibility or double standards, we should do that. Now all my amendment does to the original amendment is to strike out "or employees" which would not — Delegate Faxon, if he is in the room — my amendment would make it possible for the educated educators as well as the uneducated educators to be candidates and any other employee who was not an officer of the federal, state or local governments. That is the amendment and I urge its adoption.

CHAIRMAN YEAGER: The question is on the Marshall amendment to the amendment. The Chair will recognize Mr. Perras.

MR. PERRAS: The other night, Mr. Chairman and fellow delegates, I was fortunate enough to be invited to the roadbuilders' convention — now this is just something that I want to pass on to the delegates — and there were some legislators sitting at this table. Mr. Page and I were there too. They were talking among themselves not knowing that we were delegates because we did not have our badges on, and one said to the other, "He is putting in a proposal to send 144 couches over here for the delegates to the constitutional convention." Of course, we let them know that we were delegates, but I think if we continue this way I want to send them a note to get those couches for us. (laughter)

CHAIRMAN YEAGER: Is that for rest or psychiatric treatment? (laughter) The Chair will recognize Mr. Snyder on the amendment to the amendment.

MR. SNYDER: Mr. Chairman, I again rise to speak against the amendment. I am trying to establish the underlying principles outlined by Mr. Marshall. I do remember very well the eloquent presentation he made the other day in defense of some of the minor township officials, how important it was to carry their services to this great lawmaking body that we have, and I would say this: that "Consistency, thou art a jewel," and I think that if we ever need a screening process, it is not a question of screening the 2 year legislature; it is a question of screening qualified people on the 50 year run. I think that first things come first in this instance and, certainly, if you want to be consistent in your arguments of the other night you have no alternative now but to probably withdraw your proposition that you advance tonight.

CHAIRMAN YEAGER: The Chair will recognize Mr. Kuhn.

MR. KUHN: Fellow delegates, to be very consistent in what we asked you to do the other day, I would wholeheartedly support the Marshall amendment.

CHAIRMAN YEAGER: The question is on the Marshall amendment to the amendment. Mr. Marshall.

MR. MARSHALL: Mr. President, in answer to my good friend and colleague, brother Snyder, I guess maybe I am reserving my right to be stubborn, but I did point out where I drew the line and where I made a distinction between the question of someone serving in the legislature and someone serving at a constitutional convention. I still urge the adoption of my amendment.

CHAIRMAN YEAGER: The question is on the Marshall amendment to the amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The question now is on the Cushman-Judd-Andrus amendment — unless there are further amendments, Mr. Secretary, to this.

SECRETARY CHASE: No further amendments to the amendment.

CHAIRMAN YEAGER: The yeas and nays have been ordered. Just a moment.

SECRETARY CHASE: Mr. Faxon offers an amendment to the amendment:

1. Amend the amendment, after "any" by striking out "governmental subdivision" and inserting "cities, villages, counties, and townships".

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon on his amendment.

MR. FAXON: Mr. Chairman, I put that in in the event that Mr. Marshall's would carry, but I would now withdraw that.

CHAIRMAN YEAGER: Mr. Faxon withdraws his amendment.

CHAIRMAN YEAGER: Are there further amendments to the amendment, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: The question now occurs on the amendment from Mrs. Judd, Mrs. Cushman, Miss Andrus, and Mr. Elliott. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor will vote aye. As many as are opposed will vote no. The Chair cannot hear you, Mr. Leppien. Mr. Leppien.

MR. LEPPIEN: I would like to speak after the vote has been taken and announced.

CHAIRMAN YEAGER: The Chair could not hear you, sir.

MR. LEPPIEN: I would like to speak after the vote has been taken and announced.

CHAIRMAN YEAGER: Have you all voted? If so, the secretary will lock the machine and record the vote. For what purpose does the gentleman rise?

MR. VAN DUSEN: Mr. Chairman, the gentleman rises for this purpose and does so at this time so he will not waste any time: I would like to call the attention of the delegates to the fact that we have used 1 hour in debating this particular amendment. There are 6 more amendments, as I understand it, pending to this proposal and 6 more proposals pending in the miscellaneous provisions article. We have to complete it this evening. I think it makes all of us conscious of the necessity for abbreviating our remarks and not rising unless we have something to say.

CHAIRMAN YEAGER: Mr. Van Dusen, your point is well taken. Thank you.

The roll was called and the delegates voted as follows:

Yeas — 21

Andrus, Miss
Blandford
Brown, G. E.
Butler, Mrs.
Cushman, Mrs.
DeVries
Donnelly, Miss
Elliott, A. G.
Everett
Farnsworth
Goebel
Hanna, W. F.
Judd, Mrs.
Krolikowski
Martin
McGowan, Miss
Pollock
Sleder
Staiger
Van Dusen
Woolfenden

Nays — 84

Balcer
Barthwell
Batchelor
Beaman
Boothby
Bradley
Brake
Buback
Danhof
Dehnke
Dell
Doty, Dean
Hatch
Heideman
Howes
Hubbs
Hutchinson
Iverson
Jones
Kelsey
Kirk, S.
Kuhn
Lawrence
Leibrand
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan

Doty, Donald
Douglas
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Figy
Finch
Gadola
Garvin
Gover
Greene
Habermehl
Hannah, J. A.
Hart, Miss
Haskill

Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McLogan
Millard
Mosier
Nisbet
Nord
Ostrow
Perlich
Perras
Plank

Sharpe
Snyder
Stafseth
Stamm
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mrs. Cushman and others, the yeas are 21; the nays are 84.

CHAIRMAN YEAGER: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Cushman, Miss Andrus, Mrs. Judd, Messrs. Romney, Staiger, McLogan, Miss McGowan, Messrs. McCauley and Arthur Elliott offer the following amendment:

1. Amend page 1, lines 15 and 17, after "elect" by inserting "on a nonpartisan basis".

CHAIRMAN YEAGER: The Chair will recognize Mrs. Cushman as the first proponent.

MR. LEPPIEN: Mr. Chairman.

CHAIRMAN YEAGER: The Chair is sorry. Before you start, Mrs. Cushman — does Mr. Leppien wish to be recognized? He had asked to be recognized after the vote. It is the Chair's fault, Mr. Leppien.

MR. LEPPIEN: Thank you. Mr. Chairman and fellow delegates, I hold in my hand 3 sheets of paper that were made up when the committee on miscellaneous provisions and schedule finished its work. I think it is interesting to read some things, and in deference to the remarks of our delegate from Birmingham, who spoke just a moment ago, I think it is kind of interesting: Committee Proposal 66, which is presently under consideration, the committee very wisely in their determination of time set 30 minutes; Committee Proposal 68, 30 minutes; Committee Proposal 61, 10 minutes; Committee Proposal 62, 5 minutes; Committee Proposal 124, 15 minutes; eminent domain, Committee Proposal 67, 1 hour; and an exclusion report, 2 hours. I respectfully bring this to your attention and say, let your conscience be your guide.

CHAIRMAN YEAGER: Thank you, Mr. Leppien. The Chair will recognize Mrs. Cushman.

MRS. CUSHMAN: Regardless of the remarks that have just been made, I think it is important for us to realize that this is a constitution that we are considering and that every area of it deserves consideration and very careful consideration. With regard to this particular amendment that is before you now, I have several reasons for joining in in advocating it.

First of all, as I recall last fall, it seemed to me that when we were organizing this, we were unable to make the best use of the talents of the various delegates because of what I felt were rather artificial barriers of party that were put up. I felt that we should consider the abilities of every delegate in relationship to the whole convention and try to place him wisely. We could not do that because of this party business.

Secondly, a great many of the battles that have been fought here have not been battles that had anything to do with the constitution itself but were battles that concerned political questions that were entirely outside the convention. Of course, it has the possibility of resulting in a document that may be opposed or favored on the basis of something that has nothing to do with the document itself but on entirely different political bases. These are the reasons that I joined in it. I assume that the other advocates have their own reasons.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman and fellow delegates, Mrs. Cushman appeared before the committee. She advanced her arguments. She did a good job. She was unable at the time to convince the committee that the point was a valid one. It was the opinion of the committee at the time that if it had not been for the party participation in the election to the constitutional convention of delegates, there would have been such a small turnout, such an infinitesimal turnout, that under these circumstances you could have had elected people with almost no interest and that would not have served the best interests of the state. Certainly, the opinions of Dr. Pollock guided us at the time. We felt that partisan responsibility added to the prestige of the delegates. It was in view of these arguments that we retained the present language in the constitution and would not consider the nonpartisan basis. On behalf of the committee, I would urge the defeat of the amendment as proposed.

CHAIRMAN YEAGER: The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee of the whole, I would like to ask you to vote against this amendment and, I think, for very good reason. I have said before and I would like to say it again, that a great many people have been telling us that the foundation of this country, this strong, great nation that we have, is the fact that it is based on a 2 party system, and the fact that we are partisan to one party or another is not tending to destroy the country; it is something that is making the country strong. I submit that the so called nonpartisans are partisan to something, and I do not know what it is. I am partisan to the saving of this nation for the future, and at the moment I happen to be a Republican and have a lot of respect for the Democratic party and I am happy that there is a goodly number of Democrats here at this convention. And as far as I am concerned, I am getting sick, sick, sick — as I said the other day.

CHAIRMAN YEAGER: The point is well taken. (laughter) The committee will be in order.

MR. HUBBS: Thank you, Mr. Chairman. The point that I would like to make is that the people who belong to the Democratic party have a political philosophy that they believe in, which is what they think would be best for the country, and I happen to believe in a political philosophy which I think would be best for the country, and I am partisan to my party because I believe that what my party believes in is best for the state of Michigan. I believe that all of this nonpartisan baloney is a lot of hogwash, in simple language. So let's forget it and let's keep this thing on a partisan basis and get it right down to fundamental beliefs and economic philosophy and political philosophy and let's conduct our future conventions along the same line. I ask that you reject this amendment.

CHAIRMAN YEAGER: The Chair recognizes Mr. McLogan.

MR. McLOGAN: Mr. Chairman, in response to Mr. Snyder's remark, I would like to say that I think that this is the propitious time to make this amendment. If we acknowledge that experience is a great teacher, then we would say that the amendment could not have been offered sooner with conviction. But now, voting on the issue, it cannot be ignored without dereliction.

I would make this charge fully cognizant of those areas in the day to day workings of a deliberative body wherein political party knowhow has been a distinct asset. In truth, this has been helpful to put many matters in proper perspective. But on the other hand, it would take a most independent soul, indeed, to deny that one's sense of party responsibility, which to a greater or lesser degree is possessed by us all, has not on at least some occasion had a limiting, restrictive or debilitating influence.

Now, in all sincerity, I protest that this is not a slap at my party or at your party; it is a pure and simple recognition of certain facts of political life which might better not be a part of a constitutional convention. I assert that each of us is fully aware of the implications. With partisan labels we are writing a good constitution, I think significantly improved. But without it I think we would have done even better and, further, that we would all be home by now. The issue should be rapidly answered by any of us: are partisan politics and a constitutional convention compatible? Does partisanship on ballots help or hinder our objectivity? I would recommend divorcing it from politics and suggest support of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mrs. Conklin.

MRS. CONKLIN: Mr. Chairman, fellow delegates, I rise to definitely oppose this amendment. For a long time now I have worked as a member of my party on the local level at home. I have had opportunities to watch local elections run on a nonpartisan basis. Much of what Mr. Hubbs has said I would like to say "amen" to. I do not believe that there is any such thing as a nonpartisan. Everybody belives in something, and I would rather know at the outset what it is than wonder what is going on underneath.

I think that the proponents of this amendment are probably very sincere in their beliefs and I respect their opinion, but I do not for one minute think that if this convention had been called on a nonpartisan basis that the makeup of this convention would be any different than it is today. I do not believe for one minute that the Republican party or the Democratic party would have sat idly by and let a lot of people who did not believe in anything run for the convention and get themselves elected. I further point out that after the primary, as someone pointed out here, there was very little interest in this convention. After the primary was over, where would the people have gotten the money to run for the convention in the first place? I think we are just kidding ourselves and I believe exactly as Mr. Hubbs said: I am sick, sick, sick, also, of the idea that the nonpartisans are something better than those of us who believe in something.

I would submit another thought that came to my mind when Mr. McLogan spoke: it is that the proponents of this amendment, I believe, are ready or willing, by putting in such an amendment, to admit that this convention is a failure because we have worked on a partisan basis, and I am not ready to admit that for one minute. I would definitely oppose this amendment and hope that everyone will do likewise.

CHAIRMAN YEAGER: The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman — you lawyers note that I try to get the closing — I hope. I would like to point out again that we are talking about an election that may possibly be held 50 years from now. I would say, hopefully, that there might not be any such thing as a nonpartisan at that time, for a nonpartisan can be defined as a person with so little governmental experience or political principle that he cannot identify himself with any party in existence. (laughter and applause)

Now to pretend that an election could be held that way — I quote to you a distinguished delegate to this convention, who served on the preparatory commission. He said, "I entered upon this believing that perhaps a nonpartisan method of election would have been the best." Then he said, "With the experience that I have had here with the commission, I fully realize it would have been utter confusion to try to prepare for this convention on any other than a partisan basis." And just think: you would have a nonpartisan election in every senate and every house district in this state. You would have a primary and then a runoff between the 2 top contenders. So far as the conduct of this convention is concerned, if we were here as nonpartisans, I disagree to some extent with Mrs. Conklin — instead of having 2 parties, we would probably have about 6 — there would be no party discipline whatsoever. Any attempt to get 73 votes out of the divergent interests that are represented here in the convention would have then meant such a compromise that probably no 2 sections of the constitution would agree with one another. We would be a French assembly in miniature.

When you deal with a constituent assembly, you can either have 1 party, you can have 2 parties, or you can have a great number of parties. You cannot have a nonpartisan constituent assembly. We strongly urge you to defeat this amendment, well intentioned as its proponents may have been.

CHAIRMAN YEAGER: The Chair would advise that we have spent 15 minutes on this amendment and we have 6 speakers lined up. The next one is Mr. Downs.

MR. DOWNS: I will rise in opposition to this. I favor the concept of partisan, responsible government but, more important, I would not want to see us straitjacket the legislature that is to create a convention conceivably 20, 30, 40 or 50 years from now.

CHAIRMAN YEAGER: The Chair recognizes Mr. Walker.

MR. WALKER: Mr. Chairman and members of the committee, in an effort to conserve time, I will limit my remarks to the minimum and say, "Me, too." (laughter)

CHAIRMAN YEAGER: Mrs. Judd.

MRS. JUDD: Just a little more hogwash, Mr. Chairman. I presume I got my nonpartisanship training because I grew up in the days when there was only one party in Michigan and nonpartisanship and partisanship were synonymous. I only want to say that I think it was important to bring this question up. I realize it has no chance in a convention that was elected on a partisan basis, but I do think that it should go into the record for the future that the problem of partisanship in the convention was a difficult one. I do not think it means the convention is failing; we are going to come out all right, but it has been a much tougher job than it might otherwise have been. But I think there should be a record that we considered this problem in this convention.

CHAIRMAN YEAGER: The Chair will recognize Mr. Hodges.

MR. HODGES: Mr. Chairman and fellow delegates, I also rise to oppose this amendment. I think that partisanship has a very important place to play. I was taught that there was a Republican way to collect garbage and a Democratic way to collect garbage. It was not who collects it — you could have civil service for that — but where you start in town collecting it, how many times a week you collect it; and questions like this are policy questions which should be determined. Perhaps no policy is set at any higher level than at a constitutional convention for, after all, this is the philosophic base on which we are to build our state or our nation.

Another thing that I think is very important, and that I have learned here thus far, and why I am glad it is a partisan convention, is that many people whom I have a great deal of respect for, and that I realize have a tremendous amount of expertise on certain subjects, and who, I think, between the premise and conclusion do the finest job in the world — but I cannot agree with their premise nor can I agree with their conclusions —knowing their philosophic bent is valuable, because none of us came here knowing everything there is to know about all the factors in the constitution or all the subjects, and I think it is important when someone gets up to speak and we realize that he is well informed on the subject, that we do at least have an idea of what his overall philosophy is. And I submit if it is a nonpartisan convention, it may well take half the convention before you find this out.

Another thing is, I think, that for the most part the very same people would be elected. I realize that, especially outstate, when you see that we have ex circuit judges, ex ad board members, state legislators, and so on, that these are probably the most prominent people in the community and people that the community has a great deal of respect for and probably they would have been elected whether it had been a partisan or nonpartisan convention.

I would say, as to the problems this convention has seen, that it has not gone to the question of partisanship but perhaps the question of candidacies for political office. And I would submit if you had a nonpartisan convention that this would not resolve this question one bit, for it could well be that a person could still run as a nonpartisan and yet be a candidate in the next election. I would think it would be far wiser if we could come up with some way constitutionally — and I am sure this would be a big factor — of prohibiting any delegate from running for office for a certain amount of time. I think this might have a salutary effect. Again, I am opposed to the amendment.

CHAIRMAN YEAGER: The Chair will recognize Miss Donnelly.

MISS DONNELLY: I rise to support the amendment for the basic reason that I also heard some of the testimony given to this committee. I have also observed the activities of this convention and I believe the statement that nonpartisan people do not believe in anything is absolutely false, that it is absolutely invalid, and is absolutely ignoring the people of this state.

I also believe there are many people in this convention that are sick, sick, sick of some of the various highly partisan things that have taken up our time at this convention. I think the people of the entire state want a good constitution and they are not particularly interested in individual effort to win election to a particular office. I therefore feel that in the long run we might benefit every citizen of this state if we seriously considered what a nonpartisan convention could perhaps do for the state, as opposed to dividing ourselves into party politics and attempting to accomplish something for next November's election.

CHAIRMAN YEAGER: The Chair will recognize Mr. Thomson.

MR. THOMSON: Mr. Chairman and fellow delegates, we have gotten way off the line again and we are having another one of those "mother Hubbard" discussions. If you do not know what a "mother Hubbard" is, it is something that covers everything and touches nothing. (laughter) I don't think they make them any more. (laughter)

It has been my privilege to be a candidate for political office on 56 occasions. Fifty-three times I have won and 3 times I have been defeated, and I always learned a lot more when I lost than I did when I won. For that reason I believe in political parties. I move the previous question.

CHAIRMAN YEAGER: The Chair is sorry that cannot be done, Mr. Thomson, in committee of the whole, unfortunately. The question now is upon the Cushman amendment. As many as are in favor will say aye —

MRS. CONKLIN: I demand the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? Sufficient number up. This is a recorded roll call vote and the yeas and nays have been ordered. As many as are in favor of the Cushman amendment will vote aye. As many as are opposed will vote no. The committee will be in order, please. Have you all voted? If so, the secretary will lock the machine the record the vote.

The roll was called and the delegates voted as follows:

Yeas—22

Allen
Andrus, Miss
Cushman, Mrs.
DeVries
Donnelly, Miss
Durst
Elliott, A. G.
Figy
Hannah, J. A.
Heideman
Higgs
Judd, Mrs.
Krolikowski
Kuhn
Lesinski
McGowan, Miss
McLogan
Richards, L. W.
Romney
Spitler
Staiger
Woolfenden

Nays—89

Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Finch
Gadola
Goebel
Gover
Greene
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hodges
Hood
Howes
Hubbs
Hutchinson
Iverson
Jones
Kirk, S.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
Madar
Martin
McAllister
Mosier
Nisbet
Nord
Norris
Perlich
Perras
Plank
Pollock
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Stafseth
Stamm
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Young

SECRETARY CHASE: On the adoption of the amendment, the yeas are 22; the nays are 89.

CHAIRMAN YEAGER: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Cushman, Mrs. Judd and Miss Andrus offer the following amendment:

1. Amend page 1, line 12, after "than" by striking out "4" and inserting "5"; so the language will there read, ". . . at an election to be held not later than 5 months after the proposal shall have been certified as approved. . . ."

CHAIRMAN YEAGER: Before we recognize Mrs. Cushman, the Chair would like to advise, in trying to help the committee in this time problem, that on the last question of partisanship or nonpartisanship in the constitutional convention we had 16 speakers and consumed 20 minutes.

This is an amendment of one number. The Chair will recognize Mrs. Cushman.

MRS. CUSHMAN: I still say, in spite of the remarks of the Chair, that these things are important and if we do not take care of them now, I do not know when we can. This particular amendment is not perhaps too significant. The provision as it is now calls for an election for delegates to be held within 4 months after the results are certified. This extends it a little bit to 5 months because, when I started counting up on my fingers, I figured that maybe we ought to allow a little bit of extra time to be sure that we could get it through in April, that putting it any earlier might make it hard to do it. That is all.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman and fellow delegates, the committee also reviewed this matter very thoroughly. I will give you a very brief observation of their conclusions. They felt that we had 2 problems involved here: one was the mechanical problem of getting the ballots and the other things prepared. The other was the memories of the people that were going to vote. They felt that 4 months or 120 days was the line of demarcation that would most closely resolve getting the things together so they could vote, at the same time having the time lag not too long so people would forget what they would be voting on. On behalf of the committee, I would urge the defeat of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Upton.

MR. UPTON: I would like to support this amendment. If we figure out when 4 months is, Mr. Snyder, it comes maybe in March and I have never known a successful election statewide to be held in March. Therefore, I would think it would be better to leave it up to the legislature and give them this extra month by going to 5, if it is necessary; so I would support this amendment.

CHAIRMAN YEAGER: The Chair recognizes Mr. Powell.

MR. POWELL: Mr. Chairman and ladies and gentlemen of the committee, I am a little confused by the philosophy back of this provision here. I had heard that the big idea with reference to elections in this convention was to have less of them and have them in November. Now, apparently, this means that any time we want to vote on the matter of a con con, whether it comes as a result of the once in 16 years or whether the legislature puts it on the ballot, then there will have to be a special election. Now I do not see what the big hurry is. It seems like this could have been written that it be submitted at the next general election. You would save the expense and get a more representative vote than you would at a special election.

I have no particular amendment prepared, but in looking ahead last week, in studying this provision I made a check in the margin here because I was a little perplexed and I had meant to take it up with members of the committee and see just what the philosophy was, but I neglected to do so.

I am not particularly in favor of 4 months or 5 months; I would prefer that these times be taken out and that the voting be done at the next general election.

CHAIRMAN YEAGER: The question is on the Cushman amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Arthur Elliott offers the following amendment:

1. Amend page 1, line 19, after "on the" by striking out "first" and inserting "second"; and in line 20, after "in" by striking out "October" and inserting "June"; so the language will read, "The delegates so elected shall convene at the capital city on the second Tuesday in June next succeeding such election."

CHAIRMAN YEAGER: The Chair will recognize Mr. Elliott on his amendment.

MR. A. G. ELLIOTT: Mr. Chairman, ladies and gentlemen, I do not intend to belabor this at all, except to point out that under the proposal what they have done is to use, in general, the language as it was established in the present constitution and that it was predicated, apparently, upon an April vote, a spring vote, then 4 months' delay to vote on the delegates, and then an immediate calling of the convention.

As it is now, under this language that is submitted to the convention, your vote would be in November. There would be 30 to 40 days for certification or canvass and then 4 months later you would vote on the delegates, which would bring you into April, and at that time when the delegates were elected, you would then wait through May, June, July, August, September and October. It would be 6 months after the people had selected their delegates before they would start to serve. In my judgment this is too long and all I am doing is bringing the convention to an immediate beginning as soon as the delegates have been elected.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman, the committee considered this date and they felt that by inserting the month of October, it would be the one in which most people would find it convenient with their time. I feel that if one of the previous amendments would limit this convention or other conventions to only housewives and farmers, this amendment would take farmers out of the picture leaving only the housewives, because this is a question of June; so I think we have a very serious scheduling problem to get the representation from the rural areas, and I feel that in view of this our October date is a very important one rather than a June date.

CHAIRMAN YEAGER: The question is on the Elliott amendment. Mr. Elliott.

MR. A. G. ELLIOTT: Well, I did not intend to speak on it twice, but I do think that you ought to seriously consider what you are doing here. When you are asking the people to elect delegates in April and then asking those delegates not to serve until the following October, I think that the delay is much too long. I do not believe that the comments made by Mr. Snyder as to the difficulty that farmers would have in serving are any more valid for them at that time of the year than they are from the business community at any time of the year, and I do not think that they want or are asking for any special preferential treatment.

The purpose of this — if you will look at the language, you will see that the reason why it was established for October, originally, was because the determination of the constitutional convention was held in the springtime, in April, and thus they were unable to. The second thing that I think you should be fully aware of is that, obviously, this convention is going to take 7½ months and this will move our deliberations for the next constitutional convention well into an election year. I think that for both of these reasons it would be well for the convention to begin its activities as quickly as possible.

CHAIRMAN YEAGER: The question occurs on the Elliott amendment. As many of those as are in favor will say aye. Those opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 12, after "purpose,", by striking out the balance of the proposal and inserting "the legislature at the next session shall provide by law for the election of delegates to such convention."; so the language will read:

> In case a majority of the electors voting on the question shall decide in favor of a convention for such purpose, the legislature at the next session shall provide by law for the election of delegates to such convention.

CHAIRMAN YEAGER: The Chair will recognize Mr. Hutchinson on his amendment.

MR. HUTCHINSON: Mr. Chairman, I think that this convention is really being shortsighted indeed when you write into this constitution all of this material as to a new constitutional convention. How can you sit here in 1962 and even imagine what the conditions will be when another constitutional convention is called in, say, 40 or 50 years?

Now I am reminded that back in 1908 the delegates to that convention thought so well of the way they had been elected and the apportionment upon which they had been based — and, understand, that was due to a legislative act — they thought so well of that whole machinery that they wrote it into the constitution, and it has been restrictive upon us. As a matter of fact, the people of Michigan amended it even before they could have a constitutional convention. And so, here we are now trying to set up all of this detailed machinery for a time and for circumstances which we cannot even envision.

I think that we should go back to the 1850 constitution in this regard and that is what I offer here. The language that I offer I take from the 1850 constitution, simply providing that after the people call such a convention the legislature shall provide for the election of delegates. Now, as to the apportionment of those delegates, as to the membership and the size of the convention, as to the qualifications for delegates, as to whether it will be the first Tuesday or the second Tuesday of a month, and all that sort of stuff, that should be left to the people of that time who have the problem before them. And I think we are indeed shortsighted to try to write it out here now.

It was argued at one point here that inasmuch as the people only in 1960 amended the constitution with regard to the apportionment of delegates to this convention, we ought not to change it. But I submit to you that they adopted that amendment not with any idea of its having a long range effect but simply to provide the machinery for setting up a convention at this time, and it might very well prove that when another one is called they would not want a delegate from each senatorial district and from each representative district. As a matter of fact, I think that it has been demonstrated from the way this convention has of necessity had to proceed that it has too large a membership. To have a membership as large as both houses of the legislature combined has proven here to be too large. This convention is larger than any other convention in Michigan's history.

I say, the experience of this convention viewed in the light of history may be a very good argument why those in the future would say: we don't want a convention made up of 1 delegate from every representative seat and 1 from every senatorial seat. Maybe they would decide that they want it only as large as the house of representatives; maybe they would want it only as large as the senate; maybe they will want some other kind of a basis. Why do we here — why do we here now — presume to limit the future in these regards? I think that we are shortsighted indeed and I offer this amendment to strike all of this out in order to give to the future the untrammeled and unhampered opportunity to provide for itself.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. We did discuss this at length, also, in the committee and I must say that

Mr. Hutchinson is very consistent with his philosophy that he feels everything should be left to the legislature wherever possible.

We felt that there was a very important principle involved here and that is the reason that we came up with the recommendation that we did. We felt that there must be a definite separation between the constitutional convention and the legislature. This would provide one of the fundamental checks and balances in our system of government. You will recall in our opening remarks I said:

> . . . the constitutional convention is an autonomous body and we try to make its powers as broad as possible to prevent the necessity of going to the legislature for assistance.

We feel that there is an ever present possibility of a conflict between the legislature and the convention. Certainly, if you had a hostile legislature, you could not come up with the same constitutional convention groundwork that you did if you had a friendly legislature. We feel that for the long haul in order to get a representative government you must keep these 2 separate, and for this reason we included the language that we are recommending to you.

CHAIRMAN YEAGER: The Chair will recognize Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, ladies and gentlemen of the committee, few of us feel that those writing the constitution of 1908 could possibly have foreseen the conditions under which we would be meeting and trying to write this one. I think there is much to be said for the point of view expressed by Mr. Hutchinson and I intend to support it and hope we will support this one, and get on with our work.

CHAIRMAN YEAGER: The Chair will recognize Mr. Madar.

MR. MADAR: That is just exactly what I expect to do, Delegate Hannah. I just want to say that I wish that I could have said it as well as Delegate Hutchinson did. I certainly am going to give him some support on this and I hope every other delegate says yes. (applause)

CHAIRMAN YEAGER: The Chair will recognize Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman and members of the committee, again I want to say it is a pleasure to agree with my good friend, Art Madar. I like to do it every time I can. The delegate from Fennville certainly has made many fine contributions to this convention; there isn't any question about that in the minds of all of us. I just want to say I think in making this suggestion that this is his finest hour. I am going to support him 100 per cent.

CHAIRMAN YEAGER: The Chair will recognize Dr. Nord.

MR. NORD: Mr. Chairman, I rise to oppose this amendment so that no one will get mixed up and think there is unanimous support for this. (laughter) I think that Mr. Hutchinson is having a love affair with the legislature and I am not. Mr. Hutchinson has great faith in the legislature and I do not.

I give you these examples of what can happen when you give a blank check to the legislature when it comes to the constitutional convention. Suppose, for example, our object in the constitutional convention is to reapportion the legislature or suppose our object is to limit its powers; suppose that is the case any time between now and the next 50 years. If it is to reapportion the legislature, the legislature will have the power to apportion the convention and they can apportion it in such a manner that the convention could not apportion the legislature. If the object of a constitutional convention is to limit the powers of the legislature, the legislature could limit the powers of the convention to such a degree that they could not effectively limit the powers of the legislature. For example, they might not supply any funds. I believe that is something with which we could all say we are familiar. In other words, if we put ourselves into the hands of one of the groups that we may wish to be reviewing and changing, we put ourselves in such a position where we are practically powerless. It would be the same thing if we gave a blank check to the governor or to the supreme court or to the civil service commission or any other group. We have to review those groups. We cannot be in a position where they can prevent us from reviewing them and changing them.

I also point this out: there is a method by which the legislature can get something on the ballot in order to amend the constitution. We have been over that today. But this one that we are dealing with now is apart from the legislature. This one is where the people act in a different manner. The people act by meeting in convention assembled and they put their proposal on the ballot. This is not the one where the legislature puts the proposal on the ballot. If we mingle the 2, we lose really the whole virtue of the constitutional convention. The constitutional convention can become the legislature. As a matter of fact, there would be nothing to prevent the constitutional convention from being the legislature. The legislature could simply say: we will be the constitutional convention. And they can put it on the ballot by a majority vote. We just got finished saying they should not be able to do that. They would be able to do that with this provision.

This business of saying that we should strike legislative detail is a great thing providing you are dealing with legislative matter. This is not legislative matter. This is matter in which the people are supposed to find out how they want to effect certain changes independent of the legislature. Regardless of the fact that some people may be enthusiastic about having flexibility — and I am one of them — there are some areas where you just do not want flexibility and the reason is because you cannot leave it to group 1, group 2 or group 3.

I call to your attention that if it is wrong for us to make a decision at this time as to what we want in this particular proposal, it is just as wrong for us at this time to make the assumption that the legislature is the one to make the decision in the future. Why the legislature? Why not the supreme court, the civil service commission or the board of education or some other wise man?

We do not know right now what is the best way or to whom we could leave this power. That being the case, we want to leave the power to the people and I suggest this: in the event that it should be found that some of the words in this proposal are too restrictive, there is a cure. The people can change this proposal; they can change this provision by a constitutional amendment. There are 2 ways: one by legislature; one by initiative. They do not need a convention to change it. Just as has been done with this particular convention, it was changed in accordance with the wishes of the people. Therefore, let us not get nervous about the number of words, and let us not get fooled into thinking that just because we leave everything to the legislature that we have done our duty. We have not. We have to make up our own minds and we must put something in the constitution that makes the constitution workable. I think this amendment is extremely ill advised.

CHAIRMAN YEAGER: The Chair will recognize Dr. DeVries.

MR. DeVRIES: Mr. Chairman and members of the committee, I want to support what Dr. Nord says. If you will look at the Hutchinson amendment, it offers to strike the balance of the proposal. Now look at the balance of the proposal: the convention shall choose its own officers, determine the rules of its proceedings, and so on. You will also note that the committee provided that the convention would have the power to disseminate information and an explanation of the proposed constitution to the people and to complete the business of the convention in an orderly manner. I do not think anybody can deny we have a problem right now. That is why the committee included that language. Now the amendment offered by Mr. Hutchinson strikes all of this language. For that reason alone and for the reasons cited by Dr. Nord, I urge you to defeat the Hutchinson amendment.

CHAIRMAN YEAGER: Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman and fellow delegates, the point of autonomy that was very important with the committee has been very well handled by Mr. Snyder and by Dr. Nord. I would just simply like to call the attention of the delegates to the fact that we found in 1960 that the legislature was unable to solve this problem. One of the issues before the legislature was the method of choosing the delegates and you may recall that they wrestled with that for quite a long period of time and took no action at all. This method by which we were elected was devised by the group that actually circulated the petitions. The so called compromise to elect 1 delegate from each house district and 1 from each senate district was a compromise the legislature never could reach.

In view of the recent experience, I am a little reluctant, if the next convention is to be an autonomous body, to leave all these details to the legislature. In this section we must provide for a self executing — insofar as possible, a self executing provision, so that the next convention may be an autonomous body not subject to rules, not subject to the powers prescribed by the legislature. The constitutional status of that is very clear. The constitutional convention has full power subject only to the restrictions contained in the constitution under which it is operating. Now that has caused us some difficulty in the matter of trying to get financing for finishing up this constitution and in the matter of when the constitution is to be submitted to the people. In the balance of this provision we have tried to solve both questions for the next convention. To now say we will leave all those questions in the hands of the very body that has given us the trouble seems to me to be a little wishful thinking. We urge the defeat of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: All of my points have been made but I think one point bears repeating. That is that you may well be — in a case where a constitutional convention is initiated and begun and completed, up until its convening, by an outside body — then you are taking all the power over that convention and placing it in the body that had the privilege to call the convention, or see to its calling to begin with, but which, obviously, it did not do because the convention was called by an outside source.

I think that this would be a dangerous power to put in the hands of an obviously antagonistic body. They may well not act at all after the first requirements are completed here. We all know that the legislature cannot be mandamused; they may give the convention itself no powers or they may give the convention itself just a limited scope of operation to work under, which is practically meaningless considering, probably, the purposes for which the convention itself was called. Frankly, I would not be willing even to limit this proviso here to a convention called by the legislature itself because I think that there is just too much power in one area here. The whole idea of the people being able to call a sovereign body into being is demolished by this amendment here, and I would be opposed to the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, Mr. Mahinske and others who have spoken against this amendment read far too much into it. To begin with you will notice that it will be the people who call the convention because in the year 1978 and every sixteenth year thereafter, and such other times as may be provided by law, the question of a general revision will go on the ballot. The people will call the convention.

Now then, what is it that the legislature is directed to do at its next session? To provide by law for the election of delegates to the convention. And I submit that the legislature did that with regard to this convention. I submit that if there had not been statute law, part of the election statutes of Michigan enacted by the legislature of Michigan, there would have been no election machinery for the election of us. But that was brought about. The legislature did that.

Now it is suggested that you "leave everything in the hands of the legislature" and that the legislature can limit a constitutional convention, can limit its powers, can say what it shall do or what it shall not do. Now I do not think that that is implicit in this language on the board here at all. It says that the legislature shall provide for the election of delegates to the convention, and there the matter stops.

I think that there is very good authority for the proposition that once a constitutional convention is convened pursuant to the power of the people it is a sovereign body, and we do not by this language here simply say to the legislature: well, you can restrict that convention any way you want to. Because, as a matter of fact, any attempt of the legislature along that line with regard to the people's sovereign convention would be null and void. So you are reading a lot of fears in here. You are throwing a lot of fears in here that are not there at all. And I come back to my main point again: how can you — how can you now determine what the relationship, if you please, between the legislature and a convention will be in 50 years? Because of your own experience and your own feeling that the legislature did not do its job or something and that is why we are here — you are letting that color the better statesmanlike view that you should have. I think you are mistaken indeed to presume here and now that you can write the machinery for a constitutional convention in the beginning of the twenty-first century.

CHAIRMAN YEAGER: The Chair will recognize Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, my memory is that the method of selection of delegates to this convention was adopted by an initiative petition vote of the people in November, 1960. That is my memory. If I am incorrect in that, will someone tell me and I will sit down? I assume that I am correct.

Now, throughout this convention I have been consistent in recommending that the delegates should heed well what the people have recently said, the voters of this state. In November, 1960, the voters of the state of Michigan gave nearly a 400,000 vote majority to the method of the selection of delegates by districts as advocated by the committee report. Now I am listening well to those 400,000 votes. Consequently, I oppose the Hutchinson amendment and support the committee recommendation.

CHAIRMAN YEAGER: The Chair would advise that there are 2 more speakers on the list. The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: In further opposition to Mr. Hutchinson's amendment here, I would suggest that if this gave the legislature no other power except as to how or what areas the delegates may be elected, I would still oppose it. We have written into the constitution a legislative apportionment on an area basis and a population basis. This much we know in the future: that area and population will be represented in the next convention under the committee proposal.

Now it may well be, if the legislature has this power in their own body, that they may designate that 1 delegate shall be elected from each senatorial area. Then what do we have? We have primarily area being represented; or they may well say that there will be 1 convention delegate elected from each county. Then what would we have? We would still have the same proposition: area. Or they may well say, and I doubt this, that there would be elected, say, 75 delegates on a pure population allotment — and I doubt that this would ever come about — but, at any rate, they have the power to control who or what is going to be represented in the convention and what interests would be represented in the convention simply by setting up the districts or the method or the area that the delegates shall be elected from. I would be opposed to the amendment if it just went that far; but it goes much further than that, and I am still opposed to the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Jones.

MR. JONES: Mr. Chairman and fellow delegates, I rise to support the remarks of Judge Leibrand and urge the delegates to turn to the present constitution, pages 47 and 48, section 4, and I think they will find contained herein the essential language that is included in the committee proposal. Therefore, I urge the rejection of the Hutchinson amendment.

CHAIRMAN YEAGER: The question is still on the Hutchinson amendment. The Chair will recognize Mr. Powell.

MR. POWELL: Mr. Chairman and ladies and gentlemen of the committee, it is true that the constitution contains the language to which Delegate Jones has referred. It is also true that the detail of setting up the selection of delegates has been statutory.

I just happen to have a briefcase here that I used in the campaign, and I looked in it and I have 2 statutes here to which I would like to allude. The first is enrolled senate bill 1009 of the session of 1958, which was introduced by Senator Hutchinson and which provides among other things for the compensation of delegates. You will notice the language of the constitution even today says that we get paid for a session $1,000 or such other amount as the legislature might provide, and they saw fit to provide a higher rate than $1,000 for the year or the term, whatever it turns out to be. And then after the amendment of 1960 had been adopted, the legislature in 1961 passed enrolled house bill 20, introduced by Representatives Strange, Waldron, Bowman, Newton, Kowalski, Apley, Nakkula, E. D. O'Brien, Little, Smale, Gibbs, Bursley, Ryan, Van Til and Buth, and that set forth a lot of the details, including the dates of our primary and our general election and with reference to the address to the people and all the procedure about our petitions and the general conduct of the election by which we were called into being. And so I say that many of the details of this convention, including our compensation, were statutory and are not spelled out in the constitution at the present time. I am very favorable to the Hutchinson amendment now pending.

CHAIRMAN YEAGER: The Chair will recognize Dr. DeVries.

MR. DeVRIES: Mr. Chairman and members of the committee, Senator Hutchinson says that he thinks that if this amendment were adopted this would not in any way jeopardize the sovereignty of the convention. Well, I say to you, we ought to say in the constitution that we are sovereign.

This amendment makes the constitutional convention dependent on the legislature. It ought to be independent. The convention ought to have the power to choose its own officers, fix the compensation for its staff, determine its own rules, provide for printing the address to the people and to complete its business as necessary. The constitutional convention, by definition, is constitutional material. We should make it constitutional. I urge again the defeat of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I would just make a point or two. First, if this were the most perfect of all perfect worlds, I suppose the Hutchinson amendment might be in order. In principle, perhaps, he is right. I was going to say in theory he is probably right. Practically, however, it seems to me that the circumstances surrounding the calling and the holding of this convention demonstrated very clearly the necessity for the kind of detail which the committee has written into this amendment. As a matter of fact, my only question to the committee would be whether they should not write even a little more detail into it.

I think we would be derelict to our constituents and the people of this state if we allowed the mistakes which have surrounded this convention to be repeated again. We have built upon the experience of the past. We waited for the legislature for 5 months to appropriate money for a preparatory commission and we lost about 2 months because the legislature did not appropriate any money and we had the humiliating experience of having to go to a foundation in order to get money to get us under way.

It seems to me we have left to the legislature the detail which perhaps should not be written into the constitution — about salary and several other matters of that sort — but as to the general status and powers and functioning of the convention, I think we are adequately justified by our own experience in being very certain that the mistakes which have occurred up to now shall not be repeated. I am therefore opposed to the Hutchinson amendment.

CHAIRMAN YEAGER: Did Mr. Hutchinson wish to be further recognized?

MR. HUTCHINSON: In the interest of bringing the matter to a vote, I pass.

CHAIRMAN YEAGER: The question is on the Hutchinson amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Boothby, Brake, Finch, Garry Brown and Rush offer the following amendment:

1. Amend page 1, line 10, after "case" by striking out "a majority" and inserting "3/5"; so the language will then read:

> In case 3/5 of the electors voting on the question shall decide in favor of a convention for such purpose, at an election to be held not later than 4 months after the proposal shall have been certified as approved, the electors . . . .

CHAIRMAN YEAGER: The Chair will recognize the first proponent, Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, the committee report provides that in case a majority of the electors voting on the question shall decide in favor of a convention for such purpose, an election shall be held. Now this particular amendment would provide that instead of a majority of those voting, it would require 3/5 voting on the question.

The history of this particular provision might be of some interest to members of this committee: in 1835, when the first constitution was adopted, the requirement was that in order to have a constitutional convention called there would have to be a 2/3 vote in both the senate and the house of representatives before the matter could be placed on the ballot and then they could do that whenever they "shall think it necessary to revise or change the entire constitution." Then, after they made that determination and 2/3 voted in favor of placing it on the ballot, it was placed on the ballot for the electors to make a decision. In 1850 this provision was changed so that it required a majority of those voting at the election. This same provision was incorporated in the 1908 constitution requiring a majority voting at the election. Now this stood until very recent times, the last couple of years, at which time the provision was changed to require only a majority of those voting on the issue rather than a majority voting at the election. I would like to also point out the fact that the federal constitution requires some difficulty in calling a constitutional convention; it requires 2/3 of the several states to make application for a constitutional convention.

I will not take much time. However, I want to remind the delegates here at the convention that a convention is something which brings about and places into existence in extraordinary session the sovereign will of the people of the state. It is not an ordinary meeting. It places into one body the sovereign will of the people of the state. This should not be lightly done. I would not like to see a situation occur where a simple majority of those voting on an issue — out of those that care to vote in an election — call the sovereign will of the people in their extraordinary session.

I believe that the 3/5 provision is a compromise between the situation which occurred in the 1835 and the 1850 and 1908 constitutions, which required a majority of those voting at the election. It represents a compromise between that point of view and the requirement of only a majority voting on the issue. It requires merely 3/5 of the people voting on the issue to vote in favor of the calling of a constitutional convention. I urge its adoption so as to provide for the calling of a constitutional convention and the calling into being of the sovereign will of the people only at least when something more than a simple majority of those who care to vote on the issue so decide. I urge the adoption of this amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder representing the committee.

MR. SNYDER: Mr. Chairman, in reviewing this language the committee felt it should remain as it is in the present constitution. They were fully aware of the arguments presented by the various public spirited citizens who appeared before our group and they felt that the people would not vote for a constitutional convention unless they felt that there were substantial and moving and compelling reasons for a change.

In view of this they felt that a majority would be sufficient and the language was left as such. I feel that the people have an awareness of the problems and, rather than to disturb the status quo, unless there is a real, a genuine, need for a change that the people will not change. The committee does urge that the language as presently constituted in the proposal be retained and the amendment be defeated.

CHAIRMAN YEAGER: The question occurs on the Boothby amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin, Nord, Norris and Faxon offer the following amendment:

1. Amend page 1, line 16, after "entitled" by striking out "and the electors of each senatorial district as then organized shall elect 1 delegate for each state senator to which the district is entitled".

CHAIRMAN YEAGER: The Chair will recognize Mr. Austin in connection with his amendment. Mr. Nord.

MR. NORD: Mr. Chairman, Mr. Austin not being present, I will take the floor, if I may, in support of this amendment. This amendment would move to strike out the words "and the electors of each senatorial district as then organized shall elect 1 delegate for each state senator to which the district is entitled." That means that what is left at this point is, delegates who will each represent a legislative district. The senatorial districts would not be included in this case.

I believe several of the delegates, in discussing other points, referred to the possibility of such an amendment as this and I would simply point out that there are a number of advantages to it. As far as I am aware, there are no disadvantages, but I may be wrong. These are the advantages that I know of: first of all, it would reduce the number of delegates to a convention to 110, which is the number of legislators in the house of representatives under the plan that we have adopted. We would have 110 instead of about 150, there being about 40 senators under the plan adopted. We would eliminate those 40 senators and we would have 110 members at the convention. Now that seems to me to be quite a large number at that, certainly as large as we would wish. I believe there is one thing we are probably all in accord with, and that is that we have had too many delegates to the convention to make it possible to get done in time. Reducing the number from 150 to 110 is a reduction of 1/3 or thereabouts and it seems to me that is one advantage.

The second advantage that I see in this amendment is that it eliminates any unnecessary overlapping in representation. If you have a delegate representing every legislative district, you will have complete representation. There is certainly no need to represent all over again in a different manner, so that the representation by the legislative districts sufficiently and clearly does represent the people without any overlap.

The third advantage that I can see is simply this: that the house being the one which we have selected in the convention as being the most nearly responsive to the will of the people is the one that is most ideally suited when we come to have a convention of the people. In a convention of the people we do not want to have a group that is overly representative of the minority group. In the senate we have provided for that because we wish to have a check on the action of the house, but we do not want the same thing in this case. We do not need any check on the action of the delegates because we have a different check. We have the people themselves. Therefore, it seems to me if we want to have the people in convention assembled, we ought to have whatever representation system we can have which is the most nearly representative, directly representative, of the people and that would be, between the 2 houses, the house of representatives. Those are the 3 reasons that I see in favor of the amendment and I would ask now whether Mr. Austin wishes to make his statement as a proponent.

CHAIRMAN YEAGER: Do you yield to Mr. Austin?

MR. NORD: I yield to Mr. Austin.

CHAIRMAN YEAGER: Mr. Austin is recognized.

MR. AUSTIN: Mr. Chairman and members of the committee, actually I do not have anything to add to what Dr. Nord has already said. He has given the 3 reasons that I would give and I will merely underscore them and sit down: first, it would reduce the number of delegates; second, it would prevent overlapping or double representation; and third, we would have more proportional representation at the convention.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman and fellow delegates, this matter, as I recall, was not discussed by the committee in its entirety. The argument must stand on its merits. In presenting the proposal here, I have no alternative than to recommend the original committee report and I cannot make any recommendations for an affirmative vote on the amendment as offered.

CHAIRMAN YEAGER: The Chair recognizes Dr. Norris.

MR. NORRIS: Mr. Chairman, I just want to underscore, if I may, the fact that, as presently constituted and as emerging from this convention, the unit of the legislature that most closely approximates the idea of basing representation on people is the house and I think that that ought to be the unit upon which a constitutional convention ought to be predicated. That is all I have to say with regard to that, Mr. Chairman, and I would like to respectfully request the yeas and nays and a roll call vote.

CHAIRMAN YEAGER: Dr. Norris has demanded the yeas and nays. Is there support? There is not a sufficient number. All right, that is better. There is a sufficient number. (laughter) The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, I just want to point out that in previous conventions they selected the membership from 1 of the 2 houses and that there is a certain degree of overlapping in having both houses represented. A second point — it has already been made — is that it is easier to work with a smaller number. And a third point is that since T. J. Hoxie a few days ago made some reference to the raising of the voting age, I might add that the selection of house districts would have disqualified my participation here.

CHAIRMAN YEAGER: The Chair will recognize Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman and fellow delegates, I just want to rise to point out to you that, whereas I can see that this is a noble objective of our fellow party members, that I am afraid that you are doing something to democracy when you try to reduce the number of people that are participating here too low, because of these distinguished gentlemen who are sponsoring this amendment you would lose exactly 3 of them and the convention would be very much at a loss, I think, from the point of their abilities and their contribution to the convention. Therefore, I want to strongly urge to you that you vote no against this amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman and members of the committee, it seems rather obvious that when the legislative organization committee — wisely, I think — considered the makeup of the senate, that they would always have a 20 per cent area factor for the makeup of that body, that we should not lose sight of that area factor in the next constitutional convention. Now if you vote for the proposed amendment, you are simply disregarding this area factor altogether and, certainly, I do not think that many of us believe that that should be completely disregarded. I would be wholeheartedly against the amendment.

CHAIRMAN YEAGER: The Chair recognizes Dr. Norris.

MR. NORRIS: Mr. Chairman and fellow delegates, first to correct Delegate Barthwell with regard to the loss that might be anticipated under that idea: it would merely be Mr. Faxon. (laughter) However, we would still want to stand with the principle. I think that we ought to underscore here the fact that the main purport of this particular amendment is to get the kind of body that would be in size and in composition and in responsiveness the kind of body that would draw up a constitution, at a future date, which would serve the needs of all of the people of the state of Michigan.

CHAIRMAN YEAGER: The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman and fellow delegates, I might point out to you that this is the same argument that the legislature engaged in. The question was whether or not the provision calling for 3 delegates from each senate district was going to be the method of selection of delegates or whether it was going to be based upon the house. The compromise was reached. It was presented to the people and the people by an overwhelming majority, as Delegate Leibrand said, by over 400,000, approved the compromise in November, 1960. I suggest that we follow the will of the people and defeat the amendment.

CHAIRMAN YEAGER: The question is upon the Austin amendment. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor will vote aye. As many as are opposed will vote nay. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—23

Austin
Balcer
Binkowski
Bradley
Buback
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Hart, Miss
Hodges
Jones
Krolikowski
Nord
Norris
Ostrow
Stopczynski
Walker
Wanger
Wilkowski
Young

Nays—83

Allen
Andrus, Miss
Barthwell
Beaman
Bentley
Bledsoe
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Hood
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Madar
Martin
McAllister
McGowan, Miss
McLogan
Millard
Perlich
Perras
Plank
Pollock
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Austin and others, the yeas are 23; the nays are 83.

CHAIRMAN YEAGER: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Ostrow, Norris, Nord, Pollock, Tweedie and Upton offer the following amendment:

1. Amend page 2, line 14, after "law.", by inserting "No delegate to such convention shall be eligible to be a candidate for any salaried elective office at any election to be held within 2 years after the adjournment of such convention.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Ostrow.

MR. OSTROW: Mr. Chairman, ladies and gentlemen of the committee, first let me say that whatever I say here is no reflection and is not intended to be a reflection on any person or group of persons who are delegates to this convention. I am talking about what may happen 16 years or 30 years from now. We are all dedicated, high principled people but some of the other delegates who may be elected in the future may not have such high standards as we have.

Now we have had delegates who have been candidates. We have delegates who are avowed candidates. We have delegates who are potential candidates, and we have delegates who are suspected candidates. It has, in at least one instance, affected the work of our convention. Recently, we applied to the legislature for some funds. Regardless of whether you feel we were or were not entitled to those funds, the fact remains that the suspected political ambitions of some of the delegates to this convention played a major part in this convention not receiving those funds. We should not handicap future conventions in case they have to apply to the legislature.

Now if half of the people who are delegates to this convention who talked to me on this subject in the halls and washrooms and various places believe on the floor what they told me off the floor, it should not be necessary to argue this amendment. It should carry itself. I do not think further argument by me will change any minds. Everybody knows what the effect of this amendment would be in the future. I just want to repeat: this is no reflection on any delegate in this convention.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman, the committee in reporting out the proposal as is did not give consideration to this. However, from the discussions that I have had with individual members of the committee, they would lead me to believe that the adoption of an amendment of this sort would be detrimental to the caliber and to the type of people that would be attracted to run for the constitutional convention. Rather than having the present all star cast as we have now, we would be having people who would know that after 2 years they could not run for another job.

I do notice that the sponsors of the amendment are all attorneys, and possibly they do not feel that this political effort is in their line. However, I do feel that it would be the sense of the committee that this restriction would act as a deterrent to those people who would be eminently qualified but who felt that in the future should they become elected they could not aspire to other offices. We urge the report as presently drafted and the defeat of the amendment as proposed.

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, I have just one question for Mr. Ostrow: does the use of the word "salary" mean that those people who run for nonsalaried positions could still continue to run under this provision?

MR. OSTROW: Yes. We wanted to exclude nonsalaried positions. There are a lot of them and I do not think that anybody would use the facilities of a convention to get himself elected to one of these nonsalaried jobs.

MR. FAXON: This would be, for instance, Mr. Chairman, Mr. Ostrow, like boards of education and regional boards?

MR. OSTROW: That's right. Regional boards, boards of regents of the University of Michigan or one of the boards of governors of the various universities.

MR. FAXON: Mr. Chairman, I would like to call for the yeas and nays on this.

CHAIRMAN YEAGER: The yeas and nays have been demanded by Mr. Faxon. Is there support? A sufficient number up. The yeas and nays will be ordered. Mr. Martin is recognized.

MR. MARTIN: Mr. Chairman, if anybody is worried about the possibility of suspicion that some delegate or delegates may run for office it will not be in any way reduced by the fact that you put a limitation on them so that they cannot run until 2 years after the adjournment of the convention. I cannot see any real, sound reason or excuse for this provision and I certainly hope you will not support the amendment.

CHAIRMAN YEAGER: The Chair will recognize Dr. Norris.

MR. NORRIS: Mr. Chairman, I submit that this amendment would reflect the statesmanship that resides in this body and would reflect, too, the kind of sentiment which the people of this state expect from the caliber and quality of the delegates here assembled. I think the highest possible plane of appreciation ought to be accorded this amendment. I think there are 2 very good reasons for it: first, it would indicate that what we seek is a consideration of the broad, total interests of the state and not the parochial, narrow interests of a particular section of the state. What you seek to do is try to encourage as desideratum for decisions on the part of the delegates the total community interest and not a narrow segment interest of the community. Second, I think what we seek to establish here, too, is that when people are motivated by the longrun view of the service of the constitution and not shortrun considerations, a better job is done.

I think the purpose of this amendment is to promote precisely that kind of view: to take a longrun view of the total service that a constitution renders to the people and to broaden the focus of all the criteria by which the delegates evaluate all the multitudinous things that come before a convention. I think the considerations advanced by Mr. Ostrow are well taken and I would commend this amendment to you and urge your support for it.

CHAIRMAN YEAGER: The Chair will recognize Mr. McAllister — for what purpose does the gentleman rise?

MR. BLEDSOE: Question of Mr. Norris, Mr. Chairman.

CHAIRMAN YEAGER: Dr. Norris, Mr. Bledsoe would like to ask you a question. Would you yield? Just a moment, Mr. McAllister.

MR. McALLISTER: Yes, sir.

CHAIRMAN YEAGER: Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman and Dr. Norris, if people in the communities selected some of the people in here and wanted them to represent them in some public office, would you tell those voters and the people of the districts from which they come that they cannot do that?

MR. NORRIS: I appreciate the point that is made by Delegate Bledsoe and that is, of course, one of the disadvantages of this particular amendment, but on balance the advantages outweigh the disadvantages. I might suggest that I concur with what he is saying. There is no question but that the kind of service that is rendered by each of the delegates to this convention is equipment and qualification for a variety of public offices. There is no question about that and this particular amendment does say that. That does not preclude it every 2 years.

MR. BLEDSOE: But, Mr. Chairman —

CHAIRMAN YEAGER: Will you yield for another question?

MR. NORRIS: Yes, go ahead.

MR. BLEDSOE: But in view of what you have said, are you not setting yourself up as the personal arbiter of the wills of all of the people around the state who may want somebody here to represent them in some public capacity?

MR. NORRIS: Well, there is no question, Delegate Bledsoe and Mr. Chairman, but with a whole host of provisions we are setting ourselves up as arbiters of the public will and this is a question of judgment. This is a question of statesmanship, in my judgment, to indicate to the public that in order to promote a long, broad, state interest on the part of delegates, this particular amendment would be helpful. I think that points have been made for it and I urge support of it.

CHAIRMAN YEAGER: The Chair would advise there are now 7 speakers and will recognize Mr. McAllister.

MR. McALLISTER: Mr. Chairman and fellow delegates, I will be very brief. It would seem to me that the way the delegates here represent their people, it would be a good indication to the people as to their competency to represent them in some other office. It also appears to me that we should not be setting the standards for some years ahead. In other words, there were no restrictions in this election similar to the one proposed in the amendment and I do not like to judge people many years in advance.

At this point I am going to tell you a story. I am not as good a storyteller as Delegate Anspach, but it reminds me a little here of something that has occurred here this evening, and you may have heard it. If so, it is all right; if not, it is still all right.

One time there was a reverend gentleman and about 8:00 o'clock in the morning he walked out and he saw a dead jackass in front of the church. So he called up the police department and he said, "Gentlemen, there is a jackass out here in front of the church, dead, and I would like to have you remove him before church services start." The fellow at the police station thought he would kid a little bit, so he said: "Reverend, isn't it your duty to bury the dead?" He said, "Yes, that's right. I just wanted to notify the next of kin." (laughter)

CHAIRMAN YEAGER: The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, I still keep hoping that I will have the closing. I might say, first of all, that I am a member of the club. To the best of my knowledge, after this I am running only for cover. (laughter) However, I do think that there is a rather important principle involved here and that is the right of any person to be a candidate for office and the right of the people of any district to nominate and elect who they choose. And as one interested in government — and I think by now we all are — I would hope that the people would choose delegates to this and some future convention.

First of all, as a politician, I recognize that they are good candidates because they have proved their ability to get elected, which is the first requisite of any statesman. Secondly, certainly the experience that they have here, that all of the delegates have had here, is not going to be any detriment to their future usefulness to the state. If any of the delegates here have intentions of running, I would say, let us not apologize for such intentions. The more people of this state that we can get elected, that we can get interested in serving the people of this state, from their districts, the better off our state government is going to be. Our politics in the past has been handicapped by the lack of good candidates. Let us not add to that scarcity. If we have competent people who have experience, by all means let us keep them as potential candidates. I urge the defeat of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Young.

MR. YOUNG: Mr. Chairman, I will be very brief. I must respectfully disagree with Delegates Ostrow, Norris and Nord. It seems to me that this amendment would be a further restriction on the electorate. I am reminded of Arthur Godfrey when he counseled humility. It seems to me it would be very unhumble and very immodest of this convention — which by the latest count had over 50 per cent of its membership as potential candidates for office — to go on record with an admonition to future conventions that they could not have that same privilege. Now, too much is too much, and, to quote Delegate Hutchinson, "This goes a little too far."

CHAIRMAN YEAGER: The Chair will recognize Mr. Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, I think Mr. Bledsoe hit the nail right on the head and, in addition to what he said, I feel that in a convention of this sort or in any future convention there may be a leader that rises and could be of great service to the people of this state; so why cut off your nose to spite your face?

CHAIRMAN YEAGER: The Chair recognizes Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen, this is the type of situation where some people say: in theory we believe in democracy but in practice, don't press us too far, don't put us to the test, because we then will have to put up a fence to keep you within the enclosure.

CHAIRMAN YEAGER: The Chair recognizes Mr. Walker.

MR. WALKER: Mr. Chairman and members of the committee, in that many of our delegates appear to have been vaccinated with phonograph needles, I would pose this question to some of our peerless leaders: has anybody made arrangements for breakfast?

CHAIRMAN YEAGER: The Chair recognizes Mr. Ostrow.

MR. OSTROW: Mr. Chairman and "candidates," (laughter and applause) I want to call your attention to the fact that in one of the judicial articles that we have passed, Committee Proposal 96, section c reads as follows:

> A justice and a judge of a court of record shall be ineligible to be nominated for, or elected to an elective office other than a judicial office during the period of his service as a judge and for 1 year thereafter.

There must have been some reason why we did that. I would say that the same reason applies here.

CHAIRMAN YEAGER: The Chair will recognize Dr. Nord.

MR. NORD: Mr. Chairman, I simply would respectfully suggest that those who may have conflicts of interest on this question may perhaps wish to abstain from voting. That is simply a suggestion. (laughter)

CHAIRMAN YEAGER: The Chair will recognize Mrs. Conklin.

MRS. CONKLIN: Mr. Chairman and fellow delegates, I can speak on this, Dr. Nord, because I am a charter member of the I Ain't Runnin' for Nothin' club here. I would just like to point out that I don't think that we ought to be so pure that we sit here and determine for the next constitutional convention, when we here have the right to run, that those people who are going to serve in that convention cannot do so. And I would also point out that if anybody can survive 7½ months of this and still wants to run, they are hardy people and I say: amen; let them run.

CHAIRMAN YEAGER: The question is on the Ostrow amendment. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor of the amendment will vote aye. As many as are opposed will vote no. Have you all voted? Have you all voted? If so, the secretary will lock the machine and record the vote. Order please.

The roll was called and the delegates voted as follows:

Yeas—31

Andrus, Miss
Binkowski
Bradley
Cushman, Mrs.
Donnelly, Miss
Downs
Durst
Erickson
Follo
Garvin
Hanna, W. F.
Hart, Miss
Hodges
Jones
Krolikowski
Kuhn
Mahinske
Nord
Norris
Ostrow
Pollock
Radka
Richards, J. B.
Sablich
Seyferth
Shackleton
Staiger
Tweedie
Upton
Wanger
Woolfenden

Nays—79

Allen
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Boothby
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Douglas
Elliott, A. G.
Elliott, Mrs. Daisy
Figy
Finch
Gover
Greene
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Hood
Howes
Hubbs
Hutchinson
Iverson
Kelsey
Kirk, S.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
Madar
Martin
McGowan, Miss
Mosier
Perlich
Perras
Plank
Powell
Pugsley
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Stafseth
Sterrett
Stevens
Stopczynski
Thomson
Turner
Van Dusen
White
Everett
Farnsworth
Faxon
McLogan
Millard
Wilkowski
Young

SECRETARY CHASE: On the amendment offered by Mr. Ostrow, the yeas are 31; the nays are 79.

CHAIRMAN YEAGER: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Mahinske offers the following amendment:

1. Amend page 2, line 13, by striking out "such compensation as may be provided by law.", and inserting "the sum of $1,000.00 per month and the same mileage as shall then be payable to members of the legislature, but such compensation may be increased by law. No such delegate may hold any state office for the term following the constitutional convention.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske on his amendment.

MR. MAHINSKE: In view of the recent vote, I would like to divide the question and withdraw the last sentence.

CHAIRMAN YEAGER: An amendment to strike out and insert is not divisible.

MR. MAHINSKE: Well, then, I will withdraw the amendment and offer a new amendment, because —

CHAIRMAN YEAGER: You wish to strike the last sentence?

MR. MAHINSKE: Yes.

SECRETARY CHASE: Mr. Mahinske revises his amendment as follows:

1. Amend page 2, line 13, by striking out "such compensation as may be provided by law.", and inserting "the sum of $1,000.00 per month and the same mileage as shall then be payable to members of the legislature, but such compensation may be increased by law.".

CHAIRMAN YEAGER: Mr. Mahinske.

MR. MAHINSKE: Now, in brief, as I think I can point out, my reasons are obvious for this: we set up all these provisions for a constitutional convention that may be called in the future and we leave the total question of compensation or expense of delegates to the legislature, and I feel that there should be some amount set forth here as a minimum amount in case there is not a cooperative attitude running through the halls over there, and for the further reason that there would be absolutely no connection between the convention, as first called, and the legislature with a view to expenses and salaries of the delegates themselves.

Now, if you notice, our existing constitution does call for a flat $1,000 and the legislature saw fit to increase this to $1,000 a month for 7½ months because they recognized the fact that it was not adequate, but I think that there should be some minimal amount in the constitution itself so that we have a self starting convention in the future when one is called. I would urge the adoption of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman, the committee considered this particular idea at great length. We had considerable pro and con discussion on the matter. It was the opinion of the group that none of us could anticipate what the spiraling costs of living or the reverse would mean in 50 years or so. We felt that this would be something that would add unnecessary language to the constitution and, certainly, even the amendment does have certain limitations, because if you do have a hostile legislature and a sum of $1,000 is insufficient, then the hostile legislature would not increase the compensation as provided by law. We feel that the language in the committee report is about as broad as you can go and we feel that this is one area in which today you can trust the legislature.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: Well, in view of the remarks made by Mr. Snyder, I would point out that an inadequate $1,000 a month is more adequate than nothing. For the same reason, I feel that we should place at least a given amount of money here to get the convention rolling as soon as it is called.

CHAIRMAN YEAGER: The question is upon the Mahinske amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Martin offers the following amendment:

1. Amend page 2, line 13, by striking out "such compensation as may be provided by law.", and inserting "an amount equal to the annual compensation received by each member of the legislature.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Martin on his amendment.

MR. MARTIN: Mr. Chairman, I simply offer this because you were seeking a self executing provision and this would do it. The term of the convention would presumably not last longer than a year. The salary of the legislature is a pretty good guide and will be in the future, and the amount of time spent by the legislature will be about that spent by the convention; so it would seem as though this would provide a reasonable guide line that would be flexible and would change as the amount received by the legislature might change from time to time.

CHAIRMAN YEAGER: The Chair will recognize Mr. Snyder.

MR. SNYDER: Mr. Chairman, the arguments that were provided for the recent amendments are still germane to this one. We would feel, however, that, should this be adopted, the delegates would be serving at less salary than the legislature. We feel, again, that this is an area that could be taken care of in the decision of the legislature at the time.

CHAIRMAN YEAGER: The question is on the Martin amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. Are there further amendments on file, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: If not, the proposal will pass.

Committee Proposal 66 is passed.

MR. ERICKSON: Is there no question on the body of the proposal?

CHAIRMAN YEAGER: Since this was in only one section and not divided, the Chair is of the opinion it is not necessary to ask on the body itself, Mr. Erickson. The proposal is passed. The secretary will read the next item.

SECRETARY CHASE: Item 11 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 68,** A proposal pertaining to the schedule. Amends sections 10, 6 and 11 of the schedule.

Following is Committee Proposal 68 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, [1908] 1962. It shall be the duty of the secretary of state to forthwith give notice of such submission to [the sheriffs of the several counties, and it shall also be the duty of the secretary of state and] all other officers required to give or publish any notice in regard to said election, to give notice as provided by law in case of an election for governor, that this constitution will be duly submitted to the electors at said election.

Sec. b. All officers elected under the [existing] 1908 constitution AS AMENDED and THE EXISTING laws on the Tuesday after the first Monday of November, [1908] 1962, shall take office on and after the first day of January, [1909] 1963, [under this constitution] AND COMPLETE THE TERM TO WHICH THEY WERE ELECTED.

Sec. c. Every [person entitled to vote for members of the legislature under the existing constitution and laws] REGISTERED VOTER may vote on said adoption or rejection, and the board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office the words "Adoption of the Revised Constitution ( ) Yes." "Adoption of the Revised Constitution ( ) No." All votes cast at said election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. Should the revised constitution so submitted receive more votes in its favor than shall be cast against it, it shall be the supreme law of the state on and after the first day of January, [1909] 1963, except as herein otherwise provided; otherwise it shall be rejected.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 68:

Comments on section a. This section is submitted to the convention in its original form except for the deletion of the requirement that notice of submission be given to the sheriffs of the several counties. Sheriffs are not at this time involved in any way in the election process and there seems to be no valid reason for continuing the requirement that notice be given to the sheriffs. The requirement that notice be given to all officers to whom the secretary of state is required to give notice in the case of an election for governor seemed sufficient in the opinion of the committee.

We have also stricken 1908 and substituted 1962. In submitting the section containing the date November, 1962, we are proceeding on the assumption that the constitution will be ready for inclusion on the ballot of November, 1962. In the event this is not possible the matter could be handled either by rereferring the section to our committee or by a change on the floor upon second reading.

Comments on section b. The previous section 6 of the schedule is submitted with the one change being a revision of the dates. In making this revision the committee is proceeding upon the assumption that the revised constitution would be voted upon in November, 1962. In the event this is not possible we feel any change necessary can be made either by referring the matter back to the committee on miscellaneous provisions and schedule or, in the alternative, a change may be made on the floor on second reading at this time. The new language at the end of the section is designed to allow all state officers elected in November, 1962, to continue in office until the completion of their term.

Comments on section c. Section 11 of the 1908 schedule is submitted to the convention with only 2 changes from the wording contained in the 1908 constitution. The committee has deleted the language, "person entitled to vote for members of the legislature under the existing constitution and laws," and substituted therefor the terms, "registered voters." This is in line with a similar change which has been made in many sections of the 1908 constitution. We have also substituted the date 1963 in place of the previous date of 1909. In doing so we are operating under the presumption that the proposed revised constitution will be voted on in November, 1962. In the event this does not prove possible, this matter may be rereferred to the committee on miscellaneous provisions and schedule or, in the alternative, the date may be revised on the floor on second reading.

In the event the convention decides to submit the constitution to the voters in separate sections, then this section would have to be rereferred to the miscellaneous provisions and schedule committee to draft appropriate language to accord with the action of the convention.

CHAIRMAN YEAGER: The Chair will recognize the committee chairman, Mr. Erickson.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. ERICKSON: I cannot help but comment that this is — in my opinion, anyway — the most nonpartisan session we have had since October third.

Of course, the proposal, as the secretary has read, sets the time when the constitution should be voted on and the form of ballot and the time it would take effect and I would like to yield to Delegate Durst who was chairman of the subcommittee on schedule.

CHAIRMAN YEAGER: The Chair will recognize Mr. Durst and ask: do you want to consider this by paragraph or in toto?

MR. DURST: I think, Mr. Chairman, we can consider it in toto.

CHAIRMAN YEAGER: All right. Proceed.

MR. DURST: Mr. Chairman and members of the committee, obviously, the matter that is presently before us is something which, really, we cannot decide at this time. As you know, as to section a, the president of this convention is to select a bipartisan committee to look into the desirability or the possibilities of submitting this document in November of 1962. At the time, of course, that the committee prepared this recommendation, we were in no position to know either what this convention would desire. It would be my recommendation and, I think, the recommendation of our committee that section a be approved by this committee at this time and prior to the time of third reading or, possibly, even as of some later date when we may assemble that this convention then may make a contrary decision as to when it should be submitted. But we would recommend that we approve this language as presently submitted, which is really the language of the 1908 constitution except for one style change, and that it stand until either second or third reading when we are in a better position to judge what we should like to do in this regard.

As to section b, this merely continues in office the elective officials. Actually, we have already taken care of this provision under the executive branch provision. I do not know how to do it, Mr. Chairman, at this time — am I in a position to move to strike a part of the report?

CHAIRMAN YEAGER: In the executive committee proposal?

MR. DURST: Well, the committee has not discussed it but this is the same language that has already been adopted in the executive branch article, or similar language.

CHAIRMAN YEAGER: You may offer such an amendment, Mr. Durst.

MR. DURST: All right, then I will offer an amendment to strike section b, the reason being that we have already passed a provision of similar nature which has the same purpose and intent.

SECRETARY CHASE: Mr. Durst, on behalf of the committee on miscellaneous provisions and schedule, offers the following amendment:

1. Amend the body of Committee Proposal 68 by striking out all of section b, lines 12 through 16, inclusive.

CHAIRMAN YEAGER: The question now is on the committee amendment to strike section b. Do you have further remarks, Mr. Durst, on that subject?

MR. DURST: I do not believe so, Mr. Chairman. Mr. Hanna is trying to say that we have not taken care of legislative officers. Actually, we have, and there is another provision previously approved in the schedule that takes care of that. I have on my desk a report from Dr. Joiner indicating that he has researched this question and he feels that this section b is in conflict with part of Committee Proposal 71, previously passed by the convention.

CHAIRMAN YEAGER: The question is on the Durst — Mr. Mahinske is recognized.

MR. MAHINSKE: I would like to direct a question to Mr. Durst and have him explain what the conflict is between 71 and this section b.

CHAIRMAN YEAGER: Mr. Durst is recognized.

MR. DURST: Between 71 and b there is no conflict. It is just a complete duplication.

MR. MAHINSKE: Well, if there is no conflict and if it is a complete duplication, I would not object to withdrawal; but is this the report you received from research: that it is an absolute duplication?

CHAIRMAN YEAGER: Mr. Durst, you are recognized.

MR. DURST: I have no objection if it stays in to be removed by style and drafting, as far as that goes.

CHAIRMAN YEAGER: Do you withdraw the committee amendment, Mr. Durst?

MR. DURST: Well, I will withdraw it so we can carry on and they can take care of it there.

CHAIRMAN YEAGER: Without objection, the amendment is withdrawn. Would you like to proceed with your remarks?

MR. DURST: As to section c, yes. Again, we have before us a question which we are not yet ready to decide, and that is whether or not this whole constitution should be submitted as one whole document or whether it should be divided and some issues presented separately on the ballot. Again, I think it would be the wish of the committee that we approve this particular section at this time and reserve the right to make some different decision either on second or third reading.

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, it seems to me that we are being a little bit premature in being asked to make a decision on a question on which the president and the committee are presently working, namely, the date and the time of submission of the constitution. I would wonder, then, in the light of having read over the report of the committee, the select committee that met to deal with this particular question, and seeing that they are going to attempt to bring in some conclusion on what the best time — whether they can submit it in November or not — by the twenty-eighth of this month, whether we could not pass over this section, this particular Committee Proposal 68 here, until a time certain, for instance, April 30, and at that time have the benefit of the knowledge and the information that the committee has found and not be put in the position of having to adopt something without having at our disposal the necessary information to make a qualified and deliberative judgment. So, if it is in order, Mr. Chairman, I would move that this section be passed over and put to the end of the calendar, at least to the end of miscellaneous provisions on April 30, at which time we will be able to act on this with more information.

CHAIRMAN YEAGER: Mr. Faxon, the Chair would advise that the end of the calendar, so far as committee of the whole is concerned, would be probably sometime tomorrow and that if you put this over, you are not going to have it considered in committee of the whole. It has to go through first reading in committee of the whole, which will be finished at that time.

MR. FAXON: Well, Mr. Chairman, as I understood it, the schedule is not, in the same vein, a part of the constitution. A schedule deals with the matter of presentation and it is not a part and parcel of the constitution. In other words, once the constitution goes into effect, this is not in the constitution any more and, therefore, it would seem to me that it would not come under the same treatment that we are giving to regular sections. This is something just to put it into effect. I wonder — Mr. Van Dusen is there — if he would respond to this.

CHAIRMAN YEAGER: Mr. Van Dusen is recognized.

MR. VAN DUSEN: Mr. Chairman and Mr. Faxon, if we would all just sit quietly and let the chairman say that this section will pass, it is passed, it will then come up on April 30 for our consideration in the ordinary course of business on second reading.

CHAIRMAN YEAGER: Thank you, Mr. Van Dusen. Do you withdraw your amendment, Mr. Faxon, or do you —

MR. FAXON: Well, it was your opinion that my motion was not in order in light of the fact that this is committee of the whole, so that — am I correct?

CHAIRMAN YEAGER: Well, you can persist in it.

MR. FAXON: No, in the light of your statement and that of Mr. Van Dusen — I simply wanted to call this to the attention of the delegates that this is something which is not a part of the constitution as such and we might be better off waiting until the thirtieth, but if Mr. Van Dusen assures me that this will be the time that we will consider this more completely, then I will withdraw it.

CHAIRMAN YEAGER: It is subject to amendment on each reading. Mr. Erickson.

MR. ERICKSON: I just want to correct any impression — if it is left here — that the schedule is not part of the constitution because it really is. It has many parts which will perform a very essential function until we are through the transition period. So it is really part of the constitution.

CHAIRMAN YEAGER: Are there any amendments? Mr. Downs.

MR. DOWNS: Mr. Chairman, I sympathize completely with the fatigue in Delegate Van Dusen's voice when he suggested we just have the chairman say that it is passed and it shall pass. I am not concerned about this part because, as Delegate Van Dusen and others have said, this will finally be acted upon on the third reading or final action.

I am a little concerned that this might be construed that we have unanimously decided to go ahead at this time contrary to the attorney general's opinion. I thought of offering an amendment and perhaps having the date blank but I think that would be even more confusing, so perhaps I end up agreeing with what the chairman of the rules committee said originally.

I just would like to state — and I believe it has been made clear — that our voting on this does not necessarily indicate that this is the final action and we will certainly want a chance to review it by the special committee the president has appointed to review this whole matter. I just hope that in acting on this we do not give it more import in the press and publicity than apparently the delegates are taking.

CHAIRMAN YEAGER: Are there any amendments on file, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: If not, the proposal will pass. Committee Proposal 68 is passed. The secretary will read the next item.

SECRETARY CHASE: Item 12 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 61**, A proposal pertaining to terms of public officers. Retains section 1, article XVI.

Following is Committee Proposal 61 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. The terms of office of all elective state officers and of all judges of courts of record shall begin on the first day of January next succeeding their election, except as otherwise prescribed in this constitution. The terms of office of all county officers shall begin on the first day of January next succeeding their election, except as otherwise prescribed by law.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 61:

The committee recommends the inclusion of section 1 of article XVI of the constitution of 1908 without amendment.

The committee is of the opinion that the commencement of the terms of public officers may be changed by other decisions of the convention, but the section is reported to the committee of the whole so it will be a vehicle upon which such changes may be accomplished.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson, the chairman of the committee.

MR. ERICKSON: This Committee Proposal 61 report will be handled by Delegate Bledsoe, who is the second vice chairman of the committee on miscellaneous provisions and schedule.

CHAIRMAN YEAGER: Mr. Erickson yields to Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman, Mr. Erickson and members of the committee of the whole, you have heard the secretary read this proposal and it comes to you without any changes whatsoever. It is the consensus of the committee, and I shall give to you this consensus which reads as follows:

[The supporting reasons were read by Mr. Bledsoe. For text, see above.]

And by so much we recommend that the committee of the whole adopt this proposal.

CHAIRMAN YEAGER: Does Mr. Erickson have further presentation? Are there any amendments to this proposal?

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 7, after "officers" by inserting a comma and "members of the legislature,"; so the language will read:

> The terms of office of all elective state officers, members of the legislature, and of all judges of courts of record shall begin on the first day of January . . . .

CHAIRMAN YEAGER: The Chair will recognize Mr. Hutchinson on the amendment.

MR. HUTCHINSON: Mr. Chairman, I offer this amendment in order to clear up an ambiguity which has rested in the Constitution of 1908 all of these years. I suppose that it never has been really settled as to when the term of the members of the legislature commences, whether it commences on the first day of January or whether it commences as of the opening of the regular session which is the second Wednesday in January. I do not think any real problem has arisen because nobody has raised the question, but it is there. Now it is there because of the fact that the language says that the terms of "all elective state officers" — and you would think that, in and of itself, that term would be all inclusive; and it would be all inclusive but for the fact that the constitution goes on and says "and all judges of courts of record;" so that, apparently, judges of the courts of record are not to be included as state officers within this language. So you get around to the idea that they meant by "elective state officers" the governor, the lieutenant governor, the secretary of state, the state treasurer, the auditor general and the attorney general.

I think that this is purely a clarifying amendment. It will make it clear that just as you speak of the judges separately from the state officers in this language, if you will speak of the members of the legislature separately there will be no doubt at all when their term of office will commence. I think that we will have to remember, too, that somewhere along the line, perhaps in style and drafting — the executive article says that these terms of office begin at 12:00 o'clock noon on the first day of January and this will have to be made to conform.

CHAIRMAN YEAGER: The Chair will recognize Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, if I may address a question to Mr. Erickson, please?

CHAIRMAN YEAGER: If Mr. Erickson cares to answer.

MR. W. F. HANNA: Mr. Erickson, in connection with this Comittee Proposal 61, and in view of the action taken by this committee to have only fall elections, in November, could we not rephrase this — and I am asking this primarily for style and drafting — that all officials elected at a November election shall take office at 12:00 o'clock noon on the first day of January next following their election, and eliminate the problem of including some and leaving out some that has been faced either by Mr. Hutchinson's amendment or the construction placed on it over the years?

MR. ERICKSON: I believe that is a very good question, Mr. Chairman, Mr. Hanna. I have considerable confidence in the style and drafting committee and this will be one area that they will have to resolve. I am sure there will be several others that will have to have like treatment.

CHAIRMAN YEAGER: The Chair would advise that the question is on the Hutchinson amendment. Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, I would like to ask Delegate Hanna a question in view of his question to Delegate Erickson. According to your language, then, township officials would take office January 1, is that right?

MR. W. F. HANNA: Yes, Mr. Chairman, that is correct.

MR. LEPPIEN: Well, may I respectfully point out, then, that that would not be in accord with what we discussed in the election section, where we felt that the treasurer of the township should take office on December 1 because, that being the tax day, then we would have that problem. Now, whether that should be corrected here or have it in mind when you do the necessary — thank you.

CHAIRMAN YEAGER: The question is on the Hutchinson amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is adopted. Are there further amendments, Mr. Secretary?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: The proposal will pass.

Committee Proposal 61, as amended, is passed. The secretary will read the next item.

SECRETARY CHASE: Item 13 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 62,** A proposal pertaining to grants of extra compensation. Amends the first sentence of section 3, article XVI.

Following is Committee Proposal 62 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. Neither the legislature nor any municipal authority shall grant or authorize extra compensation to any public officer, agent[, employe] or contractor after the service has been rendered or the contract entered into.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 62:

This is the first sentence of the present section 3 of article XVI with the word "employe" deleted. The word "employe" was not included in the 1850 constitution. Its use in the 1908 constitution has been interpreted to mean that retired employees may not receive increments in their retirement systems. This has proven a great hardship on retired employees whose benefits were based on a pay scale much below present day levels. Especially has this been true as regards a group of retired teachers. It is the belief of the committee that the deletion of reference to "employe" in this provision will permit the legislature and municipal authorities to deal with the problem realistically.

As the provision regards public officers, agents or contractors, this limitation upon the power of government appears to continue valid. It is in order to point out that what is prohibited is extra compensation. It is apparent that the terms of the contract might on occasion provide for adjustments of the amount due; which adjustments might not be ascertained until after the service has been rendered. Such an arrangement would not violate the provisions of this section. Likewise legislative acts or municipal ordinances might also be so drawn as to permit adjustment of compensation after the services have been rendered unless prohibited by some other provision in the constitution. What this sentence is aimed to prohibit is the gratuitous grant of further compensation to contractors, agents and officers of the government after the fact.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson.

MR. ERICKSON: Delegate Hood will carry on here. I will yield to him at this time.

CHAIRMAN YEAGER: Mr. Erickson yields to Mr. Hood.

MR. HOOD: Mr. Chairman and members of the committee, I have been assured by our chairman that this is a noncontroversial proposal. I am sure that you want to get to the ones that are, the eminent domain and the others, so we will find out pretty quickly whether we are right or not. The committee submits the following reasons in support of Committee Proposal 62:

[The supporting reasons were read by Mr. Hood. For text, see above.]

For the reasons stated, I recommend support of Committee Proposal 62.

CHAIRMAN YEAGER: Mr. Secretary, are there any amendments on file to this proposal?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN YEAGER: If not, it will pass.

Committee Proposal 62 is passed. The secretary will read the next item.

SECRETARY CHASE: Item 14 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 124,** A proposal pertaining to increase and decrease in the salaries of officials. Amends the second sentence of section 3, article XVI.

Following is Committee Proposal 124 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. Salaries of public officers [, except circuit judges, shall not be increased, nor shall the salary of any public officer be decreased, after election or appointment.] ELECTED OR APPOINTED FOR TERMS OF 4 YEARS OR LESS SHALL BE NEITHER INCREASED NOR DECREASED AFTER ELECTION OR APPOINTMENT, NOR SHALL THE SALARIES OF PUBLIC OFFICERS HOLDING OFFICE FOR A TERM OF LONGER THAN 4 YEARS BE INCREASED OR DECREASED OFTENER THAN AT THE END OF EACH 4 YEAR PERIOD; BUT THE SALARIES OF MEMBERS OF THE SAME COURT, BOARD OR COMMISSION SHALL BE UNIFORM.

Mr. Erickson, chairman of the commitee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 124:

The present provision of the second sentence of section 3, article XVI of the constitution of 1908 prohibits any increase or decrease in the salaries of public officers except circuit judges after election or appointment.

The provision is unduly restrictive and makes it impossible to solve the problem which always arises when we have multimember courts, boards and commissions with overlapping terms. Under the present provision, the most junior member oftentimes is the first to receive an increase in pay. The present provision also makes it impossible to meet the problem of increasing costs with regard to officers who serve relatively long terms.

The committee recommends first, that the salaries of the members of the same court, board or commission shall be uniform; second, that it be possible to review the salary of officials serving longer terms once in every 4 year period.

The committee understands that the terms of judicial officers will be uniformly more than 4 years. It would therefore be possible to consider the salaries of judges in single member courts at 4 year intervals. Salaries of judges of multimember courts would also always be uniform so that if the salary of one of the judges was raised, they would all be raised at the same time.

The constitution of 1908 permits counties to add to the salaries of circuit judges. If this power is continued, it could be exercised only once in each 4 years, as to judges in single member courts. Against this attempt to meet a problem practically, are the ancient fears that the power to increase or to decrease the salary of any public officer during his term of office subjects him to the possibility of improper influence by the salary fixing body and robs him of a desired independence. The convention must weigh the likelihood of such improper influences against the in-

Explanation—Matter within [ ] is stricken, matter in capitals is new.

equity which arises out of the very restrictive language which now is part of the constitution.

CHAIRMAN YEAGER: The Chair will recognize the chairman of the committee, Mr. Erickson.

MR. ERICKSON: I yield to Delegate Hutchinson on this section.

CHAIRMAN YEAGER: Mr. Erickson yields to Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, this proposal is the end result of quite a lot of indecision and argument and so on in the committee and I am frank to say that in my opinion it has not solved the problem yet, because it runs in conflict with what this convention has already done in the fields of the executive, the legislative and the judiciary. The legislative article at the present time provides that the salary of the legislators shall be established by the legislature; provided, however, that no increase shall take effect until after an election has intervened. The constitution as we are drafting it provides, with regard to the judiciary, that their salaries shall be set by law and that they shall not be decreased. Then the executive article provides for the establishment of the salaries of the officials in the executive branch.

Really, all we have left here to cover, members of the committee, is what kind of a regulation, if any, you want to constitutionally impose upon local units of government with regard to the changing of salaries. It has long been my opinion and my belief that this matter could best be handled by the inclusion of a section in the local government article on this subject so far as the local governments are to be restricted.

I think that the language of the proposal now before you, which was written in good faith by the committee but at a time prior to the time that the convention had acted in these other fields, that while this might have been a solution, it is apparent to me that it will not be the solution unless you are willing to override everything that you have done in the executive, the legislative and the judiciary. I understand that Mr. Danhof, for instance, has an amendment which he is going to soon offer which would except the judicial branch from the provisions of this proposal. It would not surprise me if the executive committee and the legislative committee might not do likewise. So, while I explained to you what lay in back of the committee proposal, I am not here to defend it now. I cannot defend it.

CHAIRMAN YEAGER: The Chair will recognize Mr. Bill Hanna.

MR. W. F. HANNA: Mr. Chairman, I would like to ask Mr. Hutchinson a question.

CHAIRMAN YEAGER: If Mr. Hutchinson cares to answer.

MR. W. F. HANNA: Mr. Chairman, Mr. Hutchinson, if this is to be limited to local government, one of the problems you face in township, and sometimes in county and in city government both, when the charter does not specify it and when you are trying to draft the charter, is to provide that these salaries can be neither increased or decreased after some time prior to the last day for filing nominating petitions. You run into this problem of a person qualifying or being nominated but not yet elected, and then the local legislative body adjusts the salary. Was this problem considered by your committee?

MR. HUTCHINSON: I think, Mr. Chairman, as I recall, the matter was discussed but, there again, I do not think that the proposal covers it. Quite frankly, I think that this convention might be well advised to strike this from the constitution.

CHAIRMAN YEAGER: The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, rather than striking it at this time — because there is an area to be covered — I would move that we pass this proposal until second reading. There is one obvious conflict in the last clause, where they say members of the same court shall receive a uniform salary and in the judicial article all the judges are members of the same court. It would put the probate judge and the supreme court justice on the same salary basis. I think passing it until there is an opportunity to work out the conflicts is probably the best idea and the matter could be brought back at second reading.

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like just to further implement this problem by pointing out that apparently the present constitutional provision, which says that the salary of no public officer other than a circuit judge shall be increased or decreased during the term for which he was elected, apparently does not mean anything because 2 justices of the supreme court of the state of Michigan have got that thing upset by a federal court. Now, apparently, this means absolutely nothing at all and whether you want to carry it forward and hit it on second reading or whether you want to kill it now, I guess is the question before you. I would say you might just as well kill it now.

CHAIRMAN YEAGER: There is an amendment on file which the secretary will read.

SECRETARY CHASE: Mr. Danhof offers the following amendment:

1. Amend page 1, line 5, after "officers" by inserting a comma and "except justices and judges of the courts of this state,"; so the language would then read:

> Salaries of public officers, except justices and judges of the courts of this state, elected or appointed for terms of 4 years or less shall be neither increased nor decreased after election or appointment. . . .

CHAIRMAN YEAGER: The Chair will recognize Mr. Danhof on his amendment.

MR. DANHOF: Mr. Chairman and members of the committee, Mr. Hutchinson has stated the obvious conflict: we have provided in the judicial article for the salaries concerning the constitutional courts, but we have another problem. In the old constitution there was a direct prohibition against the increasing of any salary except circuit judges', who were named as such.

Now, we proceeded in the judicial committee under the idea that each individual committee, executive, judicial and legislative, would handle its problems individually. Proceeding under this idea and that the general prohibition would be stricken, we made no provision for the statutory courts — and I mean the municipal courts, common pleas courts and the recorders court — with this idea: that if there were no general prohibition against the increase or decrease of salaries, then the legislature could provide for the legislative courts in the same manner that we have provided for the constitutional courts. Therefore, I submit this particular amendment. I will wholeheartedly support any further amendments which might go farther. If the executive and the legislative powers chairmen are willing to join me, I have an amendment prepared to strike the whole proposal, in line with Mr. Hutchinson's suggestion. If not, I urge your adoption of this particular amendment to be consistent with what you have done in the past.

CHAIRMAN YEAGER: The question is on the Danhof amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is adopted. Are there further amendments, Mr. Secretary?

SECRETARY CHASE: None on the desk, Mr. Chairman.

CHAIRMAN YEAGER: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I move to strike the section after the enacting clause.

CHAIRMAN YEAGER: The question is on the Hutchinson amendment. Would the secretary like to read it for the record?

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, by striking out all of the proposal after the enacting clause.

MR. CUDLIP: Mr. Chairman.

CHAIRMAN YEAGER: Mr. Cudlip is recognized.

MR. CUDLIP: Mr. Chairman and members, for the reasons adequately stated by Messrs. Hutchinson and Danhof, I think this should go out. This is a meaningless thing now and, certainly, with the amendment we just approved it is more complicated than ever.

CHAIRMAN YEAGER: The question is on the Hutchinson amendment to strike. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is adopted. The secretary will read the next — Mr. Erickson.

MR. ERICKSON: The next item is Committee Proposal 67, is it not, Mr. Secretary?

SECRETARY CHASE: Correct.

MR. ERICKSON: Well, at this time I would like to move that we put that at the foot of the calendar for this reason: all that is left here is Exclusion Report 2033 and a minority report on 2033, and I would like to see if we can get those out of the way and then see what time it is. Then this Committee Proposal 67 is eminent domain and that may take us past midnight if we try to do it. But if we could go on with these other 2, then we will see what time it is at that time.

CHAIRMAN YEAGER: The question is on the motion by Mr. Erickson to remove item 15 on the calendar to the foot of the calendar and proceed to Exclusion Report 2033. As many as are in favor will say aye. As many as are opposed will say no.

The motion prevails and it is so ordered. The secretary will read the next item.

SECRETARY CHASE: Item 16 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Exclusion Report 2033,** A report recommending the exclusion of article XII, section 4.

Following is Exclusion Report 2033 as read by the secretary, and the reasons submitted in support thereof:

The committee on miscellaneous provisions and schedule recommends that article XII, section 4 of the present constitution be excluded from the new constitution.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Exclusion Report 2033:

The committee recommends that section 4 of article XII of the constitution of 1908 be deleted from the new constitution. This section provides that stockholders shall be individually liable for labor performed for a corporation or joint stock association.

In earlier days, constitutional and statutory provisions of this nature were common. Today, only Michigan has such a provision in its constitution, and only 5 other states have similar provisions by statute.

The constitutional provision is not self executing. Knapp v. Palmer, 324 Mich. 694. In Michigan it has been supplemented by a statute, MSA 27.1363, under which actions may be brought. This statute remains in effect.

Today, persons performing labor have statutory aids, priorities and preferences, both civil and criminal, that they did not formerly have. Corporate stock is now more widely held. Most stockholders have no active part in, or effective control over, management. If such a corporation fails, in addition to losing their investments, such innocent Michigan stockholders could be subjected to unlimited liability and expense, while nonresident stockholders could not be reached. Also, unscrupulous persons only have to incorporate in any of 44 states having no such provision in order to avoid personal liability.

Under present circumstances, the committee feels the elimination of this section, rather than doing harm, will promote the interests of all the people of Michigan and will help provide a better business climate. As is stated on page 13 of Corporations and the Michigan Constitution of the preparatory commission:

> The provision as it now stands is most unlikely to do any good to labor, but fairly sure to send incorporators to other states. Labor and investment interests would be able, without rocking the boat, to leave the subject of this provision for legislative action, and take it out of the constitution.

The legislature by statute can protect labor against dishonesty, fraud and overreaching, without causing other innocent persons to suffer.

Our people properly have priority claims for their labor and, in addition to all other relief, can have their claims prosecuted by the department of labor and industry without expense, if they are financially unable to employ counsel. MSA 17.301 et seq.

Following is the minority report to Exclusion Report 2033 as offered and the reasons submitted in support thereof:

Messrs. Binkowski, Bledsoe, Hood, Mahinske and Snyder, a minority of the committee on miscellaneous provisions and schedule, submit the following minority report to Exclusion Report 2033:

> A minority of the committee recommends that the following be included in the constitution:

Sec. a. THE STOCKHOLDERS OF EVERY CORPORATION AND JOINT STOCK ASSOCIATION SHALL BE INDIVIDUALLY LIABLE FOR ALL LABOR PERFORMED FOR SUCH CORPORATION OR ASSOCIATION.

Messrs. Binkowski, Bledsoe, Hood, Mahinske and Snyder, a minority of the committee on miscellaneous provisions and schedule, submit the following reasons in support of the foregoing minority report, which accompanied Exclusion Report 2033:

Briefly stated, the minority of the committee on miscellaneous provisions and schedule opposes the deletion of article XII, section 4, for the following reasons:

(1) TESTIMONY AND EVIDENCE SUBMITTED TO THE SUBCOMMITTEE ON CORPORATIONS PROVED BEYOND ANY DOUBT THAT THIS PROVISION AFFORDS AN INVALUABLE REMEDY FOR THE LABORER TO RECOVER HIS WAGE CLAIMS.

(2) TESTIMONY BEFORE THE SUBCOMMITTEE ON CORPORATIONS PROVED NO PAST OR PRESENT ABUSES OR THAT ANY INNOCENT STOCKHOLDER HAD BEEN SUBJECTED TO UNLIMITED LIABILITY AND EXPENSES SINCE THE ADOPTION OF THIS PROVISION IN 1850.

(3) THE DELETION OF 1 OF ONLY 2 SECTIONS RELATING EXCLUSIVELY TO LABOR IN A DOCUMENT WHICH CONSISTS OF OVER 245 SECTIONS "WOULD INVITE EXTREME CRITICISM OF BUSINESS DOMINATION OF THIS CONVENTION AT THE EXPENSE OF THE WORKING MAN."

It must be emphasized that this provision first appeared in the Michigan constitution of 1850. It appears in the constitution of 1908 verbatim. A cursory review of the journals and debates of 1908 indicate that there was no debate with respect to this provision and it was passed by a vote of 81 to 0.

After an extended discussion in our committee with respect to the advisability of deleting this provision, several of the members doubted that this provision had any practical use. Therefore, several contacts were made with some of the law firms specializing in labor law in Detroit to inquire of their experience in this area. The law firms of Rothe, Marston, Mazey, Sachs and O'Connell; and Livingston, Ross and Miller furnished the committee with the names and case numbers of cases in court based upon this provision. Furthermore, Delegate Joseph Snyder testified that he had personal knowledge of the use and importance of this section.

The only real conclusion is that the laborer has a valuable remedy in recovering any of his wage claims, which vary in amounts, but would be in the category of a $200 claim.

While it is true that this section is implemented by statute, we are fearful that any legislature, which in the future might be hostile to labor, might repeal the statute, if this provision were deleted.

[Testimony of Theodore Sachs before the subcommittee on November 29, 1961, with reference to this provision:]

> It is limited by statutory provisions which have been construed to impose only a secondary liability, and then only after a necessary prior exhaustion of remedies against the corporation itself, including judgment

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

> and unsatisfied execution or adjudication of corporate bankruptcy, with nonpayment of the employee's claim.
>
> Moreover, the cases have limited the class protected to include, generally speaking, only manual laborers.
>
> Further, it is likely that the constitution, as limited by the statute and as construed by the courts, would not govern the vast variety of claims contractually or statutorily arising out of the modern employment relationship, such as workmen's compensation claims and claims for vacation pay, severance pay, pensions and the various so called "fringe benefits."
>
> If the constitutional language in practice is so relatively ineffectual, you may legitimately ask, why keep it?
>
> The answer is simple. As weak as it is, it provides some modicum of protection, for occasional use, in protection of that class of society least able to protect itself. It enables the unpaid employee to try to get paid a debt legitimately owing him — assuming he can find and afford an attorney who is willing to handle his modest claim, assuming he has earned his wages by manual labor, assuming he has reduced his claim to judgment and suffered unsatisfied execution or has filed a claim in bankruptcy which has not been satisfied against his insolvent employer, assuming he can find a shareholder amenable to process and personally collectible, and assuming he is timely under a short statute of limitations.

Throughout the discussion, the fear of the innocent stockholder being abused was continually expressed. However, not one concrete example of any abuse had been cited. It must be admitted that the New York case cited in Dr. Conard's study removed the fear from the realm of the hypothetical. Therefore, the minority is willing to accept an alternate provision in lieu of the deletion of this section.

The argument of providing a "better business climate" is a specious one. The subcommittee did not receive any testimony from any business people to the effect that this provision was a deterrent to business investment, as in the case of the need for eliminating article XII, section 5, the 10 year limitation on corporate land ownership.

In effect, we believe that this argument is only a "red herring."

We want to emphasize that while the Michigan department of economic development testified in behalf of the necessity of eliminating article XII, section 5, it did not recommend the deletion of any other provisions of the corporate article.

[Testimony of Theodore Sachs before the subcommittee on November 29, 1961:]

> Indeed, through all the recent years of debate, high and low, about "business climate," I have never heard it urged by any person, responsible or otherwise, that any investor ever took this section into account in any degree in deciding upon the site of incorporation or location of his business.
>
> Especially after 111 years since its first appearance in the 1850 Michigan constitution, it is just too much to accept any present suggestion that investment is determined by the existence of this provision in our constitution. Those 111 years represent virtually the entire life and growth of this state to its present prominence as the most important industrial state in the nation. And when we note that the provision follows, if weakly, that of New York state, the most important financial center of the nation, I respectfully suggest that an argument that this section drives business elsewhere is less than legitimate.
>
> For one to so argue presupposes many things:
>
> (1) a consciousness and knowledge of the clause;
> (2) a knowledge of the implementing statute;
> (3) an awareness of the limiting court decisions under it; and
> (4) an intention or expectation, at least, that the corporation will go broke without paying its workers — indeed, despite the socially conscious priority (over federal and state tax claims, for example) which the worker's claim will have previously enjoyed against the corporation itself in federally administered bankruptcy proceedings.
>
> I would say, in conclusion, to the suggestion that business will go elsewhere if we don't repeal this clause, that Michigan can well do without the kind of business which consciously sets out to cheat its workers.

Furthermore, Mr. Raymond Clevenger, corporation and securities commissioner, testified:

> In 1940, 2,600 new corporations were admitted. Last year, during the fiscal year, we admitted 6,600 corporations. THE NUMBER OF NEW CORPORATIONS BEING FORMED AND COMING IN HAS BEEN A STEADY GROWTH INCREASE AND THE LAST DOZEN YEARS HAS SHOWN AN EVER INCREASING RATE OF CORPORATIONS INCORPORATING IN MICHIGAN, EVEN AT A TIME WHEN NATIONAL AVERAGES FOR RENEWAL CORPORATIONS HAD DROPPED. WE HAVE NO SUBSTANTIAL SITUATIONS WHERE THIS PROVISION HAS CAUSED HARDSHIP. WE CAN SEE WHERE IT IS HELPFUL AND USEFUL.

(Emphasis added)

It is evident, therefore, that the present provision has not prevented any corporations from coming into Michigan, but that many corporations have been formed, in spite of this provision.

In view of the overwhelming evidence for either retaining or modifying this provision, the majority chose to ignore these facts in favor of a possible hypothetical situation.

We feel certain that the practicing attorneys in the convention realize that before this remedy, as guaranteed in our present constitution, is used, the laborer must first have A COLLECTIBLE AND SUABLE PRIMARY SHAREHOLDER.

We concur that, as testified by Theodore Sachs before the subcommittee on November 29, 1961:

> our academicians and others who deplore the theoretical possibilities of this clause would better face reality to note that the plaintiff's attorney in this kind of case is more concerned about finding a collectible defendant than he is in establishing a theoretical liability against an obscure shareholder. The $6 filing fee may well serve as a barrier to the promiscuous and unfulfilling suit.

The statute cited, MSA 17.301, is not effective because the attorney general and the department of labor lack the necessary funds to actually prosecute private claims in court.

Consequently, although there are many statutory provisions attempting to protect an employee's wage claim, the collective experience of the labor lawyers and union officials indicate that article XII, section 4, is the cornerstone of all of these statutory provisions. Without it, all of the present laws are subject to change by any future legislature.

It should be reiterated that there is no evidence that this provision has caused "other innocent persons to suffer" — other than the innocent unpaid manual worker who has been unable to find a collectible and suable shareholder.

On the basis of the above, we are compelled to support the retention of article XII, section 4, as is, or we strongly recommend an alternative provision, for the minority believes that the deletion of this section would be against the interest and at the expense of the working man, who finds himself in the position of having earned his wages by the sweat of his brow but is unable to receive compensation and thus it is he who is innocently harmed.

CHAIRMAN YEAGER: The Chair will recognize Mr. Erickson.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. ERICKSON: Delegate Woolfenden was chairman of this subcommittee and I will yield to him at this time.

CHAIRMAN YEAGER: Mr. Erickson yields to Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Chairman and members of the committee, the section 4 of article XII of the Constitution of 1908 which this exclusion report would delete from the new constitution reads as follows:

> The stockholders of every corporation and joint stock association shall be individually liable for all labor performed for such corporation or association.

This is one of 9 sections of the corporation article of the constitution, and 8 of the 9 sections have been disposed of in the committee of the whole as a result of unanimous action on the part of the corporation subcommittee of the miscellaneous provisions committee. This is the only section of article XII — 1 out of 9 — in which the subcommittee and the miscellaneous provisions committee found itself with a disagreement, where action was not unanimous. There is a minority report providing for the retention of this article.

I would like to bring to the attention of the delegates the reasons why the majority of the committee recommended the exclusion of this article. The committee's report is on page 491 of Journal 71, dated February 2, 1962, and it simply states the committee's position and I will read it to you.

[The supporting reasons were read by Mr. Woolfenden. For text, see above, page 2495.]

The preparatory commission memorandum on this problem, prepared by Dr. Alfred F. Conard of the University of Michigan law school, treats this subject at length. It is Dr. Conard's opinion, stated in the memorandum and also when he was a witness before the committee, that this provision does not presently serve any good, useful purpose and he felt that it could and should be deleted. He quotes in his memorandum an authority on corporation law well known to every Michigan lawyer and, in fact, every lawyer throughout the country: William W. Cook, a celebrated New York corporation lawyer, who was born in Michigan and who gave millions to benefit the University of Michigan and particularly its law school. Mr. Cook is quoted by Dr. Conard as follows:

> It remains to add that this class of statutes, except in the case of banks, have on the whole proved signal failures. They drive corporations from a state, are rarely relied upon by creditors, and are productive of interminable litigation.

The citizens research council in its memorandum covering this section likewise observes that it serves no useful purpose and it might well be done away with. The corporation committee of the state bar of the state of Michigan, which has given the matter exhaustive study and whose recommendations were followed by our committee in respect of other sections of the corporation article, has this to say about this section, and I am quoting from a letter from Lew Landman of Muskegon, chairman of that committee of the state bar of Michigan:

> No other state constitutions carry language imposing labor claim liability on stockholders. The 6 states which create such liability do so through statutory enactment.
>
> This is a matter for legislation and there are now some 17 Michigan statutes which provide sufficient and adequate protection for the wage earner without such unnecessary language in the constitution itself. It is reasonable to assume that the legislature will continue to provide reasonable and proper procedures which will afford continuing protection for the wage earners.
>
> The bankruptcy laws and state receivership statutes grant priority to labor claims and provide adequate protection.
>
> The inequities of imposing such an unfair obligation on Michigan corporation stockholders including fiduciaries, trusts and the like, regardless of the extent of the stockholding, are apparent.
>
> From a practical standpoint, the Michigan resident, holding only a small amount of stock, may well be the party who will be held responsible for all the corporation's labor obligations while larger, nonresident stockholders or stockholders of foreign corporations will not be proceeded against.
>
> Attorneys will be reluctant to recommend incorporation under Michigan law and corporations will be organized under the laws of other states which do not impose such stockholder liability.
>
> Any provision imposing such stockholder liability will only further impair the economic climate of this state. Labor is now and will continue to be fully protected through legislation. Why add another deterrent to the growth of our state by discouraging investment in Michigan corporations?

This section is 1 of 3 in the corporation article which have shared responsibility in substantial part for what has come to be known as the unfavorable business climate of Michigan. The other 2 sections have already been deleted in this committee of the whole: one had to do with the corporate life of 30 years, which has been eliminated; Michigan was the only state in the country having such a constitutional provision of such a length. The other was a prohibition against corporations holding real estate for more than 10 years. Those have been deleted. This is the third of the corporation sections which have been responsible in part for our business climate and a majority of the committee recommends its deletion. If there are any questions, I would be glad to answer them.

CHAIRMAN YEAGER: The Chair will ask the secretary to read the minority report.

MR. BINKOWSKI: Mr. Chairman.

CHAIRMAN YEAGER: Mr. Binkowski.

MR. BINKOWSKI: In response to Mr. Woolfenden's request for questions, I would like to ask one. Mr. Woolfenden, as I recall, you just stated that this particular section, section 4 of the corporation article, was 1 of the 3 sections which contribute to a bad business climate here in Michigan. Is that correct, sir?

MR. WOOLFENDEN: Yes. I state that as my opinion, which is shared pretty generally by the bar of the state, I think.

MR. BINKOWSKI: Well, was there any testimony adduced before our subcommittee with respect to section 4 as contributing to a bad business climate?

MR. WOOLFENDEN: Yes —

MR. BINKOWSKI: By the bar association?

MR. WOOLFENDEN: Well, by Dr. Conard of the University of Michigan law school.

MR. BINKOWSKI: Dr. Conard said that this contributed to a bad business climate?

MR. WOOLFENDEN: That was my understanding of the sense of part of his statement; yes, sir.

MR. BINKOWSKI: Was there anyone else, Mr. Woolfenden?

MR. WOOLFENDEN: Well, we had other witnesses before the committee, including Don Weeks of the economic development commission, and the corporation and securities commissioner, the counsel for the AFL-CIO, the counsel for the Michigan manufacturers association, and I believe that with the exception of the counsel for the AFL-CIO there was no view expressed that this should be preserved in the constitution.

MR. BINKOWSKI: Well, Mr. Woolfenden, you are not implying, are you, that Mr. Weeks, who at that time was the executive secretary or the director of the Michigan department of economic development, testified in our subcommittee that section 4 should be deleted?

MR. WOOLFENDEN: Not specifically on that; no, sir.

MR. BINKOWSKI: That is correct. And, as I recall, it is in our minority report, Mr. Woolfenden, that Mr. Raymond Clevenger, the corporation and securities commissioner, testified, "We can see where it is helpful and useful." Is this not true?

MR. WOOLFENDEN: You apparently have the quotation; I don't.

MR. BINKOWSKI: Thank you.

CHAIRMAN YEAGER: May the Chair suggest that we have the minority report amendment at this time and then we can attend to the question period.

SECRETARY CHASE: Pursuant to the minority report of Messrs. Binkowski, Bledsoe, Hood, Mahinske and Snyder,

Mr. Binkowski offers the following amendment:

1. Amend page 1, by striking out all of the exclusion report and inserting the language of article XII, section 4 of the 1908 constitution as follows:

> "The committee of the whole recommends that the following be included in the constitution:

Sec. a. The stockholders of every corporation and joint stock association shall be individually liable for all labor performed for such corporation or association.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Binkowski on the minority report amendment.

MR. BINKOWSKI: Mr. Chairman, I do not want to bore anyone — I realize that the hour is getting late — but do we have a quorum here?

CHAIRMAN YEAGER: The Chair is of the opinion we do. The secretary checked it about 5 minutes ago. If you would like him to count it again, we will be glad to do so.

MR. BINKOWSKI: No, I do not think that is necessary. Thank you.

Mr. Chairman, ladies and gentlemen of the committee, I think there is sharp dispute on the reasons for deleting this particular section. If the argument is used that it is legislative in nature, I think that this is somewhat of a valid argument. But when the argument is made that this particular section contributes to a bad business climate, I think this is a very specious one.

With the exception of one individual who testified before our committee — and I think that his testimony was related to a provision which was introduced by other than myself which would increase the liabilities, that is, the individual liability for labor — I doubt very seriously that anyone stated that this particular section prevented corporations — promoted incorporation elsewhere. There was just no such testimony before our committee. In fact, if you are interested, you can turn to Journal 75. On pages 569 through 571, you will see our minority report and therein you will find the quoted part of the testimony of Mr. Raymond Clevenger, the corporation and securities commissioner, who testified that back in 1940 there were 2,600 new corporations which were admitted into Michigan and that in 1960, there were 6,600 corporations. He stated — and I would like to quote this for the record:

> The number of new corporations being formed and coming in has been a steady growth increase and the last dozen years has shown an ever increasing rate of corporations incorporating in Michigan, even at a time when national averages for renewal corporations had dropped. We have no substantial situations where this provision has caused hardship. We can see where it is helpful and useful.

And, mind you, ". . . even at a time when national averages for renewal corporations had dropped." He says, "We have no substantial situations where this provision has caused hardship. We can see where it is helpful and useful." Therefore, I submit that there has been no testimony which was brought before the subcommittee on corporations which bore out the fact that this particular provision had anything to do with any corporations incorporating in the state of Michigan. And I submit that it has very little to do with their decision.

Now it is true that if they are going to be offering stock on the New York stock exchange, this does entail a little bit more paperwork and the stockholders have to be aware of their liability, but I think — and it can easily be understood by you here — that in terms of a large corporation like General Motors this particular provision has no effect. It is just with the small corporations and, particularly, the corporations wholly owned by 1 or 2 or 3 individuals or maybe even a half a dozen, that this has some particular effect upon them.

Now, throughout our discussion in the subcommittee, another point was made that this would be hurting the innocent stockholder. Again — I asked this throughout the subcommittee and I ask this again: where have we seen one example where any so called innocent stockholder has been harmed? I state before you that we have received no such evidence. In fact, on the contrary, we received several cases where this has helped individual laborers, people who are in the least position to help themselves.

I want to remind you delegates here at this convention that there is no question that corporations are important entities. There is no question that our economy today could not thrive and prosper without corporations as we know them, but I do not think that the incorporators deserve any special consideration. Should we go ahead at the expense of the man who is least able to defend himself, put him at a disadvantage? I suggest that this is what we are doing if we eliminate this particular section from the constitution.

Throughout our discussions at this convention, we have heard a great deal about professors and, of course, some of us have been happy with them and others have not been; but in this particular section of the constitution, the section on corporations, I think in deference to Mr. Woolfenden — and in particular deference to Mr. Alfred Conard, who, in the main, is responsible for the preparatory commission's study of corporations — that we also look at what he, Dr. Conard, had to say on another section of the constitution. This pertains to the banks. I want to remind you that we did not follow his particular advice at that time. You are probably not too interested in it but, since Mr. Woolfenden took some time to read into the record his remarks with respect to section 4, I think that perhaps we should listen just briefly to what he had to say about section 9, and I would like to quote:

> Under any philosophy except that of "don't rock the boat," section 9 should be deleted.

He goes on and specifies his reasons in the last paragraph on page 25 of the study:

> The bank note provision is a "frozen policy" provision, which has been obsolete for nearly a hundred years since the federal government assumed responsibility for maintenance of a sound currency. It is excess ballast in the boat.

Ladies and gentlemen of the committee, for your information, that banking provision, section 9, was Committee Proposal 5. It was so important to this convention that it ran through this convention in posthaste time. It was presented before this convention on December 11, 1961 —

CHAIRMAN YEAGER: Mr. Binkowski, the Chair is of the opinion you are getting a little off the subject here; if you could stay a little closer to the amendment, please?

MR. BINKOWSKI: Well, Mr. Chairman, I think that this demands particular comparison because we are talking about the section on corporations and we have 9 sections in the corporations article. The committee to date has seen fit to delete 7, retain 1, and we are discussing the ninth. I think it is very important that we see the comparison and, actually, I just have a few more comments. So with your indulgence, I would just like to point out that section 9, which we are told should be deleted from the constitution, can be found in Journal 40, of December 11, 1961. It was reinserted in the constitution, perhaps wisely so, but I want to point out to you that it was against the advice of Dr. Conard.

Now, Dr. Conard, unfortunately, is not a practitioner in the field and I myself have not used this provision. I doubt that many of you attorneys here have. So in order to rely upon the experience of others, we in the committee went to great lengths to contact some of the laboring firms in Detroit. We were able to contact Rothe, Marston, Mazey, Sachs and O'Connell and another firm of Livingston, Ross and Miller, and they furnished the committee with names and case numbers of cases in court based upon this provision, and we did this purposely because some of the members of the committee could not see what use this particular provision had. We brought them proof.

Now, ladies and gentlemen of the committee, we are not talking here — when we are talking about wage claims, you have to remember that this particular section has been construed very narrowly, extremely so, so that it provides only for labor. It does not provide for an executive. It does not provide for an engineer. Just for labor. The claims, as we have found out in the testimony, average in terms of around $200. Now, we have over 50 attorneys in this convention. You know full well that if an individual comes into your office with a claim for $200, all too often it is not regarded as too important a case. Two hundred dollars is not a lot of money to be suing for these days. And, of course, as we emphasized in our minority report, you have to find a collectible and suable primary shareholder after — mind you, after — you have exhausted all the statutory remedies, before you could even use this particular section. This section, in the main, is used in terms of threatening stockholders and closed corporations to go ahead and settle with laborers, people who have expended their time and energy and have not been paid. I would like to remind you that this particular section has been in our constitution since 1850.

Now, if you are worried about this provision being the only type of provision in the United States, I suggest to you that we have others which this particular committee and convention has decided upon. One, of course, is the prohibition upon a graduated income tax.

Now as to the argument that the department of labor can go ahead and sue under this particular section, well, this was never brought out in committee, and after I read about it in the majority report I checked with the office of the attorney general and with the department of labor. They have never sued and never processed a claim as far as we have been able to find out, even though the legislation may provide for it.

So I suggest that this particular section has been in the constitution for over 110 years. We have seen no evidence where it has harmed anyone and we have the undeniable testimony that corporations in Michigan have been incorporating at a faster rate than anywhere else. I suggest to you that we continue to protect the man who is least able to protect himself — and that is the laboring man — and that we retain this particular section.

CHAIRMAN YEAGER: The question is on the minority report amendment. The Chair will recognize Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, I just want to call for the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? A sufficient number up. The yeas and nays are ordered. The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman and fellow delegates, there is one difficulty, of course, with this, one danger: any one of us that, through a mutual stock club or any other way, might buy one share of stock from a Michigan corporation may find himself liable, if collectible, to any number of unascertained labor claims. If we turn around, however, and buy a share of stock in a corporation not incorporated in Michigan, we do not assume that risk at all.

Now it does not afford any protection — and I say that advisedly — any protetcion for the working man whatsoever. The reasons are contained in the minority report itself. As Mr. Binkowski said, these claims are about $200 claims, and what does the working man have to do? I am reading from the minority report: He must first find an attorney willing to handle his claim. He must then bring an action against the corporation or, if it has filed in bankruptcy, file a claim against the corporation. He must reduce his claim to judgment. He must get it returned unsatisfied against the corporation. Then he must find out who the stockholders of the corporation are and find one that he can serve and find one that is financially responsible. Then he must bring suit against that stockholder. I wonder how much of his $200 would be left? The court costs alone would take up most of it even if the attorney worked for nothing.

On the contrary, he does have a very real and valuable means of protecting himself. Mr. Binkowski says that the state department of labor has not sued on these claims. They do not have to sue on these claims. All the employee has to do is file a claim with the state labor department saying that he is an hourly worker, that he has not been paid his wages and, at no expense to himself, the department of labor investigates that claim. If they find that the claim is well founded, they ask not for payment of it but they can ask for a criminal warrant against the employer if he does not pay the claim. That is through the prosecutor's office in each county. This is a far more valuable tool to the working man than this section here could ever possibly be to him. If it did afford any real protection to the working man, I personally would favor its being kept but I know that it does not. It affords no protection to him whatsoever, simply because his claim is never big enough that he can afford to go through the legal procedures required to collect it. I oppose the minority report amendment, for I find no reason to keep useless language in the constitution.

CHAIRMAN YEAGER: The question is on the minority report amendment. The Chair will recognize Mr. Snyder.

MR. SNYDER: Thank you very much, Mr. Chairman. I regret exceedingly that we must take up a problem of this importance so late at night and with so few of us tackling what I feel is a very critical problem, a very sensitive problem, and one on which many people will judge us by our actions.

I think what we should do, first of all, is analyze the problem that we have before us. Mr. Binkowski has done this in a way, but I would like to translate to you what I feel is the problem. I feel that the problem here before us is this: we have an employee, a relatively low rated employee, sometimes a mechanic who has accumulated 1, 2, 3 or, at the most, 4 weeks of pay through circumstances over which he has no control because he has applied himself to his work; he has not looked to the right of him or to the left of him; but suddenly he finds that his livelihood is gone. You can imagine the shock, the dismay, the frustration and the sense of loss that he is faced with at this particular time. He feels comfortably secure that he at least has a week or two of wages coming.

We find at this particular point that all of the protections that are alleged or purported to be available to him are not there. The law does provide, under a bankruptcy proceeding, certain priorities. But other people have certain claims to his wages before he does: the government and taxes get a claim. There are other individuals who have claims. And if the entrepreneur of the establishment that has gone bankrupt has concealed the shape of his venture, at this particular point the assets of the corporation are at such a low level that there is nothing for the worker to obtain.

Now I certainly must disagree with the learned gentlemen who say that his protection is in the legislature. I had not been aware of this but, accidentally, I came across 2 bills that were introduced in the house during this session: one was senate bill 1006 and one was house bill 77. And at the time when the proponents of this exclusion report were saying that we must have our trust in the legislature and they would be taking care of the working man, only a few hundred yards from us there was a move underfoot that would take away some of the protection that the working man has.

I disagree, and I disagree with sincerity, and I disagree with humbleness, that this drives corporations from the state. The type of corporations that we have involved here are the shaky corporations. They are the one purpose corporations that thrive upon a condition where they can exploit people. They know how far to drive. They know how to manipulate their assets so they can go into bankruptcy. This, I submit to you, is what we are trying to protect the working man from. The large, legitimate corporations have no fear. They have nothing to hide. They have nothing to lose from the continuation of their venture.

Now, I had a personal experience — and if you have had a personal experience along this line you can speak with more authority — I was involved in a situation in the city of Detroit when I had a group of 50 employees who were caught between the crossfire of the conditions that we are talking about now. And the indignity of it, the really tragic part about the whole situation was this: that the entrepreneur came to the employees and he said, "Now, look, fellows and girls, we have got to save our company; so go along with me and accept a deferred wage payment." By doing so, the employees weakened their position. And when he had gone so far, when he had mulcted so deeply, then he lowered the boom and then the employees were left with nothing. Under the bankruptcy procedure, there was nothing to claim because Uncle Sam was there first. Immediately behind him was the state of Michigan and immediately behind him was the county of Wayne and immediately behind him was the city of Detroit. At this particular point the pick-ings were pretty slim. There were hundreds of thousands of dollars that the employees had outstanding.

I am very happy to say that we found an attorney, a good attorney, like you fellows that are here, the 50 or 60 of you fellows here. He was sympathetic enough to work with us on it and he processed the case. And because we had the pressures in the constitution that permitted him to sue the principal stockholder under these conditions, he was able to effectuate not a full settlement but one which picked up a lot more than they could have otherwise. And I submit to you that if this was the only case, it would have been worth the problem that we had in this particular matter.

Now what is the price that we are prepared to pay for a good economic climate? I do not think that any of the 144 delegates would say in all honesty and in all sincerity that in order to get a good political climate, we must exploit the guy who works hard for a living. I do not think that is the intention of any of you here. But still, I submit to you, this is what would be permitted under the present exclusion report. There is nothing that is detrimental — nothing, absolutely nothing that is detrimental — to a good, sound, legitimate corporation. The only people that have something to fear are those who are the borderline cases and who deliberately set up these one purpose corporations with the idea of getting as much as they can out of this situation.

I know that many of the fellows back home have asked me what are we doing or what are we not doing to protect the interest of one particular group: labor. I tell them this: that it is not my particular purpose to come in here with a sharp axe and cut for any particular reason. I must look for the overall interests of the state and I feel in this, I feel that we have so many of our people involved that it would be a breach of trust to the people in the industrial areas and in these other areas if we would eliminate the one little section of the constitution — the one little section of the constitution — that gives them any right or any dignity.

Certainly, if we resort simply to bankruptcy procedure, we are confined to a very limited area. I do know this: that I have learned — and I am with our distinguished druggist who spent a lot of time with the attorneys — I have learned some aspects of the law and I have learned that, under the present setup, should a claim be executed against a stockholder and it is successful, then the stockholder has the right and the opportunity to seek his remedy against the board of directors. This is something that labor has not; so, actually, you are broadening the field by keeping what you have. I feel that we have a very strong and sacred principle involved here and I certainly appeal to the delegates to leave in the constitution that one, little, small portion that does give protection to a great many people in the state without harming at all the corporations, and I submit to you that this will not adversely affect the economic climate of Michigan.

CHAIRMAN YEAGER: The Chair would advise that there are 6 delegates seeking recognition, 6 more speakers, and will now recognize Mr. Gover.

MR. GOVER: Mr. Chairman, I have a question for Mr. Binkowski.

CHAIRMAN YEAGER: State the question, please.

MR. GOVER: Mr. Binkowski, how many times has this section 4 been used to collect money for labor in the last 5 or 10 years?

MR. BINKOWSKI: Well, Mr. Gover, I cannot give you an accurate number. In other words, what I think you are asking is how many times an attorney has used this particular provision in a court of law. Now I do not know the answer to this. As I told this committee — and I can read off the names and numbers, if you so desire, of the cases of these 2 labor firms in the Detroit area who had utilized it, who had gone that far, to court. However, to give you a full and complete answer — I think that the attorneys here are fully aware of this — you do not necessarily have to go to court to go ahead and utilize this provision. Very few attorneys are aware of it and I think that once the stockholders' attorney is aware of this particular provision and once they have gone through bankruptcy and exhausted all these other remedies — and if he is collectible, if the stockholder is collectible — generally, there is some kind of out of court settlement so that you do not necessarily resort to litigation. I cannot give you the exact number. I do not think anyone actually could because you would have to check up on all the documents in the state of Michigan. This would be practically impossible.

MR. GOVER: You have no estimate of any sort then, Mr. Binkowski and the Chair?

MR. BINKOWSKI: No, sir, I do not, but if I can leave this one thought with you: as I stated to this committee, we have not had one concrete example of where this particular provision has ever been abused in over 110 years of Michigan history. On the other hand, we have had many, many examples of where it has been utilized and where it has helped the laboring man.

MR. GOVER: That does not answer my question, but that is probably the best you can give for it.

CHAIRMAN YEAGER: The Chair will recognize Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman and members of the committee, I think there is a real chance for the convention to do something to help the state of Michigan in connection with this. I wish to speak against the amendment and in favor of the majority report of the committee.

I suppose that back prior to 1930, 1929, the response to Mr. Gover's question as to on how many instances the 100 per cent liability of bank stock owners was utilized would have been rather difficult, also; but after February of 1933, the situation arose and, as you probably know, each stockholder of a bank was liable for 100 per cent of the stock, the par value of the stock. Now, that applied both to national and state banks. Not only did the investor lose the original price paid for the stock but, also, was liable for an additional amount of 100 per cent, but it was limited to 100 per cent.

Perhaps some of you recall what occurred after some of those claims were enforced. An effort was made to get the banks going again and it was impossible to get them organized until 2 things happened. Fortunately, it was neither in the federal constitution nor in the state constitution; it was by statute both federal and state. Those statutes were repealed and then people were willing, after having been so burdened once, to invest in bank stocks.

Now, they asked for one instance of this being used. Let me tell you what was done in New York — and this could happen in Michigan. Talk about the business climate and what it could do to Michigan! This is in the preparatory commission's report and this is what happened. It is very brief. Again, fortunately, in New York, it was by statute and they were able to remedy it after once it was shown what could happen. In that case there was a newspaper by the name of The New York Compass that went into default. Here is the harshness of this law. Now, remember, this was a statute. In Michigan we have a statute, too. The exclusion of this constitutional provision, taking it out, would not affect the Michigan law as it now exists until the legislature changes it, but it would give the legislature a chance to make a fair and equitable law to fit the situation, that Mr. Binkowski and Mr. Snyder talked about, of the small closely held corporation organized for the purpose of doing something fraudulent. But let me show you what happened in New York:

> The harshness of this law is well illustrated by a recent New York case.

That happened to be just 10 years ago, in 1952.

> The statute in New York allowing suits against stockholders for "debts due and owing to any . . . laborers," was amended in 1952 to extend this liability to ". . . all compensation and benefits payable by an employer to or for the account of the employee for personal service by such employee . . . ." An insolvent newspaper, the New York Compass, had more than 2,300 stockholders. However, only 15 of these were "notified" that they were to be held liable pursuant to this statute. These 15, who had contributed only 5 per cent of the capital of the corporation, were sued for "fringe benefits" aggregating —

now listen to this —

> over $130,000. One of those so notified was the holder of

> one share of $10 par value, nonvoting stock. One stockholder, not notified, had contributed more than 87.5 per cent of the capital, but he was not a resident of New York, and hence was not joined in this action. The inequity worked by this statute is clear.

That is about all we need in Michigan — and you might take note that most of your large corporations in Michigan are incorporated in other states. It is not only on this ground alone but it is because of these other things that we have tried to eliminate and get out of here, so that we can have a modern, up to date corporation statute in the state of Michigan, so that our corporations will use Michigan rather than Delaware, Maine, New Jersey, and other states. Consumers Power, for instance, as testified to by Mr. Karn, is a Maine corporation although every bit of Consumers Power's business is done within the borders of the state of Michigan. Now, all that an unscrupulous incorporator has to do to avoid this Michigan constitution is to incorporate in one of the other states and he has no such liability, but this threat as it is put — this threat — if we have a period of depression where our corporations, Michigan corporations, get into difficulties and this threat is over the heads of innocent stockholders, you will never get those corporations going again. It will be the same situation as it was with the banks.

As far as the laborer is concerned, throughout the years since this originally went into the constitution in 1850, there have been 17 different statutes passed to protect the laborer. I am not here to hurt any laborer on a just claim, but I do say this: that it is in the interest of the people of the state of Michigan as a whole, including those laborers, to have a good climate for business as business is done today by corporations and our Michigan residents, our Michigan companies should be incorporated in Michigan. They should not have to go outside the state in order to incorporate to get the benefit of provisions that are up to date and modern and which, particularly, do not hurt the employee if the employer were incorporated in another state.

Just think of this: every time a corporation in Michigan files a stock registration with the S.E.C., that registration has to contain a statement notifying the persons who receive the prospectus that if they become shareholders in the corporation they will be liable for wage claims. I have here the offering circular of Theater Company of Michigan for 100,000 shares of common stock. On page 8, under description of common stock, "The corporation was incorporated under the laws of the state of Michigan on October 20, 1961," and so forth. The last sentence:

> The common stock offered herein will when issued be fully paid and nonassessable with the exception, however, that under the laws of the state of Michigan shareholders are liable for wage claims.

Now you cannot prove in the negative — it would be impossible to prove in this case or in any other case where a corporation is seeking to get equity capital to expand and provide employment — as well as profits for stockholders — where, with business today done so much by investment trusts, by investment specialists, how many times those specialists have received circulars such as this for Michigan corporations and have said to prospective purchasers, to funds, trust funds, and individuals: we can find plenty of good stocks where you will not become liable for an undisclosed amount.

If the provisions of the act hereunder based on the constitution should come into effect — and certainly no one in his right mind would hope so — I will have to be frank with you; I am not a corporation lawyer. In all the years I have practiced I just assumed — I knew it was there — I just assumed that it was common in every state. It was in working on the miscellaneous committee that I ran into this, and I will tell you frankly that I went back and told several of my clients to check up on their securities and find out if they were investors in Michigan corporations, and if they were that this was what their potential obligation was if anything happened to their companies. Now that is the situation that confronts you. Let us leave out the sentiment for the poor wage earner.

I asked Mr. Sachs — and, incidentally, Mr. Livingston and Mr. Rothe and Mr. Sachs, were not exactly impartial witnesses, as they were not exactly without some interest — but I asked Mr. Sachs when he was on the stand. I said, "Suppose you had a widow who had put her savings, her life savings, into a Michigan company in hopes to get a return to live on. She put the money up. She owned a very small number of shares of stock. Would you think that that woman — and we will assume that she had nothing to do, nothing to do, with the management of the company; she was as innocent as anyone, whether a stockholder or not; suppose that she was sued for these wage claims — do you think that she should be required to contribute?" And his answer was, "As between 2 innocent people, I think she should. It depends on what your philosophy is." And Mr. Snyder then said to me, "Won't you please lay off the widow in the vine covered cottage?" And so I will stop.

CHAIRMAN YEAGER: The Chair will recognize Judge Mosier.

MR. MOSIER: Last week there was distributed to each of us a button that we were importuned to wear that said something about going forward with Michigan and it brought to my mind, without knowledge that this exclusion report was coming up, the section of the corporation law that I have had contact with for something like 50 years. One of the early clients of my office was a man who was a director and a stockholder in a small corporation in my county, and he and 2 or 3 others were sued for a labor debt. I will not belabor you with all of the facts of the case other than to say that there was quite a large group of stockholders who were not included in that suit, but the man who brought this suit brought it against 3 or 4 of them because he did not like them and wanted to make them some expense. He was advised by his attorney that he had no claim because his claim was not a pure labor claim. He had done office work. He had done some other work. But he pursued his remedy and he caused these people a considerable amount of money and expense and embarrassment before the public, defending themselves because of this unfair, inequitable constitutional provision.

I say it is unfair because it compels the laboring man who is seeking to recover his debt, compels him, to do a lot of things that eat up that debt before he ever gets compensation. First he has got to present his claim. If it is disallowed by the company, he can do this: he can commence a suit and get a judgment against that company. That does not do him any good. He has then got to do one of two things: he has either got to see that that company, if it goes through bankruptcy, files his claim with the bankruptcy court, or if it does not go through bankruptcy he has got to issue or show cause to be issued a writ of execution and it must be returned nulla bona or no return, no good. Then he can commence a second lawsuit. And here I am wondering, Mr. Binkowski, if in the interest of these working men and laborers who you say save $200 claims, are they going to have to have 2 lawsuits in the circuit court before they can recover their claims? And in the end, if they do recover, they recover against the innocent purchaser of a share of stock.

This constitutional provision and the statute in Michigan which implements it does not pick out all the stockholders and say that all the stockholders are liable and must respond, but it is only those that the laboring man wants to sue. He can sue one, he can sue half a dozen, or he can sue all. But in the case that I have reference to — which is the only case in 50 years' experience that I know has ever been tried to the end in the thirty-sixth judicial circuit — and that is the 2 counties of Cass and Van Buren — it works an injustice to the man or the woman who innocently purchases stock and finds that he has a liability that he did not know about.

Now I have had occasion, through people coming to my office to incorporate, to find that I had to talk about this provision, when I was practicing law, and say to them: you are stockholders. If you incorporate in Michigan, by our law you are liable for these labor debts. I have seen them shy away and they have taken their incorporations to Delaware or New Jersey or some other state that was more favorable, and Michigan was deprived of the benefit of that corporation being a Michigan corporation.

I have seen over these years — and it is some 50 years — that this works an injustice, that it is inequitable and unfair, and I am opposed to this amendment and hope that the report of the committee will prevail and that this provision in the constitution will be stricken.

CHAIRMAN YEAGER: The Chair will recognize Mr. Hood.

MR. HOOD: Mr. Chairman and members of the committee, it just so happens that I am wearing one of those buttons that Judge Mosier spoke about and I take no back seat to anyone in my interest in the forward march of Michigan. However, I do not think it has too much to do with the question at hand, what we are talking about now.

I know the time is late and I rise with a little bit of trepidation because I know that most everyone is probably interested in getting this over with, and I would say that — somewhat like my friend, Joe Snyder — I think it is unfortunate that a proposal of such importance would be put to the last, so late at night, because I think this is really one of the proposals that we have talked about over the past few months.

Mr. Lawrence talked about the fact that there would be an abuse, and of all the people that appeared before our committee I am frank to say that no one pointed out any instance in which there has been an abuse of this section in the constitution. As a matter of fact, I want you to remember that it has been there for 111 years and at this point no one, except for the case which Judge Mosier pointed out — and I do not think that was an abuse at all; I think it was just somebody trying to get something that they deserved — I believe the elimination of this section from the constitution would be just another instance in which the little fellow, the working man of our state, gets it in the neck again, either through restrictive language or the absence of language in the constitution. For these reasons I support the minority report amendment.

CHAIRMAN YEAGER: The Chair realizes the importance of the amendment but would like to remind you that the lady over here taking the verbatim record has now been working continuously for 4½ hours. The Chair will recognize Mr. Binkowski.

MR. BINKOWSKI: In deference to our court reporter and you people here, I will make my remarks brief, but I do think that we need some refutation of the statement made by Mr. Habermehl that this provision "provides no protection to the working man whatsoever." I think we have demonstrated this. I think we have done everything that we could by bringing in expert witnesses before the committee, people who work in this field and who have utilized section 4.

I think another argument as made on this convention floor should be questioned. That is the proposition that this particular provision tends to drive corporations out of Michigan. You know I learned a lot in the committee on miscellaneous provisions being with Senator Hutchinson, and Senator Hutchinson asked this question — I do not know whether he ever received the answer, but I think it should be asked here on the floor again — and he asked, "Of what value is it that a corporation incorporates in Michigan or not?" I think one of the answers is that it is just the same, as long as the corporation does business in Michigan. It is subjected to the same taxes, and so forth, as any other corporation; so Michigan does not lose any taxes as such. We do not lose any jobs or anything like that. I'm not saying that we should keep this particular provision in here to purposely drive out corporations. In fact, I think we have demonstrated through the testimony of the commissioner, Mr. Clevenger, of the corporation and securities commission, that Michigan has increased its rate of incorporation above all the states when the national average was going down.

So while the proponents have raised this bugaboo and this red herring, they have not proved it. The fact is, all the testimony before us in the subcommittee has refuted this charge. I submit that it has not driven out any corporations and it has not contributed to any so called bad business climate.

In conclusion, again, I think that it would be remiss on our part if we did not explain to the committee that we attempted to compromise. We attempted to change this provision. It did not seem possible there was a compromise that could be arrived at. And so I would ask Mr. Lawrence and Mr. Mosier or anyone else here who is willing to help the laboring man, let us change this. I mean, we are not here to die on this particular provision.

I would just like to leave with a quote from Mr. Ted Sachs, who did take the trouble, as the counsel for the Michigan UAW-CIO, to testify before us. He stated as follows:

> It would not be the product of a progressive constitutional convention to strip him of the small protection he now has. It would invite extreme criticism of business domination of this convention at the expense of the working man. It would do all this unnecessarily — or, worse, unreasonably, for this section deserves constructive attention and amendment, not repeal, to extend its application to all employer financial responsibility arising out of the employment relationship with equitable limits of compensation and, at the same time, on the liability of a small or inactive stockholder.

So I think, ladies and gentlemen, that if you want to do something for the working man, here is your opportunity.

CHAIRMAN YEAGER: The Chair will recognize Dr. Norris.

MR. NORRIS: Mr. Chairman and fellow delegates, I have been moved by the many fine statements that were made for and against the amendment, and I think they reflect great credit upon this body. I think we have here the kind of problem that calls for some kind of solution and the various propositions that are before us do not seem to give equity to all the parties concerned. But it seems to me until we find something better, until we find that constructive and essential formula to accomplish the need of protecting the wage earner and to avoid unnecessary risks and harm to the small stockholders, we have to go along with the proposal in the constitution or the amendment before us. I would suggest that perhaps some kind of formula might be arrived at by those creative thinkers here and elsewhere in terms of some kind of insurance set up to insure against the kind of contingency from which this provision seeks to protect the laboring man. Just as you protect the people against being injured through physical injury, you can think in terms of some kind of protection for them from the corporate activity that results in a wage claim that does not become satisfied. Certainly, something along that line might well be given some thought here.

Then, there is, of course, an answer, I think, to Mr. Habermehl's point with regard to the question of the usefulness of this particular provision. We talk in terms, unfortunately, of the $200 claim. It is a fact that considerable experience in this field indicates that there is such a procedure as assignment of a claim to one person, so that when they are all grouped together it becomes a claim that is worth proceeding upon and justifies the effort. And I do think that it is not because it is not useful but because there is apprehension that it might be useful that this particular provision ought to be part of the constitution.

In addition to that, there is here the normal inequity that arises out of any joint liability. There is a whole segment of the law where there is joint liability in a variety of circumstances and that is what is involved here. Just a carryover on that principle of law is here and it seems to me that, while there is some inequity in it, you do have a field of precedent to be followed. I think what you have, in a sense, in this particular provision is the placing of a burden on the board of directors, a duty, if you will, to protect the stockholders and to prevent the kind of contingency where wage claims are not satisfied from arising in the first instance. This is a kind of preventive measure, a preventive law measure, that is involved and I think on that basis alone that there is, in my opinion, a good argument for its continuation. Basically, however, I do not see how reputable businessmen can possibly take the position that the only way they can be encouraged to operate in Michigan is by being allowed to avoid any possibility of full liability for wage claims. I think that is the condition of risk in the free enterprise system. It is a cost of doing business. It is the kind of thing by which, in essence, they justify their existence: namely, by assuming risks, providing capital and providing jobs and services — as well as making a profit for the stockholders. This is a part of the whole free enterprise system and it seems to me that we do a disservice to business to make a pronouncement on the floor of this convention that the way to encourage business is to let it avoid liability — with some semblance of teeth — for wage claims that are not satisfied.

I wish to remind the delegates that, in the last analysis, you do not have any protection at all unless you have solvent stockholders, and in many of these cases you do not have that. All you have here is a meager protection in the public interest — in the public interest as well as in the interest of the wage earner. I think that this particular amendment, bearing in mind all of the arguments that have been advanced — and very well said by Mr. Woolfenden and Mr. Habermehl and Mr. Snyder and Mr. Lawrence and Judge Mosier — with all these good arguments; nevertheless, I feel that this provision ought to be supported.

CHAIRMAN YEAGER: The Chair would remark that Monday will pass; it is past. The next speaker to be recognized is Mr. Snyder.

MR. SNYDER: What I wanted to say should have been said on Monday, so I will pass, Mr. Chairman.

CHAIRMAN YEAGER: Thank you. Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman, there is just one issue that I would like to suggest: Mr. Lawrence speaks about this widow. Of course, it was a very touching note but she has a remedy. She has a remedy against the other stockholders. She is not left without a remedy.

In that regard, in answer to Mr. Norris, it would occur to me that there is the possibility of limiting the liability to the amount of stock that a shareholder has in the corporation and making that the extent of his liability rather than making the poor little widow with one share of stock carry the whole load. Now with an amendment like that, I think the matter could be improved; but, in addition to that, she also has a right against the stockholders themselves which labor does not have. So it is not just one sided.

And always remember this: if, through his labor — if, as the result of the labor of these people who work, the stockholders make a lot of money, the laborer does not make any profit. He does not get any of it. All he is entitled to is his labor. So the thing kind of balances up. And then, these rights we are involved with here are constitutional rights. We are not setting up an equity court. By virtue of that fact, I think this is the one little spark of protection that people have who work for a living. I think it is about the only spark in the constitution that protects them and I think it ought to be left there.

CHAIRMAN YEAGER: The question is on the minority report amendment. There is one speaker left. The Chair will recognize Mr. Lawrence.

MR. LAWRENCE: If I were running for office, I think I would get more votes at this time of night if instead of talking I would just sit down. So if any of you feel so inclined, I am through. (applause)

CHAIRMAN YEAGER: The question is on the minority report amendment. The yeas and nays have been ordered. This is a recorded roll call vote. As many as are in favor of the minority report amendment will vote aye. As many as are opposed will vote no. The question, again, is on the adoption of the minority report amendment. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—35

Austin
Balcer
Binkowski
Bledsoe
Bradley
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Garvin
Hart, Miss
Heideman
Hood
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
McGowan, Miss
Nord
Norris
Ostrow
Perlich
Perras
Sablich
Snyder
Stopczynski
Walker
Wilkowski
Young

Nays—72

Allen
Andrus, Miss
Barthwell
Batchelor
Beaman
Bentley
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Kirk, S.
Kuhn
Lawrence
Leppien
Martin
McLogan
Millard
Mosier
Nisbet
Pollock
Powell
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden

SECRETARY CHASE: On the adoption of the minority report amendment, the yeas are 35; the nays are 72.

CHAIRMAN YEAGER: The minority report amendment is not adopted. Are there further amendments on file, Mr. Secretary?

SECRETARY CHASE: None.

CHAIRMAN YEAGER: If not, it will pass.

Exclusion Report 2033 is passed. The Chair will recognize Mr. Erickson.

MR. ERICKSON: I move the committee rise.

CHAIRMAN YEAGER: The question is on the motion of Mr. Erickson that the committee rise. As many as are in favor will say aye. As many as are opposed will say no.

DELEGATES: Division.

CHAIRMAN YEAGER: There is a call for division but the Chair declares this committee risen. (laughter)

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair will recognize Mr. Yeager.

MR. YEAGER: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 66,** A proposal relative to amendment and revision; **Committee Proposal 68,** A proposal pertaining to the schedule; and **Committee Proposal 62,** A proposal pertaining to grants of extra compensation. The committee made no amendments to these proposals and recommends their passage.

PRESIDENT NISBET: **Committee Proposals 66, 68** and 62 are accepted and referred to the committee on style and drafting.

For Committee Proposal 66 as referred to the committee on style and drafting, see above, page 2472.

For Committee Proposal 68 as referred to the committee on style and drafting, see above, page 2490.

For Committee Proposal 62 as referred to the committee on style and drafting, see above, page 2493.

SECRETARY CHASE: The committee of the whole also had under consideration **Committee Proposal 61**, A proposal pertaining to terms of public officers. The committee of the whole has adopted this with one amendment and recommends its passage as thus amended.

[The following is the amendment adopted by the committee of the whole:
1. Amend page 1, line 7, after "officers" by inserting a comma and "members of the legislature,".]

PRESIDENT NISBET: **Committee Proposal 61** is accepted as amended by the committee of the whole and referred to the committee on style and drafting.

Following is Committee Proposal 61 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The terms of office of all elective state officers, members of the legislature, and of all judges of courts of record shall begin on the first day of January next succeeding their election, except as otherwise prescribed in this constitution. The terms of office of all county officers shall begin on the first day of January next succeeding their election, except as otherwise prescribed by law.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 124**, A proposal pertaining to increase and decrease in the salaries of officials. The committee of the whole adopted this proposal with one amendment and recommends its passage as thus amended.

[The following is the amendment adopted by the committee of the whole:
1. Amend page 1, by striking out all of the proposal after the enacting clause.]

PRESIDENT NISBET: **Committee Proposal 124** is accepted as amended by the committee of the whole and is referred to the committee on style and drafting.

Following is Committee Proposal 124 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

(Note: The complete content of this committee proposal has been stricken.)

SECRETARY CHASE: The committee of the whole has also had under consideration **Exclusion Report 2033**, A report recommending the exclusion of article XII, section 4; has made no amendment thereto, and recommends its passage.

PRESIDENT NISBET: **Exclusion Report 2033** is accepted and referred to the committee on style and drafting.

For Exclusion Report 2033 as referred to the committee on style and drafting, see above, page 2495.

SECRETARY CHASE: That completes the report of the committee of the whole, Mr. President.

The meeting of the committee on executive branch that was scheduled for 8:00 a.m. tomorrow morning has been canceled and the committee will meet at noon tomorrow immediately upon the convention recessing for lunch. Delegate's suggestions are requested and members of the committee are requested to bring their lunch.

There are the following requests for leave: Messrs. McAllister and Page request leave from the session of Tuesday, April 17, 1962; Mr. Tubbs asks leave to be excused from the sessions of the balance of the week, April 17, 18, 19 and 20, 1962; Mr. McLogan requests leave to be excused from the latter part of Tuesday afternoon's session; Mr. Greene asks to be excused from the sessions of April 19, 20, 23, 24 and 25, 1962; and Mr. Cudlip requests excuse from the sessions of Tuesday and the morning and afternoon sessions of Wednesday, April 18, 1962.

PRESIDENT NISBET: Without objection, the requests are granted. Mr. Austin.

MR. AUSTIN: Mr. President, I move that the convention adjourn.

PRESIDENT NISBET: The question is on the motion of Mr. Austin that the convention adjourn. All those in favor will say aye. Opposed?

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 12:10 o'clock a.m., the convention adjourned until 9:00 o'clock a.m., Tuesday, April 17, 1962.]

ONE HUNDRED TWENTY-THIRD DAY

Tuesday, April 17, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** today will be given by the Reverend Duane Vore, superintendent, Michigan congregational conference, East Lansing. Will you please rise.

REVEREND VORE: Let us pray. Eternal God whose spirit moves in each of us that we may better understand ourselves and come to a better understanding of each other, grant to us in this day vision and courage to accept ourselves and each other in such a way that we shall build better under Thy guidance the ways in which men shall live.

It is not always easy to be patient; grant us Thy patience. It is not always easy to be firm without being stubborn, but grant us Thy firmness. It is not always easy to love, yet under Thy guidance and with Thy help, we shall not only love each other but shall like each other and in the liking discover the way that shall bind us one to another and unto Thee. Grant us Thy guidance and Thy care. We ask in Christ's name. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mrs. Conklin called in; she is not feeling too well and would like to be excused; and Mr. Marshall is ill and wishes to be excused indefinitely.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Mr. Bonisteel, Mrs. Conklin, Messrs. Cudlip, Ford, Greene, Marshall, McAllister, Page, Pellow and Tubbs.

Absent without leave: Messrs. Dade, Habermehl, Mrs. Hatcher and Mr. Murphy.

PRESIDENT NISBET: Without objection, the delegates are excused.

MRS. CUSHMAN: Objection.

PRESIDENT NISBET: There is objection. Those who are unexcused will remain unexcused. Mr. Kuhn.

MR. KUHN: I move that those who are absent be excused.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn. Those in favor will say aye. Opposed, no.

The motion prevails. Those absent are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Hatcher, Mrs. Conklin, Messrs. Dade, Murphy, Habermehl and McAllister.]

We are very happy this morning to welcome back Martin Baginski, who has been gone for some time with illness. Martin, we are glad to have you back. (applause)

Just for your information and so as to make the work of recording votes a little easier, Mr. Jones and Mr. Bradley very kindly consented to change their seats; so their acquaintance will be broadened in the area.

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Select committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: **Second reading of proposals.**

SECRETARY CHASE: Item 1 on the calendar, on second reading, **Committee Proposal 81,** A proposal pertaining to county government. Amends article VIII, sections 1, 2, 3, 4, 5, 7, 8, 9, 12, 13, 14 and 15.

Following is Committee Proposal 81 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 985.):

Sec. a. Each organized county shall be a body corporate[,] with [such] powers and immunities [as shall be established] PRESCRIBED by law.

Sec. b. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless in pursuance of law a majority of electors voting on the question in each county to be affected thereby shall so decide.

Sec. c. There shall be elected for 4 year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. d. The sheriff, county clerk, county treasurer[, judge of probate] and register of deeds shall hold their PRINCIPAL offices at the county seat.

Sec. e. The sheriff may be required by law to renew his security from time to time and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for [accidental] UNINTENTIONAL injuries received while in his custody. He shall not hold any other office except in connection with civil defense.

Sec. f. A board of supervisors[, consisting of 1 from each organized township, shall be established in each county, with such powers] SHALL BE ESTABLISHED IN EACH COUNTY CONSISTING OF ONE MEMBER FROM EACH ORGANIZED TOWNSHIP AND SUCH REPRESENTATION FROM CITIES as shall be prescribed by law. [Cities shall have such representation in the boards of supervisors of the counties in which they are situated as may be provided by law.]

Sec. g. The [legislature may by general law confer upon the] boards of supervisors [of the several counties] SHALL HAVE SUCH powers AND DUTIES [of a local, legislative and administrative character] AS PROVIDED BY LAW not inconsistent with [the provisions of] this constitution.

Sec. h. The boards of supervisors shall have exclusive power to fix the [salaries and] compensation of all county officials not otherwise provided for by law.

Sec. i. No county shall incur any indebtedness which shall increase its total debt beyond 10 per cent of its assessed valuation.

Sec. j. No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by 2/3 of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location[,] in [such] A manner [as shall be] prescribed by law.

Sec. k. No navigable stream of this state shall be [either] bridged or dammed without permission granted by the board of supervisors of the county under the provisions of law, which permission shall be subject to such reasonable compensation and other conditions as may seem

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

best suited to safeguard the rights and interests of the county and the municipalities therein.

Sec. l. The board of supervisors of each organized county may organize and consolidate townships under [such] restrictions and limitations [as shall be] prescribed by law.

Sec. m. The board of supervisors of any county with a population of [1 million] 1,000,000 or more shall have the power by ordinance to establish a merit system for county employment. The ordinance or any amendments thereto shall not take effect until approved by a majority of the [registered voters] ELECTORS voting thereon. All other counties may establish [such] merit systems as provided by law.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 81. The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, I yield to Mrs. Judd to offer an amendment to Committee Proposal 81.

PRESIDENT NISBET: The Chair recognizes Mrs. Judd.

MRS. JUDD: Mr. President, I believe the amendment is on the secretary's desk.

PRESIDENT NISBET: The secretary will read it.

SECRETARY CHASE: Mrs. Judd offers the following amendment:

1. Amend page 3, line 4, [section m] after "thereon.", by striking out "All other counties may establish merit systems as provided by law.".

MRS. JUDD: Mr. President and members of the convention, later on, under the executive branch, a provision was adopted by this convention providing for the very thing that is indicated in this last sentence. Our committee, therefore, feels that that does cover this and so, on recommendation of the committee on style and drafting, we would like to delete the last sentence. I believe that style and drafting also was interested in deleting all of the section, but we feel that until we know what the convention will do with Committee Proposal 76, we want to keep the first part of this and delete only the last sentence.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mrs. Judd. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Mr. Pollock offers the following amendment:

1. Amend page 1, line 6, [section b] after "shall so decide" by inserting a comma and "except that the legislature may by general law provide for the consolidation of counties".

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, the members of the committee may remember that I asked the committee on local government a question about this during its progress through committee of the whole. I did not get a satisfactory answer and I find nothing in the proposal which on a permissive basis would look in the direction of the consolidation of counties.

It seems to me clearly the wave of the future is toward the elimination of some of our units of local government and their consolidation and strengthening. Otherwise, I do not see how they can carry on the tasks which confront them.

Since there is some doubt in my mind — I understand that there is different advice from research and drafting, and I had other advice from other people — I am myself in doubt as to whether the legislature without this addition which I have presented would have the power to take care of the matter I have in mind. It seems to me, in any case, to have this clause in the constitution indicates that members of this convention at any rate had in mind that consolidation of some sort should be within the power of the legislature to enact. A good many states have already moved in this general direction although, generally speaking, little progress has been made in the consolidation of counties. There has been some consolidation of cities and counties. There has been some slight consolidation of townships. There has been a good deal of consolidation of school districts. I just want to be sure, Mr. President, that this power is possessed by the legislature, which by general law can regulate the matter in a satisfactory way.

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, I will yield to Mrs. Judd.

PRESIDENT NISBET: Mr. Elliott yields to Mrs. Judd.

MRS. JUDD: Yes, Mr. President, I, too, would want to be very sure that the possibility of consolidating counties or consolidating townships in the future was not prohibited in the constitution. I did confer with Dr. Joiner on this and he felt that since it was not specifically prohibited that the power still lay with the legislature to achieve this. I would want to feel that if the convention votes this down, it votes it down not as an indication of opposition to consolidation but, rather, on the assumption that it is presently possible in the constitution as this provision is now worded.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I, rising as a member of style and drafting, would inquire whether Dr. Pollock might better have moved to strike the section, section b, because, if we put this language at the end of section b, we nullify the rest of it. Section b says, "No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed. . . ." Now, then, by the consolidation of counties, why, you do reduce a county to less than the 16, and it says that that may be done only by a vote of the majority of the electors. And then Dr. Pollock's amendment would go on to say that the legislature may provide for it by general law. What you might better do is strike section b and then the legislature will have that power without any doubt at all.

PRESIDENT NISBET: The question is on the amendment of Dr. Pollock. Dr. Pollock.

MR. POLLOCK: Mr. President, it was because of the legal doubt about this — when lawyers disagree, you have to go ahead on your own, which is exactly what I have done. I follow the reasoning of Mr. Hutchinson and the main point is to make sure that the legislature does have that power and will be able to act in this important field. I think his constitutional advice is the best and, with the permission of the convention, I should then like to move to strike section b in place of having the additional clause. It is the sentence that precedes my proposed amendment that gave me considerable doubt. I think Mr. Hutchinson's reasoning is very sound. If the convention will permit me, I should be glad to revise my amendment, to strike section b.

SECRETARY CHASE: Mr. Pollock revises his amendment to read:

1. Amend page 1, by striking out all of section b, lines 3 through 6, inclusive.

PRESIDENT NISBET: The Chair recognizes the chairman of the committee, Mr. Elliott.

MR. A. G. ELLIOTT: I yield to Mr. Farnsworth.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I think we should read very carefully section b and go on down and point out very clearly that this is not a prohibition against consolidation of counties to less than 16 townships — "unless in pursuance of law a majority of electors voting on the question in each county to be affected thereby shall so decide."

Now, the question is: are you going to turn it over to somebody other than the people who are affected? This simply provides that if and when it is done, the local people will by their vote indicate that they are in agreement. Now if you believe in home rule and if you believe in keeping government close to the people, then you let the committee proposal stand as it is in section b. I think I can say on behalf of the committee that we do not want this disturbed.

PRESIDENT NISBET: Mr. Leibrand.

MR. LEIBRAND: Mr. President, Mr. Farnsworth has said what I was about to say. I am opposed to any amendment that would take the home rule right away from the counties affected.

PRESIDENT NISBET: The question is on the amendment of Dr. Pollock, as revised. Those in favor will say aye. Opposed, no.

The amendment is not adopted.

SECRETARY CHASE: Mr. King offers the following amendment:

1. Amend page 2, line 1, [section f] after "such" by inserting "elected"; so that going back to the beginning of the section on page 1, the language will read:

> A board of supervisors shall be established in each county consisting of one member from each organized township and such elected representation from cities as shall be prescribed by law.

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, as you may recall, I introduced this amendment on first reading, but withdrew it after considerable debate without the question ever being put to a vote. At that time I made the comment that if we got the type of self effecting home rule which I thought was essential to strong county government that I would at that time be willing to withdraw any objection I had to the standard county form and carry on this kind of a fight in my home county of Oakland.

I am not satisfied entirely — although we have made great progress in the area of home rule — I am not entirely satisfied that the legislature would write in such a provision or would even permit an elected county board of supervisors. I have had an opportunity to talk to many supervisors in my home county, many of whom are appointed. In fact, 75 per cent of the supervisors, approximately, in Oakland county are appointed. But as far as I am concerned, the board of supervisors is a legislative body. I don't want any appointed congressmen, any appointed senators, any appointed legislators, and I don't want any appointed supervisors. This is a policy making body and not an administrative board. So for that reason I have reintroduced my amendment with the hope that this time it will go to a vote. I hope the delegates here assembled will agree that it is essential that we have elected representation on the county board of supervisors. Otherwise, we can hardly complain if they are not responsive to the needs and desires of the people of the county. So without further comment I will offer my amendment at this time and hope that it will be favorably considered.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, I would oppose the King amendment for the same reasons that we went through before. I think most of us understand and, certainly, we ought to remember that the charters of most of our cities do provide that some nonelected members are members of the board of supervisors. Very commonly the charter provides that the city attorney is a member. Very commonly it provides that the city assessor is a member. Occasionally a city manager, although that is much less frequent, is automatically a member.

Now what we do if we make the change proposed by Mr. King is, we change the city charters and, in addition to that, it has been the experience, and I have found it personally to be true, that these technical experts are among the best members of the board of supervisors. Your city assessor is particularly valuable on matters of county equalization and any matters pertaining to taxation. The city attorney is a good expert in the legal field. Therefore, I don't think we should do it.

Now, outside of Detroit you will find that very few members of the board of supervisors are not some way or other elected. For example, in my city, the city commissioners are elected by the people and then, by virtue of office, go on the board of supervisors. But we do have, in addition to our 7 city commissioners, an appointed assessor and an appointed city attorney. The city commission has the right to put the city manager on. So this is the minority that we are dealing with outstate and I think it would be unwise to say that they must be elected. I also know that there are some cities in Michigan which have not had as good an experience as they would like with having entirely elected representation and have proposed in their charters to go to some appointments. Therefore, I think we tie up home rule too much. Now we just voted in favor of real home rule in our preceding vote. I think we should be consistent and stick with home rule and let cities make this determination and defeat the King amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, ladies and gentlemen of the convention, I would simply like to answer Mr. Allen and say that because these people that he referred to are not elected, are not eligible for election to the board of supervisors, does not necessarily deprive that body of their services or advice.

Mr. President, I would like to request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand seconded? Sufficient number up. The question is upon the amendment of Mr. King. Those in favor will vote aye. Those opposed will vote no.

MR. A. G. ELLIOTT: Mr. President. Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Is a comment in order?

PRESIDENT NISBET: The convention will be in order.

MR. A. G. ELLIOTT: Is a comment in order at this time?

PRESIDENT NISBET: You may make it.

MR. A. G. ELLIOTT: I would merely want to reiterate —

MR. KING: Point of order, Mr. President. Mr. President, I raise a point of order. The yeas and nays have been called for. I do not think a comment is in order.

PRESIDENT NISBET: You are correct. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—57

Austin
Binkowski
Bledsoe
Boothby
Bradley
Brake
Butler, Mrs.
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Follo
Garvin
Gover
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Higgs
Hodges
Hood
Hubbs
Hutchinson
Iverson
Jones
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Lesinski
Liberato
Nord
Norris
Perlich
Plank
Pollock
Powell
Pugsley
Radka
Richards, J. B.
Rush
Shanahan
Sharpe
Stafseth
Stamm
Sterrett
Walker
Wood
Woolfenden
Yeager

Nays—71

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
Dell
DeVries
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Gadola
Goebel
Gust
Hatch
Heideman
Howes
Hoxie
Judd, Mrs.
Karn
Kelsey
Krolikowski
Leibrand
Leppien
Madar
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Perras
Prettie
Rajkovich
Richards, L. W.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Sleder
Snyder
Spitler
Staiger
Stevens
Stopczynski
Suzore
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. King, the yeas are 57; the nays are 71.

PRESIDENT NISBET: The amendment is not adopted.

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: I am glad that remark was not necessary. What I really would like to say before we get too far along is to make it perfectly clear that, in my concept of the committee's approach to this matter of consolidation in section b, the defeat of the Pollock amendment in no way was a defeat of this concept. It is our judgment that the language is necessary here and the striking of it would not have performed the service that we wanted done, but that consolidation is available to the counties and to the state under the interpretation by law.

PRESIDENT NISBET: The secretary will read the next amendment.

SECRETARY CHASE: Mr. William Hanna offers the following amendment:

1. Amend page 1, line 20, after "Sec. f.", by striking out the balance of the section and inserting "A board of supervisors shall be established in each county with such representation from each township and city as shall be prescribed by law."; and on page 2, line 24, after "Sec. l.", by striking out the balance of the section and inserting "Townships shall be arranged, consolidated and dissolved as provided by law.".

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, the first part of the amendment, according to section f, simply says that the board of supervisors shall have such representation as shall be provided by law from each township and city.

Now the reason for offering this amendment is twofold: first, it is to allow the legislature to work out an equitable system based upon population or other factors of giving townships and cities representation on the board of supervisors that will be more equal than is possible under the present situation which limits each township to one and leaves to the legislature the discretion only as to the cities. The second reason for the amendment to section f is this: if you believe some of the interpretations placed upon the Tennessee case concerning representation on legislative bodies, then every board of supervisors, as now constituted in the states of New York, Pennsylvania, the northern half of Illinois, and Michigan — and probably Wisconsin — is unconstitutional or illegal. And if so, then we ought to leave to the legislature the power to solve this dilemma without freezing in the constitution something that would tie their hands. For these 2 reasons, I urge the adoption of the amendment which leaves the representation on the board of supervisors for both townships and cities with the legislature as distinguished from the present proposal.

With regard to section l concerning the consolidation and dissolution of townships, I merely ask that you apply the same home rule procedure by allowing townships to be consolidated or dissolved as provided by law so that the voters within a given township or 2 adjoining townships could, if the legislature so provided, consolidate their townships. You will never effectuate the consolidation of townships through a board of supervisors, but I am sure that in my own county you could consolidate several of the townships if the people of each township could consolidate as provided by law.

I urge these 2 amendments to strengthen, over the long future, local government; and it is only by strengthening local government that we preserve it.

MR. HIGGS: Mr. President.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: I would like to make a parliamentary inquiry, if I may. On second reading, it is my understanding that we must have 73 votes to approve any section. Would this also apply to the amendments? It would seem to me that if we make amendments with a simple majority, this — depending on the number of amendments made — may be detrimental to the final passage which requires 73.

PRESIDENT NISBET: In response to your inquiry, Mr. Higgs, it does not require 73 votes for an amendment. It only requires 73 votes for the final passage of the proposal itself.

Incidentally, the Chair might say to the people on this side of the room that the bulb in their projector is burned out and they are working to get another one now and will have it as soon as possible. The Chair recognizes Mr. Finch.

MR. FINCH: Mr. President, I wasn't following the conversation too closely, but could we divide the question on this? They are 2 separate amendments. I would ask that it be divided.

PRESIDENT NISBET: All right. Without objection, we will discuss the first part of the amendment.

[The first part of the amendment reads as follows:

1. Amend page 1, line 20, after "Sec. f.", by striking out the balance of the section and inserting "A board of supervisors shall be established in each county with such representation from each township and city as shall be prescribed by law.".]

MR. FINCH: I would just like to say, I like the first half but not the last half.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: May I ask Mr. Hanna a question? I am not sure, Mr. Hanna, whether your amendment would guarantee to each township and city one supervisor or whether you may be talking in a collective capacity. I would read it that it would guarantee one to each. Am I right or wrong?

MR. W. F. HANNA: Mr. President, Mr. Allen, I do not intend it to be a guarantee of one to each township, as a constitutional guarantee, for the reason that that may be impossible if you apply the broad language of the Tennessee case to the county board of supervisors. I would assume, however, that unless the courts force the legislature to do otherwise, they certainly would start with the premise that each unit of government had at least one on the board of supervisors. But I do not intend a constitutional requirement that each township have one, because this may run into the constitutional prohibition as interpreted by the courts.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: I would like to request the yeas and nays on the amendment.

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand seconded? Sufficient number up. The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, I am in favor of this amendment of Mr. Hanna's. I see where there is a possibility, but it is very slim, that the legislature would not see fit to give each township the one member of the board of supervisors it has today. To me, this would be a fair solution and I am willing to go along with this. It is incredible today that certain townships as high as 50,000 in population only have one member on the board of supervisors and I therefore urge the support of this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I rise in opposition to this Hanna amendment for these reasons: I believe that there has been a lot of work and research done on this by the committee and by style and drafting and I think it is sound. I think that the way the amendment is worded, unless I have the wrong impression, it would be giving the legislature a little bit too much power to eliminate the rights of the rural people to elect their township or county officials. Now I am just being suspicious about this because as your population grows, your representation is coming more from the metropolitan areas and I think it would be a gross injustice to the rural communities if we let this pass.

PRESIDENT NISBET: The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, this, of course, should be recognized for what it is. It is another attempt, as was made in committee of the whole, to undo what the committee on local government spent many, many weeks formulating.

Now I would submit to you that the Hanna amendment, in the first instance, guarantees nothing to anybody. I do believe it says "supervisors," so you could conceivably have 2.

The legislature could go all the way down to that. This does not guarantee a thing to the townships. It guarantees nothing to the cities. Now the height of folly is in injecting this Tennessee court decision into the thing. Bill Hanna is a lawyer. He knows very well that it has not the remotest connection with it. It just has absolutely no connection with it at all. And I would remind you, Mr. Hanna, that I have an honorary degree in your fraternity. (laughter)

Now we recognize that there are townships, there are some few townships that do have high population. We know exactly which ones they are. They were studied in local government. We know that on a population basis they are not equal on the board of supervisors with some other townships, but we say to you that they are in the minority, very definitely in the minority. We say to you, Mr. Hanna, that at any time if the legislature feels there is a disproportionate representation on the board of supervisors between the townships and the cities that all you have to do is to go to the legislature and say to them: this formula for providing supervisors from cities is not fair and you should change it. And you can change it in any session of the legislature that you have enough votes there to change it. So there is your remedy.

Now this particular township that you feel is so under represented — you said it had 50,000 people in it — there is nothing to keep them from going into the city status at the present time and getting a larger share on the board of supervisors if they wish. I am sometimes confused that the people who are so intent on getting an absolute population basis on a board of supervisors are the very same people that would like to keep the senate of the state of Michigan on an area basis. Let us be consistent.

The committee is opposed to any change in section f. They are also opposed to any change in section l. On section l, Mr. Hanna says that he thinks that 3 of his townships should get together. I say to you, Mr. Hanna, under the committee proposal they could get together. There isn't any reason why they couldn't. Sure, they have got to have the approval of the board of supervisors, but are you telling me that if they agree that they want to consolidate and 3 of them become 1 that the board of supervisors would not go along with them? I am sure they would. There is no problem there. All you have to do is follow the committee report.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, I will pass. Mr. Farnsworth has done very, very well.

PRESIDENT NISBET: The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, members of the convention, the only thing I have to say is that I do not interpret the language as Mr. Hanna does or as has been suggested by Mr. Allen. I believe that saying the words "such representation from each township and city" contemplates that there will be representation from each township and city. Therefore, a yea vote by me on this proposition does not mean that townships could be precluded from representation and I assume that a yea vote will therefore carry the interpretation which I have just set forth.

PRESIDENT NISBET: The Chair recognizes Mr. Follo.

MR. FOLLO: I don't wish to take much time on this, Mr. President, but I would like to take just enough time to say again what I said here once before, that there are certain counties — I think Delta certainly is one of them and I think Grand Traverse is another, if I am not mistaken; I think Mr. Sleder said the same thing — where you have one larger city, maybe 2, as in Delta county, which are outnumbered now by the townships. We have 2/3 of the population in Escanaba and Gladstone, but we have less than ½ of the number on the board of supervisors and we are constantly outvoted by them. This would throw this further out of balance. Therefore, I oppose this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Those in favor of the —

MR. A. G. ELLIOTT: Mr. President, sir.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: I would just like to urge all committee members to defeat both of these amendments that have been thoroughly discussed both in our committee and in committee of the whole and then again in the committee meetings we have had since we have passed first reading. I am sure that they do not protect the townships the way the townships wish to be protected.

PRESIDENT NISBET: Mr. Hodges has an amendment to the amendment.

SECRETARY CHASE: Mr. Hodges offers the following amendment to the amendment offered by Mr. William Hanna:

1. Amend the amendment, after "city" by inserting "on population"; so the language will then read, "A board of supervisors shall be established in each county with such representation from each township and city on population as shall be prescribed by law."

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, I am somewhat sympathetic with the amendment. I think that some case can be made for the townships being under represented but, in the same vein, many cities outstate, I understand — and this is not a problem in the city of Detroit; we do have equitable representation on the Wayne county board of supervisors — are vastly under represented. I think that if we should take care of this problem for one, it should be for all. I think that this is the real basis of representation, anyway, and I request support of the amendment.

PRESIDENT NISBET: The question is on the amendment of Mr. Hodges. Mrs. Judd.

MRS. JUDD: Mr. President, I just want to remind the convention that we went 'round and 'round and 'round on this in committee of the whole and found, just as we had in our committee, that every county has a different problem, that it is impossible to set up specifications in the constitution that would suit them all, and that our provision for county home rule does make it possible for counties that want to change this, if the legislature acts, to do so. And this is the reason that we decided, both in committee and in committee of the whole, not to try to tamper with this provision.

PRESIDENT NISBET: The question is on the amendment of Mr. Hodges. Those in favor will say aye. Opposed, no.

The amendment to the amendment is not adopted. The question is now on the Hanna amendment. The yeas and nays have been demanded. Those in favor of the amendment of Mr. Hanna will vote aye. Those opposed will vote nay.

MR. G. E. BROWN: Mr. President, would you make it clear as to which part of this amendment we are now voting on?

PRESIDENT NISBET: You are voting on the first part of the Hanna amendment. Mr. Chase, will you read it, please?

SECRETARY CHASE: The first part of the amendment is:

[The amendment was read by the secretary. For text, see above, page 2508.]

PRESIDENT NISBET: The question is on the first part of the Hanna amendment. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—36

Anspach
Austin
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
DeVries
Doty, Dean
Doty, Donald
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Finch
Garvin
Hanna, W. F.
Hart, Miss
Hatch
Higgs
Hutchinson
King
Krolikowski
Kuhn
Lawrence
Murphy
Nord
Norris
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Walker
Yeager

Nays—85

Allen
Andrus, Miss
Hoxie
Iverson
Rajkovich
Richards, J. B.

Baginski
Balcer
Batchelor
Beaman
Bentley
Blandford
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Donnelly, Miss
Durst
Elliott, A. G.
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Haskill
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Lesinski
Madar
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sleder
Snyder
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the first part of the amendment of Mr. William Hanna, to section f, the yeas are 36; the nays are 85.

PRESIDENT NISBET: The first part of the amendment is not adopted. The question is on the second part of the Hanna amendment. Those in favor will vote aye. Those opposed will vote no. Well, that wasn't very good. The second part of the Hanna amendment will be read by the secretary.

MR. FAXON: We were supposed to have the yeas and nays on this amendment.

PRESIDENT NISBET: You asked for the yeas and nays on the first part. Do you want the yeas and nays on the second part, too?

MR. FAXON: Yes, Mr. President.

PRESIDENT NISBET: Is that demand seconded? Okay. The secretary will read the second part of the Hanna amendment.

SECRETARY CHASE: The second part of the Hanna amendment:

1. Amend page 2, line 24, after "Sec. 1.", by striking out the balance of the section and inserting "Townships shall be arranged, consolidated and dissolved as provided by law.".

PRESIDENT NISBET: The question is upon the second part of the amendment. Those in favor will vote aye and those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—42

Allen
Andrus, Miss
Anspach
Austin
Barthwell
Bledsoe
Bradley
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Downs
Durst
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Garvin
Hanna, W. F.
Hart, Miss
Higgs
Hodges
Hood
Jones
Kelsey
King
Krolikowski
Lesinski
McLogan
Murphy
Nord
Norris
Ostrow
Rajkovich
Sablich
Spitler
Stafseth
Staiger
Stamm
Sterrett
Yeager

Nays—84

Baginski
Balcer
Beaman
Bentley
Binkowski
Blandford
Boothby
Brake
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Brown, G. E.
Buback
Butler, Mrs.
Dade
Dehnke
Doty, Donald
Douglas
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hannah, J. A.
Haskill
Hatch
Hatcher, Mrs.
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Madar
Martin
McCauley
McGowan, Miss
Millard
Mosier
Nisbet
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Shanahan
Sharpe
Sleder
Snyder
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the second part of the amendment offered by Mr. William Hanna, to section 1, the yeas are 42; the nays are 84.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Downs offers the following amendment:

1. Amend page 3, after line 5, by adding a new section n to read as follows:

"Sec. n. Two or more counties may combine into a single county provided a majority of the voters of each county approve such combination and the counties are contiguous.".

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? A sufficient number up. Mr. Downs.

MR. DOWNS: This provision very simply adds a separate section to stand all by itself to make it clearly possible that counties could combine if the voters of each county approved such combination. Now I think this states it in its simplest terms. It is clear cut language. And it is, of course, optional under this with the voters of each county. It retains the power in the people for such an important problem as consolidation. I urge its support.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: A question through the Chair to Mr. Downs, Mr. President.

PRESIDENT NISBET: If Mr. Downs cares to answer. Mr. Downs, a question to you, if you care to answer.

MR. DOWNS: Yes.

MR. PERRAS: Mr. Downs, by this wording now, would it be possible for one — would this have to be the majority of each county? In other words, if one county turned it down, the larger county wouldn't be able to annex a smaller county by having a larger vote?

MR. DOWNS: That is the intent, Delegate Perras. The language is "a majority of the voters of each county" voting thereon. If it would make it more clear, we could add the words "voting separately." It is clear enough to me this way.

MR. PERRAS: I would like that. Otherwise, I would not vote for it.

MR. DOWNS: I would, then, if it is agreeable with the delegates, insert the words "voting separately" after the term "each county" to make it absolutely clear. I don't think that addition is needed, but if it will strengthen the amendment I will be glad to add that.

SECRETARY CHASE: Mr. Downs revises his amendment so that it will read:

1. Amend page 3, after line 5, by adding a new section n to read as follows:

"Sec. n. Two or more counties may combine into a single county provided a majority of the voters of each county voting separately approve such combination and the counties are contiguous.".

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President, I would like to direct a question to Mr. Downs.

PRESIDENT NISBET: If Mr. Downs cares to answer.

MR. KING: Mr. Downs, do you mean a majority of the voters voting on the question?

MR. DOWNS: Now that's a good question, Delegate King. I hadn't thought of it until now. Just bear with me a minute. I would assume that we could say — if you want to add it — I would assume it would mean a majority of the voters voting on the question, yes.

MR. KING: I would like to have you add it, and then if style and drafting thinks it is not necessary, they could take it out. I think perhaps it is necessary.

MR. DOWNS: Mr. President, if it is agreeable, after the word "voters" I would insert the words "voting on the question."

SECRETARY CHASE: Mr. Downs further revises his amendment so that it now reads:

1. Amend page 3, after line 5, by adding a new section n to read as follows:

"Sec. n. Two or more counties may combine into a single county provided a majority of the voters voting on the question of each county, voting separately, approve such combination and the counties are contiguous.".

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, our committee, I am sure, has absolutely no quarrel with this concept. I would merely point out to you that you are doing a beautiful job of legislating in the constitution. I think that we have already made it perfectly clear that the language that we have in the constitution makes this possible. If you will look back at section b and if you will listen to the testimony that was given to you by Mrs. Judd and others, you will see that it is the intent of the committee to make it possible for counties to combine if they want to. Now Mr. Downs has already seen what happens when you try to put legislation in the constitution. You have to then start to amend your legislative act in order to perfect it.

I really don't have any great — I have no quarrel whatsoever with the concept, but feel that it is completely unnecessary as constitutional language. Mrs. Judd made it clear to you in her original presentation that one of the directors, Dr. Joiner, had convinced her in conversation that this was not required and, as a result, we defeated the Pollock amendment. I would urge that we not legislate now in this proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Upton.

MR. UPTON: I have a question for Mr. Downs.

PRESIDENT NISBET: Mr. Downs.

MR. UPTON: Mr. President, I am wondering why he feels this is necessary when we have covered this, in my mind, in section b. I have certainly no objection to being able to combine counties by the majority vote but I think that we are duplicating ourselves. Section b covered it very thoroughly, I think.

MR. DOWNS: Were you done, Mr. Upton?

MR. UPTON: Yes.

MR. DOWNS: May I answer the question now, Mr. President? I think that question is well put. There has been a very honest difference of construction on the floor of the convention as to whether or not section b does include this. The only intent here was to make this absolutely clear. Whereas section b talks about the limitation below the 16 townships, I think that Delegate Elliott and others have indicated that section b does authorize this. Really, the intent is just to make it clear beyond any possibility of a doubt that this is possible.

MR. UPTON: Thank you.

PRESIDENT NISBET: The Chair wants to warn the delegates that we are operating under the convention now and rule 24 applies. The Chair recognizes Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I would just like to point out the reason for my concern on this, leaving this to the legislature. If you will remember what happened some time back, I think it was 1958, the legislature changed the rules on consolidation of school districts. From the time the petitions were circulated among the smaller districts, the rules were changed. When the vote came up, the smaller districts found out that they were not voting on the question individually as townships but that the majority of the votes prevailed. There were many small districts that were annexed to larger against their own wills, and this is the only reason that I am concerned about this particular section.

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President, would I be in order to ask a second question or would I be speaking twice?

PRESIDENT NISBET: You are speaking twice, Mr. King.

MR. KING: Thank you.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Downs. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted?

Without addressing my remarks to any delegate, may the Chair say now to the convention: it isn't quite as simple just to be in the hall. The Chair is of the opinion you should be in your seat as much as possible because votes are coming up pretty fast.

Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—79

Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Binkowski
Boothby
Brake
Brown, G. E.
Buback
Butler, Mrs.
Dade
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Follo
Garvin
Gover

Gust
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
Millard
Mosier
Murphy
Nord

Norris
Ostrow
Perras
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Stamm
Sterrett
Stevens
Stopczynski
Upton
Van Dusen
Walker
Wilkowski
Woolfenden
Young
Youngblood

Nays—43

Allen
Batchelor
Beaman
Bentley
Bradley
Cushman, Mrs.
Danhof
Dehnke
Dell
Elliott, A. G.
Farnsworth
Figy
Finch
Gadola
Goebel

Hannah, J. A.
Haskill
Howes
Hoxie
Hubbs
Hutchinson
Kirk, S.
Koeze, Mrs.
McCauley
McLogan
Nisbet
Perlich
Plank
Powell

Prettie
Rood
Rush
Sleder
Spitler
Stafseth
Staiger
Suzore
Turner
Tweedie
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Downs to add a section n, the yeas are 79; the nays are 43.

PRESIDENT NISBET: The amendment is adopted. The next amendment?

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend page 1, line 22, [section f] after "consisting of" by inserting "at least"; so the language will then read:

A board of supervisors shall be established in each county consisting of at least one member from each organized township and such representation from cities as shall be prescribed by law.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, now this will do what Mr. Farnsworth thought we could do earlier. At least that was the implication he gave me. He said: now, gentlemen, in the townships, if you don't like what you've got, go to the legislature and let them change it. And I would like to call it to your attention that if we did, the legislature couldn't do a thing about it because, by the constitution of 1908 — and they want to continue it in this one — the legislature is prohibited from doing anything for any township. It is mandatory that they give them only one.

Now we do not want to write a formula here today and, therefore, we are offering this simple amendment which says only that they shall have at least one, and then if the legislature in their wisdom think a township should have more than one, we can petition the legislature. This is a very simple amendment but it would give the legislature the right to correct a bad situation if they thought it necessary.

I would like to point one thing out before I close: a city can have as little as 751 people and have 2 members on the board of supervisors, and I therefore think, without writing any formula, that we should at least allow the legislature to consider a township with a greatly larger population.

MR. FARNSWORTH: Mr. President, I am somewhat confused as to what I said, as stated by Mr. Kuhn. Mr. Kuhn apparently misunderstood what I said or else he misquoted me. I did not for one moment say that the townships should go to the legislature for relief. We well know they cannot do that because the constitution as we propose it says that they will have one supervisor. What I did say, Mr. Kuhn, was that if you thought you were not fairly represented, proportionately, between the cities and the townships that you could go to the legislature and have them revise the city formula reducing that.

Now I want to call your attention again that here is another back door approach to accomplish what all of these proposed amendments through the committee of the whole and prior to today tried. It is simply a back door approach to accomplish the same thing. When they say "at least one," that is a simple invitation for somebody to construe that the legislature could provide for one or more. It simply is a different way to say it. The committee is opposed to it and we hope that you will promptly vote it down.

PRESIDENT NISBET: The Chair recognizes Mr. Follo.

MR. FOLLO: The reasons I gave before when we were talking on Mr. Hanna's amendment are the same reasons I have for opposing this amendment.

PRESIDENT NISBET: The question is on the amendment of Mr. Kuhn. Those in favor will say aye. Opposed, no.

The amendment is not adopted. Any further amendments?

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? Sufficient number up. Those in favor of the Kuhn amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Kuhn, the yeas are 38; the nays are 84.

PRESIDENT NISBET: The amendment is not adopted. The question is on Committee Proposal 81, as amended. Those in favor of Committee Proposal 81 as amended will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. BRADLEY: Mr. President, I cast a no vote to express my general dissatisfaction with the work of the convention thus far on this article, but as a latecomer I realize that this is only an outsider's opinion. Therefore, I wish to change my vote at this time to make it unanimous.

PRESIDENT NISBET: How do you want to vote, Mr. Bradley?

MR. BRADLEY: I wish to change my vote to aye and go along with the convention.

PRESIDENT NISBET: Bradley votes aye.

The roll was called and the delegates voted as follows:

Yeas — 120

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Gadola
Garvin
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Madar
Mahinske
Martin
McCauley
McLogan
Millard
Mosier
Murphy
Nisbet
Nord
Norris
Ostrow
Perlich
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays — 7

Donnelly, Miss
Douglas
Finch
King
Plank
Walker
Young

SECRETARY CHASE: On the final passage of Committee Proposal 81, the yeas are 120; the nays are 7.

PRESIDENT NISBET: **Committee Proposal 81**, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 81 as amended and rereferred to the committee on style and drafting:

Sec. a. Each organized county shall be a body corporate with powers and immunities prescribed by law.

Sec. b. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless in pursuance of law a majority of electors voting on the question in each county to be affected thereby shall so decide.

Sec. c. There shall be elected for 4 year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. d. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. e. The sheriff may be required by law to renew his security from time to time and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in connection with civil defense.

Sec. f. A board of supervisors shall be established in each county consisting of one member from each organized township and such representation from cities as shall be prescribed by law.

Sec. g. The boards of supervisors shall have such powers and duties as provided by law not inconsistent with this constitution.

Sec. h. The boards of supervisors shall have exclusive power to fix the compensation of all county officials not otherwise provided for by law.

Sec. i. No county shall incur any indebtedness which shall increase its total debt beyond 10 per cent of its assessed valuation.

Sec. j. No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by 2/3 of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location in a manner prescribed by law.

Sec. k. No navigable stream of this state shall be bridged or dammed without permission granted by the board of supervisors of the county under the provisions of law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and the municipalities therein.

Sec. l. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations prescribed by law.

Sec. m. The board of supervisors of any county with a population of 1,000,000 or more shall have the power by ordinance to establish a merit system for county employment. The ordinance or any amendments thereto shall not take effect until approved by a majority of the electors voting thereon.

Sec. n. Two or more counties may combine into a single county provided a majority of the voters voting on the question of each county, voting separately, approve such combination and the counties are contiguous.

SECRETARY CHASE: **Committee Proposal 82,** A proposal pertaining to townships. Amends article VIII, sections 16, 17, 18 and 19.

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Can I move to waive the reading of the proposal?

DELEGATES: No.

PRESIDENT NISBET: Without objection you can, but there is objection.

MR. A. G. ELLIOTT: Okay.

Following is Committee Proposal 82 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1024.):

Sec. a. Each organized township shall be a body corporate with [such] powers and immunities [as shall be] prescribed by law[.] AND NOT INCONSISTENT WITH THIS CONSTITUTION.

[Sec. b. The legislature shall by general law confer upon organized townships powers of a local, legislative, and administrative character, not inconsistent with the provisions of this constitution.]

Sec. c. There shall be elected for a term OF not less than 2 years nor more than 4 years as provided by law in each organized township[: 1] A township supervisor[;], [1] A township clerk[;], [1] A township treasurer[;], and, not to exceed 4 township trustees, whose LEGISLATIVE AND ADMINISTRATIVE powers and duties shall be [provided] PRESCRIBED by law.

Sec. d. The legislature shall provide by law for the [elimination] DISSOLUTION of township government whenever [there is no] ALL THE territory [which is not] OF A TOWNSHIP IS included within the [borders] BOUNDARIES of a village [within such township.] OR VILLAGES AND PROVIDE BY LAW FOR THE CLASSIFICATION OF SUCH VILLAGE OR VILLAGES AS CITIES NOTWITHSTANDING THAT A VILLAGE MAY INCLUDE TERRITORY WITHIN ANOTHER TOWNSHIP.

Sec. e. No township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless [such] THE proposition shall have first received the affirmative vote of a majority of the electors of such township voting thereon at a regular or special election.

PRESIDENT NISBET: The question is on Committee Proposal 82. There is an amendment.

SECRETARY CHASE: Mr. Garry Brown offers the following amendment:

1. Amend page 1, line 2,[section a] after "immunities" by reinserting "as shall be"; and after "law.", by striking out "and not inconsistent with this constitution."; and on line 4, by reinserting section b to read as follows:

"Sec. b. The legislature shall by general law confer upon organized townships powers of a local, legislative, and administrative character, not inconsistent with the provisions of this constitution.".

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. President and members of the convention, you will note that this amendment merely leaves the language as it was when it left the committee of the whole on first reading.

I am quite disturbed over what style and drafting has done in view of the argument that occurred on the floor at first reading with respect to this language. I think that the amendments — although they involve 2 sections — that the language should be treated together because it merely puts the language back as it was after first reading. There has been an attempt by the committee on style and drafting to eliminate some language. In doing so, I am convinced they have made a substantive change, which is not their prerogative. I would therefore respectfully submit that if this convention is to uphold its action on first reading, which I think it should do, if there is any integrity to what we have done on first reading when it comes to matters of substance, then this amendment should be adopted and the language should be reinserted as it was when it left committee of the whole. I would urge you to clearly and distinctly vote yes on this amendment, so we will not be refighting every argument that we fought in committee of the whole with respect to every issue that we are taking up on second reading.

PRESIDENT NISBET: The Chair recognizes Mr. Radka.

MR. RADKA: The subcommittee and the full committee on local government respectfully disagree with Mr. Brown's statement. We felt that the changes made by the committee on style and drafting did not change the substance. If you will read section b you will notice that the provisions that were originally contained in section b were moved to section a and section c. The words "and not inconsistent with this constitution" were added to section a, and the provision that the legislature — the legislative and administrative powers were moved down to section c. It was the opinion of many of our research men that section b could have been eliminated without making any other transfer of words to section a and section c and nothing would be lost.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and ladies and gentlemen of the convention, I am wondering, as a member of the committee on style and drafting, if I could ask Mr. Brown what substantive changes he thinks we have made.

PRESIDENT NISBET: If he cares to answer. Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention and Mr. Austin, we have used in this constitution and will continue to use — we used it in the past constitution and in the present one — many times the phrase "as shall be pre-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

scribed by law." In my understanding of constitutional interpretation and as similar words have been construed in the past and probably will be construed in the future, this is not a mandate to the legislature to enact legislation in this field, as would be the case if you left section b in, where it says that the legislature shall confer, which means that it is a mandate to prescribe legislation. I am not sure that the other language does. In fact, I think that it has been so interpreted in the past. It is speaking to a certain extent in futuro and not as a mandate to them to do something in this field.

You will recall that this language — section a and section b are in the present constitution, the 1908 constitution — but in section b it presently says "may," that the legislature "may confer." It was the criticism of all of us who wanted "shall" put in to replace "may" that the legislature had not acted in this field to the extent that it should have and it has created problems for many townships, both large and small, and that therefore the language of the 1908 constitution, section b, should be retained but it should be made more firm; so the legislature would know that we are speaking to them and saying: you shall confer upon townships certain of these powers, so they do not have the problem of going first, to the legislature and then to the courts and having the courts decide that there is no inherent power for this; there is no direction; therefore, we find that the township has no authority in these fields.

I think that we are saying that this is a specific and express provision that townships shall be granted these powers and that legislation shall be enacted, not just that they shall have such powers as the legislature may decide, which I interpret "shall" to mean in a case of this nature, as the legislature may decide they need.

PRESIDENT NISBET: Mr. Austin, do you care to proceed?

MR. AUSTIN: Yes, Mr. President, thank you. Mr. Brown, is this the only substantive change you feel that we have made? You are not concerned about the other deletions which have been picked up in section a and also section c? Those do not concern you; is that correct?

MR. G. E. BROWN: You have not made deletions in section c, to my knowledge, Mr. Austin. I don't notice any changes. You have added language. I don't think that when you confer upon officers, particular officers, certain powers, legislative, administrative, and so on, that it is the same thing as saying that townships, as bodies corporate, shall have these powers.

I think that in a and b you have made substantive changes. I would not question what you have done in c. I think when you get down to the incorporation section — making villages cities — that very possibly this is a substantive change. I don't think this was contemplated by the committee of the whole. I do not intend to raise any great objection to it, however.

MR. AUSTIN: Well, Mr. President, there is no need to belabor the point, then, if you do not raise objection to that part of it. I would comment, though, that what we did in moving the language "legislative and administrative powers" down to section c was to confer them upon the officers whom we believe should have the powers.

Now, as to whether the language, "The legislature shall by general law confer" is different from each township having powers "as prescribed by law," I am not too sure that there is a substantive change, because you certainly could not mandamus the legislature to do this and we have said in section a that each township "shall be a body corporate with powers and immunities prescribed by law and not inconsistent with this constitution." It would appear to me that the substance of b is still intact in both section a and section c, and I would certainly favor the present language.

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I certainly, for one, would want to strengthen township government, if at all possible. I would like to point out what I do not believe the committee meant when they adopted section b, the amendment on the floor, by inserting the word "shall" in place of "may." Were you to leave section b as adopted on first reading with the word "shall" and reinstate it under the Garry Brown amendment, every law passed assigning a function to be performed by counties, villages or townships, or other than townships, to any metropolitan authority of whatsoever nature could and would have to be tested in the courts as to whether or not this function was of a local, a legislative or an administrative character because, while I do not believe the word "shall" can force the legislature to act, it may have the effect of forbidding the legislature from transferring to another unit of government — county, metropolitan authority, village or otherwise — any function which the court might construe as local, legislative and administrative.

I will take the problem of something out of the past: when the legislature moved the problem of filing death certificates or chattel mortgages from the township clerk to the county clerk, everyone agreed that this was a good administrative move — except possibly some township clerks. But were the court to construe such a law as local, legislative and administrative, such a law could not be enacted by the legislature and flexibility in assigning functions between townships, counties and metropolitan authorities would be seriously curtailed.

I voted on this floor on first reading for the word "shall," the Garry Brown amendment. On soul searching reflection and examination, I certainly did not intend, and I doubt that this body intended, that the legislature by general law could not assign a function of local government to that unit of local government which could best perform the service. I believe that the rewriting of section a and section c and the deletion of section b clearly says that a township government is a body corporate and shall have powers and immunities prescribed by law and this is fully what we intended.

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. President and members of the convention —

MR. WOOLFENDEN: Point of order, Mr. President.

PRESIDENT NISBET: State the point, Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Brown has spoken twice.

PRESIDENT NISBET: Mr. Brown's second talk was in answer to a question, Mr. Woolfenden.

MR. WOOLFENDEN: Well, I ask a ruling of the Chair on that specifically because he answered the question and then he debated the proposition for 5 minutes.

PRESIDENT NISBET: The Chair thinks —

MR. G. E. BROWN: Mr. President, before requesting to be recognized by the Chair, I asked the Chair as to whether or not I could speak the second time and I thought I could, as a matter of parliamentary procedure, due to the fact that I answered questions previously both times I came to the —

PRESIDENT NISBET: Mr. Brown, may the Chair answer Mr. Woolfenden that you are entitled to speak the second time because you answered a question the first time? Will you please complete your argument?

MR. G. E. BROWN: What Mr. Hanna has said is very true. I don't know how much efficacy this provision will have if you pass the amendment. We certainly cannot mandamus the legislature. We cannot require them to do any of these things. We can only say that as a constitutional convention and as a constitutional mandate, we trust that they will and that under the provisions of the constitution they have at least a moral obligation to do something in this field.

Secondly, the argument that Mr. Hanna made that this may create a problem, I think, is another attempt to throw a red herring into this matter. As a practical matter, you realize that in the metropolitan district in the combination of local units of government and their authorities, we have said that you can combine any of the authorities which the local units of government that are combined could exercise individually. Therefore, what he has said about court interpretation is complete nonsense.

I would once again — and I see no reason for debating this further; we debated it once for about 3 hours; I trust that it was well understood at that time — ask a yes vote on this question and I would move the previous question.

PRESIDENT NISBET: The previous question has been asked. Is that demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails. The question is now on the Brown amendment. Those in favor will say aye —

MR. G. E. BROWN: Yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded?

SECRETARY CHASE: Five. Not a sufficient number.

PRESIDENT NISBET: Not a sufficient number up.

MR. NORD: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: I would like a ruling from the Chair. Is it permissible under our rules for a speaker to make a speech, present argument, and at the end of his argument to move the previous question?

PRESIDENT NISBET: Nothing in the rules prevents it, Mr. Nord. The question now is on the Brown amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Pollock offers the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the proposal and inserting "The legislature may provide by general law for the organization and government, and for the dissolution, of political subdivisions other than counties, cities and villages. Each such political subdivision shall have such powers as may be prescribed by general law.".

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, I have no desire to argue this question. I argued it once before in committee of the whole in a not very well attended committee session, and I wanted to give the convention an opportunity to really strike a blow for efficient, modern government. This in no way abolishes townships. It provides that they shall be regulated by law and it merely means that instead of handicapping the state of Michigan in future years in the development of modern local government structure that the power shall be by the legislature instead of being handicapped by being frozen into the constitution.

PRESIDENT NISBET: The Chair recognizes Mr. Powell.

MR. POWELL: Mr. President and ladies and gentlemen of the convention, I hesitate to take issue with my seat mate but one statement that he made was not quite factual. He said this was argued at length before the committee of the whole and the attendance at that time was not very representative or something. I happen to have the record of that debate right here and the vote on that was 41 yes and 88 no, which makes a total of 129, which I say was a pretty representative vote. I trust we will again turn down this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: I would like to call for the yeas and nays on this.

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand seconded? Sufficient number up. The yeas and nays have been ordered. Those in favor of the —

MR. FINCH: Mr. President.

PRESIDENT NISBET: Mr. Finch.

MR. FINCH: Mr. President, was this offered when the committee rose before? And, if so, parliamentary inquiry.

PRESIDENT NISBET: It was not, Mr. Finch.

MR. FINCH: It was in committee of the whole?

PRESIDENT NISBET: That's right. Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I hope that the members of the convention will recall that when Dr. Pollock made this attempt in committee of the whole, he used the phrase that he did not want "to embalm" the townships in the constitution. At that time we called your attention to the fact that we agreed he did not want to do that but that he wanted to embalm them sometime later and then bury them. Now this is another attempt, through phraseology, to be sure; this time the good doctor refers to "striking a blow" and this is, in effect, striking a blow at the grass roots government of Michigan, that of the township. We are most heartily opposed to the adoption of the amendment.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I rise in opposition to this amendment for the same reasons as we gave the last time and I move the previous question.

PRESIDENT NISBET: The yeas and nays have been demanded. Those in favor of the amendment of Dr. Pollock will vote aye. Those opposed will vote nay. Mr. Yeager.

MR. YEAGER: Mr. President.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Because we have no bulb on this side, would it be possible to ask that it be read again, please?

PRESIDENT NISBET: Mr. Chase will read the Pollock amendment. They are trying to get a bulb for that and haven't got it yet.

SECRETARY CHASE: Mr. Pollock's amendment:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: The question is now on the amendment. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 38

Austin
Barthwell
Bradley
Cushman, Mrs.
Dade
DeVries
Donnelly, Miss
Downs
Durst
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Goebel
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hood
Jones
Krolikowski
Lesinski
Liberato
Mahinske
Martin
McLogan
Murphy
Nord
Ostrow
Plank
Pollock
Sablich
Seyferth
Snyder
Sterrett
Walker
Woolfenden
Yeager
Young

Nays — 76

Andrus, Miss
Anspach
Baginski
Balcer
Batchelor
Beaman
Bentley
Boothby
Brake
Brown, G. E.
Buback
Butler, Mrs.
Dehnke
Dell
Doty, Donald
Douglas
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Gadola
Gover
Gust
Haskill
Hatch
Hatcher, Mrs.
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Madar
McCauley
McGowan, Miss
Millard
Mosier
Nisbet
Perlich
Perras
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Wilkowski
Wood
Youngblood

SECRETARY CHASE: On the amendment offered by Dr. Pollock, the yeas are 38; the nays are 76.

PRESIDENT NISBET: The amendment is not adopted. The question now is on Committee Proposal 82. Will the board be cleared, please. Those in favor of Committee Proposal 82 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 114

Allen
Andrus, Miss
Gover
Gust
Perlich
Perras

Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Garvin
Goebel
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Ostrow
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 6

Douglas
Faxon
Hood
Nord
Pollock
Walker

SECRETARY CHASE: On the passage of Committee Proposal 82, the yeas are 114; the nays are 6.

PRESIDENT NISBET: **Committee Proposal 82** is passed and referred to the committee on style and drafting.

For Committee Proposal 82 as rereferred to the committee on style and drafting, see above, page 2513.

The secretary will read Committee Proposal 83.

SECRETARY CHASE: Item 3 on the calendar, **Committee Proposal 83,** A proposal pertaining to cities and villages. Amends article VIII, sections 20, 21, 22, 23 and 25.

Following is Committee Proposal 83 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1070.):

Sec. a. The legislature shall provide by general [law] LAWS for the incorporation of cities and villages[;]. [such general laws shall limit their rate of general property taxation for municipal purposes, and restrict their powers of borrowing money and contracting debts.] Each city and village is [hereby] granted power to levy [other] taxes for public purposes, BORROW MONEY AND CONTRACT DEBTS subject to limitations and prohibitions [set forth in] PROVIDED BY this constitution or BY law.

Sec. b. Under [such] general laws the electors of each city and village shall have the power and authority to frame, adopt[,] AND amend[, and revise] its charter, and to amend[, and revise] an existing charter of the city or village heretofore granted or [passed] ENACTED by the legislature for the government of the city or village. Each SUCH city and village shall have power to [pass] ENACT laws and ordinances relating to its municipal concerns, property and government subject to the constitution and [general laws] LAW [of this state]. No enumeration of powers GRANTED TO CITIES AND VILLAGES in this constitution shall be deemed to limit or restrict the general grant of authority [hereby] conferred[.] BY THIS SECTION.

Sec. c. Any city or village may acquire, own, establish and maintain, [either] within or without its corporate limits, parks, boulevards, cemeteries, hospitals, and all works which involve the public health or safety.

Sec. d. Except as otherwise provided in this constitution, no city or village shall have the power to [assess, levy or collect any tax or assessment for other than a public purpose, or to] loan its credit for any private purpose or, except as authorized by law, for any public purpose.

Sec. e. Subject to [the provisions of] this constitution, any city or village may acquire, own, and operate, [either] within or without its corporate limits, public [utilities] SERVICE FACILITIES for supplying water, light, heat, power, sewage disposal[,] and transportation to the municipality and the inhabitants thereof[;]. [and]

ANY CITY OR VILLAGE may [also] sell and deliver heat, power, and light without its corporate limits to an amount not to exceed 25 per cent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; [and] may [also] sell and deliver water and provide sewage disposal SERVICES, outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines without the municipality within such limits as may be prescribed by law.

Sec. f. No city or village shall acquire any public utility FURNISHING LIGHT, HEAT AND POWER or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless [such] THE proposition shall have [first received the affirmative vote of] BEEN APPROVED BY 3/5 of the electors [of such city or village] voting thereon. [at a regular or special municipal election. Nor shall any] NO city or village MAY sell any SUCH public utility unless [such] THE proposition shall have [first received the affirmative vote of a majority, or of a greater number if the charter shall so provide, of the electors of such city or village] BEEN APPROVED BY A MAJORITY OF THE ELECTORS voting thereon, [at a regular or special municipal election] OR A GREATER NUMBER IF THE CHARTER SHALL SO PROVIDE.

PRESIDENT NISBET: The question is on Committee Proposal 83. The first amendment?

SECRETARY CHASE: Mr. Arthur Elliott offers —

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. McCauley has a committee amendment.

PRESIDENT NISBET: That's the first amendment.

SECRETARY CHASE: Messrs. McCauley, L. W. Richards, Tweedie and Dell, on behalf of the committee on local government — is this the amendment, Mr. Elliott?

MR. A. G. ELLIOTT: That's it, Mr. Chase.

SECRETARY CHASE: — offer the following amendment:

1. Amend page 1, line 2, [section a] after "villages" by changing the period to a semicolon and reinserting "such general laws shall limit their rate of general property taxation for municipal purposes, and restrict their powers of borrowing money and contracting debts."; and in line 5, after "levy" by reinserting "other"; and after "purposes,", by striking out "borrow money and contract debts".

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President and members of the convention, the committee in reviewing the language of the style and drafting committee's report feels that some of the language in the proposal has been streamlined. However, we felt that the condensed language leaves room for argument as to the intention on local government, that is, to broaden the city tax base by permitting taxes in addition to the general property tax and which additional taxes are self executing except as to what might be preempted in this constitution or by law. In view of the complex law on the subject, the committee recommends that the original language be reinstated

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

in the place of the condensed version made by the committee on style and drafting.

In addition, the committee wishes to point out that the words deleted in Committee Proposal 83, section a, are the same words used on line 6 of Committee Proposal 89, which is the home rule proposal. The committee feels that there could be differences of opinion between the courts as to the reasons for changing the language in the city home rule section as compared to that of the county home rule in the proposed section.

Another argument that was brought up on the floor — and we argued very long about it — was regarding the income tax and whether or not some language should be put into this section prohibiting certain types of taxes on nonresidents. It is still the committee's opinion that this is strictly a legislative matter and I think that what has happened since the first reading and today is, there are several bills that are introduced over there. Therefore, the committee would recommend that the language as outlined be reinserted and that the convention adopt the amendment as proposed by the committee.

PRESIDENT NISBET: The Chair will recognize William Hanna.

MR. W. F. HANNA: Mr. President, I would like to ask Mr. McCauley a question.

PRESIDENT NISBET: If Mr. McCauley cares to answer.

MR. W. F. HANNA: Mr. President and Mr. McCauley, is it your statement that by going back to the original language prior to the changes made by style and drafting that you have given to each city and village power to levy taxes other than a general property tax without any limitation to be later imposed by the legislature?

MR. McCAULEY: No. It is the intention of the committee that the cities and villages would be permitted to levy such other taxes except as would be prohibited by this constitution or law.

MR. W. F. HANNA: Mr. President, may I ask the secretary to read how he would reword the second sentence of that section?

SECRETARY CHASE: The second sentence according to the proposed amendment would then read:

> Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

PRESIDENT NISBET: The question is on the adoption of the amendment by Mr. McCauley. Mr. Buback.

MR. BUBACK: Mr. President and members of the convention, I urge the adoption of this amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted. Second amendment.

SECRETARY CHASE: Mr. Arthur Elliott, on behalf of the committee on local government, offers the following amendment:

1. Amend page 1, line 17, [section b] after "by this section.", by inserting "Such cities and villages shall have exclusive jurisdiction over wages and hours and administration except for general laws applicable to all persons or all public employees alike.".

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen of the convention, in committee of the whole, this particular amendment was withdrawn by our committee on local government with the understanding that we wanted to review the substance of the amendment and perhaps offer it on second reading. This review has taken place and, while there is not complete unanimity on the subject by any means, a majority of the members of the committee in session did authorize and require that the amendment be offered at this time.

May I say that the purpose of this amendment is to make the general law of the state cover all of our public employees alike. I think that the language is simple and makes it perfectly clear that it is the desire of the committee, by offering this amendment, to make it incumbent upon the legislature, if it is going to exercise any jurisdiction over wages and hours, to do it by general law which is applicable to all public employees. We urge the adoption of this amendment.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this motion may not be necessary and I hope it isn't, but I move to limit debate on this amendment to 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Mr. Snyder.

MR. SNYDER: I just want to be recognized so that I get in on the first 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Debate is limited to 20 minutes. Mr. Snyder, you are recognized right now.

MR. SNYDER: Mr. President, I deeply regret that we have a limitation of this sort, and in order to give as many people as possible the opportunity to present my point of view, I do sincerely intend to make my remarks short and brief.

I feel that it is regrettable that this convention, by a subterfuge, used this device to sell down the river, if I may say, the very faithful municipal employees that we have in this state. I was of the conviction that when this honorable group of men took the action during committee of the whole where we had unlimited and uninhibited debate in an atmosphere that would have let us let down our hair, this is where we could have resolved this problem. Certainly under the present conditions we can only skim the surface and take away from many people in this state something that they already have. I deeply regret that we had to use this device and I will now turn the floor over to other people who I know want to speak on this feeling. I oppose the amendment vigorously.

PRESIDENT NISBET: The Chair recognizes Mr. Sleder.

MR. SLEDER: Mr. President and fellow delegates, I should like to speak in favor of the amendment. Throughout our whole —

PRESIDENT NISBET: The convention will be in order, please.

MR. SLEDER: — throughout the whole article of county government, local government, city government, we have tried and attempted to establish the power at the local level of government. In every article that has been adopted so far, we speak very heavily of putting the control with the townships, the cities and the villages. And this is an amendment in which we feel — an area where the state legislature has preempted the field of local government, in that they have chosen certain areas in the employee field of the cities and the villages and have attempted to determine to the common councils and to the village councils how these areas should be controlled.

I want to point out that if the legislature so chooses to treat all employees alike throughout the state and throughout these certain sections of government, this amendment does not prohibit them from doing it. However, it does prohibit them from selecting a certain segment of employees and treating them separately from other employees. Likewise, if the state legislature does provide the financial aid or the financial help to these areas which they attempt to control, they may control them. However, they cannot control them if they do not provide financial aid or help in the area that they are controlling. Therefore, for these reasons I support the committee amendment to this proposal.

PRESIDENT NISBET: The Chair would say we have about 15 minutes. We have 5 speakers; so will you please take your turn, divide it up. Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, I think this is a cowardly way out to approach a problem. Here is a problem that is going to be affecting the rights of fire fighters throughout the state of Michigan and we are given 20 minutes to discuss their rights and their future and their entire working conditions. I think if this is the type of attention that we are going to give to serious matters like this that perhaps they and the people outside who are going to have to vote on this document, perhaps they will give the same amount of attention to all of our work.

Now, I don't know the answers to all the problems but they presented us with a very lengthy brief. I don't think that there is any question that we did not have an opportunity on the floor of this convention to deliberate and to discuss these issues in detail. I am going to take 2 minutes out just to read the 9 objections which they raised, and I would say that unless these objections have been satisfactorily answered, I will vote against the committee's amendment because I simply do not think that we are paying a proper amount of attention to something as serious as this. I will quote, it would:

> 1. Apparently abolish specific legislation already on the statute books of great consequence to the state and its citizens;
> 2. Deny the state the authority hereafter to act in matters of general state concern affecting the municipal public service;
> 3. Preclude uniformity of employment conditions in the public services between municipalities notwithstanding any economic, social, or political interdependence of cities;
> 4. Encourage competition between communities at the expense of their employees and thereby act adversely to the public interest;
> 5. Drastically alter the traditional concept of the city as the creature of the state and put the city beyond state control;
> 6. In numerous instances deny relief to problems of general concern especially of a social nature which only the state as a whole is equipped to render;
> 7. Adversely affect the morale and confidence of the municipal public service by denying job security and effective grievance and personnel relations and would thereby undermine the efficiency of such public service;
> 8. Permit cities to arrogate from the state jurisdiction over broad public policies heretofore thought to be the concern and jurisdiction of the state alone; and
> 9. Do all these things without apparent municipal advantage, since cities already enjoy a substantial measure of self determination and self government under current home rule sections of the constitution.

I would have asked these questions of the chairman, but I think in deference to the speakers and in deference to the time limitation that this would not be fair. But I think that this matter is of a very serious nature. I don't think that we are spending the proper amount of time on it.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I urge a no vote on the amendment and demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. You may continue.

MR. DOWNS: I shall be very brief and simply say that former speakers have pointed out that this classification could eliminate standards that have been established for governmental workers — fire fighters and others — and conceivably could be used to prevent additional standards from being adopted for governmental workers.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: As long as we are operating under the gag rule, Mr. President, I pass.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, here we are trying, and have been for a good many years, to build up morale amongst the governmental employees. Goodness only knows that the manufacturers and private employers have been able to take away capable men from government employ and yet, today, we here are going to strike another blow against governmental employees. We are going to lower the morale; we are going to lower the efficiency of service instead of trying to boost it. I say vote no on this amendment.

PRESIDENT NISBET: Mr. Kelsey. Mr. Lawrence.

MR. LAWRENCE: Mr. President —

PRESIDENT NISBET: Excuse me. The Chair didn't see you, Mr. Kelsey. Mr. Kelsey was recognized before you, Mr. Lawrence.

MR. KELSEY: I was waiting for the red light. Apparently this doesn't work as fast as Freedom VII, here, "all systems go." I was fearful from the beginning — first, let me say that Mr. Binkowski outlined the argument that I was going to use. I was fearful from the beginning when I looked over Mason's Manual of Legislative Procedure, which I was not familiar with until I came to this convention. There were many of my friends said, "John, you're a pretty fiery guy. You're pretty quiet." I said, "Well, I thought I'd save my silver bullets for the second round;" but I see now that it is going to work to a disadvantage.

I hope that we don't destroy what we have done in committee of the whole that took us so many long, patient hours and now could be destroyed with this type of procedural maneuver. I am fearful that this is what can happen on second reading. I only hope that you would oppose the amendment for the many good reasons given. Thank you, Mr. President.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President and members of the convention, I urge you to vote no on this amendment. Due to the limitations of time, I won't use it up, except for this: for the last 20 years I have been engaged in trying to get some gains for our municipal employees in Ypsilanti. The only way it has been able to be done has been by general acts of the legislature. Now, without any consideration at all, you are asked to change — by an amendment not by a committee recommendation, initially, but by an amendment — what has become established practice in the state. It is not being given proper consideration. It is not being properly debated. It will be a very vital thing. We will end up with difficulty with municipal employees if this goes through because the only gains they have got have been through general laws of the legislature and these acts that have applied to specific instances. I urge you to vote no.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, I just don't want the committee on local government to be put in the position of where they are acting in opposition to one class of public employees. The purpose of this amendment is to make it possible for the legislature and to require the legislature, when it passes laws on hours and administration, to make such laws affect all public employees alike.

And may I point out to Mr. Lawrence that this is not something that is coming at the last moment at all. It was a part of the original committee recommendation which was presented to you many weeks ago. It was included in the rationale as proposed in Journal 70 under Committee Proposal 83, and it was withdrawn at that time because of the fact that we felt that the original language which we submitted was not as well drafted as it should have been. And this is the redrafted language which we think more properly expresses the point of view of the majority members of the committee. This is not an attempt — and I would repeat that, so there will be no misunderstanding — this is not an attempt to obviate or to destroy any of the progress that has been made in this field, but it is merely to make it incumbent upon the legislature as they pass these laws involving hours and wages that they do it for all public employees and do not discriminate against those public employees by passing special laws to affect one group.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Well, I think most of the people talking against this have been some of the strongest advocates of the civil service system. One of the principal factors of the merit system is that all employees' wages shall be set in relationship to the work that each of them does and this is all we are asking: that this principle be applied to municipal employees as well as to the state.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, just very briefly I should like to point out that cities do sometimes, and villages and townships do, take under advisement serious matters and act favorably upon them. Such was the case yesterday in the city of Pontiac where we had a firemen's and policemen's retirement plan on the ballot. It was pointed out in the newspapers it would cost us $100,000 a year, 35 cents per thousand tax increase, but the firemen got out to the polling places and handed out literature all day long. Off duty firemen were at every one of the 44 precinct polling places; it may come as a great shock to some people here, but it passed.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: For the reasons which were stated by Mr. Lawrence and on the basis of my experience as a city commissioner of the city of Bloomfield Hills for 6 years, I oppose this amendment.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, the way this amendment reads, where it says over hours and wages applicable to all persons, it would seem to me that this would include more than what some people have been alluding to, which is, namely, municipal employees. It seems to me that this would include anyone living within the city for any employment they are seeking and this is a much broader grant than some of the proponents have suggested. For this reason and for the reason that the language is so unclear with regard to whom it applies, I would oppose this amendment.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President and members of the convention, I strongly urge you to vote against this amendment. I voted against it in the committee. This actually precludes the firemen or policemen from going to the legislature for any relief. I think this has been a fine thing to have as we have it presently because if the common council or the village council does not act favorably, they know that the firemen will go to the legislature. I strongly urge you to vote against this amendment.

PRESIDENT NISBET: Mr. Young.

MR. A. G. ELLIOTT: Point of order. Is it 20 minutes?

PRESIDENT NISBET: Not yet.

MR. YOUNG: Mr. President, is a motion in order to reconsider the motion to limit debate?

PRESIDENT NISBET: You are the last speaker that is being recognized, Mr. Young.

MR. YOUNG: Well, if such a motion is in order, I so move.

PRESIDENT NISBET: Those in favor of Mr. Young's motion to reconsider the question of limiting debate will say aye. Opposed, no.

The opinion of the Chair is that it does not prevail. Mr. Young, will you complete your statement.

MR. YOUNG: I was merely interested in guaranteeing, Mr. President, the time necessary to consider what I believe to be a very important decision being made posthaste by this convention, having been pulled out of a hat at the last minute.

Now if this convention is determined to proceed without proper consideration in this matter of such vital concern to thousands of municipal employees, I am sure that no argument, no last minute argument on my part, can influence the convention in another direction. I would merely indicate, however, that I believe the action contemplated here is hasty, ill considered, undemocratic and fraught with grave injustice for all public employees throughout our state.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, I was the one who withdrew the proposed language at the time we were on first reading and I do not think we should leave the impression of gag rule. Now I do not know at which time to make the motion, but at the expiration of the 20 minute period, I would move that we grant an additional 15 minutes of debate. Is that motion in order now or at the expiration of the 20 minutes?

PRESIDENT NISBET: The question is on the passage of the amendment.

MR. ALLEN: Mr. President, what happens to my motion?

PRESIDENT NISBET: Well, you requested your motion at the expiration of the time and the time hasn't expired. Do you want to make the motion now?

MR. ALLEN: Yes, Mr. President. I move that an additional 15 minutes of debate be permitted.

PRESIDENT NISBET: The question is on the motion of Mr. Allen that 15 minutes of extra debate be granted. Those in favor will say aye. Opposed, no.

The opinion of the Chair is that it does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Division has been asked for. Those in favor —

MR. DOWNS: Yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand for the yeas and nays seconded? Sufficient number up. The question is on the motion of Mr. Allen that an additional 15 minutes of debate be granted. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—74

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Bentley
Binkowski
Bradley
Brown, T. S.
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Finch
Follo
Garvin
Goebel
Gover
Hanna, W. F.
Hart, Miss
Heideman
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Jones
Kelsey
King
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Mahinske
Martin
Murphy
Nord
Norris
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Sablich
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Sterrett
Stopczynski
Suzore
Upton
Walker
Wanger
Wilkowski
Young
Youngblood

Nays—45

Batchelor
Beaman
Brake
Brown, G. E.
Buback
Butler, Mrs.
Dade
Doty, Donald
Durst
Farnsworth
Figy
Gadola
Gust
Hannah, J. A.
Haskill
Hatch
Hatcher, Mrs.
Howes
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Madar
McCauley
Millard
Mosier
Romney
Rood
Seyferth
Shackleton
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Turner
Tweedie
Van Dusen
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the motion of Mr. Allen to provide an additional 15 minutes' time for debate, the yeas are 74; the nays are 45.

PRESIDENT NISBET: The motion prevails. The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: I would just like to ask a question, Mr. President, ladies and gentlemen —

MR. A. G. ELLIOTT: Point of order. Mr. Binkowski has spoken once on this subject.

PRESIDENT NISBET: You are correct. Mr. Binkowski has spoken once. Does anybody else care to speak on this subject? The Chair has no other names. If not, the question is on the amendment —

MR. FOLLO: Mr. President.

PRESIDENT NISBET: Mr. Follo.

MR. FOLLO: This amendment brings to mind the hours and hours I spent sitting and listening to the imagined grievances on the part of firemen when I was on the civil service commission in the city of Escanaba. I cannot for the life of me but wonder why we should be singling out policemen and firemen here. Why not the truck drivers, the electricians, the street cleaners, and all the rest of the city employees, as well?

I am not opposed to labor. I want to see every city employee — I like to see a good force of city employees, well paid, with good working conditions; but I do not think it is right for one group of employees to be able to go to the legislature to get a pay raise which throws the whole budget out of balance, where certain employees can go and do this while others can't. It just doesn't make sense to me. For that reason I am very much opposed to this amendment.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, I think the answer to Mr. Follo's question is very simple and very certain: these 2 groups have been well organized. They have been able to put pressure on the legislature that the other employees were not able to put on the legislature. These questions came up when I was in the senate. I opposed them then. I took the position that the state was clear out of its field in dictating to local units of government what they should pay and what the hours should be. I think that position is absolutely sound and I am in favor of this amendment.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, Mr. Binkowski asked some questions. I won't answer them all, but I think some of them should be answered right now: the first is, he said it would abolish gains made of great consequence. Now the local government committee understands that none of the firemen and policemen legislation which is now on the books is going to be abolished by this at all. In other words, it is not abolishing the legislation that is now on the statute books.

The second point made by Mr. Binkowski was that it would put the municipal units, the villages and the cities, beyond state control. Now it will not put them beyond state control. A city or a village does not act, cannot act, in its general municipal purposes without enabling legislation from the state. Now there are some residues of local government that are given without the state — that's a difference between a city and a township and a county — but by and large for our purposes it takes state action and there is nothing here in this amendment that says that the state may not, if it passes an act that applies to all employees, still continue to act. So we are not taking the cities out of the control of the state.

Now what this amendment is really doing is what the constitutional convention of 1907 thought it was doing, and that is allowing each city to control its own employees as it thinks best. It was not until the supreme court case around 1933 or '34 that anyone knew that the cities did not have this power.

If our firemen and policemen may go through Lansing and have a statute passed that applies to them only, what is to prevent the public works employees from going to Lansing and having a law that applies to them only, or having the health department employees go and have a law that applies to them only? This is a general law and if it applies to Detroit, it has got to apply to St. Joseph, Michigan, or to Charlevoix or to Kalamazoo. And our cities are different. What you do by allowing this sort of thing is, you undo the whole principle of home rule.

Now the last point, the one raised by Mr. Faxon on this amendment: why does it say "except . . . all persons?" There was some claim made on the original language of the committee proposal as it was printed in Journal 71 — and it was not this language — that if the amendment passed, it would prohibit the state from doing anything, for example, in the nature of F.E.P.C. laws. Now, this language eliminates any possibility of anyone claiming that the state would be precluded from passing a law that applies to all persons or to all city employees. If the state wants to pass a law that all cities must raise employees' rates by so much across the board or if it wants to say that there shall be a minimum wage, it may still do so. But it does prevent the state from saying that a certain part of city employees, like firemen or policemen, will have a special treatment, because if we allow this then we have undone home rule.

PRESIDENT NISBET: The question is on the amendment of Mr. Elliott. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay. The question is on the amendment. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—68

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Brake
Brown, G. E.
Butler, Mrs.
Cushman, Mrs.
Danhof
Dell
Doty, Dean
Doty, Donald
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
McLogan
Millard
Mosier
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Upton
Van Dusen
White
Wood
Yeager

Nays—56

Austin
Baginski
Balcer
Barthwell
Bentley
Binkowski
Bradley
Brown, T. S.
Buback
Dade
Dehnke
Donnelly, Miss
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Garvin
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Howes
Hutchinson
Jones
Kelsey
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
Murphy
Nord
Norris
Perlich
Perras
Richards, L. W.
Sablich
Snyder
Sterrett
Stopczynski
Suzore
Turner
Tweedie
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Arthur Elliott, the yeas are 68; the nays are 56.

PRESIDENT NISBET: The amendment is adopted. Mr. Lawrence.

MR. LAWRENCE: For the first time I have been ashamed of the action taken by this convention. In the first place, the people who were interested and knew about this got up thinking there was a 20 minute rule and spoke. The first one who attempted to speak again was then stopped under our convention rules. I don't think that was fair, I don't think it was proper, and I move that the vote on the amendment be reconsidered.

PRESIDENT NISBET: The question is on the motion of Mr. Lawrence. Those in favor will say aye. Opposed, no.

MR. WALKER: Mr. President.

PRESIDENT NISBET: The motion does not prevail. Mr. Walker.

MR. WALKER: I rose to ask the yeas and nays, sir.

PRESIDENT NISBET: The yeas and nays have been requested. Is that demand seconded? Sufficient number up. Those in favor of reconsideration will vote aye — will the machine be cleared first. Will the machine be cleared. Those in favor of reconsideration — Mr. Thomson, will you turn your light off. Mrs. Cushman. I wonder if you people will leave the machine alone for a minute. The question is on reconsideration. Those in favor of reconsideration will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—64

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Binkowski
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Dade
Dehnke
Donnelly, Miss
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Garvin
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Howes
Hoxie
Hutchinson
Jones
Kelsey
King
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McCauley
Murphy
Nord
Norris
Perlich
Perras
Pollock
Richards, L. W.
Sablich
Sharpe
Snyder
Sterrett
Stopczynski
Suzore
Tweedie
Upton
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

Nays—59

Allen
Batchelor
Beaman
Bentley
Brake
Brown, G. E.
Cushman, Mrs.
Danhof
Dell
Doty, Donald
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Haskill
Hatch
Higgs
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Martin
McLogan
Millard
Mosier
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Turner
Van Dusen
White
Wood
Yeager

SECRETARY CHASE: On the motion to reconsider, the yeas are 64; the nays are 59.

PRESIDENT NISBET: The motion prevails. The vote is to be reconsidered.

The question now is on the amendment offered by Mr. Elliott. Those in favor — will the machine be cleared, please. Will those delegates with lights by their names up there please turn the switches off. The question now is on the amendment by Mr. Elliott.

MR. WALKER: Mr. President.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Parliamentary inquiry, sir. After a motion has been voted to be reconsidered, doesn't this eliminate any previous limitations on debate and is it then not open for additional debate? In other words, anything previous has gone down the drain?

PRESIDENT NISBET: The Chair might say, Mr. Walker, there are still 13 minutes of debate left if anybody wants to talk. On my list nobody has requested —

MR. YEAGER: Mr. President, if it is in order, I move the previous question.

DELEGATES: No.

MR. WALKER: Mr. President, I don't believe that motion is in order.

PRESIDENT NISBET: The convention will be in order. The previous question has been requested. Is the demand seconded?

MR. LAWRENCE: Point of order, sir.

MR. WALKER: Who can talk, Mr. President?

PRESIDENT NISBET: What's that?

MR. LAWRENCE: Who can talk?

PRESIDENT NISBET: The previous question has been requested now, Mr. Lawrence.

MR. LAWRENCE: Point of order, sir.

PRESIDENT NISBET: Is the demand for the previous question seconded? The convention will be in order. It is not seconded. Mr. Lawrence. There are 13 minutes left, Mr. Lawrence. Anyone who has not talked previously can talk now.

MR. LAWRENCE: Now that the motion to reconsider has prevailed, may a delegate speak a second time?

PRESIDENT NISBET: The Chair will rule that it is still consideration of the same question, and that under the rule no delegate, other than the mover of the amendment, may speak a second time.

Mr. Ted Brown, you have not spoken before and you have the floor.

MR. T. S. BROWN: Mr. President and fellow delegates, very briefly, in regard to some points that were raised in our previous conversations, there is a qualitative difference between policemen and firemen as a group and all other civil employees. That is that on the occasion, the certain occasion — in the matter of an inferno and the matter of violence and such — the policemen and firemen may be asked to lay down their lives for the service of the municipality in which they are employees. I suggest that this is a great difference. I have had occasion to see firemen die and it is a rather memorable experience. I think those of you who served in our armed forces and have had occasion to present yourself to this particular whim and caprice of the enemy's bullets and such will realize that there is a difference between this type of occupation and all other municipal occupations. I think this is a sufficient difference — especially when these people are called upon to stay on duty, as it were, 24 hours a day 7 days a week — to entitle them to that extra consideration in matters of import relating to wages and hours and such.

PRESIDENT NISBET: Mr. Leppien.

MR. LEPPIEN: Mr. President and fellow delegates, I would simply reaffirm what Delegate Brown has just said and emphasize the fact that the employment conditions are entirely different and therefore need this added protection over against other employees of villages and cities.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: I just want to add one thing to Delegate Brown's comments, and that is that in this field of work, the government is looking for younger people and they have to be retired early and the older people that can carry on in other work are not wanted in these 2 departments.

PRESIDENT NISBET: Miss Hart.

MISS HART: Mr. President, may I ask Mr. Elliott a question, through the Chair?

PRESIDENT NISBET: You may, if he cares to answer. Mr. Elliott?

MISS HART: Mr. Elliott, this would mean that there could not be under this provision a minimum wage, a statewide minimum wage for teachers, would it not?

MR. A. G. ELLIOTT: Well, frankly, Miss Hart, I am not sure. I don't believe that you are correct. I think that this establishes that when they adopt a general law that it has to be applicable to all public employees. However, I think at that time perhaps that would be right, all right —

MISS HART: I believe it does. I believe this prohibits a statewide minimum wage for teachers.

MR. A. G. ELLIOTT: I am not at all sure that your answer is correct, your statement on it.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, under rule 24, I move at this time that Mr. Lawrence be allowed to speak again.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Lawrence, you may speak again. (laughter)

MR. LAWRENCE: Well, I suppose you would call that calling a bluff. The situation, as I see it — and I thought we had passed it on first reading by its not having been brought up — was that we were going to leave the situation as it was and allow the legislature the right to pass general acts that affect or involve only special public employees.

The situation, I can tell you, has been this: the firemen in municipalities are engaged in an occupation that is inherently dangerous. Certainly, it is a standby occupation but in the case of a fire of a serious nature it is a dangerous occupation. They have to have special training if they are properly to take the responsibilities they have. Now the same applies to the policemen. The policemen are in an occupation that can at any time either disable or cause them to be killed. It isn't exactly right, in my opinion, that they should be treated the same, necessarily, as all municipal employees or, to put it in the converse, that their problems are the same ones that the clerical employees, for instance, or those in the departments of public works have.

Now the legislature has seen fit in the past to pass acts which, if adopted by the people — now understand this: they are not acts that the legislature passes that go into effect and that all cities have to accept whether they want them or not; but the legislature has made it possible for cities, individually, to vote — the people in the cities to vote whether or not those general acts apply. Certainly there is nothing wrong with that. Can anybody here who has advocated the passage of this amendment get up and truthfully state that the legislature should not make it possible for the people themselves to determine whether or not the privileges granted by the act are to be allowed? If so, then they are saying that regardless of what the wishes of the people are the legislature is wrong.

In the last instance, an extra Kelly day was given to the firemen, if the people adopted it. In the city of Ypsilanti they adopted it. In the city of Ann Arbor, 6 miles away, they rejected it. Now the situation in Ann Arbor was entirely different than in Ypsiltanti; at least the people thought so. But certainly there is nothing wrong in leaving the situation as it is now. That's the reason this amendment should be defeated.

If you were saying or if we were saying, by voting against this amendment, that the cities had to take an act that the legislature passed — and I want to make that clear to you — if we were saying that, the problem would be entirely different. All we are saying is: let the people in the cities be able to determine whether these acts that the legislature here has debated, matters which are presented to them, shall be applied to those cities or not.

PRESIDENT NISBET: Mr. Everett.

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Everett is recognized.

MR. EVERETT: Mr. President and fellow delegates, I think we are overlooking one thing in the course of this debate. It has been suggested that there are differences between the work of firemen, policemen and other municipal employees. I think we all recognize this, but so do the municipalities recognize it. They provide, usually, different retirement systems, different pay scales, different hours of work, and so forth. The fact that there are differences is not affected by this amendment nor is it indicated that we do not recognize it. The difference is whether we think the municipalities ought to control this matter or whether we think the legislature should.

Now Mr. Lawrence said that this is a matter of local option, but you want to remember that if the legislature has the power to make it a matter of local option, it also has the power to pass state laws which will regulate this without local option, and it is only this power which we are trying to limit.

I cannot speak for all cities, but I think most cities do have the initiative and if the people want special protection which the commissioners are not granting, they can get it for policemen and firemen. They don't have to go to the legislature to get it.

One other thing, in connection with Miss Hart's suggestion: this would not apply to school teachers. It applies only to cities and villages, not to school districts; and, therefore, it would not prevent a minimum wage law for school teachers.

I think, in line with what Mr. Allen said earlier, it is simply a question of whether the cities ought to have a right to govern their own affairs in this area as they should in others. I think they should and I am in favor of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Tweedie.

MR. TWEEDIE: I should like to know what happens if a city aggrieves these employees and a large number of them quit; what happens to the public safety and welfare? To be sure, one person pointed out that there is always a large number on the waiting list; yet these people will be untrained. I think that we must provide a place for these employees to go if they are aggrieved by the city and I think that is the state legislature.

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: Mr. President, Delegate Everett made my points. Thank you very much. I just want to say now that I am in favor of the amendment.

PRESIDENT NISBET: Mr. McLogan.

MR. McLOGAN: Mr. President, it seems to boil down to saying that the city fathers are not capable of making the same assessment with regard to wages and working conditions based on the same set of facts that the legislature might make. I would hold that the city fathers are perfectly capable in this matter and would support the amendment of the committee.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I rise to oppose the amendment because I believe it prohibits the state from providing special laws for the protection of teachers, firemen and policemen. It prohibits and restricts the powers of the legislature in recognizing certain peculiarities with regard to how the public interest relates to the specific occupation. It also prevents the legislature from recognizing that there are limitations in the collective bargaining relationship between these specific occupations and the public interest. For this reason, Mr. President, I would say that it raises more problems than it solves and does operate as an undue restriction in the event that the public interest might be served by the legislature's exercising its wisdom to recognize certain special characteristics of the particular types of employment. I would urge a no vote on this question.

PRESIDENT NISBET: The question is on the adoption of the amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. FOLLO: Mr. President, may I have the privilege of explaining my vote?

PRESIDENT NISBET: Mr. Follo, if you will put your views in writing, they will be printed in the journal.

MR. FOLLO: Thank you.

The roll was called and the delegates voted as follows:

Yeas—64

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Brown, G. E.
Cushman, Mrs.
Danhof
Dell
DeVries
Doty, Dean
Doty, Donald
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Martin
McLogan
Millard
Mosier
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Turner
Upton
Van Dusen
White
Wood
Yeager

Nays—63

Austin
Baginski
Balcer
Hart, Miss
Hatcher, Mrs.
Heideman
Nord
Norris
Ostrow

Barthwell
Bentley
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Dade
Dehnke
Donnelly, Miss
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Garvin
Higgs
Hodges
Hood
Howes
Hutchinson
Jones
Kelsey
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McCauley
Murphy
Perlich
Perras
Pollock
Rajkovich
Richards, L. W.
Romney
Sablich
Snyder
Sterrett
Stopczynski
Suzore
Tweedie
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the committee amendment offered by Mr. Elliott, the yeas are 64; the nays are 63.

PRESIDENT NISBET: The amendment is adopted.

MR. HODGES: Did the Chair vote?

PRESIDENT NISBET: The Chair did not vote. The Chair's button does not work; (laughter) but the Chair would vote no, which leaves it a tie.

MR. PERRAS: Mr. President, I understand that Mr. Cudlip and some of the other delegates are having a meeting downstairs. I think they should have been able to vote on this question.

PRESIDENT NISBET: The result has been announced. It is too late to change the vote now. The Chair recognizes Dr. Anspach.

MR. HODGES: Point of information, Mr. President. Am I to take it that the Chair did vote and that it was a tie and it did fail?

PRESIDENT NISBET: The Chair cannot vote after the vote was announced. I am sorry.

MR. HODGES: Then it did carry?

PRESIDENT NISBET: It carried by one vote, 64 to 63.

MR. MAHINSKE: Well, at this time I would move for a reconsideration of the vote.

PRESIDENT NISBET: A second motion to reconsider is not in order, Mr. Mahinske. The Chair recognizes Dr. Anspach.

MR. ANSPACH: Mr. President, I move the convention recess until 1:30 o'clock this afternoon.

PRESIDENT NISBET: The question is on the motion of Delegate Anspach. Those in favor will say aye. Opposed, no.

We are recessed until 1:30 o'clock.

[Whereupon, at 11:35 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Radka.

MR. RADKA: Mr. President and fellow delegates, I realize that our time here is very valuable, but I would like to have you join with me in wishing our senior delegate a happy birthday. This is Judge Pugsley's seventy-fifth birthday.

[Whereupon, Mr. Pugsley received a standing ovation.]

I would like to now yield to "Bard" Turner, who has written a poem. For the source material, he is indebted to Judge Mosier, who is the former roommate of Judge Pugsley in their good, old college days.

PRESIDENT NISBET: Mr. Turner.

MR. TURNER: Mr. President, ladies and gentlemen of the convention,

There came up a squall out over the lake,
As sometimes you know it can do,
And as it moved in toward the waiting land,
The stronger its whistles blew.
It woke up a sleeping bear as it passed
And soaked him with hail and rain,
And soon gained the force as it kept to its course
Of a screaming hurricane.

A farmer had risen to do his chores;
So he hurried outside to see
What in heaven's name was coming his way
When a voice said, "Pa! It's me!"

T'was April 10 and 7 in 1885
That this old man
Forgot everything else
But this new baby bee in the hive.

He soon outgrew his triangle pants,
This fellow we now call Earl,
And he set out on foot down the road apiece
In search of a likeable girl.

He didn't go far down this country lane
That later was Paradise,
Because here was a girl with hair that would curl
And fluttering, big blue eyes.

Now she went to Ypsi Normal School
And he to the U of M.
T'was Ann Arbor by day and Ypsi by night
While he courted this beautiful gem.

He went over so often by trolley car
That the crew got to know his name,
And the clickety-clack of that old urban track
Was a song in his heart for this dame.

When some folks get married they settle up,
But Alice and Earl settled down
In the city of Hart where he practiced law,
And soon made a name of renown.

Attorney for the city, next mayor of Hart,
Then prosecutor for the county.
As the years went by he rose to fame
And circuit judge was his bounty.

For 30 years he sat on the bench
Of Michigan's counties three.
And many a night he twisted and turned
To decide what the sentence should be.

And now in this convention
His advice is sound and good.
And when he speaks we listen
Because his thoughts are understood.

He's a senior of this con con,
A member tried and true.
And now I say, Judge Pugsley,
Happy birthday to you!

(applause)

PRESIDENT NISBET: Judge Pugsley.

MR. PUGSLEY: Thank you very much, delegates. I have a little bone to pick with my former classmate, Judge Mosier, for revealing all of this secret information. Thank you all very kindly. (applause)

PRESIDENT NISBET: Incidentally, I might say that this is Delegate Richards' birthday, too, but he has not progressed far enough to deserve a poem yet, I guess. (laughter)

[Whereupon, Mr. J. B. Richards received an ovation.]

Mr. Secretary.

SECRETARY CHASE: Before lunch Mr. Iverson filed with the secretary a request to be excused from this afternoon's session so that he might attend the funeral of a relative in Ann Arbor.

PRESIDENT NISBET: Without objection he is excused. Incidentally, I might say, just before noon there were 34 people who spoke on the Elliott amendment, which is the largest number that has ever yet spoken on an amendment. And just another thing: we must finish local government tonight and if we move along as well as we did this morning we can probably make it, although we may have an evening session which I hope won't be too long.

The question is on Committee Proposal 83, as amended. Mr. Secretary.

SECRETARY CHASE: Mr. Kuhn has filed the following amendment to Committee Proposal 83:

1. Amend page 1, line 7, [section a] after "law.", by inserting "No governmental subdivision shall impose any income tax except on its own residents; the state, however, may preempt this field of taxation.".

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, this has been discussed many times and I think what we are trying to do is clearly understood by the delegates to this convention. We are trying to prohibit any city from putting an income tax on nonresidents and it also provides very clearly that the state has the power to preempt the field. I would hope that we will adopt this amendment at this time.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and ladies and gentlemen of the convention, I must respectfully oppose this amendment because, first of all, I feel that it is a legislative matter. It is a problem that the legislature is wrestling with right at the moment. Secondly, I can see no reason why we would, in the constitution, want to prohibit forever a local government from levying a tax which might apply to nonresidents. We do not prohibit the state from levying sales tax and other taxes which apply to nonresidents of this state and we certainly do not want to prohibit a local government from levying a sales tax that will apply to residents of another state and this may also extend to property taxes as well as income taxes; so I would certainly hope that we do not restrict the levying of an income tax on nonresidents. It would also prohibit us from levying an income tax on Canadian residents. I don't see any reason at all as to why this should be in the constitution.

MR. A. G. ELLIOTT: Point of order, please.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, it is my recollection that this particular subject came up as an amendment after we rose from committee of the whole and was defeated at that time and, if so, I would think that this might be out of order at this time.

PRESIDENT NISBET: You are correct, Mr. Elliott. The amendment is out of order because it was considered at an earlier date and voted down.

MR. KUHN: Parliamentary inquiry.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Point of order.

PRESIDENT NISBET: State it.

MR. KUHN: Mr. President, I would like to call the parliamentarian's attention to section 159 and ask him, if he would read the first sentence, whether he would think this is out of order. It is on page 130 of Mason's Manual.

SECRETARY CHASE: Frankly, Mr. Kuhn, I don't see where this section applies.

MR. KUHN: It says, "Main question may be considered only once at a session." I think that is what is before us right now.

SECRETARY CHASE: I am sorry. I feel that this is not the main question. This is an amendment which was offered in exactly the same language in —

MR. KUHN: In other words, if it is not a main —

SECRETARY CHASE: — Journal 80, on page 619, and was voted down.

PRESIDENT NISBET: Mr. Kuhn, may the Chair say that this ruling is the same ruling that has been made on previous occasions and the Chair is of the opinion it should hold at this time.

MR. KUHN: Well, I withdraw my question but I think if the parliamentarian in his leisure would read this section 159 and then read our convention rule 13, I think that there is something that is in conflict, but I withdraw the inquiry.

PRESIDENT NISBET: Thank you. The next amendment.

MR. YEAGER: Mr. President. Mr. President.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: So that we can clarify this question, I would like to ask you, if you would, to further clarify that situation. As I understand it, any question, any amendment that has been voted down in committee of the whole cannot be reintroduced on second reading?

PRESIDENT NISBET: No, that is not correct. Any amendment that has been voted down in the convention may not be brought up again in the convention.

MR. YEAGER: What about since our change of rules by taking a roll call vote in committee of the whole? Now, things voted down on such a roll call vote, are they ineligible to be considered on second reading?

PRESIDENT NISBET: The Chair is of the opinion that that is correct for anything that happened after the convention changed its procedure in committee of the whole.

MR. YEAGER: Well, Mr. President, supposing a proponent did not demand the yeas and nays, but it was demanded by some other member of the committee; could that still exclude its being reconsidered on second reading?

PRESIDENT NISBET: It would not make any difference, the Chair believes. Mr. Faxon.

MR. FAXON: Did I take it that you said that if we considered it in committee of the whole and we voted on it there and had that recorded roll call, that we could not consider it in second reading?

PRESIDENT NISBET: No. What the Chair said was that in the convention we changed the rules on the committee of the whole. A matter that —

MR. HUTCHINSON: Mr. President.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, might I ask that the president give further consideration to the matter immediately now being raised. Let me argue to the point of order this way: although we changed our rules so far as they applied to the committee of the whole, I cannot see how you could say that the action of the committee of the whole, even by roll call vote, should bind the convention, for the reason that they are 2 separate entities. Although we changed our rules to permit roll call votes in committee of the whole, that action should not bind the convention, I argue.

I agree with the Chair entirely on the other point: that as to any amendment offered on the floor of the convention after the committee of the whole did rise, the convention has acted upon that matter but it has not acted as a convention as to a matter which was voted upon in committee of the whole only. I don't think that we should extend this thing that far. I would like to have the Chair keep this differentiation clear, that whatever happened in committee of the whole itself does not bind the convention.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Might I state, Mr. President, on behalf of the rules committee, that I completely agree with Mr. Hutchinson's interpretation of the parliamentary situation.

PRESIDENT NISBET: The Chair certainly yields to 2 gentlemen who have far more knowledge of this than the Chair does. The secretary will proceed with the amendments.

SECRETARY CHASE: Messrs. Sharpe, Finch, Snyder, Suzore, J. Burton Richards, Rush and Kelsey offer the following amendment:

1. Amend page 1, line 7, [section a] after "law.", by inserting "However, no unit of government shall have the power to levy a payroll tax upon a nonresident.".

MR. A. G. ELLIOTT: Point of information, please.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, I would like to ask the secretary if this, too, was not voted upon in the convention proceedings, and would not this then be out of order?

MR. SNYDER: Mr. President.

PRESIDENT NISBET: The secretary will check.

MR. A. G. ELLIOTT: Page 620.

SECRETARY CHASE: On page 620 of the journal, in convention this amendment was offered and the yeas were 37 and the nays were 94.

PRESIDENT NISBET: It was offered.

MR. SHARPE: Mr. President.

PRESIDENT NISBET: Mr. Sharpe.

MR. SHARPE: Mr. President, I would like to thank the delegate from Oakland county and I will respectfully withdraw this amendment. But I would request another amendment which is on the secretary's desk be read at this time.

PRESIDENT NISBET: The secretary will — Mr. Snyder, do you still desire recognition?

MR. SNYDER: Yes, on a point of personal privilege, Mr. President.

PRESIDENT NISBET: State it, please.

MR. SNYDER: I feel that we have before us or did have before us an issue that involved many people in this state. Since we had our first discussion in the committee of the whole and the final action, I am sure that many of the delegates have had occasion to be contacted. It was my feeling that we would have further opportunity to discuss this most vital question on the taxation of nonresidents. I am naturally very discouraged that the ruling is such that we cannot present it and have the delegates restate their positions, and I feel that we have stifled an opportunity to express the sentiment of many people in this state. I abide by the decision of the Chair, but I say to you that this is an action that you will live to regret.

PRESIDENT NISBET: The secretary may read the next amendment.

SECRETARY CHASE: Messrs. Sharpe, Snyder, Finch, Kelsey, Liberato, Rush, J. Burton Richards [and Kuhn] offer the following amendment:

1. Amend page 1, line 7, [section a] after "law.", by inserting "No governmental subdivision shall impose an income tax unless approved by a majority of its residents.".

PRESIDENT NISBET: The Chair recognizes Mr. Sharpe.

MR. SHARPE: Mr. President and Mr. Secretary, I also would like to inform you that Mr. Kuhn's name was supposed to be on this amendment and apparently has failed to appear there. Would you please, without any objection, add it thereto.

SECRETARY CHASE: Yes, sir. [Correction made above.]

MR. SHARPE: This is an amendment we hesitated to bring to the convention. We felt that it was also legislative. We didn't realize at the time that we wouldn't be able to bring back the payroll tax that Mr. Snyder has so ably spoken about. I believe, by the same token, that many delegates — and I thought that more of them had — have heard from home in regard to this situation; but I believe that this is self explanatory and I will not take up a lot of time, but offer this amendment to attempt to allow the people in the district to be able to state whether or not they want an income tax in their particular city.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and fellow members of the convention, this amendment leaves it clearly up to the people whether or not their local unit of government should impose an income tax. The question of whether they have this right is one that has not been settled yet, for I don't believe any city or local unit of government in Michigan today has an income tax. The city of Detroit seems to think they have authority and there are those who do not think they have the power to do so. And, therefore, a legal question would come about.

The one thing the people of my district said to me, "Are you going up there to levy more taxes on us?" I said, "I don't believe so. That's not our job." They said, "Whatever you do, if you go into income tax, let it be so we can decide whether or not we want one."

I think it is only a reasonable request that if any city feels the need to raise more money for any function that they would like to provide the people, they should give the people an opportunity to vote on the question. Therefore, I strongly urge the support of this amendment.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Thank you, Mr. President. I rise to support the amendment presently being considered on the floor. I would like to bring to the attention of the delegates assembled here that a committee, a voluntary committee, was formed to contact various people in the state, various officials throughout the state of Michigan — east, west, north and south — in order to get an expression of their opinion on this vital matter. The mayors, councilmen, the leaders of the various communities involved, were polled. This morning at 10:30 I received the information that at this particular point 249 replies had been received to a questionnaire sent out on this subject. Now 225 of the people that answered, representing individual communities throughout the state, voted in favor of a prohibition of this type of tax; 24 were in favor. I would like to submit also that there are 2 million people represented in these various communities. This is only a partial report of the expression of how the people feel throughout the state. There has been enough feeling generated on this problem that a group of people at their own expense and as a voluntary effort will appear not only at the legislative hall across the street, but they will also make themselves available to the delegates in order that they can express themselves firsthand on this particular matter. On Thursday, April 19, at 3:30 p.m., a representative group of mayors throughout the state of Michigan will be available to the delegates to further answer any questions. I sincerely and I respectfully urge you to support the amendment.

In my point of personal privilege, it was not my intent to rattle my sabers or anybody's sabers. I just wanted you delegates to be aware of the feeling of interest that is being displayed in this matter. And, certainly, as I have pointed out before, this is a very sensitive issue. If people are prone to judge on issues that affect their pocketbooks, there is no issue that is more dramatic, there is no issue that is as direct as the issue that we have before us at the present time.

I would also like to point out to the delegates that we are not unsympathetic to the needs of the core cities. I wrote the mayor of one of the large core cities some time ago. I expressed my concern for the problem that they had and I offered to meet with him. As a result or partially as a result of this letter, he did call a meeting in which all of the delegates in the surrounding counties were invited to his office one Saturday morning to express their points of view. We spent the entire morning discussing only the peculiar problems of that city and none of the other problems that were involved. I left this meeting feeling sad and frustrated that we did not attempt to resolve this problem on a cooperative basis. This was a problem that we had posed to us in this manner: you have a pistol at your head and you make a decision at this particular time.

I feel that there is much area for compromise; there is much area for cooperation because as delegates we are pledged not only to serve our communities, but we are pledged to serve the interests of the entire state of Michigan. And I submit to you that when you penalize a few in order to take care of the problems of another few you are doing a disservice. I sincerely and I respectfully urge the delegates, in view of the great impact that this will have on the final ratification or rejection of this document, to vote in favor of the amendment that has been submitted and is presently being acted upon.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, I am wondering if I could ask the proponents of this amendment a question. I would like to direct my question to Mr. Sharpe.

PRESIDENT NISBET: Mr. Sharpe, if you care to answer.

MR. AUSTIN: Mr. Sharpe, I am concerned about a type of tax which has been proposed at the state level: an income tax which would permit local units of government to levy supplements. I am wondering if this provision would prohibit a local government from taking advantage of a state tax which would permit supplements.

MR. SHARPE: No, I don't think it would, in my judgment, Mr. Austin.

MR. AUSTIN: Mr. President, as I understand it, you have stated here that no governmental subdivision shall impose an income tax unless approved by a majority of the residents. Now, if the state should levy an income tax at the state level and then provide that local units of government may levy supplements, would not this language prohibit it?

MR. SHARPE: We are speaking, Mr. President, Mr. Austin, of political subdivisions of the state, are we not?

MR. AUSTIN: That's correct.

MR. SHARPE: Then what is your question, again, sir?

MR. AUSTIN: The question is whether this provision would prohibit a local subdivision of the state government from levying a supplement to a state income tax.

MR. SHARPE: I don't believe they can levy any income tax.

MR. AUSTIN: That's what I thought, Mr. President. I was afraid that —

MR. SHARPE: Without the approval of the people, Mr. Austin.

MR. AUSTIN: That is what I was afraid of, Mr. President, and for that reason I would certainly be inclined to oppose this amendment because there is a determined effort on the part of the governor, certainly, and many committees that have been studying this problem to get a state administered tax that could be supplemented by local units of government. And I don't believe that we should write anything in the constitution that would prohibit local units of government from taking advantage of such a provision. I would, therefore, respectfully oppose this amendment.

MR. McCAULEY: Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President —

MR. SHARPE: Mr. President, I would like at this time to limit debate to 10 minutes on this issue and I also would like to call for the yeas and nays.

PRESIDENT NISBET: The question is on the motion of Mr. Sharpe, to limit debate to 10 minutes and the yeas and nays have been requested. Those in favor of limiting debate to 10 minutes will say aye. Opposed, no. The Chair is in doubt. Those in favor of limiting debate to 10 minutes will vote aye. Those opposed, no. Have you all voted? If so, the secretary will lock the machine and tally the vote. The convention will be in order, please.

SECRETARY CHASE: On the motion to limit debate to 10 minutes, the yeas are 70; the nays are 52.

PRESIDENT NISBET: The debate will be limited to 10 minutes. There are 11 speakers. The Chair will recognize Mr. McCauley.

MR. McCAULEY: Mr. President, let me assure the proponents of this that I certainly am not going to speak longer than 10 minutes. However, I do rise in opposition to the amendment. This is something that the local government committee and the majority of the committee has decided certainly is not constitutional language.

Now if you look at the form of the amendment, you'll see what they are attempting to say is that in the event that a city would want to impose a tax, there would be a direct prohibition against their doing that in the constitution. I feel that this is something that is strictly legislative in nature. I feel that there is no place for it in the constitution. It does not give the flexibility that we've strived so strongly for for home rule cities and I think that if any council would usurp the rights of their residents, they certainly would turn the rascals out at the next election. I think there are enough safeguards in home rule cities without putting a proposition such as this in the constitution of the state of Michigan.

PRESIDENT NISBET: The Chair will recognize Mr. Allen.

MR. ALLEN: The first point, Mr. President, is the same one Mr. McCauley made: the legislature could make this same kind of limitation. The second thing is: I think we had better remember that we are a representative form of government. Are we going to say that the people will vote on every important issue that the city council makes? Now when you make a budget, that is a lot more dollars than simply this tax; should we refer every budget to a vote of the people? Should we refer every large building project to the vote of the people? Should we refer every urban renewal project? Why not refer the property tax to the vote of the people? Lastly, I want to say this: when there is an income tax in other cities like Toledo, there has been a relief in the property tax.

Now I think that you may get some no votes on an income tax if it is referred to the people. It has the effect of keeping the property tax higher or at least not allowing it to be diminished.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: I only want to comment, Mr. President, that I think it is the responsibility of the legislative body of a subdivision, whether it is a city or a county or whatever it may be, to make its own decisions and not to refer matters of this kind, particularly where they are involved in many complications, to popular vote. The body, whether it is the legislature or a city commission, ought to make its own decision on this. It can take an advisory vote if it wants to, or use any other means of getting the popular view, but it ought to make its own decisions, not subject to popular vote.

PRESIDENT NISBET: The Chair recognizes Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, if county government and local government, including townships, are ever to have the power to have a tax base other than the property tax and give relief to the farmers and merchants, industrialists, home owners, and older people from the property tax, then this amendment as proposed here must be defeated; because by saying that you are limiting the income tax except as the people vote on it, you are, by implication, retaining the worst burdens of the property tax; and when you use "no governmental subdivision" you are going far beyond cities or villages but applying it to counties, metropolitan authorities or anything else. Such a hamstring upon local government means a heavy hand of property taxation on any owner of real or personal property ad infinitum. I oppose this amendment.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, I oppose the amendment on the principle that while I do believe very strongly in the initiative and referendum, I do think, also, we do have a representative form of government and that if we were to put something like this in, I think then we would have to be consistent and say that all forms of taxation would have to be first put on in a referendum or initiative. I don't think we can single out one separate tax.

I would only point out that there are, for instance, excise taxes, perhaps, on hotels or motels. People outstate or people from other, surrounding areas might use the hotel and pay that tax and yet they would have no representation as to how it was being used and yet they would be required to pay it. I think the reasoning on this would have to carry to the conclusion that those types of taxes, too, would have to be put on initiative and referendum and perhaps all forms of taxation. I don't think we can single out one individual tax and say that that particular tax has to go to the people while the rest do not.

I would submit that in most home rule charters the people, if they are dissatisfied, have 2 courses: 1. of course, to vote out the representatives who voted for the tax; and 2. to put it on the initiative and referendum and repeal that tax.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and fellow delegates, I would like to address a question to one of the proponents of the amendment, if I might.

PRESIDENT NISBET: Mr. Sharpe, do you care to answer?

MR. KING: Mr. Sharpe, when you say a majority of the residents, do you include children or do you include just people over 21 or do you include registered voters or do you include just registered voters voting on the question?

MR. SHARPE: Mr. King, I would assume that we would have registered voters voting on the question. This would be my interpretation. I don't believe that we would want the children to vote.

MR. KING: Would you so amend your amendment?

MR. SHARPE: If you think it would be necessary, I will do so; yes, sir.

MR. KING: Well, I think it would. It says "a majority of its residents."

MR. SHARPE: We will accept the revision, Mr. Secretary

MR. KING: The second question I have, Mr. Sharpe, when you say "subdivision," "governmental subdivision," does that mean the state of Michigan or is it a subdivision of the state?

MR. SHARPE: I answered that question once before to Mr. Austin. We are talking about subdivisions of the state of Michigan.

MR. KING: Would you be willing to add the word "outstate" to the amendment?

MR. SHARPE: Yes, I would be willing to add those words, too, Mr. King.

MR. KING: Thank you.

SECRETARY CHASE: Without objection, Mr. Sharpe revises the amendment to read as follows:

1. Amend page 1, line 7, [section a] after "law.", by inserting "No outstate governmental subdivision of the state shall impose an income tax unless approved by a majority of qualified electors voting on the question.".

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: I'll pass.

PRESIDENT NISBET: Judge Leibrand.

MR. LEIBRAND: Mr. King has covered my question.

PRESIDENT NISBET: T. S. Brown.

MR. T. S. BROWN: Mr. President and fellow delegates, I oppose the amendment because it is obviously poorly drafted. It has a logical inconsistency within it in that if you read the words you see that it says, "No governmental subdivision . . . shall impose an income tax." Upon whom? Upon its own residents, or upon nonresidents who work in that subdivision? There is a problem there in that, conceivably, the city of Detroit could tax people working in the city who do not live there. Upon a majority vote of the people who do live in the city, they can determine that they will tax the residents of Garden City, who work in the city of Detroit. It is a fundamental precept of taxation that you tax all of the members of a class on some equitable basis or that if the matter is submitted for ratification, it should be submitted to all of the members of the particular class affected. And this would deny that fundamental precept of tax law.

PRESIDENT NISBET: Mr. Rush.

MR. RUSH: Mr. President, I am very much in favor of this amendment, primarily because I don't think it is right for any municipality to levy taxes upon nonresidents and this takes in that field, too. I admit that the amendment is not properly drafted, but there is a fundamental wrong involved here that I don't know just how to explain. It is taxation without representation when we let one community levy taxes upon residents of another community.

And there is another reason why this is not right: it is going to preclude the chance, probably, of getting a state income tax. If municipalities are given the right to levy local income taxes and then eventually the state does levy a state income tax, you will have double taxation and then you can really hear the screams. I think the whole approach is wrong. It should be levied on a statewide basis.

In regard to the question Mr. Austin posed, if a local municipality wanted to levy a supplemental tax to a state income tax, they could do so by a vote —

MR. AUSTIN: Mr. President, will the speaker yield for a question?

PRESIDENT NISBET: Will you yield?

MR. RUSH: I will, yes.

PRESIDENT NISBET: He yields.

MR. AUSTIN: Mr. Rush, if I understood you correctly, you were concerned about a local unit of government levying a tax on nonresidents. My question is: how would this affect the levying of a tax on nonresidents? It would seem that only the residents in a community could vote on the question; so the nonresidents would still not be able to participate in the decision. Am I correct?

MR. RUSH: That's right, but they could levy the tax upon them and they could participate in the paying.

PRESIDENT NISBET: Have you finished, Mr. Rush?

MR. RUSH: I believe so.

PRESIDENT NISBET: Mr. Buback. You have 15 seconds.

MR. BUBACK: Mr. President and fellow delegates, I just merely want to say that I oppose the amendment. I think it is legislative in nature and should not be in the constitution.

PRESIDENT NISBET: The question is upon the amendment by Mr. Sharpe and others, as revised. The secretary will read the amendment.

SECRETARY CHASE: The amendment as now revised reads as follows:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: The question is on the amendment, as revised. The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 35

Boothby
Dade
Dell
Donnelly, Miss
Figy
Finch
Gover
Gust
Haskill
Howes
Hubbs
Kelsey
King
Kirk, S.
Kuhn
Lawrence
Leibrand
Nisbet
Perras
Plank
Powell
Prettie
Radka
Richards, J. B.
Rush
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stopczynski
Suzore
Yeager

Nays — 89

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Follo
Gadola
Garvin
Goebel
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Hutchinson
Jones
Judd, Mrs.
Karn
Koeze, Mrs.
Krolikowski
Leppien
Lesinski
Madar
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nord
Perlich
Pollock
Pugsley
Rajkovich
Richards, L. W
Romney
Rood
Seyferth
Sleder
Stafseth
Staiger
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Sharpe and others, the yeas are 35; the nays are 89.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Madar, Mr. J. Burton Richards and Mr. Erickson offer the following amendment:

1. Amend page 2, line 20, [section f] after "thereon" by inserting "at a regular municipal election"; and on line 25, by striking out "a majority" and inserting "3/5"; and after "thereon" by inserting "at a regular municipal election"; so the language would read:

No city or village shall acquire any public utility fur-

> nishing light, heat and power or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall have been approved by 3/5 of the electors voting thereon at a regular municipal election. No city or village may sell any such public utility unless the proposition shall have been approved by 3/5 of the electors voting thereon at a regular municipal election.

PRESIDENT NISBET: The question is on the amendment offered by Messrs. Madar, J. B. Richards and Erickson. Mr. Madar.

MR. MADAR: Mr. President and fellow delegates, since we discussed this in committee of the whole, I have received quite a few letters, telegrams, and I have had a lot of people talk to me about this particular proposal. So far as I, personally, was concerned and so far as my area of the state was concerned, this didn't affect us in the least because, as you all know, we are not having any troubles with anyone trying to take over anything. We are not worried about the people in our area. We know that they are going to vote for those things that are good for the area, and I am now talking about the city. Of course, I cannot say anything about the suburban areas; we just had a little bit of that. Anyway, getting an idea —

MR. PLANK: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: Mr. President, I believe we already have voted on this in substance and I see very little change in it as brought out here by Mr. Madar. We did it in committee of the whole, page 619, Mr. Chase.

SECRETARY CHASE: In Journal 80, page 619, Mr. Madar offered the following amendment:

> 1. Amend page 3, line 17, after "regular" by striking out "or special"; and in line 22, after "vote of" by striking out "a majority" and inserting "3/5"; and in line 23, after "regular" by striking out "or special".

The yeas and nays were demanded. The yeas were 48; the nays were 86.

PRESIDENT NISBET: It is not the identical amendment. Mr. Madar, you may continue.

MR. MADAR: Thank you very much, Mr. President. As I said before, I have received quite a few communications from the outstate areas. To start with, we have one here from Dowagiac, Michigan. We have one here from South Haven. We have them from Bay City, from St. Louis, from Holland, from Escanaba, from Marquette. To give you an idea of just how some of them read, I will quote the second paragraph because I don't want to take up too much time here:

> These municipal enterprises are, as stated in most charters, operated for the benefit of the residents of the community. Campaigns to sell out the utilities are often emotionally publicized. It is hoped that the majority vote to dispose of a utility will be retained.

Now then, to go further — that, incidentally, was from the city of St. Louis. From Lowell, Michigan:

> Dear Mr. Madar,
>
> I would like to express the appreciation of the Lowell light and power board and the city council for your help in fighting the amendment to the constitution pertaining to the vote required to sell a public utility.
>
> Our mayor has sent telegrams to Mr. Nisbet, Mr. Romney and Mr. Elliott urging that the required 3/5 vote be retained in the new constitution.

Now I want to mention one thing here, too: some people think, well, they have it in the ordinance. I am very happy to know that there are people like there are in Lowell. They go further. They say:

> The Lowell city charter requires a 3/5 vote before the sale of any city property can be made. The charter committee felt that this was necessary for the protection of the general public.

They weren't just worried about themselves; they were thinking of other people in the state. It is nice to know that there are people of this type all over the state of Michigan. Now, as I said, we have had them from Escanaba and we have had them from other portions of the state, and I would say that what we ought to do is to make it the same to sell as we do to buy: a 3/5 majority. And it should not be done in a special election where it is difficult to get the voters out. It should be done at a regular election where the voters do come out to vote.

I also would like to say this: that it has been proven that where there have been utilities go in to try to purchase a municipally owned public utility, they bring in numerous people. They spend enormous amounts of money to take away these municipally owned utilities so that they can make a lot more for themselves. Actually, they are like octopuses and we ought to try and stop this. I urge the adoption of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Karn.

MR. MADAR: And I would like to ask for the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand seconded? Sufficient number up. Mr. Karn.

MR. KARN: Mr. President and delegates of the convention, this question was argued at some length in committee of the whole where we voted on whether there shall be a majority vote in case of the sale of a municipal plant or whether it shall be a 3/5 vote, which was suggested by Mr. Madar at that time. And, as was stated, the vote on that was 86 nay and 48 yea.

This situation is — I am not going into a lot of detail — the thought back through the years on this and I recited before what has happened in the legislature, what has happened in the constitution. The thought is this: when a municipality decides to go into the development of its own municipal plant, municipal electric generation and distribution plant, there is a great deal of money involved. It was thought that in that case — it was thought by the legislature back through the years, and also by the convention — that a substantial vote should be held or should be necessary before the city decided to go into a substantial investment.

However, when it comes to the sale of a municipal plant, I know of no case — and I doubt if anyone here does — but where the plant was depreciated, it had deteriorated and it was not modern. It was not efficient. So when you get to the place where a commission, for instance, or a council or the governing body has the feeling that this community would be better off to sell the plant and buy service, in many cases at a lower rate than they could generate it, the majority vote should be ample. One place they are going into business and spending money. In another place they are going out and receiving money which the community can use.

All of these cities that Mr. Madar, Delegate Madar, suggested do have municipal plants at the present time and it is only natural that there are people there who do not feel that the property should be sold, even though it could be sold at a gain in money, a gain in efficiency by the property itself. I certainly would suggest opposing this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. All those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 49

Austin
Baginski
Balcer
Barthwell
Bledsoe
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Garvin
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hoxie
Jones
Krolikowski
Leibrand
Lesinski
Madar
Mahinske
Murphy
Norris
Perlich
Perras
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Sablich
Shanahan
Sleder
Snyder
Spitler
Stafseth
Stopczynski
Suzore
Thomson
Wilkowski
Wood
Young

Nays — 71

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Brake
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Nord
Ostrow
Plank
Rajkovich
Romney
Rood
Rush
Seyferth
Shackleton
Sharpe
Staiger
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Madar, the yeas are 49; the nays are 71.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend page 2, line 16, by striking out all of section f, lines 16 through 26, inclusive.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I realize that this amendment would do just about what I hoped the other amendment would do. However, I did want to speak once more on that other amendment, but we rushed that one through quite fast. There was only one opponent that spoke against the amendment and I can realize why he spoke against it. Had I been employed for as many years —

MR. A. G. ELLIOTT: Point of order.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Speaking on a personal matter. I think he should stay with his amendment.

PRESIDENT NISBET: Mr. Madar, will you speak on your present amendment, please?

MR. MADAR: Could I also talk about whether anybody should talk on this if they have a vested interest, Mr. President?

PRESIDENT NISBET: Please speak on your own amendment; that is all.

MR. MADAR: Well, Mr. President, I don't think that there is much more for me to say except that I hope that the delegates will remember that it is their people that were asking — and I am now talking about those who voted against the last amendment — I hope they will remember that it was their people who asked that this be introduced and I know that those people hope that their delegates will think of the people's pockets.

PRESIDENT NISBET: The question is on the amendment of Mr. Madar. Mr. McCauley.

MR. MADAR: Yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded?

SECRETARY CHASE: Sixteen.

PRESIDENT NISBET: Not a sufficient number up. Mr. McCauley.

MR. McCAULEY: Mr. President and members of the convention, some of the remarks which Mr. Madar made I certainly cannot let go unchallenged. Representing a city and coming from a city that has owned its own light and water plant for some 30 or 40 years, we feel that the committee proposal as submitted certainly gives us much more protection than we ever had before. Prior to this constitutional convention, the constitution was silent as to what was necessary in order to sell a utility. Theoretically, the city council at any time could sell it on a simple majority vote of the city council. I think that the proposal as coming from the committee certainly strengthens that. I disagree with Mr. Madar that we should strike it, as I disagreed with him that we needed 3/5 to sell.

PRESIDENT NISBET: The question is upon the amendment offered by Mr. Madar. All those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

MR. MADAR: I asked for the yeas and nays.

PRESIDENT NISBET: There was not sufficient number up, Mr. Madar.

MR. MADAR: Okay.

SECRETARY CHASE: Mr. William Hanna offers the following amendment:

1. Amend page 1, line 13, [section b] after "enact" by striking out "laws and"; so that the sentence will read, "Each such city and village shall have power to enact ordinances relating to its municipal concerns. . . ."

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, this is a purely technical amendment, but it is my understanding of constitutional law and municipal law that local governments — counties, cities, townships, villages, and so forth — enact ordinances and only the state, the sovereign state or the sovereign federal government, may enact laws. This was put in in 1908 when they were first writing up home rule. To my knowledge no city has ever attempted to enact a law. The enabling act in charters and under the home rule act says that they shall enact ordinances styled in a certain style and this is to correct what I think is a pure oversight in 1908 draftsmanship. I ask that you support striking out the ability of cities and villages to enact laws and leave them with what I believe is their sole power and that is to enact ordinances.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I rise also to support this amendment by Mr. Hanna. I would invite the attention of the members of the convention to the way this language reads if you leave that word "laws" in there. It would say that each city may enact laws subject to the constitution and law — enact laws subject to law. That's not clear. That's not what we mean. I think we all agree that what cities and villages do is enact ordinances and within their municipal concerns those ordinances have the force of law, but they are not laws in the sense that an act of the legislature is law.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, I think Mr. Hanna's motive is good. He wants to clear up what appears to be a technicality but I am afraid, Mr. Hanna, that there is more to this than meets the eye.

This provision was put in in the 1908 constitution so as to allow cities and villages to run their own governments and this was the phraseology that was used. Now when a city council or a village council acts, it doesn't do everything by ordinance. In fact, it doesn't prepare its budget by an ordinance. It doesn't levy its tax, year by year, by an ordinance. It doesn't sell property by an ordinance. It doesn't enter into a contract with the state on an airport by ordinance. What it does, it does these things by resolution.

Now I don't have the cases here, but I am familiar with some of them and the phrase "laws" has been used to pick up this power that a village or city council has to act by resolution because we cannot do everything by ordinance. And I think if you fool around with this, you unintentionally are taking away or maybe taking away, you see, from your villages and cities a great amount of normal power to run their own governments and there have been a couple of cases, at least, which have referred to this point.

This section has been well interpreted ever since 1917. The word then was "pass." I think that when you say "enact" you mean the same as "pass," but when you take out the "laws" and only leave the ordinances you throw a question mark, a big question mark, on the power of home rule as far as actions by the governing body which are not ordinances and that is a great deal. So I think we ought to leave the language the same and I would oppose it.

PRESIDENT NISBET: The Chair will recognize Mr. Gover.

MR. GOVER: Mr. President and fellow delegates, on reading this over and studying this proposal, I was very confused when I read that "laws" in there as far as the villages and cities were enacting it because, in this proposal, "law" or "laws" is mentioned 8 times, 7 of them in which it should be referred to as "state law" or "general laws of the state" and once where it means that the villages or cities are enacting the laws. To any who have not studied the constitution it could be much more confusing. I recommend that this amendment be passed.

PRESIDENT NISBET: The Chair will recognize Dr. Nord.

MR. NORD: Mr. President, I would like to ask Mr. Allen a question, if I may.

PRESIDENT NISBET: Mr. Allen, do you care to answer?

MR. NORD: Mr. Allen, if the word "laws" is left in as you suggest, then would you go along with the idea of changing back the end of the sentence to make it the way it read when it came out of committee of the whole, to take care of Mr. Hutchinson's other objection, so, that it would then read, "Each such city and village shall have power to enact laws and ordinances" and so on "subject to the constitution and general laws of this state?" Would you favor that?

MR. ALLEN: You mean, Dr. Nord, to take out "laws and ordinances"?

MR. NORD: No, to leave "laws and ordinances" as is —

MR. ALLEN: Yes.

MR. NORD: — but at the end of the sentence to put back the language the way it was before style and drafting changed it, because, as it stands now, it says: to enact laws subject to law. The way it would have read otherwise would be: to enact laws subject to the constitution and general laws of this state. Don't you feel that you will either have to change one or the other?

MR. ALLEN: Well, the intent here at the end would be, whatever a city does is qualified by the constitution and general laws. That would be state action. Now style and drafting by putting in the word "law," I suppose, meets some question as to whether or not style and drafting means "general laws." I think that's what style and drafting meant.

I might ask Mr. Hanna: by "law" did you mean the same thing as "general laws?"

PRESIDENT NISBET: Mr. Hanna, do you care to answer?

MR. W. F. HANNA: Yes.

MR. ALLEN: Mr. Hanna answers yes. Therefore, I think the question is taken care of. I would leave the language, Dr. Nord, just as style and drafting has it here.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I don't want to pursue this too long and take too much of your time, but Mr. Allen raises the point that things that cities do by resolution are law. Now this does not imply that a thing that the legislature does by joint resolution is a law in the sense that we define it in the constitution as a law requiring the passage by both houses and the signature of the governor.

It is true, Mr. Allen, that the model city constitutional provisions for home rule cities require that an ordinance be adopted for issuance of bonds or levy of taxes or adoption of the budget, but this was not followed in the Michigan enabling act because we were one of the pioneers. But lawyers in this field have learned through bitter experience that we would have been better off to have required an ordinance to enact a bond, levy a tax or adopt a budget. And the so called model city charter so provides and the model city constitutional provision so provides. But the difference between a resolution and a law is vastly different. I submit to you that all a city can enact is a resolution, if you please, or an ordinance but they have no power to enact laws. This is a misnomer and misleading to laymen and to the courts in general.

PRESIDENT NISBET: The question is upon the amendment of Mr. Hanna. Those in favor will say aye. Opposed, no. The amendment is adopted. Mr. Yeager.

MR. YEAGER: Mr. President, I don't want to take much time with this but there is something here that I want to question and I want to raise: I realize that the job of the style and drafting committee is not to change the substance of any of the proposals that come to it and I am sure that that is not their intention, but I have noticed in one or two places on some of these second reading things that I think this may have happened and I would like to ask Mr. Elliott, if I may, just one simple question.

On section f, where they have inserted the definition of public utility under the term "furnishing light, heat and power," it would seem to me that there are other utilities and I wanted to know on what basis, since he had discussed this with style and drafting, the question of public utility was defined as only those utilities furnishing "light, heat and power." What about transportation, garbage disposal, water systems and so on?

PRESIDENT NISBET: Mr. Elliott, do you care to answer?

MR. A. G. ELLIOTT: Mr. President and Mr. Yeager, when this was originally adopted by the committee — I feel that these 3 identifications here are the ones that we were thinking about — we did not feel in committee that there had been any substantive change by the language that they have introduced here.

MR. YEAGER: Well, the point I wanted to raise was that this may be what we were thinking about but this isn't what we said. We said, "any public utility." Now you have narrowed it to including only utilities relating to "light, heat and power" and I submit that there may be other utilities that may be equally affected by this. I simply raise the point so that we may get some understanding of it.

PRESIDENT NISBET: We had better go on to the next amendment. That can be answered a little later. The next amendment, Mr. Chase?

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, [section a] by striking out all of lines 4 through 7; which read as follows:

> Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR HUTCHINSON: Mr. President, the first part of the section, including the language which on your printed copy has been stricken but by amendment has been reinserted, the first part of this section is the present constitution but this last sentence is new material. I oppose it because it puts the cart before the horse. It is one of these rules of inversion. Instead of giving to the state or the legislature the power to require some uniformity throughout this state in the field of taxation, you are going to put the legislature — if you keep this last sentence in here — in the position of having to outguess the local units of government and if some local unit of government can get some tax or something imposed prior to the time that the legislature writes any limitation or prohibition against it, then, apparently, it would be all right.

I think that this is very bad public policy. I think that there is a case to be made for the principle of uniformity in this state so that there won't be a complete hodgepodge of conflicting local taxation. Now I believe in local taxation, of course, but I think that experience will show in the future, if you keep this in, that it will be a mistake indeed to have such a maze of conflicting and unusual and misunderstood local taxes from one locality to another that the people of Michigan will be left in great confusion.

I think that a case can be made for the wisdom of providing a state policy enunciated by the legislature which will provide for a certain amount of uniformity here and I think that the constitution should not let any city or village pass any kind of a tax that it wants to, subject only to such limitations and prohibitions as the legislature might provide. I think that, on the contrary, that should be stricken entirely. Then the legislature will be able to assert a state policy for a certain degree of uniformity within the various parts of the state and we won't have this hodgepodge which will, I say, in the end prove a great mistake.

PRESIDENT NISBET: The question is on the amendment of Mr. Hutchinson. Those in favor will vote aye. Opposed, no.

The amendment is adopted. Mr. Rush.

MR. RUSH: I call for a division.

PRESIDENT NISBET: Division has been —

MR. A. G. ELLIOTT: Yes and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Those in favor of the amendment —

MR. A. G. ELLIOTT: Mr. President.

MR. BUBACK: Mr. President.

MR. A. G. ELLIOTT: Is it in order to speak on this?

PRESIDENT NISBET: Yes, sir.

MR. A. G. ELLIOTT: I would like to speak then, please. Mr. President, ladies and gentlemen of the convention, I just merely want to bring to your attention that you are at this moment, by striking this sentence, reversing the entire concept that the committee on local government developed over the months of study in this area of taxation for cities and villages and that we debated in much detail in committee of the whole.

I have great admiration for Mr. Hutchinson and his point of view and generally subscribe to his philosophy in retaining in the legislature the control and the direction for the various units of local government. But in this particular instance — as a result of the study which we engaged in and as a result of the debate — I think that before you would let your vote be recorded as you have indicated here that you ought to seriously consider that we, in our judgment in the local government committee, generally support this concept that the cities and the villages should have the power to levy other taxes. In fact, we submitted an amendment to that effect this morning "subject to the limitations and prohibitions provided by this constitution or by law." By the striking of this, you then place us back in that area of not being sure whether it is or whether it isn't and take away from the cities and the villages some of this strength that we feel they need.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President and members of the convention, I approve wholeheartedly of the statement made by our chairman of the committee and I urge the defeat of this amendment.

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President, I agree with Senator Hutchinson wholeheartedly. It's a question of whether you want to put the cart before the horse.

PRESIDENT NISBET: Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, at one point as we proceeded through local government, we have said that cities and villages could not levy certain taxes and we have voted on whether they could or could not levy them on residents or where they could levy income taxes and so forth. Now under the committee proposal — which, in basic form, I supported on first reading; but on serious reconsideration I seriously have my doubts and support Mr. Hutchinson's position — this is what is developing as you proceed through this: that a city or village is given greater taxation power than we are willing to give to the state. A city or village could levy a sales tax of more than 4 per cent; we are not willing to give this to the state legislature. A city or village could levy a graduated income tax; we are not willing to give this to the legislature. A city or village could levy any tax other than a general property tax unless prohibited by this constitution — and so far we have placed none — or by general law.

Now, in addition, let me point out the problem of a prohibition by law; supposing the city's legislative body imposed a tax upon bicycles and they put this tax into effect by city ordinance at a time when the legislature is not in session and they proceed to collect the tax. At the next session of the legislature, the legislature says that they cannot tax bicycles. The legislature adjourns and the city council immediately passes a tax to tax handlebars of bicycles. The legislature returns only to be faced now with prohibiting a tax on the handlebars of bicycles, and so on. The monkey chases his tail around the lamp post.

It seems to me that if we are to have a uniform system of taxation upon which citizens of one municipality can rely, then we must have uniform taxation and, within the powers granted by the legislature on an optional basis to local governments to levy this kind of tax or that kind of tax subject to rate limitations, we must give the legislature the first power to enable the taxation and not provide that the cities and villages shall have a taxing power greater than the legislature or greater than we are willing to grant to the people's representatives for state purposes so that the legislature must run around with a pail of water and put out fires started by city and village councils. I urge the support of the Hutchinson amendment.

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President, speaking in opposition to the Hutchinson amendment, I think that once again we are confronted with the heart of the home rule city provision here.

In answer to Mr. Hanna — he alluded to taxing bicycles and so on: well, that isn't very strange. I think that all cities do that now through licensing provisions. What we are talking about here is giving those cities the right to raise sufficient revenues so that they can better govern themselves.

If we adopt the Hutchinson amendment what we are going to do is go right back to the general property taxation which means — I think all of us agree that real and personal property is taxed too high at the present time. It used to be at one time when somebody was retired and living on a pension or social security, they could plan on living out their retirement if their homes were paid for without too much trouble. The way it is today, you must put $50 or $60 aside every month in order to pay your taxes.

We from the local government committee feel that there is an additional source of revenue that is needed, and I certainly don't think that it is going to necessitate the state senate or the house of representatives running around putting out various fires. What we are attempting to do is to put the onus on the legislature. If they want to preempt this field, let them say so and let them do so. If they refuse to act, if they are afraid to act, well, let the cities act. Let us try to govern ourselves; that is all we are asking.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, I think we ought to think pretty clearly on this, think about the general direction in which we want to head. I thought many of us came in here with a philosophy that we wanted to have strong government at home and we have heard a lot of complaints about cities and various local units passing the buck to Lansing and that, in turn, Lansing may pass it on to Washington.

Now this amendment, this proposal as it is drafted by style and drafting, as it came in from the committee, is designed to give to local units the power to solve their problems at home. What Mr. Hutchinson is objecting to is saying that you have the tax power. Now, we make our local units strong at home if we give them this added tax power. Mr. Hutchinson says: no, I don't want it that way; I'll give it to you if the legislature gives it to you. But, you see, here is the problem that we have had in Michigan: the city of Detroit and the city of Saginaw had quite a running battle with the legislature. The legislature didn't see fit to and didn't act.

This gives the municipalities the power to function on their own. If you don't give it, if you go back to the other language, you encourage cities saying: all right, we want some more earmarking. I think that the language of the committee proposal as we have it now from style and drafting makes strong local government. And there is no danger of things running away because of the proviso that whatever this whole power of taxation, this self executing power of taxation that is given to the cities, it is subject to such limitations as the legislature will make.

Now, if the legislature doesn't want cities to enact an income tax on nonresidents, it may simply lay down a general act saying that cities may not, or if the legislature thinks that the tax should be shared — like it is in Ohio and Pennsylvania on a 50-50 basis — the legislature may do it. The legislature may preempt the whole field. So the legislature has control. But when you make your local units of government and you make your large cities go hat in hand to Lansing for all the powers that they want in this field, what you invite — what you invite — is the cities again raiding some of these earmarked funds.

Now, I submit that this proposal is designed to correct a basic evil which many people thought existed in our old constitution, it makes stronger local government. There is a check, a regulation, that can be imposed by the state government; so there isn't any runaway on the thing. I certainly don't think that the cities can, under this, pass a graduated income tax, especially if it is prohibited as it was on first reading in the action on the finance section. And even if that were taken out, the legislature could still prevent it by simply passing such a regulation.

Now what do we want to do today? Do we want to have strong local government or don't we? Do we believe in home rule or don't we? You are going to believe in it if you vote no on this proposed amendment of Mr. Hutchinson's and leave the language as it was. And I think we ought to defeat it because this is the principle that many of the Michigan municipalities and villages worked for and in time, I think, the same thing may eventually happen to other units of government with many people. I think we are going in the wrong direction if we change this langauge, and I think we defeat the thing that we wanted to do here, and all of us say we want to do, and that is to have strong local home rule.

PRESIDENT NISBET: The yeas and nays have been ordered. The question is on the Hutchinson amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 30

Boothby
Bradley
Dehnke
Doty, Dean
Everett
Finch
Gover
Hanna, W. F.
Heideman
Hoxie
Hubbs
Hutchinson
Kirk, S.
Kuhn
Lawrence
Leibrand
Leppien
Mosier
Plank
Powell
Rush
Sablich
Shanahan
Sharpe
Snyder
Stafseth
Stevens
Walker
White
Wood

Nays — 95

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dell
DeVries
Donnelly, Miss
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Follo
Gadola
Garvin
Goebel
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Howes
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Lesinski
Madar
Mahinske
Martin
McCauley
McLogan
Millard
Murphy
Nisbet
Nord
Norris
Ostrow
Perlich
Perras
Pollock
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Seyferth
Shackleton
Shaffer
Sleder
Spitler
Staiger
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
Wilkowski
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hutchinson, the yeas are 30; the nays are 95.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. King offers the following amendment:

1. Amend page 1, [section b] line 17, (at the end of the amendment), after "employees" by striking out "alike" and inserting "of a like occupation"; so that the language will read:

> Such cities and villages shall have exclusive jurisdiction over wages and hours and administration except for general laws applicable to all persons or all public employees of a like occupation.

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, this is an amendment to the earlier offered amendment, the Elliott amendment, which passed by a vote of 64 to 63. It is an attempt to arrive at some language which would be acceptable to something more than 64 delegates. I hold no strong brief for the language. I am merely attempting to reconcile what appears to be a very severe difference of opinion. Counting the Chair's vote it would have been evenly divided: 64 to 64.

It seems to me that the policemen and firemen, especially, perhaps are entitled to some special consideration and I say that for this reason: under existing law they are not, of course, entitled to the normal collective bargaining procedures as we know them. They cannot strike. I won't say a strike is unknown in this area; I recall reading about the Boston police strike which called for martial law and the state militia to come in and take over and that there were quite a few people, policemen and others, who were killed and wounded. But in the normal sense — and I know we read about where the New York school teachers struck for a day the other week — but, normally, policemen and firemen don't go on strike and I think that we can all be happy about that.

There is certain statewide legislation which does apply. For example, for the firemen there is what is known as the 2 platoon law which provides that firemen may not be required to work more than 72 hours in one week, 24 on and 24 off. There are state pension acts, but most of these acts have to be ratified by the local communities. I am thinking, specifically, of act 345. Public act 78 deals with civil service in this area but, again, it must be ratified locally. The Hutchinson act, as I recall — and I defer to Senator Hutchinson on this — but it seems to me that states that arbitration is not binding upon the local unit of government and it also states that policemen and firemen cannot strike, along with other municipal employees. So, for these and many other reasons which have already been presented, I merely offer this as perhaps an acceptable solution. If it isn't, by all means vote it down. If it helps clarify the situation, then perhaps we should favor it.

Specifically, what I hope to accomplish by this is to allow the state to pass legislation which does affect specific classes of people by occupation; legislation which pertains to all the firemen in the state, all the policemen in the state or, perhaps, even all the school teachers in the state, although I am not as concerned about that problem as perhaps others are. You could not under this wording, as I understand it, pass a law which would apply to the firemen in one particular city or the policemen in another particular city. It would have to be uniform across the state. So I hope this won't promote extended debate. I merely offer it as a possible way of reconciling our differences.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President and members of the convention, for the reasons given this morning I urge you to vote in favor of this amendment. I can tell you definitely that the fire fighters are pledged not to strike.

PRESIDENT NISBET: The question is on the amendment offered by Mr. King. Mr. Buback.

MR. BUBACK: Mr. President, I urge the members here to support this amendment.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: I don't think we need to go into an extended debate. This would vitiate the action that we took this morning.

PRESIDENT NISBET: Mr. Sleder.

MR. SLEDER: Mr. President and fellow delegates, the rewording of this amendment would make the complete amendment that was adopted this morning entirely void. It would leave no meaning at all as far as local government, local control by the council or the city of its employees. Therefore, I urge that this amendment be defeated.

PRESIDENT NISBET: The question is on the amendment.

MR. FAXON: Yeas and nays.

PRESIDENT NISBET: The yeas and nays have been requested. Is that demand seconded? Sufficient number up. All those in favor of the amendment offered by Mr. King will vote aye. Those opposed will vote no.

MR. BRADLEY: Mr. President, may we have a reading of this amendment as it will now stand? Most of us don't have the language of the first one.

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. King has offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2532.]

PRESIDENT NISBET: The vote has been ordered. Those in favor of the amendment will vote aye. Those opposed to the amendment will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. KING: Mr. President.

PRESIDENT NISBET: Mr. King.

MR. KING: I should like to request the vote of the Chair, if I may.

PRESIDENT NISBET: The Chair has already voted this time. (laughter) The button worked.

The roll was called and the delegates voted as follows:

Yeas—65

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Bentley
Binkowski
Bradley
Buback
Dade
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Garvin
Hart, Miss
Hatcher, Mrs.
Higgs
Hodges
Hood
Howes
Hoxie
Hutchinson
Jones
Kelsey
King
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
Murphy
Nisbet
Nord
Norris
Ostrow
Perlich
Perras
Pollock
Romney
Rood
Rush
Shackleton
Snyder
Stevens
Stopczynski
Suzore
Tweedie
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

Nays—56

Allen
Anspach
Batchelor
Beaman
Blandford
Bledsoe
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Hubbs
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Martin
McLogan
Millard
Mosier
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Thomson
Upton
Van Dusen
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. King, the yeas are 65; the nays are 56.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment. Mr. Elliott.

MR. A. G. ELLIOTT: In light of the action taken by the convention on this last amendment, I would move to strike that entire section because it no longer has any meaning.

SECRETARY CHASE: Mr. Arthur Elliott offers the following amendment:

1. Amend page 1, line 17, [section b] after "by this section.", by striking out "Such cities and villages shall have exclusive jurisdiction over wages and hours and administration except for general laws applicable to all persons or all public employees of a like occupation.".

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: I understood Mr. Elliott to say to strike out the entire section.

MR. A. G. ELLIOTT: No. Mr. President, Mr. Lawrence, I meant merely the amendment as offered this morning and then amended.

PRESIDENT NISBET: The question is on the amendment of Mr. Elliott to strike out — Mr. Chase, do you want to read the amendment again so there is no question?

SECRETARY CHASE: The amendment reads:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: The question is on the amendment offered by Mr. Elliott. Mr. Sleder.

MR. SLEDER: I have a question, Mr. President. If this is voted out, this particular amendment, can it be resubmitted on third reading?

PRESIDENT NISBET: Mr. Chase?

SECRETARY CHASE: No.

PRESIDENT NISBET: Not the same language, Mr. Sleder.

MR. SLEDER: I would then recommend that this amendment be voted down.

PRESIDENT NISBET: The question is now on the amendment offered by Mr. Elliott. Those in favor will vote aye. Opposed, no.

The amendment is adopted.

DELEGATES: Division.

MR. FAXON: Yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been asked. Is the demand seconded? Sufficient number up. Those in favor of the amendment offered by Mr. Elliott will vote aye. Those opposed will vote no. Have you all voted? The convention will be in order. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—80

Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bradley
Brake
Brown, G. E.
Buback
Cushman, Mrs.
Dade
Danhof
Dell
Douglas
Downs
Finch
Follo
Gadola
Garvin
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Hubbs
Hutchinson
Jones
Karn
Kelsey
Martin
McCauley
McLogan
Mosier
Murphy
Nisbet
Nord
Perlich
Plank
Rajkovich
Sablich
Shaffer
Shanahan
Snyder
Stopczynski
Suzore
Turner
Tweedie
Van Dusen
Walker

Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
King
Knirk, B.
Krolikowski
Kuhn
Lesinski
Madar
Mahinske
Wanger
White
Wilkowski
Wood
Young
Youngblood

Nays—43

Allen
Andrus, Miss
Anspach
Boothby
Butler, Mrs.
Conklin, Mrs.
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Figy
Higgs
Howes
Hoxie
Judd, Mrs.
Kirk, S.
Koeze, Mrs.
Lawrence
Leppien
Millard
Ostrow
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stevens
Thomson
Upton
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Elliott to strike out the language at the end of line 17 on page 1, the yeas are 80; the nays are 43.

PRESIDENT NISBET: The amendment is adopted. The next amendment, please.

SECRETARY CHASE: Mr. Finch offers the following amendment:

1. Amend page 1, line 5, [section a] after "purposes,", by striking out the balance of the section and inserting "as provided by law.".

PRESIDENT NISBET: The Chair recognizes Mr. Finch.

MR. FINCH: Mr. President and members of the convention —

MR. A. G. ELLIOTT: Point of order. Point of order.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: It seems to me, Mr. President, that using the language here "as provided by law" and striking these other words does exactly what we have covered before by the striking of the entire last sentence as defeated just a few moments before, because what it does is, it takes away from the cities and the villages this power except as provided by law.

MR. FINCH: Mr. President, I think this clearly gives the cities and villages this power as defined by law.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: The amendment offered by Mr. Hutchinson, which was defeated, was to strike out all of the language beginning, "Each city and village is" in line 4. The amendment by Mr. Finch is to strike out after "public purposes" in line 5, the remainder of the section and insert "as provided by law" so that the language will then read, "Each city and village is granted power to levy other taxes for public purposes as provided by law."

MR. A. G. ELLIOTT: Mr. President, may I make to that point just this comment: that with the language that Mr. Hutchinson wished to strike, the legislature did have the power to grant to the cities the power for additional levying of taxes as provided by law, and this is merely stating it in the constitution.

PRESIDENT NISBET: It is not the identical amendment. Mr. Finch, you may proceed.

MR. FINCH: Mr. President, thank you. Members of the convention, I think that this section has drawn a great deal of flak and I think this is a compromise that we can all buy and go along with. As this committee proposal stands, I can see, as they have said before, a great hodgepodge of taxes. You might have some village out here levying a tax on 6 toed men; or possibly some other village putting a tax on bankers that make over $50,000 a year, taking all of that; or a variation of taxes of various kinds that would not be anywhere near uniform and would not be the intent of this convention whatsoever.

This section with this amendment as I have proposed it clearly spells out that cities and villages do have power to levy other taxes. It merely says that the legislature shall provide what areas they shall be in and goes along with this provision here that says that the legislature can determine, in other words, in what areas the cities shall lexy taxes. In this way we have uniform taxation over the state in various cities and villages. I think this is a good compromise. This has drawn a great deal of flak, as I have said before. It is evident that this is not a satisfactory section or it wouldn't have caused so much controversy. I hope you will vote in favor of this.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, there is no use going over the same speech a second time, but in effect this is the same. If it passes, the Finch amendment is the same as the Hutchinson amendment. For the reasons I gave on the Hutchinson amendment I oppose the Finch amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Buback.

MR. BUBACK: Mr. President and members of the convention, I again urge you to defeat this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, we are learning here that there are a lot of different ways to say the same thing. You now have the Hutchinson amendment number 2 before you. I think it is time that Mr. Anspach told a story — you know the one, Charlie — we are opposed; the committee is unalterably opposed to this.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think we have heard about all there is to say. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? Sufficient number up. The question is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails. The question is on the amendment by Mr. Finch. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mr. Allen offers the following amendment:

1. Amend page 1, line 13, [section b] after "power to" by striking out "enact" and inserting "pass resolutions and"; so that the language will read, "Each such city and village shall have power to pass resolutions and ordinances relating to its municipal concerns . . . ."

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: The purpose of this amendment is to fill the gap that was left when Mr. Hanna's amendment passed. You recall he struck out the word "laws." Now I simply think that we run some risk here of saying that a city and village has home rule as far as passing ordinances goes, but so far as doing all the other things that a city does — such as a resolution or buying property or selling property or even the ministerial acts that are performed — we may not be giving it. I think if we simply say "resolutions and," we will make it clear that all that we have done is change the style.

Now somebody may say, technically: you can pass a resolution but you must enact an ordinance. I don't quibble if style and drafting wants to change that. But you see, unless we do this, what you are doing here is, you are taking away from your villages and cities — you may be taking away, somebody could so construe it — the power to do anything by home rule except to pass ordinances. The way the courts have interpreted the word "laws," they have interpreted it to mean the way a governmental body normally carries on its business. And it carries on its business partly by ordinances, but a lot of things are not done by ordinance and I think we clear this up and we don't violate any — we are not inconsistent with what we have done before.

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: As a sponsor of the other amendment, I see no objection to Mr. Allen's language. I reserve the right, Mr. President, to ask Mr. Elliott a question after we dispose of all the amendments and before this whole section is passed.

PRESIDENT NISBET: The question is on the amendment by Mr. Allen. All in favor will say aye. Opposed, no.

The amendment is adopted. The question now is on the adoption of Committee Proposal 83. Mr. Hanna, do you care to be recognized?

MR. W. F. HANNA: Mr. President, as I understand our position now, we have, in section a, put back in the language so that in line 3, the words "municipal purposes" are used. In line 5 other taxes may be levied "for public purposes." Am I correct, Mr. Chase?

SECRETARY CHASE: In the committee amendment to section a — this is to which you have reference, Mr. Hanna?

MR. W. F. HANNA: Yes, sir.

SECRETARY CHASE: In line 5, after "levy" it reinserts "other" and after "purposes" strikes out "borrow money and contract debts"; so the language there reads —

MR. W. F. HANNA: Mr. Chase, it now reads "to levy other taxes for public purposes."

SECRETARY CHASE: Right.

MR. W. F. HANNA: And in line 3 we have reinstated "general property taxation for municipal purposes." Is that correct?

SECRETARY CHASE: Reinserted in lines 2 and 3, "such general laws shall limit their rate of general property taxation for municipal purposes, and restrict their powers of borrowing money and contracting debts."

MR. W. F. HANNA: Fine. Mr. President, then a question to Mr. Elliott. Mr. Elliott, in line 3 we say that you may levy a property tax for "municipal purposes." In line 5 you say that we may levy other taxes for "public purposes." May I ask you, sir, for what purposes may I levy taxes as a city, under line 5, that I cannot expend money raised by taxation of general property under line 3?

MR. A. G. ELLIOTT: Mr. President and Mr. Hanna, I have been persuaded over the several months that there is some difference here and that by the language "public purposes" in line 5 we would be given the freedom of levying taxes for those areas, for instance, where we are getting into cooperative ventures with other communities. But I would yield to Mr. Allen to give a — to either agree or to correct me if he feels that that should be in order.

PRESIDENT NISBET: Mr. Allen, do you care to make rejoinder?

MR. ALLEN: Mr. Hanna, the reason "public" was used in this second part is that at the time it was drawn it was drawn in terms of the existing section 25 of the Michigan constitution which says that no city shall have the power to "loan its credit," and then it goes on to say, "nor to assess, levy or collect any tax . . . for other than a public purpose." Now this language was deliberately left as "public purpose" because it is the same as the language is in the 1908 constitution where, instead of saying "municipal purposes" it said "public purpose" and that's why — it keeps the thing consistent — the word "public" was used.

I know that in the 1908 constitution in section 20 it talked about "municipal purposes" and in section 25 it talked about "public purpose," but in section 25 where the reference was made to "public purpose," it was definitely in terms of this "assess, levy or collect" taxes and there they used the word "public." So the committee felt it was better to be consistent and use "public" just like it was used in section 25.

MR. W. F. HANNA: Mr. President, I want to call the attention of the delegates to the difference in these 2 words. This bothered me when I saw it on first reading and it bothered me in style and drafting and it still bothers me. The usual rule of construction of a law is that you intended something different by the 2 terms.

Now, my concept of government was that a city could do individually or jointly those things dealing with a city's powers, prerogatives and rights, or the broad term of "municipal purposes." But the term "public purposes" gets over into the field of building a warehouse to entice Gerber's to store their baby food in my city, or a plant to attract industry, or many things far and beyond the normal municipal purposes of providing streets, fire protection, police protection, heat, light, utility services, and so forth. I don't know that I am correct but, obviously, the court is now put to the point that for one purpose of taxation you have a different purpose for which you may expend the money than you have for the other taxes.

It seems to me that in all fairness, whether I raise the money by a tax against real and personal property or against incomes or the sales of tangible personal properties, the purposes for which I raise the tax as a city council should be the same and it should be either "municipal purposes" or "public purposes." I call your attention to this language so that the lawyers here who may in the future or may now be representing cities can possibly straighten out this difference in language.

My own personal feeling is that no city or village should be allowed to levy taxation except for "municipal purposes" and that in line 5, the word "public" should be stricken and the word "municipal" inserted. Yet the local government committee seems to indicate there is some difference here, but without being specific; no one has ever been able to define the exact difference.

PRESIDENT NISBET: The question is on the passage of Committee Proposal 83, as amended. Those in favor of the passage of the proposal as amended will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. SNYDER: Mr. President. Mr. President.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Will I have an opportunity of explaining in writing my nay vote?

PRESIDENT NISBET: That's right.

MR. SNYDER: Thank you very much.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, I notice Mr. Hannah's light is on; was Mr. Hannah in the room?

PRESIDENT NISBET: No, the Chair thinks that is a mistake, isn't it?

MR. A. G. ELLIOTT: I think it is.

PRESIDENT NISBET: Dr. Hannah is not here.

MR. DURST: I think Dr. Hannah's book was pushed by someone talking to Miss Hart and that turned it on to "no."

PRESIDENT NISBET: Dr. Hannah's vote will be cancelled.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Bradley
Brake
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Lesinski
Madar
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White

Faxon
Figy
Follo
Gadola
Garvin
Goebel
Gover
Mosier
Murphy
Nisbet
Nord
Ostrow
Perlich
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—5

Hutchinson
Plank
Snyder
Suzore
Walker

SECRETARY CHASE: On the passage of Committee Proposal 83, the yeas are 112; the nays are 5.

PRESIDENT NISBET: **Committee Proposal 83,** as amended, is passed.

Following is explanation of vote submitted by Messrs. Snyder, Suzore and Walker:

In our opinion section a, as adopted, will permit a haphazard form of local taxation that will in the long run work against formulation of a tax plan required to adequately and objectively resolve the fiscal needs of the entire state. Our nay vote is confined to this section alone of Committee Proposal 83 and we are in accord with the balance of the proposal.

PRESIDENT NISBET: (continuing): **Committee Proposal 83** is referred to the committee on style and drafting.

Following is Committee Proposal 83 as amended and rereferred to the committee on style and drafting:

Sec. a. The legislature shall provide by general laws for the incorporation of cities and villages; such general laws shall limit their rate of general property taxation for municipal purposes, and restrict their powers of borrowing money and contracting debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. b. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to pass resolutions and ordinances relating to its municipal concerns, property and government subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall be deemed to limit or restrict the general grant of authority conferred by this section.

Sec. c. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals, and all works which involve the public health or safety.

Sec. d. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as authorized by law, for any public purpose.

Sec. e. Subject to this constitution, any city or village may acquire, own, and operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power, and light without its corporate limits to an amount not to exceed 25 per cent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services, outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines without the municipality within such limits as may be prescribed by law.

Sec. f. No city or village shall acquire any public utility furnishing light, heat and power or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall have been approved by 3/5 of the electors voting thereon. No city or village may sell any such public utility unless the proposition shall have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

MR. ANSPACH: Mr. President.

PRESIDENT NISBET: Dr. Anspach.

MR. ANSPACH: Mr. President and delegates, I rise — if I have the permission of the Chair — to respond to Mr. Farnsworth's statement a moment ago. I think the thing that he was interested in was the fact that a number of amendments were being introduced for the purpose of clarifying the proposals and that perhaps in some cases we might trust the committee on style and drafting.

The reason for that is because of the situation that came up in connection with a lady who wanted her family tree traced and employed a person to write up the family tree. After she had employed him she said, "Now there is one thing that I think you ought to know. There is Uncle Jake. We are not very proud of Uncle Jake. In fact Uncle Jake was a murderer and he was sent to Sing Sing and he was electrocuted." "Well," the man said, "we can't leave Uncle Jake out of this. We'll have to put him in, but I'll see what I can do." So when she got the family history back, it said, "And there was Uncle Jake. He was an expert in the field of electricity. He occupied a very prominent chair in a well known eastern institution and died in the harness." (laughter)

PRESIDENT NISBET: Thank you, Dr. Anspach. Judge Dehnke.

MR. DEHNKE: Mr. President, along that same line is a revised version I recently read to the effect that Socrates was a Greek who drank himself to death. (laughter)

PRESIDENT NISBET: The secretary will read Committee Proposal 84.

SECRETARY CHASE: Item 4 on the calendar, **Committee Proposal 84,** A proposal to provide for liberal construction of provisions concerning municipal corporations. Amends article VIII.

Following is Committee Proposal 84 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1048.):

Sec. a. The provisions of this constitution and [the laws of this state] LAW concerning [municipal corporations] CITIES, VILLAGES, COUNTIES AND TOWNSHIPS shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and [the laws of the state of Michigan] BY LAW shall include those [expressly granted or] fairly implied and not inconsistent with nor prohibited by this constitution.

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, the committee has no quarrel, in fact endorses the changes as made by style and drafting.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Mr. Faxon and Mr. Hutchinson offer the following amendment:

1. Amend page 1, line 3, after "favor.", by striking out "Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not inconsistent with nor prohibited by this constitution.".

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, in the first sentence we state very clearly that these powers, these provisions, are to be liberally construed. Now the second sentence attempts to write in some rules as to what liberal construction is. I suggest to you, from the standpoint of keeping consistent with the kind of language we are putting into the

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

constitution, that we have already taken care of that matter in the first sentence and the second sentence adds nothing that is not already granted in the first sentence because the "liberal construction," if we are to give it any meaning, would be that which would be "fairly implied and not inconsistent with nor prohibited by this constitution" as stated in the second sentence. I don't think it is necessary to belabor this point and I would like to yield to Delegate Hutchinson for any further remarks.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, Mr. Faxon has made the argument for the prosecution here.

PRESIDENT NISBET: The question is on the amendment of Mr. Faxon and Mr. Hutchinson. Mr. Elliott, do you care to comment? Those in favor of the amendment—Mr. Brake. Excuse me.

MR. BRAKE: Mr. President, this proposal was one by Bill Ford and we thought that second sentence was necessary. You will notice in the first sentence it mentions the "cities, villages, counties and townships." What we have tried to do in the second sentence was to put the townships and the counties—they only are mentioned in that sentence—on the same footing as your home rule cities and villages already are. It is our understanding of the law that anything "fairly implied" in the grants of power to cities and villages is included in their powers and they may exercise those powers. That is not true as to townships and counties. We tried by this proposal to put them on the same basis.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I just wanted to say, Mr. President, that what Mr. Brake said just echoes my sentiments. Bill Ford did a very good job in the committee on this. We certainly go along with the amendment—no. We're against the amendment; opposed to it. Sorry.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I suppose we ought to adopt the Hutchinson amendment. I mean, after all, we only debated this about 3 or 4 hours, too, in committee of the whole; and in 5 minutes let's redo all that we did in 4 hours because, obviously, we are better impressed and we have greater knowledge right now than we had back then. I trust that you will understand that I am being facetious and that you will certainly vote against the amendment.

PRESIDENT NISBET: The question is on the amendment of Mr. Faxon and Mr. Hutchinson. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The question now is on the passage of Committee Proposal 84. Those in favor will vote aye. Those opposed will vote no. Mr. Mahinske.

MR. MAHINSKE: I have a question, Mr. President, that I would like to direct to Mr. Elliott.

PRESIDENT NISBET: All right, you may ask it.

MR. MAHINSKE: Mr. Elliott, I notice in your original language in line 2 you used the phrase "municipal corporations." Now style and drafting has stricken this phrase and inserted "cities, villages, counties and townships." It is my understanding it is possible that in the future there may be another type of municipal corporation other than the 4 enumerated bodies here. Was it your intent when we first adopted this that this should possibly be applied to, say, metropolitan authorities in the future?

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President and Mr. Mahinske, I will yield to Mr. Hanna and may make a comment after he is through.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President and Mr. Mahinske, after considerable research in style and drafting we discovered that the words "municipal corporations" in Michigan, especially, and across the country in general, had no definitive meaning. Therefore, you will find consistently that style and drafting has taken out the words "municipal corporations" and inserted the specific subdivisions to which we thought they made reference. In this particular provision, the issue was to give "cities, villages, counties and townships" liberal construction and this is where we left it because the term "municipal corporations" under Michigan law and most state law is not definitive. It is a term that you and I, as lawyers, use every day covering a broad field, but after considerable research it was decided it is not definitive enough for a constitutional provision.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Well, I would like to redirect the question either to Mr. Hanna or to Mr. Elliott. In the title we use the expression "municipal corporations." It seems to me that the phrase "municipal corporations" would include other forms of local government than the 4 enumerated and I would still like an answer. Do you think now that metropolitan authorities would be excluded under this section in the future?

MR. A. G. ELLIOTT: Mr. President and Mr. Mahinske, I shall not try to define the future but I will say that in our discussions in the committee, as chairman of that committee, it is my feeling that when we spoke of "municipal corporations" we were talking about "cities, villages, counties and townships" and that style and drafting did not change the substance of our point of view by making this change.

MR. MAHINSKE: But then would your answer be the same as Mr. Hanna's when he responded that this would not include municipal authorities or metropolitan authorities in the future?

MR. A. G. ELLIOTT: I think this, Mr. President and Mr. Mahinske: the purpose of this is contrary, really, to your question because what we were trying to do here, in constitutional language, was to give some additional construction to townships and counties which they had not received before. So to now project into the future, to say that we are hereby limiting the construction that the courts might take on metropolitan government —should that come into being at some time in the future—would not be proper and I think is not really germane to this particular section and the purpose of it as adopted by the committee.

MR. MAHINSKE: Well then, your answer is simply that you do not intend that the powers be liberally construed that may be conceded to metropolitan authorities.

MR. A. G. ELLIOTT: Mr. President and Mr. Mahinske, I did not say that and I do not want that to be in the record. I am merely saying that when this particular section was adopted by our committee and then when we had the debate on the floor, I think it was clearly anticipated that the "municipal corporations" that we were talking about at that time were "cities, villages, counties and townships" for the reasons that have been expressed by myself and by Mr. Brake and others.

MR. MAHINSKE: Well, Mr. President, I submit that in view of Mr. Elliott's remarks I would have to say that I have talked to some of the people on the local government committee. It was their thought that "municipal corporations" or that phrase would go beyond the 4 enumerated types of local government set out here and that their intent was that there shall be a liberal construction of all powers delegated to any form of government that would come within the purview of this section here. Now, what Mr. Elliott is saying is that this does not amount to a substantive change. It might be only that this may amount—at least it may amount—to a substantive change, seeing that it does exclude by enumeration any other form of local government other than "cities, villages, counties and townships." Now Mr. Elliott says just the opposite: that it does not exclude the metropolitan authorities. I, for the life of me, cannot follow his reasoning here and I do not intend to offer an amendment. I just thought I would like to bring this point out.

PRESIDENT NISBET: The question is on the adoption of the proposal. The yeas and nays have been called for and will you please vote now. Those in favor of Committee Proposal 84 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—118

Allen
Andrus, Miss
Anspach
Habermehl
Hanna, W. F.
Hart, Miss
Perras
Plank
Pollock

Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Bledsoe
Boothby
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Garvin
Goebel
Gover
Gust
Haskill
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McCauley
McGowan, Miss
Mosier
Murphy
Nisbet
Nord
Norris
Ostrow
Perlich
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
White
Wilkowski
Wood
Woolfenden
Yeager
Young

Nays—4

Cushman, Mrs.
Faxon
Hatch
Wanger

SECRETARY CHASE: On the passage of Committee Proposal 84, the yeas are 118; the nays are 4.

PRESIDENT NISBET: **Committee Proposal 84** is passed.

Following is explanation of vote submitted by Mrs. Cushman and Mr. Faxon:

In our opinion this section is unnecessary since it gives no powers not already possessed by the units of government mentioned, and the omission of other units, such as metropolitan authorities, may be misunderstood.

PRESIDENT NISBET: It is referred to the committee on style and drafting.

For Committee Proposal 84 as rereferred to the committee on style and drafting, see above, page 2536.

SECRETARY CHASE: Item 5 on the calendar, **Committee Proposal 85,** A proposal to provide that public utilities may use public property with consent of local authorities and a limitation on the length of franchise. Amends article VIII, sections 28 and 29.

Following is Committee Proposal 85 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1107.):

Sec. a. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, city, village or township for wires, poles, pipes, tracks, [or] conduits[,] or other utility facilities, without the consent of the duly constituted authority of the county, city, village or township; or to transact [a] local business therein without first obtaining a franchise from the city, village or township. EXCEPT AS OTHERWISE AUTHORIZED IN THIS CONSTITUTION the right of all counties, cities, villages and townships to the reasonable control of their highways, streets, alleys and public places is hereby reserved to [said] SUCH local units of government.

Sec. b. No franchise or license shall be granted by any [municipality of this state] CITY, VILLAGE OR TOWNSHIP for a longer period than 30 years.

Sec. c. Any county, [through] WHEN AUTHORIZED BY its legislative body, shall have the authority to enter[,] or to intervene in any suit or certificate proceeding involving the [service, charge] SERVICES, CHARGES or [rate made by] RATES OF any privately owned public utility furnishing services or commodities to rate payers within the county.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, on this particular proposal the committee has met and gone over the changes made by style and drafting. It is completely satisfied with those changes and the committee would like an opportunity to speak a little later on, as I know that there is an amendment to be offered.

PRESIDENT NISBET: There is an amendment offered. Mr. Chase, will you read the amendment.

SECRETARY CHASE: Mr. William Hanna offers the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and inserting "Subject to this constitution and the general laws of the state no public utility shall have the right to use public property or places of any county, city, village or township for utility facilities without the consent of a duly constituted authority of such political subdivision; nor to transact a local business therein without first obtaining a franchise therefor from such city, village or township. The right of all counties, cities, villages and townships to the reasonable control of their public property and places is hereby reserved to such local units of government.".

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, when style and drafting received Committee Proposal 85, we attempted to do some uncluttering of this section. After streamlining it somewhat, Mr. Allen and Mr. Elliott came before the committee and advised us that the public utilities had objected to our attempting to streamline and better word this section a. This was hard for me to believe, personally, and I got a list of the public utilities from the capitol and sent them letters. I have not heard from all of them but of those that I have heard from the general consensus is that the language here is superfluous.

Now let me compare the proposed amendment that I am offering here with section a, which is taken from the old 1908 constitution without much change. First, the section a says; "No person, partnership, association or corporation, public or private, operating a public utility," I have merely said in place of all that language, "A public utility." I don't think it makes any difference whether it is an individual enterprise, a limited partnership, a partnership, association or corporation, or whether that corporation is public or private. Secondly, when you get down to "highways, streets, alleys," these are all public places and I have merely said, "public property and public places." When you get down to "wires, poles, pipes, tracks, conduits, or other utility facilities"—the "other utility facilities" was, I believe, entered by the committee—but the words "wires, poles, pipes, tracks, conduits" mean little or nothing and we might as well add lift stations, washers, bolts, valves, fire hydrants, and so forth. I merely submitted there that all of this falls within the words "utility facilities" and have so provided in the amendment. Now when you get down to line 10 of the present committee proposal, from the old constitution they have got "highways, streets, alleys and public places." I submit to you that this is all encompassed within the words "public property and places."

I want it specifically understood that this amendment is not intended to change any of the substantive law in this field whatsoever but is to merely clarify and get rid of redundant and surplus language and bring it up to 1962 language and get rid

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

of the 1908 language, and a majority of the utilities to which I wrote agreed with this.

Now there was a proposal that I had that grew out of misunderstanding of utility law. On line 6 I had a substitution for the language "to transact a local business therein." I have discovered that the words "to transact a local business therein" is a word of art in the utility business and you will notice that in the amendment that I am offering at this time I am leaving in the language "to transact a local business."

I repeat, again, that this is not intended to change any substantive language or any substantive rights of any public utility but to say the same thing in better and more concise language, and I ask your support.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President and Mr. Hanna, ladies and gentlemen, I wish, Mr. Hanna, that you would pay particular attention, because I am going to ask you to take a course of action here when I finish which I think will accommodate the point of view that you are expressing.

During the committee deliberations we, also, had concern with the language as you see it here presented on second reading and we prepared for our committee's consideration entirely different language, not necessarily the same as Mr. Hanna's but along lines which would clean up the language and take some of these specifics out of the section. We were persuaded, however, by talking to the members of the public utilities, and also by attorneys who represent them, that there were some dangers in doing that; because this language had developed certain legal traditions over the years and it was on that basis and after very thorough discussion in local government that we resubmitted for the committee of the whole the language which was debated. That language has thus been changed only a little bit on this second reading because Mr. Allen and I, as Mr. Hanna has said, did go to the committee on style and drafting and point out to them that we felt that to develop a whole new case law on public utilities was dangerous where we might only be attempting to improve the language itself.

Now, Mr. Hanna, the point that I would like to suggest is this: as your amendment has been introduced and without your having given the committee any opportunity to read the letters or to know of the action that you have taken, you would leave me no alternative but to urge its defeat, the amendment to be defeated at this time because: of what we have here in section a, I am sure; of what you have, I am not sure.

Might I suggest that you withdraw your amendment at this time? The committee on local government would be happy to sit down with you, first with its subcommittee and then with its whole committee, and try to study out the letters of response that you have and arrive at language which would do what you are hopeful of doing, and that is to make the language more constitutional. If we can come to a common agreement, we could do this by an amendment offered on third reading. The reason I suggest that is because if my position should happen to prevail at this time—which would be the position of defeating your amendment—you would then be unable to offer this at third reading and it perhaps should be in the constitution.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. Elliott and Mr. President, I don't feel that strongly about this amendment. From my experience in style and drafting, to try and get an amendment on third reading is literally impossible because I understand that we will be working night and day merely trying to get this thing in order.

If your committee feels, after my statement, that I have made a—and I specifically say no substantive change is intended—then I suggest that we vote it down or vote it in. I will be glad to submit the file to you and you may reword it to suit yourself on third reading. But I don't believe it is a practical solution to withdraw it.

MR. A. G. ELLIOTT: Mr. President and Mr. Hanna—please, sir, if I may have your attention just another moment. The desire of the committee on local government is to have as fine constitutional language in its article as it possibly can have; but you are leaving us no alternative but to urge the defeat of this, because what you are now saying to the convention is only said as a point of view from the correspondence that you have had. The subcommittee on public utilities have not had an opportunity of seeing it. You didn't make it available to them, and the committee has not had that in discussion. I would think, sir, that if the committee on local government supported an amendment on the third reading that it would receive serious and thoughtful and favorable consideration from the convention, and I would urge you again to withdraw the amendment at this time.

PRESIDENT NISBET: The question is on the Hanna amendment. Those in favor of the amendment will say aye. Those opposed, no. The Chair is in doubt. Those in favor of the Hanna amendment will vote aye. Those opposed will vote no. We are voting on the Hanna amendment. Those in favor of the Hanna amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hanna, the yeas are 51; the nays are 68.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of Committee Proposal 85. Will the machine be cleared. Those in favor of Committee Proposal 85 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—122

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Boothby
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Garvin

Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McCauley
McGowan, Miss
Millard
Mosier
Murphy
Nisbet
Nord

Norris
Ostrow
Perlich
Perras
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young

Nays—3

Plank
Pollock
Walker

SECRETARY CHASE: On the passage of Committee Proposal 85, the yeas are 122; the nays are 3.

PRESIDENT NISBET: Committee Proposal 85 is passed and is referred to the committee on style and drafting.

For Committee Proposal 85 as rereferred to the committee on style and drafting, see above, page 2538.

The secretary will read Committee Proposal 86.

SECRETARY CHASE: **Committee Proposal 86,** A proposal pertaining to highways and their maintenance. Amends article VIII, sections 26 and 27.

Following is Committee Proposal 86 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1057.)

> Sec. a. The legislature may [by general law] provide for the laying out, construction, improvement and maintenance of highways, bridges[,] and culverts by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may also [by general law] prescribe the powers and duties of [boards of supervisors] COUNTIES in relation to highways, bridges[,] and culverts; may provide for county road commissioners to be appointed or elected, with [such] powers and duties as may be prescribed by law. The AD VALOREM PROPERTY tax [raised] for road purposes by ANY COUNTY [counties] shall not exceed in any [1] year ½ OF ONE PER CENT OF THE [$5.00 upon each $1,000 of] assessed valuation for the preceding year.
>
> Sec. b. The legislature shall not vacate [nor] OR alter any road, street, alley, or public [ground laid out by] PLACE UNDER THE JURISDICTION OF any county, township, city or village [or in any recorded plat].

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President and ladies and gentlemen, the local government committee had no objection to the changes that were made by style and drafting and urges the adoption of the proposal.

PRESIDENT NISBET: Are there any amendments?

SECRETARY CHASE: Messrs. Perras and Plank offer the following amendment:

1. Amend page 1, line 2, [section a] after "bridges" by striking out "and" and inserting a comma, and after "culverts" by inserting "and airports"; and in line 7, by striking out "and" and inserting a comma, and after "culverts" by inserting "and airports"; so the language will then read; 'The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports. . . ."

PRESIDENT NISBET: The Chair recognizes Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, we just felt that as long as there are a lot of county airports in the state of Michigan and projecting ahead for the future, possibly for 50 years, that this language should be spelled out in the constitution so that there would be no mistake, that somebody would not change the law so that airports would not be taken care of in the future. I now yield to Mr. Plank.

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: Actually, we don't want to waste much of your time on this but, since we are drawing this for 50 years, we feel that the word "airports" should be reinstated. I only point out to you that there is one city already operating an airport, the city of Detroit, and I feel that there will be many others, if there are not others that I don't know about at the present time. So we urge you to vote yes on this small amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Plank and Mr. Perras. Those in favor will say aye. Opposed, no.

The amendment is adopted. The question now is on Committee Proposal 86, as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—121

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Martin
McCauley
McGowan, Miss
Millard
Mosier
Murphy
Nisbet
Nord
Norris
Ostrow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—2

Hanna, W. F.
Radka

SECRETARY CHASE: On the passage of Committee Proposal 86, the yeas are 121; the nays are 2.

PRESIDENT NISBET: **Committee Proposal 86,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 86 as amended and rereferred to the committee on style and drafting:

> Sec. a. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may also prescribe the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties as may be prescribed by law. The ad valorem property tax for road purposes by any county shall not exceed in any year ½ of one per cent of the assessed valuation for the preceding year.
>
> Sec. b. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

SECRETARY CHASE: Item 7 on the calendar, **Committee Proposal 87,** A proposal relating to ports and port districts. Retains section 30 of article VIII unchanged.

Following is Committee Proposal 87 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1059.):

> Sec. a. The legislature may provide for the incorporation of ports and port districts, and confer power and

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

authority upon them to engage in work of internal improvements in connection therewith.

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: There were no changes, Mr. President; there were no changes made in this as it came out of committee of the whole and our committee urges the adoption. We will take a look at this between second and third reading because the prohibition against internal improvements was eliminated in other discussions in committee of the whole and this may no longer be necessary.

PRESIDENT NISBET: Are there any amendments?

SECRETARY CHASE: None.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 87. Those in favor — will the board be cleared, please. Those in favor of Committee Proposal 87 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. HOXIE: Mr. President, I don't intend to explain my vote because I think the section is completely unneeded.

The roll was called and the delegates voted as follows:

Yeas — 121

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Martin
McCauley
Millard
Mosier
Murphy
Nisbet
Nord
Norris
Ostrow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 1

Hoxie

SECRETARY CHASE: On the passage of Committee Proposal 87, the yeas are 121; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 87** is passed and referred to the committee on style and drafting.

For Committee Proposal 87 as rereferred to the committee on style and drafting, see above, page 2540.

SECRETARY CHASE: Item 8 on the calendar, **Committee Proposal 88,** A proposal pertaining to metropolitan areas. Amends article VIII.

Following is Committee Proposal 88 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1107.):

Sec. a. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONSTITUTION the legislature [shall have power to] MAY establish in metropolitan areas [such] additional forms of government or authorities with [such] powers, duties and jurisdictions as the legislature shall [deem necessary] PROVIDE. Wherever possible, [said] SUCH additional forms of government or authorities shall be designed to perform multipurpose functions rather than a single function.

Sec. b. The legislature BY GENERAL LAW shall [provide by general law for the exercise of local government by] AUTHORIZE [2] TWO or more counties, cities, villages, townships or districts, or any combination [of 2 or more of such units of local government; which general law shall authorize such units of local government] THEREOF among other things TO: [(1) to] enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each [local unit of government] would have the power to perform separately; [(2) to] share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each [local unit of government] would have the power to perform separately; [(3) to] transfer [to each local unit of government or combination thereof] functions [and] OR responsibilities TO ONE ANOTHER OR ANY COMBINATION THEREOF [or both] upon the consent of each unit [of government] involved; [(4) jointly to] cooperate with one another and with state government and WITH intergovernmental agencies; [(5) to] lend their credit TO ONE ANOTHER OR ANY COMBINATION THEREOF [in a manner] AS prescribed by law in connection with any AUTHORIZED publicly owned undertaking [authorized herein].

Any other provision of this constitution notwithstanding, an officer or employee of THE STATE OR any of [said] SUCH units of government or subdivision or agency thereof may serve on or with any governmental body established for the above purposes and shall not be required to relinquish his office or employment by reason of such service.

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, the committee on local government has carefully studied the changes made by style and drafting and is satisfied with those changes and urges the adoption of this proposal.

PRESIDENT NISBET: One amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment to Committee Proposal 88:

1. Amend page 1, line 18, [section b, paragraph 1] by striking out "transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved;".

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: Mr. President, this particular amendment would strike from the proposal that power which would allow a unit of government to transfer its function or responsibility to another or any combination of units of government. Now it seems that the powers which are granted in this proposal, other than that one which I seek to strike, would give sufficient and adequate powers in the areas of metropolitan concern, because the first area here which is given to the metropolitan areas to delegate or to enter into arrangements is the right "to enter into contractual undertakings or agreements with one another or with the state." And the second area is to allow for the joint cost and responsibility of these functions. The third, however, goes a lot further than the first 2 do. The first 2 deal with the contractual relationship. The third area

Explanation—Matter within [ ] is stricken, matter in capitals is new.

deals with the actual delegation of the responsibilities, a delegation of the responsibilities which that particular unit of government has.

Now when I went back to find out some of the constitutional responsibilities that these units of government had that, apparently, they would be able to delegate under this provision, I found in Committee Proposal 83 dealing with cities and villages that they have a right where:

> Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Apparently, this provision would allow a unit of government to transfer that function to another unit of government or groups of units of government. I see a little further down in Committee Proposal 83 that:

> Each such city and village shall have power to pass resolutions and ordinances relating to its municipal concerns, property and government subject to the constitution and law.

Now it goes on and says:

> No enumeration of powers granted to cities and villages in this constitution shall be deemed to limit or restrict the general grant of authority conferred by this section.

Apparently, this particular provision which I seek to strike would allow a city or village to delegate their lawmaking and ordinancemaking concerns. So it would seem that this goes way beyond what we would prefer to have delegated by governmental units.

As far as counties are concerned, I see in Committee Proposal 81 that counties have the power. "The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations prescribed by law." I see nothing which would prevent that unit of government from delegating this responsibility.

I think this provision goes much too far and I think that when we give them a right to contract and to enter into joint arrangements for the combining of costs it is enough, and when you give them the power to actually delegate their taxing powers — which I think you have done here — that that goes much too far. I urge the adoption of this amendment to strike that provision which I feel goes much too far.

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. T. S. BROWN: Mr. President and fellow delegates, I think by the terminology of Mr. Boothby's amendment we would thereby prevent community A, which has only outhouses, from purchasing a water supply from adjoining community B, which has an adequate water and sewage system. I would suggest that this is really the honeydippers' protector amendment. (laughter)

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, I am afraid that Mr. Boothby, with whom I had quite a go around the first time on this, reads far too much. Now he makes the point that this would allow, perhaps — and I think he fears that it would — the policymaking functions to be transferred. Well, it doesn't. There is nothing in here that gives the wording or is intended, if it accidentally should go so far — and I am sure it doesn't even say it — to transfer the power of the city council A to delegate its policymaking decisions to township B, or vice versa. All this is aimed at is the functions of government and responsibilities, carrying out the execution of the policymaking decisions.

For example, some cities find and some communities will find that it is a lot more economical if fire fighting services can be taken over by one unit rather than having 2 separate fire fighting forces. Another group of cities finds that providing water is an economy. Others will find that police service, others will find that garbage service, others will find on this matter of taxes — and I would like to be very clear on this that there is no transfer here of the power of a city to decide what tax there will be and levy its own tax. Now it might be possible for 2 cities, as far as concerns the collection of the tax that is imposed, to have one actually collect it. Now, as a matter of fact, we do that today, commonly, in Michigan. Cities very often will go out and collect the school tax. So what we are trying to do here is to allow communities who feel that they can save some money by not having to duplicate, to be able to transfer functions back and forth.

There has been some experience in it. We have had some experience in a limited way in Michigan in this matter of collecting the tax between cities and schools; as one example, some communities have gotten together as far as fire fighting is concerned. But California has had a great deal of experience in this type of cooperative undertaking. There is one city in California of 100,000 population which buys its service from Los Angeles and the entire functions of police, of fire, of water, of tree trimming and so on are provided by Los Angeles for a fee which the other city pays, but the other city keeps its own city government, levies its own taxes — I think it even collects them in this case — but doesn't have to duplicate.

What we are trying to do here is, by allowing separate units of government to keep their identity and to cooperatively work together, avoid getting into a situation like Florida got into down in Dade county, where, because units didn't get together, the movement started for a form of a supergovernment which came in to perform these functions.

Now the more we can cooperate together, transfer functions, share costs, enter into contractual undertakings, lend credit and cooperate, the longer, I think — and it is not just myself but it is the committee and it is the subcommittee — the longer, we think, we can keep the identity and integrity of our existing units of government. Therefore, I would oppose the Boothby amendment for this reason.

PRESIDENT NISBET: The Chair recognizes Mrs. Judd.

MRS. JUDD: Mr. President and members of the convention, I think Mr. Boothby is thinking up a lot of bad ghosts. To those of us who can remember back to the 1930s, the welfare function was transferred from cities to counties and it didn't create any great fear of terrible things happening.

It is possible today for a city to transfer its health functions to a county. In my county there has been a good deal of discussion about the possibility of transferring the public library to the county and we have even had some about having the county provide the water for all of the area. These are things which are really going on and under discussion today and would become more possible when we get county home rule and we have a more competent form of county government, and this simply gives a boost to a movement that could result in more efficient and economical services for the metropolitan areas.

PRESIDENT NISBET: The question is on the Boothby amendment. Mr. Buback.

MR. BUBACK: Mr. President and members of the convention, I also urge the defeat of this amendment.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: I just might quickly say in reply to some of the people who have spoken in opposition to this amendment, first of all, all of those services which Mr. Allen mentioned — fire fighting, water, police service and garbage — could be covered by the first 2 provisions of this section, because this particular provision allows for these units of government to:

> . . . enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately;

and to

> share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately. . . .

Now this particular provision would give all the power that is necessary to perform those services.

With regard to what Mrs. Judd said, actually those words were very familiar because the last time around she also said I was being scared of ghosts and maybe this is a good thing to be scared of when we are writing a constitution. You see, maybe all these things which she suggests, the transfer of the health functions and the library functions to other units of government, might be very well but this does not prohibit the legislature — this amendment that I offer does not prohibit the legislature from taking care of those areas. I simply am worried when you will allow the transfer of functions of government — when you allow the transfer of functions of government, you are not restricting it to libraries or to garbage collection or to police services; you are giving a broad grant of power to delegate functions of government.

PRESIDENT NISBET: The question is on the Boothby amendment. Those in favor will say aye. Those opposed, no. The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. William Hanna offers the following amendment:

1. Amend page 2, line 5, [section b, paragraph 2] after "thereof" by inserting a comma and "except members of the legislative bodies of the state or any unit of government,"; so the language will then read:

> Any other provision of this constitution notwithstanding, an officer or employee of the state or any of such units of government or subdivision or agency thereof, except members of the legislative bodies of the state or any unit of government, may serve on or with any governmental body established for the above purposes. . . .

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, the purpose of this amendment is to highlight the broad nature of the exception starting in line 3, concerning officers or employees of the state or of other units of government.

Now we want to perform local functions and, on page 1, we talk about joining governmental units of the state. Supposing we in Muskegon county want to establish a port and we want to get some state money and we want to get some state cooperation and we want to get some county money and some city money. Under this, I think the most effective way to do this would be to set up a board of directors that would at least include someone from the governor's office and the attorney general's office, members of the finance committee of each house of the legislature, members of the finance committee of the Muskegon county board of supervisors, the city commissioners from the city of Muskegon, and the township officials from the surrounding areas, and to guarantee each one of them a salary in direct proportion to which their local units of government contributed to the welfare of our port authority.

Now we have gone to great lengths in other places to try to circumscribe and keep the legislature, the members of the legislature, and members of the legislative bodies in as much of an independent position as is possible, but under this provision we are now throwing all of this to the winds. We are saying that if you create one of these intergovernmental cooperative units and you want state money, you may hire or appoint or otherwise provide for a member of the legislature to sit on your board of directors, pay him a salary or other compensation, and you have an inbuilt errand boy to run up to Lansing to secure money — and I assure you that the proposal will not stand on its own merits.

Now if this is what the convention wants to do, I think we should do it knowingly: that on page 2 we have wiped out all the historical restrictions that we have found through history to be necessary to maintain an independent legislature whose primary duty is representing the people who elected them and the state of Michigan. Under this provision as you read it, the legislature, the executive branch, and local government can all be emasculated, and by the means of paying compensation it will be difficult to determine what master and what group of voters these various people are supporting and representing. And, therefore, I submit my amendment so that at least members of the legislative bodies of any state or local units cannot participate in an intergovernmental unit for fear that their influence and their voices will extend far beyond intergovernmental cooperation.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, let's take the Hanna amendment and break it into 2 parts. Let's refer, first, to the last 5 words which are "or any unit of government." I think that would be other than the state. Now I think when we get into this sort of a cooperative board or group that probably the most valuable people on it would be the mayor of the city, or the supervisor or the chairman of the board of supervisors, and I don't think that we should eliminate them. If you do eliminate them, as far as the local government is concerned, you then have to appoint someone on the group that isn't directly tied in with your local government. You might appoint your city attorney, I know; but I think it would be better to have a legislative member on it. So I think, clearly, on the last 5 words we would be doing the wrong thing.

Now let's take the other part of it which is the state, a member of the legislative body of the state. I don't feel quite as strongly on this but, again, I feel that maybe this is the day that we ought to trust the legislature rather than distrust them. I think, likewise, that we have in our legislature in Lansing some highly competent and trained people whose services would be very desirable. I think there comes a point when maybe we cannot start with the assumption that everything is going to be wrong or that people don't act with complete integrity — and I don't think you are saying that, Mr. Hanna — or even that they subconsciously will yield to influence or pressure because a favor will be created with the member of the legislature. For these 2 reasons I really don't think we should go that far; I would dislike very much to say that all members of the legislature could not serve. I think they might be the most valuable for these 2 reasons: first, the legislative body, members of cities, counties, townships and so on; the other, the legislators in the senate and the house, I would say we should not exclude them. Therefore, I would oppose this proposed amendment.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, I ask that the question be divided along the lines that Mr. Allen mentioned and I ask that we vote by machine.

PRESIDENT NISBET: You mean you demand the yeas and nays, Mr. Hanna, or division?

MR. W. F. HANNA: Right. Division.

PRESIDENT NISBET: Division. Mr. Buback.

MR. BUBACK: Mr. President, I rise also, again to oppose this Hanna amendment.

PRESIDENT NISBET: The question is on the Hanna amendment. It has been divided. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I would like to just call the attention of the members of this convention to what happens when you would go so far as to permit members of the legislature, for example, to sit upon an agency which is out trying to find public money to support it.

Since this is true of state legislators, I cannot see why it would be any different in the case of a member of the board of supervisors or a city commission. A number of years ago the legislature — right after world war II — the legislature created a department in this state and it is a department still in existence. It's the department of economic development. The legislature, ignoring the constitutional provision, wrote into law that there should be ex officio members on the department of economic development commission from the legislature. There were a certain number of members of the senate and a certain number of members of the house. Now I don't impugn any wrong motives to any member of the house or senate who sat on that commission ex officio, but I do invite your attention to this situation: wisely, from the standpoint of the commission, the members who were given that ex officio position were also members of the appropriations and the ways and means committees, so that when the appropriation for the economic development commission came before the appropriations committee or the ways and means committee they had a built in supporter right there. You see, here were some members of the committees sitting who had attended meetings of the economic development commission, had been treated as members with the right to speak and, I guess, even vote there for a while — at least, they were ex officio — and so that commission for a while had built in lobbyists, if you might use those crude words, right in the legislative committees. Well, after a while somebody read the constitution and they set that thing to rest but while it lasted that was the effect of it.

I don't impugn any wrong motives and I do not criticize any member of the legislature who sat in that dual capacity, but I do invite your attention to the effect of such things and I can imagine that we could multiply it a hundredfold in the government structure of Michigan unless you will support both parts of Bill Hanna's amendment now.

PRESIDENT NISBET: The question is on Mr. Hanna's amendment, which has been divided. The secretary will read the first part.

SECRETARY CHASE: The first part reads:

1. Amend page 2, line 5, [section b, paragraph 2] after "thereof" by inserting a comma and "except members of the legislature,".

PRESIDENT NISBET: Those in favor of the Hanna amendment will vote aye. Those opposed will vote nay. This is the first part.

MR. YEAGER: Mr. President.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: I believe the secretary misstated. Did he say "members of the legislature?"

PRESIDENT NISBET: That's right. Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment as offered by Mr. Hanna was to insert "except members of the legislative bodies of the state or any unit of government." A division has been requested and so the 2 parts will read, first, to insert "except members of the legislature" and then to insert "except members of legislative bodies of any unit of government." If both are approved, then the secretary will return to the complete language as originally offered by Mr. Hanna to put it in the journal.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the first part of the amendment, the yeas are 69; the nays are 55.

PRESIDENT NISBET: The first part of the amendment is adopted. The vote now is on the second part of the amendment. Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, I strongly urge the defeat of this portion of the amendment because I think that to make it impossible for members of local legislative bodies to serve in these areas would be taking away from them some of their talented people which they need on those committees. I urge you to defeat this amendment.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I want to only add this to what Mr. Elliott just said: the fact that some of the members of the committee voted yes on the first part of the amendment is not to be construed at all that we are in favor of the last part. We are not. We think that the local people should be able to serve on this particular authority even though they might be a member of the city council or a member of the local board of supervisors.

In voting on the first part — in voting yes on the first part, we were only being consistent with Committee Proposal 112 on legislative powers where we had already said that a legislator could not have another job. So we urge, we earnestly urge, that you vote down this last half of the amendment.

PRESIDENT NISBET: Will the delegates please clear the board. Mr. Chase will read the second part of the amendment.

SECRETARY CHASE: The second part of the amendment is:

1. Amend page 2, line 5, [section b, paragraph 2] after "of the" by striking out "legislature" and inserting "legislative bodies of the state or any unit of government".

PRESIDENT NISBET: Those in favor of the second part of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the second part of the amendment, the yeas are 13; the nays are 110.

PRESIDENT NISBET: The second part of the amendment is not adopted. The question now is on Committee Proposal 88, as amended. Judge Leibrand.

MR. LEIBRAND: Mr. President, may I direct 2 inquiries to Chairman Elliott about Committee Proposal 88, generally?

PRESIDENT NISBET: Mr. Elliott?

MR. LEIBRAND: Committee Proposal 88 authorizes units to combine for certain purposes. The combinations authorized appear, on their face, to be wholly voluntary. Was it the intent of the committee to empower legislation which could in any way force a county, city, village, township or district into such a metropolitan area against its will?

MR. A. G. ELLIOTT: Mr. President, Judge Leibrand, are you speaking now as to section a or as to section b?

MR. LEIBRAND: Well, I am speaking as to the entire proposal.

MR. A. G. ELLIOTT: Speaking as to section b, first, it was not the intent of our committee that any unit of government would be driven into some form of government that they were not voluntarily approving and adopting.

Now, as to section a, may I point out that this is a permissive section in which it establishes — and, as we pointed out in committee of the whole, this is a section which we hope will accommodate the problems of the future and we have made this permissive to the legislature to establish in metropolitan areas "additional forms of government;" ". . . additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide." And the purpose here is not to detail but to set the broad framework so that in the future the legislature can, in its wisdom, make this type of government available should it be the proper thing and the right thing for us to do at that time.

MR. LEIBRAND: Mr. Chairman and Delegate Elliott, I don't feel that my question is answered. Could there be legislation which could force a local unit into such a metropolitan area against the will of the people of that unit?

MR. A. G. ELLIOTT: Mr. President and Judge Leibrand, I will only point out to you that it says that the "legislature may establish in metropolitan areas additional forms of government." It is beyond my control, standing here on the floor, to determine how the legislature might establish that form of government in the future. It was not our intention that this would be an imposition upon those units of government and we say, if you will notice, "additional forms of government." So I think that our intent within the committee — certainly the intent of the chairman and I think, generally, of the committee — was that this should have such a broad concept that in the future, down the road 20 or 30 or 40 years from now, if there were a need for a metropolitan form of government the legislature would have the directive under which to operate. And I am sorry. I recognize that I am not answering it with a "yes" or "no" answer, because I don't feel that it is possible to so answer.

MR. LEIBRAND: Mr. President, one further question, if I may: could a county — and there is no provision for a referendum here — could a county, through its board of supervisors, enter into such a metropolitan area that would take into that area the cities, townships and districts within the county without separate votes of each unit?

MR. A. G. ELLIOTT: Mr. President, Judge Leibrand, a county could not do that.

MR. LEIBRAND: Thank you.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, just to interpret further what I believe the committee had in mind: it was not our thought that such a metropolitan authority would displace any of the present forms of government but would be an instrument through which several local governments could cooperate. I think we have one example in the Clinton-Huron recreation authority.

We are particularly anxious that there should not be a lot of separate authorities set up, each one to carry on one function of government, and almost the most important reason for including this paragraph, in my estimation, is the second sentence which says that ". . . such additional forms

. . . shall be designed to perform multipurpose functions rather than a single function."

The greatest handicap in the country so far in metropolitan problems has been the multiplication of special districts each wanting to do a single function. It is our hope that if such a situation were ever set up it would be limited in one metropolitan area to one such authority which might carry on any number of functions that the governments involved might wish to have it do as a cooperative authority.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: I think, Mr. President, that Judge Leibrand has asked a pertinent question and a good one and we should make the answer as clear as we can. As I interpret it, Judge Leibrand, the answer is definitely no to your questions. On section b, the only way these units could get together is by voluntary action of each of the units and there is nothing in any way in section b that forces them to cooperate or enter into joint contracts or transfer services or any of these other purposes. On section a, this is designed in section a to be a unit of government if any comes into effect which does not take the place or do away with the existing city or township or county. It is an additional unit of government, so it does not abolish the existing unit of government and it only can come into effect by the action of the legislature.

Now, under today's constitution the legislature has this same power. What we have really added is the prohibition against setting up a new unit of government which will, as Mrs. Judd says, just do one thing, so pretty soon we have 50 different new units of government each performing one function.

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I just want to direct a question to Mr. Elliott —

PRESIDENT NISBET: Does Mr. Elliott care to answer?

MR. G. E. BROWN: — in view of something that he said, because I think we should set the record straight. In referring to section b, he referred to it as being applicable to metropolitan areas. Now it has been my understanding and it was the understanding on first reading that section b applies to any township, to combinations of any townships, so that there can be a combining of functions such as zoning regulations and things of that nature. Isn't that correct, Mr. Elliott?

MR. A. G. ELLIOTT: Mr. President and Mr. Brown, it is correct. I did not mean to say that this was only applicable to metropolitan areas.

MR. POLLOCK: Mr. President.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Could I ask the chairman of the committee a question?

PRESIDENT NISBET: You may if Mr. Elliott cares to answer.

MR. POLLOCK: I am a little confused now by that last remark of yours. I had assumed that the benefits to be derived from this are limited to metropolitan areas. Is that right?

MR. A. G. ELLIOTT: Mr. President and Dr. Pollock, are you talking about section a or section b?

MR. POLLOCK: I am talking about the whole proposal.

MR. A. G. ELLIOTT: Mr. President, Dr. Pollock, I see nothing in this proposal which would in any way, particularly in section b, in any way prevent 2 or more counties, cities, villages, townships or districts anywhere in the state from entering into these contractual areas of agreement if they so decided.

MR. POLLOCK: But in section a it does say, does it not, that "the legislature may establish in metropolitan areas?"

MR. A. G. ELLIOTT: Mr. President, Dr. Pollock, in that particular section it does say that and I think it would be within the definition of the legislature at the time it makes that establishment to determine what the words "metropolitan areas" at that time mean. I am not so sure — I don't believe that, unless they defined it, this could apply to the section of our state where our population was very light.

MR. POLLOCK: But we are clear, then, that the benefits of establishing these intergovernmental relations are not limited merely to metropolitan areas?

MR. A. G. ELLIOTT: That is the statement that I made.

PRESIDENT NISBET: The question is on Committee Proposal 88, as amended. Those in favor of the proposal will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Will you please hurry and vote. The secretary will lock the machine.

The roll was called and the delegates voted as follows:

Yeas — 118

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Madar
Martin
McAllister
McCauley
McGowan, Miss
Millard
Mosier
Murphy
Nisbet
Nord
Norris
Ostrow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays — 9

Boothby
Finch
Hubbs
Hutchinson
Leibrand
Rood
Shanahan
Walker
Yeager

SECRETARY CHASE: On the passage of Committee Proposal 88, the yeas are 118; the nays are 9.

PRESIDENT NISBET: **Committee Proposal 88,** as amended, is passed and is referred to the committee on style and drafting.

Following is Committee Proposal 88 as amended and rereferred to the committee on style and drafting:

Sec. a. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multipurpose functions rather than a single function.

Sec. b. The legislature by general law shall authorize two or more counties, cities, villages, townships or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government and with intergovernmental agencies; lend their credit to one another or any combination thereof as prescribed by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any of such units of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the above purposes and shall not be required to relinquish his office or employment by reason of such service.

SECRETARY CHASE: Item 9 on the calendar, **Committee Proposal 89, A proposal pertaining to county home rule. Amends article VIII.**

Following is Committee Proposal 89 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1133.):

Sec. a. Any county may frame, adopt, amend[,] or repeal a county charter in a manner and with powers and limitations to be provided by general law, WHICH SHALL AMONG OTHER THINGS PROVIDE FOR THE ELECTION OF A CHARTER COMMISSION. [which] THE law may permit the organization of county government in [forms] FORM different from THAT [the form] set forth in this constitution AND SHALL LIMIT THE RATE OF AD VALOREM PROPERTY TAXATION FOR COUNTY PURPOSES, AND RESTRICT THEIR POWERS OF BORROWING MONEY AND CONTRACTING DEBTS. EACH CHARTER COUNTY IS HEREBY GRANTED POWER TO LEVY OTHER TAXES FOR COUNTY PURPOSES SUBJECT TO LIMITATIONS AND PROHIBITIONS SET FORTH IN THIS CONSTITUTION OR LAW. Subject to law, a county charter may authorize the county through its regularly constituted authority to [pass] ENACT all laws and ordinances relating to its [municipal] concerns.

[No county charter shall be adopted, amended, repealed or revised until approved by a majority vote of county electors voting on the question.]

[The question of electing a charter commission may be placed on the ballot by a majority vote of the total membership of the board of supervisors and shall be placed thereon on receipt of a petition signed by 5 per cent of the registered voters of the county. The charter commission shall be elected by the county electors in accordance with the election laws.] THE BOARD OF SUPERVISORS BY A MAJORITY VOTE OF ITS MEMBERS MAY, AND UPON PETITION OF 5 PER CENT OF THE ELECTORS SHALL, PLACE UPON THE BALLOT THE QUESTION OF ELECTING A COMMISSION TO FRAME A CHARTER.

NO COUNTY CHARTER SHALL BE ADOPTED, AMENDED OR REPEALED UNTIL APPROVED BY A MAJORITY OF ELECTORS VOTING ON THE QUESTION.

[The legislature shall by general law, for counties adopting home rule, limit the rate of general property taxation for municipal purposes, and restrict their powers of borrowing money and contracting debts. Each such county is hereby granted power to levy other taxes for public purposes subject to limitations and prohibitions set forth in this constitution or law.]

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, the committee on local government has carefully analyzed the changes that were made by style and drafting, was completely satisfied with them, and urges the adoption of Committee Proposal 89 as offered to you on second reading.

PRESIDENT NISBET: The secretary will read the first amendment.

SECRETARY CHASE: Messrs. Follo, Pollock, Mrs. Cushman and Mr. McCauley offer the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and inserting "The electors of any county shall have the power, in accordance with the procedure set out herein, to frame, adopt or amend a charter for a charter form of county government. The board of supervisors may, by majority vote, submit to the electors the question of the establishment of a county charter commission, and such question shall also be submitted to the voters upon petition of a number of electors in number at least equal to 5 per cent of the vote cast in the county for governor at the last general election. If the electors of the county shall decide this question in the affirmative, the board of supervisors shall thereupon make provision for the election, at the next ensuing county election, of a county charter commission. Such commission shall be empowered to draft a charter which shall designate the officers of the county, assign the exercise of all powers vested in the county, and otherwise provide for the form of government of the county. The charter also may authorize the county to enact all laws and ordinances relating to its concerns, as defined by general law. Such charter shall take effect when approved by a majority vote of the county electors voting upon the question.".

MR. A. G. ELLIOTT: Point of information, please, Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: We would like to know whether or not the amendment offered here is not so similar in nature to the one offered by Mr. McCauley when this subject was under discussion several weeks ago that it should not be ruled out of order at this time. That's page 641.

PRESIDENT NISBET: There is enough difference, Mr. Elliott, to consider the amendment. Mr. Follo.

MR. FOLLO: Mr. President and delegates, as you know, the matter of county home rule was one of the most explosive and divisive issues in the committee on local government. It certainly attracted the attention of newspapers all over the state. This convention earned a good deal of unfavorable publicity because of the action we took on county home rule. For that reason, I, Dr. Pollock, Mrs. Cushman, Mr. McCauley and others, felt that it should be brought up again at this time. We had the whole matter revamped by our research department and had the help of others on this. I am not going to bore you with a long history of the county home rule movement — which you have heard before — I would just like to point out to you that, certainly, if there is any area of government in the state of Michigan which certainly needs some attention it is county home rule. I would like to point out to you that the way this amendment that we are submitting differs from the proposal of the committee is that it is self executing. Those who propose this amendment maintain that the proposal which is being given to you by the committee will be a long time in achievement, if it will ever be achieved. Certainly, I know from having talked to some legislators that this thing is going to lie there and nothing will be done about it. The legislators have told me that they will never go against the wishes of the people in their own counties. The county officials all over the state are deathly afraid of any changes. They will lobby vigorously to oppose any kind of a change.

What we are asking here is the opportunity for at least 1 or 2 counties in the state to experiment with this, to try it. Now I don't know why anybody should be afraid of this. If it is wrong, if it is a mistake, if it doesn't work, then it can be changed; but I maintain — and there will be others who will speak in the same vein — that unless we pass this amendment you will have no county home rule in the state of Michigan or you will have a very simplified version of it which will be a long way short of what is possible in other states of this union.

Now I have great respect for the men who are behind this proposal. As you recall, it came about as a compromise between the 2 factions within the majority party. Unfortunately, my own party did not take action until too late and so this hap-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

pened and, as I said before, the compromise is no compromise at all. I think we should give ourselves a chance in Michigan to achieve true county home rule. If you will look over the debates in the journal of the convention of 1908, you will see that there was very little debate over city home rule and, of course, the reason for this was that there had been a great deal of agitation over the government in the cities. The result is that today we have very little to do or to change in our city governments. City government in Michigan is in excellent shape, in general. There is very little dissatisfaction with that. We are rather proud of the city governments we have in this state. But this cannot be said of county governments.

Now, to the contrary, you will hear people say that there is very little dissatisfaction with it but I will point back to the newspaper articles which came out all over this state criticizing us for the action we took. I am not going to say any more about it at this time. I am going to now yield the floor to Dr. Pollock.

PRESIDENT NISBET: Mr. Pollock.

MR. POLLOCK: Mr. President, I think only a few words are necessary. I believe that this proposed amendment is a very considerable improvement over the committee proposal. It is a better amendment. It is better drafted. It is clearer. It accomplishes exactly what it sets out to accomplish and is not the result of compromise. It is a clearcut, straight forward provision looking in the direction of self executing county home rule.

Those who put forth the committee proposal should have learned something, I think, from the very cool reception which that proposal received from the state of Michigan. It is nothing that anybody could boast about. You cannot write home about that. It would certainly attract no particularly favorable attention to this convention if the committee proposal is adopted. If this amendment is adopted, it will be looked upon as one of the real marks of distinction of this convention. It will be something worth writing home about and I think it will receive the wide acclaim of the people of this state.

Those who put forward the committee proposal maintained that they were doing just exactly what was done with municipal home rule in 1908. This is a very misleading statement. As Mr. Follo has indicated, in 1908 there had already been considerable agitation and the convention was merely ratifying what seemed to be very strong public opinion at that moment, and it was not difficult to put through the legislature the municipal home rule act. The situation today is entirely different. It will be much more difficult to put the county home rule act through the legislature than it was with the municipal home rule plan. Even if I did not think so, then I would still be mistrustful of the rather weak proposal which the committee has brought forward.

This puts the matter exactly in the hands of those who ought to decide the matter. It does not wait for the legislature. It waits only upon enlightened public opinion in those counties that want to act. It injures nobody. There is nothing that anybody needs to be afraid of in this, unless they are the people who are concerned with the perpetuation of an inefficient local government. We, I think, could do more. In addition to the proposal we have just passed on intergovernmental relations, if we could put through this kind of a county home rule amendment we could go home very proud of ourselves and I would predict that this would be considered one of the significant developments in this convention. I therefore urge its support.

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President and members of the convention, at this time I would like to support the amendment as offered. I ask this convention: what could be more democratic than to let the people of the counties decide the form of government that they desire, the type of government that they desire to be governed by?

We are talking about flexibility and what is going to be important to the people of the county of Wayne or whatever county might be involved in the state of Michigan for the next 50 years. Just because we adopt a home rule — a strong, self executing home rule — such as this, does not necessarily mean that we are going to have it in every county. I know, speaking for the people of Wayne county, that we would like to have the opportunity to decide for ourselves whether or not we want to govern ourselves or leave it up to the legislature to attempt to dictate to us what type of government we will have for the next 50 years. I would like at this time to yield to Mrs. Cushman.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: I, too, would like to rise to support this amendment. I think that this would be one of the great achievements of this convention —

PRESIDENT NISBET: Mrs. Cushman, wait just a minute. Will the convention please be in order. Proceed, Mrs. Cushman.

MRS. CUSHMAN: I think there are comparatively few great changes that we can say we have made in this constitution and I think that to say we have actually accomplished something such as county home rule would be a very great step forward indeed. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the committee, since I read in the Free Press that from the last action we took here we would have home rule "when the cows start doing the can-can," I confess I must vote for this amendment.

PRESIDENT NISBET: There is an amendment to the amendment. Mr. Chase.

SECRETARY CHASE: Mr. Downs offers the following amendment to the Follo amendment:

1. Amend the amendment, second sentence, after "establishment of a" by inserting "partisan"; and in the fourth sentence, after "designate the" by inserting "partisan"; so the language will read, beginning in line 3:

> The board of supervisors may, by majority vote, submit to the electors the question of the establishment of a partisan county charter commission. . . .

And in line 12, the language will read:

> . . . a county charter commission. Such commission shall be empowered to draft a charter which shall designate the partisan officers of the county, assign the exercise of all powers vested in the county,

et cetera.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I shall be very brief because this subject was reviewed at great length in committee of the whole. This amendment adds 2 words: the word "partisan" before the words "county charter commission" and before the words "officers of the county," as the secretary read it. The objective of this amendment is very simple. It is to see that whatever form of county government is set up there shall be the partisan system for the election of the officers and the partisan creation of the county charter commission.

I realize, Mr. President and delegates, this is a question on which there is much controversy. I, for one, however, feel that partisan government does result in the most responsible type of government. I think, particularly, where here we are creating a whole new form of county government that it is not asking too much to have this check of responsibility which will create a responsibility by the political parties as well as by the individual candidates. I feel that by strengthening party responsibility we are in our state strengthening the grass roots of democracy. I urge support of the amendment and I demand the yeas and nays on the amendment and on the amendment to the amendment. Thank you.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. The Chair recognizes Mr. Kelsey.

MR. KELSEY: Mr. President and members of the convention, I rise to support the Downs amendment and the Follo amendment as amended by the Downs amendment. We went through this very thing in Warren. We were given the proposition to vote on. We have worked hard for many years for the 2 party system. It was reflected here yesterday and throughout the convention how great the 2 party system was. Certainly, in the city of Warren we have no way of knowing from 9 councilmen and the mayor and treasurer and clerk — even though the clerk and treasurer have no vote in our legislative matters — we have no way of knowing where they stand and, certainly, I am for the Downs amendment and the Follo amendment.

PRESIDENT NISBET: The question is on the Downs amendment. The yeas and nays have been ordered.

MR. POLLOCK: Mr. President.

PRESIDENT NISBET: Mr. Pollock.

MR. POLLOCK: I merely want to say that there's nothing in this amendment to prescribe one way or the other, which is the way I think an amendment should be. If the people of a county desire to have it on a partisan basis, that is their privilege and I don't think it is good constitutional drafting to prescribe the word "partisan" in the amendment. And, therefore, I shall have to vote against Mr. Downs' amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, since this is a recorded roll call vote that has been requested, I would like to have the Downs amendment divided as to the charter commission, separate from the elective officers.

PRESIDENT NISBET: The division will be made. The first part of the Downs amendment will be read by Mr. Chase.

SECRETARY CHASE: The first part of the amendment offered by Mr. Downs is to the language in line 5:

1. Amend the amendment, second sentence, after "establishment of a" by inserting "partisan"; so the language will read, "The board of supervisors may, by majority vote, submit to the electors the question of the establishment of a partisan county charter commission. . . ."

PRESIDENT NISBET: The question is on the first part of the Downs amendment to the amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 49

Anspach
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Everett
Faxon
Finch
Follo
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hubbs
Hutchinson
Jones
Kelsey
Krolikowski
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
Murphy
Nord
Norris
Ostrow
Perlich
Radka
Sablich
Shackleton
Snyder
Stamm
Stopczynski
Suzore
Thomson
Wilkowski
Young

Nays — 73

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Brown, G. E.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
McAllister
McCauley
McGowan, Miss
Millard
Mosier
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stevens
Turner
Tweedie
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the Downs amendment to line 5 of the proposed amendment, the yeas are 49; the nays are 73.

PRESIDENT NISBET: The first part of the amendment is not adopted. The question now is on the second part of the Downs amendment. Mr. Chase, will you read it?

SECRETARY CHASE: The second part of the Downs amendment is:

1. Amend the amendment, fourth sentence, after "designate the" by inserting "partisan"; so the language will then read, "Such commission shall be empowered to draft a charter which shall designate the partisan officers of the county. . . ."

PRESIDENT NISBET: The question is on the second part of the Downs amendment to the amendment. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 59

Allen
Anspach
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Dade
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Finch
Follo
Garvin
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Higgs
Hodges
Hood
Hubbs
Hutchinson
Jones
Kelsey
King
Kirk, S.
Krolikowski
Leibrand
Leppien
Lesinski
Madar
Murphy
Nord
Norris
Ostrow
Perlich
Sablich
Shackleton
Shaffer
Shanahan
Snyder
Stamm
Stevens
Stopczynski
Suzore
Walker
White
Wilkowski
Young

Nays — 66

Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Boothby
Brown, G. E.
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Farnsworth
Figy
Gadola
Goebel
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hoxie
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
Millard
Mosier
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Sharpe
Sleder
Spitler
Stafseth
Staiger
Thomson
Turner
Tweedie
Van Dusen
Wanger
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment by Mr. Downs offered to line 12, the yeas are 59; the nays are 66.

PRESIDENT NISBET: The amendment is not adopted. The question is now on the Follo, Pollock, Cushman, McCauley amendment.

PRESIDENT NISBET: Mr. Elliott, you are recognized.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen of the convention, this matter was fully debated in committee of the whole. It was pointed out there that what we adopted in committee of the whole was very consistent with the language that was adopted in 1908 for cities. There was a desire on the part of this convention at that time to retain the responsibility for this in the hands of the legislature with the full realization that they would and could produce the statutes that would give to the counties the home rule that is so badly needed. I would like to urge you at this time to defeat this amendment, but before ending my remarks I would like to yield to Mr. Buback to speak on the amendment.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: I didn't quite get that question, Mr. President. (laughter) He caught me off guard here. I don't know what the question was.

MR. A. G. ELLIOTT: Well, it was not a question. I wanted you to speak, if you would, as the vice chairman of this committee, as the result of the action that we took this morning on the committee proposal and in respect to this amendment.

MR. BUBACK: Well, Mr. President and members of the committee — (laughter) I am going to support the committee's proposal here. I think that we met in committee. This was a compromise and I went along with the committee and I am going to support it.

MR. A. G. ELLIOTT: Thank you.

MR. BRAKE: Mr. President.

MR. A. G. ELLIOTT: Mr. President, I still have the floor. I would now yield to Mr. Baginski.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and members of the convention, we discussed this matter at quite a length in the committee and, as is known to you on the floor, this is a compromise. I hope to ask that this amendment be defeated and that the committee report be adopted.

MR. A. G. ELLIOTT: Thank you, Mr. Baginski. And now I would like to yield to Mr. Brake. (laughter)

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, I don't know what is so funny about this. We just had 4 or 5 speeches in succession in favor of the proposed amendment and there is nothing very strange about the following of the same tactics on the other side.

Now I think everybody knows that in the committee on local government this was one of the sharpest issues that we had and the division was almost equal. As far as anyone could find out, the division was very close on the floor of the convention. Under those circumstances an agreement was reached and I can say to Mr. Follo: it was not an agreement just by the majority party or anything of the kind. The agreement was, in effect, that we should follow the language very closely of the 1908 constitutional provision having to do with home rule cities and that has been done. It leaves to the legislature the working out of the details for county home rule. And when Mr. Follo and Dr. Pollock say that nothing will be done in the legislature, they are just guessing wrong. Something will be done in the legislature if this becomes part of the constitution.

Now after we had worked out a compromise settlement, those of us who possibly can be said to represent the rural viewpoint — although that was not entirely an accurate classification — have done nothing more in trying to work up support for our viewpoint. We have considered that an agreement was an agreement and have let that go just at that. We have not gained support for amendments or anything of the kind. As I think you all remember — you have had plenty of opportunity to remember — the other viewpoint that had to be given up was represented primarily by Mr. Buback and Mr. Baginski and myself and we gained the title of "The 3 Bs" and then later another title, which is all right. We simply had reached an agreement and it is a genuine compromise. It is not throwing county home rule down the drain or anything of the kind. It is something that will work. The legislature had taken care of it for home rule cities; the legislature will take care of it for county home rule. And there are some of us ready to see to it that that is done, if it is possible from the outside — and it is possible from the outside.

We ask that this amendment which is contrary to the agreement we had reached — although I am not claiming that everyone was a party to that agreement; those who are sponsoring it were not parties to that agreement — we are asking that it be defeated and that the committee proposal prevail.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I believe our discussion on the amendment, the amendment to the amendment, and the majority report indicates that in many ways this question has been one of, shall we say, the more divisive or less unifying of any in the convention. It is a difficult problem.

I now, having lost the amendment on the "partisan," rise in support of the Follo, Pollock, et al, amendment. The reason for this is that the amendment we now have before us is self executing. That means that regardless of our predictions of what the legislature might or might not do, this provision would at least permit the people of the counties and their boards of supervisors on their own initiative to develop a form of county government subject to the approval of the people.

We did at great length in committee of the whole discuss this. I regret that some of the safeguards Delegate Hart and I had proposed, such as separation of the prosecuting attorney and others, were not adopted. That is behind us. We now have our choice between this amendment, which I regret does not have the word "partisan" in it, and the committee's proposal which has in it the phrase "as provided by general law."

I will not, Delegate Brake, categorically say that the legislature will not act nor will I categorically say that the legislature will act, nor will I predict if the legislature acts how it will act and, particularly, the classification that it might use of counties of a million or more, which is a euphemism for the word "Wayne." But, regardless of that conjecture, I can say that the Follo, Pollock, Cushman, McCauley amendment, regardless of certain shortcomings I see in it, does assure that the people have a mechanism for, on their own, getting home rule in a county.

I feel, for those reasons, that this amendment while it is not as perfect as some of the ideas, perhaps, that were rejected in committee of the whole — and who, finally, is to tell whose ideas are the most perfect? — I believe that now when the choice is between this amendment and the majority report of the committee that the amendment we now have before us offers a better, though a not perfect, opportunity for the people, particularly, of large industrial counties, to help make forward steps in the solution of their governmental problems.

I respect, equally, the opinions, certainly, of those who have spoken in opposition. After all, in a convention we do not all agree and this is, in a convention, as it should be. But in my judgment, for whatever it is worth, between the 2, I would rather have the amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. President, I rise in support of the amendment. It seems to me that the intent of the proposers of the other proposition, which is now before us, was made clear when they turned down, on the first reading, my amendment to make a uniformity clause to apply to all counties. Without the protection of a uniformity clause, I think that the fear that Mr. Downs just expressed as to singling out Wayne county for specialized treatment, which we can expect from the legislature as it is now apportioned, is enough to leave it to the consciences of all of us from Wayne county in questioning whether we can in good conscience support the committee proposal. And, as an alternative to the committee proposal, I feel we must go along with the support of this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Bradley.

MR. BRADLEY: Mr. President, I haven't had much experience in government as yet. In fact, it has been limited to 4 days in this convention and 4 years in county government. I am not sure yet what I have learned from the former experience but from the latter I have learned that county government does need some relief from the present situation.

Now from what I have heard of the debate here, I gather that all of the delegates are of the same mind. It seems, then, that the only block to action at this time is the question of a compromise which occurred before I came on the scene. A compromise, in my past experience, usually involves some give and some take. The argument on this particuar proposal indicates where the "give" went. I would merely like to say that, with all due respect to those who did the compromising, I feel that this Follo amendment is a much more direct way of reaching the end which all of you seem to have in mind. I therefore support it most wholeheartedly.

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, I rise in support of this amendment. This issue, unfortunately, was never put to a vote. Many of those — and I include myself — who did support the compromise were convinced that at that time this was the best we could do. Many of us — including myself — campaigned for as much home rule as we could possibly get.

I am not now so sure that the compromise did indeed reflect the true wishes of the body. I am sure that the proponents of the compromise certainly thought that it did. I suspect that we may have guessed wrong as to how some people really felt on this particular issue. It seems to me that perhaps the thing to do is to now find out; let the delegates express themselves, let the majority decision be controlling, and go on from there.

I would like to comment very briefly upon this thing about city home rule. First, there is some significant difference in the wording between the present constitutional language as it relates to home rule for cities and what the compromise proposes. Second, I would point out that cities by their very nature are not generally located in rural areas; so the same conflict, in my opinion, did not arise in 1908. Third, not being that old, I don't really know what happened in 1908.

Now I would like to comment on something else: I hear people tell me that this is the conservative position, that we should protect our antiquated form of government. Well, let me state right here and now that I don't think it is a conservative position. I think that pure home rule represents the true conservative position. I think that the true conservative would stand up and cheer for pure home rule, simply for this reason: it is the conservative, the real conservative, who is talking about sending its power to Lansing, sending governmental authority to Washington. They don't want this to happen. This is conservative, I think, and I think this is in the interests of good government. But how do you cure it? You cure it by solving the problems at the local level. You cure it by setting up a device in the constitution for the various states where local problems can be solved by local people at the local level. That is the only answer. There is no other answer. Don't ever be fooled into thinking that there is.

Now it seems to me that the alternative to this is to have some gentleman in Washington, D.C. say: let's have a department of urban affairs. And then where are your conservatives? They're up in arms. They say: oh, no. We don't want this. We don't want Washington to interfere with the problems of Wayne county, Michigan, or Dade county, Florida, or Cook county, Illinois, or Oakland county and Macomb county — thank you, John — or Kent county — that's right. No, we want to solve our problems on the local level. Well, now is our chance to set up the machinery whereby we can solve them at the local level. No questions. We don't have to worry about what the legislature is going to do. It is up to the people, the citizens, your friends and mine. And I say now is the time to stand up and really find out how this convention feels.

PRESIDENT NISBET: The Chair recognizes Mr. Follo.

MR. FOLLO: Mr. President, if I had been Pete Buback, I would not have —

MR. A. G. ELLIOTT: Point of order. Point of order, Mr. President.

MR. FOLLO: I am sorry; if I had been —

MR. A. G. ELLIOTT: Point of order.

PRESIDENT NISBET: State it.

MR. A. G. ELLIOTT: Mr. Follo has spoken twice on this amendment.

PRESIDENT NISBET: Mr. Follo is entitled to speak again. He is one of the movers of the amendment. Mr. Follo, you may continue.

MR. FOLLO: As I said: if I had been those who were called upon to get up and confess that they were for this — I am talking about Mr. Buback — it wouldn't have taken me long to tell the man who asked me, that I had been let down, as were the members of the Republican minority. I don't profess to speak for them, but these are things they said to me: that they had not been consulted in this compromise. Many people on this floor have come to me and said: this is not the way I feel but I am going to vote for it because the party wants it this way. I challenge you to put the welfare of the people of the state of Michigan ahead of party expediency.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think perhaps we have heard all the debate that could profit us on this question. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails. The question now is on the amendment offered by Messrs. Follo, Pollock, Mrs. Cushman and Mr. McCauley. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 47

Allen
Andrus, Miss
Barthwell
Bledsoe
Bradley
Brown, T. S.
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
DeVries
Donnelly, Miss
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Hannah, J. A.
Hart, Miss
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Kuhn
Lawrence
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Pollock
Rajkovich
Shackleton
Snyder
Sterrett
Suzore
Walker
Woolfenden
Young

Nays — 80

Anspach
Baginski
Balcer
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Buback
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Nisbet
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Follo and others, the yeas are 47; the nays are 80.

PRESIDENT NISBET: The amendment is not adopted. Mr. Chase will read the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 11, [paragraph 1] after "enact" by striking out "all laws" and inserting "resolutions"; so the language will read:

> Subject to law, a county charter may authorize the county through its regularly constituted authority to enact resolutions and ordinances relating to its concerns.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, this amendment is offered in the spirit of consistency and simply provides the same language here that we provided as to cities and villages, home rule cities and villages. This is in line with Mr. Allen's amendment which was adopted earlier to provide that these enactments shall be by ordinances and resolutions.

PRESIDENT NISBET: The question is on the amendment of Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The amendment is adopted. The question now is on the Committee Proposal 89, as amended. Those in favor will vote aye. Those opposed will vote nay.

MR. DOWNS: Has the vote been called and no speaking is possible?

PRESIDENT NISBET: That is right. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 105

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch

Gadola
Garvin
Goebel
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Madar
Martin
Millard
Mosier
Nisbet
Nord
Norris
Ostrow
Plank

Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

Nays — 21

Brown, T. S.
Douglas
Downs
Faxon
Hart, Miss
Hodges
Hood

Jones
Kelsey
Lesinski
Mahinske
McAllister
McCauley
McGowan, Miss

Murphy
Perlich
Perras
Snyder
Walker
Young
Youngblood

SECRETARY CHASE: On the adoption of Committee Proposal 89, the yeas are 105; the nays are 21.

PRESIDENT NISBET: **Committee Proposal 89,** as amended, is passed and is referred to the committee on style and drafting.

Following is Committee Proposal 89 as amended and rereferred to the committee on style and drafting:

> Sec. a. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict their powers of borrowing money and contracting debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to enact resolutions and ordinances relating to its concerns.
>
> The board of supervisors by a majority vote of its members may, and upon petition of 5 per cent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.
>
> No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President and ladies and gentlemen, with the adoption of Committee Proposal 89, we now complete on second reading the work that was submitted to you by the committee on local government. I feel that in every one of these provisions that we have strengthened each unit of local government so that it will be able in the future to meet its responsibilities much better than it has in the past.

I would like to say to Mr. Van Dusen and to the members of this convention that where I computed 7 hours and it turned out to be 7 days on first reading, today I computed we would be through at 5:30 and it is now 5:36. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: My compliments, Mr. President, to Mr. Elliott and his committee.

I thought it might be helpful to the delegates just to make a brief comment on the schedule for tomorrow. Mr. Bentley assures us that his committee will be able to complete the presentation of the education article by noon tomorrow. It is my hope that we would then be able to move into committee of the whole to complete the report of the committee on miscellaneous provisions and schedule, and that we would then move on in committee of the whole to the work of the committee on emerging problems. It will probably be necessary to work tomorrow evening.

MR. BENTLEY: Mr. President.

PRESIDENT NISBET: **Mr. Bentley.**

MR. BENTLEY: If I might comment upon the remarks of the gentleman from Birmingham, when he quotes me as saying we can complete our presentation, he is correct insofar as he is speaking for the 21 members of the education committee but, obviously, neither he nor I can speak for the other 123 delegates.

PRESIDENT NISBET: The Chair recognizes Mr. Barthwell — oh, pardon me, just a minute. There are some announcements.

SECRETARY CHASE: We have the following announcements:

The committee on executive branch will meet tomorrow when the convention recesses at noon. Members should bring their lunch to committee room C. John Martin, chairman.

The committee on education will meet tomorrow, Wednesday, at 8:30 a.m. in room D. Alvin Bentley, chairman.

The committee on judicial branch will meet in room B tomorrow at 8:00 a.m. Robert J. Danhof, chairman. At this meeting we shall entertain all amendments, questions, suggestions, and so forth, of any delegate who has such to offer to the judicial article; however, the proponents must be present.

We have the following requests for leave: Mr. Everett requests to be excused from the afternoon session of tomorrow; Mr. King wishes to be excused from tomorrow's session; Mr. Stamm asks to be excused temporarily from tomorrow morning's session; Mr. John Hannah asks to be excused from the first part of the session of next Monday, due to attendance at the meeting of the board for education in world affairs at New York city; and Mr. Martin requests to be excused from the sessions of Wednesday and Thursday to attend a business meeting in California scheduled for more than a year.

PRESIDENT NISBET: Without objection the excuses are granted. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, it becomes my unhappy duty to announce to the members of the style and drafting committee that the committee will meet this evening at 8:00 o'clock. Mr. Cudlip will not be there but we have some work to do and it is hoped that a quorum can be present. This evening at 8:00 o'clock.

PRESIDENT NISBET: The Chair recognizes Mrs. Conklin.

MRS. CONKLIN: Mr. President, I have a parliamentary inquiry. I realize I asked this Friday, but I am still confused by what happened a few moments ago. On Friday when I asked when the roll call has been started, on page 973 in the journal it says:

> The Chair ruled that on a roll call or a division vote, the roll call has been started when the machine is locked so that the votes of delegates do not show on the board.

A few moments ago Mr. Downs asked if he could speak and he was told he could not because the vote had been called for. After he asked to speak, you asked if everyone had voted, and if they had, the machine would be locked. Now I am confused. I would have thought that unless the machine had already been locked, he would have been allowed to speak.

PRESIDENT NISBET: The Chair is told, Mrs. Conklin, that when the vote has been called for and the first switch has been pushed, that stops debate and you cannot speak after that.

MRS. CONKLIN: Would you repeat that please? (laughter)

PRESIDENT NISBET: I cannot repeat it the way I said it. (laughter) When the roll call has been made and a delegate has voted by means of the switch, then the vote has been started and there is no debate after that.

MRS. CONKLIN: How do you know that, unless —

PRESIDENT NISBET: Mr. Chase says we could leave the machine open for a few moments, if you had any question about it, but that is what you didn't want to do, so I guess you will have to take my word for it.

MRS. CONKLIN: But then you do say that the roll call has been started when the machine is locked. That was the ruling Friday. I am not trying to be difficult even though I probably sound like it. But I am trying to find out, because I think we are going to be in trouble about every other day on this. It seems that we have been in trouble before on this.

PRESIDENT NISBET: The ruling will be this:

On a division vote a show of hands will be the start of the taking of the vote; on a roll call vote the calling of the first name will be the start of the taking of the vote. However, with the use of the voting machine when the first delegate has used his voting switch, the division vote or the record roll call vote has started, and thereafter delegates will not be recognized for debate.

MRS. CONKLIN: But if the machine is turned off, how do you know that a delegate has pulled his switch?

PRESIDENT NISBET: Well, the Chair can see quite a few of them around here. I guess that's the only answer. Mr. Downs.

MR. DOWNS: Mr. President, may I ask the president to assign Delegate Conklin as my personal parliamentarian for the rest of the convention? (laughter)

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The announcement of the committee on executive branch was an announcement for today and not for tomorrow, but the committee on executive branch will meet at 8:00 o'clock on Thursday morning as listed in the schedule.

PRESIDENT NISBET: Mr. Barthwell.

MR. BARTHWELL: Mr. President, in the interest of the good health of the delegates I move that we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned until 9:00 o'clock.

[Whereupon, at 5:45 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Wednesday, April 18, 1962.]

ONE HUNDRED TWENTY-FOURTH DAY

Wednesday, April 18, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our own delegates, Judge Pugsley.

MR. PUGSLEY: Let us pray. Our Father which art in heaven, hallowed be Thy name, it is with modesty and adoration to Thee that we pause again this morning to rejoice in the thought that Thou are present here with us, ready to aid us and to guide us through this day and the days to come. We thank Thee for this assurance and for the blessings we have received, and for our faith in the future.

Grant, we beseech Thee, that as we continue our efforts in the work that lies before us, we may do our best to advance the progress of Thy kingdom on earth and the righteousness of our fellow men. To this end, we pray for a vision of truth and understanding of the problems which surround us, and for wisdom and courage with which to meet our opportunities and our responsibilities.

May the ends of justice to all mankind characterize our motives and inspire us at all times both to seek and to do Thy will. May the words of our mouths and the meditations of our hearts be acceptable at all times in Thy sight. In the name of the Master we dedicate our loyalty and our devotion to the task at hand. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. If you are present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. A. G. Elliott, temporarily; Mr. Norris, from this morning's session; Mr. Barthwell, from today's session; and Mr. Nord, indefinitely, starting today.

PRESIDENT NISBET: Without objection, the excuses are granted.

MRS. CUSHMAN: I object.

PRESIDENT NISBET: Objection has been made by Mrs. Cushman. Mrs. Cushman.

MRS. CUSHMAN: May I speak to this?

PRESIDENT NISBET: You may.

MRS. CUSHMAN: I think, for one thing, that any time we are coming down to the wire this way, that we are in an unwise position. I am quite happy about giving leave for specific purposes for specific times, but when people just ask for leave for an indefinite period, I think this is an unwise policy for us to go right along with this. Thank you.

PRESIDENT NISBET: Thank you. Mr. Van Dusen.

MR. VAN DUSEN: I move the leaves be granted, Mr. President.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Youngblood.

MR. YOUNGBLOOD: Mr. President, Ralph Liberato and Don Binkowski are on their way from Detroit. They had a session there last night. I move they be excused temporarily.

PRESIDENT NISBET: Without objection, the motion prevails.

SECRETARY CHASE: Absent with leave: Messrs. Barthwell, Binkowski, Cudlip, A. G. Elliott, Ford, Greene, King, Liberato, Marshall, Martin, Nord, Norris, Pellow, Stamm and Tubbs.

Absent without leave: Mr. Bradley.

PRESIDENT NISBET: Without objection, he will be excused under the motion of Mr. Van Dusen.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Binkowski, Bradley, Liberato, King, Norris, Stamm, Cudlip and Danhof.]

The Chair recognizes Judge Gadola.

MR. GADOLA: Mr. President and members of the convention, I observed some time ago, as you probably did, that our most efficient secretary, as he was calling for a raising of hands, was rapping upon the desk with a pocket knife. In a spirit of devilment, I suggested to him that it was a very bad indication, as sometimes occurred here, because the showing of a knife might lead to some suggestions to members of this convention. (laughter) However, in that spirit of devilment I didn't expect him to take me literally, but I observed immediately that he discontinued the use of the knife, and then I saw that he was wearing out those very efficient knuckles hammering upon that desk, and I called his attention to the fact that I wasn't speaking literally; it was just a little devilment on my part and I didn't want his hands injured, and he informed me that he was tough and could take it. Well, I have found out that that is true. However, as time went on, I noticed here in the last few days the knife is again appearing, so his knuckles aren't as tough as he thought they were. And I had the idea, and went down into my box of memories and I dug out an instrument that I had wielded for some time showing authority and calling things to order, and I had it properly inscribed, and as I thought I should amend the wrong that I had done him in depriving him of the use of that knife — because, as you go along in years and get up there, you know, and you feel that man with the scythe is just around the corner, you want to clear up all your misdeeds. I want to clear up my misdeeds now. So, I am presenting him today with an instrument of authority that could be used to knock down any one of these delegates that get out of line. So we will present to our very efficient secretary this gavel of authority. (applause)

[Whereupon, Secretary Chase was presented a gavel by Mr. Gadola.]

SECRETARY CHASE: Well, Mr. President and ladies and gentlemen, from the size of this, it is obvious that Judge Gadola doesn't fool. (laughter) I want to express to him my sincere appreciation for this memento, and I shall treasure this among the other mementoes that I have of this convention. Thank you very much, Judge. (applause)

PRESIDENT NISBET: Mr. Chase, would you care to use that authority you just received for the announcement you want to make?

SECRETARY CHASE: The secretary would like to suggest that on the votes that we take on several occasions on relatively unimportant matters, instead of demanding a record roll call vote, that the delegates merely demand a division. The reason for it is this: there were about 30 roll calls yesterday. Here is one page with 2 roll calls on it and you can see for yourselves the amount of printing that is involved and the time it takes in the printing office; whereas, if you demand a division we still use the voting machine and there is one line that indicates the total number of yeas and nays, and we save that much printing cost. Then it will also expedite the taking of the number of votes on a division because the latecomers can say: I vote yes, or I vote no, and we merely add that number to the total, instead of having to very meticulously check the roll call and make certain that we have your vote properly recorded. Thank you.

PRESIDENT NISBET: The Chair recognizes Mrs. Koeze.

MRS. KOEZE: Mr. President, last night, for some reason or other, I got confused when you were taking the vote on Committee Proposal 89, and I think I was doing other things. I would like at this time to have my aye vote recorded in the journal if at all possible.

PRESIDENT NISBET: With unanimous consent it can be recorded. Hearing no objection, it will be. [Correction made above.]

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: **Second reading.**

SECRETARY CHASE: Item 1 on the second reading calendar for today, **Committee Proposal 1,** A proposal pertaining to the inclusion of section 1 of article XI in the constitution.

Following is Committee Proposal 1 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 197.):

> Sec. a. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, with the exception possibly of our 2 newly arrived colleagues, I am sure all the rest of us can think back to the evening of October 23, 1961, when this proposal, the first proposal to be reported from any committee, first came to the attention of the committee of the whole. I am sure we will recall, for example, the 45 minute speech given by the gentleman from Detroit, Dr. Nord, who spoke from over Mr. Chase's place at the podium. I am sure we will recall the lesson in history that was given to us by the gentleman from Detroit, Mr. Faxon, on this question, and I am sure that we will recall, after hearing all of these and other arguments that the committee of the whole unanimously approved the retention of these historic words which go back to the northwest ordinance of 1787.

The committee on style and drafting has made no changes, and the committee on education, I believe — perhaps not unanimously but certainly by a majority vote — recommends that the convention adopt these words unchanged on second reading.

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and inserting "Wisdom and knowledge, as well as virtue, being necessary for the preservation of rights and liberties; and as these depend on providing the opportunities and advantages of education, it shall be the duty of the legislature to cherish the interests of literature, the sciences, the arts, and all institutions of learning.".

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, I think that you will recall that this first was brought up at the time when most of us were still relatively new here at the convention and our procedures had not been worked out. We had acted upon this in our committee, on the third meeting of the committee, and we never really had an opportunity to consider what might be an alternative if it were the desire for people to have another statement to see what they might compare it to.

At the time that I did the research leading up to the report that I gave on October 23, I had gone into many historical works on the subject, and as some of you may recall, my statements were more in the nature of history rather than in the nature of any certainty on my part that the statement which we have adopted, or the committee of the whole, was necessarily the most appropriate under the circumstances.

Now, I suggest that I bring to your attention this statement on the wall, which you see projected, as a statement which I cannot claim to be an author of but a statement which goes back a good deal earlier than the previous statement, and a statement which has a basic foundation in history and in the history of this country. The statement that you see has had its effect in many, many state constitutions, and I am just going to very quickly — not attempt to read to you the preambles that are used in some of the state constitutions, but I just want to indicate to you that this whole idea has had its sources in the Anglo-Saxon-English world, the England of the seventeenth century; that the use of this statement of purpose and intent was used in those days for that reason, and it was carried over into the colonies and into our own country.

Now, in the case of this statement, I traced it back — when I first reported to you, I said that I could trace it back to 1689, and after doing a little more research on it, I was able to trace it back to 1683. I will indicate to you its source, which I think is highly commendable, considering that this has been and this is the historic encouragement of education, anyone else notwithstanding. I just want to point this out to you, and I want to support this very quickly by pointing out that the constitutions of the other states, where they do have educational preambles, do make reference to the basic wording that was to be found in the Massachusetts constitution of 1780, and that was earlier to be found in the English declaration of rights of 1689.

Take, for instance, the case of Arkansas in its 1874 constitution. They say, "Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government;" in the 1879 constitution of California, "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people;" so here again you see the use of these same words. The constitution of Idaho of 1890, "The stability of a republican form of government depending mainly upon the intelligence of the people;" the constitution of Indiana of 1851, "Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government;" the constitution of Maine, 1820 and 1876, deals very completely with this thing, starting out with, "The general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people."

The constitution of Massachusetts uses practically this identical language since this has its strong roots in New England in the first place. The constitution of Minnesota in 1857, "The stability of a republican form of government depending mainly upon the intelligence of the people;" the constitution of Missouri of 1875, "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people;" the constitution of New Hampshire practically identical, "Knowledge and learning generally diffused;" and so forth; the constitution of North Carolina uses the one that the committee of the whole adopted; the constitution of North Dakota of 1889, "A high degree of intelligence," and then goes on; the constitution of Rhode Island, "The diffusion of knowledge as well as the virtue of all the people being essential to the preservation of their rights and liberties;" the constitution of South Dakota of 1889, "The stability of a republican form of government depending upon the intelligence of the people;" the constitution of Tennessee, "Learning, knowledge, and virtue being essential to the preservation of republican institutions;" the constitution of Texas; and in the constitution of Vermont.

Now, these are the only constitutions which have any educational preamble at all, and I point out to you because where they have had an educational preamble, the base for that statement that they use has been the historic statement on encouragement to education, and the historic statement was admittedly that which was taken from the Massachusetts constitution of 1780, which begins, "Wisdom and knowledge, as well as virtue diffused generally among the body of the people, being necessary for the preservation of their rights and liberties, and as these depend upon spreading the opportunities and advantages of education, "and so forth," it shall be the duty of the legislature...."

The statement that you see projected, then, is simply a condensation of the historic statement that has been used by practically all of the states in their encouragement of education preceding the actual structure of the educational article in their respective constitutions.

I know that people are going to get up here and tell me that the statement which we adopted was from the historic northwest ordinance of 1787, and I respect the judgment that this was from the historic northwest ordinance of 1787. I am equally aware of the fact that the people who authorized that statement were both gentlemen from Massachusetts, a Mr. Nathan Dane and a Manascus Cutler, both of whom were very good residents and citizens of the state of Massachusetts, the commonwealth in those days, and these people claim — at least, that is what the accounts show — that their reflections here indicated that they had lifted this statement on the encouragement of education from the Massachusetts constitution. I don't want us to get involved in any personalities here that Dr. Cutler or Mr. Nathan Dane was the scribe of the committee of the congress of 1787; that they actually did a commendable job I am not quite certain, but from a historical point of view, and if the reflections of scholars upon this subject later are of any validity, the statement that they attempted to lift this from — the Massachusetts constitution of 1780 — is one which you have presently before you, so that if we are to give credence to their activity, then the statement, "Wisdom and knowledge, as well as virtue," has a strong historical background and a strong historical flavor. It certainly would have us consider twice just what the educational preamble is supposed to state.

I said that I was able to trace this back to 1683, and I had to go through all the early colonial constitutions to find out just what the encouragement of education had traditionally meant, and this goes back to the seventeenth century. I am just going to quote from that section that I feel reflects this. It is from the frame of government of Pennsylvania of 1683, and this is a statement, I would say, that we would attribute to Mr. Penn, himself. At the end of the statement, and I call these words to your attention because I think their use in those days reflects the fact that this was carried on, and it is the end of a statement which is good, but I am sure that you don't want to hear the whole statement, but here is how it ends:

> Therefore, what makes a good constitution must keep it. Men of wisdom and virtue, qualities that because they descend not with worldly inheritances, must be carefully propagated by a virtuous education of youth, for which, after ages, will award to the care and prudence of founders and the successive majestry then to their parents for their private patrimonies.

This statement from the Massachusetts frame, and as it goes on in the state of Massachusetts, they, in that same statement, said that there would be a committee of manners, education, and the arts, that all wicked and scandalous living may be prevented and that youth may be successively trained up in virtue and useful knowledge and arts.

I traced through the whole educational preamble of Pennsylvania, the use of its words. It goes from 1683 to 1776, to 1790, and it goes on to 1873. I will not give you the details of that change, but I do want you to be aware of the fact that this statement has as its ultimate source an American source. Pennsylvania was one of the great colonies, one of the great early colonies where freedoms were allowed to be practiced, and the influence of its founder has had a strong bearing upon the future of that commonwealth.

We have never had before us — we have never had before us a substitute statement. We have never had before us any alternative statement —

PRESIDENT NISBET: Will the convention please be in order so that Mr. Faxon can finish as soon as possible?

MR. FAXON: We have never had before us an alternative statement, and I don't attempt here to raise any questions — although I certainly could — with regard to the other one. I could point out, for instance, that within the last 100 years, practically, there has been no state constitution that has even found it necessary to put in an educational preamble, but that is beside the point. I could point out to you that up until 1907 there had been no educational preamble, but that is also beside the point.

The thing, I think, we ought to consider, if we want to be historical, if we want to be virtuous, if we want to follow in the past tradition and use an historic statement in encouraging education, then the statement that you have before you has been the statement that those states which have these statements have used; and whether you agree with the statement or not — I certainly don't claim pride of authorship here, although I deleted a few words to make it a little more brief; the Massachusetts constitution has it a good deal longer than this — but if we are concerned with showing our interest in preserving a tradition of encouragement, then the statement that you are looking at here is the statement that has been used, and its use has been pointed out through all the states that presently have them. I feel that as delegates we ought to at least have before us some opportunity to examine alternative courses, some opportunity to be aware that there is more than one way to encourage education, and it may not necessarily be through a preamble on it at all.

In any event, I think we ought to consider the statement that you are looking at here, its historic tradition, and realize that this was the statement from which the proposed amendment or proposed section under consideration here was taken. This was the statement that the people who authored that particular section of the northwest ordinance, this is what they took it from. On this score — I don't think it is necessary to get into any argument — but this can be shown historically. They both were from Massachusetts, they both used this statement from the Massachusetts constitution.

We have, at other times here, adopted words because of their historic usage, because other states have it, because it has been used by these states as a meaningful thing, as far as a preamble on education is concerned, and we have, at other times, made reference to the constitution of Massachusetts. I would suggest that your concern, or — if you have any concern with maintaining a historical statement here, that this statement from Massachusetts is correct, it is being used, and I think it merits some consideration on your part.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, fellow delegates, I sometimes wish that T. Jefferson Hoxie had been able to get his amendment through. Now we have discussed this for about 2 hours, yes, at the very least, 2 hours in committee of the whole, and I hope and pray that we will defeat this and defeat this proposal in a hurry — that is, this amendment, and let's get on with the business.

PRESIDENT NISBET: The Chair recognizes Miss Hart.

MISS HART: Mr. President, I appreciate Mr. Faxon's industry and his sincerity, but I sincerely hope that this convention will include the historic words from the northwest ordinance as incorporated in the proposal by the education committee.

PRESIDENT NISBET: Mr. Binkowski.

MR. BINKOWSKI: Mr. President and ladies and gentlemen of the convention, I, too, favor the retention of the present language, and I would like to ask for the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Not sufficient number up. The question is on the amendment. Those in favor of the amendment will say aye. Those opposed, no.

The amendment is not adopted. The question now is on Committee Proposal 1. Those in favor of the proposal will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—120

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.

Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn

Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe

Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Garvin
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Sleder
Snyder
Spitler
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—4

Faxon
Hood
Jones
Sablich

SECRETARY CHASE: On the passage of Committee Proposal 1, the yeas are 120; the nays are 4.

PRESIDENT NISBET: **Committee Proposal 1** is passed.

Following is explanation of vote submitted by Messrs. Faxon and Hood:

> It is our firm conviction, after carefully researching this particular section that it is not necessary, it is not operative, it is nonfunctional and as such serves no useful purpose as part of the constitution.
>
> Michigan is the only state in approximately the last 100 years that has seen the need for the insertion of an educational preamble. All other recent constitutions have seen fit to omit this type of provision. In view of this practice, it is our opinion that this section is not necessary to the constitution.
>
> It is our further belief that the encouragement of education is a highly desirable objective but such an end can only be achieved by language that pinpoints responsibility and grants authority. This committee proposal did neither.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 1 as rereferred to the committee on style and drafting, see above, page 2554.

The secretary will read the next proposal.

SECRETARY CHASE: **Committee Proposal 13,** A proposal respecting the physically, mentally or otherwise seriously handicapped. Amends article XI, section 15.

Following is Committee Proposal 13 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 462.):

> Sec. a. Institutions, programs, and services for the care, treatment, education [and/] or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the only change made by the committee on style and drafting was to delete the word "and" in line 2. It is our understanding, and I would appreciate it if this could be confirmed by some member of the committee on style and drafting, this change was made to conform to similar changes in other parts of the proposed constitution. It is further our understanding that this does not mean that a combination of various methods of care, such as care, treatment, education and rehabilitation could not be used; that the deletion of the word "and" would not preclude the sole usage of merely one of these, but that care and treatment, care and education, care and rehabilitation, if necessary, would be understood, and that the action of the committee on style and drafting would not change this intent.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, speaking for the committee on style and drafting, Mr. Bentley expresses the matter correctly. The use of the disjunctive here does not mean that the conjunctive could not also be inferred. But it is extremely bad practice, indeed, to use that hyphenated "and/or" even in statutes and I shudder to see it in the constitution. I am sure that the way style and drafting has written this will cause no legal trouble.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 13. Will the board be cleared, please? Mr. Boothby.

MR. BOOTHBY: Mr. President, I would like to direct a question to the committee chairman, if I may.

PRESIDENT NISBET: If he cares to answer. Mr. Bentley?

MR. BENTLEY: Certainly.

MR. BOOTHBY: From reading this proposal, this does not make mandatory a statewide special education, does it?

MR. BENTLEY: Mr. President, in reply to the question raised by the gentleman from Niles, I would say: certainly not. The legislature has ample authority to do all these things now. This is merely a declaration of intent which the committee felt important to carry forward in the new constitution.

MR. BOOTHBY: Mr. President, Mr. Bentley, this does not then change, in any way, the policy of the state as it now exists?

MR. BENTLEY: No, indeed not. The legislature has ample authority to do all of these things now if it desires.

PRESIDENT NISBET: The question is on adoption of the proposal. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? This is on Committee Proposal 13. Those in favor will vote aye. Those opposed will vote nay. The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—124

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Gadola
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

Garvin
Goebel
Gover
Page
Perlich
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 13, the yeas are 124; the nays are none.

PRESIDENT NISBET: **Committee Proposal 13** is passed and referred to the committee on style and drafting.

For Committee Proposal 13 as rereferred to the committee on style and drafting, see above, page 2556.

The secretary will read the next proposal.

SECRETARY CHASE: Item 3 on the calendar, **Committee Proposal 30,** A proposal pertaining to free public and elementary schools. Replaces article XI, section 9.

Following is Committee Proposal 30 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 762.):

> Sec. a. The legislature shall maintain and support a system of free public elementary and secondary schools AS DEFINED BY LAW. Every school district shall provide for the education of its pupils without discrimination as to race, creed, color, or national origin.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, this proposal has been already acted on by the convention. There was a unanimous roll call vote in its favor following the action of the committee of the whole on its approval when it was before us initially. The changes as suggested by the committee on style and drafting have met with no objection in the committee on education. We understand the reason for including the words "as defined by law" relative to public elementary and secondary schools. I ask that the unanimous roll call vote be repeated on this occasion.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, it has been called to the attention of the committee on style and drafting and some of the other members of this body that there are 4 different places in the constitution where we have taken a stand against discrimination. Every time we have done this we have used slightly different words. This is, to say the least, confusing. Sexes, for example, are used only once, and that is in Committee Proposal 26.

Speaking for at least some of the women in this convention, we are not completely sure at the present time whether mention of sex is a good idea or a poor idea in the constitution. While we recognize the fact that there often is discrimination because of sex, at the same time we also recognize that there are special circumstances relating to the role of women for social and physical reasons that need to be recognized —

MRS. HATCHER: Point of order, Mr. President. Mrs. Cushman is not on the subject. Sex is not a part of this proposal that we are discussing now.

MRS. CUSHMAN: That is exactly why I am on the subject. If it is all the same —

PRESIDENT NISBET: You may proceed, Mrs. Cushman.

MRS. CUSHMAN: What I am saying, though, is that whereas we are not sure at the present time whether sex should be included here, we do intend to investigate this matter more fully and it may be, at some future time, that we will want to amend this particular proposal in some other way. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, speaking for the committee on style and drafting, I move to strike out the word "creed" and insert the word "religion" in order to provide a uniformity between this phraseology and the phraseology of the discrimination stated in other articles of the constitution. We think that the word "religion" is the more proper one and we think the matter should be uniformly handled.

PRESIDENT NISBET: Mr. Hutchinson, there is an amendment to that effect. The secretary will read the amendment.

MR. HUTCHINSON: All right; thank you.

SECRETARY CHASE: Mr. Hutchinson, on behalf of the committee on style and drafting, offers the following amendment:

1. Amend page 1, line 4, after "race,", by striking out "creed" and inserting "religion"; so that the language will then read, "Every school district shall provide for the education of its pupils without discrimination as to race, religion, color, or national origin."

PRESIDENT NISBET: The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Not on the amendment, Mr. President.

PRESIDENT NISBET: Mr. Staiger.

MR. STAIGER: I wonder if I might ask Mr. Hutchinson a question on this amendment, through the Chair. Mr. Hutchinson, Mr. Hanna and I have submitted an amendment to strike from Committee Proposal 30 the word "creed" and also to strike the word "color" and insert the word "religion," so that it would read, "race, religion, or national origin," to make it consistent with the equal protection clause in Committee Proposal 26.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, Mr. Staiger, I would think that such an amendment might, in the end, be determined to be divisible, and so I would suggest we handle these things one at a time.

MR. STAIGER: All right.

PRESIDENT NISBET: The question is on the amendment by Mr. Hutchinson. Miss Hart.

MISS HART: Mr. President, may I ask Mr. Hutchinson a question?

PRESIDENT NISBET: Certainly.

MISS HART: Mr. Hutchinson, I think those of us who teach, many times find children with no religion, professedly with no religion, and for that reason I would like to have — and I would maintain their right to have no religion — I would like to, then, object to the amendment; I would like to have it left as "creed."

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I have no serious objections to the efforts of certain delegates to establish a pattern of uniformity throughout, but I would like to remind again the members of the convention that all of them are on record as voting for the original language of Committee Proposal 30 when this matter was initially before us, and I would hope, as I said earlier, that we would conform to our previous action, and if we were on record, then we would remain on record in the situation and maintain the language unchanged.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, members of the convention, I would just like to call to the attention of the delegates the fact that in federal enactments having to do with discrimination and the like, the standard language is "race, creed, color, and national origin," and if we are going to become uniform, then it seems to me there is some gain in accepting the usual federal language.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, it was the reasoned thinking in the committee on style and drafting that the word "creed," in and of itself, might, in the future, if it is broader than religion, prove to be dangerous in the sense that — well, they might claim that communism is a creed, whereas I am sure that what we are referring to here is a religious creed, and if we are talking about a religious creed, well, then, religion describes what we have in mind, and that is why the committee on style and drafting is of the opinion that in the Michigan constitution the word "religion" should be used instead of "creed."

As a matter of fact, this proposal before you — of the 4 places where discrimination is dealt with in this new constitution, of those 4 places, this is the only place where the word "creed" is used. In the other places we use the word "religion;" so it would appear that this body had already decided, by preponderance, that it wanted to use the word "religion," and so we ask that you use the word "religion" here to make it uniform.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I don't quite know how we got communism coming into this item. I do feel like Dr. Hannah and Delegate Hart, that the word "creed" is the historic word that is well recognized, and it may well be that it encompasses religion. If there is concern, I would say that the children of a communist family, above all, needed the advantages of our public education system and should have full access to it.

I think this is one case where I support what I thought my good friend Senator Hutchinson would support, the traditional approach, and feel that the concept of creed has been well established; and in the field of education, above all, we should continue the historic terms that do guarantee, for all children, equal opportunities of education.

PRESIDENT NISBET: The Chair recognizes Mr. Staiger.

MR. STAIGER: I just wanted to point out that we had a memorandum from research and it may be that we intended something other than religion in this. But the memorandum from research states it as follows:

> In Committee Proposal 30, the word "creed" is found. Creed refers to belief, including religious belief. However, there is little need to use the broader generic term if it is meant to refer to religion and not all manner of belief. It is submitted that some creeds or beliefs are prohibited by our society, as concerns acts of practice. For instance, polygamy; or Marxian communism which advocates violent overthrow. The word "creed" does not appear in the federal constitution.

This was brought to our attention by research. We were interested in keeping the sections that mention these items as uniform as possible, and I see no reason why "religion" will not satisfy the intent and the protection needed here.

PRESIDENT NISBET: The question is on the amendment of Mr. Hutchinson. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of Mr. Hutchinson's amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hutchinson, the yeas are 60; the nays are 61.

PRESIDENT NISBET: The amendment is not adopted.

SECRETARY CHASE: Messrs. Straiger and William Hanna offer the following amendment:

1. Amend page 1, line 4, after "race,", by striking out "creed, color" and inserting "religion"; so that the language will then read, "Every school district shall provide for the education of its pupils without discrimination as to race, religion, or national origin."

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, Mr. Staiger and I are both members of style and drafting. We are interested in getting uniformity in the 4 places that civil rights are mentioned. It seems to me that we are inviting trouble to have a different civil right spelled out in education, another one in the bill of rights, and still another one when we get to the civil rights commission, and still another one when we talk in terms of civil rights in the civil service section.

It was our opinion that race and national origin covered the question of color. I have been sitting here talking to Mr. Douglas. He says that within a race and within a national origin you can have a difference in color and still have discrimination. If this is supported, we would be consistent with the other articles. If you vote to retain "color," then I think we have to go to all the other articles and insert it. But we would, as members of style and drafting, certainly like instructions so we will be consistent and not have different civil rights, depending upon what you are doing.

PRESIDENT NISBET: The question is on the amendment of Mr. Staiger and Mr. Hanna. Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, I am fully sympathetic with what Mr. Hanna and Mr. Staiger are trying to accomplish and I would only suggest that we leave the word "color" in, because, as a matter of fact, it is in the area of color that the greatest and most unfair discrimination exists. If all we are after is uniformity, let's leave "color" here and put it in wherever else it has been omitted.

PRESIDENT NISBET: Mrs. Hatcher.

MRS. HATCHER: Mr. President, I would also like to speak in favor of maintaining "color" in this section, because in many cases it is a question of who is visible, the visibility of color rather than race. There are many who can, in many instances, be lost in the majority but those who are identified as members of a minority group are oftentimes discriminated against.

PRESIDENT NISBET: The question is on the amendment of Mr. Staiger and Mr. Hanna. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The question now is on Committee Proposal 30. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move to reconsider the vote by which the amendment I offered failed. It failed by a single vote and I think that the convention should — at least I ask to have it reconsidered because this is a very serious matter from the standpoint of the wording in the constitution and the interpretations that the courts in the future are going to give to this. As has been stated, at least by our staff people down in style and drafting, if we end up with having 4 different descriptions in this particular field, I don't know that we will be a laughing stock, but there certainly will be ground for charging us with confusion. Here is an area where we should be consistent, so far as possible, and for that reason I move to reconsider the vote by which my amendment lost.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson to reconsider the vote on the Hutchinson amendment. Mr. Heideman.

MR. HEIDEMAN: Mr. President, I would like to support that for the reason I think that I will have to change my vote on that ground. I believe I voted wrong.

PRESIDENT NISBET: Those in favor of Mr. Hutchinson's motion will say aye. Those opposed, no.

The motion prevails. The question now is on the Hutchinson amendment. The amendment will be read by the secretary.

SECRETARY CHASE: Mr. Hutchinson's amendment:

[The amendment was again read by the secretary. For text, see above, page 2557.]

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: I ask for a division of this vote.

PRESIDENT NISBET: A division has been requested. Is that demand seconded? Sufficient number is up. Mr. Erickson.

MR. ERICKSON: When anyone makes a prediction, of course, he is out on a limb, but as I sit here I can't help but feel that 25 years or so from now, when history is written of our work here, that they will find that our work in the area of civil rights is going to be outstanding, and I can't help but support Senator Hutchinson that we should be consistent in this area or we will lose all the value of the work that we have done in this particular area.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, we wouldn't think of settling questions of law without hearing from our lawyers which, of course, we have done in the past. Now, we are discussing the difference between the words "religion" and "creed." For that reason I would like to yield for a comment to our only delegate, actually, who is qualified to speak on this subject, the gentleman that sits behind me, Father Dade.

PRESIDENT NISBET: Father Dade.

MR. DADE: Mr. President, I would agree with the lady who is saying, in a low breath, she doesn't agree with that at all. I am not speaking because of my qualifications. It is with great humility that I rise to speak. I would say that I would agree with Delegate Hart, that I think this should be "creed." I think we should defend the right of the person who has no religion. I think there is a definite distinction between the 2 words, and here I think the reference should be to "creed" and certainly not to the larger word "religion."

PRESIDENT NISBET: The Chair recognizes Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, I rise in opposition to the Hutchinson amendment. He advances, as the basis for his argument for reconsideration, the fact that we are inconsistent. Well, if we are inconsistent, let's change it in the other parts of the constitution to be consistent with this. I am impressed by what Dr. Hannah says. This is the conventional, historic language, and I think we should vote down this amendment.

PRESIDENT NISBET: The Chair recognizes Mrs. Hatcher.

MRS. HATCHER: Mr. President, I would like to ask Mr. Hutchinson if he would accept the word "creed" as well as "religion." In my opinion, this particular language should be in our constitution as broad as it possibly can be, and I believe the inclusion of one other word certainly would offer a greater degree of clarification, embracing the words that Mr. Erickson said, in terms of long range program. I believe if "religion" and "creed" were included, this would satisfy both groups here who have differences of opinion on this subject, and I think it would strengthen the clarification.

PRESIDENT NISBET: Mr. Hutchinson, do you care to answer?

MR. HUTCHINSON: Mr. President, I am not disposed to accept the suggested amendment for the reason that we think — or at least it is my position and my belief — that the word "religion" will include a religious creed, and it is also broad enough, judicially interpreted, that you cannot discriminate against a person because of his religion, that is, because of his religious beliefs; and that is broad enough to include the man who doesn't have any religion. You can't discriminate against him on account of religion, and an absence of religion. It is a discrimination in that field as much as anything else. The word "creed" suggests itself to a formalized statement of religious belief. In my opinion, the word "religion" is broader than "creed," and it is for that reason that I don't want to accept the amendment that is suggested, and I think that we will be better advised to accept this word "religion." I say, again, what we are talking about in "creed" here is religious creed at the present time, and if that is what we are talking about, religion is broad enough to take care of it.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I would like to support Senator Hutchinson, and I think he covered, in particular, one point that we should have in mind, that absence of religious belief is covered and protected under a provision against discrimination on account of religion.

If you recall, there are certain of our United States supreme court decisions that have passed upon this point with regard to discrimination of this kind. With regard to the way this sentence is worded in the use of "creed," it raises certain questions in my mind with regard to the matter of education of its pupils. Creed could go way beyond — I disagree with Mr. Hutchinson as to the broadness of the terms "creed" and "religion." I think "creed" is much broader, and if the school district was prohibited from discrimination as regards "creed," I think this would include political philosophy and many other things that we don't intend to cover. I think race, religion or national origin — "race, religion, color or national origin" should be the final language of the convention.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President, I would like to ask Senator Hutchinson a question, if you please, through the Chair. Do you believe that if you take out "creed," there would also still be included political belief, meaning in that, if it comes a time that any group has a certain political belief, would it be covered under "religion?" It would not or would it?

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I don't suppose that it would, Mr. Garvin, be covered on that concept. However, I would answer you further and say that I cannot believe but what a great majority of the people now, by the use of the word "creed" understand that they are talking about religious creed. I submit to you also that there are religions, and my religion is one of them, where I have a religion but I don't have a creed, so, in that sense, "religion" is broader than "creed."

MR. GARVIN: Well, I want to ask you one more question, Mr. Hutchinson, through the Chair, does "creed," used as it is here, and defined, include political belief?

MR. HUTCHINSON: Mr. President, I imagine that it might be so interpreted in the future, but I don't think that was the intent of anybody here now, or if it is it is a surprise to me.

MR. GARVIN: Under that circumstance, I would support the committee proposal as is because I believe "creed" is more broad than "religion." I think Mr. Hutchinson said religious creed, so I would support the committee proposal as is, because "creed" is a broader word.

PRESIDENT NISBET: The Chair recognizes Mr. Jones.

MR. JONES: Mr. President and fellow delegates, I rise to oppose the Hutchinson amendment for the following reasons: in this particular proposal that we have before us, we are asked to approve a statement of principle which guarantees the right of a public education to all students in our state. Therefore we must accept the interpretation of the word which has the broadest connotation, and I feel "creed" is more acceptable in this case than the word "religion."

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. T. S. BROWN: Mr. President and fellow delegates, I recall during the last presidential campaign that someone, in the process of attacking aspirant Kennedy on the basis of his religion, indicated that certain religions should prevent — being an adherent to a certain religion should prevent a man from becoming a candidate for public office. The question was posed to then Vice President Nixon on the same matter and his reply was that he didn't feel that the type of religion that a man had should have any significance in determining whether or not he should aspire to public office; the only thing that might be significant, perhaps, would be whether a man believed in God at all, and that type of a man perhaps should not aspire to public office.

This indicates, I think, a rather severe danger to our national structure and the ideals that we have held dear for some 200 years, because a creed is actually a formalized credo, and a credo is just any given set of individual beliefs which all of us have inside and outside of our particular religion. You don't lump people into categories by religions and then say: all atheists are alike because all atheists or all agnostics are different. I dare say if you have 10 atheists in a bunch, you have 11 opinions as to what their atheism consists of. So, "creed" — which is, again, a formalized credo — is a much more broad term than "religion," it subsumes all religion and absence of religion, and because of the fact that it is classical and because it includes everything by its own definition, in that all of us have creeds outside of our religious belief, I suggest that the Hutchinson amendment be struck down.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: Mr. President, so that the work of the convention can proceed, I think we have had enough discussion and I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Those opposed, no.

The previous question is ordered. The question now is on the Hutchinson amendment. A division has been ordered. Those in favor of the Hutchinson amendment will vote aye, those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hutchinson, the yeas are 55; the nays are 72.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of the committee proposal. The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I just wanted to ask Chairman Bentley a question, please.

PRESIDENT NISBET: Mr. Bentley.

MR. FARNSWORTH: Chairman Bentley, I take it that you do not intend that the legislature will be the sole support of a system of free public elementary and secondary schools, as defined by law? You still anticipate that you will have local participation, insofar as the support of elementary and secondary education is concerned. Is that not true?

MR. BENTLEY: Mr. President, the gentleman is quite correct.

PRESIDENT NISBET: The question is on Committee Proposal 30. Will the machine please be cleared? Mr. Leppien.

MR. LEPPIEN: Mr. President and fellow delegates, as one of the members of the committee on rights, suffrage and elections, I fully understand the implications as pointed out by Delegate Bill Hanna, and I think we all now should realize that we are instructing, virtually, the committee on style and drafting that it shall change all "rights" proposals to the language that we have here, which was so ably given by Dr. John Hannah as to the federal constitution and the federal use of those words. I think, therefore, this ought to be a substantial vote in favor of it in order that the committee on style and drafting will know that we mean exactly what we say and that throughout the constitution it shall be uniform.

PRESIDENT NISBET: The Chair recognizes Mr. Bonisteel.

MR. BONISTEEL: Mr. President and fellow delegates, I think there is an amendment that has been proposed and I am in favor of this amendment and supporting the position that Mrs. Hatcher has taken in this, the reason being that it isn't the posture of the words, necessarily, that we are seeking, but rather we are trying to clarify something which apparently cannot be clarified by the attempted definitions that have been given both of the words "religion" and "creed." Therefore, if interpretations are made based upon time and experience, the use of the "creed" along with the word "religion" in this certainly is not going to harm anyone and if it is going to clarify our position, their understanding of what we are attempting to do here, it seems to me that we should make that clarification. While this amendment has not been read, I just wish to say that I am going to support the suggestion which was made by Mrs. Hatcher and which I think she has incorporated in the form of an amendment, and I think this should be unanimously carried so there could be no question about what we believe here insofar as this convention is concerned.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Mrs. Hatcher and Mr. Bonisteel offer the following amendment:

1. Amend page 1, line 4, after "creed,", by inserting "religion"; so the language will then read, "Every school district shall provide for the education of its pupils without discrimination as to race, creed, religion, color, or national origin."

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Those opposed, no.

The amendment is adopted. The Chair recognizes Judge Leibrand.

MR. LEIBRAND: Mr. President, supplementing what Delegate Leppien just said, and harking back to Delegate Cushman's statement that these antidiscrimination clauses appeared in at lease 4 places in the proposed constitution, I wonder if it would be in order to suggest to the committee on style and drafting that perhaps they could be consolidated in one place and cover all the constitutional provisions instead of repeating them several times. I just throw this out for what it is worth.

PRESIDENT NISBET: The committee on style and drafting will take recognition of that, Judge Leibrand. The question now is on Committee Proposal 30 as amended. Those in favor of the proposal will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—120

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Garvin
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—3

Radka
Rood
Shanahan

SECRETARY CHASE: On the adoption of Committee Proposal 30, as amended, the yeas are 120; the nays are 3.

PRESIDENT NISBET: **Committee Proposal 30,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 30 as amended and rereferred to the committee on style and drafting:

> Sec. a. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to race, creed, religion, color, or national origin.

The Chair recognizes Mrs. Butler.

MRS. BUTLER: Mr. President, I would like to support Judge Leibrand in his suggestion. I have been very interested in the bill of rights, the Canadian bill of rights which has been posted on the bulletin board for some time, and in that bill of rights they have one clause on race, creed, color, sex, and I think that is a very good suggestion.

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, in the style and drafting committee, of which I am a member, we wanted to do this but each committee whose proposals we were going over insisted on keeping its clause in the constitution. I am also a member of the rights and elections committee, and in that committee we thought we had taken care of the problem. Now, in the style and drafting committee we cannot, of course, change substance. If this convention would so instruct us, we would be glad to follow the direction in this matter, but it is up to the convention. It is something that we can't conclude there.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I simply want to second what Mr. Stevens said, and further suggest that if this convention wants to direct the style and drafting committee along this or other lines, a motion of this convention would have to be carried. This is definitely a matter of substance. We cannot make changes of substance, at least knowingly, and if a motion is carried on this floor, why, of course, we would carry it out.

PRESIDENT NISBET: The secretary will read the next proposal.

SECRETARY CHASE: Item 4 on the calendar, **Committee**

Proposal 31, A proposal to amend article XI, section 14 of the present constitution pertaining to public libraries.

Following is Committee Proposal 31 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 841):

> Sec. a. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under [reasonable] regulations ADOPTED BY THE GOVERNING BODIES THEREOF. All fines assessed and collected in the several counties, cities, and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the only change made by the committee on style and drafting in Committee Proposal 31 was the striking of the word "reasonable" in line 3 and the addition of the words in line 4, "adopted by the governing bodies thereof." The committee on education's understanding is that this merely refers to regulations regarding the accessibility of libraries to the general public, and the committee assumes that the intent of the committee on style and drafting was that these governing bodies be of a local nature, not the so called state governing bodies, such as the state commission for libraries or the state library board, but that the intent of the committee on style and drafting would be that local governing bodies of these various public libraries would be able to pass reasonable regulations regarding the accessibility and the availability of their individual libraries to residents of the state; particularly, I suppose, in cases where the applicant for a book or a periodical was not an immediate resident of the locality. The committee on education sees no objection to this provided my understanding, as I have stated it, is correct. I would appreciate some member of the committee on style and drafting confirming my understanding in this matter.

PRESIDENT NISBET: Mr. Hutchinson, do you care to answer Mr. Bentley's question?

MR. GADOLA: Mr. President, I will answer for style and drafting.

PRESIDENT NISBET: Mr. Gadola.

MR. GADOLA: It was debated at great length before style and drafting whether it was a substantive change or whether it wasn't, and the entire matter was to keep it local, so the local boards would be the ones that handled it rather than any outside board, and the interpretation that Delegate Bentley has given of it is correct.

PRESIDENT NISBET: There is one amendment. The secretary will read it.

SECRETARY CHASE: Mr. William Hanna offers the following amendment:

1. Amend page 1, line 6, after "laws" by inserting "and state penal laws adopted by reference by cities"; so the language will read:

> All fines assessed and collected in the several counties, cities, and townships for any breach of the penal laws and state penal laws adopted by reference by cities shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

MR. MADAR: Mr. President, I rise to a point of order. I believe if you will check that, you will find that we have already had that in session.

MR. W. F. HANNA: Mr. President.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, if I may address myself to that point, you will find that this is distinctly different. The amendment previously put in by myself was city ordinances. This covers only the case where you adopt by reference a state law and you adopt it through a city ordinance. They are distinctly different and this is much more limited.

PRESIDENT NISBET: You may proceed.

MR. W. F. HANNA: Mr. President and fellow delegates, this amendment, as now submitted, only covers the situation where a city or township adopts a state law by reference as provided by enabling acts, as a pure basis for taking money away from the library and placing it in the coffers of the city or township. I call your attention that this is done with the state traffic code consistently. The cities adopt the state traffic code by reference. They are allowed to do this. Then the fine money is diverted from the library fund to the city coffers. There are other statutes in this line, but this is limited to where the state law is adopted by reference. Where the city adopts a zoning ordinance or other ordinances dealing purely with their local concerns, and it is their own enforcement, and they do not rely upon a state statute, which they adopt by reference, the fines will not be changed. This is distinctly more limited and simply would place townships and cities, as to state penal laws, on the same basis.

PRESIDENT NISBET: Mr. Binkowski.

MR. BINKOWSKI: I would like to ask Mr. Hanna a question, if I may.

PRESIDENT NISBET: You may if he cares to answer.

MR. BINKOWSKI: Mr. Hanna, would not the purpose and intent of your amendment be easily circumvented by the city or municipality going ahead and adopting the language in toto in the form of an ordinance without referring to it?

MR. W. F. HANNA: If they adopted verbatim, I believe my language would cover it. If they don't adopt it verbatim, you have a very nice problem as to whether the state has preempted the field, and you go into all these cases arising out of the sanitary milk ordinances and so forth, as to whether or not a city may adopt an ordinance in terms other than the state. In the traffic section, it has been ruled that if they adopt a traffic ordinance different than the state traffic law in defining such things as reckless driving or speeding or so forth, where the state law clearly covers it, that they have simply adopted the state law and they cannot differ. So I believe my language would cover it.

MR. BINKOWSKI: Wait a second, Mr. Hanna. I don't know if I am not understanding you or you are misunderstanding me. I say, or the question I ask is if, for example, the city of Kalamazoo were to take the language from the state statutes and adopt that language verbatim as part of their city ordinance, wouldn't your amendment be completely circumvented and rendered a nullity?

MR. W. F. HANNA: If it would, then we would have to straighten it out in style and drafting. This is not my intention. When they adopt the state law by reference, I cover both the usual enacting clause, we enact it by reference, or they copy it verbatim.

MR. BINKOWSKI: Well, Mr. President and ladies and gentlemen of the convention, I certainly am not in favor of the amendment because I am against the intent of the amendment. Secondly, of course, I don't think that it accomplishes the intent that Mr. Hanna has in mind.

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President, I would like to speak in opposition to this amendment. I think that any tampering with city funds — and I think you will find the vast majority of the cities in the state of Michigan are having a tremendous time financially in trying to balance their budgets. This is another way of coming in the back door attempting to take some of the city operating moneys away from them. Personally, I am against it and I hope that all other city people are against this.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, personally I think it might be a good thing, but taking the committee position, we would have to oppose this. It would seem to me we might destroy what we have. I would say I was on the subcommittee and we are willing to go along with the committee proposal and would oppose this amendment.

PRESIDENT NISBET: The question is on the Hanna amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. Mr. Faxon demands a division. Is the demand supported? It is not supported. Are there any other amendments?

SECRETARY CHASE: Mr. Gover and Mr. Gadola offer the following amendment:

Explanation—Matter within [ ] is stricken, matter in capitals is new.

1. Amend page 1, line 4, after "adopted by the" by inserting "local"; so the language will then read, ". . . under regulations adopted by the local governing bodies thereof."

PRESIDENT NISBET: The Chair recognizes Mr. Gover.

MR. GOVER: Mr. President and fellow delegates, Mr. Bentley in his statement on that said there should be "local" in there. Let's put it in there so it explains it. So it will be understood. That is all I want to do, except I want to yield to Judge Gadola on the amendment also.

PRESIDENT NISBET: Judge Gadola.

MR. GADOLA: It is only carrying out the interpretation that style and drafting had on this question and carrying out Mr. Bentley's question on it and only putting it in so there will be no confusion about it.

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President, Mr. Gover and Mr. Gadola, while it is the statement that style and drafting intended that local units would govern their local libraries, I call your attention to the fact that "local" was left out after we originally had it in because this language covers also the state library system, and so that the library at the state level would be governed by the state library board, any township library would be governed by the township library board, the cities by the city, the counties by the counties or the districts by the districts. The reason that "local" was left out is so that this will encompass the fact that the state library board could govern the state library and so on down the line. I urge that you do not put in the word "local" because as this section a is now drafted, it seems to cover libraries at all levels of government and the words "governing bodies thereof" covers the fact that the unit owning and operating the library will cover it as to the accessibility.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I would like to ask Mr. Hanna a question before he returns to his seat.

PRESIDENT NISBET: Mr. Hanna.

MR. BENTLEY: Mr. President, it is my understanding that the regulations which are to be adopted by the governing bodies refer merely to the question of accessibility or availability to residents of the state of these various public libraries and I understood from Judge Gadola's last reply to my own question that the question of who could use the library and regulations under which they could use it, was to be entirely left in the hands of the local governing boards and was not to be a question of determination by any state authority. Is that correct?

MR. W. F. HANNA: Mr. President, Mr. Bentley, the state library board would determine the rules and regulations for the state library. The township board would determine the rules and regulations as to accessibility for the township library. Do I make myself clear by those 2 statements? This is the reason that "local" would be more limiting than the language as finally worked out by style and drafting. I ask that you continue the language so that it is clear that whatever governmental unit owns and operates the library, that local unit will determine the rules of that unit.

PRESIDENT NISBET: Mr. Heideman.

MR. HEIDEMAN: I was a member of this subcommittee. It was our intention to have these regulations under the control of the local units. Delegate Hanna has raised another question here but, as it was stated by Judge Gadola, I wanted to support this addition of the word "local."

PRESIDENT NISBET: Mr. Follo.

MR. FOLLO: I was concerned about whether or not this would limit the activity of the state library in its help and leadership to libraries throughout the state, and in talking with officials from the state library, representatives of the state library board and staff, I was told that this word is not necessary but it won't do any harm.

PRESIDENT NISBET: Miss Andrus.

MISS ANDRUS: Mr. President and fellow delegates, I was chairman of this subcommittee. We would have preferred having the term left "reasonable regulations" which would have meant that the state library — and they are hoping to have more and more services available, particularly in the upper peninsula and the upper part of the state — they could regulate their services and the local boards could regulate theirs, under the term we used, "reasonable regulations." I think, really, Mr. Follo, that we would prefer keeping the term "reasonable regulations," but there is no doubt at all that most of the services are provided by local boards, by the local libraries, so we didn't object to the change which style and drafting thought made it more specific. It could, however, be interepreted to mean that the state library could not issue regulations. I doubt that would ever happen, but I thought I should explain it. We would prefer the "reasonable regulations." It would cover both services by the state library and by local libraries.

PRESIDENT NISBET: The question is on the Gover amendment. Mr. Chase will read it.

SECRETARY CHASE: The amendment offered by Mr. Gover and Mr. Gadola:

[The amendment was again read by the secretary. For text, see above, page 2561.]

PRESIDENT NISBET: Mr. Gover.

MR. GOVER: One more statement, Mr. President, on that: it seems that these words by style and drafting that were added changed the substance, unless the word "local" is put in there.

PRESIDENT NISBET: The question is on the Gover amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The question now is on the committee proposal. Those in favor of Committee Proposal 31 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—118

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Garvin
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 31, the yeas are 118; the nays are none.

PRESIDENT NISBET: **Committee Proposal 31** is passed and referred to the committee on style and drafting.

For Committee Proposal 31 as rereferred to the committee on style and drafting, see above, page 2560.

MR. BENTLEY: Mr. President, I at this time move that Committee Proposal 47 be placed at the foot of the calendar on the education proposals and that we now proceed to take up Committee Proposal 98.

PRESIDENT NISBET: The question is on the motion of Mr. Bentley. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read Committee Proposal 98.

SECRETARY CHASE: **Committee Proposal 98,** A proposal pertaining to the educational institutions of the state. Replaces sections 3, 4, 5, 7, 8, 10 and 16 of article XI.

Following is Committee Proposal 98 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1206.):

Sec. a. The legislature shall appropriate funds to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, [Central Michigan University] MICHIGAN COLLEGE OF SCIENCE AND TECHNOLOGY, [Western] CENTRAL Michigan University, Northern Michigan University, [Michigan College of Science and Technology] WESTERN MICHIGAN UNIVERSITY, Ferris Institute, Grand Valley State College, and other [educational] institutions of higher education established by law. The legislature shall be given an annual accounting of all income and [all] expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. b. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. [The respective] THESE boards shall have the general supervision of their respective institutions and the control and direction of all expenditures from the institution's funds[;]. They shall, as often as necessary, elect a president of the institution under their respective supervision who shall be the principal executive officer of the institution[,] AND be [an] ex officio A member of the board but without the right to vote, and preside at meetings of the board. The boards of each institution shall consist of 8 members who shall hold office for 8 years and who shall be elected according to law. The governor shall fill board vacancies by appointment. [Any such] EACH appointee shall hold office until a successor has been nominated and elected as prescribed by law.

Sec. c. Other institutions of higher education [created] ESTABLISHED by [the legislature] LAW having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate[;]. THE BOARD shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds[;] AND shall, as often as necessary, elect a president of the institution under its supervision who shall be the principal executive officer of the institution[,] AND be [an] ex officio A member of the board but without the right to vote. The board may elect one of their number, or may designate the president, to preside at board meetings. Each board of control shall consist of 8 members who shall hold office for 8 years and [who shall] be appointed by the governor in THE SAME [a] manner [similar to other] AS executive appointments [as] ARE provided in this constitution. Vacancies shall be filled in like manner.

Sec. d. The legislature shall provide by law for the establishment and financial support of public community and junior colleges, which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges, which shall advise the state board of education concerning general supervision[,] AND planning for such colleges and requests for annual appropriations for their support. The board shall consist of 8 members who shall hold office for 8 years and [who shall] be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction [will] SHALL be [an] ex officio A member of this board without the right to vote.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee on education has reviewed the changes made in Committee Proposal 98 by the committee on style and drafting. They appear to be entirely of a perfecting nature. We see no serious objections to any of them and would recommend the adoption of Committee Proposal 98 unchanged. I understand there are 2 amendments to section d, the section pertaining to community and junior colleges. I would suggest that those amendments be taken up at this time, Mr. President.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Mrs. Conklin, Messrs. Kuhn, T. S. Brown and Faxon offer the following amendment:

1. Amend page 3, line 3, [section d] after "boards.", by striking out the balance of the section and inserting "The state board of education may provide for a state board for public community and junior colleges.".

MR. BENTLEY: Mr. President, parliamentary inquiry. Both of the pending amendments, of which the sponsors are the same, are to delete the balance of section d. In one amendment there is additional language to be added, the other amendment adds no new language. I am wondering which the proponents of the amendments would prefer to have discussed first.

PRESIDENT NISBET: Mrs. Conklin.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Excuse me, Mr. Kuhn. Under the normal procedure, the amendment to strike out is discussed first.

MR. KUHN: That is the one we wanted to discuss first. We were hoping to discuss the other one first. It doesn't make any difference.

PRESIDENT NISBET: Okay, discuss the other one first.

SECRETARY CHASE: Well then, the secretary understands that the amendment the proponents wish to have offered first is as follows:

1. Amend page 3, line 3, [section d] after "boards.", by striking out the balance of the section.

PRESIDENT NISBET: Mrs. Conklin, do you care to speak?

MRS. CONKLIN: I would prefer, Mr. President, to yield to Mr. Kuhn at this time and speak on the other amendment if this does not carry.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, as you know, the junior colleges never before had constitutional status. They came to us and asked for 3 things, specifically: 1, they wanted constitutional status; 2, they wanted to be sure that they could elect their boards and that they would have control at the local level. These 2 things we provided them. In fact, they also wanted to have some financial assistance by the legislature, and we also have given them that.

The only thing that certain members of our committee were objecting to is this very last thing, and that is a board. We are not against the board. We want to make that very clear, but we are against putting in the constitution a section that will provide that the legislature shall provide a board whose only purpose is to advise another board, and that is the state board of education. To us it is unthinkable to have in the constitution an advisory board merely to advise another board. As I said earlier, we are not against this board but we do not think it should be in the constitution.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

If you would read the language, I think you would agree with us. It says, "The legislature shall provide by law for a state board for public community and junior colleges, which shall advise the state board of education. . . ." I don't need to go on and read any more. I think it is a clearcut question: do you want this in the constitution or leave it up to the legislature?

PRESIDENT NISBET: The question is on the amendment. Mr. Faxon.

MR. FAXON: Mr. President, is this the amendment to strike out? I see on the other wall they have both and I just wondered if the delegates aren't —

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: The present amendment is on page 3, line 3, [section d], after "boards.", strike out the remainder of the section.

PRESIDENT NISBET: The Chair recognizes Miss Andrus.

MISS ANDRUS: Mr. President and fellow delegates, I was asked to present the junior college section of this proposal when we were on general orders so perhaps I should repeat some of what was said before. The vote was 75 in favor of our keeping the board, and it probably will be today, but I think perhaps — it was quite a while ago — some points should be brought back to your remembrance. The junior colleges are a rather new institution, as Mr. Kuhn said. They weren't even thought of when our present constitution was drawn up. Other institutions are given constitutional status and this is done according to the proposal.

The whole question here seems to be whether there should be a board to provide for certain services for all of the community and junior colleges. We now have 17 or 18 of them. All of our evidence showed that we will have 40 to 50 by 1970. It is assumed that more students will be attending junior colleges and community colleges than all of our 4 year institutions in a very short time. So far, most of the provisions have been taken care of by local boards of education. They have provided — for instance, we use the old high school in Port Huron for our junior college. They have tried to provide some sort of building for these people, and the local boards take care of the matter of paying faculty and so forth. However, if they are going to have this great influx of students in the near future, local boards of education are not going to be able to take care of this.

As I said before, we, the voters, the taxpayers of Michigan will provide for buildings and dormitories on our 4 year campuses or we will have to provide for buildings for classrooms and so forth on the local junior college campuses. They are doing this at present. Each one is going to the state legislature and asking for money. I don't know how many of you know this, but the new school over at Midland, Delta College, has been doing quite a little lobbying in the legislature, and members of the various junior colleges have been here lobbying against Delta getting certain big concessions. In other words — and this is the main point I wanted to make to all of you — the junior colleges have had to spend a great deal of time in Lansing at the legislature or at the board of education, and our board has been so busy with all of their overall problems that they can't do what they should do back home. And all of them — this is a unanimous request on the part of our junior colleges and community colleges — want this board so that they can look over, for the state board of education, for the legislature, and decide and say, for the next year or for 3 years, what the needs are of these schools that are growing so rapidly, and can make recommendations.

This proposal has been presented to the legislature every time for the last 5 or 6 years, and last year a board was — they did get it through the house of representatives but it got stuck in the senate. So I talked with Mr. Wurzel, Ray Wurzel is the chairman of the education committee in the house of representatives, and he said we need this in the constitution so that the legislature can — perhaps they pass it one year and later they would do away with it. He said it is very essential. Just, please, remember when you vote that over half of our college students are going to be in these schools and they need this, particularly to work with the legislature in obtaining funds and providing where these funds will go among the different schools, so they are not all fighting against each other and taking the legislature's time and their own time.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. BENTLEY: Mr. President, a point of order.

PRESIDENT NISBET: State it, please.

MR. BENTLEY: Mr. President, I am constrained to make a point of order against the first amendment that is displayed here, because that amendment, the identical amendment was already disposed of by the convention on February 21, Journal 64.

MR. KUHN: Mr. President, I would like to speak to the question of point of order.

PRESIDENT NISBET: You may, Mr. Kuhn.

MR. KUHN: I would like to state that while I still question the authority that we are not going to be able, on second and third readings, to offer an identical amendment, I certainly would question the authority on any motion to strike any section or any sentence, and if we rule that out of order, and we make any mistakes we would be tied and duty bound not to make a change. I say a plain motion to strike should never be out of order when that particular proposition is before this body. Now, if we say we can't even strike something, then I say we are going way too far in our rules.

PRESIDENT NISBET: The amendment is not in order, Mr. Kuhn. It was voted down before. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Conklin, Messrs. T. S. Brown, Faxon and Kuhn offer the following amendment:

1. Amend page 3, line 3, [section d] after "boards.", by striking out the balance of the section and inserting "The state board of education may provide for a state board for public community and junior colleges.".

PRESIDENT NISBET: Mrs. Conklin.

MRS. CONKLIN: Mr. President and fellow delegates, I think, speaking on the first amendment, we pretty much covered our reasons for the second amendment. We have in the committee proposal that the legislature shall provide by law for state boards for public community and junior colleges. It is the thinking of the proponents of this amendment that the state board of education should be the only group involved in this extra board for the study of community colleges. We should not put it in the hands of the legislature. We have increased the size of the state board of education from 3 people to 8 people, giving them greatly enlarged duties, the overall look at all education in the state from kindergarten right through college. It is our thinking that the state board of education, if they feel the need — and it may be such a thing that they don't even need this extra board, but if it is felt by these 8 people that they cannot handle the growing problem of community colleges, then they should certainly have the right to set up an advisory committee to specially study this problem and report back to them. We do not feel that the legislature should get involved in this question at all, and therefore I support this amendment and hope the delegates will vote yes.

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. T. S. BROWN: Mr. President and fellow delegates, substantially, the only change in this amendment and the committee proposal, as it now stands, is that you would make it optional with the legislature as to whether or not they wanted to create this additional advisory board. I think, as a matter of practical politics, in the relationship between boards in any governmental structure, either a board has power or it doesn't have power, and if it doesn't have power, then its advice, I think, is not considered.

If we were establishing a junior college board under the committee proposal which had some muscle, which was responsible for policymaking and such, and which was independent, vis a vis the state board of education, then this would be a different matter. But this board, as proposed, is certainly not independent. It is strictly advisory, and I think constitutionally it is poor form to include such a board within our terminology, and I suggest that we therefore leave it to the legislature.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, I will just speak one moment on this amendment. To me, this would help a great deal in completing an excellent article on education. Let me state once again what the junior colleges asked us for: 1, constitutional status. We gave that to them; 2, they wanted state financial aid. We put that in the constitution; 3, they wanted control by locally elected boards. We put that in the constitution; 4, they wanted to be able to have a state board for community colleges. We are now authorizing the state legislature to so provide, if they see fit in their wisdom, and to me this is going all the way out for these junior colleges. We are not against junior colleges and, therefore, we think that this minimum amendment should be adopted.

PRESIDENT NISBET: The Chair recognizes Mr. Habermehl.

MR. HABERMEHL: Mr. President and delegates, I rise in support of this amendment for the specific reason that the committee proposal limits the power of this junior college board. As has been pointed out by Miss Andrus, this is a developing field. There is no way for us, as delegates here, to predict what the needs of these community colleges may be in the next 50 years. If we try to set up in this proposal limited powers for this board and find that they do need, at some time, powers other than mentioned here in the constitution, it would require a constitutional amendment to grant them those powers. If we are going to set up a board and the board is going to serve any function, or at least the function for which it is established, we must leave flexible some provision for the increase or decrease of the duties of this board as the needs may arise.

I think Miss Andrus has also pointed out that most college students — more college students are going to be enrolled in these community colleges than in all the other colleges combined within a short period of time. That simply emphasizes the need to keep some flexibility in this field until we can find out what the needs of these colleges are and what functions their boards should perform. I ask for some flexibility in this, as one most interested in community colleges. Let's let the legislature meet the needs of these colleges as they arise. I support the amendment.

PRESIDENT NISBET: The Chair recognizes Miss Hart.

MISS HART: Mr. President, the members of the committee listened most respectfully to the arguments offered by the movers of this amendment. We also listened, for long hours, to the advocates of the junior colleges, those people who are responsible for their administration. Miss Andrus has very well presented the view of the junior colleges. The committee worked long and hard to perfect a proposal that would best take care of their needs. I urge that we defeat this amendment and vote for the committee proposal.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, I find myself in a peculiar position, as a "young radical," liberal Republican supporting the arch conservative, Jack Faxon, but in the committee of the whole the proponents of this committee proposal explained their position thoroughly. At that time I didn't want to see the state board for public, community and junior colleges in the constitution. However, I would like to support this amendment because I think it makes some sense. It puts education where education belongs — under the state board of education rather than under the legislature. Also, the wording, in my opinion, is good constitutional language and, as Delegate Habermehl has explained, it allows for the problem that has been discussed so thoroughly by the proponents of a state board for public community and junior colleges, the expansion. It does not restrict it. It does not limit it. I speak in favor of this amendment and hope that it is adopted unanimously.

PRESIDENT NISBET: The Chair recognizes Mr. Rajkovich.

MR. RAJKOVICH: Mr. President and fellow delegates, a while back, a few months ago, we discussed this thing quite thoroughly, and at that time, after all due debate and deliberation, we decided that the legislature shall provide for this board, and all of a sudden for some reason we think that we don't need a board of that type, but we are going to have our board of education do the appointing in this case. Now I have been associated with junior colleges for over 20 years and I am quite familiar with them. I also might say that I have been to every junior college campus within the last 2 years. I don't know how many more delegates have been to all of these campuses. I have spoken to every director of the community colleges in the last year or so and they all felt that the way we had the proposal the first time is exactly the way they want it, and that is the way we should have it in order to promote these junior colleges, because we are going to have more. We should have about 40 — at least it looks that way — very shortly, and today we do have more people in junior colleges than we have in any single university in the state of Michigan, and at least we ought to get this recognition. We defeated these attacks before. Let's do it this time by unanimous vote and vote down this proposal—or the amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I sought recognition on this matter because, as I listened to Mr. Kuhn's argument on this proposal, I got the idea that under the proposal the legislature was to be given power to provide for a board for public community and junior colleges. So I was going to ask if the wording on the board is correct, because the wording on the board says the state board of education shall have that power. After that I listened to some other speakers who obviously understand it the same way that I do, that this amendment provides that the state board of education may provide for a state board for junior and community colleges. I guess I will have to confess that my ideas of a government are rather along maybe simple, uncomplex lines. I don't understand the rationale of providing and permitting an administrative body, a body in the executive branch of the government, if you please, namely the state board of education — and that is where it is — how you should constitutionally endow such a body as that with the power to create something else. I always supposed that it was the function of the executive branch to carry out the law, not to create additional agencies. I think that power belongs exclusively with the legislature, and I am sorry to say I cannot support this amendment as it stands for the reason that it will vest in the board of education the power to create the community college board. I would heartily support an amendment which would leave that power in the legislature.

PRESIDENT NISBET: Mr. Brown.

MR. T. S. BROWN: Mr. President, Mr. Hutchinson, in regard to the point you just made, it was our understanding, at least Mr. Kuhn's and myself, that when we discussed this matter the terminology would say the legislature rather than the state board of education, and somehow or another it was transposed into the state board of education. It was and is our intention that the legislature have that power.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: In that case, Mr. President, do the sponsors desire to revise their amendment?

MR. T. S. BROWN: Yes, sir.

MR. HUTCHINSON: Thank you. Then I will support it.

SECRETARY CHASE: Mr. Kuhn, on the suggestion of Mr. Hutchinson, and without objection of Mrs. Conklin, Messrs. T. S. Brown and Faxon, revises the amendment to read as follows:

1. Amend page 3, line 3, [section d] after "boards.", by striking out the balance of the section and inserting "The legislature may provide for a state board for public community and junior colleges.".

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President and ladies and gentlemen of the convention, I understand that we have on file one more amendment to this section. We also have Committee Proposal 47 to take up, with 6 amendments. We have a committee of the whole meeting for one eminent domain provision under miscellaneous provisions and 5 proposals under emerging problems. I would therefore move, Mr. President, that further debate on this particular amendment with its divisions be limited to 10 minutes so that we can get finished here today.

PRESIDENT NISBET: The question is on the motion of Mr. Yeager. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Jones.

MR. JONES: Mr. President and fellow delegates, I rise to oppose the amendment, as revised, for this reason: within the next 10 or 15 years our college enrollment in the state of Michigan will double. Most of these people at the undergraduate level will, of necessity, have to seek their education in community colleges. Therefore it is imperative that we institute the machinery to provide for a board to deal with the problems of community college development now, not 2 years or 5 years from now. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Habermehl.

MR. HABERMEHL: I rise, Mr. President, just to ask for a division, in line with the secretary's request, and not the yeas and nays.

PRESIDENT NISBET: A division has been requested. Is there sufficient number up? Sufficient number is up. Mr. Sleder.

MR. SLEDER: Mr. President and fellow delegates, I rise to speak against the amendment. The revised amendment provides that the legislature may provide for a state board. Our proposal, which we passed on first reading, says, "The legislature shall provide by law for a state board for public community and junior colleges. . . ." I would like to point out that because of the factors put forth here by many delegates that spoke in opposition to this amendment, that this amendment should be defeated on the basis of the growth and the need in the community college field. It is difficult, with a new era in education and a new field, to get recognition in the proper channels in our state legislature. It therefore means, with the growth that is coming in the field, that we must provide in the future for an area in which this field can expand and grow. I therefore recommend the defeat of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Romney.

MR. ROMNEY: Mr. President, I would like to oppose this amendment and state some reasons that may not have been fully developed up to this point. They are based on the fact that the community college need is going to be great in light of the doubling of higher education in the years immediately ahead. The committee proposal makes it mandatory that there be a community college board, and it seems to me that it is desirable to make it mandatory because it would be unfortunate if we didn't take full advantage of the community college's ability to supply this educational need more economically than can be done through institutions of higher learning.

I think another reason for supporting the committee proposal and opposing this amendment is this: that we should make it specific that the total educational program is going to be considered by the board of education. This is the committee's proposal and if we do not provide for this, as we do in the committee's recommendation, then the legislature would be free to set up this community college board independently of the board of education. I think this would be unwise and it would defeat one of the major purposes of our work here, namely to establish a board of education with total planning and coordinating responsibility.

I think a third reason is this: the institutions of higher learning have their boards of control and governing boards and they have their council of university presidents and governing boards and will be well represented before the board of education. Community colleges need an instrument of this character to make certain that their needs will be equally well presented and considered by the overall state board of education. The language of the committee spells these things out in the proper way and should be supported and this amendment should be defeated.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, members of the convention, the reasons have been well stated by Mr. Romney and others as to why I feel this amendment should be defeated. There is another reason, and that is that the junior colleges themselves want the language that is in the committee report and they want it very badly. They spent a lot of time before the committee. This assures the language that we have in the present committee report. It has been approved before by you, approved on first reading, and makes certain that the junior college operation will be coordinated in the total whole of state supported public higher education in this state.

I am not going to take any more time because Mr. Romney made most of the points I wanted to make. I should just like to remind you that junior colleges are not nearly as new as many people seem to think. I was a product of a junior college myself, and that was quite a few years ago. I speak not only as a delegate but as the chairman of the council of state college presidents; I feel very strongly that the total provision before you is very good, and one of the good features of it is what you now propose to take out if you approve this amendment.

PRESIDENT NISBET: The Chair recognizes Miss Andrus.

MISS ANDRUS: Thank you for letting me speak the second time. I wanted to answer —

MR. KUHN: Point of order. I am sorry to raise this but we have a limited time and she spoke once.

PRESIDENT NISBET: Miss Andrus has not spoken on this amendment. Miss Andrus.

MISS ANDRUS: I wonder if I would be permitted to answer some statements which Mr. Kuhn made. He said there were 3 things the junior colleges asked for. As the people appeared before us from October on through January, I asked each person who came before our committee — and that included former superintendents of public instruction, members of the state board of education, and people who are presently engaged in educational work — and all of our committee can remember, I would say: do we need a separate board of junior colleges? And every one of them said yes. The reason for this is, we needed an advisory board. I thought other people were going to speak on this, and Mr. Romney and Mr. Hannah and others have been very helpful, but I would like to stress this point: all over the state people want to have these new local colleges. They need advice and help, and this board would be — it is mandatory, you see, the way we have it. This amendment says "may." It will be mandatory. There will be a board and they will have 8 year terms. There will be a long-term planning group which can help these different colleges get started and help them with their problems.

PRESIDENT NISBET: Mrs. Conklin.

MRS. CONKLIN: Mr. President and fellow delegates, there has been one argument presented here that I don't think is at all pertinent, and that is the fact that we asked the community college presidents and members what they wanted. I can only remark that this would be like asking the race track owners what they thought about putting race tracks back in the constitution.

PRESIDENT NISBET: The question is on the amendment. There is an amendment to the amendment.

SECRETARY CHASE: Mr. Sterrett offers the following amendment to the amendment:

1. Amend the amendment, after "legislature" by striking out "may" and inserting "shall"; so the language will read, "The legislature shall provide for a state board for public community and junior colleges."

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President and fellow delegates, I believe that this will take care of the objections of those that feel that they might not get a state board for public community and junior colleges, by inserting the word "shall." Also, this does not put all of the superfluous and unnecessary language into this amendment as presently in the committee proposal and permits this to be flexible for this expansion that we have heard about in the future.

PRESIDENT NISBET: Mrs. Conklin.

MRS. CONKLIN: Mr. President and fellow delegates, I would oppose this amendment because this does not do what we intended, or, at least, it certainly does not do what I intended. This is putting back in that the legislature must develop this community college board, and this is what we wanted them to determine — whether they need one or not, not saying that they have to do it. I would oppose this amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Sterrett. Those in favor will say aye. Those opposed, no.

The amendment to the amendment is not adopted. The question now is on the amendment. A division has been ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay. The secretary will read the amendment.

SECRETARY CHASE: The amendment reads as follows:

[The amendment was again read by the secretary. For text, see above, page 2565.]

PRESIDENT NISBET: Those in favor of that amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment, the yeas are 37; the nays are 85.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Downs offers the following amendment:

1. Amend page 2, lines 26 and 27, [section c] after "governor" by striking out "in a manner similar to other executive appointments as provided in this constitution".

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, this amendment was prepared from the committee of the whole report rather than from the second reading. There should be a few words changed to meet those technical changes and I would ask permission to have the amendment so corrected.

PRESIDENT NISBET: The secretary will correct the amendment.

SECRETARY CHASE: The corrected amendment is as follows:

1. Amend page 2, line 26, [section c] after "governor" by striking out "in the same manner as executive appointments are provided in this constitution".

MR. DOWNS: The correct amendment has just been prepared. Thank you, Mr. President. This item gets to the matter of advice and consent and, as the delegates will remember — and I believe I am quoting the chairman of the committee correctly — the education committee's report came up before the executive branch proposals and the recommendation was made then that we not discuss this advice and consent part until the executive proposals were acted upon. I acquiesced in that because I know the education committee had much other work to deal with and at that time it might have fuzzed up the discussion. So I think, therefore, we are perfectly in order to go into the advice and consent concept, as it affects the institutions of higher education, at this point.

The amendment, as it now reads, would provide that the board of control of these other institutions — and this would particularly apply to Western, Eastern, Central and Northern — would be established by the governor appointing the members thereof without the advice and consent of the senate. I believe there are 2 primary reasons for supporting the amendment. The first is that we should do everything possible to keep our educational system separated and as independent as possible, to maintain the integrity and the academic freedom. I feel that if these boards are to be appointed, that the governor appointing them without advice and consent does help maintain that integrity and place that responsibility on the governor.

The other point, and I do not mean to get into the apportionment matter directly, but point out that if there is to be an appointment, the governor himself, who makes the appointment, is equally responsible to all the people and is elected on a one man, one vote basis; whereas the minute we inject advice and consent into this concept, whether it is advice and consent by a body that is not represented on a one man, one vote basis, we are then injecting something other than our basic democratic concept into the field of education. In fact, I think it should be pointed out that the present constitution which provides for the state board of education to be administratively responsible, and otherwise, for these institutions is better than the majority committee report as it stands because that board, too, is elected on a one man, one vote basis.

I am very concerned about any step this convention takes to go backward from the basic democratic concepts we have. I know many of us at times do not get everything we believe is desirable in a constitution, and I suppose none of us came to this convention thinking that all of his ideas of what he thought were improvements would be accepted. But I am very concerned about any point that, in my judgment, is a step backwards and I feel that the advice and consent concept can be a step backwards to weaken our very strong and historically proven eminent educational system that has done an outstanding job, not only in the nation but in the world, and part of the reason for that outstanding job has been the mechanics of control as well as the peoples' feeling of the importance of education. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the gentleman from Detroit, Mr. Downs, has of course given accurately the conditions under which this subject was discussed before. We decided at that time to postpone a definite and final decision in this matter until the question of other executive appointments elsewhere in the constitution were decided on. A majority of the committee on education did feel that appointments by the governor of members of these 7 governing boards of institutions of higher education should conform to other executive appointments.

I do hope, Mr. President, we don't enter into discussion of apportionment or the subject of advice and consent. That is a theory which has been adequately dealt with elsewhere in this document. I think it is simply a matter of whether you believe that the principle of advice and consent should apply in the cases of these 7 governing boards, each to have 8 members. A majority of the committee, as I say, felt that they should conform to other executive appointments which, as the convention has acted, do provide for advice and consent of the senate. Therefore we ask for the defeat of the pending amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: I would like to call for the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Not a sufficient number up. The question now is on the amendment offered by Mr. Downs. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Wanger, Millard, McLogan, Sharpe, Faxon, Powell and Mrs. Koeze offer the following amendment:

1. Amend page 1, line 3, [section a] after "State University" by striking out "Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, and other institutions of higher education established by law.", and inserting "and all other state institutions of higher education now or hereafter established by law.".

PRESIDENT NISBET: The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. President and members of the convention, I rise in what I am convinced is the best interest of higher education, to support this amendment. Expressly naming all these state schools in our constitution is presumptuous, inconvenient and discriminatory. It is presumptuous of this convention to freeze the names of these schools into our constitution, for it is not for us to say what their names should be for all time. It is inconvenient because as new colleges are created, as they must be, they must be added by constitutional amendment to the constitution, and also because the names of these present educational institutions will have to be changed as well, and this will require a constitutional amendment which must be voted upon by all of the people, and in all probability will have to be placed upon the ballot by a 2/3 vote of each house of the legislature.

It is discriminatory for this reason: those who spoke in favor, in committee of the whole, of naming all of these institutions expressly in our constitution said they did it mainly for reasons of prestige. It seems to me, and I suggest to you that the private institutions of education are equally deserving of prestige with the state run institutions of higher education, and that to name one, unless legal reasons require it, and not the other is discriminatory on this basis. I will close my remarks by pointing out to you that the language to be inserted in lieu of the language to be stricken gives these institutions the same legal protection which they have under the section as it presently stands.

In light of the above 3 reasons, I urge you to vote in favor of this amendment and I urge you to think that in light of those

reasons, we are not, by naming our schools in the constitution, bringing home the bacon to alma mater. We are, rather, bringing, in the long run, nothing but grief. When I went to school one of the fundamental principles which I somehow absorbed was the principle which was very well stated many years ago regarding prestige and name. It is simply this: a rose, by any other name, would smell as sweet.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, I have an amendment which was to follow this which I think would take care of the objections which Mr. Wanger makes, and that is simply to add — it relates to what he has proposed, provides that the name of any institution of higher learning may be changed by the legislature upon the recommendation of its governing board. I don't know whether it would be in order, but I think it would save time if the amendment which I propose would be put in now or offered as a substitute for the Wanger amendment. I think it would take in all the objections he raises without at the same time taking all these names out, which I understand are wanted by the universities. May I ask the president if it is in order to put my amendment in as a substitute for the Wanger amendment?

PRESIDENT NISBET: The Chair doubts it. They are quite different in substance, Mr. Allen.

MR. ALLEN: Well then, may I say I would oppose the Wanger amendment because this matter of freezing the names in the constitution may be corrected by the amendment which I will offer and it does not do the harm of taking the names out of the constitution, which I understand the various universities very much oppose.

PRESIDENT NISBET: Mrs. Butler.

MRS. BUTLER: Mr. President, fellow delegates, I rise to oppose this amendment. It may be presumptuous, discriminatory, inconvenient. We may be seeking prestige, and I hope we do get a little prestige. As far as I am concerned, I am tremendously interested in the Michigan College of Mining and Technology. There would be disappointment among a great group of alumni and of everyone in our county, and I certainly oppose this amendment. I want to say that Mr. Wanger talks about bringing home the bacon; all those big words he uses are a lot of baloney. (laughter and applause)

PRESIDENT NISBET: The Chair recognizes Mr. Bonisteel.

MR. BONISTEEL: Mr. President and fellow delegates, I did not know that Mr. Allen was going to stand up and make a statement regarding the amendment that he proposed as a substitute. I am for the idea as submitted by Delegate Allen, and would oppose the present amendment.

PRESIDENT NISBET: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, naturally, as one of the sponsors of the pending amendment, I rise to support it. I think Delegate Wanger did an exceptionally concise and factual job in presenting the arguments for it. I will not go over that ground.

I do question the amendment that I understand Delegate Allen would like to submit as a substitute or to follow this. Personally, I am very dubious about a proposition whereby it is suggested that the legislature might amend the constitution. That is, here we have some language going into the constitution. Then he suggests that the legislature might from time to time adjust that phraseology as they should see fit, upon recommendation of these governing boards. I doubt very much if you can change anything in the constitution by any such hokus pokus as this, so I suggest we go ahead and adopt this amendment that is before us and get this whole proposal adopted and go to lunch.

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, members of the convention, I rise to urge you to defeat the amendment that is before you. I see no reason why anyone should become concerned because Western Michigan University or Central Michigan or Eastern Michigan or what was the Michigan College of Mining and Technology — now they have a new name and have become sizable institutions and important not only to the community but important to the state, important to this nation. This proposal that we have before us gives these institutions some of the same constitutional status and protection that have made it possible for the University of Michigan and Michigan State University to become the great universities that they have, and the same status was given to Wayne a few years ago by constitutional amendment when it came into the state system.

All the language — all you would accomplish if you were to adopt this amendment is, you would take some words out of the constitution that would greatly discourage this very important segment of higher education in the state. Western and Eastern and Northern and Central and the rest are going to become larger. They are going to become better. You gain nothing, excepting you shorten the constitution by a little. I have heard no argument that is very good for adopting this amendment and, again speaking to you on behalf of all of the institutions of higher education in this state, I urge you to defeat the amendment and to approve the language that has been approved by the committee and has been approved by this convention on first reading.

PRESIDENT NISBET: Mr. Upton.

MR. UPTON: Mr. President and fellow delegates, I would rise to support this amendment. In the model state constitution they recommend that names not be incorporated in the constitution. We have recognized the 3 major universities of our state for they have a different setup in the election of boards. The boards of these institutions that we are suggesting to strike out are not elected by the people. They are appointed by the governor. Therefore, I would suggest that we support this amendment and I would ask for a division.

PRESIDENT NISBET: Division has been requested. Is that demand seconded? Sufficient number up. Those in favor of the amendment of Mr. Wanger and so forth will vote aye.

MR. WANGER: Mr. President.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: I just wish to make a comment about Mr. Allen's amendment, because, since he brought it up, it is obviously a matter of consideration on this vote. That is this: it is going to do one of two things: one, it is going to create confusion for the very simple reason that if he provides that the legislature —

MR. BENTLEY: Point of order, Mr. President. The amendment is not before us.

PRESIDENT NISBET: Mr. Wanger, the other amendment is not before us at the present time.

MR. WANGER: Well, Mr. President, you allowed him to describe exactly what it did. Everybody is voting on that basis. It is unfair —

PRESIDENT NISBET: The amendment is not before us. You can discuss that when it comes up.

MR. WANGER: Well, Mr. President, that is discriminatory. (laughter)

PRESIDENT NISBET: The question is on the amendment offered now. Those in favor will vote aye. Those opposed will vote no. The question is on the Wanger amendment. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Wanger and others, the yeas are 36; the nays are 86.

PRESIDENT NISBET: The amendment is not adopted. We have one more amendment to this. The Chair feels we can finish it before lunch. Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. Allen offers the following amendment:

1. Amend page 1, line 12, [section a] after "public.", by inserting "The name of any institution of higher learning may be changed by the legislature upon recommendation of its governing board.".

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, this is to take care of the objection which would come in case one of the named institutions of higher learning wished to have its name changed. In the absence of anything being added, it would, as Mr. Wanger pointed out, require an amendment to the constitution. So this simply provides that it may be done by the legislature, but as a protection, so that the legislature would not capriciously make a change of name, it could only be done upon a recommendation of the governing board of the institution which is involved. I think in a very short way this permits the flexibility which we all want, and it protects the school because it would be — ih would make necessary a favorable recommendation from the governing board and, Mr. President, may I yield to Mr. Bentley who is the chairman of this committee for his comments on this?

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I have not discussed this amendment with members of the education committee, but speaking individually I think it is a good amendment and I can see nothing wrong with it. It would certainly be a valuable assistance to these institutions in the future if they should wish to change their status, and could do so by simple legislative action, as the Allen amendment would provide. Personally speaking, I urge the adoption of the amendment.

MR. WANGER: Mr. President.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: The language in its form would clearly create confusion. It authorizes the legislature, of course on recommendation of the board, to change the name. However, the constitution and the wording of the name in the constitution remains exactly as it is. This is clearly going to create a great deal of confusion. When someone wants to find out what the name of their school is, they are going to have to look through the statutes, because if they look in the constitution itself the name will be wrong.

PRESIDENT NISBET: Dr. Anspach.

MR. ANSPACH: Mr. President and delegates of the convention, Chairman Bentley covered my points. I merely rise, therefore, in support of this proposed amendment.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I would like to ask Mr. Allen a question and then I would like to comment.

PRESIDENT NISBET: You may proceed.

MR. FAXON: Mr. Allen, what happens if the legislature creates an institution of higher education? Does this mean that by action of the legislature they can then put this new institution's name into the constitution through recommendation of the governing board?

MR. ALLEN: No, I wouldn't think so, Mr. Faxon. The only names that would be in the constitution are these names.

MR. FAXON: Well then, Mr. President, as I understand it, this affects the present naming of those schools that are now in there, and I don't see that there is any need for this at all. The thing we are partially concerned with is where there would be new institutions created that would want to have equal recognition along with the others, and furthermore, I think that this would be inconsistent with our other actions in the constitution, to permit a constitution change to be made by action of the legislature. I am not an expert on it but it just seems to me it would be inconsistent with previous positions.

PRESIDENT NISBET: The Chair recognizes Mr. Prettie.

MR. PRETTIE: Mr. President and fellow delegates, I rise to oppose the Allen amendment for the reason that Mr. Faxon has just stated, that I think it would be highly inconsistent to permit our legislature to amend our constitution. We have expressed ourselves as wanting the names of these institutions in the constitution, but we have also, I think, indicated that we do not wish them frozen. Taking a page from Mr. Allen's book, I have an amendment that simply provides that by whatever name the institutions may later be known, they should be supported, and so on, as the committee proposal provides. I urge the defeat of the Allen amendment and then hope to submit for your consideration the amendment I propose with Mr. Powell.

PRESIDENT NISBET: The Chair recognizes Mr. Gover.

MR. GOVER: Mr. President and fellow delegates, I presume what I have in mind is a style and drafting change, but I would think that this amendment should follow line 9, in line 9 after "law" where the names of your institutions are all mentioned, and then following in there that the legislature has the right to change those names upon the recommendation of the board.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, I am opposed to the Allen amendment. I quite frankly have seen little need or necessity over the past years for these name games that the universities are playing anyway. It seems to me that one name is as good as another for a university. Once it is established I think it has a certain permanency to it and helps establish a tradition, and it seems that our universities the last few years felt compelled to go around changing their names every few years. I don't think it adds anything to the university. I think there is a definite need for having the names of the universities in there, because this gives them a constitutional status and sort of acts as a buffer or barrier between them and the legislative investigations and so on, but the need to add constitutional language just to let them go around changing names, I think is unnecessary.

PRESIDENT NISBET: The question is on the Allen amendment. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of the Allen amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote. Mr. Sterrett.

MR. STERRETT: Mr. President, I am quite amazed to see Mr. Brake, Boothby, Iverson and Hutchinson on the left.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Allen, the yeas are 53; the nays are 69.

PRESIDENT NISBET: The amendment is not adopted. We have one more amendment. Mr. Chase will read it.

SECRETARY CHASE: Messrs. Prettie and Powell offer the following amendment:

1. Amend page 1, line 7, [section a] after "College,", by inserting "by whatever names said institutions may hereafter be known,"; so the language will then read following the naming of these institutions, "Grand Valley State College, by whatever name said institutions may hereafter be known, and other institutions of higher education established by law."

PRESIDENT NISBET: Mr. Prettie.

MR. PRETTIE: Very briefly, most of the argument on this has been presented previously in comment on Mr. Allen's amendment. This retains the recognition and prestige of the names in the constitution, which have historically been there, and adds the more recently established institutions. It does not permit the legislature to amend the constitution. It does permit change of name without constitutional amendment in the future. I urge the adoption of the amendment.

PRESIDENT NISBET: The question is on the amendment of Mr. Prettie and Mr. Powell. Those in favor will say aye. Those opposed, no. The Chair is in doubt. Those in favor of the amendment will vote aye. Those opposed will vote nay.

MR. WANGER: Mr. President, will you ask the secretary to read the amendment? We can't read it on this wall.

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment reads as follows:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Prettie and Powell, the yeas are 71; the nays are 48.

PRESIDENT NISBET: The amendment is adopted. The question now is on the adoption of Committee Proposal 98, as amended.

MR. DOWNS: Mr. President, I wish to move that section c be given a separate number and be voted on separately. The reason for that is that personally I am for the rest of this proposal but I am against section c because of the advice and consent concept, which conceivably might be changed when we get in the executive branch, and I would feel constrained to vote against the whole proposal unless a separation is made. I realize this is a difficult problem when delegates may favor a good portion of a proposal and yet the degree of their feeling against another part raises a question.

PRESIDENT NISBET: The question is on the motion of Mr. Downs that section c be voted on separately from sections a and b. Those in favor of that motion will say aye. Those opposed, no.

The motion does not prevail. The question now is on the adoption of Committee Proposal 98 as amended. Mr. Brown.

MR. G. E. BROWN: Mr. President, I would like to address a question to either a member of the committee on style and drafting or to Mr. Bentley, and that relates to the second paragraph where we set up the governing boards for Michigan State, University of Michigan, Wayne State — we mention the governing boards there — then in paragraph c, or in section c, we say other institutions of higher education established by law, having authority to grant baccalaureate degrees and so on, shall be governed by a board of control. It seems to me that you have left out those other institutions which are named in the first paragraph, such as Western Michigan, with respect to these boards, because you name the boards for the 3, and then you say that other institutions of higher education established by law shall have such boards. Now, what about Western Michigan, Central Michigan, Eastern Michigan, and so on? I know what the committee contemplated but I don't think you've gotten the language.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I will say to the gentleman from Schoolcraft that the intent was that both the 7 institutions named in section a and any institutions named hereafter, that is, after the adoption of this constitution and created by the legislature, would have the constitutional status and the separate governing board as provided for in section c. If the gentlemen on the committee on style and drafting do not feel that that intent is carried out in the present language, why, of course, they are at liberty to suggest changes to it. But I feel personally that the intent is specific and clear and I do not think there is any confusion arising, in answer to Mr. Brown's question, at this time.

MR. G. E. BROWN: I will only say, Mr. Bentley, I think that your intent is clear but I think that your language does not do it clearly.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I would take issue with Mr. Brown on this point for the reason that I am satisfied that every one of these institutions listed here have been created by law, and it doesn't — the language in section c — does not say "hereafter established;" it says "other institutions of higher learning established by law." They have all been established by law.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I would like to speak on section a. Is that permissible at this time?

PRESIDENT NISBET: Proceed.

MR. HIGGS: We are moving along so fast here I just wondered whether or not we realize what we have done in passing the Powell-Prettie amendment. In speaking with Mr. Prettie, it is my understanding now that we have actually given the power to change the name of any of these schools to the governing board, without any reference to the legislature or the constitution. Now I just point out that we have done that; I don't propose to offer any amendment. I don't feel strongly enough about it to oppose the section, but it is something to think about between now and the third reading.

PRESIDENT NISBET: The question is on the adoption of the proposal. Mr. Downs.

MR. DOWNS: Mr. President, I regret that we did not separate section c and wish to advise the convention that I will reserve the opportunity to explain in the journal; that I am intending to vote against the entire proposal because I feel so strongly on the advice and consent concept. I hope that in voting this way it will, perhaps, stimulate us to do some additional revision when we get to the executive branch or do some revision before third reading. However, feeling as strongly as I do, that this could interfere with the integrity of our educational system, I feel that it would be a step backwards from our present educational system, and because I feel that strongly, I am constrained to vote against the whole proposal even though there are many other parts of it I favor.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I would just like to raise a point of order on the previous action of the Chair with regard to the division of the question. In rule 51, it says that:

> Any delegate may call for a division of the question, which shall be divided if it comprehends propositions in substance so distinct that one being taken away a substantive proposition shall remain for the decision of the convention.

Wouldn't it seem possible that, in view of the fact that this proposal deals with 4 sections and these sections — you could easily say that one taken away the other would still retain their substance; wouldn't it be possible under those circumstances that we could vote on the sections, where such a division is called for, separately, since they are distinct from one another and are each substantive in their own right?

PRESIDENT NISBET: The question, Mr. Faxon, was on the motion of Mr. Downs that we vote on them separately. It was decided. Miss Hart.

MISS HART: Mr. President, I should like to abstain from voting and reserve the right to explain my reasons in the journal, please.

PRESIDENT NISBET: You may do that. Mr. Walker.

MR. WALKER: An inquiry, Mr. President. If we do not approve of any one section, the only way then that we can show our dissatisfaction with that section would be to vote against the whole proposition?

PRESIDENT NISBET: The vote is on the entire proposal. Those in favor will vote aye. Those opposed will vote nay.

MR. FAXON: Mr. President, can you call for a division?

PRESIDENT NISBET: Mr. Downs could have called for a division.

MR. FAXON: Could I call for a division?

PRESIDENT NISBET: Are you asking for a division?

MR. FAXON: Yes, I would.

PRESIDENT NISBET: Mr. Faxon has asked for a division. Your division, Mr. Faxon, is what?

MR. FAXON: I would like to divide section by section.

PRESIDENT NISBET: Which section do you have in mind, Mr. Faxon?

MR. FAXON: Well, there are 4 sections: a, b, c and d.

PRESIDENT NISBET: Division on each one?

MR. FAXON: Well, section c separately.

PRESIDENT NISBET: Okay. Then the vote is on sections a, b and d.

MR. DURST: I would like to ask, Mr. President, if we divide this proposal and vote it section by section, ultimately do we not have, in the end, one vote on the whole proposal?

PRESIDENT NISBET: Mr. Chase informs me that the vote will be section by section. Sections a, b and d and section c separately.

MR. DURST: And there will not be a vote on the whole proposal?

PRESIDENT NISBET: The question is on sections a, b and d. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—121

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.

Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.

Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder

Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Gadola
Garvin
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Snyder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—3

Brown, G. E.
Finch
Habermehl

SECRETARY CHASE: On the passage of sections a, b and d of Committee Proposal 98, the yeas are 121; the nays are 3.

PRESIDENT NISBET: The 3 sections are passed. Will the delegates please clear the board. The question now is on Committee Proposal 98, section c. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—86

Allen
Andrus, Miss
Anspach
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—36

Austin
Baginski
Balcer
Binkowski
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Garvin
Habermehl
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
Murphy
Ostrow
Perlich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of section c of Committee Proposal 98, the yeas are 86; the nays are 36.

PRESIDENT NISBET: Section c, as amended, is passed so the proposal, as amended, is passed and referred to the committee on style and drafting.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Point of order, Mr. President. I believe that under rule 58 the proposal cannot be referred to the committee on style and drafting until a majority of all the delegates have voted in favor of the passage of same. Now voting in favor of the passage of the same means voting in favor of the proposal, not of its individual sections. I make this point of order that we must now vote upon the proposal.

PRESIDENT NISBET: The board will be cleared. We will now vote on the complete proposal. Will the delegates please clear the machine. The question now is on the adoption of Committee Proposal 98, as amended. Those in favor will vote aye. Those opposed will vote nay. Mr. Kuhn.

MR. KUHN: Mr. President, parliamentary inquiry. Since our attention has been called to 58, I think we better read that quite clearly. This says to me that every single section that we pass must be by a roll call vote, yea and nay, and must have a majority of the delegates elect; every section.

PRESIDENT NISBET: We will take that under consideration, Mr. Kuhn.

MR. KUHN: Thank you.

MR. G. E. BROWN: Mr. President, I wish to abstain and I will state my reasons later.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—90

Allen
Andrus, Miss
Anspach
Balcer
Beaman
Bentley
Blandford
Boothby
Bradley
Brake
Brown, T. S.
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

Nays—28

Austin
Baginski
Binkowski
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Garvin
Habermehl
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Liberato
Madar
Mahinske
Murphy
Shanahan
Snyder
Stopczynski
Suzore
Walker
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 98, the yeas are 90; the nays are 28.

PRESIDENT NISBET: **Committee Proposal 98,** as amended, is passed.

Following is explanation of vote submitted by Messrs. Downs, Snyder, Walker and Miss Hart:

We voted against Committee Proposal 98, which called for the advice and consent of the senate in establishing boards for most of Michigan's institutions of higher education.

Michigan now has an educational system of distinction and integrity with academic freedom and has been free from undue influence by other branches of government.

We feel that Michigan's educational system has been basically sound and part of this is because of the elected basis of educational officials.

The burden is on those who want change to say why advice and consent by the senate for appointed boards for any of Michigan's state institutions would be preferable to our present system. Those few institutions that do require advice and consent for the selection of their governing bodies have found difficulties not encountered by those universities and colleges whose governing bodies are elected by popular vote throughout the state where each person's vote is equal, rather than by senate confirmation which is not based on equality of representation.

We hope that before third reading is completed the convention will make improvements so we can wholeheartedly support this proposal.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 98 as amended and rereferred to the committee on style and drafting:

Sec. a. The legislature shall appropriate funds to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names said institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. b. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. These boards shall have the general supervision of their respective institutions and the control and direction of all expenditures from the institution's funds. They shall, as often as necessary, elect a president of the institution under their respective supervision who shall be the principal executive officer of the institution and be ex officio a member of the board but without the right to vote, and preside at meetings of the board. The boards of each institution shall consist of 8 members who shall hold office for 8 years and who shall be elected according to law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as prescribed by law.

Sec. c. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds and shall, as often as necessary, elect a president of the institution under its supervision who shall be the principal executive officer of the institution and be ex officio a member of the board but without the right to vote. The board may elect one of their number, or may designate the president, to preside at board meetings. Each board of control shall consist of 8 members who shall hold office for 8 years and be appointed by the governor in the same manner as executive appointments are provided in this constitution. Vacancies shall be filled in like manner.

Sec. d. The legislature shall provide by law for the establishment and financial support of public community and junior colleges, which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges, which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of 8 members who shall hold office for 8 years and be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex officio a member of this board without the right to vote.

MR. BENTLEY: Mr. President.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, this merely leaves Committee Proposal 47 to be considered by the convention before action on the education proposals is completed. In the expectation that the convention will shortly recess, I hope that when we return this afternoon we can dispose of 47 very expeditiously so we can return to general orders and proceed to finish up our work that is so important at that time.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, the committee on administration will hold a brief meeting following the afternoon session.

PRESIDENT NISBET: The Chair recognizes Mr. Baginski. Announcements first.

MR. HUTCHINSON: Mr. President, is Mr. Baginski going to move to recess?

PRESIDENT NISBET: That is right.

MR. HUTCHINSON: Well, I would like to make an announcement ahead of the motion.

PRESIDENT NISBET: Okay, you may make it.

MR. HUTCHINSON: Mr. President, the committee on style and drafting finds it necessary to have a meeting during this noon hour, and we desperately need a quorum because unless we get a quorum down there we can't report out some things that are coming up for second reading the very first part of next week. So please, members of style and drafting, please come down and bring your lunch. It won't take us long but we have got to have enough votes down there to get some of this stuff out. We need a quorum.

PRESIDENT NISBET: Mr. Millard.

MR. MILLARD: Mr. President, I want to make an announcement. I hope in the heat of battle the committee on emerging problems has not forgotten that we are going to have our pictures taken immediately after this session.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: The following announcements: Delegates Downs and Woolfenden announce that a grudge match will be played in the Y.M.C.A. gym this noon for the benefit of any delegates who would like to enjoy badminton as a spectator sport. (laughter) There is no admission charge.

The committee on education will meet immediately when the convention recesses. Mr. Bentley, chairman. Please bring your lunch.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President, members of the convention, I move that the convention recess until 2:00 o'clock this afternoon.

SECRETARY CHASE: I have one announcement before the vote. Mr. Iverson requests that a change in the time of the Republican meeting be announced. It will be held at 1:00 o'clock instead of 12:30.

Mr. Danhof requests to be excused from part of the afternoon session.

PRESIDENT NISBET: Without objection, he will be excused. The question is on the motion — Mr. Elliott.

MR. A. G. ELLIOTT: Point of information. Did I hear that the recess time is until 2:00 o'clock?

PRESIDENT NISBET: Yes, 2:00 o'clock. That is correct. Those in favor of the motion will say aye. Those opposed, no. We are recessed until 2:00 o'clock.

[Whereupon, at 12:05 o'clock p.m., the convention recessed; and at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: We are on the order of second reading. The secretary will read Committee Proposal 47.

SECRETARY CHASE: Item 5 on the calendar, **Committee Proposal 47,** A proposal to replace sections 2 and 6 of article XI.

Following is Committee Proposal 47 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1232):

> Sec. a. [There shall be established a state board of education which shall provide leadership and] GENERAL supervision over ALL public education, including adult education and instructional programs in state institutions, [other than colleges and universities. In addition,] EXCEPT AS TO INSTITUTIONS OF HIGHER EDUCATION, IS VESTED IN A STATE BOARD OF EDUCATION. It shall serve as the general planning and coordinating body for all public education [in the state] and shall [provide advice to] ADVISE the legislature as to the [amount] FINANCIAL REQUIREMENTS IN CONNECTION THEREWITH [of state support required]. [The power of the boards of institutions of higher education otherwise provided herein to supervise their respective institutions and control and direct the expenditure of the institution's funds shall not be limited by this section.]
>
> [The state board of education shall consist of 8 elective members who shall hold office for 8 years. They shall be nominated by party convention and elected at large as prescribed by law. The governor shall fill board vacancies by appointment. Any such appointee shall hold office until a successor has been nominated and elected as prescribed by law.]
>
> [Sec. b.] The state board OF EDUCATION shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the [state] board without the right to vote, and shall be responsible for the execution of its policies. [The superintendent of public instruction] HE shall be THE chief administrative officer of a state office of education which shall [be granted] HAVE POWERS AND DUTIES PROVIDED BY LAW [sufficient funds and staff to carry on state responsibilities for education as determined by law].
>
> THE STATE BOARD OF EDUCATION SHALL CONSIST OF 8 MEMBERS. OF THE MEMBERS FIRST ELECTED 2 SHALL SERVE FOR 2 YEARS, 2 FOR 4 YEARS, 2 FOR 6 YEARS AND 2 FOR 8 YEARS, AND THEIR SUCCESSORS SHALL BE ELECTED FOR TERMS OF 8 YEARS. EACH MEMBER SHALL BE NOMINATED BY PARTY CONVENTION AND ELECTED AT LARGE AS PRESCRIBED BY LAW. THE GOVERNOR SHALL FILL ANY VACANCY BY APPOINTMENT FOR THE UNEXPIRED TERM.
>
> THE POWER OF THE BOARDS OF INSTITUTIONS OF HIGHER EDUCATION PROVIDED IN THIS CONSTITUTION TO SUPERVISE THEIR RESPECTIVE INSTITUTIONS AND CONTROL AND DIRECT THE EXPENDITURE OF THE INSTITUTIONS' FUNDS SHALL NOT BE LIMITED BY THIS SECTION.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, we come to the final proposal offered by the committee on education. As I said this morning, it would be our hope that we could dispose of the proposal and the pending amendments as expeditiously as possible so that we could resume our work in the committee of the whole.

The committee on style and drafting, Mr. President, made some rather noticeable changes in Committee Proposal 47. Not all of these changes are agreed upon or concurred in by the committee on education. On behalf of the committee on education, I have 3 committee amendments to propose. We hope that they will be acceptable to the majority of the delegates. They were acted on and voted upon by a majority of the committee on education this noon. I understand there is an additional amendment to be offered by a member of the minority of the education committee, which, of course, will be presented in due course. I would hope at this time that the secretary could present the first committee on education amendment, which is on lines 2, 5 and 8 of page 1, and then I would like a chance to explain those.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Mr. Bentley, on behalf of the committee on education, offers the following amendment:

1. Amend page 1, line 2, [paragraph 1] by reinserting "Leadership and"; and in line 5 after "except as to" by inserting "degree granting"; and in line 8, after "education" by inserting a comma and "including higher education,"; so the language will read:

> Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to degree granting institutions of higher education, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

MR. BENTLEY: Mr. President, there are changes in this amendment. The first change is to reinsert the word "Leadership," which was removed by the committee on style and drafting. The committee on education felt very strongly that the function, or one of the primary functions, of the state board of education would be to provide leadership in the field of public education and we would hope that the convention would agree to reinsert this language as the very first word for the new proposal. With respect to the insertion in line 5 of "degree granting" before "institutions of higher education," the reason the committee on education felt this desirable was because there are institutions of higher education that do not grant degrees, and we desired to specify the exemption in this particular case of supervision on the part of the board of education only with respect to the institutions of higher education that do actually grant degrees. Finally, the insertion in line 8, after "education," of the 3 words "including higher education," would indicate higher education in all fields is definitely included in public education, for which the state board of education is designed to serve as the general planning and coordinating body.

We feel that in all 3 cases, Mr. President, the insertion of these words more clearly spells out the intent of the committee on education. This first amendment was approved by the committee on education, as I say, only as recently as this noon, and we urge upon you the adoption of this committee amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Bentley on behalf of the committee. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Mr. Bentley, on behalf of the committee on education, offers the following amendment:

1. Amend page 2, line 5, [paragraph 2] after "state" by striking out "office" and inserting "department"; and after "education" by striking out "which shall have powers and duties provided by law.", and inserting a period and "The legislature shall appropriate adequate funds to carry on the work of this department."; so the language will there read:

> He shall be the chief administrative officer of a state department of education. The legislature shall appropriate adequate funds to carry on the work of this department.

MR. BENTLEY: Mr. President, the point was raised — and I think it was a good point — that it would be more correct to say the "state department of education," rather than the "state office of education," since it is the hope of the education commit-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

tee that this department would be 1 of the 20 or less departments of the executive branch of state government into which the state government would be reorganized following proposals offered by another committee and adopted.

With respect to the question of adequate funds, we felt — or at least many of us in the committee on education felt — that the action by the committee on style and drafting of deleting part of line 6 and all of line 7 on page 2 bordered very closely on the nature of a substantive change. I can predict the argument, Mr. President, that the convention has no power to direct or mandamus the legislature to do this thing; that the legislature already has the authority to do it; but nevertheless, in view of the fact that in the past the state department of education has not always had the funds that we feel are necessary for it to carry out its important work, and in view of its enlarged responsibilities and its coordination with the state board of education, we believe it best to put back in this requirement that it would receive an appropriation, an adequate appropriation, to be able to carry on its work insofar as the legislature is concerned. This second committee amendment was also considered and voted on favorably by the committee on education only this noon, and we urge the adoption of this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, recognizing that Mr. Bentley is not an attorney I would like to direct a question to Mr. Bonisteel, the question being this: if the language of this amendment is adopted, "The legislature shall appropriate adequate funds to carry on the work of this department," I would like to ask Mr. Bonisteel whether, in his opinion, that would not create a judicial question, possibly as to the adequacy of the funds, and whether, by using this language in the constitution, we are not laying the groundwork for the courts to be brought into the question of adequacy of funds?

PRESIDENT NISBET: Mr. Bonisteel, would you care to answer?

MR. BONISTEEL: My answer to Delegate Hutchinson is that this was intended, so far as I understand it, to be directly to raise adequate funds, the word "adequate" meaning funds sufficient to do that which should be done, and not a limitation. As far as the matter of interpretation is concerned, I would have to agree that the word "adequate" might have to be construed, and, if so, it would have to be construed on the basis of a court decision. I don't know whether that answers what Mr. Hutchinson wants or not, but that is the answer I would give him.

MR. HUTCHINSON: Mr. President, for that reason — that is the reason that I could not support this part of the amendment. I think that it is true — I agree with Mr. Bonisteel — that in the end you have to leave it to somebody to determine adequacy. The legislature makes an appropriation which, in the light of the funds available coming into the treasury, from the viewpoint of the overall budget of the state, from every financial consideration and the ability of the state to pay and so on, the legislature makes an appropriation that, in the opinion of the legislature, is adequate. But perhaps the department of public instruction will claim that it is not adequate, and I submit that when you write these words in here, "shall appropriate adequate funds," you are simply leaving it to the courts then, because the courts only will determine adequacy. Either the courts will determine adequacy or else it is unnecessary to write it in here; because if you are going to leave it to the legislature anyway, that is what you do without this language, and I cannot impress upon you too strongly the situation which you are apparently going to throw this state into if you write into the constitution such phraseology as this, whereby in the end you leave to the courts the determination of appropriations out of the treasury. You are simply again — I am afraid, in the end, you are going to be transferring even the appropriation powers of the legislature and make them judicial questions and leave it to the courts to determine. It is very poor public policy.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President and fellow delegates, I don't think that there are very many places around this state that I haven't been. I think I have been in every corner of this state, and I doubt very much if I have ever heard discussions on anything as much as I have on this particular subject about what is adequate for the board of education or the educational system.

If we adopt this particular amendment, who would decide what is adequate? Frankly, I think there is only one group who could decide it, and that is the people who are the men and women who are going to be responsible to the taxpayers for the moneys that are spent, and this is the legislature. The legislature is the one that catches Mary hallelujah about the moneys that have to be appropriated. Beyond that, too, it goes to the governor.

Now, we have the same situation right in the city of Detroit. We have a tremendous educational bill, and I don't begrudge them that money. I think they need money. However, I believe that the people ought to know who is responsible for the expenditure of moneys. If the legislature is going to be responsible or the council is going to be responsible as we have it in Detroit, then they should decide what is adequate, not the board of education who might say: well, we need $150 million. The legislature may decide differently, and I believe that they are the ones who know what is adequate.

PRESIDENT NISBET: The question is on the amendment. Mr. Bentley.

MR. BENTLEY: Mr. President, since this amendment was actually the combination of 2 amendments, I ask that it be divided and that we first vote on the insertion of the word "department," in place of "office," and then on the question of adequate funds.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: The first part of the amendment,

1. Amend page 2, line 5, [paragraph 2] after "state" by striking out "office" and inserting "department"; so the language will there read, "He shall be the chief administrative officer of a state department of education. . . ."

PRESIDENT NISBET: Mr. Wanger, do you care to speak on that amendment?

MR. WANGER: I am not quite sure, Mr. President, because perhaps it is my eyesight, or perhaps it is the power of that lens in the machine, but I can't quite read the parts up there which are being —

PRESIDENT NISBET: Mr. Chase will read it again.

SECRETARY CHASE: The amendment reads:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, it seems to me that "have powers and duties provided by law" refers back to "department," and if you are dividing it, I assume that Mr. Bentley means to divide this into 2 parts. Through the Chair, Mr. Bentley, is that correct?

MR. BENTLEY: That is correct.

MR. FAXON: Well, wouldn't "have powers and duties provided by law" belong to the first part?

MR. BENTLEY: No, Mr. Faxon, because we are suggesting in the second portion of this amendment to strike that phrase and make a separate sentence.

MR. FAXON: Oh, I see. Well, I just want to ask one more question. The idea will be that the department over which the superintendent will be the executive officer will also be headed by the state board of education? Is that correct, Mr. President and Mr. Bentley?

MR. BENTLEY: Mr. President, we have not entered into this discussion at this time. We are merely saying that we believe the word "office" should be substituted for the word "department," since "department" better specifies what it means than "office."

MR. FAXON: Well, the only thing, Mr. President, that I just want to make sure is that the responsibility for the administration of that department, the ultimate responsibility will rest with the state board of education. If that is the intention with the substitution of the word "department," then I just want to be sure that I understand it, and I'll go along with this.

MR. BENTLEY: Mr. President, we are making no change anywhere, except to make it a department instead of an office.

PRESIDENT NISBET: The question is on the amendment, the first part of the amendment. Mr. Chase will read it again.

SECRETARY CHASE: The following is the amendment:

[The amendment was again read by the secretary. For text, see above, page 2574.]

PRESIDENT NISBET: Those in favor of the amendment will say aye. Opposed, no.

The amendment is adopted. The second part will be read, Mr. Chase.

SECRETARY CHASE: The second part of the amendment:

1. Amend page 2, line 5, [paragraph 2] after "education" by striking out "which shall have powers and duties provided by law.", and inserting a period and "The legislature shall appropriate adequate funds to carry on the work of this department.".

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, I desire to direct a question to the chairman of the committee.

PRESIDENT NISBET: Mr. Bentley.

MR. WANGER: I note line 7 of the proposal which was originally adopted by the committee when it was first considered said that the state responsibilities for education would be determined by law, and that was stricken by style and drafting and in place they put in "have powers and duties provided by law." This amendment, Mr. President and Delegate Bentley, would strike out the phrase "have powers and duties provided by law." I have looked elsewhere in this proposal to see where it provided that the legislature would have any responsibility other than the appropriating power in connection with education, and I find none. I, therefore, wondered if this deletion might not have the effect of removing any legislative control over state responsibilities for education or the powers and duties of the department and the general framework of the department in connection therewith..

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I think I can say to Mr. Wanger that in the final analysis the legislative power of appropriation is the ultimate power that the legislature has over all branches of executive government, and I am sure that if the legislature retains this appropriating power — which, of course, we are specifically suggesting they do retain — that at the same time they would be able to lay down whatever programs or policies they wanted in the statutes and through the use of the appropriating power or club, call it what you will, require the state department of education to follow their guidelines to a very considerable extent, indeed.

MR. WANGER: But, again, Mr. President, Mr. Bentley, should not the legislature at least have some power here to set up the general framework of the powers and duties not be forced to use the appropriation power as a club? That certainly is an undesirable way to use the appropriation power and, in any event, should be used only in the rare extremities. Should not the legislature, Mr. Bentley, have this power?

MR. BENTLEY: Well, Mr. Wanger, if you want to suggest that there be some clause added to the suggestion of the committee on education with respect to giving the legislature some legal framework to lay down guidelines for the state department of education, I doubt that the committee on education would have a serious objection.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, it would seem to me that the phrase "have powers and duties provided by law" is really about the same as the "state responsibilities for education as determined by law," and therefore we can solve the problem merely by not striking the phrase "have powers and duties as provided by law."

PRESIDENT NISBET: The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. President and members of the convention, I would like to offer an amendment from the floor, for 2 reasons: in the interest of clarity, and to provide a psychological aspect to this question. I would like to substitute — in the next to the last line, strike out the 3 words "appropriate adequate funds" and substitute "levy sufficient taxes to carry on the work of this department."

SECRETARY CHASE: Mr. Hubbs offers the following amendment to the committee amendment:

1. Amend the amendment, after "legislature shall" by striking out "appropriate adequate funds" and inserting "levy sufficient taxes".

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hubbs to the committee amendment. Those in favor will say aye. Opposed, no.

The amendment to the amendment is not adopted. We are on the second part of this amendment.

SECRETARY CHASE: Mr. Binkowski offers — it is not an amendment to the pending amendment.

PRESIDENT NISBET: The question then is on the second part of the amendment offered by Mr. Bentley.

MR. BENTLEY: Mr. President, I have a copy here of an amendment offered by Mr. Upton to the amendment. Does he desire to offer it?

PRESIDENT NISBET: Mr. Chase, do you have that amendment?

MR. UPTON: I was going to offer this amendment if the amendment — your amendment — passed, Mr. Bentley.

PRESIDENT NISBET: The question is on the second part of the Bentley amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Bentley, on behalf of the committee on education, offers the following amendment:

1. Amend page 2, line 14, [paragraph 3] after "term.", by inserting "The governor shall also be ex officio a member of the state board of education without the right to vote.".

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, following the initial action of the committee of the whole in deleting the governor's membership on the state board of education, there were many of us that still felt that there should be some direct line of responsibility on the part of the executive branch in this all important field. Therefore, we have suggested — to try to eliminate the fears of those persons who might feel that the governor's presence would tend to overawe other members of the board and that he would, in effect, be dictating educational policies — we have suggested that he be a member of the state board through virtue of his office, that is, ex officio, but not have the right to vote; and we have also deleted any suggestion that he might delegate his ability to attend these meetings. In other words, he and he alone would be able to attend meetings in his ex officio capacity.

This amendment, Mr. President, was discussed and voted on by the committee on education this noon. There was a divided vote within the committee, but there were 13 affirmative votes in favor of it and we, therefore, ask your support of the amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Bentley.

SECRETARY CHASE: Mr. Binkowski offers the following amendment to the amendment:

1. Amend the amendment, after "education" by inserting "and also the University of Michigan, Michigan State University, Wayne University, Michigan College of Science and Technology, Central Michigan University, Northern University, Western Michigan University, Ferris Institute, Grand Valley State College, and all agencies and commissions of the state that spend $1 million a year."; (laughter) so that the language would read, "The governor shall also be ex officio a member of the state board of education and also the University of Michigan, Michigan State University," and so forth.

PRESIDENT NISBET: Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, in committee of the whole we spent a great deal of time debating this particular subject, and, of course, that particular amendment was defeated at that time. I offer this amendment to illustrate a point — obviously education is very important and obviously the governor is interested in education, as we all are. However, I would like to point out to the convention that in last year's budget, the University of Michigan spent $37.4 million; Michigan State University spent $30.6 million; Wayne State University spent $16.3 million; so I think that all of these institutions certainly are important and if we feel that the governor has the time or, better yet, that the governor must participate in the decision making process, or he must be there to expound his particular philosophy of government, or his particular political philosophy, then I say in just a normal extension he should spend some time with these other large institutions. Of course, many of you laughed when this amendment was offered, and I think it does make a point. This is the reductio ad absurdum of the Bentley amendment in my opinion.

PRESIDENT NISBET: The question is on the amendment of Mr. Binkowski. Those in favor will say aye. Opposed, no. The amendment to the amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is that demand supported? Those in favor of the Binkowski amendment will vote aye; those opposed will vote nay.

MR. DOWNS: I would like to announce my abstaining from the vote.

PRESIDENT NISBET: Miss Hart abstains, Mr. Buback abstains, Mrs. Elliott abstains from voting.

MR. FAXON: This is a division. You don't have to abstain. You just don't vote.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. PERRAS: Mr. President, I request the reason for these certain people not voting on this certain amendment.

PRESIDENT NISBET: They can put them in the journal.

SECRETARY CHASE: On the adoption of the Binkowski amendment, the yeas are 16; the nays are 80.

PRESIDENT NISBET: The amendment to the amendment is not adopted. The question now is on the amendment offered by Mr. Bentley. Those in favor will say aye. Those opposed, no. The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: Is the demand for division supported? It is supported. Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. Bentley's amendment is as follows —

MR. VAN DUSEN: Mr. President, I ask for the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is there sufficient number up? The demand is supported. The amendment will be read.

SECRETARY CHASE: Mr. Bentley's amendment is as follows:

1. Amend page 2, line 14, [paragraph 3] after "term.", by inserting "The governor shall also be ex officio a member of the state board of education without the right to vote.".

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: I have an amendment on the desk.

SECRETARY CHASE: Mr. Young offers the following amendment:

1. Amend the amendment, after "governor" by inserting a comma and "lieutenant governor, speaker of the house, and chief justice of the supreme court"; so the language will then read:

> The governor, lieutenant governor, speaker of the house, and chief justice of the supreme court shall also be ex officio a member of the state board of education without the right to vote.

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: Mr. President, I have engaged in considerable soul searching since the discussion first came up in committee of the whole, and in an effort to embrace the thinking that the governor shall be a member, ex officio or otherwise, of the state board of education, I have now arrived at what I believe is a happy solution to the problem. I think that there might be certain advantages for the governor, as head of the executive branch, with heavy responsibility in the area of education, to be a member of this all important department, but it is also perfectly obvious to me that the legislature has a vital role and stake in education. In fact, it is they who appropriate the money. What could be fairer and more balanced than, in addition to the governor, to add the lieutenant governor and speaker of the house? Then, in the interest of more efficiency and a maximum efficiency in government, let us then add the chief justice of the supreme court, for then we would eliminate and forestall any holdups that might be occasioned by a court challenge. I must confess that there is one point in this amendment that gives me pause, one possible weakness; where I have lieutenant governor, I would be open to an amendment or substitution and place the second ranking officer in the senate, perhaps even the majority leader, inasmuch as the lieutenant governor is a powerful executive. On the other hand, the lieutenant governor would give the governor an extra vote, so there is much to be said for that. So I am torn, now, between my amendment as it stands and the substitution of the majority leader of the senate for the lieutenant governor.

PRESIDENT NISBET: The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I would like at this time to suggest a recess in order that the children might go out and play. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I was not sure just which side of the bar of the convention my good friend Delegate Farnsworth was referring to, however, I do think that the point made by both Delegate Binkowski and Delegate Young really is: how silly can we get? We have had a good education system in Michigan. We have had a system of integrity. We have kept it separate from the operations of the rest of our government. To put the governor on the board is no more ridiculous than to put the lieutenant governor and the chief justice of the supreme court and then put them all ex officio on everything else and get one big scrambled egg. What we need is academic freedom, integrity of education, and I think that if we oppose these amendments and oppose the Bentley amendment, and have the board of education separate, we will then have that proper separation. I think it is just silly to expect a governor to be ex officio a member of these other bodies. If, for any reason, he wants to meet with the bodies, he certainly has that right and obligation to, but he should not, as we said in committee of the whole, and I think Delegate Brake pointed it out, try to overwhelm a board by his mere presence.

I, therefore, urge that we vote against not only these amendments but the Bentley amendment, and I hope these 2 amendments serve an educational purpose in our section dealing with education.

PRESIDENT NISBET: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President, we have had our fun; time marches on. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? Sufficient number up. The question now is: shall the previous question be ordered? Those in favor say aye. Those opposed, no.

The previous question is ordered. The question now is —

MR. YOUNG: Mr. President, I would like to withdraw the amendment.

PRESIDENT NISBET: The amendment to the amendment is withdrawn.

MR. BENTLEY: Mr. President.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: The previous question only applied to the Young amendment, did it not?

PRESIDENT NISBET: That is right.

MR. BENTLEY: Mr. President, I just want to make a brief statement before we vote on the pending amendment. The convention will recall that we have had quite a bit of discussion and controversy on this. With respect to the remarks of my good friend from Detroit, Mr. Downs, he and I have a little date a week from tomorrow night in Detroit before the members of the Wayne county boards of education and I'm sure that he and I can pursue this matter further at this time if we desire; but I would like to say that the suggestion was made and turned down, I think properly, by the committee on education, that the governor should have a veto power over the choice of the state superintendent of public instruction by the board of education. Many other suggestions were made. I repeat: in all sincerity, we felt — because of the importance of education, because of the tremendous role that it plays in our state, because of the large amount of the state budget that education consumes — that there should be a direct line of responsibility with the executive branch of government. That is why we wish to insert this provision and, in spite of my good friend, Mr. Binkowski, and my good friend, Mr. Young, we are not trying to be silly. We mean this seriously. We do think — we are convinced — that this is a fair and legitimate provision, and we do believe that there should be a direct link in our constitution between the state board and the governor; on the other hand, by making him ex officio by giving him no vote, we think we have removed any possibility of his influencing, overawing the board. We do ask for your support on this which we have offered in all sincerity.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett. Pardon me, there is another amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment to the committee amendment:

1. Amend the amendment, after "governor" by inserting a comma and "secretary of state and attorney general".

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, this isn't anything made up, where the governor is an ex officio member of the state board of education, and I have the states here listed with the members thereof; they also include at least one or two other of the state officials. It is in the state of Florida where the secretary of state and attorney general are also ex officio members. It is in the state of Mississippi with the attorney general and secretary of state. It is in the state of Montana, North Carolina and North Dakota. These are states in which the governor serves as an ex officio member. This is where they have tied in the executive with the state board.

If you are going to add ex officio members, I think it is only fair that you be aware of the fact that where this has been done, it has included other elected members of the state board and that this has been the procedure followed in these other states. This is not anything that they have done in jest, and I trust that you will consider it in the same light.

PRESIDENT NISBET: I appreciate it is not the province of the Chair to make a comment, but I hope that you all are prepared for late meetings tonight and tomorrow night if we keep on at this rate. Mr. Sterrett.

MR. STERRETT: Mr. President, are there any further amendments to the Bentley amendment?

PRESIDENT NISBET: No, just this amendment.

MR. STERRETT: Mr. President, I would like to move the previous question and then request to be recognized, as soon as the vote is taken, in order to move the previous question on the Bentley amendment.

PRESIDENT NISBET: The previous question has been demanded on the Faxon amendment. Is that demand supported? It is supported. The question now is: shall the previous question be put? Those in favor will say aye. Those opposed, no.

The previous question is ordered. The question now is on the Faxon amendment. The secretary will read it.

SECRETARY CHASE: Mr. Faxon's amendment:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Those in favor will say aye. Opposed, no.

The amendment to the amendment is not adopted. The question now is on the amendment offered by Mr. Bentley. Mr. Sterrett.

MR. STERRETT: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. Mr. Downs.

MR. DOWNS: Point of information. I believe Delegate Van Dusen called for the yeas and nays, is that right?

PRESIDENT NISBET: That is right. The secretary will read the amendment.

SECRETARY CHASE: Mr. Bentley, on behalf of the committee on education, has offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2576.]

PRESIDENT NISBET: The question is on the amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—68

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Dehnke
DeVries
Doty, Dean
Farnsworth
Figy
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leppien
McLogan
Millard
Mosier
Nisbet
Page
Plank
Pollock
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

Nays—50

Austin
Balcer
Binkowski
Bledsoe
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Finch
Follo
Garvin
Hart, Miss
Hodges
Hood
Hutchinson
Jones
Kelsey
Krolikowski
Lawrence
Leibrand
Lesinski
Liberato
Madar
Mahinske
McAllister
McCauley
Murphy
Norris
Perlich
Perras
Powell
Prettie
Sablich
Shackleton
Shaffer
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

SECRETARY CHASE: On the committee amendment offered by Mr. Bentley, the yeas are 68; the nays are 50.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Miss Hart offers the following amendment:

1. Amend page 1, line 21, [paragraph 2] by striking out "The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He" and inserting "The superintendent of public instruction"; so the language will read, "The superintendent of public instruction shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies."

PRESIDENT NISBET: The Chair recognizes Miss Hart.

MISS HART: Thank you, Mr. President. I should hope that we could strike these particular lines from our provision, which is generally an excellent one. Let me remind the delegates that in Michigan we have 2,144 autonomous school districts. They range from the advocates of the little red schoolhouse to the great school system of the city of Detroit. Each system has its own locally controlled policy, each system is jealous of its prerogatives.

I have heard, repeatedly, in this convention the assertion that because local school districts through their local boards appoint their superintendents of schools, the state board of education should appoint the superintendent of public instruction. This comparison does not make sense to me. A superintendent in local areas is readily accessible. So are members of the board of education. All are available to the public. A local telephone call or even a personal call is not only possible but quite probable. In local areas there is local autonomy and a local policy, a policy that is explainable directly to the individual involved. If there is objection to the policy, all of the makers are at hand. It may be enforced or it may be changed.

Pity the poor school district or the individual citizen who has a problem to solve with an appointed superintendent who must be responsible to 2,144 school districts, with their 2,144 school policies and problems. The superintendent — who will under this provision be demoted to the position of an underling, an executive secretary — this poor soul, this poor superintendent is going to have to check with 8 widely separated board members before he can answer a question on which policy has not been directly made, definitely made. The public will be forced to wait.

I worked in the office of a superintendent of schools not far from here. It was a small school district and I well remember the constant checking that had to be made for him with his local board members. He was extremely cautious, and with good reason, about expressing an independent point of view.

One more point: with this provision, the superintendent of public instruction is demoted. It is not enough to say that he shall be the chief administrative officer, with the idea that he shall work in the governor's cabinet. This superintendent will have no power of his own right. He will be ineffectual on that board in that he can never speak for himself but only for his board: and if a new question arises, he must check with his board before he can give a definite answer. He will be in competition with those who are appointed directly by the governor and responsible, or elected, and responsible to him alone, and with men elected, education will suffer.

The committee proposal purportedly takes education out of politics. Nothing could be farther from the truth. Under this provision, education may or may not be taken out of partisan politics. I think it will not. Much more seriously, however, education will be thrown, headlong, into the deep labyrinths of school politics from which the public can find no escape. I oppose the committee report.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, the adoption of Miss Hart's amendment would, of course, directly reverse the action taken by the committee of the whole some 2 months ago in determining that the superintendent of public instruction should be appointed by an elected state board of education. The adoption of the pending amendment would leave the entire proposal silent on the method by which the superintendent is to be chosen and, presumably, we would then see, at a later date, an attempt made by certain individuals to reinsert in the executive branch article a provision that the superintendent should be an elected official.

The majority of the committee on education is opposed to any change in this respect. The committee of the whole and the convention have previously decided that the state board of education should choose the superintendent. I ask for the defeat of the pending amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, it is amusing, talking to different educators, how they conflict in their ideas over something such as this amendment and the committee proposal. I have heard both sides of this. After analyzing it in my own mind, I feel that I will have to vote as I see fit, and vote in order to make education more progressive and more efficient. Therefore, I would oppose the amendment before us now and support the committee proposal, and I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded?

MR. DOWNS: Mr. President, I have a preferential motion.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I move that debate be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Downs that debate be limited to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Downs, you have the floor and debate will be limited to 10 minutes.

MR. DOWNS: Mr. President, I shall not debate 10 minutes and shall speak very briefly. First, I would like to demand the yeas and nays on this question.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Mr. Downs.

MR. DOWNS: I believe, again, that the educational system that we have has shown itself to be an independent system, a system dedicated to the need of the people, and particularly the children. I think this is one field, in particular, where those who advocate change have a very serious burden of showing the necessity for that change.

I agree with Delegate Sterrett's statement that professional educators have varied in their opinions on this, but what I am more concerned with is the effect upon the people who use our public educational facilities. I feel that our elected system has made a responsible system. It has resulted in superintendents of both political parties that have, by necessity, to go to the people, be more responsive to the needs of the people. I, therefore, urge the support of the amendment.

PRESIDENT NISBET: The question is on the amendment offered by Miss Hart. Mr. Douglas.

MR. DOUGLAS: Mr. President and fellow delegates, I raised this question once before when we were talking about appointive ad board members, and I should like to ask Chairman Bentley a question.

PRESIDENT NISBET: If Mr. Bentley cares to answer.

MR. DOUGLAS: Mr. Bentley, if this amendment here is defeated and we go on record as appointing the superintendent of public instruction by the board, can not that appointment be an outstate person?

MR. BENTLEY: Mr. President, I will say to my good friend and valuable committee member — and I mean that very sincerely, Mr. Douglas — that I said when this was being discussed in committee of the whole that the state board of education would have the right to choose the highest qualified man to fill the important office of superintendent, whether he were a resident of the state or not.

MR. DOUGLAS: Mr. President and fellow delegates, this is one aspect, I think, that has not been given very serious consideration. The office, the high office, in fact the highest office in the state on education should be filled, I feel, by a resident of Michigan. We have over 70,000 teachers and minor administrators in this state. We are constantly trying to promote programs whereby these people will stay in the field of education and we from metropolitan Detroit have seen how an outsider coming into the state — this tendency has a detrimental effect upon the incentive of teachers and minor administrators to promote themselves to the higher offices. I think that we are doing a great disservice here and if we do pass this proposal, when we get to the executive branch I certainly hope that you shall not leave the door open for outsiders to come in and become members of our state ad board. I oppose the committee proposal.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President, I would like to debate Mr. Douglas' point. I feel that the superintendent of public instruction in the state of Michigan is one of the most important individuals that can hold an office in our state, and I know that in business and industry, if somebody is recognized that can do an efficient job, then they are hired in that business. I have children in school, myself, and I want the best for them.

PRESIDENT NISBET: Mr. Hatch.

MR. HATCH: Mr. President and ladies and gentlemen of the convention, I certainly cannot understand the minority party's position with respect to the superintendent of public instruction. I think, in this respect, the committee on education — with all due respect to that committee — made a grave error in calling this office the superintendent of public instruction. Actually, the office we are talking about is like the personnel director of the civil service commission, or the executive director under any commission. In other words, if they called him the director of public instruction, or some other name, I don't think there would be this emotional attachment to that given office.

What the committee has done is, instead of 1 superintendent of public instruction, they have 8. They have elevated the board of education to 8 elected officials, elected on a statewide basis. Therefore, I can see no reason why the superintendent should be elected and, like the old gray mare, the superintendent of public instruction "ain't what he used to be."

PRESIDENT NISBET: The question is on the amendment offered by Miss Hart. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—29

Austin
Balcer
Binkowski
Bledsoe
Bradley
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Garvin
Hart, Miss
Hood
Jones
Kelsey
Krolikowski
Liberato
Madar
Mahinske
Murphy
Norris
Perlich
Sablich
Snyder
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

Nays—85

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cushman, Mrs.
Dade
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
McAllister
McCauley
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Miss Hart, the yeas are 29; the nays are 85.

PRESIDENT NISBET: The amendment is not adopted. The question is now on Committee Proposal 47, as amended. Those in favor will vote aye. Those opposed will vote nay. Miss Hart.

MISS HART: Mr. President, it is with great regret that I shall have to vote no for the entire proposal. This is a matter of some emotion with me because I worked hard on this committee. I felt strongly about it. I think at this stage of the game, though, the liabilities outweigh the good.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—89

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cushman, Mrs.
Dade
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Durst
Erickson
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

Nays—31

Austin
Balcer
Binkowski
Bledsoe
Bradley
Buback
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Garvin
Hart, Miss
Hodges
Hood
Jones
Kelsey
Lesinski
Liberato
Madar
Mahinske
Murphy
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 47, the yeas are 89; the nays are 31.

PRESIDENT NISBET: **Committee Proposal 47,** as amended, is adopted.

Following is explanation of vote submitted by Messrs. Faxon and Hood:

In our opinion many of the changes made in this proposal were very good, but the use of the governor as an ex officio member of the state board of education is a dangerous and radical departure from the Michigan experience. Where ex officio members have been used they have served along with the other state officers. States such as Florida, Mississippi, Montana, North Carolina and North Dakota provide for such ex officio membership on the state board of education including the secretary of state, attorney general and others. There were no adequate reasons presented to indicate the need for the departure from precedence in our state. We fear the misuse of power that would be exercised by a governor in his efforts to influence the deliberations and decisions of the state board of education. For a board with the power and scope envisioned in this board to come under the influence of a governor might subject our educational system to a degree of control that would not be conducive to the continued growth of our public educational school system.

Following is explanation of vote submitted by Messrs. Young, Binkowski, Jones, Douglas, Snyder and Miss Hart:

We wish to state the reasons for voting against Committee Proposal 47.

This proposal would, as adopted, substitute the voice of the people in electing a state superintendent of public instruction with the selection of that office by a new state board of education with no specific limitation on the term of office.

We feel that those who desire a change have not borne the burden of proof of showing why a change is necessary.

We also strongly object to this proposal because the governor has been added as an ex officio member of the state board of education. This will neither enhance the governor nor the board. An over zealous governor would have too much influence on the state board of education, and an under zealous governor might not attend the meetings of the board. Any governor can, under the present constitution, confer and meet with educational officials at any time.

We feel that the constitutional placing of the governor on the state board of education is poor governmental structure and, therefore, vigorously oppose that provision of Committee Proposal 47.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 47 as amended and rereferred to the committee on style and drafting:

Sec. a. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to degree granting institutions of higher education, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the chief administrative officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of 8 members. Of the members first elected 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years, and their successors shall be elected for terms of 8 years. Each member shall be nominated by party convention and elected at large as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall also be ex officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

PRESIDENT NISBET (continuing): Without objection, we will return to the order of business of **reports of standing committees.**

SECRETARY CHASE: The committee on finance and taxation, by Mr. Brake, chairman, reports back to the convention **Exclusion Report 2005,** A report recommending the exclusion of section 11 and section 12 of article XI; without amendment. The committee on finance and taxation concurs with the committee on education recommending the exclusion of section 11 and section 12 of article XI from the new constitution.

D. Hale Brake, chairman.

For Exclusion Report 2005, as introduced by the committee on education, and the reasons submitted in support thereof, see below, page 2829.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

Motions and resolutions?

SECRETARY CHASE: None.

PRESIDENT NISBET: Unfinished business?

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, I move that the convention resolve itself into a committee of the whole for the purpose of considering items on the order of general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Yeager. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Yeager.

[Whereupon, Mr. Yeager assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN YEAGER: The committee will be in order. The committee is considering eminent domain. The secretary will read.

SECRETARY CHASE: Item 15 on the calendar, from the committee on miscellaneous provisions and schedule, by Mr. Erickson, chairman, **Committee Proposal 67,** A proposal to amend article XIII, sections 1, 2, 3, 4 and 5 pertaining to eminent domain of the present constitution.

Following is Committee Proposal 67 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. IN THE EXERCISE OF THE POWER OF EMINENT DOMAIN, private property shall not be taken OR DAMAGED by the public nor by any corporation for public use OR PURPOSE, without the necessity [therefor] being first determined and just AND EQUITABLE compensation [therefor being first made or secured in such manner as shall be prescribed by law] FOR THE LOSSES AND DAMAGES SUFFERED THEREBY BEING FIRST PAID.

Sec. b. SUCH DETERMINATION AND COMPENSATION SHALL BE CONDUCTED AS A CIVIL MATTER IN A COURT OF RECORD. THE JUDGE SHALL RULE ON THE ADMISSIBILITY OF EVIDENCE AND INSTRUCT ON QUESTIONS OF LAW. QUESTIONS OF FACT SHALL BE DETERMINED BY A JURY OF 12 FREEHOLDERS RESIDING IN THE VICINITY OF SUCH PROPERTY WHO SHALL BE BOUND BY THE COURTS INSTRUCTIONS. ALL PARTIES SHALL HAVE THE RIGHT OF APPEAL. THE JURY MAY BE WAIVED ON STIPULATION OF ALL PARTIES.

Sec. c. Private roads may be opened in the manner prescribed by law; but in every case the necessity for the road and the amount of all damages to be sustained [by the opening thereof shall be first determined by a jury of 6 freeholders or by not less than 3 commissioners, and such amount, together with the expense of proceedings, shall be paid by the person or persons to be benefited] SHALL BE DETERMINED IN THE MANNER SET FORTH ABOVE.

Sec. d. THE ABOVE PROVISIONS AND POWERS SHALL APPLY TO ALL CONDEMNATIONS BY THE STATE, AND CIVIL SUBDIVISIONS THEREOF, INCLUDING COUNTIES, TOWNSHIPS, MUNICIPALITIES, STATE SUPPORTED INSTITUTIONS OF HIGHER LEARNING, SCHOOL DISTRICTS, OR ANY OTHER CORPORATION AUTHORIZED BY LAW TO EXERCISE THE POWER OF EMINENT DOMAIN.

Sec. e. BONDS MAY BE ISSUED TO SUPPLY FUNDS TO PAY IN WHOLE OR IN PART FOR THE PROPERTY TAKEN BY THE CONDEMNING AUTHORITY, BUT SUCH BONDS SHALL BE A LIEN ONLY ON THE PROPERTY SO ACQUIRED AND THEY SHALL NOT BE INCLUDED IN ANY LIMITATION OF THE BONDED INDEBTEDNESS OF SUCH CONDEMNING AUTHORITY EXCEPT AS OTHERWISE AUTHORIZED BY LAW OR RESTRICTED BY THIS CONSTITUTION.

Mr. Erickson, chairman of the committee on miscellaneous provisions and schedule, submits the following reasons in support of Committee Proposal 67:

Section a. The committee has inserted the new wording

Explanation—Matter within [ ] is stricken, matter in capitals is new.

at the beginning of the first sentence to point out the fact that in the body of the present section 1, eminent domain is not mentioned and for the additional reason that the title of a constitutional article has been ruled not to be a part of the constitution.

"OR DAMAGED" has been added to this section to point out the need for parties being compensated for their property being damaged in cases where there is no actual taking of the property or physical contact with the property.

"OR PURPOSE" was added to broaden the power of eminent domain and therefore resolve doubts as to the extent of a public use. This change will also conform to presently established judicial interpretation.

"AND EQUITABLE" was inserted to lend support to those situations that are all too frequently dependent on a damage rule but without relief in the courts because of the current judicial interpretations being based on acts of taking which are governed by harsh rules of measuring compensation. The committee is mindful of the fact that there are those who will argue that we have opened the floodgates of litigation. This has not been the experience of other states that have inserted the "damage rule" in their constitutions or condemnation statutes.

The above reasons also support the insertion of the new language at the end of the proposed section a and the deletion of certain language in the present ending of section 1. Further arguments and reasons would only be more corroborative to those stated above.

Section b. This new section requires condemnation proceedings to be judicial in nature rather than inquisitorial with the jury alone being the tribunal.

The committee feels that the language of the new proposed section b will demand uniformity of procedures in the field of condemnation cases. The present situation permits 20 various procedures based upon that many different statutes in addition to approximately 30 more statutes authorizing condemnation by reference to one of the procedural statutes.

Much time and expense can be saved by avoiding the present system which tends to promote ambiguity, complexity, confusion and lengthy court cases which are all too often resolved in the appellate courts.

It is the feeling of the committee that the proposed language will settle once and for all the function of the judge in condemnation matters. Under the existing language in section 2, the supreme court of Michigan ruled in Paul v. City of Detroit, 32 Mich. 108 (1875), (the present constitutional language being identical to that in the constitution of 1850) and Michigan Air Line Railway v. Barnes, 44 Mich. 222 (1880), that the jury was the "judge of law and fact." It is the desire and intent of the committee to correct this situation and have the judge act as such in condemnation cases with the same powers he has in other civil matters.

Both the determination of necessity and measure of compensation are to be tried before a jury, as outlined in the new section. The committee intends that the use of commissioners be abolished and the property owners entitled to a jury passing on each stage of the proceeding. Provision has been made for the waiving of a trial by jury upon stipulation of all parties. This waiver will permit a speedy trial where there is agreement on settlement and/or necessity. This procedure would also permit parties who are in total agreement to stipulate to the determination of necessity and compensation to be paid.

The committee has had the benefit of testimony from parties interested in condemnation proceedings. These parties reflected every possible viewpoint on the topic. It is the firm belief of the majority of those who testified, and the committee, that the new procedure will greatly shorten the life of condemnation trials and demand more equitable treatment of the parties involved.

Section c. This section was amended by the committee to conform with the procedures set out in sections a and b above. The deleted language provides for a uniform jury and reaffirms the committee's position on the abolishment of the use of commissioners.

Section d. The insertion of this new section spells out and sets forth who shall have the power of eminent domain. This section also restates what is true today in regard to the wording of the present section 4 which states that the regents of the University of Michigan shall have power to take private property for the use of the University. It is an undisputed fact, substantiated by case law, that all the present state supported institutions of higher learning have the power to take private property for such use. This new section does not, and it is not to be construed to take away the power of eminent domain from the state supported institutions of higher learning. It is also intended that any such institutions established in the future shall have like powers.

The proposed new section d is broader in scope than a combined reading of the present sections 4 and 5 in that it confers the absolute power of eminent domain upon the set forth bodies, all of which presently have the power of eminent domain in one form or another but generally by a statute which also sets out a procedure that is to be used. See reasons set out after section b above for the desirability of avoiding these statutes and the multiple procedures in condemnation matters.

Section e. The proposed section e is in essence a rewrite of the last sentence of the present section 5 of article XIII. The new section e is not limited to municipalities. The last words of this section provide that this section is restricted by other bonding limitations within the new constitution or which may from time to time be governed by law.

CHAIRMAN YEAGER: The Chair will recognize the chairman of the committee, Mr. Erickson.

MR. ERICKSON: This is the last committee proposal. Eminent domain is the power to take private property for public use with proper payment. It, therefore, follows that everyone holds their property subject to the needs of the state. There were 5 on this subcommittee. Mr. Mahinske was chairman; Miss Donnelly, vice chairman; Mr. Bledsoe, Mr. Hood and Mr. Lawrence. At this time, I yield to Mr. Mahinske.

CHAIRMAN YEAGER: Before recognizing Mr. Mahinske the Chair would like to ask: would you wish this considered by sections or in toto?

MR. ERICKSON: By sections.

CHAIRMAN YEAGER: By sections. The Chair recognizes Mr. Mahinske.

MR. MAHINSKE: The original printing of the committee proposal and the reasons in support thereof can be found in Journal 71, on page 448. Now, there are committee amendments to be offered. We won't go to those now until I give the general reasons in support of the changes that are recommended.

[The supporting reasons were read by Mr. Mahinske. For text, see above, page 2580.]

Now while this new section e is not limited to municipalities I might add that it is also not limited to municipalities operating in the area of streets, alleys and boulevards.

With reference to section d, we had concurrent jurisdiction with the committee on education. I have received correspondence from the chairman of that committee that they have no objections to the new language set forth in the section as long as the power of eminent domain will still be reserved for the institutions of higher education.

The committee, in anticipation of some short sights that we may have had at the beginning, has offered 2 amendments, 1 to section a and 1 to section b, and I think that everybody has a copy of these amendments. It is a 2 page proposition here; recites the amendment to section a and section b on the first page, and then on the second page there is a complete rewrite of sections a and b as amended. Section a will now read, "In the exercise of the power of eminent domain, private property shall not be taken" —

CHAIRMAN YEAGER: Excuse me, Mr. Mahinske. May we

Explanation—Matter within [ ] is stricken, matter in capitals is new.

have the secretary read the amendment to section a? The Chair thinks it would be easier.

SECRETARY CHASE: Mr. Erickson, on behalf of the committee on miscellaneous provisions and schedule, offers the following amendment:

1. Amend page 1, line 6, after "taken" by striking out "or damaged"; and in line 11, after "paid" by striking out the period and inserting "or deposited in court: Provided however, That all parties who have sustained damages by the exercise of such power shall have the right to intervene in the hearings to determine damages and compensation.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske on the committee amendment to section a.

MR. MAHINSKE: Now, there was apprehension on the part of a lot of people that, under the wording that we originally submitted, possibly people whose property was not being taken could intervene in the determination of necessity hearings and hold up the determination of necessity of that project. We have taken the "or damage" phrase out of the second line and put it down in the bottom so that it is clear that these people can intervene in the hearings to determine damages, but would not have standing in the hearings to determine necessity. We have added the proviso at the end of section a which sets this out in black and white, so there is absolutely no doubt about their having the right to intervene in the hearings to determine damages and compensation. Do you want to go on with section b?

CHAIRMAN YEAGER: The question at this point, Mr. Mahinske, is on the committee amendment to section a. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is adopted. Do you have another question, Mr. Mahinske?

MR. MAHINSKE: No. I think Mr. Hatch was seeking recognition before the vote was called.

CHAIRMAN YEAGER: I am sorry.

MR. MAHINSKE: Oh, he waives.

CHAIRMAN YEAGER: We will proceed, if you are ready, with amendments to section b; committee amendment to section b.

SECRETARY CHASE: Mr. Erickson, on behalf of the committee on miscellaneous provisions and schedule, offers the following amendment to section b:

1. Amend page 1, line 18, after "parties.", by inserting "Such cases shall have priority on the court docket.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske on the committee amendment to section b.

MR. MAHINSKE: This amendment was also offered by the subcommittee to the committee at large for the reason there was some apprehension on the part of many people — and, we felt that this was justified — that possibly condemnation matters would have to wait on the general dockets in circuit courts, and in some instances this may be a wait of up to 2 years before they would come to the head of the calendar. Now, we have set out here that "Such cases shall have priority on the court docket" which means that they can be advanced on the docket at any time or that they could be put at the head of the docket initially, so that there would be no waiting; a project or a public use would not be held up for the simple reason that the case was working its way up the calendar. We recommend the adoption of this change to section b.

CHAIRMAN YEAGER: The question is on the committee amendment to section b. As many as are in favor will say aye. As many as are opposed will say no.

The committee amendment is adopted.

MR. GADOLA: Mr. Chairman, will you get it on the board so we will know what we are talking about?

CHAIRMAN YEAGER: Judge Gadola, these amendments were passed out in person, on your desk, and it was so pointed out by Mr. Mahinske. The Chair is sorry it isn't on the board, and doesn't know whether it was prepared for the board or not. It was put out in person. The Chair understands from the secretary that when an amendment is reproduced and put on the desks, they don't usually make a showing on the wall. Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I have no copy on my desk. Will the page please bring me one? We don't have any over here at all.

CHAIRMAN YEAGER: The Chair will ask the secretary if he can tell us about approximately what day these were put on the desk? Do you recall, Mr. Chase?

SECRETARY CHASE: These amendments have been prepared for about a week, and I thought they were on the desk of every delegate. Possibly they are in the file along with your committee proposal.

MR. HIGGS: Mr. Chairman, we have none here either.

CHAIRMAN YEAGER: The secretary informs the Chair that these amendments have been passed out for some time.

The 2 amendments have been passed by action of the committee. Unless there is a motion to reconsider, we will proceed with the balance of the amendments. For what purpose does the gentleman rise, Mr. Hanna?

MR. W. F. HANNA: Mr. Chairman, these were passed out. They are not very well labeled. They were all mixed up with emerging problems. They are 2 sheets; the first sheet says "CP 67;" there is no label on it that they were committee amendments, or to what, and so on. I think that may have resulted in the confusion. The delegates may find them, a first sheet calling attention to the amendment, and the second sheet as they will be after the amendment. They were with the papers on emerging problems, I believe.

MR. MAHINSKE: The heading, for your information, is, "Mr. Erickson offered the following amendment."

CHAIRMAN YEAGER: The Chair expresses regret to those of you who didn't have it but doesn't know what we can do but proceed. Mr. Secretary, would you read the next amendment?

SECRETARY CHASE: Messrs. Stafseth, Danhof, Allen, McCauley, Leppien, Seyferth, Karn, Staiger and Binkowski offer the following amendment to Committee Proposal 67:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section and all of section b, and inserting "In the exercise of the power of eminent domain, private property shall not be taken by the public nor by any corporation for public use or purpose without the necessity being first determined and just compensation therefor being first paid or secured in such manner as shall be prescribed by law. The just compensation to be paid shall be ascertained by a jury of 12 freeholders as in other civil cases in a court of record or by not less than 3 commissioners appointed by a court of record as prescribed by law.".

This has been prepared and is being projected on the board.

CHAIRMAN YEAGER: The Chair will recognize Mr. Stafseth on his amendment.

MR. STAFSETH: Mr. Chairman and fellow delegates, I would like to ask a question first of Mr. Mahinske. Did you put in your amendment to amend section f?

MR. MAHINSKE: I haven't put it in at this time because this is a subcommittee amendment and it doesn't have the same status as a committee amendment. I will offer it at the proper time but it will be offered and everybody should have a copy of that also.

MR. STAFSETH: Thank you. Mr. Chairman, this amendment is a result of a lot of work of the practicing attorneys that work for municipalities relative to the condemnation procedure. It has been — the people that have worked on it are attorneys for public utilities, for state agencies, cities, counties, highway departments and educational facilities, and I will say that this amendment is considered by these authorities as the bare necessity for a workable condemnation procedure in the constitution. This amendment also is the same tone that was recommended by the state bar of Michigan and the Michigan municipal league.

It encompasses in it a compromise between the existing constitution and the committee report. The major change is the removal in the committee report of the word "equitable," which they had put in, "just and equitable compensation," and it also removes the 2 words referring to losses and damages. The reason for taking these out is that in the existing constitution the words "just compensation" has been construed by the supreme court as encompassing basically damages to the property taken. This is very important, because if you introduce these 3 words into a constitutional provision, it will be like saying to the public that anybody that may be damaged, whether it is their property taken or just by the inconvenience of the new project, they would have a right to damages, and you can see that in the amendment the committee has just made they give the right to intervene to anyone whose property is not taken, and this is the very problem that the public agencies that take property are concerned with.

The committee, when they added this new amendment, added it for a very good purpose, because when you petition the court in a condemnation proceeding, you are supposed to name all those people suffering damages, and in the supreme court decisions it has been construed that only those people whose property or interest in property has been taken should be named. Today's courts have interpreted that just compensation should be the fair market value of the property taken. The fair market value is construed to mean what a willing buyer, not forced to buy, will pay to a willing seller, not forced to sell. It is important that this determination or this price determination be made the day the property is acquired. Condemning authorities in the past have had a lot of problems relative to losses. You take, if a fellow buys a home on the rise of a real estate market, it is quite obvious if he had to sell that home the condemning agency at that time would have to pay a little more than he paid. By the same token, if he had his house condemned on a falling market, he would pay, that day, the amount that would be a fair market value.

In this amendment we have also included some of the things which the committee tried to correct. One is, in our provision we provide, reading on lines 4 and 5, that "just compensation therefor being first paid or secured in such manner as shall be prescribed by law." In other words, the agency that is taking the property would have to either first pay or secure in a manner prescribed by law, before they occupy the property. This is one of the areas that I think was of greatest concern to the committee.

Secondly, they were concerned about the need for determining necessity. In line 3 we have provided that you can not take the property without first determining necessity. In our provision, we say "as prescribed by law," which would mean that the method of determining necessity would be determined by the legislature. I might point out that in all the other states and your federal government, the need for a judicial determination of necessity is not needed.

Then, we go on in the last sentence, starting on line 6, that "The just compensation to be paid shall be ascertained by a jury of 12 freeholders as in other civil cases in a court of record. . . ." In other words, it says that it has to be a normal court procedure in a court of record, "or by not less than 3 commissioners appointed by a court of record as prescribed by law." The highway department and the utilities are very anxious to retain the provisions which allow 3 commissioners, not less than 3 commissioners, to make determinations.

I would like to point out one other fact. I think that it is the most important fact. I tried to amplify the fact that by introducing these 3 new words of "equitable," "loss" and "damages," the limits of which are very hard to determine, that if you allow people who have property that is not taken for the project to come in for claims of damages, you are opening up what you might say is Pandora's box to a siege of litigation by all people making all sorts of claims as to inconvenience of the road, of view; they would have to maybe go around further to get on a limited access highway. I submit to you that in our society, with our transportation system the way we have it today, we have to have limited access highways to get our traffic into the large cities. So we have to limit this access and there is no question about the fact that when you have a limited access highway go into a city, you can only have entrances every so often, and that this inconvenience comes as a necessity to our time.

In the case of the city of Detroit, in building their expressways, the cost of these expressways has run in the neighborhood of $8 million to $10 million a mile. The cost of acquiring the right of way — which is a cost of doing these projects — approaches approximately 50 per cent of the cost. This means that we are approaching $4 million or $5 million worth of property that has to be acquired to build these facilities. If we open up the possibility of claims outside of the property owners or any interest in that property which we are taking for the purpose, and we have a deluge of claims coming in, you can see that the cost can easily be raised above this amount, and it is going to hit the taxpayer right in the pocket.

One other thing. I might say that, in studying this, I find that in Michigan — and I think this was reaffirmed not too long ago in the Bay City case — Michigan has always required that if you have a hearing of necessity, and I have no doubt that they would continue to do it, even if the legislature gave the governing agency that is condemning the authority to say: this is the property that is to be taken and that is the determination. I'm almost certain and I don't think that there is any possibility that Michigan would ever allow a taking in that sense without having adequate hearing or adequate reason for appeal. But there are some serious reservations as to having to wait to go into a hearing of necessity with some of the federal projects. You should have the ability to make a determination when you have your planning, and be able to, literally, "get with it" so you can get the job done. I can say this from a personal experience: when I was down in Lenawee county I kidded one of the planners of the state highway department as to the location of a new limited access highway around Battle Creek. He said, "All right, wise guy; you take a look at the topography. Take a look at an aerial map of this area, and where would you put the highway?"

I submit to you that today building limited access highways in the cities or around cities, with the rivers and the railroads and all other types of topographical features as obstacles to get around, you end up locating the highways just about where they are being located today. One of the main factors of locating highways today — I have gone through this process several times — is that they determine where they can buy the right of way for the least expense to the public, and have the least expense in the construction of this facility. In other words, it is a combination of both. They may have 1 or 2 locations, if they are lucky; in some cases, 3 locations. They evaluate all of this before they make this determination. I think at this point, Mr. Chairman, I would like to yield to one of the other proponents of this amendment, Mr. Allen.

CHAIRMAN YEAGER: The Chair will recognize Mr. Allen.

MR. ALLEN: Mr. Chairman and members of the committee, perhaps I ought to start out and try and point up what the differences between the proposed amendment and the committee proposal are, in order that you could keep them in mind. And then I want to speak on one of the 3 differences.

In the first place, the committee proposal — well, let's put it this way: the amendment provides that just compensation will be paid for the property which is taken, and that is very similar to what we have today. Now, the committee proposal uses new language, which is rather vague. It says that "payment will be made for losses and damages suffered thereby." One difference here is that losses and damages suffered thereby could go much further than the property that is taken. Under today's constitution, payment is made for the property taken; under the amendment which we are offering, just compensation will be paid for the property taken; under the committee proposal, "losses and damages suffered thereby." Of course, when we have this kind of situation, I can see — speaking for municipal governments in this connection — that if we should condemn land for a parking lot and pay just compensation for that lot, somebody 3 blocks away may claim that his business is going to suffer because of this particular parking lot going in. We have actually had this kind of a claim made, the claim being made in the case of a furniture store 3 blocks away, where he had his own parking lot, that by putting in a city parking lot we were helping his competitor who happened to be 1 block away. What I think happens here is that we open up, by the committee language, something that is so broad and speculative that we are going to end up with all sorts of intervenors.

I know that the committee is trying to be fair. They want to protect the person who may be damaged, but I don't know where you draw the line. Always, where property is taken, someone else can claim that they are suffering a loss, and this is not only true in the case of the highway department — for whom I am not speaking — but it is the case for municipalities, and I am not talking just for cities. I can see the same thing coming up where our counties have condemnations. I can see the same thing coming up where our schools have condemnations, and where our townships have condemnations, and I think that without intending it, the committee language is going to open such a vast amount to be paid, with such a long judicial determination, that the public is the one who will pay much higher bills than it otherwise would pay.

The second point of difference between the amendment which we have proposed and the committee proposal is the difference between the old language that "just compensation may be paid" — that is the language which we have, that is the language of the 1908 constitution — and the language of the committee proposal which adds the words "and equitable." It is hard to argue against being fair, but I am not sure what this means. A third point of difference is the question of necessity. Under the 1908 constitution, necessity — let's take, for example, a city wanting to extend a street, or acquire more property for a street or a parking lot. The city commission makes a determination of necessity. We usually have public hearings and all that, and then we have had difficulty in acquiring the property and we end up in a condemnation case. We go before a jury, and the jury has 2 decisions to make under the 1908 constitution. The jury is allowed to again make the decision on the question of necessity, and also establish damages. The committee proposal does this same thing, in different language. It carries out this same concept, but the amendment which we propose does not do this. The amendment we propose does not freeze into the constitution the —

CHAIRMAN YEAGER: Excuse me. Will the committee please be in order? The court reporter is having difficulty hearing. Proceed, please.

MR. ALLEN: The amendment we propose does not freeze into the constitution the right of the jury to second guess the first decision of necessity, which is made by the governing board of the county; the township board, if it is the township board; the city commission, if it is the city commission.

Some of you are going to say this is very bad. This allows this governing board, the arbitrary governing boards of councils, township boards and so on, to run off and do anything they want. But, I would call your attention to the fact that the amendment which we are offering says that necessity may be determined as established by law. In other words, we aren't going so far in this proposed amendment as to say there won't be any second guess of the legislative body or the city, or township. We are leaving it up to the legislature to write the rules as to how necessity will be second guessed, if you want to use that word.

Now, the legislature could reinstate the same provision by law as is in the 1908 constitution, or the legislature could say there won't be any determination, or the legislature could say what there shall be, under certain restrictions and terms and conditions. I would invite your attention to the fact that on this question of determining a necessity by a jury, of all the states in the United States — now that Wisconsin has changed on this point — Michigan is the only one which freezes into the constitution the determination of necessity by the jury. I have had the experience in city work and I have had the experience as a member of the board of supervisors, and I have seen it in connection with township cases, where this second determination of necessity not only slows up the whole process but, in turn, results in higher amounts being paid for the property than really ought to be paid, and I think now that we are drawing a constitution for the next 50 years, it would be wrong to continue that which 49 other states have not continued, but it would be right to leave up to the legislature whether or not the jury determination of necessity should be continued.

In summary on this, because I probably have talked too long, but it is a complex matter and we easily can become confused, speaking on behalf of municipal units of government — and I am talking not only from city points of view, but from county points of view, and I know this comes in for townships, too — I feel that with every good motive, the committee language on the green sheets opens up, first, a field of speculative damages. I think it uses ambiguous terminology, and, thirdly, I think that it freezes in the constitution the issue of necessity being determined by the jury; whereas the better thing to do is to give this some elasticity and let the legislature make the determination as to how necessity would be determined. The legislature could continue the same thing, if it wished. It could waive it. It could abolish it.

I feel, therefore, that the language that we have offered in this amendment, which is sort of a joint effort of the state bar association, which has worked on this a long time, and the Michigan municipal league — they haven't worked on this alone, they have worked in connection with people from other governing units, like counties, and the highway department — is a preferable type of language in this important area.

CHAIRMAN YEAGER: Mr. Stafseth. You still have the floor. Do you wish to yield?

MR. STAFSETH: Yes, Mr. Chairman, I would like to yield to Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, since Mr. Mahinske is standing, perhaps I can take advantage of his hospitality and ask him 2 questions. The first question, Mr. Mahinske, is: are the words "or damages" after "taken" used in any other state constitution?

MR. MAHINSKE: No, but it is used in other state statutes.

MR. BINKOWSKI: But not in the constitution?

MR. MAHINSKE: No. Many other states don't even have an eminent domain section in the constitution.

MR. BINKOWSKI: The next question, Mr. Mahinske, relates to the use of the word "equitable." Is this found in any other state constitution?

MR. MAHINSKE: No, not to my knowledge. It may be found in other state statutes.

MR. BINKOWSKI: But you don't know if it is?

MR. MAHINSKE: No, I don't.

MR. BINKOWSKI: Mr. Chairman and ladies and gentlemen of the committee, I find myself in kind of a strange position because while I have been taking quite a few liberal positions here, perhaps this will be construed as a conservative one. I don't know. Also, as an attorney who normally would be a plaintiff's attorney, that is, representing the property owner, it is also strange for me to be talking against this expanded concept of damages. But, be that as it may, I think reduced to the simplest terms, what we are trying to do here is to balance the equities. That is, everyone knows or should know that the state has the inherent power of eminent domain.

We have always had the concept of just compensation, and while we want to be sure that every individual whose land has been taken away receives a fair value for the land, we also want to be fair to the state. What we are talking about — the state, of course, is not some kind of concept as such; it means you, the citizens of this state of Michigan. It is your money that we are dealing with in eminent domain. We are not dealing with it only at a state level, but, as Mr. Allen explained to you, this concept of damages, as the committee report proposes it, would not only affect the state of Michigan, it would affect every one of the counties, the cities, the villages and the school districts. So I think it is incumbent upon us that the committee report bear the burden of proof in proving that this is what is needed, that the old and traditional concept of just compensation has been inadequate in some way, and I submit to you that it has not been inadequate.

Those of you who are laymen and even attorneys, unless you get into the area of eminent domain, know that it isn't something that you deal with every day. It is sort of a speciality in the law. It certainly is not a speciality like patent law, but I think that you have to have had some cases to understand the concept of eminent domain. The concept of just compensation certainly is an old one and, certainly, in this case, there have been many cases construing exactly what just compensation is. I spent approximately 6 months of my life and the taxpayers' money for those 6 months working on one case dealing with this entire aspect of just compensation, and you don't have to believe me, but I think that you will find out that our court has liberally contrued the concept of just compensation.

Therefore, I submit to you that we do not have to expand the concept of damages to add the words "or damages" and add the words "and equitable." I don't know what equitable means, and I hope that perhaps in this discussion that the members of this committee who propose this language can explain to us in detail, so that we can understand just exactly what are the equitable damages for which a property owner should be receiving compensation that he is not presently being compensated for, and something, I might add, which can also not be cured by statute. Because, I submit to you that if there are damages which a property owner should be compensated for, that certainly the legislature is quite capable of expanding this concept.

Again, I want to emphasize this point, that we are balancing the equities; that we are trying to find a standard that we can compensate the landowner fully for the land taken, as well as being fair and just to all the citizens of the state, or, as it may be, the county, or the village, or the school district, whatever level that condemning authority is operating on. I think that if you will review the cases, you will find that this concept of just compensation has worked very, very well. I do not believe that we have to expand it.

I think Mr. Allen and Mr. Stafseth have indicated to you, and I think that you attorneys here know, that if we add these words we are going to not only be opening up the floodgates of compensation for all these various levels of government, but will increase litigation because — well, the court has determined, to a great extent, what just compensation is, and most attorneys know, after review of the law of eminent domain, what elements of damage can be compensated or not be compensated. It will take years and years to find out what elements of damages will, in addition, be compensated for. I think that Mr. Allen explained to you that there are certain areas of compensation presently which are not being compensated for, and there are others, like the loss of view, light and air, general inconvenience, esthetics, the accrete of travel noise and inconvenience, and there are other speculative and anticipative and imaginative damages which I think that any plaintiff's attorney or any attorney representing a land owner would be duty bound to take up to the court and find out if his land owner should not be compensated for these particular elements of damage. Traditionally, throughout the country, in most cases these particular elements which I have indicated have not been compensated, I see no reason why these should now be compensated.

I think that we will probably be discussing this in greater detail, so I will not talk further, other than to indicate to you that the highway department received a letter from the U. S. department of commerce, the bureau of public roads, with respect to these elements of damages, and I think it is very important to us in the state of Michigan because we are very proud of our expressways and our limited access highways. But, I want to point out to you that those highways are built on 90 per cent of federal funds. If you expand this concept of damages, it will be the state of Michigan which will have to pick up the damages for these elements, such as loss of profits and so forth, because, quite clearly, the federal government will not contribute for those elements of damages.

I submit to you that it is incumbent upon the committee, of which I was a member, for them to prove to you that we must have this expanded concept of damages to see that the land owner is justly compensated. Otherwise, I think that we should stay with the judicial language which we, in Michigan, have found to be useful and, through court interpretation, have expanded sufficiently.

CHAIRMAN YEAGER: Mr. Stafseth has retained the floor.

MR. STAFSETH: Yes, Mr. Chairman. At this point I would like to recognize Mr. Leppien.

CHAIRMAN YEAGER: Mr. Leppien is recognized.

MR. LEPPIEN: Mr. Chairman and fellow delegates, with the explosion of population in these United States and in the state of Michigan, the problems of eminent domain are not going to lessen, because the state is going to be in the position of having to do more things for more people in many ways. This applies, as Delegate Allen pointed out, to townships, counties and school districts, as well as the state itself. We have had a great deal of experience up our way in the city of Saginaw on the subject of this eminent domain, and we have had ample proof that under the constitution that we are now under, just compensation has been paid when there was an alleged or a real damage not paid in the amount that the people thought should have been. As a result of that, after a great deal of study and in consultation with our city attorney and others, I have reached the firm conviction that the proposal as submitted by the committee, even though amended, has gone way beyond the point of where we think, as constitutional delegates writing something for the next 50 years, or whatever the time may be, is correct, and, therefore, I urge you, along with these other members, that we vote down the committee proposal and adopt the amendment as proposed here in which we retain a great deal of the language we have had previous to this.

CHAIRMAN YEAGER: Mr. Stafseth.

MR. STAFSETH: Mr. Chairman, I would like at this time to recognize Mr. Karn.

CHAIRMAN YEAGER: Mr. Karn is recognized.

MR. KARN: Mr. Chairman and members of the committee, very briefly, I think this amendment has been very well explained. I do want to say, however, that I rise in support of it. This amendment will result in just compensation to property owners and it will also expedite the purchase of property which is very much needed to carry on, promptly, new construction work for the benefit of the public. I urge you support this amendment.

CHAIRMAN YEAGER: Mr. Stafseth.

MR. STAFSETH: Yes, Mr. Chairman. At this time I would like to recognize Mr. Staiger.

CHAIRMAN YEAGER: Mr. Staiger is recognized.

MR. STAIGER: I, too, will be very brief. I think this has been very well explained. There are questions in any condemnation procedure: first, the question of public necessity; second, just compensation to the property owner. Under the committee proposal, I feel personally, that the just compensation has been expanded to the point where there is real danger involved, and speculation as to what the damages or the compensation will be. I think that we have opened the door on this proposal to the type of nuisance suit where you will have a right of any individual to intervene purely with the idea of getting a settlement out of the condemning authority. Secondly, and on the question of determination of necessity, leaving this up to the legislature will at least make it so that it isn't frozen in, so that it has to be by a jury.

Any attorney that has been involved in a condemnation suit knows that just compensation is used — rather, the question of necessity is used in a condemnation action in the same way as the question of liability is used in an automobile accident, as a lever to pry more damages out of the jury. We had an instance, not too long ago, in our city where this technique was used. In fact, it was used so loud and so long that the jury came in with a finding of no necessity, which surprised everyone, and left everybody unhappy in the case. But to leave this up to the legislature, in any case, is sound.

I know that we are going to be hearing that this is the special condemning authority on the one side, the people on the other. I don't look at it that way, and I think that all of us should look at it as responsible citizens. We are talking about our government, our taxpayers' money. We want to be fair to all and show no privilege to anyone under this provision. Thank you.

CHAIRMAN YEAGER: Mr. Stafseth.

MR. STAFSETH: Mr. Chairman, one more brief comment: I had the experience about 2 years ago of being in a highway conference in the state of Michigan and was sitting down with some of the consulting engineers for the city of New York, and I thought that this might be of some interest to the group. In the city of New York they have a condemnation proceeding that is very directly related to the assessed valuation of the property. You can see that there is a little poetic justice in it, because if your property was assessed high, then you would receive a high settlement on damage or on just compensation for taking the property. If it was low, and you had the benefit of low taxes, why, you would get it. In fact, this system is so efficient that the engineers in the state of New York can estimate their project. It is very easy to estimate the building materials to go in the project, but the question of condemnation is very difficult, but in their system they can do it very closely. In this system, we are not doing it this way. We are still providing that we should go through a judicial procedure for making this determination. At this point, I would yield the floor, Mr. Chairman, and I would like to ask that we have a division when the question is voted.

CHAIRMAN YEAGER: A division has been requested. Is there support? Sufficient number is up. The Chair will recognize Mr. Mahinske on behalf of the committee.

MR. MAHINSKE: In general, I will point out what the committee feels are the shortcomings of the amendment as offered. If you will read the amendment, you will notice — and if you have been listening to the previous speakers you have heard — that this amendment does not guarantee that there will be a hearing on necessity. Now, what does this mean? This means this: that the legislature may say to the condemning authority that you have the absolute power to determine, on your own, whether or not you feel that the property that you are taking is necessary to your project. Now, of course, they are never going to take property and then come in with a finding that the property was not taken necessarily. The committee proposal guarantees that the property owner will be able to go before somebody and he will be able to express his side of the case and his views, and he will be heard. This is not done by the amendment to the committee proposal. We have guaranteed that you will be heard, if your home is taken away from you or being taken or other property is being taken. They have not guaranteed this. They have left it in the air by implication.

The amendment does not mention as to whether or not there shall be a judge presiding in these cases. We may well slip right back to this antiquated position that we are in today, where we have a jury that is the trier of both the law and the facts. If, by implication, a judge shall preside in these matters, the proposed amendment does not guarantee that the judge shall have power to instruct the jury or to take the case away from the jury if he feels that the jury has found against the facts, and it does not give the judge any specific powers. Also, the proposed amendment does not mention at all whether or not any of these parties shall have the right to review, which would mean possibly under this that you can have your determination of necessity in front of the body which is doing the condemning and then they make their finding and you go nowhere from there. You have no opportunity to have this determination reviewed.

Also, the proposed amendment does not guarantee, as the committee report does, that the members of the jury shall be from the vicinity of the property taken. Also, the proposed amendment does not guarantee that these matters, if they go as a normal action, in a normal civil action, shall have priority on the docket. We slip right back to the one fault that we had in our original committee proposal, that we rectified by adopting these committee amendments. We may well find that these condemnation matters may go right at the bottom of the docket. They will stay on the docket for 18 months, 24 months, 9 months, before they come to trial. There is no priority provision in here.

Also, the proposed amendment retains the use of commissioners. We have heard a lot of complaints from people who testified in front of us. A good 90 per cent of these complaints were complaints in cases where commissioners were used. These commissioners are autonomous little bodies. They are appointed by the condemning authority. They are to go out and sit and decide whether or not it is necessary for the people who appointed them to get the property that they are asking for.

In the case of the state highway department, there has never been a determination of no necessity. This is by testimony of the attorney generals attached to that department and the highway commissioner himself.

Also, if this amendment were adopted, there is the threat here, or the construction could be placed on this amendment if this were the proposed language, that all existing laws pertaining to condemnation procedures would be automatically revoked, because it calls for such laws in such manner "as shall be prescribed by law." This connotes to me future prescriptions, future activity on the part of the legislature. This does not save any existing statutes that we have on the books now. Also, it would leave the legislature completely free to act in this area of condemnation, and I will give you one good prime example of what the legislature feels it would like to do, or, at least, some of those people over there would like to do, in the area of condemnation. I have a 1959 senate bill here that I will read to you, and I will show you how fair they want to be with you when they are taking your house away from you. I will show you just exactly how liberal they are liable to be over there. This is senate bill 1190 in the regular session of 1959, which would change the existing procedures that the committee is opposed to, to the following type of procedure: they would set up a board or commission which, at their or his discretion, may attempt to acquire by purchase any such property or they or he, at their or his discretion, may proceed without any attempt to purchase to make a written determination of necessity of the particular highway construction, improvement, landscaping or maintenance project, shall determine the necessity for the taking and the damages which in his or the opinion of the board or the commissioner shall be paid as compensation for the property. They will determine the necessity of the project after the taking of the particular property described therefor, if received in evidence — and, of course, if received in evidence by himself — at the necessity hearing — presided over by himself — provided in this section; and none of this procedure shall be thereafter questioned anywhere. This means that you would not even have a right to appeal to the circuit court. You would have absolutely no standing to question the procedures of this commission, person, or body after they have made their determination. Now, if this is what you want, this is what you are liable to get under the amendment as offered by Stafseth, et al.

I would like to go particularly into some of the remarks made by some of the proponents of this amendment, and I would like to point out at this time that there wasn't a no vote in the committee against this committee proposal, as harsh as it was originally, and we feel that some of the harshness has been taken out of it. Mr. Allen says we are trying to be fair, but he doesn't make it mandatory to be fair. He says: where do we draw the line? Well, we have not decided that we have reached that stage of perfection where we can draw the line ourselves. Under our language the courts will draw the lines, the jury will draw the lines, if any are to be drawn other than what we have now.

Mr. Allen also mentions that the rule of just compensation has sufficed until now, but just compensation doesn't necessarily mean fair compensation. Just compensation has been interpreted by the court to mean "to make all the parties whole," but we have many, many examples of parties not being made whole under the existing procedures. Also, just compensation has been interpreted to mean "the present cash market value of the property." Now, the present cash market value of the property is not necessarily the present market value of the property, because they have injected the word "cash" into this.

Mr. Binkowski mentions that we have to recall or remember at all times that we are dealing with the power of eminent domain. We are very mindful of the fact that we are dealing with the power of eminent domain, but at the same time, when you are dealing with the power of eminent domain, you are dealing with the rights of an outside body to take the property away that you own, whether it be your home, your farm, or other property. We are not attempting at this stage of the game to balance equities. We feel that we have put in sufficient language in the new proposed article that will permit the court, if it sees fit, and only if it sees fit, to balance equities and go beyond what is being done currently.

There has been much said about existing case law being upset here under the new language. This is not necessarily so. The courts may well interpret the new language to mean nothing more than the present statutes of just compensation. We are not directing a mandate to the court, saying that they have to pay more money for this property or less money or give it to other parties.

With respect to the fact that it has been said here that we are opening up the door to all kinds of damage suits, this may be so, but we still feel, even under our provisions, unless these people can come into court and prove that they have been damaged by the project and actually show it beyond speculative reasoning to the jury, that if these people have been damaged, if they are going to be hurt and the damages can be measured, then these people should collect for the damage that they are receiving. If this is speculative, if it is guesswork, if it is conjecture, no jury is going to give them an award. They have nothing to base an award on. We feel that this is going a little far in trying to stretch the language that we have written into the committee proposal.

Mr. Karn has mentioned that he feels that the amendment to the committee proposal would expedite the purchase of property. This is true. It would expedite it so fast that these people wouldn't know what was going on. They would be off their property before they receive any money. There is no provision in here that will guarantee these people a hearing. Under the existing situation, the state highway department can and does move in on you with a hearing of determination, and within 10 days the title of your property — this is within 10 days after their determination of necessity — within 10 days the title of your property shifts from your name to theirs. You can't even go in and pick the flowers off your property after that because they own them and if you try it you will hear about it. We have had examples of this and we have absolutely no contest as to this ever having happened.

At this point, to enlighten you further on the damages aspect, I would like to yield the floor to Mr. Lawrence of the subcommittee.

CHAIRMAN YEAGER: Mr. Mahinske yields to Mr. Lawrence.

MR. LAWRENCE: Thank you. Mr. Chairman and members of the committee —

CHAIRMAN YEAGER: Before you start, Mr. Lawrence, could we have the committee in order, please? Proceed.

MR. LAWRENCE: The purpose of the subcommittee on eminent domain and the ones who are supporting the committee proposal, is based on 2 or 3 fundamental things. One is this: that throughout the years, because of the hodgepodge of statutes and the judicial interpretations that have been made, the condemnation proceedings are stacked entirely in favor of the condemning authorities and against the property owners; and those of us who support the committee's proposal and are opposing this amendment are thinking of the citizens of the state of Michigan and not of the condemning authorities.

Our purposes were as follows: first, we wanted to simplify things. Instead of having some 10 or 20 different proceedings under which some of these actions could be brought, allowing the condemning authority, as it sees fit, to choose the form and the means of proceeding, we wanted to have all of these proceedings brought under one system so that the property owner wouldn't be faced with the type of action that was least favorable to him, to begin with. We thought mere fairness warranted that. Secondly, we wanted to provide for judicial determination. Throughout the years these commissioners' determinations and other special proceedings that have developed have been anything but judicial determinations, and they have been anything but to protect the property owners. We wanted to allow both parties, both the condemning authority and the person whose property was being taken, to have something to say about the form in which the action was brought, and that is that the sole determination should not be that of the condemning authority. We wanted to require proofs to be on a judicial level — that is, proofs that would stand up in court and not the type of proofs, for instance, you get in a necessity hearing before the highway commissioner or the deputy highway commissioner, and when you get all through he says: I find necessity. We wanted to provide for the right of our citizens whose property is taken in the exercise of eminent domain to receive adequate compensation for damages that they sustain, and not those that have been narrowly construed by the courts under the statutes and under the present law. In other words, my friends, the present law is not fair, and don't let anybody tell you that it is.

You heard one of the men speak of what the measure of damages is, being what a willing buyer would pay and a willing seller would sell for. That is correct as far is it goes, but here is the principle of condemnation, and it is a fair principle and it is not being received by our people whose property is being forcibly taken from them in the state today. The rule is this: that one whose property is taken for public use is entitled to receive just compensation, and that the amount of compensation should leave the person whose property is taken in as good a position as if the property had not been taken. That is fair, isn't it? As a statement of principle, that is fair, and that is what our committee is endeavoring to secure for our people. In other words, a person starts out with property. Maybe it is the biggest investment in his life, his home, and when he gets through he doesn't have that home any more and he should be put in the same position he would have been if his home had not been taken. That is all we are asking, and that is the reason for the words "or damaged."

Let me read to you from the letter from Mr. Mackie, which happens to be addressed to me, although I think all of our committee received it. It was dated February 7, 1962. On the second page, in paragraph 10, to show how autocratic this has become, "Right of way costs to the taxpayer will increase sharply if the term 'just compensation' is expanded to include equitable compensation, which could be interpreted" — now listen to this — "could be interpreted to include all value, costs or losses of the owner." Well, what else is fair? Of course he should be compensated for his value, his costs or his losses. Is anybody going to argue that a person whose property is forcibly being taken from him for the public use should not be compensated for all his losses? Yet, that is what our highway commissioner says would happen if our committee proposal is adopted by this convention. I certainly say that is the best argument I can think of for voting for the committee proposal.

It is claimed that, oh, I don't know, we would open some box or something if we allowed this. Do you know that many states have exactly what our committee asks for, what it would give? Let me read you from — because you have it — the eminent domain study by the Michigan constitutional convention preparatory commission. I am reading on page 10:

> Thus far our discussion has been directed to losses borne by a property owner whose property is taken; if, on the other hand, an owner of property suffers damages as the result of a public improvement but his land was not actually taken or entered upon, he received no compensation at all. It has traditionally been felt that there is no moral obligation to compensate an owner of property which has been damaged as the result of a public improvement.

I will cite to you, just briefly, the "elevated" situation in Chicago with the noise going by buildings as, I believe, the cause of this that follows:

> However, in 1870 Illinois adopted a constitutional amendment providing that private property should neither be taken nor damaged for public use without compensation.

And those are the words our committee used, "taken or damaged for public use without compensation."

Now, follow the states that have similar provisions. Similar provisions are now contained in the constitutions of Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, Virginia, Washington, West Virginia and Wyoming. That is the advanced theory on this and those are the states that have adopted it. It is nothing new that we are trying to have the convention adopt, nothing that has not been adopted by other states.

While difficulty was encountered by the courts in interpreting this damage clause, eventually it was judicially defined rather narrowly by the supreme court of Illinois in the case of Rigney against Chicago, as requiring payment of compensation only in cases: 1, where there has been some physical disturbance of a right which the owner enjoys in connection with his property; and 2 — and I think this is important — that by reason of the public improvement he has sustained a special damage with respect to his property in excess of that suffered by the public generally. That is how narrowly that provision "or damaged" has been construed; and the report goes on, "and this definition was adopted by nearly all of the other states having this clause in their constitution." So, I say that you are being needlessly alarmed.

I might state this: that it is interesting that those who have spoken in favor of the proposed amendment either are or have been either public officials, employees of road commissions, of the attorney general's office, attorneys for road commissions, or officials of public utilities that have condemning power. That has nothing to do with their good faith. I know that they are in good faith, but at least they are not disinterested people in the sense that they have not had or do not have some connection with condemning authorities.

I would like to see the people, the individuals of the state whose property is taken, receive just compensation. This bugaboo about the cost — listen, where do our taxes come from? They come from the people, don't they? The taxes that Washington gets come from us. The taxes the state gets come from us. Washington sends our tax money every year to people across the seas we don't even know, and yet the condemning authorities in Michigan object to paying our citizens, our citizens, a fair, just and equitable amount that puts them in the position they would have been in if their property had not been taken.

For years — I will admit I am prejudiced — for years I represented defendants in these condemnation cases. I don't mind a fair lawsuit. I don't mind a case where the cards aren't all in one hand, but let me tell you what goes on in some of these cases. People are told, "You go into court and you'll have to pay your attorney fees out of this. You won't end up with any more than if you take what we offer you. At least you will have that." Every type of pressure is put on them. We would like to see the individual citizen get a fair break. I would like to read you a little bit from a decision, and then I would like to yield the floor back to Mr. Mahinske. Let me tell you what goes on. I have a decision here — if anybody cares to read it at length, I'd be glad to let you have it. It is an opinion by Judge Elliott, in the county of Genesee, in the case of Ina Marie Houran LeBeau and Lucille M. Houran against Charles M. Ziegler, State Highway Commissioner. In this case they were taking the land, the property of these 2 women, and the hearing of necessity — this hearing of necessity that they don't want the court to determine — at that hearing held before the deputy highway commissioner, after he listened to the testimony, he found necessity. This is what Judge Elliott says about this necessity hearing. This is what they want to retain and don't want the courts to interfere with. On page 4 of his opinion, he was speaking of the state of the law:

> The fact that the necessity hearing was before the deputy commissioner, in other words, your condemning authority determines it has necessity. This state of law, stacked as it is, to favor the commissioner's determination, should require of those to whom such omnipotence has been given, the obligation to see that the hearing is conducted with scrupulous fairness. Otherwise, it will not be a hearing in any adjudicative sense. It will not conform at all to those conceptions of fair play which are envisioned by the constitutional provisions requiring due process.

> On reading of Mr. Clarey's testimony —

he worked for the highway department —

> On reading of Mr. Clarey's testimony, a reading compels the necessary conclusion that at the hearing before the deputy highway commissioner, the employee of the state highway department, testifying on the good faith effort to purchase, willfully and intentionally concealed pertinent material evidence as to the good faith of his efforts to purchase and as to the value of the property as he then knew it.

I think they offered about $1,000 an acre, and I think it was increased several times. Judge Elliott finds, in his opinion, that the employee of the highway department in the hearing before an employee of the highway department willfully concealed evidence. Then, last — and listen to this —

> The concealment of material evidence by the tribunal's own employee amounts to a fraud and an unfair advantage which it can not be expected will be remedied by further continuance in that proceeding unless, at least, that situation has been corrected.

Judge Elliott found the highway department guilty of fraud. That could not have happened in a hearing in court where everything was not in favor of one party and against another. That is what your committee felt was its duty, what it tried to correct. We don't think it is right for a highway authority, even though it will increase the cost, to take a farmer's land and then take excess land on which there is gravel to use on their roads at the same price that they pay for going across ordinary land and make no allowance for the value of that gravel. Those are the things that the words "or damaged" — it is hoped you will see the justice of it, that you will see the fairness of it and that you will do what we are attempting to do, and that is to protect the private citizen.

CHAIRMAN YEAGER: The question is on the amendment of Messrs. Stafseth, Danhof, Allen, McCauley, Leppien, Seyferth, Karn, Binkowski and Staiger. The Chair will continue to recognize Mr. Mahinske.

MR. MAHINSKE: I would like to yield to Delegate Donnelly at this point for any further remarks she may have in opposition to the proposed amendment.

CHAIRMAN YEAGER: Does Miss Donnelly wish to be recognized now or in turn? You have asked for the floor later.

MISS DONNELLY: I had asked for the floor on the assumption that it was not to be yielded to me.

CHAIRMAN YEAGER: All right, you may proceed, Miss Donnelly.

MISS DONNELLY: We have heard considerable statements by the proposers of this amendment about how their language differs from the committee proposal. However, they have skipped a few things wherein they differ from the committee proposal. The main purpose, again, I would like to state, in the committee proposal was to unify the ways of handling condemnation. Their attempt to leave it up to the legislature will allow for, again, over 20 different ways of handling condemnations. This is the first problem that we were faced with when we considered testimony and as we looked over the statutes and the laws applicable to it. We felt this was very, very vital for everyone in the state, and to simplify proceedings and the practices of law in the courts or whenever the condemnation situation occurs.

They comment that their language does not differ from ours, except in certain instances; in other instances, where they did not comment on the difference between their language and the committee proposal, our language maintains that the money should be first paid or deposited into court. They say, first paid or secured in such a manner as may be prescribed by law. Secured in such a manner as may be prescribed by law, so far, has been secured in the hands of the condemning authority, not in the hands of the taxpayer or any person who may need it. They stipulate, on occasion they do pay 75 per cent of what they appraise the property for, to an individual if they must be removed off the right of way. However, this does not aid the individual who has found the property value at such a level that he cannot agree with what their first appraisal is. We have had testimony that property has been appraised at $25,000 where a person had an offer to purchase on it, a binding land contract, for $35,000. The amount for securing it or being paid into court are 2 different things. We say it should be paid into court or paid in hand before they can occupy the property.

The next thing they neglect to mention, very frankly, as is touched on by Mr. Mahinske, we provide that it shall be determined by a jury of 12 freeholders residing in the vicinity of such property. Now, we have heard a certain amount of crying about the taxpayers' money that is going to go for this. I want you to bear in mind the person whose property has been taken has been a taxpayer. I'd like you to also bear in mind that we talk about who is spending the taxpayer's money, a jury of 12 freeholders; freeholders must own property, they must be taxpayers, they must be spending their own money. So, I don't think we need to be too disturbed about what a jury, spending their own money, will do. We require them to be freeholders in the vicinity; they say just "jury."

Another situation we have pointed out in our proposal: that they shall be bound by the court's instructions. They have failed to touch on the fact that the court may instruct the jury that they must find necessity on the basis of all the evidence. They also have ignored the fact that the judge may either direct a verdict or order a judgment in opposition to the verdict returned by the jury. So, the issue of necessity is not too disturbing if there is evidence to sustain it. It will be within the judge's prerogative to handle it.

We have provided for waiver of the jury. If there is going to be no issue of necessity, if everybody stipulates that there is a necessity, we will have no problem in determining necessity, and you can waive the jury also on damages, if you wish it. We have also provided for a priority on the docket, which Mr. Mahinske has also mentioned. Priority on the docket would mean it would be up to the court individually to arrange the docket. This, in our opinion, will not interfere with criminal cases. The court may very well arrange its docket as to how it is going to handle this, and we think it should be left within the discretion of the court in that area.

I would like to also touch on the fact of "secured." Many people have had their property taken but they haven't received any money for months and sometimes even years. The issue is, what direction do you want to go? Do you want the property taken, used and removed from the control of the taxpayer, the owner, the occupant, and have, eventually, a jury 2 or 3 years later try to determine what that property looked like when the highway is rolling over it, or it has been completely rolled down? I submit that no jury can make an intelligent determination of any facts as to the value of the property the day it was taken if they can't see what the property looked like at that time.

CHAIRMAN YEAGER: Excuse me, Miss Donnelly. Would the committee please be in order. You may proceed.

MISS DONNELLY: Another issue that has not been touched upon under the committee proposal, it allows for a balance between public authorities. The way the amendment would read would be that any public authority would go ahead and determine their own necessity if they could get the legislature to pass this bill for them, and we have reason to believe that the highway department will definitely get this, and a few other people who have sufficient lobbying activities — as we are all mindful of the lobbying activities that have been going on around here for the last month on this issue — will have this bill taken and passed; but having further gotten this legislation through, they have not gone forward as to balancing the rights of the people in the issue. Their payment of delay — Mr. Stafseth said that the value should be taken the day of taking. Under present condemnation proceedings, according to the testimony we received and according to the statutes, the property is not paid for as of the day of taking, nor is the value determined as of the day of taking. The highway spends months and months and months and months negotiating. How they negotiate under the testimony in front of us is, they negotiate ideas. They do not negotiate money. The taxpayer or the property holder is told that they will give them X number of dollars for their property. If they will not agree on that, they just adjourn it over and wait and wait and wait until the time comes for the next hearing on damages in court. This issue is not raised at their necessity hearing, and the people are confronted with the fact that they may have gotten an offer or they got the property appraised 5 years, 3 years before it is taken, but the necessity hearing goes very fast when it gets started. The statutes require 7 days' notice, I believe, on this, but an individual may not receive this notice until the day before. When he tries to appear to be heard, he is confronted with the fact that he doesn't know what the issue is. His attorney doesn't know under which proceeding they are handling it, and it is a very, very difficult matter to adequately represent any human being on the issue of necessity in front of one of these tribunals that are the judge and the jury of what they are doing.

Now, certainly not all condemning authorities do this. In fact, very few condemning authorities have this manner of taking property. Wayne county generally involves the question of necessity and damages — except for the highway issue — are determined by jury, and we have heard much testimony from Judge Skillman and the other members of the bench who are involved with these cases on this issue.

Again, you have heard testimony from certain people who allege they were appointed attorneys and on the dates that they were, they have been 6 months involved. I regret that Delegate Binkowski is not here at this moment, but I believe on further examination of his record and his facts, you will find that he was not representing an individual citizen, he was representing the highway department in that instance. So, his speech is certainly for the highway department, not as a plaintiff's attorney.

Basically, the problem is: how many ways can we have condemning done? Is it a good idea to know how you are going to lay out a condemnation? Are you going to leave it to have 20, 30 different ways, as the legislature may design or lobbyists may secure, or are you going to go under a constitutional document to have them laid out generally so that everybody will know how condemning will be done?

The next instance would be, is it important for 12 freeholders to determine this, or should just anybody make this decision? Bear in mind, freeholders are property owners; they are the taxpayers.

The other issue that was touched upon was that damages may be for people 3 blocks away, 5 blocks away, 3 miles away. I submit the people that are disturbed about this don't have very much faith in a jury of freeholders who are spending their own money on this. They will listen to this testimony and they will make this determination on this. I can't believe that any jury is going to spend its own money that nonchalantly if the case is properly tried. In fact, I think you will find that it is certainly hard to get any money out of some jurors, particularly the further outcounty you go.

For these reasons, including many of the others that have been stated, the committee is very opposed to this amendment because we feel that it is not doing justice to the entire situation and the problems that we were confronted with when we started on this situation. The amendment leaves many disturbances that exist exactly as they now are.

CHAIRMAN YEAGER: The Chair would observe that many of you are about to lose your property, and we wish you would do it in order. The Chair would recognize Mr. Mahinske.

MR. MAHINSKE: I would yield further to Delegate Bledsoe at this point.

CHAIRMAN YEAGER: Mr. Bledsoe is recognized. It is very difficult to hear up front here, ladies and gentlemen. We would appreciate it very much if you would keep the conversation down.

MR. BLEDSOE: Members of the committee, I am not going to belabor this issue. It is getting late, and I see that a good many of you don't appear to be too interested. But I would like to call your attention, just briefly, to one aspect of this problem, and it is the aspect of this problem that has troubled — it has troubled the courts, it has troubled jurors, it has troubled citizens who have had to do with this problem.

When I was appointed and undertook to work with this committee, I communicated this problem to my conferees, and I found out that they, too, as a result of their experience, had been confronted with the same problem, and we are giving you that problem today, not from the condemning authority but from the people who have carried the burden of taxation throughout the years. Let me suggest to you, first, that the preamble of our constitution of the United States begins, among other things, with the general welfare clause. The philosophy underlying the general welfare clause gives birth, in my judgment, to condemnation proceedings because condemnation proceedings are contemplated on the theory that they result in the general welfare of all of the people involved. We must take into consideration, therefore, the involvement of taxation along with this great principle. Who bears the burden of taxation? The people.

Here is what happens, as a result of our experience, in the handling of condemnation proceedings — and these are the heartrending issues that arise because of the inequities involving condemnation proceedings, and I notice that the opposition representing the condemnation authorities came to grips with this. They object to this term "equitable compensation for the losses and damages suffered. . . ." That is the crux of this whole thing. We selected and we hit upon this word "equitable" because we couldn't find any better word in the law to reach out to include the people who suffered as a result of the inequities in dealing with problems of this kind.

I am going to give you an example: let's say that a piece of property is being sold under land contract for $10,000. The jury brings in a verdict stating that the property, based upon the appraisals, is only worth $7,000. Let's assume that the vendee or the purchaser of that property who is buying on land contract has a $7,500 or maybe an $8,000 equity in that property. This is the average homeowner, the little person who has been carrying the tax burden all the years, supporting the schools, supporting the public officials, supporting government. When the jury brings in that verdict, less than the amount of his equity, the taxpayer who has been carrying this burden is wiped out completely.

The condemnation authorities don't tell you about that fellow but there are hundreds of them, there are literally thousands of them, that have lived and carried the burden of taxation and supported your public schools, in those homes and within the confines and the curtilage of those properties. We have found them, through the years, the repository of morals, patriotism and thrift upon which our communities have grown and our government has become great. You find those people in the midtime of life. Some of them are retired and were it not for the social security, they would pick up their little bags and be on their way over the hill to the poorhouse. There are literally thousands of people that that is happening to, and especially in our areas where you have this avalanche of condemnation for public improvement.

I had an occasion this past week to talk to one of the local officials in the public school system in the city of Detroit, and I said to him, "You know, there is one thing that is troubling me tremendously. What is going to happen to the people when we are tearing down all of these buildings, running bulldozers and knocking these buildings down, and taking all of this property off of the tax rolls; what is going to happen to us? What is going to happen to the people who are left who must carry the burden when you are taking millions and millions of dollars off of the tax rolls that must be spread on the rest of the people who are left?" And I saw a smile come over his face. I was distressed. I was very distressed, and I am certain that there are many other taxpayers who feel that they must carry that burden because of this redevelopment theory that seems, in many instances, to be positively insane. Do you know what he said to me? He smiled and said, "Mr. Bledsoe, do you know that after we get through with these condemnation proceedings, rehabilitating this property, selling it and rebuilding it, it goes back on the tax rolls at 3 times its value, and in 2 or 3 years we will be rolling in money because we have gotten these people out of here." That is the other side of that picture. But what happens to that little fellow who has carried the ball all of these years? He is retired. He can't get work. He is on social security or he has no security at all. He is on relief. He can't buy a home.

Now, it was the subcommittee that went into all of these problems and the voice of the subcommittee is trying to reach out and secure help here for little people whose homes and total security is being taken away. I say to you, members of the committee, I am going to ask you — I could go on and on — we are hours late, I don't want to belabor you, but we have actually come to grips with the basic problem affecting the taxpayers. If you will just simply do this: just think that when we remove a homeowner, a taxpayer, the law says that he should be left in as good a position as he was before you disturbed him. He didn't offer to sell. He built that home for his family and he hoped and expected that he would go from that little fireside to his Maker. He didn't ask to be uprooted, but when you uproot him, you are uprooting one of the basic cogs in the economic factors of our society. So, let's not shed all the tears for the delay that the condemning authority might encounter and take a little time and a little patience to balance the equities. They are very important.

I must say in reply to Mr. Allen, because his was typical, he made mention of the parking lot taken for the city where the city had condemned property and put in a parking lot and that it affected some fellow down the street. Now, that is farfetched. Who will pass on that? We are only asking that a jury or the court — and either of these institutions will be in a position to render a verdict or issue or assess damages commensurable with whatever the loss is, but let's begin with that little fellow whose home is taken to put up this municipal parking lot that is going to make money for the city and deprive him of a place to live for the rest of his life. Let's think about him, because in 3 years after you take his home and build this municipal parking lot or take up his business, that parking lot and that business that the city has will be worth 3 times its value, both on the assessment rolls and on profits for somebody, but not for the little fellow that was uprooted. Let's think about him, and that was the thinking and the idea that the subcommittee on eminent domain had. That is the thing that bothered us, and that is why we came up with this little word "equitable." If you can think of a better word, a better tool that can be used to adjust the factors affecting damages to the taxpayer who has been carrying the load all these years, you come up with that word.

The condemning authority doesn't like it, but the courts can give the juries the necessary instructions to protect society in the rendition or taking into consideration the factors in arriving at a fair, just verdict that has been discussed here this afternoon. I support the committee proposal, and I thank you. (applause)

CHAIRMAN YEAGER: The question is on the Stafseth amendment. The Chair continues to recognize Mr. Mahinske.

MR. MAHINSKE: For the benefit of the laymen present, I would yield at this time to the one lay member of the subcommittee, Delegate Hood.

MR. HOOD: Mr. Chairman and members of the committee, when the accolades were given to Mr. Barthwell 3 or 4 weeks ago because he was exposed to 14 lawyers and himself only; I was only about 1/3 exposed to that, because you can understand, from hearing what the other 4 lawyers have said, what a position I was in, but I rise to support the committee proposal.

It is true, we did have a lot of hearings, and some of the things we found out about the problems that our citizens were confronted with is the reason why we suggested the language that we are bringing to you today. This is the one area in which, as Delegate Bledsoe has said, I was surprised to know some of the abuses of an agency, some of the state agencies, some of the city agencies, and, indeed, some of the county agencies in terms of where the little people were involved. This is why I was so concerned about the language; and the lawyers themselves, with the support of myself, worked out the language as we are presenting it to you today, and we hope that you support the committee proposal and we are definitely in opposition to the amendment.

CHAIRMAN YEAGER: Mr. Mahinske.

MR. MAHINSKE: I further yield to Judge Pugsley at this time.

CHAIRMAN YEAGER: Mr. Mahinske yields to Judge Pugsley.

MR. PUGSLEY: Mr. Chairman and fellow delegates, something was said a few months ago about the luxury of resting in green pastures and keeping the cow chewing her cud rather than taking an active part in this convention. I have been restrained somewhat because I have heard some of the delegates complain that some of the members were afflicted with what they have sought to term "lawyeritis." Perhaps you have heard too much from the lawyers. I hope they haven't all talked in vain. As you know, that is the nearest definition of my present status, because as a jurist I at this time am very much of a hasbeen.

Coming to the point under discussion, let me preface it by saying this: the field of eminent domain, and everything that embraces it, is very much allied with what the courts are called upon to do, and that is to perform a part in the administration of justice. We have heard remarks here today, including appeals from the taxpayers' standpoint, and we are quite in sympathy with those ideas because we all dislike very much to see the taxpayers' money wasted or expended when value in turn is not received. We are also interested, I think, and quite as essentially so, in the rights of the property owner. We must also bear in mind that when the right of eminent domain is exercised, it implies the right to the public, for a public use, to take away from another property owner property which he did not voluntarily seek to part with, but which he is compelled to release his interest in because of a paramount interest of the public. But, I do not believe that we are ready to subscribe to a principle or to write into the constitution of the state of Michigan a policy which will permit abuses of the party who is somewhat helpless in many instances.

I might talk, at some length, because in this field of eminent domain I have had some experience, both as a practicing lawyer before I went upon the bench and as I have been called into eminent domain proceedings of counsel since I retired from the judiciary. I could talk at some length, if time would permit, but I would not bore you with a relation or a recital of my own experiences, except to illustrate one or two instances. There is one thing I think you should take notice of in the committee proposal, and that is the fact that in the committee proposal there is included a recognition of the rights of parties who may not have been made parties voluntarily to the proceedings. I have reference to that language at the end of the committee amendment which reads, "Provided however, That all parties who have sustained damages by the exercise of such power shall have the right to intervene in the hearings to determine damages and compensation."

Last week in this room one of the pages called to me just before the afternoon session convened and said there were parties sitting in the gallery who wished to talk to me. I crossed the room and there I met a young man and his wife who were in Lansing that day because they were parties to a suit pending in the supreme court and they left this room to depart from here to the capitol to listen to that proceedings. The facts are quite in point here at this time. This young man was a leasehold owner of property which was taken in the construction of highway 94, super highway 94 between Detroit and Chicago. He leased this property for the purpose of growing strawberry plants and at an expense of $10,000 he had an interest in that property. Condemnation proceedings were brought against the owner and as a result of these proceedings compensation was awarded to the owner, but this leasehold owner was told that he had no rights in this case and his attorney was here with him in the supreme court in an effort to obtain recognition in those proceedings. I mention this because, to me, it points out a situation which should not be ignored, and I believe that these proceedings in eminent domain are just as important as lawsuits in which we have rules of law and procedure which permit any person who is interested in the subject matter of the litigation, by proper proceedings, to intervene and to have his day in court. There is no such proceeding provided for in the amendment on the board, and I think that that is something that should not be overlooked.

I could talk for some time. In the amendment there is no provision which attempts to define procedure in these proceedings. I realize that we cannot include a lot of legislative matter which lays down rules of procedure, but nevertheless one of the things that has brought the most criticism to the present condemnation proceedings is the fact that when juries or commissioners are impaneled, the judge goes on about his business and the commissioners and the jury are told that they are the judges of the law and the judges of the fact, and they proceed with their deliberations with little or no attention paid, in many cases, to proper rules of evidence. The judge, if he gives them advice, also tells them that in the last analysis they are the ones to decide the law as well as the facts.

So I say to you in conclusion, my friends, I don't want to talk too long but I am very much in sympathy with the spirit of the committee proposal and I feel that we would fall far short of making the provision and the protection which I think we should write into this constitution for property owners if we adopt the amendment which appears on the board in front of you. I thank you.

CHAIRMAN YEAGER: Mr. Mahinske.

MR. MAHINSKE: In conclusion, I would just like to repeat that the amendment to the committee proposal does not set forth any absolute guarantees to the property owner. The committee proposal does guarantee that there will be a jury, does guarantee there will be a judge who can control a jury, does guarantee that all parties, including the condemning authorities, shall have the right to review; it does guarantee that the jury shall come from the vicinity of the property that is taken; and I think that when we are talking about, in the overwhelming majority of cases, action that is involuntary on the part of the property owner, that the least we can do is to write into the constitution certain minimal guarantees for the protection of his rights that he should have, without which, if you adopt the amendment as proposed, there is absolutely nothing specifically guaranteed to the property owner. On behalf of the subcommittee, we recommend that you reject the amendment to the committee proposal.

CHAIRMAN YEAGER: The situation is this at the moment: we have had quite a bit of debate. The question is on the Stafseth amendment to the committee proposal, as amended, and the Chair will recognize Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, I would like to ask Mr. Stafseth or one of the proponents of that amendment 4 questions, if I may.

CHAIRMAN YEAGER: Will you state your questions.

MR. W. F. HANNA: Mr. Chairman, Mr. Stafseth, in the amendment as I see it on the board you have 2 alternate means: one is trial by jury; one is a commission of 3. Who makes the election as to which method you shall proceed under, the condemning authority or the person whose property is to be taken?

CHAIRMAN YEAGER: Mr. Stafseth? Mr. Staiger wishes to answer.

MR. STAIGER: Mr. Chairman and Mr. Hanna, this would be spelled out by the enacting legislation by the legislature. They may set up an alternative means which the condemning authority — such as, now, the road commissioner has the choice of either going under the act which provides for a 3 man commission or going under the jury system. But this question would be left up to the legislature and their enacting provisions.

MR. W. F. HANNA: Mr. Chairman, Mr. Staiger, your words "as prescribed by law" then go to more than the 3 commissioners appointed by a court of record?

MR. STAIGER: Well, this whole provision will have to be implemented by legislation, so if it isn't specific "as prescribed by law," it certainly will take implementation to set up the exact procedures you have now.

MR. W. F. HANNA: Well, Mr. Chairman, Mr. Staiger, the legislature could give the option of the proceeding to the condemning authority and not to the person whose property is being taken?

MR. STAIGER: Yes. I think that they probably could. I don't know if they would but that is the practice right now. In fact, under the present acts a city or a road commission — I think there are probably 3 or 4 different acts that they could choose to use when they wanted to condemn property. There are a number of acts of the board that are on the statute books, as you know; much duplication. This at any time could be corrected by the legislature — probably should be.

MR. W. F. HANNA: Mr. Chairman, my second question to one of the proponents —

CHAIRMAN YEAGER: Whom do you wish to answer?

MR. W. F. HANNA: I will ask Mr. Stafseth and he can pass the ball as he sees fit. The question is whether or not it was intended by this or later amendments to prescribe any qualifications for the commissioners, such as requiring them to be attorneys at law, or are they to be as presently constituted, or could they be 3 laymen appointed without qualification?

MR. STAFSETH: Mr. Chairman, Mr. Hanna, no, there wasn't any intention to qualify what the 3 commissioners should be. I might say one thing: as far as I am concerned, I hold no strong brief as to this provision which would call for not less than 3 commissioners — that is myself, personally. However, the utility companies and the highway department would very much like this, so that is the reason it was in the amendment.

MR. W. F. HANNA: Mr. Chairman, question number 3: in this amendment or in any subsequent amendment to the committee proposal that you intend to submit, Mr. Stafseth, do you provide that the compensation will be paid before the taking is completed or can they continue the practice now of making the taking and determining the compensation afterwards?

MR. STAFSETH: Well, the intent here is spelled right out.

It says in the fourth line, ". . . just compensation therefor being first paid or secured in such manner as shall be prescribed by law." It is intended that you have your hearing, whether it is by the jury or by the commissioners, to determine how much this value is and if the person refuses to take it, then you could secure, probably, with the court and go ahead and take it; but you first determine how much. It would change the present practice; in fact, the intent of this was to put the highway department on the same footing with everybody else.

MR. W. F. HANNA: My fourth question, Mr. Chairman and Mr. Stafseth: do you have any objection to Don Lawrence's statement of the measure of damages of being put in the same position as you were before the taking, as distinguished from the willing buyer-willing seller rule?

MR. STAFSETH: Would you repeat that question again, please?

MR. W. F. HANNA: Do you have any objection to spelling out the different damage rule as proposed by Mr. Lawrence of putting you in as good a position as you were before the taking, as distinguished from the willing buyer-willing seller rule?

MR. STAFSETH: I don't know whether I can answer that question exactly. I may have to yield to one of the other proponents, but my understanding is that a man should be left whole. I mean, this has been clearly established in our supreme court as to a definition of just compensation, that actually the way you evaluate this, you take the property at the time it is taken, how much it is worth that day and then you take and evaluate what the property is worth after you have taken away the part that the public agency shall use and then you compensate him for that amount so you leave the man whole.

MR. W. F. HANNA: Mr. Chairman and fellow delegates, if it is intended by this provision to continue to allow the legislature to provide that the condemning authority shall select the forum and the statute under which you are to proceed, it would seem to me that this is highly objectionable and should be corrected, either on the floor or by the proponents of this amendment.

Two, if the commission system is to be followed as one of the optional methods, then these commissioners should be attorneys at law and there would be good reason for having a bank of 3 attorneys listening to this case to be appointed by the court in lieu of a trial by jury in order that the hearing could be expedited.

The third thing that bothers me about the present condemnation, and the answers I've gotten here do not correct this matter, is that if compensation is to be determined after the taking — under this language on the board, it says that it will be paid or secured — and under the language "or secured," the legislature could simply pass an act saying that the highway commission is a solvent corporation and upon their filing of a statement that they would pay just compensation, it would be secured, the property could be taken. But there is a practical problem. That is, when you sit on one of these commissions you are asked to determine fair value. If this takes places after the taking, you go out to look at the property and it is cut with highways or rubbed out; the property is not intact, you have no way of knowing what the property looked like prior to the changes or prior to the taking. It seems to me that the determination of fair value, at least in the first instance, for the defendant, as far as his ability to be heard before a court, should be done before there is any taking and I do not see that this language answers this problem. It seems to me that if his security is to be posted, it should be posted like in any other civil case. It would be simply posted on appeal, and the trial then could be on the record; but to view property after the condemning authority has moved in and scratched the earth, it makes it impossible for the commissioners. I cite this from experience because it has been my experience that it is very difficult to visualize what the property looked like after a bulldozer and earth mover has dug a ditch across it.

CHAIRMAN YEAGER: The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I am glad that I am following Mr. Hanna because I think some of the questions he raised are good questions. I would like to start off then by answering, in my way, some of the questions he has raised. First of all he, either directly or by innuendo, has criticized the idea of the use of 3 commissioners. I think that many, if not most of those who have operated under the jury system and under the commissioner system would agree that at least in as many cases as not, as good awards are returned by commissioners as are by juries.

Secondly, he is worried about the payment or securing of all of the compensation before the taking. I am a little afraid that the present language — although I am supporting the Stafseth and others amendment — I am a little afraid that this language would leave the right of appellate blackmail open as presently exists. I use this term with a great degree of hesitation because, basically, I have always represented land owners in connection with this taking. I know that I have used appellate blackmail. This, I think, is not good. Sometimes we have to be fair in the handling of these cases and I think that although I have used this tactic, it is not good.

Mr. Hanna has also criticized the present rule of the willing seller-willing buyer as the measure of compensation. Of course, this is really a rule that has been established on the basis of making the land owner whole after the taking. I think it is unfortunate that this rule has come about. I have some criticism of the rule. I think maybe the reason why I think his question and his criticism is well taken is that if we use the same words "just compensation," very likely this might mean that we are not making any change in this area, but I certainly do not think that we should write into the constitution a measure of damages such as the legislature would in its implementing legislation.

I would like to suggest to Mr. Hanna too, and agree with him to a great extent, in the matter of breaking up land before compensation has once been determined. I would say to Mr. Hanna, however, that an amendment is on the secretary's desk that will be added to this language, if this language is adopted, which will provide the very thing that he has suggested; that is, that the necessity of taking having once been determined, the compensation that shall be paid or secured shall be that compensation determined by the jury of 12 or 3 commissioners even though an appeal is pending, and that upon the payment for the securing of such compensation, that the condemning authority may then occupy and use the land even though an appeal is pending. But at least the land owner in this case would have one day in court. I think the present practice is not good in that the land owner has no day in court. The determination of necessity has been somewhat artificial or superficial in this area, and if he doesn't have his day in court for the determination of compensation before his land is occupied and used, he doesn't have an opportunity to have that appraisal, to have his side of the case, as far as concerns compensation, put before the commissioners, and the only way his appraisers can then check the property is to go out after the highway commission or somebody else has gone in and severely disrupted it, so as not to be able to permit a proper appraisal of the land as it existed prior to the taking.

And so, I would support — as I say, I am a little bit out of character in supporting the Stafseth amendment because it doesn't go as far as the committee proposal does; there is no question about it. But, after all, if we are going to wear lapel pins and say, let's keep Michigan marching forward, I think we can't put in language that is going to practically impede progress in this area.

CHAIRMAN YEAGER: The Chair would advise that there are 6 speakers waiting and we have 2 amendments to the amendment plus one further committee amendment. The Chair will recognize Mr. Stafseth.

MR. STAFSETH: Thank you, Mr. Chairman. First I would like to repeat something I said when I started. This is more or less the core. In other words, this is something to start with, and there may well be some good amendments, such as the Garry Brown amendment, to implement it.

Now, relative to the compensation, "and just compensation therefor being first paid or secured in such manner as shall be prescribed by law," it is intended that this should be determined before the property is occupied.

As to the question that Mr. Mahinske raised as to a bill that was proposed in the senate relative to condemnation, in citing some of the irrational thinking that was in this bill, I think you could take any controversial issue in this constitutional convention or any other place and go over to the senate and pull out a bill that hasn't passed and find it suiting a very irrational condition, and because of its irrationalism wouldn't be passed, and I don't think this is real evidence as to what the legislature is going to do in the future. This basically puts the highway department on the same footing as all other condemning agencies.

Mr. Mahinske brought up the fact that the highway department has never been denied necessity when they have asked for it. This is very understandable because in my experience, and I have never had to resort to condemnation, I have bought a lot of property. I have done it through negotiation. I have found that when you start a project, any construction project, you buy from 80 per cent to 90 per cent of the land without too much trouble, but there might be 5 or 10 per cent where you have a lot of trouble. The mere fact that you have paid X number of dollars — and this may be a very large sum, along one location, certainly I don't think any court would throw out necessity and throw away this property that has been purchased. So, for that reason, naturally they will go along with the highway department and declare that it is necessary.

As to the words that exist in the present constitution which the committee report has relative to the 12 freeholders residing in the vicinity of such property, as I understand it this has been interpreted by the courts to mean residents of the county. Well, the courts are in the county. It is any residents within the county, so I don't see any necessity of having to put that language in this amendment.

As to their suggestion of having this having a priority on the docket, I can see all kinds of problems. I think it would be nice to have priority on the docket, but I could see where it may cause quite a problem upstate and it may cause a problem someplace else. I think the court could work this out, so I don't think it necessarily has to be mentioned.

There is one other thing I would like to say, and I would like to repeat this: if we are going to take care of our driving public, I cannot see how we can go ahead and build limited access highways in order to take the high volume of traffic we have today. For instance, in the Detroit area the 6 lane divided expressway or depressway or whatever you want to call it will handle about 50,000 or 60,000 cars a day or higher, and you can go on down to different levels of roads. With that volume of cars you have to have a safe facility, and to have a safe facility you have to make it a limited access highway. There is no question in my mind that somebody is going to be inconvenienced by the very fact that you build this limited access highway, and if they are inconvenienced I certainly would view with some reservation or quite a bit of reservation that if you have any statement to the effect that they can intervene in the case of just compensation and make a claim, that we are going to have a whole series of additional cases coming into a condemnation procedure.

Now, relative to the statements of Judge Pugsley, as I understand the condemnation statutes today, they spell out the damages that shall be paid to the owner and occupant. I think that in this particular case — and I can cite a couple of cases that have been cited to me — that there is a provision, if it is presented properly, to take care of an occupant. In this case there must have been some exception so that they couldn't have it, so that the occupant and the property owner can receive damages, and as I understand it, it is up to the jury or whoever is hearing the case to make this determination. I think that takes care of my statements.

CHAIRMAN YEAGER: The Chair will recognize Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I have listened with great interest to this debate and have tried to maintain an open mind and make up my mind as we went along. I am not a member of the committee. I have not handled condemnation proceedings. It seems to me that it boils down to this: I think the issue here is: 1, no one questions the propriety or the necessity of the right of eminent domain; 2, no one would argue that this right of eminent domain is based on anything less than the proposition that damages should be paid; 3, no one would argue that the right of eminent domain is based upon public necessity. It follows that what we all want to do, I think, is to provide a fair means of determining what the damages are and whether or not it was necessary to exercise the right of eminent domain. Anything less than that would not, in my way of thinking, be in keeping with our way of life.

Certainly I would support any perfecting amendment which would cut out the time delay; I think that the committee amendments have gone a long way in that direction, and I think there is room for more improvement. But when anyone says that in order to be fair we must pay more for our roads — when anyone makes that kind of an argument, I get a little sick to my stomach. If I am an attorney and you come to me and you have been injured in an automobile accident and your damages are $100,000 — and this is very conceivable — I am not interested in an argument that the other fellow can't pay, or this is an awful burden on the insurance company. When workmen's comp first came into law, a noted jurist said — and, of course, there were cries at that time, "Oh, my goodness, this will put us right out of business." A noted jurist said that the price of the product must bear the cost of the workman's blood — and it has down through the years — and we are still in business. A supreme court decision only 3 or 4 days ago said that "Airports or airlines are liable for damages caused when they fly over property." Maybe some of us think that this was a new principle of law, but it wasn't. It was just a restatement of an old principle. It has never been out of style that I know of.

What we are talking about is fundamental to our way of life. Once again, we are talking about the rights of the individual versus the powerful collectivism of the state, and once again I find myself compelled to advocate the true position of the conservative. I find that I must defend the rights of the individual. This is not the time nor is this the place, my fellow delegates, for expediency, for Castro type land reform legislation, for mistrust of our historic jury system, for expansion of collectivism. In our society we cannot distinguish between property rights and human rights — civil rights, if you please. If you damage a man you must pay him. It is no defense to the charge of manslaughter to say that you didn't know the fellow had a thin skull. You strike him at your peril. The mill of justice grinds slowly, it is said, but exceedingly fine. If this is a way in which we can speed up the process of justice, I will support it, but the grist which comes out the other end has got to be fine or I don't want anything to do with it.

CHAIRMAN YEAGER: The Chair will recognize Mr. Iverson.

MR. IVERSON: Mr. Chairman and members of the committee, the few words that I am going to say are a slight review of a case that I have personal knowledge of and am still handling, and bear in mind that in the position that I take in this matter is not in the least going to affect this case, but it leads me to the belief that I must support the committee report. Some time last year on Telegraph road, under the present methods of procedure by the highway department, they arbitrarily took some 13 feet from in front of a valuable property of perhaps over $½ million without having taken any proceedings to determine necessity. They shut the man's property off, raised the grade about 4 to 5 feet in front of his property, a large motel. The traffic, since the new road has been built, runs smack past the windows of the motel. Every time it rains it runs a stream down the front of the motel, creating — it is a ditch and only one month ago did they make a wholly inadequate offer for the actual amount of the land taken, and only 10 days ago did they finally come to the conclusion that they had better have a hearing of necessity, and they did; and as you all know, it was a mere perfunctory proceeding handled, as has been indicated here, by a member of the highway department.

I say to you that in this situation where this man has been damaged, not only by a complete change in his property, but by the taking of his property and by the damage to his building itself, in the process of taking the property and building, where practically every room in the motel was cracked from one end to the other, I say it is about time that we take some action here to see that the highway department and others who exercise this authority are required to see that the rights of the individual people, the taxpayers in this state, are protected. I am against this amendment. I am for the committee report.

CHAIRMAN YEAGER: The Chair will recognize Mr. Gover.

MR. GOVER: Mr. Chairman, fellow delegates, Mr. Lawrence and others have said most of what I had written to say in the time that they spoke, but I just wanted to speak out that in our local government committee I was chairman of the subcommittee that has concurrent jurisdiction with the eminent domain committee, and I attended these hearings in Detroit, and some of the things that particularly bothered me were the facts of taking the property after an appraisal has been made, maybe waiting 6 months, maybe longer to make a second appraisal before the persons could be paid. They brought out, down there in one of these hearings, that there was an apartment house in line with one of the highway projects. The first appraiser went out and made an appraisal of $60,000 for this apartment house. Immediately the tenants in the apartment house found that the highway was coming through that way. They moved out. In the dark of the night vandals went in and stripped this apartment house of everything — windows, doors, wiring, plumbing, heating — took everything they could possibly take out of that apartment house. About 7 months later, the state agency got around to make the — or the condemning authority, I should say — got around to make the second appraisal. The second appraisal was for $16,000, a depreciation of $44,000 in the value of that piece of property. The owner finally went into court. They did get the settlement of $50,000, but even then they lost $10,000 over the first appraisal.

I also had thought to bring out the point that Mr. Bledsoe brought out about the people who had homes, who couldn't get as much out of them as the mortgage or land contract showed that they owed. To me, like Mr. King says, this is a civil right that the home owner and the property owner should be protected with, by having adequate constitutional guarantees that they will be paid in proportion to what the property is worth. And, as far as concerns negotiation — as some of them have said that the people do when they go out to offer on a piece of property — negotiation, to many people, doesn't mean anything. It means: well, we will offer you X dollars for your piece of property. Take it or leave it. This has been done a number of times.

I know of a man who has an orchard. This orchard is about 20 years old and just nicely getting into bearing. They needed a corner of it for a highway, 4 acres to be exact. They didn't negotiate with him on that at all. They said: you will take X number of dollars for this piece of property and like it. They offered him for that piece of property, for those 4 acres of that orchard, the price of the land and one year's crop of the orchard, even though it would take 20 years to bring that orchard back into bearing. Is one year's crop enough for the man's damages on the property? He was willing to negotiate for a reasonable amount but they said it was X number of dollars, take it or leave it.

To me, this idea of putting the judge into this section so the judge can instruct the jury of 12 seems like an awfully good thing, and I think that we have got to have something in this like we have in the committee proposal so the determination of necessity will be there and they won't take a lot of extra land and try to make a profit on it, like Mr. Bledsoe spoke about in his talk. To me, many of the condemning authorities exert too much power and are too arbitrary in their discussions. I oppose the amendment and support the committee proposal.

CHAIRMAN YEAGER: The Chair will recognize Mr. Allen.

MR. ALLEN: Mr. Chairman, I am sure that with so many speakers and so many issues being discussed, maybe some people are a little confused on this. Now, let me try and straighten out the issues, first of all, before I talk on them. I think it will bring some clarity, at least I hope it will, to say that we have some minor issues and we have 3, I believe, major issues. The minor issues I think we can straighten out, one way or another, by a perfecting amendment, if it is necessary. But the major ones involve a real determination by this committee.

For example, on the minor issues I would say Mr. Mahinske pointed out that our amendment doesn't say anything about priority. Well, if we need it — and it may be a good idea — that will be very simple to add. Another minor issue is that our amendment says nothing about the jurors living in the vicinity of the property. If we need it, we can add it. I think, as a practical matter, they will come from the county or the circuit, at least the county in which the court is sitting. Another minor matter is that our amendment says nothing about review being guaranteed. Well, frankly, under our rules of procedure and court system there is review, but if you want to make it definite, you can write it in. Then the problem Mr. Gover spoke to, about the jury being bound by the court's instructions, if you have a judge; well, we can write that in if it is necessary.

It still leaves us with 3 real big issues that are wrapped up in our amendment and are wrapped up the other way in the committee proposal. Now, what are these 3 real issues? The first real issue we have is whether or not we shall continue to have the jury or the 3 man board or whatever it is predetermine the necessity and write that in the constitution, or whether instead we will do as the amendment proposes, that we will have the question of necessity determined as provided by law. In other words, we would say the question of necessity could be made, by the legislature, a court matter or a 3 man commission matter or it could not, or it could be with some qualifications. But the committee proposal writes it in as a matter of inflexible constitutional law that always the question of necessity will be predetermined by the body that determines the damages. That is one real fundamental choice we have to make, and I feel that the committee is wrong and the amendment is right. Why do I feel this way? We have 50 United States and 49 of them do the thing that this amendment does. One, Michigan, does what the committee proposal does. We are the only state in the union where by constitution we have the question of necessity determined by the body that determines the amount of damages, and I don't feel, as a matter of constitutional law, that it is well to write that in because I don't think we can stand here and say that in 49 states of the United States people are being unfairly treated in matters of condemnation, but only in Michigan on the question of necessity are their rights protected. I think they can be protected and perhaps better protected if we leave this matter of necessity up to the legislature where there is some flexibility. But whether you believe with the committee or whether you believe with the amendment, this is a fundamental choice that we have to make.

What is the other important major decision? The other important major decision is whether we are going to limit condemnation hearings to a 12 man jury court system — and of course this can be waived as provided in the committee system — or whether we are going to have this or something like a 3 man commission and leave it up to the legislature to make the decision of which shall be used. I don't know how many of you know it, but condemnations by a city, by a municipality, are all made under the court system. Those of the highway department may be made under the 3 man commission system. You have heard some testimony here that maybe you are getting quicker and better results under the 3 man commission system, and therefore I would say that we don't have to limit all condemnation determinations as to damages to the court-jury system. Let's get some flexibility in it. We who offer the amendment want the flexibility; the committee gives no flexibility. But whichever way you feel on it, it is a major decision for this convention to make.

Now, the last major decision is this question of damages. The amendment keeps the damages determined — that is, the amount of damages, on the standards which we have had before. That is, we treat damages in terms of damages to the property that is being taken, but the committee proposal — and I wonder how many of us appreciate this — introduces a new concept into the Michigan law. It not only will pay damages as fair damages, just damages to the property being taken, but it introduces in the constitution — and I underline the words "in the constitution" — the new concept of paying damages to other people's property, to property that is not being taken. And I thought Mr. Lawrence did a good job in reciting the constitution of Texas and the other constitutions where this concept comes in.

I think we have a fundamental choice here. Do we want, in our constitution, to broaden the general rule of damages in eminent domain cases so that it includes more than the property being taken? It includes property of 2 blocks away, 4 blocks away, 2 miles away. I don't know where you draw the line. Or, do you want to keep it to the property that is being taken? And I would like to point this out in answer to Mr. Lawrence's argument, which I thought was good: I am not an authority on all of these other constitutions but I notice, from reading what you read, Mr. Lawrence, that, unlike what the committee has done in this proposal, in these other states, first the phrase is "compensation and damages." Now, here we have got something more in the committee proposal. We not only have compensation and damages, we have "equitable," and we have the word "losses." We introduce a lot more than these other constitutions. Secondly, and I think that this is important, these other constitutions seem to make the rule that if someone else is hurt — other people's property, property not taken is hurt, loss sustained — they may sue in a separate civil action. But, you see, the committee proposal has rolled this all into the condemnation hearing. The committee proposal allows, in the taking of the property, the determination of damages on the property taken, all the neighborhood that feels that it is aggrieved to come in and be a party to this case; whereas, the Texas and Illinois constitutions treat these as separate civil suits.

I think we would make a great mistake in our constitution to broaden the rule to include losses to property that is not taken and make it a part of the condemnation hearing, rather than having it as a separate suit. We can, by statute, have people bring suits in Michigan whose property is damaged or where there is loss, even though it is not taken; and Michigan has done this in some cases—maybe not enough—by statute, because I have here, as one example in Michigan Statutes Annotated, section 9.1149, a provision that any one whose property is left sort of high and dry on a grade separation crossing—his property is not taken, it is next door — he may come in in a separate suit and receive adequate compensation for the loss, and we can do that with these other people who may be suffering a loss. But the committee proposal, you see, puts this all into the condemnation hearing. It slows it up and I don't know how long it will take for a determination to be made. I think if we are going to broaden our rule, we ought to treat it separately, as a statutory matter; or at least, if you don't do that, that you ought not to make it a part of the taking because we are talking about the taking of property and we are talking here about eminent domain. I don't think we are going so far in this as to talk about separate lawsuits for other losses, and you put a very great burden on the — when I say the cities, I don't mean city hall, I mean the people who live in the city and have to pay; I mean the people who have to wait for a public improvement, the people who will be benefitted by a public improvement.

If we keep these 3 issues in mind, these 3 major issues, I feel that the amendment proposed is on the right side of these 3 issues. But whether you think we are right or wrong, I think you better keep in mind that these are fundamental decisions and you should keep in mind, really, what you are doing if you go with the committee report. I feel we will be better off, we would eliminate a lot of trouble, we would still leave people protected, if we will go along on these 3 issues, these 3 major issues with the proposed amendment; and on these minor ones, if you want, we can pick them up with perfecting clauses and clear up these minor issues.

CHAIRMAN YEAGER: Ladies and gentlemen of the committee, with your kind indulgence we are going to try to finish this section before we recess for dinner. We have 2 speakers to recognize on this amendment, and we also have 3 amendments to the amendment in addition to a committee amendment which adds a paragraph at the end. Mr. Mahinske and Miss Donnelly have both asked to be recognized. The Chair would like to ask them if we could present the first of the amendments to the amendment before recognizing them..

MR. MAHINSKE: Mr. Chairman, I don't think we have any control over that. That has priority.

CHAIRMAN YEAGER: The amendments to the amendment — you asked to be recognized before the amendments were filed and we were trying to finish the list. We would like to start on the amendments to the amendment and then give you ample time to speak at a later time, if you have no objection.

MR. MAHINSKE: Well, frankly, so much has been said on the amendment itself, without bringing up the amendments to the amendment, I feel compelled to respond to some of them.

CHAIRMAN YEAGER: You may proceed, Mr. Mahinske.

MR. MAHINSKE: I will start in the reverse order here, with Mr. Allen where he mentions that we have many minor problems here, one of them being the right of appeal. Frankly, I would say that I would rather not buy anything with the stipulation that we will amend it and perfect it in the future. Let's amend it and perfect it now and then vote it down.

As far as Mr. Garry Brown is concerned, he also got involved in this appellate blackmail proposition here. I take it he is against appellate rights to either side, either the condemning authority or the property owner. I think before we can thoroughly discuss this matter we would have to see how the proponents of the amendment want to amend their own amendment here. I have copies of the amendments to the amendment and I think that it is becoming obvious that the amendment, as proposed, is quite weak. It is wide open. It just doesn't do what they claim it is going to do, and this is quite obvious. That is why these amendments to their own amendment are being offered now, and I think possibly we should take them up and see what we are trying to defeat here or what is trying to be put in place of the committee proposal, and I would yield at this time to Miss Donnelly.

CHAIRMAN YEAGER: Miss Donnelly is recognized.

MISS DONNELLY: We have heard a lot of testimony about who wants what and why, and I thought it might be informative to some of these people of the committee who were not able to listen to the testimony given before our committee. On page 6 of the transcript prepared for us under the discussion and the testimony of Mr. Mackie before the committee:

> Mr. Mahinske: Which retains the use of the commissioners rather than a jury trial?
>
> Mr. Mackie: Well, we are not particularly concerned about any change there, whether it's jury or commissioners. We're concerned with the time element involved primarily, and each of the 3 points I raised goes back to the time question.

Then he goes into a distinguishment of titles, and we are passing on titles and the recording of deeds, and what have you. Then on page 27:

> Mr. Mahinske: Now, going back over your testimony, from what I gather your real basic objection is not being able to determine necessity by yourselves because you have mentioned that you do not object to the juries coming in here, and I think that what we're really talking about is the abolition of the commissioners in this case. This is probably what your real objection is. Do you object to a judge presiding over these cases?
>
> Mr. Mackie: From the point of view of the delay involved. By going into a civil court I suppose the necessity would have to go on the docket along with the rest of the cases and it conceivably could be months before necessity was even argued.
>
> Mr. Mahinske: But in your jury cases that you have now, do you feel that the time element would be cut down in those jury cases with a judge presiding and ruling on evidence —
>
> Mr. Mackie: I personally would have no objection either way, whether it were a commission appointed or a jury to determine damages.
>
> Miss Donnelly: But you object to a judge?
>
> Mr. Mackie: Doing what?
>
> Miss Donnelly: To the requirement that a judge be present in these proceedings?

Mr. Caruso then interrupts an answer from Mr. Mackie, as the attorney representing him:

> Mr. Caruso: No. I don't object to that at all. I don't believe there is any objection to a judge sitting. The only objection as far as having this case tried as any other civil cause, where you have a jury and a judge sitting as to both necessity and damages is the matter of time, because, as we all know, the dockets are very crowded. To bring this in as any other cause when we have the necessity question to be determined in that manner, this would delay things

considerably. I don't believe the commissioner means that he insists upon making the determination of necessity himself. I don't believe he'd have objection to a jury making determination of necessity as long as it is a judicial determination wherein he would have to follow the regular docket progress.

Mr. Mahinske: Then you wouldn't object to going to the head of the docket?

Mr. Caruso: If we could be heard. As I say, all of these cases in a particular county, I could conceive one judge sitting for several months on various condemnation matters.

Mr. Lawrence: Isn't it true that you take several months to determine where the highway is to go? Sometimes longer than that?

Mr. Caruso: Yes sir, that's true.

I just wanted to read some of this excerpt of the testimony that we have had in front of the committee. If anybody wants to recheck the transcript, I have on my desk 2 copies which are available. They have been typed.

I submit that you have heard a lot of testimony about what people want and what people don't want, but this is the testimony the committee heard. We object strenuously to this because we feel that: 1, there is a lot of misrepresentation going on; 2, there is a lot of injustice going on if we continue under this the way it is proposed at this time; and 3, it allows for the main thing we wanted to correct: for the legislature to continue having 20 or 30 other ways of condemning property and not a unified system that will take care of all these condemnation cases generally in a few, simplified statutes the people can understand.

CHAIRMAN YEAGER: Mr. Mahinske yields the floor?

MR. MAHINSKE: I was going to make the 2 points but Miss Donnelly has just made them, that even up to today nobody is fighting a life and death battle for the commissioners. Absolutely no one is insisting on the retention of the use of commissioners in place of juries. I would also point out, as the transcript indicates, that the state highway department is not opposed to using a jury system, and it is not opposed to using a civil law type of jury system with a judge presiding.

I would also like to point out at this time, because I have indications that some people are relying on this as to how they will vote or what their stand is to be on this, and I think all the delegates received an item through the mails that was headed:

> Released Saturday, 2-7-62, at 6:00 p.m., joint statement by Mayor Jerome P. Cavanagh and the state highway commissioner opposing the proposed changes in article XIII of the state constitution.

When I read this I was more than just a little chagrined about what was said in here because, primarily speaking, this is not true. Many of the statements made here have absolutely no foundation for them. We have not been swamped with telegrams from mayors all over the state, and city attorneys all over the state, and letters objecting to our proposal. We have received 2 pieces of correspondence that could be directly related to this letter here that did object in one vein or another to what we were doing, but not in total to what we were doing. Also, I checked further and I found out that this was not a release from the mayor of the city of Detroit, but this was a release from a member of the state highway department, not in Lansing but someone in the local area of Wayne county. In the event that any of you people are relying on this so called protest here from these 2 authorities, I would like to dispel any of this reliability that you have at this point.

I think that the only question, as far as the state highway commission is concerned, is whether or not they can take the property speedily. Whether it can be done under a jury trial or under commissioners, makes no difference to them. No one to this day is fighting for the retention of the use of commissioners. Now, this is where we found all the abuses were. This is what we find objectionable about the amendment and this is what I find objectionable about the proposed amendments to the amendment. None of them will strike or even pretend to strike the use of commissioners. Nowhere in the committee —

CHAIRMAN YEAGER: Mr. Mahinske, the Chair is sorry, but the amendments are not before us at the moment.

MR. MAHINSKE: I will speak to the amendment that is. Nowhere in the amendment that is before us are there any absolute guarantees to the owner of the property being condemned, and by the same token there are no absolute guarantees to the condemning authority as to whether or not they will have the right to appeal in the event that there is an adverse finding, and for these reasons and all the other reasons that have been put forth within the last couple hours, I am still opposed to the amendment to the committee proposal.

CHAIRMAN YEAGER: Mr. Bonisteel.

MR. BONISTEEL: I don't see how we are going to intelligently decide this matter within any reasonable time and then come back yet tonight. We have these amendments; they haven't even been read. If the area that they seem to feel is possible in which both the amendment and the committee report can be served in such a way as to give us something that is completely constructive and yet fulfill the objectives which we seek here, it seems to me that we should have a little time in which that should be done, and it seems to me that we should rise now and go about our business and come back here at whatever time is to be set.

CHAIRMAN YEAGER: Mr. Bonisteel, the Chair would rather not recognize you for the purpose of asking the committee to rise at this moment. The Chair is of the opinion that these amendments are fairly short and could perhaps be disposed of in a fairly reasonable time so that we could get out of here by 6:30 as the president of the convention has requested. Let us try the first one and see what we do on it, and if we run into difficulty perhaps we could recognize Mr. Erickson for that purpose.

MR. BONISTEEL: I just called your attention to it because it seems to me that we are running into difficulty.

CHAIRMAN YEAGER: We have had almost 3 hours of debate on this amendment and if we recess for dinner we may lose some of the debate that we have had and may have to repeat it later tonight. We have 5 sections on the emerging problems proposals to take up yet tonight, so the Chair would hope that if you will be patient just for a short while longer, we can dispose of these amendments and get on with the business here. Judge Gadola.

MR. GADOLA: Mr. Chairman, may I have just a word? I have sat here waiting for an opportunity to be heard on public lands. We have a proposition in Flint that should be heard by this committee, and I have been waiting and waiting and waiting, thinking it would be over so that we could say something about public parks and public lands. Not a word has been said and I expect to be heard.

CHAIRMAN YEAGER: Would the secretary read the first amendment, please, to the amendment.

SECRETARY CHASE: Mr. Rood offers the following amendment to the pending amendment of Mr. Stafseth and others:

1. Amend the amendment, first sentence, after "taken" by inserting "or directly and proximately damaged"; and in the last sentence after "cases in a court of record" by striking out the balance of the amendment and inserting a period; so the language will there read:

> In the exercise of the power of eminent domain, private property shall not be taken or directly and proximately damaged by the public nor by any corporation for public use or purpose without the necessity being first determined and just compensation therefor being first paid or secured in such manner as shall be prescribed by law. The just compensation to be paid shall be ascertained by a jury of 12 freeholders as in other civil cases in a court of record.

CHAIRMAN YEAGER: The Chair will recognize Mr. Rood on his amendment to the amendment.

MR. ROOD: Mr. Chairman, ladies and gentlemen of the committee, I find myself in accord with what has been said by the numerous speakers here regarding the injustices that are a part of our present process of eminent domain. No good purpose can be served by my repeating those points. It is on the supposition that this convention might adopt the amendment that has been offered by Messrs. Stafseth and others that I have offered these amendments in an effort to perfect the amendment now pending. In the first place, the first portion of my amendment, which provides for the insertion of the words "or directly and proximately damaged," takes care of that situation that has been pointed out to you where other property besides that taken is damaged. I realize that to use the word "damaged" alone is so broad that it can open the field completely and is not, in any opinion, proper. That is why I have attempted here to limit it by the use of the words "directly and proximately." It is entirely possible that there is more artful language than that that I have used.

The balance of the amendment is directed toward eliminating that portion of the amendment which deals with commissioners. It has already been pointed out to you that that provision or that process contains a defect of allowing the commissioners to be both judges of the law and the fact. This will eliminate that and will leave the determination of damages to a jury, as in any other civil cases. I am in accord with the objection that has been made and is outlined in the Stafseth amendment to the fact that the determination of necessity, if it is to be made as set forth in the committee proposal, will result in a great deal of delay and I can understand the objections on the part of the condemning authorities on that point. It is my belief that if this pending amendment is perfected in the manner that I have suggested, that it should be agreeable to all parties concerned.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske, representing the committee.

MR. MAHINSKE: Well, I would just like to point out that I don't think that the words "or directly and proximately damaged" are necessary, because if you cannot show a direct or proximate connection to the public use or purpose, you are not going to collect your damages. I think that this is surplus here.

Personally, I would be inclined to go along with the second half of the amendment, striking that provision that makes reference to the use of the 3 commissioners. But this does not mean that I would go along with the amendment as amended, and for this reason I feel that I would rather just not vote on this proposition. I may vote and I may not, but at any rate, the "directly and proximately" phrase is not necessary, in my opinion. In my opinion, the striking of the reference to the 3 commissioners would be at least a step in the right direction, as far as this is concerned here, and I would like a ruling from the Chair, if it is permissible to divide the question. There are 2 distinct substantive ideas here.

CHAIRMAN YEAGER: Yes, it may be divided. The question is on the first part of the Rood amendment to the amendment. Mr. Lawrence, do you seek recognition?

MR. LAWRENCE: Please.

CHAIRMAN YEAGER: Mr. Lawrence.

MR. LAWRENCE: Just to say that with the aid and assistance of the suggestions by Mr. Rood, I would have to oppose both it and the amendment because it still would not cure anything.

CHAIRMAN YEAGER: The question is on the Rood amendment to the amendment, the first part. The secretary will restate the part to be voted on.

SECRETARY CHASE: The first part of the amendment:

1. Amend the amendment, first sentence, after "taken" by inserting "or directly and proximately damaged".

CHAIRMAN YEAGER: Mr. Stafseth.

MR. STAFSETH: I would just say on the first part, I certainly would oppose it because it raises an element of doubt as to what the proximity of damages are. You wouldn't know what limitations there are.

CHAIRMAN YEAGER: As many as are in favor will say aye. As many as are opposed will say no.

The first part of the amendment is not adopted. The second part will be read by the secretary.

SECRETARY CHASE: The second part of the amendment:

1. Amend the amendment, in the last sentence, after "cases in a court of record" by striking out the balance of the amendment and inserting a period; so that the language will read, "The just compensation to be paid shall be ascertained by a jury of 12 freeholders as in other civil cases in a court of record."

CHAIRMAN YEAGER: The Chair recognizes Mr. Karn.

MR. KARN: I would like to urge voting against the latter part of this amendment.

CHAIRMAN YEAGER: The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. Chairman and members of the committee, I realize that the option of having a jury trial by 12, or 3 commissioners, is at the option of the condemning authority. But at the same time, as I have said earlier, my experience has been, and I think the experience of many has been that — if you are interested and concerned with the welfare of the land owner — the 3 commissioners have done a better job of awarding damages than a jury of 12, and so I will urge a no vote on this amendment.

CHAIRMAN YEAGER: The question is on the second part of the Rood amendment to the amendment. As many as are in favor will say aye. As many as are opposed will say no.

The second part of the amendment is not adopted. The secretary will read the next amendment to the amendment. Mr. Erickson.

MR. ERICKSON: I move that the committee now rise.

CHAIRMAN YEAGER: The question is on the motion by Mr. Erickson that the committee do now rise. As many as are in favor will say aye. As many as are opposed will say no. In the opinion of the Chair, the question is lost but a division has been requested. Is there support? Sufficient number up. As many as are in favor of Mr. Erickson's motion to rise will vote aye. As many as are opposed will vote no. Mr. Walker, for what purpose does the gentleman rise?

MR. WALKER: To ask for the yeas and nays.

DELEGATES: No.

CHAIRMAN YEAGER: A division has been ordered.

MR. WALKER: Mr. Chairman, in view of all the loud shrieks, I would withdraw the request.

CHAIRMAN YEAGER: A division has been ordered. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 53; the nays are 52.

CHAIRMAN YEAGER: The motion prevails and the committee has risen.

MR. PERRAS: Mr. Chairman, I move for reconsideration on this so we can finish this section before we recess.

CHAIRMAN YEAGER: The committee has been declared risen. However, the Chair did not vote but would have voted to stay in session. Therefore, that would make it a tie and it would lose. The Secretary has advised that the Chair cannot vote after the vote has been announced.

MR. MADAR: That is right, Mr. Chairman.

CHAIRMAN YEAGER: Thank you, Mr. Madar. The committee has risen.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, the committee of the whole has had under consideration a certain proposal on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 67, A** proposal to amend article XIII, sections 1, 2, 3, 4 and 5 pertaining to eminent domain of the present constitution; has considered some amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

We have some announcements. Mr. DeVries announces a meeting of the committee on administration immediately upon recess, in the conference room.

Messrs. Ostrow and Faxon ask to be excused from tonight's session and the Thursday session of April 19 for religious reasons; and Mrs. Conklin asks to be excused from the evening session in order to make a speech in Northville for a commitment which had been made prior to Wednesday night's session.

PRESIDENT NISBET: Without objection, the excuses are granted. The Chair recognizes Mr. Batchelor.

MR. BATCHELOR: Mr. President, fellow delegates, we have been in long labor and after long labor we need refreshment, so I move that the convention recess until 8:00 o'clock tonight.

PRESIDENT NISBET: The question is on recess. Those in favor will say aye. Opposed, no.

We are recessed until 8:00 o'clock.

[Whereupon, at 6:20 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that if the committee of the whole has not completed its consideration of Committee Proposal 67 dealing with eminent domain within the next 45 minutes, that Committee Proposal 67 be put at the foot of the calendar on general orders and that Mr. Elliott take the Chair, and that the committee of the whole proceed to consideration of the reports of the committee on emerging problems.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering items on the order of **general orders.**

PRESIDENT NISBET: Those in favor of the motion of Mr. Yeager will say aye. Opposed, no.

The motion prevails. Mr. Yeager.

[Whereupon, Mr. Yeager assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN YEAGER: The committee will be in order. The secretary will read the item that was under consideration when the committee of the whole last met.

SECRETARY CHASE: **Committee Proposal 67,** relative to eminent domain, immediately pending is the amendment offered by Messrs. Stafseth and others:

[The amendment was again read by the secretary. For text, see above, page 2582.]

CHAIRMAN YEAGER: The question is upon the Stafseth amendment. A division has been requested and ordered. Are we ready to vote? Mr. Mahinske.

MR. MAHINSKE: Have the other amendments to the amendment been withdrawn?

CHAIRMAN YEAGER: The one amendment was not to be offered unless this amendment was adopted. The other was defeated and the third one that the Chair thought was an amendment to the amendment turns out to be an amendment to the body of the proposal. Therefore we are ready to vote on this unless there is further discussion.

MR. MAHINSKE: Without being repetitious, I would just say that the subcommittee is still opposed to the amendment to the committee proposal for all the reasons that we put out before, the lack of guarantees of certain basic privileges and rights that the committee proposal does call for and set forth and guarantee as constitutional guarantees. Rather than leaving the possibilities of these guarantees up to the legislature, we feel that they should be set forth in the constitution and I would urge the rejection of the amendment to the committee proposal.

CHAIRMAN YEAGER: The Chair will recognize Judge Gadola.

MR. GADOLA: Mr. Chairman and members of the committee, I won't take too much of your time because I don't believe it is necessary. Everyone has made up his mind. However, I felt it was incumbent upon me to call the convention's attention to certain facts arising in the city of Flint relative to this eminent domain proposition. Eminent domain, in itself, is not involved at this time because we haven't started anything at this time, but the threat has been made by the road commission, "do as we say or else." That is why I want to speak upon this matter a little bit.

In other words, we have in Flint too few parks. Flint was a growing industrial center and we haven't parks proper for a city of its size. However, one of the nicest parks that we have in Flint, the road commission insists that they are going to build a road right straight down through the center of that park and in doing that, they want to go right back of a $2 million high school that was just completed a year or so ago, and then go on down through the city and then — that is an east-west road; it is 78 that they are relocating — they want to put it through there. Then on the north-south road, it is planned at the present time to go right through a school, a new school that we built 2 years ago. Well, the whole proposition is this: how far can we go? How far can we go in allowing governmental agencies to defy any local agency on local right or individual right?

Now, I have a big document here and I am not going to attempt to read it to you in any manner, and so forth, but I do want to call to your attention that we should, instead of trying to make it easier to take either private property or public property by eminent domain or in any other way, we should make it harder to take it. I have advocated continually that the state or any agency of that kind should not be allowed to take private property or public property until they have acquired the property and paid for it. I am going to tell you just one little example between 2 institutions. One is the road department and the other is the Consumers Power company. They went across a farm; the road cut through the farm, cut off 28 acres. The farm belonged to a widow. It cut off 28 acres with absolutely no access. She said she couldn't afford to fight any longer, so they gave her $600 an acre for the land they took. They went through a wood lot and didn't even give her the logs. But they gave her $600 an acre for the land and paid her nothing for the 28 acres that they cut off from her farm.

The Consumers Power company went across this same farm, just with a power line. They allowed her to cultivate on it, gave her access to the land and the use of the land under it and gave her $1,000 an acre, so the Consumers Power company is a darnsight better than the road department. (laughter)

So I say this: let's not weaken, let's not weaken the rights of the individual or the property owner. Let's strengthen them, and therefore I am against this amendment all the time, and for the committee proposal.

CHAIRMAN YEAGER: The Chair will recognize Mr. Stafseth.

MR. STAFSETH: There are a couple of items, Mr. Chairman and fellow delegates, that I would like to clear up. Mr. Gover brought up a proposition that I think is misunderstood by a lot of people when they get involved in condemnation proceedings or a proceeding where they are buying the property. One of the responsibilities that we have as public administrators is that when we ascertain how much this property we are taking is worth, we should actually set that price at what just compensation is. So we are not in the position of coming in and starting a dickering process, because if we start it too low and a lot of these people are very agreeable and they accept it, and then we go up with several, we would be very inconsistent. So we are almost obligated to come in with a set price that we think is just compensation. We generally hire professional appraisers, registered professional appraisers, to make this determination, so this kind of ties our hands. We can't go too high because the public would object to it. We can't go too low because if somebody accepts it and the rest get more, then you are in trouble. All we ask is that you have some consistent provision so that we can acquire the property, just compensation can be given, so that the man can maintain as a whole. Mr. Danhof was one of the cosponsors of this and had to be out this afternoon, and, Mr. Chairman, if I may, I would like to yield to Mr. Danhof at this time.

CHAIRMAN YEAGER: Mr. Danhof is on the list. Do you wish to yield to him or do you wish him to take his turn?

MR. STAFSETH: Let him take his turn.

CHAIRMAN YEAGER: The Chair realizes that this is a very, very important question that we are discussing, but we did spend 3 hours in debate on this today and we already have 5 speakers on the list. We would like to finish within 34½ minutes. Mr. Binkowski is recognized.

MR. BINKOWSKI: Acceding to your wishes, Mr. Chairman, I would just like to clarify the record. I didn't quite get what Miss Donnelly referred to me and to my background, but for the record I would like to say that between 1957 and '58 I was an assistant attorney general assigned to the highway department. I was never working for the highway department, as such. And the following year, I worked for the secretary of state as an assistant attorney general, so I don't have any particular interest in this. I think as I indicated to you in the beginning, if I really had my own interests at heart, I think then I would not be advocating the approval of this amendment because as a plaintiff's attorney, I think I certainly could make a lot more money under the committee's proposal. Thank you.

CHAIRMAN YEAGER: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: I would like to just clear up one thing that I know, from conversation, did or is bothering at least some of the delegates, and that is this matter of necessity. I will be brief about it. I will try to explain it.

This necessity, of course, is a requirement just of some governmental agency. When we talk about the state or county condemning, actually it is just one administrative agency which decides that property should be condemned for some purpose. They are supposed to make a good faith effort to purchase and then they are supposed to condemn the property for a necessary purpose, and this question of necessity is one that there is disagreement on.

Now, there are 2 things to necessity. First there is the necessity for the condemning authority to go ahead with the project, let's say it is a dormitory or a road or a school building. They have to show that that building is necessary. Just because they are the governmental agency they don't have a right to go around and take people's property away from them without showing there is a necessity for the project. Now, the second thing they have to show is the necessity that this particular piece of property be taken also. Just because they show a project is necessary doesn't entitle them to take anybody's property they see fit to take. Now, that isn't such a difficult thing. After all, they have all the technical people, all the experts available. They are without any expense to anybody personally, not like the property owner has. They have available expert testimony and, let me assure you of this, that if they can't convince a court and a jury that either the project is necessary or the taking of a piece of property is necessary, it would have to be so bad that there is something wrong. That is not going to be any hardship. As a matter of fact, it is a real right and a real safeguard to all the people of the state to keep condemning authorities from just exercising, willynilly, their power of eminent domain. It does require them to make their surveys carefully, to get their facts carefully. It is a good thing for the public and I assure you that this necessity by a jury, particularly when it is provided, as in the committee proposal, both parties may waive the jury and have it decided by the judge alone, will help speed up rather than hold it up.

CHAIRMAN YEAGER: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. Chairman, members of the committee, from what I understand, perhaps it was fortunate I had a prior commitment. Therefore, I can approach this without having some of the other arguments in mind. First of all, let me tell you what my background is in some of this and how it might have applied here. Judge Gadola has told you a couple of stories and I will tell you one, too. It involves I94 down around Kalamazoo way, where south Westnedge avenue comes across, and there was a viaduct being built on I94. The state, as you know, normally condemns for highways, and under the 1908 constitution could proceed to obtain the property forthwith. The state and the attorney general endeavored in vain to obtain the property even under the 1908 constitution, and eventually they came back to the federal government when the road was ⅔ built and said, "Won't you please get us the road?"

Now, my experience with condemnations for 7½ years, was with the federal end of it, and those of us who know the United States constitution realize that it says absolutely nothing regarding condemnation therein, except that private property shall not be taken without just compensation, and that is all it says. From this the courts have determined that there must be a payment of just compensation. But, my friends, let me advise you as to what would happen if necessity were made a jury question, such as you are attempting to make it here. If the federal government were required to prove necessity every time it wanted to build a new air base or missle site, it would require that the chief of staff would have to come in with the secret plans of the government stating to the benefit and to the satisfaction of 12 freeholders that we really need this air base right here.

Now, necessity is a question that should be determined by the executive. Where a road should be built or what terrain it should go over, the best route is a technical matter, and to leave it to a jury to be bombarded on both sides by one engineer stating it should be here and another engineer stating it should be a block over, and a second one saying it should go down the middle would result in your highways looking like angleworms crossing the state of Michigan. There is no doubt but that compensation must be paid, it must be adequate, it should be determined by a jury, and I have no fault with that. But don't make necessity a jury question. You will have nothing but confusion. You will have nothing but so called experts who are maybe 50 miles from home with a briefcase testifying at $100 a day, telling you where, in their judgment, a road should go, and this is only a matter of judgment. If you can prove fraud or if you can prove that the highway commission or the commissioner is putting a road through a certain place to benefit his brother in law so he can sell his farm to the state, that he is going 10 miles out of the way, or you have a tremendous abuse of discretion, the court can always, in its inherent power, review this. But, if you make necessity a question of fact, a question for a jury to determine, you will have nothing but confusion existing in the condemning authorities of this state.

I fully subscribe to the idea of having a jury trial for compensation, or commissioners or whatever the defendant may want. I have no fear of a jury or condemnation. In fact, I think a jury, a lot of times, will award a lot less than 3 commissioners because they usually are taxpapers, and I am not so sure, sometimes, the commissioners are. I have had experience with jurors on condemnation. I think the amount offered should be deposited in the court, as the committee has recommended, so that the owner may draw upon it for his defense, and to hire his lawyer and to pay for his own experts on compensation. I urge the adoption of the amendment. If you endeavor, if you intend, if you want a constructive highway program to continue in this state, I urge that you adopt the Stafseth amendment.

CHAIRMAN YEAGER: The Chair would advise that we now have 10 speakers listed and we have 2 more amendments. The Chair would recognize Mr. Karn.

MR. KARN: Mr. Chairman, members of the committee, I want to thank Judge Gadola for the very fine compliments he had about a certain industry a moment ago. I also want to say that it is my hope that the utilities in the state of Michigan will not be penalized because of misdeeds of one of the state agencies. It would be a serious mistake and a great handicap if the use of commissioners, as now appears in our present constitution, should be eliminated.

CHAIRMAN YEAGER: The Chair will recognize Mr. Gover.

MR. GOVER: Mr. Chairman, fellow delegates, throughout these hearings that I attended that I spoke about earlier in the day, the condemning authorities kept using the word "negotiate." They said, "we go in and we negotiate for property." According to the dictionary I have here, it says, "to bargain." Then, I borrowed a dictionary from Mrs. Koeze, and in that dictionary it says negotiate is to discuss matters in order to reach an agreement. I don't see how anybody can negotiate by just picking one price for a piece of property and saying: this is it; take it or leave it, and we will go in and take your property.

In regard to the roads that look like angleworms — where did Mr. Danhof go? I wanted to — he walked out? Well, anyway, I was reading an article put out by the highway department a while ago and it said in there that curved roads were much more beautiful and easily traveled by pedestrians and people walking and driving, so I think that maybe some angle roads are a good thing for the state.

CHAIRMAN YEAGER: The Chair will recognize Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, just a couple of observations from one who makes no pretense of knowing anything about the subject. I do know that we are going to have to continue to build roads and airports, parks, public buildings, and I know that if we make that procedure unnecessarily slow or unnecessarily expensive, the public and the taxpayers are going to be the ones who suffer, not the condemning authority. I am nervous about this matter of damages by people whose property is not taken. How far will that go? When they built 96 out here, they went around the village of Portland. I understand that a couple of restaurants and a couple of gas stations had to close up just because that road was built. Should that go into condemnation proceedings?

Then one other observation: as I have listened to the arguments this afternoon, it appears to me that we are designing a constitution based on abuses by the state highway department. But under that constitution the county road commissions are going to have to live and work. The cities are going to have to live and work. The universities are going to have to condemn property. We are penalizing those who are innocent in order to get at those who are guilty. It seems to be a very rough way to correct the action of the state highway department, by taking in everybody because of their misdoings. It seems to me safer that we go with this amendment.

CHAIRMAN YEAGER: The Chair will recognize Judge Mosier.

MR. MOSIER: Mr. Chairman and delegates, Mr. Brake has said, in a few words, what probably I would have taken much longer to say, but I am strictly in accord with his view. This provision in the committee amendment reads as follows, and I wish you would bear in mind the exact language that is here used:

> . . . Provided however, That all parties who have sustained damages by the exercise of such power shall have the right to intervene in the hearings to determine damages and compensation.

As Mr. Brake has said, this constitutes an invitation to all parties who live within gunshot of the property that is taken to file intervening proceedings and they have the right to be heard in the matter of determining damages. That opens the door to something that I think the public is going to be called upon to pay, that is coming out of the pockets of the taxpayers. It seems to me we should be very cautious before we open that door to every Tom, Dick and Harry who might claim damages by reason of lack of sight, lack of air, lack of, perhaps, noise and so on. There are any number of things that might be conjured up as a claim for damages.

Now again, we are interested, and I know that this convention is interested, in seeing that the man whose land is taken is well compensated for the land that he is surrendering. No one would disparage the right of the man who owns the land to be justly compensated for his losses, but this matter of intervening is a 2 edged sword. It means that the people who are intervening have these claims for damages are going to be heard just the same as the man who owns the land, and if you have several of those claims put together and the jury is convinced that this thing is going to cost the public a lot of money, isn't that jury going to say: well, we'll have to cut down on the amount to be allowed to the landowner because we have got a lot of damages to pay to these other people? It is a 2 edged sword, and I think that the state of Michigan would be much better served under the constitution as it stands today, than to open this box of Pandora's and invite damage claims by people who have never heretofore been recognized. We have listened this afternoon to a lot of complaints about condemnation. I have tried a lot of cases as a lawyer, and I have tried a lot of cases as a judge, and the things that have been complained about here are not based upon the constitution of Michigan as it exists today, but are based upon poorly drawn statutes, and we have some 18 of those in our statute books today.

It has been suggested to the legislature that the condemnation laws should be codified, and I think they have made some effort to codify, but it has not come about, and therefore these difficulties that have been spoken about are due to the fault of the statutes and not to the fault of the constitution as it exists today. For the reasons that I have indicated, I am opposed to the committee proposal and will support the amendment.

MR. WANGER: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN YEAGER: Would you state it, Mr. Wanger?

MR. WANGER: It is this: according to section 397 of Mason's Manual, on page 269 of that work, in every case, a motion to amend takes precedence. Now, I understand there are 2 motions to amend the proposition before us on the secretary's desk. In that light of Mason's Manual and also in light of the fact that we have had great discussion upon this particular matter before us, would it not be the better order to proceed at once to these amendments?

CHAIRMAN YEAGER: The Chair would advise Mr. Wanger that the reason we haven't introduced them was that we were trying to exhaust the list of people that had asked to speak on this amendment, this perfecting amendment. The Chair would admit it would perhaps take some precedent, but we are trying to exhaust the list, and we never seem to have reached that point.

MR. WANGER: Perhaps the amendments would exhaust the speakers.

CHAIRMAN YEAGER: The Chair would think your point is propably well taken. In the interest of time, since we have about 14 minutes, if there is no objection we will proceed to take up the amendments at this time.

SECRETARY CHASE: Mrs. Judd offers the following amendment:

1. Amend the amendment, first sentence, after "taken" by inserting "or damaged"; so the language will read:

> In the exercise of the power of eminent domain, private property shall not be taken or damaged by the public nor by any corporation for public use or purpose without the necessity being first determined and just compensation therefor being first paid or secured. . . .

CHAIRMAN YEAGER: The Chair will recognize Mrs. Judd on her amendment.

MRS. JUDD: Mr. Chairman, I can see that this is going to cause considerable consternation and already 2 speeches have been made against my amendment before presenting it. However, I came to the conclusion of presenting this to the amendment rather than to the committee proposal because I spent the dinner hour reading the report of the committee of the Michigan bar association on this whole problem and came to the conclusion that the principles involved in this amendment are superior to the committee proposal. I therefore favor the amendment.

However, I consulted with a partner of my husband's who does a great deal of this work — and, incidentally, usually wins his cases against the highway department — and he advised in favor of the principles in the amendment, except on this one point of "damage." In this he says:

> I am in favor, quite definitely, of the inclusion of the "or damaged" provision. With surprising frequency there occur cases of severe damage to property which do not qualify under the present constitutional provision, since no part of the property is actually taken. This would pose some problem, as suggested in defining the limitations on compensability, and also in the ascertainment of damage. It would be my view that this can be resolved in a reasonable manner, over a period of time, by court decision by correcting a presently very inequitable situation.

This is the reason I offered it. I don't imagine it needs much debate. Perhaps a vote on it right away would decide it.

CHAIRMAN YEAGER: The Chair would advise that in fairness the people who are seeking recognition should be asked if they wish to speak on the Judd amendment, otherwise we will allow some latitude later and allow them to get remarks in if they wish. Mr. Millard, do you wish to speak on the Judd amendment?

MR. MILLARD: Mr. Chairman and members of the committee, I do not care to talk long on the Judd amendment. I just will reiterate that I agree with Judge Mosier when he spoke about it might open Pandora's box to have such a word as that in the constitution.

CHAIRMAN YEAGER: Mr. McLogan, do you wish to speak on the Judd amendment? Mr. McLogan passes. Mr. Brown?

MR. G. E. BROWN: Mr. Chairman and members of the committee, very briefly, it seems to me — I am not questioning the authority Mrs. Judd has, but it does seem inconsistent to me to speak of damaging property under eminent domain where there is no taking. A damage action is always available if you can prove the item of your damages and the proximate cause of same, so I don't think that the words "or damaged" should be in the amendment, and I would urge that it be defeated.

CHAIRMAN YEAGER: Mr. Perras, do you wish to speak on the Judd amendment?

MR. PERRAS: Mr. Chairman and fellow delegates, not being a lawyer, I don't know the meaning of this Pandora's box that these lawyers have been using since we started out here, but I finally figured it out, see. Now, when we were going to recess for the dinner hour, I was opposed to it, and the reason was — and I now figured out this Pandora's box must mean what happened, because now there are 15 more speakers and 2 more amendments, so I figured it out without asking a lawyer what that meant. I think we should get on with our business and I just wanted to let the delegates know why I was opposed to the recess at that time.

CHAIRMAN YEAGER: Miss Donnelly, do you wish to speak on the Judd amendment?

MISS DONNELLY: Only briefly to say that some of the very reasons that Mrs. Judd cites for putting it in are some of the reasons why the committee put it in. We removed the words "or damaged" from the area that she wishes to place it and put it down in the secondary position so that it would remove some of the question of necessity. For the very reasons that she says she is supporting this amendment, I think she doesn't understand the difference between the 2 proposals because some of her main thoughts should be on the committee proposal.

CHAIRMAN YEAGER: Mr. Norris, do you wish to speak on the Judd amendment?

MR. NORRIS: Mr. Chairman, I will be very brief with regard to an observation in relation to this matter. My experience has been that there has been, in recent years, a disproportionate impact of a whole host of development programs upon little people, particularly in highway development and in road development, and I think we can anticipate this with the urban redevelopment program in terms of size and impact, particularly in the metropolitan communities.

There is a strain of change, and who is to assume that the burden of that strain is what is involved in the language which we have in the Judd amendment and in the Stafseth amendment and in the general principles of the committee report? I can agree that there may be some potentiality of abuse in the words "damage" as indeed in the word "equitable" in the committee proposal, but I think Mr. Lawrence had a point when he called our attention to the memorandum which was prepared as part of the preparatory materials and recited the case of Rigney vs. Chicago, and I note that the court there limits this question of damages to 2 kinds of contingencies: 1, where there has been some physical disturbance of a right which the owner enjoys in connection with his property; and 2, that by reason of the public improvement he has sustained a special damage with respect to his property in excess of that suffered by the public generally.

It seems to me that if we are going to have a whole series of changes — and there is no question in the next 5, 10 years that this whole problem is going to increase in both quality and quantity of impact, upon ever largening groups of our citizens — we have to take these matters into account. Thus far, they have not been given adequate consideration, and, as a matter of fact, there has been a loss of faith in the fairness of the way in which government operates in this sphere, and what I understand the committee and the Judd amendment proposes to do is to restore people's faith in fairness of government in this particular area.

I note, also, that in that same Bienenfeld memorandum there is interpretation of the word "damage" which may not be in line with what Mrs. Judd read. The language I refer to is this:

> Where such a "damage" clause appears in the constitution of a state, it has been held to be self executing and the property owner must bring action to ascertain and recover his damages in an ordinary civil action.

There is a question as to whether or not in the condemnation proceeding itself this word "damage" would cover the contingency which some of its proponents urge. I venture to suggest that some interpretations might mean that it would still compel a separate action for damages, and there has been interpretations along that line. So that I am not so sure that it is the Pandora's box that it has been alleged to be, or even the avenue of amelioration which some people have urged this language to be. But, at least it opens, as a criterion or a standard of loss distribution, the fact that some people who have hitherto not been able to be encompassed within the word "taking," might still have some avenue of approach, and I do think that there ought to be more recognition of these people in the strain of change, which I am certain we can envision with increased public activity in the urban redevelopment program, in highways and parks and so forth. I would therefore urge support of the Judd amendment.

CHAIRMAN YEAGER: Mr. Bledsoe, do you wish to be heard on the Judd amendment or later on?

MR. BLEDSOE: Later on.

CHAIRMAN YEAGER: Mr. Madar is recognized on the Judd amendment.

MR. MADAR: Mr. Chairman, are there any other speakers on this?

CHAIRMAN YEAGER: Yes, there are.

MR. MADAR: Oh, brother. I was hoping that when I got up here I might be able to say: well, I'll pass at this time so we can go ahead and vote.

CHAIRMAN YEAGER: Mr. Stafseth seeks recognition.

MR. MADAR: I will go ahead and pass, Mr. Chairman, and hope and pray that it is only Mr. Stafseth.

CHAIRMAN YEAGER: The question is on the Judd amendment. Mr. Stafseth is recognized.

MR. STAFSETH: I will say very quickly, Mr. Chairman, that inasmuch as this is my amendment, these words Mrs. Judd has proposed were the words that caused the greatest alarm of the people that represent municipalities in this area, so I would oppose the Judd amendment.

CHAIRMAN YEAGER: The question is on the Judd amendment. Mr. Mahinske wishes to be recognized.

MR. MAHINSKE: Well, in brief, I would like to say that these words are actually not so discouraging as Mr. Stafseth would have us believe. The state bar committee on condemnation procedures itself was split 50-50 as to whether or not this language would go in, so there evidently was some strong feeling even on the committee itself that the language should or should not go in. But I would point out that by inserting this language in this position in the amendment, then you are doing exactly what you don't want to do, you are opening up the hearings for determination of necessity to all people who think that they are damaged, whether they are or not. The committee proposal takes care of this. It excludes these people from the determination of necessity where their land is not being taken, and I think that this would add greater confusion to what the amendment would add in and of itself. I would be opposed to this amendment.

CHAIRMAN YEAGER: The question is on the Judd amendment to the amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: There is no further amendment pending to the Stafseth, et al, amendment.

CHAIRMAN YEAGER: The question now is on the Stafseth amendment. There were 2 people that requested to be recognized. Mr. Bledsoe.

MR. BLEDSOE: I will pass.

CHAIRMAN YEAGER: Mr. Bledsoe passes. Mr. McLogan.

MR. McLOGAN: Just briefly, Mr. Chairman, in response to Judge Gadola's remarks: it is true that the continuation of the limited access M78 into Flint does present a problem. Not everybody will be happy with the solution, and some people are very upset already. But some sort of solution is very vital to our community. I think that it is safe to say that the city fathers have given tacit approval to the highway department plan; and the downtown Flint corporation, comprised of civic leaders and a full time organization has given specific approval. For my own part, I would trust in the good faith of my government and the highway department, the regulated public utilities and the public institutions and support the Stafseth amendment.

CHAIRMAN YEAGER: The Stafseth amendment is before us. Mr. Mahinske.

MR. MAHINSKE: I will be very brief here.

CHAIRMAN YEAGER: We have 2 minutes, Mr. Mahinske.

MR. MAHINSKE: Then I will have to be brief. When you come right down to it, this boils down to one proposition: are you or are you not going to permit these people to have a right to be heard before you take their property? Despite all the language that we have in here otherwise, this is all it amounts to. There is absolutely no protest from the state highway department as to whether they will use juries or commissioners. There is no protest from the local and the county governments. There is really no problem as far as the public utilities are concerned. They have been given the language of this proposal. They thought that they were in trouble. We explained to them what we thought and what our intent was. We haven't heard from them since, either pro or con, and as far as the federal proposition is concerned, the state can still condemn under the federal procedures. Mr. Danhof throws in this red herring about exposing secrets and so forth. This has absolutely nothing to do with the federal condemnation procedure. In fact, under the federal procedure, at least, even though the people don't have a hearing, they get the money before the property is taken. This is something that we are not in a position to touch, this federal procedure, but the state is in a position to use it if they feel that this proposal may slow them down, and I would say that the committee proposal as opposed to the amendment, if it does nothing else, it gives these people a place to be heard, somebody to hear them and somebody to appeal to in the event that they feel they are being aggrieved. There is absolutely no guarantee that there will be a hearing before necessity is determined under the amendment, and for these reasons I would oppose the amendment.

CHAIRMAN YEAGER: The question is on the Stafseth amendment. A division has been ordered. As many as are in favor will vote yes. As many as are opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Stafseth and others, the yeas are 61; the nays are 56.

CHAIRMAN YEAGER: The amendment is adopted. The time allocated for this portion of the committee of the whole has expired and the Chair would simply announce that there are some other amendments to be considered by the committee of the whole to Committee Proposal 67 but at this time the Chair will change chairmen for the purpose of considering 5 proposals from emerging problems.

MR. MAHINSKE: Point of information, Mr. Chairman. In view of the action just taken by the committee of the whole, I would say offhand that the balance of the committee proposal falls. There is absolutely no provision for the opening of private roads and, conceivably, we may be in trouble in the other 4, in fact, the other 5 committee sections here, and I think that you better put this thing over for at least a couple of weeks so this thing can be straightened around, because it is completely undone, everything now.

CHAIRMAN YEAGER: Mr. Mahinske, the Chair would simply advise that the balance of the proposal has been placed at the foot of the calendar and will be considered when we come back into this part of the committee of the whole. At this time, the Chair will relinquish its position to Mr. Elliott who will preside during the consideration of emerging problems proposals.

[Whereupon, Mr. A. G. Elliott assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN A. G. ELLIOTT: The committee will come to order. The secretary will read.

SECRETARY CHASE: Item 1 on the calendar, from the committee on emerging problems, by Mr. Millard, chairman, **Committee Proposal 125,** A proposed constitutional provision with respect to the conservation of the state's paramount interest in the air, waters and other natural resources of the state.

Following is Committee Proposal 125 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. THE STATE HOLDS A PARAMOUNT INTEREST IN THE AIR, WATERS, AND NATURAL RESOURCES OF THE STATE, IN THE INTEREST OF THE HEALTH, SAFETY, AND WELFARE OF THE PEOPLE. THE LEGISLATURE SHALL ENACT APPROPRIATE LEGISLATION TO PROTECT THE AIR, WATERS, AND OTHER NATURAL RESOURCES OF THE STATE AGAINST POLLUTION, IMPAIRMENT, OR DESTRUCTION, SO THAT THE INTEREST OF THE PEOPLE MAY BE PRESERVED.

Mr. Millard, chairman of the committee on emerging problems, submits the following reasons in support of Committee Proposal 125:

Of late years there has been a growing awareness, in this state and in our country at large, of the prime importance of preserving our water resources, of protecting air and water against pollution, and of adopting comprehensive public policies to protect natural resources against thoughtless wastage and spoliation generally. Among the newer states, Alaska and Hawaii both have comprehensive statements. Some dozen states have strong constitutional provisions on water conservation, notably California, which by constitutional amendment has adopted a very strong "paramount public interest" provision, which severely modifies the older doctrine of riparian rights. Minnesota, by legislative doctrine and by court decision, has developed a very strong "public interest" theory of water use and conservation. Air pollution has as yet received no specific recognition in state constitutions, but the rapid development of the problem and of public concern therein indicates that the time has arrived for Michigan to take cognizance of it.

The proposed section submitted herewith is merely declaratory and has no automatic self executing quality. The wording has been examined by Professor William Pierce of the law school of the University of Michigan, who asserts that the section would not alter existing water law in any respect, either in riparian rights, meander lines or otherwise. Nor would the declaration of a public paramount interest in the air interfere with the traditional common law doctrine of the control of air space above real property. Nor would existing vested rights in property holders of the various forms of "natural resources" be in any fashion disturbed.

The consequence of adoption of the provision, in short, does not lie in any alteration of existing law.

Adoption of the provision would appear to have 2 possible beneficial results: first, it calls upon the legislature to take appropriate legislative action to guard the public interest in water, air, and other natural resources. The legislature retains, in fact, full discretion to act or not to act, as it wishes, but the responsibility of the legislature for evolving public policy in these matters is emphatically emphasized. Second, it seems probable that in the event of a conflict in the courts over the extent of the police power of the state in the area of natural resources, the courts might well be inclined more strongly to support the "public welfare" and "police power" interpretation of the law. With the growing interest of the public in the general welfare aspects of conservation, such a judicial trend would be altogether desirable.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Dele-

Explanation—Matter within [ ] is stricken, matter in capitals is new.

gate Millard, the chairman of the committee on emerging problems.

MR. MILLARD: Mr. Chairman and members of the committee, the committee on emerging problems wants to thank the committee for allowing us to get on this evening. The committee has had several propositions under advisement. As you know, the emerging problems committee is looking into the future. We are not trying to correct any mistakes of the past. We are only trying to give the power or call attention to some of the problems that might arise in the future. The committee proposal just read by the secretary, 125, will be explained. There is a committee amendment. It will be explained and handled by a member of our committee, Delegate Hatch. I would yield the floor to Delegate Hatch.

CHAIRMAN A. G. ELLIOTT: Ladies and gentlemen of the committee, this is a new subject entirely and the Chair wishes that you would direct your attention to Delegate Hatch.

MR. HATCH: Thank you, Mr. Chairman. I would direct the delegates' attention to Journal 104, page 794, which contains the committee's report with respect to this proposal. Rather than to take the time of the committee to read the committee report verbatim, I would like to point out that this particular proposal is not a self executing proposal, but in the spirit in which our committee was formed, namely to deal with emerging problems, it recognizes that we in Michigan do have and undoubtedly will continue to have problems in connection with air pollution, water pollution and the development of our natural resources. I want to make it perfectly clear that this amendment is merely declaratory. It has no automatic self executing qualities. The wording has been examined by Professor Pierce of the Michigan law school, who asserts, and the committee asserts and intends that this section would not alter existing water law in any respect, either in riparian rights, meander lines or otherwise. Nor would the declaration of a public paramount interest in the air interfere with the traditional common law doctrine of the control of air space above real property. Nor would existing vested rights of property holders in the various forms of "natural resources" be in any fashion disturbed.

I would point out at this time, before going into the committee amendments, that this proposal, to my mind, is rather unique. It is unique in the sense that it has something for the urban areas, in that we recognize the problem of air pollution. It has something for the outstate areas where our streams are becoming polluted and are polluted, and I will say that it has something for the upper peninsula, in that we recognize that our natural resources must be conserved against impairment and destruction. The secretary has on his desk, I believe, a committee amendment, which I would like to offer at this time.

CHAIRMAN A. G. ELLIOTT: Mr. Secretary, will you read the committee amendment, please?

SECRETARY CHASE: I ask the pardon of the chairman of the committee and the members of the committee. We do not seem to have the committee amendment. Mr. Millard, do you have a copy? We had a file of these amendments that were left here and the file has disappeared.

MR. MILLARD: Mr. Secretary that amendment was distributed to all the members of the committee of the whole, and there is the copy that I received. I have torn it out of my book.

SECRETARY CHASE: Thank you, sir. Mr. Millard, on behalf of the committee on emerging problems, offers the following amendment:

1. Amend line 14, after "destruction,", by inserting "and to regulate the development and use thereof,"; so that the language will read, beginning in line 11:

> The legislature shall enact appropriate legislation to protect the air, waters, and other natural resources of the state against pollution, impairment, or destruction, and to regulate the development and use thereof, so that the interest of the people may be preserved.

MR. MILLARD: I yield to Mr. Hatch for explanation of this amendment.

CHAIRMAN A. G. ELLIOTT: Mr. Hatch.

MR. HATCH: Mr. Chairman, this proposed amendment is suggested as a means of emphasizing the right and responsibility of the legislature to develop, as well as merely to conserve, natural resources. The amendment was suggested to our committee by Mrs. Judd and Mrs. Cushman, and we feel that it does spell out, in a better fashion, what the intent of our committee was, and we urge its adoption.

CHAIRMAN A. G. ELLIOTT: The Chair will recognize Mr. Hutchinson to speak on the amendment. The Chair assumes, Mr. Jones, that you did not want to speak on the amendment inasmuch as you didn't — all right. Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, the introduction of this amendment, to my mind, makes this presentation the most sweeping, totalitarian concept that could ever be put into a constitution. This thing reads to me like this: that the state owns the air I breathe and directs the legislature to protect the air against destruction and to regulate the use of the air I breathe, so that the people may be preserved. I can't imagine a thing more sweeping or totalitarian and I oppose it with all that is in me.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Sharpe.

MR. SHARPE: Mr. Chairman, I would like to ask Delegate Millard a question, if possible.

CHAIRMAN A. G. ELLIOTT: If the delegate cares to answer.

MR. SHARPE: This states that the state holds a first interest in natural resources. Did you consider the oils and gases as part of these resources?

MR. MILLARD: I will yield to Delegate Hatch who had this proposal under his control.

CHAIRMAN A. G. ELLIOTT: Delegate Hatch.

MR. HATCH: Mr. Chairman and Mr. Sharpe, by a paramount interest, we do not mean that the state holds title to the natural resources of the state. As I pointed out in my earlier remarks, this section is not intended, in any way, to affect the existing titles or the existing laws with respect to the ownership of the air, the water, and the natural resources of the state, including oil.

MR. SHARPE: Paramount does mean first, isn't that correct, or top interest or first interest or — what is your definition for paramount, Mr. Hatch?

MR. HATCH: Well, I would say that it would mean that the state does hold a superior interest in the air, waters, and natural resources in connection with the health, safety, and welfare of the people, as opposed to any individual.

MR. SHARPE: Mr. Chairman, could I ask Senator Hutchinson his definition of paramount?

CHAIRMAN A. G. ELLIOTT: If the delegate cares to answer.

MR. HUTCHINSON: Mr. Chairman, the dictionary here that we were just using defines the word as "supreme."

MR. SHARPE: Supreme. I guess that answers my question as well as I can expect it to be answered.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Yeager.

MR. YEAGER: Mr. Chairman, if I may take a little different role for a moment, as a member of this committee I am really very flabbergasted at the attitude and the statement that Mr. Hutchinson has made in regard to this particular proposal. We had some testimony before our committee on this question of air and water pollution, and air and water pollution is becoming one of the most severe problems that faces our civilization today. This committee is supposed to be a committee on emerging problems, and this is not only an emerging problem for the future, it is a problem that is with us right now.

The testimony given to us, particularly in the area of air pollution would, in effect, curl your hair, because the amount of filth and debris that is floating in our air today, without any kind of sufficient regulation, is a terrible situation, and I don't see, from his point of view, what is so totalitarian about it. If we don't have pure air to breathe we won't be here too long a time, and I support, with all the feeling that is in me, this committee proposal.

CHAIRMAN A. G. ELLIOTT: The Chair would like to urge the delegates to speak to the amendment, first, if they would, and the Chair now recognizes Delegate Stevens. Delegate

Dehnke, the Chair has you on the list. Delegate Stevens, your remarks are to the amendment?

MR. STEVENS: Well, I don't know whether I am on the amendment or not. I just want to ask a question.

CHAIRMAN A. G. ELLIOTT: Well, let's try it. To whom do you wish to direct your question?

MR. STEVENS: To Mr. Hatch, please, through the Chair, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: All right, Mr. Stevens.

MR. STEVENS: Mr. Chairman, Mr. Hatch, in line 12, it says, "concurred in by 2/3 majority of both houses." What do you mean by 2/3 majority?

CHAIRMAN A. G. ELLIOTT: Mr. Stevens, what proposal —

MR. STEVENS: I think I am on — I must be — I don't have — I didn't get that one; thank you. I would like to ask that question of the chairman of the committee when we come to it. (laughter)

CHAIRMAN A. G. ELLIOTT: Mr. Stevens, the Chair will put you on the list. (laughter) The Chair would like to ask the secretary if it is possible to post these amendments on the wall.

SECRETARY CHASE: This amendment, apparently, Mr. Chairman, was reproduced and the delegates are all presumed to have copies of it. I do not have one other than the one I have here at the desk.

MR. HOOD: Mr. Secretary, did you read the amendment? I think we lost it over here in this little cozy section. We lost the reading, if you did read it.

CHAIRMAN A. G. ELLIOTT: The secretary will read.

SECRETARY CHASE: Mr. Millard, on behalf of the committee on emerging problems, offers the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2603.]

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Jones.

MR. JONES: Mr. Chairman and fellow delegates, if it is in order, I would like to make some statements on behalf of the second vice chairman, Mr. T. S. Brown, and much of it relates to the amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes the delegate.

MR. JONES: Mr. Brown says:

> Please excuse my absence this evening, as I have an urgent business appointment in Grand Rapids which I cannot forego. The work of our committee on emerging problems has been fruitful. If the original frontier novelist, James Fenimore Cooper, were here at this convention, he would find inspiration for 3 of his most familiar novels. To some of our actions projecting an obsolescent form of government, he would be able to write, The Last of the Mohicans; through the destruction of some of our more cherished institutions, he would be able to write, the Deerslayer, spelled D-E-A-R; through the work in some of our committees, and especially that of emerging problems, I suspect he would be able to write, The Pathfinder.
>
> In the main, the problems we are about to consider point the way, however haltingly, for the legitimate state interests and the future problems of the people and of our state.
>
> In regard to Committee Proposal 125 and the amendment, although merely declaratory, it does institute the obligation of conservation in the interest of the people, and I therefore urge its support and the support of the accompanying Millard amendment.
>
> We all realize that our great upper peninsula was despoiled through private entrepreneurs during the last century without thought of the future consequences for the people of this century. Therefore, a positive rather than a merely defensive posture in regard to matters of conservation is of the utmost importance to guarantee that this type of mass exploitation and spoilage shall not again occur.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, I would like to ask a question of Mr. Millard. The explanation on page 794 to which we have been referred reads:

> . . . the section would not alter existing water law in any respect, either in riparian rights, meander lines or otherwise. Nor would the declaration of a public paramount interest in the air interfere with the traditional common law doctrine of the control of air space above real property. Nor would existing vested rights in property holders of the various forms of "natural resources" be in any fashion disturbed.

My question, Mr. Chairman, to Mr. Millard is whether that same comment would be extended to the language which it is now proposed to add?

CHAIRMAN A. G. ELLIOTT: Mr. Millard.

MR. MILLARD: This amendment came before our committee and we, after much discussion, did not think that it in any way interfered with the committee proposal as originally put out on the floor. However, as Mrs. Judd is here, who was the one who appeared before our committee, and she has already asked for recognition, I would like to now yield to Mrs. Judd to explain this amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mrs. Judd to answer the question of Judge Dehnke.

MRS. JUDD: I think, Mr. Chairman, Judge Dehnke's question is more a legal one and I am not sure that I am qualified to answer that question directly. I would like the privilege of having something to say on this later, however. Perhaps the judge would like to ask this of a lawyer.

CHAIRMAN A. G. ELLIOTT: Does the judge have any further question?

MR. HATCH: Mr. Chairman, would Judge Dehnke yield to me for a moment to comment with respect to his question?

MR. DEHNKE: Yes.

CHAIRMAN A. G. ELLIOTT: Mr. Hatch.

MR. HATCH: I think it is fair to say that certainly there was no intent on the committee in suggesting or recommending this amendment to, in any way, change the intent of the committee with respect to the language you have read.

MR. DEHNKE: I think that answers the question, Mr. Chairman. Thank you, Mr. Hatch.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, you may recall that earlier in the history of the local government committee in October, a subcommittee, a group of us who were concerned with natural resources, did some work and then, knowing it wasn't related to local government, we transferred our materials and the results of our inquiries to the committee on emerging problems. We were very pleased with the proposal that came out from emerging problems but we thought that it lacked one emphasis that we had found in most other provisions and that is the emphasis not only of protecting and saving natural resources but also of regulating their use for the benefit of the people, and I would like to read to you just a paragraph from the testimony of Mr. Gerald Eddy, the director of the Michigan department of conservation, on this point. Now, you will notice, parenthetically, that the word "conservation" does not appear in the committee proposal. He says:

> Orderly development of natural resources is implied by the word "conservation." Two or 3 generations ago, conservation generally meant the rigid protection and preservation of some resource brought near the point of extinction, a perhaps necessary but rather sterile practice. It was soon realized, however, that resources have value only as they are useful to man. Thanks to development of scientific and technical knowledge during the past 3 or 4 decades, conservation has become a dynamic concept, sometimes defined as use without abuse, or as use of resources for the greatest good of the greatest number.

You will note that the phrase doesn't say the state is going to develop all these resources, but the phrase is to regulate the development for use. In other words, it is not particularly our interest to save existing trees in the forest for future generations but to so regulate the handling of the forest by a private owner that there will be a continually renewing natural resource, and you can apply this principle to almost any other natural resource. I am sure we thought of it as a harmless addition.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Finch.

MR. FINCH: Mr. Chairman, members of the committee, I would like to address a question to Mr. Hatch.

CHAIRMAN A. G. ELLIOTT: If the delegate cares to answer.

MR. FINCH: What is your definition of "natural resources?"

MR. HATCH: Well, I don't have a pocket dictionary here with me, Mr. Finch. However, to my mind it includes the forest, the minerals, oil underlying the lands of the state, the natural elements which are part of the state of Michigan. I don't know as I can define it precisely for you.

MR. FINCH: This would be minerals and elements that might be found in the soil, such as potash or magnesium, nitrogen, some of the rest of those?

MR. HATCH: I assume it would.

MR. FINCH: Would this be interpreting, then, that the legislature could enact appropriate legislation that would tell me that I could raise wheat this year on my ground and not next year or that I should raise corn this year and let it lay idle for 3 years or something of this nature?

MR. HATCH: I think the federal government has pretty well preempted that, haven't they?

MR. FINCH: Not totally, not to this extent. I can see in this last section here where the state of Michigan could get into this field and direct our every move. At the present time we do have a certain amount of freedom left in the federal government. I am questioning whether we would have any left if this were enacted.

MR. HATCH: Mr. Chairman and Mr. Finch, I think it is safe to say that the committee does not intend to grant the legislature or the governing bodies of our state subdivisions any more power by this section than they already have.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman and fellow delegates, I would like to quote from the testimony of the Michigan farm bureau, possibly the last source that I might ordinarily quote from, but in this area I thought they had some very good testimony before this constitutional convention when they said:

> Farmers, probably more than anyone else, recognize the need for the proper use and conservation of our natural resources.

You note they use the words "use" there —

> The very nature of farming demands respect for our soils, water supplies, woodlands, and other God given resources. Farmers learned long ago that the use of soil and water conservation techniques will not only result in better returns, but will leave the land in better condition for future generations.

I think that we have to recognize here that, quoting again from Mr. Eddy of the department of conservation:

> The natural resources of the state are fundamental to our existence. They constitute the sole basis for the general economy, for our individual livelihood and well being, and for our enjoyment of leisure. Our future progress hinges upon the orderly development of these resources, with an eye to improved yields from renewable resources — forests, fish, game, all the living products of land and water — and to the most efficient and waste free utilization of nonrenewable resources — such as ores, fossil fuels, brines, water, et cetera — whose natural abundance was fixed when the earth was formed.

Here again we find the emphasis on 2 things: the wise conservation, the wise development and the wise use of the natural resources with which we have been so richly endowed but which we may be in very grave danger of losing unless we do take proper care of them. Thank you.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Perras.

MR. PERRAS: Mr. Chairman, through the Chair I would like to direct a question to Mrs. Judd, if I may.

CHAIRMAN A. G. ELLIOTT: If Mrs. Judd cares to answer.

MR. PERRAS: Mrs. Judd, you said something about the state regulating the growth and cutting and sale of timberlands. Did you mean on private lands or did you mean just on state owned property?

MRS. JUDD: I simply meant that the state encourages the renewal of forests and, of course, on state owned property the state develops it itself.

MR. PERRAS: But would there be a chance — why I am concerned, I am a tree farmer and I think Francis Finch is, and so is Charlie Figy. I was wondering if by putting this in here, at some time in the future the state could come to us and tell us how we are going to sell this timber or to regulate the growth or sale of that, if that could be possible.

MRS. JUDD: I wouldn't think so. I would think it would be an educational process, mostly. Maybe Mr. Figy could answer that. He was on this committee.

MR. PERRAS: I would like to have that cleared up, if I can, so I can vote properly, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: Does Mrs. Judd yield to Mr. Figy to answer the question?

MRS. JUDD: Yes.

CHAIRMAN A. G. ELLIOTT: Mr. Figy.

MR. FIGY: Mr. Chairman and fellow delegates, I surely hope that nobody will come in and tell me how to sell my timber or my trees. However, I surely did have natural resources in my mind when I started out to plant 56,000 of them. I think we needed to protect our industry. We needed to develop this land and I am perfectly willing to take the risk of someone coming in and telling me what I have to do with it later.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman and members of the committee, just a question to Mr. Millard, if I could.

CHAIRMAN A. G. ELLIOTT: If Mr. Millard cares to answer.

MR. FARNSWORTH: Mr. Millard, a moment ago we learned that the state would have supreme interest in the air that Senator Hutchinson would breathe. I believe that was the statement. Now, speaking to the Judd amendment, I believe it is to add "and to regulate the development and the use thereof." In your opinion, Mr. Millard, would that mean to the next constitutional convention that we have, that the state would pass regulations to regulate the use of the air by the members of the constitutional convention and members in the committee of the whole?

MR. MILLARD: You mean if this convention is a natural resource? I can't see how your question is material but I do say this: that I was a little bit surprised myself when Senator Hutchinson inferred that the state had an ownership in all of these things. I think that — but I am talking to the proposal now and not to the amendment — but, in answer to the amendment, I think that that has been very well explained, that all it does is to give the power to regulate the development in the future of the use of our natural resources. We have to have some protection against the waste of our natural resources. We do that now. Our legislature does have control over the natural resources, the use of them, and I feel that in the future that this is more or less just a memorializing of the legislature, that they have the right, the power. We are not giving them any power. They have that power. We are just telling them to look out into the future for our natural resources, the air and the water, and to make some regulations so that they will not be used up for the other generations that are to follow.

CHAIRMAN A. G. ELLIOTT: The Chair will recognize Mr. Sharpe.

MR. SHARPE: Mr. Chairman, I was trying to look up some words in Webster's dictionary and I didn't expect you to call me quite so soon. However —

CHAIRMAN A. G. ELLIOTT: Would you like to pass?

MR. SHARPE: No, but I probably should. Thank you, Dr. Pollock. I appreciate that. Next time you get on the floor I will remember this. Mr. Millard, the concern here in this language is: might the legislature prohibit me from, some time in the future, pumping water out of my private lake to irrigate my cornfield?

CHAIRMAN A. G. ELLIOTT: Mr. Millard.

MR. MILLARD: Mr. Sharpe, I believe that the state would have the right to regulate the use of water. In some of the western states they have that right in their constitution, and by statute they regulate the amount of water that can be withdrawn from a stream as it goes down and might go through your farm. We in Michigan are very fortunate these days that we have the amount of water that we have, but some day in the future it may be that some riparian owners are taking more water than they should. I think Mr. Figy pointed out to our committee on one occasion where there was such a place in the state of Michigan at the present time where some riparian owners were taking more water than they should have. I believe that the conservation of water is one of the problems in which the state might take primary interest, and I might use the word "paramount" interest.

MR. SHARPE: Let's get back down to the words "impairment or destruction" and we will go back to the oil and gas resources —

CHAIRMAN A. G. ELLIOTT: The Chair would like to ask Mr. Sharpe to direct his comments to the amendment, and we will then discuss the balance of the proposal at a later time.

MR. SHARPE: What would you like to have me do?

CHAIRMAN A. G. ELLIOTT: The amendment is to add the words "and to regulate the development and use thereof," and if you can confine your remarks to that general area, we will appreciate it.

MR. SHARPE: I will pass and ask for another trip.

CHAIRMAN A. G. ELLIOTT: Fine. Mr. Bradley.

MR. BRADLEY: Mr. Chairman and fellow delegates, I think the statement of Delegate Hutchinson did cause a considerable shock and this shock has evidently produced almost a state of inaction in this committee at the moment. I suggest that we are stoned for the moment by the misreading of this language. It is being interpreted at the moment as though it was to read, "The state holds the paramount interest in the air, water and natural resources." It does not say that. It does not contrast the state's interests with that of private ownership, nor does it assert that the state's interests include private ownership. It merely says that the state holds a paramount interest, therefore a very high interest, in these matters. It goes on to say that this interest is in the health, safety and welfare of the people. It is a classic definition of the police power. I think that if the balance of the proposal, including the proposed amendment, is read in that light, it seems far less formidable than otherwise.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, Mr. Millard has stated in this amendment, "regulate the development and use thereof;" this, in common with the rest of the proposal, does not give the legislature any power it does not have, and, indeed, has not had probably since the beginning of our state, and therefore, from a legal standpoint, it obviously doesn't add anything to the constitution. Its purpose, however, as is stated, is sort of a memorial — and since the word "shall" is used — a command to the legislature to carry out the intent of the committee, and I am sure of the convention, to preserve, in the interest of sound conservation, the resources of this state. However, the wording of this proposal has already raised some serious fears in the minds of some of the members of the public, that it goes a good deal farther than that committee intent — particularly this amendment to it — because literally it would appear to command the legislature to regulate the development and use of all of these resources and to do so at once. As a matter of fact, in capsule summary, it appears to command the legislature to enact a statewide zoning ordinance.

Perhaps some day that type of legislation might be a wise thing. However, I don't think we are in a position to write language which can be reasonably construed to demand that at once, or to tell them to do any particular type of that broad gauge regulation of development and use at once. For that reason I would think, and without being at all contrary to the intent of the committee, that it would, on balance, be best not to put this into the constitution.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Figy.

MR. FIGY: Mr. Chairman, fellow delegates, I presume we are to talk on the amendment only at this time?

CHAIRMAN A. G. ELLIOTT: We would like that, yes.

MR. FIGY: I would like to reserve the right to talk on the proposal later, if you please, but I will make some reference to the amendment. In my work in Washington, it was my privilege to work with the commissioners of agriculture all over the United States, and if you want to know what a water problem is, you should talk to some of these people from the central western states. Many times these men have said to me, "What are you doing in Michigan to protect your water, that valuable water that you have?" And I had to say we were doing nothing about it. One good commissioner of agriculture, after making a trip down through the southwest, said that the state of Arizona could feed the nation if they had the water. I am wondering if we might be facing that sometime in the future. If I had thought we were going to get into this discussion, I might have brought up here for you figures showing the amount of water that is needed to produce an automobile, to produce anything that you might have and you might use every day. I think it is important that we do something to protect our water and our other natural resources.

I might say something about the timber which is our natural resource which was brought up by Mr. Perras a while ago. I need not tell you, Mr. Perras, you remember as well as I do, that not so many years ago the lumber interests came in and cut over all of our white pine that we prized so highly, and we are told that now we are a white pine state. We would like to and I am one that is willing to submit to some control, if you please, to save this timber and this natural resource, rather than have someone come in at a later date and rob us of every bit of it and leave our land barren where it would grow nothing, where it is worth nothing on the tax roll; it develops no resources, no value, no returns for the people in the area in which it is cut over. I think it is important that we do protect our natural resources at some cost to ourselves.

MR. HATCH: Does Mr. Figy yield to me?

CHAIRMAN A. G. ELLIOTT: Mr. Figy.

MR. FIGY: Yes.

CHAIRMAN A. G. ELLIOTT: Mr. Hatch.

MR. HATCH: Mr. Chairman, Mr. Figy said that he wished that he had some figures here that he could cite. I do happen to have some of them and in light of some of the comments that I have heard on the floor that Michigan does not have a water problem, I would like to take this time to read part of the statement made by Milton P. Adams of the water resources commission of the state. He states that:

> There is already evidence from a large part of industrial Michigan that its waterways are not adequate to sustain continued industrial growth. Although limited reserves yet remain, in the form of possibilities for improved waste treatment, southern Michigan streams are one after another rapidly coming into full capacity use for waste assimilation. Beyond that capacity, further waste loading can only turn the streams sick and septic, serviceable neither for economic or recreational purposes. In theory, an important potential for increasing the waste assimilation capacity of streams exists in the few remaining sites where reservoirs could be built to store seasonal excess waters and release them to bolster lower summer flows. The outlook is not promising for construction of these reservoirs within the little time remaining before their sites go the way that others have gone — into residential, commercial or other high value development.
>
> Exhaustive studies by the senate select committee on national water resources disclose that water use in the United States now approximates 300 billion gallons per day. But present water use trends will bring the figure up to 600 million gallons by 1980 and 900 billion by the year 2000. Total annual runoff of the country, by no means well distributed in time or location, averages some 1,100 billion gallons. Except as savings can be made through such drastic measures as vegetation control or saline water conversion, this amount

is fixed and must serve as the resource base for all future water needs. Obviously even the 1980 prediction can be fulfilled only by widespread and repeated reuse of waters that are now required to serve but a single purpose.

The impact of modern water uses even on a resource as apparently plentiful as ours is brought home by a few examples of per unit product demands: to manufacture a ton of polished steel takes 65,000 gallons of water; to refine a barrel of high test gasoline takes 1,000 gallons of water; to make a ton of explosives takes 200,000 gallons of water. Domestic uses have shot upwards with the housewife's enthusiastic acquisition of automatic washing machines, dishwashers and garbage disposals and with the modern insistence on daily or oftener baths, green lawns and clean autos.

But most demanding of all is the requirement of water to dilute and assimilate wastes. Here it is hard to ascribe a per unit figure. A rapid, broad, shallow stream is greatly more efficient than a deep, slow stream, but the volume of water needed under the best circumstances is very large.

At the same time when Michigan's industry and municipalities were attaining their present stature, water use for recreation — insisting on water cleanliness above all — has been growing strongly. And also at the same time and competing earnestly for the same water yet another use — irrigation — has come vigorously into the picture.

The growing competition among these and other uses — more recently expanded by the waterskier, the artificial lake developer, the marina builder — have convinced many people in the state agencies, the universities, and private organizations that an improved set of ground rules is indispensable for the continued development and utilization of our water resources. This idea is not new but dates at least from first water rights conferences among technicians and officials some 15 years ago. The situation sets no deadline, no sudden penalty but instead is one of insidious, inconspicuous worsening. The casual observer doesn't detect the year by year slackening of stream flow, as one consumptive use after another exacts its toll.

Failure to enact any water rights legislation was rationalized by a state senator a few years ago when he said, "I don't hear of any problem from my constituents. My people don't seem to be worried about water."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate King.

MR. KING: Mr. Chairman and fellow delegates, I rise just briefly to say that I heartily support and endorse this amendment. It is extremely important, I think, that we look ahead. This committee, the committee on emerging problems, was commissioned, you might say, by this convention and by President Nisbet to look forward, to look ahead, and these problems, if they are not apparent today, believe me, will be apparent during the lives of your children and grandchildren.

One hundred thirteen years ago, in 1849, there was a gold rush to California. At that time they were concerned about just finding gold. Natural resources were plenty. Today Senator Hutchinson could visit the golden state, he might cry out for someone to regulate the pollution of air or he might be just crying as a result of the smog that he has to put up with day in and day out, not being able to see the sun until noon on some days.

I suggest that this is a problem and a very, very definite problem, and the only time and the right time to attack the problem is right now. After all, we live on this earth for a certain number of years, but I think we are duty bound to pass on to our heirs at least as much as we have received, as we inherited. We don't own the land, not in the sense that we can do anything we want with it. It might be a darn good idea if people regulated some of the forests in the state and their own personal lands, as Delegate Figy has pointed out. These things have far reaching implications on watershed, water levels miles away from where you grow your trees or where you don't grow your trees. Nobody is suggesting any interference with what we know to be private enterprise or private industry and I don't think anybody wants that, nor are we creating any new powers that the legislature doesn't already have here. We are merely directing their attention to a very serious, long range problem, and if you don't think it affects you, maybe you are right, but think about your children and your grandchildren and your great grandchildren, because believe me, it surely will affect them.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Goebel to speak on the amendment. He passes. The Chair recognizes Delegate Cudlip to speak on the amendment.

MR. CUDLIP: Mr. Chairman and members of the committee, I want to speak on the amendment. The words after "destruction," in line 14, are as follows, "and to regulate the development and use thereof, so that the interest of the people may be preserved." I think all of us, certainly myself, laud this high ideal, and I think we do have problems, but I am not sure we are attacking them correctly by putting this in the constitution. This whole area is one that is known as the police power of the state, anything to protect the health, morals, and welfare of the state, the large area of law, and the legislature has that power in full. When it is exercised, cases arise, they are measured by provisions of the constitution of Michigan, speaking of this state, and the federal constitution. It is a very delicate area. And to put in language like this which would be, as we lawyers say, in pari materia with other provisions of the constitution disturbs me. It is not that the idea isn't fine. We know it is. But we don't want to create problems here either.

To regulate the development and use of the natural resources of this state, which means everybody's property, including that owned by the state, means that the legislature is almost ordered here to start looking around and passing a lot of laws as to where you put your mine, how you develop your chemical plant, and you talk about an economic climate for Michigan, I think a lawyer from outside, Chicago or Philadelphia, would get a look at this and he'd wonder whether he wanted his client to come into Michigan. These things are all being done today by the legislature and by the communities. Detroit, for example, and Trenton, Wyandotte, have many laws about river pollution, and many laws and ordinances about air pollution. There are laws galore with respect to safety measures in mines and how you shall mine, and so forth. What troubles me is that placing this in the constitution is almost a direction to the legislature — and if it isn't, it is meaningless — to make some laws regulating the use and development of all the property in Michigan, no matter by whom it is owned, and I think it is dangerous.

If natural resource is going to be defined as property owned by the state, such as our parks and so forth, well and good. I am just fearful of this language. I think intelligent businessmen and others reading this constitution, if this goes in it, are going to the polls and vote no. They will see in this, because of the way it is worded, a germ of socialization. Thank you.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment as recommended by the committee. All those in favor will say aye. Those opposed will say no.

The amendment is not adopted. Are there any other amendments?

SECRETARY CHASE: Messrs. Shackleton and Sharpe offer the following amendment:

1. Amend page 1, line 8, after "holds" by striking out "a paramount" and inserting "an"; and in line 9, after "state,", by inserting "because of its concern"; so the language would then read, "The state holds an interest in the air, waters, and natural resources of the state, because of its concern in the interest of the health, safety, and welfare of the people."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Shackleton to speak on the amendment.

MR. SHACKLETON: Mr. Chairman and fellow delegates, Delegate Sharpe raised the question about the word "paramount." He is concerned about it and so am I. According to the dictionary it means "superior" or "supreme," and if you follow those down, supreme means "highest in authority, dominant, overruling any other provision," and superior means "too great or firm to subdue, or affect." That certainly would mean, then, it would be over any deeds that any citizen might have or any corporation might have to any of its property. By taking out "paramount" and inserting "an," it still shows that the state is interested in these resources that have been mentioned, and to clarify it farther by inserting "because of its concern," there can be no question but it isn't overruling and overpowering the rights of corporations and individuals.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Figy.

MR. FIGY: Mr. Chairman, fellow delegates, I didn't know that brother Shackleton had the same kind of a 15 cent dictionary that I have, but my wording reads about as his does. Let me read to you some of the things it says: paramount interest is "superior to others, eminent or chief; the highest in rank of authority." I am wondering what we might be faced with in the future with fallout and air pollution, water pollution and all of the other things that we might be confronted with in the life of this constitution, if we are not justified in calling attention to this in the constitution. We say "the state holds a paramount interest. . . ." it is a first interest, if you please, ". . . in the air, waters, and natural resources. . . ."

Are we, as individuals, going to do something about fall out? Are we going to do something, as individuals, about water pollution? Are we going to do things as individuals about natural resources? I don't think we can do it. We must have the state or some leadership to develop and protect these things.

Therefore, I think it is proper that we have in here that the state holds a paramount interest, and I want to say I think Delegates Millard and Hatch will agree with me, that it was not our intention to set up any rigid rules along this line, but we did think, with the proposals that came in here along this line we needed to give recognition to this problem. We thought we were making only the declaratory statement calling the attention of the people of the state of Michigan to the importance that is involved here. So, therefore, I do defend and I want to support the proposal and hope you will vote for it.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Hatch.

MR. HATCH: Mr. Figy has stated my position on this. Personally, I feel that if there is great concern over the word "paramount," I don't think that the amendment actually changes the intent of the committee, but our purpose in using this language was to point out that there is a paramount problem here and will be a paramount problem here unless something is done about it. I will oppose the amendment and would urge the committee to defeat it.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Millard.

MR. MILLARD: Mr. Chairman and members of the committee, I don't think that Mr. Shackleton and Mr. Sharpe really understand what is meant by "paramount interest." If anybody should have the chief interest in the welfare of its citizens it certainly is the state, and the state acts through its legislature. I think that Senator Hutchinson tried to shock us to believe that interest meant ownership of property. It does not. It just means that they have a concern. The state is concerned about the air, water, and natural resources of the state, and I certainly think that paramount adds a great deal to this amendment. I would call your attention to the fact that there are several states that have these constitutional provisions. California has a very strong "paramount public interest" provision. Minnesota has a strong "public interest" theory of water use and conservation. So that this is nothing unusual, and we are only using words that call attention that the state is vitally interested. It is totally interested, more than any one citizen. It has the chief and supreme concern in the natural resources and these should be protected. I think that the committee proposal should stand the way it is and I certainly ask you to vote against the amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Goebel to speak on the amendment.

MR. GOEBEL: Mr. Millard covered my point.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate McLogan to speak on the amendment.

MR. McLOGAN: Mr. Chairman, I want to speak just briefly on the amendment. I oppose the amendment because I think it waters down the strength of the committee recommendation, and I want to speak for just a moment on the matter of water and point out that Michigan, of all states, does stand at the forefront in the matter today of the availability of water. Certainly it is our greatest single asset. It also is the greatest need today for industry.

CHAIRMAN A. G. ELLIOTT: Mr. McLogan, would you hold that comment until we get to the main proposal and speak on the amendment?

MR. McLOGAN: Yes.

CHAIRMAN A. G. ELLIOTT: The Chair will recognize Mr. Leppien.

MR. LEPPIEN: Mr. Chairman and fellow delegates, the committee on emerging problems, over and over tonight, have assured us that what we are attempting to do by this proposal is to bring this to the attention of the legislature. The word "memorialize" has been used over and over again. They are not directing them to do something. They are simply telling them that they are to look at it and do something if need be. On that basis I urge the adoption of this amendment, the Shackleton-Sharpe amendment, because it does take out the doubt about the ownership and puts in there that the state does have an interest to look after this problem as they come.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Norris.

MR. NORRIS: Mr. Chairman, speaking with regard to the amendment, I think what this sentence actually does is merely invoke the standard of the police power with regard to air, water, and natural resources, saying that the health, safety and welfare of the people, that is the standard of the police power, may be invoked in order to protect the interest of the public in air, water and natural resources.

With regard to the relation of this formulation to private property, I can only suggest that the standards of substantive due process would protect the individual owner of certain resources against any unreasonable infringement upon their interests. What you have here under the standard of substantive due process is a protection against arbitrary or unreasonable conduct in the state in relation to this, and this amounts to an enjoiner to the legislature to deal with these problems, mindful, however, of the limitations of the police power.

I would suggest, Mr. Chairman, and I was at this end of the hall to talk to Mr. Millard, that perhaps the proponents of this amendment might have their point recognized if the word "public" were added after the word "paramount" so that there would be the concept of a public interest here that is sought to be protected and there wouldn't be, therefore, any danger to their assessment of a danger to private property. I would hope that that might meet the problem, Mr. Chairman, and I offer that. Failing that, I would suggest that we vote down the amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Jones.

MR. JONES: Mr. Chairman, fellow delegates, I would also urge you to defeat the amendment that is on the wall before you and retain the word "paramount" because this does emphasize to the people in our state that we should be very much concerned about the natural resources of this state, also the purity of the air and our water. Thank you.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen, though the ownership of private property is one of our old constitutional rights, right from the beginning in the federal constitution and in the state constitution, the right of the state to take private property for a public purpose and at a just price has been recognized and by this is recognized the paramount interest of the state, in spite of the fact that the ownership of private property is a constitutional right. And so, this is not really saying anything that isn't or hasn't been so from the very beginning of American constitutional development.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment as offered by Mr. Shackleton and Mr. Sharpe. The secretary will read.

SECRETARY CHASE: Messrs Shackleton and Sharpe offer the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2607.]

CHAIRMAN A. G. ELLIOTT: All those in favor of the amendment as offered by Mr. Shackleton and Mr. Sharpe will say aye. Those opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN A. G. ELLIOTT: A division is demanded. Is there sufficient number up? Sufficient number up.

MRS. CUSHMAN: I request a roll call.

CHAIRMAN A. G. ELLIOTT: The question is on a record roll call. Is the demand seconded? It is not supported. All those in favor will vote aye and those opposed will vote no. The secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment by Mr. Shackleton and Mr. Sharpe, the yeas are 37; the nays are 68.

CHAIRMAN A. G. ELLIOTT: The amendment is not adopted and the secretary will read the next amendment.

SECRETARY CHASE: Mr. Iverson offers the following amendment:

1. Amend page 1, line 8, after "Sec. a.", by striking out "The state holds a paramount interest in the air, waters, and natural resources of the state, in the interest of the health, safety, and welfare of the people.".

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Iverson to speak on his amendment.

MR. IVERSON: Mr. Chairman, members of the committee, it seems to me we have spent about enough time on this and everyone seems to be concerned about the use of the words "paramount" and so forth. I have filed the amendment to strike out the first sentence and it seems to me, as a statement of principle, everything is contained in the second sentence. I urge the adoption of this amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, I wholeheartedly endorse the amendment by Mr. Iverson. To me, I would be more than scared about the word "paramount" and the first sentence. I think it goes way beyond our thinking tonight and we must think about 50 years from now and who might be interpreting this, and I worry about the property rights of the individual and so many other rights, that it is imperative that we vote yes on the amendment.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment by Mr. Iverson. The Chair recognizes Mr. Jones.

MR. JONES: Mr. Chairman and fellow delegates, I rise to urge the defeat of the amendment that is on the wall for the simple reason that in the first sentence we set forth the fact that the natural resources, the air and water of our state, are of primary concern to all the people, and without this the rest of it becomes direction to the legislature. Therefore, I urge its defeat.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mrs. Hatcher.

MRS. HATCHER: Mr. Chairman and fellow delegates, I rise in opposition to this amendment and certainly in support of the committee's recommendation. For a long time I have been a very strong advocate and believer in the importance of preserving the natural resources of the state of Michigan and also of the United States of America. I would like to just cite one example of what happened many years ago, and I think some people refer to it as a give away program, on the question of the off shore oil that was off the shore of Texas as well as California. I am sure that this would never happen in the state of Michigan, and I believe that the committee has seen fit to put this type of paramount language in this particular proposal in order that it would not happen in Michigan, and for that reason I think that the amendment to this proposal is certainly out of order and I urge the defeat of the amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: I, too, would like to rise to oppose this particular amendment, mostly on the grounds that when we have taken this out the thing that we have got left is putting the emphasis entirely on the protection of air, water and other natural resources of the state, which is fine as far as it goes, but I don't think it goes anywhere near far enough.

I might cite to you a little story of what happened in New York state where they had a provision in their state constitution, which is considerably more detailed than ours, which protected the resources of the state of New York against impairment or destruction, and when they came to try to put a ski trail down a particular mountain, they found it was impossible to do it under their constitution because they had forgotten to say anything about the development and use and they had to pass an amendment to the constitution in order to put a ski trail down the mountain. I hope that this sort of thing wouldn't happen here. Thank you.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes the chairman of the committee, Mr. Millard.

MR. MILLARD: Mr. Chairman and members of the committee, the committee on emerging problems spent several hours going over this proposal. We had research go over it, as has been told to you by Mr. Hatch. This proposal was okayed by Professor Joiner, Dr. Kelley, and also Professor William Pierce of the University of Michigan law school. We feel that the proposal is in proper form, that it does exactly what it says it does; it memorializes the legislature. It brings to their attention some of the things that might happen in the future.

We strongly urge that you vote down this amendment, and I understand that there will be an amendment put in that will put the word "public" between "paramount" and "interest." If that is offered, then I think the committee will support that amendment and that might take away any fears that some of the delegates might have in regard to the word "paramount."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Yeager to speak on the amendment.

MR. YEAGER: Mr. Chairman, I rise to ask for the defeat of the amendment. I am very surprised at the proponent because he is usually in the position of supporting amendments of the committee. The committee spent a considerable amount of time, as Mr. Millard indicated, on this, and we feel that the wording is adequate. Research felt it was adequate. And I urge that the amendment as proposed by Mr. Iverson be defeated.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment as offered by Mr. Iverson. All those in favor will say aye. Those opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN A. G. ELLIOTT: A division is asked for. Sufficient number up? Sufficient number up. All those in favor will vote aye and those opposed will vote no. While we are waiting for the delegates to return for voting, the Chair would like to point out that this is the first of 5 proposals and there are 3 amendments before the Chair at this time. We have now been on this proposal for 1 hour and 10 minutes. The secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Iverson, the yeas are 37; the nays are 66.

CHAIRMAN A. G. ELLIOTT: The amendment is not adopted, and the secretary will read the next amendment.

SECRETARY CHASE: Mr. Norris offers the following amendment:

1. Amend page 1, line 8, after "paramount" by inserting "public"; so the language will read, "The state holds a paramount public interest in the air, waters, and natural resources of the state. . . ."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Norris.

MR. HATCH: Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: Mr. Hatch.

MR. HATCH: In order to conserve time, I have talked with some of the committee members and they feel that they would be willing to accept this amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. Chairman, I appreciate the statement of Mr. Hatch. I only would suggest again the reminder as indicated by Mr. Millard, that 2 states have this language, and in a comparable provision, and the public interest is the standard for the location of the police power. I urge the support of the amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Figy.

MR. FIGY: Mr. Chairman, I think Mr. Norris and Mr. Hatch have expressed my opinion. I have no objection to inserting the word "public."

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment. The Chair recognizes the chairman of the committee, Mr. Millard.

MR. MILLARD: As chairman of the committee I have talked with some of the members of the committee. I think that they are willing to accept this amendment. I urge the committee to adopt it.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment as submitted by Mr. Norris. All those in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, by striking out all of the proposal after the enacting clause.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, at the beginning of this debate I tried to shock you because I feel that the matter before us is extremely important. Now, please don't misunderstand me. I am not opposed to the conservation of natural resources. I understood the chairman of the committee, Mr. Millard, to say that it is the intent of the committee to simply memorialize the legislature, but nevertheless you say in this proposal, in line 11, "The legislature shall enact appropriate legislation to protect the air, waters, and other natural resources of the state . . ." and in previous times whenever you have used that word "shall" you say that is a mandate. Sometimes you have even gone so far as to say: well, you know you can't mandamus the legislature. You have gone so far as to say that if a member of the legislature would fail to perform as you say he "shall" he would be in violation of his constitutional oath. Some of you have gone that far. Now, if it is the intention of this proposal simply to memorialize the legislature, the use of the word "shall" goes too far.

The insertion of the word "public" before "interest" cures nothing. What you say now is the public interest, that is to say, the state's interest. Of course, the state only has a public interest. It is the only interest that the state would have. You haven't cured anything here. The public interest is paramount and Mr. Norris says: well, all this is a statement of the police power. But it is in shockingly broad language. I call your attention to the fact of the conjunctive use of the word "or" between "impairment" and "destruction" in line 14. Remember that you are writing a constitution, and remember also that while, perhaps, I hope, this is not at all self executing, that just what Mr. Cudlip said is so true; this is a statement in the constitution of Michigan to be read with other constitutional provisions. I don't think that it is going too far to say that as an illustration of how far this statement goes that the state holds a public, paramount public interest in the air I breathe and the water I drink. It holds a paramount public interest in that and the legislature shall enact appropriate legislation to protect the air against — you say against pollution. Well, that is all right. But you say also against destruction without pollution. I am glad that you didn't include that "or regulate the development and use thereof," because that would have been — you couldn't have conceived a more totalitarian, socialistic concept than that. In fact, this is purely and wholly that.

We have spent enough time on this and I think that it is time for the members of this committee to decide whether you want to have this thing like this in the constitution or not. I don't want to have it in. I am afraid of it. I am sure that there are many, many thousands of people in Michigan, and perhaps millions of them — I hope there will be millions of them — that will be so disturbed about a provision like this in the constitution that they will simply say, "Well, this simply creates a socialist state and I am not for it."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Prettie.

MR. PRETTIE: Mr. Chairman and fellow delegates, I rise in support of the Hutchinson amendment. We have heard, during this prolonged debate, the chairman of the committee, Mr. Hatch and Mr. Figy say that this does not confer any power that does not already exist. It is redundant of existing police powers, as has been pointed out. It is merely pious words. The memorializing of the legislature in mandatory language, in my humble opinion, adds nothing to the constitution and weakens many of the vital provisions where we have used the mandatory language "shall." I hope you will adopt this Hutchinson amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate King.

MR. KING: Mr. Chairman and fellow delegates, I think we have heard a lot of statements made which, to my way of thinking, don't make a great deal of sense; but that is up to you, not up to me. But, let me say this: the natural resources of this state or of any state are of extreme importance to anyone. I have here the constitution of the state of Alaska, the clause article VIII, natural resources. Single space typed, you will notice, 3½ pages long. Now, what do those people know up in Alaska that we apparently don't know here? Apparently they know the value of natural resources. They haven't been spoiled. They haven't been ruined. It is the great asset of the great state of Alaska, and those people know it and they certainly are to be commended for putting it down in writing to preserve, not just for people who live in Alaska, but, I suggest, for you delegates right here, because fortunately Alaska is one of the states of the union. If you don't feel an obligation to yourself, feel an obligation, as I said before, for your children, your grandchildren and your great grandchildren and all the citizens of this great country and of the free world, because if it is not natural resources that will keep this world free and keep it from socialism and communism, then I don't know what it is.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and fellow delegates, I rise to support the Hutchinson amendment. As I remember my textbooks, there are at least 2 kinds of natural resources, transit resources and fixed resources. Here, in free water and oil and gas and even fish and game are examples of transit resources, in the sense that they are here today and gone tomorrow. One day on one man's domain and the next day on the domain of another. As to such transit resources, the state undoubtedly has and always has been recognized as having an interest, in many cases a paramount interest, but from the statements that have been made here on the floor, it would appear that it was the intent of the committee that Committee Proposal 125 would go beyond these transit resources. It might well extend to such so called natural resources as metallic ores in the ground or growing timber on private lands. Land itself is ofttimes referred to as a natural resource.

Now, Delegate King has read to you on this floor a statement from the newly adopted constitution of Alaska. I am not familiar with the state of Alaska but I have a strong impression that probably about 98 percent of the land that comprises Alaska is public domain anyway, so they are not legislating private property out of business.

I consider that Committee Proposal 125 might well be construed to eliminate many forms of private property, private ownership, that have from time immemorial been considered as private property. I support the amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes the chairman of the committee, Mr. Millard.

MR. MILLARD: I am just a little bit surprised at the vehemence of Senator Hutchinson. I don't know how he gets so worked up over this, to call this a socialistic document. If there was ever a conservative in the convention, it is the chairman of the committee, and most of the committee, and that they call us all socialists or trying to indoctrinate socialistic doctrines into this constitution is a little bit shocking and embarrassing to me. I say here right now that this proposal is not socialistic. As I have stated time and again, it is something that I think should be brought to the attention of the legislature and the people and I urge you to defeat this amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Jones.

MR. JONES: Mr. Chairman, fellow delegates, I also rise to urge the defeat of the Hutchinson amendment. We were successful in killing 2 previous amendments by almost a 2 to 1 vote. I hope we can bury this one. Thank you.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Turner.

MR. TURNER: Mr. Chairman, fellow delegates, I agree with Mr. Hutchinson wholeheartedly. This is the most sensible amendment of all. There is an old saying that the tail can wag the dog, and if we keep giving government more strength, the day will come when the state will be shaking its people.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Yeager. May the Chair point out to the members of the committee that we have 6 speakers on this present amendment.

MR. YEAGER: I don't plan to talk over an hour, Mr. Chairman. I am equally shocked, with Frank Millard, the chairman of this committee, at Mr. Hutchinson's reaction to this particular proposal which says that the legislature shall enact appropriate legislation to protect air and water and other natural resources of the state against pollution, impairment or destruction in the interest of the people. All day and during the course of the business here that we have had today, we have opened Pandora's box at least 10 times, and I am about to spring it open again because I want from Senator Hutchinson, if he would be kind enough to answer me, what his definition of socialism is. He has called this proposal socialistic and I would like to know if he would care to answer what his definition of socialism is.

CHAIRMAN A. G. ELLIOTT: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I am sure that Mr. Yeager knows what I refer to and what he understands to be, and I hope what most people understand to be, a doctrine of socialism. This is a doctrine. It is a totalitarian doctrine where the state asserts power over every activity of its people as individuals. It is a destruction, and a complete destruction, of individual liberty and it is also state ownership, state regulation, state control of not only natural resources but industry and all. Well, it means a production.

I submit to you, Mr. Yeager, that the language of this proposal is broader than you and the committee apparently appreciate and that it is so broad, Mr. Yeager, that I agree with Mr. Finch: the chances are that you can completely control the elements of the soil.

MR. YEAGER: Well, I would submit, Mr. Hutchinson, what you have defined is fascism; that socialism has to do with economics and this is not particularly an economic problem. We had very accurate and, I think, very good testimony before our committee on the severe problems facing this state now and in the near future, and in the far future, on the question of air and water pollution and the dissolution of our natural resources in this state. I say to you, that a proposal which directs the legislature to enact legislation to protect those vital elements of our civilization is neither fascistic nor is it socialistic, and I certainly urge the defeat of the Hutchinson amendment. Thank you.

CHAIRMAN A. G. ELLIOTT: The Chair would like to point out that we have been an hour and a half and would like to have a committee proposal in which we could regulate some of the pollution. Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, in line with your suggestion, I would like to just suggest to the committee that one of our precious natural resources is time, and we have been squandering it for the last hour. I would urge upon each of the delegates a little bit of self discipline so that we can proceed through the balance of emerging problems.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, I think tonight we have spoken often but right to the point, for the most part, and I don't think that time is so important that we have to scale down on a matter as important as this, as long as we adhere to that policy.

What bothers me, for one, about this is not the objectives of it. I fully agree with those, that the state has a responsibility, and I would like it better if it said "responsibility." Delegate King has been kind enough to lend me this copy of what is stated in the Alaska constitution. There is nothing in here about "paramount" or any such word.

> It is the policy of the state to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

That is just one example.

> The legislature may provide for facilities, improvements and services to assure great utilization . . . of fisheries, wild life and waters.

Another one:

> No person shall be involuntarily divested of his right to the use of waters, his interest in lands or improvements affecting either, except for a superior beneficial use for public purpose, and then only with just compensation and by operation of law.

If the committee will word its proposal in language comparable to that, I will support it wholeheartedly.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Norris.

MR. NORRIS: Mr. Chairman and fellow delegates, I believe the words that were expressed by Judge Dehnke are, in quintessence, found in this particular formulation as well. He refers to a superior public interest as language found in the Alaska constitution and we are talking about a superior public interest in this particular area.

I think basically we have 2 propositions: does this particular formulation belong in a constitution? I submit that it does. A constitution is a design for government, an ordering of values. It sets forth here a value upon the health, safety and welfare of the people in terms of preserving the air, water and natural resources of the state, and I think that we do proclaim by this constitution a high value on these matters, and it is germane to our concern.

Secondly, the question of Mr. Hutchinson's amendment: it seems to me he is, in the semblance or guise of defending individual liberty, also defending a constitutional right to pollute or to impair or to destroy air, waters or other natural resources. I don't think he wishes to take that position. I am sure he is sympathetic with the idea of conservation, but in order to get conservation, in order to place an enjoiner upon the legislature to move ahead in the next several decades with regard to the kinds of problems that this convention foresees, this particular kind of language is necessary, and it seems to me that the Hutchinson amendment ought to be defeated and we ought to merge, move ahead with this particular formulation, and I would urge the defeat of the Hutchinson amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Burton Richards.

MR. J. B. RICHARDS: Mr. Chairman and delegates, I am not certain how much you folks know about what has happened and is happening in the state now concerning air, water and natural resources. I think if you were to look in the statute books you would find a great many things that pertain to this. I think that if you were to be a farmer and were to take a look at this and if you would have looked at the last vote, you would see where the farmers stand. I think maybe if you would take a look from where we stand, we have to go through many difficult things to produce for you the kind of food that you like to eat, and you can understand that these are the things that we use on our farm, except water — and this we have been working on, to develop some plans for water resources. But the things that we use on our farms are definitely under control.

If you folks think that this is something that is brand new, forget it. This is so old that your legislators can tell you that this is not needed, that this is legislative because it is already, almost all of it, enacted into laws, and that there are more laws being developed along this line. It just seems to me we are telling the legislature to do something that they are interested in, that they have been working on for many, many years, and we are acting like we think they are a bunch of boys who don't know what they are doing. I assure you that they have been working on these propositions for years and they are probably doing it more intelligently than we will do if we accept this proposal. So, definitely, I am for Mr. Hutchinson's amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Hatch.

MR. HATCH: I request the yeas and nays.

CHAIRMAN A. G. ELLIOTT: Request for the yeas and nays. Is there a second? Sufficient number up. The Chair recognizes Delegate Daisy Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, fellow delegates, I would like to support Mr. King's statement that Alaska and Hawaii do have comprehensive statements of public policies to protect natural resources. I would also remind you that 1 dozen states have strong constitutional provisions on water conservation. California, by constitution, has adopted a strong paramount public interest provision. Minnesota, by legislative doctrine, and by court decision has developed a strong public interest theory of water use and conservation. I urge you to defeat the Hutchinson amendment.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment offered by Mr. Hutchinson. The yeas and nays have been ordered and this is a recorded roll call vote. All those in favor will vote aye. Those opposed will vote no. Have all the delegates voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—46

Batchelor
Beaman
Brake
Cudlip
Dehnke
Dell
Doty, Donald
Durst
Erickson
Finch
Gover
Habermehl
Haskill
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Staiger
Stevens
Stopczynski
Thomson
Turner
Van Dusen
Wanger
Wilkowski
Wood

Nays—57

Allen
Andrus, Miss
Anspach
Balcer
Bentley
Bledsoe
Bonisteel
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Danhof
DeVries
Douglas
Downs
Elliott, Mrs. Daisy
Figy
Follo
Garvin
Goebel
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Jones
Judd, Mrs.
Kelsey
King
Liberato
Madar
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Perlich
Perras
Pollock
Rajkovich
Sablich
Shackleton
Snyder
Stamm
Suzore
Tweedie
Upton
Walker
White
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hutchinson, the yeas are 46; the nays are 57.

CHAIRMAN A. G. ELLIOTT: The amendment is not adopted. Mr. Secretary, do we have other amendments to Committee Proposal 125?

SECRETARY CHASE: Mr. Habermehl offers the following amendment:

1. Amend page 1, line 8, after "the" by inserting "people of the"; so the language will read, "The people of the state holds a paramount public interest in the air, waters, and natural resources. . . ."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Habermehl.

MR. HABERMEHL: Mr. Chairman, I believe the amendment is self explanatory. It was submitted only after the previous amendment was defeated, to grant to the state, as embodied in the government of the state, that sort of an interest. It is most clearly a socialistic doctrine. If the people have any rights — and this includes people in possession of the lands, waters, and so forth, of the state of Michigan, that is what we should say, and that is what I hope my amendment says.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment offered by Mr. Habermehl. The secretary will read.

SECRETARY CHASE: Mr. Habermehl's amendment is:

[The amendment was again read by secretary. For text, see above.]

CHAIRMAN A. G. ELLIOTT: The question is on the amendment.

All those in favor — the Chair recognizes Delegate Millard.

MR. MILLARD: Mr. Chairman and members of the committee, I haven't had a chance to consult with my committee. Personally, I have no objection to this amendment.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment as offered by Mr. Habermehl. All those in favor will say aye. Those opposed will say no.

The amendment is adopted. Are there any other amendments on the desk?

SECRETARY CHASE: Mr. Durst offers the following amendment:

1. Amend page 1, line 11, after "shall" by inserting "have power to"; so that the language will then read, "The legislature shall have power to enact appropriate legislation. . . ."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Durst.

MR. DURST: Mr. Chairman and members of the committee, I think what Mr. Prettie had to say here a moment ago about the way we have used "shall" and "may" is important, in that we have used "shall" when we want the legislature to act. Now, I realize that the committee does want the legislature to act in this matter, but you are calling upon them to act as problems arise. You are not asking that they enact something immediately upon the adoption of this constitution. I think we should not be too free in the use of the word "shall;" when we use it we should mean it, and I think this amendment would correct the problem and still maintain the intent of the amendment.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment as offered by Mr. Durst. The Chair recognizes Delegate Millard.

MR. MILLARD: Mr. Chairman, I don't see that this adds anything at all. I was surprised at Senator Hutchinson arguing that "shall" has some meaning because I have heard him, time and again, on this floor say that "shall" doesn't mean anything, it only meant "may." So, I don't see that this amendment adds anything. I recommend that you vote this thing down.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment by Mr. Durst. Those in favor will say aye. Opposed will say no.

The amendment is adopted.

DELEGATES: Division.

CHAIRMAN A. G. ELLIOTT: Division has been called for. Is the demand supported? Sufficient number is up. All those in favor of the amendment will vote aye and those opposed will vote no. The secretary will read the amendment.

SECRETARY CHASE: Mr. Durst's amendment:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN A. G. ELLIOTT: The secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Durst, the yeas are 46; the nays are 50.

CHAIRMAN A. G. ELLIOTT: The amendment is not adopted. Are there any further amendments?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: There being none, it will pass.

Committee Proposal 125, as amended, is passed and the secretary will read.

SECRETARY CHASE: Item 2 on the calendar, from the committee on emerging problems, by Mr. Millard, chairman, **Committee Proposal 126,** A proposal to affirm the state's primary concern in public health.

Following is Committee Proposal 126 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. THE PUBLIC HEALTH AND GENERAL WELFARE OF THE PEOPLE OF THE STATE ARE HEREBY DECLARED TO BE MATTERS OF PRIMARY PUBLIC CONCERN. THE LEGISLATURE SHALL PASS SUITABLE LAWS FOR THE PROTECTION AND PROMOTION OF THE PUBLIC HEALTH.

Mr. Millard, chairman of the committee on emerging problems, submits the following reasons in support of Committee Proposal 126:

A number of states, among them New York, Missouri, Florida and Hawaii, have strong constitutional provisions declaring the state's interest in the maintenance of the public health. Some of these statements, notably that in New York, are extremely detailed in character, imposing upon the legislature responsibility for action in a long list of public health and welfare problems (pollution, preventive medicine, care of the aged, indigent, insane, public medicine, etc.). Others are merely declaratory in nature.

The present proposed section is based mainly on provisions recently adopted in Missouri and Hawaii and is, in the main, merely declaratory in character, instructing the legislature to adopt whatever public health measures it deems appropriate.

CHAIRMAN A. G. ELLIOTT: The committee will be in order. The Chair will recognize the chairman of the committee, Delegate Millard.

MR. MILLARD: Mr. Chairman and members of the committee, this is another one of those problems which came to us. This came to us from one of the other committees. We discussed it pro and con. We had many people talk to us about it and I think it is a very good proposal. There is a committee amendment to this proposal; I don't know whether it has been distributed or not, but I received this several days ago. But there is an amendment and first the amendment will be handled by one of the members of our committee, Delegate Goebel, and then the proposal itself will be handled by Delegate Figy who had charge of the subcommittee in regard to this matter. I will yield the floor for the amendment to Delegate Goebel.

CHAIRMAN A. G. ELLIOTT: The secretary will read the amendment.

SECRETARY CHASE: Mr. Millard, on behalf of the committee on emerging problems, offers the following amendment to Committee Proposal 126:

1. Amend line 10, after "health.", by inserting "The promotion and development of health and physical fitness shall always be encouraged.".

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Goebel.

MR. GOEBEL: Mr. Chairman and fellow members of the committee, I want to say to those who did not know me in my better days that in spite of my current, temporary infirmities, I am very much devoted to the cause of physical fitness. I want to say that this amendment was prompted through the request of several delegates and also through the request of Mr. Munn, who is athletic director of Michigan State University. Mr. Munn, as some of you may know, is also a member of the president's committee on physical fitness. And, as some of you may recall, that committee came into being because of the great concern that came after the inauguration of the draft, and it was determined that 1 out of 2 applicants for that position were denied the right to serve their country because of their lack of proper physical fitness, and as some of us know, the standards for admission to that club were not very high either.

Again I want to say that this is in line with a good many of the statements made by this committee or proposals that are being offered by this committee, a rather declaratory statement, but in this particular case, in the matter of this amendment it was considered of sufficient import that it should be mentioned as a section in the new constitution. It adds nothing to the legislature's power, but would emphasize the direction in which the people desire the legislature to move, and it would also lend encouragement to those individuals and organizations who presently have the responsibility of our physical education and other programs for physical fitness. The committee respectfully urges your favorable consideration of this amendment, as well as the committee proposal. Thank you.

CHAIRMAN A. G. ELLIOTT: The question is now upon the amendment as offered by the committee. All those in favor — there is an amendment to the amendment.

SECRETARY CHASE: The secretary understands that these green sheets, Committee Proposal 126, have been furnished to every one of the delegates. This has on it the committee amendment, the only committee amendment.

Messrs. Binkowski and Stopczynski offer the following amendment to the committee amendment:

1. Amend the amendment, after "encouraged" by inserting "and the protection of the consumer"; so the language will read, "The promotion and development of health and physical fitness shall always be encouraged and the protection of the consumer."

CHAIRMAN A. G. ELLIOTT: May the Chair see that amendment? Is that in order?

MR. VAN DUSEN: Mr. Chairman, I make the point of order that the amendment is not germane.

CHAIRMAN A. G. ELLIOTT: That is the point the Chair is now discussing with the secretary. Mr. Binkowski, do we have the proper place for this amendment? Because if we do, the Chair will have to rule it out of order.

MR. BINKOWSKI: Mr. Chairman, the entire section states, and I will quote, "The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern." And then the committee, as I understand it, proposes, just in one area of public health and physical fitness, to have the legislature act. Now, I think that the broad, general term of "general welfare," certainly would encompass the protection of the consumer, and I would say that if they are going to ask the legislature to act in this particular area of public health, I would like to ask them to act for the protection of the consumer.

CHAIRMAN A. G. ELLIOTT: The Chair would have to rule that the amendment is out of order. Mr. Madar.

MR. MADAR: Mr. Chairman, on this amendment, this has been watered down just about as much as anything I have ever seen watered down.

MR. VAN DUSEN: Point of order, Mr. Chairman. If the amendment is out of order, Mr. Madar is out of order if he is speaking on it.

CHAIRMAN A. G. ELLIOTT: Mr. Madar, are you speaking on the amendment as offered by the committee?

MR. MADAR: On the one that Delegate Goebel spoke on.

CHAIRMAN A. G. ELLIOTT: You may continue.

MR. MADAR: He is talking about physical fitness and, as I understand it, that is part of an amendment to this particular proposal. When this started out we were thinking of the welfare of the people of this state and the health of the people of this state. We were thinking about organizing departments within the state. It was taken out of the committee on local government by the request of one of the delegates. It was sent over to emerging problems. There it was put into the subcommittee of that same delegate and at that time there was a proposal introduced. There will be an amendment further so that we will have something here besides physical fitness.

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment as offered by Mr. Millard for the committee. The secretary will read the amendment.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

SECRETARY CHASE: Mr. Millard, on behalf of the committee on emerging problems, offers the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2613.]

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Prettie.

MR. PRETTIE: Mr. Chairman and fellow delegates, in the interest of the physical fitness of this delegation, I suggest we proceed to vote.

CHAIRMAN A. G. ELLIOTT: All those in favor of the amendment as offered by Delegate Millard for the committee will say aye. Opposed, no.

The amendment is adopted. The Chair will now recognize Mr. Figy to speak on the committee proposal as amended.

MR. FIGY: Mr. Chairman and fellow delegates, our reasons for supporting a public health section are found in Journal 114, on page 863. There are several states that have general health provisions in their constitutions. New York's provision is extremely detailed, while all of the others are only declaratory statements such as we are recommending here.

Two delegate proposals were introduced in this convention stating that there shall be appointed in each county or district a public health officer and creating a department of public health. The proposals were first referred to the committee on local government, as Mr. Madar has told you. On January 18, Mr. Elliott, chairman of the committee on local government, referred them to Mr. Millard, chairman of the committee on emerging problems, with the following letter:

> The committee on local government gave very serious consideration to the problem of public health. Since the formation of your committee, it is obvious that this broad topic is one that your committee is presently giving attention to. We are therefore referring this proposal to you with the added comment that the committee on local government is keenly aware of the problem and hopeful that affirmative action, either through the constitution or through suggestions to the legislature, that progressive steps will be taken.

The Michigan legislature passed an enabling act in 1927 [306] which was later amended in 1954. This act reads, in part:

> The board of supervisors of any county in the state may provide for a county health department to be paid for out of the general funds of the county: Provided, That if the county has a department of health the board of supervisors may select a county board of health of 5 members, who may or may not be members of the board of supervisors....

Under this act, all but 14 counties of the state of Michigan have county health departments, either individually or in conjunction with other counties. Much progress has been made in public health since this act was enacted by the legislature.

I am sure you can't see this, but if any of you care to look at this chart, I have here, prepared by the health department, a chart. This red line indicates, as most of you can see, the progress that has been made under the statute passed by the legislature and how the interest in the — oh, I got the wrong end up. (laughter) Well, just the same, it shows that when the law was enacted back in 1927, as I have told you, there were only 3 county health departments. That has gone up now to where there are 40 different public health departments comprising either individual counties or 2 or more counties. In other words, those 40 county divisions of public health now cover 79 of our 83 counties. As I have told you, very much progress sure has been made by this statute.

It is the feeling of the committee on emerging problems that recognition should be given to present and future public health problems, and that the legislature should pass suitable laws for the protection and promotion of public health. I don't claim to know very much about public health. I assure you I am not an M.D., but I have had some experience in public health in positions that I have held. The state health department has authority, under the police powers of the state, to promote and supervise public health. The water resources division of the state of Michigan has authority to protect our streams against pollution. The cities and villages, most of them, have public health regulations or public health divisions. The Michigan department of agriculture has the authority given to it by the legislature to inspect food, to control diseases in cattle, to inspect slaughterhouses and the handling of meat, to inspect our milk supply, and there are many, many different statutes on the books today that do provide for public health, probably more or less on a voluntary basis, but the legislature has laid down the framework by which this can be done.

We think it necessary that this convention not pass over the thought of giving some recognition to the importance of public health. As we have said in the other proposal that we offered to you, we think it is a declaratory statement, it is calling the attention of the people and the legislature to the problems as they exist today, and as the problems may arise in the next several years to come. Therefore, we have taken a lot of time on this. I urge you to support the committee proposal.

CHAIRMAN A. G. ELLIOTT: The Chair will recognize Delegate Jones.

MR. JONES: Mr. Chairman and fellow delegates, in the interest of the health and physical fitness of this part of the public which is assembled in this convention, I urge we adopt the committee proposal.

CHAIRMAN A. G. ELLIOTT: The secretary will read any amendments we have.

SECRETARY CHASE: Messrs. Binkowski and Stopczynski offer the amendment as follows:

1. Amend page 1, line 7, after "state" by inserting "and the protection of the consumer"; so the language will read, "The public health and general welfare of the people of the state and the protection of the consumer are hereby declared to be matters of primary public concern."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, it is very late. Like most of you, I am very "fat-i-gued," and all I would like to say is we are all consumers. The recent study of the attorney general in his consumer protection conference indicates that the average family spends a quarter of a million dollars in his lifetime for feeding, housing, clothing and so forth. I think this is going to be an increasing problem, particularly in our industrial complex society. There have been various investigations. I think the public policy of the state should be very clear.

In 1960 our attorney general, former attorney general, Paul Adams, set up a separate consumer protection division, and I think he indicated quite conclusively that the consumer needs protection. He closed one of the paragraphs with these words, "Michigan must be made an uncomfortable place for those who prey upon the consumer." I think that this is a matter which is of concern to all of us and deserves serious consideration here. I move its adoption.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Richards.

MR. J. B. RICHARDS: Mr. Chairman, fellow delegates, as Mr. Binkowski has stated we are all consumers, and so the people of the state are consumers, and it would seem to me as though, if we just leave the wording as it is, we have taken care of the consumers of the state. I do know that much of the legislation that has been passed here, many of the departments, the state departments here, are interested and are working to protect the health and the welfare of all of the citizens of the state, and so I think probably we just better go ahead and I would suggest, vote down the amendment and then vote on the proposal.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment as offered by Mr. Binkowski. The Chair recognizes the chairman of the committee, Mr. Millard.

MR. MILLARD: I agree with Mr. Richards and I ask you to vote the amendment down.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment. All those in favor will say aye. Opposed, no.

The amendment is not adopted. Does the secretary have any other amendments?

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend page 1, line 6, after "Sec. a.", by striking out the balance of the section and inserting "The legislature shall provide by law for the establishment of a health department for every county or combination of counties in the state. The county boards of supervisors shall levy a tax sufficient for the establishment and support of a department of health in such counties or combination of counties. The state health commissioner shall determine minimum standards of health service with the approval of the state council of health.".

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Madar.

MR. MADAR: Will you ring the bell, Mr. Chairman, and get some of the delegates in here? Either that or we will have to call for a quorum because I doubt if we even have one.

CHAIRMAN A. G. ELLIOTT: Mr. Madar, will you speak to your amendment?

MR. MADAR: I will do that. Every Michigan citizen is entitled to good health. I don't believe that anyone can dispute this. In fact, good health can be considered a right. And good health is better assured when effective public health measures are carried out in addition to the traditional doctor-patient relationship. However, public health activities and programs, which have done so much to improve the general welfare, depend on local health departments to implement them.

There is a wide gap between what is known about public health and what is actually being done to put this knowledge and experience to work. The modern public health department has proved an excellent means to help bridge this gap — making available to the public the newer facts about personal health — and putting to work modern scientific measures for building the health of the community. On the other hand, the many advances in public health are not being used to their fullest in communities without a local health department that meets state standards. As a result, people living in counties not served by local health departments are not receiving the full benefits available through the application of public health programs — in effect, are denied the same right to better health enjoyed by the majority of Michigan citizens.

The combination of a public aroused to personal and community health needs, plus capable medical and public health workers has long been proven an effective answer to the challenge of preventable diseases and other threats to the public health. The accomplishments of public health measures — spearheaded by local health departments — would fill a good sized textbook. I won't attempt to remind you of all of them. I can mention just a few words: diphtheria, smallpox, typhoid fever; today these are simply meaningless names of practically extinct diseases. But were I uttering these same sounds 50 years ago, they would have had far more meaning — they meant "fear" then. The very absence of any emotional context surrounding the names of these diseases today is due to the efforts of local health departments to eliminate these once dreaded killers. I can say another word that more recently carried a ring of fear with it: paralytic polio — this crippling disease that just 10 years ago struck down over 1,000 Michigan children, crippling them for life — last year its toll was reduced to 30. This was due in large part to the efforts of local health departments to educate the people in their area, encourage them to take advantage of the wonderful Salk vaccine — even provide it free of charge if necessary. Yet 10 of the cases of polio were reported in counties not served by a local health department approved by the state.

We are slowly winning the long, hard fight against tuberculosis, which once ranked as the number one killer in Michigan. Last year 390 people died from TB. It used to be 5 times that many. It's still 5 times as much as it should be. We won't have TB licked until every single tuberculin is found, isolated and cured. This means constant surveillance, testing and x-raying and education conducted at the local level. The highest incidence of tuberculin test reactors last year was in a county not served by an organized health department, Berrien county. With tuberculosis as contagious as it is, the TB reactors in that county are a concern to everyone in Michigan.

It is only when full time local health departments are available to carry out the public health programs organized and planned at the state level that the people of Michigan realize the full benefits of public health measures. When it comes to health, we cannot be satisfied with half measures. In 14 Michigan counties there are no local health departments to carry out the many public health programs which have helped to make Michigan one of the healthiest, safest places to live in the world — a far cry from the turn of the century, when Michigan was a land of malarial fever and tuberculosis. Michigan's experience with county and district health departments dates only from the enabling act of 1927, public act 306. Since that time, the state health department has worked zealously for the creation of these county and district health departments —

CHAIRMAN A. G. ELLIOTT: Will the committee please be in order.

MR. MADAR: Yes, Mr. Chairman. I can even hear Mr. Sleder over my voice, and that is loud. The people at the state level realized that the job of maintaining and improving public health would be difficult at best without local health departments. It's been 35 years since Oakland county became the first to organize a health department. We have had 35 years of evidence of the efficacy of local health departments, yet people in 14 counties still lack the services of an organized, full time approved health department.

There is no substitute for a vigorous venereal disease control program. VD is on the increase again — especially among our teenagers. We need intensified efforts at casefinding, followup investigation of contacts, increased VD education in our schools. This must be handled, can only be handled by local health departments.

There is no substitute for a good immunization program to encourage vaccination against all of the diseases for which we now have protection. We don't think much about smallpox any more — for most of us, it just doesn't exist — but if there isn't someone watching constantly for it, urging immunization, ready to provide it without charge if need be, we would soon be wide open for an attack from this dreaded disease. But this requires an organized public health department, constantly on the alert for such dangers. And I might tell you on the side from what I have written here, that any one of these diseases could start in any one of those 14 counties and wipe out all of the rest of you in the rest of the counties.

There are no substitutes for thorough vision and hearing screening in our schools. Last year local health department technicians tested the hearing and vision of nearly ½ million school children, referring thousands of them to eye and ear specialists for corrective treatment — saving their sight and hearing — transforming them from apparently slow witted, failing students into bright, eager youngsters, thrilled at their new found ability to see and hear — experiencing sights and sounds which had been denied them. There are children like these in our 14 counties without local health departments — a few of them are screened occasionally but no intensive sight and hearing conservation programs are organized for them. At least not in these 14 counties, there is not. There is no substitute for sound rehabilitation programs which enable elderly citizens in counties served by local —

MR. HOXIE: Pardon me, Mr. Madar. Mr. Chairman, it is doubtful in my mind if we have a quorum here. I would suggest all those present vote aye so we determine whether we have a quorum or not.

CHAIRMAN A. G. ELLIOTT: Delegate Hoxie, are you demanding a check to see if there is a quorum? The Chair is satisfied.

MR. HOXIE: Well, I don't desire to demand a vote, but apparently with all these seats vacant, it apparently seems that Mr. Madar is wasting some of his thunder with this discussion. Perhaps it would be better to wait until in the morning and see whether or not we could get a full body here to hear it.

MR. MADAR: In fact, Mr. Chairman, I will go along with the idea that there isn't a quorum.

CHAIRMAN A. G. ELLIOTT: Mr. Madar will continue.

MR. MADAR: Is there a quorum?

CHAIRMAN A. G. ELLIOTT: Mr. Madar will continue.

MR. MADAR: There is no substitute for sound rehabilitation programs which enable elderly citizens in counties served by local health departments to become useful, self sufficient persons once again instead of public wards, cared for by tax money in county homes for the aged. There is no substitute for well organized programs to detect possible chronic diseases early enough to permit successful treatment. There is no substitute for local sanitary inspection of restaurants, dairies, bakeries and other food handling establishments, as well as motels, resorts and trailer parks, to protect the public health. Here I would like to add also that I did have some pads here that are used for filtering milk and some of them from these 14 counties of which I speak and the only reason I could not bring them here to keep them here — I could have — but I couldn't have done this because it would have kicked you out of this place mighty fast because they would smell so bad in 20 hours that it would push you right out of the building.

The very food we eat and milk that we drink can be a source of disease, although everyone just assumes that it is safe and pure. But who knows how many times the food and milk is handled, and by whom, and under what conditions; at the source, during processing and packaging, in transit, displayed in the store, or prepared for us in restaurants? At any point from the primary source to the time we put it in our mouth, the food we eat and the milk we drink is subject to contamination. It is essential that locally responsible people check the food and milk at every step to make sure the level of sanitation we all take for granted is maintained. In order for us to assume that what we eat is safe, there must be people all along the way who assume it is unsafe until they check it to make sure that it is not unsafe. A state agency — any state agency — is not equipped to maintain this constant surveillance except at tremendously increased costs, over what it would cost locally.

All of these programs, and many, many more, are functions of local health departments — responsibilities of local government. Without an organized, full time, approved local health department, the people in the areas lacking such services cannot possibly have the same level of public health enjoyed by people served by a local health department.

Under our constitution, every citizen is guaranteed equal rights. And yet Michigan people in 14 counties — almost 800,000, nearly 10 per cent of our population — do not receive the benefits of an organized, full time local health department. These people are being denied the health services provided the vast majority of Michigan people because there is no provision requiring local health departments.

No state program can be better than its local work, and in the 14 counties without an organized local health department, our statewide programs to control venereal disease, detect chronic disease at an early stage, test the vision and hearing of our youngsters, and all of the other programs, fall down because of a lack of efficient, organized local health departments in all counties to carry them out. Why should the aged people in Huron, Tuscola and Lapeer counties be denied the opportunity to regain self sufficiency afforded by the rehabilitation programs such as the one in neighboring Saginaw county? Why should a polio immunization program in Washtenaw county come to a halt when it reaches the border of Livingston county? Are not the children of Howell, Brighton, Fowlerville and Pinckney entitled to the same concern as children in Ann Arbor, Ypsilanti or Chelsea? I can give you some other examples.

With an organized local health department, it is easier to reach people needing service — service such as home nursing care. And better service is rendered because there is continuity of service. In counties with local health departments, there is a qualified staff of public health nurses available to assist those in need. Under the home nursing care program of local health departments, public health nurses come into the homes of the ill and aged and bathe and feed them, administer injections and medications, change dressings, direct them in physical therapy, instruct them in the use of crutches, wheelchairs and other prosthetic devices. They not only serve the patient, but the busy doctor as well, by relieving him of some of these details. They help the good busy doctor provide better service to his patients. Patients in counties not served by a local health department must depend on the limited staff of the Michigan department of health for assistance if they are to receive any at all and the state health department is not and should not be budgetarily equipped to provide for 14 counties what 69 counties provide for themselves.

Local health departments are vital to an effective venereal disease control program. Control measures, such as vigorous casefinding programs depend on effective local health departments. There are virtually no organized casefinding programs in unorganized counties. Local health departments stand ready to assist the schools with VD education material — with the recent rapid increase in syphilis, especially among teenagers, these programs are essential and should be carried out in all counties, not just those that presently have local health departments. The answer is to have local health departments serving every county in the state. Venereal disease followup investigations of contacts must be conducted by members of the Michigan department of health in counties without local health departments. This means long trips from Lansing to all of these various counties whenever a case of infectious syphilis is reported. Only 2 men are available for this work, and already this year they have had to make over 90 trips to investigate reports of venereal diseases in counties without a local health department. Such followup interviews are obviously more costly and time consuming than if local personnel were available. Time is frequently a critical factor in halting the spread of the disease, and in this respect, investigations from Lansing are also less effective in the control of syphilis. With our super freeways, no county, no part of the state is now isolated and immune to the spread of disease from other parts of the state. A case of infectious syphilis in Cass county is of concern to public health officials in Pontiac, Muskegon and other parts of the state — especially because there is no approved local health department in Cass county to help control the spread of the disease.

Any public health program can be done more effectively and efficiently at the local level. Local health departments, close to the people, are essential to check the sanitation of the county. State agencies don't and shouldn't have the manpower to do the necessary job of maintaining local public health standards throughout the state. That was one of the big reasons for enacting public act 306 in 1927, and its several later amendments — to provide for personnel on the local level to do this job. And it worked out pretty well too — about 90 per cent of our people are served by a local health department. But what about the 10 per cent that aren't served by a local health department? Public health measures must still be carried out in these areas — by state health department personnel — at considerable extra cost when you consider the time and expense of traveling from Lansing hundreds of miles to do an inspecting job that could be done quicker and easier by local people. The state has traditionally delegated responsibility for public health to local government — first to the township and village health officer, then later, to the county or multicounty organization. But this was all permissive, passive legislation. It said that a county or combination of counties may provide for the public health by organizing and sponsoring a health department. I say that every county or combination of counties must provide for the public health through a local health department — organized at the local level, paid for by local taxes, and most important, responsible to the local people and familiar with the particular needs of their own locality.

We have a number of state laws, such as the law prohibiting anyone with an infectious case of venereal disease or tuberculosis from working in a food handling establishment — be it slaughterhouse, restaurant or supermarket. But how, I ask you, is this law to be enforced if there is no local health department to do the enforcing? This is a good law, designed to safeguard the public welfare. But without local enforcement, which means a local health department, the law is not going to protect the public health.

There is presently a growing criticism of "big government," expressed so admirably by President Eisenhower in his recent address before this convention. I believe that local health departments, meeting state standards, can help to answer this criticism. The health needs of Michigan people must be met, and will be met by the Michigan department of health — indirectly in areas served by local health departments, but necessarily, and at greater cost, directly in those counties without an approved, full time local health department. Each year, too, in our legislature we see bills which would give local health functions to the state department of agriculture. This is neither economical or conducive to locally responsible government.

Public health is clearly a responsibility of government but the question is, what level of government? I say it is best to keep the responsibility as close to the people as possible — through local health departments, organized by, primarily financed by, and responsible to the local community. This is the essence of real democracy. I want to say this to you: there are a good many men who are delegates to this convention who are expecting to run either for the state legislature or for the state senate. I hope that they can go to their mothers —

CHAIRMAN A. G. ELLIOTT: Stay on the amendment, please.

MR. MADAR: This is on the amendment. I hope that they can go to their mothers and to their fathers and to the children and tell them in good conscience that they actually tried to do their best here tonight, that they did try to protect them and their children. I say this to you: that after you get through telling them the truth and you tell them what you expect to do for them, how you expect to give them the service that they should have, if you can still do this in clear conscience after tonight — if you don't vote this in, then there is something radically wrong with you because there are too many of you who haven't been paying attention — and I am now speaking to those who are out in the hallway or down in the basement or who have gone home to sleep. (laughter) I hope that they get their sleep, but I also hope that if you don't tell them the truth, that I get an opportunity to tell them, so that you don't get to that senate or that legislature because you don't belong there.

CHAIRMAN A. G. ELLIOTT: Mr. Madar, they may have been merely protecting their health. (laughter) All those in favor of the Madar amendment — Mr. Figy.

MR. FIGY: Mr. Chairman, I don't like to have all of those statements go unchallenged. I would like to ask — through the Chair, I would like to ask Mr. Madar one question, if I may.

CHAIRMAN A. G. ELLIOTT: If the gentleman cares to answer. Mr. Madar, do you care to answer the question?

MR. MADAR: I don't know what the question is. (laughter) Let Mr. Figy state his question.

MR. FIGY: I would like to ask Mr. Madar where he picked up those pads that milk was strained through.

MR. MADAR: Well, I got them from Mr. Russell Palmer — rather, I saw them, I didn't bring them up. I told you I didn't. I had them in my hands and I looked at them when they were given to me by Mr. Russell Palmer, who is in charge of the milk inspection for the city of Detroit, throughout the Detroit milk shed, and I believe you knew that before you even asked me, Mr. Figy.

CHAIRMAN A. G. ELLIOTT: Does this answer your question, Mr. Figy?

MR. FIGY: No, because Mr. Palmer is in charge of milk inspection, he is very serious, very stringent in his inspection. I am sure he would not let a can of milk come into Detroit that had such a pad as Mr. Madar refers to. I personally would like to see him have it here. That is all the questions, Mr. Madar.

MR. MADAR: Mr. Chairman, may I answer his question?

CHAIRMAN A. G. ELLIOTT: The Chair is sorry, you may not.

MR. MADAR: Then I am asking for further time.

CHAIRMAN A. G. ELLIOTT: You may have that.

MR. FIGY: Just a few minutes. I want to state that the committee did have Mr. Madar's amendment before us. We gave very serious consideration to it. We appreciate the problem as well as he does. We did think, however, that it was not necessary to write into the constitution the matter of creating a health department. We felt it important we should call it to your attention, but not to write it. We feel we should not create any more constitutional offices. That is one of our reasons.

CHAIRMAN A. G. ELLIOTT: Thank you. The Chair now recognizes Delegate Farnsworth.

MR. FARNSWORTH: Mr. Chairman and members of the committee present, I wanted to say to you that this emerging problem first emerged in the local government committee some months ago. Mr. Madar brought the identical language in there. It did not have enough votes to get off the ground, and I think that we owe him a vote of thanks for his very sincere consideration for our well being throughout the state, but we note that he proposes that a board of supervisors levy a tax and establish a department. In the local government committee, we thought that was a fine idea, if and when they were ready to do so, but we did not want to impose it on them. I suggest to the committee that they give Mr. Madar's amendment a very unhealthy no vote.

CHAIRMAN ELLIOTT: The question is now on the Madar amendment. Mr. McLogan.

MR. McLOGAN: Mr. Chairman, perhaps Mr. Madar and I will be alone on this but I rise in support of his amendment. I was part of the subcommittee which gave consideration to this matter. This simply provides that the 14 counties out of 83 in Michigan that have no health department will, by themselves, or by combining, end up with a health department, and that the county board of supervisors will provide the support for it. We gave considerable time in the subcommittee to testimony from representatives of the county boards of health, medical officers that came to speak to us there. I favored the amendment then and I favor it now. I think it is something that we need.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Jones.

MR. JONES: Mr. Chairman, I would like to ask Delegate Madar a question.

CHAIRMAN A. G. ELLIOTT: If the delegate cares to answer.

MR. JONES: Would you be willing, Mr. Madar, to drop out the intent of this, to strike out the committee proposal and insert this as section b?

MR. MADAR: Yes, I would be willing to do that, certainly.

[The amendment, as revised, reads as follows:

1. Amend page 1, following section a, by inserting a new section to read as follows:

"Sec. b. The legislature shall provide by law for the establishment of a health department for every county or combination of counties in the state. The county boards of supervisors shall levy a tax sufficient for the establishment and support of a department of health in such counties or combination of counties. The state health commissioner shall determine minimum standards of health service with the approval of the state council of health.".]

CHAIRMAN A. G. ELLIOTT: Mr. Madar, as long as you are there, you are next on the list.

MR. MADAR: I certainly wish to correct one bit of—rather, one thought that Mr. Figy has tried to instill in the group here, that the city of Detroit would permit any milk to come into Detroit that wasn't just as it should be. We certainly wouldn't. The inspectors picked up these pads at the dairy, that is at the dairy farm. We did not allow any milk to come in that was impure, and what's more, we won't. We are protecting the Detroit and Wayne county area. In fact, it is the work that the Detroit health department is doing in that milk shed that is protecting the entire area down through there, and I am now talking about a lot of Oakland, Wayne, Macomb, yes, even parts of Genesee. We are protecting an awful lot of the state through our own inspection in the milk shed, and I am mighty proud of what they are doing. We are not trying to impose anything on any of the other counties. It is something that can be done very easily, and without too much money.

Frankly, I tried to do more about this in committee. I wasn't given the opportunity that I should have been given. I spoke to Mr. Figy on at least 5 or 6 different occasions, asking him what had been done, when they were going to meet on these things. On a couple of occasions he told me that the good doctor was going to be in — that is, the state health commissioner. I wasn't told what date they were going to meet, whether they would give me a hearing. I certainly thought that they should, and I believe if Mr. Figy was honest and sincere at the time, he would have said this: he would have said, "Delegate Madar, if you want a hearing we will give it to you." He was the man who recommended it be put in the emerging problems committee.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes the chairman of the committee, Delegate Millard.

MR. MILLARD: I will just say that if we can get a vote on this I will move that the committee rise, and I would say that this matter has been thoroughly gone into. It is purely legislative. It is being handled by the state at the present time. I would recommend that we vote no on this amendment.

MR. MADAR: Mr. Chairman, I rise to a point of order. There is no quorum here and I think we ought to have a count.

CHAIRMAN A. G. ELLIOTT: There is a quorum.

MR. MADAR: Has it been counted?

CHAIRMAN A. G. ELLIOTT: The question is now on the amendment of Mr. Madar.

MR. MADAR: I will move for the yeas and nays, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: The yeas and nays have been called for. Is there support? There is sufficient number up. The question is on the amendment of Mr. Madar. All those in favor will vote aye. Those opposed will vote no. The question is on the amendment that is on the board. Have all the delegates voted? This is a recorded roll call vote. The Chair recognizes Delegate Jones.

MR. JONES: This is now section b, isn't that correct?

CHAIRMAN A. G. ELLIOTT: Yes, this is correct. All those in favor will vote aye. Those opposed will vote no.

MR. YEAGER: Mr. Chairman, just a moment. Mr. Jones just said this is now section b. Is it? Was that joined with the committee proposal or was this proposed as a separate proposal?

CHAIRMAN A. G. ELLIOTT: Mr. Jones asked Mr. Madar if he would make this as section b to the committee proposal and Mr. Madar said that was agreeable to him.

MR. YEAGER: This is an additional section to the committee proposal?

CHAIRMAN A. G. ELLIOTT: This is an additional section to the committee proposal. The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—27

Balcer
Bledsoe
Bradley
Buback
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Garvin
Hart, Miss
Hatcher, Mrs.
Hood
Howes
Jones
Leppien
Madar
McCauley
McGowan, Miss
McLogan
Perlich
Perras
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Yeager
Young

Nays—57

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Farnsworth
Figy
Finch
Goebel
Gover
Habermehl
Haskill
Hatch
Heideman
Higgs
Hoxie
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Krolikowski
Kuhn
Millard
Mosier
Nisbet
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Madar to add a section b, the years are 27; the nays are 57.

CHAIRMAN A. G. ELLIOTT: The amendment is not adopted. The secretary having no further amendments on his desk to the committee proposal, it will pass. Committee Proposal 126, as amended, is passed. The Chair recognizes Delegate Millard.

MR. MILLARD: At this time I move that the committee rise.

CHAIRMAN A. G. ELLIOTT: The question is on the motion of Delegate Millard that the committee rise. All those in favor will say aye. Opposed?

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, the committee of the whole has had under consideration certain matters on the general orders calendar on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 67** relative to eminent domain, has considered amendments thereto, and has placed the proposal at the foot of the general orders calendar.

The committee of the whole has also had under consideration **Committee Proposal 125,** A proposed constitutional provision with respect to the conservation of the state's paramount interest in the air, waters and other natural resources of the state; has adopted 2 amendments thereto and recommends that the proposal, as thus amended, do pass.

[The following are the amendments adopted by the committee of the whole:

1. Amend page 1, line 8, after "The" by inserting "people of the".

2. Amend page 1, line 8, after "paramount" by inserting "public".]

PRESIDENT NISBET: **Committee Proposal 125,** as amended, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 125 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The people of the state holds a paramount public interest in the air, waters, and natural resources of the state, in the interest of the health, safety, and welfare of the people. The legislature shall enact appropriate legislation to protect the air, waters, and other natural resources of the state against pollution, impairment, or destruction, so that the interest of the people may be preserved.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 126,** A proposal to affirm the state's primary concern in public health; has adopted an amendment thereto and recommends that the proposal, as thus amended, do pass.

[The following is the amendment adopted by the committee of the whole:

1. Amend line 10, after "health.", by inserting "The promotion and development of health and physical fitness shall always be encouraged.".]

PRESIDENT NISBET: **Committee Proposal 126,** as amended, is accepted and referred to the committee on style and drafting.

Following is Committee Proposal 126 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. The public health and general welfare of the

> people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health. The promotion and development of health and physical fitness shall always be encouraged.

SECRETARY CHASE: That completes the report of the committee of the whole.

PRESIDENT NISBET: You have announcements?

SECRETARY CHASE: No announcements, Mr. President. We have one request: Mr. Bentley asks to be excused from the latter part of tomorrow's session.

PRESIDENT NISBET: Without objection, the excuse is granted. The Chair recognizes Mr. DeVries.

MR. DeVRIES: Mr. President, the committee on administration will meet following tomorrow morning's session.

PRESIDENT NISBET: The Chair recognizes Mr. Beaman.

MR. BEAMAN: I move we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed, no.

We are adjourned until 9:00 o'clock.

[Whereupon, at 11:30 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Thursday, April 19, 1962.]

ONE HUNDRED TWENTY-FIFTH DAY

Thursday, April 19, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our own delegates, Mr. Downs.

MR. DOWNS: Let us pray. Dear Father, may the spirit of Passover and Easter remind us we are all children of the same God and brothers of the same Father. We pray that our work shall meet the needs and hopes of all the people and of generations yet unborn. At this special season, we ask that the love of Jesus instill our dedication to the words of Micah, "What does the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God." Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Walker, temporarily, from this morning's session; and Mr. Dade, indefinitely, effective today.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Dade, Faxon, Greene, Marshall, Martin, Nord, Ostrow, Pellow, Tubbs and Walker.

Absent without leave: Messrs. Ford, Habermehl, Mrs. Hatcher, Messrs. Murphy, White and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Hatcher, Messrs. White, Wilkowski, Habermehl, Murphy and Walker.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 69 of that committee, reporting back to the convention **Committee Proposal 2,** A proposal to provide the executive power be vested in the governor;

with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 2 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 70 of that committee, reporting back to the convention **Committee Proposal 7,** A proposal to provide that the governor shall issue writs of election to fill vacancies in the legislature;

with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 7 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 71 of that committee, reporting back to the convention **Committee Proposal 46,** A proposal pertaining to the executive budget and item veto;

with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 46 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 72 of that committee, reporting back to the convention **Substitute Proposal for Committee Proposal 59,** A proposal pertaining to vacancies in the office of governor; and **Committee Proposal 60,** A proposal pertaining to succession to the governorship;

with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For the Substitute Proposal for Committee Proposals 59 and 60 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 73 of that committee, reporting back to the convention **Committee Proposal 70,** A proposal to revise provisions of section 36 of article V regarding the veto power of the governor;

with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 70 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 72 of that committee, reporting back to the convention **Committee Proposal 71,**
A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 71 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 75 of that committee, reporting back to the convention **Committee Proposal 72,**
A proposal to provide for compensation of acting governor;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 72 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 76 of that committee, reporting back to the convention **Committee Proposal 74,**
A proposal to provide by law for the administration of claims against the state, escheats and escheated property, and the investment of state funds;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 74 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 77 of that committee, reporting back to the convention **Committee Proposal 75,**
A proposal to provide for compensation of state officers;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 75 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 78 of that committee, reporting back to the convention **Committee Proposal 76,**
A proposal pertaining to the passage of permissive legislation to allow civil divisions of the state to establish local civil service systems and to receive assistance from the state civil service system;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 76 as reported by the committee on style and drafting, see below under date of April 25.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 79 of that committee, reporting back to the convention **Committee Proposal 77,**
A proposal to provide a suitable residence for the governor and to authorize an allowance for maintenance;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 77 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 80 of that committee, reporting back to the convention **Committee Proposal 78,**
A proposal to provide for the office of legislative auditor general;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 78 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: That is all of the standing committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: It is always a marvel to me how the human body and brain can rebound so rapidly. When I went home last night it made me think of the fellow playing golf who had had a rather bad day. He was hooking or he was slicing, and finally on the thirteenth hole he missed his putt. He broke the putter over his knee, threw the ball into the lake and sat down on the green rather frustrated, saying, "I've got to give it up, I've got to give it up," and the caddy said, "Give up what, golf?" The fellow says, "No, the ministry." (laughter)

Before anything else happens here I wish you a happy Easter when we leave here, if we do. Today we have taxation. We hope we can get it through early in time for you all to get home, because I know you want to, but I am sure you realize we must keep on schedule. We have asked style and drafting now to do 2 weeks work in 4 days. In talking to Mr. Brake, I know his committee is in good shape today, and I hope we will keep our debating sharp and intensify our work to do the best job we can.

The Chair recognizes Mr. Brake on second reading.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I wish to move for a change in the order in which the proposals from finance and taxation will be presented; namely, that we start with Committee Proposal 6, then 23, then 56, then 38, then 39, and otherwise follow the order that is already on your calendar. I make this motion for one reason, and for one reason only, and it is connected with what the president just said. Tomorrow is Good Friday. I understand from information here and there around the convention that there will be delegates leaving possibly before we get through. These are the 3 issues most likely to be controversial, and my purpose in making the motion is that we handle those while a maximum number of delegates are present. I have no other motive whatsoever in asking for the change in order. These cover the 15 mill limitation, the weight and gas state taxes and antidiversion, and the sales tax, and I want to get those off, if it's possible, before noon, while everyone is present.

PRESIDENT NISBET: The question is on the motion of Mr. Brake.

MR. DURST: Mr. Chairman, could Mr. Brake give us those again and give us the number that appears on the second reading calendar, rather than the committee proposal number?

MR. BRAKE: The numbers on the calendar, those are the numbers that I gave you. We start with Committee Proposal 6 and 23 as the calendar now is; then 56, that is the 15 mill limitation; then 38, that is the highway money; then 39, the sales tax.

PRESIDENT NISBET: The question is on the motion of Mr. Brake. Those in favor say aye. Those opposed, no.

The motion prevails.

MR. AUSTIN: Mr. President, I was on the floor before you called for that. I wanted to ask about Committee Proposal 51 which relates also to the assessment of property and the graduated income tax. I felt that that ought to be included. I move that Committee Proposal 51 follow the ones that Mr. Brake has listed.

PRESIDENT NISBET: The question is on the motion of Mr. Austin that Committee Proposal 51 follow those that were listed. All those in favor say aye. Those opposed, no.

The motion prevails. The secretary will read the first item.

SECRETARY CHASE: Item 1 on the calendar, **Committee Proposal 6,** A proposal to preserve the state's responsibility under sections 20a, 23a, 24, 25 and 26 of article X of the 1908 constitution.

Following is Committee Proposal 6 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 379.):

> Sec. a. [Nothing in this constitution shall be construed as in any way impairing the obligation of the state in connection with any benefits conferred by or issue of bonds authorized by the provisions of article X, sections 20a, 23a, 24, 25 and 26 of the Constitution of 1908, and the obligation of the state in connection with said sections is specifically recognized.] CONTRACTUAL OBLIGATIONS OF THE STATE INCURRED PURSUANT TO THE CONSTITUTION OF 1908 AS AMENDED SHALL CONTINUE TO BE OBLIGATIONS OF THE STATE.
>
> For the retirement of such notes and bonds as may have been issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each such year.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, before starting on this specific section, perhaps a little preview of what we have ahead of us will not be a waste of time. You have noticed, undoubtedly, that there are some very sizeable changes made by style and drafting. We think there is nothing that changes what the finance and taxation committee intended. We think the style and drafting committee has done a very excellent job. On a couple of the proposals we thought they had made substantive changes. That was taken up with the style and drafting committee and the matter adjusted.

At the time of committee of the whole we were charged — criticized for not having been sufficiently imaginative. We are still not imaginative. I think the principal test that we have applied to these various proposals has been: first, whether they provide — so far as the constitution can and should — something that will be workable in the every day business of running state government and, so far as applicable, running local units of government; and second, the matter of public acceptance. We have been mindful that there will be no constitution unless and until our product is approved by the voters, and we have not ignored what we believe to be their wishes. They are boss.

There are 16 proposals in this list. Many of them are what you may call housekeeping, financial proposals, having to do with accounting, handling of money, and all that kind of thing. We are not going to take any time now as to those items. I would like to mention a few of the major items that are going to come before you. The expansion of borrowing on the state level to include some short term borrowing is still with us as you approved it in committee of the whole. The matter of the state's credit and school borrowing has remained unchanged in purpose, although with some change in wording.

Now, on the matter of earmarking the committee is recommending at this time that we drop the primary school interest fund and that we drop all earmarking for school purposes. I think the committee is relying very largely on the wishes of the MEA. I think I should say that I haven't heard anything from them this morning, but as of day before yesterday they were willing to discontinue any earmarking for school purposes. That is not noncontroversial. There are delegates here who disagree with that position, and we will expect that there will be some amendments offered to those particular provisions. The earmarking of sales tax for local units of government will, under the recommendation of the committee, be continued, but that will be all the earmarking there will be of sales tax money if the recommendation of the committee is followed. On road taxes there will be a continuation of the nondiversion amendment with the provision in, that we have had from the beginning, that the term "highway use" shall be as defined by law.

The doing away with the primary fund, if you agree with the committee on that, will be followed by the striking of the section which calls for it. And the section, which is Committee Proposal 52, which calls for the state assessment of certain utility property, that again is controversial. The 2 things are not necessarily tied together, although they have been tied together in the constitution. The improvement that we think we made in connection with public retirement systems will be continued as you have it before you. The uniformity rule of taxation likewise, whether it is 50 per cent maximum assessment and a prohibition against a graduated income tax. The 15 mill limitation in a revamped form will be offered as a substitute for what the committee of the whole approved. You will remember that was the only finance and taxation proposal that was thrown out in the committee of the whole. It will be reoffered. The new provision that we put in for budget hearings before the adoption of all local government budgets will be presented to you again.

Now, specifically on Committee Proposal 6: the large type language there is aimed to take the place of several provisions in the old constitution with reference to carrying forward any obligations the state has already incurred under any of the borrowing provisions. One of those, section 26 of article X of the 1908 constitution, carried a continuing appropriation for the purpose of meeting the debt service obligations. That is the reason for the last paragraph in this proposal.

Now, I shall make but a very brief statement concerning most of these proposals, and not go into detail at all unless by your comments or your questions or your amendments it makes that necessary. The committee recommends the adoption of Committee Proposal 6.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 6. Are there any amendments?

SECRETARY CHASE: None.

PRESIDENT NISBET: Those in favor of Committee Proposal 6 — Mr. Austin.

MR. AUSTIN: Mr. President and members of the committee — it is not the committee anymore, we are now in the convention, so I will say fellow delegates — I would certainly like to concur in Mr. Brake's remarks that these bond issues which we have recognized as having been paid off, need to be cleared up with a saving clause and I would therefore recommend that we vote unanimously for this proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 6. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—121

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor

Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs

Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Beaman
Bentley
Binkowski
Blandford
Bonisteel
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Garvin
Goebel
Gover
Habermehl
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Page
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 6, the yeas are 121; the nays, none.

PRESIDENT NISBET: **Committee Proposal 6 is passed and referred to the committee on style and drafting.**

For Committee Proposal 6, as rereferred to the committee on style and drafting, see above, page 2621.

The secretary will read Committee Proposal 23.

SECRETARY CHASE: Item 2 on the calendar, **Committee Proposal 23,** A proposal to prohibit the issuance of evidences of state indebtedness, except as authorized by the constitution, to authorize state borrowing and prescribe the method therefor, to limit the use of state credit and to permit the loaning of state funds to school districts under certain conditions, and covering the general subject matter found in sections 11, 10, 12 and 28 of article X of the 1908 constitution.

Following is Committee Proposal 23 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 632.):

Sec. a. No evidence of state indebtedness shall be issued[,] except for [such] debts [as are expressly] authorized [in or] pursuant to [the provisions of] this constitution.

Sec. b. [The legislature, for the purpose of meeting its] TO MEET OBLIGATIONS INCURRED PURSUANT TO appropriations for any fiscal year, THE LEGISLATURE may by law authorize the state to issue its FULL FAITH AND CREDIT notes [pledging its] IN WHICH CASE [faith and credit for the purpose of borrowing money in anticipation of the] IT SHALL PLEDGE [receipt of any] undedicated revenues to be received within the same fiscal year [which shall be pledged] for the [payment of such borrowings] REPAYMENT THEREOF. Such [borrowing] INDEBTEDNESS in any fiscal year shall not exceed 15 per cent of [all] undedicated revenues received by the state during the preceding fiscal year and SUCH DEBTS shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

The state may borrow money for [such other] specific purposes [and] in [such] amounts as may be [proposed] PROVIDED by [an act] ACTS of the legislature [requiring the affirmative] ADOPTED BY A vote of 2/3 of the members elected to AND SERVING IN [both] EACH [houses] HOUSE, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount [proposed] to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. c. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed [so as] to prohibit the investment of public funds until needed for current requirements [in such manner] as may be provided by [general] law.

Sec. d. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which it would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as last equalized by the state, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall loan the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall loan to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28, Article X, of the Constitution of 1908[,] or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used [towards] TOWARD the repayment of state loans. In any year when such a levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe [and/or] AND TO limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28, Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under [said] THESE sections, shall remain unimpaired.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, it will be all right with me if you lock that voting machine right where it has been on this first one and leave it there all day.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

This first section a, "No evidence of state indebtedness shall be issued," and so forth, is, in meaning, the old constitution. The wording has been changed and shortened but the meaning is the same. It means you can borrow. In essence it means you can borrow only as provided in this constitution.

The first part of b covers the matter of short term borrowing, which was fully explained to you in connection with general orders. It authorizes the state to borrow up to 15 per cent of the amount of undedicated revenue of the preceding year to be repaid during the year in which it is borrowed, the fiscal year. It must pledge taxes to cover it, and it must pay when those taxes come in. It is intended simply to carry the state over the humps in expenditure, and the valleys of income, during the fiscal year. This, you notice, is without vote of the people, but by authorization of the legislature. The rest of the section is, for all practical purposes, the same as we have had for all the time in the 1908 constitution. When you wish to borrow on a long term basis you must have a 2/3 vote of the legislature and a vote of the people; but by bill instead of by constitutional amendment. So the constitution will not be cluttered up with amendments which serve their purpose and then are dead weight to carry on from that time forward.

Section c is again the old constitution with some modifications. The principal modification being the second paragraph. While everybody — I guess not everybody but most everybody — has been investing any idle funds belonging either to the state or the local units of government, getting as much interest out of them as possible until they were needed, there was a fear by some prosecuting attorneys and city attorneys that they did not have that authority. Personally, I invested millions of the state's funds without any trouble at all. But in order to make that sure, the committee put in this second paragraph when they introduced it. There will be an amendment to that.

The next section, d, is a long and detailed provision with reference to the state helping school districts in their borrowing. Now, that is a long and detailed statement, but we were urged by the bonding attorneys and the school people, because of the tremendous amount of bonds outstanding under it now and others in process, that we should make just as few changes as possible. Therefore, practically all of the old language is included.

The committee recommends the adoption of this proposal.

PRESIDENT NISBET: Are there amendments?

SECRETARY CHASE: Mr. Brake offers the following amendment to Committee Proposal 23:

1. Amend page 2, line 9, [section c, paragraph 2] after "requirements" by inserting "or the investment of public employee retirement system funds,"; so that the language beginning in line 8 will read:

> This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of public employee retirement system funds, as may be provided by law.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, that is not a committee amendment. The matter was brought to me since the committee last met. Here the purpose is the same. The employee retirement agents who wait on us here, and others who are interested in the retirement fund, think there is some doubt about the right even of the employment systems to be investing their funds. It doesn't seem possible to me that that would be the court interpretation but if it would make them rest any easier, make it any more certain, I think we can afford the space in the constitution for this many words, and then there will be no possible question about it.

PRESIDENT NISBET: The question is on the adoption of the amendment by Mr. Brake. Mr. Austin.

MR. AUSTIN: Mr. President, members of the committee — I insist upon saying committee for some reason — I would like to join Mr. Brake in suggesting that we support this amendment, also.

PRESIDENT NISBET: All those in favor of the amendment will say aye. Opposed, no.

The amendment is adopted. Any further amendments?

SECRETARY CHASE: Mr. Dell, Mrs. Butler, Messrs. Bradley, Follo, Heideman, Perlich, Perras, L. W. Richards, Sablich, Habermehl and Howes offer the following amendment:

1. Amend page 2, line 4, [section b, paragraph 2] after "repayment" by changing the period to a colon and inserting "Provided however, That the legislature is authorized to provide by general law for the borrowing of money for the refunding of any bonds issued by the Mackinac Bridge Authority.".

PRESIDENT NISBET: The Chair recognizes Mr. Dell.

MR. DELL: Mr. President and members of the convention, this is a conservative approach, as I have not taken this mike many times during this convention, and I do so with a feeling that I am making an offer here to the state to save some money rather than spend it. We feel that if this amendment is adopted the state would be in a position to save at least $1 million a year. This amendment is sponsored, as you noticed, by all members north of the straits, and I might say that our sole purpose in this amendment is to provide the legislature with the means to take advantage of this savings at the time when and if this project can be refinanced; which is in 1964.

Under the present provision it would be necessary for the authority to, through the state legislature, present this to the people. And it is not a question of whether or not the project is solvent or insolvent. If it is solvent, then we have no worry. If it should prove to be insolvent, then we have means to act at the time when it is necessary.

I should like to read into the record here a statement by the chairman of the Mackinac bridge authority, Mr. Brown, and if you will bear with me — it will take me a few minutes, but I think you should have the complete story behind this project. After all, may I say before I read this into the record, remember this revenue bond project is a part of our state highway system. It is much different than many of our other revenue bond projects, because if this project should have difficulty, it being a main item of the highway department, it could seriously affect the activity of the entire state. And further, I want to make one more point before I read this into the record; that this is not really an upper peninsula plea. This project affects the entire state of Michigan. The statement I should like to read is from Mr. Brown, chairman of the Mackinac bridge authority:

> Finance and taxation committee of the constitutional convention:
>
> My name is Prentiss M. Brown of St. Ignace. I am chairman of the Mackinac bridge authority.
>
> May I thank the chairman and the members of this committee for their kindness and cooperation in permitting me to express my views regarding an important facet of government finance, particularly as it relates to the people, the legislature, and the constitution of this state.
>
> It is essential at the very outset that I put to rest any rumors or speculation that the Mackinac bridge is in any financial or physical difficulty. Also, it should be made clear that our appearance before this committee should not be interpreted as an effort on the part of the bridge authority to have the state of Michigan take over Mackinac bridge authority indebtedness. That this could happen is true, depending upon the will of this convention, the people and the legislature, and as my remarks will bear out, would be advisable; but I do want it understood that the authority is prepared to carry on under its present obligations.
>
> However, I would be remiss in my duty, both as a public official and as a private citizen, if I did not take this opportunity to point out that through comparatively simple means and with proper safeguards, the people of this state can save literally millions of dollars every year in the management of its financial obligations, particularly with reference to borrowed funds.
>
> Because I am familiar at this time with Mackinac bridge financial operations, I will use the bridge as an example of how these savings can be accomplished. Please bear in mind that what I say about the bridge indebtedness could apply just as well to many other state facilities

financed by revenue type bonds, such as dormitories, highways, buildings and such.

Ever since the opening of the Mackinac bridge, the primary objective of the members of the authority has been to make it toll free. We have tried to keep abreast of all possible methods and suggestions such as the proposed reimbursement for the interstate highway system of which the bridge is a part. Notwithstanding our efforts in this direction, we have had no success and very little encouragement. As a corollary of our objective for a toll free crossing, we are equally desirous of obtaining any possible reduction in tolls, since nearly 100 per cent of our revenues are used for interest payments and reserves. It is therefore obvious that to reduce tolls, short of legislative or other subsidies which appear impractical, it will be necessary to reduce interest payment requirements.

It was nearly 8 years ago at the time of the Mackinac bridge financing, that the chairman of this committee stated with great accuracy that if the state issued the bridge bonds, backed by the credit of the state after a popular vote of the people, the project could be built and financed for $64 million less than it will ultimately cost under revenue bond financing, the difference being in the payment of interest charges. This statement is as true today as it was in December of 1953. We differed with the chairman at that time over whether or not the people would have approved a general obligation bond issue for a bridge at the straits of Mackinac, which many persons at that time were certain could not be financed, and if financed could not be built.

Now the bridge is built. It is certainly a physical triumph of linking our 2 peninsulas. We know that even in this current recession year, its net earnings will be over $5 million. We fully expect to place a half million dollars in our reserve funds during 1961. With these 2 factors — physical and financial feasibility — proven, it then seems sound, reasonable, economical and just good plain common sense to make every effort to reduce interest costs, particularly when such a move can be made with no jeopardy to the state general fund and practically speaking no possibility that the general tax sources of the state will be called upon to financially support the structure.

We submit a suggested section for inclusion in the constitution which would permit the legislature to pledge the full faith and credit of the state of Michigan for the payment of the principal of and the interest on refunding bonds to be issued by the state or any of its several instrumentalities, with the provision that tolls, fees, charges, and such designated and earmarked revenues out of which said bonds are payable, shall be continued and used to pay off the indebtedness.

In the case of the Mackinac bridge, it would be my suggestion to wait at least until January 1, 1964, when the call premium on our bonds will be reduced from 8 per cent to 5 per cent. The authority is now paying approximately 4¼ per cent interest on its 2 series of bonds. We now have over $5 million in reserves and will have substantially more by 1964, so that we are certain that with our reserves our outstanding bonds could be refunded with an issue of $100 million or less. We would wait for the most favorable market, issue serial bonds, and aim at an interest rate of about 3¼ per cent.

A table showing the payout on a $100 million 3½ per cent serial bond issue on assumed earnings of $5 million annually is attached. Should bridge revenues grow along with traffic, and we are confident that there will be a steady growth in our economy, then the additional revenues will provide an additional safety factor to protect the state general fund against any possible contribution to the payment of interest or principal on these suggested refunding bonds.

Let me emphasize, however, that even if there is no growth at all in our economy from 1961 on, our revenues of $5 million annually would still be more than ample to take care of our obligation and even provide for substantial reserves, as the attached table will show. As revenues do increase, then we would have an option of accelerating our bond redemptions, thereby shortening the time to a free bridge; or we could decide to do with smaller excess revenues and reduce tolls.

In conclusion, may I once again say that with proven facilities such as the Mackinac bridge and perhaps others throughout the state, it imposes an unnecessary burden on the taxpayers to maintain indebtedness under anything less than the lowest possible interest rates that the state can obtain. Mind you, I speak of proven facilities where the risk is minimal. For the purpose of reducing interest rates on such indebtedness, our legislature should be in a position to borrow money whenever it is necessary to do so, without having to go to a public vote.

The $250,000 debt limitation of 1908 is not a valid limitation in 1961. We believe that if such a limitation were removed under the foregoing conditions, one of the readily available facilities for accomplishing a savings to the people of $1 million annually in interest costs would be the Mackinac bridge. There are undoubtedly others.

Finally, once again I would like to make it clear that we do not make this proposal out of any fear for the financial position of the authority, but solely because it is dictated by common sense and sound economics.

[Respectfully submitted,
Prentiss M. Brown, chairman
Mackinac bridge authority.]

And that is the consensus of Mr. Brown's statement here to the finance and taxation committee.

Now, ladies and gentlemen, may I make a statement here that this will not be, I think, the first time that the state has done this. I think in our present constitution we have several sections here where the state placed its faith and credit behind a series of bond issues, particularly in article X, sections 23a, 25, 26, 27, 28, and I think most of these have been taken out of the present constitution. I think at this time we have eliminated those because the obligations are paid off.

Now here is something that is serious, something that is of serious interest to the entire state. It can seriously affect one of the biggest means of revenue that we have in the state of Michigan — our economy depends on it, and so on — that is your tourist industry. If we begin to have trouble with the bridge at the straits, it can affect our tourist industry over the entire state. For that reason, I wish you would give this serious attention. I think there are other sponsors who may wish to speak on this.

PRESIDENT NISBET: There is an amendment to the amendment, Mr. Dell, at this time.

MR. DELL: I will yield to Mr. Perlich at this time.

PRESIDENT NISBET: Mr. Dell, would you let the amendment be presented, because I think it might clear up some of this and shorten discussion.

MR. DELL: Thank you.

SECRETARY CHASE: Mr. Shackleton offers the following amendment to the amendment:

1. Amend the amendment, after "Authority" by changing the period to a comma and inserting "at which time the Mackinac Bridge Authority Act shall be repealed and the operation of the bridge be assumed by the state highway department.".

PRESIDENT NISBET: The Chair recognizes Mr. Shackleton on his amendment.

MR. SHACKLETON: Mr. President and delegates, at the present time the highway department is committed to contribute $417,000 a year toward the upkeep of the bridge. Prior to doing away with the ferries, the ferries were all operated by the highway department. This provision would provide for the automatic elimination of the bridge authority in the event the state did refinance the bonds, reduce one commission or authority, put the operation back in the highway department where it was, and where they are already heavily interested because of what they must contribute, and would simplify to some extent that much overlapping of authority and duties. I urge the adoption of the amendment.

PRESIDENT NISBET: The question is on the amendment of Mr. Shackleton to the amendment. Those in favor of the amendment will vote aye. Those opposed, no.

The amendment to the amendment is adopted. The question now is on the amendment of Mr. Dell and others as amended by the Shackleton amendment. The Chair recognizes Mr. Stafseth.

MR. STAFSETH: Mr. President, I will only make a few brief statements. When this was discussed in committee of the whole I opposed it. I opposed it on the theory that we shouldn't get into this area, but after studying and talking to Mackinac bridge authorities in our finance and taxation committee meetings that we had with them, I am convinced that it would be a very short sighted thing if this convention didn't make a provision which would allow the legislature to refinance these bonds at a savings to the state.

PRESIDENT NISBET: The Chair recognizes Mr. Howes.

MR. HOWES: I wish to talk in favor of the amendment. Surely, any reduction in costs which will be achieved by the state issuing full faith and credit bonds to buy back at an opportune time the Mackinac bridge authority bonds will be reflected at some time in reduced rates on the bridge, a saving to all people who use the bridge and a benefit to all people in the upper and lower peninsulas of Michigan.

I would certainly hope and believe that placing this proposition on the ballot along with our new constitution would be no detriment to the new constitution, and would help at least to get out the vote on our new constitution. The Mackinac bridge is a part of the people of Michigan. The pride the people of Michigan have shown in their bridge, and the support they are giving it both with their dollars and their interest in it at present will be returned manyfold in the future with increased economic activity both in the upper and lower peninsulas of Michigan.

PRESIDENT NISBET: The Chair recognizes Mr. Perlich.

MR. PERLICH: Mr. President, fellow delegates, this is such a logical, reasonable amendment on its face that it really does not need a lot of explanation. By refunding the bonds of the Mackinac bridge, "Big Mac," and reducing the interest the bridge authority will save about $1 million a year in interest. Of course, this is the bridge authority that will save the million, but there is surely nobody here who can believe there is a difference between the bridge authority and the state of Michigan. The names may be different but the product is the same.

We delegates from the upper peninsula are especially interested in this project for one simple and obvious reason. Reducing the interest payments would bring closer the day when tolls can be done away with and the bridge can be free. Free, the bridge will be a boon, a big help to the strained economy of the upper peninsula. It is a tremendous disadvantage to use. It holds back traffic, tourists and commerce. It adds to the cost of everything. The sooner the toll is done away with, the sooner our economy can come back to normal.

PRESIDENT NISBET: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President, members of the convention, I perhaps have a special interest and a little special knowledge for a lower peninsula resident. The matter of the upper peninsula, as a taxpayer of Mackinac county and a constituent of Mr. Dell — I mean a part time constituent, I don't vote there but I pay taxes there and I have become quite familiar with the situation — I am confident that because of the many projects now under way, such as improvements, handling low grade ore, forest projects, the missile site to be built there, and many other things, the economy of the upper peninsula will soon be much improved. With the lowering of the tolls, or the elimination of them on the bridge, the lower peninsula will benefit by getting much of the business that now goes to Wisconsin because of the cost of transportation between the lower and the upper peninsula. I therefore believe the whole state will benefit by anything that makes it possible at an early date to lower or remove the tolls from the Mackinac bridge. I support this project.

PRESIDENT NISBET: The Chair recognizes Mrs. Butler.

MRS. BUTLER: Mr. President, fellow delegates, I rise to ask your support for this important amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Bradley.

MR. BRADLEY: Mr. President, fellow delegates, I wish to add my voice to the support of this amendment, which I feel will hasten the day when the Mackinac bridge may join with the rest of the state highway system as a toll free establishment.

PRESIDENT NISBET: We have an amendment to the amendment.

SECRETARY CHASE: Messrs. Austin, Brake and Van Dusen offer the following amendment to the pending amendment:

1. Amend the amendment, after "general law" by inserting "adopted by a vote of 2/3 of the members elected to and serving in each house"; so that the language will read:

> . . . Provided however, That the legislature is authorized to provide by general law adopted by a vote of 2/3 of the members elected to and serving in each house for the borrowing of money for the refunding of any bonds issued by the Mackinac Bridge Authority . . . .

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, fellow delegates, I believe that this amendment is rather obvious. In this same section b we have provided that whenever we are to assume a large debt, that we require a 2/3 vote of the members elected to and serving in each house and then get the approval of the electorate. We are not asking for the approval of the electorate here, but since it is a large bond issue to be assumed by the state, and the state's faith and credit is to be pledged to pay it, that we ought to at least require a 2/3 vote of the legislature.

PRESIDENT NISBET: Mr. Dell.

MR. DELL: Mr. President, I have not had an opportunity to check with the other sponsors of this amendment, but I am quite certain that they would be glad to accept this.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, I think we can save some time, maybe, if I may talk not only on this amendment but on the amendment itself at the same time. We need to get this perspective, I believe. You recall when this matter was before you before, the committee recommended against it. The committee has not officially changed its mind, but many of the members, including myself, have come to recognize that it is a problem that is going to have to be taken care of. We are not likely to have another constitutional convention before that time arises, and therefore we think it had better be taken care of now. Now you notice, from what Mr. Dell read, that Senator Brown's recommendation was an authorization in the legislature without a vote of the people to refund any obligations from revenue bonds, tax pledged bonds, and so forth, of the state, which means pretty nearly $1 billion. The committee definitely opposed that, and that opposition still stands. This amendment has to do with nothing except the Mackinac bridge.

Now, there have been statements made here that we will save $1 million. We shouldn't be too sure. That depends on what the bond market is when the time comes for the refunding, or whether it ever does come. It might save $1 million, it might save more than that, and it might save much less. But it is just an estimate and should be taken at that.

We are not talking about immediate action. I told you before, in order to sell these bonds at all every possible inducement to the bond buyer had to be put in the deal, and among those inducements was a very high call premium. Until 1964 the call premium is 108, or it would take $1,080 to redeem a $1 thousand bond. From 1964 until 1967 it is 5 per cent, $1,050. It is not going to be practical to try to refund these bonds under those rates. They then go down to 4 per cent, and gradually go down until they finally come to 1 per cent. Sometime along the way the bond market may be such that very probably the legislature would find it advisable to refund these bonds and save money. While the state has no legal obligation in the matter whatever, it has a moral obligation, and you know and I know that if these bonds ever go sour the state is going to pick up the tab, and we might as well do it, if we have to do it, at the lowest possible cost. While the committee is not taking an official position, personally I recommend that the vote be changed to 2/3, and that we then approve the amendment.

PRESIDENT NISBET: Mr. Leppien, did you care to speak on the Austin-Brake amendment?

MR. LEPPIEN: Mr. President, a parliamentary inquiry, I think. Will the communication from the bridge authority read by Delegate Dell appear in our journal?

PRESIDENT NISBET: Not in the journal, Mr. Leppien.

MR. LEPPIEN: I would inquire then, Mr. President, how is it possible to secure its printing in the journal? By asking unanimous consent of the convention?

PRESIDENT NISBET: By motion, Mr. Leppien.

MR. LEPPIEN: I so move, Mr. President.

PRESIDENT NISBET: We will put that motion in a few moments. The question now is on the amendment offered by Mr. Austin, Mr. Brake and Mr. Van Dusen. Mr. Bledsoe, do you care to speak on that amendment?

MR. BLEDSOE: If I may, Mr. President. May I ask Mr. Brake a question?

PRESIDENT NISBET: You may proceed.

MR. BLEDSOE: Mr. Brake, are these bonds tax exempt?

MR. BRAKE: Yes.

MR. BLEDSOE: And is the bridge solvent at this time?

MR. BRAKE: If I could answer that question, I wouldn't.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, I believe that the motion by Mr. Leppien is exceedingly good. However, I think that there are others that belong in the journal, also. At this time, I would like to amend his motion to read that we include the speech on public health given by myself last evening.

PRESIDENT NISBET: The motion is not in order at this time. We will take it up a little later. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, unless you have other speakers I move the previous question on both the amendment to the amendment and on the amendment.

PRESIDENT NISBET: The Chair has one more speaker.

MR. VAN DUSEN: I will withhold the motion.

PRESIDENT NISBET: The Chair recognizes Mr. Goebel.

MR. GOEBEL: Mr. President, members of the convention, I, like Mr. Stafseth, voted against this originally but upon further study and change, of course, in the wording I feel that this, together with its amendment, would be a very fine addition to the constitution of the state of Michigan. I might say this, something that no one has yet brought up: that really if this provision with its amendments is in the constitution, and the people then vote favorably upon the constitution, they indirectly vote for approval of the provision for the refunding of the Mackinac bridge authority bonds, and then by a 2/3 vote of the legislature, if and when they find this desirable to do so, we will have conformed to the long term borrowing provision that is provided for now in our new constitution.

PRESIDENT NISBET: The question is on the adoption of the amendment by Mr. Austin and Mr. Brake. Those in favor will say aye. Opposed, no.

The amendment to the amendment is adopted. The question now is on the amendment of Mr. Dell as amended by Mr. Shackleton and Mr. Brake. Those in favor of that motion will say aye. Opposed no.

The amendment is adopted. Mr. Brake.

MR. BRAKE: Mr. President, section c has to do with the credit of the state being granted to any person, association or corporation. In order to make sure that investment of idle funds was strictly legal, we have added the second paragraph. I think that is sufficient explanation.

PRESIDENT NISBET: Any questions? You may proceed, Mr. Brake.

MR. BRAKE: No amendments? The last section is a school borrowing section. I think you understand the purpose of that, and I will spend no time on it unless there is a question.

PRESIDENT NISBET: Any questions? Any amendments?

SECRETARY CHASE: None.

PRESIDENT NISBET: The question now is on the adoption of Committee Proposal 23, as amended. Mr. Austin.

MR. AUSTIN: Mr. President, I hope we can get a unanimous vote on this one, too, and I so recommend.

PRESIDENT NISBET: The question is on the adoption. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—121

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
McAllister
McCauley
McGowan, Miss
McLogan
Mosier
Murphy
Nisbet
Norris
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager
Youngblood

Nays—1

Young

SECRETARY CHASE: On the passage of Committee Proposal 23, as amended, the yeas are 121; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 23,** as amended, is passed.

Following is explanation of vote submitted by Mr. Young:

The roll call will indicate that, on second reading, mine was the only vote against the incorporation of finance and taxation Committee Proposal 23 in the proposed new constitution.

In order to secure my future safety in the upper peninsula, I would hasten to assure all concerned that I, in no way, oppose the provisions of Committee Proposal 23 in regard to the Mackinac Bridge.

I take this position because of the provisions in section c of this proposal that erase the long established prohibition against investment of public funds in the speculative ventures of private enterprise. Under the new language, the legislature is now free to expose the already inadequate funds of our state treasury to the caprices of the stock market. Employees retirement funds have been opened up for similar manipulation.

I regret that I do not share the apparent confidence of my colleagues in the stability of the stock market, the newly discovered depression proof nature of our economy, and the fiscal sagacity of a malapportioned legislature.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 23 as amended and rereferred to the committee on style and drafting:

Sec. a. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. b. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 per cent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of 2/3 of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment: Provided however, That the legislature is authorized to provide by general law adopted by a vote of 2/3 of the members elected to and serving in each house for the borrowing of money for the refunding of any bonds issued by the Mackinac Bridge Authority, at which time the Mackinac Bridge Authority Act shall be repealed and the operation of the bridge be assumed by the state highway department.

Sec. c. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of public employee retirement system funds, as may be provided by law.

Sec. d. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which it would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as last equalized by the state, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall loan the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall loan to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28, Article X, of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such a levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28, Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

PRESIDENT NISBET (continuing): The Chair recognizes at this time Mr. Leppien.

MR. LEPPIEN: Mr. President, I move that the statement of the chairman of the Mackinac bridge authority, as read by Delegate Dell, be printed in the journal.

PRESIDENT NISBET: The question is on the motion of Mr. Leppien. Mr. Madar.

MR. MADAR: Mr. President, I would like to move to amend that motion at this time so that the speech given on public health last night be also placed in the journal.

PRESIDENT NISBET: Mr. Madar, may the Chair say that that motion to amend is not a proper motion at this time. You can offer it as a separate motion after this motion has been acted upon if you care to. The question is on adoption of the motion by Mr. Leppien. Those in favor will say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Division has been asked for. Is the demand seconded? Sufficient number up. Those in favor of including the remarks of Mr. Dell will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. GADOLA: I desire to know what we are voting on. The motion was for the statement of Mr. Brown and you put the motion as the remarks of Delegate Dell. Are we voting for the entire remarks or for the statement?

PRESIDENT NISBET: The Chair is sorry. The motion was on the statement of Mr. Brown read by Mr. Dell. That was Mr. Leppien's motion.

MR. GADOLA: I don't object to Mr. Dell's remarks, but I would like the motion put correctly.

PRESIDENT NISBET: The secretary will announce the vote.

SECRETARY CHASE: On the motion of Mr. Leppien to print the statement of the chairman of the Mackinac bridge authority in the journal, the yeas are 62; the nays are 56.

PRESIDENT NISBET: The motion prevails.

For text of statement, see above, page 2623.

Mr. Madar.

MR. MADAR: Mr. President, I am not going to put my motion in because I realize the expense that there would be to print this, and I am certainly not going to add any more cost to the taxpayers of the state of Michigan.

PRESIDENT NISBET: Thank you. (applause) The secretary will read the next proposal.

SECRETARY CHASE: The next item is item 15 on your calendar **Committee Proposal 56**, A proposal to limit the ad valorem taxation of property covering the subject matter of section 21, article X of the 1908 constitution, commonly known as the 15 mill limitation.

Following is Committee Proposal 56 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 939.):

> Sec. a. The legislature shall by general law fix limits on the rates of ad valorem taxes ON REAL AND TANGIBLE PERSONAL PROPERTY which may be levied by counties, townships, school districts and other political subdivisions, except where such limits are provided by [charter or other applicable home rule provisions] CHARTERS ADOPTED BY THESE UNITS OF GOVERNMENT.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: We lost a little ground on that last vote. We had one against us. I love rugged individualists, but I hope we don't get too many of them. Dick Austin just suggested that the honeymoon is over, and I suspect that's right. Another thing I should say to you before we take up Committee Proposal 56: this is part of the compromise settlement that was made some time ago, which has become conveniently known as "the package." That is an easy way to refer to it, and I shall not hesitate to use that name. It is part of the compromise settlement.

We are offering a substitute to the McCauley amendment which became the proposal that was adopted when the matter was last before you. You have the substitute on your desks. I am sure all of you have it.

For text of substitute, see below.

In the first part of this, it provides for the 15 mill limitation as we have had it in the past. Unless the county takes other action, as I shall talk about in a minute, the 15 mill provision will prevail. The allocation board will be as it has been in the past. The schools, townships and counties will need to come before the allocation board each year and get the best share of the 15 mills that they can wrangle out of the allocation board. We tried when we were before you before to, we thought, improve this, but you didn't think so and rejected it.

We now have this substitute and we think it's better, much better than what we had submitted to you before, and it is on a pure county option basis. We provide here that any county which, by the vote of the people, so desires may adopt a fixed division of millage; so much for the schools, so much for the townships, so much for the county, which shall stand without any action on the part of any allocation board until such time as the people themselves change it. It would not be necessary for any negotiations or any hearing every year. Until it proves that the people are dissatisfied with the division, that is it year after year. Now we were convinced that in order to get such a thing adopted by the people of any county you would have to have pretty generally the agreement of the schools, the counties, and the townships. We were convinced that you would not generally be able to get that agreement and still stay within the 15 mills; that there would have to be a little leeway in order to come to such an agreement. We have therefore suggested to you a maximum of 18 mills.

Remember, this is only by vote of the people of the county. If the schools agree that they shall have 9 and the county that it shall have 6 and the townships, for instance, that they shall have 2, you would have a total of 17 mills. That proposition would be submitted to the people, and if they approved it that would be the millage until there would be another vote of the people changing it.

Now if they can agree on 15 mills as a maximum, they would be at liberty to do so: no compulsion at going above 15 mills, or even going to 15 mills. But we think we have got to allow a little margin there in order to make the thing work, and the margin we are suggesting is 18 mills. Now this would in no way, in no way, interfere with the right of the people to raise more millage than that by a vote, with only the limit of 50 mills as the total, the same as it has been in the past. So even if they use 18 mills in their permanent millage, they still could vote by school districts, by townships, by the counties, to have more millage than that, as long as they stay under the 50. Now this up to this 18 could not be done by a vote of the school district or a vote of the township or county on its own millage. That would have to be the combination, and it would be on a countywide basis. Now, if we have made that sufficiently clear, that is the change. We think it is a very definite improvement.

PRESIDENT NISBET: The secretary will read the substitute proposal.

SECRETARY CHASE: Mr. Brake, on behalf of the committee on finance and taxation, offers the following substitute for Committee Proposal 56:

> Sec. a. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes levied against property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of said property as finally equalized. Under procedures provided by law which shall guarantee the right of initiative, separate tax limitations for any county and the townships and school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established herein or by county vote may be increased to an aggregate of not to exceed 50 mills on each dollar of such valuation, except as otherwise provided by law, for a period of not to exceed 20 years at any one time, by the vote of a majority of the qualified electors, as defined in Article II hereof, of any such taxing authority voting thereon.
>
> The foregoing limitations shall not apply to (a) taxes levied for the payment of principal and interest on bonds or other evidences of indebtedness, or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be levied without limitation as to rate or amount, or (b) taxes levied for any other purpose by any city, village, charter county, charter township or other charter authority the tax limitations of which are provided by charter or by general law.
>
> In any school district which extends into 2 or more counties, there may be levied and collected for school purposes throughout the district property taxes at the highest rate available in the county which contains the greatest part of the area of the district.

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President, members of the convention, it is with a sense of regret that I see this monster that we buried 2 months ago suddenly spring to life. The reincarnation is something that I hardly recognized. As I look over the substitute as prepared by the committee I see that they took 1½ pages to say what could be said in 6 lines. This is, I think, probably the nicest piece of legislation we have in the constitution, and I am a little bit surprised that the majority of the committee who are, I am sure, strong advocates of good constitutional law, are agreeing to something such as this where all we are doing is legislating in the constitution. I start to realize that this is part of the compromise agreement, part of the package. The only difference between this and the other parts of the package that have been slipped over on us is that the delegates, before the compromise was entered into, had an opportunity to vote on this on the floor; to express their own thoughts and sentiments without the various pressures being exerted upon them. I recall to you, and I would like to have you reflect back to Journal 76, page 576, in which this convention adopted the amendment, 65 yes votes to 53 no votes. I still feel the same, that we are attempting to legislate in the constitution. All of the information that I have received from my constituents, the school boards in particular, were in favor of the amendment as originally adopted, and I

Explanation—Matter within [ ] is stricken, matter in capitals is new.

don't see where this is going to correct the school problems at all. I realize that they are making exceptions to charter townships and charter counties; however, I feel that this is something that the legislature can do. I think this is a period or a point where we should trust the legislature.

I have heard statements made by some of the more astute constitutional lawyers on this floor that the minute you start mentioning definite sums, definite millage in the constitution it is bad. We are not attempting to pass a constitution for the next 4 or 5 years; we are trying to think 50 years ahead, and the minute we start putting details into the constitution such as this, I feel that we are all making a mistake.

I would just like to remind the delegates of the way they thought back in February when this was first proposed to them, and after that to actually search their minds to think what is best for the people of the state of Michigan. Let's not — and I implore you — let's not be part of this package as far as this is concerned. We have gone along with certain executive branch decisions that have been made by the majority party; we have gone along with other things, but I think this is one that touches the heart and soul, the economic picture and future of the state of Michigan, and I implore you to turn down the substitute as offered by the committee.

PRESIDENT NISBET: The Chair recognizes Mr. Prettie.

MR. PRETTIE: Mr. President, a question through the chair to Senator Brake, please.

PRESIDENT NISBET: Senator Brake.

MR. PRETTIE: Referring to the substitute proposal, Senator, line 8 refers to the vote on increased millage by a vote of the majority of the qualified electors without spelling out what is meant. In lines 13 and 14 the reference is made, "as defined in Article II hereof." My question, having reference to Committee Proposal 58, is whether in the vote — under lines 7 and 8 the vote would be limited to those defined in section f of committee proposal 58, namely, property owners and the spouses thereof?

MR. BRAKE: No. That would refer only when you are voting on increased millage, not on when you are making a decision of the 15 mills or 18.

MR. PRETTIE: Thank you, sir.

PRESIDENT NISBET: Are there questions? If not, the question is on the adoption of the substitute. Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, it seems that each time a part of the deal comes up there is very little discussion. It seems that all of the discussion is on one side. I suppose that should be a lesson to the rest of us that we should have very little to say about these matters that are included in the so called package.

I certainly want to add my voice to that of Delegate McCauley that we had buried this monstrosity back in February and now it has been resurrected, and I don't see how we can in good conscience change our position on it. The 15 mill limitation was adopted during the depths of the most serious economic depression that we had ever felt. It followed an unprecedented real estate boom and it no longer represents an appropriate or effective control of property tax levies. Certainly, it is unlikely to prove effective for the conditions which lie ahead during the probable life of the new constitution.

Now there has been an effort to write some flexibility into the so called 15 mill limitation by providing that counties may vote for an 18 mill limit provided they abolish their allocation boards. I submit that if they are going to vote at all there need not be any limit at all, and leave it to the people to decide what limits they want to set.

There is no question that the provision that we agreed upon back in February, as revised by style and drafting, is what we ought to have in the constitution, and I want to read it again just to make sure you know what we have already agreed upon.

> The legislature shall by general law fix limits on the rates of ad valorem taxes on real and tangible personal property which may be levied by counties, townships, school districts and other political subdivisions, except where such limits are provided by charters adopted by these units of government.

This is a very adequate provision. It gives the legislature the right to set limits, and it still leaves it to the counties to decide whether they want to raise those limits. They can vote whatever millage they want. I agree with Delegate McCauley that we ought to leave this monstrosity dead, and I would certainly oppose the substitute proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays on the substitute.

PRESIDENT NISBET: The yeas and nays have been demanded. Sufficient number up.

MR. DOWNS: Having demanded the yeas and nays, I am inclined to think that the people's vote on this question will speak louder than many, many of the speeches that have been made here. I want particularly to endorse Delegate Austin's statement and Delegate McCauley's statement. I oppose the substitute. I voted against this when we had it up before, and I am still voting against this, and I hope that those delegates who have, for some reason best known to themselves, changed their attitude on this will know that their voting on this will speak loudly.

I think it is unfortunate that we put, or attempt to put, this type of leg irons on local units of government that may be trying to solve their problems. I am afraid that if we put more and more restrictions on, it is going to make it harder and harder to meet the growing needs of a growing state in a dynamic economy as we have. I am afraid this will hinder our economic and social growth rather than favor it. I therefore oppose the substitute.

PRESIDENT NISBET: The question is on the substitute proposal. Mr. Bradley.

MR. BRADLEY: Mr. President, I regret that I have to ask this kind of a question, but if I am in good conscience to understand what is going on, I must. Having come recently to the convention, I am not sure of the meaning of the committee proposal. The language provides for limits imposed by the local units of government themselves. Do I understand this to mean that a county, if it adopts a home rule charter, or if any of these charter townships or the cities and villages desire, under their own authority, to set a higher limit than that imposed by the legislature that this limit will prevail?

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Any unit of government which is authorized by law to set a charter limit on its millage is not under this 15 mill provision. That would apply to your cities, of course, your villages, and if we adopt the home rule for counties and they adopt the charters, it would apply to them, and it would apply to a charter township. They fix their own millage limits.

PRESIDENT NISBET: Mr. Bradley.

MR. BRADLEY: Mr. President, may I address another question to Mr. Brake, through the Chair? I was asking particularly about the committee proposal as contrasted with the substitute proposal. The committee proposal says that limits shall be fixed by the legislature, "except where such limits are provided by charters adopted by these units of government." If one of the units of government has set a limit upon itself higher or lower than that set by the legislature, which prevails?

MR. BRAKE: The charter amendment.

MR. BRADLEY: Very well, thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I ask how many more speakers you have?

PRESIDENT NISBET: Mr. Hodges is the only speaker the Chair has listed.

MR. VAN DUSEN: In that event, Mr. President, I move to limit debate to 5 minutes.

PRESIDENT NISBET: The question is on limiting debate. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Hodges.

MR. HODGES: Mr. President, I move, under rule 54, a call of the convention, and the reason is that a gentleman who is a delegate here stated his reason for becoming a gubernatorial candidate was the abolition of what this very susbtitute proposes, and I think it is desirous that we have a vote of all delegates recorded on this question.

PRESIDENT NISBET: While we are proceeding on checking that, Mr. Snyder, do you care to speak?

MR. HODGES: Mr. President.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Since I see the gentleman is within the bar of the convention, I will withdraw my request.

PRESIDENT NISBET: The motion is withdrawn. Mr. Snyder.

MR. SNYDER: Thank you, Mr. President. I will try to leave a few of these 5 minutes for others. I rise reluctantly in opposition to the substitute proposal, and I do this with very mixed emotions, because I am very aware of the problems we have in our community, I am very aware of the recent action taken by this convention in other areas that will affect the people in my bailiwick. I do feel that we are prepared to carry as large a tax load as necessary in order to provide for the essential public services. However, I do want to call to the attention of the delegates that we have been pledged to take a load off of the property tax. Certainly I do hope that in your consideration, that in your vote you will factor in the responsibility that you have as delegates to take into consideration the other areas the question of taking the load off the property holders. I could not go back to my people in good conscience, and I don't think any delegate could go back to their constituency if they supported this substitute and had not supported other proposals or amendments that would take the load off the property tax. Specifically, I speak of the income tax on a statewide level with the proper return to the community. As I say, I reluctantly oppose this proposition, placing my confidence in the delegates, that they will take care of the other matters that they should take care of, and not act upon this and then close their eyes to the conditions that they create further down the road.

PRESIDENT NISBET: The Chair recognizes Mr. Gover.

MR. GOVER: Mr. President, fellow delegates, I just want to make a short statement. I won't take much of the 5 minutes. I want to call attention to the fact that most of the people who have been talking in opposition to the 15 mills are the ones that won't be affected at all by it because they live in cities with charter amendments. Therefore, they won't be affected at all on that situation. It is us in the rural areas that are affected by the 15 mills.

PRESIDENT NISBET: Mr. Goebel.

MR. GOEBEL: Mr. President and members of the convention, may I say that it just so happens, unfortunately, that a great many of the sacred cows which are associated with this constitution are in the finance and taxation section, and the 15 mill tax limitation is one of these sacred cows. Now this substitute that the committee is offering does provide for these people who feel that property taxes are too high as they are, and desire the 15 mill tax limitation. I submit to you that I am very much afraid that if we do not have this in the new constitution that we shall have greater opposition to it. On the other hand, it does give latitude to these political subdivisions to go up to 18 mills, for the 3 political subdivisions, in the case that the people themselves desire to do so. Now, if they want to go above 18 mills they can do that. If the people themselves want to tax themselves on property over 18 mills or 15 mills, they can do it by a vote of the people themselves in their county.

I submit to you that I think this is as flexible as we can make it; as it can be, because in the final analysis, the people themselves can change this if they want to. There is no hamstringing of the fiscal or tax program of any county by the adoption of this substitute and I certainly, as a member of the committee on finance and taxation, respectfully urge your approval of this substitute.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President, fellow delegates, I want to correct Mr. Gover's statement. I couldn't let that go unchallenged. It certainly does affect us in cities. The 15 mill limitation has to serve to take care of not only the counties, also the schools, the townships, or in the case of the city of Detroit the library also gets a share of that 15 mills. At the time that we adopted the committee proposal as it is now before us, there was a thrill of something different in this convention, and I would like to see that we could maintain that feeling of something new and something different, something hopeful for the state of Michigan in the field of finance. I urge you to vote against the substitute. Thank you.

PRESIDENT NISBET: The time limit has expired. The question now is on the substitute for Committee Proposal 56. The yeas and nays have been demanded. Those in favor of the substitute for Committee Proposal 56 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the votes.

The roll was called and the delegates voted as follows:

Yeas — 95

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Liberato
McAllister
Mosier
Nisbet
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays — 35

Austin
Baginski
Balcer
Binkowski
Bradley
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Krolikowski
Lawrence
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Pollock
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the substitute offered by the committee on finance and taxation, the yeas are 95; the nays are 35.

PRESIDENT NISBET: The substitute is adopted. The question now is on the substitute for Committee Proposal 56. Will you clear the machine? Those in favor will vote aye. Those opposed will vote nay.

MR. AUSTIN: Mr. President.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Parliamentary inquiry. Didn't we just vote on this? The substitute is the entire proposal, is it not?

PRESIDENT NISBET: Mr. Chase will explain.

SECRETARY CHASE: Mr. Brake had offered a substitute, which on a record roll call vote was adopted. Now the question is upon the passage of the complete substitute for Committee Proposal 56. It is a record roll call vote, and now to be taken.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 100

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Liberato
McAllister
McLogan
Millard
Mosier
Nisbet
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

Nays — 30

Austin
Baginski
Balcer
Binkowski
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Krolikowski
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
Murphy
Norris
Pollock
Snyder
Stopczynski
Suzore
Walker
Young
Youngblood

SECRETARY CHASE: On the passage of the Substitute for Committee Proposal 56, the yeas are 100; the nays are 30.

PRESIDENT NISBET: The substitute for **Committee Proposal 56** is passed.

Following is explanation of vote submitted by Messrs. Kelsey, Liberato and Rush:

We wish to state the following reasons for voting in favor of Committee Proposal 56:

This proposal retains the 15 mill tax limitation which means that no political subdivision can raise the property tax levy above the 15 mill limitation for the support of counties, townships and school districts without first obtaining a vote of a majority of the voters in their respective subdivisions, because this is a basic principle of democracy where the people themselves have the right to govern the rate of taxes they wish to pay for these services. We, also, for reasons of consistency, supported this proposal because we were opposed to allowing one municipality from imposing an income tax on the residents of another community without their approval, and in fact, we felt a nay vote on this proposal would in principle support the theory of taxation without representation.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 56 as amended and rereferred to the committee on style and drafting:

Sec. a. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes levied against property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of said property as finally equalized. Under procedures provided by law which shall guarantee the right of initiative, separate tax limitations for any county and the townships and school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established herein or by county vote may be increased to an aggregate of not to exceed 50 mills on each dollar of such valuation, except as otherwise provided by law, for a period of not to exceed 20 years at any one time, by the vote of a majority of the qualified electors, as defined in Article II hereof, of any such taxing authority voting thereon.

The foregoing limitations shall not apply to (a) taxes levied for the payment of principal and interest on bonds or other evidences of indebtedness, or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be levied without limitation as to rate or amount, or (b) taxes levied for any other purpose by any city, village, charter county, charter township or other charter authority the tax limitations of which are provided by charter or by general law.

In any school district which extends into 2 or more counties, there may be levied and collected for school purposes throughout the district property taxes at the highest rate available in the county which contains the greatest part of the area of the district.

SECRETARY CHASE: Item 5 on your calendar, **Committee Proposal 38,** A proposal with reference to the earmarking of the gas and weight taxes for highway purposes covering the subject matter of article X, section 22 of the 1908 constitution.

Following is Committee Proposal 38 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 794.):

Sec. a. All SPECIFIC taxes, EXCEPT GENERAL SALES AND USE TAXES AND REGULATORY FEES, imposed [directly or indirectly upon gasoline and like] ON fuels sold or used to propel motor vehicles upon [the] highways [of this state,] and on [all] REGISTERED motor vehicles [registered in this state,] shall, after the payment of the necessary COLLECTION expenses [of collection thereof,] be used exclusively for highway purposes[,] as defined by law[,] . [including the payment of public debts incurred therefor, and shall not be diverted nor appropriated to any other purpose: Provided, The legislature may provide by law a method of licensing, registering, and transferring motor vehicles and their certificates of title, and licensing and regulating motor vehicle dealers and operators; and may prescribe charges sufficient to pay for the enforcement thereof. The provisions of this section shall not apply to the general sales tax, the use tax, the fees and taxes collected under the auto theft and operators' and chauffeurs' license laws which are used for regulatory purposes; the application fees and mileage fees appropriated to the Michigan public service commission by law; the franchise or privilege fees payable generally by corporations organized for profit; nor to ad valorem taxes payable generally by manufacturers, refiners, importers, storage companies, and wholesale distributors on gasoline and like fuels held in stock or bond, and by manufacturers and dealers on motor vehicles in stock or bond.]

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, not many items of the finance article are included in the package, but this one is.

You will notice that the committee on style and drafting has really cut us up here, but we think they have left everything that is needed; that it means all that it meant before, and is in much better constitutional language. Now so far as I know, any controversy on it — outside of the matter of whether you want to earmark road taxes — any controversy is in these words, "as defined by law." But I call your attention to the fact that those words were in the proposal which you did approve in committee of the whole on first reading, so there has been no change there. And those words were in the proposal when the package was agreed upon, so that they are included in the package agreement.

PRESIDENT NISBET: There is an amendment.

SECRETARY CHASE: Mr. Powell offers the following amendment to Committee Proposal 38:

1. Amend page 1, line 6, after "highway purposes" by striking out "as defined by law"; so the language will then read:

> All specific taxes, except general sales and use taxes and regulatory fees, imposed on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of the necessary collection expenses be used exclusively for highway purposes.

PRESIDENT NISBET: The Chair recognizes Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I have a deep affection and profound respect for my running mate and long time friend, our colleague, D. Hale Brake. Hence I have a natural reluctance to oppose any decision reached by the finance and taxation committee of which he is chairman. However, I do feel keenly that it would be a very serious mistake to leave in this proposal the 4 words, "as defined by law," as limiting the term "highway purposes."

While there are a few delegates who came to this convention hoping to reduce or eliminate all earmarking of tax revenues, I am sure that there is considerable agreement that highway funds are special user tax revenues and are totally different than general tax revenues. Using all highway tax revenues for highway purposes is not diversion, but rather it's antidiversion. It provides for the preservation of certain funds for the purposes for which they were intended. The principle is totally different than in the case of general purpose tax revenues such as the sales tax. There we do have a diversion of that state collected revenue, and we provide for certain specific utilization thereof. This, I say, is not diversion, but rather is antidiversion; bearing in mind that users of automobiles pay sales tax which goes in the general fund. I am told that on the average automobile the license that you pay for the first 7½ years only exceeds the amount of the sales tax. In other words, the sales tax that you pay that goes into the general fund is as great as the license that you will pay for the first 7½ years of the existence of that car or other motor vehicle.

The antidiversion provision of our state constitution which dedicates all highway tax revenues to highway purposes was placed in our constitution as a result of initiatory petitions which were circulated in 1938. The question as placed on the ballot that year was as follows, and I want you to check the exact language of what it was the people had in front of them as they went to the polls and voted on this matter:

> Shall the constitution be amended to guarantee that gasoline and motor vehicle license plate taxes paid by motorists be used for highways, roads and streets?

The electorate answered that question by voting as follows: 813,289 yes; 529,859 no. This was a majority of 283,430 for the amendment. It is significant that this amendment carried in each of the 83 counties in the state, and in the subsequent 24 years there has been no effort to repeal or amend this provision.

Despite the fact that this amendment has been for all these years a part of our constitution, there has been constant pressure to siphon off substantial portions of highway revenues for purposes not directly connected with highway construction or maintenance. If it were not for this provision, or if it were to be liberalized by permitting the legislature to determine what might be regarded as a highway purpose, all sorts of plausible ways might be found to use liberal chunks of the roads money. A few of these diversions — or a better term might be raids — might be financing highway patrol of the Michigan state police, subsidizing driver education in schools, paying the cost of the highway safety center at Michigan State University, erecting an office building for the state highway department, building sidewalks in suburban areas, or even assisting in financing metropolitan transit facilities.

The present language as now found in the constitution has stood the test of time. It has been interpreted in attorney generals' opinions. I have here an opinion issued by Attorney General Paul L. Adams on March 17, 1958, in which he ruled that a legislative enactment to pay out of the state highway fund all or a portion of the salaries and expenses of the members of the Michigan state police who serve as the uniformed highway patrol would be an unconstitutional diversion. This 6 page analysis of the situation is of considerable interest in connection with the matter now pending before us. I shall quote only 2 brief paragraphs from the concluding portions of this opinion. I quote:

> Giving consideration to the foregoing recitals and applicable law, can it fairly be said that the people of the state contemplated the use of the state highway fund at some future date to partially finance a separate department of the state through the support of its highway patrol? The answer is patently "no." To the contrary it seems crystal clear that when the people said the highway fund shall "be used exclusively for highway purposes," they meant that the fund should be expended for the construction, maintenance and improvement of the highways of the state, not the compensating of peace officers. Any other construction warps the meaning of plain words.
>
> I conclude that the enactment of a statute authorizing or permitting the payment from the state highway fund of all or a portion of the salaries and expenses of members of the Michigan state police, who serve as the uniformed highway patrol, would be unconstitutional as an unlawful diversion.

That is the end of the extract from the opinion of the attorney general.

Recently, each of you received through the mail a reprint of an editorial appearing under date of March 11, 1962, in the Grand Rapids Press which summarized in a very convincing and concise manner the dangers of including in our proposal the 4 words "as defined by law" which my amendment would eliminate. I hope that you read and reflected fully on that editorial. I had hoped to quote a little from that editorial, but I think that we have had quite a little talk this morning, and I hope you have each read your own copy, and I pass it by. I believe that each of us has also received within the last day or so a letter from the secretary of the highway users conference of Michigan, to which was attached a brief resolution signed by 39 statewide organizations, most of which were highway user groups, and all of which united in urging retention of the present language of the 1938 good roads amendment without impairment.

Now, one of the members of the committee on finance and taxation mentioned to me that those interested in Michigan's highways, roads and streets would have nothing to fear if these 4 words were included in the constitution because the state highway department and the good roads federation, and so forth, are so potent and powerful that they would not permit anything detrimental to their interests to be enacted in the legislature. If that is true, then may I ask what is the purpose of including these 4 words? Those who have sponsored their inclusion in the committee report would not be so anxious for their retention unless they thought that they would be used at some time in the future. Unless they are to be used, unless they are meaningful, why put them in the proposal? Any diversion would be at the cost of the highway program.

Not too long ago there was completed a very exhaustive study of highway needs in Michigan. It was carried out under the direction of a joint legislative committee of the legislature, with the cooperation of the state highway department, the county roads association of Michigan and the Michigan municipal league. If I recall correctly, that careful survey showed that for the 20 years ending in 1970 there were needs in Michigan now foreseeable of $11 billion, but the revenue from the existing tax sources, predicted on the basis of expansion of population, motor vehicles, and so on, was estimated at $8.1 billion. Thus, there is a very definite shortage of $2.9 billion in highway revenue if we use this highway revenue for highway purposes. So why start raiding it and siphoning it off and using it for the marginal or grey area purposes? With this impending shortage of $2.9 billion, is it sensible that any of the special highway tax revenue should be used for purposes not directly related to highway construction and maintenance?

You are all aware that much of the highway construction in Michigan is financed on a bonding basis. Certainly the fact that we have this antidiversion provision in our constitution enables us to secure more favorable interest rates on highway bonds than would otherwise be the case. I have here a copy of a letter, about 1½ pages, on the letterhead of the law offices of Miller, Canfield, Paddock and Stone, and signed by John H. Nunneley — and I think all of you that are familiar with anything of this sort will regard this as the very highest authority in the field of bonding — and I quote just a paragraph therefrom, although I wish there were time and attention so that I could give you the entire letter. But he says toward the bottom of the first page:

> The legal effect of the addition of the above underlined words to the present langauge of the section is to leave the determination of what "highway purposes" are a matter practically within the sole discretion of the legislature not reviewable by the courts. Under the present language the question of what is or is not a "highway purpose" is ultimately a matter of determination by the courts. In other words, the addition of the underlined words would make the determination of what are "highway purposes" a legislative determination rather than a judicial one.

In conclusion — I know you have all been waiting for this — may I urge that we do not take chances. Let's retain what the people wrote in their constitution 24 years ago. Let's not erode it with seemingly harmless words which could be extremely costly and far reaching over a period of years. I urge your favorable consideration of striking these words from the pending proposal, and take no chances with the mischief and confusion which their inclusion might bring about in years to come.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, I rise in support of the Powell amendment. I feel we either should have earmarking or should not. But the present language is a confusion and it does raise questions that Delegate Powell has mentioned. I therefore urge the support of the amendment to keep the original language that the people adopted.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, the question, of course, outside of any agreement that has been made, is a matter of who is going to interpret the term "highway uses". Everyone who wants the antidiversion amendment wants the money confined to highway uses. Will that be interpreted by the courts or will it be interpreted by the legislature? I hope that this is one of the days when we believe in flexibility, because with the courts you will have no flexibility, unless, of course, the court considers itself to be a legislature, but with the legislature you can meet conditions as they arise. Who knows now what is going to be a proper highway use even in 10 years? Are we going to increase the use of the air to such an extent that every 50 miles or so along one of these interstate highways we are going to have to have landing strips? Are we going to increase the weight of trucks so that something has got to be done about that? What are the conditions going to be down through the years dictating what shall be a proper highway use? Certainly that is a legislative function, and that is what this means.

Now, every time anybody talks to me about taking highway money for some other purpose, I remind them that with the strength of the lobby that the highway people have always had in the legislature, they are worrying about something that isn't going to happen. But that now is not all of the story. When you add to the highway lobby the farm bureau, with Stanley Powell, Dan Reid and a few others on the job, I wouldn't give 15 cents for anybody's chance of getting this money used for something else. I think we are worrying about something that absolutely is not a cause for worry. The legislature ought to be the one to determine, as conditions change, what is a proper highway use, and if it should go to something entirely outside of a highway use the court would still come in.

PRESIDENT NISBET: The Chair recognizes Mr. Staiger.

MR. STAIGER: I subscribe to everything Mr. Brake has just put forth. I oppose this amendment. We thought at one time of trying to define highway purposes in this section. Mr. Powell, himself, has pointed up the problems involved in it I believe. We finally came to the conclusion the most reasonable and the best way for the state is to put in there "as defined by law," and leave it to the legislature in the first instance.

PRESIDENT NISBET: The Chair recognizes Dean Doty.

MR. DEAN DOTY: Mr. President, fellow members of the convention, I have in my hands a letter dated April 17 from the Michigan farm bureau. You all received a copy. I don't see any necessity for reading it. Mr. Powell covered it very well. I would only say this: that I had several statements to make regarding this amendment. Mr. Brake covered every single one of them with one exception. I don't think there is a member of the Michigan farm bureau that would operate his farm in the same manner as they are asking us to earmark state funds, and I oppose this amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Powell. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. Next amendment.

MR. POWELL: Mr. President, you caught me rather off guard here. I intended to ask for a record roll call.

PRESIDENT NISBET: Record roll call or division?

MR. POWELL: Division.

PRESIDENT NISBET: The demand is in order. Is the demand supported? Sufficient number up.

MR. HODGES: Mr. President, I request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been requested. Is that demand supported? Sufficient number up. The question now is on the Powell amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? Mr. Staiger.

MR. STAIGER: I think we should clear up for the delegates that we are voting on the Powell amendment. A yes vote will strike the language 'as defined by law;' a no vote will leave it in.

PRESIDENT NISBET: That is right. The question is on the amendment offered by Mr. Powell. Those in favor of the amendment of Mr. Powell will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 42

Austin
Baginski
Balcer
Barthwell
Bledsoe
Bradley
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Hoxie
Jones
Kelsey
Leibrand
Lesinski
Liberato
Madar
Mahinske
McAllister
McCauley
McGowan, Miss
Murphy
Perlich
Plank
Powell
Prettie
Rush
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

Nays — 85

Allen
Andrus, Miss
Goebel
Gover
Pollock
Pugsley

Anspach
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Gadola
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
McLogan
Millard
Mosier
Nisbet
Page
Perras
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Powell, the yeas are 42; the nays are 85.

PRESIDENT NISBET: The amendment is not adpoted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garry Brown, Stamm and Sterrett offer the following amendment:

1. Amend page 1, line 6, after "law.", by inserting "The administrator of the use of such highway funds shall be elected by the qualified electors of the state.".

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. President, fellow delegates, the proponents of this amendment are withdrawing the amendment at this time. We have been convinced that the germaneness is subject to question and is rather doubtful at this point. It will be offered at another time, however.

PRESIDENT NISBET: You are correct, Mr. Brown. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Cushman offers the following amendment to Committee Proposal 38:

1. Amend page 1, line 1, by striking out the entire proposal.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, in my opinion earmarking is bad for Michigan. It prevents the legislature and the governor from doing the job they are elected to do because it controls too much of the tax funds that are coming in, they are already earmarked, they don't have a proper chance to decide how to spend the money of the state. It doesn't work, and it doesn't take very long for the particular branch of government benefitting thereby to be back once again asking for money from the general fund, and I dare say it will happen in this particular case too. It leads to more earmarking as other groups try to get even the temporary benefits.

I think this word "antidiversion" is possibly the most vicious word to be used in the terms of the state tax picture. There is nothing ordained of heaven about gas and weight earmarking. What it is, is essentially using revenues — which otherwise go into the state purse that could be used for purposes such as schools and mental hospitals — for one particular purpose, rather than allowing the legislature to weigh the particular needs of these various parts of government as against the total needs of the state. I admire very much the sales job done by the people that are sponsoring this antidiversion word, but I cannot admire the principle behind it.

Mr. Powell in his speech mentioned that 24 years ago the people adopted this thing. I grant you that this happened, but I say that if this is the principle you are going to go for, then we might better had never had a convention; we could have stayed with the 1908 constitution. It is even older and therefore more sacred.

Mr. Brake spoke to the need for flexibility, and I would like to go him one better here. I, too, would like flexibility, and in conclusion, Mr. President, I would like to ask — although I know it is not going to be a very big vote on my side — I would like to ask for the yeas and nays. Thank you.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I am sorry that I feel constrained to oppose the amendment offered by Mrs. Cushman because I usually try to support her ideas. She is the one great independent that we have at this convention. However, I feel, though, that I should at this point say something in favor of earmarking in general, because we have 2 major subjects. We have the subject of the highway earmarking, which is before us now, and later we are going to get into the question of school earmarking, and I think it is appropriate at this time to make some very definite statements about earmarking, and also to clear up some of the misapprehension which I think some of us may have about the subject of earmarking.

There are various assumptions that earmarking contributed to the state's financial crises in recent years. This is a general feeling, that earmarking contributed to the state's financial crises in recent years. These assumptions have some validity, but they evade the whole truth. These assumptions suggest that the legislature had exhausted every honest approach in meeting Michigan's financial crises, and by using earmarked funds would have been able to bail the state out of its trouble. But the fact is that Michigan's financial crises developed from a bitter partisan fight between the executive and legislative branches of government. The fight centered there, as it does this very day, over the enactment of sufficient taxes to meet the needs of the state. I would like to repeat that. The fight is not over earmarked funds. Whether the funds are earmarked by the people or earmarked by the legislature the money must still be spent. The problem is whether sufficient taxes are being raised, and I think we will all agree that our problem today is that we are not getting sufficient taxes.

The executive branch wanted an income tax. The legislative branch opposed it. While the 2 branches were locked in a stubborn struggle state revenues were depleted and we found ourselves with payless pay days in government. The record is clear that the legislature dipped into many funds to defer meeting the need of new revenue. You will recall the manipulation of the liquor inventory which "solved" the financial problem for several months. You may also recall dissolution of the $50 million veterans' trust fund, and had highway money and school money not been earmarked, I think it is obvious what the legislature would have done to avoid its revenue raising responsibility. And I would ask this question: if we were to remove earmarking, and if we assumed that earmarking is responsible for our problems, our financial and revenue shortage problems, then what services would suffer in order for the state to be able to meet its payroll and other expenditures? The answer is simply they would have to reduce the amounts that they are appropriating for schools and for highways. Earmarking did not handcuff the legislature. The legislature handcuffed itself and threw the key away.

This convention is virtually agreed that the Michigan legislature needs a freer hand to meet their responsibility to the people. I think we should give them this freer hand, but let's not make it easier for them to shirk their responsibility. And this is important. When you remove earmarking you are making it easier for the legislature to shirk its responsibility; and remember its primary responsibility is to raise sufficient revenues to pay the cost of government, to pay for the services that we, the people, demand.

We can hope and we can pray that the product of this convention will bring a new glory to Michigan, but we would be dreamers if we were to forever close out the past. Human nature does not change overnight. The history of earmarking in Michigan is a history of Michigan men and women who decided to take matters into their own hands because legislatures were not responsive to the people's needs, and we haven't changed that legislature sufficiently to expect any change. But even if we assume that the legislature is going to change, I don't see how we at this time can change the opinions, or at least the decisions made by the people by referendum. The language of this convention will not change human nature overnight.

I don't want to get into an emotional argument, and I don't intend to. But I would like to say this in conclusion: that we must retain the earmarking that the people have decided was necessary in order to force the legislature to face up to its responsibility, and I certainly feel that we ought to retain this highway earmarking as well as the school earmarking.

PRESIDENT NISBET: The Chair recognizes Mr. Stafseth.

MR. STAFSETH: Mr. President, fellow delegates, I will be very brief because I went over practically all this material in committee of the whole. The gas and weight tax, of course, is a users' tax. It is directly related to the people that use the highways and pay for the highways that they use.

One of the reasons for the antidiversion amendment is to prevent double taxation on the products of the highway, such as gasoline and the weight tax on cars. If you didn't have this you would have a double tax. And thirdly, this provision leaves complete flexibility within the legislature to raise or lower according to the needs, and now they have added into it, "as defined by law," so you can determine the nature of the highway needs.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded. Those in favor of Mrs. Cushman's amendment will vote aye. Those opposed to the amendment will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—9

Bradley
Brown, G. E.
Cushman, Mrs.
Kuhn
McCauley
McGowan, Miss
McLogan
Pollock
Shackleton

Nays—103

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Boothby
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Leibrand
Leppien
Liberato
Madar
McAllister
Millard
Mosier
Nisbet
Norris
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young

SECRETARY CHASE: On the amendment offered by Mrs. Cushman, the yeas are 9; the nays are 103.

PRESIDENT NISBET: The amendment is not adopted. The question now is on Committee Proposal 38. Will you clear the board, please? Will the delegates please clear the board? The question is on the adoption of Committee Proposal 38. Those in favor of adopting the committee proposal will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—115

Allen
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bledsoe
Bonisteel
Boothby
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Liberato
Madar
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young

Nays—6

Bradley
Brown, G. E.
Cushman, Mrs.
Lesinski
McAllister
Pollock

SECRETARY CHASE: On the passage of Committee Proposal 38, the yeas are 115; the nays are 6.

PRESIDENT NISBET: **Committee Proposal 38** is passed and referred to the committee on style and drafting.

For Committee Proposal 38 as rereferred to the committee on style and drafting, see above, page 2631.

SECRETARY CHASE: Item 6 on your calendar, **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution.

Following is Committee Proposal 39 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 785.):

> Sec. a. There shall be returned to cities, townships and villages on a population basis, as provided by law, ½ cent of [a] state sales tax [levy] LEVIED ON RETAILERS on each dollar of THE sales of tangible personal property.
>
> There shall be set aside [for the school districts] 2 cents of [a] THE state sales tax [levy] LEVIED ON RETAILERS on each dollar of THE sales of tangible personal property, to be [allocated among said school districts by law. Such taxes so collected shall be expendable only by legislative appropriations] APPROPRIATED AS PROVIDED BY

Explanation—Matter within [ ] is stricken, matter in capitals is new.

LAW for aid to the school districts and school employees' retirement purposes [as shall be provided by law].

Prior to any division or allocation of the sales tax, the cost of collection [as determined by the department of revenue] shall be deducted [from total collections and credited to the general fund of the state].

[At no time shall] The legislature SHALL NOT levy a sales tax on retailers ON SALES OF TANGIBLE PERSONAL PROPERTY at a rate of more than 4 per cent of their gross taxable sales [of tangible personal property].

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, you have on your desk a substitute for Committee Proposal 39.

For text of substitute, see below.

I think we need to go over this one pretty carefully. Taking this along with the primary school fund matter which is tied in with it, this is the last item, so far as I know now, which is included within the so called package; unless somebody comes up with amendments that infringe upon that jurisdiction. Now, you will notice that there is a change in the method of saying that there shall be sales tax earmarked for local government. Instead of saying ½ cent as the present constitution does, we say ⅛ of the sales tax, which amounts to the same thing as long as we have a 4 cent sales tax, but would be different if the legislature went either up or down with the sales tax.

Now the next item, the next sentence is certainly legislative. It says that they may exclude from the population count the inmates of a prison or hospital, and so forth. It is legislative. But as you probably know the legislature has in the past been counting ½ of the population of a prison or a state hospital in counting up the population which determines the division of the sales tax within the county. In other words, at southern Michigan prison, Blackman township counted ½ of the prisoners in that prison in determining how much sales tax it was going to get. Now that was a pure compromise in the legislature. No question about it. But we have an attorney general's opinion saying that unless we put this wording in, the legislature will have no discretion and all the inmates of that prison or any other prison or hospital will be counted in determining the township's or city's, or whatever it is, share of the sales tax. That means a gold mine for a township or a city that has one of these big institutions. This does not make the determination. It simply says that the legislature shall have the right to determine how much population in one of those institutions shall be counted in determining the share of that governmental unit in the sales tax distribution. We have retained in the next paragraph the 4 cent limit that is in the present constitution, and that was put there so recently.

Now, you will notice that there is no school money earmarked, and a part of this same plan is to do away with the earmarking of the primary school fund. We realize this is controversial. School people are divided among themselves as to whether they wish to continue any earmarking for school purposes, and we know that the delegates here in the convention are divided on that subject. We have followed the recommendation of the MEA. We know that that does not carry with it the approval of all of the school people in the state, nor of all the school people here in this convention. And, admittedly, the MEA has changed its mind in the last 2 or 3 months so fast that some of us have had a great deal of trouble in keeping up with them. I call your attention, however, to the fact that this means nothing, in my judgment, in the matter of dollars and cents. We are paying the schools more than the primary school money plus the 2 cent sales tax, and to the tune of, I think, $40 million it is to be this year, a very substantial amount. And so far as anybody can foresee in the future the schools are going to get more by appropriation by the legislature from the general fund than the earmarking would give them. So this isn't a question of dollars. This is a question of principle. If you don't believe in earmarking, here is a chance to get rid of a lot of it all in one package. If you do believe in earmarking, well, that's what you believe in. That's all there is to it. I assume there will be amendments in this connection. Now, that is what we are proposing to do, and the matter is now in your hands.

PRESIDENT NISBET: The secretary will read the substitute.

SECRETARY CHASE: Mr. Brake, on behalf of the committee on finance and taxation, offers the following substitute for Committee Proposal 39:

> Sec. a. One-eighth of all taxes upon the privilege of selling tangible personal property at retail shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. The legislature may exclude from population any portion of the total number of persons who are wards, patients or convicts of any tax supported institution.
>
> At no time shall the legislature levy a sales tax on retailers at a rate of more than 4 per cent of their gross taxable sales of tangible personal property.
>
> Sec. b. There shall be established a state school aid fund. The legislature may from time to time dedicate certain tax revenues to this fund which shall be used exclusively for the support of public education in a manner provided by law.

MR. BRAKE: Mr. President.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: If I may just add something, I didn't comment on that last clause providing for the setting up of a state school aid fund by the legislature. The wording and the request both came from the official school organization, the MEA. I think what it means is perfectly apparent from reading it.

PRESIDENT NISBET: Any amendments?

SECRETARY CHASE: Messrs. Howes, Rush, Turner, Spitler and Anspach offer the following amendment to the substitute:

1. Amend page 1, line 12, [section b] after "public education" by inserting "and for school employees retirement systems,"; so the language will then read:

> The legislature may from time to time dedicate certain tax revenues to this fund which shall be used exclusively for the support of public education and for school employees retirement systems, in a manner provided by law.

PRESIDENT NISBET: The Chair recognizes Mr. Howes.

MR. HOWES: Mr. President, fellow delegates, I rise in favor of this amendment. This amendment states that the school retirement systems shall be a part of the appropriation for education. I am quite sure that the majority of our committee on finance and taxation would favor this amendment, although it came to our attention too late to be considered in our last committee meeting. It was considered at the last meeting of the education committee, and the majority of that committee favored the amendment. I urge your support of this amendment, and I would now yield to our committee chairman, Mr. Brake, and then to anyone else who would care to speak on it.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, Mr. Howes is correct. The committee has not had the opportunity to meet since this request was made, but in the original proposal that we submitted to you in February, language to this effect was included. I have no personal objection, and so far as I know there is none in the committee.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Bentley.

MR. BENTLEY: Mr. President, the committee on education supports this amendment unanimously.

PRESIDENT NISBET: The question is on the adoption of the amendment to the substitute. Those in favor say aye. Opposed, no.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Heideman, L. W. Richards, Miss Hart, Mrs. Butler and Mr. Austin offer the following amendment to the substitute:

1. Amend the substitute, following line 6, [section a, paragraph 1] by inserting a new paragraph to read as follows:

"There shall be set aside for the school districts 2 cents of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate), to be allocated among said school districts by law. Such taxes so collected shall be deposited in a special school aid fund and be expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes as shall be provided by law. Said school aid fund shall be separate and distinct from the state general fund.".

PRESIDENT NISBET: The question is on the amendment. Mr. Heideman.

MR. HEIDEMAN: Mr. President, ladies and gentlemen, I rise to support this amendment to restore the sales tax for the schools of Michigan. In this sales tax amendment we have the definite, certain and measurable will of the people of the state of Michigan to provide and to protect the education of our young people, to provide armor for our educational system, to make it less vulnerable to various financial vicissitudes. I would like to quote here from the Comparative Analysis of the Michigan Constitution, volume 2:

> Section 23 was added to the present constitution by amendment proposed by initiatory petition and adopted at the November election in 1946. A proposal by joint resolution of the 1947 legislature to repeal this section failed of ratification at the November election of 1948. It was amended in 1954 and again in 1960 to its present form.
>
> Commonly referred to as "the sales tax diversion amendment," section 23, as originally adopted in 1946, required payment to local governments of portions of "total sales tax revenues" as follows:
>
> 1/6 to townships, cities and villages on per capita basis
> 1/6 to school districts on school census basis
> 44.77 per cent to school districts on basis of formula adopted by the legislature of prior year's sales tax revenue
>
> The amendment adopted in 1954 established a 3 per cent sales tax rate ceiling and provided that the "cost of collection as determined by the department of revenue shall be deducted from total collections." This same amendment provided that the distribution should be as follows:
>
> ½ cent of sales tax on 1946 statutory base to cities, townships and villages on per capita basis
> 2 cents of sales tax on 1946 statutory base to school districts on basis of formula adopted by legislature
>
> The amendment of 1960 increased the sales tax rate ceiling from 3 per cent to 4 per cent without changing the portions payable to townships, cities, villages and school districts. This amendment was adopted after the supplemental state use tax on retail sales of 1 per cent, adopted in 1959, had been declared in violation of the 3 per cent sales tax limitation imposed by section 23. Its purpose was to enable the state to collect revenues from a 1 per cent additional sales tax for its own purposes as a replacement of revenues it had sought from the 1 per cent use tax.

The schools also should be able to plan their budgets to have knowledge about the years ahead. I might say, what is food for the goose is food for the gander — shall we say "Michigoose" and "Michigander?" — and the goose seems to be getting quite fat here. I do not wish the goose to go hungry, but I would like the gander also to be fed so that we would have a future in Michigan for our "Michiganders" and "Michigeese."

We call for free elementary and secondary education by constitutional mandate. As passed in second reading, Committee Proposal 30 reads: "The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law." That is the pertinent part here. Now, it seems to me that if we are to provide for a system of free public elementary and secondary schools, we should also provide for a parallel fund to guarantee that free education. Somebody has to pay for it, and this is our way of showing our good faith and our belief in this splendid Michigan educational system.

A word as to earmarking: earmarking or dedication of funds is not something heinous. It is one of the oldest, most honored of Michigan's governmental policies and practices. It dates back over a century. The University of Michigan has had dedicated funds, Michigan State — to enumerate the list would take a long time and much research, as a matter of fact. So I say, dedicated funds are not something to be ashamed of, not something to shy away from. I think they are something to be proud of and I am very proud that the people of Michigan showed their leadership by instituting this sales tax by initiatory petition. They were ahead of the elected leaders, not behind them, in this respect.

The only even partially valid argument in favor of eliminating the sales tax guarantees for the schools would be to eliminate or do away with all earmarked funds or restricted provisions. I think it is morally indefensible to have earmarked funds for the highways and for other purposes if we do not have them for the schools as well. Now I voted in favor of earmarking for the highways because I think it is good. The earmarking for the highways is good. It serves a very real and necessary purpose. But even better is the welfare of our young, and rather than looking with scorn upon these dedicated funds, I think we should be proud of them; because by them, as I have said, we pledge our faith, our faith to the young of this state, and it is an old axiom of democracy that free society cannot survive in ignorance.

Now I would like to end by quoting the figures with respect to the vote on the sales tax. I think they are impressive. We are all here as elected delegates. To fail to know the pulse of the people, then what is the purpose of drawing up a constitution? It isn't to draw up a constitution in a vacuum as a professor would, and I have been one most of my life. That is not our purpose. Our purpose is to draw up a basic document for a free society under which we may live and be as happy as we can. Here are the figures: in 1946 — and I worked, of course, in every one of these elections for the sales tax for the schools, so I have that stake in it too — beginning with 1946, I was at that time not in my northern bailiwick but at Ann Arbor, the vote on the so called sales tax amendment in 1946 was 864,530 in favor, 584,689 opposed. Then there were still those who wished to thwart the will of the people, and so the legislature put it up for rescission, and the people came back with a thunderous and thumping response; the people of Michigan voted 1,446,016 opposed to the rescission of the tax, and only 343,217 in favor of rescission. Now, I am not a mathematician, but it seems to me that is over 4 times, over 4 to 1, isn't it? In 1954 the question came up again in the form of a perfecting amendment or amendments and the people again indicated their views on the subject by voting in favor of the tax amendment, 1,182,412 and only 443,079 against it. The question came up in another form in 1960; people voting to increase the tax, which, of course, isn't a very pleasant thing to do, but again the people voted 1,250,264 for the increase of 1 cent and 1,230,001 against.

So I say to you that we can do nothing more right, more essential for the welfare of our beloved state than to restore this money to the schools.

PRESIDENT NISBET: The Chair recognizes Mr. Richards.

MR. L. W. RICHARDS: Mr. President, fellow delegates, I believe Mr. Heideman has covered various angles here that I would not like to repeat, but I would be remiss if I did not rise in support of this amendment. This morning the position of the MEA was referred to. I have a lot of respect for that organization — the work they have done — but I stand as a delegate here today, and I did receive a call this morning from the executive committee that met this morning in Detroit representing the Michigan association of school administrators and the school board association. They are greatly disturbed to think that this delegation will earmark funds for every phase of the government, practically, except education. If we stood here today and eliminated all earmarked funds, I would support it.

I am very much surprised that some people have stood on the floor and asked for flexibility, at the expense of the schools, for the legislature. Certainly this must be a day of trust for the legislature. I don't believe we can justify our position when we stand and support earmarked funds for highways, support it for civil service, support it for townships and cities, and eliminate the school system. You may say: after all, the school systems are assured of money. I realize this earmarking can only be a minimum required for educational purposes, but also it is a base. It has been in the constitution ever since its origination. I believe we would go amiss if we didn't recognize a minimum standard, a minimum amount, at least, for education. I don't believe anyone here today could vote against this amendment when you have taken the position you have in earmarking funds for every other phase that originally has been in the constitution. If you want flexibility, let's go all out, take all earmarking funds out and let our legislators take care of the distribution.

I am afraid of this, ladies and gentlemen, in the form it is now. I think our people have spoken on several occasions. We have to go out and sell this document. I think this will be a big factor in selling it. I believe, folks, there is nothing greater than being determined that we are going to give a minimum of support for the education of our youth. This is a must, and I honestly solicit from you the support for this amendment. Thank you.

MR. BRAKE: Mr. President, a preferential motion.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: I am sure everyone understands this issue, and I am fearful of the attendance we are going to have late in the day. So I move that debate be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Brake. Those in favor say aye. Opposed, no.

The motion prevails. The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I rise to support this amendment. The convention has apparently decided to accept earmarking for our state, and once we do this we certainly should accept it for our schools and for the children and teachers of the state. If we accept it for roads and turn it down for schools, we are going to appear to put roads on a higher level than schools, as a more important activity. I don't think we should appear in any way to do this, and for this reason I support this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Jones.

MR. JONES: Mr. President, fellow delegates, I also rise to support this amendment, and to point out to the delegates that in spite of what Mr. Brake said regarding the MEA stand on this particular issue, I can assure you that the Michigan education association does not reflect the views of a majority of its members. The views of the MEA are decided by a small clique of paid staff who reside in Lansing and make up their minds in terms of which way the political winds are blowing. Therefore, I would discount any position in this matter taken by the MEA.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I obviously do not speak for the committee on education, but as an individual I oppose the amendment and support the committee substitute. I think we just might remember one thing: the estimated revenue from the 2 cents of the 4 cent sales tax would be about $209 million. That is about 45 per cent of the total amount needed to support public education at all levels in this state at this time. We are going to have to trust the legislature to make up the balance of the $450 odd million needed even if the 2 cent sales tax diversion were retained. I suggest that we can, in view of the importance of education, go all the way on this.

PRESIDENT NISBET: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. President, I am most disturbed by the substitute committee proposal and I rise to support the amendment that is now before us, for 2 reasons: first, I believe we have in it at least a guaranteed minimum base, so that the degree of discretion with regard to the legislature on this most important matter is limited. I think it ought to be limited because of the high place that education should have in our values and the kind of constitutional mandate we ought to continue to the legislature to see that the education of our young is a high priority tax. By guaranteeing this it allows them less discretion to apply, for other purposes, moneys otherwise appropriatable for education. I am also disturbed because I think we are departing, in a whole host of overhaul changes, from a policy of selective change in this constitution. We are proceeding to change many more things than are necessary, and I think we are multiplying the number of groups that will be against the final document.

I commend to you the fact that every report on education that emanates from Washington relates the whole phenomenon of education to the survival and growth of our democratic society, and I think we ought to reflect that in Michigan. I think we are taking, if you will, the low road when we place the high value on roads and not upon education as much as we ought. I think that earmarking has served a useful purpose in both connections, but certainly we ought not to say that education is of lesser value than the roads. I urge that we support the amendment before us.

PRESIDENT NISBET: The Chair recognizes Dean Doty.

MR. DEAN DOTY: Mr. President, I rise to urge the delegates to defeat this amendment, and I would like to tell Mr. Richards that as a member for 9 years of the association he referred to, I not once knew what their position was on hardly anything. I do not recall at any time their even being concerned with what our board of education thought. I say to you that the Michigan state legislature has proved that it is concerned about education, and has constantly appropriated more money than sales tax has given, and I urge you to defeat this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, with all the vigor at my command, I also urge the defeat of this amendment. I think the material reduction of earmarking can be one of the significant accomplishments of this convention. The committee substitute does that. The present amendment would simply reintroduce into the constitution all of the present statutory detail, all of the inflexibility which we presently have. I strongly urge the defeat of the Heideman amendment and support of the committee proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I must respectfully take the opposing view of my good friend, Dick Van Dusen. With all the vigor at my command I support this amendment and certainly oppose the committee substitute. It is my understanding that the MEA — I can be corrected on this if I am wrong — favored the removal of all earmarking, or at least earmarking of sales tax for education, provided all other earmarking were removed from the constitution. Inasmuch as we have retained the earmarking for the highways, I am not sure that the MEA would take the position that it has been said they would take. Also, it is my understanding that there are other members of the education committee who would support this amendment.

The time is short and I will have to be brief, and I will merely remind you again that it was not earmarking which got us in the financial trouble that we are in. It is simply that the legislature has refused to raise sufficient tax revenues, and the people decided to earmark enough of the revenues to be absolutely certain that the schools would be taken care of, and if the legislature were going to dilly dally on raising revenues, they would not be able to reduce the amount of the school services. So I would strongly urge that we support this amendment, and I would oppose the committee substitute.

PRESIDENT NISBET: The Chair recognizes Mrs. Butler. Time has expired. I am sorry. The question now is on the amendment of Mr. Heideman.

MR. HODGES: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? It is supported. Will you ring the bell, Mr. Chase? Those in favor of the amendment offered by Mr. Heideman and others will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—46

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Dehnke
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Follo
Habermehl
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Jones
Kuhn
Leibrand
Lesinski
Liberato
Madar
Mahinske
McAllister
Murphy
Norris
Perlich
Perras
Richards, L. W.
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Woolfenden
Young
Youngblood

Nays—79

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Danhof
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Garvin
Goebel
Gover
Hanna, W. F.
Haskill
Hatch
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
McCauley
McLogan
Millard
Mosier
Nisbet
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Heideman and others, the yeas are 46; the nays are 79.

PRESIDENT NISBET: The amendment is not adopted. Mr. Brake.

MR. BRAKE: Mr. President, I hope we can have as many people here after lunch as are possible until we dispose of some more of these controversial items. I move we recess until 1:30.

PRESIDENT NISBET: The question is on the motion of Mr. Brake that we recess until 1:30. Those in favor will say aye. Those opposed, no. Just a minute. There is one announcement.

SECRETARY CHASE: Mr. DeVries announces that the meeting of the administration committee scheduled for this noon has been cancelled.

There will be no Republican meeting this noon.

There will be a meeting of the committee on style and drafting 15 minutes after we recess. Bring your own lunch. William B. Cudlip, chairman.

We have the following requests: Mr. Goebel requests to be excused at 4:00 o'clock today to attend a meeting of the board of regents of the university; Messrs. Perlich and L. W. Richards, from this afternoon's session; and Mr. Suzore wishes to be excused from Monday's session.

PRESIDENT NISBET: Without objection, the requests are granted. We are recessed until 1:30.

[Whereupon, at 12:05 o'clock p.m. the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The secretary has a communication to read.

SECRETARY CHASE: The following communication has been received:

The Senate
State of Michigan
Lansing, April 18, 1962.

Michigan Constitutional Convention
Office of the Secretary
Constitutional Hall
Lansing Civic Center
Lansing, Michigan

To the members of the convention:

Your kind expression of my past service with the convention by way of your resolution has been gratefully received by myself.

It was an honor and privilege to serve in the constitutional convention as it now is my further duty to work for Michigan within the state senate.

Thank you so much.

Sincerely,
Kent T. Lundgren,
State Senator.

PRESIDENT NISBET: Without objection, it will appear in the journal.

The secretary will read.

SECRETARY CHASE: Coming up at this time is an amendment to the substitute for **Committee Proposal 39,** A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution. Mr. Brake, on behalf of the committee on finance and taxation, has offered the substitute.

Messrs. Heideman and L. W. Richards offer the following amendment to the substitute:

1. Amend the substitute, after "Sec. a.", by striking out the balance of the substitute and reinserting the language of article X, section 23 of the Constitution of 1908.

PRESIDENT NISBET: The Chair recognizes Mr. Heideman.

MR. HEIDEMAN: Mr. President, ladies and gentlemen of the convention, there is no need to go into speeches at this time. I just hope that this second time you will reconsider your votes in this connection in the light of the fact that we voted for earmarking for highways and for other restrictions.

PRESIDENT NISBET: The question is on the amendment of Mr. Heideman. Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, the real issue that is involved here is the one that we have just voted upon and turned down, the question of earmarking for schools. All the additional material there would put all the old language of that long section back in the constitution. We have already decided the actual issue in the last vote we took.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, I support the Heideman amendment and demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Downs.

MR. DOWNS: I believe this reconsideration motion is debatable isn't it?

PRESIDENT NISBET: This is not reconsideration, Tom. This is a new amendment.

MR. DOWNS: I am sorry.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded. Mrs. Butler.

MRS. BUTLER: I ask your support for this amendment. I realize that this is the day we are having a lot of faith in the legislature, but it just is not my day. I have it every day. I feel that the legislature will enact enough tax to take care of the balance, but on this amendment I have had letters from almost every superintendent in my whole area asking that this 2 cents be retained.

While we are talking about the legislature, last week when we — or a couple of weeks ago — when we were talking about the judges, and we were criticizing the judges for their stand on various things, Dr. Norris made this statement, and I wrote it down so I would have it perfect, "Let us not deprecate but rather elevate that which we criticize." And so I want you to know that I am not criticizing the legislature but I do ask you to support this amendment to get the 2 cents back for our schools.

PRESIDENT NISBET: The Chair recognizes Mr. Barthwell.

MR. BARTHWELL: Mr. President, fellow delegates, I am very much concerned about this situation, too. I can't see how we can stand up and say we have made a deal to put earmarking back in for everything except for the support of schools and the children in this state. So I just feel that this convention will have a lot to answer to the public for if we do not reconsider this situation and put this earmarking back in for the schools.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this is exactly the same issue we decided this morning. We went through the arguments then. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand supported? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question now is on the amendment by Mr. Heideman. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed to the amendment will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 35

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Donnelly, Miss
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Hannah, J. A.
Hart, Miss
Heideman
Hodges
Hoxie
Jones
Kelsey
Krolikowski
Kuhn
Lesinski
Liberato
Madar
Mahinske
Perras
Sablich
Stopczynski
Suzore
Wilkowski
Woolfenden
Young
Youngblood

Nays — 76

Andrus, Miss
Anspach
Baginski
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Higgs
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
McCauley
McGowan, Miss
McLogan
Mosier
Nisbet
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Upton
Van Dusen
Wanger
White
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Heideman and others to reinsert the language of article X, section 23, the yeas are 35; the nays are 76.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the substitute, as amended, as offered by Mr. Brake for the committee. Those in favor of the substitute will vote aye. Those opposed, no.

The substitute, as amended, is adopted. The question now is on Committee Proposal 39, as amended. Those in favor will vote aye. Those opposed will vote nay.

MR. LESINSKI: Mr. President, could the secretary restate the proposal so we will know what we are voting on?

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: The proposal, as it now stands, is as follows:

[For Committee Proposal 39 as read by the secretary, see below, page 2641.]

PRESIDENT NISBET: For what purpose does Mrs. Cushman rise?

MRS. CUSHMAN: I just want to announce that I intend to abstain, and I will turn in my reasons.

PRESIDENT NISBET: For what purpose does Mr. Jones rise?

MR. JONES: Mr. President, I should like to be recognized immediately after this vote is taken, please.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 85

Allen
Andrus, Miss
Anspach
Baginski
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Conklin, Mrs.
Cudlip
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
McAllister
McLogan
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager
Youngblood

Nays — 31

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Butler, Mrs.
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Hart, Miss
Heideman
Hodges
Jones
Kelsey
Krolikowski
Kuhn
Lesinski
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
Pollock
Sablich
Stopczynski
Suzore
Wilkowski
Young

SECRETARY CHASE: On the passage of Committee Proposal 39, as amended, the yeas are 85; the nays are 31.

PRESIDENT NISBET: **Committee Proposal 39,** as amended, is passed.

Following is statement explaining abstention from voting submitted by Mrs. Cushman:

I do not wish to vote for a proposal which removes earmarking from school funds while leaving it for roads and cities, but neither do I wish to vote against a proposal which would return needed funds to our cities.

It is referred to the committee on style and drafting.

Following is Committee Proposal 39 as amended and rereferred to the committee on style and drafting:

Sec. a. One-eighth of all taxes upon the privilege of selling tangible personal property at retail shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. The legislature may exclude from population any portion of the total number of persons who are wards, patients or convicts of any tax supported institution.

At no time shall the legislature levy a sales tax on retailers at a rate of more than 4 per cent of their gross taxable sales of tangible personal property.

Sec. b. There shall be established a state school aid fund. The legislature may from time to time dedicate certain tax revenues to this fund which shall be used exclusively for the support of public education and for school employees retirement systems, in a manner provided by law.

PRESIDENT NISBET (continuing):—The Chair recognizes Mr. Jones.

MR. JONES: Mr. President, fellow delegates, I move to reconsider the vote taken on the passage of **Committee Proposal 38.**

For vote on passage of Committee Proposal 38, see above, page 2635.

I do so in view of the fact that the delegates assembled, with an assist from the leadership of the MEA, have voted to take away earmarking from the schools, and we should also have an opportunity to decide whether it should not also be stricken from other specialized governmental functions. I also demand the yeas and nays on this motion.

PRESIDENT NISBET: The question is on the motion of Mr. Jones that the vote by which Committee Proposal 38 was passed be reconsidered. Those in favor will—

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I wish to speak in favor of the reconsideration motion. You know, sometimes you want the best thing and then the next best, and then we move pretty far down the line. If we certainly had apportionment, I could make very good arguments for no earmarking. Without that, we have made very good arguments for earmarking. But the way we stand now, we will be earmarking for cement, for which there can be good arguments made, but we will not be earmarking for children, for which I think even better arguments can be made. I would hope that, in view of our removing earmarking for education, we would have the opportunity to vote to reconsider our action on having earmarking for roads but not for children.

PRESIDENT NISBET: The question is on the motion to reconsider the passage of Committee Proposal 38. The secretary will read the title.

SECRETARY CHASE: Committee Proposal 38, A proposal with reference to the earmarking of the gas and weight taxes for highway purposes covering the subject matter of article X, section 22 of the 1908 constitution; which was passed this morning. Mr. Jones moves to reconsider the vote by which Committee Proposal 38 was passed.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of reconsideration of the vote on the passage of Committee Proposal 38 will vote aye. Those opposed to reconsideration will vote nay. The question is on reconsideration. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 34

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Hart, Miss
Heideman
Hodges
Jones
Kelsey
Kuhn
Lawrence
Lesinski
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
Perras
Pollock
Rajkovich
Sablich
Stopczynski
Wilkowski
Young
Youngblood

Nays — 75

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Haskill
Hatch
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
McAllister
McLogan
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Turner
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the motion of Mr. Jones to reconsider the vote by which Committee Proposal 38 was passed, the yeas are 34; the nays are 75.

PRESIDENT NISBET: The motion does not prevail. The secretary will read the next proposal.

SECRETARY CHASE: Item 10 on the calendar, **Committee Proposal 51,** A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution.

Following is Committee Proposal 51 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 909.):

Sec. a. The legislature shall provide [by law a] FOR THE uniform [rule governing the] general ad valorem taxation of real [property] and tangible personal property[.] NOT EXEMPT BY LAW. The legislature shall provide [by law] for the determination of true cash value of such property; [and shall specify] the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 per cent[,] ; and [shall provide by law] for a system of equalization of assessments. The legislature may provide [by law for exemption of such property from taxation, or] for alternative means of taxation of [such] DESIGNATED REAL AND TANGIBLE PERSONAL property in lieu of general ad valorem taxation, [uniform upon the class or classes of property to which such alternative means are applied].

Every [other] tax OTHER THAN THE GENERAL AD VALOREM PROPERTY TAX shall be uniform upon the class or classes on which it operates. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this is the uniformity clause. With 2 exceptions it has the same meaning as the uniformity clause of our present constitution although it is improved and made to cover more than the one section that was originally in the uniformity clause. The 2 exceptions are these: in the old constitution the assessment of property for tax purposes was stated to be at 100 per cent of its fair cash value. Under this proposal it is limited to 50 per cent of the fair cash value after January 1, 1966. The reason for that is to allow those few places in Michigan where they have been assessing personal property at something more than 50 per cent to get back down to the 50 per cent level. We realize that that couldn't be done without great inconvenience in one year's time. So we allowed until January 1, 1966.

The other change is the prohibition at the end against a graduated income tax on either the state or the local level. Under the provisions of the 1908 constitution, it was an open question as to whether the legislature had the power to levy a graduated income tax. The committee's first determination was that it should not leave that hanging in the air; that people should know whether or not the legislature had that power, and the decision of the committee, which was approved by you on general orders, was that it should be prohibited. Those are the 2 controversial things in the proposal so far as I know.

PRESIDENT NISBET: The secretary will read the first amendment.

SECRETARY CHASE: Messrs. Allen and Stevens offer the following amendment:

1. Amend page 1, line 7, [paragraph 1] after "per cent" by inserting "unless otherwise provided by law"; so the language will read, ". . . which shall not, after January 1, 1966, exceed 50 per cent unless otherwise provided by law. . . ."

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, the liberal from Detroit and conservative from Kalamazoo joined together in a hands across the peninsula movement to bring you this amendment. The effect of the amendment is to take the 50 per cent freeze on assessments out of the constitution. I would like to suggest some reasons why we should not have the 50 per cent limitation. The first reason is that by putting it in we are making the constitution which we are drawing, we hope, for the next 50 years more restrictive on the matter of assessments than has been in the past.

Now, from a theoretical point of view, we all should have been, during the last 50 years, assessing at cash value but, of course, you know we have not, and I think that the finance committee has done the right thing in doing away with this arbitrary figure of having to assess at cash value. But then the finance committee went further and provided that after 1966 it never may be more than 50 per cent.

Now, we have earlier today written into the constitution — rewritten — the 15 mill limitation. We do have an escape clause that allows us to go to 18 mills. But now we are turning around and adding on to the 15 mill limitation an additional restriction — and this restriction was not in our old constitution — and that restriction is that the assessments, instead of theoretically being able to go to 100 per cent cash value, will now be 50 per cent. So what we have done is we have made a theoretical 15 mill limitation a 7½ mill limitation. What we are doing with this clause — if we keep it in — is, we first freeze the limitation of 15 mills, subject to increase to 18 mills, and subject to the further right of the people to vote; and then impose another freeze clause, and that is the 50 per cent of assessed valuation. I don't think when we draw a constitution for 50 years, we should do it.

The second reason in support of our amendment is that if we look at the history of Michigan, history would say to us: don't do it. I don't think many remember, but I know when I first went into government, city government in an elected position, back in 1941, my city — and I am sure if it was true in my city it must have been true in a number of other localities — was imposing an assessment of 70 per cent on real and 70 per cent, approximately, on personal. And then when the war came, and we had great inflation in real estate, the value of property went up very rapidly, but our assessments stayed the same. And this had the effect of making what was an assessment of 70 per cent drop down to approximately 33 per cent. But personal property, which is purchased year by year, more or less kept up with the increase in inflation. Now the point I am trying to make is this: that we found it all right 20, 25 years ago, and there wasn't much objection. We took it as a matter of course to assess at more than 50 per cent. We had to because of the depression. We were down around 33 per cent in 1929. The depression came along, the values dropped, the assessments remained more or less the same, but they were well over 50 per cent.

Now when we write this 50 per cent clause in, you see what we do: we don't allow the flexibility in case we have a sharp industrial recession, or in case something else happens. We take the flexibility out and I wonder if we are doing the right thing when we write into the constitution a figure of 50 per cent, which is approximately the right figure for today; but supposing we were drawing this constitution in 1937 or in 1940, we probably then would have set a 70 per cent figure. If we were having a convention in 1946 or '47, we would have set a 33 per cent figure. I don't think we should take the figure which we are about at today. I think we make a mistake. I think we introduce too much inflexibility, and I think the lesson of history is that this is wrong. We are going to get caught by it.

Now a third point is, there are some communities today that are close to this 50 per cent formula. Let's take the city of Detroit where personal property is still assessed, I think, around the 70 or 75 per cent figure. Real estate is around 40 per cent. Now, if Detroit has to drop its personal property, which is a very high valuation in Detroit in relation to the whole, it either has to cut its total city budget substantially and cut services or it has to drop its personal and raise its real. When Detroit finishes dropping its personal and raising its real, it could very well be that it will either be at or a little above the 50 per cent figure. This is true in several communities, particularly where you have a community with a high amount of factory inventory and machinery. And I think that we are creating too great a hardship on those communities which are so situated that in order to drop personal they must raise real, and when they get through with it, they may be over the 50 per cent figure. In other words, I think that we impose in the constitution a limitation.

Now you will say: well, all they have to do is raise their millage. Yes, but the millage of some of these communities is set by a charter. So not only are some communities affected by a top limitation on millage, also affected by a limitation on 15 mills, but we give a third limitation now on assessments. Personally, I think what we ought to do is to keep the flexibility. Now, the committee actually gave us flexibility. The committee gave us flexibility in doing away with the cash value formula, and if the committee had stopped there I think it would have been fine. And, the committee did stop there until 1966, when the committee said: beginning in 1966, you can't assess at more than 50 per cent of the true cash value. I think this is the bad part.

Now, the Stevens-Allen amendment would do this: when January 1, 1966, comes around, at that point assessments may be no more than 50 per cent of true cash value, but if the legislature felt that they should be more, if we were in a depression, if something should happen, the Stevens-Allen amendment allows the legislature to permit assessments at 55 per cent or 60 per cent, or any proportion of true cash value which the legislature thinks is correct. That is what the amendment that the committee has proposed to you does up until January, 1966.

In conclusion, for the members of the majority party, let me say this: this matter of the proposition of true cash value of assessments, the 50 per cent clause which we seek to change here, is not part of the package. Just to be sure about it, I asked Mr. Brake if this was so this morning, and he said, "Yes, unfortunately, Glen, it is so. I don't agree with your amendment, but you are right when you say it is not part of the package." Now, if it is not part of the package, let's all of us see what is the right thing to do here. Do we want to have this freeze? Do we want to have first the freeze of the 15 mill and then the freeze of the 50 per cent limitation? I don't want to see the double freeze. I do not want to see the double freeze. I want to permit the elasticity. Some communities need it.

I think that here, again, is the place where we have to put some reliance on our legislature. We are relying on the legislature until 1966. We are relying on the legislature after 1966 as long as it is less than 50 per cent. Let's rely on our legislature like we relied on the legislature from 1908 until now. We did have assessments during the depression at 70 per cent. We had the elasticity. I think that if we don't, something could happen in 1966. We invite a new amendment, initiated or by the legislature, to correct this. I don't want to draw a constitution which, in this section, lasts only for approximately 4 years. I would like to draw it so that there is the elasticity which we need. Mr. President, if I may, I yield to Mr. Stevens, who cosponsored this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President, delegates, most of the things that I might say to you have already been said by Delegate Allen. I would only repeat this one thing: the tax bill the tax payer pays, to him, is the amount of money on his tax bill whether the rate goes up or down. You can raise the valuation, you can cut the rates, you can cut the valuation and raise the rates, it doesn't make any difference to him. But we are now likely to be in a squeeze, and if you put a ceiling on both the rate and the valuation, certainly there is a limited amount of money that can be raised by taxing, by ad valorem taxes on general property.

Most of you are somewhat familiar with the situation in Detroit. It is compelled — it has no choice, under agreements with the state, but to cut the valuations on its personal property, which have undoubtedly been too high. It will have to do that. The only way you can make up for it is some increase on real property. Nobody wants their real property assessment increased. But the cold facts are — even though the Detroit papers are no longer being printed, you probably know from past reading and from reading other papers — Detroit is really in a bad way financially. It is not the fault of any one person. It is something that has developed over the years. The only way out is to increase the income. You can't decrease the outgo for reasons which I think are clear to you, particularly that that has already gone out. The money has been spent. The money is owed and we face, like the state of Michigan did not so long ago, the possibility of payless pay days and all the other embarrassments that come from a simple fact that a city, a state or an individual just does not have enough money to pay the bills.

This would not be a panacea but it would permit, with the aid and the permission of the legislature, a little help in the situation which the city of Detroit now faces. I take it that is true in Kalamazoo to a lesser degree, and most likely in some other cities which will need some way to raise more money. Certainly the legislature has not been very generous in giving Detroit an opportunity to raise money any other way. If they can't get at an income tax or pay roll tax or some other such way, the only way left is to either increase valuations or increase tax rates. If they can't do either, then I guess the only way out will be bankruptcy.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I am going to speak in favor of this amendment. I have another amendment which will go even further than this one, but I think this is a step in the right direction in that it does give the legislature some freedom to raise assessments above the 50 per cent of cash value level. I think Mr. Stevens made the strongest point that I would make, and that is that this provision without the amendment will cost the city of Detroit more money than we can measure at this time. Back in 1959 it would have cost the city of Detroit, the school districts, and the county of Wayne close to $30 million. Since then the city of Detroit has been lowering assessments, trying to get them down to the 50 per cent of cash value level. No one can be certain that the city of Detroit will be able to get down to the 50 per cent of cash value. If we impose this requirement in the constitution, then there will be no alternative except to get those properties or those types of properties that are being assessed above 50 per cent down to 50 per cent and, as Mr. Stevens has indicated, it will automatically shift the burden to home owners and I have a feeling that there are going to be some very unhappy people down in that area. So much for Detroit.

Let's discuss it, as Mr. Allen did, from the standpoint of whether or not this is an appropriate item to be included in the constitution. I submit that it is an unnecessary restriction on the power of the legislature to fix limits. I would remind you again that one of the reasons why this constitutional convention has been called is because many people felt that the legislature did not have the power or that there had been restrictions placed on the legislature in raising sufficient revenues to meet the cost of government. It is very difficult to disassociate the problems of local units of government from those of the state. The 2 have become quite interrelated, because local governments now rely on state aid, and to the degree that the local units of government are unable to meet their budgets, they will be seeking state aid.

What we are doing here is placing another restriction on taxing powers, making it more difficult for local units of government to raise revenue to meet their costs. This provision does not have the dignity of a mandate by the people. It can certainly be argued that, in regard to the 15 mill limitation, the people made the decision that they would like to have rates limited to 15 mills, and we have to consider very carefully when we decide to raise that limit. But the people have not spoken on this 50 per cent of cash value. This is an arbitrary decision that we are making in this constitution, and I submit it is not a proper decision for us to make. It is certainly more appropriate to leave it to the legislature to set that level as the economic cycle dictates.

I don't think there is any necessity for going into all of the other arguments that have been made. There is one other, that might be mentioned and that is that in the upper peninsula where the mining industry is operating. It has been said that this is perhaps the only industry where property is assessed at close to 100 per cent of cash value. If we require a reduction to 50 per cent of cash value, I can assure you that it will have a devastating effect upon the budgets of those local units of government up in the upper peninsula. I heartily support this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: I wanted to get over here so I could face some of the rest of the delegates from outstate, especially those who get more than their share of the taxes in return from the dollars they spend than we do down here in Detroit or Wayne county.

Mr. Austin spoke about how angry the home owners are going to be. Let's talk about how angry the owners of manufacturing plants are going to be. We are going to have to get money someplace or go bankrupt. Let's see how this affects you people out in the state who have been getting a lot of that tax dollar in return. Here is what is going to happen: we are going to lose that manufacturing plant. It is going to go down to Tennessee, Alabama, Georgia, North Carolina, South Carolina, and we are going to lose this tax dollar and we are going to lose it mighty fast, and we are going to go broke. This isn't just going to affect us; it is going to affect you. Because when we don't get that tax dollar, you are not going to get it either, and then you are going to have to raise your taxes out in the state. Sure, I know you are going to say: but we are going to make this 50 per cent. Sure, Mr. Brake and a few others can talk like that, but we have got to raise the money someplace. We have got to have it, because if we don't get it we're going to go bankrupt and we will lose everything we have got, and then you lose. Yes, those students out there [gallery] can understand that, even if you cannot.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this matter was so thoroughly discussed when we were in committee of the whole that it would seem unnecessary to have any extended argument on it now. I assume that most of you have heard from your constituents in connection with this specific item. This is one of the most sanctified of all the sacred cows out over the state.

Mr. Austin said something about the people have had nothing to say about it. We have had resolutions from one board of supervisors after another, from other people interested in their government all asking that the 50 per cent limitation be applied. This is where we are now in nearly every place in Michigan. The state tax commission has been trying to get us on a straight 50 per cent basis. There are only a few spots where they are above the 50 per cent and we are giving them until 1966 to get straightened around. Mr. Austin has already pointed out that Detroit is on its way already to getting down to the 50 per cent level. I call your attention to one city where they voluntarily went down from about 70 per cent to 50 per cent and attribute the fact that they have 2 new factories in their city to that change in tax policy. Outstate people are very much interested in this 50 per cent limitation. I think the committee has acted as it should act, and we ask your support for it.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Allen and Mr. Stevens. The secretary will read the amendment.

SECRETARY CHASE: Mr. Allen and Mr. Stevens have offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2642.]

MR. STEVENS: I request a division, please.

PRESIDENT NISBET: Division has been requested.

MR. AUSTIN: Mr. President, we demand the yeas and nays, please.

PRESIDENT NISBET: The yeas and nays have been requested. Is that demand seconded? Sufficient number up. Those in favor of the Allen-Stevens amendment will vote aye. Those opposed will vote nay. The question is on the Allen-Stevens amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 59

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Binkowski
Bonisteel
Bradley
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Follo
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Pollock
Rajkovich
Sablich
Seyferth
Snyder
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Van Dusen
Walker
Wilkowski
Yeager
Young
Youngblood

Nays — 65

Batchelor
Bentley
Bledsoe
Boothby
Brake
Cudlip
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Erickson
Farnsworth
Figy
Finch
Gadola
Garvin
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
McAllister
Nisbet
Page
Perras
Plank
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Thomson
Turner
Tweedie
Upton
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Allen and Steven, the yeas are 59; the nays are 65.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Perras and Boothby offer the following amendment:

1. Amend page 1, line 16, [paragraph 2] after "subdivisions.", by inserting "No income tax shall be enacted into law in this state without a favorable vote at a general referendum on the question.".

PRESIDENT NISBET: The Chair recognizes Mr. Perras.

MR. PERRAS: Mr. President, fellow delegates, before I turn this over to our expert on taxation, especially income tax, Mr. Boothby, I would like to speak briefly. I have always felt that in the area of taxation, especially income tax, the people should, by mandate, have the opportunity to vote for or against this taxation. I hope that if this does not prevail we will put an amendment in that if the income tax does come in, it will be held by constitution to 3 per cent. If we are to have an income tax, I think it should be placed in the constitution. Now I shall turn it over to Mr. Boothby.

PRESIDENT NISBET: The Chair recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, this amendment would provide that if an income tax is to be adopted in this state, that it can only be done after the people of the state of Michigan had spoken favorably on the issue. There are a few points that I wish to make in this regard.

First, we have in the constitution at the present time, and it is being proposed by our convention to write back in, a 4 per cent sales tax ceiling. In other words, you cannot exceed a 4 per cent sales tax except by a constitutional referendum. We saw, just a few years ago, where, in order to raise from 3 cents to 4 cents, it was necessary to have a constitutional referendum, a vote of the people. It would seem to me that in a situation where you're going to impose a whole new system of tax, the people should at least be allowed this particular kind of expression on a whole new system of taxation.

Second, the tax payer should be allowed to vote on legislation that will, in effect, constitute a lien on every taxpayer's check during the continuance of that tax.

Third, I would like to make an analogy with the 15 mill limitation. We have seen fit here today to write back into the constitution a 15 mill limitation. The reason for that is because we feel that property taxes are about at their capacity, and that if property taxes are to be raised they should only be done by vote of the people. Now, the federal government has already preempted the field of income tax, in my opinion, and it is at a confiscatory rate already. If the income tax is going to be raised, if we are going to increase the burden on the taxpayers as far as income tax is concerned, this ought to also be done by a vote of the people.

We must realize also that an income tax is different than many other taxes, because on an income tax you do more than tax the people; you also create a situation where government invades the privacy of the individual in seeking to find out what the records are that the individual taxpayers have. I would say this: that if the burden of an income tax is to be imposed on the people of this state, it should be self imposed. They should have the right to speak on this issue. I urge the adoption of this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, in my opinion, this amendment is neither feasible nor practicable. This is like asking the legislature to reapportion itself. We have agreed here that this would not be done in the legislature as far as reapportionment goes, and asking the people to impose more taxes upon themselves would be practically impossible.

In November, 1960, there was a vote for an additional sales tax. This was taken as an alternate or the lesser of 2 evils. At that time they approved the 1 cent additional sales tax in hope that they would not be levied with an income tax. The legislature is responsible for adequate appropriations for the state of Michigan. Therefore, I feel it should be left up to the legislature in accordance with the provisions we have made in this constitution to permit them, if necessary, to impose an income tax on the people.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, the committee, of course, is violently opposed to this amendment. This would be restriction beyond anything we have now. Under the present constitution the legislature has the power to levy a flat rate income tax and, so far as the committee is concerned, should have under the new constitution. I trust we need not have further debate upon it.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I would like to support Mr. Sterrett's remarks and those of Mr. Brake. Taxation by referendum is a wholly undesirable procedure. People only vote on tax matters where the legislature has either failed to act or where there is a tendency to go in a direction that is in opposition to the will of the people. Such was the case when the people voted on the sales tax ceiling. This is language that we certainly can get along without in the constitution, and I would heartily oppose this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: I rise in opposition to this amendment for the same reason I stated the other day when it was brought up in another form. We do have a representative form of government in this country, and it seems to me that in the first analysis it always should be in this body to decide whether we are going to have taxes or not. If we are going to adopt something like this, we should be consistent and state that people should have a first vote on every type of taxation. There is no reason to single out this one specific type of taxation.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question now is on the amendment offered by Mr. Perras and Mr. Boothby. The secretary will read the amendment.

SECRETARY CHASE: The amendment offered by Messrs. Perras and Boothby is:

[The amendment was again read by the secretary. For text, see above, page 2644.]

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. DeVries, Higgs, Mrs. Koeze, Messrs. Danhof, Gust, Dade, Miss Hart, Mr. Binkowski and Miss McGowan offer the following amendment:

1. Amend page 1, following line 16, [paragraph 2] by adding a new paragraph to read as follows:

"Property held and occupied by a nonprofit corporation, association, or legal entity and used exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.".

The proponents, Messrs. DeVries, Higgs, Mrs. Koeze, Messrs. Danhof, Gust, Dade, Miss Hart, Mr. Binkowski and Miss McGowan, revise this amendment to read as follows:

1. Amend page 1, following line 16, [paragraph 2] by adding a new paragraph to read as follows:

"Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.".

PRESIDENT NISBET: Mr. DeVries demands the yeas and nays. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, recalling the length of debate on this matter in general orders, I move to limit debate on the amendment to 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen to limit debate to 20 minutes. Those in favor say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. DeVries.

MR. DeVRIES: Mr. President, members of the convention, a similar amendment was offered on first reading and lost by 8 votes. Since that time the sponsors of this amendment have taken into account the objections and the questions raised on the floor, and in the amendment which was handed out this morning, and on your desks, the underlined words are the changes that were made which seems to be the other amendment that was considered on first reading. Now, the underlined words: we have added the words, "property used and occupied exclusively;" we have added the words, "and occupied;" we have changed the words, "cemetery purposes" to "burial grounds purposes," at the request of Mr. Dean Doty, and if you have any questions on that you can ask him the reasons for that change; and we have added the words, "as defined by law," upon the request of Mr. Higgs.

So the legislature will define, as it does now, what these purposes will be for religious, charitable, educational, burial grounds and other purposes. Other states in this matter, just to briefly review for you — 13 other states have similar self executing constitutional exemptions, 19 states have constitutions which authorize an exemption for property devoted to religious, charitable and educational purposes, but they need legislation to implement it; in 4 states the constitution gives the legislature option to exempt such property from taxation as it sees fit. The point is, 39 out of 50 states make recognition and provide for such exemptions. I think constitutional status for these exemptions is consistent with the historical concern of the people that religious, educational and charitable institutions shall be encouraged and advanced wherever possible. I would urge you to support this amendment. The new wording takes into account all the objections that I believe were raised on the floor on February 8. I would urge the adoption of the amendment and, Mr. President, I will yield to Mr. Higgs.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, fellow delegates, I have concurred in this amendment for the reasons stated by Delegate DeVries. The addition of the words, "as defined by law," satisfies basically my objections to the amendment as it was originally offered.

I would like to call your attention to the words, "used and occupied exclusively." It does not appear that way on the board, but this was the change which was recited by the secretary when he read it, with the concurrence of all of the sponsoring delegates that are present. The words "used and occupied exclusively for the purposes defined" — now the amendment appears accurately on the wall. What is involved here, in particular, is to avoid the lease and "sale back" arrangements which have been used in other states to operate businesses under the cloak of any one of these purposes. For instance, assuming — well, for instance, yankee stadium; then there are hotels. This is not confined to any particular church or organization. Many churches and organizations have used these perfectly lawful devices in other states to avoid taxation. Assuming the purchase of such a thing as an office building with 40 floors, 2 of which will be used and occupied for religious, educational or charitable purposes and perhaps 38 floors which are rented for profit, it is the purpose of the words "and occupied" to qualify "use" in such a way that the ultimate disposition of the profit will not control the definition of the purposes. In other words, if the profits from a business enterprise are applied and devoted to such purposes, it will be taxable. If, however, the use is coupled with occupancy exclusively for such purposes, then the tax exemption does apply. It is our purpose, however, in applying this to office buildings, that that part of the building exclusively used and occupied would represent a tax exemptible proportion. In other words, in an office building, if 25 per cent of the building were used and occupied exclusively for such purposes, then in that event that same percentage would be entitled to the exemption.

This is somewhat, perhaps, of a detailed explanation, but it is a very significant and important item. This is, I think, a fairly concise statement. I believe it is well drafted. I believe it will satisfy everyone here. A real, genuine effort, I believe, has been made by all the parties concerned in order to put this in language which would be concise, accurate, and satisfy the questions that were raised following first reading. I would urge that you support this amendment as it is offered to you.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this amendment was rejected by the committee of the whole when the matter was before us on first reading. The pressure since the time of first reading has been tremendous. I have had more mail on this issue than any other issue pending with the possible exception of the matter of a core city taxing the suburbanites, and in my case it has all been from one source.

This is a statutory exemption now. I don't know of anyone in the convention who doesn't think it should remain as an exemption. I don't know of anybody who thinks this property should be taxed. But it is a statutory exemption along with 12 or 15 other statutory exemptions. The thing that nobody has shown, nobody attempted to show in the committee and nobody has shown on the floor of this convention, is any reason whatsoever to believe that the legislature is going to take away this exemption. We haven't had a word of evidence that there was any danger of the legislature taking away this exemption, any more than taking away the other exemptions. As a matter of fact, I think there is much less danger of taking this away than some, at least, of the others.

Some of these days some city slicker over in the legislature is going to take away that exemption of 2 cows because there are not very many people who have 2 cows any more. Any legislator who would vote to take away this exemption would be so dumb that he would never be able to even get in the legislature. I know no reason why this ought to be put in the constitution of the state, leaving all other exemptions statutory. That is where this is, and where it belongs. I understand that this question was also presented to the committee on legislative powers. I trust that we may hear from the chairman of that committee.

PRESIDENT NISBET: The Chair recognizes Mr. Blandford.

MR. BLANDFORD: Mr. President, fellow delegates, I would have to concur with Delegate Brake that this has been the object of a lot of correspondence. I would like to say at the outset that Committee Proposal 51 certainly has been the object of much misleading information. Whether it was intentional or not, I cannot say. Certainly someone has tried to spread the idea that a vote against Committee Proposal 51 is a vote against tax exemptions for churches and schools. Of course, as we all know, this is not true. A vote against Committee Proposal 51 is merely a vote against putting into the constitution something that is presently covered by statute. I don't believe that we here intend to give constitutional status to every piece of legislation that is now on the books.

Furthermore, in my judgment, writing this provision in the constitution might well hinder rather than help churches and schools. We hope we are writing a constitution here for the next 50 or 100 years, and the trend might well be, and I sense it is, toward the granting of more exemptions to churches and schools, not less. For example, this amendment states that to be tax exempt the property must be held, used and occupied. That is "and occupied" not "held or occupied.". In other words, it applies to property actually occupied. Now possibly sometime in the future the legislature might wish to become a little more liberal in this field. In some states charitable institutions own commercial parking lots, and are exempted from paying taxes on these lots. Now I don't advocate this, but I merely point out that Committee Proposal 51 with the added language might have the opposite effect from that which is intended. The language might prove in the next 50 years to be a tight collar around the neck of the churches and schools. By leaving the matter of tax exemptions solely in the hands of the legislature, I feel that changes can be made in keeping with the changes and people's feelings on the matter. In my judgment, by writing this provision into the constitution, we are removing flexibility in the field of tax exemptions.

Of course, you all know that there is no present provision like this in the constitution. I feel that churches and schools have fared very well in the past, and will continue to fare very well in the future. I voted against this in the first instance and I intend to vote against it this time.

PRESIDENT NISBET: The Chair recognizes Judge Mosier.

MR. MOSIER: Mr. President and fellow delegates, Mr. Brake has covered largely what I intended to say, but there is one point that I think has been overlooked not only in the debate here today, but when the matter was considered before. The language that is used here would seek to relieve from taxation all property owned and occupied by religious, educational, charitable or other institutions, but it does not provide for the exemption that the policy of the law has been for years to require such institutions to pay special assessments that might be levied for paving, for sewers, for sidewalks, or any other special assessments, and certainly in the language that is here presented it would be improper to write such a clause into the constitution.

We are dealing here largely with a legislative matter, and I believe that the legislature has been favorable to these institutions in the past and will be in the future, and for these reasons I am opposing the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, Mr. Brake has largely covered the matter of tax exemptions. I want to say that this proposition first came to the committee on legislative powers and was referred to my subcommittee. At that time, we decided it was purely legislative. We looked up and saw where tax exemptions had been taken care of by the legislature; there was no particular need for it. There had been no pressure, there was no evidence that came to us that the legislature intended to change its mind. Our committee decided that it was not necessary. Later it was transferred over to the finance and taxation committee, and you have heard what Mr. Brake, the chairman, had to say about it. I am decidedly against this amendment, and I urge everybody to vote against it.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President, I wonder if, through the Chair, I could ask a question of Mr. DeVries?

PRESIDENT NISBET: If Mr. DeVries cares to answer.

MR. LAWRENCE: Mr. De Vries what does the second word in the amendment mean, "held," h-e-l-d?

MR. DeVRIES: Mr. President, Mr. Lawrence, I will yield to Mr. Danhof for the answer on that one.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. Lawrence, it was suggested first that we should use the word "owned," and I concurred in that. Ownership is something that as lawyers we understand. However, when I checked with a gentleman who is more familiar with some of the laws of some of the churches, and particularly with the catholic church, I found that it is all titled in the name of the bishop, or the archbishop, as I understand it.

Now, what we intend here is where it is not only occupied but it is held exclusively, they have the complete control, they have the complete use of it to the exclusion of everyone else. It is possible, however, that the legal title might not vest in the particular entity which is utilizing the particular building. For instance, it is possible that a building could be owned by a trust, charitable trust, and then turned over to another legal entity for operation as a hospital or as a church. The second entity, be it a corporation or association, would actually be in absolute full control of the premises, would have all the indicia of ownership as we know it, except the bare legal title. This is what I envision by the word "held," Mr. Lawrence.

MR. LAWRENCE: Thank you. Then wouldn't this be true, Mr. Danhof, through the Chair: if I personally own a house and rent it to a church for a parsonage, it would go off the tax roll?

MR. DANHOF: That may be your conclusion, Mr. Lawrence. You aren't going to get me to agree to it.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Well, I didn't ask Mr. Danhof to agree to it. I asked you a question. Wouldn't it be true? My contention on this is this: the church would hold the property, the house, just as much as a group operating a hospital would hold the hospital. I urge you to vote against this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Gust.

MR. GUST: Mr. President, members of the convention, I would just like to say that what Mr. Brake says is essentially true. This is probably more legislative than constitutional as a proper subject matter. However, I don't see why we should exclude it from our new constitution on this ground alone, because I think everybody in this room knows that we have included many things in here that all of us agree, or most all of us agree, is more legislative than constitutional. The legislature, it is true, hasn't shown any disposition to date to tamper with this particular subject matter, but that is no guarantee as to what they will do in the future. Dumb legislation is not unheard of in this state, and a week ago I would have bet my bottom dollar when I left the convention hall for 15 minutes that no delegate to this convention would conceive of offering an amendment to exclude pari-mutuel betting in the state of Michigan, and when I came back here I found that quite to the contrary. If there is nothing wrong with it, let's put it into the constitution. It won't hurt anything, and it will make a lot of people very happy.

PRESIDENT NISBET: The time has expired. The question now is on the amendment offered by Mr. DeVries, et al. Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment offered by Mr. DeVries and others is:

[The amendment was again read by the secretary. For text, see above, page 2645.]

Messrs. Austin, Norris and Young offer the following amendment to the amendment:

1. Amend the amendment, after "religious" by striking out the comma and "educational, charitable"; so that the language will then read:

> Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

MR. NORRIS: Mr. Chase, do I understand the time limit applies to this amendment?

MR. CHASE: Yes.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: May I ask to have the question divided on the amendment to the amendment so we can vote separately on the word "charitable" as well as the word "educational?"

PRESIDENT NISBET: The question is asked to be divided. The question now is on the amendment offered by Messrs. Austin, Norris and Young, first part.

[The amendment to the amendment, first part, reads as follows:

1. Amend the amendment, after "religious" by striking out the comma and "educational".]

MR. AUSTIN: Parliamentary inquiry, Mr. President. If the time fixed for debate on the amendment has expired, is debate permitted on any amendment to the amendment?

PRESIDENT NISBET: The Chair will rule that debate on any amendment to the amendment would not be in order.

MR. VAN DUSEN: Mr. President, I had not realized at the time I made the motion that there were amendments to the amendment pending. I would move that 5 minutes be allowed for debate on each amendment to the amendment.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The question now is on the Austin amendment, first part, as it applies to the word "educational." There is a second part to his amendment, and there is then another amendment, and 5 minutes are allowed for each of those 3. Mr. Austin.

MR. AUSTIN: Mr. President, this is one of those amendments — I am referring now to the DeVries amendment — that puts you in the kind of spot that Mr. Downs often refers to, and that is whether you are still beating your wife and children. I don't believe that anyone here is against churches. I don't believe that anyone here would like to see church organizations denied tax exemptions, and there has been no indication in the legislature that they will be denied. However, when we consider that we now have legislation which provides for the exemption of organizations, nonprofit organizations, for properties used exclusively for religious, educational, charitable and burial grounds purposes, when we consider that we now have legislation that provides this exemption, there is no need to dignify the exemption with constitutional status. As a matter of fact, by dignifying it with constitutional status we lead to a lot of serious problems, and some of these were raised by Judge Mosier and by Mr. Lawrence. The problems that they raise are easy to solve as long as this is a legislative matter, but once it is in the constitution we make it difficult for the legislature to do very much about some of the problems that are raised.

I would just like to point to one that was not mentioned by either Judge Mosier or Mr. Lawrence, and that is in the case of burial grounds. I think that the general property law provides for exemption of burial grounds from taxation whether it is owned by a nonprofit corporation or a profit corporation. In short, there is actually no tax to be paid on burial grounds. I don't know how it would be interpreted with this type of a provision in the constitution. It may be possible that the legislature could not exclude burial grounds owned by profit institutions.

Another very serious problem is this: there are some very giant charitable installations being developed in some centers of our state, particularly down in the city of Detroit, where we have a giant medical center under development which will comprise some 50 blocks. It will pay no taxes. Its users from neighboring communities will pay no taxes. And if the Bowman bill becomes a law, it will become very obvious that they will contribute nothing toward the maintenance of the streets, lighting, and for the provision of police protection and fire protection for this giant installation, and yet it will be consuming a considerable amount of city services. And yet, if we were to include in the constitution this provision, it would become impossible for the city of Detroit, or any local government for that matter, to ever attempt to collect, in any form, the payment for services that might be used by these giant installations, and it is certainly possible that local government may require some payment for services in the future; especially since they will be occupying such a large portion of the city's property.

And, then of course, there is another problem, and that is the one of discrimination. Many of these charitable institutions do practice discrimination against the very taxpayers who are supporting them, and we must not forget that a tax exempt status or a tax exemption is a form of governmental subsidy which ought to be encouraged to encourage people to render useful public service at private expense. But when they are the beneficiaries of tax proceeds, as they would be if they have a tax exemption, they should not be permitted to discriminate against any of the taxpayers who are supporting them, and yet they are outside of the equal protection laws.

PRESIDENT NISBET: Your time is up, Mr. Austin.

MR. AUSTIN: Thank you very much, and I would certainly recommend that we delete these 2 words, and then that would leave the amendment applying entirely to churches.

PRESIDENT NISBET: The secretary will read the amendment so there will be no mistake.

SECRETARY CHASE: The present amendment as divided is:

1. Amend the amendment, after "religious" by striking out the comma and "educational".

PRESIDENT NISBET: The question is on the amendment, first part, offered by Mr. Austin to the amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. We will now vote on the second part of the amendment.

SECRETARY CHASE: The second part of the amendment is:

1. Amend the amendment, after "educational" by striking out the comma and "charitable"; so that the language will then read, "Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious, educational or burial grounds purposes. . . ."

PRESIDENT NISBET: The question is on the amendment, second part, offered by Mr. Austin to the DeVries amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. There is one more amendment.

SECRETARY CHASE: Messrs. Garvin and Murphy offer the following amendment to the DeVries amendment:

1. Amend the amendment, at the end thereof, after "taxes.", by adding "This exemption shall be denied whenever said corporation, association or legal entity is in violation of the constitution or laws of this state. Nothing contained herein shall prevent a religious organization from giving preference to the members of its own faith based solely upon religion.".

PRESIDENT NISBET: There are 5 minutes on this amendment. Mr. Garvin.

MR. GARVIN: Mr. President and delegates, this is merely an amendment that has been mentioned several times. It is really because of this: you notice that the proposed amendment that this is an amendment to, places a period after the various exemptions, which only means this, actually: that a charitable organization, regardless of the category under which it comes as listed here, religious, educational or a nonprofit corporation used exclusively for charitable purposes, may violate the law if it wishes, because it is in the constitution. Therefore, there is nothing that can be done about it.

Now, some people will say, some of you will say: well, they can always go to court and be prosecuted, and all of that, but during this 2 or 3 years or 4 years, and maybe longer, these persons can go ahead and violate the law and the constitution that you are writing right now, including the general laws of this state. I haven't included in here ordinances, but the laws of the state and the constitution, they can continue violating the same. Now, do not feel that I am talking about any particular kind of violation, or violation of any particular part of this constitution or any law. I am speaking of any law, or any part of this constitution in violation thereof, and during this time each of you and all of us are paying taxes to maintain that organization, that organization which is in violation of the law. It is not only the property owners that are paying. We are indirectly paying in a backhanded manner even if we go to the grocery store and buy milk, bread, penicillin, insulin, because the extra 1 cent sales tax might not be there if it were not for this particular organization or maybe some other organization violating the law that you have enacted in this constitution, and that the legislature has been enacting for years, and right now. Maybe you can't realize the various ways that this may happen, but they can and they do.

Now, I say that is an indirect way of approaching it, but it is true that each person of the state of Michigan assists in this by not receiving taxes from someone who is violating the law. It is true that someone may question whether it is a good idea or not, but I submit to you that it is very important if you place something in the constitution like the amendment proposed without also placing some restriction against them of violating any law. You run the risk of where they can continue to take your money and my money, if I have any, to foster this organization.

Now, I wanted to bring out to you, of course, the question of nonprofit corporations for charitable purposes. That is rather indefinite, too, as some of you know. Some of you know that in many charitable organizations, their charity is strictly on the basis of a very nominal amount that they give, because their money is used for salaries and maintenance and so forth. As a result the charitable organization is often for the benefit of those who organize the same and who are working for the same. It was stated, I believe, by Mr. DeVries that in practically all of the states that he mentioned, 19 particularly, that legislation implements the constitution in reference to exemptions. I have no objections to exemptions for religious organizations; I have no objections to exemptions for educational organizations; perhaps I do not for charitable organizations; but I do have an objection for these, any of them, having an exemption without a provision placed in here as provided by our amendment that is on the board. Thank you.

PRESIDENT NISBET: The question now is on the amendment offered by Mr. Garvin and Mr. Murphy to the DeVries amendment. Those in favor of that amendment will vote aye. Those opposed, no.

The amendment is not adopted. The question now is on the amendment offered by Mr. DeVries and others. The yeas and nays have been demanded.

MR. VAN DUSEN: Mr. President, Mr. DeVries has requested an additional 5 minutes. I am personally disposed to grant it to him, and would move the extension of debate 5 minutes, if there is no objection.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Those opposed, no. The motion does not prevail. The question now is on the amendment offered by Mr. DeVries. The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Mr. Brown.

MR. G. E. BROWN. Point of information. Several that I have talked to are concerned about the words "as defined by law." I would like to address this one question to Mr. DeVries. Is it your intention, so the record will be clear, that this relates to all the foregoing language?

MR. DeVRIES: Mr. President, Mr. Brown, yes, sir.

PRESIDENT NISBET: Those in favor of the DeVries amendment will vote aye. Those opposed — Mr. Hodges.

MR. HODGES: I have a question of Mr. DeVries.

PRESIDENT NISBET: The time has expired, Mr. Hodges. Ask the question.

MR. HODGES: Mr. DeVries, is it my understanding that the proponents of this measure intend to have a comment prepared that would explain, "as defined by law" to take care of discriminatory practices that might come up statutorily? Is that true?

MR. DeVRIES: Mr. President, Mr. Hodges, we had hoped that in the two 5 minute periods allotted, Mr. Everett would have a chance to make that explanation, and since the debate was cut off, and we did not have any more time — I guess I can't take any more time, and I guess he can't either — I would like to yield to him for the answer to that question if I may.

PRESIDENT NISBET: Time has expired.

MR. HODGES: Mr. President, may I request a 5 minute extension for this purpose?

PRESIDENT NISBET: The question is on the motion of Mr. Hodges. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question now is on the DeVries amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 65

Andrus, Miss
Anspach
Baginski
Hatcher, Mrs.
Heideman
Higgs
Plank
Rajkovich
Romney

Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bledsoe
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Danhof
DeVries
Downs
Erickson
Everett
Gust
Hannah, J. A.
Hart, Miss
Hodges
Hood
Hutchinson
Iverson
Kelsey
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Nisbet
Perras
Sablich
Seyferth
Shackleton
Shaffer
Sleder
Snyder
Spitler
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Tweedie
Walker
White
Wilkowski
Woolfenden
Youngblood

Nays — 57

Austin
Blandford
Bonisteel
Boothby
Bradley
Brake
Cushman, Mrs.
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Douglas
Durst
Elliott, A. G.
Farnsworth
Figy
Finch
Follo
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
King
Kirk, S.
Lawrence
McAllister
Millard
Mosier
Norris
Page
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Shanahan
Sharpe
Stafseth
Staiger
Thomson
Turner
Upton
Van Dusen
Wanger
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. DeVries and others, the yeas are 65; the nays are 57.

PRESIDENT NISBET: The amendment is adopted.

Following is explanation of vote submitted by Mr. Everett:

Re: Explanation of my vote on the DeVries amendment to Committee Proposal 51.

I voted for the amendment because I believe in it. Since the issue was raised, I think the record should be clear, that the convention's action should not be construed as permitting discriminatory practices to be supported by tax relief.

Because of the limitation of debate, this could not be said on the floor. In conference with a number of the proponents, it was felt that the term, "as defined by law," is broad enough to permit legislative action barring discrimination. Many of the supporters of the DeVries amendment, myself included, felt that a constitutional statement to this effect was not proper. The legislature should have, and we believe under this provision does have, the power to make the necessary determination of what may be proper limitation of facilities in schools, hospitals, etc., to people of a particular sect or group, and what would be an improper discrimination. Certainly the latter should apply to any hospital open to the public and receiving public support and assistance.

Following is explanation of vote submitted by Mr. Norris:

I respectfully submit the following reasons in support of my vote on the amendment of Delegate DeVries and others amending Committee Proposal 51, which amendment reads as follows:

Amend Committee Proposal 51 on page 1, following line 16, by adding a new paragraph to read as follows:

"Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.".

1. I believe that such exemptions ought to continue to be statutory. Flexibility is required in order to enable the legislature to deal with precision with the "holding," "occupancy," "use" of such property for "such purposes." A number of instances have occurred where some large business interests have used technical concepts such as "educational" and "charitable" as means to avoid taxes. Moreover, partial exemptions, such as a 50 per cent exemption would be prohibited by flat absolute "exemptions." Statutory flexibility is necessary to deal with these problems.

2. The purpose of the exemption of a church or synagogue is to implement the fundamental, inalienable freedom of worship and of conscience. I would therefore support constitutional protection of the exemption for houses of worship. Beyond religious purposes, exemptions must be dealt with with delicacy and flexibility in order to deal with abuses without endangering religious freedom.

3. There are dangers to religious freedom in the expansion of real estate and commercial holdings of religious, educational and charitable holdings. Bishop Blake of the Presbyterian church has called public attention to the extent and variety of such holdings. This variety and extent, in his opinion, cannot be reconciled with the freedom and purpose of religion. In the long run the holdings may be such as to arouse a public opinion to a degree that measures would be adopted that would endanger freedom of religion, worship and conscience. I believe events in other countries substantiate the reasonableness of this apprehension.

4. It is the purpose of the constitutional concept of separation of church and state to protect religious freedom. According to Justice Frank Murphy, religious freedom is best promoted by avoiding the fact and the appearance of state control. This idea first stated by Thomas Jefferson has resulted in unparallelled growth of religious freedom and institutions in the United States. However, the proposed amendment, coupled with other clauses in the constitution such as section 1 of the education article and certain statutes, would form a basis for judicial and legislative action that would further breach the wall of separation of church and state and thus impair freedom of religion and conscience.

5. Moreover, absent are any safeguards against the use of tax exempt status, as state action, to prevent segregation and discrimination by educational and charitable institutions.

Following is explanation of vote submitted by Mr. Wanger:

I voted against the DeVries, et al, amendment to Committee Proposal 51 on April 19 regarding exemption from taxation of real and personal property, "Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law . . ." for the following reasons:

First, because the matter of tax exemption is fundamentally a matter for legislation, rather than for inclusion in a constitution, and because the Michigan legislature has long granted such tax exemptions as the DeVries amendment intends to provide and it does not appear — nor has it been suggested — that this policy will ever be reversed or modified.

Second, because, as pointed out in part by Delegate Lawrence, the specific language of the DeVries amendment can be reasonably interpreted to open the door to gross abuses of the tax exemption policy of the state for private gain. The words "property held" appear to apply to property, which the "nonprofit corporation, association, or legal entity" has leased, rented or otherwise holds by an estate for years. This means that the owner of the property, who may be an ordinary private individual or business for profit, will be receiving his usual rent or lease payments but will not have to pay any property tax at all.

I am in favor of proper tax exemptions for religious, educational and charitable purposes.

SECRETARY CHASE: Messrs. Baginski, Jones, Barthwell, Binkowski and Douglas offer the following amendment:

1. Amend page 1, following line 16, [paragraph 2] by adding a new paragraph to read as follows:

"The legislature shall have the power to exempt homesteads of retirees from ad valorem taxation.".

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President, delegates to this convention, we have talked exemptions for religious groups, nonprofit corporations, and I think it may be time that we started to think about the retirees who have attained the ripe old age of 65 who have to appear before our city council, for instance, in the city of Detroit, whose income perhaps may be $1200 to $1400 a year, and whose taxes are $350 to $400; which leaves them approximately $800 a year to live on. I think we should give them some consideration this afternoon. Our amendment does not specify any particular age, nor does it give any amount that they should earn, but we leave this to the legislature, and we also ask them to make the provisions for it and ask that this convention go on record with this amendment as a statement of policy as the feelings of this convention toward retirees. I do hope that this amendment is adopted.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, the legislature already has this power. Let's not write into the constitution all the exemptions that we have in the statute books, or that have been proposed for the statute books. This can be taken care of by the legislature.

PRESIDENT NISBET: Mr. Jones.

MR. JONES: Mr. President and fellow delegates, I urge your support for this amendment. I think it is high time that some effort was made by this convention to go on record in favor of some tax relief for those retirees living on a fixed income. As a member of the emerging problems committee, I had the opportunity to listen to representatives from the Redford senior citizens club of Redford township, and believe me these people are in desperate financial straits with the advent of higher property taxation. These people pleaded with the emerging problems committee to see if we couldn't do something about this. I know that there are senior citizens in all other parts of our state, not only Redford township. Therefore, I strongly urge the adoption of this amendment before you. Thank you.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I just wish to state, Mr. President, there are several of the states that have this in their constitution. Mr. Brake says we don't have to worry about the legislature. It seems to me that on several occasions Mr. Brake has been worried about our legislature and insisted on things being put into the constitution. I think we had better take care of this here now, too, and take care of our retirees.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: I would like to ask Mr. Baginski a question, Mr. President.

PRESIDENT NISBET: If Mr. Baginski cares to answer.

MR. YEAGER: How do you think the legislature would define retirees?

MR. BAGINSKI: My answer would be, Mr. Yeager, that they would make that determination.

PRESIDENT NISBET: The Chair recognizes Mr. Barthwell.

MR. BARTHWELL: I will ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? A sufficient number up. The question is on the amendment offered by Mr. Baginski, et al. The secretary will read the amendment.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed, will vote nay.

A DELEGATE: Will you ring the bell, please?

SECRETARY CHASE: I wish I could. This bell has been giving me trouble all day.

PRESIDENT NISBET: Will the pages notify the delegates in the hall? Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 39

Baginski
Balcer
Barthwell
Bentley
Binkowski
Bledsoe
Buback
Butler, Mrs.
Douglas
Downs
Durst
Finch
Garvin
Gust
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Kelsey
Krolikowski
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
Murphy
Norris
Perras
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays — 82

Allen
Andrus, Miss
Batchelor
Beaman
Blandford
Boothby
Bradley
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
McCauley
McLogan
Millard
Mosier
Nisbet
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Baginski and others, the yeas are 39; the nays are 82.

PRESIDENT NISBET: The amendment is not adopted. The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, I would like, if possible, to get the permission of the delegation to amend this particular — that is, to add to this particular amendment, after "retirees" the words "of 65 years of age or over" from ad valorem taxation. That would change it —

PRESIDENT NISBET: Mr. Madar, this amendment has been defeated. You would have to present a new amendment.

MR. MADAR: That is what I will do, then. With the delegates' permission, I would like to add a new amendment here.

PRESIDENT NISBET: You may present a new amendment.

MR. MADAR: Thank you.

PRESIDENT NISBET: The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin, Binkowski and Young offer the following amendment:

1. Amend page 1, following "Sec. a.", by striking out the balance of the section and inserting "The legislature may by law authorize or impose ad valorem and other taxes which shall be uniform within the classes of persons or property to which

they are applied. The legislature shall provide by law for the determination of the true cash value of property subjected to ad valorem taxation and shall specify the proportion of true cash value at which such property shall be assessed, and shall provide by law for a system of equalization of assessments. The legislature may provide by law for alternative means of taxing property in lieu of general ad valorem taxation.".

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this amendment offered by Mr. Austin is a substitute for the entire committee proposal, as I understand it. I have discussed it with Mr. Austin, the time required for debate, and in accordance with our understanding I would move to limit debate on the Austin amendment and any amendments thereto to 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor say aye. Opposed, no.

The motion prevails. The time limit on this amendment is 20 minutes. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, fellow delegates, this is a rather involved subject, and I am reluctant to approach it at this time knowing how the delegates feel about getting away from the convention before the holiday. In a way I am pleased that Delegate Van Dusen has asked that the time be limited, because maybe we will all be compelled to make up our minds quickly on this. But this is a rather important subject, and I do hope that I will have your careful attention while I try to analyze what is involved here.

The proposal which the committee submitted actually covers 3 areas: first, it provides for uniform assessment of property; secondly, that property shall be assessed at 50 per cent of its cash value and, at the same time of course, it provides for alternative forms of taxation of property; and then thirdly, it provides for uniform assessment of other taxes, and that there shall not be a prohibition against a graduated income tax. All of these are in one proposal.

What we are seeking to do here is to substitute new language for the whole proposal, and in effect this is what we will accomplish if this amendment is adopted: first of all it will provide that property shall be uniformly assessed, but within whatever classes the legislature decides to establish for the assessment of property; secondly, that property shall be assessed at whatever level of cash value the legislature should decide. There is no need for me to belabor this point, because we have debated it at length, already. We do provide for alternative means of taxation of property, and we also provide in the first sentence that the legislature may levy other taxes, which gives the legislature whatever power it needs to levy whatever taxes are needed to pay the cost of government; and the third point that we have sought to accomplish is that of not including a prohibition of a graduated income tax. This we believe is unconscionable, to include such a provision in the constitution.

We have already presented at length arguments in regard to all of the points that I have raised, but I do think that it is appropriate at this point to at least refresh your memory on some of the arguments that we have raised against a prohibition of a graduated income tax. In recommending that the last paragraph of the committee proposal be deleted, and that is the one which includes the prohibition to the graduated income tax, we, the proponents of this amendment, do not advocate that any income tax be levied; we do not advocate that a flat rate income tax be levied, nor do we advocate a graduated income tax. I want this point made absolutely clear, that we are advocating no income tax whatever. This is a matter which should be decided by the legislature. It is a legislative matter, and I think we will all agree that it ought to be left to the legislature to make the decision.

Now the arguments that we offer are as follows: by including in the constitution a prohibition to a graduated income tax, we freeze into the constitution unnecessary and undesirable restrictions on the legislative power to levy taxes in the future. And there has been no authority cited for the advisability of inserting this unique provision in a state constitution. It is not found in any other state constitution. It does not make allowance for drastically changed circumstances beyond our present anticipation. The prohibition of a graduated income tax, statutory in nature, doesn't have the fateful sanctity of other restrictive measures that we have written into the constitution, such as the sales tax rate limitations that were achieved through prior approval of the people at the polls. There has been no expression of the people at the polls on this question, and we have no mandate to include it in the constitution. Thirdly, it freezes present and potential inequities into the Michigan tax structure — and this is exceedingly important — it freezes present and potential inequities into the Michigan tax structure by prohibiting the legislature from correcting them should it desire to do so by levying a form of taxation which might be more equitable in its structure.

It has been said that the federal government has preempted the field of income taxation, and particularly graduated income taxation. Certainly there is no legal authority for this assumption, and if we feel that the federal government has preempted the income tax field, then we have to admit that the federal government has preempted all tax fields, because all taxes have to be paid out of income, whether they be based on sales or on property. They must be paid out of income.

Fourth, progressive taxation accomplished through a graduated rate structure is not a device for social reform. This is one point that I think you should remember, too. Progressive taxation accomplished through a graduated rate structure is not a device for social reform. On the contrary, it is a very equitable device for raising the maximum amount of revenue without unduly burdening an individual taxpayer on the basis of his ability to pay. Now, we admit there is obviously a basic difference of opinion and emphasis on equity and what equity means in the Michigan tax system between those of us who propose this amendment and the committee. The emphasis there, we admit, is mostly on equity for business and not so much for low income taxpayers, and those who are on fixed incomes. We submit that we have to take equity for both into account. We cannot think only in terms of our business taxpayers; we must think of the people, also.

Ignored in the committee proposal is the experience of the overwhelming majority of the states which have income taxes. All but two, 33 out of 35, have adopted graduated rate structures. Michigan would be placed in a unique category and at a potential disadvantage in relationship to other states in its ability to raise revenue from income taxation. The experience with the federal income tax has been raised also on occasions as one of the objections to a graduated rate structure here in the state of Michigan. We argue to the contrary, and this again is one of our very important points. We argue that the very existence of the steeply graduated federal rate structure should be one of the important reasons for adopting a graduated structure at the state level because of the deductibility of state income tax in an area which has federal liability. The impact of the state tax at the higher income levels would be softened thereby. I think most of you will recall that I submitted charts to illustrate that very point; that if we do not have or if we do not permit the legislature, should it desire to do so, to graduate rate structures, Michigan will be contributing disproportionately to federal projects, and this we believe would be an undesirable development. So much for the graduated income tax.

As for the uniformity clause which relates to property, I want to make one brief statement, and that is this: that there is no reason why we should not permit the legislature to classify property for assessment purposes. If, for example, the legislature should feel that it is desirable to classify the property of job producing industry differently from that of industry that feeds off of the local economy, it ought to have the right to do so; and any other classification that it ought to feel it would like to take into account. We believe that the legislature needs this freedom. We do not believe in taxation by referendum, and we are hopeful that the delegates will adopt this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Finch.

MR. FINCH: Mr. President, I would like to ask Mr. Austin what is meant by classes of persons, the phrase "classes of persons?"

MR. AUSTIN: I gave an example when I said that the legislature might want to classify, let us say, a taxpayer who has a business, a retail business, for example, that feeds off the local economy differently from one that is involved in a national industry that does not have to locate here in Michigan. I think a good example would be an automobile manufacturer who could locate his plant in Ohio, Indiana or Michigan, as well. It would not matter.

MR. FINCH: Okay, that answers it.

MR. AUSTIN: Mr. President, I would demand the yeas and nays on this.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, all of these arguments were made to the finance committee and rejected. They were all made to this convention on the floor here and rejected. I trust that we are now ready to vote.

PRESIDENT NISBET: The Chair recognizes Mr. Karn.

MR. KARN: A question, Mr. President, to Mr. Austin, if I may, please.

PRESIDENT NISBET: If Mr. Austin cares to answer.

MR. KARN: The language that says, "a system of equalization of assessments." Are you talking about an equalization of assessments for the state as a whole?

MR. AUSTIN: Mr. President, Mr. Karn, that is correct. We have in mind that there should be a system of equalization.

MR. KARN: In other words, on the present basis of assessments and taxation would that mean that the territory outside of Detroit, Wayne county, or that area, would be penalized by higher assessments and higher taxes than is now true, with a like adjustment downward for the people in that area and in Detroit?

MR. AUSTIN: Mr. President, Mr. Karn, what we have in mind is that we would retain the present system of equalizing assessments as it exists today. We have no change in mind.

MR. KARN: Mr. President, Mr. Austin, am I not correct in thinking that the taxes, assessment and taxes paid, are slightly less outstate than they are in the Detroit area?

MR. AUSTIN: Mr. President, Mr. Karn, I believe that is the case, that the assessments are a little higher in the more populous areas, but that is because generally property values are higher and the cost of government is higher in those areas.

PRESIDENT NISBET: The Chair recognizes Mr. Perras.

MR. PERRAS. A point of information, Mr. President, if I may, of Mr. Austin, through the Chair.

PRESIDENT NISBET: Mr. Austin? State it Mr. Perras.

MR. PERRAS: Mr. President, Mr. Austin, would that take out the section that we just added on the end to give tax relief to religious, charitable and other organizations?

MR. AUSTIN: Mr. President, Mr. Perras, it would do that, but at the time we wrote this amendment the other amendment had not been introduced, and I want to confess that I have not had an opportunity to discuss the matter with my cosponsors, so I'm not in a position to tell you whether they would be willing to include the amendment which was adopted here on the floor. That matter would have to be excluded from consideration at this time.

MR. PERRAS: Thank you.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded. The secretary will ring the bell, if he can. Those in favor of the Austin amendment will vote aye. Those opposed will vote no. Have you all voted? Those in favor of the amendment will vote aye. Those opposed will vote no.

MR. AUSTIN: Mr. President, just to make sure there is no misunderstanding about this amendment which was adopted on the floor, I think we would have to conclude that that amendment would not be affected by this. I feel that is a matter that ought to be decided separately.

PRESIDENT NISBET: The Chair is of the opinion, according to the amendment, it would be affected unless it were changed at a later date.

MR. AUSTIN: I will have to abide by the decision of the Chair, but that would be my preference.

PRESIDENT NISBET: Have you all voted?

MR. DOWNS: Point of information, of inquiry, Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I want to see if I can state my inquiry correctly. We just adopted the DeVries amendment. This is not a substitute amendment. Are you ruling that the adoption of this amendment will negate the DeVries amendment?

PRESIDENT NISBET: That is what it says. It says this amendment would strike out the balance of the section and insert this new language of Mr. Austin.

MR. DOWNS: Could I amend this amendment?

PRESIDENT NISBET: Not at this time, Mr. Downs. The vote has been called for.

MR. DOWNS: The vote has been called?

PRESIDENT NISBET: That is right. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. King.

MR. KING: Mr. President, would it be proper to request the vote of those here and not voting?

PRESIDENT NISBET: It can be requested. Has anybody in the room not voted? Would you please vote? The vote may be announced.

The roll was called and the delegates voted as follows:

Yeas — 23

Andrus, Miss
Austin
Baginski
Balcer
Bradley
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Hatcher, Mrs.
Heideman
Hodges
Jones
Lesinski
McCauley
Murphy
Norris
Pollock
Sablich
Young

Nays — 93

Allen
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Liberato
Madar
McAllister
McLogan
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Austin, the yeas are 23; the nays are 93.

PRESIDENT NISBET: The amendment is not adopted. There is one more amendment by Mr. Madar.

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend page 1, after line 16, [paragraph 2] by inserting a new paragraph to read as follows:

"The legislature shall have the power to exempt homesteads of retirees of 65 years of age or over from ad valorem taxes.".

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I won't take up any more of the delegates' time than I possibly have to. All I want to say is that everything has been said that should be said in favor of this, and I think we ought to go along and help those retirees of 65 years of age and over.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: Mr. President, I would like to ask a question of Mr. Madar, through the Chair, if I may.

PRESIDENT NISBET: If he cares to answer it. Mr. Madar?

MR. PERRAS: I would like to know this, Mr. President, Mr. Madar: what is the definition of a retiree?

MR. MADAR: That is someone — for instance, I have always termed it to be someone who has left a city's employ, the city of Detroit's employ, or a factory, or who has taken their retirement pay and do not have any other job.

MR. PERRAS: Would that mean in other words that a man over 65 that had a $100,000 home and was wealthy would be exempt from taxes on his homestead?

MR. MADAR: He would under this, unless we put something in there to exempt those who have that much money. Frankly, to me, that is just a dream.

MR. PERRAS: I think that you should put in there that anyone that is on old-age assistance or receiving the social security benefits. Then you would have something. But this way —

MR. MADAR: I would be willing to add that Mr. President.

MR. PERRAS: — any millionaire over 65 would be exempt from taxes.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, the amendment starts out, "The legislature shall have power." It already has that power. The matter was considered carefully by committee. We ask, for the committee, that this amendment be rejected.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, we have gone to the legislature on at least 7 different occasions, and the legislature says we ought to have something in the constitution, and it ought to be constitutional. Now we ought to go ahead and do something about it then so that the legislature can act. This gives them the right to act.

PRESIDENT NISBET: The question is on the amendment of Mr. Madar. Those in favor will say aye. Those opposed, no. The amendment is not adopted.

MR. MADAR: I demand the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded?

SECRETARY CHASE: Nineteen.

PRESIDENT NISBET: Not a sufficient number so the amendment is not adopted.

MR. MADAR: There was another vote over here that wasn't counted, Mr. President.

MR. FINCH: Mr. President.

PRESIDENT NISBET: Mr. Finch.

MR. FINCH: I would like to remind the delegates of the secretary's words yesterday: I believe it was that he said it costs more money to print the roll call votes in the journal.

PRESIDENT NISBET: It has not been demanded, Mr. Finch. The question now is on Committee Proposal 51, as amended. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, fellow delegates, I sincerely hope that we will not be influenced by the emotion that is involved in the amendment which was adopted here in considering this whole question before we vote on it.

I would like to remind the delegates that this is what we have done, or this is what we will be doing if we vote for the committee proposal: we will be providing, first of all, for uniform assessment of property without any power on the part of the legislature to classify it. We will be insisting that property be assessed at not more than 50 per cent of cash value, and we will also be writing into the constitution a prohibition of a graduated income tax. Unfortunately there has been linked to this proposal one that does have an emotional appeal, and I sincerely hope that you will consider very carefully what you do when you take your final vote. I urge you to vote against the committee proposal, as amended.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I move that the DeVries amendment be made a separate proposal. The purpose for this is that this item, which was put in as an amendment — and I, for one, voted for it — should not be commingled with the rest of this proposal. I feel very strongly that when proposals have more than one thought in them it is very proper for this convention to separate out those portions which largely are procedural and for convenience placed in a separate proposal.

I want to say again, I voted for the DeVries amendment. I hope we pull it out of the proposal, have it a separate one, standing by itself, and I am sure it will pass without having the confusion of ad valorem taxes and 50 per cent cash value and graduated income tax, and many other things that have no relationship whatsoever to the principle of that amendment. I urge that this motion be supported.

PRESIDENT NISBET: The question is on the motion of Mr. Downs.

MR. BRAKE: Mr. President.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Point of order. Have we not now a proposal that must be submitted in its entirety? We have amended it. That action has been taken. There should be one vote, should there not, on the whole proposal?

PRESIDENT NISBET: Mr. Downs has moved that this be taken out and voted on separately. The convention can decide that, and if it should approve it, then each proposal will need to be voted on separately.

MR. DOWNS: Mr. President, the motion was to take the DeVries amendment and give it a separate proposal number, perhaps 51A, so that it would stand on its own feet and be voted on without reference to these other items. And I demand the yeas and nays on this motion.

PRESIDENT NISBET: The question is on the motion of Mr. Downs. The yeas and nays have been demanded. Is the demand supported? Sufficient number up. According to Mr. Downs' motion, the DeVries amendment would become Committee Proposal 51A. Those who are in favor of Mr. Downs' motion will vote aye. Those opposed will vote nay. Will the delegates please clear the board. The question now is on the motion of Mr. Downs. Those in favor of that motion will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Point of information. Would the Chair kindly identify for me the background for the ruling which allows this to take place? It looks like to me, under Rule 58, inasmuch as the DeVries amendment was an amendment to that proposal, that we are very far afield here and doing something which is completely unorthodox and which is not in accordance with the rules, and I very strenuously object. And, Mr. President —

PRESIDENT NISBET: Mr. Elliott, the rule doesn't say you can't do this. The motion of Mr. Downs was to take the amendment out of Committee Proposal 51.

MR. A. G. ELLIOTT: Then, I would understand that if that is so, then the DeVries amendment will have to be voted on again, and it will have to receive 73 votes.

PRESIDENT NISBET: That is correct. Mr. Hanna.

MR. W. F. HANNA: Mr. President, I would like to ask the Chair a question. Did I understand the answer to Mr. Elliott's question that if this is separated then a proposal known as 51A, encompassing only the DeVries amendment, will have to be voted on separately, and to be adopted would require 73 votes?

PRESIDENT NISBET: Yes, sir.

MR. ROMNEY: I raise a preferential question, Mr. President.

PRESIDENT NISBET: Mr. Romney.

MR. ROMNEY: I make a preferential motion that we take this vote over as there are so many desiring to change their votes.

PRESIDENT NISBET: Yes, we're going to do that. The question will be voted on again. There are too many changes here. Clear the board, please. Mr. Brown.

MR. G. E. BROWN: Mr. President, point of parliamentary inquiry. Is it the ruling of the Chair that anytime you want to remove a section after there has been complete debate upon a committee proposal — any particular paragraph or section — a motion may be made and, by a majority vote, the section can be separated and voted on as a separate proposal with 73 votes required? Is that the ruling of the Chair?

PRESIDENT NISBET: That was the ruling.

MR. G. E. BROWN: I respectfully suggest that the Chair reconsider it during the evening.

MR. HUTCHINSON: Mr. President.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, in all of my parliamentary experience, which I think has been considerable, I never saw a situation like this. Sometime or other, Mr. President, sometime in the course of making a decision, you have to take a final vote, and we are up to this point on this proposal. Now at all times, at all times during the perfecting of this proposal there was opportunity for amendment. You could fashion it any way you wanted to. Now, then, for the Chair to rule that having done all that, and having gotten the package together upon which a final vote is to be taken, for the Chair to now rule that you can divide the thing is, I think, entirely without precedent, and I would like to ask Mr. Chase to advise me whether in his legislative experience, when you got up to the point of third reading upon a bill was it possible then to divide the question. I say it is not. I think it is out of order to do it here. I think that if we accede to this point here, if we do it now, look at what we're going to get into in the future. I don't think it is in order and, for that reason, I sincerely hope this motion does not prevail, since the Chair seems to think it is in order. I don't think it is, but he thinks it is. I hope that we vote the motion down.

SECRETARY CHASE: The secretary can only say that Senator Hutchinson is correct in his interpretation of the legislative procedure. When a bill has been amended and it comes up for final passage on third reading you take the vote on the passage of the bill in its entirety.

PRESIDENT NISBET: The question is now on —

MR. HIGGS: Mr. President.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: I have a parliamentary inquiry. Of course, there is one difference between legislative practice and the practice here. What would be the status of things if we did not get 73 votes on this committee proposal? Where are we?

PRESIDENT NISBET: The proposal does not pass, Mr. Higgs.

MR. HIGGS: Are we then prohibited from going back, and are we going to end up with a complete void in the taxation section, or are we going to go back and adopt something?

PRESIDENT NISBET: That is up to the convention. Mr. Elliott.

MR. A. G. ELLIOTT: Is the Downs motion debatable?

PRESIDENT NISBET: On the Downs motion, the vote has been called for. It has been voted on once. It is not debatable now, and we are just waiting for the second vote. The question now is on the Downs motion. Mr. Brake.

MR. BRAKE: Mr. President, I have never yet appealed from the decision of the Chair, and I am not going to do it now, but may I suggest what we are getting into here? Every time from now until the end of this convention, when we have 2 things in a proposal, we are going to have a motion to separate them and vote on them separately. After all, the amendments have been made, all the action taken, and we are ready for a final vote. I am not going to appeal from the Chair, but I am wondering if the Chair cannot reconsider.

PRESIDENT NISBET: The Chair will have to take the advice of our parliamentarian, Mr. Chase. The Chair doesn't like to pass the buck. Mr. Downs.

MR. DOWNS: Mr. President, could I ask the secretary to read rule 58 to us?

SECRETARY CHASE: Rule 58 reads as follows:

> On the passage of every proposal, section, article and any complete revision of or amendment to the constitution, the vote shall be taken by yeas and nays, and entered on the journal, and no proposal, section, article or any such amendment or complete revision shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same.

MR. DOWNS: Mr. President, I believe that the intent of this rule is that each section would need to be read separately and get 73 votes. I have not invoked this rule nor am I recommending its literal interpretation because of the time factor involved, but I do feel very strongly that when we have an amendment such as the DeVries one, which I did support and will support if it is separated, we should have the final opportunity to vote on that without having something like 50 per cent tax value, graduated income tax, or something else involved. I do not want the graduated income tax to rise or fall because of people's attitude on religious exemptions. Nor do I want people's attitude on religious exemptions to rise or fall because of some other delegates' attitude on a graduated income tax.

I feel beyond the mere technicalities of parliamentary procedure, as a deliberative body, we should take the responsibility to vote on basic issues as they stand or fall on their own feet. This is not a compromise between an income tax and tax exemptions; it is merely a mechanism whereby we can separate those things which by reason are separable, rather than having us vote on each section and article, yeas and nays, which would take an infinite amount of time.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, point of information. We just went through a procedure here that raises a question in my mind, and that is the suggestion by a delegate to clear the board, so ordered by the Chair, without a motion or without an opportunity of the delegates to object. I am wondering, Mr. President, is that within the province or authority of the Chair to so order without it being in one form or another; either by motion or by the delegates having an opportunity to object to the clearing of the board after a vote has been taken?

PRESIDENT NISBET: There was so much confusion, Mr. Hoxie. The suggestion was made. There was no objection to it. It was ordered. It has been done. Whether it was right or not, the Chair is not in a position to know.

MR. HOXIE: Mr. President, I would just like the answer, if this matter would come before the convention, whether that procedure is properly in order?

PRESIDENT NISBET: The Chair is of the opinion if it came up again, we would ask for a motion on it. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I do not wish to unduly protract this, because we have a great deal of finance and taxation remaining to be completed before we can leave this hall this afternoon. However, I would make the point of order that Mr. Downs' motion is not in order unless the rules are first suspended, because the purport of his motion is to create a separate proposal which would not have had any consideration by a committee, would not have had the consideration of the committee of the whole, would not have had the consideration by the committee on style and drafting, all of which are required under the rules. And without suspending the rules, therefore, Mr. Downs' motion would not be in order.

PRESIDENT NISBET: The Chair is informed, Mr. Van Dusen, that that is correct and will sustain your point of order. Mr. Downs, your motion will need to be to suspend the rules.

MR. W. F. HANNA: Mr. President.

MR. DOWNS: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Downs has the floor, Mr. Hanna.

MR. DOWNS: I admit I am a little confused at this point. I don't know if we debate points of order, and I do not wish to reflect on the chair's ruling since I have won once — I thought the Chair made a very fine ruling. I mean, I think that here again we don't want to get so wound up in technicalities that we omit the real objectives. I would agree with Delegate Van Dusen if a delegate walked in here with an entirely new idea and said he wanted a separate proposal. Apparently a person can take an idea that is different and put it on as an amendment to a proposal and it is okay.

Now it just happened that this proposal we have before us was discussed thoroughly in committee of the whole, on the floor here, by style and drafting, and we all know that. Let's not create legal myths. All I am trying to do is see that, as delegates, we have the right to vote on each aspect separately. I have not invoked the technicality of the rule I have just read, which would require each article, section and I believe idea to be read separately and take 73 votes for any one thing to pass. That's unrealistic. But this attitude of having a motion to separate that which stands by itself and is logically separable seems to me a reasonable answer, a reasonable attitude and I hope the Chair would reconsider its reconsideration and see that under a rule of reason, or perhaps even a 5 minute recess, this matter could be resolved.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, I believe a motion to reconsider the vote by which the DeVries amendment was adopted would be in order, am I correct, as a preferential motion?

PRESIDENT NISBET: That is correct.

MR. W. F. HANNA: Mr. President, I move that the vote by which the De Vries amendment was adopted be reconsidered by this body, and I do that for this reason: I hope then that Mr. DeVries and his supporters will withdraw this amendment at this point and place it with the exemptions where it belongs.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Point of order, Mr. President.

PRESIDENT NISBET: State it.

MR. SNYDER: This morning the Chair sustained the committee on finance and taxation when it reported out to the convention a new substitute proposal that had been reported to the committee on style and drafting. It was returned to the convention in an entirely different form without any opportunity to debate in committee on style and drafting and certainly the point that Mr. Van Dusen raises now should have been carried out then. There were many of us in the audience who recognized this problem. We did not bring it to a test because we felt that we had the interest of the convention paramount — not pari-mutuel but paramount — and as a result we overlooked this technicality, and we are asking that due consideration be given us.

PRESIDENT NISBET: The question now is on Mr. Hanna's motion — that motion, we know, is in order — that the vote on the DeVries amendment be reconsidered. Those in favor of the motion by Mr. Hanna — Mr. Wanger.

MR. WANGER: Mr. President, I urge a yes vote upon this for the following reason: it has been implied by Mr. Lawrence — I don't believe that it sufficiently sank into the members of the delegation but, as pointed out in part by Delegate Lawrence, the specific language of the DeVries amendment can reasonably be interpreted to open the door —

MR. STERRETT: Point of order, Mr. President. I don't believe this is debatable.

MR. WANGER: A motion to reconsider is, I believe, debatable.

PRESIDENT NISBET: The point of order is overruled. You may continue, Mr. Wanger.

MR. WANGER: — the specific language of the DeVries amendment can be reasonably interpreted to open the door to gross abuses of the tax exemption policy of the state for unjustifiable private gain. The words, "property held," appear to apply to property which the nonprofit corporation, association or legal entity has leased, rented or otherwise holds by an estate for years. This means that the owner of the property, who may be an ordinary private individual, or a business for profit, will be receiving his usual rental or lease payments, but will not have to pay any property tax at all. I am sure this was not the intent of the sponsors, but it is a reasonable interpretation, as pointed out. It is something which must be cleared up, and therefore I urge you to vote yes.

PRESIDENT NISBET: The question is on the motion of Mr. Hanna that reconsideration be given. Those in favor — Mr. Brake.

MR. BRAKE: Mr. President, I hope that we do not go along with this motion. We have got to get some work done in this convention sometime, and if we're going to back up and start over and then back up and start over we are never going to get anywhere.

PRESIDENT NISBET: Those in favor of the motion will say aye. Opposed, no.

The motion to reconsider does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Division is asked for. Is the demand supported? Sufficient number up. Those in favor of the Hanna amendment will vote aye. Those opposed will vote nay. The question is on the motion to reconsider the vote by which the DeVries amendment was adopted. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to reconsider, the yeas are 53; the nays are 73.

PRESIDENT NISBET: The motion to reconsider does not prevail. Mr. Downs, in order to get this thing finally wound up, it will be necessary for you to move to suspend the rules so that the DeVries amendment may be a separate committee proposal number 51A.

MR. DOWNS: Mr. President, thank you for the advice. I so move.

PRESIDENT NISBET: The question is on the motion of Mr. Downs to suspend the rules, and that the DeVries amendment be a separate proposal, known as Committee Proposal 51A.

MR. DOWNS: And I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Will you please clear the machine? Those who are in favor —

MR. KELSEY: Mr. President, can I speak on this motion? I will be very brief.

PRESIDENT NISBET: Okay, make it brief.

MR. KELSEY: I want to remind the delegates, when we changed this rule, you remember that we were promised very faithfully — I think the words "blooming idea" were used, and we had assurance from Mr. Van Dusen and Mr. Hutchinson that nothing would be locked out. Now here is a chance to back up those words.

PRESIDENT NISBET: Those in favor of the motion of Mr. Downs will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—52

Austin
Baginski
Balcer
Binkowski
Bonisteel
Boothby
Bradley
Buback
Cushman, Mrs.
Dehnke
Donnelly, Miss
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Habermehl
Hart, Miss
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Jones
Kelsey
Krolikowski
Kuhn
Lawrence
Lesinski
Liberato
Madar
Mahinske
Murphy
Norris
Page
Pollock
Prettie
Sablich
Sharpe
Sleder
Snyder
Spitler
Stopczynski
Suzore
Tweedie
Wanger
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—73

Allen
Andrus, Miss
Anspach
Barthwell
Gadola
Goebel
Gover
Gust
Mosier
Nisbet
Perras
Plank

Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dell
DeVries
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Hannah, J. A.
Haskill
Hatch
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Upton
Van Dusen

SECRETARY CHASE: On the motion of Mr. Downs to suspend the rules and make the DeVries amendment a separate proposal to be known as Committee Proposal 51A, the yeas are 52; the nays are 73.

PRESIDENT NISBET: The motion does not prevail. The question now is on Committee Proposal 51, as amended. Will the boards be cleared, please.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I move at this time that we stick to the rules and we vote as we should vote, paragraph by paragraph, section by section. That is the rule.

PRESIDENT NISBET: That is not in order, Mr. Madar.

MR. BRAKE: Mr. President, I call the attention of the Chair to the fact that there is only one section to this proposal.

PRESIDENT NISBET: That is correct. Miss Hart.

MISS HART: Mr. President, I shall abstain from voting and explain my reasons.

PRESIDENT NISBET: You may do that, Miss Hart. Mr. Mahinske.

MR. MAHINSKE: Mr. President, I intend to abstain from voting.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I intend to abstain, and have a chance to explain my reasons.

PRESIDENT NISBET: Mr. Downs will explain his vote. Mr. Snyder.

MR. SNYDER: I wish to abstain and explain my vote.

PRESIDENT NISBET: Mr. Snyder will abstain and explain his vote.

PRESIDENT NISBET: Mr. Lesinski.

MR. LESINSKI: Mr. President, I wish to abstain. I don't believe I have to give a reason for it.

PRESIDENT NISBET: Okay. Mr. Youngblood.

MR. YOUNGBLOOD: I wish to abstain.

PRESIDENT NISBET: Mr. Youngblood wishes to abstain. Mr. Hood wishes to abstain.

MR. HOOD: Abstain, yes, and explain.

PRESIDENT NISBET: Mr. Buback abstains. Mr. Madar abstains. Mrs. Hatcher abstains. Mr. Murphy abstains. The question is on the—

Pardon me, Mr. Kelsey abstains. Miss Donnelly abstains. Mr. Garvin abstains. Mrs. Daisy Elliott abstains. Mr. Barthwell abstains. Mr. Perras.

MR. PERRAS: I am going to do something different. I am going to vote and gloat, Mr. President.

PRESIDENT NISBET: Mr. Boothby abstains. Mr. Habermehl abstains. Mr. Dehnke, Mr. Bradley, Mr. Baginski and Mr. Heideman abstaining.

The question is on Committee Proposal 51, as amended. Those who are in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—88

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dell
DeVries
Doty, Dean
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden

Nays—15

Austin
Cushman, Mrs.
Doty, Donald
Douglas
Hodges
Jones
Lawrence
Liberato
McAllister
Norris
Pollock
Sablich
Thomson
Yeager
Young

SECRETARY CHASE: On the passage of Committee Proposal 51 as amended, the yeas are 88; the nays are 15.

PRESIDENT NISBET: **Committee Proposal 51,** as amended, is passed.

Following is statement explaining abstention from voting submitted by Miss Hart:

I favored Mr. Austin's amendment to Committee Proposal 51. I opposed the committee report. I was, however, a cosponsor of the DeVries amendment exempting religious, educational and charitable institutions from real and personal property taxes. Since Mr. Austin's amendment did not incorporate the DeVries amendment I voted against his amendment and abstained from voting on the committee report.

Following is statement explaining abstention from voting submitted by Miss Hart, Mrs. Daisy Elliott, Mrs. Hatcher, Messrs. Kelsey, Snyder, Hood, Youngblood, Garvin, Bradley, Lesinski, Murphy, Madar, Downs and Buback:

We abstained from voting on Committee Proposal 51.

This proposal limits local communities in property assessments and would result in increased taxes for home owners because of reduced taxes on other properties. This provision also makes it impossible for a city or other unit of government to adopt a "piggy back" income tax even though the citizens of that city or unit of government would overwhelmingly support such a proposal. These 2 items definitely do not belong in the constitution, and we could not support them.

In order to sweeten this provision, an amendment was added to provide constitutional tax exemption similar to the present statutory tax exemption for religious, charitable and educational institutions as defined by law. We supported this amendment but felt that it should be put in a separate proposal so that we could vote for that constitutional exemption without being compelled simultaneously to support tax provisions we could not in good conscience sponsor.

We did vigorously support convention action to separate the exemption item from the tax provisions, but unfortunately were defeated in our attempt.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 51 as amended and re-referred to the committee on style and drafting:

> Sec. a. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 per cent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation.
>
> Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.
>
> Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

PRESIDENT NISBET (continuing): The Chair apologizes for all the difficulty we got in and taking up the time. The secretary will read the next proposal.

SECRETARY CHASE: If the delegates would care to check their calendar, you can cross off items 1, 2, 5, 6, 10 and 15, which have been passed.

Item 3 on the calendar, **Committee Proposal 36,** A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution.

Following is Committee Proposal 36 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 818.):

> Sec. a. The revenue derived from all subjects of taxation now contributing to the primary school interest fund shall be [used] exclusively [for and included in the annual legislative appropriation] APPROPRIATED ANNUALLY for [state aid to] public education.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this is the primary school interest fund proposition that I mentioned in connection with the sales tax. There is a committee amendment to strike this section from the constitution.

SECRETARY CHASE: Mr. Brake, on behalf of the committee on finance and taxation, offers the following amendment:

1. Amend page 1, line 1, by striking out the entire proposal.

MR. BRAKE: Mr. President and ladies and gentlemen, there is something there somebody is sure to raise, so I will try to explain it in the first place. There is a small part of the primary school interest fund that came from the sale of land given the state, the sixteenth section of each township, and something will still have to be done, I assume, because we have probably a contractual or at least a trust arrangement there, but it is a small amount. The legislature will have the choice of doing 1 of 2 things, either to continue to pay a small amount of interest each year, or turn the whole fund over to the schools; and that would undoubtedly comply with the obligation of the state to the federal government, following up their orders. But it is a matter that the legislature can take care of, and need not be carried further in the constitution if you agree that we are to abolish the primary school interest fund.

PRESIDENT NISBET: The question is on the amendment. The secretary will read the amendment again.

SECRETARY CHASE: The committee amendment is to strike out the entire proposal.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, this is a difficult one because we have already eliminated all of the other earmarkings for schools. I hate to see this one go, and yet it is hard to see why we should retain this one, but in order to be consistent I would certainly recommend that we retain the primary school interest fund tax.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I wish to speak on the subject matter, and I will raise no procedural questions for the next 2 minutes, I promise. Again, I think we should point out that the concept of this fund for education — if am right historically, and I did not have time to review my notes — was that Michigan before we were finally a state subdivided into counties, and so on, had the United States congress, in its wisdom, set aside what Delegate Brake has said was the sixteenth section of each township to be used for the purpose of education. Now, if we had followed that precedent, there would be a tremendous amount of money for our educational funds; perhaps so much so that none of us would be even raising the possibility of a need for federal aid to education. Unfortunately, when there was a panic, I believe over a 100 years ago, we know the action was taken to liquidate some of the funds that had been normally reserved for schools and education.

I am just afraid that this is another step backwards, and I just want to remind us that when our settlers of the state of Michigan, even when we were just a territory, were living in log cabins, were developing the state, that there was this real concern for constitutional protection and floors on education. I favor the continuation of those historical minimum floors, and hope that we build from that. I agree with Delegate Austin, and hope that this amendment is voted down.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Brake for the committee. Mr. Heideman.

MR. HEIDEMAN: I wish to oppose this amendment to delete. This is the first day that I have been ashamed to be a member of this constitutional convention.

PRESIDENT NISBET: The question is on the amendment. Those in favor will vote aye. Those opposed, no. The Chair is in doubt. The question is on the amendment offered by Mr. Brake, to strike out the entire proposal. Those in favor will vote aye.

MR. DOWNS: May I ask for the yeas and nays?

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. The vote is on the amendment offered by Mr. Brake to strike out the entire Committee Proposal 36. Those in favor vote aye. Those opposed, no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll call was called and the delegates voted as follows:

Yeas—71

Allen
Batchelor
Beaman
Bentley
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst

Habermehl
Hanna, W. F.
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien

Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Thomson
Turner

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust

McLogan
Millard
Mosier
Nisbet
Page
Powell
Prettie
Pugsley
Radka

Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager

Nays—46

Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Bonisteel
Bradley
Buback
Cudlip
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Follo
Garvin

Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Hoxie
Jones
Judd, Mrs.
Kelsey
Krolikowski
Kuhn
Liberato
Madar
Mahinske

McAllister
Murphy
Norris
Perras
Plank
Pollock
Sablich
Shackleton
Snyder
Sterrett
Stevens
Stopczynski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Brake on behalf of the committee, the yeas are 71; the nays are 46.

PRESIDENT NISBET: The amendment is adopted. Since this amendment strikes out **Committee Proposal 36,** it is virtually an exclusion report and will be referred to the committee on style and drafting. Mr. Mahinske.

MR. MAHINSKE: Mr. President, a point of information here. Since this amendment would strike out a committee proposal, which would be an amendment to the constitution, doesn't it need 73 votes to carry?

PRESIDENT NISBET: Mr. Mahinske, the Chair will rule that the committee proposal is in relatively the same status as a committee proposal where the committee of the whole has stricken out all after the enacting clause which proposal in such cases heretofore has been referred to the committee on style and drafting. This action is equivalent to the adoption of an exclusion report, which is an indication that the convention has concluded that the language stricken is to be excluded from the new constitution, and this committee proposal, in its present form, will be rereferred to the committee on style and drafting for the information of that committee.

MR. MAHINSKE: Would it be proper to resubmit the committee proposal from the floor?

MR. VAN DUSEN: Point of order, Mr. President. The resubmission of the proposal from the floor would be the negative of something we have just acted on in the positive and would be out of order.

MR. MAHINSKE: I think we are in sort of a neutral position, if anything.

PRESIDENT NISBET: It will be again referred to the committee on style and drafting.

Following is Committee Proposal 36 as amended and rereferred to the committee on style and drafting:

(Note: The entire content of this proposal has been stricken.)

SECRETARY CHASE: Item 4 on the calendar, **Committee Proposal 37,** A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution.

Following is Committee Proposal 37 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 766.):

Sec. a. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 per cent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. b. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. c. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may also provide by law for interim accounting. [The legislature shall provide by law for the audit of state and county accounts by competent state authority, and may also provide for the audit of any other public accounts.]

SEC. C1. All [accountings,] FINANCIAL records, ACCOUNTINGS, audit reports and other reports of public moneys shall be public records and open to inspection. A [detailed] statement of all revenues and expenditures of public moneys shall be published and distributed annually, as prescribed by law.

Sec. d. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and except that endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, section a is the present section of the 1908 constitution, section 15, without any change at all. Section b is, in substance, the same thing as we have in the present constitution and something certainly very obviously right. In section c the committee on style and drafting made a substantive change, but they did it for the reason that they are putting the language in another place in the executive article. We would certainly object to having the compulsory auditing of the counties by the state eliminated. They have taken it out of this section, but we will come to it again when we take up the executive article next week. Section c1 is substantially what we have in the constitution at present, although it is a combination of 2 sections. Section d is the same thing we have, except that we have added this provision about the investment of retirement funds. The 1908 constitution forbids the state to own or be interested in stocks. We have made an exception here so that, as provided by law, endowment funds and certain trusts may invest in stocks, contrary to the old prohibition in the constitution.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 37. Those in favor of Committee Proposal 37 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Will the pages notify the people in the hall?

The roll was called and the delegates voted as follows:

Yeas — 115

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.

Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson

Murphy
Nisbet
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Garvin

Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Liberato
Madar
Mahinske
McAllister
McGowan, Miss
McLogan
Millard
Mosier

Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays — 1

Young

SECRETARY CHASE: On the passage of Committee Proposal 37, the yeas are 115; the nays 1.

PRESIDENT NISBET: **Committee Proposal** 37 is passed and referred to the committee on style and drafting.

For Committee Proposal 37 as rereferred to the committee on style and drafting, see above, page 2658.

The secretary will read the next proposal.

SECRETARY CHASE: Item 7 on the calendar, **Committee Proposal 40,** A proposal with reference to public retirement systems. Amends article X by adding a section.

Following is Committee Proposal 40 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 778.):

> Sec. a. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof[,] which shall not be diminished or impaired thereby.
>
> [All] FINANCIAL benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be usable for financing unfunded accrued liabilities.

PRESIDENT NISBET: The Chair will recognize Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this is a new section for the constitution, and one that very greatly strengthens the public employee retirement systems on both the state and local levels. It does 2 things: in the first paragraph, it provides that the relationship between the employing unit and the employee shall be a contractual relationship so that the municipality may not change the relationship at its will. The benefits that have accrued up to a given time are contractual and must be carried out by the municipality or by the state. The second paragraph provides that each year the system shall pay in enough money to fund the liability arising in that year. It does not require that the system catch up with all of its past liability, which would be an impossibility in connection with some of the state systems, but it does require that they shall not go any further behind.

PRESIDENT NISBET: Will the delegates please clear the board. The question is on Committee Proposal 40. Those in favor of Committee Proposal 40 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 117

Andrus, Miss
Anspach
Austin
Baginski
Balcer

Goebel
Gover
Gust
Habermehl
Hanna, W. F.

Murphy
Nisbet
Perras
Plank
Powell

Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola

Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McAllister
McGowan, Miss
McLogan
Millard

Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 1

Allen

SECRETARY CHASE: On the passage of Committee Proposal 40, the yeas are 117; the nays 1.

PRESIDENT NISBET: **Committee Proposal 40** is passed and referred to the committee on style and drafting.

For Committee Proposal 40 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 8 on the calendar, **Committee Proposal 49,** A proposal with reference to the borrowing of money by public corporations and bodies. Amends article VIII by adding a section.

Following is Committee Proposal 49 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 852.):

> Sec. a. Public [corporations and public] bodies CORPORATE shall have power to borrow money and to issue their securities evidencing debt[,] subject to [constitutional and statutory limitations] THIS CONSTITUTION AND LAW.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this section in its present form takes the place of part of section 10, section 20, and section 24 in article VIII of the 1908 constitution.

PRESIDENT NISBET: Will the delegates please clear the board. The question is on Committee Proposal 49. Those in favor of the proposal will vote aye. Those opposed will vote nay. The question is on Committee Proposal 49. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 110

Allen
Andrus, Miss
Anspach

Follo
Gadola
Goebel

Millard
Murphy
Nisbet

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch

Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McAllister
McLogan

Norris
Perras
Plank
Prettie
Radka
Rajkovich
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 0

SECRETARY CHASE: On the passage of Committee Proposal 49, the yeas are 110; the nays, none.

PRESIDENT NISBET: **Committee Proposal 49** is passed and referred to the committee on style and drafting.

For Committee Proposal 49 as rereferred to the committee on style and drafting, see above, page 2659.

The secretary will read the next proposal.

SECRETARY CHASE: Item 9 on the calendar, **Committee Proposal 50,** A proposal to require the legislature to provide sufficient taxes to meet the state's expenses covering the substance of section 2, article X of the 1908 constitution.

Following is Committee Proposal 50 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 853.):

> Sec. a. The legislature shall [provide by law] IMPOSE taxes sufficient with other resources to pay the expenses of state government.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this command was in the 1908 constitution in slightly different words. The fact that the legislature hasn't always obeyed the command doesn't mean, in our judgment, that we should not continue to tell them that that is what they should do. That is what this section does.

PRESIDENT NISBET: The question is on the passage of Committee Proposal 50. Those in favor of Committee Proposal 50 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the votes.

The roll was called and the delegates voted as follows:

Yeas — 116

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo

Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McAllister
McLogan
Millard

Murphy
Nisbet
Norris
Perras
Plank
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
White
Wilkowski
Woolfenden
Yeager
Young
Youngblood

Nays — 0

SECRETARY CHASE: On the passage of Committee Proposal 50, the yeas are 116; the nays, none.

PRESIDENT NISBET: **Committee Proposal 50** is passed and referred to the committee on style and drafting.

For Committee Proposal 50 as rereferred to the committee on style and drafting, see above.

Will the delegates please clear the machine? Mr. Yeager.

MR. YEAGER: Mr. President, I would like to suggest to the delegates that where possible, unless it is absolutely necessary, they try to vote from their desks, because I notice it makes a lot of extra work for Mr. Chase to record all these extra votes, and if we will make some little effort while we are in the process here it will save time and save Mr. Chase from working so hard.

PRESIDENT NISBET: A very good suggestion, Mr. Yeager.

SECRETARY CHASE: Item 11 on the calendar, **Committee Proposal 52,** A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution.

Following is Committee Proposal 52 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 920.):

> Sec. a. The legislature may provide [by law] for the assessment by the state of the property whose ad valorem taxes are reserved [to state aid] for public education [by section 1 of this article X], and of [such] other property as DESIGNATED BY the legislature [may designate], and for the levy and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation[,] . [and] The rate of taxation on such property shall be the average rate levied upon other property IN THIS STATE under the general ad valorem tax law, or, if the legislature [shall so provide] PROVIDES, the rate of tax applicable to the property of each business enterprise [so taxed] ASSESSED BY THE STATE shall be the average rate of ad valorem taxation levied upon other property in

Explanation—Matter within [ ] is stricken, matter in capitals is new.

all counties in which any of [said] SUCH property is situated.

MR. BRAKE: May the secretary read the committee amendment there?

SECRETARY CHASE: Mr. Brake, on behalf of the committee on finance and taxation, has filed the following amendment:

1. Amend page 1, beginning in line 1, by striking out the entire proposal.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this one is not quite so simple. This is the section of the old constitution that provided the great bulk of the money for the primary school interest fund. The old constitution named a whole series of utilities — telephone lines, railroad companies, carloading companies, and what have you — and provided that they should be assessed by the state, and that the money collected by the state on that assessment would go into the primary school interest fund. It did not include the electric companies and the gas companies. They have been locally assessed and the taxes locally collected. Now that we have decided to do away with the primary school interest fund there is no reason — there is not that reason, at least, for continuing this provision.

There is controversy over this and I think I should go ahead and lay out a little more of the background. These utilities, or at least some of these utilities, that have been assessed on a statewide basis object very strenuously to now going to a local assessing procedure. The Bell telephone company, for instance, says that at this time, when it is state assessed, it takes just one employee to take care of its property tax records and any procedure necessary in connection with the property tax. They say that if they were to be locally assessed, where they would have to keep records on every local unit of government, they would have to attend the board of review when they thought their assessment was too high, they would have appeals to the state tax commission from the local units, and estimate — this is their estimate, not mine — that it might cost them $2 million a year to take care of their records and the procedure that they would have to follow. The railroad companies are likewise objecting.

Now, of the 2 utilities, 2 classes of utilities that are not included here and that have been locally assessed, one, or part of one, I should say, the Consumers Power company, likes the idea of being locally assessed and in appearing before our committee objected to any change in that procedure. The other of the principal electric companies — perhaps I am not right about that principal part — but Detroit Edison would prefer to be state assessed. So they were divided. The gas companies, insofar as we have heard of them, would have preferred to be state assessed.

It is no longer necessary to carry this provision in the constitution so far as the primary school fund is concerned.

They are going to contend to you, and I assume there will be an amendment, that they should still be state assessed, although the money would be used for some other purpose. Now, that is the background of the controversy, and whatever amendments are to be offered will be for your consideration.

PRESIDENT NISBET: There is an amendment to be offered.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Might I speak in support of the committee amendment, if that is before us?

PRESIDENT NISBET: It is the Chair's understanding that the other amendment should be considered first, Mr. Van Dusen.

MR. VAN DUSEN: It is perfectly all right, Mr. President, I will wait.

SECRETARY CHASE: Messrs. Woolfenden, Bonisteel, Erickson, Upton, Turner, Stevens, John Hannah, Sterrett and Stamm offer the following amendment to Committee Proposal 52:

1. Amend page 1, line 1, after "legislature" by striking out "may" and inserting "shall"; and on line 2, after "property" by striking out "whose ad valorem taxes are reserved for public education" and inserting "of those businesses whose property is now assessed by the state"; so that the language will read:

> The legislature shall provide for the assessment by the state of the property of those businesses whose property is now assessed by the state, and of other property as designated by the legislature, and for the levy and collection of taxes thereon.

PRESIDENT NISBET: The Chair recognizes Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President and members of the convention, Mr. Brake has made a very fair statement of the proposition before the convention. In fact, he has given some of the reasons that I myself would have advanced in behalf of this amendment. I would like to invite the convention's attention to the fact that the proposal as it originally came from the finance committee, and was returned to the convention by style and drafting, was recommended to this convention, passed on general orders, and it is my view that it still should be contained in the constitution.

Mr. Brake said this morning that he would like to take out of order those proposals that involved controversy and get them disposed of, and as I understood him it was his view that most of the rest of these proposals, which I imagine would include this one, was a matter of housekeeping. Now, I submit to the convention that this isn't a question of housekeeping, the elimination of this proposal, but it is sweeping out the housewife along with the dust if we eliminate this from the constitution.

In support of this amendment, which in effect merely preserves verbatim Committee Proposal 52 as it was originally recommended to this convention by the taxation committee — and this amendment takes care of the change in language necessitated by the elimination of Committee Proposal 36, which we have already disposed of — in support of Committee Proposal 52 I feel I can do no better than to read the committee's own argument to you for its adoption, which impressed the delegates in committee of the whole and resulted in its adoption. The committee had the following to say:

[The supporting reasons for Committee Proposal 52 were read by Mr. Woolfenden. For text, see above, page 910.]

Now the fact that the earmarking for the primary school fund has been eliminated in no way indicates the propriety of eliminating this section. In fact the method of taxation of telephone and railroad utilities provided for in this section, I submit, is a model that might well be studied and preserved in the constitution, rather than eliminated from it. It is by all odds the most efficient, economical and simplest way of affecting the taxation of utilities. I strongly urge this convention to preserve this Committee Proposal 52, as amended in accordance with the original recommendation of the committee on taxation, which I think was absolutely sound.

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, I would like to speak in opposition to this amendment. With the elimination of Committee Proposal 36 the need for this to be in the constitution is eliminated. It does not, however, change the situation as far as the legislature is concerned. They have the right of this form of taxation under, as I understand it, Committee Proposal 51. It seems to me that what we are doing here is, we are doing some legislating at a time when we should not be. This is a constitution that we're drafting, and we should certainly look to the future. We cannot foresee now what the position will be 10, 20 or 30 years from now.

PRESIDENT NISBET: The Chair recognizes Mr. Upton.

MR. HUTCHINSON: Mr. President, I would like to direct a question to Mr. Woolfenden. With regard to that last phrase "of those whose businesses" —

PRESIDENT NISBET: Mr. Hutchinson, the Chair is sorry. Mr. Upton has the floor. The Chair has your name down.

MR. HUTCHINSON: I am sorry. I thought you called on me.

PRESIDENT NISBET: The Chair was just asking you, on the side I thought, if you wanted to speak. Excuse me, Mr. Upton.

MR. UPTON: Thank you, Mr. President. Ladies and gentlemen of the convention, in committee we spent much time on this subject. We felt, as Mr. Woolfenden has pointed out, that this should be included as it has proven a very satisfactory manner of assessing our large utilities throughout the state. This particularly applies to Michigan Bell at this time, where they are now operating in 1430 assessing districts, approximately 2500 taxing districts. And you can imagine the problem this company would have in trying to deal with each assessor. Their units of equipment not only deal in counties, but they have one unit that deals throughout the state. Now, this is not only protection for this company, but for all of the people of Michigan whom it serves, and it is my feeling that we should continue this constitutional manner of assessing property of the utilities which serve our state and our citizens. I urge you to support this amendment.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, members of the convention, I would appreciate your reasonably close attention, because this is a somewhat technical subject over which the 2 previous speakers have rather quickly glossed, and I think they have given you a very inaccurate impression of what their amendment purports to do. For some 60 years under the present constitution certain utilities have had their property assessed by the state and others have had their property locally assessed. But this has been an entirely statutory matter. The present constitution provides, in section 5 of article X, that the legislature may provide by law for the assessment at its true cash value by the state board of assessors, and so forth. I emphasize, the legislature may provide by law.

Now, the committee, in Committee Proposal 52, when it appeared that the primary school interest fund was to be continued, proposed to continue this kind of authority in the constitution. Committee Proposal 52 stated, "The legislature may provide for the assessment by the state of the property whose ad valorem taxes are reserved for public education." But, I emphasize, for over 60 years under the present constitution, and under Committee Proposal 52, the constitutional authority for this state assessment was permissive. It was not mandatory. It did not require the legislature to state assess or to provide for local assessment of any utility. Now, the committee on finance and taxation does not advocate any change in the present method of assessment and taxation of utilities. Those which are presently state assessed, it is felt, should continue to be state assessed. Those which are presently locally assessed would, unless the legislature determined otherwise, continue to be locally assessed. We believe this is appropriately a function of the legislature and should continue to be so.

Now, what the proponents of this amendment have ignored in their presentation is that what they would do is to strike out, in the first line of the proposal, the word "may" and insert the word "shall." Thus they would freeze into the constitution for all time, freeze into the statutes of this state for all time under this constitution, the requirement of state assessment of the property of those engaged in the business of transporting passengers and freight, transporting properties by express, operating any union station and depot, transmitting messages by telephone or telegraph, loaning cars, operating refrigerated cars, fast freight lines or other car lines, running and operating cars in any manner upon railroads, or engaging in any public service business. I emphasize that it would freeze this into the constitution permanently. Now what the committee proposes is that the present situation remains as is; that the legislature continue to have the authority to determine whether utilities are state assessed or whether they are locally assessed. Unless the legislature chose to act, the present system of assessment and taxation would continue with respect to every company currently subject to these provisions.

There has been a great deal of rather high pressure lobbying going on here today — and, I might add, a good bit of it unregistered — in behalf of the change which is advocated by this amendment. I cannot too strongly emphasize to you the significance of the change from the word "may" to the word "shall." It is a step backwards, in my judgment; it is a step which should not, under any circumstances, be taken by this convention. I have not frequently spoken to this convention with the same degree of emphasis with which I speak now, but I believe, as strongly as I can believe, that the authority for the determination of the method of assessment should remain with the legislature, and that the Woolfenden amendment should be defeated, and that the committee amendment be adopted.

PRESIDENT NISBET: The Chair recognizes Mr. Erickson.

MR. ERICKSON: I rise in support of this amendment. What we are talking about here is a total tax take of about $60 million. Thirty million dollars of that is from the utilities, as has been enumerated, and the other 30 million is from insurance companies and some other taxes that they have. I just want to call your attention to the fact that if it is going to cost say, one company $2 million or more to collect this tax, that tax will be paid by the people using that service. So that's just an indirect tax on those people the states does not get, but it just goes out as an extra cost. Another thing that occurs to me, I don't know how any local unit can tax the rolling stock on railroads, and I just want to indicate that this is a most efficient way of collecting these taxes.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, fellow delegates, I would like to reemphasize a point just made by Mr. Erickson; that if, in fact, the elimination of this provision does result in increasing the cost to any of these utilities, that cost will be reflected in the charge made by the utility. The utilities, particularly the telephone company and the power companies, have their rates subject to control by the public utilities commission. They are given all of their costs plus a fair percentage on their investment, and anything that increases their cost will be passed on to the people that use the telephones or buy the electricity or use whatever other facility is in question. Now, I would like to leave this one for a moment.

We have removed the earmarking for the schools. That is done. Here we have a source of many millions of dollars a year that for more than 60 years has been dedicated to the primary school fund. We have eliminated the dedication. Now you open the way so that we may even eliminate that income to the state. The basis on which we eliminated the dedication was that the present dedicated funds did not take care of the cost of education. Educational operations had to go to the legislature for additional money anyway, and therefore we could take out the dedications. Now we are eliminating the possibility even of that income, so there is a possibility that the source may dry up, and the people in the legislature faced with the problem of finding state funds, having to find some other source to replace this one. It need not happen, but it could, and I can see no good reason for taking out this amendment. I can't understand why the committee feels there is something wrong about leaving it in. Leave it in.

PRESIDENT NISBET: The Chair recognizes Mr. Stevens.

MR. PERRAS: Mr. President, a point of information. How many speakers do you have ahead?

PRESIDENT NISBET: Eleven.

MR. STEVENS: Mr. President, delegates, Mr. Van Dusen's arguments point the reason why I joined in this amendment. Dr. Hananh has stated very ably and much more completely than I can that this leaves the possibility that the legislature might return to the local governments these taxes which it now has and, while we have de-earmarked the primary school interest fund, the state will still need to provide the money for the schools and the school aid fund. So it is very important from my viewpoint that the state have this source of income. It is also important in the distribution of this fund, because if you return this money, these taxes, to local government, it is true some communities could do without some of the state aid because they would have the tax base. Other communities would suffer drastically because the purpose of the school aid fund is to distribute rather fairly over the state the money thus collected. Also, there is the possibility, and maybe the probability, that many communities would be much enriched by a newer and bigger tax base, while other communities that do not share in these properties that contribute to this primary school interest fund would not get any benefits or very much benefit from the local taxes. I urge your support of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, I move the previous question.

PRESIDENT NISBET: Mr. Madar moves the previous question. Is the demand seconded? Sufficient number. The question is: shall the previous question be put?

MR. WOOLFENDEN: Mr. President, I would like to move that debate be limited to 15 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Woolfenden that debate be limited to 15 minutes.

MR. MADAR: Mr. President, we have had a lot of talking on this subject already and if we are going to stay here and listen to all this when we are repeating the same thing over and over again, we are just not going to get anyplace.

PRESIDENT NISBET: The question is on the motion of Mr. Woolfenden that the debate be limited to 15 minutes. Those in favor will say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Division has been asked on the motion to limit debate. Those in favor of limiting debate to 15 minutes will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to limit debate to 15 minutes, the yeas are 56; the nays are 44.

PRESIDENT NISBET: The motion prevails. Debate is limited to 15 minutes.

MR. DEHNKE: Mr. President, I rise to ask to have the question divided. I would like to vote separately on the "shall" versus "may."

PRESIDENT NISBET: It may be divided.

MR. HOXIE: Mr. President, may I inquire how many speakers you have listed there, and how it is the intention of the Chair to divide the 15 minutes among the members desiring recognition?

PRESIDENT NISBET: There are 12 speakers. There are 15 minutes. That is a little over a minute a piece. The Chair would just hope that the speakers would guide themselves so as to make it possible for all people to speak. The Chair recognizes Mr. Hutchinson. Will you please remember you have about a minute apiece.

MR. HUTCHINSON: Mr. President, I would like to ask Mr. Woolfenden a question in regard to that last phrase there, "those businesses whose property is now assessed by the state." My question to Mr. Woolfenden is this: those businesses whose property is now assessed, does that mean those particular corporations, or does that mean those particular types of utilities?

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: That means those particular types of utilities.

MR. HUTCHINSON: So the legislature would not be able to enlarge that group as to type? In other words, it couldn't put the electric companies under it?

MR. WOOLFENDEN: Well, not under this language, but it could under the balance of the paragraph. It is permissive to the legislature under the balance of the paragraph.

MR. HUTCHINSON: Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett. Remember your time.

MR. STERRETT: Mr. President, this won't take me 1 minute. I would like to point out that the gas and weight tax in this state, which is so important to us, is collected at the state level, it is assessed at the state level by the department of revenue and the secretary of state. I would like to have the support of the delegation on this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Doty.

MR. DONALD DOTY: Mr. President, I would like to make a statement at this time that Mr. Van Dusen is correct in his assessment of the matter before us as far as it being a statutory matter is concerned. However, I should like to point out that at the time this was considered in the committee I was in favor of state assessment of these utilities, because I feel very strongly on this, and feel that the state tax commission is in a better position to do this job than the smaller communities are able to do it at a local level. Therefore I urge this convention to keep this language in, and let's do the assessing on a state level by competent authorities.

PRESIDENT NISBET: Thank you for watching the time. Mr. Austin.

MR. AUSTIN: Mr. President, and fellow delegates, I would like to speak in opposition to the amendment, because it is my feeling that Committee Proposal 51 provides for alternative means of taxation for those properties that the legislature desires to tax differently than other properties, and this would include utility properties. What is proposed by the committee's amendment — that is, to strike the language — is that the legislature will decide how these properties are to be assessed, and if we adopt this amendment we will be placing an unnecessary restriction on the legislature. I would oppose this amendment and hope that you will support the committee.

PRESIDENT NISBET: The Chair recognizes Mr. Hatch.

MR. HATCH: I pass.

PRESIDENT NISBET: The Chair recognizes Mr. Gust.

MR. GUST: Mr. President, members of the convention, I would like to direct a question.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, I believe I am entitled to a minute, according to the schedule. I would like to give my minute to Mr. Gust.

MR. GUST: Thank you, Mr. Hoxie, I am loaded with 2 minutes. All right. I would like to direct a question to Mr. Van Dusen, through the Chair, if I may.

PRESIDENT NISBET: If Mr. Van Dusen cares to answer.

MR. GUST: Mr. Van Dusen, I am informed by these people whom you described in your speech — and incidentally, I would like to say for the record I haven't been lobbied on this. They are legitimate businessmen here, and this matter came up quite unexpectedly, I think even you would admit, and they are here to protect the interests of the public. After all, we are the ones that are going to pay this tax ultimately. Now, Mr. Van Dusen, it is their position, as I understand it, that the "may" in line 1 of Committee Proposal 52, coupled with the mandatory earmarking of these funds, in effect amounts to a "shall" with reference to this proposal, so that when you remove the earmarking you have to change the "may" to "shall" in order to preserve the present form of assessment that these utilities enjoy. Are they correct, and am I correct in this understanding?

MR. VAN DUSEN: Mr. President, Mr. Gust, they are not, in my opinion, correct. The language has been permissive in the present constitution for 60 years. It says the legislature may provide for this kind of assessment, and the legislature always has provided for this kind of assessment, and I expect the legislature will continue it. I am in favor of state assessment, for example, for the telephone company. I think it is the most practical way to do it. But we have provided in Committee Proposal 51 that the legislature may provide for alternative means of taxation. It designates real and tangible personal property in lieu of general ad valorem taxation. The legislature won't have to do a thing to continue the present basis of taxation. While Mr. Hannah said, for example, that this will cost the rate payers $2 million, to me it wouldn't at all unless the legislature took some other action, which the legislature is not likely to do.

MR. GUST: All right, now; just a minute. You have answered more than my question. I want you to stay on this point because I think it is the crux of the whole thing. Would you agree that the "may," which is permissive, certainly, but coupled with the mandatory earmarking in effect amounts to a "shall" when you consider the 2 together in the present constitution?

MR. VAN DUSEN: I would not.

MR. GUST: You would not. Well, that is where I would differ, and members of the convention, I would urge you to vote favorably on this proposed amendment, because it is my contention and, I think, the contention of the other proponents that all we are doing is preserving the status quo. Without the earmarking the "may" doesn't mean anything. So we have to change "may" to "shall" to preserve the rights of these utilities, which is a legitimate interest, and one which I think all of you are interested in.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, I notice by the amendment of Mr. Woolfenden that we have a typical type of business interest amendment. He would strike out the reservation of this money for public education. We have provided a state education fund, and if it is the desire to retain this money for education or for state aid to education, as has been done in the past, then I submit that we should just retain Committee Proposal 52. But here we are merely representing the utilities who want to remain state assessed, and they care not where the money goes. Under the committee proposal they could have simply put in on line 2, after the word "are," the word "hereby" and it would have been reserved for public education, and they would have had everything that they have in the present constitution. They want to go beyond that. They want this money to go into the state fund. It could be returned and used for purposes other than education. They are representing only themselves and not the purport that was intended by the original committee proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, the difference between the word "may" and "shall" here makes all the difference in the world. If the word is "may," you are just occupying some space in the constitution that need not be so occupied. If you say "shall," you are taking the matter away from the legislature and compelling the retention of this kind of taxation. It is the position of the committee very definitely that this amendment should be rejected, and that the section should be stricken. That does not mean that the state will change its method of assessment.

Now, we have 4 proposals after this. As far as I know, they should go just as fast as the secretary can read them and run the voting machine, so I hope that enough of you will stay so that we will have 73 votes, and can clean this thing up.

PRESIDENT NISBET: The Chair recognizes Mr. Karn.

MR. KARN: Just a moment to correct the idea that Delegate John Hannah has about how easy it is for the utility companies to get an increase in rates. I want to say that the major utility companies are required to wait a year or more before they get a rate increase, and when they get it, generally speaking, they do not get what they consider a fair return on a reasonable value of property.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: My speech will be short. Considering the mess we have made in the rest of the finance and taxation article, I really fail to see why another mess bothers anyone. Thank you.

PRESIDENT NISBET: The Chair recognizes Judge Dehnke.

MR. DEHNKE: I pass.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Woolfenden, et al. The secretary will read the amendment as it is divided.

SECRETARY CHASE: The first part of the amendment is:

1. Amend page 1, line 1, after "legislature" by striking out "may" and inserting "shall"; so the language will read, "The legislature shall provide for the assessment. . . ."

PRESIDENT NISBET: The question is on the amendment.

MR. MADAR: I ask for the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. Hoxie.

MR. HOXIE: The machine is locked. I understand there was a request for division. Are we voting on the amendment as it is on the wall presently?

PRESIDENT NISBET: Mr. Chase will read it again.

SECRETARY CHASE: The amendment has been divided. The convention is voting on the first part of the amendment, which reads:

1. Amend page 1, line 1, after "legislature" by striking out "may" and inserting "shall".

PRESIDENT NISBET: Those in favor of that amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—55

Andrus, Miss
Anspach
Batchelor
Beaman
Binkowski
Bonisteel
Boothby
Conklin, Mrs.
Cudlip
Donnelly, Miss
Doty, Dean
Erickson
Figy
Follo
Gust
Habermehl
Hannah, J. A.
Hodges
Howes
Hoxie
Iverson
Karn
Kelsey
Krolikowski
Kuhn
Leibrand
Leppien
Liberato
Mahinske
McAllister
McLogan
Plank
Pugsley
Radka
Rajkovich
Richards, J. B.
Shackleton
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Stopczynski
Turner
Tweedie
Upton
Wanger
White
Wilkowski
Wood
Woolfenden
Youngblood

Nays—50

Allen
Austin
Baginski
Balcer
Barthwell
Blandford
Bledsoe
Brake
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
Dehnke
DeVries
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Finch
Gadola
Gover
Hanna, W. F.
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hood
Hubbs
Hutchinson
Jones
Judd, Mrs.
King
Kirk, S.
Knirk, B.
Madar
Millard
Murphy
Nisbet
Perras
Powell
Prettie
Sablich
Seyferth
Shaffer
Staiger
Thomson
Van Dusen
Yeager
Young

SECRETARY CHASE: On the adoption of the first part of the amendment offered by Mr. Woolfenden and others, the yeas are 55; the nays are 50.

PRESIDENT NISBET: That part of the amendment is approved. Will you please clear the board. The question is on the second part of the amendment. Mr. Chase will read it.

SECRETARY CHASE: The second part of the amendment by Mr. Woolfenden and others is:

1. Amend page 1, line 2, after "property" by striking out "whose ad valorem taxes are reserved for public education" and inserting "of those businesses whose property is now assessed by the state"; so the language will read:

> The legislature shall provide for the assessment by the state of the property of those businesses whose property is now assessed by the state, and of other property as designated by the legislature, and for the levy and collection of taxes thereon.

PRESIDENT NISBET: The question is on the amendment. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I simply say if the amendment is to be adopted, as I hope ultimately it will not be, this part of it is necessary, and so I would urge you to vote yes on it.

MR. HIGGS: Mr. President, I request the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Excuse me, they have already been ordered.

MR. HIGGS: Mr. President, I didn't understand the yeas and nays had been requested.

PRESIDENT NISBET: They have been requested and ordered.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I was just going to ask that the bell be rung loud and long.

PRESIDENT NISBET: The question is on the adoption of the amendment as offered. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—82

Allen
Andrus, Miss
Anspach
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Buback
Conklin, Mrs.
Cudlip
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Erickson
Figy
Finch
Follo
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Higgs
Hodges
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Liberato
Mahinske
McAllister
McLogan
Millard
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays—21

Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Cushman, Mrs.
Douglas
Everett
Gadola
Hanna, W. F.
Hatcher, Mrs.
Hood
Jones
Karn
Lesinski
Madar
Murphy
Perras
Sablich
Thomson

SECRETARY CHASE: On the adoption of the second part of the amendment offered by Messrs. Woolfenden and others, the yeas are 82, the nays are 21.

PRESIDENT NISBET: The amendment is adopted. There is one more amendment.

MR. WOOLFENDEN: Mr. President.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: I would like to make a parliamentary inquiry. If this amendment now carries, but by an insufficient number, less than 73, is the motion for reconsideration available next Monday?

PRESIDENT NISBET: Mr. Woolfenden, the amendment that you offered has been adopted. The question now is on the amendment of Mr. Brake that the entire proposal be stricken.

SECRETARY CHASE: Mr. Brake, on behalf of the committee on finance and taxation, offers the following amendment:

1. Amend page 1, beginning on line 1, by striking out the entire proposal.

PRESIDENT NISBET: The question is on the amendment of Mr. Brake. Those in favor will vote aye. Those opposed — the yeas and nays have been demanded. Is the demand seconded? It is supported. Those in favor of the amendment offered by Mr. Brake to strike out the entire proposal, will vote aye. Those opposed will vote no. Mr. Sterrett.

MR. STERRETT: Mr. President, I urge a no vote on this.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, I likewise urge a no vote on this.

PRESIDENT NISBET: The yeas and nays have been ordered. The vote has been ordered. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—45

Allen
Austin
Baginski
Balcer
Barthwell
Beaman
Blandford
Brake
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
Dehnke
DeVries
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Finch
Gadola
Garvin
Hanna, W. F.
Haskill
Hatch
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Lesinski
Madar
Murphy
Perras
Sablich
Seyferth
Shaffer
Staiger
Thomson
Van Dusen
Yeager
Young

Nays—63

Andrus, Miss
Anspach
Batchelor
Binkowski
Bledsoe
Bonisteel
Boothby
Conklin, Mrs.
Cudlip
Donnelly, Miss
Doty, Dean
Douglas
Erickson
Figy
Follo
Gover
Gust
Habermehl
Hannah, J. A.
Higgs
Hodges
Howes
Hoxie
Iverson
Kelsey
Krolikowski
Kuhn
Leibrand
Leppien
Liberato
Mahinske
McAllister
McLogan
Millard
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Stopczynski
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brake to strike out the body of the proposal, the yeas are 45; the nays 63.

PRESIDENT NISBET: The amendment is not adopted. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, if the question is now, as I suspect it is, upon the adoption of the proposal, I would urge a no vote.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 52, as amended. Will you please clear the board. Mr. Hanna.

MR. W. F. HANNA: Mr. President, I would like to inquire how we could reinsert the language stricken by Mr. Woolfenden, on behalf of his clients that took this money away from public education, and insert the lines so that this money assessed and collected on a state basis will be reserved for education as it was in the past.

PRESIDENT NISBET: The Chair cannot answer your question. Will you ask the question of Mr. Woolfenden?

MR. W. F. HANNA: No. May we move that that part of the Woolfenden amendment be reinserted?

PRESIDENT NISBET: The Chair doesn't want to get into the same argument we got in before. Mr. Hanna, the Chair is informed the only way you can get at this is to reconsider the vote by which the second part of Mr. Woolfenden's amendment was agreed to.

The question is on Committee Proposal 52, as amended. Mr. Bonisteel.

MR. BONISTEEL: Mr. President, I favor the passage.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, I urge a no vote on the committee proposal for the simple reason that this matter should be left to the legislature. We have taken this money away from the schools, and there is no need to fix it in the constitution as we had in the past.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the committee, I would like to address a question to Mr. Austin, or ask him to confirm my understanding of this.

PRESIDENT NISBET: You may if Mr. Austin cares to answer.

MR. G. E. BROWN: I believe it is your understanding, as you stated previously, that if a no vote is cast upon this, then the matter is stricken from the committee proposal, and Committee Proposal 51 will do exactly what this amendment would have done had the word been left in, "may" rather than "shall." Is that correct?

MR. AUSTIN: That is correct.

MR. G. E. BROWN: That is a clear understanding?

MR. AUSTIN: That is correct.

PRESIDENT NISBET: Mr. Kuhn. Mr. Kuhn passes. Mr. Gust.

MR. GUST: Well, that may be your understanding, Mr. Austin, and maybe you are convinced by it, Mr. Garry Brown, but that is why I took the trouble to put this question to Mr. Van Dusen half an hour ago. Now, let's get it straight in our minds. This is the whole nub of the matter. The one side says, and I don't think it has been refuted, when you take away the earmarking of these funds, in order to preserve the status quo, taxwise, of utilities and other groupings in the state of Michigan, you've got to change the "may" to "shall" in order to preserve their rights in this matter, and, incidentally, your rights as citizens of the state of Michigan. Now, I don't care whose understanding it is, going back with this Mutt and Jeff conversation on the floor, it is still back to the question I put to Mr. Van Dusen, and nobody has refuted it yet, that in order to preserve the status quo here and insure the utilities that they will have the tax break to which they are entitled for the reasons that were set forth so eloquently by the chairman of this committee, Mr. Brake, himself, I urge you to vote yes on this proposal as amended.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question now is on Committee Proposal 52, as amended. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—62

Andrus, Miss
Anspach
Batchelor
Bledsoe
Bonisteel
Boothby
Conklin, Mrs.
Cudlip
Donnelly, Miss
Doty, Dean
Erickson
Figy
Follo
Gover
Gust
Habermehl
Hannah, J. A.
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Kelsey
Krolikowski
Kuhn
Leibrand
Leppien
Liberato
Mahinske
McAllister
McLogan
Millard
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Youngblood

Nays—46

Allen
Austin
Baginski
Balcer
Barthwell
Beaman
Blandford
Brake
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
Dehnke
DeVries
Doty, Donald
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Finch
Gadola
Garvin
Hanna, W. F.
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Jones
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Lesinski
Madar
Murphy
Perras
Sablich
Seyferth
Shaffer
Staiger
Van Dusen
Young

SECRETARY CHASE: On the passage of Committee Proposal 52, the yeas are 62; the nays are 46.

PRESIDENT NISBET: **Committee Proposal 52,** as amended, is not passed. Mr. Woolfenden.

MR. WOOLFENDEN: I would like to make a parliamentary inquiry. Is my understanding of our rules correct, that a motion to reconsider can be made on Monday?

PRESIDENT NISBET: That is correct, Mr. Woolfenden. Mr. Barthwell.

MR. BARTHWELL: Mr. President, I move that we reconsider the vote on the proposal that we have just voted on and ask for the yeas and nays.

MR. WANGER: Mr. President, a parliamentary inquiry.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Can the motion to reconsider be made more than once?

PRESIDENT NISBET: No, sir.

MR. WANGER: I move to table the motion to reconsider.

PRESIDENT NISBET: Mr. Hutchinson, are we in trouble again?

MR. HUTCHINSON: Mr. President, in the senate, if you move to table the motion to reconsider, it is gone; you can't take that motion from the table.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, I move that the proposal be placed on the table.

MR. KUHN: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: If everyone will just please keep quiet for a moment, we will try not to get into the trouble we were in before. Mr. Barthwell, your motion was made to reconsider. Do you want to put that or do you want to withdraw it?

MR. BARTHWELL: I want to put it, sir.

MR. KUHN: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Yes, Mr. Kuhn.

MR. KUHN: We are not proceeding under the rules of the committee of the whole, but we are proceeding under the rules of the convention, and I think if you read those rules clearly, that there are 2 times that you may move to reconsider, once the same day, and once the next, but not twice in the same day, and I so call your attention to that rule, rule 53, and ask for a ruling. Mr. President, could we have a ruling on rule 53, please?

PRESIDENT NISBET: That is what we are trying to get, Mr. Kuhn. That is what we are discussing. Will the convention please be in order.

The Chair calls attention to the last sentence of rule 53, "No motion to reconsider shall be renewed on the same day." This seems to indicate that a second motion to reconsider, if made pursuant to the provisions of the first sentence of rule 53, it would be in order. The ruling will be that the vote to reconsider may be made now. If it loses, it can be made again on Monday.

MR. KUHN: Thank you, Mr. President.

MR. WANGER: Mr. President, I withdraw the motion to table.

MR. BARTHWELL: Mr. President, I withdraw the motion to reconsider.

PRESIDENT NISBET: The secretary will read the next proposal.

SECRETARY CHASE: **Committee Proposal 53,** A proposal to require that every tax law shall distinctly describe the tax, covering article X, section 6 of the present constitution.

Following is Committee Proposal 53 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 911.):

Sec. a. Every law which imposes, continues or revives a tax shall distinctly state the tax.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this is the provision of the old constitution, except that we have left out the words saying that it is not sufficient to refer to some other law in order to fix your tax. That prohibition has been left out. Otherwise, we have the same provision of the old constitution.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I would like to urge a unanimous vote on this one.

PRESIDENT NISBET: The question is on Committee Proposal 53. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. Brown.

MR. G. E. BROWN: In order to save time, while the vote is being recorded, the matter that has just occurred has bothered me for some time, and that is that you can have a motion to reconsider by a nonproponent of the motion. Now, I think this is a bad rule, and I think that is not the rule that is always accepted. And I would like to suggest to the president that the rules committee consider changing this rule so that we will not have the debacle that occurs when this happens.

PRESIDENT NISBET: Mr. Brown, would you mind writing that out and referring it to Mr. Van Dusen?

The roll was called and the delegates voted as follows:

Yeas—100

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Blandford
Bledsoe
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Figy
Finch
Follo
Gadola
Garvin
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McAllister
McLogan
Millard
Murphy
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 53, the yeas are 100; the nays, none.

PRESIDENT NISBET: **Committee Proposal 53** is passed and referred to the committee on style and drafting.

For Committee Proposal 53 as rereferred to the committee on style and drafting, see above, page 2666.

The secretary will read the next proposal.

SECRETARY CHASE: Item 13 on the calendar, **Committee Proposal 54**, A proposal that the power of taxation shall never be surrendered, suspended, or contracted away, covering the material in article X, section 9 of the present constitution.

Following is Committee Proposal 54 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 912.):

Sec. a. The power of taxation shall never be surrendered, suspended, or contracted away.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this comes down to us from the remote past, when there was a practice of farming out taxes. We think the safe thing to do is to continue it.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 54. Miss Donnelly.

MISS DONNELLY: Through the Chair, Mr. President, I would like to ask the proponent of this a question, if he would answer; the question being, whose power of taxation shall never be? Are we talking about the state, are we talking about a city, are we talking about a county? In view of what we did in local government, I don't understand this one.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: We are talking about all of them. I think there is no conflict with what we did in connection with the metropolitan authorities, but if there is any conflict, both will have to be construed by the court. I think there is not.

PRESIDENT NISBET: Will the boards be cleared, please? Those in favor of Committee Proposal 54 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. Austin.

MR. AUSTIN: Mr. President, in order to save time, while the machine is picking up the votes, I would like to explain my abstention on this one. I was on my feet when Miss Donnelly asked her question, because I think she has raised a very legitimate question, and I feel we should have dealt with it before we voted. I certainly thought that I should abstain.

The roll was called and the delegates voted as follows:

Yeas—100

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Figy
Finch
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
McAllister
McLogan
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden

Follo
Gadola
Garvin
Millard
Murphy
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 54, the yeas are 100; the nays, none.

PRESIDENT NISBET: **Committee Proposal 54** is passed and referred to the committee on style and drafting.

For Committee Proposal 54 as rereferred to the committee on style and drafting, see above, page 2667.

May I suggest that the delegates remain in the room. We only have 2 more to go. It will save a considerable amount of time. The secretary will read the next proposal.

SECRETARY CHASE: **Committee Proposal 55,** A proposal to include article X, section 19 of the 1908 constitution in the new constitution.

Following is Committee Proposal 55 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 912.):

Sec. a. No [collector, holder or disburser] PERSON HAVING CUSTODY OR CONTROL of public moneys shall have a seat in the legislature, nor be eligible to any office of trust or profit under this state, until he shall have [accounted for and paid over] MADE AN ACCOUNTING, as provided by law, OF all sums for which he may be liable.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this is the idea contained in the old constitution expressed in slightly different words. The meaning is obvious.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 55. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—102

Allen
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Figy
Finch
Follo
Gadola
Garvin
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
McAllister
McLogan
Millard
Murphy
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Young
Youngblood

Nays—1

Binkowski

SECRETARY CHASE: On the passage of Committee Proposal 55, the yeas are 102; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 55** is passed and referred to the committee on style and drafting.

For Committee Proposal 55 as rereferred to the committee on style and drafting, see above.

Here comes the last proposal. The secretary will read.

SECRETARY CHASE: Item 16 on the calendar, **Committee Proposal 57,** A proposal to require a public hearing on all budgets of local units of government before the budgets are approved. Amends article X by adding a section.

Following is Committee Proposal 57 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 928.):

Sec. a. Any [municipal corporation,] county, township, CITY, VILLAGE, AUTHORITY or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues[,] shall adopt said budgets only after a public hearing [under such terms and conditions as the legislature shall establish by general law] IN A MANNER PRESCRIBED BY LAW.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this one is new. City and village charters generally provide for a hearing on the budget before it is adopted. Townships, counties and school districts quite generally offend against this rule. We think it is an improvement; it ought to be adopted.

PRESIDENT NISBET: The question is on the passage of Committee Proposal 57. Those in favor will vote aye. Opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—103

Allen
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Figy
Finch
Follo
Gadola
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McLogan
Millard
Murphy
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 57, the yeas are 103; the nays, none.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: **Committee Proposal** 57 is passed and referred to the committee on style and drafting.

For Committee Proposal 57 as rereferred to the committee on style and drafting, see above, page 2668.

Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, may I thank you for staying through for 3 days in succession on second reading. We have met our schedule. Let's keep on the rest of the way through. (applause)

PRESIDENT NISBET: Thank you, Mr. Brake. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, on behalf, I am sure, of all of the members of the committee on finance and taxation, I would like to convey my respects and compliments to Mr. Brake. It has been an honor and pleasure to serve under him.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, in commenting on the Woolfenden amendment, I made a statement which Mr. Woolfenden takes offense to. I implied that the utilities were his clients. I apologize if I have injured his reputation as an attorney. It was made in the debate, and I withdraw that accusation, and I apologize for any harm I may have done to the gentleman.

PRESIDENT NISBET: It is so accepted. Let me express, again, my appreciation to you for your kindness and consideration this afternoon. I hope you have a happy Easter.

The secretary has several announcements.

SECRETARY CHASE: We have the following announcements: Mr. Snyder requests the members of the tax committee to meet in room A immediately after the session, and interested delegates are invited.

The committee on style and drafting will meet at 11:00 o'clock Monday, April 23, in room D.

The select committee on considering a mandamus action to put the constitution on the November ballot will meet in room F, Monday, April 23, at 12:00 noon. R. C. Van Dusen, chairman.

We have the following requests for leave: Mr. Snyder would like to be excused from the latter part of Monday's session; Mr. Norris, from Monday's session; Mr. Jones would like to be excused from the first part of Monday's session; and Mr. Hutchinson would like to be excused from the afternoon session of Monday.

PRESIDENT NISBET: Without objection, the excuses are granted. The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Mr. President, I move that we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned until Monday at 2:00 o'clock.

[Whereupon, at 6:05 p.m., the convention adjourned until 2:00 o'clock p.m., Monday, April 23, 1962.]

ONE HUNDRED TWENTY-SIXTH DAY

Monday, April 23, 1962, 2:00 o'clock p.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** today comes to us through the courtesy of Delegate Wynne Garvin, who is, incidentally, the holder of the silver beaver award, the highest award in scouting given by any council. Wynne has arranged with the boy scouts of the Chief Okemos council for our opening ceremony. Participating in it will be Eagle Scout Jack York, Eagle Scout Kenneth Schram and second year Bear Cub Scout Billy Williams. Will you please rise.

EAGLE SCOUT JACK YORK, JR.: Could we bow our heads in a moment of prayer? Lord, as boy scouts we give our thanks for the honor of appearing before this convention to ask Your blessing. We are the youth of America today that are in earnest about the America of tomorrow. We would ask Thy guidance for these men, who must act today so that a better tomorrow may be our inheritance.

We should like to believe, Lord, that all things that are the acts of man are either good or bad. So it is that something a little bad is still bad; but something a little good is still good. We ask Your blessing and guidance that all acts of these dedicated men and women will be known as good.

These things we ask in the name of Jesus Christ, our blessed Savior. Amen.

EAGLE SCOUT KENNETH SCHRAM: Since the beginning of the boy scouts of America, participating citizenship, based on good character, has been the goal of more than 32 million boys and men. In 1962 our slogan is: I will do my best to build, serve, achieve. Strengthen America. Character counts. We salute you men and women as you serve to build a new constitution to achieve a greater future for the people of Michigan. As a token of our esteem and our respect, may we present to President Nisbet this plaque of the Chief Okemos council of the boy scouts of America?

[Whereupon, President Nisbet was presented with a plaque and a gavel.]

BEAR CUB SCOUT BILLY WILLIAMS: Mr. President, the boy scouts of Chief Okemos council extend a cordial invitation to you to attend our scout-a-rama on Saturday, June 9, at the national guard armory in Lansing. We hope you will be able to take this opportunity to see our displays of scouting in action.

PRESIDENT NISBET: Thank you very much, Billy. (applause) Thank you very much, Mr. Garvin and Eagle Scout Jack and Ken and Billy, for this cordial ceremony.

The **roll call** will be taken by the secretary. All present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present. Prior to today's session, the secretary received the following requests for leave:

Messrs. Allen, Baginski, Binkowski, Boothby, Dell, King, Liberato, Perlich, Pollock, L. W. Richards, Rush and Yeager, temporarily, from this afternoon's session; Messrs. Douglas and Hood, from today's session; and Mr. Bentley asks to be excused from the evening's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Delegates Allen, Baginski, Binkowski, Boothby, Dade, Dell, Douglas, Greene, J. A. Hannah, Hood, Hutchinson, Jones, King, Liberato, Nord, Norris, Pellow, Perlich, Pollock, L. W. Richards, Rush, Suzore and Yeager.

Absent without leave: Messrs. Barthwell, G. E. Brown, T. S. Brown, Durst, Farnsworth, Faxon, Mrs. Hatcher, Messrs. Hodges, Murphy, Romney and Tubbs.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Barthwell, Hodges, Faxon, G. E. Brown, Rush, Durst, Binkowski, T. S. Brown, Dell, Liberato, Romney, L. W. Richards, Farnsworth, Pollock, Baginski, Boothby, Perlich, Allen, King, Hutchinson, Jones, Tubbs, Yeager and J. A. Hannah.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 81 of that committee, reporting back to the convention **Committee Proposal 79,** A proposal pertaining to a commission on legislative apapportionment;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 79 as reported by the committee on style and drafting, see below under date of April 25.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 82 of that committee, reporting back to the convention **Committee Proposal 80,** A proposal pertaining to the reapportionment of the legislature: (a) the senate; (b) the house of representatives; (c) districting of territories annexed to cities and municipalities;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 80 as reported by the committee on style and drafting, see below under date of April 25.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 83 of that committee, reporting back to the convention **Committee Proposal 58,** A proposal pertaining to the elective franchise;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 58 as reported by the committee on style and drafting, see below under date of April 26.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 84 of that committee, reporting back to the convention **Committee Proposal 99,** A proposal to provide that the legislature may provide for a jury of less than 12 in civil cases;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 99 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 85 of that committee, reporting back to the convention **Committee Proposal 100,** A proposal to provide that the legislature shall not authorize lotteries or the sale of lottery tickets;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 100 as reported by the committee on style and drafting, see below under date of April 27.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 86 of that committee, reporting back to the convention **Committee Proposal 101,** A proposal to provide that the state shall not engage in internal improvements except in certain specified areas and except that the legislature may empower local subdivisions to act in the area of internal improvements;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 101 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 87 of that committee, reporting back to the convention **Committee Proposal 102,** A proposal to provide that each house of the legislature may choose its officers, determine its rules, judge qualifications of its members and other matters;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 102 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 88 of that committee, reporting back to the convention **Committee Proposal 103,** A proposal to provide that sessions of the legislature be open and that a concurrent resolution is necessary for adjournment for more than 3 days;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 103 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 89 of that committee, reporting back to the convention **Committee Proposal 104,** A proposal to provide for 3 readings of a bill before passage and for passage of bills by a majority of the members elected;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 104 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 90 of that committee, reporting back to the convention **Committee Proposal 105,** A proposal to provide that bills must be printed 5 days prior to passage and for limitation of extraordinary sessions;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 105 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 91 of that committee, reporting back to the convention **Committee Proposal 106,** A proposal to allow the legislature to pass laws regarding indeterminate sentences;

with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 106 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 92 of that committee, reporting back to the convention **Committee Proposal 108,** A proposal to provide a limitation against general revision of the laws and a method of compilation;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 108 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 93 of that committee, reporting back to the convention **Committee Proposal 109,** A proposal to provide that the legislature may enact laws whereby public employment disputes can be settled;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 109 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 94 of that committee, reporting back to the convention **Committee Proposal 110,** A proposal to provide that the legislature may enact laws relative to hours and conditions of employment;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 110 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 95 of that committee, reporting back to the convention **Committee Proposal 111,** A proposal pertaining to the employment of chaplains;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 111 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 96 of that committee, reporting back to the convention **Committee Proposal 112,** A proposal to provide that certain office holders shall be ineligible for the legislature;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 112 as reported by the committee on style and drafting, see below under date of April 27.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 97 of that committee, reporting back to the convention **Committee Proposal 113,** A proposal to provide that the legislature may submit bills to the people for referendum;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 113 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 98 of that committee, reporting back to the convention **Committee Proposal 114,** A proposal to provide that each house of the legislature shall keep a journal and the yeas and nays be recorded on a demand of 1/5 of the members present;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 114 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 99 of that committee, reporting back to the convention **Committee Proposal 115,** A proposal to provide that no member of the legislature or state officer shall have a substantial conflict of interest with the state;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 115 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 100 of that committee, reporting back to the convention **Committee Proposal 116,** A proposal to provide time and place of legislative sessions and that bills and resolutions pending at the end of a session shall be considered introduced at the next session;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 116 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 101 of that committee, reporting back to the convention **Committee Proposal 117,** A proposal to provide that votes on elections and nominations in the legislature be recorded;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 117 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: In response to previous inquiries the Chair has made a ruling on 2 questions, which the secretary will read.

SECRETARY CHASE: In regard to voting on second and third reading rule 58 reads as follows:

> On the passage of every proposal, section, article and any complete revision of or amendment to the constitution, the vote shall be taken by yeas and nays, and entered on the journal, and no proposal, section, article

> > or any such amendment or complete revision shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same.
>
> It is the ruling of the Chair that the practical application of this rule means that it shall apply to each proposition as it comes before the convention in its official form for a final vote.
>
> If a proposal containing several sections; if an article containing several sections; if a complete revision containing several articles and sections; or if an amendment containing several articles and sections, comes before the convention for a vote, one vote on the multisection proposal, one vote on the multisection article, one vote on the complete revision, or one vote on the multiarticle or multisection amendment is all that is necessary, since the vote for either of them in the entirety would be a vote for all the component parts. If a proposal contains but a single section, obviously one vote on that single section proposal would be all that is necessary.

On the division of the question on second and third reading, the president calls attention to the following rulings in the U.S. house of representatives:

> In voting on the third reading and passage of a bill or a joint resolution, a separate vote on the various propositions of the bill may not be demanded.
>
> The speaker held that the question on the passage of the bill could not be divided and that the rule and practice of the house in respect to division of questions did not apply to the question on the passage of a bill.
>
> Speaker Charles F. Crisp of Georgia
> Hinds Precedents, volume V, section 6144
> Nathaniel P. Banks of Massachusetts
> Hinds Precedents, volume V, section 6145
> Speaker Pro Tem Henry L. Dawes of Massachusetts
> Hinds Precedents, volume V, section 6146
> Speaker James K. Polk of Tennessee
> Hinds Precedents, volume V, section 6147
> Schuyler Colfax of Indiana
> Hinds Precedents, volume V, section 6148
> Nicholas Longworth of Ohio
> Hinds Precedents, volume VIII, section 3172
>
> Never in Michigan legislative practice has it been possible, or even requested, that a bill be divided for consideration on final passage.
>
> The Chair will point out that the purpose desired, namely, getting a record vote on any portion of a proposal, or elimination of any part of a proposal from the final draft thereof, can be accomplished by the offering of the proper amendments.
>
> The Chair, therefore, rules that a division of a proposal on second or third reading is not in order.

PRESIDENT NISBET: That will be printed in the journal. Mr. Downs.

MR. DOWNS: I have a parliamentary inquiry. We have before us an amendment to Committee Proposal 91, which would call for districting of the supreme court. I am not speaking for or against the merits. Does this ruling mean that such amendment could be adopted to Committee Proposal 91 by less than 73 votes on second reading?

PRESIDENT NISBET: Amendments on second reading, Mr. Downs, can be adopted by a majority vote of those voting, but the final passage would have to be by 73 votes.

MR. DOWNS: Mr. President, I respectfully wish to announce — and this is the first time that I have ever disagreed with the president of the convention on a ruling. I am not now appealing from the decision of the Chair because I think this might be a moot question at this point. But I wish to apprise the convention that, at the appropriate time, I may so do. I regret this ruling very much because I think it does have an effect that is contrary to the clear language of rule 58, and I hope all the delegates will read this very clearly for their own construction in case there is, later on, an appeal from the decision of the Chair on this. I wish to make the same comment in reference to the possibility of dividing a proposal so that separate component parts can be voted on separately and at the appropriate time I may again bring that up to the convention's attention.

I did not want anybody to think that I was estopped from raising the question later because I did not raise it now. I would like also a chance to study the printed ruling before commenting further.

PRESIDENT NISBET: It will be printed in the journal and the Chair suggests, Mr. Downs, that the delegates do just that. Mr. Lesinski.

MR. LESINKI: Mr. President, I wish to point out that the committee on legislative powers submitted each section as a separate committee proposal. Now, other committees grouped several sections in a proposal. You have no uniformity. Now, that rule should have been set up right from the beginning. You have no uniformity in these proposals. Therefore, I believe that each section should be voted on separately, if it can stand alone.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: With all deference to your ruling made here, I would say that I find 2 things wrong with the ruling: 1, it is based on our rules; and 2, it's based on legislative procedure. Now, I'd like to point out for your attention and ask for a future ruling on what the Chair's interpretation of the rules that are provided for us in the constitution are. In section 4 of article XVII it says:

> No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal. Any proposed constitution or amendments . . . .

Now, I feel in my own mind that the use of the word "amendment" and "amendments" here, any substantive change that we propose in the new document as opposed to the old document would be an amendment to the constitution. And I feel that we are going to have to divide these questions or in the future we're going to have somebody attack the entire legality of the whole document and possibly prevail and we're going to be doing all this for naught here. Like I say, there may be a difference of minds in this matter here, but I think it is something that should be looked into.

PRESIDENT NISBET: Were you finished, Mr. Mahinske?

MR. MAHINSKE: Yes, I'm finished.

PRESIDENT NISBET: Thank you. We'll take it under consideration.

Second reading of proposals. The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, before we get into the proposed agenda for second reading, I should like to make the following motion: I would move that item 2 on the calendar for second reading, being Committee Proposal 91 relating to the supreme court, be placed at the foot of the second reading calendar for today. This is done solely at the request of members who made this request to me, of both parties, prior to the adjournment on Thursday. A number of them stated they had to be absent for today's afternoon session as they had made commitments, and this is the first time we are meeting on a Monday afternoon at 2:00 o'clock. I stated that I would make the motion. I urge that you adopt it; that item 2, Committee Proposal 91, be placed at the foot of the second reading calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Danhof. Mr. Ford.

MR. FORD: Mr. President, I should like to support Mr. Danhof's motion. We have discussed this and feel that it would be in the best interests of the convention.

PRESIDENT NISBET: Those in favor of the motion will say aye. Opposed, no.

The motion prevails; Committee Proposal 91 will be placed at the foot of the calendar. The secretary will read.

SECRETARY CHASE: Item 1 on the calendar, **Committee Proposal 90,** A proposal pertaining to the judicial branch. A substitute for section 1 of article VII.

Following is Committee Proposal 90 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1240.):

Sec. a. The judicial power of the state is vested exclusively in one court of justice, which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court and other courts of limited jurisdiction that the legislature may establish by a 2/3 vote of the members of each house.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, delegates, there has been no change by style and drafting in this provision as it was passed by the committee of the whole and ratified by this convention. At the time this was brought up, we had considerable debate upon it. It sets up the general court structure, the idea that it is a cohesive court and not separate, disjunctive and loosely held branches. It sets up the idea of a supreme court, a court of appeals, the circuit court, the probate court and other courts of limited jurisdiction that the legislature may establish by a 2/3 vote of the members of each house. Our committee met after the referral back from style and drafting, considered the proposal, has made no amendments thereto. We urge its adoption.

PRESIDENT NISBET: Any amendments?

SECRETARY CHASE: No amendments.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 90. All those in favor of the adoption of the proposal will vote aye; those opposed will vote nay. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—107

Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kelsey
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—1

McAllister

SECRETARY CHASE: On the passage of Committee Proposal 90, the yeas are 107; the nays, 1.

PRESIDENT NISBET: Committee Proposal 90 is passed and referred to the committee on style and drafting.

For Committee Proposal 90 as rereferred to the committee on style and drafting, see above, page 2672.

SECRETARY CHASE: Item 3 on the calendar, **Committee Proposal 92.** A proposal pertaining to a court of appeals. Amends article VII.

Following is Committee Proposal 92 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1616.)

Sec. a. The court of appeals shall consist initially of 9 judges who shall be nominated and elected on a nonpartisan basis from districts, [of the state as established from time to time by the legislature] AND IN THE MANNER, PRESCRIBED BY LAW. The supreme court may prescribe by rule that the court of appeals may sit in divisions[,] AND FOR the terms of court and the times and places thereof. Each such division shall consist of not fewer than [3] THREE judges. [The legislature may by law increase] The number of judges comprising the court of appeals MAY BE INCREASED, AND THE DISTRICTS FROM WHICH THEY ARE ELECTED MAY BE ALTERED BY LAW.

Sec. b. [Initially, 3 judges shall be elected for a term of 2 years, 3 judges for a term of 4 years, and 3 judges for a term of 6 years. Thereafter, the term of office shall be 6 years. The time of election and the order of rotation shall be provided by law.] JUDGES OF THE COURT OF APPEALS SHALL HOLD OFFICE FOR A PERIOD OF 6 YEARS AND UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED. THE TERMS OF OFFICE FOR THE JUDGES IN EACH DISTRICT SHALL BE ARRANGED BY LAW TO PROVIDE THAT NOT ALL TERMS WILL EXPIRE AT THE SAME TIME.

Sec. c. The jurisdiction of the court of appeals shall be PROVIDED [prescribed] by law and the practice and procedure therein shall be as provided by RULES OF THE supreme court [rule].

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, you will note that the committee on style and drafting made certain changes herein. It is my opinion and the opinion of the committee on judicial branch that no substantive change has been accomplished, and that it is merely clarifying in nature. I would however pose this particular question to the chairman of the style and drafting committee, our good friend, Mr. Cudlip, in order to clear up something which arose in our committee and which since has been explained to me by Dr. Joiner. That is this, Mr. Cudlip, if you would, through the Chair: your committee envisions a difference between the use of the words "prescribed by law" and the words "provided by law." Is this correct?

PRESIDENT NISBET: Mr. Cudlip.

MR. CUDLIP: Mr. President, Mr. Danhof, yes, there is a difference between the 2 phrases. We used both of them — depending upon the context. We used both of them in different provisions of the proposed constitution.

MR. DANHOF: Mr. Cudlip, if I might, through the Chair: it was raised by Mr. Prettie on our committee that elsewhere in the constitution, on line 3, where that is used, that we use the words "as provided by law" whereas here your committee used "in a manner prescribed by law." I was impressed with this and had actually intended to offer an amendment to change the word "prescribed" to "provided by." I inquired of Dr. Joiner and he stated that in his opinion the committee on style and drafting was using the word "provided" where the legislature had to do the entire job, that is, that they not only had to set up the manner, but the districts and the whole thing, whereas where merely the details of some particular plan were

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

left to the legislature and not the overall whole planning, but merely the implementation of a plan, that your committee was using the words "prescribed by law."

MR. CUDLIP: That's generally correct.

MR. DANHOF: Is this correct?

MR. CUDLIP: Yes, sir.

MR. DANHOF: In that case, for the record, I am satisfied. I think, then, as used here, the word "prescribed" rather than the word "provide" is carrying out the intent of the committee, and in section a, section b and section c, of course, we leave to the legislature the staggering of the particular terms. Our committee concurred in that change. We agree that while there might be some slight change of substance, and there is here, and we point out to the convention that in section b, originally we put it in that the judges would have terms of 2, 4 and 6 years; style and drafting now provides:

> Judges of the court of appeals shall hold office for a period of 6 years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

I point out that when you read this in connection with a paragraph in Committee Proposal 96, it means that the initial terms of the judges of the court of appeals will not be 2, 4 and 6 years, but will be probably 6, 8 and 10 years, because we have provided that where terms are to be staggered, no term may be less than the basic term for the judge. The committee met, considered this, and had no particular objection thereto. We did not move to amend to return to the old language and, insofar as the committee and I personally are concerned, we would urge the acceptance of the alteration in section b thereto. I urge the adoption thereof.

PRESIDENT NISBET: There is an amendment, Mr. Chase?

SECRETARY CHASE: Mr. Ford offers the following amendment:

1. Amend page 1, line 2, [section a] after "basis" by striking out "from districts"; so the language will then read:

> Sec. a. The court of appeals shall consist initially of 9 judges who shall be nominated and elected on a nonpartisan basis, and in the manner, prescribed by law.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, members of the convention, the effect of this amendment would be to leave with the legislature the ability to place the intermediate court on a district basis or not on a district basis from time to time as the needs of the state judiciary dictated the best practice to be followed. It avoids freezing into the constitution for all time a plan for districts which is going to be somewhat difficult to change, once it is put into effect. It leaves to the legislature the ability to proceed in a deliberative process, to examine the advisability and feasibility either now or at some time in the future of a district plan for the election of these judges, and would leave it to the wisdom of the legislature to adopt that plan and to, in fact, repeal the plan if it proved to be unworkable.

I am not arguing strongly against this being an advantageous manner of selecting the judges, but I submit that we have had no evidence presented to this convention that it is better than any other method that might be selected, and I accede to what some of us refer to as the Hutchinson rule of writing a constitution, and that is that you should leave as many of these things to the flexibility and wisdom of the legislature as possible and urge that you support the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment by Mr. Ford. Those in favor of the amendment will say aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division is called for. Is there support? It is supported. Those in favor of the Ford amendment will vote aye.

MR. FAXON: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: Is the demand for the yeas and nays seconded?

SECRETARY CHASE: Sixteen.

PRESIDENT NISBET: Not a sufficient number up. Those in favor of the Ford amendment will vote aye. Those opposed will vote nay.

MR. PERRAS: Mr. President, would you have the secretary read it again, please?

PRESIDENT NISBET: Yes. The secretary will read the amendment.

SECRETARY CHASE: Mr. Ford's amendment is:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: The vote is on the amendment. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Ford, the yeas are 33; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of Committee Proposal 92. Will the delegates please clear the board. Those in favor of Committee Proposal 92 will vote aye. Those opposed will vote nay.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Mr. President, I'd like to announce my intention to abstain from voting. For lack of something else, a way to work myself out of the dilemma that your ruling given earlier this afternoon places me in, being unable to divide this question, I find that we must accept it all or accept none of it. I feel the necessity of having the courts clearly established, but I don't feel that I should be compelled to, by my vote, acknowledge acceptance of the district concept in the creation of this court. I find no way under your ruling of being able to vote in favor of the creation of the intermediate court of appeals and at the same time evidence, as a delegate representing my people, my disapproval of the district concept. For this reason, I can't vote intelligently on the question and will abstain.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I wish to announce my intention to abstain for the reasons outlined by Delegate Ford.

MR. SNYDER: Mr. President, I wish to abstain for the same reasons.

PRESIDENT NISBET: Just a minute, Mr. Snyder. Miss Hart, do you wish to abstain? Miss Hart, Mr. Snyder, Mr. Marshall, Mr. Madar, Mrs. Daisy Elliott, Mr. Lesinski, Mr. Buback, Mr. Balcer, Mr. Wilkowski, Mr. Bledsoe, Mr. Walker and Mr. Faxon abstain.

Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 88

Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Figy
Finch
Follo
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen

Gadola
Goebel
Gover
Gust
Habermehl
Nisbet
Page
Perras
Plank
Wanger
White
Wood
Woolfenden

Nays — 7

Barthwell
Erickson
Hodges
Kelsey
Stopczynski
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 92, the yeas are 88; the nays are 7.

PRESIDENT NISBET: **Committee Proposal 92** is passed.

Following is explanation of vote submitted by Mr. Kelsey:

> I wish to state the following reason for casting a nay vote on Committee Proposal 92 in reference to the appellate court:
>
> In my campaign and in committee of the whole I supported strongly the concept of a court of appeals. However, I cannot support the district concept of selecting the judges who would serve in this manner for fear of sectional geography having some prejudicial influence in this panel's decisions.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 92 as rereferred to the committee on style and drafting, see above, page 2673.

The secretary will read the next proposal.

SECRETARY CHASE: Item 4 on the calendar, **Committee Proposal 93,** A proposal pertaining to the circuit court. A substitute for sections 8, 9, 10 and 11 of article VII.

Following is Committee Proposal 93 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1393.):

> Sec. a. The state shall be divided into judicial circuits along county lines in each of which there shall be elected [1,] ONE or [when] MORE CIRCUIT JUDGES AS provided by law[, more than 1 circuit judge]. A circuit court shall be held at least 4 times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by RULES OF THE supreme court [rule]. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in [the] judicial [business] ACTIVITY. No change in the number of judges nor alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.
>
> Sec. b. Circuit judges shall be nominated and elected at nonpartisan elections in [the county or] the circuit in which they reside, and shall hold office for a period of 6 years and until their successors are elected and qualified. In circuits having more than one CIRCUIT judge [the] THEIR terms of office shall be arranged BY LAW to provide that NOT ALL TERMS WILL EXPIRE AT THE SAME TIME [they will expire on a staggered basis].
>
> Sec. c. Circuit courts shall have[:] original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear [,] and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions, in accordance with RULES OF THE supreme court [rules]; and jurisdiction of other cases and matters as PROVIDED BY RULES OF the supreme court [shall by rule prescribe].
>
> Sec. d. The clerk of each county organized for judicial purposes[,] or other officer performing the duties of such office[,] AS PROVIDED IN A COUNTY CHARTER shall be clerk of the circuit court for such county. The judges of the circuit courts may fill any vacancy in the office of AN ELECTED county clerk or prosecuting attorney within their respective jurisdictions[, but shall not exercise any other power of appointment to public office].

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, section a has had very minor changes by the committee on style and drafting, nothing as relates to substance, and we would recommend the adoption thereof as a committee.

Section b merely took out the language, "on a staggered term," and provided that "not all terms will expire at the same time." Again, the committee has no objection to the changes in the style and the drafting thereof.

In section c the changes made were in order to make the section consistent with other sections. The committee on style and drafting has always used "provided by rules of the supreme court" and to this we agree.

There is pending a committee amendment to section d and I think before going on, I will ask the secretary to read.

SECRETARY CHASE: Mr. Danhof, on behalf of the committee on judicial branch, offers the following amendment:

1. Amend page 2, line 8, [section d] after "in" by striking out "the" and inserting "an elective"; and after "office of" by striking out "an elected"; so the language will then read, "The judges of the circuit courts may fill any vacancy in an elective office of county clerk or prosecuting attorney. . . ."

MR. DANHOF: Mr. President, the purpose of this amendment is to make the intent perfectly clear. As the matter was changed on line 8 by the committee on style and drafting, it read that the judges of the circuit courts may fill any vacancy in the office of an elected county clerk. It is possible that you might not have an elected county clerk, even though prior thereto we provide "in a county charter." But beyond this, this problem already has arisen in this state. A gentleman was elected to fill the office of county clerk. He died. The circuit judge appointed a successor. He died. Under the language as it read, as changed by style and drafting, it would have read, "any vacancy of an elected county clerk." I submit to you that the second county clerk who died was not an elected county clerk. He was appointed by the judge to fill the unexpired term. Before he had a chance to get elected, the second one died, so the judge appointed a third one. In order to clear up any ambiguity, we point out here that the judges have the power to fill the vacancy not of an elected county clerk but of the elective office, so that you might have 2 or 3 vacancies with any 2 and, in particular, this may get to be more important now. Where you go to a 4 year term for your county officers, this vacancy might occur more readily than it does now. It does not change the intent. It allows the circuit judges to fill any vacancy in an elective office of county clerk or prosecuting attorney. And we took out the words "an elected" just to make sure there would be no change in the fact that the county clerk who might have been appointed to fill a vacancy, and died, the judge would not be denied the power to refill that vacancy because the second clerk would not have been elected. I urge adoption of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment. Those in favor will say aye. Those opposed, no.

The amendment is adopted. Any further amendments?

SECRETARY CHASE: Mr. Lawrence offers the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by inserting "Except as otherwise provided herein,"; so the language will then read:

> Sec. a. Except as otherwise provided herein, the state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges. . . ."

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the conven-

Explanation—Matter within [ ] is stricken, matter in capitals is new.

tion, I wish to start out by apologizing; this has come up so quickly that even though I am a member of the judicial committee — or was — I have not even had an opportunity to speak to Mr. Danhof about it. Just as I was leaving this noon, I was requested to see if it would not be possible to make a change in the judicial article so that a county under true county home rule could, by a vote of the majority of the people, provide for a court of countywide jurisdiction.

Frankly, the request came from Wayne county. It was made in a sincere effort by some attorneys there to see if it could not be provided for in this constitution or the constitution left flexible enough so that if the people of Wayne county wish to vote on a countywide court — or any county for that matter, but the need is most pressing there — if it would not be possible, for instance, to combine all courts into one court of countywide jurisdiction with separate divisions thereof, one place where much could be done perhaps over the next, I hope, 50 years before there has to be another convention. It could be done, for instance, in the family court field, in the field of juveniles. Much could be done in the handling of the matters handled by circuit and recorders court. It can't be done in a hurry.

Now, it would seem to me that it would be necessary to handle it much this way, although I would be glad to receive any suggestions: that in the provision for circuit courts, probate courts, just the provision "except as otherwise provided herein," and then, perhaps as a separate section to Committee Proposal 96 or as a separate committee proposal, that wording somewhat to this effect could then be added: in any county in the state, a majority of the people voting thereon could provide for the establishment of a county court which would have jurisdiction over all matters normally handled by the circuit court, probate court and any inferior courts.

It seems to me that it is worthy of our consideration that we should leave, at least as we go through this provision, an opportunity to make such a change if a majority of the delegates seem so inclined. Certainly, we will not get to Committee Proposal 96 until much later in the day and there would be an opportunity to go over it with the others. As a temporary matter, I would ask that you vote in favor of the amendment for the reasons stated, and if by the time we reach the end of all the proposals under the judicial article it appears that this plan is not feasible or it does not meet the approval of a majority of the delegates, I would be glad to be the one to move to strike this provision and the one in connection with the probate court.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, as Mr. Lawrence stated, he had not conferred with me and I realize that time suddenly got short. Finally, toward the end of his argument or his presentation, I finally got down to what he was really driving at. I see it's not just these words, "Except as otherwise provided herein." I would submit that what Mr. Lawrence proposes would be objectionable to me because it would disjoint and throw out of kilter everything that we have and have tried to provide for in the judicial article. If we allow each county to run its own course as to what type of court setup it might have, we might be going from one county to another and lawyers coming from Muskegon to Detroit or from Detroit to Kalamazoo, or vice versa would be confronted with a myriad of different types of procedure or courts. I submit, if what Mr. Lawrence is driving at is a county court system to allow a vote thereon, that the legislature, under our Committee Proposal 90, when it creates this type of operation, can undoubtedly and will undoubtedly provide if there is sufficient agitation therefor, a provision to allow the county to vote on the particular type of court that will be recommended thereto.

I would suggest that the adoption of this amendment and, more importantly, the adoption of the amendment that he wishes to offer to 96, would seriously jeopardize what we believe to be a workable system within this state. Bear in mind that we are one state and that we should have one trial court of equal basis throughout all of the state of Michigan. I would therefore feel that the adoption of this particular amendment, while it is not in and of itself injurious to this article, would lead to a matter which might become more injurious and, therefore, I would suggest that we not take the first step to put the dog on the particular proposal. I would therefore urge the rejection of the amendment.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: I believe I am entitled to speak twice?

PRESIDENT NISBET: That's right.

MR. LAWRENCE: Just this: in the first place, I do not want to do anything that would jeopardize this article as prepared by the committee and as amended otherwise by the delegates. There is a possibility, certainly, and it is again most strong in Wayne county, that with the provision in our Committee Proposal 94 or 95, one of the later provisions which allows the legislature to create inferior courts, that we may end up in this state with a setup such as they have in New York, one of many courts with overlapping jurisdiction where there is much confusion and apparently no ability to meet that specific situation. I can't conceive that Ingham county or Livingston county or any of the other counties outside of those in the southeastern portion would even vote in favor of any change on the committee's proposal as it will eventually be adopted with any amendments it may have. It seems to me that we are not looking forward as we should be, if we don't make some provision that would allow counties to have some self determination as to the manner in which their courts are run.

PRESIDENT NISBET: The question is on the adoption of the amendment by Mr. Lawrence. Mr. Ford.

MR. FORD: Mr. President, members of the convention, I rise to speak against the Lawrence amendment. My good friend, Mr. Lawrence, has couched it in as innocuous a framework as possible, but we have all discussed this very thoroughly in the past. We discussed it in the committee, we discussed it again here on the convention floor, and this is a rose by another name. He cites the New York system as being what we don't want from his point of view, and I cite the California system as being what we don't want, by my point of view, and what he is urging upon us is the California system for Wayne county. I don't know who he talked to in Wayne county, but apparently they are neglecting the Wayne county delegates because I have heard this from no one other than Mr. Lawrence, that there is a ground swell of feeling in Wayne county that we would like to have a court system different than the rest of the state. I think that the Wayne county delegates on the judiciary committee expressed themselves quite to the contrary, that we did not want a double standard under any circumstances in the state, and that in arriving at a uniform system of justice for the state, we wanted as nearly as possible to have the system and the practice in the courts, as well as the structure of the courts, uniform throughout the state. Most of the problems that we as practicing attorneys do have in Wayne county with regard to the structure of the court arise out of the fact that we do have a couple of unique courts down there, and I think that you will have to look a long way to find any dispassionate observer who will recommend a continuation of the creation of these special courts in our county.

What we would be opening the door for here — we do a little bit of it here and a little bit of it in 96 — is lobbying the legislature for the creation of a supermarket court. We started off in Committee Proposal 90 with what we have called for a long time in this convention a 5 tier court system, and what we are saying now is a 5 tier court system except as otherwise provided by law, or a 5 tier court system for everybody except as we might herein provide for exceptions for certain counties. Now, I submit that we can't follow and be consistent and true to the concept of the 5 tier system, whether it's 5 tiers or 4 tiers, but an integrated system of a single court system if we are going to start making provisions for this sort of exception. And when Mr. Lawrence talks about the desirability of a countywide system of courts, there may be some advantage in the abstract when you examine this, but when you talk about a county — and he used our county of Wayne as a place that needs this — with 39 municipalities in it already, and more being formed all the time, all of whom have some idea of whether they're right or wrong, those people believe that their local court system belongs to them and it is something that they should control. The people in the smaller communities of Wayne county do not feel that they should be lumped together in their local court system with the city of Detroit and I don't believe the people of the city of Detroit want their system to be extended on a countywide basis, so they are paying the cost of maintaining justice for those of us who live outside of the city. I strongly urge that you support the previous action of the convention and adopt the language as here presented and reject the Lawrence amendment.

PRESIDENT NISBET: The question is on the amendment by Mr. Lawrence. Those in favor say aye. Those opposed, say no.

The amendment is not adopted. The question now is on the adoption of Committee Proposal 93. Wil you ring the bell, please. Those in favor of Committee Proposal 93 as amended will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 110

Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bledsoe
Bonisteel
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Liberato
Madar
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays — 3

Dehnke
Radka
Shanahan

SECRETARY CHASE: On Committee Proposal 93, the yeas are 110; the nays, 3.

PRESIDENT NISBET: **Committee Proposal 93,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 93 as amended and rereferred to the committee on style and drafting:

Sec. a. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. A circuit court shall be held at least 4 times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges nor alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. b. Circuit judges shall be nominated and elected at nonpartisan elections in the circuit in which they reside, and shall hold office for a period of 6 years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. c. Circuit courts shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions, in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. d. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit courts may fill any vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

SECRETARY CHASE: Item 5 on the calendar, **Committee Proposal 94,** A proposal pertaining to the probate court. A substitute for sections 13 and 14 of article VII.

Following is Committee Proposal 94 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1463.):

Sec. a. In each county organized for judicial purposes, there shall be a probate court. The legislature may combine [1] ONE or more counties into probate districts, or combine the office of probate judge with any judicial office OF LIMITED JURISDICTION [inferior thereto] in any county with supplemental salary as provided by law. The jurisdiction, powers and duties of THE PROBATE [such] courts and of the judges thereof shall be prescribed by law. They shall also have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. b. Judges of probate shall be nominated and elected at nonpartisan elections in the counties or the probate district in which they reside and shall hold office for a period of 6 years and until their successors are elected and qualified. In [multijudge] counties or districts WITH MORE THAN ONE JUDGE THE TERMS OF OFFICE SHALL BE ARRANGED BY LAW TO PROVIDE THAT ALL TERMS WILL NOT EXPIRE AT THE SAME TIME [the legislature shall provide by law for staggered terms].

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, the committee on style and drafting reports back section a with basically no change from that passed by the committee and the convention. In section b, they merely make it consistent. "In counties or districts with more than one judge the terms of office shall be arranged by law to provide that all terms will not expire at the same time." The committee on style and drafting did not think it was dignified for the constitution to use the word "staggered." I don't know whether they were referring to the bench in whole or by individuals, but they felt there was a social connotation to the word "staggered" that was not conducive to the dignity of the bench. And so they arranged, although it took a line and a half to say what the word "staggered" does. It comes out, "with more than one judge the terms of office shall be arranged" and so on. I

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would urge the adoption of the provision as returned by the committee on style and drafting.

PRESIDENT NISBET: There is an amendment. Mr. Chase will read.

SECRETARY CHASE: Messrs. Radka, Plank and Sleder offer the following amendment:

1. Amend page 1, line 3 [section a] after "districts" by inserting "upon the approval by a majority of the voters of each county voting separately on the question"; so that the sentence will read:

> The legislature may combine one or more counties into probate districts upon the approval by a majority of the voters of each county voting separately on the question, or combine the office of probate judge with any judicial office of limited jurisdiction in any county with supplemental salary as provided by law.

PRESIDENT NISBET: The Chair recognizes Mr. Radka.

MR. RADKA: Mr. President and delegates of the convention, you will recall that when we considered Committee Proposal 94 on first reading, I offered several amendments. One prevailed, and actually the section is more palatable now than it was when it first appeared on the floor.

To put this in a nutshell: I believe that the county probate court is a local government institution of long standing and serves a definite purpose and function in each county. The reasons that were put forth for creating district probate courts — in other words to abolish certain county probate courts — were that there was not enough work in a particular county to keep a probate judge busy full time. Some people also said that this was a terrific waste of the taxpayers' money because this probate judge was not busy full time. The other argument that was put forth by the able members of the judiciary committee, the 20 and 1, was that it would establish a uniform court system. Now, I believe that what they had in mind was that if they created a probate district they might increase the salary of this probate court, attract an attorney to take this position, and thereby have a uniform court procedure. My first argument to you is this: that I don't believe that if we create a district probate court system that it will particularly give us a uniform proceeding before all probate courts in the state because the attorneys here are well aware of the different ways you handle different cases before different circuit judges, and the same is true of our federal judges.

I am real concerned about the fact that the members of the judiciary committee were all aroused and felt that they must do something for the local probate court system of the state. I don't feel that the hue and cry for this reform change came from the people of the counties who might possibly be affected by the change. I say that if you will look over a map of the state of Michigan you will recognize that this proposal, if it's going to have any effect at all, will have to be undertaken by the legislature. This makes me feel better because I think that the legislature, when they combine districts, will recognize the realism of the situation and will not do anything that will cause an upheaval of the probate court system in the state. But if we would just look over the state of Michigan, the counties that are most likely to be affected are found in the northern part of the lower peninsula and in the eastern part of the upper peninsula. Most of these counties are now handled by lay judges and this probably is what was behind the whole program. It was understood that you couldn't have a particular probate court operating in a particular way or as a county court with other jurisdiction being given to it unless you had an attorney; and there weren't enough attorneys from these areas to go around so they had to combine the courts into districts, not only horizontally but vertically, and maybe they could attract attorneys by dollars and then get what they ultimately intend to accomplish. But the end result is, we are destroying certain local courts in counties where I'm sure the electorate would want to keep them.

I say to you that a district probate court might function perhaps a little more efficiently from a strict technical and legalistic standpoint. But I also say to you that the probate courts in the northern part of this state are operated as local institutions. They do a great service to the people of their county. And I will say to you that a district probate court will give you less service for more money. If any of you have ever been up around our area, you should know that the lay probate judge is in his office most of the day. He is available to discuss with parents problems of their children, problems that they have with the police authorities. And I say to you that it will be a different problem when we have a probate district made up of, say, 3 counties. When Johnny gets in trouble on Tuesday night, Johnny may not see the probate judge until he comes through next week or maybe the following week. And if Johnny happens to live in the county that has the least population and the least amount of work and is not the home of the traveling probate judge, then maybe he won't have his problems taken care of until the meeting with the probate judge, which will have no effect on deterring his ways in crime.

All I'm asking by this amendment is just something very simple. We have a local institution and I don't believe that the people themselves have been criticizing it because, the way the probate courts have been doing their work in their respective counties, they know that it's been costing them too much. I say to you that at least the people of these particular counties, whose courts you intend to destroy or abolish, have the right to say so by a separate vote.

PRESIDENT NISBET: The Chair recognizes Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, I think most of the arguments on both sides of this matter were given before, but I do think that Mr. Radka's comments require some rebuttal. I appreciate his sincerity in making them and his plea for people who live in his county and similar counties.

Setting forth the reasons why the committee adopted this particular language, he has suggested that economy and uniformity were valid reasons, and they were. But I think he overlooked the primary reason why we adopted this language and why, I think, the committee of the whole adopted it. And that was our thought that there should be as good a caliber of justice as it is possible to constitutionally give to the people in the state of Michigan. This was the primary motive for providing for the districting of courts. We recognized that the deficiencies which now exist in the probate courts arose primarily because it is a part time court in so many areas. This is not a criticism of the judges in office, nor are we suggesting that solely for economy reasons do you lump it together to make it a full time job. We're convinced that it can be properly administered only by the highest caliber man if it is demanding of him in time and services. And it is important to remember that the probate judges themselves have recommended this to us and did recommend it to us.

We don't have a Gallup poll of the people of the counties on this, or so far as I know, any subject which comes before this convention, but we do have the report of the people working on the subject and in the field, and they say this is the way to do it. And I don't think that anyone can honestly suggest that these men are not interested in juveniles and they aren't interested in the work of the probate court. They are primarily interested in it and they have recommended this to us as a means of accomplishing more for the people through the courts than the present system of one court per county. Also it should be borne in mind that there is nothing in the committee proposal, as adopted or suggested here, which bars the vote of the people. If the legislature prefers to put the districting on a vote by counties, they have every right to do it and there is nothing here which prevents their doing it. This is the decision which we feel is up to them to make for themselves. We don't visualize that this would in any way reduce the service to localities. We think on the contrary, that it would vastly increase the quality of service to the people in counties both small and middle sized. We therefore feel that just as in committee of the whole this was rejected, it should be rejected here.

PRESIDENT NISBET: The Chair recognizes Mr. Sleder.

MR. SLEDER: Mr. President, fellow delegates, I would like to speak in support of the amendment. I'd like to point out the fact that we have given a great deal of attention and a great deal of consideration to putting government with the people at the local level. I would say here, here is an area where we have taken it away from the people on the local level and put in into the state capitol. We feel that we should have a form of county home rule where we're going to decide in a county exactly what offices we're going to have, what type of county offices we're going to have. I would say we should likewise give the right to those same people to decide what type of probate court they're going to have. Are they going to have a probate court for themselves in this one county or is it going to be combined with 2 or 3 other counties?

I would like to speak in behalf of what Delegate Everett said on the level of the type of work, that a judge should be a busy judge. Certainly we have made it available in this constitution that the probate judge need not only be a probate judge, but he can likewise carry on a law practice. I feel that in this section, where we have made it possible for the legislature to combine counties into one probate court, we have taken away from the people of the area a right that they now have, of having a court in that county. We made it possible for the state to make several counties into one court district. I therefore support this amendment and urge you to do likewise. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Plank.

MR. PLANK: Mr. President, Mr. Everett left the impression that all probate judges wanted a multicounty district system. This is not true. As I understand it, they were divided down the line and there were many of them that did not want this. Perhaps the ones he talked to from the larger counties may have thought they should. But in the smaller counties in the north, this is not a desirable situation.

I also would like to point out that if we have a part time man today, he is there the part of the time that we really need him, and he is not in some other county giving us part time at his pleasure instead of the pleasure of the folks in the area that do need this type of attention. I am wondering about whether or not it would be any less costly. Salarywise, you'd have today probably $5,000 for each one of these part time probate judges. You might be able to get an attorney to take it for $15,000 if he could practice law on the side at the same time. This, in my estimation, would not be economy because he would not be available at the time we need him and you would not be saving money as it stands. All we're asking in this amendment is to make it mandatory that the people have the last say. I don't think that's asking too much. I ask that you support this amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. McAllister.

MR. McALLISTER: Mr. President and fellow delegates, my county will not be affected by the amendment. I don't propose to tell the folks in the counties that will be affected how their courts should be run. I think they should have a right to decide their problems and to also decide by a vote whether they want to combine their courts, so I will support the Radka amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, Mr. Everett has told you our committee considered this very seriously and not from the standpoint of the big counties, because the big counties, those of maybe 250,000 people or over, or even smaller than that, will not be affected. But let's put the record straight as to what we have here. In the first place, there is nothing mandatory about this provision. Nobody is destroying any court. Nobody is taking away any judges. The judge is still going to be voted upon. The people in the county will still vote. If the legislature, when it decides it's going to create probate districts, wants to tie this in as a requirement, fine. If we were making it mandatory that they make probate districts — which we are not — then why tie in a mandatory requirement here? You don't tie the hands of the legislature when you give them a permissive action in other fields. If they want to do this, then I say the place to accomplish the particular purpose will be when the legislature decides in its wisdom if they are to have probate districts, where they are to have them, and under what circumstances.

We have a representative form of government. Let's make some use of it. We in the committee decided we wouldn't let the legislature make the determination. They may classify; they may decide not to do it. We think in their wisdom they will do it. If they want to do it, they can tie this in with it. I urge you to defeat the amendment. If not, you are tying the hands of the legislature on a matter where they may not even act. You haven't done it before in other places in this constitution. If this were mandatory, I would not have the particular objection that I do. We have not made it so. I urge that the amendment be rejected.

PRESIDENT NISBET: The Chair recognizes Mr. Shanahan.

MR. SHANAHAN: Mr. President, ladies and gentlemen, I speak in favor of the Radka amendment. I have this thought to offer: in a day, in a time, when a great many people seem to be going to a bigger capital to get something, here is a case where the counties in the northern part of the state are not asking for anything except to please let us handle this ourselves, just please leave us alone.

PRESIDENT NISBET: The question is on the amendment. Judge Mosier.

MR. MOSIER: Mr. President and delegates, something has been said here about the destruction of the probate courts. If you'll read the committee's report and proposal, you will find that there is no attempt to destroy or abolish courts. The courts are going to to remain just as they are, but they will serve, under the committee's plan, in the same manner that the circuit judges serve many counties. And you know that we have here in Michigan some circuits of 2, 3, 4 and 5 counties. The plan that is proposed here is very similar to the circuit court plan whereby one judge serves 2 or more counties.

In our judicial article that is being considered by this convention, it is the intention of the judiciary committee that all judges be lawyers, and they have provided the grandfather clause for these probate courts where they are now served by lay judges. But the time may come when that county may not have and could not have a lay judge because under the constitution, as we hope it will be adopted, it will be required that all probate judges be lawyers. Now, if the legislature should find some contiguous counties that would yield to a district plan similar to the circuit court plan, it could then unite those counties into one district. Each court would be by itself, but several courts, 2 or 3 or 4, as the legislature might determine, would be served by one judge. In my opinion, the legislature should not be tied by this amendment and I am in favor of the committee report and oppose the amendment.

PRESIDENT NISBET: The question is on the adoption — Mr. Radka.

MR. RADKA: First of all, Mr. President, I'd like to ask for the yeas and nays and then I would like to state that I recognize that there is nothing mandatory about the provision in the proposal that we are voting on, that the legislature might, if they so desire, require that the people first approve any particular act that they pass which would cause the creation of probate court districts, but at least it leaves you with the impression that the legislature would do this when they might elect not to do it. And I recognize something like this happening: with this provision you've got in this constitution now — though we haven't come to it yet — requiring that all judges of probate be attorneys, I think the legislature is going to find themselves confronted with this districting of probate courts quicker than you think if this document that we are contriving here should be accepted by the people.

We'll take Keweenaw county: they have no attorneys in the county but they do have a probate judge. Should this probate judge, with the grandfather clause, die or refuse to run, immediately you're going to find a probate court in a particular county that just cannot comply with the constitution. So what's going to happen is, the legislature will probably have to take the bull by the horns and create a district. And if they do this in haste, they probably won't want a vote of the people. They'll just create the district and this will start the ball rolling and this may be the pattern it will follow all the way through.

I'd like to briefly state my thanks to the eminent Judge

Mosier who has pointed out that you are doing nothing here which is so different than what we already have, and that is we're just creating the possibility of having probate court districts just like we have circuit court districts. And fellow delegates, I practice in an area where we have a circuit court district, 3 counties: Alpena, Presque Isle and Montmorency. Alpena is the heavy population end of the district. The judge lives and spends most of his time there. He is available for conference and for motions during most of the week. The judge has his term every 3 months up in our county, and on occasion, upon request, he will come up and hear things. It's not that the judge is not accommodating, but there is enough work right at his doorstep in Alpena county. So why should he bother with the little things in Montmorency county and Presque Isle county? And I assure you that this is that situation we're going to be confronted with if we start having probate court districts. And the problems of the probate court should not have to wait until the probate judge comes "a-riding" to your county, especially when he is dealing wtih juvenile matters. I don't feel that we are asking for anything here that is wrong. It made me feel a little bit better to find certain delegates sitting around this part of the floor who say: what is so unreasonable about this? A probate court institution in a county is something that has been with us for ages. Why not at least let the people decide whether they want their court to join with another county district?

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr President, may I ask how many speakers are now seeking recognition?

PRESIDENT NISBET: Three.

MR. VAN DUSEN: In that event, Mr. President, I move that debate on this amendment be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Judge Leibrand.

MR. LEIBRAND: Mr. President and fellow delegates, I intend to vote for the Radka amendment. The amendment, in my opinion, goes in the direction of greater county, greater or enlarged county home rule, something to which most of us have been giving lip service at least throughout the convention. If these small counties feel they can afford the luxury of having their own probate judges, I don't believe the legislature should be empowered to force them into districts. I will vote for the Radka amendment.

PRESIDENT NISBET: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I think in the light of the comparisons that have been made between circuits or circuit courts and district or probate courts, it should be pointed out that there is a basic difference in the type of service rendered by the 2 courts. There is almost never any occasion when an individual litigant or an individual citizen thinks it necessary to confer with the circuit judge personally. It's practically always through an attorney that those contacts are made. Cases come up in their regular order, which is not true in the probate courts. In the counties with which I am familiar, the probate judges are in their offices and busy more hours than many of the county officials. There have been occasions when I have had to serve as interim judge of probate and I certainly have been impressed with the amount of work that can come to the probate judges' attention even in the smaller counties. I favor the Radka amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Heideman.

MR. HEIDEMAN: Mr. President, ladies and gentlemen, having just flown in from Keweenaw county — I was not there today, but yesterday. I was in Houghton county today — I believe perhaps I have the latest evidence on the situation there. Keweenaw county does have a lawyer. It is not without that natural resource. (laughter) I believe I can speak for the bar members. I was just the past secretary-treasurer of the copper country bar, which takes in several counties — 3 at least — and my lawyer brethren would like to see for the future in this constitution a provision that our judiciary be made up of members of the bar. So for the purpose of accuracy, I would like to correct the statement as to there not being any attorneys there.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, members of the convention, as has happened before, it comes to the point where Mr. Danhof and I have to strain to continue our friendship while disagreeing. There is a principle involved in this that nobody seems to have touched on except Mr. Radka in his initial presentation, and that is this concept of allowing people in a particular area to govern themselves whenever possible to do so, consistent with the best interests of the statewide system of justice. And it seems to me that all that Mr. Radka's amendment is doing here is asking for a roadblock that simply says that if the legislature, in its wisdom, discovers a set of circumstances where 2 or more counties should be combined, that the people in that area should be the people who make the decision in the last instance as to whether or not this is a system preferable to them.

Actually, we're talking around and around the horn here about saving these people taxes. I think we ought to leave it to them to make the decision. If they want to — as the good judge from Bay City has indicated — pay for what to some of us might seem a luxury because of the per capita cost of maintaining the court, I think that's their privilege. And for this reason, because it is consistent with the principle of allowing these people to determine their own affairs wherever possible, I support the Radka amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Iverson.

MR. IVERSON: Mr. President and members of the convention, I rise to oppose this amendment and suggest only this: that we have provided here a method by which the legislature can carry on with what this committee has proposed. It doesn't mean for a minute that they might not do exactly what the pending amendment proposes. But let's not tie the hands of the legislature; let's leave some leeway to them to decide what should be done. I oppose this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Leppien.

MR. LEPPIEN: Mr. President and fellow delegates, as a former county clerk, I support this amendment wholeheartedly because I too, as Judge Dehnke so ably pointed out, know the number of times that other county officials have work to do and business with the office of the judge of probate, particularly in the field of marriages of young people and all of those matters of that kind. I urge the adoption of the amendment. I too realize that we're not actually creating districts by this proposal that we have before us. But I do point out that instead of tying the hands of the legislature, we're simply making sure that the people have the opportunity to make the final determination: do they or do they not want a probate court in their county? I urge the adoption of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Bradley.

MR. BRADLEY: Mr. President, I'll pass.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I only would rise to support the committee in its proposal and oppose the amendment because the purpose of the committee proposal is to enable the legislature, if it finds it can work better that way and it can do a better job, to provide for a probate court which will have a staff and personnel to do the kind of job with children that is necessary and that it ought to be doing. And if in addition to legislative approval you require a vote in 2 counties or 3 or 4 counties, your chances of ever arriving at that situation are remote. It seems to me that the legislature ought to be given the opportunity to do what it finds is necessary after consulting with people from the district and from the counties and with the legislators from those counties.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. The secretary will read the amendment.

SECRETARY CHASE: Messrs. Radka, Plank and Sleder have offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2678.]

PRESIDENT NISBET: The question is on the adoption of the amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—71

Andrus, Miss
Anspach
Austin
Balcer
Batchelor
Bledsoe
Bonisteel
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Dehnke
Dell
Doty, Dean
Doty, Donald
Downs
Erickson
Figy
Finch
Ford
Garvin
Goebel
Gover
Gust
Haskill
Hodges
Howes
Hoxie
Hubbs
Kelsey
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Leibrand
Leppien
Mahinske
Marshall
McAllister
Nisbet
Ostrow
Perras
Plank
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Sterrett
Stopczynski
Thomson
Turner
Tweedie
Walker
White
Wilkowski
Young

Nays—41

Barthwell
Beaman
Bentley
Blandford
Brown, G. E.
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Gadola
Habermehl
Hatch
Heideman
Iverson
Judd, Mrs.
Karn
Lawrence
Lesinski
Madar
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Page
Prettie
Romney
Seyferth
Staiger
Stevens
Van Dusen
Wanger
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Radka and others, the yeas are 71; the nays 41.

PRESIDENT NISBET: The amendment is adopted. There is another amendment.

SECRETARY CHASE: Messrs. Ford, Garvin, Krolikowski and Ostrow offer the following amendment:

1. Amend page 1, line 8 [section a] after "dependents" by striking out the comma and "except as otherwise provided by law".

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President and members of the convention, we had a considerable amount of discussion revolving around this question; perhaps as much misunderstanding as on any subject that came up during the discussion previously of the judiciary article. What we are dealing with here once again is the magic language which destroys the constitutional guarantee written in the 1908 constitution for the first time, of a separation of the control over juvenile dependents and delinquents from other courts of general jurisdiction, whether they be general trial courts or criminal courts.

The effect of the language without the amendment would be to permit the legislature to lump together the traditional juvenile function now retained in a court which, by its very nature, is not an antagonistic court or a court where antagonistic proceedings are had. And those of us who supported this before feel as strongly as before, that it is absolutely essential that this constitutional guarantee of separate treatment for juveniles be continued. It has been a very workable thing in the Michigan constitution since it was put in in 1908. It has received no criticism from anyone with actual experience in the field of the administration of justice. There is no advocate who has appeared by letter or in person before this body or before any committee of this convention who has had actual experience in the administration of juvenile justice and juvenile matters. We have only as a support for the proposition of taking this constitutional guarantee away the wishful thinking of a small group of social workers who indicate that to them, there should be a conglomerate merging of the juvenile function with the functions of other courts. We urge you to adopt the amendment and continue the tradition of the separation of the juvenile from the other courts.

At this point, I would like to yield to any of the cosponsors who might want to speak on it. Mr. Garvin, I believe, is the first one.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President and delegates, I hope, since we had the last discussion concerning this matter, the possibility of placing juveniles as identified by law in courts with adults has been checked up on by you. I hope that you have investigated it and I certainly hope you have considered it, because to me, having worked with juveniles for quite a while, it is very important that we do keep them out of the adversary courts. Now, one of the reasons for that, of course, is because so often the juvenile judge can settle matters as far as children are concerned in a private office, if there is one, or in the juvenile court, regardless of which might be the case.

I have talked to some delegates around here about their courts. They tell me that the probate court generally takes the child and the parents into a separate chamber and discusses the matter with them and then decides what to do, not in front of the public, but with the parties who are interested therein. And as a result, very few minors actually go to court compared to those who are arrested. But if they were, they would be going to court if the legislature should take some action to place this in the same category of adults.

Just recently, before we had the good or bad fortune of not having to read the Detroit papers recently, there was a matter where there were 2 brothers, one 14 years old and, I believe, the other was 18. And the probate judge refused to waive jurisdiction of the 14 year old to be tried for murder in the recorders court for the city of Detroit. I believe the boy was finally released because he felt that the boy was influenced by the older brother and as a result, he refused to release him to be tried for murder. There are other cases like that. But if we go on record here now of allowing "except as otherwise provided by law" to be added to this paragraph instead of leaving it like it was, we are opening ourselves and our children and our grandchildren to a situation that may not be agreeable.

PRESIDENT NISBET: The Chair recognizes Mrs. Judd.

MRS. JUDD: Mr. President, members of the convention, what I have to say on the subject is no reflection on the eminent juvenile court judges who were here the other day and gave us their great concern for the welfare of the children that they were handling. We know that they are doing an excellent job. But I do want to speak against the amendment on the grounds, not of what we have today in certain places, but on the grounds of the long view, with the increasing family problems which require some unified kind of treatment such as we do not get today with all the family matters scattered in different courts and agencies.

I am not going to repeat those arguments but I would like to tell you that you may remember I quoted from the standard family court act, which is published by the national council on crime and delinquency. So following the debate, I wrote a letter to that organization, asking them the questions that had arisen in the debate. This is an organization which you know is thoroughly familiar with juvenile court problems in Michigan, having made many studies and surveys, both for the state and for local courts. I only want to read you a few sentences from their reply. They state:

> We are certainly in accord with the proposal of the committee on judiciary to the constitutional convention that the constitutional provision relating to juvenile court jurisdiction should be flexible enough so that the legisla-

> ture might establish a family court either separately or on the circuit court level. Leaving the present constitutional provision as it is, assigning to the probate court the jurisdiction over juvenile delinquents and dependents, would bar the development of a family court such as is proposed in the standard family court act.

Further down they say — they repeat my question:

> Are we opening the way for a return of the juvenile handling by adversary procedures? We do not see this as a danger at all. The characteristics of a modern handling of juvenile cases are informality plus the use of social services. The reading of the standard act will show you how informality is protected, not only in intake but also in the jurisdictional hearings. The danger is often the other way, for the less well trained probate judges, or inferior court judges in other states, have led to the occasional charge that the juvenile court is a "star chamber."

There was another question I asked:

> Why do you feel that a family court should be on the level of the highest trial court? To answer that we turn to the nature of the jurisdiction. Probate is essentially a property court, whereas the family court brings together no jurisdiction over purely property matters, but deals with people with behavioral or other personal problems, and all centered around the family. Even as these things are being debated, the one pattern that seems rather doubtful should certainly not be frozen in the constitution as the only structure.

On this point I should like to add that the juvenile jurisdiction for the probate court is the only constitutionally established jurisdiction in our judicial article as we have it in the constitution. If you will read the paragraphs on the jurisdiction of the other courts, you will see that in every respect they are subject to legislative action. This is even so with respect to the probate court itself in Committee Proposal 94 on lines 5 and 6, which say, "The jurisdiction, powers and duties of the probate courts and of the judges thereof shall be prescribed by law."

Now, we should note that this provision which adds the phrase "except as otherwise provided by law" does not set up a family court in itself. It does not deprive the probate court of juvenile jurisdiction; it will remain there unless the legislature provides otherwise. It seems to me that we should provide the flexibility in the jurisdiction of the probate courts as we do for all other courts, and that we should trust the legislature to adjust the courts to the future needs of our growing population.

PRESIDENT NISBET: The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I'd like to address a question to Mr. Ford, if he would answer, please.

PRESIDENT NISBET: If Mr. Ford cares to answer it.

MR. G. E. BROWN: Mr. Ford, in discussing this proposal with probate judges with whom I am acquainted, the question came up as to whether or not there could be a juvenile court as such. Specifically that established if the language "except as otherwise provided by law" were stricken. I think that the probate judges that I talked with wanted to retain this language until it occurred to them that in setting up a juvenile court to do exactly that which you and Mr. Garvin and some of the others have suggested, this couldn't be done and then they were not quite so sure that the words "except as provided by law" should be stricken. Do you have an opinion on this matter?

MR. FORD: Well, it's more than an opinion. I can cite you the fact. The fact is that in Wayne county we have a juvenile court. For all intents and purposes, the average citizen in Wayne county does not realize that their probate judge who sits in the juvenile court is actually the probate judge because he is clearly identified in the minds of the people as a person who devotes his full time to juvenile affairs. So far as I know, there is not another county in the state that has a full time juvenile judge by the constitutional provision. They are prevented, I assume, from the fact that they have neither the population nor the money to afford a second judge. Under the system as it operates in Wayne county, we give him a separate staff, entirely separate from the rest of the court and set him up in a different building. However, in basic jurisdiction, because there are so many matters that tie in, as Mrs. Judd has indicated, with the actual conduct of juvenile affairs, that are handled through the probate courts traditionally and by statute, a long tradition of having the probate court handle them, the appropriate place for juvenile court in our opinion is in the probate court.

MR. G. E. BROWN: Mr. President, Mr. Ford, for Mr. Ford's edification, I would like to tell him that in Kalamazoo, we have a juvenile division of the probate court which is in effect a court of its own. However, these judges, on occasion, when you have 2 of them, are required to, in comity among the judges, sit in both capacities. It seems to me that it would be very proper to have a separate and distinct juvenile court, as such, not dependent upon the jurisdiction of the probate court. And for that reason, I would support the retention of the present language.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. STAIGER: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Staiger.

MR. STAIGER: This matter, this identical amendment, came out of the committee of the whole on page 71 of the journal, as amendment 3. Then on March 6, on page 712, the convention did not concur in the amendment. It seems to me that this same rule would apply that the convention has expressed its will on this question and it cannot be brought up at this time.

PRESIDENT NISBET: Mr. Staiger, in view of a previous decision made on this type of thing before, this amendment will be allowed. Mr. Higgs.

MR. HIGGS: Mr. President, fellow delegates, in view of the fact that we have debated this at length on a prior occasion, I do not wish to be unduly repetitious or to make a lengthy statement. But there are a few facts that I would appreciate your consideration of in this connection. First of all, the provision "except as provided by law" was not intended by the judicial committee to indicate that the legislature should act to take anything away from the probate court. Neither was it intended as a criticism of the manner in which probate courts are handling juvenile matters. Rather, it was intended to permit the legislature — presumably after study, hearing and greater deliberation than this convention has given or can give this matter — wide latitude in determining the best method of handling juvenile problems in the light of future experience not only of our own courts, but of the courts of other states, the experience of which is yet unknown to us at the present time. I think without question that the action of this convention in approving this language upon the first reading was a step forward in this particular area.

Certain statements have been made that I think should be corrected. First of all, the statement that no one connected with judicial administration with actual experience has ever recommended such a thing as a family court, and that this is merely wishful thinking. I'd like to say to you that this is absolutely not true. The committee, with regard to the standard family court act — and bear in mind I am not proposing to you that we freeze or adopt into the constitution this act, but merely to leave open the way. The committee that proposed this includes a large number of people from all over the United States with just such actual experience as Delegate Ford said was lacking. I would like to say from my own state of Michigan, serving on this committee was Justice George Edwards of the Michigan supreme court and also Professor John B. Wade of the University of Michigan at Ann Arbor. This committee included juvenile and domestic relations court judges from all over the country and a large number of representatives from the national council of juvenile court judges. It included representatives from the department of health, education and welfare, the social security administration, the children's bureau.

I would appreciate also that you consider the fact that the lawyers of the state of Michigan, in being polled upon the question of a family court, overwhelmingly recommended that such a court be established, with 2,900 yes to 1,900 no. However, the recommendation was 2,067 to 979 that it be permitted to be established by the legislature — exactly what the committee has recommended.

I'd like to also call your attention to an article that appears in the Journal of Public Law, which I have from the Michigan state law library, entitled Family Courts — An Urgent Need, written by Harriette L. Goldberg who is specialist, child welfare legislative division of social services of the children's bureau of the social security administration, and also William H. Sheridan who comes from the division of juvenile delinquency service of the same children's bureau. And in this particular article these authors state this:

> A little child died of malnutrition. She was an adopted child whose adopted parents had been charged with neglect in one court prior to the adoption which was granted by another court. This tragedy occurred in a large urban community, where specialized social services were available to courts. This tragic event raises many questions: why should 2 courts be involved in the proceedings so closley related and involving the same people?

I only point that out because the particular court which would have before it the jurisdiction with regard to child neglect would be an adult criminal court. And accordingly it is necessary, in setting up a family court, that such jurisdiction be included.

I would also like to say that while this standard family court act was approved by this committee, including Justice Edwards of the Michigan supreme court and Professor Wade, that while this was adopted only as recently as 1959, Rhode Island has already adopted essentially this same family court, because I wrote the committee and asked them whether it had been adopted anywhere, and Rhode Island has adopted such an act. New York has passed also a family court act last year. Accordingly, I urge, and I think the most significant thing that we can do in the probate court section is merely to leave open the door to the possibility for the legislature to treat this matter in the most enlightened way possible. I urge you to vote no on this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this amendment to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Martin.

MR. MARTIN: Mr. President, when this matter came up before, I supported this amendment. Since that time, I've had an opportunity to do some considerable study on the problem and it now appears to me that we would do far better to leave the language of the proposal as the committee has reported it, not because we necessarily favor a family court. But we have been working — those who are interested in these problems — have been working for years to give the probate court sufficient strength, sufficient staff, sufficient financing to enable them to do the job that needs to be done with the children in our state. In the last study we made of this problem we had to admit that children who get in trouble in Michigan are treated worse than the adults who get into our criminal courts and have difficulty. We have not succeeded as yet — and those of us who are working on the problem hope that we will succeed — and we are doing our level best to strengthen the probate courts throughout the state.

The action taken in the committee to make it more difficult to set up district probate courts is an action in the wrong direction in that sense because it makes it more difficult to provide these services. However, it would appear that we do have an opportunity to strengthen our probate courts and to make them capable of carrying the load they ought to be carrying. On the other hand, if we are not able to do that and if it develops that we are not providing the services that we should for our children, then there should be a possibility for the legislature to take some other course. That's all that the committee language makes it possible to do. For that reason, I would oppose the Ford-Garvin amendment and hope that you would support the committee.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I too would like to oppose the amendment and speak for the report that we have originally before us. It seems to me that it is very important to think in terms of the interest of all children. At the present time we are on the whole satisfied with our present system, but to freeze it into the constitution and make it impossible if in the future we get new concepts or new ideas that we would like to put into our courts in Michigan, seems to me is most unwise.

At the present time, I think the chief question that we have before us is the fact that the children who may be in trouble in case of juvenile delinquency are handled in one court and in cases where they are held because of their parents getting a divorce, they're in another court. Now, we don't at the present time contemplate any particular change in this but it certainly would be most unwise to rule this out for all time. Therefore, in the interest of the flexibility of the constitution, I would urge that we keep these words in this particular proposal. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, Mrs. Judd alluded to a statement that was in the Detroit News about the probate judges that were up here lobbying against these particular words being in our constitution. First, I'd like to correct for the record that the article in the Detroit News was grossly wrong, that it stated that the Honorable Arthur E. Moore of Oakland county was here in this building lobbying. I checked with Judge Moore just a week ago and he told me he was never in this building on that particular day. And I do want that record to be absolutely correct because the judge was not here. The Detroit News inaccurately put his name in that slanderous statement.

Now, I am opposed to the committee recommendation and I do favor the amendment because of the fact this language in the constitution is not needed to provide for a family court.

PRESIDENT NISBET: The Chair recognizes Miss McGowan.

MISS McGOWAN: Mr. President and fellow delegates, I rise in opposition to the amendment and to speak in favor of the committee report. Now, my reason for being in favor of the committee report is that I feel we're writing a forward looking document, a document that looks to the future. All the committee report asks is that the legislature be given a chance to study the situation and if it finds it necessary to create a family court or domestic relations court, that it be allowed to do that. I feel that is little enough to ask, and I would ask you to support the committee report and vote against the amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I hope the debate on this matter is coming to an end. We debated it considerably in committee of the whole and in the convention. While I abide by the ruling of the Chair, I think the Chair might reconsider. On the other hand, I would urge again: we have granted the original jurisdiction to juveniles in probate court, it undoubtedly will stay there, it will stay there except if by study and by reason and by push it is felt that a separate court, be it juvenile or domestic relations, is needed. Here we have something where the probate court is given the original jurisdiction. This is the only place where we set out jurisdiction requirements in the whole constitution. Even in the circuit court, they have original jurisdiction, but it may be changed. This is a matter which can best be left to the legislature; the probate courts have it. In those areas where they do a good job, they will retain it. I would urge that we defeat the amendment and proceed with our deliberations.

PRESIDENT NISBET: The question is on the Ford amendment. Those in favor will say aye. Thosse opposed, no.

The amendment is not adopted.

MR. FORD: Mr. President, I request a record roll call vote.

PRESIDENT NISBET: A record roll call vote has been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Ford amendment will vote aye. Those

opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—32

Austin
Balcer
Barthwell
Binkowski
Brown, T. S.
Buback
Donnelly, Miss
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Ford
Garvin
Hart, Miss
Hodges
Hoxie
Kelsey
Krolikowski
Kuhn
Lesinski
Madar
McAllister
Ostrow
Richards, L. W.
Sablich
Sharpe
Snyder
Stafseth
Stopczynski
Walker
Wilkowski
Young

Nays—83

Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Lawrence
Leibrand
Leppien
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Shackleton
Shaffer
Shanahan
Spitler
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Ford and others, the yeas are 32; the nays are 83.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Miss Donnelly offers the following amendment:

1. Amend page 1, line 3, [section a] after "or" by inserting "upon the approval by a majority of the voters of the county involved"; so that the language will then read:

> The legislature may combine one or more counties into probate districts upon the approval by a majority of the voters of each county voting separately on the question, or upon the approval by a majority of the voters of the county involved or combine the office of probate judge with any judicial office of limited jurisdiction in any county with supplemental salary as provided by law.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly.

MISS DONNELLY: This amendment merely allows for the individuals who would be concerned on a vertical combination of putting your probate court judges down with what used to be your JPs or down in the area with your other lower inferior courts, some of your municipal courts, or any of the other courts of jurisdiction inferior to the circuit court. If you wish to combine these in a county, this allows for the individual citizens to vote on the issue. This is put in on the theory that it is a very important thing in the mind of this convention to have the citizens vote on the issue. If you combine districts and horizontally combine probate courts, then they should also, when they're going to combine them vertically with courts of inferior jurisdiction, have the people have a right to vote thereon.

This language should be more consistent with the effect of having the probate court visiting their jurisdiction over the juveniles and eventually allowing the probate court to take over the JP functions. Therefore, if the individual members of the counties don't wish this, this would be their opportunity to act thereon. I therefore urge your support on this amendment because it gives the flexibility to the people that, apparently, this convention wishes.

PRESIDENT NISBET: The question is on the amendment offered by Miss Donnelly. Mr. Everett.

MR. EVERETT: Mr. President, I think there are 2 strong objections to this amendment. First of all, if you read it, it would require a majority of the voters of the county to pass on this. This would mean presumably that a majority of all the registered voters would have to say yes. Even though they didn't vote in the election, they would be voting no by simply being registered. But more important than that, apparently some of us at least are taking the attitude that what happens in a given county in the administration of justice has no effect anyplace else in the state. I think if we stop and realize for a minute, a poorly functioning juvenile court in one county does have an effect on the state throughout. You cannot separate by arbitrary, imaginary county lines the effect of poor administration of justice and lock it in and say: you now have mishandled your juveniles. Keep them there. Don't let them travel throughout the state and bother the rest of us.

The administration of justice is part of a whole. It is limited enough when we limit it to the state, but certainly that is as far as the limit should go. Good administration of justice in any part of the state is going to be helpful to all the state. Bad justice in any part is going to harm all of us. If it is necessary — and none of us at this point know if it is necessary — to combine the functions of courts to establish good justice, then it is necessary for the people of all the state of Michigan, and not simply those in a given county. Therefore, I would oppose this amendment and hope that it would be defeated.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, I would like to rise to oppose this amendment also. The act that we can expect the legislature to pass pursuant to this provision would simply be an enabling act, enabling the county to adopt it. I doubt very much that the legislature would require any particular county to do it. Now, the people most competent to judge actually whether or not this would be an effective method for the operation of the local courts would be probably the board of supervisors of that particular county. And if they decided to set up such a system — and I think this would be the one system that would be used more than the probate district court idea — then I think that it should be within their power to do so. Otherwise, we will again have people passing upon this question for the handling of juveniles who are not fully informed upon the matter. I urge the defeat of the Donnelly amendment and the support of the committee's position.

PRESIDENT NISBET: The question is on the Donnelly amendment.

SECRETARY CHASE: Miss Donnelly has revised the amendment so that it reads:

1. Amend page 1, line 3, [section a] after "or" by inserting "upon the approval by a majority of the voters voting thereon of the county involved".

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Mr. President, I should like to support Miss Donnelly for the same reason that I supported Mr. Radka a few moments ago. I think that the reasons are the same and they are sound. Obviously the opponents thought so too, because they have met the Donnelly amendment by first criticizing the reasoning that caused us to adopt the Radka amendment.

What you are saying here, in effect, is that at some time when the legislature feels that it might be more economical to do something, that they can combine the courts. We in our county are very much interested in keeping the probate court separate and apart from the other courts. I would call Mr. Habermehl's attention to the fact, if he believes that all that is involved here is the possibility of an enabling act, that we have in Committee Proposal 96 provided that the legislature shall set up a system of inferior courts which, in effect, is a county court system for the inferior court jurisdiction. And what we would be doing when we combine 96 with this one is make it possible to throw into the pot of the county court system the probate court too, so we will no longer have a 5 tier system. We would then have a system consisting of a supreme court, an intermediate court, a circuit court and everything else. And the "everything else" would be the fourth tier. Now, this can happen. It can happen very readily. Not because the legislature would sit down and deliberately concede this to be a good scheme, but from time to time for reasons of economy or something else that they might want to do to alleviate a particular situation in a particular county, they might have to pass an act which in its ultimate effect would do damage to a well established and well functioning system such as we had in most of the counties of the state. I think it is not asking too much for the people of my county as well as the people of every other county of the state to be able to reject the concept of their probate court being lumped together with the municipal court and the others.

For example, when applying for relief in the form of additional probate judges, the creation of additional judgeships, isn't it much easier for the legislature to answer by simply saying: instead of giving you more probate judges to handle this additional work, we will simply transfer to the justice of the peace and the municipal court and the common pleas court and the recorders court some of the functions previously carried on by the probate court and will in this way, combine them and you won't need the additional judges? I submit that the people of the county ought to, in the last analysis, have the right to reject such a scheme.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I would urge the defeat of the amendment for the reasons put forth by Mr. Everett and also by Mr. Habermehl. Don't forget that all of the jurisdiction given in all matters outside of what we have voted here for juveniles is given to the probate court and every other court by act of the legislature; except the original grant, which is given to the circuit court. All jurisdiction in the probate court, except juveniles, is statutory; it could be removed, could be changed, could be transferred wherever the legislature should provide. I would urge the rejection of the amendment and that we proceed.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I too would like to oppose this amendment. I would like particularly to address myself to the argument that this is the same situation as with regard to the districting of the probate court. Now, I have seen some voting on that particular provision, being a member of the committee and not wishing to vote against it and still believing that there was merit in the Radka amendment. But I feel that while there is merit in that position, that this is a different situation. Delegate Radka has properly pointed out that in combining several counties, this was of concern to the people of both counties in joining together their judicial business; a broad policy matter of whether or not you would have a court within the county or a court in a district. But I should like to suggest that the particular question involved here is not that broad application. The way this would come about, more than likely, would be in the form of an enabling act of the legislature. Whether or not it would be most advisable to submit this to a general election in that county, or to the board of supervisors, or however the legislature might feel that it would be best submitted, we should leave it to the discretion of the legislature. I just draw attention to that because I feel that this is a different proposition than the Radka amendment, that the same argument for submitting to the people does not necessarily apply. I fail to understand why this particular provision is of such concern to delegates from the large counties where, more than likely, there would never be any possibility in my mind that the legislature would make it applicable. I don't see how Delegate Ford or Delegate Donnelly feel that it is of particular concern to their area. On the other hand, I can understand why Delegate Habermehl feels it is of concern to his area, because it is in his area where this is most likely to come about.

In the interest of the greatest flexibility in the legislature in handling this problem and in view of the technical decisions that must be made in combining jurisdiction, I suggest that it might possibly be better submitted to the board of supervisors, the judicial committee, rather than to a general election. The electors might be confused if they had to decide on the question of combining jurisdiction. The whole subject would be very confusing if we even argued about it here today on the floor. So I won't do it. I urge that you vote no.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly. May we have better order.

MISS DONNELLY: I would like to recall to the memory of those who were in the committee of the whole some months ago, when they say they want to support the committee report, that this was not the judicial committee's report. The judicial committee's report, based on all of the testimony and evidence, the problems that we had in front of us at that time, recommended that it be in counties of less than 25,000. At that time, it was the opinion of the committee that to do such a combination vertically in a large county would create fantastic havoc. The counties smaller than the 25,000 were most disturbed at the thought that they would be combined. Therefore, inasmuch as the large counties don't want this combination downwards and the smaller counties don't want it downwards, because of the vote of the committee of the whole it might be very valid and important for each citizen who is concerned with this issue, when it happens in his county, to be allowed to be heard on the subject matter.

To have this insertion, with the provision that it is up to the individual voters who will be affected, to me seems highly reasonable; particularly in view of the fact you thought it was reasonable, in directing the combination of the probate court, that at least the problems would be the same, the job would be same, the people that come before us would be the same, this was important to come to the people. Now we find that the job will not be the same, the problems will not be the same, and the issues to be decided by this member sitting on the bench at that time will be entirely varied. This is going to throw into the hands of the probate judge all the problems of the municipal court, the JP court, the circuit court commissioner or anything else that you can conceive of. It would seem to me that it would be very important for the counties that would have this happen to them to have the right to be heard on the subject. I therefore suggest that defeating this amendment does not indicate support of the original judicial committee report. The original judicial committee report said, less than 25,000. It did not put this in for the entire state. They didn't think it was advisable for the entire state. Now it is important, I think, since the language is in, that we at least allow the individuals who will be affected to vote on it.

PRESIDENT NISBET: The question is on the Donnelly amendment as revised. Those in favor will say aye. Those opposed will say no.

MISS DONNELLY: Yeas and nays.

PRESIDENT NISBET: Miss Donnelly asks for the yeas and nays. Is the demand seconded?

SECRETARY CHASE: Fourteen.

PRESIDENT NISBET: Not a sufficient number up. Do you demand a division, Miss Donnelly? Miss Donnelly demands a division. Sufficient number up. Those in favor of the Donnelly amendment, as revised, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the amendment offered by Miss Donnelly, the yeas are 47; the nays are 70.

PRESIDENT NISBET: The amendment is not adopted. The question now is on Committee Proposal 94, as amended. Will you clear the board, please. Will the delegates please clear the board.

MR. FORD: Mr. President, are we in order to talk on the entire proposal now that the amendment is adopted?

PRESIDENT NISBET: You may.

MR. FORD: I'd simply like to urge a no vote on the proposal as amended.

PRESIDENT NISBET: Those in favor of Committee Proposal 94, as amended, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—93

Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Habermehl
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Youngblood

Nays—30

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Brown, T. S.
Buback
Donnelly, Miss
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Hart, Miss
Hodges
Kelsey
Krolikowski
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
Ostrow
Snyder
Stopczynski
Walker
Wilkowski
Young

SECRETARY CHASE: On the passage of Committee Proposal 94, as amended, the yeas are 93; the nays are 30.

PRESIDENT NISBET: **Committee Proposal 94**, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 94 as amended and rereferred to the committee on style and drafting:

Sec. a. In each county organized for judicial purposes, there shall be a probate court. The legislature may combine one or more counties into probate districts upon the approval by a majority of the voters of each county voting separately on the question, or combine the office of probate judge with any judicial office of limited jurisdiction in any county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate courts and of the judges thereof shall be prescribed by law. They shall also have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. b. Judges of probate shall be nominated and elected at nonpartisan elections in the counties or the probate district in which they reside and shall hold office for a period of 6 years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that all terms will not expire at the same time.

The Chair recognizes Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, at this time, I'd like to make a preferential motion under rule 53. I move for reconsideration of the vote on **Committee Proposal 52** as amended.

For vote on passage of Committee Proposal 52, see above, page 2666.

If I am in order, I'd like to speak to the motion.

PRESIDENT NISBET: You may proceed, Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President and members of the convention, late Thursday afternoon, when there were only 108 delegates in the chamber — some of them having had to leave for unavoidable reasons — Committee Proposal 52, after debate and amendment, was not passed, by a vote of 62 to 46. A decisive majority of the delegates were present. However, because of the fact that 1/4 of the delegates were not present and were not able to record their votes on this proposal, I ask that the vote on the passage of Committee Proposal 52 now be reconsidered.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, I'd like to support Mr. Woolfenden's motion for reconsideration of Committee Proposal 52. I'd also like to point out that there was a vote in favor of this committee proposal, as Mr. Woolfenden mentioned, 62 to 46; and, originally, when the major issue, the first part of the amendment, was being voted upon, the vote was 55 to 50. So during the debate it was evidently proved to a number of people that this was worthy of consideration and of an aye vote because of the ultimate increased vote for the committee proposal. Therefore, I request you reconsider.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this matter was thoroughly debated on Thursday afternoon. It was the recommendation of the committee on finance and taxation that the proposal not pass, it did not pass, and was not adopted. And I urge you to vote no on Mr. Woolfenden's motion to reconsider.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I wish to speak in favor of the reconsideration motion. This was a very technical matter and I think there are some questions some of the delegates may have that warrant further consideration.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I was one of those who had to leave Thursday afternoon before the vote could be taken. I am happy to rise in support of this motion at this time.

I'd like to make a parliamentary inquiry. Am I correct that the first vote will be on whether or not to reconsider? And then, if that is adopted, the vote would be on Committee Proposal 52 as amended?

PRESIDENT NISBET: That is correct. The Chair recognizes Garry Brown.

MR. G. E. BROWN: Mr. President, another point of information, if I may, please: in pursuance of and in regard to the same question Mr. Bentley asked, if we vote to reconsider, do we then reconsider the amendments that were presented to the proposal, or do we merely reconsider the vote by which the proposal passed or failed?

PRESIDENT NISBET: We are reconsidering the vote by which the proposal did not pass. If the vote to reconsider should pass, then we are voting on the proposal that we voted on last Thursday.

MR. G. E. BROWN: Mr. President, another question then: do you mean that if the motion to reconsider prevails, we then vote upon the very proposal itself without giving the proposal further consideration, such as the consideration of amendments? Are we not considering the proposal?

PRESIDENT NISBET: Mr. Brown, Committee Proposal 52, if the motion for reconsideration prevails is before the body again, in its amended form, for discussion.

MR. G. E. BROWN: For what? Pardon?

PRESIDENT NISBET: Discussion.

MR. G. E. BROWN: Thank you, sir.

PRESIDENT NISBET: For action. The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, one question that Delegate Brown asked was, could it then be amended at that time?

PRESIDENT NISBET: Yes.

MR. MADAR: It can be amended?

PRESIDENT NISBET: Yes.

MR. MADAR: We will be able to discuss it?

PRESIDENT NISBET: That's right.

MR. MADAR: Then I certainly won't vote against any reconsideration, and I hope that they'll show us the same consideration.

PRESIDENT NISBET: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I would oppose reconsideration of this on the fact that the financing of the schools could be involved, as the matter stands now.

PRESIDENT NISBET: The question is on the motion of Mr. Woolfenden to reconsider our action on Committee Proposal 52, as amended. Mr. Faxon.

MR. FAXON: Mr. President, I request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Those in favor of reconsideration will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—102

Andrus, Miss
Anspach
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dehnke
Donnelly, Miss
Doty, Dean
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Finch
Follo
Ford
Goebel
Gover
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kelsey
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McAllister
McCauley
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Shackleton
Shaffer
Shanahan
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—20

Austin
Brake
Brown, G. E.
Danhof
Dell
DeVries
Doty, Donald
Elliott, A. G.
Farnsworth
Figy
Gadola
Garvin
Kirk, S.
Knirk, B.
Koeze, Mrs.
Martin
Seyferth
Sharpe
Sleder
Van Dusen

SECRETARY CHASE: On the motion to reconsider the vote by which Committee Proposal 52 failed to pass, the yeas are 102; the nays are 20.

PRESIDENT NISBET: The motion prevails. The question now is on the passage of Committee Proposal 52. Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President and members of the convention, this proposal was fully debated on Thursday afternoon. Reference to the journal will disclose that Mr. Madar moved the previous question and I moved for an additional 15 minutes of debate, both motions having taken place after the committee's position on the matter was fully presented by members of the committee, and following that debate, the matter was decided. Now, in view of the fact that the matter has been debated and the arguments pro and con on this proposal as amended have been made, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded?

MR. A. G. ELLIOTT: Mr. President, I have a preferential motion. I move that they be allowed 15 minutes' debate on this question.

PRESIDENT NISBET: The question is on the motion of Mr. Elliott that 15 minutes debate be allowed. Those in favor say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Madar.

MR. MADAR: Mr. President, I just want to get something straight for the record. I did move the previous question last Thursday. However, I want it understood that before I did, I looked up there at that board and at least 3/4 of the people who were on that amendment of Mr. Woolfenden's had already spoken. So I don't want someone here or any of the delegates who weren't here Thursday to believe that we didn't give Mr. Woolfenden and the people on the amendment an opportunity to speak. In fact, I made the remark that because those who were on the amendment had spoken, I wasn't worried about anybody on the committee, because I felt that they would vote against that particular amendment.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, we are now, I take it, on debate on Committee Proposal 52?

PRESIDENT NISBET: Just a minute, Mr. Van Dusen. Mr. Hoxie.

MR. HOXIE: I would like to make a motion that the debate of each speaker be limited to 3 minutes. We've limited all debate to 15 minutes, certainly we want full debate by all parties. And I make that as a motion, that the debate of each individual delegate be limited to 3 minutes.

PRESIDENT NISBET: You have heard the motion of Mr. Hoxie. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Van Dusen, you have the floor.

MR. FORD: Mr. President.

MR. VAN DUSEN: Mr. President, I trust I am not going to be charged for Mr. Ford's time?

PRESIDENT NISBET: Not yet, no. Mr. Ford.

MR. FORD: Could we ask to have this read as amended before the debate takes place?

PRESIDENT NISBET: Yes. This doesn't go on the 15 minutes. Mr. Chase will read the proposal as amended.

SECRETARY CHASE: The proposal as amended reads as follows:

> Committee Proposal 52, A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution.
>
> Sec. a. The legislature shall provide for the assessment by the state of the property of those businesses whose property is now assessed by the state, and of other property as designated by the legislature, and for the levy and collection of taxes thereon.

The remainder of the language stays as in the original proposal and it reads:

> Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President and fellow delegates, I urge you to vote no on Committee Proposal 52 as it was amended last Friday and is now before you. This matter is covered completely by Committee Proposal 51, which says, "The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation." Committee Proposal 51 permits the legislature, but does not require the legislature, to continue the present method of state assessment and taxation of the property of certain utilities, notably the telephone companies. Let me read you the comment made by the committee on Committee Proposal 51 which appears in Journal 69, page 405:

> The provision for an alternative means of taxation of property, in lieu of general ad valorem taxation, is also necessary if . . . state assessment and taxation of certain utilities' properties are to be maintained.

Thus, Committee Proposal 52 is unnecessary.

Now furthermore, as amended on Friday, Committee Proposal 52 is not only unnecessary, but it is undesirable, because on Friday, the word "may" in the first line was changed to "shall." Now, the present constitution says that the legislature "may" state assess the property of these utilities. Committee Proposal 52 as reported by the committee said that the legislature "may" state assess the property of these utilities. But, as amended on Thursday and now before you for adoption, this proposal says that the legislature "shall" state assess this property. Now, if Committee Proposal 52 is not adopted no change is made from the present constitution, which says that the legislature "may." If Committee Proposal 52, as amended, is adopted the present practice is frozen and could not be changed no matter how desirable that change might be.

The argument has been made that because the proceeds of these taxes went to the primary school interest fund, that froze state assessment into the present constitution, but this is just not true. The legislature could have, at any time in the last 60 years, changed to local assessment and collection; and, by doing so, it would probably have increased the total amount that went into the primary school interest fund. Now, I don't advocate local assessments of telephone companies or of railroads; I think that state assessment is the sensible way to deal with this kind of property. But I think that the matter has been left to the legislature for over 50 years under the permissive provisions of the present constitution. Committee Proposal 51 makes ample and adequate provision for the legislature to continue the present method of state assessment on a permissive basis and Committee Proposal 51 says all that needs to be said.

I think in an era of technological change, when no one knows what a telephone company is going to look like in the next 25 years, it's bad to freeze into the constitution this method of assessment. It is proper to permit it to continue under Committee Proposal 51. I urge a no vote on Committee Proposal 52.

PRESIDENT NISBET: Mr. Hoxie, would you care to speak on this?

MR. HOXIE: He talked 3 minutes and 45 seconds.

PRESIDENT NISBET: The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I would like to, for a different reason and in other words, support that which Mr. Van Dusen has said. I think it is extremely important that if this provision is to be in the constitution that it be in the constitution with the word "may" rather than "shall." First of all, by using the word "may" you continue the status quo of the 1908 constitution and the present practices. Under "shall" you would not permit the legislature to have any jurisdiction in this regard. And furthermore, I would suggest to you that it is improper constitutional language, inasmuch as the legislature cannot be mandamused in this field to do what you are suggesting be done.

If we are to have this language in the constitution, it seems to me — and I trust that every delegate here will give it proper consideration — the word should be "may" rather than "shall." Therefore, at this time, Mr. President, I would move reconsideration of the amendment by which the word "may" was changed to "shall" since that was voted upon at the previous reading.

PRESIDENT NISBET: The motion of Mr. Brown is in order. Mr. Brown's motion is that reconsideration be given to the vote on the amendment. Mr. Chase will read it.

SECRETARY CHASE: The amendment which was adopted reads:

1. Amend page 1, line 1, after "legislature" by striking out "may" and inserting "shall".

Mr. Brown moves to reconsider the vote by which that amendment was adopted.

PRESIDENT NISBET: The question is on the motion of Mr. Brown. Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, may I speak to the motion for reconsideration of the amendment "shall?"

PRESIDENT NISBET: That's right.

MR. WOOLFENDEN: I merely wish to invite the attention of the delegates to the fact that by a division, requested by Judge Dehnke, this amendment was voted on separately and was approved at last Thursday's session. And I submit that, for the reasons then set forth, the word should be "shall." It does not, in fact, change the objective of the existing constitutional provision, and I ask that we vote down Mr. Brown's motion for reconsideration. May I make a parliamentary inquiry, Mr. President, at this time?

PRESIDENT NISBET: You may.

MR. WOOLFENDEN: Are there amendments to Committee Proposal 52 on the secretary's desk?

PRESIDENT NISBET: There is one amendment.

MR. WOOLFENDEN: And am I correct that if Committee Proposal 52 carries under the previous question that has been voted, that that amendment can then be considered?

PRESIDENT NISBET: This amendment is in order, Mr. Woolfenden, after this motion for reconsideration has been handled. The previous question has not been ordered on this matter.

MR. WOOLFENDEN: You mean Mr. Brown's motion?

PRESIDENT NISBET: Correct.

MR. WOOLFENDEN: Yes. Very well.

PRESIDENT NISBET: The question is on the motion of Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I would only suggest that the spirit of fair play by which you reconsidered the Woolfenden motion be extended to this motion and that we reconsider both aspects of the proposition. I urge a yes vote.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President, I think we're going to get ourselves all tangled up if we keep going backwards here. I think we should either vote this down or approve it. Now, I urge that this reconsideration should be voted down and I'd like to move the previous question.

PRESIDENT NISBET: The motion is not in order for the reason that the preferential motion to limit debate has prevailed. Mr. Mahinske.

MR. MAHINSKE: Because of the fact that there is an amendment in that we don't know of; and because of the fact that the reconsideration, if it should prevail, would vitiate the amendment on the secretary's desk, I would oppose reconsideration of changing "may" to "shall" as it was in the original committee proposal.

PRESIDENT NISBET: The question is on the motion of Mr. Brown that we reconsider —

MR. WANGER: Mr. President, point of order. Mr. Woolfenden stated that the motion on which we are voting, upon reconsidering, was an amendment adopted last Thursday. If that is correct, I raise a point of order that a motion to reconsider can only be made at the same or the following day's session. And therefore, that this motion to reconsider comes too late.

PRESIDENT NISBET: Today is the final day for it. Today is the next session day and the motion is in order. Those in favor of the Brown motion will say aye. Opposed, no. The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? Sufficient number up. Those in favor of the Brown motion to reconsider the vote on the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the motion to reconsider the vote by which the amendment was adopted, the yeas are 52; the nays are 72.

PRESIDENT NISBET: The motion to reconsider does not prevail. There is an amendment on the desk.

SECRETARY CHASE: Messrs. Mahinske, Hodges, Woolfenden, Sterrett and Faxon offer the following amendment:

1. Amend page 1, line 13, after "situated.", by inserting "Such revenues shall be reserved to the state for public education.".

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: This, I am sure, is self explanatory. Under the committee proposal as amended, we accomplish the simple fact that at one spot in the constitution, at least, we shall reserve some funds for the primary education fund of the state. This was much of the objection that most people had to the committee proposal and that some people had to the committee proposal as amended, that there was no reservation of funds for the educational purposes of the state. I would urge your adoption of the amendment to the committee proposal as amended.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, now we're getting into something different. If you want to have this property assessed by the state instead of locally, that's one proposition. But we decided Thursday, not only in this section but in another section, that there was not to be any earmarking for school purposes. And as I reminded you then, this is part of the settlement agreement that was reached some time ago and which we have very clearly followed up until today. This is contrary to that agreement. I trust that this amendment will be voted down.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, as I understand, there are 2 problems here, at least on the matter of taxing utilities. We may have a case where a utility is in one unit of government, yet its revenue comes largely from people outside that unit. I cite the power plant at Marysville, and even the case of Michigan Consolidated and Detroit Edison in my own city of Detroit, where much of the revenue from the property taxes comes directly from people outside the city. I think that when that situation occurs, there is good argument for saying there should be a uniform statewide assessment; and, as such, money should go into a state fund to be distributed uniformly on the basis of educational means or some other purpose. I therefore urge support of the amendment and think that this will result in an equitable utilization of such revenues.

I would like to point out to my good delegate friend, Delegate Brake, that when he was talking about the term "settlement agreement" and the term particularly "we," please include me out. I was not then a part of the settlement agreement, I am not now a part of the settlement agreement, and I do not pretend to be in the future. So that when you do use the word "we," I would appreciate it if you would list those delegates that are part of the settlement agreement, so that those of us who are not members will have a little better idea of who is and who isn't. It might make it a little bit easier for us to count votes. Thank you. (laughter)

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I can't help but remark that the word "settlement" only brings into my mind the act of settlement of 1701 fixing the crown of England upon the heirs of the House of Hanover. But I wish to speak in behalf of this amendment.

There is some feeling here, which I wasn't able to be present on Thursday to detect, that the schools ought to be completely left out of any dedication of certain funds. Now, I am sure that all of you know that this state of Michigan, before it was even a state, as far back as 1787, had always earmarked certain revenue for education. There was just reason for it. And I think we're going a little bit too far when we're not willing to consider the historical situation in which Michigan has always found itself in support of public education. I think that we can certainly find no fault with dedicating certain revenues to maintain and support the fine system we've had in education in this state. I would urge you to support this amendment. I call for the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Mr. Madar.

MR. MADAR: Mr. President, I believe this pertains a lot to the amendment that was made by Mr. Woolfenden last Thursday and I want to say this: that insofar as we're concerned in the city of Detroit, I know that if this amendment goes through, it then takes away quite a bit of our tax base. And I'm worried about this because things are bad enough in Detroit. Now, I'm not part of the settlement that Mr. Brake made with anybody. However, I don't mind saying this: that I am for his committee proposal and I'm certainly going to vote that way, though I am also for earmarking of these funds for schools. I know that if we get this earmarking for schools, it's going to help us tremendously in the city of Detroit. There it would help. Now, I know that we could get back much more money that way than we could any other. So I will say that I'll vote for this amendment. However, if this doesn't go through, I certainly would be opposed to the Woolfenden amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges. You have about a minute and a half, Mr. Hodges.

MR. HODGES: Mr. President, I support the amendment and state that if it does not go through, that the rallying cry for this convention is going to be: millions for cement but not one cent for children.

PRESIDENT NISBET: The question is on the amendment offered by Messrs. Mahinske, Hodges, Woolfenden, Sterrett and Faxon. Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, I frankly realize that my name was on the amendment when I read it on the board. I am not opposed to the amendment. Neither did I ask to be a sponsor of it. I regret that my position seems to be getting whipsawed here. But I think irrespective of what happens to this amendment, that Committee Proposal 52, as amended, should be passed.

PRESIDENT NISBET: The yeas and nays have been demanded. Those in favor of the amendment — Mr. Chase, will you read it again, please.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I'd like to ask a question. Perhaps Mr. Brake can answer it, or somebody on the finance and taxation committee. The practice has been in the past for the earmarking of this money into the primary school fund. Hasn't this been, in effect, a way of equalizing the total tax dollar so that the bedroom community with the problem of the expanding school system has received the benefit although it doesn't have the broad tax base? The tax base not keeping up with the increase in the school population?

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: In recent years, the primary school money has been distributed simply as a part of the general school aid, in effect, while it is paid to the districts on a school census basis. It is a deductible item when you compute your state aid. And therefore, for all practical purposes, it is simply a part of state aid as distributed.

MR. FORD: Thank you, Mr. Brake.

PRESIDENT NISBET: Those in favor of the Mahinske amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—51

Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Donnelly, Miss
Downs
Erickson
Faxon
Follo
Ford
Garvin
Hart, Miss
Heideman
Higgs
Hodges
Hoxie
Kelsey
Kuhn
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
Ostrow
Perlich
Perras
Pollock
Pugsley
Rajkovich
Richards, L. W.
Rush
Sablich
Snyder
Spitler
Sterrett
Stopczynski
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—71

Allen
Baginski
Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
Martin
McCauley
McLogan
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Radka
Richards, J. B.
Romney
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Stamm
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Mahinske and others, the yeas are 51; the nays are 71.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of Committee Proposal 52 as amended. Will you please clear the board. Mr. Stevens.

MR. STEVENS: Mr. President and delegates, to come back to this situation so ably explained by Dr. Hannah on Thursday, it is very important that the state have this money for the school aid fund. If this does not pass, there is no question but what the legislature will be requested by many local communities to try to get this tax base back to them for local use, and it will certainly help to destroy the whole concept of equalization in education in Michigan whereby small communities out in the state and otherwise are able to share the state money on a basis of school membership.

PRESIDENT NISBET: Time is up. The question is on the proposal. Those in favor will vote aye. Those opposed will vote nay. This is on Committee Proposal 52, passage of Committee Proposal 52 as amended. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—86

Allen
Andrus, Miss
Anspach
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Butler, Mrs.
Conklin, Mrs.
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Downs
Erickson
Faxon
Figy
Finch
Follo
Ford
Goebel
Gust
Habermehl
Haskill
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kelsey
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Mahinske
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Shackleton
Shaffer
Sharpe
Snyder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Wood
Woolfenden

Nays—40

Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
DeVries
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Gadola
Garvin
Gover
Hanna, W. F.
Hart, Miss
Hatch
Hodges
Kirk, S.
Madar
Marshall
Martin
Romney
Seyferth
Shanahan
Sleder
Staiger
Stopczynski
Van Dusen
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 52 as amended, the yeas are 86; the nays are 40.

PRESIDENT NISBET: **Committee Proposal 52**, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 52 as amended and rereferred to the committee on style and drafting:

Sec. a. The legislature shall provide for the assessment by the state of the property of those businesses whose property is now assessed by the state, and of other property as designated by the legislature, and for the levy and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

SECRETARY CHASE: Item 6 on the calendar is **Committee Proposal 96**, A proposal pertaining to general and special provisions relative to the courts of the state. A substitute for sections 17, 19, 20 and 23 of article VII.

Following is Committee Proposal 96 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1632):

Sec. a. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and shall each have a common seal. Except as [authorized] otherwise AUTHORIZED by this constitution, justices and judges of the courts of record of this state shall be [lawyers] licensed to practice law in this state and no person shall be elected or appointed to a judicial office after reaching the age of 70 years.

SEC. A^1. No judge or justice of any court [in] OF this state shall be paid from the fees of his office nor shall the amount of his salary be measured by [the] fees, [or] other moneys received [nor] OR by the amount of judicial activity OF HIS OFFICE.

Sec. b. Whenever a judge [shall remove] REMOVES his domicile beyond the limits of the territory from which he was elected, he shall be deemed to have vacated his office.

Sec. c. [A] ANY justice [and a] OR judge of a court of record shall be ineligible to be nominated for[,] or elected to an elective office other than a judicial office during the period of his service as a judge and for [1] ONE year thereafter.

Sec. d. [When] A vacancy [occurs] in the ELECTIVE office of [an elected] A judge of any court of record [, it] shall be filled at a general or special election according to law. The supreme court [is empowered to] MAY authorize persons who have served as judges and WHO have [voluntarily] retired VOLUNTARILY OR BECAUSE OF AGE, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified.

Sec. e. There shall be printed upon the ballot under the name of each elected incumbent justice or judge, who is a candidate for nomination or election to the same office, the designation of that office.

Sec. f. Any judge of probate serving at the time this constitution becomes effective may serve the remainder of the term and be eligible for [reelection] ELECTION to his present office regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. g. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within [the] A county or circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased[,] during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit courts shall receive an annual salary as provided by law. In addition to the salary RECEIVED [paid] from the state treasury, each circuit judge may receive from any county in which he regularly holds court such additional salary as may be determined from time to time by the board of supervisors of the county. In any county where such additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. h. For reasonable cause, which [shall not be] IS NOT sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of 2/3 of the members elected to AND SERVING IN each house of the legislature[;]. [and] The cause for [which such] removal [is required] shall be stated at length in such resolution.

Sec. i. The [office] OFFICES of circuit court commissioner and justice of the peace shall [continue to have, for a period of not to exceed] BE ABOLISHED AT THE EXPIRATION OF 5 years from the date this constitution becomes effective[, all their respective powers and jurisdiction until the time within this period that they are abolished or their jurisdiction and powers are transferred to, or invested in, other courts that shall be established in accordance with this constitution] OR MAY WITHIN THIS PERIOD BE ABOLISHED BY LAW. THEIR JURISDICTION AND POWERS WITHIN THIS PERIOD SHALL BE AS PROVIDED BY LAW. WITHIN SUCH 5 YEAR PERIOD, THE LEGISLATURE SHALL ESTABLISH COURTS OF LIMITED JURISDICTION WITH POWERS AND JURISDICTION DEFINED BY LAW. THE LOCATION OF SUCH COURTS, AND THE QUALIFICATIONS, TENURE, METHOD OF ELECTION, AND SALARY OF THE JUDGES OF SUCH COURTS, AND BY WHAT GOVERNMENTAL UNITS THE SAME SHALL BE PAID, SHALL BE PROVIDED BY LAW, SUBJECT TO THE LIMITATIONS CONTAINED IN THIS ARTICLE.

[Special] Statutory courts in existence [as of] AT the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until [and unless] they are abolished by law.

Sec. j. The provisions of this [constitution requiring the establishment of staggered] ARTICLE PROVIDING THAT terms of offices [in existence] SHALL NOT ALL EXPIRE AT THE SAME TIME, shall be implemented at the next election for such offices by legislation providing for elections for terms of varying length, none of which shall be shorter than the basic term provided [herein] for the office.

Sec. k. [Each branch] EITHER HOUSE of the legislature [as well as] OR the governor [shall have the authority to] MAY request the opinion of the supreme court upon important questions of law upon solemn occasions[, in connection with] AS TO THE CONSTITUTIONALITY OF legislation after it [shall have] HAS been enacted into law but before its effective date. [Such opinions shall relate only to questions of constitutionality.]

Sec. l. Any elected judge of a circuit court or probate court may become a candidate in the primary election for the office of which he is [then] the incumbent[,] by filing AN AFFIDAVIT OF CANDIDACY IN THE FORM AND MANNER [a declaration of intention at such time and in such office as shall be] provided by law.

[Sec. m. Within 5 years from the date this constitution becomes effective, and subject to the limitations contained in Committee Proposal 90 and section a of Committee Proposal 96, the legislature shall establish statutory courts of limited jurisdiction inferior to the circuit court with a definition of their powers and jurisdiction, the location and number of such courts, the qualifications of the judges who shall preside therein, the method of their election and tenure of office and the amount of their salary and by what governmental units the same shall be paid.]

SEC. N. THE SUPREME COURT, THE COURT OF APPEALS, THE CIRCUIT COURT, OR ANY JUSTICES OR JUDGES THEREOF, SHALL NOT EXERCISE ANY POWER OF APPOINTMENT TO PUBLIC OFFICE EXCEPT AS OTHERWISE PROVIDED IN THIS CONSTITUTION.

PRESIDENT NISBET: Just for your information, there are 9 amendments offered to this proposal. Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, as the president has advised, there are a number of amendments pending to the present proposal. I think it would be more apropos if we went through and took the 2 pending committee amendments, which I would ask that we consider first.

SECRETARY CHASE: Mr. Danhof, on behalf of the committee on judicial branch, offers the following amendment:

1. Amend page 2, line 2, [section d] by striking out "voluntarily or because of age"; so that the language will then read:

> The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, the committee simply felt that the language was not needed. We felt if we just state, "persons who have served as judges and who have retired," we would leave it to the supreme court, in effect, to ascertain who is retired. We don't need the "voluntarily or because of age." If they are retired, they will be drawing their pension, they will have reached an age — it was just a question of draftsmanship more than anything else. The committee felt that if we just struck out the word "voluntarily" as style and drafting had done, and allowed it right then and there, that the discretion would be utilized by the supreme court without telling them "voluntarily or because of age" or for any other reason. So we just let it read, "and who have retired." This is the first amendment.

PRESIDENT NISBET: The question is on the amendment offered by the committee. Those in favor will say aye. Opposed, no.

The amendment is adopted. The next amendment.

SECRETARY CHASE: The next amendment offered by Mr. Danhof, on behalf of the committee on judicial branch:

1. Amend page 4, line 6, [section 1] after "of a" by inserting "court of appeals,"; so the language will then read:

> Any elected judge of a court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner provided by law.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, this is simply to accord to the judges of the court of appeals the same privilege we have accorded to the circuit judge, the probate judge and the supreme court judge. I think it was a matter of oversight when the original amendment was offered. The committee urges the adoption of the amendment.

PRESIDENT NISBET: The question is on the adoption of the committee amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted. The next amendment.

SECRETARY CHASE: The next amendment, by Messrs. Radka, Plank and Sleder:

1. Amend page 1, line 5, [section a] after "of this state" by inserting "except the probate court"; so the language will then read:

> Except as otherwise authorized by this constitution, justices and judges of the courts of record of this state except the probate court shall be licensed to practice law in this state. . . .

PRESIDENT NISBET: The Chair recognizes Mr. Radka.

MR. RADKA: Mr. President and members of the convention, might I, at the outset, state that I am serious about this amendment. I say this because the same question was asked of Delegates Plank and Sleder when they offered this amendment during the first reading. Might I further say that I offer this amendment as an attorney. I offer it in good faith and without any pangs of conscience; nor do I consider myself a traitor to the profession of which I am a member.

I can well remember the days when I first went to the University of Michigan law school and the freshmen aspirants were addressed by several of the professors of the school and by the president. These words rang through my mind many times and they ring through my mind especially this afternoon: the staff urged the new attorney aspirants to consider, as they were going through their years of law school, taking up practice of their profession in the outstate areas. The staff recognized that there is a tendency for young attorneys, when they finish law school, to congregate around the metropolitan areas.

The reason that I offer this amendment is not for any other reason than to be realistic about the attorney population which we find throughout the state. I might parenthetically apologize to Delegate Heideman who pointed out that the research people who gave me the lawyer population as of January, 1962, failed to show any attorney in Keweenaw county. I am real happy, in one respect, that this happened because this shows that this lawyer population map that I have is not completely accurate and it is not completely realistic. For instance, it shows that there is 1 county that has no attorney. It shows that there are 4 counties that have only 3 attorneys; that 5 counties have only 4 attorneys; 4 counties have only 6 attorneys; and there are other counties that have only 1 or 7, 8, 9 and 10 attorneys. Now, I point this out, that there are a whole lot of counties in this state where the attorney population is low. This is according to the research or the records that I received from our research staff. I would like to also add that even though you find a county that has 6 attorneys, this does not mean that you have 6 attorneys who are available to assume the job of probate judge or other particular positions; for instance, the prosecuting attorney. This sentence shows that there are attorneys there, that many are retired circuit judges, many are not practicing, many are retained exclusively by corporations or businesses in the area.

I offer this amendment, recognizing that in this state at present we have 33 lay probate judges. Now, in 1955 the legislature presented an amendment for the approval by the people of the state of Michigan that all circuit judges and supreme court justices be licensed to practice law. This is because they became frightened when a lay probate judge suggested that he was going to run for circuit judge and there was nothing in the constitution which prohibited this; and the amendment was offered. I believe that the amendment was sound. Certainly, today we have all attorney circuit judges and supreme court justices. But we do have 33 lay probate judges in the state of Michigan at this date. Now let's just look practically at what we are doing by saying all probate judges will be attorneys if this constitution that we are working on is adopted. These probate judges who are laymen are protected by the so called grandfather clause. On the surface, this is good. It sounds as if we're not taking any drastic steps. But I submit to you that this grandfather clause has as many evils in it as it has merits. What we are doing in these 33 counties is freezing in the lay judge because no other lay judge can run against the present lay judge. And if no attorney decides to run for the probate judge position, then we are making things real easy for — or as I would say, freezing in — the lay judge. But there is another side to this. We're also freezing in a scalawag attorney in a county where the population of attorneys is not too great; no other layman can run against him and if other members of his profession in these particular counties choose not to run against him, we are freezing in the scalawag attorney. I said before, on the first reading, that I felt that the legislature in their judgment and wisdom had good reason to exclude the probate judges from the constitutional amendment and I say those reasons are present today.

Now, let's just take a few examples of what happened. I don't blame particularly the delegates on the judiciary committee for wanting to have all probate judges attorneys. I want this too. And I don't think that the attorneys in this convention should be criticized for wanting to do this. I think that the criticism lies in the profession itself, because the attorneys in the past, in many cases, have not chosen to assume the responsibilities of a probate judge. Why? Because, you say, the salary was not great enough. Well, I question if holding dollars in front of people who are proud of their profession should be the only stimulus to make them undertake the responsibilities of the judiciary which we are going to pass to them on a silver platter. And I say to you that the people who will pick up this platter and assume the so called new positions where we are going to have more salary so that it attracts these attorneys — I say to you that these men will not make our best probate judges.

Now, we must remember that as things stand now, the salaries being what they are now, in all of these various counties the attorneys have not chosen to run for probate judge or, if they have, the people have decided that a layman better fulfilled the responsibilities of the court. If you think I am just talking fiction about the low population of attorneys in some of these counties, a couple of weeks ago the prosecutor of Ogemaw county died suddenly of a heart attack. There were 4 attorneys in Ogemaw county and they couldn't find a prosecutor among the 4 attorneys. Finally, they had one of the practicing attorneys agree to assume the responsibilities of the office, and he did this with the understanding that another attorney in the county would act as his assistant, and I was called and asked if I could help them shop around for an attorney. They didn't want someone who would come up and stay for a while and then leave. They wanted a good man who would be interested in fulfilling the responsibilities of the chief law enforcement officer of the county. Now they have a lay judge there. Should this lay judge decide not to run or become ill or choose to retire, they will find themselves in the same position. And this is the same situation we're going to run into in all of the counties where they have a low population of attorneys.

Now, don't think that laymen serve only in counties where there are ½ dozen or 4 or 3 or 2 attorneys. For some reason, the people of this state in some of our larger counties have chosen to elect and reelect laymen. I point to Midland county that has 44 attorneys, St. Clair county that has 68 attorneys, Lenawee county that has 40, and Monroe that has 39. Now, there must be some reason for this. I have heard no particular complaint. The only way I would find complaint is probably if the press would pick up some bad operation of these courts. But I understand, from the information that I have received, that these courts are administered very ably.

So I say to you that there is a real problem here and I feel that we would be doing an injustice to these counties that have a low attorney population by requiring that all judges of probate be attorneys. The crux of the argument is you would be freezing in undeserving laymen or be freezing in scalawag attorneys or you would require the people of these counties to go out shopping for a man to serve as their probate judge; and if they can't catch him by bait of more money, they might go to the law schools and get a young graduate. And I submit to you that an inexperienced young law school graduate might be very qualified but an experienced layman accepted by the people might better fulfill the serious and important responsibilities of the probate courts in our state.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I don't want to prolong this debate. There are now 10 amendments. We debated it fully in committee of the whole. We decisively defeated it. We've endeavored to make the probate court a court of record. We have endeavored to upgrade it, to give it some stature. This is a minimum requirement. We provide for the incumbent. I urge the defeat of this amendment. I urge that on these amendments that we have already considered in committee of the whole and previously defeated, let's defeat them again and get on with our work.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Radka —

MR. RADKA: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Those in favor of the Radka amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 46

Andrus, Miss
Anspach
Baginski
Batchelor
Beaman
Bonisteel
Boothby
Butler, Mrs.
Dell
Doty, Donald
Finch
Gover
Haskill
Howes
Hoxie
Kirk, S.
Leibrand
Leppien
Madar
Marshall
McAllister
Nisbet
Perlich
Perras
Plank
Powell
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rush
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Stamm
Stopczynski
Thomson
Turner
Walker
Wilkowski
Wood
Young

Nays — 75

Austin
Balcer
Barthwell
Bentley
Binkowski
Blandford
Bledsoe
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Conklin, Mrs.
Cushman, Mrs.
Danhof
Donnelly, Miss
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Garvin
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Heideman
Higgs
Hodges
Hubbs
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Lesinski
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Ostrow
Page
Pollock
Prettie
Rajkovich
Romney
Rood
Seyferth
Spitler
Stafseth
Staiger
Sterrett
Stevens
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Radka and others, the yeas are 46; the nays are 75.

PRESIDENT NISBET: The amendment is not adopted. Will the delegates clear the board. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garvin, Ford, Barthwell, Ostrow, Downs and Hodges offer the following amendment:

1. Amend page 1, line 20, [section d] after "filled" by striking out the balance of the section and inserting "by appointment by the governor until a general or special election according to law. The appointee shall perform the judicial duties until the successor is elected and qualified to fill the unexpired term.".

PRESIDENT NISBET: The question is on the amendment offered by Mr. Garvin. Mr. Garvin.

MR. GARVIN: Mr. President and delegates, this Committee Proposal 96, section d, will —

PRESIDENT NISBET: May we have order, please.

MR. GARVIN: — place the court in a situation where they cannot locate a retired judge, although there are a considerable number — around 30 — at an average age of around 75, I believe. It would place the court in a position where the docket would be more filled than it is. And if the court administrator should move one judge to another section, that would not help the matter because the court docket in that circuit would be raised also.

Now, the judicial reputation of Michigan has been on top compared to that of the other states, and it has operated very efficiently on the present method set up in the constitution. It might be noted that the constitution does not provide for a judge running with the incumbency designation. That is legislative; that is what the legislature has provided. And by the same token, they can change that. What we have been doing here is rewriting a judicial article to improve the courts, apparently, but still without consideration that the judiciary of the state of Michigan is one of the top ones in the United States. It is interesting that this body finds matters to change in each section of the judiciary, and I submit that this is one of the most unfortunate changes that has been offered.

But let us take, for example, in the '30s — the way we have it now, everybody runs; each qualified attorney runs for circuit judge. Let us take in the '30s and I can tell you truly what it means. It certainly means a popularity contest, and it reminds me of the statement that was just made by Mr. Radka. Whatever a scalawag attorney might be, that so called attorney can get elected judge as well as anybody else. The popularity of an attorney can cause him to be elected judge without any practice whatsoever.

The way it has been up to now, by the legislature, is that the governor makes the appointment. That is by constitution. But about the judge running after that is another matter. I submit to you that we have been talking about bedsheet ballots, and you're leaving the way open now for bedsheet ballots in populous counties, if there ever has been one, with no one with any name running. Where there are thousands of attorneys or hundreds of attorneys, you're going to have a ballot so large that people cannot determine who to vote for because they have nobody with experience to know. Under the provision as set up by the legislature now of appointment of judges, and under our constitution where it states that the governor may appoint to fill vacancies, I don't believe that, in the history of Michigan, there have been 3 or 4 cases where a judge was not appointed after thorough investigation and then that judge is submitted to the voters at the next special or general election. I submit that this is the best way to do it. It gives the voter a chance at least to know that there is a judicial officer who is competent of filling the position.

There is another thing that we probably don't realize: that by this method, as set up by the constitution, without giving the governor the right to select or search for good judicial talent throughout the state of Michigan, the upper peninsula, the lower peninsula, the west and the east, to select for the best, we are eliminating that.

We might take into consideration that if, well, let us say Justice Brandeis, had been running on this basis in Wayne county and other places, he would never have been elected judge, much less a supreme court justice. I submit that the same thing would probably have happened to the very independent supreme court justice now, Justice Frankfurter, because of his name. And because of the Brandeis name, he would not have been elected judge and we would have missed a lot of good judicial timbre. That same thing is happening throughout the state of Michigan and it will happen under this proposal; that much good judicial timbre will be missed because there will be no one to look for it and select it. I can think of other judges now in various circuits who were appointed by some governor. Whether it be Republican or Democrat is not the important thing; the important thing is the realization that a governor is going to seek the best judicial talent possible and then that name must be submitted to the voters at the next special or general election as it has been. So I would remind you that it is very important that we adopt this amendment for the benefit of the judiciary of the state of Michigan. Let us not turn back the very fine judiciary we have by making it possible for any attorney to run without some kind of investigation from some source.

PRESIDENT NISBET: The question is now on the amendment.

MR. GARVIN: I will yield the floor to Mr. Ford, please.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Mr. President and members of the convention, we had an amendment similar to this before the convention when we passed on the judiciary article in committee of the whole and in convention on first reading. At that time I stated my impressions of what we were doing here rather bluntly and I have been trying ever since, in anticipation of today, to find a more gentle way to put it, and a way to be diplomatic about it, but I find it impossible. In trying to translate this action on the part of the convention in taking away the long standing tradition and the long standing power of the governor to fill judicial vacancies into terms of reference that are understandable to the people that I represent and to my fellow attorneys in the area that I represent, it boils itself down to a simple single fact: I think Mr. Marshall said on the convention floor at the time we discussed this before, that it's too late now to vote against Governor Williams and that we were fighting here on the floor of this convention the ghost of G. Mennen Williams. I translate the action of this convention into the lowest point of direct partisan political activity when this convention took action to remove from the governor the power to fill vacancies. It seems to be nothing more or less than a lack of faith on the part of the minority party in this state, which is the majority party in this convention, in its ability to elect the person to fill the position of governor of this state.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I rise in support of this amendment. What this does is add the best of the appointive system and the elective system by permitting the governor to make the appointment until the next election. I strongly urge its support. I say that Michigan's history has shown that this system works. And I challenge those who want to change it to show where it has not worked. And to those who fear the name candidate will come in, I answer only by saying that this elective system after appointment does, it is true, give the governor's appointee an added advantage; but at the same time, it does not give the governor too much power because at the next election there can be somebody to run by the petition method. I urge the support and agree with Delegate Ford and Delegate Garvin on this.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, again, we debated a very similar amendment in committee of the whole. Afterward, in convention, it was decisively defeated. We had determined to have an elective type of judicial system and if this particular amendment should be adopted I would urge the rejection of the proposal.

PRESIDENT NISBET: The question is on the amendment. Those in favor —

MR. DOWNS: I demand the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Garvin, Ford, and so forth, amendment will vote aye. Those opposed will vote nay. The question is on the amendment offered by Messrs. Garvin, Ford and others. It is on the wall. Those in favor of that amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 32

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Hart, Miss
Hodges
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Ostrow
Perlich
Sablich
Snyder
Stopczynski
Walker
Wilkowski
Young

Nays — 90

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Garvin and others, the yeas are 32; the nays are 90.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Garry Brown offers the following amendment:

1. Amend page 2, line 4, [section d] after "qualified.", by inserting "No person so appointed to perform judicial duties during such interim period shall be eligible to be a candidate for the same judicial office.".

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, this is rather a simple amendment and it is an amendment which I think the committee contemplates in their language. This was raised with Mr. Danhof on first reading. I raised it again with him on second reading. I don't know what his position on the matter will be. But in any case, first of all, I would say that the word "retired" is at best an ambiguous term; that the committee intended that such an appointee to perform judicial services would be ineligible to succeed himself or to use the office for impetus to election to the same judicial office. And further, if this is the intent of the committee, and I believe it is, certainly we should make it clear that an appointee filling a judicial office — not a vacancy, if you prefer — but rather performing judicial duties as an appointee, shall not be eligible to run for that office, or the same judicial office. I would urge a yes vote on the adoption of this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, Mr. Brown has talked to me about this particular amendment. Now, the only objection I see to the wording is, he says, "no person so appointed." Now, in essence, nobody is appointed to fill a particular vacancy. What happens is that the supreme court, if it desires, will call up a retired judge and merely assign him to a particular circuit wherever there might be a vacancy. And he might sit there and it might change from time to time.

Now, this has not been taken before the committee; I cannot speak on behalf of the committee. I have my own personal view on it that this is not a particularly bad amendment so far as my own thinking is concerned, but I point this out: that in section a — Mr. Ford brings this to my attention — we have prohibited anyone from being elected or appointed to a judicial office after he reaches the age of 70. I assume that they might retire at 65 and there might be some chance that there would be a judge who might be 67 who could be called up, and then if the vacancy were in his home circuit, wherein he was a resident and wherein he resided, he could run for the vacancy. Well, I submit that he could do this whether he was called up or not. This I point out: there is no committee recommendation in particular on this amendment.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, Mr. Danhof, I would be happy to change the word, if you would prefer it, from "appointed" to "designated."

MR. DANHOF: I think it would be better, Mr. Brown. If the amendment might be adopted, I would say that this would be better.

MR. G. E. BROWN: Then, with the Chair's permission, I would revise my amendment to use the word "designated" rather than "appointed." "No person so designated. . . ."

[The amendment, as revised, reads as follows:

1. Amend page 2, line 4, [section d] after "qualified.", by inserting "No person so designated to perform judicial duties during such interim period shall be eligible to be a candidate for the same judicial office.".]

PRESIDENT NISBET: Mr. Marshall, Mr. Mahinske is recognized first. Mr. Mahinske.

MR. MAHINSKE: Mr. President, I would like to direct a question to Mr. Brown through the Chair.

PRESIDENT NISBET: If he cares to answer. Mr. Brown.

MR. MAHINSKE: As I read your amendment, there doesn't seem to be any qualification as to time here. Would this be legitimately construed to mean that he shall never be a candidate for that office?

MR. G. E. BROWN: Mr. President, Mr. Mahinske, as indicated by Mr. Danhof, it is not contemplated that the supreme court will appoint anyone who is not retired as such. Having retired from office, it doesn't seem that he would want to be a candidate to continue in the office that he has retired from. And the language as it was written would, of course, preclude a person from running for that same judicial office for time immemorial.

MR. MAHINSKE: Now, under other committee proposals and other sections of this committee proposal, we do provide that in the future certain courts may be abolished and their duties assigned to courts of lesser or greater jurisdiction. Now, it is conceivable that in the future the legislature may abolish, say, a probate court and set up a court of lesser jurisdiction and reassign the probate judges to this court. Under your amendment they would not be able to succeed themselves in office.

MR. G. E. BROWN: Mr. President, Mr. Mahinske, yes, they would, because this would not be the same judicial office.

MR. MAHINSKE: This may be true but are we sure that this would be construed this way?

MR. G. E. BROWN: Mr. President, Mr. Mahinske, I don't know how you could construe any language that says, "the same judicial office," to mean a different judicial office.

MR. MAHINSKE: I will submit that because of the ambiguity that I see in this, and because of the possibility that nothing other than a retired judge would be appointed, I don't feel that this language is necessary and I would be opposed to the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that further debate on this matter be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, with the revised language that Mr. Brown has offered, I think that this amendment should be given some very serious consideration. This is something that I am sure those proponents of giving the people the right to express themselves should adopt wholeheartedly because this particular amendment, as worded now, would mean that when a vacancy is filled by supreme court appointment, you would not gain an incumbency advantage. I think that this is an essential thing, that when these vacancies occur in the judicial branch of our government that the people have free opportunity of broad selection among the candidates without any identification on the ballot of incumbency or any other type of identification which might control their voting. So I would urge very strongly that this amendment be adopted. I think it is consistent with many delegate proposals which were introduced and referred to the committee on judicial branch.

PRESIDENT NISBET: Will the speakers realize the debate is limited. There are 3 speakers. Mr. Barthwell.

MR. BARTHWELL: Mr. President, fellow delegates, I'm not sure that I'm completely clear on the committee's proposal. May I ask Mr. Danhof a question?

PRESIDENT NISBET: You may.

MR. BARTHWELL: Am I right that it is the opinion of the committee that only retired judges will be designated to fill vacancies?

MR. DANHOF: You are correct, Mr. Barthwell.

MR. BARTHWELL: Okay. Thank you. I don't think they would be eligible to run then. Therefore, I don't support this amendment. I support the committee's proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Pugsley.

MR. PUGSLEY: I think there is a little confusion about the interpretation of this amendment. I don't think it is intended that there necessarily must be an appointment of a retired judge to fill a vacancy. It's a situation in which not simply one, but more than one, retired judge might be called into certain circuits to act during the period of the vacancy until someone is elected to fill the vacancy. It doesn't necessarily involve an appointment, as I understand it.

PRESIDENT NISBET: The question is on the amendment. Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, I wonder if I might propose a question that bothers me to Mr. Brown.

PRESIDENT NISBET: If he cares to answer. Mr. Brown?

MR. HOXIE: As I read the proposal it says a former circuit judge. All the emphasis has been on the fact that he has been retired. Now, can you assume that, for instance, a circuit judge who has been retired by the people — not necessarily reached the age of retirement — would be eligible for appointment, as I understand the proposal? Now let's assume, if we may, that an appointment was made of a circuit judge, retired either by vote of the people or by age, and he was assigned to your county. Say he came from Gratiot county. Under the reading of this proposal, would it be impossible for him to be a candidate for circuit judge in Gratiot county? Where you say "the same judicial office?"

MR. G. E. BROWN: Mr. Hoxie, it is contemplated that it would be the same judicial office. In other words, circuit judge in the circuit in which he was serving.

MR. HOXIE: Mr. President, through the Chair, you mean to indicate that your interpretation of your language, "the same judicial office," that the ability for him to be elected in another circuit — he would be prohibited from being elected in that circuit where he had never served as an appointee of the court or on an assignment by the supreme court?

MR. G. E. BROWN: Mr. President, Mr. Hoxie, I think that we are begging the question here. As a practical matter, no judge needs to accept this appointment. The whole purpose of the amendment is to assure that someone will not have an advantage in the election by having served, for instance, as much as 2 years — which could be possible under the committee language — in a circuit, that he shall not have that advantage of having served there for 2 years and then run for election. Because if this happens, we're getting away from the very thing that we've attempted to prevent by the committee proposal, and that is to maintain judicial integrity in the initial election of judges by the electors and not to have an appointive system which is confirmed by the electors, which is the present case.

MR. HOXIE: Mr. President, I think Mr. Brown has answered my question, and I think the point that I've raised clearly indicates what this proposed amendment would do. I urge a no vote.

PRESIDENT NISBET: Mr. Ford, do you care to —

MR. FORD: For the reasons advanced by Mr. Danhof I would recommend voting no on this amendment and call Mr. Brown's attention to the fact that he is searching for a problem that has not historically existed in Michigan and isn't likely to in the future inasmuch as the only people who could be qualified for the assumption of these duties are disqualified from seeking office at the time that they become qualified for such an appointment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Brown. Mr. Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I feel that it is incumbent upon me to answer Mr. Ford. Retirement does not mean 70 years old; it does not mean 69 years; "retirement" could mean 40 years old. It could mean any time. And so it is essential that this amendment be adopted and I urge a yes vote.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been ordered. Is that demand seconded? Sufficient number up. Those in favor of the Brown amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CASE: On the amendment offered by Mr. Garry Brown, the yeas are 41; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The Chair recognizes Mr. Blandford.

MR. BLANDFORD: Are there any announcements first, Mr. President?

SECRETARY CHASE: The committee on administration will meet ½ hour before the evening session today. Mr. Walter DeVries, chairman.

Mrs. Cushman requests the following announcement be made: the women delegates will meet with the research consultants and others interested in "sex" as used in the equal protection clause, (laughter) Tuesday at 8:00 a.m. in room A.

The committee on emerging problems will meet Tuesday at 11:30.

The committee on legislative organization will meet Tuesday morning at 8:00 o'clock for the purpose of getting a committee picture.

The committee on declaration of rights, suffrage and elections will meet in room F tomorrow at 8:00 o'clock p.m. Dr. Pollock, chairman.

The committee on emerging problems will meet Wednesday in committee room H on the third floor at 8:00 o'clock a.m.

The committee on style and drafting will meet tomorrow after the morning session.

I have the following requests: Mr. Lee Walker wishes to be excused from the evening session; Mr. Murphy and Mrs. Hatcher ask to be excused from today's session.

PRESIDENT NISBET: Without objection, the requests are granted.

MR. RADKA: Mr. Secretary, will you repeat again the room where Mrs. Cushman's meeting is going to be held? I'd like to be there. (laughter)

PRESIDENT NISBET: Mr. Blandford.

MR. BLANDFORD: Mr. President, I have been under extreme pressure to move that we recess until 10:00 o'clock but I stood firm and I move that we recess until 8:00 o'clock.

PRESIDENT NISBET: The question is on the motion of Mr. Blandford. Those in favor will say aye. Opposed, no.

We are recessed until 8:00 o'clock.

[Whereupon, at 6:00 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

[Pursuant to leave previously granted, Mr. Bentley left the chamber.]

PRESIDENT NISBET: We were working on **Committee Proposal 96.** We have 7 amendments yet. The secretary will read.

SECRETARY CHASE: Mr. Boothby offers the following amendment to Committee Proposal 96:

1. Amend page 3, line 5, [section i, paragraph 1] after "shall" by striking out "be abolished at the expiration of 5 years from the date this constitution becomes effective or may, within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within such 5 year period, the" and inserting "continue to have all their respective powers and jurisdiction until they are abolished or their jurisdiction and powers are transferred to, or invested in, other courts and that they shall be established in accordance with this constitution. The"; so the language will then read:

> The offices of circuit court commissioner and justice of the peace shall continue to have all their respective powers and jurisdiction until they are abolished or their jurisdiction and powers are transferred to, or invested in, other courts and that they shall be established in accordance with this constitution. The legislature shall establish . . . .

PRESIDENT NISBET: The Chair recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, apparently I have sensed that the position of this convention is to remove constitutional status for the justice of the peace. Now, this amendment which I submitted does not alter that particular policy to remove the constitutional status for justice of the peace. This matter apparently was decided some time ago. This does, however, look into another matter which the present position of the language of the committee proposal indicates, that it is the intention of the committee to have a 5 year death penalty provision. The thing that this amendment seeks to correct is a possibility which may arise out of that 5 year death penalty. As I understand it, reading this impairment here with some of the other sections of the constitution, it is altogether possible that the legislature may come up with a very interesting situation. Within that 5 year period they may not be able to come up with a new system for inferior courts. And as I understand it, it requires a 2/3 vote of each house of the legislature to set up a new system of inferior courts. So there is a possibility developing where the inferior courts may not be set up for lack of agreement within the legislative body. Now, this amendment would provide that until the legislature has set up some new type of plan for the inferior courts that the present system would remain intact, not as a constitutional office, but as a legislative office.

I can foresee a very interesting situation taking place if this present provision remains intact and unchanged, and that is this: that under the present situation, all the statutes which are directed towards the justice of the peace courts might be considered to be null and void because the constitutional status of the justice of the peace is abolished, and even though the legislature wanted to recreate something very similar to the justice of the peace, the legislature would be required to resubmit statutes covering this whole area because of this clause which, apparently, not only knocks out the office of justice of the peace but knocks out the whole system in all the statutes which were created looking towards that particular kind of an inferior court setup. I feel that my amendment does not destroy the original intent, which is to remove constitutional status for the justice of the peace, but it does leave the justice of the peace system, it does leave the state of Michigan with an inferior court system until the legislature comes up with some other kind of plan that can be accepted by 2/3 of the members of both houses of the legislature. I urge the adoption of this amendment.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, a question to Mr. Boothby.

PRESIDENT NISBET: If Mr. Boothby cares to answer.

MR. W. F. HANNA: Mr. Boothby, as I read your language, it would appear that until they abolish the office of justice of the peace, they could not change its jurisdiction or powers. I wonder if this is your intent: that if the justice of the peace system were retained, due to the inaction of the legislature, that the jurisdictional amount could not be increased or decreased or the present powers and jurisdiction of the justice of the peace could not be increased or decreased from the adoption of this constitution until it was transferred to or invested in other courts?

MR. BOOTHBY: Mr. President and Mr. Hanna, I do not believe that, even under the committee's proposal, the jurisdiction and powers of the justice of the peace can be altered except by action of the legislature. This would not change that provision in any respect. In other words, it actually is looking at the problem more directly than did the committee. It is saying — it is recognizing the fact that you cannot set up an inferior court system unless the legislature acts. This prevents a situation from developing where the legislature might fail to act because of the failure to be able to gain 2/3 vote in each house and then coming out with no inferior court system, which would be deplorable.

MR. W. F. HANNA: Mr. President, Mr. Boothby, may I pose a specific question? Could the legislature increase the dollar jurisdiction of justice courts in assumpsit cases from $500 to $1,000 under your proposed language?

MR. BOOTHBY: As I read my amendment, Mr. Hanna, Mr. President, the import of this particular amendment would leave to the legislature, at any time after this constitution is adopted, the power to develop any kind of inferior court system they wish and to change and alter the powers if they so desire; because as the amendment reads, the legislature would be given the power to provide for an inferior court system and to do anything they wished within that period of time.

MR. W. F. HANNA: Mr. President, Mr. Boothby, I think, in my opinion, you have ignored my question. My question is: could an existing justice of the peace court, which is continued because the court itself is not abolished nor is its jurisdiction and power transferred or invested in any court, could the legislature change the dollar amount of that court's jurisdiction? Or have you frozen the justice court jurisdiction as it now is by statute until such time as this jurisdictional power is transferred to a different court or invested in another court?

MR. BOOTHBY: I think I see the question you have and it may call for an amendment. This amendment only provides for the power and jurisdiction to be abolished, transferred or invested in other courts and there may be some problem there that should be corrected by an additional amendment. I did not see it at first blush.

MR. W. F. HANNA: Mr. President, Mr. Boothby, it was not your intention to not let them have the present powers that the legislature now has with regard to justice courts?

MR. BOOTHBY: Mr. President, Mr. Hanna, my purpose was to leave with the legislature complete power over this particular area and the reason why the wording is as it is, I tried to keep it as close to the present wording of the proposal, to make as little change, as possible. I would welcome any amendment to correct this possible defect.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I am advised that there are 7 pending amendments to this proposal and, of course, we have 2 important proposals remaining thereafter. In order to facilitate our consideration of these matters, Mr. Danhof and myself have consulted with the proponents of the remaining amendments to be offered to this proposal. Each of them have indicated that approximately 10 minutes will suffice. Therefore, I would move, Mr. President, that further debate on the current amendment be limited to 10 minutes and that the debate on each of the now pending amendments to this proposal be also limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, several of the questions that Delegate Hanna raised occurred in the judiciary committee and in the style and drafting committee. I'd like to point out that the proposed amendment of Delegate Boothby would eliminate the self executing feature of the proposal that the office of the justice of the peace be abolished at the expiration of 5 years. Second, the matter of freezing of jurisdiction is a significant one. I think that if you examine this language closely, there are several problems with regard to requiring that the present jurisdiction of the justices of the peace be transferred as a condition of the abolishment. There are many useful functions of the justices of the peace. There are some functions which the legislature may find desirable to reexamine and determine whether they should be transferred. The power, for instance, of counting logs in a stream. So, for fear that we freeze in an ancient jurisdiction without giving the legislature opportunity to examine this carefully and recreate as they find best under the circumstances, I urge you to vote no.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I don't think any of the 28 justices of the peace in Wayne county have counted any logs in streams recently, but they do serve almost 400,000 people who live in townships. If Mr. Boothby would consent to it, I would like to suggest the possibility of adding, in the fourth from the bottom line of his amendment, after the word "are," the words "modified or abolished" so that the legislature would clearly have the power to increase the jurisdiction of the justice of the peace in larger townships, for example, on a local option basis or decrease it or take it away or do what it would with it.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: Mr. President, Mr. Ford, I would agree to those words. I was thinking of the word "altered" and I wondered whether we might take care of any possibility by using the words "modified and altered".

MR. FORD: It is your amendment.

MR. BOOTHBY: I would agree to that revision.

[The amendment, as revised, reads as follows:

1. Amend page 3, line 5, [section i, paragraph 1] after "shall" by striking out "be abolished at the expiration of 5 years from the date this constitution becomes effective or may, within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within such 5 year period, the" and inserting "continue to have all their respective powers and jurisdiction until they are modified, altered or abolished or their jurisdiction and powers are transferred to, or invested in, other courts and that they shall be established in accordance with this constitution. The".]

PRESIDENT NISBET: Mr. Ford.

MR. FORD: As he has revised it, I would like to support him. I would like to partially answer what I think Bill Hanna has raised here in just what the first language that Mr. Boothby would insert would do. At the present time, there is constitutional jurisdiction in the justice courts which will no longer exist as we have put together this document up until this time, and that is contained in sections 15 and 16 of the 1908 constitution.

We have, by exclusion reports, abolished those 2 sections so that no matter what we do here, unless there is some language to preserve it, the basic jurisdiction of the justice courts would cease to exist upon the adoption of this document. However, Mr. Boothby's language now would abolish the constitutional status of this jurisdiction and leave it to the legislature to allow them to continue that which they have, enlarge it, reduce it or completely eliminate it, as the case might be; and, in fact, we would be very hopeful that in the urban areas, for example, they might take this opportunity without waiting 5 years to allow us to have a municipal court system with lawyers serving on a salary basis in lieu of the justice system that we now have, without at the same time doing damage outstate where the people might prefer to keep the system as it is now or with some modifications on it in the future.

As it is revised now, I think that the Boothby amendment complies with the argument that we have already heard here today about not tying the hands of the legislature or freezing something into the constitution that could best be handled by the legislature when it takes more time and more deliberate action in determining from time to time what is best for the state.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I would only say this: the same matter came up in committee of the whole, the same idea was nothing more than the minority report that was presented by a minority of my committee. It was overwhelmingly rejected. We wrote in the 5 year period, after which this convention overwhelmingly adopted the Pugsley-Radka-Rajkovich amendment which, in essence, is lines 10 through 17 of this particular provision in capital letters, which was adopted and put forth by many members of this convention. To adopt the language now of Mr. Boothby would be to strike all of that on which we have made a clear expression of our opinion previously, not only in committee of the whole but in this convention.

I think we have a good article, we have a good section, we have what amounted to a compromise position in this regard with the provision offered by Judge Pugsley, Mr. Radka and Mr. Rajkovich which was adopted. We have laid out what the legislature shall do. We have told them what to do. I don't think there is any particular question on it and I would urge the rejection of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment, as revised. Those in favor of the amendment, as revised, will say aye. Those opposed, no.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? It is supported. Those in favor will vote aye. Those opposed will vote no.

MR. BOOTHBY: Mr. President.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: There is some question on the wording as it was revised on the floor. I am wondering if the secretary would read it as revised.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: The language to be inserted now reads:

[The revised amendment was read by the secretary. For text, see above.]

PRESIDENT NISBET: This is the Boothby amendment, as revised. Those in favor will vote aye. Those opposed, nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the Boothby amendment, the yeas are 38; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend page 2, line 8, [section f] after "Any" by inserting "supreme court justice, circuit judge,"; so the language will read:

> Any supreme court justice, circuit judge, judge of probate serving at the time this constitution becomes effective may serve the remainder of the term and be eligible for election to his present office regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, I talked to the chairman about this and he says this is the intent of the committee, to have all these judges on the same basis. And Mr. Hutchinson was just telling me that if we put it in here, they can put it over into the schedule. This would merely say that a circuit court judge, probate judge and any supreme court justice would be able to serve out the end of their term and would make it consistent. I have no reason to object to them putting it into the schedule but I think this would make it consistent.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, Mr. Kuhn, it was not the intent of the committee upon the adoption of this constitution that all judges then serving in the middle of the term would have to be rerun for the office if the statute were passed. I talked with Mr. Hutchinson. He states that probably within the schedule provisions there will be a general clause in this regard, in which case your amendment would be taken care of in the schedule.

The effect of section f was to give the nonlawyer, incumbent judges of probate the right to continue in their office. It was certainly not the intent of our committee that upon the adoption of the constitution, all judges would again have to be up for reelection and start new terms. I would, therefore, at this time, see no objection to the language of Mr. Kuhn, with the idea that if style and drafting wants to place it in the schedule provisions, it can be done.

MR. KUHN: Very good. Thank you.

PRESIDENT NISBET: The question is on the amendment of Mr. Kuhn. All in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Mahinske and Krolikowski offer the following amendment:

1. Amend page 3, line 10, [section i, paragraph 1] after "law" by changing the period to a colon and inserting "Provided however, That the office of circuit court commissioner in counties of 300,000 or more shall continue to exercise juris-

diction beyond the 5 year limitation herein provided unless specifically abolished by the legislature.".

PRESIDENT NISBET: The Chair recognizes Mr. Mahinske.

MR. MAHINSKE: The object of this amendment is that in the large counties, where you have a large, flourishing JP system or a large circuit court commissioner system — such as Wayne, Oakland, Macomb, possibly Genesee and Kent — that the 5 year death penalty would not be mandatory on these counties but the legislature could, as they set up a substitute system, abolish either the JP system within the county or the circuit court commissioner system within the county, or both. Now normally, in these larger counties, your circuit court commissioners are not working on a fee system and are paid on salary from the county itself, with no contributing funds from the state. In particular, in Wayne county we have a circuit court commissioner's bench that handles somewhere over 23,000 cases a year, including all types of landlord-tenancy cases, land contract cases, evictions, and so forth.

Now, with the mandatory system that we have set up in section i, at the end of 5 years at the latest, the circuit court commissioners would have to be abolished and some type of a new court system would have to take over these some 23,000 cases; or, if no provisions had been made for this, with the abolition of the JP courts at the same time, we would have an additional 23,000 cases thrown on the circuit court docket. Now, our circuit court commissioners in these large counties are current, and there is no waiting for juries and there is no backlog of cases. I am afraid that if some provision isn't made for these heavily worked areas, that we may find all these additional cases going onto the circuit court docket, where we have anywhere from a 9 to a 24 month wait for your cause to come to the head of the calendar now. I would urge the adoption of this amendment to take care of the counties at least where there is a heavy workload and they may need some additional time in the transition period from circuit court commissioner and JP to another type of court, or leave the possibility open that the legislature may provide for no change in this area.

PRESIDENT NISBET: The Chair recognizes Judge Pugsley.

MR. PUGSLEY: Mr. President and fellow delegates, I have no objection personally to this amendment. I think it might serve a useful purpose in Wayne county. I have had some correspondence from there and I appreciate the work that is being done by the circuit court commissioners in that county. I am not prepared to speak for anyone else except myself and so far as I personally am concerned, I don't oppose it.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, let me point out that this is the same thing we discussed in committee of the whole. It is trying to save something for a particular area of the state. When we write in 300,000, 500,000, 200,000 in the constitution, we put in a numerical limit. I should point this out: that all of the jurisdiction now given to the circuit court commissioners is statutory. The enabling language within the present Constitution of 1908 merely stated that the legislature might establish in the counties an office with the power of circuit judge in chambers. There is nothing self executing about it. The statute will remain on the books. It will take nothing more than an act to provide for this. I see no reason why we can't have a cohesive statement on this and apply it uniformly throughout all of the state. I doubt very much if we will let Wayne county or any of the other large counties suffer in this regard. I would therefore urge that the amendment be defeated, as it was in committee of the whole.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: In view of Mr. Danhof's remarks, I would like to point out that we are not trying to save something for a particular area of the state. We are attempting to save a particular area of the state from something here, which is slightly different than he puts it. I think you have all received the figures from Wayne county here. I am not speaking basically for Wayne county. I am speaking for those 4 counties that have a heavy circuit court commissioners' docket that may well be thrown onto their circuit courts. And I feel that possibly 5 years is not enough time to make the transition from the justice court and the circuit court commissioner type of operation to another form of court that is set up. And I would urge the adoption of this amendment to take care of the possibilities in these large areas where you may need more time. There is nothing to prevent the legislature from still operating within the 5 year period to abolish these courts across the board throughout the state.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Mahinske and Mr. Krolikowski.

MR. MAHINSKE: Will you call for the yeas and nays on this?

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—50

Austin
Baginski
Balcer
Binkowski
Bledsoe
Bonisteel
Boothby
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Dehnke
Dell
Elliott, Mrs. Daisy
Erickson
Follo
Ford
Garvin
Hodges
Jones
Kelsey
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McCauley
Ostrow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, L. W.
Sablich
Sharpe
Sleder
Stafseth
Stopczynski
Wilkowski
Wood
Yeager
Young

Nays—63

Allen
Andrus, Miss
Anspach
Batchelor
Blandford
Bradley
Brake
Cudlip
Cushman, Mrs.
Danhof
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Faxon
Figy
Finch
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Koeze, Mrs.
Lawrence
Martin
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Pollock
Rajkovich
Rood
Rush
Shackleton
Shaffer
Shanahan
Spitler
Staiger
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Mahinske and Krolikowski, the yeas are 50; the nays are 63.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Higgs offers the following amendment:

1. Amend page 3, line 12, [section i, paragraph 1] after "establish" by inserting "a court or"; and in line 14, after "such" by inserting "court or"; and in line 15, after "such" by inserting "court or"; so the language then will read, beginning in line 12:

> . . . the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election, and salary of the judges of such court or courts, and by what govern-

mental units the same shall be paid, shall be provided by law, subject to the limitations contained in this article.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, at the time of the first reading, I asked the question of Judge Pugsley on the floor whether or not this was within the intent of the language and my understanding was that at that time it was. What it is designed to do is merely not to require the legislature to establish a multiplicity of courts of limited jurisdiction. It is within the realm of contemplation that the legislature may establish a court differing as between smaller counties and larger counties, but rather than creating — you see, we are abolishing 2 courts and we do not want to force the legislature to establish a multiplicity of courts. On the other hand, we don't want to tie their hands the other way.

Now, since that time, I have inquired of the chairman of the committee, Mr. Danhof, and Judge Pugsley has a copy of this proposed language, and it is my understanding that it is agreeable with both of them, and there is nothing really subversive involved here. What we're trying to do is clarify the language. The way it reads would indicate that the legislature shall establish courts in the plural. Now, of course, there must necessarily be a number of divisions of any court established. We're using the words "court or courts" in the broad generic sense.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, Mr. Higgs has stated that he talked with me. I have no personal objection, but the authors of this basic proposal were Judge Pugsley and Mr. Radka. I would state that I would inquire through the Chair, if Judge Pugsley would care to comment. If he has any objection to this particular amendment, I would like to hear it. If he has none, I certainly have none.

PRESIDENT NISBET: Judge Pugsley.

MR. PUGSLEY: I have no objection to it.

PRESIDENT NISBET: The question is on the Higgs amendment. Those in favor will vote aye. Opposed, nay.

The amendment is adopted. The next amendment.

SECRETARY CHASE: Mr. Faxon and Mrs. Cushman offer the following amendment:

1. Amend page 3, [section 1, paragraph 1] by striking out all of lines 12 through 17; which read:

> Within such 5 year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election, and salary of the judges of such court or courts, and by what governmental units the same shall be paid, shall be provided by law, subject to the limitations contained in this article.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, this is the amendment that was attached in committee of the whole. It was not part of the original proposal that issued forth from the judicial committee. The language which is contained in these lines, I think, as you can see for yourself, clearly leaves everything up to the legislature. In doing so there doesn't seem to be any value in putting it in. It doesn't name any court; it doesn't locate the court; it doesn't give qualifications for justices of the court; it doesn't provide for tenure of the court; it doesn't provide for method of election of the court. It simply provides an outline of what the legislature must ultimately do anyhow. The language is vague. Furthermore, it even permits, as I read it, that the legislature could set up a judge and then order the local community to pay the judge a certain salary from its own tax sources, saying there that the "salary of the judges of such court or courts, and by what governmental units the same shall be paid. . . ." So it seems possible that you could have the legislature prescribing for a judge in a district and paying him a salary in excess of what the community can afford and what had been the customary rate in that area.

In addition to this, I think that we already have provided for the legislature to establish courts in a previous proposal which we have already approved. With this in mind, I think the question could be clearly left with the legislature. The language doesn't seem to say anything specific except to provide that the legislature shall do it. Perhaps if the people who were for this could send a memorial to the legislature or put in the schedule that the legislature shall do something to provide for replacement for such courts, it would save the constitution from being cluttered up with excess language which could just as well be left to the legislature to start with. I ask you to give this your favorable consideration.

PRESIDENT NISBET: The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, I just want to agree with everything that Jack Faxon has said about this particular section. And I want to again remind you that in committee of the whole we, from outstate Michigan, asked specifically that you put this in to give our people reassurance that they would have a court system at the local level that would supplant the justice of the peace system which you are taking away from us. We urge you, strongly, to defeat the amendment.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I think it is well known to everybody in the convention how this managed to get in in the first place. I think you should be made aware of what we just did a few minutes ago. The judiciary committee had presented to it, as an alternative to the system of municipal courts and justice courts that we now have, a so called county court. This means that a single court with several divisions may have traveling judges elected in the city — for example, if you have one big city in a county — who travel out into the other communities and sit one day or week or something at a time. This was rejected very emphatically in the judiciary committee and was rejected as a concept on this floor. Mr. Higgs has now very skillfully — first in committee of the whole on first reading — got this thing moved around to the point where it opens the door for a county court system; and now just a few minutes ago with his amendment he has substituted for a "system of courts," a "court or courts," and now it makes it very clear that we contemplate a county court to replace all of the municipal courts and all of the justice courts. And if you believe that this is what you want, that the present system is not adequate and that local communities should not have a local court system with judges elected from the residents of the community in which they sit then I suggest that you vote no on the Faxon amendment and allow this to stand as it is now. But as it is amended I feel that I have to support the Faxon amendment to strike it, because this does what we all agreed at one stage of this convention we didn't want to do.

I want to caution you once more, as I did before: this has been offered by some of the proponents of the language — before it was modified and chopped up — as a guarantee, as Mr. Farnsworth is willing to buy it, but I want to tell you, Jim, that you're buying a pig in a poke. You're not getting what you think you're getting. You're getting what you have told me, on numerous occasions, you would be opposed to. You're getting the very thing that can take away from the people in your community the absolute right to have a court system with a locally elected judge from amongst the residents of your own community; and you're walking right into it and we've done it step by step. And Mr. Higgs has now succeeded in doing what he was never able to do in the judiciary committee: getting this convention to adopt a county court system.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I am unable to read into this language that Mr. Higgs has put into this section any such interpretation as my neighbor, Mr. Ford, here, is trying to put into it. These 5 or 6 lines represent the fruitage of days and weeks of labor and consultation to find something by which the smaller communities could supply their needs for the type of courts that need not be manned by lawyers and are adapted to their local situations. Without this language in it, many of us would not feel ourselves at liberty to support this judicial proposal as an entirety. And I hope the amendment is not adopted.

PRESIDENT NISBET: Mr. Radka.

MR. RADKA: Judge Dehnke has said practically the same thing that I was going to say, and more ably than I could say it. There was a great deal of meaning in these 5 lines, Delegate Faxon. In fact, there was a lot of sweat. I don't believe there was any blood spent. But there was a definite purpose in mind and by observing you in your chair now, I think you are fully aware of what purpose the proponents of these 5 lines were trying to accomplish. And they were accomplished and they were passed on first reading. And I would only urge all of you to defeat the Faxon amendment and allow these simple little 5 lines which give the smaller communities and smaller areas outside of the metropolitan areas a little more light in their judicial system.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I rise only to state that I agree fully with what Judge Dehnke said. My distinguished second vice chairman, I think, has tried to drag, as we have said before, some red herrings through this language. I urge the defeat of the amendment.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: I would like to ask Mr. Radka a question, through the Chair, if I may.

PRESIDENT NISBET: If he cares to answer. Mr. Radka?

MRS. CUSHMAN: Would Mr. Radka explain for us a little bit more fully about the deep seated purposes that he says lie behind these 5 lines?

MR. RADKA: I do care to answer. Very simply, the judiciary article originally required that all judges be attorneys. It was pointed out that in certain areas, all judges could not be attorneys. It was obvious that the judiciary committee could not get sufficient support in their committee to establish a county court, and an attempt was made to allow some sort of life blood for a judicial system in this state where a justice or court — whatever you may call them — might not have to be an attorney. So what was done, the amendment was offered which, in effect, said that all judges have to be attorneys in courts of record. The legislature is left with the responsibility to define courts of record. And then when we spelled the death knell to the justice of the peace courts, as we now know them, we went a little further to spell out what they could do in creating courts not of record. Does that answer your question, Mrs. Cushman?

MRS. CUSHMAN: Yes. Thank you very much. That's exactly what I had in mind in cosponsoring this amendment with Mr. Faxon. I am still of the opinion that judges, whether they are justices of the peace or judges of courts of record, ought to be attorneys. Thank you.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye.

MRS. CUSHMAN: I ask for a division.

PRESIDENT NISBET: A division has been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Faxon-Cushman amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon and Mrs. Cushman, the yeas are 22; the nays are 93.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Ford offers the following amendment:

1. Amend page 3, line 17, [section 1, paragraph 1] after "article" by changing the period to a colon and inserting "Provided however, That any such court system shall provide for the election of one or more local judges in each city or township, as provided by local ordinance, charter or resolution of the local legislative body.".

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, I am not going to get into the argument about what this might do in Keweenaw peninsula, but I know what it does in Wayne county. It guarantees that the present system of municipal courts that we have will be retained if the people in the community want to retain it. That is, if the people in the city of Dearborn, who now have a municipal judge and an associate municipal judge on a full-time basis wish to continue that, they cannot have imposed upon them by the legislature a traveling judge elected in another community to come in and sit. If the people in Highland Park want the present system that they have, they can retain it. Now, if Mr. Farnsworth and the others who believe that this language does in fact give them the right to continue a local court system at the local level, then this language will make it very clear that it is the intention of this convention to retain at the local level the right to have a court of limited jurisdiction elected from amongst the residents of the community that the court serves.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, members of the convention, I have to apologize for taking up a little of your time, but I only want to point out that in my county of Allegan, when you talk about one or more from every township, you are talking about 24 judges. Now, we happen to be so good in Allegan county that we just plain don't need 24 judges. I'm against the amendment.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I think the problems you get into are very obvious on the face of the amendment. You would be freezing in something created by statute under the present constitution and the municipal court act, and we do not want to do that. It would create judges in townships that have 14 or 15 people. Certainly, the legislature is the best judge as to the size of the township or the city that should have a single judge. I'm sure they'll be elected. We provided for that all over. I urge the rejection of the amendment.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Now it is Mr. Danhof who has dragged out the smelly red herring. This does not say that the legislature must establish a court in every township in the state. What it says is that a township that wants to have a court can have a court. Now, we have already provided that there will be no fee system. This means that when the electors in a township, through their elected officials, determine to have a local court they are at the same time determining that they are willing to absorb the cost of that local court. The language above gives the legislature the right to set the amount of compensation, and all the legislature has to do is set the amount of compensation that is reasonable and it is inconceivable that a 36 member township is going to hire a full time judge to sit in its township. I don't contemplate that we would have any more than we have at the present time.

It should be made clear, because of something that was asked over here: that at the present time, is there any change in the proposed document that would change this? Townships do not keep any of the money that is collected by their court system. Home rule cities do; and to some home rule cities it represents a substantial part of the cost, not only of administering their court but of taking care of the general problem of police protection for their city. You can glance very quickly at some of them. I believe Glenn Allen told me that in his city of Kalamazoo, it ran something over $100,000 a year. Now, all we're saying is that if Kalamazoo wants to continue to operate its own court, it should have the right to do so. But it would be up to the people of Kalamazoo to provide in their city charter for the court. The legislature cannot impose a court on any municipality that does not want to have one.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Madar.

MR. MADAR: Mr. President, I know that the amendment is on the board, but would the Chair please have the secretary read that so that Mr. Farnsworth would understand its meaning. (laughter)

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Mr. Ford has offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2701.]

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Opposed, nay.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been demanded. Is the demand seconded? Sufficient number. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Ford, the yeas are 41; the nays are 74.

PRESIDENT NISBET: The amendment is not adopted. There is one more amendment. The secretary will read.

SECRETARY CHASE: Messrs. Garvin, Ford and Krolikowski offer the following amendment:

1. Amend page 3, line 17, [section i, paragraph 1] after "article" by inserting a comma and "except however, any county may, on approval of the majority of electors voting thereon, retain the office of the circuit court commissioner on a salary basis paid by the county".

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President and delegates, this is a matter in reference to the circuit court commissioners, as you can see. A short while ago, there was another amendment somewhat similar to this, but not quite. This amendment is for the purpose of the counties that want a circuit court commissioner being able to retain them. I am not certain how many counties have the circuit court commissioners on a salary basis, but this also provides for a salary basis if they be retained. ". . . any county may, on approval of the majority of the electors voting thereon, retain the office of the circuit court commissioner on a salary basis and paid by the county." This amendment requires approval of the voters before a circuit court commissioner office is retained, and it also provides that no salary is attached outside of that county.

The reason this is offered is because, of course, one of the large counties, the same, Wayne, has 4 circuit court commissioners and all of them are attorneys. They have 22 full time employees. Last year, as pointed out by Mr. Mahinske, they handled 23,000 cases. Of those, 18,000 were landlord and tenant cases and almost 3,000, land contract cases. If this office is not retained in a county of that many million people, you will be in a situation that the circuit court and all the courts of Wayne county are in now. That is, there will be that much more work piled onto the circuit court or some other court if the circuit court commissioner is abolished in Wayne county.

Now, Mr. Danhof, in answer, did state, when Mr. Mahinske's amendment was up, that the legislature could take care of this. But I submit, from the way that I read the proposal, that it cannot do it because the first sentence of section i states, "The offices of circuit court commissioner and justice of the peace shall be abolished." And this amendment is so that any county may have a circuit court commissioner if they pay his salary. And as far as it being a lawyer is concerned, or an attorney, that is taken care of elsewhere. As far as fees are concerned, this will not be on a fee basis but strictly on a salary basis, and it is up to the voters to approve it before it has gone into effect. I recommend the adoption of this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, again, this is a matter that we went into in committee and touched upon in debate in committee of the whole. The problem here is, again, trying to legislate in the constitution. I would favor that you reject this amendment for the reason that it was never contemplated that the duties of the office be abolished. The provision abolishing the office is covered by the Pugsley amendment requiring the legislature to create another court or courts of limited jurisdiction which will assume the responsibilities of the office of circuit court commissioner. Now, it doesn't make too much difference by what name you call it. I think that the problem created here is that if you permit one county to retain the office as it is now constituted, and abolish it in other counties, you have destroyed any uniformity in the court system. In other words, we should, as lawyers and as people, be able to look to one of the levels of the court system as the proper court to go to in order to foreclose a land contract, for instance. We already have, in Wayne county, several special courts which are peculiar to that county, and this would only create another situation, perhaps, of a special court in that county and freeze it into the constitution. I would suggest that this would destroy the possibility of creating a court of limited jurisdiction to assume these duties more or less uniformly as to function, although not necessarily as to other requirements of the office which are incorporated in the Pugsley amendment so that it can be adapted to the various counties, depending on their size. There are technical problems involved here. I would urge you to vote no.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I rise to support the Garvin-Ford-Krolikowski amendment in that it goes just slightly further than my own amendment, which would limit this type of activity to counties of 300,000 or over. This amendment here simply lets the decision, in the last analysis, rest with the voters of the area involved. Now, I think we are holding too fast to this uniformity rule here. Uniformity doesn't mean what is good in one part of the state is good in another part of the state. We do have individual problems throughout the state in this particular area and I feel that it should be left up to the individual areas involved. Now, what this amendment would do, or could do, it could bring about the situation, in a county where you have a large volume of circuit court commissioner work being done, that that system would be retained and those judges would be retained; the entire administrative facility in each county would be retained.

Under the so called Pugsley amendment to section i, it is mandatory that the office be abolished or that at least the title be abolished and another system set up. Now, what would this possibly do with the existing administrative facility and the commissioners in those areas? It may not necessarily put these men over 70 eligible to run for the newly created office, but possibly may put these people right out in the cold and the whole office as newly created would be open to any and all candidates with a good possibility that experienced people would not be put back into this facility or the experienced commissioners would not be elected to the position. We would have a very good possibility of our experienced circuit court commissioners not being on the bench and handling problems that they have been handling for years, but having novices in this area doing this work. By the same token, this amendment calls for the proposition that the county that retains this system will pay for the system so you will have no contributing amount coming from outside of the county itself, so that if the people want to retain their circuit court commissioner system, they retain it at their own expense and the expense of no other people within the state. And I would be in sympathy with the amendment and I would suggest the adoption of the amendment.

PRESIDENT NISBET: Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. President, at the outset, I should like to state that I regard the objections raised by Delegate Higgs as being fanciful and without merit. The only difficulty that can properly be contemplated from Delegate Higgs is that this amendment will conflict with the county court system that he has now foisted upon this convention, which, incidentally, was rejected in the committee on judiciary and the committee on style and drafting.

But with respect to the merits of this proposition, I should like to point out that in Wayne county we have a peculiar problem and it is one that can only be consistently solved by the circuit court commissioners. Now, the judiciary committee, in imposing this death penalty on the circuit court commissioners, was unduly influenced by the absence of judicial activity on the part of circuit court commissioners in the outstate areas. Now, the reasoning that they have adopted is in no wise applicable to Wayne county. I believe that this provision is essential to protect the property interests in the county of Wayne.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I assume the time is just about up. This is, Mr. Mahinske stated, circuit court commissioners plan number 2. We have been through it all before. I urge the defeat of the amendment.

PRESIDENT NISBET: The question is on the amendment.

MR. MAHINSKE: Mr. President, can we have a division vote on this, not a roll call?

PRESIDENT NISBET: A division has been asked for. Is the demand seconded? Sufficient number up. We are voting on the amendment of Messrs. Garvin, Ford and Krolikowski. Those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Garvin, Ford and Krolikowski, the yeas are 44; the nays are 64.

PRESIDENT NISBET: The amendment is not adopted. The next amendment.

SECRETARY CHASE: Messrs. Danhof and Ford offer the following amendment:

1. Amend page 4, following line 21, by inserting a new section to read as follows:

"Sec. o. Justices of the supreme court, judges of the court of appeals, circuit judges, and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.".

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, some time back, we had an exclusion report to strike the provision in the 1908 constitution which made the supreme court judges, the circuit judges and the justices of the peace conservators of the peace within their respective jurisdiction. I might state at the time we considered this matter, none of the attorneys nor the circuit judges serving on my committee could see any particular advantage to the section, nor did research indicate that there was any reason that it be retained. The governor's advisory committee likewise recommended its removal. But we received a letter from Detroit from Circuit Judge Joseph Sullivan in which he brought to our attention a case involving the validity of the one man grand jury system in the state of Michigan. In this particular case, the question was on the validity of the one man grand jury and Justice Butzel, writing the majority opinion of the court, pointed out the difference between Michigan and New York, and the reason why Michigan could sustain a one man grand jury system and why New York could not. And one of the items which Justice Butzel referred to constantly in about 3 pages of his opinion was the fact that circuit judges by the Constitution of 1908 were authorized to be conservators of the peace and that their duties and functions sitting as a grand jury would be within this particular section. Now, the odd part of it is that he went on to state that even in spite of this provision, he did not feel that sitting as a one man grand jury was a non judicial function. But in going over it with Mr. Joiner and other members of the staff, and in talking with Mr. Ford, we came to this conclusion: that we should not endanger the one man grand jury system; that if it is to be abolished, it should be abolished by the agency and the body which created the one man grand jury system, namely, the legislature, and that we would not be worried if Justice Butzel had not spent approximately 3 pages of the opinion pointing out that Michigan could have a one man grand jury system while New York could not because we had this provision making the judges conservators of the peace.

Now, we have amended it slightly to read supreme court, court of appeals and circuit judges and other judges as provided by law, so that the legislature, if it deems, in its wisdom, to have the judges of courts of limited jurisdiction be conservators of the peace, it can so do. The committee considered this at the time that it was brought before the committee. We had about 14 people. We got 10 votes in favor. Eleven are needed on a committee proposal. I did not get the 11. However, Mr. Ford was absent. He joined with me in this particular amendment. We would urge the adoption thereof.

PRESIDENT NISBET: The convention will be in order. Mr. Radka.

MR. RADKA: I would like to ask a question of Mr. Danhof, through the Chair, if I might.

PRESIDENT NISBET: Mr. Danhof.

MR. RADKA: Would you consider, Mr. Danhof, that the word "judges" might conceivably include a layman who would be acting as a judge in some capacity, for instance, a lame duck judge of probate?

MR. DANHOF: Mr. Radka, it could not be a judge of probate. We have specifically eliminated them. But I think it is possible that in courts of limited jurisdiction, which is what we so add, that a layman could be designated as a conservator of the peace, the same way as a justice of the peace was under the old constitution. That was our intent.

MR. RADKA: That answers my question. Thank you.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I would like to redirect the same question to Mr. Danhof. Under your phrase here "and other judges," are you saying that a lay probate judge is not a judge?

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Of course not, Mr. Mahinske. All we point out is that these 3 categories are conservators of the peace. If the legislature wants to add others, let them go ahead. That is specifically it. It could be a layman if the legislature so designates.

MR. MAHINSKE: If the legislature would designate those benches which can be occupied by lay people?

MR. DANHOF: Yes.

MR. MAHINSKE: Then your answer would be yes, to Mr. Radka?

MR. DANHOF: Yes. I said yes.

MR. MAHINSKE: Thank you.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Gover.

MR. GOVER: Mr. President, could we have the secretary read it again? This side is so blurred we can't read it here.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: The Danhof-Ford amendment:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Mr. Ford.

MR. FORD: If you want to look at the 1908 constitution, the language, almost identical to that which we are proposing, is in article VII, section 18. Now, we on the judiciary committee, at the time that we considered this section, were at a loss to discover what a conservator of the peace was. None of us had had any experience with this language and we were unable in the time that we had to consider it, to discover its true meaning, and it wasn't until a circuit judge in Wayne county who was a former chief assistant to the attorney general, called to our attention the Michigan supreme court decision that we discovered that we may have inadvertently made it possible to hold a statutory enactment unconstitutional.

Now, I don't hold any brief one way or another on this question of giving legitimate status to the one man grand jury. There certainly is a great deal of difference of opinion as to whether this is good or not. But if the legislature is to abolish the one man grand jury, then it should surely replace it in our judicial system with something else to do the job. In any event, it was the feeling of Mr. Danhof and I that it was not the intention of either the committee or the convention to inadvertently abolish the one man grand jury. If there is feeling in the convention for its abolition, this should be done by a straight out action so that there is no question in the future as to our intent.

The language, if you notice, in section 18 of the present constitution says, "Justices of the supreme court, circuit judges and justices of the peace shall be conservators of the peace within their respective jurisdictions." What we have done is dropped the justice of the peace because he is no longer a constitutional officer, and made it possible for the legislature to confer the same power on whoever it is they create to take the place of the justice of the peace. Whether they call him a magistrate or whatever they call him, he will still be called upon to perform these basic duties.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, through the Chair, I wonder if I might ask Mr. Danhof a question.

PRESIDENT NISBET: Mr. Danhof.

MR. HOXIE: It appears that this matter was discussed in the judiciary committee, and was not adopted. It is represented now that Mr. Ford, as I understand it, was not present and did not vote to report this to the convention. I am wondering if Mr. Danhof would give us the arguments presented by the majority of the committee at that time against this particular amendment which he now proposes.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. Hoxie, I thought I explained. Originally we took it out because we felt it served no useful purpose — none of us at that time. It was never discussed. At the time we advocated the original abolition, nobody brought to our attention, nor did we learn of it, that we might be endangering the one man grand jury system. When it was brought to our attention, it was too late. It was after first reading. So, last week, I brought it to my committee's attention. There were 10 votes in favor of the particular amendment that you see on the wall, but it takes 11 to report it out of the committee — in my committee, anyway, there were 21 — and therefore, we could not report it as a committee amendment. Mr. Ford has given you almost all of the arguments that we had. Originally, we thought it served no useful purpose. We now think it does for the one man grand jury.

MR. HOXIE: Mr. President, I don't think Mr. Danhof has answered my particular question. I would be interested in knowing what was the thinking and the discussion that took place in the judiciary by the members who did not approve of this particular amendment. What was their objection?

MR. DANHOF: To my knowledge, Mr. Hoxie, Mr. President, they advocated, in effect, the abolition of the one man grand jury. This was all of the recollection that I have, that they did not like or they desired to eliminate the one man grand jury. If this would do it indirectly, in effect, this is why they opposed this particular amendment. They are here to speak for themselves, Mr. Hoxie.

MR. HOXIE: Mr. President, then I will ask if any other member of the judiciary committee would like to explain to this convention why they oppose this particular amendment.

MR. BLEDSOE: Mr. President.

PRESIDENT NISBET: Mr. Bledsoe, you have one minute.

MR. BLEDSOE: Mr. President, the afflictions and the harm that the one man grand jury inflicted on a lot of people in this commonwealth, the story of it can't be told in one minute. I happen to see — I am looking right now into the kindly smiling eyes of a very fine jurist before whom I appeared over a period of 3 to 6 weeks; and there is another one sitting over here on the supreme court. I wish I could tell you the story. I was one of the lawyers in that case. It's a long, sordid story. I was one of those in the judiciary that opposed it. It is inherently defective in that —

PRESIDENT NISBET: Time has expired, Mr. Bledsoe. The question is on the adoption —

MR. WANGER: Mr. President, I move that Mr. Bledsoe be granted an additional 3 minutes in which to complete his statement.

PRESIDENT NISBET: The question is on the motion of Mr. Wanger. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Bledsoe.

MR. BLEDSOE: Thank you very much. I appeared in those cases: the Carr-Sigler grand jury, the Ferguson-O'Hara, so called, grand jury. You remember what happened. Briefly, there was a system of paid witnesses that was developed throughout their case, the worst system of inquisition that wouldn't be tolerated by anybody in this room that was brought out in that trial. We finally got it. I want to say that the people of this state owe a debt to a very fine lawyer, Jim Haggerty, who took that case to the Supreme Court of the United States, and there it was reversed. But in the meantime, the harm had been done. I don't mean to say for one moment that some of the people who were involved in those proceedings were guiltless. That's not the issue, because a jury found some of them guilty. I am talking about the investigation and the star chamber proceedings and the people who were let go. If you will recall, in the Carr-Sigler grand jury not a single banker stood trial or went to jail. They went through the examination. There were some members of the legislature, of course, who were not able to carry the expensive appeal through in their trial, and they paid their penalty. But the people who spent the money to corrupt the legislators — the bankers who furnished the money, who hired the lobbyists, but who purged themselves on the witness stand and pointed their fingers out at legislators who had violated the law — I file no brief for them. I want to say to you members of the jury that people I know who escaped through procedures that were set up in that case to let certain people out should never be permitted again under any type of legislature. Let's get 12 citizens, more or less, to pass on the facts, and let them determine who is going to be prosecuted, and don't leave it to any one man. It's too much responsibility. (applause)

PRESIDENT NISBET: The question is on the amendment offered by Mr. Ford and Mr. Danhof. The secretary will read.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 2703.]

PRESIDENT NISBET: Those in favor of the amendment will vote —

DELEGATES: Division.

PRESIDENT NISBET: Division has been asked for. Is the demand seconded? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote no. It has been requested to read the amendment again.

SECRETARY CHASE: The amendment offered by Mr. Danhof and Mr. Ford is:

[The amendment was again read by the secretary. For text, see above, page 2703.]

PRESIDENT NISBET: Those in favor of the amendment will vote yes. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the amendment offered by Messrs. Danhof and Ford, the yeas are 58; the nays are 55.

PRESIDENT NISBET: The amendment is adopted. The question now is on Committee Proposal 96 as amended. Those in favor of Committee Proposal 96 will vote aye. Those opposed will vote no.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I would like to move to divide the question on Committee Proposal 96 and vote seriatim, section by section.

PRESIDENT NISBET: The question is not subject to division, Mr. Ford. That ruling was made this morning.

MR. FORD: I understood the ruling to be that we could not divide a section. Does this mean that we have to vote on everything from a to o as one package?

PRESIDENT NISBET: That's correct.

MR. FORD: Then, with the greatest respect, I should like to appeal the decision of the Chair and say that we are being placed in a position with this particular section of taking care of all of the miscellaneous matters in the judiciary article with a single vote. And some of these matters are totally unrelated to others. We run the gamut from one end of the judicial rainbow to the other and I don't feel that members of this convention can properly vote on a package this big at one time.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: The decision with reference to the division of the question on second reading, as made by the president this morning, reads as follows. There was a search made of the precedents, and this was the finding:

[The ruling of the president was read by the secretary. For text, see above, page 2672.]

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays on the appeal of the decision of the Chair.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Mr. Marshall.

MR. DOWNS: Mr. President, I believe I still have the floor.

PRESIDENT NISBET: Excuse me, Mr. Downs.

MR. DOWNS: I wish to say that it is with great reluctance — and this is the first and I hope the last time in this convention — that I have challenged the decision of the president of this convention. I feel that we have operated here very informally in the sense that proposals came out of committees and were amended, different ideas put in —

MR. YEAGER: Point of order, Mr. President. I believe the question of an appeal from the Chair is a question of order and as such is not debatable.

MR. DOWNS: Would the president read rule 70 —

PRESIDENT NISBET: The Chair will rule that under section 232, paragraph 2 of Mason's Manual, an appeal is debatable. Mr. Downs may continue.

MR. DOWNS: I believe, Mr. President, that rule 70 states that each delegate may speak once on an appeal from the decision of the Chair. Am I correct, Mr. President?

PRESIDENT NISBET: You may proceed.

MR. DOWNS: I am in order then? All right, thank you. I would not want to be out of order in the convention.

I feel that this decision combined with the informality and the fact that germaneness has not been followed in the literal sense, puts many delegates in a position where we may feel very strongly in favor of one item of a proposal but are vigorously opposed to another, and then in some imaginary scale, we must create a moment of truth where we try to decide if we prefer one thing to another and by how much. This is a Hobson's choice that on second reading is, in my opinion, not desirable and should not be required. I therefore urge support of the appeal of the decision of the Chair and hope that the Chair will be overruled on this decision.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, I first wish to make a parliamentary inquiry. On third reading, do we or do we not vote on each proposal section by section?

PRESIDENT NISBET: Will you please restate your question, Mr. Marshall.

MR. MARSHALL: On third reading, when we come to third reading, do we or do we not, in each article vote on each section separately? Or are we still required on third reading to take the entire article and be required to vote yes or no?

PRESIDENT NISBET: Mr. Chase will read.

SECRETARY CHASE: The first thing this afternoon, at the beginning of second reading, the Chair handed down the following ruling in reference to rule 58, which reads:

[The ruling of the president in regard to voting on second and third reading was read by the secretary. For text, see above, page 2671.]

MR. MARSHALL: Mr. President and fellow delegates, I regret that I have to take exception to the ruling of the Chair. I have to urge the delegates to vote to override the Chair. And I make it very clear to the delegates that I have all the respect in the world for Steve Nisbet. I think that this is a ruling where we are making a serious mistake. We have compared this to the legislative process and the congress of the United States. We have compared it to the legislative process in the state legislature. Mr. Chase knows and some of the delegates in this convention who have served in the legislature know that when you have a bill before the legislature and amendments are offered, that the amendments offered to that bill are germane to the bill itself.

Here we have an altogether different situation where we have a committee proposal that contains an entire article which might have as many as 10, 11 and 12 sections to the article and some of them have sections that completely rest on their own merit. They are not germane to any other article or any other section in the article. Yet, we're put in the position — I don't know whether it is for the sake of expediency or what the reason is — but we are put in a position of having to vote yes or no on the entire article. Now, let's take — and I want to just use this as an example, Mr. President and fellow delegates: we'll be taking up the executive branch tomorrow. The entire article, practically — not all of it, but I'd say a great majority of that — we all agree on; there is no difference of opinion. There is one or two sections, one in particular, that isn't germane to any other section in the proposal. We will be compelled to vote no on the entire article. Then I guess we'll have to, in order to explain why we had to do it, we'll have to explain it for the journal. I'd rather not be put in that position.

I can't interpret rule 58 as it has been interpreted here. I can't find any justification for the ruling that has been made, other than the comparison to the federal congress and to the state legislature or to the legislature in Georgia. But I say to you in all frankness, in all sincerity: we are not dealing with the legislative process per se. We are dealing with the writing of a constitution where we have within one article many sections that are not related to one another. I say to our distinguished president and to the delegates, if we are compelled to vote under this type of — and I hate to use these words, but I have to look at it that it's an attempt to expedite — and I'm not opposed to expediting the process of the convention, and I think I'm on record for that. But for the sake of expediency, don't force the delegates who might want to vote for 10 sections in an article that contains 12, to have to vote against the whole article because we might disagree with 2 sections that aren't even germane to the rest of them. I ask you to please consider this because you are placing the minority in this convention in a very difficult situation. I'm only speaking for myself now. It appears to me that I am going to be forced to vote no on every issue, when I could be in accord on probably 75 or 70 per cent of it. I hope that the Chair will take this into consideration and I hope that the delegates will. I thank you.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, you may recall that last Wednesday, in the latter part of the morning, a motion was made for a question dealing with the educational article, to have it divided. The motion was defeated and then I got up and asked that it be divided, citing rule 51, which states:

> Any delegate may call for a division of the question, which shall be divided if it comprehends propositions in substance so distinct that one being taken away a substantive proposition shall remain for the decision of the convention.

At that time, I recall the Chair upheld the motion that I made and I think that the delegates at this convention — the understanding that I had then and the understanding that the other delegates had then — was that a motion to take a division of a proposal and vote on it seriatim would be all right. And at that time, the Chair so ruled. Now I understand, this week, that a deviation is being made from our observation of rule 51. It has already been pointed out that there are certain proposals which we will act upon which have sections which are different from one another. In speaking on this particular question, we could refer to the present proposal, which is an omnibus one, which does cover a number of separate items; we can refer to the action we will take on the executive article, where again we will be having substantive propositions that are separate from one another that are part of the same proposal.

Now, I feel that at the time this decision was made last Wednesday, the people in this convention were aware that this was a correct course. Afterwards, Mr. Van Dusen moved, under rule 58, that a vote be taken on the whole proposal. In any case, the fact remains that a division of a question in taking section by section of a proposal, where each one of them covers separate items, is a permissible thing and is under the rules and has been an understanding that I've had and I'm sure that other delegates have had. And I think that before we get into other proposals that are going to cover as many diverse things as what we've seen today, we ought to have the understanding that if the delegates want to vote ad seriatim on each separate section they should be free to do so, and that the rules provide for this under rule 51.

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. T. S. BROWN: Mr. President, I should like to also respectfully support the appeal of the decision of the Chair for a reason which has not heretofore been mentioned, and state parenthetically, again, this is a "throwing the baby out with the bath water" situation or, in another context, "love me, love my dog," in that I recall that many months ago a decision was passed from the Chair to the effect that this was a sovereign body; and that in answer to a question by Father Dade, it was indicated that this body had the inherent authority to present this document to the people in whole or in part. And I suggest that if the people are entitled to have this document presented to them in whole or in part for their partial acceptance or partial rejection, that we should have that same right, because these are matters of import to us and we act for the people in our individual capacities as we are here. Now, I don't know if this convention has given any serious thought to how this document will be presented to the people and whether or not it will be presented in part. I understand that the New York constitution was presented last time in 13 parts. This requires an educated populace, but perhaps it's the best method. I suggest also that a similar method be used here because we will undoubtedly — and at this particular time, this perhaps appears to you to be a minority party plea, but it actually is a plea on principle and I think would be applicable to members of the majority party or any one of you individually or any group of us collectively as the weeks pass on at this convention.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President and members of the convention, the arguments given by Mr. Marshall and some of the other people about the possibility of voting on this by dividing it, I think are invalid. When the people vote on this constitution, they are going to be able to vote yes or no, whether it's by article or in a total package. On the first reading, we considered these matters paragraph by paragraph. On second reading, I think it is reasonable that we are considering them article by article for decision. And I therefore urge that the decision of the Chair be upheld in this matter and that you vote yes to uphold the decision of the Chair.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: I, too, do not wish to vote against the president of this convention, whom I personally hold in great esteem. However, I am most disturbed about this ruling, particularly as it applies to a section we just adopted, which is the first time it has ever come on this floor. It had 13 minutes discussion. It carried by 3 votes. And I find that I cannot believe this is a good way to write a constitution. If I am in order, I therefore, at this time, move that we reconsider the vote on the last section of Committee Proposal 96, which had 3 votes carrying it. When an individual section has the required number of votes, I think that's enough. But when we have a vote such as this last one, with limited debate, I cannot believe we are acting as constitutional delegates. I think we're just rushing through to get through a deadline and to make sure that nobody works past payday. I therefore, if in order, would like to move the reconsideration of that vote.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I still maintain that this convention is bound by the rules set up in the existing constitution, and I think that it would be proper for the Chair — and I am not suggesting an appeal from the decision of the Chair — I think it is proper at this time for the Chair to reconsider the decision in view of the language at the end of section 4, article XVII of the existing constitution. To date, we have adhered to every rule that is laid down in section 4 because we felt and the secretary of state and the attorney general of the state of Michigan felt that we were bound by these rules. Although I am reluctant to suggest this, I think that possibly one of our only ways out is with reference to the "no proposed constitution or amendment" language; that possibly we may have to seek an attorney general's opinion here to find out if we are proceeding properly under the language set out in section 4.

I think the safest course of conduct would be to permit divisions of these questions and take seriatim votes when it is requested. I don't see that it would serve any purpose to force through a package vote when we may have a majority of minorities building up — and I can see it coming, as far as Committee Proposal 96 is concerned. There are some 13 or 15 sections and I have objections to only 2. But I can't bring myself to voting against my feelings on these 2 sections to glean what I can out of the other 10 or 11 sections. I would feel that probably the most I'll do in this area is abstain. I think until we can get this question resolved and find out whether we are acting legally here, or constitutionally, that we should permit the division.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that further debate on the question of sustaining the ruling of the Chair be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Those opposed, no.

The motion prevails. The Chair recognizes Mr. Young.

MR. YOUNG: Mr. President, I would like to deal briefly with the matter that Miss Donnelly raised. Although it does not bear directly on the appeal of the decision of the Chair —

PRESIDENT NISBET: Mr. Young, if this matter could be held up until this question —

MR. YOUNG: This is a question of order, Mr. President. The question that I raise is the procedure and the ruling —

PRESIDENT NISBET: Mr. Young, just a minute. Without objection, then, we might proceed to Miss Donnelly's motion to reconsider the vote on this other amendment.

MR. BRAKE: I object.

PRESIDENT NISBET: There is objection. Mr. Young, you may proceed.

MR. YOUNG: The point I had to raise was in direct relation to this motion for reconsideration. It seems to me it's a dangerous precedent for us to set at this late date in this convention, providing for the possible adoption by a small minority of the elected delegates here. In the last case, less than 60 votes locked in a provision within an overall proposal which now requires 73 votes for complete passage. Now, it seems to me that this ruling of the Chair which allows a mere majority of those present and voting for the admission of an amendment to an overall proposal that requires 73 votes for adoption is creating an impossible and dangerous situation.

Now, in direct regard to the challenge or to the appeal of the decision of the Chair, I would like to say that together with the deal, or the agreement, or the settlement, or whatever you want to call it, this latest ruling means to me that this convention has finally thrown aside any pretext of proceeding with a give and take process of deliberation. The combination of the deal, plus the latest decision and ruling of the Chair, seems to me to indicate that a wilful majority here is determined to cram down the throats of the minority, which might well represent the majority of the people of this state, a decision made off the floor of this convention. It raises a question in my mind as to whether this convention will attempt to cram down the throats of the people of this state in the same manner such a duke's mixture on a Hobson's choice basis.

PRESIDENT NISBET: Mr. Lesinski.

MR. LESINSKI: Mr. President, you based your ruling on precedence that relates to legislation. I know we're legislating here. But have you considered some precedents in previous constitutional conventions, and what was done there? And I'd like to state one more point: now, if your ruling is upheld, I'd like to know if, in the legislative powers proposals, 4 or 5 proposals can be grouped together into one proposal.

PRESIDENT NISBET: Mr. Cudlip.

MR. CUDLIP: Mr. President, members of the convention, I rise to a point of information. Are there any amendments before this body for a proposed amendment to the rules of this convention?

PRESIDENT NISBET: No, sir, there are none.

MR. CUDLIP: I think the majesty and the grandeur of a parliamentary body depends upon rules. We adopted these rules and they are interpreted by capable people. And if we don't like those rules, I think the course of action is for those who do not like them, to propose that they be changed and let's have a vote on that. And if it carries, fine. And if it doesn't, fine. The majority will rule. But we must stick to these cardinal principles or the glory of such a group as this goes out the window. And we can't be changing the rules in the middle of the game unless the majority will says so.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: First in answer to Mr. Cudlip, nobody is trying to change the rules. We're talking about interpretation of those rules. I would submit that the precedents given by the parliamentarian are all from legislative bodies. What we are doing here is writing the most fundamental document of our state. And it seems to me that on any proposal, it should have to stand or fall on its own weight by a majority of the delegates elected. This is the most important thing we're doing here is writing a constitution. This is not writing a group of bills in the legislature. If we pick up cripples along the way and include them in the total package and people go along just for the sake of going along to get something done, then I think we're subverting the very fundamental reason we're here in writing a constitution. I think that by all means the appeal to the Chair should be sustained.

PRESIDENT NISBET: The question is: shall the judgment of the Chair stand as the judgment of the convention? Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I wonder if the secretary will be so good as to explain to us that a yes vote is a vote to uphold the Chair. Will the secretary please explain the procedure.

SECRETARY CHASE: Rule 69 of the convention provides:

> On all appeals from decisions of the Chair, the question shall be "shall the judgment of the Chair stand as the judgment of the convention?" which question shall be decided by a majority vote of those present and voting by a recorded machine vote, unless otherwise ordered by the convention.

Under the rule, if the convention wishes to sustain the decision of the Chair, they will vote yes. If they wish to overrule the decision of the Chair, the delegates will vote no.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Could we have the rule in question — I think it's rule 53 — reread in view of the decision of the Chair. Rule 53, isn't it? Oh, 58 then.

SECRETARY CHASE: Rule 58 reads as follows:

> On the passage of every proposal, section, article and any complete revision of or amendment to the constitution, the vote shall be taken by yeas and nays, and entered on the journal, and no proposal, section, article or any such amendment or complete revision shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same.

PRESIDENT NISBET: The question is on the decision of the Chair. Mr. Brown.

MR. T. S. BROWN: Mr. President, I'm not speaking a second time on this matter. I have a point of parliamentary inquiry and request of the secretary if he knows another way out of this dilemma. I feel it is a dilemma. I personally — and I don't think anybody else should like to personally challenge the decision of the Chair in this matter. I think it is a matter of interpretation of the rules and I'm sure there is a logical way out of this matter without getting into a vote on the exact appeal.

SECRETARY CHASE: May the secretary call attention to the next to the last paragraph of the decision that the Chair made in decision number 2 in regard to this matter:

> The Chair will point out that the purpose desired, namely, getting a record vote on any portion of a proposal, or elimination of any part of a proposal from the final draft thereof, can be accomplished by the offering of the proper amendments.

May the secretary suggest that Miss Donnelly made a motion to reconsider the vote by which this last amendment was adopted.

MR. MARSHALL: Mr. President, parliamentary inquiry.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Would it be possible to ask the president and the secretary, rather than to follow through on appealing from the ruling of the Chair, to ask our distinguished president and secretary to take into consideration the language of rule 58, where it specifically spells out proposal, section, article and any complete revision of or amendment to the constitution, analyze this language a little closer, take into consideration the language of the present constitution that we are still living under, as pointed out by Delegate Mahinske, and also come up with some background on other constitutional conventions as to how it was conducted.

I am just fearful that what we're doing here, in order to expedite things, is picking up a few cripples and throwing them into an overall package and trying to cram it down people's throats. And I don't think it's good. Neither do I think it's good to be put in a position of having to appeal the ruling of the Chair. I wonder if all that Mr. Chase has given us, as I said once before, is what has gone in the U.S. congress, what has gone on in the state legislature, where you change it one year later, and the procedure and the method of introducing bills is altogether different. I wonder if it would be possible to ask the president if he, himself, could reconsider this decision and take into consideration all of these things and try to tell us what's happened in some other constitutional conventions and pass over the appealing from the ruling of the Chair tonight and try to dispose of it tomorrow. Would that be possible, Mr. President?

MR. KUHN: Mr. President, in regard to what Mr. Marshall said, may I respectfully urge the convention to follow rule 71 at this time, and I move that the appeal be laid on the table.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn that the appeal be laid on the table.

MR. MARSHALL: I didn't get an answer to the question that I asked.

PRESIDENT NISBET: The Chair might say, Mr. Marshall, in reply to your query, in discussion with Mr. Chase, we'll be very happy to look into this further to see if there is any other interpretation that we could come up with, if that would meet your pleasure.

MR. MARSHALL: I want to make it clear, Mr. President, that it doesn't make any difference to me. It's not my pleasure, because I can abstain from voting on every article and explain my vote in the record, for the journal; but I hope that something can be done. I don't like to see us get in the position of appealing the ruling of the Chair. On the other hand, I think the precedent being set at this late —

A DELEGATE: Mr. Marshall is continuing his second speech.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, I think we're all conscious of the problem facing us, that of appealing the decision of the Chair. I think most of us believe that the president was sincere and conscientious in his ruling. The question before us is: should we override the ruling of the Chair? I'm sure none of us want to do that. I would like to respectfully request that the individual who requested this matter withdraw his motion and that a motion be made to amend our rules, whereby the question can be divided, both on second and third reading.

MR. KUHN: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Isn't it before this convention now whether or not this appeal should be laid on the table under rule 71?

PRESIDENT NISBET: That's the motion, if you make the motion.

MR. KUHN: I so make it.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn. Those in favor will say aye —

MR. HOXIE: Mr. President.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Is the motion under rule 71 to lay on the table a debatable motion?

PRESIDENT NISBET: It is not.

MR. DOWNS: May the motion be amended to carry with it the proposal upon which the appeal is based?

PRESIDENT NISBET: That is a separate motion, Mr. Downs.

MR. FORD: Mr. President, parliamentary inquiry, please.

MR. MAHINSKE: Mr. President, I would like to know if a motion to lay the question of reconsideration over to a time certain is a preferential motion in view of the conflict we have between the ruling of the Chair, the rule of the convention and the rule as laid out in the constitution itself.

PRESIDENT NISBET: The motion is now, Mr. Mahinske, to lay the appeal on the table. When that motion is taken care of, then we'll discuss the other one.

MR. FORD: Parliamentary inquiry.

MR. MAHINSKE: I was asking if it was a preferential motion to lay the —

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Is it my understanding that if the motion to table passes, that the convention will then have to go ahead and act on Committee Proposal 96 before it, because of the language of rule 71, which says that the motion to table only tables the appeal that I have made from the decision of the Chair and does not carry with it the subject matter before the convention so that we would be in the same position as if no appeal had been made.

PRESIDENT NISBET: The Chair might say, Mr. Ford, that the next motion to be considered is Miss Donnelly's motion to reconsider the vote on an amendment that was passed a short time ago. The question is now —

MR. FORD: That doesn't answer my question. If the motion to table made by Mr. Kuhn prevails, does that leave the convention with Committee Proposal 96 before it to be acted upon —

PRESIDENT NISBET: It does.

MR. FORD: — even though we won't vote on the appeal until some later date?

PRESIDENT NISBET: It does. The question is on the motion of Mr. Kuhn.

MR. HOXIE: Mr. President, point of information.

PRESIDENT NISBET: Yes, Mr. Hoxie.

MR. HOXIE: Is a motion to postpone action on Committee Proposal 96 and all pending matters in order at this time?

PRESIDENT NISBET: That motion can be made, Mr. Hoxie —

MR. HOXIE: I so move.

PRESIDENT NISBET: — after this is finished, though. The question now is on the motion of Mr. Kuhn.

MR. DOWNS: Parliamentary inquiry. Would the secretary restate Delegate Hoxie's motion?

SECRETARY CHASE: Mr. Hoxie's motion is that Committee Proposal 96 be postponed.

MR. HUTCHINSON: What is the question immediately before the convention?

PRESIDENT NISBET: The motion of Mr. Kuhn to lay the appeal on the table.

MR. HUTCHINSON: Is that debatable?

PRESIDENT NISBET: No.

MR. HUTCHINSON: Then I suggest that we vote on that motion.

MR. DOWNS: I have a parliamentary inquiry. I raise the question if Delegate Hoxie's motion is a preferential motion.

PRESIDENT NISBET: It is not, Mr. Downs. The question is on the motion of Mr. Kuhn. Those in favor will say aye. Those opposed will vote nay.

MR. DOWNS: I demand the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been ordered. Is that demand seconded? Sufficient number up. Those in favor of Mr. Kuhn's motion to lay the appeal on the table will vote aye. Those opposed will vote nay. Have you all voted?

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Before the vote is taken, I think we went into this matter last Wednesday or Thursday — somebody moved to lay a matter on the table and I think Mr. Hutchinson brought up the point that if we lay it on the table, we cannot take it off the table. I'd like a ruling from the Chair on this.

PRESIDENT NISBET: That's not on this question, Mr. Mahinske.

MR. MAHINSKE: Not on this matter?

PRESIDENT NISBET: Not on this question. Have you all voted? Mr. Sterrett.

MR. STERRETT: Mr. President, to answer Mr. Mahinske, Mr. Hutchinson pointed out if you had a motion to reconsider and it was laid on the table, then it was all done.

PRESIDENT NISBET: The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 77

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Kuhn
Leibrand
Leppien
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Page
Perras
Powell
Prettie
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

Nays — 44

Austin
Baginski
Balcer
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Gust
Hart, Miss
Higgs
Hodges
Hoxie
Jones
Kelsey
Koeze, Mrs.
Krolikowski
Lesinski
Liberato
Madar
Mahinske
Ostrow
Perlich
Plank
Pollock
Pugsley
Radka
Sablich
Sterrett
Stevens
Stopczynski
Thomson
Tubbs
Wilkowski

Ford Marshall Young
Garvin McCauley

SECRETARY CHASE: On the motion of Mr. Kuhn that the appeal from the decision of the Chair be laid on the table, the yeas are 77; the nays are 44.

PRESIDENT NISBET: The motion prevails.

SECRETARY CHASE: Miss Donnelly has made a motion that the vote by which section o was adopted be reconsidered.

PRESIDENT NISBET: The question is on the motion of Miss Donnelly. Mr. Chase, will you read that amendment so we'll know it.

SECRETARY CHASE: The amendment that was adopted was to add at the end of the proposal a section o to read:

> Justices of the supreme court, judges of the court of appeals, circuit judges, and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

PRESIDENT NISBET: The question is on the motion to reconsider.

MR. DANHOF: Mr. President.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, I think this convention should be apprised that there is an amendment pending by Mr. Bledsoe relating to one man grand juries; that the conservators of the peace — if this is what Miss Donnelly gets at — have other functions beside this; that if this is her desire, to get a vote on the one man grand jury, it can best be done on Mr. Bledsoe's amendment which is specifically to the point. In view of the amendment pending, I urge that you vote no on the motion to reconsider.

PRESIDENT NISBET: The question is on Miss Donnelly's motion to reconsider. Those in favor will say aye. Opposed, no.

The motion does not prevail. There is an amendment.

SECRETARY CHASE: Mr. Bledsoe offers the following amendment:

1. Amend page 4, following section o, by inserting a new section p to read as follows:

"Sec. p. One man grand juries are hereby abolished.". (laughter)

PRESIDENT NISBET: Mr. Bledsoe. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that debate on Mr. Bledsoe's amendment be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor say aye. Those opposed will say no.

The motion prevails. Mr. Bledsoe.

MR. BLEDSOE: Mr. President, fellow delegates, this motion squarely faces the issue and I am certain that those of us who are familiar with the fact that we do have grand juries provided for under our system of jurisprudence feel that is sufficient to protect all of our people. It is practiced in the federal courts and the statute provides for grand jury systems. The one man grand jury was a legislative creature that came from somewhere. Where, I hardly know. I do know that the honorable Judge Connelly, who has passed on to the great beyond, was the father of it. But certainly, I do hope that you will use your franchise here in this body to make it possible that no other citizens' liberties, whose families and reputations are involved, will be placed in the hands of one person. It is just too much, too much. I am going to yield to Mr. Hoxie.

PRESIDENT NISBET: Mr. Hoxie

MR. HOXIE: Mr. President, fellow delegates, as a member of the legislature, I saw many abuses of the so called one man grand jury. I was not a member of the legislature when the alleged offenses took place. That was before my time in the legislature. However, I did see the abuses that were exercised on many of my friends in the legislature, fellows that were not charged with any offense, but were brought into disrepute in their particular districts because of the fact that they were called before the grand jury without an opportunity to explain any of the facts or circumstances on which they were called before the grand jury. I remember one senator who sat with both our former senators in this delegation, who was taken off of a tractor; he was brought before the grand jury, and only on a fishing expedition. It was not because he was guilty of any offense, but they were trying to make him state that someone else was guilty of bribery, of which he knew nothing. I know a certain representative in the house that was kept in the grand jury quarters for 3 days, trying to make him confess that he knew of some offense against his fellow colleagues. Gentlemen, it's a rugged situation. We did correct part of it by allowing those individuals to have legal counsel sit in the grand jury room with the right to advise them. But it appears now we're going back to the same old proposition where the individual does not have any rights.

I think that the grand jury serves a good purpose but I don't believe it should be used to bring individuals into disrepute, and I certainly believe that all of us think that the individuals should have rights, regardless of the fact that they may be guilty of an offense. The grand jury is something that I think we should all consider as a violation of the rights of the individuals unless we adequately protect them against those abuses. I am going to vote for Mr. Bledsoe's amendment and I certainly hope that you go along with me. There are other ways to accomplish what is intended, and that is to get the individuals that're guilty of an offense. But I think that anyone who knows anything about the Carr-Sigler grand jury would not approve of the tactics that were used in that particular instance.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, fellow delegates, this question of the one man grand jury sprang on us full grown here, without anyone realizing quite what was happening until this proposal about conservators hit the screen up here. And it seems to me that this is no time — we should not be trying to decide on this question of one man grand juries on the basis of less than 10 minutes' argument regarding a matter which is of tremendous importance to the state; which has been the subject of lengthy hearings in both the senate and the house; with respect to which the senate and the house have both passed important and extensive legislation changing the rules for one man grand juries to prevent the very abuses that Mr. Hoxie and Mr. Bledsoe have talked about and those same abuses have not, so far as I know, occurred since that action was taken in the legislature a number of years ago now, when I happened to be there and when all this debate went on.

Since that time, insofar as they have been used, one man grand juries have not been subject to abuse. They can be usefully used. They do simplify procedure without in any way violating the principles of due process. And it seems to me that this is a very rash and ill considered action for us to suddenly do away with grand juries on the spur of the moment, on the testimony of 2 persons whom we respect very much but who are talking about situations that have already been corrected, were corrected long ago by legislation. I therefore hope that we are not going to approve this amendment on the spur of the moment in this fashion.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President, I rise to agree with Mr. Hoxie and Mr. Bledsoe. I urge a yes vote on this amendment and I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. The Chair recognizes Mr. Faxon.

MR. DANHOF: Mr. President, I think I have a preferential motion.

PRESIDENT NISBET: State it.

MR. DANHOF: Mr. Faxon, if you would yield for just a moment?

MR. FAXON: Yes.

MR. DANHOF: I agree with what Mr. Martin stated. We have but one functioning committee within this convention. This is a matter I am not sure is a judicial matter; I think it may be more of a civil rights matter. I'm not even sure it belongs there. But there is one committee that is functioning. In order to proceed with this particular section, I move at this time that the amendment be referred to the committee on emerging problems.

PRESIDENT NISBET: Mr. Danhof, if you send this amendment to the committee on emerging problems, then the whole proposal goes with it. (laughter)

MR. DANHOF: I did not have that in mind, Mr. President. I just wanted to get on with the balance of the proposal. I will withdraw the motion if that is the effect of it.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I think we're getting into a very dangerous business when all of a sudden in 13 minutes, as Miss Donnelly pointed out earlier, we approve a whole new section of the constitution, one that didn't even have the opportunity of having the full consideration of the committee of the whole. Then we are asked now to take another section in the haste that certain individuals feel that we must act under now; we are asked that this be done in 10 minutes, absolutely no more time. Everyone get up, give their testimony, and sit down because we've got to get through in 10 minutes on this and we've got to get on to the other sections.

Now, I can't see how we can make any decisions of any deliberative intelligence here with the fact that we have to rush through a section which I think is very important and now, I understand, after having talked to someone else, I don't think everyone fully understood what we were talking about when we were talking about conservators of the peace. And so I, first of all, would like to move that the 10 minute restriction be lifted so as to permit others who wish to speak on this to have the opportunity. And if it's in order, Mr. President, I'd like to move that the 10 minute limit, whatever time has elapsed of it, be lifted so others who want a chance to speak on this could do so.

PRESIDENT NISBET: The question is on the motion of Mr. Faxon, which as the Chair understands it, is to extend the time — as long as we have people who want to speak on this?

MR. FAXON: It's not a question of indefinitely because you can always move the previous question. But I feel that to put in a whole new section and say 10 minutes and have this put into a constitution, doesn't really give us much of an opportunity.

PRESIDENT NISBET: Will you state your motion, then?

MR. FAXON: I would just move that the 10 minute limit on debate be removed.

PRESIDENT NISBET: The question is on the motion of Mr. Faxon. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of Mr. Faxon's motion will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the motion of Mr. Faxon to remove the 10 minute limit on debate, the yeas are 43; the nays are 68.

PRESIDENT NISBET: The motion does not prevail. Mr. Faxon, you have 2 minutes left. You have the floor.

MR. FAXON: I just want to ask these couple of questions then: does this mean that a 2 man grand jury could be permitted or a 3 man grand jury? Or are we talking about a 23 man grand jury? This says one man grand jury. Is it possible to have a 2 man and a 3 man grand jury? And would this language forbid the grouping together? I still haven't, to my own satisfaction, understood the full impact of this particular section. I would only suggest that those delegates who are in haste to conclude this that this was something which we had no preparation for, no advance notice of; and I, for one, need more information before I can make any judgment on this question.

PRESIDENT NISBET: Judge Leibrand.

MR. LEIBRAND: Mr. President, may I inquire what is the topic under discussion at the present time? Is it the Bledsoe amendment or something else?

PRESIDENT NISBET: The Bledsoe amendment.

MR. LEIBRAND: Well, I rise to oppose the Bledsoe amendment. One indicted by a one man grand jury has the same rights as any other defendant in the criminal courts. He has the right to an examination by a magistrate, the right to a trial before 12 jurors, men and women, full rights of appeal, full rights of counsel.

Now, to talk about giving too much power to one man — the one man grand jury law, which is basically legislative, and not constitutional, gives too much power to one man — is to ignore the facts of life. I call to the attention of the attorneys here, at least, the fact that 99 out of 100 criminal defendants that go through the criminal courts go through there on the authorization of one man, the prosecuting attorney of the county in which the offense was committed. I assure you my friends, you can trust a judge as far as you can trust a prosecutor. (laughter) I oppose the amendment.

PRESIDENT NISBET: The time has expired. The question is on the Bledsoe amendment. The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Those in favor of the Bledsoe amendment will vote aye. Those opposed will vote nay.

MR. KING: Mr. President.

PRESIDENT NISBET: Mr. King.

MR. KING: I wish to announce my intention to abstain.

PRESIDENT NISBET: Mr. King abstains. Mr. Faxon.

MR. FAXON: I wish to announce my intention to abstain because of reasons I have already given.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President, I'd like to abstain too on account of I don't know anything about it.

PRESIDENT NISBET: Mrs. Conklin.

MRS. CONKLIN: That's me, on the same basis.

PRESIDENT NISBET: Mrs. Conklin abstains. Mr. Higgs.

MR. HIGGS: Mr. President, in view of the lapse of time, are there any questions in order?

PRESIDENT NISBET: No. The vote has been started.

MR. HIGGS: I'd like to abstain from voting.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 32

Baginski
Balcer
Barthwell
Bledsoe
Bradley
Brown, T. S.
Buback
Donnelly, Miss
Doty, Dean
Downs
Elliott, Mrs. Daisy
Follo
Garvin
Hart, Miss
Heideman
Hodges
Hoxie
Jones
Kelsey
Krolikowski
Kuhn
Lesinski
Liberato
Madar
Mahinske
Ostrow
Perlich
Sablich
Shackleton
Stopczynski
Yeager
Young

Nays — 73

Andrus, Miss
Batchelor
Beaman
Blandford
Bonisteel
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Howes
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
Martin
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the amendment offered by Mr. Bledsoe, the yeas are 32; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted.

Following is statement explaining abstention from voting submitted by Mrs. Cushman:

I am not prepared to vote on an issue which arose for the first time this evening and which is of great importance.

We're right back to where we were an hour ago. The question is on the adoption of Committee Proposal 96, as amended. Can the board be cleared? Those in favor of adopting Committee Proposal 96 will vote aye. Those opposed will vote nay.

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: For the reasons that I outlined before, I have one or two objections to this proposal, but I agree with the majority of it. But I feel that I am not going to put myself in a position as to voting against the reservations or for the reservations that I have. For these reasons, I wish to abstain from voting on the committee proposal.

PRESIDENT NISBET: Mr. Mahinske abstains. Mr. Marshall.

MR. MARSHALL: Mr. President, I wish to abstain also.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I wish to abstain from voting on this particular proposal. I can't see how I can vote on a proposal that mixes up half a dozen things which don't mean anything, which ought to be thrown out completely.

PRESIDENT NISBET: Have you all voted?

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: It isn't easy, but I'm going to have to abstain after many months of work on the judiciary article. And I'd like to reserve the right to submit a detailed statement for the record at a later date.

PRESIDENT NISBET: You may do that. Miss Donnelly.

MISS DONNELLY: For the reason that I cannot support the entire proposal, though I am a member of the committee and supported it originally when it came out, I now wish to abstain.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I announce my abstention.

PRESIDENT NISBET: Mrs. Elliott, Mr. Buback, Miss Hart, Mr. Stopczynski —

MR. BALCER: I wish to abstain.

PRESIDENT NISBET: — Mr. Wilkowski, Mr. Balcer, Mr. T. S. Brown, Mr. Lawrence, Mr. Baginski, Mr. Faxon, Mr. Bledsoe, and Mr. Garvin.

Mr. Perras.

MR. PERRAS: Mr. President, I am voting no. I feel it is my privilege. I am not going to make any excuses for it. (laughter)

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 89

Allen
Andrus, Miss
Batchelor
Beaman
Blandford
Bonisteel
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays — 14

Barthwell
Binkowski
Finch
Hodges
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Ostrow
Perlich
Perras
Sablich
Young

SECRETARY CHASE: On the passage of Committee Proposal 96, the yeas are 89; the nays are 14.

PRESIDENT NISBET: **Committee Proposal 96,** as amended, is passed. It is referred to the committee on style and drafting.

Following is Committee Proposal 96 as amended and rereferred to the committee on style and drafting:

Sec. a. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and shall each have a common seal. Except as otherwise authorized by this constitution, justices and judges of the courts of record of this state shall be licensed to practice law in this state and no person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. a^1. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or by the amount of judicial activity of his office.

Sec. b. Whenever a judge removes his domicile beyond the limits of the territory from which he was elected, he shall be deemed to have vacated his office.

Sec. c. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service as a judge and for one year thereafter.

Sec. d. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election according to law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified.

Sec. e. There shall be printed upon the ballot under the name of each elected incumbent justice or judge, who is a candidate for nomination or election to the same office, the designation of that office.

Sec. f. Any supreme court justice, circuit judge, judge of probate serving at the time this constitution becomes effective may serve the remainder of the term and be eligible for election to his present office regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. g. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a county or circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit courts shall receive an annual salary as provided by law. In addition to the salary received from the state treasury, each circuit judge may receive from any county in which he regularly holds court such additional salary as may be determined from time to time by the board of supervisors of the county. In any county where such additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. h. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of 2/3 of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in such resolution.

Sec. i. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of 5 years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within such 5 year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election, and salary of the judges of such court or courts, and by what governmental units the same shall be paid, shall be provided by law, subject to the limitations contained in this article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. j. The provisions of this article providing that terms of offices shall not all expire at the same time, shall be implemented at the next election for such offices by legislation providing for elections for terms of varying length, none of which shall be shorter than the basic term provided for the office.

Sec. k. Either house of the legislature or the governor may request the opinion of the supreme court upon important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

Sec. l. Any elected judge of a court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner provided by law.

Sec. n. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as otherwise provided in this constitution.

Sec. o. Justices of the supreme court, judges of the court of appeals, circuit judges, and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

SECRETARY CHASE: **Committee Proposal 95,** A proposal pertaining to appeals from administrative tribunals. Adds a new section to article VII.

Following is Committee Proposal 95 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1487.):

Sec. a. All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, privileges or licenses, shall be subject to direct review by the courts as shall be provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law, and, in cases in which a hearing is required, whether the same are supported by reliable, probative, and substantial evidence on the whole record.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I am advised that there are 5 amendments pending to Committee Proposal 95, most of which I think were offered and debated fully in committee of the whole. Therefore, I would move that debate on each of these amendments be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails.

DELEGATES: Division.

PRESIDENT NISBET: A division has been demanded. Is the demand supported? Sufficient number up. Those in favor of Mr. Van Dusen's motion to limit debate to 10 minutes will vote aye. Those opposed will vote nay.

MR. VAN DUSEN: Mr. President, I think it ought to be clear that my motion is 10 minutes on each of the 5 amendments.

PRESIDENT NISBET: Ten minutes on each amendment. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion of Mr. Van Dusen to limit debate on each of the pending amendments to Committee Proposal 95 to 10 minutes, the yeas are 81; the nays are 29.

The motion prevails.

MR. A. G. ELLIOTT: Mr. President, point of information.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, the thing that concerns me is, how do we make reasonably sure that there is a fair expression in this 10 minutes per each amendment for both sides of the issue? If the proponent of the amendment gets up and speaks for 9½ minutes on his amendment, it doesn't leave any time for the opponents.

PRESIDENT NISBET: The Chair might say, Mr. Elliott, that on only one occasion have we ever used up the time. Normally, the delegates who speak are cognizant of the fact and they pace themselves. Mr. Madar.

MR. MADAR: I'd like to move at this time that the judicial committee be given 2 minutes to explain their proposal. Let's not waste any time.

PRESIDENT NISBET: The question is on the motion of Mr. Madar. All in favor say aye. Opposed, no.

The motion does not prevail. Mr. Bledsoe.

MR. BLEDSOE: Mr. President, may I speak in opposition to that motion?

PRESIDENT NISBET: The motion did not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Division has been requested. Is the demand seconded? Not sufficient number up. Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, there are several amendments pending. I think it best we get on with the first amendment. During that time the debate will, I am sure, take care of all of the questions you have. There has been no change as this matter was reported from the committee of the whole and the convention to the committee on style and drafting. The judicial committee met, made no recommendations for any amendments thereto. All the other amendments are individual and will be handled at that time.

PRESIDENT NISBET: The first amendment.

SECRETARY CHASE: Messrs. Ford, Garvin, Downs, Marshall and Hodges offer the following amendment:

1. Amend page 1 by striking out the entire proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, members of the convention, if you recall, we spent a considerable amount of time on this in committee of the whole, when it was before us on first reading and, subsequent to its adoption, we got a tremendous amount of reaction from throughout the state from people who are directly involved in the field of administrative law. We tried in numerous ways to patch this up or correct it and make it workable, and some of us who have tried to work on it find that the more you work with it, the more difficult it becomes.

Our research department has submitted — and I think most of the delegates have had an opportunity to see — a considerable amount of research material, some material presented to us by so called experts in the field of administrative law from the major universities in the state and from others in this field indicating that the proposal, as we have passed it, opens up entire new vistas of litigation that could have far felt effects not contemplated by anyone at the outset. As a matter of fact, one of the authorities — and I believe it was Professor Kauper — indicated there was no way to predict the ultimate scope of the appeal that was provided for by this section and its effect on the whole field of administrative law. The import that I got from this and the reflection of the collection of authority given to us was that we were here taking a step that could very well undermine administrative law as an effective way to meet the problems of the kind of society that we have.

There isn't any question that administrative law, as the field gets bigger all the time — and will continue to do so — that its principal purpose is to provide a ready remedy quickly with a minimum of formality and with a minimum of expense to the persons involved. And there is no way to correct this section and avoid the inevitable effect of placing in the path of all administrative boards, bodies and agencies — whether they be at the local government level or the state level — a roadblock that will make it practically impossible to utilize the field of administrative law in this state to its best advantage. I urge that you support our amendment to strike Committee Proposal 95.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Opposed, no.

MR. FAXON: The yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded?

SECRETARY CHASE: Sixteen; not a sufficient number.

MR. FAXON: Ring the bell if there aren't enough people. (laughter)

PRESIDENT NISBET: The question is on the amendment. The yeas and nays were asked for. You weren't all here. So we better ask again. The yeas and nays have been asked for. Is the demand seconded? Sufficient number up. The secretary will read the amendment.

SECRETARY CHASE: The amendment offered by Messrs. Ford, Garvin, Downs, Marshall and Hodges is to strike out the entire proposal.

PRESIDENT NISBET: Mr. Garvin.

MR. GARVIN: If I am in order, I would like to make an observation here. It is similar to Delegate Ford's. In other words, we're getting something here in the constitution that even the delegates are arguing about — that is, the lawyers — about the wordage and what it means. What does "reliable, probative, and substantial evidence" mean? It might be of interest to you that after our last vote on this, we received this much literature trying to explain 3 or 4 or 5 words in this Committee Proposal 95. We're merely going farther out in the constitution, we are going further into legislative action, and we're getting wordage in our constitution that cannot be interpreted and is not interpreted and has not been interpreted by the lawyers and by the various persons that wrote in this pamphlet that I have here recently received. I submit to you that regardless of what you might believe this means, we just don't know the effect of it and, therefore, I sincerely request and hope that you vote for this amendment to strike the entire proposal.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and fellow delegates, I think that perhaps I was one of those who had a great deal to do with the present proposal. I think that I have great faith in the ability of bureaucrats to adjust to these little problems and I think that there is a lot of merit in the language as it is now written. However, I would be one who might agree that there may be amendments pending on the secretary's desk which might perfect the language as it now reads, and so I find myself once again rising to a point of parliamentary procedure and asking the president of this convention to rule once again on whether or not we should not first handle perfecting amendments before we take up an amendment to strike the whole thing. At this time, I would raise that parliamentary question and ask for a ruling of the Chair.

PRESIDENT NISBET: That's correct, Mr. King, but the chairman of the committee asked that this one be brought up first.

MR. KING: With all due respect to the chairman of the committee, I ask that it be brought up last, Mr. President.

PRESIDENT NISBET: Debate had already started on this. The Chair is of the opinion we had better finish this amendment.

MR. HATCH: Mr. President.

PRESIDENT NISBET: Mr. Hatch.

MR. HATCH: Would it not be true in connection with the point Mr. King has raised that the final vote on the proposal will give him that opportunity anyway?

PRESIDENT NISBET: We will proceed on this. The question is on the amendment. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—33

Allen
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Hart, Miss
Hodges
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Mahinske
Marshall
Ostrow
Perlich
Sablich
Stopczynski
Wilkowski
Young

Nays—84

Andrus, Miss
Anspach
Batchelor
Beaman
Bonisteel
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McCauley
McLogan
Millard
Mosier
Nisbet
Page
Perras
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Ford and others, the yeas are 33; the nays are 84.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. T. S. Brown offers the following amendment:

1. Amend page 1, line 4, after "licenses,", by inserting "vis a vis the state,".

PRESIDENT NISBET: Mr. Brown.

MR. T. S. BROWN: This is a commonly used phrase in political science, among other sciences, which means "in relationship to." The terminology is fittingly placed, I think, in that we are discussing, in general, in this matter the protection of the individual in relationship to administrative hearings conducted by the state or state agencies in which the state has an interest and may deny to individuals certain of their private rights, privileges or licenses. This was the intention of the framers of this particular proposal and I think it was the intention of all of the well meaning delegates who voted for it, and I think that, therefore, this is a perfecting amendment which would, in effect, spell out that this is what we're trying to do, protect the individual against the arbitrary actions of the state. Now, "vis a vis" is, I think, the shortest way of saying this particular thing. If we are attempting to say that we are enlarging the scope of appeal in cases where one individual is contending against another individual, then I think we're doing the wrong thing constitutionally. If we are trying to say, as we are apparently here, that we're protecting the individual against the state, then these 4 little words, I think, perfect the thing so that it is acceptable and does not destroy other hallowed relationships.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I would only say that this is another form of Mr. Brown's amendment which we rejected in committee of the whole and in convention, which stated, "and to which the state is a party in interest." He has changed the language, I assume, to get around the ruling of the Chair. I would urge its rejection.

PRESIDENT NISBET: Mr. Gover.

MR. GOVER: Mr. President, fellow delegates, a little while ago, we had an exclusion report that said that we didn't need to have things in English any more because they were going to have it in English. Now he comes up with some Latin for the constitution. I think that's unconstitutional. (laughter)

PRESIDENT NISBET: The question is on the amendment of Mr. Brown. The last time we called for a vote, people wanted to talk afterwards. If anybody wants to talk, now is the time to talk. (laughter) Those who are in favor of Mr. Brown's amendment will say aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mr. Higgs offers the following amendment:

1. Amend page 1, line 8, after "supported by" by striking out "reliable, probative" and inserting "competent, material"; so the language will read, ". . . whether the same are supported by competent, material, and substantial evidence on the whole record."

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, in discussing this matter with other delegates, judges, the style and drafting committee and members of the judiciary committee, it seems that part of the difficulty in this section involves an orientation of the meaning of the words "reliable" and "probative." Accordingly, my amendment is designed to substitute language which has definite meaning in the courts of law. These words come from the administrative procedures act. Now, inasmuch as we are dealing with review from administrative agencies, it seems reasonable to me that we ought to look to the administrative procedures act for orientation. Now, it is important, I think, to have all 3 words, in view of the scope of the admissibility of evidence before administrative agencies. I read from the administrative procedures act:

> In contested cases:
>
> (1) Agencies shall so far as practicable follow the rules of evidence applicable to proceedings in chancery cases, but may in their discretion admit and give probative effect to any evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, immaterial and unduly repetitious evidence.
>
> (4) Agencies . . . may take notice of judicially cognizable facts and in addition may take general, technical or scientific facts within their specialized knowledge. . . . Agencies may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

Now, in section 3.560 (21.8) of this section, it is provided that the court may affirm the decision of the agency or remand the case for further proceedings or it may reverse or modify the decision of the substantial rights of the petitioners which may have been prejudiced because the administrative findings, inferences, conclusions or decisions are— and there is a list, under section E appears the language, "Unsupported by competent, material and substantial evidence in view of the entire record as submitted," and so forth.

I think if we follow precisely the language which appears in the administrative procedures act, in other words, we have here a precedent for the scope of review because, apparently, the legislature has gone into this matter, has used these words. These words have been acted upon, relied upon in the agencies themselves and by the courts through a period of time. I think the word "competent" includes all evidence which is admissible in a court of law. "Material and substantial evidence" is evidence which is included within the scope of this provision which goes beyond that evidence specifically admitted in courts of law. In other words, the breadth is much broader under the administrative procedures act. We give cognizance and recognition to that extended scope by using the same language which the legislature has seen fit to use in this act and which the courts, I believe, in my conversations with judges, are familiar with and I urge that you support this amendment.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I should like to say I am not speaking on behalf of the committee, but from the research that I've done and have had done. I concur in the amendment of Mr. Higgs. I think we would be making it more uniform with what has been the practice within this state. I would urge the adoption of the amendment on my own. This is for me personally.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Mr. President, if I had my "druthers" I'd "druther" we didn't have it at all. If we've got to be hit in the head, I would rather it would be done with a softball bat than a baseball bat. For that reason, I urge that we support Mr. Higgs' amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment. Judge Pugsley.

MR. PUGSLEY: I support the Higgs amendment.

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Bledsoe and Krolikowski offer the following amendment:

Amend page 1, line 9, after "record" by changing the period to a colon and inserting "Provided however, that the findings of fact of the workmen's compensation commission shall be conclusive in the absence of fraud.".

PRESIDENT NISBET: The Chair recognizes Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. President, it is the design of this amendment to insulate the one administrative agency that will be most adversely affected by the sweeping effect of the committee proposal. This is a reasonable amendment because it simply restates the existing law governing the scope of review from the workmen's compensation commission. I shall not belabor you with an analysis of the impact of this committee proposal lest you brand it as being subjective. However, before you vote on this amendment, I should like to quote to you from the memorandum prepared by your own research department, and I refer to the memorandum dated March 20, 1962, from the research and drafting department of this convention. I quote from the second paragraph on page 7. It reads as follows:

> The administrative agency likely to be affected is the workmen's compensation commission. At the present time, findings of fact of the commission, in the absence of fraud, are conclusive in the courts. Michigan Statutes Annotated 17.186.
>
> Workmen's compensation laws represent a significant step in social legislation in this country. The concept of the statute is to give the injured worker quick compensation for on the job injuries in exchange for his right of tort action against the employer. Compensation allows the injured worker to pay for the necessities of life for

> him and his family. This concept has worked in Michigan. In the year ending October, 1961, out of 30,606 compensable injuries, only 6,590 contests were entered, or about 20 per cent. Out of these 6,590 cases, only 57 leaves to appeal were entered for the supreme court, and only 11 of these leaves were granted. These figures leave one with the impression that the present law accomplishes the objective of the compensation commission quite well.

This is the research memorandum prepared by your research and drafting department. Mr. President, I should like to demand the yeas and nays, and I yield to Mr. Bledsoe.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Mr. Bledsoe.

MR. BLEDSOE: Mr. President and fellow delegates, I heard one of the delegates asking who wrote that. And I am just wondering if he is in the same category as another delegate who said we only needed 5 minutes. I think everybody got a copy of that. I got a copy. And I want to say to you that report that Mr. Krolikowski is reading from was arrived at because the judicial committee, headed by our chairman, and some other people in this convention became so disturbed that you had voted to injure the workmen of this state. If you will recall, I got on this floor and pled as much as I could to try to explain it. It was sent back to the research department; it was sent back to the University of Michigan and I don't think they favored me. But I got it; and we have it here. Mr. Krolikowski and I got it. The chairman got a copy of it. I notice he didn't refer to it tonight. But I think somewhere on your desk, everybody in here has a copy of it. It will be the greatest injury you could possibly do to the people who work in this state to go against — just forget me; it just so happens that as a result of my experience in the administration of this law that I know those facts, but don't take them from me. Your department and your investigators went back to the University, an impartial body, and when I read that report — there are just so many things that they don't know about it, because their experiences are confined to the classroom.

I ask you, members of the jury, to save this piece of legislation. It has guided the workmen and the people in this state since 1912, when that law was first enacted. It is remedial legislation and it ought not to be changed. I ask you to support our amendment.

MR. HODGES: Mr. President.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President and delegates, I'd like the delegates to give serious consideration to this. This is a most vital area we're dealing with. A threat of appeal hanging over an injured worker's head is enough to make him settle for pennies on the dollar on his compensation claim. In compensation this is called redemption. As I pointed out before, the University of Michigan study shows that in 90 per cent of those cases that have accepted redemptions, it was detrimental to the employee. This is perhaps one of the most one sided types of situation you can possibly find. The injured worker on one hand, with no compensation coming in, against the corporation with staff attorneys. And to appeal and to have further appeals taken merely eats into the injured worker's compensation claim, if and when he ever does accept it.

It is not the fact that these will continually be appealed. That isn't the important part. It's the threat of the appeal hanging over his head, knowing that he can be tied up for 2 and 3 and 4 years before he can get any kind of money coming in or will be subjected to welfare in the meantime, is enough to make him settle for pennies on the dollar and will subvert the whole cause of workmen's compensation, something that has been with us and we've been trying to strive to perfect for some 60 years in this state.

PRESIDENT NISBET: Mr. Brown.

MR. T. S. BROWN: Mr. President and fellow delegates, the instant terminology there is exactly the present law in Michigan, in that presently findings of fact of the workmen's compensation commission are conclusive in the absence of fraud. In essence, all that this amendment asks us to do is to continue the present situation, which everyone, regardless of political orientation, says is working well. Now, a few moments ago, in my amendment, in general language, you had an opportunity to effect just this type of provision and now it comes to face you specifically, and I really should not want anyone here in this convention, for the sake of being on the side of the aggrieved individual, actually inadvertently to deprecate the rights of the working men of this state. Now, I don't see any particular harm in this provision. It does not expand the right; it does not encroach upon anything that anyone feels is sacrosanct today. It simply preserves what is accepted generally by all parties — employer, employee alike — to be a good workable situation.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, again, we debated this fully in committee of the whole. It was defeated. I would hope that we could get on with the vote and finish up our work.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and fellow delegates, I was one of those who strongly supported this provision as it now appears before us, without the amendment which is on the board. However, I have looked into the matter, I have studied Michigan Statutes Annotated 17.169, and I am convinced that this is the one area where justice delayed is justice denied. I resented strongly at the time the implication made on the part of some delegates to the effect that we were aiming at workmen's comp. I know it was not my intention and I don't think it was the intention of the other delegates here.

There is a general problem existing in this area, which is extremely serious: the problem of review of administrative agency findings. But here we have a case where a man is not only in need of money, in need of food for his family perhaps, but even beyond that, he may be disabled to the extent that he can't go out and get other employment. Now, I'm not suggesting that any employer in the state of Michigan would intentionally delay this process and force this man into a series of court tests and court appeals, but this possibility does exist. I think here we have a situation where the working men and women of Michigan can be legitimately concerned and I respectfully request, fully aware that I was one of those who worked toward the end where we now find ourselves, that you give very serious consideration to this amendment. This is the present law in the state of Michigan as passed by our liberal legislature.

PRESIDENT NISBET: Time has expired. The question is on the amendment. The yeas and nays have been demanded and ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. Brown.

MR. G. E. BROWN: Mr. President, I was on the list to speak and since the vote is being taken, it will have no effect. However, I'd like to point out to the delegates here that judicial review is a 2 edged sword; that the philosophy of the workmen's compensation department can change much faster than can the philosophy of the judiciary by the very nature of the branch of government; and that the present thing that many of those who have spoken about tonight with respect to compensation can be changed overnight and a different and more conservative — to put it very frankly — approach could be taken. Where do the workmen go then?

The roll was called and the delegates voted as follows:

Yeas—58

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.

Garvin
Hart, Miss
Hodges
Hoxie
Jones
Kelsey
King
Krolikowski
Leppien
Lesinski
Madar
Mahinske
Marshall

Perlich
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Romney
Sablich
Staiger
Sterrett
Stopczynski

Doty, Donald
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Ostrow
Thomson
Wanger
White
Wilkowski
Woolfenden
Young

Nays—57

Batchelor
Beaman
Boothby
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Millard
Mosier
Nisbet
Page
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stamm
Stevens
Turner
Tweedie
Upton
Van Dusen
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Bledsoe and Mr. Krolikowski, the yeas are 58; the nays are 57.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: May I ask that, in the future, anybody getting up to speak even though the time is up be ruled out of order and kept out of order? There were a couple of changes of voting after he spoke.

SECRETARY CHASE: Mr. Danhof offers the following amendment:

1. Amend page 1, line 4, by striking out "privileges or licenses,"; so the language will then read:

> All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, shall be subject to direct review by the courts as shall be provided by law.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, the amendment would return the language as originally reported by the judicial committee. As has been stated to you at the conclusion of the debate in committee of the whole and first reading, I requested that this matter be examined by numerous individuals, professors from the University of Michigan, former Dean Stason and others. Without exception, they pointed to these 2 words, "privileges" and "licenses" as creating tremendous difficulties. In essence these 2 words do this: they take away from the state the policing power in certain fields.

The day before yesterday, I read in the paper concerning a finding by the liquor control commission of a bar by reason of sales to minors. It is this type of policing power that is needed when you are talking in the field of privileges. To leave the "privileges or licenses" in here will make this type of policing power subject to endless delays. This is not true when you talk about rights, be they individual rights or property rights. Privileges or licenses granted by the state, by their very nature, should be subject to the control as laid down by the state or by the issuing body, be it city or county or township. I think that the harm that will be done by the delay and by the interference with the normal policing power of the state far outweighs any good that might be obtained by reason of judicial review.

I point out that this is not a committee amendment; it is my own amendment. I supported that of Mr. Higgs. I think that this will get us back to where are are in the field of private rights. I would urge that we adopt the amendment.

PRESIDENT NISBET: Judge Pugsley.

MR. PUGSLEY: Mr. President, fellow delegates, I believe that Chairman Danhof is right, and I am pleased to support his amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Ford.

MR. FORD: I rise to support Mr. Danhof's amendment and point out that many of us have been contacted by municipal attorneys who have been very much concerned about the effect of these words, not only on the state but on other units of government, and the proposal would be improved greatly by striking these words.

PRESIDENT NISBET: The question is on the amendment. Mr. Everett.

MR. EVERETT: Mr. President, I find it difficult to differ with the chairman of the judicial committee, but in this case, I do differ with him. I think when it comes to liquor licenses and things like this, we're overlooking the fact there is public safety involved, of course. There is also the livelihood of the individual involved. It seems to me that he is just as much entitled to review in court of this very drastic decision which may cost him his livelihood, not only his license temporarily, but possibly permanently, if he can't afford to keep going in the interval. Now, what this proposal does — it does not say the license may not be revoked, but that he is entitled to a review in court. If it's valid in one case, it seems to me it's equally valid in another. I personally believe it's valid in all cases. It may mean some delay occasionally, but I don't think that we should sacrifice the right of the individual simply because there may be some delay in protecting the rights of the public. I would oppose the amendment.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I feel privileged to be able to support what Mr. Everett has said. I think that it is clear that if we can provide judicial review for $100 cases and other cases of this nature, it certainly isn't going too far to permit the judicial review of the very means by which a man makes his livelihood. It relates to every license. There are many licenses that are issued that would be subject to revocation: a plumber, a beautician, a barber, and so forth. It is very likely these could be done without any resort to the court. Certainly this was debated long enough in committee of the whole. It should be continued. I would urge a no vote on the amendment and the retention of the present language.

PRESIDENT NISBET: The question is on the amendment. Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I'd like to support Mr. Danhof. My natural feeling would be the other way. But I believe this is within the power of the legislature. We are incorporating into the constitution merely a minimum guarantee and would not prevent the legislature from adjusting the matter with regard to privileges and licenses. I think we'd get into trouble if we included this.

PRESIDENT NISBET: Those in favor of the amendment of Mr. Danhof will say aye. Those opposed, no. The Chair is in doubt. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. DANHOF: In order to conserve time while the vote is being taken, in view of the action taken on the amendment of Mr. Higgs, I withdraw the second amendment.

SECRETARY CHASE: Mr. Danhof withdraws the other amendment he had previously filed with the secretary, which amendment reads as follows:

1. Amend page 1, line 8, after "are" by striking out "supported by reliable" and inserting "clearly erroneous in view of the competent".

PRESIDENT NISBET: The second amendment is withdrawn.

SECRETARY CHASE: On the amendment offered by Mr. Danhof, the yeas are 59; the nays are 57.

PRESIDENT NISBET: The amendment is adopted. Will you please clear the board.

SECRETARY CHASE: Mr. King offers the following amendment to the language previously adopted:

1. Amend page 1, line 9, (at the end of the amendment), after "fraud" by inserting "unless otherwise provided by law"; so that the proviso which was added would then read:

> . . . Provided however, that the findings of fact of the workmen's compensation commission shall be conclusive in the absence of fraud unless otherwise provided by law.

PRESIDENT NISBET: The Chair will recognize Mr. King.

MR. KING: Mr. President and fellow delegates, I offer this amendment in view of the very close division on the Krolikowski amendment, which carried by only one vote. I don't think we want to lock into the constitution, as was pointed out by Mr. Brown, rules which must guide us for all time. I do think that we ought to preserve the status quo because I think it is a result of a lot of careful consideration by the legislature and I frankly am in complete agreement with it. However, there is no reason why we should place a restriction in the constitution which would prevent the legislature at some future date, in view of changing circumstances and times, from making a change in this particular area if it is deemed wise at that time. I don't personally favor any change at this time, this time being April 23, 1962, nor do I pretend to be able to look into a crystal ball for the next 50 years and say that there never will be a time when we want to change. This merely leaves it up to the legislature, certainly, with a little bit of direction, in the direction in which they are now headed.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, ever since we passed Committee Proposal 95, I have thought that we would be in trouble on it, and I am glad to see some of the action that we've taken here this evening. I followed quite closely the work of the judicial committee and the various memoranda which they received — almost all of the memoranda saying that we probably had gone too far — but the action tonight has tended to correct some of the errors which at least the people who submitted these memoranda thought we made.

Now, I felt that on the workmen's compensation issue we were in trouble because we were being too restrictive and we were putting a burden on the man who received an award from the workmen's compensation commission. It was for that reason that I voted in favor of the amendment which passed by 2 votes. But I must say that I also feel that when we passed this amendment we went to the other extreme and froze in a rule which provided that only in case of fraud could there be a review. I really think that the right thing to do is to support the King amendment because I think this introduces the flexibility. There may be a time when a workmen's compensation decision or any other administrative decisions are being abused, not by fraud but for some other reason short of fraud. And if that time should ever come, I feel that the legislature should have the privilege of making the correction. And I think this amendment will do it. I think that this will give us a standard of review. It gives us a standard which in cases now will protect the working man, but it does give the legislature the opportunity to do something above it. Now, that's no different than we have now. In fact, I think the language we have finally come up with is a little more protective to the employee than what we have now, but I think it goes too far unless we allow the legislature some time to have something to do with it. I think it's an excellent amendment, and I hope we have a yes vote.

PRESIDENT NISBET: The Chair recognizes Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. President, I should only like to state that Delegate Allen and Delegate King have advanced the most eloquent argument for striking this obnoxious proposal in its entirety. They highlight the fact that it's statutory; that it should be made flexible; and this is true. That's why you should not insert rules of evidence in the organic law of the state. This is so obvious a fact that only one other state constitution even entertains something similar, and even in that instance, it doesn't prescribe the minimal evidentiary rules that Committee Proposal 95 sets out. As for the amendment, per se, I should object to it because it would vitiate in toto the beneficial effect of the Bledsoe-Krolikowski amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Bledsoe.

MR. BLEDSOE: Mr. President, fellow delegates, in entire fairness to my opponents in this matter, I am going to hazard a statement that unquestionably they are sincere. I want to believe that. But I must say to you nonlawyer delegates here: there are a great many lawyers who have never had the experience of trying or having any participation in the compensation practice. Mr. Cudlip and a great many of the other men here — we've got fine lawyers and judges — but they will all tell you that it's a specialized practice. A lawyer may go through his entire life and become a successful lawyer and never go before an administrative tribunal on a compensation case. And unless a lawyer has practiced before those boards and understands these procedures, he can't be of too much help to you.

I'm sorry that it didn't pass by a larger vote, and I'm frank to say that the only reason these other amendments have come in is because it didn't pass by a larger vote. And when my colleague tells me that he was troubled, surely he was troubled. We've all been troubled about this. And when he said it goes too far — no, it doesn't go too far. When you're going to do something for the interest of society they are participating in, let's go a little distance. It isn't too far, delegates. We'd just like to leave it like it is. But I wish I had a little more support and they'd leave it alone.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I want to say I agree completely with the fine statement of Delegate Krolikowski and Delegate Bledsoe. I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. The question is on the amendment offered by Mr. King. The yeas and nays have been demanded. Those in favor of the King amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—83

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Nisbet
Page
Pollock
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—36

Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Ford
Garvin
Hart, Miss
Hodges
Jones
Kelsey
McGowan, Miss
McLogan
Ostrow
Perlich
Perras
Powell

Brown, T. S.
Buback
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Faxon
Krolikowski
Lesinski
Liberato
Madar
Marshall
McCauley
Pugsley
Sablich
Stopczynski
Turner
Wilkowski
Young

SECRETARY CHASE: On the amendment offered by Mr. King, the yeas are 83; the nays are 36.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President, if it's in order, I should like at this time to move that the vote on the Danhof amendment, which eliminated the phrase "privileges or licenses" and lost by 2 votes, be reconsidered.

PRESIDENT NISBET: It carried by 2 votes.

MR. YEAGER: I mean it carried by 2 votes. I wish to move reconsideration of that vote.

PRESIDENT NISBET: There is a motion by Mr. Yeager that the vote on the amendment offered by Mr. Danhof, which carried by a vote of 59 to 57, be reconsidered. Mr. Chase will read the amendment. Will you please clear the board.

SECRETARY CHASE: The amendment offered by Mr. Danhof was:

1. Amend page 1, line 4, by striking out "privileges or licenses,"; which amendment was adopted by a vote of yeas, 59; nays, 57.

MR. YEAGER: Mr. President, I'd like to say a word on it, if I may.

PRESIDENT NISBET: You may.

MR. YEAGER: In considering the removal of this, I think that some things perhaps were not brought out, and I was a little remiss in not getting up to speak on it earlier. But it seems to me that the problem of licensing covers some things other than those mentioned on the floor. The question of real estate licenses — I hasten to also mention employment agency licenses, possibly insurance licenses — could be affected by this. Now, if we're going to give the right of review in any areas, I would like to make certain that the question of privileges and licenses be subject to such review. I don't think it's an unreasonable request. I don't think a good valid argument was made for knocking it out. We argued this point many, many minutes — I think a couple of hours — when we originally took it up in committee of the whole. And I would like, at this time, to respectfully request that we reconsider the vote on this particular Danhof amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, on the opposite side of the argument, may I point out this introduction of privileges and licenses into the committee proposal was a matter about which I raised a question when it was first done in committee of the whole. I pointed out at that time that I felt sure it would create problems; and, as Mr. Danhof has pointed out and Mr. Ford has pointed out, it does create problems, very serious problems, with the law enforcement authorities and with the various municipalities and others. In including it, we depart from the present situation with respect to privileges and licenses and it seems to me that we ought not to reconsider the matter at this time; that the vote taken was a proper result, and that it ought not to be reconsidered.

PRESIDENT NISBET: Mr. Prettie.

MR. PRETTIE: Reference has previously been made to the multipage memoranda from at least 3 sources dealing with the problem created by the words which we struck by the prior vote. Those memoranda unanimously recommend that these be deleted because of the problem that they raise. I think the most succinct statement is that of Dwight Stason, former dean of the University of Michigan law school, who states:

> You ask concerning the effect of writing the words "privileges or licenses." This addition obviously broadens the applicability of the provision very markedly. It would afford a constitutional right to a review for invasion of all minor privileges. Even though the provision is seldom resorted to, I think it is unwise to include such an all embracing statement in a constitutional provision.

I urge that we not reconsider the proper action that we have taken.

PRESIDENT NISBET: Mr King.

MR. KING: Mr. President, could I at this point make a parliamentary inquiry? In the event that this motion should pass, would it be possible to divide the question between the 2 words "licenses" and "privileges?"

PRESIDENT NISBET: Yes, it would, Mr. King.

MR. KING: It would? I would so move in the event this motion does pass.

MR. YEAGER: I ask for the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Mr. Danhof.

MR. DANHOF: For the reasons given by Mr. Prettie, I would ask that we not reconsider and that we proceed to finish Committee Proposal 95.

PRESIDENT NISBET: There is not a sufficient number up.

DELEGATES: Division.

PRESIDENT NISBET: Division?

MR. YEAGER: Mr. President, I think Mr. Danhof was speaking while division support was being asked. I would request that the support be asked again.

PRESIDENT NISBET: For the yeas and nays? For division? Mr. Yeager, did you ask for division or the yeas and nays?

MR. YEAGER: I'm sorry. I asked for the yeas and nays.

PRESIDENT NISBET: Is the demand seconded for the yeas and nays? Sufficient number up. The question is on reconsideration of the vote on the Danhof amendment.

MISS DONNELLY: I'd like to call to the attention of the convention generally that Mr. Danhof on occasion is acting as the judicial committee chairman and on occasion, he is acting individually. This came before the committee and it was not supported. When he asks us to hurry up on the whole thing, he is acting as the chairman of the committee. When he is asking for the amendment, he is acting individually and I think it is very hard for some delegates to know the difference.

PRESIDENT NISBET: Those in favor of reconsideration will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—52

Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Gover
Habermehl
Haskill
Hatch
Howes
Hubbs
Hutchinson
Karn
King
Kirk, S.
Lawrence
Koeze, Mrs.
Kuhn
Leibrand
Lepplen
McAllister
Millard
Mosier
Page
Perras
Radka
Richards, J. B.
Richards, L. W.
Rood
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Sterrett
Stevens
Upton
Wanger
Wood
Yeager

Nays—69

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Bonisteel
Bradley
Brown, T. S.
Ford
Garvin
Goebel
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Heideman
Higgs
Hodges
Hoxie
Iverson
Jones
Nisbet
Ostrow
Perlich
Pollock
Powell
Prettie
Pugsley
Rajkovich
Romney
Rush
Seyferth
Spitler

Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Judd, Mrs.
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Staiger
Stamm
Stopczynski
Thomson
Turner
Tweedie
Van Dusen
White
Wilkowski
Woolfenden
Young

SECRETARY CHASE: On the motion to reconsider the vote by which the amendment of Mr. Danhof was adopted, the yeas are 52; the nays are 69.

PRESIDENT NISBET: The motion does not prevail. The next amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 8, after "are" by striking out "supported by" and inserting "clearly erroneous in view of the"; so the language will there read, ". . . whether the same are clearly erroneous in view of the competent, material, and substantial evidence on the whole record. . . ."

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, this was the amendment which Mr. Danhof had as number 2 on that list there. It was also the same wording that came from the committee on judicial branch, which had expert advice from people with regard to what the wording ought to be. In view of these factors I will, then, yield to Mr. Ford for a more judicial explanation of these words, but I do think that it merits your consideration. It was before us in committee of the whole. I'd like to yield to Mr. Ford now.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: This amendment gets us almost back to the language that was recommended originally by the committee before it came on the floor of the convention, and it is the language of Mr. Kauper, except for the fact that Mr. Kauper's draft did not contain the qualifying words "competent and material." This should be noted as very important because it does something that I think is very important in this, in that it shifts the burden of proof on the appeal.

As we now have reconstructed the original committee proposal, the burden of proof, after a decision by an administrative body, is on the person who won to justify having won by showing that he won with evidence that was competent and material; while the language as originally suggested by Mr. Kauper when he drafted this would place the burden, as it is in almost all such proceedings, on the person who loses, who does not get the favorable decision in front of the administrative tribunal, to show that the decision was clearly erroneous in view of the entire record. I know of no other place in the law where the burden to go forward is placed on the person who wins to go forward and justify having won. Adopting this amendment would place the burden in a fashion that is more consistent with our practice throughout the law and say to the person who feels he is aggrieved by the decision that he should show that the decision was bad, in order to upset it.

PRESIDENT NISBET: The question is on the amendment of Mr. Faxon.

DELEGATES: Division.

PRESIDENT NISBET: Division has been asked for. Is the demand seconded? Sufficient number up. Those in favor of the Faxon amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon, the yeas are 38; the nays are 77.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of Committee Proposal 95, as amended. Will you clear the board, please. Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I would respectfully move that the Danhof amendment, so called, be resubmitted as my amendment without the word "privileges." This is the word that apparently has bothered the delegates here. This is the word that was the subject matter of the treatise, or the brief, that Mr. Prettie mentioned. I think that there was much objection to the word "privileges", possibly, and not the word "licenses." This would be an amendment to reinsert after "affect private rights" the words "or licenses." I think this matter has been well enough debated. I am not asking that it be further debated. I think that we should vote on this question, though, because the people have never had a chance to. Mr. King mentioned this in connection with his suggestion that we divide the question if the motion to reconsider passed. Not having passed, this opportunity has not been given the delegates yet.

MR. VAN DUSEN: Point of order, Mr. President. The question was divisible. It was not divided. I believe Mr. Brown's motion is out of order.

PRESIDENT NISBET: The motion is in order, Mr. Van Dusen. It was only to reconsider.

SECRETARY CHASE: Mr. Garry Brown offers the following amendment:

1. Amend page 1, line 4, by reinserting "or licenses,"; so the language will then read:

> . . . which are judicial or quasi judicial and affect private rights, or licenses, shall be subject to direct review by the courts as shall be provided by law.

PRESIDENT NISBET: Mr. Barthwell.

MR. BARTHWELL: I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of the amendment offered by Mr. Brown will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—58

Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Conklin, Mrs.
Dehnke
DeVries
Doty, Dean
Elliott, A. G.
Everett
Farnsworth
Finch
Follo
Gadola
Goebel
Gover
Habermehl
Haskill
Hatch
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
McAllister
Millard
Mosier
Nisbet
Page
Perras
Radka
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Sterrett
Stevens
Upton
Van Dusen
Wanger
Wood
Yeager

Nays—57

Allen
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Bledsoe
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dell
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Figy
Ford
Garvin
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Heideman
Hodges
Howes
Hoxie
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Ostrow
Perlich
Pollock
Powell
Prettie
Pugsley
Rajkovich
Romney
Staiger
Stamm
Stopczynski
Turner
Tweedie
White
Wilkowski
Woolfenden
Young

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brown, the yeas are 58; the nays are 57.

PRESIDENT NISBET: The amendment is adopted. Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise to urge a no vote on the entire proposal. We have cut this dog's tail off an inch at a time. We've added back to it half an inch at a time. We've at least excluded workmen's compensation, but this is the type of thing, that I think Delegate Krolikowski pointed out very well, definitely does not belong in a constitution. This whole matter of administrative law and appellate procedure is an involved one that should grow as the years come and have legislative flexibility. I therefore urge a no vote on the proposal.

PRESIDENT NISBET: The question is on Committee Proposal 95, as amended. Those in favor will vote aye. Those opposed will note nay. It is a record roll call vote. The secretary will now read.

SECRETARY CHASE: As the proposal now stands, it reads as follows:

[The proposal as finally amended was read by the secretary. For text, see below.]

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—86

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bledsoe
Bonisteel
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—32

Baginski
Balcer
Barthwell
Binkowski
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Hart, Miss
Hodges
Hoxie
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Marshall
McCauley
Ostrow
Perlich
Sablich
Stamm
Stopczynski
Wilkowski
Young

SECRETARY CHASE: On the passage of Committee Proposal 95, the yeas are 86; the nays are 32.

PRESIDENT NISBET: **Committee Proposal 95,** as amended, passes. It is referred to the committee on style and drafting.

Following is Committee Proposal 95 as amended and rereferred to the committee on style and drafting:

Sec. a. All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, or licenses, shall be subject to direct review by the courts as shall be provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law, and, in cases in which a hearing is required, whether the same are supported by competent, material, and substantial evidence on the whole record: Provided however, that the findings of fact of the workmen's compensation commission shall be conclusive in the absence of fraud unless otherwise provided by law.

MR. HODGES: Mr. President, in view of the late hour and in view of the seriousness of the next subject on the agenda, I would move that we adjourn until 9:00 o'clock tomorrow morning.

MR. VAN DUSEN: Mr. President, I have a preferential motion.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I recognize that it is late and that the matter which is next before us is a serious one, that we need all the time for debate we can get. Therefore, I move that we fix the time to which to adjourn tomorrow at 8:00 a.m.

MR. HODGES: Mr. President.

PRESIDENT NISBET: Just a minute. The question is on the motion of Mr. Van Dusen that—

MISS DONNELLY: Mr. President, before we have these motions, can't we hear the resolutions so we might get them into the committee? They have nothing to do with adjournment and have nothing to do with the subject matter. Mr. Doty and I, with others, have a resolution we wish to have read and referred to the rules committee tonight.

PRESIDENT NISBET: There are 2 resolutions. Without objection, we'll have them read.

MR. HODGES: Point of information, Mr. President. I did move to adjourn to a time certain. I wonder why that's a preferential motion that Mr. Van Dusen made, unless it's because Mr. Van Dusen made it. (laughter)

PRESIDENT NISBET: Mr. Van Dusen's motion was to fix the time to which to adjourn, which is a preferential motion.

MR. HODGES: Mr. President, mine was also a time certain, 9:00 a.m.

MR. HUTCHINSON: Mr. President.

MR. FAXON: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, Mr. Hodges' motion to adjourn until 9:00 a.m. doesn't do anything in the way of fixing a time to which to adjourn. That simply is indicative of a time already fixed. That time of 9:00 a.m. has already been fixed, and unless he would name another time, his motion is not to a time certain.

PRESIDENT NISBET: Mr. Van Dusen's motion is in order. The question is on Mr. Van Dusen's motion that when we adjourn we stand adjourned until 8:00 a.m. Those in favor of that motion will say aye. Opposed, no.

The motion does not prevail. Without objection, we're going to have **motions and resolutions.**

SECRETARY CHASE: Mr. Downs, Miss Hart and Mr. Lesinski offer

Resolution 90, A resolution to memorialize congress to exercise its power to create congressional districts in the state of Michigan.

Following is Resolution 90 as offered:

Whereas, The intent of the founding fathers was that congressional districts should be established so that each district was as nearly equal in population as possible; and

Whereas, The Michigan constitutional convention has failed to establish such equality in our constitution; and

Whereas, Michigan's congressional districts vary from the smallest of 177,431 people to the largest of 802,994 people; and

Whereas, The Michigan legislature has failed to establish districts of equal population; and

Whereas, Those who opposed this convention taking action in many cases argued this was the responsibility of congress; now therefore be it

Resolved, That this convention go on record memorializing the United States congress to exercise its power to create congressional districts as nearly equal in population as possible; and be it further

Resolved, That copies of this resolution be sent the members of the United States house of representatives and the senate from the state of Michigan.

PRESIDENT NISBET: Referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Dean Doty, Miss Donnelly, Messrs. Barthwell and Downs offer

Resolution 91, A resolution to require 73 votes to pass an amendment on second and third readings of proposals.

Following is Resolution 91 as offered:

Whereas, This convention has heard much debate and voted on many amendments during the course of first reading of proposals; and

Whereas, Many of the same amendments are being presented again on second and third readings; and

Whereas, As other amendments have been offered for the first time and the committee of the whole has never been able to consider the same upon unlimited debate; and

Whereas, It takes 73 votes on any proposal to place it in the proposed constitution; and

Whereas, Many of these amendments are passed with less than 73 votes; now therefore be it

Resolved, That any amendment to a committee proposal offered on second or third reading require 73 votes to pass.

PRESIDENT NISBET: Referred to the committee on rules and resolutions.

There are some announcements.

SECRETARY CHASE: We have the following requests for leave: Mr. King asks to be excused from the first part of tomorrow's session; Mr. T. S. Brown asks to be excused from tomorrow's session; Mr. Stopczynski asks to be excused from the session of tomorrow afternoon; and Mr. Anspach asks to be excused from the sessions of Thursday and Friday, April 26 and 27, to fill appointments made last February, at which time he thought the convention would close about April 1. (laughter)

PRESIDENT NISBET: Without objection, they are excused. Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I should like to remind the members of the committee on legislative organization that we have a committee meeting tomorrow morning at 8:00 o'clock in room D.

PRESIDENT NISBET: The question is on the motion of Mr. Hodges that we adjourn. Those in favor will say aye. Those opposed will say nay.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 11:55 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Tuesday, April 24, 1962.]

ONE HUNDRED TWENTY-SEVENTH DAY

Tuesday, April 24, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our own delegates, Mr. Dell. Will you please rise.

MR. DELL: Our heavenly Father, we ask Thy presence at this meeting of the constitutional convention and to guide us in our deliberations. Grant us counsel and wisdom that we may here construct a document capable of serving not only this, but future generations. Let not personal prejudice prevail and like the ancient pilgrim:

Who, traveling a lone highway
Came in the evening, cold and gray,
To a chasm rough and deep and wide
Through which was rushing an angry tide;
The old man crossed in the twilight dim
The sullen stream held no fears for him.
But he turned when safe on the other side,
And built a bridge to span the tide.
"Old Man," said a fellow pilgrim near,
"You're wasting your strength in building here.
Your journey will end with the ending day;
You never again will pass this way.
You've crossed this chasm deep and wide
Why build you this bridge at eventide?"
The builder lifted his old gray head.
"Good friend, in the path I've come," he said,
"There followeth after me today
A generation whose feet must pass this way.
This chasm that has been naught to me
To those fair youths may a pitfall be;
They, too, must cross in the twilight dim.
Good friend, we're building this bridge for them."

Therefore, Father, with Thy help we cannot fail. All this we ask in the name of Thy son, Jesus Christ. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine and record the attendance.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Messrs. Hood and Perras, temporarily, from this morning's session; Mr. Madar, from this afternoon's session; and Mr. Liberato, from today's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. T. S. Brown, Dade, Greene, Hood, King, Liberato, Nord, Pellow and Perras.

Absent without leave: Mr. Douglas, Mrs. Hatcher, Messrs. Jones and Mahinske.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. Jones, Douglas, Mahinske, Perras, Hood and King.]

The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I will not take too much of your time. Today is the birthday of one of our outstanding delegates, and I think all of you would want to join me in paying a tribute. I don't think it would be proper, however, to tell the age of this person. When you find out who it is, I think you will agree that I shouldn't.

A is for Adelaide,
The great crusader,
More crusades she enters
Than a gladiator.

D is for den mother,
From dawn to dusk,
Carrying the ball
For the rest of us.

E is for earnest,
The importance of being,
Which Adelaide shows
While others are fleeing.

L is for lioness,
Fierce in her den,
If they don't come to caucus
She'll swallow her men.

A is for affluence,
A schoolteacher's lot,
Earmark for highways
But for Adelaide not.

I is for irksome,
That Hale Brake is,
The more he "coverts"
The confuser she is.

D is for don't,
Don't e'er vote your conscience,
Vote just for "the package"
And all of that nonsense.

E is for energy,
Stores and potential,
And when it's all gone
What's the differential?

She don't have the votes!
Happy birthday, Miss Hart!

[Whereupon, Miss Hart received a standing ovation.]

PRESIDENT NISBET: Mr. Turner.

MR. TURNER: Mr. President, I can't let that go by. (laughter)

I am not going to tell you how or when this came about
Because she's not historical, of that there is no doubt.

When a lady makes the experience age of 28 or 9
It's birthdays not of record, and this I think is fine.

This lady that I speak of is not afraid of work.
She digs into the problem wherever it may lurk.

With many years at teaching school she proved to be a master.
She even took a reading course to get the meaning faster.
And now in the convention, she's the leader of the crew.

She gets them in a huddle and suggests what they should do.

She had a brood of 44 but since then it made a gain
Of 2 more members strong and true aboard the Demo train.

She has proved herself a worker and leader from the start.
So now I would like to say to her: happy birthday, Adelaide Hart.

(applause)

PRESIDENT NISBET: Miss Hart, you have the distinction of being twice welcomed on your birthday.

Committee reports.

SECRETARY CHASE: No committee reports.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: **Second reading of proposals.** We are considering Committee Proposal 91. The secretary will read the proposal.

SECRETARY CHASE: Item 2, which was placed at the foot of the calendar, is **Committee Proposal 91,** A proposal pertaining to the supreme court. A substitute for sections 2, 4, 5, 6 and 7 of article VII.

Following is Committee Proposal 91 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1620.):

Sec. a. The supreme court shall consist of 9 justices to be elected [on] AT a nonpartisan statewide ELECTION AS PROVIDED BY LAW [basis]. The term of office shall be for 8 years and not more than 3 terms of office shall expire at the same time. Each political party at party convention may nominate [1] ONE candidate for election for each position to be filled. Any incumbent justice whose term is to expire may become a candidate for reelection by filing an affidavit of candidacy, in the form and manner [as] prescribed by law, not less than 180 days prior to the expiration of his term. Any person otherwise qualified to be a supreme court justice may become a candidate for election upon filing a nominating petition, in the form and manner prescribed by law, signed by [qualified] REGISTERED electors of this state in a number equal to 3 per cent of the total vote cast for the office of governor at the last previous election.

Sec. b. One justice of the supreme court shall be selected by the court as its chief justice in the manner and for the term provided by the rules of the court. He shall perform [such] other duties [as may be] required by the court. The supreme court shall appoint an administrator of the courts and other [judicial] assistants of the supreme court as shall be deemed necessary to aid in the administration of the courts [in the] OF THIS state. The administrator shall perform [such] administrative duties [as may be] assigned by the court.

Sec. c. The supreme court shall have [: a] general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; AND appellate jurisdiction as provided by RULES OF THE supreme court [rule,] . [it being provided that] The supreme court shall not have the power to remove a judge.

Sec. d. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts [in the] OF THIS state. The distinctions between law and equity [proceeding] PROCEEDINGS shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. e. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. f. The supreme court may appoint, [and] MAY remove, [its staff] and shall have general supervision of [the] ITS staff. [of the court and] IT SHALL HAVE control of the preparation of its budget recommendations and the expenditure of the funds appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff[,] except that the salaries of the justices [of the supreme court] shall be established by law. All fees[,] AND perquisites [and income] collected by the [clerk] COURT STAFF shall be turned over [by him] to the state treasury and credited to the general fund. [Neither the supreme court nor any justice thereof shall exer-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

cise any other power of appointment to public office, except as otherwise provided herein.]

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, the changes, as you note, made by the style and drafting committee in regard to the 6 sections of Committee Proposal 91 have been very minor. They relate solely to draftsmanship. There has been no change in the intent as passed by the committee of the whole and by this convention on first reading. I understand there are pending several amendments, particularly to section a. I would imagine that the debate on those amendments will explain and take care of everything that needs to be said. I would suggest that we proceed with the amendment.

PRESIDENT NISBET: The secretary will read the first amendment.

SECRETARY CHASE: Messrs. Goebel, Mosier, Habermehl, Radka, Wood, Brake, Boothby, Gover, Kirk, Anspach, Turner, Leibrand, Pugsley, Dehnke, Hutchinson, Gadola, Finch, Shaffer, Shanahan, Erickson, Batchelor, Beaman, Mrs. Butler, Messrs. Farnsworth, Heideman, Stevens, Gust, L. W. Richards, Sleder, Haskill, Spitler, Perras, Rood, Stafseth, McAllister, Dell, Iverson, Blandford, Hubbs, Powell, White, Shackleton, Sharpe, Plank, Karn, Mrs. Koeze, Messrs. Knirk, Rush, Tweedie, Donald Doty, Figy, Page, Thomson, Howes, J. B. Richards, Hoxie, Mrs. Conklin, Messrs. Seyferth, Dean Doty and Sterrett offer the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and inserting "The supreme court shall consist of 7 justices, to be elected by the electors of the state. The term of office shall be 8 years. Not more than 2 terms of office shall expire at the same time.

Justices of the supreme court shall be nominated and elected at nonpartisan elections, from judicial districts, as provided by law. Such districts shall be as nearly equal in population as may be possible and shall follow the boundaries of judicial circuits. No judicial circuit entitled by reason of population to elect more than one justice shall be divided but all justices shall be elected at large from the judicial circuit.

Incumbent justices may secure their nomination by filing an affidavit of intention to be a candidate.".

To this amendment, Mr. Sterrett offers the following amendment:

1. Amend the amendment, second paragraph, second sentence, after "be as" by striking out the balance of the paragraph and inserting "follows:

1. District 1 shall be the upper peninsula with one justice;

2. District 2 shall be the northern portion of the lower peninsula consisting of the counties north of a line drawn along the southern boundaries of Oceana, Newaygo, Mecosta, Isabella, Midland and Arenac counties with one justice;

3. District 3 shall be Wayne, Oakland, Macomb and Monroe counties with 3 justices;

4. District 4 shall be the remaining counties of the state south of district 2 and west of district 3 with 2 justices.".

PRESIDENT NISBET: The question is on the amendment to the amendment. Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, this amendment is not intended to create considerable debate because I'd like to proceed to this proposal as fast as we can. The only intention here is to try to develop some sort of supreme court plan that, possibly, all of us could agree upon. I, personally, have always been for the appointive plans but I really do feel that the voters are not familiar enough with these types of plans. It would take considerable education on our part. I would prefer to see the appointive plans.

I do like the present committee proposal. However, I understand from talking to many delegates that there is considerable support for a district plan. My idea with this district plan is to follow the present amendment which this amends, but to bring it as closely as possible to an at large situation as the present committee proposal for second reading shows. In dividing the state into the 4 districts, I worked with Dr. Combs and Mr. Bolton in the research department and we have tried to look at the population as fairly as possible.

The upper peninsula has approximately 4 per cent of the population for one district. The northern half of the lower peninsula has approximately 6 per cent of the population, for another district. Each of these 2 districts receive 1 justice of the supreme court. The third district, which would be Monroe, Wayne, Oakland and Macomb counties, would have approximately 47 per cent of the state's population and then the balance of the state would have approximately 43 per cent. District 3 — Monroe, Wayne, Oakland and Macomb — would have 3 justices. District 4 would have 2 justices. These have been so divided that the districts are broad in scope and probably will not need changing for the next 30 years. At that time, there is nothing in this amendment nor in the initial amendment which would not permit the legislature to reapportion these districts if it is deemed necessary.

Again, I would like to repeat that this is not a district plan as we originally had presented to us where there were 8 districts, breaking it down into something similar to a beehive. Here we have made it as broad as possible to resemble that which it would be if the justices were elected at large in the state. At the same time, this will more or less guarantee that the upper peninsula will have 1 supreme court justice elected up there and also the populous urban counties of Monroe, Wayne, Oakland and Macomb will have 3 justices, which are more than any other individual district. Now, I'd like to explain just one thing. The reason why Monroe county was thrown into district 3 rather than Genesee county, is because if Genesee county is entirely included in this district, it would put it way over 50 per cent. By putting Monroe county in, it leaves it under 50 per cent and is more logical and reasonable for a district, and to have 3 justices as compared to the other districts in approximate proportion.

As I say, I do not intend to have this for considerable debate. I would prefer to see it considered. If somebody has objections, I would very sincerely like to hear the objections to this plan or this amendment and as soon as a few objections have been raised — I don't believe there will be any other speakers speaking on this. I did this alone, so to speak, for the convention's benefit to see how it would be accepted. I feel that it would be a good plan. I would like to urge a yes vote on the amendment. However, after a certain amount of debate, I would like to see us vote on this and get on to other matters.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, Mr. Sterrett says he would like to hear from anyone who does criticize the plan or his amendment or the other plan as suggested. So far as I'm concerned, I'm certainly happy to know that Wayne county would send someone up here that was going to take something away from them. Of course, that's what always happens when they send someone like Mr. Sterrett up here, who doesn't care whether he represents Wayne county or whether he represents the rural area. That just gives them that much more representation. So far as I'm concerned, the amendment certainly isn't right. We certainly aren't getting the number of justices we ought to get with this or with any other amendment they may bring up. Balkanizing this thing hasn't done anybody any good.

MR. STERRETT: Mr. President.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Not due to those remarks, but at this time, temporarily, I'd like to withdraw this amendment.

PRESIDENT NISBET: The amendment to the amendment is withdrawn. The question is on the amendment offered by Mr. Goebel and others. Mr. Goebel, do you care to speak to your amendment?

MR. GOEBEL: Mr. President and fellow delegates, I would like to take just a few moments to give you my idea about this amendment to Committee Proposal 91. I am not too happy, to be honest with you, with the provisions for electing the supreme court justices under Committee Proposal 91, which was approved in committee of the whole. If you will remember, there were about 3 ways that justices could be nominated for the supreme court. First, each political party at party

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convention, could nominate a candidate. The incumbent justice could file for reelection by filing an affidavit. And then anyone else who wanted to run could become a candidate upon securing the proper number of names on his nominating petition. To me, this represents sort of a heterogenous approach and personally I do not care for the partisan angle involved here, the partisan connotation. I believe firmly that the people of the state are in a mood where they would like to see their supreme court justices elected on a nonpartisan basis. And I think that the amendment which has been signed by 60 people, at least the signers of that amendment, feel pretty much as I do and feel that our amendment is a much more satisfactory method than now prevails in Committee Proposal 91 that is before us.

Under this amendment, a copy of which all of you have on your desks, the justices of the supreme court shall be nominated and elected at nonpartisan elections from judicial districts as provided by law. It also provides that incumbent justices may secure their nomination by filing an affidavit of intention to be a candidate. I like very much both of these features. I appreciate the fact that there may be some opposition to a district plan but, to me, I think it offers some real advantages. First, as a matter of fact, with the partisan nominations that we have now in party conventions of the justices of the supreme court, earlier evidence submitted on the floor in committee of the whole indicated beyond much doubt that the parties, as a matter of practical politics, take into consideration districts in nominating the justices. And the evidence submitted shows that for some length of time, quite a long time, as I recall, most of the candidates did actually come from the various districts around the state.

I think one particular advantage of the district idea is that, to my mind, if I were a lawyer and eventually aspired to be on the supreme court bench, I would feel that I had a real opportunity to do so under this plan because I probably would become a candidate for the circuit court, become a candidate first because I wanted to serve as a circuit court judge, but also—which is more important, I think—I should have the feeling that I would have an opportunity to represent this district on the supreme bench, which is much more desirable to me as a candidate for the supreme bench than it would be to feel that I had to be selected by a party and take my chances with everybody else in the state. And I think that this plan would encourage circuit court judges to do an even better job than they do at the present time, if that's possible, with the feeling that on their part they quite likely would have an opportunity to become a candidate from that district for the supreme court.

For these and other reasons, I urge your support of this amendment, which I think is considerably better than the proposal that now stands before us. And if I might at this time, Mr. President, I would like to yield to Judge Mosier.

PRESIDENT NISBET: Mr. Mosier.

MR. MOSIER: Mr. President and fellow delegates, it isn't necessary to repeat the history that the district plan had when it came up on first reading. But I challenge your attention at the outset to the language of the amendment sponsored by some 60 delegates of this convention. I had no hand in the preparation of the language. Therefore, I am in a position to ask you to look at that language very critically and see if you cannot agree with me that it is good, clean constitutional language. You will note that the amendment provides for 7 justices. The committee proposal provides for 9. It seemed to us that with the addition of the intermediate appellate court of 9 justices that the work of the state supreme court would be lessened, and by diminished work, a court of 7 would be sufficient. Our present court, as you know, is a court of 8 and it seems advisable that the court should be of an unequal number of justices because we have in the past frequently had decisions of 4 to 4, in which the court neither decided for the appellant or the appellee.

Now, I am going to speak very briefly on just one phase of this matter, and I am going to meet the language that Mr. Madar used this morning. Some newspapers and others have said that the district plan would lead to balkanization or parochialization of our state judicial system, and I want to say that this charge is made with absolutely no foundation whatever. The justices of the supreme court called from various sections of the state have regarded the state as a whole, and their decisions have in no wise reflected the area from which they came. Likewise, the circuit judges who are elected in circuits or districts have held court in many other counties in Michigan and without any thought of the county or district from which they came. Some of us who have served in that capacity have been sent to various courts of the state, and many of us to Detroit. And I am frank to say that the fact that I was sitting in the circuit court of Wayne county changed in no wise my conception of the duty of a judge to ascertain the facts and then apply the law. And the fact that I was in Wayne county made absolutely no difference to my conception of the case nor decision thereon.

I am asking you if any of you have the idea that Chief Justice Dethmers, who came from the western side of the state, in Holland, if his decisions on the supreme court reflect any balkanization or parochialization of his position. Or if Justice Kelly, who came from Detroit, on the opposite side of the state, if his decisions showed any tendency toward balkanization. It's easy to make a charge of this kind, but it seems to me that it is simply a figment of the imagination and should not receive serious consideration by this convention. At this time I will yield to Mr. Goebel.

MR. GOEBEL: Mr. President, I would like to yield to Senator Hutchinson for further testimony on this amendment.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I don't think I can add anything much to what Mr. Goebel and Judge Mosier have said. In my opinion, the wording of the amendment before you is in good constitutional form. It leaves to the legislature the formation of the districts but at the same time prescribes a limitation upon the terms and also makes certain that the court will be a continuing body in that not more than 2 terms may expire at the same time. This assurance of a continuing court, where you won't have a complete turnover at any one time is extremely desirable in the judiciary and this feature in this amendment would carry that forward.

In my opinion there is a strong desire in this convention to assure a nonpartisan selection even of supreme court justices and we have to recognize the fact that if we are to have them nonpartisanly nominated as well as elected, it must be on something other than a statewide basis. A statewide nonpartisan primary system is impractical, as we all recognize.

PRESIDENT NISBET: Mr. Goebel.

MR. GOEBEL: Mr. President, I'd like to yield to Delegate Brake.

MR. GADOLA: Mr. President, I'd like some parliamentary information. We're in the convention assembled and, as I understand rule 24, the mover can speak twice and anyone else can speak but once upon any motion. Is this yielding proper?

PRESIDENT NISBET: It is. He is not speaking more than twice when he is yielding to other people.

MR. GADOLA: In other words, the one man can speak as often as he wants to?

PRESIDENT NISBET: He is not speaking. He is just yielding the floor to somebody else. Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, as I understand the sentiment in this convention, there are 2 plans, one of which is likely to be adopted substantially in the form presented. One is the district plan covered by the amendment that is now before us. The other is what we wrote in on first reading, or something substantially like it. There are other plans and some very serious and devoted backers for the Missouri plan or some modification of it, direct appointment by the governor, or nomination and election on a partisan basis.

If that had any chance, I could go for that rather than the one that we wrote in on first reading. I don't like the hypocrisy that is involved in having one partisan on one day and supposedly nonpartisan on the next day. It seems to me that those people who are the advocates of these other plans, no one of which, as I understand the situation, had any possibility of getting through, need to choose between these 2, and I will hope that they will follow what they have continuously talked about: the idea of getting the courts just as far on the nonpartisan side as they can. Certainly, there can be no question but that the district plan affords a better opportunity for nonpartisanship than the plan we wrote in on first reading, where the candidates are nominated at party conventions. I trust that those who are in favor of the other plans will swing to the district plan so that that may be adopted.

MR. GOEBEL: Mr. President, I'd like to yield to 2 more men, the first of which is Judge Dehnke.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I propose to take only a few moments to briefly review some of the things that confront us. I'd like to emphasize what Mr. Brake has just said. We now face a choice between these 2 methods: one, the partisan nomination and nonpartisan election, or this present plan proposed by this amendment. It is obvious, I think, to all of us that in order to make the election of supreme court justices completely nonpartisan, there must be a nonpartisan primary as well as a nonpartisan election. And I think we have all been compelled to admit to ourselves that to think of a statewide primary, and then on top of that, a statewide election, based completely on a candidate's own resources, or the resources of those who are willing to place him under obligation to them, just puts the average judge and lawyer completely out of the picture.

I think this plan would also assure a greater proportion of judges with previous judicial experience being placed upon our supreme court than is possible under the other system. In addition to that, I think it would have a tendency to bring the court closer to the people and the people closer to the court, so that the court would not be merely an ivory tower atop Mt. Olympus, because of the greater probability of the average run of citizens having some personal acquaintance with at least one member of the highest court of the state. As has been pointed out previously, this plan has worked acceptably, so far as we know, in Illinois. This is not a matter of party. The prime purpose of this is to get the election of judges away from parties rather than just to involve parties. It's a matter of producing a more acceptable, a more efficient and a more representative court system and I hope you support this amendment.

MR. GOEBEL: Mr. President, I'd like to yield to Delegate Powell, the last speaker at the moment.

PRESIDENT NISBET: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, so much has been said and it has been so well said that I shall be exceedingly brief. I am very glad that we are to have this opportunity to vote once more on a plan that has the district feature. In the outstate areas we have many able attorneys and jurists who are well qualified to serve on the supreme bench, but who would not have the financial means or the backing to campaign statewide, particularly on a nonpartisan basis. Hence, I hope that we will speedily now adopt this pending amendment.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I rise to oppose the amendment. Good constitutional language or not, to my thinking, this amendment is vicious and dangerous. I can only think that the people that are proposing it are deluding themselves. The league of women voters in their original stand on the constitution had nothing in their language regarding this districting plan because it did not enter their minds that such a thing might be proposed. They do, however, now have something and they are definitely opposed to this thing. Likewise, citizens for a sound constitution are opposed to this districting plan. It will make it very difficult for many civic minded people of both parties to support or work for this new constitution if this is included in it.

Nonpartisanship has been mentioned here but I can only say the effect is obviously not one of promoting nonpartisanship. We now have a representative from many areas of the state and in that way it is evident that this plan will not necessarily increase the representation on the supreme court from the various parts of the state we already have. I can only say, once again, that I certainly hope that you will defeat this amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, at the time that the district plan was first debated in this hall in committee of the whole on first reading, I took no part at all in the debate. I had given to the sponsors of this plan a statement that I would not comment upon its merits one way or the other. And I lived up to that pledge at the time of first reading until we reached a point where the district plan had had 2 votes. Now I feel impelled, however, to rise to oppose the concept of the plan. I, first of all, point out to the members of this convention this: that there has not been demonstrated, either before our committee or before this body, a need for the plan that has now been offered. The sponsors thereto are formidable, indeed, and men whom I have the highest respect for. But let me call this to your attention: that the constitutional convention was not called, in essence, to overhaul the method of electing our supreme court.

To those who advocate this particular type of plan I state only this — and a number of the gentlemen are men who stated that we should make as little change as possible — that what you are proposing here is the greatest radical change that has come before this body; that nowhere in any other branch of the government has there been advocated a more radical departure from what has been the history of this state for over 100 years than what is advocated in this particular amendment. And if you, as the sponsors, are prepared to go to your people and lay out the reasons why you were impelled to make this drastic change, then I say the burden belongs on you. We have replaced the 15 mill amendment because it was stated it was too drastic a departure. We are going to elect part of our ad board and appoint some others because it was said to go all one way would be too drastic a departure. But if you want to give to those who will oppose this constitution the one horse that they can ride to whip it, then you will pass this particular amendment, because you will be fighting in the courts of this state and in the legislature year after year the apportionment battle that we are now fighting in the senate and on the house floor.

I can only say to the members of my party that I can think of no poorer political move to make than the advocating of this particular plan. We have heard that it worked in Illinois. And I state, if you are willing to accept the Illinois method of apportioning the legislature then go ahead and accept the district plan for the courts, because the 2 were tied together when they were making Illinois a state, when it was ripped apart in the civil war. Illinois has 100 years of the district plan and this state has over 100 years of the statewide election of judges on either a partisan or a nonpartisan basis.

Now bear this in mind: that from hereafter there will be no gubernatorial appointments in statewide campaigns. No appointee with an incumbency designation will have a head start, so to speak, and the candidates will be running on an even-steven basis. If you want to subject this constitution to the charge of politics, and particularly in light of the recent supreme court decision handed down yesterday, then you can do no better than to vote for the district plan because the Republican party will be charged with playing politics with the supreme court of the state of Michigan. I submit that there has not been a hue and a cry, and while we may not be perfect in what we have done, there are amendments that can take care of some of this. You will be forever tying the hands of the legislature with this type of a plan that has never before been tried in this state. And if 75 or 80 are willing to substitute their judgment over 100 years to bind the people of this state for the next 80, with the legislature given no opportunity to correct it if it does not work, then the burden again falls upon you.

We have the court of appeals by districts and this is logical. When we talk about a statewide campaign, let's face a little practical politics. You can statewide campaign in a third of this state, if you really want to be practical about it, because you can hit 90 per cent of the people by staying south of the line from Muskegon to Bay City. I say this with all due respect to all of my good friends who live in the northern part. But if you're talking about the people, you can have 2 districts or you can have 7. There is no restriction upon the legislature. And when some senator or representative wants to move a circuit out of one district or the other, the logrolling will begin in the legislature. They're having a hard enough time reapportioning the congress of the United States.

We have a plan. It is not perfect, by any manner or means, but it is an elective system. We have removed the evil of returning to the political party for renomination. We can offer amendments to provide that the legislature, if they desire, may create districts; and I so intend to do. But to tie, for time immemorial, the hands of the legislature to an untried plan in this state, to me is the utmost folly. And I therefore urge with everything I can give to you, that this amendment be defeated. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, when this matter was discussed on first reading, I had on my desk a great assortment of books and Mr. Brake came over and said, "Glenn, what are you doing with all those books? You make me nervous." I had intended to speak on this subject at that time but because it took so long, I did not. I don't have the books here—at least all of them—but I would like to, in a short way, give you what I had in mind at that time.

Let me say at the beginning that these books were all the Illinois Bar Journal, The Northwestern Bar Review, University of Chicago Bar Review, and so on. And if this convention should think that the experience of the district plan in Illinois is satisfactory, then this convention is wrong. Because I had a series of articles extending over 10 years, all critical of the district plan in Illinois. Now, the main problem in Illinois is the same problem that we have faced here in Michigan on the way we draw our lines for the legislature. The question in Illinois has been dissatisfaction with the way the district lines are drawn. Every 2 years in Illinois, for the last 10 years, there has been a serious effort made to draw the district lines differently. And it depends on whose point of view you take: a Republican point of view or a Democrat point of view. But even the Republicans in Illinois, many of them are dissatisfied with the way the lines are drawn. So I say to you today that if we go to the district plan, we are going to start the same fight that Illinois has had—and Illinois is comparable to Michigan because it has the large city of Chicago and outstate. We are going to start this fight and it isn't going to make any difference how conscientiously these lines are drawn, there is going to be a fight about it and we introduce into Michigan government the same fight in the judicial section that we had in the legislative section for our Michigan constitution.

Now, just think of what will happen, no matter how we draw these lines. I assume that under the 7 district plan it will be quite similar, when it ends up, to the 8 or 9 district plan on first reading, where 3 judges, perhaps, will come from Wayne county. Now, we know that in Wayne county approximately 33 per cent of the voters are Republican, and if you elect 3 judges from Wayne county, the practical effect of this is that votes of the 33 per cent of the Republican party voters over there are not going to count in the selection of a judge. It will have the effect, I believe, of disenfranchising 1/3 of the voters of Wayne county unless the political complexion seriously changes. But today those Republicans voters did have a substantial say in the election of 2 or 3 of our present supreme court justices because their vote did count for the election of Harry Kelly. Their votes did count for the election of John Dethmers. And reversely, in the outstate areas, which are strongly Republican, and maybe 1/3 Democrat, it will have the effect of disenfranchising or reducing to a very small significance the vote of the minority party in the districts outstate.

Now, a second point I'd like to make: someone has said: well, if you had the district plan it will make it within the financial means of the average lawyer or judge to run. Well, I think those of us who have run for election know something about the cost. And I know that in a congressional district which is much smaller than these judicial districts will be, that you can't get through a primary campaign without at least the cost of $15,000, and the judicial districts will be larger. Now, I don't think there are many candidates who, of their own money, can put in $15,000 and, if you have a larger district, probably $30,000. That support has to come from somewhere else. Admittedly it's not as much as running in a statewide election, but the candidate who runs is going to have to depend on other people's money, and he is going to have to depend upon it substantially unless you want to reserve to the candidates, make them the exclusive candidates of people who are independently wealthy. And I don't think we want to do that or that we should do it.

Thirdly, I would like to say this: I wonder how many of the convention know that Michigan did have the district court plan for the supreme court? From 1835 to 1850 the governor appointed judges. The 1850 constitution went to the election method. But for 6 years it was provided that the election method would be on a district basis. There was this difference: in the 8 judicial districts the selection was made on a partisan rather than on a nonpartisan basis. There is a very interesting article written by a man by the name of Norton, called Michigan's First Supreme Court Election. This was on the district basis and he reviews the experience in Michigan. Now, admittedly it isn't exactly the same thing that is proposed here because what is proposed here is nonpartisan district basis, whereas in 1850 to 1856 it was partisan district basis. But the district way of electing supreme court judges as reviewed in this article did not turn out to be too satisfactory. For example, I quote from this article:

> Nevertheless, when it came to the nomination and election of judges under the new plan, it appears that much of the altruistic and benevolent attitude was lost in the political world.
>
> Party organs were quick to recognize that political machinery would be needed in each new judicial circuit to aid in selecting candidates and conducting the campaign. An indication of how political leaders responded to this need can be made in the following charges made by an editor who condemned particularly the election of judges by districts instead of by a general statewide election.

Then follows a quotation from the Pontiac Jacksonian, March 19, 1851.

Now, I would like to say this to the convention: we came here to draw a constitution for the future. There is now proposed a plan which was given up by Michigan 100 years ago. I don't think this convention should turn back to a plan that is similar to the plan of 100 years ago on this district basis, though I do admit it's different on the nonpartisan than on the partisan basis. I don't think we should inject into this convention, and into all of our future elections, the problem that Illinois has of where to draw the lines. I admit that the present system has not been entirely satisfactory but I say that the system that is proposed by this amendment also is unsatisfactory, and if we are going to make a change, let's make it a change that is for the better and let's not go back to something that hasn't been satisfactory either in Illinois or in the limited experience that Michigan had.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, we've heard eloquent presentations on both sides. I understand that there are some 8 speakers now seeking recognition. I move that further debate on this amendment be limited to 30 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 30 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Madar.

MR. MADAR: I certainly can only say, after listening to Judge Mosier: shades of Hitler, Mussolini, Joe McCarthy, John Birch, et al. (chorus of boos)

MR. MADAR: Go ahead, gentlemen, say "boo."

PRESIDENT NISBET: May we be in order. Mr. Madar.

MR. MADAR: I am in order.

PRESIDENT NISBET: Continue. That's what the Chair is trying to say.

MR. MADAR: I hope that no judge that's ever elected in this state or appointed in this state will ever twist thoughts or facts like they've been twisted. I didn't say that Mr. Dethmers wasn't a good judge. I didn't say that Justice Kelly and Justice Dethmers weren't good men and that they weren't doing a good job. For Mr. Mosier's knowledge, so that he will know in the future, I believe I did more to elect those 2 men than he did because I sat in the Fort Shelby the night that Fred Alger and Pat Cleary and myself begged Harry Kelly to come back so that we could elect Justice Dethmers judge with Kelly's assistance. I think, though, that I could get Justice Dethmers and Justice Kelly aside and I'm sure that they would say that balkanization is something we don't want here. Balkanization is only used by small people, small people who can't get where they want to go otherwise.

We have men here who talk about hypocrisy. Why, I've never seen so much hypocrisy in my life as practiced by the very man who said it. Deals! This is one of the deals in the package. (laughter) "We'll put balkanization across along with the rest of it." So far as I was concerned, I just meant that we ought to elect these people from the entire state, not districts. You get big men that way. You get big men by picking from the entire state, not just by picking them from a certain district.

Why, yesterday all I heard here was that in certain areas in this state there are no attorneys at all. Then for heaven's sake, how are you going to pick someone suitable to be a judge? Every once in a while in each and every party there are big men. And I want to say, and I want to say it for the record, that I've seen big men in both parties come up. And I remember back when one big man in this state was crucified because he did what he thought was right. Yes, I'll mention him. Kim Sigler. And you helped crucify him; men of his own party.

MR. WALKER: Point of order.

PRESIDENT NISBET: State your point.

MR. WALKER: Mr. President, I don't think this kind of vilification of any group of individuals is in order and I would like to state that as a point of order. (applause)

PRESIDENT NISBET: Your point is well taken. Mr. Madar, will you stick to the amendment as offered?

MR. MADAR: I will. Today rises another man and I hope he won't be crucified. Danhof, you did a swell job and I hope you continue.

PRESIDENT NISBET: The Chair recognizes Mr. Tubbs.

MR. MARSHALL: May I ask a question?

PRESIDENT NISBET: Yes.

MR. MARSHALL: Delegate Van Dusen moved to limit debate how long?

PRESIDENT NISBET: To 30 minutes.

MR. MARSHALL: How many more speakers do we have?

PRESIDENT NISBET: About 7, 8 or 9.

MR. MARSHALL: Would it be possible to move at this time that we limit each speaker to 5 minutes then?

PRESIDENT NISBET: They will take care of it themselves, the Chair hopes. Would you please be forewarned? If not, you can make the motion again, Mr. Marshall. Mr. Tubbs.

MR. TUBBS: Mr. President, I am sure I will comply with Mr. Marshall's suggestion. I think every member of this convention knows that I am in favor of and was in favor of the American bar association plan so that we would have an independent judiciary free from political considerations and free from the awful implications of having to run for office on a nonpartisan — I don't care if it's a nonpartisan or partisan. However, I appreciate very much the erudition of Delegate Allen, and I think he has given a very valid reason for voting against this proposed amendment.

I will say frankly that I do not like the supreme court setup that was adopted by the committee of the whole. I would like, if we are going to have nomination of supreme court justices by political parties, that we carry it all the way, that they then will run on partisan tickets and with their party ticket and thus get the financial support which they must have for the awful job of running for office in this state on a statewide basis. I am not in favor of statewide elections for justices of the supreme court, I assure you. But it would be better, if they are going to be nominated in party conventions, to have them elected also by party tickets. That's the way they do it in some of our sister states. Last week I had the opportunity to discuss this problem with many lawyers in New York city. The only places that they do not like partisan politics in the state of New York are at the lower court level. So far as the court of appeals of New York is concerned, they all feel with the long term of 12 years, that statewide elections on a party basis are not bad. And that court is a very high and very distinguished court.

Now, coming to this particular amendment, I agree with what Delegate Allen has said: that this is not the way to appoint or elect a supreme court. If this is a plan devised for the sole purpose of maintaining the supremacy of one party in the supreme court, I am against it, and I don't care which party or what party it is. The supreme court should be nonpartisan and wholly independent.

PRESIDENT NISBET: We have 9 speakers and 22 minutes left. Please govern yourselves accordingly. Mr. Hodges.

MR. HODGES: Mr. President and fellow delegates, I remind the sponsors of this amendment that we carried the calling of this constitutional convention in Wayne county and we can defeat this constitution in Wayne county; and defeat it we will, if this plan is adopted. The calling of this convention carried by over 200,000 votes in Wayne county, and there will be a 200,000 majority against this thing if it is adopted. So those of you who really care about a new constitution, I would keep this in mind. This is a threat and make the most of it.

PRESIDENT NISBET: The Chair recognizes Mr. Romney.

MR. ROMNEY: Mr. President and fellow delegates, I haven't spoken frequently in this convention and I speak on this occasion because of the importance of what we are dealing with. I think, for obvious reasons, I would prefer not to oppose some of the supporters of this amendment. However, I feel that the nature and character of what we are dealing with warrants such opposition.

Now, as delegates to this convention, we were elected with a responsibility that transcends that of the supreme court justices. I don't think this has been as apparent in this convention as it should have been. As a matter of fact, the lack of this fact in our activities should be fair warning of the fact that sectionalism can creep into a court if we permit it to be elected on a sectional basis.

Now, I am opposed to this amendment for these reasons: 1, I believe the people are just as opposed to a sectional court as they are to a partisan court, and they are just as opposed to sectionalism in the administration of justice as they are to partisanship in the administration of justice; 2, I cannot agree with the idea of the supreme court justices representing districts. They should be responsible to all the people of this state and they should administer justice without sectional or representative considerations; 3, this plan relies on legislative districting, which opens the districting of the court to partisan boundary line manipulation, and I am opposed to that in the supreme court as well as elsewhere; 4, under present circumstances this amendment is too subject to the charge that it is a partisan oriented approach. And for that reason I am opposed to it; and 5, personally, I favored the initial appointment of judges of the supreme court by the governor subject to subsequent election against opponents nominated either by the parties or by petition. Now this is lost and is not going to prevail in this convention.

I sincerely believe that the proposal we now have as a result of first reading is superior to this plan and, therefore, I am opposed to this amendment. However, with its grave defects — and I think this amendment has grave defects — I believe this plan is better than the present plan we have. I say this primarily because of the last sentence here. I think the greatest improvement we can make in the supreme court setup is to put an end to the necessity of a supreme court justice going back to a party convention for renomination and accountability on a partisan basis. I think that is unthinkable and indefensible. I am more gravely concerned about the impact of the adoption of this amendment on the approval of a new constitution than almost anything else we can do. Consequently, I urge, wholeheartedly, the defeat of this amendment.

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President and fellow delegates, I had intended to speak at some length on this subject but I am happy to say that I admire so much the remarks that have been made by the chairman of the committee, Mr. Danhof, Mr. Allen, Mr. Romney and Mr. Tubbs, that it would be superfluous for me to repeat some of the arguments I had intended to give.

This amendment, instead of being based upon sound experience, is, in my opinion, nothing but a leap in the dark. It is not based upon the desire of the members of the bar of this state because the committee and this convention both rejected the poll of the members of the bar who presumably should be well informed of the relative experience of other states in the construction of their supreme court. And so this amendment — I can't understand, quite, its motivation — I do think it would not only endanger the success of this constitution but, when compared with what we have already done in the field of the executive and even the legislature, to think that we should now try to divide up the supreme court on a parochial and provincial basis instead of following all the experience which we've had in this country, which seems to me to be to the contrary — with the exception of the one state of Illinois, the experience of which has been completely punctured, I think, by Mr. Allen's argument — and when you add to it the point which I am so happy that Mr. Allen presented, that we've had our own experience in this state with it, and that 100 years ago, I say, therefore, that this is a very unsound plan and I hope the convention will defeat it.

PRESIDENT NISBET: We have 16 minutes left. There are 6 speakers left. Mr. Ford.

MR. FORD: Mr. President, members of the convention, I don't think there should any longer be any doubt in anyone's mind who is a member of this convention that there is a divisive attitude of sectionalism that extends throughout this state that stands in the way of the progress of this state. No one in this room subscribes to the principles of a political party that does not advocate moving Michigan in a direction of progress, who does not recognize that Michigan is changing very rapidly and has been changing and that we are going to have to do something to have Michigan function as a state rather than as a big city and a country bloc and an upper peninsula bloc. There can't be any doubt in anyone's mind about how easily sectionalism creeps in, and that this sectionalism is, in fact, a stronger deterrent to understanding between people in this convention on many occasions than is partisanship. This is the kind of thing that we are asked to put into the supreme court.

Judge Mosier, I think, made one of the most eloquent presentations on behalf of this amendment. I have a great deal of respect for Judge Mosier gained from working with him for several months on the judiciary committee and I think every lawyer in the convention does. I think he is completely sincere in his observations. But I have to disagree with the conclusions he reaches and the assumptions that he makes, based upon his ethical approach to things, because we have no assurance that this is the kind of an approach that is going to be used. For example, he uses as an analogy it won't be sectionalism and this system could work because he, as a circuit judge, and others like him have visited Wayne county, for example, and in making decisions in Wayne county, they were not influenced by what the people back home thought. Well, the obvious question to be asked at this point is: how many decisions are made in Wayne county that directly affect the individual rights of the people back home, of the people in the county from whence came the visiting judge? When you send from Wayne county or from the Keweenaw peninsula a justice of the supreme court to Lansing, when he makes a decision in a majority of the cases, that decision affects every man, woman and child in the state, regardless of where he comes from. This is not true of a visiting judge, no matter where you send him.

It has been pointed out by both Judge Mosier and by Mr. Goebel that the present justices of the court come from various parts of the state and that the present system has in fact resulted in selecting judges from throughout the state. He pointed to the evidence that I believe we presented as a part of the minority presentation when this was up on first reading, showing that this has occurred. And we're very happy that this has occurred because it demonstrates a possibility of overriding sectionalism when you are picking people that will be able to satisfy the people throughout the state of Michigan and that they have the interests of the state at heart and not the interests of a particular city or county or group or bloc of people in the state.

Now, one of the strongest arguments that has ever been made in this convention — and I have been opposed to the Missouri plan or anything resembling it from the very beginning — but one of the strongest arguments, and the one that has made some impact on many of us, has been this concept of a screening process that is involved in the selective process as opposed to the election. The system that we have now has built into it a very superior screening process. No less an authority on the screening process than Mr. Winters, of the American judicature society, told the judiciary committee that he preferred, of course, an appointive system, but if we couldn't have an appointive system, that the system that we had was superior to that of most of our sister states because we had evolved, whether by accident or design, a system that in Michigan has produced a screening process combined with the elective process and has produced on the whole a superior caliber justice on our supreme court.

Now, just a brief observation with respect to Judge Dehnke's urging upon us that Illinois is satisfied with the system. The president of the Illinois bar association appeared before our committee. He stated very candidly that he is a Republican and very candidly that the Republicans have an ironclad, clear cut majority on the court because of the district system. He also stated candidly that he did not think that the district system was a good thing, and that as one of the advocates of a judicial reform, he would not support it at this time except for one reason: that they are so anxious to revise the balance of their court system over there that they are willing to buy a continuation of the district plan because it is the only way that they can get the revision through the legislature. As Bob Danhof has indicated, this is the key to the whole thing. It is not something that the lawyers, the judges or the people fighting over the years for judicial reform in Illinois want, and I think that you would find that we would repeat that history in Michigan and you would have the Michigan bar association fighting over the next 10 or 20 years, trying to correct the error that would be made if we adopted this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, have the yeas and nays been demanded?

PRESIDENT NISBET: They have not.

MR. DOWNS: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I, too, rise in opposition to this amendment. Delegates Danhof, as chairman of the committee, and Allen and Ford have expressed my thinking so clearly, I shall be particularly brief.

This amendment, if adopted, would be a step backward from the present constitution we have. While we aren't getting everything every one of us wants, I certainly hope that we would not take this step backward which would have the tendency — in fact, would remove the concept of statewide justice based on electing judges on a one man, one vote basis. It would be particularly objectionable because the standard of the size of the districts is as near equal as possible, recognizing judicial circuits. While none of us knows what that would be, we do know, for sure, that these districts would not be as mathematically equal in population as is our present statewide system, where each person's vote is equal. This is particularly significant because it looks as though the court in the years to come will have the job of judging and working on the problem of apportionment and equality of voting rights. And I, for one, want to see that done by a court that itself is based on equality at the ballot box.

Our present court system has proven the test of time and I see no reason to make this leap — as Dr. Pollock said, a step in the dark — I say, a step in the dark, backwards. I therefore urge a no vote on the amendment.

PRESIDENT NISBET: The Chair will recognize Mr. Bonisteel.

MR. BONISTEEL: Mr. President, delegates of the convention, as you know, I have been for the appointive system and I have argued for it and my name has appeared on the proposals and amendments suggesting an appointive plan. All the arguments that have been made here this morning relating to the so called district plan are the best arguments that I can think of for an appointive system.

Let's be honest about this, at least honest with ourselves. You cannot completely escape politics under any plan, and the philosophy of the district plan is not a philosophy that will get you the best representatives from the entire state of Michigan. We talk about a district plan. May I call your attention to this: that if any group should desire to take over our courts in this state, I can think of no easier plan to take them over than to go from one district to another district and capture those districts one at a time until the philosophy upon the courts of this state would be so impressed that we would have no opportunity to undo the wrong.

As a matter of fact, Mr. President, I believe that all of the people from all the state should have an opportunity to vote on the nominees. If a man is going to be a candidate, and if I am correct in my statement that you cannot completely divorce the judgeships from politics in this state under any system — appointive or elective — I say to you that we have the responsibility then of giving to the people of Michigan a program and a plan espoused by some organization of a political nature, such as we have now under the present plan, whereby men are nominated in party conventions and, even though they run on a nonpartisan ballot, at least they have the financial support, at least they have some group of people responsible partywise for their selection; whereas under this proposed nonpartisan plan, who is going to finance it? Where is the money going to come from? And how is it going to be done so that we will escape this thing that I am talking about, namely, the opportunity for those who desire to do so, to take over the judiciary in this state piecemeal, a part at a time?

I would say to you, Mr. President, that I have studied all these plans: the appointive plans, the elective plans, the so called Illinois plan. I have watched this over many, many years. And based upon my experience, even though I think there are some flaws in the plan that has been submitted by the committee, if I had to make a choice as between the committee and the districting plan, I would make the choice in favor of the committee plan; and if I still had a choice, I would still go to some form of an appointive system, because I believe that will produce the best results and would put the spotlight upon everybody concerned in making the appointment and the selection of judges. I am in favor of the committee report and I am unalterably opposed to the district plan. (applause)

PRESIDENT NISBET: There are 3½ minutes. There are 3 speakers. The Chair recognizes Mr. Iverson.

MR. IVERSON: Mr. President, members of the convention, I will try and take 1/3 of that time. In answer to Mr. Allen, he raises the question that by the district plan we reduce the effect of the minority party in a given area. How he arrives at this conclusion is more than I know, especially when we're striving to have a nonpartisan primary and election. It seems to me that this very situation would give the minority party its proper voice.

Now, with respect to the Illinois plan, Mr. Ford must have listened to a different witness than I did because he stated that the witness, the president of the bar association of Illinois, stated that he was opposed to the district plan. And I think on first reading I quoted testimony of this witness in which he said it had worked entirely properly in the state of Illinois for a number of years, and the only thing that they were doing in a new judicial article was changing the districts, allowing 3 from Chicago and 4 from the rest of the state. But the question was asked him as to whether it worked properly or whether the judges were balkanized. He said it worked entirely properly and that they were — absolutely were not balkanized.

Now, some of the delegates here today have stated that there has been criticism of the present system which we have and sure enough, there has. The papers have been full of it in months past. The people have been dissatisfied with a partisan nomination and a nonpartisan election. And let me say to you, as I said before, that if anyone could show to me how we could conduct a nonpartisan primary on a statewide basis and accomplish what we want, I'd be for it. No one has come up with that plan. You simply take the shortest route and say it's the only way it can be done. I say that the district plan will solve this situation.

Now in answer to Mr. Romney, he stated that this is strictly a partisan approach. Now let me say, for Mr. Romney's information, that for one of the sponsors at least on this, this is not done for a partisan purpose. It's the farthest from my mind, at least, and I think it is from the rest. And let me say to Mr. Hodges and Mr. Danhof, who have boldly stated to this convention that if you want to defeat this constitution, adopt this district plan, let me say that I am getting just a little tired of delegates in this convention stating that every time we pass something in this convention that it's going to defeat this constitution. If we take as fact the statements of some of the delegates here as to things that we have passed, how it's going to affect the constitution as we pass it, let me say this: that we might as well pass this and let the people defeat the whole thing if that's the basis upon which they do it.

PRESIDENT NISBET: Time has expired. The question is on the amendment offered by Mr. Goebel. Mr. Downs.

MR. DOWNS: I move that Mr. Iverson be given time to finish his statement.

PRESIDENT NISBET: He finished his statement. Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment offered by Messrs. Goebel, Mosier and others:

[The amendment was again read by the secretary. For text, see above, page 2723.]

PRESIDENT NISBET: The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay.

MR. TWEEDIE: Mr. President, I wish to abstain from voting.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Goebel and others. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—56

Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Dehnke
Dell
Doty, Dean
Doty, Donald
Erickson
Farnsworth
Finch
Haskill
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Leibrand
McAllister
Mosier
Nisbet
Page
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stamm
Stevens
Thomson
Turner

Goebel
Gover
Habermehl
Plank
Powell
Prettie
White
Wood

Nays—74

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, G. E.
Buback
Cudlip
Cushman, Mrs.
Danhof
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Figy
Follo
Ford
Gadola
Garvin
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Hodges
Jones
Judd, Mrs.
Kelsey
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McGowan, Miss
McLogan
Millard
Murphy
Norris
Ostrow
Perlich
Perras
Pollock
Rajkovich
Romney
Sablich
Seyferth
Snyder
Staiger
Sterrett
Stopczynski
Suzore
Tubbs
Upton
Van Dusen
Walker
Wanger
Wilkowski
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the amendment the yeas are 56; the nays are 74. (applause)

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Danhof offers the following amendment:

1. Amend page 1, line 2, [section a] after "at" by striking out "a nonpartisan statewide election" and inserting "nonpartisan elections"; so the langauge will read, "The supreme court shall consist of 9 justices to be elected at elections as provided by law."

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. Chase, I think you should have the words "nonpartisan elections as provided by law."

SECRETARY CHASE: Thank you, Mr. Danhof.

PRESIDENT NISBET: Mr. Chase will read it again.

SECRETARY CHASE: The language will then read, "The supreme court shall consist of 9 justices to be elected at nonpartisan elections as provided by law."

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, in light of the action just taken, I would offer these amendments for 2 reasons: first, it has been pointed out that it is possible that a primary election might be needed. I did not think so at the time I offered this original proposal, but if, in the opinion of the legislature, it is needed, I think the language now provides that it can be had upon passage of law. Further, it gives the legislature the discretion that it now has when it talks in the present constitution about nonpartisan elections. I think that this leaves it as we now have it. I think that we take out a restrictive measure. I would urge that the amendment in this particular case be adopted and I would hope that the debate would be very limited on this particular amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Radka.

MR. RADKA: I would like to direct a question, through the Chair, to Mr. Danhof.

PRESIDENT NISBET: If Mr. Danhof cares to answer.

MR. RADKA: I note, Mr. Danhof, that this is your amendment. I am wondering if this is your personal amendment or an amendment of the committee.

MR. DANHOF: Mr. Radka, when it states it is my amendment, it is my amendment. When it goes for the committee it will so state. This is my personal amendment. The committee made no consideration of this. The amendment is offered by me personally and not as a committee amendment.

MR. RADKA: I would like to ask another question, through the Chair. Was the substance of this amendment discussed in your committee?

MR. DANHOF: It was not.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I'd like to ask Mr. Danhof a question about what this means here. I am wondering whether what he is after here is allowing for the possibility of districting by the legislature.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: It might be possible, Mrs. Cushman, but I leave it to the wisdom of the legislature. "As provided by law," means it would have to pass the legislature and if it were done, it would have to get by the signature of the governor. I point out these safeguards. Again, I think we are going back to allowing the greatest latitude. I will agree with you that it is possible.

MRS. CUSHMAN: In that case I would oppose it. Thank you.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Danhof. Mr. Ford.

MR. FORD: At this point, Mr. President and members of the convention, I have to oppose the Danhof amendment because in light of everything that has been said here this morning, this is a direct retreat from the arguments offered by Mr. Danhof himself. I think originally this amendment was put on the table up there on the assumption that it might come up before the vote on the district plan. It might sufficiently sweeten the kitty with respect to the judiciary article as adopted in committee of the whole previously so that some of the district plan supporters would come over and vote against the district system as such. Now, the sweetening is here. It was designed for sweetening and it is still sweetening because it is a method of saying: well, you see, we didn't get the district plan down there in Lansing this time but at the next session of the legislature we'll put her in and you don't have to worry about that supreme court decision having to do with apportionment because we'll take care of it when the legislature meets the next time.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays on the amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Downs.

MR. DOWNS: I wish to speak strongly against the amendment. We have just previously supported action to assure statewide justices. I hope that we do not retreat from that by adopting the amendment. I therefore urge a no vote on the amendment for the same reasons that we urged a no vote on the previous amendment. Thank you.

PRESIDENT NISBET: Mr. Everett.

MR. EVERETT: Mr. President, I support the amendment of Mr. Danhof and I would point out that in his argument before in opposing the district plan, he said then that we would have been freezing a district plan in; that we should leave to the legislature the latitude to determine the best plan.

I would also remind you that in committee of the whole Mr. Ford and others offered an amendment to propose exactly this and they got up on this floor and argued that the legislature should have the right to adopt the district plan if the legislature wants to do it. I'm not in favor of the district plan and I would hope the legislature would not do it. But I think, as a matter of draftsmanship for the constitution, as a matter of latitude for the people of this state, we should adopt this amendment and then permit the court to develop as it may in the years to come.

PRESIDENT NISBET: The question is on the amendment by Mr. Danhof. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 72

Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
McAllister
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Sterrett
Stevens
Tubbs
Turner
Tweedie
Upton
Van Dusen
White
Wood
Yeager

Nays — 53

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bonisteel
Bradley
Buback
Cudlip
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Hart, Miss
Haskill
Hatcher, Mrs.
Hodges
Jones
Judd, Mrs.
Kelsey
Krolikowski
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Perlich
Pollock
Romney
Sablich
Snyder
Stopczynski
Suzore
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Danhof, the yeas are 72; the nays are 53.

PRESIDENT NISBET: The amendment is adopted. The next amendment will be read.

SECRETARY CHASE: Mr. Danhof offers the following amendment:

1. Amend page 1, line 4, [section a] after "time.", by striking out "Each political party at party convention may nominate one candidate for election for each position to be filled. Any" and inserting "Nominations for justices of the supreme court shall be in the manner as provided by law, except any"; so that the language will then read:

> Nominations for justices of the supreme court shall be in the manner as provided by law, except any incumbent justice whose term is to expire may become a candidate for reelection by filing an affidavit of candidacy. . . .

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, it was brought to my attention that the language that we used, "Each political party at party convention" was in essence what the statute is at the present time. I feel that to freeze this particular matter for all time in here would not be advantageous. I think that we will retain what is good by allowing an incumbent justice to file an affidavit for reelection and allow the legislature to fix the manner, as they now do, for the nomination of offices of supreme court justices. We do provide that any incumbent justice may file an affidavit for reelection and further, "Any person otherwise qualified" can become a candidate in the manner stated in the last sentence. I think this makes a better document. I think it allows us to return to our basic premise. At this time I would urge the adoption of the amendment.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I rise to support Mr. Danhof's amendment at this point, recognizing that we are now evolving closer to the language that resulted from the several amendments to the 1908 constitution and giving us the language that we are now functioning under. The legislature at the present time would have the power to change the manner of nomination in party conventions. It hasn't seen fit to do so and there has been no great demand at that level for it. For that reason and for the reason that there should always be room for improvement, I think that this is an improvement in the language we've adopted.

PRESIDENT NISBET: The question is on the Danhof amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Bonisteel, Cudlip and Wanger offer the following amendment:

1. Amend page 1, line 1, [section a] after "of" by striking out "9" and inserting "8"; and on line 2, after "law.", by inserting "A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.".

PRESIDENT NISBET: The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. President and members of the convention, Mr. Bonisteel and I introduced this amendment before and Delegate Wanger was interested in this matter. It simply provides that we retain our present court of 8 and then when there is a permanent vacancy of one, that vacancy shall not be filled. The effect is to reduce this court permanently to 7 members. We do not need 9 members on the supreme court of Michigan. We do not need 8. The establishment in the proposed constitution by this convention of a court of appeals certainly is reason enough to reduce the number of the bench. Most large states have 7 or less justices.

I was a member of the judicial branch committee. I have practiced law for just about 36 years. I've practiced law all over the state. I know of no reason at all why that court needs to consist of 9 men. Eight would be too many, as I said, with the new system that you have proposed. And I think that it's sensible and it's also economical and it doesn't deprive anybody on the bench of any right he has now because it's only the first permanent vacancy that will not be filled. I yield to Mr. Bonisteel, if I may, Mr. President.

PRESIDENT NISBET: Mr. Bonisteel.

MR. BONISTEEL: Mr. President and fellow delegates, I think that Delegate Cudlip has stated the proposition about as clearly as anyone can state it. I think it might be desirable to emphasize, however, that under the new appellate court plan there should be no necessity in the future for having 9 members or even 8 members, as has been suggested. If the statistics which have been furnished this convention in the past indicate anything at all, the number of opinions which are being written, the number of cases which are being handled by the present supreme court are greatly reduced over what they were 15 or 20 years ago. I believe this is a move in the right direction and I believe it's in the interest of the people of the state of Michigan to have a court of this size, particularly in view of the fact that we're going to have an appellate court. And I would strongly urge, where possible, that we give consideration to this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Barthwell.

MR. BARTHWELL: Mr. President and fellow delegates, as on first reading, I am definitely of the opinion that we only needed 7 members on this court, as a result of the testimony that was given before our committee and the research that was done on the workload of the justices at present, and it seems to have a continuing trend downward. I think that one of the problems with the members of the committee was that they did not want to take office away from a present officeholder. I think this amendment clearly solves this problem. Therefore I rise to support this amendment.

PRESIDENT NISBET: Mr. Tubbs.

MR. TUBBS: Mr. President, the only point in the Goebel amendment that I was in favor of was the reduction of the court to 7. I favored it in committee, I favored it in committee of the whole and I now favor it. I am in favor of this amendment.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: I want to demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Mr. Danhof.

MR. DANHOF: Mr. President, I'll make it very short. We went through committee of the whole with this. We went through the convention one way or another. It's a numbers game. You play 7, you play 8, you play 9. The committee recommended 9. If you will understand that many times, if you have 7 and a judge is disqualified, as you now have in a number of cases, such as with the former attorney general, you'd be down to 6. The committee was of the opinion 9 would be best. I would urge the rejection of the amendment so we can get on.

PRESIDENT NISBET: The question is on the amendment. Mr. Bledsoe.

MR. BLEDSOE: Mr. President, fellow delegates, I wonder if it has occurred to you just what happens when we make the issue of cutting down the number of the supreme court by one judge, what that will mean to getting litigation of the people through the courts? The delay in getting cases of the public and of the people of this commonwealth to our appellate and supreme courts is the type of delay that almost amounts to a lack of justice being obtained for the litigants. Now, what is the practical effect of cutting down your judges, reducing them on such a narrow issue as this? I am going to tell you just exactly what it means; and I am telling you this — if I may use the term — from the horse's mouth. Somebody has asked me which horse. I'm not at liberty to say that. (laughter) But here is what it means: it means that you get one judge opinions. When they get overloaded you don't get the consensus of your judges, you don't get the full benefit of your bench. Now, those of us who wonder about some of these opinions that come back from the supreme court when you know you have cited cases that have come down, that they have sent, that you kept your pleadings and your briefs right in the teeth of former decisions, you wonder when they said this in that case, how can they say this now. I want to say to you that I have good information as a result of experience, that that is the direct result of one opinion decisions. Now, if we're going to hazard that just for one judge, the price is too high for those who want our issues determined in the supreme court. And they are very important, or you wouldn't be going there.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: I'd like to say that I support everything that Mr. Bledsoe has said, if it was as it is at the moment. However, we have created 9 intermediate court of appeals justices. We have said nothing shall go to the supreme court. What hits the supreme court now will be up to them. If they don't want to hear the case, they won't hear the case; you can't make them hear the case. I think that it's absolutely unnecessary when we're going to have, primarily, a rulemaking body, which the supreme court is going to be under our new constitution, as far as I can see, and the intermediate appellate court is going to do most of the judicial work. There, I think we're going to need the manpower because that's where the work apparently is going to be done. The work is not going to be done on the supreme court level any more. I, therefore, wholeheartedly support the amendment and say this is the one spot we can start cutting down the state's expenditure of money.

PRESIDENT NISBET: The yeas and nays have been ordered. The question is on the amendment offered by Mr. Bonisteel and others. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—84

Allen
Andrus, Miss
Anspach
Barthwell
Batchelor
Beaman
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover

Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Heideman
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Plank
Pollock

Powell
Pugsley
Radka
Rajkovich
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—45

Austin
Baginski
Balcer
Bentley
Binkowski
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Danhof
Downs
Elliott, A. G.
Faxon
Follo

Ford
Garvin
Hart, Miss
Hatch
Hatcher, Mrs.
Howes
Iverson
Jones
Kelsey
Madar
Mahinske
Marshall
McGowan, Miss
Murphy
Norris

Ostrow
Page
Perlich
Perras
Prettie
Romney
Sablich
Shanahan
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Bonisteel, Cudlip and Wanger, the yeas are 84; the nays are 45.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Kuhn and Mr. McAllister have offered the following amendment:

1. Amend page 1, line 11, [section a] after "equal to" by striking out "3" and inserting "one"; so the language will then read:

> Any person otherwise qualified to be a supreme court justice may become a candidate for election upon filing a nominating petition, in the form and manner prescribed by law, signed by registered electors of this state in a number equal to one per cent of the total vote cast for the office of governor at the last previous election.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, on a statewide basis, 3 per cent based on a 2 million vote for governor, would make this 60,000 good signatures. You heard during the debate on the subject of initiative and referendum how difficult it is. Well, I think it's almost impossible for one individual to get that many. For example, today I think you only need around 14,000 good signatures to run for the office of governor for the state of Michigan. Now, it seems to me that if we leave this at this one per cent, that we would not be asking too much of our people, and anybody that would want to be a candidate. We don't want to make it too easy, but 3 per cent, I submit to you, is totally impossible unless you'd get a large pressure group or something of that nature.

You'd have to have a minimum of 60,000 good signatures. It's possible that an election for governor would have 3 million voters, like they did in the last election, which would require you to have over 90,000 good signatures. I think this would help make our supreme court a little better.

PRESIDENT NISBET: The Chair recognizes Mr. McAllister.

MR. McALLISTER: Mr. President, fellow delegates, one of the things we've been complaining about is the cost of running for the supreme court. To require an individual to get 90,000 signatures, or more, makes the task of running for that office almost an impossibility. We want to be fair all the way. I think this amendment should be supported so that anyone who wants to run for the supreme court will not have his hands tied when he starts.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, I would oppose the amendment. This is not necessarily to be an easy vehicle for an individual to ride. It is a method. If a person has enough statewide support that he can gather the number of names as Mr. Kuhn has stated, then he should be entitled to a place on the ballot. It was deliberately designed to handle the individual who would have, by reason of some activity other than partisan politics, a following throughout all of the state and would be able to secure the amount of signatures required. This is not necessarily made for an easy type of method of nomination, but it is a method which we believe should be included. If it is made too easy, we will have a number of name candidates who will do nothing more than try to advertise in a particular locale. By making it 3 per cent, we realize it will take 75,000 to 90,000 names; this will require considerable support for the individual and will guarantee that he will be a bona fide candidate and not somebody trying simply to run for the fun of it. I would urge the rejection of the amendment and that the committee proposal stand.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Kuhn and Mr. McAllister. Mr. Kuhn.

MR. KUHN: I'd like to just submit one further bit of statistical information for this convention. I have a book here that is published for the '62 election. To run for governor of the state of Michigan on the Republican ticket you need 14,542 signatures. The maximum you can get — the maximum you can get to run for the governor of the state of Michigan and submit it to the proper officials, is 58,165. That is the maximum. This would be way lower than the minimum you'd need to run for the supreme court because you need almost 90,000 good signatures. I submit to you that you're putting a joke in the constitution. This is not realistic. We do not want to make it easy, but let's not make it impossible. I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of the amendment —

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I rise to oppose the amendment. I'd like to point out to the delegates a statistic from the other side: that at the present time, we have provided that you could have 5 nominees for each vacancy just from the political parties, plus the incumbent is 6, and then if you want to make it real easy by reducing the number, you can have another 15 or 20; and all of the things that you have heard about the weakness of a bedsheet ballot or a large number of candidates become magnified when you put them on a statewide basis. And what you're asking to do here, when you make it too easy to get your name on that ballot, is set up a situation with 15 or 20 candidates for the supreme court for the people to pick and choose from. I strongly urge you to vote no on this amendment.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been ordered. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—50

Anspach
Bonisteel
Boothby
Bradley
Conklin, Mrs.
Cushman, Mrs.
Dehnke
Donnelly, Miss
Doty, Donald
Erickson
Everett
Faxon
Follo
Gadola
Gover
Gust
Habermehl
Haskill
Higgs
Hood
Judd, Mrs.
Kelsey
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
McAllister
Mosier
Nisbet
Norris
Powell
Prettie
Pugsley
Radka
Richards, L. W.
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Stamm
Turner
Tweedie
Upton
Wood
Woolfenden
Yeager
Young

Nays—75

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Brake
Brown, G. E.
Buback
Cudlip
Danhof
Dell
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Farnsworth
Figy
Finch
Ford
Garvin
Goebel
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Karn
Knirk, B.
Leppien
Lesinski
Madar
Marshall
Martin
McGowan, Miss
McLogan
Millard
Murphy
Ostrow
Page
Perlich
Perras
Plank
Pollock
Rajkovich
Richards, J. B.
Romney
Sablich
Snyder
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Van Dusen
Walker
Wanger
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Kuhn and also by Mr. McAllister, the yeas are 50; the nays are 75.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Habermehl offers the following amendment:

1. Amend page 1, line 8, [section a] after "term.", by striking out the balance of the section; which reads:

> Any person otherwise qualified to be a supreme court justice may become a candidate for election upon filing a nominating petition, in the form and manner prescribed by law, signed by registered electors of this state in a number equal to 3 per cent of the total vote cast for the office of governor at the last previous election.

PRESIDENT NISBET: The Chair recognizes Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, it looks like we might get into a numbers game here trying to guess how many signatures might be needed 50 years from now to nominate a supreme court justice. In the sentence just before this, we provided "Nominations for justices of the supreme court shall be in the manner as provided by law except . . ." and then we put in the important provision that an incumbent justice may nominate himself. It seems to me we've said everything that needs to be said in this section when we reach that word "term" in line 8. This will allow the legislature to adjust the number of signatures that might be needed as the population may increase or decrease. Having reached the word "term," I see no point whatsoever in the balance of the section.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I just have been handed this particular amendment. I think that this provision is needed. It gives an added constitutional guarantee as a right to be nominated. We just had an amendment to make it one per cent. I might be somewhat tempted to say that the legislature, under pressure, might reduce it from 3 to 1 per cent, assuming they even provided for this particular method. It is possible that they would not if we strike it out. I think it was previously stated that we have overcome some of the evils of the present system. One of these is to allow for the method of nomination by, in effect, the use of a petition — the petition form. I feel that this is a provision which gave some degree of latitude such as we have done for the incumbent justice. Personally, I urge the defeat of the amendment and that we allow the matter to stand as it is.

PRESIDENT NISBET: The question is on the amendment. Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, as I understand it, we've already adopted a sentence which reads, "Nominations for justices of the supreme court shall be in the manner as provided by law. . . ." I am supporting Mr. Habermehl here because we've already provided for this in that sentence that we've amended. And if we take out this excess language at the end, we're providing for some degree of flexibility. I agree with Mr. Kuhn that 3 per cent is a very large number. Times may change. Let's leave it open for the legislature to provide for how this is to be done and support this amendment.

PRESIDENT NISBET: Mr. Richards.

MR. L. W. RICHARDS: Mr. President. I rise to support this amendment due to the fact that last week some of these people who are opposed to it had a lot of trust in the legislature relative to earmarking of funds for schools. If they have that type of trust, certainly they should have this kind of trust to handle this kind of situation.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Habermehl.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? Sufficient number up.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I'm sorry. I was at the mike before. I walked away to write an amendment. I wish to support the amendment because again we're getting closer to the kind of flexibility that will make it possible to change in the future if the plan that we adopt does not prove to be workable.

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Habermehl, the yeas are 85; the nays are 34.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Ford offers the following amendment:

1. Amend page 1, line 4, after "law" (in the adopted amendment) by changing the comma to a period and striking out the balance of the sentence.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, members of the convention, the effect of this amendment now would leave entirely to the legislature all of the methods of nomination of candidates to the supreme court. Now, the legislature might from time to time utilize all of the methods that have been suggested here; they might utilize any 2 or 3 of them or any 1 of them. But they would be in a position to judge, after an election in which the method was used, whether it was an effective and a proper one and to make a change.

Now, we might find in the future that permitting a supreme court justice to simply nominate himself could lead to a difficult situation. I can't relate a set of facts that would show this to be a difficult situation and I can't say that I object strongly to the concept of permitting a supreme court justice to renominate himself in this manner, but the fact remains that we are locking this into the constitution as a method. If it proves to have a side effect that we cannot foresee at this time, the only way to correct it is by constitutional amendment. We have operated for some time by trusting the legislature to provide a method of nomination and I think that the proper place to put in the language that we are here striking would be in the form of legislation providing this as an alternative method or supplemental method of nomination. But if this method of nomination is to be utilized, it should be utilized as a statutory vehicle and not frozen into the constitution because, like any other method of nomination, it may be good today and it may not serve our purposes in the future. I think that we've had it ably demonstrated, by the advocates of every single plan that's been presented for nomination, that no one plan is so perfect that it can't stand change. I think we ought to leave the flexibility in and leave it to the legislature.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, I think now my distinguished vice chairman has gone a little far. We have previously provided in Committee Proposal 96 that other judges may nominate themselves by the use of affidavits. This would strike from this provision that very important aspect of this particular section. If there was one thing on which there was unanimity, including even the supporters of the district plan, it was that incumbent justices should have the opportunity to file for renomination without having to go back before the party convention. Therefore, I urge very strongly that this particular amendment be defeated. I hope this is the end of the amendments on this particular section and we can proceed to get through Committee Proposal 91 and go on with the executive article. You've got 21 sections to cover yet today.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: Mr. President, can we divide this question to separate that part which deals with the affidavit that Mr. Danhof feels should be retained?

PRESIDENT NISBET: It is not subject to division. This is a motion to strike out the sentence, Mr. Higgs.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I don't wish to speak again. I'd like to demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded?

MR. DEHNKE: Mr. President.

PRESIDENT NISBET: Sufficient number up. Judge Dehnke.

MR. DEHNKE: I want to emphasize, Mr. President and delegates, the importance of this part of the proposal. We've heard a good deal about the unfortunate necessity that an incumbent may face in asking the convention of a political party to renominate him when that party may be resentful over some of the rulings that he has rendered. This was put in for the very purpose of making it unnecessary for him to do that. I hope we realize that in voting on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Mr. Romney.

MR. ROMNEY: Mr. President, it seems to me that this is really the biggest single improvement we're making in the supreme court setup. And for the reasons cited by Judge Dehnke, I hope the amendment will be defeated.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—29

Binkowski
Bledsoe
Douglas
Jones
Kelsey
Madar
Snyder
Stopczynski
Suzore

Faxon
Finch
Ford
Garvin
Hart, Miss
Haskill
Hood
Marshall
Murphy
Norris
Perlich
Sablich
Shackleton
Shanahan
Tubbs
Walker
Wilkowski
Wood
Young
Youngblood

Nays—96

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shaffer
Sharpe
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Ford, the yeas are 29; the nays are 96.

PRESIDENT NISBET: The amendment is not adopted. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I believe that there are 2 more amendments pending. I would move to limit debate on each of these remaining amendments to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Garry Brown offers the following amendment:

1. Amend page 1, line 6, after "Sec. a.", by striking out the balance of the section and inserting "The supreme court shall consist of 9 justices to be elected by the electors of the state. The term of office shall be 8 years. Not more than 3 terms of office shall expire at the same time.

Justices of the supreme court shall be nominated at party conventions for election on a nonpartisan statewide basis as provided by law. At the general election preceding the expiration of the term of office of any justice and every 8 years thereafter so long as he retains his office, every justice so elected shall be subject to approval or rejection in a manner and form provided by law. Justices of the supreme court in office at the time this constitution takes effect as a result of having been elected shall be eligible to retain their office in accordance with this section.".

PRESIDENT NISBET: The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I shall be very brief and I will even go one step further than Mr. Van Dusen did and move that the debate be limited to 5 minutes on this amendment. The committee proposal as presently adopted has been referred to as a murky gruel. The amendment which is presently on the board and which you are now being asked to consider is a plan which encompasses, in my opinion, the best features of an appointive system and yet permits the electorate to initially select and periodically review the judicial activity of each supreme court justice. The elements of the plan, since it was debated in committee of the whole, are well known. It provides first of all an even shake — as Mr. Danhof has referred to it — an even steven chance of judicial candidates for election: no incumbency designation initially. Secondly, it provides for nomination for such even shake election by party convention; as good a method to procure good candidates as any appointive or elective system so far suggested. Thirdly, at the expiration of the term to which a justice has been elected, the electorate reviews his activity as a justice rather than his popularity. Without going further into the substance of the amendment because, as I say, it has been debated before, I am sure that everyone is familiar with it.

I would only want to say to the Republicans that a select committee studied all supreme court plans that had been offered. After giving much thought to the subject, this committee recommended the plan incorporated in the present amendment. By various, by invidious methods, those espousing pet peeves or briefs dissected the anatomy of the plan and reassembled its body without incorporating its heart and mind. I therefore say I have only contempt for your action and superficial deliberation in thoughtlessly undoing that which you originally, deliberately, decided to do.

To the Democrats, I can only say: your great judgment and profundity in favor of judicial integrity stand naked and stripped of the cloth of purism. You wish to maintain party control over those jurists you have placed on the bench and prefer a review of a justice's popularity rather than his judicial integrity and sagacity. The action of this convention on this subject only confirms my belief that, like our 4 legged counterparts, you can lead a delegate to the water of wisdom but you can't make him think. Thank you.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, it is indeed hard to follow the eloquent statements made by the gentleman from Kalamazoo. I should only like to point out that this particular amendment runs the incumbent against his record and not against his opponent. I think that the actions of this particular convention have indicated that they are in favor of an opponent in the form of a person. I therefore feel that this has been accomplished and I cannot support the amendment offered by my good friend, Garry Brown.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I urge that you vote no on this amendment. It would have the voters voting much the same as if they were looking at a maladjusted television screen, voting against a ghost rather than participating in an election with real live people.

PRESIDENT NISBET: The question is on the amendment of Mr. Brown. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mr. William Hanna offers the following amendment:

1. Amend page 2, line 6, [section d] after "state" by changing the period to a colon and inserting "Provided however, That the legislature may suspend or amend any rule by a 2/3 vote of each house of the legislature.".

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, as a member sitting on style and drafting, I became a little perturbed at the freedom with which we were creating bodies or departments or divisions of the government without some responsibility back to the duly elected representatives of the people either in the form of the governor or in the form of the legislature. In searching for some break, I turned to the Alaskan constitution which gave, in section 15, the supreme court power to make and promulgate rules, and then added the language that these rules may be changed by the legislature by a 2/3 vote. I have paraphrased that to provide that the rules may be amended or suspended by the legislature by a 2/3 vote of the members elect of each house. It seems to me that this is a brake that cannot be used merely as a personal vendetta between the legislature and the court, but does give to the people some power of veto and some small check on the supreme court rulemaking power, and I urge its adoption.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I must respectfully disagree with my colleague from Muskegon. The sentence in section d is, verbatim, what we had in the Constitution of 1908. The only change made is the 2 words "of this" instead of "in the." Section 5 of article VII of the Constitution of 1908 states, "The supreme court shall by general rules establish, modify and amend the practice in such court and in all other courts of record, and simplify the same." This is lifted almost verbatim.

I wish to point out that while this may come from Alaska, that Alaska has an appointive court. It is an appointive procedure. Therefore, there is no responsibility to the people. We have provided for an elective court. I see no particular reason that we should deviate from the practice that has been in this state since 1908. And I think that in view of the fact that our court is responsible to the people, I would urge the rejection of this particular amendment. I see no reason for it. History has not proven that it is needed. I think that it would merely hamstring and would clutter up what is a division of power and what has historically been left to simplify and set forth the rules of practice and procedure that have been historically a court function. The legislature passes the substantive law. The courts provide the rules of precedure. To transcend the 2, I think would be to clutter up this constitution, and need has not been shown. I would urge the rejection of the amendment.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, I believe that the Hanna amendment is very well thought out indeed. No branch of our government should be left without some sort of check or balance upon it. And when we grant to the supreme court the right to establish, modify, amend and simplify the practice and procedure, we are granting rights that actually can affect the substance of people's legal rights. To require that these be — or at least to give the legislature the right to look over these rules as set up by the supreme court is simply a check upon the power of the court. I think it is in keeping with good governmental practice. I would urge your support and your vote for the amendment.

PRESIDENT NISBET: Judge Leibrand.

MR. LEIBRAND: Mr. President and delegates, I think there is a great deal of sense in what Delegate Hanna and Delegate Habermehl have said. I support the Hanna amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hanna. Mr. Ford.

MR. FORD: I urge a no vote on this amendment. This is not a check or a balance. This is a device whereby the legislature, at any time it determined, by reason of something pending in one of the courts or if the supreme court itself wanted to, could suspend the rules of the game. Now, this is a lot different than the legislature passing an act for the purpose of creating or modifying substantive law. This would give the legislature the ability to step in in the middle of the ballgame and suspend the rules until they passed legislation or until something else happened.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed, nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hanna, the yeas are 40; the nays are 80.

PRESIDENT NISBET: The amendment is not adopted. The question now is on Committee Proposal 91, as amended. Will the board be cleared, please. Will the delegates please clear the board. Those in favor of Committee Proposal 91 as amended will vote aye. Those opposed will vote nay. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—122

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Lesinski
Madar
Martin
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—8

Baginski
Boothby
Brown, G. E.
Dehnke
DeVries
Jones
Leibrand
McAllister

SECRETARY CHASE: On the passage of Committee Proposal 91, as amended, the yeas are 122; the nays are 8.

PRESIDENT NISBET: **Committee Proposal 91,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 91 as amended and rereferred to the committee on style and drafting:

Sec. a. The supreme court shall consist of 8 justices to be elected at nonpartisan elections as provided by law. A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled. The term of office shall be for 8 years and not more than 3 terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner as provided by law, except any incumbent justice whose term is to expire may become a candidate for reelection by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. b. One justice of the supreme court shall be selected by the court as its chief justice in the manner and for the term provided by the rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as shall be deemed necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. c. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. d. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. e. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. f. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of the funds appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

PRESIDENT NISBET (continuing): Mr. Binkowski.

MR. BINKOWSKI: Mr. President, may I ask a question of Mr. Danhof so he can clarify the record regarding a proposal? Mr. Danhof, I believe you and several members of the convention have received letters from a judge of the common pleas court of Detroit with respect to a possible increase of their salaries. We know that the common pleas court in Detroit is a statutory court and no mention was made of it, although the proposed constitution specifically mentions the justices of the supreme court, judges of the court of appeals, circuit court judges, and probate judges. I wonder if, for the record, this can be clarified.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. Binkowski, in answer to your question, section g of Committee Proposal 96 covers the constitutional courts. If you will recall, during the debate on the miscellaneous section we removed a prohibition against the increase of salary of public officers. Therefore, the common pleas court, the recorders court and municipal court judges who previously were barred because of a general prohibition within the constitution, being statutory courts, there is nothing now to prohibit the legislature from enacting the identical provision for those statutory courts that we have enacted for the constitutional courts. I see no prohibition against allowing for the increase of salaries during the term of the judges of these statutory courts.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: All delegates are asked to check their mailboxes before they go to lunch.

The committee on style and drafting will meet in room G during the noon recess. Mr. Cudlip, chairman.

The committee on emerging problems will have a short meeting — emphasis "short meeting" — this noon in room H immediately upon taking the recess.

The committee on declaration of rights, suffrage and elections will meet in room F today at 8:00 o'clock p.m.

The committee on legislative powers will meet in room H Thursday at 8:00 o'clock a.m. T. Jefferson Hoxie, chairman.

PRESIDENT NISBET: The Chair recognizes Mr. Bledsoe.

MR. BLEDSOE: Mr. President, I move that the convention recess until 1:30.

PRESIDENT NISBET: The question is on the motion of Mr. Bledsoe. Those in favor will say aye. Opposed, nay.

We are recessed until 1:30 o'clock.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

We have the following requests for leave: Mr. William Hanna asks to be excused from the first part of the afternoon session today; and Mr. Garry Brown requests to be excused from this afternoon's session and the sessions of Wednesday, Thursday and Friday, April 25, 26 and 27, due to the trial of a lawsuit previously adjourned to these dates at a time when it appeared that the convention would adjourn by April 15.

PRESIDENT NISBET: Without objection, the requests are granted.

Second reading on executive branch proposals. The secretary will read.

SECRETARY CHASE: Item 1 on the calendar, **Committee Proposal 71** —

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, several delegates have requested a little additional time to prepare some material on this on both sides of the house. I'd like to move at this time that Committee Proposal 71 be placed right after item 10 on our calendar, which will bring it up just a little later.

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read the next proposal.

SECRETARY CHASE: Item 2 on the calendar, **Committee Proposal 2,** A proposal to provide the executive power be vested in the governor. Amends article VI, section 2.

Following is Committee Proposal 2 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 336.):

Sec. a. The executive power is vested in the governor.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The language of the section has been unchanged by the style and drafting committee, Mr. President, and it is exactly in the form which it was when it left the floor. We have nothing to add to that.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 2. Any amendments?

SECRETARY CHASE: None.

PRESIDENT NISBET: This is a record roll call vote. Those in favor of approval of Committee Proposal 2 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean

Garvin
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Howes
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Koeze, Mrs.
Krolikowski

Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Shackleton
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm

Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Kuhn
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Norris
Ostrow
Page
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 2, the yeas are 112; the nays, none.

MR. MARTIN: That is very encouraging. Just keep it up.

PRESIDENT NISBET: **Committee Proposal 2 is passed** and referred to the committee on style and drafting.

For Committee Proposal 2 as rereferred to the committee on style and drafting, see above, page 2737.

The secretary will read the next proposal.

SECRETARY CHASE: Item 3 on the calendar, **Committee Proposal 3,** A proposal to provide the governor shall be commander of the state armed forces. Amends article VI, section 4.

Following is Committee Proposal 3 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 337.):

> Sec. a. The governor shall be commander in chief of the armed forces[,] and may call THEM out [such forces] to execute the laws, [to] suppress insurrection and [to] repel invasion.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee on style and drafting has made certain changes in this which our committee feels are an improvement. We have no objection to any of them. We recommend the adoption of the proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 3. Will you please clear the board. The question is on the adoption of the proposal. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—113

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Garvin
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Hodges
Howes
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Doty, Donald
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Norris
Ostrow
Page
Perlich
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 3, the yeas are 113; the nays are none.

PRESIDENT NISBET: **Committee Proposal 3** is passed and referred to the committee on style and drafting.

For Committee Proposal 3 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 4 on the calendar, **Committee Proposal 4,** A proposal to provide communication by the governor to the legislature on the condition of the state. Amends article VI, section 5.

Following is Committee Proposal 4 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 369.):

> Sec. a. The governor shall communicate by message to the legislature at the beginning of each session[,] and may[,] at other times[,] present to the legislature information as to the affairs of the state[,] and recommend measures he considers necessary or desirable.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee on style and drafting has eliminated a few loose commas and made no other changes. We recommend the adoption of this proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 4. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—118

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Garvin
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Page
Perlich
Perras
Plank
Powell
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Thomson
Tubbs

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 4, the yeas are 118; the nays, none.

PRESIDENT NISBET: **Committee Proposal** 4 is passed and referred to the committee on style and drafting.

For Committee Proposal 4 as rereferred to the committee on style and drafting, see above, page 2738.

The secretary will read the next proposal.

SECRETARY CHASE: Item 5 on the calendar, **Committee Proposal 7,** A proposal to provide that the governor shall issue writs of election to fill vacancies in the legislature. Amends article VI, section 6.

Following is Committee Proposal 7 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 375.):

> Sec. a. The governor shall issue writs of election to fill [such] vacancies [as occur] in the senate or house of representatives. ANY SUCH ELECTION SHALL BE HELD in a manner prescribed by law.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee on style and drafting has made some change in this but it is not a change in substance and the committee approves and recommends the adoption of the proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 7. The board will be cleared, please. Those in favor of Committee Proposal 7 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—116

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leppien
Lesinski
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Mahinske
Marshall
Martin
McAllister
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perlich
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 7, the yeas are 116; the nays, none.

PRESIDENT NISBET: **Committee Proposal 7** is passed and referred to the committee on style and drafting.

For Committee Proposal 7 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 6 on the calendar, **Committee Proposal 8,** A proposal to provide that the governor may convene the legislature on extraordinary occasions. Amends article VI, section 7.

Following is Committee Proposal 8 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 375.):

> Sec. a. The governor may convene the legislature on extraordinary occasions.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the committee on style and drafting has made no changes. The proposal is exactly as it came from committee of the whole. We recommend its approval.

PRESIDENT NISBET: The question is on approval of Committee Proposal 8. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—123

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Mahinske
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton

Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Marshall
Martin
McAllister
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 8, the yeas are 123; the nays, none.

PRESIDENT NISBET: **Committee Proposal 8** is passed and referred to the committee on style and drafting.

For Committee Proposal 8 as rereferred to the committee on style and drafting, see above, page 2739.

The secretary will read the next proposal.

SECRETARY CHASE: Item 7 on the calendar, **Committee Proposal 9,** A proposal to provide that the governor may convene the legislature at other places when the seat of government becomes dangerous. Amends article VI, section 8.

Following is Committee Proposal 9 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 377.):

> Sec. a. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I have never seen so many green lights in my life and I hope that you won't spoil the record by starting to vote red. This proposal is just as it left the committee of the whole, with no changes by style and drafting, and we recommend its approval.

PRESIDENT NISBET: The question is on approval of Committee Proposal 9. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—122

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Boothby
Bradley
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
McAllister
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 9, the yeas are 122; the nays, none.

PRESIDENT NISBET: **Committee Proposal 9** is passed and referred to the committee on style and drafting.

For Committee Proposal 9 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 8 on the calendar, **Committee Proposal 16,** A proposal to permit the governor to grant reprieves, commutations and pardons and to delegate this power according to law. Amends article VI, section 9.

Following is Committee Proposal 16 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 588.):

> Sec. a. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and [with such restrictions and] limitations as he may [think proper] DIRECT, subject to PROCEDURES AND regulations provided by law. [relative to the manner of applying for pardons.] He shall [communicate to] INFORM the legislature [at each session information] ANNUALLY of each [case of] reprieve, commutation [or] AND pardon granted, [and the] STATING reasons therefor.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the committee on style and drafting has made some changes in this proposal. They are not substantive. We think they are an improvement. We recommend that the proposal be approved.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, I'd like to ask a question of the committee on style and drafting as to what the intent is of adding the language. Where the committee proposal read, "subject to regulations provided by law," they added the word "procedures," so it now reads, "subject to procedures and regulations. . . . " Could someone answer that?

PRESIDENT NISBET: Mr. Cudlip.

MR. CUDLIP: Mr. President, Mr. Marshall, things have been moving pretty fast here. We did this some time ago. We felt that "limitations" was sufficient and we did not need to add "restrictions," or retain it. We thought that it wasn't necessary to use the word "restrictions;" that "limitations" embraced everything.

MR. MARSHALL: Mr. Cudlip, I refer to line 4 — I don't know that I have any objection to this. I just want to know the reason for style and drafting changing the words to "subject to procedures and regulations provided by law" when the committee proposal read "subject to regulations provided by law." In my opinion there is a difference, but I wanted the reasoning of the committee on style and drafting.

MR. CUDLIP: Well, my best recollection is that we thought that "subject to procedures and regulations provided by law" expressed the intent of the convention. I just don't — are you wondering why we used both words there? I yield to Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, we felt that what we were talking about, relative to the manner of applying for pardons, could all be described in the word

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

"procedures" because the manner of applying for pardons was a procedure and we thought that was what the convention meant.

MR. MARSHALL: I accept the explanation. I have no objection. I support the change.

PRESIDENT NISBET: The question is on approval of Committee Proposal 16. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—124

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Boothby
Bradley
Brake
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 16, the yeas 124; the nays, none.

PRESIDENT NISBET: **Committee Proposal 16** is passed and referred to the committee on style and drafting.

For Committee Proposal 16 as rereferred to the committee on style and drafting, see above, page 2740.

The secretary will read the next proposal.

SECRETARY CHASE: Item 9 on the calendar, **Committee Proposal 18,** A proposal to provide for a great seal of the state and to authorize its use. A substitution for article VI, sections 11 and 12.

Following is Committee Proposal 18 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 593.):

Sec. a. There shall be a great seal of the State of Michigan and its use shall be prescribed by law.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the committee on style and drafting has returned this to the convention without change and we recommend its adoption.

PRESIDENT NISBET: Will you please clear the board? The question is on the adoption of Committee Proposal 18. All in favor will vote aye; those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—118

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Boothby
Bradley
Brake
Buback
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young

Nays—3

Erickson
Everett
Hodges

SECRETARY CHASE: On the passage of Committee Proposal 18, the yeas are 118, the nays are 3.

PRESIDENT NISBET: **Committee Proposal 18** is passed and referred to the committee on style and drafting.

For Committee Proposal 18 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 10 on the calendar, **Committee Proposal 17,** A proposal respecting eligibility for the offices of governor and lieutenant governor. Amends article VI, section 13.

Following is Committee Proposal 17 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 611.):

Sec. a. [Any registered qualified elector of the state who is at least 30 years of age shall be eligible to the offices of governor or lieutenant governor.] NO PERSON SHALL BE ELIGIBLE FOR THE OFFICE OF GOVERNOR OR LIEUTENANT GOVERNOR WHO IS NOT A REGISTERED QUALIFIED ELECTOR OF THE STATE AND WHO HAS NOT ATTAINED THE AGE OF 30 YEARS.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the committee on style and drafting has recast this in somewhat better language, but with no substantial change. We recommend its adoption.

PRESIDENT NISBET: Amendments.

SECRETARY CHASE: Mr. Perras offers the following amendment to Committee Proposal 17 — I'm sorry; Mr. Hutchinson had filed an amendment first ahead of this.

Messrs. Hutchinson and Perras offer the following amendment:

1. Amend page 1, line 4, after "governor who" by striking out "is not a registered qualified elector of the state and who has not attained the age of 30 years" and inserting "shall not have attained the age of 30 years and who shall have not been 4 years next preceding his election a registered elector in this state"; so the language will read:

> No person shall be eligible for the office of governor or lieutenant governor who shall not have attained the age of 30 years and who shall have not been 4 years next preceding his election a registered elector in this state.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, at the time that this matter was considered by the committee of the whole, I was presiding over the committee of the whole and so had no opportunity to engage in any discussion or debate.

I understand the attitude of the committee with regard to this eligibility to the office of governor to be that the people of Michigan wouldn't be persuaded to vote a stranger into the office of governor in their midst, and so they didn't think it was necessary to provide any requirement of length of residence. Now, I happen to be one of those who believe that a minimum length of residence requirement is desirable. I think that it is desirable because in this day and age, when communication throughout the country is so rapid and so complete and when our population is so mobile, I think that it is not at all beyond the realm of possibility that somebody, a national figure, not a resident of Michigan at all, might be persuaded, either by one party or the other at the national level to come into this state to run for governor. And I can imagine that if all that was required was to be here for the minimum 6 months period, that that wouldn't be too inconvenient. The national hero who was designated to become a candidate in Michigan could be persuaded to come in here and establish residence for the 6 months period, but that wouldn't be really in the best interests of the people of Michigan.

I think that the people of Michigan should choose as their governor one who is a bona fide resident here long enough to be familiar with Michigan's problems. And if we're going to have a 4 year term for governor, then it seems to me that anybody who is to be elected governor should have actually lived in this state during the entire administration of his predecessor, during the administration of the man whom he seeks to succeed. For that reason and because the present constitution of Michigan carried forward that same idea — the present constitution of Michigan, where we have a 2 year term for governor, requires that a candidate for governor shall have been here for 2 years — if we're going to have a 4 year term for governor, then a candidate for governor should have been here 4 years next preceding his election.

I hope that there will be enough support on this convention floor for this philosophy so that we can write this into the constitution; I think that it is a very desirable and necessary provision. I would say this: that certainly it is not going to interfere with anyone who is a bona fide resident of this state long enough so that he ought to be governor; and, on the other hand, to have this provision in there might in the future forestall either one party or the other moving a national figure into this state for the sole purpose of running him for governor here.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President and fellow delegates, I rise to oppose the amendment. This is a further restriction on the electorate and I believe that we should keep the restrictions as small as possible on people. We should not replace what we think what the qualifications would be for what the people, in the last analysis, should decide.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, while, generally speaking, I am opposed to any type of restriction or form of restriction, I support either one of the provisions, the committee proposal or the amendment as offered by Delegate Hutchinson. I am inclined to agree with Delegate Hutchinson and to agree with the reasoning that he gives, even though, as I say, ordinarily I would oppose placing restrictions and limitations. I see nothing wrong with a requirement that requires residence in the state for 4 years. It gives time for a man to demonstrate or indicate some civic activity in the state. I can't see the type of situation happening that Delegate Hutchinson talked about, where you might import some national figure from another state and have him live here for just a month or a few months and be elected governor of this state. As I said in the beginning, I have no strong feelings between the 2 provisions, but I do support the amendment offered by Senator Hutchinson.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I also am in favor of the amendment but I think possibly this is a matter for style and drafting, which Mr. Hutchinson is on. It just doesn't rest right with me that we have this continuous, completely negative statement here. I think we can say exactly the same in positive terms here. But I do support the idea of placing a time limit as to residency on at least political activity in the highest office of the state. I would support the amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the committee considered this matter very carefully and decided against putting in a time, a residence requirement, because of the ease with which it is avoided or evaded. It would only be necessary for a man to establish temporary residence here and register himself. He wouldn't have to spend any time in the state. We felt that was unnecessary and that the electorate was the best judge of not only his qualifications, but whether he'd spent enough time in the state to be a qualified person to hold the office of governor. For that reason we did not include it. Therefore, I would hope that the convention would not approve this amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The amendment is adopted. Are there any other amendments?

SECRETARY CHASE: That's the only amendment, Mr. President.

PRESIDENT NISBET: The question now is on Committee Proposal 17 as amended. Those in favor will vote aye. Those opposed will vote nay. Mr. Perras.

MR. PERRAS: Mr. President, I had an amendment similar to that one. Was that added on to Mr. Hutchinson's amendment?

PRESIDENT NISBET: Your name was included with that of Mr. Hutchinson as sponsors of the amendment, Mr. Perras.

MR. PERRAS: Thank you.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—116

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Boothby
Bradley
Brake
Buback

Gover
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hood
Hoxie
Hubbs
Iverson
Karn
Kirk, S.

Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe

Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel

Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perlich
Perras
Plank

Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—5

Binkowski
Cushman, Mrs.
Hodges
Jones
Kelsey

SECRETARY CHASE: On the passage of Committee Proposal 17, the yeas are 116; the nays, 5.

PRESIDENT NISBET: **Committee Proposal 17,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 17 as amended and rereferred to the committee on style and drafting:

> Sec. a. No person shall be eligible for the office of governor or lieutenant governor who shall not have attained the age of 30 years and who shall have not been 4 years next preceding his election a registered elector in this state.

The secretary will read the next proposal.

SECRETARY CHASE: Item 1 on the calendar, which was to follow item 10, **Committee Proposal 71,** A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. Amends or replaces article VI, sections 1, 3, 10 and 19, and article IX, sections 5 and 7.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: If it is in order, I move that the matter be considered read.

PRESIDENT NISBET: Is there objection? If not, it will be considered read.

Following is Committee Proposal 71 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 2211.):

> Sec. a. The governor, lieutenant governor, secretary of state[,] and attorney general shall be elected at the general [biennial] election [in 1964 and] in each alternate even numbered year [beginning in 1966]. They shall[, after 1966,] serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.
>
> NOTWITHSTANDING ANY OTHER PROVISION IN THIS CONSTITUTION, THE GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL SHALL BE ELECTED AT THE GENERAL ELECTION IN 1964 TO SERVE FOR 2 YEAR TERMS BEGINNING ON THE FIRST DAY OF JANUARY NEXT SUCCEEDING THEIR ELECTION. THE FIRST 4 YEAR ELECTION UNDER THIS CONSTITUTION SHALL BE HELD AT THE GENERAL ELECTION IN 1966.*
>
> The lieutenant governor, secretary of state and attorney general shall be nominated by party conventionS in a manner [provided] PRESCRIBED by law. In the general election ONE VOTE SHALL BE CAST JOINTLY FOR THE CANDIDATES [the votes cast for a candidate] for governor AND LIEUTENANT GOVERNOR NOMINATED BY THE SAME PARTY. [shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.]
>
> Sec. b. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He shall perform [such] additional duties as [may be delegated to] REQUESTED OF him by the governor.
>
> All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the office[s] of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments[,]. [so as to] THEY SHALL BE [group] GROUPED [them] as far as practicable according to major purposes[,]. [but] At no time shall an examining or licensing board OF A PROFESSION be composed of [or governed by] LESS THAN a majority of members of [a] THAT [competitive] profession. Temporary commissions or agencies for special purposes [and] with a life of no more than 2 years may be established by law and need not be allocated within a principal department.
>
> The INITIAL allocation of departments by law pursuant to this section shall be completed within [2] TWO years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make [such] THE INITIAL allocation.*
>
> Subsequent to THE INITIAL [such] allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have 60 days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved in both houses by a resolution concurred in by a majority of the members [elect of] ELECTED TO AND SERVING IN each house, these orders shall become effective at a date thereafter to be designated by the governor.
>
> The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer[,] and an attorney general. When a single executive[,] other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the senate, appointed by the governor and he shall serve at the pleasure of the governor.
>
> When a board or commission is at the head of a principal department, the members thereof, unless elected or appointed as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and PROCEDURE FOR removal of such members shall be as prescribed in this constitution or by law. TERMS OF OFFICE [No member] of any board or com-

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*This paragraph proposed to be moved to schedule and temporary provisions.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

mission created or enlarged after adoption of this constitution shall [have a term longer than] NOT EXCEED 4 years EXCEPT AS OTHERWISE AUTHORIZED IN THIS CONSTITUTION. The terms of [members] OFFICE of existing boards and commissions, [other than as provided in this constitution,] which are greater than 4 years shall not be further extended EXCEPT AS PROVIDED IN THIS CONSTITUTION.

Sec. c. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government[,] except as otherwise provided by law, superintend them in person and perform [such] duties [as may be] prescribed by law.

Sec. d. Each principal department shall be under the supervision of the governor, unless otherwise provided by [the] THIS constitution. The governor shall take care that the laws be faithfully executed[;]. HE shall transact all necessary business with the officers of government[;] and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may[, by appropriate] INITIATE court [action or proceeding] PROCEEDINGS [brought] in the name of the state[,] TO enforce compliance with any constitutional or legislative mandate, or TO restrain violations of any constitutional or legislative power, duty, or right by any officer, department, or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize [any action or proceeding] COURT PROCEEDINGS against the legislature.

Sec. e. When the senate is not in session, [and] THE GOVERNOR SHALL FILL a vacancy [occurs] in any office, appointment to which requires advice and consent of the senate[, the governor shall fill the same] by appointment[.] WHICH [such an interim appointment] may be disapproved by the senate [as with] IN THE MANNER PROVIDED FOR other appointments requiring such advice and consent. A person WHO HAS BEEN DISAPPROVED BY THE SENATE [so appointed] shall not be eligible for another interim appointment to [such] THE SAME office [if the appointment shall have been disapproved by the senate].

Sec. f. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an APPOINTED OR ELECTED officer, other than a judicial officer, until he [shall be] IS acquitted or, IF CONVICTED, UNTIL THE VACANCY IS FILLED IN THE MANNER PRESCRIBED BY LAW OR THIS CONSTITUTION FOR SUCH OFFICE [until after the election and qualification of a successor].

Sec. g. The governor shall have power and it shall be his duty, to [examine] INQUIRE into the condition and administration of any public office and the acts of any public officer, elective or appointive[;]. HE MAY [to] remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the causes of such removal or suspension to the legislature if in session or otherwise at its next session.

Appointment by and with the advice and consent of the senate when used in this constitution or in statutes in effect or hereafter enacted [shall] meanS appointment subject to disapproval by a majority vote of the members [elect of] ELECTED TO AND SERVING IN the senate if such action is taken within 60 legislative days after the date of such appointment. If THE APPOINTMENT IS not disapproved within such period of time the appointment shall stand confirmed.

No provision of this constitution, [or] of law or OF executive order authorized BY THIS CONSTITUTION [herein] shall shorten the term of any person elected to state office at a statewide election in or prior to November, 1962. In the event the duties of any of such officers shall not have been incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated.*

Sec. h. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as shall be prescribed by law.

The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party[,]. THEY SHALL BE appointed by the governor with the advice and consent of the senate for 4 year terms[.], no 2 OF WHICH [members] shall EXPIRE [have conterminous terms] IN THE SAME YEAR.

The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state highway department and shall be responsible for [the execution] EXECUTING THE [of] policy of the state highway commission.

Sec. i. There is hereby ESTABLISHED [created] a civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms not more than 2 of which shall expire in the same year. It shall be the duty of the commission[,] in a manner which may be prescribed by law[,] to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have [such] other powers [as may be] provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

MR. MARTIN: Mr. President, the committee on style and drafting has considered this proposal at some length and they have made a number of changes in it. The committee is satisfied with those changes and we recommend the adoption of the proposal as revised by style and drafting.

PRESIDENT NISBET: Mr. Chase, is there an amendment?

SECRETARY CHASE: Mr. Hubbs offers the following amendment to Committee Proposal 71:

1. Amend page 1, at the beginning of line 12, [section a, paragraph 3] by inserting "The governor and"; so the language will read:

> The governor and the lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law.

PRESIDENT NISBET: The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. President and members of the convention, I won't take very much of your time because I've been talking to a good many of you and I find that there seems to be a small amount of support for this proposition. I would like to make a point, however, because the chief argument against it seems to be that the public isn't ready for this kind of a change. I personally believe that the people who say this have misgauged public opinion and that, if properly educated in this regard, the public will buy this thing. It may also be said that the constitution is not the place to provide for methods of nomination. I can only say that there are many things that will be included in our new constitution that, from a standpoint of constitutional purism, should not be included. The constitution should be designed to preserve our fundamental freedom, and it is necessary, I think you will agree, to include those things which by nature are such that it is unlikely that it will be changed by the public or legislative action.

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People in masses by nature are status quo. They tend to accept what exists to the point of chaos and destruction. I am sure that if people in general can be properly informed of the advantages of party nomination, they will enthusiastically support and accept this method.

I would like to outline briefly some of the disadvantages of statewide primaries, which I object to. I maintain that well financed political organizations or pressure groups can dictate the candidates who will ultimately be presented to the people, thus subverting the choice of the people. In other words, the people will actually not have a choice by the action of the statewide primary. The tremendous expense of the statewide primary limits severely the number of candidates avaliable for public choice. They are limited to the candidates who can personally afford the campaign or finance it, or to the people who can secure the financing of pressure groups or political organizations not necessarily dedicated to serving the people. The expense of the primary election is borne by the government. In this day of high expense as far as government is concerned, I think the taxpayers would look with favor upon something that would reduce the potential expense of government and let the political party carry this expense where it should rightly be borne.

It has been said that the fundamental freedom of this nation has been preserved by a strong 2 party system. It is very evident today that statewide primaries eliminate the basic reason for the existence of political parties. Continued elimination of the reasons for the existence of political parties will eventually result in a dictatorial form of government, I believe; one in which the people have no voice.

Some of the advantages, I believe, of the elimination of statewide primaries and the nomination of the governor at party conventions are as follows: the elimination of the expense to the taxpayers of supporting a basically party function; reduction of the expense to a candidate will result in a wider choice at a party convention. People will by our traditional representative system, have a choice of candidates; parties will be strengthened to better serve the people they are designed to serve. The tremendous apathy that exists today toward politics, I believe, will be replaced by a new interest and people will feel that they have a chance to express themselves; and a genuine reform group could operate effectively at a state convention, whereas a genuine reform group would find it extremely difficult to operate in a statewide primary unless it was extremely well organized and well financed. And I submit that very few genuine reform movements come and survive at this level.

I want to ask support for this amendment. I think it should be done on a bipartisan basis. I think there are a great many things to recommend it. If the people of this state were properly informed as to the advantage of nomination at party conventions, they would enthusiastically adopt this method. Thank you very much.

PRESIDENT NISBETT: The convention will be in order. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I would simply rise to oppose the amendment before the body at this time. This was discussed. I don't know that it was discussed in the committee itself, but it has been discussed with various people in the convention, various delegates, and I would be opposed to the amendment offered by Delegate Hubbs.

PRESIDENT NISBET: Mrs. Koeze.

MRS. KOEZE: Mr. President, members of the constitutional convention, I am a little bit shocked that the people here aren't a little more attentive to what Mr. Hubbs and Mr. Marshall had to say about this. I have long been a proponent of this sort of an amendment. I believe it is one that we could do something with. I am a little bit surprised that this convention doesn't reach up a little further than it has and I am also a little bit disappointed that we haven't done that; that we have taken the path of status quo rather than to go forward and have some vision toward the future.

I would like to read into the journal at this time a memorandum that I had from Mr. Shapiro of New York state, who is the counsel to the temporary state commission on the revision and simplification of the New York state constitution. New York state has had this in its constitution since the 1920s and Mr. Shapiro writes:

> The convention method of candidate selection has wide public acceptance in New York state. The best and basic argument for its use is the cost feature. Primaries are extremely costly—in contested primaries, the expenses often equal the cost of an election campaign.
>
> Even without primaries, the cost of running for public office oftentimes discourages good men who cannot afford to bear this expense. By adding to the cost factor, we are fast approaching the period when only the rich will be able to run for office.
>
> At the same time the convention method is an appropriate form of representative democracy. The voters are able to cast their ballots for delegates to a convention. Slates of delegates can offer themselves to the voters whenever hotly contested issues or conflicting personalities are involved. The convention cost is substantially less than that of a primary.

I want to suggest to you delegates here that to one that works as close to party politics as I do, the cost of good men getting into a race is getting almost prohibitive and I urge you to give this another thought. Now, you may think that you want to stay the way you are in this convention in regard to this. But I think this is really far reaching and I think that if you're any kind of a salesman at all, you could go home and sell your people this kind of an amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the matter has been considered on numerous occasions by a number of delegates, and it has some merit. There are some reasons why it would be advantageous to nominate the governor in party convention. But I think most of us who have thought about the matter feel that this is not a problem that we can present at this time since the legislature has the opportunity to change this if it wishes and that to change at this time might create the impression on the public that we were trying to take away from them their right to nominate a governor, and would lead to antagonism toward the whole constitution. For that reason we did not propose it in the committee and do not support the amendment at this time. We are opposed to the amendment.

PRESIDENT NISBETT: Mr. Tubbs.

MR. TUBBS: Mr. President, for once I would like to have the name of Tubbs associated with Hubbs. I am in favor of the amendment. I appreciate the remarks of my countymate, Mrs. Koeze. As far as the chairman's remarks are concerned, I will say that I was a member of the public just prior to this convention and I do not share the feeling that the people would consider that we're taking anything away from them.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, I'd like to support Mr. Hubbs' amendment. I feel that this is a very good method of nominating a candidate for governor. It is done for the president of the United States and I feel that if it is good enough for the United States, it's good enough for the state of Michigan. I'd like to add to Mrs. Koeze's remarks, where she says now only the rich can run for office, but also when pressure groups with a considerable amount of money back a candidate, it is almost impossible for anybody else to win.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hubbs.

MR. SHANAHAN: Mr. President, I request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand supported? Sufficient number up. Those in favor of the Hubbs amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 39

Beaman
Blandford
Boothby
Bradley
Butler, Mrs.
Cudlip
DeVries
Doty, Dean
Finch
Follo
Gover
Habermehl
Haskill
Hubbs
Hutchinson
Karn
Knirk, B.
Koeze, Mrs.
Leppien
Millard
Mosier
Nisbet
Perlich
Perras
Plank
Pollock
Richards, J. B.
Rood
Seyferth
Shackleton
Shanahan
Stafseth
Staiger
Sterrett
Thomson
Tubbs
Turner
Woolfenden
Youngblood

Nays — 78

Andrus, Miss
Anspach
Austin
Baginski
Balcer
Bentley
Binkowski
Bledsoe
Bonisteel
Brake
Buback
Cushman, Mrs.
Danhof
Dehnke
Dell
Douglas
Downs
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Faxon
Figy
Ford
Gadola
Goebel
Gust
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Kelsey
Kirk, S.
Kuhn
Lawrence
Lesinski
Mahinske
Marshall
Martin
McAllister
McLogan
Murphy
Ostrow
Page
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rush
Sablich
Sharpe
Sleder
Snyder
Spitler
Stamm
Stevens
Suzore
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager
Young

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hubbs, the yeas are 39; the nays are 78.

PRESIDENT NISBET: The amendment is not adopted. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I have a suggestion which I believe may expedite our consideration of Committee Proposal 71. As I believe all of the delegates are aware, this proposal deals mainly with the organization of the executive branch, but also it includes as a final section, section i, a provision relating to the creation of a civil rights commission. Now, recalling the parliamentary problems which we incurred last night over the question of separating matters which some delegates felt were dissimilar, I think that it might be well for us to consider at this point the way we can avoid a duplication of the loss of time which we incurred last night. Therefore, I have discussed with Messrs. Downs, Marshall, Miss Hart, Mr. Iverson, Mr. Brake, Mr. Martin, Mr. Bentley, Mr. Burton Richards, and others, the desirability of a separate vote on the civil rights issue. For that reason, Mr. President, I would move at this time that the rules be suspended and that we vote separately on section i of Committee Proposal 71 and on the balance of Committee Proposal 71.

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen, would you come up here a minute. Mr. Marshall.

MR. MARSHALL: Mr. President, I'd like to rise to support the motion of Delegate Van Dusen and at the same time point out to the delegates in the convention that it is not my intent to offer any amendments to the committee proposal. I feel that all the amendments that I could have offered were offered in committee of the whole. We had the recorded roll call votes on them. Everything that could have been said was said in committee of the whole. And anything that I would say now, or any amendments that I would offer to this proposal would merely be a repetition of what I submitted and spoke on on first reading. So, realizing and recognizing the pressure that is on the delegates for time, and the terrific schedule that we are keeping, it is not my intent to offer any amendments to the committee proposal. However, I do feel that there were some mistakes made on the first reading. I think there are mistakes in this proposal and if any amendments are offered to better this proposal, or to correct some of the mistakes that were made on first reading, then I would be happy to support them. But I myself do not intend to offer any. This information is just for the benefit of the delegates.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, Mr. Chase has suggested the desirability of incorporating in my motion the fact that hereafter section i of Committee Proposal 71 would be considered a separate proposal, to be known as Committee Proposal 71A. For that purpose I move the suspension of the rules at this time.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen at this time. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read the next—

MR. FORD: Mr. President.

PRESIDENT NISBET: The secretary informs me that the vote shall be by division. Those who are in favor of Mr. Van Dusen's motion will vote aye. Those opposed—

MR. FORD: Mr. President.

PRESIDENT NISBET: Just a minute, Mr. Ford. You'll be recognized.

MR. FORD: I'd like to ask a question before we vote, if I may.

PRESIDENT NISBET: You're going to get a chance. I want to state the question first so the delegates will understand it. The question is on the motion of Mr. Van Dusen. Those in favor of that motion will vote aye. Those opposed will vote nay. The Chair recognizes Mr. Ford.

MR. FORD: I would like to ask, through the Chair, of Mr. Van Dusen if he would have any objection while he is suspending the rules to permitting us to vote on all of these sections in a seriatim manner inasmuch as we are now dealing with 4 different ways of picking the members of the administrative board.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, Mr. Ford, I would object strenuously to that. The reason for my motion is because of the dissimilarity in character of section i from the balance of the proposal. The discussions which I have had with Mr. Downs, Miss Hart, Mr. Marshall, Mr. Iverson, Mr. Brake, Mr. Martin, Mr. Bentley, Mr. Burton Richards, and others, have contemplated only the separation which is embodied in my motion. I would object to any other separation.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, I hate to take exception with my distinguished township attorney. I would have liked to had it divided section by section, just as Delegate Ford stated it. I was fearful of that and did not feel it could be done. Therefore, I support Delegate Van Dusen in separating just the civil rights commission section. This is what we asked for and Delegate Van Dusen agreed he would make this motion. And I state that information for the benefit of the delegates.

PRESIDENT NISBET: Those in favor of the motion will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion of Mr. Van Dusen to suspend the rules and make section i of Committee Proposal 71 a separate proposal to be known as Committee Proposal 71A, the yeas are 111; the nays are 9.

PRESIDENT NISBET: The motion prevails.

MR. YEAGER: Mr. President, parliamentary inquiry: where will 71A be taken up on the calendar?

PRESIDENT NISBET: Immediately following 71.

MR. YEAGER: Thank you.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Messrs. Wood, Erickson, Faxon, McAllister and Leibrand offer the following amendment:

1. Amend page 5, [section h, paragraph 1] beginning on line 17, by striking out all of section h.

PRESIDENT NISBET: The Chair recognizes Mr. Wood.

MR. WOOD: Mr. President, fellow delegates, this amendment, in effect, leaves the election of the highway commissioner where it is now, with the legislature. As has been pointed out previously, Michigan is number one in the United States with regard to roads, and Michigan is the only state that elects its state highway commissioner. I do not believe that this is the recommendation for a change. Why should we trade a proven principle for a very doubtful one? We have heard the statement that the committee proposal would remove the highway department from politics. I suggest to you the effect would be exactly the opposite; that the political implications would increase at least fourfold. Without taking any more of your time I'll defer to Mr. Erickson, and also I would like to ask for the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. The Chair recognizes Mr. Erickson.

MR. MARSHALL: Mr. President, Mr. Erickson yielded to me.

PRESIDENT NISBET: Okay. I'd better keep my eye on you. Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I rise to support the Wood, et al, amendment that is before the convention. You heard my arguments in committee of the whole. I think that this particular section, this one dealing with the creation of the so called bipartisan highway commission is, without a doubt, one of the biggest mistakes we've made to date and also one of the most irresponsible provisions that is before this convention. You have all heard us talk about and talk on the record and point out the magnificent job that has been done in building highways in Michigan under an elected highway commissioner, with fuel tax money earmarked for roads. I am not going to go into a long talk trying to persuade any of you to vote. I am sure that all of you have your minds made up. If there has been a change of heart on the part of anyone since first reading, I think that now is the time to cast the ballot. But I do urge, I urge very strongly and sincerely, that the delegates give serious consideration to a favorable vote on this amendment that is before the convention now because, in my considered judgment, the bipartisan highway commission will not work; it will not be conducive to good roads, and it will not take the highway department out of politics. On the contrary, we establish 4 more constitutional officers in the constitution and we add to this problem the danger of more politics being played among the various commissioners and the highway director and the executive office, and so forth. I urge a yes vote on the Wood, et al, amendment. Thank you.

PRESIDENT NISBET: Mr. Erickson, do you wish to be recognized now? Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, very briefly, from an administrative point of view it is not sound to have a commission at the head of an executive agency. But whatever the merits are as to whether it should be a commission or whether the highway commissioner should be appointed or elected, this is a matter which has been left to the legislature in the past; and if we have gone along, up to this point, entrusting the legislature with regard to the question of funds for education, if we've gone along with the legislature with regard to establishing other departments and agencies, then surely there is no better place to put your confidence in the legislature than in permitting this matter to stand as it is today, not in the constitution. We can be doing a great service here if we cut this language out because we don't know what we're starting with. We don't know what we're saddling our state with. And there is no one in this state today who feels a great urgency for change with regard to this particular department. I cannot help but reemphasize and reurge you to give careful consideration to this and to vote as you know the people in your districts would ask of you and think of you to do on this question of deleting this section which creates for most of us an untenable situation for the head of a department.

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, the argument for this amendment seems to be that Michigan has a good highway system. I would not deny that. But it is my suggestion that the good highway system we have is not the result of the way in which we select the commissioner of highways, but plenty of money. With lots of money any state can build good highways and undoubtedly it should. It seems to me the committee's proposal is at least an improvement over the present system of selecting a highway commissioner. At any rate, there are no grounds for the suggestion that our system of highways depends upon the method by which we elect the commissioner.

PRESIDENT NISBET: The Chair recognizes Mr. Romney.

MR. ROMNEY: Mr. President and fellow delegates, this is a subject with which I have been in contact for over 30 years as a result of my industrial interests and activities. I approach this process for the securing of a highway commissioner and the direction of our highway program against a background of basically favoring the appointment of administrative officials in state government. However, I think, in the case of the highway commissioner, that the procedure that we have provided is a much sounder one than would be direct appointment by the governor himself.

Now, having been in contact with highway programs in this country on a close basis for over 30 years, I can say without any reservation that the good roads in Michigan are not primarily related to the question of whether or not we elect or appoint a highway commissioner. I have seen the highway programs of this nation move from the situation where they were primarily the result of political logrolling to their present position where the location and character of highways is premised upon available engineering data and traffic flow information and other economic data that makes this a highly technical subject and one where we need the greatest of competence in administration, engineering and other fields. Now, this being the case, this being a responsibility that is not primarily a political responsibility, it seems to me that it should be approached on that basis.

The reasons I favor the appointment of a bipartisan highway commission, are these: 1, if any one of us was going to set up an activity involving the expenditure of over $300 million a year, we would not vest that responsibility exclusively in the hands of a single individual. We would give that individual a policy group to give him advice and guidance. And that's what we've done in the establishment of this highway commission; 2, we certainly need to secure a highway commissioner on the basis of competence and ability primarily, rather than on the basis of ability to secure votes, and the selection of the highway commissioner by a bipartisan commission is more likely to result in a man being selected on the basis of his competence — and this we need — and; 3, it is more difficult to corrupt 4 men than to corrupt 1 man.

The direction of this work, from a policy standpoint, by a highway commission makes it less likely that the highway program of this state can be improperly influenced. And I know of no group more inclined to participate, financially and otherwise, in political affairs than the group we are dealing with in connection with the way in which we set up our highway program. Consequently, it seems to me that it is doubly important to set it up on a basis where we have a policy group not as subject to the influence by special interests and a policy group that can select a man primarily on the basis of competence and thus carry forward a highway program for the state of Michigan. And the effectiveness of our future program is going to depend primarily upon the things I have mentioned rather than the question of whether we elect or appoint a highway commissioner.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Thank you, Mr. President. Throughout the committee of the whole, throughout the first reading, I restrained myself from comments on this particular matter because I felt that there were many who would bring to you firsthand some of the technical qualifications of the highway engineer. I certainly must disagree with the previous speaker when he says that election or appointment will have no effect on the quality on the roads.

I speak for a group of people in my home town whose vitality, whose strength and whose finances depend greatly upon the automotive industry. Our employment in Michigan depends greatly upon the automobiles. If we do not provide the proper highways, if we do not provide the proper means of transporting these vehicles, we are cutting the life blood of our Michigan finances. I submit to you that an elected highway official does have this awareness and he will provide these means for maintaining our employment at the high level. I also submit to you as a commissioner in our town, that there are many areas in which we must have the responsiveness of an elected highway official. To many of you who at the present time have highways bordering your communities or who have programs planned to go through your communities, let me point this out: that the route depends upon the availability of the highway commissioner. The followup depends upon the availability of the highway commissioner.

We at the present time in our community have extending throughout its entire length an expressway. The expressway is bogged down, but we feel, because we have a highway commissioner that is elected at the present time, we are able to exert the proper type of pressures upon him in which he will recognize our needs. We are presently in the process of communication with him. In addition to this, may I point out some of the incidental problems that you have along these lines: for instance, you may have a nice neighborhood and a highway commission decides to set up a cement mixing plant right next door to you. If you do not have the responsiveness of this highway commissioner, you cannot control these things. These are the everyday bread and butter, the practical things for which you must have a responsive highway commissioner, and I submit to you that if you have one that is appointed he will not be available to you, he will not serve your people and give the response to their problems that he can under our present system.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand there are 6 speakers seeking recognition. I would move that further debate on this amendment be limited to 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The motion prevails. Mr. McAllister.

MR. McALLISTER: Mr. President, fellow delegates, I was elected by the people of my county to protect their interests, not to take their rights away from them. The highway builders, the highway commissions, and practically everybody in Michigan that has anything to do with highways, except our self appointed leaders, are not in favor of this part of the committee proposal. Apparently, the self appointed leaders seem to feel people do not have the ability to select their officials and also seem to feel that they're already in the capitol. Many of these same leaders have kept the Republican party out of the capitol during the last 16 years, and it is my opinion that, with their present theory, we will not be in there 16 years from now. I move that we delete this section from the proposal.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, it is very proper that we should boast about the good roads we have in Michigan and about everything else we have in our state. But we shouldn't get completely out of balance in connection with these things. One thing we should remember, in order to keep in balance, is that the amount of money that has been going into that highway department is tremendous, and as to the finest roads we have in this state, 90 per cent of it has been federal money. Another thing we should keep in mind is that we now have a bonded indebtedness of the state highway department of something more than $600 million, all accumulated in very recent years. If your money is unlimited, most anybody can build roads.

Regarding what Mr. Snyder just said about having a commissioner that you can exert pressure upon, that's all right. I have no objection to that, Mr. Snyder, at all. But I am not so enthusiastic about having a highway commissioner who is in position to exert pressure on us and on the legislature, as has been done continuously.

It was said by Mr. Faxon, our young conservative, that a commission is never the right head to an executive department. He is flying straight in the face of all the Michigan experience we've had in recent years. We tried the other method, tried it long and hard, ending mostly in the '30s. And with the major departments of Michigan government, we have done so much better with a commission heading them that there is no comparison between the 2.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, I rise to support the amendment. The highway commissioner is a policy position. We can hire engineers to work under him, but the main factor is, he is a policymaker. This was well demonstrated when our present commissioner first came into office, and there was a campaign. That was a campaign that was conducted on 2 different philosophies of road building. One, the bits and snatches road building we had for several years and the other on 4 lane unlimited and divided highways. The people had an opportunity to decide what they wanted. They decided they wanted better roads. Under the previous commissioner the funds were there, at that time, too, but he chose to allow the county road commissioners and so on to handle it in that way. The people finally got what they wanted through an elective highway commissioner.

One delegate says that because we spend $365 million a year is reason to make him appointive; that not one man should have this power. Under the proposed committee report he is responsible to no one except save, maybe, his own political party, and then it would be questionable. If we took the same theory that no man should have this much power, then we should have 4 governors as well as 4 highway commissioners. Responsible government has one man at the top that finally makes the decisions.

And in deference to Mr. Brake's remarks, I think it is well pointed out, except where you have quasi judicial functions, that it works out much better to have a single head of an agency or a department. This is another one of these so called accommodations that no one advocated when we came to this convention and no one really believes in today on this floor but we seem to be stuck with it. And I ask your support of the amendment.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Mr. President, a few questions of Mr. Romney, if I might. There were some things that he said that I do not understand.

PRESIDENT NISBET: If Mr. Romney cares to answer.

MR. WALKER: First, Mr. Romney speaks of his 30 years of experience throughout the nation and I would like to know what states have 4 person highway commissions and what has been their record of success with this commission.

PRESIDENT NISBET: The Chair might mention our time is limited.

MR. WALKER: I realize we are operating under a gag rule, sir, but —

MR. ROMNEY: Mr. Walker, I don't happen to know the exact number of states that have commissions, but I know that more states have commissions than elect a commissioner. Michigan, I understand, is the only state that still elects its state highway commissioner.

MR. WALKER: Further, Mr. President, I understood Mr. Romney to state that there had been some corruption or some hint of corruption. I wonder if he would care to state any specific examples in the last few years.

MR. ROMNEY: Mr. Walker is incorrect in the statement. What I indicated was that it is more difficult to corrupt 4 men than 1 man. And if there is concern about a commission instead of an individual commissioner, from that standpoint, a commission form is less susceptible to that than an individual commissioner form.

MR. WALKER: Further, Mr. President, I believe he said: the group we're dealing with in the selection of the highway commissioner — and I believe that was where the reference to corruption came in there — if Mr. Romney would specifically identify the group that we're dealing with in the selection of the highway commissioner?

MR. ROMNEY: Mr. Walker, you are trying to put words in my mouth.

MR. WALKER: No, sir. I believe that's a quote.

MR. ROMNEY: What I indicated was that the group involved in highway construction was a group that had taken a very large part in political matters and in financial contributions in political areas and that, consequently, this was particularly an area where we should set up the direction of the work in a manner that would free it from undue influence. I made no statement about their having engaged in corruption.

MR. WALKER: Still, a group is rather a nebulous thing. In an effort to clarify it in my own mind —

MR. ROMNEY: There are about 30 or 40 or more groups of a major character and I am sure you are as familiar with them as I am — all the highway building groups, all the highway use groups. There are many of them as you know.

MR. WALKER: That's a very broad statement, sir. I can't help but call to mind — and this is not a question — the editorial from an Ann Arbor paper, speaking of the fact that our present highway commissioner is a highly qualified administrator, and I wonder if we as voters and electors in this state would not be qualified in future years, under our present system, to continue to pick highly qualified people. Therefore, I would speak for the amendment before us.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, we've heard some personal expressions relative to the advantage of the committee proposal in this method of selection of our highway commissioner. They're not borne out by the facts that I have been able to gather from groups and citizens, some who have a direct interest in the highway system of Michigan, some who only have an indirect interest, the interest of the benefit of the drivers of the people of the state of Michigan.

I would like to remind the delegates of this fact: that I don't think it is necessary to write such a provision in the constitution. We all recognize that the legislature, by legislative act, created this office as an elected office. Likewise, they have the right to repeal or amend the present legislative act and create just such a commission, if in their judgment they feel it is advisable. I will leave this thought with you: who is better capable of knowing what are the beliefs and thinking of the people back home than those duly elected representatives in the state government? I think they are fully capable of taking care of any problem that arises in this area. And I, for one, am going to vote for the amendment to strike this particular section from the constitution.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I have some questions of Delegate Romney, if he cares to answer them, through the Chair.

PRESIDENT NISBET: If he cares to answer.

MR. DOWNS: First, Mr. Romney, what would happen if, under this system you advocate, the 4 commissioners did not agree on how to select a highway commissioner?

MR. ROMNEY: I think that they would have to continue to consider the matter until they did agree.

MR. DOWNS: Would any roads be built in that interim period?

MR. ROMNEY: And I think, Mr. Downs, it is highly desirable that in a program of this magnitude, in terms of state interest, that the highway commissioner be someone who is considered a competent man by at least a Democratic member of the commission and 2 Republicans, or vice versa. And I think that this insures getting a better qualified man. I think it is a better approach.

MR. DOWNS: Through the Chair, this requires advice and consent. What would happen if the senate rejected from time to time appointments by the governor. How could a quorum be established?

MR. ROMNEY: I am not concerned about the likelihood of the senate rejecting a commissioner appointed on a bipartisan basis and selected on a bipartisan basis.

MR. DOWNS: Would there be any limitation on the term of the highway commissioner to be selected by the 4 member highway commission?

MR. ROMNEY: I didn't get that question, Mr. Downs.

MR. DOWNS: Would there be a limitation on the term of the highway commissioner to be established by the 4 member highway commission?

MR. ROMNEY: No. As I understand it, the proposal is that the highway commissioner would continue to function as long as he met the requirements of the highway commission, and the highway commission would be authorized to determine the length of his term. It seems to me that this is highly desirable, as it is in the case of the superintendent of public instruction. If we recognize the desirability of securing a man on the basis of competence and ability rather than on the basis of political consideration, then this becomes a highly desirable aspect of attracting men of real competence and ability into this post; and after all, giving the type of direction required for a $350 million business requires one of great competence.

MR. DOWNS: Would the members be able to hire a highway director for a long period, such as 10 or 15 years into the life of another commission?

MR. ROMNEY: I personally would think that the commission would be very unwise to do such a thing but they would not enter into a contract of extremely long duration without knowing the competence of the man involved.

MR. DOWNS: Could the 4 member highway commission discharge the highway engineer-administrator without hearing, notice, or any other considerations?

MR. ROMNEY: I would think we could expect the highway commissioners to use proper discretion as administrators; and, certainly, to pursue such course of action would be a very unwise administrative procedure. I can't personally believe that we will have appointed to the highway commission men who would be so short sighted, because such action would defeat one of their major objectives and purposes, namely, to attract men of capacity and ability to the post.

MR. DOWNS: On page 6, line 2 it states that the director is to carry out "the policy of the state highway commission." Does the word "policy" mean determining such things as whether the roads are built of cement or asphalt, or would that be a technical decision for the fulltime highway commissioner to determine?

MR. ROMNEY: Mr. Downs, on the basis of the present art of highway building and our present knowledge of soils and materials, this is a technical matter rather than a policy matter, if it is properly handled and, consequently, should not be a matter of policy but should be a matter of making the wisest possible selection of material to develop the best roads on the types of soils involved. This is what I referred to in pointing out that the highway art has advanced tremendously in the last 30 years. We have knowledge now indicating that certain materials are best suited for building the best roads on certain types of soils and we have many types of soils to deal with in highway construction; so this is not a policy matter, it's an engineering matter.

MR. DOWNS: All right. Then, through the Chair, the determination of where a road goes, is that a policy matter or is that a decision for the highway commissioner to determine?

MR. ROMNEY: Again, this is a matter that is related importantly now to available information on the development of highway traffic information indicating what the flow of traffic is. Now, it certainly would be a policy matter to make certain that our highway program is going to be based in terms of location on the development of adequate information about the traveling of people and consequently where the roads should thus be located. Certainly, the highway commission should be confident that such data has been developed before a road location is determined and also, reverting to the earlier question, it would certainly be a question of highway policy matter to make certain that the highway commissioner was selecting materials on the basis of the types of soil and other factors involved in building the best highways rather than doing it for purely political purposes.

MR. DOWNS: Then if a bypass were to go around Lansing, would the 4 member commission determine this, or would the highway director determine this?

MR. ROMNEY: I think I've already indicated that this is not a matter for any one to determine; but, as far as the highway commission is concerned, they would be very much involved in making certain that the most accurate data had been developed to indicate where the roads should be located and what type of road should be built.

Let me say this to you, Mr. Downs: that a good deal additional data is being developed constantly with respect to bypass roads and freeways and other types of roads. And it seems to me that one of the important policy responsibilities of the highway commission would be to see that in developing a highway program here in Michigan we availed ourselves of the latest information available. Now, in the city of Los Angeles, for example, they found, as a result of building expressways without due regard to bypass roads, that they funnelled more traffic into downtown Los Angeles than they had originally and they were tending to defeat their own purposes. These are all matters that require the most careful policy as well as technical consideration.

MR. DOWNS: Is there any evidence that our present highway commissioner and system has not utilized the fullest resources of engineers and technicians to perform a technically good job?

MR. ROMNEY: There is very clear evidence to indicate that the present highway commissioner has devoted himself extensively to political activities and that this is not the primary function and responsibility of a competent highway commissioner. And furthermore, I am certain, based on my knowledge of this art, that an adequate consideration of highway development in this state would justify the time and attention of more than just one competent individual.

MR. DOWNS: If the people are not satisfied with the highway program under the commission system, what remedy do they have to make any major corrections or changes?

MR. ROMNEY: Let me make another comment that might be pertinent to this discussion, and that's this: I know something about lead time and highway planning and construction. Now, there is no question but that the highway programs that have been built under the current highway commissioner were started long before the present highway commissioner came into office; a great deal of the traffic flow information, highway engineering information, the designing of the highways, the planning of the highways, the location of rights of way, was well under way before Mr. Mackie became highway commissioner of this state. And I think we ought to give some credit to Mr. Ziegler and his intelligent planning which Mr. Mackie has cashed in on. (applause)

MR. DOWNS: That still does not answer the question.

PRESIDENT NISBET: Time is up, Mr. Downs.

MR. FAXON: Mr. President, I have a preferential motion. Would it be possible to move that debate — since this colloquy took up the time of several of the speakers — 10 minutes more be permitted on this question?

PRESIDENT NISBET: You can make a motion, Mr. Faxon.

MR. FAXON: I would like to move for 10 more minutes so that others who were on the list would have a chance.

PRESIDENT NISBET: The question is on the motion of Mr. Faxon that debate be extended for 10 minutes more. Those in favor will say aye. Those opposed, no.

The motion does not prevail.

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, am I to understand that the only delegate in this convention that can get an extension of time is Delegate Van Dusen?

PRESIDENT NISBET: That was the action of the convention, Mr. Marshall.

MR. MARSHALL: I'd like to move that the time be extended 15 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Marshall that time be extended 15 minutes. Those in favor will say aye. Opposed, no.

The motion does not prevail.

MR. MARSHALL: Division.

PRESIDENT NISBET: A division has been requested. Is the demand supported? Sufficient number up. Those in favor of extending debate 15 minutes will vote aye. Those opposed will vote nay.

MR. MARSHALL: Could I say just a word on this?

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, this is a very, very serious question that is before the convention. Much of the 20 minutes extended time was taken up in the answers to the questions that Delegate Downs asked. I wish, in some respects, that Delegate Downs had not asked the questions because Delegate Romney made a speech on each question. (laughter) But be that as it may, he had a right to ask the questions and Delegate Romney had a right to make a speech.

PRESIDENT NISBET: Your point is well taken, Mr. Marshall.

MR. MARSHALL: But I urge the delegates to give us at least 15 minutes and we probably won't take but 5 or 10 minutes to hear the other speakers on this question.

MR. STERRETT: Mr. President.

MR. WALKER: Mr. President.

MR. IVERSON: Point of order, Mr. President. This is not debatable.

PRESIDENT NISBET: Your point is well taken. This is not debatable.

MR. WALKER: I have a preferential motion that I was trying to make.

PRESIDENT NISBET: The vote is being taken, Mr. Walker. What is your motion?

MR. WALKER: I was going to ask for the yeas and nays, Mr. President, in that I do consider this a gag rule and I want to see who is for it and who is against it.

PRESIDENT NISBET: Division has been ordered.

MR. WALKER: The yeas and nays are what I asked for.

PRESIDENT NISBET: The yeas and nays have been asked for. Is the demand seconded? Sufficient number up. Those who are in favor of extending debate 15 minutes will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 61

Allen
Andrus, Miss
Austin
Baginski
Balcer
Bentley
Binkowski
Bledsoe
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Dell
Donnelly, Miss
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford

Garvin
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Jones
Kelsey
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Marshall
McAllister
McGowan, Miss
McLogan

Murphy
Nisbet
Ostrow
Perlich
Prettie
Radka
Richards, L. W.
Sablich
Seyferth
Shanahan
Snyder
Suzore
Upton
Van Dusen
Walker
White
Wilkowski
Wood
Young
Youngblood

Nays — 54

Anspach
Batchelor
Beaman
Bonisteel
Brake
Cudlip
Danhof
Dehnke

Haskill
Hatch
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.

Richards, J. B.
Romney
Rush
Shackleton
Shaffer
Sharpe
Sleder
Spitler

Doty, Dean
Durst
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gust
Habermehl

Koeze, Mrs.
Martin
Millard
Mosier
Page
Perras
Plank
Powell
Pugsley
Rajkovich

Stafseth
Staiger
Sterrett
Stevens
Thomson
Tubbs
Turner
Wanger
Woolfenden
Yeager

SECRETARY CHASE: On the motion to extend the debate on the pending amendment, the yeas are 61; the nays are 54.

PRESIDENT NISBET: The motion prevails. Time is extended. Mr. Downs, you have the floor. If anyone is interested, there are 5 speakers.

MR. DOWNS: Mr. President, I will yield the time to the others because of the time I took. I understand there are other speakers.

PRESIDENT NISBET: The Chair recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, sometimes I think legislative bodies get bogged down in their own thinking, and I think maybe the constitutional convention does that once in a while also.

I have a couple of comments and an editorial from the people who are not in the constitutional convention but can look down upon us and our actions. One is from the Benton Harbor News Palladium. I'll read in part from that. It is entitled, One Road Boss is Enough. I quote:

> Next week the constitutional convention in session at Lansing is scheduled to dispose of the proposal involving a state highway commission of 4 members which will have charge of building and maintaining Michigan's arterial roads.
>
> This plan will supplant the present law that provides for the election of a highway commissioner. In brief, the proposal takes away from the voters their right to select a highway commissioner, as Michigan voters have been doing for the last half century.
>
> Michigan is the only state in the union that elects its highway commissioner, preferring it to the commission plan. But the road scandals in Indiana, New Mexico, Massachusetts and Florida — and particularly in Indiana — indicate that the commission plan is not free of political chicanery.
>
> We can't recall that Michigan has ever had a highway commissioner that went wrong. This department of state government, it is true, is subject to criticism from the very fact that in projecting new roads it can't please everybody.
>
> Setting up a 4 man highway commission merely means another state agency will be added to the multiple number of such authorities of which there are already too many. Moreover, road building in Michigan would have 5 bosses instead of one as at present — a setup for political wrangling, delay in needed road building and a divided opinion and authority that is always fatal.

Then, from the St. Joseph Herald Press, just a short statement in an editorial entitled, Highway Stumbling Block. I quote:

> Point 3 is a senseless compromise between direct election of an administrative official and his appointment by the governor. Con con has borrowed the idea from other states.
>
> The supporting theory advanced by the Lansing session is that the board appointment method will take the department out of politics. Just how much more political could a situation become with 2 Republicans and 2 Democrats haggling over whom they should hire for the firing line manager of the department?
>
> The rules of diplomacy constrain one officer of the state to use polite language and confine himself to a logical array of argument when disputing the course that another official group is taking. The postal laws and regulations exercise the same restraint on us.
>
> All we shall say is that if con con adopts in final form what is now in the mill for the department, then it may easily lose the confirming vote from the public on its entire handiwork. The package worked out thus far is pretty good, but one or two glaring errors such as the highway section can wreck the whole performance.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, it seems to me practically everything that can be said has been said on this subject. But we come back to the one question; that is: how do you get the widest possible choice for this man who is going to serve as highway commissioner? And there isn't any question but that if what you want to have is the widest possible choice and the widest and most competent list of men, you have to use a system that is proposed by the present proposal. The selection by the state convention and election narrowly limits the choice of competent personnel whom you can get. There are relatively few men who are available who have this competence who are willing to go through a statewide campaign or want to have to go through it to hold a job of this kind, which demands primarily professional competence. For that reason, I hope that the amendment will not be adopted and that the convention will support the committee proposal section h as it now stands.

PRESIDENT NISBET: Judge Leibrand.

MR. LEIBRAND: Mr. President and fellow delegates, I have no special interest, financial, political or otherwise, in the highway system of Michigan. I do know when I campaigned for this office of delegate last summer that I met and talked with thousands of people. Those thousands of people offered hundreds of suggestions as to what they thought should go into a new constitution. Not a single one of those suggestions, as I recall, went to the substitution of an appointed highway commissioner for the present elective system. When this first came up in this body about a month ago, accordingly, I had no real background on which would be the preferable system. I secured a man in my district, in whom I have confidence, to take a poll to see what the prevailing sentiment was. On March 15, 1962, I received the following telegram, "Carl J. Leibrand, delegate . . ." and so forth,

> First choice from people I have talked to, election of highway commissioner by the people. Second choice, but not desirable, highway board. No one in favor of appointment by governor.

I support the provisions of this amendment which would leave the highway commissioner elected.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I would like to ask a question of the chairman of the committee because I think there has been some misunderstanding among some of the delegates with regard to what the status of the highway commissioner would be in the event that this provision were adopted. Now, the question is: can the legislature provide for an elective, statewide position under this constitution? And after the answer, I should like to have an opportunity to respond.

PRESIDENT NISBET: Mr. Martin, would you care to answer?

MR. MARTIN: If I understand the question, the question is whether the legislature can set up an elective office?

MR. FAXON: Yes.

MR. MARTIN: Well, the only elective offices, heads of principal departments under the committee proposal are those which are specified here in the proposed constitution, unless you wish to leave the highway commissioner in his present status. In that event I think it is possible the highway commissioner can continue to operate.

MR. FAXON: Mr. President, now that means —

MR. PLANK: Mr. President, point of order. Mr. Faxon has already spoken once and I believe he's about to speak again. I'd like to ask the Chair —

PRESIDENT NISBET: Mr. Faxon is cosponsor of the amendment, Mr. Plank.

MR. FAXON: Mr. President, on page 3 — and I call this to the attention of the chairman of the committee — the first line there:

> The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal de-

partments shall include a secretary of state, a state treasurer and an attorney general.

And then the next sentence, and here is where I think that this point should be made clear, "When a single executive, other than an elective official. . . ." Now, I can take it by that that this would mean that the legislature could provide for an elective official to head a principal department and that this constitution would permit the legislature to have that privilege. Is that correct?

MR. MARTIN: Mr. Faxon, I'd like to amend my answer on this. As this is drafted, if the single executive is an elected official, as is provided here, he may head a principal department. If he is a single executive other than an elected official as specified here, then he would be an appointed official. This does not provide for elected officials. As it stands now it does not provide for elective officials who are simply statutory in character.

MR. FAXON: Then am I correct, insofar as you have answered these questions, Mr. Martin, that if this section were deleted with regard to the commission, the present system could and would remain in effect?

MR. MARTIN: No. I didn't say that. If you delete this section, and the highway commissioner is to be an elected official, you will have to put in something to that effect, or you will have to put in something to the effect that he can be a statutory elected official.

PRESIDENT NISBET: Mr. Faxon, there are only 4 minutes and there are 2 speakers.

MR. FAXON: Then in concluding, I think this has been a little unclear in a number of people's minds in regard to what the status would be. I think this needs to be cleared up. My understanding of that language, as I read it, was that it could and would provide for the legislature to set up an elective official if it felt necessary. And this interpretation certainly would lead me to think that we might need to make other provision. In the event that this amendment is accepted, I think we would be willing to make other provision so that there would be no confusion as to the status of the highway commissioner.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, let's face the real issue here: what we are attempting to avoid or prevent is political road building — road building, roads constructed for political purposes, for the purpose of attracting votes. Now we faced the somewhat comparable situation on first reading and we'll face it again in the same provision. In an attempt to avoid political considerations in state employment, we provided for a civil service commission. This was to get away from political hiring and firing of employees. Just for fun, check Committee Proposal 22. The language reads exactly the same as this proposal does. It appears that some of the proponents of this amendment, under the civil service provision, would avoid politics but under the same language here, they would not do so. I find it awfully hard to reconcile those 2 views.

I'd just like to add that there is probably no county in Michigan that would agree to elect its highway commissioner. Every county has adopted a commission type of management with a hired superintendent or manager. All this attempts to do is put the state on exactly the same basis that the county is now.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I'd just like to ask Delegate Martin a question. I believe Delegate Martin stated that by having a highway commission you could get the broadest selection and range of people. If that's the case, then why don't we have a commission to select the secretary of state, the attorney general, the governor, the legislators and all of them?

PRESIDENT NISBET: Mr. Martin, do you care to answer?

MR. MARTIN: That would be one way to do it. The preferable way is to have the governor appoint. We do have these heads of departments selected in many cases by boards and commissions, and that works reasonably well where you need a policy board, as you do in this case.

MR. MARSHALL: I'm not going to say anything else, but I heard some remarks and Delegate Habermehl made the statement about a highway commissioner playing politics with roads. I only have this to say: that the present highway commissioner — in defense of him, because there has been an attack upon the present highway commissioner on this floor today — has built roads starting somewhere and going somewhere and not in bits and snatches. If there are any politics being played, I submit that there are delegates in this convention that are playing politics with this question today.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President and delegates, one of the first rules of good administration is to pinpoint responsibility. This hybrid commission that is proposed is the best way to dilute responsibility and pass the buck. Hybrid corn cannot reproduce itself very readily, and if it does, it degenerates. That is just pure corn.

PRESIDENT NISBET: Mr. Wood.

MR. WOOD: Mr. President and fellow delegates, we've heard a lot here about the fact that the appointing of a 4 man highway commission would take the highway department out of politics. I'd like to suggest to you that that's just so much hogwash. And then we heard the statement that a highway commissioner should have the ability to build highways and not the ability to get votes. Well, you might apply that to all the state officers, from the governor down.

Then the other statement that was made was that anybody could build highways given the necessary funds, and it was intimated that the highway department in Michigan had all kinds of funds. If you travel the state as much as I do, you'd know there are plenty of highway needs that aren't being met yet in Michigan due to lack of funds. I'd like to urge all of you to vote for this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded on this amendment. The question is on the amendment offered by Mr. Wood and others. The secretary will read the amendment.

SECRETARY CHASE: The amendment offered by Mr. Wood and others is:

[The amendment was again read by the secretary. For text, see above, page 2747.]

PRESIDENT NISBET: Those in favor of this amendment will vote aye. Those opposed will vote nay.

MR. GUST: Mr. President, I'd like to note for the record that I am going to abstain from voting on this.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Wood and others. Those in favor of that amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

Mr. Marshall.

MR. MARSHALL: I'll wait until you tally the vote. I want to raise a parliamentary inquiry.

The roll was called and the delegates voted as follows:

Yeas—53

Allen
Austin
Baginski
Balcer
Barthwell
Binkowski
Boothby
Bradley
Buback
Cushman, Mrs.
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hoxie
Jones
Kelsey
Kirk, S.
Kuhn
Leibrand
Lesinski
Mahinske
Marshall
McAllister
Murphy
Norris
Ostrow
Perlich
Perras
Pollock
Prettie
Radka
Richards, L. W.
Sablich
Shanahan
Snyder
Stafseth
Stamm
Suzore
Walker
Wilkowski
Wood
Yeager
Young

Nays—69

Andrus, Miss
Anspach
Gover
Habermehl
Pugsley
Rajkovich

Batchelor
Beaman
Bentley
Bledsoe
Bonisteel
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel

Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Lawrence
Leppien
Martin
McLogan
Millard
Mosier
Nisbet
Page
Plank
Powell

Richards, J. B.
Romney
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Staiger
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden

SECRETARY CHASE: On the amendment offered by Mr. Wood and others, the yeas are 53; the nays are 69.

PRESIDENT NISBET: The amendment is not adopted. Mr. Marshall.

MR. MARSHALL: Mr. President, I would like to ask of the Chair if any consideration was given to the question that I raised yesterday dealing with the interpretation of rule 58, where, on second reading, we are going contrary to the process in the legislature where we pass some of this garbage and pass it on to third reading by a simple majority of those voting. Then when we come to third reading we will have to have 73 votes in order to remove it. I think it is unfair and I asked for a ruling yesterday and asked that it be given consideration.

It seems to me that rule 58 says that no section "shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same." And I submit that if we are to continue to pass items on second reading by a simple majority of those voting, then when we come to third reading and it takes 73 to remove it, then we are not complying, I don't believe, with rule 58, and I would like an answer to this.

PRESIDENT NISBET: Mr. Chase will explain it.

SECRETARY CHASE: On the adoption of this last amendment the yeas were 53; the nays were 69. The secretary would suggest that if the vote had been reversed and the yeas had been 69 and the nays 53, the amendment would have been adopted.

MR. MARSHALL: I realize that, Mr. Secretary, but the question that I raise — and I raised it yesterday — is this: we are trying a lot of what I refer to as — we're picking up some cats and dogs along the way and we're throwing them into some good proposals and we are being compelled to vote on them and pass them on second reading by a simple majority of those voting. If we only had 75 delegates in the convention you could pass it by a majority of those 75 voting and it would go on to third reading. And when we come to third reading it will require, as I understand your ruling, 73 votes then in order to remove it. This is the thing that is troubling me and I think it is troubling a good many of the other delegates. Now, how did you arrive at that, if I may ask this question, when the rule says:

> On the passage of every proposal, section, article and any complete revision of or amendment to the constitution, the vote shall be taken by yeas and nays, and entered on the journal, and no proposal, section, article or any such amendment or complete revision shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same.

MR. IVERSON: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Iverson.

MR. IVERSON: This amendment lost. I don't know what the argument is about. Let's get on with the business.

MR. MARSHALL: Delegate Iverson, for your benefit I will explain. I asked yesterday if the Chair would take into consideration an inquiry that I made on this particular rule and I was asking as a point of inquiry had the Chair done this, and if so, what the decision was. I think that you have to realize, Mr. Iverson, that when we pass something on second reading with a simple majority and then it becomes a part of the proposal and declared passed, you can't get it off on third reading by a simple majority.

MR. IVERSON: Mr. President, I submit this matter was passed on yesterday. We're just wasting time.

PRESIDENT NISBET: Mr. Marshall, the matter was discussed again and we came up with the same opinion that we did before which was printed in the journal of yesterday. The Chair knows of nothing else to say now. Mr. Chase.

SECRETARY CHASE: I wonder if Mr. Marshall realizes that on the vote on the adoption of an amendment to a proposal on second reading and on third reading, a majority of those voting on the amendment in either case will adopt it —

MR. MARSHALL: Yes, sir.

SECRETARY CHASE: — but the vote on the final passage of the proposal on either second or third reading takes 73 votes.

MR. MARSHALL: On the proposal itself it takes 73 votes?

SECRETARY CHASE: That's right.

PRESIDENT NISBET: The secretary will read the next amendment. Mr. Mahinske.

MR. MAHINSKE: Mr. President, I also have a similar inquiry here. You have noted that your interpretation of rule 58 is the same as it was before, but I offered a question yesterday with reference to section 4 of article XVII of the existing constitution for interpretation from the Chair. Have you decided on any interpretation as to this language, which is almost identical, or is this still in abeyance?

PRESIDENT NISBET: We have not, Mr. Mahinske.

MR. MAHINSKE: Thank you.

PRESIDENT NISBET: The secretary will read the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment to Committee Proposal 71:

1. Amend page 2, line 25, [section b, paragraph 4] after "disapproved in" by striking out "both houses by a resolution concurred in by a majority of the members elected to and serving in each house" and inserting "either house by a resolution concurred in by a majority of the members elected to and serving in that house"; so the language would then read:

> Unless disapproved in either house by a resolution concurred in by a majority of the members elected to and serving in that house, these orders shall become effective at a date thereafter to be designated by the governor.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the effect of this amendment would be to permit either house of the legislature to veto the reorganization plans of the governor in line with the provisions in the congressional practice, where either house may have the same power with regard to the reorganization plans of the president. I feel that the convention went too far when it requires the legislature, both houses concurring by the same majority that it takes to pass laws, to exercise the veto power.

I think we're going a long way when we would provide that the governor can, in effect, make these laws and leave to either the house or the senate the veto power. This amendment would put us in line with the congressional practice and let either house exercise the veto power. But it would require a constitutional majority, not a simple majority but an absolute majority of the members elected and serving in either house.

PRESIDENT NISBET: Mr. Hatch.

MR. HATCH: Mr. President, I rise in support of Mr. Hutchinson's amendment. This amendment will give constitutional status to the present statute which authorizes executive reorganization. I think you will recall that in committee of the whole a minority of the executive branch committee, Mr. Bentley and several others, expressed their dissatisfication with requiring both houses to disapprove any reorganization plan. To me it just doesn't make sense to require disapproval of both houses in a reorganization plan when, in order to provide funds and appropriate for any agency that might be created under a reorganization plan, both houses must concur in the appropriation. I urge the convention to support this amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this is precisely the same provision which was considered in committee of the whole, and it was fully debated there. The reasons pro and con were given. This would make it possible for one house to turn down a reorganization plan, and that is relatively easy to obtain. So it would mean, in effect, that very few reorganization plans would ever go through. This is the situation as it now is. Practically no reorganization plans have gone through and the specific reason for that is just that it's too easy to turn them down. We feel that if you're going to have a provision for executive reorganization, there ought to be some reasonable chance for survival of such plans. That's why the committee took the position that it did and why we hope that you will vote against this amendment and for the committee proposal.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, as Mr. Martin, the chairman of the committee, has said, this was thoroughly discussed once before in committee of the whole and defeated. I think Mr. Hutchinson approaches this as he seems to approach a good many other matters: from the point of view of his legislative experience. We're not now legislators; we're convention delegates. We have to look at this from the point of view of the operation of the whole state government of Michigan. Experience shows that the system that Mr. Hutchinson has proposed does not work in Michigan. We've had just brief experience with it, but it does not work.

So far as the Washington experience is concerned, congress, too, has been very jealous of its powers and it's whittled away and whittled away at the reorganization law until now it's extremely difficult for the president to get through necessary reorganizations. I think what is true in Washington is even more true at the state level. And as I say, I think it pretty much depends on whether you think that reorganization matters can best be proposed by the governor or whether you have to wait for the legislature to do it. I hope you don't believe the latter, because the whole experience of administrative reorganization demonstrates very clearly that it's the negligence, the lack of action on the part of the legislature, and finally the veto by the legislature which has kept Michigan in the administrative mess it is now in. This was a key provision put in by the committee after careful deliberation and it was supported by the committee of the whole. I hope you will not accept the amendment.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Very briefly, as a member of the committee, I agree with the remarks made by the committee chairman and I urge the defeat of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Hutchinson. Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. Hutchinson's amendment:

[The amendment was again read by the secretary. For text, see above, page 2753.]

PRESIDENT NISBET: Those in favor of the Hutchinson amendment will say aye; opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Messrs. Wood, Faxon and Erickson offer the following amendment:

1. Amend page 3, line 4, [section b, paragraph 5] after "treasurer" by inserting a comma and "a highway commissioner".

MR. WOOD: Mr. President.

PRESIDENT NISBET: Mr. Wood.

MR. WOOD: We'll withdraw that amendment at this time.

PRESIDENT NISBET: Without objection, the amendment is withdrawn.

SECRETARY CHASE: Messrs. Wood, Faxon and Erickson offer the following amendment:

1. Amend page 1, line 12, [section a, paragraph 3] after "secretary of state" by inserting a comma and "highway commissioner".

PRESIDENT NISBET: Mr. Wood.

MR. WOOD: I don't know where we got 2 of them. We'll withdraw both of them.

PRESIDENT NISBET: Without objection, the amendment is withdrawn. Any further amendments?

SECRETARY CHASE: That's the last of the amendments on the desk, Mr. President.

PRESIDENT NISBET: If not, the question is on the adoption of Committee Proposal 71, with the exclusion of section i. Those in favor of the adoption of Committee Proposal 71 will vote aye. Those opposed will vote nay. Mr. Downs.

MR. DOWNS: I wish to urge a no vote on 71. This proposal, with advice and consent, does not strengthen the hand of the governor.

PRESIDENT NISBET: Mr. Downs, the vote has been called. I'm sorry.

MR. MARSHALL: Point of inquiry. We are voting on the entire Committee Proposal 71 now?

PRESIDENT NISBET: Except for section i, which has become 71A, Mr. Marshall.

MR. MARSHALL: We are voting on the entire article. Does it take 73 votes to pass it?

PRESIDENT NISBET: That is correct.

MR. MARSHALL: Thank you.

PRESIDENT NISBET: The question is on Committee Proposal 71, excluding section i. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 79

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Bonisteel
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Iverson
Judd, Mrs.
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Mosier
Nisbet
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden

Nays — 44

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Boothby
Bradley
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Ford
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Jones
Lesinski
Mahinske
Norris
Ostrow
Perlich
Perras
Sablich
Shanahan
Snyder
Stafseth
Suzore
Walker
Wilkowski
Wood

Faxon
Finch
Follo
Marshall
McAllister
Murphy
Yeager
Young

SECRETARY CHASE: On the passage of Committee Proposal 71, the yeas are 79; the nays are 44.

PRESIDENT NISBET: **Committee Proposal 71 is passed.**

Following is explanation of vote submitted by Mr. Hubbs:

I have chosen to vote no on Committee Proposal 71 in order to express my disapproval of the convention's attitude toward nomination of the governor in party conventions. I do not feel that the convention gave sufficient attention to this point of view of the serious problems of candidate expense and taxpayer expense caused by the statewide primary election system. The strengthening of political parties and the wider choice of candidates that would result is a benefit to the people of this state that should have been given more careful consideration.

Following is explanation of vote submitted by Delegates Marshall, Jones, Young, Daisy Elliott, Buback, Barthwell, Austin, Douglas and Hart:

We voted no on Committee Proposal 71.

This proposal reduces the voter's right to elect his governmental officials. It also weakens the responsibility and authority of the governor.

The present system of electing a highway commissioner that has proven so successful in building roads for Michigan's citizens, is replaced with a hydraheaded monster, consisting of 4 commissioners selected by advice and consent of the senate. This system does not have the advantage of letting the people elect their highway commissioner, nor even the alleged advantage of having the governor appoint the highway commissioner direct. It dilutes responsibility and authority so that nobody is responsible when roads are not built, and the citizens have no place to turn when they feel the highway program is not run properly.

The present system of electing state ad board members is replaced with one that permits the governor to appoint the state treasurer, but this power for the governor is destroyed by requiring the advice and consent of a senate that does not represent people equally.

The governor's power to appoint heads of departments is vitiated by the requirement that these appointees receive advice and consent of the senate. A "sudden death" provision is established which requires the senate to accept or reject the appointee within 60 legislative days. The senate that does not represent people is then compelled to pass judgment upon the governor's appointees and thereby weakens his power.

This provision is not an improvement on the 1908 constitution, but is a definite step backwards because it weakens government. We have come to this convention hoping that we would strengthen the people's right to participate in government, and its responsible, executive branch. Instead, this proposal weakens the executive and weakens the people's voice in government. We, therefore, voted no on this proposal.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 71 (excluding section i) as rereferred to the committee on style and drafting, see above, page 2743.

We will now take up Committee Proposal 71A and Mr. Chase will read.

SECRETARY CHASE: **Committee Proposal 71A,** A proposal to provide for a civil rights commission.

Following is Committee Proposal 71A (section i of Committee Proposal 71) as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see section i of Committee Proposal 71 above, page 2211):

Sec. a. There is hereby ESTABLISHED [created] a civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms not more than 2 of which shall expire in the same year. It shall be the duty of the commission[,] in a manner which may be prescribed by law[,] to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have [such] other powers [as may be] provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this is almost exactly the proposal which left the committee of the whole with a change of one or two words which are not changes in substance. So the committee recommends the adoption of this proposal in its present form.

PRESIDENT NISBET: There are 7 amendments. The secretary will read.

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend page 1, line 7, [paragraph 1] after "year.", by striking out the balance of the line, all of lines 8 through 11 and through "discrimination.", in line 12, and inserting "It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person's enjoyment of civil rights guaranteed by this constitution or by law because of race, religion, color or national origin; to investigate alleged denials of such civil rights; and to secure the equal protection of the law so as to prevent denial of the enjoyment of civil rights and discrimination in the exercise of such rights.".

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, the intent of my amendment is to make a more clear parallel between this language and the language of Committee Proposal 26, which is the declaration of rights section governing civil and political rights and providing for the equal protection of the laws. There were some changes and this actually is one of the versions that the committee on style and drafting did consider. It is the version that I thought was the best because it was most clearly parallel to Committee Proposal 26. It would seem to me that it was important to mention, for example, not only this discrimination but also the possibility of a denial of the enjoyment of civil and political rights, and I, therefore, put that in. Now, there is, of course, one distinction here and we mention in 26, "race, religion, sex or national origin." In here we've got "race, religion, color or national origin." I am quite happy, as a result of the study I have been doing and the help I've been getting from various people, to leave "sex" to one side. I think that whereas there is some discrimination, that it is far better handled on the basis of statute than it is in the constitution because of many other problems that you'd raise. And for that reason I kept to

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

the wording of "race, religion, color or national origin." Other than that, the language is very parallel. I think it is a clearer explanation of it and a crisper wording and I like it for that reason.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the committee has looked over this language. Not all the committee has looked over it, but it was sent to us by style and drafting originally and we conferred with style and drafting and they have indicated a willingness to go back to the original language. We think that the original language is more concise and more clear, and that it includes everything which is in the language that Mrs. Cushman has suggested. For that reason we prefer the original language and we hope you will vote against the amendment.

PRESIDENT NISBET: The question is on the amendment of Mrs. Cushman. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Norris and Garvin offer the following amendment:

1. Amend page 1, line 18, [paragraph 2] after "issue" by inserting a comma and "and request court enforcement of,"; so the language will then read:

> The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue, and request court enforcement of, appropriate orders.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I respectfully ask support for this amendment. I think it has utility in the format which has been presented by the committee. There is a recitation here of a number of powers on the part of the commission but there appears to be lacking a recitation of the most important power, namely, to go to court to secure official enforcement of an appropriate order. The word "request" is used. It does not necessarily follow that for the mere asking, the order would be granted. There has to be a showing before the court that it is a valid order in terms of the jurisdiction and respect for rights of the parties involved. There is an anomaly here. On the one hand the commission is prevented, or at least it isn't articulated that it may go to court to support an order, but a respondent, according to the last sentence, may go to court and prevent the commission from proceeding. It seems to me that the juxtaposition of these 2 ideas can have the net effect of diluting, if not seriously impairing the very function which this convention wished to entrust to this commission.

You have a recitation and it does mean there could be investigation, the making of findings, the engaging of conciliation and mediation and then, if necessary, the commission does issue the appropriate order to the respondent. But if it is known in advance that it is not possible for the commission to go to court to enforce this order, then it seems to me a great deal is lost in the idea of creating this commission. The whole theory behind it, from the time that we first dealt with this matter on the floor was to make this a self executing provision, that is, so that it would stand on its own feet and be a going concern as established by this convention, with the minimum amount of addition of supplementary legislation from the legislature.

It seems to me this is a very important addition and entirely germane and in harmony with the committee proposal. I did discuss it with the committee chairman and other people. However, to date I do not find this language in. I do think that it is totally in keeping and in harmony with the intent of the convention and the intent of the committee and I respectfully urge that this wording be included, though I do want the record to show that, in my judgment, it does not necessarily mean that the omission of this power would forever preclude the commission from going to court even under the provisions of the commission here. I think that that ought to be on the record, and I do hope that the committee chairman would make that clear, that it does not, by this omission, intend to exclude the authority to go to court and make the appropriate request. But it does seem to me, after giving the commission the power to promulgate rules, to administer oaths, to, by court authorization, require the attendance of witnesses, submission of records and to take testimony, that the consummation of the entire administrative process is to issue an order if necessary. Now, I think I ought to say, too, that by your passage the other day of Committee Proposal 95, where you state that every order or rule of the commission has to be supported by competent, material and substantial evidence, there is indeed a very adequate protection for the respondent here.

I therefore, for these reasons, Mr. President, hope that the committee would, on its own, recognize the need for this language and if that does not prove to be the case, I respectfully urge the wholehearted support of the convention for the amendment, and I respectfully request the yeas and nays on this matter.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I make the point of order that the precise amendment was offered on April 5, was voted on, the yeas and nays were taken, the amendment was defeated at that time. It is therefore not in order at this time.

PRESIDENT NISBET: Your point of order is well taken. The amendment is not in order.

MR. NORRIS: Mr. President.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: With regard to that matter, sir, I recall that there was colloquy between myself and Mr. Van Dusen on this proposition. I thought the general way in which it was left was that there would be consideration of this particular matter by the committee and that the matter would then come up on second reading. Therefore, this matter has been offered. I do respectfully disagree with the ruling of the Chair. I think there ought to be a final disposition of this particular matter by this convention in deliberative session, sir.

PRESIDENT NISBET: A point of order has been made, Mr. Norris. This amendment is out of order. The secretary will read the next amendment.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: May I say on this, because there was a discussion to the effect somewhat along the lines that Mr. Norris mentions as to possible further consideration, we gave some further consideration to the matter and our feeling was that it was not necessary to include this language because it was quite clear from the fact that when court authorization was required for the attendance of witnesses, the submitting of records, and so on, that it was also a part of the procedure that if an order were entered, it would have to be subject to court enforcement if it were to be enforced. And therefore, we felt that this language was unnecessary and need not be added.

PRESIDENT NISBET: The point of order is well taken. It is in the journal. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Norris, Garvin and Ford offer the following amendment:

1. Amend page 1, line 20, [paragraph 2] after "purposes.", by striking out the balance of the section.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I rise to support the amendment. I think there may be an intent on the part of this language to protect the rights of a respondent, that is, a party against whom a complaint may be made, and to accord to this respondent the right to seek an injunction at any stage prior to the issuance of an order by such a commission.

Now, the whole theory behind a commission is that it has within it the expertise to deal with particular problems in order to remedy a certain condition, and we have developed, in connection with administrative tribunals and commissions, the doctrine of exhaustion of one's administrative remedies.

And it may be that this particular provision is inconsistent with that doctrine. It may be also that it is unnecessary. But I submit that in its present form, and coming at the end of this particular formulation, it has a distinct possibility of substantially impairing the very mission and purpose of a civil rights commission. There isn't, if you will, any statement here that the commission is vested with exclusive jurisdiction over these matters. If there were, it seems to me then there might be some ground for recognizing that some problems would exist with this last sentence. But it leaves that open. That is, this commission doesn't have exclusive jurisdiction, necessarily. It goes through with its processes, but it permits, by this language, a door being open to any respondent to come in and challenge the action of the commission.

I submit that this could be done even without this provision. It could be challenged on the basis of no jurisdiction or it could be challenged on the basis that due process was not being accorded to the parties. But it has here an inconsistent philosophy, namely, that you are saying to someone who is going to be part of the jurisdiction of this commission that you can go and bring this matter to court prior to your exhaustion of administrative remedies. This is inconsistent with any sound philosophy of administrative tribunal. It doesn't permit the exhaustion of all the investigation and the making of findings, the conciliation, mediation and education that we foresee with such a commission. And I think that it has the distinct possibility of not only harm but dissipation of the function of this commission. I submit, Mr. President, that the convention ought to support the amendment before us in order that it may carry out its will with regard to the establishment of a self executing civil rights commission.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, this sentence has been carefully considered and it is our view that it does not do any of the things which Mr. Norris seems to fear. It does provide an alternative remedy. If the plaintiff is involved he can pursue his action in court if he wants to, or he can pursue it through the commission. If the respondent is involved as a defendant, he does have the right under this, of course, to go into a court to prevent any action which involves lack of due process or which violated his rights in any way. We feel that he would have this in any event, but we feel that it does no harm to make it clear that he does have such a right. Other than that, we do not feel that it in any way vitiates the general provisions of this section. We therefore are opposed to the amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Norris. Mr. Garvin.

MR. NORRIS: Mr. President, can we have the yeas and nays?

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand seconded? Sufficient number up. Mr. Garvin.

MR. GARVIN: Mr. President, through the Chair, I would like to ask Mr. Martin a question, please.

PRESIDENT NISBET: If Mr. Martin cares to answer.

MR. GARVIN: Mr. Martin, would you please tell the delegation here why the civil rights commission is treated differently than other commissions, as in Committee Proposal 95?

MR. MARTIN: I don't know that there is any special reason for that, Mr. Garvin. This was one of the amendments offered to the proposal as we went along here in committee of the whole and was adopted by the convention. I don't think there is a special reason for any difference of treatment. But, as I said previously, we don't feel that this does serious harm or in any way vitiates the general purpose and purport of the section.

MR. GARVIN: You do recognize that Committee Proposal 95 does take care of all commissions in the state of Michigan, do you not?

MR. MARTIN: I don't have Committee Proposal 95 here in front of me.

MR. GARVIN: That is the committee proposal from the judiciary with reference to administrative tribunals and it excepted none. In other words, it included all commissions at that time. There was one exception made the night before last, that's all.

If there is no reason, Mr. Martin — you are chairman of the committee — would you have any objection to the deletion of that sentence?

MR. MARTIN: I say, Mr. Garvin, we did not feel that it was harmful, and therefore, we felt that there was no necessity for removing it. The general provisions of Committee Proposal 95, of course, would seem to apply to this as well as to any other administrative tribunal. However, this is just off the cuff. I'm just looking at it here. I see no reason why 95 doesn't apply to this as well as to other administrative tribunals.

MR. GARVIN: Thank you, Mr. Martin. Delegates, this was up in the earlier part of April. I am not going over the same thing that I did before. But it is very obvious from the statement of the chairman that in his opinion, which I suppose is the committee's opinion, this is in here for no reason at all. I submit that if that is true, why put it in here at all? Why not let it go under the Committee Proposal 95? There is no need to give any special treatment to this commission that is not given to others because I do not believe it is a special commission. It is another commission, the civil rights commission. Now, the language that is to be stricken, "Nothing contained in this section shall be construed . . ." as you can see on the board — all it does is add something to a provision that we already have in Committee Proposal 95.

One of the delegates stated, I believe, on the floor the last time that one of the purposes of this was to water down the civil rights commission because that delegate didn't think that there ought to be any civil rights commission at all. I submit, if you don't think there ought to be a civil rights commission at all, don't go through the back door to do it. It's kind of — well, I won't say cowardly — but certainly delegates should face issues squarely and say what they mean. And each time that you are voting — every person who voted last time — after an explanation of what this sentence meant, that there was no civil rights commission actually, every person that did it and didn't state exactly why, and voted for it, indicated that they also were in the same frame of mind of the other delegates who said they didn't want any civil rights commission at all. However, I do believe that you do want a civil rights commission. And I submit that you won't have one under this last sentence that we seek to strike.

I also question whether you realize that persons are not so ignorant nowadays in this twentieth century, particularly in the '60s, that they cannot read this right away and determine that this convention did not adopt a civil rights section in the executive branch that was any good whatsoever, providing anyone wanted to evade the commission. Under this section, either party will not have the services of the commission in investigation and in the other things that they might do in order to facilitate carrying out the purposes of this committee proposal. In addition to that, we will have a situation of 8 persons that will be doing nothing at all for a long period of time; and further, I submit to you that the people that are generally pressed by a denial of civil rights are generally the people who have no funds whatsoever to employ counsel. Under this section, they must employ counsel if one of the parties, the party that the grievance is against, wants to go directly to court. This party will have no one to investigate the matter at all.

One of the most important things about this going directly to court without going through the commission — since FEPC has been established, it's a good example — I don't believe there's been but one case in court. You say, every time someone mentions something about civil rights, and I dare say many of you have the same opinion here on this, you say this is a matter of education, this is a matter of letting people see. Let's educate the people and go at it gradually. And by this very last line you are denying the education of people by the civil rights commission. So I can't understand it. I can't follow any logic like that, a person talking out of one side of his mouth and saying education is necessary, and then denying it in this last sentence. I say that the entire sentence, for the benefit of this constitution and for the benefit of the public and the education of the public, should be stricken.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: If my memory serves me, this is the third time I have defended this sentence or something similar thereto. Mr. Garvin naturally did not ask this question of me because he knew what my answer would be. The difference between this commission and all other commissions is this is the only constitutionally created one. He is well aware of that fact. As a member of the bar of many years practice, he, I am sure, is aware of the difference between a statutorily and a constitutionally created commission. Leaving aside whether it's the job of this constitution to create any kind of a commission, whether this is a job of the legislature or the job of the constitution, but assuming for the moment that it is the job of the constitution, the next query is: can the legislature derogate from the grant of the commission spelled out in the constitution? In my opinion, it cannot. It may enlarge, but it may not take away. To say that you can leave the rest of this to the legislature — having gone this far, you cannot in my opinion as a member of the bar — I defy anybody to prove me wrong on that point of law. Many people have sidestepped this point of law but nobody has hit that issue, in my opinion, yet. They have sidestepped it. This is an instance where we are setting something up in the constitution. This is not a legislative commission. To go back under 95, we have done, in my opinion, an erroneous thing. In 95 we put in an administrative agency thing, one administrative agency. We have spelled that out in the constitution. This, to me, is also improper and we should make up our minds sometime along here whether we are the legislature or whether we are the constitutional convention. Where we're going to put something in the constitution, you've got to be sure it's broad enough to protect all and it will not derogate downward. The legislature cannot substract this, in my opinion.

Therefore, in order to preserve the civil rights of any citizen to go to the courts of this state for their direct and immediate remedy, there is only one place we can do it, and that's here. And I believe that all the citizens should be protected in this right more than almost any other right we've ever gotten and ever had in our whole life. I submit that the only place that any rights have ever been protected have been in the courts of this land, and when you start saying the courts of the land may not act, then I am wondering what direction you really want to go, and do you really believe in the democracy and freedom of people or do you want a complete police state? Therefore, I am highly opposed to this amendment and suggest that it is being attacked in a rather dubious method.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Do you have any further speakers, Mr. President?

PRESIDENT NISBET: Yes.

MR. VAN DUSEN: I would move that further debate on this amendment be limited to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Austin.

MR. AUSTIN: Mr. President and members of the convention, I will be very brief because Miss Donnelly and I are cosponsors on another amendment to another proposal and I have no desire to antagonize her at this point. (laughter) However, I would like to support this amendment to have this last sentence stricken from section i because, as has been explained by the chairman of the committee, this sentence does not necessarily serve an important purpose and I think that Mr. Norris has very eloquently described some of the problems that may arise because of its inclusion. Very briefly, I would suggest that we delete this sentence and I therefore support the amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I think everything has been said on this that needs to be said, but I don't want to leave Mr. Garvin's statement on the record that this creates a commission which is no commission. This is simply not true and it's not fair or right of him to make such a statement to this convention, because this creates the strongest civil rights commission in constitutional language in the entire United States. And for him to stand up here and tell you that you are not doing anything of any consequence, is simply a failure to state the full story. This is a very, very important proposal. It is made in good faith, it is an attempt to do what we think ought to be done in this field and do it effectively with a self executing provision, and I don't want the record to end with a statement that this doesn't accomplish anything. It accomplishes a great deal and I'm sure Mr. Garvin's people will all realize that that is a fact.

PRESIDENT NISBET: Mr. Garvin.

MR. GARVIN: Mr. Martin, it just happens everyone here is some of my people.

But anyway — number one, Mr. Martin, I have reason to believe that you didn't quite understand me correctly. The reason that I believe that you didn't is because you admitted that the last sentence had no effect whatsoever. And as chairman of the committee, if you honestly believe that sentence has no effect whatsoever, I don't see how it got out of your committee.

To Miss Donnelly: you mention you believe that people didn't have the right to go to court, and I pointed out that in Committee Proposal 95, all of them had the right to go to court, everybody does on each type of situation. Don't be misled.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay.

MR. FORD: Mr. President. I'm sorry, but I was seeking recognition over here.

PRESIDENT NISBET: I'm sorry. Mr. Ford.

MR. FORD: Mr. Martin has made the statement that as an attorney he has looked this over and he doesn't believe that it has any effect at all. Now, I can only suggest that either Mr. Martin did not look at it very closely or he is trying to pass very quickly over this. I am not going to get into the kind of argument that Mr. Garvin did on whether this vitiates the effect of the commission. But there is no question, and there shouldn't be in the mind of any lawyer in this convention that we are making it impossible for the legislature to provide a system of procedure that would require certain matters to be taken before the commission before they were taken into the court. And that's what the effect of Miss Donnelly's language is. I know that this is the effect and I believe that this is what she intends, because I worked with her trying to perfect this, and you may remember that we passed over this matter once before, trying to clean up this language.

Now, when we were cooperating with her, I thought we were trying to say that nothing in this section should be in derogation of the person's rights otherwise provided by the law. But what we are really saying here, and the effect of this last sentence is, when it says "Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable" relief, we are forestalling the legislature from saying that certain types of cases must be followed in a certain procedural pattern before you go to the court.

PRESIDENT NISBET: Time has expired, Mr. Ford. The question is on the amendment. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—37

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Cushman, Mrs.
Douglas
Downs

Follo
Ford
Garvin
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Krolikowski

McCauley
Murphy
Norris
Ostrow
Perlich
Sablich
Snyder
Suzore
Walker
Wilkowski

Durst
Elliott, Mrs. Daisy
Faxon
Lesinski
Marshall
Young
Youngblood

Nays—77

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Donnelly, Miss
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Haskill
Hatch
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Messrs. Norris, Garvin and Ford, the yeas are 37; the nays are 77.

PRESIDENT NISBET: The amendment is not adopted. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I am advised that there are 2 more amendments pending to this section and I would move to limit debate on each of those to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garvin, Hood, Ford and Mrs. Daisy Elliott offer the following amendment:

1. Amend page 1, line 21, [paragraph 2] after "shall" by striking out the balance of the section and inserting "prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state."; so the language will then read:

> Nothing contained in this section shall prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: This amendment leaves most of the sentence and the general purpose of this line. However, as Miss Donnelly stated, this was legislative, so this sentence has been placed therein. It does not prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state. It still leaves the permission, but the legislature can change, in effect, what that is now or do anything they want to in reference to that particular line — it is really that simple — by putting some power in the legislature rather than freezing all of this into the constitution. Now, that's the general purpose.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I'd like to ask Mr. Garvin a question.

PRESIDENT NISBET: If he cares to answer.

MR. HIGGS: Isn't it true, Mr. Garvin, that under the proposal as it is now written and under the existing law with regard —

MR. GARVIN: I can't hear you, Mr. Higgs.

MR. HIGGS: Isn't it true, Mr. Garvin, that under the law as it is now written with regard to the administrative procedures act and the general laws governing administrative agencies, that a party would not now have such a right?

MR. GARVIN: You are speaking of Committee Proposal 95.

MR. HIGGS: No, I'm not. I'm speaking of the general laws regarding administrative agencies, and the administrative procedures act. Isn't it true that the review there must be upon the whole record? It's confined to the record, is it not?

MR. GARVIN: Confined to the record, yes.

MR. HIGGS: In other words, under our law as it is now written, the legislature has not made any provision for such a remedy as you wish to prohibit.

MR. GARVIN: No. This isn't designed to prohibit. This is designed — if you read it, "Nothing contained in this section shall prohibit the legislature", and so forth. That's the way the secretary read it. "Nothing contained in this section shall prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state."

MR. HIGGS: Mr. Garvin, I believe that I read this incorrectly. I apologize.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly.

MISS DONNELLY: I oppose this language because this is attempting to do indirectly, and improperly, in my opinion, that which is most important to preserve. That is, not that the legislature may enact this but that it shall never go the other way. We are spelling out, again, in the constitution a commission. It is most important, in the face of this, the degree to which we're spelling it out. I think if you're going to talk about it, you should spell it out. Then I think this sentence is going to negate the effect of the sentence we just defeated. It says that "the legislature shall . . . ." There is nothing to prohibit them from enacting it, but if they don't get around to enacting it, it will not be done. The point is that they cannot change it under the committee proposal; they cannot touch this issue. You may go directly, immediately to court. You do not have to exhaust yourself through an administrative agency. Too many people are exhausted through administrative agencies.

For all the reasons that we have turned this down from one direction to another is another reason why we should turn this down again. It is very important and vital that the constitution, on its face, preserve civil rights to individuals to have their matter tried immediately and directly in court, not to wait for the legislature to get around to doing it. I therefore strongly oppose this amendment for many of the same grounds as the other, and specifically for this reason.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, our objections to this amendment are the same as those to the other amendment. We think that the sentence preserves a right which does no harm to the balance of the proposal, and for that reason we oppose the amendment.

PRESIDENT NISBET: The question is on the amendment. Those in favor of the amendment will say aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mr. Austin offers the following amendment:

1. Amend page 1, line 22, [paragraph 2] after "state" by changing the period to a comma and inserting "unless otherwise provided by law."; so the language will read:

> Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state, unless otherwise provided by law.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, ladies and gentlemen of the convention, I don't believe this amendment will make Miss Donnelly angry. Therefore, I think I can speak on it. It has been indicated that this sentence could cause trouble. If we assume for the moment that we don't know whether it will cause trouble, then let's not run any unnecessary risks. If we find it necessary to write it into the constitution, let us at least leave the door open for the legislature to make a change if it should discover later that it does cause serious problems. If it should happen to obstruct the work of the commission, certainly something ought to be done about it. Adding this sentence does not in any way diminish whatever effort Miss Donnelly exerted, but it does provide for some relief, should it be found to be unworkable. I therefore strongly urge that this amendment be adopted.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President and members of the convention, the proposed amendment would, of course, take the heart right out of what was attempted in this provision. It would allow the legislature to do away with the rights of the people. They could by one act, a stroke of the pen, so to speak, take away everything that we have tried to preserve for the people. I urge you to vote against this amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the same objections apply. This makes it a matter of legislative discretion and it seems to us unwise in view of the fact that the balance of the provision is constitutional. For that reason we do oppose the amendment.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, may I address a question, through the Chair, to Mr. Lawrence? When you say that this vitiates what we attempt to do by this language, more succinctly, are you suggesting that what you attempt to accomplish by this language is to permit a respondent to go to court prior to the exhaustion of administrative remedies?

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. Norris, through the Chair, no, that isn't exactly the way it was. There was considerable debate when this was before the committee of the whole in which I participated. I thought I made it clear that the effort here was to preserve the legal and equitable rights that people had and not have them taken away by an autocratic, bureaucratic commission, and not to prevent people, regardless of which side they were on, from being able to use any legal or equitable remedies they have. And of course, this amendment would or could result in that happening.

MR. NORRIS: Mr. President, I respectfully disagree with Delegate Lawrence. I don't think it necessarily follows that the creation of a commission makes it autocratic or bureaucratic. It's a commission. And you are trying to create a commission which will have a remedial purpose, namely, to correct certain matters regarding discrimination. And I think that this particular question and answer — and I must say, counsel, the answer is evasive — that we still have before us this question. Would not Mr. Lawrence and Miss Donnelly be agreeable to an amendment which said what they say in that last amendment, and then add the words "after the exhaustion of administrative remedies?"

PRESIDENT NISBET: Miss Donnelly, would you care to answer?

MISS DONNELLY: I will certainly stipulate that you were not here the first time I argued this issue. Had you been here, you would know that I would not. The whole point is, I don't want a person to have to exhaust his administrative remedies. If they have a cause of action, I see no reason why they have to exhaust themselves through the administrative agencies. Ergo, I oppose that as well as I oppose this because this allows that to happen eventually. This last amendment is to weaken it and there is no question, in my opinion, that this last amendment, in effect, is almost worse than the first time. Therefore, I once again oppose it on the same grounds, particularly because I don't want persons to have to exhaust themselves.

The way it is set up now, there are 2 ways to go: directly and immediately to the courts of this state, or you may go through the administrative agencies. It's up to the individuals to elect which they wish to do. I think it is vital to allow people to have some rights left, and for this constitution to decide that everybody's rights have to go a certain way, I think, is, in effect, a denial of due process of their rights as we used to understand them.

PRESIDENT NISBET: Mr. Bradley.

MR. BRADLEY: Mr. President, fellow delegates, I've been sitting here listening to this debate, sure in my mind that this could not really be the intent of this language. It never occurred to me until the last few remarks that anybody here would seriously contend that an administrative law should be thrown aside in this brusk manner. If there is any principle of administrative law that I've ever learned, and I'm sure that anybody else who has ever dealt with administrative agencies has learned the same thing, it is that if one is permitted to take a case out of the hands of an administrative agency immediately after it assumes jurisdiction you might as well not have the administrative agency in the first place.

I most strongly urge the adoption of the language of the amendment on the wall. In fact, I've offered another one which will spell this proposition out in more definite and more concrete terms. This is not a case of exhausting the parties, as Delegate Donnelly suggests. As handy as that language may be, the exhaustion of administrative remedies is an entirely different concept. If an administrative body is set up in the first place to carry out a certain function and to imply a certain technique, then why do we not permit it to carry out this function? If upon the filing of a petition or a complaint with an administrative agency any party can immediately take the matter away from that agency and go directly to the courts, then we might as well not have it. I believe Mr. Garvin is absolutely right when he said the question now boils down to this: will we or will we not have a civil rights commission in this state?

PRESIDENT NISBET: The question is on the amendment offered by Mr. Austin. Mr. Austin.

MR. AUSTIN: Mr. President, I would like to demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Austin amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—40

Austin
Baginski
Balcer
Barthwell
Bentley
Binkowski
Bledsoe
Bradley
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Krolikowski
Lesinski
Marshall
McCauley
McGowan, Miss
Murphy
Norris
Ostrow
Perlich
Romney
Sablich
Snyder
Staiger
Suzore
Walker
Wilkowski
Young
Youngblood

Nays—81

Allen
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Van Dusen

Figy
Finch
Gadola
Goebel
Gover
Page
Perras
Plank
Pollock
Prettie
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Austin, the yeas are 40; the nays, 81.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Bradley and Norris offer the following amendment:

1. Amend page 1, line 22, [paragraph 2] after "state" by inserting "after exhaustion of all administrative remedies that may be provided by law"; so that the language will read:

> Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state after exhaustion of all administrative remedies that may be provided by law.

PRESIDENT NISBET: The Chair recognizes Mr. Bradley.

MR. BRADLEY: Mr. President and fellow delegates, the amendment on the wall says in more explicit language the things that were attempted by the last amendment. I just delivered my speech on that subject and there is little more that I can say to this point. I simply offer this amendment to make it perfectly plain that the vote on this proposition means that those who favor it favor the establishment of the principles of administrative law and those who do not favor this amendment are willing to completely emasculate this area of law as applies to the civil rights commission.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I earnestly support this amendment and urge that the convention do likewise. It is in keeping with the committee proposal. It is the whole theory of the self executory concept of this commission that it take jurisdiction, proceed to investigate complaint and go through the procedures of making the finding, seeking to conciliate and moderate and enter an order. And this order would be supported by competent, material and substantial evidence. And then the party, if aggrieved, could then have an appeal after the administrative remedies have been exhausted. This is the theory of all administrative tribunals. This is the only way in which a remedial purpose can be accomplished when you are attempting here to provide by a commission for the assistance of people who may be victims of discrimination involved in this particular matter.

I am most aggrieved by the tenor of the discussion thus far with regard to the matter because I think there is a very pronounced difference of philosophy with regard to this last sentence as against all the rest of it. I am not prepared in my own mind to subscribe fully to the proposition that this last sentence entirely vitiates all that precedes it. I think, on the whole, there is a substantial step forward in much of this proposal, considering where this committee was when we first discussed it of having something that might be considered by the legislature, and then if they didn't act within 2 years the governor might do something. I think we've made some progress in this area. There has been a susceptibility to the deliberative process on this matter. But I do think, and I earnestly implore and entreat the delegates to subscribe to the notion that is contained in this amendment. Otherwise a very serious impairment of its functions is going to be written into the constitution and it's going to be most difficult to extricate or to do anything about it. At least here you state a principle which will guide the legislature in its supplementary legislation and guide the courts in interpretation and guide all parties with respect to the adjudication of their rights. I earnestly implore support of this amendment.

PRESIDENT NISBET: Mr. Hodges.

MR. NORRIS: Mr. President, may I respectfully ask for the yeas and nays on this?

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Mr. Hodges.

MR. HODGES: Mr. President, I'd like to ask Miss Donnelly a question, if she cares to answer, through the Chair.

PRESIDENT NISBET: Miss Donnelly, do you care to answer?

MR. HODGES: Miss Donnelly, since you are the proponent of the language which this is attempting to amend, would you generalize your language to make it apply to all administrative agencies?

MISS DONNELLY: In the first instance, I cannot see that your question is on the issue. I am completely confused as to what validity it has with the issue in front of us, which is a constitutional agency which we are now setting up in the constituton for the first time we've ever had a commission such as this set up. In the second instance, would I, after exhausting all administrative remedies for all administrative agencies? As I say, this is: 1, not an issue so I don't think we should spend convention time on it; but 2, until I've studied every single administrative agency that you can possibly conceive of, that presently exists on the books and may be existing shortly, I couldn't give you an intelligent answer.

MR. HODGES: Miss Donnelly, why do we treat this differently? Would you do this for the civil service commission?

MR. A. G. ELLIOTT: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Hodges is not speaking to the amendment.

PRESIDENT NISBET: Mr. Hodges, will you confine yourself to the amendment?

MR. HODGES: Mr. President, I am confining myself to the amendment because this is the very substance of this issue. We are here setting up an administrative agency and for some reason we are trying to apply administrative rules which do not exist before any other administrative agency and which do not exist in administrative law. Now, there is only one of two reasons: either we want to change the character of administrative law in this state by putting this in as a general factor, or we want to just put up some window dressing and call it a civil rights commission and totally vitiate its powers. And I think we are entitled to know what the purpose of the proponents of this language is.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, it seems to me that it should be clear that this does not permit a defendant to take his cause elsewhere unless his rights are in some way being violated. He doesn't get out of dealing with the commission simply because he starts an action in a court. If he takes the action to a court, it is because his due process is being violated in some way, and if that is true, then he has a case. If it isn't, he has no case and he can be in court but he is also still involved with the commission and the commission can proceed just as it otherwise would, so we're opposed to this amendment. The fears that are being expressed are entirely imaginary and entirely unnecessary and the proponents of the amendments have been frightened by ghosts which don't exist in this picture at all. Therefore, we oppose the amendment.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and ladies and gentlemen of the convention, I think we need to make a decision at this point as to whether we intend to have an effective, self executing civil rights commission. It has been pointed out by several speakers that the last sentence of this proposal does present some problems. Several attempts have been made to at least make some correction and to make it possible for this commission to work effectively and to even give the legislature an opportunity to make changes where changes may be necessary. I sincerely hope that we will not pass up this opportunity, and perhaps our last opportunity, to make this commission effective. I urge a yes vote on this amendment.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, I think that Mr. Martin has expressed mainly what I intended in the fact that we are not in any way interfering with the rights of the commission. This is merely to preserve rights running parallel, legal rights and equitable rights that run parallel with the commission. It is unfortunate that the proponents of this amendment were not here to debate in committee of the whole. Nothing new has come out to date. Obviously this commission is going to affect legal and equitable rights. A branch of the executive department or the administrative department is going to affect those rights if people are not allowed to protect themselves in court. I urge you to vote against this amendment.

PRESIDENT NISBET: There is a minute and a half left. The Chair recognizes Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President and fellow delegates, the language in the last sentence in the committee proposal, which is the Donnelly amendment, clearly cold-waters the intent of the proponents of the civil rights commission. It weakens the powers of the commission by allowing persons to bypass the commission and go directly to court, therefore rendering the commission entirely ineffective at that time.

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: Mr. President, I'd like to ask Mr. Martin a question, if I may.

PRESIDENT NISBET: If Mr. Martin cares to answer.

MR. YOUNG: Mr. Martin, at the time we considered this proposal on first reading there were considerable questions raised about this selfsame last sentence and it was indicated on the floor of this convention—the committee of the whole at that time—that the committee recognized these problems and would make certain changes in order to clean up this language. I'd like to know what changes, if any, the committee has in order to straighten out this situation.

MR. MARTIN: Mr. Young, I didn't indicate that we were going to change anything, but I said that we would look the language over to see if it did any harm, and we are satisfied that it doesn't do any harm; that it does not take these problems away from the commission and that it does not vitiate the purpose of the general proposal. So we felt that no change was necessary and that the proposal as it came out of the committee of the whole was satisfactory.

PRESIDENT NISBET: Time has expired. The yeas and nays have been demanded. The question is on the amendment. Those in favor will vote aye. Those opposed will vote nay.

MR. YOUNG: Mr. President, I'd like to announce my intention of abstaining on this vote.

PRESIDENT NISBET: Mr. Young abstains. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. YOUNG: I anticipate the defeat of this amendment. I will vote yes.

The roll was called and the delegates voted as follows:

Yeas—41

Austin
Baginski
Balcer
Barthwell
Bentley
Binkowski
Bledsoe
Bradley
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Lesinski
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perlich
Romney
Sablich
Snyder
Staiger
Suzore
Wilkowski
Young

Nays—78

Allen
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Haskill
Hatch
Higgs
Howes
Hoxie
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
Millard
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Bradley, the yeas are 41; the nays, 78.

PRESIDENT NISBET: The amendment is not adopted. Would the board be cleared, please. Mr. Young.

MR. YOUNG: Mr. President, I think that this convention has taken a serious step toward weakening what had been one of the positive actions that we have taken here. I am not a lawyer and I can't tell you legally what the direct effect of the last sentence of this proposal would be. There seems to be substantial evidence that there is confusion and a difference among the lawyers here, and judging from Miss Donnelly's comments, there can be no doubt as to what the intention was in tacking on this last sentence. Now, I think that it would be a serious mistake for this convention to consume the time that we have in attempting to make history in our country in setting up the first constitutional civil rights commission and then to leave a cloud over the effectiveness of our work by inviting the courts to negate the effectiveness of the commission. It has been said that what we have done is a step forward and that while the last sentence weakens what we have done, it does not negate it. Others have made the charge that the last sentence completely vitiates the effectiveness of the proposal itself. I am not prepared to render a judgment on that score. One thing is for sure: we were better off without that last sentence, and having taken a step forward, this convention is now doing its best to move backward and cancel out its good work.

MR. AUSTIN: Mr. President.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Parliamentary inquiry. Are we now on the proposal?

PRESIDENT NISBET: That is correct.

MR. AUSTIN: I would just like to speak briefly on the proposal, Mr. President.

PRESIDENT NISBET: You may.

MR. AUSTIN: We have labored long to write a provision for this civil rights commission. I think a great deal of credit goes to all of those who have participated in developing this proposal. There are those of us who are a long way from being satisfied with the proposal as it is. We have made some serious attempts here to point out what we consider to be the difficulties and have actually made efforts to present amendments which would perfect. However, I do realize that this amendment was arrived at in a spirit of compromise and although it does not meet what I consider to be my expectations, I will vote in favor of it.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I think that in this strategic area of human relations, if this proposal is adopted, it is a step forward and I think that there can be a sharing of responsibility on the part of a wide assortment of delegates that brought forth this present state of this proposal. I would urge that we support it, mindful, however, of the fact that certain of the language is bound to create litigation, bound to create some dissipation of the mission and purpose of this particular proposal. Nevertheless, I think we ought to recognize that it is a step forward and that the convention ought to support it.

PRESIDENT NISBET: Mr. Howes.

MR. HOWES: Mr. President, fellow delegates, I believe, in the establishment of a civil rights commission, we are making a great step forward toward an ideal democracy. Progress toward an ideal democracy has been going on in this world for thousands of years. The Romans had a democracy, but their democracy only said: I am as good as you are, and the rest of the world is to be our slave that the few of us here may live together on an equal basis. At about this same time one lonely man said, "You are as good as I am. Love thy neighbor as thyself." And based upon this doctrine, a great spiritual democracy has grown, the like of which the world has never known.

Now, in our own country the first and greatest advocate of this ideal democracy in government was Abraham Lincoln when he demanded that the south have an equal chance with the north in rebuilding after the civil war and he said: you are as good as I am, when he demanded that all people, whatever their color, have an equal opportunity in this country.

Now, in creating this civil rights commission, the majority is saying to the minority: you are as good as we are. We are not waiting for you to break the door down in your demands for equal opportunity. As is our usual concept of democracy, we are opening the door to you. We will see that your labor gains just rewards; that your work and your worth go hand in hand. Whatever your race, religion or color, we guarantee to you an equal opportunity, in whatever you attempt to do, with every other person in this country.

Yes, I believe we are making a great step forward and toward that ideal democracy of which Robert Burns spoke when he said, "Man to man the world o'er shall brothers be for a' that."

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, I think, in this field that we have just covered, there is room for a great deal of difference of opinion. That has been demonstrated. Certainly, if there is a majority of the delegates who feel that it is necessary for the protection of their constitutional civil rights to provide in the constitution for this commission — and certainly their opinions are entitled to respect — there are others who also feel that in this establishment of a civil rights commission, it would be an anomaly to deny the civil rights of others in their legal and equitable rights. I urge the passage of this.

PRESIDENT NISBET: Mr. Bledsoe.

MR. BLEDSOE: Mr. President and fellow delegates, I have listened with a great deal of interest to all that has been said here today and other days. This is the first time I am going to give my vote in support of this commission. And I'd like to make this observation: that all of the rights that every American citizen has ever gained have been gained by the courts of our land, and we should never, and we can never forget that.

No subsidiary tribunal or ancillary quasi administrative agency or otherwise will ever, under our system of government, supplant our courts. And so long as we have that as a bulwark of our civil liberties, I don't think we will have a lot to worry about because all of us must go to our courts, in the final analysis, to have our rights, both civil, political and military, adjudicated. I think we have arrived at a great area of consensus and the light of progress scintillatingly streams ahead. (applause)

PRESIDENT NISBET: Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President, fellow delegates, I realize that it is only human that many delegates are still a little disappointed because of the last sentence — although it is not exactly what we wanted, we thought that there would have been some concession on that — but as it is, I would like to urge my fellow delegates to support this proposal and I would like to take this opportunity to thank Mr. Bentley and Mr. Martin of the executive committee for having the courage to bring this proposal out on the floor for discussion. Thank you.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 71A. It is a record roll call vote. Those in favor will vote aye. Those opposed will vote nay.

MR. HIGGS: Mr. President, I'd like to abstain from voting.

PRESIDENT NISBET: Mr. Higgs is abstaining from voting. The vote is on Committee Proposal 71A. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 110

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Ford
Garvin
Goebel
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perlich
Perras
Plank
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shaffer
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays — 9

Doty, Dean
Finch
Gover
Hutchinson
Kirk, S.
Powell
Shanahan
Stevens
Yeager

SECRETARY CHASE: On the passage of Committee Proposal 71A, the yeas are 110; the nays, 9.

PRESIDENT NISBET: Committee Proposal 71A is passed.

Following is explanation of vote submitted by Mrs. Daisy Elliott:

I wish to state the following reasons for voting in favor of Committee Proposal 71A, section 1 on civil rights commission:

Although the Garvin and Elliott amendment which sought to allow the legislature to provide the necessary legislation for equitable remedies in the courts if and when necessary, was defeated along with other strengthening amendments, I voted for the committee proposal. The present language is a forward step in the area of civil rights. I urged the support of my fellow delegates because of my constant criticism of the legislature for refusing to adopt any of the civil rights bills introduced there in the last 5 years, also their failure to report any of them out of committee for the benefit of debate on the floor.

This convention has seen fit to provide the constitutional framework to guide the legislature in its future actions in the area of human rights. The present language even in its amended form serves to protect a large segment of the population against a common abuse. I believe that all American citizens, regardless of race, color, religion or ancestry, should share equally in the opportunities, freedom, and protections which the majority cherish and enjoy.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For text of Committee Proposal 71A as rereferred to the committee on style and drafting, see above, page 2755.

The secretary will read the next proposal.

SECRETARY CHASE: Item 11 on the calendar, **Substitute Proposal for Committee Proposal 59,** A proposal pertaining to vacancies in the office of governor. Amends article VI, section 16; and **Committee Proposal 60,** A proposal pertaining to succession to the governorship. Amends article VI, section 17.

Following is Substitute Proposal for Committee Proposals 59 and 60 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, pages 1966 and 1987.):

Sec. a. IN CASE OF THE CONVICTION OF THE GOVERNOR ON IMPEACHMENT, HIS REMOVAL FROM OFFICE, HIS RESIGNATION, OR THE DEATH OF THE GOVERNOR OR GOVERNOR ELECT, THE POWERS AND DUTIES OF THE OFFICE SHALL VEST, IN THE FOLLOWING ORDER OF PRECEDENCE, IN THE PERSON ELECTED AT THE LAST ELECTION TO THE OFFICE OF LIEUTENANT GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, AND SUCH OTHER PERSONS DESIGNATED BY LAW, WHO SHALL BE GOVERNOR AFTER THE COMMENCEMENT OF THEIR TERM FOR THE RESIDUE OF THE GOVERNOR'S TERM. IF THE GOVERNOR OR THE PERSON IN LINE OF SUCCESSION TO SERVE AS GOVERNOR IS ABSENT FROM THE STATE, OR SUFFERING UNDER AN INABILITY AS DETERMINED HEREIN, THE POWERS AND DUTIES OF THE OFFICE OF GOVERNOR SHALL DEVOLVE IN ORDER OF PRECEDENCE UPON SUCH PERSONS UNTIL THE ABSENCE OR INABILITY GIVING RISE TO THE DEVOLVEMENT OF POWERS CEASES.

THE INABILITY OF THE GOVERNOR, GOVERNOR ELECT OR PERSONS SERVING AS GOVERNOR SHALL BE DETERMINED BY A MAJORITY OF THE SUPREME COURT ON JOINT REQUEST OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. SUCH DETERMINATION SHALL BE FINAL AND CONCLUSIVE. THE SUPREME COURT SHALL UPON ITS OWN INITIATIVE DETERMINE IF AND WHEN THE INABILITY CEASES.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, this language, as you see, is all new. It is a combination of Committee Proposals 59 and 60, on which the committee on style and drafting did a lot of work in conjunction with our committee. We are well satisfied with it. We think it's a good compounding of the language and we hope you will approve of the proposal.

PRESIDENT NISBET: The question is on the substitute — Mr. Faxon.

MR. FAXON: This is on the proposal, is it not?

PRESIDENT NISBET: That is correct.

MR. FAXON: I didn't have a copy of this in my book. The question that I have deals with the second paragraph where the governor has been declared ill or his office vacant and it says, on the initiative of the supreme court they shall determine when the inability ceases. The question that I have is whether or not there shouldn't be some provision there to say that at the initiative of, say, the governor himself the inability should cease. What if the courts aren't meeting, or are not going to be there to do anything? What would happen?

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the committee is of the opinion that if a matter of this kind ever arises, it will be of such great importance that the supreme court will be very alert to any change in situation and will, upon its own initiative, determine that the inability has ceased. So we felt that we could not put this decision in the governor who had been declared to be subject to a disability. We had to leave it, we thought, with the court, who had made the initial determination.

MR. FAXON: Mr. President, I'd like to respond to this part of the question. It seems to me that this is vesting in the court a tremendous power. In terms of only on its own initiative, is it going to make a decision that the inability had ceased? I feel the least we could do here is to provide, say, not only on initiative of the court, but by the governor himself or some individuals of state who may call the court and ask them to make a ruling if they feel the inability has ceased. I understand there are times when the court may not be in session. There may be any number of conditions or circumstances that may exist that would make this highly discriminatory to the governor if his inability has ceased and the court seems to be moving slowly in judging it. So to leave this entirely in the hands of the court, entirely in their hands, not even permitting a citizen of the state to bring issue to the court, is to give them a grant of authority and power unlike any court that I've known of in history to make a determination of this sort and then be able to stick to it.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, there was considerable discussion, as I recall, in the committee on this subject as to whether or not the governor himself, along with his medical advisors, in the case of a physical disability, would be in a better position to determine this than a supreme court. I don't recall that I have knowledge — there might have been some, but no one, I believe, has pointed it out — of any problem having arisen in this area in the past. I would oppose the proposal. I am not offering an amendment, because of the reasons I gave this morning. It is obvious to me that the proposals are pretty well cut and dried in this particular section. I think the opinions are pretty well set. I do oppose the change. I think it's as true today, though, as it was when the bard of Avon said, lo, those many years ago, "a person convinced against his will is of the same opinion still." But I still oppose the change.

PRESIDENT NISBET: The question is on the Substitute Proposal for Committee Proposals 59 and 60. Those in favor of the substitute will say aye. Opposed, no.

The substitute is adopted. The question now is on the passage of the Substitute Proposal for Committee Proposals 59 and 60. Mr. Faxon has an amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment to the substitute:

1. Amend page 1, line 17, [paragraph 2] after "initiative" by inserting "or that of the governor"; so that the language will then read, "The supreme court shall upon its own initiative or that of the governor determine if and when the inability ceases."

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Well, Mr. President, I don't want to belabor this but I still feel that the way this language reads, "its own initiative" gives the supreme court such a final power here that if the governor felt that he was well and he could perform the duties of his office, he should be able to at least take the initiative in asking the supreme court to make the necessary ruling that the inability has ceased. I think this is the right of any person to at least defend his own case. To make this a completely final thing, that the supreme court shall determine if and when the inability ceases, could permanently leave the governor out if they so desired. I think this is a tremendous grant of power and I think that at least the addition of the language that the governor could take the initiative would give some basic minimum protection to him.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 10 minutes.

PRESIDENT NISBET: The question is on limiting debate to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President, I support the Faxon amendment. While it is not as perfect as I would like to have it, this is one of those proposals where language was added by

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

the delegates to this convention, where no problem had arisen, where there was no request presented for change; but for some reason the delegates to this convention thought, because they were writing a constitution, that they had to change every article, every section, every paragraph. I saw no need for it. I see no need now. However, the Faxon amendment does take a step in the right direction. Who is going to determine? Supposing you have a governor and the supreme court says he isn't of sound mind. Who is going to determine whether the supreme court is of sound mind or not? I would support the Faxon amendment.

PRESIDENT NISBET: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. President and delegates, I don't know why anyone should jump to the conclusion that nobody — the governor or anybody else, the pressure of public opinion — could be brought to the attention of the supreme court unless we put it specifically into this constitution. If we make the inexcusable assumption that the court would be willing to be arbitrary in such a situation, 100 people might bring it to its attention and ask for action and they could still turn it down. I think this is completely unnecessary.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, we would oppose this amendment simply because there is nothing here to prevent the governor from bringing this to the attention of the court and asking that some action be taken. It simply allows the court to go ahead whenever it thinks it is desirable to do so, based upon whatever representations are made to it. We oppose the amendment.

PRESIDENT NISBET: Mr. Barthwell.

MR. BARTHWELL: Mr. President and delegates, I would just like to say that Delegate Faxon has reflected his inexperience of not ever having, probably, been around an incapacitated person. (laughter) Because he feels that he is all right, everyone else is incapacitated. (laughter) I think this is a very necessary phrase in this constitution because I can remind the convention of another state that had a situation like this, of the governor — I think it was the state of Louisiana in the not too far past — and there was quite a bit of debate down there as to whether he was sane or insane. So I would urge that you vote against the Faxon amendment.

PRESIDENT NISBET: The question is on the Faxon amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The question now is on the adoption of the Substitute Proposal for Committee Proposals 59 and 60. Mr. Lesinski.

MR. LESINSKI: Mr. President, I'd like to get an explanation on this wording that refers to "death of . . . governor elect." Then it states "powers and duties of the office shall vest, in the following order of precedence, in the person elected at the last election to the office. . . ." In other words, when a governor elect passes away before he is inaugurated — in other words, it would pass to the previous — is that correct?

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. Lesinski, yes. If the governor elect dies, then the person who succeeds him is going to be the lieutenant governor elected at the last election, who becomes governor after commencement of his term. In other words, when the term of the governor elect would begin as governor, and he is dead, he is not there any longer, the lieutenant governor then becomes the governor, or the secretary of state, or whoever it may be.

MR. LESINSKI: Thank you. One more question: the courts will decide whether a governor elect is unable to serve before he takes office?

MR. MARTIN: The court could decide that as to the governor elect if the president pro tem of the senate and speaker have referred the question to the court, and the majority of the court had so decided, yes.

MR. LESINSKI: In other words, the governor elect has not taken his office as yet and he can still be —

MR. MARTIN: It could be determined before he actually took office, yes.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 14, [paragraph 2] after "by a" by inserting "2/3"; so the language will read, "The inability of the governor, governor elect or persons serving as governor shall be determined by a 2/3 majority of the supreme court. . . ."

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I must admit on the previous amendment that I had read it differently, and after listening to Mr. Barthwell, I realized the point he made. But I do feel that we should understand that this section is new. It is new in the Michigan constitution; it is new, period. It isn't a tried and proven thing that we can look back on and cite cases and show how it works. Where you are giving this new grant of power to the courts, the least bit of protection you can give is to require an unusual majority of the supreme court to make a determination. If there is a question that the governor is not of his right mind, if there is question that he is unable, then the court should make the determination; but it should be pretty unanimous, or at least I would just as soon it be unanimous. But in the event that you don't want it unanimous, at least 2/3 would make it possible for an unusual majority to make the determination. Certainly, there shouldn't be any question in the minds of those who make such a determination that this is necessary for the best interests of the state. And for this reason I think that under these kind of conditions, where we provide 2/3 for the removal of judges, where we provide 2/3 in other cases for removal, the same should hold true for the governor, the chief executive officer of the state. He, too, should come under the same kind of rules we provide for judges and say 2/3 are necessary there too if we are going to remove him from office. I think this is a minimum that we can do to protect this section and to protect the office of governor.

PRESIDENT NISBET: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President, I rise to support the Faxon amendment, and while I'm on the floor I want to move the previous question before Mr. Van Dusen beats me to it. (applause)

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? Sufficient number up. The question is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question is on the Faxon amendment. Those in favor will say aye. Those opposed no.

The amendment is not adopted. The question now is on the passage of the Substitute Proposal for Committee Proposals 59 and 60. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 105

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Douglas
Downs
Durst
Gust
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Upton

Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Goebel
Gover
Millard
Mosier
Nisbet
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 4

Faxon
Jones
Lesinski
Marshall

SECRETARY CHASE: On the passage of the Substitute Proposal for Committee Proposals 59 and 60, the yeas are 105; the nays are 4.

PRESIDENT NISBET: The **Substitute Proposal for Committee Proposals 59 and 60** is passed.

Following is explanation of vote submitted by Mr. Faxon:

I voted no on the Substitute Proposal for Committee Proposals 59 and 60.

The content of the second paragraph of this proposal is an entirely new matter; there was absolutely no precedent to follow with regard to the determination of the inability of the governor.

Although I recognize that this is a problem, I do not feel that the committee proposal adequately safeguards the office of governor from political intrusions that may be made by other branches of government.

This proposal would give to the courts a role which has traditionally not been theirs, and would permit them to sit in judgment upon the office of governor if called upon for a determination. Such power vested in so few people could be misused. When treading upon new ground, caution ought to be the byword, and in this case a simple majority of the courts can do great harm to the state. In the case of the removal of judges, unusual majorities are required. In case of the passage of certain legislation, unusual majorities are required, and yet in case of the removal of the highest officer of this state, all that is required in this proposal is that a simple majority of the court makes this determination.

In view of these considerations, I feel that this proposal would have been best if left in the form similar to action taken in previous constitutional conventions of this state, and that no innovations be made on what could become such a crucial and vital issue.

PRESIDENT NISBET (continuing): It is referred to the committe on style and drafting.

For Substitute Proposal for Committee Proposals 59 and 60 as referred to the committee on style and drafting, see above, page 2764.

MR. MARSHALL: Mr. President, may I briefly explain my no vote? I voted no because I was opposed to the last paragraph.

PRESIDENT NISBET: The secretary will read the next proposal.

SECRETARY CHASE: Item 13 on the calendar, **Committee Proposal 72,** A proposal to provide for compensation of acting governor. Retains section 18 of article VI.

Following is Committee Proposal 72 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1987.):

Sec. a. The legislature shall PROVIDE THAT [increase] the salary of any state officer PERFORMING THE DUTIES OF GOVERNOR IS EQUAL TO THAT OF THE [to equal the salary of the governor while such officer is performing the duties of] governor.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, there are no substantial changes of substance in this. Style and drafting has made some alterations but they are only changes of style. We therefore hope that the committee proposal will be approved as is.

PRESIDENT NISBET: Can the board be cleared? The question is on approval of Committee Proposal 72. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 110

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Follo
Goebel
Gover
Gust
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 0

SECRETARY CHASE: On the passage of Committee Proposal 72, the yeas are 110; the nays, none.

PRESIDENT NISBET: **Committee Proposal 72** is passed and referred to the committee on style and drafting.

For Committee Proposal 72 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 14 on the calendar, **Committee Proposal 75,** A proposal to provide for compensation of state officers. Amends article VI, section 21.

Following is Committee Proposal 75 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1720.):

Sec. a. The governor, lieutenant governor, secretary of state, state treasurer[,] and attorney general shall each receive [such] THE compensation [as shall be] prescribed by law [which shall be] in full PAYMENT for all services performed and expenses incurred during his term of office [:] . [Provided, That the same] SUCH COMPENSATION shall not be changed during the term of office [for which elected] except as otherwise provided in this constitution.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, there are no changes in substance here. The proposal is as it left the committee of the whole and we urge the approval of the proposal.

PRESIDENT NISBET: The board will be cleared, please. Mr. Yeager.

MR. YEAGER: Mr. President, I'd like to ask Mr. Martin a question while he is on his feet.

PRESIDENT NISBET: If he cares to answer.

MR. YEAGER: Since we have made the highway commissioner subject to the constitution, should that office also be included?

MR. MARTIN: I don't —

PRESIDENT NISBET: The question is on approval of Committee Proposal 75. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 107

Allen
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Goebel
Gover
Gust
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perlich
Perras
Plank
Powell
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 0

SECRETARY CHASE: On the passage of Committee Proposal 75, the yeas are 107; nays, 0.

PRESIDENT NISBET: **Committee Proposal 75** is passed and referred to the committee on style and drafting.

For Committee Proposal 75 as rereferred to the committee on style and drafting, see above, page 2766.

The secretary will read.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: In the interest of perhaps sounding out the delegates as to schedule, it may be necessary to have a night session this evening but it has occurred to a number of us that if we keep going and move rather quickly through the remainder of the calendar and conclude it by 6:30, perhaps a night session could be avoided. Might I ask for an informal expression of opinion as to whether the delegates would like to remain in session until approximately 6:30 if it appears that we can complete the calendar?

DELEGATES: Yes.

PRESIDENT NISBET: The secretary will read the next proposal.

SECRETARY CHASE: Item 15 on the calendar, **Committee Proposal 46**, A proposal pertaining to the executive budget and item veto. Amends article VI.

MR. MARTIN: Mr. President, If there is no objection, I would move that the proposal be considered read.

PRESIDENT NISBET: Without objection, it is so ordered.

Following is Committee Proposal 46 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 1680.):

Sec. a. The governor shall submit to the legislature[, not later than 21 calendar days after the convening of each regular session, or] at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, FOR all OPERATING FUNDS, THE proposed expenditures and estimated revenue of the state. Proposed expenditures FROM ANY FUND shall not exceed THE estimated revenue THEREOF. On the same date, the governor shall [cause to be submitted] SUBMIT to [each house of] the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills [for] TO PROVIDE new or additional revenues to meet proposed expenditures. The amount of any [general fund] surplus created or deficit incurred IN ANY FUND during the last preceding fiscal period shall be [appropriately] entered as an item in the budget and in ONE OF the appropriation bills. [The governor, prior to final action of the legislature thereon, may cause to be submitted to the legislature any amendments to the general appropriation bills] THE GOVERNOR MAY SUBMIT AMENDMENTS TO APPROPRIATION BILLS TO BE OFFERED IN EITHER HOUSE DURING CONSIDERATION OF THE BILL BY THAT HOUSE, and shall [cause to be submitted] SUBMIT any bills to meet deficiencies in current appropriations.

Sec. b. THE general appropriation bills for the succeeding fiscal period COVERING ITEMS SET FORTH IN THE BUDGET shall be [acted upon] PASSED OR REJECTED IN [before] either house of the legislature BEFORE THAT HOUSE [shall pass] PASSES any [other] appropriation bill[,] FOR ITEMS NOT IN THE BUDGET except bills supplementing appropriations for the current year's operation. Any bill [which will require] REQUIRING an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as [enacted] PASSED by the legislature shall contain an itemized statement of estimated revenue by major source IN EACH OPERATING FUND FOR THE ENSUING FISCAL PERIOD, the total of which shall not be less than the total of all appropriations [proposed] MADE FROM EACH FUND in the general appropriation bills AS PASSED.

Sec. c. The governor shall have power to disapprove [of] any DISTINCT item or items IN ANY APPROPRIATION BILL [of any bill making appropriations of money embracing distinct items;]. [and] The part or parts approved shall BECOME [be the] law[;], and the item or items disapproved shall be void[,] unless repassed according to the [rules and limitations] METHOD prescribed for the passage of other bills over the executive veto.

Sec. d. No appropriation shall be deemed a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures of any bodies receiving appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based[,]. [such] Reductions in expenditures SHALL [to] be made in accordance with procedures established by law. The governor's power to reduce expenditures shall not apply to the legislative and

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

judicial branches or to those services for which funds are mandated by this constitution.

PRESIDENT NISBET (continuing): Mr. Martin.

MR. MARTIN: Mr. President, the proposal has some changes in it which the style and drafting committee has made. We have examined these and we find that they carry out the purpose of the original proposal. The proposal was completed in style and drafting. We have no objection. We think, in fact, it is an improvement. So we recommend its adoption.

PRESIDENT NISBET: Is there an amendment?

SECRETARY CHASE: Mr. Marshall and Miss Hart offer the following amendment:

1. Amend page 1, line 5, [section a] after "state.", by striking out the balance of the section; and in line 18, by striking out all of section b; and on page 2, line 13, by striking out all of section d.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I will be as brief as possible. As all of you know, in our debate in committee of the whole I gave about a 5 or 6 page explanation of the minority position at that time in explaining the minority report. So I will not attempt to go through and explain in detail, as I did then, all of the reasons, which would probably be the same reasons for the amendments I am offering now. I only want to point out to the delegates once again that one of the primary reasons behind Michigan citizens' calling a constitutional covention was the need to rid the state's constitution of the administrative detail that has limited the discretion of the legislature and the governor to such an extent that they cannot adjust to meet the needs of a changing society. Thus it was hoped that steps would be taken to rid the new constitution of this detail. But Committee Proposal 46 would constitutionally freeze several matters that might better be left to legislative discretion. The inclusion of statutory items in the constitution is a serious weakness in itself. Committee Proposal 46 goes further and, as I said before, in effect, destroys the traditional separation of powers doctrine. We believe that if the amendments that are offered and that are before you now are adopted, that we will still retain in the constitution the basic fundamental guidelines and that the language would then be sufficient without going in and having all of the statutory language incorporated in the constitution. I urge the adoption of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Martin.

MR. MARTIN: Mr. President, if the reasons are the same on the other 2 amendments, I wonder if Mr. Marshall would have them considered as a single amendment. I don't want to urge it but—

MR. MARSHALL: Yes. In order to expedite things, I would be pleased to have all 3 of them considered as one amendment because it is all related.

PRESIDENT NISBET: Mr. Martin, are you through?

MR. MARTIN: Yes. Simply that these are essentially the same amendments which were offered during committee of the whole and we oppose them for the same reason — the majority of the committee, I should say, because the minority did not support the proposal.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I am going to ask for the yeas and nays and call for the previous question.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up.

The previous question has been asked for. Is that demand seconded? It is supported. The question is: shall the previous question be put? Those in favor say aye. Opposed, no.

The previous question is ordered. The question now is on the amendment offered by Mr. Marshall and Miss Hart. The yeas and nays have been demanded. Those in favor of the amendment will vote aye.

A DELEGATE: Can we have it read?

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Mr. Marshall and Miss Hart have offered the following amendment:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—29

Austin
Baginski
Balcer
Barthwell
Bradley
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Hart, Miss
Jones
Kelsey
Lesinski
Mahinske
Marshall
McCauley
McGowan, Miss
Ostrow
Perlich
Sablich
Snyder
Suzore
Walker
Young
Youngblood

Nays—74

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Goebel
Gover
Gust
Haskill
Hatch
Heideman
Higgs
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Perras
Plank
Powell
Prettie
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Sterrett
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Marshall and Miss Hart, the yeas are 29; the nays, 74.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend page 2, line 13, after "Sec. d.", by striking out "No appropriation shall be deemed a mandate to spend.".

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, to my way of thinking, this sentence has no real meaning. It is not constitutional language and it is a gratuitous insult. For those reasons, I suggest that we seriously consider removing this sentence.

PRESIDENT NISBET: The question is on the amendment by Mrs. Cushman. Mr. Marshall.

MR. MARSHALL: Mr. President, I rise to support the Cushman amendment for the reasons that were given in committee of the whole and for the reasons just given now by Mrs. Cushman. I think that the delegates should give serious consideration to adopting the Cushman amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the phrase which the amendment is proposed to strike is a very important statement of policy. We want it clear that appropriations are not mandates to spend. This is not a reflection on any individual or governor or any other person who may have held the office, but it is an important statement of policy and we'd like to have it approved. We therefore oppose the amendment.

PRESIDENT NISBET: Mrs. Butler.

MRS. BUTLER: Mr. President, Mr. Martin, would this language refer to all departments that have money to spend?

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mrs. Butler, all this means is that if you have money and you don't have the need to spend it, you're not expected to obligate it or otherwise spend it just in order to use up your appropriation. That's all it means.

MRS. BUTLER: I am certainly glad to see it in there, having been associated with 2 departments who hurry up and spend their money so they don't have to turn it back to the general fund.

PRESIDENT NISBET: The question is on the amendment of Mrs. Cushman.

MRS. CUSHMAN: I ask for a division.

PRESIDENT NISBET: A division has been requested. Is it supported? It is supported. Those in favor of Mrs. Cushman's amendment will vote aye. Those opposed, will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of Mrs. Cushman's amendment, the yeas are 34; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The board will be cleared. The question is now on Committee Proposal 46. Those in favor of approving Committee Proposal 46 —

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I again urge the delegates to vote against the committee proposal and we can come up with a better provision to deal with the budget. Had the Cushman amendment carried, I maybe could have seen a way clear to have supported the proposal even though I am not happy with the committee proposal, but the sentence that Mrs. Cushman asked to be stricken, that no appropriation shall be a mandate to spend, seems to imply that state administrations, past and present, spend for the sake of spending, and is contrary, I might add, to existing evidence and is in fact an insult to their integrity. As a matter of fact, the criticism is often voiced — and there has been proof of this — that departments do not spend what is appropriated, but instead, many of them turn back large sums of money to the general fund and consequently are not meeting the needs of the state's citizens. I oppose the proposal.

PRESIDENT NISBET: All in favor of Committee Proposal 46 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—87

Allen
Andrus, Miss
Anspach
Barthwell
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Goebel
Gover
Gust
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—25

Austin
Baginski
Balcer
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Hart, Miss
Hodges
Jones
Kelsey
Mahinske
Marshall
Ostrow
Perlich
Sablich
Snyder
Suzore
Walker
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 46, the yeas are 87; the nays, 25.

PRESIDENT NISBET: **Committee Proposal 46** is passed and referred to the committee on style and drafting.

For Committee Proposal 46 as referred to the committee on style and drafting, see above, page 2767.

The secretary will read the next proposal.

SECRETARY CHASE: Item 16 on the calendar, **Committee Proposal 70,** A proposal to revise provisions of section 36 of article V regarding the veto power of the governor.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The proposal is similar to the committee proposal which was sent to style and drafting, with minor changes. If there is no objection, I move that it be considered read.

PRESIDENT NISBET: Without objection, it will be considered read.

Following is Committee Proposal 70 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 1717.):

Sec. a. Every bill passed by the legislature shall be presented to the governor before it becomes [a] law [;], and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become [a] law. If he does not approve, and the legislature has within that time finally adjourned [its] THE session at which the bill was passed, it shall not become [a] law. If he does not approve, and the legislature continues [its] THE session at which the bill was passed, he shall return it within such 14 day period [, together] with his objections, to the house in which it originated[,]. [which] THAT house shall enter [the] SUCH objections [at large upon] IN FULL IN its journal and reconsider [it] THE BILL. If 2/3 of the members elected and serving in that house [agree to] pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house FOR RECONSIDERATION [by which it shall be reconsidered]. THE BILL SHALL BECOME LAW if [approved] PASSED by 2/3 of the members elected and serving in that house [it shall become a law]. The vote of each house shall be determined by THE yeas and nays, and the names of the members voting for and against the bill shall be entered [upon] IN the journal. If any bill [be] IS not returned by the governor within such 14 day period, the legislature continuing in session, it shall become [a] law [in like manner] as if he had signed it.

PRESIDENT NISBET (continuing): Mr. Martin.

MR. MARTIN: The committee has no objection to the changes which were proposed here and recommends that the proposal be adopted in the form sent back to us by style and drafting.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: The question is on Committee Proposal 70. Those in favor will vote aye. Those opposed will vote nay. We are voting on Committee Proposal 70. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—114

Allen
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Follo
Garvin
Goebel
Gover
Gust
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—1

Walker

SECRETARY CHASE: On the passage of Committee Proposal 70, the yeas are 114; the nays are 1.

PRESIDENT NISBET: **Committee Proposal 70** is passed and referred to the committee on style and drafting.

For Committee Proposal 70 as rereferred to the committee on style and drafting, see above, page 2769.

The board will be cleared. The secretary will read the next proposal.

SECRETARY CHASE: **Committee Proposal 74,** A proposal to provide by law for the administration of claims against the state, escheats and escheated property, and the investment of state funds. Revises article VI, section 20.

Following is Committee Proposal 74 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1747.):

> Sec. a. [The procedure] PROCEDURES for the examination and adjustment of claims against the state and procedures relating to escheats and to the custody and disposition of escheated property shall be [provided] PRESCRIBED [for] by law.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, these are minor changes by style and drafting. They are entirely acceptable to the committee and we recommend that you approve the proposal.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: The question is on approval of Committee Proposal 74. Mr. Barthwell.

MR. BARTHWELL: Mr. President, I'd like to ask Mr. Martin a question.

PRESIDENT NISBET: If Mr. Martin cares to answer.

MR. BARTHWELL: Mr. Martin, I'd like to know what's the difference between "provided" and "prescribed" by law. I wonder why they changed that.

MR. MARTIN: Perhaps it would be better to ask Mr. Cudlip that. I think they thought that the word was a little more precise. There really isn't any great distinction. Mr. Barthwell. You can do either one. You can prescribe by law or you can provide for by law. I think they thought it was a little neater language, that's all.

MR. BARTHWELL: I need to know the difference because I'm getting hung out here on some of the things I'm very interested in. Some of them say "provided," and others say "prescribed."

MR. MARTIN: I imagine they have used similar language in other proposals and therefore wanted to make it uniform.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 74. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—113

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Garvin
Goebel
Gover
Gust
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 74, the yeas are 113; the nays, 0.

PRESIDENT NISBET: **Committee Proposal 74** is passed and referred to the committee on style and drafting.

For Committee Proposal 74 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 18 on the calendar, **Committee**

Proposal 78, A proposal to provide for the office of legislative auditor general. Adds a new section to article V.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: If there is no objection, I move that the proposal be considered read.

PRESIDENT NISBET: Without objection, it will be so considered.

Following is Committee Proposal 78 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 1715.):

Sec. a. The legislature by a majority vote of the members ELECTED TO AND SERVING IN [elect of] each house, shall appoint an auditor general to serve for a term of 8 years. He [shall] MAY be [removable] REMOVED for cause at any time by a 2/3 vote of the members ELECTED TO AND SERVING IN [elect of] each house of the legislature. The auditor general shall conduct [comprehensive fiscal] postaudits of FINANCIAL [all] transactions OF THE STATE and [accounts kept by or for] OF all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state[, whether] established by this constitution or by law, and performance postaudits thereof.

Nothing in this section shall be construed in any way to infringe [the responsibility and constitutional] authority of the governing boards of the INSTITUTIONS OF HIGHER EDUCATION AS PROVIDED IN THIS CONSTITUTION [universities and colleges to be solely responsible for the control and direction of all expenditures from the institutions' funds.]

[For these purposes, in addition to his staff, he] THE AUDITOR GENERAL UPON DIRECTION BY THE LEGISLATURE may employ [such] independent accounting firms or legal counsel[, as the legislature by resolution may direct] and may make investigations pertinent to the conduct of [such] audits. [The auditor general shall be assigned no duties other than those herein specified and] HE shall report annually TO THE LEGISLATURE AND TO THE GOVERNOR and at such other times as he deems necessary or as required by the legislature [to the legislature and the governor]. HE SHALL BE ASSIGNED NO DUTIES OTHER THAN THOSE HEREIN SPECIFIED.

The legislature shall provide by law [with respect to] FOR the maintenance of uniform accounting systems BY UNITS OF LOCAL GOVERNMENT and the auditing of [units or agencies of local government] COUNTY ACCOUNTS BY COMPETENT STATE AUTHORITY AND OTHER UNITS OF GOVERNMENT AS PROVIDED BY LAW.

The auditor general, his deputy and one other member of his staff shall be exempt from CLASSIFIED civil service. All other members of his staff shall have CLASSIFIED civil service status.

PRESIDENT NISBET (continuing): Mr. Martin.

MR. MARTIN: Mr. President, the committee has an amendment which I would appreciate the secretary reading.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, and Mr. Hoxie, on behalf of the committee on legislative powers, offer the following amendment:

1. Amend page 1, line 5, [paragraph 1] after "conduct" by reinserting "comprehensive"; and in line 6, after "postaudits of" by inserting "all"; and after "transactions" by inserting "and accounts"; and in line 10, [paragraph 2] after "infringe" by reinserting "the responsibility and constitutional"; and in line 12, [paragraph 2] by striking out "institutions of higher education as provided in this constitution" and reinserting "universities and colleges to be solely responsible for the control and direction of all expenditures from the institutions' funds".

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: If I may explain that briefly, in the first paragraph we have simply reinserted the word "accounts" to make it read, "all financial transactions and accounts." We thought that this was necessary to make it comprehensive and we have also reinserted the word "comprehensive." The balance of the amendment simply reinstates in lines 10 to 14, the language as it came from committee of the whole. We propose to reinsert it because we thought that the language used by the committee was a little broader than we intended. We want to make these colleges and universities solely responsible for the control and direction of all expenditures in the institutions, but we don't want to create any impression that they have no responsibility with respect to audits, and I'm sure they don't either. So we've taken language which they originally approved and placed it back in the proposal. That's all the amendment does.

PRESIDENT NISBET: The question is on the amendment of Mr. Martin and Mr. Hoxie.

MR. AUSTIN: Mr. President, may I ask Mr. Martin a question?

PRESIDENT NISBET: Mr. Martin?

MR. MARTIN: Certainly.

MR. AUSTIN: Mr. Martin, may I ask, why do you feel it is necessary to include the word "comprehensive" in the constitution in regard to these audits?

MR. MARTIN: Mr. Austin, some of us thought it might not be, but there was strong feeling on the part of the subcommittee that this ought to go back in and we could see no harm if it did, so we acceded to the subcommittee's wish.

MR. AUSTIN: Mr. President, I would like to state, on behalf of the committee on style and drafting, as well as my own point of view, that this word "comprehensive" may cause some difficulty, and I'll explain why. If we say that the auditor general shall conduct comprehensive post audits of all transactions, we are actually leaving him no discretion. When an auditor approaches an engagement of any kind, the first thing that he normally does is to examine the system of internal control and check, that is, where employees are checking on one another, as the transactions are being incurred. Now, if there is a system of internal control and check that is actually working, it is not always necessary to examine every transaction. It is only necessary for the auditor to test-check to make sure the system is working. Now, if we are going to say in the constitution that the auditor general shall conduct comprehensive fiscal post audits of all transactions, then we are saying, in effect, that no matter how well the system of internal control and check is working he has no discretion; he must at all times make a comprehensive audit of all transactions. I think this is totally unnecessary as constitutional language and that it could actually lead to difficulty in case some transaction should happen to be overlooked. So I would strongly urge that we not include this word "comprehensive" and the word "all." I think these words should be left out and it should be left to the discretion of the auditor general to decide how much checking is necessary.

PRESIDENT NISBET: Mr. Martin. Just a minute Mr. Martin. Mr. Austin.

MR. AUSTIN: Would it be possible for me to ask for a division so as to at least vote on the word "comprehensive" and the word "all" separately?

PRESIDENT NISBET: You can. Mr. Martin.

MR. MARTIN: You are proposing to just simply vote on the word "comprehensive" separately from the rest of the committee amendment?

DELEGATES: And "all."

PRESIDENT NISBET: Mr. Austin, please state your request again.

MR. AUSTIN: I would like to have the vote on the words "comprehensive" and "all" separately.

MR. MARTIN: The word "all" doesn't immediately follow. It reads, "The auditor general shall conduct comprehensive postaudits of all financial transactions and accounts. . . ."

MR. AUSTIN: I understood that, Mr. President and Mr.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Martin, but it's those 2 words which I do not believe should be inserted.

[The amendment, first part, reads as follows:

1. Amend page 1, line 5, [paragraph 1] after "conduct" by reinserting "comprehensive"; and in line 6, after "postaudits of" by inserting "all".]

MR. MARTIN: Mr. President, then let me say that I hope that the convention will support the committee in this. These are desirable and they don't cramp the auditor general. They are just general terms indicating the broad scope of his powers. They don't mean that he has to conduct a comprehensive audit in every instance. He can limit it according to whatever the need may be. I hope you will support the committee.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, I am not reading this quite like Mr. Martin and I would like to reread it just to make sure I haven't misunderstood. The langauge reads — assuming that these words are inserted: the auditor general shall conduct comprehensive fiscal postaudits of all transactions of the state.

MR. HOXIE: No. That isn't correct.

MR. MARTIN: Mr. President, it reads: the auditor general shall conduct postaudits of all financial transactions and accounts of the state.

MR. AUSTIN: It means the same thing, Mr. President. It's just the word "financial" that was inserted. I didn't realize you wanted to leave that word in. But it doesn't matter. If we say that the auditor general shall conduct comprehensive fiscal audits of all financial transactions, we are leaving him no discretion because you are saying constitutionally that he shall conduct such audits. And I feel that this is very dangerous language, especially if he is ever brought into court.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, as indicated, the executive branch committee and the legislative powers committee had joint responsibility for this proposal. There was, in each committee, a subcommittee. They spent many, many hours reviewing and revising the language. They discussed this proposal with equally good authorities in the field of accounting as well as Mr. Austin, and one of the members of this committee who worked hard and long on the proposal was Delegate Wanger, and I, at this time, would like to yield to Delegate Wanger.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, most all has been said by Mr. Martin on this point, except this: the word "comprehensive" was carefully chosen by the committee. It presently exists in the federal budget and accounting act of 1921, and as discussed particularly in the Law Review of the University of Michigan in June of 1961, it very clearly has a meaning and is necessary in this regard to be sure that in this area, where there is over a billion dollars a year going through, the auditor general will have the power to make the kind of audits that we desire. The word "all" was also carefully chosen by the committee on legislative powers and put in here because it wished to emphasize the broad scope of the authority and power of this individual. Remember, this is a postaudit under the constitution but it is what many of us normally think of just as an audit of a business. Now, when you have an auditor in a business, and particularly when there are public funds involved, you want to have that audit be complete and comprehensive. This is the people's money we are talking about and that is the reason why this language was put in and why we believe it was an erroneous substantive change, although probably unintentional, for style and drafting to take these words out.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, unfortunately I will have to disagree here. I am on the committee on the executive branch but I don't recall reviewing this amendment before and I would like to agree with Mr. Austin. At times I think we might get a little rash with words. The way I understand this, as it was read, and the way I read it myself using the words in this amendment, makes this definite, makes it a firm mandate that there must be a comprehensive audit. Now, I think we should all bear in mind that there is quite a bit of difference between an auditor and a bookkeeper, and we are talking about an auditor here, and I believe that this amendment should be defeated.

PRESIDENT NISBET: Mr. Knirk.

MR. KNIRK: Mr. President and fellow delegates, I, too, feel as Delegate Sterrett does, and disagree with the committee proposal here. I think it is very unwise. I think Delegate Austin has been very accurate in bringing this to our attention. Certainly, we who have been connected with various corporations, whether it be a public corporation or a private corporation, when our books are audited, they spot check, and if they find discrepancies we all know they will then continue and make a detailed audit of every transaction. Certainly, I think that the auditor general in this case, if there were discrepancies, would do this, but I don't think that we should include in this the words "comprehensive" or "all." I think that we should definitely delete those 2 words from this particular amendment.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Thank you, Mr. President. I rise to support Mr. Austin on his insistence that the word "comprehensive" go out. I feel that Mr. Austin is trying to point out to the delegates that we are not providing for good audits, bad audits or intermediate audits in this proposal. We are providing for the expression "audits" and as Mr. Austin points out, his experience of checks does provide for a system that all audits will be good.

Now, I am sure that the 56 attorneys here who have a very good background of their particular profession, have felt that there were certain things that should go in and out of this constitution. What Mr. Austin is doing is staking his professional reputation here that the term "comprehensive" is not necessary. I feel that the knowledge that Mr. Austin has imparted to us in the past gives us every reason to believe that he is trying to give us the proper course to pursue in this particular instance. Now, as a certified public accountant, he knows that the term "audit" is all inclusive; that it does not have to be modified in any sense. It will be up to the legislative auditor to determine the extent, depending on the internal controls required by this system. I feel that the term "comprehensive" would hamstring the efficient functioning of the legislative auditor as intended by the delegates and as we are setting it up.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, it appears that we are not going to be able to complete the executive branch calendar by 6:30. I have discussed the matter with Mr. Martin and I believe that the thing to do is to complete our work on this proposal and complete our work on Committee Proposal 77, which is very brief, and leave civil service for tomorrow morning so that we can avoid a night session tonight.

I would move that further debate on this amendment and the debate on all pending amendments to this proposal be limited to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Mr. Austin.

MR. AUSTIN: Mr. President, I don't believe that 5 minutes will be enough to thoroughly discuss Committee Proposal 78. So if you are concerned about getting out today and starting again tomorrow morning, my feeling is that it would be better not to try to finish this proposal this evening because I have one amendment that I know will require more than 5 minutes of debate. It will take 5 minutes to explain it. I don't believe it is appropriate. I oppose Mr. Van Dusen's motion.

MR. VAN DUSEN: If Mr. Austin will advise which amendment that is, I will be glad to except it and to propose whatever time he recommends.

MR. AUSTIN: Well, I would say 10 minutes might be enough. I don't believe 5 would be enough.

MR. VAN DUSEN: In that event, Mr. President, I amend my motion to permit 10 minutes' discussion on the amendment offered by Mr. Austin.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen, as revised. Mr. Hoxie.

MR. HOXIE: Mr. President, I appreciate Mr. Van Dusen's desire to speed up the action as much as possible, but as indicated by Mr. Austin, he has an amendment which he wants to discuss for 10 minutes. Certainly, the membership would want the privilege of hearing discussion also on the other side of the question. So I think that whatever time might be allotted for discussion of the Austin amendment, an equal amount of time should be allotted for answering the questions raised by Mr. Austin.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I would just like to ask a question. I think we ought to spend as little time as possible. We spent quite a bit of time debating this. But I am getting somewhat disturbed. It appears to me Mr. Van Dusen is setting himself up as either appointed by somebody or as a self appointed timekeeper and is now usurping the power of the committee chairman in accepting committee amendments and how long we're going to discuss them. I wonder if he is self appointed or appointed by someone.

MR. VAN DUSEN: I am self appointed.

MR. HUTCHINSON: May I make a point of order, Mr. President?

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: That this motion to limit debate is not debatable.

PRESIDENT NISBET: That is correct. The Chair sustains the point of order.

MR. DOWNS: Point of information on the motion, Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Was the 5 minutes to be 5 minutes on the amendment and the proposal or 5 minutes total?

PRESIDENT NISBET: Mr. Van Dusen, will you state your motion again.

MR. VAN DUSEN: Mr. President, my motion was 5 minutes further on the present amendment and 5 minutes on each pending amendment other than the Austin amendment to which Mr. Austin had indicated 10 minutes might suffice. If Mr. Austin now indicates that it will take him 10 minutes for his presentation, I think Mr. Hoxie's suggestion is a good one and that perhaps we should limit the total debate on the Austin amendment to 15 minutes. So to restate the motion, it would be 5 minutes more on the pending amendment, 5 minutes on each of the remaining pending amendments other than the Austin amendment, and 15 minutes on the Austin amendment.

MR. HODGES: Mr. President, a preferential motion.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: I believe that to get into all these mechanics of the time is going to be somewhat time consuming. Therefore, I would move to adjourn to 9:01 tomorrow, a time certain.

DELEGATES: No.

PRESIDENT NISBET: Mr. Hodges moves that we adjourn until tomorrow morning. Those in favor of the motion will say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand supported? It is supported. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion that the convention adjourn, the yeas are 27; the nays are 73.

PRESIDENT NISBET: The motion does not prevail. Mr. Walker.

MR. WALKER: I have an amendment to Mr. Van Dusen's revised motion. I would like to amend Mr. Van Dusen's motion by striking out "15 minutes" and inserting "10 minutes" on each of the individual items; and by striking out "15 minutes" and inserting "20 minutes" on the one amendment of Mr. Austin.

PRESIDENT NISBET: The question is on the motion to amend of Mr. Walker. Those in favor will say aye. Those opposed, no.

The motion to amend does not prevail. The question now is on the motion by Mr. Van Dusen, as revised. Those in favor will say aye. Opposed, no.

The motion as finally revised prevails.

MR. WANGER: Mr. President.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: I wish to very briefly discuss these 2 words "comprehensive" and "all" to point out this: that under the doctrine of separation of powers, which we have written into the constitution and which exists inherently —

MR. HATCH: Point of order.

PRESIDENT NISBET: State your point.

MR. HATCH: I believe Mr. Wanger has already spoken to this amendment.

MR. WANGER: Mr. President, I was speaking on Mr. Hoxie's time. He yielded to me, as you will recall. So I am now speaking for the first time in my own right.

PRESIDENT NISBET: The Chair does think you have spoken on the amendment. The question now is on the amendment.

MR. WANGER: Mr. President.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: It's been the custom for 6 months in this convention that if someone yields to someone else and there is no objection raised at that time—anybody had the right to object, but no one objected—then that person is speaking at that point upon that other person's time—

MR. MARSHALL: We object.

MR. WANGER:—therefore, he has a right to speak again on his own. That's been the rule we've followed.

PRESIDENT NISBET: Every time we try to save some time, we lose it. Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I shall try to speak on the amendment and on the proposal since I understand that 5 minutes includes both the proposal and the amendment. I am concerned that this performance comprehensive audit which Delegate Austin refers to so clearly, includes a review of the civil service commission as well as the administrative operation of the courts. I feel that this legislative auditor, as defined in the constitution, is a violation of the other provisions of the document where we call for separation of the executive, judicial and legislative branches of government. I urge a no vote on the amendment and on the proposition, recognizing that the legislature can itself, whenever it wishes, create a legislative auditor that would limit himself to the constitutional functions of the legislature, and not inject himself into these other agencies.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: The amendment on which the vote is to be taken at this time is on the first portion of the amendment recommended by the committees:

[The amendment, first part, was read by the secretary. For text, see above, page 2772.]

PRESIDENT NISBET: The question is on the amendment. Mr. Hatch.

MR. HATCH: Mr. President, point of order. Is this amendment divisible? It has provisions of striking out and also inserting.

PRESIDENT NISBET: It is a series of amendments, Mr. Hatch, and is divisible. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I'd just like to say I believe Mr. Austin is completely right on this matter, and I urge you to vote no.

PRESIDENT NISBET: The question is on the adoption of the first part of the amendment. Those in favor will say aye. Those opposed, no.

The amendment, first part, is not adopted. The next amendment.

SECRETARY CHASE: The remaining amendment offered by the committee on executive branch and the committee on legislative powers is:

1. Amend page 1, line 6, [paragraph 1] after "transactions" by inserting "and accounts"; and in line 10, [paragraph 2] after "infringe" by reinserting "the responsibility and constitutional"; and in line 12, [paragraph 2] by striking out "institutions of higher education as provided in this constitution" and reinserting "universities and colleges to be solely responsible for the control and direction of all expenditures from the institutions' funds".

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: I have already pointed out, Mr. President, this just reinserts the original language approved in committee of the whole. We think that it is better, in that it is a little more limiting and was already acceptable to all of the educational people who were involved in this. We urge its approval.

PRESIDENT NISBET: Mr. Hatch.

MR. HATCH: Mr. President, like Mr. Sterrett, I am somewhat surprised that this appears as a committee amendment because, to my knowledge, the executive branch committee, or at least some members of it, have not seen the amendment. The portion in lines 10 through 14 was not a committee proposal initially. It was an amendment which was offered on the floor. At that time Mr. Elliott and myself had prepared an amendment to that amendment to strike out the words "solely responsible" in light of the fact that we felt that this provision might be a grant of power to the institutions of higher education rather than merely clarifying; in other words, not granting any additional powers to those already granted. At the urging of Dr. Hannah, we withdrew the amendment with the understanding that that was not their intent and that style and drafting would take care of the situation. In my opinion, style and drafting has taken care of this situation and I therefore oppose this amendment and would at this time yield to Mr. Elliott.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, as I read what style and drafting has done here, it meets with my full approval and it is consistent with the amendment that Mr. Hatch and I had prepared and which we were going to offer at the time this originally came under debate. It seems to me that rather than the amendment broadening the provisions of higher institutions, that these are merely restating some things that were already construed in the constitution. While the language that is offered here as an amendment does broaden because of the word "solely," I would like to urge the defeat of this amendment and the retention of the language as presented to us by style and drafting.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, parliamentary inquiry. Are we not speaking on the amendment both in line 6 and also in lines 10 through 14?

PRESIDENT NISBET: We are speaking on the rest of the amendment, Mr. Wanger.

MR. WANGER: I wish to make the point, Mr. President, that these amendments which were adopted by a meeting of those people who had worked very intimately and very long with this problem are important and are necessary to preserve the constitutional strength of this legislative auditor. If you do not put the strength into the constitution, the legislature will not be able to give it to him by law because it will be a violation of the doctrine of separation of powers. This battle has been fought back and forth over the comptroller general of the United States for years. We don't want to have that battle in Michigan. Therefore, it is necessary to put whatever strength you wish to give the office into the constitution.

The words "and accounts" are necessary to make this clear. If it is not clear, it can be fought out in this area, and there can be a tremendous amount of fighting, and there is over $1 billion a year involved.

With respect to the substantive change which has been worked out by the committee on style and drafting in lines 10 through 14, I wish to point out to you that the amendment of the committee merely restores what was done by the committee of the whole and that's what we are asking you to adopt. This language, the language put in by style and drafting, can be very reasonably interpreted to mean that the legislative auditor general will have absolutely no power or authority whatsoever with respect to any institution of higher education. That is not what the people originally desired when they put this amendment in. It was carefully considered originally by the committee of the whole. Therefore, unless you wish to bar the legislative auditor general from having anything to do with higher education—and remember, that's the single largest appropriation that the state makes each year, the single largest one—why, then, you should vote in favor of this committee amendment.

PRESIDENT NISBET: Time has expired. The question is on the amendment.

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Point of information. It seems to me that there are a series of amendments that have been offered, and for it to be properly judged by the delegation, that we should separate the "and accounts" from the balance of the amendment as offered, because the balance of the amendment discusses higher education. I would like to ask for that permission.

PRESIDENT NISBET: It is so divided. The question now is on the amendment. Mr. Chase will read the amendment to be voted on first.

SECRETARY CHASE: The present amendment under consideration, upon the division as requested by Mr. Elliott is:

1. Amend page 1, line 6, [paragraph 1] after "transactions" by inserting "and accounts".

PRESIDENT NISBET: The question is on the amendment.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: I realize time has expired. The question has arisen before the convention as to the position of the committee on education and I certainly think that in view of the fact that Mr. Bentley has been standing at the microphone for several minutes trying to get recognition, that this convention should be willing to grant him the opportunity to be heard. And I so move.

PRESIDENT NISBET: By unanimous consent, Mr. Bentley may have the floor. Mr. Bentley.

MR. BENTLEY: Mr. President, it is not my intention to take time that was not allotted in the motion previously adopted, but I will say I am sure that the committee on education would feel very strongly in favor of adopting the committee amendment to restore the original language in this. I would just like, Mr. President, if I may, to ask Mr. Wanger a question. I would ask him what he envisages by "institutions of higher education."

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, Delegate Bentley, by "institutions of higher education," of course, we certainly mean all of the universities in the state and we also mean all of the colleges in the state as we normally consider them.

MR. BENTLEY: Including the community and junior colleges?

MR. WANGER: That's an interesting question. I have not had a chance to refresh my recollection by looking back at the exact wording of the provision of the educational proposal that mentions community and junior colleges.

MR. BENTLEY: In view of this question, Mr. President, I strongly urge the support of the committee amendment.

PRESIDENT NISBET: The question is on the amendment, as divided.

SECRETARY CHASE: The amendment under consideration at the moment is:

1. Amend page 1, line 6, [paragraph 1] after "transactions" by inserting "and accounts".

PRESIDENT NISBET: Those in favor of the amendment will say aye. Opposed no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: The remaining amendment:

1. Amend page 1, line 10, [paragraph 2] after "infringe"

by reinserting "the responsibility and constitutional"; and in line 12, [paragraph 2] by striking out "institutions of higher education as provided in this constitution" and reinserting "universities and colleges to be solely responsible for the control and direction of all expenditures from the institutions' funds".

PRESIDENT NISBET: The question is on the remainder of the committee amendment which Mr. Chase just read. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the remainder of the amendment offered by the committees, the yeas are 58; the nays are 46.

PRESIDENT NISBET: That part of the amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin, Bonisteel, Miss Donnelly, Messrs. Downs, Gust and W. F. Hanna offer the following amendment:

1. Amend page 1, line 2, [paragraph 1] after "auditor general" by inserting a comma and "who shall be an administrator and a certified public accountant duly licensed to practice in this state,".

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I approach this subject with a great deal of trepidation for several reasons. I have often heard that "he who is his own attorney has a fool for a client," and I should leave it to the lawyers to argue this case for me. But this matter came up on the floor while I happened to be away and I feel that perhaps something ought to be said for the CPA. If we take the position that a legal background is necessary for persons involved in the legal province in the state, supreme court justices, state attorney general, prosecuting attorneys, assistant prosecutors, city attorneys, is it not inconsistent to hold that it is not necessary to require that an expert in the field of auditing be the only person qualified for the office of auditor general? And again, when we consider that we expect the highway commissioner to be a highway engineer, is it not inconsistent to say that the holder of the highest audit office in this state should not be especially qualified in this field?

Now just briefly let me make these few remarks about the certified public accountant, and I am not talking about his qualifications now because I think most of you are familiar with those. But if you are concerned about having more than a certified public accountant in this position, you can only expect that he should be an administrator in addition, or you may wish that he be a lawyer in addition to being a CPA. You may even wish that he be a Ph.D. in addition to being a certified public accountant. And I would say to you that among the 3,000 certified public accountants in the state of Michigan, you could take your choice. If you need a CPA who is an administrator, you will have no trouble finding one. Examples of administrators who are well known among the CPA profession are such men as Lynn Townsend who is now the president of Chrysler corporation, Ernest Breech of Ford Motor company, and Robert P. Briggs of Consumers Power. If you feel that he ought to be a lawyer, I don't think you'll have any trouble finding at least 100 CPAs in the state who are also lawyers. There are also specialists in the profession, specialists in taxation, specialists in management services, specialists in SEC audits, specialists in government audits, school audits, university audits, specialists in personnel, public relations and systems. And then, of course, there is the lowly general practitioner like myself, who doesn't have a great deal of value except to extoll the abilities of the specialists in the field.

If you are concerned about numbers, let me remind you that there are less than 9,000 lawyers in the state, and from these 9,000 lawyers you expect to get your supreme court justices, your state attorney general, your prosecuting attorneys, your assistant prosecuting attorneys, city attorneys, and all of those. Out of 3,000 CPAs we are asking that one state position be reserved to the CPA, and I don't think you will have any trouble finding one out of 3,000. And incidentally, if you are concerned about the politics of these people, for the benefit of the majority party here, I would say they run anywhere from 5 to 10 to 1 in favor of the majority party. I would not want you to judge the whole profession by my performance on this floor.

Two more rather important points: we certainly expect that this auditor general shall have technical ability and administrative ability, but you also want him to have independence in mental attitude, and this is an attitude which the profession has attempted to develop among the CPAs.

One other point which I think is rather important, is that we have a growing profession of men who have abilities in many fields in addition to that of the so called audit, with which you are familiar. But these men generally have not been found very active in public life, in public service. And it is my feeling that they have a value which the public ought to take advantage of and I would feel that if we do designate this one office for the certified public accountant, that it will aid to draw the CPA into public service. I think his services are needed there and I think he will be of value. Rather than carry on my whole case by myself, I think it is better now that I at least let my counsel say a few words in my behalf. I will yield the floor to Miss Donnelly.

MISS DONNELLY: The thing I regret is the time that this issue hits the floor. It reminds me of the time it hit the floor the last time when we were in committee of the whole. The chamber was practically vacant. I think it is a very vital issue for people to put their brains to and not just go nonchalantly on. We are confronted with a problem about who would do the most comprehensive and important job for this state. We are also confronted with the problem of how much training should a person have. I submit, as a member of the bar, I don't believe someone who has not been admitted to practice law in this state is qualified to represent people. I think the same logic applies to the highest job that we could possibly have for auditing books in this state. And auditing books is not a simple process. I think the convention earlier has been confronted with one of the problems of the trade, a term of art. It took a CPA on the floor to make it clear to the rest of you what this term of art meant and how to understand it and what the job entailed. To have someone who is not equipped with the highest training that we can find in this state to do this job, I think, is most inadequate.

Some time ago there was a list made of the licenses and exams that were required throughout the state to do various jobs, such as a barber to cut hair must be licensed; to go down from that point, even for selling dogs and treatments in many instances. I think you will find if you analyze this thing carefully that this is not a job for a beginner; this is not a job for a politically important appointment. This is a job for a professional, and there is only one way we grade professionals today. That is through a licensing process. For this licensing process may get tougher as the years go on. I think it will. This has happened in every other profession we've had. And to allow an individual to occupy this position who hasn't met the highest requirements we have in this state is selling the state short, I think. I therefore very strongly support Mr. Austin's amendment and urge a very definite yes vote thereon.

PRESIDENT NISBET: Mr. Barthwell.

MR. BARTHWELL: Mr. President and delegates, I rise to support this amendment in part, especially the part where the accountant should be a CPA. But this word "administrator" kind of worried me because I don't know how the state would lure Lynn Townsend or Breech away from Chrysler and Ford Motor company to do the job. So I think that Austin used a poor description for me to understand exactly what he means by "administrator." However, when I look at the sponsors of this amendment, I feel sure that Mr. Bonisteel and the rest of them know what they are talking about. (laughter) Therefore, I urge you to support this amendment.

PRESIDENT NISBET: Mr. Tubbs.

MR. TUBBS: Mr. President, I rise to support the Austin amendment. I have a telegram from a CPA in whom I have a great deal of confidence, and he urges the same thing. And despite his discounting remarks, I suggest to Delegate Austin that he should be a candidate for this job and I offer him 143 people who know what his contribution is to this convention. (applause)

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, having served on the committee on style and drafting with Delegate Austin, I have learned the value of CPAs. He is our authority in that field and I think we all learned — lawyers and laymen alike — that it is necessary to have a CPA when you get into things which deal with finances and accounting.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: As a professional man myself, I strongly support the Austin amendment and urge a favorable vote.

PRESIDENT NISBET: Mr. Leppien.

MR. LEPPIEN: Very briefly, Mr. President and fellow delegates, remember this when you vote — and I hope you vote in favor of the amendment — wouldn't it be something to have a person not a CPA in charge of CPAs going around the state auditing accounts of the counties and of the other units of government? I urge you to support the amendment.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, I realize that probably taking into consideration the popularity of my good friend, Dick Austin, that I will probably not make any friends, but I rise to oppose the Austin amendment — and I too have all the respect in the world for Delegate Austin and his ability as a CPA. But I would point out that the auditor general of the state is more of an administrator than he is an auditor. How many auditors general that have served in this office have themselves personally gone about the state, as Mr. Leppien said, and performed the audits? I think very few, if any. The responsibility of the auditor general is primarily administrative and I do not believe we should be denied the services of an outstanding administrator who could take over a department and run it properly solely because he was lacking a CPA certificate. I oppose the Austin amendment on this basis and I ask the rejection of it.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I think everything has been said on this. We have had the auditor generals taking charge of CPAs for about 150 years here in Michigan and some of them have done a reasonably good job. It seems to me that the legislature and the committee gave careful consideration to this. This was all debated in committee of the whole. It was turned down in committee of the whole and obviously every one of us would be glad to have Dick Austin appointed as auditor general. But that has nothing to do with the matter. The question is whether the legislature should have the authority to appoint a person who meets its qualifications rather than our determining that he should be a CPA. I don't think that we should. I think that the amendment should not be accepted in spite of our high regard for Mr. Austin.

PRESIDENT NISBET: Mr. Upton.

MR. UPTON: Mr. President and delegates, I rise to support the Austin amendment. We have today talked about a highway commissioner and in this language we say he shall be a competent highway engineer and administrator. I think the auditor general, who no longer is going to be elected but appointed, should certainly carry these qualifications and should know his trade in the highest position of this sort in the state. So I would hope that this convention would support this amendment.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President, likewise.

PRESIDENT NISBET: Mr. Rajkovich.

MR. RAJKOVICH: Mr. President and fellow delegates, I guess we don't trust the legislature again. It appears that we trust them for one thing and not something else. Evidently we believe that the legislature will not be able to pick a qualified man. I have all due respect and regard for Mr. Austin. I'd certainly like to see him be the first legislative auditor. But I still think the legislature should be able to pick a qualified man. Therefore, I oppose the amendment.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I also want to support the Austin amendment and at this time I move the previous question.

PRESIDENT NISBET: The time has expired. The question is on the Austin amendment. Those in favor of the Austin amendment will say aye. Those opposed, no.

The amendment is adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand supported? It is supported. Those in favor of the Austin amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Austin, the yeas are 74; the nays are 34. (applause)

PRESIDENT NISBET: The amendment is adopted.

MR. AUSTIN: Mr. President, I want everyone to know there was nothing personal in this. (laughter)

MR. BARTHWELL: Mr. President, I want to request that the statement made by Delegate Austin be printed in the journal so we'll be sure of that. (laughter)

PRESIDENT NISBET: The secretary will read the next amendment.

SECRETARY CHASE: Mr. Austin offers the following amendment:

1. Amend page 1, line 3, [paragraph 1] after "years.", by inserting "He shall be ineligible for appointment or election to any other paid public office in this state while serving as auditor general and for 2 years following the termination of his service.".

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, the CPAs with whom I have talked over the weekend about this subject have felt that the auditor general, assuming, of course, that he would be a CPA, should retain his independence of mind, and that he should not be influenced by political ambition or permitted political maneuvers of any kind. And it was their feeling that this concession, if you want to call it that, should be made in regard to this auditor general; that he should not be eligible for appointment to any other office, nor should he be a candidate for office immediately after serving as auditor general. This is the way to insure his integrity and his position. And I would urge the adoption of this amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I see no objection to this. If the delegates wish to approve it, I am sure the committee would go along.

PRESIDENT NISBET: The question is on the amendment of Mr. Austin. Those in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Marshall, Downs, Austin and Miss Hart offer the following amendment:

1. Amend page 1, line 9, [paragraph 1] after "thereof" by inserting "except civil service and judicial functions".

PRESIDENT NISBET: Mr. Marshall. Mr. Downs. Miss Hart. Mr. Downs, you have an amendment on the floor that you might like to talk about. The question is on the amendment offered by Mr. Marshall, Mr. Downs, and so forth.

MR. DOWNS: Mr. President, excuse me. I put in my dinner order and told them to hold it a little while.

PRESIDENT NISBET: You're a little early for that. (laughter)

MR. DOWNS: This amendment is a very simple one. It makes it very clear that the performance postaudit would not affect civil service or our judiciary. I think when in the constitution we are creating such a broad power of a performance postaudit that we should be sure that it does not interfere with either the civil service or the judiciary. I therefore urge support of the amendment and demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. The Chair recognizes Mr. Gover.

MR. GOVER: Mr. President and fellow delegates, it looks to me like they're 2 different departments in there, civil service and the judicial. I think, Mr. President, that that should be divided and be voted on as 2 separate issues.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: I simply rise to oppose the amendment. At the present time both the civil service and the judiciary are audited. The performance postaudit relates only to whether the money was spent for the purposes for which it was appropriated — was used for those purposes. It doesn't have to do with whether the court is trying the case correctly or not. And I think that this amendment should be voted down. The same provision should apply to these areas as apply to all other areas.

PRESIDENT NISBET: Mr. Heideman.

MR. HEIDEMAN: Mr. President, there should be no one in a free society who objects to being inquired into or checked.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President, I oppose this amendment. From the words of this amendment it would appear to me that somebody is trying to hide something and I do not feel that it is right to do this to the civil service or the judicial.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, I stood for the independence of civil service in many respects but certainly not independence from the eyes of the legislature. I think it should be fully informed of what civil service is doing and how it is spending its money. I would be very much opposed to this amendment.

PRESIDENT NISBET: Mr. Leppien.

MR. LEPPIEN: Mr. President, fellow delegates, through the Chair, I'd like to ask Delegate Downs a question.

PRESIDENT NISBET: If Mr. Downs cares to answer.

MR. LEPPIEN: Mr. Downs, when you say the judiciary, that would mean, of course, the county clerk could not be audited for the reason that he is an arm of the judiciary; is that correct?

MR. DOWNS: No, I did not have that intent. I meant it more similar to what we have done for institutions of higher learning. The intent was not to affect that ministerial function of the clerk.

MR. LEPPIEN: Another question, Mr. President, if I may: when you say "the judicial," the judicial as such does not handle money or accounts. They have a clerk do it for them, if I understand it correctly.

MR. DOWNS: That point is well taken. The intent here was to see that the judiciary would not have its performance functions interfered with by the performance audit of the legislature. I think this might apply particularly to juvenile courts, courts of that nature, which do do quite a bit of administrative work. I think their responsibility should be through the judicial system rather than through this type of performance audit.

MR. LEPPIEN: Mr. President, again, if I may, through the Chair: in the field of juvenile courts, again, the clerk or the welfare agent, as he is known in county government, does handle the funds on behalf of the court, and the state auditors now do perform audits. In fact, they must keep separate accounts of it.

MR. DOWNS: Mr. President, what I was trying to get at primarily was the performance part of the postaudit. For example, this would mean if a juvenile court were attempting a rehabilitation program or something like that, that I would not want the legislative auditor to use the performance concept to review the rehabilitation function there. I differentiate that from the traditional auditing where we see that money is spent honestly, whether it is proper economy and accounting. "Performance" is the word that bothers me. I think that one other way would have been to strike the word "performance."

PRESIDENT NISBET: Mr. Downs, time has expired. Mr. Gover has withdrawn his request to divide the question. The yeas and nays have been ordered. The question is on the amendment. Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment offered by Messrs. Marshall, Downs, Austin and Miss Hart:

1. Amend page 1, line 9, [paragraph 1] after "thereof" by inserting "except civil service and judicial functions".

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 23

Austin
Balcer
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Garvin
Hart, Miss
Hodges
Jones
Kelsey
Lawrence
Mahinske
Marshall
McCauley
McGowan, Miss
Perlich
Snyder
Suzore
Wilkowski
Young
Youngblood

Nays — 83

Allen
Andrus, Miss
Anspach
Barthwell
Batchelor
Beaman
Bentley
Bradley
Brake
Butler, Mrs.
Cushman, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gover
Gust
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
Martin
McAllister
McLogan
Millard
Nisbet
Page
Perras
Plank
Powell
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment, the yeas are 23; the nays are 83.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of Committee Proposal 78 as amended. Will you clear the board, please. Those in favor of Committee Proposal 78 as amended will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: While the secretary is checking the vote, I would like to say that there is simply one more proposal on the executive residence, to which there are no amendments. I would move to take up Committee Proposal 77 next. Then this will leave state civil service and local civil service for tomorrow morning. Then I propose to move that we adjourn.

PRESIDENT NISBET: Without objection, the motion prevails and we will proceed as requested.

The roll was called and the delegates voted as follows:

Yeas — 88

Allen
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Bradley
Brake
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan

Butler, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gover
Gust
Haskill
Hatch
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Lawrence
Leppien
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Nisbet
Page
Perlich
Perras
Plank
Powell
Prettie
Sharpe
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Woolfenden
Yeager
Youngblood

Nays — 13

Buback
Douglas
Downs
Faxon
Hart, Miss
Hodges
Jones
Marshall
Sablich
Snyder
Walker
Wood
Young

SECRETARY CHASE: On the passage of Committee Proposal 78 as amended, the yeas are 88; the nays are 13.

PRESIDENT NISBET: **Committee Proposal 78,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 78 as amended and rereferred to the committee on style and drafting:

Sec. a. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be an administrator and a certified public accountant duly licensed to practice in this state, to serve for a term of 8 years. He shall be ineligible for appointment or election to any other paid public office in this state while serving as auditor general and for 2 years following the termination of his service. He may be removed for cause at any time by a 2/3 vote of the members elected to and serving in each house of the legislature. The auditor general shall conduct postaudits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance postaudits thereof.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the universities and colleges to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those herein specified.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

SECRETARY CHASE: Pursuant to the motion of Mr. Martin, the next item is item 21 on the calendar, **Committee Proposal 77,** A proposal to provide a suitable residence for the governor and to authorize an allowance for maintenance. Amends article VI.

Following is Committee Proposal 77 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 1747.):

Sec. a. [There shall be provided, at the seat of government, for the governor's use a suitable executive residence with fixtures and furniture and the governor shall receive an allowance for maintenance of the residence as shall be prescribed by law.] AN EXECUTIVE RESIDENCE SUITABLY FURNISHED SHALL BE PROVIDED AT THE SEAT OF GOVERNMENT FOR THE USE OF THE GOVERNOR. HE SHALL RECEIVE AN ALLOWANCE FOR ITS MAINTENANCE AS PROVIDED BY LAW.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, these are the words proposed by the committee on style and drafting. They are entirely satisfactory. We hope you will approve the proposal.

PRESIDENT NISBET: The question is on Committee Proposal 77. The board will be cleared. Those in favor of the proposal will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—95

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bledsoe
Bradley
Brake
Buback
Butler, Mrs.
Cushman, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gust
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Lawrence
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Nisbet
Page
Perlich
Perras
Plank
Prettie
Radka
Rajkovich
Richards, J. B.
Rood
Sablich
Seyferth
Shackleton
Shanahan
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Suzore
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 8

Boothby
Gover
Hutchinson
McAllister
Powell
Richards, L. W.
Sharpe
Wanger

SECRETARY CHASE: On the passage of Committee Proposal 77, the yeas are 95; the nays are 8.

PRESIDENT NISBET: **Committee Proposal 77** is passed and referred to the committee on style and drafting.

For Committee Proposal 77 as rereferred to the committee on style and drafting, see above.

Announcements.

MR. MARTIN: Mr. President, I announce that the committee on executive branch will hold a committee meeting in room 240 of the Capitol Park motel immediately after this session.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: Announcements, Mr. Chase.

SECRETARY CHASE: I have the following announcements:

The committee on declaration of rights, suffrage and elections will meet in room F at 8:00 o'clock this evening.

The committee on administration will meet tomorrow at 11:30. Walter DeVries, chairman.

The committee on legislative powers will meet for a short meeting immediately following this session. T. Jefferson Hoxie, chairman. It will also meet Thursday at 8:00 o'clock a.m.

The committee on emerging problems will meet Wednesday in committee room H on the third floor at 8:00 o'clock a.m. for the purpose of hearing all delegates who have questions, suggestions or proposed amendments to the committee proposals.

I have the following requests for leave: Mr. Garvin wishes to be excused from tomorrow's session; Mr. Yeager asks to be excused from the first part of Friday morning's session; Mr. Hatch asks to be excused from the first part of the session tomorrow; Mr. Bentley asks to be excused from the latter part of the morning session tomorrow; and Mr. McAllister asks to be excused from the session of Friday because of an important appearance in court.

PRESIDENT NISBET: Without objection, the excuses are granted. The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention do now adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Those opposed, no.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 7:10 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Wednesday, April 25, 1962.]

ONE HUNDRED TWENTY-EIGHTH DAY

Wednesday, April 25, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order**.

We are very happy to have with us this morning to give the invocation, Glenn Allen's pastor, Reverend Charles K. Johnson of the First Presbyterian Church of Kalamazoo.

REVEREND JOHNSON: Let us pray. Almighty God who hast set our lives in a pleasant place and who hast informed our heritage with freedom to live and work and to seek after truth, grant that we may be worthy of our inheritance and responsible in this present for the future. Forbid that we should become separated from Thee by that selfrighteousness which pretends we are our own to do with as we please. We are not our own but accountable for truth and justice and mercy quite beyond our own preferences. Grant that in humility before Thee, in concern for the dignity of our fellows, in obedience to the welfare of the state, this body may possess the wisdom and courage and patience and graciousness to do out its duty. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mrs. Conklin, Messrs. Ford, Habermehl and Norris, temporarily, from this morning's session; and Mr. Kuhn, from this morning's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Mr. G. E. Brown, Mrs. Conklin, Messrs. Dade, Ford, Garvin, Greene, Habermehl, Hatch, Kuhn, Nord, Norris and Pellow.

Absent without leave: Messrs. Follo, Hodges, Krolikowski and Liberato.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Conklin, Messrs. Follo, Habermehl, Hodges, Krolikowski, Ford, Hatch, Norris, Kuhn, Liberato and G. E. Brown.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 102 of that committee, reporting back to the convention **Committee Proposal 118**, A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people;

with the recommendation that the style and form be approved.

W. B. Cudlip, chairman.

For Committee Proposal 118 as reported by the committee on style and drafting, see below under date of April 27.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 103 of that committee, reporting back to the convention **Committee Proposal 119**, A proposal to provide that the legislature shall not pass local acts when general acts can be made applicable and that local acts require a 2/3 vote of the legislature;

with the recommendation that the style and form be approved.

W. B. Cudlip, chairman.

For Committee Proposal 119 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 104 of that committee, reporting back to the convention **Committee Proposal 120**, A proposal to provide that a member of the legislature shall not be appointed to certain other offices during the term for which he is elected;

with the recommendation that the style and form be approved.

W. B. Cudlip, chairman.

For Committee Proposal 120 as reported by the committee on style and drafting, see below under date of April 27.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 105 of that committee, reporting back to the convention **Committee Proposal 121**, A proposal to provide that no law shall embrace more

than one object and that no act shall take effect until 90 days from the end of a session and other incidental matters;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 121 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 106 of that committee, reporting back to the convention **Committee Proposal 122,** A proposal to include in the constitution the substance of section 5 of article XVI, entitled "vacancies in office; continuity of government in emergencies";
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 122 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 107 of that committee, reporting back to the convention **Committee Proposal 123,** A proposal to permit administrative agencies to promulgate rules and regulations and to provide for legislative review thereof, and for judicial review of the findings of such agencies;
with the recommendation that the style and form be approved.
W. B. Cudlip, chairman.

For Committee Proposal 123 as reported by the committee on style and drafting, see below under date of April 30.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

The secretary has 2 resolutions. Without objection, we will return to the order of **motions and resolutions.**

SECRETARY CHASE: Messrs. Marshall, Faxon and Mahinske offer
Resolution 92, A resolution relative to extending the constitutional convention May 15 deadline.

Following is Resolution 92 as offered:

Whereas, The major concern of this convention ought properly to be that of submitting a document which is our best deliberative judgment; and

Whereas, We have to date exercised this judgment carefully and judiciously; now therefore be it

Resolved, That in the future consideration of proposals on second and third reading we not be guided by a fixed time schedule, but are to be guided by our own good judgment and sound thinking in concluding this convention expeditiously and with a document of which we can all be proud; and be it further

Resolved, That appropriate steps be taken to secure additional funds, if necessary, for up to 2 weeks beyond the May 15 deadline, to insure that we can conclude our work in an orderly, sensible, judicious, expeditious and deliberative manner.

PRESIDENT NISBET: Referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Downs, Miss Hart, Messrs. Kelsey, Norris, Bradley, Mrs. Daisy Elliott, Messrs. Buback, Baginski and Krolikowski offer
Resolution 93, A resolution providing for the separate submission to the people of the controversial and the noncontroversial portions of the proposed constitution.

Following is Resolution 93 as offered:

Whereas, The constitutional convention is in the process of adopting several items with substantial bipartisan support, which in all likelihood are desired by the people of this state; and

Whereas, Such items include, but are not confined to, the following: (1) elimination of spring elections; (2) 4 year terms; (3) improved borrowing power for the state; (4) a self executing civil rights commission; (5) constitutional protection from taxation for churches; (6) possibility of lowering interest rates and tolls on the Mackinac bridge through full faith and credit bonds; (7) constitutional status for universities and an 8 member state board of education to replace the present 4 member board, with additional coordinating powers; (8) increased pay for legislators; (9) constitutional prohibition of capital punishment; and (10) elimination of much obsolete language; and

Whereas, There are many other highly controversial provisions that have been adopted by smaller majorities which may jeopardize the acceptance of these proposals that have substantial agreement; and

Whereas, The constitutional amendment creating this convention permits this convention to submit either amendments or a revised constitution to the people; now therefore be it

Resolved, That this convention call upon the committee on style and drafting, immediately after second reading, to present to the convention in such form that those provisions which have received substantial bipartisan support be submitted in one package and those that are highly controversial be submitted as separate items for the voters to pass on independently so that the voter's antipathy to one controversial item will not jeopardize the passage of those portions of the constitution that are agreed upon with substantial bipartisan support.

PRESIDENT NISBET: Referred to the committee on rules and resolutions.

Second reading.

SECRETARY CHASE: Item 19 on the calendar, **Committee Proposal 22,** A proposal pertaining to state civil service. Amends article VI, section 22.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, in view of the length of the proposal, I move that since the secretary has read the title that the balance of the proposal be considered read.

PRESIDENT NISBET: Without objection, it will be so considered. Hearing none, it is.

Following is Committee Proposal 22 as reported by the committee on style and drafting and considered read. (For text as referred to said committee, see above, page 714.):

Sec. a. The CLASSIFIED state civil service shall consist of all positions in the state service except those filled by popular election, heads of PRINCIPAL departments, members of boards and commissions, the chief executive officer of boards and commissions heading principal departments, employees of courts of record, EMPLOYEES of the legislature, EMPLOYEES of the [higher] state [educational] institutions OF HIGHER EDUCATION, all persons in the armed forces of the state, 8 exempt positions in the office of THE governor, and within each PRINCIPAL department, when requested by the department head, 2 other exempt positions, one of which shall be policy making. [Three additional positions of a policy making nature may be exempted within each department as determined to be necessary by the civil service commission.] THE CIVIL SERVICE COMMISSION MAY EXEMPT 3 ADDITIONAL POSITIONS OF A POLICY MAKING NATURE WITHIN EACH PRINCIPAL DEPARTMENT.

[There is hereby created a nonsalaried] THE civil service commission SHALL BE NONSALARIED AND SHALL [to] consist of 4 persons, not more than 2 of whom shall be members of the same political party, appointed by the governor for 8 year, overlapping terms.

THE ADMINISTRATION OF THE COMMISSION'S POWERS SHALL BE VESTED IN A STATE PERSON-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

NEL DIRECTOR WHO SHALL BE A MEMBER OF THE CLASSIFIED SERVICE AND WHO SHALL BE RESPONSIBLE TO AND SELECTED BY THE COMMISSION AFTER OPEN COMPETITIVE EXAMINATION.

The commission shall classify all positions in the [state civil] CLASSIFIED service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all [personnel] PERSONAL services, determine by competitive EXAMINATION AND performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the [state civil] CLASSIFIED service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the [state civil] CLASSIFIED service.

NO PERSON SHALL BE APPOINTED TO OR PROMOTED IN THE CLASSIFIED SERVICE WHO HAS NOT BEEN CERTIFIED AS QUALIFIED FOR SUCH APPOINTMENT OR PROMOTION BY THE COMMISSION. NO APPOINTMENTS, PROMOTIONS, DEMOTIONS OR REMOVALS IN THE CLASSIFIED SERVICE SHALL BE MADE FOR PARTISAN, RACIAL OR RELIGIOUS CONSIDERATIONS.

[No increases in rates of compensation shall take effect until the first day of the fiscal year following submission of such proposed increases to the legislature. Such proposed increases must be submitted to the legislature as part of the governor's budget for a fiscal year in order to be effective on the first day of such fiscal year. The requirements of the 2 preceding sentences may be waived by majority vote of the members of both houses of the legislature.] INCREASES IN RATES OF COMPENSATION AUTHORIZED BY THE COMMISSION MAY BE EFFECTIVE ONLY AT THE START OF A FISCAL YEAR AND SHALL REQUIRE PRIOR NOTICE TO THE GOVERNOR, WHO SHALL TRANSMIT SUCH INCREASES TO THE LEGISLATURE AS PART OF HIS BUDGET. THE LEGISLATURE MAY, BY A MAJORITY VOTE OF THE MEMBERS ELECTED TO AND SERVING IN EACH HOUSE, WAIVE THE NOTICE AND PERMIT INCREASES IN RATES OF COMPENSATION TO BE EFFECTIVE AT A TIME OTHER THAN THE START OF A FISCAL YEAR. [The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed unclassified positions within the executive department.]

THE APPOINTING AUTHORITIES MAY CREATE OR ABOLISH POSITIONS FOR REASONS OF ADMINISTRATIVE EFFICIENCY WITHOUT THE APPROVAL OF THE COMMISSION. POSITIONS SHALL NOT BE CREATED NOR ABOLISHED EXCEPT FOR REASONS OF ADMINISTRATIVE EFFICIENCY. ANY EMPLOYEE CONSIDERING HIMSELF AGGRIEVED BY THE ABOLITION OF A POSITION SHALL HAVE A RIGHT OF APPEAL TO THE COMMISSION THROUGH ESTABLISHED GRIEVANCE PROCEDURES.

THE CIVIL SERVICE COMMISSION SHALL RECOMMEND TO THE GOVERNOR AND TO THE LEGISLATURE RATES OF COMPENSATION FOR ALL APPOINTED POSITIONS WITHIN THE EXECUTIVE DEPARTMENT NOT A PART OF THE CLASSIFIED SERVICE. [No person shall be appointed to or promoted in the state civil service who has not been certified as so qualified for such appointment or promotion by the commission. The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Any employee considering himself aggrieved by any such abolition shall have an immediate right of appeal to the commission and the courts through established grievance procedures. No removals, demotions, appointments, or promotions in the state civil service shall be made for partisan, racial or religious considerations. Nor shall the creation or abolition of positions be made except for reasons of administrative efficiency.]

[The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the state civil service and who shall be responsible to and selected by the commission after open competitive examination.]

To enable the commission to exercise ITS [these] powers, the legislature[, at the first regular session subsequent to the adoption of this constitution and at each succeeding regular session,] shall appropriate to the commission for the ensuing fiscal [period] YEAR a sum not less than [1] ONE per cent of the aggregate [annual] payroll of the [state civil] CLASSIFIED service for the preceding fiscal [period] YEAR, as certified [to] by the commission. [The commission shall return to the state treasury within 6 months all funds unexpended after the conclusion of the fiscal period.] WITHIN 6 MONTHS AFTER THE CONCLUSION OF EACH FISCAL YEAR THE COMMISSION SHALL RETURN TO THE STATE TREASURY ALL FUNDS UNEXPENDED FOR THAT FISCAL YEAR.

THE COMMISSION SHALL FURNISH REPORTS OF EXPENDITURES, AT LEAST ANNUALLY, TO THE GOVERNOR AND THE LEGISLATURE AND SHALL BE SUBJECT TO ANNUAL AUDIT AS PROVIDED BY LAW.

No payment for personal services shall be made or authorized until the provisions of this [amendment] ARTICLE have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

[The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.]

PRESIDENT NISBET (continuing): Mr. Martin.

MR. MARTIN: Mr. President, members of the convention, the style and drafting committee has made a number of changes in this proposal but we've gone over them rather carefully and we do not find that they have made any changes in substance. In many cases we think they have improved the language and clarified it. For that reason we recommend that the proposal be adopted.

PRESIDENT NISBET: Is there an amendment?

SECRETARY CHASE: Messrs. Marshall, Downs, Miss Hart and Mrs. Daisy Elliott offer the following amendment:

1. Amend page 2, beginning on line 21, [paragraph 6] by striking out all of the paragraph; which reads:

   Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I'll yield to Mr. Downs.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I ask for the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up.

MR. DOWNS: The criticisms of this language are 2 fold: first, there is what I consider more than a technical objection to the language as it stands. This says that the governor shall transmit any increase in rates of compensation authorized by civil service to the legislature as part of his budget. Now, I raise the question: what happens if the governor does not transmit this rate of increase? And I believe this is more than a technical question. I think it's a little difficult

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

to say somebody could go out and mandamus the governor, because there is a very serious question whether the chief executive of the state can be mandamused even for purely ministerial duties; and besides, it would be a burden that nobody should have to make. What I am deeply afraid of is that after the civil service commission granted a raise, those who did not want such a raise granted could go to the governor and ask him to say he would not transmit that increase to the legislature and perhaps have the governor enter into a bargaining relationship with the civil service to say that he might transmit that if it were a lower increase. This, as I say, may be just a technical objection, but I think there is that possibility, and I think for that reason alone this language should not be in there.

I do believe that the civil service commission certainly should notify the legislature at a reasonable time under normal circumstances of increases in pay so the legislature would have a reasonable time to take that into budget considerations. This is the normal operation. This is what has been happening for years and I assume will be for additional years.

The second objection—and this is one where we must remember we're writing a constitution for the next 50 or even 100 years—is that this language does not belong in a constitution. There is a possibility, as happened in the Korean crisis, that the civil service commission perhaps, when the legislature was not even in session, would want to grant an emergency increase in compensation for certain particular job classifications for certain rates that we cannot anticipate now, and nobody else can. As I read this language, if the legislature were not in session, such a thing could not take place. And I conceive of a legislature not being in session for 6 or 7 months of the year because we did not adopt a provision that the legislature be continuously in session. The governor, in this language, would need to call a special session of the legislature, would then have to have the majority of the members elected and serving in each house waive the notice. I think this would be cumbersome, and I think, again, it would inject the legislature into the point of determining wage increases which vitiates the function of civil service.

And without being too cynical, I would point out that there are all these safeguards against increases of rates of compensation and of course, no safeguard against decreases in rates of compensation. I think most economists think that we're going to be in a period of either a stable or a slowly rising price index; so it is certainly possible that within 50 years we can have a reversal of an economic cycle. So I do urge that this be rejected and that we leave the language as it now stands. I think this is a weakening operation in the functioning of civil service and does not belong in a constitution. Thank you.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the 2 points which Mr. Downs has raised were considered, of course, during the committee of the whole at considerable length. With respect to the possibility that the governor might not transmit the increases, it appears to us, first, that we can't proceed on the theory that the governor is going to disregard an express constitutional direction. But if he did, the legislature would have the responsibility in any event to consider these increases in its appropriations, whether the governor had transmitted them or not. And second, the question of emergency increases; there is a possibility the legislature might not be in session. We feel that if there was an emergency, the governor would certainly call the legislature back into session and the second sentence of this portion which the amendment proposes to delete clearly takes care of the situation and permits a waiver of this requirement of 6 months' notice and so on. So, we would urge that the amendment be defeated.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—35

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hood
Jones
Lawrence
Lesinski
Madar
Marshall
McCauley
McGowan, Miss
Murphy
Ostrow
Perlich
Perras
Sablich
Snyder
Stopczynski
Suzore
Walker
Young

Nays—77

Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Haskill
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Staiger
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Marshall, Downs and others, the yeas are 35; the nays, 77.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Brake, Hatch, Arthur Elliott, Shaffer and Shackleton offer the following amendment:

1. Amend page 2, line 24 [paragraph 6] after "budget.", by inserting "Within 60 legislative days following such transmission, the legislature may, by a 2/3 vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission: Provided however, The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.".

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen of the convention, I don't intend to belabor this point for too long a period but I would like you to give this some very serious and careful consideration. If you analyze the amendment that we have offered, you will see that all that we are attempting to do here is to put things in their proper perspective and to give to the legislature the authority, under certain controls, to adjust increases if in their judgment this is required in the best interests of the state. You will notice that required in this amendment is a 2/3 vote of the members elected and serving in each house; that this must take place within 60 legislative days following the transmission of the budget from the governor; and, finally, that in no event may the legislature reduce the rates of compensation below those in effect at the time of transmission.

Now, I would ask you to objectively look at what this language does. It merely places the responsibility where it should be, in final form: with this legislative body which has the responsibilities of legislating the affairs of this state and of finding the necessary revenues to meet the requirements of this state. It does not give them any punitive action but it gives them regulatory action. I think it is something that is valuable and that belongs in this constitution as long as we have legislated the entire civil service provision, and I urge its adoption.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, this is an amendment which was also offered in committee of the whole. The feeling of the committee is that this gets the legislature into the problem of rate fixing, reducing, modifying or rejecting, and that every time there is a change in the rates you will find a movement in the legislature to see if they can gather together a 2/3 vote to reduce, reject or modify these increases. This means that, every time, you get an attempt made. It may not be successful but this keeps the whole problem in a state of uncertainty and flux. The committee feels strongly that this is not a desirable amendment; that the control should be in the control of the total amounts available to each agency for personnel use, and that's where the control ought to stay. If you get the legislature into the problem of rejecting or reducing or modifying these increases, you will only complicate the problem without in any way decreasing the amounts of money that are necessary for personnel expenditure. For that reason we are opposed to the amendment. We hope you will defeat it as you did in committee of the whole.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I welcome the opportunity to once more report a vote in favor of taking out the worst part that we have in the civil service setup. As I pointed out before, when you have one body of people with complete control over wages, vacation time, sick leave and everything else having to do with the cost of employment, cost of your personnel and no power to raise any money, and another body with complete power to raise money but no effective control over the amount of it that's spent for personal service, you have a setup about as screwy as anybody can devise — absolutely unsound and something that's not found in civil service organizations generally.

If I correctly understood Mr. Martin, he was not quite accurate in some of his analysis of this amendment. It does not give the legislature any power to reduce salaries. It does give the legislature power to reduce increases. In other words, they can say: you can have so much increase but you can't have all the increase that the civil service commission desires. If we want to have a legislature we ought to give the legislature legislative power. Here we have put plainly legislative power in the hands of a bureau. It's unsound and it's something that we ought to change and that won't be changed unless we change it before there's another constitutional convention.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays on the amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Downs.

MR. DOWNS: I rise very briefly in opposition to the amendment. This would provide, first of all, 60 legislative days which could be conceivably — even at the regular session, if the legislature worked 5 days a week, that would mean 12, if my arithmetic is right, 5 into 60 is 12 weeks. If within that 12 week period the legislature adjourns sine die, say for a 6 month period until the next legislature were called into session, that could conceivably mean a period of 6 months and perhaps 10 or 11 weeks during which there would be a state of confusion as to whether or not such an increase would be rescinded. That would mean that employees perhaps could find they had a pay increase, only to find it later taken away by a 2/3 vote. So from the employee's viewpoint it is not good; from the public interest of having a stable labor force in state service this is not good; and from the viewpoint of the legislature, with all deference to legislators, I would say — and we can imagine ourselves in that capacity — that as a body determining wage rates and rates of pay it would be a very technical, a very involved thing. It is basically not a legislative function and very properly does belong and has belonged in a civil service commission. I therefore urge a no vote on the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Pollock.

MR. POLLOCK: Mr. President and fellow delegates, I don't like this amendment. It was defeated in committee of the whole before and I have found no additional reasons given for its adoption now. Mr. Brake alleges that this is a "screwy" system, to use his inelegant term; (laughter) I find nothing screwy about it. For 20 years the civil service commission has adequately and competently handled matters of compensation, and simply because the members of the legislature who are just aching to get their hands on these matters are not satisfied with it is no reason why the system should be changed. Compensation matters are matters of great technical difficulty upon which the whole morale of the civil service depends. We can take no chances with interference with these matters unless you want to, as frequently happens in congress, get enormous pressures from employees and other groups in favor of this increase and against that increase until pretty soon you have 3 or 4 different pay plans and you have a bad morale in the whole situation.

The basic problem here, as I see it, using Mr. Elliott's argument, that this merely does so and so, if it doesn't do very much, then it's useless. I think on the other hand it attempts to do a good deal, and one thing it definitely does, as the chairman of the committee has indicated, it does put the legislature into this business. Now, there are various ways of doing it. This may be a very mild way to do it. But in any case, it does associate the legislature to a degree with this whole compensation process. And I say to you, on the basis of our record in Michigan with civil service, and records elsewhere, this is not healthy for a good civil service system. And the fact that it has worked so well for 20 years and the only criticism that could be brought in the committee of this convention about the civil service system was that they were arbitrary many times in not submitting their increases in time to be included in the budget. This has been corrected in recent years and I feel sure will not be repeated and does not need to be legislated in this constitution. I am therefore opposed to this amendment and consider that it would definitely weaken the strength and the morale of the Michigan civil service system.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this amendment to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Martin. The Chair recognizes Judge Shaffer.

MR. SHAFFER: Mr. President, delegates, I realize we are touching upon one of the sacred cows of this convention. As Dr. Pollock, my very good friend, has said, we should leave this alone. The legislature shouldn't have anything to do with it. It should have no control. All it has to do is provide the money. He seems to forget that, after all, it is up to the legislature to provide the money for these things and the people have to pay for it. Now, is it wrong that they should have some oversight in this very important matter of salary increases? I don't see anything wrong with requiring 2/3 of the legislature to have a look at these things, sacred cow or not. I think that the people that pay for these things should have a right to look them over and say whether or not the increase is fair and just and should be put into effect at that time. I urge support for the amendment.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, I think that Mr. Downs and Dr. Pollock and Mr. Martin covered what I would have said. This was defeated on first reading and I think we should defeat this amendment now.

While I'm on my feet, I would like though to ask the Chair to consider myself as alternating with Delegate Van Dusen as official timekeeper of the convention.

PRESIDENT NISBET: Mr. Durst.

MR. DURST: Mr. President and members of the convention, first I would like to add I've sat beside Mr. Downs for some 7 months now and he has operated with nerves of steel. This is the first time I've seen him flustered in this convention, a few minutes ago.

I oppose the amendment that's on the wall. As many have pointed out, this is substantially the same amendment which we discussed at great length in the committee of the whole.

Mr. Brake pointed out that most civil service systems do not operate under the system we have in Michigan. I think it was abundantly illustrated, at the time we discussed this before, that those that do not are operating generally on what may be considered an unsatisfactory system. It was also pointed out that in the state of California, which does have power in its constitution even greater than what is provided here, the legislature of California has voluntarily surrendered the power to set rates to their civil service commission because they've had so much trouble and legislative wrangling over the matter in years past.

Another thing I would like to add is this — and we discussed it before at great length — that when you give the legislature this power, in effect, what you are doing, what the legislature ultimately ends up with, is keeping the number of employees they have and holding rates of pay static.

As Judge Shaffer says, the legislature doesn't have any control. We contend they do. They have the control over the total amount of dollars which are expended. If there are a limited number of dollars, we would prefer, as far as the committee on the executive branch is concerned, to have fewer employees who are qualified than a static number of employees whose quality is gradually diminishing because of chronic low rates of pay. Thank you.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, Dr. Pollock has stated so much better than I could the thoughts that I had in mind that I do not care to repeat them, except to point out, however, that the sacred cow referred to by Judge Shaffer is only so considered by those legislators who would like to be able to control the activities of the civil service commission and perhaps get some of their friends in positions they are now unable to get for them, under the threat of impeding the work of the commission. I urge you to vote against this amendment.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, most of my points have been made. I'll only make one that I think has not been mentioned, and that is that when politics enters the pay plan, politics enters the whole civil service system. No matter how fair the classification plan may be as to status of position, this has no meaning to the employee if there is politics in the pay plan.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President, I'd like to point out that this question of setting wage rates is a very technical and professional job. The rate for any one job has to be considered in the light of many things: the amount of skill required, the number of people who are possible to be hired, that is, the available supply of people that can do that job; relationship of this wage rate with those of the jobs higher and lower in the scale, going rate for similar jobs in private employment in various parts of Michigan. It is a job for technicians, for people whose main job it is to deal with professional matters. It's a professional level job. It's not a job for amateurs such as most legislators must be and should be. Public personnel administration is a professional field. I ought to know. My husband used to teach a graduate school course in this. Let's leave professional matters with those trained to handle them. Thank you.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, just to respectfully recall the attention of the delegates to the fact that we would not have constitutional civil service if it had not been for the ripper bill which tore the vitals entirely out of the statutory civil service system, and to recall that that ripper bill passed the senate of the state of Michigan by in excess of a 3/4 vote, and that 2/3 is no protection.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, members of the convention, I'm somewhat impressed by the people who are getting up and talking against this particular amendment by the fact that, to the best of my knowledge, not a single one of them in their lifetime has had to meet a payroll. On the contrary, more often, they've been on the receiving end of a public payroll. Now, there is a difference. There is a difference. I think here is an opportunity to inject a little of what we might call good business management into state government.

Now, it seems to me that when you say that it takes a 2/3 vote in each house not to put in, if you please, a wage cut, but simply to modify a raise or to deny that raise entirely, is nothing other then good business judgment that you could put into state government that would be a very, very useful thing. This is a golden opportunity to give the legislature an opportunity to exercise just a little good business judgment. I hope you vote for the amendment.

PRESIDENT NISBET: Mr. Knirk.

MR. KNIRK: Mr. President, I wish I could have preceded Mr. Farnsworth because he also spoke on the exact point that I wish to make. If the present system, in my judgment, isn't screwy, then my understanding of sound business policies is far afield. I believe that sound government policy should not be different than sound business policy.

I went over to the legislature not very many evenings ago and visited with several of the legislators, some of whom I couldn't even give you their names. They gathered around one corner of the room there and the general topic of discussion, delegates, was this: when are you folks over there going to have enough starch in your spines to do something about the civil service that we have in this state and make it so that when we set our budget and levy our taxes that they do not raise or increase the rate so we have another job to do? They certainly believe that this is essential and I certainly hope and urge each and every one of you to support this amendment and I concur 100 per cent with Mr. Farnsworth. We of us who have been in business for a good many years and have met the payrolls certainly know that we don't hand a blank check to our employees. I think that's just exactly what the government has done in this state in the past and this is a chance that we have to make sound business principles work in government.

PRESIDENT NISBET: Mr. Shackleton.

MR. SHACKLETON: Mr. President, fellow delegates, elsewhere in our proposed constitution we have a provision that the budget shall be balanced. If you mean that and want to carry it out, you must have the machinery to carry it out. This is one way that it can prevent what happened a few years ago when, after the legislature had gone home, they had automatically put through a $7 million raise which threw the budget entirely out of balance. We have given them section 22; they have more power than the employer, which isn't good sound business judgment. I urge the support of the amendment.

PRESIDENT NISBET: Mr. Turner.

MR. TURNER: Mr. President, I think Jim Farnsworth read my speech. But this amendment sure makes sense to me and I'm sure that anyone in this convention who has ever met a payroll will know that to give the hired man a blank check to fill in the wage that he desires would be a positive way to go out of business. Has anyone in this convention ever considered economy? Up to this point I've heard very little. I urge you to vote for this amendment.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, I would like to just change one thing in this amendment so that there will be no question about the time lag here and I'd like to change the language where it says "60 legislative days" to "60 calendar days" and that will compensate for that one point that Mr. Downs made.

I'd also like to point out that this is nothing that will get the legislature involved in civil service. The way Mr. Martin spoke about it he would have you believe that this immediately throws the legislature into the civil service problem, and it does not.

Dr. Pollock, this word "merely" is not meant in the context that you use it, but this does give them the final legislative control that they may need, and it does it only if there are 2/3 of both houses in concurrence. I think that when people throw the scare technique into their arguments here they have gone far afield. This will not disturb jobs. This should not disturb morale. It is something that is sound and if you're going to legislate in a constitution, I think you should legislate in such a way that you end up with a strong legislature as well as a strong executive.

PRESIDENT NISBET: Without objection, the change will be made. I hear none.

[The amendment, as revised, reads as follows:

1. Amend page 2, line 24 [paragraph 6] after "budget.", by inserting "Within 60 calendar days following such transmission, the legislature may, by a 2/3 vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission: Provided however, The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.".]

Mr. Madar.

MR. MADAR: Mr. President, because I love to hear businessmen prattle about how good they are, I thought that I ought to get up and answer Mr. Farnsworth. (laughter) I am in public service and most men — I would say at least 98 per cent of the people in the state of Michigan and in the city of Detroit who are employed by them — are doing a mighty fine job and no other state and no other city can compare with ours. We do give better service and we don't get the highest wages either; and if the employees of the state and the cities weren't dedicated, you wouldn't begin to get what you get here for your money.

Now, so far as meeting a payroll is concerned, Mr. Farnsworth, for your information, until I entered the service in 1942, at not a young age, like a lot of them did, but at the age when they were telling us we didn't have to go in, I went in and gave up a business, and it was a business employing 23 people, and I met the payroll, and it was a going concern and I was mighty proud of it and I was also mighty proud that I was also able to handle another job. I wonder how much you could have done with it. I am proud of what I've done and I know this: that there is no babe in the woods like a businessman in government. They make more mistakes than anybody else ever could or did.

PRESIDENT NISBET: The time has expired. The yeas and nays have been demanded. Those in favor of the amendment, as revised will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—63

Batchelor
Beaman
Blandford
Boothby
Brake
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
McAllister
Millard
Mosier
Nisbet
Page
Plank
Prettie
Pugsley
Richards, J. B.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood
Yeager

Nays—62

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Bentley
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
DeVries
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Perlich
Perras
Pollock
Powell
Rajkovich
Richards, L. W.
Romney
Sablich
Snyder
Spitler
Staiger
Stamm
Stopczynski
Suzore
Tubbs
Walker
Wanger
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Brake, Hatch and others, the yeas are 63; the nays are 62. (applause)

PRESIDENT NISBET: The amendment is adopted.

Following is explanation of vote submitted by Mr. Romney:

While I generally favored Committee Proposal 22, a no vote was the only way of registering disapproval of the Elliott, Hatch, Brake amendment. I did not consider this amendment necessary in view of the legislature's authority to fix the salaries of the state's chief officials and to determine the level of expenditures by all state departments and agencies.

Unfortunately the amendment raises the question of political logrolling in fixing civil service compensation levels. Sound business practice would rely on budget control and the policy determination of top salaries and leave to competent experts the fixing of general compensation rates.

The Elliott, Hatch, Brake amendment is not necessary on the basis of sound business control. It represents an unnecessary threat to the civil service ratemaking function.

The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Marshall, Downs, Miss Hart and Mrs. Daisy Elliott offer the following amendment:

1. Amend page 3, line 3, [paragraph 7] after "efficiency" by striking out "without the" and inserting "only after the prior"; so the language will then read:

> The appointing authorities may create or abolish positions for reasons of administrative efficiency only after the prior approval of the commission.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, this time I am going to say very few words but I am going to make a particular appeal to those delegates who are worried about the growing power of the state and the protection of the individual against the growing power of the state. Without going into the pros or cons or merits or demerits I think it is rather obvious that government is here to stay, and in many areas there are going to be more people on governmental payrolls. Now, these individuals do not have the normal protection that the worker in private industry does of joining a union, collective bargaining, the right to strike, and so forth. The way this committee proposal is made, the appointing authority — and I would assume that means any department head, regardless of how you define "appointing authority" — could abolish the position which an individual held, even though he did not have sufficient grounds to discharge him.

This could, in fact, be done under the cloak of administrative efficiency for reasons other than that. Then under the committee proposal, after the individual was without a pay check, he would have to start the long and laborious route of appealing to get his job back. This might take weeks or months or, if he had to exhaust his remedies through civil service and perhaps get into court, perhaps, conceivably, years.

What this amendment does is simply say that if the appointing authority is going to eliminate a position for the reasons of administrative efficiency, it needs the prior approval of the civil service commission. This would protect the individual from arbitrary removal whereby, without a pay check, the individual would be pitted, in a sense, against the whole state, or at least the department and its appellate processes. I think this amendment is sound. I think it protects the individual, and by protecting the individual, protects the public.

I would just point out that I know of no case in which anybody showed that the civil service commission has not gone along with reorganization of state agencies, with changes requested by appointing authorities when the agency could, under a rule of reason, show it was done for administrative efficiency. This would apply only in those cases where an agency under the cloak of administrative efficiency might attempt to do that which it would not have grounds for discharge or dismissal. I think that, facing the facts of life, it is possible that the individual does need this type of protection from that exceptional person or appointing authority that might abuse this section. I therefore urge support of the amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this matter was discussed in committee of the whole. This would completely reverse the purport of the provision and it seems to us highly undesirable. There is provided now the opportunity for a question to be raised immediately with the commission. If there is any evidence of either fraud or reduction, elimination or abolition of jobs because of reasons which are not proper reasons as provided in the proposal — that is, partisan, racial or religious considerations — we think that this is a necessary part of the proposal to preserve the efficiency of the state government. We oppose the amendment.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—43

Austin
Baginski
Balcer
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Doty, Dean
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Leppien
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Ostrow
Perlich
Perras
Powell
Richards, L. W.
Sablich
Snyder
Stopczynski
Suzore
Tubbs
Upton
Walker
Wilkowski
Young
Youngblood

Nays—75

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Danhof
Dehnke
Donnelly, Miss
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Martin
McAllister
McLogan
Millard
Mosier
Nisbet
Plank
Pollock
Prettie
Pugsley
Rajkovich
Richards, J. B.
Romney
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Marshall, Mr. Downs and others, the yeas are 43; the nays are 75.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 16, [paragraph 2] after "governor" by inserting a comma and "with the advice and consent of the senate,"; so the language will read:

> The civil service commission shall be nonsalaried and shall consist of 4 persons, not more than 2 of whom shall be members of the same political party, appointed by the governor, with the advice and consent of the senate, for 8 year, overlapping terms.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I offer this amendment because we now have the pattern and the machinery set up in the executive branch article for the advice and consent function. There isn't any reason why the advice and consent of the senate under those limitations ought not to be obtained for this commission as well as other commissions in the executive branch of the government. This civil service commission is intended to be a bipartisan commission and if we can somehow assure that there will be 2 Republicans and 2 Democrats on that commission, I think that we can in that way insure the least amount of actual partisan activity within the civil service commission. If there are actually 2 Republicans and 2 Democrats on that commission, they can watch each other and they can watch the commission operation to make sure that neither party obtains an advantage over the other in the commission.

Now, how are we going to assure that there will be actual bipartisan representation on this commission? Well, an obvious way to assure it is to provide for the advice and consent function because, in that way, the senate will be able to screen the appointments made by the governor to this commission as it does in other commissions and in that way be sure that we will be getting 2 Democrats and 2 Republicans on the commission.

In the history of the commission at one time, because of the language as it now stands, there were 2 Democrats, 1 Republican and 1 member who did not assert his identity with either party. And that was obviously not the intent, or at least, we never understood it to be the intent. So if you will go along with me to put the advice and consent function here as you have seen fit to put it in the other parts of the executive branch, we can be assured of a truly bipartisan commission, and I say a truly bipartisan commission, I think, will assure the most nonpartisan civil service administration, giving neither party an advantage over the other.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the amendment which Mr. Hutchinson has offered having to do with advice and consent is one which was considered in the committee and was rejected. I have consistently supported throughout this convention the use of the advice and consent principle in the various sections of the administrative branch and we have defended those provisions against various kinds of attack.

This is a somewhat different situation. What we don't want to have in the appointment of members of the commission is logrolling by members of the legislature in order to get people on the commission who will do their bidding or who will be partial to their views as to who should be appointed and who shouldn't be appointed. We want to keep politics out of it as far as we can and we don't, therefore, believe that the addition of this proviso is a desirable thing. I think if you want to have a nonpolitical civil service commission that this would lead in the wrong direction. We are therefore opposed to the amendment and hope that you will vote no on it.

[Mr. Bentley, having previously been excused, left the chamber.]

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I demand the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Mr. Downs.

MR. DOWNS: I rise very briefly in opposition to this amendment. I believe here that the practical history of Michigan has shown that the civil service commission appointed by the governor without advice and consent of the senate has worked. My criticism of advice and consent is a deeper objection and one that runs into both practical and theoretical matters. The governor, being elected on a one man, one vote basis, does more nearly represent the wishes of the entire people of the state than the senate that is not elected on that basis. And again, I mean no reflection on an individual member of that legislative body, but would point out to this convention that advice and consent would create a builtin conflict between the governor that does represent the people on a one man, one vote basis and a body of government that does not so represent the people. I therefore urge rejection of the amendment and continuation of the present system that has worked satisfactorily.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I will be very brief because Delegate Downs and the committee chairman covered most of what I would have covered. But I think it should be noted, and I think the delegates should be cognizant of the fact, that what we are witnessing here this morning is a thinly veiled attempt to come in the back door and to throw the civil service provision right back into the middle of the political arena. Delegate Hutchinson knows — and I would not accuse Delegate Hutchinson of this personally — but he knows, as well as I do, that time and time and time again on advice and consent in the senate, that the senate has played pure politics; that they have rejected people without reason. And this could occur here. And to take the civil service commission and subject it to advice and consent of the senate would very definitely put civil service right back into the political arena and would not be in the best interests of civil service or the thousands of state employees. I would urge the defeat of this amendment.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, in regard to this amendment, I just wanted to make a comment on Delegate Hutchinson's remarks. He says now that we've set a pattern. Well, I just wonder whether Mr. Hutchinson also thinks that if a man starts stealing a lot of stuff, that after he gets used to it and sets a pattern, if that's all right.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, if the senate of the state of Michigan is so dear to your hearts that you want to create for it a special super spoils system, then just vote in favor of the Hutchinson amendment. (applause)

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President, I must rise to oppose this amendment and I would suggest that if you want a really effective bipartisan commission, that later in this convention you adopt the closed primary. Thank you.

PRESIDENT NISBET: Mr. Doty.

MR. DEAN DOTY: Mr. President, ladies and gentlemen of this convention, I rise to support this amendment. I'm sick and tired of the constant reference in this chamber to the malapportioned senate. I'm sick and tired of this reference to the wonderful people that haven't been confirmed. And I defy the men in this audience, in this group that have been making these statements to prove — the figures show that the Michigan state senate has constantly approved a good portion of those that have been before them. The governor can be just as wrong as the senate, and I say that the theory and the principle of advice and consent is good. If what they're advocating is true, let's go down to Washington and get rid of the senate.

Here are 3 pages from a constituent of mine who was shafted by this nonpartisan commission, and I offer it as evidence. (applause)

PRESIDENT NISBET: Delegates of the convention, we've still got a lot of work to do. Dr. Pollock.

MR. POLLOCK: Mr. President.

PRESIDENT NISBET: Will the convention please be in order.

MR. POLLOCK: Mr. President, I consider that Delegate Hutchinson has thrown, perhaps innocently — although I could never believe that he can be innocent (laughter) — a very partisan issue into this convention. I think he knows that it introduces a partisan note and you've had it sharply followed by other comments after his. This is not a plausible amendment, as he makes it appear: because we've had advice and consent in other cases, we should have it in this. This doesn't follow at all, because the whole background is entirely different. There can be, I think, no complaint, on the whole, of the appointments which have been made to the civil service commission. Because of one instance, where Governor Williams appointed a so called independent to the commission, because of this one instance, some people would like to say that the civil service commission has not been bipartisan. It has been bipartisan all the way through, and it has never been partisan.

Now, you introduce a thoroughly partisan device, and that's what advice and consent is, because it's exercised by rather intense partisans, as our experience in Michigan shows. You will inevitably introduce into the appointment of members of the civil service commission the question of confirmability, whether these appointments are acceptable to the senate. This does exactly what was wanted to be avoided by those who introduced civil service and had it approved by the people in 1940. This, I consider to be a major assault on the civil service system of the state and I so mark it; and I say that if this passes, it will be the beginning of the deterioration of the state civil service system. And I think the delegates should realize how serious this amendment is. I am, therefore, strongly opposed to it.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, in all due respect to my good friend, Dean Doty, I'd like to say that if he's sick and tired of hearing about a malapportioned legislature, I'm sick and tired of having one. I think at this time I'll move the previous question before someone explodes. (laughter)

PRESIDENT NISBET: The previous question has been demanded. Is that demand supported? Sufficient number up. The question is: shall the previous question be put? Those in favor, will say aye. Opposed, no.

The previous question is ordered. The question is on the amendment. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay.

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I just wanted to point out that I moved the previous question in my capacity as assistant timekeeper. (laughter)

MR. DEHNKE: Mr. President.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: While the vote is being taken, I merely wanted to suggest, in line with what Dean Doty has said, that if those who claim to have a pipeline into the supreme courts of our nation and state are correct in what they have been telling us as to what the decisions are going to be, ours will no longer be a malapportioned legislature even from their viewpoint.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hutchinson. Those in favor will vote aye. Those

opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. MADAR: Point of order, Mr. President.

PRESIDENT NISBET: What is it?

MR. MADAR: I wanted to make a remark here. It's not in connection with this particular amendment but about the actions of some of the delegates when we have moved the previous question and they get up and talk on the amendment. I think that ought to be watched a little closer. And I am sure that the judges here know enough about these particular things so that they shouldn't do them. At least, they're supposed to know.

PRESIDENT NISBET: Thank you for your admonition, Mr. Madar. The Chair will be more careful. (laughter)

The roll was called and the delegates voted as follows:

Yeas—53

Anspach
Blandford
Bonisteel
Boothby
Brake
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover
Gust
Habermehl
Haskill
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
McAllister
Millard
Mosier
Nisbet
Plank
Powell
Prettie
Pugsley
Richards, J. B.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Stafseth
Thomson
Turner
Tweedie
Upton
White
Wood

Nays—73

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
DeVries
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Ostrow
Page
Perlich
Perras
Pollock
Radka
Rajkovich
Richards, L. W.
Romney
Sablich
Sleder
Snyder
Spitler
Staiger
Stamm
Stevens
Stopczynski
Suzore
Tubbs
Van Dusen
Walker
Wanger
Wilkowski
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Hutchinson, the yeas are 53; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: At this time, I should like to make a preferential motion and I should like to reconsider the vote by which the Hatch-Brake amendment was adopted.

For vote on amendment, see above, page 2785.

PRESIDENT NISBET: The question is on the motion of Mr. Martin that we reconsider the vote on the Hatch amendment. Mr. Brake.

MR. BRAKE: Roll call vote, Mr. President.

PRESIDENT NISBET: A roll call vote has been demanded. Is that demand supported? Sufficient number up. Those in favor of reconsideration will vote aye. Those opposed to reconsideration will vote nay. The question is on reconsideration of the vote on the Hatch amendment. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—63

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
DeVries
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Ostrow
Perlich
Perras
Pollock
Powell
Radka
Rajkovich
Richards, L. W.
Romney
Sablich
Snyder
Spitler
Stamm
Stopczynski
Suzore
Tubbs
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

Nays—64

Batchelor
Beaman
Blandford
Boothby
Brake
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
McAllister
Millard
Mosier
Nisbet
Page
Plank
Prettie
Richards, J. B.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood
Yeager

SECRETARY CHASE: On the motion to reconsider, the yeas are 63; the nays are 64. (applause)

PRESIDENT NISBET: The motion does not prevail. The secretary will read the next amendment. Mr. Lawrence.

MR. LAWRENCE: Mr. President, may I just make a bipartisan observation. After what occurred in the senate last night and what has occurred here today, I am sure it must be due to the sun spots. I hope it continues.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Mr. Blandford offers the following amendment:

1. Amend page 1, line 5, [paragraph 1] after "legislature,", by striking out "employees of the state institutions of higher education,"; so the language will then read:

> The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the chief executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, all persons in the armed forces of the state

and so forth.

PRESIDENT NISBET: Mr. Blandford.

MR. BLANDFORD: Mr. President and fellow delegates, as you know, Committee Proposal 22 exempts employees of higher education from the protection of civil service. Now, Professor Pollock convinced me when he stressed the high morale of employees serving under civil service and I don't think that this morale lift should be denied to employees or professors of our institutions of higher education. Therefore, I feel they should come under this and this exemption should be lifted from the proposal.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this clause was put in because of the fact that the institutions of higher education do have their own civil service system. Mr. Bentley is not here at the moment so that I am not able to call on him to discuss the point. Perhaps Dr. Hannah or someone else may wish to discuss it. But this was an exemption not because we thought they shouldn't be within the civil service area, but because they have a civil service program of their own in these institutions, as I understand it. Therefore, we would be opposed to the amendment. We urge that you vote no on it.

PRESIDENT NISBET: The question is on the amendment of Mr. Blandford. Dr. Hannah.

MR. J. A. HANNAH: Mr. President, ladies and gentlemen, I can't believe that Mr. Blandford is serious about his amendment. If you really want your universities to operate as universities, as places that emphasize seeking the truth and teaching the truth, regardless of its popularity, as places where qualifications are recognized that are very difficult to define, you certainly will not vote for this amendment. A classic example of what happens to a university when it is placed under a state civil service system can be seen by examining what has happened to the University of Massachusetts and what is now happening is, they are trying to revitalize the institution after the legislature has finally decided that the university should be taken out of the civil service system. I am not going to bore you with a long statement. I should say this: that there is no good university in America where its academic employees are under the state civil service system. I don't think you can operate a good educational institution under civil service.

Now, when you're talking about classified employees, this is another matter — if you're talking about janitors, plumbers and the like — because in this state the board of regents and the board of our institution and more recently the board of governors of Wayne, as constitutional corporations, have been exempt from proposals of this kind. In the beginning, under the state civil service act — this was all aired when this was up before — the institutions, other than Michigan and Michigan State, had their classified employees temporarily under civil service and then they were removed from civil service. Actually, we operate classified systems, comparable to those operated by the state civil service commission.

As I understand Mr. Blandford's amendment, what he is proposing is to put all the employees of our universities and colleges under the state civil service system. And if you want to ruin the universities for the purpose for which they are established, you can do it no more effectively than to approve Mr. Blandford's amendment. I urge that you say no.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I was going to ask Delegate Blandford a question, and after listening to Dr. Hannah, I am somewhat inclined to agree. I think everyone knows where I stand insofar as civil service is concerned, but I am inclined to agree with Dr. Hannah, and I was going to ask Delegate Blandford if he would accept adding the words "academic employees" which would exclude all of the professors and teachers, and so forth, the academic employees, from civil service but would make it possible for the nonacademic employees, such as the janitors, the maintenance people, office personnel, and so forth, to belong to civil service. Now, I don't know. The reason I was going to offer the amendment to put the words "academic employees" in is in the event that the Blandford amendment passed. I wonder if I might ask Dr. Hannah a question in order to clear this up in my own mind because I have to admit that I'm not clear on it at this point.

PRESIDENT NISBET: Dr. Hannah.

MR. MARSHALL: Dr. Hannah, would there be any serious objection to adding to the Blandford amendment the words, "academic employees", so that they would be excluded from civil service?

MR. J. A. HANNAH: Well, I would answer your question by saying yes; I would object to having any of our employees under civil service for these reasons: first of all, I was talking a few moments ago about the academic employees, professors and research workers. When you come to the purely classified people — the plumbers, the people that operate the laundry and the carpenters and the rest of it — here we have a classified service which is fully equal to the state civil service. I suppose there would be no great disadvantage if they were placed under the state civil service system except that you then, of course, find yourself in this unhappy situation where you have to get approval of the state civil service commission for every new position, every new classification, and you have this great number of people that are not academicians and are not labor employees. We're talking about all technicians: the people that operate laboratories, people that have to have some kinds of technical skills. They are very difficult to classify. They're about one person per classification. I would hope that, since you are going to accomplish nothing — no one alleges that there is not an adequate civil service system in our institutions of higher public education. You will find that the employees are at least as well treated as they are under the state civil service. You accomplish no good and you may accomplish much damage, and you'll certainly ruin us if you put our academic people under it.

MR. MARSHALL: I'm inclined to accept Dr. Hannah's explanation. I have talked to representatives of state employees; I've talked to members of the board of trustees of MSU as it relates to the classified program that they have there and, at the risk of being criticized by some of my colleagues in my private life, I certainly do not think it would be in the best interests of the institutions of higher learning to have the professors and academic employees included. And I would be inclined, I think, at this time to accept Dr. Hannah's explanation and not offer an amendment.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, we're rolling along rather merrily this morning, with a good deal of laughter and fun in the process, but not very much thought, I believe, to the effect of our actions on the possible adoption of this constitution. I think if we begin to look on that side of the question, with regard to what we've been doing this morning, that the laughter will be on the other side of the fence.

PRESIDENT NISBET: Mr. Goebel.

MR. GOEBEL: Mr. President and fellow delegates, I completely agree with Dr. Hannah. This particular part of the proposal has been well thought out by the committee. I want to say that the employees of the institutions of higher learning in this state are completely satisfied with the system under which they are working, and with the academic and educational results of these great institutions of higher learning. Their standing nationally speaks for itself and I hope that you will defeat this amendment with a resounding vote. Thank you very much.

PRESIDENT NISBET: Dr. Anspach.

MR. ANSPACH: Mr. President and fellow delegates, I think the ground has been pretty well plowed and cultivated and packed. So the only thing I might say would be merely a matter of rearranging the words or the sentences. However, it might be of some effect.

You know, this youngster was brought up in a home of some means. He couldn't speak properly; he made mistakes. So the family employed a tutor. They were coming down the street one day and they happened to notice a bowlegged man on the opposite side of the street. The youngster said to his tutor, "My golly, look at that bowlegged man." The tutor said, "That isn't the way to say it. How would Lord Byron or Shakespeare have said it?" He immediately said, "What ho, what ho, what manner of men are these who wear their pants in parentheses?" (laughter)

Now, from the standpoint of what has been said, about all I can do is put it in a different order, except I want to add this to the statement of President Hannah: the matter of civil service, or the codes — he referred to Michigan State and the other major universities — this is true also of the other universities and colleges. They all have their codes under which they operate. For the information of Mr. Marshall, since he was interested in that point, our code was drafted with the advice of Dan Reid some years ago. So therefore, there is protection. There is a civil service.

At one time, our nonacademic employees were under civil service and it was an unworkable system for us. So therefore, as Dr. Hannah has said, we gain nothing, I think, by change, and we could injure, as Mrs. Judd has said. Therefore, I hope that you will vote down this amendment.

PRESIDENT NISBET: Mr. Bonisteel.

MR. BONISTEEL: Mr. President and fellow delegates, the story that Dr. Anspach told reminded me of one also of a bowlegged man and his knock kneed wife who were walking down the street in the days of short skirts and somebody said, "Look, They spell ox." (laughter)

I too agree that I am convinced that Delegate Blandford must have had his tongue in his cheek when he offered this amendment. I want to reiterate, without repetition, everything that Dr. Hannah has said about this. I think I've worked as closely as any with the situation that has been discussed here this morning and I believe that so far as concerns the institution that I used to represent, their relationships with their employees on all levels are excellent. I think any disturbance of that would be a mistake, and I certainly hope that the delegation here will not support Mr. Blandford's amendment.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I want to speak along the same lines as Mrs. Judd. We spent the entire morning — we've laughed and we've smiled too — but I think about midnight tonight, the smile will be on the other side of the face. So I'll move the previous question at this time.

PRESIDENT NISBET: You are the last speaker, Mr. Perras. (laughter) Those in favor of the amendment will vote aye. Those opposed will vote nay. The question is on the amendment offered by Mr. Blandford. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—7

Blandford
Dehnke
Finch
Iverson
Sablich
Seyferth
Shanahan

Nays—118

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Krolikowski
Lawrence
Leibrand
Leppien
Lesinski
Madar
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Blandford, the yeas are 7; the nays, 118.

PRESIDENT NISBET: The amendment is not adopted. Will you clear the board? The question now is on the adoption of Committee Proposal 22. Those in favor of that proposal will vote aye. Those opposed will vote nay.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: I wish to say — and I shall again try to be brief — that I came here and I campaigned that I would either support civil service or, certainly, not support something that weakened the status quo. You know, sometimes we take one step forward and 2 steps backward. I feel that this proposal, as it stands, is a definite step backwards from the present civil service we have in the present constitution. I am, therefore, going to vote no on the final proposal and urge other delegates to do likewise.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I think I'm as familiar with civil service and its operations as any of the other delegates in this room. And I think that we have taken a step backwards. I have been analyzing what has come out of this convention and what is in this proposal now, and it definitely is a worse provision than we had prior to coming into this convention.

I sometimes wonder and I get disturbed and it bothers me because I think that some people — and I don't level this charge at any particular individual — are deliberately driving nails into the coffin of this constitution. I never thought that I would see the day that I would be compelled to vote against civil service. But I would prefer to retain the present provision that was in the 1908 constitution; I would prefer that over this one that is now about to be adopted in this convention. I, too, will have to vote no and will explain my no vote in writing.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Will the delegates please clear the board. Mr. Martin.

MR. MARTIN: I think that Mr. Marshall should realize that if he votes no on this, he doesn't adopt the present provision of the constitution. This is a serious matter and those delegates who are now proposing to vote no may find that they're in a situation where their later yes vote won't do them any good. They don't want to end up with no civil service system. I think that they ought to give some careful consideration to this. I certainly hope that there will be a strong affirmative vote on this. Granted, there has been one amendment which many of us don't approve of, but there can be other opportunities to consider the matter, and it seems to me a grave mistake for a large part of the delegates here to be voting no because this one provision was put in. I hope you will vote yes — a strong affirmative vote.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I'd like to say, Delegate Martin, that I am well aware of the seriousness of the situation and I think also that the state employees will be aware of the seriousness of the situation. If there are amendments offered to correct the mistake or mistakes that were made by the time we get to third reading, we will have a chance to correct them.

I think, while you say we should be concerned, I am very, very much concerned. I think the majority in this convention ought to be concerned too. And if there should not be any civil service provision, then I think all of our work in the 6 or 7 months and the $2½ or $3 million that has been spent will go down the drain. I hope that by the time that we come to third reading we will have mustered enough votes because we needed, as I recall, only one vote this morning to correct the errors that were made to make it palatable so I could vote for it. But at this time, I still intend to vote no and will explain my no vote in writing.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I certainly want to add my vote of protest. So far as I am concerned, I think we'd be much better off to defeat anything that's bad, or even half bad. Why go ahead and put in it here? I'm pretty sure that the employees of the state of Michigan will understand that we do have a lot of people in this state who would be willing to destroy it to further their own personal gains.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, I'd like to make a parliamentary inquiry. If we vote no upon this civil service proposal, that, of course, will hold it in abeyance and prevent it from being passed at this time. I would like to ask what parliamentary method could be used in the event that 73 votes were not obtained on this proposal to reconsider or take some other action which would have the effect of striking the Brake-Hatch amendment.

PRESIDENT NISBET: Mr. Wanger, if this Committee Proposal 22 should be defeated —

MR. MARSHALL: Mr. President, may I rise —

PRESIDENT NISBET: Let the Chair finish this statement.

MR. MARSHALL: I'm sorry.

PRESIDENT NISBET: — then the only way to handle it would be to vote to reconsider the vote by which it failed of passage. The Chair recognizes Mr. Powell first, Mr. Marshall.

MR. MARSHALL: I'll yield to Mr. Powell.

PRESIDENT NISBET: Mr. Powell.

MR. POWELL: Mr. President, I guess a lot of us are getting somewhat confused at the moment. The point that I wanted to make when I sought recognition has been pretty well covered by Delegate Martin in his comment on the existing situation. But I was surprised and concerned at the position taken by Delegates Downs and Marshall and I want it to be very certain and clear in the minds of each of us before we take this pending vote here that the contrast of the action or the choice — whatever you call it right now — is not between this Committee Proposal 22 as it now stands, and the existing provision that's in our current constitution; but, rather, it's between this pending proposal and leaving it out of the constitution entirely. Then the only civil service that we could have, if that occurred, would be a purely statutory civil service which I am sure neither we nor the people nor the state of Michigan desire.

So I think the next move right now on the part of all of us should be to turn on the green button and vote to send this proposal on. It will, of course, be before us once more for third reading. But I think that we should at this time adopt it in the manner in which it is now before us.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Mr. President, I regret that I'm confronted with a Hobson's choice at this particular time. The chairman of the committee says that you take this or else. Certainly, when you have a pistol at your head in a critical decision like this, it nakes your vote very important. I would feel that I owe it to the many civil service employees in the state of Michigan to protect their interests to the ultimate. But I do not feel that they want to settle for less. It is my intention at this time to vote no under these conditions and explain my vote in the record.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Parliamentary inquiry — and I believe I have the question stated right — would a no vote on this mean we were against civil service? The answer to that is no. There is a third choice. And as a parliamentary matter — and I believe I am responding to the parliamentary inquiry — I would remind the delegates that a resolution was submitted yesterday and read today by the secretary and referred to the committee on rules and resolutions by, I believe, Delegates Buback, Snyder, Marshall, Hart, Kelsey, myself and others, which calls upon this convention to put those things upon which there has been substantial bipartisan agreement in one package to the people, and those things upon which there has been disagreement as separate amendments for the people to act upon. If this were followed, what it would mean would be, those things that there had been substantial agreement on would be in one package. Then on the question of civil service, this proposal which weakens civil service would be on the ballot and if the people voted for that as a separate item, we would then, at the people's decision, have a weakened civil service. If the people, on the ballot, rejected that one item, we would then continue our present civil service.

I, for one, am willing to leave this question to the people, and my action in voting no on this anticipates that the convention can do that. But I refuse to be boxed into the position where I am given something worse than we have and told my choice is worse than what we have or nothing at all. I am at least going to fight for as good as we have and I believe this parliamentary procedure will provide that. I therefore again urge a no vote on this in support of the resolution which will let the people decide whether they want the present civil service or want a weakened civil service.

PRESIDENT NISBET: Mr. Millard.

MR. MILLARD: Mr. President, a parliamentary inquiry. I wonder what happened to Mr. Perras' motion for the previous question.

PRESIDENT NISBET: The previous question, Mr. Millard, was asked on the amendment. Mr. Woolfenden.

MR. MILLARD: The amendments were all through with at that time.

PRESIDENT NISBET: No. He moved the previous question on the Blandford amendment and the Chair said he was the last speaker. Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, a parliamentary inquiry.

MR. MILLARD: Mr. President.

PRESIDENT NISBET: Mr. Woolfenden has the floor, Mr. Millard.

MR. WOOLFENDEN: A parliamentary inquiry, Mr. President. I would ask for a ruling from the Chair if, under rule 53, in the event this carries today and is referred to the committee on style and drafting, the Brake-Hatch amendment can be the subject of a motion for reconsideration tomorrow if the vote on the passage of the proposal were reconsidered?

MR. MARSHALL: Mr. President, I have a preferential motion, I think.

PRESIDENT NISBET: Just a minute. The answer is yes, Mr. Woolfenden. Mr. Millard.

MR. MILLARD: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up.

MR. MARSHALL: Mr. President, I had a preferential motion.

PRESIDENT NISBET: Will you state it.

MR. MARSHALL: I was on the floor. I would like to move at this time — and I hope the delegates will give this serious consideration — that we postpone further consideration of this proposal until tomorrow's session.

PRESIDENT NISBET: That motion is in order. The question is on the motion —

MR. ROMNEY: Mr. President, I'd like to raise a parliamentary question.

PRESIDENT NISBET: Mr. Romney.

MR. ROMNEY: If Mr. Marshall's motion prevails, does that mean reconsideration can be given to the Elliott-Hatch-Brake amendment tomorrow?

PRESIDENT NISBET: That's correct.

MR. ROMNEY: Then I suggest that we support the motion and permit a reconsideration of that amendment tomorrow.

PRESIDENT NISBET: The question is on the motion of Mr. Marshall.

MR. DOWNS: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Those who are in favor of the motion of Mr. Marshall to postpone action on Committee Proposal 22 until tomorrow will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—68

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Beaman
Bonisteel
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Ostrow
Perlich
Perras
Pollock
Radka
Rajkovich
Richards, L. W.
Romney
Sablich
Snyder
Stafseth
Staiger
Stamm
Stopczynski
Suzore
Tubbs
Tweedie
Upton
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

Nays—59

Batchelor
Blandford
Bledsoe
Boothby
Brake
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
McAllister
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stevens
Thomson
Turner
Van Dusen
White
Wood
Yeager

SECRETARY CHASE: On the motion to postpone consideration of Committee Proposal 22 until tomorrow, the yeas are 68; the nays are 59.

PRESIDENT NISBET: The motion prevails. The secretary will read.

SECRETARY CHASE: Mr. Liberato phoned in and asked to be excused from today's session.

PRESIDENT NISBET: Without objection, he will be excused. Mr. Doty.

MR. DEAN DOTY: Mr. President, I am going to ask this convention, if it's possible, to reconsider the action they just took and I'm going to tell you why. I protest the lobbying of Otis Hardy of the civil service commission who stood outside these halls and through that window attempted to direct a delegate how to vote. He told this delegate that he was going to call his constituents back home. I asked Mr. Hardy if he'd made the telephone call yet. He said no, but he was going to. I asked him if he was registered and he said yes. On checking with the president's office, I find this is not true and I protest these types of actions.

PRESIDENT NISBET: The question is on the motion of Mr. Doty that we reconsider the vote—

MR. MARSHALL: Is the motion debatable?

PRESIDENT NISBET: Yes. Will you please clear the board.

MR. MARSHALL: Mr. President, fellow delegates, I just want to make it clear that I don't know who Delegate Doty was referring to. I want to make it clear to everyone in this convention that no one from civil service talked to me on the question, and the move that I made was moved for the reason that I gave. This is a very, very serious matter that we are confronted with. All that we are asking — I don't think it's unreasonable — is that we just table this until tomorrow for final action in order that we can eliminate some of the confusion that exists in the minds of the delegates; and, I might say, even in the minds of the minority delegates there is confusion as to where we're going on this. This is a very serious, serious matter and I would hope that the delegates would be kind enough to defeat the motion by Delegate Doty and wait until tomorrow for final consideration of this.

PRESIDENT NISBET: The question is on the motion of Mr. Doty that the vote that was just taken be reconsidered. Mr. Hatch.

MR. HATCH: Mr. President, I believe the Chair has already ruled that this matter may be reconsidered tomorrow; so I can see no reason for laying this matter on the table until tomorrow or postponing further consideration of it. I therefore would support Mr. Doty's motion to reconsider the last vote that was taken.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: I would like to urge that the motion to reconsider be defeated to give those on both sides, for that matter, an opportunity to give a little further consideration to this matter.

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: Mr. President, I would certainly like to reconsider this and go along with Mr. Doty. It is not my intention to give the lobbyists any more chance to attempt to sway us. If we can't make up our minds on the information we have now, there must be something wrong with us and I believe we should not put off this decision further. We should make it now.

PRESIDENT NISBET: The question is on the motion of Mr. Doty. Mr. Yeager.

MR. YEAGER: Mr. President, I'd like to ask Mr. Martin whether he is speaking as the committee chairman or as an individual.

MR. MARTIN: Well, there has been no opportunity to consult the committee; I am speaking as an individual. But I think perhaps — I'm sure I represent the views of the majority of the committee on this, Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor say aye. Opposed, no.

The previous question is ordered. The question now is on the motion of Mr. Doty that reconsideration of the vote be made. Those in favor say aye.

MR. BOOTHBY: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of Mr. Doty's motion for reconsideration will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—66

Anspach
Batchelor
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Gover
Gust
Habermehl
Haskill
Hatch
Heideman
Hoxie
Prettie
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton

Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
McAllister
Millard
Mosier
Nisbet
Page
Plank
Powell
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

Nays—62

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Beaman
Binkowski
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Howes
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Ostrow
Perlich
Perras
Pollock
Rajkovich
Romney
Sablich
Snyder
Spitler
Staiger
Stamm
Stopczynski
Suzore
Tubbs
Walker
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the motion to reconsider the vote by which consideration of Committee Proposal 22 was postponed until tomorrow, the yeas are 66; the nays are 62.

PRESIDENT NISBET: The motion to reconsider prevails.

Following is explanation of vote submitted by Mr. Walker:

Re: Mr. Dean Doty's motion to reconsider

At the onset of this constitutional convention I decided to vote yes on any motion to reconsider, support any demand for the yeas and nays and to vote no on any motion to limit debate.

However, Mr. Doty's motion could have a serious effect on the livelihood and welfare of every public employee in the state of Michigan.

This would be so objectionable to me that I was compelled to vote no on the motion to reconsider.

The question now is on Mr. Marshall's motion that further consideration of Committee Proposal 22 be postponed until tomorrow. Will the board be cleared. Mr. King.

MR. KING: Mr. President, just as a matter of parliamentary inquiry, I believe that Mr. Hatch and I are on the opposite sides of this question, but I'm inclined to agree with him. What is the significance of not putting this over until tomorrow? Is there any, as you see it, from a parliamentary point of view? We can still reconsider it tomorrow, can we not, although it goes to style and drafting?

PRESIDENT NISBET: That is correct. Mr. Knirk.

MR. KNIRK: Mr. President, if I'm in order, I'd like to definitely encourage here — am I in order?

PRESIDENT NISBET: The Chair didn't get that.

MR. KNIRK: I say if I'm in order, I'd like to speak to the motion.

PRESIDENT NISBET: You've been recognized, Mr. Knirk.

MR. KNIRK: I would certainly like to ask the delegates to very definitely vote here this morning for the passage of the proposal as it now stands. I have been moved by the tearjerking expressions of people here this morning and to me it signifies that history is in the making. I absolutely believe, as I stated earlier, that it's high time that we folks here have the courage to stand up and be counted, and I am not in sympathy with the people that have expressed themselves that we have taken a step backwards. I believe we have taken one of the greatest steps forward of anything that we have done in this particular article and proposal. And certainly, I think today is a day we should stand up and be counted and vote for the proposal as it has been amended. I am sure if this is not done, that I would concur with, I believe it was Delegate Downs who said: let the people decide. I think if the people were given an opportunity to decide this issue at the ballot box, it would be far from what it is today. And I think, Delegate Downs, you'd be surprised at the outcome.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Parliamentary inquiry. I recall on Committee Proposal 100, during the recess, it was referred to style and drafting and we were informed by the secretary that a motion to reconsider the very same day would not be in order for the reason that it had been referred to style and drafting. And now I've just heard that we have an opposite ruling on this; that this could be or would be referred to style and drafting if we take a vote now and it passes. Will it be subject to a reconsideration tomorrow even though it would be referred to style and drafting today?

PRESIDENT NISBET: Mr. Chase and the Chair conferred on that and agreed that it would be. Mrs. Cushman.

MRS. CUSHMAN: I have a similar question. If I recall, we raised the question with Mr. Chase in regard to Committee Proposal 51 and we were told that it would be impossible to reconsider the next day owing to the fact that it has been referred to style and drafting.

PRESIDENT NISBET: The Chair has the same answer, Mrs. Cushman. Mr. Haskill.

MR. HASKILL: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded?

MR. ROMNEY: Mr. President, I've been standing here for some time to be heard.

MR. FORD: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Mr. Ford, what is your question?

MR. FORD: I want to have it very clear now. I'm confused by the answer given to Mr. Woolfenden and then the answer given to Mr. Romney. I understood at first that what we would be able to reconsider tomorrow would be the entire proposal as passed, and that if tomorrow we voted to reconsider the proposal, then it would be necessary to present amendments after the move to reconsider has passed. Now I understand your answer to Mr. Romney to be that even if the proposal is passed today, we could reconsider the specific amendment that was adopted today. This seems to me to be inconsistent with the previous rulings of the Chair. And I shouldn't like to vote to go on with this matter and then discover tomorrow that we were not able to reconsider the specific amendment.

PRESIDENT NISBET: After further discussion and before any action is taken, the Chair is going to ask Mr. Chase to explain this completely as to just what has happened and what will happen under certain circumstances.

SECRETARY CHASE: When the vote was on the passage of the proposal, before we voted a motion was made to postpone consideration of the proposal until tomorrow. The motion to postpone prevailed. The question then was on the reconsideration of that motion and that has prevailed. So presently the question is: shall the consideration of the proposal be postponed until tomorrow? The secretary wishes to make this observation: if you refuse to postpone consideration of this question until tomorrow, the question then will be on the passage of the proposal. If the proposal is passed, in order tomorrow to get at the amendment in question, it would be necessary first to reconsider the vote by which the proposal passed. Then you could enter a motion to reconsider the vote on the amendment.

MR. MADAR: Mr. President, I did rise to a point of order. I can understand how people are missed occasionally, but Mr. Romney stood over here for at least 5 minutes and suddenly Mr. —

MR. ROMNEY: Point of information, Mr. President. What is the question before the convention?

PRESIDENT NISBET: What is your point of order, Mr. Madar?

MR. MADAR: I feel that we ought to recognize people in the order in which they get up. I don't get up here and just start speaking and I don't think I should be recognized immediately. I wait until you recognize me.

PRESIDENT NISBET: Your point is not well taken. The Chair recognizes people as they are seen. The Chair had recognized Mr. Haskill. The question is now on supporting the demand for the previous question.

MR. ROMNEY: Mr. President, preferential motion —

PRESIDENT NISBET: Mr. Romney.

MR. ROMNEY: — or request, rather. I request the privilege of explaining the reasons for my vote on this motion and the next motion in writing in the journal.

PRESIDENT NISBET: You may do that, Mr. Romney. Mr. Hoxie.

MR. HOXIE: Mr. President, has that got to be with consent or can there be objection to that?

PRESIDENT NISBET: The Chair doesn't think so. We have let them explain it in the journal before. The question now is on supporting the demand for the previous question. Mr. Faxon.

MR. FAXON: Mr. President, preferential motion. There were a few people standing. I know that the Chair can't always see everyone. I'd like to move that debate be limited to 10 minutes for those people who were standing and didn't have a chance to speak.

PRESIDENT NISBET: The question is on the motion of Mr. Faxon that debate be limited to 10 minutes. Those in favor will say aye. Opposed, no.

The motion does not prevail. Mr. Haskill has demanded the previous question. Is that demand supported? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. Those in favor of postponing consideration of Committee Proposal 22 until tomorrow will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—65

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Beaman
Binkowski
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Howes
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perlich
Perras
Pollock
Radka
Rajkovich
Richards, L. W.
Romney
Sablich
Snyder
Staiger
Stamm
Stopczynski
Suzore
Tubbs
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

Nays—67

Anspach
Batchelor
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Heideman
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
McAllister
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Richards, J. B.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood
Yeager

SECRETARY CHASE: On the motion to postpone consideration of Committee Proposal 22 until tomorrow, the yeas are 65; the nays are 67. (applause)

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think we've heard all of the debate on this and I move the previous question.

MR. MARSHALL: Wait a minute. (laughter)

PRESIDENT NISBET: Just a minute.

MR. MARSHALL: I was up before Mr. Van Dusen, Mr. President.

PRESIDENT NISBET: The Chair is having trouble this morning.

MR. MARSHALL: I understand that. I'm not trying to—

PRESIDENT NISBET: What was your question, Mr. Marshall?

MR. MARSHALL: I wanted to speak. I wanted to be recognized.

PRESIDENT NISBET: Okay, you speak, and then we'll let Mr. —

MR. MARSHALL: Mr. President and fellow delegates, I think we're getting a little bit silly and childish when we start applauding because a motion passes or doesn't pass. We did it yesterday and we did it today on several occasions. To me, it's a wee bit silly. I had hoped that we would have time to try to work out this problem, which is a very serious one in my mind. I did not want to be put in the position of voting no, but the vote just taken indicates, to me, the contempt that the majority held for the minority viewpoint to at least have until tomorrow to try to work this problem out. I think that you have been awfully unfair. I think that you did not give serious consideration to it and I will have to vote no and explain my vote in the journal.

PRESIDENT NISBET: The previous question has been demanded. Is that demand supported? It is. The question is: shall the previous question be put? Those in favor will say aye. Those opposed, say nay.

The previous question is ordered. The question is on Committee Proposal 22.

MR. HODGES: Preferential motion, Mr. President. I move to limit debate to 10 minutes on this question.

PRESIDENT NISBET: The question is on the motion of Mr. Hodges. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question is on Committee Proposal 22, as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. Pellow.

MR. PELLOW: Mr. President, I ask for the privilege of explaining my no vote.

PRESIDENT NISBET: You may do that.

The roll was called and the delegates voted as follows:

Yeas—84

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe

Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—42

Austin
Baginski
Balcer
Barthwell
Binkowski
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Faxon
Follo
Ford
Hart, Miss
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perlich
Radka
Romney
Sablich
Snyder
Stopczynski
Suzore
Tubbs
Walker
Wilkowski
Young
Youngblood

PRESIDENT NISBET: **Committee Proposal 22,** as amended, is passed.

SECRETARY CHASE: On the passage of Committee Proposal 22, as amended, the yeas are 84; the nays are 42.

Following is explanation of vote submitted by Mr. McLogan:

Explanation of my nay vote on Committee Proposal 22.

Examination of previous votes will indicate my favorable stand toward continuance of a strong civil service in Michigan.

My vote against Committee Proposal 22 on second reading was in protest of the inclusion of the A. Elliott, Hatch, Brake amendment which I deem undesirable based on Michigan's experience. However, if future convention action sustains this amendment, then notwithstanding, I shall support the proposal in its entirety on third reading—the merits of the whole far outweighing the demerits of this one feature.

Following is explanation of vote submitted by Mr. Follo:

I wish to explain that my no vote on Committee Proposal 22 should not be interpreted as a vote against the principle of civil service. I have always been a vigorous supporter of strong civil service. However, I believe that Committee Proposal 22 as amended is a very definite step backward and will contribute materially to the defeat of the constitution by the people.

Following is explanation of vote submitted by Messrs. Snyder, Walker, Binkowski, Lesinski, Faxon and Kelsey:

We voted no on Committee Proposal 22 because in our opinion it weakens present civil service protection offered to state employees.

Logic advanced by the proponents that we must accept their watered down version, or else, was unacceptable and we were compelled to reject this Hobson's choice because it represented a step backwards.

The present constitutional language, in our opinion, represents a minimum fair standard and if we can't add to the employee's protection we shouldn't take away from it.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 22 as amended and rereferred to the committee on style and drafting:

Sec. a. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the chief executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, 8 exempt positions in the office of the governor, and within each principal department, when requested by the department head, 2 other exempt positions, one of which shall be policy making. The civil service commission may exempt 3 additional positions of a policy making nature within each principal department.

The civil service commission shall be nonsalaried and shall consist of 4 persons, not more than 2 of whom shall be members of the same political party, appointed by the governor for 8 year, overlapping terms.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified as qualified for such appointment or promotion by the commission. No appointments, promotions, demotions or removals in the classified service shall be made for partisan, racial or religious considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. Within 60 calendar days following such transmission, the legislature may, by a 2/3 vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission: Provided however, The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one per cent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within 6 months after the conclusion of each fiscal year the commission shall return to the state treasury all funds unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this article have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

PRESIDENT NISBET (continuing): The secretary will read the next proposal. Mrs. Butler.

MRS. BUTLER: Mr. President, fellow delegates, on this floor a number of times, there has been quite a bit of name calling, and as I am in the party that that is directed to, I don't like it very well. One thing, one name was "hypocrite." Maybe we feel a little bit personal about it because we're all a little bit hypocritical, maybe, at times, but I don't like to be called a hypocrite. And then another time we were called "snots." I wish somebody would draw me a picture of that. (laughter) Then this morning, it was stated that what we were doing was for our own personal gain. There is nothing here that can give me any personal gain, only the gain that I hope to achieve for my own people. I think we should be careful about this name calling.

A long time ago in Michigan, we had a poet. He lived before the time of most people here, and his name was Carlton. And my mother used to quote to us, when we got a little nasty about our friends, a little verse, and I'm going to give that to you and I hope that maybe all of us can think about it. This man's name was Carlton, and in one of his poems he wrote:

Boys flying kites haul in their white winged birds,
But you can't do that when you're flying words.
Thoughts unexpressed may sometimes fall back dead,
But God himself can't kill them when they're said.

(applause)

PRESIDENT NISBET: Thank you, Mrs. Butler. The secretary will read.

MR. DOWNS: Mr. President, could I say that I concur with Mrs. Butler's statements, that while I know we all feel very intense and deeply on matters, I hope we can keep them in the idea realm and keep away from the personalities. (applause)

PRESIDENT NISBET: Thank you, Mr. Downs. The secretary will read.

SECRETARY CHASE: Item 20 on the calendar—

PRESIDENT NISBET: Just a minute. Mr. Lesinski.

MR. LESINSKI: Mr. President, I'd like to ask Mrs. Butler who her people are.

PRESIDENT NISBET: Never mind, Mrs. Butler. Please don't answer that question. We've got work to do.

SECRETARY CHASE: **Committee Proposal 76,** A proposal pertaining to the passage of permissive legislation to allow civil divisions of the state to establish local civil service systems and to receive assistance from the state civil service system. Amends article VI.

Following is Committee Proposal 76 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1784.):

Sec. a. Each city, village, township, county, school district, and OTHER GOVERNMENTAL UNITS OR AUTHORITIES PERFORMING THE SAME OR SIMILAR FUNCTIONS [metropolitan government] may, by a majority vote of the electors voting thereon OR AS PROVIDED BY LAW, establish, modify or discontinue a merit system for its employees OTHER THAN [except] teachers under contract or tenure. The state civil service commission may ON REQUEST furnish technical services TO THEM on a reimbursable basis. [to any city, village, township, county, school district or metropolitan government requesting the same.]

PRESIDENT NISBET: Mr. Martin.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. MARTIN: Mr. President, the committee on style and drafting made some changes in this proposal, one of which is clearly a change of substance and it appeared to the committee also that it was desirable to make clear the fact that action by the local governing body had to be taken by ordinance or resolution of the governing body—that is, the board of supervisors or council, or whatever it may be—subject to approval then by a majority of the electors voting thereon. There is an amendment pending to clarify this and to keep this as it was when it went to style and drafting. It is a self executing provision in which the local governing body would have to act and then a vote would have to be taken by the people. I hope you will go along with this amendment when it is read.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Messrs. Durst, Martin and Mrs. Judd offer following amendment to Committee Proposal 76:

1. Amend page 1, line 3, after "may, by" by striking "a majority vote of the electors voting thereon or as provided by law" and inserting "ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon"; so that the language would then read:

> Each city, village, township, county, school district, and other governmental units or authorities performing the same or similar functions may, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon, establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: I think I've already offered the explanation, Mr. President.

PRESIDENT NISBET: Mr. Durst.

MR. DURST: Mr. President, I might add this to what Mr. Martin has said: in Committee Proposal 81, as he explained, we did pass a civil service provision for counties of 1 million or more. Adoption of this language would more or less make those 2 provisions the same, make them apply to all counties. We're not making any substantive change in the proposal adopted in the executive branch but it might be possible, in the wisdom of style and drafting, to combine these 2 proposals into 1.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Durst and others. Mr. Allen.

MR. ALLEN: Mr. President, may I ask a question of Mr. Martin?

PRESIDENT NISBET: Mr. Martin.

MR. ALLEN: I wonder how this would be interpreted. I know the intent here is to broaden civil service opportunties for local units of government but I wonder if, inadvertantly, there may not be some narrowing of it in this sort of situation. The city charters of some of our cities provide that the local governing body may put in a civil service plan. This is done by ordinance and it is not referred to a vote of the people. However, when the charter was adopted, the people voted on the charter. Now, I am wondering, under the language which is offered here, whether or not a city which has a charter which authorizes the city council to put in a civil service plan without a vote of the people would be permitted to do so.

MR. MARTIN: Mr. President, Mr. Allen, I think it would. I think that the provisions of the charter would, in that case, control the rights of the people in that particular community, that charter having been adopted under the home rule provisions.

MR. ALLEN: The language, Mr. Martin, if literally read, seems to say that the ordinance or resolution must be approved by a vote of the people.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. Allen, if you wanted to make it clear by an amendment that the provisions of home rule charter shall in any event prevail, I would see no objection to that. The committee certainly would not object, I'm sure.

MR. ALLEN: Could I ask another question in connection with the same thing? We have also a number of cities which in their charter have provided, or even by an ordinance which has been referred to a vote of the people, have set up a civil service plan, but then they want to abolish it or they want to modify it in some way. Would your amendment require, in case civil service was to be given up, a vote of the people, even though the city charter provided that the city council could do it on its own vote?

MR. MARTIN: Mr. President, I think not. I think the local governing body would have authority in that situation without a further vote of the people. The vote of the people refers to —let's see, reading it here—refers to "establish, modify or discontinue." I'm sorry, I'll change my answer. I think a vote of the people would be required to modify or discontinue.

MR. ALLEN: Despite what the charter said?

MR. MARTIN: No. I am proposing that we add a sentence to the effect that no part of this proviso or this proposal, section, shall in any way abrogate the provisions of existing charters.

MR. ALLEN: Mr. President, I don't have such an amendment ready; because this language having just come in, there hasn't been the opportunity. I would be willing to have style and drafting do this.

MR. MARTIN: We have no objection to that, Mr. Allen.

MR. ALLEN: As long as our intent is clearly understood.

MR. MARTIN: It is clearly understood.

MR. ALLEN: That will be satisfactory. Thank you.

PRESIDENT NISBET: The question is on the amendment of Mr. Martin. Those in favor will say aye. Opposed, no. The amendment is adopted. The question now is on adoption of Committee Proposal 76. Those in favor of Committee Proposal 76 will vote aye. Those opposed—pardon me, Mr. Shackleton.

MR. SHACKLETON: Mr. President, fellow delegates, when this was in committee of the whole it passed by only 3 votes. It happened that that day there was a sparsity of population on the convention floor. There was barely 5 minutes' time spent in the executive committee discussing this proposal. There was no testimony from the outside that there had been any request for any such provision as this proposal provides. There was not demonstrated any need for this proposal in any way, shape or form.

The legislature already has it within its power to do legislativewise what this proposal is trying to do constitutionalwise. If you will recall, a statute providing for the situation in Detroit was amended in this constitution because Detroit claimed that it did not fit their particular needs and requirements. If that is true for that one city, how can you pass a general law, as this would provide for, to take care of 1500 or more different political subdivisions of varying sizes, needs, requirements and have any kind of a law that could operate other than on a mass basis as far as the civil service commission is concerned, which obviously could not be done to take care of various sizes of communities or public subdivisions?

It was brought out in the debate, if you remember, that this would be the beginning of the surrender of local authority to the state bureaus; an excellent way for supervisors or councilmen to duck the responsibility of meeting the issue on salary adjustments by passing it on to the state. They, however, would have to pay the bill. It is a move to remove our government from grassroots control, which has been expressed here as so desirable so many times, by taking away from your grassroots control the control over employees: rating, salaries, fringe benefits and all that goes with it. It would create the most powerful bureau in the state government if this were brought to fruition throughout the state, with the greatest propaganda machine that could possibly be devised in any kind of a system. I sincerely urge that this proposal be soundly defeated.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: These arguments were discussed in committee of the whole. It's clear that there is a misunderstanding of this proposal, because it clearly puts the responsibility on the local unit of government to decide what kind of civil service, if any, it wants, subject to a vote of the people; and it does not bring the state into this matter in any way, shape or manner except to the extent that the local community, if it so decides, may request technical services and on a reimbursable basis whereby it will have to pay for them. So there is every possible safeguard in the thing and it does not involve the state civil service except on a purely technical level.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, it is difficult for me to understand Mr. Shackleton's point or his feeling in the matter. This is, as the chairman of the committee has said, purely a permissive matter. It is to promote local control and self government and facilitation. It's in no way to impose on local government anything they don't want. This is merely to say that they may do this without waiting for any action by the state legislature and they may ask the assistance of the state civil service commission. I've understood that this is already so pleasing to local units of government that the civil service commission has already had a considerable number of requests for assistance, so that the idea that it creates a propaganda machine or develops a strong bureau that can tell local government what to do is simply not in the proposal.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Parliamentary inquiry, Mr. President. Do I understand correctly that the previous amendment to this proposal was adopted?

PRESIDENT NISBET: That's correct.

MR. WANGER: It's very difficult to read this projection machine when it's in operation and I would ask, therefore, that the secretary read the proposal as amended so we can all understand exactly what it says.

SECRETARY CHASE: The language of Committee Proposal 76 now reads, the amendment offered by Messrs. Durst, Martin and Mrs. Judd having been adopted:

> Each city, village, township, county, school district, and other governmental units or authorities performing the same or similar functions may, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon, establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to them on a reimbursable basis.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I ask how many speakers seek recognition?

PRESIDENT NISBET: Four.

MR. VAN DUSEN: In that event, Mr. President, I would move to limit debate on this proposal to 15 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Marshall, you have the floor.

MR. MARSHALL: Mr. President and fellow delegates, I concur in the remarks made by Dr. Pollock and Delegate Martin and I urge support of the committee proposal.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, you will recall that when this matter was debated in committee of the whole it was sort of a Muskegon fight with my good friend over there, Bill Hanna. I opposed it then; I oppose it now. You're putting the cart before the horse. You're letting the creatures of the legislature, the municipal corporations that have been created by the legislature, now have constitutional power to create any civil service system they may desire with any type of rules. There is no uniformity. They can have any type of appeal process or requirements that they desire. You are giving them a constitutional authority in municipal corporations that are creatures of the state and of the legislature. I opposed the propositon at the time it was in committee of the whole. I urge it be rejected.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, just a reminder of 2 things that were brought up in committee of the whole. In the first place, the legislature can do everything the proposal provides for except as to that expressed in the last sentence. No new power is needed in the legislature whatsoever. The last sentence, which gives the authority for the state department to help out the local units of government — I asked the chairman of the committee in the committee of the whole if there had been any demand from the cities, the counties, the townships, any local government for that service, and his answer was that there had been no particular demand from any of them. This is something manufactured in the committee itself. I urge the rejection of the proposal.

PRESIDENT NISBET: Mr. Gover.

MR. GOVER: Mr. President, fellow delegates, talking after Mr. Brake, I can say very few things to add to what he has said. I do have one question that I would like to ask of Mr. Martin, though.

PRESIDENT NISBET: Mr. Martin.

MR. GOVER: Mr. Martin, don't you think that civil service would try to build a special department to help these municipal units establish their civil service on the local level? And if so, don't you think that civil service then, when they were kind of slow, would go out and try to sell this to a lot of other communities in order to keep business in the bureaus and in the departments?

MR. MARTIN: Mr. Gover, I don't think so at all. I don't think there's the slightest likelihood of that. I do think that these local units of government, in setting up a civil service system, might very well like some technical advice about how to do it. If I were in a local community on a council or on a board of supervisors, I'd want to be able to have that opportunity provided. I'd paid for it and that's all that this does. The civil service system here hasn't got any stake at all in trying to build up local civil service systems. It has a stake, if they're going to be established, in helping them to whatever extent they want help and no more, I think.

MR. GOVER: Well, I want to make a statement now in connection with that. As a former village official, I find that just as soon as the state assists the villages or towns, they're in there pushing as hard as they can, trying to get everything they possibly can and pawn it off on them. Thank you.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I had not intended to speak on this matter until the statements were made by Mr. Brake and Mr. Danhof. Now, nothing is more frustrating than to come down to the legislature and ask for an enabling act that a township or townships, as a class, could enact civil service to be faced by the answer: well, while your township may want it, all the other townships are scared to let the people vote on it. I, for one, have never been afraid to let the people in my township or county or village decide whether or not they wanted civil service. I believe this is all that this provides.

With regard to the demand that Mr. Brake comments on as to the last provision, I doubt if there has been very much demand when certainly these intelligent local civil servants know that it would be useless to request. If the request were available, I suspect that in all their good intelligence they would ask for some assistance.

PRESIDENT NISBET: The question is on Committee Proposal 76, as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—75

Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bledsoe
Bonisteel
Bradley
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Ford
Goebel
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Jones
Judd, Mrs.
Karn
Kelsey
Krolikowski
Lawrence
Madar
Marshall
Martin
McLogan
Murphy
Nisbet
Norris
Page
Pollock
Pugsley
Rajkovich
Romney
Sablich
Snyder
Spitler
Staiger
Stamm
Stevens
Stopczynski
Suzore
Tubbs
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Young
Youngblood

Nays—47

Allen
Blandford
Boothby
Brake
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Erickson
Farnsworth
Figy
Finch
Gadola
Gover
Haskill
Hoxie
Hutchinson
Iverson
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leibrand
Leppien
McAllister
McCauley
McGowan, Miss
Millard
Mosier
Perlich
Perras
Plank
Powell
Prettie
Radka
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Thomson
Turner
Wood

SECRETARY CHASE: On the adoption of Committee Proposal 76, as amended, the yeas are 75; the nays are 47.

PRESIDENT NISBET: **Committee Proposal 76,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 76, as amended and rereferred to the committee on style and drafting:

Sec. a. Each city, village, township, county, school district, and other governmental units or authorities performing the same or similar functions may, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon, establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to them on a reimbursable basis.

PRESIDENT NISBET (continuing): The Chair recognizes Dean Doty.

MR. DEAN DOTY: Mr. President and members of this convention, I would like to make a statement at this time that this morning I was misinformed as to the identity of a gentleman who was in the halls or in the corridors of this convention. I would like the record to show that I mentioned Mr. Otis Hardy by name. I had mistaken him for someone else. The other gentleman, whom I thought was Mr. Hardy, was a registered lobbyist in this convention up until 3 weeks ago and he has been asked by the people whom he represented not to represent them any further. And I would like to apologize to Mr. Hardy for using his name.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, we seem to have completed the proposals on the executive branch. I only want to thank the Chair for his consideration; the secretary; and to thank the delegates to this convention for their patience in staying with us on this until we got it disposed of in the best way we knew how. Thank you very much. (applause)

PRESIDENT NISBET: Thank you, Mr. Martin. Dr. DeVries.

MR. DeVRIES: Mr. President, the committee on administration will meet immediately following this morning's session.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: The committee on declaration of rights, suffrage and elections will meet in room F immediately upon recess; a short meeting. James K. Pollock, chairman.

The committee on legislative powers will meet tomorrow morning, Thursday, at 8:00 a.m. T. Jefferson Hoxie, chairman.

Mrs. Koeze asks to be excused temporarily from the early part of the afternoon session.

PRESIDENT NISBET: Without objection, she will be excused. Mr. Hoxie.

MR. HOXIE: Mr. President, I would like the attention of Mr. Wanger. I am asking that the members of the legislative powers committee meet immediately following this session.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, I move we recess until 1:30.

PRESIDENT NISBET: The question is on the motion of Mr. Brake. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 1:30.

[Whereupon, at 11:35 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

VICE PRESIDENT HUTCHINSON: The convention will be in order. Will you please come to order. The delegates will please take their seats.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: The Chair recognizes the delegate from Kent, Mr. DeVries.

MR. DeVRIES: Mr. President, members of the convention, I respectfully request the committee on administration be granted permission to meet when the convention is on general orders, at the request of the chairman.

VICE PRESIDENT HUTCHINSON: Without objection, it will be so granted. The Chair hears no objections.

We are on the order of second reading of proposals.

SECRETARY CHASE: Item 1 on the second reading calendar, **Committee Proposal 79**, A proposal pertaining to a commission on legislative apportionment. Replaces article V, section 4.

VICE PRESIDENT HUTCHINSON: Mr. Hannah.

MR. J. A. HANNAH: Mr. President, unless there is objection, I would like to suggest that we consider Committee Proposal 79 read.

VICE PRESIDENT HUTCHINSON: Is there objection? The Chair hears no objection and the proposal is so considered.

Following is Committee Proposal 79 as reported by the committee on style and drafting and considered read. (For text as referred to said committee, see above, page 2029.):

Sec. a. [There is hereby established] A commission on legislative apportionment IS HEREBY ESTABLISHED consisting of 8 persons, 4 of whom shall be selected by [each of] the state organizations of each of the 2 political parties WHOSE CANDIDATES FOR GOVERNOR RECEIVED [casting] the highest vote [for governor] at the last [preceding] general election[:] PRECEDING EACH APPORTIONMENT, [Provided, That] If a CANDIDATE FOR GOVERNOR OF A third POLITICAL party [receives] HAS RECEIVED AT SUCH ELECTION more than 25 per cent of such gubernatorial vote, the commission shall consist of 12 members, 4 of whom shall be selected by THE STATE ORGANIZATION OF the third political party. One member OF THE COMMISSION [from each political party] shall be selected BY EACH POLITICAL PARTY ORGANIZATION from each of THE FOLLOWING 4 regions [hereinafter described]: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region 2 and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No [public officials] OFFICERS or [governmental] employees of [either] the federal, state or local governments, excepting notaries public and members of the armed forceS reserve[s], shall be eligible for membership on the commission. Members OF THE COMMISSION shall not be eligible for election to the legislature until 2 years [shall have elapsed] after the apportionment PLAN in which they [shall have] participated BECOMES EFFECTIVE.

THE [Said] commission shall be appointed immediately after the adoption of this constitution and whenever [reapportioning] REAPPORTIONMENT or [redistricting] DISTRICTING is required by the provisions OF THIS CONSTITUTION [hereof]. Members OF THE COMMISSION shall hold office until each apportionment or [redistricting] DISTRICTING plan [shall become] BECOMES effective. Vacancies shall be filled in the SAME manner [of] AS FOR original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, SHALL make its own rules of procedure, and shall receive [such] compensation [as shall be] provided by law. The legislature shall appropriate [the] funds necessary TO ENABLE [for] the [support of the] commission TO CARRY OUT ITS ACTIVITIES.

Within 30 days after the adoption of this constitution, and [also] after the official TOTAL POPULATION COUNT [results] of each federal decennial census of the state and its political subdivisions [are] IS available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to apportion, AND district, [reapportion and redistrict] the senate and house of representatives according to the provisions of this constitution. ALL [No] final decisions shall REQUIRE THE CONCURRENCE OF [be made except by] a majority of all of the members of the commission. THE [Said] commission shall hold public hearings as may be provided by law.

[The] EACH final apportionment and districting PLAN shall be published AS PROVIDED BY LAW within 30 days FROM THE DATE OF ITS ADOPTION and shall become law 60 days AFTER PUBLICATION, [thereafter in the same manner as acts of the legislature.] The secretary OF STATE shall keep a PUBLIC record of all the proceedings of the commission [which shall be public record,] and shall be responsible for the publication and distribution of EACH PLAN [the report].

[In the event] IF a majority of the commission cannot agree on a plan, each member of the commission, INDIVIDUALLY OR JOINTLY WITH OTHER MEMBERS, may submit A PROPOSED PLAN to the supreme court, [either individually or jointly with any other members, a proposed reapportionment plan. If plans submitted meet the requirements of this constitution,] The supreme court shall determine [the] WHICH plan [which shall be adopted by the commission as complying most accurately with the constitutional requirements, and published as aforesaid] COMPLIES MOST ACCURATELY WITH THE CONSTITUTIONAL REQUIREMENTS AND SHALL DIRECT THAT IT BE ADOPTED AND PUBLISHED AS PROVIDED IN THIS SECTION.

Upon the application of any qualified elector FILED NOT LATER THAN 60 DAYS AFTER FINAL PUBLICATION OF THE PLAN, the supreme court, in the

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

> exercise of original [and final] jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, [or] may review any final [districting] plan adopted by the [apportionment] commission and shall make orders [to amend] AMENDING such plan if it fails to comply with the requirements of this constitution[: Provided, That no such application shall be filed more than 60 days after final publication].

VICE PRESIDENT HUTCHINSON (continuing): The Chair recognizes the chairman of the committee on legislative organization, Dr. Hannah.

MR. J. A. HANNAH: Mr. President and ladies and gentlemen, this afternoon we come to the consideration of the recommendations of the committee on legislative organization. They are Committee Proposals 79 and 80, and we have before us Committee Proposal 79. I am not going to review the fairly lengthy statement that was made when this item was before you in the committee of the whole. Because those of us that have spent a lot of time on this matter are inclined to feel that all members of the convention know as much about it as we do, we sometimes feel that it's simpler than it is and I should like to tell you briefly why the committee recommended—before we get into a discussion of apportionment proposals—that there be established some organization, some agency, what we call a commission, charged with the responsibility of reapportioning the legislature whenever shifts in population make such reapportionment desirable or necessary. The committee became satisfied that when we ask the legislature to reapportion itself, we ask it to do something that is very difficult for it to do for the very obvious reason that it is dealing with shifting boundary lines between districts, which means, most certainly, that the districts of some of their colleagues are going to be changed, some of their colleagues are likely to lose their constituencies entirely, and if the apportioning is done fairly and objectively, there is always the possibility that some of the ablest members of the house or senate, whichever legislative body we're talking about, might find themselves apportioned out of a seat. These and other reasons are probably responsible for the fact that, pretty generally, state legislatures have failed to act.

You will recall that the supreme court case of a few weeks ago was based on the fact that in Tennessee, the state constitution provided that both the house and senate should be apportioned on a population basis and the legislature had failed to act for more than 60 years; and because the citizens of the state had no other recourse, the supreme court decided that it was appropriate for the federal court to reexamine the situation to see whether or not citizens were being unfairly deprived of adequate representation in the state legislature.

Now, Committee Proposal 79 provides that after any decennial census there shall be created an apportionment commission of 8 members, ordinarily, 4 selected by each of the 2 parties; or, in the event that some time in the future a third party might be successful in getting 25 per cent of the vote for governor at the last election, then that party too would be entitled to 4 representatives on the commission. This proposal provides that these members of the commission are selected, when necessary, by the party organization. Normally, your party organizations are the same as they are now, by the state central committee. In the present situation, there would be 4 Republicans and 4 Democrats.

It goes on to provide that they shall be selected on a district basis. The state is divided into 4 districts and each party would select one member of the commission from each of the 4 districts. The reason for that is: in the view of our committee it is desirable that this commission first of all be partisan; secondly, that it be reasonably objective; and thirdly, that it have some knowledge of all of the areas of the state for which it is going to be responsible for drawing new district lines.

Then there is spelled out in detail how this commission is to function and it is provided that there is, in the event the commission fails to come up with a majority vote — if there are 8 members, of course, it would take 5, meaning at least one member of one party and all the members of the other, or any combination of them, to come up with 5. If no 5 can agree on a single apportionment, then the supreme court shall review those proposals presented by any 2 commissioners and shall select the one that most nearly conforms to the provisions of the constitution.

Now, the committee on style and drafting has made some language changes that, in the view of our committee, are improvements. The committee recommends to you for favorable consideration the recommendation as it is before you as it comes from the committee on style and drafting.

VICE PRESIDENT HUTCHINSON: The question is on the adoption of the proposal. Mr. Hodges.

MR. HODGES: Mr. President, the minority members of this committee fully subscribe to the idea of an apportionment commission. There is no question that in light of history in Michigan and elsewhere, this is the only way apportionment can be accomplished. But we cannot subscribe to this commission. If one looks at the proposal closely, you will note that ½ of the people that will serve on this commission represent 6 per cent of the population of this state. We've had malapportionment of great extent, but this is probably the farthest we've ever gone. Actually what we have here is a malapportioned commission apportioning the legislature under a malapportioned formula. It cannot come to equity because of the formula and it is questionable if it can come to equity when you realize that ½ of the representatives on this will come from areas that represent 6 per cent of the population. It is inherently unfair; it is obviously undemocratic. And for this reason, the minority must oppose it.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the proposal. Mr. William Hanna.

MR. W. F. HANNA: Do you want to take care of the amendment?

VICE PRESIDENT HUTCHINSON: All right. There is an amendment. The secretary will read.

SECRETARY CHASE: Messrs. Faxon and Marshall offer the following amendment:

1. Amend page 1, line 9, [paragraph 1] after "party.", by striking out the balance of the paragraph; which reads:

> One member of the commission shall be selected by each political party organization from each of the following 4 regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region 2 and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, this amendment is similar to the one that was considered for some time during our deliberations in committee of the whole. Mainly it takes out from this provision that part dealing with where these people must live in order to sit on the commission. We've already permitted the political parties to make this designation. We already stipulate that these members of the commission can neither be officers or employees of any federal, state or local government. Now, I ask you, what need is there to insult the intelligence and integrity of our political parties by stipulating that these people must come from 1 of these 4 regions in order to qualify to sit on the commission? Realizing that our political parties in Michigan are statewide parties, and realizing that in the past, our political parties have shown consideration in all of their various operations to all parts of the state, I would question the wisdom of including into the constitution a specification as to what areas people must come from because I feel perfectly confident that the political parties will make the necessary and intelligent judgments in this matter.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Regardless of all other factors, this is not language that has any place in the constitution. There has been no precedent to this in any previous constitution to the dividing of the state up into 4 areas. This has never been done. I don't think we're in a position to make this judgment now. Four regions, 8 regions or 10 regions, we are one state and the people ought to be able to be picked from the state as a whole. We are not 4 different regions. I am sure that no one is going to identify themselves as a region in Michigan, whether they live in the southwestern region or the north central region or whatever region you want to call it. We are not a state of regions. We have never been a state of regions. I ask you to consider the wisdom of dividing a state up into regions for this or any other purpose. Let's leave this to the political parties to make the judgments that they will make. We can be certain that they will, in most cases, be the kind that we can trust and have faith in. I ask your support for this amendment.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Hanna of Muskegon.

MR. W. F. HANNA: Mr. President and fellow delegates, I would like to talk against the Faxon amendment and in favor of the committee proposal. First, I would like to point out that this was not something that was brought up just to apply to Michigan, but is literally an application of the same principle that is in the Alaskan constitution, where, like our great state, they have a diversity of area. Secondly, I would like to call your attention to the fact that we have seen at this convention that we do have within Michigan 4 regions or 4 areas and we had testimony before our committee that within each political party, the people outstate and the people in the metropolitan areas within the same political party do not always quite agree. The most vivid of that testimony was the Democratic county chairman from Ionia county, a gentleman who was a fraternity brother of mine at Western Michigan, who came down and testified, asking that we keep the present senatorial system and the present house system, and who made this statement which I will paraphrase, because I do not have the quote, but to the effect that the Wayne county Democrats don't always listen to us Democrats outstate. Now, thirdly, this is very much analagous to another situation. Any of you who have studied the problem of annexation and the so called Virginia plan of annexation realize that once they have had a court or judicial body enter into the problem of annexation and drawing lines, those statutes or constitutional provisions uniformly provide for an outside judge to come in and hear the testimony and do the work. And from my experience here at this convention on apportionment, it has become very obvious that it is easier to draw the lines fairly and squarely and honestly in an area from which I do not come than it is to draw the lines in my own area. I can divide Bay county into 2 legislative districts more fairly and more honestly than I can divide Muskegon county, my home county, into 2 districts. Try as hard as I may to be judicious and honest and forthright, I cannot help but be influenced by local politics, personalities of the legislators from that county, and so forth.

I certainly urge that if we're going to have an honest, judicial approach to this matter of apportionment, we retain this provision that the Democratic party in Alaska thought so wise to put in. I submit to you that you can find people of your political thoughts, whether they're from the upper peninsula or Wayne county, regardless of political party, and I can only point to the votes taken in our committee, where I am sure that those members who were on that committee recognized that despite the fact that members of either party were from the upper peninsula, they reflected their party position.

I urge this as the only fair, honest way to get judicious reapportionment, as nearly fair and equal as we can possibly provide in this constitution. I urge the defeat of the Faxon amendment because it will inject politics into apportionment to the point where this commission will not honestly do its job under the standards we have set up in Committee Proposal 80.

VICE PRESIDENT HUTCHINSON: On the amendement, the Chair recognizes Mr. Knirk.

MR. KNIRK: Mr. President and ladies and gentlemen, I'd like to definitely correct the statement that was made by Mr. Hodges that 6 per cent of the people live in the area where ½ of these members of this particular commission would be from. That is not true. It's actually over 10 per cent. So I think that Mr. Hodges should check his figures on that. Secondly, I would like to say that the majority of the district changes will be made from outstate. Very few changes will be made, for instance, you might say, down in the southeastern or metropolitan area of the state. And I think that it is very important that on this commission there be people representing the entire area of the state of Michigan because when I say "area" I am referring to the sparsely populated areas in the upper peninsula and the upper part of the lower peninsula, because that's where most of the changes are going to take place. And I certainly hope that the convention delegates here will oppose this amendment and support the proposal as recommended by the committee. Thank you.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Plank.

MR. PLANK: Mr. President and fellow delegates, I'd like to speak in behalf of defeating this amendment. Some of the delegates have raised the point that they've never heard of such a commission, and they are absolutely right. This is the first one of its kind in the 50 states. And it was chosen deliberately because it was thought that men from throughout the state will look at an area not their own with a more realistic and objective vision as far as concerns redistricting and reapportioning. I think in this proposal, we have the best reapportionment and redistricting plan of the whole 50 states and I would expect that many of the states will follow our apportionment plan and come up with the same type of body. In fact, I can report to this convention that at least one other state has asked that we send them our proposal on the redistricting reorganization plan. I certainly would urge you, on behalf of the committee on legislative organization, to defeat this amendment and go along with Committee Proposal 79.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Stevens.

MR. STEVENS: Mr. President and members of the convention, I'd like to reply to the principal part of the argument of the proponents of this amendment. I refer particularly to the use of that synthetic hybrid, malapportionment. When Delegate Hubbs objected to its use in committee, I had it researched in the state library. The library staff was unable to find any authority for the use of this word in the English language. Delegate Butler insists it is used here in mala fide. I suggest that as used here, it is malapropos, malevolent, malicious and malignant. (laughter)

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Marshall.

MR. MARSHALL: I just want to demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Marshall demands the yeas and nays. Is the demand supported? The demand is supported. The yeas and nays are ordered. On the amendment the Chair recognizes, for the second time, Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, I think that some people have been arguing something which I never advocated nor said in my statement. I am not questioning the wisdom of having people sit on this commission who would come from various areas of the state. But I question the wisdom of writing in where they have to live in order to be on the commission. The question that we should be concerned with is having people of competence and ability, people who can do a good job, and it doesn't matter whether they live in Washtenaw, Ionia or Keewenaw county. If they are good people, they ought to be able to serve. This is the main point. I don't think there is any relevance in comparing Michigan with the state of Alaska and I think that we're aware of the fact that Alaska is the largest state and Alaska has a number of other problems with regard to internal communication and transportation which are not true in the state of Michigan to the extent that it is true in Alaska.

I think in order to get a judicious reapportionment in line with remarks that have been made by Mr. Hanna, in order to get a reapportionment that we can all feel confident in, the important thing should be the individual merit of those persons who would be appointed to the commission, and those merits are not to be determined on the basis of whether the person lives in a particular region or not. We want qualified people. We want good people. And I think that we need people from all parts of Michigan, but I don't think we need to write this into the constitution. I think that we should have enough confidence and trust in our political party organizations to make the necessary judgments and to exercise their discretion insofar as their selection of people on that commission are concerned.

For these reasons, and not for any reason that we are going to think of, all these members ought to be from one area of the state, let's not freeze into the constitution, really, language that doesn't belong in there. Competence and qualifications are important. And I am sure that the political parties will make that judgment. It is not necessary that they live on one side of a county or another to see whether they can sit on the commission. We want good people. Let's leave the selection to the respective parties for their choice.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I rise in opposition to this amendment and I would like to, if I may, direct a question to Mr. Faxon, through the Chair.

VICE PRESIDENT HUTCHINSON: You may proceed, if he cares to answer.

MR. PERRAS: From your remarks, Mr. Faxon, did you infer that the only place you could get competent men for this commission would be from the lower part of the state?

MR. FAXON: Not at all, Mr. Perras. And I think I made it very clear that I haven't any intention that the commission ought to be made up of people only from one part. It is simply a question of leaving the manner of the selection — the place and the location of the selection of the delegates — to the respective political party organizations. They've done it in the past; they'll do it again. I'm sure they can be trusted in this case.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Hodges.

MR. HODGES: On behalf of the minority committee members, we support this amendment. I would point out that this is the first time we'll have a pure area formula. There is no population formula whatsoever. This is strictly on area. I would beg forgiveness of Mr. Knirk. I note that he is right, that this is 10 per cent of the population. I was 4 per cent off. I realize that this makes it a little more palatable to say that 50 per cent of the representation on this commission will represent 10 per cent of the people. And this is more impalatable than anything that we've ever had in this state in terms of apportionment of the legislature, and this is the very body we're asking to apportion our legislature.

MR. PLANK: Point of order, Mr. President. Hasn't Mr. Hodges spoken on this once before?

VICE PRESIDENT HUTCHINSON: He has not.

MR. HODGES: Thank you, Mr. President.

MR. PLANK: Pardon me, Mr. Hodges.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment offered by Mr. Faxon and Mr. Marshall. The yeas and nays have been demanded and ordered. As many as are in favor of the amendment will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—40

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Norris
Ostrow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays—86

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
King
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Martin
McLogan
Millard
Mosier
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Faxon and Marshall, the yeas are 40; the nays are 86.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The question recurs on the adoption of Committee Proposal 79. Mr. Norris.

MR. NORRIS: Mr. President, I would like to direct a question to Dr. Hannah, through the Chair, if I may.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. NORRIS: Do I understand, sir, that any elector may compel a review of a plan of apportionment that may be adopted by the apportionment commission?

MR. J. A. HANNAH: Mr. Norris, instead of answering that question, I'd like to defer to the vice chairman of our committee, Judge Dehnke, who will give you the legal answer.

VICE PRESIDENT HUTCHINSON: Judge Dehnke.

MR. DEHNKE: Mr. President and Dr. Norris, please repeat the question. I'm not sure that I caught the point of it.

MR. NORRIS: Mr. President, Judge Dehnke, my question was: In view of the fact that one of the reasons for an apportionment commission is to make available a review which had not been present thus far in a mandamusable fashion, is it the specific intent of this apportionment provision under the language contained in the proposal to provide for a review by the court upon petition of the qualified electorate of the plan of apportionment adopted by the apportionment commission?

MR. DEHNKE: I think the language speaks for itself, Dr. Norris. The court may review, upon such a petition, a final plan adopted by the commission and make orders amending the plan if it fails to comply with the requirements of the constitution. I think we may safely assume that the court, if it makes any amendments, will make them in conformity to the requirements of the constitution—the specifications, in other words.

MR. NORRIS: My second question, Mr. President, Judge Dehnke, is with regard to the situation that prevails when there is disagreement among the members of the apportionment commission. Do I understand then the language here, in view of that contingency, is suggestive of this: that the various members of the apportionment commission then submit their respective plans to the court for appraisal of the plan most nearly in accordance with the constitutional standards and the court then issues an order?

MR. DEHNKE: The court then what?

MR. NORRIS: Issues an order.

MR. DEHNKE: The court determines which of the plans complies most accurately with the requirements of the constitution and returns it to the commission for the order to be made by the commission, according to the language of the proposal.

MR. NORRIS: It comes back then to the commission?

MR. DEHNKE: Yes. The commission is subject to mandamus action by the court if it fails to comply with the order of the court.

MR. NORRIS: My point then is this: is this review by the court not in the nature of an advisory action and not an adversary or justiciable controversy, and do we run into a question as to whether the action contemplated here becomes one that is capable of the proper exercise of the judicial power by the court?

MR. DEHNKE: I don't see any reason to fear any such complications. I've said previously that one of the traits of a good lawyer is a lively imagination, Dr. Norris, and you're a good lawyer. (laughter) That may be the answer to some of these questions. (laughter)

MR. NORRIS: I hope we don't have to resolve that in court, Judge.

VICE PRESIDENT HUTCHINSON: Mr. Hanna of Muskegon.

MR. W. F. HANNA: Mr. President and Dr. Norris, I'd like to further amplify Judge Dehnke's answer to you. We made it in this manner so that deliberately, after the court gave its opinion and directed the commission, the order became appealable back to the court if an elector felt that it was not proper. If we leave it to the court to order, then, in effect, there is no appeal but to the federal courts. We wanted the commission to enter the order so that it did become appealable back to the court by this elector.

MR. NORRIS: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does the gentleman rise? He has spoken once on the question.

MR. NORRIS: A point of observation.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of Committee Proposal 79. Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, this is one that I believe we should vote against, and not because I'm against the principle of the commission and a review by the court. However, this does have a factor in it that is not based on a one man, one vote concept. I know when we get into the question of legislative organization, we will get into the legal aspects of the matter and I do not want to do that at this point. However, with the United States supreme court reviewing what state bodies do — and I assume that means the convention as well — for that reason alone, I do not want to go on record voting for anything that violates what I consider the equality construction of the fourteenth amendment that the United States supreme court is leaning toward. Therefore, it is with reluctance that I am going to vote against the entire proposal because of that aspect in it.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of Committee Proposal 79. As many as are in favor will vote aye. Those opposed will vote nay. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote. All right. You may still vote. Please record your votes. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—95

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Mosier
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager
Youngblood

Nays—35

Austin
Balcer
Barthwell
Binkowski
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Norris
Ostrow
Perlich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young

SECRETARY CHASE: On the passage of Committee Proposal 79, the yeas are 95; the nays are 35.

VICE PRESIDENT HUTCHINSON: **Committee Proposal 79** passes and is referred to the committee on style and drafting.

For Committee Proposal 79 as rereferred to the committee on style and drafting, see above, page 2799.

The Chair recognizes the delegate from Ingham, Mr. Jones.

MR. JONES: Mr. President and fellow delegates, I rise for the purpose of offering a preferential motion which is on the secretary's desk. I would ask the secretary to please read it.

SECRETARY CHASE: Mr. Jones moves that **Committee Proposal 80,** of legislative organization, be passed over until we reconvene on August 1 in view of the United States supreme court decision on this matter; and further, that the select committee appointed by the president, make every effort to get this matter before the state supreme court for a speedy decision so that when we reconvene on August 1, this matter may be considered by the convention with the full knowledge of our state supreme court action before we make a final decision and adjourn sine die. On this motion, he demands the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Jones demands the yeas and nays. Is the demand supported? The demand is supported. The yeas and nays are ordered. The Chair recognizes Mr. Jones on his motion.

MR. JONES: Mr. President and fellow delegates, I have offered this motion for the following reasons: I feel that we would be doing the people of our state a great disservice to adopt a legislative apportionment plan which could later be declared invalid by court decision. Also, this has been offered because the majority of the people who favored calling this constitutional convention did so to gain relief from a grossly inequitable system of representation. And, thirdly, the delegates to this convention would be remiss if they did not agree to take into account the further direction on apportionment which will shortly be forthcoming from our own state supreme court. In this last reason I might also refer to some of the pleas of Republican delegates to this convention that urge that if the Democrats, the minority party, were to gain relief on this apportionment matter, this direction would have to come from the courts. Therefore, I think it's time that we did let the courts act in this matter. Thank you.

VICE PRESIDENT HUTCHINSON: On the motion to postpone, the Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I do not think anything would be gained by taking the action proposed here. We don't know how soon definitive decisions are coming down. I see no reason why we should not proceed with our deliberations here and then, if any decisions are rendered previous to our final adjounment, we'll still be in a position to reconsider the matter accordingly.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Jones to postpone action upon Committee Proposal 80 until August 1. The yeas and nays have been ordered. Mr. Young.

MR. YOUNG: Mr. President and fellow delegates, I believe the supreme court ruling in the Tennessee case, followed closely by the remanding of the case of Scholle vs. Hare to the Michigan supreme court together constitute what might well develop into one of the most historic decisions of our supreme court within the past 100 years. Because of procrastination and outright refusal on the part of the various states, our supreme court has been forced to move into the so called political thicket of apportionment of state legislatures. It is very interesting to note, in passing, that it is the inflexibility of those who cry the loudest about the dangers of federal encroachment that forces this severe action by our supreme court. It might well be said that they got what they asked for.

Now for us in this convention, in the face of this historic court decision, to proceed blithely on our way as if nothing had happened, elevating swamps and tree stumps into a representative equation with people is to play footloose and fancyfree with our constitutional responsibilities to the people of Michigan. For us to ignore the significance of this decision as it relates to our deliberations in regard to apportionment represents a reckless gamble with the $2 million and the 7 months of debate that have been invested in this convention. It would constitute a serious blow to the hopes and aspirations of the voters of this state as expressed in their vote to call this convention. I urge you to give serious consideration to this motion and to vote yes.

VICE PRESIDENT HUTCHINSON: On the motion to postpone, Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, I am not an attorney. Judge Dehnke has stated well the attitude of the majority members of your committee on legislative organization. There is nothing that would prevent this convention, when it returns for its final adjournment in August, in the event that there is some decision of the court that would indicate that reconsideration is desirable, to take that action at that time. For us to fail to act now would vitiate months of work on the part of a great many people that have come up with a very good apportionment proposal.

I am not going to answer the arguments made by Mr. Young at this point. I am going to reserve that opportunity until we are talking about Committee Proposal 80, in the event that you turn down this motion, as I hope you will. I am going to say at that time and I want to say it now: that instead of apologizing for the proposal that is before you for approval on second reading this afternoon, every member of this convention can be very proud of what is before you. It is very good indeed. No apologies need to be made for it, and we will go into the details of it in a few minutes. I urge that you vote no on Mr. Jones' motion.

VICE PRESIDENT HUTCHINSON: On the motion to postpone, Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I rise to urge a yes vote on the Jones motion. I see no reason to rush into this; to take action that might be undone at a later date by court decision. We were told by the majority members of the committee on legislative organization at the time the Tennessee case came down that it was their opinion that the Tennessee case did not have any direct bearing upon the Michigan case and, on the contrary, the federal supreme court has now ruled favorably, or at least remanded the Michigan case back to the state supreme court.

I have all the respect in the world for Judge Dehnke's legal opinion. But I, over a long period of years, have had contact with numerous attorneys in my business life and I have found that you can talk to 6 attorneys on a topic or a subject and get 6 different opinions. Therefore, I would not want to accept just Judge Dehnke's opinion. If I could have the opinion of some attorneys who might be on the opposite side of this question from Judge Dehnke, it would carry more weight with me.

I see no point, as was pointed out by one of the previous speakers, in jeopardizing the $2½ million that has been spent on the constitutional convention. It has been said by some that it is our task, not the task of the court. I don't agree with that. And I would point out that our supreme court interprets the federal constitution. This body does not interpret the constitution. As a matter of fact, we voted contrary to the federal constitution in this convention when we had the search and seizure issue before this constitutional convention. I see no harm in postponing further consideration on this question, pending a decision by the state supreme court; out of this decision might come some guidelines which we could follow in order to have a provision that met the constitutional requirements.

Now, in answer to our distinguished committee chairman — whom I also have the utmost respect for — Dr. Hannah, I cannot agree completely with the statements that he made where he praises this proposal, because any proposal that equates 15 acres to 1 human being does not, in my opinion, meet the test of equality, and any legislative organization scheme that equates the vote of another individual 4, 5, 6 or 10 times, as the case might be, more than mine, again, I do not think meets the test of equality. And I see no reason to hasten into this when it can be postponed and then in the meantime we might have a guideline to go by. I urge a yes vote on the Jones amendment. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that further debate on this motion be limited to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, all those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, as I understand the logic of the Jones amendment on which Mr. Marshall has just spoken, it is indicated that in their opinion the matter of apportionment is in a state of flux as far as the courts are concerned. If this is true, I would have serious doubts as to whether the matter would be resolved by August 1 for the reason that even the Michigan supreme court, on this particular question, has recently been reversed by the United States supreme court. That fact being true, it would appear as though we would not have a final decision until the United States supreme court decided whether the Scholle case, as finally decided by the Michigan supreme court, was in accordance with the federal constitution. I would, therefore, amend the Jones amendment to read that we postpone the final decision on this amendment until after the highest court in the land has decided the question in the Scholle case.

VICE PRESIDENT HUTCHINSON: Mr. Boothby offers an amendment to the motion to postpone to a time after the highest court in the land has decided the question.

MR. GADOLA: If I understand our rules right, we must adjourn to a time certain —

VICE PRESIDENT HUTCHINSON: We're not adjourning —

MR. GADOLA: — or we have to defer to a time certain; isn't that true?

VICE PRESIDENT HUTCHINSON: We are not adjourning.

MR. GADOLA: No, but we are deferring to a time certain under the rules, and his is not a time certain.

VICE PRESIDENT HUTCHINSON: It is a time that can be ascertained, Judge.

MR. GADOLA: It could be ascertained but we'd probably all be dead by that time. (laughter) I also, on the Jones amendment, want to say that there is no absolute proof that we'll be here August 1. We haven't so voted yet. We don't know whether we'll be here August 1 or not.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. President, I rise on a matter of accuracy only at this particular point. I understand that the legislature had appropriated precisely $2 million for the work of the convention. Now, this morning I can quote almost verbatim the fact that Mr. Marshall referred to $2½ to $3 million having been spent. A few minutes ago he said $2½ million. Now I'd like to know where Mr. Marshall got this other $½ million to $1 million that he is talking about having been spent. If he is spending money that I don't know about or is getting it from some other place, I'd like to know about that too. (laughter)

VICE PRESIDENT HUTCHINSON: The delegate is not speaking to the question.

MR. MARSHALL: Was a question asked, Mr. President?

VICE PRESIDENT HUTCHINSON: I understood Mr. Hubbs was asking a question but it was not pertinent. It was irrelevant and the Chair does not think that the limited time should be consumed —

MR. MARSHALL: I would just answer: Macy doesn't tell Gimbel.

MR. WALKER: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Walker, what is your point of order?

MR. WALKER: Mr. President, I do not believe that the motion is in order at this time. It is definite that the supreme court has remanded the Scholle vs. Hare case back to the — Mr. Van Dusen was attempting to prompt me here and I appreciate his attempt — supreme court of the state of Michigan. We do not know or have any indication that it will go to the supreme court of the United States, which I imagine is the highest court in the land. Therefore, this thing would be so nebulous that we cannot make any judgment on it at all at this time.

VICE PRESIDENT HUTCHINSON: Mr. Boothby.

MR. BOOTHBY: Mr. President, I can cure that problem. Instead of saying "until decided by the highest court in the land," I would amend that to say when the Scholle case reaches its final determination. The reason I say that is because there is an appeal period in which the Scholle case may be appealed to the United States supreme court. If that goes by before there is an appeal to the United States supreme court, then the highest court decision would be the state supreme court decision.

VICE PRESIDENT HUTCHINSON: The time for debate has expired. The question is upon the amendment offered by Mr. Boothby to the motion. Mr. Boothby's amendment to the motion is to postpone further consideration of Committee Proposal 80 until the Scholle case is finally determined. All those in favor of Mr. Boothby's amendment will say aye. Opposed will say no.

The amendment is not adopted. The question recurs upon the motion made by Mr. Jones to postpone further consideration of Committee Proposal 80 until August 1, upon which the yeas and nays have been ordered. All those in favor of the motion to postpone will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—38

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
Murphy
Norris
Ostrow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays—94

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the motion of Mr. Jones, the yeas are 38; the nays are 94.

VICE PRESIDENT HUTCHINSON: The motion does not prevail. The secretary will read Committee Proposal 80.

SECRETARY CHASE: **Committee Proposal 80,** A proposal pertaining to the reapportionment of the legislature: (a) the senate; (b) the house of representatives; (c) districting of territories annexed to cities and municipalities. Replaces article V, sections 2 and 3.

VICE PRESIDENT HUTCHINSON: The delegate from the fourteenth district, Dr. Hannah.

MR. J. A. HANNAH: Mr. President, because of the length of this proposal, unless there is objection, I would move that it be considered read.

VICE PRESIDENT HUTCHINSON: Is there objection to the consideration of this proposal as read? The Chair hears no objection. It is so ordered.

Following is Committee Proposal 80 as reported by the committee on style and drafting and considered read. (For text as referred to said committee, see above, page 2178.):

Sec. a. The senate shall consist of not less than 36 members, TO BE elected from single member districts AT THE SAME TIME AS THE GOVERNOR for 4 year terms [to be elected at the same time as the governor and serve terms] concurrent with the term of office of the governor.

NOTWITHSTANDING ANY OTHER PROVISION IN THIS CONSTITUTION, THE STATE SENATORS SHALL BE ELECTED AT THE GENERAL ELECTION IN 1964 TO SERVE FOR 2 YEAR TERMS BEGINNING ON THE

Explanation—Matter within [ ] is stricken, matter in capitals is new.

FIRST DAY OF JANUARY NEXT SUCCEEDING THEIR ELECTION. THE FIRST 4 YEAR ELECTION UNDER THIS CONSTITUTION SHALL BE HELD AT THE GENERAL ELECTION IN 1966.*

IN DISTRICTING THE STATE for the purpose of electing senators after the official publication of the TOTAL POPULATION COUNT [results] of [the] EACH federal decennial census [in 1970 and every 10 years thereafter], each county shall be assigned an apportionment factor [according] EQUAL to [the following formula:] THE SUM OF ITS [the] percentage of the state's population as shown by the last regular federal decennial census computed to the nearest 1/100 of [1] ONE per cent [shall be] multiplied by 4 and [there shall be added thereto the] ITS percentage of the state's land area computed to the nearest 1/100 of [1] ONE per cent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) [First:] Counties with 13 or more apportionment factors shall be entitled to one senatorial district for each 13 apportionment factors.

(2) [Second:] The remaining counties of the state shall thereafter be arranged into senatorial districts that are compact, contiguous by land and as rectangular in shape as possible, having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible existing senatorial districts at the time of each reapportionment shall not be changed unless THEY FAIL [there shall be a failure] to comply with the above standards.

(3) [Third:] Counties entitled to 2 or more senate districts shall be further subdivided into single member districts. [so that] The population of [any district] SUCH DISTRICTS shall be as nearly equal as possible but SHALL not BE less than 75 per cent nor more than 125 per cent of [the ratio of representation] A NUMBER determined by dividing the population of the county by the number of senators to which it is entitled. [and] Each SUCH district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

THE STATE SHALL BE DISTRICTED FOR THE PURPOSE OF ELECTING SENATORS IN ACCORDANCE WITH THE PROVISIONS OF COMMITTEE PROPOSAL 80, SECTION A, AFTER THE OFFICIAL PUBLICATION OF THE TOTAL POPULATION COUNT OF THE 1970 DECENNIAL FEDERAL CENSUS. Until the reapportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution, as amended, shall remain intact except that each of the counties of Genesee, Macomb and Oakland shall be divided into 2 senatorial districts and Wayne county into 8 senatorial districts. [In all counties having more than one senatorial district,] The [apportioning] APPORTIONMENT commission shall redistrict [the same] ALL COUNTIES HAVING MORE THAN ONE SENATORIAL DISTRICT.*

Sec. b. The house of representatives shall consist of 110 members elected for [a] 2 year [term] TERMS from single member districts apportioned on a basis of population as hereinafter provided. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than 7/10 of [1] ONE per cent of the population of the state shall CONSTITUTE [be] a separate representative area. Each county having less than 7/10 of [1] ONE per cent of the population of the state shall be combined with another county or counties to form a representative area of not less than 7/10 of [1] ONE per cent of the population of the state. Any county which [shall be] IS isolated under the initial allocation as herein provided shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one [seat] REPRESENTATIVE.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to 2 or more representatives shall be divided into single member representative districts as follows:

(1) [The ratio of representation for each representative district shall be] THE POPULATION OF EACH DISTRICT SHALL BE AS NEARLY EQUAL AS POSSIBLE BUT SHALL NOT BE LESS THAN 75 PER CENT NOR MORE THAN 125 PER CENT OF A NUMBER determined by dividing the population of the representative area by the number of [seats] REPRESENTATIVES to which it is entitled. [Each district within each area shall contain not less than 75 per cent nor more than 125 per cent of that area's ratio of representation.]

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. c. In counties having more than one representative or senatorial district, the territory IN THE SAME COUNTY annexed TO or merged WITH [to] a [municipality] CITY BETWEEN APPORTIONMENTS shall become a part of the contiguous representative or senatorial district [of] IN the [municipality] CITY with which it is combined[,] upon the effective date of the annexation or merger[:]. [Provided however, The foregoing shall not apply to any annexation or merger across county lines.]

No legislator shall be deemed to have vacated his office by virtue of the above section.

VICE PRESIDENT HUTCHINSON: On the proposal the Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, if it is agreeable, I should like to make an introductory statement and then submit, on behalf of the committee, a substitute section a, which is in the hands of the secretary. And because of its length he may want to read it, although copies have already been placed on the desks of all the delegates.

VICE PRESIDENT HUTCHINSON: The secretary will read the substitute. Dr. Hannah, do you desire to make a statement ahead of the submission of the substitute?

MR. J. A. HANNAH: Yes. If it is agreeable, I would.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. J. A. HANNAH: Mr. President and ladies and gentlemen of the convention, when we introduced this subject on first reading, there was a fairly extended presentation of the problem which exists in this state. We have in the back of the chamber certain charts prepared by our committee. You have had many of them placed on your desks earlier. I think it is not important that we explain them at this time. I should like to point out what they are and the fact that they are in the back of the room so that you will know that if you want to turn to them for further information you will have the opportunity to do so. Over at my right are charts that show the representative distícts as they now exist. I wonder if we could ask one on the pages just to hold up the chart on representative districts so that it might be seen. Delegates, perhaps, are cheaper than the pages. (laughter)

These figures are so small that you can't see them, but they're the same figures you've seen before. I shall only point out that if you have an opportunity to study this chart, you'll find, of course, that there are gross inequalities in the populations of the representative districts of this state and that these inequities are not confined to inequities between the size of districts in Wayne county or southeastern Michigan and those in outstate areas. I'm not going to bore you with the details where there are districts within Wayne county that are 3 or 4 times as large as other districts within the same county.

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*This paragraph proposed to be moved to schedule and temporary provisions.

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If we leave that one and turn to the next one, Mr. Sleder, you'll see the chart that shows the present senatorial districts. You will recall that the senatorial districts were frozen in the present constitution by constitutional amendment in 1952 and if you could see these figures you would notice that the 7 senatorial districts in Wayne county range from 1 district with 647,000 people to 2 districts that have less than 300,000 people in them. Why don't we just drop this one because we're not going to spend much time on these charts.

Then if you'll turn to the charts over in the far corner, we'll look at the representative districts as they exist in Wayne county and the city of Detroit. Reference will be made later this afternoon when we are considering Committee Proposal 80 with reference to the shape of representative districts. You will notice the peculiar shape of some of these districts and you know that in Wayne county the districts run 2 or 3 representatives per district, with the exception of the districts of Hamtramck and Highland Park. Now we may see the other chart beyond. This chart shows the representative districts in Wayne county outside the city of Detroit, and here you have Highland Park and Hamtramck with approximately 40,000 people in those districts and the largest district — and I can't see the figure but, as I recall, it's something like 190,000 or one district with about 5 times the population of others.

Now if we'll leave those and look at the charts beginning at the far side over here, gentlemen, there is a map that shows the population of this state in 1960, by counties. And if you're interested in the population of a specific county, the population is shown on that chart. Mr. Shanahan points out that there is an error in the figure for Charlevoix county, and that is just an error in copying the chart. As I understand it, the figure is either 10,000 too large or to small. Which is it, Mr. Shanahan?

MR. SHANAHAN: The figure on the charts — most of them — is 3,421. Ten thousand people may not mean very much to Wayne county but it means an awful lot to Charlevoix county. It should be 13,000.

MR. J. A. HANNAH: That's a clerical error in making the first chart. The next one shows the 1970 population estimates. These happen to be Consumer Power figures. There are other figures that are somewhat different from these estimates, but in general, the disagreement is not great. Some counties are guessed by certain demographers which grow more rapidly or less rapidly than the Consumers Power company estimates. If you want to study this chart, this will give you the figures on which you can make your guesses as to what the population is going to be in any county of the state in 1970, based on these figures.

Now, the next chart. When we begin to talk about our formula for apportioning the senate, we're going to be talking about apportionment factors. One of the measures is a factor based on the percentage of the land area that each county is of the total land area of the state. That figure does not vary and the chart that is now being held up gives this figure for every county in the state. You can ascertain what the land area of your county is and that factor will stay fixed.

The next chart gives the percentage that the population of each county is of the total state population in 1960, and so you can do your own calculations. I think that one shows that Wayne county in 1960, when the census was taken April 1, had 34.08 percentage of all of the people of Michigan living in that county, and up in Keewenaw county I believe it's 3/100 of one per cent of the people in the state living in that county.

The next chart — we'll have to back up one — is on the 1970 population figures. We don't need to pick it up. Two charts back — we'll just make reference to it — if you're interested in what the percentage of the population of the state, each county's figure, will be in 1970, that's the second figure on that chart. So if you want to do your own guessing, you can take the population figure. You'll notice the population is the larger figure, and then the smaller figure is the percentage of what that population will be of the estimated total population in the state in 1970. All right, now we'll move along rapidly.

Maps are a mistake because, of course, this apportionment commission which you have just authorized, if it is approved by the people, will actually draw the district lines. The question is going to be asked in a few minutes on the basis of estimated population for 1970, what will the senatorial districts look like? I don't know what they'll look like. This is one way that the state might be districted. Our research people drew the districts on the basis of the recommendation that will be before you in a few minutes, and this is one way that the district lines might be drawn.

The next chart shows what the districting is likely to be if the constitution is approved, with the provision in it that we hope you're going to approve this afternoon. The house of representatives could be based on districts looking like this one. This is based on the figure approved by you on first reading, with any county or group of counties with 7/10 of one per cent of the state's population constituting a district, getting one representative, and the difference between that number and 110 divided among the districts on the basis of equal proportions. That's what the districting might be in 1964, after the apportionment commission has acted. Then the question was asked before as to what would happen if the 7/10 factor was omitted and if the apportioning of the house of representatives was based on straight population. If you'll drop that map and pick up the next one, this is what our staff indicates the districting might look like if the 7/10 of one per cent factor wasn't included in the formula. If you will pick up the next chart, the last one, this analyzes the difference between the 2. These are the figures that were presented to you 2 or 3 weeks ago when this matter was up before.

The top corner of the state, above the red line, in 1960 had 3.93 per cent of the state's population, with 110 house seats they are entitled to 4. Under the committee proposal before you again this afternoon, they will get 5. If the 7/10 factor was eliminated, they would get 4. In the northern part of the lower peninsula, north of the Muskegon-Bay line, there resided, in 1960, 6.10 per cent of the state's population. They are entitled to 7. Under the committee proposal they would get 8. Under a straight population basis they would get 6. The 5 most populous counties of the state: Wayne, Oakland, Macomb, Genesee and Kent in 1960 had in them 57.51 per cent of the state's population. They would be entitled to 63 representatives out of 110. The committee proposal gives them 62. If you were to work it out on a straight basis, adhering to county lines, they would get 64. The rest of the lower half of the state, with 32.5 per cent of the state's population, would be entitled to 36. Under the committee proposal they'd get 35. Under the straight population they would get 36. Now, all of these charts and figures will be under discussion a little later, I'm sure, when we come to the proposals.

I should like to review for you what happened when this was before you in committee of the whole. You will recall that the committee recommendations provided that after an apportionment factor was determined for each county — and you will recall again that this factor is the sum of the percentage of the state's land area that a county is, plus 4 times the percentage of the population contained in that county at the last decennial census. You add the figures together and you come up with the apportionment factor. With 38 senators, if you divide 500 apportionment factors by 38 — and there will always be 500, regardless of the population — there will be 400 factors based on population, 100 on area — if you will divide 500 by 38 you will come up with 13.1 plus. The proposal before you provided originally that any county with 13 apportionment factors, of course, obviously would be entitled to at least one. They would certainly be entitled to as many senators as the apportionment factors were multiples of 13. Because of the problems in districting, the recommendation before you originally was that any county that had as many as 10 factors might qualify for a seat; that the counties that were grouped together so that there were multiple county districts, the average would have to be 13, but the minimum could be 10 and the maximum could be 16.

Then, when we got to the matter of the counties entitled to more than one senator, the committee report recommended that any county with 19.5 apportionment factors should be entitled to the second senator. And that was obviously to take care of Kent county that has had 2 senators for decades. There was a good deal of debate. Professor Pollock proposed an amendment that we substitute words that would have the effect that whenever any county had 6.5 apportionment factors beyond the multiple of 13, they would get an additional senator. That was tentatively approved. This greatly concerned some of our people because they saw in this the possibility that there might be several senators qualify for a second or a third or a ninth or a tenth seat with 6.5 factors and less than 13, because there are only 500 altogether; whatever the deficiency below the multiple of 13 that this multiple county district got in the way of senators, of course, these factors would have to be picked up somewhere else. And some of our people could see that there was the possibility, although it was remote, that there might be 2 or 3 additional senators given to the populous counties that would have the effect of reducing the appropriate senatorial representation for the smaller counties going into the multicounty districts. And so it was stated before this convention that if lines 7, 8 and 9 were taken out—the so called Pollock amendment—that between first and second reading, there would be drafted a provision that would adequately take care of the problem of the counties entitled to several senators. Now we come to the provision before you, which is the committee substitute for section a. But before we have this read and it is before you for debate, I want to now make my statement with reference to area representation.

The committee, after a good deal of thought, came to the conclusion—and I am sure the committee was correct—that the best interests of this state are going to be served if one house of the legislature is apportioned on some basis other than straight population. The committee decided that it would be the senate that would be apportioned on some basis other than straight population. It then gave consideration to what factors should be given consideration: obviously area was one factor. The suggestion was made that it would be appropriate to take into consideration economic interests because of the diversity of interests in some areas. And there were other suggestions. Finally, because of the difficulty of identifying anything but area, the committee concluded that area and population were the only factors that it could recommend to this convention.

Then the question came as to what emphasis would be placed on area. And at this point, after a good deal of thought by all members of the committee, I think we concluded that the fairest proposition would be to come to you recommending that there be a definite number of senators allocated on area; and you will recall that this was a statement I made before. My proposal to our committee was that we be objective and fair and forthright about it; and I proposed that we divide the state into 4 geographic areas approximately equal in population, but vastly different in area: the upper peninsula, the northern half of the lower peninsula, southwest Michigan, southeast Michigan and that we allocate 8 senators on an area basis, 2 to each region. And then we faced the problem of how to allocate the seats within the region. And of course we came to the conclusion that the only way that you could allocate the seats within the region would be on the basis of population. And if we were to follow that proposal, which was a personal proposal, it had the effect, in southeastern Michigan, of putting the area senators into Wayne county because that's where the people are. And that wasn't the reason for the area senators in the first place.

Then Mr. William Hanna devised the formula which we presented to you before and again today, and that was the one that we come up with a factor per county, with 20 per cent of the factor in each county based on area and 80 per cent of the factor in each county based on population. And that's the one before you.

Now we come to the supreme court decision and the contention of many people that there is something basically wrong with the recommendation we have before you. I submit that it's a mistake for anyone in this convention, or out, to pretend that the senate representation is based on population, because it isn't based on population. It's based 80 per cent on population and 20 per cent on area because it is a fact that it is fairer and more nearly in the best interests of the state to make certain that there are a reasonable number of senators representing that vast geographic area in the upper peninsula, a reasonable number representing that vast area in the northern half of the lower peninsula. So I make no apologies. There is nothing I have seen—I am not a lawyer—I have read the complete statement of the justices of the United States supreme court, all 150 pages, I have read the statement issued by the supreme court last Monday, with Mr. Harlan's dissent. I've heard nothing on the floor of this convention about Mr. Harlan's dissent. I've heard all the discussion about the 3 lines which remanded the Scholle case to the state supreme court. But if you'll read Mr. Harlan's longer dissent, he points out that in his view there is no similarity at all between the Tennessee case and the Michigan case. He points out the fact that our senatorial districts, which alone are at issue, were established by a vote of all of the people in 1952. And everything that lawyers that I have confidence in have told me indicates to me that if the state court or the federal court finally bases its decision on equity, it will conclude that the formula before you this afternoon, with 80 per cent emphasis on population and 20 per cent on area, is equitable, is fair, and should stand up in the courts. Whether it will or not, I do not know.

Later on in the discussion Mr. William Hanna will give you some authoritative figures on where Michigan will stand among all the states in the union if all you take into consideration is population, and we'll be very high indeed. Now, Mr. President, I would suggest we ask the secretary to read the substitute Committee Proposal 80 and we place this matter before the convention.

VICE PRESIDENT HUTCHINSON: The secretary will read the committee substitute for section a of Committee Proposal 80.

SECRETARY CHASE: Mr. J. A. Hannah, on behalf of the committee on legislative organization, offers the following substitute for section a of Committee Proposal 80:

> Sec. a. The senate shall consist of 38 members, to be elected from single member districts at the same time as the governor for 4 year terms concurrent with the term of office of the governor.
>
> Notwithstanding any other provision in this constitution, the state senators shall be elected at the general election in 1964 to serve for 2 year terms beginning on the first day of January next succeeding their election. The first 4 year election under this constitution shall be held at the general election in 1966.
>
> In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest 1/100 of one per cent multiplied by 4 and its percentage of the state's land area computed to the nearest 1/100 of one per cent.
>
> In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:
>
> (1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties are entitled shall be distributed among

such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there shall be a failure to comply with the above standards.

(3) Counties entitled to 2 or more senate districts shall be further subdivided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 per cent nor more than 125 per cent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

The state shall be districted for the purpose of electing senators in accordance with the provisions of Committee Proposal 80, section a, after the official publication of the total population count of the 1970 decennial federal census. Until the reapportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution, as amended, shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into 2 senatorial districts and Wayne county into 8 senatorial districts in accordance with this constitution.

VICE PRESIDENT HUTCHINSON: The question is upon the substitute for section a of Committee Proposal 80, upon which the Chair recognizes Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, as the chairman of the committee mentioned to you on first reading, as the committee of the whole finished with this proposal, we had the problem of trying to make sure that those counties with more than 13 apportionment factors received their fair number of senators and that the balance of the state or those counties with less than 13 apportionment factors per county received their fair share. From our study in the legislative organization committee, and from all the testimony that was given before congress, before this committee and this convention, before the Alaskan and New Jersey and Hawaiian constitutional conventions, the fairest way to apportion seats among a group is to do it by the method of equal proportions, which is the fairest method of testing the relative right or entitlement to a second senator. Having been faced with this problem, the committee went to work on the problem presented as a result of the amendments under second reading and having determined that we would have a senate of 38 members, we then analyzed this proposition and you have this effect.

Now and in 1970 there are 5 counties that have 13 or more apportionment factors. Those 5 counties have 48.34 per cent of the total apportionment factors of the state. They would be entitled to 18.37 senators, or a total of 18 out of 38. The other 78 counties, those having less than 13, totaled together have 51.66 per cent of the apportionment factors of the state, or 19.63 of 38 senators, or computed to the nearest whole number, 20 senators. Having determined that the 5 counties who now have—and insofar as we know, based upon the 1970 census—will have, 18 senators, we then assign to each one of those counties one senator, and we divide the remaining senators, or, to wit, the number 13, by the method of equal proportions, which is the fairest method known to man of dividing it between these several classes. The 20 senators to which the other counties of the state are entitled, the 78 counties as it works out, will be divided in such a manner that the average apportionment factor per senator must be 13, but they may have not less than 10 or more than 16. This is because as these counties fall, it is not always possible to get them exactly at 13. There will always be some discrepancy. This same discrepancy follows, whether you use apportionment factors or population or any other figure, and it is obvious that this is a fair method. We believe this is the fairest method to allocate all the senators, once you determine a fixed number.

The other change in the committee proposal, of course, is the fact that we have now fixed the membership of the senate. I believe this is psychologically advantageous in that the public will know that there will always be 38 senators, not 36, 38, 39, 40 or possibly 42. But this does assure that the application of the 80-20 formula works no disfavor to either the metropolitan counties, so called, or to the so called outcounties of the state of Michigan. It is the fairest that human nature can possibly devise and the fairest application of the 80-20, and I urge its adoption.

VICE PRESIDENT HUTCHINSON: There is an amendment to the substitute. The secretary will read the amendment.

SECRETARY CHASE: Mr. King offers the following amendment to the committee substitute for section a:

1. Amend the substitute, page 1, line 1, [paragraph 1] after "consist of" by striking out "38" and inserting "40"; and on page 2, line 4, [paragraph 4, subparagraph 1] after "counties with" by striking out "13" and inserting "12.5"; and on line 13, [paragraph 4, subparagraph 2] after "less than" by striking out "13" and inserting "12.5"; and on line 20, after "possible" by striking out "13" and inserting "12.5".

VICE PRESIDENT HUTCHINSON: On the amendment, the Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, if I might, I would like to start out by directing a few questions to Mr. William Hanna with regard to this fairest method known to man. I would like to start out by asking him, according to the 1970 projected figures—I believe they're Consumer Power figures that you're using—how many senators would Kent county be entitled to and how many factors would they have.

MR. W. F. HANNA: Mr. President, Mr. King, to the best of our knowledge, Kent county, based upon the Consumers Power predictions, will have 19.99 apportionment factors in 1970 and under the 38 man senate, it would appear that they would be entitled to 2 senators.

MR. KING: And would you answer the same question with regard to Genesee county?

MR. W. F. HANNA: Genesee county would have 21.09 apportionment factors and would be entitled to 2 senators.

MR. KING: Now, sir, would you answer the same question with regard to the county of Oakland?

MR. W. F. HANNA: Oakland county would have 47.54 factors and would be entitled, in a 38 man senate, to 3 senators.

MR. KING: And this is the fairest method known to man?

MR. W. F. HANNA: The method of equal proportions is the fairest method known to man. Kent county is entitled to its second senator under the method of equal proportions before Oakland is entitled to its fourth senator out of a 38 man senate.

MR. KING: Would you be good enough to tell me, in the event that there were 39 senators, where the thirty-ninth senator would go under these 1970 projections?

MR. W. F. HANNA: Under 39 senators, the additional senator would go to Oakland.

MR. KING: And would you be kind enough to tell us where the fortieth senator would go if we had 40 senators, as called for in my amendment?

MR. W. F. HANNA: The effect of your amendment, Mr. King, is quite clear. There would be one more senator added to the 78 counties outstate and there would be one more senator added to the 5 major counties, and that senator would go to Oakland.

MR. KING: Thank you.

MR. W. F. HANNA: Under a 40 man senate, Oakland would have 4; Wayne, Macomb, Genesee and Kent remain the same. Under a 38 man senate, Oakland has 3 senators and the other counties remain the same.

MR. KING: Thank you. It would appear, fellow delegates, that under this fairest method known to man, 47.5 factors entitles you to 3 and less than 20 entitles you to 2. I am wondering if collectively 144 of us can't devise a more fair formula. I would suggest, respectfully, that by increasing the number of senators from 38 to 40 and lowering the requirement from 13 down to 12.5 as an average standard number of factors required by any county or group of counties to entitle itself to one senator, we have therefore perhaps devised even a fairer method. It seems to me that we have elected to cut off at a most inopportune time.

Now, I don't question the fairness of the equal proportions formula. But like so many fair formulas, when applied to a given set of facts, they do not work out fairly at all. And I suggest to you, ladies and gentlemen of this convention, that that is precisely what has happened here. For example, compared to Wayne county, the average number of factors per senator in Wayne county would be 13.8 and in Oakland almost 16. It seems to me that we went a long way in the house apportionment plan to create a house based as nearly as possible on population. We may have missed it by 1 or 2, and I submit that 1 of those 2, by the luck of the wheel, the turn of the dice, just happens to have come out of Oakland county. Once again, the dice have rolled against us and we find that once again it is Oakland county that has to take it on the chin.

I submit, and my brief figuring of the problem mathematically has indicated that this is the case, that 38 happens to be probably the most inequitable cutoff point, the most discriminatory cutoff point that could be devised by man; that 39, 40 or perhaps any other number so far that I've worked with would be more equitable. The disparity between less than 20 factors, meaning 2 senators, and more than 47.5, meaning 3 senators, is significant. For that reason, I would request support for my amendment, which would increase the size of the senate to 40. I think that the one extra senator in the metropolitan areas is significant, worthwhile; and I would even venture to say that we could find a pretty good man to fill that post. I also feel that the one extra senator in the outstate regions would add significantly to the deliberations and decisions down through the years of our senate. I would respectfully urge support of my amendment.

VICE PRESIDENT HUTCHINSON: On the King amendment, Mr. Hanna.

Mr. Hodges, for what purpose does the gentleman rise?

MR. HODGES: I'll yield to Mr. Hanna.

VICE PRESIDENT HUTCHINSON: Mr. Hanna has the floor.

MR. W. F. HANNA: Mr. President and fellow delegates, with regard to the King amendment, this was considered and several votes were taken within our committee. The arguments for settling on 38 are these: first, we are proposing a 38 man senate to go into effect immediately upon adoption of this constitution, and therefore, to add 2 more in 1970 seems a little incongruous; and, second, we were faced with the physical properties of the present senate and considered the proposal, which we understand will come before this body, to increase the salaries and compensation of legislators. Feeling that we could not justify to the court or to the people a substantial increase in cost, and because of the physical limitations of the present senate chambers, our committee voted for the 38. That is our committee's position and those are the reasons for the adoption of 38 instead of 40.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President and fellow delegates, I am somewhat sympathetic to Mr. King's predicament, but it feels good once in a while seeing somebody else's ox gored on this apportionment picture. This is exactly what is being done.

There is a story that should be told in regard to this matter, which could probably be called the Kent county story, in relationship to this whole apportionment thing through the various phases of this convention. I would point out that originally, in the majority proposal, Kent county was to be guaranteed 2 senators. The original proposal baldly did this by a contrived device. Now, I submitted an amendment, as you might remember, to say that Kent county shall always have 2 senators. The only difference between that and the committee proposal at that time was a language difference because they set it up to do just that. Dr. Pollock offered an amendment to this, showing the blatant unfairness of it and it carried this convention. At that point in time we were then taken down to the committee and several members were aghast because there was a possibility at that time, under the Pollock amendment, that Wayne county might get a tenth senator. There had been references made in the committee and around this convention by many people that Wayne county shall never have 10 senators. But it was also equally adamant that Kent county should maintain their 2 senators. This was thrown out. The convention was then told that we would come up with something different, and something different, indeed, was this changing of the factors to the formula. The only differences between the factors and the formula, as pointed out, and what we have now in equal proportions as pointed out by our own research staff is this: under the factors, Wayne county would get 10 senators and Kent county 1 senator; and under equal proportions, we could then guarantee Kent county a second senator, and that Wayne county should only have 9 senators.

An interesting thing happened in our committee yesterday when again we took up this proposition, and a subcommittee of that committee recommended, because of the supreme court decision, we give it immediate effect rather than wait the 10 years. This was refused to be done by members of the committee because with the 38 formula, Kent county would not be guaranteed a second senator. This was the only reason we did not put it into immediate effect by a majority on that committee. Many people indicated that if they moved the figure to 40 to guarantee, under the 1960 population situation, that Kent county could keep a second senator, they would give this immediate effect. Instead, they voted to hold this off 10 years, when, under the 1970 proposed census as Consumers Power figures indicate, Kent county will again be entitled to a second senator under this formula. This entire thing has been done blatantly and without consideration of the urban areas, save one, and that is Kent conuty. And the flag still stands that Kent county shall always have 2 senators.

I sympathize with Mr. King's predicament, but if he is going to move that, let's move up to some more equity. Why not show that the next 3 senators in line would be from Wayne county; that the tenth, eleventh and twelfth senators would be added to Wayne county? Let's move this figure up to 44 or 46 and we might start equalling a little equity. I submit I am not in favor of making this thing more palatable by throwing in another sponge for Oakland county when the rest is not being considered, and for this reason I oppose the amendment, as I oppose the entire thing.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand you have one more speaker?

VICE PRESIDENT HUTCHINSON: One more speaker.

MR. VAN DUSEN: I move to limit further debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: The question is on the motion of Mr. Van Dusen. All in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Yeager.

For what purpose does the gentleman from Oakland, Mr. Walker, rise?

MR. WALKER: I would like to ask a division vote and a record roll call, Mr. President.

VICE PRESIDENT HUTCHINSON: On what?

MR. WALKER: On the motion of Mr. Van Dusen. I was trying to attract the Chair's attention. This again appears to be a gag rule and I think—

VICE PRESIDENT HUTCHINSON: A motion limiting debate is not debatable but you move—

MR. YEAGER: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Yeager?

MR. YEAGER: I believe that you had recognized me when Mr. Walker stepped in front of me.

VICE PRESIDENT HUTCHINSON: That is correct, but

Mr. Walker demands the yeas and nays, as I understand it, upon the motion. Did you ask for the yeas and nays or a division?

MR. WALKER: I asked for a division vote and the yeas and nays, sir.

VICE PRESIDENT HUTCHINSON: One or the other.

MR. WALKER: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Walker demands the yeas and nays upon the motion to limit debate to 5 minutes. Is the demand supported?

MR. YEAGER: Point of order, Mr. President. I did not yield to Mr. Walker and the Chair had recognized me to speak.

VICE PRESIDENT HUTCHINSON: The Chair will entertain a demand for yeas and nays because there is no intervening business yet. Is the demand for the yeas and nays supported? The demand is supported. As many as are in favor of limiting debate to 5 minutes upon this amendment of Mr. King's will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

[Mr. Bentley, having previously been excused, reentered the chamber and took his seat.]

The roll was called and the delegates voted as follows:

Yeas—76

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bradley
Brake
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Farnsworth
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Hatch
Higgs
Iverson
Judd, Mrs.
Karn
Knirk, B.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood
Yeager

Nays—34

Austin
Balcer
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Hart, Miss
Haskill
Hatcher, Mrs.
Heideman
Hood
Hoxie
Jones
King
Liberato
Madar
Mahinske
Marshall
McAllister
Murphy
Norris
Perlich
Sablich
Snyder
Staiger
Stopczynski
Suzore
Walker
Wanger
Wilkowski
Youngblood

SECRETARY CHASE: On the motion to limit debate on the amendment of Mr. King to 5 minutes, the yeas are 76; the nays are 34.

VICE PRESIDENT HUTCHINSON: The motion prevails. The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, ladies and gentlemen of the convention, I will take considerably less than 5 minutes. I didn't think I'd ever find myself agreeing with Mr. Hodges on the question of an amendment on apportionment, but I do. Mr. King has put in an amendment here which I don't think has been thoroughly analyzed. He is naturally concerned about his own county of Oakland, but I don't believe he has analyzed the rest of the state in comparison with the formula that he is advocating. If we lower the average factor from 13 to 12.5, as his amendment suggests, it then changes the analysis of all of the rest of the districts that we have previously done. I could not vote for this without knowing what that analysis would show in the rest of the districts.

I wonder how he arrived at the figure of 40. Why not 42? Maybe Wayne would get 1 or 2 extra seats out of this. Why not 39? I submit you just can't change these figures without knowing what the absolute result would be, and I don't think it's been analyzed. I therefore urge the defeat of this amendment and support for a carefully worked out committee proposal.

MR. KING: Mr. President, will the gentleman yield for questions or is he only asking questions in a rhetorical manner?

VICE PRESIDENT HUTCHINSON: I think he was asking them in a rhetorical manner. I would call your attention to the fact that you and Dr. Hannah are the 2 speakers left on the list. Dr. Hannah.

MR. J. A. HANNAH: Mr. President, ladies and gentlemen, I should only like, on behalf of the committee, to urge that you vote no on the King amendment for the reasons that have already been well stated by William Hanna and Mr. Yeager. The committee gave consideration to all possible numbers, 36, 38, 40, 42, and finally concluded for good reasons that 38 was the best possible number, and I urge that we stay with the committee recommendation.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, when we handled this item on first reading, the chairman of the committee said that opportunity would be afforded for full and complete debate. Do I take it that you are now ruling that I can speak twice on this amendment? Because I have no desire to violate the convention rules.

VICE PRESIDENT HUTCHINSON: You are the mover of the amendment, Mr. King, and so are entitled to speak twice.

MR. KING: Thank you. In answer to Mr. Yeager's questions, before I spoke on the amendment, I very carefully asked our expert on reapportionment, Mr. Hanna, what would be the effect of adding a thirty-ninth senator, what would be the effect of adding a fortieth senator. He has worked this out. He has taken into consideration the fact that there would be 12.5 average factors required instead of 13. It is obvious from the analysis that I made — you indicate that 41 might go to Wayne county, the forty-first senator. Perhaps that is so, but in my presentation I carefully pointed out that 47.5, the number of factors projected for Oakland county in 1970, divided by 3 is very near to 16; 124 factors, which is projected for Wayne county in 1970, divided by 9 is 13.8. There has always got to be a cut off point. My only point is that 38 is perhaps the most injudicious cut off point that one could possibly find. I have, as I indicated, done some preliminary mathematics on the problem and have reached that conclusion. Now, if anyone wishes to refute that and tell me where a more injudicious cut off point could be found, I would be glad to hear about it.

It's this sort of thing, gentlemen, which is going to afford an opportunity to the courts of this state and this country to step into this problem and turn aside what otherwise is a very fair and fine formula for apportionment of the senate. And for that reason, I submit that we ought to move to 40 instead of 38. Now, if I were only interested in Oakland county, I could suggest that we move to 39, but I don't think that's fair. That picks up one more metropolitan senator and does not pick up a senator for the outstate regions. If I were concerned only with Oakland county, obviously that's what I would do. If I were concerned only for the metropolitan areas of this state, that's what I would obviously do. I have no desire to upset the balance that this committee has worked out as being fair and equitable. And I'm perfectly content to add one senator in the metropolitan areas and one in the outstate region. Now, perhaps if you went to 45 or 46, you could add 3 in the metropolitan areas and 3 in the outstate regions. I haven't considered that. But the difference between 38 and 40 is —

VICE PRESIDENT HUTCHINSON: Time has expired, Mr. King.

MR. KING: Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. King. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. The question recurs upon the substitute for section a of Committee Proposal 80, to which there is an amendment offered.

SECRETARY CHASE: Mr. Walker offers the following amendment to the substitute:

1. Amend the substitute, page 1, line 1, [paragraph 1] after "shall consist of" by striking out "38" and inserting "37"; and on page 3, line 17, [paragraph 5] after "of" by striking out "Kent,"; so that the language on the third page would read:

> Until the reapportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution, as amended, shall remain intact except that upon the adoption of this constitution each of the counties of Genesee, Macomb and Oakland shall be divided by the apportionment commission into 2 senatorial districts and Wayne county into 8 senatorial districts in accordance with this constitution.

VICE PRESIDENT HUTCHINSON: On the amendment the Chair recognizes Mr. Walker.

MR. WALKER: Mr. President, ladies and gentlemen, I don't think it's necessary to take a lot of the convention's time and possibly we can avoid a possible gag rule that might be imposed. I think it is obvious that I don't think there is any fairness in protecting the county of Kent as a sacred cow in our constitution, and if this were adopted, it would make for a little more equitable apportionment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment — Mr. Walker —

MR. WALKER: I would ask the yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: — upon which Mr. Walker demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Fourteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number. The yeas and nays are not ordered. The Chair recognizes Mr. T. S. Brown on the amendment.

MR. T. S. BROWN: Mr. President, speaking, I believe, for the minority members on the committee on legislative organization, we do not support the Walker amendment for the reason that it is not in context with the total amendment that is now being offered.

VICE PRESIDENT HUTCHINSON: The question is upon the Walker amendment. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. The question is upon the committee substitute for section a of Committee Proposal 80. All those in favor —

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Am I in order to speak on the substitute amendment now?

VICE PRESIDENT HUTCHINSON: You are in order, Mr. Downs.

MR. DOWNS: Since there is just the opportunity to speak once, I shall try not to abuse it by speaking too long. I shall try to get across the idea of what is behind this.

We've had apportionment factors discussed. We've had 80 per cent discussed and 20 per cent discussed and equal proportions discussed and unequal proportions discussed and Kent county discussed and county lines discussed. But the final test on any apportionment system is what that system does to people, and once we've cleared away all the talk about 20 acres equalling one man, or 19.8 acres of downtown real estate equalling 19.8 acres of swamp equalling one man, we come down to this fact: that this proposal, according to the figures on the maps, as I construe them, would provide, in 1970, senatorial districts, one of which would have 365,000, the largest; and the smallest would be 86,000; and the others would range in between there. That means that it would take 4 people in the district of 365,000 to equal 1 person in the district of 86,000. And I do not know what kind of arithmetic can equate that with the equal protection clause of the fourteenth amendment to the United States constitution, or with the concept that all men are created equal. I want to point out that neither house is based strictly on population, because in the house there is a provision that county lines shall not be divided and, for some reason, the factor of 7/10 comes in, so in some cases 7/10 of people equals about almost 1.4 and the differential there can be 2 to 1; so in neither house do we have people based on equality of population.

Now, since our convention has met, there has been much discussion about the historical cases before the United States supreme court on this matter. There have been predictions on this floor as to what they would be. I am glad to say that I did not make any categorical predictions. But I will say this: that the reapportionment cases — the Tennessee one, the Alabama one, the Scholle vs. Hare one — in my judgment, historically, stand in significance with the Dred Scott decision, the difference being that whereas the Dred Scott decision tried to rigidify a system of human relationships that was only changed by a civil war, the supreme court now, in saying that equal protection includes the right to vote on an equal basis, regardless of geographical location, is taking the last final historical thrust forward to extend the ballot equally throughout the United States. And remember, as a nation we started where first there were property requirements and men only could vote, and then there were even religious tests at one time. As each one of those requirements has been removed we've had a system that is more democratic and more responsive to the needs of the people.

Now I, for one, will vote against this amendment because it attempts to freeze in something besides people in a basic constitutional document. And it's unfortunate that this body itself is not represented on a one man, one vote basis. Perhaps if it were, we would be more consistent with the fourteenth amendment principle. Now, I do not say just what the courts ultimately will say the fourteenth amendment says, but I will point out to the delegates that at no time has the United States supreme court or any other court said that one man, one vote is unconstitutional. It is true the courts have not yet made that mandate or requirement but, certainly, the historical thrust, the trend is in that direction. I feel strongly that that is the historical trend this convention should be with and if we, by convention action, rigidify or offer our support to anything other than a one man, one vote concept, I feel we are standing in the way of progress and I, for one, will vote against that and instead rely upon the United States supreme court and our legal tradition. It is particularly important that, in almost 100 year commemoration of the civil war, this year the United States supreme court has extended the concept of equal protection of the laws to voters regardless of geographical location. I urge defeat of this substitute and hope that the delegates will agree with me on this point. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. President, fellow delegates, speaking, I feel, for the last time on this particular problem, I cannot but echo the words of Tom Downs a few moments ago. We members of the minority party on the apportionment committee have spoken to you many times, many hours in regard to this problem. I think the net result of everything as far as we're concerned is that Committee Proposal 80, as now substituted, represents a classical syllogism in that if you accept the basic premise, then all else is true. And the same thing occurs when you are asked to become a member of a religion. The people will say there is a cornerstone to our religion which you must accept on faith. There is no reason for it. It's just the way things are. We can't prove it, we can't validate it, but this is what we believe. And if you once get past that point and you're into the syllogism, then everything else seems to be equal, as do the varieties of the proposals in the substitute Committee Proposal 80. But a syllogism is basically false. It will not stand because the initial premise is false and that initial premise in this case is that area is entitled to recognition. Where the 1952 amendment froze in area by districting, this does the same thing by freezing in area in an artificial and arbitrary ratio.

I think, for the purpose of clarifying a statement I made when we tackled this matter in committee of the whole, that we are actually all building a record for our Michigan supreme court to act upon within the next few days; I think that the stand of the Democratic party in this convention has been and always will be as follows: we adhere to the principle of one man, one vote. We are not concerned with the form in which this principle is manifested as long as it is manifested. If you will recall, back in the days when we were discussing this matter in committee of the whole we had 4 or 5 completely different variations on this same theme, all of which would have been acceptable to us. So we were not pursuing blindly a particular course. We're not so much concerned with how the bricks in the building are laid out as long as the building is solid and does represent a certain acceptable principle. Now, if it does not, the building will not stand and you only fool yourselves if you think that the Michigan supreme court and the federal supreme court are going to buy the initial premise in this syllogism.

I think actually we're standing in the wings as understudies in a very large and vast sociological play. The real actors are dealing with our courts; they're dealing with the Michigan supreme court and the U. S. supreme court and we, as understudies, are not taking an active part in this. And also, as understudies, I think we're very poor reflections of what is actually going on in the state. I do feel that ultimately the trend which Mr. Downs has just indicated will prevail and I think that what we're doing by going ahead blindly now, especially when action is so close at hand, is simply indicating for all time the utter hopelessness of the considerations we've had here during the course of this winter.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand there are 4 speakers seeking recognition. I would move to —

VICE PRESIDENT HUTCHINSON: Five now.

MR. VAN DUSEN: Five? Well, in view of the importance of this subject, I would move that we limit further debate on this amendment to 30 minutes.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Van Dusen to limit further debate upon this amendment to 30 minutes. All those in favor will say aye. Opposed will say no.

The Chair believes the motion does not prevail by voice volume.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is demanded. Is it supported? There is sufficient support. All those in favor of the motion to limit debate will vote aye.

MR. HODGES: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does the gentleman rise?

MR. HODGES: I'm not sure. Parliamentary inquiry. Would it be a preferential motion to move to amend to an hour? We're talking about the most serious thing before this convention and I think we're treating it rather cavalierly to be cutting debate off.

VICE PRESIDENT HUTCHINSON: The amendment is in order. It is not debatable. The question is upon the amendment of Mr. Hodges to the amendment of Mr. Van Dusen, upon which a division has been requested and supported. All those in favor of the amendment to limit debate to one hour will vote aye. Those opposed will vote no.

MR. PLANK: Point of order, Mr. President. I believe a division was asked on the half hour, not the hour.

VICE PRESIDENT HUTCHINSON: We've already started the vote so it will be a division vote. All those in favor of one hour will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the amendment to limit debate to one hour, the yeas are 54; the nays are 70.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The question recurs upon the motion of Mr. Van Dusen to limit debate to 30 minutes, upon which a division has been ordered. All those in favor of limiting debate —

MR. DOWNS: I request a recorded roll call vote.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is the demand supported? It is supported. The yeas and nays are ordered. As many as are in favor of limiting the debate upon the substitute to 30 minutes will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—81

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Gadola
Goebel
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Krolikowski
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Mosier
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—43

Austin
Balcer
Barthwell
Binkowski
Boothby
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Jones
Kelsey
Kuhn
Liberato
Madar
Mahinske
Marshall
McCauley
Murphy
Norris
Ostrow
Perlich
Perras
Richards, L. W
Snyder
Stopczynski
Suzore
Upton
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the motion to limit debate on the pending substitute to 30 minutes, the yeas are 81; the nays are 43.

VICE PRESIDENT HUTCHINSON: The motion prevails, and debate is limited to 30 minutes. The Chair recognizes Mr. Pollock.

MR. POLLOCK: Mr. President, if I can try to introduce a little reason in the midst of all of the obfuscating partisanship which seems to be cluttering up the convention atmosphere, I should like to do so for just a couple of minutes. I see no reason for getting excited about this on partisan lines. I think there has been an honest effort made here to work out a reasonable substitute and I'm happy to give my support to the committee substitute.

I have studied the substitute carefully. I am convinced that it offers the best possible method of applying the basic apportionment formula which the convention has decided to accept. As I see it, the substitute has the following advantages: in the first place, it remedies defects in the earlier language. It should be obvious that we badly need a solution to what might be called the Kent county dilemma. On the one hand it's clear that Kent and Genesee counties should be entitled

to 2 seats in the senate. If they receive only one each they'll be the most under represented counties in the state. On the other hand, it is also vital that we avoid discriminatory provisions which might ultimately cause a successful judicial challenge of the whole apportionment plan. The original committee proposal contained just such an arbitrary classification. It would have given Kent and Genesee extra seats, but would have done so in an arbitrary and discriminatory manner. That's why I found it necessary to introduce an amendment which would have applied the same method of dealing with apportionment factor remainders to all counties.

You will recall that after my amendment was adopted some delegates became alarmed because they thought — quite wrongly, I believe — that my amendment would have given some undue advantage to the metropolitan counties. My objective, of course, was only to insure that an equitable and constitutional plan was substituted for what I think most delegates now realize was a defective arrangement. However, in the interest of harmony and the development of a sound plan, I voted for the William Hanna amendment which struck out my amendment after Dr. Hannah assured the convention that in his view, this would only be an interim arrangement. You will recall that in the discussion of the John Hannah amendment no delegate defended the language which was then adopted as a permanent part of the constitution.

If we should now fail to agree on a new amendment, the result will be a gross distortion of the 80-20 formula and the most blatant discrimination against the 5 largest counties. But such a plan has not been proposed and, therefore, that danger is by. Two, the equal proportions plan is the best available method. The substitute would bring symmetry to our legislative apportionment. We've already decided to use equal proportions in the house. The method can be as readily applied to apportionment factors as to population, and it's a fully tested and a widely accepted technique. In the third place, the substitute would treat all counties alike. The original committee proposal, in effect, set up one rule for Wayne, Oakland and Macomb counties, another for Kent and Genesee, and still a third one for the smaller counties. This substitute will go far toward assuring that the districts will be relatively equal in apportionment factors. Finally, the substitute, I believe, removes the danger of judicial attack.

As I said before, the interim language adopted in committee of the whole was vulnerable to judicial attack. It seems to me that a careful reading of the United States supreme court decision in Baker against Carr indicates that arbitrary, unreasonable and invidious classifications for apportionment purposes may be successfully attacked as violative of the fourteenth amendment. On the other hand, I see no reason to believe that the courts will act against the state merely because some weight is given to nonpopulation considerations in the apportionment scheme.

We've adopted the apportionment factors plan. As you all know, I had some reservations about that plan. But I believe that it will be accepted by the courts as a rational and reasonable plan so long as it is applied as it is in this substitute in a nondiscriminatory fashion. The substitute does nothing more than to give full application to the apportionment factors idea. If it's adopted — and I hope it will be — subsequent legal action against our apportionment plan will have to be based ultimately on the one man, one vote argument, that is, that straight population should be the only basis of apportionment in both houses. And I see no likelihood that the courts will take such a position in the foreseeable future. I trust, therefore, you will vote for the committee substitute.

VICE PRESIDENT HUTCHINSON: Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, just to set the record straight, I'd like to say that I made no statement to the effect that the Tennessee case decision was of no importance to this state. I merely stated, as Dr. Pollock has just detailed, that it did not hold that population must be the sole or controlling factor; and if we may rely on just a summary of what they intended to hold, it indicated definitely the contrary. And I have made no prophecies as to the likelihood of the nature of future decisions—I'm not one of those who has a pipeline to the courts and I'm thankful to all the other delegates to this convention that they have spared the feelings of the 6 retired circuit judges here by not mentioning the subject of the unpredictability of judicial decisions.

I'd like to remind us that the Scholle case deals not with anything this convention has done or proposes to do. It deals directly only with the apportionment setup the people provided in the year 1952. Whether or not it affects our problem will depend upon the language that may be used in deciding that other issue.

One other point I'd like to make in order to have the record clear: area, as we have been discussing it, does not include merely square miles. We've talked about a great many other things. We've talked about difficulties in means of communication that we run into when we have large districts, especially with scattered populations; we've talked about economic interests which differ from area to area; we've talked about social relationships which differ from area to area; and we've talked about adequate and effective participation of all types and groups of people in state government and others of that kind that might be mentioned. All these are comprehended in the term that we put together as area. Thank you.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. President and fellow delegates, I'm sure that this plan was originally conceived in all honesty and sincerity because I know the individual who proposed it to be an honorable man. But I would submit that its development has been one of hypocrisy. This so called formula of 20-80 has been worked and reworked with the 1970 projected census in hand to come out with the desired result. I mentioned before the language of our research staff, and this is quoting from it:

> The substitution of equal proportions for major fractions has a practical effect of giving Kent a second seat and 9 seats for Wayne. If major fractions were used to allot the same number of seats, Wayne would receive 10 seats and Kent 1.

Now, I raise this, Mr. President, not because I am concerned that Wayne has 10 seats, or Kent county has 1 seat or 2 seats. That isn't the point. The point is on the opposite side, the emotional fever that developed in this convention to guarantee for all time Kent's 2 senators and that Wayne county shall never have 10 senators. This was the practical effect and we built a facade to come out with a conclusion that we knew ahead of time. I only hope, for the sake of those that have conceived this plan, that Consumers Power is right in the projection, because in 1970, if there is any differential, there are going to be very many sorry people of this convention, because this entire thing was projected on what they anticipate will be the end result to guarantee and assure for all time a senate which they feel is palatable to them.

Mr. Downs pointed out the ratio formula. In the next 10 years the ratio will be 6 to 1, and after 10 years it will be 4¼ to 1. We are still saying in this state that we feel that one man in one place in this state is worth 4 men in another place. You talk about 80-20, and this is what is going to be sold to the people. But it isn't 80-20. It means that one man is worth 4 other men in another part of this state. And still the most important ratio, the most important significant one, is this: that 40 per cent of the population of this state shall have 52 per cent of the representation. In other words, 40 per cent will control the legislature of this state. This is the important factor, not 80-20; not formulations or anything else. Just minority control continued ad infinitum for the history of this constitution of the state of Michigan. I submit that we in the minority cannot go along with the constitution while we are now, at long last, expecting to get equity in the courts of this state and this nation, and be told that we should be very happy to accept one that says our people are ¼ as good as people in another part of this state. This is what this fight has been about for the last 50 years in this state. This is what it will continue to be about until we get what we think is justice in this cause. You cannot say that 6 to 1 or 4 to 1 is equitable by any standard or any measure. All we have done is try to make as little differential between what we have now and what we will have to, hopefully, assure that some court will not strike this down. I do not believe it will meet this test. I urge all those interested in the cause of good and just apportionment for the people of this state and that everybody's vote is entitled to equal weight, to vote down the majority report.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. President, on behalf of the committee, I would like to answer the arguments made by Mr. Hodges, Mr. Downs, et al. I'd like to give you the consideration that went on in our committee. First, the Tennessee case: the Tennessee case is a case where they have not apportioned according to their constitution. The Alabama case is in the same light. The Scholle case is different, but does not pass on what we're doing here at the convention. The question really becomes one of whether you treat and are going to say that the only criterion is masses and numbers of people as against individuals. In the larger counties, such as my own of Muskegon, we are able to work through organizations. As I move north into the outstate area, we do not have chambers of commerce, PTAs, unions making as effective use of their organizations and representation as is possible. The legislator must deal with small groups of individuals, or absolute individuals.

The minority has expressed a great faith in one man, one vote. It has, for as long as I know, objected to the faith placed in this one man, one vote as expressed by the '52 amendment. Now, Mr. Hodges raises the question of equal proportions versus major fractions. I think Mr. Hodges has studied this problem well enough to know that if we go to major fractions then we again must have a flexible number of senators and must avoid the so called Alabama paradox which he would create. I submit to you, a fixed number by equal proportion is the best mechanical and most fair mechanical method that we know of in applying the formula, as has been cited by Dr. Pollock. I wish this convention would realize that to accept the version of Mr. Hodges and Mr. Downs, every board of supervisors in Michigan —or in New York, Pennsylvania and those other states that have boards of supervisors—would be illegal. Many city councils, including the councils of the cities of Chicago and New York, would have to fall because they do not follow that principle.

I recently made an analysis after receiving a reprint of the New York Times dated Wednesday, March 28, which compared legislatures of the states. I would like to point out what I believe are some significant facts: under the committee proposal as to the house, which Mr. Downs has passed upon, only 2 legislatures out of the 50 states are more akin to population than the Michigan legislature would be under the committee proposal. With regard to the senate, only 7 senates are more akin to population than our senate would be under the committee proposal. This means that if you accept the Downs criticism and the Hodges criticism of Committee Proposal 80, 43 senates out of the 50 are unconstitutional. And I submit to you that the supreme court will never find 43 of the present state senates unconstitutional.

Of those states that have senates more nearly attuned to population, only one state has a house equal to or approximating the committee proposal in the house. The only state that falls in that category is Oregon. And if you will examine the Oregon constitution, you will find that they provide for moiety in both the house and the senate. I am satisfied that neither Mr. Hodges nor Mr. Downs nor the people they represent would accept moiety as applied to either the house of representatives or the senate. But I submit to you, when they say that the committee proposal as to the house does not meet the test of the United States supreme court and the federal constitution, they are then saying that 48 of the present lower houses of the state legislatures of the United States aren't constitutional. And of the 2 that would meet their constitutional tests, Alaska starts off upon the adoption of the constitution with their house seats nearly equal in population, but provides that they may go down to a half ratio before there has to be any alternative; so it's a matter of a very short time and probably one census before the Alaskan legislature would fall out of their test. This leaves only Oregon and Michigan as the 2 best apportioned houses of representatives by the definition of Mr. Downs and Mr. Hodges.

I submit to you that if they will examine cold facts—to expect the supreme court to say that our senate will fall, and because they say our senate will fall as we propose it, 43 out of the other 50 senates will also fall, together with all the city councils and all the boards of supervisors—they must foresee the consternation. And even those people who support their view most widely by proposed federal legislation would allow a greater discrepancy than we have allowed in the state of Michigan under the committee proposal.

VICE PRESIDENT HUTCHINSON: Mr. Norris.

MR. NORRIS: Mr. President, I rise to speak against the substitute. I suggest to you that the net distillation of the majority report is that Michigan is doing business at the same old stand and that the state of Michigan is still asking the committee chairman and the author of this particular formulation of the majority report: so help me Hanna. (laughter)

I think that we have a problem to which the minority, I think, addresses itself in this sense: there is no question that the courts moving ahead here and addressing themselves to a problem which has been thrust upon them by the inadequate solutions of the various states of the union is going to make some progress in terms of causing a more responsive legislature to be adopted by the various states, including Michigan. And I think that there has been some bunching in this direction as a result of the action of the courts in Baker vs. Carr and Scholle vs. Hare, thus far. I think the people of the state of Michigan owe Mr. Scholle a distinct debt of gratitude for casting a cloud upon this convention so that we were more responsive to our constitutional duty in making suggestions that would at least recognize the inadequacies of the 1952 so called balanced legislature. It is one of the observations of the famous Frenchman, de Tocqueville, that sooner or later every political question in the United States shapes up as a legal question, and the courts have addressed themselves to this legal question.

I am not prepared to say that in all particulars the substitute of the majority is infirm constitutionally, on the basis of being an invidious discrimination. I think there are infirmities and they may very well be challenged in the court and they may very well be sustained in the challenge, particularly on the point that Mr. King made earlier of the unequal application of the so called equal proportions formula, point 2, which was underscored by Dr. Pollock.

I am not so sure, however, that the courts will compel, in the long run, the kind of formula that we will need to make for a responsive government in Michigan. I am not so sure, either, that we have thus far found the political formula for a more responsive legislature. I think we have to recognize that there isn't here a question of leaving everything to the courts or leaving everything to this body. The fact is that a political question in a democracy can only be resolved by a growing, increasing, consciousness of the people themselves as to what is involved. I don't think, as yet, there has been a recognition by all the people of this state as to why population ought to be the criterion for representation. And I think that there is an apprehension on the part of some people that when population is the basis, there is a disproportionate weight in the legislative council to the southeastern area of Michigan.

I submit to you that if population were the basis, as suggested by the minority, that there would indeed be a more responsive need met by the legislature for the needs of the people in the rural areas and the small areas than the people from the rural areas and small areas now feel is the case. I don't think that all the housing needs of the people in the rural area and the farm area are being met today. I don't think that all the medical care needs of all our farm population in this state are being taken care of today. I don't think that the best farm policy has been adopted by our legislature. I think that we have a long way to go with regard to meeting the needs of the people who are primarily supporting the majority report. And I submit that if population were the basis for representation, there would be a greater sensitivity — if you will, a seismographic sensitivity — to these people which has not been the fact as of today. I think unless the people of our state recognize that population as a criterion for representation would mean a more responsive legislature to the needs of every person in every part of the state, no matter where he lives — that when that is recognized, then there will be, in my judgment, a solution which will be reached, and thus far we have not reached it. We're counting too much on the courts, in my judgment, and we're counting too much on the formula that is emerging from this convention thus far.

This convention was called because of payless paydays, because of treasury deficits, because of the curtailment of essential services in the state and because of the veto power in the state senate over essential conduct of the government. I don't see that the majority proposal overcomes these handicaps. Michigan is still where it was prior to this convention and it will be there for some time unless the people of this state take matters in a different course in order to arrange a different result. To be sure, the frustrations of our people and the $2 million investment that they have in this convention may mean an affirmative view of this majority proposal, but I submit that it's a short run point of view.

Our president of our convention admonished us that we should look at this convention with the view of a Madison, of a Jefferson, and those people took a long run view and we have to take a long run view of the proposals now before us. I don't see that we've substantially or materially altered the balanced legislature formula in political result. And I think that in political result Michigan is doing business at the same old stand. I don't think that we're rendering the kind of distinct service that's necessary to the people of this state to get Michigan off of government by deadlock and government by stalemate. We will be in that situation after this convention adjourns with the majority report having been adopted. I am most distressed by this conclusion, but I must reluctantly subscribe to it and I cannot let this debate go by without registering the views which I have, Mr. President.

I think that what is involved here is more than merely arriving at some arithmetical formula of presumed equity. What is involved here is whether or not we will develop in the United States, and in the various local forms of government, that kind of adequate instrument by which a self governing people can meet the problems, the ever increasing problems of an industrial age in which we find ourselves in Michigan. Indeed, if you will, the issue of the survival of this nation and the state is involved in whether we can develop that kind of adequate governmental instrument that meets the needs of the people. We have fallen short of that promise. I hope that history will judge us kindly. I don't think it will.

VICE PRESIDENT HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. President, I'll try to be very brief because I know that time is running out and I think one point or just a couple ought to be commented on. I think the major thing is that in a day as modern as this, when we have the best means of transportation and communication, we suddenly, for the first time in the constitutional conventions, hear of area as a separate factor for representation. Now, I am very sympathetic to the fact that we have in the past made some recognitions of this but we have done so in the house with the more numerous seats. The house of representatives has had some recognition of sparsity because it's the larger house and they've done so in the form of moiety. They have never done so in the senate because it's the smaller house and therefore it wouldn't be the best place for this kind of representation.

Now, I cannot sympathize with the comments that none of the previous speakers made when he said that people aren't as well organized outstate as they are instate. I guess he meant by that, in the cities. From my observations here and other areas of the state, I think the people in the outstate areas are very well organized. I think they are very vocal. I think their local school boards, their local township officials have done an admirable job in representation of their points of view. But I cannot see how, in the twentieth century, after all the improvements have been made, when we talk about going to the moon, we can suddenly say that there is difficulty in representing an area that can be crossed by car in a matter of hours, an area that has now full means of radio and television and telephone, an area that is readily accessible to all the mass media of transportation and communication, suddenly becomes an area that is being under represented because of the fact that there is a certain degree of sparsity. If the people here are sincerely interested in giving some representation to where there is sparsity of population, that representation ought to be kept in the house, where the more numerous members can be more advantageously placed with regard to the whole state.

Now, I would ask you to consider the fact that when this country was first settled it was always people who were the basis for representation. They did not represent the western part of the Virginia colony because there wasn't anyone there. Now we are faced with a problem of population that is not proportionately distributed throughout the state, as was the case in 1850. If we are really concerned with this, we ought to focus our attention on the house with the greater number of seats and keep the senate where it has traditionally been in the past, where it has been in this state, in particular, a senate based upon the population of the state. I'll conclude with that.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the adoption of the substitute for section a of Committee Proposal 80. Mr. Leibrand.

MR. LEIBRAND: Have the yeas and nays been demanded?

VICE PRESIDENT HUTCHINSON: They have not. Mr. Leibrand demands the yeas and nays. Is the demand supported? The demand is supported. Sufficient number up. The yeas and nays are ordered. The question is upon the substitute for section a of Committee Proposal 80. All those in favor will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 84

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Kuhn
Lawrence
Leppien
Martin
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays — 42

Austin
Balcer
Barthwell
Bledsoe
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Kirk, S.
Leibrand
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Norris
Ostrow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the committee substitute for section a, the yeas are 84; the nays are 42.

VICE PRESIDENT HUTCHINSON: The substitute for section a is adopted. Mr. Downs.

MR. DOWNS: Mr. President, the question is now upon the substitute; is that correct?

VICE PRESIDENT HUTCHINSON: We have some further amendments to the committee proposal, Mr. Downs.

MR. DOWNS: Is this Committee Proposal 80?

VICE PRESIDENT HUTCHINSON: Yes.

MR. DOWNS: I wish to be in line to speak, but not on the amendments.

SECRETARY CHASE: Mr. John Hannah, on behalf of the committee on legislative organization, offers the following amendment:

1. Amend page 4, line 6, [section c, paragraph 1] after "part of" by striking out "the" and inserting "a"; and on line 8, after "merger" by changing the period to a comma and inserting "as determined by ordinance of the city certified to the secretary of state."; so that the language in section c will read:

> In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger, as determined by ordinance of the city certified to the secretary of state.

VICE PRESIDENT HUTCHINSON: On the committee amendment, the Chair recognizes Dr. John Hannah.

MR. J. A. HANNAH: Mr. President and ladies and gentlemen of the convention, this amendment presented to you as recommended by the committee, was instigated originally by the committee on style and drafting. The committee on style and drafting pointed out to our committee that without this language section c did not clarify what it was expected to clarify. The import of section c is to provide that when a city annexes territory adjacent to it the territory annexed is to become a part of the legislative district of the city, the only exception being that if a member of the legislature, representing the district of which the annexed area was formerly a part, lives in the annexed territory he does not lose his seat until the completion of his term.

The committee on style and drafting pointed out that it is possible that a city with more than one senatorial district or more than one representative district might annex territory to it with the annexed territory contiguous to more than one legislative district. That left open, then, which of the districts in the city the new territory was to become a part of. The proposed language is one of the alternatives suggested by Professor Joiner and the effect of it will be that if this unlikely circumstance should arise, then the governing body of the city to which the new territory is annexed would determine the legislative district to which the new territory is to be attached, only with the requirement that after they have taken the required action by appropriate ordinance, they will certify to the secretary of state which of the legislative districts the new area is to be attached. The committee recommends that the convention approve this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the committee amendment. All those in favor will say aye. Opposed will say no.

The committee amendment is adopted. Are there any further amendments to the body of the proposal? Mr. Hannah.

MR. J. A. HANNAH: The committee on style and drafting made certain changes in sections b and c. They are word changes that are concurred in by the committee on legislative organization and we recommend their approval.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I have spoken to Mr. Hodges, Mr. Downs and Miss Hart, and a debate limit of 30 minutes for the remainder of the proposal is agreeable to them. I hope it will be to the convention, and I would so move.

VICE PRESIDENT HUTCHINSON: The question is on the motion of Mr. Van Dusen. All those in favor will say aye. Opposed will say no.

The motion prevails. The question is upon the passage of the proposal. Mr. Wanger.

MR. WANGER: Mr. President, I desire to ask a question of one of the members of the committee on legislative organization about section c. Would that be in order at this time or would section b be in order?

VICE PRESIDENT HUTCHINSON: The question is upon the whole proposal, Mr. Wanger.

MR. WANGER: I would like to ask, then, why section c should be included in the constitution. I appreciate that annexation across legislative district lines can occasionally require, under our present law, some inconvenience in perhaps redrawing precincts and perhaps making special changes on voting machines and ballot printing. But it also seems to me that this committee proposal means that every time you annex across legislative district lines you're going to have politics enter into the problem of annexation and it will be a type of politics that has not been there before. In those cases where the annexing area is evenly divided politically and the area to be annexed is perhaps heavily weighted in favor of one party or the other, this political problem might be a very weighty factor in the question of annexation. I suggest that this would be an evil and we should not create a situation where this type of a political consideration would be effective in the very serious, legitimate problems of annexations to cities.

VICE PRESIDENT HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, this matter was introduced as a result of testimony by election officials, who pointed out that in cities that have had substantial annexations, there are many uncertainties and confusions that develop in connection with elections; and it was particularly pointed out in the little community of East Lansing, which has recently taken in fractions of Lansing township and Meridian township in different legislative districts, with the people in these newly annexed areas staying in the old districts so that it's been very confusing and difficult for them to carry on their elections. This has been true in Grand Rapids and Kalamazoo and elsewhere. I would yield to Mr. Blandford to answer this question more fully.

VICE PRESIDENT HUTCHINSON: Mr. Blandford.

MR. BLANDFORD: Mr. President, I feel that Dr. Hannah has pretty well covered it. As you well know, the present constitution states that territory annexed to an existing city shall remain in its present representative district until the next apportionment. And as he has stated, this clause has resulted in great confusion in cities that have had annexation. Presently, when areas join a city through annexation or merger, the people residing in the annexed area are immediately eligible to vote in the city elections. However, they do not join the senatorial or representative district of a city they have annexed or merged with, but remain in their original legislative districts. The result is a great amount of confusion.

I can speak, of course, from personal experience in the city of Grand Rapids, where we've had some annexations recently. Originally, the second and third wards of Grand Rapids voted in one representative district and one senatorial district. Presently these same people now vote in 3 representative districts and 2 senatorial districts. In other words, neighbors voting for the same commissioners, mayors and so on vote for different state senators and state representatives. Representatives from the municipal clerks association testified before our committee that the present system greatly complicated election procedures. In line with that, I'd like to read a letter that I received from Frank Niederstadt, who is the city clerk of the city of Saginaw. He says — I'll read the middle paragraph:

> It is my belief that this provision would have no effect whatever on annexation, but it would materially help in the election procedures. An example which has occurred here: about 80 acres of land were annexed to the city of Saginaw in 1957. This area had about 10 residents; 7 of them were registered voters and, under present laws, it has been necessary in every election at which representatives to the state legislature are elected to set up separate ballots or a voting machine to take care of these people who retain their status in representative district 2 of Saginaw county until the next apportionment by the board of supervisors which will not occur until 1963.

Of course, he's assuming the present constitution.

We have never had more than 4 votes cast under this special procedure. The people in the area have complained to me repeatedly about not being able to vote for the city representative to the legislature and particularly on the city representative to con con.

I think, briefly, that pretty well points up the problem. It was the feeling of the clerks that testified before our committee that the annexed area should become a part of the legislative districts of the annexing city immediately upon the effective date of annexation rather than waiting 8 or 10 years until the next reapportionment. Accordingly, the committee wrote this provision into its recommendation with the following 2 restrictions: the first restriction was that the provision does not apply when these annexations cross county lines. This was necessary, of course, to preserve the county line requirement in our representative senatorial districts. The second restriction, which Dr. Hannah mentioned, is that this provision would not unseat a member of the legislature living in the annexed area for the remainder of the term for which he was elected.

The legislative organization committee feels this provision will result in less confusion among city and township voters and will greatly assist in removing some of the complications of holding elections. Accordingly, we recommend its inclusion in Committee Proposal 80 and sincerely recommend the affirmative vote of this convention.

VICE PRESIDENT HUTCHINSON: Mr. Wanger still has the floor.

MR. WANGER: I would direct a further question, if I might, through the Chair, to Delegate Blandford. He has very well pointed out how this section works out some of the mechanical inconveniences and the confusion among those voters in annexed areas who don't take the bother to call up their city clerk and ask where their district line is drawn, or go look at a map. Admittedly, these are arguments of some weight, but you've neglected the argument and the question which I've raised; namely, the serious implications which could arise over issues of annexation when the areas are so politically divided that the political makeup of the legislative district might be switched or affected or reversed under this section. That would clearly make it a very partisan political issue, bring partisan politics into annexation in those cases in which it admittedly could arise. Now, don't you think that that is a serious evil in those cases where it would arise? And don't you think that that evil outweighs the mechanical benefits of this part of the committee proposal?

MR. BLANDFORD: Through the Chair to Mr. Wanger, I can only speak from experience on this, Mr. Wanger. We've had some annexations in the Grand Rapids area — I believe about 11 of them in the last few years — and I cannot recall where politics entered into the situation whatsoever. It's chiefly water services, sewer services, attending our city high schools and things like that that have a bearing upon annexation. The question of the political makeup of the area that was being annexed or the political makeup of party lines of the area that they were annexed to has never entered into any annexations that we've had in our area. This is one of these "if-come" questions. It's possible that sometime it might. You can't say it never will. But all I can say is that the experience that we've had in annexation, it never has entered into the picture.

MR. WANGER: Mr. President, I would briefly conclude by thanking Delegate Blandford and by saying that past experience in this case is obviously no guide because under our law, as it exists now and has been, annexation does not affect the lines of the representative and senatorial districts. Under this plan it would.

[Vice President Romney assumed the Chair.]

VICE PRESIDENT ROMNEY: Delegate Jones.

MR. JONES: Mr. President, fellow delegates, I rise to urge a no vote on Committee Proposal 80, and I do so because I feel that this proposal has a built in guarantee that we will continue to have unequal representation in our respective legislative districts. As I read this proposal, I note that you can have as few as 10 apportionment factors to qualify for a senate seat, or you may have as many as 16 and still reach the requirement of one senate seat. This amounts to a deviation of 60 per cent between the district having the minimum number, 10, and the district having the maximum number, 16.

Secondly, it has also been pointed out by the proponents of this proposal that area amounts to only 20 per cent by the factor computation whereas population amounts to 80 per cent. However, I should like to point out that in some of the senatorial districts in our state under this formula, when you get through computing the apportionment factors, you will find out that some of these districts have from 50 to 60 per cent of the senatorial district being based on land area. Now, this to me does not get to the point of providing as nearly as possible equal representation. Therefore, I urge the delegates to vote against Committee Proposal 80.

VICE PRESIDENT ROMNEY: Delegate Richards, of Marquette.

MR. L. W. RICHARDS: Mr. President, I believe I'd be remiss if I did not rise first to answer some of the statements that have been made by our good friends from the opposing party referring to some of the stumpland and swamps, and I can't help but believe they definitely have reference to our good U.P. That disturbs me considerably. I think that all of the U.P. delegates here are in a very awkward position.

I had voted for the committee proposal on the strength that I do not believe we can come up with anything better at the present time. I think the committee has done a fine job. And yet, I'd like to retain what we have. We would lose 2 representatives by this proposal. It disturbs me to think that some of these delegates once again feel this one man, one vote situation is the only thing that does concern the state of Michigan.

I want you to recognize the fact that the economy of the U.P. is a very rough situation. We need the representation we have. I'd also like to call attention to the fact that the minority group — if this has gone along party lines — that at the present time they have 9 of the 10 representatives of the Democratic party from the U.P. And I'd like to state that I've been proud of all of our legislators that have come down from the U.P. both now and in the past when we did have a lot more Republicans. And I want you to know that they have contributed to this state. I know that they have introduced legislation that's been beneficial to all of the state of Michigan. And when you individuals are only thinking of the one man, one vote situation, not concerned with the economy and the welfare of the U.P. and you sit here and contend that your interest is in the state of Michigan as a whole, I don't think you're fair in your proposition.

We in the U.P. do not ask for much. But please don't take any more than you're taking away from us now. I would not vote for this if I thought we could get any more. But I'm trying to hold the line for it. And, Mr. President, if you could grant me permission, I'd like to be able to put my reason for my voting in writing at the end of this.

VICE PRESIDENT ROMNEY: There is no objection. It is so ordered. Delegate Judd.

MRS. JUDD: Mr. President, I'd like to make a point with respect to section c on the annexations. I'm willing to grant that it causes a great deal of confusion, both on the part of the voter and on election law administration. However, I do believe that there is a great deal to what Delegate Wanger said. We have sufficient ill feeling and conflict generated in the annexation problem as it is without adding the conflict that would come from the question of legislative apportionment.

Secondly, there is no provision in this for the reapportioning of the city and the remaining part of the county as a result of adding the annexed areas to the city. And with some of the sizes of the annexed areas that we have had, this would cause a very real malapportionment which, as Delegate Blandford says, might last 8 to 10 years.

In my opinion, the real remedy for the election administration confusion lies not in this question of legislative apportionment, but in new annexation laws to prevent annexations by bits and pieces and jagged shapes, such as we have to date. If they come in in large regular areas, the problem of election administration can be handled. This is a legislative remedy and it can be handled, can be remedied whenever the legislature makes up its mind to act.

Mr. President, I would like to ask if the question can be divided so that we can vote separately on section c.

VICE PRESIDENT ROMNEY: We cannot, Mrs. Judd. Under a former ruling it cannot be divided. There is an amendment pending to strike out section c. Delegate Knirk.

MR. KNIRK: President Romney and delegates, I'd like to make a few comments here. I notice this afternoon, from many of the comments of some of the delegates, that because of the very outstanding individual in the galleries — and I am sure she was only here for the purpose of passing the time of day and talking about the nice weather outside — many of the people and delegates here get up before the press, before radio commentators, television and so forth and make some wonderful oratory. I think we've had just about all the oratory that's needed. I'm certain that the commentators and writers have had enough information to put forth and I certainly hope that the very distinguished visitor in the gallery this afternoon has discussed the weather with many of the people here.

I would like to bring to your attention that the plan that's been proposed here by the legislative organization committee is absolutely outstanding in America, and as has been indicated by Bill Hanna, our house plan will set this state as a model for the rest of the states. Only one other, as he indicated, the state of Oregon, comes in the same area as far as determining population as a criteria for apportionment. I think that our senate plan is one of the soundest and the most rational apportionment plans that you have in the country, and I, as a layman, do not fear in any way, shape or form a contest before the United States supreme court on this issue. I do feel that there might be some reasons in our own state supreme court — which I will not discuss here, as they're my personal opinions on that, their thinking — but I think that when this is brought before the United States supreme court it will be upheld, if it ever becomes contested. And I think you should note that our senate plan will also place this state among the top 1/3 of the 50 states.

I certainly hope that on this particular historic day, whether you be for or against what has happened in the state of Michigan — and I might say, because it happened at, I think, 10:22 this morning, we had indicated the possibility of an income tax. About 11:00 o'clock, or shortly thereafter, we indicated a real forward step in having the government of Michigan have something to do, or at least more to do with civil service — and I think as the climax of this historic day that we might just as well have 3 strikes, 3 good ones, and the third one being that the delegates here at this convention absolutely support Committee Proposal 80 that's under consideration.

You know, sometimes we get misled by whether or not the people have been offered what is desirous for them. I think that Delegate Norris raised my dander as a farmer when he indicated in his remarks — and I would invite him to come down to the farm sometime where we could spend a day or 2 just to visit on this — but I would like to bring to his attention that a major farm magazine in the past 2 months conducted a poll on what the present administration has offered for farmers; only 4 per cent of the people out of 50,000 responses within a week's time, were in favor of such a program and 54 per cent of the people wanted no part of government in farming. I think, Delegate Norris, that's another issue that doesn't have much to do with apportionment, but I think we get misled often-times with what the people want. I think what has been offered, the people will buy and support, and should support it, and it's for the best interests of this state and will represent all segments, and all segments of our state will have a voice in government, and the senate, particularly, is the only area in which the minority groups in this state can be heard. And I certainly urge and I hope, as I stated earlier, the press, radio and television people have got plenty to write about and I don't know why, gentlemen and ladies, that we pursue this course any longer. And I hope we can get on and vote.

VICE PRESIDENT ROMNEY: Delegate Martin.

MR. WALKER: Point of convention privilege, Mr. President.

VICE PRESIDENT ROMNEY: Delegate Walker, did you say you had a point of convention privilege?

MR. WALKER: I believe it would be, Mr. President, in reference to Mr. Knirk's words there. I think that we all know who Mr. Knirk was referring to and that would be Mary Ellen Reardon who represents the school teachers. Would you stand up, Miss Reardon? (applause)

VICE PRESIDENT ROMNEY: Delegate Marshall.

MR. FORD: Mr. President.

VICE PRESIDENT ROMNEY: Delegate Ford.

MR. FORD: I don't want to be disrespectful to the Chair but I think you're showing Mr. Marshall undue preference here in recognizing him ahead of other people who had the floor.

VICE PRESIDENT ROMNEY: Delegate Marshall had requested the floor some time ago.

MR. FORD: I wouldn't under any circumstances suggest that you were —

VICE PRESIDENT ROMNEY: Delegate Marshall had requested the floor —

MR. MARSHALL: Delegate Ford, with you as the township attorney and the attorney for the Taylor township water and sewer commission and I as one of your employers, I wouldn't interfere too much while I'm on the floor. (laughter)

Mr. President and delegates, I think Mr. Walker disposed of the distinguished guest. I've seen the people in the gallery this afternoon myself and they're all citizens of the state of Michigan and as such, I think they're all distinguished. We're always happy to have distinguished guests in the gallery.

I rise to urge a no vote on this proposal. Delegate Blandford spoke at some length in regard to the annexation problem, in giving it immediate effect, that we shouldn't wait until 1970 to do this. And I would point out that the committee proposal, while it is not equitable, while it does not meet what I believe to be the test of equality, yet, it's extended until the 1970 census, which could mean 1971 before it could be effected. I raise the question that, if we're going to kick the people around for 10 more years, why not kick them around for 25 more years, or 30 years, or 2,000?

In answer to Delegate Richards — I have a lot of respect for Delegate Richards — I would only point out that I, too, recognize and understand the economic problems confronting the U.P. And I also realize the high percentage of unemployment in the U.P. But I would point out to you — and I have to point this out because you raised the question in discussing it as it related to this proposal before this convention — time and time again your representatives from the U.P. have come to the legislature and introduced bills. One in particular, one of your senators on several occasions has introduced the mine safety code bill, and it's been constantly defeated in a malapportioned senate by the conservative representatives from the sparsely settled areas. And I would also like to point out to you, Delegate Richards, one other factor — and then I will relinquish the floor — that would have been very important to a section of this state that has approximately 20 per cent unemployed in many sections, and that was when a malapportioned legislature refused to enact the enabling legislation that would have brought into this state $25 million and would have brought the children of unemployed workers under the ADC program. This is what a malapportioned legislature can do for the economic depressed areas, I think.

VICE PRESIDENT ROMNEY: Delegate Leibrand.

MR. LEIBRAND: Mr. President, fellow delegates, I feel obligated to vote no on Committee Proposal 80 but for reasons far different from those advanced by the minority members of this convention. To conserve time, I ask leave to file in writing with the secretary the reasons for my vote.

VICE PRESIDENT ROMNEY: Granted. The secretary will read.

SECRETARY CHASE: Mr. Wanger has filed the following amendment:

1. Amend page 4, beginning on line 4, by striking out all of section c.

VICE PRESIDENT ROMNEY: Delegate Wanger.

MR. WANGER: Mr. President, members of the convention, this amendment was thought out before the committee amendment to section c, which added the words "determined by ordinance of the city" and since my previous questions on the floor, it has been suggested that this new language leaves this question of changing the legislative district to the discretion of the city council and does not operate automatically as before. I would like to direct a question to the chairman of the committee, Dr. Hannah, if that is the case and the intent of the committee in this amendment.

VICE PRESIDENT ROMNEY: Dr. Hannah.

MR. J. A. HANNAH: That is correct, Mr. Wanger. I would like to yield to Judge Dehnke as an attorney to comment on this one.

VICE PRESIDENT ROMNEY: Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, Mr. Wanger, there is one sentence in the proposal that I think explains why it's necessary to have this provision in the constitution and in this part of the constitution, and that is the last sentence, "No legislator shall be deemed to have vacated his office by virtue of the above section." That's what led to the inclusion of this in the proposal. We have a situation sometimes—or could have—where a member of the legislature might be a resident of the area annexed to some city and the claim might be raised that inasmuch as he no longer resided in the district in which he was elected, he had vacated his office. This relates to composition, organization of the legislature, and that sentence alone, I think, makes it necessary to keep this section c in. Aside from that, it's a matter of discretion with the city council as to the arrangement that shall be made as to the apportionment. They don't need to act unless they think it's advisable from every standpoint of public policy.

I don't think we can anticipate all the arguments and considerations that might be brought into a question of annexation. This does not deal with the procedure for annexation. It merely takes care of problems that sometimes are raised after annexation in connection with the representation of that area in the legislature.

VICE PRESIDENT ROMNEY: Delegate Wanger.

MR. WANGER: Mr. President, upon the assurance and explanations of Delegate Hannah and the judge, I've discussed with Mrs. Judd, who wished to join me on this amendment, and at this time I withdraw the amendment.

MR. ROMNEY: The amendment is withdrawn. The vote is upon Committee Proposal 80. All those in favor will vote aye. Mr. Downs.

MR. DOWNS: Point of order. When Mr. Hutchinson was in the Chair, I had asked to be put on the list to speak. I said I didn't want to speak on the pending amendment but on the final proposal itself.

VICE PRESIDENT ROMNEY: Very good, Delegate Downs. The Chair didn't have a note to that effect.

MR. DOWNS: If there are speakers ahead of me, I do not want to speak in their place.

VICE PRESIDENT ROMNEY: There are no speakers at this point.

MR. DOWNS: Mr. President, fellow delegates, we have had a long day on this. I again urge a no vote and want to bring out some other factors that I don't think have been touched upon too clearly, and this is the effect of not having equal apportionment of the people of the state of Michigan. I think, first of all, it affects the people directly in trying to solve problems, whether it's mine safety, aid to families of unemployed or others, or industrial problems; that very often bills are defeated by the majority of the legislators who represent a minority of the people, and the majority of the people are represented by a minority who cannot pass a motion. I would just cite, for example, in our own convention, without going into the merits, on many of our close 68 to 64 votes, I would guess that if we broke that down among the number of people represented, we would find that the 64 minority actually represented more people than the 68 majority.

I think a second problem is the built in conflict within the government. There has been much discussion on this floor: why can't the legislature get along with the governor? Or why can't the governor get along with the legislature? The phrasing of the question often depends on the party of the person asking it. But the issue is a deeper one, and those of us who were over at the state senate last night, I think, saw examples. And I am not, again, reflecting on any individual, but say that when we have a governor who is elected on a one man, one vote basis and a legislature elected on another basis, we have a built in conflict between the legislature and the governor that is not healthy or wholesome for the legislature, the governor or, most of all, the people of the state of Michigan. This carries over to tax assessments, tax raising, as well as expenditures of money. And particularly to my friend from the upper peninsula — and I refer to our good friend, Delegate Richards — this aim is in no sense to penalize the people of the upper peninsula. I firmly believe that if voting records are examined, you will find, for example, Delegate Binkowski from Detroit was the first delegate in this convention to carry the ball — and a legislature elected on another basis, we have a built in inac bridge. But I think you will find the delegates from under represented industrial areas have consistantly voted for the needs, economically, industrially and educationally, of that part of the state.

And finally, on the legal questions, Delegate Bill Hanna has raised questions that I am sure at least, I, for one, do not pretend to answer. I do not know if the United States supreme court will declare that every state legislature and every board of supervisors and every city council elected on a system of wards unequal in population is unconstitutional. I do not know that. But what I do know is that there has been this historical legal breakthrough, where the United States supreme court has said that the matter of equality of voting is a justiciable question and the court has jurisdiction over this. The direction is clear and I, for one, hope that this convention will vote with the stream of progress and not to divert that stream. So I plead with the delegates in the hopes of the basic equality we are dedicated to, that we vote no on this and hope by third reading we can come up with a completely equitable basis. Thank you.

VICE PRESIDENT ROMNEY: Time has expired. The vote is on Committee Proposal 80. Those in favor will vote aye and those opposed will vote no. Delegate Richards.

MR. L. W. RICHARDS: Are we voting on the proposal?

VICE PRESIDENT ROMNEY: We are voting on the complete proposal, Committee Proposal 80, as amended. Those who favor it, vote aye; and those opposed, nay. Have you all voted? Has everyone voted? If everyone has voted, the secretary will record the vote.

Mr. Heideman.

MR. HEIDEMAN: I should like permission to make a written statement with my brother delegate, Leslie Richards, in explanation of my vote.

VICE PRESIDENT ROMNEY: Permission granted.

The roll was called and the delegates voted as follows:

Yeas — 81

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Kuhn
Lawrence
Leppien
Martin
McLogan
Millard
Mosier
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

Nays — 45

Austin
Baginski
Balcer
Barthwell
Binkowski
Boothby
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Kirk, S.
Krolikowski
Leibrand
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Norris
Ostrow
Perlich
Perras
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young

SECRETARY CHASE: On the passage of Committee Proposal 80, as amended, the yeas are 81; the nays, 45.

VICE PRESIDENT ROMNEY: **Committee Proposal 80, as** amended, is passed.

Following is explanation of vote submitted by Mr. Boothby:

I voted no on Committee Proposal 80 which is concerned with legislative apportionment for the following reasons:

1. I firmly believe that if one house of a legislative body is apportioned on a population basis the other house should be based on some other factor rather than both being weighed primarily in favor of population.

2. A lawmaking body must never be so constituted as to allow an unchecked majority the power to impose on the individual citizen, hastily drafted, ill considered and tyrannical legislation.

3. Under the present apportionment plan the 5 metropolitan counties of the state will, by 1970, have majority control of the house and neary 50 per cent control of the senate. The other 78 counties would lose any effective voice in state government. This in my opinion violates the concept of a balanced legislature which the people of the state emphatically adopted as recently as 1952.

4. I must keep my promises to the people that intrusted in me the responsibility of representing them.

Following is explanation of vote submitted by Messrs. Heideman and L. W. Richards:

We would like to take this opportunity to express our reason for supporting Committee Proposal 80.

We know that this proposal was the best that could be attained from the majority of delegates to the convention.

Following is explanation of vote submitted by Mr. Leibrand:

On April 25 I voted against committee substitute section a and amended Committee Proposal 80. I did so for several reasons. This proposal created a house of representatives based entirely on population. It created a senate based 80 per cent on population and only 20 per cent on area. In my opinion, much greater emphasis should have been given to area. This opinion is based on the following factors:

1. The Constitution of the United States, which established the basic pattern for all state constitutions, allots 2 senators to each state, irrespective of its population. Proponents of Committee Proposal 80 based their plea for reapportionment on disparities in population between state senatorial districts. As I recall the debate, the greatest disparity in Michigan was about 12 to 1. In the federal system, senatorial population disparities between states such as New York and states such as Nevada and Alaska run as great as 90 to 1. Yet no one has even suggested a change in the federal pattern which has served the nation well for 173 years. I believe this convention would have done better to move towards the federal pattern rather than to move away from it.

2. More than half of the population of Michigan is concentrated in 3 or 4 southeastern Michigan counties. Outstate Michigan has become a population minority. Committee Proposal 80 makes it not only possible but probable that these counties will shortly control both houses of our legislature. This convention has gone a long, long way to provide constitutional protection to minority races and creeds. Committee Proposal 80 takes away most of the constitutional protection that we outstate population minorities have at the present time.

3. As recently as 1952, the people of Michigan, by a majority of half a million votes, adopted the present senatorial apportionment system which Committee Proposal 80 will destroy. I don't believe that there has been enough change in public sentiment in less than 12 years to justify this convention in defying such a recent mandate from the people.

4. The convention seems greatly desirous of creating a legislative branch safe from judicial interference from either the United States supreme court or the Michigan supreme court. No one knows or can even guess at this time whether the 80 per cent population 20 per cent area formula created by Committee Proposal 80 will satisfy the courts.

5. A method of apportionment that has existed since before the American revolution, and has never to my knowledge been upset by the courts, is that of allotting one senator or one representative to each county. On April 5, I joined with 6 other delegates in offering an amendment to Committee Proposal 80 (journal, page 878). The amendment would have allotted one senator to each county. This would have produced a balanced legislature, with the house based entirely on population and the senate based entirely on area. Those delegates who profess to be most concerned about court interference combined with those delegates representing many outstate areas to defeat the amendment by a vote of 107 to 14.

I, personally, could not go back home to my constituents in a multicounty or outstate senatorial district and tell them I had voted against a senator from each county.

Following is explanation of vote submitted by Mr. McAllister:

I voted against Committee Proposal 80 because it gives urban Michigan complete control of the legislature and further it is not constitutional in view of the decision in the Scholle case.

VICE PRESIDENT ROMNEY (continuing): It will be referred to the committee on style and drafting.

Following is Committee Proposal 80 as amended and rereferred to the committee on style and drafting:

Sec. a. The senate shall consist of 38 members, to be elected from single member districts at the same time as the governor for 4 year terms concurrent with the term of office of the governor.

Notwithstanding any other provision in this constitution, the state senators shall be elected at the general election in 1964 to serve for 2 year terms beginning on the first day of January next succeeding their election. The first 4 year election under this constitution shall be held at the general election in 1966.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest 1/100 of one per cent multiplied by 4 and its percentage of the state's land area computed to the nearest 1/100 of one per cent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed

to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties are entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there shall be a failure to comply with the above standards.

(3) Counties entitled to 2 or more senate districts shall be further subdivided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 per cent nor more than 125 per cent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

The state shall be districted for the purpose of electing senators in accordance with the provisions of Committee Proposal 80, section a, after the official publication of the total population count of the 1970 decennial federal census. Until the reapportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution, as amended, shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into 2 senatorial districts and Wayne county into 8 senatorial districts in accordance with this constitution.

Sec. b. The house of representatives shall consist of 110 members elected for 2 year terms from single member districts apportioned on a basis of population as hereinafter provided. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than 7/10 of one per cent of the population of the state shall constitute a separate representative area. Each county having less than 7/10 of one per cent of the population of the state shall be combined with another county or counties to form a representative area of not less than 7/10 of one per cent of the population of the state. Any county which is isolated under the initial allocation as herein provided shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to 2 or more representatives shall be divided into single member representative districts as follows:

(1) The population of each district shall be as nearly equal as possible but shall not be less than 75 per cent nor more than 125 per cent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. c. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger, as determined by ordinance of the city certified to the secretary of state.

No legislator shall be deemed to have vacated his office by virtue of the above section.

VICE PRESIDENT ROMNEY (continuing): Delegate Van Dusen.

MR. VAN DUSEN: Mr. President, after our 7 hour session yesterday afternoon it was called to my attention that our staff doesn't have the same freedom that we have. It is my thought that, because we have emerging problems and eminent domain still before us, we probably ought to work, if possible, until 6:00 o'clock. And I would at this time move for a 5 minute recess so that the staff can take a break.

VICE PRESIDENT ROMNEY: Those in favor say aye. Opposed.

The motion prevails and we will have a 5 minute recess.

[Whereupon, at 4:55 o'clock p.m., the convention recessed; and, at 5:00 o'clock p.m., reconvened.]

The convention will please be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

MR. A. G. ELLIOTT: Mr. President.

VICE PRESIDENT ROMNEY: Delegate Elliott.

MR. A. G. ELLIOTT: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the order of **general orders.**

VICE PRESIDENT ROMNEY: Those in favor of the motion say aye. Opposed?

The motion prevails and Delegate Elliott will preside.

[Whereupon, Mr. A. G. Elliott assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN A. G. ELLIOTT: The committee will come to order. The secretary will read.

SECRETARY CHASE: From the committee on emerging problems, by Mr. Millard, chairman, **Committee Proposal 127,** A proposal for a section on atomic energy.

Following is Committee Proposal 127 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. THE LEGISLATURE MAY PROVIDE BY STATUTE AND BY COOPERATION WITH OTHER STATES AND THE UNITED STATES, FOR THE REGULATION, DEVELOPMENT AND UTILIZATION OF ATOMIC ENERGY.

Mr. Millard, chairman of the committee on emerging problems, submits the following reasons in support of Committee Proposal 127:

With the introduction of this suggested section on atomic energy, the committee on emerging problems proposes to the convention that the state of Michigan take cognizance of the vast and growing importance of atomic energy to our state and nation. As yet, no state constitution incorporates any proposition dealing specifically with atomic energy, but it can hardly be doubted that a matter as fundamental as this will, in the future, be made the subject of numerous state constitutional provisions.

As the members of the convention are well aware, general jurisdiction over the subject of atomic energy is at the present time under the primary authority of the government of the United States, under federal statutes

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

of 1946 and 1954, among others. However, these statutes contemplate cooperation between the national government, the atomic energy commission, and the several states in a variety of areas, including the development of atomic power plants, the production of atomic energy for power purposes, development of experimental techniques in the use of atomic energy for medical and scientific purposes, and so on. Such cooperation can best be effected through compacts between the United States and the various states, and between the several states with the consent of congress and the atomic energy commission. The present language contemplates such cooperation between Michigan, the federal government, and the other states.

The present proposed provision is, of course, merely declaratory in substance. It creates no rights, powers, or duties in the legislature, nor does it subtract any therefrom. In this respect it resembles a number of other provisions already adopted by this convention, which do not endow the legislature with any additional legislative capacity, but nonetheless serve to point the way in which the people of Michigan believe the legislature ought to move.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Millard, chairman of the committee on emerging problems.

MR. MILLARD: Mr. Chairman and members of the committee, we had a subcommittee work on this atomic energy long and hard and we kept continuing our efforts and we have a committee substitute proposal which we offer at this time, which I wish the secretary would read.

SECRETARY CHASE: Mr. Millard, on behalf of the committee on emerging problems, offers the following substitute for Committee Proposal 127:

The committee recommends that the following
be included in the constitution:

Sec. a. The legislature may provide for the safety and regulation of atomic energy and such other sources of energy as may be developed in the future for the general welfare of the people of the state.

MR. MILLARD: Mr. Chairman and members of the committee, a copy of this substitute proposal is on your desk. It was distributed this afternoon and I hope you have it in front of you.

As you know, this committee is one that looks into the future and therefore our proposals have to be quite general in their nature. We had a subcommittee that worked on this atomic energy proposal, of which Mrs. Daisy Elliott was a member, and I now would yield the floor to Mrs. Elliott for further analysis of this substitute.

CHAIRMAN A. G. ELLIOTT: Mrs. Elliott. Will the sergeant at arms see if he can find Mrs. Elliott, please.

MR. MILLARD: Mr. Chairman, another member of this committee was Mr. King, and he will take over.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate King from Pontiac.

MR. KING: Mr. Chairman, fellow delegates, we seem to have lost some of our distinguished audience and some of our speakers. I realize, of course, that the apportionment issue was loaded with dynamite but this one is loaded with atomic energy; (laughter) and I do hope that you'll all give it a lot of careful consideration.

The substitute provides that the legislature may provide for the safety and regulation of atomic energy and such other sources of energy as may be developed in the future for the general welfare of the people of the state. I had sent to Washington, to the atomic energy commission, to get some background on this particular problem and I turned it over to Dr. Anspach. Unfortunately Dr. Anspach was called out of town, but he had prepared a statement along the lines of support for this amendment and I will at this time read that statement. It is as follows:

I rise in support of Committee Proposal 127. This proposal provides for the enactment of appropriate laws by the legislature for the safety and the regulation of atomic energy. As has been pointed out by Mrs. Elliott — unfortunately, we're working a little bit out of turn here, but I'm sure she will point out this fact —

it is declaratory but it is the belief of the committee that this proposal should be included in our constitution so that the proper emphasis can be given to the developments and problems which are bound to arise. The fantasies of a Buck Rogers of yesterday are the realities of today. The unusuals of today, without doubt, will be the commonplace tomorrow. This proposal is an attempt to anticipate the hopes and fears of the future.

In support of this proposal, I quote from the booklet, State Radiation Control Act, developed by the committee of state officials on suggested state legislation of the council of state governments. This booklet is a reprint from the Suggested State Legislation Program for 1961. I quote from page 12 of that bulletin:

> In September of 1959 the congress enacted what is commonly referred to as the federal-state amendment (public law 86-373) to the atomic energy act of 1954. The purpose of this law is to provide for the gradual assumption by the states of federal regulatory authority in the field of radiation hazards. Prior to 1959, responsibility for regulation of the atom resided almost exclusively with the federal government. Undoubtedly, the historical basis for this concentration of federal power lay in the initial development of nuclear energy for military purposes. But even when the new world of peacetime development was opened by the atomic energy act of 1954, private exploitation of nuclear energy was regarded as an instrument of national power to be closely supervised by the federal government.
>
> While the federal government exercised virtually exclusive jurisdiction over atomic energy matters following world war II, the states, in the exercise of their responsibility for the protection of the public health and safety, began developing regulatory programs affecting certain sources of ionizing radiation. Presently, the states have the responsibility to regulate health and safety standards associated with X ray machines, radioisotopes produced in particle accelerators and naturally occurring radioactive materials not subject to regulation by the United States atomic energy commission, such as polonium, plutonium, radium, and other radioactive ores, prior to their removal from their place of deposit in nature. The importance of state activity is evidenced by the fact that even without an enlargement of state jurisdiction, the average individual will receive from sources subject to state control much the greater part of his total radiation exposure.

Therefore, inasmuch as the developments in the field of atomic energy exceed our present ability to forecast, and since the expansion in this area will give birth to innumerable problems, we believe this proposal deserves your approval.

That is the text of the statement prepared by Dr. Anspach.

I might just say, very briefly, that this language, of course, is declaratory. It is merely an attempt on the part of this body to direct the attention of the legislature to an area where it is imperative, I think, that laws and regulations be provided for if we are going to put ourselves, as a state, in a position whereby we can accept from the federal government this responsibility. As Dr. Anspach pointed out in his memorandum, the federal government is anxious to turn over to the states this responsibility but Michigan and many other states, too, have not as yet enacted the necessary suggested legislation so that this transfer of authority can be accomplished. I am sure that all of us are interested in keeping government here in the state of Michigan wherever we can, wherever it is possible and practicable to do this. And this is an area, I think, where we can show to the legislature a certain amount of constructive direction. At this time, I would yield to Mrs. Elliott.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, committee of the whole, with the introduction of this suggested section on atomic energy, the committee on emerging problems proposes to the convention that the state of Michigan recognize the vast and growing importance of atomic energy to our state and nation. As yet, no state constitution incorporates any proposition dealing specifically with atomic energy, but it can hardly be doubted that a matter as fundamental as this will, in the future, be made the subject of numerous state constitutional provisions.

As the members of the committee are well aware, general jurisdiction over the subject of atomic energy is at the present time under the primary authority of the government of the United States, under federal statutes of 1946 and 1954, among others. However, these statutes contemplate cooperation between the national government, the atomic energy commission, and the several states in a variety of areas, including the development of atomic power plants, the production of atomic energy for power purposes, development of experimental techniques in the use of atomic energy for medical and scientific purposes, and so on. Such cooperation can best be effected through compacts between the United States and the various states, and between the several states with the consent of congress and the atomic energy commission.

The present proposed provision is, of course, merely declaratory in substance. It creates no rights, powers or duties in the legislature, nor does it subtract any therefrom. In this respect, it resembles a number of other provisions already adopted by this convention, which do not endow the legislature with any additional legislative capacity, but nonetheless serve to point the way in which the people of Michigan believe the legislature ought to move.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, speaking for the minority members of the committee on emerging problems,. we see no objection to this particular substitute for the committee proposal, and urge its adoption.

CHAIRMAN A. G. ELLIOTT: The question is now on the adoption of the substitute as offered by the committee. All those in favor will say aye. Opposed?

The substitute is adopted. Are there any further amendments?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: If not, it will pass.

Committee Proposal 127, as substituted, is passed. The secretary will read.

SECRETARY CHASE: Item 4 on the calendar, from the committee on emerging problems, by Mr. Millard, chairman, **Committee Proposal 128,** A proposed section on intergovernmental agreements.

Following is Committee Proposal 128 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. SUBJECT TO PROVISIONS OF GENERAL LAW, THIS STATE OR ANY ONE OR MORE OF THE GOVERNMENTAL UNITS THEREOF MAY ENTER INTO AGREEMENTS, FOR THE PERFORMANCE, FINANCING OR EXECUTION OF RESPECTIVE GOVERNMENTAL FUNCTIONS, WITH ANY ONE OR MORE OF THE OTHER STATES, THE UNITED STATES, THE DOMINION OF CANADA, OR ANY GOVERNMENTAL UNIT THEREOF.

Mr. Millard, chairman of the committee on emerging problems, submits the following reasons in support of Committee Proposal 128:

Within the last 25 years, compacts and working agreements between various governmental units have become an increasingly important part of the American political system. Compacts between the states (which require the consent of congress under the federal constitution) have existed since 1789, but in recent years they have become far more important than formerly. They deal with such matters as flood control, navigation, water conservation, protection of wild life and game, harbor development and regulation, and a great variety of other questions. Interstate compacts may be viewed as at least a partial answer to the inability of the states to deal with certain questions which extend beyond their own borders and which would otherwise have to be delegated to the federal government in Washington.

Compacts between one or more states and the federal government are also growing in significance. Again, they are a successful device for preserving, in part at least, the authority and sovereignty of the states in matters which have national sweep and significance. The whole area of grants in aid falls generally in this category. So, also, does state-federal cooperation in the field of atomic energy under the acts of 1946 and 1954. Likewise, state-federal cooperation in waterway development in the great lakes and St. Lawrence waterway is of the same general kind. In this last instance, cooperation with the government of Canada has been necessary to the successful execution of state and federal functions. With the growth of intimate relations in the field of defense, commerce, navigation, and the like between these 2 great nations, it is very likely that many future problems in these and other areas will require the cooperation of our state and the United States with Canada. Hence the clause specifically recognizing such agreements when the state authorities so decide. Of course, such agreements, under the federal constitution, are subject to the consent of congress by special agreement or general law, a point covered by the phrase "subject to provisions of general law."

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Millard.

MR. MILLARD: Mr. Chairman and members of the committee, this is another one of the problems that was referred to our committee and that is, looking forward in the future for cooperation between governmental agencies. As you know, the new means of transportation and communication have brought areas of land together and also peoples nearer to each other. In my experience, I have found that there is need sometimes for intergovernmental compacts. As attorney general, we were in a compact with some of the states in the great lakes area, and we are close to Canada, a foreign country on our borders. For a greater explanation of this proposal, I will now yield to Delegate King.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate King.

MR. KING: Mr. Chairman and fellow delegates, this particular article, we feel, is extremely important. It proposes to clear the way, subject, of course, to implementation by the legislature, for the intergovernmental relations between various units of our state government and other governments, including one foreign power, the dominion of Canada. I think the reason why we have included Canada, of course, is obvious. We border, separated only by water, that country in several places in our state, both in the upper peninsula and in the lower peninsula. Detroit-Windsor, Port Huron-Sarnia are examples of cities which have mutual problems which invariably have to be worked out. Now, of course, there is a federal constitutional prohibition with regard to the states entering into treaties with foreign countries and anything we say or do here, of course, is subject to the federal constitution, and it's not our intent in any way to suggest that it should be otherwise.

In recent years, new or revised state constitutions, notably those of Missouri, Alaska and Hawaii, have contained specific provisions authorizing intergovernmental relations. Apparently, constitution makers have thought that interstate, federal-state, and inter-local cooperation have reached the point where they would benefit from specific recognition in constitutional text. Since the purpose of such provisions is to enable more flexibility in such cooperative endeavors than might otherwise be encouraged, it is the feeling of your committee that such language should be drawn in the broadest possible terms.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Quite frankly, we have done that. We have provided — subject, of course, to control by the legislature — for a great degree of scope, you might say, in this area of intergovernmental relations. It is the feeling of your committee that if we are to stem the tide of constant federalization, we have to first clear the way at the state level so that problems can be solved at the most appropriate level of government which exists here in the state. By that I mean problems which can be solved by 2 cities or 2 villages or 2 townships, in the opinion of your committee, should be solved there. Other problems, of course, require countywide solution. And still others require statewide solution or solution between 2 or more other states. But certainly we do feel that we should not impose any roadblocks; that such roadblocks as are found necessary as time goes on, in the interest of good state government, should not be imposed here by this constitution. If at all, they should be imposed by our legislature. And so, quite frankly, this is a very broad grant of power to the citizens, to the local units of government and, of course, to the legislature to keep the way clear so that we can solve Michigan problems in Michigan.

CHAIRMAN A. G. ELLIOTT: Mr. Millard.

MR. MILLARD: Mr. Chairman, I now yield to Mr. Jones who will give more details on this.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Jones.

MR. JONES: Mr. Chairman and fellow delegates, since the matter of intergovernmental cooperation is becoming an established fact in many areas of the operation of state government, I would urge the delegates to support this proposal since it does recognize this fact and also recognizes that it will become more common rather than less common.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Mr. Gover.

MR. GOVER: Mr. Chairman, fellow delegates, I just wanted to ask a question of Mr. Jones or Mr. Millard.

CHAIRMAN A. G. ELLIOTT: If either of the gentlemen wish to answer.

MR. GOVER: Part of the explanation on this section — I wondered if they compared it with the local government section, Committee Proposal 88, section b, to see if there was any conflicting language between the 2 proposals. That local government section b, is almost the same except it doesn't let the local units of government enter into a contractual agreement with foreign countries. We thought in that committee — it seemed to be the consensus of opinion there — that it was better for the state to enter into the contractual agreement with a foreign country than it was for the local units of government to do the same. I wondered if you folks had any thoughts or discussions on that in your committee.

CHAIRMAN A. G. ELLIOTT: Mr. Jones.

MR. JONES: Mr. Gover, if you don't mind, I'd like to yield to Mr. King. I think he has more information on this matter.

CHAIRMAN A. G. ELLIOTT: Mr. King.

MR. KING: Mr. Chairman, Mr. Gover, fellow delegates, yes, we did consider Committee Proposal 88 and we do realize that in some areas we are duplicating their efforts. It was the thought of the committee that style and drafting would probably want to combine those parts of the 2 articles which are repetitious and come up with one consolidated article. Quite frankly, we would feel that the problem is of significant importance so that it deserves separate and distinct attention. We do go further than the local government section in that we do provide, as you have pointed out, for cooperation between local units of government, other states and one other country.

CHAIRMAN A. G. ELLIOTT: Mr. Secretary, are there any amendments on the desk?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: If not, the proposal will pass.

Committee Proposal 128 is passed. The secretary will read.

SECRETARY CHASE: From the committee on emerging problems, by Mr. Millard, chairman, **Committee Proposal 129,** A proposal to describe legislative authority over state public lands.

Following is Committee Proposal 129 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following
be included in the constitution:

Sec. a. THE LEGISLATURE SHALL HAVE A GENERAL SUPERVISORY JURISDICTION OVER ALL STATE RECREATIONAL AND FOREST LANDS, SHALL REQUIRE ANNUAL REPORTS ON SUCH LANDS FROM ALL AGENCIES HAVING SUPERVISION OR CONTROL THEREOF, AND SHALL FORMULATE RULES FOR THE SALE, RENTAL, OR OTHER DISPOSITION OF SUCH LANDS. THE LEGISLATURE MAY, BY A RESOLUTION CONCURRED IN BY A 2/3 MAJORITY OF BOTH HOUSES, DECLARE ANY PART OF SUCH LANDS TO BE A "PRIMARY STATE LAND RESERVE"; THEREAFTER NO SUCH PRIMARY STATE LAND RESERVE MAY BE SOLD, LEASED, OR OTHERWISE ALIENATED OR DISPOSED OF EXCEPT UPON THE AUTHORITY OF AN ACT OF THE LEGISLATURE.

Mr. Millard, chairman of the committee on emerging problems, submits the following reasons in support of Committee Proposal 129:

This proposal is intended to emphasize the immense importance of the recreational and forest lands of the state of Michigan and to establish certain policies for the preservation and conservation of these resources for the benefit of all the people of the state.

At the present time, state recreational and forest lands of the state of Michigan amount to some 4,250,000 acres, a piece of land equal to nearly 12 per cent of the entire area of the state of Michigan at large. The federal government, on its part, holds another 2,500,000 acres of land in national forests, an additional 7 per cent of the acreage of the state. A block of recreational and forest lands of this size constitutes, in the large, a public resource of the very first magnitude and one whose preservation and proper utilization in the public interest is imperative to the general health, safety and welfare of the people of the state for generations to come.

At the present time, the control of state recreation and forest lands is lodged for the most part in the state department of conservation, subject only to certain restrictions imposed by the legislature. There is no intent on the part of this committee to imply any criticism of the state department of conservation, which appears to have acted generally in the public interest. However, it has become apparent that it is in the public interest to emphasize the ascendant interest of the people in state recreational and forest lands and to provide some means whereby the legislature may earmark certain lands as a primary state land reserve. Were the present proposal adopted, such a reserve, after being so earmarked by a 2/3 vote of the legislature, could not be sold, leased, or otherwise disposed of except upon the authority of an act of the legislature.

The language of the proposal deliberately avoids any conflict or controversy over the question of the federal right of eminent domain. The federal government, legal research makes clear, possesses to some degree the right of eminent domain over state owned lands. (See, for example, U.S. v. Gettysburg Electric Co., 160 US 668, Adirondacks Railroad Co. v. New York, 176 US 335, and Oklahoma v. Atkinson, 313 US 508.) There also will doubtless be instances in which the legislature of the state of Michigan will willingly pass the necessary enabling legislation for cooperation with the federal government's acquisition of state lands. If the federal government should persist in the acquisition of lands against the wishes of the legislature and other state agencies, there is nothing in the present language which would pose any constitutional or legal roadblock thereto. However, the committee believes that the present proposed language might pose a policy roadblock in such circumstances, in that it might cause federal authorities to think twice before exercising any

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

powers of eminent domain which they might possess in a given instance. The result would at least be to add some assurance that the appropriation of the lands in question was in the public and national interest.

CHAIRMAN A. G. ELLIOTT: Mr. Millard.

MR. MILLARD: Mr. Chairman, members of the committee, your committee on emerging problems took a great deal of interest in this particular proposal. We had several public hearings. We heard several delegates and we received lots of communications. The subcommittee handling this particular problem was chaired by Judge Pugsley, who will now give an analysis of the reasons and what this particular proposal will accomplish.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Judge Pugsley.

MR. PUGSLEY: Mr. Chairman and fellow delegates, at the outset, I would like to call to your attention a map which I think most of you have received — I hope all of you — which has a picture of the lands owned by the state of Michigan and also of those which are under the control and under the ownership of the federal government. I personally was quite impressed and somewhat surprised when our attention was called to the large acreage of land owned by the state of Michigan under the supervision of the department of conservation. And let say here at the outset, that as we ran into this matter, we were very much pleased to receive splendid cooperation from the department of conservation which told us the acreage of state owned land throughout the state.

We also had brought to our attention a proposal which had been introduced by 2 of the delegates of this convention who will no doubt have something to say to you — one of them at least — concerning the interest of the people of the state of Michigan in the land holdings throughout the state. The matter was very carefully considered and reviewed by the research department and I think that I can probably bore you less and inform you better by calling to your attention the printed report which has been given to you, which was prepared in part by the research department. I quote, "This proposal is intended to emphasize the immense importance of the recreational and forest lands of the state of Michigan" — and I may say parenthetically, the entire real estate holdings of the state, and particularly and especially those which relate to recreational and forest lands. These are of sufficient importance, I believe, to the welfare of the state of Michigan to make it worth our while to establish certain policies for the preservation and the conservation of these resources for the benefit of all of the state of Michigan.

We are indebted to the proponents of Delegate Proposal 1344, which many of you, I think, have already reviewed and which will be called to your attention perhaps later.

At the outset, I wish to call particularly to your attention that at the present time the state recreational and forest lands of the state of Michigan amount to some 4,250,000 acres, a piece of land equal to nearly 12 per cent of the entire area of the state of Michigan at large. The federal government on its part holds another 2,500,000 acres of land in national forests, an additional 7 per cent of the acreage of the state. A block of recreational and forest lands of this size constitutes, in the large, a public resource of the very first magnitude and one whose preservation and proper utilization in the public interest is imperative to the general health, safety and welfare of the people of the state of Michigan for generations to come.

At the present time, the control of state recreation and forest lands is lodged for the most part in the state department of conservation, subject only to certain restrictions imposed by the legislature. There is no intent on the part of this committee to imply any criticism of the department of conservation which appears to have acted generally in the public interest. May I add here, also parenthetically, that it is felt by this committee that the interest of the people of the state of Michigan and the volume of land involved is sufficient to justify, if not to demand, some recognition in the constitution which has not heretofore existed.

However, it has become apparent that it is in the public interest to emphasize the ascendant interest of the people of the state in the recreational and forest lands and to provide some means whereby the legislature may earmark certain lands as a primary state land reserve. Were the present proposal adopted, such a reserve, after being so earmarked by a 2/3 vote of the legislature, could not be sold, leased or otherwise disposed of except upon the authority of an act of the legislature. Our attention in this connection was called to the fact that a few years ago the federal government became interested in creating a national park at Isle Royal. And we learned from the conservation department that when this was done, the legislature authorized the taking over of that land by the federal government by a vote of 2/3 of the members of the legislature, so there is some precedent in what has heretofore taken place in this proposal in that regard.

The language of the proposal deliberately avoids any conflict or controversy over the question of the federal right of domain. There also will doubtless be instances in which the legislature of the state of Michigan will willingly pass the necessary enabling legislation for cooperation with the federal government's acquisition of state land. If the federal government should persist in the acquisition of lands against the wishes of the legislature and other state agencies, there is nothing in the present language which would pose any constitutional or legal roadblock thereto. However, the committee believes that the present proposed language might pose a policy roadblock in such circumstances in that it might cause federal authorities to think twice before exercising any powers of eminent domain which they might possess in a given instance. The result would at least be to add some assurance that the appropriation of the land in question was in the public and national interest.

I repeat that this proposal is not offered in any spirit of criticism, either of the acts that have been passed by the legislature or of the work that has been done by the conservation department. But inasmuch as we as delegates to this convention realize that we must look to the future and to the preservation and utilization in the best way possible of the resources of the state, we believe that this acreage of land and the incidental uses connected therewith are sufficient to justify and really to make it quite the proper thing for us to do to recognize this in a proper constitutional amendment. I wish at this time to turn this matter over to one of the delegates and members of our committee who has been very much interested in the matter, Delegate Roscoe Bonisteel.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Bonisteel.

MR. BONISTEEL: Mr. Chairman, I don't know exactly the procedure here, but I understand there is a proposed amendment and I think it might be well that the proposed amendment be submitted at this time before there is any further discussion of the proposal.

CHAIRMAN A. G. ELLIOTT: The secretary will read the amendment.

SECRETARY CHASE: Messrs. Jones and T. S. Brown offer the following amendment to Committee Proposal 129:

1. Amend page 1, after line 16, by adding a new paragraph to read as follows:

"The state forests and recreation lands exist for the benefit of all people and shall be managed so that the people have maximum use of these lands consistent with sound principles of conservation. The legislature and state agencies charged with the management of the aforesaid lands shall plan for expanded utilization of said lands so as to meet the recreational needs of an expanding population.".

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Jones.

MR. JONES: Mr. Chairman, fellow delegates, I feel that this amendment, which is before you on the wall, is a necessary adjunct to this proposal, because I feel that somewhere in this proposal dealing with state lands, especially the forests and recreation areas, we should set forth a broad statement of policy as to how these lands should be managed and for whose benefit these lands should be managed. I also feel, as this amendment points out, we should call the attention of the legislature to the fact that the matter of providing additional recreational area is a pressing need in this time when our population is rapidly increasing. In a world that is beset by problems of technological change, atomic, nuclear warfare possibilities, and also further complexities of modern civilization, our people do need adequate space to get outdoors and to put some of their thoughts at ease. At this time, I should like to yield to a fellow delegate and member of the committee on emerging problems, Mr. Brown. I also would like to request the yeas and nays on this amendment, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: The yeas and nays have been requested. Is the demand supported?

Sufficient number up. The Chair would like to ask the committee to come to order. Delegate Brown.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, actually Committee Proposal 129, in essence, says that the state, as Judge Pugsley indicated, without indicating by implication or otherwise, that the conservation department has been lax in its duties in regard to state lands, Committee Proposal 129 says that the state shall have further control over these lands and shall specify that degree of control, but it does not say for whose benefit. And I think if our proposals all the way down the line in the emerging problems committee are to be consistent in that they are all supposed to direct and exort certain action in the future which is beneficial for all the citizens of the state of Michigan, then we must include the recipient of these benefits and this added control given to the legislature. And that end, I think is met by the adoption of the Jones-Brown amendment. It is in no way in derogation to the committee proposal and I think it is perfecting in the sense in which it is submitted. I therefore move its adoption.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment as offered by Delegates Jones and Brown. Delegate King.

MR. KING: Mr. Chairman and fellow delegates, I would like to direct a question, through the Chair, to Mr. Brown, if I may.

CHAIRMAN A. G. ELLIOTT: If the delegate cares to answer.

MR. KING: Mr. Brown, you indicate that this amendment indicates for whose benefit these state parks and recreation lands exist. Actually, what the amendment says is for all people. I'm not sure whether you're a state's rights man or federalist or internationalist. Would you define for us just whom you include in the term "all people?"

MR. T. S. BROWN: I would say in answer to your question, sir, that, generally speaking, when we speak of people in this constitution, we're speaking of citizens of the state of Michigan. I don't know if I would want to limit it to that because we do have a lot of outside visitors every year which accounts for a lot of income for the state. But I would say, primarily, we are concerned with developing the resources of our state for the benefit of the citizens of our state.

MR. KING: I would certainly agree with that, Mr. Brown. I would suggest that that kind of a perfecting amendment can be made to the committee language. I would certainly support it if that would be your desire. But it seems to me that this language goes quite a bit further off in a different direction.

MR. T. S. BROWN: If there is any question about the actual terminology, I think we can resolve our difficulties very easily. I can't speak for Mr. Jones, but I think that our intention can be expressed in other words. As a matter of fact, this particular amendment could even be expressed as a substitute for the committee proposal. I would not be adverse to any such compromise in this matter if the end could be stated. In other words, what we are driving at is that we should state the recipient of these benefits which the legislature is given this additional control over.

CHAIRMAN A. G. ELLIOTT: Mr. Brown, are you changing the language of your amendment?

MR. T. S. BROWN: We would be willing to if we could have just a few moments here on it. If there is some difficulty — I should like all the members of our committee to be in accord on this, if possible.

CHAIRMAN A. G. ELLIOTT: I will recognize Chairman Millard. Maybe you and Mr. Jones can do something about it while Mr. Millard is speaking.

MR. MILLARD: Mr. Chairman and members of the committee, this amendment was submitted to our committee as a substitute proposal and was not adopted. In fact, there was only one vote for it. Therefore, the committee did not adopt this language and did not adopt it as a substitute. We felt that the proposal, as we submitted it, covered the purposes that the committee was formed for and that this was only surplusage; it was just a statement of principles that were already inherent in the people and, therefore, we did not adopt it. For my own self, I would oppose this amendment.

CHAIRMAN A. G. ELLIOTT: The Chair recognizes Delegate Yeager. Just a minute, Mr. Yeager. Mr. Brown, do you have language that you want the people to speak to rather than the present language?

MR. T. S. BROWN: Yes, sir.

CHAIRMAN ELLIOTT: All right.

MR. T. S. BROWN: I think we can meet both of the objections that have been raised to this at the primary suggestion of Delegate King, and that would be to strike the first sentence of the amendment and in the second sentence insert the word "state" before "population" so that the second sentence would read:

> The legislature and state agencies charged with the management of the aforesaid lands shall plan for expanded utilization of said lands so as to meet the recreational needs of an expanding state population.

And just simply add that additional sentence to the committee report.

CHAIRMAN A. G. ELLIOTT: Mr. Jones, do you support that change? Mr. Jones concurs. The Chair recognizes the amendment as changed. Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, the original purpose of our getting into this area at all, in my judgment — I think most of the members of the committee would bear me out — is that we were interested in the legislative jurisdiction over state lands which happen to be defined as state recreational and forest lands in the proposal. I don't know of any other kind of lands except the state lands which state buildings are on, which we wanted to specifically exclude.

As I recall what we did in committee, we were interested in the rule, sale, rental and disposition of said lands. Now, I don't see anything wrong with this particular amendment except that it changes the entire original idea of what the committee was attempting to do with this proposal in the first place. As I said, the amendment that has been introduced here — there's certainly nothing wrong with it but it is completely different in idea from what we originally intended. I don't think the committee intended to get into the area of recreation and, as I say, while the amendment really does nothing to the committee proposal, it certainly is not germane to the proposal. I would therefore oppose the amendment as it's been offered.

CHAIRMAN A. G. ELLIOTT: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, I have 2 suggestions. Again, for the sake of the record, I want to refer to this map that has been furnished to us. On its face, it's very misleading. To my personal knowledge, the picture presented of Alcona county belonging, apparently, ¾ or more to the state of Michigan, is grossly in error. At least half of that area is privately owned and a good part of that is used for agricultural purposes. This map, so far as that area is concerned, shows the outer boundaries of the state or federal lands, but certainly, the impression should not be left that all the lands included within those lines are federally or state owned.

I, like Mr. Yeager and Mr. Millard, do not think any useful purpose would be served by adding to the original proposal any part of this proposed amendment that would raise serious doubts as to the right of the legislature to sell any of these lands. It practically directs the legislature to preserve all of them for recreational purposes and while I recognize the need for looking to the future for recreational purposes, some of these lands certainly could be salable and usable for other purposes. And for fear that the addition of this language would be used to raise doubts as to the authority of the legislature in that respect, I shall have to vote no.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment as now offered by Delegates Jones and Brown. The yeas and nays have been demanded. Mr. Brown.

MR. T. S. BROWN: Because of Judge Dehnke's remarks, I feel we must now get into the nub of the matter which, I think, in essence, is — and I think Mr. Jones will agree with me — that we are concerned in this area of conservation with conserving the natural resources for the benefit of all of the people. Now, I realize this is a broad statement, but we say that in juxtaposition to the philosophy which argues for private entrepreneurs taking certain state leasehold interests and certain rights in state lands and federal lands, to some extent depleting the natural resources without the people of the state of Michigan getting the benefit therefrom, and leaving the land in a lesser condition than that in which they found it. Now, this, I think, is the primary thing that I am concerned with.

I recognize, and I think our fellow delegates from the upper peninsula, regardless of party affiliation, will recognize the fact that a large part of the problem in the upper peninsula today is due to the fact that in the absence of regulation, certain private interests in the last century despoiled the land, left it vacant and barren and created many, many problems which we are still today unable to solve and rectify. And I think that the primary responsibility in regard to conservation is to conserve. It is not necessarily to place the matter of sale or disposition in the hands of the legislature as opposed to the department of conservation but it is mainly to conserve. Otherwise, you are not conserving for anyone except special interest groups. And I suggest that the term "conservation" is referrable only to the people and not to private interests.

CHAIRMAN A. G. ELLIOTT: The question is on the amendment, as revised. The yeas and nays have been demanded. The secretary will read.

SECRETARY CHASE: The amendment now reads as follows:

1. Amend page 1, after line 16, by adding a new paragraph to read as follows:

"The legislature and state agencies charged with the management of the aforesaid lands shall plan for expanded utilization of said lands so as to meet the recreational needs of an expanding state population.".

CHAIRMAN A. G. ELLIOTT: All those in favor will vote aye. Those opposed will vote no. The vote is called for. Have all those who care to, voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—40

Austin
Balcer
Barthwell
Bentley
Binkowski
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Heideman
Hood
Jones
Judd, Mrs.
Kelsey
Liberato
Madar
Mahinske
Marshall
McCauley
Norris
Perlich
Pugsley
Rajkovich
Romney
Sablich
Snyder
Suzore
Walker
Wilkowski
Young
Youngblood

Nays—66

Allen
Andrus, Miss
Batchelor
Beaman
Blandford
Bledsoe
Bonisteel
Boothby
Brake
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Durst
Erickson
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Gust
Hannah, J. A.
Haskill
Hatch
Howes
Hoxie
Hubbs
Karn
King
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Perras
Plank
Prettie
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Staiger
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Jones and T. S. Brown, the years are 40; the nays are 66.

CHAIRMAN A. G. ELLIOTT: The amendment is not adopted. Are there any further amendments?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: If there are none, it will pass.

Committee Proposal 129 is passed. We now will take up an exclusion report. Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, those exclusion reports are taxation reports. I would suggest we defer those until this evening.

MR. MILLARD: Mr. Chairman.

CHAIRMAN A. G. ELLIOTT: Mr. Millard.

MR. MILLARD: I move the committee rise.

CHAIRMAN A. G. ELLIOTT: Mr. Millard has put the question that the committee rise. All those in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, Vice President Romney resumed the Chair.]

VICE PRESIDENT ROMNEY: Delegate Elliott.

MR. A. G. ELLIOTT: Mr. President, the committee of the whole has had under consideration certain matters on the general orders calendar of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 127,** A proposal for a section on atomic energy; has adopted a substitute therefor and recommends that the proposal as substituted do pass.

For substitute as adopted by the committee of the whole, see below.

VICE PRESIDENT ROMNEY: **Committee Proposal 127,** as substituted, is referred to the committee on style and drafting.

Following is Committee Proposal 127 as substituted and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. The legislature may provide for the safety and regulation of atomic energy and such other sources of energy as may be developed in the future for the general welfare of the people of the state.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 128,** A proposed section on intergovernmental agreements; and **Committee Proposal 129,** A proposal to describe legislative authority over state public lands; reports that it has considered these 2 proposals, has adopted no amendments thereto and recommends their passage.

VICE PRESIDENT ROMNEY: **Committee Proposal 128** and **Committee Proposal 129** are referred to the committee on style and drafting.

For Committee Proposal 128 as referred to the committee on style and drafting, see above, page 2824.

For Committee Proposal 129 as referred to the committee on style and drafting, see above, page 2825.

SECRETARY CHASE: This completes the report of the committee of the whole, Mr. President.

VICE PRESIDENT ROMNEY: If the delegates will give the secretary their attention, the secretary has a statement to make that would simplify our procedure some. Mr. Chase.

SECRETARY CHASE: Several times this afternoon and on other occasions, delegates have risen and requested the right to explain their vote in writing. The secretary would like to call to your attention the last sentence of rule 65, which provides:

> Any delegate is privileged to explain in writing his vote on record roll call votes. The written explanation shall be included in the journal if presented to the secretary before the next session of the convention.

So all the delegate needs to do is present his reasons in writing to the secretary without asking leave for it.

I have the following announcement: the committee on administration will meet at 11:30 tomorrow.

We have this announcement: Delegate Wynne Garvin's mother passed away this morning. A flower collection of 25 cents each, for those delegates wishing to do so, is being taken in the vice presidents' office.

Mr. Kelsey wishes to know if there are any early morning golfers who are interested in a 6:00 a.m. game; please contact him.

The committee on legislative powers will meet in room H tomorrow at 8:00 a.m. T. Jefferson Hoxie, chairman.

There will be a meeting of the full committee on judicial branch Thursday immediately following the morning session in room B. Robert J. Danhof, chairman.

We have the following requests for leave: Mr. Wood asks to be excused from the latter part of Thursday's session; and Mr. Bentley asks to be excused from the sessions of Thursday afternoon and evening.

VICE PRESIDENT ROMNEY: Without objection, it is so ordered. Delegate Brake.

MR. BRAKE: Mr. President, I move we recess until 8:00 o'clock.

VICE PRESIDENT ROMNEY: Those in favor say aye. Opposed?

The motion prevails; we will recess until 8:00 o'clock tonight.

[Whereupon, at 6:05 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

During the recess, Mr. William Hanna filed a request to be excused from this evening's session.

VICE PRESIDENT ROMNEY: Without objection, it is so ordered. Delegate Yeager.

MR. YEAGER: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering 2 final items on the order of **general orders.**

VICE PRESIDENT ROMNEY: Those in favor will say aye. Opposed?

The motion prevails. Delegate Yeager will preside.

[Whereupon, Mr. Yeager assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN YEAGER: The committee will be in order. The first item of business is an exclusion report. The secretary will read.

SECRETARY CHASE: From the committee on education, by Mr. Bentley, chairman, **Exclusion Report 2005**, A report recommending the exclusion of section 11 and section 12 of article XI.

Following is Exclusion Report 2005 as read by the secretary, and the reasons submitted in support thereof:

The committee on education recommends that article XI, section 11 and section 12, of the present constitution be excluded from the new constitution.

Mr. Bentley, chairman of the committee on education, submits the following reasons in support of Exclusion Report 2005:

The committee on education recommends that jurisdiction over section 11 and section 12 of article XI be transferred to the substantive committee on finance and taxation. The committee feels that whether or not revenue deriving from these sections shall continue to flow into the primary school interest fund depends upon the action the committee on finance and taxation takes in regard to the primary school interest fund as related in section 1 of article X.

The committee on education sees no need to continue these sections in this article on education.

On December 21, this exclusion report was introduced by the committee on education. It was then referred to the committee on finance and taxation. In Journal 124 for April 18, at the bottom of page 1020, you will find a report from the chairman of the committee on finance and taxation, Mr. Brake, reporting back this Exclusion Report 2005, with the following statement:

> The committee on finance and taxation concurs with the committee on education recommending the exclusion of section 11 and section 12 of article XI to the new constitution. D. Hale Brake, chairman.

CHAIRMAN YEAGER: Are there any amendments to the exclusion report? Hearing none, it will pass.

Exclusion Report 2005 is passed. We are now at the position of the question on miscellaneous provisions and schedules' Committee Proposal 67. The secretary will give us a report on the previous action.

For last previous action by the committee of the whole on Committee Proposal 67, see above, page 2598.

SECRETARY CHASE: **Committee Proposal 67** was considered in committee of the whole on April 18. The committee amendments recommended by the committee on miscellaneous provisions and schedule were adopted. Then an amendment by Messrs. Stafseth, Danhof, Allen, McCauley, Leppien, Seyferth, Karn, Staiger and Binkowski was adopted which reads as follows:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the section and all of section b and inserting "In the exercise of the power of eminent domain, private property shall not be taken by the public nor by any corporation for public use or purpose without the necessity being first determined and just compensation therefor being first paid or secured in such manner as shall be prescribed by law. The just compensation to be paid shall be ascertained by a jury of 12 freeholders as in other civil cases in a court of record or by not less than 3 commissioners appointed by a court of record as prescribed by law.".

This was adopted on a division vote of yeas, 61; nays, 56.

CHAIRMAN YEAGER: The Chair would ask Mr. Erickson if he wishes to make a statement.

MR. ERICKSON: It might be well to just make a short statement now. This subject of eminent domain — it might be well to think of it in terms of condemnation, because that's really what it is. I just want to mention that this was handled by a subcommittee of 5 in the committee on miscellaneous provisions and schedule. Four of these committee members were from Detroit and one from Ypsilanti. Four were attorneys and one layman. And before appointment to this committee, I talked to each of these people and they assured me that they could look at this problem objectively. We also had concurrent jurisdiction with the committee on local government, and I feel that this committee was looking after the interests of the small land owners up north perhaps better than they might have looked after it themselves. Much of the work done by the legislature is done to correct abuses. This committee felt there had been abuses in condemnation proceedings and it proceeded to attempt to correct these abuses. This committee consisted of Paul Mahinske as chairman and Ann Donnelly as vice chairman, Harold Bledsoe, Morris Hood and J. Don Lawrence. At this time, I'd like to yield to Delegate Mahinske.

CHAIRMAN YEAGER: Mr. Erickson yields to Mr. Mahinske.

MR. MAHINSKE: I'd like to make just a few remarks as to where we stand in view of the action we took the last time we were on this in committee of the whole, which was a week ago this evening. As it stands now, the Stafseth amendment has been adopted by a 61 to 56 vote. This amendment would replace our sections a and b. Our sections a and b lay down certain basic rights which we feel are important and necessary to property owners who find themselves involved in involuntary proceedings at law. As it stands today, this proceeding is not a judicial proceeding; it's an inquisitorial proceeding. They find themselves in front of a jury without a judge. The judge acts in an advisory capacity. The jury is not bound to follow his instructions. In fact, the attorney from one side or the other could inform the jury to disregard the instructions of the judge in these matters, seeing as he is only in an advisory capacity and the jury is the trier of the facts and the law.

CHAIRMAN YEAGER: The committee will be in order, please.

MR. MAHINSKE: The adoption of the Stafseth amendment has replaced all of the guarantees that we set forth and the rules to be applied as far as damages —

MR. DANHOF: Point of order, Mr. Chairman. To what is the speaker speaking? What is before the house? To my knowledge, we are on section c of Committee Proposal 67.

CHAIRMAN YEAGER: The point is well taken, Mr. Danhof.

MR. MAHINSKE: I'll give Mr. Danhof the answer he's looking for. At this time, I move to reconsider the vote by which we adopted the Stafseth amendment to Committee Proposal 67.

For vote on amendment, see above, page 2602.

The said amendment would replace sections a and b and leave us in the position where we would carry on in section c, which would bring up no big problems, but sections d, e and f would necessitate some adjustments in view of the amendment adopted. Because of the apparent lack of interest at the time and some confusion within the minds of the various delegates who voted; and in view of the fact that there were delegates here who didn't vote because they felt they were not sufficiently informed on one side or the other and have since indicated that they do feel they could intelligently vote now, I move that we reconsider the vote taken a week ago this evening.

CHAIRMAN YEAGER: The question is on the motion by Mr. Mahinske to reconsider the action by which the Stafseth amendment was adopted. As many as are in favor — do you wish recognition, Mr. Stafseth?

MR. STAFSETH: Yes, Mr. Chairman. Isn't a move to reconsider debatable?

CHAIRMAN YEAGER: Yes, it is.

MR. STAFSETH: Well, I'd like to speak.

CHAIRMAN YEAGER: You may proceed.

MR. STAFSETH: There are several things I think that should be brought back to mind before we reconsider. We debated this thing for about 3 hours the other day and we went through it very extensively.

One, Mr. Mahinske, when he was explaining the amendment as it was adopted, said that in eminent domain, which I am sure he is referring to, the existing constitution does not provide for a judge to preside over the hearing. In the amendment that was adopted — and if you will look on page 1021 of the journal, at the bottom of the second column, you have before you the material that was actually adopted — we made this provision to allow for a regular trial, just like you'd have in any other court case. We provided, on the top of page 1022 — I'm reading the first complete sentence: "The just compensation to be paid shall be ascertained by a jury of 12 freeholders as in other civil cases in a court of record. . . ." Now, this provides, just like in other civil cases: certainly, it couldn't be construed that a judge wouldn't preside over it as to the admissibility of evidence.

Now, the other problem — and I raise some serious doubts about it — on the day that we had this proposal, one of the things that the committee was most concerned about was the practice of some of the road agencies of taking property before just compensation was determined. In our amendment, we make that provision. Now I'll read the first sentence. It says:

> In the exercise of the power of eminent domain, private property shall not be taken by the public nor by any corporation for public use or purpose without the necessity being first determined and just compensation therefor being first paid or secured in such manner as shall be prescribed by law.

I can't see how you can read any impression other than that you have to have your just compensation hearing. You have to make the determination of how much.

The reason that I say I have some doubts, I know that probably, in the past, due to the accelerated highway program — and I think in a lot of cases this was a case of trying to get the job done — the highway department has taken property after the hearing of necessity in which they could, within 10 days, I believe, take the property. And there was an objection that when they had the hearing for compensation, the property wasn't in the same state that it was before they took it. Now, this was put in the constitution — I don't know if it was put in originally or when it was put in, but it was put in for a very specific purpose, and that was so that if a highway was going down the road, you couldn't have stopped a project like Michigan avenue out here between East Lansing and Lansing back in about 1929, when that big red brick house out there sat in the middle of the eastbound lane for about a year. So it does allow the agency to proceed with their project.

Now, the reason I say I have some reservations about it, we're predicating a lot of our thinking on eminent domain on the experience we've had in the last few years instead of doing the thing that we were asked to do, of projecting our thinking for the next 25, 30 or 50 years. I now pose this problem: let's suppose that in this atomic age there is a necessity for safety; that the president of the United States asks the governor of each state, through a federal aid program, or some other program, to build shelter houses for the protection of the people. It may be that in this process, rather than exciting the people, the legislature and the governor, in their wisdom, would like to be able to go ahead and take this property much as the highway department is taking property now and not have to wait until they go through hearings or have the experience that it may be appealed and you can't make a just compensation at a reasonable time. Now, this might not be a very good example, but I think that this is a possibility in the future.

Now, as a matter of fact, there are 11 states that we know of and the United States government which have very short provisions on eminent domain. For example, the constitution of the United States has a provision — it's the last clause in amendment V, and this is the only constitutional provision that is in the United States constitution. It refers to the United States and the clause states, "nor shall private property be taken for public use without just compensation," and that is all. The congress has to implement it. And I raise this question because I am just wondering if we aren't cutting ourselves off a little bit short.

However, in presenting this amendment, as I stated before, we heard all of the people that were interested in eminent domain. We heard the people in the renewal project in the city of Detroit, the municipal league people representing all the cities in the state, the attorneys that represent schools, the attorneys that represent public utilities; we heard the attorney general's office which represents the highway department, and we heard attorneys representing county road commissioners. And in preparing the amendment that you passed and is now to be reconsidered, they compromised the present constitution with the committee's position, and they put in these 2 features, the 2 that I mentioned at the beginning: 1, that in the case of 12 freeholders, it should be tried as other civil cases; and 2, that just compensation shall be paid or secured by law before the property can be taken.

Now, we had intended that after this was adopted, that Garry Brown — and I went on the amendment with him — would put in an amendment that would specify that in the case of a condemnation proceeding where the governing agent had gone ahead and had the hearing of necessity, had gone into the compensation hearing, that after the compensation and the compensation hearing had been certified, if they wanted to appeal this hearing to a higher court or go ahead and appeal the thing, this wouldn't stop the agency from going ahead. So this amendment is in the offing if this amendment that we voted on last Wednesday stands.

The only other problem we had was relative to some of the words — relative to "damage," "equitable" — which is new wordage in the constitution; and it alarmed us to the point that we thought that it might give the implication that this constitutional convention felt that, in the wisdom of our courts, which have adequately determined what just compensation is, we intended that there should be more. We have reviewed a lot of these cases. I have one case in particular which is one of the classical cases, the Dake Engine case, which is the company that was right next to our property in Grand Haven, and I submit to you — I'll just give you the dollars in this case — that in this case, the Michigan state highway department had 2 appraisals of the property, one of $140,000, one of $160,000. They made no provisions for the company moving the equipment out. They made no provisions or didn't attempt to estimate the loss of business. Now, in the course of the case, the defendant in this case, which was the Dake Engine company, or Dake Foundry company, ascertained that it would take $177,657 to move out. This is moving out; this is not taking into consideration any interruption of business. They maintained the property that was being damaged and taken was worth $248,000. This was 40 per cent of the property. I, as the engineer of the Ottawa county road commission, negotiated for 60 per cent, or the balance of the property, and purchased it for $70,000.

With the experience in this case, I can say without reservation that the interpretation of just compensation, as is provided in our amendment which was passed, certainly has been interpreted by the courts in Michigan to leave a person whole. And I repeat that the interpretation of the supreme court is that when you take a man's property, you must leave him whole. You take the man before you take the property, you take out the parcel, you figure out how much money it takes to leave him whole. Mr. Chairman, I wanted to review all this because we've had an intermission of almost a week and I wanted to make sure that we were caught up before we voted on this reconsideration.

CHAIRMAN YEAGER: The question is on the motion to reconsider the action taken last week on the Stafseth amendment. The Chair will recognize Mr. Allen.

MR. ALLEN: Mr. Chairman and fellow delegates, I think it would be well, in considering how to vote on the question of reconsideration, to think first of what was done; because I think only if we understand what was done and how it changes the existing law can we properly vote on the motion to reconsider.

I would like to point out first of all that the amendment that was adopted is not just the amendment proposed by one delegate, by Mr. Stafseth. It was proposed here by a whole group of delegates representing very diverse interests: Messrs. Stafseth, Danhof, Allen, McCauley, Leppien, Seyferth, Karn, Staiger and Binkowski. I would also like to have the convention fully understand that the language in the proposed amendment which was adopted is language for which this group of sponsors can claim no particular credit in the form of original writing. What we actually did here was take the recommendations of the Michigan bar association committee on condemnation which had been studying this subject for a long time. Their recommendations are printed in the Michigan Bar Journal. Now, there are a couple of small variations on what they recommended. But the language here is almost verbatim the language of the committee of 22 of the lawyers throughout Michigan, who suggested certain changes in the existing condemnation section of the 1908 constitution. And the language which you adopted last Thursday night is practically the same language, the same ideas — with one exception, which I will point out — as recommended by this committee.

Now, what did you do, or what did we do, a week ago Thursday night? We changed the existing law in more ways than Mr. Mahinske is indicating to you. The first thing that we did was take the recommendation of the Michigan bar association, which was to change the nature of the existing condemnation jury. One of the problems of our present jury on condemnation is that it's really not a jury, and yet it is. In a way, it's an autonomous group. It's something like delegates to the constitutional convention. It's the judge of not only the facts, but it's the judge of the law. And this has led to some inequities in the present condemnation procedure. And the bar association recommended that this be made a real jury and the language in our amendment, which was adopted, was to make this a real jury. The important change that is effected is that the jury is no longer to be the judge of the law and would be subject to instructions from the court. The necessary effect of this also would be that a court in a condemnation proceeding would have the usual function, duty and responsibility of presiding, of passing on rules of evidence and otherwise instructing the jury on questions of law. Now, we didn't spell that all out. But when we make this a jury as a jury in a civil case — and this is the language we use — we necessarily carry with it the responsibility of the judge. I think that we did a good thing here in making this a real jury, and this is the recommendation of the bar association; this is what was passed last Thursday night.

Now, we made another change. We made a change in the unique provision in Michigan law, and Michigan law is very unique on this. Michigan law says that when a man's property is taken, not only does the jury or the 3 man commission decide what money should be paid as just compensation, but it also provides that this jury, in cases other than highway cases, is to determine the question of necessity. Here again, the Michigan bar association recommended that the question of necessity not be, in so many words, in the constitution, reserved only to the jury which makes the determination of the money to be paid. They felt that it would be better not to fix, in the constitution, the body or institution that determines the necessity; but instead, to leave the matter to the discretion of the legislature, with the likely result that the determination of necessity would be made in the first instance by the condemning body, subject to such review as may be permitted by a court or as the legislature may decide. Now, the legislature might decide that the jury that sets the damages would still do it as they do today. It might decide that the circuit court, in an independent hearing, would do it. It might decide, as in some other states, that the condemning body alone makes the determination. But the important thing is that this is no longer frozen in the constitution but is made a matter for determination by the legislature. Now in utility cases it's different than with municipal bodies. There may be more need in utility cases to have one set of rules because a private utility, like Mr. Karn's utility, doesn't hold public hearings like a county or a township or a city. And this will permit the variation which is needed.

Now, a third change which we made in our amendment — and which was not recommended by the bar association — is that before the property is taken, the payment must be made or secured in court. As you know, this is the rule that cities have had to live by. Our amendment continues this. The highway commission has been able, though, to take now and pay later. In some cases, this may have caused some injustice. In the amendment which we adopted Thursday night, we provide that the highway commission, in effect, may no longer do this. The property must be paid for or secured, or payment secured in court. This is a protection to the property owner even the Michigan bar association committee did not feel was necessary, but it is in the amenndment which was adopted.

Now, in summary, I would like to say this: I don't feel we should reverse what we did the other night. What we did the other night is not something that was drawn up by just one delegate, but by a number of delegates. It wasn't drawn up out of the blue by a number of delegates. It's the recommendation, almost the same recommendation, of the Michigan bar association committee on condemnation. It also incorporated work of the Michigan municipal league and a whole set of city attorneys who worked on this. The county road commissions also worked on this, and Mr. Binkowski knows that the highway commission worked on it. A lot of groups are represented here. The public is protected. The recommendations are not novel but well thought out. I don't feel that we should now undo all of this work, which doesn't come lightly sponsored but comes with a whole history of recommendations, and turn it over. I think we should vote no on the motion to reconsider.

CHAIRMAN YEAGER: I know it has been a long day, but the Chair would ask the committee to keep some order, please. The question is on the motion to reconsider. The Chair will recognize Mr. McCauley.

MR. McCAULEY: Mr. Chairman, members of the committee, I wish to rise briefly to support the Stafseth amendment and urge the delegates here present to vote no on the motion to reconsider offered by Delegate Mahinske. We're talking about more than just the highway department. We're talking about the life blood of the traffic systems and the highway systems in the state of Michigan which involve the various counties you all come from. I feel that if the motion to reconsider that is before us now prevails, it's going to be a stumbling block that we're not going to be able to overcome for many years to come; and especially it's going to be the public, the people of the state of Michigan, that are going to suffer. So I urge you to vote no on the motion to reconsider.

CHAIRMAN YEAGER: The Chair will recognize Mr. Martin.

MR. MARTIN: A point of information, Mr. Chairman, I'd like to ask Mr. Allen a question, if I might.

CHAIRMAN YEAGER: Proceed, Mr. Martin.

MR. MARTIN: Mr. Allen, I am sorry that I wasn't here the other night when this was debated and so this may have been already answered. But who decides whether the matter is to be brought before a jury of 12 freeholders or before 3 commissioners appointed by the court? Who makes the decision?

MR. ALLEN: I'd like to refer you to Mr. Stafseth on this point.

CHAIRMAN YEAGER: Mr. Allen yields to Mr. Stafseth.

MR. STAFSETH: Mr. Martin, would you repeat it. I was talking —

MR. MARTIN: The question is: who decides whether the condemnation matter is to be tried by a jury of 12 in a circuit court proceeding or by 3 commissioners appointed by the court?

MR. STAFSETH: Well, in our constitutional provision, we don't make any provision for it. The legislature could prescribe that.

MR. MARTIN: In other words, the legislature could determine whether the condemnation proceedings with respect to any particular agency or public utility would be by one procedure or by the other?

MR. STAFSETH: They could, sure. They could do that. They do it now with the utilities. They require 3 commissioners.

MR. MARTIN: I know they do, but the question arises because of the great diversity of condemnation proceedings which there are now to follow. You have to do one thing in one situation and another thing in another. I am wondering whether this brings any uniformity into the picture or whether it leaves it just as bad as it always has been in that respect.

MR. STAFSETH: Actually, the answer to your question — through the Chair, Mr. Chairman — actually in answer to your question, the problem is that the condemnation sections of the statutes probably should be codified. They should be brought together. I don't know how you could do it in the constitution. Actually, in this amendment we just tried to take the simple elements in true constitutional language, taking into account the things that the committee was most concerned about and including them in the constitutional provision. But as to whether they use the commissioners or the jury, the legislature could determine this. It may be the way the statutes are now — I don't know — it would be up to the legislature.

MR. MARTIN: Thank you.

MR. BINKOWSKI: Mr. Martin, in answer to your question, the legislature does prescribe the method and I think —

CHAIRMAN YEAGER: Mr. Binkowski, have you been recognized, sir?

MR. BINKOWSKI: No, Mr. Chairman, I haven't. May I please be recognized?

CHAIRMAN YEAGER: If Mr. Martin wishes to yield.

MR. MARTIN: I yield to him, Mr. Chairman.

CHAIRMAN YEAGER: Mr. Binkowski is recognized to answer the question.

MR. BINKOWSKI: Mr. Martin, in further response to your question, the answer is that the legislature presently prescribes procedures; and I think this is one of Mr. Mahinske's objections, that there are various procedures for various condemning authorities. There is no uniformity and I just wonder about the advisability of attempting — this is the first question — if we could prescribe a very uniform method in the constitution of this procedure, and it's up to the legislature to prescribe the method, which they have done. Of course, in some cases they use the 12 freeholders and, of course, in the case of the highway department they use the 3 commissioners in most cases, because, I think, it's quicker, but of course, it's up to the discretion of the circuit court judge.

MR. MARTIN: Thank you, Mr. Chairman.

CHAIRMAN YEAGER: The Chair will recognize Mr. Lawrence. The question is still on the motion for reconsideration.

MR. LAWRENCE: Mr. Chairman, members of the committee, I would like to mention 2 or 3 things that have become apparent during the course of the argument tonight and the other night —

CHAIRMAN YEAGER: The committee will be in order, please. Pardon me, Mr. Lawrence. Proceed.

MR. LAWRENCE: Thank you. Number one, everybody, without exception, regardless of whether it's the committee — that is, your committee — or the proponents of this amendment, admits that the present law, the law as it has grown up in the past, is wrong and has worked inequities on the property owners. I think it's our duty to correct that. The second thing is this: every person who has spoken in favor of the amendment and against the committee proposal has, as I pointed out the other night, either presently or in the past, represented some governmental authority, some condemning authority.

Now, take this committee, the subcommittee that prepared the committee proposal that was reported out. That subcommittee was composed of your delegates. These people were looking after the public. These delegates were looking after the people on whom these inequities had been worked. And we are now in the situation of having adopted an amendment that the proponents admit — now, mind you, admit — was prepared by the condemning authorities. Now, that's just like asking somebody who has knocked you down to make things right. It just doesn't happen that way. Remember this: the committee proposal was designed by an impartial group of delegates to this convention to do away with the inequities, to try to protect the private citizens whose property is being forcibly taken from having it taken away from them and these evils worked on them.

Now, not one single thing has been pointed out against the committee proposal that really should carry any weight with you. What are those things? Well, Mr. Stafseth gave as an example, bomb shelters. Well, let me tell you this: in the last world war, the United States didn't ask the governor of the state of Michigan or any other governor to step in and pull its chestnuts out of the fire. It went in when it was necessary and it took the property and it produced equity. Don't forget that. When the United States moves, it moves under an emergency, but it takes care of its people. Actually, all that has been said against the committee proposal is the fact that it may produce delay. It may produce some delay. And apparently it is some great evil when the property of people is being taken away from them, when their homes and their life's savings are being destroyed and taken away from them unwillingly, apparently there is some great evil in saying: now, wait a minute. Let's be sure that justice is done. This so called amendment does not provide for a court trial. You can read it. It's on pages 1021 and 1022. Show me where it provides for a court trial. It provides for a commission of 3 people; and you heard the other night about how wonderful it is to have a commission of 3 men. Well, let me tell you, I've tried them for years before both, and I'll take my chances with a jury any day instead of 3 people selected by a court perhaps on the recommendation — you never know — of the condemning authority.

What we're trying to do here is provide for means of condemnation that will give justice and equity, that will leave people whole instead of leaving them as they have been left in the past. If you leave it to the legislature — that has been done in the past, and what happens? Some 20 statutes were enacted that were supposed to cover this situation, and then the condemning authority can sit back and if it can find a statute or more than one statute to come under, it takes the one that favors it the most, with no thought of the property owner, no thought of the rights of the individual whose property is being taken.

Let me tell you something else. Mr. Stafseth said — and I maintain he's right — that a private citizen should be left whole, but they aren't left whole. Mr. Allen admits that inequities have been created. They objected to our words "or damages," but actually those people just can't come in and say I've been damaged and have the jury award a certain amount. Anyone who has had any experience in court knows that. You have to be able to prove your damages. And if you would study the committee proposal — the one that was prepared by the members of this convention, and not by the executors, so to speak, the firing squad that says: now that this is up and now that this has been prepared, we'll be good, we'll give you what you should have — if you'll look at what your committee proposed and reconsider it, you'll find that the state will be protected, the cities will be protected, the condemning authorities will be protected and the private citizens will be protected.

CHAIRMAN YEAGER: The Chair would ask Mr. Binkowski if he wishes to be recognized in his turn. The Chair will recognize Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman, I had a question that I'd like to ask, I guess, of Mr. Allen and Mr. Mahinske.

CHAIRMAN YEAGER: Which one would you care to ask?

MRS. CUSHMAN: As a matter of fact, I'd like both their reactions to it.

CHAIRMAN YEAGER: We'll take Mr. Allen first, if he cares to answer.

MRS. CUSHMAN: The original committee proposal stated in there that all parties shall have a right of appeal and then it goes on to say the jury may be waived on stipulation of all parties. Now, I don't see that your amendment is different. Would you explain what these differences are and what kind of appeal people have under your amendment?

CHAIRMAN YEAGER: Mr. Allen.

MR. ALLEN: I would say, Mrs. Cushman, there would be the same right of appeal that exists today, and these cases may be appealed. The case that Mr. Stafseth referred to, the Grand Haven case, is a supreme court decision, so you have the same right of appeal as is allowed under all of our court rules. And I know aggrieved parties do appeal. I know down in Kalamazoo, I-94 was just hung high and dry, halfway across South Westnedge avenue because the appeal took so long. In fact, there were 2 appeals. The answer to your first question would be, under our provision there would be the same rights of appeal as are now permitted by law. And as far as I know, there hasn't been any criticism of an absence of the right of appeal.

MRS. CUSHMAN: The second one concerns this question about the jury.

MR. ALLEN: You can always waive a jury. That could be done. In other words, we didn't want to clutter up the constitution with language that is implied. When we say it shall be a jury as in other civil cases, this means a judge will preside and the jury will determine the facts but not the law. This was in the committee proposal. It's implied in ours but we didn't feel we needed to spell it out because it's there necessarily when we say "a jury," for example, "as in other civil cases in a court of record."

MRS. CUSHMAN: Thank you.

CHAIRMAN YEAGER: Did you wish to ask some questions of Mr. Mahinske?

MRS. CUSHMAN: I'd like to ask the same questions of him.

CHAIRMAN YEAGER: Would you restate the question, please.

MRS. CUSHMAN: Yes. The committee proposal states all parties shall have the right of appeal. Then it goes on to say the jury may be waived by stipulation of all parties, and I would like Mr. Mahinske's reaction as to whether there is any difference between the proposal and the amendment in these 2 regards.

CHAIRMAN YEAGER: Mr. Mahinske.

MR. MAHINSKE: I think there is this basic difference between the 2. Under the Stafseth amendment as adopted, we are using practically the same language that we have in the constitution today, which has been interpreted by the courts to mean that you shall have a jury, no more, no less. Now, this does not mean that you have a judge. And under the Stafseth amendment, it doesn't necessarily mean that you will have a judge presiding. The supreme court may well interpret this to say that you'll have a jury as in other civil cases in a court of record, but no judge. I think there was an implication under the existing language that you should have a judge, but the supreme court says no.

Now, if this be the case, then it would be impossible for you to waive a jury because then you would have no forum to appear in front of. If you waive your jury and you don't have a judge, you have nobody to appear in front of. And as to the right of appeal, I don't think that this is implied in any case. For instance, the public utilities for overhead condemnation right of way cases use commissioners and they fall within the probate provision, which is relied on by the steam railroad act. Now, that act specifically says that you shall have the right of appeal as in other probate matters. This has been interpreted by the supreme court to mean that there are no hard and fast, set rules of appeal in probate matters. Therefore, you don't have a right of appeal even though they say you do, unless you spell out the procedures of your right of appeal under that act.

If the proponents of the Stafseth amendment want people to have a right of appeal, then I think they shouldn't object to writing it in and saying exactly what they want. When I'm talking about people, I'm talking about both the condemning authority and the property owner here, because there are cases where I feel the condemning authority may be getting gouged and they should have the right of appeal like any other party in court. Now, if it is their intent that all parties should have the right of appeal when they have grounds for appeal in these matters, then let's spell it out rather than leave it in here by implication for the legislature to decide from time to time.

CHAIRMAN YEAGER: Mrs. Cushman, do you have any further questions of Mr. Mahinske?

MRS. CUSHMAN: No. But I would sort of like to ask Mr. Allen a further question.

CHAIRMAN YEAGER: Proceed.

MR. G. E. BROWN: Mr. Chairman, parliamentary inquiry.

CHAIRMAN YEAGER: Mr. Brown.

MR. G. E. BROWN: Mr. Chairman, although a motion to reconsider is debatable, it has always been my understanding that the debate is limited to the question of whether or not there shall be a reconsideration. We are presently plowing the field, so to speak, of the actual merits of the substance of the amendment that was adopted. I think that the debate should be limited to the question of whether or not the matter should be reconsidered and that we shouldn't go into a complete rediscussion of the merits of the question.

CHAIRMAN YEAGER: Mr. Brown, the Chair would advise that Mr. Chase and the Chair have already consulted on this matter. The Chair will rule that the motion to reconsider opens the entire question to debate and the Chair would ask the secretary to read from Mason's Manual.

SECRETARY CHASE: Mason's Manual, section 471. Debate on motion to reconsider:

> 1. The motion to reconsider is debatable except when the motion which it is proposed to reconsider is undebatable. When the question to be reconsidered is debatable, the entire question is opened to debate by the motion to reconsider.

CHAIRMAN YEAGER: Mrs. Cushman, do you wish to proceed?

MRS. CUSHMAN: Yes. I'd like to ask Mr. Allen if he has any further comments on Mr. Mahinske's answer.

CHAIRMAN YEAGER: Well, now, are you asking him a question or are you yielding the floor?

MRS. CUSHMAN: I am asking him a question. I would like to know whether —

CHAIRMAN YEAGER: If he is to make a statement, the Chair should recognize him in turn. If he is to answer a specific question, the Chair will recognize him for that purpose.

MRS. CUSHMAN: My question, I guess, still concerns this question of court of record and whether the appeal in the court of record is always understood. That's about as close as I can get it.

MR. ALLEN: I can answer it.

CHAIRMAN YEAGER: Mr. Allen is recognized to answer the question.

MR. ALLEN: Mrs. Cushman, I don't agree with Mr. Mahinske's answer at all. The language of the amendment which was adopted specifically says "a jury of 12 freeholders as in other civil cases in a court of record. . . ." Now, you can't go into a court of record without having the right of appeal. This is under all our judicial procedure. You just can't. I've never heard of a court of record without any right of appeal. So when you say "court of record," you automatically get a right of appeal. And I think there is this further objection to the committee proposal, that it's stating a lot of things that it doesn't need to say and cluttering up the constitution.

MRS. CUSHMAN: Thank you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Karn. The question is still on the question of reconsideration, the motion to reconsider.

MR. KARN: Mr. Chairman, members of the committee, according to the definition given by Mr. Lawrence, apparently I must be either a member of the executioners or of the firing squad. I don't know which of those categories I qualify in. Mr. Lawrence also, I believe, referred to the fact that, to date, there has not been any principal objection to any elimination or anything that is wrong with the committee proposal. I might say this: speaking for the utilities industry only, there has been an elimination in the committee proposal of the use of 3 commissioners. This may not be important to highway problems, railway problems and things of that sort, but in the utility industry, it is important because so many of the cases which are involved in condemnation cover comparatively small acreages of land. In this case it's an advantage to be able to go before a commission of 3 rather than a jury of 12 people; it can be expedited. I think it can be carried out as expeditiously and as well and as satisfactorily to both parties as it would under a jury of 12 people. I think there is an advantage. I haven't been actively engaged in this sort of work. I've been in a company, however, where there has been condemnation and I must say that I think we have had comparatively little difficulty.

One thing that this amendment does — it's been stated here, on one or 2 occasions, that the public is protected because the question of necessity must be determined first and then there must be pay first secured in a manner prescribed by law; an amount of money either deposited or provided for so that the customer, the public, that owns the property, is protected. I am much in favor of this amendment and I hope that we will vote against the reconsideration.

CHAIRMAN YEAGER: The Chair will recognize Mr. Gover.

MR. GOVER: Mr. Chairman, fellow delegates, I'd like to ask 2 or 3 of these folks who have spoken some questions. First I'd like to ask Mr. Stafseth a question. Mr. Stafseth, you stated that in your deal — I think it was at Grand Haven — when you took a hand in the dealings, in other words, negotiated, that the deal went through very fine. I wouldn't be afraid if all the people who do the negotiating or dealing on these pieces of property were of the same caliber as you. I would be willing to put in most anything and let it take care of it for equal damages and such as that. But you know as well as I that some of these people who are out on, you might say, civil service don't give a care what they pay a person or what is offered for things.

To me, I'd like to see some form of negotiation in there so that we can get something; the person can get some sort of just compensaiton, something that is equitable, and not have to take what is offered by one man: take it or leave it, that's your price. If you can come up with some sort of an amendment to yours where there would be some negotiation in there, where a man who feels his property is being taken or damaged would have same chance to correct unjust claims, I would think you'd help it out an awful lot.

And as for Mr. Allen, he said that the cost would go up so much that they'd be prohibitive; that we wouldn't be able to build any roads under this. If the cost is going to go up so much, maybe we aren't paying these people what they should be getting on their pieces of property. And I'd like to ask Mr. Allen on that as soon as I yield the floor on this, what his thought is on that, how he is going to account for that. I'll yield to him right now for that.

CHAIRMAN YEAGER: If Mr. Allen cares to answer the question.

MR. ALLEN: Mr. Gover, you're referring to what I said, I think, last Thursday night. I think — and I hadn't mentioned it tonight — the committee proposal allows what we call consequential damages. In other words, it moves the field of payment considerably more than it is today. Today we pay for the property taken. The committee proposal would pay for property that wasn't taken but might be adversely affected: property one block away, 2 blocks away, 10 blocks away or a mile away, and then it allows these people in the hearing on the taking of the property to all come in and file claims. So you get the whole community that wants to, jumping in, and you invite a kind of procedure which no other state in the United States has. We don't know how speculative these damages would be. I know the committee says the court will take care of it. But just think of what you open up by even the opportunity of bringing in the neighborhood. In other words, you're bringing in people whose property is not taken, but who may feel hurt because a street is shut off and they have to drive 2 blocks around, or a business might be hurt by the traffic flow. No state does it. And it was the feeling of the convention Thursday night that this made a big uncertainty as to the damage amount. And I do think that the committee proposal went way too far on this. If damages are to be paid that way, the legislature could provide it, and they have. For example, they have done it where a property owner whose property was not taken but was left high and dry on a grade crossing, the right to come in, in a separate suit. But the committee proposal would bring them into the condemnation hearing.

MR. GOVER: Mr. Allen, you just said in here that the committee proposal took care of consequential damages, as I understood it. I can't see where that's mentioned in there at all in that proposal.

CHAIRMAN YEAGER: Would you gentlemen please direct your questions through the Chair.

MR. GOVER: Through the Chair, Mr. Chairman.

MR. ALLEN: Mr. Gover, the words "consequential damages" is what we call a term of art. It's a short way lawyers use of referring to damages to property other than property that is taken. Now, they didn't use in their proposal the words "consequential damages" but you'll notice at the bottom of section b, it amounts to the same thing. I'm putting it in short form

MR. GOVER: Through the Chair, I've got my proposal here. Whereabouts is it?

MR. ALLEN: Section a, the last line, ". . . for the losses and damages suffered thereby being first paid."

MR. GOVER: Aren't you on the committee proposal we're trying to get to vote back on instead of the amendment, Mr. Allen?

MR. ALLEN: You're asking me about the committee proposal, I thought.

MR. GOVER: Through the Chair, you said it was in your amendment, as I understood it.

MR. ALLEN: Oh, no, no, no.

MR. GOVER: Excuse me.

MR. ALLEN: No, no. It's just the opposite.

CHAIRMAN YEAGER: Come on, gentlemen. Please. Do you have your question answered, Mr. Gover?

MR. GOVER: I asked Mr. Stafseth one and I didn't give him a chance to respond. I'd like to have him answer it.

CHAIRMAN YEAGER: If Mr. Stafseth cares to answer.

MR. STAFSETH: Thank you, Mr. Chairman. I might say first, thanks for the compliment as a right of way buyer. But I'll answer this one way: one of the reasons that the governmental agency, when they come out and offer a man a price, is that when they have the appraisers do the work, they attempt to get the price that is the just value or leaves the man whole right then. They attempt to hit that price to begin with. Now, from a political standpoint, as far as the job is concerned, you might think it would be better to come out and offer less. But the problem is that we have a lot of people that accept the first offer we make; these people cooperate. And as far as I'm concerned, and I've always done this with the road commissions I have worked with, I want the price that we should settle on right away because I want to make sure that all the ones that cooperate along the line get the same money because I have to live in that neighborhood.

Now, as far as I am concerned, in a condemnation proceeding, if we have to have one — and I deplore the word — I would a whole lot rather have some system where we arrive at the same price, whether we go through condemnation or we negotiate. Now, the only negotiation I ever do is, I have to go to this farmer or small businessman, whosoever's property we're taking, and prove to him that the method that we had to use to arrive at the cost was an accurate and a correct method. Now, this is the negotiation as far as I'm concerned. As far as negotiation and haggling, the price going up and down, I would agree, that there is no negotiation.

MR. GOVER: Mr. Stafseth, through the Chair again, please. Then I don't understand. You just said a few minutes ago that you went out and negotiated. When you negotiated, the price was up about a third more than what it was previous.

MR. STAFSETH: No. What I said was that in the Dake Engine case, when the highway department bought the property, the highway department bought the property through condemnation. They paid in the neighborhood of — I have to do a little computing here — $218,000 for 40 per cent of the whole property; $218,000. That's what they received in condemnation. I, for the road commission — we happen to live right next door to him — went to him and bought it, just like you would, buying any property. I bought the balance of the property for $70,000. And all I wanted to illustrate was that if you were buying the property, it certainly wouldn't approach the $218,000 for the property they took. They got more than what the market value would be, and I'm taking into consideration that they should get a little bit more than what I got, even at the 60 per cent, because they were taking the first 40 per cent.

MR. GOVER: Mr. Stafseth, through the Chair again, I wish that you lived next door to all these folks who have been taken advantage of by the highway department on these things. You just said a few minutes ago, didn't you, that they do not negotiate now?

MR. STAFSETH: I don't think any public servant, when he goes out and attempts to arrive at a price, particularly in my business, where maybe I have to buy 5 or 6 parcels, we have to get that price just as close as possible to what we think it will be in condemnation proceedings or certified real estate appraisers determine its worth. We want to be right to begin with. Then the only negotiation we do is to prove to them that we have gone to this trouble to arrive at this price, because we have to live with these people.

MR. GOVER: I agree with you, through the Chair —

CHAIRMAN YEAGER: Excuse me, Mr. Gover. Ladies and gentlemen of the committee, I would ask you to please be in order. Some of the people are complaining they can't hear the conversation. Mr. Gover you may proceed.

MR. GOVER: Mr. Stafseth, through the Chair again, I think that you're fair. I'm not trying to take a poke at you on this thing but I think that the highway department has been very lax in some of the things that it has done and I'd just like to see these things straightened up so that everybody gets a fair deal. After all, we put civil rights in here and these people who own rights of way and where rights of way are going, need that civil rights protection as much as anyone else.

MR. STAFSETH: May I make just one statement to that, or an answer?

CHAIRMAN YEAGER: You may be recognized in your turn next, sir. The Chair doesn't believe Mr. Gover asked a question. Did you ask a question, Mr. Gover?

MR. GOVER: I'd like to make one statement to Mr. Karn since I'm on the floor.

CHAIRMAN YEAGER: You may proceed.

MR. GOVER: Mr. Karn, in all the dealings that I've heard of with the Consumers Power company, they always pay more than what the highway department does, anyway in any deal I've ever heard of. So I can say that your company has always seemed to be fair in dealing with eminent domain.

CHAIRMAN YEAGER: The question, Mr. Gover, is on reconsideration, not the fairness of Mr. Karn's company.

MR. GOVER: So I would ask everybody to vote for reconsideration of this amendment.

CHAIRMAN YEAGER: The question is on the motion to reconsider. The next speaker to be recognized, Mr. Stafseth.

MR. STAFSETH: Mr. Chairman, first I want to ask that all the delegates keep in mind that what we debated on last Wednesday, which was my amendment, and several others, that a no vote retains it. A yes vote would knock it out.

Now, I would like to answer a few questions that have been raised. I made the statement, last Wednesday when we argued it, that I held no great brief for the 3 commissioners. However, there are 2 very good reasons for 3 commissioners. One is that the utilities that buy a lot of pole space, where they stick a pole in the ground and they pay — I don't know what the price is, but several dollars for the privilege of setting those poles there, and you might only have one or 2 poles on a farm. The convenience of having all these cases before 3 commissioners as against before a jury and holding the jury and having maybe 100 parcels is a practical solution.

Secondly, and this is true in the upstate area — I've talked to quite a few attorneys that have been on both sides of the fence on this problem — and this is that the average person upstate that comes into a commission form of condemnation hearing, the chances are that their interest will be better protected than under the system using the jury. Now, it may well be that if you have a judge there the same interests will be protected, but the past history has been that this interest has been protected.

Now, our amendment did the 2 things that we thought were the most critical things before the committee: one, that a jury trial, as in other civil courts, could be used for condemnation. I agree that in the old constitution, the judge had no business in the courtroom other than getting them started and then the jury was the judge, jury and so forth. And 2, that just compensation is determined before the property is taken.

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, I'm going to be very brief because there is one factor I feel that was in the original committee report that takes into account something which has developed within recent years that I think is very important in our society, and that's this question of damages. We've talked about the person who loses the property, whether it's urban renewal or highway construction, but there are many people who can suffer loss of income as a result of these changes that are being brought about and these people need consideration to some extent. The little storekeepers, shopkeepers, the small business people who depend upon these areas and upon being patronized in this area should be able to have themselves heard. I would favor reconsideration and ask that the yeas and nays be called.

CHAIRMAN YEAGER: Mr. Faxon, the Chair is sorry. Did you ask for the yeas and nays or a division?

MR. FAXON: The yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? Sufficient number up. The yeas and nays will be ordered. The Chair recognizes Miss Donnelly.

MISS DONNELLY: I rise to support the motion to reconsider. I feel that somewhere along the line, perhaps, we have gotten a little far afield again. Originally, I think it's important to know why I think the motion to reconsider is valid. I have talked to many people who apparently misunderstood the differences between the Stafseth, et al, amendment and the committee proposal. I also have gathered that many people are most suspicious because this committee was made up of attorneys. Apparently, as this convention has rolled forward, the attorneys have gone from bad to worse. Now, everybody is suspicious of attorneys and people apparently think the subcommittee did this for the main reason that they wanted more work. I believe that if they were to analyze it and to understand how the practice of law went, they would realize that this proposal of the committee — not the Stafseth, et al, amendment — would, in the long run, lessen legal work considerably. We did this basically because we feel that ours will allow negotiations and require negotiations first. It will cut down trial work. It will not, if properly done, give lawyers work, but cut us out of the field. And I regret that people seem to have so little confidence in the individual members of this committee; that they apparently lack faith in our integrity as members of the bar, our ethics as practicing people in that profession and as delegates to this constitutional convention.

Another issue that I think is important for the group to consider is that the committee proposal allows for a balance of all agencies, of all condemning authorities, to be heard, to come into court, in effect, together. If one condemning authority wants the land for one reason, another wants it for another, still another for another, they may all be involved. Otherwise, to go the other way, it's he who grabs first.

Some of you are no doubt aware of the fact that various people met, particularly the individuals who are on the amendment, as well as the members of the subcommittee, in an attempt to settle the differences. In my opinion, on the basis of the negotiations of these groups, the really big issue fell apart on this one question: who is going to determine necessity and how? The committee proposal attempted to have all determinations of necessity handled fairly, the same way. Each group got the same situation. We find particularly that some of the members on this amendment are not trying to preserve what they have, but they hope to gain more. They wish to get this condemnation within the grasp of certain authorities.

Now, the big problem, as the groups seemed to settle down and really get down to the basic issue of what their difference was, is the issue of necessity. I submit all the arguments about damages are window dressing and I think nearly everybody who went into this very far is very mindful of it. You have 2 ways to determine necessity. Under the committee proposal, it would be by the judge in a court or by members of the jury. These are either individuals elected by the people or the people themselves. This is direct, close contact with the citizens of this state and the right of individuals to be tried by other individuals, to balance the problems for their benefit. Against that you have the group that wants to make their own determination of necessity in their own way, under their own power, without any interference with the people. Now, this group who wants no interference with the people says that this is cheaper. Now, if every condemning authority was represented by the people, if you were going to have it by your city authorities, if each one of those city authorities or supervisors or groups was directly elected to that position, they are all representatives of the people directly. They're not appointed there. They are answerable to the people. But in many instances, you will find that the condemning authorities are so far removed from the people, the people don't know how they got there in the first place, and they're not answerable to citizens of this state and they never will be.

CHAIRMAN YEAGER: The committee will be in order, please.

MISS DONNELLY: Also, if you were even going to have an elected authority do it, the problem is, the property is gone before that person may come up for reelection. It is the opinion of the committee in trying to balance the whole situation and work out something we felt was fair to both sides — all sides and all parties, the condemning authority as well as the people whose property is being taken — is go to the one place that, in this country, we have always felt is the fair place to settle differences: in a public trial, in a court of law, in front of a judge and a jury. Bear in mind that if you don't want the jury, the judge can do it.

Some of the people on this amendment were perfectly willing to let the judge make the decision. We find so many people on the Stafseth, et al, amendment who cannot get together because each one of them is representing a vested interest. Mr. Stafseth was willing to go along with us on practically everything there was on what the problems were, but various other people on this amendment are hopeful of having gained for the parties they represent and, therefore, they will not and would not settle with us. Therefore, we have come back to the committee of the whole, attempting to explain the difference and ask that you reconsider so that you can more fully understand the problem. Apparently many people have misunderstood the issue and it is too serious a thing to treat lightly when it involves an entire way of handling eminent domain under this constitution. I therefore support the motion to reconsider. The yeas and nays have been asked for. And I hope that you support it with a vote of yes.

CHAIRMAN YEAGER: The question is still on the motion to reconsider. The Chair recognizes Mr. Madar.

MR. MADAR: Mr. Chairman, with regard to this particular amendment, I thought that we ought to clear up some of the issues, at least. On at least 3 different occasions, I have heard one certain building being used as an illustration here. In the local government committee, 2 of our members went to Detroit for a hearing. Since then, I've heard about this particular building on a couple of occasions. Right after I heard about it in the local government committee, I decided I ought to look into it because I didn't like the way this sounded and I didn't think that anybody had done anything up there at the hearing about it. So I checked where a thing like this ought to be checked, and that was in the health department. I checked to find out whether anything had happened there as to why these people were leaving there. Certainly they were leaving. Leaking faucets, broken windows, stopped drains. The building was being milked; the property was. We've had this happen so much that it isn't funny. It was no wonder that these tenants had moved out of that place in the dead of night. They were sick and tired of paying $15 and $18 a week per room for a room, for heaven's sake, that wasn't big enough in some instances to be more than a clothes closet. Now, so far as the money was concerned — the price that man got almost the exact price he said that he ought to have gotten, what the place was first assessed at. And I believe that Mr. Gover told us at that time that it was somewhere in the neighborhood of $60,000. For Mr. Gover's information and so that everybody else here will understand exactly what happened, he got close to that $60,000. It was over $55,000. And then the reason he didn't get the full $60,000 was because all he was doing was milking the property.

CHAIRMAN YEAGER: The Chair will recognize Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, fellow delegates, I don't believe that there is a great deal more that can be said that has not been said on the question of reconsideration. I do respectfully point out to Delegate Gover and others who might not understand, that the only 2 sections under discussion at this moment are covered by the amendment that was adopted, I think, last Thursday evening, and that is on sections a and b. The other 3 sections are not under discussion, as far as amendments go, at this time.

CHAIRMAN YEAGER: The Chair will recognize Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, members of the committee, I ask your indulgence for just half a minute. I would not want it to go without being corrected in our verbatim record, that at no time did I think or intend that the execution squad or the firing squad referred to any member of this convention and especially to Mr. Karn or to Mr. Stafseth. I thought it was established that they admitted that they did not draw this proposed amendment; that they got in the authorities, several authorities. The same thing applies to the Michigan bar committee. The men who were on that committee are those who are interested in condemnation proceedings. Those are the attorneys. Those are the ones who represent the interests that drew the proposed amendment according to what we have been told. I am confident — and you must not let it becloud the issue — that if negotiations were carried on by either Mr. Karn or Mr. Stafseth in all condemnation cases, I don't think we'd need any law about condemnation at all; I know that a fair price would be received. But these right of way buyers and these property buyers for the condemning authorities are an entirely different thing. I want it to be certain that I was in no way referring to you, Mr. Karn, nor to Mr. Stafseth.

CHAIRMAN YEAGER: Nor, I hope, to the Chair. Mr. Bonisteel is recognized.

MR. BONISTEEL: Mr. Chairman and fellow delegates, I am a bit disturbed, not only about the amendment which was adopted and which we are reconsidering here tonight, but I am also a bit disturbed about the committee report in certain areas. I know that I perhaps don't understand these things as well as some of the rest of the delegates here, but it does appear to me that there are certain questions that would pass through my mind if I were in the process of condemnation and I was going under the so called Stafseth amendment and I wanted to determine, I wanted to know, who was going to determine whether I should have the right to a 12 man jury or whether I should have the right to a commission and who is going to tell me which I'm entitled to, particularly when you talk about the commission.

I think the property owner has some right here. And I think that all the time that you think is being wasted here is not being wasted because, after all, this is something pretty sacred to most of the people in the state of Michigan — how their property shall be taken away from them and the value that they are to receive for taking that property. I don't feel that I am in any position to vote intelligently on the amendment or the reconsideration of it and, so far as the committee report is concerned, because some of the language in here, I don't know what it means. When you talk about "without necessity therefor first being determined" and "just and equitable compensation," I don't know exactly what "equitable compensation" means. I think I have some notion about what "just compensation" means. But I think that the people ought to have this thing spelled out. One of my close delegate friends said to me here tonight, "Well, the legislature can do this thing." "Yes," I said, "I understand the legislature can do this, but how do I know that the legislature is going to do the thing the way it should be done in the best interests of all the people who are going to have their property condemned in the years from now?" That's the thing I'm interested in. I'm puzzled as to exactly what should be done here.

I think Delegate Leppien made an intelligent statement here when he said actually this involves just sections a and b. It does involve sections a and b. I wonder if there is any way, Mr. Chairman, that this matter can be resolved as to a and b by the committee and by the people who have proposed this amendment so that we might, maybe, effect some type of compromise that will accomplish the thing that I think should be accomplished here in the interest of the property owner? And I ask that as a question.

CHAIRMAN YEAGER: Mr. Bonisteel, the Chair would simply observe that the committee can only consider those matters which are before it, either in the form of proposals or amendments, and the committee can take no further action. If anyone wishes to get together and make an amendment, that's one thing; but we can only consider what is before us.

MR. BONISTEEL: I'll yield to Mr. Mahinske.

CHAIRMAN YEAGER: Mr. Mahinske is recognized.

MR. MAHINSKE: In response to that particular question thrown out by Mr. Bonisteel, I might say this: that Miss Donnelly has alluded to this. The loyal opposition here and ourselves had dinner last night over at the Capitol Park, and just prior to almost being evicted after we got into a violent argument over there, we discovered that the Stafseth amendment is comprised of concessions to every single interest involved in this area: the local interest, the state interest, the private interest and the public interest. Now, each individual person representing the other side is willing to concede all the way until they get down to that particular point that they have written in themselves. From that point on they are not willing to back up a bit. We are faced with this proposition.

CHAIRMAN YEAGER: Pardon me. Mr. Mahinske, the Chair must observe that the question is on the motion to reconsider, and not on whether or not we're going to have a compromise. The Chair does not feel that's very germane at this point. Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman, may I call your attention to the fact that we're trying to resolve something here. If we can resolve this in the manner which has just been suggested, I think it's perfectly appropriate.

CHAIRMAN YEAGER: The Chair would suggest, Mr. Bonisteel, if you have an amendment or Mr. Mahinske has an amendment to add to this thing that would resolve it, that's the proper procedure. The committee cannot resolve it in open conversation. We must proceed with the matters directly before it and the matter directly before it is the motion to reconsider.

MR. MAHINSKE: I would say, for the general information of the Chair and the body here, that as far as contemplating amendments are concerned at this point, it would be impossible to do this because we don't know where we're going to start operating from. If we're going to work from the committee proposal and attempt to perfect it, fine. If we're going to work from the Stafseth amendment and attempt to perfect that, that is fine. But at this point, we really do not know from which point we are going to start and this is the entire reasoning behind the motion to reconsider the vote because of the narrow spread between the adoption of the Stafseth amendment and the rejection of the committee proposal. Until we know from what base we're going to work with, it would be impossible, I think, for either side to start tendering amendments to the base point that we're beginning from.

MR. WALKER: Parliamentary inquiry.

CHAIRMAN YEAGER: The Chair would have to restate that the question before the body at this time is the motion to reconsider the action by which the Stafseth amendment was adopted in the last meeting of the committee of the whole at which we considered Committee Proposal 67, and that is all that is before the house.

MR. WALKER: Parliamentary inquiry.

CHAIRMAN YEAGER: Would you state your inquiry, Mr. Walker.

MR. WALKER: Mr. Chairman, I heard you refer to an amendment. I presume that would be an amendment to the matter before us?

CHAIRMAN YEAGER: The matter before us is a motion for reconsideration by which the amendment was adopted to Committee Proposal 67 striking sections a and b.

MR. WALKER: Right. Would the Chair enlighten me as to how an amendment would be made to a motion to reconsider? If so, maybe I would like to do it so that we could move along a little bit.

CHAIRMAN YEAGER: Mr. Walker, I think you misunderstood the Chair. An amendment cannot be made on a motion to reconsider. I said that the only way that you could get action before the committee is through an amendment or a committee proposal. The question now before the body is the motion to reconsider and that is all that's before the body.

MR. WALKER: Thank you, Mr. Chairman.

CHAIRMAN YEAGER: Would you like to be heard further on this motion, Mr. Bonisteel?

MR. BONISTEEL: Yes, I would like to be heard further, Mr. Chairman. I'd like to say to you that if I have to make my choice, I'm now going to make it. And my choice is that I want to reconsider and vote to reconsider this amendment and I would rather accept the committee report than I would the Stafseth amendment. (applause)

CHAIRMAN YEAGER: The committee will be in order, please. Mrs. Judd is recognized.

MRS. JUDD: I think it's probably time to vote. I was going to ask 3 questions, things that I don't understand. But if the committee wants to vote on —

CHAIRMAN YEAGER: To whom did you wish to direct the questions, Mrs. Judd?

MRS. JUDD: I wanted to direct them to Mr. Allen.

CHAIRMAN YEAGER: I'm sorry. I didn't hear you.

MRS. JUDD: To Mr. Allen.

CHAIRMAN YEAGER: If Mr. Allen cares to answer.

MRS. JUDD: In the debate last week, the question was answered as to why a determination of necessity was not also put into the courts, and the answer is, as I recall, was that such determination is purely technical.

MR. KUHN: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN YEAGER: State your inquiry.

MR. KUHN: Mr. Chairman, I think we're wasting a lot of time here and we should vote because I don't think we should be asking questions. The question is: shall we reconsider the vote? Now we're going into the substance of the matter, and I think we're out of order.

CHAIRMAN YEAGER: The Chair believes, Mr. Kuhn, that the secretary read the passage from the manual that says that the full question is debatable and the Chair presumes that questions are in order in the form of debate. Therefore, the questions are in order. For what purpose does the gentleman rise, Mr. Erickson?

MR. ERICKSON: Comment.

CHAIRMAN YEAGER: Mrs. Judd, you may proceed.

MRS. JUDD: Well, I should like to know if there are not other reasons why the people who support the amendment want to eliminate the decision of necessity by a court action besides the fact that it may be, in some instances, a technical question.

CHAIRMAN YEAGER: Mr. Allen.

MR. ALLEN: Mrs. Judd, first, may I say that we aren't necessarily eliminating the court making the decision of the question of necessity at the time that it sets the damages. This would be left up to the legislature and this is true in most states. The legislature could say that the court will do it, just as we do now, or the court could say that we not do it. Now, the argument in favor of not freezing it into the constitution, of having the determination of necessity, is primarily the argument that most of the large public works projects involve a great deal of preplanning — and I'm talking about public bodies as distinguished from private bodies like Consumers Power company. There are usually all kinds of hearings before the city commission or the board of supervisors, or whatever jurisdiction is involved, and then when property is condemned for, let us say, a peripheral route around the city, as in Pontiac, and you have to acquire property in various parts of the city, and you pick these up individually, you have separate hearings and in each hearing you have to go through this question of necessity. It's an expensive process; you can get to a vital piece of land and, if the jury doesn't go with you, get completely hung up.

So it's a fact that a whole public works project, which is very complicated and is more complicated than the jury which decides the damages can frequently decide, will be hung up by this. It's risky. This is why the Michigan bar association felt, and municipal attorneys have felt, and other attorneys have felt that it would be better to not keep Michigan's constitution requiring the determination of necessity in the constitution, but to leave it up to the legislature and the legislature could say: well, in the case of Consumers Power company maybe it will have to determine it because Consumers Power company doesn't hold these public hearings; and to say for cities, that they don't have to; or to say that all cases will be a separate hearing before the circuit court, to get some flexibility into it.

MRS. JUDD: I see. I thank you. I have just one more question. In the present constitution, I notice that the state highway department —

CHAIRMAN YEAGER: Excuse me, Mrs. Judd. Would the committee please be in order. It's very difficult to hear up here. Thank you. Proceed, Mrs. Judd.

MRS. JUDD: This is my last question. In the present constitution, the state highway department is exempt from all of these requirements of eminent domain proceedings. Is that true?

MR. ALLEN: Yes, I believe it is true, but I would prefer that you ask matters of state highway department procedure either of Mr. Stafseth or Mr. Binkowski.

MRS. JUDD: I didn't mean to ask procedure. I just want to know if your amendment implies that the highway department would come under the requirements of your amendment.

MR. ALLEN: Yes. Yes. They all would be treated the same, except the legislature could make a separate law on the question of necessity for the highway department as compared with the cities or Consumers Power.

MRS. JUDD: And under the committee proposal, is the highway department also included in its provisions?

MR. ALLEN: Yes.

MRS. JUDD: Thank you.

CHAIRMAN YEAGER: The Chair would like to suggest that we perhaps might expedite matters if we could take the vote sometime soon on the matter to reconsider and then after reconsideration, we can perfect whichever amendment or committee proposal is maintained. The Chair recognizes Mr. Erickson, chairman of the committee.

MR. ERICKSON: That was along the lines that I was going to suggest, Mr. Chairman, that we proceed now and vote on a reconsideration.

CHAIRMAN YEAGER: I have 3 more people on the list, Mr. Erickson.

MR. ERICKSON: All right. When these people are through, vote favorably for reconsideration and then vote down the Stafseth amendment, and our committee is in a position then to offer perfecting amendments on the committee report. And I think that the statements Mr. Bonisteel made were very appropriate.

CHAIRMAN YEAGER: The Chair will recognize Mr. Stafseth.

MR. STAFSETH: I pass.

CHAIRMAN YEAGER: Mr. Stafseth passes. The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, if others will limit their talks to the brief time that I shall use, I'm sure that we'll get done in a hurry here.

I would only suggest that there have been approximately 3 things raised with respect to reconsideration of this matter. First of all, the question of the words "taken or damaged" referring to property. I would only suggest to any of those who have spoken on this subject with some degree of authority, that they read the Dake case. In that case, the attorney general of the state of Michigan, on behalf of the highway department, argued that we were going far beyond what other states have done in the way of interpreting just compensation and nevertheless, the court so interpreted it even though other states had the word "damaged" in their constitutional provision and all we have is "just compensation."

Secondly, it has been raised by Mrs. Judd and others that the determination of necessity should be, possibly, by a court. The Stafseth amendment is readymade for such an amendment if you want to have the court determine the determination of necessity and an amendment would be appropriate. So it certainly is a better working body to start with if we retain the Stafseth amendment, the language we presently have.

It has also been said, thirdly, that vested interests wrote the Stafseth amendment. I am not a sponsor of that amendment. My experience is not as limited in this field as that of many who have spoken on the subject, I am sure, and in only one instance have I acted on behalf of a condemning authority. It has always been on behalf of land owners. I would only suggest that what we did last week was the thing we should have done. We have a better basic framework to build from in the Stafseth amendment than we have in the committee proposal and I would urge you to vote no on reconsideration.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: I'll be slightly briefer than Mr. Brown. In my humble opinion, I feel that we have a better base to work from by adopting the committee proposal in lieu of the Stafseth amendment. If there are objectionable words or phrases, I think that they are more easily excluded if it is the will of the delegate body here to exclude these words from our proposal than it would be to offer a series of perfecting amendments to add additional language to the Stafseth amendment that would inject into that amendment all of these basic rights that at least 4/5 of the people on the other side are willing to accept one step at a time, but at this juncture of the game, are not willing to accept in total. And I feel that for the sake of saving some time, at least on this matter, that we would have a better base to work from. I would urge a yes vote on the motion to reconsider the vote.

CHAIRMAN YEAGER: The question before the body is the motion to reconsider the action by which the committee adopted the Stafseth amendment in place of sections a and b of Committee Proposal 67. This is a roll call vote. The yeas and nays have been ordered. As many as are in favor of the motion to reconsider will vote aye. As many as are opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 50

Andrus, Miss
Austin
Barthwell
Batchelor
Bledsoe
Bonisteel
Boothby
Brown, T. S.
Butler, Mrs.
Cudlip
Cushman, Mrs.
Donnelly, Miss
Doty, Dean
Douglas
Elliott, Mrs. Daisy
Erickson
Faxon
Gadola
Gover
Habermehl
Heideman
Higgs
Hodges
Hood
Iverson
Jones
Kelsey
King
Krolikowski
Kuhn
Lawrence
Leibrand
Lesinski
Mahinske
McAllister
Murphy
Ostrow
Pollock
Pugsley
Richards, J. B.
Richards, L. W.
Rood
Rush
Shanahan
Stevens
Turner
Tweedie
Walker
Wanger
Young

Nays — 66

Allen
Balcer
Beaman
Bentley
Binkowski
Bradley
Brake
Brown, G. E.
Buback
Danhof
Dehnke
Dell
Durst
Everett
Farnsworth
Figy
Follo
Ford
Goebel
Gust
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Howes
Hoxie
Hubbs
Judd, Mrs.
Karn
Kirk, S.
Leppien
Madar
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Page
Perlich
Perras
Plank
Powell
Prettie
Radka
Rajkovich
Romney
Sablich
Seyferth
Shackleton
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Thomson
Upton
Van Dusen
Wilkowski
Wood

SECRETARY CHASE: On the motion to reconsider, the yeas are 50; the nays are 66.

CHAIRMAN YEAGER: The motion to reconsider does not prevail. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garry Brown, Stafseth and Binkowski offer the following amendment:

1. Amend page 1, (in the amendment) at the end of section a, after "law.", by inserting a new paragraph to read as follows:

"The necessity for the taking having been finally determined, nothing herein shall be construed to preclude the occupation and use of such property by the condemning authority upon payment or securing of payment of the compensation initially determined as above provided even though an appeal may be pending.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Garry Brown on his amendment.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I once again shall attempt to be very brief. I think the language is self explanatory. Excuse me, Mr. Chairman. Before I go further, is it possible to have it on the board?

CHAIRMAN YEAGER: Could we have the amendment posted on the board, please?

MR. G. E. BROWN: While this is being done, Mr. Chairman, members of the committee, I shall continue. Basically what this additional language does is say that which many have said here: that the property owner should have the right to have the compensation determined, to have his day in court before his land is disturbed. At the same time, the condemning authority should not be subject to being held up in connection with the project after the determination of necessity has been made, finally determined and appealed or not appealed, as the case may be. But after the determination of necessity has been finally made, that then the condemning authority, upon either paying or securing the payment of the compensation which has been determined by the commissioners or the jury, upon doing that, they may go in and occupy the land, but not until then. As I say, this gives the land owner his day in court. He has a chance to have his appraisers out, look at his land, determine the appraisal of that land and have it finally determined by commissioners or a jury before his land is disturbed. If he then takes an appeal from the determination of the commissioners or the jury, he will not be able to use that which I referred to last week as appellate blackmail to require the condemning authority to hold up the work until the man has gone through the courts and as high as he may go to determine compensation upon final appeal.

As the language presently stands, just compensation could not be determined and could not be secured by the condemning authorities so they could occupy and use the land until such time as the ultimate appeal had been exhausted. The delay and the complete impasse to the doing of the project is apparent to you if this were done. What it does, once again, is merely provide that the man, the land owner shall have his day in court, shall have the right to have his compensation determined before there can be any occupation or use of the land, but there can be no appellate blackmail insofar as such compensation is concerned.

CHAIRMAN YEAGER: The question is on the Garry Brown amendment. Mr. Mahinske.

MR. MAHINSKE: I would certainly urge the rejection of this amendment. We're going right down the merry road that we are on today. This amendment spells it out in the constitution that once the condemning authority has determined that it's necessary for them to take your land, you have to get off that land and they're going to move onto that land and they'll pay you or secure the payment. Now, there are absolutely no time limits involved here. This is the exact statutory language that we have today. We can cite many, many instances where the people are evicted from their land and they don't receive any payment in hard cash for up to 3 years after the determination of necessity.

When Mr. Brown talks about appellate blackmail, this works in 2 directions. This is a 2 way street. The property owner or the condemning authority can be blackmailed with appellate procedures, and I would certainly urge the rejection of writing this power into the constitution. It could not be undone by statute later.

CHAIRMAN YEAGER: Were you finished, Mr. Mahinske?

MR. MAHINSKE: The existing constitutional language is being written in, which does permit taking of land but no paying until a determination of the just compensation is had, which is usually at the discretion of the condemning authority. It may be some months or years after you have been removed from your land. And I would certainly oppose the adoption of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I'm not too sure now what the proposed Garry Brown amendment would do. I gather from his conversation that a petition for necessity could be established but no further action could be taken in the development, for instance, of a highway until such time as there was a determination of damages. I seriously object to that premise.

I happen to have the privilege of serving on 2 commissions. On condemnation proceedings, the highway department determines the necessity—and I appreciate that this is a rather rigid proceeding; I appreciate the inconvenience and the problems of the land owners—still I think we all recognize that the public need is paramount. Now, as far as concerns the landowner receiving just compensation, the highway department in their proceedings determine what they offer in the way of compensation for damages. It is not necessary that the land owner accept that allotment of damages. The individual has the right under the present law to appeal, or the right to be heard before a commission. If the commission determines that the damage estimated by the highway department is not adequate, they have a right to adjust that within the area of determination of the highway department and the testimony of their witnesses as to the extent of the damages; and it does not end there. That individual, if he's dissatisfied with the findings of the amount of damages by the commission, has a right to appeal to the court.

Now, under the Brown amendment, as I understand it, the highway commission in this instance would have the right to take the property but they could not use it. And as a result of that proceeding, the highway department could not proceed any further in the development of that property for the public use, if I understand Mr. Brown's amendment and from what he said. As far as I'm concerned, that is a wrong proceeding if you want to secure the necessary highways for the state of Michigan. I think under the present proceedings that are set up by our statute, the rights of the individual are fully protected.

MR. G. E. BROWN: Would you yield to me, Mr. Hoxie?

MR. HOXIE: Yes. Thank you.

MR. G. E. BROWN: Mr. Chairman, members of the committee, Mr. Hoxie, being familiar with the procedure, you realize of course, that today under the present procedure, a determination of necessity is first held, a hearing on that. The necessity having been determined, this is a filing with the register of deeds relative to the property and upon that point. Necessity having been determined, the condemning authority may go in and occupy and commence to improve the land.

MR. HOXIE: That's right.

MR. G. E. BROWN: This may happen before there is any hearing on compensation. Subsequent to that, there is an appointment of commissioners, if you're using the commissioners, or however you may do it, and there is a hearing on determination of compensation. But under the present system, probably the condemning authority is already occupying and using the land before you ever get to a compensation hearing. I don't think that's right in the present system. I think that the landowner should have a day in court; that he should have a right to have appraisers there, to put in his evidence as to the value of his property, and to have a determination made of that compensation the very first time initially, as the amendment says, before the condemning authority occupies the land.

Now then, once the man has had his day in court, once he's had a chance to present his evidence as to the value of this land, he then may take an appeal from that compensation award if he desires to. But in the meantime, the compensation having once been determined, the man having once had his day in court, the condemning authority may then go in and occupy and use the land upon securing the payment of the award as the award is initially determined by the commissioners or the jury. It merely means that the condemning authority will not be delayed a year or 2 years while the appeal is being taken purely on the matter of compensation. We are assuming, of course, as the first words of the amendment say, that the necessity has been fully determined. That means beyond all appeal.

MR. HOXIE: Mr. Chairman.

CHAIRMAN YEAGER: Do you retain the floor, Mr. Hoxie?

MR. HOXIE: Yes. If I might answer, I think Mr. Brown is in error. He is not too familiar with the proceedings that take place in these matters. In addition to the determination of necessity by competent appraisers, a value is determined by those appraisers, the highway department does make an offer to the landowner. The landowner has a right to accept or reject that offer. And from there on, if the landowner does not accept the offer, that's when these other proceedings through the commission and through the courts are available. And I don't know how you can ever build any highways under the Brown proposed amendment.

CHAIRMAN YEAGER: Mr. Hoxie, do you yield to Mr. Brown?

MR. HOXIE: Yes.

CHAIRMAN YEAGER: Mr. Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, Mr. Hoxie, under the language of the Stafseth amendment to which this is added, or the present committee proposal as amended by the Stafseth amendment, it provides that compensation shall be determined by a jury of 12 or a commission of 3. This is the initial determination of compensation. Having once used a jury of 12 or the commissioners, the 3 commissioners having determined compensation the initial time, only at that point may the condemning authority occupy the land. This can be expeditiously handled in getting this first compensation hearing on. I do not think it unnecessarily delays the condemning authority. I think it is a proper protection to the land owner that he may have his compensation determined before his land is touched and at the same time it will permit, as I have said, the condemning authority to proceed expeditiously after at least one original compensation hearing. Of course, any appeal from the compensation determination would be on the record and would not be a de novo hearing anyway.

CHAIRMAN YEAGER: The Chair will recognize Mr. Binkowski, one of the proponents.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, I regard this as a clarifying amendment. I think it's up to you to decide whether you think this language is necessary. For the record, however, I would not want this to be construed to mean that because, possibly, this amendment is rejected the legislature would not have the inherent authority to do this. I think Mr. Mahinske has indicated that this is the statutory language now in some of the condemning acts. In some cases, they are doing this right now. The legislature does have the power to provide this. I think they would retain the power under the Stafseth amendment. I think this is an attempt to clarify this so there wouldn't be any question.

CHAIRMAN YEAGER: The Chair recognizes Mr. Ford.

MR. FORD: Mr. Chairman, I'd like to ask Mr. Brown a question, through the Chair.

CHAIRMAN YEAGER: If Mr. Brown cares to answer. Mr. Brown does not seem to be in the hall.

MR. G. E. BROWN: Here I am.

MR. YEAGER: Proceed, Mr. Ford.

MR. FORD: Mr. Brown, is there something in the language that I've missed here that would prevent the legislature, from, in a statute, doing what you're trying to do here?

MR. G. E. BROWN: Mr. Chairman, Mr. Ford, I think not. However, this does do the one thing for those who were afraid that we would possibly go back to an old system or else take the other wrong. Those 2 wrongs being one, that we would permit the occupying authority, the condemning authority, to occupy the land immediately upon determination of necesssity, or at the other end of the slate, that you would have to go through a complete road of appeals all the way up, possibly taking 2 years before the condemning authority could occupy the land, when all you were arguing about is price.

MR. FORD: Again, Mr. Chairman, through the Chair, is it your view that the language that has been adopted would permit the condemning authority to take, without either making payment or securing payment, without doing either of those 2 things?

MR. G. E. BROWN: Under this language, the condemning authority could not.

MR. FORD: I mean without your amendment, is it your thought that the language that we've adopted thus far would permit the taking of possession without either payment or guarantee of payment?

MR. G. E. BROWN: No. Mr. Chairman, Mr. Ford, the original language—there can be no question about it—would require that compensation, as ultimately determined, be paid before there be any occupation. I think this is wrong on behalf of the condemning authority. I think that you shouldn't be able to tie up the condemning authority for a couple of years while you're going through the courts to attempt to increase the compensation that will be paid to you.

MR. FORD: Well, there is some qualifying language in there, "as provided by law." Is it your thought, Mr. Brown, that the legislature could not provide that in the event of an appeal as to damages only, the deposit of the amount of money or double the amount determined or something else of the kind would be sufficient so they could take possession even with the language?

MR. G. E. BROWN: Mr. Chairman, Mr. Ford, the language of the Stafseth amendment as it presently reads is "just compensation." Now, "just compensation" to me means just compensation as finally and ultimately determined through the appeals. I don't know how you would be able to secure just compensation when the final appeal has not been exhausted because you haven't determined what just compensation is yet.

CHAIRMAN YEAGER: Are you finished, Mr. Ford?

MR. FORD: You're not suggesting that on the appeal the appellate body would revise the figures that the jury set, as far as compensation is concerned?

MR. G. E. BROWN: Yes. I'm certainly suggesting that. But on appeals, very likely the compensation may be different than that in the initial hearing. It may be greater.

MR. FORD: Are you talking about coming from a commission to the court or are you talking about one of the statutory condemnations where you start out in the first instance in the court?

MR. G. E. BROWN: Mr. Chairman, Mr. Ford, under the Stafseth amendment, the compensation will be determined by either a jury of 12, or 3 commissioners. Whether that compensation is determined by 3 commissioners and an appeal is taken from that, or whether the compensation is determined by a jury of 12 and an appeal is taken, makes no difference. Whatever that compensation is that is originally determined by this amendment would permit them, the condemning authority, to take the land. Under the present language, the Stafseth amendment, where it says that the determination of necessity must be made and just compensation secured or paid, it would be impossible to either pay or secure just compensation until that just compensation has been determined by the ultimate and final appeal. Therefore, in effect, under the Stafseth language the condemning authority could never occupy until the final appeal had been exhausted.

MR. FORD: Thank you.

CHAIRMAN YEAGER: The Chair would advise that we have 7 amendments pending on this section. The Chair will recognize Mr. Mahinske on the Brown amendment.

MR. MAHINSKE: In response to the remarks just made by Mr. Brown, I might point out that the language of the Stafseth amendment is the exact language of the constitution as it stands today. The procedure that we have today is that the condemning authority can take the land, put it to its use after the hearing on necessity has been determined, and before any hearings on compensation are even begun. Under the amendment offered by Brown, Stafseth and Binkowski, Mr. Brown is saying that it says more than we have written here. The amendment says, "The necessity for the taking having been finally determined, nothing herein shall be construed to preclude the occupation and use. . . ." Now, we're talking about taking only. This has absolutely nothing to do with the measure of damages here.

Under this amendment, you are writing into the constitution that in all cases, after you have determined necessity only, and not even reached the topic of damages, the condemning authority takes title to the land, moves onto the land. When you get to the point where you want to determine damages, if you want your house appraised you go out to the land and you have a highway there. You don't have a house there any more. This does not say that you shall go through the initial proceedings as to determination of compensation. It's a determination of necessity only. It mentions nothing about compensation. And I would oppose the adoption of this language because we would be writing a few of the statutory provisions into the constitution which would prevail as opposed to all 50 statutes that we have on the books now, some of them calling for payment prior to occupation, and some not. Now, this would certainly write into all, or at least repeal all of those statutes that do not recite this exact language. We have no mention whatsoever in this amendment as to determination of damages. We're talking about necessity only.

CHAIRMAN YEAGER: The Chair will recognize Mr. Allen.

MR. G. E. BROWN: Mr. Chairman, may I answer Mr. Mahinske?

CHAIRMAN YEAGER: Mr. Brown, the Chair has been very liberal, but you can't answer every point. There are other speakers on the list. Mr. Allen is recognized. The Chair will be glad to put you on the list in order.

MR. ALLEN: Mr. Chairman, I wonder if the convention knows that as far as municipalities are concerned — as distinguished from the highway department today — we aren't able to occupy the property even though the damages have been set, in case of an appeal. Now, we've gotten held up pretty seriously on this and I want to give you an illustration of it. We wanted to build a park out of a swamp in Kalamazoo behind Borgess Hospital. There was one piece of property where we had difficulty adjusting a price with the owner, and it happened to be the key piece of property. So we finally started condemnation. When we started the condemnation, the first thing the owner did was make a constitutional law case out of the question and say we didn't have the power. And before there was any hearing or anything, it went to the Michigan supreme court. That took about a year. And the court said the city did have the power and it came back. We then had the jury determination, we found the necessity, the jury set an amount of damages which was considered to be fair. The property owner then appealed the case, feeling that the damages were not enough. That took another year. So 2 years went by before we could even start our park. Now, as I understand the Brown amendment, the Brown amendment would say that after the jury had made its decision as to what was fair, and if the city in this case had paid the money to the property owner, or had deposited in the court, and the property owner appealed, the city nevertheless could have taken the property, started the park, and then if the supreme court should find that not enough had been paid, the city would have to pay more. But the property owner wouldn't be able to hold up the whole public works project.

We had a similar case involving the airport, where because of North Central airlines needing to come in right away, we actually paid 33 per cent more than our appraiser said it was worth in order to avoid an appeal because the property owner said he would take an appeal. Well, this just cost the taxpayers 33 per cent more. And if we'd had a number of parcels involved all doing the same thing, it would have cost a great deal. And this all has to be paid by the taxpayer. I think the Brown amendment would protect the property owner. He gets a fair trial. He gets a decision from the jury or, possibly, a 3 man commission if it's a highway case. But if an appeal is taken, the property may be occupied. I would favor the Brown amendment.

CHAIRMAN YEAGER: The question is on the Brown-Stafseth-Binkowski amendment. The Chair recognizes Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I oppose this amendment. I think Mr. Mahinske has given compelling reasons for it, but it certainly doesn't appear to me that there is anything here which permits the individual to have a decision as to compensation before his property is taken. But if that is an error, I think we ought to look at the other side of the coin which has been presented to us. It's true that here or there a man might hold the city up by delay by threatening an appeal. I think we all know appeals are expensive things. And what these gentlemen are telling us is: let them go ahead with their appeal and do without their money until the time has gone by. It seems the great weight of pressure is by the condemning authority on the individual. I think they are the ones that can use blackmail in order to get their price by simply saying: appeal, but it will do you no good. We'll have your land. It seems to me this is a completely unfair situation even if the amendment does what Mr. Brown suggests it does. Personally, I think it does what Mr. Mahinske says it does; it lets them take the land without even determining compensation. In either event, I think it should be defeated.

CHAIRMAN YEAGER: The Chair will recognize the last speaker on the list, Mr. Madar.

MR. MADAR: Mr. Chairman and fellow delegates, I understand now that we have 6 or 7 amendments to go. And I just wonder whether it wouldn't be a good idea for some of the attorneys here to just write up something that is in the federal constitution and let's put it right in here. It will be enough. We can get along with it. "Private property shall not be taken unless just compensation —"

CHAIRMAN YEAGER: Mr. Madar, the question is on the Brown amendment. You must address your remarks to that amendment. The question now occurs on the Brown amendment. As many as are in favor will say aye. As many as are opposed will say no. The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend page 1, (in the amendment), after "determined" by inserting "by a judicial proceeding which shall be conducted before a court of record, which procedure shall be as near as possible as in other civil matters before that court,"; so the language will then read:

> In the exercise of the power of eminent domain, private property shall not be taken by the public nor by any corporation for public use or purpose without the necessity being first determined by a judicial proceeding which shall be conducted before a court of record, which procedure shall be as near as possible as in other civil matters before that court, and just compensation therefor being first paid or secured in such manner as shall be prescribed by law.

CHAIRMAN YEAGER: The question is on the Boothby amendment. The Chair will recognize Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen of the committee, this amendment seeks to cure one of the problems which apparently is concerning the members of this committee, and that particular question is this: who shall make the determination of necessity as to whether a certain parcel of property should be taken by a governmental unit? At the present time, the practice is to have the determination made by the highway commissioner; in other words, a person who has a very definite, one sided interest in the question of whether the determination is going to be upheld in favor of the commission or the condemning authority makes the determination. That's like being the judge of your own case. It's pretty easy to get a determination when you're the judge of your own case because, of course, you always think you're right. This amendment would take it out of the hands of a person who has a self interest and would place it in the hands of a court of law. The question of the determination of necessity would be decided by a judicial proceeding conducted before a court of record and the procedure which would be followed by that court of record would be the same procedure that is followed in any civil case before that court of record. In other words, we're going to allow for the determination of necessity as to whether property should be taken to be in the hands of an impartial individual or tribunal.

I think Miss Donnelly, about a week ago, pointed out the question and the problem, and that is this: that at the present time when the condemning authority makes a determination of necessity, unless you can show fraud, that determination is conclusive — you cannot appeal to the courts and get a reversal of that particular ruling unless you can show fraud — under a recent supreme court case. It would appear as though there is much merit in the contention that the determination of necessity should be by an independent, unprejudiced tribunal.

I know that this particular question has concerned the people in my district. We have had I-94 highway go through our area. And at the determination of necessity, there would be due notice to the people whose property was affected to come and appear at the determination of necessity. At that time, the engineer would come in with his maps showing the different problems that exist and he would run through, in engineer language, the reason why he had to have a determination of necessity held in his favor and, without realizing what was happening, the people would find that there was a determination of necessity found. The people didn't know what in the world was going on because the thing happened so fast and was conducted before a prejudiced individual, that the final outcome was such that the people felt they didn't get a fair hearing. And of course, that is the question, whether they did get a fair hearing.

I think to remove any question, you should have it before a tribunal which is not prejudiced by the question. I would say this: we must remember that the question before us is the taking of private property by the state. If we have any regard at all for property rights, if we have any regard at all for the property rights of an individual, we not only want to make it an unprejudiced proceeding but we want it to appear to the people that are actually being affected, and to the public, that it is definitely an unprejudiced proceeding, so that our concept of respect for the law will continue. I urge the adoption of this amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Hoxie.

MR. HOXIE: Mr. Chairman and fellow delegates, I appreciate the idealistic views of my good friend, Mr. Boothby, but I think he is overlooking a fundamental fact, and that is: do we want highways or don't we want highways? Now, as far as going into court, as he suggests, and determining necessity, do you want your courts to determine where highways should be built? I'd like to call Mr. Boothby's attention to the fact that the highway departments study and lay out roads for future construction. That construction, because of federal participation, is approved by the bureau of federal roads in Washington. There are plenty of safeguards as to the necessity and the need for the roads and where those roads would best serve the general public. It is not only from the standpoint of the general public; those roads are also constructed from the standpoint of national defense, Mr. Boothby. So when you say that the court, hearing a particular necessity, should be able to determine over the survey, the studies, the approval of the bureau of federal roads, is better qualified than those agencies, then, Mr. Boothby, I think you are very sadly mistaken as to the authority of the court in this field of building roads for the benefit of the public.

CHAIRMAN YEAGER: The Chair will recognize Mr. Staiger.

MR. STAIGER: Mr. Chairman, we are once more going into the situation of trying to write a statute rather than a constitution. This, again, is putting detail back in where detail is not needed. We have not provided for a choice of the condemning authority making a determination of necessity. The provision as it now stands is as is provided by law. Mr. Boothby says that under the present procedure, which applies only to the highway department and to the road commissions under the present constitution, that the determination is made by the condemning authority, with no right of appeal except in the case of fraud. This is not true. By a writ of certiorari, you have a complete review of the proceedings to see they must have given proper notice; they must have had a public hearing; they must have made their determination; they must have followed all the procedures of due process; and the question of necessity is a question that can be reviewed by the courts. That's the present practice. All we're saying is leave this question to be provided by the legislature. Let's not freeze into the constitution this type of detail that is not needed, and the legislature will adequately protect the interests of all concerned.

CHAIRMAN YEAGER: The question is on the Boothby amendment. The Chair will recognize the last speaker on the list, Mr. Martin.

MR. MARTIN: I pass.

CHAIRMAN YEAGER: Mr. Martin passes. Mr. Mahinske.

MR. MAHINSKE: I'd just like to point out, for my part, that I'm not opposed to the Boothby amendment. I think it is a good perfecting amendment and I would recommend its adoption.

CHAIRMAN YEAGER: The question occurs on the Boothby amendment. Mr. Boothby, do you wish to be recognized?

MR. BOOTHBY: Mr. Chairman, I would like to answer one remark made by the distinguished gentleman and friend, Delegate Hoxie, regarding the question of necessity to have highways built. I'd like to direct your attention to the case which was referred to about a week ago, the Horan vs. Ziegler case. In that case, the supreme court said this regarding the question of the necessity for having highways built:

> Defendant's counsel, however, did complain that the restraining order has and a further extension of it will delay construction of this important highway. We would regret to cause any delay but believe that the essentials of fair hearing are more important than speedy construction.

Now, I do believe that it's necessary to have public works go forward with all the speed that is necessary and possible. But I cannot believe, in my own mind, that speed in the construction of highways is so important that it should counterweigh the necessity for a fair hearing on the question. And that is the issue: what is a fair hearing? Not only what is a fair hearing, but what will the people who are affected believe a fair hearing will be?

In regard to the statement made that a writ of certiorari gives further right than a right to have a review other than in the case of fraud, let me just direct your attention to this fact: that a review on a writ of certiorari will not allow you to go into the questions of fact. It will only allow you to go into the questions of the jurisdiction of the condemning authority. That's about all the further they'll let you go. And you can only then question jurisdiction and fraud. You cannot question the record of the case, the facts of the case, unless the record is completely devoid of any facts to sustain the position of the condemning authority. I think it's necessary to have a fair and impartial hearing on the question of determination of necessity because, ladies and gentlemen, you're dealing with people's property.

CHAIRMAN YEAGER: The Chair will recognize Mr. Van Dusen.

MR. VAN DUSEN: I'd just like to state that because of the problems we have limiting debate, I've turned over my responsibilities to Mr. Ostrow, who has, in turn, turned them over to Paul Dykstra, and he's got the instrument right here that will do it. (laughter)

[Convention page Paul Dykstra at this point proceeded through the chamber carrying an oversized, imitation pole axe on his shoulder.]

CHAIRMAN YEAGER: The Chair received a message a few moments ago. It said, "Be prepared. We are determined that we are going to show the senate we can stay in session longer than they can." Undersigned. (laughter) The question is still on the Boothby amendment.

SECRETARY CHASE: There seems to be some difficulty in finding out just where to insert these amendments. If the delegates will turn to Journal 124, on page 1021 and page 1022, at the bottom of the righthand column on page 1021, the matter printed in capital letters at the bottom of that page, if you will number those lines from 1 to 8 and at the top of page 1022, if you will number the lines there from 1 to 8, as these amendments are offered, I shall endeavor to interpolate them in the language of the amendment as you find it here so that they will be more easily understood.

CHAIRMAN YEAGER: The question is on the Boothby amendment. The last speaker seeking recognition is Mr. Allen.

MR. ALLEN: Mr. Chairman, I'm sorry —

CHAIRMAN YEAGER: Order, please.

MR. ALLEN: — to speak so often, particularly when no one is listening. I'll make it just as brief as I can. There was a paper prepared for the convention on this problem of eminent domain and, on page 7, this paper says, "On the other hand, in the vast majority of other jurisdictions, the determination of necessity is a legislative one and there have not been charges of abuse." This is what the great majority of the states do. Now, Mr. Boothby's amendment selects one way to do it. It puts it in the constitution. I think it would be better to leave the elasticity in the document and not freeze one way that the determination of necessity would be made.

The Michigan bar association committee that I referred to, as attorneys that represent property owners as well as those that represent public authorities, made the same recommendation. The committee felt that as a matter of procedure, it would be better not to fix by constitution the body or institution that determines necessity, but instead, to leave the matter to the discretion of the legislature because where you have utilities involved, you may want one way to do it. Where you have counties and cities, you may want another, and with a highway, you may want another on the issue of necessity. I think we had better not freeze things. We had better leave this thing elastic. Therefore, I think we'd make a mistake by voting yes on the Boothby amendment.

CHAIRMAN YEAGER: The question is on the Boothby amendment. Mr. Faxon.

MR. FAXON: I'd like to call for a division.

CHAIRMAN YEAGER: Mr. Faxon asks for a division. Is there support? Sufficient number. A division is ordered. The question is on the Boothby amendment. As many as are in favor will vote aye and as many as are opposed will vote no. Have you all voted? The Chair realizes it is difficult at this hour, but a little speed would be most helpful. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Boothby, the yeas are 28; the nays are 66.

CHAIRMAN YEAGER: The amendment is not adopted.

SECRETARY CHASE: The next amendment: Mr. Habermehl —

CHAIRMAN YEAGER: The Chair would like to advise that we have 10 amendments on file at present.

SECRETARY CHASE: Mr. Habermehl offers the following amendment:

1. Amend page 1, (in the amendment), first sentence, after "taken" by inserting "or directly damaged"; and in the second sentence, after the first "court of record" by striking out "or by not less than 3 commissioners appointed by a court of record"; so the language will then read:

> In the exercise of the power of eminent domain, private property shall not be taken or directly damaged by the public nor by any corporation for public use or purpose without the necessity being first determined and just compensation therefor being first paid or secured in such manner as shall be prescribed by law. The just compensation to be paid shall be ascertained by a jury of 12 freeholders as in other civil cases in a court of record as prescribed by law.

CHAIRMAN YEAGER: The question is on the Habermehl amendment. The Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow committee members, if I can have your attention, I promise to speak once for less than one minute.

The 2 questions involved in this amendment are really the only thing that is drastically wrong with the Stafseth amendment. On the first one I'd like to call your attention to one case: a 30 foot fill was placed in front of a piece of property. The position of the condemning authority was that no damage had been suffered by the land owner since no property was taken. Obviously the property was worthless. The words "or directly damaged" would limit the damage to direct damage because of the taking or alteration.

On the second point, 3 commissioners cannot do this job. If the 3 commissioners are laymen, as usually is the case, every time the lawyers make an objection, the commissioners look blank. If there is one lawyer on the commission he makes all of the decisions. If there are 2 lawyers on the commission they immediately get into an argument over every objection raised. Therefore, there must be some way of judicial determination of this question, and not by 3 commissioners. With these 2 amendments I believe that the Stafseth amendment ought to be acceptable to us.

CHAIRMAN YEAGER: Mr. Stafseth is recognized.

MR. STAFSETH: In regard to Mr. Habermehl's amendment, I would urge a no vote. The first part of his amendment, where he says "directly damaged" brings in this question: if you relocate a highway a mile away from where an existing highway is, and you damage a gas station relative to his business — anything like that could be interpreted in this. As I understand it, if a man is damaged in the case that he has cited, where the fill is too high, this isn't a part of the procedure of taking the property. He would have relief through the circuit court if he could have a successful damage suit, but not in a condemnation hearing.

Now, as far as the 3 commissioners are concerned, I said I held no brief for them, but I said there are 2 very good reasons: one is that for the utilities with a lot of small claims, this is a very practical way of expediting it. In the upstate areas, this takes care of the lone individual that comes in on a commission hearing. And this is the experience upstate; he is protected better that way than through a court procedure.

CHAIRMAN YEAGER: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, I think that this amendment covers 2 separate subjects and I would first like to ask that the question be divided because I'm sure that there might be some delegates who might feel one way on one and another on the other. Is that all right, Mr. Chairman?

CHAIRMAN YEAGER: They can be divided, Mr. Faxon. It is so ordered.

[The amendment, first part, reads as follows:

1. Amend page 1, (in the amendment), first sentence, after "taken" by inserting "or directly damaged".]

MR. FAXON: I'd like to speak just to the first part because I think this is very important to the question of direct damages. It seems to me that when they are in the process of setting a new highway or tearing down property or making any project, the entire area should be considered and those who are directly or indirectly involved ought to be taken into account. People who own small businesses are very much affected by this, and even though they may not be in the direct path of an expressway or on the direct land to be torn down, their business will be affected; and these are the small property owners that live in cities and around the state. I think that the question of direct damages ought to be considered as one of the modern and new additions that we can add to the whole question, because this is an area that has just opened up recently. This has never been as true in the past as it is today. With all the changes that are going on, the least we can do is to give some protection to those people who have been owning and operating businesses and owning property, that are affected by this type of action. I would urge the delegates to vote yes on the first part of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: This has been divided, Mr. Chairman?

CHAIRMAN YEAGER: The question has been divided.

MR. MAHINSKE: I would recommend the adoption of the first division here because, as far as I'm concerned, if a person is directly damaged and he can prove this in court, then he should be compensated for his damage and I see absolutely nothing wrong with this at all. If you're going to hurt somebody, you should pay the bill for it. I would recommend the adoption of the first part of the amendment.

CHAIRMAN YEAGER: The Chair recognizes Mr. Rood.

MR. ROOD: Mr. Chairman and members of the committee, I rise to support this amendment. You may recall that it is almost exactly the same amendment that I put before the committee on April 18, with the exception that I had added the additional word "approximately." I believe the amendment is as valid now as it was then. I speak to both portions of it. We seem to be greatly concerned here about broadening the scope of damages. I do not believe we need to be concerned about this matter because we will be under the direction of the court and that will, of course, receive court interpretation. And unless damages are proved and proved in a legal proceeding, they cannot be granted. I urge you to support this amendment.

CHAIRMAN YEAGER: The Chair will recognize Judge Mosier.

MR. MOSIER: Mr. Chairman and fellow delegates, I spoke on this question last week and I feel the same today as I did then: that the matter of inviting into a condemnation proceeding any and all persons who may think they have a claim for damages is an unfair proceeding. It's unfair to the public that is obliged to pay the damages, if it's a public project; and it's unfair to the man whose land is taken because if these damages are all accumulated and the jury is called upon to pass on damages, they are going to determine what the total amount is and the man who owns the land is very apt to come out at the little end of the horn. I oppose the amendment.

While I'm on my feet, I want to call the attention of these delegates to some language that is in the federal constitution; and let me remind you of the few words that are in that constitution under which eminent domain has been practiced by the government all these years, and without change. Here is what the federal constitution says, ". . . nor shall private property be taken for public use without just compensation." We've been spending hours here debating things that should go to the legislature and should not be a part of the constitution.

CHAIRMAN YEAGER: The question is still upon the first part of the Habermehl amendment. The Chair will recognize Mr. Binkowski.

MR. BINKOWSKI: On short question for Mr. Habermehl.

CHAIRMAN YEAGER: State the question.

MR. BINKOWSKI: Mr. Habermehl, by "direct damages," would you include the situation where, say, a bar was located on a highway and the particular highway was relocated and the owner of the bar, of course, would have a loss of profits as a result of the rerouting of the highway? Would you say he would be entitled to collect damages under your wording "if directly damaged?"

MR. HABERMEHL: Mr. Chairman, Mr. Binkowski, no. That's why I use the words "directly damaged." Of course, the language would have to be interpreted by the court but I would consider that these would be what we often call consequential damages. These would be damages to the property adjoining the highway.

MR. BINKOWSKI: Members of the committee, for the reasons that Judge Mosier has already expressed and because of the fact that we have already rejected this particular language, I think that we should also reject the Habermehl amendment.

CHAIRMAN YEAGER: Mr. Bledsoe. The Chair is sorry, Mr. Wanger was on the list first. The Chair will recognize you immediately after he is finished. Mr. Wanger is recognized.

MR. WANGER: Mr. Chairman, members of the committee, we live in the greatest country in the world; a country which has been able to give its people, through a system of sound government and opportunity, the greatest standard of living and material advantages and opportunities in the world. This government is also based on individual rights. It seems to me that if we deny the property owners direct damages which they suffer when property is taken, we're selling that heritage mighty short. I urge you to vote in favor of the first part of the Habermehl amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman and fellow delegates, I want to answer Judge Mosier. I have no quarrel and I agree with just exactly what he said about the federal constitution. But when that federal constitution was drafted, the proponents who drafted that law were not faced with the problems that we're faced with here. There is no reference made there to just and equitable compensation of persons directly concerned and who have interest. Now, I'm not talking about somebody who has a bar 5 blocks away nor some consequential damages of somebody more or less in the neighborhood. So as far as the federal constitution is concerned, that is simply a general pronouncement.

We here in Michigan are charged with the responsibility under the doctrine of state's rights and the constitution that we have a right to prepare to govern our people, to provide a basic law to meet their immediate needs in the community and in the vicinity in which they live. That is the distinction between what we are confronted with here and the constitution of the United States.

I have an amendment covering these questions of equitable distribution of just compensation affecting the varied interest of parties who hold contingent interests in contracts for the purchase and sale of land. And with your permission at the time, Mr. Chairman, when that amendment comes up, I'd like to be permitted to speak again on it. But I wanted to answer Judge Mosier on this federal question.

CHAIRMAN YEAGER: The question is on the Habermehl amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the —

MR. FAXON: Will you ring the bell, please, so that the people out there can at least have an opportunity to vote on this? And also, would the secretary read which amendment is being voted upon?

CHAIRMAN YEAGER: The vote has been taken. The Chair was remiss in not restating the question and forgot it was divided and the first part of it was to be voted on.

MISS DONNELLY: Division.

CHAIRMAN YEAGER: A division has been requested. Is there support? There is sufficient number up. A division vote will be taken on the first part of the Habermehl amendment and the secretary will read the part to be voted on.

SECRETARY CHASE: The first part of the Habermehl amendment:

[The amendment was read by the secretary. For text, see above, page 2844.]

CHAIRMAN YEAGER: The question is on the part of the Habermehl amendment just read by the secretary. As many as are in favor will vote aye. As many as are opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the first part of the Habermehl amendment, the yeas are 42; the nays are 44.

CHAIRMAN YEAGER: The first part of the Habermehl amendment is not adopted.

SECRETARY CHASE: The second part of the amendment is as follows:

1. Amend page 1, (in the amendment), second sentence, after the first "court of record" by striking out "or by not less than 3 commissioners appointed by a court of record".

CHAIRMAN YEAGER: Mr. Lawrence sought recognition on the second part of the amendment. He is now recognized.

MR. LAWRENCE: Mr. Chairman, I would like to make just a brief statement. For those who are not lawyers, perhaps we've assumed something that you don't know, and I am speaking particularly with reference to the statement that commissioners were desirable in certain types of cases because they were small cases. Perhaps there has been this impression: perhaps, say, a highway is condemning a lot of property for a highway, that separate suits have to be started in each case. That, of course, is not correct and that is not true as to any condemning authority, whether it's the utility company, Huron-Clinton metropolitan, or anything else. They frequently will put in hundreds of pieces of property in one suit. So don't get the idea that just because a person has a small piece of property that a separate suit has to be started for that. In other words that is no argument against a jury making a determination rather than the 3 commissioners.

CHAIRMAN YEAGER: The Chair recognizes Mr. Mahinske on the second part of the Habermehl amendment.

MR. MAHINSKE: This is another one of those little points that the proponents of the original amendment were expounding that they would be willing to drop from their amendment because they were not particularly interested in commissioners. Now we'll see just exactly if they're going to follow through on this, as they haven't on the 3 other amendments here that they from time to time have said that they were willing to agree on.

I think you can appreciate my remarks made before about what we were going to get involved with, depending on which base we started to work from. I'll keep my remarks short here. We've got 10 more amendments pending after this half. I would urge the adoption of this portion of the amendment and call for the yeas and nays.

CHAIRMAN YEAGER: A division has already been ordered. Do you mean the additional yeas and nays?

MR. MAHINSKE: I'm calling for the yeas and nays on the commissioner section.

CHAIRMAN YEAGER: The yeas and nays have been requested. Is there support? Sufficient number up. The yeas and nays are ordered. The question is on the second part of the Habermehl amendment. The Chair will recognize Mr. Karn.

MR. KARN: Mr. Chairman, I would like to urge the defeat of this amendment. Dropping the 3 commissioners from the amendment as it now appears would be not only very expensive, but would cause very great delays. It is important to the utility industry. I urge a vote against it.

CHAIRMAN YEAGER: The question occurs on the second part of the Habermehl amendment. This is a recorded roll call vote. The yeas and nays have been ordered. As many as are in favor will vote aye. As many as are opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—32

Andrus, Miss
Barthwell
Bentley
Bonisteel
Cushman, Mrs.
Dehnke
Donnelly, Miss
Doty, Dean
Douglas
Elliott, Mrs. Daisy
Erickson
Faxon
Gover
Habermehl
Heideman
Kelsey
King
Krolikowski
Lawrence
Leibrand
Liberato
Mahinske
McAllister
Prettie
Pugsley
Richards, L. W.
Rood
Rush
Shanahan
Stevens
Turner
Young

Nays—60

Allen
Balcer
Batchelor
Beaman
Bledsoe
Bradley
Brake
Buback
Cudlip
Danhof
Dell
Elliott, A. G.
Farnsworth
Figy
Goebel
Gust
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Leppien
Madar
Martin
McCauley
McLogan
Millard
Mosier
Murphy
Page
Romney
Sablich
Seyferth
Shackleton
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stopczynski
Suzore
Thomson
Tweedie
Upton

The 2 questions involved in this amendment are really the only thing that is drastically wrong with the Stafseth amendment. On the first one I'd like to call your attention to one case: a 30 foot fill was placed in front of a piece of property. The position of the condemning authority was that no damage had been suffered by the land owner since no property was taken. Obviously the property was worthless. The words "or directly damaged" would limit the damage to direct damage because of the taking or alteration.

On the second point, 3 commissioners cannot do this job. If the 3 commissioners are laymen, as usually is the case, every time the lawyers make an objection, the commissioners look blank. If there is one lawyer on the commission he makes all of the decisions. If there are 2 lawyers on the commission they immediately get into an argument over every objection raised. Therefore, there must be some way of judicial determination of this question, and not by 3 commissioners. With these 2 amendments I believe that the Stafseth amendment ought to be acceptable to us.

CHAIRMAN YEAGER: Mr. Stafseth is recognized.

MR. STAFSETH: In regard to Mr. Habermehl's amendment, I would urge a no vote. The first part of his amendment, where he says "directly damaged" brings in this question: if you relocate a highway a mile away from where an existing highway is, and you damage a gas station relative to his business — anything like that could be interpreted in this. As I understand it, if a man is damaged in the case that he has cited, where the fill is too high, this isn't a part of the procedure of taking the property. He would have relief through the circuit court if he could have a successful damage suit, but not in a condemnation hearing.

Now, as far as the 3 commissioners are concerned, I said I held no brief for them, but I said there are 2 very good reasons: one is that for the utilities with a lot of small claims, this is a very practical way of expediting it. In the upstate areas, this takes care of the lone individual that comes in on a commission hearing. And this is the experience upstate; he is protected better that way than through a court procedure.

CHAIRMAN YEAGER: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. Chairman and fellow delegates, I think that this amendment covers 2 separate subjects and I would first like to ask that the question be divided because I'm sure that there might be some delegates who might feel one way on one and another on the other. Is that all right, Mr. Chairman?

CHAIRMAN YEAGER: They can be divided, Mr. Faxon. It is so ordered.

[The amendment, first part, reads as follows:

1. Amend page 1, (in the amendment), first sentence, after "taken" by inserting "or directly damaged".]

MR. FAXON: I'd like to speak just to the first part because I think this is very important to the question of direct damages. It seems to me that when they are in the process of setting a new highway or tearing down property or making any project, the entire area should be considered and those who are directly or indirectly involved ought to be taken into account. People who own small businesses are very much affected by this, and even though they may not be in the direct path of an expressway or on the direct land to be torn down, their business will be affected; and these are the small property owners that live in cities and around the state. I think that the question of direct damages ought to be considered as one of the modern and new additions that we can add to the whole question, because this is an area that has just opened up recently. This has never been as true in the past as it is today. With all the changes that are going on, the least we can do is to give some protection to those people who have been owning and operating businesses and owning property, that are affected by this type of action. I would urge the delegates to vote yes on the first part of the amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: This has been divided, Mr. Chairman?

CHAIRMAN YEAGER: The question has been divided.

MR. MAHINSKE: I would recommend the adoption of the first division here because, as far as I'm concerned, if a person is directly damaged and he can prove this in court, then he should be compensated for his damage and I see absolutely nothing wrong with this at all. If you're going to hurt somebody, you should pay the bill for it. I would recommend the adoption of the first part of the amendment.

CHAIRMAN YEAGER: The Chair recognizes Mr. Rood.

MR. ROOD: Mr. Chairman and members of the committee, I rise to support this amendment. You may recall that it is almost exactly the same amendment that I put before the committee on April 18, with the exception that I had added the additional word "approximately." I believe the amendment is as valid now as it was then. I speak to both portions of it. We seem to be greatly concerned here about broadening the scope of damages. I do not believe we need to be concerned about this matter because we will be under the direction of the court and that will, of course, receive court interpretation. And unless damages are proved and proved in a legal proceeding, they cannot be granted. I urge you to support this amendment.

CHAIRMAN YEAGER: The Chair will recognize Judge Mosier.

MR. MOSIER: Mr. Chairman and fellow delegates, I spoke on this question last week and I feel the same today as I did then: that the matter of inviting into a condemnation proceeding any and all persons who may think they have a claim for damages is an unfair proceeding. It's unfair to the public that is obliged to pay the damages, if it's a public project; and it's unfair to the man whose land is taken because if these damages are all accumulated and the jury is called upon to pass on damages, they are going to determine what the total amount is and the man who owns the land is very apt to come out at the little end of the horn. I oppose the amendment.

While I'm on my feet, I want to call the attention of these delegates to some language that is in the federal constitution; and let me remind you of the few words that are in that constitution under which eminent domain has been practiced by the government all these years, and without change. Here is what the federal constitution says, ". . . nor shall private property be taken for public use without just compensation." We've been spending hours here debating things that should go to the legislature and should not be a part of the constitution.

CHAIRMAN YEAGER: The question is still upon the first part of the Habermehl amendment. The Chair will recognize Mr. Binkowski.

MR. BINKOWSKI: On short question for Mr. Habermehl.

CHAIRMAN YEAGER: State the question.

MR. BINKOWSKI: Mr. Habermehl, by "direct damages," would you include the situation where, say, a bar was located on a highway and the particular highway was relocated and the owner of the bar, of course, would have a loss of profits as a result of the rerouting of the highway? Would you say he would be entitled to collect damages under your wording "if directly damaged?"

MR. HABERMEHL: Mr. Chairman, Mr. Binkowski, no. That's why I use the words "directly damaged." Of course, the language would have to be interpreted by the court but I would consider that these would be what we often call consequential damages. These would be damages to the property adjoining the highway.

MR. BINKOWSKI: Members of the committee, for the reasons that Judge Mosier has already expressed and because of the fact that we have already rejected this particular language, I think that we should also reject the Habermehl amendment.

CHAIRMAN YEAGER: Mr. Bledsoe. The Chair is sorry, Mr. Wanger was on the list first. The Chair will recognize you immediately after he is finished. Mr. Wanger is recognized.

MR. WANGER: Mr. Chairman, members of the committee, we live in the greatest country in the world; a country which has been able to give its people, through a system of sound government and opportunity, the greatest standard of living and material advantages and opportunities in the world. This government is also based on individual rights. It seems to me that if we deny the property owners direct damages which they suffer when property is taken, we're selling that heritage mighty short. I urge you to vote in favor of the first part of the Habermehl amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman and fellow delegates, I want to answer Judge Mosier. I have no quarrel and I agree with just exactly what he said about the federal constitution. But when that federal constitution was drafted, the proponents who drafted that law were not faced with the problems that we're faced with here. There is no reference made there to just and equitable compensation of persons directly concerned and who have interest. Now, I'm not talking about somebody who has a bar 5 blocks away nor some consequential damages of somebody more or less in the neighborhood. So as far as the federal constitution is concerned, that is simply a general pronouncement.

We here in Michigan are charged with the responsibility under the doctrine of state's rights and the constitution that we have a right to prepare to govern our people, to provide a basic law to meet their immediate needs in the community and in the vicinity in which they live. That is the distinction between what we are confronted with here and the constitution of the United States.

I have an amendment covering these questions of equitable distribution of just compensation affecting the varied interest of parties who hold contingent interests in contracts for the purchase and sale of land. And with your permission at the time, Mr. Chairman, when that amendment comes up, I'd like to be permitted to speak again on it. But I wanted to answer Judge Mosier on this federal question.

CHAIRMAN YEAGER: The question is on the Habermehl amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The secretary will read the —

MR. FAXON: Will you ring the bell, please, so that the people out there can at least have an opportunity to vote on this? And also, would the secretary read which amendment is being voted upon?

CHAIRMAN YEAGER: The vote has been taken. The Chair was remiss in not restating the question and forgot it was divided and the first part of it was to be voted on.

MISS DONNELLY: Division.

CHAIRMAN YEAGER: A division has been requested. Is there support? There is sufficient number up. A division vote will be taken on the first part of the Habermehl amendment and the secretary will read the part to be voted on.

SECRETARY CHASE: The first part of the Habermehl amendment:

[The amendment was read by the secretary. For text, see above, page 2844.]

CHAIRMAN YEAGER: The question is on the part of the Habermehl amendment just read by the secretary. As many as are in favor will vote aye. As many as are opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the first part of the Habermehl amendment, the yeas are 42; the nays are 44.

CHAIRMAN YEAGER: The first part of the Habermehl amendment is not adopted.

SECRETARY CHASE: The second part of the amendment is as follows:

1. Amend page 1, (in the amendment), second sentence, after the first "court of record" by striking out "or by not less than 3 commissioners appointed by a court of record".

CHAIRMAN YEAGER: Mr. Lawrence sought recognition on the second part of the amendment. He is now recognized.

MR. LAWRENCE: Mr. Chairman, I would like to make just a brief statement. For those who are not lawyers, perhaps we've assumed something that you don't know, and I am speaking particularly with reference to the statement that commissioners were desirable in certain types of cases because they were small cases. Perhaps there has been this impression: perhaps, say, a highway is condemning a lot of property for a highway, that separate suits have to be started in each case. That, of course, is not correct and that is not true as to any condemning authority, whether it's the utility company, Huron-Clinton metropolitan, or anything else. They frequently will put in hundreds of pieces of property in one suit. So don't get the idea that just because a person has a small piece of property that a separate suit has to be started for that. In other words that is no argument against a jury making a determination rather than the 3 commissioners.

CHAIRMAN YEAGER: The Chair recognizes Mr. Mahinske on the second part of the Habermehl amendment.

MR. MAHINSKE: This is another one of those little points that the proponents of the original amendment were expounding that they would be willing to drop from their amendment because they were not particularly interested in commissioners. Now we'll see just exactly if they're going to follow through on this, as they haven't on the 3 other amendments here that they from time to time have said that they were willing to agree on.

I think you can appreciate my remarks made before about what we were going to get involved with, depending on which base we started to work from. I'll keep my remarks short here. We've got 10 more amendments pending after this half. I would urge the adoption of this portion of the amendment and call for the yeas and nays.

CHAIRMAN YEAGER: A division has already been ordered. Do you mean the additional yeas and nays?

MR. MAHINSKE: I'm calling for the yeas and nays on the commissioner section.

CHAIRMAN YEAGER: The yeas and nays have been requested. Is there support? Sufficient number up. The yeas and nays are ordered. The question is on the second part of the Habermehl amendment. The Chair will recognize Mr. Karn.

MR. KARN: Mr. Chairman, I would like to urge the defeat of this amendment. Dropping the 3 commissioners from the amendment as it now appears would be not only very expensive, but would cause very great delays. It is important to the utility industry. I urge a vote against it.

CHAIRMAN YEAGER: The question occurs on the second part of the Habermehl amendment. This is a recorded roll call vote. The yeas and nays have been ordered. As many as are in favor will vote aye. As many as are opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—32

Andrus, Miss
Barthwell
Bentley
Bonisteel
Cushman, Mrs.
Dehnke
Donnelly, Miss
Doty, Dean
Douglas
Elliott, Mrs. Daisy
Erickson
Faxon
Gover
Habermehl
Heideman
Kelsey
King
Krolikowski
Lawrence
Leibrand
Liberato
Mahinske
McAllister
Prettie
Pugsley
Richards, L. W.
Rood
Rush
Shanahan
Stevens
Turner
Young

Nays—60

Allen
Balcer
Batchelor
Beaman
Bledsoe
Bradley
Brake
Buback
Cudlip
Danhof
Dell
Elliott, A. G.
Farnsworth
Figy
Goebel
Gust
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Leppien
Madar
Martin
McCauley
McLogan
Millard
Mosier
Murphy
Page
Romney
Sablich
Seyferth
Shackleton
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stopczynski
Suzore
Thomson
Tweedie
Upton

Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Perlich
Perras
Powell
Rajkovich
Van Dusen
Walker
Wanger
Wood

SECRETARY CHASE: On the adoption of the second part of the Habermehl amendment, the yeas are 32; the nays are 60.

CHAIRMAN YEAGER: The second part of the Habermehl amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Danhof, Hutchinson, Binkowski and Madar offer the following amendment:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the proposal and inserting "Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.".

CHAIRMAN YEAGER: The Chair will recognize Mr. Danhof on the amendment.

MR. DANHOF: Mr. Chairman and members of the committee, this amendment was originally drafted by Mr. Hutchinson. Unfortunately he was not able to be here. I think we have found by our actions tonight the mire that we have crawled into by reason of trying to write legislative detail into this constitution. I point out to you that the United States constitution makes one statement and it says, "nor shall private property be taken for public use without just compensation." The states of Indiana, Connecticut, Wyoming, Nebraska, Minnesota, Alaska, Missouri, Illinois, South Dakota and others have language similar to this.

I submit to you that all we need is to provide that there must be just compensation paid before private property can be taken for a public use. This is good constitutional language, drafted by gentlemen far more able than myself.

Mr. Binkowski has joined with me; Mr. Madar made the suggestion earlier this evening. I think that you have found out that we cannot plan for the roads, for the airports, for the power companies, for the universities, for everything that will be happening in the future. This is a clear, concise statement of public policy with a safeguard that just compensation must first be made or secured in a manner prescribed by law. Necessity, as Mr. Allen has pointed out, should be a legislative determination. Whether necessity should or should not be a jury question should be left to the legislature. Whether you should have or should not have a jury trial should be left to the legislature. The main thing is to provide that private property will be adequately and justly compensated therefor. This we have done. I urge the adoption of the amendment. You will save endless hours of debate, time and trouble. Mr. Chairman, I urge the adoption thereof.

CHAIRMAN YEAGER: The Chair will recognize Miss Hart.

MISS HART: Mr. Chairman, fellow delegates, I congratulate the sponsors of this amendment and I sincerely hope that the convention will have the good judgment to adopt it and go home for the evening. (applause)

CHAIRMAN YEAGER: The Chair will recognize Mr. Hatch.

MR. HATCH: Mr. Chairman, I would like to direct a question to Mr. Danhof.

CHAIRMAN YEAGER: You may ask the question.

MR. HATCH: I notice that this amendment strikes out not only the Stafseth amendment, but also sections c, d and e. My question concerns section c which deals, not with public roads or public property but private roads which may be open and I wonder, if this section is stricken from the constitution if the legislature would have the power to provide for the establishment of private roads.

MR. DANHOF: Mr. Hatch, I point out to you that it states that private roads may be open in a manner prescribed by law. It was left to the legislature. You have a common law right of necessity, as Mr. Hutchinson pointed out to me today before he left. Other states have taken care of this particular problem without having constitutional language thereon. I see no reason why Michigan should have it.

MR. HATCH: It would be your understanding that by striking out this provision the legislature would still have the authority to provide that a private individual may establish a private road by taking land from another private individual?

MR. DANHOF: Assuming necessity and that damages are paid; and as to necessity, of course, there would be a big problem to show that he actually needed the way out. I would see nothing that would prohibit that to be done in the exercise of sovereign authority.

CHAIRMAN YEAGER: The Chair will recognize Mr. Beaman. Mr. Bledsoe, for what purpose do you rise? There are several people on the list. The Chair will be glad to put you on, Mr. Bledsoe.

MR. BEAMAN: Mr. Chairman, members of the delegation, after listening to many hours of debate, as numb as I am, this is the first amendment that I understand, and I am in favor of it. (laughter and applause)

CHAIRMAN YEAGER: The Chair will recognize Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman, I want to say ditto. I'm in favor of it too. (laughter)

CHAIRMAN YEAGER: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, I think it would be very nice if we could be writing here good constitutional language and I'm sure that in the case of the courts we could have very nicely said that there shall be a supreme court and such inferior courts as the legislature may from time to time establish. That's good constitutional language. You could have done the same with the question on education; you could have done the same with every article in this constitution, as you know. Now, I think this is a question of not just writing in good constitutional language, but —

CHAIRMAN YEAGER: Mr. Faxon, The Chair will ask you to speak on the amendment.

MR. FAXON: I'm speaking on the amendment here because I think that the committee did quite a bit of work. They came in with a proposal and now we're being asked to turn the whole thing over to the legislature. Now, this has been part of our old constitution. This is a question of protecting the rights of property owners and I think that we would be shirking our responsibilities if, because we are anxious to go home tonight and because we're tired, we're just going to throw out the whole thing and let the legislature do it. I think if we need more time we're willing to take it. I'm not in favor of this amendment to let the whole thing go to the legislature.

CHAIRMAN YEAGER: The Chair will recognize Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, you can see that the time is now 5 minutes after 11 o'clock in the evening. However, I agree that we should not vote for this amendment because our job and the work we do should not be motivated just by the fact that it's late and we would like, if possible, to resolve this. This is the wrong way to resolve it.

Mr. Danhof knows that the United States constitution language about the court system was not proper for Michigan. He never suggested that. But now, because he would like to leave this up to the legislature, he has offered this amendment in the hope that we, being tired and perhaps somewhat confused by details, may adopt it. I urge you to vote against this amendment and I call your attention to the fact that it has been, for years, within the power of the legislature to correct abuses which have been repeatedly pointed out upon this floor and from which, by proper constitutional language, we can protect the people in the future.

CHAIRMAN YEAGER: The Chair will recognize Mr. Young.

MR. YOUNG: Mr. Chairman, as another nonlawyer who is somewhat numb after many hours of discussion, I'm going to say in my strictly nonlegal interpretation that the United States constitution looks pretty good to me. It certainly looks better to me than the Stafseth amendment. I don't think that it leans too far in one direction or another on this question and it leaves the possibility for making the necessary change in the legislature, which means that the people will not have to amend the constitution in order to get the rights that they need.

I'm particularly concerned with urban renewal, which I feel is a greater potential problem than even the highway situation. And I think within the next few years it will be possible to get the necessary guarantees for the public on the question of urban renewal. It will be much easier to do it through the legislature than by constitutional amendment. Therefore, I must go on record as supporting the United States constitution.

CHAIRMAN YEAGER: The Chair recognizes Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman and fellow delegates, I don't want any misunderstanding about my position here on the United States constitution because I think everybody knows it. However, I likewise want it understood that I am not willing to run away from the position that I've taken in this convention on a constitutional amendment that has been part of the basic law of this state for over 100 years.

I see some very strange maneuvers here and I'm not disturbed about them and I'm not going to run. I think that we ought to face this matter. It isn't that we can't face it in our constitution. The other drafters of this constitution didn't take a runout powder and I don't think we ought to do it here. I think as the people of this state, we ought to face this issue with this urban renewal problem that is affecting this entire nation, running into billions and billions of dollars of governmental expenditure and of the taxpayers' money and the interest of people's property in the several states of the United States. I think it's positively cowardly for us to run out on the people of Michigan whose property interests are being involved and who are looking to this convention for relief under our constitution. Is everybody sleepy, or do you want to go home and go to bed? I'll even join you there but I'd like to meet you here in the morning and let's carry on. This is a reprehensible state of affairs as far as I'm concerned.

CHAIRMAN YEAGER: The Chair recognizes Mr. Upton.

MR. UPTON: Mr. Chairman, perhaps we should take up Mr. Bledsoe. But personally, I feel this is the most significant language we've seen all evening. I'm not tired particularly. I think this is an important time, but I think we laymen have to understand eminent domain and what it can do to us, because it's our property in the end, that's involved. I believe this language spells, not only for today but for the future, the requirements of taking over private property by the state or any other corporation allowed to do so. Therefore, I would certainly endorse this amendment.

CHAIRMAN YEAGER: The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: I'll yield to Mr. Habermehl at this point.

CHAIRMAN YEAGER: Mr. Habermehl is recognized.

MR. HABERMEHL: Mr. Chairman, I'd like to direct a question, through the Chair, to Mr. Danhof. Mr. Danhof, what does your language say that the provision in the bill of rights reading that property shall not be taken without due process of law doesn't say?

MR. DANHOF: Probably nothing, Mr. Habermehl. If you want to go home without anything written on this, I'll join you.

MR. HABERMEHL: Good. Let's strike it all.

CHAIRMAN YEAGER: The Chair will recognize Mr. Wanger.

MR. WANGER: I ask for the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays are demanded. Is there support? Sufficient number up. The yeas and nays are ordered. The question is on the Hutchinson-Binkowski-Danhof-Madar amendment. The yeas and nays have been ordered. As many as are in favor will vote aye. As many as are opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

MR. WALKER: Mr. Chairman.

CHAIRMAN YEAGER: For what purpose does the gentleman rise?

MR. WALKER: Parliamentary inquiry, I imagine. I understand that there was a resolution passed that there shall be 60 seconds or one minute elapse from the time that the vote is asked until the machine is locked. I believe we had 20 seconds that time.

CHAIRMAN YEAGER: Mr. Walker, the Chair would advise that at this hour the Chair would have to be pardoned because the eyes are a little bleary and the Chair is sorry. The Chair thought we waited a minute. (laughter)

The roll was called and the delegates voted as follows:

Yeas—78

Allen
Andrus, Miss
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bonisteel
Bradley
Brake
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Doty, Dean
Douglas
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Figy
Gust
Hart, Miss

Hatch
Hatcher, Mrs.
Heideman
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
Leibrand
Leppien
Liberato
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Page
Perlich
Perras

Plank
Powell
Prettie
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Sharpe
Spitler
Stafseth
Staiger
Stamm
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wood
Young

Nays—17

Bledsoe
Donnelly, Miss
Erickson
Faxon
Goebel
Gover

Habermehl
Haskill
Krolikowski
Kuhn
Lawrence
Mahinske

Pugsley
Sleder
Snyder
Wanger
Wilkowski

SECRETARY CHASE: On the amendment offered by Mr. Danhof, Mr. Hutchinson, Mr. Binkowski and Mr. Madar, the yeas are 78; and the nays are 17.

CHAIRMAN YEAGER: The amendment is adopted. The Chair will recognize Mr. Mahinske.

MR. MAHINSKE: Mr. Chairman, I'd like to make an amendment from the floor to strike all reference to eminent domain from the constitution at all.

CHAIRMAN YEAGER: Will you proceed, Mr. Mahinske?

MR. MAHINSKE: Regardless of my expert advice here, from the side, I feel that this language, even though this is a recitation of the federal language — we are not dealing on a federal level here. We're dealing on a state level, where property is taken not only for public purposes but for private purposes. This is not taken care of here.

I think that I would rather rely on the due process provisions in the federal constitution than rely on this provision in the state constitution. I think we can go a lot further, as attorneys and as property owners and so forth, under the due process provisions of the federal constitution and the administrative appellate procedures that we have written into our state constitution rather than adopt this language. I would rather see the constitution silent in the area of eminent domain, as opposed to this language.

CHAIRMAN YEAGER: The Chair can't help but remark it's too bad we didn't think of this 2 hours ago.

[Following is the amendment:

1. Amend page 1, line 5, by striking out all after the enacting clause.]

Mr. Mahinske has moved that the entire Committee Proposal 67 be stricken. The question is on that amendment. Does Mr. Stevens wish to be recognized?

MR. STEVENS: Mr. Chairman and tired members of the committee, I will never vote to take out of the state constitution something that makes us rely entirely on the United States constitution for the protection of people's rights. I think it's the duty of the state to take care of its own.

CHAIRMAN YEAGER: The Chair will recognize Mr. Danhof.

MR. DANHOF: Mr. Chairman and members of the convention, when I replied to Mr. Habermehl a while ago I was probably getting tired like everybody else. Mr. Habermehl, there is one place that it does maintain that there must be the payment of just compensation. Many, many years ago the state — not in this state; but in other states — took property and, there being no requirement in the constitution and no statutory requirement, obtained the property in the state of Massachusetts without the payment of anything.

Now, there is some small difference because eminent domain is an inherent sovereign power within the government itself. It doesn't have to be granted. It has it. They even have it in the federal constitution without a grant of power. There is nothing stated in the federal constitution that gives to the federal government any right of eminent domain except this statement that there shall be just compensation. I think that we have stated here that there must always be the payment of just compensation. I would agree with Mr. Stevens. When I answered you before, I think I was a little tired and a little hasty. I think there is that distinction, Mr. Habermehl.

CHAIRMAN YEAGER: Miss Donnelly is recognized.

MISS DONNELLY: I rise to oppose Mr. Mahinske's amendment, obviously. I feel that to now strike everything is a very serious mistake. I therefore oppose his amendment.

CHAIRMAN YEAGER: Mr. Habermehl is recognized.

MR. HABERMEHL: First of all, Mr. Chairman, in response to Mr. Stevens, his committee put the due process clause in the Michigan constitution. It appears in the declaration of rights.

In reply to Mr. Danhof, due process of law, I think, clearly implies payment for land taken, and as a proponent of keeping all unnecessary language out of the constitution, I can't see that the provision as has now been adopted says one thing.

CHAIRMAN YEAGER: The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, the due process clause in our Michigan constitution does not contain the words "just compensation." These words certainly have a meaning in law and they certainly have a great deal of meaning for all the people in Michigan who happen to own some property which might be, at any time, subject to some condemnation procedure. I vigorously oppose this amendment. I hope we can leave something for the property owners of Michigan so that they'll be able to say that at least at 11:00 o'clock at night there were a majority of the delegates still in the convention hall who just were not willing to throw up their hands and go home. I ask for the yeas and nays.

CHAIRMAN YEAGER: The yeas and nays have been demanded. Is there support? Sufficient number up. The yeas and nays are ordered. The question is on the Mahinske amendment to strike all of Committee Proposal 67. The Chair recognizes Mr. Bledsoe, the last speaker on the list.

MR. BLEDSOE: Mr. Chairman, I'd like to ask Mr. Danhof a question, if I may.

CHAIRMAN YEAGER: If Mr. Danhof cares to answer. Proceed.

MR. BLEDSOE: Mr. Danhof, is there any jury provision for the passing on necessity or damages under the federal practice in the state of Michigan?

CHAIRMAN YEAGER: Mr. Danhof.

MR. DANHOF: You mean under the federal statute, Mr. Bledsoe? Is this what you are referring to?

MR. BLEDSOE: Yes.

MR. DANHOF: Yes. You may always have a jury in federal court, if you request it.

MR. BLEDSOE: Under the law that Judge Mosier read?

MR. DANHOF: Mr. Bledsoe, rule 71a of the federal rules of civil procedure provides that you may have a jury, or it will be tried by the court, or the court may refer it to commissioners. There is no right in a land owner. The matter of just compensation may be determined under rule 71a by a jury if he demands it.

MR. BLEDSOE: That is your understanding of the law as it was read here by Judge Mosier tonight?

MR. DANHOF: I heard part of what Judge Mosier read. The only thing I state, Mr. Bledsoe, is that in the 7½ years that I've worked with federal condemnations, we had jury trials under this rule of the federal rules of civil procedure.

MR. MAHINSKE: Mr. Chairman, I think we're getting off the debate here. We're getting closer to the witching hour which everybody seems to be concerned about. I withdraw my amendment at this time.

CHAIRMAN YEAGER: The amendment is withdrawn. There are no further amendments pending. Committee Proposal 67 will pass.

Committee Proposal 67, as amended, is passed. The Chair recognizes Mr. Erickson.

MR. ERICKSON: I move the committee rise.

CHAIRMAN YEAGER: Before putting the question of the motion of Mr. Erickson, I would like to take this opportunity to thank Mr. Erickson and his committee for their cooperation. I want to thank Mr. Chase and his staff for their fine work and thank all of you for your cooperation and indulgence during the time that I have spent up here. As Jackie Gleason might say: you're a good group.

The question is on the motion by Mr. Erickson that the committee do now rise. All in favor will say aye. Those opposed, no. The motion prevails. The committee has risen.

[Whereupon, the committee of the whole having risen, Vice President Romney resumed the Chair.]

VICE PRESIDENT ROMNEY: Delegate Yeager.

MR. YEAGER: Mr. President, the committee of the whole for its final time has had under consideration 2 proposals of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Exclusion Report 2005, A** report recommending the exclusion of section 11 and section 12 of article XI; reports the same back to the convention without amendment.

VICE PRESIDENT ROMNEY: **Exclusion Report 2005** is adopted and referred to the committee on style and drafting.

For Exclusion Report 2005 as referred to the committee on style and drafting, see above, page 2829.

SECRETARY CHASE: The committee of the whole has also had under consideration **Committee Proposal 67, A** proposal to amend article XIII, sections 1, 2, 3, 4 and 5 pertaining to eminent domain of the present constitution; has adopted an amendment thereto and recommends the passage of the proposal as thus amended.

[The following is the amendment adopted by the committee of the whole:

1. Amend page 1, line 5, after "Sec. a.", by striking out the balance of the proposal and inserting "Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.".]

VICE PRESIDENT ROMNEY: **Committee Proposal 67,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 67 as amended and referred to the committee on style and drafting:

The committee recommends that the following
be included in the constitution:

Sec. a. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.

SECRETARY CHASE: We have the following announcements:

A meeting of the committee on style and drafting tomorrow after the morning session. William B. Cudlip, chairman.

A meeting of the committee on legislative powers tomorrow morning at 8:00 o'clock. T. Jefferson Hoxie, chairman.

Pictures of the full committee on judicial branch will be taken tomorrow immediately after the morning session in room B. Robert J. Danhof, chairman.

The committee on administration will meet at 11:30 tomorrow. Walter DeVries, chairman.

I have the following requests for leave: Mr. T. S. Brown asks to be excused from the sessions of Thursday and Friday; Mr. Wynne Garvin asks to be excused from the sessions for an indefinite period due to the death of his mother; and Mr. Bledsoe asks to be excused from the afternoon session tomorrow and the session of Friday, due to personal business.

VICE PRESIDENT ROMNEY: Without objection, it is so ordered. Any further announcements, Mr. Secretary?

SECRETARY CHASE: None.

VICE PRESIDENT ROMNEY: Delegate Yeager.

MR. YEAGER: Mr. President, I move the —

VICE PRESIDENT ROMNEY: Just a minute. Delegate Mahinske.

MR. MAHINSKE: I'd like to make a personal announcement. I just lost my fourth hat in the convention. If anybody is wearing the wrong one, I wish they'd replace it for me. (laughter)

VICE PRESIDENT ROMNEY: Delegate Yeager.

MR. YEAGER: I move that the convention do now adjourn.

VICE PRESIDENT ROMNEY: Those in favor say aye. Opposed?

The motion prevails. The convention is adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 11:25 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Thursday, April 26, 1962.]

ONE HUNDRED TWENTY-NINTH DAY

Thursday, April 26, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please come to order.

Our invocation this morning will be given by Mr. Oscar Buschlen, county clerk of Sanilac county. Will you please rise.

MR. BUSCHLEN: All wise and eternal God, we come before Thy sacred presence this morning to thank Thee for Thy goodness and Thy tender mercies.

In the hurry of life, O God, quiet our hearts for a few moments to listen to Thy voice, that in our meditations this day we might not be ashamed, that we might act according to the dictates of our conscience.

We thank Thee, O God—and there are many things to be thankful for—for this, a great nation, a nation that was bathed in blood, that was willing to sacrifice that we, through that sacrifice, might enjoy these blessings.

This morning, in this convention, grant, O God, that these men and women representing their constituents back home who have placed confidence and trust in them, might have the courage, the stamina and that still, small voice that speaks within, to act according to the dictates of their conscience; that they may study the problem and after studying the problem at hand, act accordingly. God, bless them this morning, and give them courage.

We thank Thee for many things, our heavenly Father, that we have not the time to mention; but we thank Thee that we have the opportunity to review matters. As men of today we are not satisfied with what we have, but when we turn to the good old Book it says, "depart not from the landmarks of the forefathers." Help, O Father, that in this convention there may be instilled in the hearts and lives of these men the honesty, integrity and sincerity our forefathers had that has made our nation great.

During these last few weeks we were so eager and anxious to sacrifice in the time of Lent. Help us, O Father, that this spirit might go on through the whole year—not just for a few weeks or a few days. Lead us to ask, "What can we do?"; not "How much will I get?" but rather, "What can I do to make this country of mine a greater country and a better country?" We leave all this beneath Thy care and keeping.

Now bless these delegates. Help that their deliberations today may be according to the dictates of their conscience and may they so move forward that when generations yet unborn stand up and say, "Grandpa, grandma, were you at the convention?" you may tell them then, and there will not be a question in their minds but that grandpa and grandma did a good job.

Now, God bless you as you go into this meeting, and we will give Him the praise. These favors we ask through our Savior, Jesus Christ. Amen.

PRESIDENT NISBET: The roll call will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following request for leave: Mr. Kelsey, temporarily, from today's session.

PRESIDENT NISBET: Without objection, the request is granted.

SECRETARY CHASE: Absent with leave: Messrs. T. S. Brown, Dade, Garvin, Kelsey, Nord and Pellow.

Absent without leave: Messrs. Greene and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Wilkowski, Kelsey and Greene.]

The Chair recognizes Mr. Woolfenden. The convention will please be in order.

MR. WOOLFENDEN: Mr. President and members of the convention, at my request, some 3 months ago, Miss Sarah Luedders of our research and drafting department was assigned a research project respecting the subject of unanimity in voting on matters coming before the several committees and before the convention. And I think, having completed the general orders calendar, which means that we have now completed at least first consideration of every proposal that has been submitted to this convention, it's an appropriate time to invite the attention of the delegates to the results of that research done by Miss Luedders.

Although it is popularly supposed that Michigan's new constitution will be the product of partisan or area strife, an examination of individual committee and convention votes reveals surprising harmony.

Three hundred twenty-seven of the old and new constitutional sections have been introduced to the convention by the 10 substantive committees. These were brought to the floor either by exclusion reports or committee proposals. In the case of an exclusion report, the appropriate committee requested that a particular section of the 1908 constitution be deleted. In a committee proposal the committees having jurisdiction over a particular area proposed to include either new or old language, or sometimes a combination of both, in the new document. Now I invite your close attention to this: in all, the committees proposed removal or exclusion of 87 sections. They recommended that 240 sections be included in the new constitution. In the committee of the whole, 325 sections have been approved on first reading. This is through last night. This number is an adjusted figure, taking into account 8 of the originally proposed sections which have been deleted by the committee of the whole and 6 new sections proposed and passed. Now, of the 327 sections, the votes in the substantive committees which individually reported to this convention submitted those sections by a split vote of the committee in 83 cases and by a unanimous vote, or a passage without objection, of 244 sections. In other words, 75 per cent, or 3 out of 4 of all these sections coming to the committee of the whole were by unanimous action in the respective committees from which they came.

Now, the votes in committee of the whole also are extremely interesting, in my view. Of the 327 sections considered in committee of the whole, 98 were passed as amended after a debate or controversy on the floor of the committee of the whole, and 152 were passed after debate—some after attempted amendment—but were passed without amendment; that is, as originally submitted by the substantive committee. That's 152 sections in that category.

The sections passed in the committee of the whole by unanimous vote of 114 delegates, or without objection, were 182 sections, or 55.8 per cent. In other words, to summarize, the actions of our individual committees have been taken by unanimous vote 3 times out of 4 on all proposals that we have been considering; and in committee of the whole, 55.8 per cent have been passed unanimously or without objection. I believe that this is an appropriate historical footnote to our action to date, and I ask consent to have Miss Luedder's report published in the journal.

PRESIDENT NISBET: Without objection, it will be published. Objection is heard.

MR. WOOLFENDEN: I make that as a motion, Mr. President.

PRESIDENT NISBET: The question is on the motion of Mr. Woolfenden that the report be printed in the journal. Those in favor will say aye. Opposed, no.

The motion prevails.

Following is the memorandum:

Although it is popularly supposed that Michigan's new constitution will be the product of partisan—area strife, an examination of individual committee and convention votes reveals surprising harmony.

Three hundred twenty-seven sections of the old and new constitutions have been introduced to the convention by the 10 substantive committees. These were brought to the floor either by exclusion reports or committee proposals. In the case of an exclusion report, the appropriate committee requested that a particular section of the 1908 constitution be deleted. By committee proposal, the committee having jurisdiction over a particular area proposed to include either new or old (sometimes a combination of both) language in the new document.

In all, the committees proposed removal (exclusion) of 87 sections. They recommended 240 sections to be included in the new constitution. In committee of the whole (general session), 325 sections have been approved in first reading. This number is an adjusted figure, taking into account 8 of the originally proposed sections which have been deleted by committee of the whole and 6 new sections proposed and passed.

Of the above 325 sections, 182 were the result of unanimous (or noncontroversial) action in committee of the whole. The percentage of unanimity for proposals introduced by each substantive committee follows: declaration of rights, suffrage and elections, 51.3; education, 57.1; emerging problems, 60.0; executive, 22.6; finance and taxation, 66.7; judicial, 55.8; legislative organization, 42.8; legislative powers, 69.4; local government, 62.5; miscellaneous provisions and schedule, 53.2. Thus it is seen that, for the most part, committee of the whole action has been well above the halfway mark.

Action within the individual committees reflected considerably greater unanimity. Of the 327 sections submitted to the convention, 244 (75 per cent) were proposed unanimously or without objection by the committee. Although the delegate makeup of each committee was numerically close in partisanship (2/3 Republican and 1/3 Democrat) and in area balance, the degree of unanimity in each committee varied. Personality characteristics of committee members and chairmen may have been as much a factor here as the extent of controversy inherent in the subject matter under discussion.

Most lacking in a united front was the committee on finance and taxation, only 39.4 per cent of whose proposals were the result of unanimous committee action. These proposals fared more successfully on the convention floor, where 66.7 per cent of the sections passed without dissent. The committee on finance and taxation was the only one in which more sections were the result of split votes than of unanimous action.

Members of the committee on declaration of rights, suffrage and elections sent 89.7 per cent of their proposed sections to the convention without objection. Following closely were the committees on miscellaneous provisions and schedule with 85.4 per cent solidarity, executive branch with 83.9, legislative powers with 83.7 and emerging problems with 80 per cent.

Slightly more controversy prevailed in the committee on judicial branch, where 77 per cent of the sections proposed were by unanimous vote. Following was the education committee with 73.9 per cent. Two committees which were much more divided were local government with 57.5 per cent unanimity and legislative organization with 57.1 per cent.

Because of the length of debate when controversial proposals (or sections thereof) are discussed in committee of the whole, viewers often receive the mistaken impression that partisan or area bias overcomes the delegates' honest desires to produce a lasting and workable constitution. A study of the attached figures, and of the recorded votes in convention journals and committee minutes, proves that much more of the 1962 constitution will be the result of united acceptance than of divided action. A further look into the records will show that existing controversies are most often the result of individual differences of opinion and belief.

PER CENT OF SECTIONS OF COMMITTEE PROPOSALS AND EXCLUSION REPORTS PASSED UNANIMOUSLY OR WITHOUT OBJECTION

	In committee (per cent)	In committee of the whole (per cent)
Declaration of rights, suffrage and elections	89.7	51.3
Education	73.9	57.1
Executive branch	83.9	22.6
Finance and taxation	39.4	66.7
Judicial branch	77.0	55.8
Legislative organization	57.1	42.8
Legislative powers	83.7	69.4
Local government	57.5	62.5

Miscellaneous provisions and schedule	85.4	53.2
Emerging problems	80.0	60.0
Total all committees	74.6	55.8

Committee reports and exclusion reports
Total sections: 327

- Declaration of rights, suffrage and elections committee
  - Total sections: 39
  - Votes in committee:
    - Split 4
    - Unanimous (or without objection) 35
  - Votes in committee of the whole:
    - Controversy, passed as amended 13
    - Controversy, passed without amendment 6
    - Unanimous (or without objection) 20
- Education committee
  - Total sections: 23
  - Votes in committee:
    - Split 6
    - Unanimous (or without objection) 17
  - Votes in committee of the whole:
    - Controversy, passed as amended 6
    - Controversy, passed without amendment 3
    - Unanimous (or without objection) 14
- *Emerging problems committee (see end of table)
- Executive branch committee
  - Total sections 31
  - Votes in committee:
    - Split 5
    - Unanimous (or without objection) 26
  - Votes in committee of the whole:
    - Controversy, passed as amended 17 (including 2 new sections)
    - Controversy, passed without amendment 9
    - Unanimous (or without objection) 7
- Finance and taxation committee
  - Total sections 33
  - Votes in committee:
    - Split 20
    - Unanimous (or without objection) 13
  - Votes in committee of the whole:
    - Controversy, passed as amended 7
    - Controversy, passed without amendment 3
    - Unanimous (or without objection) 22
- Judicial branch committee
  - Total sections 52
  - Votes in committee:
    - Split 12
    - Unanimous (or without objection) 40
  - Votes in committee of the whole:
    - Controversy, passed as amended 18 (including 1 new section)
    - Controversy, passed without amendment 6
    - Unanimous (or without objection) 29
- Legislative organization committee
  - Total sections 7
  - Votes in committee:
    - Split 3
    - Unanimous (or without objection) 4
  - Votes in committee of the whole:
    - Controversy, passed as amended 2
    - Controversy, passed without amendment 2
    - Unanimous (or without objection) 3
- Legislative powers committee
  - Total sections 49
  - Votes in committee:
    - Split 8
    - Unanimous (or without objection) 41
  - Votes in committee of the whole:
    - Controversy, passed as amended 12 (including 2 new sections)
    - Controversy, passed without amendment 6
    - Unanimous (or without objection) 34
- Local government committee
  - Total sections 40
  - Votes in committee:
    - Split 17
    - Unanimous (or without objection) 23
  - Votes in committee of the whole:
    - Controversy, passed as amended 12 (including 1 new section)
    - Controversy, passed without amendment 4
    - Unanimous (or without objection) 25
- Miscellaneous provisions and schedule committee
  - Total sections 48
  - Votes in committee:
    - Split 7
    - Unanimous (or without objection) 41
  - Votes in committee of the whole:
    - Controversy, passed as amended 9
    - Controversy, passed without amendment 14
    - Unanimous (or without objection) 25
- *Emerging problems committee
  - Total sections 5
  - Votes in committee:
    - Split 1
    - Unanimous (or without objection) 4
  - Votes in committee of the whole:
    - Controversy, passed as amended 2
    - Controversy, passed without amendment 0
    - Unanimous (or without objection) 3
- Total all committees: 327 sections
  - Votes in committee:
    - Split 83
    - Unanimous (or without objection) 244
  - Votes in committee of the whole:
    - Controversy, passed as amended 98
    - Controversy, passed without amendment 52
    - Unanimous (or without objection) 182

MR. WOOLFENDEN: Mr. President, copies are available and will be distributed to the delegates during the day.

PRESIDENT NISBET: Miss Hart.

MISS HART: Mr. President and fellow delegates, I'm usually associated with battling for women's rights. But today I want to speak a word for the men. I heard the weather report this morning and I sincerely hope that during the day as the temperature rises, that the men in this convention will feel that they may remove their coats and be as comfortable as the women. (applause)

PRESIDENT NISBET: Thank you, Miss Hart. Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 108 of that committee, reporting back to the convention **Committee Proposal 44**, A proposal pertaining to the schedule; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 44 as reported by the committee on style and drafting, see below, page 3027.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 109 of that committee, reporting back to the convention **Committee Proposal 61**, A proposal pertaining to terms of public officers; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 61 as reported by the committee on style and drafting ,see below, page 2998.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 110 of that committee, reporting back to the convention **Committee Proposal 62,** A proposal pertaining to grants of extra compensation;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 62 as reported by the committee on style and drafting, see below, page 2999.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 111 of that committee, reporting back to the convention **Committee Proposal 63,** A proposal pertaining to estates of married women;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 63 as reported by the committee on style and drafting, see below, page 3001.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 112 of that committee, reporting back to the convention **Committee Proposal 64,** A proposal to amend article XVII, section 1 of the present constitution pertaining to amendment to the constitution; proposal by legislature and submission to electors;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 64 as reported by the committee on style and drafting, see below, page 3003.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 113 of that committee, reporting back to the convention **Committee Proposal 65,** A proposal to amend article XVII, sections 2 and 3, pertaining to amendment and revision of the constitution;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 65 as reported by the committee on style and drafting, see below, page 3004.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 114 of that committee, reporting back to the convention **Committee Proposal 66,** A proposal relative to amendment and revision;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 66 as reported by the committee on style and drafting, see below, page 3006.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 115 of that committee, reporting back to the convention **Committee Proposal 68,** A proposal pertaining to the schedule;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 68 as reported by the committee on style and drafting, see below, page 3031.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 116 of that committee, reporting back to the convention **Committee Proposal 125,** A proposed constitutional provision with respect to the conservation of the state's paramount interest in the air, waters and other natural resources of the state;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 125 as reported by the committee on style and drafting, see below, page 2900.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 117 of that committee, reporting back to the convention **Committee Proposal 126,** A proposal to affirm the state's primary concern in public health;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 126 as reported by the committee on style and drafting, see below, page 2901.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: **Second reading.** We are on the proposals of the committee on declaration of rights, suffrage and elections. The secretary will read.

SECRETARY CHASE: Item 1 on the calendar, **Committee Proposal 15,** A proposal to amend article II pertaining to the declaration of rights. It reads as follows—

MR. POLLOCK: Mr. President.

PRESIDENT NISBET: Mr. Pollock.

MR. POLLOCK: If it's in order, I suggest that we do not read this whole proposal.

PRESIDENT NISBET: The question is on the motion of Dr. Pollock that the proposal be considered read. Those in favor will say aye.

The motion prevails.

Following is Committee Proposal 15 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 687.):

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 3. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship[;], or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 4. Every person may freely speak, write, express, and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.

Sec. 5. Every person has a right to bear arms for the defense of himself and the state.

Sec. 6. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 7. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 8. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 9. No bill of attainder, ex post facto law or law impairing the obligation of contract[s] shall be passed.

Sec. 10. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation[: Provided however, That the]. THE provisions of this section shall not be construed to bar from evidence [in any court of criminal jurisdiction,] in any criminal proceeding [or preliminary examination], any narcotic drug [or drugs], any firearm, bomb, explosive, or any other dangerous weapon, seized by any peace officer outside the curtilage of any dwelling house in this state.

Sec. 11. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 12. Any suitor in any court of this state shall have the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 13. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

Sec. 14. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 15. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 16. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms [and], corporations and voluntary associations to fair and just treatment in the course of legislative and executive [proceedings,] investigations[,] and hearings shall not be infringed.

Sec. 17. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 18. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it [shall appear] APPEARS to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 19. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court [shall so order] SO ORDERS, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 20. No person shall be imprisoned for debt arising out of, or founded on [a tort or a] contract, express or implied, OR TORT, except in cases of fraud or breach of trust[, or of moneys collected by public officers or in any professional employment].

Sec. 21. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of 2 witnesses to the same overt act, or on confession in open court.

[The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.]

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, the committee has met and gone over the very few changes which have been made in the document since it passed committee of the whole, changes made by the committee on style and drafting. The committee has no objection to any of these small changes which have been made by the committee on style and drafting but we do have a small amendment as a committee amendment to propose to you. If it's in order, I should like to present that at this time.

SECRETARY CHASE: Mr. Pollock, on behalf of the committee on declaration of rights, suffrage and elections, offers the following amendment:

1. Amend page 2, line 5, [section 5] after "right to" by inserting "keep and"; so the language will there read, "Every person has a right to keep and bear arms for the defense of himself and the state."

PRESIDENT NISBET: Mr. Pollock.

MR. POLLOCK: Mr. President, this, as you see, is a very slight amendment proposed to be inserted by the committee in such a way as to correspond to the language which is already in the federal constitution and meets some objections which were raised to our original proposal. I think Delegate Wanger wanted to say something on this amendment. If so, I yield to him at this time.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, I urge you to support this amendment which will bring this section in line with the interpretation which has been already given it by our court and also into line with the second amendment of the United States constitution, part of our bill of rights, which also protects the people's right to keep and bear arms. In addition, this amendment, by clearly setting out the law for everybody to see in the constitution itself, will mean a great deal to the many thousands of hunting and conservation and rifle club enthusiasts of our state. I urge a yes vote.

PRESIDENT NISBET: The question is on the amendment offered by the committee. Those in favor will say aye. Opposed, no.

The amendment is adopted.

MR. POLLOCK: The committee, Mr. President, has no other amendment to propose to this proposal. I believe there are several other amendments pending.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, before we begin considering amendments to Committee Proposal 15, I would like to make a request and a brief explanation. At the time that article II, section 3 was being considered in committee of the whole on January 8, in response to a question raised by the gentleman from Detroit, Mr. Mahinske, I stated it was my belief that the present language of article II, section 3, prohibited the state participating in federal grants to private institutions. I have now been furnished with a copy of a letter 4 pages long from Attorney General Frank J. Kelley, dated February 6, 1962, in which this statement of mine is pointed out to have been in error. According to the attorney general, the state does not participate in federal grants or federal grant programs to private and parochial institutions in the state of Michigan apparently for a variety of reasons: lack of funds, lack of statutory authority and many others. But the attorney general's interpretation is that article II, section 3, does not in itself prohibit the state participating in such federal grant programs insofar as nonpublic institutions are concerned.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

I do not desire to take the time of the convention, Mr. President, to read this letter, but I feel in fairness that it should be made a part of the record and, therefore, I ask permission to include it in the transcript of the debate so that the correct interpretation of this section, according to the attorney general, may be part of our permanent record. I might point out that although the letter is addressed to Delegate DeVries, I ask permission to include it as a portion of my own remarks, since I was the one that had made the erroneous impression originally, and ask for permission that this letter be included, as I say, as a part of the transcript at this point in the record.

PRESIDENT NISBET: If you will send it up, Mr. Bentley, without objection, it will be included in the transcript.

MR. BENTLEY: Thank you.

Following is the letter:

February 6, 1962

Hon. Walter DeVries, Delegate
Michigan Constitutional Convention
Constitution Hall
Lansing, Michigan

Dear Mr. DeVries:

I am in receipt of your letter of February 2, 1962, wherein you state that during the debate on general orders on January 8, 1962, of the report of the committee on declaration of rights, suffrage and elections recommending the retention of article II, section 3 of the Michigan Constitution of 1908, in its present form, a question was raised as to whether the language of article II, section 3 would preclude the acceptance of the federal aid in Michigan.

Further, you state that in response to this question several delegates made factual statements of a positive nature that under the language of article II, section 3 of the Michigan Constitution of 1908, the state of Michigan was not permitted to transport surplus food to private religious schools. It was also stated that because of the language of article II, section 3, federal grants to education, such as the national defense education act, the surplus food program, the school lunch program and the school milk program, are administered in private and parochial schools in the state of Michigan by the federal government because of the aforesaid language of the constitution.

Based upon these facts you ask: has the state of Michigan in fact refrained from administering the national defense education act, the surplus food program, the school lunch program and the school milk program to Michigan private and parochial schools because of the language of article II, section 3 of the Michigan Constitution of 1908, or any interpretation thereof?

The national defense education act of 1958 makes certain federal grants available for public and private schools in Michigan pursuant to title III and title V of that act. Title III serves to provide financial assistance for the strengthening of science, mathematics and modern language instruction. Grants are made available to the public schools based upon equal matching moneys and the program is administered by the chief educational officer of the state, the superintendent of public instruction. The title III program is also made available to private schools, but only upon a loan basis and the program is directly administered by the federal government because the act of congress so provided.

Title V of the national defense education act of 1958 makes federal grants available for guidance, counseling and testing in the secondary schools. The state is required to match the federal grants, dollar for dollar. The federal grant is available for testing in the nonpublic schools provided that the state has authority to make such tests. The superintendent of public instruction has never implemented this program in the private schools because, based upon informal advice given to him by the attorney general, he is without statutory authority to test school children in private or parochial schools.

Therefore, there is no basis for the statement, in fact or in law, that the state of Michigan is not administering the national defense education act in private or parochial schools in Michigan because of the provision contained in article II, section 3 of the Michigan Constitution of 1908, or any interpretation thereof.

The federal government, through 42 USCA 1751-1760, has sought to safeguard the health and well being of children by encouraging domestic consumption of nutritious food through grants in aid and supply of food for nonprofit lunch programs. Not only does the federal government make available to school children balanced meals described as type A, some 37 different food products, but it also makes grants available through cash reimbursement on the basis of 5 cents for each type A lunch served with cash reimbursement to be met with matching moneys of $3.00 for each $1.00 of federal grant.

Similarly, schools receive surplus foods such as grains, fats, cheese and other agricultural products from the commodity credit corporation and the department of agriculture under 7 USCA 1431, with the programs administered by the state and without need for any matching moneys.

Also, federal moneys for consumption of milk by children, under 15 USCA 714B, 7 USCA 1446 and 72 Stat. 276, as amended by 75 Stat. 319, are made available to schools and institutions through the commodity credit corporation and the agricultural marketing service of the department of agriculture without matching moneys being required and reimbursement of approximately 4 cents for each ½ pint of milk served being provided, less a small service charge.

The Michigan legislature amended act 12, PA 1942, first extra session, by act 14, PA 1956, extra session, being CL 1948, 3.541 et seq.; MSA 1961, 4.826(1) et seq., to authorize the superintendent of public instruction to administer the school milk program in Michigan's nonprofit schools and nonprofit institutions devoted to the care and training of children, as authorized by congress.

According to the records of the office of superintendent of public instruction, rules and regulations to implement the program were adopted but were never published because the 1957 legislature failed to appropriate money to administer the program. Thus, the state of Michigan, through its chief educational officer, does not administer the federal school milk program for private or parochial schools or private institutions for the reason that the legislature failed to provide sufficient moneys to operate the program, not because such program violated article II, section 3 of the Michigan constitution, based upon any supreme court decision or opinion of the attorney general.

As to the school lunch program and the surplus food program, there is no comparable state statute such as section 1 of act 12, PA 1942, first extra session, which would empower the state of Michigan, through its educational officer, to supervise the school lunch program and the surplus food program in private or religious schools in Michigan, such as was authorized by the legislature for Michigan public schools.

It is this lack of statutory authority rather than any decision of the Michigan supreme court or any opinion of the attorney general that such administration would violate article II, section 3 of the Michigan Constitution of 1908, that has barred participation in the program by the superintendent of public instruction. (See comparable statutory authority of the superintendent of public instruction to administer the program in public schools. Section 1 of act 12, PA 1942, supra, in contrast to his authority to participate in the school milk program in nonprofit schools and institutions under section 2 of the act as added by act 14, PA 1956, extra session.)

Finally, the state of Michigan, through the Michigan department of social welfare, has been administering the distribution of federal school lunch foods and surplus foods to Michigan private and parochial schools as well as public schools for a number of years. This state agency contracts with private and parochial schools and institutions for federal foods based upon the number of children certified to the United States department of agriculture by the private or parochial school or institution. It orders the food, arranges for its storage and distribution through a number of distribution centers throughout the state. The cost of the distribution centers and the delivery charges are met by the private and parochial schools pursuant to contracts entered into by them with the Michigan department of social welfare. The cost of administering the program by the state department of social welfare is met with state funds although the charges of the warehouses for services rendered are met by the private school or institution in accordance with the contract.

The administration of this program is authorized by act 14, PA 159, being MSA 1960, 16.511 et seq., where the powers and duties vested by law with the department of administration with reference to commodities, surplus food distribution were transferred to and vested in the state department of social welfare.

The program has been in operation for a number of years and appears to be in accord with article II, section 3 of the Michigan Constitution of 1908. There is no record of any Michigan supreme court decision or opinion of the attorney general holding that such distribution program violates article II, section 3 of the Michigan constitution.

Very truly yours,
Frank J. Kelley
Attorney General.

PRESIDENT NISBET: Judge Shaffer.

MR. SHAFFER: Mr. President and delegates, since I am a member of the declaration of rights committee, I would like to comment on that committee's disposition of a proposal that would have prohibited sectarian instruction in any school supported by the state. I would like to mention that the committee discussed this proposal from the standpoint of conducting sectarian instruction in public schools and the committee voted it down. They voted it down for the reason mentioned in the committee report: the committee thought it unnecessary. It was so obvious that sectarian schools could indulge in sectarian instruction that this question was never considered or discussed within our committee. When this section was debated last month, no distinction was made between sectarian instruction during school hours and sectarian instruction after school hours.

The attorney general has ruled, in Opinions of the Attorney General, 3630, dated August 21, 1961, that public school buildings can be used for sectarian instruction after school hours as being in accord with article II, section 3 of the Michigan constitution. I offer this statement in view of having read the transcript of the proceedings at the time it was considered in committee of the whole.

PRESIDENT NISBET: Thank you, Judge Shaffer. The secretary will read the first amendment.

SECRETARY CHASE: Mr. Habermehl offers the following amendment:

1. Amend page 2, line 20, [section 10] after "affirmation" by striking out the balance of the section and inserting a period and "Nothing in this section shall prevent the introduction into evidence, in any criminal proceeding of any article, seized by any peace officer, unlawfully in the possession of any person in any type of vehicle found in any public place.".

PRESIDENT NISBET: Mr. Habermehl.

MR. PRETTIE: Mr. President.

PRESIDENT NISBET: Mr. Prettie.

MR. PRETTIE: A parliamentary inquiry, if you please. Attention is invited to the journal of this convention for January 22, Journal 62, page 363, at which time an amendment similar to, somewhat longer than the present one, was presented. It was at that time not adopted, as shown by our journal on page 363. Attention is also invited to Mason's Manual, section 398, subparagraphs 2 and 3. Subparagraph 2 reads that "When a proposed amendment has been defeated, the same amendment may not be proposed again without first reconsidering the vote by which the amendment lost." That raises in my mind the parliamentary inquiry as to whether, though longer, this amendment is in order.

Subparagraph 3 states, "If an amendment, inconsistent with one already agreed to, is proposed, it is a ground for rejection by the body." That raises a second parliamentary inquiry as to whether the amendment just read is not inconsistent with the action of this body on January 22.

PRESIDENT NISBET: Mr. Prettie, in looking at the amendment, this amendment offered by Mr. Habermehl now is only part of the amendment that was offered in the first place. The Chair would rule that it is permissible to present it at this time. Mr. Habermehl.

MR. HABERMEHL: Mr. President.

PRESIDENT NISBET: Pardon me. In reply to your second part, Mr. Prettie, this amendment was not agreed to in the first instance, Therefore, it does not come under the same category as you have quoted, where you mentioned an amendment that was agreed to. Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, I am not going to take very much time on this because I'm sure you all appreciate that we had plenty of argument on it at one time. I do believe, however, that it's time for this convention to face a few facts.

The proposal that we have presently back from style and drafting we can be very sure is not going to be enforced. We have had a series of circuit court decisions holding that it is unconstitutional under the federal constitution, and just a few weeks ago the attorney general of the state refused to enforce the provision in 2 appeals that were pending before the Michigan supreme court. We can be very sure as to its ultimate fate, that it's going to be actually a nullity to put this in and I, for one, have some rather strong feelings about putting in language that's going to be unconstitutional. I think it puts this convention in a very awkward and embarrassing position.

On the other hand, I believe that the law enforcement officers of this state have a very serious problem before them. The problem does not arise from the insertion or the deletion of the provision that's presently in the proposed constitution as a result of first reading. The problem arises instead from a couple of rulings of the Michigan supreme court, one of the most important of which was People vs. Ziegler that Mr. Brake spoke on earlier. This case really overruled the law of arrest and a common law rule, actually, of very long standing. It said that when a traffic officer makes an arrest for a misdemeanor committed in his presence, he cannot search the immediate vicinity of the crime except for matters related to the cause for the arrest and, of course, on a speeding ticket, for example, that gives him no right to search at all. As a result of that, we find that the police officers are in this position: they stop the man for a traffic ticket or some violation of the traffic laws, and look in the back seat and discover the proceeds of a burglary or the fruit of a burglary or even a dead body for that matter, and they arrest the person as a result of that discovery; they would be subject to have those items excluded from evidence and any testimony concerning them excluded from evidence.

Now, the proposal that we have in isn't going to cure that in the slightest. The case of the People vs. Ziegler arose when the present constitutional provision was in effect. So the problem arises on how we try to avoid the consequence of that decision. I believe that the amendment offered by myself here can do that. It will permit the police officer to make an inspection, or even a search of an automobile, on a public highway. It will permit, actually, the search of the person in that automobile so that if narcotics are being carried by not only an automobile—I misspoke there—but any type of vehicle, whether it be an airplane, a boat, an automobile, a public conveyance of any sort, if the arrest is made there this would authorize the police department to make a search of the immediate vicinity of the crime. It would actually restore the common law rule of arrest. It would not authorize the search of a person walking along a highway or outside an automobile. There is no way that I know of to cover that situation. That was an objection to this language that was brought up before. But I submit that we don't want to give the police officers that right to stop any one of us at any place and search us. That's too much of an invasion of privacy, too much of an invasion of constitutional guarantees.

This provision, I am sure, will be constitutional. So far as our own research and drafting are concerned, they believe that it is constitutional. I understand too that Dean King in Detroit has stated that he believes that it is constitutional. It is based upon the right of the state to condition the privilege of driving a vehicle upon a public highway or any public place and there are many, many analogies that we can draw to it. California's quarantine law, for example. When you arrive at the California border, you get out of your car and they search your car. It can be based upon the analogy that we use, or upon the rule, actually, that a person out of state using the highways of Michigan is subject to service of process within the state by serving the secretary of state, no matter where he lives. That is a condition of his use of the public highways.

I simply state this: if you want anything at all in here to aid the law enforcement officials, I believe this is all you're going to get and have it effective. The present proposal is not going to remain in effect.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: I would like to oppose Mr. Habermehl's amendment for the main reason, if for nothing else, that this is even broader. It says "any article." The one, I agree with him, will not remain in effect, and I think it is unconstitutional in no uncertain terms, but at least is not as broad as "any article." I think this is too broad. Therefore, I would very definitely oppose it.

PRESIDENT NISBET: Mr. Bradley.

MR. BRADLEY: Mr. President, fellow delegates, I oppose the Habermehl amendment. I am a law enforcement officer in my county and I don't feel that I need this type of protection. I never contend that law enforcement needs the right to proceed unlawfully. I feel that is what this provision says. The right of the public to be free from unreasonable searches and seizures is something which I defend at all costs at all times. I concur in the view of our court which says that if you are arrested for a minor traffic violation you should be secure from the right or the challenge of the police officers to your privacy which results when they search your car. I would opose any further extension of this rule.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, fellow delegates, I think we all ought to give very serious consideration to Mr. Habermehl's amendment. We are faced with a very serious problem here in this convention and I am sure that now that the heat of debate has died down a little bit since we first considered this matter, I think those of us who are attorneys who have watched cases come into our circuit jurisdictions since the Ohio case, the Mapp case—I think we realize that what we have presently is really nothing at all. Now, we can go down in a blaze of glory, I suppose, and keep this meaningless wording in the constitution. It won't do any good, in my opinion; it can do a lot of harm. It can make us look silly as a group of mature citizens. And yet, no one questions, I don't think, that we're faced with a very serious problem. There's a saying in the law that hard cases make bad law. And when you talk about teenagers being addicted to narcotics and gangsters running around with explosives and guns, you're talking about hard cases and there is no question but what this particular area of consideration has caused us to write into the proposed constitution some pretty bad law.

It's unbecoming to us as delegates to a constitutional convention to, so to speak, fly in the face of the supreme court of the United States. Nor have any of our local circuit courts found fit to do this. It would appear as though the question would never get beyond circuit court at the rate our decisions are coming down at the present time. And so Mr. Habermehl has seized upon, I think, a very legitimate exception. We're talking and living in the twentieth century, a time where our fast moving vehicles provide criminals with a means of escape, a means of avoiding detection, which certainly didn't exist at the time our present constitution was first drafted.

Now, there are many landmark cases. The case that comes to mind from law school days was a Massachusetts case, Hess vs. Polarsky. In that case, the Massachusetts legislature passed a law stating that when anyone comes into the state of Massachusetts from out of state, by merely driving upon the highways and byways of that commonwealth they submit themselves automatically to the jurisdiction of the state and they further appoint the secretary of state as their agent for the lawful receipt of process. Of course, this case went quite rapidly to the supreme court of the United States and that was the case, Hess vs. Polarsky. There the supreme court held that this was constitutional and the basis for holding that it was constitutional revolves around the use of a motor vehicle. Since that case was found to be constitutional, many states, including Michigan, followed the pattern set by Massachusetts so that we now have many such statutes.

I have looked over the language submitted by Mr. Habermehl. In fact, I was the cosponsor, on first reading, of similar language. And I'm not about to stand here and say that I'll stake my professional reputation on its constitutionality—although I before stated that there was no question about the unconstitutionality of what we now have after first reading, and I certainly still state that—but I think here we have a real good chance of putting something which has some force and effect in the constitution. I think it's needed. You may view it as a compromise but I don't view it as a compromise because you've got nothing right now. I view it as a constructive step forward to assist the law enforcement agencies of this state and, quite frankly, it doesn't have a chance of passing without a lot of support from the people who supported Mr. Prettie's amendment.

PRESIDENT NISBET: Mr. Lawrence.

MR. L. W. RICHARDS: Preferential motion, if I may, please.

PRESIDENT NISBET: Mr. Richards.

MR. L. W. RICHARDS: Due to the fact that this has been discussed for several hours, I don't believe with all the abilities of these individuals, they're going to include too many people. I'd like to limit the debate to 15 minutes. I so move, for 15 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Richards that debate be limited to 15 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. There are 2 speakers on the list now. Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, there has been a lot of talk that I think maybe some of the laymen might be interested in having explained in connection with what is and what is not a reasonable search. I wonder if I might, through the Chair, ask Mr. Bradley 2 questions.

PRESIDENT NISBET: Mr. Bradley.

MR. BRADLEY: I'll be glad to try to answer, Mr. President.

MR. LAWRENCE: Thank you, Mr. Bradley. It is my understanding that you are a prosecuting attorney; is that right?

MR. BRADLEY: Yes, that's right.

MR. LAWRENCE: If a police officer stops a vehicle for a traffic violation and in looking in the car while talking to the driver, he sees revolvers or shotguns or dead bodies or anything else, is it an unlawful search if he then goes ahead and makes a search?

MR. BRADLEY: Well, I take the position, and I have taken the position a number of times in court that what a police officer sees by the exercise of his own senses cannot be considered a search. In other words, if the officer is standing there writing out a traffic ticket involving a teenager and he sees a case of beer in the back seat I contend he can go ahead and arrest that teenager for being a minor in possession of beer.

MR. LAWRENCE: Thank you. The second question relates to an example that was used in the previous debate of an airplane piloted by an individual who was running marijuana and in the plane marijuana was secreted. This plane got into some difficulties and came down in a field and as a result of hitting the ground or what occurred after it hit the ground—some sort of an accident—the pilot was rendered unconscious. The officers were called because of the situation and after finding him unconscious, then went ahead to search the plane. Is that an unreasonable search?

MR. BRADLEY: Well, that is a rather difficult fact situation. But let me say this about it: if the officer found the pilot unconscious, as you have described, and there was nothing about the circumstances, no apparent damage to the plane, and he did not search to find out what was wrong with this man, I wonder what position he would be in in case he were sued or charged with dereliction of duty. So, to put it in that light, I would say yes, that if the police officer did not take steps to find out what was wrong with this individual, he would be in dereliction of his duty. Therefore, I cannot see how that could constitute an illegal search, should he, in the exercise of that, one of his police functions, uncover evidence of a crime.

MR. LAWRENCE: Thank you, Mr. Bradley. Members of the convention, it all depends on whether the officer acts reasonably or not. I think the position taken by Mr. Bradley this morning that it is unreasonable and that people should be protected if they're stopped for speeding or running a stop sign or something, and there is no evidence visible, that a police officer because of that minor traffic violation does not have the right, and it is not reasonable to think that he can demand that the occupants get out, submit to search, have the back of the car opened, the trunk opened and be searched. Reasonable search, however, is a different thing, and you don't need this amendment or any other amendment. The United States constitution and our own committee proposal would protect the individual.

PRESIDENT NISBET: There are 11 minutes remaining. There are 4 speakers. Mr. Everett. Will the speakers please pace themselves.

MR. EVERETT: Mr. President and fellow delegates, I support the Habermehl amendment. I voted for the language which now appears in the committee proposal, but I would be willing to vote to take it out and put this in.

To me, the issue is not whether the language which we have adopted is constitutional or not. There are eminent lawyers on both sides of this fence. But I don't think that's really the heart of the problem. What we're trying to do is to protect the rights of the individual and at the same time allow reasonable and legitimate law enforcement and it becomes a matter of difficulty to not go too far one way in order to go far enough in the other. And I think Mr. Habermehl has given us language which does both as well as anything can do it.

To begin with, it protects the individual against unreasonable search of his person entirely. Nobody can be stopped going down the street and be searched. And I think this is a right which every individual has and should have. It only permits the seizure of articles unlawfully in the possession of somebody. Miss Donnelly has suggested this is broader—in some respects it is. But is there any reason why the man in possession of burglar tools or stolen property should be able to avoid the use of that in court, while the man with the gun cannot? It seems to me that Mr. Habermehl has gotten us out of our dilemma; he has taken the broad language which protects the individual and has tempered it only as far as need be to protect and encourage legitimate law enforcement. And I would support it.

PRESIDENT NISBET: There are 9 minutes left and there are now 5 speakers. Mr. Norris.

MR. NORRIS: Mr. President, fellow delegates, I recognize some of the good and cogent arguments advanced by Mr. Habermehl and those who support the views that he has expressed in support of his amendment. However, I would oppose the amendment on the ground that it is both unconstitutional and unwise. I believe we have as the basic desideratum of the convention the decision of the United States supreme court in the Mapp case, and I believe that the Mapp case covers the present proviso in the 1908 constitution as amended in 1936 and 1952. I believe it also covers the proviso which has thus far been adopted by this convention. I think, also, reference ought to be made to the fact that 4 circuit judges in this state thus far have ruled, in fact situations that bring this proviso into consideration, that the Mapp case applies and therefore the proviso is unconstitutional.

I think also that the breadth of the words "any article" in the Habermehl amendment opens the door with great latitude permitting police officers to search and seize some 3 million automobiles in this state. I don't mean by this to suggest that there isn't a conscientious, zealous motivation on the part of the officers to enforce the law in the public interest. But the fact is that it is the function of the bill of rights to operate as a screen or shield of individual security, dignity and integrity against arbitrary and lawless action on the part of any governmental agent. Ours is indeed a government of laws, and not of men. That means that even law officers are creatures of law and must obey the law, and the law as pronounced by the United States supreme court and by at least 4 circuit judges here in this state would indicate that this particular provision would be inconsistent with the Mapp decision.

Aside from the question of constitutionality, there is a broader question of wisdom. Not everything that is constitutional is wise. The wisdom of the fourth amendment to the federal constitution and article II, section 10 of the Michigan constitution is in terms of an extension and implementation of a famous pronouncement of Mr. Justice Brandeis that the most comprehensive right of civilized man is the right of privacy, the right to be left alone. And there has to be a striking of a balance between individual rights and public security but, I submit, to the degree that we protect the individual right involved of privacy to that degree we protect, in the minds of the public, a sense of fairness that their rights are being respected. To that degree do people cooperate with law enforcement, and that cooperation means that law enforcement is more effective; that people will come forward in the multiple ways that people ought to come forward to assist police officers to carry out their hazardous and intrinsically dangerous duty. Constitutional law enforcement in the long run is more effective law enforcement. And on that basic proposition I would urge, though with great respect to the motivation and learning that has moved this amendment, that we not support the Habermehl amendment.

PRESIDENT NISBET: Four and a half minutes. Miss McGowan.

MISS McGOWAN: Mr. President and fellow delegates, I rise to speak against the Habermehl amendment. As I stated before, I sat on both sides of the counsel table, both the prosecutor's side and the defense side. I recognize the need for effective law enforcement for the protection of our children and for all of the people of the state of Michigan. The Habermehl amendment does not afford this protection.

I have heard many statements made by delegates to this convention on this floor that voting for the inclusion of the committee language is voting against the federal constitution. I state without a doubt that statement is not truth. In my opinion, the quoted Mapp case is not in this point. In this case the officers went into the curtilage or the home of the individual. We submit here that in America a man's home is his castle, and by our very language in the committee report we pretend to protect that castle. I submit that it has not been established legally, and in the immediate future there is no case pending which clearly establishes that putting the words in the constitution would be inserting words which would be legally meaningless.

I would like to point out that it is not our duty here to determine the constitutionality of this issue. That is the prerogative of the court and the court alone. I submit that all of the people of the state of Michigan have rights as well as obligations. The people of the state of Michigan previously decided by an overwhelming vote when they placed the amendments of 1936 and 1952 relating to the admissibility of narcotics and dangerous weapons as evidence in criminal trials, that they wanted these things and did not consider them as jeopardizing their rights, but were necessary for public protection. The deletion of these amendments would have no bearing on so called police abuses, whereas the retention would result in the conviction of gunmen and narcotic pushers, who otherwise would go free. Most narcotic peddlers do not use narcotics themselves. They're in the traffic for the profit and they prey upon the weak and many times make strong men and women weak. The narcotic addict himself resorts to shoplifting, crooked confidence schemes, robbery, and even murder, and will use any means to get this vicious drug. In Detroit alone, for the year 1960, there were 2400 known addicts. The percentage of inmates in Jackson prison from the city of Detroit for narcotics charges are over 10 per cent.

I would like to read to you a portion of a personal letter I received after first reading on this subject. This letter is from Detective Inspector Russell J. McCarthy. He states:

> When I requested this constitutional amendment in 1952 with the help of many others, I so thought it was for the protection of those that may become a victim of this addiction.

I take the stand at this time at my own peril—and it is perilous, indeed—nevertheless, I say that with this provision, decent society in general needs protection and will get protection. It is my hope and it is my plea that you will vote against the Habermehl amendment and support the committee report. Thank you. (applause)

PRESIDENT NISBET: One minute. Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, I believe in good law enforcement. I believe in arming our law enforcement agencies with proper authority. However, we always have the conflict of the protection of the rights of the individual as well. It appears to me that this amendment goes far beyond what I consider good constitutional provisions.

The thing that worries me—and I'd like to propose a question, if I may, to Mr. Habermehl, Mr. President—we do have in this state a statute which prohibits an individual from bringing into the state of Michigan over a certain number of cartons of cigarettes. Let's say, Mr. Habermehl, that I'm in Ohio and I can buy 2 cartons of cigarettes at a lesser price than I can in Michigan and so I purchase, say 2 cartons more than I'm allowed under the law to bring to Michigan. Say that I'm stopped for some minor traffic violation. Could then the officers, when they find 2 more cartons than I can legally bring in, charge me with the offense of smuggling or some other offense? I think that we do have overzealous police officers in some instances.

PRESIDENT NISBET: Time has expired. Mr. Habermehl, will you say yes or no? (laughter)

MR. HABERMEHL: I'm afraid I can't, Mr. President. I can only ask Mr. Hoxie: was he violating the law?

MR. BARTHWELL: Mr. President, may I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficent number up.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been ordered. Those in favor of the Habermehl amendment will vote aye. Opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—38

Allen
Andrus, Miss
Anspach
Brake
Brown, G. E.
Danhof
Dehnke
Dell
Elliott, Mrs. Daisy
Erickson
Everett
Finch
Gadola
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Martin
McLogan
Millard
Mosier
Page
Romney
Sablich
Seyferth
Shackleton
Sharpe
Staiger
Suzore
Young
Youngblood

Nays—95

Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Boothby
Bradley
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Farnsworth
Faxon
Figy
Follo
Ford
Goebel
Gover
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Nisbet
Norris
Ostrow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Shaffer
Shanahan
Sleder
Snyder
Spitler
Stafseth
Stamm
Stevens
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the Habermehl amendment, the yeas are 38; the nays are 95.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Miss Donnelly and Mr. Lawrence offer the following amendment:

1. Amend page 2, line 20, [section 10] after "affirmation" by striking out the balance of the section and inserting a period.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly.

MR. POLLOCK: Mr. President, since we have already discussed this same question, I move that we limit debate on this amendment to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Dr. Pollock that debate be limited to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Miss Donnelly.

MISS DONNELLY: Dr. Pollock, it's somewhat true we have faced this issue before. This is to remove the other words, as you all recognize. This is to return the state of Michigan, in my opinion, to drafting constitutional language in its constitution. I believe there is no question about the fact that having 4 courts in this state, so far, who have interpreted our constitutional language which we presently have in this 1908 constitution as incorrect in line with this decision, that we need have no further question of the direction the courts are going in this state. The attorney general has had 2 cases that have indicated he is going in that direction.

The facts stated by Miss McGowan in an attempt to indicate how dangerous narcotics are, and the citation she gives by one of the officers interested in the amendment originally, I think, proves that this language in the 1908 constitution did not handle the narcotics problem. It never will handle the narcotics problem. We are all dreamers when you think you can make this illegal and thus handle it. The narcotics problem can only be handled by removing the profit from it, the traffic therein. In this country they treat narcotic addicts as diseased individuals, which they are. They give them the narcotic which is necessary physically to their continuation. When they have become a complete addict they have an extreme physcial problem. If any of you have had any dealings with narcotic addicts —and I hope you don't have any personal dealings with them— you know they're extremely dangerous people because of this physical condition that they have. Why they are narcotics users, whose fault, how they got there, is not necessarily the issue. The issue is they are there. They need the narcotics, in their opinion, and in medical evidence apparently they do need it to continue, to a degree, to be treated. The only way to handle the problem is to take the profit out of it. Then you will not get the pushers. You will not get the people who want to make more addicts so that they can make the money so they can buy the narcotics themselves. The whole problem with narcotics in this country is that it is illegal. Therefore, to get it, they must act illegally. I therefore submit that when we think by putting this language in our constitution we are either: 1, doing something that is constitutional, or 2, inhibiting the use of narcotics and saving the children of this state we are deluding ourselves.

There is no question in my mind that if this language remains in the constitution it will be struck because of the fact that it is unconstitutional and that this is the wrong way to go. Therefore, I suggest that we make ourselves look a little more cognizant of the laws of this land, indicate that we are mindful of the law and the constitution and the federal government, and how it has been interpreted, strike all this language and put Michigan in the intelligent light it should be, and worry about our narcotics treatment in another way in another place in another time, and I hope that we will therefore, by doing that, start treating narcotics properly, and then maybe we will take care of the problem.

PRESIDENT NISBET: Mr. Stevens, 6½ minutes left.

MR. STEVENS: Mr. President, delegates, you have heard all these arguments pro and con over and over. We now come to a point where it's a question of what you think. On behalf of the members of the committee on rights and elections, who support the present proviso that is now in this proposal, we feel as it has come out of style and drafting it is proper. We do not accept the Mapp dictum as being decisive on this matter. We feel it is our job as constitutional delegates to reflect the desire of the people of Michigan to protect themselves in this important thing. Miss McGowan has very ably described this matter to you and I'll go no further on it.

As to the matter of privacy, there certainly is not much privacy in an automobile or walking on the street. I don't think that's the question. The question here is: are these 2 things, arms and narcotics, serious enough to deserve some reasonable necessary distinction in the enforcement of ordinary law? We think they are.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, since our discussion on January 22, when this was previously up, 2 things that are very cogent have happened you should know about if you adopt the committee proposal as it has been amended by the Prettie amendment and do not support this amendment. In your Journal 75 on page 572, the last page, I read into the record the situation resulting in Wayne county when Judge O'Hara released Mr. Kendrick, because it was unconstitutional. Since that time, in 2 instances, the attorney general of this state, on his own motion, has gone before the court to ask the release of 2 men from Jackson prison who had been convicted due to an unlawful search and seizure as the result of the present amendment in our constitution, which the Prettie amendment supplants. I urge you to support this amendment and keep our constitution constitutional under the federal constitution.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, as chairman of the committee, I merely want to be sure that the delegates are not confused by what Mr. Stevens, the vice chairman, said on behalf of some of the members of the committee. As I said in the original debate, the committee itself was almost equally divided and, therefore, there is no committee position with reference to this pending amendment. However, as far as I am concerned, I am in favor of the amendment because I do not believe in putting anything into the constitution which I think is unconstitutional.

PRESIDENT NISBET: Judge Gadola. There are 2½ minutes left.

MR. GADOLA: Mr. President and members of the convention, in the first place I want to follow Dr. Pollock because of the fact that this matter, as the original proposal from the committee, came out almost unanimously and Delegate Stevens was just a little mistaken about what the committee did. I was given the job of trying to perfect something to protect the committee proposal, and after working with our drafting department—we went over it very carefully—I put in that last sentence so there would be a protection in case it should be found later that the Mapp case did not apply. However, that was voted down.

I desire to compliment Mr. Bradley here on his stand. He is the first prosecutor that we've had before the convention that has stood on his hind legs and said: I'm for the rights of the people. We had the prosecutors association before us and every one of them stood up in their great ardor and said, "Oh, we must have this to enforce the law. We can't enforce the law without it." We had the most insidious propaganda on this proposition that we've had on any other one before our committee. I believe that we should afford the people their rights in this way. The prosecutor of Genesee county, the prosecutor of Wayne county, the attorney general, all of them are refusing to accept this any more. In Genesee county they are doing it in 2 ways: refusing to issue warrants or issuing warrants for some misdemeanor involved in it and refusing to issue warrants otherwise. And the police officers are not asking for warrants in Genesee county. So we have all those propositions. It's a dead issue. But let's don't put a dead issue, an unconstitutional, dead issue, in our constitution.

PRESIDENT NISBET: Mr. Habermehl. Half a minute left.

MR. HABERMEHL: Mr. President, I simply ask the delegates here, or remind them rather, there's very little point in beating your head against a stone wall. If this language means nothing, as our circuit courts and our prosecutors and our attorney general says it does, let's take it out and let the legislature then do what I propose by putting my amendment into legislation as a part of the motor vehicle code. You may like to argue with the supreme court, but believe me, there is very little profit in it. They're going to make the decisions. We are not.

PRESIDENT NISBET: Time has expired. Mr. Barthwell.

MR. BARTHWELL: Mr. President, I want to move that the time be extended for 5 more minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Barthwell that the time be extended 5 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Norris.

MR. NORRIS: Mr. President, I rise to support the amendment and urge the delegates to do likewise. I believe a number of the basic points have already been covered. I would only invite the attention of the delegates once again to the observation of Mr. Justice Clark in the Mapp decision that what was happening in the Mapp decision was that the federal rule regarding exclusion of evidence illegally obtained was going to apply to all of the states as well, and what he wanted to do, in his judgment, was promote a healthy federalism. Now, we have very effective law enforcement in the narcotics field on the federal level, even with, for 25 years, a federal rule regarding exclusion of prohibited evidence. And that hasn't impaired any of the anti narcotic efforts of the federal government. I think that argument, it seems to me, disposes of the proposition as to whether, in the states, there would be any infringement on law enforcement activity in this area.

The basic issue is not so much on the constitutionality point as upon the point of wisdom and public policy. The question is: is the long range interest of a free society best promoted by this amendment or by the language thus far adopted by the convention? I submit to you that the long range interest of a free society is best promoted by this amendment and I urge the delegates to subscribe to that point of view and vote yes on this amendment.

PRESIDENT NISBET: Mr. Romney.

MR. ROMNEY: Mr. President and fellow delegates, with respect to this amendment, we've had an opportunity to express ourselves on language that was meaningful, and as far as I was concerned, it dealt with the real problem, which is the use of vehicles in connection with crime and the detection of crime. We're now considering language that, in the light of recent decisions, has been made rather meaningless. And concerned as I am about an improper use of search and seizure against the individual, and feeling that the real problem was the detection of evidence of crime in vehicles, I expect to support the Donnelly-Lawrence amendment.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: I call for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Mr. Radka.

MR. RADKA: I can approach this problem with a great deal of objectivity, being a prosecutor who has not spoken on the question before. I would just like to briefly refer to an article by J. Edgar Hoover in the U.S. News and World Report in January of 1962. He prefaced his article with these words:

> During the 10 years between 1950 and 1960, serious crimes in this country increased 98 per cent. Population rose 18 per cent.

So you see, crime grew 5 times faster than population.

> Question: Should rights of a community be superior to those of the asserted rights of criminals?
>
> Answer: Of course not. No person or group of persons should have rights which are superior to those of another. Such a situation would violate all principles of our form of government.
>
> The rights of the community and those of the criminal must receive equal consideration, so that the scales of justice will be balanced. In many areas today, however, the scales are being tilted in favor of the criminal through the efforts of misguided sentimentalists. We must constantly strive to maintain the necessary balance.

And I submit to you when we are concerned about equal protection and due process of individuals that we should here be concerned about equal protection and due process for the law abiding citizen and reverse the trend of being more concerned about the protection of the criminal than protection of the rights of the law abiding citizen. And I urge you to vote against the Donnelly amendment.

PRESIDENT NISBET: Time has expired. The question is on the amendment offered by Miss Donnelly and Mr. Lawrence. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—61

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, G. E.
Buback
Cushman, Mrs.
DeVries
Donnelly, Miss
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Farnsworth
Faxon
Ford
Gadola
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Hutchinson
Jones
Judd, Mrs.
Karn
King
Koeze, Mrs.
Krolikowski
Lawrence
Lesinski
Madar
McLogan
Millard
Mosier
Murphy
Norris
Ostrow
Perlich
Pollock
Romney
Sablich
Snyder
Staiger
Stamm
Stopczynski
Suzore
Walker
White
Young

Nays—67

Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Danhof
Dehnke
Dell
Doty, Donald
Erickson
Everett
Figy
Finch
Follo
Gover
Higgs
Howes
Hoxie
Hubbs
Iverson
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Liberato
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Sterrett
Stevens
Thomson
Tubbs
Tweedie
Upton
Van Dusen
Wilkowski
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Miss Donnelly and Mr. Lawrence, the yeas are 61; the nays are 67.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Norris offers the following amendment:

1. Amend page 1, line 9, after "Sec. 3.", by inserting "All persons shall have equal rights of conscience."; so that that will be the first sentence in section 3.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, fellow delegates—

PRESIDENT NISBET: The convention will be in order, please.

MR. NORRIS: —section 3 of article II is a section devoted to freedom of conscience and of religion. It is the purpose of this amendment to insert at the beginning of that paragraph, and not to displace any language whatsoever in that paragraph, "All persons shall have equal rights of conscience." The author of this language is James Madison. The language was proposed to the convention which founded this nation. Mr. Madison also added the language, "Freedom of speech, press and assembly," which language was subsequently incorporated in the first article of our constitutional faith, the first article of the bill of rights.

It is the purpose of this language to protect spiritual and intellectual privacy. It is the purpose of this language to protect the right of conscience of all. It is the purpose of this language to protect the dignity, integrity, security, and privacy of conscience for each citizen. This is the interest which this language seeks to protect. This interest is an interest in the inviolability of conscience, the essence of being human. There is a great deal at stake in the concept that I advance in support of this language. The interest includes the right to believe or disbelieve, to pray or not to pray, to select any creed in the religious field, or not to select any religious creed in the religious field, in whole or in part.

Mr. President, I think I would prefer to have the attention of the body.

PRESIDENT NISBET: Will the convention be in order. If it is necessary to communicate, will you please do it in a lower voice so that the speaker can be heard and his comments given as he wants them done. Mr. Norris.

MR. NORRIS: Thank you, Mr. President. The basic premise of our democratic faith is respect for the dignity of the individual. There can be, in my judgment, no dignity of the individual either in his person or in his security without dignity of mind, dignity of conscience. And it is to protect precisely this dignity of conscience, security of conscience, privacy of conscience, that I offer this language. I submit to you that the second reason for this amendment relates to threats to that interest.

In recent years there has grown the proposition that the state has the right to require belief; the state has the right to require belief on the part of its citizens. About a month ago Reverend Billy Graham wrote an article in the Saturday Evening Post reviewing developments in this nation with regard to what he felt was growing support for what he felt ought to be a right, indeed a power, if not a duty, on the part of the state and of nonstate agencies as well, to require belief or certain beliefs on the part of citizens. Bishop Pike of the Episcopal church in San Francisco, in a recent article reviewed developments in this field as well.

I do not cite these 2 instances as exhaustive of the list but as illustrative of a growing trend. And if we are drafting a declaration or rights, we ought to be mindful of the context into which we are submitting this draft of declaration of rights; against what kinds of threats we seek to protect the rights we declare. And I submit that there is a present necessity for a full hearted proclamation of the equal rights of conscience of all of our citizens, of all the persons in this state. I submit to you that the right to belief by any citizen is tied up intimately with the right of disbelief on the part of any of our citizens. And the reverse is also true.

Freedom of belief, of conscience, of expression, of opinion can only exist as a right when it is shared as a right. To the degree that each has such a right, to that degree we'll all have such a right. Freedom of conscience is indivisible, and I submit to you that it can only be indivisible when it is recognized to be an equal right for all. The submission is based upon a proposition of wisdom best stated recently in a decision by Mr. Justice Jackson when he stated, "If there is a fixed star in our constitutional constellation, it is that no official, be he high or petty, can prescribe what is orthodox in religion or in politics." I think in order to deal with this matter as to what is orthodox or not orthodox, what is permissible or not permissible, in the area of conscience and belief in religious matters, we ought to state as James Madison indicated, we ought to state in our fundamental organic document that "all persons have equal rights of conscience."

I submit that this language is indigenous to and in harmony with the full context of every word in section 3 of Committee Proposal 15. When we start out with the sentence, "All persons shall have equal rights of conscience," we then get into, "Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion", and so forth. I think that this language is in harmony with the spirit and content of that section—a very important section—and I think I can, in good conscience, commend it to you for the evaluation by your conscience.

I earnestly submit to you that this amendment would be one very important step that could be taken by this convention. It will historically and meaningfully spell out a significant right to integrity of mind in our state, a brotherhood of equal conscience, an indivisible inviolability of conscience, a right to believe or not to believe that will win for us the respect and admiration for coming Michigan generations. I therefore respectfully urge your support of this amendment. Thank you, Mr. President.

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, this matter was not specifically brought before the committee, except very briefly the other night in a short meeting which we had for technical reasons. We have never considered it in committee.

The committee's attitude has been that section 3 of the declaration of rights deals with religion and religion alone. We felt in studying this, that it was well done, that it protected every phase of religious liberty, including the right not to believe as well as a right to believe anything one wanted to. We do not advocate—in fact, we earnestly oppose any attempt to inject into this section 3 anything that might be construed to permit advocacy of subversion and things of that sort. When we took out the subversion provision, section 22, we told this convention and we memorialized the legislature that it was not our intent and we did not wish it to be construed that we in any way oppose necessary legislation against subversion. The only reason for putting this in—the only possible reason, so far as I can see—is the idea that it might permit the advocacy of subversion or some other thing which has nothing to do with religion.

PRESIDENT NISBET: Mr. McAllister.

MR. NORRIS: Point of order, Mr. President.

PRESIDENT NISBET: State your point, Mr. Norris.

MR. NORRIS: I don't believe Mr. Stevens is speaking for the committee. The committee indicated it took no position with regard to this matter. I think that ought to be stated on the record.

PRESIDENT NISBET: Mr. McAllister.

MR. McALLISTER: Mr. President, fellow delegates, I believe that it is Mr. Norris' right to have any principle that he desires. It is my contention that the Norris amendment is strictly a declaration of principle; that it does not add anything or take anything away from the section involved, that it means nothing, and that it should be defeated.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move to limit further debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Judge Dehnke. There are 2 speakers.

MR. DEHNKE: Mr. President and fellow delegates, I wish I could be as sure as Mr. McAllister that there is nothing to this amendment except a statement of principle which won't mean anything one way or the other.

In my experience as a judge, I have occasionally come across individuals who have claimed it to be a matter of conscience with them, that while they would be willing to admit their own transgressions, they ought not to be required to give any testimony which would tend to make other people uncomfortable or expose them to punishment for crime. I can't escape the conclusion that with this in the constitution you have a strong argument, based on a constitutional provision itself, and such a witness has the right to take that position. There are others who conscientiously believe that certain laws ought not to have been enacted; that they are contrary to a higher law; that they ought not to be expected to obey them. And we might have the question raised as to the sincerity of that defense, and if it was a sincere defense in the judgment of the court or jury, they are not subject to punishment.

I don't think we should take the risk involved here by adding this apparently innocent language to this section which I think already sufficiently covers the topic.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, I wish to heartily support Mr. Norris' amendment. I do not think that it indicates any action being required on the part of the individual. It merely indicates his right to believe or disbelieve. And the clause, it seems to me, may well be inserted as a protection against the requirement by the government that people do believe. I think that those who think it means nothing have, perhaps, had no religious experience in the field of liberal religion and come to realize how they skip over the freedom to disbelieve that in this day of fear is being constantly narrowed. And I submit that one of the most important ways of handling the problem of fear in our day and age is to be sure that the right to believe or disbelieve is equally certain.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, I just want to remind you once again that these are historic words. These are the words of James Madison, one of the great founders of our own constitution. And these are words which have had a long history and one which is well worth remembering. I would like to call for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? There is a sufficient number up. Mr. Richards.

MR. J. B. RICHARDS: Mr. President, fellow delegates, I definitely believe that the section we have here under consideration gives us the right to believe or not to believe in religion. This is very definite. And I think it is something we should have a right to. But I contend that the words in this amendment are broad enough to open the door and to protect everyone who might wish to support actively any subversive thing or ism that the world knows or will dream up in the future. And so very definitely, I am against this. I would prefer that this be limited only to religion, a man's conscience, allowing him to worship or not worship, as he sees fit.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, freedom of conscience or belief or thought from any type of political or governmental intervention or control is the most precious right which we have and I think it might not be going too far to say the most precious right which any human being could possibly have. I urge your support for this amendment, although I think it might more properly fit in one of the other sections of the article. Remember, this does not protect any person's right to advocate or take any action with respect to any unlawful activity. This only protects the integrity of his own mind.

PRESIDENT NISBET: Time has expired, Mr. Wanger. The yeas and nays have been ordered. The question is on the Norris amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—37

Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Binkowski
Boothby
Bradley
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Judd, Mrs.
Koeze, Mrs.
Lesinski
Liberato
Madar
Martin
Murphy
Norris
Perlich
Sablich
Snyder
Walker
Wanger
Young
Youngblood

Nays—76

Allen
Beaman
Bentley
Bonisteel
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Gover
Gust
Hannah, J. A.
Haskill
Hatch
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Leibrand
Leppien
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
White
Wilkowski
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Norris, the yeas are 37; the nays are 76.

PRESIDENT NISBET: The amendment is not adopted.

Following is explanation of vote submitted by Mr. Dehnke:

Explanation of nay vote on Norris amendment to Committee Proposal 15:

I recognize every individual's right to liberty of conscience, but believe that it is fully protected by other provisions of the proposal, and also that the additional language proposed could be interpreted as authorizing refusal to testify on alleged reasons of conscience, or to disobey laws of which they do not conscientiously approve.

PRESIDENT NISBET (continuing): The secretary will read the next amendment.

SECRETARY CHASE: Mr. Plank offers the following amendment:

1. Amend page 2, line 3, [section 4] after "abridge" by striking out "the liberty of speech or of the press" and inserting "these liberties"; so that the language beginning in line 3 will read, "and no law shall be passed to restrain or abridge these liberties."

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: Mr. President and fellow delegates, when we discussed this in committee of the whole quite a long statement was prepared by Dr. Kelly and distributed to the delegates just before we voted and at that time I said I was not entirely in agreement with Mr. Kelly's statement. Therefore, I would like to make a few remarks about that statement now and then a few other remarks and then I'll sit down. I'll not belabor this long, but I would very much like to have your undivided attention for the little time that I am going to talk.

While it is true that from the standpoint of legal accuracy most of what Mr. Kelly stated was true, his conclusions, however, do not necessarily follow. Broadcasting, of course, is licensed by the federal government, and it is true that the same government has preempted the field of broadcasting to the exclusion of state laws to the contrary. Dumont Laboratories vs. Carroll, 184 F2d 153 (1950). However, Mr. Kelly fails to point out that the objective in licensing broadcasters is not founded in an attempt to limit their freedom of expression, but is based on technical reasons; and that the communications act itself specifically recognizes, in paragraph 326, that the FCC shall not have "the power to censor."

Mr. Kelly seems to fear that some sort of "guilt by association" will come to plague the print media if it is mentioned in the same breath as broadcasting. This position, in our opinion, is without foundation. Let us examine the facts as enunciated by Mr. Kelly. He admits that, potentially, the state has more authority over the print media than it does over broadcasting. This is true, as he points out, because the federal government has completely occupied the field of broadcasting. Mr. Kelly fears that the same authority which presently is exercised in broadcasting may be extended to include the print media. But as we have already pointed out, the state has less authority, not more, in dealing with broadcasting than it does in dealing with print media. If one were to apply Mr. Kelly's logic to this reasoning, it would appear as if the print media would benefit by association with radio and television. This, then, points out to us the illogic of this line of reasoning. We do not believe that there is any foundation for concluding that the mention of radio and television in a "freedom of press" clause will in any way derogate or limit these freedoms.

Mr. Kelly also fails to recognize that the freedom guaranteed to the print media by the United States constitution is not an absolute one. This fact is brought home by a reading of the supreme court's decision in the case of Near v. Minnesota, 283 U.S. 697, wherein the court stated, "Liberty of speech and of the press is also not an absolute right, and the state may punish its abuse." Additionally, it should be pointed out that the supreme court has stated with respect to application of the guarantee of free speech as it pertains to media of communications, "Each method tends to present its own peculiar problems. But the basic principles of freedom of speech and the press, like the first amendment's command, do not vary." Burstyn v. Wilson, 343 U.S. 495. This case is indicative of the fact that the supreme court itself draws no distinction between the application of the freedom of press guarantee to different media of communications. In this regard, it is important to note that the supreme court has held that radio is within the scope of the "freedom of press clause" as contained in the United States constitution. "We have no doubt that moving pictures, like newspapers and radio, are included in the press, whose freedom is guaranteed by the first amendment." U.S. v. Paramount Pictures, Inc., 334 U.S. 131.

Therefore, whether radio and television are specifically mentioned or not, they do come within the guarantees accorded to the general category, "the press." Thus, from a practical standpoint, you could argue that since they are included by interpretation, nothing is lost by mentioning them specifically. Additionally, in any case, the state would be precluded from limiting the right of "freedom of expression" in broadcasting, since the federal government has clearly occupied the field of broadcasting to the exclusion of state action to the contrary.

When section 4 was discussed in committee of the whole, I made the point that we should add after the word "press" the additional language, "radio, television, or other means of communication." It subsequently was amended to read "these liberties," leaving out any reference to media. This language was acceptable to me. The pressure of the newspaper people throughout the state caused me to reconsider and agree to add the phrase, after reinstating the old language through "the press," add that this historic liberty shall also apply to "radio, television, or other means of communication." Through some misunderstanding, Delegate White did not add this new language but did move to reinstate the article as reported by the committee on rights, suffrage and elections.

Since this action I have done considerable study on the matter. Much discussion with broadcasters, delegates, and legal friends has convinced me that no reference to any media should be used in our new Michigan constitution. Let's go back. The federal courts have had the rule that the word "press" includes radio and television in its specific definition. Why make the courts rule a new inclusion of some new means of communication, such as the new "magnatron" or perhaps a light beam, and who knows what lies in store for us in the future in the ways of communications? We believe that when the courts made the decision to limit the new definition, they were not so much concerned with the media as they were the freedom of speech—not press, not radio, not television. As far as section 4 is concerned, the court decisions are all grounded on freedom of speech; the word "press" is redundant and its continued use will only act as a limitation on any new communication that might come into being in the future life of our Michigan state constitution.

As the committee reported, "Every person may freely speak, express, and publish his views on all subjects, being responsible for the abuse of such right;" in essence, this protects our rights and the additional language only expands the rights by saying, "no law shall be passed to restrain or abridge these liberties." This is complete, and any additional definition of communication only tends to limit this section. We should be very careful not to put any limiting language in this section. Who knows what's in store for our great state? Even today there are other means of communication: the arts. If a statue of Khruschshev were to be erected on a vacant lot and, let's say, alongside was a picture of a donkey in a kicking position, this is expression—communication of an idea protected by this section, but not defined along with "press." If Red Skelton were to appear before this august body and ridicule our work as delegates, as only Red Skelton can do it, this is freedom of expression. But yet, pantomime is not listed as a means of communication.

Should we force the courts to include in the definition of "press" that it means art, pantomime or any number of future developments that our ingenious minds might produce in the near future? I believe not; and I therefore ask the delegates to support the proper language in the new constitution and for your edification, I submit, "Every person may freely speak, write, express, and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge these liberties." I enlist your support for this amendment. Thank you.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President and fellow delegates, I merely wish to remind you that you got into a big hassle over this very problem in committee of the whole. We tried with 3 or 4 amendments to accommodate the point which Mr. Plank is raising, but without success; and we ended up by restoring the language as recommended by the committee. Now he comes back with the same idea in less limited words, but his amendment, it seems to me, strikes out those famous words, "the liberty of speech or of the press." These are so important and they have been construed so many times that I can't understand why anybody would want to exclude them from the constitution, and insert the rather insipid words, "these liberties." The committee, as I think you remember, was in favor of pretty much the same language that exists in the present constitution, and they're still in favor of the language which was originally recommended. Therefore, we oppose this amendment.

PRESIDENT NISBET: The question is on the Plank amendment. Those in favor will vote aye. Those opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 2, line 3, [section 4] after "abridge the" by striking out "liberty" and inserting "freedom"; so that the language will then read, ". . . and no law shall be passed to restrain or abridge the freedom of speech or of the press."

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that debate on this amendment be limited to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, this question was raised in committee of the whole and at that time one of the delegates said: let style and drafting do this; and afterwards the delegates voted to leave this to style and drafting. Now, it's not a substantive question. It's a question of words. The sentence begins, "Every person may freely . . . ." And so to be consistent with the word "freely" in the first line, "freedoms" would ring better in the third line.

The second point that I want to make on the word "freedoms" is that we have grown accustomed to refer to freedom of the press, freedom of speech. The federal constitution uses the words "freedom of press" and "freedom of speech." During world war II we spoke of "our freedom." And the word "freedom" itself has a long Anglo Saxon origin which is of more lasting and of greater duration that the word "liberty." The word "liberty" is, of course, from the Latin. I would suggest that to be consistent with the use of the word "freely" in the first line, to be consistent with the ways we've expressed freedom in our own history, that the words "freedom of press" and "freedom of speech" would sound better and, as such, would look better in our constitution.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Faxon. Those in favor will say aye. Those opposed no.

The amendment is not adopted. May the Chair say to the convention that even though we went over much of this material before, and the Chair knows it gets a little tiresome to hear it repeated again, in the interests of efficiency and speed, will you please pay as close attention as you possibly can? The secretary will read.

SECRETARY CHASE: Miss Donnelly offers the following amendment:

1. Amend page 4, line 12, [section 20] at the beginning of the line, by striking out "or tort,"; so the language will read, beginning section 20, "No person shall be imprisoned for debt arising out of, or founded on contract, express or implied, except in cases of fraud or breach of trust."

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: Mr. President, members of the convention, this amendment has been inserted for 2 reasons: 1, to attempt to restore the language to the original constitutional provision on this in our 1908 constitution; and also to raise the query: do the people in this convention really understand what they did when they threw in the words "or tort?"

There is more than one kind of tort, as most of the members of the bar are certainly aware of, and I am wondering if the committee, when they originally did this, took into consideration malicious torts. I personally have found in my brief experience in the practice of law that there are instances where individuals may commit a malicious tort. They may do great harm physically to another individual. While this is a crime, imprisoning the individual who committed this physical, malicious tort on another human being does not pay the person he harmed. I personally have found that in one case I resorted to the remedy of the satisfaction writ because the individual had so concealed his assets, though he had been guilty of a malicious tort, that it was absolutely impossible to collect the judgment. There is no question of the fact that there was a judgment entered against this man but he could not be collected easily—you could not get satisfaction of this judgment because he had concealed his assets to the dgeree that the individual who had been injured, while he had a judgment, was not paid in any way. The individual injured needed medical treatment but he wasn't able to get the money to pay for the medical treatment. I think there should be more discussion on this issue of inserting the words "or tort" here in this constitution.

We have for years operated under the other language most successfully, most fairly and most properly. We are making a great change in the law of this state, I think unintentionally and perhaps unknowingly. I have discussed this with some members of the committee who originally drafted this language and inserted these words "or tort" and I understand there was very little attention, if any, given to the issue of malicious torts. This doesn't mean you hit somebody with a car unintentionally and it's an accident. It isn't negligence torts. It's an intentional tort. An intentional tort takes the mental attitude to do harm to another person. It is, in my opinion, as bad as fraudulently obtaining money and handling these other situations where we are allowing them still to be imprisoned for debt, in the case of fraud or breach of trust.

These are very serious matters, certainly, but I think an intentional, malicious tort basically does more harm to any human being than the case of taking their money. It's one thing to take a person's money; it's another thing to maim them; it's another thing to injure them permanently. Individuals can suffer for years and years and years because of the physical injury done to them under a malicious tort. They have a loss of money under a case of fraud or breach of trust on a contract. But if an individual has had an eye removed in a fight, or in my case, the ear bitten off, these instances are malicious torts and you just don't ignore them.

I think that the convention moved hastily. I think it took 5 minutes in committee of the whole on this issue the last time it came up, and I believe that it should be discussed and considered by this body in view of the harm that can be done to individuals, to their person, not to their pocketbook. You're protecting their pocketbook by this amendment, but you're not protecting their physical body. I think it's a very serious matter and the convention should certainly give some attention thereto.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, I'll call on Dr. Norris on behalf of the committee to reply to Miss Donnelly.

PRESIDENT NISBET: Dr. Norris.

MR. NORRIS: Mr. President, I think there is a policy or question of wisdom to be decided upon by the convention that is projected by Miss Donnelly's amendment. The committee was of the view that it was declaring a right that no person shall be imprisoned for debt arising out of any tort or contract situation. This is a continuation of a libertarian concept that human beings not to be placed in a position of coercion and of restraint in order to satisfy any kind of debt regardless of the origin or the source of the debt. This was the main principle that moved the committee. It is the principle behind section 20 of article II.

I appreciate the fact that in some cases, the cases of malicious tort that Miss Donnelly cites, you have a pressing to the wall of this basic consideration. However, the thrust of her position is that when you have a malicious tort there ought to be imprisonment for debt or at least that period of incarceration financed, as I see it, in some cases by the person in whose favor a judgment may be entered in order to put pressure upon the party who is culpable here to try to make whole the party who is injured. This may be a desirable objective under some circumstances, but balancing as a whole the contingency which she seeks to protect against the whole concept of nonimprisonment for debt, I think the committee subscribes to the notion that the values inherent in a policy of nonimprisonment for debt override and overcompensate the contingency, worthwhile as it may be within its limitations, that this amendment seeks to have us support. I therefore, on behalf of the committee, urge a no vote on the amendment.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: Am I guilty of speaking twice if I ask a question?

PRESIDENT NISBET: You may speak.

MISS DONNELLY: I was just wondering—I wanted to ask a question. He didn't answer the question that I posed and I was wondering if I was speaking twice on it if I asked a question.

PRESIDENT NISBET: You may ask a question.

MISS DONNELLY: If Dr. Norris will respond: is it your expression of the committee's intent that they're more interested in protecting money that has been fraudulently removed from a person than they are in protecting—you're willing to imprison them for that but you are not willing to imprison them when they have harmed an individual physically and they won't pay? You will imprison them when they won't pay if they have stolen money, in effect to collect the money for fraud, but you won't imprison them if they've physically harmed an individual and they won't pay?

MR. NORRIS: That's what the language says. There is that proposition of policy that emerges from this. My own personal view is that all exceptions should have been eliminated, but I don't think there's been a showing to the committee that the language which is presently in article II, section 20, has been abused nor was there any contingency brought before us to suggest the language ought not to have been continued. And the only proposition here was to continue the policy to apply to as many other kinds of situations as we could reach in order to protect people against what we considered an unenlightened policy of imprisonment for debt. There may be some inconsistencies that your question poses, but that does not mean that the policy ought not to be extended as far as it could be extended.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: Mr. President and members of the convention, I think that as he hints, there may be some inconsistencies; there are fantastic inconsistencies. You are going to allow people to be imprisoned if they steal money, in effect, but not if they harm an individual and don't pay. I would say that the committee and the convention, if it retains this language, has gone way too far in attempting to talk about imprisonment for debt. We have changed the law which has been in existence for how many years in this constitution I don't know. I would suggest that it was certainly here from the first constitution forward.

I think this is the wrong spot in which to attempt to strike forward. I think we are regressing. To say that we will protect the pocketbook only and not a person's body, in effect, is not progressive. I submit that this idea that we are extending forward of imprisonment for debt on the theory that we're only talking of breach of trust and fraud on a contract which involves money, for taking money from people and misusing funds —I certainly think misusing funds is a very, very, very serious situation. I support the idea that imprisonment for debt should be a remedy in this instance because I think the nature of it, involving a breach of trust, is most vital to retain. But I think you're going a step too far in thinking you're advancing this society when you are harming physical injuries, malicious torts by sticking these 2 words in. You're changing the entire law on the subject and I don't think that this is the way to change it, or the time.

Certainly, imprisoning for malicious torts is the last remedy ever used. It is a very difficult remedy. It is very strictly construed in the courts, and they do not do it lightly. There is no sense in doing it unless you know the person has hidden assets. You're just wasting your time. If you do imprison them on it, you must pay their rent while they are in jail. Therefore, it's costing this individual who uses this remedy money, if he can get any, to collect. But the point of the matter is, you've gone too far by sticking these words "or tort" in. You're changing the constitution in a direction that I have never heard any evidence for change. This step forward, in my opinion, is not a step forward, but a step backward. The original language in the 1908 constitution was excellent and I believe it should be retained. I therefore support and ask for your very serious consideration of the effect of these 2 words which, as Dr. Norris has indicated, were not considered in the committee originally or not considered on this floor before. I therefore ask your support in deleting these 2 words, going back to the 1908 constitution, where we understood it completely, where you protected pocketbooks but also left the remedy to protect the individual on injury on a malicious tort. I don't mean a light hearted negligence tort; this is a malicious tort. In other words, it's also a crime in most instances. Therefore, I urge your yea vote on the issue and put the language back to where it has been.

PRESIDENT NISBET: Judge Leibrand.

MR. LEIBRAND: Mr. President and fellow delegates, Delegate Norris conceded in his statement that imprisonment for a willful and malicious tort might be a desirable concept under some circumstances. Assuming this to be true, I think it is the duty of this convention to permit the legislature to decide under what circumstances such imprisonment should be granted. There has been no great difficulty with this law as it stood in the past, with the legislature having control. I support the Donnelly amendment.

PRESIDENT NISBET: Mr. Tubbs.

MR. TUBBS: Mr. President, I am very happy to be on Miss Donnelly's side. I support the amendment. As a matter of actual practice, it isn't much used because it's getting so expensive to put these people in jail that no plaintiff can afford to do it any more.

PRESIDENT NISBET: The question is on the Donnelly amendment.

MISS DONNELLY: I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Donnelly amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—73

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Blandford
Bradley
Brown, G. E.
Butler, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Douglas
Durst
Elliott, Mrs. Daisy
Erickson
Farnsworth
Figy
Finch
Gadola
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Liberato
McAllister
McCauley
McLogan
Millard
Mosier
Nisbet
Perras
Plank
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
Wilkowski
Yeager

Nays—44

Austin
Baginski
Batchelor
Beaman
Bentley
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Downs
Elliott, A. G.
Everett
Faxon
Follo
Ford
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Jones
Kelsey
Madar
Marshall
Martin
McGowan, Miss
Murphy
Norris
Page
Perlich
Pollock
Sablich
Snyder
Spitler
Staiger
Stamm
Sterrett
Stevens
Suzore
White
Wood
Woolfenden
Young

SECRETARY CHASE: On the adoption of the amendment offered by Miss Donnelly, the yeas are 73; the nays are 44.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

MR. PLANK: Mr. President, if I am in order, I would like to ask for reconsideration of my amendment. I just can't believe the delegates would listen to the remarks that I had to say and vote the way they did. (laughter) In addition to that, one of my good friends over here made an awfully loud no which I am sure registered on your meter as being 4 or 5 no votes when it was only 1.

PRESIDENT NISBET: The question is on the motion of Mr. Plank that reconsideration be made of the vote on the Plank amendment. Those in favor will say aye.

MR. PLANK: Mr. President, I believe we ought to have a division on this too because—

PRESIDENT NISBET: A division has been demanded. Is it supported? Sufficient number up. Those in favor of reconsideration of the Plank amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the motion to reconsider the vote on the amendment offered by Mr. Plank, the yeas are 71; the nays are 45.

PRESIDENT NISBET: The motion prevails. The question now is on the amendment offered by Mr. Plank. The secretary will read the amendment.

SECRETARY CHASE: Mr. Plank's amendment is as follows:

1. Amend page 2, line 3, [section 4] after "abridge" by striking out "the liberty of speech or of the press" and inserting "these liberties"; so the language will read beginning in line 3, "and no law shall be passed to restrain or abridge these liberties."

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: Mr. President and fellow delegates, I'm not going to take any more of your time, just to point out one thing. Just think about the last 50 years and see how quickly the word "press" was actually outdated. Now think about the developments that are coming up almost at hand right now and see how much quicker they'll be outdated in the next 5 or 10 years, let alone the next 50. I move the previous question.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, I would like to limit debate on the Plank amendment to 2½ hours. (laughter)

MR. PERRAS: Mr. President, I ask for the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up.

The previous question has been demanded. Is that demand supported? Sufficient number. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question is on the Plank amendment. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—63

Andrus, Miss
Anspach
Bentley
Blandford
Bradley
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Dehnke
DeVries
Donnelly, Miss
Doty, Donald
Durst
Erickson
Farnsworth
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Iverson
Karn
King
Kirk, S.
Koeze, Mrs.
Leibrand
Leppien
Millard
Mosier
Nisbet
Norris
Page
Perlich
Perras
Plank
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Thomson
Tubbs
Turner
Upton
Wilkowski
Wood
Woolfenden
Yeager

Nays—60

Allen
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Boothby
Brake
Buback
Cudlip
Cushman, Mrs.
Danhof
Dell
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Figy
Finch
Follo
Ford
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Kelsey
Krolikowski
Kuhn
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Pollock
Sablich
Stevens
Tweedie
Van Dusen
Wanger
White
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment, the yeas are 63; the nays are 60.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Stevens offers the following amendment:

1. Amend page 4, following line 17, by inserting a new section to read as follows:

"Sec. 22. The right of the owner of real property to convey, grant, or devise said property shall be limited only by law.".

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President, delegates, now that we have come to this point and there is no question about plenty of provisions for nondiscrimination of the rights of everybody except the home owner and property owner, I again present this in a shortened form, leaving out some of the previous provisions to which some people objected. All I want to do now is try to keep a few home owners out of jail.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 15 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. The question is on the motion of Mr. Van Dusen to limit debate to 15 minutes. Those in favor will vote aye. Those opposed will vote no.

The motion does not prevail.

PRESIDENT NISBET: The question is on the amendment of Mr. Stevens. Mr. Kuhn.

MR. KUHN: I rise in favor of the Stevens amendment. I think we've done a lot for civil rights. I think we've done a lot for a lot of people and now I think we should take care of the property owners of the state of Michigan and give them some protection which they so rightly deserve. And I'm in favor of this amendment.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and delegates, I rise to oppose this amendment. It seems to me today we've been doing some things that I think we're going to be sorry for later in terms of restricting our whole idea of rights and liberties here. I would hate to see this trend continue and I think this is one of the areas where we should be most careful. Thank you.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Mr. Ford.

MR. FORD: Mr. President, I would like to ask Mr. Stevens a question, through the Chair.

PRESIDENT NISBET: If Mr. Stevens cares to answer.

MR. STEVENS: As has been stated before, when I know what the question is.

MR. FORD: Mr. Stevens, as I understand this, it implies that there is some way other than by law to—

MR. STEVENS: No, Mr. Ford. As you well know, this is merely declaratory. That was all explained before. At the present time there isn't. This looks to the future when there might be.

MR. FORD: Does this look to the future when there might be a way other than by law to restrict the right to alienate property?

MR. STEVENS: That's right.

MR. FORD: Through the Chair, could you suggest a possible method in which, other than by law, you could restrict the right of a person to convey an interest in property?

MR. STEVENS: Mr. President, Mr. Ford, yes. An administrative order by a bureaucratic board might provide that he would have to explain why he would sell or refuse to sell his property to a particular individual.

MR. FORD: Now that suggests the possibility of why he did or didn't do it. But my question, Mr. Stevens, was: do you contemplate any method other than by law whereby a person could be compelled to or restrained from conveying his property?

MR. STEVENS: The idea is to protect his right in the alienation of property so that he may not be punished for refusing to alienate it.

MR. FORD: Is that the intention of this language?

MR. STEVENS: Yes, it is.

MR. FORD: Without belaboring the point, I wonder if you could explain to me how this language would accomplish that purpose.

MR. STEVENS: Well, we hope it would affect the court decision of persons taken into court.

PRESIDENT NISBET: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. President, I believe that, in substance, the merits and demerits of this particular section were before us at the time when we discussed Committee Proposal 45 and I don't intend to get into the detail with regard to it. I can only reiterate the propositions I advanced then, that this section or this amendment is unnecessary, as it does not declare or enlarge any right not now amply protected under the due process clause of the federal and state constitutions. Indeed it creates a potentiality of risk of harm to existing powers, rights and agencies, particularly when we get into the question of the last 2 words of that amendment. I am not so sure, as to the third proposition, that it will accomplish the purpose that the proponents seek to accomplish.

I think that we ought to be pretty clear that the due process clause does contain, and has contained for centuries, protection with regard to the inalienable fundamental right of conveying, granting and devising property. Rights of private property have been intimately and directly construed to be covered by the protection of the due process clause. And if I did not feel so, I would be the first to move in the direction of supporting Mr. Stevens in his amendment. But I don't think it is necessary in order to accomplish the purpose of protecting fundamental rights in relation to private property. And I think that by getting into a new area after there have been 1500 years of decisions and laws promulgated regarding private property, it is very conceivable that the end which is sought will not be accomplished. I think we're entering into a thicket here, a barbed wire area, and I submit to you that the interest which is sought to be protected and ought to be protected, and which is protected, is not going to be accomplished by this particular amendment and I urge that it not be subscribed to.

PRESIDENT NISBET: Mr. Page.

MRS. HATCHER: Mr. President and fellow delegates—

PRESIDENT NISBET: Mrs. Hatcher, the Chair will call on you in a few moments. Mr. Page.

MR. PAGE: Mr. President and fellow delegates, this amendment, or an amendment very similar to this, was submitted to the committee of the whole on April 10 and was defeated by the very narrow margin of 63 to 59 votes. It seems to me that we have made very definite and marked progress in the protection of rights during the sessions of this convention. It seems to me that the protection of rights of property owners which have previously been considered inalienable are at least due a declaratory consideration in our new constitution. The argument has been made that this is a bigotous provision; that it would promote bigotry. I submit to you that this is a right which applies to all property owners, whether they be of minority groups or of majority groups, so called. I strongly urge the support of this amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, fellow delegates, there isn't any use mincing words on this amendment. We might just as well be blunt. The purpose of the amendment is to enable certain groups in the state of Michigan to maintain and promote and continue segregated communities. That's the sole purpose of the amendment, and those who believe that some parts of our communities, including our minority groups, ought not to be able to buy houses in certain areas should vote for this. Those who believe that various minority groups, including our negro communities, ought to be able to buy a house wherever their conscience dictates, or their will dictates, and their purse affords, ought to vote against it. That's the simple, sole meaning of this amendment. And if you believe that we ought to, in any of the other civil rights provisions we voted for in this convention, you ought to vote to defeat this amendment.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I would like to have some clarification from the sponsor of the amendment with regard to how this would affect the title to real estate where the owner acquires title with limitation contained in his deed. I would assume that limitations upon the ownership of real estate which are provided between individuals by incorporation into the original deed might possibly be abrogated by this language.

And the second question I have with regard to this: if the intent is what Mr. Martin says the intent is, I question that because I would assume administrative law is law. If I understand the administrative procedures act, it gives the power to an administrative agency to make specific, or implement, law which is being enforced by that particular administrative agency. And because, I think, it is set forth by an agency renders it no less law than enactments of the legislature itself.

As a declaratory principle of the ownership of real property, I am somewhat sympathetic. I have a feeling that I would like to support the declaration of principle, but I have the feeling here that it would be unwise to incorporate this into the constitution in this particular form and language.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, if at first you don't succeed—I now move to limit further debate on this amendment to 15 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye; opposed, no. The motion prevails. We've got 7 speakers in 15 minutes, 2 minutes apiece. Mrs. Butler.

MRS. BUTLER: Mr. President and fellow delegates, I take exception to Mr. Martin's remarks that this is a racial question. There are many sections of the state that have no racial problems. I do support wholeheartedly this amendment.

PRESIDENT NISBET: Mr. Binkowski.

MR. BINKOWSKI: Mr. President, I'd like to ask Mr. Stevens 2 questions, please.

PRESIDENT NISBET: Mr. Stevens.

MR. BINKOWSKI: Mr. Stevens, in our prior discussions on this point you indicated the last time that you had hoped that this provision would take care of rule 9. I now ask you whether or not Committee Proposal 123 was not to take care of any possible rule 9 or rule 10 or anything else, any other bureaucratic action, as you had indicated, so that this provision would not be necessary?

MR. STEVENS: Mr. President, Mr. Binkowski, I never made the statement that it would take care of rule 9. The statement I made was that it might affect rule 9 insofar as the law of agency applied to the relations between a real estate dealer and the owner. There is nothing here that in any way has anything to do with the real estate agent except as he might come in contact with the owner through the law of agency. And we don't even know what that might be.

MR. BINKOWSKI: You used the words in your presentation about possible bureaucratic action. So I ask you whether you would not be protected with Committee Proposal 123 from any adverse bureaucratic action.

MR. STEVENS: Mr. President, Mr. Binkowski, there isn't any question but what in several states—and I have research data on that which I thought I would not cover here in detail and I did not before because I don't think it would serve much purpose—there isn't any question but what there are at the present time laws that do affect the right of the owner to dispose of his property. In other words, if he refuses to sell to certain persons as provided in law, he is required to explain why. If he can convince somebody that he had a good and valid reason, that's all right.

What we contend is that a person should not be required to explain why he will sell or won't sell or why he changes his mind. There isn't any question about the right of an owner to alienate his property. That cannot be restricted by any covenant that he may make with anybody else. That's been long decided in the federal courts. We're not talking about anything like that. We're not talking about any restrictions. We're simply trying to provide—and I admit the provision is rather weak—that the owner, if he refuses to sell his property to anybody—no matter who it is; anyone—shall not have to explain before some administrative tribunal or possibly before a court why he did it. Obviously the only person who knows why he did not sell it is the owner himself, or those whom he may tell—actually only the owner. But he is put in the position where he has to defend himself because he said: I don't want to sell this property.

MR. BINKOWSKI: Well, in view of that, Mr. Stevens, in your considering the right to convey as a civil right, don't you feel the creation of a civil rights commission would protect the land owner against this problem that you've pointed out?

MR. STEVENS: I'm very much afraid that it wouldn't. That's what I'm afraid of—one of my fears. I think in their eagerness and enthusiasm to carry out their duties—and they certainly are duties—and their powers, that they very likely, particularly if this is left to bureaucratic administrators, would take advantage of the home owner. I don't think he would necessarily get fair and complete treatment without going into court, at least.

MR. BINKOWSKI: In view of your answers, Mr. Stevens, I would certainly oppose this amendment for the reasons that we advanced previously. I don't understand how it's going to protect them. As you said, it's so weak that I don't think you're going to accomplish your purpose. Because this convention has adopted Committee Proposal 123 and because they have instituted a civil rights commission, I think that the rights of all individuals will be adequately protected without this amendment.

PRESIDENT NISBET: Mrs. Hatcher.

MRS. HATCHER: Mr. President and fellow delegates, I rise in support at this time of the minority report that was presented here in the month of April and the one that Harold Norris alluded to in his comments a few moments ago. I, as one of the cosponsors of that minority report, along with Father Dade, Pete Buback, Bob Hodges and Harold Norris, supported the idea opposing Committee Proposal 45 that Mr. Stevens had offered at that time because we felt that it was certainly unnecessary to include it in the constitution of the state of Michigan.

I likewise at this time would like to support the comments and the very keen observation made by Mr. Martin in his observation of the problem of housing and the importance of open occupancy in the state of Michigan. I certainly feel very strongly that the language that Mr. Stevens has submitted here in his amendment is unnecessary and certainly not needed in the constitution of Michigan.

I would like to call to your attention the fact that the last time we reviewed this matter Dr. Hannah reviewed many salient problems that affect the position of the free world throughout the world. And I am certain that the fear that is cloaked in the wording of this amendment certainly negates all of the things that Dr. Hannah so eloquently pointed out in his remarks in an attempt to paint a picture in this convention as to the quest for freedom and what the real problems are all about today. And it's unfortunate that we still have those who are interested in restricting these rights. I would certainly feel that instead of attempting to try to freeze in the constitution the language that appears on the board at the present time, that we would have advocated a concept of open occupancy rather than this type of restriction.

The reason that I did not submit an amendment with reference to open occupancy and the freedom of the purchase of property by any citizen is because I feel that it is completely legislative and it's a matter that the legislature should deal with. So for those reasons and many more that I do not care to state at this time, I seriously oppose the amendment that is on the board, section 22, that is offered by Mr. Stevens.

PRESIDENT NISBET: Is Dr. Pollock in the room?

MR. GADOLA: How many speakers do you have left?

PRESIDENT NISBET: About 8 or 9.

MR. GADOLA: How much time have you left?

PRESIDENT NISBET: About 9 minutes.

MR. GADOLA: I move they be restricted to 1 minute per person then.

PRESIDENT NISBET: We'll try and do that. Mr. Snyder. Please confine your remarks to 1 minute.

MR. SNYDER: Thank you very much, Mr. President. I will say that when a person who has stature in his party, such as John Martin, gets up and makes what I feel is a very one purpose presentation, he takes away some of the sting that's been brought to me during this convention. I regard Mr. Martin as a hard hitting, formidable opponent who has espoused his cause diligently and honestly through the course of this convention. I haven't agreed with him at all times, but I must admit that he has been agreeable in his disagreement. I find it real fine that I am able to get up with him on this issue. I commend him for his courage and his presentation.

I feel in my mind that this is one of the most important decisions that I will make at this convention and when I push this button, I will be giving a climax to 7 months of effort here. We've done a lot of things, but this is the final shot. We can go out of this convention in a blaze of glory or we can conceal some of our true feelings that we have at this particular time. I used the expression last night in one of our committee meetings that we were acting here—we are acting as the cast. We can kid the people in the audience on this particular one, but in this particular role we are the actors. We know what the purpose is; we know what the intent is of this amendment. I do not believe it has any bearing on the constitution. It does not belong in the constitution. I am glad to join with John Martin in this instance and urge the defeat of this amendment.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: Mr. President and delegates, I don't want to have this debate get down to turn on the personality. I want to echo what Mrs. Butler has said. From time to time we have been annoyed by those who, in their exuberance, their own convictions, have felt inclined to question the motives of those who disagreed with them. There was a time when we heard references to the lunatic fringe. There was the time, when we didn't agree, when we were accused of deliberate violation of our oath of office. I thought we had passed that time. The last person in this convention from whom I expected to hear any impugnment of the motives of other delegates was Mr. Martin, in ascribing discreditable motives to those who favor this amendment.

On the merits, I'd like to say that it is no answer that the present rule we have in mind is not directly aimed at the owner, but at his agent. But if that rule is sustained, the owner himself may well be the next target. A vote in favor of this amendment satisfies my own conscience and I don't propose to allow my motives to be impugned and remain silent.

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, ladies and gentlemen, I would certainly impugn no one's motives. We certainly have a right to vote as we see fit. I should certainly want to associate myself, however, with the comments made by Mr. Martin. This convention has done very well indeed in the whole field of civil rights and I regard it as a great misfortune that this morning we must again have a good deal of time taken up with this discussion. And I would only remind all of you that some of you are inclined to think that some of our negro friends have pushed a little hard on this civil rights matter before this convention, this issue this morning was not presented at all by the folks that feel as I feel. We were well satisfied with what we have. And if you approve this amendment you certainly will be regarded—or this convention will be regarded as voting in favor of the famous rule 9 and we will have lost much of the gain that we've made. I urge you to vote no.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, I rise very briefly in opposition to this amendment. Dr. Hannah, Mrs. Cushman and other speakers have pointed out that it is an oblique approach at rule 9. The other objection is a technical one that this may imply that property rights can be limited other than by law. So for both the principle and the technical reason, I urge a no vote.

PRESIDENT NISBET: Dr. Pollock, did you care to speak?

MR. POLLOCK: No, I didn't request to speak. I'd like to make a motion to recess very soon.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, I intend to vote against this amendment. But I want to make it perfectly clear that it is not for the reasons as indicated by Mr. Martin. I think that the remarks in that particular regard were out of order and not at all consistent with what the convention is trying to do. The reason that I intend to vote against the amendment is that I'm afraid this limits the rights of the property owners in a way that we don't want, because, as I read it, it says that they shall be limited by law. I want them to have this equal protection under the equal protection clause of our constitution which they now have. I believe that the legislature has within its province the right to give them this, and this may in some way limit that right. I don't want that to happen.

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, this matter has been over and over, and most of what we've heard is entirely irrelevant. This has nothing to do with occupancy, has nothing to do with public accommodations, has nothing to do with all of those rights and privileges guaranteed by the new constitution, if it's adopted, and by the many statutes which have been passed in the state of Michigan. There are no booby traps in it and it is only attempting to protect the property owner, particularly the home owner, in his right to make his own decision. It does not in any way affect the law which provides that nobody may, by any contract, prevent the right of an owner to alienate his property. In fact, this, in effect, only adds to the idea and the law and the principle that an owner of property may make his own decision. He cannot be controlled by anyone else.

PRESIDENT NISBET: Mr. Austin. You have about a minute and a half, and Miss Donnelly wants to talk.

MR. AUSTIN: Mr. President and ladies and gentlemen of the convention, I will be exceedingly brief. I am speaking in opposition to this amendment because I think we have provided an equal protection clause in our constitution which is expected to assure the equal protection of the rights of all individuals. We have established a civil rights commission which will do a surveillance job in seeing to it that these rights are protected. If we've done our work well in providing an equal protection clause and in establishing an effective civil rights commission, this amendment should be totally unnecessary. I would submit that if we are still somewhat insecure, feel somewhat insecure about the protection of our rights, then we should take another look at our equal rights clause and also our civil rights commission. I oppose this amendment.

PRESIDENT NISBET: Time has expired. The question is on the amendment offered by Mr. Stevens. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay.

MISS DONNELLY: Mr. President, I wish to announce my intention to abstain. I was not allowed to speak on this amendment. Therefore, any direction I vote will be misinterpreted. I am most disturbed about some of the things that have gone on, the comments made and, I think, the misinterpretation of the law in many instances.

PRESIDENT NISBET: You may abstain. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—47

Blandford
Boothby
Brake
Butler, Mrs.
Dehnke
Doty, Dean
Doty, Donald
Everett
Finch
Goebel
Gover
Habermehl
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
McAllister
Millard
Mosier
Page
Plank
Powell
Prettie
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Turner
Tweedie
Upton
Wood
Yeager

Nays—73

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bledsoe
Bradley
Buback
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Figy
Follo
Ford
Gadola
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hood
Howes
Jones
Kelsey
King
Krolikowski
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Nisbet
Norris
Ostrow
Perlich
Perras
Pollock
Rajkovich
Romney
Sablich
Snyder
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Thomson
Tubbs
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Young

SECRETARY CHASE: On the amendment offered by Mr. Stevens, the yeas are 47; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The secretary has some announcements.

SECRETARY CHASE: Mr. Iverson announces a Republican meeting at 12:45.

Mr. Danhof announces that the meeting of the committee on judicial branch scheduled for today after the morning session has been canceled.

The committee on legislative powers will meet in room H immediately following this morning's session. This is a continuation of the early morning meeting.

There will be a meeting of the committee on style and drafting after the morning session. Mr. Cudlip, chairman. Important: a quorum is needed.

The committee on administration will meet immediately. Mr. DeVries, chairman.

I have the following requests: Mr. Tubbs asks to be excused from the balance of today's session because of court proceedings; Mr. Bonisteel asks to be excused from the balance of today's session; Mr. Shackleton asks to be excused from the late afternoon session today and the session of tomorrow to keep appointments made in Washington; and Mr. Romney asks to be excused from tomorrow's session to keep a commitment with the Michigan credit union and attend a board of directors meeting.

PRESIDENT NISBET: Without objection, they are excused as requested.

We are still on the first proposal. We have 2 more amendments. We were supposed to be through with this whole thing by noon. So make some plans this noon for an evening meeting, it looks like. Mr. Boothby.

MR. BOOTHBY: Mr. President, I move that we do now recess until 2:00 o'clock this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. Boothby. Those in favor will say aye. Opposed, nay.

The motion prevails. We are recessed until 2:00 o'clock.

[Whereupon, at 11:55 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

VICE PRESIDENT HUTCHINSON: The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

[During the recess, having previously been excused, Messrs. Anspach, Bentley and Bledsoe left the chamber.]

VICE PRESIDENT HUTCHINSON: Will the delegates please take their seats.

SECRETARY CHASE: During the noon recess 2 requests were filed: Mr. Page wishes to be excused from the session of this afternoon and tomorrow as his wife is ill; and Mr. W. F. Hanna asks to be excused from the balance of today's session and tomorrow's session.

VICE PRESIDENT HUTCHINSON: Unless there is objection, the 2 requests will be granted. The Chair hears no objection and they are granted.

Without objection we will return to the order of **reports of standing committees.**

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 118 of that committee, reporting back to the convention **Committee Proposal 127,** A proposal for a section on atomic energy; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 127 as reported by the committee on style and drafting, see below, page 2904.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 119 of that committee, reporting back to the convention **Committee Proposal 128,** A proposed section on intergovernmental agreements; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 128 as reported by the committee on style and drafting, see below, page 2906.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 120 of that committee, reporting back to the convention **Committee Proposal 129,** A proposal to describe legislative authority over state public lands; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 129 as reported by the committee on style and drafting, see below, page 2908.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 121 of that committee, reporting back to the convention **Committee Proposal 67,** A proposal to amend article XIII, sections 1, 2, 3, 4 and 5, pertaining to eminent domain, of the present constitution; with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

For Committee Proposal 67 as reported by the committee on style and drafting, see below, page 3035, under date of May 1.

VICE PRESIDENT HUTCHINSON: Referred to the order of second reading of proposals.

SECRETARY CHASE: That's all the—

VICE PRESIDENT HUTCHINSON: **Second reading of proposals.** The convention has under consideration **Committee Proposal 15.** The secretary will read the next amendment.

SECRETARY CHASE: The next pending amendment to Committee Proposal 15 is submitted by Judges Mosier, Shaffer, Pugsley, Dehnke, Gadola and Leibrand:

1. Amend page 3, line 7, [section 13] after "law.", by inserting a new paragraph to read as follows:

"In all civil actions in circuit courts a verdict shall be received when 10 jurors shall agree.".

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Judge Mosier. The convention will kindly be in order so that the speaker may be heard.

MR. MOSIER: Mr. President and fellow delegates, this proposed amendment will deal with a procedure in the trial of cases in circuit court. This provision is sponsored by Judges Shaffer, Pugsley, Dehnke, Gadola, Leibrand and myself. The purpose of this is to aid the courts, reduce expense to litigants and the necessity for retrial of cases where juries are unable to agree.

It has been the history of our jurisprudence in Michigan that cases are heard by juries of 12. We have a statute which provides for that. We also have a statute that provides for the receiving of verdicts, and that statute says that when any jury shall be impaneled to assess any damages, if they cannot agree after being kept together for such time as shall be deemed reasonable by the court, such court may discharge them and issue a precept for a new jury, or order another jury to be drawn, as the case may require. And the same proceeding shall be had before such new jury as might have been had before the jury so discharged.

The amendment that is proposed is to aid in that situation where juries have been unable to agree and it was necessary to retry the case by the same parties, usually the same lawyers, usually the same witnesses, a second trial at the expense of the parties, and at the expense of the public. I have received letters from many trial judges throughout the state and I have yet to find one trial judge or even a lawyer, who does not feel that this amendment is a step in the right direction. It prevents the usurping of the judgment and will of 10 of the 12 jurors by 2 jurors. In our society today most things are decided by elections wherein a majority is sufficient, and most statutes are passed by a plain majority—in some cases a 2/3 majority is required—but our law has been such as to require in Michigan that the verdict, to be received, must be a unanimous verdict. Now this amendment, ladies and gentlemen of the convention, applies only to civil cases, so please do not confuse the trial of a criminal case with the trial of a civil case. This amendment is only in civil cases.

I have a letter from Judge Raymond Smith from Holland, who says this:

> I have considered for some time that it would be a step in the right direction if the clerks of Michigan could accept a 9 to 3 verdict in civil cases.

A letter from Judge Sweet from the Kalamazoo circuit says:

> I would not be averse to verdicts upon which at least 9 members of a 12 member jury can agree and feel that this might possibly result in less compromising and enable the jury to return the verdict without protracted deliberation.

I have a letter from Judge Weideman of the Wayne county circuit, in which he says:

> It is my personal opinion that no one would be harmed if we would take a verdict of 10 out of 12. When 10 jurors agree upon a verdict, I believe we can assume that it would be a fair one. By holding a jury to a unanimous verdict, I believe that grave injustices are sometimes done. By making it necessary to secure a vote of 10 jurors, it is my opinion that the rights of both parties would be safeguarded.

A letter from Judge Raymond Fox says:

> I feel that a very strong case can be made out for permitting a verdict in civil actions with less than 12 affirmative votes. I think the number should be probably about 9.

Then he says:

> A verdict is a compromise between those who would give a substantial sum and those who are voting for no cause.

A letter from Judge Zick says:

> I believe that a verdict should be permitted in a civil case by the action of 9 jurors.
>
> In Ohio that rule has been in effect for some time.

I have taken this up with Mr. Joiner, and he advises me that there are 23 states that have a rule similar to the rule that I am asking this convention to adopt, in which verdicts are allowed in civil cases, ranging all the way from 8 to 12 to 9 to 3 and 10 to 2. I have a letter from Judge Morris Davis. He says:

> I certainly do favor a constitutional provision that a circuit court be empowered to accept a verdict by a vote of 8 jurors in a civil case.

A letter from the executive judge of the Wayne county circuit, Judge O'Hara. He says this:

> It would seem to me that many cases would be saved one way or the other if a verdict could be rendered by 10 of the 12 jurors sitting. After all, this does represent well over 80 per cent of the jurors and almost anything else is controlled by either a majority or at most by a 2/3 or 3/4 vote. I see no reason why we should have to have a unamimous decision of 12 people when they have divergent views. There isn't any question but what one stubborn person can become an expensive luxury to one or other of the litigants. It lessens the necessity for retrials where we have disagreements to contend with.

I have letters from bar associations who have adopted resolutions favorable to this provision. I have the word of Chief Justice Dethmers that such a rule is proper and we should have had it years ago. I submit this matter to the convention and if you have any questions, I am sure that any of my cosponsors would be glad to answer.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, indeed we have reached a milestone in the convention today. You folks will recall that we had quite a little trouble on various occasions of getting 2 or more attorneys together on a proposition. Now today on this measure we have exactly 6 of them together, all retired judges. I think it would be a bad mistake if we didn't support them 100 per cent.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, the committee was not given the opportunity to consider this amendment, but agreeing with Mr. Farnsworth, when 6 judges can agree, it must be good. Speaking only for myself, I can say that as far as I know, no members of the committee will have any objection to this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Judge Mosier and others. All those in favor will say aye. Opposed will say no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Seyferth offers the following amendment:

1. Amend page 4, after line 17, by adding a new section 22 to read as follows:

"Sec. 22. No person shall be denied the opportunity to obtain or retain employment with any individual, private corporation or association of any kind because of membership or nonmembership in any labor organization; nor shall an individual, private corporation or association of any kind enter into any agreement written or oral which excludes any person from obtaining or retaining employment or compel any person to pay dues, fees or charges of any kind to any labor organization as a condition of employment or of continuing employment.".

VICE PRESIDENT HUTCHINSON: On the amendment the Chair recognizes Mr. Seyferth.

MR. SEYFERTH: Mr. President, fellow delegates, I thought it was about time that we give you a little change of pace here. I feel a little guilty for imposing upon this convention in face of our tight time schedule but I have found that I must follow through as I have been informed that a number of delegates have for the past week been shaping up speeches to rebut this presentation. (laughter) So, with your indulgence I will carry on and be as brief as consistent with the processes of conviction.

The amendment now before this convention for your studied consideration is a "right to work" provision which, if adopted and passed, will return to the people of the state of Michigan a fundamental, inherent, individual right of association and freedom of choice. During the past 30 odd years we citizens of this state and nation have, by default, handed over many of our taken for granted, individual freedoms—mesmerized, if you please—by double talk, platitudes and misplaced trusts. This we have allowed to take place—you and I—because of our apathy and our lethargy. We have been outmaneuvered and outsmarted by a minimal number of well organized, disciplined groups. While this frittering away of our sacred freedoms is taking place on many fronts of our proud heritage, here today let's discuss what is happening on one very important front, that of compulsory unionism.

First, let's clear up some terminology so we will bypass semantics later on. The phrase, "right to work," has for many years been a title position for a national voluntary crusade sponsoring the concept of voluntary union membership as a condition of employment. Court decisions concerning this provision have used many times, also, the phrase "right to work". So in this presentation we do not infer, within the meaning of "right to work," the providing of jobs or the guaranteeing of jobs for anyone. This is merely the title of the subject at hand.

Where this amendment, if adopted, is finally attached to or becomes a part of this new constitution is for this convention to decide. I choose to present this provision as a part of our declaration of rights in our new constitution. In my humble judgment, this is where it belongs. The substance of this amendment contains a very basic declaration of individual rights of the people of the state of Michigan which must be declared in this constitution as provided by law in our federal statutes.

Provided by law—how many times have we delegates used this phrase in the past 6 months? Here now is a perfect working example of what it means. In 1947, the congress of the United States enacted the Tart-Hartley act, which granted legal stature to the union shop. A union shop is one where a union has obtained bargaining authority and all employees must join the union to hold their jobs. Hence, compulsory unionism. While the Taft-Hartley act made legal the union shop, providing the majority of the people within a bargaining unit so indicated by vote, it also, under the now famous section 14b of said act, provided that each state could forbid such compulsory union shop contracts if the people of that state so desired. Tangible expression of this desire must be through a constitutional provision or a legislative act. Nineteen states now have "right to work" laws of this kind. Seven states are by constitutional provision and 12 states take the form of statutes.

Today the right of Michigan workers to join and support a union is protected by law. This is as it should be. However, today Michigan workers' right to refrain from joining and supporting a union is not protected by law. This is not as it should be. The amendment before us, if adopted, will correct this flagrant violation of individual rights. Let's see what this amendment means. Let's remove from this "right to work" provision the obscuring smoke screen of propaganda and expose the substance to the light of truth.

> No person shall be denied the opportunity to obtain or retain employment with any individual, private corporation or association of any kind because of membership or nonmembership in any labor organization. . . .

This statement is nothing more nor nothing less than a simple reiteration of our basic fundamental individual rights as already constitutionally declared in our behalf. But because of ill conceived federal legislation in 1947, the people of the state of Michigan, in order to protect their individual rights, must reaffirm their belief and reaffirm their support in the doctrine of the individual rights of free peoples. Resolved to a simple question, then: how important is individual freedom to the citizens of the state of Michigan?

We have heard on this floor over the past 6 months eloquent oratory sincerely supporting individual freedoms and rights. We have proclaimed praise for our federal bill of rights, and we are in the process of reiterating and strengthening our state declaration of rights for our new constitution. How can we then, individually or collectively, party politics notwithstanding, proclaim our support of the principles of the bill of rights and the declaration of rights and then take exception to the principles of the right to work, as personified in this amendment? Is this not unequivocally a basic right to also be protected and respected? In this light of simple truth, why then does the mere mention of "right to work" cause such furor and concern, making strong men weak, causing politicians and political parties to break out in cold sweats?

It is impossible to objectively reduce this question, but we all know the answer. A right to work provision eliminates compulsory unionism, which then reduces the power and the strength and the monopoly of a union. This situation, union leadership cannot permit to take place at any price. Right to work movements must be stopped. In December of 1961, a national convention of the AFL-CIO was held in Florida. Out of this convention came the following resolution:

> Resolved by this fourth constitutional convention of the AFL-CIO that:
>
> 1. We hereby pledge our utmost efforts to the defeat of so called "right to work" laws in any state where they are proposed.
> 2. We undertake a continuing campaign to eradicate so called "right to work" laws from the statute books of the 19 states where they are now in force.

So now we have the labor unions united against the rights of the individual and, even though in the minority, they are powerful enough to retaliate politically against those who support the principles of right to work.

The state of Michigan enjoys a predominant industrial complex which supports a vocal labor union membership, backed up by sympathetic legislation over the years. Labor leadership in Michigan has developed a strong organization, complete with compulsory members, compulsory dues, and they can accomplish this legally as provided by law. From this legalized compulsory unionism comes power, political and economic monopolies, misuse of power and coercion. The records are full of such by products of union power but, ladies and gentlemen, these by products would be the direct result of any monopoly power concentrated in any segment of our political, economic or social complex when the guarding of our individual freedom is relaxed or abandoned through our apathy and through our lethargy.

For me to stand at this microphone and castigate union leadership for the abrogation of our freedoms—which we gave to them; they didn't take them away—for the resultant powerful political and economic monopolies that they have operating for their own self centered uses would constructively contribute nothing. This situation, deplorable as it is, is an effect, not a cause. To eliminate these unwanted effects, the cause must be rooted out and corrective therapy applied thereon.

To determine the causes and the reasoning for this imbalance of power, this legalized desecration of individual rights, let's peruse the history books where most answers to this current problem can be found. In the late 1800s and early 1900s, this country was in the throes of a great industrial revolution. A virile, robust, industrial giant was feeling its muscles. Leaders of this industrial giant found that great combines and cartels could be formed among corporations which, in effect, would control production, markets, prices and labor supply. Whole new complexes were formed in this, the steel, railroad and petroleum industry. Retained profits were tremendous because of no income taxes. Power and monopoly became rampant. The working man, the consumer, was the direct victim. Unrestricted competition among these giants became intolerable until the people and the congress moved in with laws to control this power for the benefit of all of the people. These control laws are familiar to us as the antimonopoly and the antitrust laws.

Along with these new laws restricting business monopolies came the start of a long chain of legislation to protect, conversely, the working man who during the early 1900s was pictured as the underdog. During the 1920s and the '30s, labor's gains, supported by sympathetic laws, were rapid and many. With the exception of the '30s, the gross national product of our country increased rapidly every year, employing more and more men in basic industry and manufacturing. During the '40s and the '50s, labor unions reached their peak strength in numbers. During these later years, union leadership has assumed a new posture of power and strength. Expanding union membership—which in turn increases the union treasury—became the order of the day. Union leadership found their sources of power, as did the big business leaders of years ago. This unrestricted power provides now for the labor leaders the same economic and political control to pressure, coerce and mold the laws of our state and nation to fit their self centered desires. Union membership must fight to keep laws protecting compulsory union membership for they, in turn, provide compulsory money to provide union leadership the only tool they need to elect and appoint weak, beholden individuals to influence political positions in government; to pass more laws and hand down more decisions that further strengthen the power of union leadership; to further enlarge, by compulsion, union membership which generates more moneys in the form of dues; to apply more pressure to elect and elect; and the whole process keeps rolling on, violating every concept of our democratic processes, as you and I understand such processes. Yet not one single state or federal law is being violated.

Here, then, politics rears its ugly head and establishes the extreme difference between the pendulum swing of the 1900s, and now at this end, 1962. What is taking place today during our productive lifetime has taken place before in other eras of our state's and country's short life. One group assumes power and control and finally too much power, too much control, as determined by an aroused people; and then our democratic system comes into play, checks and balances are imposed, and the congress and the courts express the will of the majority of the people. This is the right way; that congress must impose upon big unions the same restrictions and controls that have been placed on big business. The antimonopoly and antitrust laws as applied to unions are long overdue. This is a federal responsibility, and in this position I wholly agree with those who feel that the solution must be solved at the federal level. But I submit that congress will have the political guts to act in this hot political area, both political parties included, only when the people back home, including our state, by their action indicate such a desire and a demand.

This now brings us back to the content and purpose of the amendment before us. The people of the state of Michigan can do something to eliminate the monopoly power of labor unions by taking advantage of the "as provided by law" section 14b of the Taft-Hartley act. The root and life blood of this monopoly power can be none other than compulsory unionism. No other segment of our Michigan economy has as much unbridled legal monopoly as do labor unions. Is there any doubt or question why labor unions singly and collectively have declared war on state "right to work" provisions? This is the cause that we set out to find. I hope the reasoning to establish a cause has been as objective as such a subject as this can be objective.

In summary conclusion, 14b of the Taft-Hartley act provides for the people of Michigan processes to legally eliminate compulsory unionism as a condition of employment. This amendment before us, if adopted, will not interfere in any way with legitimate union activity. This amendment does not restrict the rights of the employees to organize and bargain collectively with their employers. This amendment must be considered only as a constitutional provision for the direct action of the people to accept or reject and not placed in the hands of our state legislators to be politically compromised for reasons set forth in this presentation. If this great industrial state of ours is to provide all of the jobs required and necessary for the success of our state's future, then we had better decide on some uniform ground rules applicable to all members playing on the same team.

Labor unions actively supported through membership based on free individual choice are fundamentally necessary in our modern Michigan industrial complex. Here we are as elected delegates to write a new state constitution. We have within our power the privilege to help restore to Michigan workers their individual freedom of action and equal protection as provided by law. Affirmative action by this convention and subsequently by the people of the state of Michigan in adopting this amendment before you, even as politically hot as it is, will not only provide for Michigan the real new proud image that we've heard so much about, but will give to other states the grass roots courage to strengthen and straighten their backbones and reassert their rights as individuals and as states. So, one by one, the members of congress, then, by such action, can be fortified to accept their responsibilities at federal level to set into motion our democratic processes of instituting controls in the best interest of all of the people. Then we, as a state and nation will be back on the track, a little worse for wear and tear maybe, but moving forward once again until history decides to repeat itself, triggered by we the people having dropped once again their freedom guards.

Fellow delegates, for these reasons which have taken far too long to present, may I ask for your favorable consideration for the amendment now before you. Thank you, Mr. President.

VICE PRESIDENT HUTCHINSON: There is an amendment to the amendment, which the secretary will read.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Before the amendment is read might I simply suggest to the delegates that we have 2 more proposals from the committee on declaration of rights, suffrage and elections and 5 proposals on emerging problems to clear this afternoon? We're going to try to avoid a night session tonight if it's at all possible. I would move to limit debate on the amendment offered by Mr. Seyferth and any amendments thereto to 30 minutes.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Van Dusen to limit debate to 30 minutes on the pending amendment and any amendments thereto.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: The motion is not debatable. The question is upon the motion to limit debate.

MR. MADAR: I ask for the yeas and nays, Mr. President.

MR. MARSHALL: Can you speak on the motion, Mr. President?

VICE PRESIDENT HUTCHINSON: You cannot debate it. It's not debatable. Mr. Madar demands the yeas and nays. Is the demand supported? The demand is supported, 1/5 of the members voting therefor. All those in favor of limiting debate will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—66

Allen
Andrus, Miss
Balcer
Batchelor
Blandford
Brake
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Durst
Elliott, A. G.
Figy
Finch
Follo
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Leppien
Martin
McLogan
Millard
Mosier
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Staiger
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—32

Austin
Baginski
Binkowski
Boothby
Bradley
Cushman, Mrs.
Donnelly, Miss
Doty, Donald
Faxon
Ford
Gover
Hart, Miss
Heideman
Hodges
Hood
Jones
Kelsey
Krolikowski
Kuhn
Lawrence
Liberato
Madar
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Snyder
Stopczynski
Suzore
Walker
Wilkowski

SECRETARY CHASE: On the motion to limit debate on the Seyferth amendment and all amendments thereto, to 30 minutes, the yeas are 66; the nays are 32.

VICE PRESIDENT HUTCHINSON: The motion prevails. The secretary will read the amendment to the amendment.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: I have a preferential motion.

VICE PRESIDENT HUTCHINSON: State it.

MR. MARSHALL: I think it's highly unfair that we permit the proponent of this amendment to take 25 minutes in explaining it and then have Delegate Van Dusen get up then and move to limit debate to a half hour for everybody else. I don't know how much time it would take, but at this time I'd like to move that we limit debate to one hour.

VICE PRESIDENT HUTCHINSON: The convention has already acted on this. Any amendment to that motion should have been made before it was put. After the time has expired you might move to extend debate at that time. But as of the moment the motion has directed the debate to 30 minutes.

SECRETARY CHASE: Mr. Hodges offers the following amendment to the amendment:

1. Amend the amendment, at the end thereof, by inserting a new paragraph to read as follows:

"To further insure every individual the right to work, every employer will pay in to the unemployment insurance fund on the basis of need, a sufficient amount of money into the state general fund which will be used for the purpose of providing the right to work and the right to a job to every person who is unemployed and has exhausted his unemployment insurance. And that this work will be provided by public works projects for the improvement of community facilities.".

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Hodges.

MR. HODGES: Mr. President and fellow delegates, I submit this amendment to bring into focus exactly what is here. If we want to insure a right to work for people of this state, and we're going to use this misnomer to do it, let us not be hypocrites about it. Let's really insure every person in this state a right to work. And this amendment, I submit, would do this.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment to the amendment. All those in favor will say aye. Opposed will say no.

The amendment to the amendment is not adopted. The question recurs upon the amendment—

MR. YEAGER: Division please, Mr. President.

VICE PRESIDENT HUTCHINSON: Division is asked for. Is the demand supported? Ten or more are up. The demand is supported. The question is upon the amendment to the amendment offered by Mr. Hodges. All those in favor will vote aye. Those opposed will vote no. This is not a record roll call.

MR. LEIBRAND: I ask for a record roll call vote, Mr. President.

VICE PRESIDENT HUTCHINSON: We have already started a division vote on the question. Mr. Kuhn.

MR. KUHN: I was going to raise a parliamentary inquiry, and I thought it would save time for his motion being able to be accepted. A true division vote historically, parliamentary-wise, is a raise of a hand. That's why you only need 10 members to require that. Now, a recorded roll call vote requires 1/5 of the members. And I submit that you're allowed 3 votes on any issue: a voice vote, a raise of the hand, or a division, and after those 2, if you don't like the results, you may ask for the yeas and nays. And I thought it would save order since we do use the mechanical device for step 2, to go right to step 3.

VICE PRESIDENT HUTCHINSON: Is the demand for the yeas and the nays supported? The demand is supported. This is a record roll call vote. All those in favor of the amendment to the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary—Miss Hart.

MISS HART: I should like to abstain from voting.

VICE PRESIDENT HUTCHINSON: Miss Hart will abstain from voting on the amendment to the amendment. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. FOLLO: Mr. President, I want to abstain also.

VICE PRESIDENT HUTCHINSON: Mr. Follo abstains.

The roll was called and the delegates voted as follows:

Yeas—22

Binkowski
Buback
Downs
Faxon
Ford
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Liberato
Madar
Marshall
Murphy
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays—89

Allen
Andrus, Miss
Balcer
Barthwell
Batchelor
Haskill
Hatch
Heideman
Howes
Hoxie
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.

Beaman
Blandford
Boothby
Brake
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Figy
Finch
Gadola
Goebel
Gover
Gust
Hannah, J. A.

Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Perlich
Perras
Plank
Pollock
Powell

Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the Hodges amendment to the Seyferth amendment, the yeas are 22; the nays are 89.

VICE PRESIDENT HUTCHINSON: The amendment to the amendment is not adopted.

MR. BINKOWSKI: Mr. President, I would like to request a vote of those present who did not vote who were not announced by the secretary.

VICE PRESIDENT HUTCHINSON: Well, it's too late now. The vote has been announced. The question now recurs upon the amendment of Mr. Seyferth.

MR. MARSHALL: There is an amendment, I think. I sent one up.

SECRETARY CHASE: I'm sorry, I don't have one.

VICE PRESIDENT HUTCHINSON: An amendment to the amendment?

MR. MARSHALL: I'm sorry. I thought I sent it up. I'll offer it at this time. If you care, I'll send it up and have the secretary read it.

VICE PRESIDENT HUTCHINSON: Send it up.

SECRETARY CHASE: Mr. Marshall offers the following amendment to the Seyferth amendment:

1. Amend the amendment, at the end thereof, by adding "Any employee who is not a member of the union shall not receive wages or other benefits arrived at through collective bargaining and the differences between union wages and his rate of pay shall be contributed to a charity or escheated to the state.". (laughter)

VICE PRESIDENT HUTCHINSON: On the amendment offered by Mr. Marshall the Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President, I am going to speak to the amendment and also speak against the main amendment. I heard some laughs on this amendment when it was read and I will agree that the amendment is somewhat silly and probably ridiculous but I would also say that it is no more ridiculous than the amendment that has been introduced in this convention by Mr. Stafseth.

A DELEGATE: Seyferth.

MR. MARSHALL: Mr. Seyferth. (laughter) I wish to apologize to Mr. Stafseth for confusing him with Mr. Seyferth. (laughter)

Mr. President and fellow delegates, it is indeed unfortunate that it is necessary to waste the time of this convention in debating an issue which should not have been a topic of discussion since the seventeenth century, when the people were still burning witches at the stake, fighting against every conceivable social reform, and against any kind of human progress.

In the historical development of the existing social philosophy of mankind throughout the world, the oppressed people who have been employed for wages have always suffered the tyranny of those profit hungry people who would exploit them. We know historically that at one time one man could own, as chattel property, a fellow human being, keeping him in life long enslavement. We fought a bitter civil war 100 years ago to eradicate this immoral practice from the social and political face of this nation. Admittedly some progress has been made since then. But there still remain among us men who would return to the philosophy of the dark ages. This is symbolized by this amendment which is now before this convention. This amendment is made under the hypocritical guise of protecting the individual, under a facade of protecting working men, wage earners, from exploitation. It is ironically significant that this type of provision invariably emanates from those individuals who have traditionally pursued a philosophy of labor hatred, hatred for minority groups, disdain and disrespect for working men and women everywhere who, by the sweat of their brow, produce the goods which we benignly accept from their labors. In order to identify and properly categorize the advocates of the alleged right to work provision we need only look at history. Those who have advocated this heinous provision have invariably spewed the same hatred for labor unions manifested by every dictator under fascism, nazism, and under communism. They knew that a free, untrammelled, collective bargaining agency symbolizes democracy in action. This they had to destroy. The proponents of this amendment, either unwittingly or with malicious design, are pursuing this same ideological pattern.

The advocates of right to work laws are invariably typed. They despise collective bargaining. They want to mitigate and make ineffective the legitimate demands of organized labor. They desire to create hatred and animosity between the workers whom they would exploit. They hope in this way to divide the workers, and in this division to create dissension and dissatisfaction among them which would, as a consequence, evolve into a weakened collective bargaining agency and enable the entrenched exploiters to repeal the twentieth century. Their real objective is totally foreign to any modern concept of a recognition of the problems with which we are confronted as a democracy in a veritable death struggle with the ugly aspects of iron curtain dictatorship under communism.

In a speech made at the December convention of the national AFL-CIO, the president of the United States charged the organized labor movement of this country with a tremendous international responsibility. In effect, he said that without a free trade union movement we could not be victorious in the cold war against international communism. Yet, here in this convention we have delegates who would destroy the very body which our great president has said is so essential to this international struggle.

Each day, from Berlin, the representatives of our federal government boast constantly of the free trade union movement in America, of its functions, of its ambitions, of its objectivity and its achievements. Yet, again I say, we have men right here in this convention who, for utterly selfish, personal and vindictive reasons would tear down what constitutes to the enslaved people behind the iron curtain the symbol of a democratic society. I, for one, condemn this amendment for precisely what it is. And I hope that every self respecting delegate to this body will concur with me in voting this atrocious amendment down overwhelmingly.

The national council of churches, which endorses practically all denominations, has denounced these provisions. Therefore, my friends, in voting against this amendment you will be in the good company of many organizations who have opposed the hypocritical provisions advanced under the misnomer of "right to work" which, in fact, means only the right to help anti labor, union hating exploiters to destroy the collective bargaining system in this state. Surely this convention, with the limited time that we have and with the constant moving the previous question, the time could be more profitably spent on more wholesome objectives.

The character of the people who advocate the "right to scab" laws can be judged by their choice of the label "right to work." This amendment has nothing whatsoever to do with the right to work. It doesn't even involve the right to work without joining a union, because the right to work is dependent upon finding employers who will offer a job. There is one government which in its constitution provides for the right to work. There is one constitutional provision in fact, which uses that term. Maybe that's where the proponents of this got this amendment; I don't know. But I will quote this constitutional language that's in this constitution. It says—and I quote, "Citizens have the right to work," that is, the right to guaranteed employment. My friends, what I quoted is section 118 of the Constitution of the Union of Socialist Soviet Republics.

The real purpose of this type of provision is to destroy the free trade union movement and collective bargaining as we know it. And this is obviously clear when one looks at the question of why workers want and need unions at all. The concern that proponents of "right to work" avow for the freedom of workers is bare faced hypocrisy. To collect money and make a living for themselves, they are willing to sow discord between labor and capital, and at a time when national unity was never more needed.

Right to work laws are promoted on the basis in many cases that it will attract industry. How? By keeping unions weak, thus keeping wages down? I don't think so. In many of the states where they have right to work laws I do not think that had been the criteria that management used in determining whether to locate a plant.

MR. GUST: Could I ask a point of order, Mr. President?

VICE PRESIDENT HUTCHINSON: State your point, Mr. Gust.

MR. GUST: Shouldn't Mr. Marshall be talking to his amendment rather than Mr. Seyferth's right to work amendment here? I thought Mr. Marshall offered an amendment to Mr. Seyferth's amendment.

VICE PRESIDENT HUTCHINSON: The point is well taken. The gentleman will confine his remarks to the pending amendment to the amendment.

MR. MARSHALL: I spoke to my amendment, Mr. President. If I may make a point—

VICE PRESIDENT HUTCHINSON: Mr. Balcer, for what purpose do you rise?

MR. BALCER: Mr. Marshall made it definite when he got up that he was going to speak on his amendment and on the other amendment, so he's right.

VICE PRESIDENT HUTCHINSON: The point is still well taken. The gentleman will talk to his own amendment.

MR. MARSHALL: Mr. President, I have only a little left to say. I did say at the beginning that I was going to speak on my amendment and against the main amendment and the Chair did not rule me out of order, did not call attention to the fact that I would be out of order. I think it would be better and better for the time of the convention if I were permitted to conclude my remarks, and if not, I will have to ask again to speak on the original amendment.

Now, since you have ruled me out of order, even though you did not call it to my attention when I stated that I was speaking on it, would I be in order to ask the consent of the convention to conclude my remarks on both my amendment and the other at this time?

VICE PRESIDENT HUTCHINSON: The Chair would state to the gentleman that it is not the requirement of the Chair to hold debate extremely narrow unless the point is raised. If the point is raised, then the Chair will rule. Now, the Chair admonishes you to confine your remarks to the pending question. You may proceed and so long as you are not further ruled out of order, you may continue.

MR. MARSHALL: Well, I think my amendment is related to the main amendment and that's why I am speaking to the 2 because I admitted, myself, that my amendment was ridiculous and I admitted that it was just as ridiculous as the amendment offered by Mr. Seyferth.

Right to work laws, as I was saying, using the argument that you promote them on the grounds that it attracts industry —I would only point out that the state of Louisiana is one state that had a right to work bill and they repealed it. And I also point out to this convention that no disaster has resulted in the state of Louisiana as a result of that. And the records will show that the state of Louisiana has continued to attract industry and to grow. I would also point out that in the states where you have right to work laws, you have a low economic level. I think all this has to be taken into consideration. In offering my amendment, I don't think that anyone should be allowed to freeload. The lawyers in this convention are well aware of the fact that they can't practice law unless they belong to the bar association. That is without a doubt the strongest union with the strongest closed shop provision in America. The doctors have to belong to the county medical society.

Mr. Seyferth talked about freedom of the individual. No one is compelled to join a union under the Taft-Hartley act unless a majority of the employees of a given establishment vote for a union under the supervision of the national labor relations board. So, therefore, it is not a situation where you go in, as Mr. Seyferth tried to paint it, and force people into the union. There is no closed shop. It merely says that if the majority of the people, the same as you would in any other organization, desire a labor organization, desire to bargain collectively, then they all must participate because the union has to represent them all, whether they should belong or not. And I say to you that even though the manufacturers association does not have, as I understand it, a compulsory requirement, you can bet your bottom dollar if a small industrialist with a small plant that is supplying one of the larger corporations desires to stay in business and progress, he just better well join the manufacturers association.

I think this is the most hypocritical amendment that's been before this convention, and I sincerely hope that the delegates will defeat this amendment. I want to remind you, I am not fearful of taking over the struggle, if we had to take it on, if it should pass. I'm confident of what the results would be. And I want to remind the majority members in this convention of what happened to your party in the state of Ohio and the state of California when you tried to cram a "right to scab" bill down the throats of the workers of those states and it was catastrophic for your party. Thank you, Mr. President. (applause)

VICE PRESIDENT HUTCHINSON: On the amendment offered by Mr. Marshall, the Chair next recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President, I would like to reserve my remarks for the Seyferth amendment.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman. Mrs. Cushman passes. Mr. Hodges. Mr. Hodges passes. Mr. Martin. Mr. Martin passes. Mr. Snyder.

MR. SNYDER: Mr. President, I would like to reserve my remarks for the original amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Marshall to the amendment offered by Mr. Seyferth. All those in favor of the Marshall amendment will say aye.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: May I withdraw the amendment?

VICE PRESIDENT HUTCHINSON: Mr. Marshall withdraws his amendment. The question recurs upon the Seyferth amendment. The Chair next recognizes Mr. Austin.

MR. AUSTIN: Mr. President, how much time do we have left for discussion here?

VICE PRESIDENT HUTCHINSON: The secretary will advise. He keeps the stopwatch.

SECRETARY CHASE: Fifteen more minutes.

VICE PRESIDENT HUTCHINSON: Fifteen more minutes.

MR. AUSTIN: Fifteen minutes? Well, Mr. President and ladies and gentlemen of the convention, I will be as brief as I can. Instead of talking vociferously one way or the other, I think I'll try and draw a little harmony into the convention and then speak briefly against the Seyferth amendment.

I think we have to bear in mind that the eyes of all of the people in the country are on these deliberations, and we've done an excellent job in the area of civil liberties and civil rights and it is important that the results of our work in this area of equal rights should not be beclouded by a questionable issue such as the one before us now.

We are inclined to take for granted the conflict between labor and management. The facts, however, are not so simple that the word "conflict" can be adequate. Some of us tend to overlook the solid everyday circumstances and let them become overwhelmed by the more exciting incidents that become headlines. The fact of the matter is that Michigan's big industrial management and its big labor movement have demonstrated that they have many interests in common, while no one can accuse either of having become subservient to the other. Together and apart they've demonstrated their mutual concern for Michigan's and the nation's economy and general welfare. The fact of the matter is, despite what may be called their family quarrels, Michigan labor and industry have shown their recognition of the simple economic truth that unprofitable private enterprises will not produce jobs, and worried, insecure employees or the jobless will not purchase cars and other durable goods.

Testimony has come from respective reports of the national industrial conference board and the national planning association as each found experienced managements in favor of the union shop. The national industrial conference board reported employers preferred a union shop because:

> It places the union in a better position to keep its agreement; eliminates coercion of employees; gives the employer the help of the union's international officers, if necessary; gives employees greater feeling of responsibility and interest in their jobs because they feel they have something to say about their conditions of work.

It has been reported over and over that the experience of the industrial states which experimented with right to work laws has been variable to say the least.

Mr. Marshall alluded to one report which I feel that I would like to call attention to. In the little research that I did on this subject some months ago, I too encountered a report of the executive board of the division of christian life and work of the national council of churches, and I'd like to quote briefly from that report:

> Some element of compulsion is present in almost every association of individuals—

And this is important—

> Some element of compulsion is present in almost every association of individuals. All men are confronted from time to time with the necessity of yielding to the interests and welfare of others. . . .
>
> Thus, while people do not usually like compulsion in any form, they . . . accept some degree of it in order to achieve values which cannot be secured without it. . . .

And finally, quoting from this report:

> Union membership as a basis of continued employment should be neither required nor forbidden by law. The decision should be left to agreement by management and labor through the process of collective bargaining. . . .

Ladies and gentlemen of the convention, I submit these brief arguments, based on experience and authoritative testimony, in the hope that they will help us avoid jeopardizing the effects of either this "equal rights" section or the effect of the revised constitution as a whole, by excluding such false issues as the implication of direct authorization of a right to work clause, amendment or even statute. I am opposed to the Seyferth amendment.

VICE PRESIDENT HUTCHINSON: The secretary has received another amendment to the amendment, which he will now read.

SECRETARY CHASE: Messrs. Ford, Bradley and Binkowski offer the following amendment to the Stafseth amendment: (laughter) I guess the secretary is in a rut too. (laughter) I beg your pardon—to the Seyferth amendment:

1. Amend the amendment, after "nonmembership in any" by striking out "labor"; and after "charges of any kind to any" by striking out "labor".

VICE PRESIDENT HUTCHINSON: On the amendment, the Chair recognizes Mr. Ford.

MR. FORD: I was greatly impressed by all of the platitudes and truisms to which we were treated by Mr. Seyferth as the reasons and motivation behind this amendment on his part. He talked in glowing terms about abolishing any kind of compulsory membership as a condition to the right to earn a living and I looked about the room and saw some 56 of my colleagues who must, by force of the law, pay dues to an organization as a condition precedent to practicing their profession, notwithstanding the fact that they are licensed by the state of Michigan. It occurred to me that we have some other friends who are in a similar condition. I wondered at first why, being motivated by all these high and lofty thoughts, he meant to discriminate in favor only of the working man and against those of us in the professions which it seemed would be entitled, if his point of view is correct, to the same broad right to make a living without belonging. If he is sincere about this, I suppose he won't have any objection and we can look forward to not paying dues to the bar association in the future, or belonging against our will, if that be the case.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment to the amendment offered by Mr. Ford, Mr. Bradley and Mr. Binkowski. All those in favor of the amendment to the amendment will say aye. Opposed will say no. The amendment is adopted. (laughter)

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division has been called for. Is the demand supported? Not a sufficient number up. The question is upon the Seyferth amendment as amended. Do you want to have the amendment read? It's on the wall, isn't it? All right. The secretary will read the amendment as it is now amended.

SECRETARY CHASE: The amendment as it now stands reads as follows:

1. Amend page 4, after line 17, by adding a new section 22 to read as follows:

"Sec. 22. No person shall be denied the opportunity to obtain or retain employment with any individual, private corporation or association of any kind because of membership or nonmembership in any organization; nor shall an individual, private corporation or association of any kind enter into any agreement written or oral which excludes any person from obtaining or retaining employment or compel any person to pay dues, fees or charges of any kind to any organization as a condition of employment or of continuing employment.".

VICE PRESIDENT HUTCHINSON: The Chair next recognizes Mr. Faxon.

MR. FAXON: I just want to call for yeas and nays on this, Mr. President.

VICE PRESIDENT HUTCHINSON: On the amendment Mr. Faxon demands the yeas and nays. Is the demand supported? The demand is supported. Sufficient number up. The yeas and nays are ordered.

[Mr. Bentley, having previously been excused, reentered the chamber and took his seat.]

MR. SEYFERTH: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does Mr. Seyforth seek recognition?

MR. SEYFERTH: I would like to be recognized for my second time around on this emasculated amendment.

VICE PRESIDENT HUTCHINSON: All right. The Chair'll put you on the list. Mr. Binkowski.

MR. BINKOWSKI: I'd just like to take 2 minutes of the convention's time, Mr. President, ladies and gentlemen of the convention, because I think I'd be remiss, coming from a large area in which 90 per cent of our people are laboring people, to state that ever since Mr. Seyferth has proposed the "right to work" or the "right to scab" amendment he has received publicity.

Of course, I have not received any letters from any of the wage earners in my district asking for this type of provision. Furthermore, I think that the automobile industry here in Michigan doesn't want this kind of provision. There's too much order under the present system. However, I have worked in the automobile factories and because I have worked there, I don't want to go back, even with unions. I hate to think what the situation would be without them, or broken up. I think that perhaps too many of us here don't know what the union is. And I'd just like to take 50 seconds to read a summarization which appeared in the June 1956 twentieth anniversary of the UAW Ammunition:

> For 50 years autos were built and sold and run. For 50 years, from 1886 to 1936, nobody knew or cared about the men who put them together, about what happened to them on the job or off. Nobody knew and nobody cared. Auto workers were faceless numbers on a time card. They were nameless digits on the cost sheets. They made autos in those days by combining so much steel and glass and rubber for so many hours with so much muscle, sweat and nerve.
>
> The union is an instrument of the men and women in the plants. Its power and its purposes are determined by their will, their courage, their awareness that there is more at stake than there is the pennies in the pot or the package on the table.
>
> It is because they stand on the shoulders of the men who had struggled in the past; the men who huddled before the coke fire in front of many gates; the women who ladled soup and kept families together; those who passed leaflets; those who bargained; those who had dared to wear union buttons in the plants.
>
> The union is the young men going in, the old men coming out, and all the men and women between in all the cities, in all the states and provinces. The union is a memory and a vision. The memory carried forward into the vision, in an endlessly moving line of courage, of will and of hope. It is a great union. It is a great union because it grows and grows, yet never gets too big to be human.

MR. PERRAS: Mr. President, I believe our time has run out. That half hour is over.

VICE PRESIDENT HUTCHINSON: The secretary handles this with the stopwatch. He puts the time together only on the debate. The time taken on the vote of amendments and so on is not included in the half hour. Miss Donnelly.

MISS DONNELLY: I rise to support this amendment. To me this is morally right or it's morally wrong. Since I supported the rights of individuals in the past and I intend to continue to support them, I think it's important to support this.

There is no question but that in the past the union has done much. "Much" is not even a good enough word. They have done fantastic things for helping people, not the individuals directly involved, the union alone, but everybody has incidentally benefitted therefrom. However, I do believe that they are now being charged with not representing all their members. I think that this amendment would strengthen unions because there could be no question that when they act then they represent their members, because their members voluntarily are members. I therefore feel it is a very good amendment, that it is a right amendment, and that it will help the unions in the long run as well as every other citizen.

As to the latest amendment to it regarding the bar situation, certainly, I just hope that this will not interfere with the state's right to have people be forced to write an examination to pass the bar. I also support that it's not proper to force people to pay dues to practice law if they are lawfully entitled. I, personally, happily pay dues to the Detroit bar association and I resent paying dues to the Michigan state bar, and the Detroit bar costs me more than the state bar. I therefore support the amendment and I move that the time be extended on the debate for 15 more minutes.

VICE PRESIDENT HUTCHINSON: Miss Donnelly moves that debate upon this amendment be extended by 15 minutes.

MR. HODGES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: I would move to amend that to an hour and I will state the reason. This was brought up on general orders and withdrawn before legitimate debate could be made on it and it seems to me that—

VICE PRESIDENT HUTCHINSON: The amendment to the motion is not debatable. You made the amendment. The question is upon—

MR. HODGES: Can't I state my reasons for offering the amendment?

VICE PRESIDENT HUTCHINSON: No, you cannot. That amounts to debate. So the question now is upon extending debate upon this matter by one hour. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. Miss Donnelly moves to extend debate upon this matter by 15 minutes. All those in favor will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye; opposed will vote no as a division. There are 10 additional members seeking recognition. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to extend the debate upon the amendment for 15 more minutes, the yeas are 72; the nays are 43.

VICE PRESIDENT HUTCHINSON: The motion prevails. The Chair next recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President and ladies and gentlemen of the convention, I rise in support of the Seyferth amendment. A right to work law does not create a new right, but only protects a very fundamental right from the invasion of compulsory unionism. It has been suggested that this is seventeenth century language. I would like to read to you an opinion of the Nebraska supreme court—

VICE PRESIDENT HUTCHINSON: The convention will please be in order. We will save time if you will pay attention to the speaker.

MR. BOOTHBY: —an opinion of the Nebraska supreme court in 1955, which said:

> We also think the right to work is one of the most precious liberties that man possesses. Man has as much right to work as he has to live, to be free, to own property, or to join a church of his own choice, for without freedom to work, the others would soon disappear. It is a fundamental human right which the due process clause of the fifth amendment protects from improper infringement by the federal government. To work for a living in the occupations available in a community is the very essence of personal freedom and opportunity that it was one of the purposes of this amendment to secure. Liberty means more than freedom from servitude. The constitutional guarantees are our assurance that the citizen will be protected in the right to use his powers of mind and body in any lawful calling.

I would like to remind this delegation that former President Herbert Hoover, in his letter to this convention, made this statement:

> I also suggest that consideration should be given by you to the definition of an additional right. That is, that there should be no inhibitions to the right of any individual to choose or to practice his calling, trade, or profession.

Today we certainly recognize the freedom of association. This freedom, however, has both an affirmative and a negative side. It guarantees the right not only to join, but to refrain from joining any private organization or association.

I would like to also call to Mr. Marshall's attention that there are some other documents that recognize the right to work and this particular recognition is the type that we are seeking. Section 1 of article XX of the declaration of human rights which was approved by the general assembly of the united nations in 1948 states:

> 1. Everyone has the right to freedom of peaceful assembly and association.
> 2. No one may be compelled to belong to an association.

Now, it has been argued, and it has been argued by many, that a "right to work" law is actually a "right to wreck" law because it is designed to destroy the labor movement by discouraging workers from becoming union members. The charge that right to work laws "wreck or destroy" unions is disproved by the fact that unions continue to grow in numbers in states which have outlawed compulsory union membership. The history of the communication workers of America, AFL-CIO, illustrates how a union can grow and prosper without compulsory membership. Almost all of its members work under collective bargaining contracts which stipulate that employees represented by that union are free to join or not to join the union.

Justice Brandeis, a great friend of the labor movement, has made this comment:

> The objections, legal, economic and social, against the closed shop are so strong, and the idea of the closed shop so antagonistic to the American spirit, that the insistence upon it has been a serious obstacle to union progress.

It has been said that right to work laws deny American trade unions their right to gain union security through collective bargaining process. I would like to call to your attention that section 9a of the Wagner act and of the Taft-Hartley act establishes the principle of exclusive representation, which requires that when the majority of employees in an appropriate bargaining unit select a union as their bargaining agent, that union becomes the exclusive bargaining agent for all the employees in that unit, even though they are not all members of the union. This provision prevents individual bargaining by nonunion workers and therefore fully protects union security against nonunion minority bargaining.

Forced membership provides "security" only for union officials against the threat of removal by dissatisfied rank and file members. Compulsory union membership contributes nothing toward an employee's "job security" because it makes the employee dependent upon union officials to determine whether he can continue to hold and continue to hold his job.

It has been said also by some that right to work laws permit employees to become "free riders" to reap the benefits of collective bargaining without paying their fair share of the cost of union representation. Union officials demand that they be compensated for what they call the burden of representing nonunion employees. As I have stated, the federal law provides that if 51 per cent of the employees of a bargaining unit vote for a particular union to represent them, that union is to be certified as the exclusive bargaining agent. The minority then is forced to accept this same union as its bargaining agent. Members of the minority thus give up something of value: the right to bargain for themselves. In fairness, it must be pointed out that these people might be better called "forced riders" or "forced followers." Justice Hugo Black once stated:

> There can be no doubt that the federally sanctioned union shop contract here, as it actually works, takes a part of the earnings of some men and turns it over to others who spend a substantial part of the funds so received in efforts to thwart the political, economic and ideological hopes of those whose money has been forced from them under authority of law.

It has also been argued that right to work laws violate the "majority rule" principle. In talking about majority rule, union spokesmen erroneously assume that there is no difference between public government and private labor organization, so far as power over the individual is concerned. Sovereign rights cannot be claimed by a labor union or any other private organization. The idea of forced payments to private organizations is fundamentally incompatible with the voluntary character of their association. Forced payments are equivalent to taxes. Taxation is a sovereign power and may be exercised by the government only. Forcing an individual to belong to a union under the doctrine of majority rule makes about as much sense as forcing an individual to become a Republican and pay dues to the Republican party because a Republican has been elected governor or president by a majority of the people. Majority rule is not all powerful. The majority, under the American concept of majority rule, never has the power to take away the inalienable natural rights of an individual.

And now this one further comment to those people who apparently think that our position on the Seyferth amendment is immoral and possibly anti religious. Reverend Peter Marshall, the late chaplain of the United States senate, made this quote before he died:

> I am also ready to defend the right of a man to join a union, if he wants to, and also the right of another man to stay out of it, if he would rather. I believe that is concerned with fundamental rights in the American bill of rights.

I urge the adoption of the Seyferth amendment.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I would like to point out that there are many employers in Michigan who also oppose the right to work laws because they believe that right to work laws would bring government into an area that is far better handled by collective bargaining. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hodges. Mr. Martin.

MR. MARTIN: Mr. President, there has been a certain amount of levity in several amendments offered that didn't make very good sense, but were offered in jest, I think, on this matter. But the matter is a very serious one. Some of the abuses which Mr. Seyferth mentions do exist. Some of those abuses should be corrected. But this amendment to add a right to work law to the proposed Michigan constitution is a mistake. It is a matter which would involve the most bitter antagonism between groups in the state of Michigan and within groups. It's a matter which should be presented to the voters—if it's going to be presented to them—separately and individually, so that its merits can be judged without relation to all of the other provisions of this constitution. I have no desire to see this constitution turned into a bloody battleground in a struggle between labor and the proponents of right to work. I think we would certainly dig the grave of this constitution if we were to add this particular provision to it. For that reason I oppose the Seyferth amendment.

VICE PRESIDENT HUTCHINSON: The Chair next recognizes Mr. Snyder.

MR. SNYDER: Thank you very much, Mr. President. This is a subject that I feel that I can speak on freely from the heart and not from a prepared script. I feel that my knowledge in this particular subject is gained not from textbooks but from practical application.

I rise to speak against the Seyferth amendment. In 1934, before some of the previous speakers even came upon this earth, I had the privilege of joining the mechanics educational society of America in the city of Detroit. I was at that time a high school senior, working nights and going to school days. It was necessary for me at that time to make a very agonizing decision of whether to accept a small scholarship to the old City College of Detroit or to support the remnants of my family. I was forced to choose the route of the production plants for the city of Detroit. It's been a very happy experience for me to associate with my union members throughout the years and I don't think that I will ever lose the humility of rising through the ranks. If I had been able to pursue the other course, maybe there would have been 57 attorneys here today instead of 56. However, I say this: that those of you who have had access, who have been able to go in the plants, know that the men love their union; they respect their union; they rely upon their union; and they need their union.

In the early days of the Taft-Hartley act, it was established at that particular point that there was some doubt whether the men wanted their union. So in all the existing bargaining units an order was given that you had to rehold your certification election. After a few months of these certification elections, it was found that the incidence of union certification was so high, with such great majority, that these costly elections were eliminated. And I want to submit to you here that the point under discussion here is a clearcut one. This is a question of a union shop, not of a closed shop. And in a union shop, let me point out, this is not a unilateral position of the union; this is a negotiated position between the company and the union. This is where the duly elected representatives of the union meet with the responsible people in the management and they agree that these are some of the requirements of a collective bargaining agreement. Following this, it is, I assume, necessary for the corporate or the company officials to submit the results of their negotiation to their board of directors. I do know this: I know it's mandatory for the members of the union to act upon the results of their negotiators. And if you have a union shop, it is as a direct result and a direct mandate of the people involved.

I feel that this experience in a union convinces me beyond any reasonable doubt that our people want this. They would look upon you in shock and dismay if you took away from them this right for them to belong to this union. There is no question in my mind that the loyal employees of the union, through their collective bargaining agreements, add stability. They add to the prestige of the plant. A union is good for the company as is the company good for the union. I feel that our people back home want the provision that they have and I urgently urge you delegates who have been so conscientious, so thoughtful, so observant in other matters, to give this problem also the recognition that it needs. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, fellow delegates, Delegate Binkowski has told us that the union is an instrument of the men and women in the plants. I sincerely wish this were true and I think if we adopt this amendment, it would be true. This is the only country in the world which has found the need for the union or the closed shop. European workers don't even understand the concept. The question really is: does a union shop really strengthen unions and protect the rights of working men and women in Michigan? I personally do not any more think this than I think a law forcing people to join a particular church would prove to be beneficial to that church or that congregation. Union membership is a personal responsibility, just as church membership is a personal responsibility.

I have tried here in this convention consistently to champion the rights of the individual. I call these rights civil rights. I do not intend at this time to abandon that principle. I am not, as Mr. Martin is not, sure that this is the time and place to handle the problem and I certainly think the issue should be submitted to the people of Michigan, if at all, as a separate question. And if I should vote in favor of this amendment, it would be with that kind of an understanding.

I think that the power of unions has been abused to the detriment of the working men and women of this state. And I speak from some experience myself. I was forced into belonging to a union and I joined one voluntarily. The one that I joined voluntarily was a better union. It represented the people to a far greater extent. The one that I was forced to join used diverse and invidious methods of coercing members to do things that they didn't want to do. It used newspapers to promote a political philosophy which was not truly representative of the union members, and they did this with the union members' dues. This union was later investigated by the McClellan committee.

Mr. Snyder has pointed out that the people in the plant love their union; they respect their union; they support their union—unquote. I suspect that if they really had an opportunity, that they would do these things that he says they now do. And if they would—and I think they would—then I think that we would quickly find out in this country that we don't really need a union or a closed shop; that it's not in the best interest of the working men and women of this country. Mr. Snyder pointed out many other things that other speakers don't know or don't realize or didn't care to point out. This question is negotiable, and as Mrs. Cushman pointed out, many management people do want closed unions and union shops. Why not? They have a built in system of communicating with their employees. And it would be a great asset, certainly, to have this system. It prevents wildcat strikes and that sort of thing.

But I'm not concerned with the interests of union leaders and I'm not concerned with the interests of management. I'm concerned with the interests of working men and women. And for that reason, I support in principle—and as I say, I'm not sure that this is the right place to do it—but I support in principle the right of individuals of free society to seek employment wherever they may so desire.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the amendment.

MR. DOWNS: Mr. President, I have a preferential motion.

VICE PRESIDENT HUTCHINSON: State it.

MR. DOWNS: First, information: how many more people are on the list?

VICE PRESIDENT HUTCHINSON: Eight at the present time.

MR. DOWNS: I move the debate be continued 15 minutes.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Downs that debate be extended for 15 minutes. All those in favor will say aye. Opposed will say no. The Chair is again in doubt. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The question is upon the motion of Mr. Downs to extend debate upon the Seyferth amendment for 15 more minutes. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to extend debate 15 more minutes, the yeas are 58; the nays are 62.

VICE PRESIDENT HUTCHINSON: The motion does not prevail. The time for debate has expired. The question is upon the amendment of Mr. Seyferth as amended. Mr. Wanger.

SECRETARY CHASE: Mr. Wanger moves to reconsider the vote by which the Ford-Bradley-Binkowski amendment to the Seyferth amendment was adopted.

[Mr. Wood, having previously been excused, left the chamber.]

VICE PRESIDENT HUTCHINSON: The question is upon the motion to reconsider the vote by which the Ford amendment was adopted. Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, this amendment was put in by 3 attorney members of this convention and with the express purpose of abolishing the integrated bar—

MR. WALKER: Point of order, Mr. President.

MR. WANGER: —in the state of Michigan.

VICE PRESIDENT HUTCHINSON: Mr. Walker, will you state your point.

MR. WALKER: I believe that the time limit has expired for this Seyferth amendment and amendments thereto; is that not right? And therefore, though the Wanger request for reconsideration can be presented, it can't be argued.

VICE PRESIDENT HUTCHINSON: The point is well taken. The motion is not debatable. The question is upon the motion of Mr. Wanger to reconsider the Ford amendment. All those in favor will say aye. Opposed will say no.

MR. WANGER: Mr. President, I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Wanger demands the yeas and nays upon the motion to reconsider. Is the demand supported?

SECRETARY CHASE: Fifteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number. From the volume of voice vote, the Chair would declare the motion to reconsider does not prevail. The question is upon the Seyferth amendment, as amended, upon which the yeas and nays have been demanded and ordered. All those in favor of the Seyferth amendment as amended will vote aye. Those opposed will vote no. This is a record roll call vote. Mr. Yeager.

MR. YEAGER: I wish to abstain, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: I wish to abstain.

VICE PRESIDENT HUTCHINSON: Mr. Stevens and Mr. Yeager abstain. Mr. King.

MR. KING: Mr. President, I wish to abstain for the reason that this matter was not introduced on first reading, and debate has been, I think, unduly limited.

VICE PRESIDENT HUTCHINSON: Mr. King abstains. Mr. Sterrett.

MR. STERRETT: Mr. President I wish to abstain from voting because I feel that the amendment to the amendment has taken the intent away from this.

VICE PRESIDENT HUTCHINSON: Mr. Sterrett abstains.

MR. WALKER: Mr. President, point of order again. As I recall the rules, a person has to announce his intention to abstain before the vote is called. Is this not right, sir?

VICE PRESIDENT HUTCHINSON: It is the opinion of the Chair that that's what it says. The Chair hasn't declared that the voting had commenced. The Chair had ordered the vote to start. (laughter)

MR. WALKER: You're cutting it pretty fine, Mr. President, pretty fine.

VICE PRESIDENT HUTCHINSON: The Chair grants it's kind of fine but is trying to adhere to what we've been doing. The Chair will admit that the rule says that the announcement of intention to abstain must be made before the voting starts but the practice has grown that delegates can announce their intention to abstain before the vote is announced. The Chair declares the voting is now started.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Another parilamentary inquiry.

VICE PRESIDENT HUTCHINSON: The gentleman will state it.

MR. DEHNKE: If this amendment should be defeated with the last amendment attached, is there any reason why that could not be eliminated by amendment on second reading?

VICE PRESIDENT HUTCHINSON: It could be. This is second reading. On third reading it could be.

Have you all voted? If so, the secretary will lock the machine and record the vote.

[Mr. Bledsoe having previously been excused, reentered the chamber and took his seat.]

MR. WALKER: Mr. President.

VICE PRESIDENT HUTCHINSON: Just wait until the secretary has the roll call available.

MR. WALKER: I would like to ask the vote of those present in the room and not voting.

VICE PRESIDENT HUTCHINSON: Whom do you desire to have vote? Mr. Walker, are you requesting the vote of anybody?

[Mr. Walker did not name any delegate.]

The roll was called and the delegates voted as follows:

Yeas—30

Batchelor
Boothby
Brake
Dehnke
Donnelly, Miss
Doty, Donald
Everett
Finch
Gover
Gust
Haskill
Karn
Kirk, S.
Knirk, B.
Kuhn
Lawrence
Leibrand
McAllister
Millard
Mosier
Plank
Powell
Radka
Richards, J. B.
Seyferth
Shaffer
Shanahan
Sharpe
Stafseth
Turner

Nays—90

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Goebel
Greene
Habermehl
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Kelsey
Koeze, Mrs.
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perlich
Perras
Pollock
Prettie
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Sablich
Snyder
Spitler
Staiger
Stamm
Stopczynski
Suzore
Thomson
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the Seyferth amendment as amended, the yeas are 30; the nays are 90.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

Following is explanation of abstention from voting submitted by Mr. Stevens:

I refrained from voting on the Seyferth amendment because I fear my vote would be misinterpreted.

Following is explanation of vote submitted by Mr. Romney:

My vote against the Seyferth amendment to section 22 of article II was because it would not resolve the basic problem it is intended to resolve.

Our state and our country are plagued with excessive concentration of employer and union power. This problem must be met and solved if we are to adequately realize our need for greater economic growth.

A right to work provision would not solve the basic problem. Even worse, it would delay public understanding and action by diverting the attention of the people from the real problem and real solution.

Following is explanation of vote submitted by Mr. Upton:

According to rule 65, I would like to take the privilege of explaining my no vote on the Seyferth amendment regarding the right to work.

I firmly believe that the right to work theory is a very sound one; but I do not feel that the insertion of this right to work amendment is appropriate at this time in our deliberations. It could be very easily misunderstood and create an unfavorable atmosphere throughout the state that would destroy the entire work of the constitutional convention.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read the next amendment.

SECRETARY CHASE: Mr. DeVries offers the following amendment:

1. Amend page 4, after line 27, by inserting a new section 22 to read as follows:

"Sec. 22. The right of all persons to free association with other individuals and private groups for lawful purposes shall not be infringed or denied.".

VICE PRESIDENT HUTCHINSON: On the amendment the Chair recognizes Mr. DeVries.

MR. DeVRIES: Mr. President, members of the convention, I think most of us agree philosophically with the concept of free association. I think this is a basic individual right: to associate in private associations, whether they're political, economic, social or religious. This amendment will do several things, and here are some of the considerations you should have in mind when you vote on it: this will create a general guarantee of the right of free association which believers in a free constitutional system and open system can hardly deny. A great many decisions of the United States supreme court have been directed essentially to a defense of the right of free association.

Secondly, this language as drafted is free from the objection that it has a particular economic or social aim; for example, union busting or the like. While it might conceivably apply to labor union situations or private groups, employers or unions, attempted coercion, with some support of the state, it can be equally argued that the provision is in defense of the pursuance of the right to free, open membership in a labor union or any lawful organization of a like nature.

The language as drawn creates a principle which admittedly would require definition and development by the courts by the process of exclusion and inclusion. The state, as the language now exists, could define certain kinds of associations as public—for example, a political party—and subject, therefore, to certain types of regulation. This amendment is an addition of a basic right to the declaration of rights. It is important because our society is becoming more and more group organized. It belongs in the declaration of rights because it states the right of the individual in relationship to the state. It says that the state cannot force an individual to join a private, economic, political or social group. I urge your support of the amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. DeVries. Mr. Hodges.

MR. HODGES: Mr. President, I rise to oppose the amendment. Based on Mr. DeVries' remarks, which I think are the most pertinent, no one here at this point can fathom exactly what interpretations courts might put on these remarks and it would be open to a great deal of speculation. I don't think any of us at this point could intelligently vote on this situation, trying to speculate in terms of what the court might do. For this reason, I would oppose it.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Just briefly, Mr. President, fellow delegates, while I agree with the sentiments expressed by Delegate DeVries, I am opposed to this because of the interpretation problems it could very well raise in the courts. I am particularly concerned that this might be interpreted as a restriction or in some way a modification of the right of the people to peaceably assemble, which is guaranteed by section 2 of this committee proposal and has long been a traditional and highly valued right of our people.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that further debate on this amendment be limited to 5 minutes.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to limit debate to 5 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. President, we have only recently been given the wording which is contemplated by this amendment and an appropriate opportunity for the kind of study that the importance of the subject matter would seem to merit is not being accorded. I feel reluctant to make any judgment with regard to this particular important matter.

I don't know whether it's germane or appropriate, Mr. President, but I would now like to move that this be passed over for at least an opportunity to properly evaluate this particular matter. It deals with fundamental rights. There is a whole gamut of interpretation with regard to the right of assembly and association already in decisional law and I am not sure that anyone, in the time allotted, can really properly evaluate its implication with regard to these fundamental and strategic rights in a democratic society. I would hope that we would have more time to be able to give this the kind of discussion and examination that its importance merits. Is it possible to move that we pass this over, Mr. President?

VICE PRESIDENT HUTCHINSON: To when?

MR. NORRIS: Tomorrow.

VICE PRESIDENT HUTCHINSON: It carries the entire proposal with it. Do you insist upon your motion?

MR. NORRIS: No, I would not make that motion in view of the fact that there are so many considerations involved. I would say that because of the points that have been raised by Mr. Hodges and Mr. Wanger and its implications with regard to the right of the freedom of assembly, that we ought to vote no on this particular amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. DeVries. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend page 4, following section 21, by inserting a new section to read as follows:

"Sec. 22. No individual shall, as a condition of his employment, be required to contribute labor or money to any political organization or to any other organization which uses any part of its funds in the support of any political organization or any candidate for public office.

Nor shall such organizations use any part of their funds in the support of any political organization or any candidate for public office, which have been solicited, contributed, or apportioned from membership dues in such organization, when by actions or decisions of any of its administrative, executive or constitutional bodies any member shall be deprived, restrained or denied the expression of speech or viewpoint of any of its business sessions, or in any publication owned, operated, published or issued by such organization or its components.".

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that debate upon this amendment be limited to 10 minutes.

VICE PRESIDENT HUTCHINSON: The question is on the motion of Mr. Van Dusen that debate upon the amendment be limited to 10 minutes. All those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, it is my belief that every citizen should have the right to support a candidate or a political party of his choice. This is very basic and inherent in a democratic society for citizens to do this. It is also my belief that there is another side to that same coin: the right of an American citizen to support a political candidate includes the right not to support his opponent or another political party.

I'd like for members of this convention to note that this particular provision is not directed against unions alone or against corporations alone but does take into consideration any kind of an organization which would try to coerce its members into contributing money or labor to a political candidate or a political organization. I think we all agree that it should not be a condition of employment for a person to have to contribute to a political organization that his boss, be it his employer or his union boss, would try to force upon him. Politics is basically an individual responsibility and this should not be a condition, be it minimized or conditioned in any respect, of his employment in an organization.

Now, it may be felt that this is not a necessary amendment. But I would like to draw to the attention of this convention the fact that we have had this problem existing in Michigan. In 1955 an individual by the name of Clarence Bridgeman, from Marquette, Michigan, at a press conference in one of the rooms of the United States senate office building, gave this testimony in Washington, D.C.—

VICE PRESIDENT HUTCHINSON: Will the delegates kindly refrain from carrying on conversations in the hall. It makes it impossible to maintain the proper decorum. If it's necessary for you to talk, please go out into the corridor, not in the chamber here itself. You may proceed.

MR. BOOTHBY: Mr. Bridgeman, in Washington, D.C., before a United States senate committee gave this testimony:

> My name is Clarence Bridgeman, of Marquette, Michigan. I welcome this opportunity to relate a personal experience during the 1954 fall election campaign, which I consider to be a violation of my personal political freedom. This violation occurred when I was a Republican candidate for county clerk of Marquette county, Michigan.
>
> From 1950 to 1954 I was an underground mine worker for the Negaunee Mine company at Negaunee, Michigan. I joined the united mine workers of America when first contacted by union representatives after starting my employment. Naturally, when I became a candidate for county clerk on the Republican ticket, I approached the acting president of my local to talk over my candidacy. The reason I didn't talk to the president of my local was that he was running for state representative on the Demo-

cratic ticket and had stepped down from his post momentarily. I was told in clear language that I was running on the wrong ticket. This happened on at least 2 occasions.

My union leadership came out openly and strongly for the entire Democratic slate. To me this meant my own union was opposing my candidacy on the Republican ticket, and more important, that a part of the union dues that I had to pay in order to keep my job covered were being used in the Democratic campaign against me. It put me practically in the position of contributing money to my opponent's campaign and to all the opponents of my fellow candidates.

I believe this is a violation of my rights as an individual American citizen.

Now, what kind of problem will be faced by the individual in this state in the future? I think this is one of the matters that we should look to when we're drafting a constitution which will no doubt last for at least a half century.

Here are some statements which have been made which I think should cause us to take into consideration what we should do here today. The first statement was made by James B. Carey, president of the international union of electrical workers at a speech at Rutgers University in 1956:

> More and more, the answers to labor's problems are political. What is true of labor is equally true of America. In such a situation, labor's political action will become increasingly important. I do not want our movement to be the tail of any political party's kite. I want it to be able to influence the political behavior of our parties. Our job will take us into the community agencies, into local and state politics, into social planning, into the bloodstream of American life.

In a statement made by David M. McDonald, president of the united steelworkers of America, in 1957, as quoted in the New York Times:

> At times we are derelict in political action. Therefore, I soon will propose to the international executive board that we subsidize union members to run for state legislatures.

And in a quotation from James L. McDevitt, codirector of COPE, at a regional meeting in New England in 1956, this startling statement was made:

> We are driving to see that every so called labor leader speaks for what is best for the movement and not what is best for him. We are going to get the labor leaders who differ publicly with the position on candidates and issues already established by the labor movement. Such differings hurt the cause. These so called labor leaders that differ with the movement will be uncovered. We plan to, and we will, publicly brand them as traitors. That's what they are—traitors; and that's what they will be called—traitors.

What I'm saying, ladies and gentlemen of this convention, is that with those strong statements we need a constitutional provision in the Michigan constitution. The provision which I have suggested, I think, would cover this problem.

In closing I would like to bring this one further matter before the attention of this convention: you will note that the final paragraph deals with a situation of having the right to speak out in labor meetings and also in the labor press. Mr. Judd Arnett, in the Detroit Free Press, on Monday, January 29, 1962, made this statement:

> In the autumn of 1960, which was when Mr. Kennedy got elected by Mr. Nixon, a fellow up in Flint by the name of Harold Plyer, 28 years on the production line at Buick, a solid, dues paying member of the UAW, decided that he didn't like what was being printed in his union newspaper, The Headlight.
>
> So Mr. Plyer, who was inclined toward the Nixon cause, fixed himself up an article in which he set forth his reasons for opposing the recommended political line, and toted it around to the editor.
>
> Well, sir, the editor refused to print it, claiming what Mr. Plyer wanted to do was "contrary to the endorsements we have made and contrary to international policy."
>
> He kept insisting on publication, Harold Plyer did, and finally the editor told him that the only way he could get his views circulated would be to have them printed on a handbill and passed out at the factory gates. His dander up, Mr. Plyer appealed the editor's decision up the chain of command, with the matter finally coming before the UAW public review board.
>
> And you know what they ruled? They said, in effect, that the first amendment of the constitution, the one dealing with freedom of the press, etc., did not apply to a labor newspaper. Further, they contended that the editor of The Headlight was within his rights in refusing to define "international policy" to Harold Plyer, a dues paying member, keep in mind.

Ladies and gentlemen, one further statement from Thomas Jefferson, "To compel a man to furnish contribution of money for the propagation of opinion which he disbelieves and abhors is sinful and tyrannical."

I think all people should have the right to differ with the political expression of their organization and so be able to prevent that organization from using their dues for the purpose of electing political candidates and supporting political organizations contrary to their belief. I urge the adoption of this amendment and also ask that the first and second paragraphs be divided.

VICE PRESIDENT HUTCHINSON: Mr. Boothby asks that consideration on the amendment be divided between the first and second paragraphs and it will be so ordered. It would appear that they can stand independently of each other. The secretary has received an amendment to the amendment, which the secretary will now read.

SECRETARY CHASE: Mr. Marshall offers the following amendment to the amendment:

1. Amend the amendment, by adding at the end thereof, the following:

"No corporate official or person can give more than $5.00 per year for political action.".

VICE PRESIDENT HUTCHINSON: Mr. Marshall on the amendment to the amendment.

MR. MARSHALL: Mr. President, I am happy to see that Delegate Boothby has announced his candidancy for congress today. I am sure that the speech that he gave here will no doubt attract many votes and followers to his cause in the congressional race over in Berrien county. I regret that we got involved in all of these problems that we did today. I think it's turned into an outlandish situation. We have—

VICE PRESIDENT HUTCHINSON: Time for debate, I'm sorry, has expired, according to the order of 10 minutes.

MR. MARSHALL: Pardon?

MR. DOWNS: Mr. President, I have a preferential motion.

VICE PRESIDENT HUTCHINSON: Mr. Downs, state it.

MR. DOWNS: I move that those who wish to speak against the amendment have at least as much time to speak against it as Delegate Boothby had to speak for his amendment, and I hope I'm on the list.

VICE PRESIDENT HUTCHINSON: Mr. Downs moves that time be extended then by 10 minutes—about 8 minutes it was, I guess. How much time did Mr. Boothby use? He was 9 minutes and 35 seconds.

MR. VAN DUSEN: Point of information, Mr. President. I assume Mr. Downs' motion covers any amendments to the Boothby amendment?

VICE PRESIDENT HUTCHINSON: Is that right, Mr. Downs?

MR. DOWNS: I would make a good theoretical argument that we should get equal time and then equal time on the amendments. I would like the motion to pass, so I will reluctantly agree with Delegate Van Dusen.

VICE PRESIDENT HUTCHINSON: That time on the Boothby amendment and all the amendments to the Boothby amendment be extended a total of 10 minutes. All those in favor of the motion to extend debate will say aye. Opposed.

The motion prevails. The Chair recognizes Mr. Marshall on his amendment to the Boothby amendment.

MR. MARSHALL: Mr. President and fellow delegates, the amendment is offered because if Delegate Boothby is so interested in the contributions to political campaigns and the use of money in political campaigns, I think we ought to be real pure about it.

I can say to this convention that the labor movement derives approximately all of its funds for political action from voluntary COPE contributions. Where you go into the plant and solicit, the employee is free to give or not to give, and those who do give—and there aren't as many give as I would like to have—but those that do, contribute the sum of $1 in most cases. There are no large contributions. There is not the great wealth that everybody seems to think, and that Delegate Boothby insinuated. My amendment would put everybody on a par when it comes to contributions to political campaigns.

I have here in my hand—and I have another list in my drawer of another corporation—I have a list of officials, nonunion employees of the Ford Motor company to the Wayne county Republican committee in the 1956 election totalling many thousands of dollars, some of them in huge sums. And on this list I want you also to know that there are known Democrats—known Democrats on this list—who contributed to the Wayne county Republican finance committee. Now, I don't propose to insinuate that they were intimidated by their superior officers at the Ford Motor company. It was not compulsory, I don't guess, that these people contribute. But if they were asked by one of the vice presidents of the corporation or someone else in charge: we're getting together a contribution to the Wayne county Republican finance committee. We wondered if you'd like to contribute?—now, just imagine this lowly official there, without the protection of a trade union, whose very livelihood and whose very survival is dependent on every whim and wish of the boss—I just suppose that he would contribute.

When I first went over this list and saw these Democratic names that I knew were Democrats, I was shocked. But then when I got time to think it over and reason it, I knew why. And I think that my amendment—everybody, Delegate Boothby and others are so afraid of the few measly dollars that the AFL-CIO COPE department can get for political action. And I would suggest that by adopting this amendment we put everybody on an equal footing and we might even get more participation in our political parties.

I'm not going to challenge all of the statements that Delegate Boothby made. I don't know where he got them. I don't think he is an expert in the trade union movement. He probably had someone prepare it for him. I don't know. But I know one thing: that there were a lot of misleading statements. And if he wants me to take the time and the convention will permit me to go into them—

I urge the adoption of the amendment. Five dollars per year per person is enough for anybody to contribute to a political party or to a political candidate.

VICE PRESIDENT HUTCHINSON: On the amendment the Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, I'd like to ask Mr. Marshall a question: how many measly dollars a year does it take to keep Guy Nunn on the air 5 days a week 3 times a day?

MR. MARSHALL: I don't know but it doesn't cost as much as to keep Fulton Lewis, Jr., and others. And I'll give you the same answer: Gimbel's doesn't tell Macy.

VICE PRESIDENT HUTCHINSON: Mr. Pollock on the Marshall amendment to the amendment.

MR. POLLOCK: I ask to speak on the original Boothby amendment but I don't want to be excluded because of lack of time.

VICE PRESIDENT HUTCHINSON: The question is upon the Marshall amendment. All those in favor will say aye. Opposed will say no.

The amendment to the amendment is not adopted. The Chair recognizes Dr. Pollock on the Boothby amendment.

MR. POLLOCK: Mr. President, as interested as I always have been in discussions of campaign funds—in fact, I think I wrote the first book on that subject some 35 years ago—I'm happy to see the subject still has some vitality, but I can't see why it should be in the constitution of Michigan.

Mr. Boothby—I've heard the same speech now 3 times—presented these arguments to the committee. They were not accepted by the committee; they were not accepted by the committee of the whole; and I hope they won't be accepted now. This is not proper constitutional material. And think of it, ladies and gentlemen, he proposes to put it in the declaration of rights. I hope that you will defeat this amendment.

VICE PRESIDENT HUTCHINSON: The secretary has received another amendment to the amendment which the secretary will now read.

SECRETARY CHASE: Mr. Hodges offers the following amendment to the amendment:

1. Amend the amendment, at the end thereof, by adding a new paragraph to read as follows:

"No employer under any guise will assist a political party, by soliciting, collecting, suggesting or by any means indicate a political preference to said employees; nor shall any executive official of any corporation or association of any kind aid in any way whatsoever either at the place of employment or anywhere else, in the collection or solicitation of money or anything of value for a political party. And further to maintain equality of citizenship and equality of influence in political parties, no individual can contribute in excess of an amount of $50.00 annually to any political party or any of its subcommittees or individuals who are candidates in that political party.

Children or dependents, or anyone not working for his own salary by employment or otherwise and minors 18 years of age under no circumstances can contribute.".

MR. PRETTIE: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What is your point of order, Mr. Prettie?

MR. PRETTIE: I had intended to raise this point earlier, when it was admitted on this floor—that it was an amendment that occupied 35 minutes of our time, and was frivilous. Our rules provide that when not spelled out in our rules, Mason's Manual shall control. Section 401 thereof reads, "An amendment which is frivilous or absurd is not in order, and the presiding officer may refuse to state amendments which, in his opinion, are frivilous or absurd." I raise the point of order under this section.

MR. HODGES: Mr. President—

VICE PRESIDENT HUTCHINSON: Are you contending that the amendment to the amendment is frivilous?

MR. PRETTIE: I am.

MR. HODGES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: I believe, as the maker of the amendment, I should be given the same courtesy as the mover of the original amendment on this proposition. It is no more frivolous in my mind than the original one. I would submit—first I'd like a ruling on that, if I'm right.

VICE PRESIDENT HUTCHINSON: In the opinion of the Chair this doesn't appear to be a frivolous amendment. The Chair would consider the amendment to the amendment in order. The Chair recognizes Mr. Hodges.

MR. HODGES: Thank you, Mr. President. I have to agree with Dr. Pollock in his remarks about the wisdom of this type of legislation in a constitution. However, if this is to be adopted, I ask in all good faith that to equate this thing, to balance it, to equalize it, if we want to legislate this type of material in the constitution—which I would agree with Dr. Pollock we should not do—I would merely submit that we should balance it off with language of this type so that we can truly get the intent that was at least advocated by the sponsor of the original amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the Hodges amendment to the amendment. All those in favor will say aye. Opposed will say no.

The amendment to the amendment is not adopted. The question recurs upon the Boothby amendment. The Chair recognizes Mr. Downs.

MR. DOWNS: Thank you, Mr. President. It was a hard fight but I'm glad I finally got the floor on this. I shall try to be very brief.

I think that this amendment in a way relates to the Seyferth amendment and I ask those who are seriously concerned, to first heed Dr. Pollock's words about statutory language and then more important, to consider for a few minutes why it is that we have a concept of union security and a concept of the labor movement putting out newspapers that show voting records as construed by that labor union and the activities of candidates in support or opposition thereto. And the reason is one that we often overlook: basically, the United States—and Michigan included—has a one party press. This one party press is often financed by institutional ads that are often passed on to the consumer. I realize the difficulty of legislation in that area and agree with Dr. Pollock's analysis. However, when we have a situation where we have a one party press, often financed by institutional ads that constantly makes political endorsements, makes editorials, uses news activity for certain candidates, the people, if we are to have a dynamic democracy, must have some counter force which at least shows the other side.

Now, it always kind of bothers me that the state bar association, of which I'm a member, the medical association, the accountants and so on can, ad infinitum, put out their publications and nobody seems concerned about it expressing their viewpoints; but once a labor union starts to express its ideas in a newspaper, suddenly that becomes dangerous and must be stamped out in one way or another.

I support that as long as we are going to have a pluralistic society, with differences of opinions—the farm bureau must have the right to put out its paper and publication, much as I may disagree with their interpretation and editorials, and likewise other organizations, and particularly labor unions, which are usually not making endorsements similar to the one party press—we must have that, not simply for the sake of that organization but to see we have different viewpoints expressed so that voters can make a more healthy choice. Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment of Mr. Boothby. It has been divided. The question first is upon the first paragraph.

MR. KIRK: I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Kirk demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Fourteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The question is on the first paragraph of the amendment offered by Mr. Boothby. All those in favor will say aye. Opposed will say no.

The first paragraph is not adopted. The question is upon the second paragraph of the amendment. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. President, I am happy to report there are no further amendments presently on the desk. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Norris.

MR. NORRIS: I believe Judge Gadola has a motion.

MR. GADOLA: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Gadola.

MR. GADOLA: I move, under rule 51, that Committee Proposal 15 be divided and that section 10 be voted upon alone and then the balance of the proposal.

VICE PRESIDENT HUTCHINSON: Under a previous ruling of the Chair which had been acquiesced in by the convention, this would require a suspension of the rules. Judge Gadola moves that the rules be suspended for the separate consideration of section 10 of this proposal, and make section 10 a separate proposal to be known as Committee Proposal 15A. The question is on the motion of the suspension of the rules. It requires 2/3 of the members present, taken by a division vote. Mr. Downs.

MR. DOWNS: Mr. President, I wish to speak on the motion and first I would like to demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays on the motion to suspend the rules. Is the demand supported? The demand is supported. It is so ordered.

MR. DOWNS: Mr. President—and I do not at this point wish to challenge the Chair's ruling—I think under rule 51 the question can be divided by one individual and that I still think the motion can carry by 51 per cent if a motion is made. I do not wish to challenge the Chair.

VICE PRESIDENT HUTCHINSON: Thank you. That point has already been ruled on by this convention. The Chair is simply following the prior ruling of the Chair, which ruling has been acquiesced in by the convention. Mr. Downs, you may proceed.

MR. DOWNS: I do wish to point out that I agree wholeheartedly with Judge Gadola's thinking. Now some of us, rightfully or wrongfully, believe that section 10 raises a serious constitutional question. I think the cause of that problem and that question has not been raised with other aspects of the proposal, and this one should be separated so that those of us who have those constitutional reservations may vote on that separately from the other parts which do not have those constitutional reservations.

VICE PRESIDENT HUTCHINSON: On the motion to suspend, Miss Donnelly,

MISS DONNELLY: I'd like to support the motion. As you no doubt all know, I personally wish to vote for the entire article with the exception of section 10 as it is presently written. I find it would be very difficult not to vote for the entire article except for this. The whole article I approve of, but as a member of the bar, would be most embarrassed to think that I cast a vote for something that I think is constitutionally improper in a constitution we are trying to write.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to suspend the rules to make section 10 of Committee Proposal 15 stand as Committee Proposal 15A. The yeas and nays have been demanded.

MR. FAXON: Mr. President, a point of information. Yesterday the convention separated a portion of Committee Proposal 71 and created another proposal out of it, by number, 71A. Was this action done by a 2/3 vote?

VICE PRESIDENT HUTCHINSON: It was. Mr. Iverson.

MR. IVERSON: Mr. President, I would like to make this statement: I also am a member of the bar and I have no qualms about voting for the whole proposal as it is, and I hope you oppose this.

VICE PRESIDENT HUTCHINSON: The question is upon the suspension of the rules to make section 10 of this committee proposal stand as a separate proposal. Mr. Norris.

MR. NORRIS: Mr. President, as a member of the declaration of rights committee—and I think I would speak on behalf of the entire committee although I haven't consulted them with regard to this matter—a very considerable volume of work has gone into an excellent proposal and I think it represents considerable progress in a field of fundamental importance. I do think, however, in keeping with the very spirit of that proposal, recognizing conscience and conviction, it would be a material assist to the development of considerable support for the entire proposal if we were able to vote on section 10 separately from the entire proposal. And I urgently ask that this be done.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, as the chairman of this committee, I was not consulted about this move, and if I had been, I would have been against it, not because I happen to disagree with those who are moving for separation here, because I think you know that I am opposed to section 10 as it now reads. On the other hand, it seems to me that we have had more than adequate study and discussion of this whole matter. I can't see that anything will be gained, and all we'll do is waste a good deal of time if we suspend the rules. Therefore, I'm not in favor of suspending them.

VICE PRESIDENT HUTCHINSON: The question is upon suspension of the rules. Mr. Hodges.

MR. HODGES: Mr. President, I respect Mr. Iverson's remarks that as a member of the bar he, in good conscience, can vote for the whole section, but I hope that the feelings of many of the members of the bar who are present here and who do sincerely and honestly feel that this section is unconstitutional—and we're not here now arguing the merits or demerits of this—but just asking for the opportunity to vote for what we feel is a fine bill of rights, and on the other hand, not violating what we feel is our conscience and our oath of office. I please request you to support this.

VICE PRESIDENT HUTCHINSON: The question is upon suspension. Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, I move the previous question.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown moves the previous question upon the motion to suspend. Is the previous question supported? It is supported. The question now is: shall the previous question be put? All those in favor will say aye. Opposed will say no.

The previous question is ordered. The question is upon the suspension of the rules. The yeas and nays have been ordered. All those in favor of suspending the rules will vote aye. Those opposed will vote no. The voting has started. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—54

Andrus, Miss
Baginski
Balcer
Barthwell
Batchelor
Binkowski
Bledsoe
Bradley
Buback
Cushman, Mrs.
Donnelly, Miss
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Follo
Ford
Gadola
Greene
Habermehl
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Lesinski
Madar
Marshall
Martin
Millard
Mosier
Murphy
Norris
Ostrow
Perlich
Perras
Sablich
Snyder
Staiger
Stopczynski
Suzore
Walker
Wilkowski
Young

Nays—63

Allen
Beaman
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Doty, Donald
Durst
Elliott, A. G.
Figy
Finch
Goebel
Gover
Gust
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
McAllister
McCauley
McGowan, Miss
McLogan
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the motion to suspend the rules and make section 10 a separate proposal to stand as Committee Proposal 15A, the years are 54; the nays are 63.

VICE PRESIDENT HUTCHINSON: Two-thirds of the delegates present not having voted therefor, the rules are not suspended. Mr. Gadola.

MR. GADOLA: May I speak just a moment? Members of the convention—those who are opposed to this provision in section 10—I admonish you, just because you're opposed to that, do not turn down this Committee Proposal 15. It was worked out very well, worked out after a great deal of discussion, and even though section 10 was worked out as much but nevertheless turned down by this convention, don't turn down the entire article just because you're opposed to one section. It's the same thing that I've been preaching all over to these people that say: well, I don't like that provision in the constitution that you're bringing up. I'm advising all of them: just because you don't like one section, don't turn down the whole constitution. (applause)

VICE PRESIDENT HUTCHINSON: The Chair next recognizes Mr. Norris.

MR. BLEDSOE: Mr. President, may I ask a question?

VICE PRESIDENT HUTCHINSON: Of whom?

MR. BLEDSOE: Of you.

VICE PRESIDENT HUTCHINSON: Ask a question of the Chair? Yes. Mr. Bledsoe.

MR. BLEDSOE: Am I correct that this is the section that affects the constitution of the United States?

VICE PRESIDENT HUTCHINSON: Affects the constitution of the United States?

MR. BLEDSOE: Search and seizure.

VICE PRESIDENT HUTCHINSON: That would be a judicial question. This Chair would be hesitant—

MR. BLEDSOE: Well, I wasn't here—I just wanted to be sure.

VICE PRESIDENT HUTCHINSON: Mr. Norris.

MR. NORRIS: Mr. President, I believe that I would subscribe wholeheartedly to the observations of Judge Gadola with regard to this matter before us. I would urge a favorable vote on the entire Committee Proposal 15. With regard to section 10, I believe that in due course the courts will deal dispositively with this question and sustain the position of those who have taken the position against the proviso in that section in that article. However, on the whole, there are a number of good steps forward taken by the committee. I believe the committee deserves a vote of commendation by the entire convention; constructive work has been done and I believe it results in a strengthened declaration of rights for all our people. Therefore, I urge a favorable vote on it.

VICE PRESIDENT HUTCHINSON: Mr. Habermehl.

MR. HABERMEHL: Mr. President, I simply wish to announce my intention to abstain because of my objections to section 10.

VICE PRESIDENT HUTCHINSON: Mr. Habermehl abstains. Mr. Walker.

MR. WALKER: I wish to ask to abstain.

VICE PRESIDENT HUTCHINSON: Mr. Walker abstains. Mr. Bledsoe abstains. Miss Donnelly abstains.

MR. BLEDSOE: I would like to state my reasons.

VICE PRESIDENT HUTCHINSON: You may state your reasons. Mr. Barthwell abstains.

MR. HOOD: I'd also like to abstain, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hood abstains. Mr. Lawrence.

MR. LAWRENCE: Mr. President, I certainly agree that this section has been well worked out as far as the committee itself is concerned. But for the reasons stated by Judge Gadola and Dr. Norris so eloquently, I desire to abstain.

VICE PRESIDENT HUTCHINSON: Mr. Lawrence abstains. Mr. Douglas abstains. Mr. Greene abstains. Mrs. Hatcher?

MRS. HATCHER: No. I'd like to say something. I'd like a point of special privilege to say to those who are abstaining at this time we certainly hope that those who are abstaining are using good judgment because I certainly don't want to see the entire proposal lost because of one particular section. And we certainly need 73 votes to maintain this whole article. And I appeal to you to carefully consider what you're doing because it may be possible that you're cutting off your nose to spite your face. (applause)

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, in view of the numerous requests for the right to abstain, I would like to move reconsideration of the vote taken with regard to separating the articles.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to reconsider.

MR. KING: I should like to address myself to that point too, if I might.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. KING: I think we have come to a point in this convention where we should give careful consideration to the wishes and the feelings of all of our fellow delegates. I frankly feel that this is a wonderful civil rights section. I should like to see it passed unanimously and I should not like to see a lot of abstentions. If this motion is defeated again, then I will vote to support the whole proposal when it comes to a vote. But I think out of fairness to those of us who do feel strongly about these few words—this proviso—I think that you ought to, out of consideration for those people, vote and grant them the necessary 2/3 in order to separate this section.

VICE PRESIDENT HUTCHINSON: Mr. Radka.

MR. RADKA: I'd just like to speak against reconsideration. I think that Dr. Norris has expressed our position very clearly. This convention as a legislative body has expressed its position on this matter several times. The majority vote has come out the same way again and again. There are problems here and, as Dr. Norris said, these problems will ultimately have to be decided by the court. And I see where we will gain nothing except wasting valuable time by reconsidering this question. I think we've actually had a vote on reconsideration when the attempt was made to suspend the rules and we didn't even receive a majority vote on that.

VICE PRESIDENT HUTCHINSON: Mr. Iverson.

MR. IVERSON: Mr. President, I move the previous question.

VICE PRESIDENT HUTCHINSON: Mr. Iverson moves the previous question upon the motion to reconsider. Is the demand for the previous question supported? The demand is supported. The question now is: shall the main question be put? All those in favor will say aye. Opposed will say no.

The previous question is ordered.

MR. G. E. BROWN: Mr. President, in addition to moving the previous question on the motion to reconsider, I move it on the proposal.

VICE PRESIDENT HUTCHINSON: What's that? What did you say, Mr. Brown? The Chair didn't understand you.

MR. G. E. BROWN: In addition to moving the previous question on the motion to reconsider, I move it on the proposal.

VICE PRESIDENT HUTCHINSON: We'll take that when we come to it, Mr. Brown.

MR. KING: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does the gentleman rise, Mr. King?

MR. KING: For the purpose of withdrawing my motion.

VICE PRESIDENT HUTCHINSON: The motion to reconsider?

MR. KING: Yes.

VICE PRESIDENT HUTCHINSON: Mr. King withdraws his motion. Mr. Brown.

MR. G. E. BROWN: I move the previous question on the proposal.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown moves the previous question on the proposal. Is the demand for the previous question supported? It is supported. The question now is: shall the question be put? All those in favor will say aye.

MR. FORD: Parliamentary inquiry, Mr. President.

VICE PRESIDENT HUTCHINSON: All those opposed will say no.

The previous question is ordered. For what purpose does the gentleman rise?

MR. FORD: Recognizing the somewhat indelicate position that some of us find ourselves in, if we follow the suggestion of Judge Gadola and Mr. Norris, will we, without individually standing and asking for the right, have the right to explain our vote in writing for the record?

VICE PRESIDENT HUTCHINSON: Yes. Yes, you may do that. You do not have to reserve that right. You may file it. The previous question has been ordered.

MR. WALKER: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does Mr. Walker rise?

MR. WALKER: To ask that my request to abstain be withdrawn. I think in the interest of the greater good, it is better that I should vote on it.

VICE PRESIDENT HUTCHINSON: Mr. Walker withdraws his absention. Mr. Downs.

MR. DOWNS: I have a parliamentary inquiry, Mr. President. I just want to have this point very clear because I know there was considerable discussion the other day. Did I understand the Chair to rule that under rule 51, this question cannot be divided by the request of one individual?

VICE PRESIDENT HUTCHINSON: That is correct, Mr. Downs.

MR. DOWNS: I want the record to show that I had made that request and the Chair had so ruled.

MR. YOUNG: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does Mr. Young rise?

MR. YOUNG: I rise to announce my intention to abstain. And to say to this convention that I believe that great progress has been made in this civil rights section. I believe section 10 was a serious retrogression. I am unwilling to vote against that which is good and I am unwilling to vote for that which is bad. I do not seek to impose my opinion on anyone else's judgment but, in all good conscience, I feel that I must abstain.

VICE PRESIDENT HUTCHINSON: The gentleman has the right to explain his reasons for abstention. The question is upon the adoption of Committee Proposal 15, as amended. All those in favor of the Committee Proposal 15 will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Andrus, Miss
Baginski
Balcer
Batchelor
Beaman
Binkowski
Blandford
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Ostrow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager

Nays—0

SECRETARY CHASE: On the adoption of Commiteee Proposal 15, the yeas are 112; the nays are none.

VICE PRESIDENT HUTCHINSON: **Committee Proposal 15,** as amended, is passed.

Following is explanation of vote submitted by Messrs. Downs, Buback, Walker, Wilkowski, Murphy, Hodges, Bradley, Ford, Miss Hart, Mrs. Hatcher and Mrs. Daisy Elliott:

We voted in favor of Committee Proposal 15 on the declaration of rights, because we approved 20 sections of this proposal. However, we object vigorously to section 10, which we believe is unconstitutional. We believe the United States supreme court will declare it unconstitutional and so preserve 20 desirable sections intact.

We regret very much that the convention refused to separate section 10 from the rest of the document so that those of us who felt strongly that this proposal was undesirable and unconstitutional would not be forced to vote for a package which was 20 parts good and 1 part bad.

VICE PRESIDENT HUTCHINSON (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 15 as amended and rereferred to the committee on style and drafting:

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Sec. 2. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 3. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 4. Every person may freely speak, write, express, and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge these liberties.

Sec. 5. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 6. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 7. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 8. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 9. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be passed.

Sec. 10. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding, any narcotic drug, any firearm, bomb, explosive, or any other dangerous weapon, seized by any peace officer outside the curtilage of any dwelling house in this state.

Sec. 11. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 12. Any suitor in any court of this state shall have the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 13. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

In all civil actions in circuit courts a verdict shall be received when 10 jurors shall agree.

Sec. 14. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 15. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 16. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 17. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 18. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 19. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 20. No person shall be imprisoned for debt arising out of, or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 21. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of 2 witnesses to the same overt act, or on confession in open court.

VICE PRESIDENT HUTCHINSON: (continuing): Dr. Pollock.

MR. POLLOCK: I wish to talk now about the next proposal, Committee Proposal 26 if it's in order.

VICE PRESIDENT HUTCHINSON: The secretary should read the proposal first. Do you desire to have it considered read?

MR. POLLOCK: It's very brief. I think he should read it.

VICE PRESIDENT HUTCHINSON: Very well.

SECRETARY CHASE: Item 2 on the calendar, **Committee Proposal 26,** A proposal for a section in the declaration of rights incorporating in the declaration of rights an "equal protection" clause and a guarantee against discrimination in civil and political rights because of race, religion, sex or national origin.

Following is Committee Proposal 26 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 739.):

Sec. a. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment

of his civil or political rights or be discriminated against in the exercise thereof because of race, religion, sex or national origin. The legislature shall implement this section by appropriate legislation.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Dr. Pollock on the proposal.

MR. POLLOCK: Mr. President, this proposal came back from style and drafting without any changes. It was reconsidered by the committee the other day in advance of this session and the committee had nothing to recommend with reference to it except one thing. Due to the fact that the committee on style and drafting has found considerable variation in the use of "race, religion, color and national origin," the committee authorizes me to say to the committee on style and drafting that we have no objection to the committee inserting "color" if they find this is necessary in the interest of uniformity.

I might say further, Mr. President, I only am aware of 2 amendments to this section. I think they both deal with the word "sex" and as interesting a subject as that always is, (laughter) I hope the discussion on both of these can be brief because I remind you that the word was put in with care and caution by the committee and for good and sufficient reason. And with that, I shall yield the floor to anybody who cares to speak.

VICE PRESIDENT HUTCHINSON: The secretary will read the first amendment.

SECRETARY CHASE: The proponents of these amendments, Mr. President, have asked that they be read together.

Mrs. Cushman, Mrs. Judd, Miss McGowan and Mr. William Hanna offer the following amendment:

1. Amend page 1, line 4, after "religion,", by striking out "sex"; and

Mrs. Judd offers the following amendment:

2. Amend page 1, line 6, after "legislation.", by inserting "No woman shall be discriminated against because of sex or marital status in the securing of employment or in promotion therein.".

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mrs. Cushman.

[Whereupon, all male delegates rose.] (laughter)

The Chair is sure that Mrs. Cushman appreciates the respect given.

MR. PERRAS: In case there is any doubt over what this was for, it was in honor of "sex." (laughter)

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I had intended to start out by expressing the hope—which I see is in vain—(laughter) that we could discuss this subject with a minimum of joking.

Now, here's a place where those of us who offer this amendment and those of us who oppose it agree most heartily with each other as to the purposes that we seek but we are in disagreement as to the means of getting there. And I'd like to quote from a memo on this subject prepared by our research staff at my request:

> No one can object to the development of every possible legal means to guarantee the practical equality of women before the law, with respect to all ordinary matters of economic and social position, property rights, and the like. This has been the whole thrust of social reform—

I see we're thrusting these days—

> with regard to women in the western world; for example, the various state statutes of the nineteenth century giving women control of their own property and bank accounts

and so forth and so on.

> Nor is there any difficulty posed by the incorporation of the equal protection clause in Committee Proposal 26—

the proposal now before us. But in the interest of time, I would appreciate a certain amount of attention.

VICE PRESIDENT HUTCHINSON: Please give the lady your respect and attention.

MRS. CUSHMAN: Thank you.

> From the beginning of the embodiment of the concept of equal protection of the laws in the federal constitution as against the states the idea of classification of a reasonable kind has been well established. Thus, with respect to equal protection, reasonable classification recognizes the constitutionality of laws that forbid women to enter certain areas of employment, such as mines. They forbid women to be employed more than 8 hours per day and so on, without imposing like limits upon men, make certain provisions for the welfare of women employed in factories, such as rest periods, all without any implication that equal protection is violated.
>
> But Committee Proposal 26 threatens to make reasonable classification on the basis of sex impossible. The language couples closely race, religion, sex or national origin on an exactly parallel basis, prohibiting any discrimination on the basis thereof with respect to civil or political rights. Now it is almost certain, beyond any reasonable doubt, in fact, that classification on the basis of race, religion or national origin now would be unconstitutional, no matter how reasonable some people might think it is. To use the language of Justice Harlan from a dissent of 1896, the constitution has become "color blind." But when sex is coupled so closely to this area where we know almost absolutely that all classification is illegal, the result must be to thrust on the courts the proposition that the convention intended all classification with respect to sex, no matter how reasonable it may appear to be, to be unconstitutional under the Michigan supreme law.
>
> The result might well be to damage or destroy the capacity of the legislature to enact protective legislation for women, and it would imperil the constitutionality of legislation already on the books. Laws imposing special hours, working conditions for women would be void if the foregoing interpretation is correct. A statute which gave special recognition to the employment problem of women, the very problem we discussed in our meeting, probably would be imperiled.
>
> This is the sum and substance of the argument. Of course the court might well get around this somehow. But it would be embarrassed, for it would have to read the prohibition on classification on race, religion and national origin in a distinctly different way than the prohibition on sexual discrimination.

Thank you very much. I think Mrs. Judd will want to discuss the second of these amendments.

VICE PRESIDENT HUTCHINSON: Mrs. Judd.

MRS. JUDD: Mr. President and gentlemen, I'm not quite sure what that moment of silent prayer was about but I hope you were praying for endurance to listen to our problems. We are met with a dilema. Being women, we want equality with men, but we also want our special privileges too. The problem then becomes one of constitutional language for us here and it has appeared to be very good constitutional language to include the word "sex" in section 6, line 4, because it's a simple way to do it, apparently. But the fact is that it creates difficulties.

Now, we recognize that not all women agree on this point of view and not all lawyers agree on what may happen as a result. But the potential application of this provision, as Mrs. Cushman has read to you from Dr. Kelly's research statement, is that the general trend of court interpretation of the words "race, religion" and so on would also apply to the word "sex" and deprive us of some of the special privileges which we believe women should continue to have. For example, we still believe that men should support their wives. We also believe that in cases of divorce, wives should have alimony. Indeed, in this day of broken families and juvenile delinquency, there would be a social upheaval if divorced wives were not properly supported. There is also the special legislation with respect to the protection of women in industry. This refers to conditions of work and relates to health. So we are anxious to get rid of the word "sex" in this first sentence. But we propose this second sentence to Committee Proposal 26 referring only to the question of discrimination in getting a job and in being promoted. And we have added not only "discrimination on account of sex," but "discrimination on account of marital status" for we find that women often are the first ones to be let go in times of unemployment on the argument that men have families to support. No one asks the women how many people they have to support and it is indeed something of an insult to have employment based on the need for relief.

Therefore, we propose this. Now, we think that it is subject to the criticism that perhaps it is statutory rather than constitutional language. Nevertheless, we believe that we would like to see it put in—if you gentlemen are willing to do so—it is at least very brief. If it were omitted and "sex" were also omitted from the other sentence, there would be no particular mention of protection of women against discrimination on the basis of sex. We therefore favor removing "sex" from the first sentence and adding this one which spells out very specifically the particular discrimination that is most difficult for women today.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered—Mr. Faxon.

MR. FAXON: Mr. President, are we to vote on both of these as one, or is this going to be voted on separately?

VICE PRESIDENT HUTCHINSON: The sponsors have offered them as a single question and the Chair will so put them unless there is a demand for a division.

MR. FAXON: I think they should be divided. I think they are 2 separate things and I would move that they be divided so that—

VICE PRESIDENT HUTCHINSON: Under the rules upon the demand of any delegate, the question is divisible and will be so divided. Mr. Norris.

MR. NORRIS: What is the present parliamentary posture, Mr. President, with regard to the matter?

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mrs. Cushman and others. The Chair proposes to divide the question but the debate upon it can attach to either one of the parts.

MR. NORRIS: The division, Mr. President, as I understand it, is that one vote will be on the exclusion of the word "sex" and then the other will be with regard to the language "No woman shall be discriminated" and so forth. There will be 2 separate votes?

VICE PRESIDENT HUTCHINSON: The gentleman states the division correctly. Mr. Norris had the floor.

MR. NORRIS: Mr. President, I would support a position against both amendments and in support of the committee formulation that is now before us. I think the committee spent a great deal of time going over this matter and I think it took a forward position with regard to proscribing irrelevant criteria in the protection of political and civil rights.

I think that what we are seeking to do with respect to the instant amendment is to recognize the broad sweep of history with regard to the status of women and recognizing that there has been in Anglo Saxon law a considerable change and a change yet that ought to be encouraged. In the beginning, in Anglo Saxon law, a woman was practically a chattel. She was not considered a sole and separate entity legally from her husband. Since that time very considerable progress has been made, but still much more progress needs to be made. The question of constitutional status of women, legal status of women, is one that not only affects women, but affects the total society and all people. Men and women, in this convention and out of it, have a sincere interest in the promotion of that kind of status of women that enhances all the values that we subscribe to in a democratic society: equality and dignity.

Certainly, the questions of women, the problems that women face in employment policy, in all kinds of property relations, are ones which we seriously must address ourselves to over a period of time, and I think that by putting this particular statement of value and principle in our constitution, we promote the kind of change that will move the status of women forward to the interests of the women of the total community.

With regard to the question of unreasonable classification, or the question of whether or not the equal protection clause permits reasonable classification, I would like to say to you that in a recent compendium of the current operative meaning of the constitution in regard to equal protection of the law, Professor E. S. Corwin of Princeton University had this to say in a report on this subject to the library of congress:

> Women or particular classes of women may be singled out for special treatment in the exercise of the state's protective power without violation of the fourteenth amendment. Classification may be based on differences either in their physical characteristics or in the social conditions which surround their employment. Restrictions on conditions of employment in particular occupations are not invalid because the law might have been made broader.
>
> One of the earliest pieces of social legislation to be sustained was a 10 hour law for women employed in laundries. A law limiting hours of labor for women in hotels was not rendered unconstitutional by reason of exemption of certain railroad restaurants. Night work by women in restaurants may be prohibited. And reversing earlier decisions, the supreme court upheld a minimum wage law for women in 1937, saying that their unequal bargaining position justified a law applicable only to them.

So that it seems to me the point raised by Mrs. Cushman that if you juxtapose the words "sex" and "race" and "religion" that an absolute quality applies to each and it would not permit a reasonable classification with regard to sex, in my judgment, is not a valid observation. I think the whole structure of the law is different on the proposition with reference to sex, but it would mean that the intent of this particular language over a period of time would be to promote an equal status of women and, as much as possible, a recognition that we ought to have equality of opportunity and no denial of political and civil rights based upon sex as a longrun proposition. After all, it took 75 years to remove the separate but equal doctrine even with regard to race. And I suggest that we'll probably have a time limit within which this will have to be approached.

I would also call the attention of the body to the fact that this very same problem was faced by a sister democracy, namely, Canada, and on August 10 of 1960 an act was passed by that country which dealt specifically with this particular problem. Its whole bill of rights contains but 4 segments and in the very first one we find this language:

> It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, religion, color or sex, the following human rights and fundamental freedoms, namely: (a) The right of the individual to life, liberty, security of person and enjoyment of property, and the right not to be deprived thereof except by due process of law.

And it lists again the right of the individual to equality before the law and the protection of the law. So that the questions of property and the questions of protection of the law have been gone into by Canada. Nevertheless, they felt that they ought to include as a basis for a nondiscrimination clause, the word "sex." And this, it seems to me, is part of the recent thinking and constitution writing with regard to this problem. And I think we ought to accept it as one partial guideline in making our decision on the amendments now before us.

I think that in the interest of enhancing the status of women, in the interests of total society, we would do well to accept the committee formulation, and I believe that history will judge us kindly in making a contribution to not only the status of women, but the status of values for the family as a whole and for all human beings. I urge that we defeat the 2 amendments and support the committee report.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I had intended to move to limit debate to 10 minutes on this proposal. Miss Donnelly advises me that in the present posture of the proposal that would be unconstitutional. Therefore, hoping that the speakers will remain brief, I will withhold the motion for the moment.

VICE PRESIDENT HUTCHINSON: Miss Donnelly.

MISS DONNELLY: I rise to speak against this amendment presently in front of us. First, I think the ladies are ill advised on the law; and secondly, if they're terribly, terribly, terribly disturbed on this issue—and I think they're ill advised, they don't need to be disturbed on the issue—I have an amendment on the secretary's desk which I think would solve their problem. I'd like the secretary to read it.

SECRETARY CHASE: Miss Donnelly has on the desk an amendment to add at the end of the section the following, "This shall not be construed to prevent reasonable classification for the protection of women."

VICE PRESIDENT HUTCHINSON: The question remains upon the amendment offered by Mrs. Cushman and others.

MISS DONNELLY: Frankly, I was up putting this in and I don't know if you touched on the Salt Lake City case. This issue was taken on the question of discrimination for language in the Utah supreme court in their constitution. The Utah constitution contained language stating "Both male and female citizens of this state shall enjoy equally all civil, political and religious rights and privileges." The issue before the court at that time had to do with the poll tax designed to affect only men. The issue of the constitutionality of the poll tax was brought before the court on the basis that it was contrary to the provisions of the constitution as set forth in Utah, where it said, again, "Both male and female citizens of this state shall enjoy equally all civil, political and religious rights and privileges."

The Utah supreme court held that this poll tax only on male citizens was valid inasmuch as there was reasonable classification. Though it enumerated both male and female citizens are guaranteed equal enjoyment of all civil, political and religious rights, it did not bar them or the Utah legislature from reasonable classification of its citizens with regard to the performance of certain duties which may be required by the state under its police power. The court reasoned that physical differences that exist between the sexes serve as a basis for reasonable classification, and that females in the nature of things cannot respond to all the demands of the state. The court further stated that under the constitutional provision, women may be put in a class by themselves and that such a classification is a natural and proper one.

I therefore feel that both amendments from this group at this time should be defeated; and if people are seriously disturbed on the issue—which I don't think they should be seriously disturbed on—they can vote for my amendment which is put in to make sure that the girls are not disturbed and that they are still protected, which apparently is the big issue in front of them. I therefore oppose this amendment and think that we should act rather reasonably and consider actually the law on the issue and not be so frightened by a few moments and a few citations of statutes that were improperly cited, in my opinion, in front of the ladies, because they were nonapplicable on the issue.

SECRETARY CHASE: The secretary has received an amendment to the amendment which he will now read.

SECRETARY CHASE: Mr. Higgs has filed the following amendment to the second part which is the Judd amendment:

1. Amend the amendment, after "because of sex" by striking out "or marital status"; so that that language would read, "No woman shall be discriminated against because of sex in the securing of employment or in promotion therein."

VICE PRESIDENT HUTCHINSON: On the amendment to the amendment, Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I offer this amendment with the thought in mind that it may be, in the future at some time, that the government itself may desire to discriminate in the offering of employment during a depression period for the assistance of wage earners who are supporting families. Now, the law clearly imposes upon men the obligation to support the family and if the government were to engage in something like the CCC program, I think the proposed amendment might invalidate such a program.

I don't think any of us would want to remove the possibility of the government offering employment to men during a depression period when they have families to support. And I don't think the women, either, really would object to the removal of "marital status" from this particular amendment. This is a hazardous area in which to experiment in language. I haven't given it the thought, perhaps, that the proponents have given it. I'd like to hear what they have to say about it.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: Mr. President, I move the previous question on the amendment to the amendment and the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Hatch moves the previous question upon the amendment to the amendment and the main amendments. Does this include just this amendment to the amendment or any other amendment to the amendment that might be offered? (laugther)

MR. HATCH: All amendments to these amendments.

VICE PRESIDENT HUTCHINSON: Mr. Hatch moves the previous question upon the main amendments and all amendments thereto. Is the demand for the previous question supported? The demand is supported. The question now is: shall the main question be put? All those in favor will say aye. Opposed will say no.

The previous question is ordered. The question now is upon the amendment offered by Mr. Higgs to the Cushman amendment, which the secretary will read.

SECRETARY CHASE: To the second part of the amendment Mr. Higgs has offered the following amendment:

[The amendment was again read by the secretary. For text, see above.]

VICE PRESIDENT HUTCHINSON: The question being upon that amendment to the amendment, all those in favor will say aye. Opposed will say no.

The amendment to the amendment is not adopted. The question now is upon the amendment offered by Mrs. Cushman and others. The immediate question is upon the first amendment to strike out the word "sex" after the word "religion" in line 4. All those in favor of that amendment will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye. Those opposed will vote no. Have you all voted? Mr. Norris, for what purpose does the gentleman rise?

MR. NORRIS: Mr. President, I don't know if the delegates are fully familiar with what is at issue now. I wonder if we could have that clarified.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mrs. Cushman, Mrs. Judd, Miss McGowan and Mr. William Hanna, the one that would strike the word "sex" out of line 4. Have you all voted?

MR. WANGER: Mr. President, would the secretary read the language as it would stand with this amendment adopted

VICE PRESIDENT HUTCHINSON: The secrtary will read the language as it would stand if this amendment were adopted.

SECRETARY CHASE: The immediately pending amendment by Mrs. Cushman, Mrs. Judd, Miss McGowan and Mr. William Hanna:

1. Amend page 1, line 4, after "religion,", by striking out "sex"; so that section a would read:

> No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, religion, or national origin. The legislature shall implement this section by appropriate legislation.

MR. WANGER: I ask for the yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is the demand supported? Mr. Heideman.

MR. HEIDEMAN: Mr. President—

MR. POLLOCK: Parliamentary inquiry, Mr. President.

MR. HEIDEMAN:—I would like to abstain because I am frightfully afraid. (laughter)

MRS. BUTLER: He better be afraid.

VICE PRESIDENT HUTCHINSON: Is the demand for the yeas and nays seconded?

SECRETARY CHASE: Thirteen.

VICE PRESIDENT HUTCHINSON: That's not a sufficient number. The question remains with a division vote.

MR. POLLOCK: Mr. President, parliamentary inquiry.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: As I understand it, you've divided the amendments now so that we're only voting to strike the word "sex" from Committee Proposal 26; is that right?

VICE PRESIDENT HUTCHINSON: That is correct.

MR. POLLOCK: In other words, this would be a vote against the committee report. If this carried, it would eliminate the word "sex" from the committee proposal?

VICE PRESIDENT HUTCHINSON: That is correct.

MR. POLLOCK: Therefore, I am voting no. (laughter)

VICE PRESIDENT HUTCHINSON: The secretary will announce the vote.

SECRETARY CHASE: On the adoption of the amendment, the yeas are 44; the nays are 69.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The question now is upon the second amendment offered by Mrs. Judd.

MRS. JUDD: Mr. President.

VICE PRESIDENT HUTCHINSON: Mrs. Judd.

MRS. JUDD: Speaking only for myself, I would like to recommend a no vote. In my opinion, these 2 should never have been divided. One is useful only if the other were adopted.

VICE PRESIDENT HUTCHINSON: Mrs. Judd, are you the only offerer of that amendment? Were you the original offerer of that amendment?

MR. BARTHWELL: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Barthwell.

MR. BARTHWELL: Hasn't the previous question been called on this?

VICE PRESIDENT HUTCHINSON: It has not.

DELEGATES: Oh, yes.

VICE PRESIDENT HUTCHINSON: Has it?

DELEGATES: Yes.

VICE PRESIDENT HUTCHINSON: The Chair begs the pardon of the convention. The Chair forgot that. All debate is out of order.

SECRETARY CHASE: As the secretary understood the situation and as the amendments on the desk have been listed and read, they are as follows: Mrs. Cushman, Mrs. Judd, Miss McGowan and Mr. William Hanna offered the one amendment, page 1, line 4, after "religion,", by striking out "sex". That amendment has been defeated. The other amendment which was asked to be read at the same time was: Mrs. Judd offered the following amendment:

1. Amend page 1, line 6, after "legislation.", by inserting "No woman shall be discriminated against because of sex or marital status in the securing of employment or in promotion therein.".

MRS. JUDD: Mr. President, I thought the 2 had been combined. I didn't realize I was alone on this one. I will withdraw it.

VICE PRESIDENT HUTCHINSON: Mrs. Judd withdraws her amendment. Mrs. Cushman.

MRS. CUSHMAN: No. Yes. Well, we do withdraw it. But it was actually combined.

VICE PRESIDENT HUTCHINSON: The amendment is withdrawn.

SECRETARY CHASE: Miss Donnelly offers the following amendment:

1. Amend page 1, line 6, after "legislation.", by adding "This shall not be construed to prevent reasonable classification for the protection of women.".

VICE PRESIDENT HUTCHINSON: On the amendment the Chair recognizes Miss Donnelly.

MR. POLLOCK: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State the point.

MR. POLLOCK: I understood the previous question had been moved on the amendment and all amendments thereto.

VICE PRESIDENT HUTCHINSON: This is another amendment to the committee proposal.

MR. MADAR: It was "and all amendments thereto."

MR. POLLOCK: Mr. Hatch moved all other amendments thereto.

VICE PRESIDENT HUTCHINSON: The Chair is corrected. That's true. The Chair remembers that was the wording of the motion. The previous question is in effect. The question is upon the amendment offered by Miss Donnelly. All those in favor will say aye.

MISS DONNELLY: Mr. President, please. Mr. President, please.

VICE PRESIDENT HUTCHINSON: For what purpose does the lady rise?

MISS DONNELLY: Clarification. Apparently there are people who feel the word "sex" is out. Would the Chair rule whether the word "sex" is in or out of the committee proposal?

VICE PRESIDENT HUTCHINSON: The amendment is not debatable, Miss Donnelly.

MISS DONNELLY: Would you just read whether the word is in or out?

SECRETARY CHASE: The word "sex" remains in section a.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Miss Donnelly. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. Any further amendments to the body of the proposal?

SECRETARY CHASE: None, Mr. President.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of Committee Proposal 26.

MR. YEAGER: Mr. President, I rise to urge a yes vote on this section. As you perhaps know, I voted against Committee Proposal 71A which established a civil rights commission. The 71A proposal at—

MR. MADAR: I rise to a point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What's the point of order, Mr. Madar?

MR. MADAR: There is to be no more debate on this amendment or any amendments thereto.

VICE PRESIDENT HUTCHINSON: This is not an amendment. This is debate upon the proposal. Mr. Yeager.

MR. YEAGER: I voted against Committee Proposal 71A which established a civil rights commission. Committee Proposal 71A had nothing to do with the rights that dealt with legislative enforcement. This section, however, is very different. It is basic and necessary in the constitution and I therefore happily support its adoption.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of Committee Proposal 26. All those in favor will vote aye. Those opposed will vote no. Voting has commenced. Have you all voted? The voting machine is still open. You may still vote. Now have you all voted? The secretary will lock the machine and record the vote. Mr. Pollock.

MR. POLLOCK: Mr. President, there must be a mistake in one vote there. The gentleman is not here. Mr. Lawrence.

VICE PRESIDENT HUTCHINSON: Very well. The Chair notes that the gentleman from Washtenaw, Mr. Lawrence, is not present, and his vote will not be recorded.

The roll was called and the delegates voted as follows:

Yeas—118

Allen
Andrus, Miss
Baginski
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Blandford
Bledsoe
Boothby
Bradley

Gover
Greene
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie

Ostrow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney

Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel

Hubbs
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris

Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Snyder
Spitler
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the adoption of Committee Proposal 26, the yeas are 118; the nays, none.

VICE PRESIDENT HUTCHINSON: **Committee Proposal 26** is passed and referred to the committee on style and drafting.

For Committee Proposal 26 as rereferred to the committee on style and drafting, see above, page 2887.

Mr. Pollock.

MR. POLLOCK: Before considering the next proposal, I would just like to comment that I think we have made history in enacting Committee Proposal 26. I think it is one of the most significant actions of this convention. (applause)

VICE PRESIDENT HUTCHINSON: The secretary will read.

SECRETARY CHASE: **Committee Proposal 58,** A proposal pertaining to the elective franchise. A substitute for article III amending sections 4, 8, 9 and substituting new language for the other sections thereof.

MR. POLLOCK: Mr. President, I move that we dispense with the reading of Committee Proposal 58.

VICE PRESIDENT HUTCHINSON: Without objection, Committee Proposal 58 will be considered read. The Chair hears no objection and it is so ordered.

Following is Committee Proposal 58 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 2282.):

Sec. a. Every citizen of the United States who has attained the age of 21 years, and has resided in this state 6 months, shall be an elector and qualified to vote in any election, except as otherwise provided in this constitution. The legislature shall by law define residence for voting purposes, and may impose a local residence requirement of no less than 30 days.

Sec. b. The legislature may by law exclude persons from voting because of mental incompetence, or commitment to a jail or penal institution.

Sec. c. For purposes of voting in the election for president and vice president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than 6 months and may waive residence requirements of citizens of this state who have removed therefrom. The legislature may provide the manner of voting by such persons but shall not permit voting by any such person who meets the voting residence requirements of the state to which he has removed.

Sec. d. The legislature shall enact laws to regulate the time, place, and manner of all nominations and elections, except as otherwise provided in this constitution[,] or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, TO PRESERVE the secrecy of the ballot, TO guard against abuses of the elective franchise, and TO [shall] provide for a system of voter registration and absentee voting[:]. [Provided however, That] No law shall be enacted which permits a candidate in any partisan primary or PARTISAN election to have a ballot designation except when required for identification of persons who are candidates for the same office and have the same or similar surnames.

Sec. e. EXCEPT FOR SPECIAL ELECTIONS TO FILL VACANCIES all elections for national, state, county and township offices shall be held on the FIRST Tuesday after the first Monday in November in each even numbered year, or ON such other date as may hereafter be provided by the Constitution of the United States or by congress for election of members thereof[, except for special elections to fill vacancies].

Sec. f. Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money, the issue of bonds or THE INCREASE OF ANY AD VALOREM TAX RATE [increased millage] for a period of more than 5 years, only [such] persons having the qualifications of electors IN, AND who have property assessed for ANY ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. [In all other questions involving increased millage] All persons having the qualifications of electors may vote ON ALL OTHER QUESTIONS INVOLVING AN INCREASE IN ANY AD VALOREM TAX RATE AND ON BORROWING BY THIS STATE [thereon].

Sec. g. Laws shall be [passed] ENACTED to provide for the recall of all elective officers[,] except judges of courts of record [and courts of like jurisdiction] upon petition of electors [comparable] EQUAL in number to 25 per cent of the number of [electors] PERSONS voting at the LAST preceding election for the office of governor in the electoral district of the officer sought to be recalled. Any statement of reasons or grounds procedurally required shall be deemed to pose a political rather than a judicial question.

Sec. h. A board of state canvassers consisting of 4 members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers[;] . [nor shall] A majority of any board of canvassers SHALL NOT be composed of MEMBERS [adherents] of the same political party.

VICE PRESIDENT HUTCHINSON (continuing): Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand that on this proposal there are 2 amendments pending. One of these is the 18 year old vote amendment offered by Mr. Faxon, on which you will recall there were some 31 speakers in committee of the whole. The other is the closed primary offered by Mr. Yeager and others. I have spoken with Dr. Pollock, with Miss Hart, with the sponsors of each of these amendments, and in the interest of completing our work on the declaration of rights section within a reasonable period, I would move to limit debate on these amendments to 15 minutes each.

VICE PRESIDENT HUTCHINSON: The motion of Mr. Van Dusen is to limit debate upon each amendment to Committee Proopsal 58 to 15 minutes. Now, the Chair wants to have this clearly understood. Does this include all amendments to any such amendments, Mr. Van Dusen?

MR. VAN DUSEN: Yes, Mr. President.

VICE PRESIDENT HUTCHINSON: This would include

Explanation—Matter within [ ] is stricken, matter in capitals is new.

debate upon all amendments to any of those amendments?

MR. VAN DUSEN: That is correct.

MR. POLLOCK: Mr. President, there is a committee amendment. I assume that it is included?

MR. VAN DUSEN: I hadn't intended to cover it, Dr. Pollock. Only the 2 amendments that I referred to.

MR. POLLOCK: Thank you.

VICE PRESIDENT HUTCHINSON: All right. The Chair understands that the motion is to limit debate on all amendments, other than the committee amendment, to 15 minutes each. All those in favor of the motion to limit debate will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Dr. Pollock on the proposal.

MR. POLLOCK: Mr. President, the committee on style and drafting returned this rather brief article in improved condition. The committee has no objection to any of the changes made by the committee on style and drafting. But because of one omission which was called to our attention, the committee desires to offer a substitute for section a. Will the secretary please read?

VICE PRESIDENT HUTCHINSON: The secretary will read the committee amendment to section a.

SECRETARY CHASE: Mr. Pollock, on behalf of the committee on declaration of rights, suffrage and elections, offers the following amendment to Committee Proposal 58:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and inserting "Every citizen of the United States who has attained the age of 21 years, who has resided in this state 6 months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.".

MR. POLLOCK: Mr. President, I'd like to call on Mr. Buback, a member of the committee, to explain this.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, I rise to support the committee's amendment. The purpose of this amendment is to give the legislature more flexibility in defining residence for voting purposes, such as 30 days or more before the closing period of registrations, and to provide in the election statute for registered, qualified electors who shall move into another city or township in this state within the 30 day period. Now, this proviso in our present constitution was inadvertently omitted and was called to our attention, or the attention of the committee, by Senator Hutchinson and Mr. Hoxie. The new language now has the approval of Mr. Hoxie and Senator Hutchinson. I therefore urge you to support this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by the committee. All those in favor will say aye. Opposed will say no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Faxon, Mrs. Hatcher, Messrs. Bentley and Downs offer the following amendment:

1. Amend page 1, in the amendment, after "age of" by striking out "21" and inserting "18"; so that the language will read:

> Sec. a. Every citizen of the United States who has attained the age of 18 years, who has resided in this state 6 months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Faxon and others. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, I don't intend—for the benefit of those who are fatigued by the hour—to belabor this point any more. I think this was gone over to some considerable extent at the time that we discussed this during committee of the whole. I do want to make 2 points, however, that I think might have been neglected. First of all, Mr. Bentley was unable to be here and he regrets not being able to speak on the question because he has long favored this provision. Secondly, the question upon which we voted the last time, as you may know, was not the 18 year old, but the 19 year old.

At this point I just want to reaffirm those expressions that I made at that time. With a state that is growing in size and population, with the educational system that we have provided for in our educational article, and with all of the other improvements we have made, I think it would be incumbent upon us to not feel that people who are younger are less capable of understanding and appreciating some of the questions involved in government. I don't think it is a question of whether a 19 year old or a 20 year old is going to determine whether a particular bond issue is to be approved or not. The number of people we are dealing with is small in proportion to the total of citizens of the state. It is just a question of whether we feel sufficient confidence in those people of the younger generation in this state so that these people may express themselves at the polls.

This is not going to overturn any political organizations. This is not going to upset the present balance in Michigan to any appreciable extent. I think recent indications could well indicate that those conservative influences in our state are just as effective with the younger generation as any other group. And so, regardless of whether you're concerned with the bond issue or the property issue, or whether you're concerned that these people are going to offer some tremendous new political force, I think all of these things are not really germane to the main question which is whether we have sufficient confidence in permitting these younger people to assume responsibility. And if you are concerned with lessening the various problems that we've had recently with regard to crime, if you are concerned with giving these people a chance to function more effectively, then I would suggest lowering the voting age would be one way of showing that confidence and that assurance. With those words, I would like to yield to Mrs. Hatcher for any further comments she may care to make.

VICE PRESIDENT HUTCHINSON: Mrs. Hatcher.

MRS. HATCHER: Thank you, Mr. Faxon. Mr. President and delegates, I believe I have spoken once or twice before in committee of the whole and now in the convention body here relative to the lowering of the voting age from 21 to 18. The committee members compromised on the 19 year olds voting, but unfortunately we lost that battle on the floor the last time this subject was reviewed. Today I expect to make my remarks very brief and, as the contents of my remarks, I'd like to share with you a letter and a resolution that was forwarded to me by Stephen Stockmeyer, the president of the student government council of the University of Michigan. His letter is with regard to the matter of lowering the voting age from 21 to 18. I will not read the full contents of the letter but I would like your indulgence to read the resolution, which is a very short resolution, and it is as follows:

> The constitutional convention provides the state of Michigan an ideal opportunity to recognize persons between the ages of 18 and 21 as responsible citizens qualified to vote.
>
> The University of Michigan student government council believes there are good reasons for lowing the voting age to 18. Not only is the 18 year old affected directly by government policy but, more important, he has the interest and the knowledge concerning government affairs. The government policies that affect persons of age 18, such as those regarding job training, job regulations, military service, judicial procedures, education, taxes, driving, and legal contract age, provide direct experience with government decision.
>
> Today's high schools and communications media offer the 18 year old better preparation for intelligent voting than previously offered to citizens of any age group. Courses in government, history, citizenship, and political

process required in most high schools give the 18 year old understanding and the knowledge of how to use his vote. So do the political clubs and the discussion groups in which he participates. This activity sparks his interest in public affairs and in his responsibilities as a citizen. This interest and understanding are reinforced by newspapers, magazines, and the growing coverage of public affairs by television and radio.

Despite this qualification, the 18 year old is not encouraged—in fact, not allowed—to practice what he has learned or to transfer his concern with government policy into a vote and thereby participate meaningfully.

The interest, the knowledge and the understanding of the 18 year old should not degenerate into the apathy that results naturally from nonparticipation. It should be the beginning of active continuing participation in public affairs.

This resolution was adopted by the student government council of the University of Michigan March 14, 1962.

With this, I will conclude, Mr. President and delegates, and say that I urge your serious consideration of this amendment and trust that you will vote to support this.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, unfortunately I missed the vote the time before, being in Houghton in the western part of the upper peninsula, convincing our good friends up there that they should support the constitution which we are writing. However, I did read about it on the funny page of the Detroit News. Since we are not concerned here with raising the voting age to 27, I see no point in discussing this further. I am certain that everybody has decided how he wants to vote.

VICE PRESIDENT HUTCHINSON: Mr. Beaman.

MR. BEAMAN: Mr. President, I rise to oppose this amendment. In my roll as statistician of words in this convention, I found that the most used word, as well as the most misused, is "belabor." I don't want to belabor you but we heard this well debated in committee of the whole and I'm opposed to this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Bradley.

MR. BRADLEY: Mr. President and fellow delegates, I rise to support the amendment. Every spring in all the high schools around our state, commencement speakers address the graduating class, mostly 18 year olds, to the effect that they are now going forth into a brave new world to participate in life. I submit that the most important aspect in life is participation in government.

I would like to see the young people have this opportunity at age 18. I think that the experience and practice that they get in voting during their high school life is largely lost when this practice is allowed to lie fallow for 3 years before they again can take up the franchise. I think both of our parties find this to be true because we have a great deal of difficulty in getting the young married people active in politics. I think that if we gave them the opportunity to vote in this interim they might maintain this interest. Therefore, I favor the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Norris.

MR. NORRIS: Mr. President, I rise in support of the amendment and in so doing, invite the attention of the committee to a minority report which I prepared on behalf of Professor Pollock, Father Dade, Mrs. Hatcher, Mr. Hodges, Mr. Buback, and found in Journal 72, page 511. I believe it succinctly summarizes a position with regard to this matter and I would just like to call your attention to one problem that I think is not normally addressed in these considerations: and that is, the concept of a balanced electorate. By 1980, about 20 to 25 per cent of the population of this nation is going to be over 65 years of age. This has a profound impact upon the formation of the national will with regard to what matters are considered important to the electorate. I submit that in the kind of rapidly changing world which we are entering into, and with the very visible impact upon your young people, that in the interest of a balanced electorate, with an effective counterpoising of the influence of the older people with the younger people, it is in the national interest to lower the voting age in order that we might get a government that is more responsible and sensitive to the needs of the entire sovereign body.

I think it's important that the young people be given a chance to demonstrate and increase their maturity by that kind of choice which a democratic society gives to everybody: the right to make up their own minds regarding issues and candidates. And I think this whole question is resolved in this body by the question of maturity. I submit that the best way to enhance and enrich the maturity of the young people is by the amendment that is now before us. And I think history would judge us kindly and the people would judge our constitution as one of distinction and of newness if we support this amendment, and I urge that we do so.

VICE PRESIDENT HUTCHINSON: Mr. Balcer.

MR. BALCER: Mr. President, members of the convention, I am opposed to the amendment. I think I have 50 years' experience with youngsters and therefore I know they may be qualified mentally and physically, but when it comes to economically qualified, a lot of them haven't even got jobs. So the age is changing and I think that 21 should remain because in all documents and books and so on it's very much needed. So I'm opposed to the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Leppien.

MR. LEPPIEN: Mr. President and fellow delegates, when this was before us in committee of the whole you will recall that there were 2 or 3 points made that were quite important, one of which was that the gentleman who sits down here, Mr. Brake, brought out the fact that in all of his dealings with seniors in high schools at no time has he found any great desire for the right to vote on the part of the seniors who were in the age bracket that we're talking about.

I want to respectfully point out and call to your attention another point that was made at that time. It is true that a great many of our younger people are in school—about 1/3, if I have the correct figures—and then there is about another 1/3 of this same group that are in the armed services. And I respectfully submit to you, fellow delegates, that they are not in a position to know the issues on which to vote in their home area on any questions that might be local in character, and of course, that's where the majority of them are. In addition to that, I have in my hand a news article that recites, starting in '57 in Hartford, Connecticut, and it goes on to Illinois, Ohio, Tennessee, Washington, D.C., and Idaho, where all efforts to reduce the voting age were turned down because of various reasons that they have there, the reasons I have stated. I most urgently urge you to vote no on this amendment and retain the 21 year old voting.

We have heard about the balanced voting. I submit to you that if the young people in question were as qualified and had sufficient time to study the issues as the aged people have, then that would be another story. But the young people who are attending our universities and our institutions of higher learning are certainly so busy with their school work that they do not have time to evaluate the local issues. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, just as a matter of information, I think the delegates should know that there are just 285,000 citizens 18 years to 21. That's just about 6 per cent of the entire electorate. Obviously, all of the fears that have been expressed about what would happen if these immature people were permitted to vote, seem to me to be quite groundless. I join with the minority of my committee. The majority opposed this. I joined with the minority of my committee in favoring this amendment. I have favored it for a good many years. I have a good deal of contact with students in this age group. I have the highest regard for their ability to act responsibly as citizens and I want to add my support to this amendment.

VICE PRESIDENT HUTCHINSON: Miss Andrus.

MISS ANDRUS: Mr. President and members of the convention, I would like to add to what Mr. Pollock has just said. I think that different members of our convention have experience and contacts with different kinds of young people. Now, all of you know that the majority of our people don't vote. A large group do not vote. They are not interested. That would be true of people 18 to 21. I don't think you need worry about their voting wrong if they don't study or know anything about it. What some of us who have worked with young people are so concerned about is that we want to develop leaders and those people, if they are—

VICE PRESIDENT HUTCHINSON: Pardon me, Miss Andrus. The time has expired.

MISS ANDRUS: Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the Faxon amendment. The Chair recognizes Mr. Faxon for the purpose of demanding the yeas and nays.

MR. FAXON: I call for the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Faxon calls for the yeas and nays upon his amendment. Is the demand supported. The yeas and nays are ordered. The question is upon the Faxon amendment. All those in favor will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? The secretary will lock the machine and record the vote.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does the gentleman rise?

MR. VAN DUSEN: While the secretary is tabulating the votes—

VICE PRESIDENT HUTCHINSON: The Chair would request that we do not interrupt the voting by statements or announcements.

The roll was called and the delegates voted as follows:

Yeas—31

Allen
Andrus, Miss
Barthwell
Binkowski
Bradley
Buback
Cushman, Mrs.
DeVries
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Farnsworth
Faxon
Follo
Greene
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Jones
Kelsey
Krolikowski
Marshall
McLogan
Murphy
Norris
Pollock
Snyder
Young

Nays—84

Baginski
Balcer
Batchelor
Beaman
Blandford
Bledsoe
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Figy
Finch
Gadola
Goebel
Gover
Haskill
Hatch
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Martin
McCauley
McGowan, Miss
Millard
Mosier
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Youngblood

SECRETARY CHASE: On the Faxon amendment, the yeas are 31; the nays are 84.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, in conferring with a number of delegates who have asked what our schedule is likely to be, there seems to be some reason to believe that we can complete emerging problems rather quickly. And I'd just like to ask, as I did the other day, for an informal expression of opinion whether you would rather sit here and work, perhaps until 6:30 or 7:00, if necessary, and avoid a night session or whether you'd rather have an evening session. Would you prefer to work through until about 7:00 if that seems to work?

DELEGATES: Yes.

MR. VAN DUSEN: I think that's an adequate expression, Mr. President.

VICE PRESIDENT HUTCHINSON: Thank you. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Yeager, Mrs. Conklin, Mr. Leppien, Mrs. Koeze, Messrs. Stevens and Brake offer the following amendment:

1. Amend page 1, line 22, [section d] after "absentee voting.", by inserting a new paragraph to read as follows:

"All qualified electors voting in any partisan primary election held within the state shall cast their vote by political party on separate ballots after declaring and registering party affiliation under rules and regulations prescribed by the legislature.".

VICE PRESIDENT HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. President and ladies and gentlemen of the convention, first may I ask for the yeas and nays on this question?

VICE PRESIDENT HUTCHINSON: Mr. Yeager demands the yeas and nays upon the amendment. Is the demand supported? The demand is supported. Sufficient number up.

MR. YEAGER: Thank you, Mr. President. When this matter was before the committee of the whole, you may recall that the question of adopting a closed primary lost by only 5 votes. Now, the amendment provides that the legislature shall prescribe how this provision will be set up. In other words, this is not legislatively contained in the constitutional provision. The legislature does this job. We had a closed primary in this state until 1937. We now have a closed primary in the states of Ohio, Illinois, California, New York, Massachusetts, New Jersey, plus the 2 newest states of the union, Alaska and Hawaii.

A closed primary means that to vote in a party primary the voter must declare his party. The primary is, after all, a party affair. We do, in effect, have a closed primary of sorts when the parties select their candidates in convention. When we select party candidates by primary election, it is still a party affair. I do not believe that anyone who is unwilling to declare his party should help select the nominees of that party in the primary. In general elections, positively yes; this is a public matter. A primary, no. And another thought on this, that only 20 per cent of the electorate ever participate in a primary anyway. This amendment will strengthen the 2 party system and I believe this is highly desirable. When the 2 party system is strengthened, good government is strengthened.

In the new constitution we have provided for several bipartisan commissions and several bipartisan boards. Registration by party is a great help in the selection of true bipartisan bodies. The question of how to protect bipartisan boards and bipartisanship on these boards and commissions has been brought up on the floor of this convention on several occasions. But this is a practical, logical way to do it. I therefore urge the support of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. President, fellow delegates, I rise to oppose the Yeager amendment for the following reasons: in the first place, it is strictly a legislative matter and should not be in the constitution. There are several arguments in favor of retaining the primary system which Michigan has used for the last generation, whereby voters in a primary election are not obliged to register with one party in advance nor declare party allegiance.

In the first place, the so called open primary favors the position and the interests of the independent voter. Various studies have shown that some 20 to 25 per cent of the voting population have no clear party allegiance in any final sense whatsoever. In general elections they may split tickets, being as likely to support Republican as Democratic candidates or vice versa. The interests of these people, who constitute so important and critical a voting bloc in a free society, are damaged by a law which confines their primary voting to one party column or the other. For the most part, the so called independent voter prefers to express his convictions in whatever primary election may at the moment be more controversial or critical in terms of the outcome of the subsequent general election, what he regards as the welfare of the state at large. The closed primary cuts these people off from this possiblity.

In the second place, there are large numbers of persons in our society who are embarrassed by the necessity of a formal declaration of party faith. Yet these people are frequently the very ones who ought to be encouraged at all times to participate in the process of government. They include, among others, ministers of the gospel, public employees, college professors, employees of public service corporations and public utilities, and the like. In a somewhat different category, yet affected by the very same problems, are the employees of large businesses who feel that top management has a decided party position and that the requirement of a formal party declaration may be against their job interests in some fashion or other. For people in these various categories, the open primary, by a curious paradox of language, carries within it a guarantee of the right of privacy with respect to the exercise of the franchise. It is a logical extension of the right of privacy which the secret Australian primary ballot first guaranteed in general elections.

Third, the closed primary, in a fundamental sense, rests upon a mistaken notion of the nature of the American party system. It assumes that the differences between Republicans and Democrats are clear, sharp and decisive, and that all Republicans think alike or virtually alike and that all Democrats behave much the same way. Our everyday experience tells us that while there may be, on the average, some important differences between the parties and that in some general elections the differences between candidates of 2 different parties may be very important indeed, the differences within parties, between the liberal and conservative Republican and Democratic positions respectively and the adherents thereto, are far more important than the formal differences between the 2 major parties as such. It is this fact that gives the open primary its great importance. It enables the conservative voter to make his beliefs felt whenever he may feel this to be most important. It enables the liberal voter to do likewise. It enables the voter who is convinced that civil service, or financial economy, or support of the income tax, or opposition thereto, and so on, to make his influence felt where it will do the most good.

Were Americans political parties similar to those in Britain, the voter could best express his beliefs by formal adherence to the party in a strict sense. But granted the vague and informal character of American party structure, the voter of belief can best use the ballot by exercising the right to vote in open primaries. I strongly urge you to defeat the Yeager amendment. As we have done previously in committee of the whole I would ask you and I strongly urge you to defeat this closed primary proposition.

VICE PRESIDENT HUTCHINSON: Miss Andrus.

MISS ANDRUS: Mr. President and members, I would like to speak in reply to what Mr. Buback has just said. I would like to have all of you remember what the purpose of a primary election is. From our earliest history, we met in conventions to nominate candidates for members of the party to vote for. And then around 1900, about the time we drew up our constitution here in Michigan, there was a wave over the country against the smoke filled rooms, of having the members of the party nominate the candidates, so that we could all have participation. It was a very fine idea. But what has happened is that many people who are not members of the party vote in that primary election. And I'd like to give you this illustration: in several states it is entirely legislative, whether you have a party convention or whether you have a primary. In Kentucky it is that way. Some of them go to a convention and nominate their candidates. Members of the other party go to the polls and vote in the primary. In some states, one of the parties has a primary on one day and the other party has it on another day. Now, I have found among my students that most of them don't realize what the real function of a primary election is. They think it is a preelection; that the voters go—of course, it should be private—nobody should know how you vote. It should be a secret ballot. And then they come up with this question: why can't I split my ballot? I would like to vote for the Republican for governor but I'd like to vote for the Democrat for sheriff. And they argue about it. They have no idea what a primary is.

Now, I have been teaching almost since I was old enough to vote. I have never joined a political party in that time. I felt as a teacher I shouldn't. I felt I had no right to vote in a primary. I wasn't a member of a party. But of course people would have said: "Oh, she teaches government and tells people to vote and then she doesn't vote herself." Well, in the days when we had the separate ballot, you could go and you could ask for a Democratic or a Republican, I guess I confused the election officials very much because one time I asked for a Democratic and another time for a Republican. But I really felt in teaching, I should not be an active member of a party and I sincerely believed I should not vote in the primary. You wouldn't think, would you, you Republicans, of having Democrats go to your convention and deciding who your candidates should be? Nor would the Democrats expect Republicans to do it.

Now, most of our cities today have nonpartisan elections. I think that's a fine thing for your local government. But it has been difficult for our party organization and we should, in every way we can, encourage party members to be active.

Now, if you belong to some group, as Mr. Buback spoke of—teachers and others—you don't have to vote in the primary. It isn't necessary. You can vote in the regular election. If we had a convention to nominate, you wouldn't be going to that convention. So don't feel too sorry for yourselves. Let the people who are really interested in the party participate in the primary.

VICE PRESIDENT HUTCHINSON: Mrs. Koeze.

MRS. KOEZE: Mr. President and delegates to the constitutional convention, I've spoken to you before on this subject in committee of the whole. I proudly admit and acknowledge that I am a Republican. I am sure that Miss Hart proudly admits and acknowledges that she is a Democrat. Now, if she and I can do this, why shouldn't everybody else be able to do it?

In running for a delegate to this historic convention, you as delegates had to pick a party. Now, I ask you all as delegates, why did you pick the party that you did? Did you pick the party of your choice because you thought you could win under its label? Or did you honestly pick that party label because you believed in your heart and your conscience that this party came the closest to your conception of your ideals and aims? I think you all picked your party label because you believed in that party philosophy and its platform. There is no one in this delegation that ran as an independent—absolutely not one delegate here in convention ran as an independent. You may have had independent votes. But you yourself couldn't run on the independent ticket.

Now, remember we are only talking about primaries. This does not concern general elections. In the primary—and most all of you have participated in at least one—the people voting for you had a choice of party candidates; not any candidate, but a party candidate. So you were chosen from one or more Republicans or Democrats. No other place but in a primary can you do this. For when you get to a general election, you then vote either for the Republican or Democratic party's choice. For instance, I, as a Republican, think very highly of Democrat candidate Tom Downs. I like his looks. (laughter) I think he is intelligent. I think he is a gentleman. He is my friend. I go to the primary. I vote for him.

Now, then, Tom Downs, elected Democratic candidate, owes me, Ella Koeze, not one iota for that vote because Tom Downs is an acknowledged candidate running on the Democratic party philosophy and platform, which is foreign to my philosophy and platform as a Republican. Candidate Downs owes his allegiance to the Democratic party and not to Ella Koeze because she voted for him. This is plain language. In a primary I have no business as a proud and acknowledged Republican to vote for a Democrat, regardless of anything. And I say this goes for a Democrat voting for a Republican candidate in a primary.

In all my work as a party organizer, I stress to all groups the advantages of picking a party. We have 2 major parties in the United States. We urge in all of our activities that all voters pick a party, support that party with their time, talents and money. We like to have people be responsible to a party. By picking a party that comes closest to their ideals and aims, this makes for party responsibility. People should be proud of their faith, their country and above all, their party. I support this amendment. I see absolutely no reason why either Democrats or Republicans shouldn't support it.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, this is an extremely difficult position in which to speak. (laughter) I can just say that Mrs. Koeze and Miss Andrus came so close to convincing me that I almost changed what I was going to say. And if everybody in Michigan were as courageous as Mrs. Koeze is, and Miss Andrus, I am sure this would be no problem. But I am a little concerned that some of the weak minded men don't quite have the political courage that the former speaker did; and as Delegate Buback said, there are those situations where people, rightfully or wrongfully, might be afraid to designate their party affiliations. I agree completely with the previous speaker that we should build party responsibility, we should build party loyalty and party participation regardless of party. I think that does strengthen our democratic form of government.

VICE PRESIDENT HUTCHINSON: Mr. Downs, I am sorry. The time has expired. The question is upon the amendment offered by Mr. Yeager and others. The yeas and nays have already been ordered. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—58

Andrus, Miss
Batchelor
Beaman
Blandford
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover
Haskill
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
Martin
Millard
Mosier
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Upton
White
Yeager

Nays—58

Allen
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, G. E.
Buback
Cushman, Mrs.
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Greene
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Jones
Kelsey
King
Krolikowski
Kuhn
Lesinski
Liberato
Madar
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Perlich
Pollock
Rajkovich
Sablich
Sleder
Snyder
Spitler
Stopczynski
Suzore
Tweedie
Van Dusen
Walker
Wanger
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Yeager and others, the yeas are 58; the nays are 58.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment. Mr. Leppien.

MR. LEPPIEN: A question of parliamentary information, Mr. President: is it possible at tomorrow's session to move for reconsideration of this question?

VICE PRESIDENT HUTCHINSON: Yes, it is possible.

MR. LEPPIEN: Thank you.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend page 1, line 16, [section c] after "removed.", by inserting a new paragraph to read as follows:

"There shall be a presidential primary at the time and in the manner provided for by the legislature, and the delegates to the national conventions of the political parties shall be bound for at least the first convention ballot to cast their votes for that candidate of their party who received the highest vote.".

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, I think you all know that the president we have today probably would not be in the white house if it wasn't for presidential primaries. People call them hogwash and they don't mean anything and they laugh about them. But I think that you'll agree with me that the results in Wisconsin and West Virginia put Mr. Kennedy into the white house and secured his nomination.

I always thought the people should have the final say. Personally I was a great supporter of Robert A. Taft. I had the pleasure of working at the Republican convention in Chicago in 1952 and I must say at this time I was one of the most disappointed people in Chicago when our Michigan delegation, in my opinion—and it's a personal opinion—let down Mr. Republican, Robert A. Taft.

I think the people should have the say. I do not want the say of a few people in the convention. I realize we have to have party responsibility and things of that nature. I honestly think that if the people had a chance in Michigan, that Robert A. Taft would have gotten every vote that we had to give at that convention. There is no question in my mind that he could have been elected the president of the United States. Because of the Taft-Hartley law he won his own state of Ohio by over 400,000 votes, the largest margin he ever won by in history.

To me, this puts our government where most people want it: in the hands of the people. I am not speaking here as a politician. I have never really called myself a politician. But I think that the people want the right to be able to vote. Now, I know the argument is going to be made that this is legislative. We've heard it. It's legislative when you don't want it and it's not when you do want it. Now, I also know that they're going to tell me that we had this once and the people decided to do away with it. I know all about that. That is true. But I say this could be put, maybe, in the schedule and let it have another chance because more and more people are taking a greater interest in their government, in their politics. I think that the people should have the choice to decide who they want to represent them and, after all, this would only bind them on the first ballot, but I think it's something that we should remember, that in the last couple of conventions the first ballot was the decisive vote.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I will not talk long on this matter. I am sure Mr. Kuhn knows that we had it and what it was like. But I don't think he remembers the actual processes at the time as I do, because he is much younger. We had a preferential primary for presidential nomination in Michigan. It simply did not work because of the nature of the thing. All the state can do is give its preference and if it doesn't have 2 or 3 outstanding candidates to consider, it almost always gives its preference to a native son. The delegates then go to the convention prepared to trade their native son votes for other votes. And that's all it amounts to. The people do not in reality get any chance unless you have a really outright contest between 2 men. Now, probably at the time my very highly esteemed candidate, Mr. Taft, was considered, it might have worked out in that particular year. But that was the experience we had in Michigan. When you don't have that cleancut distinction between 2 national candidates, you get a native son and you just get a little more of something with which to trade.

VICE PRESIDENT HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, I rise to oppose this for just one practical reason: we just don't have any room on the voting machines for these candidates. Now, we have gone into a 4 year term for these state and county officers. We have put the supreme court justices and all these others—if we get this, we just don't physically have enough room on the voting machine. I have this here for anyone to see. From a practical standpoint, we just can't put it on the voting machine.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: The amendment on the board calling for a presidential primary would involve us in a tremendously expensive operation here in the state of Michigan. I have been through some of these primaries as well as some of the general elections and I know the cost that is involved to everybody concerned, particularly when the result is nothing more than to bind the delegation for an initial vote. The candidate is seldom nominated on an initial vote. The delegates really need to be able to use their best judgment when they get to the convention and it seems to me that this would be highly undesirable because of the great cost to all of us here in the state, in money as well as in time. I think the presidential primary is really a waste of time as well as a waste of money and even if it were held, I would oppose the provision calling for a binding of the delegates on the first convention ballot because that does nothing really, although, as I say, it binds them for an initial vote, which is seldom the final vote in any political convention. For that reason, I certainly hope that you will not vote favorably on this and thereby force a presidential primary on us here in Michigan.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, I also wish to speak against this proposed amendment. It is not good constitution drafting. It's as large as the whole section to which it is attached. It's not good politics. It's certainly not good political science or good election administration.

For the same reason that we defeated the previous amendment on the open and closed primary, we should also defeat this one because this is purely a statutory matter and the sort of subject matter which the legislature should have the discretion to deal with. It does not belong in the constitution. I am opposed to the amendment.

VICE PRESIDENT HUTCHINSON: Miss Hart.

MR. IVERSON: Mr. President, I move the previous question.

VICE PRESIDENT HUTCHINSON: Miss Hart has been recognized.

MISS HART: Thank you, Mr. President. Mr. President, I don't know what national conventions Mr. Stevens has attended. My experience—I've been to 3—my experience has been completely different. I couldn't agree more than I do with Mr. Martin and I would recommend to anyone that has a question on this that they might read The Making of a President, by Theodore White, in which he describes the problem in this primary situation in the states. I'd also like to suggest that we could end up with Garry Moore or some other television personality rather than someone who stands for the positions of parties. And for my part, I should like to leave this in the hands of delegates to the national conventions, whom I have found responsible.

VICE PRESIDENT HUTCHINSON: Mr. Iverson, the Chair would advise that your motion for the previous question would not be in order since a motion to limit debate has been already made and carried and it takes priority. The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. President, first I would want to oppose the amendment, probably not for the same reasons that Miss Hart just advocated because I believe that people inherently will elect qualified people and are probably just as qualified as party people. But I think the main thing we find happening in this country is the growing cost and expense of elections. And as to the point of the primary elections that we just went through in the presidential year, as pointed out in The Making of a President it makes it amply clear that we are closely coming to a point where unless somebody has a tremendous personal fortune to go through, he cannot become a candidate for president. Certainly, after he is nominated by the party, sufficient funds can be raised for that candidate. But when he is on his own and it is his own personal organization, he either has to get some vested interest groups to support that campaign or support it out of a personal fortune. Pretty soon we're going to have just battles of millionaires, which we're closely reaching today, in our search for qualified people for presidency. I think this would be just one more step in this growing trend. Therefore, I oppose this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: Mr. President, as I said earlier, I don't expect any real partisan politician to support it. Of course, they can throw all the red herrings they'd like; but the fact remains that Mr. Kennedy would not be in the white house today if it weren't for presidential primaries. I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn demands the yeas and nays upon his amendment. Is the demand supported?

SECRETARY CHASE: Fourteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number.

MR. KUHN: Division.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn demands a division. Is the demand supported? Sufficient number up. The question is upon the amendment offered by Mr. Kuhn. All those in favor will vote aye. Those opposed will vote no. This is a division vote. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the Kuhn amendment, the yeas are 8; the nays are 99.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. Are there any further amendments, Mr. Secretary?

SECRETARY CHASE: No.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of Committee Proposal 58. The board will please be cleared. Please clear the board. All those in favor of Committee Proposal 58 will vote aye; those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—110

Allen
Baginski
Balcer
Barthwell
Batchelor
Beaman
Binkowski

Greene
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges

Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich

Blandford
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Ford
Gover
Hood
Howes
Hoxie
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Perlich
Perras
Richards, J. B.
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Youngblood

Nays—3

Finch
Hubbs
Jones

SECRETARY CHASE: On the passage of Committee Proposal 58, as amended, the yeas are 110; the nays are 3.

VICE PRESIDENT HUTCHINSON: **Committee Proposal 58,** as amended, is passed.

Following is explanation of vote submitted by Mr. Finch:

> I voted no on Committee Proposal 58 because I object to a portion of section f. I believe that only property owners or their spouses should have the right to vote on proposals which will increase millage or on bond issues which will raise property taxes.

Following is explanation of vote submitted by Mr. Hubbs:

> Explanation of my no vote on Committee Proposal 58. I feel that the proposal is not the best provision that could be presented in the proposed constitution, because the amendment to provide for a closed primary election was lost by a tie vote with only 116 delegates voting.

VICE PRESIDENT HUTCHINSON (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 58 as amended and rereferred to the committee on style and drafting:

> Sec. a. Every citizen of the United States who has attained the age of 21 years, who has resided in this state 6 months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.
>
> Sec. b. The legislature may by law exclude persons from voting because of mental incompetence, or commitment to a jail or penal institution.
>
> Sec. c. For purposes of voting in the election for president and vice president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than 6 months and may waive residence requirements of citizens of this state who have removed therefrom. The legislature may provide the manner of voting by such persons but shall not permit voting by any such person who meets the voting residence requirements of the state to which he has removed.
>
> Sec. d. The legislature shall enact laws to regulate the time, place, and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of persons who are candidates for the same office and have the same or similar surnames.
>
> Sec. e. Except for special elections to fill vacancies all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even numbered year, or on such other date as may hereafter be provided by the Constitution of the United States or by congress for election of members thereof.
>
> Sec. f. Whenever any question is submitted to a vote of the electors which involves the direct expenditure of public money, the issue of bonds or the increase of any ad valorem tax rate for a period of more than 5 years, only persons having the qualifications of electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. All persons having the qualifications of electors may vote on all other questions involving an increase in any ad valorem tax rate and on borrowing by this state.
>
> Sec. g. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 per cent of the number of persons voting at the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. Any statement of reasons or grounds procedurally required shall be deemed to pose a political rather than a judicial question.
>
> Sec. h. A board of state canvassers consisting of 4 members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

VICE PRESIDENT HUTCHINSON (continuing): The Chair recognizes Mr. Pollock.

MR. POLLOCK: Mr. President, this completes the proposals presented by the committee on declaration of rights, suffrage and elections and I want to thank the members of the convention for their cooperation and for their very thorough consideration. And now may I make another motion, Mr. President?

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. POLLOCK: I should like to move at this time a reconsideration of the vote by which **Committee Proposal** 22 and amendments were passed yesterday and ask that the vote on this be postponed until tomorrow morning because this is a rather small house.

For the vote on the passage of Committee Proposal 22, see above, page 2794.

VICE PRESIDENT HUTCHINSON: Mr. Pollock moves that the vote by which Committee Proposal 22, relating to civil service, that was passed on yesterday, be reconsidered. Mr. Pollock moves that further consideration of this motion be postponed until tomorrow. The question is upon the motion to postpone. All those in favor will say aye. Did you desire recognition, Mr. Leibrand?

MR. LEIBRAND: Maybe I'm a little slow on the trigger here but, if it's in order, I'd like to move that Mr. Pollock's motion also be laid on the table until tomorrow. I think the motion for reconsideration and the reconsideration, if any, should be had at the same time.

MR. POLLOCK: Mr. President.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to postpone. Mr. Pollock.

MR. POLLOCK: Under the rules, I have to make the motion to reconsider today, but I did not want to occasion any extra discussion or time tonight. Does that explain it, Judge Leibrand?

MR. LEIBRAND: No, Delegate Pollock. I thought the motion could be made the following day. Perhaps I'm wrong.

MR. POLLOCK: That was passed yesterday.

VICE PRESIDENT HUTCHINSON: This is the following day. The question is upon the motion—

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: I would desire a division.

MR. KNIRK: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Knirk.

MR. KNIRK: If I'm in order, I don't think there's any need for discussion. Let's just reconsider it now.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to postpone consideration of the motion to reconsider on which Mr. Hoxie demands a division. Is the demand for a division supported? It is supported.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Judge Dehnke.

MR. DEHNKE: I favor the motion because of the smallness of the attendance at this time.

VICE PRESIDENT HUTCHINSON: All those in favor of postponing consideration of the motion to reconsider—

MR. KUHN: Mr. President, parliamentary inquiry.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: I don't see anything in our rules that gives us the authority, unless you suspend rule 53, to go beyond today. Rule 53 says you can make it twice, on the same day and on the next day. Now, if we're going to stick closely to 53, I think you're going to have to suspend the rules and get a 2/3 vote.

VICE PRESIDENT HUTCHINSON: No. The Chair would not sustain it. The secretary will read the authority.

SECRETARY CHASE: Mason's Manual, section 472, paragraph 2, "When a motion to reconsider is laid on the table or postponed definitely, the question to be reconsidered and all adhering questions go with it."

VICE PRESIDENT HUTCHINSON: The question is upon the motion to postpone until tomorrow.

MR. KUHN: May I just add one statement to that? It was my understanding that we only look at Mr. Mason's when you can't find the answers in our convention rules.

VICE PRESIDENT HUTCHINSON: The Chair will advise Mr. Kuhn that under the rules the motion to reconsider must be made not any later than today but certainly this convention is not precluded from postponing consideration of any action that it desires to postpone. Now the question is upon postponement. All those in favor of postponing will vote aye; those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to postpone consideration of the motion to reconsider the vote on Committee Proposal 22, the yeas are 87; the nays are 27.

VICE PRESIDENT HUTCHINSON: The motion to postpone prevails. Further consideration of this motion has been postponed.

SECRETARY CHASE: Second reading calendar for the committee on emerging problems, page 10 of your second reading calendar, **Committee Proposal 125,** A proposed constitutional provision with respect to the conservation of the state's paramount interest in the air, waters and other natural resources of the state.

Following is Committee Proposal 125 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2618.):

Sec. a. [The people of the state holds a paramount public interest in the air, waters, and natural resources of the state, in the interest of the health, safety, and welfare of the people. The legislature shall enact appropriate legislation to protect the air, waters, and other natural resources of the state against pollution, impairment, or destruction, so that the interest of the people may be preserved.] THE CONSERVATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE STATE ARE HEREBY DECLARED TO BE OF PARAMOUNT PUBLIC CONCERN IN THE INTEREST OF THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE PEOPLE. THE LEGISLATURE SHALL PROVIDE FOR THE PROTECTION OF THE AIR, WATER, AND OTHER NATURAL RESOURCES OF THE STATE FROM POLLUTION, IMPAIRMENT AND DESTRUCTION.

MR. HODGES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: I would defer to Mr. Millard. I was just going to make the inquiry if we could move to have these considered read.

VICE PRESIDENT HUTCHINSON: This one has already been read. Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, the other day, not too long ago, we discussed this at length in committee of the whole. It went to style and drafting. They have rephrased this proposal in very good language. I haven't had a chance to call the committee together since this came back from style and drafting, but on talking with several of the members, they all approve the language. I think it is in very good form and I would suggest that it be adopted by this convention.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of Committee Proposal 125. All those in favor will vote aye. Those opposed will vote no. This is a record roll call vote on the passage of Committee Proposal 125. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—95

Allen
Andrus, Miss
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Faxon
Figy
Finch
Follo
Ford
Gover
Greene
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hubbs
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Turner
Tweedie
Upton
Van Dusen
Wanger
Wilkowski
Woolfenden
Young

Nays—5

Boothby
Doty, Dean
Farnsworth
Hutchinson
Rood

Explanation—Matter within [ ] is stricken, matter in capitals is new.

SECRETARY CHASE: On the passage of Committee Proposal 125, the yeas are 95; the nays 5.

VICE PRESIDENT HUTCHINSON: **Committee Proposal 125** is passed and is referred to the committee on style and drafting.

For Committee Proposal 125 as rereferred to the committee on style and drafting, see above, page 2900.

The secretary will read the next proposal.

SECRETARY CHASE: Item 2 on the calendar, **Committee Proposal 126,** A proposal to affirm the state's primary concern in public health.

Following is Committee Proposal 126 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2618.):

> Sec. a. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health. The promotion and development of health and physical fitness shall always be encouraged.

VICE PRESIDENT HUTCHINSON: Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, this proposal was debated at length last week. I don't think there is any need to call attention to any of the matters contained there. I understand there is an amendment and I would like to have the secretary proceed with the amendment.

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment to Committee Proposal 126:

1. Amend page 1 by striking out all of lines 4 and 5, which read, "The promotion and development of health and physical fitness shall always be encouraged."

VICE PRESIDENT HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, I was not here at the time that this particular section was approved in committee of the whole and I would appreciate your listening to my comments with regard to this last sentence. Now, the committee on education had submitted language of an identical sort for the "promotion and development of recreation." I'll leave off the other part "shall always be encouraged." This is even more specific. We're beginning to now break recreation down into health and physical fitness. And I would suggest that that first sentence, as broad as it is, the public health and the general welfare, well includes physical fitness and health. If we are going to now start naming all of the things that we think should be encouraged, I can bring to you the constitutions of old that name frugality, temperance, industry, honesty and a whole slew of good things that ought to be promoted, encouraged and developed, and I'm certain that no one would find any disagreement with it.

This last sentence does not do anything. It even diminishes the impact of the first 2 sentences. If we think of public health and general welfare, then who can sit here and say that health and physical fitness aren't a part of health and general welfare? I think that third sentence is redundant. I think it's unnecessary. And I would ask that if you felt negative towards the inclusion of the word "recreation," then I fail to appreciate the reasons why this suddenly appears at this time as some new star in the horizon and some new promotion and development, something other than what we have previously considered. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: I want to speak on the proposal itself, not on the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Radka.

MR. RADKA: I was merely going to move the previous question, but if Mr. Madar was going to speak, I wouldn't stop him.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Faxon. All those in favor will say aye. Opposed will say no.

The amendment appears to have been adopted. The amendment is adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is requested. Is the demand supported? The demand is supported, 10 or more are up. All those in favor of the amendment offered by Mr. Faxon will vote aye. Those opposed will vote no. This is a division vote, only upon the amendment offered by Mr. Faxon to strike out the last sentence of Committee Proposal 126. Have you all voted? If so, the secretary will lock the machine and record the vote.

SECRETARY CHASE: On the amendment offered by Mr. Faxon, the yeas are 52; the nays are 37.

VICE PRESIDENT HUTCHINSON: The amendment is adopted.

SECRETARY CHASE: Miss Donnelly offers the following amendment to Committee Proposal 126:

1. Amend page 1, by striking out all of the proposal after the enacting clause.

VICE PRESIDENT HUTCHINSON: On the amendment, Miss Donnelly.

MISS DONNELLY: Initially, I would like to apologize, Mr. President and the convention, for not speaking on this issue before. I was busy with eminent domain and I had not read it carefully enough to be aware of the problem. I think in this language we have done something we don't intend to do. We earlier have gone to great lengths to protect the rights of the practice of medicine one way or another; we have set up boards, indicating that suitable ways of treating people shall not be legislated this way, we have divided it so that the members of the allopathic profession cannot oppose the homeopathic—the allopathic against the osteopathic, and so forth. We are now going back in the other direction.

There is certain statutory language that the legislature could freely put in, but they will be confronted with the problem, having passed something under pressure from one of these groups that is designed primarily to provide the correct way of protecting public health; we are going to find ourselves involved in having the treatment of people concerned here. I think we have gone very, very seriously in the wrong direction. I think we all think public health is fine, but it's not up to us to put in the constitution language that may hamstring the legislature or give apparent constitutional mandate to do something that we are basically, I think, in this convention, not approving of if we believe in something we voted on some time ago on setting up the various and sundry memberships on these various commissions in the executive article.

A lot of people seem to think this is a very innocuous proposal but I don't think they understand all the ramifications of it. This is very serious. I think we're going in a direction we don't realize. We think it's nice the legislature can do these things, but it's not true. We better slow down and take a very long careful look at this. I therefore suggest we strike the entire thing, lest we make a mistake we have no intention of making.

VICE PRESIDENT HUTCHINSON: Mr. Jones.

MR. JONES: Mr. President, fellow delegates, I rise to oppose the Donnelly amendment and urge you to retain what is left in the committee proposal. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Figy.

MR. FIGY: Mr. President, fellow delegates, I urge you to vote against the Donnelly amendment and to support the committee proposal. We discussed this at some length. As I told you the other day, there were many proposals asking this convention to do something, at least make some reference to public health. We realize that there is a statute on the books that was passed some years ago and we think great progress has been made. And yet, looking to the future, we think we should take a stand on this thing here and I think that you should vote against the Donnelly amendment and support the committee proposal.

VICE PRESIDENT HUTCHINSON: Mr. Millard.

MR. MILLARD: Mr. President, I don't think there is any need of reiterating all of the arguments that went into this debate last week. Everybody seems to know about it. At that time we had a very favorable vote. This last clause has been stricken out, which is in regard to physical fitness that was objected to. That was an amendment that was adopted the other night. And this proposal as it now stands was the original proposal of the committee. I urge you to defeat the Donnelly amendment.

VICE PRESIDENT HUTCHINSON: Mr. Gover.

MR. GOVER: Mr. President, fellow delegates, as the saying goes around this convention, I'll be brief. I suggest that we take this entirely out of the constitution. It's legislative all the way through and I can't see any reason for having it in the constitution.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, I talked the other night on public health for 20 minutes, 14 pages. If you don't know anything about public health or why we need something, then it's your fault—not mine; then, apparently you haven't read that 14 pages and you certainly should have.

So far as I'm concerned I think we ought to defeat the Donnelly amendment just as we took out the last 2 lines. I couldn't see why we should favor Biggy Munn or anybody else. So far as I'm concerned, I think we ought to have good public health and we ought to do something about it. Let's retain this. And at this time I would like to move the previous question.

MR. G. E. BROWN: Mr. President, I would add to that, moving the previous question on this amendment and all pending amendments to Committee Proposal 126.

VICE PRESIDENT HUTCHINSON: Is the demand supported? The demand is supported. The question now is: shall the previous question be put? All those in favor will say aye. Opposed will say no.

The previous question is ordered.

MR. BLEDSOE: I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Bledsoe demands the yeas and nays upon the pending amendment offered by Miss Donnelly. Is the demand for the yeas and nays supported? There is a sufficient number up. The yeas and nays are ordered. The question is upon the amendment offered by Miss Donnelly to Committee Proposal 126, which would strike everything after the enacting clause. All those in favor will vote aye. Those opposed will vote no. This is a record roll call vote. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—36

Andrus, Miss
Bledsoe
Boothby
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Finch
Gover
Haskill
Hubbs
Kirk, S.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
McGowan, Miss
Plank
Powell
Prettie
Richards, J. B.
Rood
Rush
Seyferth
Shanahan
Sharpe
Sleder
Turner
Upton
Wanger
Wilkowski

Nays—59

Baginski
Balcer
Barthwell
Batchelor
Beaman
Bradley
Brake
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Downs
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Follo
Ford
Greene
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Madar
Marshall
Martin
McCauley
McLogan
Millard
Mosier
Murphy
Norris
Pellow
Perlich
Pugsley
Rajkovich
Sablich
Snyder
Spitler
Stafseth
Sterrett
Stevens
Suzore
Van Dusen
Walker
Woolfenden
Young

SECRETARY CHASE: On the amendment of Miss Donnelly, the yeas are 36; the nays are 59.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. Mr. Boothby, for what purpose does the gentleman rise?

MR. BOOTHBY: Mr. President, I rise to urge the defeat of this particular committee proposal. It would have the same effect as the Donnelly amendment.

VICE PRESIDENT HUTCHINSON: The Chair does not believe that the previous question was ordered on the proposal itself. The question is upon the passage of Committee Proposal 126. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—67

Baginski
Balcer
Barthwell
Beaman
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Greene
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Lesinski
Madar
Marshall
Martin
McCauley
McLogan
Millard
Mosier
Murphy
Norris
Perlich
Perras
Pugsley
Rajkovich
Sleder
Snyder
Spitler
Stafseth
Sterrett
Stevens
Suzore
Thomson
Van Dusen
Walker
Wilkowski
Woolfenden
Young

Nays—27

Bledsoe
Boothby
Brown, G. E.
Donnelly, Miss
Doty, Dean
Doty, Donald
Gover
Haskill
Hubbs
Hutchinson
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Leppien
McGowan, Miss
Plank
Powell
Prettie
Richards, J. B.
Rood
Seyferth
Shanahan
Sharpe
Turner
Upton
Wanger

SECRETARY CHASE: On the passage of Committee Proposal 126, as amended, the yeas are 67; the nays are 27.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect not having voted therefor, **Committee Proposal 126,** as amended, is not passed.

MR. MILLARD: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Millard.

MR. MILLARD: Because of the scarcity of numbers in the convention, I move that the convention adjourn.

VICE PRESIDENT HUTCHINSON: Mr. Millard moves that the convention do now adjourn. Pending the putting of the motion, the secretary has an announcement.

SECRETARY CHASE: The committee on rules and resolutions will meet in room F Friday during the noon recess. Bring your lunch. R. C. Van Dusen, chairman.

Some member of the delegation has dropped a Jack Tar garage claim check found in the hall. It is here at the desk.

Mr. Tubbs wishes to be excused from tomorrow morning's session. That's the only request, Mr. President.

VICE PRESIDENT HUTCHINSON: Without objection, Mr. Tubbs will be excused. The Chair hears no objection. The question is upon the motion of Mr. Millard that the convention do now adjourn. All those in favor will say aye. Opposed will say no.

The motion prevails and the convention stands adjourned until tomorrow morning at 9:00 o'clock.

[Whereupon, at 6:55 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Friday, April 27, 1962.]

ONE HUNDRED THIRTIETH DAY

Friday, April 27, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning comes to us through the courtesy of our Delegate Bill Leppien. It will be given by the Reverend Walter Koepplin of the Bethlehem Lutheran Church of Lansing.

REVEREND KOEPPLIN: Lord God, our heavenly Father, according to Thy merciful goodness, extend Thy saving health and strength to us this day. Preserve us and this state in righteousness and honor, and continue Thy blessing upon us as a people, that we may lead a quiet and peaceable life in all godliness and honesty. Do Thou grant health and favor to all who are here and help them to acknowledge and obey Thy holy will, and grant to us all the mind of our Lord, Jesus Christ, and dispose our days in Thy peace.

Take from us all hatred and prejudice; whatever may hinder the unity of spirit and harmony. Prosper the labors of these men who take counsel now for the state that mutual understanding and common endeavor may be increased among all people. In Thy wisdom may we serve Thee that our common life may be brought under the rule of Thy truth and righteousness. To this end then, bless this session for the sake of our risen Lord. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine and record the attendance.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Absent with leave: Messrs. Anspach, Bledsoe, T. S. Brown, Dade, Garvin, W. F. Hanna, McAllister, Nord, Page, Pellow, Romney, Shackleton, Tubbs and Yeager.

Absent without leave: Miss Andrus, Mr. Habermehl, Mrs. Hatcher, Messrs. Hood, Murphy and Wood.

PRESIDENT NISBET: Without objection the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. Habermehl, Hood, Yeager, Murphy, Mrs. Hatcher and Miss Andrus.]

May the Chair make one suggestion? We appreciate the fact that there need to be many conferences at this stage of the convention. However, it is getting more difficult all the time to hear when these conferences are being held in the location that they are. The Chair wonders if you people who need to get together to talk things over would please step out in the hall to do it so as not to disturb the delegates around you. It will help materially in speeding up the work of the convention in a much more orderly fashion and a much more understanding fashion. If you will please do that, the Chair would appreciate it very much. Mr. Madar.

MR. MADAR: I just wish to make a comment, Mr. President, this morning, and say thanks to Dr. DeVries for paying the rent. Glad to see the air conditioning is on this morning.

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: **Second reading of proposals.** The chair recognizes Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, last night I lost my troops; they started walking out of the hall by the score. When we finally took a vote on Committee Proposal 126, there were only about 90 in the room and the vote was 4 short of the 73. I move that we reconsider the vote on **Committee Proposal 126** so that the whole convention may have a chance to vote on that proposal.

PRESIDENT NISBET: The question is on the motion of Mr. Millard that Committee Proposal 126 be reconsidered. Those in favor will say aye. Opposed, no.

The motion prevails. We will now return to **Committee Proposal 126.**

For the vote on the passage of Committee Proposal 126, see above, page 2902.

SECRETARY CHASE: Committee Proposal 126, as amended, reads as follows:

> The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

PRESIDENT NISBET: Mr. Millard.

MR. MILLARD: Mr. President, this matter was handled by a subcommittee headed by Mr. Figy, and he explained this on first reading; but I think, in order that the people may be brought up to date, those that weren't here last night, I would like to yield to Mr. Figy to give an analysis of 126.

PRESIDENT NISBET: Mr. Figy.

MR. FIGY: Mr. President and fellow delegates, I do hope that you give serious consideration to this proposal. As I told you before, we had different requests in for some action by this convention to at least give some recognition to public health. We studied it very carefully in the committee on local government. It was referred to the committee on emerging problems, and we have decided, in both committees, that serious attention should be given to it. Now, we recognize that the legislature passed an act way back, I think, in '37, amended it in '54, and under that it is permissible for counties, either individually or in groups, to set up public health units, and to hire a full time public health officer. As I told you before, very much progress has been made along that line. All but 14 counties have health units now, and have public health officers. Yet because of these requests that came in, asking us to do something about it, we thought it would be well and proper that this convention give recognition to it and write just a declaratory statement into the constitution, calling on the legislature to give further consideration to the problems of public health. That is my position on it. I hope you do vote in favor of this section because we think it would be well received by the people to know that we did give full recognition to the problem. We didn't think it was necessary to write the details into the constitution, so we haven't done that, but we are serious about it, and hope you do give favorable action to this.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 126, as amended. Will you clear the board, please? Miss Donnelly.

MISS DONNELLY: Mr. President and members of the convention, as, no doubt, Mr. Figy feels that he has just regiven his speech, well, I will again give the one I gave last night. I think this is a very dangerous section. I think people do not comprehend the full meaning of some of the language here. If this is as innocuous as you think it is, don't write it. I don't think it is innocuous. I think it is very dangerous. I think it should not be in the constitution. I very strongly oppose it and ask that the convention not pass this proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 126. Mr. Stevens.

MR. STEVENS: Mr. President, is this as amended?

PRESIDENT NISBET: It is as amended. The secretary will read it.

[The proposal was again read by the secretary. For text, see above, page 2903.]

PRESIDENT NISBET: Those in favor of Committee Proposal 126, as amended, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—94

Allen
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Goebel
Greene
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Norris
Perlich
Perras
Pollock
Radka
Rajkovich
Sablich
Seyferth
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Van Dusen
White
Wilkowski
Woolfenden
Young
Youngblood

Nays—27

Boothby
Conklin, Mrs.
Donnelly, Miss
Doty, Donald
Everett
Finch
Gover
Hubbs
Hutchinson
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Lawrence
Ostrow
Plank
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Rood
Rush
Shaffer
Shanahan
Sharpe
Wanger

SECRETARY CHASE: On the passage of Committee Proposal 126, as amended, the yeas are 94; the nays are 27.

PRESIDENT NISBET: **Committee Proposal 126,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 126 as amended and rereferred to the committee on style and drafting:

Sec. a. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Mr. Goebel.

MR. GOEBEL: Mr. President, I would like to move for reconsideration of the vote on the amendment to Committee Proposal 126, which would add the additional sentence, "The promotion and development of health and physical fitness shall always be encouraged." I appreciate the fact that there may be some people in the delegation that really do not appreciate the problem this creates. It is a problem of serious portent to us, those, particularly, who are engaged in the field of physical education —

MR. BOOTHBY: Point of order.

PRESIDENT NISBET: Mr. Goebel, the Chair is informed that it is too late to bring that in now, that this has been considered, and reconsidered and passed, and that your motion now is out of order. Committee Proposal 127.

SECRETARY CHASE: Item 3 on the calendar, **Committee Proposal 127,** A proposal for a section on atomic energy.

Following is Committee Proposal 127 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2828.):

Sec. a. The legislature may provide [for the] safety MEASURES and [regulation] REGULATE THE USE of atomic energy and [such other sources] FORMS of energy [as may be] developed in the future HAVING IN VIEW [for] the general welfare of the people of [the] THIS state.

PRESIDENT NISBET: Will the delegates please clear the board as soon as the vote is taken? Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, this has been changed; that is, the wording has been changed by style and drafting. As far as I, personally, am concerned, and several members of the committee I have talked to, the changes are satisfactory. However, I would like to have an explanation made — although it was only 2 days ago that this was heard on the floor — I would like to have an explanation made by one of the members of the subcommittee that handled this, and I would like to yield to Mrs. Daisy Elliott.

PRESIDENT NISBET: Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President and fellow delegates, the present proposed provision is, of course, merely declaratory in substance, as we explained the other evening. It creates no rights, powers, or duties in the legislature, nor does it subtract any therefrom. In this respect, it resembles a number of other provisions already adopted in the constitution which do not endow the legislature with any additional legislative capacity; but, nonetheless, it serves to point the way in which the people of Michigan believe the legislature ought to move.

PRESIDENT NISBET: There is an amendment.

SECRETARY CHASE: Mr. Upton offers the following amendment to Committee Proposal 127:

1. Amend page 1, line 1, by striking out the entire proposal.

PRESIDENT NISBET: On the amendment, Mr. Upton.

MR. UPTON: Mr. President, delegates, I realize the importance of reviewing the tremendous developments made in our atomic energy in the last 10 years, and what is going to happen in the future. As Mrs. Elliott has pointed out, this provision does nothing but give some kind of direction to the legislature as to what we would like to have them do.

I think it is time for us to take a look at this section. When we did pass it, we passed it late in the evening and I believe we were just rushing through the proposals of emerging problems. In my estimation this section does nothing that the legislature can't already do and it, in my mind, may hinder them from doing something they would like to do in the future. So, I would suggest that we look at this proposal very carefully and then vote to strike the entire section. Thank you.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President, I would like to ask Mr. Millard a question through the Chair.

PRESIDENT NISBET: Mr. Millard.

MR. STERRETT: Mr. President, Mr. Millard, looking at this proposal, it appears that the Michigan state legislature would have control over atomic energy within the state of Michigan. Isn't this somewhat irregular? Doesn't the atomic energy commission in the federal government have first say-so in what we can do?

MR. MILLARD: Mr. President, I yield to Mr. King who has made a study of all the federal regulations and federal statutes in this matter.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, Mr. Sterrett, fellow delegates, it is true, Mr. Sterrett, that the federal government has not preempted, but sort of occupied this field of government during recent years. I suppose this is because, initially, the federal government was interested and active in the development of atomic energy for defense purposes. However, the federal government — and I have been in contact with the atomic energy commission in Washington on this very point — is most anxious to turn over to the state governments the regulation and control of atomic energy, with certain reservations.

First of all, however, before this can be accomplished, they must, within the state, provide for the proper legislation in order to take on this additional responsibility. There is nothing in the present constitution of Michigan so far as I can determine, which would prevent this from happening, and I don't mean to indicate that that is not the case. However, this wording would give direction to the legislature, and we would be hopeful that the legislature would see fit to set up the necessary regulations, necessary statutes, in order to take over this function. As yet, the Michigan legislature has not acted in this area at all. However, I would concede that this is primarily directive in nature.

MR. STERRETT: Mr. President and Mr. King, then it is my understanding that it is not necessary to have any reference to the federal government because we turn this authority over to the state legislature at this time, but as soon as the federal government and the atomic energy commission will permit the state to do so, then they have the authority. Is that correct?

Mr. KING: Well, once again, Mr. Sterrett, I would point out that the federal government is already prepared to turn this problem over to the states, in large measure.

MR. STERRETT: But they have not done it yet?

MR. KING: They have not done it as far as Michigan is concerned, because Michigan, as of this date, has not complied by providing the necessary legislation so that this can be done. They are not going to turn it over unless they are assured that the problem will be adequately handled at the state level, but they do desire to turn it over, turn this responsibility over. This is not the legislation that they are seeking, obviously. This is merely a direction to the legislature that this is a problem with which we, the people of Michigan, think they ought to be concerned.

MR. STERRETT: Well, Mr. President and Mr. King, wouldn't this be legislative rather than constitutional?

MR. KING: The necessary legislation would be legislative, yes. The provision is about as constitutional as saying, for example, that religion, morality, and education being necessary for the well being of mankind, it shall forever be encouraged. That's about how constitutional this is.

MR. STERRETT: Thank you.

PRESIDENT NISBET: Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President and fellow delegates, 2 states, California and New York, have already seen fit to adopt comprehensive codes of regulation specifically dealing with this hazard of air pollution and state utility regulations. Also, the legislatures of Connecticut, Maine and New Hampshire already have adopted legislation based upon this recommendation.

Although we feel it is too early to encounter any considerable number of statutes and regulations explicitly dealing with the peculiar problems arising out of the use of fissionable and radioactive materials, some explicit recognition has already found its way into the books. Since much of the utilization of such energy will be in the production of electrical energy, problems will arise under state utility regulations which will afford the financial construction and operation of nuclear power reactors. In addition, state health and safety regulations will arise because of the hazardous aspects of the utilization of fissionable and radioactive materials.

It goes without saying that, in addition to the above problems, there will be problems of disposal of waste, water and air pollution, and diversion of water since nuclear reactors utilize large quantities of water. Intergovernmental relations and problems of atomic energy with respect to industry will involve, to a large extent, the use of interstate compacts relating to water pollution. Mr. President and fellow delegates, I would urge that you adopt this proposal.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Upton. The secretary will read the amendment.

SECRETARY CHASE: Mr. Upton has offered an amendment to Committee Proposal 127, page 1, to strike out all of section a.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The question now is on Committee Proposal 127. Those in favor of the committee proposal will vote aye, those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—87

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Faxon
Figy
Gadola
Goebel
Greene
Habermehl
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Leppien
Lesinski
Liberato
Madar
Marshall
Martin
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L.W.
Sablich
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stopczynski
Suzore
Thomson
Turner
Walker
Wilkowski
Woolfenden
Yeager
Young
Youngblood

Nays—27

Boothby
Bradley
Donnelly, Miss
Doty, Donald
Everett
Farnsworth
Finch
Follo
Gover
Hubbs
Hutchinson
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
McGowan, Miss
Rood
Seyferth
Shaffer
Shanahan
Sharpe
Stevens
Upton
Van Dusen
Wanger
White

SECRETARY CHASE: On the passage of Committee Proposal 127, the years are 87; the nays are 27.

PRESIDENT NISBET: **Committee Proposal 127** is passed and referred to the committee on style and drafting.

For Committee Proposal 127 as rereferred to the committee on style and drafting, see above, page 2904.

The secretary will read the next proposal.

SECRETARY CHASE: **Committee Proposal 128,** A proposed section on intergovernmental agreements.

Following is Committee Proposal 128 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2824.):

Sec. a. Subject to provisions of general law, this state OR ANY POLITICAL SUBDIVISION or any [one or more of the governmental units] COMBINATION thereof may enter into agreements, for the performance, financing or execution of THEIR respective governmental functions, with any one or more of the other states, the United States, the Dominion of Canada, or any [governmental unit] POLITICAL SUBDIVISION thereof.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, this is another one of the very interesting problems that came to our committee which might be involved in future negotiations with other political subdivisions. The matter was gone into very thoroughly by a subcommittee headed by Mr. King, and I would like to yield to him.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and fellow delegates, this particular proposal concerns itself with a problem which is, in the opinion of the committee, acute already, and probably will become much more complex and complicated in the years to come. Now, it is not the desire of the committee to in any way infringe upon the rights of the legislature. Everything in this provision is subject to provisions of general law, of course. What we do attempt to do here — and we think this is somewhat significant — what we do attempt to do is to clear the roadblocks, as they exist today, which might prevent units of government at all levels, including one foreign power, from cooperating with one another in carrying on the function of government which has become extremely complicated.

To give you an idea of how complicated it is, I would like to quote from a pamphlet, Governmental Structure, Organization and Planning, which deals with the problems of local government in metropolitan areas. I quote as follows:

> The local government problem in metropolitan areas is unbelievably complex. At the time of the 1957 census of governments when 174 standard metropolitan statistical areas had been designated, a total of 15,658 separate local governments were identified in such areas: 266 counties; 3,422 municipalities; 2,317 townships; 9,185 independent school districts; and 3,180 other special purpose districts. This indicates an average of about 90 local governments per metropolitan area, but there is a range from a few units, in some instances, up to several hundred in other metropolitan areas.

Now, when we talk of 174 metropolitan statistical areas, I think it is obvious to all of us that we are not just talking about Detroit. We are probably talking about the Port Huron-Sarnia area, the Grand Rapids area, and the Lansing area, because there just aren't 174 metropolitan areas the size of metropolitan Detroit; so this affects more than just southeastern Michigan and, as time goes on, it will affect, even to a greater degree, other parts of the state.

The purpose of this proposal is merely to make sure that we do not prohibit, in the constitution, cooperation among various local units of government. It is the thinking of your committee, in much the same way that General Eisenhower presented the problem when he was here, that if we are going to prevent the continuous flow of government out of the state of Michigan and down to Washington, that we must provide adequate means within our constitutional framework, so that these problems, which do exist, can be solved at the local level. As General Eisenhower said, there is not much point in crying about state's rights unless you are prepared to work on state responsibilities.

We feel that the people in this state are ready and willing to solve their problems on the local level, and it is the intention of your committee to make sure that there are no roadblocks unnecessarily set in the path of this attempt by the people of this state to take care of these problems at the local level.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, I would like to support this committee proposal wholeheartedly, because I can see a great advantage to it. In my business as a marine insurance underwriter, I am very concerned with the St. Lawrence seaway. It is true, right now, that the seaway and port planning is under federal jurisdiction, but there may be the day when the United States and the Dominion of Canada would permit the province of Ontario and the state of Michigan to work further on port developments and also furthering the St. Lawrence seaway. This, of course, would enter into the economic development of the state of Michigan, which we are all grossly concerned with. Therefore, I would support this wholeheartedly, and I hope that it will be unanimously approved.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, I would like to ask Mr. King 2 or 3 questions, if I may.

PRESIDENT NISBET: Mr. King.

MR. A. G. ELLIOTT: Mr. King, when your committee studied this area of government and made its recommendations, did you take into consideration the work that the committee on local government had done under Committee Proposal 88?

MR. KING: Mr. President and Mr. Elliott, yes, we did consider the work that had been done on Committee Proposal 88, and as I explained on first reading, I would expect that the committee on style and drafting would combine those 2 proposals because there is, in some areas, some overlapping.

MR. A. G. ELLIOTT: Well, let me ask you this: you have in your last few words of your section, "with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof," which is a very, very broad concept; where the work that we did in local government had certain restrictive language in it in that it spelled out those units of local government that we felt consistently could and should, on a voluntary cooperation basis, work together. Is it your thought that the committee on style and drafting would, if necessary, adjust the language to coincide with the position taken by the convention as a result of their adoption of Committee Proposal 88?

MR. KING: Mr. President and Mr. Elliott, no, it was not our position that this proposal would be limited to the extent that Committee Proposal 88 is. It is the position of the committee on emerging problems that the limitations that should be imposed ought to be imposed by the Michigan legislature.

MR. A. G. ELLIOTT: Well, Mr. President, I would at this time like to yield, for just a moment, to Mr. Allen to speak on this subject, and then I may have some further comments to make.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, Mr. King, I think that there is an inconsistency between Committee Proposal 128 and Committee Proposal 88, as to a part of it; and the part of it would be where you refer to "or any political subdivision or any combination thereof" — and that would mean of Michigan — and in the last line where you say, "or any political subdivision thereof," meaning any other state or any other branch of subordinate unit of government or of Canada.

Now, the relationship between these units under your proposal, as far as performance, financing or executing a governmental function, in the constitutional language is without any limit, except as provided by the legislature; whereas, in our proposal, the relationship between this set of units is restricted, on the financing and on contracts, to functions which each unit may perform. That is, this prevents what we call "leapfrogging."

Now, I think there is this inconsistency, and I was hoping that perhaps somehow, as Mr. Elliott suggested, and as I spoke to you yesterday, it would be worked out. But, if we leave it just as it is, we do have an inconsistency. In other words, our proposal is more tightly drawn than this part of yours. You aren't inconsistent when you talk about the state dealing with another state or the state of Michigan dealing with Canada, but

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

when you do talk about any subordinate unit of Michigan and any subordinate unit of Ohio or Wisconsin or Canada, unless the legislature makes the same restriction which we have constitutionally put in, there is this inconsistency.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and Mr. Allen, I would agree that there is this inconsistency, and I had hoped that the style and drafting committee would perhaps work out Committee Proposal 128 and Committee Proposal 88 to coordinate the 2. I, personally, would prefer the broad approach to this problem. I think that the legislature is in a better position to impose restrictions of the nature which your committee found necessary to impose in Committee Proposal 88; not that they have any more talent over there — I sometimes think that they may have more time, but not necessarily more talent — but they will be coming back each year for the next 50 years, I presume, and I don't expect we will. So, they will have the opportunity of viewing problems in a contemporary setting. However, if you are concerned about this, I might suggest that the type of amendment which would cure this sort of problem is to add to the end of this proposal the words, "unless otherwise provided in this constitution."

MR. ALLEN: Well, I think that language would do it. I think it would do it.

MR. KING: I am sure it would. I am not offering it, nor will I support it, but I am sure it will do it.

MR. ALLEN: Well, Mr. President, I don't know just what is the proper procedure here. I don't want to vote against this. I think this committee has made a contribution. I just didn't want to have anything inconsistent between the 2, and I would rather defer to Mr. Elliott, as chairman of the local government committee, on what is the proper procedure here; let style and drafting add those words, for example, or offer an amendment here.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, and particularly the members of local government committee, I think that there is a very essential point of difference and inasmuch as Mr. King has indicated a different point of view than the committee on local government, I feel that it is absolutely essential, if we are going to follow the convention action that was taken on Committee Proposal 88, to add this language, the words, "unless as otherwise provided in this constitution" and I would, at this time, like to offer that amendment.

PRESIDENT NISBET: Mr. Elliott, will you come —

MR. A. G. ELLIOTT: Mr. President, I am trying to avoid holding the convention up. Mr. Austin tells me that, without the amendment, style and drafting will adjust the language and that they will consider the fact and give proper weight to the fact that Committee Proposal 88 has some restrictions in it. With that assurance, I will not offer the amendment.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, I would like to ask a question of Delegate Millard or of Mr. King on this point.

PRESIDENT NISBET: Whichever one cares to answer.

MRS. JUDD: Mr. King, my purpose in asking this question is to read into the record your committee's interpretation of one aspect of this proposal on intergovernmental relations. To provide a little background for this question and answer, I would like to make a few explanatory remarks, if I may, also for the record. I have in mind a pamphlet published by the council of state governments entitled, Program of Suggested Legislation, 1962. Our state government is a member of this council, and Michigan's representative on the council's committee on suggested state legislation was Senator Haskell Nichols. Reading from the pamphlet, from page 11, I would like to read this:

> A suggested constitutional amendment specifically authorizing joint and cooperative exercise of powers and functions by the state and any of its municipal corporations or other divisions, was included in the suggested state legislation for 1961. The purpose of such provision is to remove any possible constitutional barriers to the enactment of legislation, and to provide more flexibility in cooperative endeavors that might otherwise be possible.

This point, Mr. King has already made. Then it goes on to say:

> The second part of the suggested constitutional amendments included in the program for 1961 is intended to make sure that persons —

and this is the main point of my question —

> intended to make sure that persons holding state office may serve on commissions and other agencies which are administratively attached to other governmental units but which have, as their purpose, the promotion or performance of a project for intergovernmental cooperation.
>
> Such a provision may be necessary in a number of states which have provisions in their constitutions which could be construed to bar such service for state and local officials.

That is the end of the quote from it, but I would like to give you an example or two of what I am talking about. In the National Civic Review for November, '59, is this paragraph:

> Some state constitutions do contain clauses which can be interpreted to prohibit state officials from serving on any federal agency. The attorney general of Texas, for instance, recently held that article XVI of the state constitution prohibited the president of a state university from serving on a federal advisory board because it prohibited salary payments to any person who holds, at the same time, any other office or position under this state. Ironically, the clause also barred acceptance by the attorney general of a presidential appointment to the commission on international rules of judicial procedure.

This is the type of thing we want to be sure would not happen in Michigan as a result of provisions in our constitution.

Now, to make certain that there would be no such bar to the participation of our governmental officials in such intergovernmental cooperative efforts, Dr. Pollock and I introduced a delegate proposal last winter using the text from this council of state governments' pamphlet. This text is on the secretary's desk now as an amendment to Committee Proposal 128, in case the answer to my question should be negative, but I am hopeful that the answer will not make this amendment necessary.

Now, here is my question for Mr. King: are there, or, rather, will there be any provisions in the new constitution which could be construed to bar state or local officials from serving on commissions or other agencies whose purpose is the promotion or performance of a project in intergovernmental cooperation, and if there are such obstructions, would you consider my proposed amendment desirable?

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and Mrs. Judd, fellow delegates, at the time the subcommittee on intergovernmental relations was working on this problem, we did not find anything in the constitution as of that date — I mean the proposed constitution, of course — which would present this kind of an obstacle. Article VI, section 14, and article VI, section 15, under the executive branch article concerning the governor and concerning members of congress and other persons holding office under the United States or this state, with regard to their eligibility for the office of governor, has been eliminated by an exclusion report. We did, as I say, consider the problem. Since that time, Committee Proposal 120 has been adopted on first reading, and that reads as follows:

> No person elected a member of the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the governor and senate, from the legislature, or from any other state authority, during the term for which he is elected.

I would have to conclude that Committee Proposal 120, as passed on first reading, would be a barrier to the sort of thing of which you speak.

I do not think that the committee on emerging problems would have any objection to the amendment which you now suggest, provided, I think — and this is a personal opinion — but I think that they might like something in there which would prevent such persons who are appointed to these commissions and boards from receiving salaries from both the legislative office and from the other office that they are holding. I don't think anybody would argue with the proposition that a legislator could be a very valuable addition to a board or commission, as long as he was serving in an advisory capacity or a capacity not for remuneration other than expenses. That is, quite frankly, my personal opinion, though. Does that answer your question, Mrs. Judd?

MRS. JUDD: Thank you, Mr. King. Mr. President, could I ask Dr. Pollock if, in view of this answer, he thinks that this proposed amendment which he and I have jointly sponsored, is necessary?

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, Mrs. Judd, yes. I think, if the committee has no objection, it would be a whole lot clearer if we could positively provide that the constitution was not intended to interfere with such interstate service by any local or state official in the state of Michigan.

On the commission on which I have served, the commission on intergovernmental relations in Washington, we had 2 appointments which were made by the president, one, of a New York state senator and one of a Texas legislator to this commission, and in both cases, the attorney generals in those states ruled that they could not be members of this federal intergovernmental agency. I think everybody wants to promote this kind of cooperation, and I just want to be sure that nothing in the constitution prohibits it.

While I am here, I would also like to say that I hope no interjurisdictional difficulties between local government and this committee will arise, because we presented our proposal originally to local government and they took out of it that portion which related to local relationships and left hanging this very important question which the emerging problems committee has now fortunately presented to us, namely state-local, state-state, and state-foreign, all of which may be very important in the future. I suggest, Mrs. Judd, that you ask that the amendment be introduced, if the committee has no objection to it.

MRS. JUDD: Thank you, Dr. Pollock. Could I ask the secretary to read the amendment? Is it possible to get it on the board? It is kind of difficult to follow.

SECRETARY CHASE: Mr. Pollock and Mrs. Judd offer the following amendment:

1. Amend page 1, line 6, after "thereof.", by inserting

"Any other provision of this constitution to the contrary notwithstanding, an officer or employee of the state or any municipal corporation or other subdivision or agency thereof may serve on or with any governmental body as a representative of the state or any municipal corporation or other subdivision or agency thereof, or for the purpose of participating or assisting in the consideration or performance of joint or cooperative undertakings or for the study of governmental problems, and shall not be required to relinquish his office or employment by reason of such service. The legislature by statute may impose such restrictions, limitations or conditions on such service as it may deem appropriate.".

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, this is a provision which I think will give the committee on style and drafting quite a field day. It really is very wordy, and I would hope that they can improve it, but these are the words from the council of state governments.

I would like to point out that the reason why it is important that people who hold office should be able to serve on these intergovernmental committees is that that is why they are valuable, and therefore, they should be able to do both things. Now, there is nothing in here that says they shall not receive another salary, except that the last sentence does give the legislature power to impose any restrictions or limitations or conditions on such service as it may deem appropriate.

Now, Mr. President, may I ask Mr. King whether he thinks that is adequate to prevent an additional salary, and if not, I would suggest that he propose any changes.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, Mrs. Judd, fellow delegates, I fail to see what, in that amendment, would prevent an additional salary. Would you point that out if you think there is something there?

MRS. JUDD: Only that it does leave to the legislature power to impose restrictions.

MR. KING: Well, I would only say that once again we have a conflict and before we leave this proposal, I would like to go back to the conflict that Mr. Elliott is satisfied to leave up to style and drafting, because I am not sure I am; but once again, this would be in conflict with Committee Proposal 120, and I think that if Committee Proposal 120 reflects the thinking of this convention, that perhaps something could be added at the end to the effect that remuneration for such positions shall not exceed expenses; something to that effect, I think, would make the 2 quite compatible. Would you have any objection to that sort of language?

MRS. JUDD: None at all.

MR. KING: I will prepare an amendment along those lines, then.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Well, I don't know what is the next procedure, whether we wait for Mr. King's amendment —

PRESIDENT NISBET: Mr. King, are you preparing — Mr. Allen? We are talking on the amendment, now, offered by Dr. Pollock and Mrs. Judd.

MR. ALLEN: While Mr. King is preparing his amendment, may I ask Mrs. Judd a question?

PRESIDENT NISBET: Mrs. Judd.

MR. ALLEN: Mrs. Judd, do you think that your proposed amendment is going to get tangled up with somewhat similar language, but not exactly the same, at the tail end of Committee Proposal 88, particularly in view of the action which was taken on second reading on this section, and is in our journal at page 1006, Journal 123, where, under the Hanna amendment, members of the legislature were specifically taken out? My offhand impression would be, if yours passes, style and drafting better just knock out that last paragraph in Committee Proposal 88, because you say everything that that says plus a little more.

MRS. JUDD: I don't have Committee Proposal 88 in front of me, and I am not quite sure what you are referring to.

MR. ALLEN: This was the provision —

PRESIDENT NISBET: Mr. Allen, Mr. Leppien has a motion he would like to make.

MR. LEPPIEN: Mr. President and fellow delegates, just a brief remark before I make the motion. It seems to me that we have a problem here that cannot be resolved on this floor. Therefore, I move that the emerging problem proposal be placed at the foot of the calendar for second reading.

PRESIDENT NISBET: You mean at the foot of the calendar for second reading for emerging problems?

MR. LEPPIEN: No, legislative powers, which is the next one up, isn't it?

PRESIDENT NISBET: We have one more proposal —

MR. LEPPIEN: I mean at the end of legislative powers.

PRESIDENT NISBET: The question is on the motion of Mr. Leppien that Committee Proposal 128 be put at the foot of the calendar, following legislative powers, in order that the matter may be resolved. Those in favor of that motion will say aye. Opposed, no.

The motion prevails, and the Chair would suggest that the people involved get together and have this smoothed out by that time.

Committee Proposal 129.

[Vice President Hutchinson assumed the Chair.]

SECRETARY CHASE: **Committee Proposal 129,** A proposal to describe legislative authority over state public lands.

Following is Committee Proposal 129 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2825.):

Sec. a. The legislature shall have [a] general supervisory jurisdiction over all state OWNED [recreational and forest] lands USEFUL FOR FOREST PRESERVES, GAME AREAS AND RECREATIONAL PURPOSES[,]; shall require annual reports [on] AS TO such lands from all

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

[agencies] DEPARTMENTS having supervision or control thereof[,]; and shall BY GENERAL LAW PROVIDE FOR THE [formulate rules for the] sale, [rental] LEASE, or other disposition of such lands.

The legislature [may,] by a resolution concurred in by [a] 2/3 [majority] of THE MEMBERS ELECTED TO AND SERVING IN [both houses] EACH HOUSE MAY FROM TIME TO TIME[,] declare any part of such lands to be a ["primary] state land reserve[";]. AND MAY REMOVE LANDS FROM SUCH CLASSIFICATION [thereafter no such primary state land reserve]. NO LANDS IN THE STATE LAND RESERVE may be sold, leased [,] or otherwise [alienated or] disposed of except [upon the authority of] BY an act of the legislature.

VICE PRESIDENT HUTCHINSON: Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, this proposal was passed by the committee of the whole and went to style and drafting, where several changes were made in the wording as you can see from the proposal on your desk. That in caps has been made by style and drafting, and where the words are stricken out, that has been done by style and drafting. However, I have gone over this with the chairman of the subcommittee, and we do not feel that there have been any substantial changes by style and drafting. Therefore, we would approve their language and ask that the proposal be adopted in that form.

However, for an explanation of the purposes of this proposal, I would like to yield to the chairman of the subcommittee who handled this. We had a lot of hearings on it, and Judge Pugsley has made a lot of personal investigations with regard to this matter. I yield to Judge Pugsley to give his analysis of the purposes and scope of this proposal.

VICE PRESIDENT HUTCHINSON: Judge Pugsley.

MR. PUGSLEY: Mr. President and fellow delegates, I do not believe that a lengthy explanation of this matter is required. I called to your attention when this matter was presented that we have, in the state of Michigan, a very large acreage of state lands, 4¼ million, approximately, in addition to about 2¼ millions of acres which are under the control of the federal government. I also tried to make it clear that this proposal is not offered in any spirit of criticism of the supervision and, in the main, quite excellent work that has been done by the conservation department.

This proposal does introduce one feature which has not been the practice in the past, namely that of requiring the several agencies who have the handling of state lands to make annual rather than biennial reports to the legislature, as has been their practice in the past. I think the resources that we have in these lands and their importance to the state of Michigan, and especially in the field of recreation and forest preserves is one of sufficient importance to justify our recognition of it in the constitution, and I believe that we are compelled in this matter to give recognition to the fact that the legislature should constantly keep these resources in mind and, from time to time, make such rules and regulations and pass such laws as are necessary to preserve this valuable resource for the interest of the public. I believe there is much merit in this position, and I firmly recommend the adoption of this proposal.

VICE PRESIDENT HUTCHINSON: Mr. Jones.

MR. JONES: Mr. President and fellow delegates, I rise to oppose Committee Proposal 129, and I do so for the following reasons: in the first place, I feel this proposal is unnecessary because the legislature and the department of conservation over the past several years have been dealing with matters relating to the sale and transfer of state lands in a satisfactory manner; secondly, the provisions in this proposal neither add nor detract from the power which the legislature has anyway; and thirdly, this provision imposes an additional burden on state agencies by requiring annual rather than biennial reports. Therefore, I would urge this proposal be defeated. Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of Committee Proposal 129. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

SECRETARY CHASE: On the passage of Committee Proposal 129, the yeas are 81; the nays are 33.

The roll was called and the delegates voted as follows:

Yeas—81

Allen
Andrus, Miss
Austin
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Doty, Dean
Doty, Donald
Erickson
Figy
Finch
Gadola
Goebel
Gover
Greene
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Mosier
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Wilkowski
Woolfenden
Yeager

Nays—33

Baginski
Balcer
Barthwell
Bradley
Buback
Dell
Douglas
Downs
Durst
Elliott, A. G.
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Kuhn
Lesinski
Liberato
Madar
McCauley
McGowan, Miss
Murphy
Ostrow
Perlich
Richards, L. W.
Snyder
Walker
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 129, the yeas are 81; the nays are 33.

VICE PRESIDENT HUTCHINSON: The majority of the delegates elect having voted therefor, **Committee Proposal 129** is passed. It is referred to the committee on style and drafting.

For Committee Proposal 129 as rereferred to the committee on style and drafting, see above, page 2908.

Dr. Pollock.

MR. POLLOCK: Mr. President, yesterday we moved to postpone reconsideration of the vote on Committee Proposal 22. Is it now in order for me to move that that now be reconsidered along with any amendments thereto?

VICE PRESIDENT HUTCHINSON: The motion has already been made, Dr. Pollock. The question is upon the motion to reconsider.

MR. POLLOCK: I move now that we reconsider the vote by which **Committee Proposal 22** was passed, and any necessary amendments thereto.

For the vote on the passage of Committee Proposal 22, as amended, see above, page 2794.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Dr. Pollock, made on yesterday, to reconsider the vote by which Committee Proposal 22 passed. The Chair recognizes Mr. Downs.

MR. DOWNS: I wish to rise in support of Dr. Pollock's motion. This is an important subject. The vote was close, and I urge we support his motion for reconsideration.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. DOWNS: I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays upon the motion to reconsider. Is the demand supported? The demand is supported; sufficient number up. The yeas and nays are ordered. The Chair recognizes Mr. Brake on the motion to reconsider.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, I hope that this motion does not prevail. The committee on executive branch made some good improvements in the civil service setup. We made this one, very little, very slight improvement on the floor. That little one that we did make ought to stand.

VICE PRESIDENT HUTCHINSON: The Chair next recognizes Mr. Hatch.

MR. HATCH: Mr. President and ladies and gentlemen of the convention, I was not present yesterday when the amendment for which this reconsideration is asked was adopted. In my absence, the other sponsors of the amendment did an outstanding job, and I would like to take this opportunity to thank them.

Now, the amendment which was adopted day before yesterday merely provides that when rate increases are granted by the civil service commission, that the legislature has 60 days within which to reject, reduce or modify any increases, and it requires a 2/3 vote of the members elect of each house. The legislature is prohibited from reducing rates which are in effect. Now, certainly, this is not a drastic change in the present civil service setup. I think we should stop and analyze just what a civil servant is. Is he the servant of the state or is he the servant of the civil service commission? I say that a civil servant is the servant of the people. He is a public servant, and as such should be responsive to the people.

Now, how is government responsive to the people? Through their elected representatives, either the legislature or the governor. I submit to you that the civil service commission is not, in many respects, responsive to the will of the people. The commissioners have 8 year terms; true, they are appointed by the governor, but by virtue of the length of their terms, they are not truly responsive to the governor. They, most clearly, are not responsive to the legislature and, therefore, they are not, in effect, responsive to the people. Now, this amendment gives to the people some degree of control over the commission and some degree of responsiveness to the people.

I have the deepest respect for Dr. Pollock and Mrs. Judd, and in 1940, when the civil service amendment was adopted, they did the state of Michigan a great service in the effort which they put forth to see that the civil service amendment was adopted. Now, at that time in the history of our state, I think that it was necessary; but today, in my mind, civil service is an accepted fact. I support the concept of protecting civil servants from politics, from racial or religious discrimination, and the concept of promotions based upon merit, but I don't think it is necessary, at this stage in the history of the state, to keep from the legislature some small check on the increases in rates of compensation.

The opponents of this amendment have stated to me that they don't think that this provision will ever be used by the legislature. I frankly admit that it would be difficult to raise a 2/3 vote of the members elect of both houses — and perhaps it never will be used — but, by virtue of its very presence in the constitution, it will act as a deterrent to the commission against any abuses which they might exercise in the future with respect to pay increases.

This matter was argued approximately 2 days in committee of the whole. We took a half day, day before yesterday, arguing it. I think most of the arguments pro and con have been made, and I urge that the debate be short, and that the convention vote against reconsideration of the civil service provision. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move that further debate on this matter be limited to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that further debate on this motion to reconsider be limited to 5 minutes. All those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, there have been very few times, my friends, in the course of this convention where we have had a better opportunity, in my opinion, to exercise a little good business judgment than we have on this move today to reconsider our action of day before yesterday. Certainly a 2/3 vote of both houses of the legislature required — 2/3, mind you, required — in order not to reduce what you are paying under civil service, but only to pass on a proposed increase by the civil service commission.

Now, I want to say to you, when I first read this in the constitution of 1908, I was utterly amazed that the legislature didn't at least have a veto power over the pay rates or pay increases that were set by the civil service commission. I just cannot imagine any one of you, any single one of you, being in business and not at least having a veto power over pay raises.

Now, this is not something that is going to go in and cut existing pay rates. It simply says that in the final analysis, if the civil service commission goes far afield, that the legislature will have that final veto power. There are plenty of safeguards. I appeal to you, once again, use good common business sense and vote no on this motion to reconsider.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. President and members of the convention, I remind you that the legislature has the appropriation power for all of these things. I remind you again that the temptation for the patronage is probably the greatest temptation which legislators face in running for election and reelection; that this opens the door for it; that we had a fight about it back in the late 1930s; that at that time an amendment — or the ripper act which we all know about and have heard about before — passed the senate by a vote of 22 yeas and 7 nays. It is obvious that 2/3 only encourages logrolling and will be an insidious weakening of the civil service system of our state. The legislators want economy in this regard. They have the method, through the control over appropriations, if they have the courage, as they should have, to exercise that. If they don't have the courage to exercise that, they are certainly going to be weak men and use this 2/3 requirement to weaken the civil service system in the state of Michigan.

It is clear that this amendment which was passed is not merely a power to reject by 2/3, but to modify by 2/3. That means that it will be possible for the legislature to play politics by allowing increases in certain departments, and denying them and rejecting them in other departments. This is an additional insidious weakening which this amendment makes in our civil service system, and I urge you to vote yes on the motion.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, let's be calm for a minute and try to really analyze what the net effect of this sort of a proviso would be. The pure net effect of the Hatch amendment is absolutely nothing, if you are thinking in terms of the pure net effect. It seems pretty obvious to me that it is very unlikely that 2/3 of both houses would find themselves in conflict with the decision of the bipartisan civil service commission; but that is not what concerns me, and I don't think it concerns anyone else here. What does concern us is, what are the side effects of this sort of action?

First of all, you would have a conflict. Every year or every 2 years you could have certain senators and certain elected representatives in our state attacking civil service; as a proposition, attacking the wage increases. We would have a demoralization of the civil service system. The second side effect could well be the "foot in the door" argument. Let me expand upon that, because this is not too easy to see, at first. What might happen is that by passage or by debate, let's say, only 51 per cent of each house agreed that the raise was too high. They couldn't get the 2/3 vote. Then there would be great agitation for a constitutional amendment which would reduce the 2/3 to a simple majority. Once again, we would have this demoralizing effect upon our civil service. I frankly don't think that —

VICE PRESIDENT HUTCHINSON: Sorry, Mr. King, the time for debate has expired. The question is upon the motion of

Dr. Pollock to reconsider the vote by which Committee Proposal 22 passed, and the yeas and nays have been ordered. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—63

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Bentley
Binkowski
Bonisteel
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Danhof
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford

Greene
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Lawrence
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley

McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perlich
Perras
Pollock
Rajkovich
Richards, L. W.
Sablich
Snyder
Spitler
Stamm
Stopczynski
Suzore
Walker
Wanger
Wilkowski
Woolfenden
Young

Nays—67

Allen
Batchelor
Beaman
Blandford
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover

Gust
Habermehl
Haskill
Hatch
Higgs
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Millard
Mosier
Nisbet
Plank
Powell
Prettie

Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood
Yeager

SECRETARY CHASE: On the motion to reconsider, the yeas are 63; the nays are 67.

VICE PRESIDENT HUTCHINSON: The motion to reconsider does not prevail. Mr. Danhof.

MR. DANHOF: Mr. President, members of the committee, late yesterday afternoon, we considered Committee Proposal 26, known as the equal protection clause. At that time there was an amendment put forth by some of our delegates, especially those of the fair sex, regarding an amendment which, in the opinion of myself and some of the other people around here, was a valid amendment and we feel we should have considered it in that light. I think that too often we have viewed this particular subject with laughter and levity, and in the form of humor; but I can tell you that I think it is one which will cause great concern with our labor legislation, with welfare legislation that has been upon the books of this state for many, many years. There was read to you, by Mrs. Cushman, a statement prepared by our research department, statements read by the attorney general of this state, which were in conflict, and it is for that particular reason that I rise and urge that we first reconsider the vote by which **Committee Proposal 26** was passed yesterday and then reconsider the Cushman-Judd-McGowan amendment to strike from Committee Proposal 26, the word "sex." I urge this upon you for this reason: that if this particular wording is allowed to remain, you may have endangered all of the welfare and labor legislation as it relates to the work rules pertaining to married and unmarried women within this state. I feel that too often we have considered this with humor and levity; I think now it becomes time for real serious consideration. We may have endangered the common law right of dower, some of the criminal statutes of this state, and I think it is high time that we take a long second look at it and accede to the requests and the admonitions of our research staff. I therefore urge that we reconsider the vote by which Committee Proposal 26 was passed. I urge that you vote for it, and that we then reconsider the vote on the amendment of Mrs. Cushman and Mrs. Judd, and that we pass the first part of their particular amendment.

For the vote on Committee Proposal 26, see above, page 2891.

VICE PRESIDENT HUTCHINSON: The delegate from the twenty-third senatorial district, Mr. Danhof, moves that the vote by which Committee Proposal 26 was passed on yesterday be reconsidered. On the motion, the Chair next recognizes Mr. Wanger.

MR. WANGER: Pass.

VICE PRESIDENT HUTCHINSON: Mr. Iverson.

MR. IVERSON: Mr. President and fellow delegates, I rise in support of this. As Mr. Danhof has indicated, this has presented a rather serious problem. I urge you to support this motion.

VICE PRESIDENT HUTCHINSON: Mrs. Hatcher.

MRS. HATCHER: Mr. President and fellow delegates, I regret that Mr. Danhof raised the question of reconsidering Committee Proposal 26, because I felt that the vote was certainly taken in good faith yesterday, and that all of the people who wanted to discuss the subject had an opportunity, to some extent, even though the debate was limited, to speak on the subject. I had asked, through research, for some material to be gathered to substantiate the contents of Committee Proposal 26; however, I was not able to submit it yesterday, but the point of view that I possibly would have expressed, I believe, was ably expressed by Miss Donnelly and some of the other people who spoke in favor of the committee's report. The question of whether or not the Cushman amendment, the Judd amendment, joined with others, should be placed in Committee Proposal 26, in my estimation, is absolutely unnecessary, primarily and foremost because I believe the contents of, especially the Judd amendment, is legislative in nature.

I do not attempt to try to speak as an authority on the question of women. However, I have had a considerable amount of experience working in the field of labor problems as they affect women workers, and women, in general, in community and civic life and education. For that reason I feel that, from my experience in working with the United States department of labor — women's department, and working with the economic and social council of the united nations where we discuss the equality of opportunity for women throughout the world, certainly the point of view that our committee took in terms of embracing the word "sex" in the equal protection section of the declaration of rights portion of our constitution was well founded. I think it is the proper place for it to be.

I think that "sex" being included, along with other groups in our society, is certainly the proper step to take. Likewise, in our deliberations, to try to get the most knowledgeable information, and the most pertinent information concerning this matter, Miss Adelaide Hart sought the advice of the attorney general's office in terms of whether or not the contents of Committee Proposal 26 would, in any way, affect the dower rights or any other labor rights or state laws that would affect women economically, socially, or otherwise. I believe that Miss Donnelly presented in her report a portion of the attorney general's report on this matter. For your information, I don't believe it is necessary to continue to reread this, because she cited the case in Utah that was taken to the supreme court, where a decision was rendered favorably in terms of what their constitution, which is practically the same wording as Committee Proposal 26, says and I do not care to take the time, at this time, to go into it. However, if it is important to do so, if I am asked a question on it, I would be pleased to present the information at that time. Likewise, I have a report here from the U. S. department of labor — women's bureau, pointing out many of the things that the brief that was sent over from the attorney general's office stated; and further, some facts concerning women's role in political activity — the number of women that are serving their states, and in their legislatures and serving in the United States congress; plus the fact of how many women are eligible to vote and what an impact this type of consideration would have on the number of women who are able to vote in the state of Michigan.

It has been said many times here that we are trying to please several or many groups in our society. I don't believe that we will be able to please everyone, but I do think in the constitution, in the state of Michigan, in the year of 1962, that we ought to give some consideration to the fact that women are citizens, and they are citizens eligible to vote. In the last convention in 1908, we know that women were not eligible to vote at that time and, therefore, no women served as delegates at the last convention; and it stands to reason that the constitution of 1908, under these circumstances, did not embrace very much, if any, language pertaining to women. Since that time, women have received the right to vote and, likewise, are exercising these political rights in everyday activities.

I don't know very much more that I can say to express my disfavor for the reconsideration motion at this time. I feel it is taking unnecessary time of our convention to go back and rehash something as nebulous as this seems to be to me. I believe that if we continue on we have about 25 or 30 more proposals that we must take up. I think there are about 11 more days or 6 or 7 more days — I am not sure exactly how many more working days we have, and if we continue, Mr. President and fellow delegates, to go back and reconsider every single proposal that we have over once or twice, we will be here until 1972 trying to finish this constitution. It is all right with me if you want to make a career out of this, but I have something else to do, and I would like to complete the work that the people of the state of Michigan have designated me to do. So, with those few words, Mr. President, I would like to speak in opposition to reconsidering the action that was taken yesterday.

MR. J. A. HANNAH: Mr. President, a preferential motion. I want to move the previous question. This matter was thoroughly debated yesterday.

VICE PRESIDENT HUTCHINSON: Dr. Hannah moves the previous question upon the motion. Is the demand for the previous question supported? It is supported. The question now is: shall the main question be put? All those in favor will say aye.

MISS DONNELLY: Mr. President, may I make a motion to limit debate to 5 minutes?

VICE PRESIDENT HUTCHINSON: Miss Donnelly's motion takes preference. Miss Donnelly moves to limit debate on this motion to reconsider to 5 minutes. All those in favor will say aye. Those opposed will say no. The Chair is in doubt. All those in favor will vote aye, those opposed will vote no. Have you all voted? This is a division vote on the question of limiting debate to 5 minutes. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to limit debate to 5 minutes, the yeas are 61; the nays are 58.

VICE PRESIDENT HUTCHINSON: The motion prevails and debate is limited to 5 minutes. There are 4 speakers. The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, I rise to support Mr. Danhof's motion. I want to assure Mrs. Hatcher and others who, I am sure, feel as she does, that I am on their side, actually, in supporting this motion. As a lawyer, I am very much concerned and I am not totally persuaded by the attorney general's opinion on a particular subject. It doesn't take very much thought on the part of any lawyer in the room to begin to pick out in his mind the numerous statutes and decisions which do, in fact, discriminate in a manner that could be construed to be a discrimination because of sex.

From the feminist point of view, it would appear that when you put this language in the constitution, what you are saying is, women shall not be discriminated against, but you are also saying that men shall not be discriminated against, and this is where the rub comes in on some of these things. Now, I am not saying that we men do not want complete equality, but there is a long tradition in this country — maybe it is right and maybe it is wrong, depending upon your point of view — that has resulted over the years in numerous forms of discrimination, not the least of which are the laws concerning the alienation of property in this state, the laws concerning wills. Maybe these are discriminations because of sex, maybe they are discriminations because of marital status, but it is still a one way street. They work in favor of the women and rarely in favor of the men. Now, there are numerous sociological reasons for this, and perhaps this all stems from the fact that the early settlers had a shortage of women, so we have always given them preferential treatment.

Now, when we say that we want to prevent discrimination against someone because of sex, we are saying, inferentially, at the same time we prevent discrimination for someone because of sex. There is a serious question in the minds of some of us about the effect that this could have on not only the social legislation that we have in this state now, and we may want in the future, the labor legislation as a part of it, but also on the criminal statutes — and, particularly in the field of domestic relations, there are serious questions that are raised — and it would seem to us that the equal protection clause that has been devised by the committee without the word "sex" is a very broad and very good clause, and that when it refers to no person being discriminated against, it does not refer to no man being discriminated against or no woman, but to all persons regardless of sex, and that adding the word "sex," although it may at first blush seem to add something important, does not really, and does create the possibility of questions.

One delegate sent me a note here a few minutes ago saying, "I can't find any 2 people who agree on this, so I am really confused on a classification for sex." If he thinks he is confused about sex now, he ought to wait until he sees what happens when we are no longer permitted to discriminate. I suggest that there are numerous reasons why this is one form of discrimination that should be continued in the form in which it has evolved over a period of time and that we are taking a risk here with no positive suggestion, by anyone that I have heard, of the benefits to be derived that would outweigh the possible harm that might result.

Now, more important yet, when we discuss the possibility of bringing up this motion, is the fact that you are now witnessing a form of discrimination — is the fact that when this was passed there was a great deal of levity connected with it. I guess the word "sex" either conjures up some sort of an embarrassment or something of the kind that causes people to take lightly its discussion, and I don't believe that we gave the kind of serious consideration to the amendment that was presented yesterday that it should have had. Perhaps some of us did not give it the consideration that it should have had because it happened to be sponsored entirely by women, and there is a tendency on the part of some of us — and I will say this frankly — to look slightly askance at something that is promoted by the fair ladies all by themselves. So, after discussion, many of us decided that we would try to come to the aid of the ladies, and again, Mrs. Hatcher, I want to assure you I am on your side and I —

VICE PRESIDENT HUTCHINSON: The time for debate has expired upon the motion. The question is upon the motion—

MISS HART: This is a preferential motion, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the preferential motion?

MISS HART: Inasmuch as Mr. Ford filibustered for 5 minutes, I would like to ask that the time be extended for 5 minutes so that Miss Donnelly may get her day in court.

VICE PRESIDENT HUTCHINSON: The Chair will advise that the next speaker on the list is Mr. Norris, and then Mr. Garry Brown, and then Mr. Cudlip, and then Miss Donnelly. This is an order which the Chair set up as the delegates seeking recognition obtained it. The Chair advises that at the moment, the time for debate has expired. Miss Hart moves that an additional 5 minutes be allotted. All those in favor of extending debate will say aye. Opposed will say no.

MR. HOXIE: Mr. President, I move that this convention grant the first opportunity to speak to Miss Donnelly.

VICE PRESIDENT HUTCHINSON: Well, there isn't any time allotted now. It is the Chair's opinion that the motion to extend debate does not prevail.

MR. HOXIE: Mr. President, I would like to move that 2 minutes additional time be allotted for Miss Donnelly to answer Mr. Ford.

VICE PRESIDIENT HUTCHINSON: Mr. Hoxie moves that 2 minutes be allotted to Miss Donnelly. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Miss Donnelly.

MISS DONNELLY: Mr. President and members of the convention, chivalry is not dead. I thank you in behalf of all the ladies in the convention, and in behalf of fair play. I would like to suggest mainly these 2 things: there is no question that we have put in the record a case in point versus surmise. There is a certain amount of conjecture that certain gentlemen are attempting to use to becloud the issue. I don't think the issue needs it. I have suggested that we have debated this more than once. The vote has been taken more than once. If they were seriously disturbed, if this convention were seriously disturbed about the problem, it could have adopted my amendment, which was "This shall not be construed to prevent reasonable classification for the protection of women." Now that is what the gentlemen are attempting to indicate they wish to do. I suggest this is not what they wish to do; that they are beclouding the issue.

We have handled this. I think there is no reason to go into it again. There is no question that this is — from some of the statutes that they cited — I think, put in for humor. They are not applicable. They do not handle the problem. This is — I hate to say — "much ado about nothing," but it is, in one sense. To take a quote that was given me from Oliver Wendell Holmes, he stated that it would take more than the nineteenth amendment to convince him that there was no difference between men and women. I think the courts and everybody else can take judicial notice of a few facts. I am not disturbed about this, and I think we should have no reason to reconsider the vote.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Danhof to reconsider the vote by which Committee Proposal 26 was passed on yesterday. All those in favor will say aye. Opposed will say no. The Chair is in doubt.

MR. FAXON: The yeas and nays, sir.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is the demand for the yeas and nays supported? There is sufficient number up. The yeas and nays are ordered. This is a record roll call vote. The question is upon the motion to reconsider the vote by which Committee Proposal 26 was passed on yesterday. All those in favor will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—64

Andrus, Miss
Baginski
Balcer
Barthwell
Batchelor
Bentley
Binkowski
Bradley
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Ford
Gadola
Habermehl
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Leibrand
Martin
McCauley
McGowan, Miss
McLogan
Ostrow
Powell
Prettie
Rajkovich
Rush
Sablich
Seyferth
Shanahan
Sharpe
Sleder
Snyder
Stafseth
Staiger
Stamm
Sterrett
Van Dusen
Wanger
Yeager

Nays—60

Austin
Beaman
Blandford
Bonisteel
Boothby
Buback
Butler, Mrs.
Dell
DeVries
Donnelly, Miss
Downs
Elliott, Mrs. Daisy
Faxon
Goebel
Gover
Greene
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Marshall
Mosier
Murphy
Norris
Perlich
Perras
Plank
Pollock
Pugsley
Richards, J. B.
Richards, L. W.
Rood
Shaffer
Spitler
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the motion to reconsider the vote by which Committee Proposal 26 passed on yesterday, the yeas are 64; the nays are 60.

VICE PRESIDENT HUTCHINSON: The motion prevails. The question now is upon the passage of Committee Proposal 26. Mr. Danhof.

MR. DANHOF: Mr. President, I would now move to reconsider the vote by which the Cushman, Judd, et al, amendment was defeated. I would like a division vote and I move the previous question. We have debated it sufficiently.

VICE PRESIDENT HUTCHINSON: Mr. Danhof moves that the vote be a division vote. Is there support? It is so ordered. Is the demand for the previous question supported? The secretary will read the amendment which is proposed to be reconsidered.

SECRETARY CHASE: Mrs. Cushman, Mrs. Judd, Miss McGowan and Mr. William Hanna had offered the following amendment:

1. Amend page 1, line 4, after "religion,", by striking out "sex".

MR. DOWNS: I have a parliamentary inquiry, Mr. President.

VICE PRESIDENT HUTCHINSON: The gentleman, Mr. Downs, will state his parliamentary inquiry.

MR. DOWNS: Is it true, then, that whatever action was taken on this, we now have the whole proposal before us, and other than the previous question which was moved on the amendment, that there can be other amendments and discussion on the subject, is that correct?

VICE PRESIDENT HUTCHINSON: The gentleman states the matter correctly.

MR. DOWNS: Thank you.

MR. KUHN: Mr. President, parliamentary inquiry.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: I would like at this time to offer a preferential motion that Mrs. Butler be given 2 minutes to speak on this.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn moves that debate be limited to 2 minutes upon the motion to reconsider the vote on the amendment and that the Chair recognize Mrs. Butler. All those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mrs. Butler for 2 minutes.

MRS. BUTLER: Mr. President and fellow delegates, I rise to oppose any reconsideration of this, to begin with, and to ask that you keep this one word in this article. The women were quite sure that we were going to have a great deal of opposition. I feel that this constitutional convention is an example of the consideration that men have for women. Two of the most important committees have no woman on them. There have been many, many committees appointed where no woman has been a member of the committee. When it was decided that there was a committee needed to meet with the legislature, no woman was asked to be on that committee. When it was decided that there was a special committee to speed things up, no woman was asked to be on that committee. No woman has, as yet, been asked to preside in committee of the whole. I feel that the men think that we are very nice ladies, but I am telling you some of the ladies are no ladies now and they are going to come out with their fighting gloves on.

VICE PRESIDENT HUTCHINSON: Mrs. Conklin.

MRS. CONKLIN: Mr. President, I would like to make a preferential motion. I would like to move that debate be limited to 15 minutes. I think that yesterday there was a lot of hilarity on the subject, and I don't think that we have straightened up too much more this morning. I don't think hardly anyone listened to Mr. Ford when he spoke, and I do think that we ought to take this matter seriously, and I would suggest they listen —

VICE PRESIDENT HUTCHINSON: The question to limit debate is not debatable. The question is upon the motion of Mrs. Conklin that debate upon the motion to reconsider the amendment be limited to 15 minutes. All those in favor of limiting debate will say aye. Opposed will say no.

By voice volume, the Chair would say that the motion did not prevail. The question is upon the motion to reconsider the amendment. Mr. Danhof has demanded the previous question. Is the demand supported? The demand is supported.

MR. G. E. BROWN: Mr. President, a preferential motion. Mr. Danhof has moved the previous question on reconsideration of this amendment, and I would move the previous question on all pending amendments and on the proposal.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Brown that the previous question be ordered on this amendment and all other amendments and on this proposal. Is the demand for the previous —

MR. DOWNS: Preferential motion.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Preferential motion that the debate be limited to 15 — I am sorry — inquiry: was the 15 minute period voted on?

VICE PRESIDENT HUTCHINSON: It was.

MR. DOWNS: — be limited to 10 minutes.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Downs that the debate be limited to 10 minutes. All those in favor will say aye. Opposed, no.

The amendment does not prevail by voice volume.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is called for. All those in favor of limiting debate to 10 minutes will vote aye. Those opposed will vote no. We are voting upon the question of limiting debate upon this amendment to 10 minutes. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to limit debate to 10 minutes, the yeas are 68; the nays are 46.

VICE PRESIDENT HUTCHINSON: The motion prevails. Debate is limited to 10 minutes upon the motion to reconsider. The Chair would like to ask the delegates to please recognize that while technically the motion to reconsider brings forward the entire subject, in the interest of time, if you will constrain and restrain yourself to the absolute motion to reconsider itself, and not the merits of the amendment, then, of course, if the matter is reconsidered, then the amendment itself will be open to debate. Why spend the time debating the amendment if the vote on the amendment itself is not actually reconsidered? The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. President and members of the convention, this matter should be treated solemnly. I appreciate parliamentary practice. I respect what the president has said. I urge you to reconsider this matter and if it is reconsidered, Mr. President, I would like to speak again.

VICE PRESIDENT HUTCHINSON: Mr. Norris.

MR. NORRIS: Mr. President, I believe I speak on behalf of the committee on declaration of rights, suffrage and elections, and say to you that this committee has dealt dispositively with this matter the entire period of the convention. The matter has been before this convention on 2 occasions, and on the last occasion, yesterday, the entire Committee Proposal 26 passed unanimously by a vote of 118 to nothing. I submit to you that this indicates in a resounding fashion, that this convention has decided to include the word "sex" to make history with regard to a very significant proposal that is emanating from this convention with regard to equal protection.

I believe that the main argument against inclusion of the word "sex" — that is, it does not permit a reasonable classification — I think, is unsound legally. We went into this matter in great detail yesterday as to the state of law with regard to it, and I submit that the motion to reconsider ought not to prevail, and that we ought to get on with the business. We have made a very significant step toward progress in recognizing the equal status of women in a long series of strides from the time when women were regarded as children, to the time when people regarded women with dignity and with honor, and I think we ought to move on in that direction.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I wish to deny that Professor Norris speaks for the committee on rights, suffrage and elections. I think he is probably right in one respect: there is no use taking any more time on this. These people were warned time and again during the committee that they were only looking for trouble. They seem to want to have the trouble. It is a matter of opinion, of course, but I don't think they are going to change their minds.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to reconsider the vote of yesterday by which the amendment failed to pass. All those in favor will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye. Those opposed will vote no. This is a division vote only.

MR. KING: Mr. President, I would like to inquire who sponsored this amendment.

VICE PRESIDENT HUTCHINSON: The gentleman is not in order now. The voting has commenced.

MR. KING: Can't you tell us what we are voting on?

VICE PRESIDENT HUTCHINSON: We are voting on the amendment which failed to pass yesterday, which would strike out the word "sex."

MR. KING: But you can't tell us who sponsored it?

VICE PRESIDENT HUTCHINSON: The secretary will advise you.

SECRETARY CHASE: Mrs. Cushman, Mrs. Judd, Miss McGowan and Mr. William Hanna offered the amendment, page 1, line 4, after "religion,", by striking out "sex".

VICE PRESIDENT HUTCHINSON: The question is upon the reconsideration of the vote by which that amendment failed to pass. All those in favor of reconsidering will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to reconsider, the yeas are 59; the nays are 59.

VICE PRESIDENT HUTCHINSON: The motion to reconsider does not prevail. The question is upon the passage.

SECRETARY CHASE: Miss Donnelly offers the following amendment —

MR. A. G. ELLIOTT: Point of order.

VICE PRESIDENT HUTCHINSON: What is the point of order?

MR. A. G. ELLIOTT: I have just been wondering if the machine was cleared before that vote was taken —

VICE PRESIDENT HUTCHINSON: The Chair will rule that the machine was cleared.

SECRETARY CHASE: Miss Donnelly now offers the following amendment —

MR. BENTLEY: Mr. President, a parliamentary inquiry. In the case of tie vote, does the Chair vote?

VICE PRESIDENT HUTCHINSON: The Chair is of the opinion that it was too late for the Chair to vote. The Chair doesn't recall whether he voted or not.

MR. G. E. BROWN: Parliamentary inquiry, Mr. President. The previous question was ordered on the amendments and the proposal itself.

VICE PRESIDENT HUTCHINSON: The previous question was not ordered. The motion for previous question was made, pending which a motion to limit debate took precedence, so the previous question has not been ordered. Mr. Downs.

MR. DOWNS: Parliamentary inquiry. I believe your ruling made it clear that the amendment that is before us, or any other amendment, can be debated at this point. Is that right?

VICE PRESIDENT HUTCHINSON: That is correct. The question before the body now is the passage of the committee proposal, to which Miss Donnelly offers an amendment.

MRS. CONKLIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mrs. Conklin.

MRS. CONKLIN: I would like to ask a question. Was the ruling that you could not vote because the vote had been announced?

VICE PRESIDENT HUTCHINSON: Yes. It was too late.

MRS. CONKLIN: How would you know it was a tie vote unless it were announced?

VICE PRESIDENT HUTCHINSON: The Chair does not vote only under a case of a tie vote. The Chair, under our rules, votes as a delegate.

MRS. CONKLIN: You confuse me. You mean that after the vote is announced, you cannot vote?

VICE PRESIDENT HUTCHINSON: That is correct.

MRS. CONKLIN: Well, I don't see how you would know if it were a tie vote unless it was announced.

VICE PRESIDENT HUTCHINSON: The Chair does not have the power to break a tie vote in this convention.

SECRETARY CHASE: Miss Donnelly and Mrs. Hatcher offer the following amendment:

1. Amend page 1, line 6, after "legislation.", by inserting "This shall not be construed to prevent reasonable classification for the protection of women.".

VICE PRESIDENT HUTCHINSON: On the amendment now offered, the Chair recognizes Miss Donnelly.

MISS DONNELLY: This amendment was offered if people are seriously concerned as to the construction that will be placed on this article in the constitution. There is no question in my mind that reasonable classification regarding women is reasonable and would be allowed, but if people feel that it is, maybe, questionable, this should resolve the issue, There are a lot of people who are worried about protection of women —

MR. WOOLFENDEN: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: The gentleman will state the point.

MR. WOOLFENDEN: I believe this identical amendment was voted on yesterday.

VICE PRESIDENT HUTCHINSON: The point is well taken. On yesterday Miss Donnelly offered the following amendment, according to page 1159:

1. Amend page 1, line 6, after "legislation.", by adding "This shall not be construed to prevent reasonable classification for the protection of women.".

MISS DONNELLY: Mr. President, because of the concern, it has been suggested that I move to reconsider the vote on this amendment. I, therefore, so move.

VICE PRESIDENT HUTCHINSON: Miss Donnelly moves to reconsider the vote by which the amendment failed to pass on yesterday. The question is upon that motion. The Chair recognizes Miss Donnelly upon her motion to reconsider, or are you completed with your statement?

MISS DONNELLY: I am sorry, Mr. President, I wasn't listening to you. Would you restate your statement?

VICE PRESIDENT HUTCHINSON: The question is upon your motion to reconsider. The Chair recognizes you upon that motion.

MISS DONNELLY: I make this motion to reconsider for the reason that there is apparently a great deal of discussion and concern. I personally feel that if there is true concern in this area that this amendment more adequately handles the situation than that other one that was considered. At this moment, I would like then to yield to Mrs. Hatcher, then to Mr. Downs.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mrs. Hatcher.

MRS. HATCHER: Thank you, Miss Donnelly. Mr. President and fellow delegates, I rise in support of reconsideration of the amendment that was discussed last night but not voted upon. It was in the number of amendments on which Mr. Hatch moved the previous question and was voted down before we had an opportunity to discuss this particular amendment; so, for that reason, I certainly trust that we can reconsider the discussion on this amendment, so that we can vote on it intelligently.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I will speak very briefly. I think there has been a question raised whether or not the reasonable classifications, particularly in labor laws, safety laws, and health laws would be affected. I am not as concerned as some of those are about the present language, who fear that it would wipe out reasonable protection to classifications we now have. However, since the question has been raised, I think that the fears in that area would be solved by this amendment. This would apply, I think, on classifications to health, safety, labor laws. I do not pretend to speak on the dower rights or other more involved property rights, but I think it could make a clearcut protection in the field of social legislation.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: I next wait my turn.

VICE PRESIDENT HUTCHINSON: Mr. Leppien is next.

MR. LEPPIEN: Mr. President and fellow delegates, twice during the course of this convention, in addition to all of the work that the committee on rights, suffrage and elections put on it, plus the fact that the commission on civil rights of the United States government is headed by our fellow delegate here, Dr. Hannah, who helped secure the words that we have before us, this proposal passed this convention by a unanimous vote. I urge the rejection of this or any other amendment to be offered. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, perhaps this is a confession of not having listened too attentively, but I am impressed with the fact that there is a genuine and sincere difference of opinion as to whether we might run into trouble if this proposal were adopted without the pending amendment. I think this pending amendment would remove all doubt, and I would like to see the question reconsidered and the amendment adopted.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Miss Donnelly to reconsider the vote by which the amendment failed to pass on yesterday. The secretary will read the amendment once more, the amendment offered by Miss Donnelly which failed to pass on yesterday, upon which the vote is now being asked to reconsider.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above.]

VICE PRESIDENT HUTCHINSON: All those in favor of reconsidering the vote by which that amendment failed of adoption will say aye. Those opposed will say no.

The motion prevails. The question is upon the amendment. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted.

MR. LEPPIEN: Division.

VICE PRESIDENT HUTCHINSON: Mr. Leppien, do you insist upon a division? The Chair only heard one or two noes.

MR. LEPPIEN: I think this is important enough, Mr. President, fellow delegates, that the roll call vote should be had, and I so request it.

VICE PRESIDENT HUTCHINSON: Mr. Leppien demands a record roll call vote, the yeas and nays, upon the adoption of the amendment. Is the demand supported?

SECRETARY CHASE: I can only count 17.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up.

The Chair declares that the amendment is adopted. The question now is upon the adoption of the proposal, as amended. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

MRS. HATCHER: Mr. President, I would like to know how Kay Cushman is voting.

VICE PRESIDENT HUTCHINSON: Does Mrs. Cushman wish to vote?

MRS. CUSHMAN: I did not vote on this because I did not feel I had competent legal advice on what this thing meant.

The roll was called and the delegates voted as follows:

Yeas—116

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Ford
Gadola
Goebel
Gover
Greene
Gust
Habermehl
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Hoxie
Hubbs
Iverson
Jones
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Liberato
Madar
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Ostrow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—3

Follo
Judd, Mrs.
Karn

SECRETARY CHASE: On the passage of Committee Proposal 26, as amended, the yeas are 116; the nays are 3.

VICE PRESIDENT HUTCHINSON: The majority of the delegates elect having voted therefor, **Committee Proposal 26,** as amended, is passed and is referred to the committee on style and drafting.

Following is Committee Proposal 26 as amended and rereferred to the committee on style and drafting:

> Sec. a. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, religion, sex or national origin. The legislature shall implement this section by appropriate legislation. This shall not be construed to prevent reasonable classification for the protection of women.

VICE PRESIDENT HUTCHINSON (continuing): Mr. Yeager.

MR. YEAGER: Mr. President, I would, at this time, like to move for reconsideration of the vote by which the convention took action on **Committee Proposal 58.** I would next move, after that, to reconsider the closed primary amendment.

For the vote on the passage of Committee Proposal 58, see above, page 2898.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Yeager to reconsider the vote by which Committee Proposal 58 was passed on yesterday.

MR. YEAGER: Mr. President, I request a division.

VICE PRESIDENT HUTCHINSON: Upon which motion Mr. Yeager demands a division. Is the demand for division supported? The demand is supported, 10 or more delegates having voted therefor. The question is upon the motion to reconsider the vote by which Committee Proposal 58 was passed on yesterday. All those in favor — Mr. Barthwell.

MR. BARTHWELL: I would like the machine to be cleared, please.

VICE PRESIDENT HUTCHINSON: Will the machine please be cleared. Mr. Downs.

MR. DOWNS: Mr. President, I just wish to speak against the reconsideration of the vote on this proposal. I think we gave it sufficient time and have made up our minds. I see no reason to reopen it.

MRS. CONKLIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mrs. Conklin.

MRS. CONKLIN: I would like to support the motion to reconsider. I think any time anything is lost by a tie vote, it should be reconsidered.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, it seems as if we have had our ears pounded a lot today, and we haven't accomplished anything. At this time, I would like to move the previous question, and if the previous question passes, I also would like to ask the previous question on the proposal, and I would like to ask for the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Madar demands the previous question at this time upon the motion to reconsider. Is the demand for the previous question supported? It is supported. The question now is: shall the main question be put? All those in favor will say aye. Opposed, no.

The previous question is ordered. The question is upon the motion of Mr. Yeager to reconsider the vote by which Committee Proposal 58 was passed on yesterday. A division has been ordered. All those in favor will vote aye. Those opposed will vote no.

MR. MADAR: Mr. President, I asked for the yeas and nays on the proposal.

VICE PRESIDENT HUTCHINSON: On the proposal or on the motion to reconsider?

MR. MADAR: No, on the proposal.

VICE PRESIDENT HUTCHINSON: Well, this is not it.

MR. MADAR: Okay.

MR. YEAGER: Mr. President, I would like to ask a question. Is a motion for yeas and nays debatable?

VICE PRESIDENT HUTCHINSON: The motion for the yeas and nays has not been made.

MR. BUBACK: I move the yeas and nays.

VICE PRESIDENT HUTCHINSON: On what? What do you make a motion on the yeas and nays for?

MR. BUBACK: On the motion for reconsideration.

VICE PRESIDENT HUTCHINSON: The yeas and nays on reconsideration have been requested. Is the demand supported?

MR. YEAGER: Is this debatable, Mr. President?

VICE PRESIDENT HUTCHINSON: The motion is not debatable. For what purpose does the gentleman rise?

MR. DEHNKE: To make a parliamentary inquiry. May we ask what particular part of the proposal Mr. Yeager desires to have reconsidered?

VICE PRESIDENT HUTCHINSON: He made the statement, that he proposes — if this motion carries, the Chair understands Mr. Yeager then proposes to move the reconsideration of the vote by which his closed primary amendment failed to pass on yesterday. Have you all voted? The yeas and nays have been ordered. This is a record roll call vote on the motion to reconsider the vote by which Committee Proposal 58 was passed on yesterday. All those in favor will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. YEAGER: Mr. President, could I ask for the vote of the Chair, please?

VICE PRESIDENT HUTCHINSON: The Chair votes aye.

The roll was called and the delegates voted as follows:

Yeas—58

Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Conklin, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Finch
Goebel
Gover
Gust
Habermehl
Hoxie
Hubbs
Hutchinson
Iverson
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Millard
Mosier
Perras
Plank
Powell
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sterrett
Stevens
Thomson
Turner
Upton
White
Yeager

Nays—68

Allen
Austin
Baginski
Balcer
Barthwell
Binkowski
Bradley
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dell
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Gadola
Greene
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Jones
Judd, Mrs.
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Ostrow
Perlich
Pollock
Prettie
Rajkovich
Richards, L. W.
Sablich
Sleder
Snyder
Spitler
Staiger
Stamm
Stopczynski
Suzore
Tweedie
Van Dusen
Walker
Wanger
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the motion to reconsider the vote by which Committee Proposal 58 passed on yesterday, the yeas are 58; the nays are 68.

VICE PRESIDENT HUTCHINSON: The motion to reconsider does not prevail.

MR. BENTLEY: Mr. President, a parliamentary inquiry.

VICE PRESIDENT HUTCHINSON: Mr. Bentley.

MR. BENTLEY: Mr. President, we had a tie vote on this matter last night, and we have had one tie vote already this morning, and I think there is something that should be cleared up. I understood the Chair to rule a few moments ago that according to our rules, the Chair votes as one of the delegates. There is, on page 358 of Mason's Manual, I believe it is section 514, paragraph 4, a ruling to the effect that where the presiding officer votes as one of the delegates, in the event of a tie vote, the presiding officer is thereby entitled to a second vote to break the tie, and I would ask for a parliamentary ruling that this prevails.

MR. BUBACK: That wasn't the situation with this last vote; with the Chair's vote, it was a tie.

VICE PRESIDENT HUTCHINSON: Mr. Bentley, the people of my district sent me here and they are entitled only to my vote. I don't think I am entitled to vote twice, even though Mr. Mason says I might. (applause)

MRS. CONKLIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mrs. Conklin.

MRS. CONKLIN: May I ask on rule 67 where you said before that you were not voting, that you were voting as a delegate; it says in rule 67, that no delegate shall be entitled to abstain from voting unless he shall have stated his intention to abstain before the voting starts.

VICE PRESIDENT HUTCHINSON: The Chair would like to observe that the rule of this convention with regard to voting or not — the present presiding officer was a member of the committee on organization, and when this thing was originally presented it seemed as though it was a kind of anomalous thing — this chairman has previously pointed out that the rule does not say that you can demand a vote. On the other hand, the rules say that no delegate shall be entitled to abstain from voting unless he shall announce prior to the time that the vote is taken that he intends to abstain. As a practical matter, the delegate in the Chair, admittedly, sometimes misses votes. There are a lot of other things here to keep track of, you know — who is supposed to speak next, and so on — and on a record roll call vote, your present chairman is always willing to vote if his vote is requested. But, the rules of this convention are kind of a peculiar thing. On one hand, they don't say that you can demand a vote, and on the other hand, they say no delegate shall abstain from voting; so, in the end it is a kind of a voluntary thing with the delegate. Now, Mr. Chase has some further precedent on this matter, which the Chair will ask him to read.

SECRETARY CHASE: This case arose in the instance of John Quincy Adams, as a member of the house of representatives (laughter) and I think the delegates will agree that he was no mean attorney. This is quoted from Hinds Precedents, volume V, section 5943.

> Attempts to require members to vote.
>
> The house does not have power to compel a member to vote. A member declined to vote in 1832, and the house found itself powerless to compel a vote in this as in later instances.
>
> On July 11, 1832, the house was considering a resolution relating to words spoken in debate by Mr. William Stanbery of Ohio, and the yeas and nays were being called on the question of agreeing to the resolution. When the name of Mr. John Quincy Adams of Massachusetts was called, Mr. Adams rose and asked to be excused from voting (under the present practice of the house a roll call may not be interrupted in this way), assigning his reasons in a paper which the clerk read as follows:
>
>> I ask to be excused from voting (the motion that a member be excused from voting now has no privilege) on the resolution, believing it to be unconstitutional, inasmuch as it assumes inferences of fact from words spoken by the member, without giving the words themselves; and the facts not being warranted, in my judgment, by the words which he did use.
>
> The question being taken, "Shall Mr. Adams be excused?" it was decided in the negative.
>
> Mr. Adams' name was again called, when he responded: "I decline to answer."
>
> A motion to reconsider the vote whereby the house had declined to excuse Mr. Adams being decided in the negative, the speaker read the rule of the house requiring every member to vote, and directed the clerk to call Mr. Adams' name again.
>
> The clerk again called the name, but no response was made by Mr. Adams, who was in his seat in the house.
>
> Thereupon Mr. William Drayton of South Carolina, moved the following resolutions:
>
>> Resolved, That John Quincy Adams, a member from Massachusetts, in refusing to vote when his name was called by the clerk, after the house had rejected his application to be excused from voting, for reasons assigned by him, has committed a breach of one of the rules of the house.
>>
>> Resolved, That a committee be appointed for the purpose of inquiring and reporting to this house the course

which it ought to adopt in a case so novel and so important.

Mr. Drayton, in presenting his resolutions, said that if this breach of rule should be passed over in silence it might hereafter be in the power of a minority to defeat the legislative functions of the body by combining together in a similar refusal.

In order to complete the roll call on the pending resolution — that relating to Mr. Stanbery — the consideration of Mr. Drayton's resolution was postponed until the next day.

On July 12, after considerable discussion, during which some doubt was expressed as to the constitutional right of the house to make a rule requiring members to vote, the resolutions were laid on the table, yeas 89, nays 63.

Sections 5944, 5945, 5946, 5947 and 5948 all deal with the same question, and in each case the house failed in attempting to compel the member to vote. Section 5948 closes with "So the attempt to require Mr. Adams to vote failed." (laughter)

MRS. CONKLIN: Mr. President, I am very happy to put you down in history with Mr. Adams.

VICE PRESIDENT HUTCHINSON: Thank you. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the delays which we have encountered this morning make it quite apparent to me, and I believe will make it apparent to you that it will require a portion of next Tuesday for us to complete the order of second reading. I make this remark at this time so that the delegates can plan their own schedules accordingly.

MR. HIGGS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: I don't want to carry this on too long, in view of Delegate Van Dusen's remarks, but I would like to ask a further question. This case read to us involved an attempt to require the Chair to vote in order to complete the roll call. Now, is there any reason why the Chair could not voluntarily complete the roll call by voting, even though the vote had been announced? It didn't say in that case whether the vote had been announced or not.

MR. HATCH: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State the point.

MR. HATCH: What is before the house at the present time?

VICE PRESIDENT HUTCHINSON: The next order of business is the order of second reading of proposals.

MR. HIGGS: This is a parliamentary inquiry that I am making.

MR. HATCH: It seems to me that we are discussing something that is not before the house at the present time.

VICE PRESIDENT HUTCHINSON: The Chair would want to dispose of this thing, if possible, very briefly, by simply saying this: that ordinarily, after a vote is announced, it is final, and then, after that happens, an additional vote can be made or a vote can be changed only by unanimous consent of the body. The Chair recognizes Mr. Walker. Mr. Walker passes. Mr. White.

MR. WHITE: Mr. President and ladies and gentlemen of the convention, this appears to be a morning for reconsiderations. As you know, yesterday we voted to eliminate the words, "liberty of speech or of the press" from section 4 of the declaration of rights. The change was affected by a margin of only 3 votes on a previous question procedure which gave us little opportunity for serious consideration of what we were doing. I am reluctant to keep the pot boiling on this issue. I don't like to force delegates to take sides, so to speak, in a hassle that appears to have developed between competing media. I should like to point out, however, that much more than a matter of prestige is involved here.

In our action yesterday, we emasculated a traditional freedom, that of speech and of the press. I point out to you that these words are traditional, historic, and meaningful to the people of Michigan, and they follow closely the language in the federal constitution. I point out further that a considerable body of legal precedents hangs upon the judicial interpretation of these words. Despite what you may have heard on this floor yesterday, there is nothing archaic or obsolete about freedom of speech and of the press. These are basic rights, and I think we are shortsighted if we allow ourselves to be persuaded to eliminate them from this new document.

If I am in order, sir, I move that we reconsider the vote on the passage of **Committee Proposal 15,** the declaration of rights. I bring this up now because I understand that we will have no opportunity to act on it on third reading.

For the vote on the passage of Committee Proposal 15, see above, page 2886.

VICE PRESIDENT HUTCHINSON: Mr. White moves that the vote by which Committee Proposal 15 was passed on yesterday and the vote by which the amendment, which the secretary will read, was adopted on yesterday, be reconsidered. The secretary will first read the amendment.

SECRETARY CHASE: The amendment is:

1. Amend page 2, line 3, [section 4] after "abridge" by striking out "the liberty of speech or of the press" and inserting "these liberties"; which will be found on page 1150 of yesterday's journal.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. President, if I thought this involved anything of serious importance, I would be glad to go along with the motion to reconsider, but I think we are overly concerned with words. The language as it now reads is this:

> Every person may freely speak, write, express, and publish his views on all subjects . . . ; and no law shall be passed to restrain or abridge these liberties.

Now, if that doesn't cover liberty of speech and liberty of the press, I am very much mistaken.

VICE PRESIDENT HUTCHINSON: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, I rise to oppose this motion for reconsideration for the reasons that Judge Dehnke has just stated very articulately, and I challenge Mr. White's statement that we emasculated these traditional freedoms. I believe that the language we adopted yesterday preserves these freedoms and is an improvement over the traditional language, and I oppose the motion for reconsideration.

VICE PRESIDENT HUTCHINSON: Mr. Plank.

MR. PLANK: Mr. President, and fellow delegates, I, of course, arise to — first a parliamentary inquiry. We reconsidered this yesterday. Is it in order to reconsider it again today?

VICE PRESIDENT HUTCHINSON: Our rules seem to make it clear that a matter can be reconsidered on the same day and then it can be reconsidered on the following.

MR. PLANK: Therefore, you would rule, it is in order?

VICE PRESIDENT HUTCHINSON: Apparently so.

MR. PLANK: Thank you, Mr. President.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I move the previous question.

VICE PRESIDENT HUTCHINSON: The Chair recognized Mr. Plank. The Chair will entertain your motion after Mr. Plank is through.

MR. VAN DUSEN: Excuse me, Mr. President. I thought Mr. Plank was through.

MR. PLANK: No, Mr. Plank isn't through. However, I would like to say that we definitely voted on this yesterday. There was a great deal of debate and there was no limit on any debate whatsoever. There was opportunity for anyone to speak on it that wanted to and, therefore, I believe the matter has been properly taken care of. I would certainly move that we should vote no on reconsideration. Thank you.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Van Dusen.

MR. MARSHALL: Mr. President, point of information. I was standing at the mike even before Delegate Plank was, and I wonder how Delegate Van Dusen can jump up and be recognized, or is this the prerogative of the Chair, to recognize any delegate that he desires?

VICE PRESIDENT HUTCHINSON: The Chair will say that the Chair didn't recognize Mr. Marshall standing there and had not had him on the list. The Chair has recognized Mr. Van

Dusen, however, and if the body desires to continue debate, all it needs to do is to vote down Mr. Van Dusen's motion; or a motion to limit debate will take precedence. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, with some trepidation, recognizing Mr. Marshall standing there, I nevertheless think everything that can be said on this has been said, and I move the previous question.

MR. MARSHALL: I resign as assistant timekeeper.

VICE PRESIDENT HUTCHINSON: Is the demand for the previous question supported?

MR. DOWNS: I have a preferential motion. I move that Delegate Marshall be granted the opportunity to speak, inasmuch as he was at the mike before Delegate Van Dusen stood up.

VICE PRESIDENT HUTCHINSON: You will have to limit debate.

MR. DOWNS: Point of information; isn't a motion always in order?

VICE PRESIDENT HUTCHINSON: Your motion would only be to limit debate. You will have to state the length of time.

MR. DOWNS: Well, my motion is that we grant Delegate Marshall the opportunity to speak.

VICE PRESIDENT HUTCHINSON: For how long?

MR. DOWNS: Five minutes. How long do you want?

MR. MARSHALL: One minute.

MR. DOWNS: One minute.

VICE PRESIDENT HUTCHINSON: Mr. Downs moves that debate upon this matter be limited to one minute, and that the Chair recognize Mr. Marshall. All those in favor will say aye. Opposed?

The motion prevails. The Chair recognizes Mr. Marshall for one minute.

MR. MARSHALL: I am not going to take too much time thanking you. Mr. President and fellow delegates, I rise to support Delegate White. We are dealing with a historic provision here and we are dealing with the basic, fundamental law. There is a distinct difference between the radio and TV media as opposed to the press. The radio and television stations are rigidly controlled by the F.C.C., and I think that Delegate White's motion should prevail and I so encourage the delegates. Now, it is all right to try to do Delegate Plank a favor, and to vote for him, but I think we did make a mistake. I think Delegate White is correct, and I urge reconsideration of the vote. Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon reconsideration of the vote by which Committee Proposal 15 passed on yesterday, and the vote by which the amendment read was adopted. All those in favor will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye. Those opposed will vote no.

MR. STEVENS: Mr. President, point of order.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Are we reconsidering Committee Proposal 15, and if so, can it be reconsidered twice in one day?

VICE PRESIDENT HUTCHINSON: The Committee Proposal 15 has not been reconsidered today, Mr. Stevens.

MR. STEVENS: I understood you, previously, to say it was necessary to reconsider the whole proposal in order to consider one section of it.

VICE PRESIDENT HUTCHINSON: That is true. It has not been reconsidered before today.

MR. STEVENS: Well, we talked about this nondiscrimination clause, the Donnelly amendment.

VICE PRESIDENT HUTCHINSON: That was not on Committee Proposal 15, Mr. Stevens. That was on Committee Proposal 26. Have you all voted? This is a division vote. If you have all voted, the secretary will lock the machine and record the vote.

SECRETARY CHASE: On the motion to reconsider the vote by which Committee Proposal 15 was passed, and by which the Plank amendment was adopted, the yeas are 69; the nays are 54.

VICE PRESIDENT HUTCHINSON: The motion prevails. The question is upon the Plank amendment. The Chair would like to point out that it is now a quarter of 12, that it had been intended that we would recess at 11:30 and return at 1:30. The Chair would inquire whether this matter should be disposed of now, or whether it can go over until after lunch. I will leave that to Mr. Plank. Mr. Knirk.

MR. KNIRK: Mr. President, I think we have spun our wheels long enough, I move we limit debate here to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Knirk moves that debate upon this amendment be limited to 5 minutes. All those in favor will say aye. Opposed, no.

MR. VAN DUSEN: Point of information, Mr. President. Did Mr. Knirk intend to include the debate on the proposal as well within his limitation? I believe he did.

MR. KNIRK: The whole ball of wax.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, I move that the time allotted be divided equally between the speakers both pro and con.

VICE PRESIDENT HUTCHINSON: Well, the Chair doesn't know what speakers are pro and con.

The Chair will recognize Mr. Plank for 2½ minutes, and he may yield to whom he cares, and then the Chair will yield to whomever cares to speak on the other side for 2½ minutes, if that is what you desire. Two and a half minutes on each side. The Chair recognizes Mr. Plank.

MR. PLANK: Mr. President, do I understand that you are ruling that debate is limited without a vote?

VICE PRESIDENT HUTCHINSON: It has been limited by a vote.

MR. PLANK: And you now are limiting me on your own order to 2½ minutes?

VICE PRESIDENT HUTCHINSON: No, the Chair cannot do that. The Chair was simply suggesting it. The Chair recognizes Mr. Plank.

MR. PLANK: Thank you very much. I will try and do as you request. I just wanted to make sure it was not a ruling on your part.

VICE PRESIDENT HUTCHINSON: It is not.

MR. PLANK: Thank you. I think first I would like to say that I have a very unselfish motive in asking that this language be changed. You will remember, in the beginning, I was one of the prime movers in getting the words "television, radio and other means of communication" added to this section, and after a great deal of conversation with other delegates, with attorneys, with fellow broadcasters, I was able to go back to the broadcasters and sell them on the idea that this was a limiting phrase, and therefore, they should not ask for it to be in, and at the same time, the word "press" is also limiting, so all we are asking that you do is to make this part of the constitution live with the future, live with the future by not restricting any means of communication. You are not, in any way, in any way, damaging free speech, free expression, any of the items that have been written into the first part of this section. Every person may freely speak, write, publish his sentiments on all subjects. The only problem is, he has to be responsible for the abuse of such right. You have not changed that at all.

I certainly submit to my fellow delegates here that if you reverse your decision of yesterday, you are doing it under the pressure of newspapermen who have contacted many of you delegates, and I think they are doing it with a very selfish motive and they are not, in any way, looking to the future or the betterment of the state of Michigan. I rest my case in your hands. No broadcaster has contacted you and no broadcaster will, and in addition to that, no matter how you rule on this, the broadcasters will be behind you in selling this document to the people of the state of Michigan. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President, I pass.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Since we have only 2 minutes, I'd rather yield to Delegate White.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, the fact of the matter is, regardless of the legal effect of the amendments which were adopted yesterday, that the convention has stricken those famous words: freedom of speech and freedom of the press, and these have wide acceptance and wide meaning to the average, gumchewing citizen. If they have no meaning to the lawyer, that is a different matter. But I do feel that a very considerable and understanding part of the citizenry of this state would misunderstand the elimination of these words and the substitution of 2 little harmless, selfserving words like "these liberties." I therefore urge you to defeat this amendment.

VICE PRESIDENT HUTCHINSON: Mr. White.

MR. WHITE: I have little to say further. I simply point out to you that by inserting the word, "express" in the present language, we assumed that we were taking care of the future, all mediums. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, it seems to me, and I am neither a broadcaster nor a newspaperman, that the problem that has been raised here — and I have discussed it with 2 or 3 members of the committee on style and drafting — arises out of the fact that we have continued to use a preposition and an article before the word "press." This section, I am sure, has always been contemplated to mean the spoken and the written word. When we say that "no law shall be passed to restrain or abridge the liberty of speech or of the press," we give "press" artful significance, meaning newspapers, generally.

If we would strike the words — and this could be done by style and drafting; I think, however, they are afraid it might be a substantive change — if we left the "of the" out and the language read, "no law shall be passed to restrain or abridge the liberty of speech or press," then we are saying what we mean and we are not saying it so it has any particular significance, the word "press," I mean. And so I merely suggest this, and the delegates can act accordingly.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, when this was debated in committee of the whole, one question was raised which I think we should return to at this point. Question: whether or not under this proposal, as amended, any laws could be passed to control something like a sound truck.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment, which the secretary will read.

[The amendment was again read by the secretary. For text, see above, page 2918.]

VICE PRESIDENT HUTCHINSON: All those in favor —

MR. PLANK: Mr. President, may I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is the demand supported? The demand is supported. The yeas and nays are ordered.

MR. PLANK: Would the president try and describe what a yea and nay vote does, so that all the delegates vote wisely?

VICE PRESIDENT HUTCHINSON: Well, it is a record roll call vote, and the question is upon the same amendment which was before us yesterday. In other words, the question is to strike out the words, "freedom of speech and press" and insert "these liberties." So, anyone that is in favor of "these liberties" will vote yes, and anybody who is in favor of "speech and press" will vote no. The question is upon the amendment which was offered yesterday. The amendment offered yesterday was to strike out "speech and press" and insert "these liberties." That is the question before you again today. Anyone in favor of the amendment, that is to say, to insert "these liberties" will vote yes. Those who are in favor of "speech and press" will vote no.

MR. YEAGER: You are giving us a tough choice, Mr. President.

MR. G. E. BROWN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: I am prepared to propose the amendment that I suggested a minute ago, of striking "of the," if this amendment is defeated and the original language is put back in.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: I hope on this recorded roll call, I shall be recorded as nay. Yesterday you recorded me as both yea and nay. (laughter) [Correction made above.]

MR. DEHKNE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: I would like to have the secretary read the whole section as it will read with the amendment in.

VICE PRESIDENT HUTCHINSON: The secretary will read the section as it would read with the amendment in.

SECRETARY CHASE: Page 2 of the proposal, section 4:

> Every person may freely speak, write, express, and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge these liberties.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Since you read it that way, I would like to have it read the other way and I would still urge a no vote.

MR. PLANK: Mr. President, I see no reason for reading it over. We have the information. Let's vote.

VICE PRESIDENT HUTCHINSON: As many as are in favor of "these liberties" will vote yes. Those in favor of "freedom of speech and press" will vote no. This is a record roll call vote. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. MADAR: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does the gentleman rise?

MR. MADAR: While we are counting all these votes and getting ready here, I would like to move — then we can vote on this motion after this one is finished —

VICE PRESIDENT HUTCHINSON: Wait until this vote is announced.

MR. MADAR: Okay.

The roll was called and the delegates voted as follows:

Yeas—51

Andrus, Miss
Barthwell
Bentley
Blandford
Boothby
Bradley
Brake
Conklin, Mrs.
Dehnke
Doty, Donald
Durst
Erickson
Farnsworth
Finch
Goebel
Gover
Habermehl
Haskill
Howes
Iverson
Karn
Kirk, S.
Knirk, B.
Leibrand
Leppien
Millard
Mosier
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shanahan
Sleder
Spitler
Stafseth
Staiger
Sterrett
Suzore
Thomson
Van Dusen
Wood
Woolfenden
Yeager

Nays—70

Allen
Austin
Baginski
Balcer
Batchelor
Beaman
Bonisteel
Brown, G. E.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Figy
Follo
Ford
Gadola
Greene
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Kuhn
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Ostrow
Pollock
Rajkovich
Sablich
Shaffer
Sharpe
Snyder
Stevens
Stopczynski
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Plank, the yeas are 51; the nays are 70.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The question is upon the adoption of the committee proposal. Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, since it is very simple I have not written it and put it on the secretary's desk, but I would move that the preposition "of" and the article "the" be deleted in line 4 of section 4.

SECRETARY CHASE: Mr. G. E. Brown offers the following amendment to Committee Proposal 15:

1. Amend page 2, line 4, [section 4] after "speech or" by striking out "of the"; so the language will read:

> Every person may freely speak, write, express, and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or press.

MR. HIGGS: Mr. President, I have a point of order.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Higgs?

MR. HIGGS: I would like to ask whether this is a matter of form or a matter of substance.

VICE PRESIDENT HUTCHINSON: Well, the Chair would say that the amendment is in order.

MR. HIGGS: I wonder if I could ask Mr. Brown whether he feels this is a matter of style and form that he could take up with the committee, or whether he feels this is a matter of substance. If it is a matter of substance, we are going to get into a debate.

VICE PRESIDENT HUTCHINSON: Mr. Brown, do you care to answer?

MR. G. E. BROWN: Mr. President, Mr. Higgs, obviously, from what I said before, the committee on style and drafting thinks this is something other than style and drafting. They aren't willing to remove these 2 words because the question is whether or not the word "press" has artful significance here.

MR. WANGER: Point of order.

VICE PRESIDENT HUTCHINSON: What is your point, Mr. Wanger?

MR. WANGER: Has not the time limited for debate expired? It applied, I believe, to the entire proposal.

VICE PRESIDENT HUTCHINSON: The point is well taken. Time for debate has expired. The question is upon the amendment offered by Mr. Garry Brown. All those in favor will say aye. Opposed, no. The Chair is in doubt. Clear the board, please.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: I would have another amendment when this is over.

VICE PRESIDENT HUTCHINSON: This is a division vote upon the Brown amendment. All those in favor of the Brown amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the amendment offered by Mr. Garry Brown, the yeas are 50; the nays are 67.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The question is upon the passage of the proposal.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: I have an amendment in mind, but I would like to ask Mr. Plank whether it is in accordance with what he had in mind originally.

VICE PRESIDENT HUTCHINSON: The Chair would point out that the time for debate has expired.

MR. DEHNKE: This is not in the nature of debate, Mr. President. Mr. Plank's idea was, as I understood it, that he wanted TV, and other means of communication that may be developed in the future, protected. If that is right, then I would be disposed to offer the amendment to add at the end of this line, "or of any other medium of communication," so that it would read, "no law shall be passed to restrain or abridge the liberty of speech or of the press or of any other medium of communication."

MR. PLANK: Mr. President, is it in order for me to answer Delegate Dehnke?

VICE PRESIDENT HUTCHINSON: Not to debate the amendment.

MR. MARSHALL: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Marshall?

MR. MARSHALL: I believe that they are talking on the amendment and they are having an exchange on the floor, and I would suggest that they get together off the floor and consummate the deal the same way that the other deals were consummated.

MR. DEHNKE: Mr. President, this is a short way of doing it. (laughter) Mr. Plank may have some —

VICE PRESIDENT HUTCHINSON: The Chair is in a position of having to enforce the previous order of the body that all debate upon this matter has expired, including all amendments. And so, the Chair would say that it is not in order to carry on this discourse upon the floor. If Mr. Dehnke offers an amendment, he may offer it without debate, and the matter can be decided by the convention.

MR. DEHNKE: All right, Mr. President, I offer the amendment, subject to Mr. Plank's approval. (laughter)

MR. POLLOCK: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Pollock?

MR. POLLOCK: I think this is entirely out of order, and it would certainly be unfair to propose an amendment again which has already previously been defeated and deleted without giving adequate discussion to those who are opposed to it, including the committee that prepared it.

VICE PRESIDENT HUTCHINSON: Well, under the present order, the Chair can only rule that there cannot be any debate upon the amendment.

MR. POLLOCK: You haven't, then, got an amendment before you, Mr. President, is that right?

VICE PRESIDENT HUTCHINSON: We have just received it. The secretary will read it.

MR. POLLOCK: But you say the time has expired?

VICE PRESIDENT HUTCHINSON: There was a motion made, which was carried, to —

MR. MARSHALL: Preferential motion, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the preferential motion, Mr. Marshall?

MR. MARSHALL: We have reversed ourselves all over the field this morning, and I think it is the result of the schedule that we have been keeping; people were tired when they were voting yesterday, from the long hours, and I would, at this time, like to move that we recess until 1:00 o'clock.

VICE PRESIDENT HUTCHINSON: Mr. Marshall moves that —

MR. MARSHALL: Mr. President, I realize this isn't debatable, but — this is a short way of doing it.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Marshall that the convention stand in recess until 1:00 p.m., which is only 55 minutes away. All those in favor will say aye. All those opposed will say no.

The motion does not prevail. The secretary will read the amendment now offered by Mr. Dehnke.

SECRETARY CHASE: The amendment is:

1. **Amend page 2, line 4, [section 4] after "press" by inserting "or of any other medium of communication".**

MR. YOUNG: Mr. President, point of order.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Young?

MR. YOUNG: Is a motion in order to extend debate 10 minutes?

VICE PRESIDENT HUTCHINSON: It is.

MR. YOUNG: I so move.

VICE PRESIDENT HUTCHINSON: Mr. Young moves that debate be extended 10 minutes upon the proposal and all amendments thereto. All those in favor of the motion to extend debate for 10 minutes will say aye. All those opposed will say no.

The motion does not prevail. Mr. Knirk.

MR. KNIRK: Mr. President, I would like to move a preferential motion, being that we recess at this time until 1:30.

VICE PRESIDENT HUTCHINSON: Mr. Knirk moves that the convention stand in recess until 1:30. All those in favor will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye. Opposed will vote no.

MR. FORD: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does the gentleman arise, Mr. Ford?

MR. FORD: Mr. President, I have been waiting for an appropriate time to ask for a personal privilege. If this motion prevails, I understand I wouldn't be able to do it then.

VICE PRESIDENT HUTCHINSON: That is correct. But you can be recognized after lunch for that purpose. Mr. Hoxie.

MR. HOXIE: Mr. President, while we are waiting —

MR. MADAR: Mr. President —

VICE PRESIDENT HUTCHINSON: Mr. Hoxie has the floor.

MR. MADAR: Okay.

MR. HOXIE: While we are waiting to take this vote, I think I am in order. I am not arguing on the question, I just wanted to announce a committee meeting in the committee room immediately following recess this noon.

VICE PRESIDENT HUTCHINSON: For what purpose does the gentleman rise, Mr. Madar?

MR. MADAR: Delegate Madar rises to inform the Chair that there were about 35 votes on that board before we even started the vote. Could we have it cleared, please?

VICE PRESIDENT HUTCHINSON: The vote is started. I think it is too late to make the demand.

MR. MADAR: We had about 35 votes up there before you began.

VICE PRESIDENT HUTCHINSON: Well, if anybody wants to change the way they voted, they will have to get up and change it. Have you all voted the way you want to vote? If so, the secretary will lock the machine and record the total. We will announce the total and then before we declare the recess, the secretary has an announcement.

SECRETARY CHASE: On the motion for recess until 1:30, the yeas are 67; the nays are 51.

Mr. Iverson announces a Republican meeting at 1:00 o'clock in room A.

The library requests that all delegates check their homes, automobiles and so forth for library books and return them as soon as they can after they finish using them.

The committee on style and drafting will meet Monday at 10:30 a.m. in room G.

Mrs. Rappaport announces a finding of a Jefferson-Jackson day dinner ticket lost by someone, because she has it and doesn't know who lost it.

The committee on rules and resolutions will meet in room F during the noon recess. Bring your lunch. R. C. Van Dusen, chairman.

VICE PRESIDENT HUTCHINSON: The motion to recess prevails. The convention stands in recess until 1:30 p.m.

[Whereupon, at 12:10 o'clock p.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, inasmuch as we can't seem to get organized and get some work done, and I know we want to get this work finished, and we want to get out of here by May 11, I would like to move at this time that we work this evening and tomorrow and catch up on our calendar. Either do that or get down to work and shut up.

MRS. DAISY ELLIOTT: Did Mr. Madar make a motion?

VICE PRESIDENT HUTCHINSON: Well, he made a motion, but it would seem as though the motion was premature because it would be up to the body at the time that it recessed this afternoon as to whether it was going to recess or whether it was going to adjourn, and at what hour it was going to return if it did return.

MRS. DAISY ELLIOTT: Thank you, Mr. President. I just wanted to amend it so that Mr. Madar would be allowed to work if he so chooses. (laughter)

VICE PRESIDENT HUTCHINSON: The immediate question before the body is Committee Proposal 15, upon which time for debate has expired, and to which Mr. Dehnke has offered an amendment. The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. President, having had an opportunity to talk to Mr. Plank, who is much more familiar with this area than I am, I ask leave to withdraw the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke withdraws his amendment. The question is upon the passage of Committee Proposal 15, as amended, the bill of rights proposal. All those in favor will vote eye, those opposed will vote no. The voting has commenced.

MR. BARTHWELL: Abstain.

VICE PRESIDENT HUTCHINSON: Mr. Barthwell abstains. Have you all voted?

Mr. Young, for what purpose do you seek recognition? This is a vote upon Committee Proposal 15.

MR. YOUNG: Well then, I would like to announce, as I did yesterday, my intention to abstain and request permission to publish my reasons in the record.

VICE PRESIDENT HUTCHINSON: Mr. Young abstains. Mr. Young, did I understand that you were making some further request than simply an announcement that you intended to abstain?

MR. YOUNG: I requested that my reasons for abstention be published in the journal.

VICE PRESIDENT HUTCHINSON: Mr. Young asks unanimous consent that the reasons for his abstention be published in the action journal. Is there objection? Objection is heard.

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President, I move that any delegate who wishes to have his reasons for abstaining printed in the journal be granted that request.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Downs. Is this just upon this issue or upon every issue?

MR. DOWNS: This is upon every issue.

VICE PRESIDENT HUTCHINSON: Upon every issue?

MR. DOWNS: No; I am sorry, just upon this issue, Mr. President.

VICE PRESIDENT HUTCHINSON: Upon this issue alone. The question is upon the motion of Mr. Downs that any delegate who chooses to abstain on the passage of this proposal, at his request, may have his reasons for abstention printed in the daily journal. Mr. Finch.

MR. FINCH: Would this not be a suspension of the rules?

VICE PRESIDENT HUTCHINSON: The Chair doesn't think that the rules cover the matter.

MR. POLLOCK: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, could we have at least one reason from Mr. Downs why this is necessary?

VICE PRESIDENT HUTCHINSON: Without objection, the secretary desires to make an explanation.

SECRETARY CHASE: The secretary, ladies and gentlemen, is somewhat in the middle on this proposition, for the reason that rule 65 provides that any delegate is privileged to explain in writing his vote on a record roll call vote, so any delegate who votes yes or no on a record roll call vote has the right, by merely bringing his written request to the secretary before the next session to have his reasons for voting yes or no printed. But rule 67 says:

> No delegate shall be entitled to abstain from voting in any roll call unless he shall have stated his intention to abstain before the voting starts. He may voluntarily state his reasons for such abstention.

But there is no proviso in the rules that provides for the printing of reasons for abstention in the journal.

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: I would like to remind the Chair of an incident that happened just about 2 weeks ago, when Mr. Romney stated his intention to abstain from voting, and then stated he was not going to give his reason at the time but would submit the reason in writing, and when I asked to have his reason in advance of the voting being had, the ruling of the Chair at that time was that he was not compelled to give his reason at that time, but had the right, as a delegate, to put his reason in writing and submit it after we had completed the voting.

VICE PRESIDENT HUTCHINSON: The gentleman is correct in that the Chair so ruled at that time. The Chair was advised later that he had gone beyond the literal writing of the rule and so that while it was effective for that time, since no objection was raised, it couldn't be effective for all time unless that is the wish of the body. If Mr. Downs' motion prevails, then the ruling of the Chair before would be sustained and it would be applicable in the future to so interpret the rule.

MR. MARSHALL: Point of information, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: I would just like to ask a question of the Chair. Is there a double standard in this convention as it relates to Mr. Romney, or are we going to have equal treatment?

VICE PRESIDENT HUTCHINSON: The Chair is not aware of any double standard. The question is upon the motion of Mr. Downs. Do you intend to include it for all time to come?

MR. DOWNS: Mr. President, the motion was limited —

MR. MARSHALL: Mr. President, point of information.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Downs.

MR. MARSHALL: If the delegates would like, I can give them 3 definite instances of a double standard.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Downs.

MR. DOWNS: My motion is that any delegate who wishes to abstain and explain his reasons for his vote on Committee Proposal 15, shall have that opportunity and such explanation shall be printed in the journal upon his request.

VICE PRESIDENT HUTCHINSON: That is the question. All those in favor will say aye. Opposed.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: All right, a division is called for. Is the demand for a division supported?

MR. VAN DUSEN: A point of order, now, Mr. President.

MR. DOWNS: I have a point of order.

VICE PRESIDENT HUTCHINSON: Would the delegate state the point.

MR. DOWNS: Could the Chair make his ruling before we call for a division? I believe that would be the more proper procedure.

VICE PRESIDENT HUTCHINSON: The Chair is in doubt, frankly. Because of the voice volume, the Chair couldn't tell whether it was one way or the other.

MR. DOWNS: Mr. President, then I would like to ask for the yeas and nays, if there is to be a division.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays. Is the demand supported? The demand is supported. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I now make a point of order that the voting had commenced upon the passage of Committee Proposal 15 at the time Mr. Downs made his motion, and that his motion was not, therefore, in order at that time. I think the voting is still in process and I don't see how the Chair can take the yeas and nays on his motion until after the vote has been tabulated and announced on Committee Proposal 15.

VICE PRESIDENT HUTCHINSON: The point is well taken. The vote has been called for. The question is upon the passage of the proposal and you may renew your motion, Mr. Downs, after this vote is taken.

MR. DOWNS: Mr. President, a parliamentary inquiry: then when the vote is completed, I will have the right to the floor immediately thereafter to make my motion?

VICE PRESIDENT HUTCHINSON: The Chair will so recognize you, Mr. Downs.

MISS HART: Then I should like to abstain.

VICE PRESIDENT HUTCHINSON: Miss Hart abstains. Mr. Habermehl, Miss Donnelly, Mr. Greene abstain.

MR. HOOD: I abstain, Mr. President, if that is the procedure that we are following, although I don't think it is correct, what you are doing; or the convention, for that matter.

VICE PRESIDENT HUTCHINSON: Mr. Hood and Mr. Douglas abstain.

MR. YOUNG: Point of information, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Young?

MR. YOUNG: Are we about now to vote on whether or not to allow my abstention to be printed in the record? Is that right?

VICE PRESIDENT HUTCHINSON: No, that is not right. The question is upon the passage of Committee Proposal 15.

MR. YOUNG: Well, if that is the question, I would like to read my reasons at this point. I had hoped to spare this convention the lost time, and I wanted to place these remarks in the journal, but my reasons for abstention are as follows: I abstain from voting on Committee Proposal 15, which contains several sections of a proposed new bill of rights, because I object to being presented with a package on a take it or leave it basis, and being told to take all or nothing, the good with the bad. Except for the provision on search and seizure, section 10, Committee Proposal 15, is an improvement over the present bill of rights for which I could have voted without hesitation. This I sought to do by supporting a motion to suspend the rules so that section 10 could have been voted on separately from the rest of the proposal. The majority of this convention did not see fit to divide the question, but rather chose to confront us with the aforementioned all or nothing package. I have refused to be boxed in by such an arbitrary circumspection of my freedom to make an intelligent choice. Let those that vote yes on Committee Proposal 15 take the responsibility for their direct endorsement of the possible excesses and brutalities at the hand of the police that minorities and economically disadvantaged groups stand to suffer as a result of the wide sweeping scope of section 10. In giving a blank check to the police to, as they please, search and seize citizens wherever they are found outside their homes, this convention has dealt a serious blow to basic human rights. I refuse to support, or to be associated in any manner with such an injury to the rights of my constituents.

VICE PRESIDENT HUTCHINSON: Mr. Hood.

MR. HOOD: Mr. President, because I am not quite sure whether, after we get through with this vote, I will have an opportunity to enter my reason for abstaining in the journal, I would like to incorporate what Mr. Young has said as my statement too.

VICE PRESIDENT HUTCHINSON: The Chair will invite attention to the fact that under the rules as they are apparently written, the statement of reasons to abstain, made on the floor, do not thereby get into the daily journal; they get in the verbatim journal, and the reading of them doesn't put them in the daily journal. However, if Mr. Downs makes — the Chair understands he is going to make a motion, and if that motion carries, there would be a different situation. Mr. Chase.

SECRETARY CHASE: At the moment we have the following requests for abstaining from voting on Committee Proposal 15: Mr. Barthwell, Miss Hart, Mr. Habermehl, Miss Donnelly, Mr. Greene, Mr. Hood, Mr. Douglas, Mrs. Daisy Elliott, Mr. Young, Mr. Balcer, Mr. Lawrence, Mr. Austin.

MR. YEAGER: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State your point.

MR. YEAGER: Under rule 67 it says:

> No delegate shall be entitled to abstain from voting in any roll call unless he shall have stated his intention to abstain before the voting starts.

Now, I would ask for a ruling as to whether or not the voting has started.

VICE PRESIDENT HUTCHINSON: The Chair simply will say that this has been the practice in this convention, and consequently, the Chair interprets that this is the way that rule is intended. The vote is not on the board. It doesn't show up there. Nobody knows how anybody else has voted.

SECRETARY CHASE: Are there any other requests?

VICE PRESIDENT HUTCHINSON: Mrs. Hatcher.

MRS. HATCHER: Mr. President, again, as yesterday, I would like to appeal to those who are abstaining at this time to consider the fact that the declaration of rights, suffrage and elections committee spent approximately 4 months attempting to try to develop this Committee Proposal 15, and we have had a considerable amount of discussion on this matter. I would like to urge all of the people who can find it in their judgment, to vote yes on this proposal.

MR. BARTHWELL: Point of order. This is debate and the time has expired.

VICE PRESIDENT HUTCHINSON: The point has been made that this amounts to debate. The time for debate has expired. The question is upon the passage of Committee Proposal 15, as amended. Are there any further announcements to abstain? If not, all those in favor of the passage of Committee Proposal 15 will vote aye, those opposed will vote no. The voting has started. For what purpose do you rise, Mr. Ford?

MR. FORD: Mr. President, on behalf of our mutual colleagues in this corner, I would like to admonish you that the emphasis you place on "the voting has started" sounded somewhat like "They're off," and we are all a little gun shy over here. (laughter)

VICE PRESIDENT HUTCHINSON: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—110

Allen
Andrus, Miss
Baginski
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wood
Woolfenden
Yeager

Nays—1

Youngblood

SECRETARY CHASE: On the passage of **Committee Proposal 15,** as amended, the yeas are 110; the nays, 1.

VICE PRESIDENT HUTCHINSON: The majority of the members elect having voted therefor, **Committee Proposal 15,** as amended, is passed.

Following is explanation of vote submitted by Mr. Faxon:

In voting yes on Committee Proposal 15, I am in no way endorsing the content of section 10 and the record will indicate my position with regard to the deletion of that portion of section 10 which I believe to be in direct contravention to the search and seizure provision of the federal constitution. Furthermore, I do not concur with the decision of this convention that the delegates cannot separate the various sections of the bill of rights for voting thereon. In view of this situation I could not reject the entire bill of rights and I have therefore voted accordingly but with this reservation with regard to the search and seizure provision.

Following is explanation of vote submitted by Mr. Youngblood:

I respectfully submit to the convention my reasons for voting against Committee Proposal 15.

While virtually this whole article will place the state of Michigan as the leader in the field of human rights, it is my feeling that section 10 relating to search and seizure requires the strongest protest.

I could not bring myself to cast an affirmative vote for the high ideals of this proposal when to do so would have been to condone section 10.

This section, in my opinion, violates the law laid down by the United States supreme court and cuts deeply into the basic principles of human rights to which this nation is dedicated.

Following is statement explaining abstention from voting submitted by Messrs. Lawrence and Habermehl and Miss Donnelly:

We abstained from voting today on Committee Proposal 15 because of the proviso contained in section 10, which we feel is contrary to articles 4 and 14 of the federal constitution as construed in Mapp vs. Ohio. The balance of Committee Proposal 15 meets with our approval.

Following is statement explaining abstention from voting submitted by Messrs. Young, Hood, Douglas, Mrs. Daisy Elliott, Messrs. Marshall, Austin, Greene and Barthwell:

We abstained from voting on Committee Proposal 15 because we were unwilling to oppose an overall good bill of rights, and were equally unwilling to support the "search and seizure" provisions contained therein.

In giving a blank check to the police to, as they please, search and seize citizens wherever they are found outside their homes, this convention has dealt a serious blow to basic human rights.

We refuse to support, or be associated in any manner with such an injury to the rights of our constituents.

Following is statement explaining abstention from voting submitted by Mr. Downs, Miss Hart, Mrs. Hatcher, Messrs. Buback, Walker, Wilkowski, Murphy, Hodges, Gadola, Norris and Jones:

We voted in favor of Committee Proposal 15 on the declaration of rights, (Journal 129, page 1158) because we approved 20 sections of this proposal. However, we object vigorously to section 10, which we believe is unconstitutional. We believe the United States supreme court will declare it unconstitutional and so preserve 20 desirable sections intact.

We regret very much that the convention refused to separate section 10 from the rest of the document so that those of us who felt strongly that this proposal was undesirable and unconstitutional would not be forced to vote for a package which was 20 parts good and one part bad.

VICE PRESIDENT HUTCHINSON (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 15 as amended and rereferred to the committee on style and drafting:

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Sec. 2. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 3. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 4. Every person may freely speak, write, express, and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.

Sec. 5. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 6. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 7. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 8. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 9 No bill of attainder, ex post facto law or law impairing the obligation of contract shall be passed.

Sec. 10. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding, any narcotic drug, any firearm, bomb, explosive, or any other dangerous weapon, seized by any peace officer outside the curtilage of any dwelling house in this state.

Sec. 11. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 12. Any suitor in any court of this state shall have the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 13. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

In all civil actions in circuit courts a verdict shall be received when 10 jurors shall agree.

Sec. 14. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 15. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 16. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 17. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 18. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 19. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 20. No person shall be imprisoned for debt arising out of, or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 21. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of 2 witnesses to the same overt act, or on confession in open court.

VICE PRESIDENT HUTCHINSON (continuing): The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I move that any delegate who abstained from voting be permitted to explain his reasons in writing and have such printed in the journal, if filed with the secretary by 6:00 o'clock this coming Monday.

VICE PRESIDENT HUTCHINSON: No, Mr. Downs, Let the secretary explain the situation.

MR. DOWNS: All right.

MR. GADOLA: Mr. President —

VICE PRESIDENT HUTCHINSON: Mr. Downs has the floor.

MR. GADOLA: This is a substitute for his motion. Maybe he will accept it.

VICE PRESIDENT HUTCHINSON: Mr. Downs, do you yield to Judge Gadola?

MR. DOWNS: I will be very glad to yield to Judge Gadola.

MR. GADOLA: I wish the limit of the phraseology be limited to 50 words.

MR. DOWNS: Mr. President, with all due respect to Judge Gadola, I suggest we are writing a constitution and not sending a telegram. I think we can rely upon the good judgment of the delegates.

VICE PRESIDENT HUTCHINSON: Mr. Downs, does the Chair understand the purport of your motion is still to be applicable only to this one matter?

MR. DOWNS: That is correct.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: I am wondering if I could ask Mr. Downs a question. I think this is quite a serious matter when we are going to start this procedure. I don't seriously object if somebody wants to express their opposition, and the reason for their abstaining, but it does seem like there ought to be some limit, because we must remember that it costs money to print these journals, and it would seem to me that certainly a person could express their reasons for abstaining within 100 words.

VICE PRESIDENT HUTCHINSON: The secretary will make an announcement with regard to Mr. Downs' motion with regard to the time limit that he has suggested.

SECRETARY CHASE: The only suggestion the secretary has, Mr. Downs, is that the reasons for printing an explanation of a yes or a no vote on a record roll call as stated in the journal says, "The written explanation shall be included in the journal if presented to the secretary before the next session of the convention."

MR. DOWNS: I will be very glad — may I, with the permission of the convention, see if I can revise the motion in accordance with the suggestions? I move that any delegate who has abstained from voting on Committee Proposal 15 be granted the opportunity to explain that vote by filing with the secretary, before the next legislative day — would that be correct, Mr. Chase?

SECRETARY CHASE: Before the next legislative session.

MR. DOWNS: — before the next legislative session his reasons therefor, in a reasonable number of words.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Downs.

MR. BEAMAN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Beaman.

MR. BEAMAN: Without mentioning the merits or demerits of the motion, I would like to confirm what Delegate Hoxie has said. As a member of the budget committee, this is going to be a very costly program, and I would like to advise him that we are fast running out of money.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, under rule 67 and rule 68, it seems to me that this is a change of the rules, and I would like to inquire if this would necessitate suspending the rules and how many votes would be required to carry Mr. Downs' motion?

VICE PRESIDENT HUTCHINSON: The Chair does not consider this a change of the rules. This simply provides that the convention here assembled is interpreting one of its own rules. Now, it doesn't seem to be a change in the rule because the rule provides for this in connection with the vote one way or the other, and the Chair previously, on at least one occasion, that the Chair has been reminded of, held that it was possible to make explanation for these abstentions and have them printed in the journal because the Chair, at that time, understood the rule to be broad enough to include abstentions as well as votes one way or the other.

Now the secretary calls attention to the precise wording of the rule in such way that the question is again raised, and the Chair is, through Mr. Downs' motion, simply wanting to have this matter resolved one way or another. And it isn't without precedent in parliamentary bodies to let the body itself make a decision along this line. It is a decision of policy because there is a matter of expense involved. So, the Chair does not interpret this is changing the rule. This is simply an interpretation of the rule so therefore the motion is in order. Mr. Hubbs.

MR. HUBBS: Mr. President, I think that the remarks of Mr. Beaman were well spoken, and I believe that we should not support Mr. Downs' motion, but vote it down emphatically because, as one delegate here, like a lot of others, I have had to vote no on proposals occasionally when I didn't agree with some minor item in there and explain my vote in the record, and I think if anybody wants to explain his vote, he can take this course, and let him vote no instead of abstaining. I recommend to the delegates that we vote this thing down and be done with it.

VICE PRESIDENT HUTCHINSON: Mr. Leppien.

MR. LEPPIEN: Mr. President, I offer, as an amendment to the Downs motion, that each statement of explanation of vote be limited to 100 words.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment to the motion, which Mr. Leppien now offers, to limit the statement to 100 words. On the amendment to the motion, Miss Donnelly.

MISS DONNELLY: I am very happy to support Mr. Leppien's amendment thereto. I am sure that I and 2 other delegates I know intend to be able to do it together, and I am sure we could do it in 10 or 15 words.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: I would speak against the Leppien amendment and also point out to this body that there is absolutely no way, without suspending the rules, that you can cut these people off from doing this. If you don't permit a few to print their remarks in the journal tomorrow, their only other recourse is to stand here on the floor and, if they have long drawnout statements, to read them right into the journal, and they are going to go into the verbatim journal and you can't stop that. If you want to consume time and printing, then you can cut these people off and they are going to give their reasons orally. I would say, to prevent this, that I would be inclined to be against the Leppien amendment and for the Downs amendment.

VICE PRESIDENT HUTCHINSON: Mr. Knirk.

MR. KNIRK: Mr. President, let's please be reasonable. We have been here 30 minutes, voted one time and argued for 28 minutes. For gosh sakes, let's get down to business. I move the previous question now.

VICE PRESIDENT HUTCHINSON: Mr. Knirk, the last speaker the Chair recognized, moves the previous question upon the pending motion and amendment thereto. Is the demand for the previous question supported? The demand is supported and the question now is: shall the main question be put? All those in favor will say aye. Opposed will say no.

The previous question is ordered. The question is upon the amendment as offered by Mr. Leppien to limit the length of the statement to 100 words. As many as are in favor of that amendment to the motion will say aye. Opposed will say no.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is called for. In the mind — opinion of the Chair — the Chair is undecided. All those in favor of the amendment will vote aye. Those opposed will vote no. The voting has started.

MR. GADOLA: Mr. President, a point of information.

VICE PRESIDENT HUTCHINSON: The voting has started. What is the point?

MR. GADOLA: I want to know, if we vote in favor of the Leppien amendment does that mean that we are voting in favor of the Downs motion?

VICE PRESIDENT HUTCHINSON: No. Have you all voted on a division vote? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the amendment of Mr. Leppien, the yeas are 74; the nays are 38.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The question is now upon the motion of Mr. Downs, as amended. All those in favor will say aye. Opposed will say no.

The motion prevails.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is called for. Is the demand for division supported?

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: The previous question has been ordered.

MR. DOWNS: I want to demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is the demand supported? The demand is supported, 1/5 of the members present having voted therefor. All those in favor of the motion of Mr. Downs, as amended, will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—70

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Beaman
Bentley
Binkowski
Boothby
Bradley
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Donnelly, Miss
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Ford
Greene
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hutchinson
Jones
Kelsey
Leibrand
Leppien
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McLogan
Murphy
Norris
Ostrow
Perlich
Perras
Pollock
Powell
Prettie
Rajkovich
Snyder
Staiger
Stopczynski
Suzore
Tweedie
Walker
Wilkowski
Young
Youngblood

Nays—47

Batchelor
Blandford
Brake
Conklin, Mrs.
Dehnke
Judd, Mrs.
King
Kirk, S.
Knirk, B.
Kuhn
Shaffer
Shanahan
Sharpe
Sleder
Stafseth

Dell
DeVries
Doty, Donald
Finch
Gadola
Goebel
Gover
Gust
Higgs
Hubbs
Iverson
Lawrence
McGowan, Miss
Millard
Mosier
Plank
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Sterrett
Stevens
Thomson
Turner
Upton
Van Dusen
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the motion of Mr. Downs, as amended, the yeas are 70; the nays are 47.

VICE PRESIDENT HUTCHINSON: The motion prevails. Mr. Perras.

MR. PERRAS: Mr. President, at this time, so we don't show any discrimination, I would like to move that the people who voted yes on this issue have the same privilege of printing their reasons in the journal.

VICE PRESIDENT HUTCHINSON: That is already permitted under the rules, Mr. Perras. Mr. Ford.

MR. FORD: Thank you, Mr. President. I had asked the president, at noon, for an opportunity to ask for a personal privilege which wasn't, at that time, related to what we have just done. Yesterday, I asked, on the floor, if we had the privilege of explaining our yes vote and was told that we did, and a statement was prepared with a number of names, and inadvertently my name was left off of it. It is found on page 1164, and at the top of 1165 of yesterday's journal, and I ask the convention's consent, as a matter of personal privilege, to have my name added to the list of people who subscribe to the reasons for voting yes on section 15 at that time.

VICE PRESIDENT HUTCHINSON: Mr. Ford's request will be granted. [Correction made above.]

Second reading of proposals.

SECRETARY CHASE: The second reading calendar for the committee on legislative powers, item 1 —

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, I don't know that this is the proper time for this body to consider legislative powers, according to the tenor that has so far taken place this afternoon. However, your committee on legislative powers had many requests from delegates to slightly change the schedule for consideration of the various proposals. Your committee on legislative powers met and are recommending to the convention that Committee Proposal 100, being 25 on the calendar, be advanced to follow Committee Proposal 33, which is number 5 on the calendar. I think you all are aware of what Committee Proposal 100 relates to. There is quite a feeling that it would be desirable to dispose of this matter this afternoon, and so I move that Committee Proposal 100 follow Committee Proposal 33, which is number 5 on the calendar.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Hoxie that Committee Proposal 100 be advanced to stand as item 6 on the calendar. Mr. Baginski on that motion.

MR. BAGINSKI: Mr. President and fellow delegates, as the minority vice chairman of the committee on legislative powers, I rise to concur in the recommendation made by the chairman.

VICE PRESIDENT HUTCHINSON: All those in favor of the motion to advance will say aye. Those opposed will say no.

The motion prevails. Mrs. Hatcher.

MRS. HATCHER: Mr. President. I would like to have the privilege of cosigning with Mr. Ford on a similar statement that he referred to a few moments ago, stating my reasons for voting yes.

VICE PRESIDENT HUTCHINSON: You may. Your name, we are advised, Mrs. Hatcher, is already on the statement to which Mr. Ford referred.

JUDGE GADOLA: I wish my name to appear on there also.

VICE PRESIDENT HUTCHINSON: Judge Gadola's name also will be added to the list. [Correction made above.]

The secretary will proceed to read the first item on the legislative powers calendar under the order of second reading of proposals.

SECRETARY CHASE: Item 1 on the legislative powers second reading calendar, **Committee Proposal 118,** A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people. Amends article V, section 1.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President, I move that we dispense with the reading of this proposal, and I would like to state that since the return of these proposals from style and drafting, the committee has reviewed all of them. The committee finds no change, no substantive change in this proposal and we recommend that it be passed.

VICE PRESIDENT HUTCHINSON: Is there objection to the proposal being considered read? The Chair hears no objection.

It is so ordered.

Following is Committee Proposal 118 as reported by the committee on style and drafting and considered read. (For text as rereferred to said committee, see above, page 2418.):

Sec. a. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. b. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to reject laws enacted by the legislature, called the referendum. The power of initiative [does not extend] EXTENDS ONLY to laws [that] WHICH the legislature may [not] enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than 8 per cent for initiative and 5 per cent for referendum of the total vote cast for all candidates for governor at the last preceding general election shall be required.

The law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so petitioned for is not enacted by the legislature within the 40 days, the state [official] OFFICER authorized by law shall submit such proposed law to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by [the] SUCH state [official] OFFICER [authorized by law] to the electors for approval or rejection at the next ensuing general election.

Any act submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No act initiated or adopted by the people[,] shall be subject to the veto power of the governor, and no act adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or ¾ of the members elected TO and serving in each house of the legislature. Acts adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. [However,] If 2 or more measures approved by the electors at the same election conflict, the measure receiving the highest affirmative vote shall prevail.

The legislature [by general law] shall [provide further] IMPLEMENT [necessary methods for the exercise of these powers not in conflict with] the provisions of this section.

VICE PRESIDENT HUTCHINSON (continuing): The question is upon the passage of the proposal. Mr. Baginski.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. BAGINSKI: Mr. President, fellow delegates, there is no objection to the adoption of this proposal. I understand there was a minority report and it was acted on on general orders; the recorded vote was made at that time, and we have no objection to the adoption of this section.

VICE PRESIDENT HUTCHINSON: As many as are in favor of the passage of Committee Proposal 118 will vote aye. Those so opposed will vote no. The voting has started. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—117

Allen
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Greene
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Ostrow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—1

Norris

SECRETARY CHASE: On the passage of Committee Proposal 118, the yeas are 117; the nays, 1.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **Committee Proposal 118** is passed.

Following is explanation of vote submitted by Mr. Norris:

In accordance with rule 65, I should like to state my reasons for my negative vote on Committee Proposal 118, a proposal to reserve the power of initiative and referendum to the people.

It is the purpose of Committee Proposal 118 to provide for the initiative and referendum. By the initiative and referendum the people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to reject laws enacted by the legislature, called the referendum. The initiative and referendum are means for the direct exercise of sovereign power by the people. The initiative and referendum are means reserved to the people to bypass the legislature when the people wish to adopt a measure.

The desire of the legislature and the desire of the people may be at variance. Under Committee Proposal 118 the whole procedure to implementation of the initiative and referendum pivots upon the "state officer authorized by law." If such a state officer is not named by the legislature, then the entire superstructure of the initiative and referendum procedure falls.

I do not wish to leave fundamental rights of the people to initiative and referendum to rest upon such uncertain language. One can foresee occasions when considerable difference between the legislature and the people may exist. If the state officer upon whom the whole superstructure of procedure rests is not designated clearly and unequivocally, the legislature may defeat the will of the people. The initiative and referendum provisions need to be self executing to be effective. Committee Proposal 118 not being self-executing, I voted against it.

VICE PRESIDENT HUTCHINSON (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 118 as rereferred to the committee on style and drafting, see above, page 2927.

SECRETARY CHASE: Item 2 on the calendar, **Committee Proposal 32**, A proposal to provide for eligibility to serve in the legislature. Retains article V, section 5.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: I move that the proposal be considered read.

VICE PRESIDENT HUTCHINSON: Is there objection? The Chair hears no objection.

It is so ordered.

Following is Committee Proposal 32 as reported by the committee on style and drafting and considered read. (For text as referred to said committee, see above, page 764.):

> Sec. a. Each senator and representative shall be a citizen of the United States, at least 21 years of age, and a qualified elector of the district he represents, and [his] THE removal OF HIS DOMICILE from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or of a felony involving a breach of public trust shall be eligible for either house of the legislature.

MR. HOXIE: The committee approves the proposal as it came back from style and drafting. There is no substantive change. It is my understanding there is an amendment on the secretary's desk.

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment.

SECRETARY CHASE: Mr. Krolikowski, Miss Hart, Messrs. Downs, Buback, Baginski, Hood, Young and Perlich offer the following amendment:

1. Amend page 1, line 5, after "subversion or" by inserting "who has within the preceding 20 years been convicted"; so the language will then read:

> No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, this amendment applies solely to the felony portion not to the subversion. It would mean that if a person had been convicted, the penalty against running for office would be limited to 20 years. Personally, I feel that 20 years is certainly a sufficient penalty. I think there is also the fact that if people, the voters, want to select somebody, that this is a matter of public knowledge, that the voters should have that opportunity to. I urge support of the amendment.

MR. HOXIE: Mr. President, this is not a committee amendment. However, I likewise endorse the amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. All those in favor will say aye. Opposed, no.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

The amendment is adopted. The question is upon the passage of the proposal as amended. All those in favor will vote aye. Those opposed will vote no. The voting has started. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—116

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel

Gover
Greene
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Marshall
Martin
Millard
Mosier
Murphy

Ostrow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wood
Woolfenden
Young
Youngblood

Nays—3

Dell
DeVries
Norris

SECRETARY CHASE: On the passage of Committee Proposal 32, as amended, the yeas are 116; the nays, 3.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted therefor, **Committee Proposal 32,** as amended, is passed. It is referred to the committee on style and drafting.

Following is Committee Proposal 32 as amended and rereferred to the committee on style and drafting:

Sec. a. Each senator and representative shall be a citizen of the United States, at least 21 years of age, and a qualified elector of the district he represents, and the removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

SECRETARY CHASE: Item 3 on the calendar, **Committee Proposal 112,** A proposal to provide that certain officeholders shall be ineligible for the legislature. Amends article V, section 6.

Following is Committee Proposal 112 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2345.):

Sec. a. No person holding any office under the United States or this state or [any county, township or municipal office] A POLITICAL SUBDIVISION THEREOF, except notaries public and officers of the [militia] ARMED FORCES RESERVE, [shall have a seat in] MAY BE A MEMBER OF either house of the legislature.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, even though there were some changes in the wording by changing "county, township or municipal office" to "a political subdivision" — which, I believe, is the wording that has been used in other proposals — also striking the word "militia" and including "members of the armed forces or armed forces reserve" — which would clear up any question as to the ability of persons in that category being members of the legislature — I recommend its adoption.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of Committee Proposal 112. Mr. Ford.

MR. FORD: Mr. President and members of the convention, I stated in full my reasons before. I opposed this section as written because I think that the people in the local community should be the judge of whether or not they feel a man is capable of holding a position in the legislature as their representative, and his occupancy of a seat on the board of education or on a township board or on a city council which, in most instances is, at most, a once a month obligation, should certainly not disqualify him. For that reason, I oppose the proposal as written.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of Committee Proposal 112. All those in favor will vote aye. Those opposed will vote no. The voting has started. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—90

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Downs
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Faxon
Finch
Follo
Gadola

Goebel
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Iverson
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Liberato
Martin
McGowan, Miss
McLogan
Millard
Mosier
Norris
Ostrow

Perras
Plank
Prettie
Radka
Rajkovich
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager
Youngblood

Nays—20

Bradley
Brake
Elliott, Mrs. Daisy
Ford
Greene
Hatcher, Mrs.
Hodges

Jones
Kirk, S.
Lawrence
Madar
Marshall
McCauley
Murphy

Perlich
Powell
Snyder
Suzore
Walker
Young

SECRETARY CHASE: On the passage of Committee Proposal 112, the yeas are 90; the nays, 20.

VICE PRESIDENT HUTCHINSON: A majority of the dele-

Explanation—Matter within [ ] is stricken, matter in capitals is new.

gates elect having voted in favor thereof, **Committee Proposal 112** is passed and referred to the committee on style and drafting.

For Committee Proposal 112 as rereferred to the committee on style and drafting, see above, page 2929.

Mr. Young.

MR. YOUNG: I would like a point of information, Mr. President. Under the recent ruling of allowing 100 words for the delegates to express their failure to vote, there are 3 of us who would like to submit a joint statement. Does that mean that collectively and jointly we are entitled to 300 words?

VICE PRESIDENT HUTCHINSON: The Chair would not believe that was the intent of the motion. The Chair would construe the motion to mean that any statement would be limited to 100 words, and as many delegates could join in that statement as saw fit to do so.

MR. YOUNG: That is your ruling?

VICE PRESIDENT HUTCHINSON: That is the Chair's ruling.

SECRETARY CHASE: **Committee Proposal 120,** A proposal to provide that a member of the legislature shall not be appointed to certain other offices during the term for which he is elected. Amends article V, section 7.

Following is Committee Proposal 120 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2415.):

> Sec. a. No person elected a member of the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the governor and senate, from the legislature, or from any other state authority, during the term for which he is elected.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, it is the belief of the committee on legislative powers that no substantive change was made in this proposal and we recommend it to you for your adoption.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of Committee Proposal 120. Mr. Baginski.

MR. BAGINSKI: Mr. President and fellow delegates, I rise to concur in the adoption of this proposal.

VICE PRESIDENT HUTCHINSON: Will the delegates please clear the board? The question is upon the passage of Committee Proposal 120. All those in favor of the proposal will vote aye. Those opposed will vote no. The voting has started. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—113

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gover
Greene
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Ostrow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager
Young
Youngblood

Nays—5

Bradley
Ford
Marshall
Sablich
Walker

SECRETARY CHASE: On the passage of Committee Proposal 120, the yeas are 113; the nays, 5.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **Committee Proposal 120** is passed and referred to the committee on style and drafting.

For Committee Proposal 120 as rereferred to the committee on style and drafting, see above.

SECRETARY CHASE: Item 5 on the calendar, **Committee Proposal 33,** A proposal to provide for immunity of legislators from arrest during sessions except for certain crimes. Amends article V, section 8.

Following is Committee Proposal 33 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 765.):

> Sec. a. Senators and representatives shall [in all cases, except for treason, felony or breach of the peace,] be privileged from CIVIL arrest AND CIVIL PROCESS during sessions of the legislature and for 5 days next before the commencement and after the termination thereof. [They shall not be subject to any civil process during the same period.] They shall not be questioned in any other place for any speech in either house.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, there were some changes made by style and drafting. We believe that there was a substantive change. The committee has offered an amendment and I yield to Mr. Kuhn.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. HOXIE: Will you read the amendment, please?

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment.

SECRETARY CHASE: Mr. Hoxie, on behalf of the committee on legislative powers, offers the following amendment:

1. Amend page 1, line 3, after "civil process" by inserting "and from criminal arrest for misdemeanors"; so the language will then read:

> Senators and representatives shall be privileged from civil arrest and civil process and from criminal arrest for misdemeanors during sessions of the legislature and for 5 days next before the commencement and after the termination thereof.

VICE PRESIDENT HUTCHINSON: On the amendment, the Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, it is the committee's feeling that this was the intent of our forefathers when they wrote the federal constitution, that they did not believe their legislators should be harassed by any other department of government.

We all know that in our own state senate just the other day there was a very serious bill passed by the bare minimum. Now, if someone wanted to play dirty, they could possibly get into

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some sort of mischief with one of the legislators and he could possibly be locked up. This does not give him any immunity from being punished for any crime he might commit. This only gives him a period of grace, 5 days before the session and 5 days afterward, and I think that this amendment should be adopted.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I oppose this amendment. It is absolutely contrary to the decisions of the United States supreme court made years ago in connection with the federal constitution and practice and decisions of courts of Michigan. Nobody in any legislative body in Michigan or the United States government has ever been immune from arrest for criminal actions. This has applied only to civil actions. This is clearly pointed out by many decisions of the court.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President, I concur with Mr. Stevens in opposition to this amendment. While the term "misdemeanor" usually applies, of course, to smaller offences, it also incorporates such things as negligent homicide, for example, and other fairly serious offences, and it doesn't seem to me that a man should be immune from arrest for this type of thing simply because he is a legislator. While it is possible that harassments could arise, we simply don't have any evidence that the absence of this provision has caused harassments, and it seems to me they ought to have to live within the law the same as the rest of us do.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen, we have had several instances in recent years of legislators arrested here in Lansing. The latest one that occurs to me was a legislator driving the wrong way on a one way street while intoxicated. Now, is it the intent of the committee that that kind of thing should be unnoticed?

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Hoxie. All those in favor of the amendment will say aye. Opposed, no.

The amendment is not adopted. The question is upon the passage of the proposal, Committee Proposal 33. All those in favor will vote aye. Those opposed will vote no. Mr. Baginski.

MR. BAGINSKI: Mr. President, as the proposal is at this moment, I ask that it be concurred in and adopted.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President, no.

VICE PRESIDENT HUTCHINSON: All those in favor will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the voting machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—111

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Donald
Douglas
Downs
Gadola
Gover
Greene
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Murphy
Perlich
Perras
Powell
Prettie
Pugsley
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Finch
Follo
Ford
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Upton
Van Dusen
Walker
Wanger
White
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—3

Knirk, B.
Koeze, Mrs.
Plank

SECRETARY CHASE: On the passage of Committee Proposal 33, the yeas are 111; the nays, 3.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **Committee Proposal 33** is passed and referred to the committee on style and drafting.

For Committee Proposal 33 as rereferred to the committee on style and drafting, see above, page 2930.

SECRETARY CHASE: Item 25 on the calendar, which has been advanced to follow Committee Proposal 33, **Committee Proposal 100,** A proposal to provide the legislature shall not authorize lotteries or the sale of lottery tickets. Retains article V, section 33.

Following is Committee Proposal 100 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2318.):

> Sec. a. The legislature shall not authorize any lottery or parimutuel betting, nor permit the sale of lottery tickets.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, you will undoubtedly recall this short proposed section of our constitution. As reported from the committee on legislative powers, the proposal read, "The legislature shall not authorize any lottery nor permit the sale of lottery tickets." As amended on the floor of the convention, 4 words were added, "or parimutuel betting." We will not quarrel with the style and drafting committee as they reported it back in the identical form in which it left the floor. I think I have said enough.

VICE PRESIDENT HUTCHINSON: The secretary has several amendments, of which he will read the first one.

SECRETARY CHASE: Messrs. Millard, Habermehl, Powell, Wanger and Youngblood offer the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the remainder of said section and inserting "The legislature shall not authorize any lottery nor permit the sale of lottery tickets.".

VICE PRESIDENT HUTCHINSON: Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, I was a member of the legislative powers committee and we had this section, which was formerly section 33 of our old constitution, as one of our duties to investigate. We did a lot of investigating; we heard a lot of witnesses. The committee held meetings in Grand Rapids and Detroit, and after due consideration in the committee the language, as I have submitted here as an amendment, was approved by the members of the legislative powers committee by a vote of 14 to 1. I want to say that this provision has been the same since 1850 in our constitution. It was carried over from the 1850 constitution to the 1908 constitution, and has been in our constitution since that time, and has not been amended. There are, of course, constitutions of approximately 35 states that contain the same provisions.

This proposal was amended on the floor, as has been stated, and as you will read; and I, as one of some members of the legislative powers committee, feel that the action, as taken, was hasty. We would like to give this convention an opportunity to rectify what we consider its mistake and adopt the language which the committee proposed in the committee proposal and which was referred to the convention and argued in committee of the whole. I therefore would urge you to vote for this amendment to Committee Proposal 100. I now would like to yield to another sponsor of this amendment, Delegate Habermehl.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, we do have a problem here. I suppose we all recognize it. A problem, I think, brought on by rather hasty and precipitous action on the part of some of the delegates. I would suggest that the problem, as we have known from the beginning in the committee on legislative powers, is one that will have some effect upon the adoption of the constitution if we are not careful in what we do. I would also suggest that if we put back the exact language that is in the present constitution, no one can find any excuse to argue with it. No matter which constitution they were under, the exact same language would apply.

Now, the previous statement that I made in regard to charitable gambling, I think, applies here. The question is primarily one of law and law enforcement. I don't think any one of us here wish to dictate to the consciences of anyone else nor to try to legislate their morals. We are concerned with laws, not with people's sins or morals. Here the question of law enforcement is an extremely simple one. There are 4 locations in the state of Michigan, there are 4 machines to check. The racing commission can keep a very close eye on who is authorized to conduct parimutuel betting or racing at these various locations in the state. The law enforcement problem, therefore, does not pose any great problem.

I would urge, too, that we reconsider the action that we took, that we vote as a matter of common sense, rather than attempting to appear in favor of sin or vice or morals; that we vote as a matter of common sense here and take into consideration the approximately $13½ million investment in what is now a legal business, and the approximately 8,000 employees of that legal business, and that we not attempt to put a legal business out of business without compensation to them.

VICE PRESIDENT HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, as you have all come to realize, there are times when we cannot vote on an amendment as though it were completely separated from all other considerations. I was one of the 80 delegates who voted in committee of the whole for the insertion of the words prohibiting parimutuel betting on races in Committee Proposal 100.

While I have no means of determining the precise motives of each delegate to cast a vote on that issue, I am distressed to learn that a number of delegates are hoping to take advantage of the inclusion of this highly controversial provision to seek to bring about eliminating this entire proposal, thereby leaving our state with no constitutional prohibition or restriction against any form of commercialized lottery or gambling. Obviously, this would not be in harmony with the attitude of this delegate body, as shown by 2 votes which we took when this proposal was before us in committee of the whole 2 weeks ago yesterday. At that time an amendment to legalize charitable bingo on a county referendum basis received only 25 votes. There were 91 against it. Later an amendment to strike out the entire proposal was defeated by a vote of 53 yeas to 71 nays.

I suggest that if individuals or groups desire to change present constitutional provisions relative to lotteries or parimutuel wagering on races, this should be done by a separate amendment to be submitted at a later date, and not be a part of the new document recommended by this delegate body. This is obviously very controversial. As Delegate Habermehl has indicated, any change would cost the new constitution a very substantial number of votes. I believe that it was Delegate Harold Norris who stated in a speech on the floor of this convention recently that in his judgment we are making too many changes from the status quo in our efforts here. As a result of careful study of this situation, I would strongly recommend adoption of the pending amendment, which would restore the proposal to the form in which it was originally recommended to you by our committee on legislative powers by a vote of 14 to 1, and which is the same provision as has been in our previous constitutions, beginning even with 1835 and continuing through 1850 and 1908.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, I am going to abandon the arguments which I had prepared to give at this time because I frankly believe that all of the arguments on this have been said on the floor and read by the delegates to this convention. And, therefore, because we are so terribly behind in our schedule and because the legislative powers committee has 37 proposals, more than any other single committee of this convention, to go through I at this time move the previous question on this proposal, all amendments, all amendments to amendments, and any substitutes.

VICE PRESIDENT HUTCHINSON: Mr. Wanger moves the previous question on this amendment, on all amendments to the amendments, and on the proposal.

MR. MADAR: Mr. President, I rise to a point of personal privilege.

VICE PRESIDENT HUTCHINSON: Well, the personal privilege is not in order at the time, since there is a motion on the floor.

MR. MADAR: My motives have been impugned here, and I certainly have a right to defend myself.

VICE PRESIDENT HUTCHINSON: You may do that, Mr. Madar, at the proper time, but you have to wait until there is no motion on the floor. Mr. Faxon.

MR. FAXON: Mr. President, I should think that we learned today what happens when we cut off debate too quickly.

MR. WANGER: Point of order, Mr. President. This motion is not debatable.

MR. FAXON: I wish to make a preferential motion. Five minutes, Mr. President, for each amendment.

VICE PRESIDENT HUTCHINSON: Mr. Faxon moves that debate on each amendment as offered be limited to 5 minutes. All those in favor will say aye. Opposed no.

The motion does not prevail.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is called for. Is the demand for division supported? It is supported. The question is upon the motion of Mr. Faxon. Will you please clear the board? The question is upon the motion of Mr. Faxon that 5 minutes be allotted to the debate of each amendment. All those in favor will vote aye. Those opposed will vote no. This is a division vote. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to limit debate on any amendments to this proposal, the yeas are 72; the nays are 43.

VICE PRESIDENT HUTCHINSON: The motion prevails. Debate is limited to 5 minutes on each amendment. The secretary has received an amendment to the amendment, which the secretary will now read.

SECRETARY CHASE: Messrs: Binkowski, Madar and Perras offer an amendment to the amendment:

1. Amend the amendment, after "tickets" by changing the period to a comma and inserting "except as otherwise provided by law."; so that the language to be inserted will read, "The legislature shall not authorize any lottery nor permit the sale of lottery tickets, except as otherwise provided by law."

VICE PRESIDENT HUTCHINSON: The question is upon the amendment to the amendment.

MR. WANGER: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State your point.

MR. WANGER: Well, as the secretary read this amendment, this would make the section say the legislature may not do it unless the legislature does it. This is absurd and ridiculous, and I therefore make the point of order, that, being absurd and ridiculous, it is out of order under Mason's Manual, section 401, at pages 273 and 274.

MR. HODGES: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: We will receive these points one at a time. Will you give us the citation again, Mr. Wanger? We have found it. We believe we have it.

The Chair will rule, on the point of order made by Mr. Wanger, that in the opinion of reasonable men, perhaps some reasonable men might construe this amendment one way and other reasonable men would construe it another way. It might appear frivolous and absurd to some and not in that category at all to others, and both of them would be reasonable. So the Chair is going to rule the amendment in order, thereby leaving it to the convention itself to decide, by voting upon this amendment, at least, whether it is frivolous or absurd. If you think it is frivolous or absurd you will vote it down.

MR HODGES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: I would just point out that this has a different significance. This means that gambling would be unconstitutional unless the legislature provided otherwise. If the entire thing were stricken, then you would have to have legislation to make it —

VICE PRESIDENT HUTCHINSON: Are you arguing on the point of order? The point has already been made.

MR. HODGES: I am sorry. Am I on the list for the —

MR. MARSHALL: I think Delegate Hodges is out of order, Mr. President.

VICE PRESIDENT HUTCHINSON: The Chair will put you on the list, Mr. Hodges.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: I move that we have a division vote on the question as to whether this proposed amendment is frivolous and absurd.

VICE PRESIDENT HUTCHINSON: The same thing may be accomplished by voting directly on the amendment itself.

MR. MADAR: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: May I just point out something here? Now, Mr. Hoxie says that this is frivolous. I wonder why he didn't comment on 101 when he put it through?

VICE PRESIDENT HUTCHINSON: The Chair has ruled that in the Chair's opinion the amendment will stand and there isn't any use debating this matter further unless somebody is appealing the decision of the Chair.

MR. HABERMEHL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Habermehl.

MR. HABERMEHL: I appeal the ruling of the Chair on the point of order and ask for a division.

VICE PRESIDENT HUTCHINSON: The question is: shall the decision of the Chair stand as the decision of the convention? The Chair has ruled that it is in order. This ruling has been appealed from.

MR. MARSHALL: Point of information.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Is this debatable? Can you make a statement on it?

VICE PRESIDENT HUTCHINSON: It is debatable. An appeal is debatable.

MR. MARSHALL: Mr. President, I am opposed to even taking the vote. I think we have acted childish all day long; we have been all over the field here. The Chair has had a very frustrating day. I certainly would not have wanted to have been in the Chair. I certainly sometimes wonder if some of the Pears' forces had not snuck into the convention to frustrate the chairman, and I am opposed to even voting on it. I think the opinion of the Chair is correct and I think it should stand.

MR. HABERMEHL: Mr. President, the eloquent arguments of Mr. Marshall have convinced me. I withdraw the appeal.

VICE PRESIDENT HUTCHINSON: Mr. Habermehl withdraws the appeal. The question is upon the amendment to the amendment, upon which there is a limitation to 5 minutes for debate. Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, I think Mr. Wanger has made a point. I think this entire section is frivolous; but again, this is my personal opinion, and, of course, as the Chair has indicated, reasonable men differ on this point.

I think we have to be aware of the fact that in practically every constitutional convention we have had, there have always been these questions of morality and whether to prohibit certain acts or not. Whether or not Mr. Habermehl intends to impose a standard of morality upon the 8 million people of the state of Michigan is something that he, himself, has to answer. This may not be his intention; this is not the point. The fact is that it does impose a standard of morality upon all of the people in the state of Michigan. I do not think it should be in here at all. I don't think it is good constitutional language, but if the people want it, fine. However, I don't think that we should be tying the hands of the next generations for the next 50 or 75 years. We have the prohibition in here. At the same time, you are giving the legislature the opportunity to change it in some way if they desire to do so.

Now, the point Mr. Powell has made, you have existing legislation, and the existing legislation will stand unless, of course, the legislature does something about it. I hardly think that the legislature is going to do anything with respect to this. I submit to you that it is not incumbent upon the majority of the people here to impose a standard or their standard of morality upon generations to come without giving them some opportunity to change it.

The point was made: we didn't think the people of the state of Michigan would accept this document if we didn't have this prohibition in here. I question this on 2 grounds: 1, I wonder how many people really know about it; and 2, this argument has been used continually in one of the committees that I was on, with respect to the primary school interest fund and earmarking for schools, and yet this convention has gone ahead and eliminated both of these. So, I submit to you that this is a reasonable change. I think it should, in my mind, anyway, be a compromise.

VICE PRESIDENT HUTCHINSON: On the amendment to the amendment, Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, I just want to call your attention to the fact that our constitution has had this direct prohibition in its language since 1835 in one form or another, but it has been in this exact form since 1850. These words would take it out of the constitution and throw it into the legislature. I do not believe that this convention wants to throw it into the legislature, back into the legislature where it would be subject to, maybe, a lot of abuses or there might be pressures brought to bear which should not be brought to bear in a matter like this. I think it belongs in the constitution, it has been in there so long, and I urge you to vote down this amendment.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I, too, would like to urge you to vote down this amendment. This is the coward's way out. If we are afraid to handle it, we don't belong here in the constitutional convention, and I am asking for the yeas and nays.

VICE PRESIDENT HUTCHINSON: On the amendment to the amendment, Mrs. Cushman demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Fourteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The yeas and nays are not ordered. The question is upon the amendment to the amendment. All those in favor will say aye. Opposed will say no.

The amendment to the amendment is not adopted. The question is upon the amendment.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is called for. Is the demand for a division supported?

SECRETARY CHASE: Eight.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The question is upon the amendment offered by Mr. Millard and others, upon which debate has been limited to 5 minutes. The Chair next recognizes Mr. Turner.

MR. TURNER: Mr. President, ladies and gentlemen, I rise to speak on this subject because of my conscience. We speak about bingo and how we are against it and I agree that it is gambling and a very poor way to support our churches. It is a foot in the door opening the way to far greater methods of gambling, controlled by professionals. This I am not in favor of in any sense. But to do away with bingo and still allow parimutuel betting is like punishing the small school children and letting the big bullies go free.

Yes, the state gets almost $8 million from racing. Well, it takes about 1 billion 200 million to run this state a year, so 8 million lasts about 2 days. They say that 10,000 people work at this business, but it is just part time for most of them. Yes, horse racing gives money to fairs throughout the state, also to 4-H clubs. This, my friends, is payola, in my book. When the tracks opened up, the fairs couldn't get enough horses and tried to close the tracks during fair season, but instead, the fairs were subsidized with money from the racetracks. I was a 4-H member before there was any parimutuel betting in this state, and we carried on, and 4-H can carry on again. Something for nothing numbs initiative and destroys progressive thinking. If a fair cannot stand on its own, then it should fall.

Yes, the area that contains a track pays taxes to that area. But is it any more than would be derived from the same area filled with homes? Some say that if we destroy parimutuels in this state we will drive them to other states or Canada. That's fine with me, because where the races go, so go the racketeers and hoodlums.

Some say that betting would then head for our poolrooms, cigar stores and beer bars. I have talked with the police headquarters of Lansing, the police chief of Saginaw and the head of the state police of this state, and not one of them expressed any fear of gambling running away with them in these areas.

Gambling is a disease and the gambler is sick. I will not vote for gambling in this state and I warn you that if you turn parimutuels over to the legislature, parimutuels will be with us.

Some say that no parimutuels means no constitution. This I cannot buy, because there are a good many wives that would rather have that money for a new dress or a new car or a new home. And then, sometimes it is the wife who spends the money that daddy sweats for. Besides, there are thousands of churches in this state who will campaign for this constitution if we prohibit gambling and betting. I cannot vote to allow gambling or betting in this state because I've got to live with myself and my conscience. I urge you to keep the language as it now reads in Committee Proposal 100.

VICE PRESIDENT HUTCHINSON: Mr. Baginski.

MR. BAGINSKI: Mr. President, fellow delegates, first, as the minority vice chairman, I want to correct some statements that were made relative to the number of votes taken to report the proposal out of committee. It was stated here it was 14 to 1. I know I, as one, made a reservation that I would report it out with reservation and that I would also submit a minority report. I am not saying this in condemnation of the committee, but I just want to get the facts straight. This minority report was acted on on general orders last week. I wasn't here and it was made part of the record.

Speaking now, not as a member of the committee but knowing that there is another amendment to strike out all of this language — it appearing that we will not get bingo as I wanted to get it — it seems to me then that I would probably go along, I do go along to concur in this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, it seems to me that a lot of people are worrying about what is going to happen. In fact, because I happen to have a lottery ticket in my hands, I was told it would be a felony. It is a felony to carry it. Well, I hope and I dare any law official at the present time to arrest me for carrying it. I would love that. (laughter)

It seems to me, Mr. President, there are an awful lot of people today who are afraid of yeas and nays. I am wondering what is going on in this state at the present time. Have the gamblers got control already? That is all I want to say in regard to this particular amendment.

VICE PRESIDENT HUTCHINSON: The time for debate has expired. Mr. Marshall.

MR. MARSHALL: Mr. President, point of information: can you tell me how many more speakers you had on the list?

VICE PRESIDENT HUTCHINSON: Yes, there are 6.

MR. MARSHALL: I wonder if I could move —

VICE PRESIDENT HUTCHINSON: The time has expired.

MR. MARSHALL: No, I wanted to make a preferential motion, to move to extend the debate 6 minutes and limit each speaker to 1 minute.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Marshall to extend debate on this amendment for 6 minutes, and limit each of the 6 speakers on this amendment to 1 minute each. Those in favor will say aye. Opposed? The motion prevails.

MR. KELSEY: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Kelsey.

MR. KELSEY: I move to extend debate for 6 minutes per speaker.

VICE PRESIDENT HUTCHINSON: The convention has fixed the time limit by the previous motion. The Chair next recognizes Mr. Knirk for 1 minute.

MR. KNIRK: Mr. President, ladies and gentlemen, I have been told that there were certain commitments made, but I still have to live with myself. I feel a lot like Mr. Turner. I feel that this is important enough that we folks should be willing to accept that responsibility and vote as we feel. I certainly expect to do that and I would like to request that, on these votes we express ourselves by yeas and nays. I ask for that, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Knirk, are you demanding the yeas and nays?

MR. KNIRK: Yes.

VICE PRESIDENT HUTCHINSON: On what?

MR. KNIRK: On the pending amendment.

VICE PRESIDENT HUTCHINSON: Mr. Knirk demands the yeas and nays on the pending amendment. Is the demand supported? A sufficient number up, 23. The yeas and nays are ordered.

MR. WANGER: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point?

MR. WANGER: You said 23 are up.

VICE PRESIDENT HUTCHINSON: Twenty-three are up, 1/5 of the members present.

MR. WANGER: I fear it is not, under our rules.

VICE PRESIDENT HUTCHINSON: What is that?

MR. WANGER: Under our rules, Mr. President, first of all, we determine those people who are present, I believe, under rule 3, and in computing that, we find, from the total of 144 delegates, we subtract 13, which leaves a total of 131, 1/5 of which is 26.2 or a requirement of 27, and therefore the motion for yeas and nays does not prevail.

VICE PRESIDENT HUTCHINSON: The Chair would advise the delegate that upon the last roll call there were 114 delegates present. That is the last information of the Chair as to the number of delegates present.

MR. WANGER: Mr. President, that might be the case, except that we do not determine who is present by the last roll call. It is the roll call at the opening of any session, under rule 3; that is what it says, under rule 3.

MR. JONES: Mr. President, I move we suspend the rules to allow the delegates to cast a secret ballot on this proposition.

VICE PRESIDENT HUTCHINSON: The Chair is persuaded by the weight of rule 3 as it is written. The Chair agrees that Mr. Wanger is right and sustains the point of order. There were 124 delegates present this morning on roll call and so 1/5 of them is 25, and there weren't 25, so the yeas and nays are not ordered.

MR. BINKOWSKI: Mr. President, preferential motion. It seems we have a lot of gutless wonders around here. Can we have a call of the house or a call of the convention here on the grounds and get everyone in here then?

VICE PRESIDENT HUTCHIINSON: Are you moving a call of the convention?

MR. BINKOWSKI: If that is necessary, I will do that. I so move.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski moves a call of the convention. Mrs. Cushman.

MRS. CUSHMAN: Mr. President, point of information. Would you have the secretary explain exactly what this means?

VICE PRESIDENT HUTCHINSON: Yes. The Chair will invite the attention of the delegates to rule 54.

MR. MARSHALL: Point of order, Mr. President, could you rap for order? I can't even hear.

VICE PRESIDENT HUTCHINSON: The convention will please be in order. The secretary will read the rule pertaining to calls of the convention.

SECRETARY CHASE: Rule 54:

> Calls of the convention may be ordered upon motion by a majority of the delegates present, but the total vote in favor of such call shall not be less than 15 in number.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski moves a call of the convention. The question is upon the motion of Mr. Binkowski.

MR. KUHN: Mr. President, parliamentary inquiry.

VICE PRESIDENT HUTCHINSON: State it.

MR. KUHN: Has anybody that was here this morning been excused from this afternoon's session?

VICE PRESIDENT HUTCHINSON: They have not. Mr. Martin.

MR. MARTIN: Mr. President, a point of order. Rule 54 says, "A motion for a call of the convention shall not be entertained after the previous question is ordered." I realize that the previous question has not been ordered, but a motion which takes precedence over the previous question has been voted, and that is a motion to limit debate, so my point is that this is a motion even more drastic or stringent than the previous question and, therefore, the call of the house is not in order.

MR. BINKOWSKI: I will withdraw the motion.

VICE PRESIDENT HUTCHINSON: The Chair would rule that he does not agree with Mr. Martin and that the motion for a call of the convention is in order but Mr. Binkowski withdraws his motion.

MR. HIGGS: Mr. President, I would like to make an inquiry.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: At this stage in our proceeding, it is my understanding that we have rejected the yeas and nays, is that correct?

VICE PRESIDENT HUTCHINSON: That is correct.

MR. HIGGS: In view of the fact that this is a very difficult vote for me to make, and in view of the remarks with regard to delegates wanting to vote secretly, I think it is a serious matter that we should give consideration of going on record. I am in favor of going on record as to how I vote, openly and publicly, and I would like to ask for the yeas and nays if that is in order.

VICE PRESIDENT HUTCHINSON: Mr. Higgs renews the demand for the yeas and nays. Is the demand supported?

SECRETARY CHASE: Twenty-nine.

VICE PRESIDENT HUTCHINSON: Sufficient number up. The yeas and nays are ordered upon the amendment. Mr. Wanger.

MR. WANGER: Parliamentary inquiry. Under sentence 2 of section 308, paragraph 2 of Mason's Manual, which section is entitled, Motions Relating To Voting, it says, "Decisions on these questions are not subject to reconsideration," and it seems to me that having once decided the question, we cannot now bring it up again.

VICE PRESIDENT HUTCHINSON: This wasn't reconsidered. This was renewed. (applause) The question is upon the adoption of Mr. Millard's amendment. The yeas and nays have been ordered. All those in favor will vote aye. Those opposed will vote no. The voting has commenced.

MR. STEVENS: Mr. President, is this on the amendment or on the motion?

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment once more.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 2931.]

VICE PRESIDENT HUTCHINSON: The Chair will announce that the Chair got ahead of itself. The convention had previously ordered 1 minute debate to each of 6 speakers. The first speaker moved the yeas and nays, out of which all of this started, and the Chair understands that there are 5 other speakers, each of whom have been recognized for 1 minute. The Chair next recognizes Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I identify myself as one of the hypocrites. I don't mind that name because I have been called worse names by more important people. (applause) Please don't waste time. I strongly endorse the Millard amendment. I feel it is much better to keep that in than to fool around and maybe get it all out.

VICE PRESIDENT HUTCHINSON: Mr. Lawrence.

MR. LAWRENCE: Mr. President and members of the convention, I have been impressed by the claim that we were being hypocritical if we allowed parimutuel betting and did not allow bingo. I believe that that remark was right. I believe people who made it were sincere. I looked over the vote previously. I find that it was truly a bipartisan vote. What was hypocritical last week or the week before is not hypocritical now. I urge you to vote against this amendment and I wish to say that my remark the other day about the sun spots still applies.

VICE PRESIDENT HUTCHINSON: Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, I heard the debate on the original committee proposal in committee of the whole. At the time I was for that proposal regardless of the debate that was carried on in the morning session. Unfortunately, I could not be at the afternoon session. However, I would have voted against the amended proposal. At this time, I support the amendment of Mr. Millard's and hope that the delegation will support this fully.

VICE PRESIDENT HUTCHINSON: Mr. Hodges. Mr. Hodges passes. Mr. Marshall.

MR. MARSHALL: Mr. President and delegates, I urge a yes vote on the Millard amendment. I hope that we can dispose of it rather rapidly. I do not hesitate to say that when this was passed on first reading, I know, and many delegates have told me that they felt — and I don't say that the delegate that offered it offered it in jest, but I know certain delegates who did vote yes on general orders who were not serious. I think we should have been — but we were not — considering it as seriously as we should, and I urge a yes vote at this time. Thank you.

VICE PRESIDENT HUTCHINSON: That completes the list of speakers, and the question now occurs upon the Millard amendment upon which the yeas and nays have been ordered.

MRS. BUTLER: Question, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the question, Mrs. Butler?

MRS. BUTLER: With all of this talk that is going on, I still don't know what I am voting on.

VICE PRESIDENT HUTCHINSON: You are voting on the Millard amendment.

MRS. BUTLER: I would like to know if I vote for it, am I voting for parimutuel betting? If I vote against it, am I voting against it?

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment.

SECRETARY CHASE: The pending amendment reads as follows:

[The amendment was again read by the secretary. For text, see above, page 2931.]

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. All those in favor will vote aye. Those opposed will vote no. The voting has commenced.

MRS. BUTLER: Mr. President, I wish to refrain from voting and explain my reasons.

VICE PRESIDENT HUTCHINSON: Mrs. Butler abstains. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—80

Allen
Andrus, Miss
Austin
Baginski
Higgs
Howes
Hoxie
Hubbs
Rush
Sablich
Seyferth
Shaffer

Batchelor
Beaman
Blandford
Bonisteel
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Danhof
Donnelly, Miss
Doty, Dean
Douglas
Downs
Elliott, A.G.
Elliott, Mrs. Daisy
Figy
Greene
Gust
Habermehl
Hannah, J. A.
Hatch
Hatcher, Mrs.

Iverson
Jones
Kirk, S.
Leibrand
Lesinski
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Ostrow
Perlich
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Rood

Sharpe
Sleder
Snyder
Spitler
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—48

Balcer
Barthwell
Bentley
Binkowski
Boothby
Bradley
Cushman, Mrs.
Dehnke
Dell
DeVries
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Faxon

Finch
Follo
Ford
Gadola
Goebel
Gover
Hart, Miss
Haskill
Heideman
Hodges
Hood
Hutchinson
Judd, Mrs.
Karn
Kelsey
King

Knirk, B
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Liberato
Madar
Norris
Perras
Radka
Richards, J. B.
Richards, L. W.
Shanahan
Stafseth
Walker

SECRETARY CHASE: May the secretary take the liberty of pointing out that the amendment as it appeared on the wall did not contain all the names of the sponsors. The names of the sponsors were Messrs. Millard, Habermehl, Powell, Wanger and Youngblood. On the adoption of the amendment offered by Messrs. Millard, Habermehl, Powell, Wanger and Youngblood, the yeas are 80; the nays are 48.

VICE PRESIDENT HUTCHINSON: The amendment is adopted.

Following is statement explaining abstention from voting submitted by Mrs. Butler:

I refrained from voting on the amendment to Committee Proposal 100 concerning lotteries and parimutuel betting. I could not vote to legalize gambling in Michigan nor could I vote to detrimentally affect the employment of so many people in Michigan.

I regret the fact that the 4-H clubs are subsidized by betting.

Following is explanation of vote submitted by Mr. Danhof:

Committee Proposal 100 — Millard, et al, amendment.

In order that a proper perspective may be given on my vote on the Millard, et al, amendment, leading to the adoption of the 1908 language against lotteries, I should like to make the following explanation:

1. After voting in favor of banning parimutuel betting, it became evident that we would be indirectly appropriating over $13 million of investment which had been made in what has been determined to be a legal business. We have no power to appropriate money for the payment thereof and, therefore, I believed it to be a better course to return to the original language. If, in the wisdom of the legislature or if the people so demand, parimutuel betting may be outlawed by simple vote of the legislature. At the same time, the legislature could make appropriation to compensate those individuals who had been damaged.

2. In analyzing the vote by which the original amendment to ban parimutuel was adopted, it became evident to me that, if only 8 delegates abstained from voting on the final passage of the proposal, as written, the entire proposal would fail and we would have no constitutional prohibition against gambling in this state. Because I was convinced that this was not only possible but probable, I felt that it was the best course for this state to return to the language of the 1908 constitution.

SECRETARY CHASE: Messrs. Madar, Perras, Mrs. Daisy Elliott, Mrs. Hatcher and Mr. Murphy offer the following amendment:

1. Amend page 1, line 1, by striking out the entire proposal.

VICE PRESIDENT HUTCHINSON: On the amendment to strike, the Chair recognizes Mr. Madar.

MR. MADAR: First I would just like to say that I have never seen such a rash of lobbyists for gambling in all my life as we have seen in the last few days. In fact, I heard so much "neighing" I thought we would never pass anything.

I have a letter here from the 4-H club foundation of Michigan, incorporated. I was rather surprised to find out that the people of the state of Michigan couldn't take care of their own organizations without gambling money. We find out, too, that even the fairs can't operate in the state of Michigan without parimutuel betting. What a sad commentary that is.

So far as I am concerned, the other day when I got up, when Mr. Walker offered his now famous amendment, when he offered it, I said then and I said earlier that day that I was not opposed to gambling, and I am not. I think I do as much gambling as the next man does, and I am now talking about the average individual. I don't overdo it because I can't afford to spend too much. I have my wife to support.

I don't know what this means, but I have been handed — quite often over the past few weeks and especially the past week — a lot of notes that weren't too good and weren't too nice. Most of them were unsigned. No, none of them were threats against my life. This happens to be the case against gambling.

They tell us that they take in $8 million; that is, the state of Michigan. When I showed you this parimutuel ticket a few short minutes ago, I showed you a ticket for which I paid $3. Ireland takes in approximately $50 million from the state of Michigan, and this is what we saw in the Reader's Digest, for purposes of operating their hospitals. Now, I wonder why we couldn't do that here in Michigan if we wanted to? I am not proposing that we authorize lotteries, I am just proposing that it is hypocritical, whether Mr. Stevens likes it or not, and I think that I will be as great as any man that might say it to him, and maybe greater, because at least I will tell the truth, and I will not be a hypocrite, no matter what any large group of people say to me, nor will I ever worry about losing a political office because of what I do — and there are an awful lot of people who are mighty afraid of how they vote.

Apparently the gamblers are out in the hall watching or listening. See, I am not even worried about the letter I got from a minister in my district who says that I ought to vote against parimutuel betting. Frankly, if I vote, if we vote to take out all of this amendment, this would permit parimutuel betting just the same, but it wouldn't permit lotteries or bingo unless the legislature did something about it, and this, I believe, is right. I think if you will recall that I did say that this did not belong in the constitution; it belongs in the legislature.

Now, I wonder why the betting fraternity is so worried. They are convincing you, apparently, so why can't they convince the legislature? I don't think I have to say much more so far as my case is concerned. I just want you to search your souls —

VICE PRESIDENT HUTCHINSON: The 5 minutes are up.

MR. MADAR: — and I want you to be sure when you go home to tell them how you voted.

VICE PRESIDENT HUTCHINSON: The time has expired, Mr. Madar.

MR. MADAR: I am stopping right now, Mr. President.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Madar and others.

MR. MADAR: I am asking for the yeas and nays.

VICE PRESIDENT HUTCHINSON: Upon which Mr. Madar demands the yeas and nays. Is the demand supported?

MR. MARSHALL: Mr. President preferential motion.

VICE PRESIDENT HUTCHINSON: What is the preferential motion?

MR. MARSHALL: May I ask a point of information, first? How many speakers do you have on the list for this one?

VICE PRESIDENT HUTCHINSON: I have 3, counting yourself.

MR. MARSHALL: Well, I think in all fairness — and if you allow the other 2, I can relinquish my time — but inasmuch as Delegate Madar took all the time, I would move that we extend the debate for 2 minutes and allow each speaker on the list to have 1 minute.

VICE PRESIDENT HUTCHINSON: First, the question is upon the demand of Mr. Madar for the yeas and nays upon his amendment. Is the demand supported? A sufficient number up. The yeas and nays are ordered upon Mr. Madar's amendment. Mr. Marshall now moves that debate upon this amendment be extended by 3 minutes. All those in favor will say aye. Opposed, no.

The motion prevails. The Chair next recognizes Mr. Blandford for 1 minute.

MR. BLANDFORD: Mr. President, mine will take about 10 seconds. I would just like to make one observation, and that is that a delegate to this convention held a lottery ticket today in the same hand as he held the Bible last week, and has the nerve to call us hypocritical. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Gover, 1 minute.

MR. GOVER: Mr. President and fellow delegates, I would be remiss if I didn't call your attention to some facts that I have here. Last year there were over 2 million people went to the races, and wagered $120 million. That is $55 for every person that went to the races every day they were there. Some of the families need that money at home. They talk about the 4-H, the 4-H got $175,000 from the state of Michigan out of that $120 million. Why does it have to have such a sordid business that the children have to get their money out of gambling?

VICE PRESIDENT HUTCHINSON: Mr. Marshall, do you desire to be recognized? You are on the list.

MR. MARSHALL: I will be very brief, Mr. President. I rise to support the Madar-Perras amendment. I don't believe that we — and I know there might be people that want to take exception to this — but we are not here to write the Ten Commandments, and I don't think we could if we wanted to. Whether we have the Ten Commandments, and whether they are adhered to, is left up to each individual and his own religious belief and faith.

I don't think that we should deal with gambling in any form in the constitution, and I think the representatives of the people who are elected by the people and sent to Lansing to enact the legislation that we live under should handle the problem. Therefore, I support the amendment to strike the entire proposal.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Madar to strike the entire proposal upon which the yeas and nays have been ordered. As many as are in favor of the amendment will vote aye. Those opposed will vote no. The voting has commenced. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—41

Austin
Baginski
Balcer
Barthwell
Beaman
Bentley
Binkowski
Bradley
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Everett
Faxon
Ford
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Mahinske
Marshall
Murphy
Norris
Perlich
Perras
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays—87

Allen
Andrus, Miss
Batchelor
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Greene
Gust
Habermehl
Hannah, J. A.
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Ostrow
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Madar and others to strike out all of the section, the yeas are 41; the nays are 87.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. Are there any further amendments? Mr. Bradley.

MR. BRADLEY: I wish to inquire whether I have the right at this time to explain my vote to the convention.

VICE PRESIDENT HUTCHINSON: Under the rules the explanation may be made, but must be made in writing and filed with the secretary and not on the convention floor. You may file your explanation with the secretary and it will be printed in the journal.

Following is explanation of vote submitted by Messrs. Norris and Bradley:

Committee Proposal 100 reads as follows, "The legislature shall not authorize any lottery or parimutuel betting, nor permit the sale of lottery tickets."

We opposed Committee Proposal 100, because we did not regard such subjects of lotteries, parimutuel betting, etc., as constitutional matters. These are matters to be left to the legislature, so that they may reflect the public will with flexibility and precision.

It may be that we ought to prohibit all or some forms of gambling. Committee Proposal 100, however, prohibits only 2 forms of gambling — lotteries and parimutuel betting. Roulette, slot machines, book betting, cards, crap games are not prohibited. Constitutional prohibition will create many difficulties that can be foreseen.

We submit that effective control, prohibition, or permission of any or all forms of gambling ought to be left to the legislature.

SECRETARY CHASE: Messrs. Binkowski and Madar offer the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and inserting "Gambling and wagering of any form is hereby prohibited.".

VICE PRESIDENT HUTCHINSON: On the amendment the Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Mr. President and ladies and gentlemen of the convention, as I indicated before, I don't think that a standard of morality should be imposed. I just don't have the heart for this one, so I am going to withdraw my name. I don't know how Mr. Madar feels.

VICE PRESIDENT HUTCHINSON: The amendment will now be as offered by Mr. Madar. Mr. Madar.

MR. MADAR: Mr. President, inasmuch as I see the tenor of the group, I am not going to oppose them any further.

VICE PRESIDENT HUTCHINSON: Mr. Madar and Mr. Binkowski withdraw their amendment. Are there any further amendments to the body of Committee Proposal 100?

SECRETARY CHASE: None, Mr. President.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of Committee Proposal 100, as amended. The board will please be cleared. Do you want it read? All right. Read the proposal once more.

SECRETARY CHASE: The proposal as it now stands reads as follows, "Sec. a. The legislature shall not authorize any lottery nor permit the sale of lottery tickets."

VICE PRESIDENT HUTCHINSON: Clear the board, please. All those in favor will vote aye. Those opposed will vote no. This is on the passage of the proposal, as amended.

MR. FORD: Mr. President.

VICE PRESIDENT HUTCHIINSON: Mr. Ford, for what purpose do you rise?

MR. FORD: I wish to abstain from voting for the reason that I don't understand, after the evolution of this thing, how anybody knows how to vote on it.

VICE PRESIDENT HUTCHINSON: Mr. Ford abstains. Mr. Richards of Marquette.

MR. L. W. RICHARDS: I would like to abstain from voting due to the fact of how this has been presented, and will present my reasons in writing.

VICE PRESIDENT HUTCHINSON: Mr. Richards abstains.

MR. AUSTIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Abstain.

VICE PRESIDENT HUTCHINSON: Mr. Austin abstains.

MR. BRADLEY: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Bradley.

MR. BRADLEY: Is debate still permitted on this proposal?

VICE PRESIDENT HUTCHINSON: Debate is no longer permitted on this proposal. Mr. King abstains; Mr. Karn abstains; Mr. Shanahan abstains; Mr. Leppien abstains. Have you all voted? Mr. Walker abstains; Mr. Gadola abstains; Mr. Plank abstains; Mr. Bradley abstains.

MR. FARNSWORTH: Mr. President, point of information.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Farnsworth?

MR. FARNSWORTH: My point is this: is it necessary to abstain from voting in order to explain your reasons for a vote? Is it not possible to vote yes or no and still state your reasons therefor?

VICE PRESIDENT HUTCHINSON: That is the only way you can do it. Mr. Follo.

MR. FOLLO: Mr. President, abstain.

VICE PRESIDENT HUTCHINSON: Mr. Follo abstains.

MR. TURNER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Turner.

MR. TURNER: I am confused on this thing. I don't know which way to vote. I don't want any gambling of any type, and this doesn't cover all gambling. Now, which way do I go?

VICE PRESIDENT HUTCHINSON: That is your decision, Mr. Turner, not the Chair's. Mr. Perras.

MR. PERRAS: Point of information, Mr. President. Now, when the delegates vote on this issue, if it fails to get the necessary 73 votes to pass, then it is not in the constitution, is that correct?

VICE PRESIDENT HUTCHINSON: That is correct.

MR. KARN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Karn.

MR. KARN: Mr. President, I want to withdraw my abstention.

VICE PRESIDENT HUTCHINSON: Mr. Karn withdraws his abstention. Mr. Marshall.

MR. MARSHALL: Mr. President, very briefly, as stupid as I am, I, for once, can say I am not confused. What we have here exactly verbatim, word for word, is the 1908 language with no change, and it has worked well for generations, and there has been no real hue and cry for change. I can't understand the confusion.

VICE PRESIDENT HUTCHINSON: Have you all voted? Mr. Richards.

MR. L. W. RICHARDS: Mr. President, I wish to withdraw my abstention, and I will explain my vote.

VICE PRESIDENT HUTCHINSON: Mr. Richards of Marquette withdraws his abstention. Mr. Leppien withdraws his abstention. Mr. Plank withdraws his abstention. Have you all voted? If so, the secretary will lock the machine and record the vote.

MRS. DAISY ELLIOTT: Mr. President, parliamentary inquiry. On the vote that was just taken —

VICE PRESIDENT HUTCHINSON: It hasn't been announced yet.

MRS. DAISY ELLIOTT: I want to know, before I change my vote; if I vote no, does that mean that I want gambling in the state of Michigan?

VICE PRESIDENT HUTCHINSON: You will have to make up your mind on what your vote means, Mrs. Elliott. The Chair cannot advise you.

MR. SNYDER: Mr. President, a point of order.

VICE PRESIDENT HUTCHINSON: What is your point, Mr. Snyder?

MR. SNYDER: I think that we have a very crucial vote here. We are putting our secretary at a disadvantage by changing votes so much. I think it is incumbent upon the delegates to make a vote, to make one vote and to stick to it. I know that many of them are going to seek refuge in the fact that they voted right but our secretary did not record their vote correctly, in the future. I would suggest that we have one vote and let it go at that.

VICE PRESIDENT HUTCHINSON: Are you moving that this vote be vacated?

MR. SNYDER: Mr. President, I am suggesting that, for the purpose of having an accurate roll call, we take a proper vote and have the delegates vote and stick to their vote.

VICE PRESIDENT HUTCHINSON: Well, the Chair is satisfied that the secretary has an accurate count here.

The roll was called and the delegates voted as follows:

Yeas—94

Allen
Andrus, Miss
Baginski
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Goebel
Gover
Greene
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Ostrow
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Seyferth
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays—27

Balcer
Barthwell
Bentley
Binkowski
Faxon
Hart, Miss
Hatcher, Mrs.
Hodges
Liberato
Madar
Mahinske
Murphy

Dell
Douglas
Downs
Elliott, Mrs. Daisy
Everett
Hood
Jones
Kelsey
Krolikowski
Lesinski
Norris
Perlich
Perras
Sablich
Young

SECRETARY CHASE: As the matter now stands, on the passage of Committee Proposal 100, as amended, the yeas are 94; the nays are 27.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **Committee Proposal 100**, as amended, is passed.

Following is explanation of vote submitted by Messrs. Kelsey, Liberato and Binkowski:

We wish to explain our nay vote on Committee Proposal 100 for the following reasons:

Lotteries and parimutuel betting are individual matters. For some people, they are a question of morals. For others, they are not. As we have learned from our bitter experiences with prohibition, we cannot legislate morals. Therefore, we do not feel that any such language is necessary in a constitution.

However, when the convention decided on April 11 to be consistent and to prohibit the most common forms of gambling, we went along because we felt, "what is good for the goose is good for the gander." Now for some unknown reasons, a majority reversed themselves.

To prohibit lotteries but to permit other forms of betting and gambling is highly inconsistent.

A good constitutional form would dictate that the entire section should be deleted and the matter left entirely in the hands of the legislature. The existing legislation which prohibits lotteries would remain in full force and effect so that we would not be legalizing gambling.

It is wrong for a majority of the people in this convention to impose their standard of morality upon the people of Michigan for generations to come.

Following is explanation of vote submitted by Mr. Faxon:

I voted against Committee Proposal 100 dealing with lotteries as a result of the hypocritical position assumed by the convention in prohibiting one form of gambling and in allowing another. If we are to legislate in the constitution and prohibit gambling then we should do the job completely. I cannot in any way justify the position of allowing betting in horse racing and prohibiting lotteries and bingo. I am unalterably opposed to gambling and could not in all good conscience vote for a proposal that purported to do something which it, in fact, did not do.

Following is explanation of vote submitted by Mr. Leppien:

My reason for voting for the amended Committee Proposal 100 is as follows:

Should Committee Proposal 100 not have received the necessary minimum of 73 votes our new constitution would have had no prohibition against gambling.

Following is explanation of vote submitted by Mr. Wanger:

Because of the controversial and widely misunderstood nature of the question of parimutuel betting, that is, of state regulated betting at established and policed racetracks located within the state on the outcome of horse racing contests held there, I desire to explain my support and vote to keep the language, "The legislature shall not authorize any lottery nor permit the sale of lottery tickets," in our constitution without adding a constitutional prohibition against parimutuel betting.

This language, which has been in our state constitution for over 100 years, outlaws lotteries but under the decision of Michigan's supreme court leaves the matter of parimutuel betting entirely in the hands of the legislature because horse racing was said by the court to involve an element of skill lacking in common gambling. Thus, the legislature has complete power to regulate, continue or abolish parimutuel betting, which is at present a legal business in which well over $10 million are invested, which directly employs many thousands of persons and which annually supplies millions of dollars in state and local tax revenue.

I respect those who hold a strong conviction that parimutuel betting is, per se, morally wrong and that no one should be allowed to engage in it, although I have not become personally convinced of that myself. However, it is by its nature highly susceptible to the strictest and most rigorous policing, regulation and control by the state; and to take action as a constitutional convention delegate which would summarily, immediately, irrevocably and without compensation destroy this enterprise would in my opinion be an irresponsible act. I neither approve nor disapprove of parimutuel betting when regulated and policed by the state, but I firmly believe for the reasons stated above that that question must be left for the legislature to decide.

Following is explanation of vote submitted by Mr. Dehnke:

I voted for final passage of Committee Proposal 100 because it goes as far in prohibiting lotteries as the majority of the convention would agree to. If the proposal had failed of adoption, the new constitution would have contained no prohibition of any kind of gambling. Committee Proposal 100 as adopted now contains the same prohibitions as our present constitution.

VICE PRESIDENT HUTCHINSON (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 100 as amended and rereferred to the committee on style and drafting:

Sec. a. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

The secretary will read the next proposal.

SECRETARY CHASE: Item 6 on the calendar, **Committee Proposal 28,** A proposal to provide for compensation of the legislature. Amends article V, section 9.

Following is Committee Proposal 28 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 760.):

Sec. a. The compensation and expenses of the members of the legislature shall be determined by law [:]. [Provided, That] No change in compensation or expenses shall be effective during the term of office for which the legislature making the change was elected.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President, this proposal was returned from style and drafting without any substantive change and the committee wishes to recommend its adoption.

I would also like to say, Mr. President, that there have been some requests for a 5 minute break, if it is within the desire of the convention.

VICE PRESIDENT HUTCHINSON: Are you making a motion for recess?

MR. HOXIE: In deference to our staff, I so move.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie moves that the convention stand in recess until 4:00 o'clock. All those in favor will say aye. Opposed will say no.

The motion prevails and we are recessed until 4:00 p.m.

[Whereupon, the convention recessed; and, at 4:00 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: We will return to the order of second reading of proposals, and the question im-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

mediately before the house is the adoption of Committee Proposal 28.

SECRETARY CHASE: Delegates DeVries, Allen, Andrus, Anspach, Austin, Baginski, Bentley, Binkowski, Blandford, Bledsoe, Bonisteel, G. E. Brown, T. S. Brown, Buback, Conklin, Cushman, Bradley, Dell, Donnelly, Dean Doty, Donald Doty, Downs, Durst, Arthur Elliott, Erickson, Faxon, Follo, Gadola, Garvin, Gust, Habermehl, William Hanna, John Hannah, Hart, Hatch, Hatcher, Heideman, Higgs, Hodges, Hood, Hubbs, Judd, Kelsey, King, Knirk, Lawrence, Liberato, Jones, Mahinske, McLogan, Murphy, Nord, Norris, Perlich, Perras, Pollock, Radka, Rajkovich, J. B. Richards, Sablich, Seyferth, Shackleton, Snyder, Staiger, Stamm, Sterrett, Stopczynski, Suzore, Tubbs, Turner, Tweedie, Upton, White, Yeager, Young and Youngblood offer the following substitute:

Sec. a. The annual salary of the members of the legislature shall be not less than 50 per cent paid the members of the United States house of representatives. Additional actual and necessary expenses may be provided by law. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions.

VICE PRESIDENT HUTCHINSON: The question is upon the substitute offered by Mr. DeVries. The Chair recognizes Mr. DeVries.

MR. DeVRIES: Mr. President, ladies and gentlemen of the convention, lately I have felt rather lonely on my amendments, so I have asked 74 other people to help me cosponsor this particular one and am delighted that they were willing to help me.

This substitute proposal, as you will recall, was part of a package of amendments submitted to you 2 or 3 weeks ago designed to strengthen legislative organization. You all have copies of the substitute and the supporting reasons and data for the submission of the substitute committee proposal. After talking to some of the people who objected to some of the language, I considered for a while withdrawing the first sentence but I felt if I did this I would disappoint Mr. Kuhn, perhaps Mr. Bentley, and perhaps Vice President Hutchinson, in that it deals, of course, with the congress of the United States. So, I have submitted a memo, and I hope you have it on your desk, and I will briefly run through the supporting reasons for this substitute committee proposal. The substitute proposal does this: it sets the state legislator's pay at ½ of the congressional salary, which is presently $22,500. That means legislators would get paid $11,250. The substitute also provides that they may have actual and necessary expenses, if it is provided by law. And the last paragraph of the substitute precludes, prohibits any other remuneration for his services. This will do away with any fringe benefits, and in particular, the legislative retirement program.

The adoption of this substitute would mean equality of access to the office of state legislator. This substitute removes the present financial roadblock which practically prohibits, and certainly precludes the vast majority of the people of this state from considering seeking the office of state legislator. The present legislative salary, which is $5,000, plus $1,250 for expenses, is not a living wage, when a 5 or 6 month legislative session requires your attendance in Lansing. The guarantee of an adequate salary for one of the most important elective offices in this state will strengthen the fundamental democratic right of equal access to elected public office.

Second, I think if we put this pay, this salary, at an adequate level, we guarantee financial independence. An adequate salary for state legislators guarantees the financial independence necessary in the legislative process. This would relieve legislators from depending on other sources of income, both public and private, to supplement their legislative compensation, and I think this would preclude conflict of interest.

Third, I think it is necessary to raise legislative pay because it is becoming a full time job. If you will look at the memo, you will see that in 1958 the legislature met from January 8 until sine die adjournment June 14, 6 months; 1959 they met 12 months; 1960, 5 months; 1961, 6 months; and I don't know how long they are going to meet this year, but perhaps at least 6 months. The point is that the trend is obvious. The legislature meets longer and longer, and certainly within the next 10 years their sessions might very well extend to 7 or 8 months. Some of you may object to the concept of a full time legislature. You may argue that you do not want the state legislature there full time, but I would point out to you, whether we want it or not, the increase in the number of bills introduced every year, some of the provisions that we have adopted at this convention will mean that sessions will be longer, not shorter, in the next 10, 20 or 30 years. Most of us consider the congress a full time job. They meet approximately 8 months each year. So, our legislature is approaching a full time obligation.

Fourth, we have tied this legislative salary to the congressional salary. Consideration was given in the committee 4 or 5 months ago when I was drafting this to relating the legislative salary to the salary of the governor of the state of Michigan, or the supreme court, or to a state civil service classification. I don't think I have to point out to you the obvious reasons why this would be bad. Legislators would be setting the salary of the governor and supreme court, and they might do so in order to raise their own.

Fifth, I think raising the legislative pay brings the legislative branch more in line with the other 2 branches of government. This convention has already strengthened the legislative branch in its organization, its staff, its committee meetings and so on. It seems to me that the legislative branch, at least in my opinion, is the most important branch of state government, and yet the salary status of legislators is nowhere near that of the other 2 branches.

Sixth, this substitute provides that legislators cannot receive any other public moneys for legislative service. This implements Committee Proposal 112 which we adopted an hour or two ago. The adoption of this substitute proposal prohibits any person serving in the legislature from receiving at any time any additional fees, compensation or financial benefits from the state or its political subdivisions for his services as a legislator. He would receive only his basic salary, unless they provided some expenses by law. He would receive only his basic salary and would receive no other public moneys. He could not be on 2 public payrolls. Now, this should result in a savings for the taxpayers. We have legislators who serve in other governmental bodies and in the legislature and draw salaries from both.

Now, the substitute will also eliminate the present legislative retirement system, which, to my mind, is philosophically and financially unsound. A legislator should be paid adequately for his services at the time, not 10, 15, 20 years later. The concept that he is entitled to compensation after he has left the office and that the amount of this retirement compensation is determined by the length of his service is not sound or in the public interest. The present legislative retirement system is set up as follows: there are 3 major sources of income for the retirement system. One is an appropriation from the general fund of the state. Last year it was $65,000. They are requesting this year $156,000. The second source is the legislator's salary itself. He contributes 7 per cent of the $5,000 salary. He can elect to go into the program or not to go into the program. At the present time, all legislators are under the program. The third source becomes effective January 1, 1963, and is from circuit court filing fees. Beginning January 1, this act provides that of the $10 circuit court filing fee, $4 is earmarked for judges' retirement, $2 for legislator's retirement and $4 for the court. This should bring in about $90,000 a year when the act becomes effective in January.

Here are the benefits if you elect to go into this program: legislators who serve less than 8 years cannot qualify. Now, they have paid 7 per cent of their $5,000 salary into the fund, but they get back 5 per cent because the other 2 per cent is earmarked for the survivors' fund. If you serve 8 years — and most legislators serve longer than this, of course — at the age of 60, you are entitled, after 8 years of service, to 26 per cent of the salary, which is now $5,000, in benefits, every year from that point on. Now, for every additional year beyond the first 8 years, you get another 3 per cent of your basic salary. So, for example, if you serve 16 years, your benefits would be as follows: you would get 26 per cent of your salary for the first 8 years, and then another 21 per cent for the second 8 years, and you receive $2,500 a year in legislative retirement benefits. Now, note, these benefits are not stated in dollar amounts. They are stated as a percentage of salary. It is quite likely that legislator's salaries are going to be raised in the next 10 years, whether we do anything about it or not. Let's just suppose that they raise them in the next 10 or 15 years to $10,000. This would mean that a legislator who served 16 years would be entitled to almost $5,000 a year in retirement benefits at the age of 60.

It should be obvious to you that the cost of this program is going to skyrocket in the next 10 or 20 years. I am told that the annual obligations of the total fund are, right now, about $1 million, and they have $300,000 in reserve. You can see what is going to happen in the years that lie ahead. Right now, very few legislators are under the program, but in 10 or 15 years, many will be. The program is philosophically and financially unsound, and the adoption of this substitute will correct the situation.

This in no way affects the present legislative retirement benefits. All we are saying is that when this constitution is adopted, from that point on, the state will not contribute to the fund. No more public moneys will be allowed in the fund. This does not jeopardize legislators who are now under the program, takes nothing away from them. After the constitution is adopted, they can set up their own private program, but this would not jeopardize the benefits accrued by the people already in the program.

Seventh, the substitute provides that expenses may be provided by law, actual and necessary expenses, and this is left to legislative discretion.

Eighth, if you will look at the table at the back of the memo, I can show you some comparisons of cost if this program were adopted. For the fiscal year 1962-63, the legislature has made the following budget request: $720,000 in salary; $321,150 in expenses. These expenses include their $1,250 monthly allotment, plus the 2 round trips home at 10 cents a mile. The legislative retirement fund is asking for $156,000, so their total legislative requests are close to $1,200,000. Under this substitute committee proposal, the salary is set at $11,250; the total salary expenditure would be $1,620,000. No expenses are provided. Retirement fund is prohibited as well as any other fringe benefit program that might come into being, and the total legislative request would be $1,620,000. The difference here is minimal, and let me also point out to you that there will be substantial savings if you eliminate the retirement fund and other fringe benefits, plus the provision that a legislator cannot serve on 2 public payrolls.

In comparison with other states, the argument is going to be made that it is legislative material. I would like to quote Mr. Kuhn, that this is legislative if you are against it and not if you are for it. But, in any event, 17 states have constitutional provisions which set legislative salaries; 8 states have a combination of constitution and statute which is what this substitute would provide, and 25 states provide for salaries by statute alone. All this substitute does is set a minimum salary and provides that expenses may be provided by statute, nothing else.

Mr. President, I believe that this substitute will strengthen the legislative process. I have been working on it for 6 months, and the more research I do on it, the more convinced I am that we need it. Finally, lest my motives be impugned, I am not a candidate for the legislature, and do not intend to be. Mr. President, I would move that the substitute be divided, and that we vote on the last paragraph first, then on the first sentence of section a, and then on the balance of that paragraph.

VICE PRESIDENT HUTCHINSON: Mr. DeVries asks that the amendment be offered by paragraphs, and the Chair believes that under those circumstances, that it is divisible. The Chair next recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, I was one of those that signed as a sponsor of this particular substitute, although I did not have in front of me the full content of it. So, I want to indicate that I support the first sentence and the balance of the first paragraph, but I am against the last paragraph and I wish to speak to that particular point, because I cannot help but feel that to absolutely prohibit a legislator from having compensation from retirement is to be highly prejudicial to this office.

MR. KUHN: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Kuhn?

MR. KUHN: This is a motion to strike and insert. It is not divisible. And I insist we should vote on it. It is only one section. It is section a. We have made a ruling that when there is only one section, you don't need 73 votes for each paragraph, and I insist that we vote on it as a total package.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn, the amendment here before us was offered as a substitute.

MR. KUHN: Well, in order to substitute, you have to strike out all of section a, isn't that true?

VICE PRESIDENT HUTCHINSON: It is a substitute for the entire committee proposal.

MR. KUHN: That is correct.

VICE PRESIDENT HUTCHINSON: Well, that is a little bit different than a strike out and insert.

MR. KUHN: But it is only one section, section a; therefore, it should be voted on as an entire section so we can get 73 votes on it.

VICE PRESIDENT HUTCHINSON: You don't need 73 votes for the initial adoption of the substitute, but you would need 73 votes to adopt the proposal as substituted. Is Mr. Faxon completed?

MR. FAXON: No. I just want to finish that statement on this question. I think we provide retirement benefits for judges in this state. We have it for other employees, teachers, people who work in factories, in all walks of life. And if we want to have a truly good group in the legislature, as Mr. DeVries points out, then I think we should not put any prohibition against the legislature from providing for retirement benefits for their own people. If people work all their life or spend many years of their life in a certain employ, they should be at least entitled to some benefits, and to write a prohibition of this sort into the constitution does not make sense. In addition to that, I might add that there are other benefits that other employees of the state get, and employees of industry, such as certain health insurance benefits, and I don't believe that we should write in a prohibition against any sort of future participation in this type of program. But I think the idea of raising the salary and attracting more competent people, if this is the intent, is a good one and I would support the first 2 parts of the substitute and reject the last paragraph.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I have no idea whether this amount of time would be required for this substitute. This appears to be an important one. I would move that further debate on the substitute be limited to 30 minutes, and that would include any amendments to the substitute which might be offered.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Van Dusen to limit debate upon this substitute and any amendments thereto to 30 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. Now, let us first understand what we are dividing here.

MR. MARSHALL: Mr. President, Mr. Van Dusen's motion was to limit debate to ½ hour?

VICE PRESIDENT HUTCHINSON: That is correct.

MR. MARSHALL: Was there any more to the motion?

VICE PRESIDENT HUTCHINSON: Well, it was to include the debate, as the Chair understands it, upon the substitute and all amendments thereto, as a total, half an hour.

MR. MARSHALL: Would I be in order to make a motion to divide the time equally among whatever number of speakers you have on the list?

VICE PRESIDENT HUTCHINSON: Well, this is rather hard to do because —

MR. MARSHALL: All right. I don't want to take up too much time. I am sick, sick, sick.

MR. KUHN: Mr. President, how many speakers are on the list?

VICE PRESIDENT HUTCHINSON: Five at the present time.

MR. KUHN: And how many amendments are on the desk to this section?

VICE PRESIDENT HUTCHINSON: How many amendments, Mr. Secretary?

SECRETARY CHASE: We have this substitute and 2 amendments.

VICE PRESIDENT HUTCHINSON: Three amendments altogether.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: In the spirit of fairness, Mr. DeVries, in his presentation, according to the clock, used 15 minutes. Now we are limiting the debate to an additional half hour. I would like to recommend that the total amount of time of 45 minutes be divided equally between those proponents of the proposal and the answer to the question before us.

VICE PRESIDENT HUTCHINSON: Well, the Chair will have to advise Mr. Hoxie that the Chair is unable to ascertain by the people who seek recognition whether they are for or against.

MR. HOXIE: I will guarantee you, Mr. President, that the opposition to this proposed substitute will consume, on the part of the committee, half of the time involved, which is 45 minutes.

VICE PRESIDENT HUTCHINSON: Well, the amount involved was 30 minutes. Mr. Dehnke.

MR. DEHNKE: I desire to be put on the list.

MR. KUHN: Mr. President, I would like to amend that motion.

VICE PRESIDENT HUTCHINSON: What motion?

MR. KUHN: To limit the debate on this amendment and all amendments thereto.

VICE PRESIDENT HUTCHINSON: Well, you will have to move to reconsider the motion because the motion has been adopted.

MR. KUHN: We haven't taken a vote on it yet.

VICE PRESIDENT HUTCHINSON: Yes, it was.

MR. KUHN: Well, I will wait until the time limit is up.

VICE PRESIDENT HUTCHINSON: All right. Now, then, the secretary would like to first ascertain how it is that it is requested that this matter be divided.

MR. DeVRIES: I withdraw that request and ask that the question be divided between the first and second paragraphs, and that we consider the second paragraph first, because if the first paragraph is adopted and the second one is not, I don't want any part of this substitute. To point out to Mr. Faxon, it does not take away the retirement system. If they want a private one, they can have it.

VICE PRESIDENT HUTCHINSON: Mr. DeVries requests that the second paragraph of the substitute be taken up first, and the secretary will read that which is now before you immediately.

SECRETARY CHASE: The second paragraph of the substitute is:

> No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions.

VICE PRESIDENT HUTCHINSON: Mr. Leppien, for what purpose do you rise?

MR. LEPPIEN: I have a parliamentary inquiry, Mr. President. Is it possible to have a motion at this time that each speaker be limited to 4 minutes?

VICE PRESIDENT HUTCHINSON: It would be possible to make such a motion.

MR. LEPPIEN: I so move, Mr. President, that the 30 minutes be divided up in such a manner that each speaker is given 4 minutes.

VICE PRESIDENT HUTCHINSON: Not to exceed 4 minutes by any speaker.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: On that motion, Mr. Hoxie.

MR. HOXIE: I appreciate Mr. Leppien's concern about completing this work as fast as possible. I called attention a minute ago to the fact that Mr. DeVries consumed 15 minutes in his presentation of his substitute. Mr. Kuhn, who is responsible for this in the legislative powers committee should also be given the same amount of time in presenting the arguments in opposition, and I would dislike, very much, to see the committee restrained from presenting the true facts, as we see them, to this body.

VICE PRESIDENT HUTCHINSON: The question is upon Mr. Leppien's motion that all speakers be limited to 4 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails.

MR. SHARPE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Sharpe.

MR. SHARPE: Would it be in order to request the delegation to allow Mr. Kuhn 15 minutes on his deliberations? If it would, I would like to move this.

VICE PRESIDENT HUTCHINSON: Mr. Sharpe moves that the time for debate be extended by 15 minutes for the recognition of Mr. Kuhn for that length of time. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, thank you very much for this time. I do not think I need 15 minutes. I appreciate it, though.

I am sorry that Dr. DeVries and Dr. Pollock did not honor our committee with their pearly words of wisdom. They did not see fit to come to our committee and discuss this proposition. I am sorry that although we had a special meeting within the last week, they still did not appear and give us their pearly words of wisdom. I also note that many people that have signed this particular substitute for the legislature are candidates for the legislature, and I should like to inform them that I think they should leave this to the proper forum.

Now, getting to the DeVries substitute, and I would like to go through it like he did, and give you some facts and figures. First, I think this is entirely wrong, and Dr. DeVries is absolutely right when he says that I will say this is legislative; just like Dr. Pollock said when I brought up presidential primaries yesterday: very poor constitutional language. Well, I must say this is exactly the same thing, and I wanted to illustrate that point and that is why I put it in yesterday, because this is terrible constitutional language.

The model constitution, as found on page 67 says that the legislative pay should be left to the legislature. The constitution of the United States also says that the pay of the United States congress should be left to the United States congress for their determination. Twenty-five states say the same thing. How bad off is Michigan? Dr. DeVries didn't tell you that Michigan is the second highest paid in the United States. He didn't tell you that only one other state pays higher, the state of New York. He didn't tell you that they raised their own pay just a year ago by $2,500, by legislative action.

I read through this thing late last night — I got a copy of it at 11:00 o'clock — and I notice that he says here that the legislature should not be put on the spot. I will come to that in a minute; what kind of a spot they are on. Let's look at this thing section by section and see outlined the advantages. One, they only receive $5,000 plus $1,250 for expenses. He accidentally omitted on his first page to tell you that they also receive mileage of 10 cents a mile twice a month. He also forgot to tell you that they have a phone card, and they can use it at their discretion. He also forgot to tell you about many other benefits. He says this will make for financial independence. I submit to you that is a matter of judgment.

Now, this full time salary for full time work really concerns me because I say he really used a very good method in determining the time the legislature works. He takes the years 1958, '59, '60, '61 and '62. He would have you think that they worked 6 months, 12 months, 5 months, 6 months, and 5 months. He forgot to tell you how many days they actually worked. Now, I would like to submit to you that in the year 1958, they worked 75 days; in the year 1959, when they couldn't get together on the tax, they worked 175 days; the year '60, they worked 67 days; and the year '61, they worked 79 days. I don't think I have to remind you, if this constitutional convention was not in session today, the legislature would have been adjourned sine die last week, but they could not afford to go home, they feel, as long as we are here deliberating.

Now, he also says that this is a full time job, and I submit to you that for 75 days, 67 days, 79 days, $6,250 is big pay. Now, these people all came in front of our committee, and when I say "these people," I would like to say several senators and representatives, including the speaker of the house, Mr. Don Pears. Not one of them suggested that we raise their pay, and not one of them suggested that we change the formula or the method. So, I submit to you that this is not a full time pay and that they are being paid very adequately.

Now, they are telling us how complex everything is going to be, how this is going to be really full time. Michigan has a budget of roughly 1 billion 200 million. Now, remember, 1 billion 200 million. New York has a budget of 2 billion 400 million. Let's look at this great New York legislature, this legislature of such honorable men who raise their pay from $7,500 to $10,000 in the year 1961. How many days do they work a year? I have the same years here. In 1958 they worked 78 days; 1959 they worked 78 days; 1960, 6 days; 1961, 81 days; and 1962, 87 days. By the way, they don't use this 27 day rule which we find in our own Michigan legislature, which gives Dr. DeVries a little finesse here, by showing these months when they were back home in their districts. The legislature adjourned in the great state of New York on March 26 and went home for the year; in 1959, on March 25, and went home for the year; on March 31, and went home for the year; on March 25, and went home for the year; and in 1962, being paid $10,000, decided to go home March 31. I submit to you that we do not need a legislature sitting in session very long. The great state of Pennsylvania limits their legislature to only 30 days and they insist that they go home, one year; and the other year, they allow them to stay approximately 120 days.

I believe in one quotation from Thomas Jefferson, and it is something that I have always thought was wonderful, he said, "Government that governs least governs best." And I submit to you the more they stay in session, the more harm they will do for their people. We don't need a legislature in session. What are they going to do when they are in session?

I don't want to say anything about this convention, but I think we found out what some people have to do by keeping them here. I would say that one of the proposers of this substitute, also one of the big spenders from the east, as I like to say, came to us and said, we need $330,000 to wrap this operation up. Two months later, after things got tight, they didn't have the money, they said, we need $125,000; a savings for the taxpayers, if we do get the $125,000, of $205,000. Give it to them, they will spend it. Take it away and they have to cut, and I say, we must take it away from them. We don't want big government. We don't want big government any more than anybody else, and I say, why should we put it out? I submit to you that we must cut down. Our legislature is not underpaid.

They say, now, this assures adequate pay. Let's give them 50 per cent of the United States congress. I submit to you that under the formula of Dr. DeVries, you will give them exactly what the United States congress gets, and they don't even have to go down and live in Washington and set up a residence down there. Why do I say that? I say that because he, by his own testimony, says that the United States congress works an average of 8 months, and under the reorganization act of 1946, congress should go home July 31. Sometimes they stay longer, but under the reorganization act, it calls for an adjournment by July 31. I understand that John McCormack, speaker of the house, said this year he hopes to be out of there by June 30; June 30, Dr. DeVries. So, Dr. DeVries, the United States — our Michigan legislature would only work 4 months. Usually, only 60 days, and we are going to pay them $6,000? I say to you, that is 50 per cent of what the United States congress gets for only that much work. We are trying to overpay them. They are not asking us for it. We are saying to the people in the legislature, you need more money. Why do they need more money? They will get better people. I submit to you, that is not necessarily true.

Now, what about the U. S. congress? What about these expenses and so forth? Now, let me say to you: I have an amendment on the desk to strike this to make it 25 per cent. Then we would be doing it on the same basis of time. But that is not the answer. We are trying to put a lot of junk and garbage and ivory tower ideas into our constitution. Let's let the legislature face facts. Let's don't have the delegates over here trying to make themselves a pay raise and put the spotlight on us for being darn fools. If they want a pay raise, let them give it to themselves and let the people judge whether they did right. I say to you that there was no clamor for this pay raise being put in our constitution.

Let's look at his figures here. I am completely confused on these. It says it will only cost us roughly $422,000 extra. I submit it will cost over $1 million; over $1 million we should throw out so we will get better legislators. I would like to read to you from the convention of 1907 and 1908. They said that this was the most discussed subject, that we would raise the pay for the legislature and if we raise the pay of the legislature, what would we get? The length of the average session of our legislature is about 150 days. We would render the total compensation now received by the members of the legislature $450. The convention believes that the provision of a salary per term will not only induce a stronger class of men to accept service in the legislature, but will materially shorten its term.

Now, he says that we will get better men and lengthen the term, continuous legislature. They tried to put in an amendment to call it a continuous legislature. I submit to you, it is as continuous as they want it to be. Only when they want to go home do they make the motion. There is nothing to stop them from going home early.

I say to you also that he says here, under expenses he puts: none provided in the constitution, "but may be provided by law." He is absolutely right they can provide it by law and that might cost us $1 million 500 more, and that would scare me to death.

I don't want to take the rap for the legislature. If I was a member of the legislature and I wanted a pay raise, I would vote for it. I would stand up and be counted. Don't ask us to pass a pay raise here when they are not requesting it. No one came before our committee and said they needed a pay raise. I submit to you this is a bunch of hogwash and we should stick with the committee, stick with the constitution of the United States of America, stick with the model constitution and leave it up to the discretion of the legislature whenever they see fit to give themselves a pay raise.

Now, he says here, they haven't got the nerve. I say to you people this: do you remember 1959? We were going to issue script to our teachers, small contractors were going out of business. Why were they going out of business? They couldn't pay their bills because the state of Michigan couldn't pay them, and they had a session for 175 days that year. We were so broke, but ladies and gentlemen, I say to you, in 1959, the legislature saw fit to raise their pay $1,000 when the state was broke. (applause) And they haven't got the nerve? They most certainly have the nerve, and when they think they need a pay raise, they will give it to themselves, so don't give me this hogwash, the legislature hasn't got the nerve. I think the example of 1959 is the greatest example that could be given that they do have the nerve, and when they think they need more money, they will get it, and it is a matter of judgment whether you will get better legislators with an increase in pay.

New York, yes, New York went to $10,000 just a year ago, but remember, it was by statute. They did it by statute, and they still go home by March 31 every year, and I wish our legislature would do the same, because they are getting in more trouble every day they are over there. (applause) I urge a strong no vote on the DeVries substitute.

VICE PRESIDENT HUTCHINSON: The Chair will advise and inform the delegates that the time has been limited to overall 30 minutes now, and at the present time there are 11 speakers, so govern yourselves, space yourselves accordingly. That is much less than 4 minutes a speaker, it is less than 3 minutes a speaker. The Chair next recognizes Mr. Jones.

MR. JONES: Mr. President, I wish that I may have been further down the list. It puts me in a very tough position to follow the previous act. However, I should like to rise to refocus on the issue raised by this substitute offered by Mr. DeVries and some 74 others, and I strongly urge the support of the first paragraph, and I do so because I feel that it is about time that some public group in our state took the responsibility for being willing to accord our public officials a pay that is commensurate with their responsibility. I strongly urge the support for the first paragraph of the DeVries amendment. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President and members of the convention, I have gone along and worked with Mr. DeVries on all of the various proposals that he has made with the exception of the proposal to discharge the committee by less than a majority vote. But on this one, I can't go along with him for various reasons. In the first place, I don't think it is a good policy for us to fix the salary of our legislators by the salary of some other group of legislators who fix their salary with regard to what their duties are, but their duties having no real relation to what the duties and responsibilities and time to be spent of our own legislature might be.

Secondly, however, it seems to me that we could hardly provide the equivalent of a $12,000 salary to our legislators and put it in this constitution without having a very bad time with the people of the state. The fact of the matter is that $12,000 may some time be proper pay in the future if it becomes a full time job, but it isn't a full time job at the present time. A legislator can spend more time, of course, on the job than he does just while he is in session. There is no question about that. In some large districts, he may be very busy. A great majority of them would not be very busy, beyond the time when they are in session. The time when they are actually in session is around 2 to 2½ months; 2, at the outside, 3. So I just can't see our providing this kind of a tremendous jump in salary here in the constitution. I think we probably should follow the practice in other states, and our own practice now, of letting the legislature set its own salary. If we don't like it, if we think they go too high, then, of course, we have the usual voter's privilege of voting against a legislator.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, I am, of course, speaking as one of the sponsors of this substitute, and it isn't a brainstorm thought up in a short period. It, I think, represents the best thought of a great many people over a great many years.

As usual, Mr. Kuhn has missed the main point. (laughter) This is part of a package. He may be accustomed to another kind of a package, I don't know, but this package was intended to do one thing, and that is to rehabilitate the legislature in public confidence. The sponsors of this substitute, believing that the legislature does need to be rehabilitated in public confidence, and noticing that the committee, of which Mr. Kuhn is a member, did nothing about it, had nothing else to do but to get to work themselves and do some of the committee work and bring it before the delegates in this convention. When he says we didn't present this to the committee, I presented the memo back in October or November. I then did it to the committee on legislative organization before there was a jurisdictional fight between that committee and the committee on legislative powers, and I can't be blamed for giving it to the wrong committee at that time. In any case, my memo was very widely distributed. As to not attending meetings scheduled by the committee, they scheduled it at such times that it was not convenient for normal people to get there. (laughter) One time, as I remember, was at the same time as the session set for this convention.

Well, it is very obvious from this substitute and the other provisions that this convention has already passed, that we are not anti legislature. I think this is a little bit dangerous. At a time when we are trying to strengthen state government, and we have already approved a great strengthening of the executive branch and the judicial branch and local government, at that same time to vent our spleen against the legislature, and what a danger it is, and how quickly it ought to go home, because if it doesn't, it gets in trouble, I think that is pretty good nineteenth century doctrine, but certainly it doesn't fit into the middle of the twentieth century. The best thought in this field has always pointed towards giving the legislature the means, the tools, the support necessary to do its work. We are now going to give it a good deal more work. The legislators for the next decade are going to be awfully busy implementing this constitution, and as I say, we have provided already for a legislative council, we have provided for a legislative auditor. The legislature of Michigan has never performed the task of executive oversight, which is a standard part of the congressional procedure in Washington.

Legislatures don't just work when they have daily sessions, as Mr. Kuhn would have you believe. Legislatures should have committees at work at all times, and now that we have definitely provided for a legislative council, there is going to be something important to do all year round, with the legislative auditor helping and with the legislative council helping.

As to this last clause which is before us, I think the substitute is very sound, as Mr. DeVries very ably explained. You can't increase the salary and not do something about this retirement system which is not justifiable anyway, and certainly not except when the salary is low. I trust, therefore, that you will vote for the substitute.

VICE PRESIDENT HUTCHINSON: The Chair next recognizes Miss Andrus.

MISS ANDRUS: Mr. President and fellow delegates, I would like to speak to one particular point, but before I do that, I would like to ask some of you who can remember, in our 1908 constitution, we had a provision, a definite salary provision set, I believe it was $800 for the 2 years, and then they could meet so many days in an extra session at so much a day, but just so many days. They tried for years to raise the salary. There was so much opposition at home, finally they were able — this, of course, was in the constitution — finally they were able to get it by having a provision for $3 a day. I remember when one of our legislators came and spoke to me about it, and asked me what I thought, I said, "How many days was it to be at $3 a day?" "Oh," he said, "well, we hoped people wouldn't ask that. We would have it for 365 days but, of course, most people would think it was something like 3 months or something like that."

Our legislature here, and I think it is true in all places, is in a very difficult position when they have to set their own salaries. You people who have been living here, like from the upper peninsula and further away, know how expensive it is to live away from home. I think to put this provision, tie it with something else that is impersonal, that has nothing to do with a particular act on the part of our legislators, is a brilliant solution to this problem. I am sorry the committee on legislative powers didn't have time or somehow or other missed considering it. It is new, but I think it would be an excellent way. It would take that problem off from their hands. I agree with Mr. Pollock that our legislature should do much more. It should be, as time goes on, a year around job.

The chief reason I rose, however, was to answer Mr. Faxon. To me, a representative in congress or in our legislature or city government or board of supervisors is not an employee, and we delegates are not employees of the state. We are representatives of the people, and we shouldn't have a retirement system. We don't expect our representatives and our people like that, who are elected, to be in office permanently. They should have a good enough salary that they can pay their expenses and when they are through being a legislator, then they do something else. It is quite different from an employee. I am quite in favor of retirement for employees, but if you study the situation, you know the reason congress has a retirement system is they couldn't raise their salaries. They felt people wouldn't stand for it. They did it one time and they got quite a come back on it. The legislature has done this. It would be one way of helping them out.

I think we should remember they are not employees, and pay them enough while they are representing us, and just remember how much it costs you to live here. Don't think of somebody who lives in Lansing representing us. Think of people from all over the state who don't have independent incomes, who have to give up their work to come here. We should pay them enough, we should have good people, but we should be able to have everyone do it, not just wealthy people coming who can live on their own salary income.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, I haven't counted the number of sponsors on this substitute, but it looks like enough to carry it. One talking against it is playing with loaded dice. I am familiar with the term. I don't know anything about the game. It was nice of Dr. DeVries to tell us that he is not running for the legislature and has no intention of doing so. If I wanted to be impolite, I would ask him how many of the others would be willing to say that same thing.

I am definitely opposed to this, regardless of the number of sponsors, if all 143 of you were sponsors of this, I would still be opposed to it, opposed to it because I don't like the idea of having the congress or anybody else in Washington fixing Michigan salaries. I think that is absolutely wrong. It is inexcusable. I have always opposed the power of the state to set local government salaries, and I am much more opposed to congress having anything to do with fixing limits or fixing salaries for state officials. I am opposed to it because, as of now, the amount of money is too high. There are many legislators that earn that much. They make it practically a full time job. There are many other legislators who do absolutely nothing in connection with it, except attend the sessions, and not all of them. For the average legislature, certainly they do not work half of the working days of the year. If you could pay those who deserve it more and those who do not deserve it, less, that would be wonderful. You can't do it. You have to strike an average, which means that some people are underpaid and some people are overpaid. The time will come, undoubtedly, when that salary would not be too high. The time may come when it would not be high enough. That is the reason for not putting it in the constitution. We abandoned this idea of having the salary named in the constitution back in 1947 and '48, gave the legislature the power to fix it themselves. They haven't been too timid about fixing it themselves, $6,250 is what it actually is. They don't have to account for that $1250 expense money at all.

As to the retirement system, I have never believed in a legislative retirement system, and I don't believe in it now, but they are in it. Their people are on the pensions. There are widows on the pensions. Getting out of it after you have got into it is a rather complicated job.

Just one other point: I don't believe in making people work in public office for less than fair pay, although when I was in the legislature it was $3 a day, $1095 a year and that was it. But when it comes to arguing that by putting these salaries up you get better people, I remember the people with whom I served. I remember people who I knew in the legislature before I was there. I can't buy that doctrine at all, not at all. That isn't saying that we should give them less than fair pay, but this substitute gives them more than fair pay now, and it freezes it. It should be flexible. It should be for their determination, and not by congress or anybody else, and it should not be in the constitution.

VICE PRESIDENT HUTCHINSON: Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I am almost tempted to rest what I had to say on what Mr. Brake has just said, because my thinking has been a good deal along his line. We have had some days in this convention when it was difficult to get a gauge on what the thinking was. This is one of those days. I think most of us realize, perhaps all of us, that this is a very serious proposition; from the standpoint of the reception our document will get from the people, one of the most important we have had. If the people were concerned about raising the salaries to $3 a day, I think we might well give some thought to what they will think of our action if we more than double it and for our legislature set a salary of $11,250 a year, with the privilege of making additional allowances for expenses, when the pay in Ohio is $5,000 a year; Indiana, $1,800; Illinois, $6,000; Wisconsin, $3,600.

I think this is dangerous not only to the constitution and its reception by the people, but it is dangerous to any member of this convention, and I am not one of them, but I should think it would be dangerous to any member of this convention who plans at any time on running for the legislature and having an open door for his opponent to charge that he had used his position here to set himself in line for a substantial salary increase greater than it would have been if it had been left to the legislature itself. I think that would be more likely to defeat them than anything else that could happen. This applies not only to members of the senate, but members of the house, and the house district comprises about 1/6 of the number of people, on the average, that a congressman represents. A congressman has to live in Washington a greater part of the year and has a great many people to keep in touch with, and on the whole, I think this is a mistaken approach. I don't think, personally, it ought to be in the constitution at all, and if we do put it in, it certainly should be not more than a percentage of 30 or in that neighborhood, and not 50.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: I will pass.

VICE PRESIDENT HUTCHINSON: Mr. Arthur Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen of the convention, I don't know how many of you are aware of the fact that Mr. Kuhn is Oakland county's answer to the U.P., but he is, and I would like to speak to a couple of points that he made. First, the number of days that he recited as the days that the legislature is in session. I would just want to make it perfectly clear that each of you know full well that the days that you are in session here are not the only days that you work, and that if you had been working on a 4 day session, that you would have had plenty to do outside of the convention. I am confident, knowing my own legislators, that they find that they have plenty to do, not only here, but at home, and that it is completely unfair to try to measure the amount of work that the legislator does by the number of days that he is actually in legislative session.

This, it seems to me, is a full time job, one that we should recognize as being such; that we should be in the forefront of those states that do recognize that and put the legislature on a basis that it can so function, so that it can be as efficient as possible.

We know, for a fact, that the legislature has trouble in apportioning itself, that it has trouble in apportioning congress, that it also has a similar trouble in establishing its own recompense; and it would seem to me that it is unrealistic to expect that the legislature could or would recognize the needs, because of the feeling that they have of public approval or disapproval. However, I will point out to you that I have talked about this to many delegates, many people in my community, in my district, and I find that there is great favor among the people of my community to do something about the salary of the legislators.

Mr. Brake pointed out that this was not a flexible position. I think that all we have done here is set a floor, that there is flexibility for the future. I feel that the floor is reasonably sound, one that, if we don't fix it here, will not be fixed; it is something that we do need.

I do not subscribe to the argument that Judge Dehnke made that the opponents of delegates who may in the future seek the position of legislator will use this as an argument against them in any campaign. I think it is essential that we think here of the good of the state; that we recognize that you get what you pay for, and that one of the ways to get a full time legislator is to pay him so that he can so do.

We have, I think, eminently qualified people representing us from Oakland county, and yet I know that each and every one of them are making a substantial personal sacrifice to so serve, and that their time in office, by that very nature, must be limited, and I feel that it is high time that we made this career of public service in the legislative bodies one that is proper, and that the pay should be accordingly.

VICE PRESIDENT HUTCHINSON: Mr. DeVries.

MR. DeVRIES: Mr. President, just a couple of remarks. I think this is constitutional language. It certainly is as constitutional as the presidential primary.

Second, I think some of the arguments here have missed the point. Judge Dehnke says that this is going to be dangerous and might jeopardize the passage of the constitution. I don't think it is dangerous to say to the people that we believe, the constitutional convention believes, in equality of access to the office of state legislator. I don't think this is dangerous at all.

Third, I think the increased business of the legislature in the last 5 years is apparent. They are now dealing with 1500 bills per year. We want to be on record as saying to the people of this state that it is not democratic to preclude from office 60 per cent or 70 per cent of you because you don't have the financial means to run for the office. We ought to be on record, I think, saying this. This does not do away with legislative retirement. The people who have benefits coming to them now will get them. If they want a private legislative retirement system after the adoption of the constitution, they can have it.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, fellow delegates, first of all, let me state that I am not running for the legislature, and I have no intention of running for the legislature whether the salary is increased or not, although I would be the first to admit that I probably couldn't if I wanted to at the salary that it now pays. I have a wife and 3 children. Still, I might be in a better position than many because I am self employed. I am an attorney. Farmers, too, have the advantage of probably being able to run, and some small businessmen may find it possible. Of course, those who are independently wealthy can serve in the legislature, but most of them find better things to do, I guess. Myself, I am independently impoverished.

Mr. Kuhn would like to force the legislature to give themselves a pay raise. He feels that many of our legislators really don't do very much. Well, I won't debate that point with him. Sometimes they do. Sometimes they don't. But I do think this: that the office of Michigan senator, of Michigan representative, if anything, is indeed a very, very important office. Now, the question comes up: do we get better legislators by paying them more money, or would we just be throwing good money after bad, so to speak, if you assume, as Mr. Kuhn does, that the legislators don't do much anyway. This isn't an easy question to answer. It is like whether the chicken or the egg came first. But I, personally, think that if we pay our legislators a decent salary, then we, as citizens, will be able to expect full time or at least adequate time service.

Now, the arguments about days in session aren't very relevant. It has been pointed out by other speakers and I won't go into that. If we can get out of here, we will have Tuesday, Wednesday, Thursday and Friday of next week off and, of course, we won't be working for our money. I am not sure that the members of the style and drafting committee would agree with this, but based on this kind of logic, I guess you could say that they won't be working either because we are not in session. There is no question that many legislators earn their money and that many don't, but I think that we can expect an awful lot more out of those legislators if we pay them an adequate salary.

Now, I know Mr. Dehnke is concerned about the trouble when they raised it to $3 per day, but I do submit that times have changed since then, and I think that we should look at this in view of the changing times. Government is a big business, a billion dollar a year business, and it is time that we put the best possible men in there, pay them adequately, don't force them to hang around the hotels looking for a lunch, give them a chance to buy their own. I do think it is very important that the second part of this substitute go through as well as the first. Con con has no retirement plan and I don't think anybody thinks it ought to have one. This is just a device for not facing up to the issue, not leveling with the people. If they want a retirement plan, they would have, under this plan, an adequate salary with which to purchase a private annuity or pension plan to suit their own needs, and I think it would be definitely in the best interests of the state of Michigan to adopt this substitute.

VICE PRESIDENT HUTCHINSON: Mr. Sharpe.

MR. SHARPE: Mr. President, like Mr. Brake, looking at the number of names on this substitute, it looks like we are fighting a futile battle, but I would like to ask the supporters of this if they really know what the people in the state of Michigan are going to think when their delegate, whom they trusted and sent to this convention to represent them in this critical task of drawing a basic law of our state, supported a program which would cost them an extra million dollars, especially when the legislators are not asking for this and they are capable of doing it themselves. Let me remind you that you are all servants of the people of the state of Michigan, regardless of whether you really believe you know more about what the people want than the people do themselves.

I believe, contrary to what has been stated on this floor altogether too many times, that our legislature is made up of high caliber, honest, dedicated citizens of the state of Michigan that have been successful in their own businesses and are not among the fast growing group of parasites that are unable to make a success in a free enterprise and would sooner live off the taxpayers. I believe a raise in the legislator's salary from $6,000 or $7,000 would encourage candidates whose paramount interest would be their pocketbooks instead of the interests of the people of the state of Michigan. I urge, especially those of you that I understand have agreed to vote in favor of this substitute, to reconsider your declaration, and vote no against this measure.

VICE PRESIDENT HUTCHINSON: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, there have been a lot of arguments on both sides of the fence on this proposition, and I have thought about it very hard for the last half hour, and listened to the arguments. I think that this would be a very serious step to take for this convention to adopt the DeVries substitute, and I think that basically for the psychological reaction of the voters of the state of Michigan.

One, it is fairly common knowledge that many members of this body will probably be in the legislature in the future. I don't think that we could possibly deny the fact that if we doubled the salary of the legislators, that we would be accused of feathering our own nest, being in the legislature.

I think another thing the people might look at is this; you might say that you are trying to appease the legislature because they are the representatives of the people and have been the representatives of the people, and if you raise their salary, they will go back and say you have written a good constitution. Frankly, I would rather have the people of the state of Michigan judge this constitution on the changes that are made and not by any additional trouble by getting into a wage raise of the legislature and this body.

VICE PRESIDENT HUTCHINSON: Mr. Hubbs.

MR. HUBBS: I was almost hoping you would run out of time. I find myself in a very uncomfortable position, considered to be somewhat of a conservative, and I feel that I am. Many of you know that this is my political stance. However, I would like at the opening onset to let you know that I was a member of Mr. Kuhn's committee and I heard the testimony that was made over there, but I also took time to talk to some of the legislators on my own, when they were not testifying in public in a goldfish bowl, and I protest Mr. Kuhn's remarks with regard to candidates for the legislature. I have been one and I may be one again. However, I am supporting Mr. DeVries' substitute. I find only one small defect with it, and I hope we can figure out a way to cure that.

As has been said before, days in session do not reflect time spent in representing the people. Probably one reason we have had ill considered legislation is because some legislators haven't had time for proper study nor proper time for contact with the people to find out what the people are thinking. One of the things that comes up when you are running for the legislature is you have got to go out and convince people to send you down there. The expense of campaigning, the money that you spend to serve the people —

VICE PRESIDENT HUTCHINSON: The time has expired, Mr. Hubbs, I am sorry.

Mr. DeVries withdraws his request for a division of the question. The question is upon the substitute offered by Mr. DeVries. The time for debate has expired.

MR. FAXON: Yeas and nays, please.

VICE PRESIDENT HUTCHINSON: Mr. Faxon demands the yeas and nays. Is the demand supported? The demand is supported. The yeas and nays are ordered. For what purpose does the gentleman rise, Mr. Kuhn?

MR. KUHN: Parlimentary inquiry. I have several amendments, if this was to be adopted. Would they be in order after the vote?

VICE PRESIDENT HUTCHINSON: They will be in order now, but without debate.

MR. KUHN: Well, now, I asked the secretary and he said that he thought they would be in order later.

VICE PRESIDENT HUTCHINSON: Are these amendments to the — oh, they are amendments to the substitute.

MR. KUHN: They are amendments to the DeVries substitute.

VICE PRESIDENT HUTCHINSON: Well then, they should be offered ahead of the vote on the DeVries substitute.

MR. KUHN: Then I would submit that I would like to have them read, and I would ask for only a minute on each one. I was under the impression — the secretary told me they would come up afterwards.

VICE PRESIDENT HUTCHINSON: Amendments to the DeVries substitute must be offered ahead of the vote on the DeVries substitute. Those amendments, if they are on the secretary's desk, may be offered but may not be debated.

MR. FAXON: Mr. President.

VICE PRESIDENT HUTCHINSON: For what purpose does Mr. Faxon rise?

MR. FAXON: Do I understand that Dr. DeVries withdrew the division of the question?

VICE PRESIDENT HUTCHINSON: He did.

MR. FAXON: Would it still be in order to have it divided?

VICE PRESIDENT HUTCHINSON: The rules say that upon the request of any delegate, the matter may be divided.

MR. FAXON: Well, I would like to have it divided.

VICE PRESIDENT HUTCHINSON: How do you propose to divide it?

MR. FAXON: The first paragraph and the second paragraph, voting on the first paragraph first, and the second paragraph second.

VICE PRESIDENT HUTCHINSON: Mr. Faxon demands a division of the question, and so the matter is divided. There are some amendments on the secretary's desk. The secretary will present the amendments.

SECRETARY CHASE: Mr. Kuhn offers the following amendment to the substitute:

1. Amend the substitute, first sentence, after "than" by striking out "50 per cent" and inserting "25 per cent", so the language will read, "The annual salary of the members of the legislature shall be not less than 25 per cent paid the members of the United States house of representatives."

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Kuhn to the substitute of Mr. DeVries and others. The matter is not debatable, the time for debate having expired. All those in favor of the Kuhn amendment to the DeVries substitute will say aye. Opposed will say no.

The amendment to the substitute is not adopted. The secretary will present the next amendment.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend the substitute, at the end of the first sentence, after "representatives.", by inserting "Salary deductions shall be made for each day absent from the legislature, unless the absence is forced by the illness of the member or of a member of his family.".

VICE PRESIDENT HUTCHINSON: The question is upon the amendment now offered by Mr. Kuhn to the substitute of Mr. DeVries. All those in favor of this amendment will say aye. Opposed will say no.

The amendment to the substitute is not adopted. Are there any further amendments to the substitute?

SECRETARY CHASE: That is all I have.

VICE PRESIDENT HUTCHINSON: The question is upon the substitute of Mr. DeVries and others, upon which the yeas and nays have been ordered, and the question has been divided. The question immediately before the body is the first paragraph thereof, which the secretary will read.

SECRETARY CHASE: Paragraph 1:

[The first paragraph was read by the secretary. For text, see above, page 2940.]

VICE PRESIDENT HUTCHINSON: The yeas and nays have been ordered. The question is upon that part of the substitute. The board will be cleared. All those in favor of the first paragraph of the substitute will vote aye. Those opposed will vote no. The voting has started. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. Bentley.

MR. BENTLEY: I wish to withdraw my no vote and abstain.

VICE PRESIDENT HUTCHINSON: Mr. Bentley abstains. He withdraws his no vote, and he abstains.

The roll was called and the delegates voted as follows:

Yeas—60

Allen
Andrus, Miss
Baginski
Balcer
Barthwell
Blandford
Brown, G. E.
Buback
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Ford
Greene
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Knirk, B.
Krolikowski
Liberato
Madar
Mahinske
Marshall
McGowan, Miss
McLogan
Murphy
Norris
Perlich
Pollock
Seyferth
Snyder
Staiger
Stamm
Sterrett
Stevens
Suzore
Upton
Walker
White
Young
Youngblood

Nays—48

Austin
Batchelor
Beaman
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Dehnke
Erickson
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Haskill
Hoxie
Hutchinson
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Leibrand
Lesinski
Martin
McCauley
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Shaffer
Shanahan
Sharpe
Stafseth
Stopczynski
Thomson
Van Dusen
Wanger
Wilkowski
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the first paragraph of the DeVries substitute, the yeas are 60; the nays are 48.

VICE PRESIDENT HUTCHINSON: That part of the substitute is adopted. The secretary will read the second paragraph of the substitute.

SECRETARY CHASE: The second paragraph of the substitute:

[The second paragraph was again read by the secretary. For text, see above, page 2942.]

VICE PRESIDENT HUTCHINSON: The question is upon the second paragraph of the DeVries substitute. Please clear the board. The yeas and nays have been ordered.

MR. MARSHALL: Mr. President, before I vote, could I ask one question of Mr. DeVries? I do not want to debate, I want to ask a question.

VICE PRESIDENT HUTCHINSON: The vote has not yet been ordered.

MR. MARSHALL: Dr. DeVries, does this last paragraph —

VICE PRESIDENT HUTCHINSON: Yes, it is debate, isn't it?

MR. MARSHALL: I want to ask a question. I am not going to debate it.

VICE PRESIDENT HUTCHINSON: Without objection, you may.

MR. MARSHALL: Does this mean —

MR. BLANDFORD: I object.

VICE PRESIDENT HUTCHINSON: Objection is heard. The time for debate has expired.

MR. MARSHALL: I wish to announce my intention to abstain from voting then, because there is a question in my mind. I did not want to debate. I merely wanted to ask one simple question.

VICE PRESIDENT HUTCHINSON: Objection was heard.

MR. WALKER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Walker.

MR. WALKER: Would it be in order to ask who raised the objection? I did not hear any objection.

VICE PRESIDENT HUTCHINSON: The Chair heard objection.

MR. BLANDFORD: I did.

MR. WALKER: Oh, Mr. Blandford objected. I am sorry.

VICE PRESIDENT HUTCHINSON: All those in favor of the second paragraph of the substitute will vote aye. Those opposed will vote no. The voting has started. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—76

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Blandford
Bonisteel
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Figy
Gadola
Greene
Hannah, J. A.
Hart, Miss
Hatch
Heideman
Higgs
Hodges
Hubbs
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Madar
Mahinske
Martin
McGowan, Miss
McLogan
Murphy
Norris
Perlich
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Rush
Seyferth
Shaffer
Snyder
Staiger
Stamm
Sterrett
Stevens
Suzore
Upton
Van Dusen
Walker
Wanger
White
Wood
Young
Youngblood

Nays—32

Bentley
Boothby
Brake
Cudlip
Dehnke
Erickson
Faxon
Finch
Ford
Goebel
Gover
Habermehl
Haskill
Hatcher, Mrs.
Hoxie
Hutchinson
Jones
Kirk, S.
Kuhn
Leibrand
Lesinski
Liberato
McCauley
Perras
Plank
Shanahan
Sharpe
Stafseth
Stopczynski
Thomson
Wilkowski
Woolfenden

SECRETARY CHASE: On the adoption of the second paragraph of the DeVries substitute, the yeas are 76; the nays are 32.

VICE PRESIDENT HUTCHINSON: The substitute is adopted. Mr. DeVries.

MR. DeVRIES: Mr. President, I move that further consideration of Committee Proposal 28 be postponed until Monday next.

VICE PRESIDENT HUTCHINSON: Mr. DeVries moves that further consideration of Committee Proposal 28 be postponed until Monday next. All those in favor will say aye. Did you desire to be recognized on the motion, Mr. Hoxie?

MR. HOXIE: Well, Mr. President, and fellow delegates, we now, I believe, are in a position to vote on this proposal as amended. I think that the only other amendments are those that were formerly introduced by Mr. DeVries, if I am correct. In case he lost this battle he was going down the line. I suggest that we dispose of this matter at this time, and I so move that we have a division on this question.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to postpone. Mr. Kuhn.

MR. KUHN: I agree with our chairman, Delegate Hoxie. We have the right to reconsider on Monday anyway, win, lose or draw. If you put it over until Monday, you give us the right until Tuesday. I think we might as well see which way the wind is blowing so we can decide what we are going to do. We are just stalling farther and farther down the line. There is no reason, whether you win or lose today, to not vote on it now. I move that we vote now on this amendment.

VICE PRESIDENT HUTCHINSON: The question is on the motion to postpone, upon which a division has been demanded. Is the demand supported? The demand is supported. Clear the board, please.

MR. MAHINSKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: I missed the tally on the last vote. Could we have it repeated, what the vote was on the adoption of the second paragraph?

VICE PRESIDENT HUTCHINSON: The secretary will advise you.

SECRETARY CHASE: The yeas were 76; the nays were 32.

MR. KING: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Is this a debatable motion?

VICE PRESIDENT HUTCHINSON: Yes, within limits, the motion to postpone is debatable.

MR. KING: Mr. President and fellow delegates, I urge that we do put this matter over until Monday. It is quite obvious that many of the people here have left for the day, and it seems only fair to allow all of those people to vote on it.

MR. MARSHALL: Mr. President, preferential motion.

VICE PRESIDENT HUTCHINSON: State it.

MR. MARSHALL: I don't believe there's enough people here to pass it. I would move that we table this until Monday morning.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to postpone. All those in favor of postponing will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

MR. WOOLFENDEN: Mr. President, may I ask the vote of the Chair?

VICE PRESIDENT HUTCHINSON: The Chair will vote no.

SECRETARY CHASE: On the motion to postpone consideration of Committee Proposal 28 until Monday, the yeas are 59; the nays are 51.

VICE PRESIDENT HUTCHINSON: The motion prevails. The matter is postponed. Mr. Hoxie.

MR. HOXIE: Mr. President, I believe Mr. Downs is seeking recognition.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I will yield to the committee chairman to make the motion to adjourn, if that is what he had in mind.

MR. HOXIE: After the announcements by the secretary.

SECRETARY CHASE: We have the following announcements:

The committee on style and drafting will meet Monday next in room G at 10:30 a.m.

All members of the committee on judicial branch, please report to room B Monday, immediately after the afternoon session, for a committee picture. This request from the library: will all delegates please check their homes, their automobiles and so forth, for library books and return them as soon as possible after they have finished using them.

We have the following requests for leave: Mr. Synder asks to be excused from the latter part of Monday's session; Mr. Iverson asks to be excused from the sessions of Monday and Tuesday; Mr. Dell asks to be excused from the sessions of Monday and Tuesday; Mr. Mosier asks to be excused from the Monday afternoon session; Mr. Marshall asks to be excused from the session of Monday; Mr. Snyder, from Monday evening's session; and Mr. Norris asks to be excused from Monday morning's session.

VICE PRESIDENT HUTCHINSON: Monday morning's session? Is there a Monday morning session?

SECRETARY CHASE: The early part of Monday's session.

VICE PRESIDENT HUTCHINSON: Without objection the several requests will be granted. The Chair hears no objection. For what purpose does Mr. Madar rise?

MR. MADAR: To make a motion.

VICE PRESIDENT HUTCHINSON: All right.

MR. MADAR: At this time, I would like to move that we recess until 8:00 o'clock, and that when we adjourn this evening, we adjourn until 9:00 o'clock tomorrow morning.

VICE PRESIDENT HUTCHINSON: Mr. Madar moves that the convention recess until 8:00 o'clock tonight, and that when we adjourn this evening, we adjourn until tomorrow morning at 9:00 o'clock. All those in favor will say aye. Opposed will say no.

The motion does not prevail.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is requested. Is the demand supported? A division is demanded upon Mr. Madar's motion. Is the demand supported? Not a sufficient number up. For the purpose of adjourning, the Chair recognizes Mrs. Butler.

MRS. BUTLER: I move that we adjourn.

VICE PRESIDENT HUTCHINSON: Mrs. Butler moves that the convention do now adjourn. All those in favor will say aye. Opposed will say no.

The motion prevails and the convention stands adjourned until 2:00 p.m. on Monday next.

[Whereupon, at 5:40 o'clock, p.m., the convention adjourned until 2:00 o'clock p.m., Monday, April 30, 1962.]

ONE HUNDRED THIRTY-FIRST DAY

Monday, April 30, 1962, 2:00 o'clock p.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please come to order.

We are privileged today to have as our guest minister to offer the invocation, a man who has traveled the farthest distance to get here. He is Elmer Radka's pastor, the Reverend Fred Steen of the Westminster Presbyterian Church of Rogers City. Reverend Steen.

REVEREND STEEN: Let us pray. Our Father, who alone givest wisdom and understanding, hear us this day as we seek Thy blessing upon our deliberations. We know that without Thy guidance we can do nothing, but with Thee we can do all things. Inspire these delegates who have been chosen by the people of this state to do this important work. Give them wisdom greater than their own. Grant unto them a sense that they are Thy workmen and that Thou art concerned with what is said and what is done here. May they never fail to do the best they can so that there be nothing in the day's work of which they shall be ashamed. Save them from the tyranny of the tiny. Help them to take from criticism what is helpful and forgive what is unkind and unjust. May they continually listen to the promptings of Thy Spirit, so that they may be saved from false choices and that in Thy light they may see light and in Thy straight path may not stumble; through Jesus Christ, our Lord. Amen.

PRESIDENT NISBET: The roll call will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Bradley, Mrs. Koeze, Miss McGowan and Mr. Tubbs, temporarily, from this afternoon's session; Mrs. Conklin and Mr. Sterrett were involved in an automobile accident at Webberville. Mr. Sterrett has been checked in at the Sparrow hospital and is all right. He is going to his hotel room. Mrs. Conklin wishes to have some checks made to make sure she has no back injuries. They ask to be excused from today's session; Mr. Greene has been hospitalized due to exhaustion and has requested leave for the week; and Mr. J. A. Hannah requests he be excused from the sessions of this week because of the meeting of the permanent joint board for defense at Fort Benning, Georgia, which will be held Monday through Wednesday, and the civil rights commission conference on education, in Washington, to be held Thursday and Friday.

PRESIDENT NISBET: Without objection, the requests are granted.

MR. PERRAS: I move that Mr. Perlich be excused from today's session.

PRESIDENT NISBET: The motion prevails.

SECRETARY CHASE: Absent with leave: Messrs. Bledsoe, Bradley, Mrs. Conklin, Messrs. Dade, Dell, Garvin, Greene, J. A. Hannah, Iverson, Mrs. Koeze, Mr. Marshall, Miss McGowan, Messrs. Mosier, Nord, Norris, Pellow, Perlich, Snyder, Sterrett and Tubbs.

Absent without leave: Mr. Allen, Miss Andrus, Messrs. Austin, Barthwell, Boothby, Mrs. Butler, Messrs. Donald Doty, Farnsworth, Habermehl, Haskill, Mrs. Hatcher, Messrs. Hutchinson, King, Mahinske, McAllister, Murphy and Yeager.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Miss Andrus, Mrs. Hatcher, Mrs. Butler, Mrs. Koeze, Messrs. Farnsworth, King, Habermehl, Mahinske, Haskill, Austin, Allen, Donald Doty, Hutchinson, Barthwell, McAllister, Bledsoe, Norris, Bradley, Boothby, Mosier, Garvin, Sterrett, Snyder and Mrs. Conklin.]

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Second reading.

SECRETARY CHASE: Committee Proposal 28, A proposal to provide for compensation of the legislature.

For last previous action on Committee Proposal 28, see above, page 2939.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, when we adjourned last Friday, we had under consideration Committee Proposal 28. It is my understanding that it is agreeable with Mr. DeVries that we put this proposal at the foot of the legislative powers second reading calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Hoxie that Committee Proposal 28 be put at the foot of the legislative powers calendar. Those in favor will say aye. Opposed, no.

The motion prevails. The next proposal.

SECRETARY CHASE: Item 7 on the calendar, **Committee Proposal 116,** A proposal to provide time and place of legislative sessions and that bills and resolutions pending at the end of a session shall be considered introduced at the next session. Amends article V, section 13.

Following is Committee Proposal 116 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2404.):

Sec. a. The legislature shall meet at the seat of government on the second Wednesday in January of each year at 12:00 o'clock noon, [and] Each [such annual] regular session shall adjourn without day, [at such time as shall be] ON A DAY determined by concurrent resolution, at 12:00 o'clock noon. [Business pending in one session of the legislature shall carry over into a later session of the same 2 year term and] Any BUSINESS, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over to the next regular session.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee has reviewed the changes made by the committee on style and drafting, and we feel that no substantive change has been made. We approve the proposal as revised by style and drafting.

PRESIDENT NISBET: The question is on adopting Committee Proposal 116. Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates of the convention, I rise to concur in the adoption of this proposal.

PRESIDENT NISBET: Will you please clear the board, delegates. Those in favor of adopting Committee Proposal 116 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—107

Anspach
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hart, Miss
Hatch
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Martin
McCauley
McLogan
Millard
Nisbet
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 116, the yeas are 107; the nays, none.

PRESIDENT NISBET: Committee Proposal 116 is passed and referred to the committee on style and drafting.

For Committee Proposal 116 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal.

SECRETARY CHASE: Item 8 on the calendar, **Committee Proposal 34,** A proposal to provide for quorums of the house and senate and the right of these bodies to compel attendance. Amends article V, section 14.

Following is Committee Proposal 34 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 765.):

Sec. a. A majority of the members elected TO and serving in each house shall constitute a quorum to do business[;], [but] A smaller number IN EACH HOUSE may adjourn from day to day, and may compel the attendance of absent members in [such] THE manner and [under such] WITH penalties as each house may prescribe.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, this proposal has been returned from style and drafting without any substantive change, and we recommend it to you for your adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, we ask concurrence in the adoption of this proposal.

PRESIDENT NISBET: Delegates, please clear the board. Those in favor of Committee Proposal 34 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—107

Anspach
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
McCauley
McLogan
Millard
Nisbet
Ostrow
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—0

Explanation—Matter within [ ] is stricken, matter in capitals is new.

SECRETARY CHASE: On the passage of Committee Proposal 34, the yeas are 107; the nays, none.

PRESIDENT NISBET: **Committee Proposal 34** is passed and referred to the committee on style and drafting.

For Committee Proposal 34 as rereferred to the committee on style and drafting, see above, page 2950.

The secretary will read the next proposal.

SECRETARY CHASE: Item 9 on the calendar, **Committee Proposal 102,** A proposal to provide that each house of the legislature may choose its officers, determine its rules, judge qualifications of its members and other matters. Amends article V, section 15.

MR. HOXIE: Mr. President, this proposal is rather long. The proposal has been returned to the convention from style and drafting. It was amended on the floor of the convention. It appears to the committee on legislative powers that the amendments that were adopted are now contained in the proposal that was returned to us, and we recommend it to you for your adoption. I move the proposal be considered read.

PRESIDENT NISBET: Mr. Hoxie moves that the proposal be considered read. Is there objection? The Chair hears none.

It is so ordered.

Following is Committee Proposal 102 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 2404.):

> Sec. a. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected THERETO AND SERVING THEREIN from discharging a committee from the further consideration of any measure. Each house shall judge of the qualifications, elections and returns of its members, and may, with the concurrence of 2/3 of all the members elected THERETO AND SERVING THEREIN, expel a member. The reasons for such expulsion shall be entered upon the journal, with the yeas and nays of the members voting upon the question. No member shall be expelled a second time for the same cause.
>
> Sec. b. EACH HOUSE OF the legislature may establish [such] THE committees [as may be] necessary for the efficient conduct of its business AND THE LEGISLATURE MAY CREATE JOINT COMMITTEES. Each committee shall keep a recorded roll call vote by yeas and nays [upon] OF all action on bills and resolutions taken in the committee. Such vote shall be available to public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published IN THE JOURNAL in advance OF THE HEARING [in the journal].
>
> Sec. c. There shall be a bipartisan legislative council consisting of [such] legislators [as the legislature shall prescribe] APPOINTED IN THE MANNER PRESCRIBED BY LAW. The legislature shall appropriate adequate funds for the council's operations[,] AND provide for [a] ITS staff [of the council] which shall maintain bill drafting, research and other services for the members of the legislature. The council shall [examine] from time to time EXAMINE AND RECOMMEND TO THE LEGISLATURE REVISION OF the various laws of the state [and recommend to the legislature revision of such laws].

PRESIDENT NISBET: (continuing): Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, one of the important features of Committee Proposal 102 is that it provides for a roll call vote in committee. This matter was argued in committee of the whole, and I recommend its adoption.

PRESIDENT NISBET: Will the delegates please clear the board? Those in favor of Committee Proposal 102 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—103

Anspach
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover

Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Heideman
Hodges
Hood
Howes
Hoxie
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Martin
McCauley
McLogan
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell

Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—2

Leibrand
Walker

SECRETARY CHASE: On the passage of Committee Proposal 102, the yeas are 103; the nays, 2.

PRESIDENT NISBET: **Committee Proposal 102** is passed and referred to the committee on style and drafting.

For Committee Proposal 102 as rereferred to the committee on style and drafting, see above.

Will the delegates please clear the board. The secretary will read the next proposal.

SECRETARY CHASE: Item 10 on the calendar, **Committee Proposal 114,** A proposal to provide that each house of the legislature shall keep a journal and the yeas and nays be recorded on a demand of 1/5 of the members present. Amends article V, section 16.

Following is Committee Proposal 114 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2370.):

> Sec. a. Each house shall keep AND PUBLISH a journal of its proceedings [and publish the same]. The yeas and nays of the members of either house on any question shall be entered [on] IN the journal at the request of 1/5 of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he [may deem] DEEMS injurious to any person or the public, and have the reason for his dissent entered [on] IN the journal.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee has an amendment they would like to have you consider, and I will explain why we propose this amendment.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Mr. Hoxie, on behalf of the committee on legislative powers, offers the following amendment:

Explanation—Matter within [ ] is stricken, matter in capitals is new.

1. Amend page 1, line 1, after "keep" by striking out the balance of the line and inserting "a journal of its proceedings, and publish the same unless public security otherwise requires"; so that the sentence will then read, "Each house shall keep a journal of its proceedings, and publish the same unless public security otherwise requires."

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, you will recall in Committee Proposal 103 we required that the doors of each house of the legislature shall be open unless public security otherwise requires. It was thought, to be consistent with that proposal, that we should also suggest an amendment of this nature, because it would be inconsistent for the doors of the legislature to be closed because of public security, and at the same time allow the journal of the proceedings of the legislature to be published and become public information. In other words, it would defeat the very purpose of public security in case of something of an unusual nature that required it. So we are recommending this amendment to you to be consistent with Committee Proposal 103. And of course you must bear in mind that it wouldn't be published only if the public security required it.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I recommend the adoption of this amendment.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, Mr. Hoxie, I would only suggest that in referring this to style and drafting, that style and drafting take cognizance of the fact that the words you have added probably relate to the keeping of the journal also, and that the wording be so changed, because it is your intent, is it not, only to limit the publishing?

MR. HOXIE: The publishing of the journal for public consumption at that particular time.

MR. G. E. BROWN: Yes, but I mean the words that you have added only relate to the publishing, not the keeping.

MR. HOXIE: That is right, publishing.

PRESIDENT NISBET: The question is on the adoption of the amendment. Those in favor will say aye. Opposed, no. The amendment is adopted. The question is now on the adoption of Committee Proposal 114, as amended. Those in favor will vote aye. Those opposed will vote nay. Read the amendment, Mr. Chase.

SECRETARY CHASE: As amended, the first sentence in section a now reads, "Each house shall keep a journal of its proceedings, and publish the same unless public security otherwise requires."

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—99

Andrus, Miss
Anspach
Baginski
Balcer
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Heideman
Hood
Howes
Hoxie
Hubbs
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Martin
McCauley
McLogan
Nisbet
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—7

Binkowski
DeVries
Hodges
Jones
King
Mahinske
Sablich

SECRETARY CHASE: On the passage of Committee Proposal 114 as amended, the yeas are 99; the nays, 7.

PRESIDENT NISBET: **Committee Proposal 114,** as amended, is passed and referred to the committee on style and drafting.

Following is the body of Committee Proposal 114 as amended and rereferred to the committee on style and drafting:

> Sec. a. Each house shall keep a journal of its proceedings, and publish the same unless public security otherwise requires. The yeas and nays of the members of either house on any question shall be entered in the journal at the request of 1/5 of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

PRESIDENT NISBET (continuing): Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 11 on the calendar, **Committee Proposal 117,** A proposal to provide that votes on elections and nominations in the legislature be recorded. Amends article V, section 17.

Following is Committee Proposal 117 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2390.):

> Sec. a. [In] All elections [by] IN either house or in joint convention [the votes shall be by recorded roll call.] AND all votes on appointments recommended to the senate for confirmation shall be taken by yeas and nays and published [with] IN the journal [of its proceedings].

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, style and drafting has rearranged the wording a little bit. The intent is clear. We recommend it to you for your adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President, delegates, I recommend the adoption of Committee Proposal 117.

PRESIDENT NISBET: The question is on the passage of Committee Proposal 117. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—108

Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Goebel
Gover
Gust
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hood
Howes
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Finch
Follo
Ford
Gadola
Hoxie
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McLogan
Nisbet
Ostrow
Page
Plank
Pollock
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 117, the yeas are 108; the nays, none.

PRESIDENT NISBET: **Committee Proposal 117** is passed and referred to the committee on style and drafting.

For Committee Proposal 117 as rereferred to the committee on style and drafting, see above, page 2952.

Will the delegates please clear the board. The secretary will read the next proposal.

SECRETARY CHASE: Item 12 on the calendar, **Committee Proposal 103,** A proposal to provide that sessions of the legislature be open and that a concurrent resolution is necessary for adjournment for more than 3 days. Amends article V, section 18.

Following is Committee Proposal 103 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2333.):

> Sec. a. The doors of each house shall be open unless the public security OTHERWISE requires [otherwise]. Neither house shall, without the consent of the other, adjourn for more than 3 days, nor to any place other than where the legislature may then be in session.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, this proposal was returned from style and drafting without any substantive change from the form as reported to them by the convention. We recommend its adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, this is a companion proposal to one that passed, and I recommend its adoption.

PRESIDENT NISBET: The question is on approval of Committee Proposal 103. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—113

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Plank
Pollock
Powell
Prettie
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Binkowski
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McLogan
Murphy
Nisbet
Ostrow
Page
Perras
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—1

Jones

SECRETARY CHASE: On the passage of Committee Proposal 103, the yeas are 113; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 103** is passed and referred to the committee on style and drafting.

For Committee Proposal 103 as rereferred to the committee on style and drafting, see above.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 13 on the calendar, **Committee Proposal 35,** A proposal to provide that the form of legislation shall be by bill. Retains article V, section 19.

Following is Committee Proposal 35 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 766.):

> Sec. a. All legislation by the legislature shall be by bill and may originate in either house [of the legislature].

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee on style and drafting hasn't changed the intent of the proposal as it was reported to them, and we recommend it to you for your adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I rise to urge the adoption of this proposal.

PRESIDENT NISBET: The question is on approval of Committee Proposal 35. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Sablich

Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McLogan
Murphy
Nisbet
Page
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—1

Binkowski

SECRETARY CHASE: On the passage of Committee Proposal 35, the yeas are 112; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 35** is passed and referred to the committee on style and drafting.

For Committee Proposal 35 as rereferred to the committee on style and drafting, see above, page 2953.

Will you please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 14 on the calendar, **Committee Proposal 29, A proposal to provide for the form of laws. Retains article V, section 20.**

Following is Committee Proposal 29 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 761.):

Sec. a. The style of the laws shall be: ["] The People of the State of Michigan enact.["]

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, first I would like to compliment Mr. Cudlip and his committee. They couldn't find a single thing to change in this proposal. (laughter)

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I ask that this proposal be adopted.

PRESIDENT NISBET: Delegates, please clear the board. The question is on the adoption of Committee Proposal 29. Those in favor will vote aye. those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—115

Allen
Anspach
Austin
Baginski
Balcer
Barthwell
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McCauley
McLogan
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 29, the yeas are 115; the nays, none.

PRESIDENT NISBET: **Committee Proposal 29** is passed and referred to the committee on style and drafting.

For Committee Proposal 29 as rereferred to the committee on style and drafting, see above.

Delegates, please clear the board. The secretary will read the next proposal.

SECRETARY CHASE: Page 12 of the calendar on second reading, item 15 on the calendar, **Committee Proposal 121, A proposal to provide that no law shall embrace more than one object and that no act shall take effect until 90 days from the end of a session and other incidental matters. Amends article V, section 21.**

Following is Committee Proposal 121 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2415.):

Sec. a. No law shall embrace more than one object, which shall be expressed in its title. No law shall be revised, altered or amended by reference to its title only[;], [but] The section or sections of the act altered or amended shall be reenacted and published at length. No act shall take effect or be in force until the expiration of 90 days from the end of the session at which [the same is] IT WAS passed, [except that] BUT the legislature may give immediate effect to acts making appropriations and acts immediately necessary for the preservation of the public peace, health or safety by a 2/3 vote of the members elected to AND SERVING IN each house.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, this proposal was returned from style and drafting without any substantive change, and we recommend it to the convention for adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and fellow delegates, I recommend the adoption of this proposal.

PRESIDENT NISBET: Mr. Pollock.

MR. POLLOCK: Mr. President, could I ask the chairman of the committee a question?

PRESIDENT NISBET: Mr. Hoxie.

MR. POLLOCK: The question is, Mr. Chairman: did the committee give consideration to the standing abuse—at least I call it a standing abuse—of the legislature giving immediate effect to so many measures which are neither appropriation

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

measures or measures necessary for the immediate health and safety? Did the committee, for instance, consider whether this could become or should be a judicial rather than a political question?

MR. HOXIE: Mr. President, Dr. Pollock, the proposal as it was returned to the convention by style and drafting, from a constructive standpoint, was the same proposal that was adopted by the convention and the committee of the whole.

Many of us who are familiar with the legislative process do know that at times there are proposals which you have to stretch your imagination a little to conceive of as being for the public health and safety and so forth, to which the legislature can give immediate effect. However, I think that the courts would have a right to determine if that was abused. I don't know of any other way that this could be arranged with any more safeguards than we presently have, because the constitution is clear that only those things that affect that type of legislation can be given immediate effect. However, it is a matter which the court would have a right to review, I would assume. But there is no change from what was adopted by the convention and the committee of the whole, and our chief concern is if there has been any substantive change made by the committee on style and drafting as it is reported back to the convention. It is our belief they have not made any substantive change.

PRESIDENT NISBET: Mr. Pollock.

MR. POLLOCK: Mr. Chairman, in other words, it is the belief of the committee that it is clear there is power for the court to determine whether or not this emergency provision is sound or not?

MR. HOXIE: Well, personally, Dr. Pollock, as an attorney, I would assume that any abuse of the constitution certainly could be reviewed by the supreme court of the state of Michigan.

MR. POLLOCK: I just am not acquainted with such action by the supreme court, and I do know that it is a great abuse in this and other states. In some states they have a provision making it a judicial question expressly, and I just wondered whether the committee considered this matter.

MR. HOXIE: Well, Dr. Pollock, I don't know as we considered it quite from that phase, but it would be my interpretation that the supreme court would have a right to review any legislative act that was given immediate effect where it did not fall within the category we enumerated. We have many lawyers here. I would be glad to yield to the chairman of the judiciary committee if he would like to make a legal determination. I see Attorney Hutchinson at the microphone. Perhaps he can answer to your satisfaction.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: I prefer to seek the floor under my own, Mr. President. I have another point to raise.

PRESIDENT NISBET: You have the floor on your own right now.

MR. HUTCHINSON: Thank you, Mr. President. Really, it is pursuing the same question; but, Mr. President, I am familiar with the history of this provision relative to giving immediate effect to acts, and remember that under the 1850 constitution it was the law, the provision of the 1850 constitution, but the legislature could give immediate effect to any act by a 2/3 vote of the members elect, and at the time of the 1908 convention, the legislature had fallen into passing so many local acts, all of which it could pass without submitting to referendum—that is no longer true—but there was a great deal of opposition to the continuance of letting the legislature have a general power by an extraordinary majority to give immediate effect to acts. But I believe I will agree with Mr. Hoxie that there is a power in the court—and Judge Gadola assures me that it is a judicial power now—to determine whether an act which was given immediate effect falls within the specified categories, but the specified categories are not broad enough to be realistic, in my view, today. For instance, every tax bill that the legislature passes needs to be given a particular effective date, either the first of the fiscal year or the first of October or the first of January; some set date which, from a fiscal standpoint, is sound. In order to do that, the legislature has to give tax bills immediate effect. Well, as a matter of fact, they don't fall into any one of these categories, and I am wondering whether the committee gave any consideration to striking out the specification of these categories at all.

I offer an amendment at this time, if it will be accepted from the floor, to strike out of line 7, after the word "acts" the balance of line 7 and all of line 8 up to and including the word "safety," so that the language will read, "but the legislature may give immediate effect to acts by a 2/3 vote of the members elected to and serving in each house."

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 7, after the first word "acts" by striking out "making appropriations and acts immediately necessary for the preservation of the public peace, health or safety".

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, I think that is a realistic amendment. You do have the safeguard, of course, of requiring 2/3 of the members elected and serving in each house, and it would seem that any legislation that could get that much support would safeguard the public interest.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hutchinson. Mr. Kuhn.

MR. KUHN: I would rise to question the wisdom of this amendment because of the fact that if you allow this, you are doing away with the right of initiative or referendum.

Now, in order for an act to get this 2/3 and have immediate effect, it must come under one of the 4 categories; that is, 1, make an appropriation; 2, preserve the public peace; 3, preserve public health; or 4, preserve public safety. Any other act the legislature passes, the people have a right, in 90 days, to go out and get 5 per cent of the signatures to kill it. They have used this power some 7 times and have killed 6 legislative acts. I don't know the particular vote now. If Mr. Hutchinson could report to me whether any of those had 2/3 of the membership approving them, I might be willing to take away my disapproval. But to me this would weaken our referendum.

MR. HUTCHINSON: Will the gentleman yield to me to answer?

MR. KUHN: Yes, I will.

MR. HUTCHINSON: Mr. President, it is not essential, in order to submit an act to the referendum, that it need have taken effect. I would grant you that is the way the old 1908 constitution read, but it isn't essential that it do that. The right of the people to a referendum on a legislative act could be exercised if the constitution so provided, even though an act had been given immediate effect. As a matter of fact, if you read the initiative and referendum provisions of the constitution, you will see that there are only 2 kinds of acts which cannot be submitted to a referendum initiated by the people. One of them is an act making an appropriation. The other is an act to make up a deficiency in the state fund. There are lots of other acts that do affect the public health and safety; nevertheless there doesn't seem to be a prohibition against submitting them to referendum if the people want to do it, even though the legislature does give them immediate effect.

On the other hand, to restrict the power of the legislature to immediate effect action into these 3 categories—which, I invite your attention to the fact, don't even include public welfare—doesn't seem to me to be very sound, and I would much rather have the power left in the legislature by a 2/3 vote to give immediate effect to any act and then to preserve the right of the people, if they want to, to initiate a referendum which, as soon as the petitions are filed, would cease operation of that act until they had voted upon it, than to ask the legislature to continue to keep winking at the realities and trying to kid itself and everybody else into thinking that an act falls into one of these 3 categories when as a matter of fact it doesn't, but also as a matter of fact it needs immediate effect, such as a tax bill. I suppose we could think of many other illustrations, but a tax bill is a good one.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Well, the only thing I worry about is the reasoning for this 90 day rule. One of the reasons that I understand it was there was to allow the people to become acquainted with the statutes the legislature passed so they could adjust to them and have businessmen adjust to them, and I would question the wisdom of this, although he has a pretty sound argument, if it can obtain 2/3 vote, that maybe it is a good thing. I am just pointing out the reasons that this was placed in the constitution in the first place.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Hutchinson. Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. Hutchinson's amendment:

[The amendment was again read by the secretary. For text, see above, page 2955.]

PRESIDENT NISBET: The Chair recognizes Miss Andrus.

MISS ANDRUS: Probably Mr. Hoxie and Mr. Hutchinson are quite acquainted with this, but I would like to ask a question of Mr. Hutchinson if I might.

PRESIDENT NISBET: You may. Mr. Hutchinson.

MISS ANDRUS: Mr. Hutchinson, many bills are passed the very last days of the legislature. Now, when they are given immediate effect, how much time would the people have to get petitions? You have to have 5 per cent of those voting for governor in the last election. How much time would they have to get those before they went into effect?

MR. HUTCHINSON: Mr. President, of course before it went into effect, they wouldn't have, but they would still—hopefully the constitution would so provide that they would still have their 90 days from the sine die adjournment of that session in order to file their 5 per cent petitions, you see.

MISS ANDRUS: Then an act that had gone into effect could be revoked?

MR. HUTCHINSON: Could be suspended and should be suspended as soon as the petitions are filed.

MISS ANDRUS: What I mean is, we would start it in operation and then we would suspend it?

MR. HUTCHINSON: That would be the situation. But, as a matter of fact, the number of times that that would happen compared with the number of times that the public interest demands an immediate effect provision to act is so rare that the public interest would be more inconvenienced by continuing this present restriction than to meet the situation that you indicate.

MISS ANDRUS: Mr. President, I can see that, but should we make some provision then, in the article dealing with the referendum? Should that be changed to conform to your amendment if we make this change?

MR. HUTCHINSON: Yes.

MISS ANDRUS: There would have to be some change there?

MR. HUTCHINSON: I would hope so.

MISS ANDRUS: I mean would it be necessary, in your opinion, that there be some statement?

MR. HUTCHINSON: Mr. President, in the initiative and referendum, the old provision said, again, that no act should take effect for 90 days. It said so twice in the constitution.

MISS ANDRUS: I know.

MR. HUTCHINSON: I don't recall that it is in the new provision relative to initiative and referendum, about the 90 days. I will check it.

MISS ANDRUS: Thank you.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I am a little surprised at all the lawyers sitting still. They should be rising to defend this section, because it is known as the lawyer's friend. When you can't find any other way to attack legislation, one of the first things you do is try and find out if they made a mistake in the way they wrote the title, and it very frequently is a stock allegation in litigation against municipalities, for example, where you are operating under an enabling act—and you almost always are.

If you take a look at your blue book under article V, section 21, you will see that there has been a tremendous amount of litigation that has gone through the supreme court involving this section since 1908. You will also notice that, in answer to Dr. Pollock's question, we are dealing here in Mr. Hutchinson's amendment with 2 things: the court has said that the question of whether a matter falls within the purview of the 3 definitive words of the time when the legislation can get immediate effect is a judicial question. It is not up to the legislature, in the last analysis, to decide whether a thing is for public health, welfare or safety, but it is up to the court to determine that. But it is up to the legislature to determine in the first instance if an emergency exists which warrants making the act immediately effective.

So there are 2 tests to be met: first, there has to be an immediate need, and that is a legislative question. When the legislature decides that it is necessary, then you can't go behind that when you go to court. But having decided that, then it still must be properly within the purview of this very limited field. And you will notice, if you take a look at some of the particular areas in which this has raised problems, that one of them that causes municipalities a great deal of trouble is when they discover a problem, which is similar to what we have going on right now concerning the issuance of special assessment bonds for sewers. Now, so long as these special assessment bonds are for sewers, we can follow a tenuous route and sustain the acts of the legislature. You are probably aware of the fact that a recent supreme court decision has placed a great many special assessment districts in this state in jeopardy, and we have all instructed our communities not to go any further with special assessments until this session of the legislature has a chance to patch it up. None of us know exactly where we stand.

Now, since we are dealing specifically with something in the nature of a direct public health hazard, such as the contamination of water, we can follow a tenuous route and get it in the back door here and probably sustain an act that is given immediate effect. There isn't any question there is an emergency here. But when you get away from things such as the public water supply and sewers and get into other things, then you get into serious questions, and sometimes you find that you not only jeopardize public lending and public ability to proceed, public corporations in particular, but you also at the same time run the risk of having the danger that you are trying to correct do a great deal of harm before you can effectively stop it.

It seems to me that there is a third safeguard built into this section, and that is the requirement of 2/3 majority in both houses when you attempt to do this, and if Senator Hutchinson could change the latter part of this section to emphasize the word "emergency" I would be wholly in agreement with him on trying to get away from casting the burden on the legislature to put it in the proper one of the 3 categories after they have once decided, by a 2/3 vote of both houses, that the legislation is, in fact, needed for the public good and that an emergency exists. It seems that this should be a sufficient test, the emergency itself, and the fact that by very technical legal definition it may fall outside the purview of those 3 words and thereby vitiate an attempt to do something necessary for the people of the state doesn't seem to me to be good constitutional draftsmanship.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, may I ask a final question of Mr. Hutchinson?

PRESIDENT NISBET: Mr. Hutchinson.

MR. POLLOCK: Am I correct in assuming, Mr. Hutchinson, that you feel by your amendment that you will eliminate what seems to be the existing abuse by eliminating those 3 words on which the abuse now rests?

MR. HUTCHINSON: Mr. President, I think probably that I should say yes, if I am willing to accept Dr. Pollock's premise that there is an abuse. I don't believe the legislature has unduly abused this situation, but I will concede that they have had to stretch it quite a ways sometimes in order to meet the realities of situations where the public health or the public need actually demanded an immediate effect, or at least an effect on a date certain which might fall short of the 90 days after final adjournment of the legislature. So with that statement, yes, I think that it would. It would eliminate the abuse, because it would give the legislature the discretion, by a 2/3 vote, to give immediate effect to any act.

MR. POLLOCK: Thank you very much. Mr. President, I think I could show to Mr. Hutchinson that it has been very badly abused, because the record is pretty clear, although I think it hasn't been brought up to date for 10 or 15 years.

PRESIDENT NISBET: Mr. Baginski, did you care to speak on the amendment?

MR. BAGINSKI: Yes, I do.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, as a former member of the legislature, I have seen some of this abuse take place. If someone had a special bill he wanted to get through, get immediate effect for it, get a 2/3 vote, he could get it. I think, though, that the amendment offered here would be a good one. It would eliminate much of this abuse. And if the legislature felt that this bill or this enactment needed immediate effect, they could do so by a 2/3 vote, and that is their prerogative. I hope that this amendment is adopted.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hutchinson. Those in favor will say aye. Opposed, no.

The amendment is adopted. The question now is on Committee Proposal 121 as amended. Dr. DeVries.

MR. DeVRIES: Mr. President, I would like to ask the chairman of the committee a question, if I may.

PRESIDENT NISBET: Mr. Hoxie.

MR. DeVRIES: Throughout these sections on legislative powers you refer to "sessions," Mr. Hoxie. That is 1 year; isn't that correct? By "session" you refer to 1 year sessions?

MR. HOXIE: I think perhaps that would be the interpretation.

MR. DeVRIES: When you refer to "term of office" throughout these proposals, are you talking about 2 years or 4 years?

MR. HOXIE: We are talking about the term of office for which the legislators are elected. Presently, of course, 2 years.

MR. DeVRIES: But under the provision that we now have, with senators for 4 years, what would be considered a legislative term of office, 2 years or 4 years?

MR. HOXIE: Well, I assume that if the proposal is adopted by this convention giving to senators a 4 year term and representatives a 2 year term, that term of office would be in accordance with the term for which they are elected. Now, you must remember that at the time some of these proposals were adopted by our committee, we had no way of knowing what the convention would do in the way of term of office, if anything different, between the house and the senate. Those are some of the matters which we expected that style and drafting would clarify as those proposals came to them.

MR. DeVRIES: Well, at present the legislature has a 2 year term of office, does it not? The legislature runs for a 2 year term?

MR. HOXIE: I think, Dr. DeVries, with the 3 or 4 years that you were around the legislature, you are fully able to answer that question yourself.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 121 as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—110

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Kuhn
Leibrand
Leppien
Lesinski
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Yeager
Youngblood

Nays—2

Dehnke
Young

SECRETARY CHASE: On the passage of Committee Proposal 121 as amended, the yeas are 110; the nays, 2.

PRESIDENT NISBET: **Committee Proposal 121,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 121 as amended and rereferred to the committee on style and drafting:

> Sec. a. No law shall embrace more than one object, which shall be expressed in its title. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be reenacted and published at length. No act shall take effect or be in force until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a 2/3 vote of the members elected to and serving in each house.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 16 on the calendar, **Committee Proposal 105,** A proposal to provide that bills must be printed 5 days prior to passage and for limitation of extraordinary sessions. Amends article V, section 22.

Following is Committee Proposal 105 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2334.):

> Sec. a. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least 5 days. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any [other] subjects OTHER than those expressly stated in the governor's proclamation or submitted by special message. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the only change that style and drafting made to this proposal was a matter of moving the word "other" to after "subjects" instead of before "subjects." They seemed to think it read better that way.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I concur in the statements made by the chairman of the committee and ask the adoption of this proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 105. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Andrus, Miss
Habermehl
Hanna, W. F.
Prettie
Pugsley

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Anspach
Austin
Baginski
Balcer
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Kuhn
Leibrand
Leppien
Lesinski
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Pollock
Powell
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 105, the yeas are 112; the nays, none.

PRESIDENT NISBET: **Committee Proposal 105** is passed and referred to the committee style and drafting.

For Committee Proposal 105 as rereferred to the committee on style and drafting, see above, page 2957.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 17 on the calendar, **Committee Proposal 104,** A proposal to provide for 3 readings of a bill before passage and for passage of bills by a majority of the members elected. Retains article V, section 23.

Following is Committee Proposal 104 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2351.):

> Sec. a. Every bill shall be read 3 times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of all the members elected TO and serving in each house. On the final passage of all bills, the vote shall be by yeas and nays and entered [on] IN the journal.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: This proposal, Mr. President and fellow delegates, was returned from style and drafting without any substantive change from the form as adopted by the convention. We recommend its adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, there was some question raised here as to whether every bill should be read 3 times. I think this provision should remain in the constitution, as the house and senate rules do provide that if a bill is tiring and lengthy, with a lot of Latin names like we had in the fish bill many times, it could be considered read unless there was an objection. I move the adoption of this proposal.

PRESIDENT NISBET: The question is on approval of Committee Proposal 104. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—115

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Brake
Brown, G. E.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Lesinski
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager
Young
Youngblood

Nays—1

Faxon

SECRETARY CHASE: On the passage of Committee Proposal 104, the yeas are 115; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 104** is passed.

Explanation of vote submitted by Mr. Faxon:

> I voted no on Committee Proposal 104 because I felt that this provision was no longer necessary in light of our present situation.
>
> The original purpose for having a bill read 3 times was so that those members of the legislature who could not read would be sure to know what they were passing on. I assume this is no longer the case.
>
> Furthermore, this practice of having to read a bill has been used recently as a means of impeding the efficient and effective progress of the legislature. By having one member insist upon a bill being read the entire legislative process can be slowed down materially.
>
> This practice was what occurred during the recent marathon senate sessions.
>
> I do not feel that this provision is in the best interest of the people of this state.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 104 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal. Will the delegates please clear the board?

SECRETARY CHASE: Item 18 on the calendar, **Committee**

Proposal 41, A proposal to provide for a 2/3 vote of the legislature for nongovernmental appropriations. Retains article V, section 24.

Following is Committee Proposal 41 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 837.):

Sec. a. The assent of 2/3 of the members elected to AND SERVING IN each house of the legislature shall be [requisite to every bill] REQUIRED FOR THE [appropriating] APPROPRIATION [the] OF public money or property for local or private purposes.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, there is no substantive change in this proposal from the form as it was referred to the style and drafting committee. This has been in the constitution for some time as a safeguard against the legislature appropriating money for private purposes without a 2/3 vote of the legislature.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I recommend the adoption of this proposal.

PRESIDENT NISBET: The board will please be cleared. The question is on the approval of Committee Proposal 41. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—111

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Buback
Cudlip
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Murphy
Nisbet
Ostrow
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager
Young
Youngblood

Nays—2

Faxon
Mahinske

SECRETARY CHASE: On the passage of Committee Proposal 41, the yeas are 111; the nays, 2.

PRESIDENT NISBET: **Committee Proposal** 41 is passed and referred to the committee on style and drafting.

For Committee Proposal 41 as rereferred to the committee on style and drafting, see above.

The secretary will read the next proposal. Delegates, please clear the board.

SECRETARY CHASE: Item 19 on the calendar, **Committee Proposal 115, A proposal to provide that no member of the legislature or state officer shall have a substantial conflict of interest with the state. Amends article V, section 25.**

Following is Committee Proposal 115 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2403.):

Sec. a. No member of the legislature [or] NOR ANY state officer shall be interested directly or indirectly in any contract with the state or any POLITICAL subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, members of the convention, the style and drafting committee did not make any substantial change in this provision from the form as adopted by the convention.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, in the committee there was some question here as to what would happen if a member of the legislature was in the insurance business or something of that sort and so surely it would be a conflict to a degree, but it was felt that the legislature should take care of this rather than to attempt to write legislation into the constitution. I recommend the adoption of this proposal.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I would like to ask Mr. Hoxie a question, through the Chair, if I might.

PRESIDENT NISBET: Mr. Hoxie.

MR. FORD: Mr. Hoxie, I believe this replaces article V, section 25 which in the 1908 constitution is quite a bit longer, but it deals specifically with contracts for sales to the state, and its whole tenor is such that indicates that the conflict of interest that is prohibited here is a pecuniary interest. Now, the question is: by saying that there shall be no substantial conflict of interest, is this limited to a pecuniary interest in a contract or some transaction with the state, or could it be a philosophical or ethical interest in something?

MR. HOXIE: Mr. President, in answer to the question, it was the feeling of the committee on legislative powers that the wording of the old constitution was rather limited and restricted. I think that is the section that referred to paper and all that sort of thing.

MR. FORD: That is right.

MR. HOXIE: The intent of the committee was that it be something of a substantial nature where there would be a conflict, and we left it to the legislature to determine ground rules, so to speak, of what would be a substantial conflict of interest.

MR. FORD: But for the record, and to clearly establish our intent here, is it fair to say that what you intend is a conflict that involves a pecuniary interest rather than any kind of a conflict that might be devised by the legislature from time to time?

MR. HOXIE: Pecuniary or money interest, I think, is what we are concerned about; in other words, that the individual involved wouldn't have any direct interest in something of a substantial nature. In other words, they could have a—

PRESIDENT NISBET: May we have a little better order, please, so the delegates can hear.

MR. HOXIE: The subcommittee chairman that handled this matter and will answer any questions as to the philosophy of the committee is Mr. Powell. Mr. Powell, would you like to explain our thinking on this proposal?

PRESIDENT NISBET: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, those of you who were here when this came up in committee of the whole will recall the discussion that occurred at that time. We

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

pointed out that the detailed language of the first part of article V, section 25 was one of the things that was looked at with some scorn, abhorrence by those who thought we should have a constitutional convention. They ridiculed the idea that we should have to have all this procedure in connection with the purchase of some stationery or some fuel. I brought out at that time that we have in state government definite, established procurement policies. In the department of administration they buy on bids and on specifications, and certainly there is no necessity for this first part of the old section. And we did retain the last sentence, which is basically what this proposal now before us provides.

I don't know exactly what the difficulty is at this time. It would seem as though, unless somebody is not in tune with the decision reached in committee of the whole, why, we should bring this to a vote. If anybody has an amendment that they want to offer to change this provision from what we decided at that time, that would be in order, but apparently there is nothing for me to discuss at this juncture because our recommendation was fully carried out by the committee of the whole, and style and drafting has made no substantive change.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Mr. President, I am sorry if I disturb Mr. Powell by asking a question, but the question still remains in my mind. If you read section 25, you find almost identical language that has been adopted here constitutes the last sentence of that section, but when you finally get around to reading that sentence in the section, you realize that you have been talking about contracts between suppliers and vendors and the state of Michigan, and it is very clear—and the court has held—that this involves a pecuniary conflict of interest.

Now, I just want it made clear on the record, before I vote for this, that we do not intend to enlarge upon this concept, but merely to prevent a restriction from being placed on the prevention of any kind of dealing by a state officer or legislator with the state for profit. But I shouldn't like to be a party to a section which was intended, when they say it is going to be broader, to open the door for witch hunts because someone owns shares of stock in a company which directly or indirectly is interested in bidding with the state of Michigan. This has not been the law in the past and I don't think it should be the law in the future.

PRESIDENT NISBET: The question is on approval of Committee Proposal 115. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—115

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Brake
Brown, G. E.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.

Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin

Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie

Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust

McAllister
McCauley
McGowan, Miss
McLogan
Millard
Murphy
Nisbet
Ostrow
Page
Perras

Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—4

Ford
Jones

Shanahan

Walker

SECRETARY CHASE: On the passage of Committee Proposal 115, the yeas are 115; the nays are 4.

PRESIDENT NISBET: **Committee Proposal 115** is passed and referred to the committee on style and drafting.

For Committee Proposal 115 as rereferred to the committee on style and drafting, see above, page 2959.

The secretary will read the next proposal. Will the delegates please clear the board?

SECRETARY CHASE: Item 20 in the calendar, **Committee Proposal 111,** A proposal pertaining to the employment of chaplains. Amends article V, section 26.

Following is Committee Proposal 111 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2342.):

> Sec. a. The legislature may authorize the employment of chaplains in state institutions of confinement.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, this proposal as returned to the convention by style and drafting has not been changed. We recommend it for your adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, there is no change in this, and we recommend adoption.

PRESIDENT NISBET: Will the delegates please clear the board? The question is on Committee Proposal 111. Those in favor of Committee Proposal 111 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—114

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bledsoe
Bonisteel
Brake
Brown, G. E.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson

Gust
Habermehl
Hart, Miss
Haskill
Hatch
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Martin
McAllister
McCauley

Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie

Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
McGowan, Miss
McLogan
Millard
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 111, the yeas are 114; the nays, none.

PRESIDENT NISBET: **Committee Proposal 111** is passed and referred to the committee on style and drafting.

For Committee Proposal 111 as rereferred to the committee on style and drafting, see above, page 2960.

The secretary will read the next proposal. Will the delegates please clear the board?

SECRETARY CHASE: Item 21 on the calendar, **Committee Proposal 99,** A proposal to provide that the legislature may provide for a jury of less than 12 in civil cases. Amends article V, section 27.

Following is Committee Proposal 99 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2288.):

> Sec. a. [In civil cases] The legislature may authorize a trial by a jury of less [number] than 12 jurors IN CIVIL CASES.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee on style and drafting did not make any substantive change to the proposal that was adopted by the committee of the whole. We recommend it to you for your adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I am thinking just this minute of a proposal that we adopted last week that you could have a jury of 12, and 10 would agree. No, I don't suppose that would have any effect here. I might say, though, that the old language in the constitution referred to 12 men, and the word "men" was stricken, and this type of jury of less than 12 would, of course, be in condemnations and mentally ill cases and things of that nature. I move the adoption of this proposal.

PRESIDENT NISBET: We are having trouble with the board. Will the delegates please clear it? Mr. Erickson.

MR. ERICKSON: I would like to ask, through the Chair, Mr. Hoxie to refresh my memory. As I remember in the judicial article we adopted a provision that 10 jurors in a civil case would be satisfactory. Was that voted down?

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: I just think it was 10 that could decide it. Wasn't that the way is was? I am not positive.

PRESIDENT NISBET: Mr. Prettie may have an answer.

MR. PRETTIE: Mr. President and fellow delegates, the section to which Mr. Erickson has reference is Committee Proposal 15, section 13, having to do with trial by jury, and Judge Mosier's amendment providing for a verdict in civil cases by 10 jurors was adopted as an amendment thereto. It has no effect on the pending section, in my opinion.

PRESIDENT NISBET: The question is on Committee Proposal 99. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—113

Allen
Andrus, Miss
Anspach
Austin
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Plank
Pollock
Powell
Pugsley
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Martin
McCauley
McGowan, Miss
McLogan
Millard
Murphy
Nisbet
Ostrow
Page
Perras
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager
Young
Youngblood

Nays—2

Bledsoe
Bonisteel

SECRETARY CHASE: On the passage of Committee Proposal 99, the yeas are 113; the nays, 2.

PRESIDENT NISBET: **Committee Proposal 99** is passed and referred to the committee on style and drafting.

For Committee Proposal 99 as rereferred to the committee on style and drafting, see above.

Would you please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 22 on the calendar, **Committee Proposal 106,** A proposal to allow the legislature to pass laws regarding indeterminate sentences. Retains article V, section 28.

Following is Committee Proposal 106 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2335.):

> Sec. a. The legislature may provide [by law] for indeterminate sentences[, so called,] as a punishment for crime[, on conviction thereof,] and for the detention and release of persons imprisoned or detained on [said] SUCH sentences.

MR. HOXIE: Mr. President, fellow delegates, the committee on style and drafting deleted some unnecessary words but did not change the substance which was before us and adopted on this proposal.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, we offer no objection to the adoption of this proposal.

PRESIDENT NISBET: We are still having some trouble with the board up there. Will the delegates please clear it? The question is on approval of Committee Proposal 106. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

The roll was called and the delegates voted as follows:

Yeas—113

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bonisteel
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Yeager
Young
Youngblood

Nays—1

Jones

SECRETARY CHASE: On the passage of Committee Proposal 106, the yeas are 113; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 106** is passed and referred to the committee on style and drafting.

For Committee Proposal 106 as rereferred to the committee on style and drafting, see above, page 2961.

The secretary will read the next proposal. Will the delegates please clear the board?

SECRETARY CHASE: Item 23 on the calendar, **Committee Proposal 110,** A proposal to provide that the legislature may enact laws relative to hours and conditions of employment. Retains article V, section 29.

Following is Committee Proposal 110 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2341.):

Sec. a. The legislature [shall have power to] MAY enact laws relative to the hours and conditions OF EMPLOYMENT [under which men, women and children may be employed].

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee on style and drafting deleted the 3 or 4 words, "shall have power to," and inserted "may." They also deleted conditions of employment "under which men, women and children may be employed." Perhaps it was in the minds of the committee on style and drafting that under the provisions against discrimination—I don't know whether that was their reasoning or not—that it was not necessary to define men, women and children, or to refer to them as such. I think there is perhaps an amendment on the secretary's desk on that. Is there?

PRESIDENT NISBET: Will the delegates please clear the board? Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, there is just one question here—and I would like to yield to Mrs. Hatcher on this relative to the striking out of the word "women" that applies to the women in this matter of sex.

PRESIDENT NISBET: Mrs. Hatcher.

MRS. HATCHER: Thank you, Mr. Baginski. Mr. President and fellow delegates, I discussed this section with Mr. Baginski and I am reasonably pleased with striking all of the language after the word "employment." I feel that the legislature should have—and has had for a number of years—the power to enact legislation effecting hours and working conditions. There is only one concern that I have relative to the question of the legislature having the power to legislate in terms of working conditions, and that is on the question of inspection. I think that if the legislature is going to enact legislation dealing with conditions of employment, then they should have some reasonable knowledge of what is taking place in places of employment, primarily whether or not the various regulations are being lived up to in terms of proper rest rooms, proper health facilities for women workers as well as men, and proper seating facilities. I think all of these matters ought to be taken into consideration.

I do not at this time have an amendment to this effect, but I trust that the committee had this in their thinking, that if they are to legislate in terms of working conditions, they should know something about the places of industry where these people are employed, especially women and children. Other than that, I go along with the committee's language to delete this latter portion.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, a question to Mr. Hoxie.

PRESIDENT NISBET: Mr. Hoxie.

MR. W. F. HANNA: Mr. Hoxie, what does this add to the powers of the legislature which they do not have under the general health and welfare clause? In other words, why do we have to have this in the constitution? It seems to me that since 1908 we have clearly accepted the fact that the government and, to wit, the legislature, has clear powers of regulation of terms and conditions of employment.

MR. HOXIE: Mr. President, Mr. Hanna, our committee on legislative powers did consider the question you raise. It was the feeling of the committee that perhaps it would be well to reiterate the power of the legislature so there wouldn't be any question. I personally don't see any great advantage of this particular section. However, it was the feeling of the committee that it should not be deleted.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: Mr. President, Mr. Hoxie, is there any question whatsoever but that the legislature would retain the power, even though these words "men, women and children" are deleted from the section, to lay down hours and conditions of employment different for men than women, and different for men and women than for children?

MR. HOXIE: Mr. President and Mr. Higgs, under the wording of the proposal as returned to us from style and drafting, they could differentiate between men, women and children. They could set up hours for children, they could set up hours for women, they could set up hours for men, and working conditions that would vary and be different from each other. As you literally read the proposal, the legislature may enact laws relative to hours and conditions of employment, and of course we recognize that the legislature does set up hours of employment for children, women, conditions under which they can work and those various things presently, so I can see no danger of placing in the same category—if that is what you are referring to—men, women and children as far as working conditions and hours are concerned.

MR. HIGGS: Well, Mr. President and Mr. Hoxie, I raise this question in view of our section on prohibiting discrimination on account of sex; that actually these words "men, women and children" are intended to be the reasonable classifications under the Donnelly amendment to that section; would that be right?

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. HOXIE: Mr. President, Mr. Higgs, I am trying to think of exactly what the Donnelly amendment was. Maybe Miss Donnelly could indicate whether or not she thinks it would be any change from the amendment that she proposed which related to another matter. However, there is no fear in my mind but what the legislature would have the authority to determine what type of conditions and hours of employment of the various individuals, men, women and children, should have.

MR. HIGGS: Well, Mr. President, I wonder if I can direct this question to Delegate Donnelly then?

PRESIDENT NISBET: If Miss Donnelly cares to answer.

MR. HIGGS: For the record, Miss Donnelly, is it your intention that your amendment with regard to the section on prohibiting discrimination on account of sex would permit a reasonable classification so that the legislature would be free to pass, in effect, discriminatory legislation as to hours and conditions of employment; that is, men and women could be required to work different hours or under different conditions with regard to employment as provided by the legislature; is that correct?

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: Mr. President, Mr. Higgs, I think that the answer definitely would be yes to the question you asked. The other issue, I understand here, is children. My amendment did not touch that, but then children would be classified differently anyway.

MR. HIGGS: Yes. Mr. President, Miss Donnelly, we don't have any section in the constitution prohibiting discrimination against children, but we do as against women, so it becomes important, I think, especially in view of the fact that I do not wish our action to be misconstrued when we at this point in the convention delete these words. You are satisfied, are you, with the deletion of these words that the legislature would have that power under your amendment to so discriminate, in effect?

MISS DONNELLY: I am acting very hastily. I don't have a copy of the other one. Could you give me the committee proposal?

MR. HIGGS: Your language, as I understand it—

MISS DONNELLY: I remember my language. I am afraid I have to check the committee proposal. I don't think my language would in any way affect this language except perhaps to aid them. It said "reasonable classification for the protection of women." As I said, it did not touch children. Here you are touching children. But otherwise, I think that that language would be more than adequate to handle this; that we can remove not only this language but this section, if that answers your question.

MR. HIGGS: Well, Mr. President, I think for the record we have clarified the point. Thank you.

PRESIDENT NISBET: The question is approval of Committee Proposal 110. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—114

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
McAllister
McCauley
McGowan, Miss
Millard
Murphy
Nisbet
Norris
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—4

Brown, T. S.
Doty, Donald
Douglas
Hanna, W. F.

SECRETARY CHASE: On the passage of Committee Proposal 110. the yeas are 114; the nays, 4.

PRESIDENT NISBET: **Committee Proposal 110 is passed and referred to the committee on style and drafting.**

For Committee Proposal 110 as rereferred to the committee on style and drafting, see above, page 2962.

Will the delegates please clear the board?

SECRETARY CHASE: Item 24 on the calendar, **Committee Proposal 119,** A proposal to provide that the legislature shall not pass local acts when general acts can be made applicable and that local acts require a 2/3 vote of the legislature. Amends article V, section 30.

Following is Committee Proposal 119 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2414.):

> Sec. a. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by 2/3 of the members elected to AND SERVING IN each house of the legislature and by a majority of the electors voting thereon in the district to be affected. Any act repealing local or special acts [now] in effect AS OF THE EFFECTIVE DATE OF THIS CONSTITUTION shall require only a majority of the members ELECTED TO AND SERVING IN [of] each house and shall not require submission to the electors of such district.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, the committee reviewed the changes that were made by style and drafting, and it is our feeling there was no substantive change. We recommend its adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, we recommend the adoption of this proposal.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Question, Mr. President. In line 7, I think we had an informal discussion of committee members on the words "as to the effective date," and I was wondering, Mr. President, Mr. Hoxie, if we didn't come to the conclusion that perhaps that "to" should be "of" and perhaps that ought to be corrected.

MR. HOXIE: I think, Mr. President, the secretary did read it as it was supposed to be read. That was an error, as I understood it, in style and drafting. The word "to" is "of" on the official copy.

PRESIDENT NISBET: The official copy is "of?"

Explanation—Matter within [ ] is stricken, matter in capitals is new.

SECRETARY CHASE: Correct. Line 7 reads "acts in effect as of the effective date of this constitution shall . . . ."

PRESIDENT NISBET: The question is on approval of Committee Proposal 119. Those in favor will vote aye. Opposed vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—115

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust

Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McCauley
McGowan, Miss
Millard
Murphy
Nisbet
Norris
Ostrow
Page

Perras
Plank
Pollock
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—1

Walker

SECRETARY CHASE: On the passage of Committee Proposal 119, the yeas are 115; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 119** is passed and referred to the committee on style and drafting.

For Committee Proposal 119 as rereferred to the committee on style and drafting, see above, page 2963.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item number 26 on the calendar, Committee Proposal 70, A proposal to revise provisions of section 36 of article V regarding the veto power of the governor.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: On the calendar which the membership has, the next item there was advanced—that was Committee Proposal 100—and adopted last Friday. It is my understanding that Committee Proposal 70 deals with the veto power, on which there was joint responsibility between the executive and the legislative branch committees, and I believe that was also adopted; am I correct, Mr. Chase? Perhaps we could have a statement from Mr. Martin, chairman of the executive branch committee, relative to Committee Proposal 70.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I believe it was approved by the convention 114 to 1 on April 24 on second reading, according to my advisers.

SECRETARY CHASE: This is correct. It was reported, recommended and approved jointly by the 2 committees and it should not be on the calendar here. Thank you.

PRESIDENT NISBET: The secretary will read the next proposal.

SECRETARY CHASE: Item 27 on the calendar, **Committee Proposal 113,** A proposal to provide that the legislature may submit bills to the people for referendum. Retains article V, section 38.

Following is Committee Proposal 113 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2358.):

> Sec. a. Any bill passed by the legislature and approved by the governor, except appropriation bills, may be referred by the legislature to the qualified electors[;]. [and] No bill so referred shall become a law unless approved by a majority of the electors voting thereon.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee on style and drafting did not make any substantial change in the proposal that was adopted by the committee of the whole, and we recommend its adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, a minority report was submitted and it was handled in committee of the whole. The matter was adopted and went through style and drafting. We have no objections to the adoption of the proposal.

PRESIDENT NISBET: The question is on Committee Proposal 113. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—120

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust

Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
Millard
Murphy
Nisbet
Norris
Ostrow
Page

Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 113, the yeas are 120; the nays, none.

PRESIDENT NISBET: **Committee Proposal 113** is passed and referred to the committee on style and drafting.

For Committee Proposal 113, as rereferred to the committee on style and drafting, see above, page 2964.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 28 on the calendar, **Committee Proposal 24,** A proposal pertaining to inclusion of section 39 of article V in the constitution.

Following is Committee Proposal 24 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 707.):

> Sec. a. All laws enacted at any session of the legislature shall be published in book form within 60 days after [the] final adjournment of the session, and shall be distributed in [such] THE manner [as shall be] provided by law. The speedy publication of [such] judicial decisions [as may be deemed expedient] shall [also] be provided [for] by law. All laws and judicial decisions shall be free for publication by any person.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee on style and drafting did not make any substantial change to the proposal adopted by the convention and the committee of the whole. We recommend its adoption at this time.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, as Mr. Hoxie stated, this language was changed but it didn't change the intent of the proposal. However, maybe if they have the legislative council, they will have more help and they can get this matter out in 60 days. But they haven't been complying with this section in the legislature; isn't that true, Mr. Hoxie?

MR. HOXIE: Well, I think that the acts are published as enrolled acts. I don't know that they are put in book form, but they are available to the public, I believe, within the period set forth, which is the existing period as the constitution now provides.

MR. BAGINSKI: Mr. President, there seems to be no objection to the adoption of this proposal.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I would like to direct a question to either Mr. Hoxie or Mr. Cudlip. I have noticed that style and drafting has changed "shall be distributed in such manner" to "in the manner." I was wondering if this doesn't freeze into the constitution the existing manner that these items are distributed.

PRESIDENT NISBET: Mr. Hoxie or Mr. Cudlip.

MR. HOXIE: Since this is a change that style and drafting made, we will yield to Mr. Cudlip.

MR. CUDLIP: Well, Mr. President and members, Mr. Mahinske, our job is to try to clean up language and get conciseness and brevity. It seems to me that "the" fits there better than "such."

MR. MAHINSKE: My point was, Mr. Cudlip, that I think possibly, with the changes made in the language we have now, the distribution is restricted to the existing manner that it is distributed.

MR. CUDLIP: The intent of this language as I see it is that the legislature shall prescribe the manner of distributing the laws.

MR. MAHINSKE: Then it would be flexible.

MR. CUDLIP: Yes.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 24. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Andrus, Miss
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
Murphy
Nisbet
Norris
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Radka
Richards, L. W.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—1

Walker

SECRETARY CHASE: On the passage of Committee Proposal 24, the yeas are 112; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 24** is passed and referred to the committee on style and drafting.

For Committee Proposal 24 as rereferred to the committee on style and drafting, see above.

Delegates, please clear the board. The secretary will read the next proposal.

SECRETARY CHASE: Item 29 on the calendar, **Committee Proposal 108,** A proposal to provide a limitation against general revision of the laws and a method of compilation. Amends article V, section 40.

Following is Committee Proposal 108 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2336.):

> Sec. a. No general revision of the laws shall hereafter be made. [Whenever necessary,] The legislature [shall by law]MAY provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, it is the feeling of the legislative powers committee that no substantive change was made to this proposal. However, I would like to call attention to the fact that style and drafting deleted "shall by law," and inserted the word "may" provide for compilation.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and fellow delegates, we have no objections to this proposal.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, Mr. Hoxie, at the time this

Explanation—Matter within [ ] is stricken, matter in capitals is new.

was passed in committee of the whole, I raised some question with regard to any conflict that may exist between this proposal and the provisions adopted in Committee Proposal 102. On page 2 of Committee Proposal 102, we have a sentence which reads: "The council shall from time to time examine and recommend to the legislature revision of the various laws of the state." This proposal starts out with a clear statement that "No general revision of the laws shall hereafter be made." In light of these 2 proposals, Mr. President and Mr. Hoxie, I wonder whether there isn't some conflict as to whether a general revision of the laws can or cannot be made.

MR. HOXIE: Mr. President, Mr. Faxon, I think that was merely a recommendation on the part of the legislative council. They could recommend certain revisions; whether it was the intent that the revision referred to in that proposal of the legislative council was intended for a general revision or just a revision of certain portions of the law which would fall, perhaps, within the category of compilation, I do not know. I think that was actually more the intent of the wording of that proposal than it was a general revision. And we had that, of course, discussed during committee of the whole, and attention of the delegates was called to the possible dangers that would be involved with a general revision. I believe Mr. Habermehl discussed that subject and satisfied the membership that it was a wise policy to prohibit a general revision and was a good policy to authorize compilations of the law.

MR. FAXON: Mr. President, then am I to assume that the words "general revision" refer to a total revision, but that the legislature can provide for a partial revision of the laws in addition to a compilation, in light of Committee Proposal 102? Would that be correct?

MR. HOXIE: I think that that would be the logical interpretation of the distinction between the 2 proposals.

MR. FAXON: Thank you. That is all.

PRESIDENT NISBET: There is an amendment.

SECRETARY CHASE: Mr. King offers the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out "No general revision of the laws shall hereafter be made.".

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, fellow delegates, I don't want to take a lot of time, but it seems to me that this is an unnecessary matter to be handled in the constitution. I believe that at the present time there is planned to be put on the ballot a constitutional amendment which would permit a general revision. I would point out that there is no state in the country with this sort of a provision in its constitution except one, that one being Michigan. I frankly don't think it is necessary, and I also think it is somewhat dangerous to have this kind of language in the constitution because it would force, in the event that you wanted a general revision, a constitutional amendment. I really feel that this is a matter which can be left to the legislature.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, I don't know how many of the delegates recall the discussion that took place on this particular sentence that was recommended by the committee of the whole as well as the committee on legislative powers, and so that we may revive our memory a little bit, I would like to yield to Mr. Habermehl for further explanation.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President and Delegate King, I believe that the proposal that is now going to be on the November ballot of this year was the reason for the inclusion of the first sentence. We feel—and felt in the committee—that a general revision of the statutes is a very dangerous thing, that new legislation under the guise of just a revising of existing statutes very often creeps into such general revisions, and that if omissions are made from a general revision, the laws that are represented by the acts omitted are in effect repealed; therefore, the compilation was by far the best method; and that the legislature's attention ought to be called to any act that the legislature proposes to repeal. For that reason we felt that we should make our position clear here in opposition to what the legislature proposes to put on the November ballot.

MR. FAXON: Mr. President.

PRESIDENT NISBET: Mr. Faxon, would you care to speak on the amendment?

MR. FAXON: Yes. I had introduced a delegate proposal to the effect of Mr. King's, and I withdrew this when it came around in first reading, but this was before we had made provision for a legislative council. I think that having provided for a legislative council and in some respects encouraged the addtional staff that this would involve, I think we should be in a position to trust the legislature sufficiently, and the council too, to make this type of provision unnecessary; that is, where you say no general revision will take place. The model state constitution certainly doesn't go along with this language, and other states don't either.

I wonder whether—now that we have already made these other provisions for a legislative council—Mr. King's amendment here wouldn't be the better thing to do. This is a matter which I have received some letters on, and I have had others speak to me of it. I think there might be some worthy consideration given here to deleting that sentence. The dangers aren't as great as they once were, and I think we might be getting rid of an unnecessary obstacle for a codification and revision of the laws of the state.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, I would like to address a question to Delegate Habermehl, if I might, through the Chair.

PRESIDENT NISBET: If Mr. Habermehl cares to answer.

MR. KING: Delegate Habermehl, what would happen if both the constitution and this proposed amendment ended up on the November ballot and they were both passed?

MR. HABERMEHL: Mr. President, Delegate King, the legislative proposal applies to the 1908 constitution. If it passed, the 1908 constitution would be amended. If our proposed constitution from this body passed, the 1908 constitution would then no longer be in effect.

MR. KING: Thank you.

MR. HABERMEHL: And to answer just one remark of Mr. Faxon, there is a difference between codification and revision. Codification is provided for now. It means the same as compilation. And there is no conflict between Committee Proposal 102 and this one, because this provides for a general revision of all statutes, and the legislative council provision says "various statutes" which, of course, the legislature can revise.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. Habermehl, let me pose this problem to you: of course, every state has different problems, but I presume that all states have laws. Do you think that the other 49 states should consider amending their constitutions to provide for this sort of thing too?

MR. HABERMEHL: Mr. President, Delegate King, I cited one example in Ohio on first reading in which it would have been very wise had they not had that provision to the effect that they could provide for a general revision. They omitted one act from the revision and, as I stated then, breaking and entering was no longer a crime in the state of Ohio. It had been omitted from the revised statutes that they put out.

MR. KING: Thank you. Mr. President, I am still not impressed. I don't think it is a matter for the constitution, and I will vote to delete it.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I just want to say that I subscribe entirely to what Mr. Habermehl has to say about this matter. During my rather long experience in the legislature, I have seen many times when the legislature has passed codes — what we call codes — having to do with only various aspects of the law such as, for instance, the motor vehicle code, the drain code and whatnot, and even in the process of enacting a new statute on these rather narrow phases of the law, the legislature has been surprised, as time goes on, at what changes it had unwittingly made or what things it had left out. I can see that if there should come about a general revision of the laws in this state, this problem would be compounded a thousandfold.

The legislature in 1961 enacted a new judicature act, which is a codification of the laws having to do with civil procedure in our courts, rather a limited or narrow scope of the law when you think of the entire statutes of Michigan. That bill was a bill of some 600 pages. The average member of the legislature couldn't undertake to read it all, and very few of them could read it understandingly because of its volume and the complexity of the problem that it threw before them. Now, a general revision of the laws means that the legislature would be called upon, in a single bill, to enact a code of laws for the state of Michigan, and I think it should be apparent to you all the tremendous risk that is run in such a course of action. As Mr. Habermehl has so ably pointed out, and as he pointed out in the debate on first reading, the opportunity either of unwitting omission or of carefully planned substitution and inclusion of an idea without anybody much recognizing it, is present even in these rather narrow areas of concern. So when you try to enact the entire statute law of Michigan into a code by a single legislative bill, I just ask you to consider whether you would expect any member of the legislature to read that thoroughly and understandingly, or even any lawyer.

Now, Michigan's history in its last codification back in 1846 — and I know that is a long time back in history and you may say, "Well, their problems back there wouldn't necessarily be ours," but nevertheless, as a matter of history in Michigan, their codification of 1846 was such a dismal failure, and so many omissions and so many changes had been unwittingly made in it, that it was because of that that the people back in 1850, in writing a new constitution, said: never again will we let that come about in Michigan. Back in 1846 the legislature contracted, I believe, with one of its own members to write the codification, the general revision, and I believe he spent 2 years at it, and he probably did it in his own lights as best he could.

But why is there any logic or any sense or any real good public policy at all in, in effect, having the legislature delegate either to one of its own members or to a commission appointed by itself, perhaps made up of some of its own members and some outsiders, the task of really deciding what the statute law of Michigan should consist of? The responsibility is the legislature's. The responsibility is in the majority of each house, so why do we permit the consideration of legislation in such a form and in such a complex volume that it will make such reasonable consideration by the membership virtually impossible?

When you throw an entire codification of laws at the legislature, a general revision at least, when you have the whole general revision there and you throw that at the legislature, you are asking for more than the ordinary citizen should be expected to act upon all at one time. Therefore, I think this is a very serious matter. I think it is something that should belong in the constitution. I don't know what the history in other states has been, but I think the fact that we prohibit these general revisions is a good thing. I hope we will continue to prohibit them. And I will say to you that I just don't believe that that proposal that is on the ballot this fall that went through the legislature would have got there if I had been in the senate. (laughter)

PRESIDENT NISBET: Mr. Powell, do you desire recognition on the amendment?

MR. POWELL: Mr. President and fellow delegates, since I have been standing here, most of the things that I might have said have been better said by Delegates Habermehl and Hutchinson. In fact, I first rose, before the amendment was offered, to speak in favor of the proposal and to comment favorably on some of the language in it, and naturally I wish to speak against this pending amendment Delegate King has proposed.

I might say I was chairman of the subcommittee that had this particular proposal before us, and we, both in the subcommittee and later in the committee itself, had considerable discussion and various people in and worked on it at some length. I can also comment that in years gone by I have served on advisory study committees that have worked up codifications. We always at that time said: now we aren't going to make any substantive changes. We are going to maintain the status quo. We are just going to rearrange these provisions in a logical sequence. We are going to take out the conflicting and overlapping language and duplicating and obsolete features and make one concise and understandable statute. But I don't believe that there ever was even a codification that, before it got done, didn't involve some substantive change in the statute. And, as has been pointed out, many of these codifications get extremely lengthy and difficult for the legislature to fully understand. But suffice it to say that is a totally different proposition than a complete general revision of the statutes, not only from a mechanical but from a legal point of view.

Now, if it is true that Michigan is the only state which has had this provision in its constitution and we were to take it out, then I think notice would be taken thereof and it would be regarded as some sort of direction to the legislature that we look with favor upon the idea of a general revision. We would remove the prohibition against it, which to my mind would be a very serious thing. Someone has handed me a note here that says "To say nothing of the printing problem." Well, I am sure we would have quite a document in front of us if we were to revise all the existing statutes of the state in one fell swoop. So, without further ado, I hope that we can just defeat this amendment and adopt the proposal as it has come to us from style and drafting, which is substantially the same as approved in committee of the whole.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, perhaps this problem can be simplified a little for the lay members of this convention who may not clearly have in mind the difference between a revision and a codification. A codification is merely a gathering together of the existing statutes. If it conflicts with the original statutes, if it makes a mistake, if it leaves something out, if it adds something not justified, the original statutes still prevail. But with a general revision, if there is an omission, or something added that is not discovered, that becomes a law and is superior to the original enactment which it was intended to copy, and for that reason a much more serious matter.

PRESIDENT NISBET: The question is on the King amendment. Those in favor will vote aye. Opposed, no.

The amendment is not adopted. The question now is on Committee Proposal 108. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—118

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Brake
Brown, G. E.
Brown, T. S.
Buback
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett

Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin

Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton

Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
Gust
McAllister
McCauley
McGowan, Miss
Millard
Murphy
Nisbet
Norris
Ostrow
Page
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young

Nays—1

Staiger

SECRETARY CHASE: On the passage of Committee Proposal 108, the yeas are 118; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 108** is passed and referred to the committee on style and drafting.

For Committee Proposal 108 as rereferred to the committee on style and drafting, see above, page 2965.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 30 on the calendar, **Committee Proposal 20**, A proposal to provide that no law shall be enacted providing for the penalty of death. Amends article V by adding a new section.

Following is Committee Proposal 20 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 595.):

Sec. a. No law shall be enacted providing for the penalty of death.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee on style and drafting again couldn't find any change to make in the proposal as it was adopted by the convention. It is short, clear, concise and, I think, understandable to every delegate here.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and fellow delegates, we have no objections to Wanger's "no kill 'em" proposal.

PRESIDENT NISBET: Will the delegates please clear the board? Those in favor of Committee Proposal 20 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—108

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Brake
Brown, G. E.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Martin
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stopczynski
Suzore
Tubbs
Turner
Tweedie
Upton
Van Dusen

Faxon
Figy
Finch
Follo
Ford
Gadola
Goebel
Gover
McAllister
McCauley
McGowan, Miss
Millard
Murphy
Norris
Ostrow
Page
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young

Nays—3

Doty, Dean
Stevens
Thomson

SECRETARY CHASE: On the passage of Committee Proposal 20, the yeas are 108; the nays, 3.

PRESIDENT NISBET: **Committee Proposal 20** is passed and referred to the committee on style and drafting.

For Committee Proposal 20 as rereferred to the committee on style and drafting, see above.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 31 on the calendar, **Committee Proposal 123**, A proposal to permit administrative agencies to promulgate rules and regulations and to provide for legislative review thereof, and for judicial review of the findings of such agencies. Amend article V by adding a new section.

Following is Committee Proposal 123 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2425.):

Sec. a. The legislature may by concurrent resolution empower a joint committee of the legislature acting in the interim between sessions to suspend UNTIL THE END OF THE NEXT REGULAR LEGISLATIVE SESSION any rule or regulation PROMULGATED BY [of] an administrative agency [promulgated] when the legislature is not in session [until the end of the next regular legislative session].

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, the committee approves the proposal as it is returned to us from style and drafting. However, we do have a committee amendment, which is a clarifying amendment, which we will ask the secretary to read at this time.

SECRETARY CHASE: Mr. Hoxie, on behalf of the committee on legislative powers, offers the following amendment:

1. Amend page 1, line 5, after "in" by inserting "regular"; so the language will then read, ". . . when the legislature is not in regular session."

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, you will notice on line 3 it refers to "until the end of the next regular legislative session," and it was our feeling that we should spell out that we are only referring to regular sessions which take place annually. We recommend the adoption of the amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hoxie. Mr. Baginski.

MR. BAGINSKI: Mr. President and fellow delegates, I may get away from the amendment here for just a minute, but this proposal did not receive the unanimous approval of the committee and I am not in favor of this amendment and, of course, later I will talk on the proposal. I don't think this amendment should be adopted.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hoxie. Will the secretary read the amendment?

SECRETARY CHASE: The amendment offered by Mr. Hoxie:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Mr. Yeager.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. YEAGER: Mr. President, I should like to ask Mr. Hoxie a question.

PRESIDENT NISBET: If Mr. Hoxie cares to answer.

MR. YEAGER: If the word "regular" is not put in in amendment form, what will be the effect that is different?

MR. HOXIE: Well, it could relate, Mr. Yeager, to some special session of the legislature. It was the feeling of the committee that we should spell out what is intended by the convention, that we are referring to the annual regular sessions of the legislature as far as concerns the duties and responsibilities of the legislative committee which has the right to review the rules that are promulgated by the various administrative agencies.

MR. YEAGER: In other words, if the legislature should be in special session, this committee could still operate, because in special session they wouldn't be able to take up the question anyway; isn't that correct?

MR. HOXIE: I think that would be a reasonable interpretation.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Hoxie. Those in favor will say aye. Opposed, no.

The amendment is adopted. The question now is on Committee Proposal 123, as amended. Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates of the convention, I might state before I go into this Committee Proposal 123 that we worked — the legislative powers — in harmony, but on this one proposal we will have to separate and the honeymoon will be over for just a few minutes. But we did talk about this particular proposal, and here is what it could do: let us say the liquor control commission adopted a rule that they thought was very necessary for the operation of the liquor control commission. Now, if for some reason this rule promulgated by the commission didn't suit this legislative committee, you might create a lot of hardship on the liquor control commission by suspending the rule until the legislature was in actual session. This same thing could apply to many, many other rules promulgated by boards and agencies, and I don't think this is language for the constitution. We do now have a statute to handle this, and I think the legislature has the right to do this without putting this wording into the constitution. I hope this proposal is defeated.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, the legislature would not have the power to do what this amendment to the proposed new constitution does. The legislature has the power to suspend or kill any rule or regulation by an administrative agency, but it does not have the power to allow a committee to suspend it until they come back into session the following year. That is the purpose of this amendment. It is to allow the legislature, in case any agency, during the summertime when they are not around, does something which they do not think follows the intent of the legislature, merely to suspend it until the legislature comes back into session. Therefore we recommend the passage of Committee Proposal 123, as amended.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, I join with Delegate Baginski in urging a no vote on this proposal. As Delegate Baginski said, this is one of the few in the legislative powers committee on which there was not substantial agreement. I will try to review the history very briefly. This came in within about the last hour of the deadline for committee proposals. It came in at the very last. There was a minority report, and we did discuss this in committee of the whole. As I recall, Delegate Kuhn and I were discussing when a rule and a regulation were and were not in complete agreement —

PRESIDENT NISBET: May we have a little better order, please.

MR. DOWNS: — which I hope assumes that reasonable men can reasonably disagree.

I think Delegate Baginski's example of the liquor control commission is a very good one, where a liquor control commission might, for their efficient operation, adopt a rule dealing with hours or some enforcement procedure and then find it could be suspended. I think that the rule applies to everything from deer herd control to rule 9 of the corporation and securities commission.

Now, the question was also raised whether this legislative committee could resuspend the rule and, as I recall our earlier discussion, we were told it could not, and yet I do not see any language here that would prevent such a committee at the end of a legislative session, if there had been no legislative action, from meeting again and resuspending the rule. I think that while those of us here are properly concerned to see that administrative agencies do not abuse their prerogatives, that we should also see that our legislative committees also function responsibly. I think we made some protection in seeing that legislative committee action reports are public and kept in a journal. The way this constitutional provision is, I do not even see here — though our other provision may apply to it — rules for recorded roll call votes or even for hearings or making decisions. I am concerned that while we don't have apportionment, this might invite harassment between the legislative and executive branches of government that would not benefit the people of the state of Michigan.

I do agree that we need to see that administrative agencies follow due process concepts. The legislature, in creating various administrative agencies, can and should see that there are reasonable safeguards set up to protect the public interest. But I am afraid that this provision in the constitution may go way beyond that. This definitely is the type of language that does not belong in the constitution. I therefore urge a no vote on this Committee Proposal 123.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, fellow delegates, I believe that to students of administrative law this particular provision will in time reflect its unwisdom. I think it is not in keeping with the best administrative practices. It is not in keeping with the best legislative practices.

What we are creating here in the constitution is an administrative censor or policeman in the legislature having a continuous licensing overview of all administrative conduct, and instead of the legislature exercising its power of investigation over things that might be wrong and which they have a legitimate interest in evaluating, here you are going to have a continuous committee set up in the constitution to review administrative action so that the flexibility and the expertise of administrative bodies will be limited and harassed and restrained. The administrators will be constantly looking over their shoulder as to what this committee in the legislature wants them to do, and they will not acquit themselves of their duty in the public interest. I submit, ladies and gentlemen of the convention, that this is a dangerous and ill advised proposal. I urge that we vote against it.

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President, delegates, the legislature creates all but a few of these administrative boards. They have only the power the legislature delegates to them. It seems only reasonable, logical and sensible that the legislature can limit these things. I do not see how it is going to do any great harm that some rule they have never had before shall be temporarily suspended until the legislature can take a good look at it and, if necessary, act by bill.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President, ladies and gentlemen of the convention, Mr. Baginski spoke a few minutes ago about undue hardship upon the liquor control commission. My own experience with administrative agencies would not permit me to worry about undue hardship on the administrative agencies, but rather I would worry about undue hardship upon the citizens of this state. I think administrative agencies need someone looking over their shoulder. I therefore urge the adoption of this proposal.

PRESIDENT NISBET: Mr. Barthwell.

MR. BARTHWELL: Mr. President and members of the convention, on line 3, what do they mean by "any rule or regulation?" Do they mean by this that a commission would not have the authority to put any rule into effect when the legislature is not in session? It looks to me like this might be what this means, because you have no definition of what criteria they will use in determining which rules they would suspend. It looks to me like you could well say a commission should not institute a rule when the legislature is not in session, and if I am right in this opinion, this would particularly make me against this proposal. Therefore, I do not favor this proposal. I don't see any purpose it accomplishes.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: I urge you to vote in favor of the proposal, fellow delegates. One of the reasons for its adoption was the statement that had been urged that when an agency is thinking of promulgating a somewhat controversial rule or regulation, it finds it convenient to wait until the legislature has adjourned before doing so. In this way, by putting the rule into effect when the legislature is not in session, it sometimes creates a political situation where, when the legislature returns, it finds it very difficult to consider this rule or regulation and the statute under which it was promulgated in a dispassionate and objective frame of mind.

I would also call your attention to the fact that administrative agencies are, by their nature, composed of specialists and experts in the field. This is necessary, but it is one of the inherent qualities of a specialist that he occasionally — I might even say often — loses the broad view which our legislators are expected to maintain and, therefore, by empowering a committee of legislators to have this power, which obviously would not be frequently exercised, would be a healthy thing for the general welfare of the people.

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: Mr. President and fellow delegates, I think this proposal is a good example of an attempt to set a small legislative body up as super experts on every field of administrative agents. In fact, various delegates here might have various reasons for being opposed to the rulings of a given administrative agency, but this amounts to burning down the house in order to roast the pig. It is a dangerous shotgun approach to some of the evils that some of us may have suffered at the hands of administrative agencies that could well throw the whole administrative process in the state into a chaotic condition.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, I think that perhaps we should clarify our thinking a little bit. The legislature now has the right to review the rules and regulations of an agency to determine whether or not they are within the scope of the intent of the legislature. What has happened on rare occasions is that an administrative agency has adopted a rule and it has gone into effect to the detriment of the citizens. It is already in operation before the legislature comes back into session. It is the purpose and intent of this proposal to grant to that interim legislative committee the authority to review these rules to see that they are within the intent and scope of the legislative act.

Now, there is nothing in the law presently that would legally authorize this interim committee to function in this respect. The law does provide for the interim committee, but the attorney general has ruled that this interim committee does not have any authority in reality; so it is necessary, if we are going to protect the general public against the occasional rule laid down by an administrative agency, only to suspend that particular rule until the legislature is next in session. It is mandatory for the legislature to act upon that rule laid down by the particular agency, so there is no great hardship involved. It is a protection to the public. It is only for a period of a few months until the legislature each time comes back in session. So we urge your favorable consideration of this proposal in the interests of protecting the public.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move that further debate on this proposal be limited to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Binkowski, you are recognized. Let me say there are 3 other speakers, Mr. Binkowski.

MR. BINKOWSKI: Mr. President, I would like to ask Mr. Hoxie a question in view of his last statement.

PRESIDENT NISBET: Mr. Hoxie.

MR. BINKOWSKI: Mr. Hoxie, would you please give this convention examples where administrative agencies have passed particular rules which have hurt the public in such a manner that the legislature has not been able to correct them?

MR. HOXIE: Yes. I can give you 2 examples in the revenue department: back some time ago the revenue department made a rule that all liquor that had been sold in our SDD stores was subject to a sales tax. As a result, we had to quickly move and pass legislation; otherwise we would have bankrupted all the SDDs in the state of Michigan because that would have been accumulated over a long period of time.

Another instance is where the revenue department passed a rule in which it was incumbent upon the distributor of gasoline to farm trade not only to secure the affidavit that the farmer intended to use a certain amount of that gasoline for agricultural purposes, but the revenue department put the burden of proof upon the distributor to prove that the farmer did actually use that gasoline for agricultural purposes, even though that farmer had made an affidavit which that distributor had accepted in good faith. There, again, we had to pass legislation which would remove that distributor, who was operating in good faith, from being financially responsible to the state of Michigan for many, many thousands of dollars. It was not the intent of the legislature, when they passed the law which gave a preference for gasoline used in agricultural purposes, to hold the distributor responsible beyond securing an affidavit that he was going to use it for that purpose; and again we passed legislation to correct what we considered injustices in that field.

MR. BINKOWSKI: Well then, Mr. Hoxie, my question was, where is there an example where an agency has acted and the legislature was not in the position to correct it? In both the examples you have cited, the legislature corrected the so called situation.

MR. HOXIE: They corrected by legislative acts, which is the only way they could do it, because the interim committee that was authorized by the statute didn't have any authority under the attorney general's ruling and, as a result, the only correction it could make was by legislative act.

I could give you another example of a case in which a very good agency in state government laid down some rules relative to sale of seed in the state of Michigan. The legislative committee was successful in holding the rule in abeyance, but the end result would have been that all the Scott seed would have had to have been taken off the shelves of the retailers in the state of Michigan if they would have had to comply with that particular rule.

I think there are always arguments on both sides of these things, but we are only concerned with protecting the public against possible misinterpretations of what the legislature intended only until such time as the legislature is back in session, and then the full body will determine whether or not that rule is in accordance with the intent of the legislature.

MR. BINKOWSKI: Well, ladies and gentlemen of the convention, I submit that the committee has not borne its burden of proof in proving why this particular language is necessary in the constitution. I further submit that with the exception of the last sentence, all of this language is presently in the statutes or could be in the statutes without any question, so this language is completely unnecessary.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, Mr. Hoxie states that the question is of suspending the rules only for a few months until the legislature is in session. However, it states in the proposal it will be until the end of the next regular legislative session. Now, the question that I have is, what is to prevent this special committee from then resuspending the rule after the end of the next regular session? In other words, what guarantees are there here that the rule will ever take effect, because this committee could just go ahead and resuspend it?

PRESIDENT NISBET: The time has expired, Mr. Faxon.

MR. AUSTIN: Mr. President, I move we extend the time for debate for another 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Austin. Those in favor say aye. Those opposed?

The motion does not prevail. The question is now on Committee Proposal 123, as amended. Those in favor will vote aye. Those opposed will vote nay.

MR. AUSTIN: Mr. President.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Would it be appropriate for me to ask a question about the language here before I vote?

PRESIDENT NISBET: No, the vote has been ordered; the vote has started to be taken. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—86

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Butler, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—39

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Mahinske
McCauley
McGowan, Miss
Murphy
Norris
Ostrow
Rajkovich
Sablich
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 123, as amended, the yeas are 86; the nays are 39.

PRESIDENT NISBET: **Committee Proposal 123,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 123 as amended and rereferred to the committee on style and drafting:

> Sec. a. The legislature may by concurrent resolution empower a joint committee of the legislature acting in the interim between sessions to suspend until the end of the next regular legislative session any rule or regulation promulgated by an administrative agency when the legislature is not in regular session.

PRESIDENT NISBET (continuing): Will you please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 32 on the calendar, **Committee Proposal 42,** A proposal to include in the constitution all of sections 1, 2, 3, 4 and 8 of article IX entitled "impeachments and removals from office."

MR. HOXIE: Mr. President, this is rather a long proposal. I move that the proposal be considered read.

PRESIDENT NISBET: Mr. Hoxie moves that the proposal be considered read. Without objection, it will be so considered.

Following is Committee Proposal 42 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 837.):

> Sec. a. [(1)] The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office[,] or for crimes or misdemeanors[;], but a majority of the members elected AND SERVING shall be necessary to direct an impeachment. [Sec. b. (2)] When an impeachment is directed, the house of representatives shall elect [from its own body] 3 OF ITS members[, whose duty it shall be] to prosecute [such] THE impeachment. [No impeachment shall be tried until the final adjournment of the legislature, when the senate shall proceed to try the same.]
>
> Sec. c. [(3)] Every impeachment shall be tried by the senate IMMEDIATELY AFTER THE FINAL ADJOURNMENT OF THE LEGISLATURE. [When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside. When an impeachment is directed,] The [senate] SENATORS shall take an oath or affirmation truly and impartially to try and determine the [same] IMPEACHMENT according to the evidence. WHEN THE GOVERNOR OR LIEUTENANT GOVERNOR IS TRIED, THE CHIEF JUSTICE OF THE SUPREME COURT SHALL PRESIDE.
>
> No person shall be convicted without the concurrence of 2/3 of the [members] SENATORS elected AND SERVING. Judgment in case of [impeachment] CONVICTION shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.
>
> Sec. d. [(4)] No judicial officer shall exercise his office after an impeachment is directed until he is acquitted.
>
> Sec. e. [(8)] Any ELECTED officer [elected by a county, city, village, township or school district] OF A POLITICAL SUBDIVISION may be removed from office in [such] THE manner and for [such] THE [cause as shall be] CAUSES prescribed by law.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: This proposal, Mr. President, fellow delegates, was returned to us from style and drafting without any substantive change, in the opinion of the committee, and we recommend it to you for your adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President, delegates, there are no objections to the adoption of this proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 42. Will the board please be cleared? Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—118

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Plank
Pollock
Powell
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Bonisteel
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Gadola
Goebel
Gover
Gust
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
Millard
Murphy
Nisbet
Ostrow
Page
Perras
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—2

Norris
Walker

SECRETARY CHASE: On the passage of Committee Proposal 42, the yeas are 118; the nays, 2.

PRESIDENT NISBET: **Committee Proposal 42** is passed and referred to the committee on style and drafting.

For Committee Proposal 42 as rereferred to the committee on style and drafting, see above, page 2971.

The secretary will read the next proposal. Will you please clear the board?

SECRETARY CHASE: Item 33 on the calendar, **Committee Proposal 101,** A proposal to provide that the state shall not engage in internal improvements except in certain specified areas and except that the legislature may empower local subdivisions to act in the area of internal improvements. Amends article X, section 14.

Following is Committee Proposal 101 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2332.):

Sec. a. The state shall not be a party to, nor be FINANCIALLY interested in, any work of internal improvement, nor engage in carrying on any such work, except for [such] public internal improvements [as may be] authorized by law.

. **PRESIDENT NISBET:** Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, this proposal, as indicated, relates to internal improvements. You will recall that the proposal submitted to the convention for consideration from the legislative powers committee went through considerable surgery. This proposal as recommended by the style and drafting committee is the result of that amputation of the right arm and the left leg. However, it still has some significance (laughter) and we recommend it to you for your consideration.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates to the convention, in committee we did discuss this matter at some length, and, of course, as you remember from general orders, local government, smaller communities, may indulge in various projects and programs that might involve local government, but it is forbidden that the state take any interest here.

Now, I am reminded of the fact that in 1935 the state of Michigan had an opportunity to get, I believe, $20 million for the building of mental hospitals, and because the state couldn't indulge in this project, the legislature would not permit it. We did not get the money through the WPA. As we go through the nation, we will find that small counties to the south, the east and the west have county buildings, city halls, parkways, park driveways, expressways, and this was because the states were able to work with the national government to get the funds to put in these internal improvements. For some reason Michigan didn't take advantage of any of these situations. I think the only county that did was Macomb county, and they had the nicest city-county building in the state of Michigan until we built our city-county building in the city of Detroit.

Now, we can't anticipate what may take place in the next 50 years. Right now I am thinking of a project that the president mentioned — and I think they are working on it in congress now — to set up a rehabilitation program and a retraining program. We don't know what congress may do. Congress may expect the state to handle this particular project and then let it trickle down through counties and local government.

Another venture I am thinking of is the ports of refuge. At this time the federal government and the army corps of engineers are building ports of refuge along Lake Huron, and I think they intend to go through the straits and down Lake Michigan where small boats may take harbor in these harbors or ports, and this money is to come from the federal government. But I don't believe that any city or village or county or township is going to get this money. It will have to be handled through the state of Michigan.

Another matter here: the city of Detroit waterworks is planning on taking water from Lake Huron and coming through the center of the state, and any community that wants to tap on can do so and draw their water from this particular project. Well now, this means that a number of counties will have to pitch in together and issue revenue bonds. Well, if the state of Michigan had the right to participate in this venture and issue or guarantee the bonds, certainly the cost of these projects would be a lot lower than they would be if the state of Michigan did not step in and help out. I think that this language should be deleted completely and let the legislature do as they see fit at the time when the needs are there.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 101. Mr. Downs.

MR. DOWNS: Mr. President, are there any amendments pending?

SECRETARY CHASE: None.

MR. DOWNS: Mr. President, fellow delegates, I would like to rise in opposition to the proposal and support Delegate Baginski's reasoning. I hope we make it clear that we are both in favor of internal improvements, but think they can better be handled without this constitutional provision that, by its very nature, may be restrictive. Delegate Baginski has cited many examples of what may be coming up in years ahead of us. I would certainly add the whole concept of area redevelopment, port authority, not only the port of refuge which he has mentioned, but the large ports using the St. Lawrence seaway, transportation, utilization of nuclear energy and so on.

Now, unfortunately Michigan had had financial experience over 100 years ago in the railroad boom, and that apparently was the reason many of these restrrictions were put in. I feel that we are in such a dynamic kind of world and an economy that is moving so fast that we need to be flexible and encourage, certainly, the state government to move responsibly in these areas that may involve, in the name of public activity, both private and public moneys — federal, state, local and so on. I do feel that even though we don't positively mandate the legislature to act, we should at least leave it completely unrestricted and free to use its judgment in years to come in this area. I am afraid if we don't, that moneys that might otherwise be very usefully spent in Michigan will be diverted to other parts of the country, and we will end up hurting ourselves through this restrictive provision. Therefore, while I agree that the restriction may not be great today, it may be

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

greater in years to come. I agree with Delegate Baginski, and urge a no vote on the proposal.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, I feel that Delegates Baginski and Downs have used the arguments which they had — and used with obvious effectiveness — against the original committee proposal, but those arguments don't apply to what is left of it — what we have before us here at the present time — because under the committee proposal as it is before you on second reading, having undergone the rather liberal surgery which Mr. Hoxie spoke of, the state can enter into any of these works of internal improvement and can be interested in them financially and otherwise as long as they are public in nature. We at least have in this section the prevention of the state getting into the business of providing or being financially interested in works of private enterprise — private water systems, if you will, private roads, private ports, private harbors, things of this type. We believe that that restriction, small as it is, is nevertheless most important and should be retained. By voting in favor of this committee proposal, you will be retaining this one limitation which the committee believes to be of the greatest importance.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and fellow delegates, I would be inclined to agree with Mr. Wanger. There is something left here, and that primarily centers around the word "public." I think that this particular committee proposal did undergo major surgery, and we think we removed most of the malignancy, and we wouldn't want to kill the patient right at this time because there is a little bit left here and what is left is very good, I think. So I would hope that you would find it possible to support this particular proposal and make sure that although we allow the state, at the discretion of the legislature, to enter into and be interested in internal improvements, that we keep them out of purely private internal improvements. That really is the purpose served by this proposal as it now exists.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, as the other speakers have said, we had fought all one afternoon on this one, and the position we came up with was somewhere in between the position of Mr. Downs, who wanted to strike the whole section, and the committee report, which was to keep the original language, substantially. Now, Delegate Downs, what I am afraid of is, if there is too much opposition to this, the gains that have been made by this language may be lost. I think we better go along with what we have now in the proposed second reading, because if we don't get this one through, we don't know where we will come out. I do think there is something to what you say, but I think this offers a tremendous amount of flexibility and still insures some protection against the kind of activity that those who oppose any change at all feared most.

PRESIDENT NISBET: Mr. Hubbs.

MR. HUBBS: Mr. President, I just wanted to remark that Mr. Hoxie's patient was so near dead that I would support a mercy killing. (laughter)

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, it is now after 5:00 o'clock. I believe everybody has made up their minds how they want to vote on this particular proposal. I would like to move the previous question.

PRESIDENT NISBET: There are no other speakers. The question now is on the committee proposal, Mr. Hoxie. The question is on Committee Proposal 101. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—89

Allen
Andrus, Miss
Anspach
Beaman
Bentley
Blandford
Bonisteel
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Howes
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Mahinske
Martin
McAllister
McCauley
Millard
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—30

Austin
Baginski
Balcer
Barthwell
Binkowski
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Hart, Miss
Hatcher, Mrs.
Hood
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Murphy
Norris
Ostrow
Sablich
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 101, the yeas are 89; the nays, 30.

PRESIDENT NISBET: **Committee Proposal 101 is passed** and referred to the committee on style and drafting.

For Committee Proposal 101 as rereferred to the committee on style and drafting, see above, page 2972.

The secretary will read the next proposal. Will the delegates please clear the board?

SECRETARY CHASE: Item 34 on the calendar, **Committee Proposal 12,** A proposal pertaining to exemptions as a substitute for all of article XIV.

Following is Committee Proposal 12 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 457.):

> Sec. a. A homestead in the amount of not less than $3,500.00 and personal property of every resident of this state in the amount of not less than $750.00, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any [mortgage] LIEN thereon [lawfully obtained] EXCLUDED BY LAW.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, when this proposal was returned to the convention by style and drafting, it was the thinking of the committee that they had gone far beyond the intent of the committee that considered this matter in first reading. However, research has been made, and I am going to yield to Mr. Millard, who was responsible for this particular proposal.

PRESIDENT NISBET: Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, we found that the language in this proposal as inserted by amendment by the committee of the whole was more restrictive than is now in the statutes and actually was in the old constitution. It just said "mortgage" and that could be inferred to mean only a real estate mortgage. It didn't say anything

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

about chattel mortgages or any other liens. We found on research of the statutes that many other exemptions are provided by statute, and we feel that style and drafting made a good change when they substituted the word "lien" for "mortgage." I recommend the adoption of this proposal.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I would ask a yes vote on this. There are some improvements in this proposal as compared to 1908, and I urge the adoption of this proposal.

PRESIDENT NISBET: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, I would like to address a question to Mr. Hoxie or Mr. Millard. What exactly does the last sentence mean?

PRESIDENT NISBET: Mr. Millard or Mr. Hoxie.

MR. MILLARD: It means a lien which has been established by law is not included in the exemptions.

MR. G. E. BROWN: Mr. President, Mr. Hoxie or Mr. Millard, the last sentence reads, "Such exemptions shall not extend to any lien thereon excluded by law." Do you mean excluded as an exemption by law?

MR. MILLARD: No, not as an exemption.

MR. G. E. BROWN: Excluded as being exempt?

MR. MILLARD: Excluded by law and is outside the exemptions.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: The matter that was bothering Mr. Brown was bothering me. I wonder if it wouldn't be plainer if "excluded" were changed to "allowed."

PRESIDENT NISBET: Mr. Millard.

MR. MILLARD: That is what style and drafting gave to us, and I will ask them to define the word now. I approved it, but let style and drafting come up with their explanation as to why they chose this particular word.

PRESIDENT NISBET: The chairman of style and drafting doesn't happen to be here. Oh, excuse me, Mr. Cudlip.

MR. MILLARD: I will yield to Mr. Sablich, the vice chairman of the committee.

PRESIDENT NISBET: Mr. Sablich.

MR. SABLICH: Fellow delegates, when this came to us it was obvious that the liens that were established by law, such as the liens created by the department of revenue and your tax liens, would be exempt to the extent of $3,500 for real property and $750 for personal property. We were quite sure, in style and drafting, that the committee of the whole did not desire this particular exemption, so we tried to equate the problem, and we eliminated the term "mortgage" and we inserted the language, any lien for which the legislature prohibited the exemption.

You will recall the former constitution only stated that an exemption could be had against real estate up to the extent of $2500. The emphasis in this particular proposal is in reverse to say that a homestead in the amount of not less than $3500 shall be exempt. So it was clear to us that the department of revenue and the various other departments which have liens on property — that this particular property would have been exempt — and what we attempted to do was to merely place us now in the present state of the law, so the intent of "excluded" actually was, that the legislature could provide that in certain situations this property would not be exempt from execution.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Do I still have the floor?

PRESIDENT NISBET: Yes, you still have the floor.

MR. LAWRENCE: Well, all that I am afraid of is that it isn't clear and that we might end up prohibiting people from putting valid liens on property to obtain money or in buying property. It just doesn't seem to me that that is clear. "Authorized by law," or "specifically authorized by law" or something would be much clearer, it seems to me.

MR. SABLICH: Mr. President, Mr. Lawrence, I believe it was our intention to permit the legislature to do whatever it wished in this particular field. We didn't feel that we should legislate here. We found out in committee of the whole that we ran into a problem when we tried to designate the various types of liens. We went through the gamut of chattel mortgages, real estate mortgages. Then we attempted to exempt all liens. So we reached the conclusion that we should leave this up to the legislature, and that is the proposal as it sits before you.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 12. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—105

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Doty, Dean
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Ford
Garvin
Goebel
Gover
Gust

Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Lesinski
Liberato
Madar
McAllister
McCauley
McGowan, Miss
McLogan
Mosier
Nisbet
Norris
Ostrow
Page
Perras
Plank
Pollock

Powell
Prettie
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Staiger
Stamm
Sterrett
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—13

Bradley
Brake
Brown, G. E.
Dell
Doty, Donald

Faxon
Follo
Hubbs
Leppien

Mahinske
Pugsley
Radka
Suzore

SECRETARY CHASE: On the passage of Committee Proposal 12, the yeas are 105; the nays, 13.

PRESIDENT NISBET: Committee Proposal 12 is passed and referred to the committee on style and drafting.

For Committee Proposal 12 as rereferred to the committee on style and drafting, see above, page 2973.

The secretary will read the next proposal. Will you please clear the board?

SECRETARY CHASE: Item 35, **Committee Proposal 122,** A proposal to include in the constitution the substance of section 5 of article XVI, entitled "vacancies in office; continuity of government in emergencies."

Following is Committee Proposal 122 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2418.):

Sec. a. The legislature may provide by law the cases in which any office shall be deemed vacant and the manner of filling vacancies, where no provision is made in this constitution. In order to insure continuity of state and local governmental operations in periods of emergency only,

> resulting from disasters occurring in this state or by enemy attack on the United States, the legislature shall have the power to such extent as it deems advisable (1) to provide by legislative enactment for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt by legislative enactment such other legislation as may be necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred BY THIS SECTION [above], elections shall always be called as soon as possible to fill any elective vacancies in any office temporarily occupied by operation of any legislation enacted pursuant to the provisions of this [paragraph] SECTION.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, this proposal was returned from style and drafting without any substantive change from that adopted by the convention. The legislative powers committee recommends its adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, I urge a yes vote.

PRESIDENT NISBET: The question is on adoption of Committee Proposal 122. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, in the committee of the whole an amendment was offered on the floor to this proposal which greatly changes the present provision with regard to this continuity of government, and I ask the convention to give some very serious consideration as to whether the decision of the committee of the whole was what the convention really wants to do.

Now, I might say, if I might be permitted to give you a little bit of the background of this continuity of government thing, back in the early days of the Eisenhower administration one of the agencies in the government thought that it would be a good idea to have several states adopt, either by statute or in their constitution, some provisions for the continuity of government in case of enemy attack, and this thing passed through the legislature of Michigan and was submitted to the people and was adopted. I might say, to express my own personal views with regard to it, that it is inconceivable to me to believe that under those circumstances you could have anything but martial law anyway. I would think that under those circumstances there could be no alternative to martial law, and really this machinery is, for that reason, rather meaningless.

But in committee of the whole you put the word "or" in line 5, and it completely changes the whole purpose of this thing. Under the present wording, with that word "or" in there, this continuity of government procedure would take place in case of a disaster — I don't know just what it could be, maybe just from floods or something — wholly unrelated to enemy attack. But it was the purpose of the program, as it emanated from Washington, that this was a procedure to come into effect only when the United States was under enemy attack. And of course it is conceivable that enemy attack on the United States might be, maybe, in the state of Hawaii, which would be an attack upon the United States which wouldn't affect the state of Michigan physically at that point, but the idea was that you had to have an enemy attack upon the United States, and that attack had to effect a disaster occurring within Michigan, and when you put that word "or" in there, which I think Mr. Tubbs offered on the floor, you greatly broadened the announced and stated purpose of this whole provision in the first place which, as I say, came out of Washington only to take care of this enemy attack thing. And so I move, Mr. President, to strike out of line 5 the word "or."

PRESIDENT NISBET: The question is on the amendment of Mr. Hutchinson.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 5, after "state" by striking out "or"; so that the language will then read:

> In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state by enemy attack on the United States, the legislature shall have the power to such extent as it deems advisable. . . .

PRESIDENT NISBET: The question is on the amendment of Mr. Hutchinson. Those in favor will say aye. Those opposed, no.

The amendment is adopted. The question now is on Committee Proposal 122 as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. WOOLFENDEN: Mr. President.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: I wonder if Mr. Hutchinson made a mistake in his vote.

PRESIDENT NISBET: He hasn't said so yet.

MR. HUTCHINSON: Mr. President, I appreciate the convention's adopting my amendment, but I stated also that I have never been in favor of this continuity of government thing, and I am voting my conviction. (laughter)

The roll was called and the delegates voted as follows:

Yeas—120

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
Millard
Murphy
Nisbet
Norris
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—1

Hutchinson

SECRETARY CHASE: On the passage of Committee Proposal 122, as amended, the yeas are 120; the nays, 1.

PRESIDENT NISBET: Committee Proposal 122, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 122 as amended and re-referred to the committee on style and drafting:

Sec. a. The legislature may provide by law the cases

Explanation—Matter within [ ] is stricken, matter in capitals is new.

in which any office shall be deemed vacant and the manner of filling vacancies, where no provision is made in this constitution. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state by enemy attack on the United States, the legislature shall have the power to such extent as it deems advisable (1) to provide by legislative enactment for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and (2) to adopt by legislative enactment such other legislation as may be necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any elective vacancies in any office temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Announcements.

SECRETARY CHASE: There will be a Republican caucus at once upon recess. Ann Donnelly, secretary.

Mrs. Conklin called in. Both she and Mr. Sterrett have been checked by the doctors. They are both in good shape and will be in later today. (applause)

The committee on rules and resolutions will meet immediately upon recess in room F to have their picture taken.

As to the committee on judicial branch, the meeting scheduled for after the session today has been canceled.

That is all for the present.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President, members of the convention, a piece appeared in the Lansing State Journal to which I think I should call your attention. It reads this way:

> Mr. and Mrs. Leslie Dana Morris of Mason announce the engagement of their daughter, Marilyn Rose, to Eugene G. Wanger, son of Mr. and Mrs. Eugene M. Wanger of 602 S. Jenison Ave.
>
> Marilyn is an assistant attorney general and is assigned to the state affairs and education division of the attorney general's office.
>
> A summer wedding is planned.

I understand they intend to go into a partnership and call it Wanger and Wanger. (laughter and applause)

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President, I move we recess until 7:30.

PRESIDENT NISBET: The question is on the motion of Mrs. Cushman. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 7:30.

[Whereupon, at 5:30 o'clock p.m., the convention recessed; and, at 7:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: We are on second reading, Committee Proposal 109. The secretary will read.

SECRETARY CHASE: Item 36 on the calendar, **Committee Proposal 109,** A proposal to provide that the legislature may enact laws whereby public employment disputes can be settled. Amends article XVI, section 7.

Following is Committee Proposal 109 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2337.):

> Sec. a. The legislature [shall have power to] MAY enact laws [whereby] PROVIDING FOR THE RESOLUTION OF disputes in public employment, except[ing] state CLASSIFIED civil service[, may be resolved].

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, this proposal was returned from style and drafting without any material change, and we recommend its adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, there is no objection to the adoption of this proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 109. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—88

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Bentley
Blandford
Bonisteel
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dehnke
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Farnsworth
Faxon
Figy
Gadola
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Heideman
Higgs
Hoxie
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Kuhn
Lawrence
Leppien
Lesinski
Madar
Martin
McGowan, Miss
Millard
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Sablich
Shackleton
Shanahan
Sharpe
Spitler
Staiger
Stamm
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Van Dusen
Walker
Wanger
White
Wood
Woolfenden
Yeager
Young

Nays—1

Leibrand

SECRETARY CHASE: On the passage of Committee Proposal 109, the yeas are 88; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 109** is passed and referred to the committee on style and drafting.

For Committee Proposal 109 as rereferred to the committee on style and drafting, see above.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 37 on the calendar, **Committee Proposal 27,** A proposal to provide for liquor control, excise taxes and local option by counties. Amends article XVI, section 11.

Following is Committee Proposal 27 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 709.):

> Sec. a. The legislature may by law establish a liquor control commission, which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof[;] and [the legislature] may [also] provide for an excise tax on such sales[:]. [Providing however, That] Neither the legislature nor [such] THE commission may authorize the manufacture or sale of alcoholic beverages in any county in which A MAJORITY OF the electors [thereof,] VOTING THEREON [by a majority vote,] shall prohibit the same.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. HOXIE: Mr. President, fellow delegates, this proposal was returned to the convention from style and drafting with minor changes which do not affect what the intent of the convention was at the time that they adopted the proposal on first reading. We recommend its adoption.

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President and delegates, this reiterates the old language, and I move its adoption.

PRESIDENT NISBET: The question is on adoption of Committee Proposal 27. Those in favor will vote aye. Opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—89

Allen
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dehnke
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Farnsworth
Faxon
Figy
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Haskill
Heideman
Higgs
Hood
Hoxie
Hutchinson
Jones
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McLogan
Millard
Mosier
Murphy
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Rush
Shackleton
Shanahan
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wood
Woolfenden
Yeager
Young

Nays—3

Gover
Sablich
Sharpe

SECRETARY CHASE: On the passage of Committee Proposal 27, the yeas are 89; the nays, 3.

PRESIDENT NISBET: **Committee Proposal 27** is passed and referred to the committee on style and drafting.

For Committee Proposal 27 as rereferred to the committee on style and drafting, see above, page 2976.

The secretary will read the next proposal.

SECRETARY CHASE: **Committee Proposal 28, A proposal** to provide for compensation of the legislature; which earlier today was placed at the foot of the legislative powers calendar.

For last previous action on Committee Proposal 28, see above, page 2949.

The proposal was read last Friday. A substitute offered by Dr. DeVries was adopted on a division, the first paragraph by itself and the second paragraph by itself.

Mr. DeVries offers the following amendment to the first paragraph of the substitute:

1. Amend page 1, section a, at the end of the first paragraph, after "elected" by inserting "except and only to the extent of a general salary reduction in all other branches of government"; so that the last sentence of the first paragraph will read:

> No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.

PRESIDENT NISBET: The Chair recognizes Dr. DeVries.

MR. DeVRIES: Mr. President and members of the convention, this amendment is designed to give some flexibility to the proposal. It is the same as the amendment adopted to Committee Proposal 96. It provides that if there is a general salary reduction in other branches of government, legislative salaries can also be reduced. I urge the adoption of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. DeVries. Mr. Martin.

MR. MARTIN: Mr. President, fellow delegates, I think the subject has been pretty well covered by our debate on Friday, but I think it is worth pointing out that I believe every one of the delegates in this convention who has served in the legislature — therefore, who presumably know the extent of the job which is to be done there and have some judgment as to the extent of the job that will have to be done — have voted against this substitute, and presumably one other consideration has been the belief that this is not a full time job and that it does not need to be a full time job and we don't need to pay for 12 months' service by the men who are receiving this pay. Actually it is a 3 to 4 month job for most of the legislators involved, and that is all it needs to be. If they come back as they —

MR. WALKER: Point of order, Mr. President.

PRESIDENT NISBET: State your point.

MR. WALKER: Are we speaking on the DeVries amendment? If so, I don't believe that Mr. Martin's remarks are germane.

PRESIDENT NISBET: We are speaking on the DeVries amendment. Mr. Martin.

MR. MARTIN: The DeVries amendment does not fundamentally change this substitute. It makes a slight difference in it, but it leaves it substantially in the form that it is in, and for that reason it seems to me to not change the substance of the matter. Therefore, I would vote against the amendment, but I would also vote against the proposal, as substituted, when it comes up.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: I don't care to talk on the amendment.

PRESIDENT NISBET: The question is on the amendment offered by Dr. DeVries. Mr. DeVries.

MR. DeVRIES: Mr. President, could the secretary read the amendment again and clear the confusion on this? This just provides that if there is a general salary reduction in state government, the legislative salaries can also be reduced.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: This amendment is to the first paragraph of the substitute that was adopted on last Friday.

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: The question is on the amendment offered by Mr. DeVries. Those in favor will say aye. Those opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. We are voting on the amendment offered by Mr. DeVries. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment to the amendment offered by Mr. DeVries, the yeas are 75; the nays are 31.

PRESIDENT NISBET: The amendment is adopted. Are there any other amendments?

MR. HUTCHINSON: Mr. President.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention now reconsider the vote by which this substitute was adopted on Friday. I make this motion because I think that this convention should very seriously consider what course of action it is taking. The idea of leaving to the congress of the United States, in effect, the matter of what our legislature shall be paid, at least as a floor, seems to me to be fundamentally wrong. I know that the wording of this amendment is such that it says that the pay of the legislature shall be not less than ½ that of the congress and so, theoretically, the legislature might be entitled to increase it, so you can argue that the legislature to some extent would retain a control, but actually you wouldn't have a control there, because every time that the congress of the United States raised its own salary, then the constitutional floor of the pay for Michigan legislators would go up automatically without any regard for need or anything else so far as Michigan is concerned. This is extremely bad policy, in my opinion. It raises a very fundamental issue in my mind. The fundamental issue is simply that in our federal system the federal government should be making decisions relative to the federal government and leave to the states their own determinations. In following the course of action which the substitute directs, what you do here is, you take out of the control of Michigan government or any branch of Michigan government the question of what you are going to pay your legislators.

Now, I know a good many of you are thinking that if you can raise the pay of the legislature adequately, that you will have, maybe, you think, a better type of legislator. I ask you to think this thing through very seriously. It isn't a matter of money; it isn't a matter of what you pay, that attracts people to public life. There are extremely able qualified men and women in Michigan who wouldn't serve in the legislature for any price because they don't like that kind of life. They don't like to subject themselves to living in a goldfish bowl, so to speak, and be subject to public criticism for their every act. It is only a particular type of person that is attracted to that kind of a job, of a service, and you can't attract a different type of person by offering more money. In effect, what you will do is pay the same persons or the same type of individual more money for the service. And another thing: the amount of money that you pay a member of the legislature isn't going to make him any more or less independent of political considerations.

PRESIDENT NISBET: The convention will please be in order.

MR. HUTCHINSON: The amount of money that you pay a member of the legislature is not going to make him any more or less independent so far as political considerations are concerned. You may give him a salary which you think is so adequate that he can be absolutely independent, and he may be independent financially, but remember this: no man or woman serves in the legislature unless he has or she has political support, unless he or she can maintain that political support. It isn't a matter of money; it is a matter of political support, and those political influences are going to continue to influence members of the legislature in the future as they have in the past, regardless of the amount of money you pay them. So you can't really bank on arguing that more pay will provide more independence. It certainly will not provide more political independence.

The members of the Michigan legislature, you may think, have a small opinion of their work. They are only providing that they get a total of $5,000 a year plus $1,250 in expense money; at the present time, $6,250 a year. But it was only 12 years ago or 14 years ago that we lifted a constitutional restriction which limited them to only $3 a day. Some of you over in the southeast part of the state probably are used to much higher salaries, and so on, than those of us over in the part of the state I come from. I was reminded of this the other night when, in sitting with a group of people, one of whom was a county official, the county official expressed a great deal of surprise that a superintendent of schools would be receiving $12,000 a year. Now, that doesn't seem to me to be at all out of line, but I submit to you that there are an awful lot of people to whom a salary like that is extremely generous, and their views of what public servants should earn are based pretty much upon what they can earn for themselves, and when those people in the community are living on $4,000 and $5,000 a year and raising a family on that amount, the idea of a public official serving in the legislature, who is around home quite a lot of time, getting as much as $12,000 a year would, to them, seem very exorbitant. And those good people won't understand it either when a legislator simply says to them, "Well, the constitution of the state of Michigan says that whatever the congress of the United States gets, why, you have to pay me ½ of that." They won't understand it. I don't think you can justify that kind of reasoning. The congress of the United States, under the constitution of the United States, fixes its own salary.

In other states where they are not constitutionally controlled as to the amount of salary, it is the legislature itself that fixes its pay. That is a sound approach. And I can't for the life of me see how anybody, through a process of reasoning, keeping in mind our federal system as we know it, anybody who is ambitious or desirous at least to try to keep separate the federal from the state government, anybody who is interested in — yes, I use the term — in trying to maintain some kind of a principle of states' rights, would simply write into the constitution of Michigan the proposition that, in effect, the congress of the United States is going to determine the salary of our state legislators.

And look, you say that it is going to be ½ as much. Well, the member of congress in the United States now drawing $22,500 a year on truly a full time job, having the responsibility of voting billions and billions of dollars of public money and raising that amount of money, having the responsibility of, perhaps on occasion, traveling all over the world, and then you say that the member of the Michigan state legislature by a measure of worth is entitled to ½ of what the congressman gets, and you have all of the whole 50 states and the wealth of the whole 50 states to support the pay of that congressman, and you ask the people of Michigan to pay ½ of that amount all by themselves to support their state legislature. I say to you that the people back home aren't going to understand that kind of reasoning. They aren't going to understand it at all. And I plead with you to reconsider your action of last Friday, and I plead with you to leave in the judgment of the legislature of Michigan matters of this sort which are so completely and clearly matters of pure state concern. So for that reason, I sincerely hope you will reconsider your action, and I offer the motion accordingly.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: As the secretary understands the parliamentary situation, it is this: Mr. DeVries offered a substitute for the proposal which substitute was divided. The first paragraph of it was adopted. The second paragraph of it was adopted. An amendment to the first paragraph has been adopted. Another amendment to the first paragraph is pending and an amendment to the second paragraph is on the desk. It seems to the secretary that the parliamentary situation is this: perhaps the amendments to the substitute that are pending should first be disposed of, and then the question is on the adoption of the complete substitute as amended as a substitute for the proposal.

PRESIDENT NISBET: Mr. Hutchinson, would that answer your question?

MR. HUTCHINSON: Yes, Mr. President, it would. I have, however, seen so many times in times past in the proceedings before this convention that a matter could as well be disposed of by voting it down as by offering to strike it out that I suppose that probably a motion to reconsider would be as in order as any of that. But I will be glad to abide by the Chair's decision. I will agree that if the convention will vote down the substitute, they will accomplish the same thing as reconsidering on my motion.

PRESIDENT NISBET: Under the circumstances we will proceed with the amendment. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Allen and Mr. Garry Brown offer the following amendment to the second paragraph of the substitute:

1. Amend page 1, section a, at the end of the second paragraph, after "subdivisions.", by inserting "This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits.".

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, for those delegates who want to follow the language in the proceedings so far, I would refer the delegates to the last journal, Friday's journal, at page 1183.

Now, on the second part of the DeVries substitute which concerns pensions, there has been some question raised that the language inadvertently would take away from those legislators who have contributed to the legislators' pension plan their future rights of a pension. Mr. DeVries has explained that this is not the intent of his substitute, but in case there is any doubt about it, we ought to clear it up. Therefore Mr. Brown and myself have offered this proposed amendment which is designed to put at rest the uncertainty, if there is uncertainty, about the rights of legislators, who are now eligible to pension benefits, to continue to draw these benefits. We think that they should. We don't think that this convention has the power, nor that we should take away any rights that have already accrued; but because there is some doubt about it, let's put that doubt to rest with this small perfecting amendment and then we can consider the whole thing on its merits.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: I would like to ask a question of Mr. Allen, Mr. President.

PRESIDENT NISBET: Mr. Allen.

MR. FAXON: Mr. Allen, is this to apply to those people who have served in the legislature and are now serving, or is it also to apply to those who are now serving and who will serve?

MR. ALLEN: Well, I would say it will apply to legislators who have contributed to the pension fund up to the date the new constitution takes effect.

MR. FAXON: Mr. President, Mr. Allen, then this is, in effect, a grandfather clause to take care of those people who are presently in the legislature and where this would affect their retirement system; is that right?

MR. ALLEN: Providing, of course, they are eligible.

MR. FAXON: Eligibility based upon years of service?

MR. ALLEN: Whatever the pension requirements are on eligibility. I am not familiar with all of the details of it. But you are right, Mr. Faxon, this is, in effect, a grandfather clause. It protects the rights that legislators have in the pension plan that is now established and will always continue to protect them, but there will be legislators serving between now and the effective date of this constitution. If they are eligible under the pension plan, they will be eligible for their benefits.

MR. FAXON: Well, Mr. President, I raised objection last week with regard to the second paragraph, in that I didn't feel that the subject of pensions ought to be a restrictive one, as far as the constitution is concerned, with regard to members of the legislature. Although I think that the grandfather clause would take care of some fears, I still don't see any need for including a prohibition upon the state's participation in a retirement program for legislators, and I would wish that this language could be broadened so that it wouldn't have the effect of just pertaining to those people who are and have been serving, but would also have the effect of pertaining to future members of the legislature.

PRESIDENT NISBET: Mr. Staiger.

MR. STAIGER: I have a question of Mr. Allen.

PRESIDENT NISBET: If he cares to answer.

MR. STAIGER: Mr. Allen, do I understand you correctly? Your provision is intended to apply only to accrued benefits up to the time that the constitution takes effect? Is that correct? What I am wondering about is, do you intend to prohibit those legislators who are now contributing to the plan or under a plan that the state is contributing to — the state will not continue to contribute to that plan after the adoption of the new constitution; is that correct? It is only accrued benefits that you are protecting?

MR. ALLEN: Yes. Right.

MR. STAIGER: It is just so they won't be losing what they already have acquired?

MR. ALLEN: That is correct.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, I wonder if I might ask Mr. Allen a question.

PRESIDENT NISBET: If Mr. Allen cares to answer.

MR. HOXIE: In reading the proposal as it now stands with your proposed amendment as it affects paragraph 2 of the substitute, I am wondering if this shouldn't be clarified, Mr. Allen, by inserting after "those" the words "present or future." In other words, my concern is that I am assuming that some of the legislators who have already accumulated benefits, who have a right to those benefits, will be reelected; in the event this constitution is adopted, shouldn't those rights be protected? I don't read that into your language, in view of the paragraph preceding.

MR. ALLEN: Mr. President, if I may reply, I would say that the additional words "present or future" are not needed. It refers to legislators who are eligible. Now, there are present ones eligible, and between now and the time the new constitution takes effect there may be others who become eligible. They may be future ones; they may be present ones. The point is, it is all those who are eligible. And if it is future, it covers them, and if it is past, it covers them.

MR. HOXIE: Mr. President, through the Chair, it is your opinion then, I assume, that if a legislator is presently entitled to the benefits of the retirement and he is reelected to the legislature, that he would not be estopped from drawing the benefits that had already accumulated under the retirement plan?

MR. ALLEN: That is correct, his accrued benefits. He would draw to the extent that he has benefits accrued.

MR. HOXIE: Well, if that is true, Mr. President and Mr. Allen, I can't see why we shouldn't spell it out so that the amendment that you are proposing would read, "This section shall not be construed to deny retirement benefits to those present or future legislators eligible to receive these benefits." Then there could not be any misunderstanding or misinterpretation that future legislators that have already accumulated benefits would be entitled to those benefits.

MR. ALLEN: Mr. President, may I yield to Mr. Brown, the cosponsor?

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, Mr. Hoxie, I think that we say those legislators who are eligible. We clearly state what we mean. To add the language that you suggest would merely complicate the thing rather than improve it. I think that your intent has been stated on the floor. It is in the verbatim record. We are sure of what we mean. It is those legislators who are eligible as of the time this constitution becomes effective.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Allen. Those in favor will say aye. Those opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment to the first paragraph of the substitute:

1. Amend page 1, line 2, after "than" by striking out "50 per cent" and inserting "1/3 of that"; so the language will read, "The annual salary of the members of the legislature shall be not less than 1/3 of that paid the members of the United States house of representatives."

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, I want to preface my remarks by saying that I agree with Senator Hutchinson and am not in favor of the general provision tying legislative salaries to congressional salaries for the reasons stated by Senator Hutchinson. Nevertheless, I feel that it is necessary to at least attempt to perfect this amendment as well as we can for fear that it might secure the sufficient number of votes by this convention.

The reason why I have offered the amendment to provide for 1/3 instead of 50 per cent is that I feel that at least it is being a little more logical when you take into consideration the work of the members of the legislature. The 1/3 salary, I think, is much more realistic when you take into consideration the work of the members of the legislature, at least as far as a base pay is concerned. One-third of $22,500 is $7,500. Remember that this is a minimum pay; this is not a maximum pay and this is not a fixed pay. It is only a minimum pay, a minimum base rate, so that when we are talking about this particular provision, let's keep in mind that we are talking about a minimum salary.

I have some real concern when we talk about making full time legislators: 1, I am not certain in my own mind that there is yet enough work for full time legislators; and 2, I am not sure that I want to see a full time professional legislator, for this reason: I am afraid that if we had a full time professional legislator, he would lose his contact with the individual problems back in the district. The job may be so sweet, a desire for security so great, that his actions in the legislature might not necessarily represent the best interests of the people, but would necessarily represent a looking toward the next election — what I am afraid may happen anyway.

The congressional salaries are tied to a national standard of living. It is not tied to a state standard of living, and so I think that $22,500 and even ½ of that is very high. I say that as a minimum salary, $7,500 is much more realistic.

If we are going to adopt a provision such as the DeVries substitute, which I am not in accord with, at least let's make it reasonable. Let's not raise it so high that we are only going to have a group of professional legislators running for that office, and also antagonize the people of the state of Michigan by it appearing to those people that we are only trying to raise the legislators' pay up to an amount that we are going to be willing to run for their jobs and take them away from them. I think that might appear to be the purpose to the people of the state.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President, members of the convention, the convention has already rejected a similar amendment which would establish the pay at 25 per cent. Mr. Boothby says that he doesn't consider the Michigan legislature full time. Mr. Hutchinson thinks the congress is full time. Now, the difference is 2 months, perhaps 3 months. In the last 5 years the legislature has averaged 6 months. Now, certainly you can't argue in the next 10 or 20 years they might not be meeting more than 6 months. And if we consider the congress of 8 or 9 months a full time legislative body, then certainly the Michigan legislature is moving in the direction of full time. I urge you not concur in the amendment.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President and delegates, I think that the Boothby amendment brings into focus again the question of the very concept which I believe the friends of the DeVries substitute want to put forward to the delegates, and that is a concept of the legislator not as an amateur, which I believe is implicit in what Mr. Boothby had indicated, but indeed a professional legislator; that is, a person who looks upon this as his career, a person who seeks to devote his full time and energy and effort to addressing himself seriously to the manifold problems that are now before the legislature and which will increase in the industrial and technological period we foresee ahead, and to do all those things necessary to bring to the attention of the people in the exercise not only of his job as a legislator — that is, deciding about the wisdom of legislation — but bringing to the attention of the people their relationship to these manifold problems. On the contrary, it isn't a question of seeing that a gap develops between the legislators and the people, but by spending full time, devoting full energy, devoting full purpose to his job, part of the job would be to bridge the gap which now exists between the people and the legislature.

I believe the concept advanced by Dr. Pollock when he addressed himself before to this problem of rehabilitating the legislature in the estimation of the people, is one which is intrinsic to an answer to the Boothby amendment. I think that the DeVries substitute is one of the most significant things that has come before us, because it is one which addresses itself seriously to the problem of the legislator, of trying to see whether or not there can't be an enhanced concept by the legislator of his job and by the people of the legislature as a whole. Without in the least deprecating any person or any institution or any group of people, it is stating to the people the job of the budget, of all the problems of 8 million people in this state, is such a serious one, such a large one — and is growing — that we want people who will address themselves to this problem not as amateur legislators but as professional ones, persons who have made a career of dedicated service and look upon it as one in which they will grow in usefulness and utility to all the people by spending the time, effort and energy necessary.

I think Mr. DeVries and his associates have performed yeoman service in bringing this matter before the legislature and by taking this scale of determination out of the hands of the legislature and pegging it upon some legislative body that I think will stand the trust and confidence of the people. I urge that the Boothby amendment be defeated and that the whole proposal, as substituted, be supported.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that further debate on the Boothby amendment be limited to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Higgs. There are 5 speakers; that will give you a minute apiece.

MR. HIGGS: Mr. President, Delegate DeVries, I wonder if you can answer a question related to the Boothby amendment? In cutting down from 50 per cent to 1/3, the factor occurs in my mind of the retirement plan. Do you think that this is fairly reflected in this reduction? Will you explain what the retirement benefits are that the substitute would take away from the legislature?

MR. DeVRIES: Mr. President, Mr. Higgs and fellow delegates, Mr. Boothby's amendment would not substantially change the way the present situation is. If you will look at the memorandum that we prepared for you last week, you will find this: that the total legislative request for '62-'63 is $1,200,000. We raise their salaries to $11,250. That will be an appropriation of $1,620,000, or a $400,000 difference. And if you deduct the legislative retirement, which at this point isn't too much, but in 5 years and 10 years and 15 years could amount to $500,000 a year, you will see that actually setting the salary at $11,250 in the long run will save money. It won't cost money. Does that answer your question, Mr. Higgs?

MR. HIGGS: Yes, it does. Thank you.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, when we have a statement that the average length of the legislative session is 6 months, we need to have some understanding of the facts if we are to base our decision on facts at all. That can be the average only because in one year they were officially in session practically the whole year. That doesn't mean they were in Lansing. They were taking recesses from time to time and carried it forward.

Ordinarily, in the even year the legislature finishes its work in late April or early May. Now, they are officially in session for another month, but they are not here working. In the odd year, generally it is late May or early June. There have been one or two occasions when it was as late as early July, but ordinarily May is the time of adjournment. 30 days later is the final adjournment, but the earlier date is the one on which they stop working.

PRESIDENT NISBET: Mr. McLogan.

MR. McLOGAN: Mr. President, Senator Hutchinson, I believe, left the impression that the average wage earner in Michigan earns between $4,000 and $5,000. I think that in the year 1961 we will find that the average family income was well in excess of $7,000 in the state of Michigan, and I also think that the average worker feels that the prestige and knowledge required to be a good legislator would warrant more than merely an average salary. I would oppose the Boothby amendment.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I simply wanted to say this about these folks who say that their aim is to have a full time legislature. This constitutional convention is not writing a constitution for those ends, because you are writing into the constitution that before most of the laws take effect, the legislature has to adjourn and go home for 90 days. Now then, how can you have a full time legislature if on the other hand you say that before your laws can take effect, the legislature has to finish its job and go home for 90 days? You are inconsistent there, my friends.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, I appreciate that we have had full debate on this question. There is only one thing I would like to say in regard to the Boothby amendment or the present substitute that is before us. I am wondering if any of you can truthfully say to yourself that this convention was called for the purpose of increasing legislative salaries.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, I am very conscious of the remarks Mr. Hutchinson, Mr. Brake, Mr. Hoxie and others have made, but I just want to make it perfectly clear that with the experience that I have had with the legislators from our own area, I would say that we have achieved good legislation in spite of the salary instead of because of it. I would like to urge that we adopt the DeVries substitute as it was originally submitted and adopted last Friday.

PRESIDENT NISBET: The question is on the adoption of the Boothby amendment. Mr. King. You have ½ minute, Mr. King.

MR. KING: Mr. President, fellow delegates, it won't take me long to point out something that seems pretty obvious to me and I am sure it does to Senator Hutchinson too. When the legislature adjourns at the end of a session, even if it is only for one day, that is the adjournment for that session, and the 90 days will run from that point in time into the next session. It doesn't matter whether the legislature at the end of that 90 days is into their next session or not.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Boothby. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The question now is on the substitute as amended.

MR. DeVRIES: Mr. President.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: If I may just briefly discuss some of the arguments that are being used, and were used last Friday, against the substitute by the opponents of it, it was argued that better pay won't make better legislators. Now, I don't know who introduced this argument. Certainly not me. It is not relevant, because then we would have to make a judgment about the present legislature. You have heard the argument that even if you raise the pay, you are not going to get better legislators. As a matter of fact, you might get inferior legislators. In other words, there is no relationship, it is charged, between level of salary and level of competence. Well, why don't we carry that to its logical extreme? Let's pay them nothing. As a matter of fact, let's make them pay for the privilege of serving. Then that argument makes sense.

The second argument we hear is that this really isn't a full time job and they only work a few session days per year. Now, would you say the legislature was in session in 1958 for 76 days when the length of the session was 6 months? That is like saying this about the constitutional convention; we have only worked 129 days — we have been here 210, but we only worked 129. Now, if you can convince me or my wife about this, I would like to hear it. It seems to me we have worked more than just the actual session days. It is an irrelevant argument.

The third is that Michigan is paying more money and a higher salary now than comparable industrial states. Now, this isn't true. In the state of New York, legislators get $10,000, plus a considerable expense allowance. In Pennsylvania they get a $6,000 salary, plus one trip a week, plus $3,000 a year for expenses, which totals almost $10,000. The same thing is true in other states.

You are going to hear the argument that this substitute proposal is going to cost too much money, and this is absurd. As I pointed out earlier, the total legislative request for 1962-63 for salaries, expenses and legislative retirement is $1,200,000. Under this substitute the budget request would be $1,620,000, for a difference of $422,000. This represents about .1374 per cent of the total state budget. I don't deny there is a slight increase here. But what the opponents don't tell you is that this is going to save hundreds of thousands of dollars, particularly the way this proposal is drawn at the present time. People cannot be on 2 public payrolls and serve in this legislature. Now, they will say somebody has to replace him anyway. But I will say to you, certain legislators from certain governmental units are serving in the legislature, and somebody is also replacing them. You are going to save money there.

Secondly, and most important, you are going to save money on legislative retirement. For example, suppose in the next 10 years 100 legislators retire and become eligible for benefits. Let's assume that they serve the average length, say about 16 years. They will then be eligible for $2,500 a year from the age of 60 until the day they die. Now, that is based on a salary of $5,000. That is $250,000 a year. Suppose in the next 10 years they raise their salary to $10,000. You have an annual expenditure of $500,000. Remember, the retirement benefits are not money benefits. They are tied to a percentage of the salary. They don't give you the facts and figures on these, however.

How about the argument that the legislators themselves don't really want this? I don't know what legislators said to the committee on legislative powers when they appeared. I know what they have been telling me for the last 5 years in my experience over there. And I tell you, and based on your own experience in this convention, that conscientious legislators need this salary increase, and they deserve it, and those who argue against it are saying, in effect, the legislators really don't deserve this; after all, you see, they are not worth it.

Now, the most meaningless argument of all is that the 75 cosponsors of this substitute are all candidates for the legislature. They are not. But even if they were, so what? Now, I ask you, what possible relevance does that have to the merits of this substitute? As a matter of fact, you might argue that those who might be candidates for the legislature would oppose this substitute proposal, because one of the primary purposes of this amendment is to open up the office of legislator to the people of this state; not restrict it to 30 per cent, but let everybody who wants, a chance to run for it.

Now, if I were a legislator or a candidate, I wouldn't be afraid of competition if I had the necessary qualifications for the office and was doing a good job, because competition is the life blood of any free enterprise society. Certainly it is the life blood of a democratic society, and anything we can do to encourage it must be done. So don't be misled by these arguments you heard last Friday and that you will hear this evening. Ask yourself these relevant questions about this substitute proposal: do you really believe that a $5,000 salary and a $1,250 expense account is sufficient compensation for the high office of state legislator? Ask yourself this question: are you interested in guaranteeing equality of access to the office of state legislator, and not just a minority who can afford it? Third, are you willing to vote a salary increase to assure financial independence for legislators from both public and private pressure groups? You have just done it in Committee Proposal 115 this afternoon. Are you convinced from the data presented by the cosponsors of this substitute that the legislature is becoming at least a ¾ time job and certainly within the next 10 years — we are trying to think ahead here now for 50 years — a full time job in the future? Fifth, do you want to bring legislative salaries in line with the executive and judicial branches of our state government?

Ask yourself this question when considering this substitute: do you agree with the premise that state legislators should not receive any other salaries or compensation from the state or its subdivisions? Are you concerned about the potential cost of legislative retirement not this year but 10 years from now and 20 years from now? Are you concerned about strengthening legislative organization?

Now, we have taken some gigantic steps forward in this convention: open committee meetings, legislative council and other things. This is the last in the steps to strengthen legislative organization. Mr. President, I believe that careful analysis of the facts presented here and the merits of this substitute can lead you to only one conclusion. We are trying to look ahead for 50 years — and it is difficult not to be myopic, but we are trying to think ahead for 50 years. I hope you will approve this substitute as it now stands.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand Mr. Kuhn has a motion. I will yield to him for the purpose of making it, after which I would like the floor again.

MR. KUHN: Mr. President, I would like at this time to move to reconsider the first part of the DeVries substitute which sets up the pay based on the United States congress.

MR. VAN DUSEN: Mr. President, I would move to limit debate to 15 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen.

MR. KING: Mr. President.

PRESIDENT NISBET: Mr. King.

MR. KING: Point of order on Mr. Kuhn's motion. I don't think that Mr. Kuhn's motion is in order at this time. I would like to have a ruling from the Chair on that point.

MR. KUHN: Speaking to the point of order, Mr. President —

PRESIDENT NISBET: Just a minute, Mr. Kuhn. Mr. King, the substitute that Mr. Kuhn is talking about is not the same substitute it was before. It is a substitute that has been amended. The question is on Mr. Van Dusen's motion that the debate be limited to 15 minutes.

MR. KING: Mr. President, are you saying that Mr. Kuhn's motion to reconsider at this time is in order?

PRESIDENT NISBET: Right.

MR. KING: It seems to me that a motion to reconsider would not be in order until all of the perfecting amendments have been considered.

PRESIDENT NISBET: The convention will be in order. Mr. Chase will explain the situation.

SECRETARY CHASE: As the secretary understands the present situation, it is this: the first paragraph of the substitute has been amended. Also the second paragraph has been amended. The question now: the secretary wonders if the first part of it is subject to reconsideration, and would suggest that since the whole problem is on the adoption of the complete substitute, that it would be possible to divide the substitute into 2 paragraphs and arrive at the same answer.

MR. KUHN: Well, I would suggest to the parliamentarian and to the Chair that in order to get to an amendment after the proposal is passed, you must first reconsider the total proposal. The reason we are making the motion at this time is that there has never been a vote on the total proposal. Therefore, we are trying to get ahead of that and go back and reconsider an amendment, which is in order any day that an amendment is acted upon. And, as you stated, this substitute has been amended even today.

SECRETARY CHASE: As the secretary understands Mr. Kuhn's request, it is his idea that he would like to reconsider the vote by which an amendment to this first paragraph was adopted.

MR. KUHN: That is correct.

SECRETARY CHASE: That motion is perfectly in order.

MR. KUHN: That is correct. Thank you.

MR. KING: Mr. President, what amendment are we speaking of? You are not talking about the substitute, but you are talking about an amendment to the substitute. Which amendment?

MR. KUHN: We are talking about the part where he bases the pay at 50 per cent of the pay of the United States senators.

MR. KING: That is not an amendment, sir. That is the substitute.

PRESIDENT NISBET: Let the Chair get this cleared up.

MR. KUHN: It is still considered an amendment, sir, and it is entitled to be voted on.

MR. FAXON: Mr. President.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, the question that Mr. Chase directed himself to was the amendment that we added on to that paragraph, which would be that last sentence and wouldn't include what Mr. Kuhn wants it to include; so, it seems to me that to get at what Mr. Kuhn wants to get at, the best procedure would be if Mr. Kuhn would be willing to divide the 2 paragraphs and then vote on them separately.

MR. KUHN: That is exactly what we are doing. We want to reconsider the first paragraph of section a.

MR. FAXON: That wouldn't be in a motion to reconsider.

MR. KUHN: What do you call it?

PRESIDENT NISBET: Mr. Kuhn, the Chair thinks if you would come up here, we would get this thing straightened out.

MR. KING: Mr. President, may I approach the rostrum too? (laughter)

PRESIDENT NISBET: Yes, you may.

MR. MADAR: Mr. President, may I ask, do you need a referee up there? (laughter)

PRESIDENT NISBET: The convention will be at ease for a few moments.

[Whereupon, the convention stood at ease.]

The convention will be in order. Mr. Kuhn.

MR. KUHN: Mr. Chase could read what is before the convention. Divide the substitute in half, as they want to call it, and we will come to the same result and we will vote on the first paragraph as amended.

PRESIDENT NISBET: A division has been requested. Mr. Chase will read the first paragraph.

SECRETARY CHASE: The first paragraph, as amended, reads as follows:

> Sec. a. The annual salary of the members of the legislature shall be not less than 50 per cent paid the members of the United States house of representatives. Additional actual and necessary expenses may be provided by law. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.

PRESIDENT NISBET: The question now is on the motion of Mr. Van Dusen to limit debate to 15 minutes on this paragraph. Those in favor will say aye. Opposed, no.

The motion prevails.

MR. KING: Mr. President.

PRESIDENT NISBET: Mr. King.

MR. KING: Point of information. You are ruling that you can divide a proposal on second reading? Is that what I understand you to rule?

PRESIDENT NISBET: Mr. King, this is not a proposal. This is a substitute for the proposal which has not yet been adopted. The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, I would hope that we certainly will vote down this paragraph The committee on legislative powers has studied this section very thoroughly, called in leaders and representatives of the Michigan legislature, and none of the legislators advocated anything like this. The only thing that came close to this was a delegate proposal by Delegate Youngblood to put a floor in our constitution of $7,500. Since Delegate Youngblood was a member of our committee, after considering it he decided to withdraw it of his own free will.

The federal constitution leaves it up to the United States congress what the pay of the United States congress should be. This is considered to be the best document ever drawn.

MR. BENTLEY: Mr. President, point of order. The convention is out of order.

PRESIDENT NISBET: Will the convention please be in order. Will the delegates please take their seats. If you must confer, please confer out in the hall and give the delegates the courtesy of speaking. Mr. Kuhn.

MR. KUHN: The constitution of the United States provides that the pay of the United States congress shall be set by the United States congress. Our constitution has changed many times, and as late as 1948 the legislature went to the people and asked them for the right to set their pay.

We studied the different proposals that were offered and we studied the model constitution, and the model constitution told us that we should leave the pay of the legislature up to the legislature. No expert in any department of government came before our committee and suggested anything differently. I submit to you not only did no expert come to us and say we should change it, but the model constitution says we should leave it up to the legislature, and the federal constitution backs us up.

We were accused last Friday of not doing anything in this direction. I submit that because a committee meets, it doesn't mean they should change something. We shouldn't change something for the sake of change. We should only change if something needs to be done. I do not apologize for doing nothing because I feel we did what was right. This year there was a bill in the state legislature to raise the pay to $10,000. The editorial in the State Journal dated Wednesday, February 7, said, "Hard to believe," and it ended up by saying if they were really taking this seriously, they thought that the constitutional convention should do something to prohibit the legislature from touching their pay. I am not one that worries about how the legislature will handle their pay.

Another argument that the opponents brought up on this subject was, the legislature has not got the nerve to raise their pay. I pointed out to you on Friday that I thought they definitely had the nerve to raise their pay. And over the weekend I happened to be reading the May issue of Reader's Digest where it says, George Romney, Dark Horse, Off And Running, on page 119 — they were talking about the situation in Michigan — and they said this:

> Fourteen years of a Democratic administration had produced a bitter impasse between the state executive and the GOP legislature. The state treasury was bankrupt. In 1959 the treasurer couldn't meet the payroll. Unemployment was chronically high. The state, seventh in population and fourteenth in per capita income, had a long outdated constitution that precluded remedial action.

But this same year, ladies and gentlemen of the convention, I want you to know the legislature raised their pay $1,000, and also their expenses $250. I am not criticizing them. I am just saying to you that they have the nerve to raise their pay when they believe that it is justified and needed.

It has also been pointed out that New York pays their legislators $10,000. I want you to know that this was also accomplished by statutory action. The matter of legislative pay is a matter for statutory action. It should be left up to the legislature. We should keep our document flexible. We should not put in these rigid requirements and try to follow some federal idea.

I also would like to say to you that Michigan, in my research, is the second highest paid in the union. Now, someone will argue and say it might be the third or the fourth. I would just like to submit this to you: they say it is obvious that the legislature is going to have to meet for longer periods of time. I say this is definitely not true. What do I base this argument on? One, California: one year they allow the legislature to work 120 days and they send them home. The next year they only allow them to work 30 days. You see, the people do not want them in session too long. Thomas Jefferson said "Government that governs least governs best." I still believe that wholeheartedly. New York, the next example: everybody talks about what a great legislature they have in New York. They get paid $10,000. Therefore, it is great. But then they don't use the same argument: therefore, it is going to be a continuous long legislature. As I pointed out on Friday, the New York legislature for the last 8 years has gone home March 31 every year.

So I submit to you that this is a legislative matter. It was studied very carefully by the committee on legislative powers and we determined that it should be left in the hands of the legislature. For the best interests of the people of the state of Michigan, we should not in this forum try to do something that should be done across the street and get ourselves in trouble and put a weight around our necks trying to pass this document. Thank you.

PRESIDENT NISBET: We have 9 minutes left. There are 9 speakers. Dr. Pollock.

MR. POLLOCK: Mr. President and fellow delegates, I assume that we were sent here by the people of this state to look at the problems in the large.

This evening we have heard a plea from Delegate Hutchinson about his people in his district not being able to understand a salary increase for the legislature. Well, I can counter that by saying that the people in my district will understand it, and there are probably more people in my district than there are in his. But what does this prove? This isn't much of an argument for or against the provision we have in mind. We are here, as I see it, to strengthen our state government to enable it to meet the problems of the future. We are here to strengthen our local governments to do the same thing.

The motivation behind this provision — and obviously this is only a part of a larger proposition — is to rehabilitate the legislature in public confidence. I hate to repeat these words again, but I have just heard arguments repeated by Delegate Kuhn and I think they have to be countered with other arguments. It is a little bit strange to me that the arguments here, aside from Delegate Kuhn, have been mostly made by former members of the legislature. Obviously that is their privilege. Obviously they are thinking of the legislature as they know it. I am thinking of a legislature as I hope it to be in the next 25 years, a representative, responsive, efficient organ of democratic government. That, I think, it cannot be if it straggles along on the same basis on which it is now operating. And I say it is interesting that those who have been in the legislature are the ones now who don't seem to be interested in improving it. It is a case, I think, of looking backward instead of looking forward. We are supposed to look forward.

Now, one final point: it is a question of the matter of full time or part time. It is a question of whether the legislature is doing what it should be doing. And I have heard nobody contend that our present legislative body is measuring up to people's expectations. We are trying to develop here — and the salary is one aspect of it — a legislative body which will come up to people's expectations. The problem is, they are not now doing it and they can do it only if they can be put on a basis which attracts personnel to the legislature which is first class; if they have the facilities there to do; and if they are supported by the people of the state and not looked down upon as people who are not performing their jobs. I think this is an exceedingly vital provision, and I remind you that we have already voted it through once. I am not responsible for this extra discussion that is taking place.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President and fellow Democrats, I rise in opposition — (laughter and applause) — and fellow Republicans and fellow citizens, (laughter) when it gets about this time in the evening, most of my meetings are of somewhat a non-nonpartisan sort and it is a little hard to shift gears, so I hope the delegates will excuse me. Now, I am confused on the procedure. I am in favor of more pay for state legislators. If that means opposition to the motion to reconsider the first paragraph, I rise in opposition to that reconsideration motion, and I shall try to be brief but bring out a few points that haven't been brought out before.

PRESIDENT NISBET: Mr. Downs, we are not talking about a motion to reconsider. We are talking on the first paragraph of the substitute.

MR. DOWNS: All right. I got a little confused with our parliamentary procedure here. I rise in support of section a calling for the pay of state legislators to be at least ½ of that of congressmen. Now, in speaking, I want to, first of all, publicly apologize to all my friends in the legislature from both parties — I have done this privately to those I met — because I was one of those who used to, shall I say, ridicule people for only working 3 or 4 hours a day, and the one thing this con con has taught me, if nothing else, is that the legislative process is a hard one; it takes a lot of work and time and, win, lose or draw, the participants in it earn their money.

The second point I would like to make is that unless there is adequate pay, we have a problem where we preclude people from running. I believe some of the former speakers were right when they said an increase in pay would not automatically draw more people to run, and I think there are some people that wouldn't run, for any amount of money, for public office. But there are those people — I am thinking of the young attorney just out of school who is starting a family, the professional person, the business person, others — who wouldn't sacrifice a growing career to take a legislative job at $5,000 or $6,000 a year. Those people are precluded from running unless there is adequate pay.

The third point I want to make is about the matter of voter selection. I think one of the real weaknesses and dangers in our democracy is that in order for a person to run for public office, only too often he must be a man of great personal wealth. And this is no reflection on those of great personal wealth; I am glad we have had some Democrats that fit that category. But it does mean that unless there is adequate pay to attract people, not only do those individuals not run, but the voters do not have the opportunity of voting for or against them. So I therefore, on the basis of voter selection, urge support of the first paragraph.

The one problem I am concerned with — and that really touches on the other part — is the matter of pensions. I believe that legislators who have given their years of public service —

PRESIDENT NISBET: Let's take that up next time, will you, Mr. Downs?

MR. DOWNS: Thank you.

PRESIDENT NISBET: Mr. Powell. There are 2 minutes left.

MR. POWELL: Mr. President and fellow delegates, I doubt if I need yield to anyone in this room in the length of personal experience that I have had with the Michigan legislature, starting in as a page there in '13 and '14 and '15 and '16 and being around nearly every session of the legislature since 1921, and having been a member of it in 1931 and '32.

I believe that we were not sent here to raise the pay of the legislature, and certainly not in this weird way. The DeVries substitute would be extremely unpopular outstate. Every time we write an unpopular provision into our document the more we place a stumbling block in the way of its adoption.

Mr. DeVries says there are only a couple of months difference in the work year of a member of the state legislature and of congress. I certainly dispute that. Our national lawmakers are truly full time. They have a Washington office and a home district office, and most of them also have a trailer and they go around their district and they are building fences and they are working, certainly, throughout the year. They are down there where they can scarcely get home weekends.

Mr. DeVries, in his statistics there, counts a part of a month as a full month all the time; counts January, even though the session doesn't start until the second week; counts the time of that sine die recess there of a month or so at the end. The state legislators can go home weekends. In fact, it is just about a 4 day week. So let's vote down the substitute and adopt the proposal in the form reported from our committee.

The essence of democracy is that the legislature should be a representative body, a cross section of economic and occupational groups. A full time legislature would soon lose that first hand contact with the problems and needs of the people which is so vital —

PRESIDENT NISBET: The time has expired, Mr. Powell. The question is on the first paragraph of the substitute.

MR. MADAR: Mr. President, I rise to a point of order. I remember that Delegate Van Dusen got up and made a motion. However, there was quite a lot of controversy over whether or not Delegate Kuhn had a right to introduce his motion. I am still trying to find out and figure out when the vote was taken on the 15 minute debate.

PRESIDENT NISBET: The 15 minutes started when Mr. Kuhn started to talk after we settled the parliamentary predicament.

MR. MADAR: When was the vote taken, Mr. President? I do believe we must take a vote.

PRESIDENT NISBET: The vote was taken, Mr. Madar. The question is on the first paragraph of the substitute.

MR. DEHNKE: Mr. President, have the yeas and nays been demanded?

PRESIDENT NISBET: No. Do you so demand? The yeas and nays have been demanded. Is that demand seconded? A sufficient number up. Those in favor —

MR. MADAR: Mr. President, I would like to move that we have — go ahead with the vote first.

PRESIDENT NISBET: The secretary will read the first paragraph.

SECRETARY CHASE: The question on which the yeas and nays have been ordered is the first paragraph of the substitute which now reads as follows —

MR. MADAR: Mr. President.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: May I move for 10 minutes more on debate on this subject?

PRESIDENT NISBET: Let him read it. Then we will vote on your motion.

SECRETARY CHASE: The first paragraph reads:

[The first paragraph of the proposed substitute was again read by the secretary. For text, see above, page 2982.]

MR. POLLOCK: Mr. President.

PRESIDENT NISBET: Mr. Madar has moved for a 10 minute extension of debate. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question now is on the amendment. The yeas and nays have been ordered.

MR. POLLOCK: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Mr. Pollock.

MRS. HATCHER: Mr. President.

MR. POLLOCK: Is this substantially the same substitute as was adopted Friday afternoon?

MRS. HATCHER: That is what I want to know.

PRESIDENT NISBET: Mr. Chase, can you answer that?

MR. POLLOCK: There was one amendment added this evening; is that correct?

SECRETARY CHASE: The language added was at the end of the first paragraph, and it reads: "except and only to the extent of a general salary reduction in all other branches of government."

MR. POLLOCK: Thank you.

PRESIDENT NISBET: Mr. Stafseth, what is your question?

MR. STAFSETH: Mr. President, this is a motion to reconsider now?

PRESIDENT NISBET: No. That was not made. Mr. Kuhn's motion was to divide into 2 paragraphs, and this is the first paragraph we are voting on.

MR. STAFSETH: All right. A yes is in favor of the paragraph; a no is against it?

PRESIDENT NISBET: A yes would be in favor of the amendment as substituted in the first paragraph. The yeas and nays have been demanded.

MRS. HATCHER: Mr. President.

PRESIDENT NISBET: Mrs. Hatcher.

MRS. HATCHER: I am still a little doubtful as to what we are voting on here, because I was of the impression that we had voted on the first paragraph of section a last Friday.

PRESIDENT NISBET: That has been amended, Mrs. Hatcher. The secretary will read it again.

MRS. HATCHER: Does that mean that we have to vote for the whole thing all over again?

PRESIDENT NISBET: That is right. Mr. Chase, will you read it again.

SECRETARY CHASE: The question upon which you are voting on which the yeas and nays have been ordered is the first paragraph, as amended, of the proposed substitute, which now reads:

[The first paragraph was again read by the secretary. For text, see above, page 2982.]

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Point of information. If we disapprove of this substitute, do we vote no? (laughter)

PRESIDENT NISBET: That is correct. Those in favor of the substitute, as amended, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—65

Allen
Andrus, Miss
Anspach
Baginski
Barthwell
Binkowski
Blandford
Bledsoe
Bradley
Brown, G. E.
Brown, T. S.
Buback
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Gust
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Madar
Mahinske
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perras
Pollock
Rajkovich
Sablich
Seyferth
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Tubbs
Upton
Walker
White
Young
Youngblood

Nays—64

Austin
Balcer
Batchelor
Beaman
Bentley
Boothby
Brake
Butler, Mrs.
Cudlip
Dehnke
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Habermehl
Haskill
Howes
Hoxie
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Lesinski
Martin
McAllister
McCauley
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
Wilkowski
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the first paragraph of the substitute as amended, the yeas are 65; the nays are 64.

PRESIDENT NISBET: The convention will be in order. Paragraph one, as amended, is passed. The secretary will read the second paragraph.

SECRETARY CHASE: The second paragraph reads as follows:

> No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, this second paragraph, I am still sorry to say, I feel is not necessary and does not add materially to what we have done already. Now, I understand that what this is intending to get at is a question of conflict of interest, and to that effect we have already acted upon Committee Proposal 112 which makes those people who hold any office in any political subdivision of this state or in the United States ineligible to be members of the legislature, so we have already taken care of those people. Then in another proposal, 115, we have taken care of any question of being interested in any contracts with the state or any substantial conflict of interest.

Let me just give a few illustrations of how I feel this third measure might apply. "No person serving in the legislature shall receive at any time . . . any additional fees, compensation or financial benefits from the state or its political subdivisions." Now, as I have been looking at this language, it appears to me that this would make ineligible people who may have very adequately served their respective communities, let's say as a member of a city, and they paid into the retirement system of that city and they are retired people. They run for office. They have legitimate rights to receive a retirement compensation. But under this language, if this were to be put into effect, why, they couldn't receive a retirement allowance, a retirement allowance which they have every right to receive as a result of their participation in that retirement system.

The proponent of this second paragraph claims that people cannot be on 2 public payrolls and serve in the legislature. This is not a question of being on a public payroll and serving 2 people at the same time. What this says is "financial benefits." People who have legitimate claims to their retirement allowance should be permitted to have that retirement whether they are elected before they are retired or after they are retired.

Now, the second factor here: I think that this is an unnecessary restriction to say that the legislators —

PRESIDENT NISBET: We are having a little trouble here tonight. For the first time this convention is beginning to get a little unruly, and it is very difficult for the speakers to speak and for those who want to hear to hear. The Chair hopes that you will act accordingly, and will the convention please be in order. Mr. DeVries, if you and Mr. Gust and Mr. Elliott would like to discuss the matter, why don't you go out in the hall and discuss it? (laughter) If you don't want to do that, would you please take your seats. (applause)

Mr. Faxon.

MR. FAXON: Thank you, Mr. President.

PRESIDENT NISBET: Let's start over again now. Go ahead, Mr. Faxon.

MR. FAXON: The second objection that this would put into effect is that if the state employees or the members of the legislature wanted to have a health insurance program where there might be some contribution on the part of the state, here again this language would forbid any such participation on the part of the state with members of the legislature.

Now, I don't say that this is necessarily going to happen, nor do I necessarily say that this is going to be the thing that will happen, but I don't see why we have to write into the constitution a prohibition on what the legislature can or cannot do with regard to its functions as the elected representatives of the people.

This second paragraph is unnecessary. It doesn't add anything. We have already taken care of this whole question of conflicts of interest. I think we have done that adequately. I don't feel that this is necessary in light of Committee Proposals 112 and 115, and I would urge the delegates to reject the second paragraph in light of these other proposals we have already adopted, in light of our previous action.

PRESIDENT NISBET: Mr. Martin.

MR. PERRAS: Mr. President, I have a preferential motion, I think. I would like to move the previous question and demand the yeas and nays on this paragraph.

PRESIDENT NISBET: The previous question has been demanded. Is that demand supported? A sufficient number up. The question is on ordering the previous question. Those in favor of ordering the previous question will please say aye. Opposed, no.

The previous question is ordered. The yeas and nays have been demanded. Those in favor will rise. The demand is supported. The question is on the second paragraph. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—79

Allen
Andrus, Miss
Anspach
Austin
Baginski
Barthwell
Blandford
Bledsoe
Bradley
Brown, G. E.
Brown, T. S.
Buback
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Everett
Follo
Gadola
Garvin
Goebel
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Page
Perras
Plank
Pollock
Prettie
Rajkovich
Richards, L. W.
Romney
Seyferth
Sleder
Spitler
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Young
Youngblood

Nays—46

Batchelor
Beaman
Bentley
Boothby
Brake
Butler, Mrs.
Cudlip
Dehnke
Erickson
Farnsworth
Faxon
Figy
Finch
Gover
Heideman
Higgs
Hood
Howes
Hoxie
Hutchinson
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Lesinski
Millard
Mosier
Nisbet
Powell
Pugsley
Radka
Rood
Rush
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Stafseth
Thomson
Tubbs
Turner
Tweedie
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the second paragraph of the substitute, the yeas are 79; the nays are 46.

PRESIDENT NISBET: The second paragraph of the substitute is adopted. Please clear the board. The question now is on the complete substitute.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: At this time I would like to urge a no vote on the complete substitute. It would be much better if we have nothing in the constitution on this subject than to put in what the substitute would put in, because the legislature would then have the power anyway to make their own pay, and it would be much better than to tie it in with the federal government and the federal congress and what they are getting paid, and I therefore strongly urge a no vote on this substitute.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I would like to make a parliamentary inquiry. If this substitute fails to receive 73 votes, do we have the original proposal then before us?

PRESIDENT NISBET: We do not, Mr. Hutchinson. This is a substitute for the original proposal.

MR. HUTCHINSON: That is what I thought. That is why, earlier in the game, I wanted to move to reconsider this substitute in order that we might be able to have something before us. If we can vote down the substitute on a reconsideration, we will then have the original proposal before us, won't we?

PRESIDENT NISBET: That is correct, Mr. Hutchinson. If this substitute is voted down, then the original committee proposal is before us.

MR. HUTCHINSON: Is that true without reconsideration?

PRESIDENT NISBET: That is right.

MR. HUTCHINSON: That is true without reconsideration. So that if this substitute is voted down now, we will have the original committee proposal before us.

PRESIDENT NISBET: That is correct.

MR. HUTCHINSON: In that case, I hope everybody will vote with me and vote down this substitute.

MR. POLLOCK: Point of order, Mr. President.

PRESIDENT NISBET: Just a minute. The convention will be at ease a minute.

[Whereupon, the convention stood at ease.]

The convention will be in order. The secretary will state the situation.

SECRETARY CHASE: The reasoning of the delegates has prevailed. Both paragraphs of the substitute, by direct vote on each of them, have been approved, so section a, as substituted, is now the committee proposal.

PRESIDENT NISBET: The question now is on the committee proposal substitute. The Chair recognizes Mr. Madar.

MR. MARTIN: Mr. President, is the matter open for debate?

PRESIDENT NISBET: That is right.

MR. MADAR: Mr. President.

MR. MARTIN: I would like to be recognized.

MR. MADAR: I think when we study these proposals and we have debate on them, I think we have to take into consideration also the motives of the delegates — that is, the motives behind the debate of the delegates making their pleas for aye and nay votes. I have yet to hear any candidate running for congress here make the suggestion that the pay of congress ought to be lowered to help the taxpayers of the state of Michigan, because it would.

On the other hand, I hear a delegate talk about the fact that we ought to take this out of this constitution and take it into the legislature, and yet that same delegate voted yes the other day on parimutuel betting.

MR. WANGER: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mason's Manual, Section 121, page 106, forbids the discussion of the motives of delegates with respect to any proposal or action before the convention.

PRESIDENT NISBET: That is correct, Mr. Wanger. Mr. Madar, will you speak on the proposal.

MR. MADAR: Thank you very much, Mr. President. I just want to say thanks to Mr. Wanger for always coming up with something after I finish what I have said. (laughter)

MR. HOXIE: Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, we understand that the ruling of the Chair is now that the substitute proposal as before us is now the proposal of the convention; is that correct?

PRESIDENT NISBET: That is correct.

MR. HOXIE: Does that mean if we adopt this proposal that the committee proposal is not subject to consideration for this convention?

PRESIDENT NISBET: This has become the committee proposal.

MR. HOXIE: My question, Mr. President, is this: if these delegates who voted against the first section to the extent where they didn't get the required number of votes, the 73 votes — will we then be back in a position where we can consider the committee proposal as reported to this convention —

PRESIDENT NISBET: No.

MR. HOXIE: — which has never been considered to this date.

PRESIDENT NISBET: That is correct, Mr. Hoxie. It was substituted.

MR. HOXIE: But it is my understanding, Mr. President, if the delegates see fit to vote down this substitute proposal, then we are now in a position where we can consider the committee proposal? Is that correct?

PRESIDENT NISBET: Mr. Hoxie, this now is the committee proposal. If this should be defeated, the only way that it can proceed then would be for reconsideration.

MR. HOXIE: Of the committee proposal —

PRESIDENT NISBET: No.

MR. HOXIE: — or any other proposal, as the convention might see fit?

PRESIDENT NISBET: Mr. Hoxie, this now becomes the committee proposal. If this should be defeated, then it is dead. Then if you wanted to get back to the committee proposal, you would have to move for reconsideration of this proposal in order to get back to the committee proposal. How you are going to do it, the Chair doesn't know, but Mr. Chase says so. (laughter)

MR. HOXIE: I think, Mr. President, fellow delegates, now we have the issue clear, and I hope that everyone that feels in their heart they can do so will vote against this substitute proposal.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I don't want to make a speech here, but I do want to call the delegates' attention to one thing, and that is that this 50 per cent of congressional salary is not a top. This is just a floor, and a very high floor, because the proposal provides, as you will notice on the wall, that additional actual and necessary expenses may be provided by law. Now, they now provide $1500 for that. So that when you go back home, if you vote for this proposal, you are going to tell your people that you are providing the legislators in this legislature — and we have 6 of them coming from one congressional district, 6 representatives from our fifth congressional district, and 1 congressman — you are going to have to tell them that you are proposing to pay each of these representatives $12,750. I don't want to defend that. Maybe you do, but I don't. For that reason, I hope you will vote against it.

MR. AUSTIN: Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I have had a very difficult time with this proposal. At first I was one of the sponsors of it, but after considering it very carefully, I find that I am compelled to vote against it. My reason is a very simple one. It might even be considered childish by some of the delegates, but it is simply this: I have been trying to get the delegates to consider putting a minimum floor by earmarking a certain amount of money or taxes for education. I have been somewhat unsuccessful. Now I am being called upon to put a minimum floor under the salaries of the legislators. It seems to me that this is a rather inconsistent request. And having failed on the other, I think that I will vote no on this.

PRESIDENT NISBET: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, I have just passed out a bulletin that I made up to give a comparative analysis of various state governments in the United States, which is based primarily on the same report that was given in the 1958 tax study which the legislature used, which was known as the Conlin study.

I just direct your attention to a couple of figures because in this discussion there has been quite a bit of debate relative to the performance of the state of New York. If you look on table 2, column 13, you will notice in the area of general control, state only — this is the operation of the courts, the legislature, the administrative departments and the executive departments — that in Michigan we spent $2.89 per capita. In the great state of New York they spent $5.59 per capita. Then if you will turn to table 4, which is the area of indebtedness, and if this can be blamed on the legislature, you will note that, comparing Michigan with New York, if you look at column 10, you get the net indebtedness after the current liabilities have been taken out. In Michigan we have an indebtedness of $170.18 per capita. In the state of New York they have $530.55. Now, if you multiply that by 3½ you get at about how much it is per family. I would say that the state of New York has done a pretty good job of getting themselves in debt.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I inquire how many speakers seek recognition.

PRESIDENT NISBET: There are 3 more.

MR. VAN DUSEN: I would move to limit debate to 6 minutes, allocating 2 minutes to each of the speakers.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Powell. You have 2 minutes.

MR. POWELL: Mr. President and fellow delegates, I think we are making awfully hard work of this situation. I don't see why the statement made by Delegate Kuhn didn't adequately cover the situation; that is, if we vote this down, then we have no provision in the constitution, which is about what the committee report provided, because they allowed the legislature to establish their own pay, and the legislature has full authority to do anything that we do not prohibit them from doing, so they could go right ahead without this provision in the constitution, just as they could with it. The provision of the last sentence of the committee report about not increasing the pay during the term of office, I believe, is provided in another section, or at least we could take care of it in style and drafting because that should cut across all positions, so I don't think we are in any trouble. I think all we have to do is just vote down the pending substitute.

PRESIDENT NISBET: Dr. DeVries. You have 2 minutes.

MR. DeVRIES: Mr. President and members of the convention, Delegate Martin says that you add in the actual and necessary expenses that are already provided by law. The present provision is for $1250 in expenses, not for actual and necessary expenses. It is just an allowance. It is not covered here. You get nothing but a basic salary, period. And I would urge the convention to adopt this substitute or we have nothing. We have voted twice on both paragraphs. It seems to me it is time for this convention to move and adopt this committee proposal, as substituted.

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, my observation would be that having heard from Mr. Powell and Mr. Stafseth and Mr. Kuhn and several others — even Mr. Austin recently — throwing several dead cats at us that have no particular relation to this issue (laughter) and then finally to Mr. Martin, who is worried about his voters in Kent county, invite me over there. I will convince them, John. (laughter and applause)

PRESIDENT NISBET: The question is on the adoption of the proposal as substituted. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—70

Allen
Follo
McCauley

Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Blandford
Bledsoe
Bradley
Brown, G. E.
Brown, T. S.
Buback
Conklin, Mrs.
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Ford
Garvin
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Madar
Mahinske
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perras
Pollock
Sablich
Seyferth
Sleder
Spitler
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Tubbs
Upton
Walker
White
Wilkowski
Young

Nays—60

Austin
Batchelor
Beaman
Bentley
Boothby
Brake
Butler, Mrs.
Cudlip
Dehnke
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Gadola
Gover
Haskill
Higgs
Howes
Hoxie
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Lesinski
Martin
McAllister
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Stafseth
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the passage of Committee Proposal 28, as substituted, the yeas are 70; the nays are 60.

PRESIDENT NISBET: Committee Proposal 28, as substituted, is not passed.

Following is explanation of vote submitted by Mr. Yeager:

I must vote no on Committee Proposal 28 because of the new provision which ties the salary of legislators to 50 per cent of the yearly salary received by congressmen ($22,500).

There have been many rumors that within the next 5 years, congressional salaries will be raised to $30,000 per year which means that legislative salaries will be automatically raised to $15,000.

The argument has been made that we should have a full time legislature. I don't believe the nature of our state government at this time lends itself to this. Four or 5 months is about the limit of a session.

Salary increases are desirable but in my 12 years' political experience, it in no way whatever, guarantees quality of legislators. It is still political ability to get elected that determines who serves. It is not like hiring for a position in a company.

I have seen many excellently well qualified people defeated either because they did not have political knowhow or support or did not have personalities which could take the stress and pressure of a political campaign. The ability to get out and work is also an important consideration. This salary requirement does not do what it was designed to do.

PRESIDENT NISBET (continuing): The secretary will read the proposal on emerging problems.

MR. DeVRIES: Mr. President.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: I move the vote by which this proposal, Committee Proposal 28, failed to pass, be reconsidered for the purpose of offering another amendment which might take out some of the objection.

PRESIDENT NISBET: The question is on the motion of Mr. DeVries.

MR. HOXIE: Mr. President, I think we have had many hours of debate on Mr. DeVries' substitute proposal. We argued it for several hours last Friday. We have argued it for several hours tonight. It would seem to me that it is now time to proceed with the business of this convention and not be continually reconsidering votes on proposals, unless we reconsider the committee proposal.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I move that consideration of Mr. DeVries' motion be postponed to a time certain at the start of the session tomorrow morning.

PRESIDENT NISBET: The question is on the motion of Mr. Downs that the question of reconsideration —

MR. HOXIE: Mr. President, I would like to amend the motion, that it be reconsidered on Friday of this week. (laughter)

MR. KUHN: Mr. President, parliamentary inquiry. Isn't it true if this motion of Dr. DeVries is voted down, that it can come up automatically tomorrow anyhow?

PRESIDENT NISBET: Not automatically. If you bring it up.

MR. KUHN: I mean if someone was desirous. A motion to reconsider is in order tomorrow?

PRESIDENT NISBET: That is correct. The question is on the motion of Mr. Downs that reconsideration of the action be given first thing tomorrow morning. Those in favor will say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? Not a sufficient number up.

The motion does not prevail. The question now is on the motion of Mr. DeVries to reconsider the vote on the proposal. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to reconsider the vote by which Committee Proposal 28, as substituted, failed to pass, the yeas are 72; the nays, 57.

PRESIDENT NISBET: The motion prevails.

SECRETARY CHASE: Mr. DeVries offers the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the proposal and inserting "The annual salary of the members of the legislature shall be not less than $10,000. Additional actual and necessary expenses may be provided by law. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits.".

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, members of the convention, this amendment removes 2 objections I think some people may have had to the previous substitute. It no longer ties the salary to the congressional salary, and provides for a salary of less than 45 per cent of the congressional salary. I hope you can support this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, a parliamentary inquiry. Is a substitute in order at this time for the pending amendment? Mr. President, if I may speak to what I have in mind, if it would be in order, I would like to move to substitute the original language reported out by the committee on legislative powers, if that would be in order at this time.

PRESIDENT NISBET: You are correct, Mr. Bentley. You can offer that as a substitute for the amendment.

MR. BENTLEY: I ask the secretary to read the original committee language, which we perhaps have forgotten in the interim, Mr. President.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Mr. Bentley offers the following substitute amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and reinserting "The compensation and expenses of the members of the legislature shall be determined by law. No change in compensation or expenses shall be effective during the term of office for which the legislature making the change was elected.".

PRESIDENT NISBET: The question is on the substitute offered by Mr. Bentley. Mr. Bentley.

MR. BENTLEY: Mr. President, unless the gentleman from St. Louis wants to further explain the original committee language, I have nothing to offer, but we have not had a vote on this language and I think it is high time that we went back and gave the convention an opportunity to express itself upon the original language from the committee on legislative powers, as perfected by the committee on style and drafting.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, we have heard considerable discussion about the pay of legislators. I would like to remind the delegates that Michigan is not in bad shape as far as concerns what we pay our legislators. Our Michigan legislators receive presently the sum of $5,000 per year. They receive $1250 expenses. They receive telephone, telegraph and postage. Now, as it has been explained, in the state of California, which is much larger in population, they receive the sum of $6,000 per year, and the only other expense they get is $10 per day while they are in session. They receive one round trip, while our legislators receive 2 round trips per month. Connecticut receives $1,000, which is unusually low. We don't condone such salaries as that. But they do receive an allowance of $500 expenses. In the state of Illinois, one of our larger states, they receive $6,000 a year. They receive no expenses. They receive $50 for postage and stationery and one round trip a year. In the state of Indiana they receive $1800 a year, one round trip, no expenses. In the state of Massachusetts they receive $5,200 in salary per year, $1,000 expenses. The state of Michigan we all know. In the state of Minnesota they receive $2400 a year in salary, and $12 a day while they are in session. In the state of New York they receive $10,000 a year, which is some twice the size of Michigan, and they receive the sum of $1,000 per year. In the state of Pennsylvania they receive $6,000 per year, no expenses, and one trip per week. And so I say to this convention that our Michigan legislators are not out of line particularly with the salaries received in states much larger than Michigan.

It is the concept of the committee on legislative powers that we should retain the present language of our constitution. Since I was in the legislature, the legislature has raised their pay some 4 times. This theory that they haven't got the nerve to raise their pay is not correct. It is an accepted fact that had the state not been in its present financial condition at the present moment, there would have been some increase during this present term.

We do have a legislative retirement which legislators contribute to at a higher percentage than any other retirement system. Whether you like retirement systems or not, we have retirement systems for nearly all public employees in addition to private employment.

Legislators are satisfied. Every legislator that I have talked to would like to be left alone. They feel that they would raise their pay when they feel that they can justify to the public the amount that they are to receive.

And I have heard considerable flak by some of our doctors here in this convention that you are going to make a full time legislature. That is not true. Furthermore, I don't think the people of Michigan want a full time legislature, and the fact that you have a high salary is not going to necessarily induce people of higher caliber, as you call it, to the legislature than we presently have. And, ladies and gentlemen of the convention, you must remember that those people are elected back home because those people back home believe they are best able to serve them in the legislature, and who are we to judge whether those people that are elected to the legislature from the various districts aren't just as capable to serve their people as we are here in this convention?

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this matter to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Dr. Pollock.

MR. POLLOCK: Mr. President and members of the convention, I would merely like to point out to the delegates now who is filibustering and who is delaying decisions on this matter. Three times Mr. Hoxie has been defeated. I guess maybe 5 times, I should say. I wish he would bow to the inevitable and gracefully retire. (laughter)

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: As long as we are operating under a gag rule, I pass.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President and fellow delegates, I urge you to vote against the substitute as put in by Mr. Bentley, which is the original committee proposal. This convention has already taken action on several significant parts of the proposal dealing with legislative retirement and dealing with general reduction of salaries. I urge you to vote no on this and then consider the amendment that we will offer to the committee proposal after this is defeated.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, this is the first opportunity we are going to have to vote on the committee proposal and recommendation. I would like you to know that it passed the first reading unanimously. This is the same as the model constitution, exactly what the model constitution recommends. This is the same as what is in our federal constitution. This is good constitutional language. I urge its adoption.

PRESIDENT NISBET: Mr. McLogan.

MR. McLOGAN: Mr. President, those of us who favor the original DeVries substitute grant that our wages in Michigan are not out of line with other states, but they are out of line with industry. I also offer the fact that Michigan is writing a new constitution, an opportunity which has not been granted to the other states that Mr. Hoxie just pointed out. And further, with regard to public acceptance, we are the public here. We are not representatives; we are not the legislators; we are the public.

PRESIDENT NISBET: The question is on the substitute offered by Mr. Bentley for the DeVries amendment. Those in favor —

MR. KUHN: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? A sufficient number up. Those in favor of the substitute offered by Mr. Bentley will vote aye. Those opposed will vote nay. The convention will be in order. Mr. Chase will read the substitute.

SECRETARY CHASE: The vote is upon the Bentley substitute for the DeVries amendment, and the Bentley substitute is as follows:

[The substitute amendment was read by the secretary. For text, see above.]

PRESIDENT NISBET: Those in favor will vote aye. Those

opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—64

Austin
Batchelor
Beaman
Bentley
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dehnke
Doty, Dean
Erickson
Farnsworth
Faxon
Figy
Finch
Gadola
Gover
Haskill
Hatch
Howes
Hoxie
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Lesinski
Martin
McAllister
McCauley
Millard
Mosier
Nisbet
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
Wilkowski
Wood
Woolfenden
Yeager

Nays—64

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Blandford
Bledsoe
Bradley
Brown, G. E.
Brown, T. S.
Buback
Cushman, Mrs.
Danhof
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Follo
Ford
Garvin
Goebel
Habermehl
Hart, Miss
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Madar
Mahinske
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Pollock
Rajkovich
Romney
Sablich
Seyferth
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Tubbs
Upton
Walker
White
Young
Youngblood

SECRETARY CHASE: On the adoption of the substitute offered by Mr. Bentley, the yeas are 64; the nays are 64. (laughter)

PRESIDENT NISBET: The substitute amendment is not adopted. The question now is on the DeVries amendment, which the secretary will read again.

SECRETARY CHASE: Mr. DeVries has offered the following amendment to Committee Proposal 28:

[The amendment was again read by the secretary. For text, see above, page 2988.]

PRESIDENT NISBET: The convention will be in order. Let's see if we can't get this finally settled. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I believe we have heard all the argument. I move the previous question.

PRESIDENT NISBET: Is the demand supported? It is supported. The question now is: shall the previous question be put? Those in favor say aye. Opposed, no.

The previous question is ordered.

MR. HODGES: Mr. President, is it in order to divide the 2 questions?

PRESIDENT NISBET: This question cannot be divided.

MR. DEHNKE: Mr. President, I have an amendment to present. I move that the figure 10,000 be stricken out and 8,000 substituted for it. It is a golden halfway point.

PRESIDENT NISBET: The question is on the amendment.

SECRETARY CHASE: Mr. Dehnke offers the following amendment:

1. Amend the amendment, first sentence, after "than" by striking out "$10,000" and inserting "$8,000".

PRESIDENT NISBET: The question is on the amendment offered by Judge Dehnke.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? The yeas and nays have been requested. Is that demand seconded? A sufficient number up.

MR. DeVRIES: Mr. President.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Is debate in order on the amendment to the amendment?

PRESIDENT NISBET: The previous question has been ordered, Mr. DeVries. The question is on the amendment. Those in favor will vote aye. Those opposed will vote nay.

MR. DOWNS: A parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: If we should vote for the $8,000 figure and that carries, then could we vote for the $10,000, or would the 10,000 be out and the 8,000 in?

PRESIDENT NISBET: The $10,000 would be out and the $8,000 would be in.

MR. DOWNS: Thank you.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—46

Balcer
Bentley
Boothby
Brake
Butler, Mrs.
Dehnke
Donnelly, Miss
Durst
Elliott, A. G.
Everett
Farnsworth
Finch
Gadola
Gover
Habermehl
Hanna, W. F.
Hatch
Hutchinson
Kirk, S.
Knirk, B.
Martin
McAllister
Millard
Nisbet
Ostrow
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Shackleton
Shanahan
Stafseth
Stevens
Thomson
Tweedie
Van Dusen
Walker
Wilkowski
Wood
Woolfenden
Yeager

Nays—82

Allen
Andrus, Miss
Anspach
Austin
Baginski
Barthwell
Batchelor
Beaman
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Figy
Follo
Ford
Garvin
Goebel
Gust
Hart, Miss
Haskill
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Mosier
Murphy
Norris
Page
Perras
Pollock
Rajkovich
Sablich
Seyferth
Shaffer
Sharpe
Sleder
Spitler
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Tubbs
Turner
Upton
Wanger
White
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Dehnke, the yeas are 46; the nays are 82.

PRESIDENT NISBET: The amendment is not adopted.

Will you please clear the board? The vote now is on the amendment offered by Mr. DeVries. The previous question has been ordered.

MR. HOXIE: Mr. President, parliamentary inquiry.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: I believe before when we voted on a similar amendment, the Chair made a rule that the question could be divided.

PRESIDENT NISBET: This is a different motion, Mr. Hoxie. This is to strike out and insert, and is not divisible. The question is on the amendment offered by Mr. DeVries. The secretary will read the amendment.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: I would like to amend the amendment by striking the last paragraph, the second paragraph.

PRESIDENT NISBET: The previous question, Mr. Hoxie, has already been ordered.

MR. HOXIE: Isn't an amendment in order?

PRESIDENT NISBET: Amendments are not in order. The question is on the DeVries amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—72

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Follo
Ford
Garvin
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Lawrence
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Pollock
Romney
Sablich
Seyferth
Shackleton
Sleder
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Tubbs
Upton
Van Dusen
Walker
White
Young
Youngblood

Nays—55

Batchelor
Beaman
Bentley
Boothby
Brake
Conklin, Mrs.
Cudlip
Dehnke
Doty, Dean
Erickson
Farnsworth
Faxon
Figy
Finch
Gadola
Gover
Haskill
Howes
Hoxie
Hutchinson
Karn
Kirk, S.
Kuhn
Leibrand
Leppien
Lesinski
Martin
McAllister
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Thomson
Turner
Tweedie
Wanger
Wilkowski
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. DeVries, the yeas are 72; the nays are 55.

PRESIDENT NISBET: The amendment is adopted. The DeVries amendment now becomes the committee proposal. Will you please clear the board?

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: I would like to offer an amendment at this time to strike the last paragraph of the proposal.

PRESIDENT NISBET: The question is on the amendment of Mr. Hoxie.

SECRETARY CHASE: Mr. Hoxie offers the following amendment to the proposal:

1. Amend page 1, by striking out all of the second paragraph of section a.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hoxie.

MR. HOXIE: The yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? A sufficient number up. Mr. Brown.

MR. G. E. BROWN: Mr. President, parliamentary inquiry.

PRESIDENT NISBET: The convention will be in order, please.

MR. G. E. BROWN: This paragraph has been voted on at least twice and it still is subject to a motion to strike?

PRESIDENT NISBET: This is now part of a different proposal, Mr. Brown. The yeas and nays have been demanded. The question is on the amendment of Mr. Hoxie to strike the last paragraph. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—27

Batchelor
Beaman
Bentley
Cudlip
Erickson
Farnsworth
Faxon
Haskill
Howes
Hoxie
Hutchinson
Kirk, S.
Leibrand
Leppien
Nisbet
Plank
Powell
Prettie
Pugsley
Radka
Rush
Shaffer
Shanahan
Spitler
Stafseth
Wood
Woolfenden

Nays—101

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Blandford
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Lesinski
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Norris
Ostrow
Page
Perras
Pollock
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Seyferth
Shackleton
Sharpe
Sleder
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Yeager
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Hoxie to strike out the last paragraph, the yeas are 27; the nays are 101.

PRESIDENT NISBET: The amendment is not adopted.

MR. FARNSWORTH: Mr. President.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I am somewhat confused at this point. I would like an explanation. Line 2 says:

> Additional actual and necessary expenses may be provided by law.

Then we go down to line 7 and it says:

> No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions.

Now, what does that mean?

PRESIDENT NISBET: The Chair doesn't know, Mr. Farnsworth. (laughter) Dr. DeVries.

MR. DeVRIES: Mr. President, Mr. Farnsworth, that means exactly what it has meant since last Friday. That means in addition to his salary, in the first paragraph.

MR. FARNSWORTH: Then I say, Dr. DeVries, that it is ambiguous. I can't understand it. I doubt if the supreme court can interpret it. I think that it needs a lot of perfection before we vote on it.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I just wanted to warn Mr. Hoxie that delaying us here this evening so that we will be here for law day tomorrow won't do him much good, because the way he is going now, we will be here long after law day.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, I move the previous question on the proposal.

PRESIDENT NISBET: The previous question has been requested. Is the demand seconded? A sufficient number up. The question now is: shall the previous question be put? Those in favor will vote aye. Opposed, no.

The previous question is ordered. The question now is on the committee proposal, as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—70

Allen
Andrus, Miss
Anspach
Baginski
Balcer
Barthwell
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Follo
Ford
Garvin
Goebel
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perras
Pollock
Rajkovich
Romney
Sablich
Seyferth
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Tubbs
Upton
Van Dusen
Walker
White
Wilkowski
Young
Youngblood

Nays—58

Batchelor
Beaman
Bentley
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dehnke
Doty, Dean
Erickson
Farnsworth
Faxon
Figy
Finch
Gadola
Gover
Haskill
Howes
Hoxie
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Lesinski
Martin
McAllister
Millard
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Thomson
Turner
Tweedie
Wanger
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the passage of Committee Proposal 28, as amended, the yeas are 70; the nays are 58.

PRESIDENT NISBET: **Committee Proposal 28,** as amended, is not passed. The secretary will read the next proposal.

SECRETARY CHASE: Committee Proposal 128.

PRESIDENT NISBET: The convention will be in order. We are now on Committee Proposal 128, from emerging problems. Will you please clear the board?

SECRETARY CHASE: **Committee Proposal 128,** A proposed section on intergovernmental agreements. This committee proposal was read on April 27.

For last previous action on Committee Proposal 128, see above, page 2906.

PRESIDENT NISBET: Will the convention please be in order?

SECRETARY CHASE: This proposal was read on April 27. An amendment was offered. After debate, the proposal was put at the foot of the calendar to follow consideration of the proposals on legislative powers.

Mr. Pollock and Mrs. Judd have offered the following amendment:

[The amendment was read by the secretary. For text, see above.]

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: I yield to Mr. King.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, fellow delegates, the committee on emerging problems has no objection to this amendment.

PRESIDENT NISBET: The question is on the amendment offered by Dr. Pollock and Mrs. Judd.

SECRETARY CHASE: Mr. King had filed an amendment:

1. Amend the amendment, at the end thereof, after "appropriate.", by inserting "Remuneration for such services shall not exceed necessary expenses.".

Do you still wish to offer this, Mr. King?

MR. KING: Well, Mr. President, the last sentence of the Judd amendment is, "The legislature by statute may impose such restrictions, limitations or conditions on such service as it may deem appropriate." It was felt by the committee that that would cover any such contingency if the legislature should care to impose it.

SECRETARY CHASE: Do you withdraw the amendment?

MR. KING: I withdraw it.

SECRETARY CHASE: Mr. King withdraws his amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Pollock and Mrs. Judd. Those in favor will say aye. Opposed, no. The Chair is in doubt.

MR. WALKER: Mr. President, may we have the thing read one more time? I can't read it up here.

PRESIDENT NISBET: Yes. Mr. Chase will read.

SECRETARY CHASE: The amendment offered by Mr. Pollock and Mrs. Judd:

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, if I may be permitted just a moment's explanation, this is precisely the same amendment which was offered in our discussion on Friday, and the explanation was that we wanted to be sure that no bona fide official of the state or local government should be denied the privilege and the duty and opportunity of serving on some intergovernmental body, obviously for very short periods and never for anything more than expenses or per diem, in order to represent this state as requested to do so. There are provisions which are a little bit dubious in a good many state constitutions. It is not altogether clear in our own, and this simply makes it clear that officials of the state or of localities may serve, representing the state or their localities on intergovernmental committees.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, could I ask Dr. Pollock a question?

PRESIDENT NISBET: If he cares to answer.

MR. FARNSWORTH: Dr. Pollock, would this allow a member of the legislature to serve on that kind of a board then?

MR. POLLOCK: For instance, there is a commission now on intergovernmental relations. Three of the members of that commission are members of state legislatures. They are appointed by the president from a panel supplied by the American legislators association, and it requires a few days' service a year. There is no pay for it. It is a per diem job — expenses, I mean. And the answer is yes; members of the legislature, if they were so honored. Under this amendment there would be no question but what they could serve; and I think we would want them to.

MR. FARNSWORTH: Mr. President, I would be opposed to the amendment, then, on that ground, unless it can be perfected to keep the legislators off of that.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Mr. President, a question of Dr. Pollock, if I may.

PRESIDENT NISBET: Dr. Pollock.

MR. WALKER: Dr. Pollock, I believe that we have just recently passed something here that says a legislator shall not work for pay for another governmental agency. Would it be acceptable to you and the other sponsors to add an amendment or to perfect this so that a legislator cannot draw additional remuneration for serving on this type of a body?

MR. POLLOCK: I would reply in 2 ways: first, that is not additional remuneration; it is expenses; and second, I believe that didn't pass.

MR. WALKER: Thank you.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, Mr. Farnsworth asked a question, and I think I know what bothers him on it. Could I point out to Delegate Farnsworth that what is probably worrying you, Jim, is a legislator serving on an intergovernmental body where it is within the state so that a legislator would be in a position where he might be unintentionally favoring or be led to favor some sort of an arrangement where it is an intergovernmental relationship with a city or a county. We prohibited that, as you will recall, in Committee Proposal 88. Now, this proposal as I understand it — and I talked with Mr. King on this very point before dinner — is only where the legislator would be serving on a body that crosses a state line, where you would have a relationship between Ohio and Michigan — this would be the most likely — or possibly Wisconsin and Michigan, or possibly Canada and Michigan. I don't know whether that will answer your objections, but it might.

PRESIDENT NISBET: A division has been ordered. The question is on the amendment offered by Mrs. Judd and Dr. Pollock. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Pollock and Mrs. Judd, the yeas are 78; the nays are 30.

PRESIDENT NISBET: The amendment is adopted. Are there further amendments?

SECRETARY CHASE: Mr. Bonisteel offers the following amendment:

1. Amend page 1, line 6, after "thereof" by inserting "unless otherwise provided in this constitution"; so the language will then read:

> Subject to provisions of general law, this state or any political subdivision or any combination thereof may enter into agreements, for the performance, financing or execution of their respective governmental functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Bonisteel. Mr. Millard.

MR. MILLARD: The committee on emerging problems does not see any objection to this particular amendment.

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Opposed, no.

The amendment is adopted. Are there any further amendments?

SECRETARY CHASE: Mr. Hubbs offers the following amendment:

1. Amend page 1, line 5, after "Canada,", by inserting "for the general welfare of the governments of celestial bodies,"; (laughter) so the language will then read:

> . . . may enter into agreements, for the performance, financing or execution of their respective governmental functions, with any one or more of the other states, the United States, the Dominion of Canada, for the general welfare of the governments of celestial bodies, or any political subdivision thereof . . .

(laughter)

PRESIDENT NISBET: Mr. Hubbs.

MR. HUBBS: Mr. President, members of the convention, I would like to have you refer briefly to Committee Proposal 125, line 8. After the word "safety" it says "and general welfare of." In Committee Proposal 126, line 1, after "and," it says "general welfare." And, in Committee Proposal 127, line 3, "having in view the general welfare." So I would like to point out that while we are in this area of the general welfare, we should be consistent and in Committee Proposal 128 put in the general welfare of governments of celestial bodies. I don't think in considering emerging problems the committee really got very far out, not as far as they should have. (laughter) After all, in 50 years — we landed a rocket on the moon the other day — we are going to be involved in lend lease to some of these other planets, and foreign aid, point 4 and Marshall plan. So I think we should be prepared for it.

Actually, I submitted this amendment to illustrate a point and to quietly protest the amount of concern for the general welfare. It would please me heartily if every one of these phrases were removed and this phrase was used instead: the promotion of individual initiative. (applause) At this time I am going to withdraw my amendment. I am quite certain that you wouldn't vote for it, but I desire to be on record as vigorously opposed to the socialistic philosophy as expressed in these proposals embodied in the phrase, "general welfare."

PRESIDENT NISBET: Mr. Hubbs withdraws the amendment. The question is on Committee Proposal 128, as amended. Would you please clear the board? Those in favor of Committee Proposal 128, as amended, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—93

Allen
Andrus, Miss
Anspach
Austin
Balcer
Batchelor
Beaman
Bentley
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.

Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hoxie
Jones
Judd, Mrs.
Karn

Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, L. W.
Romney
Sablich
Seyferth
Shackleton
Spitler
Stafseth

Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Figy
Follo
Goebel
Gust
Kelsey
King
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Madar
Martin
McCauley
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Page
Perras
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Van Dusen
Walker
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—17

Boothby
Doty, Dean
Farnsworth
Finch
Gover
Haskill
Hutchinson
Kirk, S.
Knirk, B.
McAllister
Richards, J. B.
Rood
Rush
Shanahan
Sharpe
Sleder
Wanger

SECRETARY CHASE: On the passage of Committee Proposal 128, as amended, the yeas are 93; the nays, 17.

PRESIDENT NISBET: Committee Proposal 128, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 128 as amended and re-referred to the committee on style and drafting:

Sec. a. Subject to provisions of general law, this state or any political subdivision or any combination thereof may enter into agreements, for the performance, financing or execution of their respective governmental functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution.

Any other provision of this constitution to the contrary notwithstanding, an officer or employee of the state or any municipal corporation or other subdivision or agency thereof may serve on or with any governmental body as a representative of the state or any municipal corporation or other subdivision or agency thereof, or for the purpose of participating or assisting in the consideration or performance of joint or cooperative undertakings or for the study of governmental problems, and shall not be required to relinquish his office or employment by reason of such service. The legislature by statute may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

The secretary will read the first proposal under miscellaneous provisions.

SECRETARY CHASE: Item 1 on the second reading calendar for the committee on miscellaneous provisions, **Committee Proposal 14,** A proposal pertaining to the preamble to the constitution.

Following is Committee Proposal 14 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 464.):

Sec. a. We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President and fellow delegates, there are 16 committee proposals under this heading. I propose to just start presenting the ones that are simple, and occasionally I might ask to have some of these deferred to the end of the calendar. And I will say this, and I won't have to repeat it for any of the other ones: style and drafting are complimented on the work they did. We find no apparent substantive change. I might mention the ones that we may ask to have deferred. They are: real and personal estates of every woman; schedule; amendment and revision; and eminent domain.

This first one is the preamble. It has the same wording as in our present constitution. The committee looked over all the other state constitutions and we couldn't find any way to improve it, so we recommend the adoption.

PRESIDENT NISBET: Please clear the board, delegates. The question is on the adoption of Committee Proposal 14. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—108

Allen
Anspach
Austin
Balcer
Batchelor
Beaman
Bentley
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—1

Norris

SECRETARY CHASE: On the passage of Committee Proposal 14, the yeas are 108; the nays, 1.

PRESIDENT NISBET: Committee Proposal 14 is passed.

Following is explanation of vote submitted by Mr. Norris:

Explanation of vote against Committee Proposal 14.

I believe that human freedom has its source in human experience — in the interaction of human nature, history, values, contention, and creativeness. Those who have established various forms of absolute power over other men in history have invoked the Divinity as the source and justification of their power. Indeed, the despotism of the divine right of kings conditioned the birth of the United States as a free and independent nation. Human experience had revealed then as now that a democratization of power was prerequisite to the democratization of right and freedom. Human experience had resulted in the human consciousness of what rights were constitutionally necessary for human dignity. Freedom will be defined by human beings in terms of human relationships and the tech-

nology of any period of human history. Freedom — the liberation of the human spirit and the emancipation of human mind — will be brought about by human beings who have faith in people, faith in mankind. Faith in mankind does not mean the absence of faith in God. Rather, faith in man is an affirmation of human life. And human life — human experience — determines the source and shape of freedom.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 14 as rereferred to the committee on style and drafting, see above, page 2994.

The secretary will read the next proposal.

SECRETARY CHASE: Item 2 on the calendar, Committee Proposal 10, A proposal to amend article I, section 2 of the present constitution pertaining to the seat of government at Lansing.

Following is Committee Proposal 10 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 416.):

Sec. a. The seat of government shall be at Lansing.

PRESIDENT NISBET: Will the delegates please clear the board? Mr. Erickson.

MR. ERICKSON: At the last convention they debated this subject for about ½ hour and there was quite a bit of joking about it because several of the delegates moved to have it go to their own community. And before anybody makes a motion of that kind, I just want to recall the difficulty we had when on parimutuel. The committee recommends the adoption of the proposal.

PRESIDENT NISBET: Will the delegates please clear the board? Those in favor of the proposal will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—110

Allen
Anspach
Austin
Balcer
Batchelor
Beaman
Bentley
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Follo
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—2

Faxon
Walker

SECRETARY CHASE: On the passage of Committee Proposal 10, the yeas are 110; the nays, 2.

PRESIDENT NISBET: Committee Proposal 10 is passed.

Following is explanation of vote submitted by Mr. Faxon:

I voted no on Committee Proposal 10, locating the seat of government at Lansing, because the historic reasons for that location are no longer true today.

The constitution of 1835 provided for the capitol at Detroit and it was only because of the lack of accessibility to means of transportation that made it necessary to move the capitol to Lansing.

Today, with our fine highways and transportation systems, all parts of the state are accessible. Therefore, the reasons behind the original change from Detroit, the historic capitol of the Michigan territory, to that of Lansing, no longer exist.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 10 as rereferred to the committee on style and drafting, see above.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 3 on the calendar, Committee Proposal 21, A proposal pertaining to the division of the powers of government. Amends article IV.

Following is Committee Proposal 21 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 600.):

Sec. a. The powers of government are divided into 3 branches: [The] legislative, executive, and judicial. No person belonging to [1] ONE branch shall exercise [the] powers properly belonging to another BRANCH, except in [the] cases expressly provided in this constitution.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: This is essentially the same as in our present constitution, with the exception that the word "departments" has been changed to "branches." The committee recommends the adoption of this proposal.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, a question to Mr. Erickson, through the Chair. Do you think, Mr. Erickson, that this provision is violated by the highway commissioner appointing one of his deputies to conduct a judicial or quasi judicial hearing, as the same has been interpreted by the courts?

MR. ERICKSON: I prefer to refer that question to Mr. Hutchinson, who is an authority on this particular thing. He spent many hours and wrote a very learned discussion on it that we had as a committee report when we discussed it in committee of the whole.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, Mr. Brown, the answer to your question is a judicial one. If, as a judicial determination, the highway commissioner or one of his deputies is exercising a judicial function, of course they cannot do it.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, Mr. Hutchinson, it was the court itself that said that the conduct of a hearing on determination of necessity is a judicial or quasi judicial function.

MR. HUTCHINSON: Mr. President, Mr. Brown, as I understand it, there is a difference between judicial and quasi

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

judicial. I understand that there are quasi judicial functions that may be performed by the executive branch and administrative agencies. They are not permitted to perform judicial functions, because a true judicial function belongs only in the courts. I am not familiar with the case, but if the courts said that what the highway commissioner was doing was truly a judicial function, and if they didn't say that that was an unconstitutional practice, then I don't know what we are coming to.

PRESIDENT NISBET: The question is on the approval of Committee Proposal 21. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Andrus, Miss
Balcer
Batchelor
Beaman
Bentley
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Figy
Finch
Follo
Ford
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss

Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perras
Pollock
Powell

Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 21, the yeas are 112; the nays, none.

PRESIDENT NISBET: **Committee Proposal 21** is passed and referred to the committee on style and drafting.

For Committee Proposal 21 as rereferred to the committee on style and drafting, see above, page 2995.

Delegates, please clear the board. The secretary will read the next proposal.

SECRETARY CHASE: Item 4 on the calendar, **Committee Proposal 5,** A proposal pertaining to the inclusion in the constitution of all of section 9 of article XII except the portion relating to bank notes or paper credit.

Following is Committee Proposal 5 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 378.):

Sec. a. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be [adopted] ENACTED, amended or repealed except by a vote of 2/3 of the members elected to AND SERVING IN each house of the legislature.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, the committee recommends the adoption of this committee proposal. If there are any questions, Delegate Woolfenden will handle this for the committee.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 5. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—108

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Garvin
Goebel
Gover
Gust

Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page

Perras
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—2

Jones
Walker

SECRETARY CHASE: On the passage of Committee Proposal 5, the yeas are 108; the nays, 2.

PRESIDENT NISBET: **Committee Proposal 5** is passed and referred to the committee on style and drafting.

For Committee Proposal 5 as rereferred to the committee on style and drafting, see above.

Delegates, please clear the board. The secretary will read the next proposal.

SECRETARY CHASE: Item 5 on the calendar, **Committee Proposal 19,** A proposal to provide for a state militia. A substitute for all of article XV.

Following is Committee Proposal 19 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 593.):

Sec. a. The militia shall be organized, equipped and disciplined as provided by law.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President and fellow delegates, this

Explanation—Matter within [ ] is stricken, matter in capitals is new.

committee proposal that was just read has 12 words as against a few hundred in the present constitution. The committee feels that this is all that is necessary because there is a big mass of statute law governing our militia presently, so the committee recommends the adoption.

PRESIDENT NISBET: The question is on approval of Committee Proposal 19. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—107

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Garvin
Goebel

Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Kelsey
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Page

Perras
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—2

Sablich
Van Dusen

SECRETARY CHASE: On the passage of **Committee Proposal 19**, the yeas are 107; the nays, 2.

PRESIDENT NISBET: **Committee Proposal 19** is passed and referred to the committee on style and drafting.

For Committee Proposal 19 as rereferred to the committee on style and drafting, see above, page 2996.

MR. ERICKSON: Mr. President.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: The next committee proposal, 67, has to do with eminent domain. I move that that be put at the foot of the calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Erickson. Mr. Downs.

MR. DOWNS: I just have a parliamentary inquiry. Could I ask Mr. Erickson how much longer he is planning to run? In other words, if the plan is to take eminent domain over until tomorrow morning, I wondered if he was thinking of making a motion to adjourn. I wouldn't presume to take over his function.

MR. ERICKSON: We have done pretty well in the last 10 minutes and we can get half way through these. Give me another 10 minutes and we can be half done.

PRESIDENT NISBET: The question is on the motion by Mr. Erickson. Those in favor say aye. Opposed, no.

The motion prevails. Committee Proposal 67 is placed at the foot of the calendar. The secretary will read the next proposal.

SECRETARY CHASE: Item 7, **Committee Proposal 25, A** proposal to amend article XVI, section 2 of the present constitution pertaining to oath of office.

Following is Committee Proposal 25 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 708.):

> Sec. a. Members of the legislature and all officers, executive and judicial, shall, before they enter [on] UPON the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of .... according to the best of my ability." No other oath, [declaration] AFFIRMATION, or ANY RELIGIOUS test shall be required as a qualification for any office or public trust.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: The committee recommends the adoption of Committee Proposal 25.

PRESIDENT NISBET: The question is on adoption of Committee Proposal 25. Will the delegates please clear the board? Those in favor of Committee Proposal 25 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—113

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Garvin
Goebel
Gover
Gust
Habermehl

Hanna, W. F.
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perras
Pollock

Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 25, the yeas are 113; the nays, none.

PRESIDENT NISBET: **Committee Proposal 25** is passed and referred to the committee on style and drafting.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

For Committee Proposal 25 as rereferred to the committee on style and drafting, see above, page 2997.

Will the delegates please clear the board? The secretary will read.

SECRETARY CHASE: Number 8 on the calendar, **Committee Proposal 43,** A proposal pertaining to aliens and property rights. Retains article XVI, section 9.

Following is Committee Proposal 43 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 845.):

Sec. a. Aliens[,] who are [or who may hereafter become bona fide] residents of this state[,] shall enjoy the same rights [in respect to the possession, enjoyment and inheritance of] AND PRIVILEGES IN property as [native born] citizens OF THIS STATE.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, I might say that under the English common law, aliens were not permitted to inherit property, so it is necessary to put this in the constitution to abrogate the common law. The committee recommends the adoption of Committee Proposal 43.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 43. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—116

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Finch
Follo
Ford
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perras
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 43, the yeas are 116; the nays, none.

PRESIDENT NISBET: Committee Proposal 43 is passed and referred to the committee on style and drafting.

For Committee Proposal 43 as rereferred to the committee on style and drafting, see above.

Will the delegates please clear the board? The secretary will read.

SECRETARY CHASE: Item 9 on the calendar, **Committee Proposal 61,** A proposal pertaining to terms of public officers. Retains section 1, article XVI.

Following is Committee Proposal 61 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2504.):

Sec. a. The terms of office of [all] elective state officers, members of the legislature, and [of all] judges of courts of record shall begin AT 12:00 O'CLOCK NOON on the first day of January next succeeding their election, except as otherwise [prescribed] PROVIDED in this constitution. The terms of office of [all] county officers shall begin on the first day of January next succeeding their election, except as otherwise [prescribed] PROVIDED by law.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, this is a simple statement of facts, and the committee recommends the adoption of Committee Proposal 61.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: Mr. President, I would like to direct a question to Mr. Erickson or any member of the committee that may have handled this particular proposal.

PRESIDENT NISBET: Mr. Erickson.

MR. HIGGS: I would like to ask whether we couldn't make this consistent. Is there any reason why the elective state officers and judges of courts of record begin their term at 12:00 o'clock noon and that all county officers begin on the first day of January, I assume at 12:00 midnight?

MR. ERICKSON: Well, to start with, I think this is something that style and drafting could take care of too. I would like to call on Mr. Hutchinson.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the style and drafting committee added this "at 12:00 o'clock noon" with regard to the state officers in order to make this provision conform with another provision which has already passed second reading. Now then, there didn't seem to be any inconsistency between this provision and any other in the constitution so far as the commencement of terms of office of county officers. I don't know why anybody would object if Mr. Higgs wanted to offer an amendment to provide that the terms of office of county officers shall begin at 12:00 o'clock noon on the first day of January next, but the reason style and drafting didn't, as I would understand it, is because style and drafting's attempt on line 2 there was simply to make this provision conform with something that the convention had already adopted.

MR. HIGGS: Well, Mr. President, Mr. Hutchinson and fellow delegates, I will not offer any amendment at this time. I think this is something that I would like to consider between now and third reading. Some high school student may ask us, when we are speaking, why we did this, and I would like to have an answer.

PRESIDENT NISBET: Mr. Leppien.

MR. LEPPIEN: Mr. President, fellow delegates, may I respectfully point out when it comes to county officers, your prosecuting attorney, your coroners and your county sheriff all begin at 12:00 o'clock midnight and take over and become officials at that time. If there is a change, the new man takes over. And in the case of the prosecutor—and you as an attorney would realize this—then he is on call to the police, sheriff or whoever is necessary to investigate any crime of major size where they call the prosecutor out at night. Does that answer your question, sir?

MR. HIGGS: No, it does not, because there isn't any reason still in my mind why they couldn't be made consistent.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Certainly the prosecutor last in office continues in office until his successor takes over, so there wouldn't be any necessity for a lapse in the duties of the office.

It is kind of late probably tonight. I don't want to offer an amendment off the cuff. I would like to give thought to it, and I think maybe between now and tomorrow or third reading, we could do something with this.

MR. LEPPIEN: Mr. President, Delegate Higgs, may I respectfully point out the county works on a calendar year. The budget begins on that first day beginning at midnight, and you certainly wouldn't want some other official carrying over even for a matter of 12 hours. I think the committee proposal as it stands is in good order.

PRESIDENT NISBET: Mr. Shanahan.

MR. SHANAHAN: Mr. President, I have a question for Mr. Erickson.

PRESIDENT NISBET: Mr. Erickson.

MR. SHANAHAN: In the fourth and fifth line, it says, "The term of office of county officers shall begin on the first day of January next" and so forth. Now, does that, by extension, include township officers, or are township officials otherwise taken care of? Is this a possible omission? Could it be corrected?

MR. ERICKSON: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the beginning of terms of township officers is one that is completely governed by statute, except for the justice of the peace, whose term of office now constitutionally begins on the fourth day of July next succeeding his election. The rest of them take office as soon as their vote is canvassed and they are declared the winner and they file their constitutional oath. As a matter of fact, the law requires them to file a constitutional oath within 10 days, I believe, after they are certified, and that is the way that is handled. It is purely statutory.

MR. SHANAHAN: Then that would not be an omission in this case?

MR. HUTCHINSON: It is not an omission, no.

MR. SHANAHAN: Thank you.

PRESIDENT NISBET: Mr. Radka.

MR. RADKA: I would like to support Mr. Leppien's statements. There is a real practical reason why the prosecutor and sheriff should begin their tour of duty at the stroke of midnight, because new year's eve is a night of activity, and I know that 8 years ago on the stroke of midnight, 3 fatalities broke me into my work very quickly, and it is the responsibility of the new prosecutor to prosecute the individual who is charged with an offense during his term of office, and the same holds true for the sheriff. It just so happens that on new year's eve, or from midnight on, a lot of things happen, and I think that it is a real sensible reason to have county officers' terms begin at midnight of this day.

PRESIDENT NISBET: The question is on adoption of Committee Proposal 61. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Bledsoe
Boothby
Bradley
Brake
Brown, G. E.
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke

Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.

Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler

Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Garvin
Goebel
Gust
Habermehl
Hanna, W. F.

Koeze, Mrs.
Kuhn
Lawrence
Leppien
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Perras
Pollock
Powell

Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—1

Higgs

SECRETARY CHASE: On the passage of Committee Proposal 61, the yeas are 112; the nays, 1.

PRESIDENT NISBET: **Committee Proposal 61** is passed and referred to the committee on style and drafting.

For Committee Proposal 61 as rereferred to the committee on style and drafting, see above, page 2998.

SECRETARY CHASE: Item 10 on the calendar, **Committee Proposal 62,** A proposal pertaining to grants of extra compensation. Amends the first sentence of section 3, article XVI.

Following is Committee Proposal 62 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 2493.):

> Sec. a. Neither the legislature nor any [municipal authority] POLITICAL SUBDIVISION OF THIS STATE shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, this is the last committee proposal that I estimate there won't be any difficulty on. The committee recommends the adoption of this proposal.

PRESIDENT NISBET: The question is on adoption of Committee Proposal 62. Delegates, please clear the board. Mr. Stafseth.

MR. STAFSETH: Mr. President, I have one question. This involves a practice, I think, that happens in quite a few municipalities and maybe the state highway department, and that is relative to extras to a contract. You say: after a contract has been entered into. Sometimes you get involved in extra work. I know it is brought up to the administrative board and these are approved. Would this prevent this sort of a practice?

MR. ERICKSON: Mr. President.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: This matter of extra compensation doesn't go to extra work that is authorized under the contract. It goes to the same contract being increased by perhaps a contractor saying, "I forgot this and I should have more money for it." It doesn't go to extra work that is authorized, because that is another contract in itself.

PRESIDENT NISBET: The question is on Committee Proposal 62. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—105

Allen

Hanna, W. F.

Pugsley

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Bledsoe
Boothby
Bradley
Brake
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Garvin
Goebel
Gover
Gust
Habermehl

Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Madar
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Ostrow
Page
Perras
Powell
Prettie

Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—1

Brown, G. E.

SECRETARY CHASE: On the passage of Committee Proposal 62, the yeas are 105; the nays, 1.

PRESIDENT NISBET: Committee Proposal 62 is passed and referred to the committee on style and drafting.

For Committee Proposal 62 as rereferred to the committee on style and drafting, see above, page 2999.

Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I believe, as the delegates all know the schedule under which we are operating called nominally for a recess tomorrow, and therefore it is necessary to fix the time to which to adjourn. Therefore, I move that when the convention adjourns today, it stand adjourned until 9:00 a.m. tomorrow.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Announcements.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, when we adopted Committee Proposal 121 with the Hutchinson amendment — Delegate Hutchinson, will you listen, please — which took away the immediate effect as it affects the public peace, health and safety, the question arose as to what, if any, effect that would have on the initiatory referendum petition or Committee Proposal 118. I think we are all aware of the intent and purpose of protecting the public and giving them an opportunity to file such petitions, and I am wondering, before this matter is finally disposed of, with the possibility of perhaps reconsidering tomorrow, if Delegate Hutchinson wouldn't review it and see whether or not we are running into any conflict.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: The secretary has been requested to make the following announcement to clear up all possibility of misunderstanding: Mr. Sterrett and Mrs. Conklin were not in the same car. (laughter) Mr. Sterrett was driving the car that ran into the rear of Mrs. Conklin's car. (laughter) I have the following requests for leave: Mr. Yeager asks to be excused from tomorrow's session; Mr. Perlich asks to be excused from tomorrow's session; Mr. Baginski asks to be excused from Tuesday's session to keep a very important appointment; and Mr. Prettie asks to be excused from the latter part of tomorrow afternoon's session.

PRESIDENT NISBET: Without objection, the excuses will be granted. The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. President, I move that this body adjourn.

PRESIDENT NISBET: The question is on the motion of Mr. Cudlip. Those in favor will say aye. Opposed, no.

The motion prevails. We are adjourned until 9:00 o'clock.

[Whereupon, at 11:05 o'clock p.m., and in pursuance of the order previously made, the convention adjourned until 9:00 o'clock a.m., Tuesday, May 1, 1962.]

ONE HUNDRED THIRTY-SECOND DAY

Tuesday, May 1, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

Our **invocation** this morning will be given by one of our own delegates, Marge McGowan.

MISS McGOWAN: In the name of the Father and of the Son and of the Holy Ghost. Amen.

O God, who was and is and will forever be, we look to Thee for guidance. Enlighten our minds and move our wills that we might write a constitution which will do honor to men born free.

Help us to breathe into the cold words of law the warmth of our faith and hope, the very ardor of our love for Thee. Keep before us our many obligations, so men may remain secure as well as free. Let what we do for others reflect what has been done for us by Thee.

In the name of the Father and of the Son and of the Holy Ghost. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Messrs. Binkowski, Kelsey, Liberato and Youngblood, temporarily, from today's session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Binkowski, Dade, Dell, Greene, J. A. Hannah, Iverson, Kelsey, Liberato, Nord, Pellow, Perlich, Yeager and Youngblood.

Absent without leave: Miss Andrus, Messrs. T. S. Brown, Goebel, Jones, Hatch, Hutchinson, Marshall, McCauley and Plank.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Miss Andrus, Messrs. Jones, T. S. Brown, Hatch, Goebel, Plank, McCauley, Binkowski, Kelsey, Liberato, Youngblood and Hutchinson.]

The delegates will recall that this is May first, which is law day. We have been invited to participate, as you know, and have received notice in the program. In talking with the officials this morning, if the weather is bad, it will be indoors. We will endeavor to recess at 11:15, and cars will be on the south side, the Washtenaw side, to pick up the delegates to take them to the appointed place. We will try to finish, have lunch and convene again at 2:00 o'clock in order to complete our day's work. I understand about 100 of you have sent in notices that you will be present at the ceremony and festivities. So please go to the south door, be there by 11:30 if you are going to attend.

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: **Second reading.** We are on miscellaneous provisions.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I believe Mr. Chase is in error when he says there are no reports of standing committees. The committee on rules and resolutions submitted a report which should certainly be in the secretary's hands at this point. I don't desire to have it considered at this point. I was going to move that it be considered immediately prior to Committee Proposal 68 because it deals with the schedule and the manner of submission of the constitution, but I just wanted to be sure the secretary had it.

SECRETARY CHASE: The secretary has it, Mr. Van Dusen. The misunderstanding was on my part. I thought you didn't want to offer it until later.

MR. VAN DUSEN: I think, Mr. President, if the secretary would simply hold it until immediately prior to Committee Proposal 68, that would be fine.

PRESIDENT NISBET: We will do that. The secretary will read the first proposal.

SECRETARY CHASE: Item 11 on the calendar, **Committee Proposal 63,** A proposal pertaining to estates of married women. Retains section 8, article XVI.

Following is Committee Proposal 63 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2448.):

> Sec. a. The disabilities of coverture are abolished. The real and personal estate of every woman, acquired before marriage, and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be [contracted, sold, transferred, mortgaged, conveyed, devised or bequeathed] DEALT WITH by her as if she were unmarried.

PRESIDENT NISBET: The Chair recognizes Mr. Erickson.

MR. ERICKSON: Mr. President and fellow delegates, this has been changed slightly, and it is a matter of opinion whether it is for the better or worse. You will notice on line 6 a series of more or less synonymous words, "contracted, sold, transferred, mortgaged, conveyed, devised or bequeathed," have been deleted, and 2 words substituted in their place, "dealt with." I understand from the style and drafting committee that they felt "dealt with" was more inclusive than the specific words that were mentioned.

Now, I believe you will agree that when you start to mention a string of words, the court will construe those words much more narrowly than it would if it had some general term. I can't help but notice—just offhand here, I think the lease is not included there, but "transferred" might be included in lease some way. The committee recommends its adoption, but I understand there will be some discussion on this proposal.

PRESIDENT NISBET: There is an amendment. Mr. Chase will read it.

SECRETARY CHASE: Messrs. Wanger, King and Millard offer the following amendment:

1. Amend page 1, after "Sec. a.", by striking out the balance of the proposal and inserting "The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.".

MR. MADAR: I have a preferential motion.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, this has been discussed at great length, and at this time I would like to move the debate be kept to 15 minutes.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PRESIDENT NISBET: The question is on the motion of Mr. Madar that debate be limited to 15 minutes. Those in favor say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates—

PRESIDENT NISBET: Mr. Wanger, just a moment, please. Can this be put on the board, Mr. Chase?

SECRETARY CHASE: We have it ready.

PRESIDENT NISBET: Will one of the pages see that it is put on the board? Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, I approach this subject of estates of married women with considerable trepidation—(laughter)

PRESIDENT NISBET: You will be all right next year. (laughter)

MR. WANGER: —and call your attention to the fact that the language of this amendment, although not on the wall, is the exact language of our present 1908 constitution. I believe the committee on miscellaneous provisions originally proposed to us this same language, but it was amended upon the floor of the convention and, as changed somewhat by style and drafting, is what is before us on second reading.

This addition to the 1908 language which was made is something which I suggest to you is not advisable for us to write into the constitution because it is uncertain in effect, litigation breeding and possibly dangerous. It was suggested on the floor of the convention when we considered this that the disabilities of coverture, which were abolished by a floor amendment, might be reasonably construed to apply to men as well as to women. It was countered that law dictionaries define coverture in terms of the estates or condition of married women, and that this was the common understanding. And yet, on doing some research, we find that even Blackstone in his Commentaries Upon the Law of England at page 456 of the Thomas Cooley edition, volume I, speaks of—and I quote a clause here, "The coverture or marriage estate." We can turn to the encyclopedia of the law known to lawyers as Corpus Juris, in volume 30, page 526, and quote a sentence here, "Under the common law the husband became seized, during the coverture, of a freehold estate," and so forth. We can come to a case book by Ralph Aigler on cases on property, which has been used for many years at the University of Michigan law school, and in an author's comment on page 776, discussing the husband's interest in wife's realty, a clause reads, "he became entitled to the use, that is the occupancy and profits of the land for the time of the coverture." If we want to turn to page 779 of the same work, we find, "he as husband acquires certain rights," and so forth, "during the coverture." And again at page 525 of Corpus Juris, volume 30, we find a sentence, "Conveyances of real estate made by the husband during coverture for the purpose of defeating the wife's rights are fraudulent," and so forth, discussing another point of law. So the word "coverture" is occasionally used by the most able and learned writers in the field sometimes so as to be applicable to men. Now, we don't want to raise any question in this regard. I would hope that the court would so limit it to women. But we cannot be sure.

Now, the second point which must be made is that when we speak of the word "disabilities" with respect to the rights of married women, we should remember that these are not always things which are disadvantageous to the ladies, even under the old strict common law. Blackstone stated, in concluding that part of his work entitled, Of Husband and Wife:

> These are the chief legal effects of marriage during the coverture; upon which we may observe, that even the disabilities which the wife lies under are for the most part intended for her protection and benefit: so great a favorite is the female sex of the laws of England.

That was written in the seventeenth century. What are some of these disabilities? I am not going to give you a long treatise, or attempt to, but here are 2 books of the encyclopedia, used by lawyers, called American Jurisprudence. At least 50 or 60 per cent of this is confined to things which husbands and wives may and may not do during marriage or after marriage. For example, we come to the question of evidence and competency of witnesses. As we know, the husband and the wife, except under certain circumstances, may not testify against each other. And I ask: is this a disability of coverture? It might be, because there is no legal definition of what "the disabilities of coverture" are. It is a very broad and amorphous phrase, and it certainly should not be left in our constitution in this manner.

Now, there are other changes, of course, which were made on the floor to this section which we seek to delete. You will notice that the original 1908 constitution spoke of property to which the wife may become entitled by gift, grant, inheritance or devise. These words were omitted. Now, the point was raised before, I believe by Mr. Mahinske—although I may be in error—and it certainly is of some consequence: that one right which the wife has under Michigan law is dower. When she is alive, the dower is inchoate dower. She does not get it by gift, grant, inheritance or devise. She gets it by marriage, and it is, if anything, a property right. Now, under the committee language, she may deal with this as if it was property that she had when she was unmarried. That would mean she could assign her inchoate dower, or at least a reasonable interpretation could be made to that effect. What would that mean if the wife could assign her inchoate dower? That would mean that every husband, when he wanted to sell a piece of real estate, instead of having to get his wife's signature upon the deed along with his own, would have to, perhaps, go to his wife's brother and get his signature, or to someone else. Now, in this modern age that, of course, would be a needless and, to some minds, a ridiculous result, but nevertheless it is a possible and reasonable interpretation.

This by no means exhausts the possibilities, but I yield the floor at this time because I believe I have sufficiently indicated some of the possible dangers of this language and why we should vote in favor of restoring the 1908 language of this section to our constitution.

PRESIDENT NISBET: We are operating under a 15 minute limitation. The Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, I shall be very brief. I won't try to cover the very learned treatise of Mr. Wanger. My investigation consisted primarily of asking 2 questions of a number of people, and I got 2 very brief answers.

The first question was: what is wrong with the present constitutional language? And the answer I got was, "Nothing." The second question was: what does the proposed committee language do? And the answer was, "I don't know."

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Well, of course if you took off the first sentence, you would come right back where we are now. I think the language after it came from style and drafting is better than we have now. The idea of putting this first sentence in was discussed in the committee, and we left it to be brought up on the floor. It wasn't anything new in committee of the whole. We felt that the present statutes in regard to married women go beyond the constitution, and we felt that married women should have all the rights of single women in regard to property. Now, I don't believe that the committee would feel too bad if you took out that first sentence, although it does bring our constitution more up to date and it puts the constitution ahead of the statutes instead of the statutes ahead of the constitution.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: Mr. President, Delegate King raised a question. He said: what is wrong with the present language and what does the proposal mean? First of all, I would say that there isn't any question but what the present language of the constitution is more restrictive than the proposal offered by the committee as amended by style and drafting. If you will note, in the Wanger-King-Millard language they have retained strictly the words, "may be devised or bequeathed." Now, this leaves the area of contracts restricted. For instance, a married woman has no right under the law of Michigan actually to enter into a joint and several liability with her husband. If she signs a joint and several note, a judgment rendered would have to be restricted to joint property and it could not be a several liability on her part. In other words, a married woman is prevented from applying her separate estate in this particular way.

Now, actually there have been so many statutory inroads toward reducing the disabilities of coverture that it would seem desirable to me that we should make this forthright statement that the disabilities of coverture are abolished, and actually give women a more complete and unrestricted right to deal with their separate estate.

PRESIDENT NISBET: The question is on the adoption of the amendment. All those in favor of the amendment offered by Messrs. Wanger, King and Millard will say aye. Opposed, no. The Chair is in doubt. The question is on the amendment offered by Messrs. Wanger, King and Millard. It is on the board. Those in favor will vote aye. Opposed, nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. WOOLFENDEN: Mr. President, before the machine is turned off, I invite the delegates' attention to the fact that on law day we changed the "fifth column" from red to green. (laughter)

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Wanger, King and Millard, the yeas are 71; the nays are 39.

PRESIDENT NISBET: The amendment is adopted. Will the delegates please clear the board? The question is on the passage of Committee Proposal 63, as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. Mr. Cudlip.

MR. CUDLIP: Mr. Cudlip isn't voting. I think, on law day, we have done an extreme disservice to the women of the country.

The roll was called and the delegates voted as follows:

Yeas—104

Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Farnsworth
Figy
Follo
Ford
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss

Haskill
Hatch
Hatcher, Mrs.
Hood
Howes
Hoxie
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Krolikowski
Kuhn
Lawrence
Leibrand
Lepplen
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McLogan
Mosier
Murphy
Nisbet
Ostrow
Page
Perras
Plank
Powell

Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden

Nays—9

Blandford
Erickson
Everett

Heideman
Higgs
Koeze, Mrs.

Norris
Young
Youngblood

SECRETARY CHASE: On the passage of Committee Proposal 63, as amended, the yeas are 104; the nays, 9.

PRESIDENT NISBET: Committee Proposal 63, as amended, is passed.

Following is explanation of vote submitted by Mrs. Cushman:

Explanation of yes vote on Committee Proposal 63.

While I feel that the proposal, as it stands, does not adequately protect the rights of married women to their property, I still believe that this section as it stands is better than no provision at all. I favor the proposal as it stood before second reading.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 63 as amended and rereferred to the committee on style and drafting:

Sec. a. The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

PRESIDENT NISBET (continuing): The secretary will read the next proposal. Will the delegates please clear the board?

SECRETARY CHASE: Item 12 on the calendar, Committee Proposal 64, A proposal to amend article XVII, section 1 of the present constitution pertaining to amendment to the constitution; proposal by legislature and submission to electors.

Following is Committee Proposal 64 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2472.):

Sec. a. Amendments to this constitution may be proposed in the senate or house of representatives. [If the same shall be] PROPOSED AMENDMENTS agreed to by 2/3 of the members elected to AND SERVING IN each house ON A YEA AND NAY VOTE ENTERED IN THE RESPECTIVE JOURNALS[, such amendment shall be entered on the journals, respectively, with the yeas and nays taken thereon; and the same] shall be submitted, not less than 60 days thereafter, to the electors at the next general ELECTION or special election PRIOR THERETO [thereafter,] as the legislature shall direct[;]: [and,] If a majority of electors voting on [the] SUCH A proposed amendment[s, shall ratify and] approve such amendment[s], [the same] IT shall become part of the constitution AND SHALL ABROGATE OR AMEND EXISTING PROVISIONS OF THE CONSTITUTION AT THE END OF 45 DAYS AFTER THE DATE OF THE ELECTION AT WHICH IT WAS APPROVED.

PRESIDENT NISBET: The Chair recognizes Mr. Erickson.

MR. ERICKSON: Mr. President and fellow delegates, I would like to yield to Delegate Habermehl, who was chairman of the subcommittee, on this committee proposal.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, this section on amendment and revision has been changed somewhat in style and drafting. I find nothing wrong with the language except that I do not completely understand the language in line 7, the words "prior thereto." I am told by Mr. Hanna that the words "prior thereto" refer to the special election rather than the general election. But the inclusion of the words seems to make them refer to both the general election and special election prior to the expiration of the 60 days, and I wonder if I could ask Mr. Cudlip if style and drafting would have any serious objection to striking those 2 words.

PRESIDENT NISBET: Mr. Cudlip.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

MR. CUDLIP: Mr. President, members, I will yield to Mr. Hanna. I have been over here worrying about the women and wasn't paying much attention to what was going on. I am sorry. Mr. Hanna is an esteemed member of the committee, and I am sure he can answer the question.

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President, fellow delegates, I see no objection to the striking of the "prior thereto." It was meant that they would submit it at the next election, whether it be general or special, and Mr. Habermehl referred it to me the first thing this morning and I was as confused as he was, and I went back to Mr. Staiger, and then it dawned on me why we said it, and I really think it would be clearer if we strike the "prior thereto" and leave stricken the "thereafter" so that it clearly states you submit it to the electors at the next general election or special election.

SECRETARY CHASE: Mr. Habermehl offers the following amendment:

1. Amend page 1, line 7, after "election" by striking out "prior thereto"; so the language will then read ". . . shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct."

PRESIDENT NISBET: The question is on the amendment offered by Mr. Habermehl. Those in favor will say aye. Opposed, no.

The amendment is adopted.

MR. HABERMEHL: Mr. President, the committee then urges the adoption of the committee proposal as amended.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 64, as amended. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—120

Andrus, Miss
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Boothby
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Mosier
Murphy
Nisbet
Norris
Ostrow
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 64, as amended, the yeas are 120; the nays, none.

PRESIDENT NISBET: **Committee Proposal 64,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 64 as amended and rereferred to the committee on style and drafting:

Sec. a. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by 2/3 of the members elected to and serving in each house on a yea and nay vote entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on such a proposed amendment approve such amendment, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

PRESIDENT NISBET (continuing): Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 13 on the calendar, **Committee Proposal 65,** A proposal to amend article XVII, sections 2 and 3, pertaining to amendment and revision of the constitution.

Following is Committee Proposal 65 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2458.):

Sec. a. Amendments may [also] be proposed to this constitution by petition of the registered electors of this state. Every [such] petition shall include the full text of the PROPOSED amendment [so proposed], and be signed by registered electors of the state equal in number to at least 10 per cent[um] of the total vote cast for all candidates for governor at the last preceding general election[,] at which a governor was elected, or 300,000 [such] registered electors, whichever [shall be] IS less. Such petitions shall be filed with [such] THE person authorized by law to receive the same[,] at least 120 days before the election at which [such] THE proposed amendment is to be voted upon. Any such petition shall be in [such] THE form, and shall be signed and circulated in such manner, as [shall be provided] PRESCRIBED by law. [Upon receipt of any such petition,] The person authorized by law to receive such petition, shall, UPON ITS RECEIPT, determine, as provided by law, the validity and sufficiency of the signatures on [such] THE petition, and make an official announcement [of such determination] THEREOF at least 60 days prior to the election at which [said] THE proposed amendment is to be voted upon. [Sec. b.] Any amendment proposed by such petition shall be submitted, NOT LESS THAN 120 DAYS AFTER IT WAS FILED, to the electors at the next election at which any state officer is to be elected[, providing that such election is held more than 120 days after the filing of such petition]. Such proposed amendment, [shall be published in full, together with any] existing provisions of the constitution which would be altered or abrogated thereby, and [together with] the question as it shall appear on the ballot used in such election[, and a copy] SHALL BE PUBLISHED IN FULL AS PROVIDED BY LAW. COPIES of such publication shall be posted in each polling place[,] and [shall be] furnished to news media as provided by law. The ballot to be used in such election shall contain a statement of the purpose of [such] THE proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law [so to do], and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against [such] THE proposed amendment. If [such]

Explanation—Matter within [ ] is stricken, matter in capitals is new.

THE proposed amendment [appearing on the ballot shall be] IS approved by a majority of the electors voting on the question, the proposed amendment shall become [a] part of the constitution, and shall abrogate or amend existing provisions of the constitution AT THE END OF 45 days after the date of the election at which [such amendment] IT was approved.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, this section of the constitution has to do with the initiative. This is essentially the same as obtained in the present constitution. The biggest change was that now a floor is put on the number of signatures of 300,000 or 10 per cent of those voting for the governor at the last election. That was the only change. Now, in this regard, Michigan is one of 14 states that permits —that the people have reserved to themselves the right to amend the constitution. For those that argue that Michigan is in the minority, then you should not put this in the constitution. I don't favor that, nor does the committee, but I just want to point out that this is one area that Michigan is in the minority. That, of course, results in criticism of a cluttered constitution, and the purists argue that if you want a constitution for a long time, don't let the people do this. But I think it is something that the people should have, and I would like to yield to Delegate Habermehl, if I may.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, I believe we have included everything necessary in this. We have cut about 2/3 of the language out of this section as it is in the present constitution, and having gone over it pretty thoroughly on general orders, on first reading, I believe that everything that needs to be there is still there.

There is one further change that we made from the existing language of the constitution in that we required the ballot proposition, as it appears on the ballot, to be a part of this statement of purpose of the proposed amendment. Prior to this time there was no real relationship between the two. The proposed amendment was posted in full at the ballot place, but the proposition as it appeared on the ballot or on the voting machines sometimes didn't seem to have any apparent relation to what was posted at the polling place. The ballot proposition or ballot question as well as the proposed amendment and the sections of the constitution that it proposes to change are all part of the statement that is posted at the polling place and furnished to the news media. Such corrections as were made by style and drafting I do not believe change the substance in any way, and the committee urges its adoption.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I would like to ask a question and then yield to Mr. Habermehl for the answer. My question is: why the floor of 300,000? Basically, Mr. President, I would assume that at the present time this figure might be in excess—although I do not have the figures available to me—of 10 per cent of the total vote cast for governor. However, if our state continues to grow over the next several years as it has in the past, there might come a time rather soon when 300,000 would be well below the 10 per cent of the total vote cast for governor. I am wondering why the committee felt it necessary to say that for the next several years, ad infinitum, that a proposed amendment could be placed on the ballot by as few as 300,000, even assuming that in the course of 20, 25, 30, 35 years this might be substantially well below the 10 per cent of the total vote. And I would like to yield to Mr. Habermehl for an answer.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, Delegate Bentley, this was a matter that was very seriously argued in the committee, and various amendments were offered in committee and, I believe, here on the floor to strike the 300,000 floor. At the present time, if we take a presidential election, this 300,000 amounts to less than 10 per cent. In an off presidential year, however, this would amount to about 13 to 14 per cent, simply because of the difference in vote between the 2 years. We must keep in mind that all our elections from now on for governor will be in an off presidential year, as provided by the committee on declaration of rights, suffrage and elections, so that for at least the next few years the 300,000 will be more than the 10 per cent.

We concede that the time probably will come before too long when this becomes less than 10 per cent of the registered electors. The thinking of the committee was that that figure, the 10 per cent, could actually result, if the population of the state should grow tremendously, in such a tremendous bulk of petitions as to make them practically impossible to handle. It is generally conceded that we need 25 per cent more signatures to insure that many valid signatures, and the sheer handling of that many petitions becomes a problem. It must be conceded that this figure of 300,000 does not make it more difficult, and it was the intent of the committee to actually, in the future, make it easier than at present to put a proposition of this type on the ballot.

MR. BENTLEY: Thank you.

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, may I ask Mr. Habermehl a question by way of review if he cares to answer?

PRESIDENT NISBET: You may.

MR. STEVENS: Mr. Habermehl, is it not true that in the not too distant future it is quite possible, if not probable, that it will take more signatures to put a statutory matter on the ballot by the initiative than it will to put an amendment to the constitution on the ballot by the initiative? In other words, it will take less than 8 per cent required for statutory matter to put an amendment on the ballot by the initiative.

MR. HABERMEHL: Mr. President, Mr. Stevens, you are correct. And as you know, I was with you in wishing to see it more difficult to put an amendment to the constitution on the ballot. It is entirely possible that within the not too distant future it may be actually easier to propose an amendment to the constitution than it is to propose a statute.

MR. STEVENS: Thank you. It would seem to me that is rather illogical.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 65. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—106

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Figy

Gover
Gust
Habermehl
Haskill
Hatch
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Jones
Judd, Mrs.
Karn
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Mosier

Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Follo
Gadola
Garvin
Goebel

Murphy
Nisbet
Page

Wilkowski
Wood
Youngblood

Nays—11

Boothby
Brown, G. E.
Farnsworth
Finch

Hubbs
Hutchinson
Kirk, S.
Leibrand

Norris
Stevens
Young

SECRETARY CHASE: On the passage of Committee Proposal 65, the yeas are 106; the nays, 11.

PRESIDENT NISBET: **Committee Proposal 65** is passed and referred to the committee on style and drafting.

For Committee Proposal 65 as rereferred to the committee on style and drafting, see above, page 3004.

Will the delegates please clear the board? The secretary will read the next proposal.

SECRETARY CHASE: Item 14 on the calendar, **Committee Proposal 66**, A proposal relative to amendment and revision. Amends section 4 of article XVII.

Following is Committee Proposal 66 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2472.):

Sec. a. At the general election to be held in the year 1978, and in each [sixteenth] 16TH year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. [In case] IF a majority of the electors voting on the question [shall] decide in favor of a convention for such purpose, at an election to be held not later than 4 months after the proposal [shall have been] WAS certified as approved, the electors of each house of representatives district as then organized shall elect [1] ONE delegate [for each state representative to which the district is entitled] and the electors of each senatorial district as then organized shall elect [1] ONE delegate [for each state senator to which the district is entitled]. The delegates so elected shall convene at the capital city on the first Tuesday in October next succeeding such election. The convention shall choose its own officers, determine the rules of its proceedings and judge [of] the qualifications, elections and returns of its members. THE GOVERNOR SHALL APPOINT A QUALIFIED RESIDENT OF THE SAME DISTRICT TO FILL A VACANCY IN THE OFFICE OF ANY DELEGATE [In case of a vacancy by death, resignation or otherwise, of any delegate, such vacancy shall be filled by appointment by the governor of a qualified resident of the same district]. The convention shall have power to appoint such officers, employees and assistants as it [may deem] DEEMS necessary and to fix their compensation[,]; to provide for the printing and distribution of its documents, journals and proceedings[,]; to [complete the dissemination of] EXPLAIN AND DISSEMINATE information about [and an explanation of] the proposed constitution [to the people] and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services [such] compensation [as may be] provided by law. No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to AND SERVING IN the convention, the yeas and nays being entered [on] IN the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention[.] NOT LESS THAN 90 DAYS AFTER FINAL ADJOURNMENT OF THE CONVENTION [However, an interval of at least 90 days shall intervene between such final adjournment and the date of such election]. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon [such] THE constitution or amendments shall take effect as provided by [such] THE convention.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, as you notice, this section has to do with the calling of the next constitutional convention. The committee and style and drafting have tried to anticipate the difficulties that we have had and hope that the next group do not have those difficulties. You will notice that it provides for a vote on the calling of a constitutional convention every 16 years. The theory back of that is that each generation should have a chance to look at the basic law. I would like to yield to Mr. Habermehl.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, the committee on style and drafting made several changes in this. On line 8, for example, by striking out, "for each state representative to which the district is entitled;" and in lines 10 and 11, "for each state senator to which the district is entitled." At the time this was drafted by the committee, of course, under the present constitution we have multi member districts. After the report from the committee on declaration of rights, suffrage and elections was adopted, all districts are single member districts from now on, and that language was no longer necessary.

The other changes on the first page are of form only, not of substance. As Mr. Erickson said, the intent of the committee was to try to resolve some of the questions that this convention has been bothered with, and we have here spelled out the powers of the convention to explain and disseminate information about its work and given such powers, we believe, to make the next convention a completely autonomous body except for the matter of compensation. If the legislature should balk here, they might have to work for nothing.

We also have provided that this question of when the proposed constitution is to be put upon the ballot will be decided by the next convention and not by any language that might appear in the constitution that we propose. We have said that it shall be submitted in the manner and at the time as decided by the next convention. We urge its adoption.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, just a question for the record in case this point should come up later on. May I ask Mr. Erickson the question? Mr. Erickson, one of the small points that was debated when we assembled was the meaning of the phrase that the delegates after their election would convene at the capital city. The question was whether that meant that all we had to do was show up in Lansing and then we could hold the convention, for example, on the campus at Michigan State at East Lansing, or we could go to Detroit or something like that. What would be your interpretation of this language as to convening at the capital city in relation to where the convention would continue to meet?

MR. ERICKSON: We discussed that at some length in the committee. You will notice it is different than the present language. The present language says, "convene and continue until their business is finished." The attorney general held that that meant they could convene here and go anywhere. We didn't feel that that meant what the attorney general said. But the constitutional amendment that was adopted even in 1960 indicated that they would convene here and stay here until their work was finished.

Now, you notice we have not put that restriction in at this time. The attorney general couldn't find any legal definition of the word "convene" but I think that the generally accepted sense is to meet and start their work here, and we did not put the limitation on that they continue their work until it is finished. So the intent was they would meet here to start, and then decide where they wanted to be.

MR. ALLEN: Thank you.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I would like to inquire of Mr. Habermehl whether the committee or its subcommittee gave any consideration to the problem involved in this provision

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

that this convention or any convention has to finally adjourn before it may submit to the people anything. It seems to me as though one of our experiences has been the convention not being able to reconvene itself after the decision of the people. Suppose the people should turn down its work. Shouldn't the convention be able to stay in session, and if the people turn down the work, be able to reconvene and perhaps make some changes which would be acceptable rather than to waste the whole effort such as this provision of final adjournment entails? Did you give any thought to that?

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, Delegate Hutchinson, I am afraid the specific question of whether or not we ought to stay in session was not brought up in committee. We did provide that they must finally adjourn at least 90 days before the election is to be held. We have provided that in line 10 on page 2. And in answer to the question as to whether or not they ought to be able to stay in session and make changes in case the people don't accept the whole document, it was not discussed in committee and would be, of course, a major policy decision.

MR. HUTCHINSON: Thank you, Mr. Habermehl. I just wondered if maybe that was of such importance, really, to be given further consideration on the floor, though I have no amendment along those lines.

The next question I would like to ask of Mr. Habermehl is whether the committee gave any consideration to the fact that hereafter, the general election at which this question is to be submitted would always come in the fall, in November, and that by the machinery here set out, the convention actually will not be meeting until 11 months after the people have called for a convention. Wouldn't it be possible to set this convention meeting ahead of October after they call it in the previous November? All you require is 4 months for the election procedure.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, Delegate Hutchinson, yes, that is correct. We did consider it in committee. We considered it in first reading here. There must be 4 months after the November election on the call of the convention, of course, to permit time for the election of delegates, so that after that time, or any time after March of the succeeding year, the convention could convene. The problem then came in trying to find a date at which all segments of our society would be happy. The farmers, of course, don't want it during their busy season. The resort people don't want it during their busy season, and about the best that we could come up with that seemed to be acceptable to most people was a date in the late fall. It allows just about 13 months, less the 90 days that we provided between the convention's adjournment and the election, so it allows 10 months for the convention to do its work, which seemed to be ample time.

The real rationale for the October date in the old convention was due to the fact that the election was held in the spring at the biennial spring election, so actually the date that could be picked in this proposal could be any time from about April 1 to October, but there I suggest that we could get into a real hassle if we tried now to pick a different date. Different areas of the state would be opposed to different dates.

MR. HUTCHINSON: Thank you, Mr. Habermehl. Those 2 questions arose in my mind immediately, and they are simply indicative, at least in my mind, of the problem that we run into when we try, in the constitution, to write out all of this detail of machinery.

I propose to vote against this proposal because I believe that our best course of action would have been to have written into the new constitution a provision quite similar to the provisions in the 1850 constitution which would leave to the legislature in the future the task of writing out all of these details in a way that will fit the situation to the times. I think we are shortsighted here in writing into this constitution this detail of machinery, and I think that when another constitutional convention is called, it will probably be just as embarrassed by this machinery as we were by the machinery which bound us, simply because it is not possible for us here to look into the future 30 years or 40 years or 50 years and divine what the situation at that time will be. I, for that reason, propose to vote against this proposal.

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, I had a couple of questions that I was going to ask Mr. Habermehl. One of the questions has already been somewhat anticipated by Mr. Hutchinson. I agree that it is quite ridiculous to hold a general election in November for the purpose of deciding whether or not the constitution is to be revised, to have the election of delegates not later than the following March, and then to have the delegates wait nearly 7 months until they shall convene in convention. I appreciate the opposition that might be expected to arise from different parts of the state if the date of the convention were held earlier than October. But I think it is a very poor policy to have such a long time lapse between the election of delegates and the summoning of the convention itself.

I do have another question that I want to yield to Mr. Habermehl for an answer to, and that is the following: after the convention has adjourned, I understand the question of popular approval has to be held in not less than 90 days. Does that mean that there is to be a special election for the purpose of approving the new constitution?

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, Delegate Bentley, it isn't to be held, Delegate Bentley, 90 days after final adjournment, but simply not less than 90 days. The 90 day provision was put in there just to insure that there would be adequate time to disseminate information about the proposed constitution.

MR. BENTLEY: Do I understand then, Mr. President, that the convention itself can decide whether or not the proposed new document is to be approved in a general or in a special election? That is entirely a matter within the discretion of the convention?

MR. HABERMEHL: That is correct. They would make the decision as to when it would be submitted and whether it would be at a general or special election.

MR. BENTLEY: One more question, Mr. President: do I understand this convention also has the power to completely rewrite a new constitution or to provide a series of amendments to the existing document?

MR. HABERMEHL: The language used, Mr. President, Delegate Bentley, is precisely the same in that connection as the present constitution. The question voted upon by the electorate is whether or not a convention for the question of a general revision of the constitution shall be had, and I think it has been generally interpreted that the convention is free to amend the constitution, to submit an entirely new document—do as it pleases, in other words.

MR. BENTLEY: Mr. President, one final question along that line: although the voters have approved the idea of a general revision of the constitution, the convention, if it so saw fit, could make as few as a single amendment and then dismiss itself and go home?

MR. HABERMEHL: Mr. President, Delegate Bentley, yes, I believe so. I believe on page 2 we spell it out, line 4, "No proposed constitution or amendment adopted by such convention shall be submitted," and so forth. And on line 8, "Any proposed constitution or amendments adopted by such convention shall be submitted," and so forth.

MR. BENTLEY: The point I am making, Mr. President, is, although the voters would have expressed themselves as being in favor of a general revision of the constitution, the convention, if it so saw fit, could, for all intents and purposes, disregard the idea of a general revision and merely confine itself to a single amendment or a few amendments and leave the basic document unchanged, in spite of the previous expression on the part of the majority of electors; is that correct?

MR. HABERMEHL: Mr. President, Delegate Bentley, I believe that is within the power of any constitutional convention, and I believe it should remain in the power of any constitutional convention. They are sovereign, autonomous bodies.

MR. BENTLEY: Thank you.

MR. HABERMEHL: Mr. President, I would like to make one statement in reply to Mr. Hutchinson: we must agree that this matter is, to some extent, statutory, the same as Committee Proposal 65 was. However, I do not believe that past experience has shown that the legislature is particularly anxious to have a convention called; and if this proposal is to mean anything, it cannot be left entirely up to the legislature. It was the committee's thinking that enough language must appear in here so as to make the calling of a convention mandatory at any time that it might be so voted by the people. I believe those words in here are necessary, and I believe that the decisions of the supreme court, which state that the powers of any constitutional convention are limited only by the powers given to them by the existing constitution, makes the spelling out of these powers esential in the constitution. Otherwise we might find a peculiar situation where the powers of the constitutional convention might be as defined by the legislature, which is exactly what we don't want.

PRESIDENT NISBET: There is an amendment. The secretary will read.

SECRETARY CHASE: Mr. Martin offers the following amendment:

1. Amend page 1, line 15, after "members.", by inserting "If the legislature shall determine that delegates shall be elected on a partisan basis,"; and in line 16, after "district" by inserting "and of the same party"; so the language will then read:

> If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party to fill a vacancy in the office of any delegate.

MR. VAN DUSEN: Mr. President, I would move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Martin.

MR. MARTIN: Mr. President, the convention voted to leave to the legislature the question of whether other future convention delegates should be elected on a partisan or nonpartisan basis. This amendment is not intended to reflect on any appointment made to this convention, but if the legislature does decide that the delegates shall be elected on a partisan basis, then it seems desirable that appointments to fill vacancies should be from the same party. In the event that the convention were on a partisan basis and were closely or equally divided, unless this amendment was adopted, it would permit a complete change in the political structure of the convention in the event of a vacancy. For that reason it seems reasonable.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. President, I speak against the amendment. I think there are a couple of fallacies in it. One, if you are giving the appointment power to the governor, and the governor happened to be of the opposite party, you would get one of these so called nonpartisan either Democrats or Republicans, whichever way the governor was, and probably would cause more trouble and embarrassment to the opposite party by having him sit in in their caucuses. It might well be a partisan of the other side in name only and actually cause more trouble.

If you were to leave the decision, for example, up to the state central committees, or something like this, of the parties, where you would obviously get a partisan that would be recognized as such by his own party, this might be one thing; but where the governor makes the appointment, I think that you could be getting yourself into more trouble by having someone who is a partisan of that party in name only, and might well cause more trouble or confusion to that party than if the governor was free to select someone of his own choosing.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I am sympathetic with Mr. Martin's amendment, but I think I see a technical problem in it. I would like to ask Mr. Martin if his amendment were adopted and if the legislature should provide for the nonpartisan election of delegates — in that case, I see nothing in this proposal at all providing for the filling of vacancies, you see, because you have by your amendment tied up the vacancy filling only in case of partisan election.

MR. MARTIN: I have no objection, Mr. Hutchinson, to having style and drafting clarify that point. There certainly must be a provision with respect to vacancies if it is on a nonpartisan basis.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, it seems to me that this is altogether unnecessary. We have only had 2 vacancies in this convention that has lasted more than 7 months, and I can't think that it is worth 3 or 4 additional lines in the constitution.

It has also been pointed out to me by one of my colleagues that we don't seem to worry very much when the governor of the state can fill a vacancy in a United States senatorship. That is usually filled by appointment, and certainly this is of no more importance than that. I think this is unnecessary language, and I am opposed to the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Habermehl.

MR. HABERMEHL: Mr. President, I am sympathetic with the idea of the amendment, personally. The committee early decided that the question of whether it would be partisan or nonpartisan election would be left out of this proposal and let it be determined at the time that the convention might be called. We are talking about a considerable time in the future now, and we didn't try to be prophetic. I do think, however, that in the event of a close election and in the event that the parties were pretty close to equally divided in such convention, the governor might well exert an influence, by his power of appointment, over the powers and the functioning of the convention.

I would suggest to Mr. Martin that if both his suggested insertions were placed after the sentence starting on line 15 and ending on line 16, that it would correct the defect referred to by Senator Hutchinson. So far as I personally am concerned, I think I would favor the amendment. I am not, however, speaking for the committee.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I have no objection to that. I think Mr. Habermehl's suggestion is a sound one. The amendment can be drafted in that form, revised in that form. I would agree to it.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Mr. Martin withdraws his present amendment and offers another amendment:

1. Amend page 1, line 16, after "delegate.", by inserting "If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party.".

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, may I ask Mr. Martin a question, please?

PRESIDENT NISBET: If he cares to answer.

MR. STEVENS: Mr. Martin, the question I just spoke to you about: would not this language permit the governor, being of an opposite party than the majority of the legislature, to veto this matter? It seems to me that if you are going to have this in the constitution and you do not have the governor's right to veto, you would have to so express it, put it in express terms in your language.

MR. MARTIN: If this were in the constitution, the governor couldn't veto this, Mr. Stevens.

MR. STEVENS: I can't see where you get that, because there is nothing there that says he can't, and the constitution provides they would have to do it by bill. The constitution provides all bills are subject to the governor's veto. I think you could perhaps change it by an express provision.

PRESIDENT NISBET: The time has expired. Mr. Martin, have you got a quick answer?

MR. MARTIN: I think that doesn't go to my amendment. It goes to the rest of the proposal.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Martin. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Martin, the yeas are 62; the nays are 61.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend page 1, line 7, after "approved,", by striking out "the electors of each house of representatives district as then organized shall elect one delegate and"; so the language will then read:

> If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than 4 months after the proposal was certified as approved, the electors of each senatorial district as then organized shall elect one delegate.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Those opposed? The motion prevails. Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, Mr. Erickson has pointed out that an attempt has been made to take care of some of the problems that have existed at this convention. I think we all recognize that one of the problems is that there are too many of us here. Very few of us would admit to the fact that we, ourselves, are not indispensable but, nevertheless, I think part of the problem is that we have 144 delegates. No other constitutional convention in the history of Michigan has had over 100 delegates, and here we have had 144, and the time that we have taken and the cost that it has been to the people of the state of Michigan, without any significant advantage with the extra people, does not seem to warrant the extra people being here. Now, I have submitted this amendment for the purpose of taking care of this problem. The reason why we had one delegate elected from each representative district and one from every senatorial district was because the junior chamber of commerce and the league of women voters felt that it was a good compromise between those people in the Republican party and the Democratic party, those people that were opposing the convention and in favor of the convention.

I would like to point out the fact that we probably will not have another constitutional convention for many, many years. The division of parties in relationship to the state senate will be, possibly, considerably different. We will have an increased population in some of the areas of the state and we will have, possibly, a completely different complexion in the senate. I want to remind the delegates to the convention that the next constitutional convention, under the wording of the committee's report, would have not 144 delegates but 148 delegates, because we have increased the senate from 34 to 38.

I have also prepared a second amendment, which I will submit if this one passes, to provide for 2 delegates from each senatorial district rather than 1, in case some of the people here feel that 38 delegates is not sufficient to write a constitution. I urge the adoption of this amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Boothby. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Faxon, Austin, Young and Hodges offer the following amendment:

1. Amend page 1, line 8, after "delegate" by inserting a period; and in line 9, by striking out "and the electors of each senatorial district as then organized shall elect one delegate.", so the language will then read:

> If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than 4 months after the proposal was certified as approved, the electors of each house of representatives district as then organized shall elect one delegate. The delegates so elected. . . .

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, I think we are aware of the fact that the smaller the body the easier it is for us to more rapidly conclude our own deliberations. Not only would this amendment provide for a smaller body and one that would be more easily managed, but it would also provide for a representation at a constitutional convention that would be based upon the people and the population of the state. For these 2 reasons, and for the need for making some adjustment in membership of the future convention, I would urge that you adopt this amendment.

PRESIDENT NISBET: We are operating on a 5 minute limitation. Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I would like to support Mr. Faxon's arguments. This amendment was presented in committee of the whole and was rejected at that time, but I thought that perhaps the delegates ought to have another look at it. Mr. Boothby gave what I consider to be some rather potent arguments in favor of a smaller delegation. However, 38 would be rather small; 110 might be more appropriate. But again, I think we ought to consider that in order to have a delegation that would be more reflective of the population of the state, it would be better to have them based on the house of representatives and not the senate. There would be a built in malapportionment if we use the senate, and I think that a delegation that is expected to write a constitution for the state ought to be truly representative of the people. In closing, I would like to remind you that we are not concerned about the present delegation. Remember that this will concern the delegates to the next constitutional convention, which will be at least 16 years away.

PRESIDENT NISBET: Please keep your comments brief. Mr. Habermehl.

MR. HABERMEHL: Mr. President, I think both parties have been heard from now. The Democrats seem to have outnumbered the Republicans in speakers 2 to 1. I suspect that this argument has been gone over more than adequately, and I, on behalf of the committee, urge that we stick to the compromise as it was adopted and continue the language of the 1960 amendment.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I urge support of the amendment for the reasons Delegate Austin gave.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, fellow delegates, it seems as though Mr. Boothby and Mr. Faxon both advanced the same reasons, but they don't seem to be supporting each other's amendment. I suggest we stick with the committee proposition.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: The yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Not a sufficient number up. The question is on the adoption of the amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Allen offers the following amendment:

1. Amend page 1, line 13, after "election" by inserting "or at an earlier date if provided by law"; so that the language will read, beginning in line 11, "The delegates so elected shall convene at the capital city on the first Tuesday in October next succeeding such election or at an earlier date if provided by law."

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Allen.

MR. ALLEN: Mr. President, I think Mr. Hutchinson had a point when he spoke earlier. If you will recall, we were elected in September and we started this convention in October. Under the committee's language as it now stands, the election would be within 4 months after the November vote is certified, which probably would be about in April, but we still would have to wait until October. Now, the proposed amendment would permit an earlier date than October if the legislature would so provide, and I can see, 16 years from now or 32 years from now, where we might very well want to have an earlier date than October, and this gives the elasticity for an earlier date if the legislature would so provide. I think it would be helpful.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, the committee sees nothing wrong with this amendment. We would accept it.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, I don't see the necessity for this amendment. I think one of the obvious defects in our present procedure was the inadequacy of the preparatory work which was done for us. Mr. Allen, I am sure, realizes as well as anybody that this preparatory work is most necessary, and having waited a long time for a constitutional convention, I see no hurry about the exact time when it should convene. Furthermore, I don't like the legislature having anything to do with this particular matter of convening the convention.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Allen. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Allen, the yeas are 82; the nays are 37.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 22, after "explain" by striking out "and disseminate information about"; so the language will read, ". . . provide for the printing and distribution of its documents, journals and proceedings; to explain the proposed constitution; and to complete the business of the convention in an orderly manner."

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will vote aye. Opposed, no.

The motion prevails. Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, I think that once before I had an opportunity to speak on the evils that I felt inherent in the concept of the dissemination of information. There is no objection here to explaining a proposed constitution, but I have always felt that the process of the dissemination of information should be left to the people of the state, to the various citizen groups within the state and to the usual media of communication that we have already provided, and not provide that the state get into the business of the dissemination of information. This is fraught with things that could be misinterpreted. It could be misused. It would not be in the best interests of the convention itself to have to go into that particular area of activity.

The idea is that the convention writes the document, it provides for the distribution of its journals and its proceedings, and it explains the reason for the proposed changes. This has been what the tradition in our state has been with regard to the constitutional revisions of the past. As to the actual dissemination of the information, this should be left to the people of the state to determine and not to a special group set up for that purpose. I would ask you to support this if you are concerned about maintaining economy and also a strict concept of what the function and purpose of government ought to be.

PRESIDENT NISBET: Mr. Barthwell.

MR. BARTHWELL: Mr. President, fellow delegates, Mr. Faxon has expressed my sentiments very well, so all I need say is that I am in complete agreement with this amendment.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow conservatives Faxon and Barthwell, (laughter) it seems that you agree with the legislature on this matter.

Actually, we felt in the committee that this was a very important function of any convention that is to be held. We purposely tried to make their powers as broad as possible so that they might preserve their autonomy as a sovereign body of the state, and we also felt that no one, including members of the press, were in as good a position to explain the changes that were made in such a convention as were the delegates to that convention. There is a great deal that happens in committee work during the course of some 7 months of deliberation that does not get fully reported by the press, and probably if the convention delegates do not undertake the job of explaining and actually disseminating an address to the people, these reasons for the changes will never get before the people. For the purpose of giving this future convention the power to explain the positions that they took and the right to distribute this explanation as has always been done, we would urge the rejection of this amendment.

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: Mr. President, fellow delegates, Mr. Faxon says that dissemination of information is dangerous. I am surprised. Actually, I should certainly ask you to vote yes on this amendment. Give radio and television a free hand; they will do a good job for you and for the people of the state of Michigan.

PRESIDENT NISBET: Mrs. Judd.

MRS. JUDD: Mr. President, I would like to ask a question of Mr. Faxon, if I may.

PRESIDENT NISBET: If Mr. Faxon cares to answer.

MRS. JUDD: Mr. President, Mr. Faxon, do you interpret your amendment to mean the elimination of what is known as the Address to the People, such as was published by the 1908 convention and such as this convention is now preparing?

MR. FAXON: Mr. President, Mrs. Judd, not at all. As a matter of fact, the Address to the People, I think, is included in the words "the explanation of the proposed constitution." I would consider that to adequately take care of the question of the Address to the People. And, by the way, I hope the radio and television and everyone will participate in disseminating, but I don't want to see the state being the one to do the disseminating. You prepare your address. You have everything there. You have the people to carry it forth as well as the delegates. I would certainly think we would have to have an Address to the People, and I think that is taken care of in the explanation.

MRS. JUDD: Thank you.

PRESIDENT NISBET: The question is on the Faxon amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Ford and Bradley offer the next amendment.

MR. MADAR: Mr. President, I would like to move at this time that we limit further debate on the proposal and any further amendments to 5 minutes.

PRESIDENT NISBET: For your information, Mr. Madar, we have 4 amendments. The question is on the motion of Mr. Madar that debate on the proposal and further amendments be limited to 5 minutes.

MR. FAXON: Is that each amendment?

PRESIDENT NISBET: Mr. Madar's motion is that the debate on the amendments and proposal be limited to 5 minutes. Those in favor will say aye. Opposed, no.

The motion does not prevail. The secretary will read the amendment.

SECRETARY CHASE: Messrs. Ford and Bradley offer the following amendment:

1. Amend page 2, line 4, after "law" by changing the period to a colon and inserting "Provided however, That no delegate

elected to and seated in such convention shall be eligible to be a candidate for state or federal office for a period of 2 years after the convention finally adjourns.".

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that debate on this amendment be limited to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor vote aye. Opposed, no.

The motion prevails. Mr. Ford.

MR. FORD: Mr. President and members of the convention, in another form this subject matter has been before us before. I want to say at the outset, the amendment is not intended to be a penalty imposed against someone for having been or becoming a delegate to the convention, but rather is in the nature of a screening process to separate — prior to the choice being made to become a candidate for and a delegate to the convention — those of us who are politically ambitious in our own political careers from those of us who are primarily motivated by a desire to induce some constitutional draftsmanship.

Without pointing any fingers, I think it would be very naive for us not to have observed that it is very difficult for people to remain objective or to remain sincere to a great extent with their early stated principles once they become involved in the problems of building a public image as a candidate for public office and having this public image going before the people at the same time as the document they are attempting to prepare. I think it is wonderful that so many people — as has been indicated by the historians — have had a fine political future after having served in constitutional conventions, but I think that there should be a suitable period of mourning after the task is done before they go out and make their political future.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, this will not have any effect upon the opinions or actions in the convention of people who have political ambitions or who may hope to run for office some day, and I certainly hope it will be defeated.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, I think that this would be an awful waste of potential candidates. We would have spent about 7 or 8 months training them in matters of government and perhaps awakened some political consciousness among the delegates, and then we cool them off for 2 years before they could run for office. I certainly suggest that we leave such matters to any rules that might be adopted by future conventions. I think they can best judge that matter.

PRESIDENT NISBET: Mr. Bradley.

MR. BRADLEY: Mr. President, fellow delegates, I was happy to join with Mr. Ford in this amendment because in the short time that I have been with this convention, I have been very much impressed by the frequent references in the debate to this very subject, the question of whether or not people's votes are being affected, or are they giving consideration in voting to the effect upon their future candidacies. This has been a matter, of course, of reference in jest in most cases, but it has a very substantial germ of truth. I feel a 2 year moratorium on the political careers is not too much to impose.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Ford and Mr. Bradley. There is an amendment to it.

SECRETARY CHASE: Mr. Stevens offers an amendment to the amendment:

1. Amend the amendment after "state" by inserting a comma and "local"; so that language will read, " . . . Provided however, That no delegate elected to and seated in such convention shall be eligible to be a candidate for state, local or federal office for a period of 2 years after the convention finally adjourns."

PRESIDENT NISBET: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I do not think we should discriminate against the "town hall gang." (laughter)

PRESIDENT NISBET: The question is on the amendment offered by Mr. Stevens. Those in favor will vote aye. Opposed, no.

The amendment to the amendment is not adopted. The question now is on the amendment offered by Mr. Ford and Mr. Bradley. Those in favor will vote aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Those in favor of the amendment will vote aye. Those opposed will vote no.

MRS. CUSHMAN: I would like to ask the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. It that demand supported? Not a sufficient number up. Those in favor will vote aye. Those opposed will vote nay. This is on the Ford-Bradley amendment. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Ford and Bradley, the yeas are 35; the nays, 79.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Upton offers the following amendment:

1. Amend page 1, line 5, after "purpose,", by striking out "at an election to be held not later than 4 months"; and in line 10, after "delegate" by inserting "as prescribed by the legislature"; so the language will then read:

If a majority of the electors voting on the question decide in favor of a convention for such purpose, after the proposal was certified as approved, the electors of each house of representatives district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate as prescribed by the legislature.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Upton.

MR. UPTON: Mr. President and fellow delegates, Mr. Hutchinson and Mr. Bentley have discussed this matter in some detail previously. It is my thought that when we went over this matter on first reading we rather glossed over it and didn't consider all the facts. First of all, 4 months after the time of the election brings us into the month of March. This is a very short time to set up the election machinery for such an important election. I feel that the citizens should have a full opportunity to decide who they would like to have run as con con delegates and get their petitions out. I think this could be one of the most important elections during this lifetime when this constitutional convention is called, and I see no reason to rush into an election, especially when we are going to have the convention convene in October. I feel that the time to have an election would be in the spring and not in March. You don't get the people out to vote in the winter time.

I would like to have my fellow delegates consider very seriously the fact that this is an important election, that time should be allowed to set up machinery for running this election; that the legislature will not be in session until January, which would take away 2 months before they could even establish a time for an election because they are not in session in November, and this would take up the time. Therefore, I think that this 4 months is not the correct timing for an election. I believe in this case we should allow the legislature to establish the time so they can probably tie it into a special election or something like that that has already been called for in the spring. I would ask that all delegates consider this very seriously, and I hope they can support my amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Upton. Mr. Habermehl.

MR. HABERMEHL: Mr. President, the 4 months period is in there for a specific purpose. Most of the argument and most of the issues arise at the time of the call of the convention and, as we all know, to attempt to stimulate interest in the election of delegates is always a difficult proposition. We would hope that they would vote on the question of election of delegates before their memories grew dim over the issues that were involved in the election on the call.

I should like to point out to Mr. Upton one further difficulty with his amendment: if the legislature, after the call of the convention, did not take action, did not pass a bill providing for the election, no convention would be held. The 4 month period in here is an attempt to make this self executing and not dependent upon the wishes of the legislature at that time.

PRESIDENT NISBET: Mr. Upton.

MR. UPTON: Mr. President, in answer to Mr. Habermehl's statement, it is inconceivable to me the legislature would not set up the election if the people voted for a constitutional convention. I cannot see any instance where they would fail to set up the election for this convention.

PRESIDENT NISBET: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, if you recall, I objected to this 4 months business when we were in committee of the whole. I thought it was too short and would involve, certainly, special elections all over. I assume there will be both a primary and a general election, and if there were a little more flexibility, it is possible that in some areas one of these elections or both could be a part of some existing local elections.

I haven't checked with Delegate Buback to see whether there is any possibility there would be anything at that season of the year in Detroit, but we are making a great emphasis here upon consolidating our elections; that is, we are going to do away with the spring election, apparently only have a general election once in 2 years, and then here we are providing that these elections would have to be purely separate elections, special elections. I am in favor of this pending amendment that would give a little more flexibility and might allow combining some of these with some election that would already be held in certain parts of the state.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: I would like to oppose the Upton amendment for the first reason: Mr. Upton is reading the present language as though only 4 months would go by for the primary and general election after November's general election. But t' isn't the way it works. The way the language is, it is 4 months after the November election was certified. Now, it takes some time to get certified, and I am not sure of this, but I think it takes approximately 3 weeks and it may even take up to a month. If this is so, this will bring us to April, and this is the same time that many municipalities will be having April elections, and so this election could come in the election in April along with some other elections already set. I think if we leave it wide open, we will get in the old fight of whether anything will be called at all, and I think the committee has reconciled the 2 points of view very well on this point, and I would support the committee.

PRESIDENT NISBET: The time has expired. The question is on the Upton amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment:

1. Amend page 1, line 5, after "purpose,", by striking out the balance of the proposal and inserting "the legislature at the next session shall provide for the election of delegates to such convention.".

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, this amendment would place this provision in about the way it was back in 1850, leaving the matter to the legislature to provide for the machinery. However, it isn't precisely like the 1850 provision because back there, of course, in order to call a convention you had to have a majority of the people voting in an election. Now, as this provision provides—and my amendment won't change it—the question can be carried by a majority of the electors voting on the question.

There have been 2 arguments made against this concept because you don't trust the legislature. In the first place, you say: well, suppose the legislature doesn't provide the machinery even after the people call an election? I think that I agree entirely with Mr. Upton on that point. It is inconceivable to me to believe that a legislature responsive to the people—and they are—would fail to provide the machinery after the people had called an election.

The other argument that you make is that perhaps you would leave it up to the legislature to say what the convention could do. But I submit to you that the question that the people adopted was a general revision of the constitution. If the people direct a general revision of the constitution as this proposal would provide, then it is very obvious that the legislature would be without power to restrict the convention's power to generally revise, and if the convention has the power for general revision, then the convention has the broadest possible power and can exercise it all or may exercise its choice as to submitting amendments and so on.

I say to you that I think this idea of writing all of this machinery into the constitution in 1962 for a situation that will not arise in any event before 1978—and maybe near the year 2000—is just, I think, flattering ourselves in believing that we can provide for the future along this way. We cannot. And I say to you that if you would adopt this amendment of mine and leave it to the legislature of the future to provide the machinery, the people of Michigan would not suffer thereby but really would be convenienced, because their representatives in the future can provide machinery which is tuned to the election machinery and everything else of that time. And so for that reason I offer this amendment. I say to you that the idea of writing all this machinery in here now, and then we disperse and we go home and we are no longer in being as a convention, why, it is our hand reaching far into the future. It is a kind of a dead hand doctrine. I think it is very poor policy. For that reason I hope you will adopt this amendment.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that further debate on this amendment be limited to 3 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Habermehl.

MR. HABERMEHL: Mr. President, I wish that I could agree with Delegate Hutchinson, and I wish I had that much confidence in the legislature. We must recall that there were many things that the legislature should have done last year, 1961, that they did not do, that would have seriously inconvenienced this convention had not other persons and organizations been willing to fill in and take up the slack. I would have grave reservations about trusting the legislature that far, although I wish that I could trust the legislature that far.

This matter was considered by the committee and it was simply felt that if this provision is to mean anything at all, it must have the elements of a self executing provision. We tried to keep the language down to a bare minimum and still retain the self executing provisions of this. For that reason we would urge the rejection of the amendment offered by Mr. Hutchinson.

PRESIDENT NISBET: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I am wondering if Delegate Hutchinson really wants to go as far as his amendment would indicate. It seems as though by striking out everything after where he makes his insertion, he strikes out the basis of delegate representation and everything else that has been provided for in here for carrying out the work of the convention. There are several features in here that I would desire to retain.

If what he had to do applied only to this matter of the process of nominating and electing the delegates and the time table for that, I would be 100 per cent in agreement with it; but I hesitate to go so far as to strike out everything that is in this proposal after the point at which this insertion would be made.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Hutchinson. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The question now is on the adoption of Committee Proposal 66, as amended. Those in favor of the adoption of that proposal will vote aye. Those opposed will vote nay. Mr. Hodges.

MR. HODGES: Point of information, Mr. President. Is it too late to speak against this proposal?

PRESIDENT NISBET: It is. The vote has been called for. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—81

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Bonisteel
Bradley
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Erickson
Everett
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Judd, Mrs.
Karn
King
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Mosier
Nisbet
Ostrow
Page
Perras
Plank
Prettie
Pugsley
Rajkovich
Richards, J. B.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Tubbs
Turner
Tweedie
Van Dusen
Wanger
White
Wood
Woolfenden
Youngblood

Nays—34

Austin
Balcer
Blandford
Boothby
Brown, G. E.
Buback
Dehnke
Douglas
Downs
Elliott, Mrs. Daisy
Farnsworth
Faxon
Ford
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hubbs
Hutchinson
Jones
Kelsey
Lesinski
Madar
Murphy
Norris
Powell
Radka
Stopczynski
Thomson
Upton
Walker
Wilkowski
Young

SECRETARY CHASE: On the passage of Committee Proposal 66, as amended, the yeas are 81; the nays are 34.

PRESIDENT NISBET: **Committee Proposal 66**, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 66 as amended and rereferred to the committee on style and drafting:

Sec. a. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than 4 months after the proposal was certified as approved, the electors of each house of representatives district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate. The delegates so elected shall convene at the capital city on the first Tuesday in October next succeeding such election or at an earlier date if provided by law. The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate. If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law. No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, the yeas and nays being entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take affect as provided by the convention.

PRESIDENT NISBET (continuing): Will you please clear the board? The Chair recognizes Dr. DeVries.

MR. DeVRIES: Mr. President, I move the convention reconsider the vote by which **Committee Proposal 28** failed of passage last evening. The reason I do this: we have a peak attendance this morning and there is a question in my mind whether or not some of the delegates might be here this afternoon, and it seems to me we have to have some provision in the constitution regarding legislators' salaries. So I move the reconsideration at this time.

For the vote on the passage of Committee Proposal 28, see above, page 2992.

PRESIDENT NISBET: The question is on the motion of Mr. DeVries. Mr. Kuhn.

MR. KUHN: I wish to amend that motion and move that we reconsider that vote next Monday. In this way we will have the chance of having public reaction to the action that we will contemplate.

PRESIDENT NISBET: Mr. Kuhn, is your motion that action be postponed on this until next Monday?

MR. KUHN: I amend the DeVries motion to have that vote postponed until next Monday.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn that action on this motion to reconsider be postponed until next Monday. Those in favor of that motion of Mr. Kuhn will say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: A division has been demanded. Will the delegates please clear the board? Is the demand for the division seconded? A sufficient number up. Will the delegates please clear the board? The question is on the motion of Mr. Kuhn that action on the motion for reconsideration be postponed until next Monday. Those in favor of that will vote aye. Those opposed will vote nay. Have you voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to postpone consideration of the motion to reconsider until next Monday, the yeas are 45; the nays are 76.

PRESIDENT NISBET: The motion does not prevail. Will the delegates please clear the board? The question now is on the motion of Mr. DeVries to reconsider.

MR. BOOTHBY: Mr. President.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: I move to limit debate on the motion to reconsider to 20 minutes.

PRESIDENT NISBET: May I say this, Mr. Boothby: we must recess in 10 minutes to meet our previous commitment.

MR. BOOTHBY: Mr. President, as I understand, I think we need some debate on this, and if we are going to debate it at all, I think that it should be limited to 20 minutes. We won't have an afternoon session, I understand.

PRESIDENT NISBET: We will have an afternoon session.

MR. SHARPE: Mr. President.

PRESIDENT NISBET: Mr. Sharpe.

MR. SHARPE: Mr. President, I would move that we postpone consideration of this motion until after our recess.

PRESIDENT NISBET: The question is on the motion of Mr. Sharpe that we postpone consideration until after the recess.

MR. HODGES: Point of information.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Is the previous question in order now?

PRESIDENT NISBET: Yes.

MR. HODGES: I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? A sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question now is on the motion of Mr. DeVries that—

MR. KUHN: Parliamentary inquiry, Mr. President: I believe Mr. Sharpe's motion was before the house.

PRESIDENT NISBET: Mr. Sharpe, excuse me. The question is on the motion of Mr. Sharpe that consideration of this be postponed until after the recess. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. The motion is by Mr. Sharpe that the question of the matter of reconsideration of Mr. DeVries' motion be postponed until after recess. Those in favor of that motion will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. HODGES: Mr. President, a parliamentary inquiry. It was my intention to move the previous question for the entire DeVries motion and on any amendments that might be offered and on the committee proposal. Is that your understanding?

PRESIDENT NISBET: That wasn't the Chair's understanding, Mr. Hodges. You can make that motion after this is announced, if you care to.

MR. FARNSWORTH: Mr. President, I would like to be recognized as soon as the vote is announced, please—

MR. HODGES: Mr. President.

MR. FARNSWORTH: —on a preferential motion.

SECRETARY CHASE: On the motion to postpone consideration of the motion to reconsider until after recess, the yeas are 49; the nays are 74.

MR. HODGES: Mr. President.

MR. FARNSWORTH: Mr. President.

PRESIDENT NISBET: Mr. Hodges is recognized first, Mr. Farnsworth.

MR. HODGES: Mr. President, I move the previous question on the DeVries motion to reconsider, on the committee proposal, and all amendments thereto.

MR. FARNSWORTH: Mr. President, a preferential motion: I move that the convention recess until 2:00 o'clock.

PRESIDENT NISBET: The question is on the motion of Mr. Farnsworth to recess until 2:00 o'clock. Those in favor will say aye. Those opposed, no. The Chair is in doubt. Those in favor of recess to 2:00 o'clock will vote aye. Those opposed will vote nay. Have you all voted?

MR. MADAR: Mr. President, can we place any more bets before the next race starts? (laughter)

PRESIDENT NISBET: If so, the secretary will lock the machine and record the totals.

MR. SHARPE: Mr. President.

PRESIDENT NISBET: Mr. Sharpe.

MR. SHARPE: As soon as the vote is announced, I would like to have the floor, please, for a preferential motion.

PRESIDENT NISBET: There is a motion already made, Mr. Sharpe.

MR. SHARPE: What is the motion, Mr. President?

PRESIDENT NISBET: Just a minute until we get through with this.

SECRETARY CHASE: On the motion to recess until 2:00 o'clock, the yeas are 50; the nays are 71.

PRESIDENT NISBET: The motion to recess does not prevail. The previous question has been demanded by Mr. Hodges. Is that demand supported? It is supported.

MR. BOOTHBY: A preferential motion.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: I understand Mr. Kuhn asked for it before I did.

MR. KUHN: No, go ahead.

MR. BOOTHBY: I move to limit debate to 15 minutes.

PRESIDENT NISBET: May the Chair say to the convention that we have made a pretty firm commitment with the Michigan bar to meet them for their meeting at 11:30.

MR. SHARPE: Mr. President.

PRESIDENT NISBET: Mr. Sharpe.

MR. SHARPE: In view of the fact that the hour is so late and we have made a definite commitment, and this is a very important question that we are about to vote on, I move that we recess until 2:30 this afternoon.

MR. HODGES: Point of information, Mr. President.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: These motions are all being made for the express purpose of voting on it after lunch, which was already voted on. Now, the intent is the same thing: to try and stall this until after the recess. I would submit it is all the same motion, and they are out of order.

MR. SHARPE: Mr. President, I submit the intent is to keep a commitment we have made to meet in 3 minutes.

PRESIDENT NISBET: The demand for the previous question has been supported. Those in favor—

MR. BOOTHBY: Mr. President.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: Did you rule on my motion to limit debate to 15 minutes?

PRESIDENT NISBET: The motion of Mr. Boothby that debate be limited to 15 minutes has been made. Those in favor of that motion will say aye. Those opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: A division has been demanded. Is the demand supported for a division? A sufficient number up. Those in favor of Mr. Boothby's motion that debate be limited to 15 minutes will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. FARNSWORTH: Mr. President, I would like to ask on whose side is the secretary? (laughter)

PRESIDENT NISBET: I think he is embarrassed. (laughter)

SECRETARY CHASE: I am sorry, ladies and gentlemen. The secretary has a very red face and he apologizes to the convention for not flipping the lever before the vote was taken. Now we will try it again.

On the motion to limit debate, the yeas are 32; the nays are 79.

PRESIDENT NISBET: The motion does not prevail. The question now is on ordering the previous question.

MR. SHARPE: Mr. President.

PRESIDENT NISBET: Mr. Sharpe.

MR. SHARPE: A preferential motion. This is absolutely ridiculous. We are voting on whether or not we are going to spend another million dollars of taxpayers' money, and I move that we recess until 2:15.

PRESIDENT NISBET: The question is on the motion of Mr. Sharpe to recess until 2:15.

MR. LEPPIEN: Mr. President, I offer an amendment to that that this convention now stand adjourned until 1:30, because we still have a lot of work to do this afternoon. It gives us plenty of time to do it.

PRESIDENT NISBET: Mr. Leppien's amendment to the motion is for 1:30. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The question now is on the motion of Mr. Sharpe that we recess until 2:15. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question now is on ordering the previous question demanded by Mr. Hodges. The question is: shall the previous question be put? Those in favor will vote aye. Opposed, no.

The previous question is ordered.

DELEGATES: Division.

PRESIDENT NISBET: A division has been demanded. Is that demand seconded? A sufficient number up. Those in favor of putting the previous question will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On ordering the previous question, the yeas are 81; the nays are 39.

PRESIDENT NISBET: The previous question is on the motion to reconsider, on any amendments that might be offered and on the committee proposal. The question first is Mr. DeVries' motion to reconsider. Those in favor will vote aye.

MR. KARN: Mr. President, may we have the proposal read, please?

PRESIDENT NISBET: The secretary will read the proposal.

SECRETARY CHASE: The proposal as printed in yesterday's journal on page 1208 as the last voted upon proposal, and the vote is upon the reconsideration of this. It reads as follows:

> Sec. a. The annual salary of the members of the legislature shall be not less than $10,000. Additional actual and necessary expenses may be provided by law. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.
>
> No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits.

MR. KUHN: Mr. President, parliamentary inquiry. Is it true if this is to be passed, then we will have the DeVries amendment before us?

PRESIDENT NISBET: This is merely the motion to reconsider, Mr. Kuhn. If it prevails, it will be before us.

MR. KUHN: Thank you. I have an amendment when we get to it.

PRESIDENT NISBET: The question is on the motion to reconsider. Those in favor will vote aye. Those opposed will vote nay.

MR. G. E. BROWN: Mr. President, I have a preferential motion. I move the previous question on the DeVries amendment after the vote on this question.

PRESIDENT NISBET: You are out of order, Mr. Brown. Those in favor of reconsidering will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: The vote on the motion to reconsider: the yeas are 80; the nays are 43.

PRESIDENT NISBET: The motion prevails.

MR. DANHOF: Mr. President.

MR. HODGES: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I move that this convention now stand in recess until 2:00 p.m. this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. Danhof. Those in favor will vote aye. Opposed, no.

We are recessed until 2:00 o'clock. (laughter)

[Whereupon, at 11:25 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

During the recess the secretary received the following requests: Mrs. Conklin and Mr. McCauley ask to be excused from the afternoon session; and Mr. Bentley from the latter part of the session.

PRESIDENT NISBET: Without objection, the excuses are granted.

When we recessed so quietly at noon (laughter) we had just voted to reconsider the vote on the passage of Committee Proposal 28. The Chair recognizes Mr. DeVries.

MR. DeVRIES: Mr. President, may I inquire as to how many amendments there are to the committee proposal?

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: I have 3 presently on file. I understand there is another one.

MR. DeVRIES: Mr. President, I would move that debate on this proposal be limited to 30 minutes.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read the first amendment.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: May I inquire of Dr. DeVries whether his motion covers all amendments as well?

MR. DeVRIES: Mr. President, it would cover all amendments and the proposal.

MR. VAN DUSEN: In that event, Mr. President, might I suggest and move that debate on each amendment be limited to 5 minutes?

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The motion to limit debate is revised to limit debate to 5 minutes on each amendment. The secretary will read.

SECRETARY CHASE: Messrs. Gadola, White, Faxon and Mrs. Daisy Elliott offer the following substitute:

> Sec. a. The compensation and expenses of the members of the legislature shall be determined by law, but such compensation shall not be less than $7,500.00. No change in compensation or expenses shall be effective during the term of office for which the legislature making the change was elected.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: I want to yield to Delegate Downs for purposes of speaking on this.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise in support of this, even though I do not think it is nearly enough. I do think the $7,500 is a 50 per cent increase and is a minimum. Yesterday I did and I still do prefer the idea of half of what the congressman gets. I think that would be preferable. However, if there are not the votes for that, I certainly think that the $7,500 as a minimum is a step forward over the present $5,000, which I think not only is inadequate for legislators but restricts the right of the people to select, because the 5,000 amount is so small that many qualified people just would not run for that small an amount.

PRESIDENT NISBET: Mr. DeVries. Remember, we have 5 minutes and several speakers.

MR. GADOLA: Mr. President, correction. I think there should be added to that substitute, "per annum" after that $7,500.

PRESIDENT NISBET: Without objection, it will be revised.

[The substitute, as revised, reads as follows:

> Sec. a. The compensation and expenses of the members of the legislature shall be determined by law, but such compensation shall not be less than $7,500.00 per annum. No change in compensation or expenses shall be effective during the term of office for which the legislature making the change was elected.]

MR. DeVRIES: Mr. President and fellow delegates, I think this is hastily drawn. It takes out things that the convention has already adopted, and some important matter. First of all, the committee proposal that failed last night by 3 votes provides that there can be a general salary reduction in all branches of government. The legislative salary can be reduced if there is a general reduction. Furthermore, this does not include the last paragraph which was adopted by this convention last night by over 100 votes. I therefore urge you not to support this.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, we are getting down to a figure now that I think is all right. While I would prefer not to have the matter mentioned in the constitution or not fixed in the constitution but to leave it to the legislature, apparently this convention wants something in the constitution as a floor at least, and I can go along with the $7,500.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, I think the suggestion was made that after the figure $7,500, it should include the word "annually" so that there is no misunderstanding.

PRESIDENT NISBET: That has been made, Mr. Hoxie.

MR. HOXIE: That has been made?

PRESIDENT NISBET: That is right.

MR. HOXIE: Members of the convention, to me this is a compromise between the thinking of the various members of the convention. I think we can dispose of this matter very rapidly by a green vote on this, and I urge you to accept the substitute which is now before you.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: I rise to oppose this. In my opinion we are going in absolutely the wrong direction. We should go forward and set out everything, as in the DeVries amendment, whether the amount, basically, is what you want or not, but the second paragraph is vital as well as the rest of the language in it. By this we are going completely wrong. We are doing the legislature's business, which is not our business, and this paragraph is probably the worst thing, I think. The proposal is far better than this.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, although it would be lengthy to write out, it is very simple to explain. I would move that the substitute be amended to strike the $7,500; make it $9,000; strike the balance of the language and insert after the figure "$10,000" the original language of the committee.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Brown.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: If this is being offered as an amendment by Mr. Brown, I urge you not to concur in the amendment. Leave the substitute as it now appears before you on the board. All he is trying to do is to get back to the original substitute, the DeVries substitute proposal, and I would recommend to you that you vote down the proposed amendment to the substitute, and let's get on with our work and dispose of this matter in a judicious manner.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: I would just like to raise a point of order and ask the Chair if he would rule on the point of order that this amendment is almost the same as the DeVries substitute that we have already acted upon, and therefore it is out of order.

PRESIDENT NISBET: The Chair will rule it is in order, Mr. Kuhn. Mr. DeVries.

MR. DeVRIES: Mr. President, would it be in order for the secretary to read the Brown amendment?

PRESIDENT NISBET: The secretary will read it.

SECRETARY CHASE: Mr. G. E. Brown offers the following amendment to the proposed substitute:

1. Amend the substitute, after "Sec. a.", by striking out the balance of the proposal and inserting "The compensation and expenses of the members of the legislature shall be determined by law, but such compensation shall not be less than $9,000 per annum. Additional actual and necessary expenses may be provided by law. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits.".

MR. DeVRIES: Mr. President, I call the delegates' attention to this: if you turn to page 1208 of your journal and look at the proposal that failed last night by 3 votes, and just strike out the figure 9,000 you then have the amendment before you offered by Mr. Brown. Strike out the figure 10,000 and insert 9,000. The convention has already overwhelmingly approved the balance of the language, after the percentage, by over 100 votes in both cases. So all the Brown amendment does is bring us back to the proposal adopted last night. The issue here is the amount of money, so I would urge the adoption of the Brown amendment.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, I urge a no vote on the Brown amendment. As D. Hale Brake has said, this is a compromise. We will go along with the substitute put in by Messrs. Gadola, White, Faxon and Mrs. Elliott, even though we do not really think it is good constitutional matter, but we are definitely opposed to the Brown amendment and urge a no vote and let's get on with our business.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, I am sure that you are well aware of the fact that this convention has not overwhelmingly approved any provision. Otherwise we wouldn't be considering this question right now. Now, I speak against the Brown amendment and urge your consideration for the substitute, because the material that is contained in that amendment to the substitute is not necessary to the constitution. It is not necessary in detail. The question has been left in the last 100 and some years for the legislature to make the determination. I don't see any reason why, after all these years, we are suddenly anxious to put in a prohibition against participation in retirement or whatever it is you are trying to prohibit. There is no need at this time to make this kind of a change. I think that sticking to the simple language the committee proposal recommended and putting in a minimum wage will serve both purposes and keep the constitution clear of unnecessary clutter.

PRESIDENT NISBET: Mr. Staiger.

MR. STAIGER: I rise in support of the Brown amendment. It includes the language, which is not included in the substitute on the board, prohibiting the retirement provisions that the legislature now has. In looking at those—we have been over there—it is an unknown from the actuarial standpoint. I don't know how you could ever figure the cost of something determined on the basis of time of members in the legislature. This is something that I think is wrong and I think that the Brown amendment, which prohibits it, is the right way to move, giving an adequate salary but no retirement.

PRESIDENT NISBET: Mr. Sharpe.

MR. SHARPE: Mr. President, we are right back now nearly at the $10,000 figure. And I submit to you if there is ever to be a slogan emerging from this convention's work to help defeat the constitution it will be, "and they raised the salary of the legislature to $9,000." I submit to you—

PRESIDENT NISBET: The time has expired, Mr. Sharpe. The question is on the amendment offered by Mr. Brown.

MR. NORRIS: Mr. President.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: I just wanted to extend the time for Mr. Sharpe to finish his observation. May I do so?

PRESIDENT NISBET: What was that?

MR. NORRIS: I just wanted to move to extend the time to enable Mr. Sharpe to finish observation.

PRESIDENT NISBET: Would you mind asking him if he was through? Mr. Brown.

MR. G. E. BROWN: I would move, Mr. President, to extend the debate for 5 minutes. I think that there are 2 amendments pending before the body, the Faxon substitute, which part of the time was spent on, and then the Brown amendment, which was entitled to further time.

PRESIDENT NISBET: It isn't debatable. The question is on the motion of Mr. Brown that the debate be extended 5 minutes on the Brown amendment. Incidentally, let me say this: we have used 3 minutes of the 5 on the Faxon substitute. We have used up the rest of the 5 minutes on the Brown amendment.

The question now is on extending the time limit on the Brown amendment by 5 minutes. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question is on the Brown amendment to the substitute. Those in favor of the Brown amendment will say aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: Is the demand for a division supported? Those in favor of the Brown amendment will vote aye. Those opposed will vote nay. Have you all voted?

MR. G. E. BROWN: Mr. President, could it be read again, please?

PRESIDENT NISBET: The Brown amendment will be read.

MR. G. E. BROWN: And a parliamentary inquiry also. Isn't the proponent of an amendment usually given an opportunity to talk?

PRESIDENT NISBET: The Chair thinks you have talked, Mr. Brown, though the Chair isn't sure. (laughter)

SECRETARY CHASE: The Brown amendment, which is now being voted upon on a division vote:

[The amendment was again read by the secretary. For text, see above, page 3016.]

PRESIDENT NISBET: Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brown to the Gadola-White-Faxon and Mrs. Elliott substitute, the yeas are 44; the nays, 76.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the Faxon, et al, substitute.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? A sufficient number up.

MR. SHARPE: Mr. President.

PRESIDENT NISBET: There are 2 minutes left.

MR. SHARPE: Mr. President, has the previous question not been ordered?

PRESIDENT NISBET: No, it has not.

MR. SHARPE: I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded?

MR. FAXON: A motion to limit debate has preference.

PRESIDENT NISBET: That is correct. The motion is not in order, Mr. Sharpe, because debate was limited to 5 minutes. We have 2 minutes left. Dr. DeVries.

MR. DeVRIES: Mr. President, I would like to ask the sponsors of this substitute one question. How much is this going to raise legislative retirement in the next 10-15 years? I know it raises it $1,250 right now for a man who has 16 years service. Now, you add that up and you tell me how much this is going to cost.

PRESIDENT NISBET: The question is on the substitute. Mr. Faxon.

MR. FAXON: Mr. President, I don't believe the question of legislative retirement ought to be dealt with in the constitutional convention at all, or in the constitution, for that matter. If the legislature wants to change their retirement program, this is their prerogative to do. I don't see why we have to legislate for the legislators' retirement program at all. For this reason I would urge your support of this substitute. I don't think we should be dealing with it.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, I should like to ask Mr. Faxon a question. Why should he continually bring up something that has been voted down again and again in separate votes and thus complicate the issue before the house? The issue before the convention seems to be the size of the salary and not the rest of the amendment. This amendment is obviously a sort of a half amendment. It doesn't begin to compare with the amendment offered and voted on very nearly successfully several times.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, I urge a yes vote on the Faxon and others substitute. We will let this delegation decide whether or not this is good constitutional language rather than the language that has been submitted to us. I think we are all familiar with and well advised of what Dr. DeVries and Dr. Pollock are interested in. Now let's vote for this amendment, settle the issue, and I urge you all to vote a green light.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I am surprised, amazed and disturbed that those who have spoken against a salary base for legislators would now propose language that will cost the taxpayers much more in its ultimate analysis than what was proposed before and they spoke against. I don't see how Mr. Hoxie and some of the others can go back to their constituents and tell them that we voted against something that would have given a salary to legislators without perpetuating whatever incompetency may exist and at the same time say that we are supporting a measure that will cost the taxpayers more money in the ultimate analysis.

PRESIDENT NISBET: The time is up. The yeas and nays have been ordered. The secretary will read the substitute.

SECRETARY CHASE: The following substitute has been offered by Messrs. Gadola, White, Faxon and Mrs. Daisy Elliott:

[The substitute amendment was again read by the secretary. For text, see above, page 3015.]

PRESIDENT NISBET: Those in favor of the substitute will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—53

Anspach
Austin
Balcer
Barthwell
Beaman
Boothby
Brake
Buback
Danhof
Dehnke
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Farnsworth
Faxon
Figy
Finch

Gadola
Gover
Habermehl
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Howes
Hoxie
Hutchinson
Kirk, S.
Knirk, B.
Kuhn
Madar
Martin
McAllister
Murphy
Nisbet

Ostrow
Page
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rush
Sablich
Sleder
Stafseth
Tweedie
Van Dusen
Woolfenden
Young

Nays—69

Allen
Andrus, Miss
Batchelor
Binkowski

Hanna, W. F.
Haskill
Hatch
Heideman

Plank
Pollock
Rood
Seyferth

Blandford
Bledsoe
Bonisteel
Bradley
Brown, G. E.
Butler, Mrs.
Cudlip
Cushman, Mrs.
DeVries
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Erickson
Everett
Follo
Ford
Garvin
Goebel

Higgs
Hubbs
Jones
Judd, Mrs.
Karn
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Mahinske
McGowan, Miss
McLogan
Mosier
Perras

Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Staiger
Stamm
Stevens
Stopczynski
Thomson
Tubbs
Turner
Upton
Walker
Wanger
Wilkowski
Wood
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Gadola, White, Faxon and Mrs. Elliott, the yeas are 53; the nays are 69.

PRESIDENT NISBET: The substitute is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Farnsworth offers the following amendment to the first paragraph of the proposal:

1. Amend page 1, first paragraph, at the end of the first sentence, after "$10,000.", by striking out all of the second sentence as follows: "Additional actual and necessary expenses may be provided by law."; and in the third sentence, after "salary" by striking out "or expenses"; so the language will then read, "No change in salary shall be effective during the term of office for which the legislature making the change was elected. . . ."

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, I only want to call to the attention of the delegates here that one of the easiest ways to cover up compensation that you receive from any public body is to do it via the expense route. Now, if you would ask someone how much a congressman gets—and we heard this the other day—they say that he gets $22,500. No mention made of the tax free expense money that he has voted himself. When you hear about how much a legislator gets in Michigan, you immediately hear that he gets $5,000 a year. No one tells you that he gets $6,250 plus 2 round trips. So what we are proposing to do with this amendment is simply this: that whatever this legislature votes themselves in the future will have to be a salary that will be known to the voters, that will be discussed in full; there will be no hidden expenses. And then we go farther down, and I call your attention to the matter that we discussed briefly yesterday, on down in the second paragraph where it says:

> No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions.

With this amendment that I am offering to you, plus the language in that second paragraph, you will once and for all have the total expense to the state of a legislator named in the salary he receives. It is all out in the open, nothing hidden.

Now, I think as long as you insist on here naming what he is going to receive as a floor, I think it is good language. It gets it right out in the open where everybody will know about it. I urge you to adopt the amendment in the interests of clarity.

PRESIDENT NISBET: We have 3 speakers. There are 3 minutes left. Dr. DeVries.

MR. DeVRIES: Mr. President, if I may, I would like to direct a question to Mr. Farnsworth.

PRESIDENT NISBET: If he cares to answer.

MR. DeVRIES: I presume that this amendment is designed to get at the monthly trips or the expenses for this which are awarded to the legislators, as well as the interim committee trips. Now, as I read this amendment, Mr. Farnsworth, by striking out this language, you are not prohibiting this; you are just taking it out of the section. Is that correct?

MR. FARNSWORTH: I think I am prohibiting it, Dr. DeVries, for this simple reason: that in your second paragraph you specifically provide that they will not receive any other fees or compensation. I think when you put the 2 together, we are prohibiting it. And yes, I am after that travel. I am after that interim committee expense or any other expense that might be used in lieu of salary that the people didn't know about back home.

MR. DeVRIES: Mr. President, Mr. Farnsworth, that means then you are particularly interested in prohibiting the monthly trips and the interim investigation trips. Do I understand then you are willing to support the basic salary that is in the provision as it now stands?

MR. FARNSWORTH: Dr. DeVries, I did not say that I was opposed to trips and I did not say that I was opposed to committee meetings or anything of that kind. I simply said that I am opposed to leaving a loophole where the legislative body can vote themselves expense money in lieu of salary that the people don't know about. I submit to you that $10,000—and that is only a floor; they can go beyond that if they wish—is ample pay for them to pay their own reasonable expenses.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, while this amendment does not do what I had originally hoped we would be able to do in this constitutional convention, I think that it comes a lot closer to meeting the general feeling of the convention, and I would urge that all of the members of our delegation consider supporting it very favorably. This will, in effect, reduce the amount of money received by each legislator and it will give a floor. I think it is absolutely essential that we take some steps along these lines in this convention and, therefore, while this doesn't do what I had hoped we would be able to do, I am going to support it and I urge you to also.

PRESIDENT NISBET: Mr. Mahinske. There are 30 seconds left. Mr. Sleder, 30 seconds.

MR. SLEDER: Mr. President, fellow delegates, I feel that this provision discriminates against the legislators in the fact that it will cost those that live a great distance from the capital city of Lansing more to serve in the legislature than those that live in the vicinity of Lansing.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Farnsworth.

MR. FARNSWORTH: A division vote, please.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? Those in favor of the Farnsworth amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the total of the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Farnsworth, the yeas are 24; the nays are 95.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Blandford and Perras offer the following amendment:

1. Amend page 1, first paragraph, first sentence, after "not less than" by striking out "$10,000" and inserting "1/3 nor more than ½ of the amount of compensation paid the members of the United States house of representatives"; so that the language will then read:

> The annual salary of the members of the legislature shall be not less than 1/3 nor more than 1/2 of the amount of compensation paid the members of the United States house of representatives.

PRESIDENT NISBET: Mr. Blandford.

MR. BLANDFORD: Mr. President and fellow delegates, this amendment does not set up a fixed amount but rather a percentage figure. I feel that set figures of 10,000 or 7,500 in a constitution designed for 50 years is contrary to good constitutional language. This also establishes both a floor and a ceiling. The floor is 1/3, or $7,500; and the ceiling is 1/2, or $11,250 figured on today's congressional pay. In my judgment the concept of tying legislative pay to congressional pay is sound. Any body charged with fixing its own pay is dealing with a very ticklish question.

In the question of apportionment, an equally ticklish question, we removed the question from the legislature by establishing an apportioning commission to handle the problem. I feel it is equally sound to remove the pay question from the legislature by tying it to the pay of congressmen. I feel a 1/3 figure for the floor and a 1/2 figure for the ceiling is sound.

PRESIDENT NISBET: Mr. Thomson.

MR. THOMSON: Mr. President, fellow delegates, during the 6 months I have had an opportunity to get acquainted with you people, I set a very high standard in the fact that from this group might come a couple of congressmen, a governor of the state, perhaps even a president, and numerous members of the legislature. I have had the privilege of serving in the legislature, as Hale Brake says, at $3 per day. Among the other things we got was the privilege of going to the upper peninsula in a car affectionately called the ice box. That was about all we received at that time.

Now, I think what is wrong with our thinking and our procedure today is the fact that this started out with a "round robin" which was signed by a lot of people. We used to have that very prevalent in the legislature, a roll call upon which people promised to vote for something, and we affectionately dubbed that as "the suckers' list." Now, we went along on these matters as you have today. Let's vote on this and get it done with, because we are going to appear in the eyes of the public as suckers along with the rest of the people that signed it.

PRESIDENT NISBET: Mr. Barthwell.

MR. BARTHWELL: Mr. President, I would like to ask Mr. Blandford a question, through the Chair.

PRESIDENT NISBET: If Mr. Blandford cares to answer.

MR. BARTHWELL: My question, Mr. Blandford, is: in your amendment, does this eliminate the retirement factor?

MR. BLANDFORD: All other features of the plan as adopted would remain the same. I say "adopted;" the plan that got, I believe, 70 votes last night, in which the reference was made that retirement would continue, I believe, for those that are now eligible for it.

MR. BARTHWELL: Thank you.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this goes right back to the general proposition that we ought not to be trying to fix the salary of the legislature by the salary of somebody else which is fixed without any relation to what is to be done here in the state of Michigan, and it seems to me that this is subject to that same objection.

I think that we ought to accept the original language of the committee proposal, but since we voted that down, I would favor voting this down, voting the amendment down and leaving the matter entirely to the legislature to handle. We don't need a constitutional provision on this at all.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Blandford. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend page 1, line 1, after "Sec. a.", by striking out the balance of the section and reinserting "The compensation and expenses of the members of the legislature shall be determined by law. No change in compensation or expenses shall be effective during the term of office for which the legislature making the change was elected.".

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, we are now back to the original committee proposal. As I stated earlier, this is the language that is in the federal constitution. This is the language which the model constitution proposes. We have debated this long enough. I think you can see all the difficulties that come about, and therefore—

MR. DeVRIES: Point of order, Mr. President. Wasn't this the Bentley amendment yesterday?

PRESIDENT NISBET: That is correct. The Chair sustains the point of order. The amendment is out of order.

MR. KUHN: Mr. President, to save time, maybe the proper motion is to reconsider the Bentley amendment. (laughter) I so move.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn to reconsider the vote on the Bentley amendment. Mr. Kuhn.

MR. KUHN: Mr. President, this will put us back to what the model constitution recommends; that when you draw up a constitution, you put in it that the matter is left up to the legislature. This will give us the same language that is in the federal constitution. This will make us completely responsible to the people, doing the job that they sent us to do, writing a basic document, not trying to draw up statutory language. Mr. President, I urge that the convention reconsider this vote because, after all, the vote on this last night was a tie vote, 64 to 64.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn that the Bentley amendment be reconsidered. Those in favor will say aye. Opposed, no. The Chair is in doubt.

DELEGATES: Division.

PRESIDENT NISBET: A division has been ordered. Those in favor of reconsideration will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to reconsider, the yeas are 60; the nays are 58.

PRESIDENT NISBET: The motion prevails. The question now is on the amendment. The time has expired. Mr. Kuhn.

MR. KUHN: I move that we have at least 2 minutes debate on this.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn that the time limit be extended for 2 minutes. Those in favor will say aye. Opposed?

The motion prevails. You have your 2 minutes, Mr. Kuhn.

MR. KUHN: Well, Mr. President, first let me say to this convention that it is not unusual that we are having such lengthy debate. As I read to you last Friday from the Journal of the 1907-1908 Convention, this subject generated more debate than any other subject at that convention. I am sorry to say that we were not able to discuss this on the first time around in the committee of the whole when we had unlimited debate because no one saw fit to offer an amendment to the committee proposal.

I want to urge upon you once again—and I have said this so many times—that this is good constitutional language. This is not statutory. A constitution should be a flexible document. We should not try to set figures based on anything, and especially salaries. The people do not want us here to set up any salary. If we were to put a 10,000 figure in, we could not go home and explain it. The only thing we can do is antagonize the rural areas and get no votes. I say to you that the majority that would vote for this $10,000 provision will not work in support of passing this constitution when it is offered to the people.

PRESIDENT NISBET: Will the board be cleared? Mr. King.

MR. KING: Mr. President, I move that 2 minutes be granted to someone representing the other side of this issue.

PRESIDENT NISBET: The question is on the motion of Mr. King. Those in favor will say aye. Opposed, no.

The motion prevails. Dr. DeVries, do you want your 2 minutes?

MR. DeVRIES: I don't know where to start, Mr. President. I don't know how many times we have to vote on this thing.

PRESIDENT NISBET: You have 2 minutes. (laughter)

MR. DeVRIES: If you look again at page 1208 of the journal, except for the first sentence, we have adopted that language I don't know how many times. We adopted that second paragraph by over 100 votes last night. We adopted that paragraph at least 3 times. The convention has taken a position on this thing. The only question has been about the amount of salary. And now we are voting on a provision we turned down again last night by an overwhelming majority.

How many times do we have to vote on this? Now I say, vote down this amendment, look at the language that was almost adopted last night, and there are some other amendments that might clear up some of the problem.

PRESIDENT NISBET: The question is on the amendment of Mr. Bentley. The secretary will read.

SECRETARY CHASE: Mr. Bentley's amendment is:

[The amendment was again read by the secretary. For text, see above, page 2989.]

MR. SHARPE: The yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? A sufficient number up. Those in favor of the amendment offered by Mr. Bentley will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—59

Anspach
Austin
Batchelor
Beaman
Bonisteel
Boothby
Brake
Cudlip
Danhof
Dehnke
Doty, Dean
Erickson
Farnsworth
Figy
Finch
Gadola
Gover
Haskill
Howes
Hoxie
Hubbs
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Martin
McAllister
Mosier
Nisbet
Page
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Stevens
Thomson
Tubbs
Turner
Tweedie
Van Dusen
Walker
Wanger
White
Wood
Woolfenden

Nays—63

Allen
Andrus, Miss
Balcer
Barthwell
Binkowski
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Butler, Mrs.
Cushman, Mrs.
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Ford
Garvin
Goebel
Habermehl
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
McGowan, Miss
McLogan
Murphy
Ostrow
Perras
Pollock
Rajkovich
Seyferth
Sleder
Snyder
Staiger
Stamm
Stopczynski
Upton
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment, which was reconsideration of the amendment offered by Mr. Bentley on yesterday, the yeas are 59; the nays are 63.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of the proposal, as amended. Is there another amendment?

SECRETARY CHASE: Mr. King offers the following amendment to the body of the proposal:

1. Amend page 1, first paragraph, first sentence, after "than" by striking out "$10,000" and inserting "40 per cent of the compensation paid to members of the United States congress".

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, fellow delegates, we are now back to the provision which got 70 votes, except that we have reduced it from 50 per cent to 40 per cent. Now, this is a significant reduction. It brings the salary more in line with what apparently is the thinking of the outstate areas as reported by their distinguished delegates, and it seems to me that this is the sort of position which is a true compromise and could perhaps attain the necessary 73 votes. This is really what we need, 73 votes. It is not enough to pass this or any other amendment. We have to get something which will satisfy 73 delegates. It is my hope that this would be it. The salary, incidentally, 40 per cent of a present congressman's salary, is $9,000 exactly.

PRESIDENT NISBET: The question is on the amendment offered by Mr. King.

MR. MAHINSKE: Point of order. Wouldn't this have been included in the amendment that attempted to adopt a spread between 1/3 and 1/2, which is 33 and 50 per cent? (laughter)

PRESIDENT NISBET: This is a different figure, Mr. Mahinske. The amendment is in order. Those in favor of the amendment offered by Mr. King will say aye.

MR. FAXON: What is it?

PRESIDENT NISBET: Read the amendment.

SECRETARY CHASE: The amendment offered by Mr. King:

[The amendment was again read by the secretary. For text, see above.]

A DELEGATE: Division.

PRESIDENT NISBET: A division has been demanded. Is the demand seconded?

MR. KING: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? A sufficient number up. Mr. Downs.

MR. DOWNS: A parlimentary inquiry: are we now on the first paragraph of the proposal, or do we have the whole thing before us?

PRESIDENT NISBET: The whole thing is before us, Mr. Downs, and this is an amendment to it.

MR. DOWNS: And the King amendment applies solely to the first paragraph? Is that correct, Mr. Chase?

SECRETARY CHASE: To the first sentence.

MR. DOWNS: To the first sentence. Thank you.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, I urge a no vote on this. This brings us back. We voted down $9,000 once today already. Mr. Hutchinson already pointed out how silly it is to base anything on the federal government. After all, we are a sovereign state and we take great pride in it. We should be able to do things ourselves and not look to Washington. I definitely urge a no vote.

PRESIDENT NISBET: The question is on the amendment offered by Mr. King. The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—51

Andrus, Miss
Austin
Balcer
Binkowski
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Follo
Ford
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Higgs
Hubbs
Kelsey
King
Koeze, Mrs.
Leppien
McGowan, Miss
McLogan
Murphy
Norris
Ostrow
Perras
Pollock
Seyferth
Sleder
Snyder
Spitler
Stopczynski
Upton
White

Douglas
Downs
Krolikowski
Lawrence
Wilkowski
Youngblood

Nays—71

Allen
Anspach
Barthwell
Batchelor
Beaman
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Dehnke
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Gadola
Gover
Haskill
Hatcher, Mrs.
Heideman
Hodges
Hood
Howes
Hoxie
Hutchinson
Jones
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
Mosier
Nisbet
Page
Plank
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner
Tweedie
Van Dusen
Wanger
Wood
Woolfenden
Young

SECRETARY CHASE: On the adoption of the amendment offered by Mr. King, the yeas are 51; the nays are 71.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

MR. UPTON: Mr. President.

PRESIDENT NISBET: Mr. Upton.

MR. UPTON: I would like to make a motion to reconsider the vote on Judge Dehnke's amendment of yesterday. I think through his judicial wisdom he saw what we were going to be going through all last night and this afternoon. He moved that we insert 8,000 instead of 10,000. I would like to move at this time to reconsider that vote taken on that amendment.

For vote on the amendment, see above, page 2949.

PRESIDENT NISBET: The question is on the motion of Mr. Upton, that we reconsider the vote on Judge Dehnke's amendment of yesterday. Those in favor will say aye. Opposed, no.

The motion does not prevail. The secretary will read.

SECRETARY CHASE: Mr. Boothby offers the following amendment to the amendment—

MR. VAN DUSEN: Mr. President, has not the 30 minutes allowed for debate on this expired?

PRESIDENT NISBET: It has expired.

MR. VAN DUSEN: In that event, Mr. President, I move the previous question on all pending amendments and on the proposal.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Is the demand seconded? The question is then: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The secretary will read the first amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend page 1, by striking out the first paragraph; and in the second paragraph, first sentence, after "member of the legislature" by inserting a comma and "other than an annual salary and mileage,"; so that the section will read:

> Sec. a. No person serving in the legislature shall receive at any time for his services as a member of the legislature, other than an annual salary and mileage, any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits.

PRESIDENT NISBET: The previous question has been demanded.

MR. SHARPE: Mr. President, I move we give Mr. Boothby 30 seconds to discuss his amendment. (laughter)

PRESIDENT NISBET: The question is on the motion of Mr. Sharpe. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question is on the amendment.

MR. STAIGER: Mr. President, I ask for a division between the first and second parts of this amendment.

PRESIDENT NISBET: There is only one part to it. (laughter) A division has been demanded. Is the demand seconded? Not a sufficient number up. Mr. Madar, do you have a question?

MR. MADAR: May I just get some information from Mr. DeVries?

PRESIDENT NISBET: No. The previous question has been ordered, Mr. Madar.

MR. MADAR: All I wanted to find out was whether or not his language had anything to do with the pension as it is today.

PRESIDENT NISBET: The Chair is sorry. The previous question has been demanded. Those in favor—

MR. BOOTHBY: Mr. President, I would like a division on this.

PRESIDENT NISBET: A division has been ordered. Is it supported?

MR. MAHINSKE: A point of information, Mr. President.

MR. LEIBRAND: Point of information, Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: As I understand the request, it was for a division of the question, not a division vote. As I understand it, no support is necessary for a division of a question because we have 2 propositions here: we are striking one paragraph and altering the second paragraph.

PRESIDENT NISBET: The Chair is sorry, Mr. Mahinske. We will check it. Mr. Mahinske's point of view is right. It is divided. The first part of it is to strike out the first paragraph. The previous question has been demanded. Mr. Leibrand, did you have a question?

MR. LEIBRAND: May we have whatever we are going to vote on read, please?

PRESIDENT NISBET: The secretary will read the part that is to be stricken.

SECRETARY CHASE: I will read the whole amendment.

[The amendment was again read by the secretary. For text, see above.]

PRESIDENT NISBET: Mr. Leibrand.

MR. LEIBRAND: With reference to the first part, which the amendment seeks to delete or strike out—we have had so many of these here—what is it that the amendment seeks to strike out, please?

SECRETARY CHASE: The language to be stricken is:

[The first paragraph was read by the secretary. For text, see above, page 3015.]

May the secretary suggest that the language of this paragraph, which is now part of the proposal, will be found on page 1208 of yesterday's journal.

MR. G. E. BROWN: Mr. President.

PRESIDENT NISBET: What is your question, Mr. Brown?

MR. G. E. BROWN: Point of order. It is my understanding that the Chair has ruled previously and consistently that an amendment to strike and insert may not be divided. I would therefore suggest that the ruling was in error.

PRESIDENT NISBET: This is not that kind of an amendment, Mr. Brown. The first paragraph is to be stricken out. The second paragraph is to be added to. The amendment is in order and it is divisible. Mr. Higgs, what is your question?

MR. HIGGS: Mr. President, is a motion to extend debate 5 minutes on this in order?

PRESIDENT NISBET: If you want to offer it.

MR. HIGGS: In view of the many questions of Mr. Madar, and questions of my own, I move that we extend debate for 5 minutes on this amendment.

PRESIDENT NISBET: The question is on the motion of Mr. Higgs. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question now is on the amendment offered by Mr. Boothby, the first part.

MR. BOOTHBY: Mr. President, may I demand the yeas and nays on both parts of the amendment?

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? A sufficient number up. Those in favor of the Boothby amendment, the first part, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—38

Batchelor
Beaman
Bonisteel
Boothby
Brake
Dehnke
Doty, Dean
Erickson
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Haskill
Hoxie
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Martin
McAllister
Mosier
Nisbet
Plank
Powell
Richards, J. B.
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Stafseth
Stevens
Tweedie

Nays—77

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Binkowski
Blandford
Bledsoe
Bradley
Brown, G. E.
Buback
Cudlip
Cushman, Mrs.
Danhof
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Ford
Garvin
Gust
Habermehl
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Leppien
Lesinski
Liberato
Madar
Mahinske
McGowan, Miss
McLogan
Ostrow
Page
Perras
Pollock
Pugsley
Radka
Rajkovich
Romney
Sablich
Seyferth
Sleder
Snyder
Spitler
Staiger
Stamm
Stopczynski
Tubbs
Turner
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the first part of the amendment offered by Mr. Boothby, the yeas are 38; the nays are 77.

PRESIDENT NISBET: The first part of the amendment is not adopted. The secretary will read the second part of the amendment.

SECRETARY CHASE: The second part of the amendment:

[The second part of the amendment was read by the secretary. For text, see above, page 3021.]

PRESIDENT NISBET: The question is on the Boothby amendment, second part. The yeas and nays have been ordered. Those in favor—

MR. DeVRIES: Mr. President, may I offer an amendment to the Boothby amendment? It would be in the first paragraph, to strike out the words, "Additional actual and necessary expenses may be provided by law." And then in the next sentence, also strike out the words, "or expenses."

MR. KUHN: Point of order, Mr. President.

PRESIDENT NISBET: The amendment to the amendment is out of order since the roll call has been started.

MR. DeVRIES: Mr. President, can I ask for a 2 minute extension to urge support of the Boothby amendment?

PRESIDENT NISBET: Do you make a motion to that effect?

MR. DeVRIES: No.

PRESIDENT NISBET: Have you all voted?

MR. BOOTHBY: Mr. President, I withdraw the amendment.

PRESIDENT NISBET: You can't. The roll call has been started, Mr. Boothby. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. HODGES: Mr. President.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: I request Mr. Boothby's vote.

PRESIDENT NISBET: Mr. Boothby?

MR. BOOTHBY: No.

The roll was called and the delegates voted as follows:

Yeas—33

Allen
Batchelor
Beaman
Binkowski
Blandford
Bradley
Brown, G. E.
Cushman, Mrs.
Danhof
DeVries
Durst
Elliott, A. G.
Erickson
Gadola
Goebel
Haskill
King
Krolikowski
Mosier
Nisbet
Ostrow
Richards, J. B.
Rood
Rush
Shaffer
Shanahan
Sleder
Spitler
Staiger
Stevens
Thomson
Tubbs
Upton

Nays—67

Andrus, Miss
Anspach
Austin
Balcer
Bledsoe
Boothby
Buback
Cudlip
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Garvin
Gover
Gust
Hart, Miss
Hatch
Hatcher, Mrs.
Hodges
Howes
Hoxie
Hutchinson
Jones
Kelsey
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Liberato
Madar
Mahinske
Martin
McAllister
McLogan
Page
Perras
Plank
Pollock
Powell
Pugsley
Radka
Rajkovich
Romney
Sablich
Shackleton
Sharpe
Snyder
Stafseth
Stamm
Stopczynski
Turner
Van Dusen
Walker
Wanger
Wilkowski
Wood
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the second part of the amendment offered by Mr. Boothby, the yeas are 33; the nays, 67.

PRESIDENT NISBET: The amendment, second part, is not adopted. The secretary will read the amendment of Mr. Farnsworth.

SECRETARY CHASE: Mr. Farnsworth offers the following amendment:

1. Amend page 1, second paragraph, at the end thereof, after "benefits" by striking out the period and inserting "at the time this constitution becomes effective."; so that the last sentence will read, "This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits at the time this constitution becomes effective."

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Point of information, Mr. President: under limitation of debate, is it permissible for me to say that I believe this accomplishes what the proponents wanted to accomplish? (laughter)

PRESIDENT NISBET: The previous question has been ordered, Mr. Farnsworth. Those in favor of the Farnsworth amendment will say aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: Is the demand for a division supported? Those in favor of the Farnsworth amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the total. Mr. Beaman.

MR. BEAMAN: May I be excused long enough to go out and get a comic book to read this afternoon? (laughter)

PRESIDENT NISBET: Would you like to take some folks with you? (laughter) The secretary will announce the vote.

SECRETARY CHASE: On the adoption of the amendment of Mr. Farnsworth, the yeas were 56; the nays, 52.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Sharpe offers the following amendment:

1. Amend page 1, by striking out all after the enacting clause.

PRESIDENT NISBET: The question is on the amendment of Mr. Sharpe. Those in favor will say aye. Opposed, no. The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been demanded. Is the demand seconded? A sufficient number up. Will the board be cleared? Those in favor of the amendment of Mr. Sharpe will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the total of the vote.

SECRETARY CHASE: On the amendment offered by Mr. Sharpe, the yeas were 50; the nays, 66.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the committee proposal, as amended.

SECRETARY CHASE: Mr. Walker offers the following amendment:

1. Amend page 1, first paragraph, after "shall be" by striking out "not less than $10,000.", and inserting "½ as high as an astronaut.". (laughter)

MR. WALKER: Mr. President, it seemed like we were playing, Can You Top This? I would withdraw the amendment.

PRESIDENT NISBET: The next amendment.

MR. G. E. BROWN: Mr. President.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Point of order. It is my understanding that when the previous question is moved, only those amendments that are on the secretary's desk would be considered and that therefore no further amendments are in order.

PRESIDENT NISBET: That is correct. The question now is on the proposal—

MR. KUHN: Parliamentary inquiry.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Is it true that if we vote no, there will be nothing in the constitution and the legislature could set their own pay?

PRESIDENT NISBET: The Chair doesn't know the last part, but the first part is: if this does not pass, it won't be in the constitution. (laughter)

MR. KUHN: Therefore, I urge a no vote.

MR. KING: Point of order, Mr. President. Mr. Kuhn knows he can't do that. There is no debate permitted at this time.

PRESIDENT NISBET: The question is on Committee Proposal 28, as amended. The secretary will read it.

SECRETARY CHASE: The proposal in its present form is as follows:

Sec. a. The annual salary of the members of the legislature shall be not less than $10,000. Additional actual and necessary expenses may be provided by law. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits at the time this constitution becomes effective.

PRESIDENT NISBET: Will the delegates please clear the board? Mr. DeVries.

MR. DeVRIES: I move the convention take a 5 minute recess so Mr. Brake and I can work out an amendment. I think we will have the problem solved.

PRESIDENT NISBET: The question is on the motion of Mr. DeVries for a recess of 5 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed for 5 minutes.

MR. HOXIE: Division.

PRESIDENT NISBET: We are recessed for 5 minutes. Will the delegates please stay near the convention hall? (laughter)

[Whereupon, at 3:15 o'clock p.m., the convention recessed; and, at 3:20 o'clock p.m., reconvened.]

The convention will please be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: Will the delegates please take their seats? The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that we reconsider the vote by which the previous question was ordered on the amendments in order to consider the amendment to be offered by Dr. DeVries and Mr. Brake.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that we reconsider the vote on the previous question.

MR. KUHN: Mr. President, I urge a no vote on that motion.

PRESIDENT NISBET: Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of the motion of Mr. Van Dusen to reconsider the vote on the previous question will vote aye. Those opposed will vote nay.

MR. PERRAS: Mr. President, a parliamentary inquiry, please.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: I would like to know what a yes and no vote will do in this case. I think a lot of delegates don't understand this motion.

PRESIDENT NISBET: Mr. Van Dusen, do you want to explain?

MR. VAN DUSEN: Mr. President, fellow delegates, as you know, no new amendment could be offered while the previous question had been ordered. If the amendment mentioned by Dr. DeVries and Mr. Brake is to be offered, the vote on ordering the previous question will have to be reconsidered, and my motion is to reconsider the vote by which the previous question was ordered, for the sole purpose of permitting this amendment to be offered.

MR. HOXIE: Mr. President.

MR. KUHN: Parliamentary inquiry.

MR. HOXIE: Point of information.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Can a motion be made to reconsider for the purpose of only considering a particular amendment?

PRESIDENT NISBET: His motion was not for that. His motion was to reconsider the vote on ordering the previous question.

MR. HOXIE: And do I understand then that the matter is open for other amendments as well?

PRESIDENT NISBET: That would be correct. Those in favor of the motion will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

MR. WALKER: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Did I understand the Chair correctly a few minutes ago when the Chair stated, as I recall, that the previous question would allow voting on any amendments that were on the secretary's desk at that time and that was it?

PRESIDENT NISBET: That is correct.

MR. WALKER: Well, it was for this proposal, any amendments to this proposal and the whole works. Would that be lifted at this time or would it still be in effect?

PRESIDENT NISBET: This motion, if carried, would remove the previous question.

MR. WALKER: Thank you.

SECRETARY CHASE: On the motion to reconsider the vote by which the previous question was ordered, the yeas are 85; the nays are 23.

PRESIDENT NISBET: The motion to reconsider prevails. Mr. Hoxie.

MR. HOXIE: I would like to move that any amendments on the secretary's desk by 3:30 be considered.

PRESIDENT NISBET: The question is on the motion of Mr. Hoxie that any amendments on the secretary's desk by 3:30 be considered. Those in favor—

MR. WANGER: Mr. President, I have a preferential motion. How many amendments are on the secretary's desk now?

PRESIDENT NISBET: There are none.

MR. WANGER: Oh, is not Mr. DeVries' amendment on the desk?

PRESIDENT NISBET: It isn't here yet. There are 2 in the process of preparation.

MR. WANGER: But are they not considered on the secretary's desk then?

PRESIDENT NISBET: Yes, they are here.

MR. WANGER: In that case, Mr. President, I move the previous question.

PRESIDENT NISBET: The question is on the motion—

MR. KUHN: Mr. President, a preferential motion.

PRESIDENT NISBET: What is it, Mr. Kuhn?

MR. KUHN: I move that debate be limited for at least 10 minutes. We don't even know what the amendment is, and how can we have the previous question if the amendment can't be explained?

PRESIDENT NISBET: The question now is on the motion of Mr. Hoxie that amendments which are on the secretary's desk by 3:30 be considered. Those in favor of that motion will say aye. Opposed, no.

The motion prevails. What was your motion, Mr. Kuhn? The secretary will read the amendment.

SECRETARY CHASE: Messrs. DeVries and Brake offer the following amendment:

1. Amend page 1, first paragraph, by striking out the first 2 sentences and inserting "The annual salary of the members of the legislature shall be not less than $9,000. Members of the legislature shall be entitled to 2 trips home per month, and expenses in connection with the work of interim committees."; so that section a, the first paragraph, will then read:

> The annual salary of the members of the legislature shall be not less than $9,000. Members of the legislature shall be entitled to 2 trips home per month, and expenses in connection with the work of interim committees. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.

The second paragraph remains as printed in the journal, with the addition of the amendment offered by Mr. Farnsworth.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President and fellow delegates, I think this amendment will resolve most of our problems. It sets an adequate floor minimum of $9,000; provides legislators with 2 trips per month and expenses in connection with interim committee trips only. The rest of the language in the proposal is the same as you find on page 1208, with the exception of Mr. Farnsworth's amendment. I urge that you adopt this amendment.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, I am opposed to that. That extra 2 trips alone—I am just trying to dig out the figures since they keep switching these so fast—I believe would cost something like another $7,000 a month, and to me this is entirely too high. It is uncalled for. It is not good constitutional law. The more we keep dickering here, we find out that we are in a bind just like they were in 1907 and 1908. We are trying to legislate in our constitution. This is entirely wrong. I now say that this will cost the people of the state of Michigan over $1 million, and I think we definitely should vote no on the amendment and vote no on the whole proposal.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Hoxie, Mr. Brake has the floor. Mr. Hoxie, you have it next.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, we have to find an answer here some time. We have been trying long enough. I have never liked the practice in the legislature of having an expense account for which you did not account; in other words, a fixed amount regardless of what you spent. At the present time it is $1,250, and they don't have to tell what they do with it or anything of the kind. It is just so much salary. Now, this amendment fixes it at $9,000, takes out the retirement system in the future but protects those that are now entitled to something or will be entitled to something at the time the constitution goes into effect; allows only 2 trips home per month, which they have in addition to their $1,250 anyway, and that's it, no other expenses. So this is not far from the $7,500 figure that we had awhile ago, but it is stated in different terms and I think in better terms.

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: I would like to move, Mr. President, that debate on each amendment be divided within the time allotted, and I would like to move for 15 minutes' debate on the pending amendments.

PRESIDENT NISBET: The question is on the motion of Mr. Hoxie that debate be limited to 15 minutes on all the amendments. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of Mr. Hoxie's motion will vote aye. Those opposed will vote nay.

MR. SHARPE: Mr. President, how many amendments do you have on the desk at the present time?

SECRETARY CHASE: We have this one and one other.

PRESIDENT NISBET: There are 2 amendments.

MR. VAN DUSEN: Point of information, Mr. President. May I ask Mr. Hoxie whether his motion covers the proposal as well as the amendments?

PRESIDENT NISBET: Mr. Hoxie? Yes, he said it did.

MR. VAN DUSEN: So that the motion is that debate be limited on the amendments and on the proposal to 15 minutes; is that correct?

PRESIDENT NISBET: The motion of Mr. Hoxie is that debate be limited to 15 minutes for the 2 amendments and the proposal. Those in favor of that will vote aye. Those opposed will vote nay.

MR. VAN DUSEN: I urge a yes vote, Mr. President.

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion, the yeas are 72; the nays are 17.

PRESIDENT NISBET: The motion prevails. Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, if Mr. Brake would yield for a question, I would like to—

PRESIDENT NISBET: Mr. Hutchinson has the floor first, Mr. Woolfenden. The Chair will call on you later.

MR. HUTCHINSON: Mr. President, do I have the floor now?

PRESIDENT NISBET: That is right.

MR. HUTCHINSON: Mr. President, I believe in listening to this amendment that I heard a reference to 2 trips a month. Now, I suppose that that wording should be: 2 round trips a month between their home and Lansing. And I also call your attention to the fact that, at least under the present statute, they don't get 2 round trips a month unless the legislature is in session. They get those trips only when the legislature is in session. Now, this amendment will go further than that. It will give them 2 trips a month, I don't know between where and where, but a couple of trips wherever they want to take them—perhaps between here and California—a month each and every month of the year. I think the amendment should be perfected.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, will Mr. Brake yield for a question?

PRESIDENT NISBET: Mr. Brake, will you yield for a question?

MR. WOOLFENDEN: Mr. President, Mr. Brake, it is my understanding in your argument in favor of this proposed amendment that you feel that it precludes the legislature from having expenses in a flat sum such as $1,250 a year, but I can't get that from the language of the amendment. I think the legislature is perfectly free to vote themselves expenses under your amendment.

MR. BRAKE: Mr. President, Mr. Woolfenden, we think from stating what expenses they may have—that is, we tried to—that they may have no other. That was a pretty short recess for drawing an amendment. I am sorry.

MR. WOOLFENDEN: Well, I submit, fellow delegates, that they can vote themselves any expenses under this amendment, and I oppose the amendment.

MR. HOXIE: Mr. President.

PRESIDENT NISBET: Mr. Brake has the floor. Just a minute. Mr. Brake.

MR. BRAKE: The secretary will please read the amendment now.

SECRETARY CHASE: Mr. Brake and Mr. DeVries revise the amendment to read:

1. Amend page 1, first paragraph, by striking out the first 2 sentences and inserting "The annual salary of the members of the legislature shall be not less than $9,000. Members of the legislature shall be entitled to 2 round trips home per month while the legislature is in session, and expenses in connection with the work of interim committees.".

PRESIDENT NISBET: Mr. Hoxie.

MR. HOXIE: Mr. President, fellow delegates, so you will clearly understand what we have before us, it appears that the Brake amendment would give to the legislature the sum of $9,000 and 2 round trips. I believe it is the intention of Mr. Brake in this proposed amendment to eliminate any other expenses as well as any possible future retirement benefits as far as legislators are concerned. So the issue is clear. There isn't any difference in substance between the DeVries original substitute proposal as we have had it before us and the proposed amendment submitted by Mr. Brake and Mr. DeVries. I certainly hope that you vote against this particular amendment and let's get down to the issue of whether or not we want to accept the philosophy and thinking of Mr. DeVries on this particular issue.

PRESIDENT NISBET: There is an amendment to the amendment.

MR. KARN: Mr. President.

PRESIDENT NISBET: Mr. Karn.

MR. KARN: May I ask a question, please? Is that round trip by airplane or otherwise? (laughter)

PRESIDENT NISBET: Mr. Brake, do you want to answer that question?

MR. BRAKE: Mr. President, Mr. Karn, at 7 cents a mile you can go swimming or by boat or by airplane, any way you want to make it.

PRESIDENT NISBET: There is an amendment to the amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend the amendment, first sentence, after "than" by striking out "$9,000" and inserting "$7,500".

PRESIDENT NISBET: Mr. Doty.

MR. DEAN DOTY: Is this debatable? Do we have time?

PRESIDENT NISBET: Sure, go ahead. We will tell you when you can't.

MR. DEAN DOTY: I urge the delegates to vote no on this amendment, support the DeVries-Brake amendment and let's quit fooling around. Now, Mr. Beaman asked for a comic book. And I say this: if you want to see something that resembles a comic book, take a few minutes and go up in the balcony and look at this show from up there. Let's support the DeVries-Brake amendment.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: I urge the adoption of some realistic figure, and $7,500 is a floor figure, not a maximum figure. If we are going to write in the constitution a figure, let's put it as a realistic minimum floor, not raising it up beyond what we now have.

MR. HODGES: Point of information, Mr. President.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Was this not voted on already?

PRESIDENT NISBET: Not in connection with this language. The amendment is in order. The question is on the Boothby amendment.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: I would like to speak on the Boothby amendment. I am not worried about any side show. What monkeys we are going to be when we raise $1 million in legislative pay. This is a serious question. What are you running away from? You go back in your district and tell them that you voted for 9,000. I don't want to have to. I can see the reaction by the mail I have here and I have asked the question: how many of you have gotten letters saying, "Good. I'm glad you're voting them a raise?" I haven't heard one person tell me yet they have that kind of mail.

I would like to submit this to you: they do not say in these round trips how much per mile. Mr. Brake says 7 cents. Where does it say that in the proposal? It reads here that they used to get 10 cents. Maybe now when you cut out other things, they will think it should be 25 cents. I submit you are not saying it. When you get into statutory language, you get into trouble. I urge a yes vote on the Boothby amendment.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I would only say why doesn't Mr. Kuhn use $10 million instead of $1 million? It is probably as close to the truth. And I would move the previous question on the pending amendments.

PRESIDENT NISBET: That is out of order. Debate has been limited. The question is on the Boothby amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Hodges offers the following amendment:

1. Amend the amendment, second sentence, after "entitled to" by striking out "2" and inserting "4"; so that the language will read, "Members of the legislature shall be entitled to 4 round trips home per month when the legislature is in session. . . ."

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, I merely submit this to reflect modern day times. This question once was only a month, now twice a month is an anachronism. We know with modern transportation it is fully expected and it is a practical matter that our legislators do go home once a week to correspond with their constituents and with their district. It seems to me that if we want to be realistic and straightforward, we should compensate them exactly for what we are doing. If we want to compensate them for mileage, let's compensate them for it, not as a guise for something else and not for the transportation.

PRESIDENT NISBET: The question is on the amendment of Mr. Hodges. Those in favor will say aye. Opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: Is a division supported?

SECRETARY CHASE: Eleven.

PRESIDENT NISBET: Sufficient number. Those in favor of the Hodges amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the Hodges amendment, the yeas are 46; the nays are 66.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the amendment offered by Mr. Brake and Mr. DeVries.

MR. FARNSWORTH: Yeas and nays, please.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, let's see if we can get the issue clear once more. This provides for a $9,000 salary, 2 trips home while in session, interim expenses on committee business. It provides that legislative salaries can be reduced when other salaries in other branches of government are reduced. It does not take away present legislative retirement. Those who are eligible at the time this constitution is adopted get it. I urge your yes vote on this amendment.

MR. FARNSWORTH: Mr. President, I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? A sufficient number up. Mr. Kuhn.

MR. KUHN: Mr. President, I urge a no vote on this. It is legislative in character. It is not in line with the committee on legislative powers. It is not in line with the federal constitution. It is not in line with the model constitution. This will cost the people of the state of Michigan a great sum of money, and I say to you we should not try and do things that we do not think are right.

Someone suggested we are trying to bribe the legislature to give us $125,000 to sell our document. I say to you that this will cost the people of the state of Michigan $1 million. They do not want it. We should not change the form and we shouldn't put a one ton weight around our necks trying to sell this document. And I want to close by saying, Mr. President, that the majority of the delegates that vote for this amendment will not support this constitution and try and pass it.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Brake and Mr. DeVries. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—82

Allen
Andrus, Miss
Austin
Balcer
Binkowski
Blandford
Bledsoe
Bradley
Brake
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Figy
Follo
Garvin
Goebel
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Leppien
Lesinski
Liberato
Madar
Mahinske
McGowan, Miss
McLogan
Murphy
Nisbet
Ostrow
Page
Perras
Pollock
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Sablich
Seyferth
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Thomson
Tubbs
Upton
Van Dusen
Wanger
White
Wilkowski
Young
Youngblood

Nays—38

Anspach
Barthwell
Batchelor
Beaman
Bonisteel
Boothby
Butler, Mrs.
Dehnke
Erickson
Farnsworth
Faxon
Finch
Ford
Gadola
Gover
Haskill
Hoxie
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Martin
Mosier
Plank
Powell
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Turner
Tweedie
Walker
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Brake and DeVries, the yeas are 82; the nays are 38. (applause)

PRESIDENT NISBET: The amendment is adopted.

Following is explanation of vote submitted by Mr. Hubbs:

Explanation of my yea vote on DeVries amendment to Committee Proposal 28.

I find myself in an uncomfortable position—considered to be an avid conservative. I feel that I am. As many of you know, this is my political stand. I protest Mr. Kuhn's remarks with regard to candidates for the legislature. I have been and may be again a candidate, one with integrity. Days in session do not reflect time spent in representing the people. Time for study, time for contact with the people, is necessary.

Expense of campaigning to serve the people is out of pocket cost, in most cases outstate no contributions are received. Not tax deductible.

Low pay for legislators tends to place in office people of financial means or those who can be supported in office by fringe benefits from special interest organizations.

You're going to get what you pay for; cheap help seldom produces quality products.

My personal contact with legislators prove testimony to the committee was not accurate for some reasons, as legislators do not speak publicly on this subject.

I agree that the method of tying to the federal system is not good, but show us a better way.

Better people—I do not say this is an inevitable result or that those serving are not the best obtainable or have done a bad job—but I do say that raising the pay will generate competition; competition is healthy and will tend to broaden the choice available to the people.

PRESIDENT NISBET (continuing): There is one more amendment.

MR. PERRAS: Mr. President.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: When we come to the body of the proposal, I move the previous question for that purpose.

PRESIDENT NISBET: The Chair hopes we will be there in a few minutes. Mr. Chase.

SECRETARY CHASE: Mr. Faxon—

PRESIDENT NISBET: Will the convention please be in order.

MR. A. G. ELLIOTT: Mr. President, is this amendment that the secretary is now going to read one that was submitted before 3:30?

PRESIDENT NISBET: That is correct. No amendments are being accepted after 3:30.

SECRETARY CHASE: Mr. Faxon and Mr. Downs offer the following amendment:

1. Amend page 1, second paragraph, first sentence, after "any additional fees,", by inserting "or"; and after "compensation" by striking out "or financial benefits"; so the language will then read, "No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, or compensation from the state or its political subdivisions."

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I think the secretary should have indicated that I was also one of the sponsors of this amendment. And I would also like to call—is that a different amendment?

SECRETARY CHASE: Yes.

MR. AUSTIN: I want to make sure that I am on the right one.

SECRETARY CHASE: Mr. Faxon and Mr. Downs withdraw the previous amendment.

Messrs. Faxon, Downs and Austin offer the following amendment:

1. Amend page 1, second paragraph, last sentence, after "legislators" by striking out "eligible to receive these benefits" and inserting "as provided by law"; so the language will then read, "This section shall not be construed to deny retirement benefits to those legislators as provided by law at the time—

MR. AUSTIN: The word "those" should also be struck, Mr. Secretary.

SECRETARY CHASE: Bear with me a moment, please.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President—I am sorry. The secretary wants to clarify.

SECRETARY CHASE: Without objection, the amendment as revised by Mr. Austin, reads as follows:

1. Amend page 1, second paragraph, last sentence, after "benefits to" by striking out "those legislators eligible to receive these benefits" and inserting "legislators as provided by law"; so that the last sentence will read, "This section shall not be construed to deny retirement benefits to legislators as provided by law at the time this constitution becomes effective."

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, the purpose of this amendment is simply to leave the door open to the legislature to provide for retirement benefits. It does not in itself provide benefits, but it does leave it to the legislature to do so if it feels that such benefits are necessary. Most of us here, I am sure, believe that we would get a little better grade of legislator if he could feel somewhat secure, and I certainly urge that we adopt this amendment, which does not of itself provide additional expense but does give the legislature some freedom which we think they ought to have.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this pulls the rug right out from under what we have just done. It not only would make it possible—and it is reasonable to assume that the legislature would take advantage of it—to continue the retirement system, but if they did continue it the cost would be higher because it is a percentage of salary and the salary is higher. What we have just done would be completely knocked out by this amendment.

PRESIDENT NISBET: Delegates, please clear the board. The question is on the amendment offered by Messrs. Austin, Faxon and Downs. Those in favor—

MR. AUSTIN: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Not a sufficient number up. Those in favor of the amendment offered by Messrs. Downs, Austin and Faxon will say aye.

DELEGATES: Division.

PRESIDENT NISBET: Division has been demanded. Is the demand seconded? A sufficient number up. Those in favor of the amendment will vote aye. Opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the amendment offered by Messrs. Faxon, Downs and Austin, the yeas are 28; the nays, 82.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the committee proposal, as amended. Will the delegates please clear the board? Those in favor of Committee Proposal 28, as amended, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—75

Allen
Andrus, Miss
Balcer
Binkowski
Blandford
Bledsoe
Bradley
Brake
Brown, G. E.
Buback
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Figy
Follo
Garvin
Goebel
Habermehl
Hanna, W. F.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hubbs
Jones
Judd, Mrs.
Kelsey
King
Koeze, Mrs.
Krolikowski
Lawrence
Lesinski
Liberato
Madar
Mahinske
McGowan, Miss
McLogan
Murphy
Nisbet
Ostrow
Page
Perras
Pollock
Rajkovich
Romney
Seyferth
Sleder
Snyder
Spitler
Staiger
Stamm
Stevens
Stopczynski
Thomson
Tubbs
Upton
Van Dusen
Wanger
White
Wilkowski
Young
Youngblood

Nays—44

Austin
Barthwell
Batchelor
Beaman
Bonisteel
Boothby
Butler, Mrs.
Cudlip
Dehnke
Erickson
Farnsworth
Faxon
Finch
Gadola
Gover
Haskill
Hoxie
Hutchinson
Karn
Kirk, S.
Knirk, B.
Kuhn
Leibrand
Leppien
Martin
McAllister
Mosier
Plank
Powell
Pugsley
Radka
Richards, J. B.
Rood
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Stafseth
Turner
Tweedie
Walker
Wood
Woolfenden

SECRETARY CHASE: On the passage of Committee Proposal 28, as amended, the yeas are 75; the nays are 44. (applause)

PRESIDENT NISBET: Committee Proposal 28, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 28 as amended and rereferred to the committee on style and drafting:

> **Sec. a. The annual salary of the members of the legislature shall be not less than $9,000. Members of the legislature shall be entitled to 2 round trips home per month while the legislature is in session, and expenses in connection with the work of interim committees. No change in salary or expenses shall be effective during the term of office for which the legislature making the change was elected except and only to the extent of a general salary reduction in all other branches of government.**
>
> **No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to deny retirement benefits to those legislators eligible to receive these benefits at the time this constitution becomes effective.**

PRESIDENT NISBET (continuing): The secretary will read the next proposal.

SECRETARY CHASE: Item 15 on the calendar, Committee Proposal 44, A proposal pertaining to the schedule. Amends sections 1 and 8 of the schedule and adds 2 sections.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, I move that it be considered read.

PRESIDENT NISBET: Without objection, it will be considered read.

Following is Committee Proposal 44 as reported by the committee on style and drafting and considered read. (For text as referred to said committee, see above, page 866.):

> **That no inconvenience may arise from the changes in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared that:**
>
> **Sec. a. All [laws] LAW not repugnant to this con-**

Explanation—Matter within [ ] is stricken, matter in capitals is new.

stitution, shall remain in force until CHANGED, REPEALED OR IN THE CASE OF STATUTES THEY HAVE EXPIRED BECAUSE OF LIMITATIONS CONTAINED THEREIN [they expire by their own limitations, or are altered or repealed].

Sec. b. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights of individuals, partnerships, bodies corporate, and of this state or any subdivision or agency thereof existing on the effective date hereof shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. c. EXCEPT AS OTHERWISE PROVIDED IN THIS CONSTITUTION, all officers filling any office by election or appointment shall continue to exercise the duties thereof, according to their respective commissions or appointments, until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

Sec. d. The attorney general of the state shall recommend to the legislature at the commencement of the next session such changes in existing laws as may be deemed necessary to adapt the same to this constitution.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, Committee Proposals 44 and 68 both have to do with the schedule.

PRESIDENT NISBET: Will the delegates please clear the board? Mr. Erickson.

MR. ERICKSON: This first committee proposal just makes sure that all actions and anybody's rights that they had under the old are carried over into the new if it is intended that way, and it is really a housekeeping job. The committee recommends the adoption of this proposal.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 44. Those in favor of the adoption of Committee Proposal 44 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—108

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo

Gadola
Garvin
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Howes
Hoxie
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McAllister
McGowan, Miss
McLogan

Mosier
Murphy
Nisbet
Perras
Plank
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Sablich
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—0

SECRETARY CHASE: On the passage of Committee Proposal 44, the yeas are 108; the nays, none.

PRESIDENT NISBET: **Committee Proposal 44** is passed and referred to the committee on style and drafting.

For Committee Proposal 44 as rereferred to the committee on style and drafting, see above, page 3027.

Without objection, we will return to **reports of standing committees.**

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 34**, A resolution regarding submission of the constitution to the people for ratification; with an amendment, recommending that the amendment be agreed to and the resolution, as thus amended, be adopted.

The following is the amendment recommended by the committee:

1. Amend the resolution by striking out the resolving clause and inserting the following:

"Whereas, The convention has not prepared a series of amendments to the present constitution, but has drafted an entirely new document; and

Whereas, The provisions of the proposed new constitution adopted to date are interrelated and decisions made have been interdependent; and

Whereas, The submission of the new constitution to the people in pieces rather than as a whole could result in confusion at the polls and in a patchwork document; now therefore be it

Resolved, That the new constitution proposed by this convention shall be submitted to the people for acceptance or rejection as a single document.".

R. C. Van Dusen, chairman.

For Resolution 34 as offered, see above, page 286.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: This report is submitted at this time because the next order of business on second reading is the provision of the schedule relating to the manner of submission of the new constitution for acceptance or rejection by the people.

The committee on rules and resolutions found, when it came to consider this matter, that 2 of its members had exercised rather prophetic judgment, for back in November, in the early part of November of 1961, Mr. McCauley and Miss McGowan had offered Resolution 34 providing that the constitution be submitted to the people in its entirety, rather than in sections.

The committee is of the opinion, by a substantial bipartisan majority, that submission of the new constitution as a single document is by far the most desirable method. We have expressed our reasons in the recitals contained in the amendment made by the committee to the resolution offered by Mr. McCauley and Miss McGowan, pointing out that for some months we have been engaged in the drafting of an entirely new document. This has been the theory on which we have proceeded since early January. We have not been drafting amendments to the existing constitution, but rather we have prepared an integrated whole new document. The provisions of the several proposals are interrelated. The decisions which we have made are interdependent. Quite obviously not every provision of the new document on which we have agreed is acceptable to every member of the convention but, as a whole, everything that we have adopted is acceptable to a large majority of the members.

We further recognize that if the document were to be submitted as a series of amendments, the result would be confusion to the voters, and if they were to accept some and to reject others the result might be a patchwork document which

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

would not fit together. Consequently, the committee on rules and resolutions strongly recommends the adoption, first, of its amendment which does not change the substance of the resolution offered by Mr. McCauley and Miss McGowan, but simply makes it a little more explicit; and second, the adoption of the resolution, as amended, which provides, "That the new constitution . . . shall be submitted to the people for acceptance or rejection as a single document."

We urge first your approval of the committee amendment and, second, your adoption of the resolution, as amended.

PRESIDENT NISBET: The question is on the adoption of the committee amendment. Mr. Chase.

SECRETARY CHASE: Mr. Downs, Miss Hart, Messrs. Kelsey, Norris, Bradley, Mrs. Daisy Elliott, Messrs. Buback, Baginski and Krolikowski offer a substitute. The substitute will be found on page 1118 of Journal 128. It is the text of Resolution 93.

The substitute for Resolution 34, A resolution providing for the separate submission to the people of the controversial and the noncontroversial portions of the proposed constitution.

Following is the substitute for Resolution 34 as read by the secretary:

> Whereas, The constitutional convention is in the process of adopting several items with substantial bipartisan support, which in all likelihood are desired by the people of this state; and
>
> Whereas, Such items include, but are not confined to, the following: (1) elimination of spring elections; (2) 4 year terms; (3) improved borrowing power for the state; (4) a self executing civil rights commission; (5) constitutional protection from taxation for churches; (6) possibility of lowering interest rates and tolls on the Mackinac bridge through full faith and credit bonds; (7) constitutional status for universities and an 8 member state board of education to replace the present 4 member board, with additional coordinating powers; (8) increased pay for legislators; (9) constitutional prohibition of capital punishment; and (10) elimination of much obsolete language; and
>
> Whereas, There are many other highly controversial provisions that have been adopted by smaller majorities which may jeopardize the acceptance of these proposals that have substantial agreement; and
>
> Whereas, The constitutional amendment creating this convention permits this convention to submit either amendments or a revised constitution to the people; now therefore be it
>
> Resolved, That this convention call upon the committee on style and drafting, immediately after second reading, to present to the convention in such form that those provisions which have received substantial bipartisan support be submitted in one package and those that are highly controversial be submitted as separate items for the voters to pass on independently so that the voter's antipathy to one controversial item will not jeopardize the passage of those portions of the constitution that are agreed upon with substantial bipartisan support.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I realize it is late in the day. I realize full well we are all somewhat tired from the parliamentary maneuvering on the legislative pay matter. However, I think what we do here this afternoon on the procedural question of how we submit this document to the people may, to a large extent, determine the success or the failure of our 6 or 7 long months of arduous work at this convention as individuals and as a convention of 144 delegates.

I shall try to be brief, but I would like to take the time to review the history of where we are and how we got there. The constitutional amendment that was adopted by the voters provided that this constitutional convention could either amend the 1908 constitution, as amended, or could proceed to draft an entirely new constitution. That decision was entirely our jurisdiction. If we go back to October-November, there was a question as to what we were doing. Delegate Marshall, on November 2, made a parliamentary inquiry of the president of the convention as to what we were doing—amending process or de novo or new constituion. On November 8 the president of the convention—and it is on page 110 of the journal—answered that inquiry by saying that we were engaged in writing a new constitution. The final 3 sentences—and I do think they are important enough to read to the convention—by the president are as follows:

> The Chair does not intend to limit the power of this convention to decide for itself what course of action it shall pursue. The convention retains the power to determine that it will submit amendments to the present constitution and the convention also has the power to determine the manner in which it will present either a new constitution or amendments to the present constitution to the people. Conceivably, the convention might decide to submit a new constitution in several parts and as separate questions to the people.

I draw this to our attention to show that in the early weeks of our convention we had the ruling. The ruling made it clear that it was up to this convention to make a decision as to what course of action we should take.

Then on February 20, a resolution—really one of inquiry—Resolution 77, was offered asking that the committee on rules and resolutions study the matter of how to present this document to the people, whether as a new constitution, an amendment, or in parts, and reference was made to New York state, that it submitted its draft constitution in 8 or 9 parts, one on the noncontroversial and the others of a controversial nature. Then at a later date—that was on April 25—the resolution which the secretary read and is now a substitute to this was offered and referred to committee, and the rules committee reported out the other resolution.

I think that what we face here—and I think we should be very realistic—is a situation where there are many items of this new document that have received wholehearted bipartisan support of the delegates of this convention and presumably would of the citizens. There are also several important provisions over which there has been considerable controversy, and I am sure those of us who have talked to our constituents know that there is considerable controversy among the voters. I do not pretend to argue the merits or demerits of these provisions, but simply cite the examples and what I fear might happen.

For example, on the matter of civil service, there were several very serious amendments to that proposal. On the matter of the highway commissioner, we are having an entirely new method of selecting him. I am not now going to argue that pro or con because this is not the time to make that argument. There are many other items: the matter of whether the governor should appoint to fill vacancies for the judiciary or whether a different system should be used. There are many items here, each one of which, I am deeply concerned, will have a voter antipathy so great that large numbers of voters may vote against the whole constitution because of the antipathy to that one portion. I think those of us who have tried to understand equal proportions and major fractions can realize that an accumulation of enough minorities may mean that the whole document is defeated or goes down the drain even though the majority of the people may wish to support great segments of the new document.

Now, this is the reason for the substitute resolution. I cited the history to make it very clear that this is no last minute surprise, that there was notice given in a real sense. I realize the rules committee chairman's point is very well taken that since we have started writing a constitution on a new basis, this would take additional work by style and drafting to prepare the document in such a form. Conceivably it could be done now. Conceivably even after third reading this could be done. I am not minimizing the job. But I think there is such a serious danger that the many desirable parts of this document that have substantial delegate support—and I believe substantial voter support, as mentioned in the resolution—may fall because of the accumulation of voter antipathy to certain aspects I, for one, would very much prefer that we separate the document in the presentation. I particularly cite that the New York experience showed that while there was not an overwhelming vote of the citizens on each proposal, it did show that the citizens apparently used thorough discretion, because the votes were not solid one way or the other. And I think sometimes we under estimate the ability and the interests of voters to select those issues they want.

I feel that the voters of this state would very much prefer we presented the document in this fashion, and I feel it would practically assure the acceptance by the voters of a large number of provisions and principles that have been accepted as forward looking, progressive ones without jeopardizing those because of the antipathy. Mr. President, I end my case. I do stress again that I think this is extremely important, and I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? A sufficient number up. Dr. Pollock.

MR. POLLOCK: Mr. President, members of the convention, I have given, I think, as much thought to this matter as anyone, and I am not substituting my judgment for anybody else, but I cannot agree in any respect with what Mr. Downs says. I am not questioning his reasons for presenting it in this fashion, but it seems clear to me that if he will search his mind and his conscience a little more thoroughly, he will come to some other conclusion.

I can't understand how it will be simpler for the voters of Michigan to vote on a series of interrelated proposals than on a whole revised constitution. I cannot see how voters are going to be anything but confused. And the only illustration Mr. Downs uses is New York state which, it seems to me, is no analogy whatever. The New York state constitutional position is altogether different than ours. Their problem in 1937 was altogether different than ours now. Our whole work, it seems to me, has been pointed toward a whole revision. It hasn't been by design; it has come naturally. Many of us came here, I am sure, unconvinced that a revision was necessary. Many of our delegates in the early days had not voted for the convention. They weren't sure it needed revision. I haven't found any delegate now who doesn't believe that the constitution needs a thorough revision, and to separate it would be to separate the delegates of this convention, and I think the strength of our product and the success of our endeavors depends upon as high a degree of unity on the final vote as we can possibly get. And I, for one, don't want to allow any partisan consideration, any personal consideration, any sectional consideration to come between us and the success of our effort.

I think, therefore, that Mr. Downs' argument is not a sound one. It is probably very well intentioned in the interest of the success of something of which he approves. There is a great deal in this document that I certainly am not happy about, but I never would come to the conclusion, it seems to me, on the basis of what has been done now, that it warrants division and possible rejection part by part. If the people of the state do not like this total product, let them turn it down. We have given them the best that we can give them, and I don't think we should give it to them in little tidbits, in such a way as to confuse them. I am therefore opposed to the Downs substitute.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, may I inquire as to how many speakers are on the list?

PRESIDENT NISBET: There are 3 speakers.

MR. DANHOF: Mr. President, I think we have had eloquent spokesmen on both sides. I would move to limit the debate on this matter—help Mr. Van Dusen who has been doing it all day—to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Danhof to limit debate to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. There are 3 speakers for 10 minutes. Will you please govern yourselves accordingly. Mr. Norris.

MR. NORRIS: Mr. President, I believe that this is a solemn moment in the deliberations of this convention because it will have a great deal to do with how history will regard this convention. I believe the people of the state would be very happy and grateful at the considerateness of this body if we resolve to give them the choice of voting on some of the things about which there has been the broadest possible consensus at this convention. I think that they would recognize that not all of it may have been all they wanted, and all the tremendous investment of time and patience and money and all the vexatious experience that went into bringing this convention about would have been in vain.

I appreciate what Dr. Pollock has indicated, in terms of the one package approach, that this is the best that could be obtained and we ought to get the broadest unanimity or unity of feeling with regard to the delegates for submission to the people. This is perhaps more laudable than the fact.

I think there is tremendous displeasure on the part of sizable segments of the people of this state with one or more sections of this constitution, and for us not to take more than judicial notice of this fact is, I think, not worthy of the common sense of the people here.

When I first was thinking about running as a delegate, I received a very interesting, in my judgment, very informative letter from the last survivor of the last constitutional convention, Judge Charles Simons. In it he said, "I hope that you will be cognizant of the fact that there might be, with considered change, a multiplication of minorities against the final product." And I have used that term in my mind a number of times, and I note that Mr. Downs in his exposition indicated that. For my part, I would have preferred a policy of selective change in our approach to this document, rather than an overhaul which in many respects may constitute a step forward, but in many other respects is somewhat superficial. But I do think we have to take a very long and penetrating look at the state of mind of the people of this state who are assessing our product, and I think that they would be grateful to us if we were to give them an opportunity to vote in packages with regard to this constitution.

One of the most frequent questions, I am certain, we secure from the people we represent and people throughout the state is: are you going to submit it to us in one unit or in several units? And I think when they ask that question, there is a hopeful anticipation, "Please give it to us in several units so that we may vote for the things that will at least move the state of Michigan forward—if not all the way, at least in part." I do hope, and I think it is possible for us to organically present to the people of this state this constitution in sections and I am sure that they will be grateful to us for that opportunity.

I am most moved, Mr. President, by your observations on a prior occasion that we ought to look upon our work in the same way that Madison and Jefferson and others did and take the long historical view. I think that if we do submit it in one package, if I may venture a prophesy, and if it is turned down we will be right down to this point: it will then be submitted in packages. It will then be submitted as constitutional amendments. It will then be presented to the people in terms of those things which did receive the broadest consensus. There will be amendments on the ballot regarding spring elections and 4 year terms and improved borrowing power of the state. That is where we will be maybe 3, 4 or 5 years from today. I hope that we can do it earlier than that in order that we may get our state in motion again. I urge support for the Downs substitute.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: Mr. President, fellow delegates, I realize the importance of the decision we are now being asked to make, and I am one of those who feels that he is not prepared to make that decision at this time. There are advantages, of course, in submitting the entire result of our work as one unit, but as has been pointed out by Mr. Downs and Dr. Norris, there are also serious problems on the other side. At this moment I am not prepared to state that I would be able to affix my signature to the document as a unit, and I imagine there are others of that type also. It might turn out that I would not be prepared to recommend to those who would be interested in my opinions adoption of the constitution as a unit if it is submitted in that form. I wish we were not being called on at this time to make that final decision, but as things stand now I shall have to vote no on any proposal to submit it as a unit.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, I will submit it is most desirable to submit this document as one unit. I don't want to see it submitted in 6 to 10 different units. And I realize the work of style and drafting if that was done. But it would be very simple to take what appear to be the 2 most controversial subjects—and that would be practically no work for style and drafting—and that is to submit the matter of apportionment, and if that did not carry the way this convention voted it, we would go back to what we had. The same way with the second item, which would be the highway commissioner. If the people did not vote section h of Committee Proposal 71 in, we would go back to just the way we have it now and leave it with the legislature who at any time could make it appointive. And it does seem to me that we are rather autocratic if we present our work with the attitude of take it or leave it.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the arguments advanced by Mr. Downs and Mr. Norris and by Mr. Erickson were considered carefully by the committee on rules and resolutions and, as I said, by a substantial bipartisan majority we felt that it should be submitted as a single document largely for the reasons expressed very well by Dr. Pollock. I would point out to Judge Dehnke that the reason that the decision must be made now is that the committee on style and drafting must within the next few days arrange this document into the form in which it will be submitted, and therefore the question is now upon us.

I strongly urge first the rejection of the Downs substitute and then the adoption of the committee amendment, which is to submit the matter as a single document, then the adoption of the resolution, as amended, so that style and drafting will have our guidance in this matter.

PRESIDENT NISBET: Mr. Blandford.

MR. BLANDFORD: Mr. President, I think that very few people in this convention could agree as to what is controversial and what is not. I believe our votes have proven this because we have had very few unanimous votes. Mr. Downs has asked this convention to accept either his version or the version of style and drafting as to what is controversial. I, for one, am not willing to do this, and I happen to be a member of style and drafting. There are items in this document that all of us have voted against. However, I am sure that most of us are willing to go out and work for and vote for this constitution in its entirety. Those who wish to submit this in sections, I feel, want a document modeled solely after their own whim and desire.

In government, the first lesson we learn is to give and take. Those who want this in sections only want to take. If voters study this constitution as closely as Mr. Downs says they will, I feel they will find 10 reasons for voting for this constitution to every single reason they will find for voting against it. In my judgment, that is why the document should be submitted in its entirety, and I certainly oppose the Downs substitute.

PRESIDENT NISBET: The question is on the substitute as offered by Mr. Downs and others. The yeas and nays have been demanded. Those in favor of the substitute as offered by Mr. Downs and others will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—36

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Leibrand
Lesinski
Madar
Mahinske
McAllister
Murphy
Norris
Perras
Sablich
Snyder
Stopczynski
Walker
Wilkowski
Young
Youngblood

Nays—75

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
DeVries
Doty, Dean
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Hutchinson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McGowan, Miss
McLogan
Mosier
Nisbet
Plank
Pollock
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the substitute offered by Mr. Downs and others, the yeas are 36; the nays, 75.

PRESIDENT NISBET: The substitute is not adopted. The question now is on the amendment offered by the committee. Will the secretary read it?

SECRETARY CHASE: The committee amendment is:

[The amendment was again read by the secretary. For text, see above, page 3028.]

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would simply repeat, as I said earlier, that the committee on rules and resolutions urges a yes vote on the amendment and on the resolution.

PRESIDENT NISBET: The question is on the amendment as offered by the committee. Those in favor will say aye. Opposed, no.

The amendment is adopted. The question now is on Resolution 34, as amended. Those in favor will say aye. Opposed, no.

Resolution 34, as amended, is adopted.

Following is Resolution 34 as amended and adopted:

> A resolution regarding submission of the constitution to the people for ratification.
>
> Whereas, The convention has not prepared a series of amendments to the present constitution, but has drafted an entirely new document; and
>
> Whereas, The provisions of the proposed new constitution adopted to date are interrelated and decisions made have been interdependent; and
>
> Whereas, The submission of the new constitution to the people in pieces rather than as a whole could result in confusion at the polls and in a patchwork document; now therefore be it
>
> Resolved, That the new constitution proposed by this convention shall be submitted to the people for acceptance or rejection as a single document.

PRESIDENT NISBET (continuing): The secretary will read the next proposal.

SECRETARY CHASE: Item 16 on the calendar, **Committee Proposal 68, A proposal pertaining to the schedule. Amends sections 10, 6 and 11 of the schedule.**

Following is Committee Proposal 68 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2490.):

Sec. a. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state [to] forthwith TO give notice of such submission to all other officers required to give or publish any notice in regard to [said] SUCH election[,]. HE SHALL [to] give notice [as provided by law in case of an election for governor,] that this constitution will be duly submitted to the electors at [said] SUCH election. THE NOTICE SHALL BE GIVEN IN THE MANNER REQUIRED FOR THE ELECTION OF GOVERNOR.

Sec. b. All officers elected [under the 1908 constitution as amended and the existing laws] on the Tuesday after the first Monday of November, 1962[,] UNDER THE 1908 CONSTITUTION AS AMENDED AND EXISTING LAWS shall take office on and after the first day of January, 1963, and complete the term to which they were elected.

Sec. c. Every registered [voter] ELECTOR may vote on [said] THE adoption OF THE CONSTITUTION. [or rejection, and] The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words "Adoption of the Revised Constitution ( ) Yes." "Adoption of the Revised Constitution ( ) No." All votes cast at [said] THIS election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. Should the revised constitution so submitted receive more votes in its favor than [shall be] WERE cast against it, it shall be the supreme law of the state on and after the first day of January, 1963, except as [herein] otherwise provided IN THIS CONSTITUTION[; otherwise it shall be rejected].

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President and fellow delegates, this committee proposal contains 3 elements: the first is that the election on this new constitution will be held next November; the second is that all officers elected at that election will serve out the term for which they are elected; and the third provides for the submission of the document as one package. I urge the adoption of this.

PRESIDENT NISBET: There is an amendment.

SECRETARY CHASE: Mr. Binkowski offers the following amendment:

1. Amend page 2, following line 2, by inserting a new section d to read as follows:

"Sec. d. Stockholders of a corporation or joint stock association shall be liable for that portion of all labor performed for the corporation or association, and for all other contractual and legal obligations that arise out of the course of employment for such corporation or association, that the number of shares held bears to the total number of shares outstanding.".

MR. GUST: Mr. President.

PRESIDENT NISBET: Mr. Gust.

MR. GUST: I would like to relieve Messrs. Danhof and Van Dusen, if I may, and move that debate on this, which was thoroughly thrashed out in committee of the whole, be limited to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Gust. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, because of the time limitation and because of the fact, I think, if I judge the mood of the convention, that we are not in for very long speeches, I doubt very seriously the statement made by Mr. Gust that this was thoroughly discussed, but be that as it may—

MISS DONNELLY: Mr. President, point of order. Is this germane?

PRESIDENT NISBET: The point of order is well taken. This is not germane to this subject.

MR. BINKOWSKI: Mr. President, may I have a ruling? I asked and inquired about the possibility of submitting this as an amendment. I think that the convention and the Chair should be aware that Exclusion Report 2033 eliminated the present section 4 of the article on corporations in our present constitution. Now, may I ask: if it is not germane at this point, at what point would this amendment be germane? This is not new matter, I submit, Mr. President. This is matter which is in the constitution which we had decided to delete. I offer a compromise.

MR. HABERMEHL: Mr. President, perhaps I have a suggestion: one section of the corporation article still remains in the constitution. It has been adopted on second reading. On third reading, clearly Mr. Binkowski's amendment would be germane to that section.

MR. BINKOWSKI: Query, Mr. President. That amendment is not germane to the banking section at all. I don't see the germaneness of it.

PRESIDENT NISBET: It certainly is not germane to this section, Mr. Binkowski.

MR. BINKOWSKI: May I offer the amendment at the end of all committee proposals with respect to miscellaneous provisions?

MR. GADOLA: Mr. President, may we have it on the wall here so we can know what we are talking about?

MR. DURST: Mr. President, I realize that this perhaps is not germane. I think, however, Mr. Binkowski should have the right to at least present this and get his vote, and if it is necessary, I would move that the rules be suspended and that he be allowed to offer this amendment.

PRESIDENT NISBET: A sustained point of order cannot be abrogated by a motion to suspend the rule. Miss Donnelly, do you insist on your point of order or do you withdraw?

MISS DONNELLY: I insist upon my point of order at this time. If this comes up at the end of everything, it is something else—a proposal of its own. It is not germane. You can't suspend the rules and make it germane.

PRESIDENT NISBET: That is correct. It is not germane to this section.

MR. ERICKSON: Mr. President.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: May I make the suggestion that we follow the same procedure we had before? You could call this Committee Proposal 68A if you wish to dispose of this so we won't take too much time on this.

MR. BINKOWSKI: I would be very amenable to this, Mr. President.

PRESIDENT NISBET: Mr. Binkowski, it seems that the best time to offer this is to follow Mr. Habermehl's suggestion and offer it to the corporation section when it comes up on third reading.

MR. BINKOWSKI: Mr. President, that is your ruling then, so that on third reading the point of order of germaneness then will be out of order?

PRESIDENT NISBET: Mr. Binkowski, you may bring this up under the corporations article on third reading.

MR. BINKOWSKI: Thank you, Mr. President.

MR. ERICKSON: Mr. President.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: I don't believe there will be an article on corporations when it comes from style and drafting.

PRESIDENT NISBET: There is an article on banking in there somewhere, Mr. Erickson. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Austin offers the following amendment to Committee Proposal 68:

1. Amend page 1, line 19, [section c] after "Yes.", by strikout the 2 quotation marks and "Adoption of the Revised Constitution"; so the language will read:

> The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the

Explanation—Matter within [ ] is stricken, matter in capitals is new.

words "Adoption of the Revised Constitution ( ) Yes. ( ) No.".

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, this is a matter that I raised in the committee on style and drafting, and it was felt at that time that it was perhaps a little too substantive to resolve in the committee, so I agreed to raise the question on the floor.

The way the language reads now for placing the question of the adoption of the constitution on the ballot is:

> "Adoption of the Revised Constitution ( ) Yes." "Adoption of the Revised Constitution ( ) No.".

It does seem as though this language could be confusing if those who have the responsibility of placing the matter on the ballot have no alternative. It would seem that it would be much better to simply include in the constitution: "Adoption of the Revised Constitution ( ) Yes. ( ) No.", so that the voter would have no questions in his mind as to what he is doing. He would vote either yes or no on the adoption of the revised constitution. To have that second expression there, "Adoption of the Revised Constitution ( ) No.", may be a little confusing, and I would simply suggest that we delete this second reference to the language, "Adoption of the Revised Constitution." I think it will only confuse the voter.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Well, this was really something that style and drafting could have ordered. I don't believe it goes to the substance, and I don't believe the committee would have any objection to this change.

PRESIDENT NISBET: Mr. Tubbs.

MR. TUBBS: Mr. President, I agree fully with Delegate Austin. It will be just the same as voting for a person: John Doe ( ) Yes. John Doe ( ) No. I think, though, the language should be, more properly: shall the revised constitution be adopted? ( ) Yes. ( ) No.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. Tubbs made my point, Mr. President.

PRESIDENT NISBET: Mr. Garvin.

MR. GARVIN: Mr. President and delegates, I am at this moment not in favor of the language of style and drafting in section c, nor am I quite sold on Mr. Austin's amendment, and I will tell you the reason why: in Chicago in 1958 when they were trying to get through a new judiciary article the referendum got enough votes to carry, but about 100,000 persons improperly wrote yes on the ballot instead of marking the prescribed X. And then in parentheses—this was in Fortune magazine:

> The bar associations clearly needed a lawyer. Their costly reform campaign had been built on the slogan, "Vote Yes for the judicial article." The state supreme court of Illinois finally ruled 6 to 1 that the yes votes where they had written yes were not valid, and reform died again. It will be up for another vote next year.

I just submit that to style and drafting so that a little more thought can be placed on this even than just the Austin amendment, so we will not run into the difficulty of persons writing in yes or no when it is supposed to be an X. I am merely submitting that, and for the time being I don't believe that I can vote for the Austin amendment or section c of this committee proposal.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, I agree with Delegate Tubbs and Delegate Austin that this should be revised slightly. I would suggest we should add the words: do you favor the adoption of the revised constitution? ( ) Yes ( ) No. Then the people definitely will know what they are voting on.

PRESIDENT NISBET: The question is on the Austin amendment. Mr. Hanna.

MR. W. F. HANNA: Mr. President, fellow delegates, I would support the Austin amendment for clarification. I, however, would not want the language of Mr. Buback because it would result in only an advisory vote. If we are going to reword it, it should be: shall the revised constitution be adopted? We do not need the repetition. I urge that you vote for Mr. Austin's amendment.

PRESIDENT NISBET: The question is on the Austin amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 1, line 3, [section a] after "Monday of" by striking out "November, 1962" and inserting "April, 1963".

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, I am sure that many of you have already given consideration to what merits there might be to having this question put before the people either in November or in April. Just as a matter of saving ourselves perhaps unnecessary court action, if we went ahead and put it in April, there wouldn't be any problem. But I do think that there are certain factors that are involved in a November election that will in some ways not act to the best interests of the adoption of the constitution. First of all, when we have a November election, there are many other questions that will be before the people. Not only will there be proposed amendments to the constitution of 1908 put on the ballot, but we will be voting for candidates for the office of governor, the state ad board, senate, the legislature, plus local elections that may be occurring at the same time throughout the state. All this will only serve to cloud up the picture which is a very important one; namely, that of adopting a new constitution.

It will have taken us 7½ months to write this new document. Somehow, there are delegates who feel that we ought to take it while it is fresh, run out and have the people vote for it. I think that a new constitution of this sort requires a process of education, and if it took us 7½ months to prepare this and to educate ourselves to understanding the different parts and changes that we have made, I hesitate to think the length of time it would take to inform the people as to what we have done here. I don't say that we have to do it. I simply suggest that an additional amount of time will accrue to the benefit of better informing the people as to what is contained in the document.

Another reason I think we ought to consider is the fact that April will be an issue unto itself. There are many people that will want to vote on this and I am certain they will come out and vote on it, and I think we are better able to pinpoint the time and pinpoint the issues if we leave the product of our constitutional convention, in and of itself, something for the people to approve or reject. By giving this to the people in April of 1963, we will be able to concentrate on that single factor. It will be removed from the hot political battles that will take place in November and, all in all, I think it will accrue much to our advantage if you would give this your consideration.

I really believe that this will take an educating process. It takes time to get this disseminated. It takes time to meet the different people, and I think the people would appreciate the consideration that you would be showing them by leaving this an issue for their single consideration in April, rather than putting this altogether on an already crowded ballot in November. For these reasons I would urge your adoption of this amendment.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, may I inquire how many speakers there are?

PRESIDENT NISBET: Two.

MR. DANHOF: I would move to limit debate on this amendment to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Danhof. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates, I just want to remind the delegation that the president has appointed a select committee to look into this matter of whether the election can be held next November, and I suggest we leave the committee report as is until third reading, and perhaps we will have a report by that time. That will be plenty of time to change it, on third reading, if we find it so necessary.

PRESIDENT NISBET: Mr. Pollock.

MR. POLLOCK: Mr. President and members of the convention, I do not find Mr. Faxon's reasons very convincing. He hasn't lived long enough, I think, to study the voting habits of the electorate of Michigan, and what he says about the time that we have taken to deliberate on this convention has nothing to do with the capacity of the electorate to keep its attenion fixed for a long period of time on something with which it is not very familiar.

It seems to me indubitable that the citizens of this state will know much more about this constitution in November than they will in April, and I have the greatest respect for the members of the committee which I think quite overwhelmingly recommend this date.

I agree with the members of the committee of the whole which also, by a very large vote, decided that this should be the date, and I don't think any decision of ours should be mixed up with the legal question. Whatever the legal decision is as to our rights in the matter, it would seem to me this convention should say that this is when it wants the constitution submitted. My best judgment, based upon a lifetime of study of the habits of the voting electorate on issues and on candidates, leads me to the conclusion—and I won't argue it any further—that we would be well advised to submit this constitution in November of 1962.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think perhaps the delegates might appreciate a brief report from the select committee which is considering the legal aspects of the matter. We have had 2 meetings. We have had the benefit of memoranda from 3 distinguished members of the faculty at the University of Michigan law school and from the associate dean of the Wayne University law school, and while we have reached no final conclusion, I think perhaps some brief interim report to you might be helpful at this time.

First, we have concluded that the convention is bound by the provisions of the 1908 constitution if that constitution gives the convention a clear directive as to the date of submission. The question then is, does the 1908 constitution give the convention a clear directive? As to that, we are satisfied that the literal language of the constitution directs a submission in April of 1963.

On the other hand, our review of the debates of the 1908 convention and an investigation made directly with the draftsmen of the 1960 amendment leave some question, because apparently neither the draftsmen of the 1908 constitution nor the draftsmen of the 1960 amendment gave any consideration to the possibility that a convention might last beyond the first Monday in April following the convening of that convention, and it therefore appears that neither the 1908 draftsmen nor the 1960 draftsmen actually expressed themselves on the situation with which we are presently confronted. As a matter of fact, the draftsmen of the 1960 amendment all believed that the provision which they were submitting to the voters called for the submission of the constitution at the first general election occurring at least 90 days after the final adjournment of the convention, and on this basis it appears that there is a reasonable argument that the present constitution makes no provision for the present situation, and that the convention is free to direct the submission of the new constitution in November.

There are 2 possible means available for obtaining a judicial determination of the question. One is a petition to the supreme court for a writ of mandamus. The other is a petition for a declaration of rights. The committee is of the opinion that because the mandamus action would not be available until after the final adjournment of the convention, the petition for declaratory judgment is the preferable remedy. We have not made a determination as yet as to whether a declaratory judgment should be sought. The question is a policy determination for the convention to make. We have further work to do on the general question. It does appear, however, that a reasonable argument may be made that the convention has the power under the present constitution to direct the submission of the document in November.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I would like to invite Mr. Faxon's attention to a technical flaw in his amendment. As I read it, if his amendment were adopted, this would be submitted to the people on the Tuesday following the first Monday in April. I point out to you that there will be a statewide election on the first Monday in April. The biennial spring election will be on Monday. Then under Mr. Faxon's amendment we would turn right around on the next day and have another state election, a most confusing situation. And I wonder how many people could be persuaded to go to the polls the second day in a row.

MR. FAXON: Mr. President, I would be willing to correct my amendment in line with Delegate Hutchinson's remarks.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President and fellow delegates, I rise in support of the Faxon amendment on the grounds not only of the legal questions, but on the wisdom of holding it in April. It seems to me that many of our actions here have been dictated by what we felt on both sides of the aisle might conceivably have an effect on the coming statewide elections to be held in November.

It seems to me it would be tragic if the work of the constitutional convention became enmeshed and intertwined in the statewide elections which will be held in November, and I think this obviously is going to be the case if they are held in November. It seems to me it would be much better if the constitution itself was fought out on the issues of the constitution and whether it is good or bad for the state of Michigan, and that the statewide elections be held on the question of statewide offices and statewide problems and that we separate the 2 so that the voters can intelligently look at both questions which are separate questions. I think the political implications in that would dictate that the document would have a much better chance of being thoroughly studied in and of itself without other considerations if it is to be held in April. For that reason I support it.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Mr. Faxon's amendment, as revised, now reads:

1. Amend page 1, line 2, [section a] after "held on the" by striking out "Tuesday after the"; and in line 3, after "Monday of" by striking out "November, 1962" and inserting "April, 1963"; so that the language will then read, "at the general election to be held on the first Monday of April, 1963."

MR. FAXON: The yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Not a sufficient number up.

MR. FAXON: Division.

PRESIDENT NISBET: A division has been demanded. Is the demand supported? It is supported. The question is on the Faxon amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon, the yeas are 21; the nays are 77.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin and Tubbs offer the following amendment:

1. Amend page 1, line 18, [section c] after "the words" by striking out the quotation mark and "Adoption of the Revised Constitution" and inserting a quotation mark and "Shall the revised Constitution be adopted?" so the language will read, " . . . containing the names of the nominees for office, the words "Shall the revised constitution be adopted? ( ) Yes. ( ) No.".

PRESIDENT NISBET: Delegates, please clear the board. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, this is merely a language change which does not change anything substantively. I think it makes the question a little bit clearer. It is put in the form of a question, and I don't think any voter will have any problem in determining what he is voting on. Mr. Tubbs and I concur in this, and we did check it with Mr. Cudlip, the chairman of the committee on style and drafting. I urge you to support this amendment.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President and fellow delegates, I would defer to some of the election officials who are more familiar with presenting this in an objective manner.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President, fellow delegates, I wholeheartedly support this amendment.

PRESIDENT NISBET: The question is on the Austin amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted. The question now is on Committee Proposal 68, as amended. Those in favor of Committee Proposal 68 as amended will vote aye. Those opposed will vote nay.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I think I was trying to get the floor before you called the vote.

PRESIDENT NISBET: The Chair is sorry.

MR. DOWNS: Could I ask a question of Mr. Erickson?

PRESIDENT NISBET: Yes.

MR. DOWNS: The problem that some of us have—and you have raised about the November date—who may think we should go along with the attorney general's opinion, could this be left blank until the special legal committee speaks or is our only way to indicate disagreement to vote no on the proposal?

PRESIDENT NISBET: Mr. Downs, this could be amended on third reading. Mr. Erickson.

MR. ERICKSON: Mr. President, fellow delegates and Mr. Downs, I didn't make a statement that I go along with the attorney general's opinion. I was referring to the select committee that the president had appointed, until we heard from them and they had their final report. My suggestion was to leave it the way it is, and then we could get additional information, and then on third reading if we find we are not on the right track, at that time would be plenty of time to change it to any proper date.

MR. DOWNS: Mr. President, I went along on that in committee of the whole. I would like to abstain on this one because of the confusion on the date.

PRESIDENT NISBET: You may do so. Those in favor vote aye. Those opposed vote nay. Have you all voted?

MISS HART: I abstain.

MR. BUBACK: I abstain.

PRESIDENT NISBET: Miss Hart and Mr. Buback abstain. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—81

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
DeVries
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Howes
Hoxie
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Mahinske
Martin
McAllister
McGowan, Miss
McLogan
Mosier
Nisbet
Perras
Pollock
Powell
Pugsley
Rajkovich
Richards, J. B.
Romney
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
Wood
Woolfenden

Nays—11

Bradley
Dehnke
Faxon
Hodges
Hood
Jones
Madar
Murphy
Sablich
Walker
Young

SECRETARY CHASE: On the passage of Committee Proposal 68, as amended, the yeas are 81; the nays, 11.

PRESIDENT NISBET: **Committee Proposal 68**, as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 68 as amended and rereferred to the committee on style and drafting:

> Sec. a. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to such election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.
>
> Sec. b. All officers elected on the Tuesday after the first Monday of November, 1962 under the 1908 Constitution as amended and existing laws shall take office on and after the first day of January, 1963, and complete the term to which they were elected.
>
> Sec. c. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words "Shall the revised constitution be adopted? ( ) Yes. ( ) No." All votes cast at this election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. Should the revised constitution so submitted receive more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January, 1963, except as otherwise provided in this constitution.

PRESIDENT NISBET (continuing): The secretary will read the next proposal.

SECRETARY CHASE: Item 6 on the calendar, which was postponed to the foot of the calendar, **Committee Proposal 67**, A proposal to amend article XIII, sections 1, 2, 3, 4 and 5, pertaining to eminent domain, of the present constitution.

Following is Committee Proposal 67 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 2848.):

> Sec. a. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.

PRESIDENT NISBET: The Chair recognizes Mr. Erickson.

MR. ERICKSON: Mr. President and fellow delegates, I yield to Delegate Mahinske.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: At this time we find ourselves in a position of having the federal constitutional provision as the proposed new constitutional provision. I think there are amendments on the secretary's desk.

SECRETARY CHASE: Messrs. Habermehl and Mahinske offer the following amendment:

1. Amend page 1, line 2, after "compensation" by striking out the balance of the section and inserting "for the taking

and resultant direct damage being first determined as a civil matter in a court of record, as provided by law."; so that the language will read:

> Sec. a. Private property shall not be taken for public use without just compensation for the taking and resultant direct damage being first determined as a civil matter in a court of record, as provided by law.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I ask how many amendments there are pending?

PRESIDENT NISBET: There are 2 amendments on the desk at the present time.

MR. VAN DUSEN: Mr. President, I would then move that 10 minutes debate be allowed on each amendment and another 10 minutes on the proposal, a total of 30 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen.

MR. LAWRENCE: Mr. President.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: I have a point of inquiry, please. On the last vote there were a total of 92 or 93 who voted—95, somebody tells me. I understand it was 81 to 11. But anyway it was far from even a representative group of our delegates here. This happens to be a very important thing, a very important amendment to consider. I don't think it is fair that every time that eminent domain has come up, it has either been late at night or as it is now. I don't think that we have had a vote on eminent domain where there has been as high as 110 total. I think that some consideration should be given so that this item could come up at some other time, perhaps Monday at 2:00 o'clock, when we will have a representative group here, and I move that we do not take it up at this time but that it be brought up Monday at 2:00 o'clock.

PRESIDENT NISBET: The question is on the motion of Mr. Lawrence that action on Committee Proposal 67 be postponed until Monday at 2:00 o'clock.

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Is the motion debatable?

PRESIDENT NISBET: Not as to the subject matter, just the question of postponement, Mr. Mahinske.

MR. MAHINSKE: Yes. I would speak in favor of the motion for the reasons stated. I think that we are dealing with a highly important topic here. This thing has been handled lightly. Every time it has come up, it has been split in half. We have had intervening committee reports injected into the debate even in committee of the whole at the time.

I don't think that any of these provisions, including the proposal we have now, have been given any type of proper consideration or any type of deliberative action, and I think that we are finding ourselves for the fifth time in a row exactly in the same position as we were in before. We are taking this up when everybody is more interested in getting back to their own home than they are in protecting anybody else's home. I think that this is important enough so that we should put it over to a time certain when we know that we are going to have a full body here and that any actions they do take will be taken under some calm and cool and proper consideration.

PRESIDENT NISBET: Mr. Walker. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, speaking as a member of the committee on style and drafting, I want to invite the attention of this convention to the fact that you propose to go home tomorrow and leave us here the rest of the week to prepare a document for third reading and we are expected to produce a total and complete constitution arranged in proper articles and proper sections for your consideration next week. Now, if you postpone until next week the completion of your second reading we in style and drafting might just as well go home with you because we cannot complete our job and produce a document for you on Monday as you have directed us. So for that reason I would oppose the motion to postpone.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: As a member of the committee that I think has been unusually abused, I support this motion. As to Mr. Hutchinson's comment, I don't believe it. I don't agree with it. It doesn't hold up in my opinion and logic and examination. This proposal of this committee has been found in miscellaneous. Miscellaneous has always been at the end of the constitution. I submit there is no great change. The rest of the document can easily be written, and I cannot think that this is really going to confuse this group one iota.

I think that it is not fair to this committee to be treated the way it has been and I just ask for fair play from this convention at this time. When you consider the number of absentees—we have not had these people excused. I understood we were supposed to have 133 people here. Now look at the count. This is not fair. It is not the way to write a constitution.

MR. GADOLA: Mr. President.

PRESIDENT NISBET: Judge Gadola.

MR. GADOLA: Also as a member of style and drafting, we are now supposed to work through Saturday and Sunday, but there is going to be no miscellaneous in this constitution if we can prevent it, so adjust yourself that way.

PRESIDENT NISBET: The question is on the motion of Mr. Lawrence that this be postponed until Monday at 2:00 o'clock. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to postpone consideration of Committee Proposal 67 until Monday at 2:00 o'clock, the yeas are 45; the nays are 57.

PRESIDENT NISBET: The motion does not prevail. Mr. Mahinske, you have the floor.

MR. VAN DUSEN: Is the question not now upon my motion to limit debate?

PRESIDENT NISBET: Excuse me. Mr. Van Dusen, would you again state your motion?

MISS DONNELLY: Mr. President, preferential motion. I move for a call of the convention.

PRESIDENT NISBET: Miss Donnelly moves for a call of the convention. Those in favor will say aye. Opposed, no. The Chair is in doubt.

MISS DONNELLY: Roll call, yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Miss Donnelly, a division will accomplish the same purpose.

MR. ERICKSON: Mr. President.

MISS DONNELLY: Mr. President, I asked for a roll call. That is what I want.

MR. ERICKSON: Mr. President.

PRESIDENT NISBET: Miss Donnelly demands the yeas and nays. Is the demand supported? It is supported.

A DELEGATE: Mr. President.

PRESIDENT NISBET: Mr. Erickson has the floor.

MR. ERICKSON: Mr. President, fellow delegates, I am just wondering if our secretary would inform us of the seriousness of a call of the house and what it actually means.

PRESIDENT NISBET: The secretary will so do.

SECRETARY CHASE: Rule 54:

> Calls of the convention may be ordered upon motion by a majority of the delegates present, but the total vote in favor of such call shall not be less than 15 in number.

Rule 55:

> After a call of the convention is ordered—

this is done under rule 54 by a majority of those voting on the question—

> the doors shall be closed and the delegates shall not be permitted to leave the floor of the convention without permission of the convention. The sergeant at arms shall notify all delegates within the bar of the convention of the call. The roll of the convention shall be called by the secretary and the absentees noted. The sergeant at arms may, upon motion, be dispatched after the absentees. In such case a list of the absentees shall be furnished by the secretary to the sergeant at arms, who shall bring such absentees to the floor of the convention with all possible speed. In case the sergeant at arms shall require assistance

in addition to the regularly appointed assistant sergeants at arms of the convention, the president may, upon motion, deputize any person properly qualified as a special assistant sergeant at arms. The convention may proceed to business under a call of the convention pending the arrival of any absentees.

PRESIDENT NISBET: The question is on a call of the convention. The yeas and nays have been ordered. Those who are in favor of a call of the convention will vote aye. Those opposed will vote nay. Have you all voted? Will the convention please be in order? Have you all voted? If so, the secretary will lock the machine and record the vote.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Just a minute. Are you speaking on the question of vote?

MR. MADAR: On the absenteeism.

PRESIDENT NISBET: Well, just a minute until the vote is announced.

The roll was called and the delegates voted as follows:

Yeas—24

Bledsoe
Boothby
Butler, Mrs.
Cushman, Mrs.
Donnelly, Miss
Doty, Dean
Downs
Elliott, A. G.
Finch
Garvin
Gover
Hart, Miss
Hatcher, Mrs.
Hoxie
Koeze, Mrs.
Kuhn
Lawrence
Madar
Mahinske
Powell
Sharpe
Sleder
Spitler
Wanger

Nays—82

Allen
Andrus, Miss
Anspach
Austin
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Blandford
Bonisteel
Bradley
Brake
Brown, G. E.
Buback
Cudlip
Danhof
Dehnke
DeVries
Douglas
Durst
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Gadola
Goebel
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Higgs
Hodges
Hood
Howes
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
King
Kirk, S.
Leibrand
Leppien
Lesinski
Martin
McAllister
McGowan, Miss
Mosier
Nisbet
Perras
Plank
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Sablich
Seyferth
Shackleton
Shanahan
Snyder
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wilkowski
Wood
Woolfenden
Young

SECRETARY CHASE: On the motion for a call of the convention, the yeas are 24; the nays are 82.

PRESIDENT NISBET: The motion does not prevail. Mr. Madar.

MR. MADAR: Mr. President, I can understand and I can sympathize with those who don't want to sit here all evening and all night and tomorrow. However, I do believe that when men and women don't have the responsibilities or don't show any responsibility for the job to which they have been elected, I believe that what we ought to do right now is to take a roll call, and the names of those who are absent be put into the journal so that the people will know what has been going on here.

PRESIDENT NISBET: This was a roll call vote, Mr. Madar, and will appear in the journal, so it will be in evidence. The question is on the motion by Mr. Van Dusen that 10 minutes be allowed to each of the amendments and 10 minutes to the committee proposal. Mr. Mahinske.

MR. MAHINSKE: Could we make this cumulative so that any overlapping time from one amendment shall be available for another amendment and in turn on down, so that the total debate available under the motion would be 30 minutes for the whole proposition here?

MR. VAN DUSEN: I am perfectly agreeable to that, Mr. President.

PRESIDENT NISBET: The question now, then, is on the motion of Mr. Van Dusen that 30 minutes be allowed for the amendments and the proposal. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Mahinske has the floor and an amendment has been read. The secretary will read.

SECRETARY CHASE: Messrs. Habermehl and Mahinske have offered an amendment to Committee Proposal 67 to amend page 1, line 2—

PRESIDENT NISBET: Now, if the convention will be in order, we will finish this work much quicker and much more effectively. We are operating under difficulty, so will the convention please be in order. The secretary will read.

SECRETARY CHASE: The amendment is as follows:

[The amendment was again read by the secretary. For text, see above, page 3035.]

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I would like to point out that by adding these additional words here, we will make at least a bare minimum guarantee that there shall be a public hearing and you shall have a judicial hearing before your property is taken, and you shall have a public and judicial hearing to determine the damages that you will receive for the taking of your property. You will note that under the language that we have adopted unamended there is absolutely no guarantee that there will be any hearing of any type to determine the necessity for taking your property, and there is no guarantee that there will be any public judicial hearing to determine how much money you shall receive for your property once it is taken. I would recommend the adoption of the amendment offered by myself and Mr. Habermehl to at least provide that when a person finds himself in a suit involuntarily that involves taking his property away from him, that he does have a time, a place and a body to go before to present his side of the case. I would yield the floor at this time to Mr. Habermehl.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, as has been pointed out, the time within which this matter came before the convention has been most unfortunate. Last Thursday, we can understand that at 11:00 o'clock at night the people were anxious to get home, and as a result we adopted the language as it appears in the federal constitution. Under that language I would just like to point out to you one fact and draw a parallel to what might happen here in Michigan: the whole controversy over the sleeping bear dunes up in northwestern Michigan came about as a result of the lack of the provision in the federal constitution for any public hearing whatsoever. Under this language, a similar situation could arise in Michigan where the condemning authority itself—and in the case of the Sleeping Bear dunes, that would be the department of the interior—would set the compensation which the land owner would receive for the taking of his property.

Now, it may be pointed out in debate that the legislature could guard against that. I would simply like to point out that a great many organizations and individuals in the state of Michigan are interested in this matter of condemnation. We not only have the state highway department; we have every county road commission, we have the conservation department, we have every city in the state of Michigan, and their interest would be, of course, in attempting to gain control over land at the lowest possible cost. As a bare minimum, then, in this matter of condemnation, it seems to me we must guard against this possibility that the condemning authority could set the amount of compensation that the land owner would receive. If we do not do this, it seems to me that the legislature certainly would be pressured to a great extent to pass the type of legislation that would let exactly that happen, and I don't believe that we want the individual land owners in this state to be deprived of the opportunity for a public hearing, to be deprived of the opportunity of showing the damage that would result to them from the taking and have the figure arbitrarily set by the condemning authority itself.

This amendment is a very brief one. It adds but few words to the federal provision that now is the committee proposal. It adds only that the taking—the compensation for the taking and the resultant direct damage be first determined as a civil matter in a court of record, as provided by law. It provides, then, for court hearing for any individual whose land is about to be taken by any of the condemning authorities in the state of Michigan. This would seem to be the very bare minimum that we could provide as a protection for the citizens of this state, and I strongly urge that we make at least this much provision for their protection.

PRESIDENT NISBET: Speakers, please be as concise as possible. There are 4 more speakers. Mr. Allen.

MR. ALLEN: Mr. President, I would like to call to the attention of the delegates that the proposed language that came back from style and drafting is not just the United States constitution. This is the same provision, almost identically as a number of other states. And I read from a memorandum from research and drafting, by T. R. Gay, citing the language which we have as being found in the following states: Indiana, Connecticut, Wyoming, Nebraska, Minnesota, Alaska, Missouri, Illinois, South Dakota and West Virginia. Now, in all of these states, these details—like Mr. Habermehl's amendment on the board—are handled by the legislature, and I really do not believe that any great wrong is happening in these other states. I think that the issue is: shall we fill this out by relying upon the legislature rather than by freezing a specific in the constitution.

I have another reason to oppose the Habermehl amendment. It is a technical one. You will note on the board he uses the words, "resultant direct damage." I really think that this will give less damages than the Michigan court now is giving under the interpretation of just compensation. In the Grand Haven case the property owner was given money for moving machinery. The machinery was not damaged directly in any way; it was just moved. It was not damaged at all. And, I think unintentionally, Mr. Habermehl, in his damage clause in the amendment on the wall, is making a narrower right to the property owner than prevails under the broad interpretation given by the Michigan constitution.

And so I say, when we try to do in a constitution the things which are better left up to the legislature and the courts, all we do is get in some trouble. Therefore, I would suggest a no vote on this proposed amendment.

PRESIDENT NISBET: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, the proposal that was adopted the last time that we discussed this subject is all that is really necessary in the constitution. The 3 words, "resultant direct damage," could have several meanings, and this is one of the things that I think concerns people most. In our condemnation proceedings in the state of Michigan, we have had lots of supreme court test cases which have established what "just compensation" means, and because of this experience we would like to maintain this, because we don't know what type of area we are getting into, and then we would have the proposition of having to test it all over and having this delay in the highway program.

In Mr. Habermehl's discussion about the Sleeping Bear dunes he was talking about the hearing of necessity. I can see how this could possibly be read into this, but I have some doubt as to whether it actually would exist in his amendment. However, in the state of Michigan, with the supreme court cases we have had relative to the hearing of necessity or proper notice being given to people before you can do anything in governmental operation, I am sure that the legislature or the supreme court would definitely have some form of hearing of necessity so that the public can be heard.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, to bring this back to the members of the convention, again we are trying to write in all the details. Mr. Habermehl has given the best reason himself for not going any farther. It is true we have the state, we have the counties, we have the cities, we have schools, we have private utilities that are given this particular power. The legislature is the place to deal with all of these myriad details.

We have a good concise constitutional provision in here. To adopt this amendment will again bring us back—after we spent 3 hours trying to write in legislative detail to please everybody—to try to cover all the contingencies that every lawyer might have had or thinks he may have in the past. I urge that we reject the amendment.

PRESIDENT NISBET: Mr. Binkowski.

MR. BINKOWSKI: Mr. President, members of the convention, I also oppose this amendment. I think that the argument advanced concerning the Sleeping Bear dunes property is just a red herring. If you look on the wall and look at that amendment very carefully, there is nothing in that amendment which says anything about a hearing of necessity as there is in our present constitution. I don't believe that our legislature would eliminate anything of a necessity of hearing in any of our procedures, because I believe it would be contrary to the concept of due process.

Now, I have no objection personally if the proposers of this amendment want to subject every condemnation case to a civil case in any circuit court, but I suggest to you, ladies and gentlemen of the convention, that we in Wayne county are approximately 1½ to 2 years behind in a contested case, and if we have to take every case all the way up through the circuit court before you can do anything, I think this is going to hold up a great number of programs. Of course, I think it would have a very adverse effect upon our economy.

My third objection to this is to the words, "resultant direct damage." If there are 10 people in this convention who can tell me exactly what they mean by "resultant direct damage" maybe then I can honestly appraise and evaluate this amendment. I don't know where these words come from. I don't know if they have ever been subjected to litigation so that a court has defined them. I do know, however, that our courts and many courts have defined "just compensation," and therefore I oppose this amendment.

PRESIDENT NISBET: Mr. Habermehl or Mr. Mahinske, the 10 minutes are up. There are 7 speakers on this. Do you want to continue or do you want to have a vote on this?

MR. MAHINSKE: Well, I am certainly not for cutting anybody off. I would move at this time that they be given at least one minute each to present what they have to present, and I would like to close with one minute for myself.

PRESIDENT NISBET: The question is now on Mr. Mahinske's motion that the next 7 people be given one minute each. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Madar, you are the next speaker. One minute.

MR. MADAR: I won't take that much. I think that Mr. Binkowski took the words right out of my mouth. I hated like the devil to see Mr. Habermehl dragging that red herring across the path. He really dug deep into the barrel for that one.

PRESIDENT NISBET: Miss Donnelly. One minute.

MISS DONNELLY: I would like to recall to the convention's memory the big problem that this committee had: that was that the legislature had so many, many, many, many condemnation procedures. This language will at least take care of many of the procedural matters. It will give an individual his day in court. And I am trying to decide: what are we trying to do here, create a socialistic state? I think we are well on the way.

PRESIDENT NISBET: Mr. Tubbs. One minute.

MR. TUBBS: Mr. President, I think Delegate Allen has spoken my piece for me. I, too, am afraid of the language "resultant direct damage," and I will give you an illustration:

we have a high school in Grand Rapids that has about 1,500 senior high school students. The expressways are going on 2 sides of it. They are not touching the property, but it is going to ruin the high school and it will be absolutely no good for anything. Is that damage that we get paid for or not? Under the present interpretation, we can't get paid for it, though if they do take part of our property, we will get paid for it.

PRESIDENT NISBET: Mr. Mosier. One minute.

MR. MOSIER: The language in the amendment "resultant direct damage" has had no judicial interpretation, and I am sure that the delegates here assembled are in no position to make a judicial determination of what those words mean. The amendment is faulty in that it takes out the language of our present constitution and of the language that was adopted here last week where the use of the words "just compensation" are found. Our courts, many times, have defined those words. It isn't the function of this convention to frame language that should be in a statute, and I think the court would be in difficulty if it attempted to interpret these words. I am against the amendment.

PRESIDENT NISBET: Mr. Lawrence. One minute.

MR. LAWRENCE: Mr. President and members of the convention, I think to those of us who have no direct interest other than to try to protect the citizens, it is very apparent that this is what is attempted by those opposing this amendment: 1, they do not want these matters tried in court where the people will be protected; and 2, the words, direct damages resulting from the taking, certainly are not so obscure that they cannot be determined. We attorneys know what direct damage resulting from a taking is.

PRESIDENT NISBET: Mr. Garry Brown.

MR. G. E. BROWN: Pass.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, I think some of the speakers have either deliberately tried to mislead this convention, or else haven't followed the progress of that Sleeping Bear dunes controversy very closely. The question there is not upon the hearing of necessity. The bill as introduced in congress provides that the department of the interior will set the compensation for every single land owner. They are the condemning authority. There is no red herring involved here to the slightest extent. And I suggest that some of the speakers against this amendment would prefer to have precisely that situation prevail in the state of Michigan.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I would also like to point out 2 facts that the opposition here have brought up that I think are completely false: it is certainly not violative of due process of law to take land without a hearing on the taking or the necessity of taking. It may be violative of due process of law not to have a public hearing for the setting of damages and it may not; of this we are not sure. This is why we want to protect the people who are having their property taken, to have a public hearing as to the amount of damages they will receive, and certainly guarantee them that they will have a public hearing on the necessity of taking. In fact, all of the pressures brought to bear on this article here, eminent domain—any one of these people will admit to you that a determination or an open judicial determination of necessity is not required, and they would prefer not to have these things.

Now, I think that if someone is going to have their land taken away from them, they should certainly have a right to have it proven to them that this land is being taken for a public use or a public purpose and not to be decided somewhere aside from having any considerations for their feelings or their interest in the case.

PRESIDENT NISBET: The time has expired, Mr. Mahinske. The question is on the amendment offered by Mr. Habermehl and Mr. Mahinske. The secretary will read the amendment.

SECRETARY CHASE: The amendment reads:

[The amendment was again read by the secretary. For text, see above, page 3035.]

PRESIDENT NISBET: The question is on the amendment.

MR. WANGER: Mr. President.

MR. HABERMEHL: The yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. The question is on the amendment of Mr. Habermehl and Mr. Mahinske. Those in favor will vote aye. Opposed will vote nay. Have you all voted?

MR. PERRAS: Mr. President, there are still some delegates downstairs, sir.

PRESIDENT NISBET: Ring the bell, Mr. Secretary. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—43

Andrus, Miss
Austin
Barthwell
Bledsoe
Bonisteel
Boothby
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dehnke
Donnelly, Miss
Doty, Dean
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Faxon
Gadola
Garvin
Gover
Habermehl
Higgs
Judd, Mrs.
King
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
McAllister
Nisbet
Pugsley
Shackleton
Shaffer
Shanahan
Sharpe
Snyder
Stevens
Wanger
Young

Nays—58

Allen
Anspach
Balcer
Batchelor
Beaman
Binkowski
Blandford
Brake
Brown, G. E.
Buback
Danhof
Downs
Everett
Farnsworth
Figy
Finch
Follo
Goebel
Gust
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Hoxie
Hubbs
Hutchinson
Jones
Karn
Kirk, S.
Madar
Martin
McGowan, Miss
McLogan
Mosier
Murphy
Perras
Plank
Powell
Radka
Richards, J. B.
Romney
Sablich
Seyferth
Spitler
Stafseth
Staiger
Stamm
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wilkowski
Wood
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Habermehl and Mahinske, the yeas are 43; the nays are 58.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Bledsoe and Mahinske offer the following amendment:

1. Amend page 1, line 3, after "law.", by inserting "Such compensation shall be distributed among the parties directly affected as their interests appear.".

PRESIDENT NISBET: The Chair recognizes Mr. Bledsoe.

MR. BLEDSOE: Mr. President and fellow delegates, I would like to call your attention to the paper that was put on your desk a few moments ago. I brought this to you.

As you will recall, from time to time I have appeared, talking about land contracts and vendees who are purchasing on land contracts. If you will notice this case got into the courts on June 22, 1961—beginning at the top—an award of $6,000 was awarded to the land owner. Now, the vendees on this contract are people who had intervening interests. Marie Coats was the second vendee. It was what we call the second contract. She was living on the property. At the time the case was tried, she had what we call an equity, which in this case amounted to $4,000; and the award was $6,000—the city's offer was $4,200; she got an increase by the jury of $1,800 over and above the city's offer and out of that, 1/3 went for the attorney's fee. The original contract was $9,500. There were 2 contract-interest persons who owned equities in this; one got $5,391.35, and the $1,800 was the amount that was owed to the other property holder in there. Now, of an award of $6,000 that was rendered, Mrs. Coats winds up with $8.65. She has said that her problem is such that she is not going to get out of the property until the mayor comes down and pushes her out of the bed, and I don't blame her. That case is in court now.

You talk about just and equitable, and all of the high sounding speeches that people have been making. There are a good many people who would be wiped out like this. These intervening purchasers wind up with all the money and the contract vendee gets nothing. With this mass redevelopment, there are scores and scores of cases coming up like that.

The amendment that I am asking you—Mr. Secretary, will you read that amendment again? Let's begin with this. This has already been passed. Let me read this, "Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law." Now, Mr. President, would you read my amendment in connection with this?

SECRETARY CHASE: Mr. Bledsoe offers the following amendment:

[The amendment was again read by the secretary. For text, see above, page 3039.]

MR. BLEDSOE: My proposal in this amendment is that the federal law that we passed here the other evening, last Wednesday evening, be amended so that when these situations arise, the interests of all of the parties may be satisfied so that some degree of fairness will be had in distributing the interests arising out of this contractual relationship.

Now, I know there is some possible criticism that this may involve the impairment of contract, but let us not forget this: this is not impairing any contract—when eminent domain comes in, that is the end of everything. And unless something can be done about the equity of these intervening people, they are wiped out completely. I have known cases, and so have the authorities, the men sitting right in here who have been arguing on the other side of this case. Do you know what they tell the people? "Well, you paid too much for the property anyway. It's just too bad for you." That is what they tell them. And it just isn't fair. Why, this $8.65 that this woman got with an equity of $4,000—why, that isn't even enough to get a room in a first class hotel for a week after she has been carrying the taxes and responsibilities on this property—or a night, even, in a second class hotel—not a first class; in a second class hotel.

Now, I think that we are here to rewrite this law, and everybody in here who knows anything about this—this isn't new. It is just a question of whether or not we want to do something about it. Mr. Lawrence knows about it. Mr. Allen knows about it. My good friends in the highway department are vastly familiar with it because they run over these people every day. They know that the situation obtains. And nothing is done. Why? These are little people. That is the reason nothing is being done about it. I ask you to adopt my amendment so that at least we will make an effort to come to grips with this situation so something can be done.

PRESIDENT NISBET: Mr. Mahinske, the Chair regrets to inform you that we have 2½ minutes, and we have 2 more amendments after this. If in those 2½ minutes somebody can figure out how we get out of this, the Chair will appreciate it. (laughter). Mr. Mahinske.

MR. MAHINSKE: I think Delegate Bledsoe has made the point here that there are certain inequities in the distribution which really amounts to an apportionment of the money here, and we feel that this would at least lead to some proper consideration in the distribution of the money. We would recommend the adoption of the amendment.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. Bledsoe made the point when he said we are trying to write a law. We are not trying to write a law. We are trying to write a constitution. This is, again, a special case, trying to write something for a special type situation. I urge the amendment be rejected.

PRESIDENT NISBET: Mr. Staiger.

MR. STAIGER: Pass.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Bledsoe and Mr. Mahinske. Those in favor of the amendment will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Bledsoe and Mr. Mahinske, the yeas are 40; the nays are 63.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Miss Donnelly offers the following amendment:

1. Amend page 1, line 2, after "first" by striking out "made or secured in a manner prescribed by law" and inserting "paid and determined as a civil matter in a court of record as provided by law"; so that the language will then read:

> Private property shall not be taken for public use without just compensation therefor being first paid and determined as a civil matter in a court of record as provided by law.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: This removes all the angles that people have talked about, about how they can talk about what damages means. "Just compensation" stays, so all people who are afraid of anybody getting a penny are safe. The only thing is, the people have a right to go to court and get paid before the bulldozers knock their property off, and it is determined there. Paid into court means paid. It means the same thing as Mr. Stafseth thought "or secured" means, but it does mean that before the property is gone the people have their day in court. I therefore ask your support of this as the last possible hope to the citizens of this state whose property is being taken.

PRESIDENT NISBET: Mr. Gover.

MR. GOVER: Mr. President, fellow delegates, as a delegate who attended a number of these hearings, listened to a lot of testimony, I feel that we are being unfair to those who have their property condemned if we as con con delegates don't do something to protect the people who are being hurt by these condemnation proceedings. I urge you to vote for this amendment.

PRESIDENT NISBET: Mr. Danhof, did you desire recognition?

MR. DANHOF: We had this in committee of the whole. If we have to wait until everything is paid, you are restricting it more than the 1908 constitution is now. I would urge the defeat of the amendment and ask that we hold to just what we have.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Well, as Miss Donnelly pointed out, this removes all the objections that anybody ever had to this so called wide open damage rule. There is absolutely no damage rule here. This provides for the basic proposition that before your property will be taken, at least you will have something to say to somebody about it, rather than going home and kicking the cat and letting it go at that. I would recommend the adoption of the amendment as proposed.

PRESIDENT NISBET: Mr. Young. Before you start, Mr. Young, the Chair must say that the time has expired. What does the convention desire to do?

MISS DONNELLY: Go for 10 minutes.

PRESIDENT NISBET: Miss Donnelly moves we extend the time limit 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Young. The convention will please be in order.

MR. YOUNG: Mr. President, I don't intend to take 10 minutes. I wanted to ask Miss Donnelly a question through the Chair, if I might. Miss Donnelly, does your language mean that a person is required to go through court, or will it be optional?

MISS DONNELLY: It would be up to the defendant. If they are perfectly willing to take this settlement, they can take it. They don't have to have their matter tried. If the offer they get is what they are willing to take, it is stipulated to. There is nothing to talk about.

MR. YOUNG: Well, I am not an attorney and I certainly am in favor of a person who feels that he has not received just compensation having an opportunity to be heard in court. But as I read that language, it seems to me that it is a built in guarantee they have to go to court, and therefore they have to cut a lawyer in on whatever minimum amount they might be allowed. I would like to support your amendment.

PRESIDENT NISBET: Mr. Karn.

MR. KARN: Mr. President and delegates, I rise to urge the defeat of this amendment. The delays which would be caused by the amendment here proposed would not only be serious to the people who are trying to buy additional land, but it would be very serious to the public which is waiting for some type of service that is involved.

PRESIDENT NISBET: Mr. Brown.

MR. G. E. BROWN: Mr. President, I would like to address a question, through the Chair, to Mr. Danhof.

PRESIDENT NISBET: Mr. Danhof.

MR. G. E. BROWN: Mr. Danhof, your comments with respect to this amendment have raised some question in my mind. Do you interpret the language of the present committee proposal as meaning that the land can be occupied and used prior to ultimate determination of just compensation?

MR. DANHOF: I think this is a matter that can be left to the legislature. If the legislature would so provide, as it might for the highway department; it might not for the utilities—yes, Mr. Brown.

MR. G. E. BROWN: Another question, Mr. President, through the Chair to Mr. Danhof: then why do you think it was necessary in the 1908 constitution for this language to appear, "Provided, That the foregoing provision shall not be construed to apply to the action of commissioners of highways or road commissioners in the official discharge of their duties?"

MR. DANHOF: I have no idea, Mr. Brown.

PRESIDENT NISBET: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, I have one question. I think this raises a serious problem. As I read this amendment, it says that just compensation shall first be paid and determined as a civil matter in a court of record. I would like to ask Miss Donnelly what happens if a man goes into court, the determination is made, and then he refuses to take the payment? There is no provision for securing the payment.

MISS DONNELLY: Mr. President, Mr. Stafseth, this is the trouble we have had before. "Secured" does not mean secured into court. "Secured" means that they have enough money. Some day they will get around to paying it. "Paid into court" means it is there. It is in the clerk's hands. This much money has been determined to be for that property. Whether you like it or not, it is there. The people whose property has been taken have had it. They either go in and pick up that check or they don't go in and pick up that check, but it has been determined and it has been paid into court. It is there. The issue is closed, as to that, for them. From then on they have to appeal the case. But it would in no way interfere with the necessity. It would just say that you cannot bulldoze their property until the jury has gone out and looked at its value. It has to be paid for, either to the people or into court and they can pick it up, or they don't pick it up and leave it and appeal. But that is what happened to them. They don't have a choice anymore; it is gone. They can appeal the amount, but the jury has seen the property, they know what has happened, and from then on in the bulldozers may roll.

If it is "paid into court," it is secured into the court in the hands of the clerk. It doesn't mean "secured" by the money being secured in the hands of the condemning authority. I will stipulate that Dan Karn's firm has enough money, probably, to pay whoever it was that was going to be condemned. It would be secured in them because they are a very wealthy corporation and so on. But it is not secured in the hands of the people. It is going to be paid into court. They take it or they don't, but it has been paid.

MR. STAFSETH: Well, Mr. President and fellow delegates, I have 2 objections to this amendment: 1, that it takes out the commissions, and the main objection I have to that is that this is a very practical matter for taking care of small condemnation proceedings; and 2, I don't agree with Miss Donnelly. I think that you have a situation here that you can hold up highway projects, because if the person refused to take it, or if they took an appeal, they could hold up the highway project.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, it seems to me that the very least we, as constitutional delegates, can do is guarantee the people whose property is being taken, regardless of whatever reason, their day in court. That is all this does. Little by little the objections have been whittled down. Now, the "resultant direct damage" was objected to. That has been taken out. All this amendment does is tell the people of this state they have a right to a hearing in court before their property is taken.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, I am sure that the Michigan legislature is not going to allow property to be taken without the payment at least being secured and some sort of determination as to just compensation. I am afraid that when this language goes in, we drop out the idea of having the legislature secure the payment into court. The language says "pay" and this, I think, is the objection Mr. Stafseth raises, that it would allow a project to be held up until an appeal was taken.

The second thing is the elimination of the 3 man commission, which we have never used in cities—we don't care about having it so I am not speaking from the municipal viewpoint, but it has been found to be a very useful device, and many attorneys would rather, in a condemnation case involving noncity projects, have a 3 man commission than a court. Now, this amendment eliminates that, but the committee proposal would allow the legislature to have a 3 man or a 5 man or some sort of commission if they felt it was useful. But this language prevents it, and again we start tying things down, and I think it is a mistake.

PRESIDENT NISBET: The question is on the amendment offered by Miss Donnelly. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay.

MR. MADAR: I ask the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Not a sufficient number up. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Miss Donnelly, the yeas are 38; the nays are 56.

PRESIDENT NISBET: The amendment is not adopted. There is one more amendment. The secretary will read it.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend page 1, line 3, after "law.", by inserting "All final decisions, findings, rulings and orders shall be subject to at least such review as is provided for in this constitution and by statute for administrative agency review.".

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of this convention, I think that this is an amendment that all can accept. It writes into the provision dealing with condemnation Committee Proposal 95 dealing with administrative agencies. The determination which is made in regard to condemnation actually is an administrative agency decision, and if we are going to have these minimum requirements with regard to administrative agencies, there is no reason why we can't include it on condemnation. I would like to call your attention to the fact that Committee Proposal 95 states:

> This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law, and in cases in which a hearing is required, whether the same are supported by competent, material, and substantial evidence on the whole record. . . .

All this requires is that in cases of condemnation, that a person would have a right to go to a court in a "show cause" proceeding, and the condemning authority would at least have to show that there was competent, material and substantial evidence on the whole record to support its findings. I don't see any reason why we can't go along and support this here when we have supported it with regard to all administrative agency decisions.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I might point out to you that this is really laying it out cold now. Do you want to put eminent domain procedures within this constitution or outside of this constitution? If a no vote carries on this amendment, then the bill of rights section as pertaining to people who are involved in the ownership of property will not apply. This is going to pull these people outside of the constitution. They are going to have absolutely no constitutional rights in this state to be heard, even though their hearings are totally, completely and obviously abusive to their rights. Now, if you vote no on this proposition, you are putting these people in that exact position. If you carry it, then of course you are going to give people who are involved in the title or the ownership of their home exactly the same rights and privileges in administrative hearings that you are giving a doctor or a lawyer or a chiropractor when he is arguing about whether or not he should retain his license, and I would urge the adoption of this amendment.

PRESIDENT NISBET: Would the delegates please clear the board? Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I would point out that to the extent that this is an administrative proceeding, as Mr. Boothby thinks it is, then all of the rights to appeal from an administrative decision are guaranteed in this type of a case as well as any other by other provisions in this constitution. It is not necessary to restate it here. To the extent that this is a judicial proceeding—and I always had supposed it was a judicial proceeding—the principle of due process of law warrants an appeal. So I can't understand why, on either theory, this language is necessary here now, so I oppose it.

MR. BOOTHBY: Will Mr. Hutchinson yield?

PRESIDENT NISBET: The time has expired. The question is on the amendment offered by Mr. Boothby. Those in favor will say aye.

MR. BOOTHBY: I would like to call for a division.

PRESIDENT NISBET: A division has been demanded. Is the demand seconded? A sufficient number up. Those in favor of the Boothby amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Boothby, the yeas are 33; the nays are 62.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of Committee Proposal 67. Mr. Brown.

MR. G. E. BROWN: Mr. President, I would ask the indulgence of the convention for one minute.

PRESIDENT NISBET: Without objection, Mr. Brown may have his one minute.

MR. G. E. BROWN: I only wish, Mr. President, to point out that I think the present language—I think this is the only interpretation that it is subject to—means that highway departments no longer will be able to occupy and use property prior to a final and ultimate determination of the compensation to be paid to the land owner. I think this is clear by the use of the language that is in the committee proposal when it is compared with the present language in the 1908 constitution, as interpreted where the proviso excepts highway departments and road commissions.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 67. Will the delegates please clear the board? Those in favor of Committee Proposal 67 will vote aye. Those opposed will vote nay.

MR. HIGGS: Mr. President, I would like the record to show that I abstain from voting.

PRESIDENT NISBET: Mr. Higgs abstains from voting.

MR. MAHINSKE: Mr. President, parliamentary inquiry here.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Obviously—I would be willing to lay money on this—this thing is not going to pick up 73 votes. It has been offered as a substitute for the committee proposal. Now, would you give us a ruling, in view of a ruling that we had earlier, as to just exactly what position we are in if we do not pick up 73 votes here?

PRESIDENT NISBET: Mr. Mahinske, if the proposal be defeated, it will be up to the convention to decide what to do from then on.

MR. KING: Mr. President.

PRESIDENT NISBET: Mr. King.

MR. KING: I wish to announce my intention to abstain.

PRESIDENT NISBET: Mr. King abstains. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—85

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Binkowski
Blandford
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Doty, Dean
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Figy
Finch
Follo
Goebel
Gust
Hanna, W. F.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Hodges
Hood
Howes
Hoxie
Hubbs
Hutchinson
Jones
Judd, Mrs.
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Leibrand
Lesinski
Madar
Martin
McGowan, Miss
McLogan
Mosier
Murphy
Nisbet
Perras
Plank
Powell
Radka
Rajkovich
Richards, J. B.
Romney
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Stevens
Stopczynski
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
Wilkowski
Wood
Woolfenden
Young

Nays—16

Austin
Bledsoe
Boothby
Brown, G. E.
Dehnke
Donnelly, Miss
Douglas
Erickson
Faxon
Gadola
Gover
Habermehl
Lawrence
Mahinske
McAllister
Shanahan

SECRETARY CHASE: On the passage of Committee Proposal 67, the yeas are 85; the nays are 16.

PRESIDENT NISBET: **Committee Proposal 67** is passed and referred to the committee on style and drafting.

For Committee Proposal 67 as rereferred to the committee on style and drafting, see above, page 3035.

That completes second reading. The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. President and members of the body, I asked for a few minutes to tell you about the work of the style and drafting committee this week. Tomorrow we start at 9:00 o'clock, and we will meet mornings, afternoons and evenings. I understand that the committee chairmen and maybe some of the vice chairmen will be here with Chairman White of the P.I. committee on Thursday. If so, to the extent we are ready with the third reading proposal, we will be happy to visit with the chairmen or their nominees, and at any time during the week the chairman of the committee or his nominee is welcome to come and visit us.

We have a big job to do. Downstairs in G it looks like a green mountain to me. The proposals will be considered by the committee in the order, generally, in which they now appear in the constitution. I don't know when this convention is going to reconvene—some time, I suppose, Monday. That matter will be settled this evening. But I do hope that Monday—all day Monday—will be free, and if the convention decides to come back at 6:00 or for the evening session as a first session, then I would hope that the committee chairmen and vice chairmen might come up here early Monday morning and begin to look at some of this work.

There are going to be many technical changes. This is the first time that the committee has had a chance to look at the entire document in toto. As a matter of fact, it will take this evening to get this afternoon's work and this morning's work before us. But you can see the problem in reconciling language, proper and similar use of words like "electors" and "qualified electors;" "prescribed" and "provided," and so forth.

I want to say, too, that this is a very short time to put such a burden on any body of men and women, talented as my associates are, but we will do our best, and if we can't make it, our only recourse will be to advise the president of the convention that we are not ready with our work.

I am concerned, too, with what I hear about the matter of duplication. There is no use sending this to the printer or any other place for duplication unless the whole document is ready. We can't send it in sections because there is constant interdependence, as Chairman Van Dusen pointed out. But anyway, if we finish Saturday night, maybe a printer or somebody can get this thing out on Monday. We are not complaining. We are not hollering. We are proud of our duties and our work. But I just thought I would give you a general idea of what the problem is and what we are doing, and we would be glad to see any of you during the week. Thank you very much, Mr. President and delegates.

PRESIDENT NISBET: Announcements by Mr. Chase.

SECRETARY CHASE: The committee on style and drafting will meet at 9:00 a.m. tomorrow. William B. Cudlip, chairman.

The secretary would like to suggest to the delegates, any of you who have not picked up your salary checks, they are in the secretary's office. You can get them from my secretary.

Mr. Figy would like to be excused from the afternoon session of Monday.

PRESIDENT NISBET: Without objection, he is excused. Mr. Wanger.

MR. WANGER: Mr. President, inasmuch as we have taken significant action today, I would like to ask, if it would be appropriate, that as soon as today's daily journal is received tomorrow, if the secretary could mail out one copy to each delegate in this convention.

PRESIDENT NISBET: The secretary will take it under advisement. Mr. Dehnke.

MR. DEHNKE: Mr. President, I move the convention do now adjourn.

PRESIDENT NISBET: The question is on adjournment. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I believe the schedule adopted by the convention calls for reconvening at 2:00 o'clock next Monday afternoon.

PRESIDENT NISBET: The question is on adjournment to 2:00 o'clock Monday. Those in favor say aye. Those opposed, no.

The motion prevails. We are adjourned.

[Whereupon, at 6:20 o'clock p.m., the convention adjourned until 2:00 o'clock p.m., Monday, May 7, 1962.]

ONE HUNDRED THIRTY-THIRD DAY

Monday, May 7, 1962, 2:00 o'clock p.m.

PROCEEDINGS

VICE PRESIDENT HUTCHINSON: The convention will **come to order.**

The **invocation** today will be delivered by the Reverend Monsignor Edward J. Hickey of Redford, through the courtesy of Delegate Bonisteel.

MONSIGNOR HICKEY: O God of wisdom and love, of authority and justice, recall to mind that "Unless the Lord build the house, they labor in vain that built it." Remind us too, that the work of discovery, exploration and settlement of our state was partially of religious motivation under the leadership of the heroic Jesuits of France. The ordinance of 1787 reminds us that religion, morality and knowledge are necessary for good government and the happiness of mankind. Bring to mind words found in most United States constitutions acknowledging that we are grateful to almighty God for the blessings of freedom and that we earnestly desire to secure these freedoms undiminished for ourselves and our posterity.

O Lord, Thou hast poured forth upon us Thy spiritual and temporal gifts in great abundance and we pray that we may use them wisely for the good of all and not alone for the good of the few. As Father Gabriel Richard prayed before the territorial legislature of his day, "O Lord, grant that you may make laws for the people and not for yourselves," and we might add, not for your political capital or your social class or your geographic section, all based on local views and interests and advantages, but make decisions for the common good of all our citizens.

Help us to understand that it is only when delegates have a sense of moral direction that they are fit to take into their hands the helm of the ship of state or to chart its course for the distant future. Man's nature and destiny as a child of God created for a future life must be constantly before your minds. No people's rule over themselves is safe unless there be found in them intelligence, morality and great faith in God and His overruling providence. Unless a man loves something higher than sectional conceit of superiority and material advantage, he cannot love his state wisely and worthily. The truly patriotic delegate must love truth and justice most, seeking these for himself and his state at the cost of lower and partisan interests.

O Lord, grant Thy vision and wisdom, Thy integrity and courage to these delegates to this constitutional convention. Bless their efforts with successful achievement for Thy own honor and glory, for the peace and prosperity of the commonwealth and for the salvation and happiness of all our citizens. Through Christ, our Lord. Amen.

VICE PRESIDENT HUTCHINSON: The secretary will take the **roll call.** All those present will vote aye. Have you all voted? If so, the secretary will lock the machine and record the roll.

SECRETARY CHASE: Mr. President, 116 delegates, a quorum, is present.

Prior to today's session, the secretary received the following requests for leave: Mrs. Conklin and Mr. Douglas, temporarily, from today's session; Messrs. Ford, Kelsey, Knirk and Rood, from today's session; Mr. Hood, from the sessions of today through Wednesday; and Mr. Liberato, from the sessions of today through Thursday.

VICE PRESIDENT HUTCHINSON: Without objection, the several requests are granted.

SECRETARY CHASE: Absent with leave: Mrs. Conklin, Messrs. Douglas, Figy, Ford, Hood, Kelsey, Knirk, Liberato and Rood.

Absent without leave: Messrs. Bledsoe, T. S. Brown, Mrs. Koeze and Mr. Nisbet.

VICE PRESIDENT HUTCHINSON: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Koeze, Mrs. Conklin, Messrs. Figy, Douglas and T. S. Brown.]

The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I have discussed this matter with Delegate Iverson and we would like to have a 45 minute recess for caucus purposes and I therefore move a 45 minute recess. I believe the secretary has the announcement of the rooms where the caucus meetings will be held. I'll be glad to yield to Delegate Iverson to supplement the statement.

VICE PRESIDENT HUTCHINSON: Mr. Iverson.

MR. IVERSON: Mr. President, the notice which I had previously sent to our delegates of the caucus following the afternoon session will be cancelled, if this is agreeable. We will hold a meeting in room A.

SECRETARY CHASE: The Democratic caucus during the recess will be held in committee room C.

VICE PRESIDENT HUTCHINSON: Mr. Downs moves that the convention stand in recess for 45 minutes for the purpose of holding a Democratic caucus and Mr. Iverson announces a Republican caucus during the same time. All those in favor of recessing will say aye. Opposed will say no.

The motion prevails and the convention stands in recess until 3:05.

[Whereupon, at 2:10 o'clock p.m., the convention recessed; and, at 3:05 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, during this last week Miss Sarah Luedders of the research and drafting department has at my request prepared a supplemental memorandum continuing the statistics on the votes taken on second reading which she had initially prepared for first reading.

For previous memorandum, see above, page 2850.

I would like to bring the supplemental memorandum to the attention of the convention.

[Paragraphs 1, 2 and 4 of the memorandum were read by Mr. Woolfenden. For text, see below, page 3045.]

This is a very brief memorandum prepared by Miss Luedders with a brief statistical table showing the exact vote on each proposal — I should say on the total proposals submitted by each committee. And I move that it be printed in the journal.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Woolfenden that the memorandum he refers to be printed in the journal. All those in favor will say aye. Opposed?

The motion prevails.

Following is the memorandum:

Voting trends in the constitutional convention during the second reading of committee proposals corroborates the theory that substantial unanimity has existed among convention delegates.

Of the 121 committee proposals passed by the convention thus far, 30 were by unanimous vote and 49 by nearly unanimous vote. Nearly unanimous is considered to be a vote with 1-5 dissension [where 5 or less votes were cast against the proposal as adopted]. This total of 79 proposals passed with substantial unanimity is 65 per cent of those acted upon during the second reading phase.

Forty-one, or 34 per cent, of the committee proposals were amended by the convention in this latest consideration. By committee these were: declaration of rights, suffrage, and elections, 100 per cent; education, 50 per cent; emerging problems, 40 per cent; executive branch, 23.8 per cent; finance and taxation, 37.5 per cent; judicial branch, 71.4 per cent; legislative organization, 50 per cent; legislative powers, 19.4 per cent; local government, 55.5 per cent; miscellaneous provisions and schedule, 25 per cent.

The total document, as transferred by the committee on style and drafting from committee proposals to articles and sections, has been amended and reamended, discussed and rediscussed. When the votes are counted, however, it has been the product of substantial unanimity. The substantive committees were 75 per cent unanimous in their proposals to the floor. The committee of the whole was 55 per cent in accordance. Now the convention, in second reading, has by record roll call vote expressed 65 per cent substantial unanimity.

That there has been dissension cannot be disputed. That there has been substantial unanimity is equally defensible.

Second Reading
Per cent of committee proposals passed
unanimously or with substantial unanimity

	Unanimously	Substantial unanimity*	Total
Declaration of rights, suffrage and elections	0	100	100
Education	33.3	33.3	66.7
Emerging problems	0	20	20
Executive branch	47.6	19.0	66.7
Finance and taxation	37.5	25	62.5
Judicial branch	0	28.5	28.5
Legislative organization	0	0	0
Legislative powers	19.4	61.1	80.5
Local government	0	55.5	55.5
Miscellaneous provisions and schedule	31.2	37.5	68.7
Total all committees	28.8	40.0	65.3

*Substantial unanimity as here used refers to those recorded roll call votes in which there are 1-5 no votes.

VICE PRESIDENT HUTCHINSON (continuing): **Reports of standing committees.**

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits the following report, reporting back to the convention the following complete revision of the **constitution,** recommending the passage thereof.

For proposed revised constitution as reported by the committee on style and drafting, see below, page 3046.

William B. Cudlip, chairman.

VICE PRESIDENT HUTCHINSON: It will be placed on the order of third reading.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, files notice that under rule 53, it would move for the reconsideration of **article I, section** 2 on Tuesday, May 8, 1962.

VICE PRESIDENT HUTCHINSON: The notice will be printed in the journal. Any further reports of standing committees?

SECRETARY CHASE: That's all the standing committee reports, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I have a report of a select committee, Mr. President, if it's in order at this time.

VICE PRESIDENT HUTCHINSON: **Reports of select committees.** Mr. Van Dusen.

MR. VAN DUSEN: Mr. President and fellow delegates, you will recall that last Tuesday the convention adopted, as a part of the schedule, a direction that the new constitution be submitted to the electors in November of 1962. The select committee, of which I have the honor to be chairman, considering the legal aspects of this matter, will today offer a resolution authorizing and directing an action to be brought against the secretary of state for a declaration of rights determining whether or not we have the right to put the new constitution on the ballot in November. However, I want to make it perfectly clear that the select committee makes no policy recommendation as to whether the November date or the April date should be adopted by the convention. The only purpose of offering this resolution is to provide the convention with a vehicle so that if on third reading the November date is adopted, the convention will then be in a position to quickly authorize the necessary legal action. If, of course, the convention were to decide that it preferred the April date, no action would be taken on the resolution. This is simply an interim report on behalf of the select committee.

VICE PRESIDENT HUTCHINSON: Communications from state officers.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: Without objection, the convention will proceed next to the order of **motions and resolutions** for the consideration of some resolutions that have been filed in order that they might be offered and referred ahead of third reading.

SECRETARY CHASE: Mr. Perras offers **Resolution 94,** A resolution to extend the adjournment date of the constitutional convention from May 11, 1962 to May 15, 1962.

Following is Resolution 94 as offered:

> Whereas, It is a matter of vital importance to the people of the state of Michigan that this convention present the prospective new constitution in the best possible form; and
>
> Whereas, Careful consideration by the delegates of the draft constitution on third reading is imperatively necessary if this objective is to be realized; and
>
> Whereas, It has become apparent that insufficient time remains for a careful consideration on third reading of the prospective constitution, if the convention is to adjourn on May 11; now therefore be it
>
> Resolved, That this convention hereby fix a new adjournment date of Tuesday, May 15, 1962, and that the delegates hereby pledge themselves to work beyond May 11 to the new adjournment date without salary if necessary, in order that they may complete adequately the task appointed for them by the people of the state of Michigan.

VICE PRESIDENT HUTCHINSON: The resolution is referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Van Dusen offers **Resolution 95,** A resolution to require a vote of a majority of the delegates elect to adopt amendments on third reading.

Following is Resolution 95 as offered:

> Resolved, That rule 57 be amended by adding to the last paragraph the following: "Amendments on third reading shall require the vote of a majority of the delegates elected to adopt.".

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I think this resolution speaks clearly for itself. We are about to proceed to third reading, where we will consider the constitution which we have in the last few weeks adopted piece by piece. Each of these pieces has been adopted by a vote of at least 73 delegates. It therefore seems desirable that no amendment be adopted on third reading which does not receive a vote of at least 73 of the delegates.

For that reason, Mr. President, I would move at this time that the rules be suspended for the purpose of the immediate consideration of this resolution.

VICE PRESIDENT HUTCHINSON: The secretary will first read the complete resolution.

SECRETARY CHASE: Resolution 95:

[The resolution was read by the secretary. For text, see above, page 3045.]

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves the rules be suspended for the immediate consideration of Resolution 95. Mr. Wanger.

MR. WANGER: I'd like to speak against this motion, Mr. President and fellow delegates. It is obvious, of course, that it takes a 2/3 vote here to suspend the rules to consider this, but if the rules are suspended, then it takes only a majority vote to pass this, amending the rules. That's the reason I rise at this point, to urge you not to vote in favor of suspending the rules, to consider this. I believe that this change in the rules, done at the last minute just before we're about to enter the third reading of the convention, will have an undesirable effect upon the work of the convention and it's even been suggested it will distort the will of those delegates who would regularly attend this convention. All of us who have been regularly attending the convention, going through first reading and second reading, have been doing so in the full belief and with the understanding that under our present rules a near majority of those who were actually present and voting would be sufficient to pass amendments on third reading. And therefore, many amendments believed to be important were deferred to third reading because the time of second reading, or first reading, either late or night or some other time was not propitious for the best consideration of those amendments.

This would be changing horses in the middle of the stream and would place us in a position, ladies and gentlemen of the convention, where we might discover that we were boxed in by our own rules. Remember, a legislature, if it gets boxed in by its rules, always has the following session at which it can amend the law or change it back. But a constitutional convention is different. If we get boxed in by our rules, why, we're all done. We don't meet for another session and the result of this being boxed in goes on the ballot for the people to vote on. That would not give the people the best that we have in us. The people deserve the very best and the most mature and full consideration which we have in us, and we must avoid being boxed in by our rules. And with those effects, I urge you not to vote in favor of Mr. Van Dusen's motion to suspend the rules.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Van Dusen that the rules be suspended for the immediate consideration of Resolution 95, which has been read by the secretary. Because 2/3 of the delegates present are required to vote favorably in order to pass such a motion, the Chair will order a division. All those in favor of suspending the rules for the immediate consideration of the resolution will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to suspend the rules, the yeas are 78; the nays are 42.

VICE PRESIDENT HUTCHINSON: Two-thirds of the delegates not having voted therefor, the motion does not prevail. The resolution is referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Van Dusen offers **Resolution 96,** A resolution authorizing and directing the commencement of an action against the secretary of state seeking a declaration of the right of the convention to require the submission of the proposed new constitution to the electors in November, 1962.

Following is Resolution 96 as offered:

Whereas, This convention has directed that the proposed new constitution be submitted to the electors of this state for adoption at the general election to be held November 6, 1962; and

Whereas, The secretary of state has advised the convention that, in accordance with the advice of the attorney general, he will not place the question of adoption of the proposed new constitution on the ballot at the said November election, but will be obliged to defer the same until April, 1963; and

Whereas, The convention believes that the question of its legal right, authority and duty, pursuant to the provisions of the constitution of 1908, as amended, to direct submission at the November election should be judicially determined at as early a date as may be possible; now therefore be it

Resolved, That the president shall appoint a committee to commence an action in the circuit court for the county of Ingham in the name of the president, on behalf of the convention, against the secretary of state and any other officials who may be proper or necessary parties, to obtain at the earliest possible date a final judicial determination and declaration of the right, authority and duty of this convention pursuant to the provisions of the constitution of 1908, as amended, to direct and compel the submission of the proposed new constitution to the electors for adoption at the general election to be held November 6, 1962, and a determination and declaration of the duty of the secretary of state to comply with such direction; and be it further

Resolved, That the committee to be so appointed shall consist of 12 delegates, 8 from the majority party and 4 from the minority party; and be it further

Resolved, That the committee is authorized to expend convention funds as necessary for filing fees, and the printing of records and briefs.

VICE PRESIDENT HUTCHINSON: It is referred to the committee on rules and resolutions.

SECRETARY CHASE: That's all the resolutions on file, Mr. President.

VICE PRESIDENT HUTCHINSON: **Third reading.**

SECRETARY CHASE: The president lays before the convention the complete revision of the proposed constitution as reported by the committee on style and drafting earlier today.

Following is the proposed revised constitution as reported by the committee on style and drafting and read by the secretary (To locate text of proposals as rerferred to committee, use committee proposal history in index.

[Table heading each article relates section of article to committee proposal number and section.]

PREAMBLE
I. DECLARATION OF RIGHTS
II. ELECTIONS
III. GENERAL GOVERNMENT
IV. LEGISLATIVE BRANCH
V. EXECUTIVE BRANCH
VI. JUDICIAL BRANCH
VII. LOCAL GOVERNMENT
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SCHEDULE AND TEMPORARY PROVISIONS

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

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Article I
Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, COLOR, religion, sex or national origin. The legislature shall implement this section by appropriate legislation. This SECTION shall not be construed to [prevent] PROHIBIT reasonable [classification] LEGISLATION for the protection of women.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express[,] and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be [passed] ENACTED to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be ENACTED [passed].

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding[,] any narcotic drug, [any] firearm, bomb, explosive[,] or any other dangerous weapon, seized by A [any] peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. [Any] A suitor in any court of this state [shall have] HAS the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be [deemed to be] waived in all civil cases unless demanded by one of the parties in THE [such] manner [as shall be] prescribed by law. In all civil [actions in circuit courts] CASES TRIED BY 12 JURORS a verdict shall be received when 10 jurors [shall] agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of[,] or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of [2] TWO witnesses to the same overt act[,] or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE II
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Article II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state [6] SIX months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence[,] or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than [6] SIX months and may waive residence requirements [of] FOR FORMER citizens of this state who have removed [t]herefrom. The legislature [may provide the manner of voting by such persons but] shall not permit voting by any [such] person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place [,] and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of [persons who are] candidates for the same office WHO [and] have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, OR AS OTHERWISE PROVIDED IN THIS CONSTITUTION, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year[,] or on such other date as MEMBERS OF THE CONGRESS OF THE UNITED STATES ARE REGULARLY ELECTED [may hereafter be provided by the Constitution of the United States or by congress for election of members thereof].

Sec. 6. Whenever any question is REQUIRED TO BE submitted BY A POLITICAL SUBDIVISION to [a vote of] the electors which involves THE INCREASE OF ANY AD VALOREM TAX RATE LIMITATION FOR A PERIOD OF MORE THAN FIVE YEARS, the direct expenditure of public money, OR the issue of bonds, [or the increase of any ad valorem tax rate for a period of more than 5 years,] only [persons having the qualifications of] electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. All ELECTORS IN THE DISTRICT OR TERRITORY AFFECTED [persons having the qualifications of electors] may vote on all other questions. [involving an increase in any ad valorem tax rate and on borrowing by this state.]

Sec. 7. A board of state canvassers [consisting] of [4] FOUR members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting [at] IN the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. THE SUFFICIENCY OF any statement of reasons or grounds procedurally required shall be [deemed to pose] a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds AND MUST BE INVOKED IN THE MANNER PRESCRIBED BY LAW WITHIN 90 DAYS FOLLOWING THE FINAL ADJOURNMENT OF THE LEGISLATIVE SESSION AT WHICH THE LAW WAS ENACTED. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than [8] EIGHT percent for initiative and [5] FIVE percent for referendum of the total vote cast for all candidates for governor at the last preceding general election AT WHICH A GOVERNOR WAS ELECTED shall be required.

NO LAW AS TO WHICH THE POWER OF REFERENDUM PROPERLY HAS BEEN INVOKED SHALL BE EFFECTIVE THEREAFTER UNLESS APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON AT THE NEXT GENERAL ELECTION.

[The] ANY law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so [petitioned for] PROPOSED is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next [ensuing] general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next [ensuing] general election.

Any [act] LAW submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No [act] LAW initiated or adopted by the people shall be subject to the veto power of the governor, and no [act] LAW adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or [3/4] THREE-FOURTHS of the members elected to and serving in each house of the legislature. [Acts] LAWS adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If [2] TWO or more measures approved by the electors at the same election conflict, THAT [the measure] receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

ARTICLE III
GENERAL GOVERNMENT

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Article III
General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into [3] THREE branches: legislative, executive[,] and judicial. No person [belonging to] EXERCISING POWERS OF one branch shall exercise powers properly belonging to another branch[,] except [in] AS [cases] expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be [prescribed] PROVIDED by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, ANY GOVERNMENTAL AUTHORITY or any combination thereof may enter into agreements[,] for the performance, financing or execution of their respective [governmental] functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution.

Any other provision of this constitution [to the contrary] notwithstanding, an officer or employee of the state or OF any [municipal corporation or other subdivision or agency] SUCH UNIT OF GOVERNMENT OR SUBDIVISION OR AGENCY thereof may serve on or with any governmental body ESTABLISHED FOR THE PURPOSES SET FORTH IN THIS SECTION [as a representative of the state or any municipal corporation or other subdivision or agency thereof, or for the purpose of participating or assisting in the consideration or performance of joint or cooperative undertakings or for the study of governmental problems,] and shall not be required to relinquish his office or employment by reason of such service. The legislature [by statute] may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements [authorized] PROVIDED by law.

Sec. 7. [All law not repugnant to this constitution,] THE COMMON LAW AND THE STATUTE LAWS NOW IN FORCE, NOT REPUGNANT TO THIS CONSTITUTION, shall remain in force until [changed, repealed or in the case of statutes they have expired because of limitations contained therein] THEY EXPIRE BY THEIR OWN LIMITATIONS, OR ARE CHANGED, AMENDED OR REPEALED.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court [up]on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

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Article IV
Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members[,] to be elected from single member districts at the same [time] ELECTION as the governor for [4] FOUR-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent multiplied by [4] FOUR and its percentage of the state's land area computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties [are] IS entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment FACTORS of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there [shall be] IS a failure to comply with the above standards.

(3) Counties entitled to [2] TWO or more senate districts shall be [further sub]divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for [2] TWO-year terms from single member districts apportioned on a basis of population as [hereinafter] provided IN THIS ARTICLE. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall constitute a separate representative area. Each county having less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than [7/10] SEVEN-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

TENTHS of one percent of the population of the state. Any county which is isolated under the initial allocation as [herein] provided IN THIS SECTION shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to [2] TWO or more representatives shall be divided into single member representative districts as follows:

(1) The population of [each] SUCH districtS shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger[,]. THE DISTRICTS WITH WHICH THE TERRITORY SHALL BE COMBINED SHALL BE [as] determined by ordinance of the city certified to the secretary of state.

[No legislator shall be deemed to have vacated his office by virtue of the above section.] NO SUCH CHANGE IN THE BOUNDARIES OF A REPRESENTATIVE OR SENATORIAL DISTRICT SHALL HAVE THE EFFECT OF REMOVING A LEGISLATOR FROM OFFICE DURING HIS TERM.

Sec. 5. ISLAND AREAS ARE CONSIDERED TO BE CONTIGUOUS BY LAND TO THE COUNTY OF WHICH THEY ARE A PART.

Sec. 6. A commission on legislative apportionment is hereby established consisting of [8] EIGHT persons, [4] FOUR of whom shall be selected by the state organizations of each of the [2] TWO political parties whose candidates for governor received the highest vote at the last general election AT WHICH A GOVERNOR WAS ELECTED preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, [4] FOUR of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following [4] FOUR regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until [2] TWO years after the apportionment [plan] in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever [Re]apportionment or districting OF THE LEGISLATURE is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds [necessary] to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to DISTRICT AND apportion[, and district,] the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of [all of] the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted BY THE COMMISSION and published as provided in this section.

Upon the application of any [qualified] elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall make orders amending such plan if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative MUST [shall] be a citizen of the United States, at least 21 years of age, and AN [a qualified] elector of the district he represents[,] . [and] The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected TO [a member of] the legislature shall receive any civil appointment within this state from the governor, except notaries public, [from the governor and senate,] from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for [5] FIVE days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The annual salary of the members of the legislature shall be not less than $9,000[.], AS PROVIDED BY LAW. Members of the legislature shall be entitled to REIMBURSEMENT FOR [2] TWO round trips home EACH [per] month while the legislature is in session, and expenses in connection with the work of interim committees. [No] ChangeS in salary or expenses shall beCOME effective [during the term of office for which the legislature making the change was elected] ONLY WHEN LEGISLATORS COMMENCE THEIR TERM OF OFFICE AFTER A GENERAL ELECTION except and only to the extent of a general salary reduction in all other branches of STATE government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to [deny] AFFECT retirement benefits [to those] OF legislators [eligible to receive] WHICH HAVE [these benefits at] ACCRUED PRIOR TO the [time] EFFECTIVE DATE OF this constitution [becomes effective].

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at [12:00] TWELVE o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at TWELVE [12:00] o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over WITH THE SAME STATUS to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate [adequate] funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall PERIODICALLY [from time to time] examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

from the further consideration of any measure. Each house shall BE THE SOLE judge of the qualifications, elections and returns of its members, and may, with the concurrence of TWO-THIRDS [2/3] of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered IN [upon] the journal, with the [yeas and nays] VOTES AND NAMES of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. Each committee shall [keep a recorded] BY roll call vote RECORD THE VOTE AND NAME [by yeas and nays] of all action on bills and resolutions taken in the committee. Such vote shall be available FOR [to] public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless security otherwise requires. The [yeas and nays] RECORD OF THE VOTE AND NAME of the members of either house VOTING on any question shall be entered in the journal at the request of [1/5] ONE-FIFTH of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments [recommended to the senate for confirmation] SUBMITTED TO THE SENATE FOR ADVICE AND CONSENT shall be [taken by yeas and nays and] published BY VOTE AND NAME in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than [3] TWO INTERVENING CALENDAR days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation [by the legislature] shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least [5] FIVE days. Every bill shall be read THREE [3] times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of [all] the members elected to and serving in each house. On the final passage of [all] bills, the voteS AND NAMES OF THE MEMBERS VOTING THEREON shall be [by yeas and nays and] entered in the journal.

Sec. 27. No act shall take effect [or be in force] until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by TWO-THIRDS [2/3] of the members elected to and serving in each house [of the legislature] and by a majority of the electors voting thereon in the district [to be] affected. Any act repealing local or special acts [in effect as of the effective date of this constitution] shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of TWO-THIRDS [2/3] of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current FISCAL year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If TWO-THIRDS [2/3] of the members elected TO and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by TWO-THIRDS [2/3] of the members elected TO and serving in that house. The vote of each house shall be [determined by the yeas and nays, and the names of the members voting for and against the bill shall be] entered in the journal WITH THE VOTES AND NAMES OF THE MEMBERS VOTING THEREON. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except A BILL appropriatING MONEY [ion bills], may [be referred by the legislature to the qualified electors. No bill so referred shall] PROVIDE THAT IT WILL NOT become [a] law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The [speedy] PROMPT publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall [hereafter] be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting [in the interim] between sessions to suspend until the end of the next regular legislative session any rule or regulation [promulgated by] OF an administrative agency PROMULGATED when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be [deemed] vacant and the manner of filling vacancies[,] where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state CAUSED by enemy attack on the United States, the legislature MAY [shall have the power to such extent as it deems advisable (1) to] provide by [legislative enactment] LAW for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices[,]; and ENACT [(2) to adopt by legislative enactment such] other [legislation] LAWS [as may be] necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any [elective] vacancies in [any] ELECTIVE officeS temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission[,] which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. [and] THE LEGISLATURE may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house [of the legislature].

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as [a] punishment for crime and for the detention and release of per-

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

sons imprisoned or detained [on] UNDER such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of DETENTION OR confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes [in] CONCERNING public [employment] EMPLOYEES, except THOSE IN THE state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety[,] and general welfare of the people. The legislature shall provide for the protection of the air, water[,] and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be [an administrator and] a certified public accountant [duly] licensed to practice in this state, to serve for a term of [8] EIGHT years. He shall be ineligible for appointment or election to any other [paid] public office in this state FROM WHICH COMPENSATION IS DERIVED while serving as auditor general and for [2] TWO years following the termination of his service. He may be removed for cause at any time by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house [of the legislature]. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those [herein] specified IN THIS SECTION.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the [universities and colleges] INSTITUTIONS OF HIGHER EDUCATION to be solely responsible for the control and direction of all expenditures from the institutions' funds.

[The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.]

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

ARTICLE V

EXECUTIVE BRANCH

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Article V
Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the EXECUTIVE BRANCH OF state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders AND SUBMITTED TO THE LEGISLATURE. THEREAFTER the legislature shall have 60 CALENDAR days of a regular session, or a full session if of shorter duration, to disapprove [these] EACH executive order[s]. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, [these] EACH order[s] shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive [other than an elective official,] is the head of a principal department, UNLESS ELECTED OR APPOINTED AS OTHERWISE PROVIDED IN THIS CONSTITUTION, he shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor] and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, [the members thereof,] unless elected or appointed as otherwise provided in this constitution, THE MEMBERS THEREOF shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor]. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after [adoption] THE EFFECTIVE DATE of this constitution shall not exceed [4] FOUR years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions[,] which are [greater] LONGER than [4] FOUR years shall not be further extended except as provided in this constitution.

Sec. 4. At no time shall an examining or licensing board of a profession INCLUDE [be composed of] less than a majority of members of that profession. Temporary commissions or agencies for special purposes with a life of no more than [2] TWO years may be established by law and need not be allocated within a principal department.

Sec. 5. Appointment by and with the advice and consent of the senate when used in this constitution or [in statutes] LAWS in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 [legislative] SESSION days after the date of such appointment. [If the] ANY appointment [is] not disapproved within such period [of time the appointment] shall stand confirmed.

Sec. 6. [When the senate is not in session, the governor shall fill a vacancy] VACANCIES in any office, appointment to which requires advice and consent of the senate, [by appointment which may be disapproved by the senate in the manner provided for other] SHALL BE FILLED BY THE GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [appointments requiring such advice and consent.] A person [who] WHOSE APPOINTMENT has been disapproved by the senate shall not be eligible for [another] AN interim appointment to the same office.

Sec. 7. Each principal department shall be under the supervision of the governor[,] unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty[,] or right by any officer, department[,] or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 8. Single executives heading principal departments and the chief executive officers of

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 9. The governor shall have power and it shall be his duty[,] to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or FOR any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the [causes of] REASONS FOR such removal or suspension to the legislature. [if in session or otherwise at its next session.]

Sec. 10. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a [judicial] LEGISLATIVE OR JUDICIAL officer, until he is REINSTATED [acquitted] or[, if convicted,] until the vacancy is filled in the manner prescribed by law or this constitution [for such office].

Sec. 11. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 12. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 13. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations [provided] PRESCRIBED by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 14. The governor may convene the legislature on extraordinary occasions.

Sec. 15. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 16. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 17. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 18. The governor [shall have power to] MAY disapprove any distinct item or items APPROPRIATING MONEYS in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 19. No appropriation shall be [deemed] a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures AUTHORIZED BY [of any bodies receiving] appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures [established] PRESCRIBED by law. The governor['s power to reduce expenditures shall not apply to] MAY NOT REDUCE EXPENDITURES OF the legislative and judicial branches or FROM [to those services for which] funds CONSTITUTIONALLY DEDICATED FOR SPECIFIC PURPOSES. [are mandated by this constitution.]

Sec. 20. The governor, lieutenant governor, secretary of state and attorney general shall be elected FOR FOUR-YEAR TERMS at the general election in each alternate even-numbered year. [They shall serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.]

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

VACANCIES IN THE OFFICE OF THE SECRETARY OF STATE AND ATTORNEY GENERAL SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR.

Sec. 21. [No person shall] TO be eligible for the office of governor or lieutenant governor [who shall not have] A PERSON MUST HAVE attained the age of 30 years, and [who shall] have [not] been [4 years next preceding his election] a registered elector in this state FOR FOUR

YEARS NEXT PRECEDING HIS ELECTION.

Sec. 22. The governor, lieutenant governor, secretary of state[, state treasurer] and attorney general shall each receive the compensation [prescribed] PROVIDED by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 23. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 24. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He [shall] MAY perform [additional] duties [as] requested of him by the governor[.], BUT NO POWER VESTED IN THE GOVERNOR SHALL BE DELEGATED.

Sec. 25. In case of the conviction of the governor on impeachment, his removal from office, his resignation, or [the] HIS death, [of the governor or governor-elect, the powers and duties of the office shall vest, in the following order of precedence, in the person elected at the last election to the office of] THE lieutenant governor, THE ELECTED secretary of state, THE ELECTED attorney general, and such other persons designated by law[, who] shall IN THAT ORDER be governor [after the commencement of their term] for the [residue] REMAINDER of the governor's term.

IN CASE OF THE DEATH OF THE GOVERNOR-ELECT, THE LIEUTENANT GOVERNOR-ELECT, THE SECRETARY OF STATE-ELECT, THE ATTORNEY GENERAL-ELECT AND SUCH OTHER PERSONS DESIGNATED BY LAW SHALL BECOME GOVERNOR IN THAT ORDER AT THE COMMENCEMENT OF THE GOVERNOR-ELECT'S TERM.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability [as determined herein], the powers and duties of the office of governor shall devolve in order of precedence [upon such persons] until the absence or inability giving rise to the DEVOLUTION [devolvement] of powers ceases.

The inability of the governor[, governor-elect] or person[s serving] ACTING as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 26. The legislature shall provide that the salary of any state officer WHILE ACTING AS [performing the duties of] governor [is] SHALL BE equal to that of the governor.

Sec. 27. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as [shall be prescribed] PROVIDED by law.

The state highway commission shall consist of [4] FOUR members, not more than [2] TWO of whom shall be members of the same political party. They shall be appointed by the governor BY AND with the advice and consent of the senate for [4] FOUR-year terms, no [2] TWO of which shall expire in the same year AS PROVIDED BY LAW.

The state highway commission shall appoint AND MAY REMOVE a state highway director, who shall be a competent highway engineer and administrator. He shall be the PRINCIPAL [chief] executive OFFICER of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 28. There is hereby established a civil rights commission which shall consist of [8] EIGHT persons, not more than [4] FOUR of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for [4] FOUR-year terms not more than [2] TWO of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of [race] religion, RACE, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have [the] power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

ARTICLE VI
JUDICIAL BRANCH

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Article VI
Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice[,] which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a [2/3] TWO-THIRDS vote of the members ELECTED TO AND SERVING IN [of] each house.

Sec. 2. The supreme court shall consist of [8] SEVEN justices [to be] elected at non-partisan elections as provided by law. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.] The term of office shall be [for 8] EIGHT years and not more than [3] TWO terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner [as provided] PRESCRIBED by law[,]. [except] Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice AS [in the manner and for the term] provided by [the] rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as [shall] MAY be [deemed] necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of [the funds] MONEYS appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of [9] NINE judges who shall be nominated and elected [on a] AT non-partisan ELECTIONS [basis] from districts, and in the manner, prescribed by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be [altered] CHANGED by law.

Sec. 9. Judges of the court of appeals shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be [as provided] PRESCRIBED by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. [A] SESSIONS OF THE circuit court shall be held at least [4] FOUR times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges [n]or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. THE circuit court[s] shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions[,] in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court[s] may fill [any] A vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes[,] there shall be a probate court. The legislature may [combine one or more counties into] CREATE OR ALTER probate COURT districts OF MORE THAN ONE COUNTY [upon the approval by a majority of the voters of each county voting separately on the question,] IF APPROVED IN EACH AFFECTED COUNTY BY A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION. [or combine] THE LEGISLATURE MAY PROVIDE FOR THE COMBINATION OF the office of probate judge with any judicial office of limited jurisdiction [in any] WITHIN A county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court[s] and of the judges thereof shall be [prescribed] PROVIDED by law. They shall [also] have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. ONE OR MORE judges of probate AS PROVIDED BY LAW shall be nominated and elected at non-partisan elections in the counties or the probate districtS in which they reside and shall hold office for [a period] TERMS of [6] SIX years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that NOT all terms will [not] expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or [by] the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a [county or] circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court[s] shall receive an annual salary as provided by law. In addition to the salary received from the state, [treasury,] each circuit judge may receive from any county in which he regularly holds court [such] AN additional salary as [may be] determined from time to time by the board of supervisors of the county. In any county where [such] AN additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and [shall] each SHALL have a common seal. [Except as otherwise authorized by this constitution,] Justices and judges of [the] courts of record [of this state shall] MUST be PERSONS WHO ARE licensed to practice law in this state. [and] No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a JUSTICE OR judge removes his domicile beyond the limits of the territory from which he was elected, he shall [be deemed to] have vacated his office.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service [as a judge] and for one year thereafter.

Sec. 22. Any elected judge of [a] THE court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner [provided] PRESCRIBED by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election AS PROVIDED BY [according to] law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. SUCH PERSONS SHALL BE INELIGIBLE FOR ELECTION TO FILL THE VACANCY.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge[,] who is a candidate for nomination or election to the same office[,] the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of [2/3] TWO-THIRDS of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in [such] THE resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of [5] FIVE years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within [such] THIS [5] FIVE-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election[,] and salary of the judges of such court or courts, and by what governmental units the JUDGES [same] shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as [otherwise] provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or [body] AGENCY existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights [,] or licenses, shall be subject to direct review by the courts as [shall be] provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law[,]; and, in cases in which a hearing is required, whether the same are supported by competent, material[,] and substantial evidence on the whole record[:]. [Provided however, that the] Findings of fact [of the] IN workmen's compensation [commission] PROCEEDINGS shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges[,] and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

ARTICLE VII
LOCAL GOVERNMENT

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Article VII
Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities [prescribed] PROVIDED by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict THE [their] powers of CHARTER COUNTIES TO borrow[ing] money and contract[ing] debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to [enact] ADOPT resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of [5] FIVE percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless APPROVED in [pursuance of] THE MANNER PRESCRIBED BY law BY a majority of electors voting [on] THEREON [the question] in each county to be affected. [thereby shall so decide.]

Sec. 4. There shall be elected for [4] FOUR-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be [prescribed] PROVIDED by law. The board of supervisors in any county may COMBINE [unite] the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security [from time to time] PERIODICALLY and in default of giving such security, his office shall be [deemed] vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in [connection with] civil defense.

Sec. 7. A board of supervisors shall be established in each ORGANIZED county consisting of one member from each organized township and such representation from cities as [shall be prescribed] PROVIDED by law.

Sec. 8. [The] Boards of supervisors shall have LEGISLATIVE, ADMINISTRATIVE [such] AND SUCH OTHER powers and duties as provided by law [not inconsistent with this constitution].

Sec. 9. [The] Boards of supervisors shall have exclusive power to fix the compensation of [all] county [officials] OFFICERS not otherwise provided [for] by law.

Sec. 10. [No] A county seat once established shall NOT be removed until the place to which it is proposed to be [re]moved shall be designated by [2/3] TWO-THIRDS of the MEMBERS OF THE board of supervisors [of the county,] and a majority of the electors voting thereon shall have [voted in favor of] APPROVED the proposed location in [a] THE manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. [No] A navigable stream [of this state] shall NOT be bridged or dammed without permission granted by the board of supervisors of the county [under the provisions of] AS PROVIDED BY law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and POLITICAL SUBDIVISIONS [the municipalities] therein.

Sec. 13. Two or more CONTIGUOUS counties may combine into a single county [provided] IF APPROVED IN EACH AFFECTED COUNTY BY a majority of the [voters] ELECTORS voting on the question. [of each county, voting separately, approve such combination and the counties are contiguous.]

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations [prescribed] PROVIDED by law.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Sec. 15. Any county, when authorized by its BOARD OF SUPERVISORS [legislative body] shall have the authority to enter or to intervene in any ACTION [suit] or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may [also prescribe] PROVIDE the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties [as may be prescribed] PROVIDED by law. The ad valorem property tax IMPOSED for road purposes by any county shall not exceed in any year [1/2] ONE-HALF of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities [prescribed] PROVIDED by law [and not inconsistent with this constitution].

Sec. 18. IN EACH ORGANIZED TOWNSHIP there shall be elected for [a] termS of not less than [2 years] TWO nor more than [4] FOUR years as [provided] PRESCRIBED by law [in each organized township] a [township] supervisor, a [township] clerk, a [township] treasurer, and[,] not to exceed [4 township] FOUR trustees, whose legislative and administrative powers and duties shall be [prescribed] PROVIDED by law.

Sec. 19. No ORGANIZED township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall FIRST have BEEN APPROVED BY [first received the affirmative vote of] a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of [a] AN ORGANIZED township is included within the boundaries of a village or villages NOTWITHSTANDING THAT A VILLAGE MAY INCLUDE TERRITORY WITHIN ANOTHER ORGANIZED TOWNSHIP and provide by law for the classification of such village or villages as cities [notwithstanding that a village may include territory within another township].

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages[;] . [such general laws] SUCH LAWS shall limit their rate of [general] AD VALOREM property taxation for municipal purposes, and restrict [their] THE powers of CITIES AND VILLAGES TO borrow[ing] money and contract[ing] debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt[,] and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to [pass] ADOPT resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall [be deemed to] limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals[,] and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own[,] and operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power[, and] OR light without its corporate limits [to] IN an amount not [to exceed] EXCEEDING 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services[,] outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines [without] OUTSIDE the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat [and] OR power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall FIRST have been approved by [3/5] THREE-FIFTHS of the electors voting thereon. No city or village may sell any such public utility unless the proposition shall FIRST have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as [authorized] PROVIDED by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, cities, villages, townships or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government [and with intergovernmental agencies]; lend their credit to one another or any combination thereof as PROVIDED [prescribed] by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any [of] such unit[s] of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the [above] purposes SET FORTH IN THIS SECTION and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, city, village or township for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, city, village or township; or to transact local business therein without first obtaining a franchise from the city, village or township. Except as otherwise [authorized] PROVIDED in this constitution the right of all counties, cities, villages and townships to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any city, village or township for a [longer] period LONGER than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt [said] SUCH budgets only after a public hearing in a manner prescribed by law.

Sec. 33. The provisions of this constitution and law concerning cities, villages, counties and townships shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not [inconsistent with nor] prohibited by this constitution.

ARTICLE VIII
EDUCATION

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7.	Community and Junior colleges	98d
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9.	Public libraries, support of	31a

Article VIII
Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to race, creed, religion, color[,] or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to [degree granting] institutions of higher education GRANTING BACCALAUREATE DEGREES, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the [chief administrative] PRINCIPAL EXECUTIVE officer of a state department of education which shall

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

have powers and duties provided by law.

The state board of education shall consist of [8] EIGHT members[.] WHO [Of the members first elected 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years, and their successors shall be elected for terms of 8 years. Each member] shall be nominated by party conventionS and elected at large FOR TERMS OF EIGHT YEARS as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall [also] be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate MONEYS [funds] to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names [said] SUCH institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. [These] EACH board[s] shall have [the] general supervision of [their respective] ITS institution[s] and the control and direction of all expenditures from the institution's funds. EACH BOARD [They] shall, as often as necessary, elect a president of the institution under ITS [their respective] supervision. [who] HE shall be the principal executive officer of the institution, [and] be ex-officio a member of the board [but] without the right to vote[,] and preside at meetings of the board. The board[s] of each institution shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years and who shall be elected [according to] AS PROVIDED BY law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as [prescribed] PROVIDED by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. [and] IT shall, as often as necessary, elect a president of the institution under its supervision. [who] HE shall be the principal executive officer of the institution and be ex-officio a member of the board [but] without the right to vote. The board may elect one of ITS MEMBERS [their number], or may designate the president, to preside at board meetings. Each board of control shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the governor BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [in the same manner as executive appointments are provided in this constitution.] Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges[,] which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges[,] which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities[,] and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

ARTICLE IX
FINANCE & TAXATION

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24.	Pensions, State Obligations	40a

Article IX
Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended[,] or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property held by a non-profit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those PUBLIC SERVICE businesses [whose property is now] assessed by the state AT THE DATE THIS CONSTITUTION BECOMES EFFECTIVE, and of other property as designated by the legislature, and for the [levy] IMPOSITION and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes [levied against] IMPOSED UPON REAL AND TANGIBLE PERSONAL property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of [said] property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and FOR the townships and FOR school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established [herein] BY THIS CONSTITUTION or by county vote may be increased to an aggregate of not to exceed 50 mills, OR MORE IF PROVIDED BY LAW, on each dollar of [such] valuation, [except as otherwise provided by law,] for a period of not to exceed 20 years at any one time, [by the vote of] IF APPROVED BY a majority of the [qualified] electors, QUALIFIED UNDER [as defined in] Article II, [hereof] SECTION 6 OF THIS CONSTITUTION[,] VOTING ON THE QUESTION [of any such taxing authority voting thereon].

The foregoing limitations shall not apply to [(a)] taxes [levied] IMPOSED for the payment of principal and interest on bonds or other evidences of indebtedness[,] or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be [levied] IMPOSED without limitation as to rate or amount[,]; or [(b)] TO taxes [levied] IMPOSED for any other purpose by any city, village, charter county, charter township or other charter authority the tax limitations of which are provided by charter or by general law.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

In any school district which extends into [2] TWO or more counties, [there may be levied and collected for school purposes throughout the district] property taxes at the highest rate available in the county which contains the greatest part of the area of the district MAY BE IMPOSED AND COLLECTED FOR SCHOOL PURPOSES THROUGHOUT THE DISTRICT.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. [At no time shall] The legislature SHALL NOT [levy] IMPOSE a sales tax on retailers at a rate of more than [4] FOUR percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed DIRECTLY OR INDIRECTLY on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of [the] necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes [upon the privilege of selling] IMPOSED ON RETAILERS ON TAXABLE SALES AT RETAIL OF tangible personal property [at retail] shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. IN DETERMINING POPULATION the legislature may exclude [from population] any portion of the total number of persons who are wards, patients or convicts [of] IN any tax supported institution.

Sec. 11. There shall be established a state school aid fund. The legislature may [from time to time] dedicate [certain] tax revenues to this fund which shall be used exclusively for the support of public education and [for] school employees' retirement systems, [in a manner] AS provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which [it] would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as [last] FINALLY equalized [by the state], or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall LEND [loan] the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall LEND [loan] to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28, Article X, of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such [a] levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28, Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements [or the investment of public employee retirement system funds], as [may be] provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation[,] . [except that] Funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law[;] . [and except that] Endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may [also] provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. PROCEDURES FOR THE EXAMINATION AND ADJUSTMENT OF CLAIMS AGAINST THE STATE SHALL BE PRESCRIBED BY LAW.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as [prescribed] PROVIDED by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be [usable] USED for financing unfunded accrued liabilities.

ARTICLE X
PROPERTY

Sec.		Com. Proposal
1.	Married Women	63a
2.	Eminent Domain	67a
3.	Homestead Exemption	12a
4.	Escheats	74a
5.	State Lands	129a
6.	Alien Rights	43a

Article X
Property

Sec. 1. The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.

Sec. 3. A homestead in the amount of not less than $3,500[.00] and personal property of every resident of this state in the amount of not less than $750[.00], as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded FROM EXEMPTION by law.

Sec. 4. Procedures [for the examination and adjustment of claims against the state and procedures] relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease[,] or other disposition of such lands.

The legislature BY AN ACT ADOPTED [by a resolution concurred in] by TWO-THIRDS [2/3] of the members elected to and serving in each house may [from time to time declare] DESIGNATE any part of such lands AS [to be] a state land reserve. [and may remove lands from such classification.] No lands in the state land reserve may be REMOVED FROM THE RESERVE, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

ARTICLE XI
PUBLIC OFFICERS AND EMPLOYMENT

Sec.		Com. Proposal
1.	Oath of Office	25a
2.	Terms of Office	61a
3.	Extra Compensation	62a
4.	Custodian of Funds, Accounting	55a
5.	Classified Civil Service, creation	22a
6.	Civil Service Commission	22a
7.	Commission to make rules and fix compensation	22a
8.	Increases in Compensation	22a
9.	May abolish positions	22a
10.	Commission to recommend increases to governor and legislature	22a
11.	Commission to receive appropriations	22a
12.	Violations of Civil Service Article	22a
13.	Civil Service, Local Government, county	76a, 81m
14.	Impeachment	42a, 42b, 42c, 42d
15.	Removal of Elected Officers	42e

Article XI
Public Officers and Employment

Sec. 1. [Members of the legislature and] All officers, LEGISLATIVE, executive and judicial, [shall,] before [they enter] ENTERING upon the duties of their respective offices, SHALL take and subscribe the following oath or affirmation: ["]I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of .... according to the best of my ability.["] No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature[,] and JUSTICES AND judges of courts of record shall begin at [12:00] TWELVE o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall [have a seat in] BE A MEMBER OF the legislature, [n]or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the [chief] PRINCIPAL executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, [8] EIGHT exempt positions in the office of the governor, and within each principal department, when requested by the department head, [2] TWO other exempt positions, one of which shall be policy-making. The civil service commission may exempt [3] THREE additional positions of a policy-making nature within each principal department.

Sec. 6. The civil service commission shall be non-salaried and shall consist of [4] FOUR persons, not more than [2] TWO of whom shall be members of the same political party, appointed by the governor for TERMS OF [8] EIGHT yearS, [overlapping terms.] NO TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

Sec. 7. The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified BY THE COMMISSION as qualified for such appointment or promotion [by the commission]. No appointments, promotions, demotions or removals in the classified service shall be made for partisan, racial or religious considerations.

Sec. 8. Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. Within 60 calendar days following such transmission, the legislature may, by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission[:]. [Provided however,] The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

Sec. 9. The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

Sec. 10. The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

Sec. 11. To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within [6] SIX months after the conclusion of each fiscal year the commission shall return to the state treasury all [funds] MONEYS unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

Sec. 12. No payment for personal services shall be made or authorized until the provisions of this [article] CONSTITUTION PERTAINING TO CIVIL SERVICE have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 13. BY ORDINANCE OR RESOLUTION WHICH SHALL NOT TAKE EFFECT UNTIL APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON, each city, village, township, county, school district[,] and other governmental unit[s] or authorit[ies]Y [performing the same or similar functions] may[, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon,] establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services [to them] TO ANY SUCH UNIT on a reimbursable basis.

[The board of supervisors of any county with a population of 1,000,000 or more shall have the power by ordinance to establish a merit system for county employment. The ordinance or any amendments thereto shall not take effect until approved by a majority of the electors voting thereon.]

Sec. 14. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect [3] THREE of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of [2/3] TWO-THIRDS of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise ANY OF THE FUNCTIONS OF his office after an impeachment is directed until he is acquitted.

Sec. 15. Any elected officer of a political subdivision may be removed from office in the manner and for the causes [prescribed] PROVIDED by law.

ARTICLE XII
AMENDMENT & REVISION

Sec.		Com. Proposal
1.	By Legislature	64a
2.	By Petition of Electors	65a
3.	Constitutional Convention	66a

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Article XII
Amendment & Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by [2/3] TWO-THIRDS of the members elected to and serving in each house on a [yea and nay] vote WITH THE NAMES AND VOTE OF THOSE VOTING entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on [such] a proposed amendment approve [such amendment,] THE SAME, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, or 300,000 registered electors, whichever is less. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition[,] shall[,] upon its receipt[,] determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next GENERAL election. [at which any state officer is to be elected.] Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot [used in such election] shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. IF TWO OR MORE AMENDMENTS APPROVED BY THE ELECTORS AT THE SAME ELECTION CONFLICT, THAT AMENDMENT RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than [4] FOUR months after the proposal was certified as approved, the electors of each [house of] representative[s] district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate. The delegates so elected shall convene at the SEAT OF GOVERNMENT [capital city] on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate. [If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party.] WHO SHALL BE A MEMBER OF THE SAME PARTY AS THE DELEGATE VACATING THE OFFICE IF THE LEGISLATURE PROVIDES FOR PARTISAN ELECTION OF DELEGATES. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, WITH THE NAMES AND VOTE OF THOSE VOTING [the yeas and nays being] entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

SCHEDULE AND TEMPORARY PROVISIONS

Sec.		Com. Proposal
1.	Attorney general to recommend necessary laws	44d
2.	Writs, actions, claims, etc. remain effective	44b
3.	Officers continue their duties	44c and 71g
4.	Terms of officers elected November, 1962	68b
5.	Terms of governor, etc. elected 1964. When 4 year terms begin	80 and 71a
6.	Senate Apportionment	80
7.	Supreme Court, reduction to seven justices	91a
8.	Judges of Probate, eligible for reelection	96f
9.	Overlapping terms for judiciary	96j
10.	State Board of Education	47a
11.	Boards of Control	98c
12.	Educational Boards	
13.	Initial allocation	71b
14.	Contractual obligations remain in force	6a
15.	Mackinac Bridge refunding	23b
16.	Constitution submitted to people, when	68a
17.	Constitution submitted to people, manner	68c

TO INSURE THE ORDERLY TRANSITION FROM THE CONSTITUTION OF 1908 TO THIS CONSTITUTION THE FOLLOWING SCHEDULE IS SET FORTH TO BE EFFECTIVE FOR SUCH PERIOD AS ITS PROVISIONS REQUIRE.

Sec. 1. The attorney general [of the state] shall recommend to the legislature AS SOON AS PRACTICABLE [at the commencement of the next session] such changes AS MAY BE NECESSARY [in existing laws as may be deemed necessary] to adapt EXISTING LAWS [the same] to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights [of individuals, partnerships, bodies corporate, and of this state or any subdivision or agency thereof] existing on the effective date [hereof] OF THIS CONSTITUTION shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise THEIR POWERS AND [the] duties [thereof, according to their respective commissions or appointments,] until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election ON [in] or prior to THE DATE ON WHICH THIS CONSTITUTION IS SUBMITTED TO A VOTE. [November, 1962.] In the event the duties of any [of] such officers shall not have been ABOLISHED OR incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated OR ABOLISHED.

Sec. 4. All officers elected [on the Tuesday after the first Monday of November, 1962] AT THE SAME ELECTION THAT THIS CONSTITUTION IS SUBMITTED TO THE PEOPLE FOR ADOPTION [under the 1908 Constitution as amended and existing laws] shall take office [on and after the first day of January, 1963,] and complete the term to which they were elected UNDER THE 1908 CONSTITUTION AND EXISTING LAWS AND CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED PURSUANT TO THIS CONSTITUTION OR LAW.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, THE lieutenant governor, THE secretary of state [and], THE attorney general, AND state senators shall be elected at the general election in 1964 to serve for [2] TWO year terms beginning on the first day of January next succeeding their election. The first [4 year] election OF SUCH OFFICERS FOR FOUR-YEAR TERMS under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of [Committee Proposal 80, section a,] ARTICLE IV, SECTION 2 after the official publication of the total population count of the 1970 decennial federal census. Until the [re]apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution[, as amended,] shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into [2] TWO senatorial districts and Wayne county into [8] EIGHT senatorial districts in accordance with this constitution.

Sec. 7. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.]

NOTWITHSTANDING THE PROVISIONS OF THIS CONSTITUTION THAT THE SUPREME COURT SHALL CONSIST OF SEVEN JUSTICES IT SHALL CONSIST OF EIGHT JUSTICES UNTIL THE TIME THAT A VACANCY OCCURS AS A RESULT OF DEATH, RETIREMENT OR RESIGNATION OF A JUSTICE. THE FIRST SUCH VACANCY SHALL NOT BE FILLED.

Sec. 8. Any [supreme court justice, circuit judge,] judge of probate serving [at] ON the [time this constitution becomes] effective DATE OF THIS CONSTITUTION may serve the remainder of the term and be eligible TO SUCCEED HIMSELF for election [to his present office] regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of [this] Article VI providing that terms of JUDICIAL offices shall not all expire at the same time, shall be implemented BY LAW PROVIDING THAT at the next election for such offices [by legislation providing for elections] JUDGES SHALL BE ELECTED for terms of varying length, none of which shall be shorter than the [basic] REGULAR term provided for the office.

Sec. 10. THE MEMBERS OF THE STATE BOARD OF EDUCATION PROVIDED FOR IN ARTICLE VIII SECTION 3 SHALL FIRST BE ELECTED AT THE FIRST GENERAL ELECTION AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION FOR THE FOLLOWING TERMS: TWO SHALL BE ELECTED FOR TWO YEARS, TWO FOR FOUR YEARS, TWO FOR SIX YEARS, AND TWO FOR EIGHT YEARS AS PRESCRIBED BY LAW.

THE STATE BOARD OF EDUCATION PROVIDED FOR IN THE CONSTITUTION OF 1908 IS ABOLISHED AT TWELVE O'CLOCK NOON JANUARY 1 OF THE YEAR FOLLOWING THE FIRST GENERAL ELECTION UNDER THIS CONSTITUTION AND THE TERMS OF MEMBERS THEREOF SHALL THEN EXPIRE.

Sec. 11. THE PROVISIONS OF THIS CONSTITUTION PROVIDING FOR MEMBERS OF BOARDS OF CONTROL OF INSTITUTIONS OF HIGHER EDUCATION AND THE STATE BOARD OF PUBLIC COMMUNITY AND JUNIOR COLLEGES SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 12. THE PROVISIONS OF THIS CONSTITUTION INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY AND OF THE BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY TO EIGHT, AND OF THEIR TERMS OF OFFICE TO EIGHT YEARS, SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED ONE YEAR, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF THE ADDITIONAL MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 13. The initial allocation of departments by law pursuant to Article V, Section 2 shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 [as amended] shall continue to be obligations of the state.

For the retirement of [such] notes and bonds [as may have been] issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each [such] year.

Sec. 15. [Provided however, That] The legislature [is authorized to provide by general law adopted] by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house MAY PROVIDE THAT THE STATE MAY [for the] borrow[ing of] money AND MAY PLEDGE ITS FULL FAITH AND CREDIT for [the] refunding [of] any bonds issued by the Mackinac Bridge Authority[,] AND at [which] THE time OF REFUNDING the Mackinac Bridge Authority [Act] shall be [repealed] ABOLISHED and the operation of the bridge SHALL be assumed by the state highway department. THE LEGISLATURE MAY IMPLEMENT THIS SECTION BY LAW.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to A GENERAL [such] election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: ["] Shall the revised constitution be adopted? ( ) Yes. ( ) No. ["] All votes cast at THE [this] election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. [Should] IF the revised constitution so submitted receiveS more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January OF THE YEAR FOLLOWING ITS ADOPTION [,1963, except as otherwise provided in this constitution].

Explanation—Matter within [ ] is stricken, matter in capitals is new.

SECRETARY CHASE (continuing): Preamble.

[The preamble was read by the secretary. For text, see above, page 3047.]

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the preamble. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—127

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bonisteel
Boothby
Bradley
Brown, G. E.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Finch
Follo
Gadola
Garvin
Goebel
Gover
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nord
Ostrow
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—2

Jones
Norris

SECRETARY CHASE: On the passage of the preamble, the yeas are 127; the nays, 2.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, the preamble is passed.

For the preamble as passed, see above, page 3047.

SECRETARY CHASE: Article I, declaration of rights.

VICE PRESIDENT HUTCHINSON: On this article, there having been filed a notice by the committee on style and drafting relative to a motion for reconsideration of article I, section 2, tomorrow, the Chair will rule that **article I,** declaration of rights, will be passed for the day.

SECRETARY CHASE: Article II, elections.

MR. POLLOCK: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Is it necessary to have the reading? May I move to dispense with the reading of this article?

VICE PRESIDENT HUTCHINSON: Without objection, the article will be considered read.

A DELEGATE: Objection.

VICE PRESIDENT HUTCHINSON: Objection is heard. The secretary will continue reading.

SECRETARY CHASE: Section 1.

[Article II, section 1, was read by the secretary. For text, see above, page 3048.]

MR. WANGER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Parliamentary inquiry.

VICE PRESIDENT HUTCHINSON: The gentleman will state it.

MR. WANGER: Would the Chair please briefly describe the total procedure on third reading? Particularly, at what point is a vote of 73 required under our rules now, and also will there be an opportunity at the end to offer amendments to the whole constitution such as was the case with individual proposals on second reading?

VICE PRESIDENT HUTCHINSON: In reply to the parliamentary inquiry made by Mr. Wanger, rule 58 says that upon passage of every article the vote shall be taken by yeas and nays and entered on the journal and no article shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same. Therefore, it is very obvious that 73 votes are necessary for the passage of every article.

Amendments to any article would be in order after the reading of that article and before the article is voted upon finally. It would appear that amendments may be adopted by a majority of the delegates voting on the question.

The Chair would rule that amendments to the whole constitution would be in order after the several articles had all been adopted. The question then, finally, under the provisions of the present constitution of Michigan, will be on the passage of the constitution as one document. At that point further amendments to the constitution would be in order.

MR. WANGER: I raised this last question in particular, Mr. President, since the whole declaration of rights has been put over until tomorrow and those committees who were next in line are not going to have anywhere nearly as much time as they thought they would otherwise. So I understand, then, that an amendment can be offered at the end of the first complete consideration of all articles to any article which has been considered on third reading?

VICE PRESIDENT HUTCHINSON: Any amendment which would be in order to the body of the constitution would be in order.

MRS. HATCHER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mrs. Hatcher.

MRS. HATCHER: I would like a thorough explanation of why we are bypassing the first portion of article I. Why is it being put over until tomorrow for discussion?

VICE PRESIDENT HUTCHINSON: We are bypassing the whole of article I because under the order of third reading it is article by article that we consider, and since the committee on style and drafting, through its chairman, served notice upon this convention that under the rules it proposes to move to reconsider a particular provision in the bill of rights, article I, on the morrow, then the article must be laid over in order to accommodate that.

MRS. HATCHER: I can understand this explanation. I think it's a little more thorough than you said in the beginning. I was of the impression that we would begin today at the opening of the session on article I, and I went to a tremendous expense and quite a sacrifice to be here this afternoon to commence with my committee's report and I certainly would like to have had this kind of information prior to making the sacrifices, especially the money that was involved that I had to lose in order to be back here this afternoon. And I think this last minute notice of it being postponed until tomorrow is just ridiculous.

VICE PRESIDENT HUTCHINSON: The secretary will continue to read the second article.

SECRETARY CHASE: Section 2:

[Article II, sections 2, 3 and 4, was read by the secretary. For text, see above, page 3048.]

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I have an amendment which is being typed up. I wish to say that on the time on this, as the other delegates, we have just received the journal and we are reading it as fast as we can. I believe that the amendment is practically ready. Would you rather have it offered now to the section or wait until the whole article has been presented?

VICE PRESIDENT HUTCHINSON: If we may read the entire article first and then offer amendments to the article, that would be more orderly.

MR. DOWNS: Just so we are sure that after the entire article is read we will have a chance to offer the amendment.

VICE PRESIDENT HUTCHINSON: You will have.

SECRETARY CHASE: Section 5—

MR. WOOLFENDEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Woolfenden.

MR. WOOLFENDEN: I'd like to make a parliamentary inquiry. If I understand our situation on article I, it is laid over because of the fact that it is necessary under our rules to have a one day layover for Mr. Cudlip's motion. Am I correct on that?

VICE PRESIDENT HUTCHINSON: That is correct, Mr. Woolfenden.

MR. WOOLFENDEN: Well, I'd like to make this inquiry of the Chair: would it be possible by a vote of this body, if it were so inclined, to suspend the rules requiring that one day layover which would then permit consideration of article I today?

VICE PRESIDENT HUTCHINSON: It could be done if the body desired to suspend the rules. The Chair received no motion to suspend.

MR. WOOLFENDEN: Would I be in order now to make that motion?

VICE PRESIDENT HUTCHINSON: The Chair would suggest that inasmuch as article II has been entered upon, that the motion to suspend, in order to take up article I, does not come timely. You can do it after completion of consideration of article II. You can bring it up then before we get on to article III.

MR. WOOLFENDEN: I will then ask for recognition for the purpose of making that motion at the conclusion of article II.

VICE PRESIDENT HUTCHINSON: Very well.

SECRETARY CHASE: Section 5.

[Article II, sections 5, 6, 7, 8 and 9, was read by the secretary. For text, see above, page 3049.]

Mr. William F. Hanna offers the following amendment:

1. Amend article II, section 5 (column 1, line 30) after "elected" by inserting a period and "The legislature may provide by law for the election of judicial, educational and township officers at elections to be held in odd-numbered years".

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, as we proceeded through this in style and drafting I became perturbed with the number of persons under this constitution that we have required to be elected at either an election in the presidential or gubernatorial election years, there being now only 2 fall elections.

I want to make it clear at the outset that, so far as I can see, there is no mechanical difficulty. Mr. Buback has presented to me today — I have talked to him before — models of voting machines which clearly show that you can get all the persons which we have provided here to be elected at the biennial fall elections on either of the 2 voting machines commonly in use in the state of Michigan. And of course, it is immediately obvious that we could always do it on some paper ballot.

However, I call to your attention that this means approximately 36 to 40 positions to be filled at the so called biennial fall election. Now, one of the objects of good citizen participation is that the people should be able to intelligently cast their ballot. And I submit to you that when you have at the same election 36 to 40 different positions to be filled — some of them township, some of them nonpartisan judicial, some of them county and state — that you have created a very long and what we have sometimes referred to as a bedsheet ballot. I am making this argument not because of the mechanical difficulties, but because, as a personal conviction, I believe that a ballot of 40 positions to be filled is entirely too many. Now, this ballot will be somewhat shorter to the extent that you elect one circuit judge only every 6 years or one every 3 years, and I call to your attention that in Wayne county, of course, this will be increased to the extent that you have more judges. You also have, in Wayne county and some other counties, boards of auditors where other counties operate under an appointive controller system. But I submit to you that 36 to 40 positions to be filled are too many.

Now, if we leave this in the constitution, it will clearly require, if this shall prove to be too long, a constitutional amendment. And from our experience in style and drafting, it would appear that constitutional amendments that are submitted by the initiative method are not always well worded, not always well placed in a new constitution. You do not have so much trouble with amendments submitted by the legislature.

The import of my amendment is simply this: it provides that the legislature may by law take from the biennial fall election judicial, educational and township officers and hold that election in odd numbered years. Now, a lot of people are going to say that I am merely recreating the old spring election. I would hope that I am not, and I would hope that the legislature would create, at the most, an annual fall election. But I submit to you that a ballot of 40 people is too long and I would not want this body to adopt the biennial fall election without these facts being before it and an expression of opinion.

I myself will vote for this amendment but I feel everyone should vote as they see fit and what their personal conclusions are as to whether the ballot should be 36 or 40 positions to be filled, or something less than that.

MR. POLLOCK: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Pollock, before we continue, I am advised that the secretary has an amendment to the amendment which we should first read.

SECRETARY CHASE: Mr. Van Dusen offers the following amendment to the amendment:

1. Amend the amendment, after "held" by inserting "on the first Tuesday after the first Monday in November"; so that the language to be inserted would read:

> The legislature may provide by law for the election of judicial, educational and township officers at elections to be held on the first Tuesday after the first Monday in November in odd-numbered years.

MR. W. F. HANNA: Mr. President, I will accept the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Hanna accepts the amendment and so the amendment is revised as the secretary will now read.

SECRETARY CHASE: The amendment now reads:

1. Amend article II, section 5 (column 1, line 30) after "elected" by inserting a period and "The legislature may provide by law for the election of judicial, educational and township officers at elections to be held on the first Tuesday after the first Monday in November in odd-numbered years".

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President and fellow delegates, I was about to remark before this amendment to the amendment came in, Mr. Hanna was attempting to do in a partial way what the convention had decided not to do when it was at an earlier stage. Now, with Mr. Van Dusen's amendment we have the same issue before us that we had in another reading, either committee of the whole or second reading — I can't remember which. In substance it's the same that we've already voted on and I suppose I could raise a point of order. But I believe the language is somewhat different and now it's combined with 2 or 3 ideas, so I believe it is entirely different. However, it's not different in this one respect: the Van Dusen amendment, as we indicated in the discussion before, interferes again with the home rule privilege of cities to have their elections according to their charters and it has the commendable purpose, of course, of trying to get school elections to be held at a uniform time. But this, I think, would be widely objected to, and this the committee in its proposal tried to avoid.

We tried to do one clear, simple, but important thing: that was to do away with the spring election. When you begin to then try to make something uniform beyond that, you get into difficulty. You get into the problem of school elections; you get into the problem of municipal elections. Beyond that, since Mr. Hanna has now accepted the Van Dusen amendment, he is making the distinction here, judicial and educational and township officers, breaking down the distinction which the committee refused to incorporate. There is no particular reason why judicial, educational and township elections need to be taken out of this proviso. If you're going to do it for those, then you could make up a case perhaps for others. Pretty soon you're back to the old idea of the spring election.

So far as Mr. Hanna's point about not having a short enough ballot, well, the answer there is to appoint more officials; don't elect so many. The answer isn't to eliminate this one provision which we've already approved. This, apparently, the convention decided against. So although the ballot is much too long to suit me, the remedy is to make the ballot shorter and not to open the door as this would do for changing the rather rigid requirement which we have that elections cannot be held in the spring without making the distinctions which this amendment makes. Mr. President, I would like to yield the floor, if I may, to Mr. Buback, who can give other information on this point.

VICE PRESIDENT HUTCHINSON: Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, we discussed this on several occasions in committee of the whole and second reading. I strongly urge you to defeat this amendment because we have received from the municipal clerks association strong opposition to having national or state elections held simultaneously with our city elections. The common council in the city of Detroit went on record, adopting a resolution that they did not want to have city elections tied in with national or state elections or township elections. The municipal clerks association went on record in the same manner, notifying the election committee of this constitutional convention that they did not want to have national, state and county elections held at the same time that city elections were being held.

I figured this ballot out. I've given copies — both machines can take it very nicely. When Mr. Hanna says there are 35 to 40 candidates that you have to vote for, he practically forgets the straight party lever — 65 per cent of the people voting, vote the straight party lever — would eliminate quite a few candidates. You may have to vote for 12 or 14, that's true, but you must remember that you're going to get better participation in all these even numbered elections. One year you're going to have the governor elected for a 4 year term, and 2 years later you're going to have the president elected, which will give you greater participation. And this will also save the state of Michigan, as I stated before, upwards of $2 million. It will save Wayne county at least $600,000 to $1 million by just eliminating this spring election.

We gain absolutely nothing by holding yearly elections. You're going to have township elections; you're going to have city elections and you're going to hold your conventions annually. Your political conventions are going to have to nominate your justices of the supreme court; they're going to have to nominate your regents of the universities. You're not saving any time, money or effort. You're going to be constantly putting these fellows to attending conventions and political delegates working constantly year in and year out.

This, as we have set it up, will give you a chance to have an election every 2 years. I think it's more feasible. I think the party workers will like it better. Your participation will be greater. It will be less expensive. I see no reason why we can't adopt the committee's report as adopted on second reading. And I strongly urge you to vote down this amendment because there is no problem in voting. You have the straight party ticket and if you want to skip around, that's still your prerogative. But I'll say, from our experience in checking the voting records of the voters, 65 per cent of the voters vote a straight party ticket. So that eliminates quite a bit of levers on voting machines. I urge you very strongly to oppose this amendment.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MR. POLLOCK: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Pollock, for what purpose —

MR. POLLOCK: Could I yield the floor now to Mr. Leppien from the committee?

VICE PRESIDENT HUTCHINSON: Mr. Pollock, the Chair recognized you to speak upon the amendment. You are not the proponent of the amendment. The Chair doesn't assume that the committee would have control of the floor but will recognize your request. However, the Chair wants to call your attention to the fact that there are other speakers on the list. The Chair will be glad to put Mr. Leppien on the list. Mrs. Cushman.

MRS. CUSHMAN: I would like to speak for the Hanna amendment. This thing has been bothering me for the last week because I sat down and figured out how many people I was going to have to vote for as a resident of Wayne county, and I realized that every 2 years I'd have to make a decision between 28 and 33 people in addition to these 2 year general elections and in addition to any city people that may be coming up. And since we have a 3 year city deal, this is a swing deal with us. We also have a school board, of course, and local justices. We have, I find, national officers — there would be 2 up every time, at least. We find state, there would be, in certain years, 5 — by that I mean governor and lieutenant governor I'm counting as one — secretary of state, attorney general, senator and representative. In addition to that there are, every 2 years, from 4 different statewide boards of education, regents, trustees, governors on this board of education. When we get to the judicial area, we have a tremendous job. We have 2 supreme court justices; we have appeals court; we have the circuit court, which is 8 in Wayne county — yes, it is 6 — however, the anticipation is that it will be increased to 8, it is my understanding; probate judges, 2 of those. And then in addition to that you've got local court judges. In Detroit this is something like 12. In Dearborn we have 2. Then you have your sheriff, your clerk, your treasurer, register of deeds, prosecuting attorney, drain commissioner and 3 auditors.

This is an awfully big group of people to try to make a decision about. And as a voter in Wayne county I would find it a very difficult job. In addition to that, I have had from time to time the responsibility for trying to explain this kind of thing to other voters. And I think that to try to point out to them how they can make their decision about this many people in one election is a very difficult job.

I'd like to point out further that Mr. Hanna's amendment does not freeze it. It allows the legislature, if they find that this other thing is too difficult to work, to try a different system. It does not freeze it into the constitution. It merely allows it to be slightly more flexible. For this reason, I support the amendment.

MR. VAN DUSEN: Mr. President, may I ask how many more speakers you have?

VICE PRESIDENT HUTCHINSON: Two.

MR. VAN DUSEN: I would move to limit further debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion of Mr. Van Dusen to limit further debate on this amendment to 5 minutes, all those in favor will say aye. Opposed?

The motion prevails. The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President and fellow delegates, this amendment has some superficial appeal, I think — the idea of having annual elections. On the other hand, it seems to me very important that, particularly in gubernatorial elections, we have the maximum voter turnout. And if you take all of the people out of the picture who might be interested in judicial elections and educational elections and township officer elections, I think you very materially reduce the number of people who are on hand to vote for gubernatorial, senatorial and congressional elections. It seems that this would be moving in the wrong direction. I think that this does harm rather than help in bringing out the maximum vote throughout the state for gubernatorial elections. I therefore would oppose the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Leppien.

MR. LEPPIEN: Mr. President and fellow delegates, I'm sure each delegate will agree, from the debate and the discussions we've had in the previous sessions of this convention on this subject, that there was one thing that we agreed on pretty much, and that was that what we needed in the state of Michigan was more participation in elections. To secure greater participation, the only thing we can recommend is the defeat of this amendment and the adoption of the provision. All the mechanics of how it's done have already been taken care of. I urge the defeat of the amendment and the adoption of the committee proposal as it stands.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. William F. Hanna to article II, section 5, as revised by the Van Dusen amendment, which has been read. All those in favor will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment, as revised, offered by Mr. Hanna, the yeas are 37; the nays are 86.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Yeager, Miss Andrus and Mrs. Koeze offer the following amendment to section 4:

1. Amend article II, section 4 (first column, line 21) after "names.", by inserting "Unless otherwise provided by law, all qualified electors voting in any partisan primary election held within the state shall cast their vote by political party on separate ballots after declaring and registering party affiliation under rules and regulations prescribed by the legislature."; so the language will then read, beginning in line 15:

> No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames. Unless otherwise provided by law, all qualified electors voting in any partisan primary election held within the state shall cast their vote by political party on separate ballots after declaring and registering party affiliation under rules and regulations prescribed by the legislature.

VICE PRESIDENT HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. President, ladies and gentlemen of the convention, we're back again with the closed primary proposition. We had a very close vote on first reading and a tie vote on second reading. The change we've made is this: we've stuck in the begining of the language, "Unless otherwise provided by law." In other words we have provided here that there be a closed primary unless the legislature specifically acts against it. If there is to be a closed primary and the legislature doesn't specifically act to prohibit it, then the legislature shall provide all of the rules or the administrative detail relating to it.

As you will recall, we gave arguments that this closed primary will strengthen the 2 party system, and this is good government. No one has denied this in any of the arguments that a primary is properly a party affair. But I don't want to go into a restatement of all of these arguments today. The thing that's bothered me most about the arguments given against it were the arguments to the effect that fear was the main basis for opposing a closed primary in Michigan. Now, as you recall, many of the major states in this country have a closed primary. Are we to believe that this system we have of government — this democracy — is so constituted that people have to fear to have known what party they support in the primary? If so, I submit we have deteriorated as a country and as a state, and we're on unsafe ground. Have we lost all respect for people taking a stand? It has been stated that the minister, the college professor, the businessman, the plumber, and so on will be afraid to let anyone know what party they support in the primary. Not the general election, mind you, but the primary.

I've been in business 15 years, and 12 of those years I have been politically identified as a Republican. I have never found any reason to even question this position. No one, to my knowledge, has ever used it as a basis to refuse to do business with my firm. Let's take Mr. Romney as a case in point. He is certainly identified as a Republican. In spite of this, I understand that Rambler sales are increasing regularly. I hear that no less a Democrat partisan than Mildred Jeffries drives a Rambler.

I again urge that you vote yes on the amendment for a closed primary in the state of Michigan for good, strong government; for a good, strong 2 party system.

VICE PRESIDENT HUTCHINSON: Mr. Jones.

MR. KUHN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: Could we have the amendment read again so I can see whether or not it's in order?

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment again.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above.]

MR. KUHN: Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Jones.

MR. JONES: Mr. President, fellow delegates, I rise to oppose this amendment. It violates the secrecy of the ballot which we should cherish as freedom loving people. Secondly, under the closed primary system, as it was operating in Illinois when I lived there and voted in Illinois, I can assure you that voter flipflopping is much greater under a closed primary system than under the open primary.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President, I rise on this question merely because I've changed my position since the last time I spoke and I think I owe an obligation to the record and to the delegates to explain my reasons. I pointed out the time previous that I had thought we had reached a time in point of history in this country where the blue collar worker, or the so called factory worker, would probably not today be penalized for his party preference because of being in, probably, an organized shop and therefore they could not use this against him. I think this is true today. However, on reflection and consideration, the blue collar worker is becoming a dwindling number of people in our society and the increase is in white collar workers in our society. It is the idea that they are not similarly protected that has raised questions in my mind as to whether there is real wisdom in this or not.

I think that a good case could be made out that while it might not be used against somebody in terms of their job, certainly it may disturb people as far as advancement goes and that they may feel in their own minds it would be safer not to vote than to be recorded with a certain political preference as far as advancement goes. And in recollection, I remember when I was working for a large automobile manufacturer in a white collar capacity, that a supervisory employee of that corporation was fired and the allegation was made at the time the reason he was fired was for being a candidate for congress of a certain political party which usually disagreed with the corporation itself. And this just happened in the last congressional election. And I think perhaps this does point up — whether there was truth in the allegation or whether he was fired for other reasons, it certainly came at a most inopportune time in the sense that he announced one week and was fired the next, and that after being there for some 10 or 12 years — that possibly, in the public's mind, this can be related to his political preference.

I think as long as there is this hesitancy — and there would be great hesitancy on the part of many white collar workers — to identify thus, perhaps we should continue the tradition we've had over the years in Michigan and continue without this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move that further debate on this amendment be limited to 5 minutes.

VICE PRESIDENT HUTCHINSON: All those in favor will say aye. Opposed.

The motion prevails. The Chair recognizes Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, I also strongly urge you to defeat this amendment. This amendment we had up in committee of the whole and second reading. We defeated it by over 11 votes on the motion to reconsider, and I think this will preclude the independent voter from going to the polls in the primary. I think this is going to preclude the clergyman, the businessman, even the factory worker and other people that may not want to vote out in the open. This eliminates the secrecy of the ballot. I urge you very strongly to oppose this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, I'm opposed to this amendment, as I have been on previous submissions of it. I think I also feel a little bit weary at this point. I have a handful of copies of amendments of a similar sort, all of which have been offered at previous readings. I submit, Mr. President, that I thought third reading was to take pretty much for granted what we had done thus far and try to improve it. Improving it doesn't mean just talking over again the same old things. And I therefore will say that I'm opposed to this amendment and it looks to me like the whole sheaf of amendments that I have here are in about the same category. I urge the defeat of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Hubbs.

MR. HUBBS: Mr. President, members of this convention, I would urge you to vote for this amendment. I would like to reply briefly to what Mr. Jones says. He says it violates the secrecy of the ballot. This is absolutely absurd. The primary system, which was the brainchild of the political scientists a good many years ago, I assume, is something that violates the rights of political parties and individuals to support the party of their choice.

As far as I'm concerned, I believe it would be a good idea if people who do not have their own convictions and are not willing to stand up and be counted shouldn't have the right to vote in the primary. I don't know how simply we can say it to these people, but a primary is a political party function. It's not a public function. If you can't belong to a political party because of where you work or what you believe in, or your religion, you don't need to belong to one. When the general election comes along, you'll have a right to vote, and you'll have secrecy of the ballot and you can vote the way you please. And I recommend that we support this in order to make this state of Michigan a better place to live in in the future. Thank you very much. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Nothing could be more patently legislative than to put into the constitution something which changes the law from what it is now, but goes on to say that the legislature can change it back. That's exactly what this amendment does. It should not be adopted. And I ask for the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Wanger demands the yeas and nays upon the amendment. Is the demand supported? The yeas and nays are ordered. The Chair recognizes Mr. Madar.

MR. MADAR: First, Mr. President, I just want to say that it doesn't make much difference to me whether a guy buys a car in Wisconsin or buys it in Michigan. I still buy mine here.

Now, I want to say this: that there are 2 types of politicians. One who would raise particular hallelujah with those friends of yours who didn't think that he was capable of handling the job. I personally don't care. If a person doesn't feel like voting for me, that's all right. And I don't want to know how he votes. That's his business. I think it's my business and your business who you vote for. And I still think that's the way we ought to keep it. Let's vote against this amendment. We've done it now 4 or 5 times.

VICE PRESIDENT HUTCHINSON: Mr. Dean Doty.

MR. DEAN DOTY: Mr. President, I'm a little concerned about these people who are always harping about the secrecy about the election. You know, we've been talking a long time about: today we trust the legislature; tomorrow we don't. Today we can put in statutory language; tomorrow we can't. I'm beginning to wonder about, perhaps, the danger that it might be vetoed. I don't know who you'd trust or wouldn't trust at that point. So maybe we ought to put it in today because as I say, if the legislature does it, it might be vetoed.

But aren't we being a little bit ridiculous about this? Either you are partisan or you aren't. Are you going to do it in party convention? Is that what you want? Or do you want all of the so called independents and nonpartisans going down and electing your candidates? That's what it boils down to, whether anybody wants to vote secretly or not.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, I'd like to direct a question to Mr. Yeager, through the Chair, please.

VICE PRESIDENT HUTCHINSON: If the gentleman cares to respond.

MR. G. E. BROWN: My question is this, Mr. President, Mr. Yeager: under the language as it is presently written in your amendment — directing your attention to the last part of the third from the last line and the next 2 lines — the vote shall not be cast until there has been a declaration and a registration —

VICE PRESIDENT HUTCHINSON: Time for debate has expired. Sorry. The question is upon the amendment offered by Mr. Yeager and others which has been read. The yeas and nays have been ordered. This is a record roll call vote. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—55

Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Finch
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hoxie
Hubbs
Iverson
Karn
King
Kirk, S.
Koeze, Mrs.
Leibrand
Leppien
McAllister
Millard
Mosier
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Thomson
Turner
Upton
White
Yeager

Nays — 71

Allen
Anspach
Austin
Baginski
Balcer
Barthwell
Binkowski
Bonisteel
Bradley
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dade
Donnelly, Miss
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Follo
Gadola
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Howes
Jones
Judd, Mrs.
Krolikowski
Kuhn
Lawrence
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Page
Pellow
Perlich
Pollock
Rajkovich
Richards, L. W.
Romney
Sablich
Shaffer
Snyder
Spitler
Stopczynski
Suzore
Tubbs
Tweedie
Van Dusen
Walker
Wanger
Wilkowski
Wood
Woolfenden

Garvin
Greene
Hannah, J. A.
Nord
Norris
Ostrow
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Yeager, Miss Andrus and Mrs. Koeze, the yeas are 55; the nays are 71.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Allen offers the following amendment:

1. Amend article II, section 6 (first column, line 33) after "Sec. 6.", by inserting "Except as otherwise provided by charter,"; so that section 6 will read:

> Except as otherwise provided by charter, whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, the direct expenditure of public money, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: Mr. President, I believe when the convention put in the additional restriction that on a millage increase the person voting must be a property owner, the convention was thinking entirely of the 15 mill limitation and school issues, and I don't think the convention was thinking in terms of city charters. Now, I'm not sure of this but I don't recall any discussion this way. Now, supposing we have a city charter with a 10 mill limitation — the state law limits now to 20 mills — and this city wants to increase its millage limitation from 10 to more than 10. And let us say that the existing charter of the city permits a person to vote on this question of raising the millage who is not a property owner. Now, do we want by this language — and I think we already do — to rewrite the city charter provision that already exists? I don't think that we do, although I'm not sure of it. If we do want it, at least the proposed language presents the issue squarely to this convention.

What I'm trying to do by this amendment is to take out of this language the questions which apply where you have a millage limitation set by a city charter. And I don't think at this late date in the game the convention would be wise to go around and try to make some more enemies of this constitution by overriding existing charter provisions. I can't give you chapter and verse what charters would say where the charter limitation is to be raised, who may and who may not vote: but it occurs to me there may be some, and if there are, I don't think we should try to override the charter provision.

Therefore, I am simply saying in this language that if an existing charter says that someone who is not a property owner may vote on a millage increase, then this language shall not apply. I'm trying to exclude charters now in existence or, I think you could say, charters that might be amended, although I didn't have that particularly in mind. Therefore, I would urge support of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President, Mr. Allen, may I call your attention to the fact that your word "charter" goes beyond cities and villages. We already have charter townships and very possibly in the future, very probably in the future, we will have charter counties. Would you be willing to restrict your language to cities and villages?

MR. ALLEN: Mr. President, in replying to Mr. Brake, I would be, except I feel this would open the subject up to an accusation of special favors for cities, or something like that. I had not thought of the charter township. I had thought that perhaps a charter home rule county, which we may have under the new constitution, might come under this. But if it would be agreeable to Mr. Brake, I would restrict this amendment to city charters.

VICE PRESIDENT HUTCHINSON: Will you state to the secretary how you propose to revise your amendment?

MR. ALLEN: I would change the language, Mr. President, so as to read, "Except as otherwise provided by the charter of any city."

SECRETARY CHASE: The revised amendment is as follows:

1. Amend article II, section 6 (first column, line 33) after "Sec. 6.", by inserting "Except as otherwise provided by the charter of any city,".

VICE PRESIDENT HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I would point out that this new language goes considerably further than Delegate Allen has mentioned. He has talked merely about the millage increase part but as I understand it, it would apply to the entire balance of the section there and that would include voting even to approve a bond issue.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: I would answer that, Mr. Powell, that I don't think you'll find a single city charter now in existence on bond issues which allows a nonproperty owner to vote. You would on the millage but not on the bond issues.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I confess that I have an amendment in which seeks to strike this whole section, but I would urge that we vote in favor of Mr. Allen's amendment because it does offer a protection to charter units that they ought to have. I therefore urge the adoption of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. William F. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I do not believe the Allen amendment is necesary because it says, in the language on lines 35, 36 and 37, "which involves the increase of any ad valorem tax rate limitation. . . ." Now, when you get over to the taxation article, Mr. Allen, you will find that you are exempt from the 15 mill limitation, and it's only when you will involve the increase of any ad valorem tax limitation. As to those falling within the 15 mills, the statute of ad valorem taxation is the 15 mills. The exception in the 15 mill limitation section in taxation falls and excepts those having charters, and over there we have excepted from this the charter township, city, village, and so forth.

I do not believe your amendment is necessary because of the word "any" in line 36. It covers any tax limitation that may exist. I'm sure it means any state law, constitutional provision, city charter, and so forth. Once you try to exceed that limitation, then you must. But it does not cover the amendment of the charter which you are talking about. I do not believe your amendment is at all necessary.

VICE PRESIDENT HUTCHINSON: Mr. Staiger.

MR. STAIGER: This provision for the 5 year limit or anything over 5 years having a vote of property owners, at one time was considered in the 15 mill limitation itself in the finance and taxation committee. If it had gone in there, then this problem wouldn't be before us now. It was decided, however, to place it over in the election section on the bonding requirements and when we did that — and I never heard any discussion, in finance and taxation or anywhere else, of this possible effect that it would have on charters. If it would have been over the 15 mill, then the charter exception would have applied. Now, however, with the broad language of "any ad valorem tax rate limitation" in this, I think that it would apply to any tax rate limitation and would restrict cities and other charter units which was not intended. I therefore support the Allen amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Allen, which has been read. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

MR. BUBACK: Division.

VICE PRESIDENT HUTCHINSON: A division is called for. Is the demand for a division supported? It is supported; 10 or more up. All those in favor of the Allen amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the amendment offered by Mr. Allen, the yeas are 55; the nays are 66.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Messrs. Buback, Baginski and Downs offer the following amendment:

1. Amend article II, section 4 (first column, line 15) after "voting.", by striking out the balance of the section; which reads:

> No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

VICE PRESIDENT HUTCHINSON: Mr. Buback.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I would move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate to 5 minutes. All those in favor will say aye. Opposed, say no.

The motion prevails. The Chair recognizes Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, I urge adoption of this amendment due to the fact that I don't think this should be in the constitution. I think it's a legislative matter. I think that by precluding it — I think that this should absolutely be out of the constitution because I think it's a legislative matter and therefore shouldn't be in the constitution.

VICE PRESIDENT HUTCHINSON: Mr. Downs:

MR. DOWNS: Mr. President, before speaking, I'd like to make a parliamentary inquiry of clarification. I believe when the convention started, I understood the president to rule that after we had read all 12 articles on third reading there still would be an opportunity to present an amendment or a substitute article to any or all 12 articles. Is that correct?

VICE PRESIDENT HUTCHINSON: The present constitution directs that there has to be a vote upon the entire document which, under our present schedule, is scheduled for next Friday. At that time, or whenever we get to it, before that vote is taken, there is an opportunity for any amendment to the body of the constitution, of course.

MR. DOWNS: And any amendment includes to strike or insert for an entire article; is that correct?

VICE PRESIDENT HUTCHINSON: That's an amendment, all right. Of course, the Chair is not wanting to commit the Chair in advance to anything. You might offer an amendment which might be ruled to be improper for some reason or other, but as a general proposition, the subject will be open for proper amendments at that time.

MR. DOWNS: All right, then, just one other question. If, for example, this amendment — then the amendment can be offered — I'm sorry. I have my ruling. I'm going to quit while I'm ahead. Thank you, Mr. President. (laughter)

I would like to speak in favor of the amendment to strike this sentence. I think we have a rather anomalous situation where a filing fee is used if the candidate who wished to use the designation could, by simply filing a relative with the same name, get the use of the designation. I am inclined to think that the voters should be the ones that make the decision whether they wish to retain or reject the incumbent and I therefore believe this sentence should not be in the constitution and urge adoption of the amendment.

VICE PRESIDENT: Mr. Kuhn.

MR. KUHN: Mr. President, first I'd like to raise a point of order that this amendment is out of order, since it was acted on on second reading. And the Chair has ruled previously that even an amendment to strike would be out of order if it was passed by the convention.

VICE PRESIDENT HUTCHINSON: Will you give us the citation, please, Mr. Kuhn?

MR. KUHN: Of the Chair's ruling?

VICE PRESIDENT HUTCHINSON: Will you give us the citation?

MR. KUHN: What citation are you looking for?

VICE PRESIDENT HUTCHINSON: You say that this amendment is not in order. You state it is not in order because it has been previously considered. Is that right?

MR. KUHN: Right. I'd have to look that up. I believe, Mr. President, on page 909 of our journal this amendment was adopted by a roll call vote of 92 to 24.

VICE PRESIDENT HUTCHINSON: We'll get the journal and check it. Was that in committee of the whole, Mr. Kuhn?

MR. KUHN: Yes, it was, I believe.

VICE PRESIDENT HUTCHINSON: Then the amendment would still be in order, if it was in committee of the whole.

MR. KUHN: Yes, it was in committee of the whole.

VICE PRESIDENT HUTCHINSON: Very well. Then the Chair will overrule the point. Mr. Kuhn.

MR. KUHN: Mr. President, then definitely I would like to oppose this amendment. This would do away with some of the great work that has been done by this convention. As I have just read to you, this language was adopted on a vote of 92 to 24. The Lansing State Journal praised the convention for its good work in this line. This will be something that will make our legislature more responsive to the will of the people in their districts. As we pointed out, this reduced the amount of defeats of incumbent legislators from a high of 11 to a low of 3 in the 1960 elections; this is something that is really necessary. And I think the fact that it got 92 votes on that night when it first was brought up indicates that the convention saw the wisdom in this provision. I very strongly urge this convention to vote down this amendment and leave it in as it is today: that the legislature shall not provide ballot designation for themselves.

As was pointed out in committee of the whole, the legislature did not see fit to give it to the county officials, to township officials, or to any state officials; this statute was merely one to take care of themselves, to perpetuate themselves in office. Now, we have given a blanket prohibition against this for any partisan candidate. So we are not looking just at the legislature but we're taking care of all state officials as well as county and township officials. And I strongly urge you to defeat this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Messrs. Buback, Baginski and Downs, which has been read. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

MR. BAGINSKI: Mr. President, I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is the demand supported?

SECRETARY CHASE: Sixteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The ruling of the Chair is that the amendment was not adopted.

MR. DOWNS: I have a point of information.

VICE PRESIDENT HUTCHINSON: State the point.

MR. DOWNS: May this be put in on the final day again before we finally act?

VICE PRESIDENT HUTCHINSON: It may not.

SECRETARY CHASE: Messrs. Wanger and Kuhn offer the following amendment:

1. Amend article II, section 9, paragraph 5 (first column, line 6) after "or" by inserting "unless a smaller number is provided in said law, by"; so the language will then read, going back to the beginning of the sentence at the bottom of the previous page:

> No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or unless a smaller number is provided in said law, by three-fourths of the members elected to and serving in each house of the legislature.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, this is, briefly, intended to be merely a perfecting amendment. Under the present constitution it is provided that the initiative act can provide, if the people initiating it want to provide, that the legislature can amend it or repeal it. And this is language which is contained in our present constitution.

Now, when this proposal came upon the floor, it was amended to provide that ¾ of the members elected to and serving in each house of the legislature could make amendments. But that clause which authorized the people to provide that a lesser number of the legislators could amend it was removed and as the language presently reads, Mr. Kuhn and I believe that the most reasonable interpretation would be that the people could not in their own initiative measure provide that less than a ¾ vote of the legislature could amend it or repeal it. This is an unreasonable restriction upon the people, in proposing initiative measures. Therefore, we offer this amendment to clear it up and put the language of this proposal in this respect back where it was in the old constitution. It, of course, in no way impugns the power of the legislature by a ¾ vote to amend any such law as was adopted previously on the floor of the convention. I would like to yield to Mr. Kuhn.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, in no way do we want to allow the legislature by less than ¾ vote to be able to amend an initiatory petition unless the people themselves who start this petition give them that right. Now, under the constitution of 1908, the people can provide that the legislature may amend it or modify it by a simple majority. It's up to them.

Now, we have allowed the legislature in this proposed new constitution, by a ¾ vote, to change it if they saw fit. We'd also now like to go back and say to the people: if you want to allow them to do it by a less vote, okay. This does not in any way allow the legislature on their own to change the ¾. If the people who start these petitions do not give them the authority, they must have a ¾ vote of each house of the legislature to amend.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Wanger and Mr. Kuhn, which has been read. All those in favor will say aye. Opposed will say no. The Chair is in doubt. It seemed to be about equally weak. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment, the yeas are 29; the nays are 72.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Staiger offers the following amendment:

1. Amend article II, section 6 (first column, line 38) after "five years,", by striking out "the direct expenditure of public money,"; so that the language will then read:

> Whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon.

VICE PRESIDENT HUTCHINSON: Mr. Staiger.

MR. STAIGER: Mr. President, this is obviously a tough day on amendments. We haven't been able to get one through yet. This is one that came up in style and drafting: the question of what is a direct expenditure of money. When we checked the cases and the annotations it's obvious that the courts have spent much more time saying what is not a direct expenditure than what is. The only case — there is an attorney general's opinion that sinking funds are a direct expenditure. Because of this, you have this phrase in the constitution which myself, in style and drafting, and some of the other members I am sure, felt the constitution would be better without it in there.

As far as the policy reason for having only property owners vote on, say, a 5 year or less sinking fund when everybody, all taxpayers can vote on the actual millage increase, I see no reason for that. If the people want to set up a sinking fund and save their money rather than going into deficit financing or borrowing, I think the freedom should be there to do it. The phrase has given a lot of trouble to the courts in the past and I suggest that it be removed from the constitution at this time.

VICE PRESIDENT HUTCHINSON: Mr. W. F. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I would like to support Mr. Staiger's position and call to your attention that this language was in the constitution before the 15 mill limitation. Possibly at that time when it referred to such things as sinking funds it had a valid place in the constitution. Now that we have tax rate limitation by state constitutional provision or charter, there is no reason why the people should vote if the legislative body of a unit, without raising the property taxes above the tax limitation, may create a sinking fund. There is no reason for that limitation any longer. If they have to increase the tax rate limitation to secure the money, or if they have to issue bonds then, of course, the vote is protected. But if a township, for instance, has a surplus of money as a result of sales tax diversion or a city has this under their general tax allocation or sales tax diversion, and wishes to establish a sinking fund it seems to me that they should have that permission so long as it does not in any way affect the tax bill.

I submit to you this is an anachronism of the old constitution that should have gone out with the 15 mill limitation, and I urge the support of this amendment in clarity. The taxpayers are fully protected under the provisions of the raising of the tax rate requiring a vote or the issuing of bonds requiring a vote.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I would like to confirm the fact that as a member of the committee on style and drafting, we did have trouble with this expression and we're not sure of its need and it's our feeling that it should be deleted. And of course, I again confess that I have an amendment in to strike the whole section.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Staiger. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the division supported? Ten or more are up. It is supported. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Staiger, the yeas are 76; the nays are 45.

VICE PRESIDENT HUTCHINSON: The amendment is adopted.

SECRETARY CHASE: Mr. Finch offers the following amendment:

1. Amend article II, section 6 (first column, line 38) after "than" by striking out "five" and inserting "two"; so the language will then read, ". . . the increase of any ad valorem tax rate limitation for a period of more than two years . . . ."

VICE PRESIDENT HUTCHINSON: Mr. Finch.

MR. FINCH: Mr. President, fellow delegates, this has been a subject that has been a very sore subject back home amongst the taxpayers for many years and this is one thing, I think, that we have taken a step toward correcting in this constitution, but I don't think we've gone far enough.

While we had a recess last week, I did some checking around home and found, first, that the people that rent houses to individuals are unable to pass tax increases on to the renter because if they do pass it on, then people move out and they're left with an empty home. I never could figure out, and neither could the rest of the people at home; why people that are not taxpayers should increase taxes on those that are taxpayers. I know it is said, and the argument is used that it goes on the rent and the rent pays some of this. However, in our findings at home it is not true.

Another thing that has happened is that in my looking around and after some investigation, I only found one individual that lived in the same house for 2 years. In other words, people move in, they live 6 months or a year, they move to some other place or to another house. And I cannot see them having the right to increase the taxes on those people that are taxpayers and own property. Under this present provision that we have in our proposed constitution, it would be possible for a proposal to come up to raise the millage 35 mills, and nontaxpayers would have the right to vote on that if it did not go longer than 5 years. It would be impossible to raise rent on the houses in our area, at least, $15 to $25 a month to take care of these additional taxes because the people would just plain move out. So I ask your support in adopting this amendment. I think it would get it down to where it's a more fair and uniform provision.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Van Dusen to limit debate upon this amendment to 5 minutes. All those in favor say aye. Opposed, say no.

The motion prevails. It is so ordered. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, speaking very briefly in opposition to this amendment, the 5 year provision is bad enough. This 2 year provision is entirely too restrictive on the democratic process. I strongly urge defeat of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I don't care to repeat any lengthy arguments that I made earlier in these proceedings with reference to this. I pointed out that the 5 years apparently must be just some sort of a compromise because I couldn't justify it on any basis. I don't see any reason why it makes a difference whether it's for an operating purpose or a capital improvement, or whether it's for one year or a longer period. I was in favor of the 5 years if that was the best we could get, although I couldn't justify it. I certainly would support this amendment to bring this figure down to 2 years.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Finch, which has been read. All those in favor will say aye. Opposed will say no.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for a division supported? It is supported. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Finch, the yeas are 55; the nays are 68.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. Mr. Madar.

MR. MADAR: Mr. President, may I just request of the official time keeper that instead of waiting until someone has spoken 10 minutes and then moving to limit debate to 5 minutes, that he try to get up right after an amendment is offered, so that we can be fair to everybody?

VICE PRESIDENT HUTCHINSON: The secretary will read the next amendment.

SECRETARY CHASE: Mr. W. F. Hanna offers the following amendment:

1. Amend article II, section 9 (second column, line 12) after "power to" by inserting "approve or"; and on the next page, first column, line 8 after "laws" by striking out "adopted" and inserting "approved"; so the language will then read:

> The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or to reject laws enacted by the legislature, called the referendum.

And on the next page the language will there read:

> Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof.

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, this is purely a technical amendment that I failed to catch. I had a note from Mr. Garry Brown, who had called my attention to this inconsistency and I think it could have been done in style and drafting, but I believe it should be done now.

When, as we have defined in section 9, the legislature passes a bill in which they provide that it will be submitted to the people, this is called a referendum. Under the section here, as now adopted, the people would only have the power to reject. And actually, as I understand the procedure, the referendum provides that the bill is submitted for the approval or rejection of the people. That's the reason for clearly bringing this language into technical perspective with what happens.

Now, the second part of this is simply then to bring the language in because the law is enacted. And what you're saying in the second part is simply that laws approved by the people, once submitted for referendum, are not to be amended. And I submit that this brings the language into the technical perspective, and corrects what we know is the difference between what we know as initiative and what we know as referendum.

VICE PRESIDENT HUTCHINSON: The question is on the amendment offered by Mr. Hanna. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

SECRETARY CHASE: Messrs. Austin and Downs offer the following amendment:

1. Amend article II, section 6 (first column, line 33) after "Sec. 6.", by striking out the balance of the section and renumbering the remaining sections.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I think I have been hinting, as Miss Donnelly says, that this amendment was coming up. As I view it, it is simply an appeal for the democratic process. What we have taken in section 6 is, in my opinion, a step backward from granting the full franchise to the electors of our state. And this is a time when we ought to be expanding the franchise instead of contracting it.

Property tax does not now and will not in the future be the only source of revenue at the local level. There will be other sources of revenue from taxation that will be used to pay the cost of government, including debts, as the bases at the local level are expanded. The provision that we now have in section 6 will amount to a further disenfranchisement of nonproperty owners. We must bear in mind that renters also pay taxes.

I would like to add one other point, and that is that the section is really ineffective when you consider that a good deal of the property in all units is owned by property owners who do not live in the area: nonresidents and corporations. If it were true that the property generally were owned by the residents who were voters, the provision might accomplish the purpose it is intended to accomplish. But when we consider the dynamics of a modern industrial society, I think we have to agree that this provision does not belong in a modern constitution. I therefore urge the adoption of this amendment and the deletion of section 6.

VICE PRESIDENT HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. President, I generally find my colleague, Delegate Dick Austin, very logical. I don't think he's been quite that logical in this particular presentation. I am glad to hear him say that property tax will not be the only source of local revenue in the future. But I submit that the property taxpayers will be the only ones who will be paying property tax. And they're the ones that should be concerned about increasing this millage.

He worries about nonresidents. May I submit that a nonresident cannot vote on one of these increases because they've first got to be voters in the district involved before they have any qualification to vote at all. I don't think that there's much chance that this section is going to be deleted. Let's think very carefully and then vote against this pending amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Austin and Mr. Downs.

MR. FAXON: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Faxon demands the yeas and nays on the amendment. Is the demand supported?

SECRETARY CHASE: Twenty-eight.

VICE PRESIDENT HUTCHINSON: That's a sufficient number up. The yeas and nays are ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—34

Austin
Balcer
Barthwell
Binkowski
Bradley
Buback
Cushman, Mrs.
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Hart, Miss
Hodges
Jones
King
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Pollock
Romney
Snyder
Thomson
Walker
Young

Nays—83

Allen
Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Page
Perras
Plank
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Messrs. Austin and Downs, the yeas are 34; the nays are 83.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The question is upon the passage of article II. Mr. Downs.

MR. DOWNS: Are there any other amendments?

VICE PRESIDENT HUTCHINSON: There are none.

MR. DOWNS: Are we now prepared to vote on the entire article?

VICE PRESIDENT HUTCHINSON: That is the question before the house, Mr. Downs.

MR. DOWNS: Mr. President, sometimes these get up on us kind of quick after we've had a series of amendments. I wanted to be sure I was in order to speak on the entire article. I wish to speak and urge a no vote on the entire article. I think the property qualification for voting is alone sufficient reason for warranting that and there are some other improvements that could be done. In urging a no vote, I wish to advise the fellow delegates that before the final action on this, I hope there will be a substitute article presented in due course which will give the delegates a positive alternative and one which I, for one, feel will be more in keeping with the needs of a twentieth century constitution. I therefore urge a no vote on article II.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I have a question. In column 2, page 3, line 38, where it is talking about legislative action on initiative petitions presented to the legislature, it says this must be done within 40 days. I wonder if that shouldn't be 40 legislative days. Suppose this petition is presented the last day before the legislature adjourns, or while they're completely in recess?

VICE PRESIDENT HUTCHINSON: Mr. Brake, are you directing a question to a particular person?

MR. BRAKE: Yes, Dr. Pollock, please.

MR. POLLOCK: Mr. President, this was not before our committee as a substantive matter. I have not had an opportunity to point out to the delegates that the committee on style and drafting included the legislative initiative and referendum in the elections article. Heretofore it's been, I believe, in the committee on legislative powers. Interestingly enough, they did not include the initiative and referendum on constitutional amendments, which is in the article on amendment and revision. I haven't heretofore had the chance to ask for the rationale of including the initiative and referendum with the elections article without including all of it. Therefore, I'm not prepared to answer your question, although it seems to me your point is very well taken.

MR. BRAKE: Mr. President, may I offer from the floor as an amendment, that one word there, "legislative." — "within 40 legislative days."

MR. KUHN: Will the gentleman yield?

VICE PRESIDENT HUTCHINSON: Will the gentleman yield to Mr. Kuhn?

MR. BRAKE: Surely.

MR. KUHN: Mr. President, this was before our committee and this is the identical language that was in the last constitution, and this question did come up, and the answer is that the legislature, if it was not in session, could not receive the petition, and therefore, it was 40 legislative days. But if you'd like to offer this amendment, I wouldn't see any objection.

MR. BRAKE: Mr. President, Mr. Kuhn, what you said doesn't answer the proposition when the petition comes in the last day of the session, with no possible time to study it or to act on it. I think the amendment ought to be made, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Staiger.

MR. STAIGER: I wonder if I could ask a question of Mr. Brake? As I understood you, you would amend it to add "legislative" days. In another section we had that term used and Professor Pierce, who was going over it in style and drafting with us, raised the question that a legislative day is a technical term which means something to the legislature in which they're able to extend longer than a "session" day, which was the word we used when we wanted to tie it down to days as we know them. Is this an accurate description, that there is something called a legislative day that can go longer than the normal 24 hours?

MR. BRAKE: I didn't so understand it, Mr. President, Mr. Staiger. I presume the president would be in better position to answer that than anybody else. I understand it to mean days in which the legislature is supposed to be in session, which means 5 days a week, ordinarily.

VICE PRESIDENT HUTCHINSON: The secretary will report the amendment now offered by Mr. Brake.

SECRETARY CHASE: Mr. Brake offers the following amendment:

1. Amend article II, section 9 (column 2, line 38) after "40" by inserting "legislative"; so the language will then read:

> Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or

amendment within 40 legislative days from the time such petition is received by the legislature.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I wonder, in the light of Mr. Staiger's comment, whether Mr. Brake would accept "session" days instead of "legislative" days.

MR. WANGER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: I don't want to belabor this. I wonder if Mr. Brake would accept "regular session days" because, you see, if it's a special session, the days still run, but the legislature is powerless to act on any other subject but that stated in the governor's message or proclamation. So the time would run out even though the legislature would have no power whatsoever to act if a special session of longer than 40 days would intervene.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: I think not. Special sessions are short. That many days wouldn't hurt anything.

VICE PRESIDENT HUTCHINSON: The question is on the amendment offered by Mr. Brake to insert after the word "40" the word "session" on line 38, column 2. The secretary will report the amendment, as revised.

SECRETARY CHASE: The amendment now reads:

1. Amend article II, section 9, (column 2, line 38) after "40" by inserting "session"; so that sentence beginning in line 36 will read:

> Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature.

VICE PRESIDENT HUTCHINSON: All those in favor of the amendment, as revised, will say aye. Opposed will say no.

The amendment is adopted. The question is upon the passage of article II, elections, as now amended. Mr. Shanahan.

MR. SHANAHAN: Mr. President and fellow delegates, referring to section 3, I'm a little bit concerned if we are not doing something here that maybe is not exactly what we intend to do. The purpose is to enable the people who, for one reason or other, may be moving from one state to another to be able to vote for president and vice president but not necessarily otherwise — that is, for state or local offices. But in reading this, I'm very much concerned about the possibility of the interpretation of this disenfranchising people who might be obliged to be out of the state for some reason for a period that would be long enough to meet the voting resident requirements of another state. I refer particularly to the last sentence, where it says in very positive terms, "The legislature shall not permit voting by any person who meets the voting resident requirements of the state to which he has removed."

Now, I spent quite a few years in the service, in the navy, and there's about a 7 year period when I was essentially a resident of California. I never voted in California. I always maintained that my home was in Charlevoix, Michigan and voted by absent ballot. But I did meet the voting residence requirements of the state of California. Now, it might be argued that it wouldn't apply to me because I was in the navy, I was in the service. But what about my wife? I notice that style and drafting has removed the word "such" which might take away the curse of this particular sentence. I have a question I'd like to ask anyone who might be able to answer. How does a person lose Michigan citizenship and not be sent to jail or a mental institution and so forth? Would anyone care to answer that?

VICE PRESIDENT HUTCHINSON: Do you yield to Mr. Dehnke?

MR. SHANAHAN: I yield.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. President, Mr. Shanahan, I don't think there's any basis for any such concern as has occurred to Mr. Shanahan. Merely leaving the state does not make him the citizen of another state. It requires not only a removal but an intention to abandon Michigan as his place of residence and to set up a residence in some other state. I don't think there's any reason for any fear of complications on that account. This merely means that when some person leaves Michigan with the intention of abandoning his Michigan residence, setting up a residence in some other state, then if he has been in that other state long enough to meet their requirements, he cannot be permitted to vote in Michigan under the first part of this section.

MR. SHANAHAN: Mr. President, thank you, Judge Dehnke. If that is the meaning of this, I am not concerned. If there is any question about it, I would like to be sure that it could be resolved, perhaps by style and drafting. Thank you.

VICE PRESIDENT HUTCHINSON: The question is on the passage of article II of the proposed constitution on elections. Mr. Stafseth.

MR. STAFSETH: May I raise one question of the chairman who handled section 6 of this article? It provides that only qualified electors shall vote. Then when we get down to line 45 and 46, it makes an exception and says, "or the lawful husbands or wives." The reason I raise that question, the husband or the wife may be a qualified voter, but his or her spouse could be an alien even to this country.

MR. STEVENS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: There is no change in this from the language in the present constitution and such a person could not vote anyway if he or she did not have the other necessary qualifications of residence, age and citizenship.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of article II. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—98

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Gust
Hanna, W. F.

Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka

Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager

Nays—33

Austin
Baginski
Binkowski
Boothby
Bradley
Buback
Downs
Elliott, Mrs. Daisy
Faxon

Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hubbs
Jones
Krolikowski
Madar

McAllister
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Snyder
Walker

Finch	Mahinske	Young
Follo	Marshall	Youngblood

SECRETARY CHASE: On the passage of article II, as amended, the yeas are 98; the nays are 33.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted therefor, **article II**, as amended, is passed.

For sections 1, 2, 3, 4, 5, 7 and 8 of article II as passed, see above, page 3048.

Following is section 6 of article II, as amended and passed:

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Following is section 9 of article II, as amended and passed:

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

Following is explanation of vote submitted by Messrs. Austin, Garvin, Greene, Bradley, Baginski, Buback, Downs, Faxon, Nord, Marshall, Young, Mrs. Daisy Elliott, Mrs. Hatcher and Miss Hart:

We voted against article II. This article includes property qualifications for some elections, which are contrary to our tradition of an expanded franchise.

This also fails to make the initiative a practical help to voters by lowering the requirement for petitioning. The initiative procedure should be more clearly defined.

The portion that attempts to eliminate designation for incumbents defeats itself by permitting designation if there is a similar named candidate. The voter should be allowed to know who the incumbent is.

We further believe the voting age should be lowered from 21 to 18.

Following is explanation of vote submitted by Mr. Madar:

I voted against article II because this article includes property qualifications for some elections, which are contrary to our tradition of an expanded franchise.

This also fails to make the initiative a practical help to voters by lowering the requirement for petitioning. The initiative procedure should be more clearly defined.

Following is explanation of vote submitted by Mr. Hubbs:

I voted no on third reading of article II on elections because 2 important factors were not included. I favor a closed primary election system. I also do not believe that people who are not property owners should have the right to vote to increase millage as is provided in the new constitution as well as the 1908 constitution. We had an opportunity to make these 2 improvements and did not make them.

Following is explanation of vote submitted by Mr. Finch:

I voted no on article II because I object to a portion of section 6.

I believe that only property owners or their spouses should have the right to vote on proposals which will increase millage or on bond issues which will raise property taxes.

VICE PRESIDENT HUTCHINSON (continuing): Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, it's my understanding that the Chair's ruling earlier that article I should be put over until tomorrow was based upon the fact that the committee on style and drafting, under rule 53, had given notice for reconsideration in order to propose an amendment to article I, and therefore I now move that unanimous consent be given to suspending the rules to permit the committee on style and drafting at this time to proceed with its motion for reconsideration in order that article I can then be considered. I move that the rules be suspended so that the committee on style and drafting can proceed at this time with its motion for reconsideration.

VICE PRESIDENT HUTCHINSON: Are you asking for unanimous consent or are you moving for suspension of the rules?

MR. WOOLFENDEN: Well, I am agreeable to either, but I was moving for —

VICE PRESIDENT HUTCHINSON: All right. The Chair will put it this way, then: Mr. Woolfenden moves that the rules be suspended. Is there objection?

The Chair hears no objection. The rules are suspended to permit the committee on style and drafting to —

A DELEGATE: I object.

VICE PRESIDENT HUTCHINSON: Objection is heard.

MR. CUDLIP: Mr. President, I then move that the rules be suspended to accomplish the purpose.

VICE PRESIDENT HUTCHINSON: Mr. Cudlip then moves that rule 51 be suspended to permit the committee on style and drafting to offer a motion for reconsideration of the vote on an item under article I at this time.

MR. WOOLFENDEN: I invite the Chair's attention — it's rule 53, I believe rather than rule 51.

VICE PRESIDENT HUTCHINSON: Thank you. Rule 53. The Chair will call for a division since it takes 2/3 of the delegates present. All those in favor of suspending the rules will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will record the total.

SECRETARY CHASE: On the motion to suspend the rules to permit the committee on style and drafting to make their motion to reconsider, the yeas are 123; the nays, 5.

VICE PRESIDENT HUTCHINSON: The motion prevails and the rules are suspended. The convention will then return to the immediate consideration of article I.

SECRETARY CHASE: **Article I,** declaration of rights; section 1:

[Article I, sections 1 through 23, was read by the secretary. For text, see above, page 3047.]

VICE PRESIDENT HUTCHINSON: The question is on the adoption of article I of the constitution.

MR. POLLOCK: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: I think I should comment upon one matter which emerges from a little study of this article as it comes from the committee on style and drafting. This is very minor and I think it's something that I merely call to the attention of the committee on style and drafting when it has possession of this article again. In section 2 they use the expression, "race, color, religion, sex or national origin;" then when it comes to the executive article section 28 they simply rearrange the order of these words. Here it reads, "religion, race, color," and so on. Now, it ought to be the same in both cases. If "religion" comes first in one case, it should in another. There shouldn't be this variation. I think this can easily be corrected in the next action by the committee on style and drafting.

Otherwise, Mr. President, the article has been improved and I have no comment whatever to make on it, although I understand there are a couple of amendments.

MR. BENTLEY: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Bentley.

MR. BENTLEY: Mr. President, I suggest that in section 17, in line 43, the phrase "nor be deprived of life, liberty or property," since we've already specified in another part of the proposed constitution very clearly that there shall be no penalty for death, I suggest that the word "life" be deleted.

VICE PRESIDENT HUTCHINSON: Are you offering that as an amendment?

MR. BENTLEY: I offer as an amendment the following:

1. Amend article I, section 17 (column 1, line 43) after "of" by striking out "life,".

If the chairman of the committee will approve —

MR. POLLOCK: The chairman of the committee is without any power, I think, in this situation. I personally would dislike that amendment because the phrase is a pretty ancient one. I think it carries a certain authority and I think one word won't hurt one way or the other. I wouldn't myself favor the amendment.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: I would like to suggest, as Dr. Pollock has, that this is an entirely different connection. The prohibition against imposition of the death penalty might be removed by constitutional amendment. We'd still want in the constitution the proviso no one shall be deprived of life without due process of law.

VICE PRESIDENT HUTCHINSON: Mr. Bentley does not persist in his amendment. The amendment is withdrawn. The secretary will read.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, moves to reconsider the vote by which the following amendment was not adopted:

1. Amend article I, section 2 (second column, line 10) after "religion,", by striking out "sex";

and the vote by which the following amendment was adopted:

2. Amend article I, section 2 (second column, line 12) after "legislation.", by inserting "This shall not be construed to prevent reasonable classification for the protection of women.".

For vote on the first amendment, see above, page 2891; for vote on the second amendment, see above page 2915.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to reconsider. Mr. Cudlip.

MR. CUDLIP: Mr. President, members of the convention, I am going to speak as briefly as I can on the motion to reconsider, and then if it prevails I will not talk upon the substance of the matter.

I appear here as a chairman of an instrumentality of this convention. There is no ulterior motive in this motion, obviously. The reason for our appearance is because this matter was considered so long ago that it would not be possible, except through our committee, to have a reconsideration of it at this time under our rules. You will recall that the last time this matter was considered, the reconsideration motion was defeated. I think the vote was 48 to 48. Now, you might ask: why bring this up again? The only reason is because many in this convention, and particularly lawyers — and you will recall that Messrs. Danhof, Ford, Bill Hanna and others — were interested in this matter, are still interested in it because we are here writing an important document, a constitution, and we're not writing history books or poetry. I think the matter was considered in a light vein before. Well, nothing is very light when we're dealing with half the people in Michigan.

Now, here is the frame of reference for the matter: I was quite impressed last fall when we first assembled, and I know Dr. Pollock and members of his committee were, when so many delegate proposals were received in connection with an expansion of the declaration of rights as they appear in our constitution. We called it section 22, article I, the equal protection clause. I don't believe any state has a clause of that scope except, probably, the 2 new states that were previously territories.

Dr. Kauper, professor of constitutional law at the University of Michigan, wrote one of the stimulating treatises for our body: Con Con Research Paper Number 2. It was written in October, 1961. And I want to read to you one paragraph on page 20 of his report. He was reviewing there in that document some of the considerations before a body such as ours, and he said this:

> A right of vital current significance is the right to equal protection of the laws, and, more particularly, the right to be free from governmental action which discriminates on the basis of race, color, religion or national ancestry. This right is protected at the national level by the equal protection clause of the fourteenth amendment.

— meaning of the U. S., of course —

> Any right to the equal protection of the laws under the Michigan constitution derives from the provision, article II, section 1,

— of our constitution —

> which states that all political power is inherent in the people and that government is instituted for their equal benefit, security and protection. The question may be raised whether on revision an explicit —

I underline —

> an explicit equal protection clause should be adopted and along with it a specific provision prohibiting the deprivation or denial of right on the basis of race, color, religion, or national ancestry.

Now, that was done by this committee and it was one of the finest achievements of this convention, in my opinion, and I am sure in yours, because I remember when we voted on it that board was entirely agreed.

Now, the word "sex" is not mentioned in this thesis, but the word "sex," however, did get in somehow — and it doesn't matter to us in style and drafting how or why — into the proposal. Now, why do we suggest that it be deleted? Why do we ask for your reconsideration of this matter? Personally, I don't care if it stays in or out, except that I have some pride, as you do, in a document that won't be criticized by lawyers and others — and women — as this goes to the people. The reason is this: the way that the provision is now drafted, and is before you, we put the word "sex" on the same level, same parallelism as "national origin, race, color," and so forth. Now, bear that in mind.

When we were thinking of this problem a week or two ago — some of the women of this convention, and some of the lawyers — we had a discussion about it. I had the impression at the time that there were some that felt: well, gosh, it's a big word. We haven't had it in the constitution before, and it does something. It does something. It's edifying. Well, things can sound nice, but if they take away your rights, they're not too good. Dr. Kelly of our research staff, Dr. Joiner of our research staff and, as I said before, many lawyers of this convention were very much disturbed about the matter.

If this had been in effect at the time that our gracious and lovely Miss Hart made her suggestion the other day — it was a warm day — that all men could, without objection, take off their coats and vests, if that rule had been in effect, I don't know what the press would have done. We wouldn't have minded. (laughter) So — because there was some conflict of thinking about this important question, and because the posture of our committee was such that we could raise it again — at the suggestion of many members of the committee, I took it upon myself to write this same Dr. Kauper, professor of constitutional law at the University of Michigan, and I gave him the complete history of this development and I gave him the minutes of our meeting a week or so ago, and I said, "Doctor, we're just looking for some assistance, some detached objective advice. We've burdened you enough, but please help." On Saturday I received a letter from him. That letter has been made available to some of you and would have been made available to all of you except for the fact that this morning we found that the Xerox machine was loaded with work for another committee — not ours. We had our work printed. Otherwise you wouldn't be here considering this printed revision this afternoon.

Now, you recall that Miss Donnelly, in her constructive way, seeing that there was some problem here, proposed a sentence, an amendment, which reads, "This shall not be construed to prevent reasonable classification for the protection of women." In style and drafting, subject to your approval, we took the liberty of changing the words "prohibit legislation" because we thought that was better language to use. But be that as it may, the point was made by Miss Donnelly that perhaps this might cure the situation.

Now, let's go back to the fact that half the voters, half the people of this state of ours, are women, and we're going to hit another section where we've done an injustice to them. But let's talk about this one now. Dr. Kauper, in response to this question, having our record before him, said this. And I have to read a few paragraphs — excerpts. I hope I don't take them out of context. I will be glad to see that ultimately everybody gets a copy of this letter. He said this:

> My views on this can be simply stated. I feel that to include sex along with race, religion and national origin as an impermissible basis for discrimination in the enjoyment or exercise of civil or political rights would be a mistake. I say this not because I think a legislature should be free to subject women to discriminatory laws in the enjoyment of political and civil rights but because the use of the word sex in the context of the equal protection provision, along with race, religion and national origin, suggests on its face that sex cannot be made a basis for legislative classification.

He goes on — and I'm skipping:

> Either the courts would have to say that this would invalidate all classification based on sex — an impossible situation, it seems to me — or else they would have to interpret the provision respecting sex as still permitting reasonable classification and in this case they would have to read into this provision an implied limitation that would or should not be applicable to the race, religion and national origin provisions. I am reasonably sure the latter interpretation would prevail but, even so, this would create difficulties for the legislature and the courts.

Then he says:

> Inclusion of the proviso, "This shall not be construed to prevent reasonable classification for the protection of women," would help some to meet the problem of classification, but it would be directed only to the end of permitting protective police legislation and thus would deal with only a part of the problem of classification by sex.

He goes on to say:

> In conclusion, then, I would say that the inclusion of sex in the nondiscrimination section could have disadvantageous effects with respect to women. The proviso in respect to reasonable classification would meet this objection in part. But it would deal only partially with the classification problem. My overall objection is to the inclusion of sex along with race, religion and national ancestry as an impermissible basis of legislative classification.

Now, the other day someone referred to a letter from our distinguished attorney general, Mr. Kelley, in which he mentioned a case from Utah — only one case — trying to bolster some theory. I read the opinion. The Utah constitution is entirely different than ours in the way that the words are arranged. I am sure that anybody that would read it could quickly come to that conclusion, and I have a copy of it on my desk.

Now, the point is that where these equal protection clauses exist, it's still true that under this vast reservoir of police power which sovereign states and the federal government have in the case of the federal constitution, discriminations can be made and have been made protecting women. Women need to be discriminated against for their benefit many, many times. The whole point here is that this language, as developed, does not go far enough to protect them under many, many situations arising because of the differences of nature.

Now again I say, before closing, that the urge to make this clear to the convention, wholly apart from what they want to do about it, falls on my shoulders only as a representative of the committee which represents you. I don't expect to have much more to do with this subject in my lifetime. (laughter) But I urge you, as constitutional delegates, and lawyers, particularly, to give this your serious consideration because we want to do the right thing, the thing that will be best received and be in line with constitutional structure. Thank you, Mr. President. Thank you, ladies and gentlemen. (applause)

VICE PRESIDENT HUTCHINSON: On the motion to reconsider, Mrs. Hatcher.

MRS. HATCHER: Mr. President and fellow delegates, I rise at this time to, first of all, say that it is quite unnecessary to reconsider this matter. I would like to say at the outset that I could not attempt to, by any stretch of the imagination, compete or qualify with the flowery words and the glorious words used by Mr. Cudlip, who is an eminent attorney, and one who is well prepared to present and to outline and document his case as he sees it. There is only one advantage that I have that Mr. Cudlip perhaps does not have, and that is, I happen to be a woman, (laughter) and one who has dealt with the problem of discrimination as it relates to sex as well as having served and worked in the field of education among women. I think that certainly the fact that he has gone to the extent, as chairman of the style and drafting committee, of calling on the wisdom of Dr. Kauper to give his opinion on this particular inclusion of the word "sex" in this section of our article, section 2 of article I, I think also is significant. Also Dr. Kauper is a man and he would not have the same point of view on the subject as a woman would have. Further, it's not that I want to claim exclusive rights on fighting the battle of the sexes, but I happen to know that the language that was promoted here did not come only from the wisdom of women delegates but it came from the wisdom of men and women who, as members of the committee on the declaration of rights, saw fit to put it into this article.

I also would like to call to the attention of the delegates here that there were a number of delegate proposals that were referred to our committee which dealt with the question of sex. I'd also like to say further that despite all of the interpretations and the opinions that the research department gathered, they have varied from time to time because the last time we discussed this particular matter, the proponents of deleting the word "sex" at that time saw fit to include the word "sex" and to include "marital status" and I think "marital status" was referring primarily to women. They weren't attempting to try to protect the marital status of men.

I'd like to say further that it doesn't surprise me that women are some of the proponents of this particular motion that we're discussing here now because, from what I have read in history books, there were slaves who didn't want to be freed, too. So I can understand this. And in terms of the attorney general's point of view, I also know that his point of view is one that many attorneys in this room agree to. And I also take issue with the fact that there are those who are appealing to the 57 attorneys that we have here. And I believe that the 57 attorneys here haven't agreed on any one particular thing up to this time. And I don't see any reason why there should be any unanimity of opinion at this particular time. (laughter)

There are a number of things that I could say in behalf of the progress that women have achieved over the years. The fact that the president of the United States has seen fit to set up a women's status commission, of which Mrs. Roosevelt is the chairman, the fact that the governor of the state of Michigan is in the process of establishing a commission is also significant; and the fact that our 1908 constitution was vague of any language at all covering sex should be worthy of recognition, and that this constitution should not bypass the opportunity of including in this section of our constitution one word which would give greater coverage as well as protection.

Now, there are those who seem to think that this language will remove the rights of women. If you can — I started to say those of you who can read but I think most of you can read. You may not like what you read, but you can read. We are not saying equal rights. We're saying equal protection of the rights that we have. And there's a big difference. There's a sea of difference between equal rights and equal protection. I am opposed to the equal rights amendment, as such, as the women on the hill have been fighting for for a number of years. But I am in favor of equal protection because, even though I'm not an attorney, I know that there's a big difference between men and women. (laughter)

The last proviso that Miss Donnelly and I paired on was reworded, and I agree with the committee on style and drafting in the fact that they did improve the language by striking out "classification" and making the last sentence read as follows, "This section shall not be construed to prohibit reasonable legislation for the protection of women." I think this is an improvement, and I think with this proviso it gives this particular section of article I the proper clarification and the support that it needs. Mr. President, at this time I oppose the reconsideration of this matter because I think it has been thoroughly discussed.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that the convention stand in recess until 7:30 p.m.

VICE PRESIDENT HUTCHINSON: There are 2 requests for leave before we put the motion.

SECRETARY CHASE: Mr. Walker and Mr. Snyder ask to be excused from the evening session.

VICE PRESIDENT HUTCHINSON: Without objection, they will be excused. The Chair hears no objection. The excuses are granted.

Mr. Van Dusen moves that the convention stand in recess until 7:30 p.m. All those in favor will say aye. Opposed will say no.

The motion prevails. The convention stands in recess.

[Whereupon, at 6:05 o'clock p.m., the convention recessed; and, at 7:30 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: The convention has before it immediately the motion of Mr. Cudlip to reconsider the vote upon amendments made to article I, section 2. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, we heard at some length the pro and con of this motion before the evening recess. I would move that further debate on the motion to reconsider be limited to 10 minutes.

VICE PRESIDENT HUTCHINSON: There are 6 speakers seeking recognition. Mr. Van Dusen moves that further debate upon the motion to reconsider be limited to 10 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair next recognizes Mr. Norris. The convention will please be in order.

MR. NORRIS: Mr. President, fellow delegates, I think the matter that we have before us is a most significant concern not only of women, but of all of the people of this state and ought to be treated as such. I regret that the style and drafting committee has taken it upon itself, in the absence of some of the delegates who are members of that committee, to make the suggestion regarding reconsideration. I appreciate the excellent work that its chairman and his committee have done, particularly in this last 4 or 5 day period when they met solidly and covered the 16,000 words which you now have before you. I am proud of the work that the committee has done, but I do think that it should have confined itself to matters of form and not of substance — though the matter of sex could be considered both. (laughter)

I think there are 5 short observations I'd like to make with regard to this matter: first, under the common law, a woman was a chattel; she did not exist in her sole and separate person. Since that time there has been a tremendous development in the law to a position of status wherein a woman in law exists as a sole and separate person. This transition is one that has been recognized in Michigan in a variety of forms and manners. With regard to the general principle, what we are discussing is whether or not a woman may be regarded on her merit as an individual; whether she shall be accorded equal protection of the laws and be accorded a nondiscriminatory status in employment, in housing and other of her political and civil rights. Now, this is a fundamental proposition. There is a wide reach which we may envision wherein the status of women in the interest of the total society may be recognized and may be implemented. In the last convention, the women in this state could not vote and were not participants in that convention. The situation has changed and we may envision, on the trajectory of the past, a future in which even greater dignity and status will be accorded to women.

I trust too that some dignity and status might be accorded to the speaker, Mr. President.

VICE PRESIDENT HUTCHINSON: The convention will please be in order.

MR. NORRIS: Now, with regard to the question of other states, we do have, in almost the precise language of the equal protection clause suggested by the declaration of rights committee, this language:

> No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.

Modern constitution writing recognizes that to accord equal dignity and to elevate the status of women and integrate women in the interests of the total society, that this ought to be regarded in the constitution.

I called attention on a previous occasion to the fact that the bill of rights of Canada, of a sister country, adopted by that country in 1960, states as article I of that bill of rights:

> It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, religion, or sex, the following human rights and fundamental freedoms: the right of the individual to life, liberty, security of person and enjoyment of property and the right of the individual to equality before the law and the protection of the law.

These are 2 areas which apparently are of some concern to some of the people on this proposition.

We have already discussed the question of reasonable classification and we do have the amendment as an intrinsic part of this particular amendment to take care of the problems that may come within the range of that particular problem. "We have innumerable cases which come to the conclusion that women, or a particular class of women, may be singled out for special treatment in the exercise of the state's protective power without violation of the fourteenth amendment" — and I'm quoting from Professor Corwin. I suspect, if we want to have equality before your opinion, we could quote professors of constitutional law with dignity equal to that of Professor Kauper.

I think that, with regard to Professor Kauper's observations, I had a particular part to play in that. I originally asked Professor Kauper for his views on a number of constitutional law matters that came before the declaration of rights committee. He is a very able man and has made an outstanding contribution in teaching and learned scholarship in this area. But what he states is merely an opinion. What he states is merely his conclusion. He also made certain observations under which, if taken, we would not have an equal protection clause at all before this convention; particularly would we not have one in the language of the Hawaiian constitutional provision, which was a proposal that Dr. Hannah submitted to the committee and which I submitted to the committee and which is, with slight embellishment, that which is before you.

Basically, what we are doing here is according a status to women, the thrust of which is in accordance with the sweep of history to give to women, in the manifold ways in which they have occupied numerous roles in our society, an even greater integration, a more intimate integration, and to accord equal status and dignity so that the whole of society, the whole of the family, can be enhanced in the interests of the values which we seek to declare in this declaration of rights. I urge that we vote against the motion for reconsideration.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, because of the very learned and able remarks of Chairman Cudlip, I will take only a small portion of the rest of the 10 minutes. I would like to assure you, however, that these people wanting "sex" in this section of the constitution were warned, even in the beginning, in the committee, not necessarily that it would do this or that but that they were taking great chances. They were asking for an unnecessary risk.

I would like to suggest to you that Mr. Cudlip is speaking as an attorney. He has no axe to grind. He is not trying to promote any particular philosophy or anything, but he is simply giving his opinion of the possible legal consequences of this. There can't be any question but what it is quite possible that this provision will lead to much more trouble than to any good that it might do. In the committee, the only reason I could find that anybody would openly express for putting it in here was constitutional recognition, which doesn't seem to be much of a justification in view of the recognized risk.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, I rise in support of keeping the word "sex" in the section with the sentence, the proviso, at the end. I believe we have come a long way in American jurisprudence and social thinking from the day when, legally, women, idiots and drunkards were classified together.

Now, I believe that Dr. Kauper and the chairman have very adequately pointed out some possible dangers in this provision. I would like to point out — and Mr. Cudlip did refer to this — that Dr. Kauper did say that the provision in respect to reasonable classification would meet this objection in part. That last sentence is a quote from his letter.

When style and drafting came back, they changed the reasonable classification to use the term that this would not prohibit reasonable legislation. And I'm inclined to think that that phrase more than deals with the concern, and the very legitimate concern, to see that we do not wipe out reasonable health, safety and other legislation for women. This does mean that unreasonable legislation would not be permitted if it were used as a subterfuge for discrimination or some other matter in relation to sex. I think that this is a step forward. I urge the inclusion and I point out that this is a broad principle stated in the declaration of rights. For that reason I feel that it very properly belongs here and that we should take this step forward.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the motion of Mr. Cudlip to reconsider the vote by which article I, section 2 was amended. All those in favor of reconsideration will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye. Those opposed will vote nay. Have you all voted? This is on the motion to reconsider. Have you all voted? If so, the secretary will lock the machine and record the total of the vote.

SECRETARY CHASE: On the motion to reconsider offered by the committee on style and drafting, the yeas are 82; the nays are 43.

VICE PRESIDENT HUTCHINSON: The motion to reconsider prevails. The question is upon the amendments, which the secretary will now read.

SECRETARY CHASE: The amendments are as follows:

1. Amend article I, section 2 (second column, line 10) after "religion,", by striking out "sex"; and
2. Amend article I, section 2 (second column, line 12) after "legislation.", by striking out the balance of the section.

[Inasmuch as the language of the second amendment had already been inserted and appears in the third reading document as reported by the committee on style and drafting, the amendment appears here as an amendment to strike out the language rather than to insert.]

VICE PRESIDENT HUTCHINSON: The question is upon the amendments.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I believe we've heard most of the debate on this. I'd move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: The question is on the motion of Mr. Van Dusen to limit debate. All those in favor will say aye. Opposed will say no.

The motion prevails and debate is limited to 5 minutes.

MR. MARSHALL: Mr. President, I'd like to move that Mr. Van Dusen be limited to 3 times a day: once in the morning, in the afternoon and the night to move the previous question or limit debate. (laughter)

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I want to emphasize again tonight that the fundamental purposes of all of us in this particular matter, I am sure, are the same; that is, that we all are interested both in the protection of women and then seeing to it that unnecessary or unfair discrimination does not exist. We recognize that, at the present time, there is unfair discrimination on account of sex—at least I do. We recognize also that we have certain protections on account of sex.

Speaking as a woman, I feel discriminations are better dealt with by specific statutes rather than by some blanket statement in the constitution which might have the effect of doing away with some of the protections that we now have and need. In any case, there is such serious room for doubt on this question and, considering the good record that Michigan has in this particular field, I think that we can continue to work at this problem—and it is a problem; I am willing to recognize this—in terms of specific statutes to meet specific problems, rather than in terms of something that might lead to very unfortunate results. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Pass.

VICE PRESIDENT HUTCHINSON: Miss Donnelly.

MISS DONNELLY: I rise to oppose these amendments as I attempted to oppose the motion to reconsider but my name wasn't high enough on the list. I think initially the statement that William B. Cudlip, esquire, gave as a reason we should reconsider is one of the underlying reasons we should bear in mind: women need to be discriminated against for their own protection. This attitude has existed for, certainly, more years than I have lived. I don't want it to continue to exist. I am very, very, very mindful of the discrimination against women. I have found no discrimination for my protection. I haven't found discrimination for women—or against them—for their protection yet. I think the underlying motive behind this is not to protect women. And I object to these amendments very strenuously. I don't think they will protect women. I think they aid in discrimination against them.

MISS HART: Point of order, Mr. President. Could we ask, Mr. President, that the people who want to caucus, caucus in the corridor, so those of us who would like to hear the debate may be privileged to do so?

VICE PRESIDENT HUTCHINSON: The members of the convention will please cooperate and recognize that it is very difficult to carry on serious consideration against a continual undertone of talk. If you find it necessary to talk about things, kindly go out into the corridor so that the people who are in their seats here and want to hear, can hear. For what purpose does Mrs. Hatcher rise?

MRS. HATCHER: I rise for a point of information. I'd like to ask Mrs. Cushman a question, through the Chair.

VICE PRESIDENT HUTCHINSON: Well, the Chair would put you on the list for that purpose, Mrs. Hatcher, and will recognize Mrs. Judd.

MRS. JUDD: Mr. President, I simply want to state that I agree with the person who said that the lawyers disagree; and, by now, you gentlemen have probably found out that the ladies disagree also, and that you cannot decide this issue merely on the point of being nice to the ladies. You're going to have to decide the issue on its merits, and its merits are mainly a legal issue.

I only want to second everything Mrs. Cushman has said and point out also that what we seem to be doing in this provision is to create a problem by putting the word "sex" in and then trying to solve the problem by putting in 3 more lines that would effectively take it out. This seems to me to be cluttering up the constitution unnecessarily, and the clearest way to solve it is just take out the word "sex."

VICE PRESIDENT HUTCHINSON: Mr. Lawrence.

MR. LAWRENCE: Mr. President, it is with some trepidation that I venture to differ with Professor Kauper, Mr. Cudlip and others. But I don't think that you looked at this provision. This is to prevent discrimination against, not discrimination in favor of. This is to prevent discrimination against women. If this is so wrong, then those of you who feel it is a sword instead of a shield had better take out "race, color, religion and national origin" because it will harm those who seek to be protected on those grounds as well.

VICE PRESIDENT HUTCHINSON: Mrs. Hatcher.

MRS. HATCHER: Mr. President and fellow delegates, I'd like to ask Mrs. Cushman a question, through the Chair. Mrs. Cushman, what portion of the state statute or regulations governing women in the state of Michigan, do you feel that this particular provision would violate?

MRS. CUSHMAN: I'm not a lawyer. I consider this a legal question. However, I would point particularly to some of the questions and protections that women have in probate matters where they do have, for example, the right, as I understand it, of living rent free in the husband's home after his death for a year, and this sort of thing, where women have protections that are not equally extended to men. This is not a case of lifting something that's too heavy, which is a police power matter. This is a case of legal protection purely on the basis of sex.

VICE PRESIDENT HUTCHINSON: Time has expired on debate on this question. The question is upon the amendments which have been read. All those in favor will say aye. Those opposed will say no.

The amendments are adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is asked for. Is the demand supported?

MISS DONNELLY: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Miss Donnelly demands the yeas and nays. Is the demand supported? A sufficient number up. The yeas and nays are ordered. All those in favor of the amendments will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 82

Allen
Batchelor
Bentley
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Figy
Finch
Follo
Gadola
Goebel
Hanna, W. F.
Haskill
Hatch
Heideman

Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Krolikowski
Kuhn
Leibrand
Leppien
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Ostrow
Page
Perras
Powell
Prettie
Pugsley
Radka
Rajkovich

Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays — 48

Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Beaman
Binkowski
Bradley
Buback
Butler, Mrs.
Donnelly, Miss
Douglas
Downs
Elliott, Mrs. Daisy
Everett

Farnsworth
Faxon
Garvin
Gover
Greene
Gust
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Koeze, Mrs.
Lawrence
Lesinski
Madar
Mahinske

Marshall
Martin
Murphy
Nord
Norris
Pellow
Perlich
Perras
Plank
Pollock
Stopczynski
Suzore
Tubbs
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the amendments, the yeas are 82; the nays are 48.

VICE PRESIDENT HUTCHINSON: The amendments are adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Kuhn and Stevens offer the following amendment:

1. Amend article I, following section 23 (column 2, line 24) by adding a new section 24 to read as follows:

"Sec. 24. The right of the owner of real property to convey, grant, or devise said property shall be limited only by general law. The legislature shall not delegate this power.".

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Following Mr. Madar's suggestion, I at this time would move to limit debate on this amendment to 10 minutes.

MR. BINKOWSKI: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State the point.

MR. BINKOWSKI: Has this amendment not been offered on second reading and rejected by the convention?

VICE PRESIDENT HUTCHINSON: Can you cite the place?

MR. BINKOWSKI: No, I can't.

MR. KUHN: Mr. President, may I speak on the point of order?

VICE PRESIDENT HUTCHINSON: Yes, Mr. Kuhn, you are recognized for that purpose.

MR KUHN: Mr. President, this came up on first reading in committee of the whole. This is Committee Proposal 45, as it was adopted by the committee on rights, suffrage and elections. It had a roll call vote, but it was the same as the one we had earlier. It was on a committee of the whole roll call vote, and not by the convention. It was not offered on second reading.

VICE PRESIDENT HUTCHINSON: The Chair will point out that the amendment to which the Chair has been referred, offered by Mr. Stevens, is on page 1151 of the journal and it does not appear to be identical in substance. The last sentence of the presently offered amendment which says, "The legislature shall not delegate this power," does not appear on that amendment on page 115; so the Chair would rule that the present amendment is in order.

MR. KUHN: Thank you, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moved to limit debate to how long?

MR. VAN DUSEN: Ten minutes.

VICE PRESIDENT HUTCHINSON: Ten minutes. The question is upon the motion of Mr. Van Dusen. All those in favor will say aye. Opposed will say no.

The motion prevails. Debate is so limited. The Chair now recognizes Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, this is Committee Proposal 45 as it was adopted by the committee on rights, suffrage and elections. It was a very, very close vote on first reading on a roll call vote. We were very short of members. The vote was 59 to 63. We did not offer it again on second reading. We were waiting for more members to be present. We thought that a 63 to 59 vote was not conclusive. Therefore, we are offering it at this time tonight.

Now, what does this amendment do? It merely puts in our constitution a fundamental right which the people have and which should be spelled out in our constitution. It says that they may sell their property or convey it to anyone they wish, only to be limited by the general law. And I urge your adoption of this fundamental right for the property owners of the state of Michigan.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Kuhn and Mr. Stevens. Mr. Martin.

MR. MARTIN: Mr. President, this is essentially the same amendment that was offered by Mr. Stevens, except that it has the additional proviso that the legislature shall not delegate this right. Aside from that, it's exactly the same amendment that was offered on second reading and was turned down by a vote of 73 nays to 47 yeas. And I certainly urge that we handle the amendment the same way that we did at that time and that we defeat it. We don't need to go over all the arguments as to why it's an undesirable amendment but I think it's apparent on its face what the amendment is designed to do. I certainly am not going to restate all the arguments, but that certainly is the situation.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I wanted to talk after Mr. Martin this time. This was never designed to do anything except what it clearly says. There was never any intent to write any hidden meaning into this provision. It's just an attempt to give some protection to the home owner, and that's all it's ever been.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Kuhn and Mr. Stevens, which has been read. Mr. Sharpe.

MR. SHARPE: Mr. President, I'd like to demand the yeas and nays, please.

VICE PRESIDENT HUTCHINSON: Mr. Sharpe demands the yeas and nays. Is the demand supported? A sufficient number up, 1/5 or more of the members present voting in favor thereof. The yeas and nays are ordered. All those in favor of the amendment will vote aye. Mr. Downs.

MR. DOWNS: Am I in order to speak on the amendment, Mr. President?

VICE PRESIDENT HUTCHINSON: You are still in order. The vote has not yet been ordered.

MR. DOWNS: I wish to urge a no vote on this matter. We discussed this at great length in committee of the whole. We discussed this at great length on second reading and I do not mean to repeat all the discussions we had there. This, in my way of thinking, is an indirect attempt to get at rule 9 which was issued by the corporation and securities commission and is now pending in the court. I believe that this language either means too little or too much; but the attempt is obviously to get at that rule through this method, which I do not believe belongs in the constitution. I therefore urge a no vote on the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Yeager.

MR. DADE: Mr. President.

MR. YEAGER: Mr. President —

VICE PRESIDENT HUTCHINSON: Mr. Dade.

MR. DADE: I want to reiterate —

VICE PRESIDENT HUTCHINSON: Mr. Dade, the Chair will recognize you after Mr. Yeager. Mr. Yeager is on the list ahead of you.

MR. DADE: Thank you.

MR. YEAGER: Mr. President, I think it is fair to point out this is not the ordinary run of the mill amendment. This originally came out of the committee as a committee proposal and I think this should certainly bear review. I would urge a yes vote on this amendment for the reassurance of the property owners in this state, who are the largest class of taxpayers that we have.

VICE PRESIDENT HUTCHINSON: Mr. Dade.

MR. DADE: Mr. President, I merely want to reiterate, as I said when this was earlier discussed, that this does not assert any new right; that the property owner is adequately protected already. It's entirely unnecessary and I urge a no vote because I think this would be a backward step if we approve it.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered. The delegates will please clear the machine. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 54

Anspach
Batchelor
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Erickson
Everett
Figy
Finch
Goebel
Gover

Haskill
Hoxie
Hubbs
Iverson
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
McAllister
Millard
Mosier
Page
Plank
Powell

Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Turner
Tweedie
Upton
Wood
Yeager

Nays — 70

Allen
Follo
Murphy

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Beaman
Bentley
Binkowski
Bradley
Buback
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Farnsworth
Faxon
Gadola
Garvin
Greene
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Higgs
Hodges
Howes
Jones
Judd, Mrs.
Krolikowski
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Nord
Norris
Ostrow
Pellow
Perlich
Perras
Pollock
Rajkovich
Romney
Sablich
Spitler
Staiger
Sterrett
Suzore
Tubbs
Van Dusen
Wanger
White
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Kuhn and Stevens, the yeas are 54; the nays are 70.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Marshall, Mrs. Hatcher, Mr. Downs, Mrs. Daisy Elliott and Mr. Buback offer the following amendment:

1. Amend article I, section 11 (first column, beginning on line 5) after "Sec. 11.", by striking out the balance of the section and inserting "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.".

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Marshall and others. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, all this does is insert the language that's in the federal constitution. At this time, I yield to Delegate Downs.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, I urge a yes vote on this amendment. This was originally presented as the Donnelly-Bledsoe amendment and this simply replaces the language of the United States constitution on search and seizure. Basically, what it does is protect individuals against unreasonable search and seizure but permits police officials and law enforcement officials to use reasonable search and seizure, which is an historic standard. I wish to reiterate that this was originally introduced by 2 other delegates and I in no way claim credit for the concept. I wish to yield my support to the principles of the federal constitution.

VICE PRESIDENT HUTCHINSON: Mr. Prettie.

MR. PRETTIE: Mr. President, a point of order. Referring to journals of this convention, page 363 in convention session, it appears that this identical amendment was proposed, as Mr. Downs has suggested, and it was not adopted. I therefore raise the question as to whether it is now in order.

VICE PRESIDENT HUTCHINSON: The point is well taken. The identical amendment was offered on second reading and not adopted.

MR. DOWNS: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State it.

MR. DOWNS: Would you clarify where on third reading it is stated that we cannot introduce amendments that were offered on second reading? I may have misunderstood you, but I thought that you ruled otherwise earlier today.

VICE PRESIDENT HUTCHINSON: Certainly the Chair never intended to rule the way you understand it, Mr. Downs. The Chair stated earlier in the day that at a proper time, any amendment to the body of the constitution might be offered if that amendment at that time was in order and also stated that the Chair wasn't going to handle the thing in advance if there were some amendments that might not be in order. But the Chair would invite your attention to section 401 of Mason's, paragraph 4:

> An amendment which would put before the house a question identical with one previously decided by the house during the session, whether in an affirmative or in a negative form, is not in order.

And I would invite your attention further to Mason's, section 398, paragraph 1:

> An amendment, once adopted, may not thereafter be changed or modified, except by reconsideration of the vote by which it was adopted.

Of course, this is an amendment which was not adopted. So that doesn't apply. But the other seems to: an amendment which would put before the house an identical question.

MR. DOWNS: Then, Mr. President, on a point of parliamentary inquiry, motions to reconsider if this were an amendment, but not being that, it would mean a motion to reconsider the whole article, I assume? I'm sorry. I withdraw that one. If at a later date there is a substitute article put in, is it then possible to strike and insert, part of which insert includes this, and other amendments as well that are not identical, to those that have been handled? The ruling is that an identical amendment cannot be put in; is that correct?

VICE PRESIDENT HUTCHINSON: An identical amendment cannot. If something was offered as a substitute, which had substantial changes from the original, then obviously it would not be an identical amendment and it might be in order.

MR. DOWNS: Thank you.

MISS DONNELLY: Mr. President.

VICE PRESIDENT HUTCHINSON: Miss Donnelly.

MISS DONNELLY: At this time, would it be in order that we then suspend the rules to allow this amendment to be voted upon?

VICE PRESIDENT HUTCHINSON: It would be in order for a motion to be made to suspend the rules to permit reconsideration.

MISS DONNELLY: I so move.

VICE PRESIDENT HUTCHINSON: Miss Donnelly moves to suspend the rules in order to permit reconsideration of the vote by which a particular amendment, which the secretary will report, failed to pass.

For vote on amendment, see above, page 686.

SECRETARY CHASE: The amendment previously offered, the same amendment offered now by Mr. Marshall, Mrs. Hatcher and others, is to strike out the language of section 11 and insert the new language to read:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

VICE PRESIDENT HUTCHINSON: The question is upon suspending the rules and the Chair will call for a division since 2/3 of the members present are required to vote affirmatively in order to suspend the rules. All those in favor of suspending the rules to permit reconsideration will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to suspend the rules to permit another motion to reconsider, the yeas are 57; the nays are 69.

VICE PRESIDENT HUTCHINSON: Two-thirds of the delegates present not having voted in favor thereof, the motion does not prevail.

SECRETARY CHASE: Messrs. King and Allen offer the following amendment:

1. Amend article I, section 11 (column 1, line 10) after "affirmation.", by inserting "Unless otherwise provided by law,"; so that the sentence beginning with line 11 will read:

Unless otherwise provided by law, the provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Allen. Mr. King.

MR. KING: Mr. President, fellow delegates, this amendment merely provides that in the event that the question of the constitutionality of this issue is at some future time resolved to the general satisfaction of everyone, the legislature will then be in a position to revise the Michigan laws accordingly. I don't think there is anyone left in the room who would not agree that the constitutionality of the existing language is subject to some doubt. I think that's a reasonable statement with which we can all find complete agreement.

This amendment would allow the legislature, at such time as they see fit, to make a change in the Michigan law to bring it in line with the United States of America. I think this is the sort of amendment that most anyone would agree under the circumstances would be appropriate and I am hopeful that you will be able to support it.

I hope debate is not protracted on this thing. I have no intention of discussing the merits of the question because this has been done in the past and done very completely and thoroughly on both sides. This amendment would merely, as I state, provide an opportunity for our legislature to bring the Michigan laws up to date with the ultimate decision of the supreme court of the United States.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this matter to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate on the amendment to 5 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I simply want to suggest that this is a desirable amendment because there are many of us, or a number of us at least, who have voted for the provision which is now included in the general draft before us with the knowledge that the supreme court may invalidate this provision. And if it does, it's highly desirable that the legislature should have the opportunity to correct the legislation relating to this point. I hope that this will be adopted.

VICE PRESIDENT HUTCHINSON: Mr. Radka.

MR. RADKA: I rise to speak against the amendment. Delegate King has stated that there is some doubt as far as the constitutionality of this provision in the constitution. As Dr. Norris so ably stated on second reading, this is a matter for the courts. And I would say to the delegates briefly this evening: let's not act like a court here tonight. If we're going to resolve the doubt, let's leave the provision in the constitution. Let the courts resolve it and let us here tonight resolve the doubt in favor of the general public and against the criminal.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: Mr. President, replying to Mr. Radka's argument, I think that this language, when put with the language that's already in, does resolve the doubt until the supreme court should make a more definite interpretation in favor of the proviso clause. I don't think there's any question about it. And I think those who are sticking with the proviso clause sincerely believe that the Mapp case does not apply. But I think we will all have to admit that there have been enough circuit court decisions here in Michigan since the Mapp case came down, that there is a reasonable doubt. I happen to think it does apply, but let's not take that. I think we do have to concede there is a reasonable doubt about this.

Now, if it does happen that the Mapp case does apply and there is a reasonable doubt about it, let's not leave our constitution completely blank on the thing. Let's have something that allows the legislature to act and which shows we have recognized the problem. This will give the legislature the elasticity to do something if the proviso is knocked out. In other words, this allows it to be done. It recognizes something can happen. And if we don't do it, it seems to me we go to the people saying: we're writing a new constitution and we already perhaps have created a situation which is unconstitutional.

VICE PRESIDENT HUTCHINSON: Mr. Iverson.

MR. IVERSON: Mr. President, I'd like to ask Mr. King a question. Mr. King, you stated that if, by any chance, the supreme court declared this provision unconstitutional, your amendment would then permit the legislature to act. Is that correct?

MR. KING: Yes.

MR. IVERSON: Without your amendment, wouldn't that be the situation? Wouldn't the legislature have an opportunity to act in that situation?

MR. KING: Are you asking me whether or not the legislature can overrule the constitution of the state of Michigan?

MR. IVERSON: If the supreme court has decided it is unconstitutional.

MR. KING: No. I don't think that they would.

MR. IVERSON: Mr. President, I submit that this argument does not hold water. I would submit that if this provision that is objected to in the present wording of the constitution were declared unconstitutional by the United States supreme court, the legislature would certainly have authority to act in whatever area they might wish to.

MR. KING: Would the gentleman yield?

MR. IVERSON: Yes.

MR. KING: What action do you anticipate the legislature would take?

MR. IVERSON: Whatever action they might take.

MR. KING: Mr. President, Mr. Iverson, could you give us an example of something that they might be able to do?

MR. IVERSON: Anything within the confines of what the supreme court of the United States has said they could.

MR. KING: I'm sure that I don't know what Mr. Iverson has in mind.

VICE PRESIDENT HUTCHINSON: Mr. King, the Chair's sorry, you don't have the floor. Mr. Iverson had it.

MR. KING: I thought he yielded to me.

VICE PRESIDENT HUTCHINSON: The Chair understood he yielded to you for a question. There is another speaker on the list. Mr. Sterrett.

MR. STERRETT: Pass.

VICE PRESIDENT HUTCHINSON: Mr. Sterrett passes. Mr. King, do you care to be recognized further?

MR. KING: Just very briefly, Mr. President. It seems to me with this sort of proviso, the legislature could go in and basically, as Mr. Allen points out, we, by adopting this short sentence, these few words, are recognizing the fact that there is some doubt here, and by so doing, I think that we are—

VICE PRESIDENT HUTCHINSON: The Chair's sorry. The time has expired. The question is upon the—

MR. RADKA: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Radka, for what purpose do you rise?

MR. RADKA: I move to extend the time for a period of 2 minutes so Miss McGowan might say what she intended to say. She was asking for the floor.

VICE PRESIDENT HUTCHINSON: Mr. Radka moves to extend debate on this amendment for 2 minutes and that the Chair recognize Miss McGowan.

MR. MAHINSKE: Mr. President, I'd like to extend it to 10 minutes. I think that there were other speakers—myself being among them—seeking recognition.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske moves to extend debate for 10 minutes.

MR. DOWNS: Point of inquiry, Mr. President.

VICE PRESIDENT HUTCHINSON: State your point.

MR. DOWNS: How many names are there on the list?

VICE PRESIDENT HUTCHINSON: The Chair apologizes for apparently not having looked over in that direction as he didn't have any more members on the list. Mr. Sterrett was the last one and the Chair apologizes to Miss McGowan because, as I say, the Chair just didn't happen to look over that way and so didn't see her. Unless you also want to —

MR. MAHINSKE: I had been seeking recognition.

VICE PRESIDENT HUTCHINSON: You had been seeking recognition? So there are 2, Mr. Downs.

MR. DOWNS: All right.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske moves to extend debate by 10 minutes. All those in favor will say aye. Opposed, no.

MR. DOWNS: Mr. President, I have a preferential motion.

VICE PRESIDENT HUTCHINSON: State it.

MR. DOWNS: I move that each person desiring to speak be allowed 2 minutes each for speaking. I believe there are 2 speakers, so that would make 4 minutes.

VICE PRESIDENT HUTCHINSON: That would be true, unless there were others who sought recognition in the meantime.

MR. DOWNS: There is a third one. May I make that 6 minutes, 3 speakers at 2 minutes each? Does that check with the president? (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Downs moves to extend debate by 6 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Miss McGowan.

MISS McGOWAN: Mr. President and fellow delegates, I rise to speak against this amendment. I feel that legally, it does absolutely nothing. This is a matter for the courts. I think we should leave it as it is. If the court decides it's unconstitutional, we'll all abide by that. But I would ask you to vote against this amendment. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: I was and still am one of those that support the section as written and I would oppose this amendment for the simple reason that if the amendment is not declared unconstitutional, this amendment could be broadened. And I think it's broad enough as we have it. If you'll notice the existing language in the 1908 constitution mentions bombs, firearms, blackjacks, brass knuckles, and so forth, and then it mentions "or any other" thing. This is the objection that I have to the existing language in the 1908 constitution. This has been cured and perfected by the language that we have and I wouldn't want to make it possible that we could get this type of language back. And I am opposed to the amendment that we now have before us.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President, I disagree with Mr. Mahinske's interpretation. I don't think this broadens it, because it starts out in the next line with the sentence, "Unless otherwise provided by law, the provisions," and so forth. I think it's a very slight improvement. I think it still shows a contemptuous intent of this constitutional convention for the courts, but I do think it's at least a back door escape for the delegates to at least not be lined up as voting against the federal constitution. For that purpose, I'd say we should support it.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. King and Mr. Allen, which has been read. All those in favor will say aye. Opposed will say no.

MR. FAXON: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Faxon demands the yeas and nays. Is the demand supported? Sufficient number up. The yeas and nays are ordered. This is a record roll call vote. The question is upon the amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—51

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Brown, G. E.
Brown, T. S.
Buback
Cushman, Mrs.
Dade
DeVries
Downs
Durst
Elliott, Mrs. Daisy
Everett
Faxon
Gadola
Garvin
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Hodges
Judd, Mrs.
King
Krolikowski
Lawrence
Lesinski
Marshall
Martin
McLogan
Millard
Mosier
Murphy
Nord
Ostrow
Pellow
Perlich
Pollock
Sablich
Staiger
Stamm
Stopczynski
Suzore
Wanger
White
Young

Nays—76

Batchelor
Beaman
Bentley
Blandford
Boothby
Bradley
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Follo
Goebel
Gover
Gust
Haskill
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Jones
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Madar
Mahinske
McAllister
McCauley
McGowan, Miss
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. King and Allen, the yeas are 51; the nays are 76.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Murphy offers the following amendment:

1. Amend article I, section 11 (column 1, line 7) after "seizures.", by striking out the balance of the section.

MR. MURPHY: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Murphy.

MR. MURPHY: Is it possible to amend this amendment to include from "no" to "affirmation?" Would it be possible to amend it from the floor?

VICE PRESIDENT HUTCHINSON: You may revise your amendment if the secretary understands what you want to do.

MR. MURPHY: I want to keep the words, "No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation." I'd like to amend it to include that also.

SECRETARY CHASE: In other words, Mr. Murphy, you want to strike out the remainder of the section at the end of line 10 after "affirmation?"

MR. MURPHY: Yes. Right. Correct.

SECRETARY CHASE: Mr. Murphy revises his amendment as follows:

1. Amend article I, section 11 (column 1, line 10) after "affirmation.", by striking out the balance of the section.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President, was this not offered on second reading?

VICE PRESIDENT HUTCHINSON: Do you raise the point of order?

MR. STEVENS: Point of order. I don't have the reference to it.

VICE PRESIDENT HUTCHINSON: We'll check. The point is well taken. The amendment was offered on second reading by Miss Donnelly and Mr. Lawrence.

MR. MURPHY: Mr. President, you rule that I can't do this?

VICE PRESIDENT HUTCHINSON: That is correct, Mr. Murphy.

MR. MURPHY: Then I will leave it as I presented it at first. I believe some people have argued that we should leave this to the courts. I think if we just use the words that I have presented here, then it would be up to the court to make a decision.

SECRETARY CHASE: Mr. Murphy revises his amendment again to stand as originally offered:

1. Amend article I, section 11 (column 1, line 7) after "seizures.", by striking out the balance of the section.

VICE PRESIDENT HUTCHINSON: Mr. Nord.

MR. NORD: Mr. President, I would like to speak in support of the amendment. As the amendment now stands, we have nothing but the bare statement of principles: persons, houses, papers, possessions of every person shall be secure from unreasonable searches and seizures. It says nothing whatever about admissibility or inadmissibility of evidence. That is not to be a constitutional question. That will be entirely a judicial question. Now, the reason I speak in favor of this — there are 2 reasons, as a matter of fact: 1, because the statement, I believe, is one we could not disagree with. It's a clean statement of principle; and 2, it leaves it to the law to decide how this is to be carried out and to the courts to decide what permissible ways there are.

The main reason why I support this provision, however, is as follows: when we had the search and seizure discussions near the beginning of the convention, many of us argued, many of us concluded that the language presently found before us, the so called proviso, is unconstitutional. There are many of us who have taken an extremely strong view on that, and I would like to state for the record that my view is this strong that I cannot support any document, I cannot urge any document on any person which I know, as a matter of conviction, to be unconstitutional. I believe there are many of us here who are absolutely certain, we are certain on the basis of professional experience that the proviso is unconstitutional, and I certainly do not intend to support any document that contains an unconstitutional provision and ask the people to adopt it. And I will state for the record that if this proviso is not removed, as is now suggested, it would be sufficient, in my opinion, to cause me to refuse to vote for the constitution when the convention completes its work, no matter what else is in it, and to argue before the people the same way, that they should not fly in the face of the law and adopt what they call a constitution but is actually an anti constitution. I therefore conclude, Mr. President, that we ought to stick to the principles and remove unconstitutional matter from the constitution.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Have you any further speakers, Mr. President?

VICE PRESIDENT HUTCHINSON: One at the moment.

MR. VAN DUSEN: I move that further debate be limited to 3 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit further debate to 3 minutes upon this amendment. All those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Sharpe.

MR. SHARPE: Mr. President, I'd like to ask Dr. Nord a question, if he would care to answer. Dr. Nord, you just stated you wouldn't support this document if this proviso that was added was left in it. I'd like to ask you if you'd support the document with the proviso out of it.

MR. NORD: Which provides what? I didn't hear the end. Which provides what?

MR. SHARPE: I beg your pardon?

MR. NORD: I didn't hear the end of your question.

MR. SHARPE: Would you support the document if this proviso was eliminated?

MR. NORD: I would not support it because there is another proviso which is unconstitutional as well. (laughter) But I'll tell you what. I'll make a deal with you. If you'll strike this unconstitutional one and the other one, which is one on the senate, I will support it. Just try me. (laughter)

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Murphy, which has been read. All those in favor will say aye. Mr. Hodges.

MR. HODGES: Mr. President, I rise with some trepidation to oppose this amendment. I feel that the sentence that is being left out is a very important one. I think this opens the door to some further problems. When you're taking away the warrant to search a place of residence, without going before a court, I think you're raising a very serious question. Now, I realize that this is probably covered under federal law, but the reverse argument can be made for the proviso. And I think we wouldn't be gaining anything here by adopting this except perhaps knocking out some obnoxious language. But in doing so, we would be also knocking out some very important language and, for this reason, I would very hesitatingly oppose the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Tubbs.

MR. TUBBS: Mr. President, may I remind Delegate Nord that matters of constitutional law are pretty generally matters of opinion. And if he is so sure that his opinion is always right, then I'll go along with it. But I am not sure of that fact and I'm sure he isn't either.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Murphy. Mr. Woolfenden.

MR. WOOLFENDEN: I would like to observe to Dr. Nord that if he votes against this constitution for this reason, the existing constitution has got virtually the identical language in it. So he is no better off.

MR. RADKA: I would like to make a deal too. I would like to make a deal with the people of this state and ask the delegates of this convention to vote against this amendment and, at least in this state, have an expression of a majority of the delegates who will say: we would like to reverse the trend of sentimentality for the criminal.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the amendment of Mr. Murphy. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

VICE PRESIDENT HUTCHINSON: Is that all of the amendments?

SECRETARY CHASE: That's the last one.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of article I, as amended, of the constitution, declaration of rights. All those in favor —

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President, it is with a certain reluctance that I rise to urge a no vote on this article that has some fine provisions. However, we did try to get this section 11, that is repulsive to certain delegates for reasons we've discussed at some length in committee of the whole; and on second reading we moved it be put in as a separate item from the rest of the constitution. I regret very much that this is part of the package of the section dealing with the declaration of rights, since it does, in effect, limit the people's rights beyond what the federal constitution guarantees. So I therefore urge a no vote on this article and hope that by the time we have the entire document before us, we will have substitute language that will protect the good parts of article I and leave out the undesirable part. Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article I. All those in favor of the article will vote aye. Those opposed will vote no. Have you all voted?

MISS DONNELLY: Mr. President.

VICE PRESIDENT HUTCHINSON: Miss Donnelly.

MISS DONNELLY: I announce my intent to abstain.

VICE PRESIDENT HUTCHINSON: Miss Donnelly abstains. Mr. Habermehl abstains. Mr. Shanahan abstains. Mr. Lawrence abstains. Mr. King abstains. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 98

Allen
Andrus, Miss
Anspach
Batchelor
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Prettie
Pugsley
Radka
Rajkovich

Beaman
Bentley
Binkowski
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Norris
Page
Perras
Plank
Pollock
Powell
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays — 30

Austin
Baginski
Balcer
Barthwell
Bradley
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Lesinski
Madar
Marshall
Murphy
Nord
Ostrow
Pellow
Perlich
Sablich
Stopczynski
Suzore
Young

SECRETARY CHASE: On the passage of article I, as amended, the yeas are 98; the nays, 30.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article I**, as amended, is passed.

For sections 1, and 3 through 23 of article I as passed, see above, page 3047.

Following is section 2 of article I as amended and passed:

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, color, religion, or national origin. The legislature shall implement this section by appropriate legislation.

Following is explanation of vote submitted by Messrs. Jones, Young, Marshall, Barthwell, Faxon, Lesinski, Garvin, Sablich, Bradley, Downs, Buback, Mrs. Daisy Elliott and Miss Hart:

We voted against article I because it has included an unconstitutional search and seizure provision.

We favor in preference the language of the United States constitution, which guarantees citizens' rights against unreasonable search and seizure by police and law enforcement officials.

We offered and supported language which would make the provisions of the Michigan constitution identical with that of the federal constitution so Michigan citizens would get the same protection under the state constitution that is received under the federal constitution. Unfortunately these amendments were rejected and the citizens of Michigan under the proposed language of article I would not have the same clearcut state protection that is guaranteed by the federal constitution.

We believe citizens should have clearcut language in both the federal and state constitutions protecting them against unreasonable search and seizure without any ifs, ands or buts.

We, therefore, voted against article I and hope that before third reading is completed this language will be revised to meet the standards of the federal constitution.

Following is explanation of vote submitted by Mr. Madar:

I voted against article I because it has included an unconstitutional search and seizure provision.

I favor in preference the language of the United States constitution, which guarantees citizens' rights against unreasonable search and seizure by police and law enforcement officials.

There has been offered and supported language which would make the provisions of the Michigan constitution identical with that of the federal constitution so Michigan citizens would get the same protection under the state constitution that is received under the federal constitution. Unfortunately, these amendments were rejected and the citizens of Michigan under the proposed language of article I would not have the same clearcut state protection that is guaranteed by the federal constitution.

I believe citizens should have clearcut language in both the federal and state constitutions protecting them against unreasonable search and seizure without any ifs, ands or buts.

Therefore, I voted against article I and hope that before third reading is completed, this language will be revised to meet the standards of the federal constitution.

VICE PRESIDENT HUTCHINSON: The secretary will read.

SECRETARY CHASE: **Article III**, general government.

[Article III, sections 1 and 2, was read by the secretary. For text, see above, page 3050.]

MR. GUST: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Gust.

MR. GUST: Sometime in the course of this convention somebody will not object that these provisions be approved as read. Do we have to read each and every one? I move that the sections of this article be printed in the journal and be considered read.

VICE PRESIDENT HUTCHINSON: Is there objection?

A DELEGATE: Objection.

VICE PRESIDENT HUTCHINSON: Objection is heard and so the secretary will read.

SECRETARY CHASE: Section 3:

[Article III, sections 3 through 8, was read by the secretary. For text, see above, page 3050.]

VICE PRESIDENT HUTCHINSON: Mr. Cudlip.

MR. CUDLIP: Mr. President, members of the convention, the printed draft that you have before you was received on this floor about 10:30 today, and since that time, the committee on style and drafting and our research department has been reviewing it. It went to bed last night at 4:30 with the printer. We found some typographical errors. These are errors, as you well know, that were made — and I'm not blaming anybody; they did a great job — at the printing establishment and they were contrary to the proofs submitted. When we get to article V I will point out the typographical errors which you should correct on your draft before amendments are offered thereto or before any debate is in line.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of article III. All those in favor of the passage of article III will vote aye. Those opposed will vote nay. Have you all voted on the passage of article III? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 128

Allen
Andrus, Miss
Goebel
Gover
Page
Pellow

Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Boothby
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gadola
Garvin
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Iverson
Jones
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nord
Norris
Ostrow
Perlich
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays — 0

SECRETARY CHASE: On the passage of article III, the yeas are 128; the nays, none.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect voting in favor thereof, **article III** is passed.

For Article III as passed, see above, page 3050.

The secretary will read article IV.

SECRETARY CHASE: Article IV, legislative branch.

MR. WOOLFENDEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Woolfenden.

MR. WOOLFENDEN: I note that this article IV is composed of 53 sections and it requires 6 pages of the journal to set it forth in full. It would seem to me that practical considerations and also consideration for the secretary's voicebox would indicate that we should waive the reading of this and, if it's appropriate, I ask unanimous consent that the reading of this entire article be waived.

VICE PRESIDENT HUTCHINSON: Is there objection?

A DELEGATE: Objection:

VICE PRESIDENT HUTCHINSON: Objection is heard.

SECRETARY CHASE: Article IV, legislative branch.

VICE PRESIDENT HUTCHINSON: Mr. Leppien. For what purpose do you seek recognition?

MR. LEPPIEN: I think, Mr. President, fellow delegates, this is a parliamentary inquiry. May I ask if it is proposed that the document as we now have it is to be reprinted with the changes in it and furnished to the delegates? Could someone answer that, either Chairman Cudlip or someone else?

VICE PRESIDENT HUTCHINSON: If Mr. Cudlip cares to answer.

MR. CUDLIP: Mr. President, Mr. Leppien, members of the convention, unless the rules and resolutions committee provides otherwise, it seems to me that, of course, there will be a reprint of this. My concept of this is subject to correction. When we leave here this week or the first part of next week — whenever we do leave here — we will have before us the will of the convention in terms of substantial proposals from the committee and, of course, there will be a reprint of this to correct any typographical errors and any changes made on third reading so that when this body reconvenes, whenever it is — it is now scheduled for August 1 — there will be before us the will of the body expressed in black and white, and that's it.

MR. LEPPIEN: Mr. President, if I may make this observation and not be out of order: it seems to me, because of what Chairman Cudlip has just informed us, that to put all of this in the journal by the reading of the secretary is a pure waste of time and money. It seems to me that this convention could well resolve itself to not making objections to having it considered read inasmuch as we now understand that this will be furnished to us at the earliest opportunity with all corrections and, of course, with any amendments thereto, so that we will have it in one form in one place.

VICE PRESIDENT HUTCHINSON: Mr. Leppien, Mr. Chase will respond further.

SECRETARY CHASE: The printer is in the process now of printing 500 additional copies of this as a supplement for today's journal. Any typographical errors that have been noted by the chairman of the committee on style and drafting will be indicated in tomorrow's journal. In addition to that, in tomorrow's journal we will print in full the sections that the convention has amended today so that you will have the complete text of the amended sections before you tomorrow, and note will be made of the sections that were agreed to without amendment. So that, between the correction of typographical errors and the amendments that you will make in the consideration by articles, you will have the action of the convention in its entirety by that process.

MR. BENTLEY: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Bentley.

MR. BENTLEY: Parliamentary inquiry. Would a motion be in order to divide the article for purposes of reading and consideration, keeping in mind the fact that we, of course, will require a final vote on the entire article?

VICE PRESIDENT HUTCHINSON: No. The Chair would rule that the question before the body according to our rules is the passage of the article and it cannot be divided. The secretary will read article IV.

SECRETARY CHASE: **Article IV**, legislative branch.

Article IV, sections 1 through 53, was read by the secretary. For text, see above, page 3051.

VICE PRESIDENT HUTCHINSON: Mr. Cudlip.

MR. CUDLIP: Mr. President and members of the convention, just for your information, there are relocations of some of these paragraphs amongst the proposed new articles, as you know. In the next to the last paragraph on the second page of the document, the second column, that —

SECRETARY CHASE: It should be the tenth page, shouldn't it, Mr. Cudlip?

MR. CUDLIP: I'm sorry. I just wanted to call your attention to the fact that the words in brackets there appear in article IX. That's bracketed, which means deleted, and here shifted over in article IX, and in the index regarding article IX that subject is designated as 78a and the words appear — the words taken, as I suggested — appear in the second paragraph of section 21.

SECRETARY CHASE: The material bracketed is the next to the last paragraph, the righthand column, on the tenth page.

MR. CUDLIP: Thank you, Mr. Secretary.

SECRETARY CHASE: The words from section 53 of article IV:

> The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law,

will be found in article IX, section 21, column 1, beginning in line 45. You'll find the same language there:

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

VICE PRESIDENT HUTCHINSON: The article has been read. The question is upon the passage of the article and the secretary has some amendments.

SECRETARY CHASE: Messrs. Nord, Hodges, Norris, Austin, Faxon, Sablich, Marshall, T. S. Brown, Greene and Mrs. Daisy Elliott offer the following amendment:

1. Amend article IV, section 2 (first column, line 47) after "Sec. 2.", by striking out the balance of the section and inserting "The senate shall consist of 38 members elected for two-year terms from single member districts which shall be convenient, compact, and contiguous. Each district shall contain, as nearly as may be, an equal number of persons, but in no case shall the districts vary in numbers of people more than 15 percent above or below the ratio of population determined by dividing the total population of the state by 38.".

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, might I ask Mr. Nord approximately how long he'd like for his presentation on this?

MR. NORD: Ten minutes would be sufficient.

MR. VAN DUSEN: Then, Mr. President, I would move to limit debate on this amendment to 15 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate on this amendment to 15 minutes. All those in favor will say aye.

MR. MADAR: Mr. President, I wanted to amend that to make it 20 minutes. Why not be fair about it?

VICE PRESIDENT HUTCHINSON: Mr. Madar moves to amend the motion to limit debate to 20 minutes. All those in favor will say aye. Opposed will say no.

The amendment of Mr. Madar does not prevail. Mr. Van Dusen moves to limit debate to 15 minutes. All those in favor will say aye. All those opposed will say no.

The amendment prevails. The Chair recognizes Mr. Nord.

MR. NORD: Mr. President, I presume that you said that the motion prevailed rather than the amendment. Am I correct?

VICE PRESIDENT HUTCHINSON: Thank you, Mr. Nord. The Chair intended to say so. (laughter)

MR. NORD: Well, if the amendment prevails, I'm satisfied as well. (laughter) Of course, that would shorten the discussion, but I would like to point out to the delegates what is in this amendment since it is difficult to read it on the wall. It simply provides a straight population basis for the senate, with 38 members — the same number of members as proposed by the report before us from style and drafting — and it provides that they shall have equal numbers in each district as nearly as may be, plus or minus 15 per cent from the ratio of population. That is all that is provided and I believe it is easy to understand what it is. It is one man, one vote, based on population with 38 members elected for 2 year terms from single member districts.

Now, Mr. President, I don't have any intention to describe in any detail why this should be adopted. I would simply point out to the convention that, according to most persons who hoped for a convention, at least one house should be on population. This being the first house to come before us finally, I have asked the delegates to consider that this house should be on population. I would state further that the history of the state of Michigan indicates that this is the house — the senate — which has always been on a population basis according to every constitution and every deliberative body prepared to determine this question, starting from 1787 up to 1908. The tradition always was population in the senate.

I will point out further that it is my belief, on the basis of approximately 6 to 8 lawsuits that have already been decided, at least partly, within the last month or so, that on that basis we can anticipate that reapportionment of this type is required in the state of Michigan. We can anticipate that the apportionment that now exists in the senate will be declared unconstitutional by the Michigan supreme court. We can anticipate it. We can also anticipate the same thing for the provision that is before us from the style and drafting committee for the reason that it arbitrarily selects something having no basis in representation, namely, area. It is my conviction that the provision which I am asking you to strike is an unconstitutional provision. I have some experience in the matter; it is not pure guesswork on my part and it is my professional conviction that the provision that we have in the present constitution and also the one that is proposed to us is unconstitutional, but the one that I am proposing to you, of course, is purely constitutional.

I will close then, Mr. President, simply by stating again that this provides population in one house, and I challenge the convention to come out with a constitution which provides for at least one house on population, with no ifs, ands or buts whatsoever.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. President, before speaking on this I'd like to ask Dr. Nord a couple of questions.

VICE PRESIDENT HUTCHINSON: You may proceed if he cares to respond.

MR. W. F. HANNA: Mr. President, Dr. Nord, as I read your amendment, you would: 1, ignore county lines in establishing senatorial districts?

MR. NORD: That is right.

MR. W. F. HANNA: Mr. President, Dr. Nord, from your presentation, is it your contention that this is in keeping with the present constitution as it has been used over the years?

MR. NORD: I'm not clear on what you mean by the present constitution. You mean the 1908 constitution?

MR. W. F. HANNA: The 1908, prior to the 1952 amendment.

MR. NORD: The 1908 constitution, so far as I know, does not require either of the 2 things that I have. One, it does not require — well, it does not require 15 per cent, up or down. There is no specific amount provided in the 1908 constitution, but cases that have been decided indicated that a 2 to 1 ratio was too much. On that basis, it is my opinion that county lines could be adhered to under the 1908 constitution. But I have not provided for that because I don't think it's necessary to do so.

MR. W. F. HANNA: Mr. President, Dr. Nord, one further question then. You said that the supreme court had ruled, the cases had ruled that 2 to 1 was too great. Isn't it true that the decision was that a greater than 2 to 1 ratio was too great?

MR. NORD: Yes. I stand corrected. That is right.

MR. W. F. HANNA: Mr. President and fellow delegates, the argument as to whether or not the cases decided by the supreme court require this kind of apportionment, I believe, are somewhat fallacious. First, the decision indicates that they recognize a discrepancy in population greater than provided here when you try to adhere to the subdivision lines of political subdivisions of a state. Second, I call to your attention the step backward here in providing for 2 year terms rather than 4 year terms for the senate. Third, I submit to you that it is a political impossibility to have a senate district clearly identified with political machinery unless it follows existing political subdivision lines. This would allow one precinct, or one city block, or one house to be put with another district which it is not a part of for any other electoral process. And I submit to you that this would require a special state census in order to accomplish this end. To go this far is to go much farther than is practically necessary or practically possible without also going back to the old constitutional language that provided for a state census because you would have to have a state census to comply with it. I submit to you that the old constitution did not require the senate to be on population. It merely said the senatorial districts should be arranged or rearranged. It did not require that they be on a population basis.

What the committee has attempted to do is to equate and prevent a district from being so large that, for all practical purposes, the people there have no representation. Certainly, government is dependent upon the will of the majority, but it is also much dependent upon effective political representation, which means that a district can become so large that it is physically impossible for the people and their representative to ever discuss or meet or have a meeting of the minds on legislation. If you study this problem as applied to Michigan, you will find that our senate, as provided by the committee proposal, is more akin to population, despite its safeguards, than are 40 other senates. No other state with a senate so apportioned as proposed by the committee can also say that their house is as close to population, except the state of Oregon.

I submit to those Democrats who are present that Oregon provides for moiety in both houses and I am sure that they would not want to say that if you apply moiety to both houses as we do in Michigan that we would have a representative legislature. And yet, this is what happens in the state of Oregon when you apply moiety in both the senate and the house. I submit to you that it is a political impossibility to achieve what Dr. Nord and his cosponsors want to achieve.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Nord and others. All those in favor will say aye.

MR. NORD: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Nord demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Twenty-nine.

VICE PRESIDENT HUTCHINSON: Sufficient number up. The yeas and nays are ordered. The question is upon the amendment offered by Mr. Nord, Hodges and others, which has been read. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—34

Austin
Baginski
Balcer
Barthwell
Binkowski
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Sablich
Stopczynski
Suzore
Wilkowski
Young

Nays—91

Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Nord and others, the yeas are 34; the nays, 91.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Messrs. Nord, Hodges, Norris, Austin, Faxon, Sablich, Marshall, T. S. Brown, Greene and Mrs. Daisy Elliott offer the following amendment:

1. Amend article IV, section 3 (column 2, line 45) after "Sec. 3.", by striking out the balance of the section and inserting "The house of representatives shall consist of 115 members elected for two-year terms from single member districts which shall be convenient, compact, and contiguous. Each district shall contain, as nearly as may be, an equal number of persons, but in no case shall the districts vary in numbers of people more than 15 percent above or below the ratio of population determined by dividing the total population of the state by 115.".

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move to limit debate on this amendment to 15 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon this amendment to 15 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Nord on the amendment.

MR. NORD: Mr. President, I won't spend any time discussing it because the language is identical except for the number. The house of representatives is supplied now with 115 members, according to this amendment. Again, it's plus or minus 15 per cent. The house is to be as nearly equal in population as may be, plus or minus 15 per cent.

Whatever remarks were made before about the senate apply exactly here. And again I will challenge the convention to do at least something which we can recognize, namely, to come up with a provision for at least one house which has the words "equal population" in it somewhere, and not only the words, but the fact and the deed and the result. If you don't want the senate to be on population, we certainly should have the house on population. This provides it. There is no escape from it in this language and I simply challenge the convention to come out with at least one house on population. If you don't want it to be the senate, let it be the house.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Nord.

MR. NORD: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Nord demands the yeas and nays on the amendment. Is the demand supported? Sufficient number up. The yeas and nays are ordered. The question is upon the amendment offered by Messrs. Nord, Hodges and others. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—36

Austin
Baginski
Balcer
Barthwell
Binkowski
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Ostrow
Sablich
Stopczynski
Suzore
Wilkowski
Young

Nays—90

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton

Butler, Mrs.
Conklin, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Nord and others, the yeas are 36; the nays are 90.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Messrs. Wanger, Allen and Mrs. Judd offer the following amendment:

1. Amend article IV, section 4 (column 1, line 38) after "merger" by changing the period to a comma and inserting "if provided by ordinance of the city."; and in line 41, after "by" by inserting "said" and after "ordinance" by striking out "of the city"; so the language will then read:

> In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger, if provided by ordinance of the city. The districts with which the territory shall be combined shall be determined by said ordinance certified to the secretary of state.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, you will recall that I had originally introduced an amendment to strike out this entire section on second reading. However, the committee on legislative organization had perfected it just before that amendment was read, and as Dr. Hannah stated very clearly on the floor and as Judge Dehnke stated very clearly on the floor, the committee's purpose was, among other things, to leave the question of consolidation of representative districts to the discretion of the city and, therefore, the language as it was originally sent to style and drafting did not have a period after the word "merger" in line 38 but rather went on to say "as determined by ordinance of the city certified to the secretary of state" which clearly left this matter discretionary with the city so that it would not in every case inevitably mix up partisan politics with annexation, and that the city itself, by ordinance, could decide this question. This would leave the city in a flexible position to forestall the mechanical and precinct line problems where possible, but in any event, would assure that the people would have an opportunity to vote on the question of annexation apart from the question of partisan politics.

Now, the committee on style and drafting, while it improved the language, has also destroyed that discretion on the part of the city council to pass an ordinance because the sentence, when it ends with the word "merger," states that in every case the territory so annexed shall become merged with the representative district. This amendment merely corrects that situation by providing after "merger" a comma and the words "if provided by ordinance of the city" and thereafter by very slightly modifying the second sentence as a matter of form only. I urge this amendment. It is in keeping with the intent of the committee on legislative organization as delivered on the floor of this convention, and it will give the cities more flexibility in their annexation problems without in any way — and I repeat this — without in any way jeopardizing the power of the cities to help solve those problems which caused the committee to put this section into the proposed constitution in the first place.

VICE PRESIDENT HUTCHINSON: Mr. Blandford.

MR. BLANDFORD: Mr. President, there appears to be some confusion on this particular point. The feeling of the committee on legislative organization, as I interpret it, was that upon annexation the annexed area automatically became a part of the legislative district of the annexing city to which it was contiguous. The discretion that Mr. Wanger speaks of on the part of the city ordinance applied only in those rare instances when an area annexed was contiguous to 2 legislative districts of the city. The city could then, by ordinance, determine which of the city's 2 legislative districts the annexed area would become a part of. I feel that the language as written in the present draft is adequate and covers the point completely. I therefore urge a no vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mrs. Judd.

MRS. JUDD: Mr. President, I do recall that this was Mr. Blandford's point of view, but I also recall that in debate on the floor there was some discussion as to whether it was entirely desirable that this annexation of the annexed areas also to the representative district of the city should be compulsory. Such annexations occurring early after a decennial reapportionment and including large numbers of people could create considerable under representation by people in the cities and over representation by people left in the remaining part of the county. This was the reason I had argued for the meaning, as this amendment would again return it to be, according to my understanding.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, in a meeting of the style and drafting committee in the wee hours of the morning, Mr. Blandford and I went around and around on this language, and I think there is a decision to be made by this convention to clarify this matter because at one time in legislative organization we specifically provided that this contiguous territory would become a part of the city representative or senatorial district upon the effective date of the merger.

I would, however, point out one problem that Bob differs with me on, but it's a problem raised by Mr. Allen, and I would like to amplify it just a little more. While it is not without possibility, it may be improbable that this problem would arise, but this is the problem: supposing that a core city would annex or merge with another city and that city, in and of itself, consisted of a legislative district for either electing a representative or a senator. The effect of the language as now before you would have the effect of eliminating one representative or one senator upon such happening because all senators and all representatives must be elected from single member districts and must, of course, under this language, be merged with some contiguous representative or senatorial district. Now, if you merged an entire representative or senatorial district, this would eliminate one under our language as before us.

The Allen-Wanger amendment would allow the cities to accomplish that which they want to do when they make a piecemeal annexation, to adjust the district lines so that in future elections the electoral districts for representative or senator would, of course, correspond with the other electoral precinct districts of a city. I believe that this amendment gives the city power to do this by ordinance. And if the effect of that ordinance would be to eliminate a legislative district, either representative or senatorial, actually they would not adopt such an ordinance. I believe this gives the city the power to clarify its problems and, on sincere and honest reflection, I have to differ with my friend, Mr. Blandford, and urge the adoption of this amendment. I will agree with Bob that, as this originally came out of committee, I think, the language was so written that the annexation or merger would be automatic. Then later, the language, "as determined by ordinance," was added, which I thought cured the problem; but I believe that it leads to some confusion. I believe this will clearly avoid the problem of eliminating a representative or senatorial district if the annexation or merger would be of such proportion as to create that problem.

VICE PRESIDENT HUTCHINSON: Mr. John Hannah.

MR. J. A. HANNAH: Mr. President, ladies and gentlemen, I don't want to belabor this one. I think both Mr. Blandford and Mr. William Hanna are right. The original recommendation of the committee did not include these words that have to do with the determination to be left to ordinance by the city and certified to the secretary of state. When Committee Proposal 80 was before style and drafting the first time, they raised the question that would come into being if the annexed district might be adjacent to 2 districts of the legislature and, on the floor, we added these words, "as determined by the ordinance of the city certified to the secretary of state." And I recall that I did say — and I think Judge Dehnke said — that it was our understanding that the language we were putting on would leave this to a city ordinance to determine whether or not the new territory was to be annexed to one district or another district or left in the original district. And I support Mr. Wanger and Mrs. Judd's amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Wanger. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Nord, Hodges, Norris, Austin, Faxon, Sablich, Marshall, T. S. Brown, Greene and Mrs. Daisy Elliott offer the following amendment:

1. Amend article IV, section 6 (second column, line 6) after "party.", by striking out the balance of the paragraph and inserting "Each political party shall be the judge of the qualifications of the members selected by it.".

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. The Chair recognizes Mr. Nord.

MR. NORD: Mr. President, this amendment does 2 things which complement each other: 1, it strikes out the 4 regions from the apportionment commission; and 2, replaces it with a statement which clearly negatives the whole concept of an area factor and states the reverse; namely, that each political party shall be the judge of the qualifications of the members selected by it. That is the reverse of what we have in the provision before us because in this provision before us, the constitution is the judge, partly, in that it sets forth that the 4 members of each party must come from the 4 quarters of the state.

Now, the Democratic members of the apportionment committee who have joined me, and other delegates who have joined me, object to that concept of an area factor in apportionment. That is the one place where you don't want malapportionment; right in the body itself, which is the duly appointed apportionment commission. Therefore, we are urging this amendment which reverses the concept, eliminates any area factor from the apportionment commission, and makes the apportionment commission simply and purely a bipartisan commission. Like any other bipartisan commission, the parties are the judges and the constitution doesn't attempt to influence or affect the judgment of the political parties as to which members of their party should be on the commission.

I would also point out that one of the objections to it — in addition to the one I mentioned to the 4 quarters, or the balkanization, as it has been called, of the state, to use these 4 quarters in an apportionment commission — is this: that the need for it doesn't exist. The need that has been stated for it is that we want to get the opinions of people from each part of the state. Now that, I believe, is quite fallacious. The apportionment commission will get opinions. It will not be opinion formers. They will get opinions from people all over the state. They will be backed up by experts from their own political party and by members of the public that will appear before them. So that the mere fact that they don't come from the 4 quarters of the state would not affect their getting expert advice relating to the 4 quarters. Therefore, Mr. President, for these reasons, I submit this amendment, along with a number of other delegates, and ask the consideration of the convention. I demand the yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Nord demands the yeas and nays upon the amendment. Is the demand supported? Sufficient number up. The yeas and nays are ordered. The question is upon the amendment. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—34

Austin
Baginski
Balcer
Barthwell
Binkowski
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Krolikowski
Lesinski
Madar
Marshall
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Stopczynski
Suzore
Wilkowski
Young

Nays—85

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Bradley
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Page
Perras
Plank
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Nord and others to section 6, the yeas are 34; the nays are 85.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend article IV, section 6 (column 1, line 24) after "and" by striking out "shall make orders amending such plan" and inserting "may remand such plan to the commission for further action"; so, beginning in line 18, the language will read:

> Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and may remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

VICE PRESIDENT HUTCHINSON: Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, I believe this to be what is commonly known around the convention as a perfecting amendment. This particular amendment takes care of a problem which I think is presently contained in this particular section of the article. The section as it now reads allows, on the application of a private citizen, an elector to, within 60 days after final adoption of the apportionment plan, petition the supreme court to review the apportionment plan, and then the supreme court has certain powers to deal with that particular plan to bring it into accord with the constitution.

Now, the present section provides that the supreme court may make an amendment to this apportionment plan. My way of thinking is that the supreme court should not have the problem of deciding what the actual apportionment plan should be, or making any amendment to it, but if it finds that it does not meet the constitutional provision, should simply remand it back to the apportionment commission for further action. This is what is generally done by the supreme court; when they come up to a matter which they find is not in accordance with constitutional provisions, they remand it back to the lower court for further proceedings. This is what the United States supreme court did in the Tennessee case. They remanded it back for further proceedings, and they did the same thing in the Scholle case.

What I am particularly fearful of is that the supreme court will be faced with trying to amend an apportionment plan that the commission has carefully worked out. The commission has been given power in the article to hold public hearings and to go into the whole total question of apportionment. I feel that the supreme court should not be forced to try to figure out an amendment to it because they would not have access to all the thinking of the commission that made up the total plan which resulted in the apportionment program. And to my way of thinking, until we have on the supreme court Bill Hanna, who is the only man I know of who can interpret the provision which is now contained in this article, I think it would be very foolhardy to place this before the supreme court.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I am inclined to agree with Mr. Boothby on the advisability of this clarifying amendment. That language apparently has bothered a great many delegates who fear that the supreme court might construe it as giving it authority to make an apportionment according to its own notion. I am sure that was not the intent of the committee. The purpose of the committee was to have the supreme court act only as a reviewing body and if it determined that none of the plans submitted complied acceptably with the requirements of the constitution, that then it should be allowed to express its opinion to point out where the plan failed to comply with the requirements and remand it to the commission for further action. I therefore hope this amendment will be adopted.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Boothby. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

SECRETARY CHASE: Messrs. Buback, Marshall, Baginski and Downs offer the following amendment:

1. Amend article IV, section 8 (column 1, line 37) after "Sec. 8.", by striking out the balance of the section; which reads:

> No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

and renumbering the remaining sections.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Buback and others. The Chair recognizes Mr. Marshall.

MR. MARSHALL: I yield to Mr. Van Dusen for the seventh time. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, might I ask Delegate Marshall how long he'd like?

MR. MARSHALL: It will only take me about a minute.

MR. VAN DUSEN: Mr. President, I would move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate to 5 minutes on this amendment. All those in favor say aye. Those opposed say no.

The motion prevails. Mr. Marshall.

MR. MARSHALL: First of all, Mr. President, I'd like to thank Delegate Van Dusen for his generosity. I'll be very brief. I urge a yes vote on the Buback, Baginski and Downs amendment. I talked on this at length on second reading and also in committee of the whole. I think it's ridiculous for us to write into the constitution a provision that will prohibit a minor township official from serving in the state legislature if the people of that community desired his services. And I urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, 2 things: I'm not worried about the minor township official because all minor township officials don't have very much to do. But major township officials are sometimes faced with a divided loyalty once they get to the legislature, as are our major county and city officials. I would, secondly, like to point out that we have been very careful to prevent legislators from sitting on intergovernmental authorities. Now we are going to open the back door to allow them to be elected to the legislature. It only reverses the proceedings. We have prevented them from being in the legislature first and then being appointed to joint governmental authorities within this state. On the other hand, if they can get on the joint governmental authority first, under the Marshall amendment they could then get in the legislature.

I heartily wish to support the position that legislators should be legislators and their duty should be to the state and to the constituents who elect them, and they should be not torn, in judging legislation, as to what's good for "my job or my cohorts" on a township board or county board or city commission.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Messrs. Buback, Marshall, Baginski and Downs —

MR. MARSHALL: The yeas and nays.

VICE PRESIDENT HUTCHINSON: — on which Mr. Marshall demands the yeas and nays. Is the demand for the yeas and nays supported? The demand is supported. The yeas and nays are ordered. The question is upon the amendment. All those in favor of the amendment will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—36

Anspach
Austin
Baginski
Balcer
Barthwell
Boothby
Bradley
Brake
Brown, T. S.
Buback
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Garvin
Gover
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Kirk, S.
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Pellow
Perlich
Powell
Stopczynski
Suzore
Wilkowski
Young

Nays—82

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Binkowski
Blandford
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth

Durst
Elliott, A. G.
Erickson
Everett
Figy
Finch
Follo
Gadola
Goebel
Gust
Hanna, W. F.
Haskill
Hatch
Martin
McAllister
McLogan
Millard
Mosier
Nord
Ostrow
Page
Perras
Plank
Pollock
Prettie
Staiger
Stamm
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the amendment of Mr. Buback and others to strike out section 8, the yeas are 36; the nays are 82.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Messrs. Brake and DeVries offer the following amendment:

1. Amend article IV, section 12 (second column, line 17) by striking out lines 17 through 26 and inserting:

"No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions except workmen's compensation and federal social security. This section shall not be construed to affect retirement benefits of legislators which have accrued prior to the effective date of this constitution, and the legislature may make such appropriations as are necessary to provide these benefits.".

MR. DeVRIES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. DeVries.

MR. DeVRIES: May I ask the chairman of the committee on style and drafting a question regarding a change in this before we proceed to the amendment?

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. DeVRIES: Mr. Cudlip, the way section 12 comes back from style and drafting, in the first paragraph, you make some changes. You strike out, in the last part of the paragraph, "during the term of office for which the legislature making the change was elected" and insert "only when legislators commence their term of office after a general election." Did the committee consider this a substantive change?

MR. CUDLIP: Not in my opinion. Not in the committee's opinion, no, sir.

MR. DeVRIES: Thank you. I yield to Mr. Brake.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, as you probably remember, this change we made the other day was made rather rapidly and we overlooked some things.

I didn't know, in all the time that I've been around, that the legislators were entitled to workmen's compensation benefits, but they say they are. And in most of the other states they are. We did have no intention whatsoever of depriving them of social security or keeping the legislature from appropriating enough money to take care of their federal social security. That is a contractual relationship the state has entered into.

As to the other change that we've made, I think that Mr. DeVries and I both believe that we had that covered as we had it worded the other day. But some of the legislators are apprehensive about it, so we are offering language that will make it perfectly clear that the legislature may appropriate enough money to take care of the retirement benefits accruing up to the time the constitution goes into effect. This will allay their fears. We think it ought to be adopted.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, once again you can see clearly why the model constitution does not recommend this type of language in our constitution, why our forefathers, when they drew up the federal constitution, did not put this in. Every other day now — and they've been working on this, I understand, for months — they find out something they forgot. And here we are, putting legislation in the constitution. I'm opposed to this and I wish that Dr. DeVries would tell this convention: 1, whether or not any employee of any township or county could be a member of the legislature; and 2, what will it cost for this workmen's compensation and so forth. We'd like the figures.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Brake and Mr. DeVries. Mr. Hoxie.

MR. HOXIE: Delegates, this is some improvement over the substitute that we had before us. You will later have an opportunity to vote on an amendment to this section. However, as it stands before us now, I would urge a yes vote on the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Sharpe.

MR. SHARPE: Mr. President, I'd like to concur with Delegate Hoxie. I believe this is not in line with our thinking, but it is better than what we have. And in the event we are stuck with what we have, I think we should vote yes on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Plank.

MR. PLANK: A question to Mr. Brake, Mr. President.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. PLANK: Mr. Brake, would this preclude that legislators could not participate in county retirement plans? Some of the members already, by virtue of contributing to county retirement plans, are of course eligible when they reach a certain age.

MR. BRAKE: Are you talking about legislators who have been in a county retirement plan before they became legislators?

MR. PLANK: I am.

MR. BRAKE: It's a new question but I can't see how it would affect their rights at all.

MR. PLANK: All right. That's all I want to know.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted.

SECRETARY CHASE: Messrs. Sharpe and Kuhn offer the following amendment to —

MR. SHARPE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Sharpe.

MR. SHARPE: Excuse me, Mr. Secretary. If it would please the convention, Mr. Hoxie has an amendment that we would like to have offered before this amendment, if you please.

SECRETARY CHASE: Messrs. Powell, Prettie, Hoxie, Downs, Baginski, Buback, Marshall, Sablich, Perlich, Youngblood, Murphy, Hodges, Jones, John Hannah, Faxon, Leibrand, Sharpe, Kuhn, Stafseth, Shanahan, Rush, Howes, Wood, McAllister, Dehnke, Beaman, Madar, Batchelor, Cudlip, Lesinski, Farnsworth, L. W. Richards, Iverson, Boothby and Anspach offer the following amendment:

1. Amend article IV, section 12 (column 2, line 2) after "Sec. 12.", by striking out the balance of the section and inserting "The compensation and expenses of the members of the legislature shall be determined by law. Changes in salary or expenses shall become effective only when legislators commence their term of office after a general election.".

MR. DeVRIES: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: The gentleman will state the point, Mr. DeVries.

MR. DeVRIES: The amendment offered by Messrs. Powell, Hoxie, et al, was offered by Mr. Bentley on Monday last. Check page 1208 of the journal. It lost, 64 to 64. On Tuesday Mr. Kuhn offered the same amendment now offered; check page 1226. The Chair ruled the amendment was out of order. Mr. Kuhn moved to reconsider the vote by which the amendment of Mr. Bentley failed to pass. It was reconsidered, 60 to 58. The Bentley amendment — now the Powell amendment — was voted down, 63 to 59.

The argument is going to be raised on the floor that there is a substantive change. I call your attention to section 12, as returned to the convention, which adds the words "only when legislators commence their term of office after a general election." If a substantive change has been made by the committee on style and drafting I don't see it. Further, I asked the chairman of that committee a few moments ago if he considered it a substantive change and he said it was not a substantive change.

I ask, Mr. President, that you rule that the amendment is not in order. It has been offered twice and defeated.

VICE PRESIDENT HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. President and ladies and gentlemen of the convention, I insist that it is a very decided substantive change in that the former amendment is no longer appropriate to the legislature as we expect to constitute it. That is, it referred to the legislature where the senate and house had identical terms, they would meet for 2 years and then there would be a new legislature elected. Now we propose the senate will serve for 4 year terms, the house for 2 year terms. So there is no such thing as a legislature expiring or a session of the legislature being completed in that sense. So we feel that we have to make this applicable to individual members, legislators, rather than to the legislature as such.

VICE PRESIDENT HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. President, speaking to the point of order, I would call to the attention of the Chair a ruling made at an earlier proceeding of the convention, when we were dealing with Committee Proposal 95 and there was a question of "erroneous in view of" and "clearly erroneous in view of" and at that time the Chair ruled that the insertion of the word "clearly" made the amendment a different one and was therefore in order after the convention had already acted upon it. So I am speaking specifically here to call attention to the changes that have been made in the language, which I believe would make this a new amendment.

VICE PRESIDENT HUTCHINSON: Mr. DeVries.

MR. DeVRIES: Mr. President, I believe the chairman of the committee on style and drafting said this was not a substantive change. I just call that to your attention again.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie, do you desire to speak upon the point of order?

MR. HOXIE: Mr. President and fellow delegates, in reply to Mr. DeVries, it's rather new to me that some delegates are making the rulings for the Chair.

VICE PRESIDENT HUTCHINSON: The Chair will place this matter to the house and will call for a division. All those of the opinion that this amendment is in order will vote aye. Those opposed will vote no.

MR. DOWNS: Point of information, Mr. President. Will you repeat just what we're voting for at this point?

VICE PRESIDENT HUTCHINSON: The Chair submits to the house the question as to whether this amendment is now in order. All those who are of the opinion that this amendment is now in order will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the question submitted by the Chair to the convention as to whether or not the amendment is in order, the yeas are 77; the nays are 48.

VICE PRESIDENT HUTCHINSON: The amendment is in order. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, because the debate on this matter is reasonably fresh in our minds, I would move to limit debate on this amendment at this time to 10 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate to 10 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails and the debate is so limited. The Chair recognizes Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I hope that no one who wasn't contacted in regard to this amendment will feel slighted. (laughter) These signatures were very hastily gathered and were merely to indicate that there was substantial bipartisan support for this amendment. Frankly, we hadn't expected that we'd make such fast progress in reaching this point this evening, and had expected to make a further canvass before we got to this proposition.

I shall be very brief. I have a rather wide acquaintance among the members of the legislature. I have made no effort to contact them regarding this problem, but many of them have written or spoken to me about this matter and not a single one has favored what we might term the DeVries amendment. All have urged retention of the present provisions. Remember, they were written into the constitution by a direct vote of the people in 1948 — I looked it up in the Michigan Manual — the yes vote was 911,473; the no vote, 587,691, or a majority of 323,782.

Now, I think more important than the desires of the legislature on this point is the attitude of the public. I am convinced the retention of the provisions adopted on second reading would be exceedingly unpopular and would cost our finished product heavily when it is submitted for approval. I believe that it would be the most detrimental provision, from that standpoint, that we have adopted in the constitution thus far.

Now, as has been explained in connection with this point of order, it was worded as it is because the senate will be elected for 4 year terms and the house for 2 year terms. So I think that explains why that was in there. I'll leave the rest of the time for the other folks who wish to speak pro and con on this very important matter.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I rise to urge a yes vote on the Powell, et al, amendment. Delegate Powell covered practically all that I was going to discuss on the floor. I can only add that I know of no demand for change from the people of the state of Michigan. It was only late in this convention that this provision that is now on third reading before us was brought before the convention by Dr. DeVries.

As I stated earlier, the present system has worked. I have not seen nor have I heard of any demand on the part of the people of the state to make a change. And I would urge, for the reasons given, in order to hasten the discussion and to grant more time to other people, the same reasons as given by Delegate Powell. And I urge a yes vote on the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. President, in answer to a question that was raised earlier with regard to whether a person could participate in a retirement program in a county, and still serve in the legislature, I think the language clearly would prohibit anyone from receiving any financial benefits from any political subdivision of the state while serving there. This would then make it impossible for a person to receive whatever financial benefits that may have accrued to them over a period of time just because they happen to become elected members of the legislature. And I point this out in support of this amendment, which clearly leaves this whole question where it ought to be: to legislative action, and not in our constitution.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I did not speak on this DeVries language in the first instance. That's why I rise to speak now. I did have some qualms about increasing the pay at that time. In fact, I voted several ways when we were voting in the first instance. But I did vote for the DeVries language in its final form. I have talked to some members of the legislature. I'm sorry to say I can't agree with Mr. Powell. The legislators I talked to did favor the DeVries language as it finally appeared and I am now going to vote against this because I really, sincerely believe that we will be taking a step backward, that we will not get the caliber of legislator, that we will not be opening the possibilities to as broad a spectrum of people available for office if we do not take this step which they advised me that they were fearful themselves of taking, feeling that we had done the right thing. And I'm going to oppose this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, I definitely urge the adoption of this amendment. We are now getting back to sound constitutional law. The people sent us here to write a basic document, not specific language. And that was some of the criticism of the 1908 constitution, not, however, to article V, section 9, which deals with legislative pay.

I speak as chairman of the subcommittee that studied this, and we listened to all the experts and all the testimony and the end result was: this is what they wanted. We had no one come to us and say anything different.

As I pointed out a little earlier tonight, I think if we'd wait another day or two, you'd find more flaws in the earlier DeVries language and find out something else they forgot to legislate in the constitution. It is too difficult to amend it. This is strictly a statutory matter. I ask you to vote for this amendment. Then you will be voting for what the model constitution suggests it should be, the way it is in the federal constitution, and help give Michigan a good constitution and keep the high cost of government down. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Radka.

MR. RADKA: I rise to humbly admit my indiscretion in originally signing, as Jim Thomson said, "the sucker list," the original DeVries substitute. (laughter) I would like to say that I would not sign this amendment because I learned a lesson. But I feel that this is the proper approach to the problem. I recognize the problem. I realize that it is a grave one. But I don't feel that we can settle all problems of government by this constitution. It is purely a legislative problem, not a constitutional problem, and I think that supporting this amendment will put us on the right track.

VICE PRESIDENT HUTCHINSON: Mr. Arthur Elliott.

MR. A. G. ELLIOTT: How much time do we have, Mr. President?

VICE PRESIDENT HUTCHINSON: How much time is left, Mr. Secretary?

SECRETARY CHASE: Two and a half minutes.

VICE PRESIDENT HUTCHINSON: Two and a half minutes. Six more speakers.

MR. A. G. ELLIOTT: All right, I'll do it as quickly as I can. If I might ask Mr. Downs a question, please: I know that in the previous DeVries amendment, he supported the amendment, and I wonder if he would mind indicating the reasons why he now supports this amendment.

MR. DOWNS: Mr. President, I'll be very glad to answer it. I'm on the list; am I talking on Mr. Elliott's time or my own now?

VICE PRESIDENT HUTCHINSON: You're talking on his time.

MR. DOWNS: Fine; (laughter) I don't need to be brief. I supported pay increases for legislators the other day, today, and will constantly support that. I signed, voted for and spoke for the DeVries language to have legislators' pay half of congressmen's pay, and was even willing to rise above what the president called principle on separation between state and federal government to do that. I voted for the 7,500; I voted for the 10,000, the 11,000. I now have a green sheet of paper which was put out by my good friend, Delegate DeVries, and we tried to go over the arithmetic in the back of the room and it says total savings in 10 years, $1,105,000 less in the long haul, even though they have a pay increase from 5,000 to 9,000 because of the fringe benefits. I will admit that my arithmetic isn't too good and I thought yesterday when we voted from 5,000 to 9,000, we were in fact voting a pay increase but because of the fringe benefits, according to Mr. DeVries' and Mr. Brake's figures, this is taking money away in the long pull.

Now, I still think legislators should get more pay to start with and more pay in pensions. And if this passes, I'd be very glad to join Mr. DeVries for a minimum pay of $9,000, ½ a congressman's pay, 2/3 of a congressman's pay, without any limitation on the fringe benefits, the pensions or other things. In other words, I think a legislator —

MR. A. G. ELLIOTT: Stop. All I wanted was a simple answer.

MR. DOWNS: — should get more pay to start, more to continue and more to finish. (laughter) I'd be glad to answer the question in detail if I had time. Thank you. (laughter and applause)

MR. A. G. ELLIOTT: Remind me not to ask you another question. (laughter) I merely want to point out in the last 10 seconds that are left that Mr. Downs and Mr. Powell certainly have a different point of view as to the reasons for the supporting of this amendment. I think it should be defeated and I think the DeVries amendment which was just adopted should be supported. It's absolutely, in my judgment, essential that we give this additional stability to our legislature and I hope that we can do it now.

VICE PRESIDENT HUTCHINSON: Time has expired. Mr. King.

MR. KING: Mr. President, at this time I'd like to move for an additional minute for each name on the list.

VICE PRESIDENT HUTCHINSON: Mr. King moves for one additional minute for each name on the list. The Chair would advise there are 8 more names on the list. All those in favor of Mr. King's motion will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye. Opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion of Mr. King, the yeas are 59; the nays are 62.

VICE PRESIDENT HUTCHINSON: The yeas are 59; the nays are 62.

The motion to extend debate does not prevail. Time for debate has expired. Mr. Brake.

MR. BRAKE: Even though the time for argument has passed, may one explain his vote?

VICE PRESIDENT HUTCHINSON: After his vote is given, he may. (laughter) Mr. Kuhn.

MR. KUHN: I ask for the yeas and nays.

VICE PRESIDENT HUTCHINSON: On what?

MR. KUHN: On the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn demands the yeas and nays on the amendment now before us, which is the amendment of Messrs. Powell, Prettie and so on. Is the demand for the yeas and nays supported? Sufficient number up. The yeas and nays are ordered. The secretary advises that there is a substitute for the amendment on the secretary's desk. The secretary will read the substitute.

SECRETARY CHASE: Mr. Young offers the following substitute for the amendment offered by Messrs. Powell and others:

1. Amend article IV, section 12 (second column, line 2) after "Sec. 12.", by striking out the balance of the section and inserting "The annual salary of members of the legislature shall be no less than $9,000.00 annually and their expenses shall be determined by law. Changes in salary or expenses shall become effective only when legislators commence their term of office after a general election.".

VICE PRESIDENT HUTCHINSON: The Chair will rule that time for debate upon the amendment having expired, there is no time for debate on the substitute amendment. The question is on the substitute.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: I move that we extend it 5 minutes and I'd like to speak just briefly on this.

VICE PRESIDENT HUTCHINSON: You can't speak on your motion to extend because that's not a debatable motion.

MR. MARSHALL: The motion to extend debate 5 minutes, isn't it debatable?

VICE PRESIDENT HUTCHINSON: It is not. It's a motion to limit debate, isn't it?

MR. MARSHALL: I move to extend the debate 5 minutes.

VICE PRESIDENT HUTCHINSON: All those in favor of extending the debate 5 minutes will say aye. Opposed will say no. (laughter) The Chair is in doubt. All those in favor of extending the debate will vote aye; those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion of Mr. Marshall to extend debate 5 minutes, the yeas are 66; the nays are 52.

VICE PRESIDENT HUTCHINSON: The debate is extended for 5 minutes. The Chair recognizes Mr. Young on his substitute for the amendment.

MR. YOUNG: Mr. President, I would like to refer to my substitute amendment as an honest amendment. Now, I supported the original DeVries substitute under the illusion that I was actually giving the legislature what I considered to be a well deserved raise. I had no desire to take away their pension, nor to eliminate or to reduce their expenses. This substitute amendment that I offer puts the issue at least honestly. We're not put in the position of raising the pay with one hand and taking it away with another. At least it provides room for those who sincerely believe that our state can benefit by raising the salaries of the legislature, to so vote. At the same time, it does not resort to the device of taking away legitimate pension rights and legitimate expenses. I don't think it's necessary to go into any further detail. If you believe the legislature deserves the pay, if you believe that they have a right to legitimate expenses, and if you believe that a pension is justifiable for the legislature, you will vote yes for this amendment.

VICE PRESIDENT HUTCHINSON: Mr. DeVries, do you desire to speak on the substitute amendment? Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I want to oppose the substitute amendment for the very reason we have gone to great length prior to this, at Mr. Kuhn's insistence, to remove the incumbent designation or the possibility of the legislature giving the legislators in office an incumbent designation. Now, by rejecting the Brake and DeVries amendment by this substitute, we are going on to allow the legislators to keep their pay low — and at least as low as 9,000 — but to tax notaries public filing fees and anything else they can lay their hands on to have a pension that has no relationship to their pay or time in service and thus encrust the legislature with dodoes that remain there because of their pension right, not because of salaries that are raised enough to attract young men to office. Certainly in this state what we need is new ideas in the legislature from both political parties, not ageds in office that are dependent upon their pension. I urge that Mr. Young's substitute be defeated.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: I wanted to speak on the Powell amendment rather than this substitute.

VICE PRESIDENT HUTCHINSON: Well, there is only 5 minutes.

MR. BRAKE: Well, may I just say this, Mr. President: the other day, when this matter was before us, I spoke and voted in favor of leaving the matter of salaries to the legislature as long as there was any chance of winning on that side. When it became apparent that we didn't have the votes, I went for what we now have written in here. The situation now is such that I shall vote the way I believe.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, fellow delegates, let's offer up a silent prayer that all compromises don't go the way that one did. (laughter) Don't applaud. We haven't got time. I'd just like to quote one paragraph from the Ann Arbor News, Saturday, May 5, 1962, "Lawmakers occasionally like to bolster their pay checks but the veterans have held an experienced lid on them to discourage the election competition more pay might bring." Well, here's our chance to discourage any decent competition. If that's what you want, then let's have it. As for me, I'd like to say, just briefly, I have no intention of running for the legislature. Make no mistake about that. But I'm not satisfied 100 per cent with the people who do run. I favored Mr. Kuhn's amendment to strike out the incumbency label and I'm sorry that he can't carry it a little further and see that this is part of the same problem.

I've talked to some of the legislators, some of those that I most respect and admire, and a lot of them, quite frankly, said — and they're young men in their middle life, 30s and 40s, professional men, many of them, many of them attorneys — and they indicate that they cannot continue to sacrifice their careers in order to go back to the legislature, even though they love their jobs. Quite frankly, I think they ought to be encouraged to go back. I think that we have the opportunity to do it, and I don't think that they do have that opportunity.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I yield my time to Delegate Arthur Elliott. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Hubbs.

MR. HUBBS: I think the courthouse gang has been in action again. It seems to me that this whole tremendous drive to get rid of the DeVries amendment is simply to protect the retirement of legislators, which Mr. DeVries has shown us costs the state more in the long run than this potential pay increase. Everything that has been said about generating improved quality and creating competition has been well said. And I think that we'd do well to consider carefully here and defeat this $9,000 ceiling that Mr. —

VICE PRESIDENT HUTCHINSON: Do you want to finish the sentence? (laughter) Time has expired on debate. The question first is upon the substitute amendment offered by Mr. Young.

MR. BINKOWSKI: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski demands the yeas and nays on the Young substitute. Is the demand supported? The demand is supported. The yeas and nays are ordered.

The secretary will read the substitute once more.

SECRETARY CHASE: The substitute amendment offered by Mr. Young for the amendment offered by Messrs. Powell and others, to substitute for the language of that amendment, is the following:

[The amendment was again read by the secretary. For text, see above, page 3107.]

VICE PRESIDENT HUTCHINSON: All those in favor of the substitute amendment of Mr. Young will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—36

Anspach
Austin
Baginski
Barthwell
Binkowski
Brown, G. E.
Brown, T. S.
Buback
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Garvin
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Krolikowski
Madar
Mahinske
Marshall
McCauley
McLogan
Murphy
Nord
Norris
Romney
Sleder
Stopczynski
Suzore
Wilkowski
Young

Nays—85

Allen
Andrus, Miss
Balcer
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Haskill
Hatch
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Martin
McAllister
McGowan, Miss
Millard
Mosier
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the substitute offered by Mr. Young, the yeas are 36; the nays are 85.

VICE PRESIDENT HUTCHINSON: The substitute amendment is not adopted. The question recurs upon the amendment of Messrs. Powell, Prettie, Hoxie and others. All those in favor of the amendment will say aye. Opposed will say — Mr. Powell.

MR. POWELL: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Powell demands the yeas and nays. Is the demand supported? Sufficient number up. The yeas and nays are ordered. Will the delegates please clear the board? All those in favor will vote aye. Those opposed will vote no. Have you all voted? Miss Hart.

MISS HART: I am abstaining.

VICE PRESIDENT HUTCHINSON: Miss Hart abstains. The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—75

Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Boothby
Brake
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dehnke
Downs
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Finch
Gover
Hannah, J. A.

Haskill
Hatcher, Mrs.
Hodges
Howes
Hoxie
Hutchinson
Iverson
Jones
Karn
Kirk, S.
Kuhn
Leibrand
Leppien
Lesinski
Madar
Marshall
Martin
McAllister
McCauley
Millard
Mosier
Murphy
Nord
Norris
Ostrow

Page
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Rush
Sablich
Shaffer
Shanahan
Sharpe
Spitler
Stafseth
Thomson
Turner
Wanger
Wood
Woolfenden
Yeager
Young

Nays—50

Allen
Andrus, Miss
Binkowski
Blandford
Bradley
Brown, G. E.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Everett
Follo

Gadola
Garvin
Goebel
Hanna, W. F.
Hatch
Heideman
Higgs
Hubbs
Judd, Mrs.
King
Koeze, Mrs.
Krolikowski
Lawrence
Mahinske
McGowan, Miss
McLogan
Pollock

Rajkovich
Romney
Seyferth
Shackleton
Sleder
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Tweedie
Upton
Van Dusen
White
Wilkowski

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Powell and others, the yeas are 75; the nays are 50.

VICE PRESIDENT HUTCHINSON: The amendment is adopted.

SECRETARY CHASE: Amendments filed which were to be offered by Messrs. Sharpe and Kuhn have been withdrawn.

Messrs. Powell, Wood and Kuhn offer the following amendment:

1. Amend article IV, section 18 (column 1, line 25) after "unless" by inserting "the public"; so that the sentence will read, "Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires."

VICE PRESIDENT HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I would call your attention just a little lower on that page, in section 20, the second line the word "public" appears. I think these are comparable provisions and I don't know just how this word didn't get in here up in section 18. I think it's plainly intended that this would apply to public security. I don't know what else it would mean.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Powell. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend article IV, section 21 (column 1, line 46) by striking out "two" and reinserting "three"; so the language will read, "Neither house shall, without the consent of the other, adjourn for more than three intervening calendar days, nor to any place other than where the legislature may then be in session."

[Mr. Bentley assumed the Chair.]

ACTING PRESIDENT BENTLEY: Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, to me, style and drafting made a very substantive change here.

We adopted the language as it was in the 1908 constitution for this particular section. The same language appears in the federal constitution. It says that the congress or the legislature shall not adjourn for more than 3 days without the consent of the other house. Now, evidently, in the state of Michigan they have been having some problems on what it means, this 3 days. So they came up with this "intervening calendar days" and I submit that this is good language and will make it much clearer. But they've changed it to 2. I think it should be changed to 3 for this reason: this allows the legislature, if they so desire, if they have their work done for that week, to adjourn from Thursday to Monday. Now, this is the federal practice in the congress, as Mr. Bentley, who is now in the Chair, can testify to. This is the practice in the house and in the senate in Washington. It's a good practice.

It seems unrealistic, it doesn't seem sensible to get a concurrent resolution every time the legislature would want to go home from Thursday to Monday. This is a very clear statement. I think we should stay consistent, but we should put the "3" in so they can go home from Thursday to Monday and not have to get a concurrent resolution. We are not advising them to go home from Thursday to Monday, but we're just allowing them to do so without going to the work of getting a concurrent resolution. Many of you people might remember that earlier in our sessions that many times we did not have anything to do on Friday — or so we thought — and we adjourned from Thursday to Monday. And I say the legislature should have this same right.

ACTING PRESIDENT BENTLEY: The Chair recognizes the recent occupant of the Chair, the gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I came down to speak upon this matter because I am quite concerned about the fact that the present presiding officer of the senate has introduced a rather novel interpretation into our present constitutional provision with the result that the house of representatives over there is following the attorney general's opinion and the senate president is following the lieutenant governor's opinion, with the result that the house takes the position that the senate shouldn't go home on Friday without the consent of the house and the senate takes the position, under the recent ruling of the present lieutenant governor, that its actions are within the present constitutional provision and that it can go home from Thursday until Monday and leave the house there if the house wants to stay, and the house apparently has no voice in the matter.

Now, I think it is important that, first, the matter be resolved. But secondly, I think that it is desirable that we write this constitution in such fashion that the traditional way will be adhered to. I think the people of Michigan, even now, have a feeling that a lot of the time the legislature isn't doing much and that they aren't in session and so on, and we have a situation here in Michigan which may be different than the situation in the congress of the United States. I think, because of our long history of this matter, that both of these houses should be keeping Friday sessions, as well as keeping Monday sessions. And I say that because, after so many years over there, I know that the tendency is to whittle it down to 3 days, and when they whittle it down to 3 days, then they tend to get to the point where they meet on Tuesday night, Wednesday afternoon and Thursday morning. They can't do anything that way. Since that seems to be the way the human mind works, I think that we'd do better in this state to maintain this 5 session day schedule and, if the 2 houses can agree that they want to not meet on a particular Friday or a particular Monday, that's all right; but simply to have the thing set up so they won't have to meet on Friday — well, they'll be meeting on Thursday morning then, and going home Thursday afternoon. Because of our history, it isn't a good thing. I would sincerely hope that the amendment now before you will be defeated.

ACTING PRESIDENT BENTLEY: The Chair recognizes the gentleman from Birmingham for a preferential motion.

MR. VAN DUSEN: Mr. President, I would move that further debate on this amendment be limited to 5 minutes.

ACTING PRESIDENT BENTLEY: The question is on the motion of the gentleman from Birmingham, Mr. Van Dusen, that debate on the amendment be limited to 5 minutes. Those in favor will say aye. Those opposed?

The motion prevails. It is so ordered. The Chair recognizes the gentleman from Grosse Pointe, Mr. Cudlip.

MR. CUDLIP: Mr. President, members, I agree with Mr. Hutchinson, but I wanted to point out to Mr. Kuhn that we did not change any substance. Here was a case where your committee considered the words, "3 days" and in this parliamentary procedure you don't know whether they're talking about calendar days, legislative days, attorney general's opinion days or lieutenant governor days. (laughter) So we put in a rule that we thought was good for the people of Michigan. We divined your intent. The soundness has been indicated by the gentleman from Fennville. Thank you.

ACTING PRESIDENT BENTLEY: The Chair inquires: is the gentleman from Harrisville seeking recognition? The question is on the amendment of the gentleman from Pontiac, Mr. Kuhn. The gentleman is recognized for the second time, being the mover of the amendment.

MR. KUHN: Thank you. Mr. President, I would like to read from the federal constitution. It says, "Neither house, during the session of the congress, shall, without the consent of the other, adjourn for more than 3 days. . . ." Now, that is exactly the language which the committee on legislative powers came out with. That's the language that was in the 1908 constitution. I agree that this change will make it crystal clear what they mean, but I submit to you that it seems to me that this 3 day rule has been a rule that we've had since 1789; it's been a rule that's well understood. And I don't think, because you have a rule, they have to go home. After all, even under this rule they could come in Monday and recess until Wednesday, recess till Friday and recess till Monday. These are responsible individuals. We're trying to do away with a lot of paper work and inefficiency and a lot of red tape. I just thought it would clear the matter a little more if we're consistent. And I have no great thoughts one way or the other.

ACTING PRESIDENT BENTLEY: The Chair recognizes the gentleman from Port Huron, Mr. Staiger.

MR. STAIGER: I'd just like to point out that the language Mr. Kuhn read from the federal constitution is not the language as he would amend it here. We said, "2 intervening calendar days" which would be the same as saying 3 days normally, in the normal way you would count. Now we are going to 3 intervening days which, in effect, would be 4 days. I oppose this amendment. I think by saying "2 intervening calendar days" we make it very clear what we mean. They can adjourn on Friday and they will have to be back on Monday.

ACTING PRESIDENT BENTLEY: The Chair recognizes the gentleman from Harrisville, Mr. Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I wonder if we're catching the point. This is a question that involves the right of either house to adjourn for more than a specified length of time without the consent of the other. It is true enough that this is the same language that we've had in our constitution, but in this state we've had 2 conflicting interpretations of that. One house goes by one rule and the other by the other, and this language the committee on style and drafting has put in clarifies this so there won't be any room for argument in the future.

ACTING PRESIDENT BENTLEY: The Chair recognizes the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, as a member of the committee on legislative powers, I did support the original language because at that time I supposed I knew what it meant; it had always been interpreted the same way to my memory. Since then, however, I understand our lieutenant governor has counted the days differently and so, as a member of the committee on style and drafting, I stood for this new language, which is crystal clear, as they say, and makes it very definite just how you count the days and does what we supposed the original language did. So I am speaking in opposition to the pending amendment and in favor of the language as it comes to us from the committee on style and drafting.

ACTING PRESIDENT BENTLEY: The question is on the amendment offered by the gentleman from Pontiac, Mr. Kuhn. As many as are in favor will respond by saying aye. Those opposed.

The amendment is not adopted.

[Vice President Hutchinson resumed the Chair.]

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend article IV, section 41 (column 2, line 41) after "Sec. 41.", by striking out the balance of the section and inserting "The legislature shall provide for four lotteries to be held in each of the seasons. Moneys derived therefrom shall be placed in the general fund.".

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, following Mr. Madar's suggestion, I at this time move that debate on this amendment be limited to 5 minutes.

VICE PRESIDENT HUTCHINSON: The question is on the motion of Mr. Van Dusen to limit debate to 5 minutes on this amendment. All those in favor will say aye. Opposed, no.

The motion prevails. It is so ordered. Mr. Madar is recognized.

MR. MADAR: Mr. Van Dusen, you're being very, very unfair to your fellow members because when I get away from here, the 5 minutes are going to be up.

You may not vote for this particular amendment but I'm going to tell you right now that if you don't you're not going to go home an honest man when you leave this convention. All right, you say "ho," "ha," and you do anything else you want. (laughter) And whenever you keep still — and incidentally, Mr. Secretary, I don't believe you ought to count the time that's used for laughter by some of the delegates.

I would like to get some order here, Mr. President, so they can hear what I am saying.

VICE PRESIDENT HUTCHINSON: The convention will please be in order.

MR. MADAR: I didn't submit this amendment in jest. I was serious about it. And I'm serious about it because the other day you decided, after a lot of lobbyists were in the hall, to go back to parimutuel betting. I'm not opposed to parimutuel betting nor am I opposed to lotteries or bingo or playing cards. I am opposed to dishonesty. I am certainly opposed to hypocrisy. I know that saying it today isn't going to get you to change your mind. Those lobbyists spoke well and the pressure was immense. In fact, it was terrific. I heard on the air yesterday about a certain gentleman who is going around the state, accusing the Democratic legislators of listening to the lobbyists over in the house and the senate. I wonder how many of you people changed your minds between the 2 votes we took, listening to lobbyists out there in the hall. And how many of you received letters from your home town from your ministers and others when they asked you not to vote for parimutuel betting.

You spoke here, certain of you, about how much money was taken in — I believe it was 7,800,000 —

MR. GOVER: Point of order.

MR. MADAR: — now, let's go where we should —

VICE PRESIDENT HUTCHINSON: What's the point, Mr. Gover?

MR. GOVER: Is this on the amendment?

VICE PRESIDENT HUTCHINSON: Oh, the Chair thinks he's talking on his amendment primarily. (laughter) Proceed, Mr. Madar.

MR. MADAR: That's all right. Mr. Gover is just campaigning for senator, Mr. President. (laughter) I don't mind him using it. It's all right. He still isn't senator, though. There's another man running against him. (laughter)

If we put these lotteries into effect, then you're not going to be nickel nursers or penny pinchers because you will get the $35 to $50 million that Ireland is getting for their hospitals. You will get it, so that Mrs. Butler won't have to worry about paying that $3 or $4 to go across "Big Mac" because we'll be able to pay it off. You won't have to worry about earmarking funds for the townships so that the townships can buy more fire wagons, because you're going to have enough money so that you'll be able to cut the taxes and still be able to give the townships money.

No, this isn't so funny. This is serious. Only I'm going to tell you right now, you haven't got the guts to do what you ought to do: to vote for something that is going to do you and yours a lot of good. There are other states that are doing this. There are foreign countries that are doing it. Yes, plenty of them. Maybe we could take a lesson from them. Let's start cutting down our taxes. And, for heaven's sake, those of you outcounty — or out of the county of Wayne — start thinking about the county of Wayne because, you see, all that money that you get, that 7,800,000, the majority of it comes from those people down around Wayne county. I suppose that's all right. Well, why not go ahead and get these 4 lotteries, raise this money for your own treasury? It says it will go into the general fund —

VICE PRESIDENT HUTCHINSON: Five minutes are up, Mr. Madar.

MR. MADAR: Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Madar. All those in favor will say aye.

MR. MADAR: I'm asking for the yeas and nays, Mr. President, if they have the guts.

VICE PRESIDENT HUTCHINSON: Mr. Madar demands the yeas and nays. Is the demand supported? Sufficient number up. The yeas and nays are ordered. All those in favor of Mr. Madar's amendment will vote aye. Those opposed will vote no.

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I announce my intent to abstain.

VICE PRESIDENT HUTCHINSON: Mr. Downs abstains.

MR. MADAR: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: I would just make a point of information. It means 4 a year, 1 in each season; not 4 in each season.

VICE PRESIDENT HUTCHINSON: Have you all voted? You may still vote if you get over there, Mr. Goebel. (laughter) The machine has not yet been locked. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—11

Baginski
Binkowski
Buback
Hodges
Krolikowski
Lesinski
Madar
Sablich
Stopczynski
Wilkowski
Young

Nays—100

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Blandford
Boothby
Bradley
Brake
Brown, T. S.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Karn
Kirk, S.
Kuhn
Lawrence
Leibrand
Leppien
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nord
Norris
Ostrow
Page
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Madar, the yeas are 11; the nays are 100.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. Mr. Van Dusen.

MR. VAN DUSEN: I'm simply waiting until the secretary reads the next amendment, Mr. President.

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend article IV, at the end of section 41 (column 2, following line 42) by inserting a new section to read as follows:

"Sec. 41a. Bingo shall be permitted; the legislature shall establish rules and regulations. However, 50 percent of all proceeds shall go to 4-H clubs.". (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that debate on this amendment be limited to 2 minutes. (laughter)

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. VanDusen to limit debate to 2 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Madar for 2 minutes.

MR. MADAR: Mr. President, I'm very happy with the 2 minutes, because I'm only too glad to see that Mr. Van Dusen continues right in style and form.

I see that we had 11 people anyway who had the nerve to do as their conscience dictated.

MR. L. W. RICHARDS: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What is your point?

MR. L. W. RICHARDS: I'd like to know how Mr. Madar can determine the conscience of the other people.

VICE PRESIDENT HUTCHINSON: Mr. Madar may continue.

MR. MADAR: I might answer Mr. Richards. I've talked to some of the people, including him.

MR. L. W. RICHARDS: Would you say I didn't vote according to my conscience after our talk?

MR. MADAR: Mr. President, fellow delegates, I just decided that seeing as how we were all so worried about 4-H clubs and that we ought to get them that $175,000, I didn't think that we ought to be so cheap. Frankly, if that's the way you people outstate, you people on the farms want to raise your children, let's get them enough money. Vote for this amendment.

VICE PRESIDENT HUTCHINSON: All those in favor of Mr. Madar's amendment will say aye.

MR. MADAR: The yeas and nays.

VICE PRESIDENT HUTCHINSON: Is the demand for the yeas and nays supported on this amendment? Not a sufficient number up. Mrs. Butler.

MRS. BUTLER: I just want to abstain, just as I did on that parimutuel betting.

VICE PRESIDENT HUTCHINSON: Mrs. Butler abstains. Mr. Doty.

MR. DEAN DOTY: I just want the yeas and nays. (laughter)

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The yeas and nays are not ordered. (laughter) All those in favor of Mr. Madar's amendment will say aye. Opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Binkowski —

VICE PRESIDENT HUTCHINSON: Mr. Barthwell.

MR. BARTHWELL: Mr. President, I want to make a preferential motion. The hours in this convention are getting worse than drugstore hours. Therefore I move we adjourn. (laughter and applause)

MR. VAN DUSEN: Mr. President, a point of information. Am I correct in assuming that there is only one more amendment?

VICE PRESIDENT HUTCHINSON: Two more. All those in favor of the motion to adjourn will say aye. Opposed will say no.

The motion does not prevail.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Is the demand for a division supported? Sufficient number up. All those in favor of adjourning will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to adjourn, the yeas are 35; the nays are 77.

VICE PRESIDENT HUTCHINSON: The motion does not prevail.

SECRETARY CHASE: Mr. Binkowski offers the following amendment:

1. Amend article IV, following section 43 (column 2, following line 54) by inserting a new section to read as follows:

"Sec. 43a. Stockholders of a corporation or joint stock association shall be liable for that portion of all labor performed for the corporation or association, and for all other contractual and legal obligations that arise out of the course of employment for such corporation or association, that the number of shares held bears to the total number of shares outstanding.".

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I have spoken to Mr. Binkowski and he indicated that he thought 5 minutes would suffice. I would therefore move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, all those in favor will say aye. Opposed. The motion prevails. It is so ordered. Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, as you know, the hour is late. I know that we are all anxious to leave. However, I think that this is a sufficiently important amendment for your consideration. I offer this as a compromise. I believe it's a compromise in 2 respects: 1, it protects the laborer by making the stockholder liable. However, the stockholder is also protected by this amendment in that his liability is limited to the percentage of shares that he holds in the corporation. I think this should eliminate the argument that has been advanced in the past that a stockholder who held 1 per cent of the stock of a corporation would be 100 per cent liable for all labor. However, in exchange for that, the stockholder's liability is expanded beyond just labor, but for other contractual and legal obligations that are assumed with respect to the laborer.

I think that since we in this convention have decided to protect the banking interests, to make sure that the existing banking laws will not be changed unless 2/3 of the legislature so decides, that we would be very remiss if we forgot about the laboring people here in Michigan. So I offer this to you for your consideration and at this time, without any further ado, I ask for the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski demands the yeas and nays on the amendment. Is the demand supported? The demand is supported. The yeas and nays are ordered. Mr. Lawrence.

MR. LAWRENCE: I merely wish to point out 2 or 3 things: first, no other state has such a provision in its constitution. In fact, such provisions have been deleted from constitutions of other states; second, there is nothing, if you take the provision as it now is on third reading, that prevents the legislature from providing adequate protection; and third, it wasn't brought out before, but while this purports to limit the liability, nothing limits the costs, attorney fees and expenses that a party would have in getting his rates determined as a stockholder. I urge you to vote no on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Karn.

MR. KARN: Mr. President, Mr. Lawrence covered the principal points that I intended to cover. I would like to suggest a nay vote on this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Binkowski, upon which the yeas and nays have been ordered. Does Mr. Hodges wish to be recognized on this?

MR. HODGES: Mr. President, I would just point out that I've checked with several attorneys in Detroit who are in this field and they tell me that they have used it a considerable amount, never to go to court, but as a theory to go on and it is usually settled out of court. What is usually involved is small family or closely held corporations which would incorporate in Michigan traditionally anyway, and not the type of large enterprise which is usually incorporated out of state for other purposes, in Delaware, for other reasons. I think it's been a great deal of protection in small corporations, where funds have been handled indiscreetly, and I think this does offer a great deal of protection for working men and it has, in practice, been used over the years.

VICE PRESIDENT HUTCHINSON: All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—34

Baginski
Balcer
Binkowski
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Krolikowski
Lesinski
Madar
Marshall
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Powell
Stopczynski
Suzore
Wilkowski
Young

Nays—82

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Farnsworth
Hannah, J. A.
Haskill
Hatch
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McCauley
McLogan
Millard
Mosier
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton

Figy
Finch
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Page
Perras
Plank
Pollock
Prettie
Pugsley
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Binkowski, the yeas are 34; the nays are 82.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. That completes the amendments to this article on the secretary's desk. Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, there are no more amendments and we're now on the adoption of the entire article; is that correct?

VICE PRESIDENT HUTCHINSON: That is correct, Mr. Downs.

MR. DOWNS: I rise near the hour of midnight in trepidation, fellow delegates, but I shall try to be very brief. I rise, announcing I am going to vote no on the entire article and urging other delegates to do the same. I shall not make a long speech but I want to make one or two points on what we've done, so the delegates will knowingly and very clearly know what has transpired, particularly on the key item of apportionment.

I wish to point out that under this provision neither house is based on population. And I do not say this in a fringe or flaky manner. I have asked the research department of this convention to prepare maps on how the apportionment system would work out. I am told this is a possible apportionment plan and there are other possibilities. However, I asked for one that would be as reasonable construction as possible.

In the senate in 1970, and not before, there would be a reapportionment and the smallest district in population would be 86,000; the largest would be 3 in Oakland county, each averaging 365,000 votes. In other words, it would take 4 voters in Oakland county to equal 1 voter in the 86,000 area. That is the senate. And this ties in with advice and consent. Then in the matter of the house, Monroe county, according to the 1960 figures, would be the largest, with 101,000, and the counties of the presiding delegate, Allegan and Van Buren, have the distinction of having an average of 53,062, in other words, practically a 2 to 1 difference. It would take 2 citizens from Monroe county to equal 1 citizen's vote in Allegan county. I point this out to try to dramatize that neither house is on population, and if anybody came to this convention pledged to have at least 1 house on population, I hope those delegates will join with me in voting no on this section in the hope that we'll have something done by third reading.

I do also wish to point out that by the time we come back on August 1, there may be additional supreme court decisions. I just have the newspaper report and if I keep talking long enough, I'll be able to have a special delivery letter with some of the further details. But I understand that not only Georgia threw out the county unit system, but in Maryland, their frozen senate, somewhat similar to Michigan's, has also been thrown out by the court there on the concept of equal protection of the laws. I will not now move that we postpone consideration until further court action is taken. I remind us again that the Michigan case, Scholle versus Hare, was remanded by the United States supreme court and is back in the hands of the Michigan state supreme court. I feel that our progress here is going to come from the judicial branch, unfortunately, rather than branches like this which, by themselves, are not created on a one man, one vote concept. I do urge the delegates to understand these factors in arriving at the conclusion. There are other points of this article that we have discussed — some facetiously; some seriously. But I wish to emphasize that the main reason that I am urging a no vote on this article IV, section 2, is that I think that it is not only wrong to deny the one man, one vote concept, but I believe it is running contrary to the historical thrust of the court decisions. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. McAllister.

MR. McALLISTER: Mr. President and fellow delegates, the hour is getting late. I cannot vote for this article. The committee that proposed this apportionment setup does not seem to be able to explain just what counties are going to be where. In fact, when the committee can't explain it to my satisfaction, I certainly can't vote for something of that kind.

It appears to me from the Tennessee case, the Scholle case, your Georgia case in the federal court, and your Maryland case, that we are doing something here that is just what Mr. Downs would like to have us do. And I do support his position. But I don't think this article should be passed if there is a possibility that the Michigan supreme court will rule on this case before August 1. It appears to me that what we are really going to have here is a senate and a house, both on a population basis. And at the present time I can't see where rural Michigan has any representation, either in the house or senate, under this plan. And in view of that fact, I cannot vote for it.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, I've listened with what, for me, is unusual patience to the repeated dolorous pronouncements of the delegate from Detroit to the effect that he intends to vote no on one article after another. I will not attempt to surmise his real reason for acting in this negative and wholly destructive manner. He can answer to his own conscience and whatever forces in his party or elsewhere to which he so loyally responds.

I can only say that it is, to me, utterly incomprehensible how any delegate — I say any delegate; not merely the leader of the minority party — can sit here for 7½ months in the give and take of debate and decision and then, at the end of our deliberations, recommend a no vote on issues in which he shared responsibility as a delegate and, as often as not, won his own points. By what kind of extraordinary wisdom or insight does he or any other delegate or delegates think that his or their views are so superior to the slowly agreed majority view that they warrant this extraordinary procedure which, to me, is utterly destructive in its result of trying to throw together a shadow constitution or at least shadow articles in place of the carefully mature articles of this proposed constitution? I say, Mr. President, that this tactic — obviously partisan and nonpublic in nature — is unworthy of any delegate and, in my opinion, deserves condemnation on this floor. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. DOWNS: I rise to a point of personal privilege —

MR. VAN DUSEN: Mr. President.

MR. DOWNS: — Mr. President.

VICE PRESIDENT HUTCHINSON: You may state it, Mr. Downs.

MR. DOWNS: I believe that the former speaker — and I am not going to question his motives — did attack my motives, did attack me personally, and as such, I have the right to respond.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. DOWNS: All right. I wish to apprise the convention that this is the first time I have, to my memory, risen on a matter of personal privilege on the floor of the convention. To my knowledge, I have never knowingly attacked any individual on the floor of this convention, nor have I questioned any delegate's motives. I may have disagreed with the judgment or conclusion and I have always, I hope, respected the right of other delegates to question my judgment and my conclusion; and I hope have shown no bitterness or malice when any individual delegate, for his reasons, has seen necessary to vote contrary to what I have wished or expressed.

I wish to say that when I campaigned for this office there were several very clear points I went to the constituents in my district on and offered myself as a candidate. One was that I did not want to see any backward steps in this constitution that's being developed. I specifically refer to civil service, and will touch on that when we get into it. On the apportionment matter, I simply say that this does not represent one man, one vote in either house. I campaigned, and I can show clippings and speeches ad nauseam where I campaigned on the concept of one man, one vote. Whether or not that is right or wrong is not the issue before this convention. The issue is that as a delegate, as a candidate I campaigned on that. I said I would fight for that. I have fought for that. And if I am defeated on this, I feel no moral obligation to support something that is less than that on which I campaigned. If, on the other hand, I were to compromise basic principles — and I'm not talking about modifications of day to day operations — I would feel that that was not justifiable. How other delegates answer to themselves is their prerogative and their business and I do not intend to answer that on this floor. I do hope, as we mature and develop here, we'll have a chance to review this more thoroughly and compare item by item.

I'm a little surprised at all those points that I've won in debate. I enjoyed the conversation and fellowship but I think it would take a rather small adding machine to suggest the number of significant suggestions I've made that the convention has adopted. And I express no resentment or bitterness at the convention for having seen fit to adopt suggestions other than mine. I hope I have shown no rancor; I have felt no rancor. I apologize for taking this time of the convention this late at night. I want the delegates to know that I came here in a spirit of friendship. I feel that has been increased and I hope we do nothing or say things which we individually would later wish had been left unsaid. Thank you for your patience. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, we do seem to be straying from the point. I would move that further debate on this article of the constitution terminate at 12:00 midnight.

VICE PRESIDENT HUTCHINSON: It being now 11:58, Mr. Van Dusen moves to terminate debate at 12:00 o'clock midnight. All those in —

MR. MADAR: Mr. President, I'd like to amend that so that they could speak. There have been several delegates that have tried to get recognition.

VICE PRESIDENT HUTCHINSON: There are 4.

MR. MADAR: That's right. Approximately that. And I move that we give them 10 minutes.

VICE PRESIDENT HUTCHINSON: Each one?

MR. MADAR: No, sir, 10 minutes for the 4.

VICE PRESIDENT HUTCHINSON: Mr. Madar moves that debate be terminated in 10 minutes. All those in favor will say aye. Opposed no.

The motion does not prevail.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: All right. A division is called for upon that. Is the demand for a division supported?

SECRETARY CHASE: Eleven.

VICE PRESIDENT HUTCHINSON: The demand is supported. All those in favor of limiting debate at 12:10 will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to limit debate to 10 minutes, the yeas are 63; the nays are 48.

VICE PRESIDENT HUTCHINSON: The motion prevails.

MR. A. G. ELLIOTT: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Elliott.

MR. A. G. ELLIOTT: Is a motion necessary to require that this time be divided equally between those that wish to speak? If so, I move.

VICE PRESIDENT HUTCHINSON: Between those who wish to speak?

MR. A. G. ELLIOTT: Yes.

VICE PRESIDENT HUTCHINSON: There are 4 and the Chair will request the 4 speakers to limit themselves to not more than 2½ minutes each. Mr. Wanger is next recognized.

MR. WANGER: Mr. President, fellow delegates, very briefly I'd like to comment on what Delegate Downs has urged the delegates at this convention to do. He has urged every delegate here to vote no on this article, in other words, to vote for nothing. He has offered no substitute, nothing to present to the people by way of any improvement whatsoever in this area of our constitution. And it seems to me very, very clear that such a vote is the most apparent and the grossest kind of irresponsible action for any delegate to take at this state of a constitutional convention.

I am not going to observe upon the motives of any delegate except to say this: I think that for those few delegates at the convention who have already publicly made expressions that they intend to fight the adoption of any revised constitution which we propose, that no observation on their motives is necessary because their vote on the board speaks for itself.

VICE PRESIDENT HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, ladies and gentlemen, Mr. Downs has recommended that you vote no on this article primarily because of the apportionment provisions. I would remind you that you have had 21 able persons on this committee who worked long and diligently. They have come up with recommendations which you have approved on first and second reading which the formula — you know what it is — I am only going to, for the record, make it perfectly clear that the recommendations as they appear here apportion the senate seats 80 per cent on population, 20 per cent on area.

Mr. Downs takes the extreme, the very large district in the upper peninsula that will have small population and the 3 most populous districts in Oakland county for his comparison. In the house of representatives he has taken the extreme because in grouping the counties that are not entitled to a single representative, you are left with Allegan and Van Buren counties that are thrown together and then when we come to apportion the difference in the number of seats between those counties that have one or more, and 110, it happens that they get the second seat. This is the extreme. Actually, the house of representatives, as you well know, is as near as you can come to exact population with the exception of a single representative. You could just change one and it comes as close as you can — it's as close as you can come up with a workable formula.

I should dislike, this late at night when you're all tired, any of you to feel that the statement that Mr. Downs has made, that neither house of the legislature reflects population, is correct. We have done very well indeed. I've said before I am very proud of what our committee has come up with and what you are about to approve. We need no apologies for the apportionment portion of the article before you and I urge you to approve it.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I was going to answer Delegate Pollock but it seems to me that Delegate Downs took care of that rather well himself. I only wish that Delegate Pollock had been as consistent on this question as Delegate Downs has been. He had some very unkind things to say about the provision himself. He equated it as 19 acres equaling 1 man, among other statements, and I can dig them out. This is not a one man, one vote principle. It does not meet the equality —

I do not think we should question the motives of those delegates. We have our own opinions, our own desires. We try to reflect the viewpoints of the people we represent. I urge a no vote on the article, too.

I've heard Dr. Hannah, on several occasions on the floor of this convention, over and over again, talk about how we do not have to apologize to any one for the provision that has come out of this convention. Let me tell you that if I voted for the provision I would have to apologize to the 680,000 people in my senatorial district that has only one senator. I think that we should understand, as Delegate Downs pointed out, that neither house of the legislature is going to be on a straight population basis. And there were alternatives. I think Dr. Pollock said we were taking a negative approach. We did all of the giving and no taking. And there were offers to accept proposals in the committee. Dr. Pollock himself offered one which we agreed to accept as a compromise proposal. Dr. Pollock himself, for reasons best known to him, a day or two later decided to revise his proposal. Then it was no longer acceptable to the minority on that committee. And we could go on and on and point out the facts here, and I'm willing to let the people of the state of Michigan decide whether or not they've got an equitable apportionment.

VICE PRESIDENT HUTCHINSON: Mr. Nord.

MR. NORD: Mr. President, how much time is left for the debate? Am I the last speaker?

VICE PRESIDENT HUTCHINSON: You are.

MR. NORD: How much time is left, sir?

VICE PRESIDENT HUTCHINSON: It looks like 2 minutes to the Chair.

MR. NORD: That is fine. Thank you. I rose earlier. I asked for recognition because I didn't think that Mr. Downs would have an opportunity to reply to the attack on him. Since that has been covered, I will simply attempt to close the debate.

I would like to point out that as to Dr. Pollock's remarks relating to whether or not this is a satisfactory legislature, that when Dr. Pollock appeared before the committee on legislative organization, he started out by saying — and I applauded him and I told him that I would join with him — he said the legislature is so bad that we must start from scratch; we cannot have a patched job. He appeared later before us with a specific proposal. At that point I was not satisfied with it. I asked him, "Dr. Pollock, is this starting from scratch, or is it a patched job?" He said, "It's a patched job." We didn't approve of it. Nevertheless, we were forced to accept it at the end because, of all of the proposals we would find that were put in by the Republicans, that was the best; even though it was a patched job, we tried to accept it. He has retreated from that position. Then he attacked the proposal that you had before you and broke it down so that was worthless. Now he has rebuilt it so that it looks good.

I intend to vote against this. I think everyone understands I intend to vote against this section. I would vote against the entire constitution on the basis of either this section or the one I spoke on before. Both of these, I believe, are unconstitutional. The one about search and seizure, I believe, is clearly unconstitutional. And this one about the senate apportionment is certainly unconstitutional as to the next 10 years, and beyond that my opinion is that it is unconstitutional as well. But even if it were not unconstitutional, it is unjust. There is no reason for me to support it; there is every reason for me not to support it. And with that view, I can't see how anyone can quarrel with my doing what my conscience dictates. And I explained my conscience for 4 hours on the floor. There is no secret why I will vote against this. And when I vote against these 2 sections that have to do with apportionment, they are the heart of the entire constitution to me.

Either you have an effective democratic legislature or you have nothing. You have no state government. We have virtually no state government now in this state. We wanted to cure it. If you vote no on this, we will come back with other proposals. We've been putting in proposal after proposal; we will not quit. Just try it. If you don't believe us, vote no on this and see whether that means that there is no constitution. Vote no and we will stay here until kingdom come until we get something that is agreeable. You're not left with no alternative. Just because you put something on the ballot doesn't mean that anyone is obligated to vote for it and it doesn't mean that anyone here must support it.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the passage of article IV. All those in favor of article IV will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 83

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Kuhn
Lawrence
Leppien
Martin
McLogan
Millard
Mosier
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Seyferth
Shackleton
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays — 37

Baginski
Balcer
Barthwell
Binkowski
Boothby
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Garvin
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Krolikowski
Leibrand
Lesinski
Madar
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Perras
Sablich
Stopczynski
Suzore
Wilkowski
Young

SECRETARY CHASE: On the passage of article IV, as amended, the yeas are 83; the nays are 37.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, article IV, as amended, is passed.

For sections 1, 2, 3, 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, and 19 through 53 of article IV as passed, see above, page 3051.

Following is section 4 of article IV, as amended and passed:

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger if provided by ordinance of the city. The districts with which the territory shall be combined shall be determined by said ordinance certified to the secretary of state.

No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Following is section 6 of article IV, as amended and passed:

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight persons, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following four regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and may remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Following is section 12 of article IV, as amended and passed:

Sec. 12. The compensation and expenses of the members of the legislature shall be determined by law. Changes in salary or expenses shall become effective only when legislators commence their term of office after a general election.

Following is section 18 of article IV, as amended and passed:

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Following is explanation of vote submitted by Messrs. Madar, Nord, Norris, Marshall, Baginski, Buback, Jones, Lesinski, Stopczynski, Suzore, Hodges, Downs, Mrs. Hatcher and Miss Hart:

We object to the adoption of article IV on legislative branch. The basic reason is that this denies equality at the ballot box as is being described by United States and other court decisions. Neither house is based on population, since the smallest house district is 53,062 and the largest is 101,120, and by 1970 when the senate would be reapportioned the smallest would be 86,430 and the largest 365,860.

We regret very much that the convention did not meet the apportionment problem, nor delay action until further court decisions in Michigan have been handed down, which would still give sufficient time for getting the new draft constitution on the ballot.

We are concerned that section 53, providing for a legislative auditor to replace the presently elected voters' auditor, will weaken public control which has been so effective in Michigan's "dollar honest" government. The performance postaudits authorized by the legislative auditor can be used to harass the efficient operation of units of government, rather than be limited to financial auditing which is presently the primary function of the auditor general.

The failure of the convention majority to meet the apportionment problem is perhaps the most serious weakness of the convention to date, because the question of apportionment affects practically every other article of the constitution. The question of the responsibility of the legislature, and its power can only be determined after a truly representative legislature is created. The question of taxation, finances, advice and consent, and all appropriations is dependent upon the type of legislature we have established.

We, therefore, urge a no vote on this article and hope the convention will reconsider its action on this article before adjournment.

VICE PRESIDENT HUTCHINSON (continuing): Announcements by the secretary.

SECRETARY CHASE: The apple juice today was through the courtesy of the Eauclair Canning company, by Mr. J. Burton Richards. (applause) And the oranges are with the compliments of your finance clerk, Mrs. Lois Tomlinson. (applause)

VICE PRESIDENT HUTCHINSON: The Chair has been waiting a long time to do it, but the Chair now recognizes Mr. Dell.

MR. DELL: Mr. President and members of the convention, I tried to get recognition on this last article here because I was like Mr. Downs there — I hope I have the privilege of making this statement — I also campaigned on this reapportionment, not on a population basis but on the effect it would have on outstate, and I felt very much like the farmer who went to town to sell his wheat and when he came back his neighbor said to him, "Well, Tom, how did you make out?" "Well," he said, "I didn't get as much as I expected and I didn't expect I would." And I think that's what's going to happen in this convention. At this time I move that we adjourn.

VICE PRESIDENT HUTCHINSON: Mr. Dell moves that the convention do now adjourn. All those in favor will say aye. Opposed will say no.

The motion prevails, and the convention stands adjourned until 9:00 o'clock a.m. today.

[Whereupon, at 12:15 o'clock a.m., the convention adjourned until 9:00 o'clock a.m., Tuesday, May 8, 1962.]

ONE HUNDRED THIRTY-FOURTH DAY

Tuesday, May 8, 1962, 9:00 o'clock a.m.

PROCEEDINGS

VICE PRESIDENT HUTCHINSON: The convention will **come to order.** The delegates will please take their seats.

The **invocation** today will be delivered by Dr. Ralph J. Danhof, executive secretary and stated clerk of the Christian Reformed Church. Dr. Danhof is from Grand Rapids and is an uncle of Delegate Robert J. Danhof.

REVEREND DANHOF: Let us unite our hearts in prayer. We thank Thee, heavenly Father, that we may call upon Thee. We thank Thee that Thou hast given us a state in which we may live and also exercise the gifts of freedom. We pray that Thou wilt preserve these freedoms for us not only as the state of Michigan but as the United States of America.

We pray, Lord our God, that Thou wilt bless this constitutional convention. Bless these delegates in all of their efforts and grant that they may truly be servants of Thine, for therein lieth our greatness, when we may serve Thee and our fellow men. We beseech Thee that Thou wilt cause Thy favor to rest upon each and every delegate. Use them mightily to promote the cause of justice and freedom for men.

Pardon graciously our sins and favor us as a nation among the nations of the world and cause us to be a good example unto all of them. Pardon all that we do contrary to Thy heavenly will, and may Thy law serve as the guide of true worship; to love Thee above all else and our fellow men as ourselves. In Christ's name we ask it. Amen.

VICE PRESIDENT HUTCHINSON: The secretary will take the **roll call.** All those present will vote aye. Have you all voted? The secretary will record the roll.

SECRETARY CHASE: Mr. President, 127 delegates; a quorum is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Ford, temporarily, from this morning's session; and Mr. Nisbet, from today's session.

VICE PRESIDENT HUTCHINSON: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Ford, Hood, Liberato and Nisbet.

Absent without leave: Miss Andrus, Mrs. Hatcher, Messrs. Hubbs, Murphy, Norris and Ostrow.

VICE PRESIDENT HUTCHINSON: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Miss Andrus, Mrs. Hatcher, Messrs. Murphy, Hubbs, Ford, Ostrow and Norris.]

Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

VICE PRESIDENT HUTCHINSON: Communications from state officers.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: **Motions and resolutions.**

SECRETARY CHASE: Messrs. Van Dusen and Cudlip offer **Resolution 97,** A resolution to amend the convention rules to provide for possible amendments to the proposed constitution on the occasion of the sine die adjournment session of the convention.

Following is Resolution 97 as offered:

Whereas, When the convention adjourns in May, it will stand adjourned until Wednesday, August 1; and

Whereas, During the intervening period a legal determination may alter the date of submission of the constitution to the people as provided in the schedule; and

Whereas, During said period the committee on style and drafting may discover technical changes which should be made in the new document; now therefore be it

Resolved, That on the occasion of the sine die adjournment session August 1, 1962, amendments to the proposed constitution not affecting its substance may be offered by the committee on style and drafting, and amendments may be offered to the schedule to implement any intervening determination respecting the time of submission of the proposed constitution to the electors, but no other amendment may be offered. No such amendment shall be adopted unless approved by a majority of the delegates elected to and serving in the convention, voting by the yeas and nays.

VICE PRESIDENT HUTCHINSON: Referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Van Dusen offers **Resolution 98,** A resolution to provide for the time and place of the sine die adjournment session, and for notice thereof.

Following is Resolution 98 as offered:

Resolved, That when the convention adjourns today it stand adjourned until Wednesday, August 1, 1962, at 10:00 o'clock a.m., when it shall convene at a place to be designated by the president and the 3 vice presidents of the convention; and be it further

Resolved, That the officers shall determine the place of such August 1, 1962, session and the secretary shall advise each delegate thereof in writing not later than July 16, 1962.

VICE PRESIDENT HUTCHINSON: Referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Van Dusen also offers **Resolution 99,** A resolution of thanks and appreciation to the citizens research council of Michigan, incorporated.

Following is Resolution 99 as offered:

Whereas, The citizens research council has issued a series of excellent research studies on matters relating to the work of this convention and has freely provided research staff and time to convention activities; and

Whereas, These publications and research efforts have been extensively used by committees and by individual delegates as reliable factual sources throughout all phases of the work of this convention; and

Whereas, This research activity by a privately supported organization is deemed by this convention to have been of material aid to its deliberations; now therefore be it

Resolved, That the Michigan Constitutional Convention of 1961 hereby records and expresses its sincere thanks and cordial appreciation to the citizens research council of Michigan for its substantial interest and effort in this momentous public affair; and be it further

Resolved, That a suitably printed copy of this resolution be transmitted to the president of the board of directors of the citizens research council of Michigan, incorporated.

VICE PRESIDENT HUTCHINSON: Referred to the committee on rules and resolutions.

SECRETARY CHASE: That is all the resolutions on file, Mr. President.

VICE PRESIDENT HUTCHINSON: **Third reading.**

SECRETARY CHASE: On the third reading calendar this morning, **article V,** the executive branch, of the third reading document.

[Article V, sections 1 through 28, was read by the secretary. For text, see above, page 3057.]

VICE PRESIDENT HUTCHINSON: The article has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in article V of the proposed revision of the constitution:

sec- tion	col- umn	line	Corrections
3	1	47	After "senate [" change period to a comma.
7	2	40	After "governor" insert "[,]".
25	1	24	After "vest" insert a comma.
25	1	29	After "[" insert a comma before "who]".
25	1	33	After "IN" strike out "THE".
25	1	35	After "ELECT,", insert "THE".
25	1	36	After the first "ELECT,", insert "THE".
25	1	38–9	After "SHALL" strike out "IN THAT ORDER BECOME GOVERNOR" and insert "BECOME GOVERNOR IN THAT ORDER".

VICE PRESIDENT HUTCHINSON: Without objection, it is so ordered. [Corrections made above.] The secretary has an amendment on the desk, which he will read.

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend article V, section 9 (column 1, line 14) after "and" by inserting "shall"; so, beginning at line 10, the language will read:

He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, this, I believe, is in the nature of a perfecting amendment. I checked with Mr. Martin and he had no objection to it.

We noticed that up in line 10 it says, "He may remove," and I do believe the intent was, if he did remove, that he should report the reasons for the removal and if we do not put in the "shall" here, then that report goes back to "may;" so you would say that he may remove and he may report. I think the intent of the convention was that if he does remove he shall report the reasons for such removal.

VICE PRESIDENT HUTCHINSON: All in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Higgs offers the following amendment:

1. Amend article V, section 28 (second column, following line 57) by adding a new paragraph to read as follows:

"Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court of the state having jurisdiction provided by law.".

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, this particular sentence is proposed to be added to the civil rights commission article but in no way is to be substituted for or to change the wording of the provision as it is now approved by this convention.

The background of this particular sentence is actually a digest of MSA section 17.458 (8), a part of the Michigan state fair employment practices act. What is involved here is to provide an orderly method or an orderly procedure for appealing from orders of the commission. I think, in view of the experience that the state has had — which to my understanding has been satisfactory and approved by the people working with this commission — that this practice has been satisfactory and that this, in effect, will give greater significance and meaning to this particular article.

Now, of course, in view of the fact that we are actually writing into the constitution a commission, I think it is most significant that we pay as much attention to details as possible, and this is what led me to read and examine the Michigan fair employment practices act. This involves about 8 pages of statutory detail. I think that, actually, the commission that we have provided for in the constitution is as fairly complete as possible in constitutional language. There is a great deal that must be involved by way of implementation by the legislature. I would like, however, to give further direction and significance to this particular method of procedure, inasmuch as I think we have not provided or shown the way.

So that you will all understand just what is meant by the words in this sentence, this actually is a digest of about 3 or 4 times the language that appears in the section cited. The words "de novo," of course, mean a new trial. It means that a person who is really aggrieved has the opportunity to re-present his evidence before a court of law. However, this appeal procedure involves an appeal from the final order of the commission.

I think that, actually, according to my information, there are many matters that come before these commissions that do not involve a great deal by way of money. They do not involve a great deal by way of case or controversy in the ordinary sense, and probably the bulk of matters that will come before this commission will be handled by the commission satisfactorily to all parties. Now, in those instances where a party feels aggrieved, I think that his opportunity should be in the courts of the state.

It was my understanding that — before I offered this amendment I had made an effort to communicate as broadly as possible with interested persons in this convention and it seemed to me that there is substantial support here for this procedure, for these words, for this provision. I would like to yield the floor to those interested persons who would like to speak upon it.

VICE PRESIDENT HUTCHINSON: Mr. Garvin.

MR. GARVIN: Mr. President and delegates, of course you know I have been interested in this particular section, section 28. I was somewhat concerned and still am about the last sentence in that section. However, it seems that over the 2 readings — and this is the third reading — the delegation is determined to keep it in.

In line with that, I believe that the amendment of Delegate Higgs is rather in line with the general intent to give the person aggrieved, whether he be plaintiff or defendant, the right to have a new trial before a court. "De novo" means "anew," which means that they shall try the case from the beginning, before the circuit court. I can have no objection to that addition to this particular section and I will not oppose it.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Martin.

MR. MARTIN: Mr. President, Mr. Higgs' amendment has had a good deal of discussion. Mr. Garvin and a good many others have looked at it. It seems to be a reasonable addition and it does provide the same provisions, precisely, as the fair employment practices act on this matter. It requires a trial de novo on any matter that is appealed to the courts. I think it is probably a desirable amendment and I think the committee would favor it.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Barthwell.

MR. BARTHWELL: Mr. President and fellow delegates, this puts the nonlawyer in a pretty bad position here. These big words "de novo" and all this stuff is kind of confusing. I have been trying to find out exactly what the lawyers are talking about, but to me this seems like a desirable amendment so I want to urge the delegates to vote yes for the amendment, please.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

SECRETARY CHASE: Mr. Martin offers the following amendment:

1. Amend article V, section 20, (column 2, line 54) after "governor" by changing the period to a comma and inserting "with the advice and consent of the senate and from the same

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

political party as the former incumbent of said office."; so that the language will read:

> Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor, with the advice and consent of the senate and from the same political party as the former incumbent of said office.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, this addition is simply to make the provision which has been inserted by the committee on style and drafting consistent with the rest of the document. The provision for advice and consent appears throughout the executive branch article and it seems certainly desirable that if a vacancy in a position of this kind is to be filled that it come from the same political party. I hope the convention will adopt the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I am at a loss to understand why Delegate Martin offers this amendment at this late date. It has always been, under our present constitution and previous constitutions, that where a vacancy existed in one of the elected ad board positions that the governor had the right to appoint. He has had this sole right and it has worked well in this state. Now Delegate Martin comes along and the big objection that I have is that now he wants to tack the advice and consent angle of a malapportioned senate onto the governor's appointees to fill vacancies.

I would urge the delegates to vote against the Martin amendment. There is no sensible and logical reason for this amendment. This is another attempt that has been made throughout this convention to put malapportionment into every phase of our constitution and I vigorously object to this type of amendment at this late stage in this constitution.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, Mr. Marshall has convinced me when I was somewhat in doubt that I should support the Martin amendment, so I do so support it.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, notwithstanding the malapportioned senate, Mr. Marshall, I will oppose the Martin amendment and I will do it for this reason: if we assume that the senators are of one party and the governor is of another, you then have the party in power in the senate running the party's business of the other political party. These men were originally nominated at party conventions. To now have the politicians in the senate dictating the party machinery instead of the duly elected delegates, whether of the same party or of a different political party, is giving the senate entirely too much power. You have gone beyond "by and with consent of the senate;" you have required them to be of the same political party as the incumbent, and if there is any opportunity, then, for the senate to supersede the orderly political party machinery of this state of either political party, you have given it to them, and I think this is highly objectionable.

Now, secondly, it is true, if you examine this, that advice and consent is introduced into this filling of vacancies for the first time. It is not consistent with the rest of the constitution. You have not seen fit to do it in other places and I think that the governor has a right to fill his own vacancy from his own party for the balance of his term.

I hereby oppose the amendment as giving the senate power way beyond "advice and consent of the senate" by giving them the power to dictate to either or both political parties the name and politics of the incumbent. This certainly is a prerogative of the governor.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: I would only say this: that it does not seem right — certainly is not right — that the governor should be able to switch the political complexion, for example, of the secretary of state's office or the attorney general's office simply by virtue of a coincidence, the coincidence of death or resignation or some event of that kind. The people have spoken on these 2 offices and that, I presume, is why they were made elective. The people having spoken and having decided that they should be chosen from a particular political party, certainly it is sound and wise that the people's views ought to be respected in the filling of an appointment to that particular spot.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Martin. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division has been called for. Is the demand supported? It is supported. All those in favor of Mr. Martin's amendment will vote aye. Those opposed will vote no.

MR. DOWNS: Yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays. Is the demand for the yeas and nays supported? A sufficient number up. The yeas and nays are ordered. This is a record roll call vote. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—46

Anspach
Boothby
Brake
Dehnke
Dell
Durst
Elliott, A. G.
Figy
Finch
Goebel
Habermehl
Haskill
Hatch
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Martin
McAllister
McLogan
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton

Nays—78

Allen
Andrus, Miss
Austin
Baginski
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Donnelly, Miss
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Follo
Gadola
Garvin
Gover
Greene
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Heideman
Jones
Judd, Mrs.
Kelsey
King
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Millard
Mosier
Murphy
Nord
Page
Pellow
Perlich
Perras
Rajkovich
Richards, L. W.
Seyferth
Snyder
Spitler
Staiger
Stamm
Sterrett
Stopczynski
Suzore
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Martin, the yeas are 46; the nays are 78.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Donald Doty offers the following amendment:

1. Amend article V, section 27 (column 2, line 5) after "highway" by striking out "commission" and inserting "department"; and after "shall" by striking out "administer the state highway department and"; and by striking out all of lines 11 through 20 and through "who" in line 21, and inserting "A state highway commissioner shall be elected for a four-year term and"; so the language will then read; beginning at line 4:

> There is hereby established a state highway department,

which shall have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

A state highway commissioner shall be elected for a four-year term and shall be a competent highway engineer and administrator.

VICE PRESIDENT HUTCHINSON: The Chair will recognize Mr. Doty of Monroe on his amendment.

MR. DONALD DOTY: Mr. President and members of the convention, this issue has been before you on other occasions. This amendment would again have the effect of establishing the highway commissioner as a constitutional office and provide for his election. This is somewhat different language, I believe, than has been before you before, but it would accomplish the same purpose and would, in effect, do away with the recommendation that has heretofore been adopted in creating a state highway commission. I therefore urge your adoption of this amendment. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, how many speakers have you seeking recognition?

VICE PRESIDENT HUTCHINSON: The Chair has none.

MR. VAN DUSEN: Splendid. I would move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon this amendment to 5 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. It is so ordered. Mr. Martin.

MR. MARTIN: Mr. President, a point of order. This precise question has been before the body on second reading: the establishment of a state highway commissioner in the constitution and the elimination of the provision that he be appointed by the highway commission, page 883 of Journal 115, and Journal 116, pages 893 and 894.

VICE PRESIDENT HUTCHINSON: The Chair is advised that the research of the secretary's office indicates that this is not the same amendment as was voted upon before, so the Chair will rule that the amendment is now in order.

MR. MARTIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: May I speak on the amendment, then, in that event? This, of course, is the same amendment, in substance, as was proposed in committee of the whole. In effect, it takes the state highway commissioner from his present position as a statutory, elected officer and transfers him into the constitution as a constitutional, elected officer; and provides, in effect, that there shall be no highway commission but that the highway commissioner shall have a constitutional department in the constitution. In other words, it establishes one of the — if not the only — constitutional department, with the exception of the civil service commission and civil rights commission, in the constitution.

Certainly, I do not think the delegates have in mind doing this. I don't think they want a constitutional department which the legislature cannot deal with on a legislative basis as they do with other departments, a constitutional department which also has constitutionally mandated funds. In other words, we would have a complete fourth branch of government here without any relationship or any responsibility to the governor or to the other portions of state government.

I inquired of the state highway commissioner when he was before our committee as to what his relationship to the governor was, and he said it was a consulting one. I am sure under this amendment he would have no relationship whatsoever and the state highway department would run itself as a completely and totally independent branch of government. I am sure this would be a step in the wrong direction as far as the state of Michigan is concerned, especially when one individual has the spending of $300 million. For that reason I hope that the convention will not go along with this amendment but will take the same action which it took in the past, and that is to recognize the desirability of the provision as it now is in the proposed constitution.

I might add, of course, that this is one of the portions of the compromise which was discussed with various members of the majority party and, for this reason as well as others, I trust that the majority of the delegates will vote down the Doty amendment.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, Mr. Martin has just said what I had in mind. I am sure that we all know that this is part of the general compromise agreement. That agreement has withstood every attack so far. We are in the last week of our sessions, a little late to start upsetting it. I trust that it will be upheld as agreed upon.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, consistently on first and second reading, with relation to the earmarking of funds, we have said that gas and weight taxes should be earmarked because this is the way the people wanted it. The people have decided this and we have confirmed what the people wanted done. It seems to me that when the people have determined how these funds shall be used, to what purposes they shall be put, and that we confirm this, is it asking too much that we let the people select their own treasurer of these funds? Mr. Martin and Mr. Brake have spoken of accommodations, compromises, and very recently, I am sure, it has come to our attention that compromises and accommodations are only made to be broken. I would therefore urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR. Mr. President, speaking for this particular amendment, if you will check the various departments within the city of Detroit — and I like comparing a lot of the departments to our state departments because, after all, when you stop to consider the amounts of money that are spent and the size of these various departments, they are very similar, and I can compare our highway commissioner's job and the commission itself with the city of Detroit's department of public works. Now there in the city of Detroit we have 4 man commissions. We have a 4 man commission with the water board. We have them with the health department. We have them with the lighting commission. And yet, realizing that it is much better not to have all of these troubles — and you do have considerable trouble when you have a commission, a large commission to contend with; and a 4 man commission is a large commission when you need to do something fast —

VICE PRESIDENT HUTCHINSON: Time has expired.

MR. DONALD DOTY: The yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Doty of Monroe which has been read. The yeas and nays are demanded. Is the demand supported? The demand is supported. The yeas and nays are ordered. The question is upon the amendment offered by Mr. Doty. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the vote. Mr. King.

MR. KING: Mr. President, may I request the vote of the Chair?

VICE PRESIDENT HUTCHINSON: The Chair votes no.

MR. KING: Thank you.

The roll was called and the delegates voted as follows:

Yeas—61

Allen
Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Boothby
Bradley
Brown, G. E.
Brown, T. S.
Buback
Dade
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Garvin
Greene
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Hodges
Hoxie
Jones
Kelsey
Kirk, S.
Krolikowski
Leibrand
Lesinski
Madar
Marshall
McAllister
McCauley
McGowan, Miss
Pellow
Perlich
Perras
Plank
Prettie
Richards, L. W.
Sablich
Shanahan
Snyder
Spitler
Stafseth
Stamm
Stopczynski
Suzore
Walker
Wilkowski
Wood
Yeager

Faxon
Follo
Ford
Murphy
Nord
Young
Youngblood

Nays—72

Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Butler, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Habermehl
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McLogan
Millard
Mosier
Page
Pollock
Powell
Pugsley
Radka
Rajkovich
Richards, J. B.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Staiger
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Donald Doty, the yeas are 61; the nays are 72.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Powell offers the following amendment:

1. Amend article V, section 28 (column 2, line 30) after "governor,", by inserting "by and"; so the language will then read:

> There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate....

VICE PRESIDENT HUTCHINSON: Is Mr. Powell in the room? Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I am sure this is not a substantive change. It does not make an iota of difference whether we add these words in there or not, but in our committee on style and drafting we were trying to standardize this phraseology and in this place, apparently, these 2 words were overlooked.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Powell. Mr. Martin.

MR. MARTIN: No objection to that, Mr. President, to that change.

VICE PRESIDENT HUTCHINSON: All those in favor will say aye. Opposed will say no.

The amendment is adopted. That is all of the amendments, is it? Are there any further amendments?

SECRETARY CHASE: That is all.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article V —

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, it is with a great deal of reluctance that I feel compelled to have to speak against the adoption of this article and to urge a no vote. This is brought about, of course, by the refusal of the majority of the delegates in this convention to divide the questions where we could separate the rotten apples from the good ones, so we would have an opportunity to vote on those that we were in accord on and to vote against those that we were not in accord on; but, by the fact that this action was taken, many objectionable features are being crammed down the throats of the minority delegates to this convention.

I would like to take up a few words of the very esteemed and world renowned political scientist from Ann Arbor. He made the statement last night that it was incomprehensible — I think in debate on the floor last night — that it was incomprehensible to him how Delegate Downs or the minority could arrive at a decision to vote no after we had had the deliberative process of give and take in free debate. I want to say to this convention and for the record that precisely what we have not had is free debate in this deliberative body. You heard on the floor here a moment ago by Mr. Brake, Mr. Martin and others, discussion about the compromise, the agreement, the accommodation, the deal — call it what you may — that this was a part of it, and urging the delegates to stick to the deal that was worked out by the majority party. I can say to this convention —

MR. WALKER: Mr. President, a point of order, please.

VICE PRESIDENT HUTCHINSON: State the point.

MR. WALKER: I think it is bad enough that the delegates sell out their principles and convictions with a deal and a compromise, or what have you, but to have the floor of this convention sullied and the record of it sullied by further talk of such a deal is not right. (laughter)

VICE PRESIDENT HUTCHINSON: You may proceed, Mr. Marshall.

MR. MARSHALL: Well, as I was saying when I was so rudely interrupted — call it what you may and, whether you have it in the record or you don't have it in the record, I think the people of the state are aware of what has taken place and I refer to it as an accommodation rather than a deal or an agreement.

There are features in this article that we were in accord on, many of them, the executive reorganization, the term of office for the governor, for the ad board people, the governor and the lieutenant governor running as a team. But on this question of the selection of the ad board, where we have 5 different ways of selecting our state officials as a result of the package deal that was worked out off the floor of this convention, it makes no sense to me whatsoever and I don't know of any precedent anywhere else in the country for this type of a hodgepodge that we have created here. I do not think that the delegates can justify the establishment of this so called highway commission, for one.

As I stated earlier in this convention, I am opposed to any further erosion of our democratic processes and I think the people of this state, the electorate, are intelligent enough to make their own selections at the ballot box when it comes time for selecting those who will serve them in government. I think we are making a grave mistake — a very serious and grave mistake — because there was no great demand on the part of the people of this state prior to the calling of this constitutional convention, or since, to do away with or to take away the right of the people to elect their state highway commissioner and other state officers. I think that this article — and this is why I am speaking against it and urging a no vote — makes a mockery of democracy, and I think if the delegates who are opposed to what was done, in particular as it relates to the highway commission, should vote no on this also, then we would have a chance to correct it and to take the necessary steps to correct these evils.

I can't agree with Dr. Pollock on the statement that he made. If we had had free debate on the floor of this convention on this question then I could go along with him, but I cannot go along with the statement, I cannot go along with what has been done, and the very fact — I know one of the delegates in this convention said to me when I asked him the question: why do we have to buy all of these rotten apples? Why can't we separate those we are in accord on and then debate only on those that are objectionable and those that we have violent disagreement on? I think the statement was that, obviously, the Republican party has come to the conclusion that the only way they can retain control is through the constitution because they don't think the people will accept their philosophy at the polls. Thank you.

VICE PRESIDENT HUTCHINSON: The secretary informs the Chair that there is one additional amendment, which is on the secretary's desk, which the secretary will now report.

SECRETARY CHASE: Mr. Wanger offers the following amendment to article V:

1. Amend article V, section 27 (second column, line 9) after "state" by striking out the comma; so the language will then read, ". . . and such other public works of the state as provided by law."

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Briefly, Mr. President and fellow delegates, this is a technical amendment. It is designed to perfect this last line and to remove that comma which could cause interpretation difficulties later on. It is felt that this is a section where we certainly should make it entirely clear and set it out with the clear intent that the phrase "as provided by law" merely modifies "and such other public works of the state." I yield at this time to Mr. Martin.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, we have no objection to this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Wanger. Mr. Staiger.

MR. STAIGER: I would ask a question of Mr. Wanger, if I could, through the Chair.

VICE PRESIDENT HUTCHINSON: If the gentleman cares to respond.

MR. STAIGER: Mr. Wanger, it seems to me that by leaving that comma in there, "as provided by law" would then modify "state trunkline highways and appurtenant facilities." Now for what reason do you want to just make that modify the last clause? I think we need flexibility in all 3 of these terms.

MR. WANGER: Well, it could be interpreted as going much farther than the words "state trunkline highways and appurtenant facilities." It could be interpreted as modifying the entire paragraph, since the entire paragraph is just one sentence and that is put on at the end. And that, of course, was clearly not the intent at any time. We have no inconvenience arising — even if it would not modify "state trunkline highways and appurtenant facilities" — because of the flexibility which is given here to "such other public works of the state."

MR. STAIGER: Well, it just seems to me that there is no harm done in letting that phrase modify that whole first clause and I would suggest that we leave it that way.

MR. WANGER: You want to have "as provided by law" modify the rest of the sentence; is that correct?

MR. STAIGER: Yes.

MR. WANGER: You would. Well, it would seem to me that that would entirely defeat the intent of the whole section, because that would mean it would not come into effect at all unless it were provided by law. This would mean that the section was not self executing. The whole purpose here is to have it be self executing and, therefore, I strongly urge you to vote for this amendment, to remove this difficulty.

It may be just a comma, but when we are writing a constitution a comma can make the difference between accomplishing what you intend and not accomplishing it, and that has been so interpreted in many cases in the past. So I strongly urge you to vote for this, to make the intent of this convention clear and, frankly, to avoid the interpretation which Delegate Staiger has suggested he would prefer.

MR. STAIGER: Do I still retain the floor, Mr. President?

VICE PRESIDENT HUTCHINSON: Yes.

MR. STAIGER: Well, using Mr. Wanger's interpretation, it would then read, "There is hereby established a state highway commission . . . as provided by law. Then it goes on to explain exactly who would be on the commission. I see no danger in that area. I think it is important to leave some flexibility in these words "all state trunkline highways and appurtenant facilities" and, for that reason, I think that we should leave the comma in there if it will give this interpretation of modifying those terms.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I would recommend that you defeat the Wanger amendment. We have, for the first time, written into this constitution the term "trunkline highways." Now this is already statutorily defined and we don't know what they are going to say a "trunkline highway" is, and if you adopt the Wanger amendment, we have got to go on in this constitution and define what we mean by a "trunkline highway." We cannot even leave that definition to the state law any more. Then we will have to go into this constitution and define "appurtenant facilities" because if we adopt the Wanger amendment they cannot define that by law. Then you would limit it to "public works" which would be the only thing that could be provided by law.

I think that the comma should stay so that the legislature can classify and provide and define what are "state trunkline highways," what are "appurtenant facilities" and, certainly, there is no problem; they will not give the state highway department anything that is not either a public work, a highway or appurtenant facility.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: No.

VICE PRESIDENT HUTCHINSON: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, we have had a lot of discussion about this comma and what it does, but I will say this: that whether the comma, from a grammatical standpoint, should be in or not, in or out as far as the highway people are concerned, where it says "provided by law" as far as the past precedent, the statutes of the state describe where the trunklines are, they describe what a "trunkline" is, and if you leave the ability or this flexibility to define these things for the legislature, that is as it should be.

Now I would think if you took the comma out, it would only modify as to public works. Now, I am not enough of an English student to know that, but it has always been defined that way and for a very good purpose: one of the reasons that they want to specify what state trunklines are is so you don't get into the situation of having practically every road a state trunkline and diluting the whole fund. Actually, about 10 per cent of the roads in Michigan are state trunklines. About half the money is provided for the state trunklines and the reason for that is that 80 per cent of the traffic uses the state trunklines, so that you want to protect against a dilution of the funds for constructing the main arteries in the state.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Just briefly, the objection as raised to this amendment has merely to do with the words "state trunkline highways and appurtenant facilities." Now it seems to me that there is no danger of a restrictive interpretation here because of the fact that the legislature is, in the next clause, given the right to confer jurisdiction over "such other public works of the state;" so there is no difficulty to speak of, in that section, with that problem but there is a big problem if you take the words "as provided by law" and have them modify the entire paragraph. There is a serious problem, the problem that the legislature, because of some interest group's activities over there or because of a great campaign, may decide not to provide for a highway commission at all, whether or not the constitution sets it up, because it is obvious that unless otherwise provided you cannot mandamus the legislature. Now that is the interpretation problem we are getting into and this amendment will clear it up. The other interpretation problem which the amendment would allegedly create is far less serious.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: For the reason stated by Mr. William Hanna, I hope this amendment will not be adopted. I think the comma should stay in to reflect the intent of the convention.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Wanger. All those in favor will say aye. All those opposed will say no.

The amendment is not adopted. The question now is upon the passage of article V. The Chair will recognize Mr. Stevens.

MR. STEVENS: Mr. President and fellow delegates, I suppose it is a matter of opinion and I will so stipulate. Regarding the remarks of Mr. Marshall, his term "objectionable" and so forth, it occurs to me that, in the opinion of many of us, those things which he thinks are objectionable are both desirable and wise and also good. So it becomes a matter of terminology and opinion. I cannot understand why he thinks that what he considers unnecessary or objectionable is necessarily so considered by everybody else.

VICE PRESIDENT HUTCHINSON: Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, the executive article that we are about to vote on, I feel, is a great improvement over the present constitution, the 1908 constitution. I believe we have put the responsibility where it belongs. We have properly made the various operations of state government accountable to the governor with the correct type of checks and balances by the legislature. This is definitely an improvement over the 1908 constitution. The only thing any delegate has to do here is to read the present constitution and he can see the improvement for himself.

The objection, mainly, that I have heard about the executive article is the advice and consent of the senate. We have talked about the malapportioned legislature. The committee on legistive organization has taken care of the so called malapportioned legislature, as I see it, and anybody that would go out and campaign against this new document would be completely ridiculous because it is an improvement over the 1908 constitution; and if they did campaign against this document they would not be telling the people the truth and they would not be serving the people in a just manner as a delegate of this constitutional convention.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I doubt that further debate is going to be significantly contributive. I would move to limit it to 5 minutes on the article.

MR. DOWNS: May I —

VICE PRESIDENT HUTCHINSON: The Chair has 5 speakers — 6 with Mr. Downs.

MR. DOWNS: May I make a preferential motion —

VICE PRESIDENT HUTCHINSON: Yes.

MR. DOWNS: — that that be 2½ minutes a speaker?

MR. VAN DUSEN: I will accede to Mr. Downs — could you make it 2 minutes? That would make the total 10. (laughter) I would move, Mr. President, to limit debate to 10 minutes, 2 minutes a speaker.

MR. MARSHALL: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What's the point, Mr. Marshall?

MR. MARSHALL: I object to the official timekeeper and Delegate Downs working out a deal on the floor of this convention. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that debate be limited to 10 minutes upon the article. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I will not take 2 minutes, but in view of Mr. Marshall's remarks — I think that they should be answered, although there are some things on which I might agree with Mr. Marshall — I would say this: that his criticism of accommodations and deals, or whatever you want to call them, and his assumption of a "holier than thou" attitude is rather nauseating, especially in view of the accommodation that was made off the floor on the issue that was before us last evening. Deals, accommodations, what have you, as undesirable as they may be, are better made by delegates to this convention than effected by legislative lobbyists from across the street.

VICE PRESIDENT HUTCHINSON: Mr. Blandford.

MR. BLANDFORD: Mr. President and fellow delegates, Delegate Marshall, in urging a no vote on article V, I feel, wandered far afield from the actual article — which, of course, has been his custom. I urge a yes vote on article V and will wander somewhat afield myself. I think we have seen on the floor of this convention the last 7½ months an old political trick, and that is to accuse the other fellow of something that you are guilty of yourself. We have seen the Democrats, the minority party on this floor, aghast that the Republicans have made a deal. They have been dealing ever since this convention started. All we have to look at is the search and seizure vote and every ballot that we have had and we know where the dealing has been taking place.

I think if the Republicans have been guilty of anything on this floor it is that we have been guilty of restraint. We have listened to the ravings of the Democratic party on practically every item. We have been called the "handmaidens of big business." We have been called "rotten apples." It has been said that we have tried to gag debate — I remember one delegate taking 4 hours to explain his apportionment plan. I remember many hours on search and seizure. As I say, if the Republicans have been guilty of anything it has been that we have been guilty of restraint.

I realize that the minority party cannot understand the workings of the Republican party. Being dominated by one group, they do not have to work together in order to come up with a good conclusion. We don't operate that way. We have many divergent people in the Republican party of which I am proud and of which I am one of them. I certainly hope that the Republican party stays that way —

MR. BINKOWSKI: Point of order.

MR. BLANDFORD: — that we will never be dominated —

MR. BINKOWSKI: Point of order.

MR. BLANDFORD: — and we will work together to make this a great constitution.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski raises a point of order.

MR. BLANDFORD: Thank you.

VICE PRESIDENT HUTCHINSON: The point comes too late. He is all through talking. (laughter) Judge Shaffer.

MR. SHAFFER: Mr. President, I simply want to ask Mr. Martin a question here, if there isn't a mistake in printing in the last line in section 28 of article V, the last sentence, "Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies. . . ." What does "and" mean in there? Do you mean: comma? "Direct," comma, "immediate legal or equitable remedies?" Or appropriate?

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. Shaffer, I don't know what the author of the amendment had in mind by the "and." I assume that the "and" is simply to make it a little more emphatic that there should be some "direct and immediate" legal remedies. I have been in doubt about the effect of this section from the beginning but I don't think it does any harm to the section.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Martin has the floor. Do you want to be recognized in the speaking list?

MR. DEHNKE: Yes.

VICE PRESIDENT HUTCHINSON: Mr. Martin is recognized next.

MR. MARTIN: Mr. President, I don't want to say anything more than that this article V contains, in my judgment, some of the very most important provisions in the new constitution and I don't know what the Democrat minority has in mind in consistently recommending that their members vote no on each of these provisions. I assume they intend to offer some provisions of their own and then if those don't pass, I am not sure whether they are proposing to work against the entire constitution or not. But I don't think that a no vote against this entire article can be interpreted in any other way than that you are opposed to the article as a whole.

I certainly would urge the members of the minority to vote their convictions on this particular article of the constitution because it does contain some of the very important provisions. I hope that the recommendations of the leadership of the minority will not be accepted and that the members of the minority will vote as their conscience and their judgment dictate, and not as their leadership requests them to do.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke. Mr. Dehnke passes. Mr. T. S. Brown.

MR. T. S. BROWN: Mr. President and fellow delegates, I should like to add my little part to what Bill Marshall has already said, except in a different vein.

I do not consider that this article represents either a philosophical orientation of any sort or a compromise between philosophical orientations. As a result of having 4 or 5 different ways of selecting the people who will run the administrative branch of our government, we have no internal consistency and no internal integrity within the executive branch. For this particular reason, regardless of politics — whether you are a Republican or a Democrat, whether you consider that this will be a liberal document or a conservative document or a good, efficient document — there is no internal consistency and, therefore, this matter must obviously continue in a halting fashion in the years to come.

If this document were completely liberal or completely conservative and if it would articulate, one part with the other, then I would say it at least represents a certain point of view. But since this does not and since it is not by any stretch of the imagination a compromise, I therefore urge the nonadoption of this particular article.

VICE PRESIDENT HUTCHINSON: Miss Hart.

MISS HART: Mr. President and fellow delegates, Mr. Martin should not be surprised at the position that the minority party is taking on this on the floor today because the minority party took the position very consistently on the executive committee. It should be no surprise to anyone — the press, the league of women voters, the observers and fellow members on that committee — of where we stood on these issues.

There seems to be a notion abroad that every morning the Democrats are given a list: 1, 2, 3; a, b, c, and with a yes and a no after each number. This convention blinded the board in the hope that the minority might be confused. The minority has voted consistently, as it would have done had the board been open, because the minority operates on a philosophy of government and there is very little problem as far as we are concerned as to where we stand on these issues; so let's stop talking about unseen forces and let's get on with the business of finishing what we have to do this week.

We do not object to the majority taking the positions they take. This is their right to represent the people who sent them here. By the same token the minority has the same right: to represent the people that sent it here. So let's stop all of the innuendoes and let's get on with the business of this convention and rid ourselves of nonsense. Let's at least be friends while we disagree.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President, I, as a member of the minority, plead guilty to the charge that the Democratic party is dominated by one group: the majority of the people in the state of Michigan who have elected the Democratic party for the past 14 years. After the wheeling and dealing that has been done in this convention, I am safely confident that it will be elected for the next 14 years. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, when I first came up here and before having come up here, I campaigned on promises that I made to those people who I represent. Now, as far as I am concerned, the campaigning for 1962 opened today when Mr. Blandford got up and said what he did.

I don't mind telling you that so far as I am concerned, I was with the Republican party for 34 years and I watched some of its leaders sit there and decide on how they were going to ruin the state of Michigan so that they could defeat Williams. They didn't care what they did to the state: let's kill Williams off no matter what we do to Michigan.

MR. G. E. BROWN: That's not germane to the issue.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I shall try to speak on the article very briefly —

VICE PRESIDENT HUTCHINSON: Order, please.

MR. DOWNS: First of all, I rise to urge a no vote on this article for 3 specific raesons: the first is that this builds in a conflict between the chief executive and the senate. The people had high hopes that this convention would change that conflict. From looking at the apportionment problem with advice and consent, I believe there will be 12 to 15 Democrats, 26 to 23 Republicans which, with advice and consent and the sudden death, 60 day concept, builds in a conflict if there is a Democrat governor. If there should, within the 50 years, be a Republican governor, he will find the same conflict with the Republican branch that was found before. Secondly, we have discussed elected versus appointed officials. I have favored elected but have recognized the arguments for the appointed. This change in the ad board provides neither elected nor appointed by the governor. The highway commissioner is selected on a hodgepodge system responsible to everybody and nobody and does not have the advantage of either elected or gubernatorial appointment. The treasurer is not appointed by the governor without advice and consent but requires that. And thirdly, on the executive budget part, I just wish to point out that the governor in conjunction with the legislature must cut expenditures on unearmarked items — and this would mean education, welfare, social services that are unearmarked — at the very times when the need was greatest, when state revenue went down. I urge a no vote.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the passage of article V, as amended. All those in favor will vote aye. All those opposed will vote no.

MR. YEAGER: Mr. President, I wish to announce my abstention.

VICE PRESIDENT HUTCHINSON: Mr. Yeager abstains. Have you all voted? Miss Donnelly abstains. If so, the secretary will lock the machine and record the vote. Mr. Shanahan abstains.

The roll was called and the delegates voted as follows:

Yeas—91

Allen
Anspach
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McGowan, Miss
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden

Nays—39

Austin
Baginski
Balcer
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Dade
Douglas
Downs
Erickson
Faxon
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Kelsey
Krolikowski
Lesinski
Madar
Marshall
McAllister
McCauley
Murphy
Nord
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

SECRETARY CHASE: On the passage of article V, as amended, the yeas are 91; the nays are 39.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article V**, as amended, is passed.

For sections 1 through 8 and 10 through 27 of article V as passed, see above, page 3057.

Following is section 9 of article V, as amended and passed:

Sec. 9. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Following is section 28 of article V, as amended and passed:

Sec. 28. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court of the state having jurisdiction provided by law.

Following is explanation of vote submitted by Messrs. Austin, Sablich, Bradley, Wilkowski, Downs, Hodges, Madar, Marshall, Walker, Stopczynski, Young, Faxon, Buback, T. S. Brown, Baginski, Binkowski and Miss Hart:

We voted no on article V, the executive branch, because this builds in the conflict between the governor and the state senate. The executive cannot make a single appointment under this article without the advice and consent of the senate — a senate which does not and can not represent people because of the lack of equitable apportionment. Thus, the governor is restricted and limited and must make decisions on appointments on the basis of confirmability with an actual minority, rather than ability to serve the people of the state.

The present elected highway commissioner has been replaced by a 4 headed bipartisan staggered body, selected with advice and consent, that in turn selects a director. This has neither the advantages of an elected system, nor that of an appointed system directly by the governor. Michigan's present superior highway system can seriously suffer from this unwarranted change.

The state treasurer is no longer elected, but is appointed with advice and consent, and as such will be subject to control in appointment by a majority of the legislators representing a minority of the people of the state. The section dealing on the executive budget (section 19) will practically mandate the governor to reduce expenditures in unearmarked areas if state revenues decline, with the approval of legislative appropriating committees. This too will be a built in conflict between a governor with social responsibilities and a legislative committee that is not truly representative of all the people.

Because highways and local units of government have earmarked funds, whereas schools and social services do not, there will be terrific pressures in a period of economic decline, when tax revenues are least and social needs are the greatest, for the governor to cut expenditures for legislation, mental health, education, and social services to meet requirements of this section.

We, therefore, voted no on this article.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read article VI, judicial branch.

SECRETARY CHASE: **Article VI,** judicial branch:

[Article VI, sections 1 through 29, was read by the secretary. For the text, see above, page 3060.]

VICE PRESIDENT HUTCHINSON: Article VI has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in article VI of the proposed revision of the constitution:

section	column	line	Corrections
2	1	57	After "[except" delete "that".
2	1	57	Change "ANY" to "Any".
10	1	3	After "[" insert "as".
18	2	38	After "court" insert "[such]".
18	2	38	At end of line, change "an" to "AN".

VICE PRESIDENT HUTCHINSON: Without objection it is so ordered. [Corrections made above.] The secretary will report the amendments.

SECRETARY CHASE: Mr. W. F. Hanna [and Mr. Higgs] offers the following amendment:

1. Amend article VI, section 26 (first column, line 39) after "jurisdiction" by inserting a comma and "compensation"; so the language will read, "Their jurisdiction, compensation and powers within this period shall be as provided by law."

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I want to raise a problem which, unfortunately, I did not catch on first or second reading and it was not until we were going over this matter carefully in style and drafting last week that I saw what I believe to be a serious problem and a serious inconsistency, and I bring it to the attention of the convention. We have provided that upon the adoption of this constitution, or the effective date of this constitution, that no judicial officer shall be compensated by fees or anything based upon the volume of his business, but it is said that he must be paid a salary. We now then come to section 26, where we have continued in office these offices of circuit court commissioner and justice of the peace, which are in fact officers that in the main have been compensated by fees of their office and dependent upon the volume of activity.

Now I want to raise 3 problems with this conflict as I see it: first is the practical impossibility, if this constitution goes into effect on January first of a given year. In the townships the fiscal year is from April 1 to April 1, and in counties the fiscal year will have commenced before the effective date of the constitution. There will be no money appropriated; there will be no money out of which you can pay circuit court commissioners a salary or a justice of the peace a salary. Therefore, you are asking these people to serve completely without compensation. Secondly, under the present state law, each township elects 2 justices of the peace. Certainly, you will have to provide in all due process that the 2 justices will receive the same salary. And in many, many, many townships that have 2 justices, one justice maintains an active calendar and open docket and the other has no open calendar, no docket, and is purely an honorary type of office. To set a salary commensurate for these 2 men that is the same immediately penalizes the man who has been doing the work and benefits the man who does not do the work, and so far there is nothing in this constitution that makes a justice of the peace maintain a docket, hold office, or perform any judicial function. Therefore, until this whole matter can be worked out, this man can sit there and draw a salary and not do anything. So that you have a practical fiscal problem in the efforts to do this.

Now, the second problem that I want to raise is breach of contract. We have elsewhere provided in this constitution that you

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

cannot change the compensation during a term of office and yet we are by this constitution changing the compensation of any circuit court commissioner or justice of the peace as he proceeds through his term of office if this constitution is put into effect. One day he is compensated by the volume of his business according to statute and the next day he is without compensation or he is compensated by a salary. This salary may be entirely different than his compensation and we have been very careful in the past, and the lawyers in particular, to provide that you cannot reduce or change the compensation of jurists and especially to reduce, and this conceivably could be a serious reduction.

The third thing that I would like to raise and which I think is very important: you are giving the legislature 5 years to work out the system of inferior courts. If you make the legislature fight 2 battles: the first, immediately upon the adoption of this constitution or just before the adoption of this constitution, to pass a law governing salaries of circuit court commissioners and justices of the peace; and then within 5 years make them reorganize the court system, you are asking them to fight the battle twice. If they fight the battle before this constitution becomes effective, you are going to make a lot of people mad and you are turning over to the legislature the power of deciding this constitution. If you wait 'til afterwards, after the constitution becomes effective, you run into the problem that the justices and circuit court commissioners cannot be compensated.

I do not believe the legislature, in attempting to get a good 5 tier or inferior court system, should fight the battle twice. They should fight the battle once. They should set up an intelligent lower court system and provide the salaries or how they are to be paid. I urge that you insert the word "compensation" so that until the legislature reorganizes the lower tier of the court system, the compensation, jurisdiction and powers will be as provided by law during that period.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, throughout the debates on the judicial article I think it was apparent that many people very sincerely believe that the justices of the peace serve a function for the people in their communities, but I do not recall that anybody in the debates suggested that the fee system could be defended. And I do know that within our committee no one — no one — appeared before us who would defend it, not even the justices of the peace themselves. When they came before us as an organized group they first said they would like to keep it but they admitted openly that it was not something which the people of this state were willing to put up with or should have to put up with. Now, this is what the effect of the amendment would be: to preserve it for a maximum of 5 years, possibly less.

Mr. Hanna suggests there are practical problems to this, and I submit that there are practical answers to those problems. First of all, the revenue which now exists which comes to the justices as their personal property are the fees which arise out of litigation before them. Now this money, if it is turned over to the township as it presumably would be, would be available to pay them and, as a matter of fact, many townships — many townships — would make money on the operation. Now I don't think courts ought to be operated to make money but, on the other hand, the revenue is there and it is not going to create the practical problem he suggests.

He says that both justices must be paid the same salary. This does not necessarily follow, because the township would have the right to insist, through legislative action, of course — and I think they undoubtedly would insist — that in order to collect any salary a judge would have to hold court, have to be open certain hours, and so forth. Almost all municipalities in their charters now do provide this, and the judge is not paid if he doesn't work. So that if they were to collect the same salary, it would be because they were rendering the same services. If they didn't render the same services, they would not collect the same salary.

He suggests that there is a contract. Now I think Mr. Hanna is well aware that no elected official has a contract guaranteeing him any return for his services. The reason why the constitution has always provided that judicial salaries may not be reduced is to protect the judges against retribution, to protect them against the legislative body — whether it be the city or the state — punishing them for their judicial acts and taking away their salary as a means of affecting their judicial deliberations, and this certainly is not in question here.

What we have done in the judicial article with the amendments which were adopted here in the convention is to provide for an orderly transition. We have immediately eliminated the one area which nobody, to this date at least, has defended: the fee system. We have provided 5 years in which the legislature — a maximum of 5 years — in which it may create a substitute for the justice of the peace system and, in fact, that substitute in some areas may very well be something very much resembling the present justice of the peace system; but it is an orderly transition.

If we now change it, if we now say that the fee system will continue in existence, we have broken down the transition period; we have simply provided that there must be, as Mr. Hanna says, a full fledged fight. Who is it they are fighting? They are not fighting the people of this state. I don't think that any of you can in sincerity say that the people in your area want the fee system. We have many people who have said they want the justice of the peace system and I bow to your good judgment. You know the people in your area. But I don't think that any man here can honestly say that the people in his district or area want the fee system; they do not want it. They want it eliminated. And it seems to me that we are interfering very seriously with a well planned and well conceived manner of moving from the present to the future, which has developed not only in committee work, not only in the considerable debates, discussions, and agreements reached in committee of the whole but in the convention itself, and I would oppose this amendment.

VICE PRESIDENT HUTCHINSON: There are 6 speakers seeking recognition. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on the amendment to 12 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate to 12 minutes. All those in favor will say aye. Those opposed will say no.

The motion prevails. Debate is so limited. Mr. Higgs is next recognized.

MR. HIGGS: Mr. President and fellow delegates, I have substantially the same amendment in and I wonder if Mr. Hanna would object to my being made a cosponsor of his amendment?

VICE PRESIDENT HUTCHINSON: No objection. [Correction made above.]

MR. HIGGS: Speaking as a member of both the judiciary committee and style and drafting, and speaking also as an opponent of the justice of the peace system, I would nevertheless like to urge that you support this amendment for the practical reasons stated by Mr. Hanna.

Very frankly, this problem did not come to my attention until the style and drafting committee had it under examination and the conflict became apparent with regard to section 17: we had provided no saving clause for this limited period of time. This was not my intention. It is my understanding that on the judiciary committee there is a difference of opinion. It escaped me. I felt that we were going to provide this 5 year period in order to give the legislature a fair opportunity to adequately examine and work out a system of courts of limited jurisdiction. I feel that by putting the pressure on — the heat, so to speak — we will not be giving them a fair opportunity to examine and work out this problem. I urge that you support this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, if you will hearken back to the time when we were on general orders and when the original proposal was reported out, you will recall that the particular section now under discussion was not included in the committee report. At that time the committee report was silent as to the lower courts and left the matter solely to the legislature. But at the time it was reported out — both myself and, as I recall, every other member of the committee including Mr. Ford — as Mr. Everett has stated, no one had appeared before our committee defending the fee system.

We felt that the fee system should be abolished and at that time we didn't even have a 5 year provision. There was no dissenting vote within the committee at the time that it came to the floor, because the provision we are now discussing is the so called Pugsley amendment and yet even Judge Pugsley and others who sponsored that, who sat on the committee, recognized that if there was an evil it was in the fee system.

My friend, Mr. Hanna, from Muskegon, makes eloquent argument that there are practical problems. I will agree. I submit that there are practical statutory problems throughout all of this constitution. The statutes are going to have to be written and rewritten in many, many cases immediately upon the adoption of this particular constitution. The attorney general is charged with drawing up those statutes. I can only state, on behalf of the committee, that we felt the fee system should be outlawed. I recognize that there will have to be action for a setting of the salaries on a state level, but the justices of the peace themselves indicated they were willing to accept a salary. The president of their organization appeared before our committee and stated they had no objection to serving under a salary.

I realize that perhaps it only would last for 5 years in view of the 5 year provision, but I feel that on behalf of the committee I must state that it was, at least I thought, the unanimous or near unanimous decision of the committee that the fee system as such for all courts — and it could come back in the probate court — should be abolished. Therefore, on behalf of the committee, I would urge the rejection of the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Prettie.

MR. PRETTIE: Mr. President, I would like to ask Mr. Hanna a question. It has been touched upon somewhat tangentially, but section 17 appears to abolish the fee system immediately upon the effective date of this constitution. If your amendment were adopted, would it not be necessary, Mr. Hanna, to obviate that inconsistency by some further amendment to section 17?

MR. W. F. HANNA: Mr. President, Mr. Prettie and fellow delegates, I am relying on the interpretation that we have made in style and drafting that by inserting "compensation" that it would remain the same as provided by law and would allow fees to be continued during this 5 year period. If the word "compensation" would be construed to require a salary, then we would have to correct it in style and drafting, but the import of my amendment, "compensation," is that they would be allowed to continue receiving a pay based upon fees during the interim.

MR. PRETTIE: Well, Mr. President and Mr. Hanna, it seems to me that the provisions of section 17, upon adoption of this constitution, would have to be given the same dignity as the word "compensation" proposed to be added by Mr. Hanna's amendment and that there is very patently an inconsistency there which flies in the face of the near unanimous decision of the committee on judicial branch that the fee system should be abolished if this constitution be adopted. I therefore oppose the proposed amendment.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, if I were as sure as Mr. Everett seems to be that there would be some provision for paying these continuing officers until the legislature gets around to setting up the new courts, I would not be concerned. This is not a matter of perpetuating fees. The trouble is that if this word is not put into the constitution we may find ourselves in the situation where we are not able to provide either fees or any other type of compensation for the justices of the peace.

The day after this constitution becomes effective, if it is approved, there will be demands made on justices of the peace all around the state, where they do not have municipal courts, for the issuance of warrants, for the holding of examinations, and the doing of all the other things that are within the jurisdiction of the justices of the peace; and without this word "compensation" in there, it would be purely speculation to assume that the boards of supervisors — this money being paid into the county and not to townships — would consider themselves authorized to pay compensation. This is merely a stopgap measure to assure that we will not run into that situation of no provision made for any type of compensation either salary or fees.

Now as far as the point raised by Delegate Prettie is concerned, if there should be considered to be a technical conflict between section 26 and section 17, I think the answer would be in the rule that where there is a specific proviso pertaining to some specific situation, that takes precedence over a general situation. None of us are advocating the continuance of the fee system. The only thing we are trying to avoid is this possibility, this awkward situation that might develop that while we are waiting for a year or 2 — certainly not longer than 5 years — for the legislature to set up the new courts, there may be no legitimate way of paying the justices or other officers or the circuit court commissioners, who would be expected to perform their functions even though there is no assurance of any kind of compensation. I therefore favor the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Radka.

MR. RADKA: Judge Dehnke has said everything that I would want to say. This amendment is just a practical solution to a real problem and isn't going to hurt anyone. I am not trying to preserve the fee system and would not speak for it. I think that all we are doing here is just looking at the realism of providing some compensation for the interim period for justices.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President, may I ask Mr. Hanna a question, through the Chair?

VICE PRESIDENT HUTCHINSON: You may.

MR. STEVENS: Mr. President, Mr. Hanna, I am somewhat confused and may have misunderstood you. I thought you said the constitution prevented reduction of compensation. We all know, of course, about reduction of salaries of judicial officers. Is that what you had in mind? I mean is there anything in the constitution which prevents reduction of compensation if it is not a salary?

MR. W. F. HANNA: Well, I think the proposed constitution has to be read in the light of the fact that they do provide that in the future all judges will receive a salary and not be compensated by the volume. So that the general philosophy is what I referred to: that you should not change a judge's compensation or salary during his term of office.

MR. STEVENS: Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hanna now has the floor.

MR. W. F. HANNA: Mr. President and fellow delegates, Mr. Everett made a statement that showed to me the problem which the judiciary committee did not consider. He stated in his argument that these fees and costs assessed by justices or circuit court commissioners are turned over to the townships. Mr. Everett, I submit to you that this is not so and has never been so, except in the case of charter townships. This money is paid to the county and justices of the peace, for purposes of compensation, are considered county officers and not township, although they are elected on a township basis.

I want to point out to you, Mr. Everett, that you cannot spend money, although you have it in the treasury, unless there is an appropriation; and between the annual meeting in April prior to the effective date of this constitution and January first, when this constitution would go into effect, until the following April there would be a period of 3 months plus about one week to 10 days in which there would be no appropriation out of which money could be expended. You are, by your action in the judicial committee, saying that justices of the peace should serve at least for 4 months — 3 months and 10 days — without any compensation. The same applies to the county budget. You may have all kinds of money in a budget, but you cannot expend it unless it is appropriated according to the budget adopted by the board of supervisors or by the township board or by the annual meeting.

Now, secondly, you said that they could set different salaries for justices and you said that they could base it on the volume of business, how often they held court, and so forth. There is no statutory authority for the —

VICE PRESIDENT HUTCHINSON: You may complete your sentence, anyway. The time has expired. The question is upon the amendment offered by Mr. William F. Hanna and Mr. Higgs, which has been read. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported? It is supported, 10 or more members supporting it. The question is upon the amendment. A division is ordered. All those in favor of the amendment will vote aye. Those opposed will vote no.

MR. HEIDEMAN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Heideman.

MR. HEIDEMAN: The yeas and nays.

VICE PRESIDENT HUTCHINSON: You may still vote — oh, you demand the yeas and nays?

MR. HEIDEMAN: Yes.

VICE PRESIDENT HUTCHINSON: Mr. Heideman demands the yeas and nays upon this amendment. Is the demand supported?

SECRETARY CHASE: Fifteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The question is a division vote. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. W. F. Hanna and Mr. Higgs, the yeas are 82; the nays are 39.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Danhof offers the following amendment:

1. Amend article VI, section 28 (column 2, line 4) after "rights" by striking out "or licenses"; so that the language will read:

> All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights, shall be subject to direct review by the courts as provided by law.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Because we have been through the argument on this one several times, I move to limit debate to 10 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon this amendment to 10 minutes. All those in favor will say aye. Those opposed will say no.

The motion prevails. Debate is limited. The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, let's make it short. We have been through it. The committee recommended that we limit this to "rights" inasmuch as we have gone back and forth between the committees of the whole and the convention. We took out "privileges" last time; we left "rights or licenses" in there. Again, I think, by leaving the word "licenses" in, we do damage to the policing power of the state of Michigan.

We have been through the argument. I offer this solely so that we can have a last vote on it, in view of some of the discussion and vacillation that we had between the committee of the whole and the second reading. I think that it will be well to strike out the word "licenses" and go back to the original committee recommendation. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: Mr. President, I rise to a point of order. It is my recollection that on second reading an amendment was offered to strike the phrase "licenses and privileges" and that the amendment was then divided. The one carried, but the amendment concerning the striking of the word "licenses" did not carry, and I question whether this amendment is now in order.

VICE PRESIDENT HUTCHINSON: Mr. Hatch, can you cite the place in the journal? The secretary's staff has made a search for all of these things and, of course, anything that was offered and acted upon in committee of the whole is not encompassed, but matters on second reading were and matters which were raised after the committee of the whole did rise. The secretary does not find that matter among the listed amendments so offered at that point. It may have been in committee of the whole.

MR. YEAGER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Yeager.

MR. YEAGER: I believe that matter was taken up on second reading because we had a division at the time. I am sure it is in there.

VICE PRESIDENT HUTCHINSON: Well, we could have had a division in committee of the whole.

MR. DANHOF: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: I don't know but what we can clear this up. Turn to page 1086 of the journal. It will be in Journal 126. On the bottom of the page 1086, I offered the amendment to strike out "privileges or licenses." The amendment was adopted on a division vote. The yeas were 59; the nays were 57. On the bottom of the page, Mr. Yeager then moved to reconsider the vote by which the amendment had been adopted, "privileges or licenses." He demanded the yeas and nays and the motion to reconsider failed 69 to 52. Then Mr. G. E. Brown offered an amendment to reinsert "or licenses." Mr. Van Dusen then made a point of order that, since the amendment had been divided, the amendment was out of order, but the Chair ruled that it was in order. The amendment, I think, passed by one vote.

I think that at this time, in view of the action on second reading, that a motion to strike the particular words "or licenses" would be properly before the house, that specific question, to my knowledge, having not been considered.

MR. HATCH: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Mason states in section 401, paragraph 4:

> An amendment which would put before the house a question identical with one previously decided by the house during the session, whether in an affirmative or a negative form, is not in order.

Journal 126, on page 1087, shows that the amendment to reinsert "or licenses" prevailed. This amendment now would strike it out. It would seem to the Chair that this present amendment simply puts negatively what was positively put before, and Mr. Mason's book says that ". . . whether in an affirmative or a negative form, is not in order." It would seem as though, under that set of circumstances, that the point of order is well taken, Mr. Danhof.

MR. DANHOF: I shall not debate the order. I mentioned it because we had had it. I will accept the ruling of the Chair.

VICE PRESIDENT HUTCHINSON: The Chair will sustain the point of order. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Danhof offers the following amendment to section 28 of article VI, column 2, line 12 —

MR. DANHOF: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: In view of the previous ruling of the Chair on the particular question of "licenses," I withdraw the amendment.

VICE PRESIDENT HUTCHINSON: The amendment is withdrawn.

SECRETARY CHASE: Messrs. Ford and Garvin offer the following amendment:

1. Amend article VI, section 12 (column 1, line 27) after "term of" by striking out "six" and inserting "eight"; so the language will read:

> Circuit judges shall be nominated and elected at nonpartisan elections in the circuit in which they reside, and shall hold office for a term of eight years and until their successors are elected and qualified.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: It seems to me this amendment poses a very simple question. I would move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon this amendment to 5 minutes. All those in favor will say aye. Opposed?

The motion prevails. Debate is so limited. The Chair will recognize Mr. Ford. Mr. Ford is not in the chamber; the Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President, this amendment is really for the purpose of being consistent with the supreme court in that there is an 8 year period, that is, they have a term of 8 years. And to make it consistent all the way around throughout the state, it is thought that it would be better if we had 8 years, also, for the circuit court for the purpose of elections and for consistency all the way around. It is a very simple amendment and there shouldn't be too much debate on it. I hope there won't be, because it is merely for the purpose of consistency in the judicial article.

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: Mr. President, without exception, everyone who appeared before the judiciary committee and all of the material that we had that spoke favorably of the judicial system in Michigan listed among the reasons for it being good the fact that Michigan has historically had comparatively long terms of office for its judges. Now, under ordinary circumstances the argument might be made that people in public office who are elected should come back to the people as frequently as possible, and I subscribe to this theory in all other offices than that of the judge. If you are really desirous of removing the judge as far as possible from activity in the political arena while he is on the bench, one of the ways that you accomplish this is by enlarging his term of office.

There is a secondary consideration. It applies down in our county of Wayne at the present time and, conceivably with the population growth of Michigan, will be a problem in other counties in the future: that is that we all decided some time ago in this convention that the terms of office of the judges should be staggered in such a manner as to provide a minimum number of judges running at a given time regardless of the number of judges in a particular circuit. And what you do is increase by 25 per cent the availability of a time period for the staggering of terms when you jump from 6 to 8. Immediately, the effect of this could be recognized if you start trying to work out mathematically a method for staggering of terms in Wayne county with its 18 judges now and the additional judges that appear to be forthcoming.

For these reasons I urge the adoption of this. This was originally introduced as a delegate proposal very early in the convention and has been passed over. It is not a late blooming idea — I don't see Mr. Van Dusen here — it is something that we started out with very early and it had sound reasoning behind it when it went in as a delegate proposal early in the convention.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President, I would strongly support this amendment. I subscribe to the reasons set forth by Mr. Garvin and Mr. Ford and would add only this: I think this is consistent with what we have done in the legislative and the executive branches by increasing terms of office. I think we recognize that the costs of campaigns and the communications to the people and so forth have changed drastically since 1908 and that longer terms of office, particularly in the judiciary, lead to better service and better men.

Within the judiciary committee I think we spent very little time discussing this. We recognized the circuit court system is a good one in the state. We thought that not many changes were needed. I think we inadvertently overlooked a good change in making sure there would not be any bad ones. I subscribe to the amendment and hope that it will carry.

VICE PRESIDENT HUTCHINSON: Mr. Tubbs.

MR. TUBBS: Mr. President, I think my views on the judiciary have been stated too many times. I am always willing to take one slice if I can't get the whole loaf. I would prefer appointment for life but I will accept this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President, I respectfully would point out to the convention this: these circuit judges are a local court. Now there is such a thing as strata within the court sphere. We have set up an 8 year term for the supreme court. We want to raise that to 10. Now you are going to have circuit judges at 8 and court of appeals at 6. We have put the probate judges and the circuit judges, who are basically within the locality, on a 6 year term. The court of appeals is on a 6 year term. The supreme court has an 8 year term. This is as it should be from the standpoint of dignity and the honor of the office and the office which is filled. Leave it alone at 6 years. The circuit judges are happy. None of them complained before our committee. We have raised the probate judges. We have put the court of appeals at 6: you would have to raise that to 8. And I urge you to defeat this amendment and leave it at 6 years. It has worked out very well in the past.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Ford and Mr. Garvin, which has been read. All those in favor will say aye. Opposed will say no. The amendment appears — the Chair is in doubt. All those in favor will vote aye. Those opposed will vote no.

MR. MAHINSKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: As long as we are taking a division, could I call for the yeas and nays at this time?

VICE PRESIDENT HUTCHINSON: Mr. Mahinske demands the yeas and nays. Is the demand for the yeas and nays supported?

SECRETARY CHASE: Twenty-three.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. It is a division vote. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Ford and Garvin, the yeas are 48; the nays are 78.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garvin, Barthwell, Higgs, King, Mosier, Bledsoe and Ford offer the following amendment to section 8:

1. Amend article VI, section 8 (column 2, line 46) after "districts" by striking out the comma and "and in the manner,", and inserting "drawn on county lines and as near as possible of equal population, as"; so that the sentence will read:

> The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as near as possible of equal population, as prescribed by law.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I move to limit debate on this amendment to 10 minutes.

VICE PRESIDENT HUTCHINSON: On limiting debate to 10 minutes, all those in favor will say aye. Opposed say no.

The motion prevails. Debate is limited. The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President and delegates, you will notice this is in section 8, where there is a provision for 9 judges who shall be nominated and elected at nonpartisan elections from districts.

It is noted that in the original Committee Proposal 92 reported to this convention it was provided that they shall be elected in the same manner as the justices of the supreme court. However, after that, at that time, there was an amendment that was adopted which provided for districts. After looking this over, I rather feel — and perhaps others do too — that after that was placed in, the person who offered that amendment did not make any provision about the districts. This is for the purpose of clearing that up and I hope the delegates will see the point that it is necessary to do so. That is the reason that we are submitting this amendment, "drawn on county lines and as near as possible of equal population."

The way it is now it could be drawn, well, any way that you wanted to. It could be gerrymandered or anything else. But we think that it should be in the constitution as provided. Then, further, we are leaving in there "as prescribed by law." It would be up to the legislature to set up these districts, as long as they were drawn on county lines as near as possible of equal population.

I think the sponsors of this amendment also thought about drawing it on judicial circuits but it was thought at that time that counties are more likely to stay, while judicial circuits might change, which would necessarily change the methods of electing the court of appeals, the 9 judges. If it is going to be from the districts, we believe that it should be drawn on county lines as near as possible of equal population, just as we have enacted other matters in this constitution.

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: I would like to call the delegates' attention to section 8. You will notice that when we arrived, in the convention, at the position of electing the judges to this court on a district basis, we left the matter completely up in the air and there is no standard in the present language. Now what this does is to invoke 2 standards that seem to be basic and very just: 1, that the districts be as nearly equal in population as possible; and 2, that they follow county lines; and there are very obvious and numerous reasons for that that I don't think any of us have to have repeated at this time.

However, if you look at the very last sentence of section 8, we have also given the legislature the authority, under the present language, to increase the number of judges on this court and to change, from time to time, the districts. Now if we say to the legislature: when you think that the needs of the state are such that we need additional judges you may add 3 or 6 or whatever number you think is correct, I think that at the same time we should impose a standard on the legislature and point out to them that — just as when we add congressmen or add people to the legislature — when they do this they should do so with some recognition of equalizing and distributing the judges throughout the balance of the state, so that no single part of the state is favored with a surplus or shortage of judicial manpower and so that approximately the same number of people, insofar as that is possible, will be selecting the judges to this court.

VICE PRESIDENT HUTCHINSON: Mr. Danhof?

MR. DANHOF: No.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Messrs. Garvin, Barthwell, Higgs, King, Mosier, Bledsoe and Ford, which has been read. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division has been called for. Is the demand supported? The demand is supported. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Garvin, Barthwell, and others, the yeas are 80; the nays are 42.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Danhof offers the following amendment:

1. Amend article VI, section 28 (column 2, line 12) after "record.", by striking out the balance of the section which reads, "Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law."

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, might I ask Mr. Danhof whether he believes a 10 minute limitation on this amendment would suffice?

MR. DANHOF: Yes.

MR. VAN DUSEN: Mr. Danhof indicates affirmatively; I would therefore move to limit debate on this amendment to 10 minutes.

VICE PRESIDENT HUTCHINSON: On limiting debate to 10 minutes, all those in favor will say aye. Those opposed will say no.

The motion prevails. Debate is limited. The Chair will recognize Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, this amendment is offered to return this particular section to its original form as it came from our committee. The committee, in voting on this matter — and it was a divided vote — the majority was of the opinion that if judicial review for administrative agencies was good for one it was good for all. We know that under the statutes 4 of these agencies are exempt from judicial review, and it was for these reasons that the committee recommended the adoption of the section as originally reported.

I can understand and I realize the reasoning behind the proviso which was adopted on a very, very close vote in this particular convention, and I know the seriousness of the concern of many members of this convention regarding workmen's compensation hearings. I state that — in order to give this convention the opportunity to consider this matter, to look at it again carefully, to consider the matter on its merits as to whether they want to make an exception in the constitution for one commission — we should seriously consider this particular amendment. I urge that you consider it and, if you find that they all should be treated alike, that you vote to strike this particular section. If you feel that it should remain, then you will vote against the amendment.

MR. OSTROW: Point of order, Mr. President.

MR. MAHINSKI: Parliamentary inquiry, Mr. President.

MR. OSTROW: Point of order.

VICE PRESIDENT HUTCHINSON: Who makes the point of order?

MR. OSTROW: I do.

VICE PRESIDENT HUTCHINSON: Mr. Ostrow.

MR. OSTROW: On page 1086 of Journal 126, this identical language was put into this proposal by an amendment offered by Messrs. Bledsoe and Krolikowski, and under your former ruling the present amendment would be out of order.

VICE PRESIDENT HUTCHINSON: Well, the Chair notes that the amendment offered by Messrs. Bledsoe and Krolikowski on April 23, on page 1086 of the journal reads: "Provided however, That the findings of fact of the workmen's compensation commission shall be conclusive in the absence of fraud." The matter now before the convention is, "Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law."

MR. OSTROW: Point of order, Mr. President.

MR. MAHINSKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Ostrow is recognized first on the point he raises.

MR. OSTROW: What is the difference? If Mr. Danhof will read right across the page, there — Mr. Danhof refers to another amendment. If you will look right across the page at 1086, Mr. King offered an amendment: after "fraud" insert "unless otherwise provided by law." That amendment prevailed.

MR. FORD: Mr. President.

MR. HIGGS: Mr. President.

VICE PRESIDENT HUTCHINSON: All right, the Chair will listen to further debate upon the order.

MR. FORD: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: I would like to call your attention to the fact that what you are reading is the language as proposed by the style and drafting committee and not the language that was adopted on second reading by the convention. The way you read it, it sounds as if we had already adopted the changes that are inserted here by the style and drafting committee. Actually, Mr. Danhof at this point could not offer an amendment to strike the language of the style and drafting committee. He is offering an amendment to strike the language as we adopted it.

VICE PRESIDENT HUTCHINSON: Well, the matter immediately before the body, of course, is the language as it came from style and drafting. Unless that is amended, why, that is the language before us. Mr. Mahinske.

MR. MAHINSKE: Well, that brings up the point that Mr. Danhof was bypassing the language as it comes from style and drafting, going to the original language as we adopted it on second reading and offering his amendment to that, which is identical to the point of order that was raised by Mr. Ostrow with regard to the items on page 1086 of the journal.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: Well, I would like to support, on the point of order, Mr. Danhof in this. I feel that this is a different proposition of "proceedings." As you know, on the style and drafting committee, I took that position and I would urge the Chair, in order to get this matter before the convention, to rule that this is in order.

VICE PRESIDENT HUTCHINSON: Well, the Chair notes that the provision now before the convention is this proviso that says, "Findings of fact in workmen's compensation proceedings. . . ." The amendment that the convention previously acted upon referred to "Findings of fact of the workmen's compensation commission." The Chair is aware of the fact that in the minds of many people there may have been a substantive change and the Chair is wanting to be as generous as it can possibly be toward permitting this convention to act on these matters, and not to unduly and narrowly rule them out. The Chair cites paragraph 5 or Mason's, section 401, which says that "The presiding officer should never rule an amendment out of order unless he is certain that it is."

The Chair is not certain that this is out of order, because of the change in this word from "commission" to "proceedings." In the opinion of the Chair this may be a substantive change and it is the opinion of the Chair, therefore, that Mr. Danhof's amendment is now in order because this convention has never yet acted upon the amendment which referred to "workmen's compensation proceedings," which may be broader than "workmen's compensation commission." Mr. Krolikowski.

MR. KROLINKOWSKI: Mr. President, as I understand your ruling now, you are justifying your ruling on the basis of the fact that there is a substantive difference between "workmen's compensation commission" and the words "workmen's compensation proceedings;" is that correct?

VICE PRESIDENT HUTCHINSON: The Chair suggests that there may be a change there.

MR. KROLIKOWSKI: Well, if there may be a change, I certainly believe that it is incumbent upon the Chair to point out the distinction, to point out the change. Where does it lie?

MR. MAHINSKE: Further point of order.

VICE PRESIDENT HUTCHINSON: The Chair will refer the matter to the convention to determine whether this amendment is in order. All those in favor —

MR. MAHINSKE: I have a further point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: The Chair will no longer rule. The Chair will refer the matter to the convention as the Chair did last night.

The question is submitted to the convention: is the amendment now offered by Mr. Danhof in order? All of those who believe that this amendment is in order will vote aye. Those opposed will vote no on a division. Have you all voted? If so, the secretary will lock the machine and record the total.

MR. KROLIKOWSKI: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Krolikowski.

MR. KROLIKOWSKI: I demand the yeas and nays on this.

VICE PRESIDENT HUTCHINSON: Mr. Krolikowski demands the yeas and nays. Is the demand supported? The demand is supported. This is a record roll call vote. The machine will be cleared. Clear the machine, please.

MR. MAHINSKE: Mr. President.

SECRETARY CHASE: Will the delegates please clear the machine?

MR. MAHINSKE: I have a point of order I would like to raise at this time, Mr. President.

VICE PRESIDENT HUTCHINSON: What's the point, Mr. Mahinske?

MR. MAHINSKE: The point is, as I understand the rules of this convention, the committee on style and drafting cannot make a substantive change in any article that is submitted to them either on first or second reading. Now, what you are doing here is putting this identical question to the body as to whether or not the essence of the Danhof amendment is based on a substantive change made by the committee on style and drafting.

It is my contention — and I would like a ruling from the Chair — that in order for Mr. Danhof's proposition to carry, his amendment to carry: 1, we would have to rule that there was a substantive change, therefore we are voting on something different; 2, this would entail a suspension of the rules and a 2/3 vote would be required to adopt consideration of his amendment at this time.

VICE PRESIDENT HUTCHINSON: The Chair doesn't follow your last point.

MR. MAHINSKE: As I understand our rules, the committee on style and drafting cannot make a substantive change in any article that is submitted to them and they resubmit back to us. Is this correct or not?

VICE PRESIDENT HUTCHINSON: Well, suppose that they do?

MR. MAHINSKE: Then, I think —

VICE PRESIDENT HUTCHINSON: The Chair thinks you will have to recognize that they have.

MR. MAHINSKE: Well, I think this is exactly what we are doing, and this amounts to a violation of the rules; so, in order to sustain what they have done, we would have to suspend that rule, which requires a 2/3 vote.

VICE PRESIDENT HUTCHINSON: I don't think that the Chair will follow that reasoning. (laughter) The question is upon the —

MR. BLEDSOE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Bledsoe.

MR. BLEDSOE: Does the Chair say that he will not follow that rule?

VICE PRESIDENT HUTCHINSON: The Chair is not saying that; the Chair doesn't follow the reasoning.

MR. MAHINSKE: Oh. Well, I would like to take it in stages then: is it the ruling of the Chair that the committee on style and drafting can make a substantive change?

VICE PRESIDENT HUTCHINSON: Well, the Chair takes note of the fact that there may be a difference between the word "proceedings" and the word "commission" and that may be a substantive change; but the Chair is not ruling on this matter. The Chair has submitted this to the convention and the question before the convention, upon which the yeas and nays have been ordered, is: is the amendment now offered by Mr. Danhof in order?

MR. MAHINSKE: Right. And then the very essence of how you would vote on that depends on whether or not you feel there has been a substantive change.

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. President, would it be in order for me to explain, on behalf of style and drafting, why the change from "commission" to "proceedings" was made, the rationale, as informative to this body for purposes of this vote?

VICE PRESIDENT HUTCHINSON: You may.

MR. W. F. HANNA: May I proceed?

VICE PRESIDENT HUTCHINSON: You may.

MR. W. F. HANNA: The style and drafting committee originally was faced with the language, "Findings of fact of the workmen's compensation commission." It was brought to our attention that the workmen's compensation commission, as such, as a technical name had been abolished. We then went to the workmen's compensation department on the theory that all of these agencies, and so forth, had to be organized into a department. That did not seem to be good language. We then inserted "proceedings" on the basis that to freeze a technical name of a commission or department or bureau or agency into a constitution has proven in the past to be very bad practice and that what you are trying to get at and what we thought the body of this convention was trying to get at was that "proceedings" in workmen's compensation cases were not to be reviewed by the court unless there was a showing of fraud. We therefore finally settled on the word "proceedings."

Now Mr. Higgs is of the opinion that we may have included in "workmen's compensation proceedings" proceedings before the labor commissioner concerning back pay and things that today we do not think of as workmen's compensation. But this was a difficult problem and it was our intention, as I understand, in style and drafting — and I will stand corrected by any other member — that what we were aiming at was to take out a technical name that is not now in the statute, yet to cover the workmen's compensation as we know it, a compensation for injury occurring during employment, and use the term "proceedings."

MR. WANGER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: May I speak to the point of order raised by Mr. Mahinske?

VICE PRESIDENT HUTCHINSON: What's the point?

MR. WANGER: I believe that his point of order is based on an erroneous assumption and when that error is apparent, why, his point of order falls. His point was — as I understand it — that the rules of the convention prohibit style and drafting from making any substantive change and, therefore, in order to consider such a change the rules must be suspended. But I want to call his attention to the fact that that limitation on style and drafting is not in the rules. That was in a resolution that was passed and, therefore, there is no question of the rules involved here and his point of order is certainly moot.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: Well, Mr. President and fellow delegates, I think that Delegate Hanna has given you somewhat the background of the difficulty we had in style and drafting on this particular point. I do, however, like to speak for myself as to what my feeling about it was. I do feel we have made a substantive change. I don't think that we have solved the problem. I think that using the word "proceedings," "workmen's compensation proceedings" — and, you will note, in dropping the word "commission" we haven't tied this to any particular board or agency — that we have broadened this to conclusive findings of fact beyond the intention of the body. Now, I would urge some reconsideration of this matter. I think it may cause us some difficulty and I would urge that you vote yes to permit Mr. Danhof to get this matter before the convention.

VICE PRESIDENT HUTCHINSON: Mr. T. S. Brown.

MR. OSTROW: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What's the point?

MR. OSTROW: In view of Mr. Hanna's explanation that the style and drafting committee did not intend to make any substantive change but were merely using different words to express the obvious intent of the committee amendment as adopted, isn't this latest amendment, then, clearly out of order? Because it is the same amendment; they were just using different words for the same intent.

VICE PRESIDENT HUTCHINSON: Mr. T. S. Brown.

MR. T. S. BROWN: I was going to make the same point, Mr. President. I think the essence of whether or not a substantive change was made was aptly described by Delegate Hanna in that he said that there was a real consensus among the members of the style and drafting committee that no substantive change had been made — and a rose by any other name, et cetera, was their motivation here. Therefore, if the only reason for the possible reconsideration of this amendment rests on whether or not there had been a substantive change, then that reason is, therefore, gone.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: I wished to make the same point here. Also, I would like, for my own information, as a parliamentary inquiry here, I would like to know under what rule or what procedure we submit points of order to the vote of the house.

VICE PRESIDENT HUTCHINSON: Mr. Mason says: "In case of doubt he should entertain the amendment, subject to the right of a member to raise a point of order, or he should submit to the house the question of whether the amendment is in order." And the Chair is submitting to the house the question of whether this amendment is in order. The yeas and nays have been ordered. All of those who believe that the amendment now offered by Mr. Danhof is in order will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

Mr. Prettie.

MR. PRETTIE: May I request the vote of the Chair before the vote is announced?

VICE PRESIDENT HUTCHINSON: The Chair declines to vote on the ground that this is a matter affecting a ruling of the Chair, Mr. Prettie.

The roll was called and the delegates voted as follows:

Yeas—62

Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Elliott, A. G.
Erickson
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
McGowan, Miss
Millard
Mosier
Powell
Prettie
Pugsley
Richards, J. B.
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Sterrett
Stevens
Turner
Upton
Wanger
White
Wood
Yeager

Nays—71

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
DeVries
Doty, Donald
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Everett
Faxon
Follo
Ford
Garvin
Greene
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Kelsey
King
Knirk, B.
Krolikowski
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McAllister
McCauley
McLogan
Murphy
Nord
Norris
Ostrow
Page
Pellow
Perlich
Plank
Radka
Richards, L. W.
Romney
Snyder
Spitler
Staiger
Stopczynski
Suzore
Tubbs
Tweedie
Van Dusen
Walker
Wilkowski
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the question: is the Danhof amendment in order, the yeas are 62; the nays are 71.

VICE PRESIDENT HUTCHINSON: The amendment is not in order. The Chair recognizes Mr. DeVries.

MR. DeVRIES: Mr. President, before I move that the convention recess for lunch, I will yield to those people who wish to make announcements.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: To the members of the judiciary committee, all 21 of whom are here today, will you please, after the recess, go to the committee room. Please go to the committee room so we can get a picture taken of the committee. We have had trouble getting 21 together. The photographer is there. It will take but 2 minutes if you will please go down to committee room B — all 21 members of the judiciary committee.

VICE PRESIDENT HUTCHINSON: Further announcements.

SECRETARY CHASE: The following announcements:

The committee on administration will meet immediately. Bring your lunch. Walter DeVries, chairman.

The committee on rules and resolutions will meet immediately in room F. Bring your lunch. R. C. Van Dusen, chairman.

There will be a Republican caucus at 1:00 o'clock. Mr. Iverson.

VICE PRESIDENT HUTCHINSON: Mr. DeVries.

MR. DeVRIES: Mr. President, I move that the convention recess until 1:30.

VICE PRESIDENT HUTCHINSON: All those in favor will say aye. Opposed, no.

The motion prevails. The convention stands in recess until 1:30.

[Whereupon, at 12:05 o'clock p.m., the convention recessed; and at 1:30 o'clock p.m., reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: The Chair recognizes the delegate from the Eaton district, Mr. White.

MR. WHITE: Mr. President, fellow delegates, on each of your desks there should be a bound copy of a portion of the so called address to the people. There are 8 sections, I think, in the present book that has been delivered to you; 4 more are in the process of reproduction downstairs. I may say that we have overtaxed the duplicating facilities of the convention these last 3 or 4 days.

Also, to comment — in addition to what you have here, in the 4 other sections will be an introductory statement or preface of several pages which will summarize the significant changes in the document, and an appendix at the conclusion which will list sections which have been eliminated from the present constitution.

I am sure that you will understand that because of the numerous changes made by style and drafting over the weekend and because of many changes — not so many but numerous ones, I should say — that have been made on the floor in the past day and evening — this material is not up to date. Corrected pages will be supplied to you just as soon as we can get them out.

I should say that in the text of each section — and you will find this in a letter at the front of the document — language changes have been represented by underlining, underscored words, and asterisks indicate words that have been eliminated. This is in the form of the address that was submitted to us by the legislature earlier as a sample of what they felt should be done in the way of a technical explanation.

Our committee will be meeting today. I have made it however, at 8:00 o'clock. This will be in the event we do not have an evening session. If we have an evening session, we will meet prior to that time and we will announce the time of our meeting later. Any of you are welcome to come down and make what suggestions you have, not only tonight but from now on until the convention recesses. Thank you, Mr. President.

VICE PRESIDENT HUTCHINSON: The convention will return to the order of third reading. The convention has under consideration article VI on the judicial branch. There are several amendments on the secretary's desk and the secretary will report the next amendment.

SECRETARY CHASE: Messrs. Ford and Garvin offer the following amendment:

1. Amend article VI, section 23 (column 1, line 13) after "be filled" by striking out the balance of the section and inserting "by appointment of the governor. Appointees shall hold office until a successor is elected and qualified, as provided by law."; so that the language in section 23 will read:

> A vacancy in the elective office of a judge of any court of record shall be filled by appointment of the governor. Appointees shall hold office until a successor is elected and qualified, as provided by law.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I have discussed with Mr. Ford the amount of time which he felt might reasonably be allocated to this amendment and he agreed that 5 minutes, I think, would be reasonable. I would move that debate on this amendment be limited to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, all those in favor will say aye. Opposed.

The motion prevails. Debate is limited. The Chair recognizes Mr. Ford.

MR. FORD: The purpose of this amendment is to provide a responsible and a practical and workable way to fill a judicial vacancy in a busy judicial circuit without undue delay and without fighting circumstances that could conceivably cause the delay of the trial of matters and the delay of dockets already overcrowded in this state. We have gone over this many times in the past. No one on the floor of this convention or in the judiciary committee has offered any concrete analysis of how the system adopted by this convention would work in a county such as Wayne, with its already overtaxed dockets.

If you back up over the history of the past the 10 or 15 years and look at what we would have had, had we had this constitutional provision — I just wonder if you would think back, or ask the nearest circuit judge or ex circuit judge sitting close to you in your area, what would have happened if this had been in the constitution before the present pension law, as it is now constituted for the circuit judges, was brought into being.

This leaves to the legislature the ability to provide for the immediate call of a special election, if that is its choice. The legislature could disqualify an appointee from running for office if they thought that was wise. The legislature can do most anything it wants to modify this but, in the first instance, you can get an immediate appointment by the governor and have the court continue in its day to day routine business until you take the next step, whatever it might be, that the legislature provides. The legislature may wish to provide for an immediate election. It may provide that the vacancy be filled at the next election or it may provide that it will be filled at the next election in which judicial vacancies in general are filled. But in any event, whichever system they choose can be tried and if it does not work it can be changed.

I submit that in the constitution as you are now writing it you are buying a pig in a poke and asking the people of the state of Michigan to buy a pig in a poke because no one has statistically attempted to envision the effects and the results of this, the availability of manpower for the very limited manner of appointment that you have provided for, and it is entirely possible that what you might be creating here is a very bad situation that will be very difficult to correct because it will take a constitutional amendment to correct it. And it seems rather silly to tie ourselves into a rigid situation such as this when we could very well accomplish what most of you have said you would like to accomplish, and that is an immediate election to fill the vacancy, by the simple expedient of continuing a part of the present system with the flexibility left in the hands of the legislature to implement it in whatever way they thought to be best for the state of Michigan.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, I think this is the fourth time that we have had this or some variation of this particular matter before the convention or committee of the whole. It again allows for appointment to the judicial vacancy by the governor. We have consistently maintained that if we are to have an elected judiciary the vacancies shall be filled by election.

We have gone through this in committee of the whole, and defeated this type of amendment when we went back into convention, and again on second reading. All that needed to be said has been said, I think, and I would urge that the convention reject this particular amendment, as they have rejected the others, and leave it to the people to select their own judges in their own manner, by election. We have provided for interim use of retired judges until the vacancy has been filled by the election. I would urge the rejection of the amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Ford and Mr. Garvin, which has been read. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Habermehl offers the following amendment:

1. Amend article VI, section 1 (column 1, line 44) after "establish by a" by striking out "two-thirds" and inserting "majority"; so that the language will there read, ". . . and other courts of limited jurisdiction that the legislature may establish by a majority vote of the members elected to and serving in each house."

VICE PRESIDENT HUTCHINSON: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, I am afraid we may have created a vacuum in this judicial article. In section 26, which provides for the legislative establishment of minor courts or courts of limited jurisdiction, we make such provision subject to the limitations contained in the article. Back in section 1, before the legislature could establish any such court of limited jurisdiction there would have to be a 2/3 vote of the members of each house of the legislature. I don't think it is necessary to point out that getting a 2/3 vote of each house of the legislature is sometimes a most difficult proposition and if there were any real contest over the establishment of these courts of limited jurisdiction, it is entirely possible you couldn't get 2/3 of each house.

It does seem to me that to require an extraordinary majority before the legislature can set up these minor courts, is placing too much of an obstacle in the way of their establishment; and it seems to me, too, that it is entirely possible that in many counties your circuit court might become the court of limited jurisidiction because of the inability of the legislature to get such an extraordinary majority. I see no necessity for the extraordinary majority here. The only courts we are talking about in section 1 are the courts of limited jurisdiction, which we concede the legislature has the right to set up. And by Judge Pugsley's amendment — in fact, on first reading, the only way these courts of limited jurisdiction can be set up is by legislative action. If, in other words, we expect the legislature to act in this field to create these courts, it seems to me we had better make it possible for them to do so.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, all those in favor say aye. Opposed, no.

The debate is limited. Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, as I recall, this matter was debated in committee of the whole. It was again discussed in the judiciary committee and it was decided to leave it at 2/3. This was after first reading, at Mr. Habermehl's request. Our reasoning was basically this: by making it 2/3, it will of necessity make it a bipartisan approach to a particular problem. If you have a majority and you have a closely divided house, as you now have in one of the houses of the legislature, it becomes increasingly difficult to get bipartisan support for what would be a total program for a lower court system. We recognize perhaps that they will have to spend some time getting 2/3 together, but we feel that in the establishment of a court — and that is what this is — in the establishment of a court, there should be the extraordinary majority so that it is a bipartisan affair. I would urge that the amendment be rejected.

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: For the reasons stated by Mr. Danhof, I would like to oppose the amendment and say that it has always been the feeling of the judiciary committee since very early in the convention that we want the legislature to move slowly whenever they are creating new courts.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Habermehl. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Messrs. Krolikowski, Ford, Garvin and Bledsoe offer the following amendment:

1. Amend article VI, section 28 (column 2, line 6) after "law.", by striking out "This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record.".

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. Krolikowski advises me that 5 minutes should suffice on this amendment and I move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, all those in favor will say aye. Those opposed will say no.

The motion prevails. Debate is limited. Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. President and delegates, this amendment is designed to strike that portion of section 28 that sets out a rule of evidence with respect to administrative agencies. It in no wise will affect the first sentence, which assures that there shall be a direct judicial review of all decisions, findings, rulings and orders of administrative agencies.

The rule of evidence that is prescribed in section 28 is a matter that properly belongs to the legislature. In the past the legislature has applied as broad a rule of evidence as set out here to all the administrative agencies of the state, excluding 4. The legislature can at its pleasure make the same rule of evidence that is prescribed in the administrative code applicable to the excluded agencies.

By retaining this section we merely usurp a legislative function. It is the belief of the sponsors of this amendment that flexibility in the scope of review should be provided for. This particular sentence will make that flexibility that is so much desired an impossibility. We therefore urge your support of this amendment.

Now the unsoundness of setting out a rule of evidence in a constitution is manifestly attested by the fact that in no other state constitution except one, which is couched in far less restrictive language, do we find anything similar. This is a legislative function and it is a function that the legislature has discharged very capably. We therefore believe that in the interests of legislative function this sentence should be stricken.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, I was going to rise to a point of order. I thought we handled this, but I am not sure and I was checking the journal to see if I could find the point. Unless the Chair would take upon itself the duty of advising the delegation as to whether or not we have handled this exact matter, I shall continue to check.

VICE PRESIDENT HUTCHINSON: Well, of course, the Chair is kind of a passive agent here. The Chair will go along happily unless points of order are raised, you understand. Do you raise the point of order?

MR. KING: Yes, I raise the point of order, but I cannot give you a citation for raising it.

MR. PRETTIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Prettie.

MR. PRETTIE: I think what Mr. King has in mind is the presentation as appears at 1085 of Journal 126, at which time Messrs. Ford, Garvin, Downs, Marshall and Hodges offered amendment to strike out the entire proposal. It appears to me that the present amendment is not identical to the amendment submitted and defeated by a vote of 33 to 84 at that time. I hope this will be of assistance to the Chair.

VICE PRESIDENT HUTCHINSON: Thank you, Mr. Prettie. The Chair is advised by the secretary that the information available to the secretary indicates that the point is not well taken, so the Chair holds that this amendment is in order. Mr. Allen.

MR. ALLEN: Mr. President, I have the feeling that I am on the unpopular side of this, but I really think there is a great deal of merit in the proposed amendment. I think whenever we write one rule of review in administrative law in the constitution, we are in some trouble. We have recognized part of the trouble in workmen's compensation cases. We have not yet recognized the trouble this will bring us in state tax commission matters, and an amendment is pending on that. You see the problem that you get is, you have different kinds of cases where time is important in some and not important in others. And when you try to write one rule, which we have done, for them all, then you take out the flexibility that is needed and you may do some harm.

There is another reason that I think that we are in trouble on this section. It is the only section I know where we say in a judicial proceeding that the burden of proof is on the winning side. You see, if you win in an administrative hearing, if you have a case before the public service commission involving intrastate truck rights and you are granted an application and you have been contested by other truck owners and you win, the loser may appeal and when you get to the supreme court or the final court that hears this, it is up to the winner to show that what was done at the administrative level was supported by competent, material and substantial evidence. The burden of proof is placed on the winning party. Now the model state administrative procedures act has recognized this and recommended that the language be turned around, that the burden of proof be on the losing side, and this was the recommendation of Mr. Danhof's committee. It got reversed, you will remember, on first reading and Mr. Danhof toyed with the idea of bringing it up a second time. The correct language, if we are to have anything, would be that it is to stand, the administrative decision stands unless clearly erroneous —

VICE PRESIDENT HUTCHINSON: The Chair is sorry, the time for debate has expired on this amendment. The question is upon the amendment —

MR. DANHOF: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: A point of information. According to the amendment, it reads that the second sentence would be stricken; that is, from the words, "This review," through the word "record." On talking with Mr. Krolikowski, I don't think this was his intention and I think we should clarify whether the remaining portion of the amendment would stand or whether the entire balance of the section would be stricken. The way it is worded it would seem like the proviso according to workmen's compensation would still be standing; at least, that is the way I would read the amendment.

VICE PRESIDENT HUTCHINSON: Does Mr. Krolikowski desire to clarify his amendment?

MR. KROLIKOWSKI: Yes, Mr. President. The last sentence of the section, the one which refers to workmen's compensation, is in essence a modification of the preceding sentence which is under discussion. Now if this amendment is adopted, the sentence relating to workmen's compensation should also be stricken because it will thereafter have nothing to modify; so it would be the intention of the sponsors to strike all of the section commencing with "This review shall include" and that would include the last sentence.

VICE PRESIDENT HUTCHINSON: The secretary will report the revised amendment.

SECRETARY CHASE: Without objection, Mr. Krolikowski offers the following revision of his amendment:

1. Amend article VI, section 28 (column 2, line 6) after "law.", by striking out the balance of the section which reads as follows, "This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law."

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: In view of the revision of the amendment, I would move to extend the time for debate by an additional 5 minutes.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to extend debate for 5 minutes. All those in favor will say aye. Those opposed will say no.

The motion prevails and debate is extended for 5 minutes. The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, in view of the statement made by Mr. Krolikowski, of course, on behalf of the committee — I have not had a chance to talk with any of them — we wrote in here a standard of evidence. Now, as Mr. Allen pointed out, it was our recommendation that it would be "clearly erroneous in view of" which shifted the particular burden of proof, and this was the recommendation of the committee.

I will say personally — and I am not speaking on behalf of the committee but, personally and for myself alone — I see merit in this particular amendment. I would state, however, that those gentlemen be heard who made amendments regarding this matter in committee of the whole and on second reading. Mr. King was one who moved it, supported by — and it was Mr. Higgs in his amendment who set up the criteria of evidence. If there is time, I would recommend that those gentlemen be given an opportunity to speak.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President, I oppose the amendment and take issue with Mr. Allen and his suggestion that this changes the burden of proof. I think we have got to look at this thing in perspective. To begin with, in 1908 administrative agencies were virtually unknown in the state of Michigan. They were very rarely used in the federal government. Since that time we have had a tremendous growth in the use of administrative agencies and they perform a valuable function but they have cut themselves so far afield from what we know as the judicial determination of rights that they now are virtually a separate form of government all by themselves.

This amendment does not bring them back totally into the field of the proper determination of rights as we traditionally look at it. It only says this: whoever hears this case — be he the hearing referee in an unemployment compensation case, the tax commissioner, whoever he is — cannot issue a binding order unless that order is supported by competent evidence. Now that is all it says, and this is a minimum guarantee of the rights of the individuals in these matters. We hope that the legislature will go beyond this and require more. We are only saying that, as a minimum, they must do this.

Now within the committee, Mr. Krolikowski headed the subcommittee which developed this language and they were seeking a happy medium between no review or virtually no review, as we have it today, and a complete new trial in a court which would be time consuming and which would destroy the effectiveness of many administrative agencies. They found this middle ground. Why they are dissatisfied with it today I do not know. They were satisfied with it within the committee. It is my recollection it was unanimous within the committee, and they have modified it now so that it does not affect workmen's compensation, which, apparently, disturbed them when they got into committee of the whole. I think, as I said a moment ago, this is absolutely the minimum guarantee that any citizen of this state should have, and I think if we take this out we have lost that minimum guarantee. I would oppose the amendment.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, I, too, oppose this amendment. It seems to me that after the amendment — in the event that it should pass — all we really have left is a statement to the effect that all decisions, findings, rulings, and orders of any administrative officer or agency which are judicial or quasi judicial shall be subject to direct review. Well, I suppose that's true in any event. Certainly, if you could prove fraud or something like that, it would be subject to direct review by the courts. We don't say what kind of review. It's really not much of a guarantee at all.

What we are trying to do is state here that we favor, as a constitutional guarantee, certain minimum rights for the citizens of this state. I have great faith in the ability of the bureaucrats to adjust to this problem and I am really not concerned about it. I was concerned about workmen's comp and I supported the inclusion of this special proviso to take care of that situation, but I really believe that what we want to do here is spell out briefly what things should be required; and if you don't want to do that, perhaps you ought to consider spelling out what the net effect of this will be: that competent, material and substantial evidence shall not be necessary in order to sustain these reviews. If that's the way you feel, put it right in, but let's be honest about it. I think this is a bare minimum and I think we ought to stick with it.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I sometimes think it would be nice if we had more lawyers in the delegation and fewer thinkers licensed to practice law. It has been indicated by Mr. Everett — and I would support him — that the review that is contemplated by this section will be a review which must be taken by the losing party and, of course, he must bear that burden at the outset. Thank you.

VICE PRESIDENT HUTCHINSON: Time has expired. The question is upon the amendment offered by Messrs. Krolikowski, Ford, Garvin and Bledsoe, which has been read. All those in favor of the amendment —

MR. HOXIE: Is there time for a question?

VICE PRESIDENT HUTCHINSON: Well, time for debate has expired. All those in favor of the amendment will say aye. Opposed will say no.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. All those in favor will vote aye. Those opposed will vote no. Have you all voted? The secretary will lock the machine and record the total.

SECRETARY CHASE: On the amendment offered by Mr. Krolikowski and others, the yeas are 53; the nays are 72.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend article VI, section 28 (column 2, line 15) after "fraud" by striking out "unless otherwise" and inserting "if so"; so the language will read, "Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud if so provided by law."

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate on the amendment to 5 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. Debate is limited. Mr. Boothby.

MR. BOOTHBY: Mr. President and ladies and gentlemen of the convention, the provision as it now reads in the report as it has come back from the committee on style and drafting makes an exception in workmen's compensation cases "unless otherwise provided by law." In other words you can have an appeal as of right and certain minimum requirements in all administrative agency proceedings with one exception, and that exception is in the area of workmen's compensation proceedings. Now they give the legislature an out here, by providing that the legislature can provide otherwise by law, which means that the legislature would have to pass it and the governor would have to not veto it or the legislature would have to pass it by a 2/3 vote in order to have consistency between the workmen's compensation proceedings and the rest of the administrative agency proceedings.

It appealed to me that the proper way of handling this problem — if one exists — is to have all administrative agency proceedings handled in the very same way as far as judicial review is concerned. And if there is some problem that develops regarding workmen's compensation cases, then let the legislature make the necessary change. In other words, have the legislature prohibit the appeal as of right in matters of findings of fact if they so desire, but only if they so desire. It is a reversal of the philosophy here. I believe this is more consistent than is the report which came from the style and drafting committee.

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: I would like to point out to the delegation that this sentence we are talking about now did not come from the judiciary committee and it doesn't do what a lot of people thought that it did when it was adopted. It certainly doesn't do what Mr. Boothby says that it does. All that it applies to are findings of fact and what this section says is that you have a right to direct review and you have the right to find out whether or not the action taken was authorized by law and then, in those cases where a hearing is involved, whether the action is supported by competent, material and substantial evidence on the whole record. Now even when you have a presumption of the facts being corrected, unless there is fraud involved you still have to meet the other tests with those facts. All that you do with this section is simply preserve the fact finding power at the administrative level.

If this section were to be cleaned up properly, we should take out the reference to the workmen's compensation and provide that whenever there is a finding of fact by an administrative body that finding of fact would stand, because what you are implying by the section as it stands now is that on review of a civil service decision, for example, the court can go behind the facts and determine what weight to give to the facts. It is a fact that 2 and 2 is 4, but it will be up to the court to decide whether that fact is enough to substantiate the action taken by the board in making its decision.

So there is nothing magic, and it doesn't do as much as Mr. Boothby would lead you to believe it does and, in any event, if you adopt the Boothby amendment you might as well strike the entire last section because it no longer has any meaning.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, I oppose this amendment for the simple reason that this is the language which has been adopted by the legislature which we have put in here, and I cite Michigan Statutes Annotated 26.186. Now Mr. Boothby might think that this legislature over here is ultraliberal in makeup but, in any event, this is where we are starting from right now and I see no reason why this body should not go on record as giving support to their theory of workmen's compensation as it now exists and still leaving the door open in the future in the event that circumstances should change.

VICE PRESIDENT HUTCHINSON: Mr. Danhof. Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. President and delegates, Mr. Boothby has placed a most tortured construction on this last sentence. The clause that modifies, modifies "findings of fact;" it does not carry back to any preceding sentence.

VICE PRESIDENT HUTCHINSON: Sorry. Time has expired on the debate on the amendment. The question is upon the amendment offered by Mr. Boothby, which has been read. All of those in favor will say aye. Opposed will say no.

The amendment is not adopted.

SECRETARY CHASE: Messrs. Allen, Austin and Brake offer the following amendment:

1. Amend article VI, section 28 (column 2, line 16) after "law.", by inserting "Appeals may not be taken from the decisions of the state tax commission in the absence of fraud or illegality of the assessment.".

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I move to limit debate to 10 minutes on this amendment.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 10 minutes, all those in favor will say aye. Opposed will say no.

The motion prevails and the debate is limited. The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I am apologetic for not having called this to your attention earlier in our procedure. It is not a matter of sympathy for taxpayers or for tax collectors, and not a matter of any pressure but just a matter of machinery that will work in this business of running a government.

If we are to permit any taxpayer who is not satisfied with the decision of the state tax commission as to the value of his property to go into court, we are going to need more courts. It has always been the fixed policy that a court will never substitute its judgment on the value of property for the judgment of the assessor. In order to get into court we have had to be able to show fraud or bad faith or that the assessment was illegal, and that applies principally, of course, to special assessments.

Timing is involved here, very important timing. It is necessary that the tax roll be made and in the hands of the tax collector for school taxes, township taxes, county taxes, on the first day of December. That is when the collection starts. The tax commission has tremendous difficulty in disposing of the appeals that come up to it, in time to make those tax rolls; tremendous difficulty even now when people know that the tax commission is the last word, that there is no appeal to the court. Should that be changed, there will be many, many more appeals. It just simply won't work to allow an appeal to court, when no fraud is involved, from a decision on the basis of what is the value of certain property.

Bills have been introduced in the legislature — by legislators who, I am afraid, do not understand the procedure — in the last several sessions calling for a right to let a judge decide whether or not a property is too highly assessed or too lowly assessed. The state tax commission has resisted and has been able to overcome all of those bills in the legislature.

I was not contacted by the state tax commission, but today I called the chairman of the state tax commission. He says this would simply make the machinery unworkable. It seems to me there is no question about it. If we are to have tax machinery that is effective and gets done on time, we are going to need to except from the court of appeals the decisions of the state tax commission.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: Mr. President, once, you see, that we have written one rule for all administrative agencies, we have some trouble and one of the particular ones here is the state tax commission because local units of government now have to wait before they can finally levy their tax until the state tax commission acts. Now, unless we go along with this amendment — we then allow the appeal — we won't be able to spread our tax in time, so I think as a practical matter we have to make an exception here and support the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: I would like to oppose the amendment, Mr. President and fellow delegates, and call your attention to the fact that the arguments made by the proponents of this amendment are quite different from the arguments which were made by the proponents of the present workmen's compensation exclusion which was added. That was added because the delegates who had had a lot of work in the field of workmen's compensation felt that the time factor involved would be used to force unreasonable settlements by injured individuals, many of whom were in the lower income groups.

Now there is no such reason behind this. This amendment is obviously offered to make it possible for the tax commission to operate in a more speedy and, from their standpoint, probably a more efficient, a more rapid manner. However, I think that on behalf of the taxpayers who have to pay these property taxes an argument might very well be made. That argument is simply this: that when they believe that their assessment is wrong — and, of course, we know a very small number of them make a complaint — I believe that those taxpayers should have the right to have a hearing where the matter is determined on the basis of "competent, material and substantial evidence on the whole record."

Now that is all that the original language here provides: that the tax commission, when it has a hearing, should reach a determination on the basis of "competent, material and substantial evidence on the whole record." For that reason I urge you to vote down this amendment because it is unnecessary, because it is really not in the best interests of the people and the businesses that have to pay these property taxes, and because the advantage of having a more speedy, more efficient, and perhaps in some cases a more roughshod administration of our assessments of the state is not a sufficient argument.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, I would only like to add my support to Mr. Brake in saying to you that there must be a final authority that you can go to so that you can, once and for all, determine what in that particular county your assessment is going to be in each individual district. Now in our county 4 years ago we had an appeal by a township. Recently we had an appeal by one of the cities. Now if that were allowed to get into the courts that first appeal 4 years ago might not now be settled and there couldn't a single school district in Allegan county levy taxes of any kind until that decision was made.

You must break this off somewhere. You must have a board that makes a final decision and Gil Wanger is quite right when he says that you might go in and make an argument for the taxpayer. I say that the argument would be made and would still be going on. You just must break off. You must give them this final authority and get the job done. I am in favor of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President, I think this amendment points up the problem we get into when we get into these areas. Now, as we know, in the statutes and legislation in this field, they do exempt or except the 4 agencies of workmen's compensation, unemployment, the tax commission and, I think it is the public service commission. I think that we are now seeing the wisdom and the reasons that these agencies were excepted now being brought to light as people with various experiences in these varieties of fields bring the problems to light.

While I don't have a tremendous amount of feeling on this particular problem, I think it points up the fact that perhaps we should eliminate the entire section or make the same exemption as is done in the statute. It seems to me we are going through a great deal of statutory matter and something that could be best left to the legislature.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President, I think that Mr. Hodges has pointed up the problem. It depends upon which of the many long arms of the government you want to be protected against. Some of us feel that we should be protected against all of them. Now if you want to except them all, then let's just strike the section and forget it.

Mr. Wanger has clearly stated that the taxpayer is entitled to a review, and remember this: today the law requires that the taxpayer make his payment under protest and then sue to get it back if he feels it is wrong. There is nothing in here which changes this. It seems to me that it is pretty hard to argue that any tax assessor worth his salt is going to worry that his determination is not supported by "competent, material and substantial evidence." If he is that bad, then it is about time the courts do look at his work and do review it, and I would oppose this amendment.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, the court does not substitute its judgment for that of the tax commission. That is not the idea of this at all, Delegate Brake. What is required is that there should be a determination whether the findings and decisions and rulings are authorized by law — and now surely no one is against that — and 2, are they supported by "competent, material and substantial evidence on the whole record?"

Despite the fact that Mr. Nord will probably stand up and point out that there are people who are against it, I still don't believe that there can be anyone against that. Anything less than this is deprivation of property without due process and I am personally not in favor of it and I call upon the true conservatives to rise. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, Mr. King, I have risen. (laughter) I would like to point out that in this language is the language as appears throughout the constitution, "as provided by law."

Now the red herrings that Mr. Brake, Mr. Allen, and the others have raised with respect to being able to spread an assessment roll, being able to levy a tax, having impasses reached with respect to local units of government — all of these arguments are ridiculous. The legislature is not going to permit an impossible situation to exist and it doesn't have to. Under the protest provisions, under the provisions that the legislature can enact to preclude this happening — so that you cannot spread a tax, determine an assessment, equalize an assessment or what it may be — the legislature may enact laws that will permit this and still not create an impasse to the spreading and collection of taxes on the local level. I would urge that you vote no on the amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Messrs. Allen, Austin and Brake.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for the division supported? The demand is supported, 10 or more delegates supporting the division. All those in favor of the amendment will vote aye. Those opposed will vote no.

MR. KING: Mr. President, I would like to demand the yeas and nays on this issue.

VICE PRESIDENT HUTCHINSON: Mr. King demands the yeas and nays. Is the demand for the yeas and nays supported? Sufficient number up. The yeas and nays are ordered. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—57

Allen
Andrus, Miss
Anspach
Austin
Baginski
Barthwell
Batchelor
Beaman
Bentley
Brake
Dade
Dell
Downs
Elliott, Mrs. Daisy
Farnsworth
Faxon
Figy
Hannah, J. A.
Hart, Miss
Howes
Hoxie
Jones
Leibrand
Leppien
Lesinski
Madar
Marshall
Martin
McAllister
McCauley
McLogan
Millard
Mosier
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Romney
Rood
Rush
Sablich
Seyferth
Sleder
Snyder
Spitler
Stafseth
Stopczynski
Suzore
Thomson
Walker
Wilkowski
Woolfenden
Young

Nays—68

Balcer
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Greene
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Hodges
Iverson
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Mahinske
McGowan, Miss
Nord
Norris
Ostrow
Page
Pellow
Richards, L. W.
Shackleton
Shaffer
Shanahan
Sharpe
Staiger
Stevens
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wood
Yeager
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Allen, Austin and Brake, the yeas are 57; the nays are 68.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: We have no others on this section.

VICE PRESIDENT HUTCHINSON: There are no further amendments on the secretary's desk. The question is upon the passage of article VI. Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, in supporting this article it is my intention, and I trust the intention of the convention, that the change in the language in section 28 from "workmen's compensation commission" to "workmen's compensation proceedings" was not a matter of substance, not a material change. I make this comment for the record. I believe that the decision of the convention in acting upon the ruling which prevented Delegate Danhof from introducing his amendment to strike this proviso — I interpret this action of the convention as indicating an intention to support the committee on style and drafting in such a way as to determine that there was no change in substance or material change made when style and drafting inserted the word "proceedings" in place of the word "commission." With that construction and intention, I feel I can support this article. If this is not the intention of the convention on the part of other delegates, I would appreciate such delegates so stating.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, have you any speakers other than Mr. Ford seeking recognition?

VICE PRESIDENT HUTCHINSON: Yes, I have one other.

MR. VAN DUSEN: I would move to limit debate on the article to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon the article to 5 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. Debate is limited. The Chair next recognizes Mr. Prettie.

MR. PRETTIE: Mr. President and fellow delegates, I decided to become a candidate for delegate to this convention because I was deeply concerned about the present inconsistent method of electing supreme court justices. When I campaigned I told my constituents that, among other things, I would work to make our courts truly nonpartisan at all levels. I did work hard and long to accomplish this result and many of you worked with me and I appreciate your support, but we failed to get enough votes to accomplish this, not by a vote of 2 to 1 or 3 to 1 but by a very narrow margin. Other equally sincere delegates to this convention, equally concerned with an honest court structure, came to this convention pledged to work for the adoption of the ABA plan for selecting our judges. They had committed themselves to this plan and gave not only of their time but of their substance to present the merits of this plan. They, too, I am sure, are disappointed.

We have a judicial article, unfortunately, that continues the unhappy influence of party politics at the highest echelon of our court structure, and many other batters are not fully satisfied with what we have done here. My personal batting average on my own promises to my constituents is probably not even half of 87.9 per cent, but that is beside the point.

I shall not urge a no vote on this article merely because my views did not prevail. I shall not return to my district and urge voters to reject this document because many of its provisions are not to their liking or to mine. I shall endeavor to explain that this is the product of the democratic process. It is the result of the working together of 144 honest and sincere women and men possessed of integrity and wisdom but also of diverse points of view. Long hours of debate on this floor have forged this document. It is not a result of any clandestine accommodations. I shall point out that our labors of 7½ months are typical of the inefficiency of our form of government but that this slow and tedious process and its sometimes imperfect results are at once the weakness and the strength of the best form of government the mind of man has yet developed.

In spite of personal frustration I shall vote to adopt this article. I urge the scores of delegates who share my views to do the same. I urge those who failed in their efforts to write the ABA plan into the judicial article to put aside their disappointment and vote for it. It is my hope that this greatly improved court structure for this state will be approved not by a vote of 3 to 1 but by a resounding and substantially unanimous vote. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: I appreciate Mr. Prettie's point of view. Although I haven't always agreed with him, I have enjoyed working with him on the judiciary committee and it is not easy for me to say what I am going to say now without sounding like I am being a dog in the manger but, believe me, in sincerity, this is not what I am trying to do and I am not trying to impose, at this point, my point of view on anyone else. I am trying to express my own point of view and the reason for voting the way I am going to vote.

As has been said before, by the chairman of our committee on this floor, the judiciary system in Michigan and its present status was not one of the compelling reasons for the calling of this convention. Our present judicial system is superior in all ways. It ranks in the view of people outside of the state amongst the top 3 states in the entire country inasmuch as we have a system that has been completely free from scandal and is as close to efficiency as you are ever going to get in a democratic system of courts.

I cannot support the article as we have now written it because I do not honestly believe that it is an improvement over the 1908 constitution, as amended. If we had truly made the kind of improvements that Mr. Prettie alludes to, I think it would be entirely a different thing. There are 2 or 3 things in the article that are new but they are not constitutional matters to begin with and they do not justify either the time spent by this convention nor do we face the prospect of losing them if this particular section is not incorporated into the new constitution to replace what we presently have. The outstanding example of that is the appellate —

VICE PRESIDENT HUTCHINSON: Time for debate has expired.

MR. VAN DUSEN: Mr. President, I would move to extend debate for an additional 3 minutes to permit Mr. Ford to complete his remarks.

VICE PRESIDENT HUTCHINSON: Mr. Ford and Mr. Danhof both seek recognition.

MR. VAN DUSEN: I guess we had better make it 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to extend debate by 5 minutes upon the article. All those in favor will say aye. Opposed, no.

The motion prevails. Mr. Ford may continue.

MR. FORD: The appellate court at first glance seems to be an improvement and everybody in this room, I think, agrees that we should have an appellate court. However, I might remind you that the legislature had already perfected and was ready to bring out of the committee over there an appellate court system and would do the same tomorrow if it were not for the pending action of this convention at the present time. There is nothing in here with regard to the appellate court that is constitutional to the exclusion of all other considerations, and what we have accomplished here could just as well have been done across the street.

The filling of vacancies is something we have talked about and we have passed over. It is something that is of very great importance, and the more I have talked to fellow attorneys and the people back in the area that I represent, the more I am concerned with how serious this particular aspect is and how quickly we have passed over it.

The section that we just finished discussing a few moments ago bears absolutely no resemblance to the language that was originally proposed to the judiciary committee by Mr. Cooper and others who first brought the matter forcibly to our attention, and bears little or no resemblance to the work that was put into it by the judiciary committee.

The local court system has been placed — by reason of the fact that many people, for whatever their reasons, came to this convention with preconceived prejudices in this respect — in a status now where very few people at the local level have any confidence or any prospect of hope as to the continued existence of the autonomy of their local courts as they know them now. I think that the section with respect to local courts places in jeopardy a long standing traditional system in this state.

I think that we have, for all intents and purposes, destroyed the 5 tier system that we started out with in the judiciary committee and, again, this was not the judiciary committee that did it. It was done here on the floor. There is no longer a separate and distinct probate court as a constitutional matter. We now have a 3 court system with a conglomerate of the 2 last tiers that the judiciary committee contemplated. You can now merge all or any part of the functions of these lower courts to the end that all or part of them will be extinguished. We set out to set up a 5 tier court system which, in my opinion, would have been a distinct improvement and the one thing that we could have done by constitution that may have been a great improvement over what the legislature might have done, but we failed in this respect. For that reason I don't feel that I can support the article as it now reads.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and fellow delegates, I am very happy to endorse the words of Mr. Prettie. We did have on the floor of this particular convention a long and tedious debate on the judicial article. With 58 and now 59 or 60 lawyers, this was probably inevitable. But I think he has pointed out what has been the thinking, at least, of a majority of us. I am sorry to hear the words of my good friend, Bill Ford, who was of great assistance in the committee. I think we have retained an elective system of the judiciary. We have established an intermediate court of appeals. And I point out that it was not really until this constitutional convention got going that we got real action across the street, and this is not in derogation of those gentlemen.

I think we have strengthened the circuit courts, the probate courts. We have made great strides and have provided a system which, I am sure, will last the people of this state for a good 50 or 75 years or whenever we call another convention. We have allowed the legislature greater leeway. This, I think, is an advantage and not a disadvantage. I would hope that we would pass the article. I point out to you that we have had more hours of debate on this than on any other particular article. I urge your support. Thank you.

VICE PRESIDENT HUTCHINSON: Time has expired. The question is upon the passage of article VI on the judicial branch. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—103

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Mahinske
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—33

Austin
Baginski
Binkowski
Brown, T. S.
Buback
Dade
Dehnke
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss
Hodges
Jones
Kelsey
Krolikowski
Madar
Marshall
McAllister
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of article VI, the judicial branch, the yeas are 103; the nays are 33.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article VI,** as amended, is passed.

For sections 1 through 7, 9 through 25, 27, 28 and 29 of article VI as passed, see above, page 3060.

Following is section 8 of article VI as amended and passed:

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as near as possible of equal population, as prescribed by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Following is section 26 of article VI as amended and passed:

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Following is explanation of vote submitted by Mr. McAllister:

My reason for voting no on article VI, the judicial article, is that I believe the provisions of the present constitution are better than the provisions of the new article.

Following is explanation of vote submitted by Messrs. Krolikowski, Binkowski, Garvin, Madar, Ford, Downs and Miss Hart:

We voted no on article VI because Michigan's traditional judicial system has stood the test of time in the basic matter of selection of judges. Michigan's judiciary has a nationwide reputation for ability, integrity and efficiency.

Michigan's judicial system provides that when a vacancy occurs the governor appoints a judge to serve until the next election. At the next election that judge who was temporarily appointed must run against any other candidates nominated by the people, either through petition or by convention, as in the case of the supreme court.

Article VI as adopted removes the governor's right to select the judge on a temporary basis — a system that is proven in practice to have the best of the appointed and the elected systems. The proponents of this change did not prove their need for changing the historically satisfactory method.

Another severe weakness was a constitutional provision in section 28 for appeals from administrative agencies. Present appeals are handled either by general law or specific statute affecting specially created agencies. This proposal has a constitutional, rigid appeal system that could, in effect, make one who wins his case before the administrative tribunal for all intents and purposes go before a court and win his case all over again. This is frustrating, expensive and time-consuming for litigants as well as courts.

We believe that the proposed judicial article does not contain sufficient improvement over the present judicial system to justify replacing the 1908 constitution, as amended. Any improvements found in the article may and should be accomplished by statutory enactment.

We believe that these 2 changes alone are significant steps backward from Michigan's present constitution, and we therefore voted no on article VI — judicial branch.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read article VII, local government.

SECRETARY CHASE: **Article VII,** local government:

[Article VII, sections 1 through 33, was read by the secretary. For text, see above, page 3063.]

VICE PRESIDENT HUTCHINSON: Article VII has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in article VII of the proposed revision of the constitution:

section	column	line	Corrections
10	2	29	After "be" remove brackets around "re".
10	2	30	After "to be" insert brackets as follows "[re]".
17	1	27	After "law" insert "[" before "and".
17	1	28	After "constitution" insert "]".
20	1	45	After "provide" insert "by law".
24	2	27	After "own" insert "[,]".
24	2	30	After "disposal" delete "[,]".
30	1	55	After "a" insert "[longer]".
30	1	56	Change "longer" to "LONGER".

VICE PRESIDENT HUTCHINSON: Without objection it is so ordered. [Corrections made above.] The secretary will report an amendment.

SECRETARY CHASE: Messrs. Sharpe and Kuhn offer the following amendment:

1. Amend article VII, section 21 (column 2, line 6) after "law.", by inserting "No governmental subdivision of the state shall impose an income tax unless approved by three-fifths of the qualified electors voting on the question.".

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHIINSON: Mr. Van Dusen.

MR. VAN DUSEN: The substance of this amendment has been debated at some length before and I would move at this time to limit debate on this amendment to 10 minutes.

VICE PRESIDENT HUTCHINSON: The question is on the motion to limit debate to 10 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. Mr. Brown.

MR. G. E. BROWN: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State your point.

MR. G. E. BROWN: The exact language that is presently proposed was offered on second reading except that instead of a majority of the qualified electors, 3/5 has now been added and changed. I think in substance this is the same. When you make the requirement more stringent than failed to pass before, I don't think you have a different matter before you and I would refer you to journal page 999.

VICE PRESIDENT HUTCHINSON: Well, the Chair would be disposed to rule and does rule that this presents a different question. The body has not heretofore considered the matter of a 60 per cent on this thing. Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, once again we come to you and ask you to consider the question of whether or not a governmental subdivision shall authorize an income tax without a vote of its people. Now it has been argued that this is legislative in nature, and when the Bowman bill passed the legislature you had a pretty strong argument. But since the governor in his wisdom saw fit to veto this bill, I think it now presents the same question that has been raised by many delegates who have things that they felt were necessary to be in this constitution; for example, the civil rights commission, civil service, and things of that nature. We know that those are legislative matters and yet we thought they should be in the constitution, because the legislature did not provide for them. We therefore strongly urge that the delegates to this convention decide this issue for the people and put it in the constitution.

MR. W. F. HANNA: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: I rise to a point of order. I challenge the germaneness of this proposed amendment to this section. Section 21 of local government is the historical local government article dealing with home rule cities and villages and the reference to tax laws in there are to cities and villages as they may put in their charters for municipal purposes and public purposes.

The amendment says "No governmental subdivison" which would cover school districts, charter or other authorities, town-

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ships, and rightly belongs in the taxation article where we are dealing with taxation both by the state and local governments. This is not a restriction on the home rule power of cities and has no place here any more than it does in home rule provisions for counties or than it does under township taxing powers. I ask the sponsors of this to withdraw it and place it in its proper context under taxation. If they don't withdraw it, Mr. President, I ask that you rule it out of order at this point.

MR. KUHN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: Historically, from the first reading, we tried to introduce these amendments with this subject matter in the subject of taxation. We were asked specifically to put them in this particular place on local government. We did offer them at the very first reading when the taxation article was up and we were asked then to withdraw them and put them in local government, which we did. We have no qualms about putting them wherever you want them, as long as you let us know where you want them.

VICE PRESIDENT HUTCHINSON: The Chair is persuaded by the argument that Mr. Hanna makes that section 21, as it now stands, has to do with laws for the incorporation of cities and villages and that the laws shall limit their rates of taxation and so on, but it applies only to cities and villages. Now this amendment goes beyond cities and villages and attempts to reach all governmental subdivisions. It would seem as though the amendment might be more properly offered at a different place. It would seem as though if it were offered here it would be limited only to cities and villages anyway and —

MR. W. F. HANNA: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: If they feel it important in local government, may I suggest that they offer it as a section to be added to the end of the total article?

VICE PRESIDENT HUTCHINSON: The Chair would rule that the amendment is not germane to section 21. Mr. Kuhn.

MR. KUHN: Mr. President, then shall we take the suggestion of Mr. Hanna and move to put it at the end of the article on local government?

VICE PRESIDENT HUTCHINSON: It would be apparently germane to the entire article.

MR. KUHN: Yes. Make it section 34.

SECRETARY CHASE: Messrs. Sharpe and Kuhn offer the following revised amendment:

1. Amend article VII, following section 33 (column 2, following line 13) by inserting a new section 34 to read as follows:

"Sec. 34. No governmental subdivision of the state shall impose an income tax unless approved by three-fifths of the qualified electors voting on the question.".

VICE PRESIDENT HUTCHINSON: Mr. Sharpe.

MR. SHARPE: Mr. President, this has been read over and over and over several times. The reason why we are offering it one more time is we felt there were many delegates that voted against this particular portion of the taxation article in light of what the legislature had enacted in this term of the legislature. Now, because of — as Mr. Kuhn has spoken about — the wisdom of the governor seeing fit to veto this, we felt that this would possibly change some of your opinions and some of your votes and we might be able to carry this provision. We do feel it is necessary that no city be allowed to tax any nonresidents.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I would rise to oppose the amendment before the convention on the same basis that I would oppose or did oppose the writing into this constitution a prohibition against a graduated income tax. I do not think that this constitutional convention that is charged with the responsibility of writing a constitution should be constantly and repeatedly trying to legislate, trying to write into the constitution statutory language that could better be left to the discretion of the legislature.

Without debating the merits pro or con of an income tax versus some other form of taxation, I feel and I do not hesitate to state that the legislature in this state has failed miserably to measure up to its responsibility to enact legislation that will solve some of the fiscal problems of this state. I think the more we try to patch up a worn out tire and the more that we try to take the legislature off the hot seat, the less chance there is of accomplishing what is necessary, what is essential and what is inevitable: and that is, total fiscal reform of this state. I think the more pressure that can be applied to the state legislature from the various local communities throughout the state, the growing metropolitan industrial areas, the sooner we are going to get this action through the legislature where it belongs and I oppose the amendment before the convention. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, of course, this is one more attempt, as has been made throughout the convention, to restrict the taxing powers of the local government units. Now I say to you that we have a restriction in the finance and taxation article that you can only tax 50 per cent of cash value, that you can only go to 15 mills without a countywide vote which would take it to 18 mills. Now, not being happy with those restrictions and not being happy with only a majority vote, they are going to say to us that you must have a 60 per cent vote in order to impose, we will say for instance, a payroll tax.

Fellows, we might as well face up to it, we are doing a lot of arguing sometimes about earmarking and so forth, and all you are talking about is how you are going to distribute money from an empty treasury. Let's not put any more restrictions on local government units. I am opposed to this sort of thing and definitely opposed to this amendment and ask for a no vote.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I have spoken on this subject several times and most of the arguments that I would make now have been given; so I will not belabor the point. I will simply agree with those speakers who have opposed this amendment by saying that it is legislative language that need not be in the constitution. It is a function that ought to be performed by the legislature and one that the legislature and the governor are grappling with right now. And I would submit that we ought to oppose this amendment and leave the matter entirely up to the legislature.

VICE PRESIDENT HUTCHINSON: Mr. Arthur Elliott.

MR. A. G. ELLIOTT: Mr. President and ladies and gentlemen of the convention, after all the months of deliberation on this particular article and the discussion that has been held in the local government committee, I am confident that I can urge you to defeat this amendment and know that when I make that urging to you that I am doing it in the best interests of the state. We have learned without equivocation that the property tax has reached its upper limits. This provision would make any other taxing powers for local units of government almost impossible, and I urge its defeat.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: Mr. President, the other day on a different matter, which I am sure you will remember, Mr. Kuhn made a long argument about good constitutional language and he cited the model state constitution. Now, let's give Mr. Kuhn a chance to stand for good constitutional language. In the model state constitution, which I have in my hand, it doesn't say anything about 3/5 votes. It doesn't say anything about elections. It does something very similar to what we have done. So I urge you to be consistent with Mr. Kuhn and vote for good constitutional language and vote against his amendment.

VICE PRESIDENT HUTCHINSON: Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, I would oppose this amendment and support the original language. However, I take exception to the remarks of Delegate Marshall. I feel that the Michigan state legislature has acted responsibly with their appropriations and the problem is, the budget of the governor has been far too excessive and it is time we had economy in the state of Michigan.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I would like to concur with the several speakers who opposed this amendment. You have restricted the cities' taxing powers one way and another and, as a representative of the city of Detroit, I don't see how we can keep on unless we do have some form of tax. I don't know that it should necessarily be an income tax but we will have to have something. I don't like to see it restricted any further.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Sharpe and Mr. Kuhn.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported? The demand is supported.

MR. SHARPE: Record roll call vote.

VICE PRESIDENT HUTCHINSON: Mr. Sharpe demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Twenty-seven.

VICE PRESIDENT HUTCHINSON: It takes 29. Not a sufficient number up. The question is a division vote. Mr. Downs.

MR. DOWNS: I did not wish to speak on the division. May I speak on the amendment or has the vote been called?

VICE PRESIDENT HUTCHINSON: Yes. You are recognized.

MR. DOWNS: I wish to urge the defeat of this amendment for reasons already very well stated. It does not belong in the constitution. If we start writing in tax restrictions, then I would be inclined to start writing in minimum taxes such as minimum income, corporation profits and others, and rebates to local communities. I do not believe that either one belongs in the constitution and urge defeat of this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. The delegates will please clear the board. All of those in favor of the amendment will vote aye. Those opposed will vote no. This is a division vote only. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment by Messrs. Sharpe and Kuhn, the yeas are 22; the nays are 94.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Messrs. Kuhn and Sharpe offer the following amendment:

1. Amend article VII, following section 33 (column 2, following line 13) by inserting a new section 34 to read as follows: "Sec. 34. No governmental subdivision shall impose any income tax except on its own residents; the state, however, may preempt this field of taxation.".

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: We have debated this one, also, at some length. I would move to limit debate to 5 minutes, on the recommendation of Mr. Kuhn.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate, all those in favor will say aye. Opposed, no.

The motion to limit debates carries. Mr. Garry Brown.

MR. G. E. BROWN: Point of order. This amendment was offered on general orders at first reading and was also offered on second reading. I therefore move that it is out of order and request the Chair to so rule.

MR. KUHN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Kuhn.

MR. KUHN: We wish to move at this time to suspend the rules and ask to reconsider the vote. Now, Mr. President —

VICE PRESIDENT HUTCHINSON: Suspension of the rules?

MR. KUHN: That's correct.

VICE PRESIDENT HUTCHINSON: All right.

MR. KUHN: Thank you. Mr. President —

MR. G. E. BROWN: Is the Chair going to rule on my motion first?

VICE PRESIDENT HUTCHINSON: Well, the Chair will rule that the amendment is out of order. Mr. Kuhn now moves to suspend the rules to permit the reconsideration of the vote by which the amendment on second reading failed to be adopted. This takes a suspension of the rules. Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, the last amendment that we offered was a little restrictive, a little more than even I want to see in a constitution. (laughter) I want to call to your attention — we had to pinpoint this to you to show you how restrictive our rules could be and that is the only way we could logically get this in. (laughter) Now we are getting to a very fundamental question and that is one on a governmental subdivision imposing a tax on nonresidents. This is the one clearly before the house. Now because of our rules, again, we are coming to you and asking you to suspend the rules. The fact that the governor vetoed the Bowman bill yesterday clearly pinpoints this most serious question.

Mr. Allen said to me that he wanted me to be consistent and not vote for things that were legislative in matter. I want to call to his attention that, while he kept waving that model constitution, he forgot to vote that way when legislative pay was up. (laughter) And I also want to remind us that those that thought so much of having a governor's mansion forgot that we were writing a constitution. Those that wanted a civil service commission forgot we were writing a constitution. Those that wanted a civil rights commission forgot we were writing a constitution. Those that wanted a highway commission in our constitution forgot we were writing a constitution. And the most important one, and one that I campaigned on and tried to be pure on as long as I was here, earmarking of funds — they forgot we were writing a constituiton and insisted, for some reason or other, that roads must have it even though education doesn't need it.

Now, this question is clearly before us, Mr. President: whether or not we should suspend the rules and give this convention a chance — after it has seen that the legislature will not do this because of the action of the governor — to vote on whether or not this should not be in our constitution. I therefore move that the rules be suspended and give us a chance to vote on whether a city or any subdivision should tax its nonresidents. I think clearly the people of the state of Michigan — I understand that there is some committee that has formed in the state of Michigan and represents something like 2 million people and they want this provision in the constitution.

VICE PRESIDENT HUTCHINSON: On the motion to suspend, Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, I would, of course, speak against suspension of the rules. We have discussed this before, of course. It is a local government thing. I would only ask Mr. Kuhn if he would say that if I had property in the city of Detroit, because I am a nonresident, therefore, the city of Detroit should not be allowed to levy taxes against me on that property. I don't think we should suspend the rules. I think we should get on with the business of the convention and quickly turn down the move to suspend rules so that they could get at this.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, this matter has been voted down before, in effect, but it seems to me perfectly clear —

MR. JONES: Mr. President, preferential motion.

VICE PRESIDENT HUTCHINSON: The Chair will not recognize you until Mr. Martin has finished.

MR. JONES: Pardon me.

MR. MARTIN: — if we expect the local units of government to raise their own funds and be able to meet their own obligations, we certainly ought not to prevent them from taxing income where income is earned by people who have the benefits of the communities in which that income is earned. I certainly hope that we will not vote to reconsider this matter.

VICE PRESIDENT HUTCHINSON: Mr. Jones.

MR. JONES: I move the previous question, Mr. President.

VICE PRESIDENT HUTCHINSON: The convention has already limited debate upon the amendment and in order to get at the amendment he had to move to suspend the rules to reconsider; so that the time of debate on the suspension of the rules applied against the amendment, which has been limited to 5 minutes, and so the motion for the previous question is out of order. The question is upon suspending — Mr. Stevens. (laughter)

MR. STEVENS: Mr. President and delegates — (laughter)

VICE PRESIDENT HUTCHINSON: The question is upon the suspending of the rules, not Mr. Stevens.

MR. STEVENS: Thank you, Mr. President, for your kind consideration. (laughter) I could use a little sleep after style and drafting. All I wanted to say is that I, again, oppose this amendment as greatly restricting the powers of the cities to pay their debts and I see no difference, as has been explained before, in principle, in taxing a resident's paycheck who lives out of the city from taxing his property if he lives out of the city. Certainly many of us pay taxes on real property in areas in which we do not live. We don't object to it. We expect to do it.

VICE PRESIDENT HUTCHINSON: Miss Donnelly.

MISS DONNELLY: I would like to support this motion to reconsider. I think people ought to consider the point. We are not talking about a payroll tax. We are talking about an income tax. There are many individuals who earn some income in some places and some in others but it does not give one group, every group, the right to tax everybody's income.

If the state imposes an income tax, it is one thing. If a city taxes their residents, it is one thing. But if everybody that has anything to do with any part gets taxed on their income tax all over, you will find that these people are pretty fantastically taxed. I think we should reconsider this vote.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the motion to suspend the rules to permit reconsideration, and the rules of the convention require a vote of at least 2/3 of the delegates present in order to suspend the rules. The Chair orders a division. All of those in favor of suspending the rules will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to suspend the rules, the yeas are 38; the nays are 76.

VICE PRESIDENT HUTCHINSON: Two-thirds of the delegates present not voting therefor, the rules are not suspended. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. W. F. Hanna and A. G. Elliott offer the following amendment:

1. Amend article VII, section 29 (column 1, line 38) after "Sec. 29.", by striking out the balance of the section and inserting "Subject to this constitution and the general laws of the state no public utility shall have the right to use the highways or public places of any county, city, village or township for utility facilities without the consent of the governing body thereof; nor to transact a local business therein without first obtaining a franchise therefor from such city, village or township. The right of all counties, cities, villages and townships to the reasonable control of their highways and public places is hereby reserved to such political subdivisions.".

VICE PRESIDENT HUTCHINSON: On the amendment, the Chair recognizes Mr. Hanna — Mr. Elliott. The Chair recognizes Mr. Elliott.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I believe this is an amendment of form only and I would therefore move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, all those in favor will say aye. Opposed no.

The motion to limit debate carries. The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, this language, or language similar to this, was discussed in the committee on local government and was adopted. At that time a fear arose that maybe by changing the language this way we might in some way be endangering the legal rights of the public utilities and so, when it came on the floor in first reading and again in second reading, it was maintained much the same way as the 1908 constitution. Since that time it has been made clear to me that this language that we had in the 1908 constitution is no longer needed and that this new language, which says in substance the same thing as section 29 says in the journal, will do the job adequately and much more constitutionally, and I urge its adoption.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Stafseth.

MR. STAFSETH: Mr. President, if I may, through the Chair, I would like to ask Mr. Elliott a question.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. STAFSETH: As I read this language, the right to control the highways as to the location of utilities is left to the governing body of where the highways are located. Under the language that is in the journal, as proposed, it is given to the duly constituted authority, which, in the case of county roads would give the authority to the road authority or the county road commission. As I see this now, this has become the authority of all the townships and you would have a hard way of having consistent policy. Is this the case?

MR. A. G. ELLIOTT: I am going to yield to Mr. Hanna on that one.

VICE PRESIDENT HUTCHINSON: Mr. Hanna will answer the question of Mr. Stafseth.

MR. W. F. HANNA: Mr. Stafseth, the term "governing body" is the same as I originally proposed. It is the governing body of the road that shall govern the use thereof: the county will govern a county road, the city a city road, the village a village road, and the township is in there because, you see, there has been talk in the past of giving some local roads to townships.

MR. STAFSETH: Well, Mr. President —

VICE PRESIDENT HUTCHINSON: Mr. Stafseth has the floor.

MR. STAFSETH: Well, Mr. President and fellow delegates, I think I will have to disagree with Mr. Hanna. As I read this, it goes to the governing authority. Road commissions are duly authorized authorities to maintain highways and, to maintain highways, to control of rights of way. For a consistent policy of locating utilities, I could see this could become quite a hardship if there was any question as to the authority to do this. As I see it, this might revert back to the township and the utility might locate a line in one location and the minute they crossed the township line in another area, the next township might be different. This could be quite a hardship, so I would be opposed to the amendment.

MR. A. G. ELLIOTT: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Elliott.

MR. A. G. ELLIOTT: I would like to point out to Mr. Stafseth that this also relates to public places and there will be times when these utilities will have to cross properties which are owned by the local units of government such as townships and so forth. I think your fears are unjustified and, so that the record will be perfectly clear, this point on governing bodies is to define those units of government or that body that has control of the highway or the property that is being crossed or used for those purposes.

VICE PRESIDENT HUTCHINSON: Mr. Hanna, do you desire recognition?

MR. W. F. HANNA: Mr. President, Mr. Stafseth seems to think that the road commission is a constituted authority and not a governing body. I submit to you that they are only an arm of the county and the county is the governing body and that highways are taken in the name of the county, and the county, being the governing body thereof, will have control of public places and highways owned by the county. The fact is that they delegate the county's authority to the road commission as to highways — they may also delegate the airport duty to an airport commission — so that they are the governing body thereof. It's the county. He is confusing the county with the agency or arm of the county that performs the function.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I would urge a no vote upon this amendment. I direct your attention to the first part of the amendment. First of all it says, "Subject to this constitution." To my recollection there is nothing else in the constitution, other than this provision, that deals with the language as it presently appears in section 29 starting out "No person, partnership, association," et cetera. There being no provision in the constitution, it would then be subject to the general laws of the state. Now the general laws of the state could provide that the substance of section 29 as it now exists is nullified; so, in effect, you would have no provision here if the general laws of the state so provided.

I would also like to point out that, as a practical matter, we have used the rights of the political subdivisions rather indiscriminately here when we are speaking of highways and we are speaking about the land encompassed or included in the highways. Only the right of way itself is conveyed to the county road commission with respect to the use of township roads. For instance —

VICE PRESIDENT HUTCHINSON: The time for debate has expired upon this amendment. The question is upon the amendment.

MR. BOOTHBY: Mr. President, I would like to move for an addition of 2 minutes. I notice that my good friend, Hale Brake, would like to talk and I would like to hear him.

MR. HOXIE: Mr. President, I would like to extend it another 2 minutes for my good friend, Mr. Farnsworth.

MRS. CUSHMAN: I move we extend it 10 minutes.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman moves that the debate be extended 10 minutes upon this amendment. All those in favor say aye. Opposed no.

The motion prevails. The Chair next recognizes Mr. Sleder.

MR. SLEDER: Mr. President and fellow delegates, the subcommittee on public utilities held hearings with representatives of the utilities and section 29 was discussed in the form that it is now before you. This amendment that is presented by Mr. Hanna originally appeared in the committee on local government, but was discarded due to the fact that it was felt by the subcommittee on public utilities that the present section better met the needs of the governing bodies — the county road commissions and the utilities.

Each utility has had a copy of this particular section and has approved it and agreed to its contents. This new section that appears on the wall has not been before any of the utilities nor before the association of road commissioners. I therefore would recommend the rejection of the proposed amendment and the adoption of section 29 as we have it.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I would like to ask a question of Chairman Elliott, please.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. FARNSWORTH: Mr. Elliott, I take it that you maintain there is no substantive change in the amendment from the committee report?

MR. A. G. ELLIOTT: There was no substantive change intended.

MR. FARNSWORTH: No substantive change intended.

MR. A. G. ELLIOTT: That's right.

MR. FARNSWORTH: All right, then my second question, Mr. President and Mr. Elliott, there being no substantive change, I assume this is only to try to clean up the language.

MR. A. G. ELLIOTT: That was exactly right.

MR. FARNSWORTH: With no substantive change, why, then, couldn't style and drafting have done so?

MR. A. G. ELLIOTT: They couldn't have done so because your chairman of the local government committee fought so violently for what is in here right now, as a result of the comments that Mr. Sleder just finished making. It was only after we got through second reading that I was able to get enough information that I was satisfied — and I haven't had a chance to have a meeting on it — that I was satisfied that the change of language would not affect the rights of these utilities or the rights of the highways.

MR. FARNSWORTH: Thank you very much, Mr. Elliott. Thank you, Mr. President, for this brief committee meeting. (laughter)

Now then, ladies and gentlemen, we are being asked to, on the floor of the convention, make a change that they claim is not substantive. Therefore, it could have been done in style and drafting if it were really a matter of language. So we are being asked again to do here on the floor in a very few minutes without very much consideration — or undo, if you please — something that the committee on local government went over and over and over again. Now we have gotten into trouble on this before by doing it in this way. I urge you to stick with the committee language and vote down the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen, I think we have been a little careless with some terms here. This proposed amendment does make some changes or, at least, one change. At the present time, as it is in our third reading here, your constituted authority with reference to where you are going to put utility poles and so forth is certainly the county road commission. Now the amendment on the board says "the governing body." That is not the county road commission; that is the county board of supervisors. So we are making a very definite change and a change that ought not to be made. The county does not grant franchises. It does control where you put your poles and so forth, and it should be the county road commission, just as we have it here, that is to do that job.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: Mr. President, I was going to argue that there wasn't any substantive change but I think maybe Mr. Brake has changed my mind. I am wondering, therefore, if Mr. Hanna would substitute for "governing body" the words "duly constituted authority." I think that would clear it up. Otherwise, you see, I think all this does is put in more constitutional language for language which now talks about nuts, bolts, screws, pipes, and all that sort of thing. It condenses the thing. I think that is the real purpose.

MR. W. F. HANNA: Mr. President, Mr. Allen and fellow delegates, there was obviously the same problem here that faced Mr. Kuhn. I worked some language out and contacted the utilities because I didn't like all the garbage that appeared in this article. And on the floor, unfortunately, we did not have it clear.

Now it is true that there is a problem here and if the convention can bear with me, I would strike out the language down to "no public utility" so that the amendment would start, "No public utility," and where we have put in "without the consent of the governing body thereof," in the old language; make it "the authority" —

VICE PRESIDENT HUTCHINSON: "Duly constituted authority."

MR. W. F. HANNA: — "duly constituted authority thereof." This will then get it back into the language of the old proposition and will not cause the difficulty that we have been in here now.

VICE PRESIDENT HUTCHINSON: The secretary will report the revised amendment.

SECRETARY CHASE: The amendment as revised:

1. Amend article VII, section 29 (column 1, line 38) after "Sec. 29.", by striking out the balance of the section and inserting "No public utility shall have the right to use the highways or public places of any county, city, village or township for utility facilities without the consent of the duly constituted authority thereof; nor to transact a local business therein without first obtaining a franchise therefor from such city, village or township. The right of all counties, cities, villages and townships to the reasonable control of their highways and public places is hereby reserved to such political subdivisions.".

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President and fellow delegates, along with Mr. Sleder, Mr. Richards and Mrs. Hatcher, I was on the public utility subcommittee and there we consulted with the public utilities. We consulted with various branches of the government, people from various branches of the government, and it was the consensus of opinion that what we had in the constitution was exactly what was needed and I urge all of you to vote no on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Gover.

MR. GOVER: Mr. President and fellow delegates, I have got a question for the committee chairman, Mr. Elliott, through the Chair, if you please.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. GOVER: Mr. Elliott, doesn't this changing, this new amendment give the power to grant franchises to the state highway department if they want it, doing away with all the local governments having any power to grant that franchise?

MR. A. G. ELLIOTT: No.

MR. GOVER: It looks to me like that's the way it's worded in there, by changing that the way you have there, the "governing body" there, taking that out, so that the local units of government don't have the power any more to do it but the state highway department or some place in the state of Michigan, down in Lansing, could grant all power to override that.

MR. A. G. ELLIOTT: The answer is, no.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. William F. Hanna and Mr. Arthur Elliott. Mrs. Cushman.

MRS. CUSHMAN: I would like to speak to the amendment. I think that actually we only have 2 changes here and I don't think they are bad. I think that actually, probably, we could make them in style and drafting and I don't think you would object to them.

In the first place you have changed — in response to Mr. Gover's question, actually, there is no change at all in the wording about franchises, not one change. In the second place, all we have said is, "No public utility" to substitute for all this business about "No person, partnership, association or corporation," and so on. And then in the other place, instead of saying all these involved words, which to my understanding is not good constitutional language, you say "wires, poles, pipes, tracks, conduits or other utility facilities;" for that we substitute just plain "utility facilities." So that it seems to me that there is really no substantive change here and, now that the other changes have been redone to correspond with the original language, I can't see that there is any particular problem at all with this.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: Mr. President and fellow delegates, we started out in consideration of this amendment on the premise that there was no substantive change intended, at least. However, I think it is admitted now that there was a substantive change.

I think that at this stage in our deliberations it is very unwise to start in making amendments unless we are sure that we know what we are doing. This particular section was considered by the committee and it appears now that we have 2 individuals who want to rewrite this section. The purpose I don't know or what their intent is but, as far as I am concerned, I am willing to accept the section as it came from the committee, as it was adopted by this convention, as it came back to us from style and drafting. I think it is very unwise for this convention to start amending sections unless we are sure we know what we are doing. I urge a no vote on the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Hanna, just for 30 seconds.

MR. W. F. HANNA: I'll sit down.

VICE PRESIDENT HUTCHINSON: No, go ahead. The question is upon the adoption of the revised amendment offered by Mr. William F. Hanna and Mr. Arthur Elliott, which has been read. All those in favor will say aye. Opposed no.

The amendment is not adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported? The demand is supported. A sufficient number up. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. W. F. Hanna and A. G. Elliott, the yeas are 26; the nays are 88.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. Are there any further amendments? The question is upon the passage of article VII, local government.

MR. ALLEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: I don't have an amendment but, if I could make a suggestion or a comment, I notice in the way we have set it up in the third reading, we start with an index and I assume that index will not be kept the same, particularly because it refers to committee proposals, but there are 2 sections that are very related: one is our old Committee Proposal 88, which is intergovernmental agreements as far as they apply within the state. And then there is the one that came out of emerging problems, which was 128. Now 128, as style and drafting has set it up, is now in article III under general government and I think this is all right, but the caption given it in the index is "intergovernmental agreements;" whereas, the very similar one which we have in local government is given a different caption. I think it is called "intrastate cooperation."

I just wanted to make this suggestion and I don't know where the suggestion would go — probably to style and drafting, but each should be entitled the same but one of them is interstate and the other is intrastate. They each could be called "intergovernmental cooperation" or they each could be called "agreements," but I think if we keep the titles which we have now it could cause some confusion. And I just make this as a suggestion.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, there are no further amendments, as I understand it?

VICE PRESIDENT HUTCHINSON: There are none.

MR. VAN DUSEN: I would move to limit further debate on this article to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon the article to 5 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. President and members, I rise just for the purpose of saying that these section captions in this brochure before you are not a part of the constitution. They are put in there for your convenience. The constitution as proposed will have article numbers and captions like judicial branch, executive branch, nothing else, and the schedule will not even bear a caption or an article number. These are purely for your convenience and if anybody puts them in future reprints of this document — if it is enacted or adopted by the people — it will be an editor, West Publishing or Callahan or somebody in the secretary of state's office, as in the present case. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I did not put any amendments in on this because this had been done in committee of the whole and on second reading. In committee of the whole we did try to get certain standards for county home rule which did not pass and then in the second reading many delegates — and I was one of those — went all out for pure home rule.

I now rise in opposition to this article, urge a no vote, and want the delegates to know what the reasoning is, whether or not they individually or collectively agree. This provision now is that, "Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law. . . ." What I had urged in committee of the whole was that we assure that every county have partisan government. This was lost and then I supported the pure home rule concept, which would provide that any county could have either partisan or nonpartisan government, as the next best thing. This is the third best thing. My concern — and I feel it is a real one — is that by using the term "by general law" with the type of legislature we have created that there will be a classification so counties over a million, which include the one in which I reside, may end up with nonpartisan government and counties under a million may end up with the requirement of partisan government. I think this is a double standard that is, possibly, almost written into this. I think it is an unsound approach and there should be a single standard. I would take a different attitude if we had a legislature with equal representation for urban areas.

I regret that we did not improve the basic structure of the board of supervisors providing for election or providing for more equal representation therein.

I believe that in our other provisions here that we set up a double standard on cities or villages acquiring utilities where it takes 3/5 to buy and only a simple majority to reject.

Time and again through this article — such as section 27 — when we provide for metropolitan government, we use the term "the legislature may establish." I suppose the delegates are as tired of hearing as I am of saying that the concern here is that when we say "legislature may establish" — and I am greatly concerned — that this is almost meaningless when it comes to meeting the needs of those of us from industrial, urban areas with the type of legislative makeup we have. I therefore urge a no vote and hope that there will be a substitute before we complete third reading, which will permit a more responsive, more responsible type of government and hope then that the delegates will be able to support a more positive substitute. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, I should like to comment on this section in general, but before I do that I would like to point out to Mr. Allen and for the benefit of the record that Committee Proposal 128 deals with both intrastate and interstate governmental relations and I don't know that Mr. Allen was completely aware of that, but I should want the record to clearly reflect that fact.

I find myself, like Mr. Downs, dissatisfied and unhappy that we were not able to provide for the election of supervisors. I am also disappointed that we were not able to achieve what I considered to be essential: that is, pure home rule. However, I would point out to this delegation, and to Mr. Downs in particular, that the phrase "democratic process" is spelled with a small "d," and as such, I think it is absolutely essential that we all be prepared to win on some points and to lose on others. By and large, this is an excellent article and I support it.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the passage of the article, article VII, local government. All those in favor of the article will vote aye. All those opposed —

MR. BINKOWSKI: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski.

MR. BINKOWSKI: I would like to announce my intention to abstain.

VICE PRESIDENT HUTCHINSON: All those in favor will vote aye. Those opposed will vote no. Mr. Binkowski abstains. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—92

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Bledsoe
Bonisteel
Bradley
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Mahinske
Martin
McAllister
McLogan
Millard
Mosier
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
Wood
Woolfenden
Yeager

Nays—26

Austin
Baginski
Balcer
Barthwell
Boothby
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Ford
Greene
Hart, Miss
Jones
Krolikowski
Madar
Nord
Pellow
Perlich
Stopczynski
Suzore
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of article VII, the yeas are 92; the nays are 26.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article VII** on local government is passed.

For article VII as passed, see above, page 3063.

Following is explanation of vote submitted by Mr. Finch:

I voted no on article VII because I object to a portion of section 21. I believe that cities and villages should not be able to impose a payroll tax or an income tax on nonresidents.

Following is explanation of vote submitted by Messrs. Hodges, Baginski, Madar, Buback, Downs, Ford, Jones and Miss Hart:

We voted no on article VII — local government, for several reasons.

The provision of county home rule provides that counties could have home rule only if authorized by the legislature. We are very concerned that the legislature, not based on population, would set a double standard of home rule — one for large urban counties and another for smaller, nonurban counties. We believe this double standard would frustrate effective home rule and regret that principles for standards of home rule were turned down in committee of the whole and on second reading. Self executing provisions to provide the people of a county the possibility of developing home rule independently of the legislature were also rejected.

The boards of supervisors throughout the counties in Michigan need strengthening. Unfortunately county boards of supervisors presently are selected on a basis that is not truly representative of people and violates the concept of equality of representation. We believe that local government can be strengthened effectively by strengthening county boards of supervisors through an elective process that assures equality of representation on a responsible basis.

Section 25 sets up a double standard for cities and villages in acquiring public utilities by requiring a 3/5 vote to obtain public utilities and permitting them to be sold by only a simple majority.

The creation of metropolitan areas so vital to a growing industrial economy is hamstrung by making it contingent upon the actions of a legislature that does not truly represent people. We therefore voted no on article VII and hope that the convention will take more positive action before we complete the third reading.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read article VIII, education.

SECRETARY CHASE: **Article VIII:**

[Article VIII, sections 1 through 9, was read by the secretary. For text, see above, page 3065.]

VICE PRESIDENT HUTCHINSON: Article VIII has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in article VIII of the proposed revision of the constitution:

section	column	line	Corrections
3	2	45	After "institutions" insert "of higher education".
3	2	46-7	After "DEGREES" insert a comma and delete "[of higher education],".

VICE PRESIDENT HUTCHINSON: Without objection it is so ordered. [Corrections made above.] The question is upon the passage of the article. The secretary will report an amendment.

SECRETARY CHASE: Miss Hart, Messrs. Faxon, Barthwell, T. S. Brown, Follo and Douglas offer the following amendment:

Explanation—Matter within [ ] is stricken, matter in capitals is new.

1. Amend article VIII, section 6 (column 2, line 24) after "consent of the" by striking out "senate" and inserting "state board of education"; so that the language will there read:

> Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the state board of education.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I have been in digital communication with Miss Hart and she indicates that 5 minutes should suffice on this amendment. I move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes upon the amendment, all those in favor will say aye. Opposed?

The motion prevails. Debate is limited. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, this question was discussed within our committee at one time and I thought at that time was given serious consideration with regard to the selection of the superintendent with the consent of the state board.

I don't think that we are in any way departing from the tradition of having some check placed upon the power of the governor to fill vacancies. And I think by having an elected state board of education, elected from the whole state by all the people, we are in a sense having a body which would be able to effect the kind of deliberative judgment that ought to be made with regard to the filling of vacancies or the appointing of members to various boards of control. I think, in giving this your consideration, that we are still leaving with the senate its powers with regard to other executive agencies but in the case of education we are simply stating that the state board of education will be the body that will do the advising and consenting. Since the state board will already have an overall coordinating and policymaking function, this would not be out of line with its total operations.

It seems that this would also win considerable support for this particular section 6, since it would take out of that section an objectionable feature, namely, that of advice and consent of the senate. With these factors in mind and realizing that the state board of education will exercise the kind of judgment in which we can have some confidence, I would urge you to give consideration to this amendment and vote yes. Mr. President, I would like to ask for the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Faxon demands the yeas and nays upon his amendment. Is the demand supported?

SECRETARY CHASE: Nineteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number.

MR. FAXON: Mr. President, there are people in the halls. If we are going to do this, I think we should —

VICE PRESIDENT HUTCHINSON: Well, the vote has been taken. You didn't demand a call of the convention. The yeas and nays are not ordered. Mr. Bentley.

MR. BENTLEY: Mr. President, this particular amendment was brought up in committee of the whole by Mr. Faxon on first reading and was defeated by a voice vote so decisive that even Mr. Faxon did not ask for division at that time. I suggest that the same treatment be accorded it therewith.

MR. FAXON: Division, please.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Faxon, upon which Mr. Faxon demands a division. Is the demand for division supported? The demand is supported. A division is ordered. All those in favor of the amendment will vote aye. Those opposed will vote no, on a division vote only. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon and others, the yeas are 29; the nays are 65.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The question is upon the passage of article VIII. Miss Hart.

MISS HART: Mr. President and fellow delegates, I think that the saddest moment I have known in this convention was at the time of second reading when I had to urge my fellow delegates to vote no on the educational proposal. Many good things are contained in this article, many things that I would wish for the educational stystem of Michigan. However, I believe that the things that are not good outweigh those that are good.

First and foremost, we are known today throughout the United States for our excellent educational system. Today in our present constitution, we are fortunate in having a strong, independent leader of education whose power of decision is derived directly from the people and who is responsible only to the people for his conduct in office. He is a member of the governor's cabinet and shares equal voice with the members of that cabinet. He interprets educational needs and problems to the leader of government when policy decisions are being made. He has status with the legislature because that body recognizes that he speaks with authority for the people. In our new constitution the superintendent has been demoted. He is now to be appointed by an 8 member board who serve on a staggered term basis, who are voluntary workers, unpaid, who meet perhaps once a month maybe for 1 day, maybe 2, maybe for an evening, who are widely separated one from another where communication becomes difficult. The superintendent, then, is no longer a strong, independent head directly responsible to the people but he is an executive secretary who has no final voice in educational decisionmaking. He is a subservient agent. His position in the governor's cabinet is weakened because he no longer speaks for himself as a representative of the people. He may speak only for those whom he represents: the 8 members of the state board.

Efficiency will suffer because the responsibility in our overwhelming state educational system demands one voice that may speak with understanding, authority and decision. There is a vast difference between a superintendent who represents a local area which has a board that is within telephoning distance, that has one policy, and a state superintendent who must represent 2,144 independent school systems each of which has its own policy, each of which is jealous of its own prerogatives, and each of which has its own problems that should be met and should be met immediately and directly without having to wait while the superintendent tries to poll the board members and perhaps not once but several times before he can obtain a decision.

From the political point of view an elected superintendent perforce reports to the people. He has to educate them as to the needs and problems of education and, at the same time, he himself becomes educated by the people and is in a position to translate these needs to the public in whom he has an audience. He brings back these ideas to the capitol and these considerations become important in the decisionmaking on a high policy level.

The plea is made by what I consider unrealistic professionals that this constitution will rescue education from politics. Politics, as I learned it in school, is the science of government. Government supports public education. Therefore, public education is in politics to stay and it would seem to me that it might better be in responsible politics, responsible to the people and within the reach of the people, than in the hidden politics of the professionals. And I say again: I am a professional.

The governor — I think in the silliest day of this convention — was put on the state board of education. This, of course, is a laughable provision in this constitution. I think it needs no more discussion on this floor. It is strictly a part of a deal and is beneath contempt. It makes the governor a laughing stock. It is going to handicap the state board. And it is in truth a ridiculous situation.

On the question of the advice and consent, this has been covered in the past amendments. This we have lost, but it is reason enough that the 7 colleges and universities whose boards are going to be held responsible to an unrepresentative senate — in my book — make this enough of a factor to defeat this educational article. I say it again — I say this sorrowfully but I must say it.

VICE PRESIDENT HUTCHINSON: Mr. Bentley.

MR. BENTLEY: Mr. President, I am very sorry myself that my good friend and able vice chairman, the lady from Detroit, Miss Hart, is apparently advocating a no vote on article VIII dealing with education. I would like to remind those delegates before they come to vote on this article of some of the good things that it contains and that I think even the lady from Detroit would admit. A no vote on this article, Mr. President, might, for example, be construed as a vote against the very splendid antidiscrimination clause with respect to our public schools; a no vote on this article, Mr. President, might be construed as a vote against the enlargement and expansion of the authority and powers of the state board of education; a no vote on this article might be construed as a vote to continue in office, in political office, the highest educational officer of the state, the state superintendent; a no vote on this article might be construed as a vote against continuing the constitutional status of the University of Michigan, Michigan State University and Wayne State and the conferring of constitutional status upon our other 7 state supported institutions of higher education; a no vote on this article, Mr. President, might be construed as opposition to recognition in the constitution of our community and junior colleges; a no vote might be construed as opposition to the language with respect to the institutions for the care of handicapped individuals or the support of our public libraries or many other fine things in this section.

I respect the lady's belief that the bad outweighs the good in this particular article, but I submit to you that this has been reviewed; this article has been reviewed carefully and thoughtfully and prayerfully. I submit in turn that the good far outweighs the bad and — in spite of the lady's objections to it, which I can understand since this is a position which she and other members of her party have held consistently throughout the entire convention — I submit that this is a good article and deserves overwhelming support from the delegates of this convention.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, have you any further speakers seeking recognition?

VICE PRESIDENT HUTCHINSON: So far the Chair has 4.

MR. VAN DUSEN: I would move to limit further debate on this article to 8 minutes, then, to be allocated 2 minutes to each speaker.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to limit debate to 8 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. Debate is so limited. The Chair recognizes Mr. Wanger. Are you seeking recognition?

MR. WANGER: No.

VICE PRESIDENT HUTCHINSON: That removes one of them. Mr. Stevens.

MR. STEVENS: Mr. President and delegates, in reply to the worries of my recent colleague, Miss Hart, let me say that we need waste no sympathy on the demotion of the state superintendent of public instruction. Probably no elected administrative or executive officer outside of the governor has more prestige and, certainly none has less real authority or policymaking responsibility. He does have, of course, a responsibility in carrying out purely ministerial duties and he will continue to have the same working under the board of education.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, I merely wanted to say that our self appointed critics, Mr. Downs and Miss Hart, appear to be trying to undermine our own work right here in our midst. They must know that they are giving ex parte statements which have as much or as little authority as they themselves carry. Miss Hart has made so many inaccurate statements and presented such a one sided picture of the whole article that it would take me too long to balance her one sided criticism. I content myself, therefore, by quoting Artemus Ward, who said one time, "It's not only what we don't know that gets us in trouble; it's also what we do know that ain't so." (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, in answer to Dr. Pollock, I might say that what he said last evening tells us what Mr. Pollock is.

So far as what the article actually means or voting no would mean, I believe that Miss Hart spoke simply, understandingly, and she did tell the truth. She is with the educational department and she doesn't step out of it trying to make others believe she is something she is not, and I could name others here who don't stick to their last. To Mr. Bentley, this no vote means just exactly what it is. It means that article smells — s-t-i-n-k-s, stinks. Vote no.

VICE PRESIDENT HUTCHINSON: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President and members of the convention, this article comes to us with unusual unanimity of voting on the part of the education committee. There were 23 sections reported to the committee of the whole by the education committee and 17 of those sections were reported by the unanimous vote or without objection of any member of the education committee. Six were reported to the committee of the whole by a split vote.

On second reading, 1/3 of the article was adopted unanimously without a single dissent. Exactly 1/3 was adopted with dissents numbering between 1 and 5, so 67 per cent of this article has been already approved on second reading by this convention by substantially unanimous action. I think this is a tribute to the work of the committee, the quality of the job done, and I certainly urge a vote for this article.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article VIII. Mr. Downs.

MR. DOWNS: Mr. President, I think in discussing these articles we must realize that it is not just a mechanical approach of something being 90 per cent good and 10 per cent bad or so on. I think many of the provisions of the 1908 constitution would be accepted. I think, really, it is the quality of what is involved and I for one am very concerned when we have 7 universities that will have advice and consent on their governing boards.

I am concerned that where we have a lofty statement in section 2, "The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law," and then turn around in taxation and executive and earmark money for roads and not for schools and provide executive appropriations that would practically mandate the reduction of funds disproportionately for unearmarked educational systems.

I think we must look at this as a whole unit. I know in committee sometimes, as in judicial, delegates did in good conscience vote for things with the understanding that they would get them out on the floor and reserved the right to make amendments after those were on the floor, or substitutes.

I do think on much of this there has been unanimity and I think if my good friend, Mr. Woolfenden's, argument is anything, it is for the idea — which unfortunately was rejected — of taking those things that there was substantial unanimity on, putting them in one package and putting the controversial things in another package to be voted upon separately, so that those would not pull down the noncontroversial. I therefore continue to urge a no vote on this article because I think the net result is a step backwards from the educational system we have now, and that the proponents of this have not demonstrated the need for the changes from what we have. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President, Mr. Downs practically made the remarks that I was going to. My good friend and badminton companion, Mr. Woolfenden, is using these statistics, but I think it is only fair to point out that the counties that did vote for this constitution were very few. They had certain specific reasons they felt that constitutional revision was necessary. It was on 2 or 3 major issues. And I am quite certain that if we were to vote on the present constitution, we could still get 95 or 85 per cent unanimity on many of the sections. This is not the criterion. The criteria are on those things that we felt needed change and that we didn't get, on those things that we felt were well and good in the present constitution that have been changed for whatever reasons may be given.

I think in all good conscience we have to oppose this article as we opposed other articles. There are a few sections in here to which we do not hold objection. I think our votes on first reading and second reading point out where we stand, clearly and concisely, on every issue. Now it comes down to, in the finality, if — on this article or any other article — we can in good conscience accept the total package. And I submit the only way that the minority has to voice their objections and so that we cannot continue to play this numbers game is to show that we do object, feel that we are moving in a backward direction, and therefore continue to vote no.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article VIII, education. The time for debate has expired. All those in favor of the passage of the article will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—92

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Garvin
Goebel
Gover
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McGowan, Miss
McLogan
Millard
Mosier
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—31

Austin
Baginski
Binkowski
Bledsoe
Bradley
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Hart, Miss
Hodges
Jones
Krolikowski
Lesinski
Madar
Marshall
McAllister
Murphy
Nord
Ostrow
Pellow
Perlich
Sablich
Stopczynski
Suzore
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of article VIII, the yeas are 92; the nays are 31.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article VIII** is passed.

For article VIII as passed, see above, page 3065.

Following is explanation of vote submitted by Messrs. Jones, Wilkowski, Downs, Madar, Young, Suzore, Youngblood, Murphy, Baginski, Bradley, Binkowski, Faxon, Buback, Sablich, Ford, Miss Hart and Mrs. Daisy Elliott:

We voted no on article VIII — education, for several reasons.

Michigan's present educational system has a superintendent of public instruction elected by the people. He has a constitutional status and as such serves the interests of education on the administrative board of state government and with legislators and legislative committees as a fellow constitutional official. The process of campaigning brings him close to the people and the people close to him. This is replaced by a hired superintendent who is selected by a part time, 8 member state board of education that is spread throughout the state and no one member of which is responsible, as is the present full time superintendent of public instruction. We feel this will remove education from the constitutional status it now has and weaken our historically independent educational system for public schools.

The boards of 7 of Michigan's great universities have been weakened by requiring the advice and consent of the Michigan state senate in selection of the board members. This of necessity injects the politics of an unrepresentative Michigan senate through what has heretofore been an academically independent educational responsibility. It has heretofore largely been Michigan's history that elected educational officials that are selected on a one man, one vote basis and are independent of the executive and legislative branches of the government have built one of the greatest educational systems in the nation, and have maintained the principles of academic freedom and intellectual inquiry.

We further regret that the governor was made an ex officio member of the state board of education. To a weak governor this would mean too little; to a strong governor, a real danger of domination of education by the chief executive. The integrity of our educational system should keep the governor off the board and the effectiveness of the governor's office should not require him to be an ex officio member of this board.

We believe that these changes are definite steps backward in the present constitution and, therefore, opposed this article.

VICE PRESIDENT HUTCHINSON (continuing): Mr. Heideman.

MR. HEIDEMAN: In voting for the education article, I would like to relate just a little story about the advantages of education: there is a teacher who makes a comment to her class, "Just think, the light we get from the sun travels at a speed of about 186,000 miles a second. Isn't that amazing?" One of the students raises his hand and says, "Aw, I don't know; it's downhill all the way." (laughter)

MR. VAN DUSEN: Mr. President, it appears that there would not be time to get very far into the finance and taxation article, which is next up this afternoon, but I think that perhaps by working until 5:30 we could do a pretty fair job on article X, which is property. And I understand there are only 2 amendments pending to it. For that reason I would move that the convention now proceed to consider article X.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that the convention proceed to consider article X. Is there objection?

MR. MADAR: Objection.

VICE PRESIDENT HUTCHINSON: Objection is heard. Now the Chair will put Mr. Van Dusen's motion: all those in favor of the —

MR. MADAR: Point of order.

VICE PRESIDENT HUTCHINSON: State your point.

MR. MADAR: He put a motion, did he?

VICE PRESIDENT HUTCHINSON: He did.

MR. MADAR: All right.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that the convention proceed to the consideration of article X. All those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read article X, property.

SECRETARY CHASE: **Article X**, property:

[Article X, sections 1 through 6, was read by the secretary. For text, see above, page 3069.]

VICE PRESIDENT HUTCHINSON: Article X has been read a third time. The secretary will report the first amendment.

SECRETARY CHASE: Mrs. Butler offers the following substitute for section 1 of article X:

"Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman, acquired before marriage, and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.".

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, we have recently debated this at some length. I would move to limit debate at this time to 10 minutes, if that is acceptable to Mrs. Butler. She nods her assent. I so move.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that debate on this amendment be limited to 10 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. The debate is so limited. The Chair recognizes Mrs. Butler.

MRS. BUTLER: Mr. President and fellow delegates, because the delegates were not clear on the meaning of this provision the other day and because we were a little confused by the announcement of the coming nuptials of Mr. Wanger and his presenting the property rights of women at the same time, I think that we did not vote just right. We thought he was with us, but it seems as though he was kind of trying to arrange his own affairs. (laughter) At this time I would like to move that we reconsider Committee Proposal 63 and adopt this amendment, and I would like to yield to Mr. Everett at this time.

VICE PRESIDENT HUTCHINSON: The question is not upon the reconsideration. The question is upon your substitute.

MRS. BUTLER: I would like to move the substitute.

VICE PRESIDENT HUTCHINSON: That's the question already.

MR. PRETTIE: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State the point, Mr. Prettie.

MR. PRETTIE: With considerable apology to Delegate Butler, I inquire whether, under the previous rulings of the Chair, the proposed substitute is in order. This was the language reported in Committee Proposal 63 on May 1 of 1962. It was amended and adopted in the language as it now comes before us with the slight changes from style and drafting. It seems to me that the action taken on second reading is the opposite of the language or the action now proposed if we consider this substitute, and I therefore make this point of order.

MR. EVERETT: Mr. President, may I be heard on the point of order?

VICE PRESIDENT HUTCHINSON: Speaking on the point of order, Mr. Everett?

MR. EVERETT: Yes, sir. I think the last sentence in particular is a substantial change from the language as it came out of committee. That sentence did not appear in it and is added here to answer some of the objections raised to the original committee proposal. It seems to me that it makes a very substantive change.

VICE PRESIDENT HUTCHINSON: Speaking on the point of order, Mr. Wanger?

MR. WANGER: No.

VICE PRESIDENT HUTCHINSON: Speaking on the point of order, Mr. Higgs?

MR. HIGGS: No.

VICE PRESIDENT HUTCHINSON: The Chair is of the opinion that the addition of the last sentence presents a substantially different question than was acted upon before; and so rules the substitute in order. The Chair will recognize Mr. Wanger on the substitute.

MR. WANGER: Well, Mr. President and fellow delegates, after those very pointed remarks of my good friend, Delegate Butler, I want to assure everyone here that I was not in any way considering this section from a personal standpoint when I offered the amendment which was so substantially supported on the floor. Certainly, I am surprised at Mrs. Butler suggesting that I might have been thinking of it in personal terms when it seems to me that this language which she herself is proposing is something which — as it relates to married women — could certainly be thought of as being a personal matter to every married person of the feminine gender in our delegation to this convention.

Actually, we all know the confusion which the original language presented, and looking at this language here I can frankly see that this confusion is not cleared up. A very good attempt has been made to solve a couple of the problems which were raised in debate and this is good. But it was pointed out in debate that no attempt there was made to present all of the problems which this could conceivably create. And rather than take this subject which the legislature has been for decades handling with great fairness and great promptness to protect the fair sex in our state, it would be better not to put this additional language into the constitution because we could not be sure of its full implication in the very complex area of law known as family law. Therefore, with the best of good wishes for Mrs. Butler — for everyone else who is interested in seeing the just rights of women advanced — I urge you to vote no upon this substitute because, fellow delegates, I am afraid that if we adopt this language we know not what we do.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I think if we don't know quite what we are doing here, I think it is about time we found out. To me it is a very important matter that the constitution has in it something that says that I have a right to the money that I am earning by being a member of this constitutional convention. At the present time this property section does not say this. It just says that I can have and retain estate and property that is gotten "by gift, grant, inheritance or devise." It doesn't say a word about the money I earn on my own hook. I recognize the fact that this is taken care of by the legislature, but I feel that if we are going to talk about married women's property at all in the constitution — and I think we have got to — that we ought to also include the money that we get by other means that are legal and legitimate.

Similarly, I want to be able to give my money away or do with it as I wish rather than merely passing it on in my will to somebody else, and this is not spelled out either in this particular section of the constitution. I feel that this is a very important thing. We have got many — half of the people of Michigan are women. More than half of the people of voting age are women. And it seems to me that you are doing something here that is of considerable concern to a great number of people in the state of Michigan. I would hate to think that we would do something that would be a backward motion rather than a forward motion in this constitutional convention. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President, I rise to support the substitute and I think Mrs. Cushman is absolutely correct. I think those of us supporting this substitute do know what we are doing. We have taken the pains to make some research. We have taken the pains to ask the research assistants to help us, and we are satisfied that what we are doing is to clearly enunciate a principle which has grown up in fairly modern times, striking down the old common law disabilities. I would like to read to you just briefly a paragraph prepared by the research department, which says this:

> The disabilities of coverture arose out of the common law view that a married couple was one person. The status of the wife as an individual was extinguished and the husband acted for her. The wife could not sue or be sued, buy herself property, have a right to her earnings, or contract.

Now it is true that it is unlikely that the legislature would turn back the pages of history and put women back in that place, but we are doing 2 things: we are enunciating as a principle that these common law disabilities may never again arise in the state of Michigan, and we are affording those who have some question about it the assurance that the legislature never can take this away. The legislature is primarily made up of married men. They would never have the nerve to take it away. But it doesn't change the fact that this is an historical declaration of women's freedoms; and to many of us, at least, it is important that the constitution reiterate it and it would be harmful for us to take it out. I think the substitute has been clearly thought out. I am sure it removes the objections which were raised on second reading, particularly as they related to dower, particularly as they said coverture could extend beyond property. I think it does exactly what we want it to do, no more and no less, and I urge that you support it.

VICE PRESIDENT HUTCHINSON: Mr. Prettie.

MR. PRETTIE: No.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I would like to commend Delegate Butler, Delegate Cushman and Delegate Everett for what seems to me a fine statement of law in good constitutional form. I think, although I had no part in this, that they have taken a very positive and forward step in the rights of women and I urge that you support this substitute.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: This change in language has removed the doubts that I had a few days ago which prompted me to vote for the amendment. The first sentence now makes its meaning clear so that it will not affect anything except property. The disabilities of coverture with respect to property are abolished. The last sentence disposes of the dower issue in such a way that it is not abolished or sewed into the constitution — or frozen in, as we are in the habit of saying — but it leaves it to the legislature to handle as it sees fit. I favor the substitute.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, I must continue to oppose this particular substitute or any others like it until I am somehow made aware of just what it means.

Now it seems to me that property would include money and I gathered that from what Mrs. Cushman said. I know when we talked about the graduated income tax, it was held that the uniformity clause applying to property might apply to income and I guess perhaps it would. Mrs. Cushman, apparently, would like to have everything that is hers be hers and everything that is her husband's be half hers and half her husband's. And this is precisely the problem. And although I am very sure it is not a problem with Mrs. Cushman, it may be a problem with many people in this state.

It seems to me that if income is going to be considered property, then we somehow would have to devise a means of deciding how we would dissolve an estate or how we would distribute property upon termination of a marriage; and, frankly —

VICE PRESIDENT HUTCHINSON: Do you want to finish the sentence? (laughter)

MR. KING: Was there a limit on debate?

VICE PRESIDENT HUTCHINSON: Yes, 10 minutes, which have now expired.

MR. KING: No, it's all right. Okay, thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the substitute offered by Mrs. Butler —

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is requested. Is the demand supported?

MRS. BUTLER: Yeas and nays.

VICE PRESIDENT HUTCHINSON: Mrs. Butler demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Twenty-three.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The demand for the division is supported and the division is ordered. All those in favor of the substitute will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the substitute offered by Mrs. Butler, the yeas are 68; the nays are 43.

VICE PRESIDENT HUTCHINSON: The substitute is adopted. (applause)

SECRETARY CHASE: Mr. Lawrence offers the following amendment:

1. Amend article X, section 2 (column 2, line 34) after "use" by inserting "except in a court of record and"; so that the language will then read:

> Private property shall not be taken for public use except in a court of record and without just compensation therefor being first made or secured in a manner prescribed by law.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: This matter was rather fully debated recently. I have discussed with Mr. Lawrence an appropriate limitation on debate and would move that debate on this amendment be limited to 10 minutes.

VICE PRESIDENT HUTCHINSON: On limiting the debate to 10 minutes, those in favor will say aye. Opposed, no.

The motion prevails. Debate is so limited. The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President and members of the convention, this amendment consists of 7 words, 7 words only, and it is designed solely for the purpose of protecting the people of the state in giving them the security of knowing that if their property is taken by eminent domain that they will be heard in a court. It takes the present section and, as was read by Mr. Chase, merely says:

> Private property shall not be taken for public use except in a court of record and without just compensation therefor being first made or secured in a manner prescribed by law.

It leaves the method of doing this entirely up to the legislature to do, but does give the people the right to know that they will have their property rights determined in a court rather than before a board or bureau. It has nothing to do with necessity. If the legislature sees fit, it can have necessity determined any way it pleases. But when the property is taken, if negotiations fail and the parties cannot get together, when proceedings to take it are taken they will have to be in a court.

It seems to me that that is the least that this convention can do for the people of this state and, certainly, those who have opposed the original proposal can have no objections to this protection to the people.

VICE PRESIDENT HUTCHINSON: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, I rise to oppose this amendment for only one reason and that is that this ties us down to a court procedure. There are a lot of condemnation proceedings, such as getting right of way for power poles, utility poles, that are very nominal, and I think that you would be requiring your courts to have to act in this behalf, which I don't believe would be practical. As far as the highway authorities are concerned, I don't think this would bother them too much.

However, I would like to point out to the delegates that in committee of the whole, on journal page 1135, Mr. Boothby offered an amendment to the amendment that I originally had in which he said, ". . . by a judicial proceeding which shall be conducted before a court of record, which procedure shall be near as possible as in other civil matters before that court." This was defeated 28 yeas to 66 nays. Then on second reading, Miss Donnelly offered a similar amendment saying, ". . . paid and determined as a civil matter in a court of record as provided by law." This was defeated by 38 to 56.

I think for a practical matter, to allow flexibility for particularly the utilities and other small claims, that a restriction that would require a court procedure might prove to be a hardship.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, as Mr. Stafseth said, we fully debated this not too many days ago. We have a good provision. If we make any restrictions in here we will just begin to get ourselves all bound up in a bunch of details.

I think that we have an adequate provision. Let's leave the details to the legislature, especially when it relates to the matter of securing the rights of way, matters which are not on a great deal of money but only would take time and would clog our court dockets. I would urge that we leave section 2 exactly as it is, as we have done through first and second readings. I would oppose the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Karn.

MR. KARN: Mr. President and delegates, there have been hours spent in discussing eminent domain. In first reading on this item, we had a yes vote of 61 with a no vote of 56, which included the privilege of using a 3 man commission. On the second reading, the section as it now appears in our third reading was voted on by a yes vote of 85 with a no vote of 16.

If this amendment should be accepted by the delegates, it would be very unfair, not only to gas and electric utility companies but others who would be included, especially those who are dealing in large numbers of small parcels of land. For a number of years it has been possible to use a commission of 3 and those with large numbers of small parcels of land have been well handled. As far as I am concerned, the companies with which I am familiar, certainly, have had very little objection to this method. I strongly urge a vote against this amendment that Delegate Lawrence has submitted. I think we are far better off with the general clause that we now have and everyone will be served and, I think, served properly.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, I think Mr. Karn and Mr. Danhof have said everything I could say. I just join with them in hoping the amendment will be defeated.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: I would urge the adoption of the amendment as proposed. This does not go as far as Messrs. Karn, Martin, Danhof and Stafseth would have you believe. All this says is that there shall be, with reference to the determination of compensation, a public hearing. This does not say and it is not setting up any particular type of proceeding that it should go in front of. It is not setting up any rules, any of the detail that we had to begin with. We feel that this is as far from the position that we have advocated in the beginning as we could possibly go and accept the amendment or the provision as we have it now.

If you think that this is unfair to the gas companies and the electric companies, then just exactly how fair are you being to the individual property owners themselves by not providing any absolute body that they can go in front of and be heard? As it stands now, this does not touch, it does not even enter into, the area of determination of necessity; in other words, the hearings as to whether or not it is necessary to take a person's property from him. We are just talking about an open hearing on compensation or the amount of money that the people shall receive for their property. And I don't think that this is asking too much to allow people to be heard by somebody, somewhere, when their property is being taken away from them against their will, and I would urge the adoption of the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, I rise to oppose the amendment. As Mr. Danhof and Mr. Stafseth have said, we have gone over this ground before. I believe that with the courts crowded as they are, particularly down in the Wayne county area, that the litigant, particularly the property owner, is not going to have the speedy adjudication of his case which he wants. I think Mr. Danhof has already made out the case for flexibility. I think that today is the day that we trust the legislature, leave it in their hands, let them decide what the procedures would be. If they want to place it with the courts, fine, but I don't think it should be frozen into the constitution; so I oppose this amendment.

VICE PRESIDENT HUTCHINSON: Mrs. Judd.

MRS. JUDD: Can I just have a point of information, Mr. President?

VICE PRESIDENT HUTCHINSON: State the point, Mrs. Judd.

MRS. JUDD: I would like to ask Mr. Lawrence, if I may, whether or not as this is phrased the legislature could not make it possible for a court of record to set up 3 man commissions as in previous times.

MR. LAWRENCE: The present provision without the amendment Mrs. Judd?

MRS. JUDD: With the amendment.

MR. LAWRENCE: Yes. It just says it will be heard in a court of record. Yes.

MRS. JUDD: But could the legislature permit a court of record to appoint a 3 man commission to do it?

MR. LAWRENCE: It is entirely up to the legislature to work through the court. The only thing I am trying to prevent is a star chamber proceeding where the cards are all stacked against the property owner. I am trying to get him the right to have a fair hearing.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Fellow delegates, the only question here is whether you want the property owners, the people of the state to have their property, when it is needed for some public use — or allegedly needed for some alleged public use — to have it taken by a bureaucrat who is responsible only to his superior or whether you think that the citizens of this state who own property have the right to have it determined, at least, under the supervision of a judge who is responsible to the people and not to his bureaucracy. Now that's the only question here.

The legislature can provide for a 3 man commission under the Lawrence amendment, but the commission would have to operate in a court; that is, under the supervision of a judge. This is a protection which, in a free democracy where the ultimate power of government is supposed to reside in the people, certainly ought to be guaranteed.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the amendment offered by Mr. Lawrence, which has been read. All those in favor will say aye. Opposed will say no.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: A division is demanded. Is there —

MR. WANGER: I ask for the yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is the demand supported for the yeas and nays?

SECRETARY CHASE: Twenty-seven.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. A division is demanded. Is the demand supported? All those in favor will rise. Sufficient number up and division is ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the amendment offered by Mr. Lawrence, the yeas are 66; the nays are 50.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Blandford, Garvin and King offer the following amendment:

1. Amend article X, section 1 (column 2, line 24) after "Sec. 1.", by striking out the balance of the section and inserting "The real and personal estate of every man and woman, acquired before marriage, and all property to which each may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of each, and shall not be liable for the debts, obligations or engagements of each other, and may be devised or bequeathed by each as if each were unmarried.".

(laughter and applause)

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate, all those in favor will say aye. Opposed. The Chair is in doubt. (laughter) All those in favor will vote aye. Those opposed will vote no.

MR. BLANDFORD: I take it we can go on for quite some time on this, Mr. President?

VICE PRESIDENT HUTCHINSON: Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the motion, the yeas are 61; the nays are 29.

VICE PRESIDENT HUTCHINSON: Debate is limited to 5 minutes. The Chair recognizes Mr. Blandford.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: I would like to move that the full time allotted be awarded to Mr. Blandford. (laughter)

VICE PRESIDENT HUTCHINSON: No, the Chair won't receive that motion.

MR. BLANDFORD: Mr. President, I don't want to be a pig. I have 3 others that joined with me on this and I will yield to them as we go along.

I think this amendment is self explanatory. All we men are asking is that the real and personal property of men acquired before marriage be treated in the same manner as that of women. Now we are not asking much. All we are asking is fair treatment. I mean, there has been a lot of talk on this floor about discrimination and we men certainly do not want to be discriminated against. We go on to say that all the property that each may individually acquire after marriage shall remain in the estates of each. Now that seems fair. I mean what's good for the goose certainly is good for the gander. And all we are really asking in this amendment — and we are taking it very seriously, now. I hear some laughter there, but we are taking this very seriously — all we are asking is that the delegates at this convention see fit to give men the same fair and equal treatment that they have decided to give women. That is all we are asking. At this point I would like to yield, if I might, to my good colleague who joined with me on this amendment, Mr. Garvin.

VICE PRESIDENT HUTCHINSON: Mr. Garvin.

MR. GARVIN: Mr. President and delegates, we regret that we didn't have time to contact any of the ladies on this. I am sure we would have got support. (laughter) However, since we have gone this far, I am sure that we will get their votes, because — Mr. Blandford looks at it one way and I look at it as giving the women exactly what they want: there is no discrimination in this because of sex. (laughter) We are giving them all of the equal rights that the state of Michigan can give. They have the right to own property just like the man. They have the right to devise it just like the man. They have each and every right that every citizen of Michigan should have. No discrimination because of sex whatsoever. I yield to Mr. King.

VICE PRESIDENT HUTCHINSON: Well, wait a minute now. The Chair is not going to begin to accept this yielding around. Mr. Blandford, do you yield to Mr. King?

MR. BLANDFORD: Yes, I'll yield to Mr. King.

VICE PRESIDENT HUTCHINSON: All right.

MR. KING: Mr. President and fellow delegates, I don't think that Mr. Garvin and Mr. Blandford were really concerned about this problem until the word "sex" was taken out of the other section which we considered earlier. At that point we realized that we were in trouble. (laughter) Now without the protection of this word which provides there shall be no discrimination on account of sex, the men here are seriously in trouble. I know someone has suggested that: surely you are jesting, and I say: indeed not. This is a most serious matter. All we ask is the equal protection of the laws. We feel as men that we are entitled to keep our income from con con just like Mrs. Cushman would like to keep hers, and in the event that my wife and I should get divorced I will certainly let her keep her American Motors stock (laughter).

VICE PRESIDENT HUTCHINSON: Mrs. Butler. The convention will be in order.

MRS. BUTLER: Mr. President, fellow delegates, before I start I want to just apologize to my good friend, Gil, because I just was ribbing him a little bit.

I want to say that on this subject the women have been treated this afternoon as they have been treated each time we have asked something that sex was referred to or that women's rights were referred to, and I think the facetiousness is very indicative of the way that the men in this constitutional convention feel about anything that we are trying to advance for women.

Now the substitute that we have put in just took out the fact that we had put ourselves back about 50 years when we adopted Wanger's amendment the other day. Mr. Garvin says there is no discrimination, there is no sex, and I will say, there is no sense. (laughter)

And they talk about being in trouble. They didn't dare put their hands up to have a roll call vote. They were scared to have their wives see how they voted, and they just better be careful when they go home now if they vote for this thing. (laughter)

MR. BLANDFORD: Division.

VICE PRESIDENT HUTCHINSON: Mr. Blandford demands a division.

MISS DONNELLY: Yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: Miss Donnelly demands the yeas and nays. Is the demand supported? The demand is supported. The yeas and nays are ordered.

MRS. BUTLER: I ask you to vote no on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, in one respect I am under more trepidation now than I have been on any other occasion in this convention. The last thing on earth I want to be is a killjoy. Perhaps I am unnecessarily disturbed. I would not be so much disturbed if I had not on one or two previous occasions seen this disposition to turn a serious subject into a joke result in evil consequences. The Good Book tells us there is a time to mourn, a time to grieve, a time to cry, and a time to laugh. Now when we are talking about things of this sort, it all depends on whether we are doing it seriously or not; giving the husbands the right to dispose of their property and leaving their wives out completely and things of that sort. Now if I have misjudged the danger, pardon me.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the amendment offered by Messrs. Blandford, Garvin and King. A record roll call has been ordered. All of those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—13

Blandford
Brown, G. E.
DeVries
Garvin
Goebel
Haskill
King
Seyferth
Shackleton
Tubbs
Wilkowski
Wood
Yeager

Nays—97

Allen
Anspach
Baginski
Balcer
Batchelor
Beaman
Bentley
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Buback
Butler, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Gover
Greene
Gust
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Higgs
Hodges
Hoxie
Hubbs
Iverson
Jones
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Madar
Mahinske
Marshall
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nord
Ostrow
Page
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Shaffer
Sharpe
Snyder
Spitler
Stafseth
Stamm
Stevens
Stopczynski
Suzore
Turner
Van Dusen
Wanger
White
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Messrs. Blandford, Garvin and King, the yeas are 13; the nays are 97.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. Mrs. Koeze.

MRS. KOEZE: Mr. President, I am awfully glad that I am not married to any one of those green lights. (laughter) I would like to remind that Kent county delegation, too, that they have to go home with this. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Tubbs.

MR. TUBBS: I think, Mr. President, that I can speak for myself. I am glad I am married and I am glad I voted the way I did.

VICE PRESIDENT HUTCHINSON: Mrs. Hatcher.

MRS. HATCHER: I would like to agree with Mrs. Butler, who said that certainly we reduced many of these serious matters down to frivolity at times and this is just an example of what women have been up against over the years. I want to believe that this amendment was put in in jest. However, we have talked about the question of the rights of women and we lost a very important battle yesterday when we removed it from the equal protection section.

I think, too, that if we wanted to be very critical and analytical about some of the things that are happening right here in this convention, we could point out that we have violated the state labor laws affecting women constantly throughout the length and breadth of this convention, because women have worked more than 9 hours a day and more than 10 hours a day, and I believe the state statute speaks out and is opposed to women working those hours. So we have not reduced ourselves to this childish prank and jest and so on.

It is true that a lot of women should be at home as one of the brothers back here just said, but a lot of them don't have homes to go to — not unless they are working — and the intent and purpose that was behind "sex" being included was not for women who have great inheritance to share or stocks to share and so on. It was for women who work for a living and those who work for a livelihood, and I think that that would be the sense and the seriousness of the inclusion of the word "sex" in the equal protection section that we voted against yesterday.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Have you any further amendments on the desk?

VICE PRESIDENT HUTCHINSON: No further amendments.

MR. VAN DUSEN: In that event —

VICE PRESIDENT HUTCHINSON: The question is upon the passage of the article.

MR. VAN DUSEN: If there are no speakers seeking recognition — does Mr. Hoxie seek recognition?

MR. HOXIE: Well, I just wanted to make a motion that the Chair had the privilege of recording his vote in the journal. (laughter)

VICE PRESIDENT HUTCHINSON: Well, the Chair would have voted against the amendment, if that is what you meant (laughter) if his vote had been seasonably demanded.

MR. VAN DUSEN: If there are no speakers, Mr. President, I will just sit down and let you put the question.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article X. All those in favor of the passage of article X, as amended, will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—125

Allen
Anspach
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Garvin
Gover
Greene
Gust
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nord
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—1

Yeager

SECRETARY CHASE: On the passage of article X, as amended, the yeas are 125; the nays are 1.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article X**, as amended, is passed.

For sections 3, 4, 5 and 6 of article X as passed, see above, page 3069.

Following is section 1 of article X as amended and passed:

> Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman, acquired before marriage, and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Following is section 2 of article X as amended and passed:

> Sec. 2. Private property shall not be taken for public use except in a court of record and without just compensation therefor being first made or secured in a manner prescribed by law.

VICE PRESIDENT HUTCHINSON (continuing): Any announcements?

SECRETARY CHASE: Yes. I have the following request: Delegates Dean Doty and Sterrett ask the whereabouts of their small blue delegate handbooks with their names thereon. These have been circulating for the past 2 weeks for signatures. (laughter) They would like to have their books returned.

The committee on administration will meet tomorrow at 12:00 noon. Walter DeVries, chairman.

The public information committee will meet at 8:00 o'clock this evening in room C. Ink White, chairman.

VICE PRESIDENT HUTCHINSON: Mrs. Butler.

MRS. BUTLER: Mr. President and fellow delegates, some time ago Mr. Bonisteel spoke to the convention about the Michigan historical society of which he is president. He thought and the historical board thought it would be very nice if each of the members of the constitutional convention would for this year be a member of the Michigan historical society. Our time is getting very short and so I thought tonight I would suggest that either Mr. Bonisteel or I would be very glad to take your money to make you a member of the Michigan historical society for this year. I am not an officer; I am just his henchman.

SECRETARY CHASE: I have the following requests for leave: Mr. Rush asks to be excused from the sessions of Wednesday afternoon and of Thursday; and Mr. Anspach asks to be excused from the first part of the morning session on Friday, May 11. He agreed to speak at a conference at the University of Michigan at 9:00 a.m. on that date.

VICE PRESIDENT HUTCHINSON: Without objection the several requests will be granted. Miss Donnelly.

MISS DONNELLY: I move this convention adjourn.

VICE PRESIDENT HUTCHINSON: Miss Donnelly moves that the convention do now adjourn. All those in favor will say aye. Opposed, no.

The motion prevails and the convention stands adjourned until tomorrow morning at 9:00 o'clock.

[Whereupon, at 5:50 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Wednesday, May 9, 1962.]

ONE HUNDRED THIRTY-FIFTH DAY

Wednesday, May 9, 1962, 9:00 o'clock a.m.

PROCEEDINGS

VICE PRESIDENT HUTCHINSON: The convention will come to order. The delegates will please take their seats. The delegates will please take their seats.

The **invocation** this morning will be delivered by the Reverend Eugene M. Bushong of the Bushnell Congregational Church in Detroit, through the invitation of Delegate Yeager.

REVEREND BUSHONG: Let us pray. Eternal God, maker of those changeless laws under which we all live, draw near to us now and stay with us throughout the deliberations and deeds of today.

When we chafe at the hard choices we have to make, remind us that good character and sound government come only from choosing rightly. Give us all the wisdom we need to distinguish between right and wrong, and the courage to choose the good, however hard, over the easy bad.

May we never forget that only under God can this state and our nation continue to prosper and be free for long. So may we yield ourselves to Thy guidance and seek to do Thy will this day. We ask it in the name of Him who promised to guide us into all truth, which truth would make us free. Amen.

VICE PRESIDENT HUTCHINSON: The delegates will please clear the board. Please clear the board. The board was lighted up in connection with the repairs to the voting machine and was not cleared again. Will the pages please turn out all the lights for the seats not occupied at the moment? The secretary will take the **roll call.** All those present will vote aye. Have you all voted? If so, the secretary will lock the machine and record the attendance. The convention will please be in order.

SECRETARY CHASE: Mr. President, 124 delegates; a quorum of the convention is present.

Prior to today's session, the secretary received the following request for leave: Mr. Stamm, temporarily, from today's session.

VICE PRESIDENT HUTCHINSON: Without objection, the request is granted.

SECRETARY CHASE: Absent with leave: Messrs. Hood, Liberato and Stamm.

Absent without leave: Messrs. Norris, Shaffer and Wilkowski.

VICE PRESIDENT HUTCHINSON: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Wilkowski, Shaffer, Stamm and Norris.]

The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the delegation, as you know, third reading of the judiciary article was completed yesterday. I was happy to report that it got through in record time. We spent less than one day on it and this was indeed a record.

Our committee, as you well know, was formed with 20 attorneys and one long suffering layman and at an informal meeting of the judiciary committee held at Grand Ledge last night — a little bit out of convention hall — there was presented to Mr. Barthwell, the nonlawyer member of our committee, the following diploma which I should like at this time to read into the record. It says:

Michigan Constitutional Convention, 1961-1962
Lansing, Michigan.

This is to certify that Sidney Barthwell has completed the required studies and is hereby granted the degree of Doctor of Legal Laws. His record of devotion and interest in his preparatory work has been outstanding.

Given under our hands and seals at Lansing, Michigan, this eighth day of May, 1962.

It is signed by all of the other members of the judiciary committee. And so at this time we present to this long suffering layman his degree of Doctor of Legal Laws. (applause)

VICE PRESIDENT HUTCHINSON: Maybe Mr. Barthwell should submit that to the state bar of Michigan and see what happens. (laughter)

Motions and resolutions.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers the following resolution —

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand that Mr. DeVries' committee has a series of resolutions this morning, each of which is commendatory and congratulatory. I would move that we suspend the rules for the immediate consideration of each of the resolutions offered by Dr. DeVries on behalf of the committee on administration.

VICE PRESIDENT HUTCHINSON: Without objection, the rules are suspended for the immediate consideration of these congratulatory resolutions.

The Chair hears no objection. It is so ordered. The secretary will read the first resolution.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 100, A resolution commending the city council of the city of Lansing for hospitality shown to the constitutional convention.

Following is Resolution 100 as offered:

Whereas, The city council is the official governing body of the city of Lansing; and

Whereas, In this capacity the city council made several provisions to make possible the meeting of the convention in Lansing; and

Whereas, The city council in addition adopted measures to make the city of Lansing "the delegates' second home;" and

Whereas, Because of these measures the operation of the convention has been enhanced and the life of the delegates made more pleasant; now therefore be it

Resolved, That the convention express its appreciation to the city council for this expression of cooperation and hospitality; and be it further

Resolved, That a copy of this resolution be transmitted to the members of the Lansing city council.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. Mr. DeVries.

MR. DeVRIES: Mr. President, the committee on administration unanimously adopted this resolution yesterday and I move its adoption.

VICE PRESIDENT HUTCHINSON: All those in favor of the resolution will say aye. Opposed, no.

The resolution is adopted.

MR. DeVRIES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. DeVries.

MR. DeVRIES: I move that the name of the president of this convention be made the sponsor of this resolution on behalf of the entire constitutional convention.

VICE PRESIDENT HUTCHINSON: Without objection, the name of the president will be entered as the sponsor of the resolution on behalf of the entire convention.

The Chair hears no objection. It is so ordered. The secretary will read the next resolution.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 101, A resolution complimenting Mayor Willard I. Bowerman, Jr., of the city of Lansing, for the hospitality shown to the delegates by the mayor and members of his staff.

Following is Resolution 101 as offered:

Whereas, Mayor Bowerman is the official head of the city of Lansing; and

Whereas, Mayor Bowerman has in this capacity and as an individual exerted himself in many ways to assist the convention and has arranged to make the stay of the delegates more pleasant; and

Whereas, The hospitality thus shown by Mayor Bowerman has been beyond that which ordinarily would be expected of the mayor; now therefore be it

Resolved, That the convention express its appreciation to Mayor Bowerman for this expression of hospitality; and be it further

Resolved, That a copy of this resolution be transmitted to Mayor Bowerman.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. Mr. DeVries.

MR. DeVRIES: Mr. President, the committee on administration unanimously adopted this resolution yesterday. I might point out that the mayor promised us when we first met, out at Kellogg center, that he would take care of parking tickets. Some of you, I understand, have benefitted greatly by this. I move the adoption of this resolution.

VICE PRESIDENT HUTCHINSON: All of those in favor of the adoption of this resolution will say aye. Opposed, no.

The resolution is adopted. Mr. DeVries.

MR. DeVRIES: Mr. President, I move that the name of the president of the convention be made the sponsor of this resolution on behalf of the entire constitutional convention.

VICE PRESIDENT HUTCHINSON: Without objection, it is so ordered.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 102, A resolution expressing appreciation to the civic center board and staff for their cooperation.

Following is Resolution 102 as offered:

Whereas, The constitutional convention of 1961-1962 has been held in the civic center of the city of Lansing; and

Whereas, The civic center board cooperated in many ways to make the stay of the convention pleasant; and

Whereas, The management and employees of the civic center have implemented this policy of the civic center board in a way which has fostered both the comfort and wellbeing of the delegates; now therefore be it

Resolved, That the constitutional convention express its appreciation to the civic center board and staff for their cooperation; and be it further

Resolved, That a copy of this resolution be directed to the secretary of the civic center board and to the manager of the civic center.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. Mr. DeVries.

MR. DeVRIES: Mr. President, this resolution received the unanimous support of the committee on administration. I urge its adoption.

VICE PRESIDENT HUTCHINSON: All those in favor of the resolution will say aye. Opposed, no.

The resolution is adopted. Mr. DeVries.

MR. DeVRIES: Mr. President, I move that the president of the convention be made the sponsor of this resolution on behalf of the entire constitutional convention.

VICE PRESIDENT HUTCHINSON: Without objection, it is so ordered. The secretary will read the next resolution.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 103, A resolution for continuing and increasing fellowship and understanding among the constitutional convention delegates.

Following is Resolution 103 as offered:

Whereas, The constitutional convention, on March 5, 1962, adopted Resolution 57 which provides, "That the president of the convention create or direct an appropriate committee to devise ways and means by which the convention delegates may, from time to time and without public expense, be drawn together in congeniality and friendship;" and

Whereas, Such a committee was appointed and through a poll of the delegates found that a great majority of the delegates favored regular reunions of delegates; and

Whereas, The regular reunions of the delegates can be used to stimulate discussion and analysis of the new document or to discuss the need for constitutional revision; and

Whereas, The responsibility for calling such reunions must be established; now therefore be it

Resolved, That the president appoint a committee to make arrangements and to issue a call for the first reunion; and be it further

Resolved, That an assessment of not to exceed $1.00 per delegate be authorized to establish a working fund for such committee.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. Mr. DeVries.

MR. DeVRIES: Mr. President, this takes a little more explanation. The committee surveyed the entire constitutional convention to find out if there was any sentiment for having regular reunions of the constitutional convention. There was. Everybody wants to meet again. Some put in a proviso that if the constitution is not adopted they don't care to see each other again (laughter) but in any event the majority of the delegates would like to hold regular reunions.

Now, in this resolution we are not asking here for annual reunions but regular reunions, the purpose of which would be fellowship as well as the discussion and anaylsis of the new document or constitutional revision. It provides that the president will appoint a select committee to determine the place and time of the first regular reunion, and also, that there be an assessment of $1 per delegate. This is a uniform tax assessment. It is not based on the ability to pay. Neither is it a checkoff system. It is a free will contribution and we will be around sometime today to collect it from you. The $1 will be used for postage and envelopes to notify you of the first regular reunion and Mrs. Apol, the wife of the assistant to the president, has volunteered to be the secretary. Mr. President, I move the adoption of this resolution.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. All those in favor will say aye. Opposed, no.

The resolution is adopted. Mr. DeVries.

MR. DeVRIES: Mr. President, I move that the president of the convention be made the sponsor of this resolution on behalf of the entire constitutional convention.

VICE PRESIDENT HUTCHINSON: Without objection, it is so ordered.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 104, A resolution congratulating the staff of the constitutional convention on performing their duties in an excellent manner.

Following is Resolution 104 as offered:

Whereas, Upon the convening of the convention, a temporary staff had to be assembled; and

Whereas, The committee on administration assembled a staff for this temporary purpose; and

Whereas, The staff so assembled functioned in such an efficient and loyal manner that its temporary nature was never evident; and

Whereas, The work of the delegates was made much easier and more pleasant because of the efficient and loyal performance of duties by members of the staff; now therefore be it

Resolved, That the staff members be commended individually for their performance on the staff of the constitutional convention of 1961-1962; and be it further

Resolved, That a copy of this resolution be transmitted to each constitutional convention staff member commended by this resolution, as follows:

Charles Adrian, research assistant
Bernard J. Apol, administrative assistant to the president
M. Patricia Arber, guide
Margery Archer, committee clerk
*[Mary Armstrong, librarian]
Harold Arnow, research assistant
Robert Bolton, research assistant
James Bridges, postmaster and document clerk
Michael Carl, assistant sergeant at arms
Patricia Carlson, stenographer
Beatrice Carter, stenographer
Fred I. Chase, secretary of the convention
Judith Chelf, chief stenographer
Jane Clark, stenographer
*[Lila Colby, librarian]
William Combs, codirector of research and drafting
Valerie Counard, stenographer
Joseph Cox, research assistant
Emma M. Davis, telephone operator
Jane Denison, research assistant
John DesRocher, sergeant at arms
Billie Dowell, secretary to the secretary
William S. Doyle, secretary's messenger
John Dykstra, page
Jack Ellis, duplicating clerk
*Donald Faber, guide [assistant sergeant at arms]
Pauline Farman, committee clerk
Audrey Felt, stenographer
Charles Ferry, research assistant
L. Wayne Ferry, page
Kathleen Fowler, secretary to Vice Presidents Hutchinson and Romney
Theodis Gay, research assistant
Hub George, press room manager
Patricia Gorski, stenographer
Frederick Grasman, page
Arlene Groh, stenographer
Ferrell Heady, research consultant
Mary Ruth Johnson, research assistant
*Sharon Johnson, telephone operator [document clerk]
Alan Johnston, page
Charles Joiner, codirector of research and drafting
Angela Kapuscinski, stenographer
Betty Kauffman, stenographer
Alfred Kelly, codirector of research and drafting
Jeanne Kingan, stenographer
Beverly Kirksey, committee clerk
R. Stuart Kirvan, assistant director of public information
Austin C. Knapp, assistant secretary of the convention
Sondra Kosier, stenographer
Inge Kyler, stenographer
Doris Lambert, assistant proposal and enrolling clerk
Mary Martha Lippincott, stenographer
Mary Long, librarian
Valverda Louden, committee clerk
Sarah Luedders, research assistant
Ruegene Luedtke, secretary to the codirectors of research and drafting
*Lois Mahoney, stenographer [committee clerk]
Frances Marshall, stenographer
Maritherese McGorrin, secretary to the codirectors of research and drafting
Daniel McHargue, research consultant
Janina Moser, telephone operator
Lynn Nethaway, journal clerk
Louise Parker, committee clerk
Gerald Plas, page
Bernice Popp, committee clerk
O. Charles Press, research consultant
Shirley Quinn, committee clerk
A. Geraldine Rapaport, secretary to Vice President Downs
William Roe, research assistant
*[Mildred Rukes, status clerk]
Harriet Schiff, guide
Virginia Dierkes Schmidt, committee clerk
George Sidwell, research consultant
Evelyn Silverman, committee clerk
Mimi Simpson, assistant journal clerk
William Sorrell, research consultant
Clifford Stanley, assistant sergeant at arms
Nancy Stay, committee clerk
Agnes Steffens, stenographer
Kern Tomlin, page
Lois Tomlinson, finance clerk
Bernice Tucker, secretary to the president
June VanAlstine, postmaster and document clerk
Helen Varg, stenographer
Jennie Veen, guide
Henry Verkaik, assistant sergeant at arms
Edward Walsh, research assistant
Charlotte Walter, committee clerk
Marilyn West, proposal and enrolling clerk
John White, research consultant
Marvella Witt, stenographer

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. Mr. DeVries.

MR. DeVRIES: Mr. President, before we vote on the adoption of this resolution, I would like to make a few comments, on behalf of the committee on administration, to the delegates and our distinguished visitors in the gallery this morning.

You will recall that more than 400 people applied for staff positions when this convention convened, that the committee on administration interviewed more than 200 and selected about 90, most of whom are seated in the gallery this morning. We told you at that time that the committee on administration believed that the people selected were the cream of the crop. Now I am sure that you will agree with me that they were the cream of the crop and they did live up to their advance billing. Some said at the time, they sure were good looking but could they type? I think at that point, several months ago, I tried to make the relationship between good looks and competence and I am sure that my hypothesis was borne out.

By the adoption of this resolution this morning we are trying to tell them how much we have appreciated their loyalty and dedication to this constitutional convention. Each will receive a personally engraved resolution — and for a change this won't be on green paper — with their name on it. The committee on administration has also decided that each will receive a set of the convention record of verbatim debates when they are printed.

Now I pointed out to you several months ago that this staff was of such unusual caliber and high quality that civil service, after testing some of these people as well as others, asked that we do everything we could to get them to accept civil service positions. Some have. Others will return to academic life and about 25 will remain on the interim staff in the next 4 months for periods ranging up to 4 months.

Mr. President, I have had some experience working with staff working for legislative decision making bodies but this was the finest group of people I have ever had the privilege to work with. (applause and cheers) Now, Mr. President, that I have got a good thing going and got an ovation in the middle of one of my speeches, I am not going to stop.

Frankly, as chairman of the committee on administration, I can't think of any changes that I would have made in our staff selections. We had a few problems, of course, in the supervision and direction of the staff but, because they were responsible and did everything in their power to help us, these problems were minimal. Now there were a few days during the first few weeks of the convention when I felt like changing the sign over our committee room door from "Dr. DeVries, chairman of the committee on administration," to "Dr. DeVries, consulting staff psychologist and group therapist." But the fact of the matter is that my committee, after the staff was selected, had practically no problems from that point on, and this is a tribute to the staff and not to the committee on administration.

And so, Mr. President, this morning we are, as a convention, honoring and thanking the staff members of the constitutional

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*Material in [ ] indicates action by the committee on administration without formal convention action.

convention of 1961. We are proud of their ability, their dedication and loyalty to us. And certainly it can be said that the successful operation of this convention is due in large part to this staff. Mr. President, I will ask that this convention unanimously adopt this resolution and, after its adoption, if I may, I would like to ask the staff to rise for recognition by the convention.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. All those in favor will say aye. Those opposed will say no.

The resolution is unanimously adopted. Dr. DeVries.

MR. DeVRIES: Mr. President, I would like to have the staff rise now for appropriate recognition.

[Whereupon, the delegates accorded the staff a standing ovation.]

VICE PRESIDENT HUTCHINSON: Thank you very much.

MR. DeVRIES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. DeVries.

MR. DeVRIES: Now, Mr. President, I would like to ask the unanimous consent of this body for Mr. Chase, the secretary, and Mr. Apol to approach the rostrum for the purposes of responding to the resolution on behalf of the con con staff. Then, after that's over: staff, get back to work! (laughter)

VICE PRESIDENT HUTCHINSON: Without objection, the secretary of the convention and the president's administrative assistant will respond and, further, without objection, the name of the president will be entered as a sponsor of this resolution on behalf of all of the convention.

It is so ordered. Mr. Apol.

MR. APOL: I never anticipated that I would be so honored. On behalf of the staff I would like to say, thank you very much for this accolade. We are proud to receive it, but we feel that the "thank you" should be from us to you rather than from you to us. We thank you for the opportunity of being associated with this historical event. This has been a moment in the history of this state. We are proud to have been a part of it, and we thank you for making this opportunity available to us. We thank you for the consideration you showed to us. Without this consideration our task would have been impossible. We thank you for the valuable experience that we gained by your association with us and, frankly, we would say: thank you for being the type of delegates that you are, delegates who are high minded, dedicated, diligent, hard working.

In other words, we feel the "thank you" should be from us and not from you. With all our hearts we would say: thanks again for allowing us to associate with you. Thank you. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Secretary.

SECRETARY CHASE: Mr. President and ladies and gentlemen of the convention, Elbert Hubbard once wrote a little document that he entitled, A Message to Garcia, in which he paid tribute to an American soldier who was given an assignment to find Garcia and deliver an extremely important message. With no questions asked, this soldier accepted the assignment, faced all the perils and hazards connected with it, and with initiative and integrity above and beyond the call of duty, did his job. This staff of mine has been that kind of people. Because of their dedication to duty and their loyalty, the job assigned to me has been accomplished. Without their help it would have been impossible. With it, it has been a pleasure.

John D. Rockefeller once said to his partner, "The ability to deal with people is as purchasable a commodity as sugar or coffee and I will pay more for that ability than for any other ability under the sun." To me, the delegates to this convention in their kindliness and consideration in their dealings with me and with the staff have shown this human relations ability, without exception, to a high and marked degree.

So may I say for the secretarial staff, on their behalf: it has been a genuine pleasure and an inspiration to work for and with this outstanding and hard working group of Michigan citizens. I have been extremely proud to be your secretary and, with my staff, thank you from the bottom of our hearts.

VICE PRESIDENT HUTCHINSON: Thank you, Mr. Chase. (applause)

SECRETARY CHASE: Mr. White, on behalf of the committee on public information, offers the following resolution —

VICE PRESIDENT HUTCHINSON: Mr. White.

MR. WHITE: Mr. President and delegates, I wonder if, because of the nature of this resolution, Mr. Chase might read it so delegates would be informed as to our action in committee last night.

VICE PRESIDENT HUTCHINSON: Without objection, the secretary will read the entire resolution.

SECRETARY CHASE: Mr. White, on behalf of the committee on public information, offers

Resolution 105, A resolution relative to preparation and approval of the address to the people.

Following is Resolution 105 as offered:

Whereas, The accuracy of the substantive comment contained in the address to the people which is to be distributed to the voters of Michigan subsequent to the final adjournment of this convention is a major concern of this convention; and

Whereas, The changes in arrangement and language effected by the style and drafting committee and by floor action in recent days make it mechanically impossible for the committee on public information to present a final draft of the proposed address prior to the scheduled recess on Friday, May 11; now therefore be it

Resolved, That the substantive committees of this convention meet prior to the May 11 recess, review comment suggested in the tentative draft of the address and report their recommendations for revision to the committee on public information; and be it further

Resolved, That the committee on public information carefully edit the address, incorporating these recommended revisions, and submit tentative proof copies of the entire address by mail to each delegate at his home address on or before July 20, 1962; and be it further

Resolved, That approval of this convention of the address to the people be an order of business when this convention meets prior to final adjournment on August 1, 1962.

VICE PRESIDENT HUTCHINSON: The resolution will be referred to the committee on rules and resolutions unless otherwise directed by the convention. Mr. White.

MR. WHITE: Mr. President, I think the resolution is self explanatory. I do want to call attention to the matter of substantive committee review of the comment prior to May 11. I would hope that this resolution will pass through the rules and resolutions committee and that these committees will make arrangements to review the comment that appears in the tentative technical section of the address, which is complete on your desks at this time. I think the additional sections were delivered this morning. Thank you.

VICE PRESIDENT HUTCHINSON: The resolution is referred to the committee on rules and resolutions.

SECRETARY CHASE: That is all the resolutions on file, Mr. President.

VICE PRESIDENT HUTCHINSON: **Reports of standing committees.**

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 97,** A resolution to amend the convention rules to provide for possible amendments to the proposed constitution on the occasion of the sine die adjournment session of the convention; with amendments, recommending that the amendments be agreed to and that the resolution, as thus amended, be adopted.

The following are the amendments recommended by the committee:

1. Amend the resolving clause, second sentence, after "No" by striking out "such".
2. Amend the resolving clause, second sentence, after "elected to" by striking out "and serving in".

R. C. Van Dusen, chairman.

For Resolution 97 as offered, see above, page 3117.

MR. VAN DUSEN: I understand this resolution will not be available for consideration until Friday, is that correct, Mr. President? It involves a rule change.

VICE PRESIDENT HUTCHINSON: Under the rules that is correct. Consideration of the resolution will be laid over until Friday.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back **Resolution 98,** A resolution to provide for the time and place of the sine die adjournment session, and for notice thereof; without amendment and with the recommendation that it be adopted.

R. C. Van Dusen, chairman.

For Resolution 98 as offered, see above, page 3117.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would like to have this resolution also put over until Friday. It deals with the August 1 adjournment session. I would so move at this time.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that further consideration of this report be postponed until Friday. All those in favor will say aye. Opposed, no.

The motion prevails.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 99,** A resolution of thanks and appreciation to the citizens research council of Michigan, incorporated; with 2 amendments, recommending the amendments be agreed to and the resolution, as thus amended, be adopted.

The following are the amendments recommended by the committee:

1. Amend the third whereas clause after "have been" by inserting "highly objective and".
2. Amend the first resolving clause after "interest and" by striking out "efforts" and inserting "effort"; and after "public" by striking out "affair" and inserting "event".

R. C. Van Dusen, chairman.

The following is the resolution:

[The resolution was read by the secretary. For text, see above, page 3117.]

With the amendments recommended by the committee on rules and resolutions, the third whereas clause will read:

> Whereas, This research activity by a privately supported organization is deemed by this convention to have been highly objective and of material aid to its deliberations; . . .

and the first resolving clause will read:

> Resolved, That the Michigan constitutional convention of 1961 hereby records and expresses its sincere thanks and cordial appreciation to the citizens research council of Michigan for its substantial interest and effort in this momentous public event. . . .

VICE PRESIDENT HUTCHINSON: The question is upon the committee amendments. Mr. Van Dusen.

MR. VAN DUSEN: I think, Mr. President, the amendments speak for themselves. We simply wanted to note the objectivity of the work of the citizens research council and then we thought that perhaps it would be more euphemistic to describe this convention as an "event" rather than an "affair."

VICE PRESIDENT HUTCHINSON: The question is upon the committee amendments. All those in favor will say aye. Opposed, no.

The amendments are adopted. The question is upon the adoption of the resolution as amended. All those in favor will say aye. Those opposed will say no.

The resolution, as amended, is adopted.

Following is Resolution 99 as amended and adopted:

A resolution of thanks and appreciation to the citizens research council of Michigan, incorporated.

Whereas, the citizens research council has issued a series of excellent research studies on matters relating to the work of this convention and has freely provided research staff and time to convention activities; and

Whereas, These publications and research efforts have been extensively used by committees and by individual delegates as reliable factual sources throughout all phases of the work of this convention; and

Whereas, This research activity by a privately supported organization is deemed by this convention to have been highly objective and of material aid to its deliberations; now therefore be it

Resolved, That the Michigan constitutional convention of 1961 hereby records and expresses its sincere thanks and cordial appreciation to the citizens research council of Michigan for its substantial interest and effort in this momentous public event; and be it further

Resolved, That a suitably printed copy of this resolution be transmitted to the president of the board of directors of the citizens research council of Michigan, incorporated.

MR. VAN DUSEN: Mr. President, I would ask that the name of the president, on behalf of the convention, be entered as sponsor of the resolution.

VICE PRESIDENT HUTCHINSON: Without objection, the name of the president will be entered as sponsor, on behalf of the entire convention, of this resolution.

It is so ordered. Reports of select committees.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: Communications from state officers.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: **Third reading.**

SECRETARY CHASE: Under third reading, the next article, **article IX,** finance and taxation.

[Article IX, sections 1 through 24, was read by the secretary. For text, see above, page 3067.]

VICE PRESIDENT HUTCHINSON: Article IX has been read a third time. The secretary will report the first amendment.

SECRETARY CHASE: Messrs. Allen and Stevens offer the following amendment:

1. Amend article IX, section 3 (column 1, line 46) after "shall not" by striking out the comma and "after January 1, 1966, exceed 50" and inserting "exceed 70"; so the language will read, ". . . the proportion of true cash value at which such property shall be uniformly assessed, which shall not exceed 70 per cent. . . ."

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Allen.

MR. ALLEN: Mr. President and members of the convention, on April 19, Mr. Stevens and I brought before this convention on second reading a similar yet substantively different amendment designed to accomplish the same purpose, and in a very close vote — only 6 votes separating the majority from the minority — the amendment lost.

Now we are bringing this back to you this last time in order, as we feel, not to make a mistake when this constitution goes to the public. In the twilight hours of our deliberative process in this last week of our convention, let us not tighten the financial chains which brought us here together in the first place. We feel that the language as it stands in the printed journal now actually has tied tighter the financial restrictions on the property clause.

Because today's constitution, as I am sure you all know, allows assessments at theoretically 100 per cent of cash value, today's constitution would permit an assessment of 70 per cent of cash value and the state of Michigan, or at least many parts of the state of Michigan including my own city, in the depression was making assessments at 70 per cent of then cash value. Today's constitution would permit assessments at 33 per cent or even less of cash value, and this is the situation which we had on real estate between 1945 and 1958 or 1959. And today's constitution would permit assessments as we have now on state equalized valuations of approximately 50 per cent of cash value.

But our new constitution, which is in the printed language before you in section 3, reduces the flexibility in the old constitution by 50 per cent. Instead of having the old provision which has been interpreted to provide that the assessments could go up to 100 per cent — and, naturally, the millage would drop — it must not be more than 50 per cent after January, 1966. The new constitution in effect reduces the 15 mill limitation to a 7½ mill limitation. The new constitution opens the door to the charge that this convention is making a provision on finances in this section more restrictive than what we have today. Now I think that this raises a serious problem for us who have the responsibility of the convention.

I know that in the Detroit area, the city of Detroit and other communities are hard pressed now to meet the standards imposed by the state tax commission that they must bring down the assessments which they have on personal property now running at around 70 or 80 per cent down to 50 per cent. The practical effect of this is that real property values will have to be raised. We had a communication from the board of supervisors of Wayne county and I think we had a similar communication from the board of supervisors of Oakland county stating that in their opinion this convention should not make the inflexible provision of limiting assessments for the future to 50 per cent.

As we all know, there is now going to be a rather tight contest— or at least a controversy — about the acceptance or rejection of this document which we draw, and I think it would be very wrong for this convention to invite a discouraging vote in the area of Michigan where the convention was called with a favorable vote. I am afraid that we give to that area of Michigan a legitimate argument to say: we can't go along with the new constitution because you have put us in a financial press by limiting assessments for the future to 50 per cent and we still have millage limitations in our charter and we have millage limitations in the 15 mill. I think we may invite some discouraging reaction from schools because with a combination of a 50 per cent limitation and a 15 mill limitation and removing the earmarking which we had on schools, I think we only invite trouble.

Now, how do we get out of this trouble and do we do anything bad? The proposed amendment reduces — reduces — today's constitution which allows 100 per cent, reduces it to 70 per cent, but it doesn't reduce it to what the printed language recommended by the finance committee says, of 50 per cent. We give, by this amendment, 20 per cent more elasticity. We make it possible — in case there is a recession and property values should fall quicker than expenditures — we make it possible for the school system, the counties, and so on, to move their valuations up without running into this inflexible provision. The proposed amendment allows elasticity. The proposed amendment fits in with the history of Michigan, because we must remember that we were assessing for a period in the depression at more than 50 per cent.

Now, what does this amendment not do? This amendment, I want to make very clear, does not say — and I fear some people will misinterpret it, not here, but could misinterpret it — this amendment is not saying that we shall have assessments at 70 per cent. I don't believe we should. We should keep them down. But there may be a day when we have to move ahead of the 50 per cent simply because of economic conditions. This amendment is not a grab for dollars now; it is simply good, constitutional language to allow the elasticity which we need to have.

Now, in conclusion, let me say that we were within 6 votes of making a somewhat similar change on April 19. I think it would be a mistake to come out of this convention subject to a charge that we have come in here and drawn something much more restrictive than we came in on, on this particular phase of financing.

This proposed amendment is not part of the arrangement or package deal that has been referred to. This is entirely apart from it. Mr. Stevens and I, in the interest of not subjecting this convention to a charge of making a too restrictive constitution but of permitting the flexibility to the legislature, want to see a flexibility created, and if it is adopted you can go back to your people and still say that we reduced what today allows 100 per cent assessment to no more than a 70 per cent assessment. I hope that the convention will vote for this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, I hope that this amendment will not be adopted. One of the prime items, in outstate Michigan at least, in connection with this constitution has been the reduction of that top limit on property tax assessments from 100 per cent to 50 per cent.

I think we all recognize that the state tax commission as a matter of policy has been using the 50 per cent and in nearly every part of the state 50 per cent is the limit now, but it could be 100; and when the taxpayer figures that he has been assessed too high and has tried to get relief in court, the answer always is, "Well, you are not up to 100 per cent, are you? You're not above 100 per cent?" "No, but I am more than my neighbors," and so forth. "Well, if you are not above 100 per cent, there is no remedy for you."

As to Wayne county and Detroit, they are about 50 per cent in their personal property assessments, and if there is any one tax that has contributed to any bad financial and industrial climate that we have in Michigan it has been the excessive taxation of personal property. It is recognized in Wayne county and in Detroit that they are too high and, working with the tax commission, they are on the way down. They were on the way down with it before this convention convened. They recognized that they ought to be down. And that is the reason that in this amendment, in this provision, we have given them until January 1, 1966, to get down to where they belong. There are only a few communities in the state that are above 50 per cent now. One of them — and it is a prominent city — voluntarily went back to the 50 per cent when they had been up at 70 or higher, and they have attributed 2 new industries in their city to the fact that they made that reduction.

Something was said about the schools: while this is a limitation on property taxes — we think it is as high as it ought to be — we are also offering the schools, in any county that wishes to adopt it, the possibility of getting above their present share of the 15 mill limitation in the 18 mill provision that will be discussed here, I am sure, a little later. We might better leave out this limitation if we are going to make a change here to 70 per cent and leave it right where it is at 100 per cent. If we move down from a 100 per cent to 70 per cent, the people around the state are going to take that as an invitation to come up to 70 per cent. They wouldn't make that interpretation if we left it at 100. I would rather see it left at 100 than reduced to 70 if we cannot go all the way down to the 50 as the committee has it.

This is an important matter. It is an important matter because of the reception the public is going to give it. And I think, almost universally, we have had expression after expression in this convention that property is standing about all the tax that it ought to stand. The state tax commission has reached that conclusion. Tax officials over the state have reached that conclusion. Now, for the benefit of a few communities, and it is only a few communities that are above the 50 per cent, we ought not to change what the committee has put in this constitution; we have given those communities that are high until January 1, 1966, to get back down to where they belong. I think it would be a serious mistake were we to change the committee's provision here.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, we have heard good discussions on both sides of this issue. I would move to limit further debate to 10 minutes.

VICE PRESIDENT HUTCHINSON: There are 6 speakers.

MR. VAN DUSEN: Let's make it 12 minutes in that event.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr Van Dusen to limit debate to 12 minutes upon this amendment. All those in favor will say aye. Those opposed will say no.

The motion prevails. The debate is limited. The Chair recognizes Mr. Faxon.

MR. FAXON: Yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Faxon demands the yeas and nays upon the amendment. Is the demand supported?

SECRETARY CHASE: A sufficient number up.

VICE PRESIDENT HUTCHINSON: A sufficient number up. The yeas and nays are ordered. Mr. Faxon, do you desire recognition for debate?

MR. FAXON: No, sir.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, Mr. Allen has said most of the things that I might say. He is recognized as an authority on local government. I speak merely as a common citizen of the city of Detroit. I have never had any connection whatever with the official government of the city of Detroit and do not expect to have.

But I do realize, as a resident, a citizen and a taxpayer in Detroit that we are in a bad situation there. It is not unlike the financial situation of the state of Michigan. And if we are squeezed constantly from both sides, it is going to be very difficult to pay the debts we already owe. Perhaps we never should have contracted some of these debts, but that is not the question here. We have the obligations and if we are to continue our services, absolutely necessary services, and at the same time reduce this debt, we are going to have to have tax income. Now if you start one place and then another restricting, there isn't going to be any place left to turn. Certainly, if you keep down the limitation on assessments and you keep down the limitations on the rate of tax, you are not going to get much from the property tax.

As Mr. Brake pointed out, the city of Detroit for the last 3 or 4 years has been making a definite and substantial effort to bring the tax on personal property down to the 50 per cent which the state tax commission has demanded. The tax commission has been sympathetic in giving the city a few years in which to do that, I believe a 5 year period. So it seems to me as a compromise between the present 100 per cent assessment, which has never been enforced anywhere except, possibly, during the depression, and the 70 per cent, which Mr. Allen and I have suggested, you have perhaps a very reasonable compromise between the 2.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, I rise very briefly to oppose the amendment that Mr. Allen and Mr. Stevens have before you. I think in proposing this, perhaps, Glenn, you are looking back, you are finding that time when property was assessed high because of rapidly declining values. But, if you will recall, at that time you went out statewide and you found a different tax base. You found something other than property to levy taxes on and you are still doing it. Now I think if you would take a forward look at this, instead of a backward look, as I think you are, I think you will realize that property, probably, is not going to stand the terrific increases in costs that probably are facing us the next few years. And I think, Glenn, that you would agree with me that you are probably going to be looking again for a broader tax base.

I would be the first to recognize, I believe, that when you pin us down to 15 mills and also 50 per cent, that property alone is not going to be able to supply the revenue that is going to be needed. We don't believe that for one minute, and neither do we object to having higher taxes to pay the necessary costs, but we do believe strongly — and I urge that word "strongly" on you — that property is not the place to put the additional taxes and that is why we are opposed to the kind of amendment you have before us today. We think you need to broaden the base when it becomes necessary to have other funds. Now, I can assure you I am not speaking from the personal point of view, because if you leave it like it is at 100 per cent, personally, I am going to fare much better under this tax picture the next 20 years; I realize that. But, Glenn, it is a matter of what you are going to use for a base. It is just that simple. If you keep the 50 per cent in, you are only hastening the day when the base will be broadened and you will have the necessary finances on the kind of a base that ought to be supporting them. I oppose the amendment.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: I would like to rise to support the amendment. I have here in my hand resolutions both from the city of Detroit and Wayne county which urge the convention to consider the necessity of keeping a fair measure of flexibility in this thing. I don't think that anybody at the present time feels that we have a fair property tax picture throughout the state of Michigan. I know that I don't and I am sure that most people who have studied it agree. However, I do think that the legislature has the power to assess or to evaluate what is needed at any particular time and to fix a level at which these assessments can be made. And I urge you, if you have any interest in the problems of Wayne county and in their interests in passing this constitution that you consider this problem very carefully.

We are working towards a 50 per cent level in Wayne county. Under this new proposed constitution it would be possible to continue that program and to strengthen it; however, to tie it into this constitution, I think, would induce a rigidity in the picture that would be rather, well, it would be extremely difficult for us to meet; and so, for that reason, I certainly hope that you will favor this amendment. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I wish to speak in favor of this amendment. It is my feeling that the 50 per cent of cash value imposes, certainly, an undue restriction on the more populous areas, our municipalities, and I would rather see the 100 per cent retained. I am not looking back; I am looking at the present and forward.

I would like to remind the delegates that there are 2 major steps in the process of levying property taxes: one is the assessment and the other is the fixing of the rate. We are talking now about the assessment. It may become advisable for the state board of equalization, as well as assessors, to raise their assessments above 50 per cent of cash value in order to achieve an equitable assessment pattern. That would not necessarily result in higher taxes because it is quite conceivable that rates may be reduced at the same time.

I would like to call attention to the fact, also, that in this process of assessing property, school districts and counties are involved as well as cities. And when we impose a 50 per cent of cash value limitation, we are forcing some areas to reduce their assessments which will result in not only a loss of revenue to cities but, also, the school districts that are involved.

I do not feel that the inclusion of the 70 per cent figure is the most desirable solution to this problem. I don't believe we should have any percentage limitation in the constitution. I believe the matter can be handled rather adequately either by the legislature or the local units of government involved. For competitive reasons, I am certain that they will have a tendency to remain at the 50 per cent level. But it may be impossible for some of them to get down to the 50 per cent within the time that has been alloted in the constitution and, although I do not feel that the 70 per cent is the most desirable, I am heartily in favor of the 70 per cent in preference to the 50, and I urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Staiger.

MR. STAIGER: Mr. President, I would rise in support of the Allen amendment and would like to point out one — to me — fundamental difference between the uniformity clause as you now have it in the new, proposed constitution as compared to the old constitution: under the old constitution, first, assessments had to be at true cash value, period. An administrative agency, the tax commission — admittedly on thin ice — had assessed them and then equalized at 50 per cent. The new uniformity clause provides, however, that the legislature shall provide for the determination of true cash value of such property and the proportion of true cash value at which such property shall be uniformly assessed.

We have switched what, before, under the old law, was the tax commission setting this level of assessment to the legislature. I think this puts it in the hands of the most responsive body to this question. I do not think we need this type of an arbitrary limitation any longer in the uniformity clause. To me it is just one more chain on local government at a time when we want to be able to set local government free to solve their own problems. I urge your support for the Allen amendment.

VICE PRESIDENT HUTCHINSON: Mr. Haskill.

MR. HASKILL: Mr. President and delegates, I want to urge you to vote against this amendment. I feel that if the people in the cities and in some areas of our state need to raise more money from taxes, possibly they can do it from more equalization or a higher valuation of their property if they wish to do so.

I am wondering what they are thinking about: the whole outstate area — businessmen, farmers, retired people. We have a number of people today that are living on beyond the 60, 65 and 70 year age with this — retired — this being caught in these higher property tax values, the assessment that is moving on up. In the county north of me, we have farmers up there this year with 160 acres that are paying $1,500 property taxes and that is figured at about 50 per cent of the cash value. Now if we move this to 70 or we move to 100, are we going to confiscate the property?

I have talked to a number of business men up and down in my town — hardware men, clothing store men — on this personal property tax in their area. They say that if it continues, within a few years it is going to lick them.

I think we have got to come up with some other method of taxation, of raising taxes, to support these schools and local government. And I don't think it is on property. There was a time years ago when property realized a value. It meant a value. It meant income. Today, property, so far as whether it is a farm — you might have it out here — or whether it is a business in town, unless it is labor, unless you are working it —

VICE PRESIDENT HUTCHINSON: The time is up. Time for debate has expired. The question is upon the amendment offered by Mr. Allen and Mr. Stevens, which has been read. The yeas and nays have been demanded and ordered. All of those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—58

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Bentley
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Danhof
DeVries
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Jones
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Ostrow
Pellow
Perlich
Pollock
Rajkovich
Richards, L. W.
Romney
Sablich
Snyder
Staiger
Stevens
Stopczynski
Suzore
Tubbs
Van Dusen
Young

Nays—68

Anspach
Baginski
Batchelor
Beaman
Bonisteel
Boothby
Brake
Cudlip
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
McAllister
Millard
Mosier
Page
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Seyferth
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Thomson
Turner
Tweedie
Upton
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Messrs. Allen and Stevens, the yeas are 58; the nays are 68.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. W. F. Hanna offers the following amendment:

1. Amend article IX, section 6 (second column, lines 57 and 58) after "township or" by striking out "other"; and after "charter" by inserting "or other"; so the language will read:

> . . . or to taxes imposed for any other purpose by any city, village, charter county, charter township or charter or other authority the tax limitations of which are provided by charter or by general law.

VICE PRESIDENT HUTCHINSON: On the amendment, Mr. Hanna. Mr. Van Dusen, do you want to make a preferential motion?

MR. VAN DUSEN: May I ask Mr. Hanna approximately how long he thinks this amendment will require?

MR. W. F. HANNA: I would hope about 2 minutes.

MR. VAN DUSEN: Mr. President, I would move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. It is so ordered. Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, while working through this article in style and drafting, I found what I believe to be a definite conflict and have called this to Mr. Brake's attention. You will notice that in the first instance we have limited the tax to be imposed upon real and personal property to 15 mills. We have then gone on and provided that you may increase the millage to 18 mills for townships, counties and school districts.

Now, there are authorities which heretofore have had to look for any millage allocated them by general law to the 15 mills and, as tax and finance has drafted this, I cannot figure out any way that these authorities are within the allocation after the county becomes an 18 mill county. There is no provision here for the allocation out of the 18 mills, except for counties, for townships and for school districts. Now these authorities then are without millage because they could not come within the 18, as it is herein drafted, and they were previously under the 15, and general law may give them, if they so are constituted, sometimes up to one mill.

I think it was the intent of taxation and finance to exempt from the limitations these charter authorities, and I think when they used the term they were talking about all forms of metropolitan authorities, whether they were actually charter authorities or merely law authorities. And some of them are authorities that may be incorporated by joint action of legislative bodies and do not have a charter, as such, to be adopted. My amendment would simply insert that these authorities, whether charter or otherwise, would be exempt from the millage limitation and, thus, would make the 18 mill and the 15 mill limitation work for counties, townships and school districts. I ask that you consider this amendment and adopt it.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I am inclined to agree with Mr. Hanna's analysis of this situation and, therefore, urge a yes vote on his amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Hanna, which has been read. All those in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will report the next amendment.

SECRETARY CHASE: Messrs. Powell, Rush, Rood, J. B. Richards, McAllister, Turner, Yeager, Knirk, Hoxie, Batchelor, Sharpe, Howes, Prettie, Wood, Haskill, Gover, Finch, Shanahan, Figy and Kirk offer the following amendment:

1. Amend article IX, section 6 (column 2, line 38) after "50 mills" by striking out the comma and "or more if provided by law,"; so the language will then read:

The limitations established by this constitution or by county vote may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time. . . .

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I do this with some trepidation because I hope to speak on this amendment, but I move to limit debate to 10 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 10 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. The debate is limited. The Chair recognizes Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, this 15 mill provision has gone through quite a lot of vicissitudes. You will remember, the committee on finance and taxation worked diligently on it and brought in a new version of it which we discussed at length. And then we adopted the Turner amendment, which reinserted the existing provision. Then, right out of a clear sky, we adopted the McCauley amendment, which left the whole problem up to the legislature. Then, when the thing came before us on second reading, the committee on finance and taxation brought in a substitute for the proposal and in that, with reference to the maximum of 50 mills, they added "50 mills on each dollar of such valuation, except as otherwise provided by law."

I confess I didn't notice those words or think much about them. We adopted it rather speedily and it came to us in style and drafting, and there the words were somewhat modified: instead of being "except as otherwise provided by law," they were relocated in the line above and changed to read, "or more if provided by law," which, of course, made the meaning more obvious to all of us, as to the fact that we were taking off any definite maximum here from the provision.

I think there is general agreement among all of us as to the seriousness of the general property tax situation as it exists over the state today. Remember that we now propose to permit nonproperty owners to vote to raise the tax limitation up to 50 mills — which is, of course, 5 per cent — for as long as 20 years as the result of one election. And that extra millage can be renewed for repeated periods. We have had this 50 mill top ceiling in our 15 mill limitation for over 29 years and I feel that it should be continued. Before it is forgotten, may I demand a record roll call on this amendment?

VICE PRESIDENT HUTCHINSON: On the amendment Mr. Powell demands the yeas and nays. Is the demand supported? A sufficient number up. The yeas and nays are ordered. The Chair next recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, I rise briefly to support the amendment that is now before you. I would like to just do a brief arithmetic lesson for you: now, "50 mills," what does it mean? It simply means that if you adopt this amendment that you will have at any one time a 50 mill limitation that can be levied against your property in any one year. Now what is 50 mills? Well, 50 mills, my friends, is $50 per $1,000 of state equalized valuation. Now you might get your tax receipt out and you might find that your property is valued at $2,000 and you might say: oh well, they have a $100 limit on it, then. But that just isn't so, because you might be in an area that is only assessing at ½ of state equalized and you might then find that your tax bill would be a maximum of $200.

Now, let's state it a different way; let's state it a different way: you get to be 65 years of age and you are going to retire and you have your home paid for and you have a 50 mill limitation. What you are saying is that the taxing authorities then can tax in 20 years, between the time you are 65 and you are 85, they can totally tax your property away from you. You have to buy it back again in a 20 year period. Now if you don't have the amendment, if you don't have the amendment they can go right on up and up and up, and they might have you buying that property back between the age of 65 and 75.

So remember the arithmetic. If you adopt the amendment and you have a 50 mill limitation, they can tax only to the extent that you have to buy your property back once every 20 years. I am very much for the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would speak very briefly on this. All that the provision, "or more if provided by law," does is to permit the legislature, in the event that experience deems it desirable, to lift this ceiling. This is a little bit of flexibility. The legislature is not likely to do it unless the circumstances literally demand it. The pressure which would be brought upon the legislature to retain the 50 mill ceiling would, I am sure, be significant, if not overwhelming. But if the fiscal situation of local units of government became such that an increase in the 50 mill ceiling were clearly in the best interest of the people of this state, I think the legislature should have the right to increase that ceiling. That is all that the present provision does: it permits the legislature to do so if, in its wisdom, it sees fit to.

I think the provision should be left as it is. I think the amendment should be defeated.

VICE PRESIDENT HUTCHINSON: Mr. Turner.

MR. TURNER: Mr. President and ladies and gentlemen, this phrase, "or more if provided by law," could defeat the purpose of this limitation. It has been admitted many times that real estate is carrying all the tax load that it possibly can. Taxes upon real estate, and especially upon farms, have no relationship whatever to the ability to pay.

Let's examine what has been happening: in 1940 the state was paying about 60 per cent of the operational costs of our schools, leaving about 40 per cent to be borne by the local property. Today that practically has been reversed: the state is now paying just a little over 40 per cent, while local property is carrying nearly 60 per cent. At the same time the operational cost of our schools has skyrocketed.

If real property is asked to carry an ever increasing proportion of the operational expense of our schools then the property owners, out of sheer self protection, will be forced to vote down more and more bond issues for building purposes. This could easily jeopardize our school building programs. With an ever increasing number of students and the need for better education for our young people, our school costs are bound to go up and, at the same time, taxes upon real estate in many areas have reached confiscatory proportions. Elderly people with fixed incomes are finding it increasingly more difficult to pay the taxes on their homes. The 50 mill limitation is a must, and the phrase, "or more if provided by law," should be eliminated.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen, I rise principally to protest that this is one instance — there have not been many — where style and drafting made a substantive change in the language and in the meaning. Now this amendment, "except as otherwise provided by law," I think was put in on the floor, not in the committee on finance and taxation. That means that the legislature could raise the 50 mill limitation or put it down. You could go either up or down. Style and drafting has said you can only go up. That certainly is a substantive change and the very least that we should do here is to go back to the language that we had before style and drafting changed it.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I wish to speak in opposition to this amendment, because I think we ought to put this matter in perspective. What we are saying is that the legislature may, in its wisdom, give the people at the local level the right to vote for higher millage. Now it would appear to me that this is certainly not too much to ask. We are not talking about unvoted millage. We are talking about the amount of millage that the people at the local level may vote for themselves, and I see no reason why we should not let the legislature give the people the right to vote on an increase in millage if they desire to do so. I am heartily opposed to this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment offered by Mr. Powell and others, which has been read. The yeas and nays have been demanded and have been ordered. All of those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted?

If so, the secretary will lock the machine and record the vote. Mr. Powell.

MR. POWELL: Mr. President, may I request the vote of the Chair?

VICE PRESIDENT HUTCHINSON: The Chair votes yes.

MR. POWELL: Thank you.

The roll was called and the delegates voted as follows:

Yeas—71

Anspach
Baginski
Batchelor
Beaman
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Gover
Gust
Habermehl
Hannah, J. A.
Haskill
Hatch
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
King
Kirk, S.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
McAllister
Millard
Mosier
Page
Pellow
Perlich
Perras
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Rood
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Thomson
Tubbs
Turner
Tweedie
Wanger
White
Wood
Yeager

Nays—64

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Bentley
Binkowski
Blandford
Bledsoe
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Danhof
DeVries
Douglas
Downs
Elliott, A. G.
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Goebel
Greene
Hanna, W. F.
Hart, Miss
Hatcher, Mrs.
Heideman
Higgs
Hodges
Jones
Judd, Mrs.
Kelsey
Knirk, B.
Krolikowski
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Ostrow
Pollock
Rajkovich
Richards, L. W.
Romney
Sablich
Seyferth
Snyder
Staiger
Stevens
Stopczynski
Suzore
Upton
Van Dusen
Walker
Woolfenden
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Powell and others, the yeas are 71; the nays are 64.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin, Lesinski, Marshall, Binkowski, Stopczynski, Jones and Mrs. Daisy Elliott offer the following amendment:

1. Amend article IX, section 7 (column 1, lines 9 through 11) by striking out all of section 7 which reads:

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this has been rather thoroughly debated already by the convention. I would move to limit debate to 10 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 10 minutes, all those in favor will say aye. Opposed, no. Debate is limited. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I don't even feel the need to make a speech on this subject because I have talked on it many times already. I would simply urge the delegates to vote in favor of this amendment because the section places an undue and unnecessary restriction on the legislature.

It should be borne in mind that the proponents of this amendment are not advocating a graduated income tax. Indeed, they are not advocating any form of income tax. All they are saying is that the legislature should have full discretion to levy whatever form of income tax it desires to impose. Further, I would like to remind the delegates that there is no other state constitution that has a prohibition of a graduated income tax, and all except 2 of the states that have an income tax have resorted to a graduated rate structure.

It is important for the legislature to have this freedom because, if at any time the legislature should feel compelled to use the income tax as a source of revenue for substantial state tax reform it may be necessary to go to a graduated rate structure to raise sufficient revenues. Also, it is important for the legislature to be able —

VICE PRESIDENT HUTCHINSON: Mr. Austin, will you suspend a moment?

MR. AUSTIN: Yes, thank you.

VICE PRESIDENT HUTCHINSON: The Chair urges the delegates to please maintain a decorum. Many of you have in times past, I am sure, been very critical of legislative bodies and you have probably sat in galleries and been very critical of legislative bodies because they seemed to be paying no attention, and if you were up here in this Chair or if you were out there in that gallery and you saw the whole thing as it can be seen from these 2 points, you would be absolutely amazed at the lack of decorum that exists in this room.

The Chair urges the delegates to respect the decorum of this body. If it is necessary for you to talk with another delegate, quietly go to him and get him out in the hall. Please do not carry on the way that you have been carrying on here. The Chair appreciates that it is convenient and sometimes necessary to carry on and have conferences but, my fellow delegates, if you are interested at all in your public image you will quickly mend your ways.

Mr. Austin, you may continue.

MR. AUSTIN: Thank you, Mr. President, you have been very kind. (applause) I sincerely hope that the decorum is not an indication that the delegates have already made up their minds on this issue and do not care to hear any more speeches on it.

I would simply close my remarks by saying that the people of the state of Michigan called this constitutional convention primarily because they were interested in the fiscal problems of the state of Michigan. The legislature had either shown an unwillingness or an inability to provide sufficient revenues to pay the cost of government. We are not expected in this convention to write a tax program. We are required, however, to provide the framework for the legislature to write or to develop a tax program, particularly a tax reform program. I submit that with this restriction we are making it difficult for the legislature to do the job that the people of Michigan expect it to do and we are rendering a disservice to the people who called this convention by placing this restriction in the constitution. I urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, I have been trying to check the record. I wanted to raise a point of order. It appears to me that this precise matter has been considered once before by the body and that it is, therefore, out of order at this time, but I have not been able to locate the citation that I wanted to make —

MR. AUSTIN: Mr. President.

MR. MARTIN: — however, I —

VICE PRESIDENT HUTCHINSON: Mr. Martin —

MR. AUSTIN: Oh.

VICE PRESIDENT HUTCHINSON: — you raised a point of order?

MR. MARTIN: I do raise a point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Austin, are you speaking on the point of order?

MR. AUSTIN: Yes, I think the reason he has had difficulty finding it is because the matter is not in the record because we have not voted precisely on this question. We have taken up the matter of the graduated income tax before, but the provision or the section that we now have is a separate section of the constitution. Before, the graduated income tax was a part of another section or proposal and, since style and drafting has seen fit to handle it in this way, it is a matter of considering whether this section of the proposed constitution should be stricken, and I submit that it is a different matter now.

VICE PRESIDENT HUTCHINSON: A search of the secretary's records shows that the point of order is not well taken. The particular provision which was sought to be stricken was offered at one time as part of another amendment and was not an amendment all by itself, and so the point will not be sustained and the Chair will recognize Mr. Martin to speak upon the amendment if he desires.

MR. MARTIN: Thank you, Mr. President. The amendment that is before us, while not out of order, is essentially the same amendment that was offered before. The matter was discussed at great length.

The simple fact is that we do now have the most steeply graduated income tax in the world in effect on incomes of people of all levels of income here in the state of Michigan, in the federal income tax. And it seems highly discriminatory — and it can be extremely discriminatory — if we were to enact in Michigan a state income tax with a highly progressive rate. At the rate of increase in state expenditures, there is every reason to believe that if such an income tax were enacted and if this prohibition were not in the constitution it would have a highly progressive rate. This is particularly true because those who have to vote such a highly progressive rate may, in many instances, not have to pay it. It seems undesirable, therefore, that if Michigan is to have an income tax that it have anything other than a flat rate tax with appropriate exemptions at the lowest level for those who cannot be properly taxed because of the low level of their income. I certainly oppose this amendment. I hope the convention will do what it has done before and that is to defeat the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would like to renew the point of order made earlier by Mr. Martin and cite to the Chair Journal 75, page 557. On February 8, of this year, Mr. Austin offered an amendment to Committee Proposal 51, which would have stricken the language which is now the section before us and no other language, and that amendment was defeated 69 to 60.

VICE PRESIDENT HUTCHINSON: What is the page again?

MR. VAN DUSEN: Page 557.

VICE PRESIDENT HUTCHINSON: Was this outside of the committee of the whole?

MR. VAN DUSEN: It has been called to my attention, Mr. President, that the amendment offered then did include one other line, but it seems to me that, nevertheless, the point is well taken.

VICE PRESIDENT HUTCHINSON: Responding to the point of order, the Chair would cite the journal, page 557, where Mr. Austin offered an amendment to Committee Proposal 51, and the amendment that Mr. Austin then proposed was to strike out of page 1, all of lines 21 and 22, and to strike out all of page 2. This, then, was the matter upon which the convention acted at that time:

> Every other tax shall be uniform upon the class or classes on which it operates. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Now, it would seem as though the amendment which the body acted upon before was to strike out not only the reference to the income tax but the first sentence, also, which said, "Every other tax shall be uniform upon the class or classes on which it operates." It would therefore seem that the present amendment is in order. Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, this matter has been thoroughly debated on the merits and I shall not go into those merits at all.

I call your attention again to the fact that for years lawyers, including attorneys general, have differed on whether or not the legislature had the power to levy a graduated income tax. Your committee's first determination was that we should clear the air. We should say yes or no, so that no one would need to guess. The committee's determination was that we should say no and prohibit a graduated income tax. Now, we still have the same attitude. If you think it is wrong to prohibit it, then you should say yes, the legislature may levy a graduated income tax. We should say it one way or the other. It was the judgment of the committee and my personal judgment that we should say no, just as we have done.

VICE PRESIDENT HUTCHINSON: Mr. Jones.

MR. JONES: Mr. President and fellow delegates, it appears to me that a yes vote on this amendment would allow the legislature the opportunity to levy a tax based on the ability to pay. This is the most just form of taxation and I disagree with the comments of those who would claim it is discriminatory. I have yet to see anyone making $20,000 and more that would be willing to trade places with persons making $5,000 or less. It certainly does not tax them out of their financial position.

Also, we have heard several arguments wanting to hold the line on property taxation in terms of the amount of millage which can be levied. Now they have succeeded in writing these restrictions into this constitution. Yet they also say that we need other sources of revenue to operate this state. And now these same people who expressed concern about property taxation also want to turn around and tie the hands of the legislature as to what kind of income tax may be levied in this state. Therefore, ladies and gentlemen, I strongly urge a yes vote on this amendment and let us give the legislature the right to do what would be best in the interests of securing proper revenue for this state.

VICE PRESIDENT HUTCHINSON: Mr. Dean Doty.

MR. DEAN DOTY: Mr. President and members of the convention, it is with a great deal of pleasure that I rise to support this amendment and the members of the minority party who join me in trusting the legislature. I was opposed to this section in committee. I have been opposed to it since. I don't believe it belongs in this document and I would urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, I just wanted to add to what Mr. Jones has said. I believe that those who have the ability to pay should pay. I am thankful to God and this country that I have been able to get more than 2 or 3 or 4 or 5 thousand dollars a year, and I believe that having the ability to pay I should be made to pay to help keep our government going.

Here we are in this convention trying to do everything we can to keep from paying any taxes. We have even gone to the extreme where we even say: well, we don't care what you do; don't tax us. Tax anybody else. And, well, we even go ahead and say: well, you can't even hold a lottery to raise money. For heaven's sake, how are we going to raise money?

VICE PRESIDENT HUTCHINSON: Mr. Young.

MR. YOUNG: Mr. President, I agree with Mr. Brake that this issue has been well thrashed out on this floor and it is not necessary to add much to the argumentation. I would only like to point out, however, that the position taken so far by this convention on this basic issue of graduated income tax is but another example of the very sizeable tendency in this convention to turn the clock backward. Now the issue of graduated income tax was settled in 1913 —

VICE PRESIDENT HUTCHINSON: Time has expired for debate.

MR. BRAKE: May we have the yeas and nays, Mr. President?

VICE PRESIDENT HUTCHINSON: The demand for the yeas and nays is made by Mr. Brake. Is the demand supported?

SECRETARY CHASE: A sufficient number up.

VICE PRESIDENT HUTCHINSON: A sufficient number up.

MR. AUSTIN: Mr. President; Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: How many additional speakers do you have on this subject?

VICE PRESIDENT HUTCHINSON: The Chair has only 2.

MR. AUSTIN: Well, Mr. President, may I move that we extend the debate 4 minutes to allow each speaker 2 minutes?

VICE PRESIDENT HUTCHINSON: Mr. Austin moves to extend debate upon this amendment 4 minutes. All those in favor will say aye. Opposed, no. The Chair is in doubt.

MR. AUSTIN: Division, Mr. President.

VICE PRESIDENT HUTCHINSON: Division is called for. All those in favor of extending debate will vote aye. Those opposed will vote no. Have you all voted? This is a division vote only. The secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to extend the debate for 4 minutes, the yeas are 85; the nays are 44.

VICE PRESIDENT HUTCHINSON: The motion prevails. The Chair recognizes Mr. Young.

MR. YOUNG: Mr. President, in deference to the fact that there are other speakers, I will shorten my remarks.

As I was indicating, the principle of a graduated income tax was settled in this country in 1913 with the institution of the federal income tax. Now the refusal of the majority in this convention to recognize this basic fact of history is an indication of nineteenth century thinking applied to twentieth century fiscal problems, and to continue arbitrary restrictions in this constitution against a much needed tax revision is another indication of the unwillingness of this convention to face the problems of the twentieth century.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, I am strongly opposed to this amendment. An income tax at the federal level, as far as I am concerned, is all right, but I do feel that the federal government has preempted this area of taxation just in the same way that the local units of government have preempted the area of property taxation. Imagine what would happen if the federal government, if the state government, if the county government, and if the local units of government all imposed graduated income taxes. The total tax might add up to more than 100 per cent.

Now I have stood up here before and said this and I will say it again: I am for the little people, but the little people don't need just welfare. That is the second best substitute, as far as I am concerned. What we need in this state is employment, full employment, and the way to achieve that is to create an economic climate in this state which will induce businessmen to come into this state, and by the kind of provision which we have, up until this time, put into our draft we are going to encourage businessmen to have confidence in the fiscal stability and the taxation of the state of Michigan. I certainly think that this amendment ought to be resoundingly defeated.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I wanted to respond to the remarks of Mr. Martin and now Mr. King, also. I would like to remind them that the performance of the legislature should indicate to them that they can trust the legislature on matters of income taxation. The legislature has shown a reluctance to levy any kind of an income tax, and I have a feeling that they would have some fear to graduate the structure even if they had the freedom to do so. What we are arguing is that they ought to have that freedom.

Now, in direct response to the remarks of Mr. Martin and Mr. King about the graduated structure of the federal income tax, it should be borne in mind that a state income tax is deductible from income in arriving at the federal income tax liability and the fact that we do have a graduated structure at the federal level is one of the reasons for the state to adopt a graduated rate structure. It is one of the ways of preventing Michigan taxpayers from contributing disproportionately to federal projects. I would also like to point out, for the benefit of Mr. King, that the states of California and New York are traditional income tax states and I do not believe that the income tax has deterred industrial growth in those states. I urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Goebel.

MR. GOEBEL: Mr. President and fellow delegates, I completely agree with the facts as laid down by Mr. Martin that we already have a very highly graduated federal income tax and we should not have one at the state level. And I also agree with Mr. King that we need to do everything that we possibly can to encourage industry to come into this state and, regardless of the arguments that may be given in favor of a graduated tax, I am afraid if we do have a graduated income tax the results are not going to be what we expect. I urge a no vote against this amendment.

VICE PRESIDENT HUTCHINSON: Time for debate has expired on this amendment. Mr. Mahinske.

MR. MAHINSKE: Do you have other speakers on the list, Mr. President?

VICE PRESIDENT HUTCHINSON: The yeas and nays have been ordered on this. Why, yes; at the moment there are 3 more. You know they keep growing as time goes on.

MR. MAHINSKE: Well, I would like to limit debate for an additional 6 minutes to these 3, allotting 2 minutes to each speaker, and I so move.

DELEGATES: No. No.

VICE PRESIDENT HUTCHINSON: Well, that's not a debatable motion. The Chair will put it.

MR. MAHINSKE: Mr. President, a preferential motion.

VICE PRESIDENT HUTCHINSON: What's the preferential motion?

MR. MAHINSKE: I move the previous question.

VICE PRESIDENT HUTCHINSON: Well, that's not preferential.

The question is upon the motion of Mr. Mahinske to extend debate upon this amendment 6 more minutes. All those in favor will say aye. Opposed, no.

That motion doesn't prevail.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall, for what purpose do you rise?

MR. MARSHALL: I don't know why we should be so arrogant about this. I think we ought to discuss it. It is a very important issue as it affects the people of this state. I move that we extend debate for 4 minutes and allocate it equally among the remaining speakers, unless you just want to cram this down without hearing what some of the other speakers have to say.

VICE PRESIDENT HUTCHINSON: Mr. Marshall moves to extend debate 4 minutes. All those in favor will say aye. All those opposed will say no.

That motion doesn't prevail. The question is upon the adoption of the amendment offered by Messrs. Austin, Lesinski, Marshall, Binkowski, and others, which has been read. The yeas and nays have been ordered. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—52

Andrus, Miss
Austin
Baginski
Barthwell
Bentley
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Doty, Dean
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatch
Hatcher, Mrs.
Hodges
Howes
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Ostrow
Pellow
Perlich
Pollock
Rajkovich
Sablich
Snyder
Stamm
Sterrett
Stopczynski
Suzore
Tubbs
Walker
Wilkowski
Youngblood

Nays—82

Allen
Balcer
Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Gust
Habermehl
Hannah, J. A.
Haskill
Heideman
Higgs
Hoxie
Hubbs
Iverson
Judd, Mrs.
Powell
Prettie
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Seyferth
Shackleton

Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Page
Perras
Plank
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden

SECRETARY CHASE: On the amendment of Mr. Austin and others to strike out section 7, the yeas are 52; the nays are 82.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Messrs. Brake, Austin, Van Dusen, Faxon, Goebel, Nord and Mrs. Cushman offer the following amendment:

1. Amend article IX, section 4 (column 1, line 55) after "Sec. 4.", by striking out the balance of the section and inserting "Property owned and occupied by a non-profit religious organization and used exclusively for religious purposes, as defined by law, shall be exempt from real and personal property taxes.".

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, as I have said before, I think that this exemption has no place in the constitution at all. It is a statutory exemption now and, so far as anybody has indicated, will always remain as a statutory exemption. But if we are to keep it, we think it ought to be put in a little better shape than it is now.

This proposed amendment, as you note, leaves out the charitable organizations and the burial grounds part of section 4. The term "religious purposes" is a pretty well defined term not susceptible to 2 different interpretations. When you get to the term "charitable" or "charitable organizations," you have an entirely different situation. It is not a term that is well defined and I think everybody knows the problem that goes along in the way of pseudo organizations, chiselers who claim to be charitable, who actually are not, and anybody who reads the Detroit papers and has for 20 or 30 years knows of the constant charges that are made in connection with chiseling in connection with burial grounds.

Now this does not in any way take those exemptions out of the statutes. They will remain just as they are. But it does not give them constitutional status. So that if the legislature from time to time finds ways in which it can eliminate the chiseling and the abuses in connection with them, it can do so. If we freeze it into the constitution, the legislature will not have that opportunity. We think as a minimum this amendment ought to be adopted so as to cut down the problems that exist in connection with charitable organizations and burial grounds.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, this particular provision, as you are aware, has had a somewhat long and stormy history before this particular body. I wish to state that I was one of the original signers of the original provision when it was introduced on general orders, and I have continued to support this particular provision as it is now written.

Now, the present amendment offered by Mr. Brake and others recognizes, apparently, the principle which is embodied in the instant provision. It is now argued that we should limit this to religious institutions, religious organizations. I submit that if we take out educational and charitable, we will be spending the rest of our time telling the school people — and I talk specifically, now, about the small, private schools — why we, in effect, discriminated against them.

Now you have written this in here; rightly or wrongly, it is now in and I submit that if you adopt the present amendment you will, in effect, be emasculating the section, and this is but a beginning to strike the entire section. If that is what they want to do, then I think we should argue it on those merits. To go to work on it piecemeal and to chop it inch by inch, I do not think is a wise course for this particular convention to take.

Now we have read recently concerning what this might or might not do and there was distributed to you an opinion written by one of our codirectors of research and an associate dean of the University of Michigan law school. I think that this will answer any and all of the arguments which were made by Mr. Lock in the letter which all of us got. It leaves it in the hands of the legislature to define what these particular institutions are and, also, to define property and all of the other items which precede the words, "as defined by law." This is the intent of the provision.

Now, it will be argued that if this is true then why do we have it. Well, I refer you to that eminent car salesman from Allegan, Mr. Farnsworth. When we were discussing the justices of the peace and we had the provisions relative to the lower courts, he said, "This is a good selling point." And I submit that this particular provision is "a good selling point." It is simply an enunciation of a principle and it is something which, if Mr. Farnsworth can take back the idea of lower courts, there are others of us who can take this particular provision back and use it as a "selling point." You have written it into the constitution. If you pull it out at this late date, I think that there may be wrong interpretations as to the particular motives of this convention.

As I stated before, I was one of the original sponsors of the amendment. I haven't been pressured. I was on before the mail started to come. I supported the original provision. I supported it as it is now written. I think it is well written. I think the legal worries have been answered. I think, as many of you have stated and know of your own knowledge, that this particular provision has met with general approval in many, many areas of this state. And to take it out at this particular time, in my opinion, would be a mistake. Leave it alone. Leave it the way it is written. I urge the rejection of the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, I subscribe to the eloquent remarks of Mr. Danhof. He leaves very little to be said against this amendment. I think he has destroyed the amendment. I would only suggest 2 items which he has not touched upon: if we adopt this amendment and take out of the constitution what we have carefully put in, we are, in effect, saying that the many legitimate charitable groups of this state which have no religious connections at all but are sponsored, many of them, by fraternal groups and veterans' groups are not entitled to tax exemptions which they have had for years. Granted that it is in the statutes and granted that the legislature is unlikely to act, we are by indirection saying: you need no longer act in this area because the constitutional convention doesn't think that charitable institutions are entitled to this. The same arguments can be used as to the burial grounds.

The language which we have used in the tax exemption clause of the constitution is much more limited than the present exemptions by statutes. There were practical reasons why cemeteries have traditionally been granted tax exemption. The courts have pointed this out. Suppose they were not tax exempt and they failed to pay their taxes and the governmental unit foreclosed the lien. What does it do with the burial ground after it has acquired it? I think all of us have enough respect for the dead to recognize that we cannot desecrate burial grounds and yet this is the only alternative left to them: sell it, or operate it as a cemetery. This is exactly why cemeteries are now tax exempt, and they are tax exempt today without regard as to whether they are profit or nonprofit institutions — an exemption considerably beyond what we are suggesting.

Mr. Brake has suggested that this is statutory, that the legislature would not move, and I don't quarrel with him. But there are tens of thousands of people in this state who do not recognize this fact and to them we have granted protection for an historical principle in which they believe very highly. Yesterday, many of us here urged that we rewrite into the constitution a declaration that married women were no longer subject to the disabilities of common law, not because we thought the legislature would ever reinstitute these but because of the historical precedent and the advance of man which was recognized in that declaration. To many people this principle is exactly the same. It is not a question of fearing that the legislature would ever remove these, in the minds of most of us, but it is an assertion to the people of this state that a time honored principle of tax exemption for charity, for education, for cemeteries, for churches, will be maintained in the state of Michigan as long as this constitution is here. I submit that the amendment should be defeated.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I ask how many speakers now seek recognition?

VICE PRESIDENT HUTCHINSON: At the moment there are 7.

MR. VAN DUSEN: I would move that further debate, Mr. President, on this amendment be limited to 15 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 15 minutes —

MR. DOWNS: Preferential motion.

VICE PRESIDENT HUTCHINSON: What is it?

MR. DOWNS: That the time be as equally divided as possible. I believe I am seventh and want to have a chance to speak.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate and Mr. Downs moves that the Chair be directed to divide the time equally among the speakers.

MR. VAN DUSEN: I have no objection to Mr. Downs' revision and accept it.

VICE PRESIDENT HUTCHINSON: On the question of limiting debate with that condition, all those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Austin for 2 minutes.

MR. AUSTIN: Mr. President and fellow delegates, I think that Mr. Van Dusen knew my name was coming up and that is why he moved to limit debate. I also feel that Mr. Downs had me in mind when he suggested 2 minutes to each speaker, because this happens to be one of my favorite subjects.

I do believe that it would be appropriate to have in the constitution the provision that we have here, although I would rather see the constitution silent on the whole question. In that way the legislature would have complete freedom to do just what we have indicated in section 3 of article IX, which states that "the legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law," giving the legislature the freedom to exempt whatever property it feels ought to be exempted. The amendment that we have before us should be adopted because the provision that we now have in the constitution does open the door for abuses and Mr. Clarence Lock, who is the commissioner of the department of revenue, has made that point very clear. The provision may also prohibit the right of local governments to levy service charges to charitable institutions and the provision may also permit some discrimination against taxpayers who, by indirection, will be subsidizing some of these charitable institutions. I submit that the amendment does not discriminate against charitable organizations and it would be certainly appropriate if we were to delete all reference to exemption of these organizations —

VICE PRESIDENT HUTCHINSON: The time of the gentleman has expired.

MR. AUSTIN: Thank you, Mr. President.

MR. DOWNS: Mr. President, I have a preferential motion. I move that Mr. Austin, as a sponsor of this, be given time equal to that Mr. Danhof had who spoke against it beyond the present what is it? — 10 minute limitation.

MR. VAN DUSEN: I would simply move that Mr. Austin be permitted to complete his remarks, Mr. President.

MR. AUSTIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Is there objection? No objection. Proceed.

MR. AUSTIN: Out of deference to the other speakers. Mr. President, I will conclude my remarks and leave it to the other speakers. Thank you very much, Mr. Downs.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I wish to assure the other speakers I was not trying to limit their time and, as usual, voted against the motion to limit the debate but did want to get some equity of the time that was allocated.

I rise to support section 4 as it is and in opposition to the amendment. I feel that this is a case where there is not as much difference among the delegates as appears on the surface because we now have "as defined by law" in section 4, which, I believe, was Delegate Higgs' contribution. I think the term "as defined by law" can prevent the abuse of this that came up in the earlier discussion, particularly when it comes to the definition of what is charitable and educational and other related matters.

Rather than use the rest of my 2 minutes, I would like to ask if the secretary would read the memorandum prepared by Mr. Joiner which, I believe, gives a legal explanation that should satisfy those delegates who are worried. Could I ask the secretary to read that, please?

SECRETARY CHASE: Mr. Joiner has submitted the following memorandum to Messrs. Danhof and DeVries:

> I have been asked by Messrs. Danhof and DeVries to express my opinion on the effect of article IX, section 4, which reads as follows:
>
> > Property held by a non-profit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.
>
> I have read this provision as leaving in the hands of the legislature the power to define and control, in any way it deems proper, non-profit corporations, associations or legal entities and to define in any way the terms "religious, educational, charitable, or burial grounds purposes" as used in this proposal.
>
> With this power to define and control each of these matters, the legislature is given the power to deal with exemptions from property taxation.
>
> Charles W. Joiner.

MR. DOWNS: Mr. President, my construction is that the language in section 4 as it now stands states an intent, and the memorandum from Dr. Joiner indicates a reasonable application.

VICE PRESIDENT HUTCHINSON: The time of the gentleman has expired. The Chair recognizes Mr. Faxon for 2 minutes.

MR. FAXON: Mr. President and fellow delegates, I am certain we all have a great deal of respect for Dr. Joiner's opinion but I don't think it is necessary at this late date in the constitutional convention to indicate that there have been many opinions on many sections over which there has been controversy and, although Dr. Joiner's opinion is his own opinion, I am certain that the fact that we have received information that has been interpreted differently, the fact that other members of this convention have spoken with regard to different interpretations, clearly indicates that this is not understood equally by everyone to be exactly what he says it is. Now I would, first of all, then, say that the Joiner opinion is just the Joiner opinion, and that there are still certain legitimate grounds for us to question the need for the inclusion in the constitution of some of these areas of exemption which have already been provided for by statute.

To those delegates who have stood up here and said that this would make it impossible for the legislature to exempt other groups such as those for charitable, educational and burial ground purposes, I would only call to your attention the first sentence of section 3 of article IX which states, "The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law." I think it is quite clear that the legislature will be free in the future to provide for exemptions of property as they have done so in the past.

I furthermore offer to you that the experience here in the state of Michigan has not been one to make us believe that we have need to fear the legislature transgressing this power that they have had for all these years and that the need for the inclusion of this particular section in the constitution, the one that is under consideration, section 4, is not clearly necessary in light of our experience in Michigan. Certainly, perhaps, other states may have acted differently. But I ask you now whether any efforts have been made in the state of Michigan to change the law so that there appears to be a serious threat —

VICE PRESIDENT HUTCHINSON: The time of the gentleman has expired. Mr. Binkowski, for 2 minutes.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, I rise to oppose this amendment. I believe that we have a competent legal interpretation and I think it is incumbent upon every one of us here to evalute that interpretation. Of course, to those many of us here who are lawyers, you either agree or disagree. But it has never been the intent of the sponsors of section 4, as it is presently in the proposed document, to take away any of the existing powers of the legislature or to change any of the existing statutes but, more important, to retain in the hands of the legislature the power to change the definitions and the power to change the legislation so that if there are abuses, they may be corrected.

Now, the so called abuses which Commissioner Lock alluded to in his letter: while they do exist, they are completely within the power of the legislature to change. Any problem with respect to burial grounds can be changed by existing legislation. Moreover, it is incumbent upon the legislature to provide the proper amount of funds to police and enforce the existing legislation, particularly with respect to nonprofit corporations. So I submit that we are not changing anything; but that we are, however, placing into the constitution a well established principle, and this is the thing that we are definitely interested in.

Now, with respect to Mr. Faxon's point: it is true that we may not have had a history here in Michigan of any attempt to change these exemptions. However, when we look to the state of California, we have a definite example of a move to remove these exemptions. No one in this convention knows what will happen in the next 50 to 75 years and if we are going to be writing a document for that period of time, I submit to you that it is important, if you feel as I do, that the religious, educational, charitable and burial grounds purposes should have these exemptions and, therefore, I am opposed to this amendment.

VICE PRESIDENT HUTCHINSON: The time of the gentleman has expired. Mr. Goebel.

MR. GOEBEL: Mr. President and fellow delegates, I agree completely with Delegate Brake when he said this whole area of exemptions should be removed from the constitution entirely. I want you to know that the finance and taxation committee held many hearings on this, gave it very thorough study and ruled against including the exemptions in the constitution.

Now the matter of exemptions covers a wide area, much wider than those areas mentioned in the present section 4. This matter of exemptions is a very involved issue. And to my mind, in spite of what has been said, the present section 4, or proposed section 4, is something more than merely a declaratory statement. And I feel if it is left as it is it may present obstacles to the legislature to provide for exemptions which are in order. To my mind these problems of exemptions should be handled by the legislature. No one opposes legislation for legitimate exemptions and least of all, I am sure, the legislators. That has been true over a long period of time in the past, and I am sure it will prevail in the future. Personally, I would like to strike the whole section, but in lieu of that I urge to you delegates the approval of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: No.

VICE PRESIDENT HUTCHINSON: Mr. Leppien.

MR. LEPPIEN: Mr. President and fellow delegates, we have heard on this floor this morning statement after statement that it shouldn't be in the constitution because it is legislative. Well, there are many things in this constitution that we are drafting that are legislative that have been insisted be put in there by the very people who make these statements.

There have been statements made that this is entirely up to the legislature and should be left there and that no attempts have even been made to change the existing exemptions on these institutions that have been covered by this section that we have under discussion. I respectfully point out to you that in most every session of the legislature there has been some attempt made by some group to change these exemptions. Now, if we are going to guarantee the things that we want to guarantee to all of the people of this great state by this new constitution and have it adopted, I urge the retention of the section as it stands in the present language and defeat of the amendment before us. Thank you.

VICE PRESIDENT HUTCHINSON: Miss McGowan.

MISS McGOWAN: Mr. President and fellow delegates, I rise in opposition to this amendment and ask you to vote for section 4. Actually, all section 4 does is give reassurance to religious, charitable and educational institutions in our state, and I feel we owe this to the people of the state of Michigan. I would ask you to vote against this amendment and to vote for the provision as it now stands. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Millard.

MR. MILLARD: I want to say that the committee on legislative powers had this problem before it in the first instance, and we heard testimony from various people and looked up the statutes. There are 4 or 5 pages of tax exemptions in our statutes covering all sorts of exemptions, and you are going to put in only 4. There are 4 pages that should be in instead of just the 4 institutions mentioned. We determined that the legislature had taken charge of this, had fully covered the field, and we did not go any further with it. Then it was transferred over to finance and taxation and you have heard the report from Mr. Goebel. I urge you to adopt this amendment for this is the — I would rather see the whole thing out — but this is the lesser of 2 evils.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment.

MR. FAXON: Yeas and nays, please, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Faxon demands the yeas and nays. Is the demand for the yeas and nays supported? A sufficient number up. The demand is supported. The yeas and nays are ordered. The question is upon the adoption of the amendment offered by Messrs. Brake, Austin, Van Dusen, Faxon, Goebel, Nord and Mrs. Cushman, which has been read. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine.

[The roll was called and the delegates voted. There apparently being an error, this vote later was vacated and the recorded roll call did not become a part of the record.]

SECRETARY CHASE: On the adoption of the amendment, the yeas are 69; the nays are 69.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. (laughter and applause) Let us check the totals. The secretary will check the totals and will examine the matter further.

SECRETARY CHASE: Will you bear with us a moment, please?

VICE PRESIDENT HUTCHINSON: Mr. Lesinski, did you try to vote? Did you try to vote on the voting machine?

MR. LESINSKI: Yes, I had voted no on the voting machine before it was closed and it did not register.

SECRETARY CHASE: That seems to be the vote.

MR. LESINSKI: My vote is no.

SECRETARY CHASE: The difficulty seems to be, Mr. Lesinski, that the machine recorded your vote but the light did not register, and what the machine recorded was the totals, and the addition of the nay votes, as we total them in the columns here, adds up to 68. The yeas are 69; the nays are 68.

MR. BINKOWSKI: Mr. President, may I suggest another vote on this matter, in view of the confusion?

VICE PRESIDENT HUTCHINSON: It could be brought about only by unanimous consent.

MR. FARNSWORTH: Mr. President, I ask unanimous consent.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth asks unanimous consent that the vote on this question be vacated and that a new vote be taken. Is there objection?

MR. FAXON: I object.

VICE PRESIDENT HUTCHINSON: Objection is heard.

MR. MAHINSKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: How are we to be sure that we have an accurate vote now?

VICE PRESIDENT HUTCHINSON: The secretary's records are the records of the convention.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: In view of the confusion, I move that we vacate the vote so that we can take another one and make it clear.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Van Dusen to vacate the vote on this amendment.

MR. FAXON: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Faxon.

MR. FAXON: Has the secretary officially announced the vote, then, to be 69 to 68?

VICE PRESIDENT HUTCHINSON: He has.

MR. FAXON: That's all.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that the vote be vacated. All those in favor —

MR. HOXIE: Division.

VICE PRESIDENT HUTCHINSON: — and a division on that has been demanded. Will the delegates please clear the board?

MR. BARTHWELL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Barthwell.

MR. BARTHWELL: I would like to find out how many votes, now, will be necessary for us to vacate this vote?

VICE PRESIDENT HUTCHINSON: A majority of those voting.

MR. BARTHWELL: Thank you.

VICE PRESIDENT HUTCHINSON: Will the delegates please clear the board? Father Dade? Mrs. Conklin? Mr. Bledsoe? Is the demand for a division vote supported? The demand is supported. The question is upon the motion of Mr. Van Dusen to vacate the vote on the Brake, Austin, Van Dusen amendment. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion, the yeas are 93; the nays are 42.

VICE PRESIDENT HUTCHINSON: The motion prevails. The question is upon the amendment offered by Messrs. Brake, Austin, Van Dusen, Faxon —

MR. A. G. ELLIOTT: Mr. President

VICE PRESIDENT HUTCHINSON: Mr. Elliott.

MR. A. G. ELLIOTT: I just wanted to announce my intention to abstain. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Elliott abstains. Will the delegates please clear the board? The yeas and nays on this amendment have been ordered. Will the delegates please clear the board? The question is upon the adoption of the amendment offered by Messrs. Brake, Austin, Van Dusen, Faxon, Goebel, Nord and Mrs. Cushman, which has been read. All of those in favor of the amendment will vote aye. Those opposed will vote no. The Chair will caution the delegates that because of the apparent closeness of the vote all the delegates are requested to vote at their voting stations, if possible, before the machine is locked. Has everyone voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—70

Andrus, Miss
Austin
Barthwell
Batchelor
Blandford
Bledsoe
Boothby
Bradley
Brake
Brown, T. S.

Gadola
Garvin
Goebel
Gover
Habermehl
Hanna, W. F.
Haskill
Hatch
Hatcher, Mrs.
Hutchinson

Nord
Ostrow
Page
Pellow
Plank
Powell
Prettie
Pugsley
Radka
Richards, J. B.

Cushman, Mrs.
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, Mrs. Daisy
Faxon
Figy
Finch
Follo
Ford

Jones
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Lawrence
Martin
McAllister
Millard
Mosier
Murphy
Nisbet

Rood
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Tubbs
Upton
Van Dusen
Wanger
Wood
Yeager
Young

Nays—68

Allen
Anspach
Baginski
Balcer
Beaman
Bentley
Binkowski
Bonisteel
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dade
Danhof
DeVries
Downs
Erickson
Everett
Farnsworth
Gust
Hannah, J. A.
Hart, Miss

Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Iverson
Kelsey
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Perlich
Perras
Pollock

Rajkovich
Richards, L. W.
Romney
Sablich
Seyferth
Shackleton
Shaffer
Snyder
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Walker
White
Wilkowski
Woolfenden
Youngblood

SECRETARY CHASE: On the adoption of the amendment, the yeas are 70; the nays are 68.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The Chair recognizes the delegate from Eaton, Mr. Dean Doty, for the purpose of making a motion to recess. (laughter)

MR. DEAN DOTY: Mr. President, I move we recess until 2:00 o'clock. (laughter)

VICE PRESIDENT HUTCHINSON: Pending the placing of the motion to recess, there are some announcements.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I would like the members of the committee on rules and resolutions to meet immediately in room F very briefly. The meeting will only take about 5 minutes.

SECRETARY CHASE: We have the following announcements, please:

Will the delegates please check for the handbook which has been circulated for signatures? Mr. Harold Stevens' name is stamped on it with a rubber stamp. He would like it returned.

There will be a Republican caucus at 1:15 sharp in room A. Arthur Iverson announcing.

The committee on style and drafting will meet tomorrow morning at 9:00 o'clock in room G.

The committee on administration will meet in 10 minutes. Walter DeVries, chairman.

The members of the public information committee are asked to meet in committee room C immediately to have their pictures taken. Delegates who are members of the public information committee, please go to room C as quickly as possible.

VICE PRESIDENT HUTCHINSON: Mr. Doty moves that the convention stand in recess until 2:00 p.m. All those in favor will say aye. Opposed, no.

The motion prevails and the convention stands in recess until 2:00 o'clock this afternoon.

[Whereupon, at 12:00 o'clock noon, the convention recessed; and, at 2:00 o'clock p.m. reconvened.]

The convention will be in order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: Without objection, the convention will return to the order of **motions and resolutions.**

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 106, A resolution fixing the specific date by which every registered convention agent must file a final report of expenditures.

Following is Resolution 106 as offered:

Whereas, Substitute for Resolutions 24, 25 and 26, adopted by the convention November 7, 1961, does not prescribe a specific date by which the final expense report of each registered convention agent must be filed; and

Whereas, It now is known when this convention will have completed its work; now therefore be it

Resolved, That the final report and accounting regarding expenditures required of each registered convention agent shall be filed with the president of the convention on or before June 15, 1962.

VICE PRESIDENT HUTCHINSON: Mr. DeVries.

MR. DeVRIES: Mr. President, I move that we suspend the rules for the adoption of this resolution.

VICE PRESIDENT HUTCHINSON: Prior to the action on the motion to suspend, the secretary will read the resolution.

SECRETARY CHASE: Resolution 106 reads:

[The resolution was read by the secretary. For text, see above.]

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. DeVries that the rules be suspended for the immediate consideration of the resolution. Mr. Van Dusen.

MR. VAN DUSEN. Mr. President, I would simply like to state that in view of the fact that it is unlikely that we could have a meeting of the rules committee to consider this and because I agree with the purpose of the resolution, I support Dr. DeVries' motion to suspend the rules for the immediate consideration of the resolution at this time.

VICE PRESIDENT HUTCHINSON: Is there objection to suspension of the rules?

The Chair hears no objection and the rules are suspended. The question is upon the adoption of the resolution. Mr. DeVries.

MR. DeVRIES: Mr. President, the committee on administration unanimously adopted this resolution. What it does is this: under the present rules of the convention, all lobbyists must file their expense accounts by May 15. In view of the fact that we are having an interim to August 1, it would require, under our rules, that they file expense accounts for the interim period. We think this is unreasonable. Therefore, we have changed the reporting date to June 15, at which time they must turn in their total expenses for the convention, but not beyond that point. I move the adoption of the resolution.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. All those in favor will say aye. Opposed, no.

The resolution is adopted.

Without objection, we will return to the order of **reports of standing committees.**

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 105,** A resolution relative to preparation and approval of the address to the people; with 2 amendments, recommending the amendments be agreed to and the resolution as thus amended be adopted.

The following are the amendments recommended by the committee:

1. Amend the second resolving clause after "before" by striking out "July" and inserting "June"; and after "1962" by inserting "and such additional copies as each delegate may reasonably require".
2. Amend the third resolving clause, at the end thereof, after "1962" by changing the period to a semicolon and inserting "and be it further" and by inserting a new resolving clause to read as follows:

"Resolved, That as soon as possible following the May 11 recess, the secretary shall cause to be printed and distributed to each delegate a supplement to the journal including the proposed constitution as adopted on May 11 and the tentative preface to the address to the people as prepared by the committee on public information. Each delegate shall be entitled to receive such additional copies thereof as he may reasonably require.".

R. C. Van Dusen, chairman.

This was offered this morning and referred to the committee on rules and resolutions.

The following is the resolution:

[The resolution was read by the secretary. For text, see above, page 3158.]

The second resolving clause, with the committee amendment, would read:

Resolved, That the committee on public information carefully edit the address, incorporating these recommended revisions, and submit tentative proof copies of the entire address by mail to each delegate at his home address on or before June 20, 1962 and such additional copies as each delegate may reasonably require....

VICE PRESIDENT HUTCHINSON: The question is upon the amendments offered by the committee to the resolution. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would only state with respect to the amendments that we felt it was desirable to have the tentative copies of the address to the people in the hands of the delegates at the earliest possible date and I think June 20 may be as soon as the public information committee could reasonably be expected to accomplish it.

Second, we felt that it would be highly desirable for each delegate, as soon as possible following our recess on Friday of this week, to have available the proposed constitution as we have adopted it to that date, together with the tentative explanatory and prefatory material prepared by the committee on public information. We strongly recommend the adoption of the amendments and of the resolution, as amended.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, in regard to the address to the people, this is an expensive item and I don't know what is meant by "reasonable" as Mr. Van Dusen uses the word. Now "reasonable" to some people means 2, 3, 4 or 5 hundred copies. Now you could understand what expense we could run into. You might say: well, we won't give 2 or 3 hundred copies, but let's not be just nice to some one particular delegate and give them that many. I frankly think that any more than 5 copies at the very most should be paid for. And I vote against using just a "reasonable" number.

VICE PRESIDENT HUTCHINSON: Mr. Madar, do you offer an amendment to the amendment?

MR. MADAR: I will do so, if it is permitted from the floor, Mr. President, that they get no more than 5 copies besides the one that they will get for themselves. They will be entitled to 5 and no more without paying.

MR. VAN DUSEN: Mr. President, the committee on rules and resolutions would urge the rejection of Mr. Madar's amendment. We recognize that some delegates will need more copies than others. We hope the delegates will use reasonable discretion.

You will have on your desks very shortly a memorandum urging you to report to the secretary's office on Friday the number of copies you feel you will reasonably require. As I say, I hope that every delegate will use discretion, but I think that to limit the copies to no more than 5 per delegate would be unwarranted and undesirable. I urge the rejection of Mr. Madar's amendment.

VICE PRESIDENT HUTCHINSON: Mr. Erickson.

MR. ERICKSON: We are talking about the address to the people now, Mr. President?

VICE PRESIDENT HUTCHINSON: You are correct.

MR. ERICKSON: Why, folks, that thing is going to cost us about 30 cents apiece.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: I would like to address a question to Mr. Van Dusen here: when you speak of the address to the people, I assume you are talking about the green copies that we have just received here, the tentative address to the people?

MR. VAN DUSEN: No, Mr. President, Mr. Mahinske, there are 2 things that we have talked about here. First is a journal containing the constitution itself, a journal supplement containing the constitution itself and the prefatory portion of the address to the people, which is purely explanatory comment prepared by the committee on public information and which probably won't run to more than 3 or 4 pages. The other thing that we are talking about is the tentative copy of the entire address to the people, which would be in far more final form than the copies you were furnished yesterday. They would not be expected to be available until approximately the middle of June, after the committee on public information has had ample opportunity to edit, to condense, to proofread, and so forth.

MR. MAHINSKE: Then I would like to direct another question: this would not be the official address to the people; this would still have to be voted on on August 1?

MR. VAN DUSEN: Mr. President, Mr. Mahinske, that is entirely correct. It would clearly state, "tentative proof copy." The final address to the people cannot be adopted until the August 1 session because we may adopt amendments to the constitution at that August 1 session, although I hope not.

MR. MAHINSKE: Well, I would like to point out at this time that, seeing that this would be a tentative address to the people and would be subject to vote on August 1, would be subject to amendment, and the constitution itself may be subject to amendment August 1 at our final meeting, I think that we should set an upper limit on these things because they just may not be the official that we will use.

I think that maybe 5 is too low, but I cannot conceive of anybody needing more than, possibly, 10 or 15 of these items if we are talking about using them for our own personal use to act on when we come back August 1. I would be in favor of limiting an upper number of these items.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, I think this amendment is most ill advised. If we could hold everything under wraps until August 1 when we came back and there would be no publicity in the paper and no interest on the part of the public about what we had done, then I think the Madar amendment would have some merit. But we know that that is not the case and we know that there are going to be many news publications, including a couple of prominent trade journals which might be mentioned, which are going to take a very great and extensive and perhaps a very pointed interest in what has been accomplished.

I want to be in a position in my district to show the people, the key people who have an intelligent interest in this subject — and there are many of them — exactly what we have done, even though it is tentative, because we know that this tentative draft in all probability and for all practical purposes is going to be substantially the final draft.

VICE PRESIDENT HUTCHINSON: The secretary will report the amendment offered by Mr. Madar.

SECRETARY CHASE: Mr. —

MR. MADAR: Go ahead. Are you going to just read it?

VICE PRESIDENT HUTCHINSON: Yes.

MR. MADAR: If he is just going to read the amendment, I still want to speak on it. I believe I am entitled to as the maker of the amendment.

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend the amendment, by striking out "and such additional copies as each delegate may reasonably require" and inserting "not to exceed 5 copies"; with the same amendment to the last resolving clause.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, I hope that you don't get the wrong impression here. We discussed this at great length last evening. And if I recall what Mr. Kirvan mentioned last evening, there has already been one request for 500 copies; one request, from one person. Now just imagine the cost of this when this — when this reprint of the 1908 report of the address to the people costs 30 cents.

Now, if you can imagine what this is going to cost when we get it ready — and I don't mind, I could see even going to 10 copies, but, good heavens, let's be reasonable. Here we are talking about what a state financially this state is in and yet we would be willing to throw away an awful lot of money — and it is throwing it away because if anyone is interested enough to want these copies, is it asking them too much to pay for them? I don't think it is. And I think you ought to think of your constituents in just that way. Here we fight about taxes. We have been doing it very hard here. Now I feel like you do about it: let's save some money if we can. I don't care if it is only a paltry few dollars, but let's save it. Here it will amount to a terrific amount. We can do much better with that money.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: I wonder if I might ask Mr. Van Dusen a question. When we talk about distributing this document, Mr. Van Dusen, do you mean this typewritten form or this printed — I understood it was the printed form which would be much less bulky, perhaps not more than 10 per cent of this.

MR. VAN DUSEN: Printed in each case, Judge Dehnke.

MR. DEHNKE: All right.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Pardon me, Mr. President. Are we still on the amendment to the —

VICE PRESIDENT HUTCHINSON: We are still on the Madar amendment to the committee amendment.

MR. HODGES: I would seek to be recognized as soon as the amendment is voted upon.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Madar to limit the number of copies to not to exceed 5. Miss Donnelly.

MISS DONNELLY: Mr. President, through the Chair, could I ask a question of either Mr. Van Dusen or Mr. DeVries, if they know the answer?

VICE PRESIDENT HUTCHINSON: You may proceed.

MISS DONNELLY: The question would be: how much money are we talking about? How much will each one of these cost — if you know?

MR. VAN DUSEN: The answer, Miss Donnelly, is that I do not know, and I don't think anybody knows because we don't know how long the tentative address to the people will be. Let me comment that there is a distinct difference between the tentative address to the people — which will be a fairly lengthy document — and the supplement to the journal, which will simply contain the constitution and the prefatory material, which will be a fairly slim document as we are all well aware because we have it substantially on our desks at the moment.

I don't know the cost but I would ask, Mr. President, if I am in order at this time, to have Mr. Madar's amendment divided so that we can vote separately on the limitation with respect to the tentative copies of the address to the people and on the limitation with respect to the journal containing the new constitution.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, I have no objection to a division of this question because I am not talking about both of them. I am just talking about the address to the people. This is what is going to cost an enormous amount of money —

MR. VAN DUSEN: Mr. President, in that —

MR. MADAR: — and this is a tentative draft of the address.

MR. VAN DUSEN: — In that event might I suggest that the secretary has perhaps misinterpreted Mr. Madar's amendment, because I understood when it was read that Mr. Madar had intended to limit the delegates to 5 copies of the journal supplement as well as 5 copies of the address to the people. I take it he does not intend any limitation with respect to the journal supplement.

MR. MADAR: Let's get this straight. When you say "journal supplement" do you mean this complete book? Is it going to be this much in the journal?

MR. VAN DUSEN: No, no. All I am talking about is substantially what we have before us now, the third reading constitution, with about 2 or 3 pages of additional explanatory material.

MR. MADAR: That part of it is fine, but when we send this out, though, Mr. Van Dusen, this is what I am worried about — and you did include this to begin with when you said a "reasonable" number.

MR. VAN DUSEN: That's correct; that's correct.

VICE PRESIDENT HUTCHINSON: Mr. Madar's amendment is revised now to apply only to the —

MR. MADAR: Tentative draft of the —

VICE PRESIDENT HUTCHINSON: — tentative draft of the address to the people.

MR. MADAR: Yes.

MR. WANGER: Point of information, Mr. President.

VICE PRESIDENT HUTCHINSON: State it.

MR. WANGER: How many copies does Mr. Madar want to set as a maximum?

VICE PRESIDENT HUTCHINSON: Five.

MR. MADAR: I didn't get that, Mr. President. What was that?

VICE PRESIDENT HUTCHINSON: The Chair answered it for you. Five.

MR. MADAR: Five.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I have a preferential motion.

VICE PRESIDENT HUTCHINSON: State it.

MR. DOWNS: I move consideration of this resolution be postponed until Friday. The reason for this motion is that, apparently, there is a certain amount of confusion. Perhaps if the delegates have the opportunity to read and study the material as amended, there can be further discussion and perhaps agreement and save the time of the convention. I urge the adoption of the motion.

VICE PRESIDENT HUTCHINSON: Mr. Downs moves to postpone further consideration of this resolution until Friday. Mr. Wanger.

MR. WANGER: I would like to ask a question of Mr. Van Dusen with respect to this motion to postpone. Isn't there going to be a need for the secretary's office and for the information office to plan, and if we postpone this to Friday will it not be very difficult for them to make the necessary plans?

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, in response to Mr. Wanger's inquiry, I do think it would be desirable for the convention to act. The debate is now fresh in our minds. I think the issue is fairly clearly drawn. Mr. Madar, as I understand it, wants to limit each delegate to no more than 5 copies of the tentative address to the people unless the delegate is prepared to pay for additional copies. Is that correct, Mr. Madar?

MR. MADAR: That's correct.

MR. VAN DUSEN: I have no serious objection to that as long as it is clear that additional copies might be available if the delegates wanted to pay for them at cost. I would be willing to accept that amendment if the delegates so desire, and I think we can proceed to act.

MR. BRADLEY: Mr. President.

VICE PRESIDENT HUTCHINSON: The question is upon the motion made by Mr. Downs to postpone.

MR. BRADLEY: Mr. President, over on your right, please.

VICE PRESIDENT HUTCHINSON: Mr. Bradley.

MR. BRADLEY: I have something to say on this motion. I think it is well taken. Obviously, the preface, which has been referred to here to be attached to the draft of the constitution is involved in this resolution as well. This preface I do not believe has yet been written. If it has been written, I submit that this is a draft which may require some consideration by the other portions of the convention. Therefore, I think we do need some time to decide on this point.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to postpone. All those in favor of postponing will say aye. Opposed will say no.

The motion to postpone does not prevail.

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I have an inquiry. May I direct it, through the Chair, to Mr. Van Dusen?

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. DOWNS: As I understand it, Mr. Van Dusen, the material will not be ready but will be in tentative draft form until — I heard you mention this July 20 date and I understood that on August 1 there would be final convention action. Now what will the exact status of this be if the convention has not officially reviewed the tentative draft?

MR. VAN DUSEN: It will be precisely what it is described as, Mr. Downs, a tentative draft prepared by the committee on public information.

MR. DOWNS: I guess that's a pretty definite answer. Thank you.

MR. MADAR: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Now I believe it is understood here from what Mr. Van Dusen says that this will not be an approved copy of a tentative draft. You see, this one going out is a tentative draft. Even though it says "tentative draft" on there, it is going to lead people — a lot of people are going to believe that this is the way it is going in, and for us to get out something like this to a great number of people throughout the state, it is going to be extremely misleading. Now he says it is going to be prepared by the committee on public information. Does he agree that the public information committee must agree on this and must approve it before it will be printed?

MR. VAN DUSEN: Mr. President and Mr. Madar, yes.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Madar to the committee amendment, which the secretary will now read.

MR. FORD: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: I would like to ask a question of Mr. Van Dusen or anyone else on the committee, if he doesn't care to answer. It is my understanding at this point that what we are talking about here is the tentative draft that will be prepared by the committee and forwarded to us approximately 10 days before we are expected to return to a place of assembly to determine whether or not this is to be put out as the address to the people. Now if this is the case, and if the convention is not going to act on it before it is mailed to us, what use do we have for any copies in addition to the copy that we ourselves are going to examine in preparation for voting on this?

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President and Mr. Ford, it was the opinion of the rules committee that the delegates might want to consult with others about the content of the address to the people to be sure that it was clear, understandable, to obtain their suggestions for improvement, if any. In the light of the Madar amendment, to which, as I have said, I have no objection in its present form, I don't think it is unreasonable that each delegate should have up to 5 additional copies, or more if he wishes to pay for them.

MR. FORD: One additional question, if I may. What is our posture when we return here on August 1 if these additional copies are given to newspapers and are printed in newspapers before we come back here and, as a convention, vote on the draft of the address to the people?

MR. VAN DUSEN: Mr. President and Mr. Ford, would you repeat the question? I didn't get the first part of it.

MR. FORD: What is our posture on August 1 when we come here to approve, for the first time as a convention, the draft of the address to the people if these additional copies have, in the meantime, been given to newspapers and have been printed throughout the state as the "tentative draft of the address to the people?" Where does this leave us?

MR. VAN DUSEN: It leaves us in the position to amend it and adopt a final draft, Mr. Ford.

MR. FORD: Well, do you contemplate that the delegates would be at liberty to distribute these additional copies for this purpose?

MR. VAN DUSEN: Mr. President and Mr. Ford, I presume that a delegate would be at liberty to distribute it for whatever purpose the delegate thought desirable.

MR. FORD: Thank you. That being the case, Mr. President, I would like to amend Mr. Madar's amendment to provide that each delegate be provided with a copy of the proposed address to the people in advance of our reconvening on August 1 to adopt that address to the people and that it be clearly labeled as a "tentative address" and that it clearly show on its face that it has not been acted upon by this convention at the time of its distribution.

VICE PRESIDENT HUTCHINSON: Mr. Ford's amendment is not in order, it being an amendment of the third degree. The question is upon the amendment offered by Mr. Madar to the committee amendments. Mr. Wanger.

MR. MADAR: I would be willing to go along with just that, because I am trying to save money. I realize we have one here at the present time and one more tentative copy, I certainly would be willing to go along with that instead of the 5.

VICE PRESIDENT HUTCHINSON: Well, Mr. Madar, in that case the Chair is going to ask you to submit your amendment in writing. It is becoming so confusing that we cannot keep track of it. Are you willing to do that?

MR. WANGER: Mr. President, while Mr. Madar is presenting this modification of his amendment in writing, I would like to speak against it.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: I want to have the people in my district be able to rely upon an accurate and complete tentative copy of this proposed constitution, knowing that it is tentative, rather than having to rely on, say, the AFL-CIO News or any other newspaper which, by its very technical limitations, cannot repeatedly publish the complete text of the address to the people in a convenient and handy form. This is not going to take a large number of copies in the hundreds, certainly, but it is going to take, in each district, a fairly sizeable number to make sure that all of the members of the press and all of the civic leaders who are interested in this subject have access to or have such a copy. They will want such a copy. They should be able to get their hands upon one.

Now, with respect to the expense that has been suggested, it is obvious that this tentative draft is going to be practically the same from a printing standpoint as the final draft. Therefore, when it comes time to print the final draft, it is not going to take a complete, new set of plates, whether they are lithograph plates or printing plates, but will merely take some modification, probably slight, of the existing plates. So we do not have a complete duplication of printing or reproduction or a complete duplication of expenditure, and I think it is important to keep this in mind when we vote, as I hope we will, to defeat the modified Madar amendment.

MR. GUST: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Gust.

MR. GUST: I would like to make a preferential motion. I would like to move the previous question.

VICE PRESIDENT HUTCHINSON: Mr. Gust, on what? On the Madar amendment?

MR. GUST: On the Madar amendment.

VICE PRESIDENT HUTCHINSON: Well, we will have to first have the Madar amendment read.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: May I move to extend debate for 1 minute?

VICE PRESIDENT HUTCHINSON: Mr. Marshall moves to limit debate to 1 minute upon the Madar amendment, which has not yet been read. All those in favor will say aye. Opposed, no.

The motion prevails. It is so limited. The secretary will first read the Madar amendment.

SECRETARY CHASE: Mr. Madar, on the suggestion of Mr. Ford, revises his amendment to read as follows:

1. Amend the committee amendment by striking out "and such additional copies as each delegate may reasonably require" and inserting a period and "Delegates shall be given only one tentative copy of the address to the people. Any other copies must be purchased.".

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Well, Mr. President and fellow delegates, I agree with the statements made by Delegate Wanger and I would want him to know that the AFL-CIO members are among the best informed citizens of this state through that medium.

But I agree with the statements that he made. I agree with the statements that he made and I would not want the people in his district to get their information through the AFL-CIO News nor would I want the people in other districts of the state to get this information through the manufacturers association publication, chamber of commerce, citizens research, et cetera (applause) and I agree with the statements made by the delegate —

VICE PRESIDENT HUTCHINSON: Excuse me, Mr. Marshall.

The ladies and gentlemen in the balcony are advised that the decorum of this convention will permit no demonstration at all in the balcony. You are directed not to applaud or to demonstrate in any other way. You may proceed, Mr. Marshall.

MR. MARSHALL: I agree with Delegate Wanger completely and I just hope, Delegate Wanger, that you and your colleagues will run against the issues and not against the AFL-CIO.

VICE PRESIDENT HUTCHINSON: Mr. Yeager.

MR. YEAGER: Mr. President, it seems to me that the talk about economy and saving tax dollars has missed the point. It is my understanding that if the new constitution is adopted by the people of this state that we will save this state some $5 million a year through reforms and changes that we have made within it, and it seems to me that whatever the cost of distributing this so that the people will understand it and —

VICE PRESIDENT HUTCHINSON: Time of debate has expired.

MR. YEAGER: — can adopt it would certainly be money well spent. I oppose the Madar amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Madar.

A DELEGATE: Mr. President.

VICE PRESIDENT HUTCHINSON: Time for debate upon the amendment has expired. All of those in favor of the Madar amendment will say aye. Those opposed, no.

MR. MADAR: Yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Madar demands the yeas and nays upon his amendment. Is the demand supported?

MR. MARSHALL: Point of information, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point?

MR. MARSHALL: I just raise a point of information on the ruling that you just made when you rapped the gavel and proceeded to give a slight lecture to some of the people in the gallery. I know on other occasions that there have been many times that not only the gallery but the delegates in this convention applauded and this is the first time that I know of that type of a reprimand happening.

VICE PRESIDENT HUTCHINSON: That is all right. The Chair will continue to reprimand because that is in connection with the rules of this convention. The demand for the yeas and nays has been made. Is the demand supported?

SECRETARY CHASE: A sufficient number up.

VICE PRESIDENT HUTCHINSON: A sufficient number up. The yeas and nays are ordered. The question is upon the revised Madar amendment to the committee amendment. All of those in favor will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—41

Austin
Balcer
Barthwell
Bledsoe
Bradley
Buback
Downs
Elliott, Mrs. Daisy
Hatcher, Mrs.
Hodges
Hoxie
Jones
Leibrand
Leppien
Lesinski
Madar
Perlich
Powell
Richards, J. B.
Sablich
Snyder
Staiger
Stopczynski
Suzore

Faxon
Ford
Garvin
Greene
Hart, Miss
Hatch
Marshall
McCauley
McGowan, Miss
Nord
Ostrow
Pellow
Walker
Wilkowski
Woolfenden
Young
Youngblood

Nays—78

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Cudlip
Danhof
Dell
DeVries
Donnelly, Miss
Douglas
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Higgs
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Koeze, Mrs.
Krolikowski
Kuhn
Mahinske
Martin
McAllister
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Romney
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Madar, the yeas are 41; the nays are 78.

VICE PRESIDENT HUTCHINSON: The amendment to the amendment is not adopted. The question is upon the committee amendments to the resolution, upon which the Chair has a whole list of delegates who are seeking recognition. The Chair will first recognize Mr. Hodges.

MR. HODGES: Mr. President, I will yield to my peerless leader, if that is in order.

VICE PRESIDENT HUTCHINSON: Who's that? (laughter)

MR. HODGES: Mr. Van Dusen; so I had better correct it. Can I still retain the floor and yield to Mr. Downs?

VICE PRESIDENT HUTCHINSON: With unanimous consent you may.

MR. HODGES: I hear no objection. (laughter)

VICE PRESIDENT HUTCHINSON: Do you yield to Mr. Downs?

MR. HODGES: Yes.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Downs.

MR. DOWNS: I wish to ask Delegate Ink White a question.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. DOWNS: I should advise the convention that I did apprise him of the question and I guess this comes as no surprise to either one of us: I wondered if Delegate White could assure the convention that when the title of distribution is used saying "tentative draft" it will be made very clear, in the appropriate form, that this has not been approved by the convention and is for submission to the convention in an unapproved form?

MR. WHITE: This is true, Delegate Downs. It will be in big, black letters, "tentative." (laughter)

MR. DOWNS: Thank you. I was going to ask that it be in equal size type, but your assurance reassures us. Thank you.

MR. HODGES: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: I would like to ask a question of Mr. Van Dusen.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. HODGES: Mr. Van Dusen, is there any provision or would you think that it would be possible, if there is a division in the committee on public information on the question of the address to the people, that provision would be made for a minority report on that address?

MR. VAN DUSEN: Mr. President and Mr. Hodges, I do not think so.

MR. GUST: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hodges has the floor.

MR. GUST: Excuse me.

MR. HODGES: Mr. Van Dusen, would there be any provision at all made that if there was a sizeable objection to the address — if not at the expense of the convention at the expense of those individuals — that copies be provided within the address of a minority report?

MR. VAN DUSEN: Mr. President and Mr. Hodges, I am sure that ample facilities are available to you, Mr. Hodges, for distribution of whatever minority views you may feel you wish to present.

MR. HODGES: Through the framework of the convention?

MR. VAN DUSEN: No.

MR. GUST: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Gust.

MR. GUST: I would like to move that further debate and discussion on the resolution before this body be limited to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Gust moves to limit debate to 5 minutes upon this resolution. All those in favor will say aye. Opposed, no.

The motion prevails. The debate is limited. We have an amendment? The secretary will read an amendment.

SECRETARY CHASE: Mr. Mahinske offers the following amendment:

1. Amend the amendment, by striking out "and such additional copies as each delegate may reasonably require" and inserting a period and "There shall be a limit of 5 copies to delegates and additional copies at cost.".

VICE PRESIDENT HUTCHINSON: Mr. Mahinske.

MR. MAHINSKE: I think that the amendment is self explanatory. It brings us back to the point where we had at least some agreement here and it simply provides that each delegate shall receive up to 5 copies — he doesn't have to take 5 copies — and any additional copies that he may want are at his own expense. And I would move the adoption of the amendment to the committee amendment.

MR. FARNSWORTH: Mr. President, on the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the delegation, the Mahinske amendment, of course, gets you back to what Mr. Madar was attempting to do and what Mr. Van Dusen agreed to do. I think it is entirely reasonable. I think if we would adopt the 5 in number, get a vote on it and proceed with the business of the convention, we will be doing a good job.

VICE PRESIDENT HUTCHINSON: Mr. Lesinski.

MR. LESINSKI: Mr. President, I wish to point out that additional copies over 5 would require special packaging, mailing cost and other costs.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Mahinske to the committee amendment. All those in favor will say aye. Opposed, no.

The amendment to the amendment is adopted. The question is upon the committee amendments as amended. All those in favor of the committee amendments will say aye. Opposed?

The committee amendments are adopted. The question now is upon the adoption of the resolution as amended. All those in favor will say aye. Opposed will say no.

The resolution as amended is adopted.

Following is Resolution 105 as amended and adopted:

A resolution relative to preparation and approval of the address to the people.

Whereas, The accuracy of the substantive comment contained in the address to the people which is to be distributed to the voters of Michigan subsequent to the final adjournment of this convention is a major concern of this convention; and

Whereas, The changes in arrangement and language effected by the style and drafting committee and by floor action in recent days make it mechanically impossible for the committee on public information to present a final draft of the proposed address prior to the scheduled recess on Friday, May 11; now therefore be it

Resolved, That the substantive committees of this convention meet prior to the May 11 recess, review comment suggested in the tentative draft of the address and report their recommendations for revision to the committee on public information; and be it further

Resolved, That the committee on public information carefully edit the address, incorporating these recommended revisions, and submit tentative proof copies of the entire address by mail to each delegate at his home address on or before June 20, 1962. There shall be a limit of 5 copies to delegates and additional copies at cost; and be it further

Resolved, That approval of this convention of the address to the people be an order of business when this convention meets prior to final adjournment on August 1, 1962; and be it further

Resolved, That as soon as possible following the May 11 recess, the secretary shall cause to be printed and distributed to each delegate a supplement to the journal including the proposed constitution as adopted on May 11 and the tentative preface to the address to the people as prepared by the committee on public information. Each delegate shall be entitled to receive such additional copies thereof as he may reasonably require.

VICE PRESIDENT HUTCHINSON (continuing): **Third reading.** The question is on article IX.

SECRETARY CHASE: Messrs. Everett, DeVries, Danhof and Binkowski offer the following amendment:

1. Amend article IX, section 4 (column 1, in the amendment in 2 places) after "religious" by inserting "or educational"; so that the language will then read:

> Property owned and occupied by a non-profit religious or educational organization and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

MR. BRAKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Point of order.

VICE PRESIDENT HUTCHINSON: State the point.

MR. BRAKE: I think this exact amendment was offered at page 1048 of the journal, in the second column.

VICE PRESIDENT HUTCHINSON: Page 1048?

MR. EVERETT: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Could I be heard on the point of order?

VICE PRESIDENT HUTCHINSON: Yes.

MR. EVERETT: I think in checking you will find that that amendment was to the old DeVries amendment which is no longer before us. This amendment is to the amendment adopted this morning as a substitute to the DeVries amendment, the language there being very substantially different and the substance being very substantially different.

VICE PRESIDENT HUTCHINSON: The Chair cites Mr. Mason's work, section 401, paragraph 4:

> An amendment which would put before the house a question identical with one previously decided by the house during the session, whether in an affirmative or a negative form, is not in order.

Now the other amendment, to which Mr. Brake refers, was to strike out the word "educational" and this is to insert "educational." It would appear to the Chair that this presents the same question; does it not? Does Mr. Everett want to be heard further?

MR. EVERETT: I think not directly, Mr. President. The vote to which Mr. Brake refers was to strike the word "educational" out of the original DeVries amendment, which was substantially different than the amendment we adopted today. It was, therefore, an amendment to a different amendment, a very substantially different amendment. This is an amendment to the Brake amendment, which was adopted this morning, to which no amendments have ever been offered.

VICE PRESIDENT HUTCHINSON: The Chair thinks you're right and will accept the amendment. The question is upon the amendment offered by Mr. Everett. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand supported? The demand is supported.

MR. DANHOF: Mr. President, I call for the yeas and the nays.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded. Is that demand supported? The demand is supported, more than 1/5 of the members present voting therefor.

MR. DANHOF: Could we have it read?

VICE PRESIDENT HUTCHINSON: The secretary will again read the amendment.

SECRETARY CHASE: Messrs. Everett, DeVries, Danhof and Binkowski offer the following amendment to the amended section 4:

[The amendment was again read by the secretary. For text, see above.]

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded and supported.

MR. DANHOF: Mr. President. Mr. President, over here.

VICE PRESIDENT HUTCHINSON: Oh, Mr. Danhof.

MR. DANHOF: I might just state that this morning we took out 3 separate provisions. I think perhaps there might have been some who objected to one of the 3. I think "educational" is one to which there might be the least objection. If we can have the "religious," I think the "educational" would go with it. We took "burial grounds" and "charitable" with it, and I think that if we are to retain the present language that we could reinsert "or educational" institutions. I would urge the adoption of the amendment.

MR. HOXIE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hoxie.

MR. HOXIE: I wonder if I might ask Mr. Danhof a question, through the Chair?

VICE PRESIDENT HUTCHINSON: What do you —

MR. HOXIE: I am wondering, Mr. Danhof, if we do not include "or educational" that they are penalized in any way and that that would indicate if we vote no that we are against education?

MR. DANHOF: You may draw that conclusion if you like, Mr. Hoxie.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment now offered to insert the words "or educational" in section 4, which has been read. The yeas and nays have been ordered. This is a record roll call vote. Dr. Anspach.

MR. ANSPACH: Mr. President and fellow delegates, I believe it is advisable to support this amendment. All of us need to be reassured at times. We have our fears and we have our concerns. That has been quite evident in this convention at different times. We have had difficulty understanding each other because of the fears and the concerns in connection with it. Therefore, it would seem to me that it would be advisable to insert the word "educational" here because of the matter of reassurance. Up to this time the question has not been raised. Now it has been raised. It is one more thing to explain. I think it would be advisable to include the word "educational."

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: It seems to me, Mr. President, we are getting back to what the original was if we adopt a series of amendments to reinsert all these words. There would be good argument in favor of it if the legislature had not acted with fairness towards educational institutions so far as tax exemptions are concerned. Since no one has ever said that there is any problem in this regard, I urge you to vote no on this amendment and to keep the language at least as it is now.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: How many more speakers have you, Mr. President?

VICE PRESIDENT HUTCHINSON: One.

MR. VAN DUSEN: I would move to limit further debate on this amendment to 2 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 2 minutes, those in favor will say aye. Opposed no.

The debate is limited and the Chair now recognizes 2 speakers: one Mr. Stevens, and one Mr. Downs.

MR. STEVENS: Mr. President and delegates, all I want to say is to assure you that the thousands of alumni of the non tax supported small colleges of the state would appreciate this word "educational" in the constitution.

VICE PRESIDENT HUTCHINSON: Mr. Downs. There is one more speaker after you.

MR. DOWNS: I would point out that the words, "as defined by law" continue to give the protection we discussed on section 4, and I would therefore support this.

VICE PRESIDENT HUTCHINSON: Mr. Howes.

MR. HOWES: I understand this is just a statement of principle and would not change what is being done under the statutes at the present time and will continue exemptions of only worthy organizations and institutions, and I will vote for this amendment and urge my fellow delegates to do the same.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment. The yeas and nays have been ordered. All those in favor of the adoption of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—94

Allen
Andrus, Miss
Anspach
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bledsoe
Bonisteel
Boothby
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dell
DeVries
Downs
Durst
Erickson
Everett
Farnsworth
Figy
Follo
Gadola
Gover
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Higgs
Hodges
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Kelsey
Koeze, Mrs.
Krolikowski
Kuhn
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
McLogan
Page
Pellow
Perlich
Perras
Plank
Pollock
Prettie
Pugsley
Rajkovich
Richards, L. W.
Romney
Rood
Sablich
Seyferth
Shackleton
Shaffer
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
White
Wilkowski
Woolfenden
Young
Youngblood

Nays—36

Austin
Blandford
Bradley
Brake
Brown, T. S.
Cushman, Mrs.
Dehnke
Donnelly, Miss
Doty, Dean
Douglas
Elliott, Mrs. Daisy
Faxon
Finch
Ford
Garvin
Goebel
Haskill
Hatch
Jones
Karn
King
Kirk, S.
Martin
McAllister
Millard
Mosier
Nord
Norris
Ostrow
Radka
Richards, J. B.
Shanahan
Sharpe
Wanger
Wood
Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Everett, DeVries, Danhof and Binkowski, the yeas are 94: the nays are 36.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Everett, DeVries, Danhof and Binkowski offer the following amendment:

1. Amend article IX, section 4 (column 1, in the amendment in 2 place) after "religious" by inserting a comma and "charitable"; so the language will then read:

> Property owned and occupied by a non-profit religious, charitable or educational organization and used exclusively for religious, charitable or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate, all those in favor will say aye. Opposed will say no. The motion prevails.

MR. KING: Mr. President, I raise a point of order.

VICE PRESIDENT HUTCHINSON: State your point, Mr. King.

MR. KING: I believe the amendment is not in order because the question before was divisible and was not divided and so, therefore, the opportunity to treat the same subject was passed by.

VICE PRESIDENT HUTCHINSON: What was divisible, Mr. King?

MR. KING: The original question was divisible between the words "religious, educational and charitable."

VICE PRESIDENT HUTCHINSON: Well, in the original question there was only one of the words there. It was "religious."

MR. KING: No, originally all 3 of them were there.

VICE PRESIDENT HUTCHINSON: The Chair doesn't grasp the point of order and doesn't think that we had a divisible question there. The amendment adopted this morning had to do only with the word "religious." Mr. Brake.

MR. BRAKE: Point of order, Mr. President, we have just adopted an amendment. Now we propose to modify that amendment. I think it is out of order.

MR. EVERETT: Mr. President.

VICE PRESIDENT HUTCHINSON: Your point is well taken.

MR. EVERETT: Mr. President, may I suggest that, in effect, we are not modifying the amendment just adopted. We are modifying the amendment or trying to amend the amendment, the basic amendment. This word could have been inserted in the basic amendment without the one adopted or with it or after it, but it does not modify the word "educational."

VICE PRESIDENT HUTCHINSON: The Chair will invite Mr. Everett's attention to section 398 of Mason's Manual, paragraph 1:

> An amendment, once adopted, may not thereafter be changed or modified, except by reconsideration of the vote by which it was adopted.

The Chair understands that that is the point Mr. Brake raises. The point is that the amendment adopted before noon which included only the word "religious" is not subject to amendment except by reconsideration of that amendment, and that amendment has already been reconsidered once today. Further reconsideration is not in order. The Chair will sustain a point of order once it is raised —

MR. EVERETT: I will withdraw the —

VICE PRESIDENT HUTCHINSON: — but the point was not raised with regard to the insertion of the word "educational." Mr. Brake does raise the point with regard to the insertion of the word "charitable" and the Chair sustains the point.

MR. EVERETT: I understood the point and I will withdraw the amendment.

VICE PRESIDENT HUTCHINSON: The secretary will read.

MR. YEAGER: Point of order, Mr. President —

VICE PRESIDENT HUTCHINSON: What is the point, Mr. Yeager?

MR. YEAGER: — or inquiry, at least: does this mean that if we took a so called illegal action under a point of order on the word "educational" that because the convention has acted on it, it can no longer be considered for a ruling on a point of order?

VICE PRESIDENT HUTCHINSON: That is correct. The point would come too late.

MR. WANGER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Well, as much as I am opposed to this particular amendment, as far as the question of order is concerned it seems to me that the ruling of the Chair, while it may be sustained by some language in Mason's Manual, is contrary to over 7 months of actual practice upon the floor of this convention.

I recall a specific occasion in which the present incumbent of the Chair ruled that notwithstanding certain language in the rules of Mason's Manual the practice of the convention would have a controlling effect. I cannot cite the exact page where that ruling would be found, but I think that original ruling was a very good one and, therefore, I suggest that the Chair reconsider its ruling in this regard.

MR. DeVRIES: Mr. President, what is before the house?

VICE PRESIDENT HUTCHINSON: The next amendment. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Bentley [and Mr. L. W. Richards] offers the following amendment:

1. Amend article IX, section 11 (column 1, line 36) after "legislature" by striking out the balance of the section and inserting "shall provide moneys for this fund, including dedicated tax revenues, which shall be used exclusively for the support of public education and school employees' retirement systems. Payments from this fund shall be made in full on a scheduled basis, as provided by law."; so that the language of section 11 would read:

> There shall be established a state school aid fund. The legislature shall provide moneys for this fund, including dedicated tax revenues, which shall be used exclusively for the support of public education and school employees' retirement systems. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Might I ask Mr. Bentley whether, in his opinion, 15 minutes of debate would suffice on this amendment?

MR. BENTLEY: Mr. President, in response to the question from Mr. Van Dusen, I would ask if his contemplated motion would include all amendments to the amendment.

MR. VAN DUSEN: Yes, Mr. Bentley.

MR. BENTLEY: I would question whether 15 minutes would be sufficient time, Mr. President.

MR. VAN DUSEN: In that event, Mr. President, I would move that debate on this amendment and any amendments thereto be limited to 20 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon this amendment and all amendments thereto to 20 minutes, all those in favor of so limiting will say aye. Opposed, no.

The motion prevails. The debate is limited and the Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the only substantial change in the proposed amendment over the present section 11 of article IX, which we have before us, is to provide that the payments from the state school aid fund must be made, in accordance with a predetermined schedule, to the local school districts and in full. There is additional language, also, with respect to the money put into the fund which may include but not be limited to tax revenues dedicated by statute or by law.

But the major change, Mr. President — and this I state very frankly is done at the request of certain school organizations including the Michigan association of school boards and with the concurrence of others including the Michigan education association — does provide that payments from the fund have to be made on schedule and in full, as provided by law.

There is also, I might add, in line 36, a change from the word "may" to the word "shall." I do not know if the lawyers will take a great deal of time arguing over that one, but it was felt by the interested parties that we would like to make this as positive an expression of intent on the part of the convention as possible.

I may, Mr. President, wish to speak on the amendment that I understand will be offered to the amendment. That is all I wish to say on the amendment at this time.

VICE PRESIDENT HUTCHINSON: The secretary will report an amendment to the amendment.

SECRETARY CHASE: Mr. Heideman, Mrs. Butler, Messrs. L. W. Richards, Austin, Anspach, Rush, Miss Andrus, Messrs. Spitler, Faxon, Perlich, Barthwell and Perras offer the following amendment to the Bentley amendment:

1. Amend the amendment, after "including" by inserting one-half of all sales tax revenues as part of the"; so that the first part of hte amendment would then read:

> . . . shall provide moneys for this fund, including one-half of all sales tax revenues as part of the dedicated tax revenues, which shall be used exclusively for the support of public education and school employees' retirement systems.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment to the amendment, on which Mr. Heideman is first recognized.

MR. BENTLEY: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Bentley.

MR. BENTLEY: I wish to be recognized, too.

VICE PRESIDENT HUTCHINSON: All right. Mr. Heideman.

MR. HEIDEMAN: Mr. President and ladies and gentlemen of the delegation, in light of what we have been discussing today — taxes and so forth — I am reminded of a story of 2 men discussing their status in life: one of them said, "I started out on the theory that the world had an opening for me." And the other one said, "And you found it?" "Well," replied the first, "I'm in the hole now." (laughter)

In my recent visit with the constituents of the district I represent, I asked everyone I could contact in the 4 counties for their reaction to the elimination of earmarked funds for schools. I did not find one single person who thought we had made the just and moral decision in regard to the education of the children of the state of Michigan. I have here a folder of letters in addition to memos of oral communications, telephone, and so forth. I don't think I will take the time to try to read these because the debate has been limited to 20 minutes and it would take considerably longer than that, but I would like to read 2 of the letters. The first one is dated May 7 — or, rather, I will read the other one first. The first one is dated May 2 and at the heading is:

> Michigan Association of School Administrators,
> Office of the Executive Secretary and Treasurer
>
> Mr. George Graham,
> Lake Linden
> Dear George:
>
> We have had a joint committee with the Michigan association of school boards to work on issues in the constitutional convention. This committee went on record supporting the earmarking of funds and gave testimony before the taxation committee. Also, they made this known to the education committee of the constitutional convention.
>
> Some time later the MEA announced that they were willing to give up earmarking of funds under certain conditions that I cannot recall now. In any case, MASA felt that this public announcement was premature.
>
> Last Wednesday at our MASA council meeting, we had a real rhubarb on this issue. MASA went on record supporting the stand that they had taken earlier that there should be earmarking. It has consistently been our point of view that we are in grave danger asking the legislature for 300 million or 400 million instead of 20 million or 30 million or 40 million that is usually requested each year.
>
> This is the motion that was reaffirmed at the council meeting. I quote the motion:
>
> A motion was made by William Simmons —

he is the assistant superintendent from Detroit —

> seconded by E. J. Osmun —

also a superintendent —

> that the Michigan association of school administrators go on record as opposing the elimination of earmarked school funds unless all other earmarking is eliminated; and, further, that the responsibility for determining the assessment ratio in tax limitation be placed in the hands of the legislature.
>
> The motion carried. Apparently, the water is over the dam and what we can expect now is to try to do away with all earmarking, including highways, and make the best of a bad situation.
>
> I heartily agree with your group. We should never have let earmarking go unless it was unavoidable.
>
> Cordially yours,
> Clyde Campbell,
> Executive Secretary.

The other letter is shorter and it is from Wilfred Milne, chairman of the "copper country superintendents' round table" and it is dated May 7, and I just received it; I think it was yesterday:

> Dear Mr. Heideman:
>
> When we first became aware of the results of the second reading with regard to section 39 —

and he means Committee Proposal 39 —

> we registered our objections with some of the delegates and the executive secretary of the MEA and the MASA —

VICE PRESIDENT HUTCHINSON: Excuse me a minute, Mr. Heideman. Again, the Chair reminds the delegation of the decorum of this convention. The Chair had to remind the delegation this morning that the noise and confusion on this floor is, you might think — well, the Chair won't say it. It is as bad as anybody ever saw in the legislature and the Chair thought that you wanted to perform in better shape.

You may proceed, Mr. Heideman.

MR. HEIDEMAN: Thank you, Mr. President, but I don't mind so long as the delegates are relaxed and at ease and friendly toward me. They can do anything they like as long as they keep it down to a roar less than mine.

> — the executive secretary of the MEA and the MASA. At the same time we tried to elicit an explanation for this action.
>
> To date, we have had written explanations which in our considered opinion fall short of satisfying our concern. Contrary to the explanation contained in some of our communications, the MASA has not endorsed this action. Further, in our opinion, the action taken by certain representatives of the MEA would not necessarily be endorsed by the membership at large throughout the state.

This is signed by W. A. Milne and sent to me. Then:

> We urge once again that you put forth every effort in an attempt to retain earmarking for schools in the constitution.

I have, of course, this file here of letters of concern and very, very well written. If anybody would like to see them I would be very happy to show them.

Ladies and gentlemen, the taking away of all dedicated funds for schools and at the same time allocating moneys to the highways and to the local governments could be interpreted as "invidious discrimination," to quote from a very recent case of the supreme court in Baker versus Carr. We actually have various kinds of earmarking or dedicated funds, restrictions or limitations on the legislature in the constitution. May I just remind you of some of them. One, of course, is the fact that we have a ban on a graduated income tax which is certainly definitely a limitation on the legislature. Second, we have the 15 mill limitation which can go up to 18 mills in accordance with the new constitution. It takes a vote but is still a limitation, of course. Third, we have highway earmarking. We have penal fines for libraries. We have the 50 per cent assessment limit. We have the one per cent appropriation for civil service and, of course, the sales tax as far as cities, townships and villages are concerned. We have only taken out as far as the schools are concerned and that is, of course, why it stands out even more like a sore thumb.

What is bad — and in this case I am trying some thoughts that are the same as in my former talk. I have at least changed, as much as I can, the wording so that it is not a repetition of what I said before — what is bad about putting aside a certain amount of money for a cushion for schools so that the educators and the school boards of our state can plan from year to year? Do you really believe that schools would have had the money they have had these last years if there had been no allocated funds?

The interest schools have had to pay — and I didn't dwell on that before — for borrowed moneys has gone into the millions because the legislators did not or could not find adequate moneys to finance education. Payments have often been behind: ½ payments, ¾ payments. Those of you who are acquainted with schools know about this. The argument that the needs of the schools have gone beyond the revenues of the sales tax moneys and that, therefore, we should not constitutionally reserve these 2 cents for schools, does not hold water. We all know that a bird in the hand is worth 2 in the bush.

Gentlemen, ladies, if you had $300 million in a fund set aside and you needed, say, $30 million more — last year, $36 million — would you actually say: I don't want this $300 million that is set aside; the heck with it; I don't want it. I can go out here and get me $340 million from some place. I don't know where, but, anyway, I will go to the institutions but I have no guarantee; I mean, we will get this, rather than taking the 300 million, and then ask you for the 30 million? I think there can be only one obvious answer to that unless one is interested in topsy turvy situations.

The figures used in relation to school needs have been incompletely and erroneously presented. The elementary and secondary schools have gotten all but some $20 to $40 million a year from dedicated funds. The money for colleges and universities has always been a separate allocation. Last year it was something like $108 million.

And I would like to call your attention to a fact, also, that I don't think we have paid attention to, perhaps, in thinking that only 40 per cent of the money comes from the state. Sixty per cent still comes from the districts and I have exact figures here, but let me just remind you: state expenditures for local schools, about 40 per cent, comes something like a little over 30 million — from the general fund, the balance from dedicated funds, earmarked funds: sales tax, primary school interest fund — sales tax, 208 million; primary school interest fund, some 60 million; then cigarettes and liquor for a few million dollars. These are from dedicated funds. Sixty per cent or the balance of some $690,363,797 for 1960 — my figures are mostly for 1961 but on this total figure the closest I could get was this one for 1960 — over $690 million — 60 per cent of that came from the local governments. In other words, you are going to have to — the less you get from the state, the more you are going to have to go back into property and so forth in the localities. That is the practical situation.

It has been said on the floor that we have left moneys for highways in the constitution because that is what the people want. In like measure — I think more so — the people of this state want moneys set aside for schools. They have spoken clearly and emphatically in 4 elections pertaining to this subject in connection with the sales tax. Why must we sacrifice the future of the children of this state? We are very inconsistent.

It has been said that in the framing of this constitution there should be formulated a uniform taxation principle. The only uniform principle of taxation I see here is that we have consistently left the future of education in this state to the fortunes of the day. Half measures will not do. Language with no real teeth is not enough. The article adopted on second reading in re money for the schools is just a group of meaningless words, you might say nonsense language, meaningless and redundant. The committee on style and drafting thought so, too, and left some of it out.

Now the legislature is a lawmaking body. You might say the legislature or lawmaking body may pass laws. Yes, of course it may. It may pass laws. It may dedicate funds. So that you might say: a man is a man is a man instead of "a rose is a rose is a rose" — you remember Gertrude Stein — and then I might add to that: would smell as sweet as sweet as sweet. But what do you have when you get through?

I would like to conclude by calling to your attention, again, the splendid speech of Reverend Robert Drinan, dean of the Boston College law school, who spoke to us on law day in the state capitol, May 1. He said something that I think is quite pertinent here to our problem. He quoted Aristotle, to wit, "Justice is the supreme virtue which harmonizes all other virtues."

What is the purpose of the constitution but to insure the maximum amount of justice? And this is of the essence in the case of dedicating these sales tax moneys for the schools. It is simple justice and fairness — or fair play, to use a famous American term — that if we dedicate moneys for highways and cities, townships and villages that we do so for our schools, for our children for their education. We must speak out more forcefully for what we are willing to do for the education of our children. What will it avail us if, in the main, the constitution we have written is commendable but we have forgotten our children? I ask you to reinstate the sales tax moneys for the schools.

VICE PRESIDENT HUTCHINSON: Mr. Bentley.

MR. WANGER: A point of information, Mr. President.

VICE PRESIDENT HUTCHINSON: What's the point?

MR. WANGER: Do I surmise correctly that Mr. Bentley also desires to speak in favor of the pending question?

VICE PRESIDENT HUTCHINSON: The Chair, of course, has no way of knowing.

MR. WANGER: May I direct such a question to Mr. Bentley, through the Chair?

MR. BENTLEY: Mr. President, I ignore the question and ask the Chair how many speakers there are and how much time is remaining.

VICE PRESIDENT HUTCHINSON: There are 9 additional speakers and there are 2 minutes left out of the 20.

MR. BENTLEY: Mr. President, I move that the time for debate be extended 16 additional minutes, each speaker to be limited to 2 minutes. That would make 18 minutes for 9 speakers.

VICE PRESIDENT HUTCHINGSON: The question is upon the motion of Mr. Bentley that debate be limited to an additional 18 minutes with each speaker limited to 2 minutes. All those in favor will say aye. Opposed, no.

The motion prevails. It is so ordered. The Chair recognizes Mr. Bentley for 2 minutes.

MR. BENTLEY: I will be very brief, Mr. President, because I think that Mr. Heideman unintentionally took a disproportionate share of the available time.

I can sympathize with those people who support this amendment. I do not sympathize with those people who try to use for political purposes the slogan, "millions for cement," et cetera, but I can understand the concern of people connected, vitally connected and interested in schools who feel that they are not getting their proper share of revenues or, rather, running the risk of losing what revenues they do have. I would merely like to point this out, and that is that the sales tax as presently diverted for schools provides about 45 per cent, $209 million out of $471 million which the state makes available for the support of public education at all levels. I think those figures should be kept in mind: $209 million from the sales tax; $471 million in total for the needs of education at all levels including, of course, higher education. Now as far as this amendment is concerned, again I say, I respect the motives of those people that offer it, but I do not believe that the area of concern is justified.

I think the adoption of the language of the original Bentley amendment which specifies that the legislature may dedicate taxes into this fund, including those presently dedicated sources, and will be required — and will be required — to make payments to the school districts on time and in full amount, will adequately protect our school districts from having to go out and raise money through local sources which, of course, they view with some concern. I announce my intention on this amendment to vote against it and ask you to vote in favor of the original amendment, which I offered.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I rise to speak in favor of the Heideman amendment and also the Bentley amendment. I would say at the outset that I do not believe that the Bentley amendment accomplishes a great deal in providing a minimum base for schools because there is no way to compel the legislature to do anything. If we are going to earmark money for schools, we must do it in the constitution just as we have done for highways.

I would like to remind the delegates, also, that we are not talking about taxing power now; we are talking about the spending power of the legislature. Earmarking does not restrict the legislature in its responsibility to raise sufficient revenues to pay the cost of government. The money would be spent whether the legislature appropriates it or whether we appropriate it or whether the people appropriate it through earmarking or dedication of certain tax revenues. Earmarking, on the other hand, compels the legislature to face up to its responsibility because it will not be able to reduce the expenditures for schools below the minimum base that we provide through dedication.

If we have provided revenues for highways and we have dedicated revenues for cities and townships, certainly there is no reason why we should not dedicate revenues for children despite what Mr. Bentley says. I know that the education people are concerned about a minimum base. I know the people of Michigan are compelled — I therefore urge a yes vote on both amendments.

VICE PRESIDENT HUTCHINSON: Mr. Richards of Marquette.

MR. L. W. RICHARDS: Mr. President, before I have any of my time deducted from the 2 minutes, I would like to ask Mr. Bentley if he would have any objection to my name appearing at the top of the main amendment along with his?

MR. BENTLEY: None at all, Mr. President. [Correction made above.]

MR. L. W. RICHARDS: Thank you, sir.

VICE PRESIDENT HUTCHINSON: Mr. Richards.

MR. L. W. RICHARDS: Mr. President and fellow delegates, I would like to have a little more time to discuss this with you. The time is limited; I realize that. However, some clarification should be made I think, relative to my name which will appear on both of these amendments.

The last time there was an approach for a definite amount of money which was earmarked — we wanted that amount of money, 2 cents of the sales tax, earmarked — it was defeated in committee of the whole and also defeated in the convention. I was a strong promoter for that definite earmarking of funds.

The educational people — the Michigan school board association, superintendents association, agreed to by the MEA — felt by the results of that vote the possibility of this being included was limited and they came up with this first paragraph that Mr. Bentley could see and agreed to. And this is definitely sponsored and approved by the school administrators and the school board members. As an individual and as a delegate, I would feel a little more assured if we could have a definite amount for a minimum standard and also include the last amendment.

I think, folks, due to the fact that we have not eliminated earmarking entirely — all the people in education that came before our education committee agreed if all earmarking was done away with they, too, would be satisfied. If any was retained they, too, would like to hold their proportionate share. And that was the position of all educational groups as they appeared before our committee. I contend therefore: with all the retention of earmarking of funds for highways, civil service, libraries, and others, and also the cities and townships, that we go back and have the "selling point" that was referred to here this morning of our whole document. I hope you reconsider and vote in favor of this amendment. Thank you.

VICE PRESIDENT HUTCHINSON: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, ladies and gentlemen, we are coming to the end of 7½ months of writing a constitution that I think is a very good one. We are all going to be concerned with its approval by a majority of the electors of this state. Now some of us are protestants and some are catholics and some belong to one suasion or another and are various colors and so on, but the 7.8 million people of this state are all interested in children. They either have children or grandchildren or there are children that live in their blocks.

We came to this convention, many of us, committed to the idea we should eliminate earmarking. When we made the decision on this floor that we were going to retain earmarking for the highways, some of you may recall that I said at that time we had cast the die and if we were going to earmark we might just as well let the tail go with the hide. Now it may be said that earmarking doesn't mean much for the public schools, but the kind of propaganda that is going to be leveled at this constitution, that is going to say, "Millions of dollars for concrete in highways and no money for our children" is going to be very effective with people that don't understand that the legislature has to provide the difference between the earmarking and whatever is required. I urge you to vote for the amendment to the amendment and then for the Bentley amendment. It doesn't make any difference anyway. It will make the constitution that we are approving much more salable than it would otherwise be, and I feel very strongly about this one and I hope you will go along with it.

VICE PRESIDENT HUTCHINSON: Mrs. Butler.

MR. FARNSWORTH: Parliamentary inquiry, Mr. President.

VICE PRESIDENT HUTCHINSON: State the point, Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, I only want to ask if Mr. Heideman wants to revise his amendment, could he do it at this time to insert the words "on tangible personal property?"

VICE PRESIDENT HUTCHINSON: Why, yes, he can revise his amendment — it hasn't been voted upon yet — if he cares to.

MR. HEIDEMAN: Mr. President, ladies and gentlemen, if the other proponents of this amendment will accept it, I am certainly happy to accept this suggestion of Delegate Farnsworth.

VICE PRESIDENT HUTCHINSON: What is the suggestion, Mr. Heideman? What is it you want to do? What is the amendment? Are you going to revise your amendment to read —

MR. HEIDEMAN: The amendment would read this way, "one-half of all sales tax revenues on tangible personal property as part of the" dedicated funds. The addition is "on tangible personal property."

MR. FARNSWORTH: Mr. President, I just might point out very, very briefly — if you don't cut me off — that if, then, when the legislature might sometimes levy sales tax on services that they would have that money free. It is sort of a little compromise here. I could support it on that basis.

MR. W. F. HANNA: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: May I raise the point that neither language is correct as we have defined the sales tax in the constitution? I suggest that you leave the problem to style and drafting to reconcile the language with the definition of the sales tax as we have defined it with Mr. Austin's very able assistance in the style and drafting committee.

VICE PRESIDENT HUTCHINSON: Mr. Heideman revises his amendment now? Does Mr. Heideman revise his amendment? The secretary will read the amendment as it is revised.

SECRETARY CHASE: Mr. Heideman, without objection of the other sponsors, has revised his amendment to read as follows:

1. Amend the amendment, after "including" by inserting "one-half of all sales tax revenues on tangible personal property as part of the".

VICE PRESIDENT HUTCHINSON: The Chair now recognizes Mrs. Butler to continue debate upon the amendment, as revised.

MRS. BUTLER: Mr. President and fellow delegates, I, too, have received a raft of mail from the educators, from the school boards and others in my district and they all seem to feel that the stability that there was has been taken away from them —

VICE PRESIDENT HUTCHINSON: The convention will be in order. You may proceed, Mrs. Butler.

MRS. BUTLER: — for the financing of the schools. I think that this document is going to be very hard to sell in the rural areas unless they are assured that there is some provision for our schools, and this is one of the quotes:

> I shudder when I think what would have happened if the primary money and the 2 cents of the sales tax had been in the general fund for the past number of years.

So I urge your support for this amendment to the amendment and for the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, if I was going to vote on this on the basis of propaganda, if I came to this convention to vote on the basis of matters on the basis of propaganda effect, I can assure you that a lot of my votes would have been a lot different during the course of this convention. The Michigan citizens research council in Con Con Research Paper Number 7 called, Constitutional Earmarking of State Tax Revenues, published this last January, says as follows on page 2:

> 1. Michigan earmarked constitutionally a larger dollar amount . . . of state tax revenues than did any other state, though it was fourth in total state tax revenues and seventh in population.

Down the page:

> 2. Michigan earmarked constitutionally a larger percentage . . . of total state tax revenues than did any other state.

And over the page:

> 3. Michigan earmarked constitutionally more per capita than any other state. . . .

There is no question but that we have the highest constitutional earmarking of state tax revenues of any of the 50 states in the union.

Now, let's look at the situation and see if these hundreds of millions of dollars that we want to have earmarked under this amendment every year for education are necessary. I don't believe that there is one educator in this convention or one delegate in this convention or any person who is sincerely and intelligently interested and informed on education in the state of Michigan that believes that this earmarking is necessary for education to get the money which education really does need to provide good education for the children of the citizens of Michigan in the future. The legislature has proved time and time again that it will appropriate as much additional revenues, over and above the earmarking, as is necessary.

VICE PRESIDENT HUTCHINSON: The time of the gentleman has expired. Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, I want to give you just a little bit of history that has some bearing on this question, and it is history I have been in position to observe and I haven't had to read from books. As legislator, state treasurer, and here in this convention, down through the years the MEA has been recognized as the principal spokesman for the school people. We know there were other organizations but generally they were in unity; what one thought the others thought. In this convention, in the committee on finance and taxation, after a bitter battle we decided to recommend to you in the convention the continuance of the earmarking of the sales tax for schools. We came on the floor and we fought against those of you who wanted no earmarking in retaining earmarking for the schools. There were a couple of speeches here about doing away with earmarking. The next day the MEA, which had appeared before us and insisted upon the continuance of this earmarking, changed their position, pulled the rug out from under us, and said they didn't care if we would take that earmarking off if we took all other earmarking off. Just a little while after that they didn't care about any earmarking at all. We could take it all off. We acted on that basis, the rug pulled completely out from under us.

Now where are we? School people over the state divided so they don't know which way they are running, part going in one direction and part in another. There is no possible argument with as much appeal and that is as much abused as the argument that you are doing something for Johnny and Mary. Which way we go in this thing doesn't mean one red penny to Johnny and Mary; they are getting more money than the sales tax would give them, plus the primary, and they are going to continue to get more money than the sales tax will give them. It is a pure matter of psychology, not a matter of dollars and cents at all.

Now I think you are justified, if that is where you want to go, in basing your decision completely on which way are we going to get more votes for this constitution. So far as I am concerned, I have taken a part in making a decision and I am going to stick by that decision. You can do as you please; it isn't a matter of dollars at all.

VICE PRESIDENT HUTCHINSON: Mr. Upton.

MR. UPTON: Mr. President and delegates, I would rise to oppose this amendment. On April 19, we took action on this very same subject and voted against it 79 to 46, which I think was a very substantial vote. In my opinion, this is most important for our legislators to consider in the future in financial responsibility.

I have before me a paper printed on January 23 where the headline reads, Swainson Asks For Huge '62 Budget. What budget is he talking about? He is talking about 528 millions of dollars. Fellow delegates, we know that our budget is over $1 billion. Unless we remove some of this earmarking, your constituents and mine will never know how much money is being spent in this state. We must have financial responsibility and our citizens must know how much money is being spent for education and other items. Therefore, by removing this earmarking and giving the responsibility to the legislature on how to spend this money, we will bring forward to all the people's attention the amount of money.

I am sure, Mrs. Butler and others, that they will not renege on their attention to education. They have shown they have supported education in the past and I know they will in the future. I urge you to oppose this amendment to the Bentley amendment. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President and fellow delegates, I believe you all know that I oppose the Heideman amendment. I think that one of the main reasons this convention was called was that the people of this state recognized that Michigan's fiscal affairs were chaotic, largely or in part, at least, as a result of the earmarking of which Mr. Wanger spoke.

The school district earmarking has not in any of the last 5 years provided anywhere near enough money for schools. It has had a limiting effect. It had a limiting effect when I was in the legislature back in 1954 and 1955 and 1956. If it is reinstated, it will continue to have a limiting effect.

Now just one comment on this question of earmarking for highways, that if you earmark for highways you must earmark for schools: now we have liberalized the highway earmarking. We have let the legislature define "highway purposes." The main reason we did this was to permit the legislature to recognize technological changes in the future. But the 2 principal things and perhaps the only things we had in mind at this point were highway patrol and driver education. In other words, we thought that we were liberalizing the highway earmarking so that education might get some of that money which now comes out of other sources. The school district earmarking simply doesn't do anything for the schools; it ought to be eliminated. I hope you will oppose the Heideman amendment.

On this question of the public reaction, I might say that the only mail I have received since our action on second reading was that stirred up by Mr. Heideman because I have had 3 letters from the copper country and I don't know anybody up there but Mr. Heideman and Mrs. Butler. I have had no mail from my district opposing our decision. As a matter of fact, I have had letters commending us for eliminating earmarking. I hope we will continue to eliminate it. I hope you will vote no on the Heideman amendment.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: While I favor the amendment, Mr. President, I would remind the delegates, since it hasn't been done previously, that this is part of the package accommodation or deal and those that are part of it should vote accordingly, I am sure.

VICE PRESIDENT HUTCHINSON: All time has expired for debate upon this amendment.

MR. FAXON: Yeas and nays.

VICE PRESIDENT HUTCHINSON: The yeas and nays are demanded by Mr. Faxon. Is the demand supported?

SECRETARY CHASE: Sufficient number.

VICE PRESIDENT HUTCHINSON: A sufficient number up. The yeas and nays are ordered. The question is upon the adoption of the amendment offered by Mr. Heideman, Mrs. Butler, and others, to the amendment offered by Mr. Bentley and Mr. Richards. The question is upon the amendment to the amendment. This is a record roll call vote. All those in favor of the amendment to the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—82

Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Binkowski
Bonisteel
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Dell
Donnelly, Miss
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Follo
Ford
Garvin
Gover
Greene
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Heideman
Hodges
Howes
Hoxie
Jones
Kelsey
Kirk, S.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Nord
Norris
Page
Pellow
Perlich
Perras
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, L. W.
Sablich
Sharpe
Sleder
Snyder
Spitler
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Tubbs
Turner
Walker
Wilkowski
Woolfenden
Young
Youngblood

Nays—49

Allen
Beaman
Bentley
Boothby
Brake
Brown, G. E.
Danhof
Dehnke
DeVries
Doty, Dean
Durst
Elliott, A. G.
Everett
Figy
Gadola
Goebel
Haskill
Hatch
Hubbs
Iverson
Judd, Mrs.
Karn
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Martin
McLogan
Millard
Mosier
Ostrow
Plank
Pollock
Richards, J. B.
Romney
Seyferth
Shackleton
Shaffer
Shanahan
Stafseth
Staiger
Thomson
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

SECRETARY CHASE: On the revised amendment of Messrs. Heideman and others offered to the Bentley-Richards amendment, the yeas are 82; the nays are 49.

VICE PRESIDENT HUTCHINSON: The amendment to the amendment is adopted. Time for debate upon the amendment has expired. The question now is on the amendment of Messrs. Bentley and L. W. Richards, as amended, which reads as follows:

1. Amend article IX, section 11 (column 1, line 36) after "legislature" by striking out the balance of the section and inserting "shall provide moneys for this fund, including one-half of all sales tax revenues on tangible personal property as part of the dedicated tax revenues, which shall be used exclusively for the support of public education and school employees' retirement systems. Payments from this fund shall be made in full on a scheduled basis, as provided by law.".

MR. BENTLEY: Mr. President, on this I ask for the yeas and nays.

VICE PRESIDENT HUTCHINSON: On the amendment as amended, Mr. Bentley demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Sufficient number up.

VICE PRESIDENT HUTCHINSON: A sufficient number up. The yeas and nays are ordered. Time for debate upon the amendment has expired. The question is upon the amendment as amended. All those in favor of the amendment as amended will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—91

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Bonisteel
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cushman, Mrs.
Dade
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Garvin
Gover
Greene
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Heideman
Hodges
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Kelsey
Kirk, S.
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McGowan, Miss
Mosier
Murphy
Nord
Norris
Page
Pellow
Perlich
Perras
Powell
Prettie
Rajkovich
Richards, L. W.
Sablich
Shaffer
Sharpe
Sleder
Snyder
Spitler
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Tubbs
Walker
Wilkowski
Wood
Woolfenden
Young
Youngblood

Nays—40

Boothby
Brown, G. E.
Danhof
DeVries
Doty, Dean
Durst
Elliott, A. G.
Everett
Goebel
Gust
Haskill
Hatch
Hubbs
Karn
King
Knirk, B.
Koeze, Mrs.
Krolikowski
McAllister
McLogan
Millard
Ostrow
Plank
Pollock
Radka
Richards, J. B.
Romney
Seyferth
Shackleton
Shanahan
Stafseth
Staiger
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Yeager

SECRETARY CHASE: On the amendment offered by Messrs. Bentley and L. W. Richards, the yeas are 91; the nays are 40.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment. Mr. Young.

MR. YOUNG: I don't think we should let this moment pass without the proper obsequies. Now that the deal has been broken and duly laid to rest we could extend this convention for another couple of weeks, and we might accomplish something in the interests of the people of Michigan.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: I think we would have a more accurate understanding if the people who are talking of the package had had something to do with it so they would know what they were talking about. (applause)

SECRETARY CHASE: Messrs. Staiger and Cudlip offer the following amendment:

1. Amend article IX, section 18 (column 1, line 20) after "requirements" by inserting "or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees"; so that the paragraph will read:

> This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

VICE PRESIDENT HUTCHINSON: Mr. Staiger.

MR. STAIGER: Mr. President, we also have an amendment to section 19 of the same article that is related, and I think we can save time by taking both of them up at once, if we could have that one, too.

SECRETARY CHASE: Messrs. Staiger and Cudlip also offer an amendment to section 19:

2. Amend article IX, section 19 (column 1, line 25) after "corporation" by striking out the period and reinserting the comma and "except that"; and in line 28, after "law" by striking out the period and reinserting the semicolon and "and"; so that the language will then read:

> The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

MR. STAIGER: These 2 amendments, as I said before, are interrelated and I want to make it very clear that through the stages of coming out of the finance and taxation committee, first reading, second reading, as adopted by the committee, and on through style and drafting, there was no intent to change the intent of this provision. The finance and taxation committee determined that public employees' retirement system funds should be allowed to invest as provided by law. That was the intent of the provision as it came out of the finance and taxation committee. That was the intent on first reading and second reading. Both of these sections 18 and 19 contain possible prohibitions against that provision. For that reason, on second reading, an additional amendment was placed in section 18 to clear this up so that there would be no question about this right.

Style and drafting, however, in going through this matter, thought at first glance that we could consolidate this question in one place and by doing so just make an outright provision that — and this was in section 19 that we did it — that "Funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law." Now that, standing alone, seemed to clear the matter but after reviewing it again and looking it over, we have decided that we may have cast some doubt on that provision, because we put it in as the second sentence in section 19 and took out the provision in 18 which referred to this. Mr. Cudlip and I have been over it. I talked to Mr. Brake and he agrees. And we therefore recommend this amendment to straighten out to some extent what was done in style and drafting. I therefore urge you to support the amendments so that this matter may be cleared up.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I rise to confirm the fact that these are perfecting amendments. We in style and drafting made a change which has been determined to be a substantive change and this is merely an effort to correct that change, and I urge support of these amendments.

VICE PRESIDENT HUTCHINSON: The question is upon the amendments offered by Mr. Staiger and Mr. Cudlip. All those in favor will say aye. Opposed, no.

The amendments are adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Seyferth offers the following amendment:

1. Amend article IX, section 24 (column 2, line 6) by striking out all of lines 6 through 9; which read:

> Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

VICE PRESIDENT HUTCHINSON: Mr. Seyferth.

MR. SEYFERTH: Mr. President and delegates, we have had, over the past 4 or 5 months, clarifying amendments. We have had perfecting amendments. "Hutch" used to call this an informing amendment.

This section 24 of article IX is the same as presented by the finance and taxation committee during first reading. I voted against the committee proposal while still in finance and taxation and it still concerns me today. I feel the possible implication of this section to be important enough for me to alert this convention and let you decide.

In presenting this amendment, I do so not as one who is an anti pension person. I fully appreciate the constructive impact of a sound pension system; I am a member of a good plan and the older I become the better it looks. The first paragraph:

> The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

This first paragraph gives to retirement systems a constitutional dignity and, more important, it provides a contractual relationship.

However, it is the second paragraph that concerns me. The meaning, first of all, is not clear. This is dangerous when embodied in a constitution. There are 2 interpretations of the second paragraph and they have both been handed down by actuaries. First of all, does it mean that current retirement benefits only are to be funded each year or does it mean that the plan must be fully funded currently each year starting when the constitution is adopted? This latter viewpoint is the one that was expressed in the finance and taxation committee and, as I recall rather specifically, it was the intention of the finance and taxation committee to comply with the second interpretation: that which means that the fund must be currently funded fully each year starting with the acceptance of the constitution.

Now what does this mean in state government costs? Based on the 7 retirement systems that are under the state control, it will cost an estimated minimum of $37 million of new money added to the state budget in order to comply with the second paragraph. The legislative service bureau has made mention of a figure some months ago as high as $75 million per year added to the state budget. Now when we bring these figures into perspective, let's look at what we are currently doing with our 7 state retirement funds and — just to bring these figures into perspective as we have stated before — as of June 30, 1960, we are $578 million behind in our funding processes for the 7 state funds. Now these are boxcar figures, ladies and gentlemen, that the legislature across the street is wrestling with and wondering how to raise the tax dollars.

In retrospect, we will all realize that government costs are payrolls of people and generate the biggest cost of running a government. Now we are specifically talking about moneys concerning people. We have stated in the first paragraph our intent that pension plans and retirement systems shall be a contractual obligation. How the contract — and I think this is important — shall be met is a legislative responsibility and how it shall be enforced legally is up to the courts.

I sincerely, myself, question the advisability of our attempting to write into this — lock in, if you please — the term of this contract in face of these unknown fiscal implications. I think from time to time we, as individual delegates, have been frustrated because our contribution to this constitution was not more directly in the line of controlling the costs of government. I submit, ladies and gentlemen, that this may be one contribution that we can make to take an effect — take a step in controlling future costs of state government. Thank you very much.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, there is just one question of importance involved here. That question is whether we are going to pay our own bills or whether we are going to let our children and grandchildren pay the bills that we let go and do not pay now on the state and local level.

There is only one interpretation, I think, of which this second paragraph is capable; namely, we are saying to the retirement systems of the state and of the local units: you must put into that fund this year the liability, an amount to cover the liability, that accrues this year. Now some of the state systems have been doing that. They are sound and up to date. The worst offenders have been the outstate and the Detroit public school employees' systems. They are woefully behind and, as Mr. Seyferth has just said, it would take something near $600 million to bring them up to date, make them actuarially sound. That is out of the question. There is no possibility of getting it done. But year after year, for more than a quarter of a century, the policy that has been followed nearly all the time has been to put into those funds just about enough to pay what you have to take out that same year. In other words, you meet your payments. And there is no danger but what those payments will always be made even if we were to continue to follow that policy. But it isn't decent. We are simply accumulating debts that our children are going to have to pay. All we ask is that you don't get any farther behind than you are now. This is a method of borrowing money and the state isn't the only one that has used it. We have got some municipalities — some of you read the Detroit papers — year after year instead of raising taxes to pay the bills, they refuse to put into the fund the amount necessary to carry it along and in that way borrow money against the future. I think this year they have done something about it. The state has been doing the same thing.

It seems to me — it seems to me — that there is enough of that kind of thing going on on the federal level without our adding anything to it on the state and local levels. Isn't it an obligation that we ought to meet, stand up to? that we at least — if we want these retirement systems — pay in enough to cover the liability as we go along and not simply pass it on to the future taxpayers?

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I would like to oppose this amendment and support the remarks of Mr. Brake. Removal of this second paragraph would amount to a retreat from a major step forward that we have taken in providing for retirement benefits to public employees. The second paragraph is vitally necessary.

I would also like to remind the delegates that we have removed the specific earmarked amounts to be contributed to the school employees' retirement fund. This second paragraph is the only protection that they now have for adequate funding of their benefits. I strongly urge defeat of this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: To be very brief, Mr. President, I certainly go along with what Mr. Brake and what Mr. Austin said. I serve now on the Detroit system as a member of the board of trustees and I realize how necessary it is to fund these pensions currently. I certainly hope that you will defeat this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Seyferth.

MR. SEYFERTH: Mr. President, delegates, in airing as shortly as we have this situation, I am satisfied in my own mind that we now have — at least, we are going to — created an act of commission and not simply an act of omission if, by any chance, this is defeated; and I can gather that by the tone of the persons who spoke against it and their stature in this constitutional convention. All we wish to do in bringing this to your attention is to advise you that we are increasing the state budgets by a minimum of $35 million plus, per year, in order to comply with this paragraph. If we do that knowingly, fine.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Seyferth. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Austin offers the following amendment:

1. Amend article IX, after section 10 (column 1, following line 34) by inserting a new section 10a to read as follows:

"Sec. 10a. Revenue derived from all subjects of taxation now contributing to the primary school interest fund shall be contributed to the state school aid fund.".

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I make the point of order that the substance of this amendment without any substantial difference, the substance of this amendment, was Committee

Proposal 36, which on April 19, as shown on page 1052 of the journal, was stricken and defeated by a vote of 71 to 46. For that reason I do not believe the amendment is now in order. I recognize that there is a slight difference in the wording but I don't think there is any difference in the substance and I think that under the rules there is no question but what this is out of order.

MR. AUSTIN: Mr. President, may I speak to the point of order?

VICE PRESIDENT HUTCHINSON: You may speak to the point, Mr. Austin.

MR. AUSTIN: At the time the committee proposal was presented to the floor, we had abolished the state aid fund, the school aid fund, as it was called at that time, and we have now, under the amendment which was adopted on the floor, provided for a school aid fund to which certain taxes are to be contributed and to which the legislature may contribute other dedicated revenues through legislation. This merely provides that this is another source of revenue to be contributed to that particular fund. I submit that this is a different proposition.

MR. VAN DUSEN: Mr. President, Mr. Austin is in error when he says that we had at that point abolished the school aid fund. On page 1046 of the journal, we adopted Committee Proposal 39, which said, "There shall be established a state school aid fund" — adopted a substitute for it which made that provision.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen, will you cite again your reference with regard to what was before the body before? Page what?

MR. VAN DUSEN: Page 1052, Mr. President, of the journal, April 19, Committee Proposal 36. An amendment was offered by Mr. Brake, on behalf of the committee on finance and taxation, to strike out the entire proposal, which was substantially the same as the language now offered by Mr. Austin, and that amendment carried 71 to 46. So that Mr. Austin now proposes to insert in the constitution that which was stricken on second reading.

VICE PRESIDENT HUTCHINSON: Mr. Austin, will you accept the point of order?

MR. AUSTIN: Yes.

VICE PRESIDENT HUTCHINSON: All right. Mr. Austin accepts the point of order and withdraws his amendment. The secretary will read the next amendment.

SECRETARY CHASE: I have no other ones.

VICE PRESIDENT HUTCHINSON: No other amendments? The question is upon the passage of article IX, as amended.

MR. VAN DUSEN: Mr. President, if there are no further amendments, I would like to move to limit further debate on this article to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon the article to 5 minutes. All those in favor will say aye. Opposed, no.

The motion prevails. Debate is so limited. Mr. Austin.

MR. AUSTIN: Mr. President, this may be unfair because I have a 5 minute speech here.

VICE PRESIDENT HUTCHINSON: You are recognized, Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, the committee on finance and taxation worked very hard to develop what is now article IX. There have been many developments on which there is substantial bipartisan support: I would like to call attention to the removal of the prohibition to taxation by reference to other legislation which permits the freedom to piggyback to other forms of taxation. There has been some relaxation of the 15 mill limitation. We have raised the debt limit. We have provided for refunding of the Mackinac bridge bond issue. We have provided for pensions, recognized the obligation to fund these pension funds properly for public employees. We have also relaxed the restrictions on the investment of pension and trust funds. We have updated the language and the style of the section and we have even done something for nonprofit corporations in providing exemptions for them.

Much of this good work has been offset by what I consider to be some blinders that we put on in regard to giving the legislature more freedom in the area of taxing power. We have placed a restriction on assessment of tangible property to 50 per cent of the cash value of that property. I don't believe there is any need at this time to elaborate on the great harm that this 50 per cent of cash value standard does to many areas of our state. We have retained the uniformity clause for assessment of property, not giving the local units of government or the legislature the right to classify any of the property. We have provided a prohibition to a graduated income tax which, in the long run, may do great harm in restricting the legislature in its ability to raise sufficient revenues from any income tax levy, should it ever desire to impose such a levy. We have removed a good deal of the earmarking of taxes for schools. Just a few moments ago we restored the earmarking of ½ of the sales tax for schools but we have not restored the earmarking of the taxes now contributing to the primary school interest fund.

Throughout the deliberations, the committee has not responded to the pleas of those of us from the more populous areas, our pleas for more freedom to levy taxes because so much of the property is now being pulled off the tax rolls and because of the general inadequacy of the property tax as a major source of revenue at the local level. There is a need for more revenue and there is more need for flexibility in levying property taxes.

I think one of the most unfortunate situations that has developed here at the convention is that a good deal of the decisions in regard to some of these major issues in regard to taxation were not deliberated in the committee on finance and taxation. Decisions were made off the floor in connection with a proposition which has been mentioned very often here on the floor. I think that we would have had a happier situation had the leadership, the minority leadership, been consulted on some of these major changes. I was informed today that the minority leadership has been consulted on only one issue before this convention since February, and that was on the parimutuel issue.

I submit that there are a good number of other issues particularly the issues of taxation —

VICE PRESIDENT HUTCHINSON: Time.

MR. AUSTIN: Thank you. I urge the defeat of this article.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article IX, finance and taxation, as amended. Time for debate upon it has expired. All those in favor of the passage of article IX — for what purpose, Mr. Wanger?

MR. WANGER: How many other speakers were there seeking recognition?

VICE PRESIDENT HUTCHINSON: There wasn't anyone.

MR. WANGER: I see. Mr. President, I wish to announce my intention to abstain for the purpose of forcing a reconsideration of the Bentley amendment. I urge others to do likewise.

VICE PRESIDENT HUTCHINSON: Mr. Wanger abstains. The question is upon the passage of article IX, finance and taxation, as amended. All those in favor of the adoption of article IX will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—90

Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth

Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Mahinske
Martin

Powell
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzone
Thomson

Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
McAllister
McCauley
McGowan, Miss
Millard
Mosier
Page
Perras
Plank
Pollock
Tubbs
Turner
Tweedie
Van Dusen
White
Wilkowski
Wood
Woolfenden
Yeager

Nays—36

Allen
Austin
Baginski
Balcer
Binkowski
Bledsoe
Bradley
Brown, T.S.
Buback
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Lesinski
Madar
Marshall
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Upton
Walker
Young
Youngblood

SECRETARY CHASE: On the passage of article IX, as amended, the yeas are 90; the nays are 36.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article IX,** as amended, is passed.

For sections 1, 2, 3, 5, 7, 8, 9, 10, 12 through 17 and 20 through 24 of article IX as passed, see above, page 3067.

Following is section 4 of article IX as amended and passed:

Sec. 4. Property owned and occupied by a non-profit religious or educational organization and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Following is section 6 of article IX as amended and passed:

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established by this constitution or by county vote may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Article II, Section 6 of this constitution voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township or charter or other authority the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Following is section 11 of article IX as amended and passed:

Sec. 11. There shall be established a state school aid fund. The legislature shall provide moneys for this fund, including one-half of all sales tax revenues on tangible personal property as part of the dedicated tax revenues, which shall be used exclusively for the support of public education and school employees' retirement systems. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Following is section 18 of article IX as amended and passed:

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Following is section 19 of article IX as amended and passed:

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Following is explanation of vote submitted by Mr. Upton:

I voted no on article IX — the finance and taxation article in the firm belief that the action taken by the convention in reinserting earmarking of sales tax funds for public education was not for the best interest of our state and public education. Michigan constitutionally earmarks over 60 per cent of its revenues — more than any other state and a definite impediment to overall tax reform. This action by the convention removes at least $200 million from the general fund — money which is lost to control by the legislature and also to the attention of all citizens of Michigan. The legislature has proven that it can appropriate money from the general fund for the support of public education. In my estimation, public education could receive more attention and understanding from a legislature not handicapped by earmarking. We have not asserted the leadership in this vexing problem as the citizens of Michigan could and should expect of their constitutional convention delegates.

Following is explanation of vote submitted by Messrs. Austin, Bradley, Follo, Ford, Sablich, Norris, Nord, Douglas, Bledsoe, Downs, Youngblood, Young, Madar, Stopczynski, Baginski, Binkowski, Faxon, Walker, Jones, Mrs. Hatcher and Mrs. Daisy Elliott:

We have been compelled to vote no on article IX because we believe the convention dissipated a grand opportunity to provide the framework for an improved tax structure and true fiscal reform for the state of Michigan.

Admittedly there are many of the changes in the article that are highly desirable and represent substantial improvement in the present document. Such changes include removal of the prohibition on taxation by reference to other legislation, relaxation of the so called 15 mill limitation, raising of the debt limit for borrowing for current purposes, refunding of the Mackinac bridge authority bond issue, recognition of the obligations in connection with pension requirements for public employees, relaxation of restrictions on investment of pension and other trust funds, and general updating of the language and style of the article in the present constitution.

Much of the good work of the convention has been offset by a refusal of the majority to recognize the need for relaxing restrictions on taxing powers of the legislature and local units of government. Indeed, some of the provisions written into the new document amount to further restriction of taxing powers.

There has been included a provision requiring that property be assessed for ad valorem taxation at 50 per cent of its value. The present constitution provides for assessment at 100 per cent cash value. Inclusion of the 50 per cent standard is an unnecessary restriction on the legislature to set limits for such taxation and will do grievous harm to the cities, townships, counties and school districts in the more populous areas. The lost revenue may have to be secured by increases in taxes on homes.

The prohibition of a graduated income tax is also an unnecessary restriction on the power of the legislature to raise sufficient revenues to pay the cost of government. No delegate would advocate that the legislature levy an income tax in any form. This matter should be left entirely to the legislature. However, once the legislature has decided to embark on an income tax program it should have the freedom to levy the tax in any form it desires.

Earmarking of gas and weight taxes for highways has been continued intact. But a portion of the earmarking of taxes for schools has been removed, thereby reducing the minimum base of support for schools. This action on the part of the majority is indefensible.

Throughout its deliberations the convention has failed to respond to the pleas of delegates representing the more populous areas for relaxation of taxing powers at state and local levels. Additional revenues are needed because the present sources, particularly the property tax, have proved inadequate for present needs.

It is with deep regret that we feel compelled, therefore, to vote against the new article IX.

Following is explanation of vote submitted by Mrs. Cushman:

While there are a number of improvements in article IX, the complete article does not, in my opinion, form the basis for an adequate system of financing the state of Michigan.

I object especially to the continuation of earmarking a great share of the state's revenues, the rigidity of a 50 per cent assessment level restriction, the modified 15 mill limitation, and prohibition of a graduated rate income tax.

I am pleased with the continuation of protection for school bond issues, relaxation of the debt limit, and, in the local government article, the strengthened tax powers of cities.

On the whole, however, the weaknesses of article IX overbalance the strengths.

VICE PRESIDENT HUTCHINSON (continuing): The Chair recognizes Mr. McAllister.

MR. McALLISTER: Mr. President, I would like to make a few remarks. This morning when we gave credit and recognition to the staff, attention was directed primarily to the gallery rather than to the control tower. At this time, on my own behalf — and I am taking the liberty to do so on behalf of the other delegates — I would like to compliment the podium staff for their having so ably surrounded and kept Mr. Chase in good humor and for having worked so diligently around the clock to make a record of this convention and get the journal out on time. I understand that many of these people have worked as late as 3:00 or 4:00 o'clock in the morning on occasions and then have got back here at 8:30 or a quarter to 9:00. I believe we should give these folks a rising vote of thanks for their part in this convention.

[Whereupon, the delegates accorded the secretary's staff at the rostrum a standing ovation.]

VICE PRESIDENT HUTCHINSON: If it weren't for the secretary's staff, I am sure that this convention couldn't operate at all. Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I think while we are commending all of the staff — and I am in complete accord with that — I think we ought to find out between now and Friday who did the least talking and I can assure you it will not be me, but we ought to find out who did the least talking in this convention and all of us give him a standing ovation on Friday. (laughter)

VICE PRESIDENT HUTCHINSON: Third reading. The secretary will read article XI.

SECRETARY CHASE: **Article XI,** public officers and employment.

[Article XI, sections 1 through 15, was read by the secretary. For text, see above, page 3070.]

VICE PRESIDENT HUTCHINSON: Article XI has been read a third time. The question being upon the passage of the article, the secretary will report the first amendment.

SECRETARY CHASE: Messrs. King, Martin, Durst and Wanger offer the following amendment:

1. Amend article XI, section 8 (column 1, line 7) after "budget.", by striking out the balance of the section and inserting "The legislature is not required to appropriate additional funds to meet the cost of such increases if in its judgment they should be met by a reduction in force or other economies by the various state agencies.".

MR. VAN DUSEN: Mr. President

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I move to limit debate on this amendment to 10 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon this amendment to 10 minutes, those in favor will say aye. Opposed, no. That was kind of a weak support. All those in favor will say aye. The opposed will say no.

The motion prevails. Debate is so limited.

MR. HATCH: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: I rise to a point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State the point.

MR. HATCH: On April 25, in Journal 128 on page 1119, the convention, on second reading, adopted the amendment which presently appears in section 8. I call the Chair's attention to section 398, paragraph one, of Mason's rules which provide that, "An amendment, once adopted, may not thereafter be changed or modified, except by reconsideration of the vote by which it was adopted." I therefore make the point that this amendment does change and modify an amendment previously adopted and that the amendment is not in order.

VICE PRESIDENT HUTCHINSON: Do you wish to speak to the point, Mr. King?

MR. KING: Yes, I do. Mr. President and fellow delegates, it would seem as though we have extended the wisdom of Mr. Mason to the stretching point — to the breaking point perhaps. First of all I would point out — and I am sure that all of us are well aware of that fact — that this is a constitutional convention. The very reason for having 3 separate and distinct readings of these proposals is to provide an opportunity to go back and look over what we have done on prior readings, to view the whole constitution in its proper context, perhaps even to subject ourselves to public opinion and perhaps revise our thinking on certain subjects. Surely, if we should accept this as a controlling rule upon this body, it might well be a good idea to move to suspend third reading, for what point is there in third reading? It seems perfectly obvious to me that if the rule has any effect at all — and I seriously question whether it does; but if it has any effect at all, it certainly wouldn't carry over from one reading to another reading.

VICE PRESIDENT HUTCHINSON: Mr. Wanger, do you desire to speak on the point?

MR. WANGER: I do, Mr. President. I would like to first point out that nowhere in the section cited is the categorical statement that it applies to all readings, from one reading to the next. Secondly, I would like to point out that it has obviously been the custom of this convention, the usage of this convention, to disregard this section up until today when some delegates, because of personal motives in connection with amendments which they themselves originally sponsored, now desire to prevent the convention from having any opportunity to consider whether or not those amendments should be modified.

I suggest that under section 39 of Mason's Manual entitled, Precedents and Usages, the precedents which we have adopted in this regard and the usage of the convention in this regard clearly take precedence over any alleged effect that section 398 might have when raised at this very, very late date in the constitutional convention.

Paragraph 4, for example, of section 39 says, "A not inconsiderable part of parliamentary law is based upon the established usages of legislative bodies." This has clearly become a usage in this convention to be able to modify amendments which have been passed on prior readings. Therefore, I suggest that the point is not well taken.

MR. EVERETT: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Everett, on the point.

MR. EVERETT: Mr. President, the wound is fresh enough so that I would recall to the Chair having been tripped up on this same point a few hours ago, and it seems to me the ruling of the Chair at that time was correct and that it would be in order to abide by that ruling now.

MR. KING: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Speaking directly to the point just raised, I would point out that that did involve only one particular reading. It did not cross over from one reading to another — just to refresh the Chair's memory on that one point.

VICE PRESIDENT HUTCHINSON: Mr. Hatch, do you desire to speak further on the point?

MR. HATCH: Well, I would merely point out that Mr. Wanger's reference to section 39 — I don't think this point had been raised by anyone until earlier today when the Chair did rule that section 398 of Mason's rules applied. Certainly, it is not incumbent upon the Chair to point out to the delegates when something is out of order, but, on the only occasion when this point has been raised, the Chair has upheld the point of order.

MR. WANGER: Mr. President, may I ask, merely as a matter of information — I believe I am correct in distinctly recalling that Mr. Everett withdrew his amendment at that time, which, of course, mooted the previous ruling of the Chair and, therefore, that, in no event, would be a precedent before this body.

VICE PRESIDENT HUTCHINSON: The Chair will rule on this matter. The point raised by the first paragraph of 398 has not, to the Chair's knowledge, been raised before today in all of these 7½ months and, therefore, since the point was not raised we have no precedent based upon it. The statement, on its face, that Mr. Mason presents does not seem to limit itself — that is, on its face — to any particular reading, but the Chair is persuaded by the fact that this is a very harsh rule, and if it were to be construed to reach from reading to reading that it would unduly preclude a deliberative body.

The Chair is going to interpret this particular rule to limit itself to a particular reading and, therefore, is going to hold that the point now made is not well taken and the amendment is in order. The Chair recognizes Mr. King to speak upon the amendment.

MR. KING: Thank you. Mr. President, fellow delegates, first of all, I think we ought to consider what is the net effect of the so called Hatch amendment, that is, the 2/3 legislative veto power. Now it appears to me that it is extremely unlikely that the bipartisan civil service commission will ever advocate a pay raise which will meet with the disapproval of 2/3 of the members elect to each house of our legislature. Therefore, it would seem that the provision does no good beyond, perhaps, sustaining the adequate egos of the members of the legislature.

Well, perhaps the next question would be: does it do any harm? And that is the point to which I would like to address myself at this time. It seems to me that it can do a great deal of harm. First of all, think what it would do to the morale of our loyal civil servants in this state if, every 2 years or so, when a pay raise is submitted to the legislature under this Hatch amendment, we have to be subjected to prolonged and heated, unavailing but heated, argument about the quality of the employees of the state of Michigan. It seems to me that this would be most detrimental to the whole civil service system.

The second argument that could be made and has been made is that this is a foot in the door approach. Now, at first, that doesn't appeal to me and it didn't appeal to me, quite frankly. But on the other hand, let us imagine that 51 per cent of the members of the senate and 51 per cent of the members of the house of representatives did oppose a pay raise. Now this is quite likely because this might be a very political thing to do and it could be held to be — well, I wouldn't say it would be irresponsible but it would be easy to oppose something if you knew that your opposition was going to have no net effect. So, let's say 51 per cent of the members of each house did oppose a pay raise. Then, of course, a clamor would be set up throughout the state of Michigan for a constitutional amendment so that the will of the people could be done or some such thing as that.

The third point that might be raised — and I do hesitate to raise this one but it was raised by the distinguished delegate from Stanton, Delegate Brake, on an issue recently: is this politically expedient? I personally don't care to comment on that. I shall leave that to your individual judgments but, certainly, Mr. Brake is right when he says that all responsible delegates to this constitutional convention should be interested in seeing this constitution passed by the people of the state.

Now what does our amendment do? I told you what it strikes and the effect of the striking part of the amendment. What is the amendment? In a positive and clear and forthright manner, we state that the legislature is not required to appropriate additional funds to meet the cost of such increases if, in its judgment, they should be met by a reduction in force or other economies by the various state agencies. We are clearly indicating what I think all of us have long recognized: that it is the proper and considered duty of the Michigan legislature to effect such decreases in state expenditures, but the way they do it is to sacrifice quantity, not quality. I don't think it's any secret to anyone who has the intelligence and ambition to be elected to the office that we serve here to state unequivocally that the good people — when rates of pay become out of line, uncompetitive with other industry and other state civil services and the federal service — the good people leave. The people who hang on, who weather the storm, are invariably the less worthwhile of our civil servants.

I personally would prefer to keep the best employees and if economics dictate a reduction in force, then so be it and perhaps this would not be a bad idea from time to time; but, certainly, we should bear in mind that we should at all times strive to keep quality as opposed to quantity. I think that's the net effect of this amendment and I frankly urge its adoption.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would just like to say briefly that while I recognize that what the movers of this amendment really want to do is to strike out something that is in the constitution, the stuff that they want to put in here is ridiculous. It is clearly presently within the power of the legislature to do exactly what is spelled out here. This language would add nothing to the constitution. I think that even debating it is wasting the time of this convention. I think if they want to attack what has been put in, that is fine and they should do so frontally and not in this manner.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, Mr. Van Dusen just made my speech for me. This doesn't do anything except strike out the amendment that we added to the article the other day. The committee on executive branch made some very definite improvements to civil service. We have made just one very small one on the floor. And it would be better, much better, to have an amendment now to strike that out.

Not only can the legislature refuse to appropriate when they are out of agreement with the increases made, but the last time it was done they did disagree and did refuse to make the appropriation; so this doesn't do a thing. Mr. King raised one other point upon which I will comment: the matter of political expediency. I think all of us recognize that he is this time on the side of political expediency. State employees are numerous, they are well organized and they are powerful. And one like myself who opposes something they want should do it with the realization that he is cutting his own head off.

VICE PRESIDENT HUTCHINSON: Mr. Durst.

MR. DURST: Mr. President and members of the convention, I don't care to add too much to what Mr. King has stated: that this amendment as presently existing in our constitution does create yearly, or every time there is a pay raise, the problem of a controversy and the continual outcry even though a majority of the legislators may not approve of the pay raise; but nevertheless, it stands because they cannot get 2/3. I think it highly unlikely we will ever obtain a 2/3 vote against a pay raise.

I would like to point out one other thing that has never been mentioned on this floor about the Hatch amendment. That is that it gives the legislature the power — if it could ever get 2/3 — to modify the scale of compensation; in other words, to go down and upset the classifications and change the pay level within various classifications within the state service. It would put the legislature completely in the entire business of setting pay rates for all the 30,000 employees of this state.

I would like to address myself in conclusion merely to the point made by Mr. Van Dusen and Mr. Brake that the language that we propose to substitute adds nothing. I agree that this is essentially the situation as it now exists. It does not hurt, however, to express it concisely in the constitution. I am convinced that many people of our state do not realize that the principle which is set forth here on the wall is actually a part of the civil service amendment and I surmise that perhaps some of the delegates to this convention are not sure in their own minds that this power does exist in the legislature and that this power in and of itself is sufficient to control the cost of the state civil service. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: Mr. Van Dusen and Mr. Brake have very ably pointed out that what this amendment, in effect, does is completely vitiate the amendment which was adopted in second reading. I therefore vigorously oppose this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise in support of the amendment. I agree with what Delegates Van Dusen and Brake said, that this is an oblique attack and there is an amendment that is a frontal attack which I hope they will join me in supporting in a few minutes. In the meantime, I do think that this does take out some of the worst part of section 8. I do not say it makes it a good amendment; it makes it a "less worse" one. And for that reason I support the "less worse" provision with the understanding I will support striking the entire provision when the time comes for that but, in the meantime, I support this amendment.

VICE PRESIDENT HUTCHINSON: The time has expired for debate upon the amendment. The question is upon the adoption of the amendment.

MR. HATCH: Yeas and nays, please.

VICE PRESIDENT HUTCHINSON: Mr. Hatch demands the yeas and nays. Is the demand supported? The demand is supported. All those in favor of the amendment will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—60

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Bentley
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Dell
DeVries
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford
Garvin
Greene
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Heideman
Hodges
Jones
Kelsey
King
Krolikowski
Kuhn
Madar
Marshall
Martin
McLogan
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Pollock
Powell
Rajkovich
Richards, L. W.
Sablich
Snyder
Spitler
Stamm
Stopczynski
Tubbs
Walker
Wanger
Wilkowski
Young

Nays—72

Batchelor
Beaman
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Donnelly, Miss
Doty, Dean
Doty, Donald
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Haskill
Hatch
Higgs
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Lawrence
Leibrand
Leppien
McAllister
McCauley
McGowan, Miss
Millard
Mosier
Nisbet
Page
Perras
Plank
Prettie
Pugsley
Richards, J. B.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Sterrett
Stevens
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the amendment offered by Mr. King and others, the yeas are 60; the nays are 72.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Martin, Allen, Romney, Mrs. Cushman and Mr. Follo offer the following amendment:

1. Amend article XI, section 8 (column 1, line 10) after "reject,", by striking out "reduce, or modify" and inserting "or reduce"; and in line 12, after "commission.", by inserting "Any reduction ordered by the legislature shall apply uniformly to all classes of employees and shall not adjust pay differentials already established by the civil service commission."; so the language will read:

> Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject, or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees and shall not adjust pay differentials already established by the civil service commission.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 15 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 15 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. It is so ordered. The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the purpose of this amendment is to change slightly the impact of the present proposal. The present proposal reads "reject, reduce, or modify" and the concern which many of us have with respect to the word "modify," which is here eliminated, is that it will bring the legislature into a consideration of various pay differentials and the business of raising one group of civil servants, lowering another group of civil servants, and get them into the whole complex and complicated business of fixing pay rates and pay differentials. We don't think, as a matter of fact, that this was the real intention of the proponents of the amendment which was put in here but, if it was, we think it is a mistake because this will lead to all kinds of jockeying in the legislature and log rolling between individuals who favor one agency or one group of employees and another and — regardless of whether there is a 2/3 vote or not — will involve long controversies in each legislative session with those who want to favor some particular group.

We think that if this provision is to stay in as it was put in by amendment that the word "modify" should be stricken and that the new wording should be added to make clear that the legislature may make such reductions if it decides to do so but would not get into the business of pay rate fixing as to individuals or as to groups. This would accomplish, I think, the whole purpose of those who wanted the amendment put in in the first place.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, Delegate Brake, on the floor of this convention, accused one of the cosponsors with me on an amendment on the same subject as this of acting, I believe, from motives of political expediency, and I presume that applies to all of the sponsors of that amendment. Now I am not going to make any charges of political expediency against Mr. Brake. I am just going to accuse him of consistency, because this power to modify existed previously under our law and the historical background of the civil service commission includes what is well known as the ripper act which was passed by the house and senate of 1939, which was known as house bill 253, upon which one Senator Brake voted yea. So I can understand his consistency today, many years later —

MR. EVERETT: Point of order.

VICE PRESIDENT HUTCHINSON: Mr. Everett, state the point.

MR. EVERETT: I think the speaker is both speaking off the point and indulging in personalities.

VICE PRESIDENT HUTCHINSON: The point seems to be well taken. Mr. Wanger will speak upon the amendment.

MR. WANGER: I apologize for transgressing a rule of the convention, Mr. President, but it seems to me that the comment that had previously been made was unjust.

Now to continue, I have something which I am sure will be significant in connection with this amendment. I have in my hands here a letter from a man who for many years — from 1941 to 1952 — was a member of the civil service commission during its formative years: Mr. William Palmer. He sent this to me and he is very much concerned about this power to modify, which was in the original Hatch-Brake amendment and which, of course, they would like to retain. I will quote from this letter. Mr. Palmer writes:

> The authority to modify, in effect, would put us right back where we were before the establishment of an effective state civil service system. I can cite one outstanding example, and there were many others, of how modification worked under legislative authority.
>
> In the wage study which we made in 1941, we found the the clerks in the liquor stores were at a higher wage rate than registered nurses in our state hospitals. I just do not believe the legislature should have this sort of authority to pick and choose under the pressures that can be brought to bear in such instances.

So, ladies and gentlemen, I urge you to vote in favor of this amendment and against those interests who would like to have the legislature be able to cut across the classification lines to provide that, say, clerk C in the liquor division or the highway division or the conservation division or any other division or combination thereof would receive either better or worse treatment than those in the same classification in other areas.

I emphatically urge a yes vote for this amendment, and I cite to you Mr. William Palmer's letter in favor of this despite the fact that Mr. Palmer in the same letter endorses — I repeat, endorses — the idea of having some legislative veto power over pay increases proposed by the commission.

VICE PRESIDENT HUTCHINSON: Mr. Farnsworth.

MR. FARNSWORTH: I will pass.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: Mr. President and members of the convention, let's take a good look at this amendment and what we are doing and, without any feeling of malice or rancor, see if we cannot do the right thing here.

Now, I want to say that I think that those who proposed the Hatch-Brake amendment did it because they felt that there was a legitimate place for legislative control over expenditures in the state. I didn't happen to vote with them on this one but I recognize there is a strong feeling in this direction and you cannot say that it is really unreasonable. However, in the course of doing it, we may have done more than, as a convention, was intended.

I don't think that any of us intended that the legislature would have the power to stir around in the civil service classifications or, classification by classification, reduce some and not reduce others, but when we put the word "modify" in, we open up that possibility. So this amendment takes that word out. That only leaves the 2 words, "reject" — and if they reject everything there is no problem constitutionally — but if they "reduce" we still are left with a problem, and the language here is to try and clear up this problem.

How do you reduce? You see, the amendment says nothing. In the state civil service there are 1,900 different classifications and there are 31,000 employees. Now, is the legislature allowed to reduce in this manner? Can it go over these 1,900 and say: classification 5 we will reduce, classification 1,000 we will reduce, classification 1,500 we will reduce, and we won't reduce the others? If we permit that, you see, we allow the legislature to favor its friends and oppose its enemies. I don't say they will do this intentionally but we open the door or, at least, it could be said they are doing it even though they are acting conscientiously. Or, let's take another example: if we had 1,900 pay classifications, wouldn't this language allow the legislature to say, in the first 500 classifications: we will reduce them 1 per cent, the second 500, 2 per cent, and the third 500, 3 per cent; or skip around? In order to prevent this from happening, this language in effect says this: if it makes a reduction, this reduction, in effect, shall be spread uniformly across the entire pay scale. If the total pay increase of the state is 3 million and the legislature decides it should be cut, let's say a million, then what would happen is that this $1 million cut would be uniformly spread across all of the 1,900 classifications; so you would come out with the effect that there would be no change in their pay differentials.

I think we want, as a convention, to avoid unintentionally — and I am not accusing anybody here of doing this intentionally. I know how these things can happen when you draw language and things come up you don't think about — what I want to avoid here is the possibility of the legislature being able to, or people being able to say the legislature will jump around within classifications or pick some and not others or adjust them all but at different rates. And we can do it if we adopt this language. I think if we are going to retain a principle of having legislative fiscal control, let's separate it out so the legislature doesn't have the personnel-practice control and leave that with the civil service commission.

It just isn't good civil service to do it any other way and this is the best amendment that those of us, Mr. Martin, myself, Mr. Romney, Mrs. Cushman and Mr. Follo, could think of to accomplish it. I think this is a fair thing. It doesn't violate the spirit of what we were doing, and it certainly takes a lot of sting out of it and the chance to make accusations that are wrong or the chance for something to happen later that wouldn't be good.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise reluctantly to support the amendment because, again, while this does not make it a good section, it makes it less objectionable in this manner: it takes a bad principle, the principle of the legislature setting wage rates or personnel practices but at least requires that they be applied uniformly, and to that extent I agree with the previous speaker and support this but want to advise the convention I will vote to strike the entire section at the appropriate time.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: Mr. President, I would like to direct a question to Mr. Martin, if I may.

VICE PRESIDENT HUTCHINSON: You may.

MR. HATCH: Mr. Martin, I notice that the amendment states that any reduction ordered by the legislature shall apply uniformly to all classes of employees. Now it is my understanding that the civil service commission has the authority to grant increases in rates of compensation to any class of employees and I wonder if it is the intent of the sponsors of this amendment to prohibit the legislature from exercising this so called veto power in the event the commission orders a raise for only a few or not all of the classes of employees.

MR. MARTIN: No, Mr. Hatch, it is not intended to have that effect. The sole purpose of it is to prevent the legislature from getting into particular areas and saying that these shall be cut so much and others shall be cut twice as much and others shall be cut not at all. That is all we are trying to do with this, and I think it certainly is not something that you want the legislature to get into in that form.

MR. HATCH: Well, Mr. President, I would merely point out that the language as it now stands does not permit the tampering with the classifications of employees. All it deals with is increases in rates of compensation. I would further point out that this amendment would require reductions uniformly; whereas, the civil service commission is not obliged to grant increases uniformly. I would also call to the delegates' attention the 2 limitations which appear in the language; namely, that any modification would require a vote of 2/3 of the members elect of each house and that the legislature would be further prohibited from reducing rates of compensation in effect at the time of the adoption of the rate increase. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I just want to inform my critical young friend back in the corner of the auditorium that before his personal attack I had intended to vote on the same side of the question as he was, and I have not been dissuaded even by his personal attack. There was no intention on my part and I am sure there was not on the others that the legislature should be allowed to juggle salaries and put a cut here and a raise there. That would be improper and should not be permitted.

I do think that Mr. Hatch has very properly pointed out to Mr. Martin and others that their wording is defective. This power to make a reduction or a rejection should apply only where the increases are granted and that is certainly not clear from their wording.

VICE PRESIDENT HUTCHINSON: Time for debate upon the amendment has expired. The question is upon the amendment offered by Messrs. Martin, Allen, Romney, Mrs. Cushman and Mr. Follo, which has been read. All those in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported? The demand is supported, 10 or more delegates supporting it. All those in favor of the amendment will vote aye. Those opposed will vote no.

MR. DOWNS: Yeas and nays, please.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays upon the amendment. Is the demand supported? A sufficient number up. The yeas and nays are ordered. The question is upon the adoption of the amendment. This is a record roll call vote. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—109

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Erickson
Faxon
Figy
Follo
Gadola
Garvin
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatcher, Mrs.
Higgs
Hodges
Howes
Jones
Judd, Mrs.
Kelsey
King
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Madar
Mahinske
Marshall
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Ostrow
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Sablich
Seyferth
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Young

Nays—23

Brown, G. E.
Conklin, Mrs.
Cudlip
Elliott, A. G.
Everett
Farnsworth
Finch
Goebel
Gover
Hatch
Heideman
Hubbs
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Millard
Mosier
Pugsley
Shackleton
Turner
Yeager

SECRETARY CHASE: On the amendment offered by Messrs. Martin, Allen, and others, the yeas are 109; the nays are 23.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Downs, Kelsey, Marshall, Snyder, Walker, Mrs. Daisy Elliott and Mrs. Hatcher offer the following amendment:

1. Amend article XI, section 8 (column 1, lines 2 through 20) by striking out all of section 8.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, this gets really to the heart of sound civil service administration. Now the critics of civil service have at times said that civil service is the fourth branch of government —

MR. HATCH: Mr. President, point of order.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: It seems to me that what is being stricken now are amendments which were adopted by the convention and I would cite section 401, paragraph 4 of Mason's Manual, that these were decided in the affirmative and that this amendment would put the question in the negative.

VICE PRESIDENT HUTCHINSON: The Chair is advised by the parliamentarian that a motion to strike is in order at this time. The convention has perfected a section but there has never been any question before the house, apparently, to strike it out and a motion to strike the section would not have been a proper amendment to the section before it was adopted. The analogy is between — in the legislature — a bill to repeal and a bill to amend. You cannot turn a bill to repeal into a bill to amend, nor can you turn a bill to amend into a bill to repeal.

The Chair is persuaded that it would be in order to move to strike the entire section and the amendment is in order. Mr. Downs is recognized on the amendment.

MR. DOWNS: I do have the floor, do I, Mr. President?

VICE PRESIDENT HUTCHINSON: You do.

MR. DOWNS: I urge support of this striking of section 8. The reason is that the chairman —

MR. MADAR: Mr. President, we cannot hear. I don't think his mike is on.

MR. DOWNS: Thank you. The purpose of a sound civil service system requires that civil service be independent of both the legislative branch of government and the executive branch of government. Striking this section would restore that independence that we now have. I wish to point out that the present civil service amendment to the constitution, adopted by the people and proven by time, was devised so that it was separate from both the legislative and the executive, and perhaps the father of that amendment would care to go into the history and details with which he is more familiar than I am.

Now what this does in section 8 is inject both the legislature and the governor into the operation of civil service. I wish to show how and I wish to show why that is undesirable. In the first sentence it says that increases can only be at the start of a fiscal year. I think that is undesirable to write into a constitution for the next 50 years. It says, secondly, there shall be prior notice to the governor, who shall translate such increase to the legislature as part of his budget. I raised this question before and was told that it was not the intent to permit the governor to veto a pay increase by simply refusing to transmit it, but I again raise the question as to what would happen if the governor either refused to transmit the pay increase or, worse yet, threatened to refuse to transmit the pay increase unless civil service modified its recommendations. This would inspire those who did not approve of civil service procedures to inspire the governor to enter into a collective bargaining arrangement with his own commission appointed by him, independent, which would be unsound. Therefore, that part should be stricken.

Secondly, on the matter of the legislature: even with the Allen amendment which does apply the wrong principle uniformly, it does mean that the legislature could reject increases by the 2/3 vote. I am very concerned that when the state is in a financial crisis there would be an harassment operation where certain legislators might try to use state employees' pay rates as a whipping boy to attempt to solve the financial problems. Now, this would be unsound from the viewpoint of the employee because he would not know what his pay rate was and there would be the tendency to have it not on a career, professional basis but injected into the partisan aspect of government where it does not belong. Wages should be set for government workers not on the basis of a deficit or surplus in the state treasury but on a professional career basis. This way government is much different from other types of industry.

Now from the viewpoint of the governor, I can think of nothing more weakening in practice to the chief executive of a state than to indirectly inject him into what pay rates should be. So this would be undesirable from his viewpoint.

As far as the legislature goes, this would be undesirable from the viewpoint of the legislature because it injects them into the technical, professional personnel practice of setting wages, which is not a policy matter that we consider a legislative function. And it is in its nature poor constitutional language because it is so detailed and so specific.

I wish to point out, and the question has been raised with some of us: is the present constitution worse than the one we are drawing, or better? I want to say categorically that section 8 is a step backward from the constitution we now have. It is definitely one of what I call the rotten apples in the barrel of apples we are preparing. I hope for support in striking section 8, and demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays upon the amendment. Is the demand supported? The demand is supported. Mr. Van Dusen.

MR. VAN DUSEN: Have you any further speakers, Mr. President?

VICE PRESIDENT HUTCHINSON: I have 2.

MR. VAN DUSEN: I move that further debate be limited to 4 minutes.

VICE PRESIDENT HUTCHINSON: On the question of limiting debate to 4 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. Debate is limited. The Chair recognizes Mr. Walker for 2 minutes.

MR. WALKER: I will pass, Mr. President.

VICE PRESIDENT HUTCHINSON: You pass?

MR. WALKER: Yes.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Well, Mr. President, I wish Mr. Downs had argued a little more vigorously for the amendment striking out the interposition of the legislature in this picture, but his present amendment strikes out the earlier portion of the section which has to do with the requirement that increases be submitted at an early date so they can be included in the budget, and other matters of that kind. Therefore, I am not for the amendment which he now submits. I don't think that we want to strike that portion out and we have already had a vote on the balance of the amendment which, apparently, the convention does not want to remove. So I am opposed to the amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment now offered by Mr. Downs and others. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no.

MR. WANGER: Parliamentary inquiry, Mr. President.

VICE PRESIDENT HUTCHINSON: State the parliamentary inquiry.

MR. WANGER: If this amendment to strike the section is adopted, would it then be in order to offer a new amendment which would consist of the present first sentence and the present last sentence of this section?

VICE PRESIDENT HUTCHINSON: It would not be in order.

MR. WANGER: For what reason? I am sorry —

VICE PRESIDENT HUTCHINSON: For the reason that such an amendment should have been offered before the amendment to strike out. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—49

Andrus, Miss
Austin
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Kelsey
Krolikowski
Lesinski
Madar
Mahinske
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Tubbs
Walker
Wanger
Wilkowski
Young
Youngblood

Nays—80

Allen
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McLogan
Millard
Mosier
Page
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, J. B.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
White
Wood
Yeager

SECRETARY CHASE: On the amendment offered by Mr. Downs and others to strike out all of section 8 of article XI, the yeas are 49; the nays, 80.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Downs, Mrs. Daisy Elliott, Mr. Kelsey, Mrs. Hatcher —

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Under rule 51, I would like to divide section 8 and have a separate vote on the second sentence.

VICE PRESIDENT HUTCHINSON: The request for a division is out of order. This article is not divisible on third reading.

SECRETARY CHASE: Mr. Downs, Mrs. Daisy Elliott, Mr. Kelsey, Mrs. Hatcher, Messrs. Marshall, Snyder and Walker offer the following amendment:

1. Amend article XI, section 9 (column 1, lines 21 through 29) by striking out all of section 9.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think we have had quite a lot of debate on this section. I move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate to 5 minutes upon this amendment. All those in favor will say aye. Opposed no.

The motion prevails. Debate is limited. The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I urge support of the amendment to strike this section. This section definitely does not belong in the constitution. What this section does is provide that a governmental agency could reorganize itself and eliminate an individual from his position for reasons other than efficiency but under the cloud of administrative efficiency. Then, when the individual was unemployed and without a check, he would have the remedy of proceeding to try to get reinstated. This should not be in the constitution. It is not in the present constitution and the past practice of providing that agencies must have approval before they reorganize, to protect individuals in reorganizations, is an important right to protect individual employees. I think that today, when there is so much concern about the state overriding the individual, it is particularly important to keep that protection. We did make some amendments on words, but I am willing to strike the entire section and go back to the principles of the present civil service amendment which is stronger than this section. I urge support of the amendment and demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays upon the amendment to strike. All those in favor of supporting the yeas and nays indicate by raising their hands. A sufficient number up. The yeas and nays are ordered. The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President and fellow delegates, this section has been the subject of considerable debate and attempts have been made to change it or strike it out before, but the essential proposition of the section is that an administrator is not on trial when he abolishes a position for reasons of administrative efficiency. He should not have to go to the commission and say: please, may I do this? if it is for reasons of administrative efficiency.

If there is any question about it — and the action taken — the commission has immediate authority to inquire into it and if it finds that the abolition has been for reasons other than administrative efficiency — that is, for partisan, racial or religious reasons — it is in a position immediately to reinstate him and the employee has lost no time other than the time necessary to see that the matter is presented to the commission. But this is recognition of the fact that this is an inherent right of the administrator to cut down his department if he so desires for reasons of administrative efficiency. I hope you will not support the Downs amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Downs and others. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—43

Allen
Andrus, Miss
Austin
Baginski
Balcer
Binkowski
Bledsoe
Bradley
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hodges
Jones
Kelsey
Lesinski
Madar
Marshall
McCauley
McGowan, Miss
Murphy
Nord
Pellow
Perlich
Richards, L. W.
Sablich
Snyder
Stopczynski
Suzore
Tubbs
Walker
Wilkowski
Young
Youngblood

Nays—81

Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McLogan
Millard
Mosier
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
Wood
Yeager

SECRETARY CHASE: On the amendment by Mr. Downs and others to strike out all of section 9, the yeas are 43, and the nays, 81.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mrs. Judd and Mrs. Cushman offer the following amendment:

1. Amend article XI, section 11 (column 1, line 47) after "annual" by inserting "fiscal"; so the language will there read:

> The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual fiscal audit as provided by law.

VICE PRESIDENT HUTCHINSON: Mrs. Judd.

MRS. JUDD: I yield to Mrs. Cushman.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon this amendment to 5 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. Debate is limited. The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, this section 11 deals completely with fiscal matters. They talk in the beginning about the legislature appropriating for the ensuing fiscal year. We are talking about, then, the preceding fiscal year. And concluding, at the end of each fiscal year, the commission shall return to the state treasury all moneys unexpended for that fiscal year. I do think, therefore, in the interest of clarity it would be well to insert this word "fiscal" audit here:

> The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual fiscal audit as provided by law.

It was just a point of clarification.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, the words "audit as provided by law" —

VICE PRESIDENT HUTCHINSON: Mr. Martin, the Chair doesn't think your mike is on.

MR. MARTIN: Oh. Sorry. Mr. President, the words "audit as provided by law" refers, in effect, to the provisions of the other portion of the executive branch which are now in a different article, article V, with respect to the legislative auditor, and that section clearly specifies what such audits shall be. So that, I think, this is not necessary. The legislative auditor is permitted to make fiscal and performance audits, and this amendment, therefore, is not a necessary amendment. It is covered in the other section.

MRS. CUSHMAN: Could I ask Mr. Martin a question, through the Chair?

VICE PRESIDENT HUTCHINSON: If the gentleman will yield. Do you yield to Mrs. Cushman for a question?

MR. MARTIN: Yes, certainly.

MRS. CUSHMAN: Would you explain to us, Mr. Martin, what types of audit you anticipate making?

MR. MARTIN: Well, they anticipate making fiscal audits which are to determine exactly how the money was spent, and performance audits to determine whether the money was spent for the purposes for which the legislature appropriated it.

MRS. CUSHMAN: Do you mean that you are anticipating in here subjecting the civil service commission to some type of audit that would say whether they were doing the job that they were supposed to be doing?

MR. MARTIN: They can be asked whether they are doing the job which they told the legislature they were going to do when they went before — when their appropriation was made to them.

MRS. CUSHMAN: Well, if that is the interpretation of this, I have an even more strong objection to this.

MR. MARTIN: It does not mean that they can do anything more than make the report, make the study.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I rise in support of the amendment. I believe that, very properly, the money for the civil service commission is a self executing earmark as a percentage of salaries. Certainly, the concept of a fiscal audit of dollar honesty is sound, and I don't think anybody has any objection to it. I am concerned that the performance audit will get into the possibility of interfering with the independence of this agency and, with due respect to Delegate Martin, I would point out that civil service, not like many other agencies, does not go to the legislature and ask for money for a certain purpose but, rather, civil service gets that money as a constitutional prerogative for a constitutionally defined purpose, not for a legislative purpose. I believe that unless the word "fiscal" is in there and performance is permitted, this is an oblique, side door approach to have legislative interference with the policy programmatic function of civil service, as contrasted to dollar honesty. I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays. Is the demand supported? A sufficient number up. The yeas and nays are ordered.

MR. MARTIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. DOWNS: Parliamentary inquiry.

VICE PRESIDENT HUTCHINSON: State it.

MR. DOWNS: If Mr. Martin gets the floor twice, do I get it twice?

VICE PRESIDENT HUTCHINSON: No, Mr. Martin doesn't get the floor again. The Chair was wondering what he wanted, and was going to find out if he wanted to ask you a question or something.

MR. DOWNS: I see. Thank you. (laughter)

MR. MARTIN: Mr. President, I was going to ask Mr. Downs' indulgence to permit me to answer his question or his point.

VICE PRESIDENT HUTCHINSON: Do you yield to the gentleman?

MR. DOWNS: If I may have equal time to answer Delegate Martin's answer to my answer. (laughter)

VICE PRESIDENT HUTCHINSON: Well, the time will run out in the meantime; but you may yield to Mr. Martin and retain the floor, if you desire.

MR. DOWNS: I will yield to Mr. Martin half of the unexpired time and retain the other half for my use.

SECRETARY CHASE: Thirty seconds.

VICE PRESIDENT HUTCHINSON: Each of you have 30 seconds. (laughter)

MR. MARTIN: I'll be brief, Mr. President. I only want to say that the legislature should not be prevented from knowing what the civil service commission is doing. This, at least, it is entitled to know.

MR. DOWNS: I believe that this could be the harassment of a constitutionally established commission that is constitutionally set up independent of the legislature, and urge support of the amendment. Thank you.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment offered by Mrs. Judd and Mrs. Cushman, which has been read. The yeas and nays have been ordered. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? Now, have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—64

Allen
Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bonisteel
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Cushman, Mrs.
Dade
DeVries
Douglas
Downs
Durst
Elliott, Mrs. Daisy
Faxon
Figy
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Jones
Judd, Mrs.
Kelsey
Krolikowski
Lawrence
Lesinski
Madar
Mahinske
McCauley
McGowan, Miss
McLogan
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Perras
Pollock
Powell
Prettie
Richards, L. W.
Sablich
Snyder
Stamm
Stopczynski
Suzore
Tweedie
Upton
Walker
Wanger
Wilkowski
Yeager
Young
Youngblood

Nays—68

Batchelor
Beaman
Bentley
Blandford
Boothby
Brake
Brown, G. E.
Cudlip
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Donald
Elliott, A. G.
Erickson
Everett
Farnsworth
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Leibrand
Leppien
Martin
McAllister
Millard
Mosier
Page
Plank
Pugsley
Radka
Rajkovich
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stevens
Thomson
Tubbs
Turner
Van Dusen
White
Wood

SECRETARY CHASE: On the amendment offered by Mrs. Judd and Mrs. Cushman, the yeas are 64; the nays are 68.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The Chair will recognize at this time Miss Hart. Miss Hart.

MISS HART: Mr. President, we have had an exemplary citizen, who has been in attendance at this convention on a daily basis for some weeks. I think all of us read about her in the paper. She has taken the bus from Jackson daily to sit here and watch our deliberations. And so we want to pay her tribute today in the form of an orchid.

VICE PRESIDENT HUTCHINSON: Thank you, Miss Hart. (applause)

MRS. BUTLER: How many more amendments?

VICE PRESIDENT HUTCHINSON: Five more. We are going to recess right now. Mr. Van Dusen.

MR. VAN DUSEN: I believe, Mr. President, it might be —

MR. McALLISTER: Mr. President —

MR. VAN DUSEN: — appropriate to enter in the journal the recognition of this convention of the interest in the cause of constitutional revision expressed by Mrs. Don Furtwangler, our visitor from Jackson.

MR. McALLISTER: Mr. President —

VICE PRESIDENT HUTCHINSON: Without objection, the entry in the journal will be made.

MR. McALLISTER: Mr. President, we have another distinguished guest who has been here every day of the convention except on Friday, and I would like to recognize this gentleman. He has also furnished a great number of the delegates with ash trays. Mr. Byron Baker. (applause)

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Donald Doty.

MR. DONALD DOTY: Mr. President, Mr. President, I move we recess to the hour of 7:30.

VICE PRESIDENT HUTCHINSON: Prior to placing the motion to recess, the secretary has an announcement.

SECRETARY CHASE: The committee on administration will meet immediately. Walter DeVries, chairman.

There was found on the floor near the desk of Delegate Madar an Irish sweepstakes ticket. (laughter)

MR. MADAR: Mr. President, Mr. President, as much as I would like to claim the ticket, I am sorry, it isn't the one I had here; I can assure you.

SECRETARY CHASE: We have the following requests: Mr. King asks to be excused from the evening session because of an engagement of many months' standing which was reconfirmed last night; Mr. Romney asks to be excused from tonight's session to keep a long time commitment; and Mr. Danhof asks to be excused from a portion of the evening session.

VICE PRESIDENT HUTCHINSON: Without objection, the excuses are granted. The Chair hears none.

MR. VAN DUSEN: Mr. President, the committee on rules and resolutions will meet immediately to have its picture taken. I hope everyone will be present in room F.

MR. DADE: Mr. President. Mr. President.

VICE PRESIDENT HUTCHINSON: Oh, Mr. Dade.

MR. DADE: Mr. President, this morning we began these proceedings with a very happy note, a note of appreciation to others for the many things they have done for us. Mr. President, as the only clergyman in this body, may I end the afternoon session with a note of appreciation to 143 other delegates in this convention?

At all the times that I have been able to be present in the sessions, I want to say that the delegates have accorded me the greatest of respect, courtesy, kindness and consideration, and for that I am deeply grateful; and I hope that when the summons comes some day to cross the vale, they can hear the words from Saint Peter, "It will be passed, it is passed, you are passed." (laughter)

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Donald Doty that the convention stand in recess until 7:30 this evening. All those in favor will say aye. Opposed, no.

The motion prevails. The convention stands in recess.

[Whereupon, at 5:55 o'clock p.m., the convention recessed; and, at 7:30 o'clock p.m., reconvened.]

The convention will be in order. Delegates will kindly take their seats.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

VICE PRESIDENT HUTCHINSON: Third reading. The convention has under consideration article XI. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Martin and Mr. J. B. Richards offer the following amendment:

1. Amend article XI, section 13 (column 1, line 57) after "resolution" by inserting "of its governing body"; so that section 13, the first part of the language, will read, "By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon. . . ."

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, this is just a perfecting amendment. The words "of its governing body" were taken out by style and drafting and were not put back in, and this is just to get the words "of the governing body" in there after the words "By ordinance or resolution" so that it will be clear who passes the ordinance or resolution. Mr. Richards isn't here but — oh — he may wish to speak on this.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment.

MR. FAXON: What amendment is that?

VICE PRESIDENT HUTCHINSON: All those in favor of the amendment —

MR. FAXON: What is the amendment?

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment once more. Mr. Stevens.

MR. STEVENS: I just want to ask Mr. Martin a question.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. STEVENS: I want to know why it made it any more clear.

MR. MARTIN: What's that?

MR. STEVENS: How does it make it any more clear?

MR. MARTIN: Well, Mr. Richards —

MR. STEVENS: You have over here a little farther "township, county, school district. . . ."

MR. MARTIN: It just simply makes it clear that it is the governing body of the township, city or school district. It was in there but it was taken out when they recast the resolution or the paragraph there. I don't think they meant to take it out.

VICE PRESIDENT HUTCHINSON: The convention will be in order. Mr. Hanna.

MR. W. F. HANNA: Mr. President, a question to Mr. Martin.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. W. F. HANNA: Mr. Martin, a problem that has bothered us in style and drafting is: what do you mean by the governing body? Do you mean the legislative body?

MR. MARTIN: That's right.

MR. W. F. HANNA: Would you object if style and drafting changed it then to "legislative body?"

MR. MARTIN: No, I don't object.

MR. W. F. HANNA: All right.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment offered by Mr. Martin. All those in favor of the amendment will say aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Allen, W. F. Hanna and Krolikowski offer the following amendment:

1. Amend article XI, section 13, (column 1, line 60) after "thereon,", by inserting "unless otherwise provided by charter"; so the language will then read:

> By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter each city, village, township, county, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure.

VICE PRESIDENT HUTCHINSON: Mr. Allen.

MR. ALLEN: Mr. President, this is what might be called a protecting amendment which is designed to take care of what I believe was the intent on second reading. I checked with style and drafting after the language came out and 2 members of style and drafting, who have joined in this, agreed.

You will recall that there are city charters and perhaps village charters which allow civil service now and which have been voted on and passed by a majority of the electors voting thereon. These charters in some instances provide that the city council may put in a civil service ordinance without again referring it to a second vote or, if it is already in existence, may modify it without a vote of the people. So the language is simply to make it clear, so there wouldn't be any argument about it, if it is already provided in a charter.

Now, I would say this: there might be this new element enter that we didn't think about on second reading. That is, we have provided now for county home rule with a county charter, and I suppose there might be counties which would adopt a charter which would provide that the county could put into effect civil service. And as long as this county charter is approved by a majority of the people, which of course it would have to be, then in this case — it is a future case rather than past cases in the cases of cities or villages — it wouldn't have to take a second vote. I believe — and I will ask Mr. Hanna and Mr. Krolikowski, who are on style and drafting, to support this — that this was the intent of the convention on second reading and this language is only to make this point clear.

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I had a note from Mr. Allen and somehow forgot to raise it in style and drafting. As I had something to do with drafting this when we were going through it on the floor, it seems to me perfectly clear that this was to make available to those units not having civil service the possibility of establishing civil service.

The home rule city and village act already provides that cities and villages may, by charter, provide for civil service, and those charters were adopted and will be adopted in the future by a vote of the people. If the charter so provides for civil service, and a method of amending the charter is of course provided, and so forth, it seems perfectly ridiculous to require a vote on the charter in the future or, if they wish to install or modify civil service in accordance with their charter, to require a vote of the people. So I urge to the delegates that those cities which now or hereafter provide for civil service by charter are not restricted under section 13 but that this is made available to all those units which do not have a charter or which, by omission from their charter, do not provide for civil service. I believe this is strictly a perfecting amendment and we did not intend to interfere with home rule charter provisions of cities and villages.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, we have no objection to this amendment. It was mentioned on the floor before and we have no objection to it.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment. Mr. Baginski.

MR. BAGINSKI: Mr. President, I would like to ask Mr. Allen a question. Mr. Allen, what happens in Wayne where we already have a merit system but we don't have a charter, in the county of Wayne?

MR. ALLEN: What is this, county or city?

MR. BAGINSKI: County.

MR. ALLEN: And you don't have a charter, of course.

MR. BAGINSKI: No, no.

MR. ALLEN: Well, if you already have a merit system, then I would say this doesn't take it away but I would say that, in the absence of a charter, if you wanted to modify it under this language it would require a vote of the people. I will ask Mr. Hanna. I will pass to him to verify this answer.

MR. W. F. HANNA: Mr. President and Mr. Baginski, —

VICE PRESIDENT HUTCHINSON: Mr. William F. Hanna is answering a question of Mr. Baginski, who has the floor.

MR. W. F. HANNA: Mr. Baginski, as I understand it, the Wayne county civil service is dependent upon an ordinance or state law; I mean, is statutory. One of the objections of yours has been that you have been at the mercy of the legislature as regards changes from time to time, and the legislature has made changes in your civil service rather than your local county government. Is this correct?

MR. BAGINSKI: That's right.

MR. W. F. HANNA: Now, previously, there was another clause which said that in counties the size of Wayne we had taken away from the legislature this power to keep changing your civil service. It left it to Wayne county itself. Do you recall that provision?

MR. BAGINSKI: That's right.

MR. W. F. HANNA: Now this provision, making available to all counties without the state law that they can have their own civil service, simply means that civil service can now be adopted by Wayne county and that you don't have to leave the legislature with the power to modify your civil service from now on. This will be your own civil service. You run it as you see fit.

MR. BAGINSKI: Another question, Mr. President, of Mr. Allen, if I may: Mr. Allen, aren't we confusing this section on this with the home rule section?

MR. ALLEN: No.

MR. BAGINSKI: The home rule section provides for a charter and civil service, if they want to adopt it. Isn't it so?

MR. ALLEN: No, I don't think we are confusing it. There are some home rule local units that have a provision for civil service. There are other units of government without a charter. Now those without a charter, Mr. Baginski, as I read this, would have to submit to a vote of the people the problem of whether to have or not have a civil service. However, if Wayne county should go to county home rule with its own charter, and if its charter should provide, as it probably would, that there may be civil service and, let's say, if its charter should provide that it didn't take an additional vote of the people and if the charter is approved by a majority vote of the people, then you are completely on your own. I don't think it confuses it. I think that it is part of the problem. It is part of the total units of government here. I really think this makes it clearer.

MR. BAGINSKI: I understand.

VICE PRESIDENT HUTCHINSON: Mr. Perras.

MR. PERRAS: At this time, Mr. President, I move the previous question.

VICE PRESIDENT HUTCHINSON: Well, there isn't anybody else seeking recognition. The question is upon the amendment offered by Messrs. Allen, W. F. Hanna and Krolikowski which has been read. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

A DELEGATE: Division.

VICE PRESIDENT HUTCHINSON: Division is demanded. Is the demand for division supported?

SECRETARY CHASE: One.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. J. B. Richards, Brake, Boothby and Powell offer the following amendment:

1. Amend article XI, section 13 (column 2, line 9) after "tenure.", by striking out "The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.".

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. J. B. Richards.

MR. J. B. RICHARDS: Mr. President and fellow delegates, the reason we are offering this amendment to strike the sentence is that we think the state has no responsibility and does not need to be in this type of business, helping even on a reimbursable basis. We probably could use our college and university people much better than that, probably at less cost.

It seems as though the more we add to government, the more it is going to cost us. Even though we reimburse, there will be times when people on the payroll will certainly have to continue on their jobs even though they have no work to do. So I think it is quite appropriate that we take this sentence out.

VICE PRESIDENT HUTCHINSON: Mr. Boothby.

MR. BOOTHBY: Mr. President and ladies and gentlemen of the convention, I really want to point out, refresh the memories of the delegates to this convention, that when this whole matter was before the convention before, Mr. Brake asked Mr. Martin if there had been any demand expressed before his committee for this type of assistance. Mr. Martin replied that no township or county or village or city had made any kind of request for this type of service being provided them. They have indicated they can handle this type of matter all by themselves; they don't need any assistance. I think it is improper for the state civil service commission to get into this kind of an area.

VICE PRESIDENT HUTCHINSON: Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I was glad to join in sponsoring this amendment because I feel that it would be a toe in the door proposition, that it would set in motion a dangerous trend. I would point out that the programs of local civil service that we now have were developed and have been maintained without any such provision in the constitution. I would join with even more enthusiasm in an amendment to delete the entire section 13, because I do not think it is necessary. They have a big program in Wayne county that was established without any reference to it in the constitution. I don't think that it is needed. But certainly this particular sentence that is involved in this amendment is something that I feel should be removed from the section.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move to limit further debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate on this amendment to 5 minutes. All those in favor will say aye. Opposed.

The motion prevails. The Chair next recognizes Mr. Martin.

MR. MARTIN: Mr. President, this sentence doesn't create any of the dangers that Mr. Boothby sees at all. There are no ghosts in this picture. It is simply a provision which would enable the state civil service if it has a request — not on its own initiative but if it has a request — to furnish technical advice, to do so. It doesn't authorize any propagandizing or anything else. It just makes it possible for a local unit to get a little expert advice from the one place in the state where they have a good deal of experience. That's all there is to it, and to strike it out just makes it that much more difficult for local units to get their own systems established. So I hope you will not support this amendment.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates —

VICE PRESIDENT HUTCHINSON: The convention will be in order.

MR. W. F. HANNA: Mr. President and fellow delegates, I feel that this is important. There are many townships and counties that would appreciate technical advice on a reimbursable basis from a body well versed and expert in civil service machinery. While there have been no requests, it has been because this has not been available and because the legislature has not seen fit to allow many local units to have civil service. Certainly this is not compulsory that it be used. They may turn to universities or other experts or other cities that have civil service for advice, but if they desire to turn to the state they have that privilege. I, as a township and county official, would appreciate this valuable information available to me at a known cost. I heartily reject the purposes behind this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, Mr. Martin, I think, has made it very clear, and Mr. Hanna also. I find it a little touching that the movers of this amendment should feel that the civil service commission, this great ogre, is likely to step in and take over some of the precious qualities of local government. They don't seem to worry when the road funds come rolling in or the welfare funds or any of the really significant sums of money that come from the state that enable local government to function but now when it comes to personnel, which, of course, is at the heart of everything, they are worried.

I think the basic point is, this is purely a permissible matter. I am sure the state civil service commission is not anxious to take this on but it would be obviously of great assistance to local government if they could turn to some body that has the technical skill to enable them to set up what is obviously so greatly needed today in the midst of all of the technical services which abound. I have no strong feeling about this, but I think this amendment is certainly not an improving amendment and, therefore, should be defeated.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: Mr. President, I think that what I have to say has already been ably said by other people. I, too, would like to speak for the original language and against this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Messrs. J. B. Richards, Brake, Boothby and Powell, which has been read. All those in favor of the amendment will say aye. Opposed will say no.

MR. GOVER: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand supported? The demand is supported.

MR. DURST: Mr. President, I ask for the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Durst demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Twenty-one.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. It is a division. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total. The Chair would remind the delegates that this is not a record roll call and it is just a matter of totals; so that unless the vote is close it is not of any great importance whether votes are changed or not.

SECRETARY CHASE: On the amendment offered by Mr. J. B. Richards and others, the yeas are 45; the nays are 64.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Boothby offers the following amendment:

1. Amend article XI, section 13 (column 1, beginning on line 57) by striking out all of section 13.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, I had not talked with Mr. Powell prior to my placing before the secretary this amendment. I would be very happy for him to support this amendment, however, as he indicated he would.

This particular amendment has been placed before the convention because I feel there are several problems that maybe have been ignored in the mad rush to endorse civil service. The same people that are in favor of placing this provision in the constitution have been those people that have been interested in having a flexible document. I would like to point out to the members of this convention —

VICE PRESIDENT HUTCHINSON: The convention will be in order.

MR. BOOTHBY: I would like to point out when you place this type of provision into a constitution, you are nullifying part of the statutes that have been written by the legislature. For instance, the home rule provision for cities provides that a civil service system may be set up in a home rule charter and it doesn't make any restrictive provision regarding what kind of a vote it will require to set up this civil service provision. Another statute provides that there may be a civil service system set up for fire and police people within cities, villages or municipalities and this does not require any specific vote of the people and by the board. So you see, when you place into the constitution a provision such as you have here, you are actually becoming more restrictive in nature and, consequently, you do not have that degree of flexibility that some of our brethren here at the convention have been arguing in favor of.

I would like to also point out the fact that one of the reasons why there has been indicated a desire to place this type of provision in the constitution is because some people have indicated that it is necessary to cause the legislature to act. I point out that those 2 particular statutes that I have just referred to were enacted by our legislature and there are several other provisions, several other pieces of legislation, that our legislature has provided for a civil service system for local units of government. In fact, in 1951, as late as 1951, the police departments were inserted in the act which allowed for villages, cities and municipalities to have civil service systems.

One further comment and that is this —

VICE PRESIDENT HUTCHINSON: Please be in order.

MR. BOOTHBY: — there is no question that this is purely legislative in nature. I see no reason to write in a legislative provision, especially when the legislature has acted in the past and especially when this particular area is one that I would feel might not be the type that you would want to tie down as restrictive, as you have here in this provision.

I would also like to point out that when the executive committee made their report, they made this statement in conclusion. They said:

> The committee on local government was asked for its opinion though no jurisdiction was specifically assigned on this matter. A majority of that committee are of the view that the subject matter of the proposal is legislative in character and not necessary in the constitution.

I believe, for all these reasons that I have stated, that it would be in the best interest of this constitution to strike these statutory words from the constitution.

VICE PRESIDENT HUTCHINSON: Mr. Perras.

MR. PERRAS: Mr. President, at this time I move the previous question.

VICE PRESIDENT HUTCHINSON: There is one other speaker is all. The Chair will receive the motion for the previous question, unless there is any — Mr. Martin.

MR. MARTIN: First, just let me say a word on —

VICE PRESIDENT HUTCHINSON: Do you insist upon your motion, Mr. Perras?

MR. PERRAS: We will listen to Mr. Martin.

VICE PRESIDENT HUTCHINSON: There's Mr. Martin, and Mrs. Judd is also on the list.

MR. PERRAS: No, one only. (laughter)

VICE PRESIDENT HUTCHINSON: The Chair will put the motion for the previous question. Is the demand for the previous question supported?

MR. FAXON: Mr. President, I move to limit deate to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Faxon offers a motion which takes precedence: to limit debate to 5 minutes. All those in favor of Mr. Faxon's motion to limit debate will say aye. Opposed, no.

The motion does not prevail. Mr. Perras moves the previous question. Is the demand for the previous question supported? It is supported. The question now is: shall the main question be put? All those in favor will say aye. Opposed, no.

The previous question is ordered. The question is upon the amendment offered by Mr. Boothby.

MR. BOOTHBY: Yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Boothby demands the yeas and nays. Is the demand supported?

SECRETARY CHASE: Seventeen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The question is upon the amendment offered by Mr. Boothby. All those in favor will say aye. Opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: No further amendments.

VICE PRESIDENT HUTCHINSON: Are there any further amendments to the body of article XI, public officers and employment? If there are none, the question is upon the passage of the article as amended. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If you have all voted, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—92

Allen
Andrus, Miss
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Bonisteel
Brake
Brown, G. E.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Donald
Douglas
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola

Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Mahinske
Martin
McLogan
Millard
Mosier
Ostrow
Page

Perras
Plank
Pollock
Powell
Prettie
Pugsley
Rajkovich
Richards, L. W.
Rood
Seyferth
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Yeager

Nays—31

Austin
Bledsoe
Boothby
Bradley
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss

Hatcher, Mrs.
Jones
Madar
McAllister
McCauley
McGowan, Miss
Murphy
Nord
Norris
Pellow

Perlich
Richards, J. B.
Shackleton
Shanahan
Snyder
Stopczynski
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of article XI, as amended, the yeas are 92; the nays are 31.

VICE PRESIDENT HUTCHINSON: The majority of the delegates elect having voted in favor thereof, article XI, as amended, is passed.

For sections 1 through 7, 9, 10, 11, 12 and 14 of article XI as passed, see above, page 3070.

Following is section 8 of article XI as amended and passed:

> Sec. 8. Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject, or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

Following is section 13 of article XI as amended and passed:

> Sec. 13. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter each city, village, township, county, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Following is explanation of vote submitted by Messrs. Boothby and J. B. Richards:

> We voted no on article XI — public officers and employment — for the reason that in our judgment section 13 of that article is not a proper or desirable constitutional provision. The language is clearly statutory and there was absolutely no evidence that the legislature had failed to provide needed legislation in this area.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read article XII.

SECRETARY CHASE: Article XII, amendment and revision.

[Article XII, sections 1, 2 and 3, was read by the secretary. For full text, see above, page 3072.]

VICE PRESIDENT HUTCHINSON: Article XII has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in article XII of the proposed revision of the constitution:

section	column	line	Corrections
2	2	4	Delete "[a]".
3	2	23	After "tative" insert "[s]".

VICE PRESIDENT HUTCHINSON: Without objection, it is so ordered. [Corrections made above.] Are there any amendments?

SECRETARY CHASE: Messrs. Stevens, Prettie and Wanger offer the following amendment:

1. Amend article XII, section 2 (column 1, line 26) after "elected" by changing the comma to a period and striking out "or 300,000 registered electors, whichever is less.".

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, this is definitely a perfecting amendment. This provision, inserted here by the committee, in effect provides that it is easier by use of the initiative to amend the constitution than to make a law by the initiative. By providing this 300,000, it is very clear that within the very near future, if the state population grows as contemplated, 300,000 will be 8 per cent, which is the amount required for a statutory initiative.

It has already been one of the troubles in Michigan that anybody who wanted to use the initiative to pass a law found it so little harder to get the constitution amended than to get an ordinary statute passed that he turned to the constitutional initiative. It was just as easy to get 10 per cent as 8 per cent and then he would, as we say in the convention, freeze it into the constitution. Well, it is not a very deep freeze if you can amend the constitution too easily. Whether it will be there 50 years or 4 years depends, of course, on many things. But, certainly, Michigan for years has had a constitution which is one of the easiest to amend of any of the states. My objection to this provision and the reason for this amendment is simply to make it more difficult to amend the constitution than to pass an ordinary statute.

VICE PRESIDENT HUTCHINSON: Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, we went over this, I think, very thoroughly on the first and second readings, and I would like at this time to make a motion that we limit debate on this to 2 minutes.

VICE PRESIDENT HUTCHINSON: There is a motion to limit debate on this amendment to 2 minutes. All those in favor will say aye. Those opposed will say no.

The motion prevails. Mr. Wanger.

MR. WANGER: Just to recall the mathematics of this to the delegates: at present, if you will open your Michigan Manual of 1961-62 to page 457, you will see the total figures for vote of all candidates for governor through Michigan history. You will notice that it has gone up in practically every case from the last election. The general trend is clearly up, so it is increasing. You will notice that at present the number of 8 per cent, which is required for initiative petitions, is coming very close to this 300,000 mark. At present, taking the last election — that is, the 1960 gubernatorial election — 8 percent is 262,522; so, in a very few years, if this 300,000 is left in, it is going to be easier to get a constitutional amendment presented by initiative petition than it is statutory matters. This will result in statutory detail being presented more frequently for inclusion in the constitution and this is bad.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption — Mr. Durst.

MR. DURST: Mr. President and members of the convention, as Mr. Perras has aptly stated, this has been considered before. Mr. Stevens originally offered the amendment to strike the 300,000 and we went through all the various arguments, pointing out that as the population of this state grows that, in effect, we are mitigating and destroying the very right which we have created here by amendment and revision, and that it becomes almost impossible for any ordinary group of citizens to put a constitutional amendment on the ballot. As this number grows — and it is now around 300,000 — the only organizations that will be capable of using this right will be the very large, well financed organizations. The smaller civic organizations will have no use of the provision.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the amendment offered by Messrs. Stevens, Prettie and Wanger, which has been read. All those in favor of the amendment will say aye. Opposed will say no.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported? It is supported; a sufficient number up. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

MR. STEVENS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: I request the vote of the Chair.

VICE PRESIDENT HUTCHINSON: The Chair has already voted. This is only a division vote. This is not a record roll call vote. It is necessary only to ascertain the greater number of votes for than against. There have been so many people that didn't vote and who are demanding to change their votes and so forth that, regretfully, the secretary has lost track. Now, we don't keep a record of names here and it is a matter of keeping track by number. So, for that reason, the Chair is going to request that you permit another vote to be taken, because otherwise we won't be able to know the outcome.

MR. MADAR: Mr. President, may I ask for the yeas and nays, please?

VICE PRESIDENT HUTCHINSON: Mr. Madar demands the yeas and nays upon this vote. Is the demand supported?

SECRETARY CHASE: Thirty-two.

VICE PRESIDENT HUTCHINSON: A sufficient number up. The yeas and nays are ordered. The question —

MR. AUSTIN: Mr. President.

VICE PRESIDENT HUTCHINSON: The delegates will please clear the machine.

MR. AUSTIN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Would you ask the secretary to read the amendment before we vote?

VICE PRESIDENT HUTCHINSON: The secretary will read the amendment once more.

SECRETARY CHASE: The amendment offered by Messrs. Stevens, Prettie and Wanger:

[The amendment was again read by the secretary. For text, see above.]

VICE PRESIDENT HUTCHINSON: Please clear the board. Mrs. Judd, Mr. Knirk, Mr. Lawrence, please clear the board. Mr. Rood, Mr. Millard, please clear the board. Thank you. All those in favor will vote aye. Those opposed will vote no. This is a record roll call vote. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—65

Batchelor
Beaman
Bentley
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Everett
Farnsworth
Figy
Finch
Gadola

Hatch
Heideman
Hubbs
Hutchinson
Iverson
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Millard
Mosier
Nisbet
Ostrow
Pellow
Perlich
Perras
Plank

Richards, J. B.
Richards, L. W.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Turner
Tweedie
Van Dusen
Wanger
White

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Goebel
Gover
Haskill
Powell
Prettie
Rajkovich
Wood
Yeager

Nays—51

Andrus, Miss
Austin
Balcer
Barthwell
Bradley
Buback
Cushman, Mrs.
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford
Garvin
Greene
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatcher, Mrs.
Higgs
Howes
Hoxie
Jones
Judd, Mrs.
Leppien
Lesinski
Madar
Martin
McAllister
McCauley
McGowan, Miss
Murphy
Nord
Norris
Page
Pollock
Pugsley
Sablich
Snyder
Stopczynski
Suzore
Thomson
Upton
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Stevens, Prettie and Wanger, the yeas are 65; the nays are 51.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garry Brown and Boothby offer the following amendment:

1. Amend article XII, section 2 (column 1, line 26) after "elected" by changing the period to a comma and inserting "not more than 25 per cent of such signatures to be obtained from residents of any one county."; so the language will there read:

> Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 per cent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, not more than 25 per cent of such signatures to be obtained from residents of any one county.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, a similar amendment to this failed rather slightly, previously, on the second reading. It is self explanatory. I think it is good. It is not as restrictive as the provisions of the present statute relating to the nomination of governor, and I would therefore suggest and urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would move to limit further debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: There is a motion to limit debate to 5 minutes on this amendment. All those in favor will say aye. Opposed will say no.

The motion prevails. Mrs. Cushman is recognized.

MRS. CUSHMAN: Mr. President, I rise in opposition to this amendment. It seems to me that what you are saying here is that those of us who live in Wayne county, merely because we do compose a third of the state's population, are not going to count as heavily as those in the rest of the state. I think this is a distinctly unfair and prejudiced position to take and I object to it strongly.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President, I wish to join Mrs. Cushman in vigorous opposition to this amendment. The one place where we thought we had one man, one vote being equal was on getting petitions but now even this is being taken away by limiting the number of petitions we can get. I think this is highly unreasonable and strenuously urge a no vote to the amendment, particularly since we discussed this earlier.

VICE PRESIDENT HUTCHINSON: Mr. Staiger.

MR. STAIGER: I, too, oppose this amendment. I see no reason, no principle, for having this type of a provision in the constitution obviously designed at one particular county. I don't happen to come from that county but I see no reason at all, and I think that it has no part in this constitution.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and delegates, I rise here to support the amendment for the protection of the minority in Wayne county.

VICE PRESIDENT HUTCHINSON: Mr. Nord.

MR. NORD: Mr. President, I rise to oppose this amendment as vigorously as I can. I wish to point out 2 things: 1, this amendment is based on a philosophy that is extremely repugnant, in my opinion, to any person who believes in democracy because it takes the view that some people count; other people do not count; and 2, I attack this particular amendment as being a violation of equal protection of the laws. I believe I know whereof I speak, and this thing could be attacked again.

VICE PRESIDENT HUTCHINSON: Mr. Arthur Elliott.

MR. A. G. ELLIOTT: Mr. President, I would like to ask Mr. Brown a question and, Mr. Brown, please, just a short answer; so that I can make a comment or two. I got trapped once. Could you briefly give me an explanation of why you think this is a good amendment?

MR. G. E. BROWN: Mr. President and Mr. Elliott, I would think to Mr. Elliott, as well as Dr. Nord and the others who are learned individuals here, that the answer to Mr. Elliott's question would be apparent. All that we ask is that there be an informed electorate when a proposition is put on the ballot. The circulation of petitions better informs the electorate with respect to any candidate, better informs the electorate with respect to any issue than almost anything you can do in a campaign.

When you go to people and ask for signatures, you are telling them what the proposition is; and is it too much to say that, at least, people in 4 counties shall be familiar with an issue that is going to be placed upon the ballot for election at large throughout the state, that will affect the whole state? Is that too much, Mr. Elliott?

MR. A. G. ELLIOTT: Just right. Thank you very much. Mr. President, ladies and gentlemen, I want to speak in opposition to this amendment. I think that we are again trying to get into a statutory position when we should not. I don't think that the amendment is consistent with what we want in this constitution in this particular area. This amendment does not determine the course of events. This merely creates an opportunity for the people to vote on an issue and it does not determine the issue once the amendment is placed on the ballot. When the proper signatures have been obtained, all of the people of the state will have an opportunity, if they wish, to exercise their franchise. I would like to urge you strongly not to get into this particular trap of putting this type of statutory language in the constitution. I would like to urge that you defeat this amendment and leave the language as we now have it.

VICE PRESIDENT HUTCHINSON: Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, I want to point out the fact that this language is not nearly as restrictive as the language which is required for the nomination of a governor. To be nominated for governor, you have to have petitions signed in 20 counties of the state. They have to be circulated in 20 counties of the state. This only requires that you have at least no more than 25 per cent of the signatures gained in any one particular county. This certainly is not very restrictive. All we are saying is, when you are going to put on a statewide ballot a matter of statewide concern it should be more than something of very local interest, because you cannot pass a matter unless you have statewide support for a constitutional amendment, at least in more than one county.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The secretary has an amendment to the amendment, which will be read.

SECRETARY CHASE: Mrs. Cushman offers the following amendment to the language of the amendment:

1. Amend the amendment by striking out "not more than 25 per cent" and inserting "at least one-third"; so the language to be inserted will then read, "at least one-third of such signatures to be obtained from residents of any one county."

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the amendment offered by Mrs. Cushman. All those in favor will say aye. Opposed, no.

The amendment to the amendment is not adopted. The question is upon the amendment offered by Mr. G. E. Brown and

Mr. Boothby. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

SECRETARY CHASE.: Messrs. Prettie and Powell offer the following amendment:

1. Amend article XII, section 3 (column 2, line 20) after "later than" by striking out "four" and inserting "six"; so the language will then read:

> If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved....

VICE PRESIDENT HUTCHINSON: Mr. Prettie.

MR. PRETTIE: This has to do, Mr. President and fellow delegates, with the timing for the election, including the primary, of delegates to the every 16 year revision, if voted by the people of the state. May I remind you that in our own timetable the election on the question of a convention was held on April 3, the primary was held on July 25, our election was on September 12 — a lapse of 5 months and 1 week. I don't think any of us here would feel that this was too long a time. Following that we had only a matter of 3 weeks in which to arrange our personal affairs, obtain accommodations in Lansing, and arrange to enter upon the performance of our duties.

Now under the language as drawn, the timetable would be somewhat as follows: the election would be at a general election in November. A primary would then have to be held and an election during the holiday season, in November or December or around the first of the year and an election soon thereafter, so that the election would be held by the first week in March. The proposed amendment before you would extend this time to May. Then under the later language of the section appearing in lines 27 and 28, the convention would convene in October. This would give the delegates still 5 months to arrange their affairs and would not hurry a primary and a general election all within a 4 month period and then provide for a 7 month lapse after election of the delegates and before they would enter upon their duties. I urge the consideration of the amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Prettie and Mr. Powell. All those in favor will say aye. Opposed, no.

The amendment is adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported? It is supported, more than 10 delegates supporting it. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Prettie and Powell, the yeas are 75; the nays are 44.

VICE PRESIDENT HUTCHINSON: The amendment is adopted.

SECRETARY CHASE: Messrs. Garry Brown and Boothby offer the following amendment:

1. Amend article XII, section 2 (column 2, line 2) after "by" by striking out "a majority" and inserting "three-fifths"; so the language will there read, "If the proposed amendment is approved by three-fifths of the electors voting on the question, the proposed amendment shall become part of the constitution. . . ."

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes on this amendment, all those in favor will say aye. Opposed will say no.

The motion prevails. Debate is limited. Mr. Boothby.

MR. BOOTHBY: Mr. President —

VICE PRESIDENT HUTCHINSON: The convention will please be in order.

MR. POLLOCK: Has not this same amendment been offered before?

VICE PRESIDENT HUTCHINSON: Mr. Pollock raises a point of order?

MR. POLLOCK: Yes, Mr. President.

MR. PERRAS: Mr. President, I would like to ask a question of Mr. Van Dusen, please.

VICE PRESIDENT HUTCHINSON: Well, first we have to decide the point of order.

MR. DURST: On Mr. Pollock's point of order, do we only consider, since all these sections were passed when we no longer had to come back into the convention for a vote, do the amendments offered on first reading then count, as far as making the matter out of order or not?

VICE PRESIDENT HUTCHINSON: Anything that was handled after we got out of committee of the whole —

MR. DURST: Well, we didn't handle anything out of committee of the whole when we came to miscellaneous articles, because they just automatically were passed.

VICE PRESIDENT HUTCHINSON: Well, in that case, anything that was in committee of the whole and was not acted upon by the convention.

MR. DURST: I see.

VICE PRESIDENT HUTCHINSON: The point of order is not well taken. The amendment is in order. Mr. Boothby may continue.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, I recall that when this matter was discussed some time ago Dr. Nord suggested that he found one part of this to be a valid argument and that was the part that applied to the declaration of rights, because, as Dr. Nord pointed out, a majority of 51 per cent should not be able to take away from the other 49 per cent their basic rights which are declared in the constitution of the state of Michigan.

There is one other matter, though, that has occurred to me since that time that I would like to bring to your attention, and that is this —

VICE PRESIDENT HUTCHINSON: The convention will be in order.

MR. BOOTHBY: — that is this: that apparently one of the problems that developed from our 1908 constitution, at least one of the problems which was heralded as one of the reasons why we needed a constitutional convention was that we had too many amendments. Our constitution was called a patchwork constitution; it had 69 amendments. It had been pointed out that, out of every 2 amendments that had been placed on the ballot, one was adopted, which gave us 69 amendments in a little over 50 years.

This would indicate to me that whenever special interests are not able to get something adopted by the legislature they take it to the people and have it adopted in the constitution. I think we all believe that we should try to keep out of the constitution, as much as possible, statutory language. I believe that when you have a simple majority you actually encourage statutory language being placed in the constitution. The 3/5 provision, I think, would help to keep the constitution constitutional and not statutory. I should also point this out: that the federal constitution's provision regarding amendments requires the adoption by 3/4 of the states.

VICE PRESIDENT HUTCHINSON: Mr. Pollock.

MR. POLLOCK: Mr. President, it is very obvious that Mr. Boothby doesn't believe in majority rule. The idea of requiring an excessive majority on a popular vote doesn't seem to me to be very consonant with good democratic practice. Why doesn't he get a 3/5 vote to elect a governor or even a congressman? (laughter)

VICE PRESIDENT HUTCHINSON: Does Mr. Pollock yield to Mr. Boothby for an answer? Mr. Pollock does not yield. (laughter) Mrs. Judd is recognized.

MRS. JUDD: Mr. President —

VICE PRESIDENT HUTCHINSON: Mrs. Judd is recognized.

MRS. JUDD: — I think it is not —

VICE PRESIDENT HUTCHINSON: Will the convention please be in order?

MRS. JUDD: — I think it is not at all surprising that Mr. Boothby is opposed to change as a general principle, but I think it is surprising, not to say pleasing, that he thinks the new constitution so good that it should never be changed, because I think this will be the result of his amendment.

VICE PRESIDENT HUTCHINSON: Mr. Nord.

MR. NORD: Mr. President, I rise to oppose this amendment. I believe this amendment is just another "Boothby-trap." (laughter) If it was that good, I'll repeat it — if I had time I would repeat it. The reason I rise is because my name was referred to. The answer to Mr. Boothby's argument, in my opinion, is this: the declaration of rights is of a classical character. It relates to human rights which survive for centuries if not forever. If we state them correctly, we ought to retain them as long as we possibly can. The words in there are very carefully selected and do not need to be changed. I do believe that a 2/3 or so vote to remove those rights is a good thing. However, I certainly do not agree with Mr. Boothby that the same principle could be applied to the whole constitution of Michigan. It could be applied to the federal constitution because every part of that constitution is of a fundamental nature. But in the Michigan constitution, the one we already have and the one we would have under this document, as we all know, many parts of this relate to the details of governmental framework. These can be changed. They need to be changed because they are too full of detail. It would be a terrible mistake to think that all of the detailed provisions we have put in should probably never be changed, as Mr. Boothby seems to suggest. I urge, therefore, that this amendment be roundly and soundly defeated.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise in opposition to this amendment. I think in the case of the bill of rights protecting an individual, we might have something that would take a large vote to take away rights for the individual. But the reason — and I think this may sound like a broken record — that we had so many amendments on the constitution, earmarking, provisions for industrial and urban areas, and many others, was that the people could not get what they wanted through a legislature that was not truly representative and the one place that the one man, one vote principle applies is on constitutional amendments. The other, more practical, case is that I am sure here that any of us drawing a constitution are going to make mistakes and let's make it easy for the people to correct our errors.

VICE PRESIDENT HUTCHINSON: Time for debate upon this amendment has expired. The question is upon the adoption of the amendment.

MR. A. G. ELLIOTT: Mr. President, I demand the yeas and nays.

VICE PRESIDENT HUTCHINSON: Mr. Arthur Elliott demands the yeas and nays upon this amendment. Is the demand supported?

SECRETARY CHASE: Thirty-one.

VICE PRESIDENT HUTCHINSON: Sufficient number. The yeas and nays are ordered, 1/5 of the delegates present voting in favor thereof.

MR. G. E. BROWN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: I would move for an extension of debate for 2 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown moves to extend debate for 2 minutes. All those in favor will say aye. Opposed will say no. The motion does not prevail.

MR. G. E. BROWN: Gag rule. (laughter)

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the amendment. The yeas and nays have been ordered. All those in favor —

MR. HOXIE: Mr. President, is a question in order?

VICE PRESIDENT HUTCHINSON: It is not. That is part of debate, is it not? All those in favor of the amendment will vote aye. Those opposed will vote no.

Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—14

Boothby
Brake
Brown, G. E.
Finch
Gover
Haskill
Hubbs
McAllister
Plank
Powell
Richards, J. B.
Shanahan
Stafseth
Wood

Nays—109

Allen
Andrus, Miss
Austin
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Bradley
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Follo
Ford
Gadola
Garvin
Goebel
Greene
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Hatch
Hatcher, Mrs.
Heideman
Higgs
Howes
Hoxie
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Madar
Mahinske
Marshall
Martin
McCauley
McLogan
Millard
Mosier
Murphy
Nisbet
Nord
Norris
Ostrow
Page
Pellow
Perlich
Perras
Pollock
Prettie
Pugsley
Rajkovich
Richards, L. W.
Rood
Sablich
Seyferth
Shackleton
Shaffer
Sleder
Snyder
Spitler
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
Wilkowski
Yeager
Young
Youngblood

SECRETARY CHASE: On the amendment offered by Messrs. Garry Brown and Boothby, the yeas are 14; the nays are 109.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Hubbs and Mrs. Conklin offer the following amendment:

1. Amend article XII, section 3 (column 2, line 25) after "delegate" by inserting "at a partisan election"; so the language will then read:

> . . . the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes, those in favor will say aye. Opposed will say no.

The motion prevails. Debate is limited. The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. President and members of this constitutional convention, as most of you know, I am a firm believer in partisan politics. I would like to point out to you the tremendous problem that would exist if we had arrived here in Lansing not having the slightest idea where each other stood as far as politics was concerned and our various views and positions on any matter.

I suggest that we would do the next constitutional convention — and I hope it is about 100 years away — a very great favor by providing that they shall be elected at partisan elections. As you well know, I don't believe in nonpartisanship when it comes to politics. I firmly believe that this country was firmly established by a 2 party system and let's keep it that way, or maybe even 3. I suggest we adopt this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Habermehl.

MR. HABERMEHL: Mr. President and fellow delegates, I hate to take issue with Mr. Hubbs on this, on the matter of partisan elections where he and I see eye to eye — except we don't 50 years hence, which is when this election might be held. It does seem to me a little unwise to try to specify in the constitution now what type of election will be held the next time we hold a constitutional convention. On behalf of the committee, we would have to urge that you vote no on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Faxon.

MR. FAXON: Mr. President, I just want to correct a historical misstatement: this country was not founded on a 2 party system. At the time that the first president took office, there was no real political party organization of any sort in this country and there was pretty much unanimous opinion in favor of the president who occupied the office in 1789 and for the next 8 years afterwards. So I just want it understood that the 2 parties came much later, about 30 or 40 years afterwards, in the Jacksonian period.

VICE PRESIDENT HUTCHINSON: Mrs. Conklin.

MRS. CONKLIN: Mr. President and fellow delegates, I would like to urge your support on this amendment. The way that we have it now, we have left it up to the legislature to provide how these delegates shall be elected. I would point out that one of the problems that I think we have run into here, and we all recognize it, is that in the legislature they view some of our people over here at con con with a little alarm because they think they might run against them and, perhaps, if we leave it up to the legislature they will not provide for a partisan election another time, to protect themselves, and I do want partisan election of the delegates.

VICE PRESIDENT HUTCHINSON: Mr. Hubbs.

MR. HUBBS: I don't think that Mr. Faxon quite understood my point. I said that the strength of this country is founded on the 2 party system. I was not making a historical statement. The fact of the matter is that even 100 or 200 years from now there are always going to be 2 points of view on most every issue or maybe even 3, and I submit that even then there will be political parties.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Fellow delegates — and I am now saying fellow delegates of the Democratic party — finally, we are finding somebody that believes maybe we might have somebody in that legislature.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, it gives me a great deal of pleasure to rise and support an amendment offered by my good friend, Delegate Hubbs — and my good friend, Anne Conklin. I have had mixed emotions on this question from the beginning of the convention, but after 7½ months here I am convinced that there absolutely does not exist any such animal as a nonpartisan. Therefore, I urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Hubbs and Mrs. Conklin. All those —

MR. YEAGER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Yeager.

MR. YEAGER: I should like to ask Mr. Hubbs a question through the Chair, please.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. YEAGER: Mr. Hubbs, by simply stating "elect one delegate at a partisan election" it does not necessarily mean that the delegates so elected would be elected on a partisan ticket; does it? Could you still have a nonpartisan election of delegates at partisan election?

MR. HUBBS: Am I permitted to answer, Mr. President?

VICE PRESIDENT HUTCHINSON: You may answer.

MR. HUBBS: In reading the digest of the information that was supplied by these delegates to this convention to the University of Michigan today, I discovered that there are at least 8 people here who classify themselves as independents but who were elected either on the Republican or the Democratic party label. Now I presume that the same thing will happen again in the future, but it is very unlikely that you could hold a partisan election and have a lot of nonpartisans get elected on party labels. There are only 8 of us here out of 144, who are supposedly independents.

MR. YEAGER: Mr. President and Mr. Hubbs, I am sorry; you must have missed the point I wanted to make. The point I wanted to make was that you could have a nonpartisan election, that is, the delegates not being elected by parties but at a partisan election where you had other partisan people elected. What I am getting at is: the statement "at a partisan election" does not clearly define that it should be Republican, Democratic, Socialist, or so on.

MR. HUBBS: I think I see the point that you are making, Mr. Yeager, and if you can offer a perfecting amendment, I would be happy to accept it, because I think you understand the intent of what I am trying to do.

VICE PRESIDENT HUTCHINSON: The time for debate has expired. The question is upon the amendment offered by Mr. Hubbs and —

MR. HIGGS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: How many speakers do you have on your list?

VICE PRESIDENT HUTCHINSON: Well, the Chair has 3 more.

MR. HIGGS: I would move that debate be extended 6 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Higgs moves to extend debate 6 minutes. All those in favor will say aye. Opposed will say no.

The motion does not prevail.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Hubbs and Mrs. Conklin, which has been read. All of those in favor will say aye. Those opposed will say no.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand supported? There is a sufficient number. Division is supported.

MRS. CUSHMAN: Yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman demands the yeas and nays. Is the demand for the yeas and nays supported?

SECRETARY CHASE: Thirty-one. A sufficient number.

VICE PRESIDENT HUTCHINSON: A sufficient number up. The yeas and nays are ordered. Clear the board, please. Mr. Mosier, clear the board. Mr. Lawrence — all right. All those in favor of the amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. BOOTHBY: Mr. President, could I ask for the president's vote on this?

VICE PRESIDENT HUTCHINSON: The Chair votes no.

MR. MARSHALL: Mr. President, could I demand Delegate Boothby's vote? (laughter)

MR. BOOTHBY: Yes.

The roll was called and the delegates voted as follows:

Yeas—67

Austin
Balcer
Batchelor
Beaman
Blandford
Boothby
Bradley
Brake
Buback
Conklin, Mrs.
Cudlip
Dehnke
Doty, Dean
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Everett
Faxon
Finch
Ford

Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Hoxie
Hubbs
Iverson
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Leppien
Mahinske
Marshall
Martin
McAllister
Millard
Mosier
Murphy
Pellow

Perras
Plank
Powell
Prettie
Radka
Richards, J. B.
Shackleton
Shaffer
Shanahan
Snyder
Stafseth
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tweedie
Walker
Wood
Yeager

Garvin
Gover
Perlich
Young

Nays—57

Allen
Andrus, Miss
Barthwell
Bentley
Bledsoe
Bonisteel
Butler, Mrs.
Cushman, Mrs.
Dell
DeVries
Donnelly, Miss
Durst
Elliott, A. G.
Erickson
Farnsworth
Figy
Follo
Gadola
Goebel
Greene
Habermehl
Hanna, W. F.
Hannah, J. A.
Heideman
Higgs
Howes
Hutchinson
Jones
Judd, Mrs.
Krolikowski
Kuhn
Lawrence
Lesinski
Madar
McCauley
McGowan, Miss
McLogan
Nisbet
Nord
Norris
Ostrow
Page
Pollock
Pugsley
Rajkovich
Richards, L. W.
Rood
Sablich
Seyferth
Spitler
Staiger
Turner
Upton
Van Dusen
Wanger
Wilkowski
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Hubbs and Mrs. Conklin, the yeas are 67; the nays are 57.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. Any further amendments?

MR. HABERMEHL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Habermehl.

MR. HABERMEHL: If this last amendment is the wish of the convention, I would simply like to call the attention of the convention to section 3, line 41, in the second column, and suggest that the language there in large type reading "if the legislature provides for partisan election of delegates," is no longer necessary.

VICE PRESIDENT HUTCHINSON: The committee on style and drafting will take note, Mr. Habermehl. Mr. Higgs.

MR. HIGGS: Mr. President, may I inquire how many votes were cast on this? Can I get that vote again?

VICE PRESIDENT HUTCHINSON: There were 67 for and 57 against.

MR. HIGGS: Is a motion to reconsider in order?

VICE PRESIDENT HUTCHINSON: It is.

DELEGATES: No.

MR. HIGGS: I move to reconsider.

VICE PRESIDENT HUTCHINSON: Mr. Higgs moves to reconsider.

MR. HIGGS: I haven't spoken on this matter before. I asked for an extension of time so I could speak before we voted. It was not the will of the convention to grant an extension of time, so I move to reconsider at this time because I want to speak on it, and because I truly would appreciate your serious consideration of this matter.

Now I recognize that we are all here elected on a partisan basis and I feel that my record as a partisan in my party is a good record, and I do not hesitate or apologize for speaking right now in favor of deleting this section —

MR. WALKER: Point of order.

VICE PRESIDENT HUTCHINSON: State the point.

MR. WALKER: I believe the delegate is speaking to the amendment previously before us, not to his motion to reconsider.

Vice PRESIDENT HUTCHINSON: Well, a motion to reconsider goes to the entire matter. As a parliamentary matter the gentleman is in order.

MR. HIGGS: Thank you, Mr. President. Whether or not it has been a wise thing for this election to have been called on a partisan basis will not be established for some years to come. I am not at all satisfied that partisanship in this convention has been entirely a responsible thing. I think we have all seen instances where partisanship has been irresponsible and I would not like to tie the hands of the legislature in this particular matter.

I sincerely and earnestly urge that you do not approach this in a narrow, partisan view. We must decide what is best for the state of Michigan. We have not had the experience in the past of a constitutional convention since 1908, and I do not think that we are in a position here today to judge as to whether or not this has truly been a wise decision.

VICE PRESIDENT HUTCHINSON: Mr. Arthur Elliott.

MR. A. G. ELLIOTT: Mr. President and ladies and gentlemen, I would like to urge that you do carefully reconsider this, not because I am a nonpartisan but because I am a partisan, and I think that we are here again getting into an area of statutory language that we do not want to lock into a constitution when we do not know what the future holds.

We are in the final hours, now, of finishing our third reading. This issue, really, has been debated and debated and debated on first and second reading and each time it was defeated. I don't know whether this is because we are in these final hours that we are doing some of these things or taking some of these approaches, but I would strongly urge that you do not now start to legislate more completely than we already have. We are within a page or 2 of being finished and I can see many reasons why we should leave to the legislature of the future the ground rules for this next constitutional convention which will be held here for the state of Michigan.

VICE PRESIDENT HUTCHINSON: Mr. Perras.

MR. PERRAS: I move the previous question at this time, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Perras moves the previous question. Is the demand for the previous question supported? The demand is supported —

MR. WANGER: How many speakers does the Chair have on the list?

VICE PRESIDENT HUTCHINSON: Four more.

MR. WANGER: I move to limit debate to 8 minutes with —

VICE PRESIDENT HUTCHINSON: Five more.

MR. WANGER: Oh — to 10 minutes with 2 minutes for each of the remaining speakers.

VICE PRESIDENT HUTCHINSON: Mr. Wanger moves to limit debate upon the motion to reconsider to 10 minutes with 2 minutes for each speaker. All those in favor of limiting debate will say aye. Opposed will say no.

The motion does not prevail. Mr. Perras moves the previous question. Is the demand for the previous question supported? The demand is supported. The question now is: shall the main question be put? All those in favor will say aye. Opposed will say no.

The previous question is ordered. The question is upon the motion of —

MR. BARTHWELL: Division.

VICE PRESIDENT HUTCHINSON: A division? A division is requested. Is the demand for a division supported?

SECRETARY CHASE: Nine.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The question is upon the motion of Mr. Higgs to reconsider the vote by which the amendment of Mr. Hubbs and Mrs. Conklin was adopted. All those in favor of reconsideration will say aye. Opposed will say no. The Chair is in doubt. All those in favor will vote aye and those opposed will vote no. Clear the board, please. Mrs. Conklin, will you please clear the board? Mr. Cudlip, will you please clear the board? Judge Gadola? Mr. Goebel? Mr. Hoxie? Mr. Gover? Clear the board. Thank you. All those in favor of reconsideration will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: May I demand Delegate Boothby's vote, please?

VICE PRESIDENT HUTCHINSON: You can demand it but he does not need to respond to the demand unless he wants to. Mr. Boothby has voted.

SECRETARY CHASE: On the motion to reconsider, the yeas are 58; the nays are 61.

VICE PRESIDENT HUTCHINSON: The motion to reconsider does not prevail. The secretary will read the next amendment.

[Mr. Danhof, having previously been excused, entered the chamber.]

SECRETARY CHASE: That was the last amendment, Mr. President.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of article XII. Mr. Downs.

MR. DOWNS: Mr. President, and fellow delegates, this article —

VICE PRESIDENT HUTCHINSON: The convention will please be in order.

MR. DOWNS: — is in many ways one of the most important parts of the constitution before us, and I rise to urge a no vote for some reasons that were considered in committee of the whole and second reading in our section on apportionment. I want to point out that in section 3, where we say that future conventions will be on the basis of one senator and one representative district, we are, in turn, basing that upon a legislative body that is not truly representative. And the result is that we are dooming future conventions, regardless of the good will and the integrity of the individuals thereof, to be nonrepresentative of the people of the state, and the document must be returned to the people on a truly representative basis.

I cite figures I have received for our own convention that in this convention the Democratic delegates at the con con received 779,000 votes, the Republicans 991,000 votes. If the representation of the convention were on a more accurate representation of the people, we would have had 63 Democrats and 81 Republicans. I make this not in reference to any individual delegate but point out the party difference would have been 18 rather than 54, which is much closer to the true representation of the people throughout Michigan. I believe that any convention, to be truly successful, must start by being truly representative and I therefore urge a no vote on article XII in the hope that between now and the wind up of the convention we can make corrections on the apportionment problem or devise a different means for selecting con con delegates.

The same principle indirectly applies to section 1, where it says 2/3 of both houses are needed to put an amendment on the ballot and the 2/3, again, could represent less than a majority of the people or substantially more than 2/3 depending upon where they were selected. For those reasons I urge a no vote on the article.

VICE PRESIDENT HUTCHINSON: Mr. Perras.

MR. PERRAS: Mr. President and fellow delegates, I would like to ask a question of Mr. Downs, through the Chair, if I may.

VICE PRESIDENT HUTCHINSON: You may proceed.

MR. PERRAS: This is a question that I have wanted to ask since the convention started. Now he has just advocated voting no on this article because of the way that the apportionment is at this present time. Now I would like to ask this question if I may: if the thing was reversed and the minority party had control of the senate and of the house of representatives, would his answer then be the same as it is now?

MR. DOWNS: I would hope, Mr. Perras, that the answer would be the same. I wish to point out that it may be a mistake for those of us that are asking equality. We should perhaps be asking for super equality for the next 50 years to make up for the inequalities of the last 50 years, then compromise on equality. Perhaps that has been our basic mistake in the whole convention.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President and fellow delegates, I would just like to suggest to Mr. Downs that after 1970 Michigan will probably have the best apportioned 2 chamber legislature in the United States.

VICE PRESIDENT HUTCHINSON: Mr. Marshall. Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I want to echo what Delegate Downs says and I also would like to say to Delegate Perras: just try us. Give us a senate apportioned on the basis of straight population. Give us a chance and we will show you that Delegate Downs will keep his word.

VICE PRESIDENT HUTCHINSON: Mr. Walker.

MR. WALKER: I suggest to Mr. Stevens that if this proposed apportionment is so good in 1975, why isn't it any good today?

MR. PERRAS: I move the previous question now, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Perras moves the previous question. Is the demand for the previous question on the article supported? It is supported; 10 or more are up. The question now is: shall the main question be put? All those in favor will say aye. Opposed, no.

The motion prevails. The previous question is ordered. The question now is upon the passage of article XII, as amended. All those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—90

Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Lesinski
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
Wood
Yeager

Nays—34

Austin
Balcer
Barthwell
Bradley
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Jones
Kelsey
Krolikowski
Madar
Mahinske
Marshall
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of article XII, as amended, the yeas are 90; the nays are 34.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article XII**, as amended, is passed.

For section 1 of article XII as passed, see above, page 3072.

Following is section 2 of Article XII as amended and passed by the convention:

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in

such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Following is section 3 of article XII as amended and passed:

Section 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate who shall be a member of the same party as the delegate vacating the office if the legislature provides for partisan election of delegates. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

VICE PRESIDENT HUTCHINSON (continuing): Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, at this time, before considering the next article or the next provision of the constitution, I would move to reconsider the vote on article V, which was passed yesterday, dealing with the executive branch.

For vote on passage of article V, see above, page 3124.

To be very candid with you, very frank, the purpose of doing this is for one purpose only, and that is to reconsider the vote by which the highway commissioner was made an appointive rather than an elective officer. Two amendments are on the secretary's desk relative to this matter which would make this office the same as the secretary of state and the attorney general relative to election, nominations, vacancies and what have you. It is very simple. It is for that purpose only. I would therefore urge a yes vote on reconsideration of the vote by which the executive article passed yesterday.

VICE PRESIDENT HUTCHINSON: Mr. Downs, on the motion to reconsider.

MR. DOWNS: Mr. President and fellow delegates, I rise in support of the motion on reconsideration. I believe on this motion we are entitled to speak on the merits of the question and what I would more properly call the demerits.

We now have the matter of the highway commissioner, as we know, left up to the legislature and it is an elected one. There was also a dispute, I would say, within the convention as to whether the highway commissioner should be elected or whether he should be appointed by the governor. There were arguments for both. I favored the first. What we ended up with was a monstrosity that has neither the advantages of the elected system nor that of the appointed one. It divides responsibility. Our old friend, advice and consent, enters in through the back door and the present setup that was adopted is one that absolutely refutes the concept of responsibility. I cannot conceive of either a business or government operating effectively under this system. The vote was close. I urge the reconsideration in hopes that we can change what we did on the matter of the highway commissioner. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Bentley.

MR. BENTLEY: Mr. President, a parliamentary inquiry. Can an article which has been passed on third reading by a majority of all delegates elected and serving in the convention now be reconsidered by a simple majority of those present?

VICE PRESIDENT HUTCHINSON: Yes, it can, Mr. Bentley. It will still take 73 votes to adopt it the second time, but the rules of the convention permit a reconsideration by a majority of the votes cast. Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, it seems hardly necessary to speak at this late hour against a move to reconsider, but I do want to do so.

I would call the convention's attention to the fact that article V, yesterday, at a much more favorable hour than now, passed by a vote of 91 to 35. Now, certainly, the big majority of us thought that we had a very, very satisfactory article. I submit to you, my friends, that the mood that this particular convention is in at this time of night, any time — and here we are on the last day of the convention — is no time to move for a reconsideration on something that we settled with such a decisive vote as we did this. I urge you to vote against reconsideration.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, might we hear the amendments which Mr. Brown proposes to offer if reconsideration is granted?

VICE PRESIDENT HUTCHINSON: The secretary will read them. They are not before the body at the present time.

SECRETARY CHASE: Mr. Garry Brown has filed the following amendments to article V —

MR. BARTHWELL: I object. I don't see how this is in order.

VICE PRESIDENT HUTCHINSON: What?

MR. BARTHWELL: You ought to have a vote before you read them.

VICE PRESIDENT HUTCHINSON: Objection is heard. The question is on reconsidering the vote by which the entire executive article was passed. Mr. Martin.

MR. MARTIN: Mr. President, the hall has been full of lobbyists this afternoon and yesterday and this evening and, apparently, those who want to change the action taken on third reading on this article now think that — numbers of the convention not being here — this is a good time to try to reverse the action of the convention taken when a far larger majority of the convention was present. It has been left to the very last stages of the convention, apparently with that thought in mind. I would like to suggest to you that the matter which we have considered several times in thorough debate should have been, once and for all, settled by the action of this convention when this article was passed.

What is proposed is to reverse the action of the convention to go back, not just to a highway commissioner, who is a statutory officer and whose position as a statutory, elected officer could be changed by the legislature if it saw fit, but to go to a constitutional highway commissioner. I submit that that is not what this convention desires. They certainly evidenced it numerous times before, and I think that it is certainly high time that we settle this once and for all by turning down this motion to reconsider, and I certainly urge that you do just exactly that.

VICE PRESIDENT HUTCHINSON: Mr. Marshall. Mr. Van Dusen.

MR. MARSHALL: Mr. President —

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen makes a preferential motion?

MR. VAN DUSEN: Yes. Mr. President, may I ask how many speakers you have?

VICE PRESIDENT HUTCHINSON: Five more at the present time.

MR. VAN DUSEN: I move to limit debate to 10 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate to 10 minutes upon the motion to reconsider. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I will be very brief, because I spoke on the floor of this convention on several occasions on this issue and I have spoken against the creation of this monstrosity that we have created in this so called bipartisan highway commission.

I would urge a yes vote and in answer to Delegate Martin: in his concern for the creation of a constitutional highway commissioner, I don't know why he should be concerned with creating one additional constitutional officer when he has created several in this constitution. Even this 4 man highway commission that is in this package deal will be 4 constitutional officers as opposed to one under the amendment if we create an elected highway commissioner.

Now today we took action and put back the earmarked funds for schools. I see no reason why at this time we should not reconsider this question and give serious thought to leaving the highway department and the highway commission in the hands of the people to determine whether or not the highway commissioner, whoever he may be, is doing a good job in serving the state of Michigan. I urge a yes vote.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, especially Mr. Martin, Mr. Martin here, by innuendo at least, has suggested improper timing or motive and has impugned the same to the sponsor of this motion and the sponsor of the amendment. I would only suggest to Mr. Martin that there has not been another time when this could have been considered by this convention, that today is the last day, of course, for a motion to reconsider what was done yesterday.

It has been suggested here by Mr. Farnsworth that this was passed by a big majority. I would only ask him to reflect upon the vote by which this particular measure passed, which was by a very small margin. I think that the feeling of the delegation has changed. I think it was very close to start with. This was certainly not a mandate by this delegation to do a particular thing. Maybe, because the votes are now present, it is desirable not to reconsider. I would only suggest, also, that in the spirit of fair play we reconsider to see what is the present feeling of this delegation.

Mr. Martin has also suggested that we have constitutionally established a highway commissioner. This has been done only because of the mechanics of the proposition. It would be very difficult, as all of you know who have studied the executive article, with the language with respect to heads of departments, to do anything but write this into the constitution as a constitutional office. I notice that the great hue and cry about making this a constitutional office and putting this into the constitution was not raised at a time when we were constitutionally earmarking gas and weight taxes. Is this more a constitutional matter? I cannot believe so, and I don't think that Mr. Martin believes so or any other delegate here. The inconsistencies, the illogical approach to the question of earmarking these funds because the people wanted it, the people wanted the purposes defined as they had defined them. I certainly think that they deserve to have the treasurer of this fund selected by them. I would only suggest that the delegates here be given an opportunity, as Mr. Martin has suggested, to finally determine this matter by voting yes to reconsider the vote on the executive article and it will be limited, insofar as this speaker is concerned, to the matter of the highway commissioner. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. John Hannah.

MR. J. A. HANNAH: Mr. President, I move a preferential motion that consideration of the motion now before the house be postponed until Friday.

VICE PRESIDENT HUTCHINSON: Mr. Hannah moves that the motion to reconsider be postponed until Friday. Mr. William Hanna.

MR. W. F. HANNA: Mr. President, I would like to support that motion and urge all parties, in the interest of harmony at this convention, to lay this question over until Friday.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Is the question debatable, Mr. President?

VICE PRESIDENT HUTCHINSON: The motion to postpone is debatable. It is debatable within limits.

MR. MARSHALL: Thank you, Mr. President. I will be very brief. I would urge that we take action now and reconsider. I see no reason why we have to table this till Friday just because certain members of the troops aren't here. Everyone knew that we had a session tonight. Everyone who is an elected delegate here has a responsibility to be here at the sessions. And if we are going to jump up on the floor and move to table or postpone every time that certain people aren't present at this convention, then I deplore this type of action. I urge that we take action at this time and that we not postpone until Friday.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown, on the motion to postpone.

MR. G. E. BROWN: Mr. President and members of the convention, my motives and my timing are rarely impugned. If Mr. Martin feels that this is an attempt to do something which is improper, which is unfair, which is not the feeling of this delegation, I will be happy to go along with a postponement until Friday but, in doing so, I certainly am not admitting or acknowledging but, rather, denying that there is any improper motive or that there is improper timing, but I think that this delegation — and I have great faith in it — will come to the proper conclusion and it will come to that conclusion either tonight or Friday. And so I will not object to a postponement until Friday.

VICE PRESIDENT HUTCHINSON: Mr. Sterrett.

MR. STERRETT: I would like to move the previous question, Mr. President.

VICE PRESIDENT HUTCHINSON: On the motion to postpone, Mr. Sterrett moves the previous question. Is the demand for the previous question supported? The demand is supported. The question now is: shall the main question be put? All those in favor will say aye. Opposed, no.

The motion prevails and the previous question is ordered. The question is upon the motion of Mr. John Hannah to postpone further consideration upon the motion to reconsider until Friday.

MR. WANGER: Yeas and nays, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Wanger demands the yeas and nays upon the motion to postpone. Is the demand for the yeas and nays supported?

SECRETARY CHASE: Nineteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The question remains upon the motion to postpone. The previous question has been ordered. All those in favor —

MR. G. E. BROWN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: For the reasons I have previously stated, I wish to abstain.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown abstains. All those in favor of the motion to postpone will say aye. Opposed will say no.

The motion prevails.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported?

SECRETARY CHASE: Sufficient number.

VICE PRESIDENT HUTCHINSON: The demand is supported. All those in favor of postponing will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to postpone consideration of the motion to reconsider until Friday, the yeas are 73; the nays are 47.

VICE PRESIDENT HUTCHINSON: The motion prevails. The matter is postponed until Friday.

The secreatry will read the schedule.

SECRETARY CHASE: **Schedule and temporary provisions.**

> To insure the orderly transition from the constitution of 1908 to this constitution the following schedule is set forth to be effective for such period as its provisions require.

[The schedule, sections 1 through 17, was read by the secretary. For text, see above, page 3073.]

VICE PRESIDENT HUTCHINSON: The schedule has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in the schedule of the proposed revision of the constitution:

section	column	line	Corrections
5	2	36	After "GOVERNOR,", insert "THE".
5	2	37	After "GOVERNOR,", insert "THE".
5	2	38	Before "ATTORNEY" insert "THE".
6	2	47	After "IV" insert a comma.

VICE PRESIDENT HUTCHINSON: Without objection, it is so ordered. [Corrections made above.] The secretary will report on amendment.

SECRETARY CHASE: Messrs. Brake, Garry Brown, Dehnke, W. F. Hanna and Rood offer the following amendment:

1. Amend the schedule, section 6 (column 2, line 52) after "census,", by inserting "unless the legislature by joint resolution shall give prior effect to said Article IV, Section 2,"; so the language will then read:

> Until the apportionment of the senate following the 1970 census, unless the legislature by joint resolution shall give prior effect to said Article IV, Section 2, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon this amendment to 5 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. Debate is limited. The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, this section 6 of the schedule is before you and this amendment proposes an addition of some words to deal with possible contingencies that may arise in the next few years. The amendment is to add after the word "census" as stated in the amendment, the words "and unless otherwise provided by law enacted after the effective date of this constitution, giving immediate effect to said Article IV, Section 2." The proviso is designed to take care of possible contingencies and give the legislature authorization to deal with them. This amendment is presented in the hope that it will serve a useful purpose in that respect.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown is recognized next. I will recognize you next, Mr. Downs.

MR. G. E. BROWN: I will pass to Mr. Downs.

VICE PRESIDENT HUTCHHINSON: Mr. Downs.

MR. DOWNS: Through the Chair, could I ask Judge Dehnke if he could be a little more specific about the contingencies he referred to?

MR. DEHNKE: Well, Mr. President and Mr. Downs, I think all of us have lived long enough that in this life we have to expect contingencies; there will be anticipated and unanticipated contingencies. It is my expectation that this language will be sufficient to meet both kinds. (laughter and applause)

VICE PRESIDENT HUTCHINSON: Mr. Downs, have you concluded?

MR. DOWNS: I am more confused than when the question was asked, but I want to thank Judge Dehnke.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I would first direct a question to the Chair and ask you how many speakers are on the list.

VICE PRESIDENT HUTCHINSON: None at the moment.

MR. NORD: Mr. President.

MR. G. E. BROWN: I would — I would —

VICE PRESIDENT HUTCHINSON: Mr. Nord seeks recognition. I have one.

MR. G. E. BROWN: I would then yield to Mr. Nord with the right to be restored to the floor.

VICE PRESIDENT HUTCHINSON: Well, does Mr. Nord accept the floor being yielded on that condition?

MR. NORD: I do not.

MR. DEHNKE: Mr. President, may I make a correction in the statement I made before? The amendment reads a little differently from the way I read it a few minutes ago. It is correct on the board. It is, ". . . unless the legislature by joint resolution shall give prior effect to said Article IV, Section 2."

MR. G. E. BROWN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Since I was entitled to the floor, there is only one thing I would have to say. I would support what Judge Dehnke has said. That is that occasions may suggest what this amendment suggests, or there may be an occasion when it is required. I think that is simple enough. I think that Mr. Downs understands it. I think that Dr. Nord understands it.

I would only suggest to Dr. Nord — when he refuses to accept the floor when it has been yielded to him — that I don't have too much credit to give to, or take much substance from, the argument of those who will not let someone else have at least a chance to answer what they have said.

VICE PRESIDENT HUTCHINSON: Mr. Nord.

MR. NORD: Mr. President, I don't know to whom Mr. Brown is referring, but I suppose it is some delegate or other. But in any event, I would like to answer not Mr. Brown but Judge Dehnke. It appears to me that this amendment suffers from 2 defects. The problem that faces us is a severe problem. The language before us is unconstitutional language. I believe many of us are quite clear in our minds on that point and what we have before us on the wall is too little — that is one defect — and it is too late — that is the other. By "too late" I mean that the time to make this cure is now and not some time between now and 1970. Now.

I suggest, therefore, that if we are going to tackle the problem let us tackle it here, tonight, or on Friday. Let us not turn it over to the legislature. The language before us is extremely objectionable and, while there may not be much on the wall for

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

you to look at, I believe if everyone will look closely at the wall you will find the handwriting on the wall. I cannot accept this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I think that Dr. Nord has answered his own suggestion. That is that the handwriting is on the wall. It is clear. It is unequivocal. I think it should be supported. It takes care of a situation that none of us can contemplate at this time, but it certainly is language that will permit the legislature to implement the provisions that we have written into this constitution.

VICE PRESIDENT HUTCHINSON: Time is up.

MR. G. E. BROWN: Thank you.

VICE PRESIDENT HUTCHINSON: Time for debate upon this amendment has expired. The question is upon the adoption of the amendment. All those in favor of the amendment —

MR. DOWNS: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I —

VICE PRESIDENT HUTCHINSON: Mr. Downs, time for debate has expired. The Chair thought you were going to make a motion.

MR. DOWNS: Oh, I am sorry.

VICE PRESIDENT HUTCHINSON: All those in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted. Are there any further amendments? The question is upon the adoption of the schedule. Mr. Downs.

MR. DOWNS: Mr. President, I was over eager and I apologize to the convention.

I rise on this one to point out that in section 16 and 17 we are mandating that this document be presented in one package to the people and that it be presented in November, although the attorney general has ruled that it must be presented in April. Some of us have put in a resolution to ask that the document be divided. I do not want to impose on the time of the convention to reargue those points but simply point out that I am concerned that the opposition to some of the bad parts may jeopardize the passage of what I believe most voters would consider good parts. I think the November instead of the April date, when the attorney general has so ruled, raises some other questions. For those reasons, along with some of the others on the matter of the transition, I do urge a no vote.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on the schedule to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 5 minutes upon the schedule, all those in favor will say aye. Opposed will say no.

The motion prevails. Debate is limited. The Chair will recognize Mr. Nord.

MR. NORD: Mr. President, in listening to the principal objection voiced by Mr. Downs, namely, that in section 16 of this article which refers to the Tuesday after the first Monday of November, 1962 — that that is an objectionable date. First of all I would like to elaborate on that. But, in addition to that, I will have 2 further statements to make as to objections.

As to the November, 1962, ballot date, that has already been ruled by the attorney general to be unconstitutional. It appears to me that once more we are putting into our own constitution something that is unconstitutional. But the odd thing about this one is that this is the only provision I know of that could be put into our constitution that would violate the Michigan constitution. The other violation has to do with the federal constitution. I object to section 16 having the Tuesday after the first Monday of November, 1962, on the ground that it is unconstitutional. The other 2 objections, I believe, are more important, however.

One of them is the one I referred to a minute ago, to section 6. Section 6 would delay the apportionment, such as it is, until 1970 and gives the legislature the power to do something which they have failed to do in the past for almost 40 years in the senate. That is to reapportion. That fails to cure the unconstitutionality of that section. What is required is apportionment now and not power to somebody without mandate to do so. I believe that that was unconstitutional a few minutes ago before the amendment and that it remains unconstitutional at the present time. My conclusion about section 6 is this: in my opinion, it is simply a half baked effort to deal with the problem of unconstitutionality under the federal constitution. So, as to sections 16 and 6, we have an unconstitutionality as to the Michigan constitution and another one as to the federal constitution.

Finally, as to section 5: section 5, which lists the ad board — the elected ad board — there you will find only half of the ad board as we know it. And I suggest to the delegates that that is objectionable because it is what I would term a half ad board. And a half ad board is not as good as a complete ad board. (laughter)

Therefore, Mr. President, those are the 3 objections: we have a half ad board, we have a half baked effort to cure unconstitutionality, and we have a third section which clearly is unconstitutional under the Michigan constitution. Therefore, I cannot accept this schedule.

VICE PRESIDENT HUTCHINSON: Mr. Walker.

MR. WALKER: No, I pass.

VICE PRESIDENT HUTCHINSON: Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I shall be very brief. I will only say that with respect to what Dr. Nord has said — and it answers all of his propositions and his objections and what have you — is that the attorney general does not determine the constitutionality of matters such as the one before us. Neither does Dr. Nord.

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the schedule. All those in favor of the adoption of the schedule, as amended, will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—90

Allen
Andrus, Miss
Barthwell
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
Wood
Yeager
Youngblood

Nays—28

Austin
Balcer
Bradley
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Hart, Miss
Hatcher, Mrs.
Jones
Kelsey
Madar
Marshall
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young

SECRETARY CHASE: On the adoption of the schedule and temporary provisions, as amended, the yeas are 90; the nays are 28.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted therefor, the **schedule and temporary provisions,** as amended, are adopted and passed.

For sections 1, 2, 3, 4, 5 and 7 through 17 of the schedule and temporary provisions as passed, see above, page 3073.

Following is section 6 of the schedule and temporary provisions as amended and passed:

> Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Article IV, Section 2 after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, unless the legislature by joint resolution shall give prior effect to said Article IV, Section 2, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution.

VICE PRESIDENT HUTCHINSON (continuing): Reports of standing committees.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Before we take reports of standing committees, I would like to move that the constitution as now adopted be referred to the committee on style and drafting, so that it may have an opportunity to review it tomorrow.

VICE PRESIDENT HUTCHINSON: That is under the rules, isn't it?

MR. VAN DUSEN: I don't think there is anything in the rules that provides for it. It is one of the omissions of the rules.

MR. DOWNS: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What's the point, Mr. Downs?

MR. DOWNS: I believe the point would be the articles are adopted and not the constitution is adopted; since we have not voted on the entire package.

MR. VAN DUSEN: I will accept Mr. Downs' amendment, Mr. President.

MR. DOWNS: Mine is not an amendment, but if you wish to restate the motion, it would be in order; (laughter) or I will make it as an amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of Mr. Van Dusen to refer to the committee on style and drafting the several articles which have been adopted. All those in favor will say aye. Opposed, no.

The motion prevails and the **preamble,** the **articles** and the **schedule and temporary provisions,** as amended, are referred to the **committee on style and drafting.**

For the preamble, articles and schedule and temporary provisions as referred to the committee on style and drafting, see as follows:

Preamble, page 3047.

Article I, sections 1, 3 through 23, page 3047.

Article I, section 2, as amended, page 3098.

Article II, sections 1 through 5, 7 and 8, page 3048.

Article II, section 6, as amended, page 3087; section 9, as amended, page 3087.

Article III, sections 1 through 8, page 3050.

Article IV, sections 1, 2, 3, 5, 7 through 11, 13 through 17, 19 through 53, page 3051.

Article IV, section 4, as amended, page 3115; section 6, as amended, page 3115; section 12, as amended, page 3116; section 18, as amended, page 3116.

Article V, sections 1 through 8, 10 through 27, page 3057.

Article V, section 9, as amended, page 3124; section 28, as amended, page 3125.

Article VI, sections 1 through 7, 9 through 25, 27, 28 and 29, page 3060.

Article VI, section 8, as amended, page 3139; section 26, as amended, page 3140.

Article VII, sections 1 through 33, page 3063.

Article VIII, sections 1 through 9, page 3065.

Article IX, sections 1, 2, 3, 5, 7 through 10, 12 through 17, 20 through 24, page 3067.

Article IX, section 4, as amended, page 3186; section 6, as amended, page 3186; section 11, as amended, page 3186; section 18, as amended, page 3186; section 19, as amended, page 3186.

Article X, sections 3 through 6, page 3069.

Article X, section 1, as amended, page 3154; section 2, as amended, page 3154.

Article XI, sections 1 through 7, 9 through 12, and 14, page 3070.

Article XI, section 8, as amended, page 3198; section 13, as amended, page 3918.

Article XII, section 1, page 3072.

Article XII, section 2, as amended, page 3205; section 3, as amended, page 3206.

Schedule and temporary provisions, sections 1 through 5, 7 through 71, page 3073.

Schedule and temporary provisions, section 6, as amended, see above.

VICE PRESIDENT HUTCHINSON (continuing): Without objection, we will return to the order of **reports of standing committees.**

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, submits the following report —

MR. VAN DUSEN: Mr. Secretary, could you read Resolution 96 first?

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 96,** A resolution authorizing and directing the commencement of an action against the secretary of state seeking a declaration of the right of the convention to require the submission of the proposed new constitution to the electors in November, 1962; without amendment and with the recommendation that the resolution be adopted.

R. C. Van Dusen, chairman.

The resolution is as follows:

[The resolution was read by the secretary. For text, see above, page 3046.]

VICE PRESIDENT HUTCHINSON: The question is upon the adoption of the resolution. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the convention has just adopted a provision of the schedule of the constitution directing the submission of the new constitution to the voters at the election to be held November 6, 1962. The secretary of state has advised the president of this convention in writing that he will not comply with the direction of the convention, that he is bound by the opinion of the attorney general that the appropriate time for submission is April, 1963. Consequently, we are confronted with a collision between the action of this convention and the opinion of the attorney general which the secretary of state says he must follow.

If this matter is to be resolved, it must be resolved by the courts of this state. The select committee appointed by the president to consider this matter, as you know, took no position on the policy question of when the proposed constitution should be submitted but has, in anticipation of the action which the convention has now taken, adopted and recommended to the convention the resolution which the secretary has just read, which will implement that decision insofar as it is legally possible to do so.

The course of action contemplated by the resolution is the commencement of an action in the circuit court for Ingham county seeking a declaration of rights under which the court could advise this convention and the secretary of state whether the convention may legally and properly have the proposed constitution submitted to the electors of this state in November of this year. Unless the action which we have just taken with respect to the November submission is to be meaningless, it must be implemented by the sort of action which is contemplated by this resolution. The resolution has been considered, as I said, by the select committee and by the committee on rules and resolutions. It has the endorsement of both. I urge the adoption of the resolution.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, this is one collision I would like not to participate in. I, therefore, urge a no vote on the resolution. This was just discussed in the matter on the schedule, but I do feel that those of us who feel that the language is clearcut for the election to be in April not November and who feel the attorney general was correct in his legal analysis have no choice other than to oppose the resolution and thereby support the finding of the attorney general's opinion. I demand the yeas and nays on the vote on the resolution.

VICE PRESIDENT HUTCHINSON: Mr. Downs demands the yeas and nays upon the resolution. Is the demand supported? The demand is supported. The yeas and nays are ordered. All those in favor of the resolution will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—82

Allen
Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Hannah, J. A.
Haskill
Heideman
Higgs
Howes
Hoxie
Hubbs
Iverson
Judd, Mrs.
Karn
Knirk, B
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McAllister
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Pellow
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Rood
Seyferth
Shackleton
Shanahan
Sharpe
Sleder
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Turner
Tweedie
Upton
Van Dusen
Wanger
Wood
Yeager

Nays—36

Austin
Balcer
Barthwell
Binkowski
Bledsoe
Boothby
Bradley
Buback
Donnelly, Miss
Downs
Faxon
Follo
Ford
Garvin
Greene
Habermehl
Hart, Miss
Hatch
Hatcher, Mrs.
Hodges
Jones
Kelsey
Krolikowski
Madar
Murphy
Nord
Norris
Ostrow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Youngblood

SECRETARY CHASE: On the adoption of Resolution 96, the yeas are 82; the nays are 36.

VICE PRESIDENT HUTCHINSON: Resolution 96 is adopted.

For Resolution 96 as adopted, see above, page 3046.

SECRETARY CHASE: The committee on rules and resolutions further recommends that Mrs. Daisy Elliott and Mr. Van Dusen be named as cosponsors of the resolution.

VICE PRESIDENT HUTCHINSON: Without objection, it will be so ordered.

MR. VAN DUSEN: Mr. President, I will simply point out that once again we were favored with the prophetic vision of one of our delegates. Mrs. Daisy Elliott had submitted a similar resolution some months ago, which the rules and resolutions committee had considered at that time somewhat premature. Consequently, at her request, the rules committee unanimously suggested that she be a sponsor of this resolution.

VICE PRESIDENT HUTCHINSON: It is so ordered.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 74,** A resolution to respectfully request the Michigan legislature to take such action as may be necessary to provide that the constitutional amendment proposed in enrolled house joint resolution "G" of 1961 will not be submitted to the people at the same time as the work of the constitutional convention; with 2 amendments, recommending that the amendments be agreed to and the resolution as thus amended be adopted.

The following are the amendments recommended by the committee:

1. Amend the first whereas clause by striking out "It is probable that"; and after "will" by inserting "shortly"; and after "rejection" by striking out "at the November, 1962, general election".
2. Amend the third whereas clause after "people at" by striking out "said" and inserting "the November, 1962,".

R. C. Van Dusen, chairman.

Following is the resolution:

[The resolution was read by the secretary. For text, see above, page 1145.]

With the amendments recommended by the committee on rules and resolutions the first whereas clause will read:

> Whereas, The work of the convention will shortly be submitted to the people for adoption or rejection; and . . . .

In the third whereas clause the language will there read:

> Whereas, Said house joint resolution "G" further provides that said amendment shall be submitted to the people at the November, 1962, election . . . .

VICE PRESIDENT HUTCHINSON: The question is upon the amendments to the resolution offered by the committee. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this resolution was also withheld pending the action of the convention with respect to the schedule. The convention now having directed, if possible, the November submission, it seems appropriate to consider the fact that last year in its 1961 session, the legislature proposed a very brief amendment to the present constitution authorizing the legislature to provide for a general revision of the laws. This proposed amendment, incidentally, is in conflict with the provision which the convention has adopted as a part of this constitution.

The problem, however, is simply that if both the new constitution and this simple amendment proposed by the legislature were to appear on the ballot at the same time — whether in November or April or at any other time — the voters might be confused by a new constitution and an amendment providing for a general revision of the laws, there being some similarity in the style. Accordingly, all this resolution does is to ask the legislature to take such steps as it may deem desirable to avoid this conflict of submission.

Some informal contact has been made with the legislature without particularly fruitful result. It hasn't seemed to have any great interest in the problem. I think that this formal request that it seek to avoid, if possible, the simultaneous submission of that amendment and the proposed new constitution, would be in order.

The amendments are very simple ones made to the recital. They avoid a categorical assertion that the new constitution will be on the ballot in November. The resolution was introduced by

Mr. Wanger and others back at the time when it appeared we would certainly adjourn by March 31, when it was more likely that the document would be submitted in November than it perhaps is now. I urge the adoption of the amendments and the adoption of the resolution as amended.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: I am glad to rise to support the resolution as amended and believe this is a wise resolution and am glad that the word "probable" was removed.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: I just wanted to say, Mr. President and fellow delegates, that, while none of us believe that the legislature intended to put on the ballot something of their own at the same time than the constitution that we proposed might come on the ballot, nevertheless, the final action was taken by the Michigan legislature on this house joint resolution "G" on April 19 and 20 of 1961, and that it was deposited with the secretary of state on April 26 of 1961. This, of course, was some time after the voters of the state had already voted to call a constitutional convention and where an examination of the calendar — had it been done with the constitutional provisions respecting a convention in mind — would have indicated to the legislature that this would possibly conflict with leaving the ballot for the convention alone.

I urge you to vote in favor of this resolution in the hope that the Michigan legislature will realize its responsibility to the people of the state of Michigan in connection with the revised constitution and will take the action which it is legally empowered to take to remove this particular amendment from the ballot upon which the convention's work will be submitted. The attorney general of Michigan in 2 opinions, which will be found in the 1947 and 1948 volume, clearly states that the legislature may — and I quote from the head note of opinion number —

VICE PRESIDENT HUTCHINSON: The convention will please be in order. The convention will please be in order.

MR. WANGER: — number 652 at page 527:

> Concurrent resolution passed by legislature at one session directing submission of state constitutional amendment may be rescinded at subsequent session before question has been submitted.

The path of the legislature is quite clear if it is to fulfill its responsibility to the people of Michigan to let the people best express, in the most unconfused manner possible, their opinion of the work which the first constitutional convention in over 50 years has accomplished.

VICE PRESIDENT HUTCHINSON: The question is upon the amendments to the resolution offered by the committee. All those in favor of the amendments will say aye. Opposed, no.

The amendments are adopted. The question now is upon the adoption of the resolution as amended. All those in favor will say aye. Those opposed will say no.

The resolution is adopted.

Following is Resolution 74 as amended and adopted:

> A resolution to respectfully request the Michigan legislature to take such action as may be necessary to provide that the constitutional amendment proposed in enrolled house joint resolution "G" of 1961 will not be submitted to the people at the same time as the work of the constitutional convention.

Whereas, The work of the convention will shortly be submitted to the people for adoption or rejection; and

Whereas, The legislature in 1961 adopted house joint resolution "G" proposing an amendment to section 40 of article V of the state constitution to authorize the legislature to provide for the general revision of the statutes; and

Whereas, Said house joint resolution "G" further provides that said amendment shall be submitted to the people at the November, 1962, election; and

Whereas, The submission of the work of the convention and said proposed amendment at the same election would create confusion and uncertainty which would result in a less effective expression of the will of the people upon the work of the convention; now therefore be it

Resolved, That the Michigan legislature is respectfully requested to take such action as may be necessary to provide that the constitutional amendment proposed in enrolled house joint resolution "G" of 1961 will not be submitted to the people at the same time as the work of the constitutional convention; and be it further

Resolved, That the secretary transmit a copy of this resolution to the president of the senate and the speaker of the house of representatives of the Michigan legislature.

SECRETARY CHASE: That is all of the standing committee reports, Mr. President. We have some announcements.

VICE PRESIDENT HUTCHINSON: Announcements.

SECRETARY CHASE: Mrs. Cushman announces that she now has a slide, a picture, that she took of a clergyman and President Nisbet that some delegate requested her to take. Whoever the delegate is, please get in touch with her. She does not recall who it was.

The committee on administration will not meet tomorrow at 2:00 p.m. The chairman says he is going to help get out the journal tomorrow morning and won't be able to hold the meeting.

Will all the delegates please check their handbooks. If you have someone else's, please give it to a page to be returned to the proper person.

The state library books: the librarian requests, please return them by Friday.

The committee on style and drafting will meet at 9:00 a.m. tomorrow.

The committee on legislative powers will meet tomorrow at 2:00 o'clock in room H. T. Jefferson Hoxie, chairman.

MR. J. A. HANNAH: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hannah.

MR. J. A. HANNAH: Mr. President and ladies and gentlemen, the gentleman who is now presiding has presided over this convention during the last 3 days full time. It was a very difficult assignment and he has performed with rare skill and fairness. I should like to move a rising vote of gratitude for him at this point.

[Whereupon, the delegates accorded Vice President Hutchinson a standing ovation.]

VICE PRESIDENT HUTCHINSON: Thank you very much, ladies and gentlemen of the convention. I want to tell you that the chore has not been a hard one to me because I have so thoroughly enjoyed it and, you know, you never get tired of doing what you like to do.

MISS DONNELLY: Mr. President.

VICE PRESIDENT HUTCHINSON: Miss Donnelly.

MISS DONNELLY: I move that Dr. Hannah's motion be recorded in the journal.

VICE PRESIDENT HUTCHINSON: The Chair feels embarrassed in putting that motion. The secretary can do it if he wants to.

SECRETARY CHASE: Is there objection? The secretary hears none.

It is so ordered.

Mr. Harold Stevens desires the blue handbook with his name on it. Still he hasn't got it back. He would like to have it. (laughter)

VICE PRESIDENT HUTCHINSON: Is there anything else? What is the pleasure of the convention? The Chair recognizes Mr. Douglas for the purpose of moving an adjournment until Friday.

MR. DOUGLAS: Mr. President, I move the convention now adjourn.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to adjourn. All those in favor will say aye. Opposed, no.

The motion prevails and the convention stands adjourned until Friday morning at 9:00 a.m.

[Whereupon, at 10:40 o'clock p.m., and in pursuance of the schedule previously adopted, the convention adjourned until 9:00 o'clock a.m., Friday, May 11, 1962.]

ONE HUNDRED THIRTY-SIXTH DAY

Friday, May 11, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.** When our convention opened last October 3 we were privileged to have Father Dade give the invocation. On this final day of the convention, he is going to honor us again with the invocation. Please rise. Father Dade.

MR. DADE: O God, our Father, may we recall that in the opening meeting of the convention we reminded ourselves that the people of this great state would little note, nor long remember, what we said here.

We prayed then as now that what we did in this place would stand the test of the years to come.

Help us in these last hours to be realistic about ourselves. May we not take undue credit for any success while ignoring our individual responsibility for failure, so that when our work is ended we can say, "Lord, we have done the best we can," and hear His reply, "Well done, well done."

And now, let as many as desire, say together the Lord's prayer:

> Our Father, who art in heaven, hallowed be Thy name. Thy kingdom come. They will be done, on earth as it is in heaven. Give us this day our daily bread; forgive us our trespasses as we forgive those who trespass against us; and lead us not into temptation, but deliver us from evil. Amen.

My good Christian friends, people of God, esteemed delegates and members of the staff, I bid you an affectionate farewell, ever remembering thee and thine here in my prayers, and I pray you will remember me and mine in yours. God be with you until we meet again. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine and record it.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Messrs. Anspach and Liberato, temporarily, from today's session; and Mr. J. A. Hannah, temporarily, from the first part of today's session as months ago he agreed to make a speech in Chicago. He will be here for the afternoon session.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Anspach, J. A. Hannah and Liberato.

Absent without leave: None.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Anspach, J. A. Hannah and Liberato.]

PRESIDENT NISBET: The Chair recognizes Mr. White.

MR. WHITE: Mr. President and fellow delegates, may I ask that before the noon recess today you file with the office of the secretary your requests for the extra copies of the supplement to today's journal which will contain the constitution, which I trust will be adopted. May I ask, too, that you be realistic about your requests. Our funds are limited and please don't order more than you really require. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, at our last session, in the heat of debate, and not being properly informed on that delegate's position, I was discourteous to a fellow delegate at this convention. At this time, I would like to apologize to Delegate Brake and to the rest of the delegates of the convention. (applause)

PRESIDENT NISBET: Mrs. Conklin. (applause)

MRS. CONKLIN: Mr. President, this morning I received this lovely corsage and I don't know to whom I owe the "thank you." It was signed "Republican mafia." I think it might have something to do with Mr. Dean Doty. But anyway, whoever are the "Republican mafia," I would like to thank them very much.

PRESIDENT NISBET: The Chair recognizes Mr. Iverson.

MR. IVERSON: Mr. President, I move that we recess until 10:00 o'clock for the purpose of a Republican caucus.

PRESIDENT NISBET: The question is on the motion of Mr. Iverson that we recess until 10:00 o'clock. There is an announcement first.

SECRETARY CHASE: Mr. Downs announces a Democratic caucus in room C during the recess. (laughter)

PRESIDENT NISBET: The question is on the motion of Mr. Iverson. Those in favor will say aye. Opposed, no.

We are recessed until 10:00 o'clock. Please be back on time.

[Whereupon, at 9:10 o'clock a.m., the convention recessed; and, at 10:00 o'clock a.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: **Reports of standing committees.**

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, reports back to the convention the complete revision of the **constitution,** recommending the passage thereof.

William B. Cudlip, chairman.

For proposed revised constitution as reported by the committee on style and drafting, see below, page 3214.

PRESIDENT NISBET: It is placed on the order of third reading.

Communications.

SECRETARY CHASE: We have the following communication addressed to the president from the Lansing convention and visitors council under date of May 10:

> To you, President Nisbet, and through you to the delegates, the convention and visitors council expresses its appreciation to the Michigan constitutional convention for selecting Lansing as the site for this historic meeting.
>
> Your convention has given Michigan's capital city much to be thankful for. Because of the worldwide publicity, the thousands of visiting school children, representatives of business, industry, education, labor and government were able to see, first hand, our fine town and other exposures too numerous to mention.
>
> We think most important is that Lansing's true hospitality became known throughout the great state of Michigan through the Michigan constitutional convention and its delegates.
>
> Again, thanks for selecting Lansing for this convention and thanks, too, for being such good citizens of our town. We will miss you. We hope each one of you will carry home fond recollections of your stay here.
>
> To all we extend a sincere invitation to visit our town often. While here, please call on us whenever we can be of service to you.
>
> Sincerely yours,
> A. Starr Hull
> Executive director of the Lansing convention and visitors council.

That's the only communication, Mr. President.

PRESIDENT NISBET: **Third reading.**

SECRETARY CHASE: Under this order of business, there is on file the motion entered on Wednesday by Mr. Garry Brown to reconsider the vote by which **article V**, as amended, was passed.

For the vote on the passage of article V, see above, page 3214.

PRESIDENT NISBET: The question is on the motion of Mr. Brown for reconsideration of the vote on article V. The Chair recognizes Mr. Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I think that this matter has been discussed fully and completely. The reasons for reconsideration of this article were made clear on Wednesday night for one purpose and one purpose alone: that is to make the state highway commissioner elected, rather than appointed by a highway commission. There was no other purpose for reconsidering this article — at least in my mind there wasn't — and I trust that there will be a vote upon this; that the people will vote their conviction. And I would urge a yes vote.

PRESIDENT NISBET: The question is on the motion of Mr. Brown.

MR. VAN DUSEN: Mr. President.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I rise in support of the motion for the reason that this will give us a chance to again support the principle of an elected highway director.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: I move the previous question, Mr. President.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question is on the motion of Mr. Brown to reconsider the vote on the passage of article V, as amended. Those in favor will say aye. Those opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded?

MR. G. E. BROWN: The yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Those in favor of the Brown motion to reconsider will vote aye. Those opposed will vote nay. Mr. Walker.

MR. WALKER: Could we have it read, Mr. President.

SECRETARY CHASE: It is a motion to reconsider the vote by which article V was adopted.

PRESIDENT NISBET: This is the question on which we are voting: reconsideration of the vote on article V. Those in favor of reconsideration will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote. The question, again, is on the Brown motion to reconsider. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 55

Allen
Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, G. E.
Brown, T. S.
Buback
Cushman, Mrs.
Dade
Doty, Donald
Douglas
Downs
Elliott, Mrs. Daisy
Erickson
Faxon
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Hoxie
Jones
Kelsey
Krolikowski
Leibrand
Lesinski
Madar
Mahinske
Marshall
McAllister
McCauley
McGowan, Miss
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stamm
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

Nays — 85

Andrus, Miss
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Durst
Elliott, A. G.
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McLogan
Millard
Mosier
Nisbet
Page
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Woolfenden
Yeager

SECRETARY CHASE: On the motion to reconsider, the yeas are 55; the nays are 85.

PRESIDENT NISBET: The motion to reconsider does not prevail. The secretary will read.

SECRETARY CHASE: The president lays before the convention the complete document, the proposed **constitution** of the state of Michigan —

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think we've all heard the proposed new constitution read piece by piece several times. I move that the entire document now be considered read.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that the document be considered read. Those in favor will say aye. Opposed, no.

The motion prevails.

Following is the proposed constitution as reported by the committee on style and drafting and considered read. (To locate text as referred to said committee, see above, page 3210. For statement of changes made by said committee, see below, page 3238):

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

Article I

Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit,

either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

Article III

General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this consti-

tution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

Article IV
Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senate districts shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight persons, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following four regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

Article V

Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

Article VI

Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

Article VII

Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

Article VIII
Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the university of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

Article IX

Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by nonprofit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature, and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for the support of public education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

Article X

Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. The amount of compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

Article XI

Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of .... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursments for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

Article XII
Amendment & Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general, and state senators shall be elected at the general election in 1964 to serve for two year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divide by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

Sec. 7. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 8. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 10. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The State Board of Education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 11. The provisions of this constitution providing for members of boards of control of institutions of higher education and the State Board of Public Community and Junior Colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 12. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 13. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 15. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law..

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

Following is statement of the style and form changes made by the committee on style and drafting from the document as referred to said committee (see above, page 3210) to the document as reported by said committee (see above, page 3214):

article	section	changes
I	**2**	**After "because of" strike out "race, color, religion, or national origin" and insert "religion, race, color or national origin".**
II	**6**	**After "such election or" insert "electors who are".**
III	**5**	**Combine both paragraphs into one.**
IV	**4**	**First paragraph, first sentence, after "which it is combined" insert a comma and strike out "upon the effective date of the annexation or merger,"; and in the second sentence, after the first "the" insert "district or"; and after "determined by" strike out "said" and insert "such".**
	6	**Last paragraph, after "by the commission, and" strike out "may" (in the amendment) and insert "shall".**
	12	**(In the amendment) after "compensation and" strike out "expenses" and insert "expense allowances"; and after "changes in" strike out "salary or expenses" and insert "compensation or expense allowances"; and after "commence their" strike out "term" and insert "terms".**
V	**4**	**Section has been split into 2 sections and reversed in order. The balance of the article has been renumbered.**
	25	**Renumbered to Sec. 26. First paragraph, after "resignation" strike out the comma; and after "THE ELECTED attorney general" strike out the comma; and in the second paragraph, after "IN" strike out "THE".**
	28	**Renumbered to Sec. 29. Last paragraph, (in the amendment), after "court" strike out "of the state".**
VI	**8**	**After "lines and as" (in the amendment) strike out "near" and insert "nearly"; and after "equal population, as" (in the amendment) strike out "prescribed" and insert "provided".**
	26	**First paragraph, after "justice of the peace" strike out "shall be" and insert "are".**
VII	**24**	**First paragraph, after "own" strike out "and" and insert "or".**
	25	**Last sentence, after "sell any" strike out "such".**
	28	**First paragraph, after "two or more counties,", strike out "cities, villages, townships or districts,", and insert "townships, cities, villages or districts,".**
	29	**First sentence, after "places of any county,", strike out "city, village or township" and insert "township, city or village"; and after "authority of the county,", strike out "city, village or township" and insert "township, city or village"; and after "franchise from the" strike out "city, village or township" and insert "township, city or village".** **Second sentence, after "right of all counties,", strike out "cities, villages and townships" and insert "townships, cities and villages".**
	30	**After "granted by any" strike out "city, village or township" and insert "township, city or village".**
	33	**Renumbered to Sec. 34. After "concerning" strike out "cities, villages, counties and townships" and insert "counties, townships, cities and villages". (This section had previously been section 15 of article XI.)**
VIII	**2**	**After "discrimination as to" strike out "race, creed, religion, color or national origin" and insert "religion, creed, race, color or national origin".**
IX	**4**	**(In the amendment) after "occupied by" strike out "a"; and after "educational" strike out "organization" and insert "organizations".**
	6	**First paragraph, at the beginning of the third sentence strike out "The" and insert "These"; and after "limitations" strike out "established by this constitution or by county vote"; and after "constitution" insert a comma.** **Second paragraph, after "charter township" strike out "or" and insert a comma; and after "charter" strike out "or other" (in the amendment); and after "authority" insert "or other authority,".**
	10	**After "assistance to" strike out "cities, villages and townships" and insert "townships, cities and villages".**
	11	**Section 11 has been rewritten to conform to other language in finance article. Meaning has not been changed.**
	16	**Third paragraph, after "28" strike out the comma and insert "of" and after "X" strike out the comma.** **Seventh paragraph, after "28" strike out the comma and insert "of".**
X	**1**	**Second sentence (in the amendment) after "every woman" strike out the comma; and after "marriage" strike out the comma; and after "may be dealt with" insert "and disposed of".**
	2	**The sentence, "Compensation shall be determined in proceedings in a court of record.", has been added in lieu of the floor amendment.**
XI	**6-14**	**Section numbers 6, 7, 8, 9, 10, 11 and 12 stricken and Sec. 13 renumbered to Sec. 6, Sec. 14 renumbered to Sec. 7.**
	7	**Old Sec. 7 (paragraph 5 of new section 5), strike out "partisan, racial or religious" and insert "religious, racial or partisan".**
	8	**Last sentence of old section 8 (paragraph 6 of new section 5), has been moved to second sentence; after "serving in each house, reject" strike out the comma; and in the next sentence, after "CLASSES OF EMPLOYEES" (in the amendment) insert "affected by the increases".**
	13	**First sentence of old section 13 (new section 6, in the amendment), after "otherwise provided by charter" insert a comma.**
	15	**Old section 15 transferred to local government article. (section 33 of article VII.)**
XII	**2**	**Paragraph 4, first sentence, after "question,", strike out "the proposed amendment" and insert "it".**
	3	**Second paragraph, second sentence, after "vacating the office" insert a period and strike out "if the legislature provides for partisan election of delegates.".**
Schedule		**After "FOLLOWING SCHEDULE" strike out "IS" and insert "and temporary provisions are"; and after "PERIOD AS" strike out "ITS PROVISIONS REQUIRE" and insert "are thereby required".**
	6	**Section 6 has been changed somewhat but meaning unchanged; a sentence (not a paragraph) has been added at end of section, incorporating the floor amendment, which sentence reads as follows: "The legislature**

may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.".

10 First paragraph, after "provided for in" strike out "ARTICLE VIII SECTION 3" and insert "Section 3 of Article VIII".

13 First sentence, after "pursuant to" strike out "Article V, Section 2" and insert "Section 2 of Article V".

SECRETARY CHASE: Mr. McCauley offers the following amendment:

1. Amend article VII, following section 1 (column 2, after line 26) by adding a new section 1a to read as follows:

"Sec. 1a. No county or political subdivision thereunder shall be liable for any of its acts while in the performance of a governmental function unless otherwise provided by law.".

PRESIDENT NISBET: The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President and members of the convention, this is what we probably would classify as a "late blooming" idea. However, we in local government discussed this briefly. We felt the legislature would probably act in this field. It is my understanding, however, that bills have been introduced in the legislature and it has taken no action.

The purpose of this section is to spell out in clear language that counties and political subdivisions thereunder shall be immune unless otherwise provided by law. I'd like to point out to the delegates that after the decision in the Williams case —

PRESIDENT NISBET: Members of the convention, the Chair realizes this is a difficult day. There is much to be said among you. However, these are important matters to come up now. Will you please make every effort to keep the best order possible so we can move with dispatch. Mr. McCauley.

MR. McCAULEY: I'd like to point out to the convention that the supreme court has seen fit to protect the state and the school districts thereunder, saying there was a theory of agency coming down from the state to the various school districts. However, they have not seen fit to protect the counties, the villages, townships and cities. While I realize there is a lot of case law that we operate under in the state of Michigan, I think this is something on which the legislature should take a firm, positive stand. What this amendment does is make it self executing, putting the onus on the legislature to act. If they refuse to or fail to, by constitutional mandate we're attempting to protect cities, counties, villages and townships.

I think we all realize that this is a very complicated field of law as far as governmental immunity is concerned; what are "proprietary" rights and what are "governmental" rights? However, I think that those of us that are interested in city government and county government feel we need this protection because the cities and counties are being plagued now, after the decision in the Williams case, by a rash of lawsuits. We have investigated the possibility of getting insurance to protect us from liability. However, it's so new the underwriters are having a very difficult time in quoting rates to the various units of government. Therefore, I hope that the convention sees fit to adopt this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I rise in opposition to the amendment. I sympathize completely with Delegate McCauley in discussing the financial problems of local units of government, counties and subdivisions. I believe, though, that the way to solve this problem is to raise adequate revenue, particularly on a statewide basis, to see that local communities get their fair share; and I will work with Delegate McCauley on that. But I do not like the idea of balancing county or local unit budgets by taking away the right of individuals to sue for damages inflicted upon them.

I think we are at the stage of civilization where the state and its units should have the same legal liabilities as private organizations and individuals, and that individuals should have equal protection of remedy against governmental units as well as against private organizations, corporations and individuals.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, I would like to support the McCauley amendment and call the attention of the convention to this fact: if the McCauley amendment were saying that there would be permanent immunity by local units of government, I think it probably would be going too far. As I understand his amendment, he is simply saying that there is this immunity until the legislature does something about it. In other words, it's an amendment that gives immunity until it is taken away.

Now, this same situation came up in California, where governmental immunity was done away with by judicial decision and then the legislature acted. The trouble in Michigan is that we're all messed up at the present time: the state is not liable because the legislature has acted; school districts are not liable because of the theory of agency; cities are liable under the Williams case; counties appear to be liable, and townships. Now, an attempt was made this year in the legislature to straighten it out, and it got nowhere. It just got buried and no action was taken.

Now, all this does is set a uniform rule until the legislature does act. And it doesn't — as Mr. Downs interprets this — permanently take away individuals' rights with the rule of immunity. It allows the legislature to do something about it, but it sets the uniform rule. And I think it's a good thing because we are all messed up here, and this is the way to straighten it out and it's the way to leave the control in the legislature. But until it acts, let's get some uniformity in ruling. As it is now, there isn't any consistency and there isn't any rhyme or reason, and there's a lot of uncertainty.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand there are 2 more speakers?

PRESIDENT NISBET: There are 2 speakers.

MR. VAN DUSEN: I move to limit further debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen to limit debate to 5 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Judge Dehnke.

MR. DEHNKE: Mr. President and delegates, I merely want to say amen to what Mr. Allen has said. This does not fasten immunity. It does not permanently establish it. But it protects counties and other governmental units against a further spread of liability by judicial interpretation. This establishes immunity except as limited by statute. I hope it will be adopted.

PRESIDENT NISBET: The Chair recognizes Mr. Radka.

MR. RADKA: I rise to support this amendment and the words I was going to say, Glenn Allen has very ably stated. We have a confusion on municipal liability and I feel that this will give the impetus to the legislature to help solve what is becoming a very serious problem. At this present stage, people who work with governmental liability cases have no answer. The legislature has not given us the answer and this is something which will force their hand.

PRESIDENT NISBET: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, I rise to support this amendment. I think Mr. McCauley, Mr. Allen, Judge Dehnke and Mr. Radka have stated the reasons very ably.

I had one occasion, when I first came to Ottawa county, to watch my predecessor, who was the engineer-manager of the county road commission, be subjected to a $¼ million suit for what I considered a case where the only responsibility he had was being the head of the road commission. The act that was done by a subordinate was an act that probably should have some consideration in a court of law and I think the legislature would make these provisions, but for a manager or a city manager to have to sit in his office and be under very serious reservations that he might be clipped in a serious law case when he has given the best instructions there are, is a terrible handicap for us to operate under. I think that we should act in this area and I think this amendment takes care of it very well.

PRESIDENT NISBET: The Chair recognizes Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I rise to support the McCauley amendment. I believe that Mr. Downs has touched on only part of the problem. It is true that people may be injured on the premises or by a governmental unit. But I also point out that this opens the liability of the governmental unit over and beyond the person actually responsible for causing the injury. And it subjects every township and county official to annoying suits whenever any person feels himself aggrieved.

Some order must be brought out of this chaos by the change of the common law and as a result of the court decisions; certainly the legislature must provide procedures whereby the claims can be ruled on in an orderly fashion, as are any other claims against a political unit. I support the McCauley amendment.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Parliamentary inquiry, Mr. President. I should like to ask by what vote can an amendment be adopted to the total constitution.

PRESIDENT NISBET: A majority of those voting on the question. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, might I ask Mr. McCauley a question? Mr. McCauley, what is meant in your amendment by "political subdivision thereunder?"

MR. McCAULEY: Mr. President, Mr. Van Dusen, it was my interpretation that this would mean villages, townships, cities, period. The only reason that I didn't include school districts is because the supreme court has ruled that they are immune, the same as the state. Therefore, I didn't think it was necessary to include that particular subdivision.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, fellow delegates, I have nothing but the greatest admiration for Jack McCauley and the many fine contributions he has made to this convention but I cannot, in good conscience, support this kind of an amendment. This, it seems to me, is a carryback to the days of early English law when it was felt that the king could do no wrong. There is absolutely no need, and no desire as far as I'm concerned, to write into the constitution any such amendment which would grant to civil political subdivisions immunity from the wrongs that they commit. It seems to me that we have reached an age of enlightenment and an age of economic prosperity where we can afford to protect the individuals by means of insurance or one or another means where we can protect their rights when those rights are infringed upon.

When workmen's compensation was first put into effect, one noted jurist said, "The price of the product must bear the cost of the workman's blood." I think that this is true and I think that it is, in the true sense, a good constitutional reform and good government to stand prepared to pay for the injuries we do as a governmental unit. I, as a taxpayer, will certainly be willing to make my small contribution rather than to let this great burden fall upon the individual.

PRESIDENT NISBET: Time has expired on the amendment. Those in favor of the amendment of Mr. McCauley will say aye. Opposed, no. The Chair is in doubt. Those in favor of the McCauley amendment will vote aye. Those opposed will vote nay. Mr. Downs.

MR. DOWNS: I demand the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of the amendment offered by Mr. McCauley — Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. McCauley's amendment is:

[The amendment was again read by the secretary. For text, see above, page 3239.]

PRESIDENT NISBET: The yeas and nays have been demanded. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—77

Allen
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Doty, Dean
Doty, Donald
Farnsworth
Figy
Finch
Follo
Goebel
Gover
Hanna, W. F.
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Leibrand
Leppien
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Nisbet
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Stamm
Sterrett
Stevens
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
White
Wood

Nays—61

Andrus, Miss
Austin
Baginski
Balcer
Barthwell
Batchelor
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Dade
Donnelly, Miss
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Ford
Gadola
Garvin
Greene
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
King
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Lesinski
Marshall
Mosier
Murphy
Norris
Ostrow
Page
Pellow
Perlich
Sablich
Snyder
Staiger
Stopczynski
Van Dusen
Walker
Wanger
Wilkowski
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment offered by Mr. McCauley, the yeas are 77; the nays are 61.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Brake, Allen and Austin offer the following amendment:

1. Amend article VI, section 28 (column 2, after line 16) at the end thereof, by adding a new paragraph to read as follows:

"No appeal may be taken to any court from a decision of the state tax commission fixing the value of described property for property tax purposes or determining an appeal from a decision of the county tax allocation board.".

PRESIDENT NISBET: We're going to have a rough day but let's do the best we can. The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I think we made a very serious mistake the other day when this subject matter was before us, and I blame myself for it. I think I assumed that more of us were familiar with the mechanics of property taxation than actually are, and I mean no discourtesy by that. Most very well informed people generally have very little understanding of the mechanics of the property tax situation. What most of us know about taxes is that they're always too high and we don't like to pay them. But there is machinery behind that that we need to understand in making this determination.

What we said the other day, by a margin of 11 votes, was that after the taxpayer has gone to the board of review in his local community, then has gone to the state tax commission, and they have said how much his property is worth, that then he can always go to a court and have the judge say; "No, I don't think that value is right. I don't think this property is worth $10,000. I think it's worth $9,500." That is just impossible if you're going to have a property tax law that will work. And that is all that we were trying to get at. Never, never in the world can we have a judge substitute his opinion for the opinion of the assessors and have tax machinery that you can live with. Now, when there is a matter of bad faith, when there is a matter of fraud, an illegal tax, the remedy in the court is ready any time. You always can get in court on those things. All we're talking about is the matter of fixing the value upon which property is to be taxed.

What would the procedure be if we let the judge substitute his opinion? Judges are not careless people. They want to be right. They are going to have brought before them a whole series of expert witnesses. One witness will say the property is worth $10,500; another will say it's worth $9,000. They'll differ.

What will you do when you get to personal property? You have a herd of 50 cows. Now, the tax assessor—just as a matter of sheer necessity, the supervisor of a township says a dairy cow is worth $150, a grade cow; a registered cow is worth $200. He doesn't have time, he doesn't have the facilities for milking every cow and testing her milk to see how much it weighs and how much the butterfat is. He's got to be somewhat arbitrary. Judges don't like to be arbitrary. The judge is going to want to know something about that particular herd of cattle. How much time is it going to take him to find out?

Presumably the appeal here from the tax commission would be to the circuit court of Ingham county. How many circuit judges are you going to put in the circuit court of Ingham county? Certainly a dozen are not going to do it. You'll have a tremendous volume. If every taxpayer can go to the court and say, "You substitute your judgment for the tax assessor's judgment as to what this property is worth," how long will it take? The tax roll goes to the collector on the first day of January. Taxes are due then, and they're supposed to all be collected by the twentieth day of January—December 1 to January 20. The court won't be through with the case by that time.

We've made it perfectly clear here, I think, by the wording of this amendment that we're not talking about appeals on any other basis, but just the value of the property and the matter of the tax allocation board. And there again it's a matter of opinion. There is no known way by which assessments shall not involve a matter of opinion. There is no known way in which the decision of the tax allocation board shall not contain a matter of opinion. And opinions ought not to be appealable to court. I trust that we will correct the error that we made the other day and straighten out this machinery so that we'll have something that will work.

PRESIDENT NISBET: The Chair recognizes Mr. Hatch.

MR. HATCH: Mr. President and fellow delegates, perhaps I'm one of those delegates that's not as well informed on the procedures involved in this field of the tax commission as I should be. However, it seems to me that the wheels of justice oftentimes do move very slowly. But what this amendment would do is deny an appeal where the determination fixing value was illegal or where the determination fixing value was not based on competent, material and substantial evidence.

Now, I don't think section 28 allows a court, on review on the whole record, to substitute its opinion for the opinion of the tax commission or any other agency. All it allows a court to do is review the whole record and determine if the opinion of that commission is supported by competent, material and substantial evidence. And it seems to me that a taxpayer, as well as any other person who appears before administrative bodies, should have at least that minimum right. I therefore respectfully oppose this amendment.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, I disagree with Mr. Hatch on what he has just said. If the assessment is illegal, you don't wait until you've gone through the state tax commission. You have a remedy immediately on an assessment that is illegal, in the circuit court of your own county. This is just a matter of the fixing of the value—nothing else—for the decision of the tax allocation board. I think our wording excludes everything else.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Are there any further speakers, Mr. President, other than Mr.—

PRESIDENT NISBET: There are 11 speakers.

MR. VAN DUSEN: Mr. President, I move to limit debate to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 10 minutes. Those in favor will say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Division has been called for. Those in favor will vote aye. Those opposed will vote nay. The question is on the motion to limit debate to 10 minutes. Those in favor will vote aye. Those opposed, nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to limit debate to 10 minutes, the yeas are 86; the nays are 49.

PRESIDENT NISBET: The motion prevails. Mr. Cudlip.

MR. CUDLIP: Mr. President, members, I urge you to vote for this amendment. I would envision a complete destruction of the procedure for the imposition and collection of property taxes in Michigan if we leave the language as it now stands.

Mr. Hatch's point is not well taken, in my judgment, because there are plenty of procedural reviews, and rights are protected under this involved procedure that we have in Michigan. But we cannot put the courts of this state in the business of assessing property or there will be a breakdown, completely, of this system. Thank you.

PRESIDENT NISBET: Mr. Staiger.

MR. STAIGER: I pass.

PRESIDENT NISBET: Mr. Allen. Will the delegates please remember that debate is limited?

MR. ALLEN: Mr. President, I would also dispute Mr. Hatch's point. I think he feels that somehow or other we're limiting, by this amendment, the right of appeal from the state tax commission that now exists. All we're trying to do in this is to say that on state tax commission matters we preserve all the rights that already exist but we are not going to go further and allow the court to substitute its judgment and become an assessor.

We also are concerned about the question of time that is involved; in the inability of local units to spread their rolls where you first have the appeal to the state tax commission and then another appeal. The amendment is designed to protect all the existing rights, and I haven't heard complaints on appeals from the state tax commission. I don't think we have a problem there. We take nothing away, but we don't want to broaden it and we do broaden it far too much if we don't put the amendment in.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, it is my firm conviction that this section, section 28, should be deleted from the constitution. I think it's going to cause an awful lot of trouble. However, if it is to be retained, this amendment ought to be adopted to prevent a chaotic condition from arising in connection with our property tax assessments. I therefore urge adoption of this amendment.

PRESIDENT NISBET: Mr. Thomson.

MR. THOMSON: Mr. President, fellow delegates, I believe that Delegate Hatch approached this from a theoretical rather than a practical standpoint. With 12 years' experience as an assessing officer and 20 years' experience as a member of an allocation board, we have enough delay when we have to fool around with the state tax commission; so I don't think that we possibly could get by if it had to be a continuation in the courts. I urge you to vote for the amendment.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: I rise to oppose this. I think we ought to slow down a little bit and think about what we're doing. We're writing a constitution, and I wonder how many people would like no appeals on these determinations for the federal questions too? I think we shouldn't put this in. I cannot imagine that the review as we set it up for administrative proceedings will not adequately take care of a well founded tax assessment case. But if it has been arbitrary and capricious, with no evidence stated, I do think the court should be able to take care of this problem.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I would only say that I agree completely with Mr. Brake and Mr. Allen and I would urge the acceptance of the amendment.

PRESIDENT NISBET: Mr. King. Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, for the record only, I want to ask Mr. Brake a question.

PRESIDENT NISBET: If Mr. Brake cares to answer.

MR. FARNSWORTH: Mr. Brake, I want to know whether we are to understand that under this amendment a unit of government — like a township or a city within a county — when it protests to the state tax commission and the state tax commission makes a determination of the amount that the fair assessment or allocation to that unit should be, that the unit cannot appeal.

MR. BRAKE: Mr. President, ladies and gentlemen and Mr. Farnsworth, our intention is that the units of government would have the same status on an appeal from county equalization — and that's what you're talking about —

MR. FARNSWORTH: Correct.

MR. BRAKE: — that they would have the same status as an individual.

MR. FARNSWORTH: That covers my point. Thank you very much, Mr. Brake. Mr. President, I'm in favor of the amendment.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: I urge you to vote against this amendment simply for this reason: it illustrates so clearly what we had in mind originally. Just think where you would be if, with your federal income tax, you did not have appeal from the determinations made along the way and you couldn't get into the courts. And remember this: it hasn't caused chaos as far as federal income tax is concerned. There is no reason why the legislature could not provide for the payment of the tax under protest or collection while the appeal is pending. Certainly, if the decision is right, the tax authorities have nothing to fear from having their decisions reviewed by the court. But certainly the people are entitled to that protection.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, Mr. Lawrence is showing the same misunderstanding that we have had before. The difference between your income tax at the federal level or your sales tax on the state level or practically any other tax except the property tax, is that there is no matter of opinion involved. With your income tax, it's just a question: are you subject to this tax? And from there on it's a question of accounting. With your sales tax it's a question: is this thing subject to tax? Then it's a matter of accounting. It isn't a matter of opinion.

The determination of the value of property is to a considerable extent — not as much now as in past years — but to a considerable extent, just a matter of opinion. And that should not be appealable.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President and fellow delegates, I strongly urge you to approve this amendment. I've been asked to make a little statement here and I think it's worthwhile for the record.

Section 28 of article VI, which in its entirety is statutory language which does not belong in the constitution, most certainly should at least be amended to include an exception for appeals from the proceedings of the state tax commission except in the case of fraud or illegality of assessment. The findings of fact of the state tax commission are normally highly technical determinations of valuations for either assessment or equalization purposes. They should not be disturbed except in the case of fraud. No evidence has been given to demonstrate any abuse of this power on the part of the tax commission and therefore this constitution should not contain a restrictive provision which will result in costly delays in the proceedings for the assessment and collection of property taxes to the detriment of all local units of government. The property tax is and will remain the single most important revenue source for such local units, and unless appeals on matters of assessment and equalization can be handled in an expeditious manner, the furnishing of local services will be interfered with and our citizens will suffer. To open up full review of determination of facts on assessments and equalization will only serve to establish the supreme court of Michigan as a super assessor and will result in disturbing the uniform application of assessing principles by the state tax commission. I strongly urge the adoption of this amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Brake, Mr. Allen and Mr. Austin. Mr. Everett.

MR. EVERETT: I move that the debate be extended for 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Everett that debate be extended 5 minutes. Those in favor will say aye. Opposed, no.

There are no more speakers anyway. (laughter) The secretary will read the amendment.

SECRETARY CHASE: Messrs. Brake, Allen and Austin have offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 3240.]

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Young and Marshall offer the following amendment:

1. Amend article VI, section 28 (column 2, lines 2 through 16) by striking out the entire section including the amendment just adopted.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Young.

MR. YOUNG: Mr. President, fellow delegates, as I pointed out the other day on the floor of this convention, section 28 is a good example of burning down the house to roast a pig. It is at best an ill conceived and hastily drawnup, vindictive provision that, at least in some quarters in this convention, was drawn with the objective of knocking out rule 9. Now, I agree with Delegate Brake that we made a serious mistake in passing section 28. In my opinion the whole section is a mistake. It threatens the whole realm of administrative procedure in our state.

This convention could do a service to the people of Michigan by striking out the whole section. Mr. Brake has pointed out that section 28 threatens our system of evaluation of property. I might further point out that now that we have given consideration to property, let us now give consideration to the human rights that section 28 threatens. I urge that we vote to strike out all of section 28.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise in support of the amendment to strike this entire section. It does not belong in the constitution. It interferes with sound administrative operations, and this is a subject that should be determined by the legislature in setting standards, and the courts in enforcing the law.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President and fellow delegates, I am deeply disturbed by this attempt at this time to remove from the constitution this guarantee to the individual. As far as I am concerned, a move like this — and I say this with great reluctance, because I recall the trouble that Mr. Hutchinson got into when he made this kind of a comment — is a step toward socialism. It disturbs me extremely to think that we would want, any of us, to deny to the individual citizens of this great state the right to a judicial review, and it is my intention, in order to put this thing clearly in focus — I am looking right now for the particular language — that I shall introduce an amendment which will make it very clear, I think, to all of the delegates just how they stand on this issue. My language will be as follows:

> All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi judicial and affect private rights or licenses shall not be subject to direct review by the courts as provided by law. This review shall not include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, it will not be necessary that these findings are supported by competent, material and substantial evidence on the whole record.

It seems to me that that is the question which is clearly before us. Do we believe that the rulings of administrative agencies need not be in accordance with law, and do we believe that they need not be supported by competent, material and substantial evidence on the whole record? If that is what we believe, let's have the guts to go to the people of Michigan and tell them that is what we are going to say. That is the issue here and that is all of the issue here. If we don't think they are entitled to a judicial review of the bureaucratic agencies of this state, then let's tell them so and then find out how they vote in favor of this constitution.

PRESIDENT NISBET: Remember, delegates, we are operating on a time limit. Mr. Stevens.

MR. STEVENS: Mr. President and delegates, this provision is not directed at any one rule or decision but at all of them. And that certainly — I agree with Delegate King — would be a step toward socialism or something worse if we cannot have a judicial review of the bureaucratic rulings that some of these administrative boards make. It is not confined to any one board.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: Mr. President, I would oppose the amendment, because I think that while the amendment beginning with the second sentence might make some sense — and we split on that. Mr. Danhof supported that amendment yesterday. That was the Krolikowski amendment — this one takes out the first sentence too, and I don't think that we should do that. I think the first sentence makes quite a bit of sense, with the possible exception of license, and I would oppose the amendment.

PRESIDENT NISBET: Mr. Allen, the time has expired. The question is on the amendment offered by Mr. Young and Mr. Marshall.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I request that the amendment be divided and the material beyond the first sentence be voted on separately.

PRESIDENT NISBET: Mr. Downs, the amendment is not subject to division. It is to strike out the entire section.

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: How many more speakers do you have on the list?

PRESIDENT NISBET: There are 4 more.

MR. MARSHALL: Could I move that debate be extended for 4 minutes and each speaker be given one minute, please?

PRESIDENT NISBET: The question is on the motion of Mr. Marshall that debate be extended 4 minutes, one minute to each speaker. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Jones. Mr. Everett. Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. President and delegates, I should only like to state that Mr. King permits his conclusions to outstrip his facts. He ignores the fact that the protection afforded in section 28 is amply provided to every citizen of the state of Michigan in statutes and in the existing constitution. There is absolutely no guarantee that is provided in section 28 that does not exist in the present statutes or the constitution of the state of Michigan or the constitution of the United States.

PRESIDENT NISBET: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I don't think that this has any place in the constitution. I get a little sick and tired of delegates in the majority getting up and attacking amendments offered by the minority as socialism and otherwise. I could refer to this as Birchism, but I won't do that. But let me tell you this: if this is socialism, then the 1908 constitution was written by a bunch of socialists because it didn't have it in it.

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: Mr. Marshall took my speech.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Young and Mr. Marshall to strike out section 28. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. W. F. Hanna offers the following amendment:

1. Amend article X, section 2 (column 1, line 50) after "by law.", by striking out "The amount of".

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, fellow delegates, as you will recall, on the floor we adopted an amendment offered by Mr. Lawrence concerning the fact that compensation was to be determined in proceedings in a court of record, and it was inserted after the word "use." I turned to Mr. Lawrence at the time and said, "You do not intend to include necessity?" And he said "no."

We had trouble working with this language down in style and drafting yesterday morning, and we finally took the amendment and made this last sentence "The amount of compensation shall be determined in proceedings in a court of record." Mr. Lawrence discussed this matter with me this morning and he said that he wanted to cover not only the amount, but to whom compensation would be paid in a court of record, and he felt that we had restricted it by putting in "The amount of." I therefore, in order to keep good faith with Mr. Lawrence and what he intended as mover of the amendment, ask that this convention strike the words "The amount of" and start the sentence with "Compensation." I do not believe that style and drafting did restrict it, but if it is more in keeping with the spirit of Mr. Lawrence's amendment, I am sure that "compensation" then will determine both the amount of and to whom it shall be paid, and this may take care of the matter.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: As the sponsor of that original amendment, I concur in what Mr. Hanna said.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hanna. Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, as I understand this amendment, if you knock this out — just so that it is clear for the record, as Mr. Hanna says — you would have to determine compensation in the manner prescribed for condemnation. You would have to make the determination of just compensation; is that correct?

MR. W. F. HANNA: Mr. President, Mr. Stafseth, will you repeat your question? I don't quite understand it.

MR. STAFSETH: Is the intent of this amendment such that you have to determine the compensation before the condemning authority can take the property?

MR. W. F. HANNA: No, sir.

MR. STAFSETH: Oh, I'm sorry. What was the intent? I missed it.

MR. W. F. HANNA: The intent was that the determination of compensation, if it is a contested matter, must be made in a court of record, and the amount of compensation cannot be made by an administrative agency such as the state highway department itself.

PRESIDENT NISBET: Mr. Stafseth, you still have the floor.

MR. STAFSETH: I have to think a little before I can say any more, Mr. President. I am not sure of what has happened.

PRESIDENT NISBET: The question is on the amendment. Those in favor of the amendment will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Mr. Habermehl moves to reconsider the vote by which the amendment offered by Mr. McCauley this morning was adopted.

For vote on the adoption of the amendment, see above, page 3240.

The amendment was to add section 1a to article VII, which section reads:

> Sec. 1a. No county or political subdivision thereunder shall be liable for any of its acts while in the performance of a governmental function unless otherwise provided by law.

PRESIDENT NISBET: The question is on the motion of Mr. Habermehl to reconsider. Mr. Habermehl.

MR. HABERMEHL: I wonder just how many delegates, Mr. President, gave any attention to what they were doing in adopting the McCauley amendment. This was one that came up, was adopted within about 6 minutes and I doubt very much if more than half of the delegates realized what sort of damage they were doing. Just for example, did anyone give any thought to the person who has been injured or damaged as a result of negligence on the part of a municipal employee? Did anyone give any thought to the fact that that man might be disabled for life, and he is barred, unless the legislature takes action in opposition to what this convention has done, from collecting any damages whatsoever?

It seems to me that the injured person is entitled to some consideration on the part of this convention. Who are you protecting, actually? There is not one of us here that doesn't know that every municipality has been paying premiums on insurance policies for years to protect against exactly this kind of an eventuality. All you are doing is making sure that the insurance companies don't have to make any payments as a result of issuing those policies. There is not a municipality in the state of Michigan that doesn't carry liability insurance covering this phase or almost all phases of municipal activity.

It is said that we are putting a temporary provision in the constitution. We are saying that until such time as the legislature acts, this provision will take effect. We are not doing one single thing that the legislature can't take care of by a simple act; and I suggest to you very strongly that the proponents of this amendment put it into this constitution with the intent that it would remain a perpetual rule of immunity to protect municipalities.

Now, only one side was really given on this matter because of the time limitation, and nearly all the speakers, with only 2 exceptions that I know of, were those who had some interest in municipal affairs. What are the arguments that they make? That they are trying to protect a municipal officer from the minor inconvenience of being a nominal party to a lawsuit. I wonder how his inconvenience stacks up against the person who has been injured, who has suffered a disability that might mean that he cannot even earn a living for the rest of his life? That is a weird comparison that we drew in that vote. How can this make sense politically? As delegates of this convention are we going to tell the people of Michigan that they have no right to have a judicial hearing on the merits of their case just because the person that injured them or caused their injury is a municipal officer or a municipal employee?

This section alone could cause the loss of a very great number of votes on the adoption of this constitution. I could not possibly sit here and allow this thing to go through, either as a politician or as a lawyer representing citizens of this state. I urge very seriously that you give some serious thought to this amendment that was tossed in at the last moment and that we question, somehow, the motives of the proponents of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Hatch.

MR. HATCH: Mr. President, I wonder if it would be possible to put the amendment back on the board, the McCauley amendment?

PRESIDENT NISBET: Will the people responsible for it put the McCauley amendment back on the board?

MR. HATCH: Or at least have the secretary read the amendment at the present time.

PRESIDENT NISBET: The secretary will read it too.

SECRETARY CHASE: The McCauley amendment was to add section 1a to article VII, to read:

> Sec. 1a. No county or political subdivision thereunder shall be liable for any of its acts while in the performance of a governmental function unless otherwise provided by law.

PRESIDENT NISBET: Mr. Hatch.

MR. HATCH: Mr. President, I support the reconsideration of the vote by which this amendment was adopted. I think we have acted very hastily. I would merely point out in supporting the reconsideration that, in the first place, this amendment is not necessary. It would appear to me that the legislature could fix the limits of liability now if they so desire.

Secondly, and more important, I would like to point out the breadth of the language of this amendment. The amendment says that no county or political subdivision shall be liable for any of its acts. Now, I don't read that to be limited to merely acts of negligence, like driving a truck down the road and negligently injuring someone, but any acts: acts of contract, acts of contract between a city and its employees, contractual arrangements with respect to construction. I think that the language is so broad that we haven't had adequate time to consider the full meaning of this amendment, and I think on the last day of the convention is a very poor time to adopt something as broad as this, so I urge that we reconsider the vote.

PRESIDENT NISBET: Mr. Van Dusen, there are 6 speakers.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this amendment to 12 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that the debate be limited to 12 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Prettie.

MR. PRETTIE: Mr. President and fellow delegates, when I asked for recognition, Mr. Hatch had not spoken. Most of what I wished to say he has covered very well indeed.

I called this fact to the attention of the sponsor of the amendment, Mr. McCauley, immediately after we had acted upon it. I plead guilty to being somewhat of a slow thinker here. But I believe the language "any of its acts" is, as Mr. Hatch points out, altogether too broad and poses the problem of contractual as well as tortious obligations. My interest in a reconsideration of this is so that a perfecting amendment to limit the provisions to tortious acts, if the amendment is adopted at all, can be introduced and make our meaning clear.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: I rise in support of the motion to reconsider. It seems to me that many of us, especially those interested in private enterprise, would not want to set up a discriminatory standard for one that is different than the one for a public standard. It seems to me if, under an agency principle, a corporation could be sued for the acts of its agent, a city or a municipality likewise should be responsible for the wrongful acts of its agents, and I would therefore support the motion to reconsider.

PRESIDENT NISBET: Please remember we are under limited debate. Mr. King.

MR. KING: Mr. President and fellow delegates, like others who have spoken, I deeply resent this eleventh hour attempt on the part of I don't know who, perhaps the municipal league, to rewrite our constitution.

This, in my opinion, clearly violates the due process clause of the federal constitution. It has no place in the state constitution. If the legislature wants to act, let it act. I do not object to that. But to write in here for all time to come that individuals who are desperately, oftentimes, injured by the acts, contractual and tortwise, of municipal organizations and units of government shall not be able to seek recovery is to me a shocking thing. Quite frankly I have to confess that I am still in a state of shock at the action of the convention, and this is another one of those amendments which — I cast no reflection upon any of the sponsors, but I deeply question the wisdom of it.

PRESIDENT NISBET: Mr. Bradley.

MR. BRADLEY: Mr. President, members of the convention, I well remember the dismay that we felt in Menominee county when we were recently sued, and I also remember the concern we had over the question of whether we were or were not immune. But despite that fact and the dismay that I know that other government officials feel when they are sued, I cannot support the concept any longer in our law that a government should be immune from its acts any more than a private individual would. We now can insure ourselves just as you in your businesses can. I support the motion to reconsider.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, fellow delegates, I support the motion to reconsider. I spoke against the amendment in general, and since I have had a few minutes to think about it, I would like to speak against it in particular.

When we were discussing the matter of search and seizure — and I do not wish to re-argue the merits of that— we were told that one protection the citizen had that was wronged by the police in false arrest or brutality was to sue that policeman. Whether or not that is a practical remedy is beside the point. Now, if this amendment is adopted and stays in the constitution the protection of the citizen, that we were told we had even under the search and seizure provision which we objected to, would be taken away and a citizen could not even sue in case of false arrest or police brutality. I therefore object vigorously to the amendment and urge that we go along with the reconsideration and have time to go into these points more thoroughly.

PRESIDENT NISBET: Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. President, this convention adopted the McCauley amendment after 5 minutes of deliberation. Now, I should only like to report that the house and senate judicial committee of the present legislature studied the same identical question for 3 months, and after giving it exhaustive treatment decided to reject it. I think that our action was precipitate. I think we should reconsider it.

PRESIDENT NISBET: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, in supporting this amendment that was voted on, I don't think any of the supporters of the amendment intended that any governmental employee that committed a negligent act would be immune from being liable. The main purpose of this was to protect the public from lawsuits that might come to it by virtue of a negligent act. The person who commits a negligent act is liable.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, I would like to ask Mr. McCauley a couple of questions.

PRESIDENT NISBET: If Mr. McCauley cares to answer.

MR. BRAKE: I want to be sure that I understand what you are trying to do. I have interpreted your move here as meaning that you have seen, as the rest of us have seen, an indication on the part of our supreme court that they are in the process of changing the settled law of this state that we have had for more than a century on this subject, and that you are taking the position that changes of that kind in the law should be made by the legislature and not by the court. Am I interpreting you correctly?

MR. McCAULEY: One hundred per cent.

MR. BRAKE: All right. That is what I wanted to know.

PRESIDENT NISBET: Mr. McCauley, do you care to be recognized yourself?

MR. McCAULEY: Mr. President, members of the convention, while I realize that there are probably a lot of plaintiff lawyers that certainly object to this thing, as was brought out earlier, this is for the protection of the public. As far as trying to protect individuals that serve in these governmental offices, that is not the purpose of the amendment. Those people are individually liable regardless of this amendment, whether we have it or not.

I think that the reason that this wasn't introduced before was simply because the legislature had the same thing before them for action. We discussed this in local government. We discussed it very seriously, but we were in hopes that the legislature would act during this session. They refused to do so. All we are doing is trying to put the law back to what it was before the recent Williams case, that is all.

I might point out to the delegates that there are statutes on the books as far as automobiles are concerned. In the operation of a motor vehicle, whether or not you are engaged in a governmental function, you are still liable on it. All we are attempting to do is force the legislature and put the onus on the legislature to act in this field, rather than relying on case law made by the supreme court.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: I, too, rise to support this motion to reconsider. While I've found the supreme court has done many things that I thought were improper, I did approve this decision thoroughly. I feel that the point is there are umpteen people involved in government services that are under their employment and are functioning under them. A government function is a very, very large function; it is becoming larger. The doctrine of respondeat superior has been good throughout the ages for every individual employer. I think it should be good for the government. When you talk about the people, the people are the people that are often injured. The individual citizen is also involved. I think we must reconsider this and realize what we have done.

PRESIDENT NISBET: Mr. Allen.

MR. ALLEN: On the motion to reconsider, I would like the convention to know that this amendment is designed to eliminate what I would like to call the double standard. Why should the state of Michigan be immune, but cities be liable? Why should the state highway department be immune, but counties be liable? Why should school districts be immune, but townships and cities be liable? This amendment simply forces a standard rule, and then the legislature can sort it out. But our supreme court decisions today have left us with a double or triple standard, and it isn't right.

PRESIDENT NISBET: Mr. Everett.

MR. EVERETT: Mr. President, if Mr. Allen wants to eliminate the double standard, the way to do it is to write in a provision that governmental units shall not be immune from their wrongs. They should be held responsible. Mr. King is absolutely correct. The only excuse for this is that the king can do no wrong, and that is a doctrine which should have fled the shores of this country with the revolutionary war. (applause)

PRESIDENT NISBET: The question is on the motion to reconsider. Those in favor of that motion will say aye.

DELEGATES: Division.

PRESIDENT NISBET: A division has been demanded. Is the demand seconded? It is supported. Those in favor of the motion to reconsider will vote aye. Those opposed will vote nay.

SECRETARY CHASE: Will the delegates please clear the board?

PRESIDENT NISBET: Have you all voted? If so, the secretary wil lock the machine and tally the vote.

SECRETARY CHASE: On the motion to reconsider, the yeas are 83; the nays are 40.

PRESIDENT NISBET: The motion prevails. The question is reconsideration of the McCauley amendment. There is an amendment to the amendment.

SECRETARY CHASE: Mr. Prettie offers the following amendment to the amendment:

1. Amend the amendment, after "liable for any" by striking out "of its acts" and inserting "tortious act"; so that the language would then read:

> No county or political subdivision thereunder shall be liable for any tortious act while in the performance of a governmental function unless otherwise provided by law.

PRESIDENT NISBET: Mr. Prettie.

MR. PRETTIE: Mr. President and fellow delegates, as suggested in my support of the motion to reconsider, I am sure that this is merely a perfecting amendment to the McCauley amendment. After my discussion with him immediately following its adoption, he assured me that it was his intent that the thrust of this amendment should be only toward tortious acts, not toward contractual obligations.

Now, he suggested that this might be a matter for style and drafting, but I think that, as has been indicated in the debate on the motion to reconsider, this is one of the matters that is concerning some of those who voted for the reconsideration of the action that we had earlier taken. I believe that this will clarify and perfect the intent of the McCauley amendment and will limit its application to tortious acts of the political subdivision, not to its employees; not, as Mr. Downs suggested, to policemen making false arrests — which, incidentally, is under federal statute so we couldn't control anyhow — but merely make it clear that we wish to retain, as Mr. McCauley has stated he wished to retain, the court made law that we had prior to the Williams case. I think that this will perfect the intent of the amendment and will lay at rest some of the fears the delegates have expressed in our consideration of the reconsideration. I urge the adoption of this perfecting amendment.

PRESIDENT NISBET: Mr. Van Dusen, there are 5 speakers.

MR. VAN DUSEN: Mr. President, I move to limit debate on the Prettie amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 5 minutes. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, this takes only a very small part out of the sting of the McCauley amendment. It has been suggested that the individual causing the damage might be liable to suit. If he is a city or a county or a municipal employee, the chance of his being able to respond in damages to the injured person is practically nil. It does not protect the public, actually. The public already is paying the cost that they would be compelled to pay if this amendment was struck. They are paying it in the form of insurance premiums paid by practically every municipality in the state of Michigan. If there was not insurance, the cost to the public would amount to a few cents per person. We contrast that against a person who may have been injured by a tortious act, a tortious act which could even be a malicious act on the part of the municipal employee.

This has no place in the constitution. The legislature, if it wishes, can set up a way of settling claims against municipalities. We have no business here putting in something whereby, if the legislature does not act, this doctrine of immunity from suit, simply because it is a municipality, is going to be frozen forever in the constitution. As Mr. Krolikowski mentioned, the legislature took 3 months to consider this, and we are asked to take 10 minutes to consider it. I strongly urge that you defeat the Prettie amendment and that you defeat the McCauley amendment.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, I rise to voice the same objections to this amendment as the McCauley amendment. It doesn't solve the real problems, the ones pointed out by Mr. Downs, of police officers, limiting suits against the city, which will effectively negate these types of suits if at all, in fact, they are even valuable, all of your tort liability, automobile negligence and so on. It seems to me we shouldn't set up a double standard for industry and government.

PRESIDENT NISBET: Mr. Tubbs.

MR. TUBBS: Mr. President, I have been expecting some of the constitutional and municipal lawyers to raise another objection to this amendment. This says "county or . . . subdivision thereunder." There are no subdivisions of counties. Townships are municipal corporations established by this constitution. They are not subdivisions of counties. Cities and villages are not subdivisions of counties. I submit, if the convention please, this would apply to counties only, and the whole matter should be left to the legislature. I am against the amendment.

PRESIDENT NISBET: Mr. Stafseth.

MR. STAFSETH: Mr. President, I would rise in support of the Prettie amendment. I think it is a perfecting amendment. I would like to point out that in this area it has become a serious problem with municipal units. All this does is to bring back the old common law and instruct the legislature to act. The legislature can act for the protection of the people, and this is the purpose of it. They can show discretion to protect the people properly, and I have full faith in them.

PRESIDENT NISBET: Mr. Hatch.

MR. HATCH: Pass.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Prettie. Those in favor of the amendment will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment by Mr. Prettie, the yeas are 80; the nays are 44.

PRESIDENT NISBET: The amendment to the amendment is adopted. The secretary has another amendment.

SECRETARY CHASE: Mr. King offers the following amendment to the McCauley amendment as amended:

1. Amend the amendment, after "thereunder" by inserting "or private corporation"; so the language will read:

> No county or political subdivision thereunder or private corporation shall be liable for any tortious act while in the performance of a governmental function unless otherwise provided by law.

PRESIDENT NISBET: Mr. King.

MR. KING: Mr. President, fellow delegates, I detect some disapproval with this amendment. I thought we were all in favor of no double standards. Mr. Allen mentioned the possibility of double standards. This, I submit, would remove any double standards. If you happen to be unfortunate enough to be struck down by a $60 a week truck driver driving for General Motors and your leg is severed off at the hip or your eye is put out, it is unfortunate. You just don't sue General Motors. I submit that this amendment may well reduce the price of automobiles, and I think we all own automobiles here; we certainly ought to be interested in that. And after all, only a very, very few people are struck down by such misfortunes. Most people go through life never having a tort claim against a major corporation. So it seems to me that this is an excellent way to eliminate the double standard that we are talking of and get us back on even keel.

Of course, as you may have guessed, the amendment is submitted to make clear the ridiculousness of this kind of an approach to a very serious problem, and I at this time withdraw the amendment.

PRESIDENT NISBET: The amendment to the amendment is withdrawn. The question is on the McCauley amendment as amended. Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, members of the delegation, I have not felt impelled to come to the microphone and more or less straighten the lawyers out since we talked on the judicial article, but I do feel that all of them are missing the point that on the tail end of this we say "unless otherwise provided by law" which, to me, tells me that the legislature can legislate under this. I see no harm in it at all. I would remind you that we are not here writing a bill of rights. I am very much for the McCauley amendment.

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, Mr. McCauley, I think, described his amendment as a late blooming idea. I think that most of us can see that as a late blooming idea, it certainly turned out to be a petunia. (laughter) I don't think we want a petunia like this in our constitution. It has been clearly pointed out that the word "tortious" includes torts of a deliberate nature such as assault, battery, libel and slander as well as negligence; and that this language does not really perfect the McCauley amendment to any great degree, and, if anything, creates a situation which is legislative and not constitutional in nature. Even the proponents of the amendment recognized it was legislative in nature when they added the provision "unless otherwise provided by law." This is clearly the most legislative type of provision, from a purist standpoint, that could be possibly imagined. From a practical standpoint it has already been pointed out it is a dangerous amendment and an improper amendment for our constitution, and I urge you to vote no.

PRESIDENT NISBET: Mr. Van Dusen, there are 4 speakers.

MR. VAN DUSEN: Mr. President, I move to limit further debate to 8 minutes.

PRESIDENT NISBET: The question is to limit debate to 8 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Miss Donnelly.

MISS DONNELLY: I rise to take issue particularly with Jim Farnsworth. I don't think the lawyers misunderstand what that last phrase "unless otherwise provided by law" means. That does not take care of anything, in my opinion, that the legislature couldn't take care of if the constitution were silent. The issue here is: do you want the large pocketbook to be able to respond, or do you want the one individual who did the tortious act — or the wrong, for the benefit of those who don't necessarily understand the meaning of "tort" — to be the only person to pay?

If they are operating within the scope of their authority, or if a person is in the building and the building is unsafe, the point is that the individual who has been injured should be able to be cared for, taken care of. We are all mindful of the fact that the king in this state and in this country can do wrong, and to keep up this idea that the state and its subdivisions, counties, should be pure and untouchable by the citizens when they have been injured is wrong. We have more people involved in government every day. There is more money and power in government every day. To allow the constitution of this state to reverse the supreme court in this manner, or attempt to reverse the supreme court in this manner, is incorrect.

The legislature has studied it, the supreme court has studied it, and I believe that in this instance we have some very self interested groups taking care of the wrong point. Everybody should be concerned about this. Everybody helps support the government, and when individuals are injured they should be able to be repaired like anybody else if they are injured by anybody else. This immunity for the sovereign is not right.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: Mr. President, I simply would like to repeat what Miss Donnelly said and also, I believe, the point that was made by Mr. King. I think Mr. King made his point when he showed us the absurdity of the whole McCauley amendment. Mr. King showed us how wrong his own concept was. He showed us that "King" can do wrong, (laughter) and I think he showed us that we can do wrong. And I think Miss Donnelly proved that we have done wrong. Now, I say, let's rectify the wrong. In other words, let's strike McCauley.

PRESIDENT NISBET: Mr. Brown.

MR. T. S. BROWN: Mr. President, fellow delegates, since the maker of the amendment suggests that it was a late blooming idea, and Mr. Wanger suggested that it was perhaps a petunia, I am reminded of the old song, I'm Just a Lonely Little Petunia In a Cabbage Patch, and I think that this is probably true: a petunia would be an anachronism, I think, in a cabbage patch. And I therefore vote against the amendment.

PRESIDENT NISBET: Mr. Bledsoe.

MR. BLEDSOE: Pass.

PRESIDENT NISBET: The question is on the McCauley amendment as amended by the Prettie amendment. Mr. Downs.

MR. DOWNS: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? A sufficient number up. Those in favor of the McCauley amendment as amended by the Prettie amendment, which the secretary will read, will vote aye. Those opposed will vote nay.

SECRETARY CHASE: The amendment of Mr. McCauley, as amended, now reads as follows:

1. Amend article VII, following section 1 (column 2, after line 26) by adding a new section 1a to read as follows:

"Sec. 1a. No county or political subdivision thereunder shall be liable for any tortious act while in the performance of a governmental function unless otherwise provided by law.".

PRESIDENT NISBET: Those in favor will vote aye. Those opposed will vote nay. We are voting on the McCauley amendment as amended by the Prettie amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 51

Allen
Bentley
Blandford
Boothby
Brake
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Doty, Dean
Erickson
Farnsworth
Figy
Finch
Follo
Gover
Howes
Hoxie
Hubbs
Iverson
Kirk, S.
Knirk, B.
Leibrand
Madar
McAllister
McCauley
McGowan, Miss
McLogan
Nisbet
Plank
Pollock
Pugsley
Radka
Richards, J. B.
Richards, L. W.
Romney
Rood
Seyferth
Shaffer
Sharpe
Sleder
Stafseth
Stamm
Sterrett
Stevens
Suzore
Thomson
Turner
Tweedie
Upton
Wood

Nays — 82

Andrus, Miss
Austin
Baginski
Balcer
Batchelor
Beaman
Bledsoe
Bonisteel
Bradley
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Dade
Dell
DeVries
Donnelly, Miss
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Everett
Faxon
Ford
Garvin
Goebel
Greene
Gust
Habermehl
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hodges
Hood
Hutchinson
Jones
Judd, Mrs.
Karn
Kelsey
King
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Lesinski
Mahinske
Marshall
Martin
Mosier
Murphy
Nord
Norris
Ostrow
Page
Pellow
Perlich
Perras
Powell
Prettie
Rush
Sablich
Shackleton
Shanahan
Snyder
Spitler
Staiger
Stopczynski
Tubbs
Van Dusen
Walker
Wanger
White
Wilkowski
Woolfenden
Yeager
Young
Youngblood

SECRETARY CHASE: On the McCauley amendment as amended by the Prettie amendment, the yeas are 51; the nays are 82.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Wanger, Mrs. Cushman and Mr. Heideman move to reconsider the vote by which the amendment "at a partisan election" was added yesterday to article XII, section 3.

For vote on adoption of the amendment, see above, page 3203.

The language as now amended reads:

If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election.

PRESIDENT NISBET: The question is on the motion to reconsider. Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, with Mrs. Cushman, Dr. Heideman and myself on this, I suppose you could call this a bipartisan nonpartisan motion. It is put in for the specific reason of leaving to the legislature in the future the question of whether or not, 30 or 40 or 50 years from now, the delegates to future constitutional conventions should be chosen on a partisan basis or on a nonpartisan basis. It is in no way intended to imply that the delegates who sponsored this amendment necessarily are favorable or opposed to partisanship in any other level of governmental activity. We feel that in this area of governmental activity the legislature should be given the flexibility which this reconsideration and defeat of the previous amendment would provide.

I would like to call your attention, fellow delegates, to a very important fact, and that is that there are many, many thousands of people in the state of Michigan who consider themselves and who are independent voters —

PRESIDENT NISBET: The convention will be in order. Mr. Wanger.

MR. WANGER: Thank you, Mr. President — thousands of people who are independent voters, and who most certainly would misconstrue these words in our constitution and might be persuaded by those words alone to vote against what would otherwise, in their eyes, be a substantial improvement in Michigan's basic law. So I very earnestly entreat you to vote yes on this motion to reconsider, and then to vote no upon the amendment.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President, fellow delegates, I joined with Mr. Wanger on this because I think we made a rather serious mistake the other day when we decided, after we had previously had this up before us on several occasions, to put in the words "on a partisan basis." I feel that this is something that we can very well — and we should — leave to the legislature in the future. It is difficult for us to tell at the present time the situation that will prevail then. I think that we will be completely safe in feeling the legislature would be the best group of people to handle this at that time. Thank you.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I ask how many speakers there are?

PRESIDENT NISBET: There are 3 speakers, Mr. Van Dusen.

MR. VAN DUSEN: I move to limit further debate on the motion to reconsider to 6 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen to limit debate to 6 minutes. Those in favor say aye. Those opposed, no.

The motion prevails. Mr. Romney.

MR. ROMNEY: In this convention we have provided that supreme court justices should be elected on a nonpartisan basis. We have done this because we recognize that the administration of justice should be impartial. Now, actually the delegates to a constitutional convention have a graver responsibility than the members of the supreme court because they have the responsibility of shaping the fundamental law of the state and determining the principles by which the court and other governmental bodies in this state shall operate, as well as to protect the rights of the people. I think it has been evident in the course of this convention that partisanship has not been a helpful thing. It has been a difficult thing and it has contributed to our inability to realize some of the goals of this convention.

I felt, before this convention was called, that it should have been on a nonpartisan basis. I feel more strongly now that a constitutional convention should be a nonpartisan body. I believe that a constitutional convention delegate has a responsibility to all the people of the state and that the only way that he can effectively function in that capacity is to be elected as a nonpartisan delegate so that the constitutional convention structure in the committees and on the floor can operate on that basis. When this nonpartisan effort was defeated, I undertook to throw my support behind a bipartisan convention. To the extent possible under the circumstances we have had bipartisanship in this convention. I urgently solicit your support of the elimination at least of language that would cast the die for the next constitutional convention. (applause)

PRESIDENT NISBET: Mr. Yeager.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Would Delegate Romney yield for a question?

PRESIDENT NISBET: Mr. Romney?

MR. ROMNEY: Yes, sir.

MR. DOWNS: If you say that partisanship has had an adverse effect on the convention, would you agree to an amendment that no delegate could run for a partisan office for one year after the convention?

MR. ROMNEY: Mr. Downs, I would be very happy to accept such an amendment. I would not be opposed to such an amendment. I think the circumstances under which this constitutional convention has occurred, as well as the circumstances that developed during the course of this convention have created situations that are not as good as would be otherwise.

MR. G. E. BROWN: Point of order.

PRESIDENT NISBET: State your point.

MR. G. E. BROWN: I suggest that campaigners do it after the convention and not on the floor.

PRESIDENT NISBET: The point is well taken. Mr. Yeager.

MR. YEAGER: Mr. President, I should like to ask how much time I have left.

PRESIDENT NISBET: You and 3 other speakers have 2½ minutes, Mr. Yeager.

MR. YEAGER: Thank you. I can finish in much less time than that. Mr. President and ladies and gentlemen, this seems to be an effort to remove partisanship from the convention. I should like to submit that you don't remove partisanship by simply calling it nonpartisan. You simply hide identification. I favor full identification in this matter. I think the people are better served when it is so. I don't think partisanship was the problem that we had here. I think most of the problem that we had was the fact that we had an open convention and that people found themselves talking for the record rather than on the question of the issue sometimes; I don't say that is always. I am not questioning anybody's motives in that regard. I think we would have finished the convention much sooner and I think we would have had some different results in some areas had it been a closed convention. I don't think partisanship has been the problem. I oppose this motion to reconsider.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: Mr. President, fellow delegates, I urge that you vote yes on this motion, not because I am not a partisan; I am a partisan. I don't think being elected in a nonpartisan election removes this quality from the candidate, but I do think that it might possibly remove from the issues the convention faces, both during the convention and after the convention, certain aspects of a highly political content. In any event, why should we tie the hands of the legislature in the future? Let them have an opportunity to judge what we have done. Let the legislature have an opportunity in the future to determine whether this is a wise decision or not. I urge that you vote yes.

PRESIDENT NISBET: Mr. Heideman.

MR. HEIDEMAN: Mr. President, ladies and gentlemen of this convention, I think we all realize that the highest ideal of government is not party government; it is not majority rule; but unanimity and cooperation whenever that is possible. Party government and majority rule are necessary for carrying on the practical operations of government and we accept it; but as free citizens we can wear many garbs. We can be partisan when it is essential, but we should also be able to rise above it, and I think here in 2 cases at least that occur to me —

PRESIDENT NISBET: The time has expired, Hr. Heideman.

MR. HEIDEMAN: Just this statement: we should be able to rise above partisanship when we are defending our country, when we are drawing up a constitution for Republicans, Democrats, and others.

PRESIDENT NISBET: The time has expired.

MR. HODGES: Mr. President.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: I move to extend debate for — how many speakers are there?

PRESIDENT NISBET: There are 2 left.

MR. HODGES: Four minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Hodges to extend debate for 4 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Hodges.

MR. HODGES: Mr. President, I rise to oppose this motion. I think that from what we have seen in this convention and the precedent we can draw from it, it hasn't been the partisanship that has caused it. I think the real harm has been caused by one of the speakers that got up and talked for this motion and for nonpartisanship. This has been the real cause and problem of this convention. And I would submit that if we took an amendment such as offered by Mr. Downs, we would be going far more to the point. All a partisan means is to be for something, and certainly people should not be afraid to be for a philosophy or against a philosophy and advocate that philosophy. I oppose the motion.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Mr. President, ladies and gentlemen, I think that our experience here has proven that partisanship is not the cause of our problems. I think it has been caused by candidates openly and furtively campaigning for public office while delegates to this convention.

PRESIDENT NISBET: The question is on the motion to reconsider. Those in favor will say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Those in favor of the motion to reconsider will vote aye. Those opposed will vote nay. Mr. Wanger.

MR. WANGER: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? A sufficient number up. Those in favor of the motion to reconsider will vote aye. Those opposed will vote nay. Have you all voted? The secretary will record the vote.

The roll was called and the delegates voted as follows:

Yeas — 49

- Allen
- Andrus, Miss
- Anspach
- Barthwell
- Beaman
- Bentley
- Bonisteel
- Cudlip
- Cushman, Mrs.
- Dade
- Danhof
- DeVries
- Donnelly, Miss
- Durst
- Elliott, A. G.
- Farnsworth
- Figy
- Gadola
- Goebel
- Habermehl
- Heideman
- Higgs
- Howes
- Hutchinson
- Jones
- Judd, Mrs.
- King
- Krolikowski
- Kuhn
- Lesinski
- McCauley
- McGowan, Miss
- McLogan
- Ostrow
- Powell
- Pugsley
- Rajkovich
- Richards, L. W.
- Romney
- Rood
- Rush
- Sleder
- Spitler
- Staiger
- Turner
- Tweedie
- Van Dusen
- Wanger
- Woolfenden

Nays — 83

- Austin
- Baginski
- Balcer
- Batchelor
- Binkowski
- Blandford
- Boothby
- Bradley
- Brake
- Brown, G. E.
- Brown, T. S.
- Buback
- Butler, Mrs.
- Conklin, Mrs.
- Dehnke
- Dell
- Doty, Dean
- Doty, Donald
- Douglas
- Downs
- Elliott, Mrs. Daisy
- Erickson
- Everett
- Faxon
- Finch
- Ford
- Garvin
- Gover
- Gust
- Hart, Miss
- Haskill
- Hatch
- Hatcher, Mrs.
- Hodges
- Hood
- Hoxie
- Iverson
- Karn
- Kelsey
- Kirk, S.
- Koeze, Mrs.
- Lawrence
- Leibrand
- Leppien
- Madar
- Mahinske
- Martin
- McAllister
- Millard
- Mosier
- Murphy
- Nisbet
- Nord
- Page
- Pellow
- Perlich
- Perras
- Plank
- Pollock
- Prettie
- Radka
- Richards, J. B.
- Sablich
- Seyferth
- Shackleton
- Shaffer
- Shanahan
- Sharpe
- Snyder
- Stafseth
- Stamm
- Sterrett
- Stevens
- Stopczynski
- Suzore
- Thomson
- Walker
- White
- Wilkowski
- Wood
- Yeager
- Young
- Youngblood

SECRETARY CHASE: On the motion to reconsider the vote by which the amendment was added to article XII, section 3, the yeas are 49; the nays are 83.

PRESIDENT NISBET: The motion does not prevail. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Marshall offers the following amendment:

1. Amend article XII, section 3 (column 2, line 37) after "law.", by inserting "No delegate can run for a statewide partisan office for one term after the conclusion of the convention.".

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen to limit debate to 5 minutes. Those in favor will say aye. Opposed, no.

The motion prevails.

MR. MARSHALL: Mr. President and fellow delegates, I agree with the statements made by Delegate Romney that there has been entirely too much politics, I think, in this convention. In view of the fact that about 50 per cent of the delegates were either announced candidates or on the brink of announcing, in view of the fact that most of them were campaigning throughout this convention instead of writing the constitution, I think it would definitely add to the stability of future conventions if we had this type of an amendment, and I urge its adoption.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, it wouldn't have changed the aspect of this convention or the attitude within the convention one iota if this amendment had been in existence. I think it's a bad amendment. I think it ought to be defeated, and I certainly hope you'll vote vigorously and wholeheartedly against it.

MR. MARSHALL: Mr. President, may I make a correction? Delegate Elliott called this to my attention. I did not intend the amendment to apply only to statewide office. I intended it to apply, for clarification, to any elective office.

PRESIDENT NISBET: Mr. Chase will correct the amendment.

SECRETARY CHASE: "No delegate can run for a partisan office." Is that the correction? Strike out the word "statewide" so the amendment will read:

1. Amend article XII, section 3 (column 2, line 37) after "law.", by inserting "No delegate can run for a partisan office for one term after the conclusion of the convention.".

MR. ROMNEY: Mr. President, I'd just like to make one point on this, and that's this: that in principle I agree with this. I asked this convention, when this matter came up in the course of the convention, to take a position. I urged the rules committee to reconsider the matter after they had tabled a resolution that was introduced, and a Democratic delegate moved that the matter be continued on the table. I have abided by the rules of this convention. I have not agreed with the rules of this convention, as I've made quite clear. I felt this should have been a nonpartisan convention, and I tried to bring that about before the convention occurred. I agree in spirit with this amendment, but I submit that when rules are written, then we all should play by the rules, and that has been done.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Marshall. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Downs offers the following amendment:

1. Amend article XII, section 3 (column 2, line 37) after "law.", by inserting "No delegate can run for a statewide partisan office for one year after the conclusion of the convention.".

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I urge support of this. I tried — and if my memory is faulty, I'd be glad to have the delegate from Oakland county correct me — to take what I thought we agreed upon on the floor. I'd be glad to have him cosponsor this.

I want to point out that this does not apply to this convention but it applies to future conventions. I think our discussion should only be on future conventions and I see no reason for discussing the present convention. I think this would anticipate and prevent problems of partisan campaigning for future conventions that have plagued this convention. I urge support of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Downs. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand supported? Sufficient number up.

MR. DOWNS: I have a preferential motion.

PRESIDENT NISBET: Mr. Downs. State it.

MR. DOWNS: I move that Delegate Romney be given equal time to speak.

PRESIDENT NISBET: The question is on the motion of Mr. Downs that Delegate Romney be given equal time to speak. Those in favor, say aye. Opposed, no.

The motion prevails. Mr. Romney, you have about a half a minute.

MR. ROMNEY: Very good. Mr. Downs, I would be happy to reciprocate if you had supported the basic amendment which was to make the forthcoming convention, or a later convention a nonpartisan convention. I believe in both principles and I think you're the one that's being highly inconsistent. I shall still vote for this amendment.

PRESIDENT NISBET: We're getting awfully close to some objectionable features in this convention. The Chair would suggest that we vote on this and get this over with. And let's maintain better order. The question is on the amendment. Mr. Brown.

MR. T. S. BROWN: Have the yeas and nays been demanded?

PRESIDENT NISBET: No, they have not.

MR. T. S. BROWN: I so do.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Not a sufficient number up. The question is on the amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend article XII, section 3 (column 2, line 33) after "delegate at" by striking out "a partisan" and inserting "an"; so the language will then read:

> . . . the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at an election.

MR. KUHN: Mr. President, members of the convention, this amendment will simply leave it to those, if in 50 or 100 years they decide to have another convention, whether or not it should be partisan or nonpartisan. Now, with this amendment it would be strictly up to the legislature. We would not be telling them. We do not know what the party structure will be at that particular juncture. I urge this amendment to be consistent with our earlier voting.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 3 minutes.

MR. FAXON: Mr. President.

MR. BRAKE: Point of order, Mr. President. Did we not just settle this matter just a few minutes ago?

PRESIDENT NISBET: Your point of order is well taken. The amendment is out of order. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, as a point of personal privilege, I just want to make this brief statement because I think that I have been very fair in regard to not looking at the mails that any particular delegate here has ever sent out. I just want it understood that yesterday I had some letters taken off my desk and now I understand that these letters have been circulated and everybody has been looking at them and commenting on them.

I have respected the right of any person here to send out any letter he so chose. I have respected their right of confidence in what letters they want to send out. And I have never at any time shirked the responsibility of taking care of any cost that may be involved in any mailing. And to this effect, I had purchased the envelopes and would take care of postage cost if this were the case in point. But yesterday there was taken off of my desk in the secretaries' room downstairs, while I was not present, about 1500 letters; they were then hidden, and they were then distributed. They have been the subject of considerable debate and comment around the halls today. I am sorry about the whole thing. And I truthfully wish that the person responsible for having taken this action in going ahead and taking my mail and preventing the people in my area from receiving the mail to which they are entitled, in so acting, would have thought twice before he did it. There is a resolution I have on file, that will come up this afternoon, which I believe will adequately cover the grounds which I've just discussed.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I believe I have a motion that will pass. I move we recess until 2:00 o'clock.

PRESIDENT NISBET: The question is on the motion of Mr. Downs that we recess until 2:00 o'clock. Those in favor say aye. Opposed, no.

The motion prevails.

MR. VAN DUSEN: Mr. President, a brief announcement before the delegates leave the hall. I think the secretary may have several.

PRESIDENT NISBET: Just a minute for the announcements.

MR. WALKER: Point of order. Is it proper for an announcement to be made or anything be made after a recess?

SECRETARY CHASE: We have the following announcements:

The librarian requests that the delegates please return the books to the library.

The select committee on action against the secretary of state will meet today, Friday, as soon as we recess.

There will be a Republican caucus at 1:15 in room A.

The committee on administration will meet this noon 10 minutes after we recess.

Will the delegates please turn in their telephone credit cards to the finance clerk before they leave today?

PRESIDENT NISBET: We are recessed until 2:00 o'clock.

[Whereupon, at 12:00 o'clock noon, the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The question is on the passage of the complete revision. There is one more amendment. Mr. Chase will read it.

SECRETARY CHASE: Messrs. Walker, Wood and Wilkowski offer the following amendment to the proposed constitution:

1. Amend article IV, section 8 (column 2, line 54) after "office" by inserting a comma and "employment or position"; so the language will read:

> No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The question is on the amendment.

MR. VAN DUSEN: Now I raise the point of order that Mr. Walker is not present.

PRESIDENT NISBET: Mr. Wood.

MR. WOOD: Mr. President and fellow delegates, without taking a lot of your time this afternoon, we feel it is just as important that federal and state employees, some of them drawing good salaries, be prohibited from holding a seat in the legislature just as much as officeholders in cities or villages or municipalities of other kinds. We also note that some of those people who do hold those seats in the legislature have a high record of absenteeism. We think it's important that these words be added to this section.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Kuhn.

MR. KUHN: Mr. President, this subject came up before our committee on legislative powers. We studied this subject very carefully. We had a tough fight here on the floor to get the language adopted, which we got adopted, which would prohibit township and county officials from serving in the legislature. Now, this goes much beyond what the committee anticipated. We are definitely opposed to this amendment and we do feel that it goes way beyond the intent of the committee.

PRESIDENT NISBET: The question is on the amendment. Mr. Wilkowski.

MR. WILKOWSKI: Mr. President and fellow delegates, I realize that this has been somewhat considered in the committee. But, first of all, let me say that I am not a candidate for the legislature and don't intend to be. Someone has been accusing me that I was going to be a candidate.

Now, if we're going to have a provision here barring officeholders, why not also take the employees? We have so many members in the legislature now who are employed by various municipalities and who also are legislators. How did they get those jobs? Because they were legislators in the first place and they made deals in the legislature to get those jobs. Talk about graft in the legislature, in politics with a $50 bill — this is the height of it all. They sold their votes to get a job in their municipalities, in their cities or their counties.

Now, if you please, Mr. President, I have a record here made out by Lloyd. It's a statistic on attendance and voting records. The people that hold these jobs in their municipalities come here and are absent 1/3 of the time. They work on their jobs, they're paid over there, and are absent here, not doing their jobs in the legislature. I can show you where some were absent 118 days in a period of 7 years; and a list of 747 roll calls simply because they wanted to draw pay over there as well as over here. Now, they are compensated; they have good salaried positions from $6,000 a year to $12,000 to $15,000 a year so why should they be holding another job as a legislator?

Now, to my Democratic friends and colleagues, I just want to state that the concept of one man, one vote should apply also to the concept of one man, one political job or political position. (applause) I realize that this is not popular with my Democratic legislators, but I can't understand a man getting $10,000, $12,000 a year at a job in a county or city and then coming here and getting another $7,000. Why not spread that out? The labor leaders say they don't want time and a half. They want more people working. And here we have one man holding 2 jobs. I hope that you will agree with this amendment and that we can give other people the opportunity to run for the legislature.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, fellow delegates, —

PRESIDENT NISBET: Will the convention please be in order? We have a busy afternoon and want to get through early.

MR. MADAR: Mr. President and fellow delegates, I would like to say this: that being a con con delegate, I would like to assure Mr. Wilkowski or anyone else that I made no deals to get my con con job, even though I was a city employee.

Now, I think this would be a fine thing, but I wonder if we shouldn't go a little further, and I wonder why Mr. Wilkowski didn't enlarge upon this particular amendment. I don't believe that we should hold 2 jobs. I think that's wrong. But then, is it any worse for a city or a governmental employee to be a representative or a senator than it is for an attorney holding a job and doing work for his clients and also being a senator or a representative? Or I might even remind Mr. Wilkowski, who was a state senator and also operated a hardware business, was that any worse? I don't think so. I don't think one is any worse than the other. And I think maybe we'd better stop throwing stones or get out of that glass house.

PRESIDENT NISBET: Mr. Erickson.

MR. ERICKSON: Mr. President, delegates, I just want to compliment Delegate Wilkowski for a very logical presentation. I am sorry we haven't heard from him more often because he put my sentiments very well.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment, the yeas are 73; the nays are 44.

PRESIDENT NISBET: The amendment is adopted. Mr. Downs.

MR. DOWNS: I move reconsideration of the action we just took.

PRESIDENT NISBET: The question is on the motion of Mr. Downs —

MR. DOWNS: I'd like to speak on the motion.

PRESIDENT NISBET: — that reconsideration be taken on the vote just taken. Mr. Downs has the floor.

MR. DOWNS: Mr. President, I think that the sponsors of this made an eloquent plea for individuals not holding 2 jobs. However, I would like to make 2 points that I think are important and serious, and I realize that we all want to get home early after 7 months: the first point is that the legislature is not a full time position. We did not provide pay for that, though I was one of those who supported that the pay be ½ of a congressman's, so the person who is in the legislature must of necessity, in most cases, have other sources of income. Now, the question is: where should he get those sources of income? This would mean that he could have them from practically any source other than being in a job in governmental service. This would mean if he were in private employment, if he were an attorney doing private practice, if he were a stockholder with large income from that source, if he were a businessman or something else, he could. So I think this in that sense is a discriminatory classification. And finally, the key vote and the key decision, to my way of thinking, is that the voters should have the maximum — and I mean maximum — choice of electing whomever they want for the legislature or other elected offices, so long as there is full disclosure; and if the candidate wants to campaign against this other candidate because he is on one governmental payroll or a private payroll or a retiree or not a retiree, that is a function of our democratic process.

My primary objection to this is, it limits the classification of citizens from whom the voters can select their legislators. I urge that just as in the case of our municipal liability that we decided in 5 minutes this morning and reconsidered, that we do take a little more time and reconsider this and see that there are other arguments. I respect the intent of the sponsors of this, but I do think that it's a matter that does warrant more serious consideration. I urge reconsideration. Thank you.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on the motion for reconsideration to 2 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 2 minutes. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Ford.

MR. FORD: I want to take perhaps the first and last opportunity to disagree with Tom Downs, and support Mr. Wilkowski. I disagree with Tom, first, because a mistake was not made a few minutes ago, Tom, when we adopted this language. The mistake was made originally when we put this provision in the constitution to begin with. The discrimination is already in the proposed document in that we say that a man who is willing to serve his community as a councilman for $200 a year cannot serve in the legislature, but we leave the door open for a man who is drawing a full time pay check from a city to come up here and serve in the legislature. That's the discrimination that this amendment would strike out.

PRESIDENT NISBET: Mr. Wilkowski.

MR. WILKOWSKI: I just want to state that Mr. Ford expressed my sentiments pretty well. I have before me a number of employees — I didn't check on all of them — but we have one here that's getting $8,897, another one $10,615 from the city of Detroit. You have the bailiffs, who got appointed after they were legislators, making from $10,000 to $15,000 annually and then, instead of devoting all their time during the session, they come here and they register sometimes on a roll call vote and you go all the way down the journal and see that they never voted on any proposition, according to the journals. They are registered as present. How they got registered as present — whether their friends pressed the button or whether they pressed it and then took their car and went back home — I don't know. Now, I think it's high time that, if we're going to have one man, one vote, let's have one man, one political job. (laughter and applause)

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, fellow delegates, I go along with Mr. Wilkowski's thought very nicely. Only as I said on many occasions when I got up here, let's get the record straight. Let's make sure that we do what we ought to do and talk about things correctly. Let's not try to pull any fakery. Let's not be inconsistent. To begin with, if you happen to be an employee of the city of Detroit and you are elected to the legislature —

PRESIDENT NISBET: Time has expired, Mr. Madar. The question is on the motion to reconsider.

MR. MADAR: Mr. President, a preferential motion.

PRESIDENT NISBET: You may state it.

MR. MADAR: I believe that I ought to have as much time to speak on this as someone else.

PRESIDENT NISBET: Will you make your motion, Mr. Madar?

MR. MADAR: I am moving for 2 minutes' extension.

PRESIDENT NISBET: The question is on the motion of Mr. Madar that debate be extended 2 minutes. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question is on the motion to reconsider.

MR. HODGES: Mr. President.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Because of obvious reasons, I will abstain from this vote.

MR. MARSHALL: I abstain also.

MR. DOWNS: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded on reconsideration. Is that demand supported?

SECRETARY CHASE: Eighteen.

PRESIDENT NISBET: Not a sufficient number up. The question is on the motion to reconsider.

DELEGATES: Division.

PRESIDENT NISBET: Division has been demanded. Is the demand supported? Sufficient number up. Those in favor of reconsideration will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote. Mr. Tubbs.

MR. TUBBS: Mr. President, I ask the personal privilege of this convention for Mr. Hubbs to give his definition of one man, one vote.

PRESIDENT NISBET: That is not in order at this time, Mr. Tubbs.

SECRETARY CHASE: On the motion to reconsider, the yeas are 42; the nays are 84.

PRESIDENT NISBET: The motion dos not prevail. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend article IV, section 7 (column 2, line 50) after "who has" by striking out "within the preceding 20 years".

MR. VAN DUSEN: Mr. President, I move to limit the debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Point of order, Mr. President.

PRESIDENT NISBET: You may state it.

MR. BINKOWSKI: It seems to me that this particular language was placed into the document on second reading and this is, in effect, a motion to strike. It seems to me it is doing just the opposite by amendment. Therefore, I think it's out of order.

PRESIDENT NISBET: Your point is well taken. The amendment is out of order.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Members of the convention, since we want to keep our document pure and holy, this is something our committee never approved of. It was put in for certain reasons. I think that we should move to suspend the rules and clean this up and make this a true constitutional —

PRESIDENT NISBET: Mr. Kuhn, are you moving to suspend the rules?

MR. KUHN: To suspend the rules, that is correct.

PRESIDENT NISBET: The question is on the motion of Mr. Kuhn that the rules be suspended in order to consider this amendment.

MR. BINKOWSKI: Mr. President, is this debatable?

PRESIDENT NISBET: No, it is not. The question is on the motion of Mr. Kuhn to suspend the rules to take up his amendment. Those in favor will vote aye. Those opposed will vote no.

The motion does not prevail. The secretary will read the next amendment. Mr. Madar.

MR. MADAR: A point of special privilege or convention privilege because all I want to do is get things straight in the record. Because I am a city employee, I believe that this ought to be corrected, because we don't want to let people throughout the state think that these things go on. I feel just a little bit ashamed for my colleague that he would say something like this because if he had checked the records, he would find that when a man is elected to the legislature or the senate, he does not get paid by the city of Detroit. They stop his salary then. He goes on leave of absence. They would do this: if he is off on a Monday up here, he could work there as long as he is working there. If they're not in session, he would be allowed to work there. But they do not pay him for the time that he is serving here.

PRESIDENT NISBET: The secretary will read the next amendment.

SECRETARY CHASE: Mr. Wanger offers the following amendment:

1. Amend article XII, section 3 (column 2, line 33) after "election" by changing the period to a colon and inserting "Provided, That said election may be held on a non-partisan basis if provided by law.".

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on this amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Wanger.

MR. WANGER: Mr. President and fellow delegates, I am very much afraid that this day will go down in the record and in the history of Michigan as the most undeliberative day in the sessions of this constitutional convention.

MR. DEAN DOTY: Parliamentary inquiry, please. Haven't we had this question before us before?

MR. WANGER: I don't believe, Mr. President —

PRESIDENT NISBET: You may state your point, Mr. Doty.

MR. DEAN DOTY: Mr. President, haven't we had this question before us twice today?

MR. WANGER: Mr. President, is he raising a parliamentary inquiry or a point of order?

PRESIDENT NISBET: The point of order is well taken. The amendment is out of order.

MR. WANGER: Mr. President, I wish to speak on the point of order.

PRESIDENT NISBET: A point of order is not debatable, Mr. Wanger.

MR. WANGER: Points of order have always been debatable in the history of legislative bodies.

PRESIDENT NISBET: The secretary will read the next amendment.

MR. WANGER: I appeal the decision of the Chair.

PRESIDENT NISBET: The question is: shall the judgment of the Chair stand as the judgment of the convention?

MR. WANGER: I wish to speak on the appeal. (laughter)

PRESIDENT NISBET: You may proceed — the Chair can't win this day. (laughter)

MR. VAN DUSEN: Mr. President, I move to limit debate on this appeal.

MR. WANGER: Mr. President, I have the floor of this convention. I am recognized and I do not yield to Mr. Van Dusen.

PRESIDENT NISBET: Mr. Wanger, you may proceed. The convention will be in order. Mr. Wanger may proceed.

MR. WANGER: We have put into the constitution language which says all future constitutional conventions must be held on a partisan basis. Now, my amendment would say, in substance, "unless otherwise provided by law." This is a question which has never before been decided by this body. There was no provision in before. Now we have put in a provision that would require affirmative action by the legislature to change it. This is an entirely different —

PRESIDENT NISBET: Will you please pay attention to Mr. Wanger's remarks?

MR. WANGER: — this is an entirely different parliamentary position and an entirely different legal question before this body and, therefore, the amendment is clearly in order.

PRESIDENT NISBET: The question is on the appeal from the decision of the Chair by Mr. Wanger. The question is: shall the decision of the Chair stand as the decision of the convention? Those in favor of sustaining the Chair will vote aye. Those opposed will vote nay. Mr. Perras.

MR. PERRAS: Mr. President, I think some of the delegates are confused. Would you restate that voting again, Mr. President?

PRESIDENT NISBET: The question is: shall the decision of the Chair be sustained? Those in favor of sustaining the decision of the Chair that the amendment is out of order will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. HIGGS: I'd like to abstain from voting.

The roll was called and the delegates voted as follows:

Yeas — 112

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Dade
Danhof
Dehnke
Dell
Doty, Dean
Doty, Donald
Douglas
Durst
Elliott, Mrs. Daisy
Erickson
Everett
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Hodges
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
King
Kirk, S.
Knirk, B.
Leibrand
Leppien
Lesinski
Madar
Marshall
Martin
McAllister
McCauley
Millard
Mosier
Murphy
Ostrow
Page
Pellow
Perlich
Perras
Plank
Pollock
Prettie
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Rood
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays — 11

Cushman, Mrs.
Greene
Heideman
Krolikowski
McGowan, Miss
McLogan
Nord
Norris
Sharpe
Sleder
Wanger

SECRETARY CHASE: On the question of sustaining the decision of the Chair, the yeas are 112; the nays are 11.

PRESIDENT NISBET: The decision is upheld. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Downs offers the following amendment:

1. Amend article IV, section 12 (column 1, line 20) after "law" by inserting a comma and "but not less than $11,000 per year"; so the language will then read, "The compensation and expense allowances of the members of the legislature shall be determined by law, but not less than $11,000 per year."

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I move that consideration of this amendment be postponed until August 1 and will speak very briefly on the reasons. I think we acted very hastily on the matter of who is to be eligible for the legislature and the voters' right to select people. If we want to say that people can only have one job, I would then like to further amend this to say that a person could have no other primary employment or some other such thing and get the pay adequate so that a legislator could have this as his sole or primary source of income. I am not, as a matter of principle, for full time legislators. I think there are good arguments the other way. I do feel that this is a matter that cannot be decided in a few minutes and I would urge that this one item be carried over until when we reconvene because I can see that there are a lot more implications than we realize. I therefore move its consideration be postponed until our next convention day.

PRESIDENT NISBET: Mr. Downs, the Chair might say to you that that would postpone the action on the entire proposed constitution to that date.

MR. HUTCHINSON: Mr. President.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I rise to the point of order that the amendment is out of order. I point to this argument: this article was read a third time. It has been passed. No amendment to it is in order unless the whole article be reconsidered and that the matter is a subject upon which this convention has already acted on the order of third reading.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, precisely what is before the house at the moment? Is it Mr. Downs' motion to postpone consideration?

PRESIDENT NISBET: That is correct.

MR. VAN DUSEN: For the reason which you stated, Mr. President, that it would postpone action on the whole proposed constitution and also because I think it's extremely undesirable to carry over any substantive matter until the August adjournment date, I would vigorously oppose Mr. Downs' motion and hope it would be resoundingly defeated.

PRESIDENT NISBET: Mr. Sharpe.

MR. SHARPE: Mr. President, did you make a ruling on Mr. Hutchinson's point of order.

PRESIDENT NISBET: No, the Chair has not.

MR. SHARPE: Could we have the ruling before we have any more debate, sir?

PRESIDENT NISBET: Mr. Hutchinson, through our operation late today, we have accepted amendments to articles and this is the same one. The Chair feels we should continue on in this manner.

MR. DOWNS: Mr. President, I have a point of information.

MR. HUTCHINSON: It was not raised heretofore, Mr. President. I think the point is a valid argument. I ask the Chair to give further consideration. Merely because we haven't raised the point before doesn't mean that we are precluded from raising it now.

MR. KUHN: Mr. President, I'd like to speak on the point of order.

PRESIDENT NISBET: Just a minute, please.

MR. DOWNS: May I raise a point of information, Mr. President?

PRESIDENT NISBET: Mr. Kuhn has the floor first.

MR. KUHN: Mr. President, I'd like to call your attention to section 398, Mason's Manual. I earlier offered an amendment and I think that's why you ruled me out of order, which I would accept as being correct. I think the same applies here: that their motion would have to be to suspend the rules.

PRESIDENT NISBET: The Chair will point out that in a previous decision this rule was held to be limited to a particular reading: there has been a second reading by committee proposals, a third reading by articles; and this is a third reading of the complete revision. Accordingly, the amendment is in order.

The question is on the motion of Mr. Downs. Mr. Downs.

MR. DOWNS: Mr. President, on the motion I intended to mean the next convention day, in case we did come back before August 1. Could I ask the secretary to restate the motion I made? I know I did not submit it in writing and I wanted to make that point clear. Delegate Van Dusen very properly raised the question as to whether this meant a delay until August 1.

PRESIDENT NISBET: Mr. Downs, the Chair will say that if this convention happened to be in session tomorrow, your point would be all right. But if we finish up today — and the Chair anticipates we may, although it looks doubtful now — that would still put it to August 1, which would mean that we could not act on the proposed constitution until that date.

MR. DOWNS: Mr. President, I want the motion to read that we postpone action until the next convention day, with the understanding that the convention, of course, determines when we next convene.

PRESIDENT NISBET: The question is on the motion of Mr. Downs that action on this be postponed until the next convention day. Those in favor of that motion will say aye. Opposed, no.

The motion does not prevail. The question is on the amendment of Mr. Downs. Mrs. Conklin.

MRS. CONKLIN: Mr. President, may I ask Mr. Downs a question?

PRESIDENT NISBET: You may.

MRS. CONKLIN: Mr. Downs, I just wondered if this was a late blooming idea, because I believe you just finished drafting your substitute constitution yesterday, which will be considered later, and on page 2 of your article IV, you have accepted the way we have written section 12.

MR. DOWNS: Well, I am very glad you brought that up. I had been doing some negotiating with Delegate Van Dusen and the Chair to limit discussion, and I assume that this is not within the time which is limited.

PRESIDENT NISBET: We are going to count it. (laughter)

MR. DOWNS: We are going to count it? Then I will be very brief. The substitute we have drafted, I believe, permits practically anybody to run or the voters to have practically any choice. It does leave the pay up to the legislature, but does not, if I remember it correctly from about midnight this morning or late last night, have the preclusions that this amendment does on who can run for office. Thank you for the question.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Downs. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The question is on the passage of the complete revision.

MR. VAN DUSEN: Mr. President, may I inquire how many amendments are now pending on the secretary's desk?

PRESIDENT NISBET: The substitute is the last one, but it has been the last one several times. (laughter)

MR. VAN DUSEN: I would move, Mr. President, that no further amendments be received after the hour of 2:45.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails, the time now being 2:40. The secretary will read.

SECRETARY CHASE: Delegates Downs, Austin, Norris, Nord, Faxon, Ford, Hart, Greene, Buback, Snyder, Douglas, Young, Madar, Wilkowski, Bradley, Jones, Garvin, Sablich, Lesinski, Walker, Daisy Elliott, Baginski, Marshall, Hood, Hatcher, Hodges, Stopczynski, Murphy, Dade, Binkowski, Suzore, Youngblood, Pellow and Perlich offer a substitute for the proposed constitution —

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Just a minute.

MR. DOWNS: Mr. President, I have a motion to make.

MR. VAN DUSEN: Mr. President, I believe I have a preferential motion.

MR. DOWNS: I believe I have a motion that must be made before there can be a preferential motion to it.

PRESIDENT NISBET: The Chair would like to state that the question is on the adoption of the substitute. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that debate on the substitute offered by Messrs. Downs and others be limited to 1 hour and 30 minutes, of which 1 hour be allocated to the members of the sponsoring group and 30 minutes to the opposition; the first hour to the sponsors and the remaining 30 minutes to the members of the majority party.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I have an amendment to the preferential motion: this being the time divided, that the proponents get a half hour to present the case, the opponents get 30 minutes to respond, and then the opponents get 10 minutes' rebuttal, and the proponents wind up with 10 minutes' rebuttal, which is the standard debate form. This would make the same amount of total time, but would see that one side did not get all the discussion at first and the other side get all the discussion at the end.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Downs to the motion of Mr. Van Dusen. Those in favor of that amendment will vote aye. Those opposed, no.

The amendment is not adopted.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? Those in favor of Mr. Downs' amendment will vote aye.

MR. VAN DUSEN: Mr. President, would the secretary please restate the Downs amendment, if he got it?

SECRETARY CHASE: As the secretary understands the proposed motion, it is that the proponents of the amendment be given 30 minutes to present their side of the case, the opponents be given 30 minutes in opposition —

MR. DOWNS: Then the opponents be given 15 minutes' rebuttal and the proponents be given 15 minutes' rebuttal.

MR. VAN DUSEN: Mr. President, having heard Mr. Downs' suggestion, it amounts to 30 minutes for the proponents, followed by 45 minutes for the opponents and then 15 minutes for the proponents. I object to that. I think that the proponents are entitled to a full hour. That is what I propose to give them. I think 30 minutes is enough to respond. I think if Mr. Downs would like the opportunity to close, I would suggest that the time be divided 50 minutes for the proponents, then 30 minutes for the opponents, and then 10 minutes for the proponents to close. I will amend my motion in that fashion.

PRESIDENT NISBET: Mr. Van Dusen, would you and Mr. Downs get together and make up this motion? (laughter) You appear to be in agreement.

MR. DOWNS: If we get the 10 minutes to close, I will accept the motion. (laughter)

MR. VAN DUSEN: The motion now is — and I understand it is accepted by Mr. Downs — that the proponents have 50 minutes to open, the opponents have 30 minutes to respond, and the proponents then have 10 minutes to close.

MR. DOWNS: I would, Mr. President, be glad for the opponents to have equal time as I originally suggested. I just wanted to see that we got the last word.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I move that the substitute be considered read. The purpose for this motion is that copies have been distributed; it is rather lengthy; and I would rather see the time that it would normally take to read it be used on the discussion. I believe this will facilitate the convention.

PRESIDENT NISBET: The question is on the motion of Mr. Downs that the substitute be considered read. Those in favor will say aye. Opposed, no.

The motion prevails.

Following is the substitute constitution as offered and considered read:

Preamble

(Same as approved on third reading.)

Article I
Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection. Equality of political power being necessary to equality of right, the people shall be entitled to proportionate representation in the legislature.

Sec. 2. Each person shall enjoy the equal protection of the law. No person shall, because of his race, color, religion, sex, national origin or ancestry, be discriminated against in employment, housing, public accommodations, education, or in his enjoyment of any other of his civil rights, by the state or any political or civil subdivision thereof, or any firm, corporation, institution, labor organization, or by any person. This section shall not be construed to prohibit reasonable legislation for the protection of women.

Sec. 3. The people have the right peaceably to associate and assemble, to consult for the common good, to instruct their representatives and officials, and to petition the government for redress of grievances.

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the freedom of speech or of the press.

Sec. 6. (Same as section 6 as approved on third reading.)

Sec. 7. (Same as section 7 as approved on third reading.)

Sec. 8. (Same as section 8 as approved on third reading.)

Sec. 9. (Same as section 9 as approved on third reading.)

Sec. 10. (Same as section 10 as approved on third reading.)

Sec. 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Sec. 12. (Same as section 12 as approved on third reading.)

Sec. 13. (Same as section 13 as approved on third reading.)

Sec. 14. (Same as section 14 as approved on third reading.)

Sec. 15. (Same as section 15 as approved on third reading.)

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall any law be enacted providing for the penalty of death; nor shall witnesses be unreasonably detained.

Sec. 17. (Same as section 17 as approved on third reading.)

Sec. 18. (Same as section 18 as approved on third reading.)

Sec. 19. (Same as section 19 as approved on third reading.)

Sec. 20. (Same as section 20 as approved on third reading.)

Sec. 21. No person shall be imprisoned for debt.

Sec. 22. (Same as section 22 as approved on third reading.)

Sec. 23. (Same as section 23 as approved on third reading.)

Sec. 24. Any provision of this constitution to the contrary notwithstanding, any amendment derogating from the rights reserved to the people in this article shall require the affirmative vote of two-thirds of the electors voting thereon.

Article II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 18 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. (Same as section 2 as approved on third reading.)

Sec. 3. (Same as section 3 as approved on third reading.)

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting.

Sec. 5. (Same as section 5 as approved on third reading.)

Sec. 6. (Same as section 7 as approved on third reading.)

Sec. 7. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled.

Sec. 8. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than five percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected or 100,000 registered electors, whichever is less, shall be required.

Initiative petitions shall set forth in full the proposed measure and shall be filed with the secretary of state or such other person or persons as may be authorized by law to receive same not less than ten days before the commencement of any session of the legislature. Every petition shall be certified to as having been signed by the required number of registered electors of the state. Upon receipt of any initiative petition, the secretary of state shall, after authentication as provided by law, transmit it to the legislature as soon as it convenes and organizes.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the secretary of state or such other person or persons as may be authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by the secretary of state or such other person or persons authorized by law to the electors for approval or rejection at the next general election.

Upon presentation to the secretary of state or such other person or persons as may be authorized by law, within 90 days after the final adjournment of the legislature, of a petition certified to as herein provided, as having been signed by the required number of registered electors of the state, asking that any act, section or part of any act of the legislature, be submitted to the electors for approval or rejection, the secretary of state or other person or persons as may be authorized by law, shall, after authentication as provided by law, submit to the electors for approval or rejection such act or section or part of any act at the next general election; and no such act shall go into effect until and unless approved by a majority of the qualified and registered electors voting thereon. An official declaration of the sufficiency or insufficiency of the petition shall be made by the secretary of state or such other person or persons as may be authorized by law at least two months prior to such election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect ten days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

Any petition may be presented in sections, each section containing a full and correct copy of the title and text of the proposed measure. Each signer thereto shall add to his signature, his place of residence, street names and also residence numbers in cities and villages having street numbers, and date of signing the same. Any registered elector of the state shall be competent to solicit such signatures within the county in which he is an elector. Each section of the petition shall bear the name of the county or city in which it is circulated, and only qualified and registered electors of such county or city shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, who shall be required to identify himself by affixing his address below his signature, stating that he is a registered elector and that all the signatures to the attached section were made in his presence, that each signature to the section is the genuine signature of the person signing the same, and no other affidavit thereto shall be required. Each section of the petition shall be filed with the clerk of the county in which it was circulated, but all said sections circulated in any county shall be filed at the same time. Within 20 days after the filing of such petition in his office, the said clerk shall forward said petition to the secretary of state or such other person or persons as shall be authorized by law.

The legislature shall implement the provisions of this section.

Article III
General Government

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person belonging to one branch shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

Sec. 3. (Same as section 3 as approved on third reading.)

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. (Same as section 5 as approved on third reading.)

Sec. 6. (Same as section 7 as approved on third reading.)

Sec. 7. (Same as section 8 as approved on third reading.)

Article IV
Legislative Branch

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. The senate shall consist of 38 members to be elected from single-member districts which shall be convenient and contiguous for two-year terms. Each district shall contain as nearly as may be, an equal number of persons, but in no case shall the districts vary in number of persons more than 15 percent above or below the ratio of population determined by dividing the total population of the state by 38.

Sec. 3. The house of representatives shall consist of 115 members to be elected from single-member districts which shall be convenient and contiguous for two-year terms. Each district shall contain as nearly as may be, an equal number of persons, but in no case shall the districts vary in number of persons more than 15 percent above or below the ratio of population determined by dividing the total population of the state by 115. If any county is entitled on a population basis to two or more representatives, the board of supervisors of such county shall divide the same into such representative districts: Provided however, That the board of supervisors of such county may elect to provide multiple-member districts with two or three representatives in any one district, the average number of inhabitants per representative in such districts being as nearly equal as possible. In the event the board of supervisors of any such county fails to make such apportionment within 240 days following January 1, 1963, and each tenth year thereafter, the board of state canvassers, within 90 days thereafter shall make such apportionment, which shall be effective for the next succeeding general elections.

Sec. 4. (Same as section 5 as approved on third reading.)

Sec. 5. Within the first 180 days after the convening of the first regular session, or after the convening of any special session called for that purpose, following January 1, 1963, and each tenth year thereafter, the legislature shall apportion anew the representatives and senators among the counties and districts in accordance with sections 2 and 3 of this article, using as the basis for such apportionment the last United States decennial census of this state: Provided however, That should the legislature within the first 180 days after the convening of the first regular session, or after the convening of any special session called for that purpose, following January 1, 1963, and each tenth year thereafter, fail to apportion anew the representatives in accordance with the mandate of this article, the board of state canvassers, within 90 days after the expiration of said 180 days, shall apportion anew such districts in accordance with the provisions of this article and such apportionment shall be effective for the next succeeding general elections.

Sec. 6. (Same as section 7 as approved on third reading.)
Sec. 7. (Same as section 8 as approved on third reading.)
Sec. 8. (Same as section 9 as approved on third reading.)
Sec. 9. (Same as section 10 as approved on third reading.)
Sec. 10. (Same as section 11 as approved on third reading.)
Sec. 11. (Same as section 12 as approved on third reading.)
Sec. 12. (Same as section 13 as approved on third reading.)
Sec. 13. (Same as section 14 as approved on third reading.)
Sec. 14. (Same as section 15 as approved on third reading.)
Sec. 15. (Same as section 16 as approved on third reading.)

Sec. 16. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. The membership of any such committee shall be divided proportionally to the partisan affiliations of the members of such house. Committee meetings shall be open to the public unless otherwise provided by a majority vote of the members elected to and serving in the respective house. Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 17. (Same as section 18 as approved on third reading.)

Sec. 18. All elections in either house or in joint convention and all votes on appointments submitted to the legislature for consent shall be published by vote and name in the journal.

Sec. 19. (Same as section 20 as approved on third reading.)
Sec. 20. (Same as section 21 as approved on third reading.)
Sec. 21. (Same as section 22 as approved on third reading.)
Sec. 22. (Same as section 23 as approved on third reading.)
Sec. 23. (Same as section 24 as approved on third reading.)
Sec. 24. (Same as section 25 as approved on third reading.)
Sec. 25. (Same as section 26 as approved on third reading.)
Sec. 26. (Same as section 27 as approved on third reading.)
Sec. 27. (Same as section 28 as approved on third reading.)
Sec. 28. (Same as section 29 as approved on third reading.)
Sec. 29. (Same as section 30 as approved on third reading.)
Sec. 30. (Same as section 32 as approved on third reading.)
Sec. 31. (Same as section 33 as approved on third reading.)
Sec. 32. (Same as section 34 as approved on third reading.)
Sec. 33. (Same as section 35 as approved on third reading.)
Sec. 34. (Same as section 36 as approved on third reading.)
Sec. 35. (Same as section 38 as approved on third reading.)
Sec. 36. (Same as section 39 as approved on third reading.)
Sec. 37. (Same as section 40 as approved on third reading.)
Sec. 38. (Same as section 42 as approved on third reading.)
Sec. 39. (Same as section 43 as approved on third reading.)
Sec. 40. (Same as section 44 as approved on third reading.)
Sec. 41. (Same as section 45 as approved on third reading.)
Sec. 42. (Same as section 47 as approved on third reading.)
Sec. 43. (Same as section 48 as approved on third reading.)
Sec. 44. (Same as section 49 as approved on third reading.)
Sec. 45. (Same as section 50 as approved on third reading.)
Sec. 46. (Same as section 51 as approved on third reading.)
Sec. 47. (Same as section 52 as approved on third reading.)

Sec. 48. The legislature, by a majority vote of the members serving in both houses, may appoint a legislative auditor to serve at its pleasure. The legislative auditor shall conduct fiscal postaudits as defined by law, and shall report to the legislature and to the governor as required by the legislature.

Sec. 49. For the purpose of electing representatives to the house of representatives in the congress of the United States, the state shall be divided into districts corresponding in number with the representatives to which it may be entitled, which districts shall be composed of contiguous territory and be compact. Each district shall contain, as nearly as may be, an equal number of persons, but in no case shall the districts vary in number of people more than 15 percent above or below the ratio of population fixed by congress or the ratio of population determined in the state as a whole by dividing the total population of the state by the number of representatives assigned to it by congress.

If the legislature should fail to apportion anew the representatives in congress in accordance with this section within six months following January 1, 1963, and every ten years thereafter, the board of state canvassers, within 90 days after the expiration of the six months, shall apportion anew such districts in accordance with the provisions of this article, and such apportionment shall become effective for the next succeeding general election.

Sec. 50. The stockholders of every corporation and joint stock association shall be individually liable for that portion of all labor performed for such corporation or association, and for all other contractual and legal obligations that arise out of the course of employment for such corporation or association, that the number of shares held bears to the total number of shares outstanding.

Article V

Executive Branch

Sec. 1. (Same as section 1 as approved on third reading.)
Sec. 2. (Same as section 2 as approved on third reading.)

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer, an attorney general, an auditor general, a superintendent of public instruction, and a highway commissioner. When a single executive is the head of a principal department, unless elected, he shall be appointed by the governor with the consent of the legislature and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor with the consent of the legislature. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. Appointment with the consent of the legislature when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a two-thirds vote of the members elected to and serving in each house of the legislature.

Sec. 6. Vacancies in any office, appointment to which requires consent of the legislature, shall be filled by the governor with the consent of the legislature. A person whose appointment has been disapproved by the legislature shall not be eligible for an interim appointment to the same office.

Sec. 7. (Same as section 7 as approved on third reading.)
Sec. 8. (Same as section 8 as approved on third reading.)
Sec. 9. (Same as section 9 as approved on third reading.)

Sec. 10. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or in this constitution.

Sec. 11. (Same as section 11 as approved on third reading.)
Sec. 12. (Same as section 12 as approved on third reading.)
Sec. 13. (Same as section 13 as approved on third reading.)
Sec. 14. (Same as section 14 as approved on third reading.)
Sec. 15. (Same as section 15 as approved on third reading.)
Sec. 16. (Same as section 16 as approved on third reading.)

Sec. 17. The governor shall submit to the legislature at a time fixed by law a budget for the ensuing fiscal period setting forth in detail all proposed expenditures and estimated revenue of the state. The governor shall also submit to each house of the legislature general appropriation bills to embody

the proposed expenditures and any necessary bill or bills for new or additional revenues to meet proposed expenditures.

Sec. 18. (Same as section 18 as approved on third reading.)

Sec. 19. The governor, lieutenant governor, secretary of state, attorney general, treasurer, auditor general, and highway commissioner shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state, attorney general, treasurer, auditor general, and highway commissioner shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state, attorney general, treasurer, auditor general, superintendent of public instruction, and highway commissioner shall be filled by appointment by the governor.

Sec. 20. (Same as section 21 as approved on third reading.)

Sec. 21. The governor, lieutenant governor, secretary of state, attorney general, treasurer, auditor general, superintendent of public instruction, and highway commissioner shall each receive the compensation provided by law in full payment for all service performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 22. (Same as section 23 as approved on third reading.)

Sec. 23. (Same as section 24 as approved on third reading.)

Sec. 24. In case of the conviction of the governor on impeachment, his removal from office, his resignation, or his death, the lieutenant governor, the secretary of state, the attorney general, the treasurer, the auditor general, the superintendent of public instruction, the highway commissioner, and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In the case of the death of the governor-elect, the lieutenant governor-elect, secretary of state-elect, attorney general-elect, treasurer-elect, auditor general-elect, superintendent of public instruction-elect, highway commissioner-elect, and such other persons designated by law shall in that order become governor at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a unanimous decision of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 25. (Same as section 26 as approved on third reading.)

Sec. 26. There is hereby created a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and this constitution including but not limited to rights with respect to equal opportunity for employment, education, housing, public accommodations, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide annually sufficient funds for the effective operation of the commission.

The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, to issue and request court enforcement of appropriate orders, and such other powers as are necessary to carry out the purposes of this commission, except as otherwise provided by law or this constitution.

Article VI
Judicial Branch

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. The supreme court shall consist of nine justices to be elected on a non-partisan statewide basis. The term of office shall be for eight years and not more than three terms of office shall expire at the same time. Nominations shall be as now or hereafter provided by law. Any person otherwise qualified to be a supreme court justice may become a candidate for election upon filing a nominating petition, in the form and manner prescribed by law, signed by qualified electors of this state in a number equal to three percent of the total vote cast for the office of governor at the last previous election.

Sec. 3. (Same as section 3 as approved on third reading.)

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. (Same as section 5 as approved on third reading.)

Sec. 6. (Same as section 6 as approved on third reading.)

Sec. 7. (Same as section 7 as approved on third reading.)

Sec. 8. The court of appeals shall consist initially of nine judges who shall be elected at non-partisan elections, and nominated as provided by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the term of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased by law.

Sec. 9. (Same as section 9 as approved on third reading.)

Sec. 10. (Same as section 10 as approved on third reading.)

Sec. 11. (Same as section 11 as approved on third reading.)

Sec. 12. (Same as section 12 as approved on third reading.)

Sec. 13. (Same as section 13 as approved on third reading.)

Sec. 14. (Same as section 14 as approved on third reading.)

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The jurisdiction, powers and duties of the probate courts and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents.

Sec. 16. (Same as section 16 as approved on third reading.)

Sec. 17. (Same as section 17 as approved on third reading.)

Sec. 18. (Same as section 18 as approved on third reading.)

Sec. 19. (Same as section 19 as approved on third reading.)

Sec. 20. (Same as section 20 as approved on third reading.)

Sec. 21. (Same as section 21 as approved on third reading.)

Sec. 22. Any elected judge of circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled by appointment by the governor, and the person appointed shall hold the office until a successor is elected and qualified. When elected, such successor shall hold the office the residue of the unexpired term.

Sec. 24. There shall be printed upon the ballot under the name of each incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. (Same as section 25 as approved on third reading.)

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. (Same as section 27 as approved on third reading.)

Sec. 28. (Same as section 29 as approved on third reading.)

Article VII
Local Government

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. The electors of any county shall have the power, in accordance with the procedure set out herein, to frame, adopt or amend a charter for a charter form of county government. The board of supervisors may, by a majority vote, submit to the electors the question of the establishment of a partisan county charter commission, and such question shall also be submitted to the voters upon petition of a number of electors in number at least equal to five percent of the vote cast in the county for governor at the last general election. If the electors of the county shall decide this question in the affirmative, the board of supervisors shall thereupon make provision for the election, at the next ensuing county election, of a county charter commission. Such commission shall be empowered to draft a charter which shall designate the partisan officers of the county, assign the exercise of all powers vested in the county, and otherwise provide for the form of government of the county. The charter also may authorize the county to enact all laws and ordinances relating to its concerns, as defined by general law. Such charter shall take effect when approved by a majority vote of the county electors voting upon the question.

Sec. 3. (Same as section 3 as approved on third reading.)
Sec. 4. (Same as section 4 as approved on third reading.)
Sec. 5. (Same as section 5 as approved on third reading.)
Sec. 6. (Same as section 6 as approved on third reading.)

Sec. 7. A board of supervisors shall be elected at partisan elections in each organized county with such representation on a population basis from each township and city as provided by law.

Sec. 8. (Same as section 8 as approved on third reading.)
Sec. 9. (Same as section 9 as approved on third reading.)
Sec. 10. (Same as section 10 as approved on third reading.)
Sec. 11. (Same as section 11 as approved on third reading.)
Sec. 12. (Same as section 12 as approved on third reading.)
Sec. 13. (Same as section 13 as approved on third reading.)
Sec. 14. (Same as section 14 as approved on third reading.)
Sec. 15. (Same as section 15 as approved on third reading.)
Sec. 16. (Same as section 16 as approved on third reading.)
Sec. 17. (Same as section 17 as approved on third reading.)
Sec. 18. (Same as section 18 as approved on third reading.)
Sec. 19. (Same as section 19 as approved on third reading.)
Sec. 20. (Same as section 20 as approved on third reading.)
Sec. 21. (Same as section 21 as approved on third reading.)
Sec. 22. (Same as section 22 as approved on third reading.)
Sec. 23. (Same as section 23 as approved on third reading.)
Sec. 24. (Same as section 24 as approved on third reading.)

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon at a regular municipal election. No city or village may sell any such public utility unless the proposition shall first have been approved by three-fifths of the electors voting thereon at a regular municipal election, or a greater number if the charter shall so provide.

Sec. 26. (Same as section 26 as approved on third reading.)
Sec. 27. (Same as section 27 as approved on third reading.)
Sec. 28. (Same as section 28 as approved on third reading.)
Sec. 29. (Same as section 29 as approved on third reading.)
Sec. 30. (Same as section 30 as approved on third reading.)
Sec. 31. (Same as section 31 as approved on third reading.)
Sec. 32. (Same as section 32 as approved on third reading.)
Sec. 33. (Same as section 33 as approved on third reading.)

Article VIII
Education

Sec. 1. (Same as section 1 as approved on third reading.)
Sec. 2. (Same as section 2 as approved on third reading.)

Sec. 3. The superintendent of public instruction shall have general supervision over all public education, including adult education and instructional programs in state institutions granting baccalaureate degrees, and shall be elected on a partisan ballot at the general election for a four-year term as provided by law. He shall be the chairman of the state board of education without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

Sec. 4. Leadership over all public education is vested in a state board of education. It shall serve as the general planning and coordinating body for all public instruction, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 5. (Same as section 4 as approved on third reading.)
Sec. 6. (Same as section 5 as approved on third reading.)

Sec. 7. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor with the consent of the legislature. Vacancies shall be filled in like manner.

Sec. 8. (Same as section 7 as approved on third reading.)
Sec. 9. (Same as section 8 as approved on third reading.)
Sec. 10. (Same as section 9 as approved on third reading.)

Article IX
Finance and Taxation

Sec. 1. (Same as section 1 as approved on third reading.)
Sec. 2. (Same as section 2 as approved on third reading.)

Sec. 3. The legislature may by law authorize or impose ad valorem and other taxes which shall be uniform within the classes of persons or property to which they are applied. The legislature shall provide by law for the determination of the true cash value of property subjected to ad valorem taxation and shall specify the proportion of true cash value at which such property shall be assessed, and shall provide by law for a system of equalization of assessments. The legislature may provide by law for alternative means of taxing property in lieu of general ad valorem taxation.

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature, and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated. Revenue raised from such taxation shall be contributed to the primary school interest fund.

Sec. 6. The legislature shall by general law fix limits on the rates of ad valorem taxes on real and tangible personal property which may be levied by counties, townships, school districts and other political subdivisions, except where such limits are provided by charters adopted by these units of government.

Sec. 7. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible property. Retail sales of food and drug products shall be exempt from sales taxation.

Sec. 8. (Same as section 9 as approved on third reading.)

Sec. 9. There shall be returned to local governmental units by the method hereinafter set forth, one-half cent of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate). The state disbursing authority shall remit to counties as a whole on a population basis and payment shall be made to the county treasurer who shall remit to the respective cities, townships and villages within the county on a per capita basis. Population computation shall be based on the last and each succeeding statewide federal census for purposes of division among counties and upon the same basis or upon any special federal countywide census, whichever is later, for intracounty division purposes. There shall be excluded from such computation 50 percent of the total number of persons who are wards, patients, or convicts committed to or domiciled in any city institution located outside the boundaries of said city or committed to or domiciled in any county, state or federal tax supported institution, provided such persons were included in such census. All remittances provided shall be on a quarterly basis.

There shall be set aside for the school districts two cents of a state sales tax levy on each dollar of sales of tangible personal property on the 1946 statutory base (not rate), to be allocated among said school districts by law. Such taxes so collected shall be deposited in a special school aid fund, and be expendable only by legislative appropriations for aid to the school districts and school employees' retirement purposes as shall be provided by law. Said school aid fund shall be separate and distinct from the state general fund.

Prior to any division or allocation of the sales tax, the cost of collection as determined by the department of revenue shall be deducted from total collections and credited to the general fund of the state.

The legislature shall by law appropriate from the school aid fund for such public school employees' retirement systems as shall from time to time be in effect under the laws of this state an amount which shall not be less than five percent nor more than seven and one-half percent of the salaries of school district employees participating in the respective retirement systems. Such percentages shall apply only to that portion of salary as may be provided by law.

Sec. 10. Revenue derived from all subjects of taxation now contributing to the primary school interest fund shall be contributed to the state school aid fund.

Sec. 11. (Same as section 12 as approved on third reading.)

Sec. 12. (Same as section 13 as approved on third reading.)

Sec. 13. (Same as section 14 as approved on third reading.)

Sec. 14. (Same as section 15 as approved on third reading.)

Sec. 15. (Same as section 16 as approved on third reading.)

Sec. 16. (Same as section 17 as approved on third reading.)

Sec. 17. (Same as section 18 as approved on third reading.)

Sec. 18. (Same as section 19 as approved on third reading.)

Sec. 19. (Same as section 20 as approved on third reading.)

Sec. 20. (Same as section 21 as approved on third reading.)

Sec. 21. (Same as section 22 as approved on third reading.)

Sec. 22. (Same as section 23 as approved on third reading.)

Sec. 23. (Same as section 24 as approved on third reading.)

Article X
Property

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. (Same as section 2 as approved on third reading.)

Sec. 3. (Same as section 3 as approved on third reading.)

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. (Same as section 6 as approved on third reading.)

Article XI
Public Officers and Employment

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. (Same as section 2 as approved on third reading.)

Sec. 3. (Same as section 3 as approved on third reading.)

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. (Same as section 5 as approved on third reading.)

Sec. 6. (Same as section 6 as approved on third reading.)

Sec. 7. (Same as section 7 as approved on third reading.)

Sec. 8. The appointing authorities may create or abolish positions for reasons of administrative efficiency with the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

Sec. 9. (Same as section 10 as approved on third reading.)

Sec. 10. To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service of the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law, except that no performance audit shall be performed but only a fiscal audit.

Sec. 11. (Same as section 12 as approved on third reading.)

Sec. 12. (Same as section 13 as approved on third reading.)

Sec. 13. (Same as section 14 as approved on third reading.)

Sec. 14. (Same as section 15 as approved on third reading.)

Article XII
Amendment and Revision

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least ten percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, or 200,000 registered electors, whichever is less. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than four months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate.

The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule is set forth to be effective for such period as its provisions require.

Sec. 1. (Same as section 1 as approved on third reading.)

Sec. 2. (Same as section 2 as approved on third reading.)

Sec. 3. (Same as section 3 as approved on third reading.)

Sec. 4. (Same as section 4 as approved on third reading.)

Sec. 5. Notwithstanding any other provision in this constitution, the governor, lieutenant governor, secretary of state, attorney general, treasurer, auditor general, superintendent of public instruction, highway commissioner, and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. (Same as section 8 as approved on third reading.)

Sec. 7. (Same as section 9 as approved on third reading.)

Sec. 8. (Same as section 10 as approved on third reading.)

Sec. 9. (Same as section 11 as approved on third reading.)

Sec. 10. (Same as section 12 as approved on third reading.)

Sec. 11. (Same as section 13 as approved on third reading.)

Sec. 12. (Same as section 14 as approved on third reading.)

Sec. 13. (Same as section 15 as approved on third reading.)

Sec. 14. This constitution shall be submitted to the people for their adoption or rejection at an election on the first Monday in April of 1963. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to such election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 15. (Same as section 17 as approved on third reading.)

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Thank you, Mr. President. I just want to make a very brief introduction.

PRESIDENT NISBET: The Chair would admonish the convention to make every effort to be in order during this next period. This is the substance of the convention coming up.

MR. DOWNS: This substitute document has been prepared along the lines of what we now have before us so that delegates can see the format of changes. I want to say, one difference in this is that it is drawn up in the form for a single submission. However, assuming that the delegates adopt it, I am then prepared to make a motion that the controversial parts be separated out and the noncontroversial parts be put in one package. This is for the sake of what I think is good judgment as well as consistency.

On our presentation we are asking different people to each take about 2 minutes on the analysis of each article. I think we will run under the time allotted. I would like to yield to Delegate Nord, who in turn will call on the different people to present summaries of the different articles.

PRESIDENT NISBET: The Chair recognizes Dr. Nord.

MR. NORD: Mr. President, all I will do to open at this point is simply to call to the attention of the delegates the format, the mechanics of the material before you, and then call on the various different delegates who are members of the group who submitted it.

We put on your desk this morning a copy of the complete substitution, and it contains materials of this general type. For example, it may say "section 36" and then it will say "same as section 39 as approved at third reading" and so forth. Now, what that means—and it has been given officially to the secretary—is that we would accept at that point and incorporate, by reference, the material adopted by the convention before today on third reading. It does not include any changes that were made today, of course, because this document you have in your hands was prepared before today.

With that explanation, I will call upon a number of delegates who will simply point out what the differences are rather than arguing them; they will point out what the differences are so you can know what it is that is before you. With that thought in mind, Mr. President, to discuss articles I, II and III, I call upon Mr. Norris.

PRESIDENT NISBET: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. President, fellow delegates, while I have the floor for the last time, I should like to, as delegate to delegate, express a deep debt of gratitude to each one of the delegates for their kindness, warmth and cordiality during this entire convention. I know that the depth and dimension of the observations and conclusions by members of this convention will be measured by experience, and history of course will judge all of us.

With regard to article I, declaration of rights, this substitute does not suggest that there are not some changes for the better in the proposed constitution. The efforts of many Democrats as well as of Republicans did produce provisions generally regarded as steps forward. This is particularly true of the article on declaration of rights. But, measured by the test not only of steps forward but of adequacy, it is our judgment that certain of these matters could be improved.

We submit to you, with regard to section 1 of article I, a guarantee of proportionate representation based upon the proposition that equal value of the vote is an essential precondition for equality of rights that are enumerated in the declaration of rights, and that government cannot be for equal benefit, security and protection unless there is equal representation in the legislature. That language, of course, is taken from the northwest ordinance of 1787.

Section 2 is essentially Delegate Proposal 1621 which was submitted to this convention. It contains specific protections of the right of equal opportunity to housing, employment, education and public accommodations, and specifically has a protection against discrimination by private as well as public agencies.

Section 3 merely broadens the right of petition and adds a freedom of association.

In section 5 we changed the word "liberty" to "freedom."

Most important, with regard to section 11, we have eliminated the proviso with regard to the exclusionary rule in search and seizure as well as the entire section, and substituted therefor the fourth amendment on search and seizure to the United States constitution. There is a strong feeling among the delegates that they ought not to include a provision in the Michigan constitution which is patently repugnant to the United States constitution.

We have included the abolition of the death penalty in the declaration of rights in section 16.

We have added a new section 24 requiring an exceptional majority to amend the constitution as to derogation from rights guaranteed in the declaration of rights. This is to protect the rights of each, in the interest of all, from infringement by the majority.

With regard to article II on elections, we have eliminated the section which would expand property qualifications for voting in certain cases, omitting the entire section on the proposition that we ought to expand the suffrage and not restrict or contract it. In section 1 our proposed substitute lowers the voting age to 18.

We omit the ballot designations for candidates for office in section 4.

In section 7 we remove the question of political questions as against judicial questions in recall. This, in our judgment, would eliminate intricacies and avoid a judicial thicket.

In section 8, in order to preserve the right of the people, the power of the people, the reserved powers of the people to initiative by petition, we have reduced the figure to 5 per cent and we have attempted, by the amendatory language, to make this entire provision self executing, based upon the 1908 constitution.

With regard to article III, general government, we have, in order to protect the separation of powers doctrine on the one hand while at the same time preserving the integrity and purpose of administrative agencies, sought to change the word there as you see in section 2. Thank you very much.

MR. NORD: Mr. President.

PRESIDENT NISBET: Dr. Nord.

MR. NORD: I would now like to turn to a discussion of the legislative apportionment provisions in article IV and simply call to your attention what issues we have taken with the third reading document. We have provided in our section 2 a senate based on population within 15 per cent above or below the norm.

We have provided in our section 3 a house of representatives which is also based on population, 115 members, within 15 per cent above or below the ratio of population, and then we have retained provisions that are basically similar to the ones that are in the existing constitution, the 1908 as amended, which permit multiple seat districts in certain cases. In effect, the section 3 as to the house will keep the same kind of house we have now, without moiety.

We have also not accepted the apportionment commission. Instead of that, we have substituted the language of the present constitution of 1908 as amended, which permits the legislature to do the reapportionment and the board of canvassers to back them up. I would like to point out one reason for that: the reason simply is that when we prepared the apportionment commission for the submission to the delegates, there seemed to be no way to get reapportionment. This is no longer the case. Now there is a way to get reapportionment from the legislature and it is being done in all the states of the union, apparently; and that is by judicial action. Therefore, we feel at this point there is no need any further for an apportionment commission.

Therefore, to summarize the apportionment provisions that we have provided, they are one man, one vote in both houses; moiety has been eliminated in the house; and the senate is back to straight population, the way it always was historically. In order to be clear as to what we mean by "population," we have stated plus or minus 15 per cent, which is generally considered to be, by persons learned in the subject, a reasonable standard. Those are the provisions that we provide for legislative reapportionment.

At this point, Mr. President, I would like to call on Mr. Baginski to point out some of the other differences in the legislative article relating to legislative powers.

PRESIDENT NISBET: The Chair recognizes Mr. Baginski.

MR. BAGINSKI: Mr. President, delegates of the convention, one of the main sections in conflict with the legislative powers section is our substitute, section 16. Our suggestion here is:

> Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees.

Now, the new language here is:

> The membership of any such committee shall be divided proportionally to the partisan affiliations of the members of such house.

In this case we are seeking to have a proportional number of Democrats and Republicans on the standing committees of the house and, as you know, this has not been the situation up until this time.

> Committee meetings shall be open to the public unless otherwise provided by a majority vote of the members elected to and serving in the respective house. Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee.

This brings up the action journal with which we have no conflict because the principal document has this provision included:

> Sec. 18. All elections in either house or in joint convention and all votes on appointments submitted to the legislature for consent shall be published by vote and name in the journal.

Up until this time, if the senate should go into executive session for the purpose of discussing appointments, no record is made of that. A report is made whether the person to be appointed was either rejected or not rejected or with or without recommendations.

> Sec. 48. The legislature, by a majority vote of the members serving in both houses, may appoint a legislative auditor to serve at its pleasure.

One of the principal points of conflict here is the legislative auditor. We feel that if the legislature wants to have an auditor, a legislative auditor, so called, they may appoint one, and he "shall conduct fiscal postaudits as defined by law, and shall report to the legislature and to the governor as required by the legislature," because by taking away the elected state auditor, we were somewhat fearful that you would have to have another auditor anyway, because who would do the other work that the present auditor is doing at this time? So someone would have to take his position.

There is a new section, section 49, providing for the redistricting for congress. We are in conflict with what is in the principal document, and if you will read it here — it is quite lengthy — this is our proposition. At this time I yield to Dr. Nord.

MR. NORD: Mr. President, in order to present the points with respect to article V as to the executive, I will call upon Mr. Hodges to give the exposition.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. President, the following changes are made, based on differences between our substitute and the majority proposed constitution.

Section 3 adds the rest of the present administrative board — the auditor general, superintendent of public instruction and highway commissioner — thereby making them constitutional, elective officials.

Section 5 defines "consent of the legislature" and requires 2/3 of each house to override a gubernatorial appointment. It is our feeling that this will alleviate the current abuses of the advise and consent power.

Section 6 substitutes "legislature" for "senate," thus making it both bodies, rather than merely the senate, that would have to act on these appointments.

Section 10 would omit the reference to the judicial since the governor would again have the power to fill vacancies in the judiciary.

Section 17, one that we found particularly objectionable, omits the desirable details as to the governor's budget, which we feel would greatly hamper a governor and administration especially in times of dire economic need where he might be faced with a declining budget and increased costs, and then the next year be forced to try to make them up when the needs of the people for state services are actually expanding.

In section 19 we knocked out what we thought was an obnoxious sentence about a mandate to spend, appropriations being not a mandate to spend. Also, in section 19 we add the rest of the administrative board to bring it in line with our feeling that these officers should be constitutional and elected.

Section 21 again adds the rest of the state administrative board. Section 24 is based on section 25 as approved on third reading, but it adds the rest of the administrative board and, too, requires unanimous decision of the supreme court to find the governor disabled.

In section 26, being the new provision for a civil rights commission, we take the original Austin language which adds "including but not limited to rights with respect to equal opportunity for employment, education, housing, public accommodations," these being the areas where discrimination has been, is, and for the future will be the most important areas to have legislative action taken on and to have a commission act in those fields; also to provide "annually sufficient funds." Also, we take away the sentence which would virtually emasculate the civil rights commission as is now done through allowing the commission to be bypassed by any party that has been accused of a violation under the civil rights commission.

We omit that section which refers to the 4 man, bipartisan state highway commission because we have taken care of that with the retention of an elective highway commissioner, which we feel is far superior and feel is something that the people of the state of Michigan do want and have no desire to change. I return to Dr. Nord.

PRESIDENT NISBET: Dr. Nord.

MR. NORD: Mr. President, to present the points of difference with respect to article VI on the judiciary, I call upon Mr. Ford.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Looking at article VI of our proposed substitute, you will find that we have left section 1 as it was adopted on third reading by the convention.

In section 2 we have provided for a 9 man supreme court elected on a nonpartisan, statewide basis and nominated as provided by law. Now, although we make no specific reference to the provision that the convention put in with respect to the possibility of automatic renomination by petition, it would be completely within the power of the legislature to enumerate this as one of the methods for nomination to fill that office. We also continue the language adopted heretofore for nomination by nominating petitions as one method. We go back to the 9 man court because this was the original recommendation of the judiciary committee to this convention and, if you will recall, it was here on the convention floor that the court was reduced from 9 to 7 judges, the best reason that I can recall being given being that of possible economy. We feel that at this time, with our population exploding and the state of Michigan expanding constantly in the amount of business coming before this very important court, we should not be reducing the potential judicial manpower of the court for all time in the future by this sort of a constitutional change.

Sections 3, 4, 5, 6 and 7 are retained as they were presented and adopted by this convention on third reading. I might say at this point that I am speaking now on behalf of the consensus of feeling of all of the sponsors of this provision, and although I am not completely happy with leaving these sections just as they are, we felt in the spirit of showing a true effort, and an attempt to show a comparison of where there could have been or might have been or might yet be, by some possible miracle, a meeting of the minds, we could arrive at a document acceptable to all of the people of the state.

Section 8 omits the reference to the election of the court of appeals by districts, leaving it to the legislature, however, to set the court of appeals up for nomination and election by districts if the legislature, in its wisdom, thought from time to time that was the best way to do it. We felt, as we argued it here previously on the floor, that it was not right to freeze into the constitution the specific method of selection, leaving it to the legislature to work out the best method as the population shifts and the judicial business and judicial demands change from time to time.

Sections 9 through 14 would remain the same as in the document adopted at the third reading.

In section 15 we omit that part of the provision which would permit the combination of the probate court with other courts of inferior jurisdiction. We feel that if the concept of a 5 tier court system is correct, and if the wishes of the majority of the judiciary committee, as they were repeatedly expressed after hearing people from all parts of the state testify in this matter, are correct, that the probate court should be and should remain a separate and distinct court by constitution and should be a very distinct and clear cut level of the 5 tier system. We feel that any combination of this court with courts of general trial jurisdiction, particularly with criminal courts of limited jurisdiction, could do nothing but erode its traditional and very substantially sound position as a separate and distinct court. At the same time we have removed the language "except as otherwise provided by law" which has the effect of removing the constitutional guarantee of separation of consideration of those matters involving juvenile delinquents and juvenile dependents.

Sections 16 through 21 remain the same as recommended. Again I want to say for myself that this is not something that makes me entirely happy, and perhaps this would be a good place to point out for the statisticians who are already getting ready to figure out whether this is 99.44 the same as the third reading document of the majority of the convention, that I prefer to consult with anybody who is going to use such a statistic and help them weigh the importance. If we don't do it numerically, but we do it by importance, I find that the judiciary article falls very short of a desirable article.

Section 22 deletes the reference to the court of appeals. This is not a great substantive change, except if we are going to leave it to the legislature to determine the manner of nomination and election of the court of appeals, then we should leave it entirely in their hands, and section 22 would be inconsistent with the change we made above in section 8.

Section 23 permits a method of filling judicial vacancies which is in keeping with that method put into our constitution by referendum of the people; the system that has been in existence for a long period of time in this state, has served the state well and has produced a superior bench. We feel that no one has at any time in this convention, on the floor or off of it, criticized the quality of the bench that has been obtained through the combination of gubernatorial appointments and subsequent election. We feel that this is a very valuable asset, it is a very important part of the article and it is, in the minds of some of us, sufficient reason to question the damage that could be done to the quality of the court to be selected in the future. For this reason we have restored the power of the governor to fill this vacancy.

Sections 24 and 25 are the same. Section 26 omits the provision with respect to the creation of courts of limited jurisdiction. This is in keeping with the fact that, in section 1 of the majority document and our substitute document, we already give the legislature, without restriction, the right, by 2/3 majority vote, to create courts below the level of the probate court. We don't feel that this language added to the end of the section, which was very obviously — and this is my own personal opinion — added for the purpose of putting a little bit of salve on the wounds suffered by the justices of the peace and the circuit court officials of the state, accomplishes what it sets out to do. It mandates the legislature to set such things as wages and places of courts and invades the traditional local power of the people to determine these things for themselves.

Section 27 remains the same. We have recommended the complete omission of section 28, which is the appeals from administrative bodies section. I think it has been very apparent — there was an amendment adopted by the convention here this morning — I think if you think back to the arguments given to you by Mr. Brake and others, you will find that we have truly launched into a very precarious area with this section, and the future effect that this could have on administrative decisions and the ability of the administrative agencies to give speedy and economical disposition to their matters could be seriously impaired. The actual effect is unpredictable. I would like to yield back to Mr. Nord.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: Mr. President, to present the distinctions between the substitute document we present and the third reading document as to article VII on local government, I call upon Mr. Buback.

PRESIDENT NISBET: Mr. Buback.

MR. BUBACK: Mr. President, fellow delegates, in the article on local government, out of 33 sections we are only making 3 changes.

Section 2 adopts a self executing provision for partisan home rule counties. This gives the electors of any county the power to frame, adopt or amend a partisan home rule charter.

Section 7 provides for partisan elections and population apportionment of boards of supervisors. This means that there won't be any appointments from the cities. They will all have to be elected.

Section 25 adds "at a regular municipal election" in 2 places, and changes from a majority to 3/5 for sale of public utilities by municipalities. I yield back to Mr. Nord.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: Mr. President, to present the distinctions between the proposed substitute and the third reading document on education, article VIII, I call upon Mr. Faxon.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, there are few changes but some basic ones in this educational article. Sections 1 and 2 remain the same as approved.

In section 3 we have here reinserted language similar to that which has existed in this state of Michigan for the past 112 years, namely that the superintendent, an elected public official, will have the responsibility of the general supervision over the public educational program. In so doing, we do make a clear delineation between the authority of the superintendent's office, the department of education, and that of the function which would reside in the state board of education.

The language on the state board of education is the same, with the deletion of that question of general supervision, so that under the substitute proposed constitution here, the function of coordination and of leadership and advisory functions would remain with an elected state board just as has been already approved by the convention. The main idea here is that a superintendent who is responsible to the people can more effectively act in his office and can be a greater leader of public instruction in this state. The experience of the state has not been one to indicate any great need for change.

The other areas of change in this particular article VIII deal with the question of advice and consent. Here we have taken the advice and consent function and put it into the consent of the legislature. That is, of course, explained in the executive article.

A third feature of change is the removal of the governor from the state board of education. It is our feeling that the governor, as the chief executive officer of this state, has sufficient power to sit as ex officio member of any of the executive boards of this state, and that the inclusion of his membership on the board does not add anything that he doesn't already have and is not necessary or germane to the main features of the constitution. Outside of those 3 changes the rest of the substitute article remains the same as approved by the convention in the third reading article.

MR. NORD: Mr. President.

PRESIDENT NISBET: Dr. Nord.

MR. NORD: Now to present the distinctions in articles IX and X, relating to finance and taxation and to property, I call on Mr. Austin.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, since this is the last time that I shall probably stand on this floor I, too, would like to thank the members of the convention, and particularly Chairman D. Hale Brake of the finance and taxation committee for the cordiality shown to me and for the opportunities afforded to me to serve this convention and the people of Michigan.

We, the proponents of this substitute document, are extremely sorry that we could not support the finance and taxation section of the convention document. We have agreed to all sections relating to finance. Our differences are in the areas of taxing powers and the dedication of revenues.

I would like to call attention first of all to section 3, which is the section relating to the assessment of property and the general taxing powers of the legislature. It is our feeling that the 50 per cent of cash value standard should not be included in the constitution and that the legislature should have the power to classify property for assessment purposes.

In section 5 — this is the section relating to the taxation of utilities — it is our feeling that this money should be earmarked for the primary school interest fund, and we have added a sentence to indicate that.

Section 6 provides a flexible substitute for the 15 mill limitation.

Section 7 is the section which the convention has included to prohibit a graduated income tax. We have substituted for that section an exemption from sales tax of food and drugs.

Section 9 is a substitute for the section that the convention has adopted relating to the earmarking or dedication of sales tax revenue for local units of government and for schools. The proponents of the substitute document felt that the wise course was to simply restore the language of the present constitution exactly as it has been adopted by the people, and if this section is to be changed, it should probably be changed by the people on separate referendum.

I would like to call attention to the fact that we have deleted section 7, the section which provides for the graduated income tax. I mentioned this before, but I want to stress this because it was the strong feeling of the proponents of this substitute that we ought to give some attention to the regressivity of the present tax structure and to provide a framework for a more equitable tax structure.

And now for article X, the property article. This is a very short article which was adopted by the convention. The proponents of the substitute document are in agreement with all sections except section 5.

It is the feeling of the proponents of the substitute document that section 5 should be deleted. This is the section that relates to state land reserves, giving the legislature general supervisory jurisdiction over all state owned lands. It is our feeling that this section could lead to difficulty. It is not necessary because the feeling is that the legislature already has the authority to do pretty much what we have included in this section. We therefore feel that this section should be deleted. At this point, Mr. President, I would like to return the mike to Mr. Nord.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: Mr. President, to present our views on article XI relating to public officers and employment, I would like to call on Mr. Downs.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, the general idea of our substitute is to restore the present protections of civil service and eliminate those weakening amendments that are in the majority document before us. There are 5 limitations and weaknesses that we remove.

We remove and restore the civil service commission's right to set wages and pay, independent of legislative interference as provided by the report before us.

We remove the right of the executive to refuse to pass on pay increases approved by civil service.

We remove the time delay in getting pay increases and leave those matters up to the rules of the civil service commission.

We protect the individual's right to see that, if there is reorganization of a department, that needs prior approval of the commission to prevent an individual from being discriminated against and discharged, whereas the document which we are attempting to amend provides that the individual can be separated from his job and only then has the right of appeal.

We provide that audits shall be limited to fiscal or dollars and cents audits and not to performance audits, which we believe interferes with the integrity and independence of civil service.

I want to say in closing that the civil service amendment was adopted directly by the voters, the principle has worked out and we see no reason to weaken what we have had in an excellent civil service commission in this state.

PRESIDENT NISBET: Dr. Nord.

MR. NORD: Mr. President, now to present our views on article XII relating to amendment and revision, I will call on Mrs. Elliott.

PRESIDENT NISBET: The Chair recognizes Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President and fellow delegates, these are in all probability the last remarks that I will be privileged to make on this floor. In doing so, I would like to express my true gratitude for the fellowship shown here by the delegates in this convention.

Article XII offers only 2 changes: after line 38, first column, it merely adds the 200,000 clause for registered electors or whichever is less.

Also, the other change, in section 3, omits the senatorial districts from use in apportionment of convention delegates, and changes back from 6 to 4 months. It also omits the limitation of the governor's selection to fill the vacancy which requires that the appointee be of the same party as the delegate vacating such an office. Thank you.

PRESIDENT NISBET: Dr. Nord.

MR. NORD: Mr. President, to present our views on the schedule, I call on Mr. Binkowski.

PRESIDENT NISBET: The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen of the convention, as you know, there are 17 sections in the present schedule. Our substitute calls for a change with respect to only 4 of them.

The first proposed change is in section 5. It is really a technical change because, of course, we have advocated the retention of the present elective administrative board officials: the treasurer, auditor general, superintendent of public instruction and the highway commissioner, and thus we have added those offices to the offices listed, the governor, lieutenant governor, and so forth.

Now, our substitute deletes 2 of the sections. Those 2 sections are section 6 and section 7. With respect to section 6, which calls for the maintenance of the present frozen senatorial districts until the 1970 federal census, I think that if the majority party here wants to keep faith not only with the people who called this convention but also with the citizens in the suburbs of the southeastern portion of the state, that they should make their senate plan effective with the adoption of the new constitution, if it be adopted. I see no reason, logically or otherwise, why we should maintain the system as it is and wait 10 more years. I call your attention to the fact that regardless of this constitutional convention, regardless of the election, our house will be reapportioned next year. I think that if you want to do something — and there have been indications of a new image — then I think this new image should take care of, or should be interested in the city dwellers, and particularly the city dwellers in the southeastern part of Michigan.

We also recommend the deletion of section 7 with respect to the supreme court, because in our plan, of course, we call for 9 supreme court justices and not the reduction to 7. There again, this is just another technical change to be consistent with our substitute.

The last change, of course, is with respect to when the document will be placed upon the ballot. Now, there have been charges and counter charges that there has been too much politics being played throughout our deliberations in this convention. I think it is incumbent upon the majority here to show good faith: if they do not intend to use this document for their own political purposes, if they are not going to use this document as a vehicle to get their candidate elected governor, then by all means this document should be placed on the ballot in April of 1963 so that it does not become a political football in this hard November campaign, which I think all of us here are very aware of.

MR. NORD: Mr. President, I will now close by stating, for the record and to the delegates, that what we have presented is in effect a minority report of the 34 proponents of this substitute constitution.

It may be asked by the delegates: what good is it to present a minority report when it cannot win? We submit that the answer is the same as that relating to dissents by judges. What we say now may not be adopted now, but we express our belief that it is right and ought to be adopted. We do so in the belief that we are correct, and that if we are correct in our beliefs and principles, that they will ultimately prevail, provided we take care to enunciate them as clearly as we can.

We cannot accept the document produced by the convention. We believe it has failed to produce any solution for the problems which led to the calling of this constitutional convention — primarily the inability of the state government to function effectively or democratically. No solutions have been found to permit rule by the majority or to provide a legislature having the desire and the ability to solve the serious fiscal problems of the state. We believe such solutions can be found and that they will be found. If they cannot be found through this constitutional convention, that does not cause us to despair. We believe they will be found through judicial action to provide a fair apportionment, and then through legislative action of a fairly apportioned legislature.

We look forward with irrepressible optimism to the future of democracy. It may not move forward at every opportunity, but it can never really be halted. The rule of the majority is our historic past and it will be our future once again. That is our faith and that is our stand. Thank you, Mr. President.

PRESIDENT NISBET: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. President, members of the convention, on this final solemn day of our convention, I am not only keenly disappointed, but I am somewhat saddened by the actions of the minority party at this last hour in presenting a hastily assembled patchwork and objectionable substitute for our carefully deliberated document.

I had hoped that this convention would have a nearly unanimous vote on final adoption as has occurred in all recent state constitutional conventions. In Hawaii the vote was 60 to 1; in Missouri it was 68 to 4; in New Jersey it was 74 to 1. But it appears that the leadership of the Democratic party in Michigan is so insistent in its own views that it is willing to throw all public considerations aside, disregard the whole deliberative process of this convention, and attempt to tarnish the good record of this convention.

For 7½ months the minority has participated in the work of this convention and its committees, and were paid whether they were here or not. The convention has listened with great patience to the iteration and the reiteration of their numerous proposals. Some have been adopted; others have been modified; others have been rejected. As Delegate Woolfenden's report has shown, the great majority of the decisions of this convention at all stages have been adopted with a bipartisan vote, and many of them unanimously. Of course, there have been disagreements between the parties, among the parties, within the parties, but through the deliberative process and 7½ months of hard, conscientious work on the part of most of the delegates, we have now arrived at a definitive document which the minority party rejects even though it played its proper part in its formulation.

Mr. President, I find this minority tactic to be destructive of the unity of the convention, utterly partisan in nature, self serving and unworthy of any party or any group.

This proposed constitution is a meritorious document. It is a vast improvement over our present constitution. It is not perfect and it contains some of the imperfections which necessarily arise in any deliberative, representative body, but it is the fruit of the great labor of a fine cross section of the competence and ability of the people of this great state. It deserves the support of every civic minded citizen. Under these circumstances, therefore, Mr. President, for the minority to try to confuse the people at this last moment is, to me, a reprehensible and unworthy party tactic which attempts to tarnish our good convention record. I therefore resent and condemn this personal and party maneuver. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, I am very glad to know what a large part of this proposed constitution that we have drafted the minority party — or at least those who sponsored the substitute — is willing to accept. I think the figures are rather interesting. There are 259 sections, I am informed, in our constitution as we have drafted it. The minority sponsors of the substitute have accepted 192 out of 259 sections, 50 of them modified, some of them very slightly; 16, and only 16, they delete; and they add only 5.

The point I wish to make principally in opposing the substitute is that we are not standing in need of any substitute. For 7½ months this group of unusual competency — and I am speaking of the members of both parties — and the hardest working group with which I was ever associated, have gone over this constitution proposal by proposal, section by section, sentence by sentence and word by word. Four months in committees — good committees — 3 times on the floor of this convention, every word here has been scrutinized, tested; and we turned out a good job.

A great majority of us here — a great majority of us here — represent territory in which the people were not in favor of this convention. Quite a large proportion of the delegates — I don't know just how many — were opposed to the calling of the convention. I was. People in my territory were 4 to 1 against it. I had not been here long before it seemed to me that there was a chance of success, not much longer before it seemed like a probability. Now we've done a good job, and one for which we do not need to apologize.

I have said to you before, one of the biggest words in government is the word "balance." We have drawn a balanced document, not just good for one section of the state, or good for one group or good for one interest, but a balanced document. It deserves our support. It ought to have it from all of us. It certainly will have it from many of us. (applause)

PRESIDENT NISBET: Mr. Blandford.

MR. BLANDFORD: Mr. President and fellow delegates, I feel it's about time that we at this convention — at least some of us — talked in a straightforward manner. At this convention, we Republicans have been turning the other cheek so often it has been slapped a rosy red. All of us realize the substitute document submitted today by some Democrats is purely and simply a Gus Scholle attempt to write a constitution with ¼ of the delegates to this convention.

MR. BINKOWSKI: Point of order, Mr. President.

PRESIDENT NISBET: State your point.

MR. BINKOWSKI: Mr. President, throughout the number of speakers and in addition now, Mr. Blandford, have been engaging almost in personalities and not speaking on the issue. The issue, as I see it, before the convention is the minority substitute and I think that Mr. Blandford's comments are now imputing things to the sponsors and proponents of this substitute who have worked very hard. I don't think that they're in order.

PRESIDENT NISBET: Your point of order is well taken. The Chair suggests the speakers confine themselves to the substitute.

MR. BLANDFORD: Thank you very much, sir.

The constitution, painstakingly worked over for 7½ months and now on its final reading, will be approved today by a majority of the delegates to this convention. It will be approved on a one man, one vote basis. However, for reasons best known to themselves, certain labor people will not accept this verdict based on one man, one vote. It's clear they only believe in this concept when it serves their sole benefit.

I would like to deal briefly with the document presented today by some of the Democratic delegates. A brief treatment, I feel, is all it's entitled to. We all know the actual writing of the AFL-CIO ghost constitution took place in Detroit. In fact, Gus Scholle is here today seeing to it —

MR. MARSHALL: Mr. President, point of order.

PRESIDENT NISBET: Your point of order is well taken, Mr. Marshall.

MR. MARSHALL: Mr. President, the Chair is going to — I realize that you're trying to keep order — but if Delegate Blandford is going to insist on this type of scurrilous attack — he is not talking on the constitution at all — then I am going to demand equal time of this convention. He is stating untruths, half truths and his remarks are —

MR. BLANDFORD: I'll document it, Mr. President.

MR. NORD: Mr. President, point of personal privilege.

MR. MARSHALL: We want it documented.

PRESIDENT NISBET: The convention will please come to order. Mr. Marshall's point is well taken. The delegates will please confine their conversations and discussions to the document at hand.

MR. NORD: Point of personal privilege, Mr. President.

PRESIDENT NISBET: Mr. Nord, you may state it.

MR. NORD: Mr. President, if Mr. Blandford continues those remarks, I'm going to either punch him in the nose or take him to court. I have worked hard and diligently and I will not have my integrity impugned. No one has ever done it and gotten away with it. He looks bigger than me but I believe I'm right. (applause)

MR. HODGES: And I call Mr. Blandford a liar, without the immunity of this convention.

PRESIDENT NISBET: Mr. Hodges, you are out of order. Mr. Blandford, will you please confine your remarks and no allusions to other things. Let's not spoil this convention in the last few minutes by this type of conversation.

MR. BLANDFORD: All I can say, Mr. President, in reply to Mr. Nord's remarks: he'd lose on both counts.

There was some window dressing here yesterday at the hall. We saw some Democrats scurrying around in their shirtsleeves trying to create the appearance that they were writing a constitution.

PRESIDENT NISBET: Mr. Blandford, the Chair wishes you would confine yourself to the document under discussion.

MR. MARSHALL: Point of order, please. If a delegate persists in being out of order when the Chair has repeatedly ruled him out of order, is he not supposed to take his seat?

MR. BLANDFORD: Mr. President, I'll get back on the subject.

PRESIDENT NISBET: The next time Mr. Blandford is ruled out of order, he will be required to take his seat.

MR. MARSHALL: I do not want to get involved in a bitter dispute because we disagree philosophically, but I say that the Chair should ask the delegate to take his seat if we're going to follow parliamentary procedure here.

PRESIDENT NISBET: Mr. Blandford, please confine yourself, because the next time that will be the end.

MR. BLANDFORD: I will point out in my next remarks, Mr. President, what I said previously. (laughter) For example, Delegate Nord spent 4 hours presenting his apportionment plan to this convention. At that time, the Democrats supported it. It called for a senate whereby each senator would be elected on and would vote on the basis of votes he received in the election. Both the winners and the losers would be elected under Mr. Nord's plan. Evidently in the final analysis, this did not receive the endorsement of some of the people who are interested in writing this constitution. If you'll notice in the constitution as presented by the Democrats, Mr. Nord's plan does not appear. It calls for the one man, one vote senate strictly based on population, and we know where that concept comes from. In my judgment, gentlemen, this document has clearly been written in solidarity house and not here in Lansing. Thank you very much.

PRESIDENT NISBET: You're out of order, Mr. Blandford. Take your seat.

The Chair recognizes Mrs. Judd.

MRS. JUDD: Mr. President and fellow delegates, I believe the question before us is whether we wish to endorse one constitution or another. I would like to give my opinion as to why the constitution which we have been drafting throughout these 7 months is the better of the two.

Yesterday, I had the privilege of sitting with a small group of people from the public information committee who were considering what should go into the preface to the address to the people, and what, if any, significant changes in this constitution might be summarized in such a preface. This was an exceedingly stimulating experience. I recommend it to any of you.

We have spent so much time working on the constitution section by section we have lost track of how the whole thing looks as a full document. And I think when you try this, you will find it very satisfying. We found, for example, much continuity with the history of our constitutions in the nearly 150 years of our state. People will find many familiar phrases in this constitution. We found also that, in the words of Justice Cordozo, we had written a constitution designed to meet an expanding future. For example, it contains much that would satisfy human needs in our state, much that will satisfy economic needs and improve the industrial climate to attract more industry and give more jobs. It meets squarely the inevitably expanding urbanization of our state in permitting the improvement of governmental structure on the local level, in authorizing intergovernmental cooperation among units of government having problems bigger than themselves singly, in placing greater emphasis upon public health, upon the need for more open publicly owned lands, upon the conservation and development of the increasingly needed natural resources.

Now I envy the core of the Democratic party the privilege of sitting down and writing what would be their ideal constitution. I think each one of us would have a lot of fun writing a constitution that would satisfy us individually 100 per cent. But it might be a little confusing to the voters to have 144 different constitutions to choose from. So we do have to have one that represents a blend of the viewpoints of this constitution as reflecting the viewpoints of the electorate. Now, in the words of Thomas Jefferson, "The ground of liberty is gained by inches. We must be contented to secure what we can get from time to time and eternally press forward for what is yet to get."

Mr. President, I submit that we in Michigan have a rather unique privilege among the states of the right of the individual citizen to petition to amend our constitution. We have, from here forward, the opportunity to press to get what more we want that we did not get in this constitution. On the other hand, I claim that this is a progress not gained by inches but this constitution represents progress gained by feet and yards. And I think we can go home with a very clear conscience; and in answering our voters whether we think this constitution is better than the old one, we can say, "It is good." (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Durst.

MR. DURST: Mr. President, members of the convention, I urge a no vote on the substitute constitution that has been presented to us. What we are being asked to do here, really, is to substitute a document drawn in a few hours for one which we have carefully worked out within the framework of the democratic process for the last 7½ months, which represents the work of 144 delegates who represent all the points of view in this great state of Michigan.

The substitute that has been presented to us represents only one point of view — a narrow point of view, at that, I submit — and we are being asked to adopt it on the basis that that viewpoint is the only right viewpoint. I myself find it difficult to believe that any individual would expect, let alone demand, that the constitution of this state should conform to his own views only, without regard to the views of others. I personally was on the losing end of several votes on issues before this convention, but I am firmly convinced that the collective judgment of this body is better than mine alone, or that of any small group within this convention.

A few days ago, for the information of Mr. Downs and myself, I tabulated the number of times Mr. Downs and I had voted together on roll call votes. Remember that roll call votes are generally demanded only upon controversial issues. My rough tabulation showed that Mr. Downs and I voted together on over 50 per cent of the roll calls and together we prevailed on approximately 44 per cent of them. I am not ashamed to have voted that often with Mr. Downs. I voted for those things which in my mind were best for the people of this state. And the fact that Mr. Downs was of a like mind with many of the things which I believed, and that many of my Republican colleagues believed to the contrary, did not deter me. By the same token, I don't believe Mr. Downs should be ashamed of his record nor that of his party at this convention, for as a member of the minority party, outnumbered nearly 2 to 1, I believe he has had an extraordinary record of success in writing into this constitution those items in which he believes.

I submit that every believer in the democratic process sitting as a delegate to this convention is bound to support the product of the collective judgment of the elected representatives of the people of this state. The constitution written by this convention is a product which, in my opinion, in each and every article, represents a giant step toward better government in Michigan. I urge a no vote on the substitute document. Thank you. (applause)

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President and ladies and gentlemen, a very rapid appraisal of the sections having to do with apportionment — after all, I've seen them for the first time only this afternoon — seems to show these to be the principal changes or differences: first of all, in the minority substitute now before us the senatorial districts are based on population only and it omits the area factor that I feel is one of the strengths of the proposal provision that has, up to this point, had the approval of this convention. With reference to the senate, the substitute omits the county line feature. It provides that the 38 senatorial districts can be divided as nearly equal as possible without any reference to county lines. There is no provision that I can find in this for districting within the counties that are entitled to more than one senatorial seat. There is no requirement for regularity in shape. There is substituted the language "contiguous and convenient," and I assume that that was done to make it possible to continue senatorial districts of approximately the same shape as we now have in the county of Wayne.

It is very difficult to very quickly see what the effect of this would be if these new features were to be effective in 1960. These arithmetical computations of mine may not be exactly accurate since they have been prepared while I was trying to listen to some of the speeches that were being made at the same time, but on the basis of the 1960 population, the upper peninsula, with 3.93 per cent of the population, that now has 3 senators and would continue to have them at least until after 1970, would be entitled to 1½ senators. The northern part of the lower peninsula, north of the Muskegon-Bay line, with 6.10 per cent of the population, that now has 4 senators, would get 2⅓. The 5 largest counties, with 57½ per cent of the population, that now has 16 — or will have 16 when we get through with these additional senators that this constitution provides for — would have 21. The 3 largest counties that would have 12 would have 18. The balance of Michigan that now has 15 would have 13. In 1970, if my quick computations are correct, the upper peninsula under the proposed constitution would have 3; under the Democratic provision, it would have 1⅓. The northern part of the lower peninsula which will have 3 would have 1¾. The 5 largest counties which will have 18 would have 22⅓. The 3 counties would have 19 instead of 14 and the balance of the state would have 13 instead of 14. But these are all problematical, based on population shifts.

The house plan provides for 115 members instead of 110. It omits any reference to county lines or township lines and provides for districting without reference to political subdivisions. It provides that in the counties entitled to more than one representative district the districting shall be done by the board of supervisors. Instead of requiring single member districts, it would permit a county or a city entitled to more than one representative to have representative districts of 2 or 3, as at present. It eliminates the proviso for "as square as possible" and substitutes some language that it should be "contiguous and convenient," or something of that sort. Now, if you're going to make comparisons on what would happen, of course, the 115 member house as against 110, you've got to take the same kind of a formula and reduce it to 110. And as you know, there are no substantial changes. If instead of a 115 member house, you were to stay with 110, the upper peninsula that under the majority provision would have 5 seats, under theirs would have 4; the northern part of the lower peninsula, instead of having 8, would have 6; the 5 most populous counties would have 64 instead of 62; and the rest of Michigan would have 36 instead of 35.

Now, in addition to these changes — and again, there may be errors in those computations — the apportionment commission is eliminated and we rely upon the legislature to district the state, or the board of canvassers in the event that the legislature fails to do so. The annexation provision is eliminated. For all of these reasons, of course, I urge that you vote no on the substitute.

I've already said several times on the floor of this convention that I feel that the apportionment provisions in the tentative constitution are fair and equitable in 1962; they will be in 1970; they will be in 1980 or 1990. They provide for an apportionment commission fairly arrived at — partisan — selected by the parties themselves to do the apportionment. For these reasons and many others, I urge that you vote no on the substitute now before us.

PRESIDENT NISBET: There are 6 minutes left. Mr. Bentley, there are 4 speakers.

MR. BENTLEY: Mr. President, the education portion of the so called minority constitution is, I think, hardly worthy of comment. It seems to be merely an attempt to keep the superintendent of public instruction in politics. But I would like to say this — and I will, in deference to your remarks, make my own very brief — this constitution which the majority of the delegates here will present is a good document, and I hope very much it will be presented as a bipartisan, or a nonpartisan document because the alternative the voters of the state will have when it is presented is either to accept this document or to adhere to the document which we now have at hand.

I think one thing, Mr. President, we can all be very proud of, and that is that the minority — as they have had this afternoon — have had ample opportunity to present their views. But I think we should also realize that the democratic process whereby the viewpoint of the majority prevails must be carried over into this constitution as it is in all walks of life.

I would like to say very sincerely that I do not believe that ever in the history of this state have we ever had 144 more dedicated and more qualified citizens of Michigan assemble under one roof who have worked longer hours or more tirelessly. And I am confident the people of Michigan will accept the result of our efforts. Personally, I am going to work to sell this constitution in every county in which I happen to be speaking this year — I hope to be speaking in quite a few — and I believe that the people of Michigan will come to realize that they owe a real debt of gratitude to those who have worked so hard, with such dedicated effort, to give us a sound constitutional base for our state government and local governments in the future. I think, in time, the people of this state will come to see perhaps — to paraphrase the words of another great gentleman — "never was so much owed by so many to so few." Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I want to say that while I wholly disagree with the substitute, I want to compliment the sponsors of it for submitting it for this reason: I believe that on the record it will set forth clearly what the alternative would have been, and I think they perform a service to the people in submitting it. I know they are not believing that it will be adopted. I know that they offer it in the belief that it will state their views, and I think it should be accepted in that light.

I do not charge that it is hastily drawn. I have heard rumors for several weeks that it was in the works. But we will have to also expect them to acknowledge that it has not been subjected to parliamentary debate; it has not been subjected to the parliamentary procedures of this body; it has not gone through committee deliberations nor debate on 3 different readings; and so it would ill behoove this body at this late date to accept any part of it.

But I believe that I express the sentiments not only of myself, but of many of my colleagues here when I say that it is with a sense of sadness that I believe that our dissatisfied brethren find themselves unable to go along with the end product of this convention. We must realize that this end product is a compromise. Certainly it is a compromise from where I started out. It is a compromise from where a good many of us started out. It's a compromise from where they started out. And if those of us from one end of the political spectrum, so to speak, can compromise our differences toward the middle, perhaps they also should compromise their differences toward the middle. And I plead with them, after their substitute is rejected, to support us in the unanimous adoption of the end product of this convention. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Martin. There is one minute, Mr. Martin.

MR. MARTIN: Mr. President, we came down here to make a great step forward. In looking over only the provisions with respect to one of these articles, article V, it appears to me the minority would propose a great leap backward. I mention only 3 points with respect to electing the officers of the state: they would return all of the officers to constitutional, elected status and return to the fractionated, divided form of government we now have — which was one of the strongest reasons for calling this convention; they would destroy the provisions of the executive budget which have been recommended for years by the students of effective and economical government; and by their addition to the civil rights commission provision they would make it possible to invite the destruction of the very commission which this convention has proposed to create.

I can only hope that their better judgment will prevail, that having presented their views and having lost the vote, as they doubtless will, our friends — and I mean our friends — of the minority will shoulder the common responsibility of delegates to this convention and will go out to explain and to recommend this document; because if it is adopted, it will be the finest constitution in these 50 United States. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Nord for 10 minutes for the proponents of the substitute.

MR. NORD: Mr. President, one of the opponents to our proposal says that we know where our plan came from. And I submit that that is true. We know where it came from. It came from the northwest ordinance of 1787, and that is the reason we put it in article I, section 1 of our proposal. It was provided in the northwest ordinance of 1787 that the people of this territory and of this state should forever have the right to a proportionate representation. We put those words in. It used to be the law of this state. We think it will be again.

We take our stand on equal protection of the laws, and on its corollary, equality of representation. We do so because all efforts to come to agreement by the concessions we have offered in the past have failed. We now feel no concessions are necessary in view of the great flood of judicial decisions in the wake of Baker vs. Carr.

Mr. President, to complete our rebuttal, there are 3 other delegates, 3 other proponents who wish to speak, and I call next on Mr. Faxon.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, I wish to, first of all, assure all of you that the minority constitution which you have before you is the product of only the Democratic delegates at this convention. At all times that I have worked on it I know of no time where anyone outside of the delegates here has made any decisions as to the content. Second, I want to point out that some of the provisions have been subjected to debate before all of us. They are parts of minority reports. They were argued in committees and they have been part of our deliberations.

The third thing I would like to comment upon is a very important thing to me, and that is the historic right of people of this free society to disagree. We made reference earlier here to someone named Thomas Jefferson. And, as I recall, when the constitution of 1787 was being written, Mr. Jefferson was not in complete accord with what they were doing. Patrick Henry refused to even attend the convention. There were many prominent American citizens who wanted no part of that document. Today we look back upon it and we know its great and useful purpose in our history, but we have always respected, since that time, the right of people in a free society to agree and to disagree.

As for me, I feel that the constitution is a document of basic law which conserves only the great traditions and should very carefully provide for the future. I am not willing at this point to endorse a document which strays too far from what has been the tradition in our state. The alternative is, to me, an equally palatable one; namely, to continue on with the old and to amend it as necessary. I see nothing wrong with conserving a constitution that has served this state for 112 years with amendments, and I feel that others in this state and others here at this convention realize that what has been an historic tradition in this state is one that can go on and still serve us as well. For these reasons, and the reason that we all have a right to disagree, I feel we can go out with our respective viewpoints and pursue those ends which we are interested in pursuing without causing any undue hardship.

PRESIDENT NISBET: Dr. Nord.

MR. NORD: Mr. President, I yield now to Mr. Norris.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, fellow delegates, I do not believe that the proposed document of the majority, measured by the present 1908 constitution and by the present constitution as it will be shaped by the courts, represents improvement or sufficient improvement in those strategic areas, including apportionment, taxation and finance, to enable the people and the government of this state to meet and overcome the problems of the next several decades. Those who voted for the calling of this constitutional convention hoped to secure a document that would provide a fairly apportioned legislature which would have fiscal, tax and other authority to enable Michigan to move ahead. In my judgment, the proposed majority document does not accomplish these objectives.

Unhappily, the problem of the veto power in the senate, referred to on previous occasions by me in an editorial in the Detroit News, and the fiscal difficulties cited by Dr. Hannah in another speech that he gave to the municipal league in this state, are not overcome by the proposed majority document. Minority rule and the expression of minority rule by the veto power in the state senate will continue. Treasury deficits, inability to pay bills, curtailment of essential public services, perhaps payless paydays, will continue. Also continued will be a government deadlocked, dead centered and stalemated by the inherent conflict between a malapportioned senate not reflecting majority rule, and the executive authority representing majority rule. This condition will continue until representative government, representative of the full and equal value of all people, comes to Michigan. It is axiomatic that only a government that is truly representative of the people will learn the will and respond to the need of the people. It is axiomatic that government would not be for the people unless it is of the people.

Reflecting these axioms of democratic government, recent decisions of the supreme court of the United States and other courts have revealed a realistic prospect of compelling such change in Michigan as would result in a legislature more representative than that recommended in the proposed document of the majority. If the proposed document of the majority is defeated and the present senate is declared invalid, the provisions of 1908, or some formula in keeping with the court decisions, will apply. Thus, a senate without minority rule will be possible, and Michigan can enter the stage envisioned by those who voted to call this convention.

This is not to suggest that there have not been some changes for better in this proposed document, but the fact is that the major problems of this state still are not met by this constitution and we will not meet them by adopting the majority constitution. We urge that you adopt the substitute, and I think that Michigan will move ahead if you do so.

PRESIDENT NISBET: The Chair will recognize Dr. Nord.

MR. NORD: Mr. President, to close our rebuttal, I call on Mr. Downs.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, how much time is there left?

PRESIDENT NISBET: Three and a half minutes, Mr. Downs.

MR. DOWNS: Thank you. Mr. President, fellow delegates, this is perhaps the most difficult talk that I have ever felt impelled to make on the floor of the convention. It is, as somebody said, a moment of sadness. Emotionally it is, without a doubt, one of the most difficult, if not the most difficult, speeches I have ever made, and I guess I have made quite a few in my life. It does sadden us because we have worked diligently. We have worked for many months. I think it is unfortunate that those things which we agreed upon, as has been mentioned, with overwhelming bipartisan support — elimination of spring elections, 4 year terms and many other things — were not put in a separate package that could be supported on that basis, and the controversial ones separated. In reviewing this, it is with reluctance that logic compels me to say that the document we have prepared is a net step backward from the present constitution, and as such I feel that I cannot recommend it in preference to what we already have.

On the all vital subject of apportionment, there have been changes made so that even though Michigan will have a majority vote for one party there will be a 3 to 6 member majority of the other in the house, I believe for some time to come, and the senate will have about a 2 to 1 majority even after 1970, give or take a couple of seats, and this ties in with the advice and consent problem that is expanded. The result will be that the conflict between the executive and the legislature will be, if anything, increased because advice and consent has been increased.

The budget section, with the mandatory reduction in expenditures, is unsound.

The judicial portion, with the additional administrative reviews and removal of the right of the governor's appointments; the ad board, which in no place is appointed by the governor without advice and consent or some other form that avoids responsibility and has neither the advantages of the elected nor the appointed system, is a step backwards.

So it is with difficulty — I can even, without being too dramatic, say with a heavy heart — that on reviewing this, the difficult decision is that, in spite of our many long months of work, this is a step backwards, and therefore I regret that the substitute, which would be a step forward, has not been accepted as the alternative, a more positive approach. Thank you.

PRESIDENT NISBET: The time has expired. The question is on the adoption of the substitute as presented. Those in favor will say aye.

MR. AUSTIN: The yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? A sufficient number up. Will the delegates please clear the board. Those in favor of the substitute will vote aye. Those opposed to the substitute will vote nay.

MR. FOLLO: Mr. President.

PRESIDENT NISBET: Mr. Follo.

MR. FOLLO: I intend to abstain.

PRESIDENT NISBET: Mr. Follo will abstain. We are voting on the substitute. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 43

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford

Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Lesinski
Liberato
Madar
Mahinske
Marshall

Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

Nays — 100

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gadola
Goebel
Gover
Gust
Habermehl

Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leibrand
Leppien
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock

Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

SECRETARY CHASE: On the adoption of the substitute offered by Mr. Downs and others, the yeas are 43; the nays are 100.

PRESIDENT NISBET: The substitute is not adopted. The question now is on the adoption of the proposed constitution as finally revised by this constitutional convention. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I have spoken with Mr. Downs about the manner of handling the remainder of the debate on the constitution, and with his approval I would move to limit further debate on the adoption of the constitution to 30 minutes, the first 15 minutes to be allocated to members of the minority party — and I understand that Mr. Snyder will control the debate — the last 15 minutes to be allocated to the members of the majority party. I so move, Mr. President.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails.

PRESIDENT NISBET: The Chair recognizes Mr. Snyder. Mr. Snyder has 15 minutes.

MR. SNYDER: Thank you, Mr. President. This is in behalf of a Democratic group that will sign a no report on the proposed constitution. There are 33 signatures, and I understand there are 7 that will be submitting their separate versions of this thing, and then there will be others.

We have evaluated the proposed document which was presented to us by the committee on style and drafting against a background of the existing constitution of Michigan and have asked ourselves: is this an improvement over the present constitution? Our answer is: no.

The majority of the voters of Michigan hopefully supported the calling of a constitutional convention in the belief that this convention would improve Michigan's governmental structure. Many citizens who supported the calling of the convention felt that Michigan had an opportunity to obtain at once a fairly apportioned legislature and a sensible, honest and fair tax structure. Hope was also high for a strengthened executive branch, and a self executing home rule provision. Most citizens hoped through this means our long history of conflict and deadlock between the malapportioned senate and the executive could be resolved. The convention has failed to achieve any one of these objectives.

There are certain specific reasons for the voting of no on this document, and I will take this opportunity now to yield the floor to Delegate Bradley to explain the no position on legislative apportionment.

PRESIDENT NISBET: The Chair recognizes Mr. Bradley.

MR. BRADLEY: Mr. President, fellow delegates, this generation of Michigan citizens are the beneficiaries and the trustees of a representative form of government. Our forebears at no time entertained the thought that government could be representative of anything but the views, the hopes, the yearnings of people. In recent times a new, pernicious concept has been injected into the body politic, a concept which perverts the inspired plan of our federal constitution in which the surrender of sovereignty by the states is compensated by an equal number of senators in that federal body. This representation, it must be noted, is equal for the sovereign state of Rhode Island as it is for the sovereign state of Alaska. Equal representation for each of our citizens in the legislature is a principle without which no constitution for this state can be accepted.

It remains for me a matter of great concern that the insistence of the convention, as expressed by the voting power of the majority Republican party, is on perpetrating the existing stalemate between the legislative and executive branches of our state government. All of us have expressed our belief in partisan politics at this convention, but this stalemate destroys the basis for partisanship, for responsibility cannot be fixed on either party. It deprives our citizens of the vital opportunity to tender to each political party in turn both the power and responsibility of government.

We most firmly reject the effort permanently to deprive our people of this imperative of the 2 party system. We believe in one man, one vote. The absence of this principle commands us to vote no.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Thank you, Mr. President. I would now like to yield to Delegate Jones to take care of our position on taxation.

PRESIDENT NISBET: The Chair recognizes Mr. Jones.

MR. JONES: Mr. President, fellow delegates, I rise to urge a no vote on this constitution, and I do so because I feel that this document contains a very serious defect, and this defect in this new proposed document is that it fails to face reality, the reality of thousands of people in the state of Michigan who have been under represented in our state legislature for 30 or 40 years. They are crying for their fair right to adequate representation, as my fellow colleague, Delegate Bradley, pointed out.

Also in the field of taxation and finance, this proposed document, which will be presented to the voters if it is approved by this convention, writes in restrictions in the field of taxation which will prevent local units of government and the state itself from being able to fully solve its revenue difficulties.

I think that the delegates assembled here should realize that the voters who approved the calling of this convention came from the 4 populous counties of Wayne, Genesee, Oakland and Macomb. It is very significant that this is where malapportionment is at its worst. It is also very significant that this is where the heaviest tax burden falls in the state of Michigan.

Now, since this convention has not seen fit to resolve these 2 basic issues of apportionment and flexible taxation, I will have to urge my constituents, when I am out campaigning — and I guarantee you, along with what Delegate Bentley said, I will be campaigning daily — I will be urging a no vote on this document.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Mr. President, I would like to yield to Delegate John Kelsey, a member of the committee on the executive branch, to handle this subject.

PRESIDENT NISBET: The Chair recognizes Mr. Kelsey.

MR. KELSEY: Mr. President, fellow delegates, in regard to the executive department, we would oppose the present document for the given reasons. The proposed document weakens the administrative arm of the government and takes away the right of the people to elect a treasurer, auditor general, superintendent of public instruction and the highway commissioner.

We in the minority party feel especially strongly and deeply about the office of superintendent of public instruction, in view of international affairs. We feel that, certainly, education is the key to the universe. We feel that when sufficient inhabitants of not only our state and our union, but of the world, are sufficiently educated such barbaric evils as war, illiteracy, hunger and disease will vanish. It was mentioned on this floor that we are attempting to keep the superintendent of public instruction in politics. My experience and judgment, after holding both elective and appointive office, tells me that the superintendent of public instruction will be unable — to the benefit of all mankind, to the benefit of education, to the benefit of progress — to serve 8 masters. There are many of you in this convention who, I am sure, have served both in an elected and appointive capacity. You certainly know that with an appointed position you lose much discretion and much latitude.

In relation to the governor's appointments and the question of advice and consent, we feel that the advice and consent power of a malapportioned senate is expanded to hamper the governor's appointive power.

In relation to the treasurer, we feel that the treasurer would be appointed only with the advice and consent of the senate. This means that a small number of senators could effectively block the appointment of a qualified person who does not conform to their political views and effectively prevent the governor from selecting a man willing and able to work with him as part of an administrative board.

In relation to the auditor general, the auditor general would be replaced by a legislative auditor selected by and responsible to the legislature rather than to the voters. No provision is made for a state auditor responsible to the people.

In relation to the highway commission, the present highway commissioner was created by the legislature and is elected by the people. The proposed document would make him a constitutional officer, appointed by a bipartisan 4 man commission, none of whom are elected by or are responsible directly to the people. This commission, evenly divided between political parties, will be deadlocked and inefficient in making decisions.

Thus the present system of having the Michigan electorate vote for these offices would be replaced by a system that takes the responsibility from the people, keeps it from the governor, and so weakens and conceals responsibility that no individual or party can really be held responsible for the administration of the executive positions.

For these reasons, Mr. President, members of the convention, I wholeheartedly disapprove the document. Let me say in conclusion — and I mention that I've only taken this microphone on a very few occasions — we had some beautiful language in our 1908 constitution which was incorporated in this constitution, and those words are that "All political power is inherent in the people. Government is instituted for their equal benefit, security and protection." I suggest that the new document does not say this and that it takes that power away. I suggest further that we have increased the population of those with beards and violin cases. Thank you very kindly, Mr. President.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Mr. President, I would like to yield to Delegate Douglas to present our position on the subject of education.

PRESIDENT NISBET: The Chair recognizes Mr. Douglas.

MR. DOUGLAS: Mr. President, fellow delegates, I believe most of the argument concerning education has been already presented. There are just a couple more observations. How much time do we have, sir?

PRESIDENT NISBET: Four minutes, Mr. Douglas.

MR. DOUGLAS: Thank you. I should first like to say to all the delegates here, I bear no animosity in my heart for any of you. I have been on the losing side many years. I know what it is to fight and I shall keep on fighting for those things I believe are right and constitutional.

Our principles from the very beginning of this convention have not changed. We have been consistent in our arguments. We have presented them here on the floor, and they have been rejected. We believe sincerely and firmly that the political philosophies that have been incorporated into this proposed constitution are the same political philosophies that have been rejected by the minority groups, the majority of the people of this state for the last 14 years, and I believe that they shall continue. Therefore, I do not conclude that this document represents a great cross section of the populace of this state. I contend it is altogether otherwise. I do not concede that the mechanics of counting the number of proposals that we have voted for necessarily indicates that we should accept this document. I tell you that the proposals that we have accepted accord with the basic principles of justice. But the proposals that have been rejected contain basic principles which we believe in and they cannot be compromised.

The only thing I have to say about education is the warning that I gave you before. We can now have a nonresident errand boy as carrying out the state educational policies, and I think that this is basically a mistake. I think that it has destroyed the incentive of over 70,000 people in education in this state who try to think in high terms of: one day or another I may be superintendent of public instruction of this state. And I resent the principle of diminution of rights of the electoral franchise of my people. All over the world and throughout history, you will never find minority groups who will be willing to give up the electoral franchise.

PRESIDENT NISBET: Mr. Snyder, there is a minute and a half.

MR. SNYDER: Thank you, Mr. President. We regret that in a minute and a half we must cover the subject of the judicial, the declaration of rights, civil service, the administrative agencies. We recognize that we do not have the votes to extend the time. However, I will yield what time we have left to Mr. Garvin, who will touch upon the subject of the judicial branch.

MR. VAN DUSEN: Mr. President.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: I move that the 15 minutes allotted to the minority be extended by 6 minutes so that Mr. Snyder's presentation can be completed.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Time is extended 6 minutes. Mr. Garvin.

MR. GARVIN: Mr. President and delegates, with reference to the judicial article, we wonder whether it was the intention of this delegation to actually make the changes that they have. One of the statements made by the chairman of the judiciary branch is significant in that it was expected that that article would take less time than most of them but it resulted in it taking more. Sometimes when we get elected to offices like this, we believe that we should change for the sake of change. I am going to repeat something that I've said before and everybody has said — and no one has denied — that the judiciary of Michigan is one of the finest systems to date in the United States of America. No one has condemned it, chastised it or done anything or said anything concerning it that would be derogatory. But yet we have permitted ourselves to undo the one thing that has caused us to have a good judiciary, and that is allowing the governor to make investigations and appoint judges after full investigation of all of the persons. We don't know if the change was made so that appointment is being denied for any particular reason. We would hate to believe that it is political because if we were to believe it was political, we would believe that there would be a defeatist attitude on the part of one of the parties.

But in addition to that we have interfered with the probate court, which has been one of our good courts in the state of Michigan. Of course, it is quite right that perhaps it should be on the county basis, in several counties where needed, but to place it in a position of where all types of courts are mixed into and with the probate court is reprehensible because of the nature of probate proceedings, particularly with juveniles. I don't believe we meant to do it.

Now, the new article that was added in reference to administrative agencies. Just this morning we saw a very good example of why it should never have been in the constitution — because all of the agencies have different reasons for their rules and procedures; taxation came up this morning, and I believe another one came up a few weeks ago — such facts demonstrate why we should not freeze into the constitution administrative agencies setting up definite and perfect rules of procedure.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Mr. President, I would like to yield to Mrs. Lillian Hatcher to make the presentation on the declaration of rights.

PRESIDENT NISBET: Mrs. Hatcher.

MRS. HATCHER: Mr. President and fellow delegates, again, and finally, I take the microphone on the floor of this convention in agreement with my colleagues who have signed their intention to vote no on the proposed document. I approach this mike this afternoon with mixed feelings on this matter because I had hoped, until the last hours of this convention, that we would find areas of agreement and that we would be able to come forward with a document that the majority of the delegates assembled here, regardless of party, would be able to adopt and support. However, on the question of the declaration of rights, although the main declaration of rights section reaffirms our basic constitutional guarantees, the proposed document has attached a proviso modifying the very important guarantee against unreasonable search and seizure. This proviso has already been declared by several courts in this state to be unconstitutional under the United States constitution as an unlawful invasion of every citizen's right of privacy.

Likewise, I would like to say the deletion of the word "sex" from section 2 of article I certainly offers a disservice to the many women wage earners of the state of Michigan. And I'd like to say that certainly all groups of our society like to feel that the constitution offers something especially for that particular group that they represent.

I, as secretary of the thirteenth congressional district in Wayne county, an elected constitutional delegate from the fourth senatorial district, from which I gathered 14,121 votes and in which I am a precinct delegate and have already circulated my petitions to become a delegate again, intend to inform the citizens of my district, and I intend to inform the citizens of my precinct, of the matters that we have dealt with here. I intend to give them an honest appraisal as near as I possibly can. Unfortunately, I will have to urge them to vote no on the proposed document.

PRESIDENT NISBET: The Chair recognizes Mr. Snyder.

MR. SNYDER: Mr. President, I would like to yield to Delegate Walker to make the presentation on civil rights.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: It was civil service, Mr. President. In an effort to conserve time, I'll make this as brief as I can.

Michigan is, and has been, the envy of other states in the field of public personnel administration largely because of our successful civil service system instituted by a vote of the people more than 20 years ago. This excellent civil service structure, which cured the evils of the spoils system, is now threatened in several ways by the proposed new document. The 3 most immediate dangers are: 1, individual job security is destroyed because at any time any agency is permitted to eliminate jobs under the guise of administrative efficiency and without prior approval of the civil service commission. At the present time, this prior approval is necessary to protect the individuals from discriminatory reorganization; 2, the legislature, by a joint resolution of 2/3 of each house, can rescind any pay increase granted by civil service. This invites legislative harassment of public employees and forces the legislature to review wage and policy questions which would return politics to the public service; and finally, 3, the executive would now be empowered to prevent wage increases by simply refusing to report them to the legislature in his budget, even though the civil service commission had approved such increases. These reasons, I think, are sufficient for me as well as others of the signatories to vote no on the constitution.

PRESIDENT NISBET: Time has expired. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand Mr. Snyder has 2 more speakers. I would move to further extend debate 4 minutes to permit each of them 2 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Snyder.

MR. SNYDER: I would like to yield to Mr. Young to handle the subject of administrative agencies.

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: Mr. President, fellow delegates, in view of the time pressure, I will shorten my remarks. I was supposed to deal with one aspect of the constitution. I will restrict my remarks to a few general observations.

I have no apology to offer to anyone at this convention for my refusal to go along with the recommendations of this convention. On the other hand, I do not impugn anyone's motives here who might happen to disagree with me.

In my opinion, the recommended constitution not only compares unfavorably with the 1908 document, but is completely inadequate when measured in terms of the needs of the people of Michigan in 1962, not to mention the next 50 years. I feel that this convention has failed the people of Michigan. In all honesty to my oath of office and to my responsibility to those citizens of Michigan, I must respectfully decline to endorse this failure nor do I feel that I should be compelled to do so. I urge a no vote.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Mr. President, I would like to yield to Delegate Suzore to touch upon the subject of local government.

PRESIDENT NISBET: Mr. Suzore.

MR. SUZORE: Mr. President and members of the convention, although every unit of local government in this state now faces increasing and unprecedented problems in meeting the needs and the demands of its residents and the problems of the rapidly growing metropolitan suburbs are acute, these problems have not been recognized by this convention nor have means been provided to solve them. The convention rejected every form of self executing county home rule presented to it and has instead adopted a meaningless substitute which is the product of a compromise which will effectively forestall county home rule in the foreseeable future.

MR. SNYDER: Mr. President, that concludes the presentation. I would like to say in closing that it was our hope that we would be able to submit the controversial portions of this constitution to the people of the state of Michigan separately. We felt the time, effort and the expense of the convention could in this manner be salvaged. The majority summarily rejected our recommendation and we are asked to approve many steps backward from the 1908 constitution, in order to vote for the acceptable provisions. The controversial provisions are the ones of greatest importance to the people of Michigan. We cannot betray the people's trust by approving such a document. We therefore have voted no. Thank you for the extensions of time to permit us to present our points of view.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I yield to Mrs. Cushman.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: I rise to state that I am going to, wholeheartedly, support this new constitution. (applause) As one of the 144 delegates and one of the 45 to 47 Democrats, I feel that my views have been given careful and considerate attention by all the other delegates, both Republican and Democratic. I have not had my way in many areas. I am not willing to state, however, that my views are better than those of the other people here, the majority views.

It was Benjamin Franklin who admitted that he had not always achieved his goals in our original constitutional convention. Looking back on it later, he felt that in many ways it was wise that the majority, and not he himself, had prevailed. He vigorously supported that constitution.

In the same way, I am now unhappy that my views did not prevail on all things. But I am sure that this is a far better constitution than the present one, and that is the choice that we have to make: not between this new proposed constitution and some perfect document that is far, far in the future, but between this new constitution and the present constitution. And there is no comparison. The new one is far better. I intend to vote for it and I am going to urge other people to vote for it too. Thank you. (applause)

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I yield to Mr. Romney.

PRESIDENT NISBET: Mr. Romney.

MR. ROMNEY: Mr. President, fellow delegates, as Mrs. Cushman has already indicated, what Benjamin Franklin had to say at the conclusion of the Philadelphia convention is exceptionally pertinent to the position we all find ourselves in here today. And I would like to read what he had to say:

> I confess that I do not entirely approve of this constitution at present; but, sir, I am not sure I shall never approve of it; for, having lived long, I have experienced many instances of being obliged, by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise.
>
> I doubt, too, whether any other convention we can obtain, may be able to make a better constitution; for, when you assemble a number of men, to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected. It therefore astonishes me, sir, to find this system approaching so near to perfection as it does. . . .
>
> On the whole, sir, I cannot help expressing a wish that every member of the convention who may still have objections to it would with me on this occasion doubt a little of his own infallibility, and, to make manifest our unanimity, put his name to this instrument.

Now, I believe that this is the spirit that should characterize our final action after 7½ months of joint effort. Such a spirit can do more for our state than any other thing we could do at this time. And it would do much, for us, of what the federal constitution did for the nation as a whole.

The majority of the delegates at this convention have exercised great restraint in their position of overwhelming strength. In a partisan body, there has been a rare effort to promote bipartisanship. This constitution is based on the best combined mutual interests of this state. I doubt there has ever been a more open convention with more unlimited opportunity for expression and participation and greater consideration to individual delegates than to those of the minority party.

Now, it's true that this document does not place complete legislative control in the hands of 4 counties. I do not believe most people in those counties want to thus freeze out of effective legislative participation in this state the people living in the other 79 counties of this great state. (applause)

The only question that has pertinence to our action at this time is this question: is the new constitution a better one than the one we now have? The Democratic substitute confirms the fact that it is. As Mr. Brake has already pointed out, of the 259 sections of the new constitution, the substitute accepts 192 without change; it makes very slight modifications in 50; it modifies 16; and it presents 5 new sections. And that, I submit, is an overwhelming approval of the new constitution and the fact that it does represent improvement. It contains model provisions that other state constitutions will be patterned after: education, civil rights, apportionment, and others. And every article has been importantly improved.

With constitutional reform a national problem, Michigan is the only state that has met its problems on its own initiative. A vote against this constitution is a vote to continue division and conflict at a time when Michigan desperately needs greater unity, results and progress. This new document we have jointly forged makes greater unity, results and progress possible. Thank you very much. (applause)

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I yield to Mr. Yeager.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: Mr. President, ladies and gentlemen of the convention, I don't see how any person interested in good government can fail to support this new document. We have improved every single section. We have provided for the means to implement the needs of all the people of this state.

Now, Jack Faxon, during the course of this convention, has had more amendments approved by this convention than I have. But I say more power to this process and to him. But I am satisfied that this document is good. It is needed and it should have your support, as it has mine. I urge you to vote yes.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I yield to Mr. Elliott.

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: Mr. President, ladies and gentlemen, we are not here in this convention in any other capacity than that of a citizen of this great state. We must react at this time in that manner.

The parliamentary process quite frequently allows for irresponsibility of those who express a minority viewpoint. Here in this hall, the responsibility is weighing on each of us at this time equally to act and react as citizens of this state first and last. I therefore urge the support of each and every one of you for this new constitution for this state because it gives us the opportunity for a great future for this state of Michigan.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I yield to Mrs. Koeze.

PRESIDENT NISBET: The Chair recognizes Mrs. Koeze.

MRS. KOEZE: Mr. President and fellow delegates, the constitution presented here for approval is a result of real democratic action. We, the delegates, 144 strong, have labored for months perfecting the basic law in this constitution for the state of Michigan. To me, it is a good document. My hopes and realizations haven't been entirely fulfilled. But this document is so much better than the old constitution and it is so much better than what I had expected could have been achieved.

To those of you who feel that you cannot support the constitution, I would have you reflect on those places in the world today where no individual such as you could have had even as much as one word to say about your government. Many of you have contributed much of your time, energy and talents to this constitution. I would remind you, then, that many of the writers of our national constitution didn't get all that they wanted. What would have happened had they said in the role of a spoiled child, "If you don't play my way, I won't play at all?"

I am proud as a member of this delegation to go proudly among the people of the state of Michigan to help sell this new constitution. I would have hoped that I could have had 143 other delegates helping me. But now that I can't expect this, I shall have to work that much harder to get this to the people. I would urge a yes vote on this new constitution. (applause)

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I yield to Mr. King.

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, first of all, I want to just take a brief moment to thank each and every one of you for the wonderful opportunity that you have given to me to be part of this historic event.

I should like to say at the beginning that I question the motives of no delegate. I can't help but remember what a famous clergyman once said, "The true motives of our actions, like the real pipes of an organ, are usually concealed, but the gilded and hollow pretext is pompously placed in front for show." This can apply to all of us equally as well, I'm sure.

But let no citizen of this state think that the distinguished Democratic delegates to this constitutional convention did not make substantial contributions to this document. Their influence was significant, and in my opinion, indispensable. I recall many floor fights conducted in the most wonderful tradition of the democratic process when the Republicans and Democrats stood side by side, fighting for our principles. Sometimes when I was one of those Republicans, we won and sometimes we lost. But we always fought an honorable and dedicated battle. I recall standing with distinguished attorneys like Bledsoe, a Democrat, and Habermehl, a Republican, fighting to remove the proviso to the search and seizure section. Other distinguished attorneys, like Marge McGowan, a Democrat, and if memory serves me correctly, Sam Ostrow, a Democrat, fought just as hard and just as honorably against me and their position prevailed. With Charlie Follo, a Democrat, and Kay Cushman, a Democrat, I sought for what I believed to be the better or pure home rule. Others like Brake, a Republican, and Baginski, a Democrat, disagreed, and I'm not sure that either one of us prevailed for as is so often the case in a free society, a middle ground was found.

We have not been perfect, but I believe we have tried to represent the citizens of our state and districts to the best of our ability. Is there any doubt in anyone's mind but what we would have a district plan for our supreme court if only Republicans made this decision? In my opinion, in this case, I say truly and with conviction, that fortunately this was not the case. And I could cite many, many other examples.

My fellow delegates, it is my opinion that our state needs our help, and it is our greatest need. I plead with you, and each of you, to consider the needs of our great state and its citizens at this critical time in its history. I beg of you: you've had an opportunity to present an alternative; you've had a vote; and every step of the way, you've had a fair hearing, in my opinion. Please consider this next vote awfully carefully. Think not of political implications or such things as that; think only of the state of Michigan and how we, as individuals, can best serve this great state of ours. Thank you. (applause)

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I yield to Mr. Leslie Richards.

PRESIDENT NISBET: Mr. Richards.

MR. L. W. RICHARDS: Mr. President, fellow delegates, I appreciate this opportunity of standing, probably for the last time, before the delegates. First of all, I would like to express my great appreciation in meeting all of the delegates, both the minority group and majority group; hoping that this friendship that we have gathered here will be very important to us in the future years.

Coming from the U.P. certainly I would be remiss if I didn't take this opportunity to plead for the adoption of this particular constitution. Ofttimes we delegates from the U.P. have asked for several things, several considerations. We have been a selfish group along with you people who are concerned about your own areas, and we are still that type of an individual, but at the same time we have looked for the welfare of all the people in the state of Michigan. We have cast our ballots on these proposals in that manner. And I believe this constitution as it is prepared will be helpful for the state of Michigan, and I plead with the people, our delegates from the U.P. where we are given consideration in this apportionment, where we do need a representation, let us not forget. I don't believe any of us from the U.P. can vote against this constitution and go home and face our constituents. This is very important to us. If we lose our representation, folks, we have lost all we have for the U.P. I urge you all to support this constitution. Thank you. (applause)

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I think the time has come for us to express ourselves on the constitution which we have drafted together after 7½ months of work. I would only say that I urge every delegate to vote as a citizen and to vote yes.

PRESIDENT NISBET: We have reached a very historic moment, delegates of the convention. Those in favor of the new constitution will vote aye. Those opposed will vote nay.

MR. SHANAHAN: Mr. President.

PRESIDENT NISBET: Mr. Shanahan.

MR. SHANAHAN: For reasons that I will submit in writing, I wish to abstain.

PRESIDENT NISBET: Mr. Shanahan abstains. The question is on the adoption of the proposed revised constitution. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—99

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Follo

Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
King
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page

Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood

Gadola
Goebel
Perras
Plank
Woolfenden
Yeager

Nays—44

Austin
Baginski
Barthwell
Binkowski
Bledsoe
Bradley
Brown, T. S.
Buback
Dade
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hodges
Hood
Jones
Kelsey
Krolikowski
Leibrand
Lesinski
Liberato
Madar
Mahinske
Marshall
McAllister
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the passage of the proposed revised constitution, the yeas are 99; the nays are 44.

PRESIDENT NISBET: A majority of the delegates elect having voted therefor, the revised **constitution** is passed. (applause)

For the revised constitution as passed, except section 8 of article IV, section 28 of article VI, and section 2 of article X, see above, page 3214.

Following is section 8 of article IV as amended and passed:

Sec. 8. No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Following is section 28 of article VI as amended and passed:

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

No appeal may be taken to any court from a decision of the state tax commission fixing the value of described property for property tax purposes or determining an appeal from a decision of the county tax allocation board.

Following is section 2 of article X as amended and passed:

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.

Following is explanation of abstention submitted by Mr. Shanahan:

It is with sincere regret that I find I cannot support the document we are about to present to the people of the state of Michigan to be the supreme law of our state. This conclusion was not one that came easily.

I came here with the firm conviction that I was representing free people for the purpose of preparing a statement of power limitations to government to the end that we would insure living in orderly communities with a minimum of centralization of power of government. My concern has deepened and expanded as the convention has adopted sections that remove segments of government from direct responsibility to the people; has strengthened big government and removed protection for little people; has frozen in provisions that inevitably will add to and increase the costs of government; has made provision to set class, group, or section against class, group, or section; has denied to county and local peoples the former right, the traditional right, to handle local problems in a manner that has been proved to be quite satisfactory; has transferred many powers from the legislative to the executive and the judicial; has incorporated language that, in my opinion, will inevitably and soon establish a completely socialized welfare state.

To lend my support to the proposed 1962 constitution would be to vote away my freedom. This I cannot do, either for myself or for the people I represent.

Following is explanation of vote submitted by Messrs. Downs, Snyder, Jones, Wilkowski, Stopczynski, Young, Youngblood, Hood, Hodges, Dade, Ford, Bradley, Madar, Binkowski, Garvin, Austin, Baginski, Buback, T. S. Brown, Suzore, Murphy, Faxon, Norris, Nord, Douglas, Greene, Kelsey, Marshall, Liberato, Walker, Mrs. Daisy Elliott, Mrs. Hatcher and Miss Hart:

We have evaluated the proposed document which was presented to us today by the committee on style and drafting against a background of the existing constitution of Michigan and have asked ourselves: is this an improvement over the present constitution? Our answer is, no.

The majority of the voters of Michigan hopefully supported the calling of a constitutional convention in the belief that this convention would improve Michigan's governmental structure. Many citizens who supported the calling of the convention felt that Michigan had an opportunity to obtain at once a fairly apportioned legislature and a sensible, honest and fair tax structure. Hope was also high for a strengthened executive branch and a self executing home rule provision. Most citizens had hoped through this means that our long history of conflict and deadlock between the malapportioned senate and the executive could be resolved. The convention has failed to achieve any one of these objectives.

Some of the more specific reasons for voting no on the document presented to us are outlined below:

1. Legislative apportionment. The major reason for the calling of the convention was general public dissatisfaction with the present method of legislative apportionment. The proposed document perpetuates legislation without fair representation, because the apportionment problem has not been solved. Senate districts which would not be reapportioned until after 1970 could vary in population by more than 4 to 1, the largest being approximately 365,860 and the smallest being 86,430, based on population projections for 1970. House districts could vary by approximately 2 to 1, the largest being 101,120 and the smallest being 53,062, based on 1960 population figures. A minority of the voters will continue to elect a clear majority in both houses of the legislature.

2. Taxation. The taxation provisions of the proposed new document present no improvements over existing tax provisions and in some instances are more restrictive and regressive than those now in effect. Over our vigorous objections, the convention has consistently refused to include the principle of taxation according to ability to pay. The new document encourages the further imposition of taxes on those least able to bear the burden. There can be no question of the necessity of earmarking funds as voted by the people so long as the legislature is not truly representative and fails to raise or appropriate money to meet the needs of all our people.

The proposed document demands that in times of economic crisis the state budget must be cut, even though it will cause serious hardship to millions of citizens in such vital areas as education, health and programs for the needy, both locally and statewide. If there is still a deficit, this must be absorbed in the succeeding year's budget which requires the governor to further reduce essential services regardless of human need. At the precise time when the state has the greatest obligation to its citizens, it is constitutionally forced to render the least service.

3. Executive department. The proposed document weakens the administrative arm of the government and takes away the right of the people to elect a treasurer, auditor general, superintendent of public instruction and the highway commissioner.

a. Governor: the advice and consent power of a malapportioned senate is expanded to hamper the governor's appointive power.

b. Treasurer: the state treasurer would be appointed only with advice and consent of the senate. This means that a small number of senators could effectively block the appointment of a qualified person who does not conform to their political views and effectively prevent the governor from selecting a man willing and able to work with him as a part of the administrative board.

c. Auditor general: the auditor general would be replaced by an auditor general selected by and responsible to the legislature rather than the voters. No provision is made for a state auditor responsible to the people.

d. Highway commission: the present highway commissioner was created by the legislature and is elected by the people. The proposed document would make him a constitutional officer, appointed by a bipartisan 4 man commission, none of whom are elected by or responsible directly to the people. This commission, evenly divided between political parties, will be deadlocked and ineffective in making decisions.

Thus the present system of having the Michigan electorate vote for these officers would be replaced by a system that takes the responsibility from the people, keeps it from the governor and so weakens and conceals responsibility that no individual or party can really be held responsible for the administration of the executive positions.

4. Education. The proposed document demotes the superintendent of public instruction to a mere appointee of an 8 member board. The strong and independent superintendent of public instruction heretofore responsible directly to the people would become, in effect, an executive secretary with no effective power to represent and fight for the educational system.

The proposed document further provides that the governing bodies of universities other than Wayne, Michigan and Michigan State, shall be appointed by the governor only with advice and consent of the senate. This could, and very likely would, inject an irresponsible form of direct partisan consideration into the selection of the boards of these universities. The result is a weakened system of public higher education.

5. Judicial. Michigan's present system of permitting the governor to make appointments to fill vacancies and then require these incumbents to run at the next election has produced a superior bench in our state, recognized as such by national authorities. The proposed document is obviously motivated by a partisan reaction to 14 years of democratic governors and has never been supported by either constructive criticism of the quality of our present judiciary or constructive suggestions.

The constitutional guarantee that juvenile delinquents and dependents would be under the jurisdiction of the probate court where they are insulated from adult criminal courts and other forms of adversary court proceedings is threatened by removal of the requirement that probate courts exercise this jurisdiction exclusively.

The newly proposed provision relative to direct appeal of rulings and findings of administrative agencies imposes a radically new and unpredictable rule of evidence or procedure. This will impair the administrative agencies' ability to resolve disputes with a minimum of expense and delay to the parties involved.

6. Declaration of rights. Although in the main the declaration of rights section reaffirms our basic constitutional guarantees, the proposed document has attached a proviso modifying the very important guarantee against unreasonable search and seizure. This proviso has already been declared by several courts of this state to be unconstitutional under the United States constitution as an unlawful invasion of every citizen's right of privacy.

7. Civil service. Michigan is the envy of other states in the field of public personnel administration, largely because of our successful civil service system instituted by a vote of the people more than 20 years ago. This excellent civil service structure, which cured the evils of the spoils system, is now threatened in several ways by the proposed new document. The 3 most immediate dangers are:

(a) Individual job security is destroyed because at any time any agency is permitted to eliminate jobs under the guise of "administrative efficiency" and without prior approval of the civil service commission. At the present time this prior approval is necessary to protect individuals from discriminatory reorganizations.

(b) The legislature by a joint resolution of 2/3 of each house can rescind any pay increase granted by civil service. This invites legislative harassment of public employees and forces the legislature to review wage and policy questions which could return politics to the public service.

(c) The executive would now be empowered to prevent wage increases by simply refusing to report them to the legislature in his budget, even though the civil service commission had approved such increases.

8. Administrative agencies. The effectiveness of administrative agencies to fulfill their objectives would be weakened. At the present time administrative agencies can adopt rules and regulations subject to the attorney general's approval and court review on regularly established legal principles. The proposed document would permit an interim committee of the legislature summarily to suspend any rule or regulation issued by any agency when the legislature was not in session. Such suspension would apply until the end of the following legislative session when it could again be suspended without a hearing by the legislative interim committee. Thus an administrative agency could find its hands tied indefinitely by summary interm committee suspensions, even though the legislature had never, by formal action, approved this suspension. This narrow approach was obviously motivated by the desire to attack rule 9, but could well destroy the value of all state administrative agencies as efficient departments of government.

9. Local government. Although every unit of local government in this state now faces unprecedented problems in meeting the needs of its residents and the problems of the rapidly growing metropolitan suburbs are increasingly acute, these problems have not been recognized nor have means been provided to solve them. The convention rejected every form of self executing county home rule presented to it and has adopted, instead, a meaningless substitute which was the product of an intraparty compromise between rural and urban Republicans effectively to forestall home rule in the foreseeable future.

When we realized that the actions of the majority party would not permit us to vote for the completed document, we suggested that the people of Michigan be permitted to indicate their approval or disapproval of those many provisions for which there was substantial bipartisan support and that the controversial provisions be separately submitted for the people's approval. We felt that the time, effort and expense of the convention could in this manner be salvaged.

The majority summarily rejected our recommendation. We are thus asked to approve many steps backward, even from the 1908 constitution, in order to vote for the acceptable provisions.

The controversial provisions are the ones of greatest importance to the people of Michigan. We cannot betray the people's trust in us by approving such a document. We have, therefore, voted no.

Following is explanation of vote submitted by Mr. Austin:

The convention has written what is basically and admittedly (admitted by Delegate D. Hale Brake, Republican of Stanton) a document which reflects Republican philosophy. It is unreasonable to expect delegates who normally adhere to Democratic philosophy to support such a document. More definitive reasons for not supporting the proposed constitution have been given by several Democratic delegates. I subscribe to virtually all of these reasons and express my regret for being compelled to take this position.

Following is explanation of vote submitted by Mr. Baginski:

I wish further to explain my no vote on the adoption of the proposed constitution.

I confess that there are several parts of this constitution which I do not presently approve. I have experienced many instances of being obliged, by better information or fuller consideration, to change opinions even on important subjects which I once thought wrong but found to be otherwise.

Therefore, the older I grow, the more apt I am to doubt my own judgment and, consequently, pay more respect to the judgment of others.

In these sentiments I cannot agree to this constitution with all its faults because I believe that another convention may be able to draft a better one. I realize that when you assemble a number of persons and seek their joint wisdom that inevitably you assemble with those men all their prejudices, passions, errors of opinions, local interests and their selfish views, so that a perfect document cannot be expected. I still believe that despite the infirmities of those assembled, we could have developed a more acceptable document. I cannot consent to this document because I am sure a better one could have been drafted.

Much of the strength and efficiency of our government in procuring and securing happiness to the people depends on opinion, on the goodness of our government, as well as the wisdom and integrity of our state administration.

Therefore, for my sake as a part of the people, and for the sake of posterity, I hope that this constitution will not be adopted.

Following is explanation of vote submitted by Mr. McAllister:

We have approved the proposed constitution prepared by this convention. I have a high regard for my fellow delegates and their ability. I arrived here with 33 years of experience in state government at all levels, with but one objective: to prepare a constitution that could be approved by the people for their protection.

It is with regret that I am compelled to vote against it for the following reasons:

1. In my opinion, the apportionment plan does not give adequate representation to 78 of Michigan's 83 counties. It cannot be explained so that the people will know what they are voting on, and it will be found illegal by our courts because it does not follow the federal pattern.

2. The judicial article, in my opinion, is likely to end the independence of our lower courts, gives unlimited power to the supreme court, takes away power from the legislature, greatly increases the cost of maintaining the courts, and the administration of justice will be weakened.

3. The educational article, in my opinion, takes away most control over education from the people and the legislature, but leaves to it the problem of financing the educational program.

4. The civil rights commission is a step backwards, and will create more problems and evils than it will solve.

5. If the constitution is followed, our taxes will be greatly increased.

6. The constitution restricts unreasonably the power of the legislature, which is already unduly restricted.

7. It takes away considerable of the people's control over state government, and places more state government in the hands of appointed officers and commissions who are not responsible to the people.

8. It gives people who pay no property taxes the right to vote taxes which property owners are required to pay.

There are numerous other reasons why I cannot vote for the proposed constitution, but I believe the above covers my major objections.

Following is explanation of vote submitted by Mr. Leibrand:

Explanation of record vote.

I make no apology for my vote against the proposed constitution. I believe in a balanced legislature, meaning a legislature in which one house is elected on the basis of population, while the other house is elected according to a factor or factors other than population. The proposed constitution fixes representation in the house of representatives entirely on population. It fixes representation in the senate 80 per cent on population. From this stance it is a short jump, by amendment, to a 100 per cent one man, one vote senate, which has been so long and loudly advocated by certain Detroit union leaders.

The proposed constitution continues the governor as a one man, one vote executive with greater powers than he now has. It creates a unified court system, with the supreme court being granted almost absolute power to dictate to locally elected judges. It does many other things that I do not consider to be in the best interest of free representative government.

I agree that in some aspects the proposed constitution is an improvement over the constitution of 1908. But as an overall instrument, I believe the adoption of the proposed constitution will lead us further down the road to centralized government and the welfare state, which neither I nor a majority of the people of my district want.

Following is explanation of vote submitted by Messrs. Binkowski, Snyder, Hood, Mahinske and Liberato:

We submit our additional reasons for voting no on the document as a whole.

Section 4 of the 1908 constitution provides for the individual liability of stockholders for labor performed. This provision was deleted from the proposed document.

The phony issue of bettering our business climate was used to remove this section. In other words, the majority decided to sacrifice labor on the altar of a "better business climate."

Having worked on the committee which studied this section, we can say that there is no reason to delete this section. This is particularly true in view of the very quick action which the majority of the convention took to protect the banks. It is obvious that the banking interests have more friends at con con than labor.

In the committee and on the floor of the convention we asked for proof that this section was harmful to business. No concrete example was ever produced that either business did not incorporate in Michigan or that an individual stockholder had ever suffered an injustice.

We can never justify and encourage business at the expense of the laborer. Incorporators receive adequate protection and they should not be able to take advantage of wage earners.

It was argued that this matter should be left to the legislature. If we had a legislature which reflected the will of the majority and it was responsive to all the people of Michigan, we might feel safe in doing this.

However, if the banking interests do not trust the legislature, why should labor? Better yet, if the majority of the convention fail to trust the legislature by insisting upon a prohibition of a graduated income tax in the new document, yet rejecting exemptions for food and drugs, why should laboring people be forced to rely upon the legislature?

Following is explanation of vote submitted by Mr. Faxon:

My further reasons for voting no on the proposed constitution:

The people of this state have had a constitution that has served us well. It was conceived over 100 years ago and revised in 1907-08 at which time changes were made only in those areas where such change was necessary. The basic fundamental democratic rights of the people were reserved. This convention could have either amended the old faithful document or written a new one. It chose the latter and in so doing proceeds to change certain provisions of this constitution that have been a Michigan tradition. I am opposed to change for the sake of change. I am opposed to the introduction of novelties into a constitution of basic law. A constitution should conserve that which is basic to our tradition. It should only change where a real need for change has been indicated and in the absence of such need it should remain as it has been. Since the majority of this convention chose to go too far in its new document this left me with only one alternative. Without being able to offer the constitution in separate packages and having to take all or nothing I chose the latter, feeling confident that the old can be adequately amended to keep its effectiveness current.

Following is explanation of vote submitted by Mr. Barthwell:

Further explanation of no vote on proposed constitution:

I came to the convention with a very strong feeling that we could correct the malapportionment of the legislature. We have neglected to apportion either house on a straight population basis and have required a majority of the appointments to be made with the advice and consent of the senate.

I am a strong believer of the elective system and just cannot approve the removal of this right from the people.

I feel that we have made many commendable improvements in the bill of rights at the request of many people from my district. However, I find it impossible to support the article with search and seizure as a part of it.

Finally, I object to the removal of the governor's right to fill vacancies in the judicial branch. Our present system has been acclaimed by experts as an excellent one.

If the convention had allowed the constitution to be presented to the voters by articles rather than as a whole, this would have spared me the necessity of having to vote against the entire constitution.

Following is explanation of vote submitted by Mr. Norris:

In addition to the reasons set forth in the joint statement to which I was a signatory I should like to add certain additional reasons for voting in the negative.

I do not believe that the proposed document, measured by the present constitution and by the present constitution as it will be shaped by the courts, represents improvement, or sufficient improvement in those strategic areas including apportionment, taxation, and finance, that will enable the people and the government of this state to meet and overcome the problems of the next several decades. Those who voted for the calling of this constitutional convention hoped to secure a document that would provide a fairly apportioned legislature which would have fiscal, tax, and other authority to enable Michigan to move ahead. In my judgment the proposed document does not accomplish these objectives.

The problem in Michigan is succinctly summarized by these observations by the Detroit News and President Hannah of Michigan State University.

In an editorial on November 14, 1961, the News stated:

> The legislature's main claim to fame and campaign contributions has not been what they may have done for ruralities, or saved them from, but what they saved business and commercial interests from — for we cannot see that they've done much constructive FOR business and commerce. Some of what they blocked needed blocking. But not doing what they shouldn't is only half of the job of a legislature. The other half they've too often slighted. Their main theme has been "Veto!" and it's not enough. It is the preservation of this veto power, not the representation of rural areas, which has been the product, if not the intent, of the "balanced legislature" in its present form. It is this negative theme which must lead ultimately to its downfall.

President Hannah in an address to the Michigan municipal league on September 14, 1961, called attention to the state's condition in these terms:

> Certainly Michigan began to lose caste among her sister states when she developed such alarming symptoms as persistent treasury deficits, inability to pay her bills, payless paydays for the state employees, and the curtailing of essential public services, coupled with pessimism bordering on melancholia, nostalgia for the good old days, and paralysis of the will to do something about it . . . . We need above all else to substitute political intelligence for political intransigence.

Unhappily the problem of veto power in the senate cited by the Detroit News and the fiscal difficulties cited by Dr. Hannah are not met or overcome by the proposed document. Minority rule, and the expression of minority rule by the equivalent of a veto power in the state senate will continue. Treasury deficits, inability to pay bills, curtailment of essential public services, perhaps payless paydays, will continue. Also continued will be a state government deadlocked, dead centered and stalemated by the inherent conflict between the malapportioned senate, not reflecting majority rule, and the executive authority, representing majority rule. This condition will continue until representative government, representative of the full and equal value of all people, comes to Michigan. It is axiomatic that only a government that is truly representative of people will learn and will respond to the need of the people. It is axiomatic that government will not be for the people unless it is of the people.

Reflecting these axioms of democratic government, recent decisions of the supreme court of the United States and other courts have revealed a realistic prospect of compelling such change in Michigan as would result in a legislature more representative than that recommended in the proposed document. If the proposed document is defeated, and the present senate is declared invalid, the provisions of the 1908 constitution or some formula in keeping with court decisions will apply. Thus a senate without minority rule will be possible, and Michigan can then enter the stage envisioned by those who voted to call this convention.

This is not to suggest that there are not some changes for the better in the proposed document. The efforts of many Democrats as well as Republicans did produce provisions generally regarded as steps forward. This is particularly true in the article on declaration of rights. I believe I personally had a definite part to play in bringing about provisions that create a constitutional right of appeal in a criminal case, a right to a fair and just treatment in legislative and executive investigations, freedom of expression and an expanded right of petition, a right not to be discriminated against on the basis of race, religion or national origin in the enjoyment of civil and political rights, and in the creation of a civil rights commission to implement the nondiscrimination section. It is, therefore, especially painful to have to vote no on the total document. And there are other provisions that are steps forward — the abolition of spring elections, the creation of 4 year terms for state officers, a general deletion of obsolete language.

However, on balance these steps forward are offset by the following steps backward:

(1) The failure to effectively and equitably apportion; and the maintenance of the veto power of "advice and

consent" in an unrepresentative senate where a minority rules.

(2) The encrusting of area representation in the apportionment commission.

(3) The freezing of malapportionment into the next constitutional convention.

(4) The further restriction of the franchise in imposing property qualifications upon the right to vote on tax increases.

(5) The requirement that election districts within Wayne county be as near in shape to "squares" as possible, thus limiting the discretion of the board of supervisors, and creating constitutional gerrymandering with undemocratic and unrepresentative results.

(6) Restricting the financial powers of the legislature by constitutionally prohibiting a graduated income tax; restricting property assessment to 50 per cent of cash value (which hits Detroit hard at a time of cash crisis, though Detroit has been reducing its assessments); limiting deficit financing; and admonishing all in the constitution, that "appropriations are not a mandate to spend."

(7) Depriving the governor elected by majority rule of the power to appoint to fill vacancies on the bench, thus taking away the clearest demonstrative opportunity for securing a bench that is representative of all of the community and is liberal in judicial philosophy.

(8) Weakening all of the regulatory agencies set up to administer the public interests by (a) imposing standards of judicial review that unnecessarily impede the agencies and increases the work of the courts, and (b) by giving an interim committee of the legislature the constitutional power to suspend administrative rulings. The civil rights commission is not only weakened by these provisions, but is also weakened by trial de novo and by permitting respondents to run to the courts before exhausting administrative remedies.

(9) Elimination of the right of the people to elect all of the administrative board by removing the election of the auditor general, the state treasurer, the highway commissioner and the superintendent of public instruction. The legislative auditor appointed by an unrepresentative legislature can be a means by which to unnecessarily harass and limit the operations of the executive branch.

(10) Weakening of civil service by (a) providing that a joint resolution of 2/3 of each house, not subject to the governor's veto, can restrict any pay increase granted by the civil service commission, (b) giving the governor the means to negate wage action of the commission, and (c) permitting the elimination of jobs by any agency on the claims of "administrative efficiency" and without prior approval of the civil service commission.

(11) Removing stockholders' liability for wage claims.

The cumulative impact of these composite provisions is to weaken the power of the people to control their government, limit the powers of the government to deal with pressing problems, and to perpetuate minority rule of Michigan's government. These provisions constitute a malapportionment product of a malapportioned constitutional convention selected by a malapportioned response of the electorate. Perhaps history had cast a cloud over the convention from its inception. Performance could not meet expectation, because the convention too was based on malapportionment. It is too much to ask a malapportioned body to correct malapportionment in any genuine or substantive sense.

Moreover, the 144 delegates were not representative of the people of Michigan in another sense. They were selected by only 25 per cent of the voters of the state. In addition, while normally the state is about evenly distributed among Republicans and Democrats, the ratio in the convention was 99 to 45, over 2-1 in favor of the Republicans. Actually the Democrats received 44 per cent of the popular vote. If the Democrats received 44 per cent of the delegates in the convention, they would have had to swing 10 Republicans to their view instead of 28. In short the people expected too much from the inadequate instrument they created. They will have to learn from this experience how to construct a more appropriate means to express their need for constitutional reform.

State government is on trial. Technological, population, financial, human relations and other problems abound. In the next 10 years Michigan will change more than in the last 50. Demographers estimate the population in Michigan will double in the next 40 years. The problems are being created more rapidly than our governmental ability to solve them. Government must be able to respond with sensitivity and precision. It can do so more rapidly if based on people. People are the means and end of change. People are the source of power and Michigan's greatest resource. Representative government to represent must represent people. Both Democrats and Republicans face a great challenge in leading people to understand their power and their duty, and to learn how to develop trust and confidence in themselves without fear of people from other sections of the state. The people of this state still do not have the requisite consciousness of the need for population as the basis of representation. They have not yet learned that equality of political power is the condition precedent to equality of right. This is a high and necessary task for leadership. The courts will help; but the basic principles of democracy have their strength to survive only in the determination of the people to defend them. That determination in the first instance rests on knowledge and experience. Perhaps this convention will have served a useful historic purpose in giving our people to this knowledge and experience. Perhaps this convention will be one means by which the people of Michigan will learn the meaning of these words of Woodrow Wilson:

> Every test of principle or of program returns to our original conception of constitutional government. Every study of party must turn about our purpose to have real representative institutions. Constitutional government can be vital only when it is refreshed at every turn of affairs by a new and cordial and easily attained understanding between those who govern and those who are governed. It can be maintained only by genuine common counsel; and genuine common counsel can be obtained only by genuine representative institutions. A people who know their minds and can get real representatives to express them are a self governed people, the practiced masters of constitutional government.

Constitutional Government in the United States, page 222.

Constitutional government can be obtained and maintained only by genuinely representative institutions. The proposed constitution does not intend a genuinely representative legislature to express the will of the people as the only legitimate foundation of government. Rather what is proposed, and what history will judge to be, is a conservative document intended basically to conserve if not to encrust the present allocation of political power. Perhaps this intent and result was preordained by the way the delegates were elected and the turnout on election day. But this intent and result is against the irrepressible movement of people and technology. The supreme court has in the Baker case recognized this irrepressible movement as part of a national realignment of political power, expressive of similar trends in other parts of the world, but wisdom may bespeak further recognition of this trend in Michigan than what the court may declare constitutionally necessary. The impact of automation, unemployment, new forms of atomic and nuclear energy, and problems of human relations upon our people are so pervasive and intimate that only genuine representation of all the people, and particularly those people affected, will bring about the prompt peaceful changes necessary to democratic growth and survival. This document does not reflect power adjusted to change to enable state government to discharge its functions in this stage of American history.

Not realizing this, delegates of the majority party, with firm resolve, sincere convictions, and eyes straight ahead walked backwards into the future. Never in Michigan's history of constitutional conventions have so many worked so long and so hard and produced so little. Never has there been so much constitutional change and so little basic improvement. Having resolved that the power structure was not to be altered, the emphasis was on mechanics. But fundamental to the character of a constitution is the governmental power it arranges and the political power it reflects. This is true of the document before us. The net effect of all the minor changes is that a political minority shall have and keep pivotal governmental power.

From the beginning of this convention it was my personal approach to "leave no stone unturned" to get the best document possible. As regards each paragraph, sentence and comma, in common with all my fellow delegates, I have left no stone unturned in trying to get good provisions in and keep bad provisions out. In fact, pursuant to this approach, I participated in helping to originate and prepare with my fellow Democrats a substitute constitution which, however, was not accepted. Toward this end also I joined with others in asking that the majority document be submitted in 2 or 3 sections. Therefore, if the document is ratified it is the conviction of my conscience that it is the best that could be produced under the adverse circumstances. In fact if it is ratified it will be because of, in my humble judgment, the net contributions of many Democrats, as well as Republicans, contributions that will be used as arguments for ratification by the document's proponents. If it is not ratified I believe that some of the good provisions will win acceptance as constitutional amendments, as statutes or as recommendations of a legislative or governor's commission. The great lesson I have learned at this convention is that all of the people of Michigan do not believe in, or have faith in, all of the people of Michigan. There is much regional distrust, suspicion, apprehension, if not fear. There is not yet the genuine common counsel Woodrow Wilson spoke about as being necessary to democracy. A great friend of America, de Tocqueville, once reminded us that "despotism may govern without faith, but liberty cannot." We need to create in the constitution of each of us and in our beloved state an attitude of mutual faith, confidence and trust. Without respect for liberty and equality for all in one's own constitution no governmental constitution can long guarantee it. This attitude is the stuff liberty is made of in an interdependent pluralistic society. Perhaps greater recognition of this fact is one of the most perdurable contributions of this convention.

MR. TURNER: Mr. President.

PRESIDENT NISBET: Mr. Turner.

MR. TURNER: Mr. President, ladies and gentlemen,
I have a selfish interest
That I believe will need explaining,
But with these lines I want to say
There's no place for complaining.

Let me now express my feelings
On our work that is completed;
'Twould be a major loss to all
If our product was defeated.

I'm a "constitution salesman"
And I hope you'll be the same.
With this bright and shining document
I'm glad to bear the name.

It is imminent that this session is coming to a close,
The last debate is fading fast away;
But greatest of all that I've gathered in this work
Are the friendships that have drifted my way.
Friends greater than riches
Always mean the most to me.
So let me say in closing,
"It's your friend I want to be."

(applause)

PRESIDENT NISBET: **Motions and resolutions.**

SECRETARY CHASE: Mr. Faxon offers

Resolution 106A, A resolution of censure.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I would like to withdraw that resolution.

PRESIDENT NISBET: It is withdrawn. (applause)

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers the following resolution —

MR. VAN DUSEN: Mr. President, I would like to move at this time for the suspension of the rules for the immediate consideration of Resolutions 107 through 117, both inclusive. These are the resolutions which Dr. DeVries is now offering on behalf of the committee on administration. They require our immediate action, and I hope the rules will be suspended for that purpose.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Chase will read.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 107, A resolution commending the convention and visitors council of the city of Lansing for the hospitality shown to the delegates of the constitutional convention of 1961-1962.

Following is Resolution 107 as offered and read:

Whereas, Upon many occasions the convention and visitors council of Lansing has made arrangements for the well being and pleasure of the delegates; and

Whereas, The convention and visitors council and its executive director, A. Starr Hull, provided the delegates with several interesting moments; and

Whereas, The convention and visitors council on 2 occasions made arrangements for receptions for all of the delegates; and

Whereas, These moments of pleasure contributed materially to the oneness of the delegates; now therefore be it

Resolved, That the convention and visitors council and its director, A. Starr Hull, be commended for their contribution to the well being of the delegates; and be it further

Resolved, That a copy of this resolution be transmitted to the convention and visitors council and to its director, A. Starr Hull.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President and fellow delegates, this is a resolution of commendation of the convention and visitors council. I urge its adoption.

PRESIDENT NISBET: Those in favor of the resolution will say aye. Opposed, no.

Resolution 107 is adopted.

MR. DeVRIES: Mr. President, I move that the president be made the sponsor of this resolution on behalf of the convention.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries. Those in favor will say aye. Those opposed, no.

The motion prevails.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 108, A resolution commending the press for its courtesy and excellent coverage of the constitutional convention.

Following is Resolution 108 as offered and read:

Whereas, The Michigan constitutional convention of 1961-1962 has been a national event; and

Whereas, The Michigan constitutional convention of 1961-1962 has been an historic event affecting every citizen of Michigan; and

Whereas, It has been vitally important that every citizen of Michigan be informed of the work of the convention during the past 7½ months; and

Whereas, The citizens of Michigan could not have been informed without the cooperation of the press; and

Whereas, The press has effectively and accurately reported on the work of the convention to the people; and

Whereas, The press has demonstrated unusual physical and psychological stamina in covering the daily and other activities of this convention; and

Whereas, The constitutional convention appreciates this effective presentation and the courteous way in which reporters have treated the delegates; now therefore be it

Resolved, That the constitutional convention commend the members of the press for the effective, thorough, and courteous manner in which they have carried out their task; and be it further

Resolved, That a copy of this resolution be transmitted to all of those members of the press accredited by the Michigan constitutional convention of 1961-1962.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President and fellow delegates, this is a resolution commending the press for the coverage of the constitutional convention. I urge its adoption.

PRESIDENT NISBET: The question is on the adoption of the resolution. Those in favor will say aye. Opposed, no.

Resolution 108 is adopted.

MR. DeVRIES: Mr. President, I move that the president be made the sponsor of the resolution on behalf of the constitutional convention.

PRESIDENT NISBET: Those in favor of the motion will say aye. Opposed, no.

The motion prevails.

MR. DeVRIES: Now, Mr. President, may I ask the reporters in the press gallery to stand and receive the recognition of the constitutional convention.

[Whereupon, the delegates accorded the representatives of the press a standing ovation.]

PRESIDENT NISBET: Now, if we can maintain order just a little longer, we are going to make it. (laughter)

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 109, A resolution expressing appreciation to the department of administration for its help and cooperation.

Following is Resolution 109 as offered and read:

Whereas, The department of administration has in the past helped the Michigan constitutional convention of 1961-1962 in many ways; and

Whereas, The department of administration is now helping the convention in the disposal of its property; and

Whereas, Without the help of the department of administration, this task would be almost impossible; and

Whereas, The department of administration has always aided the convention with a genuine spirit of cooperation; now therefore be it

Resolved, That the department of administration and the state controller, Dr. Ira Polley, be thanked for this help and cooperation; and be it further

Resolved, That a copy of this resolution be transmitted to Dr. Polley of the department of administration.

MR. DeVRIES: I urge its adoption.

PRESIDENT NISBET: The question is on the adoption of the resolution. Those in favor will say aye. Opposed, no.

Resolution 109 is adopted.

MR. DeVRIES: Mr. President, I move the president be made the sponsor of the resolution on behalf of the constitutional convention.

PRESIDENT NISBET: The question is on the adoption of the motion. Those in favor will say aye. Opposed, no.

The motion prevails.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 110, A resolution commending the constitutional convention cooperation committee of Lansing for the hospitality shown to the delegates of the constitutional convention of 1961-1962.

Following is Resolution 110 as offered and read:

Whereas, Upon many occasions the constitutional convention cooperation committee has made arrangements for the well being and pleasure of the delegates; and

Whereas, The constitutional convention cooperation committee provided the delegates with several interesting moments; and

Whereas, The constitutional convention cooperation committee on 2 occasions made arrangements for receptions for all of the delegates; and

Whereas, These moments of pleasure contributed materially to the oneness of the delegates; now therefore be it

Resolved, That the constitutional convention cooperation committee and its director, A. Starr Hull, and Mayor Bowerman, be commended for their contribution to the well being of the delegates; and be it further

Resolved, That a copy of this resolution be transmitted to the constitutional convention cooperation committee, to its director, A. Starr Hull, and to Mayor Bowerman.

MR. DeVRIES: This is a resolution commending the con con cooperation committee of the city of Lansing. I urge its adoption.

PRESIDENT NISBET: Those in favor of the resolution will say aye. Opposed, no.

Resolution 110 is adopted.

MR. DeVRIES: Mr. President, I move that the president be made the sponsor of this resolution on behalf of the constitutional convention.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries. Those in favor will say aye. Opposed, no.

The motion prevails.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 111, A resolution for the inclusion of staff and press within the terms of Resolution 103.

Following is Resolution 111 as offered and read:

Whereas, The staff and the working press connected with the constitutional convention were also a part of the total operation as were the delegates; and

Whereas, Any gathering of delegates would be incomplete without the presence of those who aided them so materially in the accomplishment of their task; now therefore be it

Resolved, That the staff of the 1961-1962 constitutional convention and the representatives of the press assigned to cover the convention be included within the terms of Resolution 103 which provides for continuing and increasing fellowship among those connected with the convention.

For Resolution 103, see above, page 3156.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President, this resolution came about after some intensive lobbying by the staff (laughter) and will include them at the regular reunions of the constitutional convention. It was an oversight that we did not include them. I might point out that they are subject to the provisions of the other resolution, both the press and staff, and will pay $1 dues. (laughter) I urge the adoption.

PRESIDENT NISBET: The question is on the adoption of the resolution. Those in favor will say aye. Opposed, no.

Resolution 111 is adopted.

MR. DeVRIES: Mr. President, I move that the president be made the sponsor of this resolution on behalf of the constitutional convention.

PRESIDENT NISBET: The question is on the motion. Those in favor will say aye. Opposed, no.

The motion prevails.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 112, A resolution providing for the establishment of a permanent memorial to the constitutional convention of 1961-1962.

Following is Resolution 112 as offered and read:

Whereas, Upon the completion of the 1961-1962 constitutional convention, convention hall must be dismantled and the furnishings disposed of; and

Whereas, Convention hall and its furnishings have an historical value and significance far in excess of its monetary value; and

Whereas, Michigan State University at East Lansing, Michigan, has expressed a desire to reestablish convention hall on its campus; and

Whereas, Such a reestablishment would provide a lasting memorial to this historic occasion; and

Whereas, Michigan State University has agreed to assume all costs of moving and recreating convention hall; now therefore be it

Resolved, That the constitutional convention of 1961-1962 provide that such a memorial be established at such location by recreating convention hall; and be it further

Resolved, That because the historical value far exceeds any fair monetary value which could be established, for budget purposes the furnishings be declared as having no value; and be it further

Resolved, That the following items be deemed to be the furnishings of convention hall: 144 delegate desks, 144 delegate chairs, the podium structure and 3 chairs, the railing separating the spectator area from the convention floor, the carpeting of convention hall, the chairs in the spectator area, and the carpeting in the spectator area; but not including the voting machine, backdrop, seal, overhead lights, and flags; and be it further

Resolved, That the total cost to the recipient be the cost of removing these items and reestablishing the hall; and be it further

Resolved, That a copy of this resolution be transmitted to the department of administration, such copy to be construed as an indication that the disposition herein directed is, in the mind of the convention, the most advantageous possible for the state of Michigan.

PRESIDENT NISBET: The question is on the adoption of the resolution. Dr. DeVries.

MR. DeVRIES: Mr. President, Resolutions 112, 113 and 114 are all worded the same, except in Resolution 112, the property of the plenary session hall is awarded to Michigan State University; in Resolution 113 the property is awarded to Delta College; and in 114, to Wayne State University. The committee on administration reported out these 3 resolutions: Resolution 112, the one awarding the property to Michigan State University, with a recommendation that it be adopted, and the other 2 without recommendation.

I will give you a brief explanation of how the committee on administration arrived at this decision. We polled all of the public universities and colleges in the state and asked them if they were interested in reestablishing convention hall. Three responded and said they were. We called them in before the committee and heard testimony on this 2 days ago.

Michigan State University, through its president, John Hannah, appeared before the committee and guaranteed our committee that they would reestablish constitution hall in a suitable building on the Michigan State University campus within 6 months.

The case of Delta College: the college is planning a 2 phase classroom building. It is in the planning stage. They have the money. They don't know when it will be constructed.

In the case of Wayne State University, they intended to establish constitution hall in the new law school. They have asked for a capital outlay appropriation for the law school. They don't have it.

It was the committee's decision that this property should be awarded to Michigan State University, and I would urge the adoption of Resolution 112.

PRESIDENT NISBET: The question is on the resolution. Mr. Hodges.

MR. HODGES: Merely a question. Was this a unanimous decision, Mr. DeVries?

MR. DeVRIES: I think there was one no vote, Mr. Hodges.

MR. HODGES: Well, I hate to throw a monkey wrench in the very late proceedings here, and I probably should not rise on this because I maybe do not have all the facts, but I would just like to make a very short, abbreviated pitch for an institution. Probably I am prejudiced because I graduated from it, but I noticed that one of them was Wayne State University, and I noticed that they wanted to put it as part of their law school. I assume that their intention would be to not only use this for historical purposes, but would probably actually use it for law classes.

As one who went to law school there, I can say they really need something like this for their law classes. It would seem to me it would be far more fitting if, rather than just garnering dust, a holy setup using up a lot of space for all time and just used as something for people to look at, it would be something to be actually used by the students of the university and get actual use out of it, and therefore I would vote no on this and hope that — or it would be in order, I suppose, to put an amendment in to amend to read "Wayne State University" rather than "Michigan State" in compliance with the university, if that is in order.

PRESIDENT NISBET: Are you putting an amendment in to that effect?

MR. HODGES: Yes, I am.

SECRETARY CHASE: Mr. Hodges offers the following amendment:

1. Amend the third whereas clause, after "Whereas,", by striking out "Michigan State University at East Lansing,"; and inserting "Wayne State University at Detroit,".

PRESIDENT NISBET: The question is on the amendment offered by Mr. Hodges.

MR. HODGES: I ask for a division.

PRESIDENT NISBET: Mr. Hodges requests a division.

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I would like to speak to the amendment, Mr. President. It seems to me that Wayne State University being in the population center of the state of Michigan and being in the convention center of the state of Michigan, and also due to the fact that not only will the University use the facilities as a law classroom, lecture classroom, but it will be open to public use and to public purposes as are all other auditoriums and facilities at Wayne State University, it seems to me that there would be more of a utility value in placing this facility that we have here in Wayne State University. They do intend to put it in a new building that will be the law school and will be set up primarily to accommodate all the features that we have here except for the gallery. I would urge that consideration be given Wayne State University over Michigan State University.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the delegation, I would like to speak against the Hodges amendment for this simple reason: your committee considered the matter very, very carefully. We would have liked to have given it to Wayne State or recommended that you do. But here is the problem: sure enough, they have plans for a new building. We questioned them closely on it. They do not yet have the appropriation for the new building but they have the plans for it. Now, our furniture might be stored for a long, long time before that appropriation is forthcoming. That, I think you will agree, is the principal reason that we would like to have you award the furniture to Michigan State, where it can be set up more or less immediately and not be dependent upon an appropriation and a new building being built for it.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit debate on the Hodges amendment to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Yeager.

MR. YEAGER: I was just going to move the previous question, Mr. President.

PRESIDENT NISBET: Mr. Knirk.

MR. KNIRK: President Steve and delegates, I certainly believe that this amendment that has been proposed here should definitely be defeated, primarily for the fact that Michigan State is located here near our capitol. I certainly feel that this is an historical event. I believe very sincerely that there will not be another convention held for the next 50 years, and I think that it would be very foolish for us as delegates here to send this equipment down to the corner of our state rather than leaving it located in the central part where our state government is located. I am sure that all of the 83 counties could be much better served by having it at this central area rather than down at Wayne State, and I sincerely hope that you will oppose the amendment.

PRESIDENT NISBET: Mr. Leppien.

MR. LEPPIEN: Will there be an opportunity, Mr. President, to discuss the resolution after we dispose of the Hodges amendment?

PRESIDENT NISBET: What was the question, Mr. Leppien?

MR. LEPPIEN: Will there be an opportunity to talk on the resolution after we dispose of the Hodges amendment?

PRESIDENT NISBET: That is correct. Dr. Hannah.

MR. J. A. HANNAH: Mr. President, ladies and gentlemen, I should like to make it very clear that so far as Michigan State University is concerned, if it is the desire of the delegates to this convention to give this setup to Wayne University, certainly there will be no hard feelings on our part. I have indicated to the committee we are willing to accept it. We are willing to set it up. The exact building is not as yet determined. Of course, if we set it up we are going to have to use it continuously for classroom and other purposes. No institution can afford to have a great room as large as this wasted. But if it is the desire of the convention to award this to Wayne, that is certainly agreeable as far as we are concerned. We are not going to have a squabble about that.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, at the outset I would like to say, this being my last opportunity, that I hereby and herewith forgive all of the people who disagreed with me and my point of view in this convention (laughter) but I think it might be kind of a nice gesture if at least we could take the furniture back to Wayne county with us. (laughter)

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: Mr. President, I want to rise to say that I can understand the feeling of both Delegates Mahinske and Hodges, because I too was in law school at Wayne State University with these 2 delegates. I would like to have this furniture go to Wayne State University law school. However, I do recognize the fact that the geographical and population center of the state more nearly comes to Lansing. The historical center of the state is in Lansing. I feel that this is the proper place for the permanent heritage of this constitutional convention. I reluctantly urge that this amendment be defeated.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Very briefly, I would just like to say I would appreciate it very much, fellow delegates, now that you have the representation; would you give us the chairs in Wayne county? (laughter)

PRESIDENT NISBET: A division has been asked for. Is that demand seconded? A sufficient number up. The question is on the amendment of Mr. Hodges that Wayne University be substituted for Michigan State. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Hodges, the yeas are 35; the nays are 92.

PRESIDENT NISBET: The amendment is not adopted. The question is on the resolution. Mr. Leppien.

MR. LEPPIEN: Mr. President, fellow delegates, I would be remiss if I did not rise and explain why I am going to vote to have the furniture and fittings of this convention hall given to Michigan State University. Although I come from the area of Delta College — which is very close to my heart, having been one of the people who had a little something to do in seeing it born — I realize that furniture of this kind deteriorates very fast when stored and, since Michigan State University has the property and the buildings, everything available to move it from here to there, plus the fact that throughout the years to come when the school children from all over this state come to visit the legislature I am sure they will include a tour to see the furniture of the constitutional convention of this and last year; I urge you to vote for Michigan State University, Mr. President.

PRESIDENT NISBET: The question is on the resolution. Those in favor will say aye. Opposed, no.

Resolution 112 is adopted. Dr. Hannah.

MR. J. A. HANNAH: Mr. President, now that you have decided to give this property to Michigan State University, I would like to suggest that if this room as it is set up is going to be of historic significance in the event that the constitution is approved — of course, if it isn't approved, it is not going to be of much historic significance — (laughter) but if it is, we would like to have your name plates stay there. That is, I am sure you and your friends when you come in would like to see where you sat. Some of you have taken yours down. If you want your name to be there, if you would either return it or leave it, we will include the name plates. If we don't have the name plates, of course they will not be included.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President, it was the thinking of the committee on administration to leave the name plates on the desks so they would have some significance.

Mr. President, I move that the president be made the sponsor of this resolution on behalf of the entire constitutional convention.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries. Those in favor will say aye. Opposed, no.

The motion prevails.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 113 and **Resolution 114** without recommendation.

MR. DeVRIES: Mr. President, I move that Resolutions 113 and 114 be considered read, and I would move the previous question on the 2 resolutions. One would award the property to Delta College and the other would award the property to Wayne State University.

PRESIDENT NISBET: Without objection they will be considered read.

Following is Resolution 113 as offered and considered read:

A resolution providing for the establishment of a permanent memorial to the constitutional convention of 1961-1962.

Whereas, Upon the completion of the 1961-1962 constitutional convention, convention hall must be dismantled and the furnishings disposed of; and

Whereas, Convention hall and its furnishings have an historical value and significance far in excess of its monetary value; and

Whereas, Delta College, located in Bay county, has expressed a desire to reestablish convention hall on its campus; and

Whereas, Such a reestablishment would provide a lasting memorial to this historic occasion; and

Whereas, Delta College has agreed to assume all costs of moving and recreating convention hall; now therefore be it

Resolved, That the constitutional convention of 1961-1962 provide that such a memorial be established at such location by recreating convention hall; and be it further

Resolved, That because the historical value far exceeds any fair monetary value which could be established, for budget purposes the furnishings be declared as having no value; and be it further

Resolved, That the following items be deemed to be the furnishings of convention hall: 144 delegate desks, 144 delegate chairs, the podium structure and 3 chairs, the railing separating the spectator area from the convention floor, the carpeting of convention hall, but not including the voting machine, backdrop, seal, overhead lights, flags, the spectator chairs, or the carpeting in the spectator area; and be it further

Resolved, That the total cost to the recipient be the cost of removing these items and reestablishing the hall; and be it further

Resolved, That a copy of this resolution be transmitted to the department of administration, such copy to be construed as an indication that the disposition herein directed is, in the mind of the convention, the most advantageous possible for the state of Michigan.

Following is Resolution 114 as offered and considered read:

A resolution providing for the establishment of a permanent memorial to the constitutional convention of 1961-1962.

Whereas, Upon the completion of the 1961-1962 constitutional convention, convention hall must be dismantled and the furnishings disposed of; and

Whereas, Convention hall and its furnishings have an historical value and significance far in excess of its monetary value; and

Whereas, Wayne State University located at Detroit, Michigan, has expressed a desire to reestablish convention hall on its campus; and

Whereas, Such a reestablishment would provide a lasting memorial to this historic occasion; and

Whereas, Wayne State University has agreed to assume all costs of moving and recreating convention hall; now therefore be it

Resolved, That the constitutional convention of 1961-1962 provide that such a memorial be established at such location by recreating convention hall; and be it further

Resolved, That because the historical value far exceeds any fair monetary value which could be established, for budget purposes the furnishings be declared as having no value; and be it further

Resolved, That the following items be deemed to be the furnishings of convention hall: 144 delegate desks, 144 delegate chairs, the podium structure and 3 chairs, the railing separating the spectator area from the convention floor, the carpeting of convention hall, but not including the voting machine, the backdrop, seal, overhead lights, flags, the spectator chairs, or the carpeting in the spectator area; and be it further

Resolved, That the total cost to the recipient be the cost of removing these items and reestablishing the hall; and be it further

Resolved, That a copy of this resolution be transmitted to the department of administration, such copy to be construed as an indication that the disposition herein directed is, in the mind of the convention, the most advantageous possible for the state of Michigan.

PRESIDENT NISBET (continuing): Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move those 2 resolutions be referred to the committee on administration.

PRESIDENT NISBET: Resolution 113 and Resolution 114 are referred to the committee on administration. Mr. Chase.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 115, A resolution authorizing the committee on administration to enter into contracts to restore the civic center to the condition it was in when occupied by the convention.

Following is Resolution 115 as offered and read:

Whereas, The constitutional convention entered into a contract for the lease of the civic center until May 31, 1962; and

Whereas, One provision of the contract was that the convention would restore the civic center to its condition at the time of the leave taking; and

Whereas, The committee on administration must enter into certain contracts to fulfill this obligation; and

Whereas, The department of administration is able to obtain the best possible contracts for this purpose; now therefore be it

Resolved, That the administration committee be authorized, through the department of administration, to enter into contracts for this purpose to the best advantage of the state.

MR. DeVRIES: Mr. President, this is a resolution which authorizes the committee on administration to enter into contracts with the department of administration to restore the civic center, and I urge its adoption.

PRESIDENT NISBET: The question is on the adoption of the resolution. Those in favor will say aye. Opposed, no.

Resolution 115 is adopted.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 116, A resolution commending the state library for valuable assistance rendered.

Following is Resolution 116 as offered and read:

Whereas, Much of the success of the convention has been dependent on adequate research; and

Whereas, Research materials were made available in an efficient and courteous manner both before and during the convention; and

Whereas, The state library staff in general and Mr. Frank Scannell in particular have worked diligently to make the convention library an area where fruitful research could be done; now therefore be it

Resolved, That the state library be commended for their exceptional job; and be it further

Resolved, That copies of this resolution be forwarded to Mrs. Genevieve Casey, the state librarian, and to Mr. Frank X. Scannell.

MR. DeVRIES: This is a resolution commending the state library for helping us in establishing our library. I urge its adoption.

PRESIDENT NISBET: Those in favor of the resolution will say aye. Opposed, nay.

Resolution 116 is adopted.

MR. DeVRIES: Mr. President, I move that the president be made the sponsor of the resolution on behalf of the constitutional convention.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries. Those in favor will say aye. Opposed, nay.

The motion prevails.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 117, A resolution relating to the printing of the address to the people and the convention record.

Following is Resolution 117 as offered and read:

Whereas, It has been determined that the constitutional convention of 1961-1962 can print the address to the people and the convention record under the terms of the state printing contract; and

Whereas, The terms of this contract offer a price to the financial advantage of the convention; now therefore be it

Resolved, That the committee on administration be authorized to enter into contracts for the purpose of printing the address to the people and the convention record under the terms of the state printing contract.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President, this resolution authorizes the committee on administration to enter into printing contracts on the convention record and the address to the people under the terms of the state printing contract. I urge its adoption.

PRESIDENT NISBET: The question is on the adoption of the resolution. Those in favor will say aye. Opposed, no.

Resolution 117 is adopted.

MR. DeVRIES: Thank you.

SECRETARY CHASE: Under the order of **unfinished business,** the president lays before the convention the report of the committee on rules and resolutions relative to **Resolution 97,** A resolution to amend the convention rules to provide for possible amendments to the proposed constitution on the occasion of the sine die adjournment session of the convention. The committee reported this resolution with amendments, recommending the amendments be agreed to and the resolution as thus amended be adopted. Under the rules the report was laid over until today.

For last previous action on Resolution 97, see above, page 3158.

Following are the amendments:

1. Amend the resolving clause, second sentence, after "No" by striking out "such".

2. Amend the resolving clause, second sentence, after "elected to" by striking out "and serving in". The last sentence of the resolving clause would read, "No amendment shall be adopted unless approved by a majority of the delegates elected to the convention, voting by the yeas and nays."

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, it is possible that there may be some technical flaws in the document which we have adopted this afternoon which the committee on style and drafting may discover in the interim between now and our final session on August 1. I think the rules should make provision for such amendments. It is also possible, of course, that in that period we will have a judicial determination with respect to the date on which the new constitution may be submitted to the electors, in which event the schedule would have to be amended to implement that judicial determination. For that reason the rules committee recommends the adoption of a new rule, which would simply make provision for those amendments and no others on the occasion of our final adjournment session on August 1. I urge the adoption of the amendments recommended by the committee and the adoption of the resolution, as amended.

PRESIDENT NISBET: The question is on the adoption of the amendments. Those in favor will say aye. Opposed, no.

The amendments are adopted. The question now is on the adoption of the resolution as amended. Those in favor will say aye. Opposed, nay.

Resolution 97, as amended, is adopted.

Following is Resolution 97 as amended and adopted:

A resolution to amend the convention rules to provide for possible amendments to the proposed constitution on the occasion of the sine die adjournment session of the convention.

Whereas, When the convention adjourns in May, it will stand adjourned until Wednesday, August 1; and

Whereas, During the intervening period a legal determination may alter the date of submission of the constitution to the people as provided in the schedule; and

Whereas, During said period the committee on style and drafting may discover technical changes which should be made in the new document; now therefore be it

Resolved, That on the occasion of the sine die adjournment session August 1, 1962, amendments to the proposed constitution not affecting its substance may be offered by the committee on style and drafting, and amendments may be offered to the schedule to implement any intervening determination respecting the time of submission of the proposed constitution to the electors, but no other amendment may be offered. No amendment shall be adopted unless approved by a majority of the delegates elected to the convention, voting by the yeas and nays.

SECRETARY CHASE: The president also lays before the convention the report of the committee on rules and resolutions relative to **Resolution 98,** A resolution to provide for the time and place of the sine die adjournment session, and for notice thereof. The committee reported this resolution without amendment and with the recommendation that it be adopted. This report was also postponed until today.

For last previous action on Resolution 98, see above, page 3159.

The resolution reads as follows:

Resolved, That when the convention adjourns today it stand adjourned until Wednesday, August 1, 1962, at 10:00 o'clock a.m., when it shall convene at a place to be designated by the president and the 3 vice presidents of the convention; and be it further

Resolved, That the officers shall determine the place of such August 1, 1962, session and the secretary shall advise each delegate thereof in writing not later than July 16, 1962.

MR. VAN DUSEN: Mr. President, it is, of course, the intention of the committee on administration to dismantle the hall in which we are presently sitting promptly following our adjournment, and therefore it is necessary to fix not only the time to which we adjourn but also to make provision for the officers fixing the place at which we will reconvene. The resolution speaks for itself. I urge its adoption.

PRESIDENT NISBET: The question is on the adoption of the resolution. Those in favor will say aye. Opposed, no.

Resolution 98 is adopted.

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits the following report for the convention's information:

The committee on administration has directed Michigan Bell telephone company to cancel the credit cards as of May 15. The delegates are requested to return their cards to the office of the secretary of the convention.

Walter DeVries, chairman.

MR. DeVRIES: Mr. President, this report is filed for information. As of May 15 your credit cards are no longer good. We ask you return them to the office of the secretary.

I also make one other comment: we are willing to let the shelves underneath your desks go back to Wayne county — and please take them with you. (laughter)

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits the following report:

In view of the fact that the attorney general has ruled that all convention property is state property, the following procedures have been adopted for the disposition of convention property (these procedures follow the state procedures for the disposition of property):

1. A fair resale value has been determined by the purchasing section of the department of administration.
2. Property items of the convention will be listed as surplus at this figure.
3. The department of administration will circulate the information to state agencies. State agencies which claim any of the items at the listed price (or at a price approximating this) will receive title to the items. The circular will contain a 30 day bid deadline.
4. Items not claimed by other state agencies will be put up to public bid by the department of administration.
5. All sums procured from state agencies or from public bid as a result of the disposition of property will be credited to the account of the convention.

Walter DeVries, chairman.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President, the committee on administration has adopted this procedure in its dealings with the department of administration. They have surveyed all of our property with the exception of the property in the plenary session hall, have listed a fair resale value on it, will circularize state agencies. State agencies can buy it within 30 days. If these items are not claimed, they will be put up for public sale. All the money from the property will be returned to the constitutional convention account. We estimate somewhere between $20,000 and $30,000. I urge the adoption of the report.

PRESIDENT NISBET: The question is on the adoption of the report. Those in favor will say aye. Opposed, no.

The report is adopted.

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, reports the following for the convention's information:

> The Michigan historical commission urges the delegates to leave as many of their personal papers as they are willing for the commission's archives.
>
> The delegates are requested to take with them whatever personal papers they choose to keep when they leave on Friday.
>
> Whatever papers are left will be turned over to the historical commission.
>
> Walter DeVries, chairman.

MR. DeVRIES: This report is filed for information. All papers that are left in your desk in the plenary session hall today will be sent to the Michigan historical commission.

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits the following report for the information of the convention:

> The committee recommends that the following items be awarded to the Michigan historical society by the constitutional convention (for budgetary purposes these items shall be declared at "no value"):
>
> 1. The American flag and Michigan flag from the rostrum
> 2. One desk complete with microphone, plastic podium, and name plate
> 3. The convention secretary's podium (with microphone)
> 4. One delegate chair
> 5. President's chair and desk
> 6. One plastic waste basket
> 7. One Bowerman ash tray
> 8. Official wall calendar (torn off to May 11, 1962)
> 9. Two pens used to sign constitution (one for constitution case)
> 10. One duplicate copy of official 1962 constitution
> 11. Two gavels used to open constitutional convention (one for constitutional case)
> 12. Apportionment charts
> 13. Booth cartoons
> 14. Tension sign
> 15. Typical delegate sign with clip on pen holder and pen.
>
> Walter DeVries, chairman.

MR. DeVRIES: Mr. President and fellow delegates, this was a list of 3 dimensional items submitted to us by the historical commission. They have asked that they be awarded to them. I recommend the adoption of this report.

PRESIDENT NISBET: The question is on the adoption of the report. Those in favor will say aye. Opposed, no.

The report is adopted.

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits the following report —

MR. DeVRIES: Mr. President, I move that this report be considered read and printed in the journal. It provides for those people who will stay on the staff not to exceed 4 months during the interim period.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries. Those in favor will say aye. Opposed, no.

The motion prevails.

Following is the report as offered and considered read:

> The committee reports the following staff continuations for the duration indicated (in all cases an individuals' employment will be terminated upon the completion of his duties):
>
> Not to exceed 4 months:
> Fred I. Chase
> Austin Knapp
> Stuart Kirvan
> Bernice Tucker
> Lois Tomlinson
> Louise Parker
> Lynn Nethaway
> Nancy Stay
>
> Not to exceed 2 months:
> Billie Dowell
> Marilyn West
> Doris Lambert
> Mimi Simpson
> Mildred Rukes
> Helen Varg
> Frances Marshall
>
> Not to exceed 1 month:
> Bernard Apol
>
> Not to exceed 2 weeks:
> William Combs
> Ruegene Luedtke
> John DesRocher
> Michael Carl
> Henry Verkaik
> Clifford Stanley
> Frederick Grasman
> Alan Johnston
> Kern Tomlin
> James Bridges
> Sharon Johnson
> Jack Ellis
> Janina Moser
>
> Walter DeVries, chairman.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: A question, Mr. President, with regard to that group of people staying on. Is it envisioned that there will be a transcript produced of the proceedings of the convention within the time and the money allowable here? I understand that there was a problem along that line. That is the purpose of my question, sir.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President, Dr. Norris, the convention is faced with a prospect here that it will have to make a choice between printing the address to the people and the convention record. I think the committee on administration will recommend that we set the type for the convention record. The transcript will not be available in any event — that is, the convention record of verbatim debates — for at least 4 months. If we get our supplemental appropriations from the legislature, we will be able to do this, but at this point we intend to do nothing but set the type.

MR. NORRIS: Mr. President, does that mean that if we do not get a legislative appropriation, we will not produce the transcript?

MR. DeVRIES: Yes.

MR. NORRIS: One question: is there a possibility that if a sum is affixed for that particular contingency, we might raise it under private auspices if the legislature does not make the appropriation?

MR. DeVRIES: That is a possibility, Mr. Norris, but I am still optimistic we will get our supplemental appropriation.

MR. NORRIS: I certainly hope so, sir.

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits the following report:

> The committee reports that after May 15, no delegate mailings will be permitted at convention expense.
>
> Walter DeVries, chairman.

MR. DeVRIES: Mr. President.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: The committee on administration decided this noon that after May 15, delegates would not be allowed to mail out any more mailings at convention expense. I urge the adoption of the report.

PRESIDENT NISBET: The question is on the adoption of the report. Those in favor will say aye. Opposed, no.

The report is adopted.

MR. DeVRIES: Mr. President, may I thank the delegates for their cooperation and help in administering this convention. I collected notes and anecdotes about what people have said to me since I have been the chairman of this committee. I have a desk full of these. One day I received 55 notes dealing with the temperature in this convention hall. Some days I didn't think it was worth it. Now, as I look back — although I had doubts this noon — I think being chairman of this committee was worth it, and I thank you for your cooperation. (applause)

SECRETARY CHASE: I have the following communication addressed to the president:

May 11, 1962

President Stephen S. Nisbet,
Michigan constitutional convention,
Committee chairmen and delegates:

Near the end of the convention's deliberations, the press committee feels it would be remiss if it did not voice the appreciation and thanks of the working press, television and radio services for the cooperation experienced.

Our effort to objectively interpret and cover the news of the convention was facilitated greatly by an excellent work room and general spirit of helpfulness on the part of delegates and staff.

Nearly 150 press cards were issued to accredited media — many to casual visitors from recognized services and including a score or more from nationally known agencies.

We feel sure these services join with those whose day to day coverage kept the citizens informed — the heart of the press corps — in saying thanks to all those who contributed in such helpful ways.

For the press committee,
Carl Rudow, chairman.

(applause)

Last evening the junior chamber of commerce of greater Lansing unanimously adopted the following resolution, which their president, Duane R. Vernon, transmitted to President Nisbet today:

Resolved, That the junior chamber of commerce of greater Lansing congratulates the delegates of the Michigan constitutional convention upon the substantial completion of their efforts in drafting a proposed revised constitution for our state; commends them for their outstanding hard work and dedication to their task; looks forward with great anticipation to examining the result of their labors at the earliest opportunity and urges all citizens of Michigan to give the proposed new document their most careful and thorough consideration in the interest of all the people of our great state.

We have the following announcements:

The committee on style and drafting will meet July 31 at 1:30 p.m. at the convention offices. William B. Cudlip, chairman.

I have this announcement to the delegates: "Con Con Confidential" is ready for distribution. Each and every delegate, with the exception of Father Dade, has several paragraphs devoted to them. In the event any delegate wishes to purchase the entire edition, arrangements can be made. S. Martin Tweedie III, editor; John E. McCauley, publisher. (laughter)

And one last request from the library: please turn in the library books. (laughter)

And I am happy to make this one: the delegates will get their final salary and mileage checks upon calling at the office of the financial secretary as soon as we adjourn.

PRESIDENT NISBET: Mr. Dell.

MR. DELL: Mr. President and members of the convention, now that it is assured that we are going to adjourn today, I want to express appreciation first for the many friends that I have made during the convention here.

Though I realize I have not been a vocal delegate, I feel that I have contributed in a small way. But you didn't have to show it by accepting the entire document on my birthday. Thanks a whole lot. It's a wonderful birthday present. (laughter and applause)

[Whereupon, the delegates sang "Happy Birthday" to Mr. Dell.]

PRESIDENT NISBET: Dr. Hannah, would you like to take us for your glee club? (laughter)

In closing, may I make a statement to the delegates? Today is the final day of the historic Michigan constitutional convention. I know this has been a high point in the life of every one of us. Last October we gathered, 144 of us, to assume our accepted responsibility of writing a new constitution for our state of Michigan. Many of us were strangers to each other, many of us were slight acquaintances, but today as we adjourn and part to go to our homes, I'm sure we are 144 people who have developed solid friendships that will last and continue over the years. It will always be a pleasure for us to meet on some trip, or on some street, or at some meeting. I'm sure we are grateful for this opportunity.

As I have said on the 323 public appearances I have made over the state since this convention started, I have never seen a group of people so dedicated, so devoted, to a task as you have been. You have shown the highest integrity, the greatest industry in the development and writing of a constitution. I am very certain that never in the history of our state has a group been gathered together who has given more or who has accomplished so much, or who has been willing to give so generously of time and ability for the welfare of their state. Michigan will be eternally grateful to you for all you have given. I'm very certain that never in your lifetime have you done anything of a public nature that has given you the pleasure or personal satisfaction that has come from this constitutional convention, and there is no pay higher than that.

I'm sure that when we started, a little over 7 months ago, none of us had any conception of the time or the work that would need to go into this project. Nor did any of us fully realize the great extent or ramifications of our state and local governments under our constitution. All of us are much better informed of our problems and of possible solutions to those problems than ever before. The horizons of every one of us have been enlarged because of our work and discussions. We think no longer in terms of purely local areas or in terms of our own special interests; we realized that we were not writing a constitution for the Pontiacs or the Traverse Cities, nor for the Gratiot or the Berrien counties; we were not writing a document for Republicans or Democrats, nor for agriculture or industry, or education or labor, or for the professions or any special group; we became concerned with the rights and privileges, the needs and opportunities of Michigan's 8 million citizens.

As the problems emerged, and enlarged, you rose to meet them, and while everyone will not and cannot agree on every word and section of our new constitution, still all will agree that many, many improvements have been made in our basic government document. Under it, I am confident that we will be able to have a more efficient government, a more economical government and one where Michigan will be able in a much better manner to meet its needs and those of its citizens.

On behalf of this convention, I want to express my wholehearted appreciation to Mr. Chase and his efficient staff; to Mr. Apol and his capable staff. All of our staff worked with energy and enthusiasm to make our convention successful.

Our appreciation goes to the city of Lansing whose cordial hospitality has given us a pleasant setting for this convention, and to our own state that has given us this opportunity to serve.

In closing, may I say a personal word to you. As you know, I did not seek the high honor of the presidency of this convention but when it came, I accepted it as a civic duty and responsibility. I endeavored to give it all of the patience, tact and ability I possessed. I fully realized that even that would not be sufficient without the complete support of our delegates. That you have given, in full measure and running over.

Never has a president anywhere been given fuller or more complete cooperation than you have given me. Never has a person been shown the kindness, consideration and the support that I have been freely given by you. For that and all of your many kindnesses, I am humbly grateful. It has been a great honor to lead you in this worthy effort. That we have achieved, I have not the slightest doubt. This has been due to no one in particular, but to 144 people working together in a common cause. As we adjourn today, may we all remember this arduous task, but even more the many pleasant friendships and associations formed. For all of this, "thank you."

[Whereupon, the delegates accorded President Nisbet a standing ovation.]

Thank you very much. Dr. Hannah.

MR. J. A. HANNAH: Mr. President and fellow delegates, on Wednesday several delegates requested that prior to final adjournment today, on their behalf and hopefully on behalf of all of us, I express a few words of appreciation to our officers and others and offer an appropriate valedictory. This, with your permission, I will attempt to do.

We are coming to the close of an experience that has been unique for all of us. I use the word "unique" advisedly, for there is unlikely to be another constitutional convention in Michigan for many decades to come. If one should be called, I seriously question whether many of us would again volunteer for service. One such experience should gratify the appetite of any citizen. (laughter)

It is far too soon for us to try to place our work here in true perspective. It will be the task of the historians and political scientists and lawyers of the future to make a valid appraisal of the product of our labors. But even so, certainly our present judgment on some aspects of this constitutional convention will not be changed by the passing of time and the mellowing of memories. Most notable of these aspects is the stature attained by our president, Steve Nisbet, in the course of our prolonged deliberations. He has demonstrated patience, good humor, fairness and honesty with the unfailing consistency which marks the true statesman, the good citizen and the great gentleman. Our affection, respect and admiration for him have grown with the passing months. I am sure that despite other differences, on this point at least we are all agreed. Steve, we are really grateful to you and all of us will value your friendly leadership always. (standing ovation)

Our president has had the benefit of the advice and counsel of 3 outstanding delegates as top level assistants. They differ widely in their points of view, their approaches and their political philosophies; but they are alike in their integrity, their courage and their loyalty to our state. We were more sagacious than we knew as fledgling delegates last October when we chose Tom Downs, Ed Hutchinson and George Romney to be our vice presidents. At the time it appeared to the public that we might be serving expediency, but today the record amply proves the wisdom of our choice. I am sure I speak for all of you when I thank each and all of them for their services to us as delegates to this convention, and to the people of Michigan. (standing ovation) Our judgments and appreciation for their leadership will not change with the passage of time. Those who review our work impersonally in the years to come will reaffirm our evaluation of their service and their leadership.

Our appreciation by resolution and ovation has duly been extended to our secretary, Fred Chase. His has been a difficult and demanding task and he has performed superbly. It seems highly appropriate that he should climax his long career as a devoted public servant and parliamentarian in the office in which he has served us so impartially and so efficiently. (applause)

Let me mention, too, the members of our efficient staff who have been as interested in the task before us and as ardent in the desire that it be accomplished in an effective manner as the delegates themselves. Each of us has more than one reason for personal gratitude towards members of the staff and it is only fitting that the record should show our appreciation for their contributions to the work of this convention. (applause)

I think that we all agree that this 7½ months of arduous labor has been a time of testing for all of us, exacting its mental and physical toll. I have been as tired at times as any of you and as refreshed at others; as greatly gratified by some decisions, as disappointed by others; as irritated, as despairing and as optimistic in turn. And yet, service as a delegate in this convention has been a great privilege for all of us. No citizen should expect a greater honor from his fellow citizens than selection at their hands to be one of those to deliberate on the principal public questions of the day and to decide the momentous question of whether changes should be made in the fundamental law under which all of us live and our children will live after us.

You will all recall, ladies and gentlemen, that we were summoned into convention by decision of the people of Michigan — all of the people of Michigan — as they exercised one of the great prerogatives of a free people who have retained all political power in their own hands. This has been a great demonstration of democracy in action, with all of the weaknesses, all of the strengths, all of the pettinesses and all of the glorious successes inherent in the political system to which we all give allegiance. If we have failed here — and I do not believe we have — then democracy has in part been a failure. If we have succeeded — and I believe we have — then we must give credit to those who founded our country in the firm conviction that free men and women of good will could reach a consensus on matters of public policy if they had access to all of the relevant facts, and time and opportunity to debate the issues.

Probably no one of us is completely satisfied with the results of our work. But we should remind ourselves that we first assembled here with 144 individual ideas of what our constitution should contain and that the primary obligation laid upon us was to seek agreement upon a recommendation to the people of this state — all of the people, not one segment or another, one area or another, one political faction or another. How well we have succeeded, the people themselves will decide; and we must be content with their decision or else we renounce our faith in the wisdom of people to make sound decisions in matters of mutual concern.

One of the great contributions of this constitutional convention has been an increased awareness on the part of the people of Michigan of the problems with which they are confronted. Certainly we have debated all of the great and pressing issues with exhausting thoroughness. We have pried into all of the dark corners, those both real and nonexistent. Thanks to the excellent coverage given to our deliberations and debates by the newspapers and the press and radio and television stations, the people of Michigan have had placed before them all of the information on these topics they can possibly use, perhaps even more than they can use. We owe a debt of gratitude, already expressed this afternoon, towards the news media for their faithful attention to our debates and their honest and sincere efforts to interpret our actions and our decisions in a manner to make them understandable to the people who sent us here.

Ladies and gentlemen, as we close this convention, we should remind ourselves of what was vividly clear to us at the beginning — that we are at a critical period in the history of our state. Many of our problems, which had brought our state into disrepute, had been widely attributed to our outmoded constitution. Consequently, the people elected 144 men and women as their representatives to meet in convention and laid upon them this charge: look at our fundamental law in the light of the situation in which we find ourselves and determine whether by revising our constitution we can hope to recapture our confidence, restore our pride in Michigan, clarify our thinking, set our feet once more on the path of progress from which we have strayed, all to the end that Michigan may regain her rightful place in the front ranks of her peers and that this state may provide for its people — all 7.8 millions of its people — the maximum in economic opportunity and the optimum in public service that they want and are willing to pay for.

The issues we have debated here have been political issues, in that they have been concerned with the operation of government. At times, I regret to say, we have descended into violent partisanship. But, ladies and gentlemen, I go out of this convention with the same conviction with which I came in. It is that a sound constitution, adequate to insure the security of our state and its orderly development, is not a partisan political issue. Such a constitution is important, it is vital, to both parties. Sound fiscal policies, adequate educational facilities, healthy local government, efficient and effective state government — these are not partisan issues. They are of equal concern to all citizens regardless of their political affiliation.

I honestly believe that when we stand back and take a look at what we have done here, we can say that we have written a good constitution, a modern constitution, the kind of a constitution Michigan needs and must have. We have fought hard — all of us — for our points of view, as we should have done. All of us have known triumph and defeat as final votes have been counted. But now, for the sake of the state we serve and love, let there be no recriminations once the gavel has fallen for the last time. When soon we go forth from this hall to face the people of Michigan and give a report of our stewardship, let us do so with pride in our accomplishments, gratitude for the lessons we have learned, thankfulness for the friendships we have made on both sides of the aisle, and humbly appreciative of the honor and privilege of serving the people of Michigan in their time of need. And finally, let us hope that our fellow citizens will approve of what we have wrought here and that in their wisdom they will bestow upon us their highest accolade: well done.

[Whereupon, the delegates accorded Mr. J. A. Hannah a standing ovation.]

MR. GOVER: Mr. President, I move those words be printed in the journal.

PRESIDENT NISBET: The question is on the motion that they be printed in the journal. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Wanger.

MR. WANGER: In addition, I ask unanimous consent that the president's remarks be printed in the journal.

PRESIDENT NISBET: Without objection, it is ordered. Thank you. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, from the —

MR. MARSHALL: Mr. President, a preferential motion. I move to limit Delegate Van Dusen to 30 seconds. (laughter and applause)

I withdraw the motion, Mr. President. (laughter)

MR. VAN DUSEN: Mr. President, from the very beginning of this convention you have given me the honor of a number of different responsibilities, and I am particularly grateful that at the close of the convention you have given me one more significant responsibility. For some months and weeks past, my particular efforts have, in fact, been directed to the achievement of the moment which is now at hand.

I would like to express my gratitude to all of the delegates for their patience, their cooperation, for their willingness to work long hours which have brought us to this point on schedule. I know you all appreciate that, as Sir Arthur Sullivan said, "A policeman's lot is not a happy one." However, though I am quite sure that the motion I now make will prevail, I make it with genuine regret which I know you will all share in voting for it. We will miss one another. I will miss you.

Mr. President, I move that we now adjourn.

PRESIDENT NISBET: Before we take the vote on adjournment, I have asked Mr. Leppien if, immediately following the vote, he will offer a prayer. After the vote, will you please rise while he delivers it. Those in favor of the motion will say aye. Opposed, no.

The motion prevails. Mr. Leppien.

MR. LEPPIEN: Fellow delegates, may we pray? O Lord God, heavenly Father, save this moment from being a mere gesture to custom. We pray that Thou wilt aid us in making this occasion a memorable experience for each one of us, as delegates, as we call upon Thee for guidance, for blessing and for help.

We have all felt the exalted experience of feeling Thee near and beside us as we devoutly worship in church. We now pray that Thou wilt make us feel Thy nearness in the business of this day and in the months ahead. We pray Thee, O Lord, that Thou may express Thy will that what we say and what we do in the months ahead may be in accordance with Thy will for this state that we love so much. Thou hast said when we stand praying, forgive, if we have aught against any. Give us the grace to lay aside all bitterness and resentment that we may be nursing in our hearts, lest their acid eat into our peace and corrode our spirits.

Grant further, O God, as this convention work draws to a close, that Thy Holy Spirit will fill us and enter the heart of each delegate and be a benediction to the lives of each of us: officers, delegates and employees of this constitutional convention.

And now may the grace of our Lord and Savior, Jesus Christ, the love of God, the Father, and the fellowship and communion of the Holy Spirit be and abide with each one of us, always. Amen.

PRESIDENT NISBET: We are adjourned until August 1 at 10:00 o'clock a.m.

[Whereupon, at 6:10 o'clock p.m., in pursuance of the order previously made, the convention adjourned until 10:00 o'clock a.m., Wednesday, August 1, 1962.]

ONE HUNDRED THIRTY-SEVENTH DAY

Wednesday, August 1, 1962, 10:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please come to order. May I say to the delegates you all look a little different this morning. We're in a new location. You still look pretty good and you're a great group.

The entire proceedings of today are being carried live on radio by Michigan State University, through WKAR-FM.

I had asked Father Dade to give the invocation this morning. He has advised me he was sorry it would be impossible for him to be here and would like me to give his warm regards to all of the delegates. Will you please rise for the invocation.

Our kind and gracious heavenly Father, we come to Thee today in a spirit of gratitude for Thy help in our earlier days and also hope for Thy guidance in today's deliberations. May we proceed in a spirit of sincere desire to do what is best for the people of our state and may we do it with friendliness and cooperation.

All of us, as delegates, have appreciated the opportunity afforded us to get to know each other and to establish lasting friendships. May these always react to the blessing of mankind. This privilege that has been ours will be carried by us in appreciation and may we show that by kindnesses and courtesies to our fellow men.

Fully through this convention have we received many things of value. May our gratitude always be shown by the manner in which we pass these on to others.

Give us strength and wisdom and courage to be statesmen; to be big instead of small; to put the good of all ahead of personal desires; and may our lives, through our actions, show that we are true disciples of Thee, our Lord and Master. Amen.

The roll call will be taken by the secretary.

SECRETARY CHASE: Mr. President, 140 delegates, a quorum, are present.

PRESIDENT NISBET: Thank you very kindly for your attendance today. It shows you have a high disregard for personal finances. (laughter)

SECRETARY CHASE: Mr. Downs reported that Bill Marshall has a ruptured spinal disc and is in the Plymouth General hopsital in Detroit and would appreciate receiving cards. Mr. Downs has also informed the secretary that Mr. Hodges had reported to him that he would be detained and unable to attend at the beginning of the session today, but hoped to arrive later.

[Mr. King, during the recess, had tendered his resignation to the governor.]

PRESIDENT NISBET: Without objection, Messrs. Dade, Marshall and Hodges will be excused. Mr. Chase.

SECRETARY CHASE: I have the following letter under date of May 17, addressed to Governor Swainson:

Honorable John B. Swainson
Governor of the state of Michigan
Capitol building
Lansing, Michigan

Dear Governor Swainson:

Effective this date it is my intention to remove my place of residence from the second district of Oakland county.

It is therefore with deep regret that I must advise you of my resignation from the office of constitutional convention delegate representing said second district of Oakland county.

Thank you for your kind attention to this matter.

Yours very truly,
Raymond L. King.

And a letter from the governor addressed to the president:

State of Michigan
Office of the Governor
Lansing
July 11, 1962

Steven S. Nisbet, President
Michigan Constitutional Convention
Constitution Hall
Lansing, Michigan

Dear Mr. Nisbet:

Please be advised of the appointment of Mr. Robert Bowens, 316 Harrison street, Pontiac, as a delegate to the Michigan constitutional convention representing Oakland county, second district, succeeding Mr. Raymond L. King, resigned.

With best wishes.

Sincerely yours,
John B. Swainson,
Governor.

PRESIDENT NISBET: Will Miss Hart and Mr. Downs please escort Mr. Bowens to the rostrum for administration of the oath of office?

[Whereupon, Miss Hart and Mr. Downs escorted Mr. Bowens to the rostrum.]

Mr. Bowens, will you please raise your right hand?

I do solemnly swear that I will support the constitution of the United States, the constitution of the state of Michigan, and will fulfill my duties as a delegate from the second Oakland district to the constitutional convention to the best of my ability.

Do you so swear?

MR. BOWENS: I do.

PRESIDENT NISBET: Mr. Bowens, you are now a member of our constitutional convention. Will you please sign?

Ladies and gentlemen, our new delegate, Mr. Robert Bowens. (applause)

The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I have a preferential motion filed with the secretary, which I ask be read to the convention.

SECRETARY CHASE: Messrs. Downs, Douglas, Mahinske, Austin, Balcer, Norris, Suzore, McCauley, Madar, Baginski, Buback, Young, Miss McGowan, Messrs. Pellow, Perlich, Jones, T. S. Brown, Ostrow, Lesinski, Mrs. Daisy Elliott, Miss Hart, Messrs. Garvin and Nord move that when the convention adjourns today, it stand adjourned until October 25, 1962, at 10:00 a.m.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I understand Delegate Iverson wishes to make a motion to recess. I have no objection to yielding to him for that purpose, with the understanding that this is the business of the convention floor. It's immaterial to me whether we speak on it now or after Mr. Iverson calls for his caucus recess.

PRESIDENT NISBET: The Chair recognizes Mr. Iverson.

MR. IVERSON: Mr. President, I move for a recess of 20 minutes for the purpose of a Republican caucus, which will be held in the veterans' room downstairs. I hardly think any of you can miss it. It will be immediately.

PRESIDENT NISBET: The question is on the motion of Mr. Iverson. Mr. Downs.

MR. DOWNS: Could we ask that, if this motion to recess prevails, you announce then there will be a Democratic caucus in the legislative organization room downstairs? (laughter)

PRESIDENT NISBET: Those in favor of Mr. Iverson's motion will say aye. Opposed, no.

The motion prevails. We are recessed for 20 minutes.

[Whereupon, at 10:15 o'clock a.m., the convention recessed; and, at 10:35 o'clock a.m., reconvened.]

The convention will please be in order. May the Chair point out that we do not have the carpet or the drapes and your seating is going to make it much more difficult today for acoustics, so will you please cooperate?

The question now is on the motion of Mr. Downs. Mr. Chase will read the motion.

SECRETARY CHASE: Mr. President, a quorum of the convention is present. Mr. Downs and others have offered the following motion, "We move that when the convention adjourns today, it stand adjourned until October 25, 1962, at 10:00 a.m."

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. DOWNS: Mr. President.

MR. VAN DUSEN: Mr. President, I move to limit debate on the motion of Mr. Downs to 5 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 5 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Downs, you have the floor.

MR. DOWNS: Mr. President, apparently the mistake I made was yielding my parliamentary right to speak when I had the floor for the preferential motion. I think it's very unfortunate that when the basic question of whether we are presenting the people a constitutional or unconstitutional constitution, that the debate on that is limited to 5 minutes. And I have confidence that the people of this state want that subject debated more thoroughly.

I wish to remind the delegates that this is no surprise. On July 16 I wrote each delegate, advising him there were questions; and later I wrote each delegates, saying I was asking the attorney general for an opinion. I have just now received an opinion from the attorney general that is on the desk and copies have been filed with the secretary. In 5 minutes I can't go over it except to say that this opinion holds that the proposed constitution is itself unconstitutional, and that, in my judgment, is enough reason for delaying action.

The date of October 25 was selected because the United States supreme court will come back in session October 1. In case they refuse to review or grant certiorari to the Michigan case, that then will be the law of this state as approved by the United States supreme court, and will give us additional information. The reason we selected the October 25 date is, that is prior to the election, and we did not want anybody to feel that those who were running for office would have to resign and not have the chance to act on this. If somebody wants a later date, they can. We have until 90 days before the April election to adjourn sine die and still get this matter on the April ballot.

All we are asking is calm, deliberate reasoning on this very vital question when we get the final information which we may have early in October from the United States supreme court on what is the law of the United States.

I guess even the microphone is working against me.

I do urge support of this motion in the sense of a calm, reasoned approach to a vital question of at least being sure we have a constitutional document to present to the people.

PRESIDENT NISBET: The question is on the motion of Mr. Downs. As many as are in favor of that motion will say aye. Opposed, no.

The motion does not prevail. The Chair will recognize Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, each of the delegates has on his desk an "order of business" for today. I move its adoption.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen on adoption of the order of business. Those in favor will say aye. Opposed, no.

The motion and the order of business for today is adopted.

Following is the order of business as adopted:

1. Call to order
2. Invocation
3. Roll call
4. Administration of oath of office to Delegate Bowens
5. Adoption of order of business
6. Report of committee on style and drafting
7. Report of select committee on action against secretary of state
8. Consideration of deletion of section 6 of schedule
9. Vote on final passage of constitution as amended
10. Approval of address to people
11. Report of committee on administration and approval of contract with secretary covering completion of preparation and distribution of documents
12. Motions and resolutions
    (a) Directing officers to deliver constitution to secretary of state
    (b) Expressing thanks to legislature for additional appropriation
13. Report on delivery of constitution to secretary of state
14. Final adjournment.

The Chair will recognize Mr. Cudlip for a report of the committee on style and drafting.

MR. CUDLIP: Mr. President, the report is in the hands of the secretary, and I assume, following past practice, he will dispose of it.

PRESIDENT NISBET: Mr. Secretary.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits the following report:

The committee, pursuant to Resolution 97, offers the following amendments to the proposed constitution, with the recommendation that the amendments be adopted—

MR. CUDLIP: Mr. President.

PRESIDENT NISBET: Mr. Cudlip.

MR. CUDLIP: I should have said that all of the changes made by our committee at the last meeting a week ago were technical in nature, obviously, and notification of these changes was mailed to each of the delegates. I have had no remarks from any delegate about them.

This morning we met and considered 3 other matters—

PRESIDENT NISBET: Mr. Cudlip, would you use the microphone, please.

MR. CUDLIP: Mr. President, I should have said this before, perhaps. I think Mr. Chase was setting out in his usual good style to read the report that came from his office, through our committee, last week.

The style and drafting committee met last week and considered all changes not hitherto considered. Each delegate received a copy of that report. I have not, as chairman—and I haven't heard that any of the members of our committee have—received any comments with respect to that report. Therefore, I would suggest, if there is no objection, that the report of our committee—and it has been signed and presented to the secretary—be that which was submitted to you 3 or 4 days ago, with these additions that I would suggest that the secretary might read. They are additions which were made this morning —3 additions as to form suggested to us by delegates of this convention. I make this suggestion in order to expedite matters because if Mr. Chase has to read 4 or 5 or 6 pages relating only to commas and punctuation of that sort, why, we'd just be bored to death, I think.

Accordingly, I move that the report be considered read. This motion, of course, would not include the additions made today, which I trust the secretary will read. Thank you.

PRESIDENT NISBET: Without objection, the motion prevails and it will be considered read.

Following is the report of style and form changes made by the *committee on style and drafting as offered and considered read, including the additional changes made by said committee on August 1. (For text as referred to said committee, see above, page 3275):*

1. Amend article II, section 6 (column 2) line 49, after "electors" by striking out "which involves" and inserting "for"; and after "increase of" by striking out "any" and inserting "the"; and line 50, after "limitation" by inserting "imposed by Section 6 of Article IX"; and line 51, after "or" by inserting "for".

2. Amend article II, section 9 (column 2) line 8, after "electors" by striking out "or three-fourths of the members elected to and serving in each house of the legislature.", and inserting "unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature.".

3. Amend article III, section 5 (column 2) line 36, after "subdivision" by inserting "thereof".

4. Amend article IV, section 2 (column 1) line 24, after "assigned" by striking out "an apportionment factor" and inserting "factors".

5. Amend article IV, section 2 (column 2) line 1, after "two or more" by striking out "senate districts" and inserting "senators".

6. Amend article IV, section 3 (column 2) line 54, after "population" by inserting a comma.

7. Amend article IV, section 6 (column 1) line 14, by striking out "persons" and inserting "electors"; and line 24, after "party.", by striking out "One member of the commission shall be selected by each political party organization from each of the following four regions:", and inserting "One resident of each of the following four regions shall be selected by each political party organization:"; and line 27, after "(1)" do not capitalize "the"; and after "(2)" do not capitalize "the"; and line 31, after "(3)" do not capitalize "southwestern"; and line 35, after "(4)" do not capitalize "southeastern".

8. Amend article IV, section 6 (column 2) line 38, after "state or the" by striking out "apportionment".

9. Amend article IV, section 8 (column 2) line 56, after "public and" by striking out "officers" and inserting "members".

10. Amend article IV, section 17 (column 2) line 10, after "committees.", by striking out the sentence which reads, "Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee.", and inserting "On all actions on bills and resolutions in each committee, names and votes of members shall be recorded.".

11. Amend article IV, section 33 (column 2) line 1, after "If he" by striking out "does not approve" and inserting "disapproves".

12. Amend article IV, section 37 (column 2) line 36, after "Sec. 37.", by striking out the entire section which reads, "The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.", and inserting "The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.".

13. Amend article V, section 2 (column 1) line 4, after "full" by inserting "regular".

14. Amend article V, section 5 (column 1) line 43, after "Sec. 5.", by striking out the entire section which reads, "At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.", and inserting "A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.".

15. Amend article V, section 18 (column 1) line 31, after "submit" by striking out "any".

16. Amend article V, section 25 (column 2) line 24, after "vote" by inserting a comma; and line 25, by striking out "except in case of equal division.", and inserting "unless they be equally divided.".

17. Amend article V, section 28 (column 1) line 10, after "same year" by inserting a comma.

18. Amend article VI, section 1 (column 2) line 2, by striking out "other".

19. Amend article VI, section 3 (column 2) line 20, by striking out "other".

20. Amend article VI, section 4 (column 2) line 28, after "hear" by striking out the comma.

21. Amend article VI, section 8 (column 1) line 2, after "appeals" by striking out "may".

22. Amend article VI, section 18 (column 2) line 38, after "increased" by striking out the comma.

23. Amend article VI, section 26 (column 1) line 52, do not capitalize "article".

24. Amend article VI, section 28 (column 2) following line 16, by striking out the entire second paragraph [This paragraph added by amendment on May 11, see above, page 3240; for section as amended, see above, page 3275] which reads:

"No appeal may be taken to any court from a decision of the state tax commission fixing the value of described property for property tax purposes or determining an appeal from a decision of the county tax allocation board.", and inserting a new paragraph to read as follows:

"In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.".

25. Amend article VII, section 31 (column 2) line 36, after "alley" by striking out the comma.

26. Amend article VIII, section 4 (column 1) line 40, capitalize "University".

27. Amend article VIII, section 8 (column 2) line 56, after "programs" by striking out the comma; and line 58, after "mentally" by striking out the comma.

28. Amend article VIII, section 9 (column 1) line 6, after "counties,", by striking out "cities and townships" and inserting "townships and cities".

29. Amend article IX, section 11 (column 2) line 60, after "for" by striking out "the support of public education" and inserting "aid to school districts, higher education".

30. Amend article XI, section 5 (column 2) line 8, after "tion" by inserting "or creation".

31. Amend article XI, section 7 (column 2) line 51, after "elected" by inserting "thereto"; and after "serving" by inserting "therein".

32. Amend article XII, the title (column 1) after "Amendment" by striking out "&" and inserting "and".

33. Amend article XII, section 3 (column 2) line 41, after "bers.", by striking out "The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate who shall be a member of the same party as the delegate vacating the office.", and inserting "To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office.".

34. Amend the schedule, section 5 (column 1) line 58, after "general" by striking out the comma; and line 59, after "two" by inserting a hyphen, so that it will read "two-year".

35. Amend the schedule, section 6 (column 2) line 12, after "1908 constitution" by inserting "as amended in 1952".

36. Amend the schedule, section 6 (column 2) line 15, after "shall be" by striking out "divide" and inserting "divided".

37. Amend the schedule, section 10 (column 2) line 49, do not capitalize "state board of education".

38. Amend the schedule, section 11 (column 2) lines 56 and 57, do not capitalize "state board of public community and junior colleges".

William B. Cudlip, chairman.

PRESIDENT NISBET (continuing): The secretary will read the additions.

SECRETARY CHASE: The additional changes offered by the committee on style and drafting as a result of the meeting this morning are:

[The additional changes, being amendments 1, 29 and 35 of the foregoing report of the committee on style and drafting, were read by the secretary. For text, see above, page 3292.]

The other amendments are in the report that was sent to each of the delegates.

PRESIDENT NISBET: The question is on the adoption of the report.

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Could somebody explain to us what they mean by this last amendment here, 1908 constitution "as amended in 1952" in view of the last supreme court decision?

PRESIDENT NISBET: Mr. Cudlip.

MR. CUDLIP: I yield to Judge Dehnke.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: Mr. President, fellow delegates, this was intended to remove any uncertainty or occasion for argument that might otherwise arise as to the intention of this convention in adopting this section if it remains in.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Just a minute. Mr. Dehnke, have you finished? Have you answered the question?

MR. DEHNKE: Yes.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I'll yield to Mr. Downs.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I would like to ask that the amendment dealing with section 6 be divided from the rest of the report and voted on separately. Would the chairman agree to that division? I believe we have the right anyway.

PRESIDENT NISBET: Mr. Cudlip.

MR. CUDLIP: Vote on the language "as amended in 1952" separately?

MR. DOWNS: Separately from the rest of the committee report.

MR. CUDLIP: I personally have no objection, nor as chairman.

MR. DOWNS: The reason I ask that, Mr. President, is some of us—and I'm one—believe that that part is unconstitutional, we would not wish to affect our votes on other parts of the report by that one. I therefore ask that the question be divided and that be put separately.

PRESIDENT NISBET: Without objection, the question will be divided in that manner. The question now is then on the report of the committee, with the exception of amendment 35. Any further discussion? If not, all in favor will say aye. Excuse me. This needs to be a roll call vote. The secretary will call the roll. Those in favor of the committee report, with the exception of amendment 35, will say aye and those opposed will say nay as your names are called.

The roll was called and the delegates voted as follows:

Yeas—136

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bowens
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Figy
Finch
Follo
Ford
Gadola
Garvin
Goebel
Gover
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Ostrow
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Youngblood

Nays—5

Faxon
Jones
Nord
Norris
Young

SECRETARY CHASE: On the adoption of the amendments recommended by the committee on style and drafting, with the exception of amendment 35 on which a separate vote has been ordered, the yeas are 136; the nays are 5.

PRESIDENT NISBET: The amendments are adopted.

Following is explanation of vote submitted by Messrs. Faxon, Jones, Nord, Norris and Young:

> The reason for our voting no on the changes proposed by the committee on style and drafting is that the change made in article IX on finance and taxation in section 11 was substantive in form and should have been considered as such.

The question is on the adoption of amendment 35, which the secretary will read.

SECRETARY CHASE: Amendment 35 recommended by the committee on style and drafting:

35. Amend the schedule, section 6 (column 2) line 12, after "1908 constitution" by inserting "as amended in 1952"; so the sentence will read:

> Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution as amended in 1952 shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this remaining portion of the report offered by the committee on style and drafting, amendment 35, deals with section 6 of the schedule. If the delegates would note item 8 in the order of business, it is consideration of the deletion of section 6 of the schedule in its entirety.

I think because of the length of the roll calls, which we have to conduct by voice today, it might make sense to determine whether there is going to be a section 6 of the schedule before putting the secretary to the work of calling the roll on an amendment thereto. I would therefore move that item 8 on the order of business be taken up now so that we can dispose of that question before considering further the possible amendment to section 6.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that item 8 on the order of business, **consideration of deletion of section 6 of schedule,** be advanced on the calendar. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, now I move that the rules be suspended for the sole purpose of considering an amendment to the schedule to delete section 6 and renumber the remaining sections.

PRESIDENT NISBET: The question is on the suspension of the rules. Those in favor will say aye. Opposed, no.

The motion prevails, 2/3 of the delegates having voted therefor. The rules are suspended. Mr. Van Dusen.

MR. VAN DUSEN: I yield to Dr. John Hannah.

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I move that the temporary provisions of the schedule of the proposed constitution be amended by striking out all of section 6 and renumbering the remaining sections.

PRESIDENT NISBET: The question is on the motion of Dr. Hannah which the secretary will read again.

SECRETARY CHASE: Mr. J. A. Hannah offers the following amendment:

1. Amend the schedule, section 6 (column 2) line 5, by striking out all of section 6 which reads as follows:

> Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

and renumbering the balance of the sections.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I wonder if I could ask Delegate Hannah the intent of his amendment and what the effect will be on the document in its submission.

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President and delegates, the effect of this amendment, if it is adopted, will be that in the event the proposed constitution is approved by the voters of this state, the apportionment of the senate will be immediately effective in the same way as the reapportionment of the house. It will mean that if this section 6 is taken out of the schedule and the constitution is adopted, immediately the apportionment commission will be set up and they will proceed to draw new districts both for the senate and the house, with the senate, of course, following the formula that is included as a part of the constitution.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, we're being put in a very strange and illogical position. The provision for the proposed senate has, by the attorney general, been declared unconstitutional. The only question is the timing. As I understand it, to vote for this deletion would simply mean that an unconstitutional provision would be made effective sooner; to vote against it simply means that the 1952 amendment which is now unconstitutional, pending review by the United States supreme court, would not be law and what we would have is the 1908 constitution which the Michigan state supreme court has said is the law. I am therefore—and I want the logic of this made very clear—voting against deleting this section, not because I want this section to go into effect later, but because I believe this section and what it applies to are both unconstitutional. We now have the law of the state of Michigan, the 1908 constitution, which has a senate based on population. I am voting no on this question for the reason that I am voting for the 1908 constitution without the 1952 amendment, which has been declared by the Michigan supreme court to be the law of this state.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: I rise to support this amendment for the deletion. It seems to me that it's become evident to most of us by this time that the final body that will decide the question of its constitutionality is not in the state of Michigan but is the United States supreme court; and for that reason I am unwilling to surrender any possibility of achieving what I consider to be a fairer and more equitable reapportionment provision for the state of Michigan. If this new constitution is adopted—which I feel confident it will be—the deletion of this would give us several more senators in Wayne county immediately. We would end up with 10 state senators and it would give people of Oakland county, who are very under represented, 3 senators. The other counties would also have fairer representation under this provision, provided we delete this section 6.

It seems to me that those of us who are from the metropolitan area are put in the very peculiar position indeed if we vote to keep section 6 and find that this constitution is adopted and that we thereby have taken away from us several senators to which we would otherwise become entitled. For this reason I rise to support the amendment to delete section 6.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, may I state in response to Mr. Downs' remarks that I'm a little tired of having the attorney general of this state make pronouncements about what is constitutional and what is not.

I think any lawyer who gives careful review to the opinions of the Michigan supreme court rendered 2 weeks ago in Scholle vs. Hare, and to the opinions of the justices of the United States supreme court in Baker vs. Carr, and to the remarks of Mr. Justice Potter Stewart last Friday, would recognize that the formula for senate apportionment which we provide in the new constitution meets every standard yet announced by the United States supreme court for validity under the fourteenth amendment of the United States constitution. I think that our formula, if presented to the Michigan supreme court, would very likely be upheld by the Michigan supreme court and I rely, in stating that, not only on the opinion of the 3 justices who dissented, but on the opinions of Mr. Justice Souris and Mr. Justice Smith, who concurred and who did not subscribe to the very limited opinion of Mr. Justice Kavanagh.

There is nothing in the opinion of the United States supreme court which would make the senate apportionment formula which we have provided in the new constitution in any way violative of the federal constitution. The problem is before that court at this time and I think it's extremely unfortunate that we are confronted this morning with an opinion which is, in my judgment, politically inspired and professionally valueless. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Nord.

MR. NORD: Mr. President, that's the first time I've been applauded before I spoke. (laughter) Thank you very much.

Mr. President, Mr. Van Dusen has opened the floor to a flood of comments. I hope we won't have a flood, but I would like to make this point: first of all, the attorney general's opinion cannot be dismissed as hogwash. But further—

PRESIDENT NISBET: Mr. Nord, would you move back just a little bit further from the microphone? Your voice would come through better.

MR. NORD: Would you make a suggestion of 20 or 30 feet?

PRESIDENT NISBET: This is no discourtesy. It's due to the operation of the mike. Mr. Nord.

MR. NORD: As Mr. Cudlip said, I didn't know we had a microphone here. Mr. President, there are 2 experts, or at least 2 people who have worked harder on apportionment in this convention than any other people. One of them is Mr. Hanna; the other is myself. Both of us have announced to the press previous to the holding of this meeting today that we believe that this 80-20 provision—which was drafted by Mr. Hanna over my opposition—is unconstitutional. He is a lawyer; I am a lawyer. We have had close contact with the subject. We both believe—unless he tells me to the contrary now—we both believe it is unconstitutional. The only court decision is the Michigan supreme court decision. They have stated that, in their opinion, when it reaches them it will be unconstitutional.

I am not advised, as Mr. Van Dusen says, that there is pending in the United States supreme court any review of the Scholle case. If that is so, I would like to be advised. I understand that somebody is thinking of filing a petition for certiorari, but I am not advised that there has been any such petition. As it stands right now the law has been announced by the supreme court of Michigan, and then as to the future we have the opinion of the attorney general. Then you have before you the opinions of both the people who worked the hardest—the lawyers—on this subject. All of them are on the same side of the issue. They all say that it's unconstitutional. If you wish to ignore that, you can do so. But I think that you should have that before you.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President and fellow delegates, I just wanted to make one comment at this time because I've been hearing so much around the state that we ought to take what we're given. And it reminds me an awful lot of the man who had $150 stolen from him, who then was told by the burglar that he'd be willing to give him 50 bucks and he ought to go home and be satisfied. I might say too, to Mrs. Cushman, that when I first decided to run for this office of delegate, I remember very distinctly that the league of women voters and others said that one of the very most important things that we were coming up here to decide was reapportionment. And they didn't say that they wanted half measures. They said they wanted reapportionment as it should be: by population. Now I might say to Mrs. Cushman and others who always bring this subject up—rather, they keep making the comment that we ought to take what we can get—that it's no different, her making that remark, than a judge saying, after a man has been ordered hung, that he'll only be dropped 10 feet instead of 30.

PRESIDENT NISBET: The question is on the amendment of Dr. Hannah. This is a record roll call vote. Mr. Downs.

MR. DOWNS: Mr. President, I would like to point out to the delegates, in as calm and as reasoned a fashion as I can, that the senate we now have in the state of Michigan is that under the 1908 constitution. The courts way back, before any present member of the state supreme court was even on the court—and that's how far back that goes—ruled that under the 1908 constitution there could not be a difference of more than 2 to 1 in population and did not approve a difference of more than 2 to 1. That's what we have now—it's temporarily stayed by one justice of the United States supreme court—that's what we have. The provision in this section would provide a population difference of 4½ to 1 and would take from the urban areas senatorial representation that we are entitled to under the 1908 constitution and that the Michigan state supreme court has ordered and, I will predict, will be in effect as soon as the United States supreme court acts. It's regrettable that the motion to recess was rejected because that would have given Delegate Van Dusen and me the opportunity to discuss what the highest court said rather than what he and I are predicting it will say. And therefore, I urge we vote against this and keep the 1908 language which has one house—the senate—on population, and the second house, for those who make such a fetish of area, on an area factor.

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, in view of the tone of the discussion, I should like to submit a letter from the director of research and drafting of this convention and ask that the secretary read it into the record at this time.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Letter from Charles W. Joiner, the associate dean of the University of Michigan law school, addressed to John Hannah, president, Michigan State University, under date of July 27, "Dear Dr. Hannah: I write as"—

MR. MADAR: Mr. President, I rise to a point of order.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Shouldn't this only be done when there are no objections—

PRESIDENT NISBET: It is part of Dr. Hannah's remarks.

MR. MADAR: —and I am objecting.

PRESIDENT NISBET: This is a part of Dr. Hannah's remarks, Mr. Madar. They may be made. Mr. Chase will read.

SECRETARY CHASE: The letter reads:

> Dear Dr. Hannah:
>
> I write as the director of research and drafting for the constitutional convention although I am not now on the staff of the convention for my interest continues in the success and well being of that body. Perhaps I can contribute something to the solution of the problem facing you as a result of the recent decision in Scholle v. Hare. I shall not be present at the time you convene on August 1. It is important that you have an objective analysis of the constitutionality of the con con proposal to apportion the house and senate made after the Scholle case.
>
> 1. The problem is one of the constitutionality under the federal constitution. The supreme court of the United States is the final arbiter of this, not the supreme court of Michigan.
>
> 2. Contrary to anything in one of the opinions handed down by the supreme court of Michigan, the decisions in the 2 Michigan cases cited, Giddings v. Secretary of State, 93 Michigan 1, and Williams v. Secretary of State, 145 Michigan 447, which are the bases for the court's use of a 2 for 1 population standard do not stem from federal constitutional language but are merely stating a standard that was applicable to the language of the 1850 constitution requiring specific apportionment on the basis of population.
>
> 3. The supreme court of the United States has as yet given no indication that any standard based solely upon population will be required.
>
> 4. In fact, the contrary has been indicated by the supreme court for the thrust of Baker v. Carr, if any standards can be read into that case, is that any scheme of apportionment based on reason and rationality will be sustained. The same idea is expressed by Mr. Justice Stewart in his decision to stay Scholle v. Hare when he said that new issues were presented in the Scholle case that were not decided in Baker v. Carr.
>
> 5. Most of the litigation and judicial decisions in the various states in federal and state courts since Baker v. Carr has been based on the failure of the legislatures to carry out a state constitutional mandate to reapportion.
>
> 6. Decisions are being handed down by lower federal courts and state courts indicating that it is not necessary (unless required by a state constitution) to apportion on the basis of population in both houses (see the Maryland decision on this point).
>
> 7. The proposed constitutional provision has one house pretty largely based on population and the other house predicated upon a rational idea of ability to represent constituents effectively. This provision would in all probability be sustained by the supreme court of the United States if given a chance.
>
> 8. In the Scholle case the Michigan court does not squarely hold that the constitutional convention proposal is bad. Two judges do indicate in dictum that this would

be true but this dictum contains a bad fallacy for it stems from interpretation of language appearing in the 1908 constitution requirement of apportionment on the basis of population and is not a fair statement of the requirements of the equal protection clause of the federal constitution, the clause against which your proposal must be tested.

Two other judges concurred in the result but did not say that as a minimum, the standard test will be 2 for 1 population. These judges merely talked about the requirement of a rational scheme of apportionment. The 3 dissenting judges clearly would sustain the plan.

Thus it is not unlikely that even in the Michigan supreme court the con con plan, if approved by the people as a part of the constitution, would be sustained by the Michigan court. It seems clear, however, as clear as anything can be in this muddled area that even if it were not sustained by the Michigan supreme court, the supreme court of the United States would uphold it. There is nothing in your plan that violates the equal protection clause of the United States constitution or any other relevant provision, as interpreted by the supreme court of the United States. Only if you permit in some way a vote on your plan and it is adopted can it ever be tested. It can only be tested fairly as a part of a constitution.

Sincerely yours,
Charles W. Joiner.

PRESIDENT NISBET: The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. President, fellow delegates, because of the limitation of time, which we are all operating under in this one day session, but more important, because I believe that the issue has now been fully discussed, I move the previous question.

MR. NORRIS: Mr. President.

PRESIDENT NISBET: The question is on the motion of Mr. Wanger for the previous question. Is the demand seconded?

MR. NORRIS: Mr. President.

PRESIDENT NISBET: Sufficient number up.

MR. NORRIS: I'd like to move, Mr. President, to limit debate to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Norris that debate be limited to 10 minutes. Those in favor of the motion say aye. Opposed, no.

The motion prevails. Mr. Norris.

MR. NORRIS: Mr. President, I would like at this time to express the observation—

PRESIDENT NISBET: The convention will be in order.

MR. NORRIS: —that the opinion of the attorney general be incorporated in the record without being read, in light of the Chair's ruling on Mr. Madar's point of objection to the reading of Mr. Joiner's letter into the record. I'd like to have that included as part of my remarks as well and ask that that be done, sir.

PRESIDENT NISBET: It will be so included.

Following is the opinion:

State of Michigan
Frank J. Kelley, Attorney General

Constitutional law: equal protection of the laws under the fourteenth amendment to the constitution of the United States.

Senate: apportionment of Michigan senate under proposed constitution.

Article IV, section 2 and section 6 of the schedule and temporary provisions of the proposed constitution perpetuate invidious discrimination in Michigan senatorial districts now practiced under article V, section 2 of the constitution of 1908, as amended by the people in 1952 and condemned by the Michigan supreme court in Scholle v. Hare (July 18, 1962), 367 Michigan 176, and are unconstitutional as violative of the fourteenth amendment to the constitution of the United States.

In the event the provisions of article IV, section 2 of the proposed constitution are effective upon approval of the revised constitution by the people, article IV, section 2 is unconstitutional as in violation of the fourteenth amendment to the constitution of the United States.

Opinion 4093 July 31, 1962

Mr. Tom Downs
Vice President
Michigan Constitutional Convention
Constitution Hall
Lansing, Michigan

I am in receipt of your letter of July 23 in which you indicate that the Michigan constitutional convention of 1961-1962 has proposed article IV, sections 2 and 6 as they relate to the apportionment of the Michigan legislature.

Article IV, section 2 provides as follows:

> The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.
>
> In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.
>
> In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:
>
> (1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.
>
> (2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.
>
> (3) Counties entitled to two or more senate districts shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

The constitutional convention proposes a commission on legislative apportionment as set forth in article IV, section 6, which reads in pertinent part as follows:

> A commission on legislative apportionment is hereby established consisting of eight persons, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of

a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following four regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

Based upon these facts you ask the following questions:

1. Is article IV, section 2 of the proposed constitution constitutional?

2. Is article IV, section 6 of the proposed constitution constitutional?

In response to your first question, not only is it necessary for me to consider section 2 of article IV, but also section 6 of the schedule and temporary provisions which has been made a part of the proposed constitution as approved on the third reading by the constitutional convention on May 11, 1962. This portion of the schedule and temporary provisions states:

> The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

A plain reading of section 6 of the schedule and temporary provisions indicates that the present apportionment of the Michigan senate as provided by article V, section 2 of the Michigan constitution of 1908 as amended by the people in 1952, shall remain intact with the exception that the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into 2 senatorial districts, and Wayne county into 8 senatorial districts in accordance with this constitution in the event the proposed constitution is approved by the people. However, the legislature is given authority to give prior effect to section 2 of article IV of the constitution, which action shall not be subject to veto by the governor.

Assuming that the proposed constitution is adopted, presumably in April of 1963, the constitution shall not become effective until January 1, 1964. Upon such contingency the senate would be increased from 34 members to 38 with the 3 additional seats to be divided among the counties of Genesee, Macomb and Oakland and an additional seat given to Wayne.

It should be observed that this portion of the schedule and temporary provisions has no effect upon Kent county, already possessed of 2 senators under the constitution of 1908, as amended.

Unless the legislature were to act to give earlier implementation to article IV, section 2 of the proposed constitution, Michigan senatorial districts are provided by article V, section 2 of the constitution of 1908 and would prevail until the year 1970 with the exception of the 4 additional senatorial seats to be divided among Genesee, Macomb, Oakland and Wayne counties respectively.

The Michigan supreme court in Scholle v. Hare (July 18, 1962), 367 Mich. 176, has struck down the senate apportionment provided by article V, section 2 of the Michigan constitution of 1908, as amended. On July 27, 1962, the Honorable Potter Stewart, associate justice of the supreme court of the United States, stayed the judgment of the Michigan supreme court pending the timely filing of a petition for a writ of certiorari with the stay to continue pending the final disposition of the case upon timely filing of the petition for the writ of certiorari.

While it is true that Mr. Justice Stewart stayed the judgment of the Michigan supreme court, nevertheless the decision of the Michigan supreme court in Scholle v. Hare, supra, establishes the law in the state of Michigan and unless the United State supreme court assumes jurisdiction of Scholle v. Hare and reverses the decision of the Michigan supreme court, the decision in Scholle v. Hare, supra, will represent the leading case on apportionment in the state of Michigan.

Under its decision, Scholle v. Hare holds that article V, section 2 of the Michigan constitution, as amended by the people in 1952, violates the equal protection clause of the fourteenth amendment to the constitution of the United States in that senatorial districts provided in the Michigan constitution are invidiously discriminatory.

Under article IV, section 2 of the proposed constitution and section 6 of the schedule and temporary provisions, Michigan senatorial districts are to be substantially continued in their present form until 1970 with the exception of 4 additional seats to be awarded upon the effective date of the constitution, subject to earlier implementation by the legislature.

The conclusion is imperative that the delegates to the Michigan constitutional convention, if they retain article IV, section 2 and section 6 of the schedule and temporary provisions in their present form, will be continuing the senatorial districts that our court has struck down as invidiously discriminatory. It is patent that the additional 4 seats do not correct the disparity in population between Michigan senatorial districts. At best the addition of 1 senatorial seat to Oakland county, Genesee county, Macomb county and Wayne county, reduces the disparity from the extreme 12½ to 1 to about 6 to 1. In any event, it is my opinion that the majority holding in Scholle v. Hare, supra, would demand that such provisions fall under the sweep of the fourteenth amendment to the constitution of the United States.

Under the concurring opinion of Mr. Justice Souris, it must be concluded that such disparity would be neither minor nor unavoidable so that the constitutional provisions in question would be discriminatory and in violation of the equal protection clause to the fourteenth amendment. Nor does the fact that the schedule authorizes the legislature to implement article IV, section 2 of the proposed constitution at an earlier time than 1970 supply constitutional validity.

The Michigan supreme court in Rassner v. Federal Collateral Society, 299 Mich. 206, in passing upon the constitutionality of a statute which provided a summary proceeding for recovery of property pawned without the owner's consent although actual notice was given, held that due process of law cannot depend upon the grace or favor of the court to give notice and opportunity for hearing. The constitutionality of an act must depend upon the provisions of the act itself.

Similarly in Ridenour v. County of Bay, 366 Mich. 225, the court struck down a bond validation statute for failure to afford due process of law to persons affected under it even though the court had provided notice on its own order. The court said that the due process of law had to be afforded by the statute itself rather than by the whim and caprice of the court. By analogy, the test of article IV, section 2 of the proposed constitution and section 6 of the schedule and temporary provisions, must be made by the language of the constitution itself and not by the possibility that the legislature may choose to implement article IV, section 2 at some earlier time than 1970. Equal protection of the laws cannot be premised upon the favor of a majority vote of the legislature to give earlier implementation. Therefore it is my opinion that article IV, section 2 of the proposed constitution of the 1961-1962 constitutional convention violates the equal protection clause of the constitution of the United States.

I am, of course, aware of the fact that under the rules of the constitutional convention the delegates to the constitutional convention by 2/3 vote may suspend the rules and make changes to the document adopted on May 11, 1962. It has been suggested that section 6 of the schedule and temporary provisions be changed to make article IV, section 2 immediately effective upon the adoption of the constitution. Consequently it is necessary for me to consider the constitutional validity of article IV, section 2 in light of this possibility.

At the outset it is necessary to state briefly the proposed scheme of operation of the particular portion of the constitution. The framers would apportion the senate on 2 bases:

1. Upon a formula for each county unit based upon percentage of land area and a percentage of population based upon the last federal decennial census, multiplied by the factor 4.

2. After arriving at an apportionment factor for each county to treat counties with 13 or more apportionment factors one way and those with less than 13 apportionment factors in another.

Significantly the last sentence of subsection (2) of section 2 of the article reveals the true intent of the framers when it states, "Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards."

The conclusion is inescapable that the delegates to the constitutional convention have labored to preserve the present system of apportionment found constitutionally invalid in Scholle v. Hare, supra, and to sustain the present districting under a formula that practices discrimination twice against population not only through dilution by area but also through dilution by county depending upon apportionment factors attributed to the county under the formula.

The Michigan supreme court has said in Attorney General, ex rel Eaves, v. State Bridge Commission, 277 Mich. 373, that the state may not do indirectly that which it is forbidden to do directly. It is apparent that the provisions of article IV, section 2 of the proposed constitution present a patent effort to preserve the invidious discrimination in senatorial districts condemned in Scholle v. Hare, supra, by indirection.

Historically in Michigan the senate has been apportioned on a population basis as near as may be but along county lines. Giddings v. Secretary of State, 93 Mich. 1, Williams v. Secretary of State, 145 Mich. 447. See excellent discussion of the history of the apportionment of the Michigan senate in the dissenting opinion of Mr. Justice Smith in Scholle v. Hare, 360 Mich. 1.

The history of the house of representatives reveals that it has not been apportioned upon a strict population basis because the people have provided that certain governmental units, such as townships or cities, shall not be divided in the formation of a representative district and each county shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. See article IV, section 4 of the constitution of 1835; article IV, section 3 of the constitution of 1850, and article V, section 3 of the constitution as amended by the people in 1952.

While article IV, section 3 of the proposed constitution requires house of representative districts to be apportioned on a population basis, nevertheless this portion of the proposed constitution imposes requirements that each county which has a population of not less than 7/10 of 1 percent of the population of the state shall constitute a separate representative district, subject to other limitations as well.

It must be concluded, therefore, that under the proposed constitution neither house of the Michigan legislature is apportioned upon a strict population basis without any other factor.

While the United States supreme court has not implemented Baker v. Carr, 369 US 186, with a final definition as to what factors may be considered in the apportionment of state legislatures in order to satisfy the equal protection clause to the constitution of the United States, nevertheless since Baker v. Carr, supra, there has been an unmistakable flow of opinions of 3 judge federal district courts which have enumerated a rule that in my judgment is probably controlling.

Guidance may be obtained from the 3 judge federal district court that reconsidered Baker v. Carr, (June 22, 1962), on remand from 369 US 186, 179 Fed. Supp. 824 (Tennessee), and rendered an unanimous opinion that required the state of Tennessee to reapportion at least one house of the Tennessee legislature on a strict population basis without regard to any other factor. In Baker v. Carr, supra, on remand, the court tested the reapportionment of the Tennessee house and senate by the test of rationality based upon population, area and governmental units. The court recognized that one house could by reasonable classification take into consideration the protection and recognition to its less populous governmental units so that apportionment upon the 2/3 population—governmental unit basis—was permissible provided that the other house was on a strict population basis.

To the same effect is Toombs v. Fortson (May 25, 1962), 205 Fed. Supp. 248 (Georgia), where the 3 judge federal district court held that one of the houses of the Georgia legislature had to be on a strict population basis recognizing that it may be necessary for both houses to be on a strict population basis, but the court was hesitant to order this in the absence of a definitive decision of the United States supreme court.

Likewise in Sims v. Frink (April 14, 1962) 205 Fed. Supp. 245 (Alabama), a 3 judge federal district court required that at least one of the houses of the Alabama state legislature be apportioned upon a strict population basis without any other factor.

I am persuaded that the aforesaid decisions of the various federal district courts represent the very minimum that will serve as the basis of final definition of the fourteenth amendment to the constitution of the United States as may be laid down by the supreme court of the United States, although it is my considered judgment that a rational plan to give constitutional validity to the other house must recognize population as an important factor.

Under these authorities it must be concluded that since neither section 3 nor 4 of article IV of the proposed constitution provides for apportionment of either house of the Michigan legislature upon a strict population basis, article IV, section 2, as it relates to the senate, must fall as violative of the fourteenth amendment to the constitution of the United States.

While we recognize that the aforesaid authorities are those of lower federal district courts, nevertheless they offer sufficient guidance to inform the Michigan constitutional convention of 1961-1962 that article IV, section 2, in my opinion, violates the equal protection clause of the fourteenth amendment to the United States constitution.

Due to the limitation in time it will be necessary for my office to consider the second question separately and the opinion will be submitted to you as soon as it is ready.

Frank J. Kelley, attorney general.

MR. NORRIS: Now, with regard to an observation that

I should like to make on my own on the matter now before us, Mr. President, I think that what we ought to recognize is the issue involved in the matter before us and the matter before the people of the state of Michigan. As I understand it, the Michigan supreme court stated that the freezing and other aspects of the 1952 amendment and so called balanced legislature in relation to the senate was unconstitutional, and in so doing stated also that the standard in the 1908 constitution thereby becomes the law of the state of Michigan. As against that proposition you have a formula in the proposed document before us. And it seems to me the issue is clear: if you want a population standard, then you support the defeat of the constitution and the recognition that 1908, according to the inhabitants thereof, then becomes the standard of apportionment; if you want a standard other than that, then you support the proposed document standard. It seems to me that is the issue involved in the question on approval of section 6 or on approval of the constitution as a whole.

PRESIDENT NISBET: The question is on the amendment of Dr. Hannah. It is a record roll call vote. Those in favor of the amendment of Dr. Hannah to delete section 6 will vote aye as their names are called. Those opposed will vote no. The secretary will call the roll.

The roll was called and the delegates voted as follows:

Yeas—94

Allen
Andrus, Miss
Anspach
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Gadola
Goebel
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hubbs
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leppien
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood
Woolfenden
Yeager

Nays—47

Austin
Baginski
Balcer
Barthwell
Binkowski
Bledsoe
Boothby
Bowens
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Finch
Follo
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hood
Hoxie
Hutchinson
Jones
Kelsey
Leibrand
Lesinski
Liberato
Madar
Mahinske
McAllister
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the amendment to strike out section 6, the yeas are 94; the nays are 47.

PRESIDENT NISBET: The amendment is adopted.

Following is explanation of vote submitted by Mr. McAllister:

My reason for voting no on the deletion of section 6 of the schedule is that the apportionment section of the constitution in my opinion is unconstitutional.

Following is explanation of vote submitted by Mr. Leibrand:

Section 6 of the constitutional schedule continues an extra senate seat to Kent county and allots an extra seat each to Genesee, Macomb and Oakland counties immediately. Reapportionment of the senatorial districts of the rest of the state would follow the 1970 census.

The amendment to delete section 6, made August 1, 1962, would advance the general senatorial reapportionment date to as soon as possible after the adoption of the new constitution.

I voted against the amendment for several reasons:

1. The change is a very important one. Many of the delegates never heard of the proposed amendment until about 9:00 p.m. on the evening of July 31. Most of the delegates never heard of it until it was offered on the floor of the convention at 11:00 a.m. on August 1. I believe such an important change deserves much more extended consideration.

2. Many things, particularly decisions of the United States supreme court and the Michigan supreme court, have occurred since this convention adjourned on May 11. The body most affected by the change is the Michigan state senate itself. The senate has been studying and working on this problem for the past 2 weeks or more, and undoubtedly has more information on the problem than do the delegates of this convention. I am opposed to deleting section 6 until such time as a special committee of this convention has conferred at length with the proper committee or committees of the state senate regarding the course to take.

3. I realize that what I suggest will require further adjournment of this convention. I have no desire to return to Lansing again, but I would prefer to do this rather than make an irremediable error. It must be remembered that once the convention adjourns sine die, its powers are exhausted and, however bad an error may be, that error cannot be corrected.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I'd like to make a parliamentary inquiry. It was my understanding that the specific language of the rules by which we were to play today was such that no substantive change will be made in the document as it was voted upon by a majority of the delegates when last we were assembled. I find difficulty with myself examining this thing, trying to find that this is not substantive. We have now taken an entire section out of the language. And I ask whether this now means that as a matter of fact, the rules that we are playing under today permit amendments from this floor from people such as Dr. Hannah during the consideration of a committee report to the substance of the constitution itself.

PRESIDENT NISBET: Mr. Ford, the rules were suspended by this convention for consideration of this special amendment. It does not open up the rest of the document.

The next order of business is the **report of the select committee on action against the secretary of state.** The chairman of the committee, Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the select committee charged with the responsibility for the action against the secretary of state dealing with the date of submission of the document has delivered its report to the secretary and I'll ask that he read it. It proposes and recommends an amendment changing the date of submission from November to April and, to anticipate Mr. Ford's question, this is a specific exception to the rule under which we're operating provided for in that rule.

SECRETARY CHASE: The select committee on action

against the secretary of state, by Mr. Van Dusen, chairman, submits the following report:

In accordance with Resolution 96, the committee on action against secretary of state on May 14, 1962, filed with the circuit court for the county of Ingham, a petition for declaration of rights in an action entitled, Stephen S. Nisbet, President of the Michigan Constitutional Convention of 1961-1962 v. James M. Hare, Secretary of State. The relief sought was a declaration that the convention has the right to provide for submission of the proposed new constitution to the electors at the general election to be held November 6, 1962. The summons and petition were served on the secretary of state on the same day.

On May 22, having had no response from the attorney general, petitioner filed a motion for the entry of a decree. On May 25, the secretary of state appeared specially by the attorney general and moved to dismiss the petition on the ground that the case did not present an actual controversy. The trial court heard argument on the attorney general's motion on June 1 and on June 6 rendered an opinion denying the motion to dismiss. An order to that effect was entered on June 11.

Instead of proceeding to file an answer, the attorney general then filed an application to the supreme court for leave to appeal. This application was granted by the supreme court and the attorney general, on July 2, filed a claim of appeal.

The attorney general has not yet filed a brief and he states that he does not intend to do so until after August 7.

It is obvious that no judicial determination of the right of the constitutional convention to require submission of the proposed constitution to the electors on November 6 will be made in time to be useful to the convention. Accordingly, the committee recommends:

1) That section 15 [formerly section 16] of the schedule and temporary provisions of the proposed constitution be amended by striking from the first sentence the words "Tuesday after the first Monday of November, 1962" and inserting "first Monday in April, 1963."

2) That the committee be authorized to discontinue the action entitled, Nisbet v. Hare.

Richard C. Van Dusen, chairman.

MR. VAN DUSEN: Mr. President, I move the adoption of the report.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that the report be adopted. Those in favor will say aye. Opposed, no.

The report is adopted. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, in compliance with our rules, I think it would now be necessary to take a roll call vote on the amendment to the constitution changing the date.

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment recommended in the report is as follows:

1. Amend the schedule, section 15 [formerly section 16] (column 2) line 11, after "held on the" by striking out "Tuesday after the first Monday of November, 1962.", and inserting "first Monday in April, 1963.".

PRESIDENT NISBET: The secretary will call the roll. Those in favor of the amendment will vote aye as your name is called. Those opposed will vote no.

The roll was called and the delegates voted as follows:

Yeas—141

Allen
Andrus, Miss
Anspach
Austin
Baginski
Balcer
Barthwell
Batchelor
Beaman
Bentley
Goebel
Gover
Greene
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Hart, Miss
Haskill
Hatch
Page
Pellow
Perlich
Perras
Plank
Pollock
Powell
Prettie
Pugsley
Radka
Binkowski
Blandford
Bledsoe
Bonisteel
Boothby
Bowens
Bradley
Brake
Brown, G. E.
Brown, T. S.
Buback
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Douglas
Downs
Durst
Elliott, A. G.
Elliott, Mrs. Daisy
Erickson
Everett
Farnsworth
Faxon
Figy
Finch
Follo
Ford
Gadola
Garvin
Hatcher, Mrs.
Heideman
Higgs
Hood
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Jones
Judd, Mrs.
Karn
Kelsey
Kirk, S.
Knirk, B.
Koeze, Mrs.
Krolikowski
Kuhn
Lawrence
Leibrand
Leppien
Lesinski
Liberato
Madar
Mahinske
Martin
McAllister
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Murphy
Nisbet
Nord
Norris
Ostrow
Rajkovich
Richards, J. B.
Richards, L. W.
Romney
Rood
Rush
Sablich
Seyferth
Shackleton
Shaffer
Shanahan
Sharpe
Sleder
Snyder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Stopczynski
Suzore
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Walker
Wanger
White
Wilkowski
Wood
Woolfenden
Yeager
Young
Youngblood

Nays—0

SECRETARY CHASE: On the adoption of the amendment, the yeas are 141; the nays are none.

PRESIDENT NISBET: The amendment is adopted. The question now is on the **final passage of the constitution as amended** this morning. Those who are in favor will answer aye as your names are called. Those opposed will answer nay. The secretary will call the roll.

The roll was called and the delegates voted as follows:

Yeas—98

Allen
Andrus, Miss
Anspach
Balcer
Batchelor
Beaman
Bentley
Blandford
Bonisteel
Boothby
Brake
Brown, G. E.
Butler, Mrs.
Conklin, Mrs.
Cudlip
Cushman, Mrs.
Danhof
Dehnke
Dell
DeVries
Donnelly, Miss
Doty, Dean
Doty, Donald
Durst
Elliott, A. G.
Erickson
Everett
Farnsworth
Figy
Finch
Gover
Gust
Habermehl
Hanna, W. F.
Hannah, J. A.
Haskill
Hatch
Heideman
Higgs
Howes
Hoxie
Hubbs
Hutchinson
Iverson
Judd, Mrs.
Karn
Kirk, S.
Knirk, B.
Koeze, Mrs.
Kuhn
Lawrence
Leppien
Martin
McCauley
McGowan, Miss
McLogan
Millard
Mosier
Nisbet
Page
Powell
Prettie
Pugsley
Radka
Rajkovich
Richards, J. B.
Richards, L. W
Romney
Rood
Rush
Seyferth
Shackleton
Shaffer
Sharpe
Sleder
Spitler
Stafseth
Staiger
Stamm
Sterrett
Stevens
Thomson
Tubbs
Turner
Tweedie
Upton
Van Dusen
Wanger
White
Wood

Follo
Gadola
Goebel
Perras
Plank
Pollock
Woolfenden
Yeager

Nays—43

Austin
Baginski
Barthwell
Binkowski
Bledsoe
Bowens
Bradley
Brown, T. S.
Buback
Douglas
Downs
Elliott, Mrs. Daisy
Faxon
Ford
Garvin
Greene
Hart, Miss
Hatcher, Mrs.
Hood
Jones
Kelsey
Krolikowski
Leibrand
Lesinski
Liberato
Madar
Mahinske
McAllister
Murphy
Nord
Norris
Ostrow
Pellow
Perlich
Sablich
Shanahan
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Young
Youngblood

SECRETARY CHASE: On the adoption of the constitution as amended, the yeas are 98; the nays are 43. (applause)

PRESIDENT NISBET: The **constitution** is adopted.

For the constitution as adopted, see below, page 3317.

Because of the hour, it being almost noon, the Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that the convention now stand in recess until 2:00 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that we recess until 2:00 p.m. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 2:00 o'clock.

[Whereupon, at 11:50 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

Will the delegates please take their seats. The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: I think we should recognize the fact that many of our employees are voluntarily back with us today, meeting with the delegates. I'm sure all of us are very happy to have them here. It brings about a happy result to see them and I think we ought to give them a good hand. (applause) Mr. Chase has an announcement.

SECRETARY CHASE: There are 3 announcements that possibly should have been made before we recessed for lunch.

First, there is mail for all of the delegates in the mail room downstairs.

Just prior to the May 11 adjournment, several of the delegates took out, on loan, sets of convention slides which have not been returned. Missing from our files are 12 complete sets of slides. Since we frequently have call from other delegates for the use of these slides, we would appreciate their return as soon as possible. Ink White, chairman of the committee on public information.

I am sure the delegates recall the lady on the civic center staff who took such good care of keeping the windows clean and the place well slicked up, who had to go to the hospital for a very critical operation. A number of the delegates contributed to a fund to help her over her financial difficulties. I have the following card:

> It is very difficult to express my appreciation to all the wonderful people of con con. Let me say, with my heart, your kindness and generosity will always be remembered.
>
> Sincerely,
> Freda Adams.

PRESIDENT NISBET: Since the adjournment on May 11, we have added 2 new associate members to the delegation: Mrs. Charles Follo and Mrs. Gil Wanger.

I asked Charlie if Mrs. Follo was present so that he might present her, but he said she isn't. We are sorry, Charlie, she couldn't be with us.

Mr. Wanger, is your associate delegate present? Would you present her?

[Whereupon, the delegates accorded Mrs. Wanger a standing ovation.]

At the final session before the long recess the president was authorized to name a reunion committee for the constitutional convention. Accordingly, the **president appoints,** as members of the reunion committee: Mr. Erickson, Mrs. Koeze, Messrs. Jones, Bowens, Brake, Mrs. Conklin, Mr. Dean Doty, Mrs. Daisy Elliott, Messrs. Faxon, Kelsey, Kuhn, Powell, Sharpe, Wanger, White and Norris.

Without objection, the appointments are approved. You will notice that most of these delegates are within the area of Lansing, Detroit or Grand Rapids for their ease in getting together when they have to meet. Mr. Claud Erickson is chairman of the committee.

Returning to the order of business, **approval of address to people.** We will take up the **report of the committee on public information.** Mr. White, chairman.

MR. WHITE: Mr. President, under date of June 26, 1962, each delegate was mailed proof copies of the proposed address to the people. Since that time our committee has received numerous suggestions for corrections, additions, deletions and so on. Our committee has met and gone over these suggestions and they have been, for the most part, agreed to. I might say, parenthetically, the address in its present corrected form represents the writing and editing of upwards of 50 of our delegates.

Under date of July 27, 1962, each of you was mailed a 16 page multilith report which outlined in detail some 108 corrections. This communication also carried the recommendation that we be authorized to correct the text of the constitution as it appears in the address to conform with the style and drafting changes adopted at today's session, and to offer comments accordingly, if necessary. All of this material has been delivered again to each delegate's desk today. Additionally, you have a single white multilith sheet from our committee containing brief addenda to this 16 page report.

It seems to me, Mr. President, the delegates have had ample time to consider these matters, and to expedite our final deliberations, I move that the report of the public information committee, with the recommended addenda, be considered read.

PRESIDENT NISBET: Without objection, it is so ordered.

Following is the report as submitted and considered read:

After careful consideration of suggestions from delegates, your committee on public information recommends the adoption of the following changes in the proof copy of the address to the people:

For document incorporating following changes, see below, page 3355. Page numbers in report refer to document pages.

1. Amend page 2, second full paragraph, line 3, after "that one" by striking out "must" and inserting "should"; to improve phraseology.
2. Amend page 2, third full paragraph, line 1, by striking out "Ordered by popular vote, its delegates selected by the people on the basis of one from each senatorial and representative district, the Constitutional Convention of 1961-62 met in Lansing on October 3, 1961.", and inserting "The convention was ordered by popular vote in April of 1961. There were 144 delegates, representing Michigan's 34 State Senatorial districts and 110 State Representative seats. They were elected in statewide voting on September 12, 1961, and convened at Lansing on October 3, 1961."; to improve awkward sentence construction and correct error by indicating "seats" rather than representative "districts."
3. Amend page 2, fifth full paragraph, line 2, after "overlapped" by striking out "each other"; to improve phraseology.
4. Amend page 2, fifth full paragraph, line 6, after

"Republican" by striking out "delegates" and after "and 45" by striking out "Democrats" and inserting "Democratic delegates"; to improve phraseology.

5. Amend page 3, first full paragraph, line 1, after the first "The" by striking out "final" and inserting "third"; for a more accurate statement.

6. Amend page 3, second full paragraph, line 1, after "was" by striking out "twice" and after "subjected" by inserting "three times"; for a more accurate statement.

7. Amend page 3, third full paragraph, line 4, after "work by" by inserting "six study groups,"; in recognition of further research.

8. Amend page 3, fourth full paragraph, line 1, after "Looking" by striking out "behind" and inserting "at"; to improve phraseology.

9. Amend page 4, paragraph 1, line 2, after "convention has" by striking out "attempted to meet" and inserting "met"; for a more positive statement.

10. Amend page 4, first subtitle by striking out **"Governor's Role Strengthened"** and inserting **"Governor's Responsibility Increased"**; to improve phraseology.

11. Amend page 4, first subparagraph 3, line 1, after "appointment of" by inserting "the state treasurer and" and line 5, after "boards" by changing the colon to a period and striking out "State Board of Education, Regents of the University of Michigan, Trustees of Michigan State University and Governors of Wayne State University."; to improve phraseology.

12. Amend page 4, subparagraph 4, line 3, after "ganization" by inserting "by the legislature" and line 6, after "mendations" by inserting a comma; for a more accurate statement.

13. Amend page 5, first subparagraph 1, line 1, after "Allow" by striking out "departmental" and inserting "administrative" and line 2, after "reasons of" by striking out "administrative"; to improve phraseology.

14. Amend page 5, first subparagraph 2, line 3, after "commission,", by inserting "but only" and line 4, after "vote,", by striking out "but" and inserting "and"; for clarification.

15. Amend page 5, second subtitle by striking out **"Revised Highway Set-up"** and inserting **"New Highway Commission"**; for a more informative title.

16. Amend page 5, second subparagraph 2, line 5, after "these" by striking out "principles" and inserting "formulas"; to improve phraseology.

17. Amend page 6, line 1, after "fairness and" by striking out "equitability" and inserting "equity"; to improve phraseology.

18. Amend page 6, second full paragraph, line 2 by striking out "their" and inserting "its"; to improve phraseology.

19. Amend page 6, sixth full paragraph, line 4, after "court.", by inserting a new subtitle which reads, **"Vacancies Filled by Election"** and starting a new paragraph with the next sentence; for better presentation.

20. Amend page 7, paragraph 1, line 1, after "nine" by striking out "elected justices" and inserting "judges" and line 3, after "justice.", by inserting "The judges will be elected from districts."; for clarification.

21. Amend page 7, third subtitle by striking out **"Judicial Review Possible"** and inserting **"Judicial Review Broadened"**; for a more accurate statement.

22. Amend page 7, paragraph 3, line 3 by striking out "This does not apply, however, to decisions of the state tax commission fixing property valuations, which are to be final.", and inserting "This does not apply, however, to certain decisions of the state tax commission and findings of fact in workmen's compensation proceedings."; to correct error.

23. Amend page 7, subparagraph 1, line 1, after "1.", by striking out "Power" and inserting "Charter counties, charter townships, cities and villages may be empowered"; for clarification.

24. Amend page 8, first full paragraph, line 4, after "million)", by striking out "and" and inserting "but"; for clarification.

25. Amend page 8, third full paragraph, line 3, after "borrowing.", by striking out "On a local option basis any county, school and township can establish separate tax rate limitations, eliminating the tax allocation board, if approved by the people affected.", and inserting "A county, its school districts and townships may establish separate and fixed tax limitations on a county-wide basis if the total does not exceed 18 mills and the arrangement is approved by a majority of the voters. Exercise of this local option would eliminate the county tax allocation board."; for clarification.

26. Amend page 8, sixth full paragraph, line 2, after "taxes.", by inserting "This would not deprive the legislature of the power to provide other exemptions."; for clarification.

27. Amend page 9, paragraph 1, line 2, after "effecting" by striking out "substantial" and inserting "possible" and line 3, after "savings" by striking out "and a possible reduction in tolls"; to correct possible misunderstanding.

28. Amend page 10, following the first subparagraph 2, by striking out all of paragraph 2 which reads as follows:

"The anti-discrimination provision is one of the strongest in any state constitution. The civil rights commission offers the constitutional basis for a vigorous attack on discrimination.", and inserting a new paragraph which reads as follows:

"The civil rights commission offers the constitutional basis for vigorous enforcement of the anti-discrimination provision."; for clarification.

29. Amend page 10, subparagraph 5, line 1, after "cooperation" by striking out "between" and inserting "by"; to improve phraseology.

30. Amend page 10 by striking out all of the last paragraph which reads as follows:

"The citizen should not approach his assessment of the revised Constitution comparing it with his own concept of the ideal, but should ask himself whether the proposed revision, as it stands, better suits the modern age and its auspicious future than does the 1908 Constitution.", and inserting a new paragraph which reads as follows:

"A decision on the merits of the revised document should not be a matter of comparing it with a citizen's own concept of the ideal. Rather, it is suggested that he ask himself whether the proposed revision, as it stands, better suits the modern age and its auspicious future than does the 1908 Constitution."; to improve phraseology.

31. Amend page 11, by striking out the first full paragraph which reads as follows:

"This is the simple, yet awesome decision confronting every good citizen as he considers the weight of the issues.", and inserting a new paragraph which reads as follows:

"This clearly is the issue confronting every good citizen as he makes his judgment on the 1962 Constitution."; to improve phraseology.

32. Amend page 15 (section 14 comment) paragraph 2, line 3, after "safeguard" by striking out "the rights of both parties involved in such actions against possible compromise settlements.", and inserting "both parties involved against possibly unjust compromise verdicts or settlements."; for clarification.

33. Amend page 17 (section 1 comment) paragraph 1, line 1, after "revision of" by striking out "sections in" and inserting "Sections 1, 2 and 3,", and after "Article III" by inserting a comma; to be more specific.

34. Amend page 17 (section 1 comment) paragraph 3, line 1, after "authority to" by striking out "permit" and inserting "establish" and line 2, after "requirement" by inserting a period and striking out "of 30 days and would give the legislature some flexibility in fixing the unit of local government to which the 30-day residence requirement would apply."; to remove verbiage which might confuse reader.

35. Amend page 17 (section 2 comment) line 1, after "This is a" by striking out "revision of Sec. 2, Article III, of the present constitution. It" and inserting "new section which"; as this is a new section rather than a revision.

36. Amend page 18 (section 5) line 5, after "*States*" by inserting "*are*" and after "*regularly*" by striking out "*are*"; to correct typographical error.

37. Amend page 18 (section 5 comment) paragraph 1, line 4, after "elected" by inserting "(See Sec. 5, Schedule, page 103)"; for further clarification.

38. Amend page 19 (section 5 comment) line 1, after "activity.", by striking out "Its re-scheduling in the fall is certain to cause wider citizen participation in the election of officials ranging from supreme court to township officers.", and inserting "Its elimination is expected to cause wider citizen participation in the fall election of officials ranging from supreme court to township officers."; to improve phraseology.

39. Amend page 19 (section 7 comment) line 4, after "included.", by inserting "Statutory changes would be required to implement this section at the county and township level."; for clarification.

40. Amend page 19 (section 8) line 3, after "the number" by inserting "of *persons*" and line 4, after "governor" by striking out the comma; to correct typographical error.

41. Amend page 22 (section 2 subtitle) by striking out **"Division of powers."**, and inserting **"Separation of powers."**; for a more appropriate title.

42. Amend page 23 (section 8 comment) paragraph 1, line 3, after "occasions" by changing the period to a dash and inserting "but only as to legislative acts that are already passed and signed by the governor, and before they become effective."; for clarification.

43. Amend page 25 (section 2 comment) paragraph 2, line 4, after "The other" by striking out "22" and inserting "24"; to correct error.

Paragraph 2 later deleted and paragraph 3 reworded. See below, page 3305.

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44. Amend page 25 (section 2 comment) paragraph 4, line 2, after "or more apportionment factors" by striking out the period and "Each such county will be assigned senators in the proportion it bears to the total apportionment factors of the state, computed to the nearest whole number.", and inserting a comma and "as a class. This class of counties will be assigned senators in the proportion that the apportionment factors of the class bears to the total apportionment factors of the state, computed to the nearest whole number."; for further clarification.

45. Amend page 25 (section 2 comment) paragraph 6, line 6, after "and be" by striking out "rectangular" and inserting "as nearly uniform as possible"; for a more accurate statement.

46. Amend page 27 (section 3 comment) paragraph 1, line 5, after "district" by striking out "and in the individual share in a representative per district"; for less confusing language.

47. Amend page 27 (section 4 comment) paragraph 1, line 3, after "cities" by inserting "between apportionments"; to improve phraseology.

48. Amend page 28 (section 5) line 1, after "*Sec. 5*" by inserting a period; to correct typographical error.

49. Amend page 29 (section 6) line 1 by striking out the first word "*day*" and inserting "*days*"; to correct typographical error.

50. Amend page 29 (section 6 comment) paragraph 1, line 1 by striking out "Under this new section the house and senate are to" and inserting "This is a new section requiring that the house and senate"; for consistency in style of comment.

51. Amend page 29 (section 6 comment) paragraph 2, line 1, after "within" by striking out "30" and inserting "75"; to correct a miscalculation.

52. Amend page 29 (section 6 comment) paragraph 2, line 3, after "days" by inserting "after all necessary census information is available"; for clarification.

53. Amend page 29 (section 6 comment) paragraph 3, line 2, after "law" by striking out "and be subject to popular referendum in the same manner as acts of the legislature"; to correct error.

54. Amend page 29 (section 6 comment) paragraph 3, line 3, after "members" by striking out "from each political party shall" and inserting "individually or jointly may"; for a more accurate statement.

55. Amend page 34 (section 22 comment) line 2 by striking out "the elimination of unnecessary language.", and inserting "improvement in phraseology."; for consistency in style of comment.

56. Amend page 34 (section 25 comment) line 1, after "revision of" by inserting "parts of"; to be entirely specific.

57. Amend page 34 (section 25 comment) line 3, after "This" by striking out "is" and inserting "would be"; for a more accurate statement.

58. Amend page 35 (section 28) line 2; after "*special*" by striking out "*sessions*" and inserting "*session*"; to correct typographical error.

59. Amend page 38 (section 36 comment) line 2, after "sentences" by inserting "thereby"; for clarification.

60. Amend page 38 (section 36 comment) line 5, after "matter" by inserting "of a compilation"; for clarification.

61. Amend page 39 (section 43 comment) paragraph 2, line 1, after "inserted to" by striking out "clarify" and inserting "comply with"; to improve phraseology.

62. Amend page 39 (section 44 comment) line 1 by striking out "No change from" and inserting "This is a revision of" and after "Article V,", by striking out "except for the addition of" and inserting "adding"; for consistency in style of comment.

63. Amend page 40 (section 47 comment) paragraph 1, line 2, after "power" by striking out "in appointment of" and inserting "to provide"; to improve phraseology.

64. Amend page 42 (section 53 comment) paragraph 4, line 4, after "funds.", by inserting "Appropriation of moneys for higher education is a legislative responsibility and an accounting is required to be made to the legislature."; for clarification.

65. Amend page 44 (section 2 comment) line 2, after "members in" by striking out "either house" and inserting "both houses"; to correct error.

66. Amend page 44 (section 3) paragraph 1, line 4, after "*of state, a*" by inserting "*state*"; to correct typographical error.

67. Amend page 45 (section 7 subtitle) by striking out **"Appointments; senate not in session."**, and inserting **"Vacancies in state offices."**; for more accurate title for this section.

68. Amend page 45 (section 7 comment) paragraph 1, line 1, after "This is a" by striking out "new section substituting for" and inserting "revision of" and after "constitution" by striking out "and" and in line 4, after "senate" by striking out "within 60 session days after the beginning of the next session.", and inserting "as provided in Sec. 6 of this Article."; for consistency and to improve phraseology.

69. Amend page 46 (section 9 comment) line 1 by striking out "This revised section adapts language from" and inserting "This is a revision of"; for consistency in style of comment.

70. Amend page 47 (section 16) by italicizing last two words, "*any cause*"; to correct typographical error.

71. Amend page 48 (section 18 comment) following paragraph 3 by inserting a new paragraph which reads as follows:

"Since Sec. 13, Article IV, of this proposed document gives legislative priority to general appropriation bills, the procedure outlined in this new section is designed to expedite agreement on fiscal matters."; for further clarification.

72. Amend page 49 (section 20 comment) paragraph 2, line 3, after "appears that" by striking out "expenditures are likely to exceed revenue" and inserting "revenues are not meeting"; to correct error.

73. Amend page 50 (section 21 comment) by striking out the last paragraph which reads as follows:

"Included in the new language of this section is a constitutional provision establishing "12:00 o'clock noon" as the time on January 1 when the elected state officers begin their terms. The present constitution is not specific in this respect."; to correct error.

74. Amend page 50 (section 23 comment) line 2, after "general" by striking out the comma and "who becomes an appointee of the legislature" and inserting "and state treasurer, who become appointive officials"; to correct error.

75. Amend page 53 (section 29 comment) paragraph 1, line 1, after "This" by striking out "new section establishes" and inserting "is a new section establishing"; for consistency in style of comment.

76. Amend page 59 (section 12 comment) paragraph 2, line 2, after "which" by striking out "permits their terms of office to expire at different times.", and inserting "does not permit all terms of office to expire at the same time."; for clarification.

77. Amend page 60 (section 15 comment) paragraph 1, line 2, after "combine" by striking out "one or more"; to correct error.

78. Amend page 61 (section 19 subtitle) by striking out **"Courts of record; seal."**, and inserting **"Courts of record; seal; qualifications of judges."**; for appropriate addition.

79. Amend page 62 (section 19 comment) line 4, after the first word "judges" by inserting "of such courts" and line 5, after "made in" by inserting "Sec. 7 of"; for clarification.

80. Amend page 62 (section 22 subtitle) by striking out **"Candidacy; affidavit."**, and inserting **"Candidacy of incumbents; affidavit."**; for clarification.

81. Amend page 63 (section 23 comment) paragraph 1, line 4, after "judges" by inserting "to fill vacancies"; for clarification.

82. Amend page 63 (section 26) paragraph 1, line 9, after "*units the*" by striking out "*same*" and inserting "*judges*"; to correct error in text.

83. Amend page 66 (section 2 comment) by striking out the first 3 paragraphs which read as follows:

"This is a new section providing permissive home rule for counties and leaving to the legislature the responsibility for working out the details of charter county organization. It permits the legislature to authorize modification of county governmental machinery to meet modern problems efficiently.

A majority of the county's electors voting on the question must give their approval before a charter can be adopted, amended or repealed. The board of supervisors may initiate a ballot proposal to elect a commission to frame a county charter, or five percent of the county's electors may petition the board to submit such a proposal to the electorate.

The section specifically directs the establishment of a maximum property tax limitation and authorizes charter counties to levy other taxes for county purposes, subject to limitations and prohibitions provided by this constitution or by law. Such counties may, subject to law, adopt resolutions and ordinances.", and inserting 5 new paragraphs which read as follows:

"This is a new section enabling counties, by vote of the people, to adjust their governmental structure to meet modern problems effectively.

The question of electing a charter commission to frame a charter may be put on the ballot by vote of the board of supervisors; or upon petition of five per cent of the electors the question must be put on the ballot. If the proposal is approved by the people, a charter commission is then elected.

The charter commission is limited by legislative action in the structural changes it may propose. But the legislature is authorized to permit county government "in form different from that set forth in this constitution." To become effective, the charter framed by the commission must be approved by a vote of the people.

A county charter may authorize the county to adopt resolutions and ordinances "relating to its concerns," subject to law. This means that the charter county need not have specific permission from the legislature to perform local functions and that such activities may be limited only by legislative enactment.

The charter county would be required to comply with property tax rates and debt limits established by general law. Such a county, however, is given new powers to levy taxes "other than property taxes," subject also to limitations in this constitution or by law."; for clarification.

84. Amend page 67 (section 2 comment) last paragraph, line 3, after "state.", by striking out "The section follows generally the pattern established by the home rule provisions for cities in our present constitution and included in this new document."; to eliminate possible confusion.

85. Amend page 67 (section 5 comment) line 4, after "because" by striking out "of the possibility of having probate judges serve districts of more than one county.", and inserting "the probate judge is regarded as a judicial officer and not a county officer."; for clarification.

86. Amend page 68 (section 6 comment) paragraph 2, line 1, after "To the" by striking out "last" and inserting "second"; to correct error.

87. Amend page 71 (section 18 comment) last paragraph, line 3, after "stitution" by striking out "which has been deleted from this proposed new document"; to correct error.

88. Amend page 79 (section 5 comment) paragraph 1, line 1, after "This is a" by striking out "new section" and inserting "revision"; to correct error.

89. Amend page 79 (section 5 comment) paragraph 2, line 5, after "filled" by striking out "in a manner provided by law.", and inserting "by appointment of the governor."; for clarification.

90. Amend page 80 (section 6 comment) paragraph 2, line 2, after "named in" by striking out "a previous section" and inserting "Sec. 5"; to be more specific.

91. Amend page 83 (section 4 comment) line 3, after "purposes.", by inserting "These exemptions already exist by statute."; for clarification.

92. Amend page 84 (section 6) paragraph 1, last line, after "*Article II*" by striking out the comma; to correct typographical error.

93. Amend page 84 (section 6 comment) by striking out the first sentence which reads, "This revised section continues the substance of the present 15-mill limit on property taxes now set forth in Sec. 21, Article X, of the present constitution.", and inserting a new sentence which reads, "This is a revision of Sec. 21, Article X, of the present constitution which continues in substance the 15-mill limit on property taxes."; for consistency in style of comment.

94. Amend page 84 (section 6 comment) line 2, after "taxes.", by striking out "County" and inserting "Statutory county"; for clarification.

95. Amend page 85 (section 6 comment) paragraph 1, line 3, after "overall 50-mill limit.", by striking out the second sentence which reads, "The overall 50-mill limit could be increased by law."; to correct error.

96. Amend page 85 (section 6 comment) paragraph 3, line 2, after "vote on" by striking out "taxes to retire bond issues or for capital outlay" and inserting "property tax increase"; for clarification.

97. Amend page 85 (section 8 comment) after "revision of" by striking out "language which appears in" and inserting "a part of"; for consistency in style of comment.

98. Amend page 85 (section 8 comment) after "con-

stitution.", by striking out "No substantive change is involved."; to correct inaccuracy.

99. Amend page 86 (section 10 comment) line 1, after "revision of" by inserting "part of"; for consistency in style of comment.

100. Amend page 86 (section 10 comment) line 5, after "villages.", by inserting "Deleted from the present section is reference to the sales tax "on the 1946 statutory base (not rate)." This would permit elimination of sales tax on food, drugs and other items included in the 1946 statute if, in the judgment of the legislature, this seemed advisable."; for further clarification.

101. Amend page 89 (section 16 comment) line 1, after "This" by striking out "section continues in substance" and inserting "is a revision which continues"; for consistency in style of comment.

102. Amend page 89 (section 18 comment) paragraph 1, line 1, after "sentence" by striking out "of this section is the language" and inserting "is a revision" and line 2, after "tution" by striking out "except that it has added at the end" and inserting "adding"; for consistency in style of comment.

103. Amend page 90 (section 22 comment) line 1, after "This is a" by striking out "new section" and inserting "revision of Sec. 21, Article VI, of the present constitution" and line 3, after "state" by striking out "which is now covered in Sec. 21, Article VI, of the present constitution"; for consistency in style of comment.

104. Amend page 92 (section 2 comment) paragraph 2, line 1, after "indicates that" by striking out "equitable" and inserting "proper"; to improve phraseology.

105. Amend page 92 (section 3 comment) line 3, after "increased from" by striking out "$2,500 to" and inserting "a maximum of $2,500 to a minimum of"; to correct error.

106. Amend page 95 (section 5) paragraphs 3 and 5 should be indented in the same manner as the rest of the section; to correct typographical error.

107. Amend page 97 (section 5 comment) paragraph 1, line 5, after "effect at the time" by inserting "nor may the legislature change pay differentials established by the commission"; for further clarification.

108. Amend page 97 (section 5 comment) following paragraph 6, by inserting a new paragraph which reads as follows:

"Of special interest to civil service personnel is the provision in Sec. 24, Article IX, of the proposed constitution which specifies that pension plans and retirement systems of the state shall be contractual obligations "which shall not be diminished or impaired." Sec. 53, Article IV, providing for the appointment of the auditor general by the legislature, requires that members of his staff, except for two persons, shall have civil service status."; for further clarification.

109. Amend page 103 (section 5 comment) line 3, after "1966" by changing the period to a comma and inserting "thus separating gubernatorial from presidential elections."; for further clarification.

110. Amend page 105 (section 14 [formerly section 15] comment) paragraph 1, line 5, after "these bonds" by striking out "would" and inserting "might"; to correct possible inaccuracy.

111. Amend page 107 by striking out the following:

"*Art. V, Sec. 37.* Giving the governor the power to disapprove any item of an appropriation bill. Provided for in Sec. 19, Art. V, of the revision."; to correct error.

112. Amend page 108 by striking out the following:

"*Art. VIII, Sec. 31.* Providing for incorporation by two or more municipalities for purpose of acquiring, owning and operating public utilities.

Art. X, Secs. 7 and 8. Providing for assessment of property and equalization of assessments. Covered in Sec. 3, Art. IX, of the revision."; to correct error.

Your committee on public information further recommends that changes in the text of the proposed constitution adopted by this convention prior to adjournment be incorporated in this address to the people and that comments be altered accordingly, if necessary.

Your committee further recommends that a table of contents be included in the address to the people which will indicate to readers the page numbers on which each article starts and the title of the article.

They also recommend that under the table of contents this line appear:

"For additional copies write: Constitutional Convention Office, Civic Center, Lansing, Michigan.".

Ink White, chairman.

PRESIDENT NISBET (continuing): Without objection, the report is concurred in.

Pursuant to the further recommendation of the committee on public information relative to changes in the text of the proposed constitution adopted by the convention, 3 substantive changes (and numerous editorial, nonsubstantive changes) were made. The 3 substantive changes read as follows:

1. Amend page 25 (section 2 comment) by striking out the second paragraph which reads as follows:

"Temporary provision for increasing senate membership following the adoption of this constitution appears in the Schedule of this document. The increase is accomplished by assigning one additional senator to each of four counties—Wayne, Oakland, Macomb and Genesee. The other 22 senate districts will remain as provided for in the present constitution.".

2. Amend page 25 (section 2 comment) by striking out the third paragraph which reads as follows:

"Beginning in 1970, and every 10 years thereafter, senatorial districts are to be apportioned on a formula which gives weight to both area and population. The apportionment formula calls for the assignment to each county of an apportionment factor computed as follows:

1. The percentage of the total state population in the county multiplied by four; plus,
2. the percentage of the state land area in the county.",

and inserting a revised paragraph which reads as follows:

"Senatorial districts are to be apportioned on a formula which gives weight to both area and population. The apportionment formula calls for the assignment to each county of an apportionment factor computed as follows:

1. The percentage of the total state population in the county multiplied by four; plus,
2. the percentage of the state land area in the county.".

3. Amend page 103, following section 5 comment by striking out the following:

"**Senate apportionment.**

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

This is a new section providing for apportionment of the senate following the 1970 census and authorizes temporary re-districting to give one additional senate seat each to Genesee, Macomb, Oakland and Wayne counties, if the revised constitution is adopted. It also authorizes the legislature to give prior effect to Sec. 2, Article IV, of the revised constitution. Such legislative action is not to be subject to veto by the governor."; and renumbering the balance of the sections through page 106.

MR. WHITE: I now move, Mr. President, that the address to the people, incorporating changes outlined in the report of the public information committee with the recommended addenda which have just been agreed to, be approved for distribution to the citizens of Michigan.

A DELEGATE: Support.

PRESIDENT NISBET: The question is on the motion of Mr. White for approval of the address to the people. Mr. Mahinske.

MR. MAHINSKE: Mr. President, at this time I'd like to move to divide the question here, separating the preface from the body of the address to the people and discuss the preface only.

MR. VAN DUSEN: Point of order, Mr. President. I don't believe the question is divisible.

MR. MAHINSKE: I think it is divisible, Mr. President, seeing as we have 2 distinct questions available for consideration if the question is divided. And I don't think, other than that, that objections are in order to a motion to divide.

PRESIDENT NISBET: The Chair rules that the preface and the main body can be divided. The question is on the motion of Mr. Mahinske that it be divided.

MR. MAHINSKE: I don't think that calls for a vote, Mr. President. I think I have that right without a vote.

PRESIDENT NISBET: You are correct. The question now is on the adoption of the preface. Mr. Mahinske.

MR. MAHINSKE: I'd like to yield the floor at this time to Mr. Ford.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Mr. President, members of the convention, I would like to ask, through the Chair, first, a question of Mr. White, if at any time during the deliberations of his committee the question was raised and what their determination was with respect to the difference in this preface between conclusions drawn by the committee in the proposed preface and a statement of fact. There are approximately 57 practicing attorneys in this convention and I think that they understand clearly the difference between a statement or, particularly, a concise statement of facts and an argument in the form of conclusions drawn from those facts.

Now, as I read the preface, we have, for example, at the beginning of a number of explanations of sections a statement that would go something like this: the executive branch is improved by the following items. It doesn't say, as the 1907 message said, that the executive branch is changed. The difference in the 2 words, I think, is very important. The entire appearance of the preface that's proposed here is that the committee has drawn conclusions in every section, with respect to every section where changes have been made, that the changes are in fact improvements. I think this is a question to be left to the people and a question that has to be determined after they read not only the preface, but the sections of the constitution to which it applies.

Now, for us as a delegate body to use public money to say to the people, "We are going to draw these conclusions for you as a preface to your examination of the document," I think is entirely improper. And I think that throughout the explanation, as well as the preface, we should restrict ourselves to a simple statement of facts. I have no quarrel with the facts that are stated in the preface. My only quarrel is that in every section of the preface there is a conclusion drawn by the committee that in every instance the feeling of this convention is that the change constitutes improvement, strengthening, betterment—things of this kind. I think that all we should do is draw to the people's attention that there is a change and what the legal effect of the change might be without going a step further and urging that this delegate body is saying to the people of the state of Michigan that they should draw a conclusion that a certain philosophy—if you look at the judiciary section, for example, it starts out with language to the effect that the judiciary section incorporates a certain philosophy. Now, I have no recollection of us passing on the adoption of a philosophy and I don't think that we should be adopting the position that we're incorporating any philosophies here, merely that we are doing certain things and that changes are made and the people should decide whether it's consistent with a certain philosophy or not.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President, with all due respect to my good friends, Mr. Mahinske and Mr. Ford, I would like to move the previous question of Chairman White.

MR. MAHINSKE: Point of order. I yielded the floor to Mr. Ford and not to Mr. Sterrett or anyone else at this time.

MR. FORD: My question to Mr. White, through the Chair, is whether or not the question was raised before the committee and they considered the difference between stating conclusions in the preface and simply stating the facts with respect to the changes made.

MR. STERRETT: Point of order, Mr. President. I'll wait for the next recognition.

MR. WHITE: Mr. President and Delegate Ford—

PRESIDENT NISBET: Mr. White.

MR. WHITE: —this question was raised in meetings of the committee. I think it was the feeling of the majority of the committee that if conclusions were expressed, they were the conclusions of the majority of the delegates to this convention, Delegate Ford.

PRESIDENT NISBET: Mr. Snyder.

MR. FORD: Mr. President.

MR. SNYDER: Thank you, Mr. President.

MR. FORD: Mr. President, I believe that, without saying so, I've yielded to Mr. White for an answer to my question.

PRESIDENT NISBET: Excuse me, Mr. Ford. The Chair thought you had finished. Mr. Ford may proceed.

MR. FORD: To pursue the question through the Chair to Mr. White, taking, for example, in the preface the legislative branch—and I'm reading from the proof copy; not from any correction—the first sentence reads:

> Strengthening of the legislative branch as a counterpart to a strengthened executive branch was a major convention consideration. The provisions for the legislature are improved in these important particulars—

Now my question to Mr. White is: wouldn't the purposes of the preface and the message to the people be served in a true intent and meaning of our duty in this respect by using the word "changed" instead of the word "improved," thereby drawing no conclusion as to the effect of the changes, but drawing the attention of the people to the fact that changes have been made?

MR. WHITE: Mr. President and Delegate Ford, I think this is purely a matter of opinion.

MR. STERRETT: Mr. President, I'd like to object to what is on the floor at the present time.

PRESIDENT NISBET: Mr. Sterrett, Mr. Mahinske has the floor at the present time.

MR. STERRETT: Pardon me, sir, but it has been previously ruled that there is no yielding of the floor at this time.

PRESIDENT NISBET: The Chair will talk to our parliamentarian in a few moments.

MR. STERRETT: Please do.

PRESIDENT NISBET: If Mr. Ford has completed, the Chair recognizes Mr. Snyder.

MR. SNYDER: Thank you, Mr. President. I was a member of the committee on administration that met here last week to discuss this problem and I would like to point out to the delegates in assemblance here that this was not a majority vote that had any deviation to the previous line of demarcation that we've had at this convention. I pointed out to the committee on administration that by their actions in accepting the preface they put us in a position where we had to go to the people and say that they were editorializing, and in fact, if you will observe your budget closely, you will notice there will be 400,000 copies of the preface printed and in addition to this, there will be 200,000 copies of the complete address. This will mean then, fellow delegates, that there will be 600,000 copies of the preface and only 200,000 copies of the address to the people.

I submit to you that this would be a fraud upon the people of the state of Michigan to have this presented in an editorialized manner, because when the people are voting on the constitution they want to know the facts, and if you should have any figures, there should be 600,000 copies of the constitution and only 200,000 copies of the preface. I further submit to the delegates assembled here that this does create a very serious financial problem to us because as a result of this increase here, we're going to present at a later point to the convention a very phony, unbalanced budget. And I say to you that you are actors in this great drama here—and you, as actors, are entitled to know the facts—we can kid the people out in the audience and the people of the state of Michigan what's going to be in the constitution, but we at the convention here should know the facts.

Now, as a result, some of the final budget items received here, you will be asked to act upon the—

PRESIDENT NISBET: Mr. Snyder, would you please stand back a little bit so your voice will come through up here for the court reporter, please?

MR. SNYDER: Surely. Thank you, Mr. President. And I submit to you that if we accept the budget as proposed by the committee on administration, we will be asked to act later upon an unbalanced and phony budget, that the committee by its own admission had to crowbar and pry in order to come up with a balanced budget. We are being very unrealistic if we say now at this particular time that this budget that is being prepared by the committee on public information which will be part of the budget submitted to you later, is a balanced budget.

I think we owe to the people of the state of Michigan a straight and factual accounting of what's in this constitution, and not any substitute. We're willing to go to the people of the state of Michigan and present the thing on its merits and its facts. But we say to you, give us a chance—not 600,000 copies of a crowbarred, manipulated document that will be actually substantiated by 200,000 copies of what we have actually accomplished here.

PRESIDENT NISBET: The Chair recognizes Mt. Sterrett.

MR. STERRETT: Mr. President, Mr. Snyder failed to mention my remarks that I made in the committee on administration. I will not make them at this time. But he knows what they were. And therefore I would like to move the previous question and reserve the right to have the floor after the next question is before the delegation.

PRESIDENT NISBET: The question is on the motion of Mr. Sterrett. Mr. Faxon.

MR. FAXON: I'd like to move to limit debate to 5 minutes on each specific amendment.

MR. STERRETT: I would object, Mr. President.

PRESIDENT NISBET: The question is on the motion of Mr. Faxon. There is one amendment on the desk. Mr. Faxon's motion is that debate be limited to 5 minutes on this amendment. Excuse me. There are several amendments. Mr. Faxon, your motion is what, then? Mr. Faxon's motion is to limit debate to 5 minutes on each amendment. How many amendments are there, Mr. Chase?

SECRETARY CHASE: Four.

PRESIDENT NISBET: There are 4 amendments. The question is on the motion of Mr. Faxon. Those in favor will say aye. Those opposed will say no.

The motion does not prevail.

MR. FAXON: I move to limit debate to 10 minutes altogether.

PRESIDENT NISBET: Mr. Faxon's motion is to limit debate to 10 minutes on all the amendments. Those in favor will say aye. Opposed, no.

The motion does not prevail. The secretary will read.

SECRETARY CHASE: Messrs. Ford, Mahinske, Austin, Downs, Miss Hart, Messrs. Young, Nord, Jones, Faxon, Bradley, Norris, Mrs. Daisy Elliott and Mr. T. S. Brown offer the following amendment:

"Introduction

The constitution belongs to the people. The final decision on whether to adopt or reject the proposed constitution rightfully will be made by the people.

To make this final decision an intelligent choice, the people should have every reasonable opportunity to read both the majority and minority points of view.

Toward this end we therefore respectfully request and move that this amendment be added to the preface to the address to the people. We point out that this amendment is but 4 pages compared to the 109 pages of the present proof copy of the address. We therefore urge in the name of fair play and as a means of voter education, that this amendment be added to the address to the people.

We believe that common sense and statesmanship would dictate that this convention should not finally adjourn until the United States supreme court has definitely reviewed the apportionment decision of the Michigan court. The decision of the Michigan court raises very serious questions as to the constitutionality of the proposed new draft constitution. We should not propose to the people of Michigan the ratification of a potentially unconstitutional document. We should not so propose, particularly in view of the Michigan supreme court ruling that the 1908 constitution setting forth a population standard is the law of the state.

I

There are many basic faults in the proposed constitution.

A. The basic reforms the people desired—including provisions for equitable apportionment and fair taxation—were not met.

B. Effective democratic government is impossible because there is a built in conflict between the governor representing all the people equally and a legislature which guarantees minority control of both houses in the legislature. Government by deadlock will still continue.

C. Constitutional restrictions further limit the power of the governor in many respects and the unrepresentative legislature principally in regard to taxation.

D. For the first time in the history of Michigan, a deliberative body meeting to draft the basic law of the state proposes to abandon the basic principle that all persons are equal at the ballot box. This principle, which is at the root of our basic concepts of fair play, our religious principles of equality of all men and our political tradition of rule by the majority of the people, is now to be abandoned. Thus, the voters are being asked to throw away their birthright in favor of a potentially unconstitutional standard of apportionment.

E. Not only is the impotency of the legislature perpetuated under the proposed constitution, but the executive branch is weakened by the disintegration of the administrative board, the judicial branch is injured by cutting off the main source of supply of capable judges—appointment by the governor—and replacing it with superannuated retirees and selfstarting "name" candidates, the administrative agencies are damaged by ill conceived and retaliatory provisions for judicial and legislative committee review, the civil service system is threatened by provisions reopening the possibility of political hiring and firing and legislative and gubernatorial interference with pay scales, and the taxing powers of the government are further restricted and hamstrung. Such a constitution can be compared to a new model auto having the newest style chrome and interior decoration features, the finest brakes in the universe, and a onehorse engine. It looks pretty, it's great at stopping, but it won't move.

F. The supreme court of Michigan has rendered the only legal opinion thus far on the requirements of equal protection of the laws in connection with our legislature. Under this opinion it is reasonable to state that the proposed senate apportionment provision would probably be held to be unconstitutional. If this apportionment provision were to fail, the court could not then fall back upon the senate apportionment provision of the 1908 constitution. This is true because the 1908 document would have been repealed in its entirety by the adoption of the proposed new constitution. A grave governmental situation would result. There would be no senate at all. Likewise, all provisions as to advice and consent of the senate would also fail, with the result that no gubernatorial appointments can be made. Further, trials for impeachment would not be available (since there would be no senate) and there could presumably be no further constitutional conventions (since the delegate seats are based partly on nonexistent senate districts). It is also questionable whether the remaining one house could enact any legislation (since it takes the concurrence of 2 houses to pass a law). As a result, it is doubtful whether the new constitution could even have any partial validity. It would likely have to stand or fall as a whole. And if it were declared unconstitutional in its entirety, there is no guarantee that any legal or practical way to return to the 1908 constitution could be found. We might be a state without a constitution or any government—like the southern states after the civil war. In short, the proponents of the convention document are willing to gamble with the entire government of Michigan in a desperate and irresponsible action to preserve power in the hands of a minority of the people.

G. While the proponents of the majority document proclaim the need for a "consensus" of the people in the enactment of the laws, they fail to see that this is absolutely indispensable in the case of an entire constitution. There never has been a constitution adopted in any part of the free world where a large segment of the constituency opposed it. For example, the ratification of the United States constitution required the approval of 70 per cent of the constituent states, and it was in fact unanimously adopted. No state constitution has been adopted, so far as we are aware, without almost unanimous approval of its constitutional convention. The reason for this is simple. A constitution, in essence, is a "social contract" of the people, an agreement of substantially all the people to live under certain basic rules, and to leave the unsettled or unsettleable details for working out in the future. It cannot be a onesided document any more than a contract can exist with only one party. Nothing could be worse for the people of a state than to cast aside a constitution under which all have lived for generations, and to force upon a large segment of the public, as a substitute, a complete blueprint for living which accords with the desires of one segment of the public while being unacceptable to the other. This is the height of folly.

II

The proposed message to the people has several gross inaccuracies. In addition, it withholds vital information about state government and magnifies and distorts other aspects of the proposed document. It is not objective, but is a partisan exposition on behalf of a partisan document. Specifically, we object to the following:

1. The report implies that one house of the legislature is on a population basis, when, in fact, neither house is based upon population. The house, under the proposed constitution, would continue to have a wide disparity between districts, the smallest district with 53,062, the largest with 101,120.

2. The report fails to mention senate districts would vary by more than 4 to 1—the largest being 365,860, the smallest 86,430.

3. The report fails to show the inequitable representation in apportionment commission. Eight per cent of the people would have half the membership, and 70 per cent would have only ¼ of the membership. However, page 5 of the preface to the address simply refers to bipartisan equality. In the apportionment commission the same representation is given to 305,984 as that given to 5,515,045.

4. The governor's role is weakend, not strengthened, contrary to the contention on page 4 of the preface. Point 3, which refers to the power of appointment of the governor, is misleading because all new appointments are in fact subject to the "advice and consent" of a malapportioned and probably unconstitutional senate.

5. The office of governor is further weakened by the requirement of reducing spending levels within the limits of actual receipts.

6. Civil service is weakened and not improved. The legislature or the governor could independently prevent pay increases which are now exclusive jurisdiction of civil service. Individuals could be reorganized out of their jobs, with only conditional, tenuous protection.

7. The address relates that the highway commission which appoints the highway commissioner is appointed by the governor, but it fails to mention that "advice and consent" of the senate is required. The address ignores the probative argument against an appointed commission.

8. The section on "dedicated funds" on page 8 fails to inform the voter that there will be $60 million a year less earmarked for education.

These criticisms are made on the first 11 pages of the document. The complete 109 pages have other similar errors in them.

For example, there is no reference to the fact that the proposed "search and seizure" provision is of doubtful constitutionality, and 4 Michigan circut court judges have so held.

The apportionment provision fails to inform the voter of the likelihood that of the 4 added senators, 3 will be Republicans and 1 Democrat. This means that the senate will continue to be 2 to 1 Republican, although more votes are cast for Democratic candidates than Republican candidates for state senator. The report fails to say that the house of representatives will consist of 60 Republicans and 50 Democrats, even though a majority of the people vote for Democratic representatives. The report fails entirely to take into consideration the decision of the United States supreme court and the Michigan supreme court on the matter of reapportionment. Under the Michigan supreme court decision, we now have a senate based on population (with county lines preserved) and the order to the secretary of state is to conduct an election only if it meets with these requirements. Anything less representative than the 1908 senate provision is a definite step backward.

III

The Democratic delegates have consistently made positive and constructive suggestions. These same suggestions were embodied subsequently in a message by the governor. They form a minimum program of amendments to the proposed constitution that would constitute a step forward instead of a step backwards. These 9 points which we reaffirm at this time are as follows:

1. The proposed document provides for a diverse pattern in the method of selecting key state officials: governor, secretary of state, treasurer, auditor general, superintendent of public instruction and highway commissioner. There is no consistency apparent in this hodge podge. The appointive power of the governor would be seriously hampered. The right of election is taken from the people. Our present system of executive accountability—through election—is far preferable to the confused expedience reflected in the proposed document. I urge that the right of election be retained by the people.

2. The proposed constitution contains a rigid provision for built in red tape and roadblocks on appeals from administrative decisions. Legislative committees, acting between sessions, could suspend rules and regulations of an administrative agency. This provision is contrary to the doctrine of separation of powers between the legislative and executive branches of government. I urge this section be eliminated and that substituted for it be the present constitution's guarantees of equal protection and due proces of the law.

3. The proposed civil service article is a step backward. It opens the door to political manipulation of civil service, strips state employees of rights now guaranteed them and allows the legislature to interfere in job placement and salary adjustments.

4. The proposed finance and taxation article makes no progress in providing the flexibility required for state government in the twentieth century. It curtails rights of some voters, eliminates real borrowing authority for the state, raises borrowing costs of local governments and permits the legislature to compel the governor to curtail state

services at times when need for them may be greatest. The legislature is given blanket approval to raid funds of the highway department—the finest in the nation—and therefore shirk responsibility in raising sufficient funds to finance state government. I urge that these regressive proposals be eliminated and replaced by a workable framework which will allow state and local governments opportunity to develop sound fiscal solutions.

5. Self executing home rule is denied in the proposed document. Those metropolitan counties which feel the need to organize themselves effectively to best serve their residents should be allowed to do so. I urge that the draft embody the principle of the proposal submitted by Delegates Glenn Allen, Dorothy Judd, Charles Follo, Don Batchelor and others.

6. The proposed judicial article takes away the governor's right to fill judicial vacancies, turns it over to the supreme court and limits appointment to retired judges. There is no substantial reason for such a change. The proposal would make it possible for the legislature to order election of judges of the supreme court on the basis of districts. There certainly is no correlation between judicial temperament and ability and the individual's legal residence in the state. I urge these backward proposals be eliminated.

7. The proposed legislative apportionment does not provide even one house on a population basis. The language and formula for apportionment is obscure and unclear. I am prepared to urge acceptance of house and senate apportionment plans outlined by Delegate James K. Pollock, the distinguished political scientist from the University of Michigan, in testimony November 29, 1961, before the committee on legislative organization. Dr. Pollock's 2 stage plan for senate apportionment is an acceptable approach although I would like the time table advanced. His proposal for a house based on single member districts is based on the one man, one vote principle which I have always supported and which is so necessary to return government to the people.

8. The proposed document would be a stronger affirmative statement of our dedication to the rights of all citizens of Michigan if specific mention were made of the civil and political rights to be guaranteed. This affirmation should remove public sanction for discrimination because of race, color, religion or national origin in employment, education, housing and public accommodations in addition to all the other civil and political rights guaranteed by the constitution. Experience indicates that the commission should be provided with an automatic appropriation to make it effective. The provision wiping out commission rulings merely by filing a court appeal must be eliminated if the commission is to be effective.

9. The proposed language on search and seizure raises grave doubts about its legality. Both Dr. Pollock's committee on declaration of rights, suffrage and elections and the civil liberties committee of the Michigan state bar recommended that the proposed constitution remove the present language which appears to conflict with recent United States supreme court decisions. The proposed document would provide a stronger guarantee of an essential civil liberty if it were amended to provide this assurance.

IV

Conclusion

Should the people, after careful consideration of all issues, reject the proposed constitution they may still obtain governmental reform by statute and constitutional amendment. In this way the expenditures of time and money devoted to the convention, would not be wasted and no segment or region of the people would be deprived.

We are confident that the United States supreme court will continue to interpret the fourteenth amendment to permit the citizens of Michigan to obtain equitable apportionment.

The people of Michigan are a self governing people. The people are free to accept or reject the proposed constitution. The minority believes that the considered judgment of the citizens of Michigan on the proposed constitution should be a rejection, since the document does not promote electoral equality and effective government.".

[The foregoing resulted in the following 10 specific amendments to the preface to the address to the people:

For document, see below, page 3355. Page numbers in amendments refer to document pages.

1. Amend page 4, first subtitle, by striking out **"Governor's Responsibility Increased"** and inserting **"Governor's Role Weakened"**.

2. Amend page 4, first subparagraph 3, line 2, after "board members,", by inserting "subject to the advice and consent of a malapportioned and probably unconstitutional senate,".

3. Amend page 4, second subparagraph 3, line 2, after "actual receipts.", by inserting "The office of governor is further weakened by this requirement.".

4. Amend page 5, paragraph 1, line 1, after "retained with" by striking out "improvements" and inserting "changes".

5. Amend page 5, first subparagraph 1, line 3, after "stated.", by inserting "Individuals could be reorganized out of their jobs, with only conditional, tenuous protection.".

6. Amend page 5, first subparagraph 2, line 5, after "then in effect.", by inserting "The legislature or the governor could independently prevent pay increases which are now exclusive jurisdiction of civil service.".

7. Amend page 5, paragraph 2, line 3, after "appointed by the governor" by changing the period to a comma and inserting "subject to the advice and consent of the senate.".

8. Amend page 5, second subparagraph 1, line 5, after "commission.", by inserting "Eight per cent of the people would have half the membership, and 70 per cent would have only ¼ of the membership. In the apportionment commission the same representation is given to 305,984 as that given to 5,515,045.".

9. Amend page 5, second subparagraph 2, line 5, after "each chamber.", by striking out the remainder of the paragraph and inserting "The house, under the proposed constitution, would continue to have a wide disparity between districts, the smallest district with 53,062, the largest with 101,120. Senate districts would vary by more than 4 to 1—the largest being 365,860, the smallest, 86,430.".

10. Amend page 8, paragraph 2, line 2, after "villages are retained but" by inserting "there will be $60 million a year less earmarked for education and".]

PRESIDENT NISBET: Before this amendment was read, the question of Mr. Sterrett's motion should have been put. Mr. Sterrett moved the previous question. Is that motion seconded? Those in favor of putting the previous question will please rise. Sufficient number up.

MR. STERRETT: Mr. President, I'd like to have that cover amendments. That was my original intent.

PRESIDENT NISBET: The Chair might say, Mr. Sterrett, that under your motion there are 3 short amendments—

MR. STERRETT: I asked for that.

PRESIDENT NISBET: —that will be considered following your motion, if it carries.

MR. STERRETT: Is it in order at this time, after the secretary has read this amendment, to make a remark toward it?

PRESIDENT NISBET: Not on this motion, Mr. Sterrett.

MR. STERRETT: Fine—

PRESIDENT NISBET: The question is: shall the previous question be put?

MR. STERRETT: —that stops anybody else.

PRESIDENT NISBET: Those in favor will say aye. Opposed, no.

The motion prevails. The previous question is ordered. The question now is on the amendment just read.

MR. IVERSON: Mr. President. Mr. President.

PRESIDENT NISBET: Mr. Iverson.

MR. IVERSON: I'd like to know what the amendment is.

PRESIDENT NISBET: Mr. Chase just read it, Mr. Iverson, a rather lengthy amendment.

MR. FORD: Mr. President. Mr. President.

MR. IVERSON: Mr. President.

PRESIDENT NISBET: Mr. Iverson.

MR. STERRETT: Point of order, Mr. President. Point of order.

PRESIDENT NISBET: Mr. Iverson has asked a question. Mr. Iverson.

MR. IVERSON: I'd like to know what the amendment is.

PRESIDENT NISBET: Mr. Chase just read the amendment. You don't want it read again, do you? (laughter)

MR. STERRETT: Point of order. The previous question has been moved.

PRESIDENT NISBET: The question is on the amendment. Those in favor of the amendment just read by Mr. Chase will say aye.

MR. FORD: Mr. President.

PRESIDENT NISBET: Those opposed, no.

The amendment is not adopted. The next amendment will be read.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I'm sorry that Mr. Iverson had to vote no—

PRESIDENT NISBET: Mr. Ford has a question.

MR. FORD: I'm sorry that Mr. Iverson had to vote no without knowing what the amendment was, but I do have enough copies of our amendment so that everyone can have one.

MR. IVERSON: Why didn't you pass them?

MR. FORD: I was trying to get the floor, Art, while you were speaking, to offer this so that you could know what was in it before you voted no.

PRESIDENT NISBET: Will you pass them, Mr. Ford? The next amendment will be read.

MR. MADAR: Mr. President, I am asking for a roll call vote.

PRESIDENT NISBET: Is the demand for the roll call vote supported? Not a sufficient number up. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

1. Amend page 2 of the preface of the proposed address to the people, by striking out the first full paragraph; which reads:

> To compare just one symbol of each of these times is enough to emphasize the vast gap between them and the almost inconceivable changes that have occurred—the Tin Lizzie of 1908 on the one hand, with the space ship of 1962 on the other. The contrast of the times is deepened when it is realized that the 1908 constitution itself did little to change the basic structure established by its predecessor, the 1850 constitution. Again in the words of the 1908 delegates, ". . . the old framework of government is most carefully preserved" and, "no structural changes are proposed."

PRESIDENT NISBET: The question is on the amendment offered by Mr. Faxon. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment to the preface to the address to the people:

1. Amend page 10, last full paragraph, line 4, after "good.", by striking out "Although there were few completely unanimous votes among convention delegates on any given issue, 190 of the 250 sections had nearly unanimous support, and the entire document was approved by better than a 2-to-1 vote of the delegates.".

PRESIDENT NISBET: The question is on the amendment of Mr. Faxon. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The question is on the next amendment.

SECRETARY CHASE: Mr. Faxon offers the following amendment to article IV of the address to the people:

1. Amend page 25 (section 2 comment) by striking out paragraph 2, which reads as follows:

> Temporary provision for increasing senate membership following the adoption of this constitution appears in the Schedule of this document. The increase is accomplished by assigning one additional senator to each of four counties —Wayne, Oakland, Macomb and Genesee. The other 22 senate districts will remain as provided for in the present constitution."

Paragraph 2 deleted. See explanation above, page 3305.

MR. FAXON: Point of order, Mr. President. I thought we had divided the preface from the body of the address and that we would take up the final disposition of the preface before we get into the body of the address.

PRESIDENT NISBET: The question is on the preface. Those in favor—

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: —of the preface—

MR. MAHINSKE: Mr. President, I think that you'll find that there is one additional amendment on the desk pertaining to the footnote on page 1.

PRESIDENT NISBET: Excuse me.

SECRETARY CHASE: Mr. Mahinske moves to delete the footnote from page 1 and insert it on page 12 as a footnote to the explanatory note.

PRESIDENT NISBET: Mr. Chase, would you read that amendment once more, please? Listen to the amendment offered, please.

SECRETARY CHASE: Mr. Mahinske offers the following amendment:

1. Amend page 1 of the preface to the address to the people, by moving the footnote from the bottom of the page and inserting it on page 12 as a footnote following the explanatory note.

MR. MAHINSKE: In order to get my reasons across, I'll have to notify the president that—

PRESIDENT NISBET: Mr. Mahinske, the previous question has been ordered.

MR. MAHINSKE: Well, if you'll listen for one more second you'll find that I am giving you notice that I am going to abstain from voting on my own amendment here and I want to give you my reasons why I'm going to abstain. I'm abstaining basically to get my message across to you here. We are talking in essence here about separating the preface from the document itself for distribution to the people. Now, if you'll read the footnote, the footnote refers to the statute under which the address to the people is prepared and disseminated. Now, that statute has nothing to do with the separate dissemination of the preface itself. I think it would be highly misleading to disseminate the preface as separated from the address to the people with this footnote. I think that this footnote in essence and in reality pertains to the statutory foundation for moneys and so forth for the limited number of copies of the address to the people to be distributed and not the preface or any other division of the address to the people. I think it properly belongs as a footnote to the address to the people rather than to the preface.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Mahinske. Those in favor will say aye. Those opposed, no and Mr. Mahinske is abstaining.

The amendment is not adopted. The question now is on the approval of the preface to the address to the people. Those in favor will say aye. Opposed, no.

The preface is approved. The question now is on the motion of Mr. White to approve the address to the people. Those in favor will say aye. Opposed will say no.

The motion prevails.

MR. MAHINSKE: I think, Mr. President, you'll find another motion on your desk there pertaining to the address to the people.

PRESIDENT NISBET: I'm sorry, Mr. Mahinske.

SECRETARY CHASE: Mr. Mahinske moves that in place of the proposed address to the people, the convention adopt and use the document entitled, The Proposed Constitution—A Comparison with the Present Constitution, which has been prepared by the citizens research council of Michigan.

MR. MAHINSKE: In speaking to my motion, I think we all have copies of the 3 column work put out by the citizens research council of Michigan. I've read both this and the address to the people. I feel that the citizens research council publication is much more impartial than the one that we have. Also, they have the plates made up on this thing. We can order it in volume from the citizens research council. We won't have to go back to correct the body of our address to the people, on which we are working on adopting some 50 amendments right now to this thing—they're primarily punctual—that I think the Proposed Constitution—A Comparison with the Present Constitution is, in and of itself, a valuable enough document to be used, whether or not the new document is adopted by the people. I think it has much more meaning to the average lay person that will read it than the person that would read the address to the people. For these reasons, I move that in substitution of the proposed address to the people we adopt, as our address to the people, The Proposed Constitution—A Comparison with the Present Constitution, which has been published and passed out to all of the delegates here by the citizens research council of Michigan.

MR. STERRETT: Mr. President.

PRESIDENT NISBET: The question is on the motion of Mr. Mahinske.

MR. STERRETT: Mr. President.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: I would oppose this motion for the simple reason that the citizens research council is not a part of the constitutional convention and the address to the people was submitted to the convention by the public information committee and there was a bipartisan effort in the public information committee to make this exactly the way it should be. And the address to the people is merely an index to the new proposed constitution. Therefore, I would oppose Mr. Mahinske's motion.

PRESIDENT NISBET: May the Chair just say this a minute: there is a notice here from our court reporter, Sally, over here that she is having extreme difficulty in getting this for the verbatim record. Now, maybe if you don't stand quite so close to the microphone and talk a little slower, and those who are not at the microphone would keep still—which is difficult, I know—maybe we'll get this for the record, which is very important. The Chair hates to harp on this, but this is important and only you can help do it. Mr. Madar.

MR. MADAR: Mr. President, I would just like to inform Mr. Sterrett, in case he doesn't happen to know what the committees are doing—and apparently he does not or he wouldn't have just said what he did—that bipartisan committee that met up here on the twenty-seventh day of July, you will find that the Democratic portion of that committee did not go along with Mr. White's thinking, and we certainly voted down the budget on it and we didn't want the preface of the Republican party being given without the Democratic party having an opportunity to explain our position in regard to the constitution.

MR. STERRETT: Mr. President.

MR. YEAGER: Mr. President.

PRESIDENT NISBET: Mr. Yeager.

MR. STERRETT: Mr. President.

MR. YEAGER: Mr. President, parliamentary inquiry: I was under the impression that we just approved this.

PRESIDENT NISBET: It was an error, Mr. Yeager, because something had been missed. The question is on the motion now of Mr. Mahinske. Those in favor of the motion of Mr. Mahinske will say aye. Those opposed will say no.

The motion does not prevail. We have one amendment offered by Mr. Faxon previously read by the secretary. The secretary will read the amendment again.

SECRETARY CHASE: Mr. Faxon offers the following amendment:

[The amendment was again read by the secretary. For text, see above, page 3310.]

PRESIDENT NISBET: The question is on the amendment of Mr. Faxon. Mr. Faxon.

MR. FAXON: Mr. President and fellow delegates, this has been dealt with in the changes that were made in the schedule and it would seem that to be consistent we should take out language on page 25 which refers to a section which is no longer in the schedule.

PRESIDENT NISBET: Mr. White.

MR. WHITE: Mr. President, I point out to Delegate Faxon that the report we adopted gives us this authority to make changes which were adopted by style and drafting this morning. There were 32 other changes additionally that were made this morning.

PRESIDENT NISBET: The question is on the adoption of the amendment of Mr. Faxon. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The question now is on the motion by Mr. White that the address to the people be approved. All those in favor will say aye. Opposed will say no.

The motion prevails and the **address to the people** is adopted.

For address to the people as adopted, see below, page 3355.

Let me say this: we've just been informed that the printer will have the constitution printed by 5:30. Now, this is what can happen: when we complete the work of this convention, we can recess until 5:30. The delegates that want to stay for the presentation to the secretary of state may stay. Those who don't want to stay may go home. It isn't necessary for a large group to be here. Those that need to leave can leave. This will be explained further when we complete the business of the convention. First, we have a motion offered by Mr. Young.

SECRETARY CHASE: Mr. Young has filed the following motion in regard to the address to the people: Mr. Young moves that the preface be not published or distributed independent from the balance of the address to the people.

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: Mr. President and fellow delegates, I think this motion goes to the heart of the question of whether in consideration of the proposed new constitution, the people of Michigan will be given an opportunity to examine the facts in that constitution or will be subjected to a raw, Madison avenue, high pressure type propaganda sell job. Now, the preface to the address to the people at best is a highly opinionated and slanted version of what the facts are. That is, when it's issued in conjunction with the address to the people. But when it stands by itself, separate from the address to the people, it is little more than a Republican party publicity release, and it certainly fails to give the people a chance to examine whether the claims made in the preface actually coincide with the facts.

Now, it seems to me if we are interested in an objective presentation of what is in the constitution, we will at all times include the facts, that is, the constitution itself, with the preface. It is pretty obvious that the people of Michigan will not vote on the preface. They certainly will not be governed by the preface in it if it's adopted. So in all fairness in presentation of the facts to the people, I urge that this assembly go on record in guaranteeing that the preface shall not be promoted independently and by itself. And if I'm in order at this time, I'd like to yield to Delegate Jones.

MR. JONES: Mr. President, fellow delegates—

MR. STERRETT: Mr. President, I object to that. I don't believe he can yield at this time.

PRESIDENT NISBET: There can be one yield, Mr. Sterrett. Mr. Jones.

MR. JONES: I should like to go on record in this convention as supporting the motion of Mr. Young and I do so for the following reasons: I don't feel that this body, elected by the people, has the right, in disseminating the work that has been done by this convention, to distribute only the sugar coating. I think most pills are sugar coated, and if we are going to distribute any information, it should be done in total so the people can also have the bitter with the sweet.

PRESIDENT NISBET: The question is on the motion of Mr. Young. Mr. Sterrett.

MR. STERRETT: I move the previous question.

PRESIDENT NISBET: There are no other speakers. Those in favor of the motion by Mr. Young will vote aye. Those opposed, no.

The motion does not prevail. The Chair recognizes Dr. DeVries.

MR. DeVRIES: Mr. President, I believe the next order of business is the report of the committee on administration. Maybe the secretary could read the report. Is the next order of business the report of the committee on administration?

PRESIDENT NISBET: That's right.

MR. DeVRIES: Can you read it, Mr. Chase?

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits to the convention for its consideration, the final budget of the convention, with the recommendation that it be adopted.

MR. DeVRIES: Mr. President, in that every delegate here has a copy of the budget, I move that it be considered read.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries that the budget be considered read. Those in favor will say aye. Opposed no.

The motion prevails and it is so ordered.

Following is the report as offered and considered read:

Budget Summary

I.	Convention assets		
A.	Unexpended balance, convention operation (October 3, 1961 to May 15, 1962)		$ 93,994.05
B.	Unexpended balance, line item—delegates' salaries		466.72
C.	Supplemental appropriation (for address and convention record)		75,000.00
D.	Credits for sale of furniture and equipment (post convention)	$11,666.00	
	Items sold—vouchers not processed	5,986.75	
	Estimate for additional sales	12,000.00	
	Estimate—sale of voting machine	9,000.00	
			38,652.75
	Total convention assets (excluding delegates' salaries)		$207,646.80
II.	Convention liabilities		
A.	Total expenses (May 15 to August 1, 1962)	$31,472.35	
B.	Court reporter	6,000.00	
C.	Restoration of constitution hall	5,280.20	
D.	Estimated restoration of post convention offices	1,000.00	
E.	Public information expenditures	58,530.00*	
F.	Convention record (paper, printing and binding)	70,000.00	
	Distribution	1,500.00	
G.	Post convention salaries (August 1-December 31)	22,000.00	
H.	Contractual services and supplies (August 1-December 31)	4,000.00	
I.	Miscellaneous	1,000.00	
	Total convention liabilities		$200,782.55
	Contingency fund		6,864.25
			$207,646.80

*Item E, public information expenditures for the period subsequent to August 1, 1962.

1.	200,000 of complete address to the people		$ 25,296.00
2.	400,000 of preface to address (pages 1 through 11 of proof copy, as corrected)		3,434.00
3.	Distribution costs (packaging, postage, express, freight, etc.)		10,000.00
4.	40 prints of documentary film		6,600.00
5.	Production and mailing of weekly news releases		1,500.00
6.	Clipping service (to April 1, 1963)		600.00
7.	Distribution of documentary film		1,000.00
8.	Miscellaneous supplies		500.00
9.	Contingency fund		1,000.00
			$ 49,930.00
	Salaries:		
10.	Personnel	$5,600.000	
11.	Supervision (August 1 to April 1)	3,000.00	
			8,600.00
			$ 58,530.00

Walter DeVries, chairman.

MR. DeVRIES: Now, Mr. President, I move that the budget be adopted.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries that the budget be adopted.

MR. SNYDER: Mr. President.

PRESIDENT NISBET: The Chair recognizes Mr. Snyder. Mr. Snyder.

MR. SNYDER: Mr. President, it's very dificult for me to get up and challenge the budget proposed by our good friend, Dr. DeVries, but I think he is very well aware of my feelings on the subject because we did discuss them in the committee.

I want to state that in my opinion—and I have had considerable experience in accounting work—in my considered opinion, this budget is loaded by $25,000. It's actually pried and crowbarred by $25,000 in order to achieve an end result. This was a matter of grave amusement in the committee when we were discussing such matters as "good will," "patent rights" and everything for the convention, but we felt we couldn't even include these, obviously. But there are items in here, and our good friends in both the majority and minority parties will admit to themselves, if to no one else, that this thing is loaded by $25,000 and I'm sure that history will show that my remarks are accurate in this.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I request a division of the question, separating item E from the balance of the budget—section E under II.

PRESIDENT NISBET: The question is on the adoption of the budget with the exception of item E. Those in favor of the adoption of the budget with the exception of item E will vote aye. Opposed, no.

The budget, excepting item E, is adopted. The question is on the adoption of item E. Mr. Mahinske.

MR. MAHINSKE: For many of the identical remarks that have already been made, I would oppose the adoption of allocating funds for distribution of 400,000 copies of the preface to the address to the people separately from the 200,000 copies of the address to the people. And I don't think that the figures that we have set out here are really very enlightening. This would indicate to you that I'm talking about a saving of approximately $3434, but in reality I feel that the distribution cost, both payrollwise and postagewise would amount to approximately another $10,000 in distribution cost of the 400,000 separate prefaces. I feel that this money could be more readily used to supply an additional 100,000 copies of the complete address to the people, which would include, of course, the preface. And I would urge that we do not vote funds for a separate dissemination of 400,000 prefaces, and when the time comes, if it comes, I would move that we increase the complete address to the people to a total of 300,000 as opposed to the 200,000. So I would urge a no vote with reference to the 400,000 copies of the preface to the address, which would call for a division of the question now before us, item E, which is in essence the budget for the public information committee.

PRESIDENT NISBET: Mr. Sterrett.

MR. STERRETT: Mr. President, this was discussed quite thoroughly in the meeting last Wednesday in the committee on administration and it was voted upon to adopt 400,000 of the preface to the address to the people. And discussing this with Mr. White, the chairman of the public information committee, he felt almost sure that we would need something of this sort for people who would call in for information about the new constitution.

As I have said before, this preface to the address to the people is merely an index to the new constitution. And I think that we should approve this for that particular reason. Those that do not care to go through the entire constitution and pick out particular points that they're looking for can have the preface to the address to the people, and if they're definitely opposed to what they read in this preface, they have their own privilege of coming back to the constitutional convention and asking for one of the 200,000 copies of the complete address to the people. Therefore, I would oppose Mr. Mahinske's motion. I move the previous question.

PRESIDENT NISBET: The Chair has recognized Mr. Bradley first, Mr. Sterrett.

MR. BRADLEY: Mr. President, the thing I want to know is this: this budget provides for 200,000 copies of the address to the people and an additional 400,000 copies of its preface. A number of us already have objected to the separate printing of this document on the grounds that it's a propaganda document. In any event, what I do want to know is: on what basis is this 600,000 copies to be distributed and through whose auspices?

MR. DeVRIES: Mr. President.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: If you look at the second sheet, which has the public information budget, at the bottom it says salaries. There is $5600 provided for 2 clerks who will do the mailing and distribution. Supervision from August 1 to April 1 will be Mr. Ink White, who will be paid on a per diem basis. When an organization asks for a certain number of copies of either the preface or the address—and they'll have a choice—Mr. Ink White will make this decision. There will be some control, that is, by a former delegate, over the distribution of both the preface and the address to the people. That's why the salary item is included separately within the public information budget.

MR. BRADLEY: Mr. President, Mr. DeVries, I'm mainly concerned about the distribution to the delegates of this convention. A number of us are going to ask for large numbers of copies of these documents, I assume, for distribution to our constituents. Now, are these to be handed out to us delegates on the basis of the number of people we represent, or how?

MR. DeVRIES: Mr. President, I'll yield to Mr. White on that one.

PRESIDENT NISBET: Mr. White.

MR. WHITE: We haven't crossed that bridge yet. I would say, Mr. President, Mr. Bradley, that this can be worked out, I'm sure, with the acquiescence of the delegates in this matter. I can't feel that this will be any great problem. I'm sure we'll honor all reasonable requests for addresses to the people.

MR. BRADLEY: I suggest, Mr. President, Mr. White, that this matter might become a matter of considerable concern to some of us. I think it would be a good idea, before we approve these expenditures, to know exactly how they're going to be handed out, especially to the delegates, on the basis of some simple formula.

PRESIDENT NISBET: The question is on the adoption of item E.

MR. DeVRIES: Mr. President, what is the question before the house now, the question to strike the second item in the public information budget?

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I think the question is on everything in item E except the 200,000 complete addresses to the people and the 400,000 separate prefaces to the address to the people.

PRESIDENT NISBET: Will you state your motion, please?

MR. MAHINSKE: My second division was calling for a separation of the 200,000-400,000 units from the public information budget.

PRESIDENT NISBET: Let's get this clear. What is your motion, Mr. Mahinske, right now that you want us to act on?

MR. MAHINSKE: Right now I would just like to boil this down to the brass tacks of the whole thing.

PRESIDENT NISBET: Will you state your motion now?

MR. MAHINSKE: It's not a motion. I called for a division of the question here, dividing the 200,000 addressess and the 400,000 prefaces separately from the balance of the public information budget.

PRESIDENT NISBET: The question now is on adopting item E of the budget as presented except the first 2 items. The question now is on agreeing to item E of the budget as presented by the committee on administration except the first 2 specified items thereunder, the 200,000 addresses to the people and the 400,000 prefaces to the address to the people. Those in favor will say aye. Opposed, no.

Item E of the budget, except the first 2 items, is adopted. The question now is on the adoption of the remaining 2 items listed under public information expenditure which read as follows:

"1. 200,000 of complete address to the people . . $ 25,296.00
2. 400,000 of preface to address (pages 1 through 11 of proof copy, as corrected) .... 3,434.00".

MR. MAHINSKE: Right. I would like to move now that we strike the 400,000 units of the preface of the address to the people and increase the 200,000 addresses to the people to 300,000.

PRESIDENT NISBET: The question now is on the motion of Mr. Mahinske—

MR. YEAGER: Mr. President.

PRESIDENT NISBET: —that the 200,000 be increased to 300,000, and that the 400,000 be eliminated. Mr. Yeager.

MR. YEAGER: Parliamentary inquiry. It seems to me that I recall Mr. Mahinske's original request was that we vote on everything but item E and that subsequently we vote on item E. Now I find that item E has been subdivided. Is this correct?

PRESIDENT NISBET: That's correct.

MR. YEAGER: Then, therefore, the second vote should have been on the total of item E rather than item E subdivided.

PRESIDENT NISBET: Mr. Mahinske requested a further division. The question now is on Mr. Mahinske's amendments.

SECRETARY CHASE: Mr. Mahinske offers the following amendments to item E:

1. Amend item 1 by striking out "200,000" and inserting "300,000".

2. Amend item 2 by striking out all of the line as follows: "2. 400,000 of preface to address (pages 1 through 11 of proof copy, as corrected) ....3,434.00"; and renumbering the balance of the items and adjusting the totals accordingly.

PRESIDENT NISBET: Those in favor of Mr. Mahinske's amendments will say aye. Opposed, no.

The amendments are not adopted. The question now is on the adoption of the remainder of item E. Those in favor will say aye. Opposed, no.

The remainder of the budget is adopted. Accordingly, the complete final budget has now been adopted without change. The secretary will read.

SECRETARY CHASE: The committee on administration, by Mr. DeVries, chairman, submits to the convention a report regarding the completion of the convention's work, with a suggested contract between Secretary Fred I. Chase and the constitutional convention, with the recommendation that it be approved.

MR. DeVRIES: Mr. President.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: Mr. President and fellow delegates, under the suggested contract—I believe each of you has a copy of this on your desk—the convention, through its president, would contract with Mr. Chase to perform the duties and functions as they are outlined in the contract and in the budget that we've just adopted. I move that the report be considered read.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries that the report be considered read. Those in favor will say aye. Opposed, no.

It is so ordered.

Following is the report as submitted and considered read:

The committee on administration respectfully reports that it has had under consideration the question of providing for the expenses which must be incurred in closing the work of the convention, and recommends:

That a contract be entered into by Stephen S. Nisbet, president, on behalf of the constitutional convention, with Fred I. Chase, for indexing the verbatim record of the convention, mailing copies of the final journals to the persons whose names appear on the mailing list, the supervision of the compilation, editing, indexing, printing and binding of the verbatim record and the printing and distribution of the address to the people, pursuant to the report of the committee on public information, adopted today by the convention, and the performance of such services as may be necessary for completing the work of the convention after final adjournment, within the limits of the funds made available by act 194 of the public acts of 1961 and act 225 of the public acts of 1962.

The committee further recommends that Fred I. Chase be authorized to incur such necessary expense for postage and for all other matters incidental to the closing of the work of the convention, and that vouchers for all the above expenditures be certified by Fred I. Chase and submitted to the department of administration for payment.

The secretary conferred with Ira Polley, controller, and F. M. McLaury, director of the accounting division of the department of administration, as to the best procedure in closing up the affairs of the convention after adjournment. Both felt that a resolution or report adopted by the convention authorizing completion would be sufficient, and they would honor expenditures. Mr. McLaury wrote under date July 10, as follows:

> The language of the supplemental appropriation act clearly contemplates certain convention activities subsequent to the adjournment of the convention itself. We will consider your appropriation balances available for expenditure until the purposes indicated have been completed, regardless of the fact that the convention itself may adjourn in August.

Mr. Polley suggested that the matter might be checked with Mr. Stanton S. Faville, chief assistant attorney general. This has been done. Mr. Faville recommended that the 1907 convention procedure be followed. This could be done by the adoption of a report or a resolution authorizing a contract, and he recommended that such a contract be entered into. His procedural and substantive suggestions and recommendations have been incorporated into this committee report and the proposed contract.

Following is the recommended contract:

This contract, based upon the report of the committee on administration of the constitutional convention, now in session, adopted by said convention on the first day of August, 1962, and made and entered into this first day of August, 1962, between Fred I. Chase, secretary of the constitutional convention, party of the first part, and the state of Michigan, represented by Stephen S. Nisbet, president of the constitutional convention, party of the second part:

Witnesseth, That the said party of the first part does hereby agree, undertake, bind himself and contract to perform such services as may be necessary for completing the work of the convention after final adjournment, including without limitation, the following services:

Supervise the compilation, editing, indexing, printing and binding of the verbatim record and the distribution of the same;

Supervise the printing and distribution of the address to the people;

Mail final copies of the journals to the persons whose names appear on the mailing list;

Employ such members of the convention staff as he deems necessary to assist in the performance of his agreement hereunder and to incur necessary expenses for postage and all other matters incidental to the closing of the work of the convention, in accordance with the final convention budget approved August 1, 1962.

It is hereby agreed, that the party of the first part and such members of the staff as shall be employed by him shall receive from the party of the second part as compensation a sum equal to their regular salary as paid to them during the convention, to be paid to them semimonthly, until the services herein have been completed, and the party of the second part agrees to pay for all of said contractual services, salaries, wages, printing, binding, supplies, rent, materials and production and distribution of documents, subject only to the limits of the appropriations provided in act 194, public acts of 1961 and act 225, public acts of 1962, and in accordance with the final convention budget approved August 1, 1962.

In witness whereof, the party of the first part and the party of the second part, represented by Stephen S. Nisbet, president of said convention, have hereto set their hands and seals the day and year first above written.

Walter DeVries, chairman.

MR. DeVRIES: Now, Mr. President, I move the adoption of the report of the committee on administration.

PRESIDENT NISBET: The question is on the adoption of the report of the committee on administration. Those in favor will say aye. Opposed, no.

The report is adopted and the form of the contract approved.

Motions and resolutions.

SECRETARY CHASE: Mr. DeVries, on behalf of the committee on administration, offers

Resolution 118, A resolution of thanks to the legislature.

Following is Resolution 118 as offered and read:

Whereas, Article XVII, section 4 of the constitution provides in part that "The convention shall have power . . . to provide for the printing and distribution of its documents, journals and proceedings."; and

Whereas, The increase in and shift in population of the state; the diversification and growth of industry; the emergence of new problems having to do with natural resources, public health, atomic and other forms of energy; intergovernmental cooperation; and many other factors made it impossible to accurately estimate a budget for the convention; and

Whereas, It became obvious that additional funds would be needed if the requirements of the constitution were to be complied with; and

Whereas, The legislature, being presented with the circumstances, and after study of all the factors involved, reached the conclusion that the work of the convention should be finished and the distribution of the proposed document and the dissemination of information relative thereto should be provided, and did make a substantial additional appropriation in the amount of $75,000.00; now therefore be it

Resolved, That the appreciation of the convention be hereby expressed to the legislature for its cooperation in this matter; and be it further

Resolved, That copies of this resolution be officially transmitted to the secretary of the senate and the clerk of the house of representatives for presentation to the legislature.

MR. DeVRIES: Mr. President.

PRESIDENT NISBET: Dr. DeVries.

MR. DeVRIES: This is a resolution expressing the thanks of the constitutional convention to the legislature for the supplemental appropriation of $75,000. I move its adoption.

PRESIDENT NISBET: The question is on the adoption of the resolution. Those in favor will say aye. Opposed, no. Resolution 118 is adopted.

MR. DeVRIES: Now, Mr. President, I move that the president be named the sponsor of this resolution on behalf of the entire constitutional convention.

PRESIDENT NISBET: The question is on the motion of Dr. DeVries. Those in favor will say aye. Opposed, no. The motion prevails. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would like to move at this time that following the execution of the new constitution by the president and the secretary, that the officers of the convention—the president, vice presidents and the secretary—be directed to promptly present the same to the secretary of state, James M. Hare. I so move.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Mr. Downs.

MR. DOWNS: May I amend that to say "vice presidents so desiring?" (laughter)

PRESIDENT NISBET: If Mr. Van Dusen will accept the suggestion.

MR. VAN DUSEN: The motion may be so amended, at Mr. Downs' specific request.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen, as amended. Those in favor will say aye. Opposed, no.

The motion, as amended, prevails. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I understand from the office of the secretary, that the printer may have the final document ready as early as 4:30 and that we may be able to arrange for its presentation to the secretary of state, therefore, as early as 5:00 o'clock. I think that in order to be sure that we properly accomplish our final adjournment today, so that there will be no question under the rules that we have finally adjourned, that it is important that a substantial majority of the delegates remain to receive from the president the report that the document has been delivered and to act on the final adjournment. For that reason, I would strongly urge as many of the delegates as can possibly do so to remain until after the document has been presented so that we can be here for final adjournment.

Mr. Cudlip has made a suggestion which I think the delegates might wish to act on informally, and since we have a little time at this point, I'd like to put it in the form of a motion, largely at his suggestion, and that is this: that facsimile copies of the new constitution in the form in which it is actually being printed now, showing execution, be prepared and presented to each of the university and college libraries in the state for their use. And I would so move, Mr. President.

PRESIDENT NISBET: The question is upon the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Van Dusen.

MR. VAN DUSEN: Now, Mr. President, I move the convention stand in recess until 5:00 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that we recess until 5:00 o'clock. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 5:00 o'clock.

[Whereupon, at 3:10 o'clock p.m., the convention recessed; and, at 5:00 o'clock p.m., reconvened.]

The convention will please come to order. Will the delegates please take their seats? The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: Mr. Chase has an announcement he will read.

SECRETARY CHASE: Pursuant to the report of the committee on administration, which has been adopted by the convention with the approval of the form of the contract thereunder, the secretary wishes to announce that a contract between Fred I. Chase and the constitutional convention for the completion of the preparation and distribution of documents and winding up of the affairs of the convention has been signed by him and by the president. (applause)

PRESIDENT NISBET: Without objection, the contract is approved. The Chair hears none.

Following is the contract as approved:

Lansing, Michigan
August 1, 1962

This contract, based upon the report of the committee on administration of the constitutional convention, now in session, adopted by said convention on the first day of August, 1962, and made and entered into this first day of August, 1962, between Fred I. Chase, secretary of the constitutional convention, party of the first part, and the state of Michigan, represented by Stephen S. Nisbet, president of the constitutional convention, party of the second part:

Witnesseth, That the said party of the first part does hereby agree, undertake, bind himself and contract to perform such services as may be necessary for completing the work of the convention after final adjournment, including without limitation, the following services:

Supervise the compilation, editing, indexing, printing and binding of the verbatim record and the distribution of the same;

Supervise the printing and distribution of the address to the people;

Mail final copies of the journals to the persons whose names appear on the mailing list;

Employ such members of the convention staff as he deems necessary to assist in the performance of his agreement hereunder and to incur necessary expenses for postage and all other matters incidental to the closing of the work of the convention, in accordance with the final convention budget approved August 1, 1962.

It is hereby agreed, that the party of the first part and such members of the staff as shall be employed by him shall receive from the party of the second part as compensation a sum equal to their regular salary as paid to them during the convention, to be paid to them semimonthly, until the services herein have been completed, and the party of the second part agrees to pay for all said contractual services, salaries, wages, printing, binding, supplies, rent, materials and production and distribution of documents, subject only to the limits of the appropriations provided in act 194, public acts of 1961 and act 225, public acts of 1962, and in accordance with the final convention budget approved August 1, 1962.

In witness whereof, the party of the first part and the party of the second part, represented by Stephen S. Nisbet, president of said convention, have hereto set their hands and seals the day and year first above written.

Fred I. Chase,
Party of the first part.

Lois Tomlinson
Bernice Tucker

State of Michigan,
Party of the second part, by
Stephen S. Nisbet,
President of the constitutional convention.

PRESIDENT NISBET (continuing): Now, in pursuance of the motion previously adopted, the Chair is pleased to **report the delivery of the constitution to the secretary of state**. The constitution, as adopted by this convention, has been enrolled, signed by the president and the secretary of the convention and delivered to and accepted by Secretary of State James Hare and a receipt for the constitution has been received and becomes a part of the convention records. Mr. Chase will read the receipt.

SECRETARY CHASE: Department of state, Lansing, August 1, 1962.

Received from Stephen S. Nisbet, president of the constitutional convention, the official copy of the revised constitution, adopted by the convention on the first day of August, nineteen hundred sixty-two.

James M. Hare,
secretary of state.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, after I moved to have a copy of the constitution given to each of the university and college libraries in the state, it was called to my attention that I neglected the delegates themselves. Therefore, I would move at this time that one facsimile copy of the proposed new constitution be delivered to each delegate.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Judge Pugsley.

MR. PUGSLEY: Mr. President, fellow delegates, at the outset, I wish to take this opportunity to express the great pleasure that has been mine to meet the delegates from various parts of the state, and particularly to observe the skill and the fidelity and the ability that has been exercised by these delegates in their devotion to a very important work which has taken up our time during these months together.

I wish especially at this time, Mr. President, to express my personal gratification to you. It has been with great pride that I have had the opportunity to come from your locality and to share with them the pride which we have in your presence as presiding officer of this convention. The choice was a very happy one and I am sure that the delegates join with me in extending to you our thanks and our appreciation for your services.

[Whereupon, all persons present in convention hall accorded President Nisbet a standing ovation.]

PRESIDENT NISBET: Thank you very much. Thank you very kindly. You are most gracious. This has been one of the rare privileges of my life to have served with you. As I have said every time I have spoken around the state, I have never been associated with a finer group, a more dedicated group, or one more devoted than you have been. Thank you very kindly. (applause)

MR. PUGSLEY: And now, Steve—I take the liberty to call you the name by which you are commonly and affectionately known in our area—

PRESIDENT NISBET: Thank you.

MR. PUGSLEY: —you have just delivered to us the message which we have long sought to hear.

In conclusion, it is my pleasure at this time to move that the constitutional convention of Michigan for the years 1961 and 1962 now stand permanently adjourned.

PRESIDENT NISBET: The question is on the motion of Judge Pugsley. Those in favor will say aye. Opposed, no.

The motion prevails and I declare the Michigan constitutional convention of 1961-62 adjourned without day. Thank you and goodbye. You're a great bunch. (applause)

[Whereupon, at 5:15 o'clock p.m., August 1, 1962, the convention adjourned without day.]

CONSTITUTION
OF THE
STATE OF MICHIGAN

as finally adopted
by the Convention
August 1, 1962

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I

Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

ARTICLE III

General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

ARTICLE IV

Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and members of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. On all actions on bills and resolutions in each committee, names and votes of members shall be recorded. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

ARTICLE V

Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote, unless they be equally divided. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year, as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

ARTICLE VI
Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

ARTICLE VII

Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to:

enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

ARTICLE VIII

Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision.

He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

ARTICLE IX

Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature, and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

ARTICLE X

Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

ARTICLE XI

Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of .... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

ARTICLE XII

Amendment and Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question. it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 7. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 8. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 9. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The state board of education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 10. The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 11. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 12. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 13. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 15. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Monday in April, 1963. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 16. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

Adopted by the Constitutional Convention of nineteen hundred sixty-one at Constitution Hall in Lansing on the first day of August, nineteen hundred sixty-two.

Stephen S. Nisbet
Stephen S. Nisbet, *President*

Fred I. Chase
Fred I. Chase, *Secretary*

[ADDRESS TO THE PEOPLE]

What the Proposed New State Constitution Means to You

- **A report to the people of Michigan by their elected delegates to the Constitutional Convention of 1961-62.**

Lansing, Michigan
August 1, 1962

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A PREFACE to the ADDRESS TO THE PEOPLE*

This introductory statement is intended to describe briefly the work of the Michigan Constitutional Convention and summarize what its delegates believe are among the most significant changes proposed for revision of the Michigan Constitution.

A detailed explanation of the revisions accompanies the complete text of the new document which follows this Preface. Sections eliminated from the present Constitution are listed separately in a concluding statement.

• • • •

Almost no one alive today in Michigan has had the opportunity to vote on this question — "Do you approve a new state constitution?" No woman in the state has ever been previously qualified to ballot on the issue and no man under 75 years of age was old enough to vote in 1908, the last time the question was asked. Here, then, is almost literally a once-in-a-lifetime proposal.

How are you to make your decision on this important public issue? With the facts in this preface, and with the detailed discussion of each section of the proposed Constitution which follows, you have the means of acquainting yourself with the revised document.

The task of the delegates is done. The convention is adjourned. Now the people will decide the issue.

Why Michigan Needed a Constitutional Convention

"Our society has grown vastly more complicated, its activities multiplied, its structures changed; every interest affecting its development and ministering to its needs and welfare has been deepened and broadened. The agencies of production and distribution have increased a thousand fold." So said the delegates to the 1907-1908 Convention in their *Address to the People.*

If this quotation aptly described the changes from 1850 to 1908, it is an even more eloquent description of what has happened in the more than 50 years since it was written. The transformation is evident on every hand – in what we wear and eat, and how we dress; in social forms and economic growth; in vast increases and shifts in population; in the enlargement of governmental forms, services and costs; in the advances of medicine, science and education – a revolution in living, working, playing and thinking.

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*Prepared in accordance with the requirements of Act No. 8 of the Public Acts of 1961, section 168.181 of the Compiled Laws of 1948, which reads in part as follows: "The convention shall, before its adjournment, prepare and adopt an address to the people of the state, explaining the proposed changes in the present constitution, and the reason for such changes, and such other matters as to the convention shall seem advisable. Not less than 25,000 copies of this address, in pamphlet form, containing the full text of the revised constitution, shall be printed and distributed as the convention shall direct."

To compare just one symbol of each of these times is enough to emphasize the vast gap between them and the almost inconceivable changes that have occurred – the Tin Lizzie of 1908 on the one hand, with the space ship of 1962 on the other. The contrast of the times is deepened when it is realized that the 1908 Constitution itself did little to change the basic structure established by its predecessor, the 1850 Constitution. Again in the words of the 1908 delegates, ". . . the old framework of government is most carefully preserved" and, "no structural changes are proposed."

It is against this background of vast material change, contrasting with a basic law having its roots in the thinking of well over a century ago, that one should first appraise the proposed Constitution with the present one.

How the Convention Operated and Reached Its Decisions

The convention was ordered by popular vote in April of 1961. There were 144 delegates, representing Michigan's 34 State Senatorial districts and 110 State Representative seats. They were elected in statewide voting on September 12, 1961, and convened at Lansing on October 3, 1961. A few words about the convention's organization and procedures may help decisions that must be made on the end result.

The primary task of the delegates was well-stated in these words of Dr. Paul Kauper: "To fashion a fundamental order of government that preserves the continuity of our constitutional tradition by holding fast to that which is good, but which will be adequate to meet not only today's but also tomorrow's needs -- this is the large, challenging and difficult task that faces the Constitutional Convention of 1961."

To accomplish this task, the convention work was organized into three distinct phases which often overlapped. First was the period of study and discussion of existing and proposed constitutional provisions. This was undertaken by 10 committees responsible for major areas of revision. The committees were bipartisan, reflecting the 2-to-1 partisan ratio dictated by the people's initial choice of 99 Republican and 45 Democratic delegates. In this stage proposals for change made by delegates and others were received and studied until the end of December, 1961.

The second stage was formulation and agreement on committee proposals for the consideration of the entire convention. Representing the judgment and consensus of delegate experience and study, this work was completed by the end of January, 1962.

The third stage, completed on May 11, 1962, was the period of debate and adoption of sections and articles of the revised document. Each proposal was considered three times by the convention. In its first consideration, debate was free and unlimited as to time, and it constituted, for that reason, both the longest and most intensive of the three reviews.

Between considerations, the proposal was subjected three times to the close scrutiny of a Committee on Style and Drafting. This was essential to the production of a consistent, logical, well-stated expression of the decisions of the full convention.

In all phases of its work, the convention had available to it the research work of a staff headed by, and largely recruited from among members of the state's outstanding public and private colleges and universities. Preliminary research work by six study groups, a Governor's commission and the aid of private Michigan foundations and organizations amplified these efforts. Few conventions have had at hand the wealth of research time and effort available to Michigan's delegates.

Best of the Old Blends with Modern Concepts

Looking at the debates and decisions, one can clearly sense the prevailing mood of the convention. This may be summed up in the following major points –

1. A desire to retain the historic and proven;
2. A desire to strengthen, each in its proper sphere, the three coordinate branches of state government – executive, legislative and judicial – and to maintain and strengthen government at the local level;
3. A desire to consider the best thinking of students of government and of constitution builders in other states in recent times;
4. A desire to reflect accurately the thinking of Michigan citizens on what their state and local government should be and should do.

It is obvious that these four desires at times required compromises of viewpoint, re-statements of principle, or the adoption of the new and the elimination of the old. Unless the job of revising the Constitution were assigned to just one person, the resolution of conflicting views is an inevitable part of this greatest of democratic processes.

The following summary of major provisions in the revised constitution will indicate the extent to which the convention has met its responsibilities –

THE EXECUTIVE BRANCH

Governor's Responsibility Increased

The role of the governor as the key responsible person in the executive branch is strengthened –

1. By increasing his term and that of other elected state administrative officers to four years.
2. By providing that the governor and lieutenant governor be of the same political party, and that the lieutenant governor be nominated at party conventions.
3. By giving the governor the power of appointment of the state treasurer and heads of executive agencies and board members, except for three constitutionally-elected officials – the lieutenant governor, attorney general and secretary of state – and members of constitutionally-elected boards.
4. By requiring the re-grouping of the state's 126 executive agencies into not more than 20 departments. After the initial reorganization by the legislature, the governor is given the power to recommend further reorganization of executive agencies in the interest of efficiency and economy and to enforce his recommendations, subject to veto by each house of the legislature.
5. By retaining the feature of senatorial advice and consent, but providing that unless the senate acts to reject an appointment within 60 days the appointee shall be deemed confirmed.

Balanced Budget Required

Financial responsibility is guaranteed, to the extent it is possible to do so constitutionally, by new provisions requiring –

1. Preparation by the governor of a balanced budget, with detailed recommendations covering not only expenditures but the means of raising any additional revenue required.
2. Adoption by the legislature of a balanced budget, with total appropriations held within a published estimate of revenues.
3. Executive enforcement of spending levels within the limits of actual receipts.

4. Retention of the governor's authority to veto individual budget items.

State Civil Service Retained

The state civil service system is retained with improvements that would –

1. Allow administrative control of the creation or abolition of positions for reasons of efficiency and with the employee's right of appeal to the civil service commission clearly stated.
2. Give the legislature some control over the total level of state payroll by allowing legislative rejection or reduction of pay raises ordered by the commission, but only by an extraordinary (two-thirds) vote, and prohibiting legislative reductions below compensation rates then in effect.

New Highway Commission

In place of an elected highway commissioner (a system unique in Michigan among the 50 states) a four-member bipartisan highway commission is to be appointed by the governor. The commission will appoint the highway director who will be the principal executive officer of the highway department.

THE LEGISLATIVE BRANCH

Strengthening of the legislative branch as a counterpart to a strengthened executive branch was a major convention consideration. The provisions for the legislature are improved in these important particulars –

Legislative Apportionment

The significant decisions on this highly controversial subject are –

1. Establishment of a commission equally representing the major political parties to re-apportion periodically House and Senate seats in accordance with requirements of the Constitution. Supreme Court review is provided in the event of disagreement of the commission.
2. A House of Representatives on a population basis and a Senate on a combined population-area basis (giving 80% weight to population and 20% weight to area) with as mathematically exact a system as possible for assigning a prescribed number of seats in each chamber. The application of these formulas will bring

Michigan to the forefront of the states in the fairness and equity of its system for allotting legislative representation among its population.

Appointive Auditor General

The position of auditor general, presently an elective office, is to be filled by legislative appointment. He would serve the legislature, conducting fiscal audits and studies of the effectiveness of departmental performances. His duty is to provide the legislature with the means of knowing that its policies are being honestly and effectively carried out.

New Legislative Council

A bipartisan legislative council named by the legislature from among its members will supervise the work of a full-time staff whose duties are to maintain bill drafting, research and other services for the legislature and periodically to examine and recommend revision of the state's laws.

Recorded Committee Votes

To eliminate secret procedures, legislative committees are required to keep a recorded roll call vote of all action on bills and resolutions. Notice of all committee hearings and a clear statement of all subjects to be considered are to be announced prior to each hearing.

Four-Year Term for Senators

Greater continuity in legislative office is provided by specifying four-year terms for state senators. The terms of state representatives remain at two years.

THE JUDICIAL BRANCH

The concept and philosophy of a unified state court system is the chief result of changes in this part of the Constitution. Other significant changes include:

Seven-Member Supreme Court

Provision is made for the reduction of the supreme court from eight to seven justices. Non-partisan election of justices continues; incumbents may become candidates for re-election by filing an affidavit of candidacy, thereby increasing the stability and political independence of the court.

Vacancies Filled by Election

Vacancies in all courts of record will be filled by election rather than appointment by the governor, but the supreme court may authorize retired judges to perform judicial duties for a limited period until a new justice or judge is elected.

New Court of Appeals

An intermediate appeal court of nine judges immediately below the supreme court is established to promote the speed and administration of state justice. The judges will be elected from districts.

Local Courts Provided

Justices of the Peace will be replaced in no longer than five years' time by a system of local courts provided by law. The fee system as compensation for judges is prohibited. The office of Circuit Court Commissioner is to be abolished within five years.

Judicial Review Broadened

Rulings and orders of any administrative officer or agency affecting private rights or licenses are to be subject to direct review by the courts. This does not apply, however, to certain decisions of agencies dealing with administration of property tax laws and findings of fact in workmen's compensation proceedings.

LOCAL GOVERNMENT

Existing Forms Retained

Traditional forms of local government – counties, townships, villages and cities – and the constitutional provisions relating to them are retained. Their powers have been modernized and broadened to enable them to serve more effectively.

Local Units Strengthened

Greater strength and flexibility are given to local governments by these provisions:

1. Charter counties, charter townships, cities and villages may be empowered to levy taxes other than property taxes for their support.
2. Power to cooperate with other local units of government on common problems.
3. Retention of home rule for cities and villages.
4. Liberal construction by the courts of laws concerning cities, villages, counties and townships.
5. County officers' terms are to be four years. Township officers may by law have terms of office up to four years.

Permissive County Home Rule

To permit more effective county government, particularly in metropolitan areas, county home rule is provided for, subject to enabling statutes. Its adoption, continuance, modification or repeal will depend on the vote of the electors of the county.

FINANCE AND TAXATION

Borrowing Limit Adjusted

An elastic borrowing limit to meet current state obligations replaces the archaic debt ceiling of $250,000. The new limit will be 15 per cent of the undedicated revenues of the preceding fiscal year (about $70 million) but the debt must be repaid entirely by the end of the year in which the borrowing was made. Provisions are also included to insure the validity of state bonds issued for a variety of public purposes.

Dedicated Funds Continued

Sales tax funds presently earmarked for schools, townships, cities and villages are retained but the legislature is given greater control of the tax base and rate. Highway tax revenues are dedicated for highway purposes as defined by law.

Tax Limits, Exemptions

The 15-mill tax limit for property taxes is retained. However, local government bonds will have unlimited tax support, thus permitting lower cost borrowing. A county, its school districts and townships may establish separate and fixed tax limitations on a county-wide basis if the total does not exceed 18 mills and the arrangement is approved by a majority of the voters. Exercise of this local option would eliminate the county tax allocation board.

After January 1, 1966, real and personal property cannot be assessed at more than 50 per cent of true cash value.

No graduated income tax can be imposed by the state or any of its political subdivisions.

Property owned and occupied by non-profit religious and educational organizations will be constitutionally exempt from property taxes. This would not deprive the legislature of the power to provide other exemptions.

Retirement Systems

A new provision makes membership in state or local retirement systems a contractual obligation of the state or local units. This embodies constitutionally, as in at least two other recent state constitutions, the modern version of the nature of the employer-employee retirement relationship. More realistic funding of pension plans is required.

Mackinac Bridge Bonds

The legislature is authorized to take over, by a two-thirds vote, the refunding of the Mackinac Bridge bonds, effecting possible interest savings.

EDUCATION

Enlarged State Board

An enlarged (8-member) state board of education is given leadership and general supervision of all except higher education. In addition, the board serves as the general coordinating and planning agency for all public education, including higher education. It is to advise the legislature as to the financial requirements of all state educational functions.

The superintendent of public instruction is designated as the principal executive officer of the state department of education, and will be appointed by, and have his term of office fixed by the new state board of education.

Separate Boards of Control

The education section recognizes the principle of individual institutional control by separate boards of institutions of higher learning and grants constitutional status to all state-supported colleges and universities.

Community Colleges

Appointment by the state board of education of a board of public and community colleges is authorized. Its function will be advisory to the state board.

Earmarking of Tax Funds

Earmarking of half of sales tax revenue for education is continued. The legislature is required to establish a school aid fund, the revenues of which may be spent only for state aid to education and teacher retirement.

CIVIL RIGHTS AND ELECTIONS

Traditional liberties and rights of the people were carefully reviewed and changes made are in the direction of clarifying and strengthening them.

Equal Protection Clause

The major addition to the Declaration of Rights is an equal protection clause which is implemented elsewhere in the revised constitution by the creation of a bipartisan civil rights commission. The duty of the commission is twofold:

1. To investigate alleged discrimination because of religion, race, color or national origin.
2. To secure the equal protection of all civil rights without such discrimination, subject to judicial review.

The civil rights commission offers the constitutional basis for vigorous enforcement of the anti-discrimination provision.

Spring Election Eliminated

Revision of state election procedures provides these changes –

1. Elimination of the state-wide biennial spring election, reducing costs and concentrating state interest in the November election in even-numbered years.
2. The legislature is authorized to pass laws preventing the disfranchisement in presidential elections of persons moving into or out of the state just before a presidential vote.

NEW PROBLEMS RECOGNIZED

The revised constitution takes special note of such emerging state problems as –

1. Conservation of natural resources.
2. Legislative authority over state lands.
3. The protection and promotion of public health.
4. Regulation of the use of atomic and other forms of energy which may be developed in the future.
5. Provisions for intergovernmental cooperation by Michigan and it political subdivisions with those of other states and the Dominion of Canada.

. . . IN CONCLUSION . . .

The citizen who carefully reviews the proposed new Constitution will undoubtedly find himself unable to agree with every suggested revision. His decision must be made, therefore, on the balance of that which he finds good. Although there were few completely unanimous votes among convention delegates on any given issue, 190 of the 250 sections had nearly unanimous support, and the entire document was approved by better than a 2-to-1 vote of the delegates.

A decision on the merits of the revised document should not be a matter of comparing it with a citizen's own concept of the ideal. Rather, it is suggested that he ask himself whether the proposed revision, as it stands, better suits the modern age and its auspicious future than does the 1908 Constitution.

This clearly is the issue confronting every good citizen as he makes his judgment on the 1962 Constitution.

NOTE: (Here follows a printing of the terms of the entire proposed revision – as prescribed by law – with explanatory comment on changes, additions and deletions).

EXPLANATORY NOTE

Words printed in *italics* in the revised or new sections of the document indicate the insertion of new matter. The use of stars, thus * * *, indicates the omission of words contained in the present constitution.

Titles in boldface type over each section are not a part of the constitution. They are included only to assist the reader in locating the specific material in which he may be interested.

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

No change from the Preamble of the present constitution.

Article I

DECLARATION OF RIGHTS

Political power.

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

No change from Sec. 1, Article II, of the present constitution.

Equal protection under the law.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

This is a new section. It protects against discrimination because of religion, race, color or national origin in the enjoyment of civil and political rights and grants equal protection of the laws to all persons. The convention record notes that "the principal, but not exclusive, areas of concern are equal opportunities in employment, education, housing and public accommodations."

The legislature is directed to implement this section by appropriate legislation and the proposed constitution establishes a Civil Rights Commission in the Article on the Executive Branch.

Right of assembly and petition.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the *government* for redress of grievances.

No change from Sec. 2, Article II, of the present constitution except that the word "government" is substituted for "legislature." The change reflects recognition that today agencies of government other than the legislature exercise policy-making functions and ought to be subject to the right of petition.

Freedom of worship.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

No change from Sec. 3, Article II, of the present constitution.

Liberty of speech and press.

Sec. 5. Every person may freely speak, write, *express* and publish his *views* on all subjects, being responsible for the abuse of such right; and no law shall be *enacted* to restrain or abridge the liberty of speech or of the press.

This is a revision of Sec. 4, Article II, of the present constitution preserving these traditional guarantees. It broadens them by including the word "express" and substituting the word "views" for "sentiments". Addition of the word "express" is intended to recognize development of new means of communication in recent years. The word "views" seems to have a sharper and more specific meaning than the former word "sentiments".

Right to bear arms.

Sec. 6. Every person has a right to *keep and* bear arms for the defense of himself and the state.

No change from Sec. 5, Article II, of the present constitution, except for the insertion of the words "keep and" which brings the section into conformity with a similar provision in the U. S. Constitution. Hence, the right to "keep" as well as "bear" arms is recognized.

Civil power supreme.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

No change from Sec. 6, Article II, of the present constitution.

Quartering of soldiers.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

No change from Sec. 7, Article II, of the present constitution.

Slavery prohibited

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

No change from Sec. 8, Article II, of the present constitution except for the insertion of a comma after the word "slavery" and elimination of a comma after the word "servitude". The old punctuation conceivably made slavery permissible as a punishment for crime.

Attainder; ex post facto laws; impairment of contracts.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of *contract* shall be *enacted*.

No change from Sec. 9, Article II, of the present constitution except for improvement in phraseology.

Searches and seizures.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. ** The provisions of this section shall not be construed to bar from evidence ** in any criminal proceeding *** any narcotic drug, *** firearm, *** bomb, ** explosive *** or *** any other dangerous weapon, ** seized by *a* peace officer outside the curtilage of any dwelling house in this state.

No change from Sec. 10, Article II, of the present constitution except for improvement in phraseology.

Habeas corpus.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

No change from Sec. 11, Article II, of the present constitution.

Appearance in person or by counsel.

Sec. 13. A suitor in any court of this state *has* the right to prosecute or defend his suit, either in his own proper person or by an attorney. ****

No change from Sec. 12, Article II, of the present constitution except for the elimination of the phrase "or agent of his choice" at the conclusion of the section. This change is consistent with a Supreme Court decision which holds that the word "agent" as used in the present constitution is in substance synonymous with "attorney". The section does not preclude any person arguing his own case in court if he so desires.

Jury trial.

Sec. 14. The right of trial by jury shall remain, but shall be ** waived in all civil cases unless demanded by one of the parties in the manner ** prescribed by law. *In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.*

No change from Sec. 13, Article II, of the present constitution, except for the addition of a second sentence which permits verdicts in civil (not criminal) actions when at least 10 jurors agree.

This change is consistent with the practice adopted in recent years in 23 other states. The new provision is designed to reduce costs resulting from retrial of civil matters and to safeguard both parties involved against possibly unjust compromise verdicts or settlements.

Former jeopardy; bailable offenses.

Sec. 15. *No person shall be subject for the same offense to be twice put in jeopardy.* All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

This is a revision of Sec. 14, Article II, of the present constitution. The new language of the first sentence involves the substitution of the double jeopardy provision from the U. S. Constitution in place of the present provision which merely prohibits "acquittal on the merits". This is more consistent with the actual practice of the courts in Michigan.

Bail; fines; punishment; detention of witnesses.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

No change from Sec. 15, Article II, of the present constitution.

Self-incrimination; due process of law.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. *The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.*

This is a revision of Sec. 16, Article II, of the present constitution. The second sentence incorporates a new guarantee of fair and just treatment in legislative and executive investigations. This recognizes the extent to which such investigations have tended to assume a quasi-judicial character.

The language proposed in the second sentence does not impose categorically the guarantees of procedural due process upon such investigations. Instead, it leaves to the Legislature, the Executive and finally to the courts, the task of developing fair rules of procedure appropriate to such investigations. It does, however, guarantee fair and just treatment in such matters.

Competency of witnesses.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

No change from Sec. 17, Article II, of the present constitution.

Libels; truth as defense.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it *appears* to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

No change from Sec. 18, Article II, of the present constitution except for improvement in phraseology.

Rights of accused.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 *jurors* in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; *to have an appeal as a matter of right;* and in courts of record, when the trial court *so orders,* to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

This is a revision of Sec. 19, Article II, of the present constitution. The word "jurors" is substituted for "men" in recognition of the fact that women as well as men are now eligible to serve on juries. The clause, "to have an appeal as a matter of right," is added as a guarantee of the right of a defendant to at least one appeal in a criminal case. The provision is not intended to restrict the legislature in its power to provide by law for additional appeals.

Imprisonment for debt or military fine.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on * contract, express or implied, except in cases of fraud or breach of trust. ****

This is a revision of Sec. 20, Article II, of the present constitution. Stricken from the concluding sentences of the section are the words: "or moneys collected by public officers or in any professional employment. No persons shall be imprisoned for military fine in time of peace."

The language relating to moneys collected by public officers is excess verbiage adequately covered by the earlier provisions of the section. The guarantee against imprisonment for military fine in time of peace is unnecessary. The more general guarantees in the constitution with respect to the supremacy of the civil over the military power and the writ of habeas corpus are adequate to take care of the matter of the jurisdiction of military courts.

Treason; definition, evidence.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

No change from Sec. 21, Article II, of the present constitution.

Enumeration of rights not to deny others.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

This is a new section taken from the 9th amendment to the U. S. Constitution. It recognizes that no Declaration of Rights can enumerate or guarantee all the rights of the people — that it is presently difficult to specify all such rights which may encompass the future in a changing society.

Article II

ELECTIONS

Qualifications.

Sec. 1. *** Every ** citizen of the United States *who has attained* the age of 21 years, who has resided in this state six months, *and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.* ****

This is a revision of Sections 1, 2 and 3, Article III, of the present constitution to eliminate a mass of legislative matter which has accumulated in the constitution since the Article on Elections was first written in the Constitution of 1835.

The section maintains the age requirement of 21 years for electors and the six months' state residence requirement. A major feature of the section is found in the last sentence which reposes in the legislature the duty of defining residence for voting purposes. The convention has determined that it is not possible to define residence in a manner which will offer any assurance of future adequacy and has therefore left the matter to the legislature, as one of its continuing responsibilities in the field of elections.

The section does not limit the legislature's authority to establish a local residence requirement.

Legislature may exclude certain persons from voting.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

This is a new section which permits, but does not require, the legislature to exclude from voting two groups of persons generally felt to be unsuitable: those who are mentally incompetent and those committed to a jail or penal institution.

Presidential electors; residence.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

This is a new section which permits the legislature to allow new arrivals in Michigan to cast their votes for president and vice-president before the expiration of the normal six months' waiting period. It also makes it possible for former Michigan residents to cast absentee ballots for president and vice-president if they have not yet become eligible to vote in the new state of residence.

This section does not affect residence requirements for eligibility to vote in state and local elections. It recognizes, however, that the issues and candidates are the same throughout the country in presidential elections.

Elections; place and manner.

Sec. 4. *The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws* to preserve the purity of elections, *to preserve the secrecy of the ballot, to* guard against abuses of the elective franchise, *and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.*

This is a revision of Sec. 8, Article III, of the present constitution and vests in the legislature full authority over election administration, subject to other provisions of this constitution and to the U. S. constitution and laws. The legislature is specifically directed to enact corrupt practices legislation.

The provision regarding the secrecy of the ballot is designed to insure that in the future the legislature will be empowered to adopt any new techniques of casting and recording voter choices, so long as the secrecy of the ballot is preserved.

The last sentence of the section prohibits a candidate in any partisan primary or election from having a ballot designation, except when required for identification of candidates for the same office who have the same or similar surnames.

Elections; time.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

This is a new section which eliminates the biennial spring election in Michigan and requires that major state-wide elections shall be held on the first Tuesday after the first Monday in November in each even-numbered year, or such other date as U. S. members of congress are elected (See Sec. 5, Schedule, page 103). It permits special elections to fill vacancies and city, village and school elections to be held at other times as prescribed.

The convention determined to abolish the spring election after hearing testimony from voters, election officials and party workers who so recommended. This election, coming almost on the heels of a preceding November election, has had a poor record of voter turnout. Campaigning involved in

this election has also interfered unduly with state legislative activity. Its elimination is expected to cause wider citizen participation in the fall election of officials ranging from supreme court to township officers.

Elimination of the spring vote will reduce state-wide election costs by an estimated $1 million annually.

Expenditure of money.

Sec. 6. Whenever any question is *required to be* submitted *by a political subdivision to* the electors *for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years,* or *for* the issue of bonds, only *electors in, and* who have property assessed for *any ad valorem* taxes in, any part of the district or territory to be affected by the result of such election or *electors who are* the lawful husbands or wives of such persons shall be entitled to vote thereon. *All electors in the district or territory affected may vote on all other questions.*

This is a revision of Sec. 4, Article III, of the present constitution limiting eligibility for voting on millage increase proposals to property owners and their spouses, but only if the millage increase is for a period in excess of five years.

The section continues present property qualifications for those voting on the issue of bonds but deletes mention of "the direct expenditure of money" as unnecessary language.

Board of canvassers.

Sec. 7. A board of state canvassers * of four members shall be established by law. No candidate for an office to be canvassed ** *nor any inspector of elections* shall be eligible to serve as a member of a *board of canvassers.* A majority of *any* board of canvassers shall not be composed of *members* of the same political party.

This is a revision of Sec. 9, Article III, of the present constitution extending the requirement of bipartisanship to local canvassing boards, which previously were not mentioned in this section. A prohibition against the service of any inspector of elections on a canvassing board is also included. Statutory changes would be required to implement this section at the county and township level.

Recall.

Sec. 8. *Laws shall be enacted* to provide for the recall of all elective officers except judges of courts of record ** upon petition of *electors equal in number to* 25 percent of the number of *persons voting in the last* preceding election for the office of governor in *the* * * electoral *district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.*

This is a revision of the recall provisions of Sec. 8, Article III, of the present constitution strengthening it somewhat by stating that the reasons for a recall shall be a political question, so that courts cannot set aside a recall on the grounds that the reasons for it are in some way inadequate.

A clause in the present section relating to purity of elections is deleted and inserted in Sec. 4 of this Article.

Initiative and referendum.

Sec. 9. ••• The people reserve to themselves the power to propose •• laws *and* to enact *and* reject *laws, called the* initiative, *and the power to approve or reject* •• *laws enacted by the* legislature, •• *called the* referendum. *The power of initiative extends only to laws which the legislature may enact under this constitution.* •••• *The power of referendum does not extend to acts* making appropriations *for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within* 90 days *following* the final adjournment of the *legislative session at which the law was enacted.* ••• *To invoke the initiative or referendum, petitions signed by a number of* registered electors, *not less than* eight percent *for initiative and* five percent *for referendum* of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required. ••••

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the •• electors voting thereon *at the next general election.*

Any law proposed by *initiative* petition shall be either enacted or rejected by the legislature without change or amendment within 40 *session* days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If *the* law so *proposed* •• is *not enacted* by the legislature within *the* 40 days, the *state officer* •• authorized by law shall submit such proposed law to the people for approval or rejection at the next • general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by •• *such state officer* to the electors for approval or rejection at the next • general election. ••••

Any *law* submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. •• No *law* initiated or adopted by the people shall be subject to the veto power of the governor, and no *law* adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in *the* initiative measure *or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved* by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof.

•• If two or more measures approved by the electors at the same election conflict, *that* receiving the highest affirmative vote shall prevail. ••••

The legislature shall implement the provisions of this section.

This is a revision of Sec. 1, Article V, of the present constitution eliminating much language of a purely statutory character. The new wording specifically reserves the initiative and referendum powers to the people, limits them as noted, and requires signatures equal to at least eight per cent of the electors last voting for governor for initiative petitions and at least five per cent for referendum petitions.

In the section is language which provides that the legislature must act upon initiative proposals within 40 session days, but may propose counter measures to the people.

No laws initiated or adopted by the people can be vetoed; and no law initiated and adopted by them can be amended or repealed except by a vote of the people unless otherwise provided in the initiative measure, or by three-fourths of the members in each house of the legislature. Laws adopted under the referendum provision can be amended or repealed by the legislature at any subsequent session.

Matters of legislative detail contained in the present section of the constitution are left to the legislature. The language makes it clear, however, that this section is self-executing and the legislature cannot thwart the popular will by refusing to act.

Article III

GENERAL GOVERNMENT

Seat.

Sec. 1. The seat of government shall be at Lansing. •••

No change from Sec. 2, Article I, of the present constitution except for elimination of the words "where it is now established" as unnecessary language.

Separation of powers.

Sec. 2. The powers of government are divided into three *branches:* • legislative, executive and judicial. No person *exercising powers of one branch* shall exercise • powers properly belonging to another *branch* except *as* expressly provided in this constitution.

This is a revision of Secs. 1 and 2, Article IV, of the present constitution combining their provisions and substituting the word "branch" for "department" as a more adequate definition of the separate divisions of government.

Great seal.

Sec. 3. *There shall be a* great seal of the State *of Michigan and its use shall be provided by law.*

This is a revision of Secs. 11 and 12, Article VI, of the present constitution which provide in detail for the use of the great seal of Michigan. Both sections are unduly mandatory in their provisions as to the use of the seal.

The convention felt such a seal is necessary and should be given the dignity of a constitutional provision. It is believed, however, that the legislature can and will provide for the use of the great seal in a proper manner.

Militia.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

This single section is substituted for all of Article XV, relating to the militia, in the present constitution. The existing Article ties the legislature down to an outmoded concept of what the militia should be. Details as to organizing, equipping and disciplining the militia are left to legislative enactment in the interests of flexibility and future requirements.

Inter-governmental agreements.

Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

This is a new section recognizing the emerging problems involved in cooperation between this state or its political subdivisions with one or more of the other states, the federal government, the Dominion of Canada or any of their political subdivisions.

Subject to general law, this state or any of its political subdivisions are permitted to enter into working agreements with the other units mentioned for the performance, financing or execution of their governmental functions. The convention record notes relation of this section to such matters as "flood control, navigation, water conservation, protection of wildlife and game and harbor development and regulation."

The section permits any officer or employee of the state or any of its political subdivisions to serve as a member of joint governmental bodies such as described herein without relinquishing his office or employment. The legislature is empowered to impose such restrictions and limitations as it deems appropriate on the service of the officer or employee.

Internal improvements.

Sec. 6. The state shall not be a party to, nor be *financially* interested in, any work of internal improvement, nor engage in carrying on *any such* work, except *for public internal improvements provided by law.*

This is a revision of Sec. 14, Article X, of the present constitution deleting detailed language listing exceptions relative to internal improvements in which the state may engage.

The new, abbreviated wording makes it clear that the state "may not be a party to" nor "financially interested" in internal improvements other than those of a public nature and by authorization of law.

Laws remain in effect.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are *changed, amended* or repealed.

No change from Sec. 1 of the Schedule in the present constitution except for improvement in phraseology.

Advisory opinions.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

This is a new section which empowers the supreme court to furnish advisory opinions to the governor and each house of the legislature on important questions of law and on solemn occasions—but only as to legislative acts that are already passed and signed by the governor, and before they become effective.

An example of the possible exercise of this section would have been the matter of the 4-cent state use tax which was passed and later declared unconstitutional.

Article IV

LEGISLATIVE BRANCH

Legislative power, where vested.

Sec. 1. The legislative power of the State of Michigan is vested in a senate and *a* house of representatives. ••••

No change from the first clause of Sec. 1, Article V, of the present constitution. The remaining language of the existing section is revised and transferred to Article II (Elections) since it relates to the initiative and referendum.

Senators; number; terms; districts.

Sec. 2. The senate shall consist of 38 members *to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.*

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

This is a revision of Sec. 2, Article V, of the present constitution increasing the number of state senators from 34 to 38, increasing senators' terms from two to four years and providing the formula for the apportionment of senate seats. Senators are to be elected from single-member districts and their terms are to be concurrent with the governor's term.

Senatorial districts are to be apportioned on a formula which gives weight to both area and population. The apportionment formula calls for the assignment to each county of an apportionment factor computed as follows:

1. The percentage of the total state population in the county multiplied by four; plus,

2. the percentage of the state land area in the county.

The sum of these two figures is the county's apportionment factor. There are a total of 500 apportionment factors in the state as a whole — 400 or 80 per cent based on population and 100 or 20 per cent based on area.

In arranging the senate into districts, the apportionment commission is first to assign seats to counties with 13 or more apportionment factors, as a class. This class of counties will be assigned senators in the proportion that the apportionment factors of the class bears to the total apportionment factors of the state, computed to the nearest whole number. After each of these counties has been allocated one senator, the remaining seats to which this class of counties is entitled will be distributed among them by the method of equal proportions applied to the apportionment factors.

Second, the apportionment commission is to arrange the remaining counties having less than 13 apportionment factors into single-member senate districts, each containing as nearly as possible 13 apportionment factors and not less than 10 nor more than 16. The districts are to be compact, contiguous by land, following county boundary lines, as nearly rectangular in shape as possible, and to the extent possible follow existing senate district boundaries if they meet other requirements.

A county entitled to two or more seats is to be divided by the apportionment commission into single-member districts that each contain not less than 75 per cent nor more than 125 per cent of a ratio determined by dividing the population of each county by the number of seats to which it is entitled. To the extent possible, these districts are to follow city and township boundaries and be as nearly uniform as possible in shape.

Representatives; number; term; districts.

Sec. 3. The house of representatives shall consist of 110 members *elected for two-year terms from single member districts apportioned on* *a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.*

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.

This is a revision of Sec. 3, Article V, of the present constitution providing for a house of representatives of 110 members elected for a two-year term from single-member districts consisting of compact and convenient territory contiguous by land.

The members are to be apportioned among the counties on the basis of population with any county or group of counties having .7 of one per cent of the state population constituting a representative area and entitled to one member (the present ratio of .5 of one per cent is increased to .7 of one per cent).

After the state has been apportioned into representative areas, each of which receives one representative, the remaining seats are to be apportioned among these areas on the basis of population by the method of equal proportions.

Equal proportions is the method used in allocating seats in the U. S. House of Representatives among the various states. The method of equal proportions will achieve the most equitable distribution of the *additional* seats among the previously established areas as measured by the relative differences in the average population per representative district. This is done by the application of a mathematical formula to the population of each of the previously established representative areas to determine which is most entitled to each additional seat.

An illustrative apportionment of the 110 members on the basis of the 1960 census would establish 40 legislative areas each of which would have at least .7 of one per cent of the state population and receive one member. The remaining 70 members (total house of 110 members) would be apportioned among the areas on the basis of population with the method of equal proportions used to determine which of the 40 areas is most entitled to each of the 70 additional seats. Twenty-four of these legislative areas would receive only the one member to which they are automatically qualified. The other 16 areas would receive an additional seat or seats through the application of the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives is to be divided by the apportioning agent into single-member districts each of which shall contain not less than 75 per cent nor more than 125 per cent of a ratio of representation determined by dividing the population of the county by the number of seats to which it is entitled. These districts are to follow city and township boundaries when possible and are to be as nearly square in shape as possible.

A representative area consisting of more than one county which is entitled to two or more representatives shall be divided into single-member districts as equal as possible in population, adhering to county boundary lines.

Legislative districts; merger.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a a representative or senatorial district shall have the effect of removing a legislator from office during his term.

This is a new section designed to eliminate complications in election procedures which may result from annexations from townships or the merger of two cities between apportionments. Where these combinations of territory do not cross county lines, it is provided that the annexed territory becomes a part of such legislative districts as determined by city ordinance.

Such change will not, however, unseat a member of the legislature living in the annexed area for the remainder of the term to which he was elected.

Island areas.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

This is a new section which clarifies the definition of "contiguous by land" with respect to legislative apportionment.

Legislative apportionment commission.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. *The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.*

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

This is a new section requiring that the house and senate be reapportioned following each decennial census by a commission on legislative apportionment. The commission is to consist of eight members, with the state organizations of the two major political parties each selecting four members. One member from each party is to come from each of four regions of the state – Upper Peninsula, northern part of Lower Peninsula, southwestern part of Lower Peninsula, and southeastern part of Lower Peninsula. A third party polling more than 25 per cent of the votes for governor shall also be entitled to four members on a 12-member commission.

The commission shall convene within 75 days after the adoption of the constitution and after the results of each decennial census are available and shall complete its work within 180 days after all necessary census information is available. The commission shall reapportion and redistrict house and senate seats in accordance with the provisions of the constitution.

A plan approved by a majority of the members shall, when published, have the force of law. If a majority of the members of the commission cannot agree on a plan, then the members individually or jointly may submit a plan to the supreme court. The supreme court shall determine which plan complies most accurately with constitutional requirements and direct that it be adopted.

Upon the application of any elector the supreme court may compel the performance of duties imposed in this section and may review any plan

adopted by the apportionment commission and remand it to the commission for further action if it fails to comply with the requirements of the constitution.

Legislators; qualifications; removal.

Sec. 7. Each senator and representative *must* be a citizen of the United States, at least 21 years of age, and *an* elector of the district he represents. *The* removal *of his domicile* from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or *who has within the preceding 20 years been convicted* of a felony involving a breach of public trust shall be eligible for either house of the legislature.

This is a revision of Sec. 5, Article V, of the present constitution. The only substantive change is in the last sentence where new language removes the disqualification for the legislature of persons who have been convicted of a felony involving a breach of the public trust after 20 years.

Ineligibility of certain persons for office.

Sec. 8. No person holding any office, *employment or position* under the United States or this state or *a political subdivision thereof,* except notaries public and *members* of the *armed forces reserve, may be a member of either house of the legislature.* ****

This is a revision of Sec. 6, Article V, of the present constitution to exclude from serving as legislators officers and employees of federal, state and local units of government.

Retained is language permitting notaries public and members of the armed forces reserve to serve in the legislature.

The provisions of the new section will allow people holding offices or positions to run for the legislature, but since dual office-holding is prohibited a legislator-elect would be obliged to resign his prior office or employment as a condition precedent to taking his seat.

Legislators; ineligibility for certain appointments.

Sec. 9. No person elected *to* ** the legislature shall receive any civil appointment within this state **** from the governor, except notaries public, **** from the legislature, or *from* any other state authority, during the term for which he is elected. ****

This is a revision of Sec. 7, Article V, of the present constitution. Deleted is a prohibition against appointment of a state legislator to the U. S. Senate since it appears that there is no reason why a qualified legislator should not be chosen to fill such vacancy. Also eliminated is unnecessary language making appointments and votes for legislators void.

A final sentence in the existing section relating to the interest of a legislator in contracts with the state is covered in a subsequent section of this Article.

Conflict of interest.

Sec. 10. **** No member of the legislature nor *any state* officer shall be interested directly or indirectly in any * contract *with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.*

This is a revision of Secs. 7 and 25, Article V, of the present constitution to indicate clearly that persons who serve the state in elected or appointed positions shall not have substantial conflicting interests. Detailed restrictions in the existing sections were inserted originally in the 1850 constitution and are now regarded as unnecessary since there is no question about the legislature's power to act in such matters.

Legislators; privileges.

Sec. 11. Senators and representatives shall **** be privileged from *civil* arrest *and civil process* during sessions of the legislature and for *five* days next before the commencement and after the termination thereof. **** They shall not be questioned in any other place for any speech in either house.

This is a revision of Sec. 8, Article V, of the present constitution to make it clear that legislators are not immune from arrest on criminal charges. The present 15-day immunity from civil arrest and process before and after sessions is reduced to five days.

Legislators; compensation.

Sec. 12. The compensation and *expense allowances* of the members of the legislature shall be determined by law. *** *Changes* in compensation or *expense allowances* shall *become effective only when legislators commence their terms of office after a general election.*

This is a revision of Sec. 9, Article V, of the present constitution adding new language to cover compensation changes enacted under this revised constitution which provides two-year terms for state representatives and four-year terms for state senators.

A concluding sentence of the present section relating to miscellaneous perquisites is deleted as unnecessary.

Legislature; time of convening.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year *at twelve o'clock noon.* **** Each regular session shall adjourn without day, ** *on a day* determined by concurrent resolution, at twelve o'clock noon. *Any business,* bill or *joint* resolution pending *at the final adjournment of a regular session held in an odd numbered year* shall carry over *with the same status to the next* regular session.

This is a revision of Sec. 13, Article V, of the present constitution modifying an existing provision which has forbidden a motion, bill or resolution to be carried over from one session to the next – the procedure followed by the U. S. Congress. The new language permits bills or joint resolutions pending during the first session of a particular legislature to be carried over to the second session of the same legislature. This will save much in printing costs and time.

The time of day for convening the legislature has been set at 12 o'clock noon on the specified date.

Senate and house; quorums.

Sec. 14. A majority of *the members elected to and serving in* each house shall constitute a quorum to do business. A smaller number *in each house* may adjourn from day to day, and may compel the attendance of absent members in *the* manner and *with* penalties as each house may prescribe.

This is a revision of Sec. 14, Article V, of the present constitution to make it clear that "majority" shall be computed only upon the number of members that are serving. This means that if a legislative seat has been vacated for any reason, and not filled, it shall not be counted in computing a quorum.

Legislative council.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

This is a new section authorizing the legislature to establish a bipartisan legislative council consisting of legislators to be named in a manner prescribed by law. The council is to be given funds for its operation and to provide for its staff which will maintain bill drafting, research and other services for members of the legislature. The council is directed to examine and recommend periodically revision of the various laws of the state.

The section is designed to recognize an agency supplanting the existing legislative service bureau and to expand its operations under the supervision of a bipartisan council of legislators.

Legislature; powers; rules.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected *thereto and serving therein* from discharging a committee from the further consideration of any measure. Each house shall *be the sole* judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected *thereto and serving therein,* expel a member. The reasons for such expulsion shall be entered *in* the journal, with the *votes and names* of the members voting upon the question. No member shall be expelled a second time for the same cause.

This is a revision of Sec. 15, Article V, of the present constitution to define more clearly "majority", as noted in Sec. 14 of this document, and to clarify present language which requires that "names" of those voting on expulsion of a member be listed upon the journal. The new language specifies that the "votes and names" of members shall be entered in the journal.

Legislature; committees.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. On all actions on bills and resolutions in each committee, names and votes of members shall be recorded. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

This is a new section designed to eliminate secrecy in legislative committee meetings. Such committees must keep a recorded roll call vote of all action on bills and resolutions taken in committee and the vote must be available for public inspection.

Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal prior to the hearing.

Legislature; journals; protest.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same *unless the public security otherwise requires.* The *record of the vote and name of the members of either house voting* **** on any question shall be entered *in* the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he * *deems* injurious to any person or the public, and have the reasons for his dissent entered *in* the journal.

No change from Sec. 16, Article V, of the present constitution except for improvement in phraseology.

Legislature; elections; recorded vote.

Sec. 19. * All elections *in* either house or in joint convention **** *and all* votes on *appointments submitted* to the senate *for advice and consent* shall be ** published *by vote and name in* the journal. **

This is a revision of Sec. 17, Article V, of the present constitution to eliminate the words "viva voce" in reference to voting and clearly require a recorded roll call in legislative elections. The section is further clarified by substituting the words "appointments submitted to the senate for advice and consent" for "nominations to the senate."

Legislature; open public meetings.

Sec. 20. The doors of each house shall be open unless the public *security otherwise* requires.

This is a revision of Sec. 18, Article V, of the present constitution declaring that meetings of the legislature shall be open unless public "security" otherwise requires. The new word replaces "welfare" and is more descriptive of a situation which might require secrecy.

Legislature; consent to adjourn.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than *two intervening calendar* days, nor to any place other *than* where the legislature may then be in session.

This is a revision of the second sentence of Sec. 18, Article V, of the present constitution to change "three days" to "two intervening calendar days." This is to spell out definitely terminology which has provoked some legislative controversy in recent years.

Bills.

Sec. 22. All legislation •• shall be by bill and may originate in either house. ••

No change from Sec. 19, Article V, of the present constitution except for improvement in phraseology.

Style of laws.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

No change from Sec. 20, Article V, of the present constitution.

Laws; object and title.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. •• No bill shall be altered or amended on its passage through either house so as to change its original purpose *as determined by its total content and not alone by its title.*

This is a revision combining parts of Secs. 21 and 22, Article V, of the present constitution. No substantive change is involved.

Laws; revision, amendment.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. ••• The section or sections of the act altered or amended shall be re-enacted and published at length.

This is a revision of parts of Sec. 21, Article V, of the present constitution eliminating language which requires that the whole of an act revised be reprinted. This would be costly and unnecessary.

Bills; printing; reading; passage; vote.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed *or reproduced* and in the possession of each house for at least five days. •••• Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of • the members elected to *and serving in* each house. On the final passage of • bills, the *votes and names of the members voting thereon shall be* entered *in* the journal.

This is a revision incorporating parts of Secs. 22 and 23, Article V, of the present constitution. Addition of the word "reproduced" recognizes new developments in the graphic arts. The words "and serving" clarify the method of computing a majority provided in Sec. 14 of this Article.

Acts; effective date.

Sec. 27. No act shall take effect •• until the expiration of 90 days from the end of the session at which it was passed, • *but* the legislature may give immediate effect to acts •••• by a two-thirds vote of the members elected to *and serving* in each house.

This is a revision of a part of Sec. 21, Article V, of the present constitution. The 90-day provision as to effective date of statutes is retained, but the legislature is authorized to give immediate effect to any act by a two-thirds vote of the members elected to and serving in each house.

This is a change from present language which specifies that only acts making appropriations and acts "necessary for the preservation of the public peace, health and safety" may be given immediate effect. The two-thirds vote restriction seems adequate to prevent abuse of the "immediate effect" provision.

Bills; subjects at special session.

Sec. 28. *When the legislature is convened on extraordinary occasions in special session* no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

This is a revision of a part of Sec. 22, Article V, of the present constitution. The new language is only to clarify existing meaning.

Local or special acts; referendum.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act •••• shall take effect until approved by • two-thirds • *of the members elected to and serving in each house and* by a majority of the electors voting thereon in the district • affected. *Any* act repealing local or special acts *shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.*

This is a revision of Sec. 30, Article V, of the present constitution with changes to clear up ambiguous language and eliminate a date (January 1, 1909) now unnecessary. The requirement of a two-thirds vote of both houses and a majority vote in the area affected protects localities against arbitrary action. By allowing a majority of the legislature to repeal existing local laws, uniformity will be easier to obtain.

Appropriations for local purposes.

Sec. 30. The assent of two-thirds of the members elected to *and serving in* each house of the legislature shall be *required for the appropriation* of public money or property for local or private purposes.

No change from Sec. 24, Article V, of the present constitution except for the insertion of the words "and serving" to clarify the method of computing a majority provided in Sec. 14 of this Article.

General appropriations; priority.

Sec. 31. *The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.*

This is a new section designed to accomplish two major purposes:

1. To focus legislative attention on the general appropriation bill or bills to the exclusion of any other appropriation bills, except those supplementing appropriations for the current year's operation.

2. To require the legislature (as well as the governor by a subsequent provision) to set forth by major item its own best estimates of revenue.

The legislature frequently differs from executive estimates of revenue. It is proper to require that such differences as exist be specifically set forth for public understanding and future judgment as to the validity of each.

Laws imposing taxes.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax ****.

This is a revision of Sec. 6, Article X, of the present constitution. It requires a distinct and clear statement of any tax imposed upon the citizens of this state.

The section eliminates the requirement that tax laws specify "the objects to which (the tax) is to be applied". This has been judicially construed to mean "the purpose for which the money is to be spent". In a complex system of taxation, when the proceeds of one general tax may be devoted to many different purposes, this seems obsolete.

Also deleted is the present statement that "it shall not be sufficient to refer to any other law to fix such tax". This eliminates the possible question of the legislature's right to refer to income determined for federal tax purposes. It is not the intention of the section, however, to permit any delegation of the power to fix a tax or tax base to another legislative authority.

Bills passed; approval and veto by governor.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, ***and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it.*** If he *approves,* he shall *within that time* sign *and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed,* he shall return it *within such 14-day period* with his objections, to the house in which it originated. *That house* shall enter *such* objections *in full in* its journal and reconsider *the bill.* *** If two-thirds of the members elected *to and serving in that house* pass the bill *notwithstanding the objections of the governor,* it shall be sent with the objections to the other house ** *for reconsideration. The bill* shall become law if *passed* by two-thirds of the members *elected to and serving in that house.* ** The vote *of each house* shall be entered in the journal *with the votes and names of the members voting thereon.* ** If any bill *is* not returned by the governor within *such 14-day period, the legislature continuing in session, it shall become* * law ** *as if he had signed it.* ***

This is a revision of Sec. 36, Article V, of the present constitution to clarify and change existing language regarding the executive veto. It provides as follows: (1) The governor shall have 14 days in which to consider a bill; and his 14-day period for consideration and approval will not be affected by whether or not the legislature adjourns its session. (2) If during that period he signs the bill, it becomes law. (3) If during that period he does not sign the bill, and the legislature has adjourned its session, the bill does not become law. (4) If during that period he does not approve, he must send it back to the house of origin, if the legislature is still in session, for consideration of his veto. (5) If during that period he neither approves nor returns the bill with a veto message, the legislature continuing in session, it becomes a law as if he had signed it.

The time for consideration by the governor has been extended from 10 to 14 days in accordance with testimony by former governors that some additional time is desirable.

The two-thirds vote of the legislature to override the governor's veto is retained.

Referendum on certain bills.

Sec. 34. Any bill passed by the legislature and approved by the governor, except *a bill appropriating money,* may *** *provide that it will not* become * law unless approved by a majority of the electors voting thereon.

No change from Sec. 38, Article V, of the present constitution except for improvement in phraseology.

Publication of laws.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after * final adjournment of the session, and shall be distributed in *the* manner ** provided by law. The *prompt* publication of * judicial decisions **** shall be provided * by law. All laws and judicial decisions shall be free for publication by any person.

No change from Sec. 39, Article V, of the present constitution except for improvement in phraseology.

Revision of laws; compilation.

Sec. 36. No general revision of the laws shall * be made. *** The legislature * *may* provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles. ****

This is a revision of Sec. 40, Article V, of the present constitution to improve phraseology and delete two concluding sentences thereby removing unnecessary detail relative to the compilation of laws. The existing section provides for compilation by commissioners named by the governor who submit their recommendations to the legislature. This revision places the entire matter of a compilation in the hands of the legislature for determination.

Administrative rules; suspension.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.

This is a new section permitting the legislature to set up a joint committee to act between sessions and to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.

It provides a legislative check on the rule-making authority of administrative agencies when the legislature is not in regular session.

Filling vacancies.

Sec. 38. The legislature may provide by law the cases in which any office shall be * vacant and the manner of filling vacancies where no provision is made in this constitution.

No change from the first paragraph of Sec. 5, Article XVI, of the present constitution except for improvement in phraseology.

Continuity of government.

Sec. 39. **** In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, ** the legislature * *may* ** provide by *law* for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and ** enact ** other *laws* ** necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this *section*, elections shall always be called as soon as possible to fill any * vacancies in * *elective offices* temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

No change from the second paragraph of Sec. 5, Article XVI, of the present constitution except for improvement in phraseology.

Liquor control commission.

Sec. 40. The legislature may by law establish a liquor control commission *which*, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. ** The legislature may * provide for an excise tax on such sales. ** Neither the legislature nor *the* commission may authorize the manufacture or sale of alcoholic beverages in any county in which a *majority* of the electors *voting thereon* shall prohibit the same.

No change from Sec. 11, Article XVI, of the present constitution except for improvement in phraseology.

Lotteries.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

No change from Sec. 33, Article V, of the present constitution.

Ports and port districts.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

No change from Sec. 30, Article VIII, of the present constitution.

Banking and trust company laws.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be *enacted*, amended or repealed except by a vote of two-thirds of the members elected to *and serving* in each house. ****

No change from Sec. 9, Article XII, of the present constitution except for the elimination of the concluding sentence: "Such laws shall not authorize the issue of bank notes or paper credit to circulate as money." This restriction is no longer necessary.

The words "and serving" are inserted to comply with the method of computing a majority provided in Sec. 14 of this Article.

Trial by jury.

Sec. 44. The legislature may authorize a trial by a jury of * less * than 12 *jurors in civil cases.*

This is a revision of Sec. 27, Article V, adding the words "in civil cases" to make it clear that the traditional jury of 12 is maintained in criminal cases. The word "jurors" is substituted for "men" to conform with changes in Article I of this document.

Indeterminate sentences.

Sec. 45. The legislature may provide * for indeterminate sentences * as * punishment for crime ** and for the detention and release of persons imprisoned or detained *under such* sentences.

No change from Sec. 28, Article V, of the present constitution except for improvement in phraseology.

Prohibition against death penalty.

Sec. 46. *No law shall be enacted providing for the penalty of death.*

This is a new section prohibiting the death penalty in Michigan. It establishes in the constitution a legislative ban which this state has had since 1846. Except for treason, which today is more a matter of federal than state significance, our state has not had the death penalty since 1846.

Chaplains.

Sec. 47. The legislature may authorize the employment of * chaplains *in state institutions of detention or confinement.* ****

This is a revision of Sec. 26, Article V, of the present constitution to clarify the legislature's power to provide chaplains for state institutions. The right is strictly limited to prisons, mental institutions and other places where people are voluntarily or involuntarily confined.

The last clause of the present section relating to appropriation of money for religious services in the legislature is eliminated as unnecessary.

Resolution of public disputes.

Sec. 48. The legislature may ** *enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.*

This is a revision of Sec. 7, Article XVI, of the present constitution to make it clear that the legislature has power to establish procedures for settling disputes in public employment. The section does not specify what the procedure shall be, but leaves that decision to future legislatures. The state classified civil service is exempted because the constitution has specific provisions in this area.

Regulation of employment.

Sec. 49. The legislature ** *may* enact laws relative to the hours and conditions **** of *employment.*

No change from Sec. 29, Article V, of the present constitution except for improvement in phraseology.

Atomic energy.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

This is a new section dealing with the emerging problems involved in atomic energy and other forms of energy which may be developed in the future. The legislature is authorized to provide safety measures and regulate the use of these new developments.

The section is declaratory in nature and does not endow the legislature with any additional authority. It simply points the way in which the people of Michigan believe the legislature ought to move.

Public health.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

This is a new section, declaratory in character, instructing the legislature to adopt whatever public health measures it deems appropriate.

Natural resources.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

This is a new section recognizing public concern for the conservation of natural resources and calling upon the legislature to take appropriate action to guard the people's interest in water, air and other natural resources.

Auditor general.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance posts audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

This is a new section providing for the appointment of the auditor general by the legislature. Under the terms of the present constitution, the auditor general is elected by the people.

In changing the method of selection of the auditor general, the proposed constitution makes him primarily responsible to the legislative rather than to the executive branch of state government. His auditing functions, powers and duties are specified in the provisions of the section.

The auditor general must be a certified public accountant licensed to practice in Michigan and his appointment is to be for a term of eight years. He would be ineligible for appointment or election to any other paid public office in the state while serving as auditor general and for two years after the termination of his service. He would be subject to removal at any time by a two-thirds vote of the members elected to and serving in the legislature.

Nothing in the section is to be construed in any way to infringe upon the responsibility and constitutional authority of the governing boards of the state's institutions of higher education. They are to be solely responsible for the control and direction of all expenditures from the institutions' funds. Appropriation of moneys for higher education is a legislative responsibility and an accounting is required to be made to the legislature.

The auditor general, his deputy and one other member of his staff would be exempt from classified civil service. All others on his staff would have civil service status.

Article V

EXECUTIVE BRANCH

Executive power; where vested.

Sec. 1. The * executive power is vested in the governor.

No change from Sec. 2, Article VI, of the present constitution except for elimination of the word "chief" before "executive power". The word has been interpreted as a possible limitation on the executive power. The new phrasing is patterned after the language of the United States Constitution and several recently-revised state constitutions.

Principal departments.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

This is a new section which places a limit of 20 on the number of principal departments under the direct supervision of the governor. Excepted from the limitation are the offices of the governor and lieutenant governor and the governing bodies of institutions of higher education.

The section is intended to bring about a more effective grouping of departments according to major purposes. It would retain in the hands of the legislature and the governor considerable discretion as to internal organization within principal departments.

The initial allocation of departments (See Schedule and Temporary Provisions) is left to the legislature, but if it has not been completed within two years the governor is given authority by executive order to make the initial allocation within one year thereafter. Subsequently, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. These changes become effective unless they are disapproved within 60 days by a majority of the members in both houses of the legislature.

Same; appointment.

Sec. 3. *The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.*

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

This is a new section giving the governor, with advice and consent of the senate, the power of appointment of heads of principal departments and of board members, except for the three constitutionally elected officials – the lieutenant governor, attorney general and secretary of state. Exceptions are also noted in the case of elected boards and boards and commissions which have authority to name their executive heads. Single executives named by the governor who head principal departments will serve at the pleasure of the governor.

Terms of office of any board or commission created or enlarged after adoption of this document are not to exceed four years, except as otherwise authorized in this constitution, and terms of existing boards which are greater than four years are not to be further extended except as provided in this constitution.

Temporary agencies.

Sec. 4. *Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.*

This is a new section providing that temporary commissions or agencies may be set up for special purposes, but for periods of not more than two years.

Licensing boards.

Sec. 5. *A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.*

This is a new section making it clear that appointed licensing boards must be composed of a majority of members of the profession involved.

Advice and consent; definition.

Sec. 6. *Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.*

This is a new section providing a constitutional definition of appointment by and with advice and consent of the senate as it applies to this constitution and laws now in effect or hereafter enacted. Such an appointment is subject to disapproval by a majority vote of the members elected to and serving in the senate, provided the senate acts to disapprove within 60 session days after the appointment is submitted to it. If fewer than 60 session days remain for consideration after submission of an appointment, the time available for possible disapproval will be extended into the next regular or special session for the balance of the specified period.

This procedure provides ample opportunity for the senate to render a negative judgment on appointees. At the same time, it permits appointments to become effective unless the senate is willing to go on record as rejecting the appointees. It prevents withholding of confirmation simply by failure to act on appointments.

Vacancies in state offices.

Sec. 7. *Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.*

This is a revision of Sec. 10, Article VI, of the present constitution clarifying the power of the governor to make appointments when the senate is not in session. It specifies that such appointments will continue in effect unless disapproved by the senate as provided in Sec. 6 of this Article.

In the event of senate disapproval, the same person is not eligible for another interim appointment to the same office.

Principal departments; supervision of governor.

Sec. 8. *Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution.* The governor shall take care that the laws be faithfully executed. *He* shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or *to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.*

This is a revision of Sec. 3, Article VI, of the present constitution stating that each principal department shall be under the supervision of the governor. It retains the wording which provides that the governor take care that the laws be faithfully executed and authorizes him to require information in writing from state officers.

Added is a new provision expressly authorizing the governor to resort to the courts to enforce compliance with any constitutional or legislative mandate, with the proviso that this authority shall not be construed to permit any action or proceeding against the legislature.

Principal departments; offices.

Sec. 9. *Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions* shall keep their offices at the seat of government *except as otherwise provided* by law, *superintend them in person and perform duties prescribed by law.*

This is a revision of Sec. 1, Article VI, of the present constitution concerning the obligation of executive officials to superintend their offices in person and perform duties as prescribed by law. Their offices shall be maintained at the seat of government, unless otherwise provided by the legislature.

Power of removal.

Sec. 10. The governor shall have power and it shall be his duty **** to *inquire* into the condition and administration of any public office and the acts of any public officer, elective or appointive. *He may* remove *or suspend* from office for gross neglect of duty or for corrupt conduct in office, or *for* any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and *shall* report the *reasons for* such removal *or suspension* to the legislature. **

This is a revision of Sec. 7, Article IX, of the present constitution deleting in the first sentence the words: "except at such time as the legislature may be in session." The new language places authority for inquiry as well as removal and suspension of officials in the hands of the governor at all times.

Provisional appointment.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an *appointed or elected* officer, *other than* a *legislative or judicial officer,* until he *is reinstated* or ** *until the vacancy is filled in the manner prescribed by law or this constitution.*

This is a revision of Sec. 5, Article IX, of the present constitution. Added is new language which brings the section into conformity with other provisions of this document.

Governor; commander-in-chief.

Sec. 12. *The governor* shall be commander-in-chief of the ** *armed* forces and may call *them* out ** to execute the laws, * suppress insurrection and * repel invasion.

No change from Sec. 4, Article VI, of the present constitution except for improvement in phraseology. In this and subsequent sections of the Article the words "the governor" are substituted for "he" for purposes of clarity.

Same; writs of election.

Sec. 13. *The governor* shall issue writs of election to fill * vacancies ** in the senate or house of representatives. *Any such election shall be held in a manner prescribed by law.*

No change from Sec. 6, Article VI, of the present constitution except to recognize the right of the legislature to prescribe procedure for the filling of vacancies in the senate or house of representatives. The governor will determine whether a special election shall be held or if the vacancy will be filled at the next general election.

Same; reprieves and pardons.

Sec. 14. *The governor shall have power* to grant reprieves, commutations and pardons after convictions for all offenses, except ** cases of impeachment, upon such conditions and *** limitations as he may *direct,* subject to *procedures and* regulations *prescribed* by law. **** He shall *inform* the legislature *annually* of each ** reprieve, commutation *and* pardon granted, *stating* reasons therefor.

This is a revision of Sec. 9, Article VI, of the present constitution. The only substantive change is the elimination of treason as an offense for which the governor does not have the authority for reprieve, commutation or pardon. Treason is treated in the same manner as other crimes so far as the governor's powers are concerned.

Same; convene legislature.

Sec. 15. *The governor* may convene the legislature on extraordinary occasions.

No change from Sec. 7, Article VI, of the present constitution.

Same; convene legislature away from seat.

Sec. 16. *The governor* may convene the legislature at some other place when the seat of government becomes dangerous from *** *any cause.*

No change from Sec. 8, Article VI, of the present constitution except for the substitution of "any cause" for the words "disease or a common enemy." The new language broadens the section to include possible danger from causes other than disease or threat of enemy attack.

Same; communicate to legislature.

Sec. 17. *The governor* shall communicate by message to the legislature **** *at the beginning of each session and may at other times* *present to the legislature information as to the affairs of the state* and recommend * measures *he considers necessary or desirable.*

This is a revision of Sec. 5, Article VI, of the present constitution. It retains the practice of requiring the governor to "communicate by message to the legislature at the beginning of each session," but it eliminates a provision that he present a message at the close of his term to the incoming legislature. This latter requirement is a potential source of embarrassment to an outgoing governor.

An outgoing governor may, if he desires, communicate to the legislature through his power to "present to the legislature information as to the affairs of the state, and recommend measures he considers necessary or desirable."

Same; budget.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

This is a new section intended to establish a constitutional executive budget procedure for the orderly management of the state's fiscal affairs.

The governor is required to prepare and present to the legislature, at such time as is fixed by law, a budget for the ensuing period which details all proposed expenditures and estimated revenues of the state. At the same time, the governor is directed to submit to the legislature bills embodying the budget plan and any proposed new revenues. The proposed expenditures are not to exceed estimated revenue, whether from existing or proposed new revenue sources.

Surplus created or deficit incurred during the previous fiscal period must be included in the budget and appropriation bills for the next year. Any surplus is to be a credit to estimated revenues, while any deficit is to be an initial charge against expenditures.

Since Sec. 31, Article IV, of this proposed document gives legislative priority to general appropriation bills, the procedure outlined in this new section is designed to expedite agreement on fiscal matters.

The final sentence of the section allows the governor to introduce amendments to general appropriation bills, prior to passage by both houses, to cover contingencies such as omissions, oversights or emergency situations which may arise. It also requires the governor to submit bills for deficiencies expected to occur in current appropriations.

Same; disapproval appropriation.

Sec. 19. The governor *may* disapprove * any *distinct* item or items *appropriating moneys in* any *appropriation* bill. **** The part or parts approved shall *become* law, and the item or items disapproved shall be void unless re-passed according to the *method* prescribed for the passage of other bills over the executive veto.

This is a revision of Sec. 37, Article V, of the present constitution continuing the governor's item veto power over appropriation bills.

Appropriation; no mandate to spend.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

This is a new section designed to provide for executive and legislative controls over state expenditures. The first sentence is intended to cover situations in which unforeseen efficiencies and economies might become possible.

The second sentence requires the governor, with the approval of the appropriating committees of the legislature, to reduce expenditures whenever it appears that revenues are not meeting estimates for a fiscal period. It is believed that this sentence removes any question as to the constitutionality of legislative control over general fiscal policy of the state. It would require current action to minimize impending year-end deficits.

The final sentence protects the separation of powers doctrine by preventing executive reduction of expenditures for the co-ordinate legislative and judicial branches of government. It would also prohibit the governor from making reductions in funds dedicated by the constitution for specific purposes.

State officers; election; term; vacancies.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

This is a revision of Sec. 1, Article VI, of the present constitution providing for the election of four major state officers — the governor, lieutenant governor, secretary of state and attorney general. Their terms are to be increased from the present two years to four years, effective with those taking office on January 1, 1967, and they are to be chosen at elections in alternate even-numbered years (not to conflict with national Presidential elections).

To provide for orderly transition in the establishment of the longer terms, the four major state officers named will be elected for two-year terms in the 1964 general election. The first four-year election under this constitution will be in 1966. (See Schedule and Temporary Provisions.)

Candidates for governor will continue to be nominated in such manner as determined by the legislature. Candidates for lieutenant governor, secretary of state and attorney general shall be nominated by party conventions, as prescribed by law.

The section provides that the nominees for governor and lieutenant governor of each party run as a team, with votes for the governor to be also cast for the lieutenant governor in the same manner as with the president and vice president of the United States.

Eligibility for office.

Sec. 22. •• *To* be eligible *for* the office of governor or lieutenant governor *a person must* have attained the age of 30 years, and *have been* •••• *a registered elector in* this state *for four* years next preceding his election.

This is a revision of Sec. 13, Article VI, of the present constitution. The age requirement of 30 years is retained for eligibility to the office of governor or lieutenant governor. Present requirements that a person shall have "been 5 years a citizen of the United States and a resident of this state 2 years" have been changed to a person who has "been a registered elector in this state for four years next preceding his election."

The "registered elector" requirement is regarded as sufficient to take care of the citizenship and residence provisions in the present constitution.

State officer compensation.

Sec. 23. The governor, lieutenant governor, secretary of state •• and attorney general shall each receive *the* compensation •• *provided by law* •• in full *payment* for all services performed and expenses incurred during his term of office. •• *Such compensation* shall not be changed during the term of office •• *except as otherwise provided in this constitution.*

This is a revision of Sec. 21, Article VI, of the present constitution to include the lieutenant governor and to eliminate the auditor general and state treasurer, who become appointive officials. The words "except as otherwise provided in this constitution" are added at the end of the section to eliminate any possible conflict with the provision which requires payment of the same compensation as the governor receives to those state officers who may succeed to his powers and duties.

Executive residence.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

This is a new section reflecting the convention's belief that a suitable residence for the governor, properly furnished and with an adequate maintenance allowance, should be provided. Of the 50 states, 41 now provide a residence for the governor. All details of construction and related matters are left to the determination of the legislature.

Lieutenant governor; duties.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote, *unless they be equally divided. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.*

This is a revision of Sec. 19, Article VI, of the present constitution. A significant change is the provision that the lieutenant governor, in his capacity as president of the senate, may vote in case of equal division. The lieutenant governor is also directed to "perform duties requested of him by the governor." The section specifies, however, that "no power vested in the governor shall be delegated."

Succession to governorship.

Sec. 26. In case of the *conviction of the governor on* impeachment, his removal from office, his resignation or *his* death, •••• the lieutenant governor, *the elected* secretary of state, *the elected* attorney general ••• *and such other persons designated by law* shall *in that order be* governor *for the remainder of the governor's* term.

In case of the death of the governor-elect, *the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.*

If the governor or the person in line of succession *to serve as governor is* absent from the state, *or suffering under an* inability, the powers and duties of the office *of governor* shall devolve *in order of precedence* until the absence *or inability* giving rise to the *devolution of powers ceases.*

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

This is a revision of Secs. 16 and 17, Article VI, of the present constitution. It brings the matter of line of succession to vacancy in the office of governor into conformity with the new document and provides a method for determining the possible inability of the state's chief executive to serve.

The new language, "conviction of the governor on" impeachment, reflects the convention's judgment that a person serving as governor should be permitted to continue in office until impeachment proceedings have been concluded by either acquittal or conviction.

The line of succession to the governorship continues in the same order as the present constitution, except for the deletion of "state treasurer" and "auditor general" who become appointive rather than elective officers under this revised constitution. The matter of further succession, after the three elective state officers, is left to legislative determination.

The phrase "be governor" is substituted for "act as governor" to remove any possible doubt as to the status of one who succeeds to the office in the event of a vacancy. Deleted in its entirety as unnecessary is a sentence in the present Sec. 16 regarding the governor's status while at the head of a military force outside the state.

The fourth paragraph is new language which provides that the inability of a person to serve as governor may be determined by a majority vote of the supreme court. The court would be empowered to act only upon a joint request for such determination from the president pro tempore of the state senate and the speaker of the house of representatives. The supreme court is also given authority to determine when the inability ceases.

Same; salary.

Sec. 27. *The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.*

This is a revision of Sec. 18, Article VI, of the present constitution. It clarifies the previous language and directs the legislature to provide compensation equal to that of the governor to any state officer acting in the capacity of governor.

Highway commission.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year, as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

This is a new section establishing a bipartisan state highway commission which will administer the state highway department and have control and jurisdiction over state highways and associated facilities as well as such other public works of the state authorized by law.

No more than two of the four-member commission may belong to the same political party. They are to be appointed by the governor, with advice and consent of the senate, for four-year overlapping terms.

The commission is to appoint a state highway director to be the principal executive officer of the department. He is to be a competent highway engineer and administrator.

Civil rights commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

This is a new section establishing an eight-member bipartisan civil rights commission to be named by the governor, with advice and consent of the senate, for four-year staggered terms. The commission is given powers and duties, as prescribed by law, to investigate instances of alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by this constitution and law; and to secure the equal protection of such rights without discrimination.

The legislature is directed to provide an annual appropriation for the effective operation of the commission whose powers are enumerated in the second paragraph.

Nothing contained in the section is to be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of the state. Appeals from final orders of the commission shall be tried anew before the circuit court having jurisdiction.

Article VI

JUDICIAL BRANCH

Judicial power.

Sec. 1. The judicial power *of the state is* vested *exclusively* in one *court of justice* **** *which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court and courts of limited jurisdiction that* the legislature may establish by ** a two-thirds vote of the members elected to *and serving in* each house.

This is a revision of Sec. 1, Article VII, of the present constitution. It provides three basic changes in the existing state judicial branch:

1. It creates a "court of justice", incorporating the concept that the state has a single court with several divisions, each devoting its attention to a certain level of judicial administration.

2. It creates an intermediate court of appeals between the circuit courts and the supreme court. Such a court would share part of the present work load of the supreme court and becomes necessary, it is believed, because of a mandate in Article I of this new document which grants an appeal as a matter of right in criminal cases.

3. It removes the constitutional status of the justice of the peace system and enables the legislature to create a flexible and modern local court of limited jurisdiction to meet the differing needs of large and small counties and communities.

THE SUPREME COURT

Supreme court; justices; election; term.

Sec. 2. The supreme court shall consist of *seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.*

This is a revision of Sec. 2, Article VII, of the present constitution. It incorporates these changes:

1. Provides for an eventual seven-member supreme court. The present statutory level of eight justices would be reduced to seven with the death, retirement or resignation of one of the incumbent justices. (See Schedule and Temporary Provisions.)

2. Eliminates a present provision that the Chief Justice "be chosen by the electors of the state." Sec. 3 of this Article provides for the election of the Chief Justice by members of the court.

3. Removes incumbent justices farther from political considerations by permitting them to become candidates for re-election by filing an affidavit of candidacy not less than 180 days prior to the expiration of their terms.

Latitude is given to the legislature in the method to be prescribed for nominating candidates for the supreme court, but elections continue to be nonpartisan.

Supreme court; chief justice.

Sec. 3. *One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.*

This is a new section giving constitutional sanction for the selection of the Chief Justice by members of the court. This has been the practice for several decades, although Sec. 2, Article VII, of the present constitution requires that he "be chosen by the electors of the state." Duties of the Chief Justice would be those "required by the court."

The third and fourth sentences of the section give constitutional sanction to the existing office of Administrator of the Courts and clearly spell out the source of his authority. The language implements references to "superintending control" over all courts of lesser jurisdiction in Sec. 4, Article VII, of the present constitution and this proposed Article.

Supreme court; jurisdiction.

Sec. 4. The supreme court shall have * general superintending control over all * courts; ** power to issue, **** hear and determine *prerogative* and remedial writs; ** and appellate jurisdiction *as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.*

This is a revision of Sec. 4, Article VII, of the present constitution. It substitutes the general term "prerogative and remedial writs" for the list of historic writs contained in the present document. The court is permitted to control its appellate jurisdiction by rule, but it is denied the power to remove a judge.

Supreme court; rules.

Sec. 5. The supreme court shall by general rules establish, modify, amend and *simplify* the practice *and procedure* in all courts *of this state.* *** The distinctions between law and equity proceedings shall, as far as practicable, *be abolished.* The office of master in chancery is prohibited.

This is a revision of Sec. 5, Article VII, of the present constitution. In addition to existing powers of the court, power is conferred to simplify both practice and procedure.

The second sentence gives constitutional sanction to the state Judicature Act of 1960 by which distinctions between law and equity have been abolished.

Supreme court; written decisions.

Sec. 6. Decisions of the supreme court, *including all decisions on prerogative writs,* shall be in writing ** *and shall contain* a concise statement of the facts and reasons for *each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give* in writing the reasons for *his* dissent. ****

This is a revision of Sec. 7, Article VII, of the present constitution. The reference to "prerogative writs" replaces the list of historic writs contained in the present document. The proposed section continues the requirement of written opinions with a statement of facts and reasons for each decision. The final sentence requires a statement of reasons for all dissents whether in whole or in part.

The eliminated language of the present constitution requiring signature on opinions and their filing is regarded as excess verbiage. This practice is well established and it appears unnecessary to encumber the constitution with this requirement.

Supreme court; staff supervision.

Sec. 7. The supreme court may appoint, *may* remove, *and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law.* All fees *and* perquisites ** collected by the *court staff* shall be turned over ** to the state treasury and credited to the general fund. ****

This is a revision of Sec. 6, Article VII, of the present constitution. It extends the appointive power of the supreme court and its supervising control to its entire staff, instead of limiting it to court officers specifically named in the present document.

The court is granted control of the preparation of its budget recommendations and the expenditure of funds appropriated for its activities, except for salaries of the justices which are established by the legislature. The section requires that fees and perquisites collected by the court staff be turned over to the state's general fund.

COURT OF APPEALS

Court of appeals; judges; elections.

Sec. 8. ***The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.***

This is a new section providing for the structure of the newly-created court of appeals. The nine judges of the court are to be nominated and elected from districts on a non-partisan basis in a manner to be determined by the legislature. The supreme court is authorized to prescribe that the court of appeals sit in divisions of not fewer than three judges at such places as may be designated.

Flexibility is further provided by granting to the legislature authority to increase the number of judges of the court and alter districts from which they are elected.

Court of appeals; terms.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

This is a new section providing six-year terms for judges on the court of appeals. The legislature is directed to set up election procedure so that terms of office in each district will not expire at the same time.

Court of appeals; jurisdiction.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

This is a new section providing that jurisdiction of the court of appeals shall be established by the legislature. Practice and procedure are to be provided by rules of the supreme court.

CIRCUIT COURTS

Judicial circuits.

Sec. 11. The state shall be divided into judicial circuits *along county lines* in each of which there shall be elected *one or more* circuit *judges as provided by law.* *** Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by *rules of the supreme court.* The *number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall* be created, altered *and* discontinued *on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges* or alteration or discontinuance *of a circuit* shall have the effect *of removing* a judge from office *during his term.* ***

This is a revision of Sec. 8, Article VII, of the present constitution eliminating unnecessary language. In order to keep the manpower in the circuit court system operating as efficiently as possible, the legislature may and shall on recommendation of the supreme court increase or decrease the number of judges, create new circuits and alter or discontinue existing circuits.

The word "districts" in reference to circuit courts, appearing in the present constitution, is eliminated. This revised section specifies that judicial circuits shall be arranged "along county lines".

The provisions of the section enable the circuit courts to keep better abreast of changing population and economic conditions and thus serve all sections of the state more efficiently.

Circuit courts; elections; terms.

Sec. 12. Circuit judges shall be *nominated and* elected **** *at non-partisan elections in the circuit in which they reside,* and shall hold office for a *term* of six years and until their successors are elected and qualified. **** *In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.*

This is a revision of Sec. 9, Article VII, of the present constitution. Circuit judges continue to be nominated and elected in non-partisan elections for six-year terms.

A significant change in the section provides that in circuits which have more than one judge the legislature shall arrange a plan which does not permit all terms of office to expire at the same time. It is believed that this would be better for the judiciary and less confusing to the voters. Eliminated from the section is language which provides circuit judges "shall be ineligible to any other than a judicial office during the term for which they are elected and for one year thereafter." This appears in a later section of this Article.

Circuit courts; jurisdiction.

Sec. 13. *The* circuit *court* shall have original jurisdiction in all matters **** not prohibited by law; * appellate jurisdiction from all inferior courts and tribunals **** *except as otherwise provided by law;* power to issue, **** hear and determine *prerogative and remedial* writs; **** *supervisory and* general control over inferior courts and tribunals within their respective jurisdictions * in **** *accordance with rules of the supreme court; and jurisdiction of* other cases and matters as *provided by rules of* the supreme court. **

This is revision of Sec. 10, Article VII, of the present constitution. It provides that the power of the circuit court to hear cases from courts of limited jurisdiction shall be as authorized by rules of the supreme court. As now provided in the present constitution, the circuit court is given general control over courts and tribunals of limited jurisdiction in accordance with supreme court rules.

Clerk; vacancies.

Sec. 14. The clerk of each county organized for judicial purposes *or other officer performing the duties of such office as provided in a county charter* shall be clerk of the circuit court for such county. The judges of the circuit *court* may fill a vacancy in *an elective office* of county clerk or prosecuting attorney within their respective jurisdictions. ****

This is a revision of Sec. 11, Article VII, of the present constitution adding new language to recognize the possibility that some officer, other than the county clerk, may be empowered to be clerk of the circuit court in charter counties. The words "an elective office" are inserted to clarify previous ambiguous wording in the section.

The clause, "but shall not exercise any other power of appointment to public office," is deleted from the conclusion of the last sentence but appears under the General Provisions of this Article.

PROBATE COURTS

Probate courts; jurisdiction.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. *The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law.* The jurisdiction, powers and duties of *the probate* court and of the judges thereof shall be *provided* by law. They shall * have original jurisdiction in all cases of juvenile delinquents and dependents, *except as otherwise provided by law.*

This is a revision of Sec. 13, Article VII, of the present constitution to permit the legislature to combine counties into probate districts with the approval of a majority of the voters of each county involved. It also permits the legislature to provide for the combination of the office of probate court with any judicial office of a court of limited jurisdiction within a county.

These permissive provisions are included to make possible better administration of these courts in the smaller counties of the state.

The probate court continues to have original jurisdiction in all cases involving juvenile delinquents and dependent juveniles, unless otherwise provided by law. This will permit the legislature greater flexibility in the future in determining the best method within our court system for the handling of juvenile matters, including the possibility of creating a family court.

Probate courts; judges; elections.

Sec. 16. *One or more* judges of probate *as provided by law* shall be *nominated and* elected at *non-partisan elections* in the counties *or the probate districts* in which they reside and shall hold office for *terms of six* years and until their successors are elected and qualified. *In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.*

This is a revision of Sec. 14, Article VII, of the present constitution to provide for the non-partisan nomination and election of probate judges.

The term of probate judges is increased from four to six years. New language in the second sentence of the section directs that in counties or districts with more than one judge their terms shall not expire at the same time.

GENERAL PROVISIONS

Salaries; restriction.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

This is a new section abolishing the fee system for the compensation of judges. It also specifies that payment to judges shall not be based on the amount of litigation handled in their courts.

Salaries; uniformity.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive *an annual salary as provided by law*. In addition to the salary *received* from the state, ** each circuit judge may receive from any county in which he regularly holds court *an* additional salary as ** determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

The first paragraph of this section is new language designed to assure uniform salaries for all judges within a certain district. It likewise removes the restriction of Sec. 3, Article XVI, of the present constitution which, as it now stands, prohibits the increase of salaries of any supreme court justices during their term of office. This restriction has resulted in serious inequities in salary range among judges whose terms expire at different times.

The section also provides for decreases in the salaries of the judiciary, but only if general salary reductions are made in each of the other branches of the government.

The second paragraph is a revision of Sec. 12, Article VII, of the present constitution to permit "annual" salary rather than "salary payable monthly" for circuit judges.

Courts of record; seal; qualifications of judges.

Sec. 19. The supreme court, *the court of appeals,* the circuit *court, the* probate *court and other* courts *designated as such by the legislature* shall be courts of record and each shall have a common seal. Justices ** and judges *of courts of record* ** *must* **** be *persons who are* licensed to practice law in this state. *No person shall be elected or appointed to a judicial office after reaching the age of 70 years.*

This is a revision of Sec. 17, Article VII, of the present constitution. It includes among courts of record the new court of appeals and any lower courts so designated by the legislature. The section also provides that all judges of such courts must be lawyers. In the case of probate judges, an exception is made in Sec. 7 of the Schedule and Temporary Provisions of this document which permits non-lawyers holding such offices to be candidates for re-election.

Judge; removal of domicile.

Sec. 20. Whenever a *justice or* judge *removes his domicile* beyond the limits of the *territory from* which he was elected, **** he shall have vacated *his* office.

This is a revision of Sec. 19, Article VII, of the present constitution clarifying the previous language. The word "territory" has been substituted for "jurisdiction", inasmuch as the section refers to physical moving.

Judges; ineligibility for other office.

Sec. 21. *Any justice or judge of a court of record* shall be ineligible to *be nominated for or elected to an elective office* other than a judicial office during the *period of his service* and for one year thereafter.

This is a revision of the concluding sentence of Sec. 9, Article VII, of the present constitution and extends its provisions to all judges of courts of record. Such judges are prohibited from holding other than a judicial office for their term and an additional year. This continues the principle of divorcing the judiciary from the political arena.

Candidacy of incumbents; affidavit.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

This is a new section permitting elected judges of the court of appeals, circuit and probate courts to become candidates in the primary election for the offices of which they are incumbents by filing an affidavit of candidacy. It eliminates the necessity for incumbent judges to file nominating petitions.

Vacancy; courts of record.

Sec. 23. * A vacancy * in the *elective* office of *a* judge of any court of record * shall be filled **** *at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.*

This section is a revision of Sec. 20, Article VII, of the present constitution. It provides that vacancies in the office of an elected judge of any court of record shall be filled by a general or special election. This is a significant change and removes from the governor the power to appoint judges to fill vacancies.

The change is made in order to maintain consistency in the idea that this state should have an elected judiciary. The present system of appointment by the governor to fill vacancies, bestowing on the appointee the incumbency designation, has had an overwhelming tendency to insure the election of the appointee. This has created in effect an appointive judiciary.

The section also provides that the supreme court may fill judicial vacancies temporarily by utilizing the services of judges who have retired. These temporary appointees will not be eligible for election to fill the vacancy.

Judges; ballot designation.

Sec. 24. There shall be printed upon the ballot under the name of each *elected* incumbent *justice or judge* who is a candidate for nomination or election to the same office the designation of that office.

This is a revision of the last paragraph of Sec. 23, Article VII, of the present constitution. The word "elected" has been inserted in front of "incumbent". Hence it provides that only judges who have been elected are eligible for the incumbency designation.

Removal.

Sec. 25. For reasonable cause, which *is* not * sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to *and serving in* each house of the legislature. * The cause for ** removal shall be stated at length in the resolution.

No change from Sec. 6, Article IX, of the present constitution except for improvement in phraseology.

Certain offices abolished.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

This is a new section abolishing the offices of circuit court commissioner and justice of the peace five years from the date this constitution becomes effective, unless within this period they are abolished by the legislature. This will give the legislature time in which to re-evaluate the entire system of courts of limited jurisdiction and to develop a lower court structure better adapted to the needs of the people and the ends of justice.

The second paragraph of the section continues in existence the several statutory courts created under the present constitution. Included are the Recorder's court and Common Pleas court in Detroit, Superior court in Grand Rapids, municipal courts throughout the state and the Court of Claims. These courts are unchanged by this section, but the legislature has the power to abolish them or transfer their duties elsewhere.

Prohibition; power of appointment.

Sec. 27. *The supreme court, the court of appeals, the circuit court, or any justices or judges thereof,* shall not exercise any * power of appointment to public office *except as provided in this constitution.*

This is a revision of the second sentence of Sec. 11, Article VII, of the present constitution and is made applicable to the supreme court and court of appeals as well as circuit courts.

Administrative decisions; review.

Sec. 28. *All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.*

In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.

This is a new section recognizing the increased significance assumed by administrative law in the legal system of the state in recent years. It provides that decisions, findings, rulings and orders of administrative officers or agencies which affect private rights be subject to judicial review.

Excepted in the section are findings of fact in workmen's compensation proceedings. These findings would be conclusive in the absence of fraud, unless otherwise provided by law. Also excepted are appeals of certain decisions of agencies dealing with administration of property tax laws.

Conservators of the peace.

Sec. 29. Justices of the supreme court, *judges of the court of appeals,* circuit judges and *other judges as provided by law* shall be conservators of the peace within their respective jurisdictions.

No change from Sec. 18, Article VII, of the present constitution except for new language to recognize "judges of the court of appeals" and "other judges as provided by law."

Article VII

LOCAL GOVERNMENT

COUNTIES

Counties; corporate character.

Sec. 1. Each organized county shall be a body corporate with •• powers and immunities • • *provided* by law. •••

This is a revision of Sec. 1, Article VIII, of the present constitution eliminating unnecessary language.

Counties; charter.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

This is a new section enabling counties, by vote of the people, to adjust their governmental structure to meet modern problems effectively.

The question of electing a charter commission to frame a charter may be put on the ballot by vote of the board of supervisors; or upon petition of five per cent of the electors the question must be put on the ballot. If the proposal is approved by the people, a charter commission is then elected.

The charter commission is limited by legislative action in the structural changes it may propose. But the legislature is authorized to permit county government "in form different from that set forth in this constitution." To become effective, the charter framed by the commission must be approved by a vote of the people.

A county charter may authorize the county to adopt resolutions and ordinances "relating to its concerns," subject to law. This means that the charter county need not have specific permission from the legislature to perform local functions and that such activities may be limited only by legislative enactment.

The charter county would be required to comply with property tax rates and debt limits established by general law. Such a county, however, is given new powers to levy taxes "other than property taxes," subject also to limitations in this constitution or by law.

This home rule section makes it possible for those counties with specific problems to deal with them effectively, but does so without disturbing unnecessarily the government of other counties in the state.

Townships in county.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless *approved* in *the manner prescribed by* law *by* a majority of electors voting *thereon* in each county to be affected. ••••

This is a revision of Sec. 2, Article VIII, of the present constitution. Eliminated is a second sentence: "When any city has attained a population of 100,000 inhabitants, the legislature may organize it into a separate county without reference to geographical extent, if a majority of the electors of such city and of the remainder of the county in which such city may be situated voting on the question shall each determine in favor of organizing said city into a separate county." This provision, originally placed in the 1850 constitution, has never been used.

County officers.

Sec. 4. There shall be elected *for four-year terms* in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be *provided* by law. The board of supervisors in any county may *combine* the offices of county clerk and register of deeds in one office or separate the same at pleasure.

This is a revision of Sec. 3, Article VIII, of the present constitution extending the term of the elected county officers from two years to four years.

Offices at county seat.

Sec. 5. The sheriff, county clerk, county treasurer •• and register of deeds shall hold their *principal* offices at the county seat.

This is a revision of Sec. 4, Article VIII, of the present constitution. By adding the word "principal" these county officers will be enabled to establish additional offices in other parts of the county, if needed. The words "judge of probate" are eliminated because the probate judge is regarded as a judicial officer and not a county officer.

Sheriff; ineligibility for other office; security; responsibility for acts.

Sec. 6. The sheriff •••• may be required by law to renew his security *periodically* and in default of giving such security, his office shall be • vacant. The county shall never be responsible for his acts, *except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.*

This is a revision of Sec. 5, Article VIII, of the present constitution. Deleted are the words "shall hold no other office" and the second sentence: "He shall be elected at the general election for the term of two years." New language permits the sheriff to hold civil defense offices. Reference to the term of office is covered in another section.

To the second sentence of the section is added an exception permitting the board of supervisors to protect the sheriff against claims for unintentional injuries to prisoners in his custody.

Boards of supervisors; representation.

Sec. 7. A board of supervisors ••• shall be established in each *organized* county *consisting of one member from each organized township and such representation from cities* as *provided* by law. ••••

This is a revision of Sec. 7, Article VIII, of the present constitution eliminating unnecessary language.

Boards of supervisors; powers.

Sec. 8. •••• Boards of supervisors •• *shall have* legislative, • administrative and such *other* powers *and duties as provided by law.* ••••

No change from Sec. 8, Article VIII, of the present constitution except for improvement in phraseology.

Boards of supervisors; power over compensation.

Sec. 9. • Boards of supervisors shall have exclusive power to fix the •• compensation of • county *officers* not otherwise provided • by law.

This is a revision of Sec. 9, Article VIII, of the present constitution. A sentence fixing responsibility for adjusting claims against the county is eliminated as unnecessary because there is no doubt under existing statutes that the responsibility lies with the board of supervisors.

Removal of county seat.

Sec. 10. A county seat once established shall *not* be removed until the place to which it is proposed to be *moved* shall be designated by two-thirds of the *members of the* board of supervisors •• and a majority of the electors voting thereon shall have *approved* the proposed location in •• *the* manner •• prescribed by law.

No change from Sec. 13, Article VIII, of the present constitution except for improvement in phraseology.

Indebtedness; limitation.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond *10* percent of its assessed valuation. ••••

This is a revision of Sec. 12, Article VIII, of the present constitution. The limitation on the power of the county to incur debt is increased from 3 per cent to 10 per cent of its assessed valuation to give counties greater power to meet current problems.

Counties are now extending their credit for both primary and secondary purposes. Secondary obligations are incurred by placing the full faith and credit of the county behind bonds of cities and townships to enable them to borrow at the lowest possible interest rate for the construction of water and sewage systems and other public works.

Secondary debt may easily exceed the 3 per cent limitation set in the present constitution. It is payable out of the revenues of waterworks, sewage fees, airport activities and the like.

Excluded from the section are the words: "except counties having an assessed valuation of 5,000,000 dollars or less, which counties may increase their total debt to 5 per cent of their assessed valuation." This language is deleted because there are no longer counties in Michigan with valuations at this low level.

Navigable streams; permission to bridge or dam.

Sec. 12. A navigable stream •• shall *not* be •• bridged or dammed without permission granted by the board of supervisors of the county *as provided by* law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and *political subdivisions* therein. ••••

This is a revision of Sec. 14, Article VIII, of the present constitution. The following is eliminated: "No such law shall preclude the state from improving the navigation of any such stream, nor prejudice the right of individuals to the free navigation thereof." This sentence adds no power to the legislature it does not already possess and has proved to be unduly restrictive in preventing the use of streams for a public purpose of greater importance than navigation. The rights of navigation can be adequately protected by statute.

County consolidation.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

This is a new section permitting combination of two or more contiguous counties into a single county with the approval of a majority of the electors voting separately on the question in each county involved.

Townships; organization and consolidation.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under •• restrictions and limitations •• *provided* by law.

No change from Sec. 15, Article VIII, of the present constitution except for improvement in phraseology.

Counties; intervention in rate proceedings.

Sec. 15.** Any county, when authorized by its board of supervisors, **shall have the authority to enter or to intervene** in any action or **certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

This is a new section spelling out the authority of any county to enter or intervene in any action or proceeding involving the services, charges or rates of any privately owned public utility which serves the people of the county.

Highways; power of supervisors; county road systems; tax limitation.

Sec. 16. The legislature may ** provide for the laying out, construction, improvement and maintenance of highways, bridges, * culverts *and airports* by the state and by the counties and townships thereof; ** and may authorize counties ** to take charge and control of any highway within their limits for such purposes. The legislature may * *provide* the powers and duties of *counties* in relation to highways, bridges, * culverts *and airports;* may provide for county * road commissioners to be appointed or elected, with * powers and duties *provided* by law. **** The *ad valorem property* tax *imposed* for road purposes by *any county* shall not exceed in any * year *one-half of one percent of the* assessed valuation for the preceding year.

This is a revision of Sec. 26, Article VIII, of the present constitution to conform with the present county highway system and recognize county responsibility for airports. The terms "road districts", "township commissioners" and "overseers of highways" are deleted as obsolete.

The words "ad valorem property" define precisely the tax intended. The phrase "one-half of one per cent of the" is substituted for "5 dollars upon 1,000 dollars of". This does not change the tax limitation in amount; it simply adjusts the language to conform to other references to taxes in the constitution.

TOWNSHIPS

Townships; corporate character.

Sec. 17. Each organized township shall be a body corporate with * powers and immunities *** *provided* by law.

This is a revision of Sec. 16, Article VIII, of the present constitution. A second sentence in the original section – "All suits and proceedings by or against a township shall be in the name thereof." – is eliminated in the interest of brevity and because the language adds nothing to meaning or legal effect.

Township officers.

Sec. 18. In each organized township there shall be elected *** for * *terms of not less than two nor more than four years as prescribed by law a* supervisor, *a* * clerk, ** *a* * treasurer, and not to exceed *four trustees,* whose *legislative and administrative* powers and duties shall be *provided* by law. ****

This is a revision of Sec. 18, Article VIII, of the present constitution to eliminate mention of the highway commissioner, constables and justices of the peace as constitutional officers and recognize the office of township trustee. Deleted from the original section is reference to the time of elections which is provided in Article II. The new section sets a minimum two-year term for township officers, but permits the legislature to extend the term to four years.

Deleted from the present Sec. 18 is a concluding sentence relating to justices of the peace. The proposed changes in the Judicial Branch eliminate the necessity for this sentence.

The words "legislative and administrative" are inserted before "powers" as a transfer to this section from Sec. 17, Article VIII, of the present constitution.

Public utility franchises.

Sec. 19. No *organized* township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless *the* proposition shall *first have been approved by a* majority of the electors of such township voting thereon at a regular or special election.

No change from Sec. 19, Article VIII, of the present constitution except for improvement in phraseology.

Townships; dissolution.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

This is a new section allowing the legislature to dissolve township government whenever there is no unincorporated territory within the township. It prevents two local governments in exactly the same area. The legislature is authorized to classify as cities the village or villages in the area, thus preserving representation on the county board of supervisors and providing for the carrying out of duties in regard to taxation and elections. The section makes provision to include area outside the township to prevent the formation of "splinter" villages.

CITIES AND VILLAGES

Incorporation; taxing powers.

Sec. 21. The legislature shall provide by * general *laws* for the incorporation of cities *and* *** *villages.* Such * laws shall limit their rate of *ad valorem property* taxation for municipal purposes, and restrict *the* powers of *cities and villages to borrow* money and *contract* debts. *Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.*

This is a revision of Sec. 20, Article VIII, of the present constitution. The only substantive change is to spell out clearly that cities and villages may levy both general property taxes and other taxes, subject to the limitations and prohibitions of this constitution. Legal opinion as to current taxing powers of these local units has been conflicting. The section is intended in no way to approve or disapprove income taxes.

Charters; laws; ordinances.

Sec. 22. Under ** general laws the electors of each city and village shall have *the* power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or *enacted* by the legislature for the government of the city or village. **** *Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.*

This is a revision of Sec. 21, Article VIII, of the present constitution and reflects Michigan's successful experience with home rule. The new language is a more positive statement of municipal powers, giving home rule cities and villages full power over their own property and government, subject to this constitution and law.

Powers to acquire and maintain parks, hospitals.

Sec. 23. Any city or village may acquire, own, establish and maintain, * within or without its corporate limits, parks, boulevards, cemeteries, hospitals * and all works which involve the public health or safety.

This is a revision of Sec. 22, Article VIII, of the present constitution. The obsolete word "almshouses" is deleted.

Public service facilities; power to own or operate.

Sec. 24. Subject to ** this constitution, any city or village may acquire, own *or* operate, * within or without its corporate limits, public *service facilities* for supplying water, light, heat, power, *sewage disposal* and transportation to the municipality and the inhabitants thereof.

Any city or village may * sell and deliver heat, power *or* light without its corporate limits *in* an amount not * *exceeding* 25 percent of that furnished by it within the corporate limits, *except as greater amounts may be permitted by law;* * may * sell and deliver water *and provide sewage disposal services* outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines *outside* the municipality within such limits as may be prescribed by law. ****

This is a revision of Sec. 23, Article VIII, of the present constitution. Sewage disposal is recognized as a public service facility.

New language in the second paragraph permits the legislature to increase the limitation on the sale of service facilities by a city or village outside its corporate boundaries. This is designed to prevent the duplication of plants in neighborng areas.

These words are deleted: "Provided, that the right to own and operate transportation facilities shall not extend to any city or village of less than 25,000 inhabitants." The original purpose of this clause appears to have been to prevent small cities from entering into unwise transit ventures. This prohibition seems to be unnecessary today and it prevents smaller municipalities from entering into joint transit projects with private firms or neighboring cities and villages.

Elective franchise; public utilities.

Sec. 25. No city or village shall **** acquire any public utility *furnishing light, heat or power,* or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless *the* proposition shall *first* have *been* approved by three-fifths of the electors voting thereon. *No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.*

This is a revision of Sec. 25, Article VIII, of the present constitution. Language in the first sentence relating to the elective franchise has been transferred to Article II, and provisions concerning credit are now covered in another section of this Article.

The words "furnishing light, heat or power" are added to the second sentence to define the power of municipalities to acquire utilities. The three-fifths majority required for purchase of a utility is continued because such purchase implies commitment to a large investment of public funds and should not be lightly undertaken. The municipality should have sound assurance that the utility will be supported by its citizens.

New language relating to the sale of municipally-owned utilities permits approval by a majority vote. The consideration involved is not the same as for a purchase, but is largely restricted to the question of whether most voters believe sale is desirable and the sale price is satisfactory. A final clause in the present section relating to women taxpayers is obsolete and has been deleted.

Taxation for private purposes.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

This is a new section which spells out the present prohibition on the use of a city's or village's credit for private purposes, but allows them to use it as authorized by law for public purposes. In conjunction with other sections of the document, it permits municipalities, with the consent of the legislature, to loan their credit in order to finance a joint public works project by general obligation bonds. This can permit a lower interest rate than for revenue or special assessment bonds.

Metropolitan areas.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of gov-

ernment or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

This is a revision of Sec. 31, Article VIII, of the present constitution which is cumbersome and rarely used. The new language is broad and flexible in allowing the legislature to set up whatever forms of metropolitan government will best meet the needs.

Recognizing the problems created by numerous governmental authorities in the same area, each serving only one purpose, the last sentence urges multi-purpose forms wherever possible.

GENERAL PROVISIONS

Intrastate cooperation.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

This is a new section designed to encourage the solution of metropolitan problems through existing units of government rather than by creating a fourth layer of local government. Local governments are allowed to join in a variety of ways to work out together the solutions to their joint problems.

This is to be done by agreement of the units of government involved and no unit will be compelled to enter into any agreement. Possible abuses are prevented by providing overall control by general acts of the legislature.

Because this work is to be carried on by local governments, officials (except members of the legislature) are allowed to serve on the boards. The last sentence provides that such service is not in conflict with other provisions of this constitution.

Highways, streets, etc.; use by utilities; control.

Sec. 29. No person, partnership, association or corporation, *public or private*, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any *county*, township, city or village for wires, poles, pipes, tracks, * conduits *or other utility facilities*, without the consent of the duly constituted authority of *the county*, township, city or village; *or* to transact local business therein without first obtaining a franchise * from *the* township, city or village. *Except as otherwise provided in this constitution* the right of all *counties*, townships, cities and villages to the reasonable control of their *highways*, streets, alleys and public places is hereby reserved to such *local units of government*.

This is a revision of Sec. 28, Article VIII, of the present constitution to include counties among the local governments with control of public utilities occupying the rights-of-way of highways, streets, alleys and other public places.

Adding the words "public or private" recognizes that both types are subject to the restrictions of this section.

Franchises; limitations.

Sec. 30. No franchise or license shall be granted by any *township, city or village* for a period longer than 30 years.

No change from Sec. 29, Article VIII, of the present constitution except to spell out "township, city or village" in place of "municipality of this state".

Highways, streets, etc.; vacation; alteration.

Sec. 31. The legislature shall not vacate *or* alter any road, street, alley or public *place under the jurisdiction of* any *county, township*, city or village. ***

This is a revision of Sec. 27, Article VIII, of the present constitution. Reference to "commissioners of highways" is eliminated as obsolete. The words "county" and "township" are included to provide complete local control over public ways and places.

Public hearings on budgets.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

This is a new section. A review of budgets of local units of government may no longer be required in some circumstances under the provisions of a revised section of Article IX. This proposed section requires that units empowered to draw budgets may not adopt them until after a public hearing held in a manner prescribed by the legislature.

Removal of elected officers.

Sec. 33. Any elected officer *of a political subdivision* may be removed from office in *the* manner and for *the causes* ** provided by law.

No change from Sec. 8, Article IX, of the present constitution except for improvement in phraseology.

Liberal construction of law.

Sec. 34. *The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.*

This is a new section intended to direct the courts to give a liberal or broad construction to statutes and constitutional provisions concerning all local governments. Home rule cities and villages already enjoy a broad construction of their powers and it is the intention here to extend to counties and townships within the powers granted to them equivalent latitude in the interpretation of the constitution and statutes.

Article VIII

EDUCATION

Principles.

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

No change from Sec. 1, Article XI, of the present constitution.

Legislative duty to public education.

Sec. 2. The legislature shall maintain and support a system of *free public elementary and secondary* schools *as defined by law.* * Every school district ** shall provide for the education of its pupils without *discrimination as to religion, creed, race, color or national origin.* ****

This is a revision of Sec. 9, Article XI, of the present constitution which fixes responsibility on the legislature to provide "primary" education. To conform to present practice and court interpretations, "primary" is changed to "elementary and secondary". The balance of the section is excluded because its restrictions as to finance and definitions as to basic qualifications needed to be eligible for state aid are better left to legislative determination.

The anti-discrimination clause is placed in this section as a declaration which leaves no doubt as to where Michigan stands on this question.

State board of education; superintendent of public instruction.

Sec. 3. *Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.*

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control *and direct the expenditure of the institutions' funds shall not be limited by this section.*

This is a new section combining and enlarging upon the provisions in Sections 2 and 6, Article XI, of the present constitution. It attempts to embody two fundamental principles: (1) the concern of all people in educational processes as a safeguard for democracy; (2) greater public participation in the operation of educational institutions.

The enlarged state board provides a policy-making body on a state level. Michigan is one of three states that does not have such a board. Creation of a state board places the superintendent in the position of having constantly available a consultative and deliberative body of outstanding citizens who are representative of the people of the state.

Eight elected members have been selected as the number for the board because experience in other states has proved this to be a desirable size for a body of this nature. The legislature shall provide for the election of board members for overlapping 8-year terms to maintain continuity in education policies. Board members would be nominated at party conventions and elected at large by voters of the state. The governor would be a member ex officio of the state board of education in order to provide a close relationship between the executive branch of state government and the field of public education. He would have no vote in determining board decisions.

It is proposed that the board be the unifying and coordinating force for education within the state and receive information from all of the various levels of public education. Such information would be considered by the board in determining advice to local school boards, governing boards of colleges and universities and the legislature as to the total needs of education in this state.

Appointment of the superintendent of public instruction by the state board follows present day trends in other states and would assure selection from among the most competent people available. Michigan elects its superintendent under the present constitution. The superintendent would be considered as administrative head of the state department of education and as such should be a staff officer to the governor and on his administrative board.

The concluding paragraph of the section preserves for boards of institutions of higher education the power to supervise their respective institutions and control and direct the expenditure of their funds as at present.

Higher education appropriations.

Sec. 4. The legislature shall *appropriate moneys to* maintain the *University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever name such institutions may hereafter be known,* and other institutions *of higher education* established by law. *The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.*

This is a revision of Sec. 10, Article XI, of the present constitution requiring the legislature to appropriate funds to maintain all state-supported institutions of higher education. All such institutions must give an annual accounting to the legislature of all income and all expenditures. This has been done as a matter of practice heretofore by the several institutions.

Constitutional status is conferred on all state-supported institutions of higher education which are now in existence or which may hereafter be established.

The concluding sentence of the section insures that formal sessions of the governing boards of such institutions will be open to the public.

Higher education; U of M, MSU, WSU.

Sec. 5. *The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.*

This is a revision combining Sections 3, 4, 5, 7, 8 and 16, Article XI, of the present constitution. The governing boards of the University of Michigan, Michigan State University and Wayne State University are placed on an equal basis in the supervision of their respective institutions and the control and direction of all expenditures from the institutions' funds.

Each of the boards is permitted to choose the president of its university as presently provided. All three boards are to be equal in size, which enlarges those of Michigan State University and Wayne State University from six to eight members. Such members are all to be elected for eight-year terms and vacancies are to be filled by appointment of the governor.

Other institutions of higher education.

Sec. 6. *Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction* *of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members, or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.*

This is a new section relating to governing bodies of other state-supported institutions of higher learning which have authority to grant baccalaureate degrees.

The provisions relative to their boards of control are similar to those for the institutions named in Sec. 5 of this Article. Members of these boards of control, however, are to be appointed by the governor in a manner similar to other executive appointments as provided in this constitution. The boards may elect one of their number, or may designate the president of the institution, to preside at board meetings.

Community and junior colleges.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

This is a new section requiring the legislature to provide by law for the establishment and financial support of public community and junior colleges to be operated by locally-elected boards of control.

The legislature is also authorized to provide for a state board for public community and junior colleges which will advise the state board of education as to general supervision, planning and appropriations for such colleges. The board of eight members, serving eight-year terms, is to be appointed by the state board of education. The superintendent of public instruction is to be ex officio a member of this board without the right to vote.

Instruction programs, etc.

Sec. 8. Institutions, *programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped* shall aways be fostered and supported.

This is a revision of Sec. 15, Article XI, of the present constitution. The new language after the word "institutions" replaces "for the benefit of those inhabitants who are deaf, dumb, blind, feeble-minded or insane".

The revised section recognizes that the present constitutional language is not only too restrictive in scope but in certain cases has been outmoded by recent developments in the field of physical and mental rehabilitation. The words "programs and services" are added as broader concepts not necessarily confined to institutional treatment.

Public libraries; support of.

Sec. 9. The legislature shall provide by law for the establishment *and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof.* All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such *public* libraries, *and county law libraries as provided by law.*

This is a revision of Sec. 14, Article XI, of the present constitution which decrees that "the legislature shall provide by law for the establishment of at least one library in each township and city." This has never been adhered to as a matter of practice.

The proposed new language emphasizes that "public" libraries will be "available" to residents without fixing how or where libraries shall be organized. Reasonable rules for the use and control of their facilities may be adopted by the governing bodies of the libraries.

Penal fines for support of libraries are continued. County law libraries are also recognized. They have previously shared in penal fine collections through legislative enactment.

Article IX

FINANCE AND TAXATION

Tax for state expenses.

Sec. 1. The legislature shall *impose* *** *taxes* sufficient with other resources to pay the * expenses of * state government. ****

No change from Sec. 2, Article X, of the present constitution except for improvement in phraseology.

No surrender of tax power.

Sec. 2. The power of taxation shall never be surrendered, suspended *or contracted away.*

No change from Sec. 9, Article X, of the present constitution except for improvement in phraseology.

Uniform rule of taxation.

Sec. 3. The legislature shall provide *for the* uniform *general ad valorem* taxation *of real and tangible personal property not exempt* by law. The legislature shall provide *for the determination of true* cash value *of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of* equalization of assessments. The legislature may *provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax* shall be uniform upon the *class or* classes on which *it operates.*

This is a revision of Sections 3, 4, 7 and 8, Article X, of the present constitution. The first sentence preserves the uniformity clause of Sec. 3, Article X, except as it presently applies to intangible personal property for which ad valorem taxation has proved unworkable.

The first part of the second sentence of this section represents a major change, eliminating the present constitutional requirement of assessment at cash value found in Sec. 7, Article X. The present cash value standard is almost universally ignored.

The important constitutional objective is uniformity of assessment, regardless of the level at which property is commonly assessed. Permitting the legislature to fix the standard offers the possibility of moving to a more realistic level such as the 50 per cent of cash value currently used by the State Tax Commission. On this basis actual uniformity could be achieved and a taxpayer aggrieved by an assessment over the level prescribed by law could obtain relief. This section provides that the standard set by the legislature shall not exceed 50 per cent. Recognizing that some jurisdictions currently assess some property in excess of 50 per cent, effective date of this limitation has been postponed until 1966.

Another advantage of a standard of value fixed by law is the relative freedom with which the legislature could change the standard to reflect changes in the general price structure. Current inequities have resulted, in many cases, from the inability of assessors, with inadequate staffs, to keep up with changes in the dollar value of real property resulting from inflation, whereas personal property assessments have tended to follow inflationary trends far more rapidly.

The provision with respect to equalization is less detailed than that found in Sec. 8, of present Article X, but clearly imposes the requirement that assessments be equalized as between various assessing units.

The provision for alternative means of taxation of property, in lieu of general ad valorem taxation, is also necessary if such taxes as the automobile weight tax, the tax on boats, the severance tax on oil and gas, and state assessment and taxation of certain utilities' properties are to be maintained. This provision gives the legislature reasonable freedom to remove certain kinds of property from general property taxation and to provide alternative tax treatment of such property.

The last sentence of the section replaces Sec. 4, of present Article X. The uninformative designation of "specific" taxes has been dropped.

Exemption for non-profit corporations.

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

This is a new section providing exemption from property taxes of those properties owned and occupied by non-profit corporations and used exclusively for religious or educational purposes. These exemptions already exist by statute.

Assessment; rate of.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature, and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

This is a new section directing the legislature to continue the present system of state assessment and collection of property taxes on the properties of certain utilities (notably telephone companies and railroads) and such other properties as are designated by law. It covers generally those businesses described in Sections 3 and 5, Article X, of the present constitution.

The section authorizes the legislature, as does the present constitution, to subject all utilities, and such other businesses as the legislature may designate, to state assessment. It does not require the legislature to do so, however, because the disruption to the tax base of local communities which for over 50 years have been locally taxing electric and gas utilities, for example, would be too great.

Uniformity in the method of utility taxation is facilitated by authorizing such taxation at the average rate of the area in which the property is located, rather than the average state rate.

Limits on ad valorem taxes.

Sec. 6. *Except as otherwise provided in this* constitution, the total amount *of general ad valorem* taxes *imposed upon real and tangible personal* property for all purposes in any one year shall not exceed *15 mills on each dollar* of the assessed valuation of property as finally equalized. •••• *Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.*

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

This is a revision of Sec. 21, Article X, of the present constitution which continues in substance the 15-mill limit on property taxes. Statutory county tax allocation boards would be continued as the agencies charged with allocation of the 15 mills among the local units in the county. However, the section does permit the legislature to authorize initiative procedure within a county which would allow a majority of the qualified electors voting thereon to adopt a fixed division of millage among a county, its townships and school districts, the total of which shall not exceed 18 mills. This fixed division and limit voted by the electors would stand until such time as they

change it in another vote. This is simply a "local option" provision which can never be effective without authorization of a majority of the electors in the county affected.

The section continues present provisions which permit the electors of any taxing district to vote additional millage, subject to the present 20-year limit and over-all 50-mill limit. Cities and villages are excepted, as at present, from the 15-mill limit. The exception is also extended to charter townships, and charter counties organized under the terms of this new document. Such units would be subject only to limitations established in their charters or by law.

All bond issues of local units of government will have unlimited tax support.

All electors may vote on millage increases up to and including 5 years for general purposes, but only property owners and their spouses may vote on property tax increase proposals which extend for more than 5 years. Saving provisions are incorporated in the section to protect present voted millage and outstanding bonds.

The final sentence, dealing with multi-county school districts, is intended to answer a problem involving 60 counties of this state. It provides that in any school district which crosses county lines, the tax limitation shall be that applicable in the portion of the school district situated in the county containing the largest portion of the school district.

No graduated income tax.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

This is a new section making it clear that neither the state nor any local unit of government may impose a graduated income tax. The words "or base" are necessary to prevent "piggyback" taxation based on the federal tax liability. Without such language, a tax nominally imposed at a flat rate might actually adopt all of the graduation of the federal tax.

A flat rate income tax is clearly permitted, and could be imposed on a "piggyback" basis on income computed for federal tax purposes. The legislature could prescribe reasonable exemptions for a flat rate tax.

Sales tax limit.

Sec. 8. ••• The legislature *shall not impose* a sales tax *on retailers at a rate* of more than four percent *of their gross taxable sales of tangible personal property.*

This is a revision of a part of Sec. 23, Article X, of the present constitution.

Gasoline and motor vehicle taxes; use; exceptions.

Sec. 9. All *specific* taxes, *except general sales and use taxes and regulatory fees,* imposed *directly or indirectly* •••• *on* fuels sold or used to propel motor vehicles upon • highways •• and on • *registered* motor vehicles •• shall, after the payment of necessary *collection* expenses, •• be used exclusively for highway purposes *as defined by law.* ••••

This is a revision of Sec. 22, Article X, of the present constitution and retains earmarking of gas and weight taxes for highway purposes. The only significant change is accomplished through the addition of the words "as defined by law" following "highway purposes" at the conclusion of the section. This gives the legislature power to define and limit the meaning of the term "highway purposes".

Sales taxes; distribution of.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

This is a revision of part of Sec. 23, Article X, of the present constitution. It retains earmarking of "one-eighth" of all sales taxes for townships, cities and villages. The present constitution earmarks one-half cent for these local units. With the current four-cent sales tax, the "one-eighth" provision continues one-half cent for townships, cities and villages. Deleted from the present section is reference to the sales tax "on the 1946 statutory base (not rate)." This would permit elimination of sales tax on food, drugs and other items included in the 1946 statute if, in the judgment of the legislature, this seemed advisable.

School aid fund.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

This is a new section which directs the legislature to establish a School Aid Fund to which must be dedicated one-half of all state sales tax collections and such other revenues as the legislature may determine. Moneys in the fund must be used for support of education and school employees' retirement systems. Payments from the fund are to be made in full on a basis scheduled by legislative enactment.

With the present four-cent sales tax, this section assures a continuance of the earmarking of two cents for public education and school retirement systems.

Evidence of indebtedness.

Sec. 12. No *** evidence of state indebtedness shall be issued except for * debts ** authorized *pursuant to* this constitution.

No change from Sec. 11, Article X, of the present constitution except for improvement in phraseology.

Public bodies; borrowing of.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

This is a new section designed to empower public corporate bodies to borrow money and issue evidence of their indebtedness. It is specifically related to Sec. 15a, Article VIII, of the present constitution which deals with drainage bonds. The language of this proposed new section is also sufficiently broad to cover deleted material in Sections 10, 15a, 20 and 24, Article VIII, of the present constitution.

State pledge full faith and credit.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

This is a new section dealing with the borrowing power of the state. It gives the state greater flexibility in meeting cash crises within the general fund by permitting short-term borrowing in an amount not exceeding 15 per cent of the state's undedicated revenues during the previous fiscal year. Under present circumstances the limitation would permit short-term borrowing of approximately $70 million. The present constitution limits such borrowing to $250,000 – an unrealistic figure.

The financial flexibility introduced here should make it unnecessary for the state to continue the present practice of "borrowing" from its creditors and local governments by late payment – a policy which has been sometimes required because the state's income flow is irregular and often not correlated as to time with its disbursements.

The section provides that any short-term borrowing must be in anticipation of revenues to be received within the same fiscal year which shall be pledged for the payment of such borrowing and must be repaid in full at the time such pledged revenues are received. The purpose of this provision is to prevent the state from borrowing up to its limit and then merely renewing the loan from year to year, thus defeating the purpose for which the section is intended. It is to be noted that even limited borrowing can be done only when authorized by the legislature.

A provision in Sec. 10, Article X, of the present constitution having to do with borrowing to repel invasion and defend the state in time of war has been deleted because this has become so thoroughly a federal problem. Another sentence in the present section providing state borrowing of $50 million for highway construction has been eliminated because the obligation has been completely liquidated.

Additional borrowing.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved

by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

This is a new section dealing with long-term borrowing such as we used when we paid bonuses to the veterans of three wars; when we borrowed for hospital construction; and when in the decade of the twenties, we borrowed on full faith and credit for highway construction. The legislature is not empowered to authorize any such borrowing without the approval of the voters of the state, but this section provides a method that can be used without cluttering up the constitution with amendments authorizing the borrowing, as we have had to do in the past.

The voting will be the same, a two-thirds vote in both houses of the legislature on a bill, but the bill will not be effective unless and until approved by a majority of the people who vote on the proposition. The voting is, therefore, the same as that under the present constitution for a constitutional amendment, but it avoids the necessity of amending the constitution.

School bonds.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued • prior to May 4, 1955, *or issued thereafter and* qualified as provided by law pursuant to Section 27 *or Section 28 of Article X of the constitution of 1908 or pursuant to this section.*

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used *toward* the repayment of state loans. In any year when such • levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and *to* limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under *Sections 27 and 28 of Article X of the Constitution of 1908*, by holders of bonds heretofore issued, *and all obligations assumed by the state or any school district under these sections,* shall remain unimpaired.

This is a revision which continues the provisions relating to school bond financing which are contained in Sections 27 and 28, Article X, of the present constitution. Sec. 28, which was voted by the electors as recently as November, 1960, did not take effect until July 1, 1962, when Sec. 27 expired. Minor language changes have been necessary to bring the provisions into conformity with this document.

Payments from treasury.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

No change from Sec. 16, Article X, of the present constitution.

Prohibition on credit to private concerns.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, *except as authorized in this constitution.*

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

The first sentence is a revision of Sec. 12, Article X, of the present constitution adding these words, "except as authorized in this constitution." This exception is needed to put the section having to do with school borrowing and this section in harmony.

The second sentence adds new language designed to avoid any possible interpretation as precluding the investment of idle funds of the state and its political subdivisions until needed for current requirements. Attorneys for public bodies in this state have been reluctant to authorize any investments except in federal securities in the face of the language of the present constitution. This section lets the legislature authorize such investments under appropriate safeguards.

Stock; interest of state in.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, *except that funds ac-*

cumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

This is a revision of Sec. 13, Article X, of the present constitution which has the desirable object of preventing state ownership of private business. Language has been added to permit, under appropriate restrictions, investment of public employee retirement funds and university endowment funds in such things as share accounts in savings and loan associations and high grade corporate securities.

State depositories.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

No change from Sec. 15, Article X, of the present constitution.

Annual accounting of public moneys.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

This is a revision of Sec. 18, Article X, of the present constitution, providing adequately for accounting for public moneys. The only changes proposed give the legislature authority to provide for interim accounting where desirable, and broader authority to provide for the audit of public accounts.

Adjustment of claims.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

This is a revision of Sec. 20, Article VI, of the present constitution leaving to the determination of the legislature the matter of adjustment of claims against the state.

Financial records; open and public.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

This is a revision of Sec. 17, Article X, of the present constitution and is a more comprehensive and modern declaration of the public right to know details of state finance.

Pensions; state obligations.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

This is a new section which requires that accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions be a contractual obligation which cannot be diminished or impaired by the action of its officials or governing body. It provides further protection for those covered by such pension and retirement plans by requiring that benefits arising on account of service rendered in each year be funded during that year. Such funding shall not be used for financing unfunded accrued liabilities.

The section is an attempt to rectify, in part, policies which have permitted sizeable deficiencies to pile up in retirement systems in this state. Under this section, accruing liability in each fiscal year must be funded during that year, thus keeping any of these systems from getting farther behind than they are now.

Article X

PROPERTY

Married women.

Sec. 1. *The disabilities of coverture as to property are abolished.* The real and personal estate of every woman acquired before marriage and all *real and personal* property to which she may afterwards become entitled *** shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be *dealt with and disposed* of by her as if she were unmarried. *Dower may be relinquished or conveyed as provided by law.*

This is a revision of Sec. 8, Article XVI, of the present constitution. The first sentence is new language which declares that "the disabilities of coverture as to property are abolished." Added to the section is the concluding sentence: "Dower may be relinquished or conveyed as provided by law."

Eminent domain.

Sec. 2. Private property shall not be taken ** for public use without ** just compensation therefor being first made or secured in a manner prescribed by law. *Compensation shall be determined in proceedings in a court of record.*

This is a revision of Sec. 1, Article XIII, of the present constitution which, in the judgment of the convention, is sufficient safeguard against taking of private property for public use. Further provisions relative to eminent domain and procedures appearing in Sections 2, 3, 4 and 5, Article XIII, of the present constitution have been eliminated.

This section clearly indicates that proper procedures for the acquisition of private property for public use are to be determined by the legislature and that compensation for such property must be determined in proceedings in a court of record.

Homestead exemption.

Sec. 3. A homestead *** *in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law,* shall be exempt from forced sale on execution or * other * process *of any* court. *Such exemptions shall not extend to any lien thereon excluded from exemption by law.*

This section is a condensation of pertinent provisions in the four sections dealing with exemptions in Article XIV of the present constitution. The homestead exemption minimum figure is increased from a maximum of $2,500 to a minimum of $3,500 and personal property minimum is set at $750 instead of the $500 specified at present. The power to increase the exemptions is left with the legislature but in no case may they be lower than the minimums stated.

Escheats.

Sec. 4. *Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.*

This is a new section recognizing the authority of the legislature to determine procedures relating to escheats and disposition of escheated property. It covers certain of the provisions in Sec. 20, Article VI, of the present constitution.

State lands.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

This is a new section recognizing the public interest in state-owned lands and reposing in the legislature general supervisory jurisdiction over them. It provides that the legislature may, by two-thirds vote of the members elected to and serving in each house, designate any part of these properties as a state land reserve. No lands so designated can be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Alien rights.

Sec. 6. Aliens who are *** residents of this state shall enjoy the same rights *** *and privileges in* property *as* citizens *of this state.*

No change from Sec. 9, Article XVI, of the present constitution except for improvement in phraseology.

Article XI

PUBLIC OFFICERS AND EMPLOYMENT

Oath of office.

Sec. 1. *All officers, legislative, executive and judicial,* before *entering upon* the duties of their respective offices, *shall* take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of .... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

No change from Sec. 2, Article XVI, of the present constitution except for improvement in phraseology.

Terms of office.

Sec. 2. The terms of office of * elective state officers, *members of the legislature* and *justices and* judges of courts of record shall begin *at twelve o'clock noon* on the first day of January next succeeding their election, except as otherwise *provided* in this constitution. The terms of office of * county officers shall begin on the first day of January next succeeding their election, except as otherwise *provided* by law.

This is a revision of Sec. 1, Article XVI, of the present constitution specifying "twelve o'clock noon" as the time of day on January 1 when newly-elected state officers, legislators, justices and judges begin their terms. There is no present provision for time of day in the constitution. Other language changes in the section are made only for improvement in phraseology.

Extra compensation.

Sec. 3. Neither the legislature nor any *political subdivision of this state* shall grant or authorize extra compensation to any public officer, agent * or contractor after the service has been rendered or the contract entered into. ****

No change from the first sentence of Sec. 3, Article XVI, of the present constitution except for deletion of the word "employee" after "agent". Eliminated from the present section is language relating to the salaries of public officers. This is covered in another section of this document.

Custodian of funds; accounting.

Sec. 4. *No person having custody or control of* public moneys shall *be a member of* the legislature, or be eligible to any office of trust or profit under this state, until he shall have *made an accounting,* *** as provided by law, *of* all sums for which he may be liable.

No change from Sec. 19, Article X, of the present constitution except for improvement in phraseology.

Classified state civil service.

Sec. 5. The *classified* state civil service shall consist of all positions in the state service except those filled by popular election, heads of *principal* departments, members of boards and commissions, *the principal executive officer of boards and commissions heading principal departments,* employees of courts of record, *employees* of the legislature, *employees* of the *state* institutions of *higher education,* all persons in the *armed* forces of the state, *** *eight exempt positions in the office of the governor, and within* each *principal* department, *when requested by the department head,* two other exempt positions, *one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.*

**** *The* civil service commission *shall* be non-salaried *and shall* consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor *for terms of eight years, no two of which shall expire in the same year.*

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the *classified* service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the *classified* service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive *examination and* performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the *classified* service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the *classified* service.

No person shall be appointed to or promoted in the *classified* service who has not been certified by the commission as * qualified for such appointment or promotion. No *appointments, promotions,* demotions or removals in the *classified* service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not re-

duce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to *exercise its* powers, the legislature shall appropriate *** *to the commission for the ensuing* fiscal year a sum not less than ** one percent of the aggregate * payroll of the *classified* service for the preceding fiscal year, as certified by the commission. *Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.*

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this *constitution pertaining to civil service* have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state. ***

This is a revision of Sec. 22, Article VI, of the present constitution designed to continue Michigan's national leadership among states in public personnel practice, and to foster and encourage a career service in state government. It continues rigid limitations on political patronage, yet strengthens the role of the chief executive and the administrator and provides for limited legislative control of wage increases under specified circumstances.

New language in the first paragraph prevents the classification of the the chief executive officer of boards and commissions and reserves these positions for political appointment without tenure. Eight exempt positions among policy personnel are provided in the office of the governor. This simply gives constitutional sanction to a practice which has become customary. The revision also provides for additional exempt positions in other principal departments.

The bipartisan civil service commission continues as at present. The word "examination" is inserted in the fourth paragraph to recognize common practice of the commission in determining qualifications.

Increases in compensation can be authorized by the commission only at the start of a fiscal year and after prior notice to the governor so he can accommodate the increases in the budget he submits to the legislature. Power is given to the legislature, however, to waive such notice and permit increases at a time other than the beginning of the fiscal year.

Power is also given to the legislature, within 60 days after transmission of notice of compensation increases, to reject or reduce the rates recommended — but their action must be by two-thirds vote of the members elected to and serving in each house. In no case may the legislature reduce rates of compensation below those in effect at the time nor may the legislature change pay differentials established by the commission.

Appointing authorities may create or abolish positions for reasons of administrative efficiency. Any employee who considers himself aggrieved by the abolition or creation of a position has the right of appeal to the commission for determination as to whether such position was abolished or created for reasons other than administrative efficiency.

The eighth paragraph authorizes the commission to recommend to the governor and to the legislature rates of compensation for appointees within the executive department who are not a part of the classified service.

The present legislative appropriation to the commission of one per cent of the aggregate payroll of the classified service for the past year is continued. It is provided, however, that within six months after the end of each fiscal year the commission must return to the state treasury funds not spent during that year.

The commission is directed to report on its expenditures at least annually to the governor and legislature and will be subject to audit procedures prescribed by the legislature.

Retained in the final paragraph is language requiring compliance with constitutional provisions pertaining to civil service and authorization for citizens to resort to legal proceedings to compel such compliance.

Of special interest to civil service personnel is the provision in Sec. 24, Article IX, of the proposed constitution which specifies that pension plans and retirement systems of the state shall be contractual obligations "which shall not be diminished or impaired." Sec. 53, Article IV, providing for the appointment of the auditor general by the legislature, requires that members of his staff, except for two persons, shall have civil service status.

Civil service; local government; county.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

This is a new section permitting the establishment, modification or discontinuance of civil service merit systems in political subdivisions of the state, providing a majority of the voters of the unit affected approve. Teachers under contract or tenure are excluded in the provision. The state civil service commission is authorized to furnish technical services to local units on a reimbursable basis, if requested.

Impeachment.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected *thereto and serving therein* shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect ** three *of its* members ** to prosecute *the* impeachment. ***

Every impeachment shall be tried by the senate *immediately* after the final adjournment of the legislature. *** The *senators* shall take an oath or affirmation truly and impartially to try and determine the *impeachment* according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the *senators* elected *and serving.* Judgment in case of *conviction* shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise *any of the functions of* his office after an impeachment is directed until he is acquitted.

No change from the provisions of Sections 1, 2, 3 and 4, Article IX, of the present constitution except for improvement in phraseology.

Article XII

AMENDMENT AND REVISION

By legislature.

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. *Proposed amendments* agreed to by two-thirds of the members elected to *and serving* in each house *on a vote with the names and vote of those voting* entered *in* the *respective* journals *** shall be submitted, *not less than 60 days thereafter,* to the electors at the next *general election or special* election * as the legislature shall direct. * If a majority of electors *** voting *on a proposed amendment* *** approve *the same, it* shall become part of the constitution *and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.*

This is a revision of Sec. 1, Article XVII, of the present constitution. Principal change is the requirement that amendments proposed by the legislature "shall be submitted not less than 60 days" after they have been agreed upon. This is inserted to discourage a tendency in recent years to submit legislative proposals for amendment so late that election officials find it impossible to observe statutory deadlines for ballot printing and delivery.

A final clause in the section makes it clear that amendments adopted become effective 45 days after the date of the election at which they are approved.

By petition of electors.

Sec. 2. Amendments may * be proposed to this constitution by petition of the ** registered electors of this state. Every petition shall include the full text of the *proposed* amendment, * and be signed by ** registered electors of the state equal in number to *at least* 10 *percent* of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. *Such petitions* shall be filed with the *** *person authorized by law* to receive the same at least *120 days* before the election at which *the* proposed amendment is to be voted upon. *Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law.* **** *The* person * authorized by law to receive *such petition, shall, upon its receipt, determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof of least 60 days* prior to *the* election *at which the proposed amendment is to be voted upon.*

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed *amendment,* *** existing provisions of the constitution which would be altered or abrogated thereby, and *the question* *as it shall appear on the ballot* shall be published in full *as provided by law. Copies of such publication* shall be posted in each polling place *and furnished to news media as provided by law.*

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such *statement of purpose* and caption shall be prepared by the *person authorized by law,* *** and shall consist of a true and impartial statement of the purpose of the amendment ** in such language as shall create no prejudice for or against *the proposed amendment.*

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become a part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

This is a revision of Sections 2 and 3, Article XVII, of the present constitution, eliminating unnecessary language and making these changes:

1. References to "months" in the present section are changed to the approximate number of "days". Hence "two months" becomes "60 days" and "four months" is changed to "120 days".

2. Amendments approved become effective 45 days after the election instead of the 30 days now specified.

3. Details as to form of petitions, their circulation and other elections procedures are left to the determination of the legislature.

4. The section provides that if two or more amendments approved at the same election conflict as to substance, the amendment receiving the highest affirmative vote is to prevail.

Constitutional convention.

Sec. 3. At the *general* election to be held in the year *1978,* and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors *** *of the state. If* a majority of the electors voting on the question * decide in favor of a convention for such purpose, at an election to be held not later than *six* months after the proposal *was* certified as approved, the electors of each *representative* district as then organized shall elect one delegate ** and the electors of each senatorial district as then organized shall elect one delegate *at a partisan election.* The delegates so elected shall convene at the *seat of government* on the first Tuesday in October next succeeding such election *or at an earlier date if provided by law.* ****

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. *To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office.* The convention shall have power to appoint such officers, employees and assistants as it *deems* necessary and to fix their compensation; * to provide for the printing and distribution of its documents, journals and proceedings; *to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner.* Each delegate shall receive for his services *compensation provided by law.* **

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, *with the names and vote of those voting* entered *in* the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner *and at the time provided by such convention not less than 90 days after* final adjournment of the convention. **** Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect *as provided by the convention.*

This is a revision of Sec. 4, Article XVII, of the present constitution which makes the following changes:

1. The question of a general revision of the Constitution may be submitted to the electors of the state at the general election in 1978 and each 16th year thereafter.

2. If a constitutional convention is decided upon, it will meet the first Tuesday in October following the election, or at an earlier date if provided by law. Delegates are to be chosen at a partisan election.

3. Vacancies among the delegation to the convention will be filled by appointment of the governor from among qualified residents of the district in which the vacancy occurs, but the appointee must be a member of the same political party as the delegate vacating the office.

4. The convention will have constitutional authority "to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner." This helps to avoid possible conflict between the convention and the legislature.

5. Compensation of delegates is not specified but left to legislative determination.

6. The date of submission of the new constitution or amendments proposed to the electors of the state is to be provided by the convention. It must be not less than 90 days after final adjournment.

7. The new constitution or amendments, if approved, will take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Attorney General to recommend necessary laws.

Sec. 1. The attorney general •• shall *recommend* to the legislature *as soon as practicable* such changes as may be • necessary to adapt existing laws to this constitution.

This is a revision of Sec. 8 of the Schedule of the present constitution. It authorizes the attorney general to recommend to the legislature necessary changes in existing laws if the revised constitution is adopted.

Writs, actions, claims, etc., remain effective.

Sec. 2. All writs, actions, *suits, proceedings, civil or criminal liabilities*, prosecutions, *judgments, sentences, orders, decrees, appeals*, causes of action, *contracts, claims, demands, titles* and rights *existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.*

This is a revision of Sec. 2 of the Schedule of the present constitution. It specifies that existing writs, actions, claims, etc. remain effective if the revised constitution is adopted, except as modified in accordance with the provisions of the document.

Officers continue their duties.

Sec. 3. *Except as otherwise provided in this constitution*, all officers *filling* any office *by election* or appointment shall continue to *exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.*

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

This is a revision of Sec. 5 of the Schedule of the present constitution. It insures the tenure of present elective and appointive officers, under the conditions specified, if the revised constitution is adopted.

Terms of officers elected November, 1962.

Sec. 4. *All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.*

This is a new section specifying that officers elected at the same election at which this revised constitution is submitted to the people shall take office and continue to serve until their successors are elected and qualified.

Terms of governor, etc. elected 1964; when four-year terms begin.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

This is a new section providing for transition from two-year to four-year terms for elected state officials and senators. It specifies that the first election of such officers for four-year terms will be held in November, 1966, thus separating gubernatorial from presidential elections.

Supreme court; reduction to seven justices.

Sec. 6. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

This is a new section providing that the present supreme court will continue to consist of eight justices if this revised constitution is adopted. A vacancy in the court due to death, retirement or resignation will not be filled, thus reducing the court to the seven members specified in the Judicial Article.

Judges of probate; eligible for reelection.

Sec. 7. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

This is a new section providing that non-lawyer probate judges may continue to serve and be candidates for reelection to their posts if this revised constitution is adopted.

Overlapping terms for judiciary.

Sec. 8. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

This is a new section directing the legislature to design judicial election procedure to provide for the overlapping terms specified in the judicial article.

State board of education.

Sec. 9. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The state board of education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

This is a new section providing for election of members of the state board of education to overlapping terms. It abolishes the present state board of education as of January 1 of the year following the first general election under the revised constitution.

Boards of control.

Sec. 10. The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

This is a new section authorizing the legislature to arrange the procedures necessary for the overlapping terms specified for members of boards of control of institutions of higher education and the state board of public community and junior colleges.

Educational boards.

Sec. 11. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

This is a new section directing the legislature to implement provisions of the revised constitution, if adopted, to assure increases in numbers of members and years of their terms for boards governing Michigan State University and Wayne State University.

Initial allocation.

Sec. 12. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

This is a new section providing that the initial allocation of departments specified in the Executive Branch article shall be completed within two years. If not accomplished within that period, the governor is given authority to make the allocation within one year thereafter.

Contractual obligations remain in force.

Sec. 13. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

This is a new section recognizing and continuing any contractual obligations incurred by the state under the present constitution. Specifically, the section has reference to bond issues authorized by Sections 20a, 23a, 24, 25 and 26, Article X, of the present constitution which have been eliminated from this document.

It appears that there are no constitutional obligations remaining in connection with the first four sections (World War I bonus, World War II bonus and T.B. hospital construction bonds). Under Sec. 26 authorizing the borrowing for the bonus for veterans of the Korean war there remains an obligation for continuing appropriations of sufficient funds to meet the payment of both principal and interest. The legislature has assumed the responsibility for any claims under this section by making them a general fund liability (Act No. 11, P.A. 1958).

Mackinac Bridge refunding.

Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

This is a new section permitting the legislature to borrow money for refunding of bonds issued by the Mackinac Bridge Authority. Approval of such a proposal must be by two-thirds vote of the members elected to and serving in each house. Placing the full faith and credit of the state behind these bonds might result in interest savings of about $1 million annually, according to reliable estimates.

The section further provides that if the legislature should authorize refunding of the bonds the Mackinac Bridge Authority will be dissolved and operation of the bridge will be assumed by the state highway department.

Constitution submitted to people; when.

Sec. 15. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on * * * the first Monday of *April, 1963*. It shall be the duty of the secretary of state forthwith to give notice of such submission to *** all other officers required to give or publish any notice in regard to *a general election*. *He shall* give notice ** *that* this constitution will be duly submitted to the electors at *such* election. *The notice shall be given in the manner required for the election of governor.*

This is a revision of Sec. 10 of the Schedule of the present constitution providing that the proposed constitution be submitted to the electors of the state on Monday, April 1, 1963.

Constitution submitted to people; manner.

Sec. 16. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

This is a new section providing procedure for submission of this revised constitution to the electors of the state.

SECTIONS ELIMINATED

FROM THE PRESENT CONSTITUTION

The following sections of the present constitution are eliminated, and in all cases for the reason that the convention considered them obsolete or without application to existing conditions, unless otherwise noted:

Art. I, Sec. 1. Providing for the establishment of boundaries of the State of Michigan.

Art. II, Sec. 22. Defining acts of subversion and providing penalty for same.

Art. III, Sec. 2. Directing that no gain or loss of residence for an elector be effected by military service or imprisonment.

Art. III, Sec. 3. Directing that armed forces personnel be not designated as residents of state through being stationed in state.

Art. III, Sec. 5. Providing that electors shall be privileged from arrest during attendance at elections.

Art. III, Sec. 6. Prescribing that electors shall be free of militia duty on election day.

Art. III, Sec. 7. Prescribing that all votes shall be given by ballot.

Art. V, Sec. 10. Prescribing that president of senate and house speaker shall receive no more compensation than members of legislature.

Art. V, Sec. 11. Prescribing compensation and mileage in cases of contested elections.

Art. V, Sec. 12. Prescribing time of election of senators and representatives now covered in Sections 2 and 3, Art. IV, of the revision.

Art. V, Sec. 31. Directing that the legislature shall not authorize sale of real estate belonging to an individual.

Art. V, Sec. 32. Prohibiting the legislature from granting divorces.

Art. V, Sec. 34. Prohibiting the legislature from auditing or allowing any private claim.

Art. V, Sec. 35. Prohibiting the legislature from establishing a state paper.

Art. VI, Sec. 14. Prohibiting member of congress or state or federal office-holder from executing office of governor.

Art. VI, Sec. 15. Prohibiting governor or lieutenant governor accepting an appointment from legislature.

Art. VII, Sec. 3. Providing for four terms of supreme court annually.

Art. VII, Sec. 15. Providing for elections of justices of the peace.

Art. VII, Sec. 16. Prescribing jurisdiction of justices of the peace.

Art. VII, Sec. 21. Providing for election of persons in each county with judicial powers not to exceed circuit judge.

Art. VII, Sec. 22. Prescribing that style of all process shall be: "In the Name of the People of the State of Michigan."

Art. VIII, Sec. 6. Providing for a board of jury commissioners in each county.

Art. VIII, Sec. 11. Permitting a county to appropriate money for construction and maintenance of hospitals for contagious diseases.

Art. VIII, Sec. 15a. Providing for drainage districts to issue bonds.

Art. VIII, Sec. 24. Permitting cities and villages to issue mortgage bonds to acquire or operate public utility.

Art. X, Sec. 20. Providing for the acquisition and sale of railroads by the state.

Art. X, Sec. 24. Providing for borrowing of moneys by the state to plan, acquire and construct hospitals for mentally ill and epileptics.

Art. X, Sec. 25. Providing for borrowing of moneys to pay veterans' bonus for military service.

Art. X, Sec. 26. Providing for borrowing of money to pay military bonus for Korean war.

Art. X, Sec. 27. Providing for borrowing of not to exceed $100 millions for loans to school districts.

Art. XI, Sec. 11. Providing for the proceeds from sales of lands granted to the state by the United States for educational purposes.

Art. XI, Sec. 12. Providing for proceeds from lands which escheat to the state.

Art. XI, Sec. 13. Providing for the appropriation, by the legislature, of salt spring lands.

Art. XII, Sec. 1. Stating that corporations may be formed under general laws only.

Art. XII, Sec. 2. Defining the word "corporation" to include associations and joint stock companies.

Art. XII, Sec. 3. Prescribing a maximum franchise for corporations of 30 years.

Art. XII, Sec. 4. Prescribing the liability of stockholders of corporations.

Art. XII, Sec. 5. Prescribing that no corporation shall hold real estate for a longer period than 10 years without occupying same.

Art. XII, Sec. 6. Prohibiting legislature from passing law extending special act of incorporation.

Art. XII, Sec. 7. Prescribing legislature's authority to establish maximum rates for freight and passengers on railroads.

Art. XII, Sec. 8. Prescribing manner for consolidation of railroads.

Art. XIII, Sec. 2. Determining necessity and compensation for taking of land to benefit the public.

Art. XIII, Sec. 4. Prescribing power of eminent domain for Regents of University of Michigan.

Art. XIII, Sec. 5. Prescribing power of eminent domain for boulevards, streets and alleys.

Art. XVI, Sec. 4. Providing for recounts in case of tie elections.

Art. XVI, Sec. 6. Stipulating that laws, records and proceedings be preserved in the English language.

Art. XVI, Sec. 10. Prohibiting lease or grant of agricultural land for longer period than 12 years.

Schedule, Sec. 3. Providing for accrual of moneys from fines, taxes, penalties, etc.

Schedule, Sec. 4. Providing for validity of recognizances, bonds and obligations.

Schedule, Sec. 7. Providing for continuance of salaries or compensation of public officers.

Schedule, Sec. 9. Prescribing representation of certain judicial territories.

CERTIFICATE

I, Fred I. Chase, Secretary of the Constitutional Convention of the State of Michigan of nineteen hundred and sixty-one, do hereby certify that the foregoing pages do comprise the complete and correct journal of the proceedings and debates of said Convention.

In witness whereof, I have hereunto affixed my official signature this third day of October, nineteen hundred and sixty-three.

Fred I. Chase,
Secretary of the Constitutional
Convention of the State of Michigan
of nineteen hundred and sixty-one.

INDEX

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2. Subject Index to Exclusion Reports 3432
3. Cross-reference Tables 3435
4. History of Committee Proposals 3440
5. History of Articles and Sections of 1963 Constitution 3457
6. History of Exclusion Reports 3477
7. History of Resolutions 3480
8. General Index to Official Record 3485

For the complete record of an Article, Section, or portion thereof, of the 1963 Constitution, refer to **both** the History of Articles and Sections **and** the History of Committee Proposals, using Tables I and III for the necessary cross-references.

For transition from an Article or Section of the 1908 Constitution to an Article or Section of the 1963 Constitution, refer to cross-reference Table II and to the Subject Index of Exclusion Reports.

See each part of the Index that follows for further explanation.

SUBJECT INDEX TO ARTICLES AND SECTIONS OF 1963 CONSTITUTION, AND COMMITTEE PROPOSALS WHERE APPLICABLE

References in this index are to the article and section number of the 1963 Constitution as finally adopted.

The Roman numeral is the article number.

The Arabic numeral is the section number.

S—Schedule.

CP—Committee Proposal.

*** Matter considered and included at some time during the convention but not appearing in full in the final constitution. Hence this index also constitutes an index to the Committee Proposals as offered and amended.**

For a complete history of convention action on any subject in this index, follow the procedure outlined on page 3415.

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Certiorari
Circuit court 2043
Supreme court 2043
Circuit Court
Clerk 2043
Commissioners, election 2042, 2043
Formation 2043

Exclusion Report No.

Circuit Court: Cont'd.
Judicial power 2043
Jurisdiction 2043
Process, style of 2015
Record, court of 2043
Seal 2043
Terms 2043
Writs 2043
Circuit Judges
Appointments by 2043
Conservator of the peace 2014
Election 2043
Eligibility for other office 2043
Incumbency designation 2043
Nomination petitions 2043
Primaries 2043
Qualifications 2043
Residence 2043
Salary 2043
Term 2043
Vacanices 2043
Cities
Franchises 2039, 2040
Mortgage bonds 2039, 2040
Claims, Private (see **Accounts**)
Clerks
Supreme court 2043
Condemnation (see Eminent Domain)
Conservators of the Peace
Judges as 2014
Constitution
Adoption, Schedule 2019, 2020
Corporations
Actions by or against 2006
Creation 2006
Franchise
  Amendment 2006
  Duration 2006
  Extension 2006
Railroad 2006
Real estate 2006
Special acts 2006
Stockholders' liability 2033
Term construed 2006
County
Bridges, construction, taxation 2036
Charitable institutions 2037
Circuit judge, salary 2043
Clerk, vacancy, appointment 2043
Hospitals 2037
Infirmaries 2037
Jury commissioners 2035
Prosecuting attorney
  Vacancy, appointment 2043
Sanatoria 2037
Supervisors, board of
  Apportionment of legislators' districts 2046
  Circuit judge, salary 2043
  Taxation, powers 2036
Taxation for bridges 2036
Courts (see specific court)

D.

Debts
Counties
  Building 2036
State
  School district loans 2007
Taxation 2028
Divorce
Legislative, prohibited 2011
Drains
Bond issues 2038

Exclusion Report No.

E.

Education
Higher, institutions of
  Michigan State University 2004, 2026
  Normal schools 2025, 2026
  University of Michigan 2026, 2031
  Wayne State University 2026
Proceeds of lands granted for 2005
Public (see **Schools**)
State board of 2025
Superintendent of public instruction 2025, 2026
Elections
Absent voters 2021, 2041
Contested 2010, 2016
Education, state board of 2025
Governors, board of 2026
Jury commissioners 2035
Non-partisan 2043
Recounts 2016
Regents 2026
Residence 2041
Superintendent of public instruction 2025
Tie vote 2016
Trustees, board of 2026
Electors
Absence, right to vote 2021
Armed forces, service in 2021, 2041
Arrest, privilege from 2022
Judicial duty, exemption 2023
Legislators, absent voters 2041
Military duty, exemption 2023
Prisoners 2021
Qualifications 2041
Residence 2021, 2041
Eminent Domain
Compensation 2030
Jury 2030
Municipal, power of 2032
Necessity 2030
Regents, University of Michigan 2031
Right of 2030, 2031, 2032
English Language
Laws, records, proceedings in 2029
Equalization (see **Assessments**)
Equity
Law and, distinctions abolished 2043
Escheats
Lands, proceeds to primary schools 2005
Express Companies
Rates, authority to fix 2006
Taxation 2028

F.

Franchises
City, utility 2039, 2040
Corporations 2006
Villages, utility 2039, 2040
Fraternal Societies
Corporate duration 2006

G.

Governor
Eligibility 2027
Ineligible for other office 2027
Judges
  Appointment 2043

H.

Habeas Corpus
Circuit courts 2043
Supreme court 2043

Exclusion Report No.

Highways
Condemnation proceedings .. 2030, 2032
Hospitals
County 2037
House of Representatives
(see **Legislature**)

I.

Incorporation
Private corporations 2006
Infirmary
County 2037
Injunction
Circuit courts 2043
Inspection
Public accounts and audit 2018
Insurance Companies
Corporate duration 2006

J.

Joint Stock Companies
Corporations, deemed 2006
Stockholders' liability for labor 2033
Judicial Decisions
English language 2029
Supreme court 2043
Judicial Power (see specific court)
Jury
Commissioners 2035
Condemnation proceedings 2030
Justices of the Peace
Cities 2042
Conservator of the peace 2014
Election 2042
Incumbency designation 2043
Judicial power 2043
Jurisdiction 2042
Process, style of 2015
Term of office 2042
Juvenile Delinquents
Jurisdiction 2043

L.

Labor
Stockholders' liability 2033
Laws
English, in 2029
Treasurer's statement 2018
Leases
Agricultural lands 2017
Railroad property 2003
Legislature
Appointments 2027
Apportionment 2046
Circuit courts, creation 2043
Compensation and expenses 2010
County, creation 2043
Divorces 2011
Express company rates 2006
Jury commissioners 2035
Law and equity 2043
Members
  Absent voter, as 2041
  Compensation and expenses 2010
  Election 2010
Membership
  House 2046
  Senate 2046
Officers 2027
President of senate
  Compensation and mileage 2009
Private claims 2045
Proceedings in English 2029
Railroad rates 2006
Real estate conveyance 2008
Reapportionment 2046
Representative districts 2046

Exclusion Report No.

Legislature: Cont'd.
Senatorial districts 2046
Speaker of the house
  Compensation and expenses 2009
Special acts
  Corporations 2006
State paper 2012
Votes
  Two-thirds
    Courts, establish 2043
Lieutenant Governor
Ineligible to other office 2027

M.

Mandamus
Circuit court 2043
Supreme court 2043
Master in Chancery
Office prohibited 2043
Metropolitan Districts
Incorporation, purpose, powers 2040
Michigan State University
President
  Duties 2026
  Election 2026
Salt spring lands, proceeds for 2004
Trustees
  Duties 2026
  Election 2026
  Name 2026
  Term 2026
Military Service
Absent voters 2041
Residence, voting 2021
Militia
Duty, election day 2023
Mines, College of
Maintenance 2026
Moneys, Public
Statements 2018
Mortgages
City or village bonds 2039, 2040
Municipal Corporations
Corporate duration 2006
Eminent domain 2032

N.

Non-Partisan Elections
Judicial 2043
Normal Schools
Control 2025
Maintenance 2026

P.

President of Senate
Compensation and mileage 2009
Probate Court
Formation 2043
Jurisdiction 2043
Juvenile delinquents 2043
Process, style of 2015
Record, court of 2043
Seal 2043
Probate Judges
Election 2043
Incumbency designation 2043
Number 2043
Primaries 2043
Residence 2043
Term 2043
Vacancies 2043
Procedendo
Circuit courts 2043
Supreme court 2043
Process, Judicial
Style 2015

Exclusion Report No.

Public Utilities
Franchises
  Bond issue 2039, 2040
Taxation of property 2028

Q.

Quo Warranto
Circuit court 2043
Supreme court 2043

R.

Railroads
Consolidation 2006
Corporate duration 2006
Property, acquisition, state 2003
Rates, control 2006
State ownership, operation 2003
Taxation 2028
Real Estate
Conveyance 2008
Corporate holding 2006
Receipts
Accounts 2018
Publication of statement with laws 2018
Religious Corporations
Duration 2006
Residence
Electors 2021

S.

Salaries
Circuit judges 2043
Salt Spring Lands
Proceeds, sale of 2004
Sanatoria
County 2037
Schedule, Continuances
Criminal prosecutions 2019
Moneys due governments 2019
Officers, public 2019
Representation 2020
Rights, public, private 2019
Salaries, public 2019
Schools
Loans, bond issues 2007
Perpetual fund 2005
Primary system 2005
Seal
Court 2043
Senate (see **Legislature**)
Social Organizations
Corporate duration 2006
Soldier, Sailor, or Marine
Electors 2021, 2041
Speaker, House of Representatives
Compensation and mileage 2009
State Board of Assessors
Duties 2028
State Paper
Prohibited 2012
Stockholders
Liability for labor 2033
Style of Process
Judicial 2015
Superintendent of Public Instruction
Duties 2025
Election 2025
Ex-officio member
  Control, boards of 2025
  Regents, board of 2026
  State board of education 2025
    Secretary 2025
Salary 2025
Term 2025

Exclusion Report No.

Supreme Court
- Clerk 2043
- Crier 2043
- Decisions 2043
- Judicial power 2043
- Process, style of 2015
- Record, court of 2043
- Reporter 2043
- Rules 2043
- Seal 2043
- Superintending control 2043
- Terms of 2013
- Writs 2043

Supreme Court Justices
- Age, maximum 2043
- Appointment 2043
- Conservator of the peace 2014
- Election 2043
- Incumbency designation 2043
- Jurisdiction 2043
- Opinions 2043
- Powers 2043
- Qualifications 2043
- Residence 2043
- Term 2043
- Vacancies 2043

T.

Taxation
- Assessments
  - Cash value 2028

Exclusion Report No.

Taxation: Cont'd.
- Assessments: Cont'd.
  - Equalization 2028
  - Public utilities 2028
- County 2036
- School bonds 2007
- Specific 2028
- Uniformity 2028

Telephone Companies
- Taxation 2028

Treasurer, State
- Publication of report 2018

U.

University of Michigan
- Maintenance 2026
- President
  - Duties 2026
  - Election 2026
- Regents of
  - Corporate character 2026
  - Election 2026
  - Eminent domain by 2031
  - Name 2026
  - Term 2026
  - Vacancy 2026

V.

Vacancies in Office
- Appointments by
  - Circuit judges 2043

Exclusion Report No.

Vacancies in Office: Cont'd.
- Appointments by: Cont'd.
  - Governor
    - Governors, board of 2026
    - Judges 2043
    - Regents, board of 2026
- County clerks 2043
- Governors, board of 2026
- Judges 2043
- Justices of the peace 2042, 2043
- Prosecuting attorneys 2043
- Regents, board of 2026

Villages
- Mortgage bonds 2039, 2040
- Public utilities 2039, 2040

W.

Wayne State University
- Governors, board of
  - Accounting 2026
  - Corporate character 2026
  - Election 2026
  - Members 2026
  - Name 2026
  - Term 2026
  - Vacancy 2026
- President
  - Duties 2026
  - Election 2026

Writs
- Circuit court 2043
- Supreme court 2043

TABLE I—COMMITTEE PROPOSALS TO ARTICLES AND SECTIONS OF 1963 CONSTITUTION

The Committee Proposal number and section are as re-referred to the committee on style and drafting.
C.P.—Committee Proposal. S—Schedule.

C.P. No.	Art.	Sec.	C.P. No.	Art.	Sec.	C.P. No.	Art.	Sec.	C.P. No.	Art.	Sec.	C.P. No.	Art.	Sec.
1	VIII	1	28	IV	12	58g	II	8	81k	VII	12	96k	III	8
2	V	1	29	IV	23	58h	II	7	81l	VII	14	96l	VI	22
3	V	12	30	VIII	2	59-60	V	26	81m	XI	6	96m	stricken	
4	V	17	31	VIII	9	61	XI	2	81n	VII	13	96n	VI	27
5	IV	43	32	IV	7	62	XI	3	82a	VII	17	96o	VI	29
6	S	13	33	IV	11	63	X	1	82b,c	VII	18	97	stricken	
7	V	13	34	IV	14	64	XII	1	82d	VII	20	98a	VIII	4
8	V	15	35	IV	22	65	XII	2	82e	VII	19	98b	VIII	5
9	V	16	36	stricken		66	XII	3	83a	VII	21	98c	VIII	6
10	III	1	37a	IX	20	67	X	2	83b	VII	22	98d	VIII	7
11	(see CP 37)		37b	IX	17				83c	VII	23	99	IV	44
12	X	3	37c	IX	21	68a	S	15	83d	VII	26	100	IV	41
13	VIII	8	37c^1	IX	23	68b	S	4	83e	VII	24	101	III	6
14	Preamble		37d	IX	19	68c	S	16	83f	VII	25	102a	IV	16
15-1	I	1	38	IX	9	69	stricken		84	VII	34	102b	IV	17
	I	23	39a	IX	10	70	IV	33	85a	VII	29	102c	IV	15
15-2	I	3		IX	8	71a	V	21	85b	VII	30	103	IV	20
15-3	I	4	39b	IX	11		S	5	85c	VII	15		IV	21
15-4	I	5	40	IX	24	71b	V	2,3,4,	86a	VII	16	104	IV	26
15-5	I	6	41	IV	30			5,25	86b	VII	31	105	IV	26
15-6	I	7	42a,b,c,d	XI	7		S	12	87	IV	42	105	IV	28
15-7	I	8	42e	VII	33	71c	V	9	88a	VII	27	105	IV	24
15-8	I	9	43	X	6	71d	V	8	88b	VII	28	106	IV	45
15-9	I	10	44	S		71e	V	7	89	VII	2	107	stricken	
15-10	I	11	44a	III	7	71f	V	11	90	VI	1	108	IV	36
15-11	I	12	44b	S	2	71g	V	6,10	91a	VI	2	109	IV	48
15-12	I	13	44c	S	3		S	3		S	6	110	IV	49
15-13	I	14	44d	S	1	71h	V	28	91b	VI	3	111	IV	47
15-14	I	15	45	stricken		71i-71A	V	29	91c	VI	4	112	IV	8
15-15	I	16	46a	V	18	72	V	27	91d	VI	5	113	IV	34
15-16	I	17	46b	IV	31	73	(withdrawn)		91e	VI	6	114	IV	18
15-17	I	18	46c	V	19	74	IX	22	91f	VI	7	115	IV	10
15-18	I	19	46d	V	20		X	4	92a	VI	8	116	IV	13
15-19	I	20	47	VIII	3	75	V	23	92b	VI	9	117	IV	19
15-20	I	21		S	9	76	XI	6	92c	VI	10	118a	IV	1
15-21	I	22	48	stricken		77	V	24	93a	VI	11	118b	II	9
16	V	14	49	IX	13	78	IV	53	93b	VI	12	119	IV	29
17	V	22	50	IX	1		IX	21	93c	VI	13	120	IV	9
18	III	3	51	IX	3	79	IV	6	93d	VI	14	121	IV	24
19	III	4		IX	7	80a	IV	2	94a	VI	15		IV	25
20	IV	46		IX	4	80b	IV	3	94b	VI	16		IV	27
21	III	2	52	IX	5		S	5	95	VI	28	122	IV	38
22	XI	5	53	IV	32	80c	IV	4	96a	VI	19		IV	39
23a	IX	12	54	IX	2	81a	VII	1	96a^1	VI	17	123	IV	37
23b	IX	14	55	XI	4	81b	VII	3	96b	VI	20	124	stricken	
	IX	15	56	IX	6	81c	VII	4	96c	VI	21	125	IV	52
	S	14	57	VII	32	81d	VII	5	96d	VI	23	126	IV	51
23c	IX	18	58a	II	1	81e	VII	6	96e	VI	24	127	IV	50
23d	IX	16	58b	II	2	81f	VII	7	96f	S	7	128	III	5
24	IV	35	58c	II	3	81g	VII	8	96g	VI	18	129	X	5
25	XI	1	58d	II	4	81h	VII	9	96h	VI	25			
26	I	2	58e	II	5	81i	VII	11	96i	VI	26			
27	IV	40	58f	II	6	81j	VII	10	96j	S	8			

TABLE II—EXCLUSION REPORTS TO ARTICLES AND SECTIONS OF 1908 CONSTITUTION

The Exclusion Report numbers are as referred to the committee on style and drafting.

E.R.—Exclusion Report. S—Schedule.

E.R. No.	Art.	Sec.	E.R. No.	Art.	Sec.	E.R. No.	Art.	Sec.	E.R. No.	Art.	Sec.	E.R. No.	Art.	Sec.
2001	(withdrawn)		2011	V	32	2022	III	5	2031	XIII	4	2043	VII	1,2,4,
2002	(withdrawn)		2012	V	35	2023	III	6	2032	XIII	5			5,6,7,
2003	X	20	2013	VII	3	2024	III	7	2033	XII	4			8,9,10,
2004	XI	13	2014	VII	18	2025	XI	2,6	2034	I	1			11,12,
2005	XI	11,12	2015	VII	22	2026	XI	3,4,5,	2035	VIII	6			13,14,
2006	XII	1,2,3,	2016	XVI	4			7,8,10,	2036	VIII	10			17,19,
		5,6,7,	2017	XVI	10			16	2037	VIII	11			20,23
		8	2018	X	17,18	2027	VI	14,15	2038	VIII	15a	2044	(withdrawn)	
2007	X	27	2019	S	2,3,4,	2028	X	3,4,5,	2039	VIII	24	2045	V	34
2008	V	31			5,7			7,8	2040	VIII	31	2046	V	2,3,4
2009	V	10	2020	S	9	2029	XVI	6	2041	III	1			
2010	V	11	2021	III	2,3	2030	XIII	2	2042	VII	15,16,21			

TABLE III—ARTICLES AND SECTIONS OF 1963 CONSTITUTION TO 1908 CONSTITUTION WITH COMMITTEE PROPOSAL REFERENCE

The Committee Proposal number and section are as re-referred to the committee on style and drafting.

*** Created by the committee on style and drafting.**

1963		1908		Committee Proposal
Preamble		Preamble		14
Art.	Sec.	Art.	Sec.	
I	1	II	1	15-1
I	2	none		26
I	3	II	2	15-2
I	4	II	3	15-3
I	5	II	4	15-4
I	6	II	5	15-5
I	7	II	6	15-6
I	8	II	7	15-7
I	9	II	8	15-8
I	10	II	9	15-9
I	11	II	10	15-10
I	12	II	11	15-11
I	13	II	12	15-12
I	14	II	13	15-13
I	15	II	14	15-14
I	16	II	15	15-15
I	17	II	16	15-16
I	18	II	17	15-17
I	19	II	18	15-18
I	20	II	19	15-19
I	21	II	20	15-20
I	22	II	21	15-21
I	23	none		15-1
II	1	III	1,2,3	58a
II	2	none		58b
II	3	none		58c
II	4	III	1,8	58d
II	5	V	12	58e
		VI	1	
		VII	2,9,14	
		VIII	3,18	
		XI	2,3,6, 7, 16	
II	6	III	4	58f
II	7	III	9	58h
II	8	III	8	58g
II	9(¶2*)	V	1	118b
III	1	I	2	10
III	2	IV	1,2	21
III	3	VI	11,12	18
III	4	XV	1,2,3	19
III	5	none		128
III	6	X	14	101
III	7	S	1	44a
III	8	none		96k
IV	1	V	1	118a
IV	2	V	2	80a
IV	3	V	3	80b
IV	4	none		80c
IV	5*	none		...
IV	6	V	4	79
IV	7	V	5	32
IV	8	V	6	112
IV	9	V	7	120
IV	10	V	7	115
		V	25	
IV	11	V	8	33
IV	12	V	9,10	28
IV	13	V	13	116
IV	14	V	14	34
IV	15	none		102c
IV	16	V	15	102a
IV	17	none		102b
IV	18	V	16	114
IV	19	V	17	117
IV	20	V	18	103
IV	21	V	18	103
IV	22	V	19	35
IV	23	V	20	29
IV	24	V	21	121
		V	22	105
IV	25	V	21	121
IV	26	V	22	105
		V	23	104
IV	27	V	21	121
IV	28	V	22	105
IV	29	V	30	119
IV	30	V	24	41
IV	31	none		46b
IV	32	X	6	53
IV	33	V	36	70
IV	34	V	38	113
IV	35	V	39	24
IV	36	V	40	108
IV	37	none		123
IV	38	XVI	5	122
IV	39	XVI	5	122
IV	40	XVI	11	27
IV	41	V	33	100
IV	42	VIII	30	87
IV	43	XII	9	5
IV	44	V	27	99
IV	45	V	28	106
IV	46	none		20
IV	47	V	26	111
IV	48	XVI	7	109
IV	49	V	29	110
IV	50	none		127
IV	51	none		126
IV	52	none		125
IV	53	VI	1	78
V	1	VI	2	2
V	2	none		71b
V	3	none		71b
V	4	none		71b
V	5	none		71b
V	6	none		71g
V	7	VI	10	71e
V	8	VI	3	71d
V	9	VI	1	71c
V	10	IX	7	71g
V	11	IX	5	71f
V	12	VI	4	3
V	13	VI	6	7
V	14	VI	9	16
V	15	VI	7	8
V	16	VI	8	9
V	17	VI	5	4
V	18	none		46a
V	19	V	37	46c
V	20	none		46d
V	21(¶3*)	VI	1	71a
V	22	VI	13	17
V	23	VI	21	75
V	24	none		77
V	25	VI	19	71b
V	26	VI	16,17	59,60
V	27	VI	18	72
V	28	none		71h
V	29	none		71i-71A
VI	1	VII	1	90
VI	2	VII	2,23	91a
VI	3	VII	2	91b
VI	4	VII	4	91c
VI	5	VII	5	91d
VI	6	VII	7	91e
VI	7	VII	6	91f
VI	8	none		92a
VI	9	none		92b
VI	10	none		92c
VI	11	VII	8	93a
VI	12	VII	9,23	93b
VI	13	VII	10	93c
VI	14	VII	11	93d
VI	15	VII	13	94a
VI	16	VII	14,23	94b
VI	17	none		96a[1]
VI	18	VII	12	96g
VI	19	VII	17	96a
VI	20	VII	19	96b
VI	21	VII	9	96c
VI	22	none		96l
VI	23	VII	20	96d
VI	24	VII	23	96e
VI	25	IX	6	96h
VI	26	VII	15,16, 21	96i
VI	27	VII	6,11	96n
VI	28	none		95
VI	29	VII	18	96o
VII	1	VIII	1	81a
VII	2	none		89
VII	3	VIII	2	81b
VII	4	VIII	3	81c
VII	5	VIII	4	81d
VII	6	VIII	5	81e
VII	7	VIII	7	81f
VII	8	VIII	8	81g
VII	9	VIII	9	81h
VII	10	VIII	13	81j
VII	11	VIII	12	81i
VII	12	VIII	14	81k
VII	13	none		81n
VII	14	VIII	15	81l
VII	15	none		85c
VII	16	VIII	26	86a
VII	17	VIII	16	82a
VII	18	VIII	17,18	82b,c
VII	19	VIII	19	82e
VII	20	none		82d
VII	21	VIII	20	83a
VII	22	VIII	21	83b
VII	23	VIII	22	83c
VII	24	VIII	23	83e
VII	25	VIII	25	83f
VII	26	VIII	25	83d
VII	27	VIII	31	88a
VII	28	VIII	31	88b
VII	29	VIII	28	85a
VII	30	VIII	29	85b
VII	31	VIII	27	86b
VII	32	none		57
VII	33	IX	8	42e
VII	34	none		84
VIII	1	XI	1	1
VIII	2	XI	9	30
VIII	3	XI	2,6	47
VIII	4	XI	10	98a
VIII	5	XI	3,4,5, 7,8,16	98b
VIII	6	none		98c
VIII	7	none		98d
VIII	8	XI	15	13
VIII	9	XI	14	31
IX	1	X	2	50
IX	2	X	9	54
IX	3	X	3,4,7,8	51
IX	4	none		51
IX	5	X	3,5	52
IX	6	X	21	56

TABLE III—ARTICLES AND SECTIONS OF 1963 CONSTITUTION TO 1908 CONSTITUTION WITH COMMITTEE PROPOSAL REFERENCE (Continued)

The Committee Proposal number and section are as re-referred to the committee on style and drafting.

* Created by the committee on style and drafting.

1963		1908		Committee Proposal	1963		1908		Committee Proposal	1963	1908		Committee Proposal
Art.	Sec.	Art.	Sec.		Art.	Sec.	Art.	Sec.		Schedule	Schedule		44
IX	7	none		51	IX	23	X	17,18	$37c^1$	1	S	8	44d
IX	8	X	23	39a	IX	24	none		40	2	S	2,3,4	44b
IX	9	X	11	38						3	S	5	44c,71g
IX	10	none		39a	X	1	XVI	8	63	4	S	6	68b
IX	11	X	23	39b	X	2	XIII	1,2	67	5	VI	1	71a
IX	12	X	22	23a	X	3	XIV	1,2,3,4	12		V	2	80b
IX	13	VIII	10, 15a,	49	X	4	VI	20	74	6	none		91a
			20,24		X	5	none		129	7	none		96f
IX	14	X	10	23b	X	6	XVI	9	43	8	VII	23	96j
IX	15	X	10,20a,	23b						9	XI	2,6	47
			23a,24,		XI	1	XVI	2	25	10	none		98c
			25,26		XI	2	XVI	1	61	11*	XI	7,16	. . .
		S	4		XI	3	XVI	3	62	12	none		71b
IX	16	X	27,28	23d	XI	4	X	19	55	13	X	10,20a,	6
IX	17	X	16	37b	XI	5	VI	22	22			23a,24,	
IX	18	X	12	23c	XI	6	none		76,81m			25,26	
IX	19	X	13	37d	XI	7	IX	1,2,3,4	42a,b,c,d		S	4	
IX	20	X	15	37a						14	none		23b
IX	21	X	18	37c,78	XII	1	XVII	1	64	15	S	10	68a
IX	22	VI	20	74	XII	2	XVII	2,3	65	16	S	11	68c
					XII	3	XVII	4	66				

TABLE IV—ARTICLES AND SECTIONS OF 1908 CONSTITUTION TO 1963 CONSTITUTION WITH COMMITTEE PROPOSAL AND EXCLUSION REPORT REFERENCE

The Committee Proposal number and section are as re-referred to the committee on style and drafting.
CP—Committee Proposal. ER—Exclusion Report. S—Schedule. * Stricken.

1908		1963		CP or ER
Preamble		Preamble		CP 14
Art.	Sec.	Art.	Sec.	
I	1	none		ER 2034
				CP 69*
I	2	III	1	CP 10
II	1	I	1	CP 15-1
II	2	I	3	CP 15-2
II	3	I	4	CP 15-3
II	4	I	5	CP 15-4
II	5	I	6	CP 15-5
II	6	I	7	CP 15-6
II	7	I	8	CP 15-7
II	8	I	9	CP 15-8
II	9	I	10	CP 15-9
II	10	I	11	CP 15-10
II	11	I	12	CP 15-11
II	12	I	13	CP 15-12
II	13	I	14	CP 15-13
II	14	I	15	CP 15-14
II	15	I	16	CP 15-15
II	16	I	17	CP 15-16
II	17	I	18	CP 15-17
II	18	I	19	CP 15-18
II	19	I	20	CP 15-19
II	20	I	21	CP 15-20
II	21	I	22	CP 15-21
II	22	none		CP 15-22*
III	1	II	1	CP 58a
		II	4	CP 58d
				ER 2041
III	2	II	1	CP 58a
				ER 2021
III	3	II	1	CP 58a
				ER 2021
III	4	II	6	CP 58f
III	5	none		ER 2022
III	6	none		ER 2023
III	7	none		ER 2024
III	8	II	4	CP 58d
		II	8	CP 58g
III	9	II	7	CP 58h
IV	1	III	2	CP 21
IV	2	III	2	CP 21
V	1	IV	1	CP 118a
		II	9	CP 118b
V	2	IV	2	CP 80a
		S	5	ER 2046
V	3	IV	3	CP 80b
				ER 2046
V	4	IV	6	CP 79
				ER 2046
V	5	IV	7	CP 32
V	6	IV	8	CP 112
V	7	IV	9	CP 120
		IV	10	CP 115
V	8	IV	11	CP 33
V	9	IV	12	CP 28
V	10	IV	12	CP 28
				ER 2009
V	11	none		ER 2010
V	12	II	5	CP 58e
				CP 107*
V	13	IV	13	CP 116
V	14	IV	14	CP 34
V	15	IV	16	CP 102
V	16	IV	18	CP 114
V	17	IV	19	CP 117
V	18	IV	20,21	CP 103
V	19	IV	22	CP 35
V	20	IV	23	CP 29
V	21	IV	24,25,27	CP 121
V	22	IV	24,26,28	CP 105
V	23	IV	26	CP 104
V	24	IV	30	CP 41
V	25	IV	10	CP 115
V	26	IV	47	CP 111
V	27	IV	44	CP 99
V	28	IV	45	CP 106
V	29	IV	49	CP 110
V	30	IV	29	CP 119
V	31	none		ER 2008
V	32	none		ER 2011
V	33	IV	41	CP 100
V	34	none		ER 2045
V	35	none		ER 2012
V	36	IV	33	CP 70
V	37	V	19	CP 46c
V	38	IV	34	CP 113
V	39	IV	35	CP 24
V	40	IV	36	CP 108
VI	1	II	5	CP 58e
		IV	53	CP 78
		V	9	CP 71c
		V	21	CP 71a
		S	5	CP 71a
VI	2	V	1	CP 2
VI	3	V	8	CP 71d
VI	4	V	12	CP 3
VI	5	V	17	CP 4
VI	6	V	13	CP 7
VI	7	V	15	CP 8
VI	8	V	16	CP 9
VI	9	V	14	CP 16
VI	10	V	7	CP 71e
VI	11	III	3	CP 18a
VI	12	III	3	CP 18
VI	13	V	22	CP 17
VI	14	none		ER 2027
VI	15	none		ER 2027
VI	16	V	26	CP 59
VI	17	V	26	CP 60
VI	18	V	27	CP 72
VI	19	V	25	CP 71b
VI	20	X	4	CP 74
		IX	22	CP 74
VI	21	IX	22	CP 74
		V	23	CP 75
VI	22	XI	5	CP 22
VII	1	VI	1	CP 90
				ER 2043
VII	2	II	5	CP 58e
		VI	2	CP 91a
		VI	3	CP 91b
				ER 2043
VII	3	none		ER 2013
VII	4	VI	4	CP 91c
				ER 2043
VII	5	VI	5	CP 91d
				ER 2043
VII	6	VI	7	CP 91f
		VI	27	CP 96n
				ER 2043
VII	7	VI	6	CP 91e
				ER 2043
VII	8	VI	11	CP 93a
				ER 2043
VII	9	II	5	CP 58e
		VI	21	CP 96c
		VI	12	CP 93b
				ER 2043
VII	10	VI	13	CP 93c
				ER 2043
VII	11	VI	14	CP 93d
		VI	27	CP 96n
				ER 2043
VII	12	VI	18	CP 96g
				ER 2043
VII	13	VI	15	CP 94a
				ER 2043
VII	14	II	5	CP 58e
		VI	16	CP 94b
				ER 2043
VII	15	VI	26	CP 96i
				ER 2042
VII	16	VI	26	CP 96i
				ER 2042
VII	17	VI	19	CP 96a
				ER 2043
VII	18	VI	29	CP 96o
				ER 2014
VII	19	VI	20	CP 96b
				ER 2043
VII	20	VI	23	CP 96d
				ER 2043
VII	21	VI	26	CP 96i
				ER 2042
VII	22	none		ER 2015
VII	23	VI	2	CP 91a
		VI	12	CP 93b
		VI	16	CP 94b
		VI	24	CP 96e
		S	8	CP 96j
				ER 2043
VIII	1	VII	1	CP 81a
VIII	2	VII	3	CP 81b
VIII	3	II	5	CP 58e
		VII	4	CP 81c
VIII	4	VII	5	CP 81d
VIII	5	VII	6	CP 81e
VIII	6	none		ER 2035
VIII	7	VII	7	CP 81f
VIII	8	VII	8	CP 81g
VIII	9	VII	9	CP 81h
VIII	10	IX	13	CP 49
				ER 2036
VIII	11	none		ER 2037
VIII	12	VII	11	CP 81i
VIII	13	VII	10	CP 81j
VIII	14	VII	12	CP 81k
VIII	15	VII	14	CP 81l
VIII	15a	IX	13	CP 49
				ER 2038
VIII	16	VII	17	CP 82a
VIII	17	VII	18	CP 82b,c
VIII	18	II	5	CP 58e
		VII	18	CP 82b,c
VIII	19	VII	19	CP 82e
VIII	20	VII	21	CP 83a
		IX	13	CP 49
VIII	21	VII	22	CP 83b
VIII	22	VII	23	CP 83c
VIII	23	VII	24	CP 83e
VIII	24	IX	13	CP 49
				ER 2039
VIII	25	VII	25	CP 83f
		VII	26	CP 83d
VIII	26	VII	16	CP 86a
VIII	27	VII	31	CP 86b
VIII	28	VII	29	CP 85a
VIII	29	VII	30	CP 85b
VIII	30	IV	42	CP 87
VIII	31	VII	27	CP 88a
		VII	28	CP 88b
				ER 2040

TABLE IV—ARTICLES AND SECTIONS OF 1908 CONSTITUTION TO 1963 CONSTITUTION WITH COMMITTEE PROPOSAL AND EXCLUSION REPORT REFERENCE (Continued)

The Committee Proposal number and section are as re-referred to the committee on style and drafting.

CP—Committee Proposal. ER—Exclusion Report. S—Schedule. * Stricken.

1908		1963		CP or ER
Art.	Sec.	Art.	Sec.	
IX	1	XI	7	CP 42a,b,c,d
IX	2	XI	7	CP 42a,b,c,d
IX	3	XI	7	CP 42a,b,c,d
IX	4	XI	7	CP 42a,b,c,d
IX	5	V	11	CP 71f
IX	6	VI	25	CP 96h
IX	7	V	10	CP 71g
IX	8	VII	33	CP 42e
X	1	none		CP 36*
X	2	IX	1	CP 50
X	3	IX	3	CP 51
		IX	5	CP 52
				ER 2028
X	4	IX	3	CP 51
				ER 2028
X	5	IX	5	CP 52
				ER 2028
X	6	IV	32	CP 53
X	7	IX	3	CP 51
				ER 2028
X	8	IX	3	CP 51
				ER 2028
X	9	IX	2	CP 54
X	10	IX	14,15	CP 23b
		S	13	CP 6
X	11	IX	12	CP 23a
X	12	IX	18	CP 23c
X	13	IX	19	CP 37d
X	14	III	6	CP 101
X	15	IX	20	CP 37a
X	16	IX	17	CP 37b
X	17	IX	23	CP 37C^1
				ER 2018
X	18	IX	21	CP 37c
				CP 78
		IX	23	CP 37C^1
				ER 2018
X	19	XI	4	CP 55
X	20	IX	15	CP 23b
		S	13	CP 6
				ER 2003
X	21	IX	6	CP 56
X	22	IX	9	CP 38
X	23a	IX	15	CP 23b
		S	13	CP 6
X	23	IX	8,10	CP 39a
		IX	11	CP 39b
X	24	IX	15	CP 23b
		S	13	CP 6
X	25	IX	15	CP 23b
		S	13	CP 6
X	26	IX	15	CP 23b
		S	13	CP 6
X	27	IX	16	CP 23d
				ER 2007
X	28	IX	16	CP 23d
XI	1	VIII	1	CP 1
XI	2	II	5	CP 58e
		VIII	3	CP 47
		S	9	CP 47
				ER 2025
XI	3	II	5	CP 58e
		VIII	5	CP 98b
				ER 2026
XI	4	VIII	5	CP 98b
				ER 2026
XI	5	VIII	5	CP 98b
				ER 2026
XI	6	II	5	CP 58e
		VIII	3	CP 47
		S	9	CP 47
				ER 2025
XI	7	II	5	CP 58e
		VIII	5	CP 98b
		S	11	CP 98b
				ER 2026
XI	8	VIII	5	CP 98b
				ER 2026
XI	9	VIII	2	CP 30
XI	10	VIII	4	CP 98a
				ER 2026
XI	11	none		ER 2005
XI	12	none		ER 2005
XI	13	none		ER 2004
XI	14	VIII	9	CP 31
XI	15	VIII	8	CP 13
XI	16	II	5	CP 58e
		VIII	5	CP 98b
		S	11	CP 98b
				ER 2026
XII	1	none		ER 2006
XII	2	none		ER 2006
XII	3	none		ER 2006
XII	4	none		ER 2033
XII	5	none		ER 2006
XII	6	none		ER 2006
XII	7	none		ER 2006
XII	8	none		ER 2006
XII	9	IV	43	CP 5
XIII	1	X	2	CP 67
XIII	2	X	2	CP 67
				ER 2030
XIII	3	none		CP 67c*
XIII	4	none		ER 2031
XIII	5	none		ER 2032
XIV	1	X	3	CP 12
XIV	2	X	3	CP 12
XIV	3	X	3	CP 12
XIV	4	X	3	CP 12
XV	1	III	4	CP 19
XV	2	III	4	CP 19
XV	3	III	4	CP 19
XVI	1	XI	2	CP 61
XVI	2	XI	1	CP 25
XVI	3	XI	3	CP 62
				CP 124*
XVI	4	none		ER 2016
XVI	5	IV	38,39	CP 122
XVI	6	none		ER 2029
XVI	7	IV	48	CP 109
XVI	8	X	1	CP 63
XVI	9	X	6	CP 43
XVI	10	none		ER 2017
XVI	11	IV	40	CP 27
XVII	1	XII	1	CP 64
XVII	2	XII	2	CP 65
XVII	3	XII	2	CP 65
XVII	4	XII	3	CP 66

Schedule	Schedule		CP 44
1	III	7	CP 44a
2	S	2	CP 44b
			ER 2019
3	S	2	CP 44b
			ER 2019
4	S	2	CP 44b
			ER 2019
	S	13	CP 6a
	IX	15	CP 6a
5	S	3	CP 44c
			CP 71g
			ER 2019
6	S	4	CP 68b
7	none		ER 2019
8	S	1	CP 44d
9	none		ER 2020
10	S	15	CP 68a
11	S	16	CP 68c

HISTORY OF COMMITTEE PROPOSALS

All action is by the convention unless specifically stated as action by "committee of the whole".

To locate the article and section number a Committee Proposal became, see cross-reference Table I, page 3435.

To locate complete text of Committee Proposal and supporting reasons, see immediately following its title.

For further history of convention action, follow procedure outlined on page 3415.

References are to page numbers in Official Record.

Committee Proposal No.		Page
1.	A proposal pertaining to the inclusion of section 1 of article XI in the constitution.	
	For text as offered and reasons	197
	As referred to style and drafting	197
	As reported by style and drafting	2554
	As referred to style and drafting	2554
	Oct. 19, reported by education; referred to committee of the whole	193
	Oct. 23, read first time; considered, passed by committee of the whole	197-207
	Oct. 23, reported by committee of the whole without amendment; referred to style and drafting	207
	Dec. 19, reported by style and drafting (Report 1); placed on order of second reading; rereferred to style and drafting	406-408
	Feb. 12, reported by style and drafting (Report 2); placed on order of second reading	955
	Apr. 18, read second time; passed; referred to style and drafting	2554-2556
2.	A proposal to provide the executive power be vested in the governor. Amends article VI, section 2.	
	For text as offered and reasons	336
	As referred to style and drafting	336
	As reported by style and drafting	2737
	As rereferred to style and drafting	2737
	Nov. 29, reported by executive branch; referred to committee of the whole	314
	Dec. 4, read first time; considered, passed by committee of the whole	336
	Dec. 4, reported by committee of the whole without amendment; referred to style and drafting	337
	Apr. 19, reported by style and drafting (Report 69); placed on order of second reading	2619
	Apr. 24, read second time; passed; rereferred to style and drafting	2737-2738
3.	A proposal to provide the governor shall be commander of the state armed forces. Amends article VI, section 4.	
	For text as offered and reasons	337
	As referred to style and drafting	337
	As reported by style and drafting	2738
	As rereferred to style and drafting	2738
	Nov. 29, reported by executive branch; referred to to committee of the whole	314
	Dec. 4, read first time; considered, passed by committee of the whole	337
	Dec. 4, reported by committee of the whole without amendment; referred to style and drafting	337
	Mar. 12, reported by style and drafting (Report 35); placed on order of second reading	1568
	Apr. 24, read second time; passed; rereferred to style and drafting	2738
4.	A proposal to provide communication by the governor to the legislature on the condition of the state. Amends article VI, section 5.	
	For text as offered and reasons	369
	As referred to style and drafting	369
	As reported by style and drafting	2738
	As rereferred to style and drafting	2738
	Dec. 7, reported by executive branch; referred to committee of the whole	355
	Dec. 11, read first time; considered, passed by committee of the whole	369-370
	Dec. 11, reported by committee of the whole without amendment; referred to style and drafting	378
4: Cont'd.		
	Mar. 12, reported by style and drafting (Report 36); placed on order of second reading	1568
	Apr. 24, read second time; passed; rereferred to style and drafting	2738-2739
5.	A proposal pertaining to the inclusion in the constitution of all of section 9 of article XII except the portion relating to bank notes or paper credit.	
	For text as offered and reasons	370
	As referred to style and drafting	378
	As reported by style and drafting	2996
	As rereferred to style and drafting	2996
	Dec. 7, reported by legislative powers and miscellaneous provisions and schedule; referred to committee of the whole	355
	Dec. 11, read first time; considered, amended, passed by committee of the whole	370-372
	Dec. 11, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting	378-379
	Mar. 5, reported by style and drafting (Report 18); placed on order of second reading	1429
	Apr. 30, read second time; passed; referred to style and drafting	2996
6.	A proposal to preserve the state's responsibility under sections 20a, 23a, 24, 25 and 26 of article X of the 1908 constitution.	
	For text as offered and reasons	372
	As referred to style and drafting	379
	As reported by style and drafting	2621
	As rereferred to style and drafting	2621
	Dec. 7, reported by finance and taxation; referred to committee of the whole	355
	Dec. 11, read first time; considered, amended, passed by committee of the whole	372-375
	Dec. 11, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting	379
	Apr. 13, reported by style and drafting (Report 59); placed on order of second reading	2405
	Apr. 19, read second time; passed; rereferred to style and drafting	2621-2622
7.	A proposal to provide that the governor shall issue writs of election to fill vacancies in the legislature. Amends article VI, section 6.	
	For text as offered and reasons	375
	As referred to style and drafting	375
	As reported by style and drafting	2739
	As rereferred to style and drafting	2739
	Dec. 7, reported by executive branch; referred to committee of the whole	355
	Dec. 11, read first time; considered, passed by committee of the whole	375
	Dec. 11, reported by committee of the whole without amendment; referred to style and drafting	378
	Apr. 19, reported by style and drafting (Report 70); placed on order of second reading	2619
	Apr. 24, read second time; passed; rereferred to style and drafting	2739
8.	A proposal to provide that the governor may convene the legislature on extraordinary occasions. Amends article VI, section 7.	
	For text as offered and reasons	375
	As referred to style and drafting	375
	As reported by style and drafting	2739
	As rereferred to style and drafting	2739

Committee Proposal No.		Page
8: Cont'd.		
	Dec. 7, reported by executive branch; referred to committee of the whole	356
	Dec. 11, read first time; considered, amended by committee of the whole	375-377
	Dec. 11, reported by committee of the whole; referred, with amendment, to legislative powers	379
	Dec. 19, reported by legislative powers; referred to committee of the whole	408
	Jan. 3, considered, passed by committee of the whole	433-434
	Jan. 3, reported by committee of the whole without amendment; referred to style and drafting	446
	Mar. 12, reported by style and drafting (Report 31); placed on order of second reading	1568
	Apr. 24, read second time; passed; rereferred to style and drafting	2739-2740
9.	A proposal to provide that the governor may convene the legislature at other places when the seat of government becomes dangerous. Amends article VI, section 8.	
	For text as offered and reasons	377
	As referred to style and drafting	377
	As reported by style and drafting	2740
	As rereferred to style and drafting	2740
	Dec. 7, reported by executive branch; referred to committee of the whole	356
	Dec. 11, read first time; considered, passed by committee of the whole	377-378
	Dec. 11, reported by committee of the whole without amendment; referred to style and drafting	378
	Mar. 12, reported by style and drafting (Report 32); placed on order of second reading	1568
	Apr. 24, read second time; passed; rereferred to style and drafting	2740
10.	A proposal to amend article I, section 2, of the present constitution pertaining to the seat of government at Lansing.	
	For text as offered and reasons	416
	As referred to style and drafting	416
	As reported by style and drafting	2995
	As rereferred to style and drafting	2995
	Dec. 14, reported by miscellaneous provisions and schedule; referred to committee of the whole	394
	Dec. 18, consideration postponed to Dec. 21	405
	Dec. 21, read first time; considered, passed by committee of the whole	416
	Dec. 21, reported by committee of the whole without amendment; referred to style and drafting	431
	Mar. 1, reported by style and drafting (Report 7); placed on order of second reading	1373
	Apr. 30, read second time; passed; rereferred to style and drafting	2995
11.	A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution.	
	For text as offered and reasons	416
	Dec. 18, reported by finance and taxation; referred to committee of the whole	404
	Dec. 21, read first time; considered, amended by committee of the whole	416-430
	Dec. 21, reported by committee of the whole; rereferred, with amendments, to finance and taxation	431
	(See Committee Proposal 37.)	
12.	A proposal pertaining to exemptions as a substitute for all of article XIV.	
	For text as offered and reasons	435
	As referred to style and drafting	457
	As reported by style and drafting	2973
	As rereferred to style and drafting	2973
	Dec. 21, reported by legislative powers; referred to committee of the whole	413
	Jan. 3, read first time; considered by committee of the whole	435-446
	Jan. 4, considered, substituted, passed by committee of the whole	449-457
12: Cont'd.		
	Jan. 4, reported by committee of the whole with substitute; substitute concurred in; referred to style and drafting	457
	Feb. 12, reported by style and drafting (Report 3); placed on order of second reading	955
	Apr. 30, read second time; passed; rereferred to style and drafting	2973-2974
13.	A proposal respecting the physically, mentally or otherwise seriously handicapped. Amends article XI, section 15.	
	For text as offered and reasons	462
	As referred to style and drafting	462
	As reported by style and drafting	2556
	As rereferred to style and drafting	2556
	Jan. 3, reported by education; referred to committee of the whole	433
	Jan. 8, read first time; considered, passed by committee of the whole	462-464
	Jan. 8, reported by committee of the whole without amendment; referred to style and drafting	484
	Mar. 5, reported by style and drafting (Report 11); placed on order of second reading	1428
	Apr. 18, read second time; passed; rereferred to style and drafting	2556-2557
14.	A proposal pertaining to the preamble to the constitution.	
	For text as offered and reasons	464
	As referred to style and drafting	464
	As reported by style and drafting	2994
	As rereferred to style and drafting	2994
	Jan. 4, reported by miscellaneous provisions and schedule; referred to committee of the whole	448
	Jan. 8, read first time; considered, passed by committee of the whole	464
	Jan. 8, reported by committee of the whole without amendment; referred to style and drafting	484
	Mar. 1, reported by style and drafting (Report 8); placed on order of second reading	1373
	Apr. 30, read second time; passed; rereferred to style and drafting	2994-2995
15.	A proposal to amend article II pertaining to the declaration of rights.	
	For text as offered and reasons	464
	As referred to style and drafting	687
	As reported by style and drafting	2852
	As rereferred to style and drafting	2924
	Jan. 4, reported by declaration of rights, suffrage and elections; referred to committee of the whole	448
	Jan. 8, read first time; sections 1, 2, 3, 4 considered; sections 1, 2 passed; sections 3, 4 amended, passed by committee of the whole	464-484
	Jan. 9, sections 5, 6, 7, 8, 9, 10 considered; sections 5, 6, 7, 8, 9 passed by committee of the whole	488-505
	Jan. 10, section 10 considered, passed by committee of the whole	506-533
	Jan. 11, sections 11, 12, 13, 14, 15, 16, 17, 18 considered; sections 12, 13, 15, 17, 18 passed; section 14 postponed; sections 11, 16 amended, passed by committee of the whole	534-556
	Jan. 11, recommendation of revision of section 14 reasons reported by committee of the whole; recommendation concurred in	556
	Jan. 12, sections 4, 14, 19, 20, 21, 22 considered; sections 14, 19, 20, 21 passed by committee of the whole	562-573
	Jan. 15, section 4 considered, amended, passed; further consideration postponed to Jan. 18 by committee of the whole	576-579
	Jan. 18, consideration made a special order on general orders for Jan. 22	636
	Jan. 22, considered; vote on amendment to section 4 reconsidered, amendment not adopted; committee proposal as amended passed by committee of the whole	672-674
	Jan. 22, reported by committee of the whole with 4 amendments; amendments concurred in; referred to style and drafting	674-688
	Feb. 12, reported by style and drafting (Report 4); placed on order of second reading	955

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15: Cont'd.
- Apr. 26, read second time; amended, passed; rereferred to style and drafting 2852-2887
- Apr. 27, reconsidered vote on passage; reconsidered vote on amendment, amendment not adopted; passed; rereferred to style and drafting 2918-2925

16. A proposal to permit the governor to grant reprieves, commutations and pardons and to delegate this power according to law. Amends article VI, section 9.
  - For text as offered and reasons 579
  - As referred to style and drafting 588
  - As reported by style and drafting 2740
  - As rereferred to style and drafting 2740
- Jan. 10, reported by executive branch; referred to committee of the whole 505
- Jan. 15, read first time; considered, amended, passed by committee of the whole 579-588
- Jan. 15, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 588
- Mar. 5, reported by style and drafting (Report 19); placed on order of second reading 1429
- Apr. 24, read second time; passed; rereferred to style and drafting 2740-2741

17. A proposal respecting eligibility for the offices of governor and lieutenant governor. Amends article VI, section 13.
  - For text as offered and reasons 591
  - As referred to style and drafting 611
  - As reported by style and drafting 2741
  - As rereferred to style and drafting 2743
- Jan. 10, reported by executive branch; referred to committee of the whole 505
- Jan. 16, read first time; considered, amended, passed by committee of the whole 591-592
- Jan. 16, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 611
- Mar. 5, reported by style and drafting (Report 20); placed on order of second reading 1429
- Apr. 24, read second time; amended, passed; rereferred to style and drafting 2741-2743

18. A proposal to provide for a great seal of the state and to authorize its use. A substitution for article VI, sections 11 and 12.
  - For text as offered and reasons 593
  - As referred to style and drafting 593
  - As reported by style and drafting 2741
  - As rereferred to style and drafting 2741
- Jan. 10, reported by executive branch; referred to committee of the whole 505
- Jan. 16, read first time; considered, passed by committee of the whole 593
- Jan. 16, reported by committee of the whole without amendment; referred to style and drafting 611
- Mar. 1, reported by style and drafting (Report 9); placed on order of second reading 1373
- Apr. 24, read second time; passed; rereferred to style and drafting 2741

19. A proposal to provide for a state militia. A substitute for all of article XV.
  - For text as offered and reasons 593
  - As referred to style and drafting 593
  - As reported by style and drafting 2996
  - As rereferred to style and drafting 2996
- Jan. 10, reported by miscellaneous provisions and schedule; referred to the committee of the whole 506
- Jan. 16, read first time; considered, passed by committee of the whole 593-594
- Jan. 16, reported by committee of the whole without amendment; referred to style and drafting 611
- Feb. 12, reported by style and drafting (Report 5); placed on order of second reading 955
- Apr. 30, read second time; passed; rereferred to style and drafting 2996-2997

20. A proposal to provide that no law shall be enacted providing for the penalty of death. Amends article V by adding a new section.
  - For text as offered and reasons 595
  - As referred to style and drafting 595
  - As reported by style and drafting 2968
  - As rereferred to style and drafting 2968
- Jan. 11, reported by legislative powers; referred to to committee of the whole 534
- Jan. 16, read first time; considered, passed by committee of the whole 595-598
- Jan. 16, reported by committee of the whole without amendment; referred to style and drafting 611
- Mar. 1, reported by style and drafting (Report 10); placed on order of second reading 1373
- Apr. 30, read second time; passed; rereferred to style and drafting 2968

21. A proposal pertaining to the division of the powers of government. Amends article IV.
  - For text as offered and reasons 600
  - As referred to style and drafting 600
  - As reported by style and drafting 2995
  - As rereferred to style and drafting 2995
- Jan. 12, reported by miscellaneous provisions and schedule; referred to committee of the whole 557
- Jan. 16, read first time; considered, passed by committee of the whole 600-602
- Jan. 16, reported by committee of the whole without amendment; referred to style and drafting 611
- Mar. 5, reported by style and drafting (Report 12); placed on order of second reading 1429
- Apr. 30, read second time; passed; rereferred to style and drafting 2995-2996

22. A proposal pertaining to state civil service. Amends article VI, section 22.
  - For text as offered and reasons 637
  - For minority report and reasons 640
  - As referred to style and drafting 715
  - As reported by style and drafting 2780
  - As rereferred to style and drafting 2795
- Jan. 12, reported by executive branch; referred to committee of the whole 558
- Jan. 16, consideration postponed to Jan. 18 by committee of the whole 602
- Jan. 18, read first time; considered, amended by committee of the whole 637-657
- Jan. 19, considered, amended by committee of the whole 658-670
- Jan. 29, considered, amended, passed by committee of the whole 701-707
- Jan. 29, reported by committee of the whole with 5 amendments; amendments concurred in; referred to style and drafting 713-715
- Mar. 22, reported by style and drafting (Report 38); placed on order of second reading 1815
- Apr. 25, read second time; amended, passed; rereferred to style and drafting 2780-2796
- Apr. 26, motion to reconsider vote on passage; motion postponed 2899-2900
- Apr. 27, motion to reconsider vote on passage defeated 2909-2911

23. A proposal to prohibit the issuance of evidences of state indebtedness, except as authorized by the constitution, to authorize state borrowing and prescribe the method therefor, to limit the use of state credit and to permit the loaning of state funds to school districts under certain conditions, and covering the general subject matter found in sections 11, 10, 12 and 28 of article X of the 1908 constitution.
  - For text as offered and reasons 602
  - As referred to style and drafting 632
  - As reported by style and drafting 2622
  - As rereferred to style and drafting 2627
- Jan. 12, reported by finance and taxation; referred to committee of the whole 558
- Jan. 16, read first time; sections a, b considered; section a amended, passed by committee of the whole 602-611

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23: Cont'd.		
	Jan. 17, sections b, c, d considered; section b amended, passed; sections c, d passed; committee proposal as amended considered, passed by committee of the whole	613-631
	Jan. 17, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting	631-633
	Mar. 12, reported by style and drafting (Report 37); placed on order of second reading	1569
	Apr. 19, read second time; amended, passed; rereferred to style and drafting	2622-2627
24.	A proposal pertaining to inclusion of section 39 of article V in the constitution.	
	For text as offered and reasons	707
	As referred to style and drafting	707
	As reported by style and drafting	2965
	As rereferred to style and drafting	2965
	Jan. 17, reported by legislative powers; referred to committee of the whole	613
	Jan. 29, read first time; considered, passed by committee of the whole	707-708
	Jan. 29, reported by committee of the whole without amendment; referred to style and drafting	713
	Mar. 5, reported by style and drafting (Report 21); placed on order of second reading	1429
	Apr. 30, read second time; passed; rereferred to style and drafting	2965
25.	A proposal to amend article XVI, section 2 of the present constitution pertaining to oath of office.	
	For text as offered and reasons	708
	As referred to style and drafting	708
	As reported by style and drafting	2997
	As rereferred to style and drafting	2997
	Jan. 18, reported by miscellaneous provisions and schedule; referred to committee of the whole	635
	Jan. 29, read first time; considered, passed by committee of the whole	708-709
	Jan. 29, reported by committee of the whole without amendment; referred to style and drafting	713
	Mar. 5, reported by style and drafting (Report 22); placed on order of second reading	1429
	Apr. 30, read second time; passed; rereferred to style and drafting	2997-2998
26.	A proposal for a section in the declaration of rights incorporating in the declaration of rights an "equal protection" clause and a guarantee against discrimination in civil and political rights because of race, religion, sex or national origin.	
	For text as offered and reasons	739
	For minority report and reasons	740
	As referred to style and drafting	739
	As reported by style and drafting	2887
	As rereferred to style and drafting	2916
	Jan. 19, reported by declaration of rights, suffrage and elections; referred to committee of the whole	658
	Jan. 29, consideration postponed to Jan. 30 by committee of the whole	709
	Feb. 1, read first time; considered by committee of the whole	739-752
	Feb. 2, considered, passed by committee of the whole	760
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-778
	Feb. 12, reported by style and drafting (Report 6); placed on order of second reading	955
	Apr. 26, read second time; passed; rereferred to style and drafting	2887-2892
	Apr. 27, reconsidered vote on passage; reconsidered vote on amendment, amended, passed; rereferred to style and drafting	2911-2916
27.	A proposal to provide for liquor control, excise taxes and local option by counties. Amends article XVI, section 11.	
	For text as offered and reasons	709
	As referred to style and drafting	709
	As reported by style and drafting	2976
	As rereferred to style and drafting	2976
27: Cont'd.		
	Jan. 19, reported by legislative powers; referred to committee of the whole	658
	Jan. 29, read first time; considered, passed by committee of the whole	709-713
	Jan. 29, reported by committee of the whole without amendment; referred to style and drafting	713
	Mar. 5, reported by style and drafting (Report 23); placed on order of second reading	1429
	Apr. 30, read second time; passed; rereferred to style and drafting	2976-2977
28.	A proposal to provide for compensation of the legislature. Amends article V, section 9.	
	For text as offered and reasons	760
	As referred to style and drafting	760
	As reported by style and drafting	2939
	As rereferred to style and drafting	3027
	Jan. 19, reported by legislative power; referred to mittee of the whole	670
	Feb. 2, read first time; considered, passed by committee of the whole	760-761
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Mar. 5, reported by style and drafting (Report 24); placed on order of second reading	1430
	Apr. 27, read second time; amended, postponed until Apr. 30	2939-2948
	Apr. 30, consideration postponed	2949
	Apr. 30, amended, not passed	2977-2992
	May 1, reconsidered vote on passage; amended, passed; rereferred to style and drafting	3013-3027
29.	A proposal to provide for the form of laws. Retains article V, section 20.	
	For text as offered and reasons	761
	As referred to style and drafting	761
	As reported by style and drafting	2954
	As rereferred to style and drafting	2954
	Jan. 19, reported by legislative powers; referred to committee of the whole	670
	Feb. 2, read first time; considered, passed by committee of the whole	761
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Mar. 5, reported by style and drafting (Report 13); placed on order of second reading	1429
	Apr. 30, read second time; passed; rereferred to style and drafting	2954
30.	A proposed pertaining to free public and elementary schools. Replaces article XI, section 9.	
	For text as offered and reasons	762
	As referred to style and drafting	762
	As reported by style and drafting	2557
	As rereferred to style and drafting	2560
	Jan. 23, reported by education; referred to committee of the whole	690
	Feb. 2, read first time; considered, passed by committee of the whole	762-763
	Feb 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Mar. 27, reported by style and drafting (Report 48); placed on order of second reading	1891
	Apr. 18, read second time; amended, passed; rereferred to style and drafting	2557-2560
31.	A proposal to amend article XI, section 14 of the present constitution pertaining to public libraries.	
	For text as offered and reasons	822
	As referred to style and drafting	841
	As reported by style and drafting	2560
	As rereferred to style and drafting	2560
	Jan. 24, reported by education; referred to committee of the whole	694
	Feb. 2, consideration postponed by committee of the whole	764
	Feb. 6, read first time; considered, amended, passed by committee of the whole	822-837
	Feb. 6, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting	841

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31: Cont'd.		
	Mar. 27, reported by style and drafting (Report 49); placed on order of second reading	1891
	Apr. 18, read second time; passed; rereferred to style and drafting	2560-2563
32.	A proposal to provide for eligibility to serve in the legislature. Retains article V, section 5.	
	For text as offered and reasons	764
	As referred to style and drafting	764
	As reported by style and drafting	2928
	As rereferred to style and drafting	2929
	Jan. 24, reported by legislative powers; referred to committee of the whole	694
	Feb. 2, read first time; considered, passed by committee of the whole	764-765
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Mar. 5, reported by style and drafting (Report 14); placed on order of second reading	1429
	Apr. 27, read second time; amended, passed; rereferred to style and drafting	2928-2929
33.	A proposal to provide for immunity of legislators from arrest during sessions except for certain crimes. Amends article V, section 8.	
	For text as offered and reasons	765
	As referred to style and drafting	765
	As reported by style and drafting	2930
	As rereferred to style and drafting	2930
	Jan. 24, reported by legislative powers; referred to committee of the whole	694
	Feb. 2, read first time; considered, passed by committee of the whole	765
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Mar. 5, reported by style and drafting (Report 15); placed on order of second reading	1429
	Apr. 27, read second time; passed; rereferred to style and drafting	2930
34.	A proposal to provide for quorums of the house and senate and the right of these bodies to compel attendance. Amends article V, section 14.	
	For text as offered and reasons	765
	As referred to style and drafting	765
	As reported by style and drafting	2950
	As rereferred to style and drafting	2950
	Jan. 24, reported by legislative powers; referred to committee of the whole	694
	Feb. 2, read first time; considered, passed by committee of the whole	765
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Mar. 5, reported by style and drafting (Report 16); placed on order of second reading	1429
	Apr. 30, read second time; passed; rereferred to style and drafting	2950-2951
35.	A proposal to provide that the form of legislation shall be by bill. Retains article V, section 19.	
	For text as offered and reasons	766
	As referred to style and drafting	766
	As reported by style and drafting	2953
	As rereferred to style and drafting	2953
	Jan. 24, reported by legislative powers; referred to committee of the whole	695
	Feb. 2, read first time; considered, passed by committee of the whole	766
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Mar. 5, reported by style and drafting (Report 17); placed on order of second reading	1429
	Apr. 30, read second time; passed; rereferred to style and drafting	2953-2954
36.	A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution.	
	For text as offered and reasons	818
	As referred to style and drafting	818
	As reported by style and drafting	2657
	As rereferred to style and drafting	2658
36: Cont'd.		
	Jan. 25, reported on finance and taxation; referred to committee of the whole	696
	Feb. 2, consideration postponed by committee of the whole	766
	Feb. 6, read first time; considered, passed by committee of the whole	818-820
	Feb. 6, reported by committee of the whole without amendment; referred to style and drafting	822
	Apr. 13, reported by style and drafting (Report 60); placed on order of second reading	2405
	Apr. 19, read second time; amended, passed; rereferred to style and drafting	2657-2658
	(Note: The entire content stricken.)	
37.	A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution.	
	For text as offered and reasons	766
	As referred to style and drafting	766
	As reported by style and drafting	2658
	As rereferred to style and drafting	2658
	Jan. 25, reported by finance and taxation; referred to committee of the whole	696
	Feb. 2, read first time; considered, passed by committee of the whole	766-770
	Feb. 2, reported by committee of the whole without amendment; referred to style and drafting	776-777
	Apr. 13, reported by style and drafting (Report 61); placed on order of second reading	2406
	Apr. 19, read second time; passed; rereferred to style and drafting	2658-2659
38.	A proposal with reference to the earmarking of the gas and weight taxes for highway purposes covering the subject matter of article X, section 22 of the 1908 constitution.	
	For text as offered and reasons	775
	As referred to style and drafting	794
	As reported by style and drafting	2631
	As rereferred to style and drafting	2631
	Jan. 25, reported by finance and taxation; referred to committee of the whole	696
	Feb. 2, read first time; considered by committee of the whole	775-776
	Feb. 5, considered, amended, passed by committee of the whole	780-785
	Feb. 5, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting	794
	Apr. 13, reported by style and drafting (Report 62); placed on order of second reading	2406
	Apr. 19, read second time; passed; rereferred to style and drafting	2631-2635
39.	A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution.	
	For text as offered and reasons	785
	For minority reports and reasons	786
	As referred to style and drafting	785
	As reported by style and drafting	2635
	As rereferred to style and drafting	2641
	Jan. 25, reported by finance and taxation; referred to committee of the whole	696
	Feb. 5, read first time; considered by committee of the whole	785-806
	Feb 6, considered, passed by committee of the whole	807-818
	Feb. 6, reported by committee of the whole without amendment; referred to style and drafting	820-822
	Apr. 13, reported by style and drafting (Report 63); placed on order of second reading	2406
	Apr. 19, read second time; amended, passed; rereferred to style and drafting	2635-2641
40.	A proposal with reference to public retirement systems. Amends article X by adding a section.	
	For text as offered and reasons	770
	As referred to style and drafting	778
	As reported by style and drafting	2659
	As rereferred to style and drafting	2659

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40: Cont'd.		
	Jan. 25, reported by finance and taxation; referred to committee of the whole	696
	Feb. 2, read first time; considered, amended, passed by committee of the whole	770-775
	Feb. 2, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting	778
	Mar. 5, reported by style and drafting (Report 25); placed on order of second reading	1430
	Apr. 19, read second time; passed; rereferred to style and drafting	2659
41.	A proposal to provide for a 2/3 vote of the legislature for nongovernmental appropriations. Retains article V, section 24.	
	For text as offered and reasons	837
	As referred to style and drafting	837
	As reported by style and drafting	2959
	As rereferred to style and drafting	2959
	Jan. 25, reported by legislative powers; referred to committee of the whole	696
	Feb. 6, read first time; considered, passed by committee of the whole	837
	Feb. 6, reported by committee of the whole without amendment; referred to style and drafting	841
	Mar. 5, reported by style and drafting (Report 26); placed on order of second reading	1430
	Apr. 30, read second time; passed; rereferred to style and drafting	2959
42.	A proposal to include in the constitution all of sections 1, 2, 3, 4 and 8 of article IX entitled "impeachments and removals from office."	
	For text as offered and reasons	837
	As referred to style and drafting	837
	As reported by style and drafting	2971
	As rereferred to style and drafting	2971
	Jan. 25, reported by legislative powers; referred to committee of the whole	696
	Feb. 6, read first time; considered, passed by committee of the whole	837-841
	Feb. 6, reported by committee of the whole without amendment; referred to style and drafting	841
	Mar. 5, reported by style and drafting (Report 27); placed on order of second reading	1430
	Apr. 30, read second time; passed; rereferred to style and drafting	2971-2972
43.	A proposal pertaining to aliens and property rights. Retains article XVI, section 9.	
	For text as offered and reasons	845
	As referred to style and drafting	845
	As reported by style and drafting	2998
	As rereferred to style and drafting	2998
	Jan. 25, reported by miscellaneous provisions and schedule; referred to committee of the whole	697
	Feb. 7, read first time; considered, passed by committee of the whole	845
	Feb. 7, reported by committee of the whole without amendment; referred to style and drafting	863
	Mar. 5, reported by style and drafting (Report 28); placed on order of second reading	1430
	Apr. 30, read second time; passed; rereferred to style and drafting	2998
44.	A proposal pertaining to the schedule. Amends sections 1 and 8 of the schedule and adds 2 sections.	
	For text as offered and reasons	846
	As referred to style and drafting	866
	As reported by style and drafting	3027
	As rereferred to style and drafting	3027
	Jan. 29, reported by miscellaneous provisions and schedule; referred to committee of the whole	699
	Feb. 7, read first time; considered, passed by committee of the whole	846-850
	Feb. 7, reported by committee of the whole without amendment; referred to style and drafting	863
	Feb. 7, reconsidered reference to committee on style and drafting; amended; referred to style and drafting	863-866
44: Cont'd.		
	Apr. 26, reported by style and drafting (Report 108); placed on order of second reading	2851
	May 1, read second time; passed; rereferred to style and drafting	3027-3028
45.	A proposal to guarantee the right of disposition to the owner of real property. Amends article II by adding a new section.	
	For text as offered and reasons	2272
	For minority report and reasons	2272
	As referred to style and drafting	2287
	Jan. 30, reported by declaration of rights, suffrage and elections; referred to committee of the whole	717
	Feb. 7, consideration passed for the day by committee of the whole	850
	Apr. 6, consideration passed for the day by committee of the whole	2212
	Apr. 10, read first time; considered, amended, passed by committee of the whole	2272-2282, 2283-2287
	Apr. 10, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting (Note: The entire content stricken.)	2287
46.	A proposal pertaining to the executive budget and item veto. Amends article VI.	
	For text as offered and reasons	1635
	For minority report and reasons	1636
	As referred to style and drafting	1680
	As reported by style and drafting	2767
	As rereferred to style and drafting	2767
	Jan. 31, reported by executive branch; referred to committee of the whole	723
	Feb. 7, consideration postponed to Feb. 13 by committee of the whole	852
	Mar. 14, read first time; sections a, b, c, d considered; sections a, b, c passed by committee of the whole	1635-1662
	Mar. 15, section d considered, amended, passed; committee proposal as amended considered, passed by committee of the whole	1666-1672
	Mar. 15, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting	1676-1680
	Apr. 19, reported by style and drafting (Report 71); placed on order of second reading	2619
	Apr. 24, read second time; passed; rereferred to style and drafting	2767-2769
47.	A proposal to replace sections 2 and 6 of article XI.	
	For text as offered and reasons	1188
	For minority report and reasons	1189
	As referred to style and drafting	1232
	As reported by style and drafting	2573
	As rereferred to style and drafting	2580
	Jan. 31, reported by education; referred to committee of the whole	723
	Feb. 7, consideration passed for the day by committee of the whole	852
	Feb. 20, read first time; section a considered by committee of the whole	1188-1199
	Feb. 21, sections a, b considered; section a amended, passed; section b passed; committee proposal as amended considered, section a amended, passed by committee of the whole	1206-1230
	Feb. 21, reported by committee of the whole with 3 amendments; amendments concurred in; referred to style and drafting	1230-1232
	Mar. 27, reported by style and drafting (Report 50); placed on order of second reading	1891
	Apr. 18, read second time; amended, passed; rereferred to style and drafting	2573-2580
48.	A provision pertaining to ineligibility to hold office. A substitute for article VI, sections 14 and 15.	
	For text as offered and reasons	1724
	As referred to style and drafting	1987
	Jan. 31, reported by executive branch; referred to committee of the whole	723
	Mar. 19, read first time; considered, postponed by committee of the whole	1724-1730

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48: Cont'd.
Mar. 29, considered, amended, passed by committee of the whole 1973-1976
Mar. 29, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 1987
(Note: The entire content stricken.)

49. A proposal with reference to the borrowing of money by public corporations and bodies. Amends article VIII by adding a section.
For text as offered and reasons 852
As referred to style and drafting 852
As reported by style and drafting 2659
As rereferred to style and drafting 2659
Jan. 31, reported by finance and taxation; referred to committee of the whole 723
Feb. 7, read first time; considered, passed by committee of the whole 852
Feb. 7, reported by committee of the whole without amendment; referred to style and drafting 863
Apr. 13, reported by style and drafting (Report 64); placed on order of second reading 2406
Apr. 19, read second time; passed; rereferred to style and drafting 2659

50. A proposal to require the legislature to provide sufficient taxes to meet the state's expenses covering the substance of section 2, article X of the 1908 constitution.
For text as offered and reasons 853
As referred to style and drafting 853
As reported by style and drafting 2660
As rereferred to style and drafting 2660
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 7, read first time; considered, passed by committee of the whole 853
Feb. 7, reported by committee of the whole without amendment; referred to style and drafting 863
Mar. 5, reported by style and drafting (Report 29); placed on order of second reading 1430
Apr. 19, read second time; passed; rereferred to style and drafting 2660

51. A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution.
For text as offered and reasons 853
For minority reports and reasons 854
As referred to style and drafting 909
As reported by style and drafting 2641
As rereferred to style and drafting 2657
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 7, read first time; considered, amended by committee of the whole 853-863, 866-881
Feb. 8, considered, passed by committee of the whole 882-906
Feb. 8, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting 906-909
Apr. 13, reported by style and drafting (Report 65); placed on order of second reading 2406
Apr. 19, read second time; amended, passed; rereferred to style and drafting 2641-2657

52. A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution.
For text as offered and reasons 910
As referred to style and drafting 920
As reported by style and drafting 2660
As rereferred to style and drafting 2690
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 8, read first time; considered, amended, passed by committee of the whole 910-911
Feb. 8, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 920

52: Cont'd.
Apr. 13, reported by style and drafting (Report 66); placed on order of second reading 2406
Apr. 19, read second time; amended, not passed 2660-2666
Apr. 23, vote on passage reconsidered; passed as amended; rereferred to style and drafting 2686-2690

53. A proposal to require that every tax law shall distinctly describe the tax, covering article X, section 6 of the present constitution.
For text as offered and reasons 911
As referred to style and drafting 911
As reported by style and drafting 2666
As rereferred to style and drafting 2666
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 8, read first time; considered, passed by committee of the whole 911-912
Feb. 8, reported by committee of the whole without amendment; referred to style and drafting 920
Mar. 12, reported by style and drafting (Report 33); placed on order of second reading 1568
Apr. 19, read second time; passed; rereferred to style and drafting 2666-2667

54. A proposal that the power of taxation shall never be surrendered, suspended, or contracted away, covering the material in article X, section 9 of the present constitution.
For text as offered and reasons 912
As referred to style and drafting 912
As reported by style and drafting 2667
As rereferred to style and drafting 2667
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 8, read first time; considered, passed by committee of the whole 912
Feb. 8, reported by committee of the whole without amendment; referred to style and drafting 920
Mar. 12, reported by style and drafting (Report 34); placed on order of second reading 1568
Apr. 19, read second time; passed; rereferred to style and drafting 2667-2668

55. A proposal to include article X, section 19 of the 1908 constitution in the new constitution.
For text as offered and reasons 912
As referred to style and drafting 912
As reported by style and drafting 2668
As rereferred to style and drafting 2668
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 8, read first time; considered, passed by committee of the whole 912
Feb. 8, reported by committee of the whole without amendment; referred to style and drafting 920
Apr. 13, reported by style and drafting (Report 67); placed on order of second reading 2406
Apr. 19, read second time; passed; rereferred to style and drafting 2668

56. A proposal to limit the ad valorem taxation of property covering the subject matter of section 21, article X of the 1908 constitution, commonly known as the 15 mill limitation.
For text as offered and reasons 913
As referred to style and drafting 939
As reported by style and drafting 2627
As rereferred to style and drafting 2631
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 8, read first time; considered, substituted by committee of the whole 913-920
Feb. 9, substitute considered, amended, passed by committee of the whole 921-928
Feb. 9, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 938-939
Apr. 13, reported by style and drafting (Report 68); placed on order of second reading 2406
Apr. 19, read second time; substituted, passed; rereferred to style and drafting 2627-2631

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57. A proposal to require a public hearing on all budgets of local units of government before the budgets are approved. Amends article X by adding a section.
    - For text as offered and reasons 928
    - As referred to style and drafting 928
    - As reported by style and drafting 2668
    - As rereferred to style and drafting 2668

Jan. 31, reported by finance and taxation; referred to committee of the whole 724

Feb. 9, read first time; considered, passed by committee of the whole 928-929

Feb. 9, reported by committee of the whole without amendment; referred to style and drafting 938

Mar. 5, reported by style and drafting (Report 30); placed on order of second reading 1430

Apr. 19, read second time; passed; rereferred to style and drafting 2668-2669

58. A proposal pertaining to the elective franchise. A substitute for article III amending sections 4, 8, 9 and substituting new language for the other sections thereof.
    - For text as offered and reasons 2213
    - For minority reports and reasons 2215
    - As referred to style and drafting 2282
    - As reported by style and drafting 2892
    - As rereferred to style and drafting 2899

Jan. 31, reported by declaration of rights, suffrage and elections; referred to committee of the whole 724

Apr. 6, read first time; sections a, b, c considered; sections a, c amended, passed; section b passed by committee of the whole 2213-2229

Apr. 9, sections d, e, f considered; sections d, e amended, passed by committee of the whole 2232-2253

Apr. 10, sections f, g, h considered, amended, passed; committee proposal as amended considered, passed by committee of the whole 2254-2271

Apr. 10, reported by committee of the whole with 7 amendments; referred, as amended, to style and drafting 2282

Apr. 23, reported by style and drafting (Report 83); placed on order of second reading 2670

Apr. 26, read second time; amended, passed; rereferred to style and drafting 2892-2899

Apr. 27, motion to reconsider vote on passage defeated 2916-2917

59. A proposal pertaining to vacancies in the office of governor. Amends article VI, section 16.
    - For text as offered and reasons 1954
    - As referred to style and drafting 1966
    - As reported by style and drafting 2764
    - As rereferred to style and drafting 2764

Feb. 1, reported by executive branch; referred to committee of the whole 737

Mar. 29, read first time; considered, amended, passed by committee of the whole 1954-1963

Mar. 29, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 1965-1966

Apr. 19, reported by style and drafting (Report 72) as Substitute for Committee Proposals 59 and 60; placed on order of second reading 2619

Apr. 24, read second time; passed; rereferred to style and drafting 2764-2766

60. A proposal pertaining to succession to the governorship. Amends article VI, section 17.
    - For text as offered and reasons 1963
    - As referred to style and drafting 1987
    - As reported by style and drafting 2764
    - As rereferred to style and drafting 2764

Feb. 1, reported by executive branch; referred to committee of the whole 737

Mar. 29, read first time; considered, amended, passed by committee of the whole. 1963-1965, 1968-1969

Mar. 29, reported by committee of the whole with 3 amendments; amendments concurred in; referred to style and drafting 1987

Apr. 19, reported by style and drafting (Report 72) as Substitute for Committee Proposals 59 and 60; placed on order of second reading 2619

Apr. 24, read second time; passed; rereferred to style and drafting 2764-2766

61. A proposal pertaining to terms of public officers. Retains section 1, article XVI.
    - For text as offered and reasons 2492
    - As referred to style and drafting 2504
    - As reported by style and drafting 2998
    - As rereferred to style and drafting 2998

Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole ... 737

Apr. 16, read first time; considered, amended, passed by committee of the whole 2492-2493

Apr. 16, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2504

Apr. 26, reported by style and drafting (Report 109); placed on order of second reading 2851

Apr. 30, read second time; passed; rereferred to style and drafting 2998-2999

62. A proposal pertaining to grants of extra compensation. Amends the first sentence of section 3, article XVI.
    - For text as offered and reasons 2493
    - As referred to style and drafting 2493
    - As reported by style and drafting 2999
    - As rereferred to style and drafting 2999

Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 737

Apr. 16, read first time; considered, passed by committee of the whole 2493

Apr. 16, reported by committee of the whole without amendment; referred to style and drafting 2503

Apr. 26, reported by style and drafting (Report 110); placed on order of second reading 2852

Apr. 30, read second time; passed; rereferred to style and drafting 2999

63. A proposal pertaining to estates of married women. Retain section 8, article XVI.
    - For text as offered and reasons 2437
    - As referred to style and drafting 2448
    - As reported by style and drafting 3001
    - As rereferred to style and drafting 3003

Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 737

Apr. 13, read first time; considered, amended, passed by committee of the whole 2437-2447

Apr. 13, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2448

Apr. 26, reported by style and drafting (Report 111); placed on order of second reading 2852

May 1, read second time; amended, passed; rereferred to style and drafting 3001-3003

64. A proposal to amend article XVII, section 1 of the present constitution pertaining to amendment to the constitution; proposal by legislature and submission to electors.
    - For text as offered and reasons 2452
    - For minority report and reasons 2453
    - As referred to style and drafting 2472
    - As reported by style and drafting 3003
    - As rereferred to style and drafting 3004

Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 737

Apr. 16, read first time; considered, amended, passed by committee of the whole 2452-2458

Apr. 16, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2472

Apr. 26, reported by style and drafting (Report 112); placed on order of second reading 2852

May 1, read second time; amended, passed; rereferred to style and drafting 3003-3004

65. A proposal to amend article XVII, sections 2 and 3, pertaining to amendment and revision of the constitution.
    - For text as offered and reasons 2458
    - As referred to style and drafting 2458
    - As reported by style and drafting 3004
    - As rereferred to style and drafting 3004

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65: Cont'd.
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 16, read first time; considered, passed by committee of the whole 2458-2472
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting 2472
Apr. 26, reported by style and drafting (Report 113); placed on order of second reading 2852
May 1, read second time; passed; rereferred to style and drafting 3004-3006

66. A proposal relative to amendment and revision. Amends section 4 of article XVII.
For text as offered and reasons 2472
As referred to style and drafting 2472
As reported by style and drafting 3006
As rereferred to style and drafting 3013
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 16, read first time; considered, passed by committee of the whole 2472-2490
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting 2503
Apr. 20, reported by style and drafting (Report 114); placed on order of second reading 2852
May 1, read second time; amended, passed; rereferred to style and drafting 3006-3013

67. A proposal to amend article XIII, sections 1, 2, 3, 4 and 5, pertaining to eminent domain, of the present constitution.
For text as offered and reasons 2580
As referred to style and drafting 2848
As reported by style and drafting 3035
As rereferred to style and drafting 3035
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 756
Apr. 18, read first time; considered, amended by committee of the whole 2580-2597, 2598-2602
Apr. 25, considered, amended, passed by committee of the whole 2829-2848
Apr. 25, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2848
Apr. 26, reported by style and drafting (Report 121); placed on order of second reading 2870
Apr. 30, consideration postponed 2997
May 1, read second time; passed; rereferred to style and drafting 3035-3042

68. A proposal pertaining to the schedule. Amends sections 10, 6 and 11 of the schedule.
For text as offered and reasons 2490
As referred to style and drafting 2490
As reported by style and drafting 3031
As rereferred to style and drafting 3035
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 16, read first time; considered, passed by committee of the whole 2490-2492
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting 2503
Apr. 26, reported by style and drafting (Report 115); placed on order of second reading 2852
May 1, read second time; amended, passed; rereferred to style and drafting 3031-3035

69. A proposal pertaining to the boundaries of the state of Michigan. Substitute for article I, section 1.
For text as offered and reasons 2427
For minority report and reasons 2428
As referred to style and drafting 2448
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 13, read first time; considered, amended, passed by committee of the whole 2427-2437
Apr. 13, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2448
(Note: The entire content stricken.)

70. A proposal to revise provisions of section 36 of article V regarding the veto power of the governor.
For text as offered and reasons 1717
For minority report and reasons 1718
As referred to style and drafting 1717
As reported by style and drafting 2769
As rereferred to style and drafting 2769
Feb. 1, reported by legislative powers and executive branch; referred to committee of the whole 738
Mar. 19, read first time; considered, passed by committee of the whole 1717-1720
Mar. 19, reported by committee of the whole without amendment; referred to style and drafting 1730
Apr. 19, reported by style and drafting (Report 73); placed on order of second reading 2619
Apr. 24, read second time; passed; rereferred to style and drafting 2769-2770

71. A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. Amends or replaces article VI, sections 1, 3, 10 and 19, and article IX, sections 5 and 7.
For text as offered and reasons 1766
For minority reports and reasons 1769
As referred to style and drafting 2211
As reported by style and drafting 2743
As rereferred to style and drafting 2743
Feb. 2, reported by executive branch; referred to committee of the whole 756
Mar. 20, read first time; section a considered by committee of the whole 1766-1784
Mar. 21, section a considered, amended by committee of the whole 1787-1814
Mar. 22, sections a, b considered; section a amended, passed by committee of the whole 1816-1844
Mar. 23, section b considered, amended by committee of the whole 1845-1865
Mar. 26, section b considered, amended by committee of the whole 1867-1874, 1875-1889
Mar. 27, sections b, c, d, e, f, g considered; section h offered, adopted; sections b, d, f, g amended, passed; sections c, e passed by committee of the whole 1892-1920
Mar. 28, section i offered, amended by committee of the whole 1921-1950
Mar. 29, consideration postponed by committee of of the whole 1954
Mar. 29, section i considered, amended, adopted, amended, passed; committee proposal as amended considered by committee of the whole 1976-1986, 1988-2006
Mar. 30, considered, passed by committee of the whole 2008
Mar. 30, reported by committee of the whole with 11 amendments; consideration of report postponed to Apr. 3 2009-2013
Apr. 3, report of committee of the whole postponed 2075-2076
Apr. 5, report of committee of the whole considered; amendments 1 through 10 concurred in; amendment 11 (section i) considered 2179-2190
Apr. 6, amendment 11 (section i) considered, substituted, concurred in; amended; referred to style and drafting 2192-2212
Apr. 19, reported by style and drafting (Report 72); placed on order of second reading 2620
Apr. 24, consideration postponed 2737
Apr. 24, read second time; rules suspended, section i made Committee Proposal 71A (see history immediately below); passed; rereferred to style and drafting 2743-2755

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71A. A proposal to provide for a civil rights commission. [For creation of Committee Proposal 71A, see page 2746.]
  For text as offered (as section 1 of Committee Proposal 71) 1921
  As referred to style and drafting (as section 1 of Committee Proposal 71) 2212
  As reported by style and drafting (as section 1 of Committee Proposal 71) 2744
  As rereferred to style and drafting (as Committee Proposal 71A) 2755
 Mar. 28, offered by executive branch (as section 1 of Committee Proposal 71), amended by committee of the whole 1921-1951
 Mar. 29, consideration postponed by committee of the whole 1954
 Mar. 29, considered, amended, adopted, amended, passed; committee proposal as amended considered by committee of the whole 1976-1986, 1988-2006
 Mar. 30, committee proposal as amended considered, passed by committee of the whole 2008
 Mar. 30, reported by committee of the whole as an amendment; consideration postponed to Apr. 3 2009-2013
 Apr. 3, report of committee of the whole postponed 2075-2076
 Apr. 5, considered (as amendment 11 of report of committee of the whole) 2182-2190
 Apr. 6, considered (as amendment 11 of report of committee of the whole); substituted; amended; referred to style and drafting 2192-2212
 Apr. 19, reported by style and drafting (Report 72); placed on order of second reading 2620
 Apr. 24, consideration postponed 2737
 Apr. 24, read second time; passed; rereferred to style and drafting 2755-2764

72. A proposal to provide for compensation of acting governor. Retains section 18 of article VI.
  For text as offered and reasons 1721
  As referred to style and drafting 1987
  As reported by style and drafting 2766
  As rereferred to style and drafting 2766
 Feb. 1, reported by executive branch; referred to committee of the whole 738
 Mar. 19, read first time; considered, postponed by committee of the whole 1721-1724
 Mar. 29, considered, amended, passed by committee of the whole 1969-1973
 Mar. 29, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 1987
 Apr. 19, reported by style and drafting (Report 75); placed on order of second reading 2620
 Apr. 24, read second time; passed; rereferred to style and drafting 2766

73. Lieutenant governor as president of the senate. Article VI, section 19.
 Feb. 2, reported and withdrawn by executive branch 756

74. A proposal to provide by law for the administration of claims against the state, escheats and escheated property, and the investment of state funds. Revises article VI, section 20.
  For text as offered and reasons 1731
  As referred to style and drafting 1747
  As reported by style and drafting 2770
  As rereferred to style and drafting 2770
 Feb. 1, reported by executive branch; referred to committee of the whole 738
 Mar. 19, read first time; considered, amended, passed by committee of the whole 1731-1738
 Mar. 19, reported by committee of the whole with 3 amendments; amendments concurred in; referred to style and drafting 1747
 Apr. 19, reported by style and drafting (Report 76); placed on order of second reading 2620
 Apr. 24, read second time; passed; rereferred to style and drafting 2770

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75. A proposal to provide for compensation of state officers. Amends article VI, section 21.
  For text as offered and reasons 1720
  As referred to style and drafting 1720
  As reported by style and drafting 2766
  As rereferred to style and drafting 2766
 Feb. 1, reported by executive branch; referred to committee of the whole 738
 Mar. 19, read first time; considered, passed by committee of the whole 1720-1721
 Mar. 19, reported by committee of the whole without amendment; referred to style and drafting 1730
 Apr. 19, reported by style and drafting (Report 77); placed on order of second reading 2620
 Apr. 24, read second time; passed; rereferred to style and drafting 2766-2767

76. A proposal pertaining to the passage of permissive legislation to allow civil divisions of the state to establish local civil service systems and to receive assistance from the state civil service system. Amends article VI.
  For text as offered and reasons 1743
  As referred to style and drafting 1784
  As reported by style and drafting 2796
  As rereferred to style and drafting 2798
 Feb. 1, reported by executive branch; referred to committee of the whole 738
 Mar. 19, read first time; considered by committee of the whole 1743-1747
 Mar. 20, considered, amended, passed by committee of the whole 1749-1760, 1762-1766
 Mar. 20, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 1784
 Apr. 19, reported by style and drafting (Report 78); placed on order of second reading 2620
 Apr. 25, read second time; amended, passed; rereferred to style and drafting 2796-2798

77. A proposal to provide a suitable residence for the governor and to authorize an allowance for maintenance. Amends article VI.
  For text as offered and reasons 1738
  As referred to style and drafting 1747
  As reported by style and drafting 2778
  As rereferred to style and drafting 2778
 Feb. 2, reported by executive branch; referred to committee of the whole 756
 Mar. 19, read first time; considered, amended, passed by committee of the whole 1738-1743
 Mar. 19, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting 1747
 Apr. 19, reported by style and drafting (Report 79); placed on order of second reading 2620
 Apr. 24, read second time; passed; rereferred to style and drafting 2778

78. A proposal to provide for the office of legislative auditor general. Adds a new section to article V.
  For text as offered and reasons 1672
  For minority reports and reasons 1673
  As referred to style and drafting 1715
  As reported by style and drafting 2770
  As rereferred to style and drafting 2778
 Feb. 1, reported by legislative powers and executive branch; referred to committee of the whole 738
 Mar. 15, read first time; substitute offered, adopted, amended by committee of the whole 1672-1676 1680-1696
 Mar. 16, substitute considered, amended, passed by committee of the whole 1705-1715
 Mar. 16, reported by committee of the whole with 1 substitute; substitute concurred in; referred to style and drafting 1715
 Apr. 19, reported by style and drafting (Report 80); placed on order of second reading 2620
 Apr. 24, read second time; amended, passed; rereferred to style and drafting 2770-2778

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79. A proposal pertaining to a commission on legislative apportionment. Replaces article V, section 4.
- For text as offered and reasons ... 2014
- As referred to style and drafting ... 2029
- As reported by style and drafting ... 2799
- As rereferred to style and drafting ... 2799

Feb. 2, reported by legislative organization; referred to committee of the whole ... 756
Feb. 9, made a special order on general orders for Feb. 14 ... 939-940
Feb. 13, returned to regular order on general orders 1026
Mar. 30, read first time; considered, amended, passed by committee of the whole ... 2014-2029
Mar. 30, reported by committee of the whole with 6 amendments; amendments concurred in; referred to style and drafting ... 2029
Apr. 23, reported by style and drafting (Report 81); placed on order of second reading ... 2670
Apr. 25, read second time; passed; rereferred to style and drafting ... 2799-2803

80. A proposal pertaining to the reapportionment of the legislature: (a) the senate; (b) the house of representatives; (c) districting of territories annexed to cities and municipalities. Replaces article V, sections 2 and 3.
- For text as offered and reasons ... 2034
- For minority report and reasons ... 2036
- As referred to style and drafting ... 2178
- As reported by style and drafting ... 2805
- As rereferred to style and drafting ... 2821

Feb. 2, reported by legislative organization; referred to committee of the whole ... 756
Feb. 9, made a special order on general orders for Feb. 14 ... 939-940
Feb. 13, returned to regular order on general orders 1026
Apr. 2, read first time; section a considered by committee of the whole ... 2034-2059
Apr. 3, section a considered, amended by committee of the whole ... 2062-2074, 2076-2096
Apr. 4, sections a, b, c considered; section a amended, sections b, c passed by committee of the whole ... 2098-2153
Apr. 5, section a considered, amended, passed; committee proposal as amended considered, passed by committee of the whole ... 2154-2177
Apr. 5, reported by committee of the whole with 7 amendments; referred, as amended, to style and drafting ... 2178
Apr. 23, reported by style and drafting (Report 82); placed on order of second reading ... 2670
Apr. 25, motion to postpone until Aug. 1 defeated 2803-2805
Apr. 25, read second time; amended, passed; rereferred to style and drafting ... 2805-2822

81. A proposal pertaining to county government. Amends article VIII, sections 1, 2, 3, 4, 5, 7, 8, 9, 12, 13, 14 and 15.
- For text as offered and reasons ... 929
- For minority reports and reasons ... 930
- As referred to style and drafting ... 985
- As reported by style and drafting ... 2505
- As rereferred to style and drafting ... 2512

Feb. 1, reported by local government; referred to committee of the whole ... 738
Feb. 9, read first time; sections a, b, c, d, e, f considered, passed by committee of the whole ... 929-938, 940-952
Feb. 12, sections g, h, i, j, k, l, m considered; sections g, h, i, j, k, l passed; section m amended, passed; committee proposal as amended considered, passed by committee of the whole ... 957-980
Feb. 12, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting ... 982-985
Mar. 27, reported by style and drafting (Report 39); placed on order of second reading ... 1890
Apr. 17, read second time; amended, passed; rereferred to style and drafting ... 2505-2513

82. A proposal pertaining to townships. Amends article VIII, sections 16, 17, 18 and 19.
- For text as offered and reasons ... 980
- For minority report and reasons ... 981
- As referred to style and drafting ... 1024
- As reported by style and drafting ... 2513
- As rereferred to style and drafting ... 2513

Feb. 1, reported by local government; referred to committee of the whole ... 738
Feb. 12, read first time; section a considered, passed by committee of the whole ... 980-982
Feb. 13, sections b, c, d, e considered; sections b, d amended, passed; sections c, e passed; committee proposal as amended considered, passed by committee of the whole ... 988-1005
Feb. 13, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting ... 1023-1024
Mar. 27, reported by style and drafting (Report 40); placed on order of second reading ... 1890
Apr. 17, read second time; passed; rereferred to style and drafting ... 2513-2516

83. A proposal pertaining to cities and villages. Amends article VIII, sections 20, 21, 22, 23 and 25.
- For text as offered and reasons ... 1005
- For minority reports and reasons ... 1007
- As referred to style and drafting ... 1070
- As reported by style and drafting ... 2516
- As rereferred to style and drafting ... 2536

Feb. 1, reported by local government; referred to committee of the whole ... 738
Feb. 13, read first time; sections a, b considered; section a amended, passed; section b amended by committee of the whole ... 1005-1023
Feb. 14, sections b, c, d, e, f considered; sections b, d, f amended, passed; sections c, e passed; committee proposal as amended considered, passed by committee of the whole ... 1029-1048
Feb. 14, reported by committee of the whole with 6 amendments ... 1065-1066
Feb. 15, report considered; amendments concurred in; referred to style and drafting ... 1068-1070
Mar. 27, reported by style and drafting (Report 41); placed on order of second reading ... 1890
Apr. 17, read second time; amended, passed; rereferred to style and drafting ... 2516-2536

84. A proposal to provide for liberal construction of provisions concerning municipal corporations. Amends article VIII.
- For text as offered and reasons ... 1048
- As referred to style and drafting ... 1048
- As reported by style and drafting ... 2536
- As rereferred to style and drafting ... 2536

Feb. 1, reported by local government; referred to committee of the whole ... 738
Feb. 14, read first time; considered, passed by committee of the whole ... 1048-1055
Feb. 14, reported by committee of the whole without amendment; referred to style and drafting ... 1065
Mar. 27, reported by style and drafting (Report 42); placed on order of second reading ... 1890
Apr. 17, read second time; passed; rereferred to style and drafting ... 2536-2538

85. A proposal to provide that public utilities may use public property with consent of local authorities and a limitation on the length of franchise. Amends article VIII, sections 28 and 29.
- For text as offered and reasons ... 1055
- As referred to style and drafting ... 1107
- As reported by style and drafting ... 2538
- As rereferred to style and drafting ... 2538

Feb. 1, reported by local government; referred to committee of the whole ... 739
Feb. 14, read first time; sections a, b considered; section a amended, passed; section b passed; committee proposal as amended considered; passed until 2:00 p.m., Feb. 15, by committee of the whole ... 1055-1057

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85: Cont'd.		
	Feb. 15, considered, amended, passed by committee of the whole	1090-1091
	Feb. 16, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting	1107
	Mar. 27, reported by style and drafting (Report 43); placed on order of second reading	1890
	Apr. 17, read second time; passed; rereferred to style and drafting	2538-2540
86.	A proposal pertaining to highways and their maintenance. Amends article VIII, sections 26 and 27.	
	For text as offered and reasons	1057
	As referred to style and drafting	1057
	As reported by style and drafting	2540
	As rereferred to style and drafting	2540
	Feb. 2, reported by local government; referred to committee of the whole	756
	Feb. 14, read first time; considered, passed by committee of the whole	1057-1059
	Feb. 14, reported by committee of the whole without amendment; referred to style and drafting	1065
	Mar. 27, reported by style and drafting (Report 44); placed on order of second reading	1890
	Apr. 17, read second time; amended, passed; rereferred to style and drafting	2540
87.	A proposal relating to ports and port districts. Retains section 30 of article VIII unchanged.	
	For text as offered and reasons	1059
	As referred to style and drafting	1059
	As reported by style and drafting	2540
	As rereferred to style and drafting	2540
	Feb. 2, reported by local government; referred to committee of the whole	756
	Feb. 14, read first time; considered, passed by committee of the whole	1059
	Feb. 14, reported by committee of the whole without amendment; referred to style and drafting	1065
	Mar. 27, reported by style and drafting (Report 45); placed on order of second reading	1890
	Apr. 17, read second time; passed; rereferred to style and drafting	2540-2541
88.	A proposal pertaining to metropolitan areas. Amends article VIII.	
	For text as offered and reasons	1059
	As referred to style and drafting	1107
	As reported by style and drafting	2541
	As rereferred to style and drafting	2545
	Feb. 2, reported by local government; referred to committee of the whole	756
	Feb. 14, read first time; sections a, b considered; section a passed by committee of the whole	1059-1064
	Feb. 15, section b considered, amended, passed; committee proposal as amended considered, passed by committee of the whole	1071-1090
	Feb. 15, reported by committee of the whole with 1 amendment; amendment concurred in	1105
	Feb. 16, considered; referred to style and drafting	1107
	Mar. 27, reported by style and drafting (Report 46); placed on order of second reading	1890
	Apr. 17, read second time; amended, passed; rereferred to style and drafting	2541-2546
89.	A proposal pertaining to county home rule. Amends article VIII.	
	For text as offered and reasons	1091
	For minority report and reasons	1092
	As referred to style and drafting	1133
	As reported by style and drafting	2546
	As rereferred to style and drafting	2551
	Feb. 2, reported by local government; referred to committee of the whole	756
	Feb. 15, read first time; section a considered, amended by committee of the whole	1091-1105
	Feb. 16, section b considered, amended; committee proposal as amended considered, passed by committee of the whole	1107-1108
	Feb. 16, reported by committee of the whole with 2 amendments; amendments concurred in; amended; referred to style and drafting	1111-1133
89: Cont'd.		
	Mar. 27, reported by style and drafting (Report 47); placed on order of second reading	1891
	Apr. 17, read second time; amended, passed; rereferred to style and drafting	2546-2551
90.	A proposal pertaining to the judicial branch. A substitute for section 1 of article VII.	
	For text as offered and reasons	1240
	For minority report and reasons	1241
	As referred to style and drafting	1240
	As reported by style and drafting	2672
	As rereferred to style and drafting	2672
	Feb. 2, reported by judicial branch; referred to committee of the whole	757
	Feb. 22, read first time; considered, passed by committee of the whole	1240-1256
	Feb. 22, reported by committee of the whole without amendment; referred to style and drafting	1260-1261
	Apr. 6, reported by style and drafting (Report 52); placed on order of second reading	2191
	Apr. 23, read second time; passed; rereferred to style and drafting	2672-2673
91.	A proposal pertaining to the supreme court. A substitute for sections 2, 4, 5, 6 and 7 of article VII.	
	For text as offered and reasons	1256
	For minority reports and reasons	1259
	As referred to style and drafting	1620
	As reported by style and drafting	2722
	As rereferred to style and drafting	2736
	Feb. 2, reported by judicial branch; referred to committee of the whole	757
	Feb. 22, read first time; sections a, b considered; section a postponed by committee of the whole	1256-1260
	Feb. 23, sections b, c considered, amended, passed by committee of the whole	1262-1274, 1275-1287
	Feb. 26, sections d, e, f considered; section d passed; sections e, f amended, passed by committee of the whole	1289-1312
	Feb. 27, section g considered, amended by committee of the whole	1313-1342
	Feb. 28, section a considered; consideration postponed by committee of the whole	1343-1355
	Mar. 9, section a considered by committee of the whole	1564-1566
	Mar. 12, section a considered by committee of the whole	1569-1595
	Mar. 13, sections a, g considered, amended, passed; committee proposal as amended considered, passed by committee of the whole	1596-1604
	Mar. 13, reported by committee of the whole with 8 amendments; amendments concurred in; referred to style and drafting	1617-1620
	Apr. 6, reported by style and drafting (Report 53); placed on order of second reading	2191
	Apr. 24, read second time; amended, passed; rereferred to style and drafting	2722-2737
92.	A proposal pertaining to a court of appeals. Amends article VII.	
	For text as offered and reasons	1604
	As referred to style and drafting	1616
	As reported by style and drafting	2673
	As rereferred to style and drafting	2673
	Feb. 2, reported by judicial branch; referred to committee of the whole	757
	Feb. 28, consideration postponed by committee of the whole	1355
	Mar. 13, read first time; considered, passed by committee of the whole	1604-1609
	Mar. 13, reported by committee of the whole without amendment; amended; referred to style and drafting	1611-1617
	Apr. 6, reported by style and drafting (Report 54); placed on order of second reading	2191
	Apr. 23, read second time; passed; rereferred to style and drafting	2673-2675

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93. A proposal pertaining to the circuit court. A substitute for sections 8, 9, 10 and 11 of article VII.
- For text as offered and reasons 1355
- For minority reports and reasons 1356
- As referred to style and drafting 1393
- As reported by style and drafting 2675
- As rereferred to style and drafting 2677

Feb. 2, reported by judicial branch; referred to committee of the whole 757
Feb. 28, read first time; sections a, b, c, d considered; sections a, b, d amended, passed; section c amended, postponed by committee of the whole .1355-1372
Mar. 1, section c considered, amended, passed; committee proposal as amended considered, amended, passed by committee of the whole 1374-1380
Mar. 1, reported by committee of the whole with 6 amendments; 4 amendments concurred in; referred to style and drafting 1387-1393
Apr. 6, reported by style and drafting (Report 55); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2675-2677

94. A proposal pertaining to the probate court. A substitute for sections 13 and 14 of article VII.
- For text as offered and reasons 1380
- For minority report and reasons 1381
- As referred to style and drafting 1463
- As reported by style and drafting 2677
- As rereferred to style and drafting 2686

Feb. 2, reported by judicial branch; referred to committee of the whole 757
Mar. 1, read first time; section a considered by committee of the whole 1380-1387, 1393-1404
Mar. 2, section a considered, amended by committee of the whole 1405-1428
Mar. 5, section a, b considered, passed; committee proposal as amended considered, passed by committee of the whole 1431-1440
Mar. 5, reported by committee of the whole with 3 amendments; consideration postponed until Mar. 6 1452
Mar. 6, report of committee of the whole considered; 1 amendment concurred in; amended; referred to style and drafting 1453-1463
Apr. 6, reported by style and drafting (Report 56); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2677-2686

95. A proposal pertaining to appeals from administrative tribunals. Adds a new section to article VII.
- For text as offered and reasons 1440
- As referred to style and drafting 1487
- As reported by style and drafting 2712
- As rereferred to style and drafting 2720

Feb. 2, reported by judicial branch; referred to committee of the whole 757
Mar. 5, read first time; considered, amended by committee of the whole 1440-1452
Mar. 6, considered, passed by committe of the whole 1463-1478
Mar. 6, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting 1483-1487
Apr. 6, reported by style and drafting (Report 57); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2712-2720

96. A proposal pertaining to general and special provisions relative to the courts of the state. A substitute for sections 17, 19, 20 and 23 of article VII.
- For text as offered and reasons 1478
- For minority reports and reasons 1480
- For committee amendment and reasons 1554
- For minority report and reasons to committee amendment 1554
- As referred to style and drafting 1632
- As reported by style and drafting 2690
- As rereferred to style and drafting 2711

Feb. 2, reported by judicial branch; referred to committee of the whole 757

96: Cont'd.
Mar. 6, read first time; section a considered, amended by committee of the whole 1478-1483
Mar. 7, sections a, b, c, d considered; section a amended, passed; sections b, c, d passed by committee of the whole 1494-1517
Mar. 8, sections e, f, g, h, i, j, k considered; sections e, h, i, j passed; sections f, g, k amended, passed by committee of the whole 1519-1551
Mar. 9, sections l, m offered; section l postponed; section m amended, adopted by committee of the whole 1554-1564
Mar. 13, section l considered, adopted; committee proposal as amended considered, passed by committee of the whole 1609-1611, 1621
Mar. 13, reported by committee of the whole with 8 amendments; amendments concurred in; referred to style and drafting 1622-1632
Apr. 6, reported by style and drafting (Report 58); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2690-2712

97. A proposal to amend article XI by adding a new section pertaining to the arts and recreation.
- For text as offered and reasons 1233
- As referred to style and drafting 1240

Feb. 2, reported by education; referred to committee of the whole 757
Feb. 22, read first time; considered, amended, passed by committee of the whole 1233-1240
Feb. 22, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 1240
(Note: The entire content stricken.)

98. A proposal pertaining to the educational institutions of the state. Replaces sections 3, 4, 5, 7, 8, 10 and 16 of article XI.
- For text as offered and reasons 1135
- For minority report and reasons 1136
- As referred to style and drafting 1206
- As reported by style and drafting 2563
- As rereferred to style and drafting 2572

Feb. 2, reported by education; referred to committee of the whole 757
Feb. 16, read first time; sections a, b considered; section a passed; section b amended by committee of the whole 1135-1145
Feb. 19, sections b, c, d considered; section b amended, passed; section c passed by committee of the whole 1147-1155, 1170-1173
Feb. 20, section d considered, passed; committee proposal as amended considered; sections a, c, d amended; passed by committee of the whole .1175-1188
Feb. 20, reported by committee of the whole with 5 amendments; amendments concurred in; consideration postponed to Feb. 21 1199
Feb. 21, considered; referred to style and drafting 1202-1206
Mar. 27, reported by style and drafting (Report 51); placed on order of second reading 1891
Apr. 18, read second time; amended, passed; rereferred to style and drafting 2563-2572

99. A proposal to provide that the legislature may provide for a jury of less than 12 in civil cases. Amends article V, section 27.
- For text as offered and reasons 2288
- As referred to style and drafting 2288
- As reported by style and drafting 2961
- As rereferred to style and drafting 2961

Feb. 2, reported by legislative powers; referred to committee of the whole 757
Apr. 11, read first time; considered, passed by committee of the whole 2288-2290
Apr. 11, reported by committee of the whole without amendment; referred to style and drafting 2297
Apr. 23, reported by style and drafting (Report 84); placed on order of second reading 2670
Apr. 30, read second time; passed; rereferred to style and drafting 2961

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100.	A proposal to provide that the legislature shall not authorize lotteries or the sale of lottery tickets. Retains article V, section 33.	
	For text as offered and reasons	2290
	For minority report and reasons	2290
	As referred to style and drafting	2318
	As reported by style and drafting	2931
	As rereferred to style and drafting	2939
	Feb. 2, reported by legislative powers; referred to committee of the whole	757
	Apr. 11, read first time; considered, amended, passed by committee of the whole	2290-2309
	Apr. 11, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2318
	Apr. 11, motion to reconsider action on report of committee of the whole defeated	2333
	Apr. 23, reported by style and drafting (Report 85); placed on order of second reading	2670
	Apr. 27, read second time; amended, passed; rereferred to style and drafting	2931-2939
101.	A proposal to provide that the state shall not engage in internal improvements except in certain specified areas and except that the legislature may empower local subdivisions to act in the area of internal improvements. Amends article X, section 14.	
	For text as offered and reasons	2309
	For minority report and reasons	2310
	As referred to style and drafting	2332
	As reported by style and drafting	2972
	As rereferred to style and drafting	2972
	Feb. 2, reported by legislative powers; referred to committee of the whole	757
	Apr. 11, read first time; considered, amended, passed by committee of the whole	2309-2318, 2319-2332
	Apr. 11, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2332
	Apr. 23, reported by style and drafting (Report 86); placed on order of second reading	2670
	Apr. 30, read second time; passed; rereferred to style and drafting	2972-2973
102.	A proposal to provide that each house of the legislature may choose its officers, determine its rules, judge qualifications of its members and other matters. Amends article V, section 15.	
	For text as offered and reasons	2378
	For minority report and reasons	2378
	As referred to style and drafting	2404
	As reported by style and drafting	2951
	As rereferred to style and drafting	2951
	Feb. 2, reported by legislative powers; referred to committee of the whole	757
	Apr. 11, consideration postponed	2332
	Apr. 12, read first time; considered, amended, passed by committee of the whole	2378-2390
	Apr. 12, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2404
	Apr. 23, reported by style and drafting (Report 87); placed on order of second reading	2670
	Apr. 30, read second time; passed; rereferred to style and drafting	2951
103.	A proposal to provide that sessions of the legislature be open and that a concurrent resolution is necessary for adjournment for more than 3 days. Amends article V, section 18.	
	For text as offered and reasons	2333
	As referred to style and drafting	2333
	As reported by style and drafting	2953
	As rereferred to style and drafting	2953
	Feb. 2, reported by legislative powers; referred to committee of the whole	757
	Apr. 11, read first time; considered, passed by committee of the whole	2333-2334
	Apr. 11, reported by committee of the whole without amendment; referred to style and drafting	2351
	Apr. 23, reported by style and drafting (Report 88); placed on order of second reading	2670
103:	Cont'd.	
	Apr. 30, read second time; passed; rereferred to style and drafting	2953
104.	A proposal to provide for 3 readings of a bill before passage and for passage of bills by a majority of the members elected. Retains article V, section 23.	
	For text as offered and reasons	2334
	As referred to style and drafting	2351
	As reported by style and drafting	2958
	As rereferred to style and drafting	2958
	Feb. 2, reported by legislative powers; referred to committee of the whole	757
	Apr. 11, read first time; considered, amended, passed by committee of the whole	2334
	Apr. 11, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2351
	Apr. 23, reported by style and drafting (Report 89); placed on order of second reading	2670
	Apr. 30, read second time; passed; rereferred to style and drafting	2958
105.	A proposal to provide that bills must be printed 5 days prior to passage and for limitation of extraordinary sessions. Amends article V, section 22.	
	For text as offered and reasons	2334
	As referred to style and drafting	2334
	As reported by style and drafting	2957
	As rereferred to style and drafting	2957
	Feb. 2, reported by legislative powers; referred to committee of the whole	757
	Apr. 11, read first time; considered, passed by committee of the whole	2334-2335
	Apr. 11, reported by committee of the whole without amendment; referred to style and drafting	2351
	Apr. 23, reported by style and drafting (Report 90); placed on order of second reading	2670
	Apr. 30, read second time; passed; rereferred to style and drafting	2957-2958
106.	A proposal to allow the legislature to pass laws regarding indeterminate sentences. Retains article V, section 28.	
	For text as offered and reasons	2335
	As referred to style and drafting	2335
	As reported by syle and drafting	2961
	As rereferred to style and drafting	2961
	Feb. 2, reported by legislative powers; referred to committee of the whole	758
	Apr. 11, read first time; considered, passed by committee of the whole	2335
	Apr. 11, reported by committee of the whole without amendment; referred to style and drafting	2351
	Apr. 23, reported by style and drafting (Report 91); placed on order of second reading	2670
	Apr. 30, read second time; passed; rereferred to style and drafting	2961-2962
107.	A proposal to provide that legislators shall be elected on the first Tuesday after the first Monday in November. Amends article V, section 12.	
	For text as offered and reasons	2335
	As referred to style and drafting	2351
	Feb. 2, reported by legislative powers; referred to committee of the whole	758
	Apr. 11, read first time; considered, amended, passed by committee of the whole	2335-2336
	Apr. 11, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2351
	(Note: The entire content stricken.)	
108.	A proposal to provide a limitation against general revision of the laws and a method of compilation. Amends article V, section 40.	
	For text as offered and reasons	2336
	As referred to style and drafting	2336
	As reported by style and drafting	2965
	As rereferred to style and drafting	2965
	Feb. 2, reported by legislative powers; referred to committee of the whole	758
	Apr. 11, read first time; considered, passed by committee of the whole	2336-2337

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108: Cont'd.
Apr. 11, reported by committee of the whole without amendment; referred to style and drafting 2351
Apr. 23, reported by style and drafting (Report 92); placed on order of second reading 2671
Apr. 30, read second time; passed; rereferred to style and drafting 2965-2968

109. A proposal to provide that the legislature may enact laws whereby public employment disputes can be settled. Amends article XVI, section 7.
- For text as offered and reasons 2337
- As referred to style and drafting 2337
- As reported by style and drafting 2976
- As rereferred to style and drafting 2976

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 11, read first time; considered, passed by committee of the whole 2337-2341
Apr. 11, reported by committee of the whole without amendment; referred to style and drafting 2351
Apr. 23, reported by style and drafting (Report 93); placed on order of second reading 2671
Apr. 30, read second time; passed; rereferred to style and drafting 2976

110. A proposal to provide that the legislature may enact laws relative to hours and condition of employment. Retains article V, section 29.
- For text as offered and reasons 2341
- As referred to style and drafting 2341
- As reported by style and drafting 2962
- As rereferred to style and drafting 2962

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 11, read first time; considered, passed by committee of the whole 2341-2342
Apr. 11, reported by committee of the whole without amendment; referred to style and drafting 2351
Apr. 23, reported by style and drafting (Report 94); placed on order of second reading 2671
Apr. 30, read second time; passed; rereferred to style and drafting 2962-2963

111. A proposal pertaining to the employment of chaplains. Amends article V, section 26.
- For text as offered and reasons 2342
- As referred to style and drafting 2342
- As reported by style and drafting 2960
- As rereferred to style and drafting 2960

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 11, read first time; considered, passed by committee of the whole 2342-2345
Apr. 11, reported by committee of the whole without amendment; referred to style and drafting 2351
Apr. 23, reported by style and drafting (Report 95); placed on order of second reading 2671
Apr. 30, read second time; passed; rereferred to style and drafting 2960-2961

112. A proposal to provide that certain office holders shall be ineligible for the legislature. Amends article V, section 6.
- For text as offered and reasons 2345
- As referred to style and drafting 2345
- As reported by style and drafting 2929
- As rereferred to style and drafting 2929

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 11, read first time; considered by committee of the whole 2345-2351
Apr. 12, considered, passed by committee of the whole 2352-2358
Apr. 12, reported by committee of the whole without amendment; referred to style and drafting 2370
Apr. 23, reported by style and drafting (Report 96); placed on order of second reading 2671
Apr. 27, read second time; passed; rereferred to style and drafting 2929-2930

113. A proposal to provide that the legislature may submit bills to the people for referendum. Retains article V, section 38.
- For text as offered and reasons 2358
- For minority report and reasons 2392
- As referred to style and drafting 2358
- As reported by style and drafting 2964
- As rereferred to style and drafting 2964

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 12, read first time; considered, passed by committee of the whole 2358-2359
Apr. 12, reported by committee of the whole without amendment; referred to style and drafting 2370
Apr. 23, reported by style and drafting (Report 97); placed on order of second reading 2671
Apr. 30, read second time; passed; rereferred to style and drafting 2964-2965

114. A proposal to provide that each house of the legislature shall keep a journal and the yeas and nays be recorded on a demand of 1/5 of the members present. Amends article V, section 16.
- For text as offered and reasons 2359
- For minority report and reasons 2359
- As referred to style and drafting 2370
- As reported by style and drafting 2951
- As rereferred to style and drafting 2952

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 12, read first time; considered, amended, passed by committee of the whole 2359-2361
Apr. 12, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2370
Apr. 23, reported by style and drafting (Report 98); placed on order of second reading 2671
Apr. 30, read second time; amended, passed; rereferred to style and drafting 2951-2952

115. A proposal to provide that no member of the legislature or state officer shall have a substantial conflict of interest with the state. Amends article V, section 25.
- For text as offered and reasons 2361
- As referred to style and drafting 2403
- As reported by style and drafting 2959
- As rereferred to style and drafting 2959

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 12, read first time; considered by committee of the whole 2361-2370
Apr. 12, considered, amended, passed by committee of the whole 2371-2373
Apr. 12, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2403
Apr. 23, reported by style and drafting (Report 99); placed on order of second reading 2671
Apr. 30, read second time; passed; rereferred to style and drafting 2959-2960

116. A proposal to provide time and place of legislative sessions and that bills and resolutions pending at the end of a session shall be considered introduced at the next session. Amends article V, section 13.
- For text as offered and reasons 2373
- As referred to style and drafting 2404
- As reported by style and drafting 2950
- As rereferred to style and drafting 2950

Feb. 2, reported by legislative powers; referred to committee of the whole 758
Apr. 12, read first time; considered, amended, passed by committee of the whole 2373-2378
Apr. 12, reported by committee of the whole with 2 amendments; referred, as amended, to style and drafting 2403-2404
Apr. 23, reported by style and drafting (Report 100); placed on order of second reading 2671
Apr. 30, read second time; passed; rereferred to style and drafting 2950

Committee Proposal No.		Page
117.	A proposal to provide that votes on elections and nominations in the legislature be recorded. Amends article V, sec. 17.	
	For text as offered and reasons	2390
	As referred to style and drafting	2390
	As reported by style and drafting	2952
	As rereferred to style and drafting	2952
	Feb. 2, reported by legislative powers; referred to committee of the whole	758
	Apr. 12, read first time; considered, passed by committee of the whole	2390
	Apr. 12, reported by committee of the whole without amendment; referred to style and drafting	2403
	Apr. 23, reported by style and drafting (Report 101); placed on order of second reading	2671
	Apr. 30, read second time; passed; rereferred to style and drafting	2952-2953
118.	A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people. Amends article V, section 1.	
	For text as offered and reasons	2390
	For minority reports and reasons	2392
	As referred to style and drafting	2418
	As reported by style and drafting	2927
	As rereferred to style and drafting	2927
	Feb. 2, reported by legislative powers; referred to committee of the whole	758
	Apr. 12, read first time; considered, amended by committee of the whole	2390-2403
	Apr. 13, considered, passed by committee of the whole	2406-2414
	Apr. 13, reported by committee of the whole with 2 amendments; referred, as amended, to style and drafting	2418
	Apr. 25, reported by style and drafting (Report 102); placed on order of second reading	2779
	Apr. 27, read second time; passed; rereferred to style and drafting	2927-2928
119.	A proposal to provide that the legislature shall not pass local acts when general acts can be made applicable and that local acts require a 2/3 vote of the legislature. Amends article V, section 30.	
	For text as offered and reasons	2414
	As referred to style and drafting	2414
	As reported by style and drafting	2963
	As rereferred to style and drafting	2963
	Feb. 2, reported by legislative powers; referred to committee of the whole	758
	Apr. 13, read first time; considered, passed by committee of the whole	2414-2415
	Apr. 13, reported by committee of the whole without amendment; referred to style and drafting	2418
	Apr. 25, reported by style and drafting (Report 103); placed on order of second reading	2779
	Apr. 30, read second time; passed; rereferred to style and drafting	2963-2964
120.	A proposal to provide that a member of the legislature should not be appointed to certain other offices during the term for which he is elected. Amends article V, section 7.	
	For text as offered and reasons	2415
	As referred to style and drafting	2415
	As reported by style and drafting	2930
	As rereferred to style and drafting	2930
	Feb. 2, reported by legislative powers; referred to committee of the whole	759
	Apr. 13, read first time; considered, passed by committee of the whole	2415
	Apr. 13, reported by committee of the whole without amendment; referred to style and drafting	2418
	Apr. 25, reported by style and drafting (Report 104); placed on order of second reading	2779
	Apr. 27, read second time; passed; rereferred to style and drafting	2930
121.	A proposal to provide that no law shall embrace more than one object and that no act shall take effect until 90 days from the end of a session and other incidental matters. Amends article V, section 21.	
	For text as offered and reasons	2415
	As referred to style and drafting	2415
	As reported by style and drafting	2954
	As rereferred to style and drafting	2957
	Feb. 2, reported by legislative powers; referred to committee of the whole	759
	Apr. 13, read first time; considered, passed by committee of the whole	2415-2416
	Apr. 13, reported by committee of the whole without amendment; referred to style and drafting	2418
	Apr. 25, reported by style and drafting (Report 105); placed on order of second reading	2779
	Apr. 30, read second time; amended, passed; rereferred to style and drafting	2954-2957
122.	A proposal to include in the constitution the substance of section 5 of article XVI, entitled "Vacancies in office; continuity of government in emergencies."	
	For text as offered and reasons	2416
	As referred to style and drafting	2418
	As reported by style and drafting	2974
	As rereferred to style and drafting	2975
	Feb. 2, reported by legislative powers; referred to committee of the whole	759
	Apr. 13, read first time; considered, amended, passed by committee of the whole	2416-2417
	Apr. 13, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2418
	Apr. 25, reported by style and drafting (Report 106); placed on order of second reading	2780
	Apr. 30, read second time; amended, passed; rereferred to style and drafting	2974-2976
123.	A proposal to permit administrative agencies to promulgate rules and regulations and to provide for legislative review thereof, and for judicial review of the findings of such agencies. Amends article V by adding a new section.	
	For text as offered and reasons	2419
	For minority report and reasons	2419
	As referred to style and drafting	2425
	As reported by style and drafting	2968
	As rereferred to style and drafting	2971
	Feb. 2, reported by legislative powers; referred to committee of the whole	759
	Apr. 13, read first time; considered, amended, passed by committee of the whole	2419-2424
	Apr. 13, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2424-2425
	Apr. 25, reported by style and drafting (Report 107); placed on order of second reading	2780
	Apr. 30, read second time; amended, passed; rereferred to style and drafting	2968-2971
124.	A proposal pertaining to increase and decrease in the salaries of officials. Amends the second sentence of section 3, article XVI.	
	For text as offered and reasons	2493
	As referred to style and drafting	2504
	Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole	759
	Apr. 16, read first time; considered, amended, passed by committee of the whole	2493-2495
	Apr. 16, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2504
	(Note: The entire content stricken.)	
125.	A proposed constitutional provision with respect to the conservation of the state's paramount interest	

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125: Cont'd.
in the air, waters and other natural resources of the state.
- For text as offered and reasons 2602
- As referred to style and drafting 2618
- As reported by style and drafting 2900
- As rereferred to style and drafting 2900

Mar. 21, reported by emerging problems; referred to committee of the whole 1785
Apr. 18, read first time; considered, amended, passed by committee of the whole 2602-2613
Apr. 18, reported by committee of the whole with 2 amendments; referred, as amended, to style and drafting 2618
Apr. 26, reported by style and drafting (Report 116); placed on order of second reading 2852
Apr. 26, read second time; passed; rereferred to style and drafting 2900-2901

126. A proposal to affirm the state's primary concern in public health.
- For text as offered and reasons 2613
- As referred to style and drafting 2618
- As reported by style and drafting 2901
- As rereferred to style and drafting 2904

Apr. 4, reported by emerging problems; referred to committee of the whole 2097
Apr. 18, read first time; considered, amended, passed by committee of the whole 2613-2618
Apr. 18, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2618
Apr. 26, reported by style and drafting (Report 117); placed on order of second reading 2852
Apr. 26, read second time; amended; not passed 2901-2902
Apr. 27, reconsidered vote on passage; passed; rereferred to style and drafting, as amended 2903-2904

127. A proposal for a section on atomic energy.
- For text as offered and reasons 2822
- As referred to style and drafting 2828
- As reported by style and drafting 2904
- As rereferred to style and drafting 2904

Apr. 13, reported by emerging problems; referred to committee of the whole 2425

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127: Cont'd.
Apr. 25, read first time; considered, substituted, passed by committee of the whole 2822-2824
Apr. 25, reported by committee of the whole with substitute; referred, as substituted, to style and drafting 2828
Apr. 26, reported by style and drafting (Report 118); placed on order of second reading 2869
Apr. 27, read second time; passed; rereferred to style and drafting 2904-2905

128. A proposed section on intergovernmental agreements.
- For text as offered and reasons 2824
- As referred to style and drafting 2824
- As reported by style and drafting 2906
- As rereferred to style and drafting 2994

Apr. 13, reported by emerging problems; referred to committee of the whole 2425
Apr. 25, read first time; considered, passed by committee of the whole 2824-2825
Apr. 25, reported by committee of the whole without amendment; referred to style and drafting 2828-2829
Apr. 26, reported by style and drafting (Report 119); placed on order of second reading 2870
Apr. 27, read second time; consideration postponed 2906-2908
Apr. 30, considered; amended, passed; rereferred to style and drafting 2992-2994

129. A proposal to describe legislative authority over state public lands.
- For text as offered and reasons 2825
- As referred to style and drafting 2825
- As reported by style and drafting 2908
- As rereferred to style and drafting 2908

Apr. 13, reported by emerging problems; referred to committee of the whole 2425
Apr. 25, read first time; considered, passed by committee of the whole 2825-2828
Apr. 25, reported by committee of the whole without amendment; referred to style and drafting 2828-2829
Apr. 26, reported by style and drafting (Report 120); placed on order of second reading 2870
Apr. 27, read second time; passed; rereferred to style and drafting 2908-2909

HISTORY OF ARTICLES AND SECTIONS OF 1963 CONSTITUTION

Complete text of Articles and Sections appears on page 3045.
For complete history of convention action, follow procedure outlined on page 3415.
References are to page numbers in Official Record.

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CONSTITUTION.
- May 7, 8, 9, reported; placed on order of third reading; read third time, considered, amended and passed by articles; referred to committee on style and drafting 3045-3210
- May 11, reported; placed on order of third reading; considered read third time; section 8 of article IV, section 28 of article VI, section 2 of article X amended; passed 3213-3275
- Aug. 1, report of committee on style and drafting; considered; section 6 of schedule deleted, section 15 of schedule amended; adopted 3291-3301
- For text as adopted 3317
- For text, and comments in address to the people 3363-3410

PREAMBLE. (Committee Proposal 14)
- May 7, reported; placed on order of third reading .. 3045
- May 7, read third time; passed 3076
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people 3363

ARTICLE I. Declaration of rights. (Committee Proposal 15, sections 1-21, and Committee Proposal 26)
- May 7, reported; placed on order of third reading 3045
- May 7, notice filed of motion to reconsider vote on amendment to section 2 3045
- May 7, passed for the day 3076
- May 7, rules suspended; read third time; reconsidered vote on amendment to section 2; section 2 amended; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319-3321
- For text, and comments in address to the people .. 3363-3365

Section 1. Political power. (Committee Proposal 15, section 1)
- May 7, reported; placed on order of third reading 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people .. 3363

Section 2. Equal protection; discrimination. (Committee Proposal 26)
- May 7, reported; placed on order of third reading .. 3045
- May 7, read third time; amended; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people 3363

Section 3. Assembly, consultation, instruction, petition. (Committee Proposal 15, section 2)
- May 7, reported, placed on order of third reading 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people 3363

Section 4. Freedom of worship and religious belief; appropriations. (Committee Proposal 15, section 3)
- May 7, reported, placed on order of third reading .. 3045

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Article I, Section 4: Cont'd.
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people 3363

Section 5. Freedom of speech and of press. (Committee Proposal 15, section 4)
- May 7, reported, placed on order of third reading .. 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people 3363

Section 6. Bearing of arms. (Committee Proposal 15, section 5)
- May 7, reported, placed on order of third reading .. 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people 3363

Section 7. Military power subordinate to civil power. (Committee Proposal 15, section 6)
- May 7, reported, placed on order of third reading .. 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3319
- For text, and comments in address to the people .. 3363

Section 8. Quartering of soldiers. (Committee Proposal 15, section 7)
- May 7, reported, placed on order of third reading .. 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3320
- For text, and comments in address to the people .. 3363

Section 9. Slavery and involuntary servitude. (Committee Proposal 15, section 8)
- May 7, reported, placed on order of third reading .. 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3320
- For text, and comments in address to the people .. 3364

Section 10. Attainder; ex post facto laws; impairment of contracts. (Committee Proposal 15, section 9)
- May 7, reported, placed on order of third reading .. 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210
- May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3320
- For text, and comments in address to the people ... 3364

Section 11. Searches and seizures. (Committee Proposal 15, section 10)
- May 7, reported, placed on order of third reading .. 3045
- May 7, read third time; passed 3088-3098
- May 9, referred to committee on style and drafting 3210

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Article I, Section 11: Cont'd.
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 12. Habeas corpus. (Committee Proposal 15, section 11)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 13. Conduct of suits in person or by counsel. (Committee Proposal 15, section 12)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 14. Jury trials. (Committee Proposal 15, section 13)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 15. Double jeopardy; bailable offenses. (Committee Proposal 15, section 14)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 16. Bail; fines; punishments; detention of witnesses. (Committee Proposal 15, section 15)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 17. Self-incrimination; due process of law; fair treatment at investigations. (Committee Proposal 15, section 16)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 18. Witnesses; competency, religious beliefs. (Committee Proposal 15, section 17)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

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Article I: Cont'd.
Section 19. Libels, truth as defense. (Committee Proposal 15, section 18)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3364

Section 20. Accused, rights in criminal prosecutions. (Committee Proposal 15, section 19)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3365

Section 21. Imprisonment for debt. (Committee Proposal 15, section 20)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3320
For text, and comments in address to the people 3365

Section 22. Treason; definition, evidence. (Committee Proposal 15, section 21)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3365

Section 23. Enumeration of rights not to deny others. (Committee Proposal 15, section 1)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3088-3098
May 9, referred to committee on style and drafting 3210
May 11, reported, placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3365

ARTICLE II. Elections. (Committee Proposals 58a, b, c, d, e, f, g, h, 118b)
May 7, reported; placed on order of third reading 3045
May 7, read third time, sections 6 and 9 amended; passed 3076-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321-3322
For text, and comments in address to the people 3365-3367

Section 1. Qualifications of electors; residence. (Committee Proposal 58a)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3076-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3365

Section 2. Mental incompetence; imprisonment. (Committee Proposal 58b)
May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301

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Article II, Section 2: Cont'd.

For text as adopted 3321
For text, and comments in address to the people 3365

Section 3. Presidential electors; residence. (Committee Proposal 58c)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3365

Section 4. Place and manner of elections. (Committee Proposal 58d)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3366

Section 5. Time of elections. (Committee Proposal 58e)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3366

Section 6. Voters on tax limit increases or bond issues. (Committee Proposal 58f)

May 7, reported, placed on order of third reading 3045
May 7, read third time; amended; passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3366

Section 7. Boards of canvassers. (Committee Propos 58h)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3321
For text, and comments in address to the people 3366

Section 8. Recalls. (Committee Proposal 58g)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3322
For text, and comments in address to the people 3366

Section 9. Initiative and referendum; limitations; appropriations; petitions. Referendum, approval. Initiative; duty of legislature, referendum. Legislative rejection of initiated measure; different measure; submission to people. Initiative or referendum law; effective date, veto, amendment and repeal. Legislative implementation. (Committee Proposal 118b)

May 7, reported, placed on order of third reading 3045
May 7, read third time; amended, passed 3077-3087
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3322
For text, and comments in address to the people 3367

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ARTICLE III. General government. (Committee Proposals 10, 21, 18, 19, 128, 101, 44a, 96k)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

Section 1. Seat of government. (Committee Proposal 10)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

Section 2. Separation of powers of government. (Committee Proposal 21)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

Section 3. Great seal. (Committee Proposal 18)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

Section 4. Militia. (Committee Proposal 19)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

Section 5. Intergovernmental agreements; service by public officers and employees. (Committee Proposal 128)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

Section 6. Internal improvements. (Committee Proposal 101)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

Section 7. Common law and statutes, continuance. (Committee Proposal 44a)

May 7, reported, placed on order of third reading 3045
May 7, read third time; passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

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Section 8. Opinions on constitutionality by supreme court. (Committee Proposal 96k)
May 7, reported, placed on order of third reading 3045
May 7, read third time, passed 3098-3099
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading, considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3368

ARTICLE IV. Legislative Branch. (Committee Proposals 5, 20, 24, 27, 28, 29, 32, 33, 34, 35, 41, 46b, 53, 70, 78, 79, 80a, b, c, 87, 99, 100, 102a, b, c, 103, 104, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118a, 119, 120, 121, 122, 123, 125, 126, 127)
May 7, reported; placed on order of third reading 3045
May 7, read third time; sections 4, 6, 12 and 18 amended; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; section 8 amended; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323-3330
For text, and comments in address to the people 3369-3378

Section 1. Legislative power. (Committee Proposal 118a)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people 3369

Section 2. Senators, number, term. Senatorial districts, apportionment factors. Apportionment rules. (Committee Proposal 80a)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3323
For text, and comments in address to the people 3369

Section 3. Representatives, number, term; contiguity of districts. Representative areas, single and multiple county. Apportionment of representatives to areas. Districting of single county area entitled to 2 or more representatives. Districting of multiple county representative areas. (Committee Proposal 80b)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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For text, and comments in address to the people 3369

Section 4. Annexation or merger with a city. (Committee Proposal 80c)
May 7, reported; placed on order of third reading 3045
May 7, read third time; amended; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people 3370

Section 5. Island areas, contiguity. (Created by style and drafting)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210

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May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3325
For text, and comments in address to the people 3371

Section 6. Commission on legislative apportionment. Eligibility to membership. Appointment, term, vacancies. Officers, rules of procedure, compensation, appropriation. Call to convene; apportionment; public hearings. Apportionment plan, publication; record of proceedings. Disagreement of commission; submission of plans to supreme court. Jurisdiction of supreme court on elector's application. (Committee Proposal 79)
May 7, reported; placed on order of third reading 3045
May 7, read third time; amended; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3325
For text, and comments in address to the people 3371

Section 7. Legislators; qualifications, removal from district. (Committee Proposal 32)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people 3372

Section 8. Ineligibility of government officers and employees. (Committee Proposal 112)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; amended; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3326
For text, and comments in address to the people 3372

Section 9. Civil appointments, ineligibility of legislators. (Committee Proposal 120)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3326
For text, and comments in address to the people 3372

Section 10. Legislators and state officers, government contracts, conflict of interest. (Committee Proposal 115)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3326
For text, and comments in address to the people 3372

Section 11. Legislators, privileges. (Committee Proposal 33)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people 3372

Section 12. Compensation and expenses of legislators. (Committee Proposal 28)
May 7, reported; placed on order of third reading 3045
May 7, read third time; amended; passed 3099-3116
May 9, referred to committee on style and drafting 3210

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May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3326
For text, and comments in address to the people .. 3372

Section 13. Legislature; time of convening, sine die adjournment, measures carried over. (Committee Proposal 116)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people .. 3372

Section 14. Quorums; powers of less than quorum. (Committee Proposal 34)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people .. 3373

Section 15. Legislative council. (Committee Proposal 102c)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people .. 3373

Section 16. Legislature; officers, rules of procedure, expulsion of members. (Committee Proposal 102a)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted.......... 3327
For text, and comments in address to the people.... 3373

Section 17. Committees; record of votes, public inspection, notice of hearings. (Committee Proposal 102b)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3327
For text, and comments in address to the people .. 3373

Section 18. Journal of proceedings; record of votes, dissents. (Committee Proposal 114)
May 7, reported; placed on order of third reading 3045
May 7, read third time; amended; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3327
For text, and comments in address to the people .. 3373

Section 19. Record of votes on elections and advice and consent. (Committee Proposal 117)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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Section 20. Open meetings. (Committee Proposal 103)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people .. 3373

Section 21. Adjournments, limitations. (Committee Proposal 103)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people .. 3374

Section 22. Bills. (Committee Proposal 35)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people.... 3374

Section 23. Style of laws. (Committee Proposal 29)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3327
For text, and comments in address to the people .. 3374

Section 24. Laws; object, title, amendments changing purpose. (Committee Proposals 105 and 121)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3327
For text, and comments in address to the people .. 3374

Section 25. Revision and amendment of laws; title references, publication of entire sections. (Committee Proposal 121)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3327
For text, and comments in address to the people.... 3374

Section 26. Bills; printing, possession, reading, vote on passage. (Committee Proposals 104 and 105)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3327
For text, and comments in address to the people.... 3374

Section 27. Laws, effective date. (Committee Proposal 121)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3328
For text, and comments in address to the people .. 3374

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Section 28. Bills, subjects at special session. (Committee Proposal 105)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3328
For text, and comments in address to the people 3374

Section 29. Local or special acts. (Committee Proposal 119)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3328
For text, and comments in address to the people 3374

Section 30. Appropriations; local or private purposes. (Committee Proposal 41)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3328
For text, and comments in address to the people 3374

Section 31. General appropriation bills; priority, statement of estimated revenue. (Committee Proposal 46b)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3328
For text, and comments in address to the people 3375

Section 32. Laws imposing taxes. (Committee Proposal 53)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3328
For text, and comments in address to the people 3375

Section 33. Bills passed; approval by governor or veto, reconsideration by legislature. (Committee Proposal 70)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3328
For text, and comments in address to the people 3375

Section 34. Bills, referendum. (Committee Proposal 113)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people 3375

Section 35. Publication and distribution of laws and judicial decisions. (Committee Proposal 24)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275

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Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people 3375

Section 36. General revision of laws; compilation of laws. (Committee Proposal 108)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
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For text, and comments in address to the people 3376

Section 37. Administrative rules, suspension by legislative committee. (Committee Proposal 123)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people 3376

Section 38. Vacancies in office. (Committee Proposal 122)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people 3376

Section 39. Continuity of government in emergencies. (Committee Proposal 122)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people 3376

Section 40. Liquor control commission; liquor tax; local option. (Committee Proposal 27)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people 3376

Section 41. Lotteries. (Committee Proposal 100)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people 3376

Section 42. Ports and port districts; incorporation, internal. (Committee Proposal 87)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading;
considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people 3376

Section 43. Bank and trust company laws. (Committee Proposal 5)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210

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May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people .. 3376

Section 44. Trial by jury in civil cases. (Committee Proposal 99)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people .. 3376

Section 45. Indeterminate sentences. (Committee Proposal 106)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people .. 3376

Section 46. Death penalty. (Committee Proposal 20)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people 3377

Section 47. Chaplains in state institutions. (Committee Proposal 111)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people .. 3377

Section 48. Disputes concerning public employees. (Committee Proposal 109)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people .. 3377

Section 49. Hours and conditions of employment. (Committee Proposal 110)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people ... 3377

Section 50. Atomic and new forms of energy. (Committee Proposal 127)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people.. 3377

Section 51. Public health and general welfare. (Committee Proposal 126)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116

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May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people .. 3377

Section 52. Natural resources; conservation, pollution, impairment, destruction. (Committee Proposal 125)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people.... 3377

Section 53. Auditor general; appointment, qualifications, term, removal, post audits. Independent investigations; reports. Governing boards of institutions of higher education. Staff members, civil service. (Committee Proposal 78)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people 3377

ARTICLE V. Executive Branch. (Committee Proposals 2, 3, 4, 7, 8, 9, 16, 17, 46a, c, d, 59, 60, 71a, b, c, d, e, f, g, h, 1-71A, 72, 75, 77)
May 7, reported; placed on order of third reading 3045
May 8, read third time; sections 10 (originally section 9) and 29 (originally section 28) amended; passed 3117-3125
May 9, motion to reconsider vote on passage postponed until May 11 3206-3208
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading 3213
May 11, motion to reconsider vote on passage defeated 3214
May 11, considered read third time; passed 3214-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330-3334
For text, and comments in address to the people 3378-3384

Section 1. Executive power. (Committee Proposal 2)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people 3378

Section 2. Principal departments. Organization of executive branch; assignment of functions; submission to legislature. (Committee Proposal 71b)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people 3378

Section 3. Single heads of departments; appointment, term. Boards heading departments; appointment, term, removal. Boards and commissions, maximum term. (Committee Proposal 71b)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210

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May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3331
For text, and comments in address to the people 3379

Section 4. Commissions or agencies for less than 2 years. (Committee Proposal 71b)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3331
For text, and comments in address to the people 3379

Section 5 (originally part of section 4). Examining or licensing board members, qualifications. (Committee Proposal 71b)
May 7, reported (as part of section 4); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 5); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3331
For text, and comments in address to the people 3379

Section 6 (originally section 5). Advice and consent to appointments. (Committee Proposal 71g)
May 7, reported (as section 5); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 6); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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For text, and comments in address to the people 3379

Section 7 (originally section 6). Vacancies in office; filling, senatorial disapproval of appointees. (Committee Proposal 71e)
May 7, reported (as section 6); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 7); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3331
For text, and comments in address to the people 3379

Section 8 (originally section 7). Principal departments, supervision of governor; information from state officers. Court enforcement of constitutional or legislative mandate. (Committee Proposal 71d)
May 7, reported (as section 7); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 8); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3331
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Section 9 (originally section 8). Principal departments, location. (Committee Proposal 71c)
May 7, reported (as section 8); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 9); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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Section 10 (originally section 9). Removal or suspension of officers; grounds, report. (Committee Proposal 71g)
May 7, reported (as section 9); placed on order of third reading 3045
May 8, read third time; amended; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 10); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3332
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Section 11 (originally section 10). Provisional appointments to fill vacancies due to suspension. (Committee Proposal 71f)
May 7, reported (as section 10); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 11); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1 considered; adopted 3291-3301
For text as adopted 3332
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Section 12 (originally section 11). Military powers. (Committee Proposal 3)
May 7, reported (as section 11); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 12); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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Section 13 (originally section 12). Elections to fill vacancies in legislature. (Committee Proposal 7)
May 7, reported (as section 12); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 13); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3332
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Section 14 (originally section 13). Reprieves, commutations and pardons. (Committee Proposal 16)
May 7, reported (as section 13); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 14); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3332
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Section 15 (originally section 14). Extra sessions of legislature. (Committee Proposal 8)
May 7, reported (as section 14); placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 15); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3332
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Section 16 (originally section 15). Legislature other than at seat of government. (Committee Proposal 9)
May 7, reported (as section 15); placed on order of third reading 3045

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- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 16); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3332
- For text, and comments in address to the people .. 3380

Section 17 (originally section 16). Messages and recommendations to legislature. (Committee Proposal 4)
- May 7, reported (as section 16); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 17); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3332
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Section 18 (originally section 17). Budget; general and deficiency appropriation bills. (Committee Proposal 46a)
- May 7, reported (as section 17); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 18); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3332
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Section 19 (originally section 18). Disapproval of items in appropriation bills. (Committee Proposal 46c)
- May 7, reported (as section 18); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 19); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
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Section 20 (originally section 19). Reductions in expenditures. (Committee Proposal 46d)
- May 7, reported (as section 19); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 20); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
- For text, and comments in address to the people .. 3381

Section 21 (originally section 20). State elective executive officers; term, election. Lieutenant governor, secretary of state and attorney general, nomination. Secretary of state and attorney general, vacancies in office. (Committee Proposal 71a)
- May 7, reported (as section 20); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 21); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
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Section 22 (originally section 21). Governor and lieutenant governor, qualifications. (Committee Proposal 17)
- May 7, reported (as section 21); placed on order of third reading 3045

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- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 22); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
- For text, and comments in address to the people .. 3382

Section 23 (originally section 22). State elective executive officers, compensation. (Committee Proposal 75)
- May 7, reported (as section 22); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 23); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
- For text, and comments in address to the people .. 3382

Section 24 (originally section 23). Executive residence. (Committee Proposal 77)
- May 7, reported (as section 23); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 24); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
- For text, and comments in address to the people 3382

Section 25 (originally section 24). Lieutenant governor; president of senate, tie vote, duties. (Committee Proposal 71b)
- May 7, reported (as section 24); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 25); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
- For text, and comments in address to the people .. 3382

Section 26 (originally section 25). Succession to governorship. Death of governor-elect. Duration of successor's term as governor. Determination of inability. (Committee Proposals 59, 60)
- May 7, reported (as section 25); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 26); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3333
- For text, and comments in address to the people .. 3382

Section 27 (originally section 26). Salary of successor. (Committee Proposal 72)
- May 7, reported (as section 26); placed on order of third reading 3045
- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 27); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3334
- For text, and comments in address to the people .. 3383

Section 28 (originally section 27). State highway commission. Members; number, term. State highway director. (Committee Proposal 71h)
- May 7, reported (as section 27); placed on order of third reading 3045

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- May 8, read third time; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 28); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3334
- For text, and comments in address to the people 3383

Section 29 (originally section 28). Civil rights commission; members, term, duties, appropriation. Rules and regulations; hearings, orders. Appeals. (Committee Proposal 71i-71A)
- May 7, reported (as section 28); placed on order of third reading 3045
- May 8, read third time; amended; passed 3117-3125
- May 9, referred to committee on style and drafting 3210
- May 11, reported (as section 29); placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3334
- For text, and comments in address to the people 3383

ARTICLE VI. Judicial branch. (Committee Proposals 90, 91a, b, c, d, e, f, 92a, b, c, 93a, b, c, d, 94a, b, 95 and 96a, a^1, b, c, d, e, g, h, i, l, n, o)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; sections 8 and 26 amended; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; section 28 amended; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3334-3338
- For text, and comments in address to the people 3384-3389

Section 1. Judicial power in court of justice; divisions. (Committee Proposal 90)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3334
- For text, and comments in address to the people 3384

Section 2. Justices of the supreme court; number, term, nomination, election. (Committee Proposal 91a)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3334
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Section 3. Chief justice; court administrator; other assistants. (Committee Proposal 91b)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3385

Section 4. General superintending control over courts; writs; appellate jurisdiction. (Committee Proposal 91c)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3385

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Section 5. Court rules; distinctions between law and equity; master in chancery. (Committee Proposal 91d)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3385

Section 6. Decisions and dissents; writing, contents. (Committee Proposal 91e)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3385

Section 7. Staff; budget; salaries of justices; fees. (Committee Proposal 91f)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3385

Section 8. Court of appeals; election of judges, divisions. (Committee Proposal 92a)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; amended; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3385

Section 9. Judges of court of appeals, terms. (Committee Proposal 92b)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3386

Section 10. Jurisdiction, practice and procedure of court of appeals. (Committee Proposal 92c)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
- For text, and comments in address to the people 3386

Section 11. Circuit courts; judicial circuits, sessions, number of judges. (Committee Proposal 93a)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
- Aug. 1, considered; adopted 3291-3301
- For text as adopted 3335
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Section 12. Circuit judges; nomination, election, term. (Committee Proposal 93b)
- May 7, reported; placed on order of third reading 3045
- May 8, read third time; passed 3125-3140
- May 9, referred to committee on style and drafting 3210
- May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275

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Section 13. Circuit courts; jurisdiction, writs, supervisory control over inferior courts. (Committee Proposal 93c)	
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May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
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Section 17. Judicial salaries and fees. (Committee Proposal 96a^{1})	
May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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Section 18. Salaries; uniformity, changes during term. Circuit judges, additional salary from county. (Committee Proposal 96g)	
May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
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May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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Section 26. Circuit court commissioners and justices of the peace, abolition; courts of limited jurisdiction. Present statutory courts. (Committee Proposal 96i)	
May 7, reported; placed on order of third reading	3045
May 8, read third time; amended; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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Section 27. Power of appointment to public office. (Committee Proposal 96n)	
May 7, reported; placed on order of third reading	3045
May 8, read third time; passed	3125-3140
May 9, referred to committee on style and drafting	3210
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; adopted	3291-3301
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Section 28. Administrative action, review. Property tax valuation or allocation; review. (Committee Proposal 95)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3125-3140
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; amended; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
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Section 29. Conservators of the peace. (Committee Proposal 96o)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3125-3140
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3338
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ARTICLE VII. Local government. (Committee Proposals 42e, 57, 81a, b, c, d, e, f, g, h, i, j, k, l, n, 82a, b, c, d, e, 83a, b, c, d, e, f, 84, 85a, b, c, 86a, b, 88a, b and 89)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3338-3341
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Section 1. Counties; corporate character, powers and immunities. (Committee Proposal 81a)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3338
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Section 2. County charters. Election of charter commissions. Approval of electors. (Committee Proposal 89)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
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Section 3. Reduction of size of county. (Committee Proposal 81b)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 4. County officers; terms, combination. (Committee Proposal 81c)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 5. Offices at county seat. (Committee Proposal 81d)
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Section 6. Sheriffs; security, responsibility for acts, ineligibility for other office. (Committee Proposal 81e)
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Section 7. Boards of supervisors; members. (Committee Proposal 81f)
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Section 8. Legislative, administrative, and other powers and duties of boards. (Committee Proposal 81g)
May 7, reported; placed on order of third reading 3045
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Section 9. Compensation of county officers. (Committee Proposal 81h)
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Section 10. Removal of county seat. (Committee Proposal 81j)
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Section 11. Indebtedness, limitation. (Committee Proposal 81i)
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Section 12. Navigable streams, permission to bridge or dam. (Committee Proposal 81k)
May 7, reported; placed on order of third reading 3045
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May 9, referred to committee on style and drafting 3210
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Section 13. Consolidation of counties, approval by electors. (Committee Proposal 81n)
May 7, reported; placed on order of third reading 3045
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Section 14. Organization and consolidation of townships. (Committee Proposal 81l)
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Section 15. County intervention in public utility service and rate proceedings. (Committee Proposal 85c)
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Section 16. Highways, bridges, culverts, airports; road tax limitation. (Committee Proposal 86a)
May 7, reported; placed on order of third reading 3045
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Section 17. Townships; corporate character, powers and immunities. (Committee Proposal 82a)
May 7, reported; placed on order of third reading 3045
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Section 18. Township officers; term, powers and duties. (Committee Proposal 82b, c)
May 7, reported; placed on order of third reading 3045
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Section 19. Township public utility franchises. (Committee Proposal 82e)
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Section 20. Townships, dissolution; villages as cities. (Committee Proposal 82d)
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May 9, referred to committee on style and drafting 3210
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Section 21. Cities and villages; incorporation, taxes, indebtedness. (Committee Proposal 83a)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 22. Charters, resolutions, ordinances; enumeration of powers. (Committee Proposal 83b)
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May 9, referred to committee on style and drafting 3210
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Section 23. Parks, boulevards, cemeteries, hospitals. (Committee Proposal 83c)
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Section 24. Public service facilities. Services outside corporate limits. (Committee Proposal 83e)
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Section 25. Public utilities; acquisition, franchises, sale. (Committee Proposal 83f)
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Section 26. Cities and villages, loan of credit. (Committee Proposal 83d)
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Section 27. Metropolitan governments and authorities. (Committee Proposal 88a)
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Section 28. Governmental functions and powers; joint administration, costs and credits, transfers. Officers, eligibility. (Committee Proposal 88b)
May 7, reported; placed on order of third reading 3045
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May 9, referred to committee on style and drafting 3210
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Section 29. Highways, streets, alleys, public places; control, use by public utilities. (Committee Proposal 85a)
May 7, reported; placed on order of third reading 3045
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May 9, referred to committee on style and drafting 3210
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Section 30. Franchises and licenses, duration. (Committee Proposal 85b)
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May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 31. Vacation or alteration of roads, streets, alleys, public places. (Committee Proposal 86b)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3140-3146
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 32. Budgets, public hearing. (Committee Proposal 57)
May 7, reported; placed on order of third reading 3045
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May 9, referred to committee on style and drafting 3210
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Section 33 (originally section 15 of article XI). Removal of elected officers. (Committee Proposal 42e)
May 7, reported (as section 15 of article XI); placed on order of third reading 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting 3210
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Section 34 (originally section 33). Construction of constitution and law concerning counties, townships, cities, villages. (Committee Proposal 84)
May 7, reported (as section 33); placed on order of third reading 3045
May 8, read third time; passed 3140-3146
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May 11, reported (as section 34); placed on order of third reading; considered read third time; passed 3213-3275
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ARTICLE VIII. Education. (Committee Proposals 1, 13, 30, 31, 47 and 98a, b, c, d)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
May 9, referred to committee on style and drafting 3210
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Section 1. Encouragement of education. (Committee Proposal 1)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
May 9, referred to committee on style and drafting 3210
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Section 2. Free public elementary and secondary schools; discrimination. (Committee Proposal 30)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 3. State board of education; duties. Superintendent of public instruction; appointment, powers, duties. State board of education; members, nomination, election, term. Boards of institutions of higher education, limitation. (Committee Proposal 47)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 4. Higher education institutions; appropriations, accounting, public sessions of boards. (Committee Proposal 98a)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 5. University of Michigan, Michigan State University, Wayne State University; controlling boards. (Committee Proposal 98b)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
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Section 6. Other institutions of higher education, controlling boards. (Committee Proposal 98c)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 7. Community and junior colleges; state board, members, terms, vacancies. (Committee Proposal 98d)
May 7, reported; placed on order of third reading 3045
May 8, read third time, passed 3146-3149
May 9, referred to committee on style and drafting 3210
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Section 8. Services for handicapped persons. (Committee Proposal 13)
May 7, reported; placed on order of third reading ... 3045
May 8, read third time, passed ... 3146-3149
May 9, referred to committee on style and drafting ... 3210
May 11, reported; placed on order of third reading; considered read third time; passed ... 3213-3275
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Section 9. Public libraries, fines. (Committee Proposal 31)
May 7, reported; placed on order of third reading ... 3045
May 8, read third time, passed ... 3146-3149
May 9, referred to committee on style and drafting ... 3210
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ARTICLE IX. Finance and taxation. (Committee Proposals 23a, b, c, d, 37a, b, c, c¹, d, 38, 39a, b, 40, 49, 50, 51, 52, 54, 56, 74 and 78)
May 7, reported; placed on order of third reading ... 3045
May 9, read third time; sections 4, 6, 11, 18 and 19 amended; passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting ... 3210
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Section 1. Taxes for state expenses. (Committee Proposal 50)
May 7, reported; placed on order of third reading ... 3045
May 9, read third time; passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting ... 3210
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Section 2. Power of taxation, relinquishment. (Committee Proposal 54)
May 7, reported; placed on order of third reading ... 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting ... 3210
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Section 3. Property taxation; uniformity, assessments, classes. (Committee Proposal 51)
May 7, reported; placed on order of third reading ... 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting ... 3210
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Section 4. Exemption of religious or educational nonprofit organizations. (Committee Proposal 51)
May 7, reported; placed on order of third reading ... 3045
May 9, read third time, amended, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
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Section 5. Assessment of property of public service businesses. (Committee Proposal 52)
May 7, reported; placed on order of third reading ... 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
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Section 6. 15 mill limitation. Nonapplication of limitation. School districts in 2 or more counties. (Committee Proposal 56)
May 7, reported; placed on order of third reading 3045
May 9, read third time, amended, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
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Section 7. Income tax. (Committee Proposal 51)
May 7, reported; placed on order of third reading 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
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Section 8. Sales tax. (Committee Proposal 39a)
May 7, reported; placed on order of third reading 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed ... 3213-3275
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Section 9. Motor vehicle fuel and other taxes to be used for highway purposes. (Committee Proposal 38)
May 7, reported; placed on order of third reading ... 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
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Section 10. Sales tax, distribution to local governments. (Committee Proposal 39a)
May 7, reported; placed on order of third reading 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
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Section 11. State school aid fund, source and distribution. (Committee Proposal 39b)
May 7, reported; placed on order of third reading 3045
May 9, read third time, amended, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading, considered read third time; passed ... 3213-3275
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Section 12. Evidence of state indebtedness. (Committee Proposal 23a)
May 7, reported; placed on order of third reading 3045
May 9, read third time, passed ... 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed ... 3213-3275
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Section 13. Public bodies, borrowing power. (Committee Proposal 49)
May 7, reported; placed on order of third reading 3045
May 9, read third time, passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 14. State borrowing; short term. (Committee Proposal 23b)
May 7, reported; placed on order of third reading 3045
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May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 15. Long term borrowing by state. (Committee Proposal 23b)
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May 9, referred to committee on style and drafting 3210
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Section 16. State loans to school districts. Amount of loans. Qualified bonds. Repayment of loans, tax levy by school district. Bonds, state loans, repayment. Power to tax unlimited. Rights and obligations to remain unimpaired. (Committee Proposal 23d)
May 7, reported; placed on order of third reading .. 3045
May 9, read third time, passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 17. Payments from state treasury. (Committee Proposal 37b)
May 7, reported; placed on order of third reading 3045
May 9, read third time, passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
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Section 18. State credit. Investment of public funds. (Committee Proposal 23c)
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May 9, read third time; amended; passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
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Section 19. Stock of corporation, interest of state. (Committee Proposal 37d)
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Aug. 1, considered; adopted 3291-3301
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Article IX: Cont'd.
Section 20. State depositories. (Committee Proposal 37a)
May 7, reported; placed on order of third reading .. 3045
May 9, read third time; passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3346
For text, and comments in address to the people .. 3402

Section 21. Accounting for public moneys. Accounting and auditing for local governments. (Committee Proposals 37c and 78)
May 7, reported; placed on order of third reading .. 3045
May 9, read third time; passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3346
For text, and comments in address to the people 3402

Section 22. Examination and adjustment of claims against state. (Committee Proposal 74)
May 7, reported; placed on order of third reading .. 3045
May 9, read third time; passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3346
For text, and comments in address to the people 3402

Section 23. Financial records; statement of revenues and expenditures. (Committee Proposal 37c[1])
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3346
For text, and comments in address to the people .. 3402

Section 24. Public pension plans and retirement systems, obligation. Financial benefits, annual funding. (Committee Proposal 40)
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3159-3170, 3176-3186
May 9, referred to committee on style and drafting .. 3210
May 11, reported; placed on order of third reading considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3346
For text, and comments in address to the people 3402

ARTICLE X. Property. (Committee Proposals 12, 43, 63, 67, 74 and 129)
May 7, reported; placed on order of third reading .. 3045
May 8, read third time; sections 1 and 2 amended; passed 3149-3154
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; section 2 amended; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3346-3347
For text, and comments in address to the people .. 3403

Section 1. Disabilities of coverture abolished; separate property of wife; dower. (Committee Proposal 63)
May 7, reported; placed on order of third reading 3045
May 8, read third time; amended; passed 3149-3154
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3346
For text, and comments in address to the people 3403

Section 2. Eminent domain; compensation. (Committee Proposal 67)
May 7, reported; placed on order of third reading 3045

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Article X, Section 2: Cont'd.

May 8, read third time; amended; passed 3149-3154
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; amended; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people 3403

Section 3. Homestead and personalty, exemption from process. (Committee Proposal 12)

May 7, reported; placed on order of third reading .. 3045
May 8, read third time; passed 3149-3154
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people 3403

Section 4. Escheats. (Committee Proposal 74)

May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3149-3154
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people 3403

Section 5. State lands. State land reserve. (Committee Proposal 129)

May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3149-3154
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people .. 3403

Section 6. Resident aliens, property rights. (Committee Proposal 43)

May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3149-3154
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people 3403

ARTICLE XI. Public officers and employment. (Committee Proposals 22, 25, 42a, b, c, d, 55, 61, 62, 76 and 81m)

May 7, reported; placed on order of third reading .. 3045
May 9, read third time; sections 5 (originally section 8) and 6 (originally section 13) amended; passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347-3349
For text, and comments in address to the people 3404-3406

Section 1. Oath of public officers. (Committee Proposal 25)

May 7, reported; placed on order of third reading .. 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people 3404

Section 2. Terms of office of state and county officers. (Committee Proposal 61)

May 7, reported; placed on order of third reading .. 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
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Section 3. Extra compensation. (Committee Proposal 62)

May 7, reported; placed on order of third reading .. 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people 3404

Section 4. Custodian of public moneys; eligibility to office, accounting. (Committee Proposal 55)

May 7, reported; placed on order of third reading .. 3045
May 9, read third time, passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3347
For text, and comments in address to the people ... 3404

Section 5, paragraph 1. State civil service; exemptions. (Committee Proposal 22)

May 7, reported; placed on order of third reading .. 3045
May 9, read third time, passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3348
For text, and comments in address to the people 3404

Section 5, paragraphs 2 and 3 (originally section 6). Civil service commission; members, terms. State personnel director. (Committee Proposal 22)

May 7, reported (as section 6); placed on order of third reading 3045
May 9, read third time, passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported (as section 5, paragraphs 2 and 3); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3348
For text, and comments in address to the people 3404

Section 5, paragraphs 4 and 5 (originally section 7). Commission's duties as to classification, compensation, examinations, personnel transactions and conditions of employment. Certification of appointments or promotions; discrimination. (Committee Proposal 22)

May 7, reported (as section 7); placed on order of third reading 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported (as section 5, paragraphs 4 and 5); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3348
For text, and comments in address to the people 3404

Section 5, paragraph 6 (originally section 8). Increases or decreases in compensation. (Committee Proposal 22)

May 7, reported (as section 8); placed on order of of third reading 3045
May 9, read third time; amended; passed 3187-3198
May 9, referred to committee on style and drafting .. 3210
May 11, reported (as section 5, paragraph 6); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3348
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Section 5, paragraph 7 (originally section 9). Creation or abolition of positions. (Committee Proposal 22)

May 7, reported (as section 9); placed on order of third reading 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting .. 3210

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Article XI, Section 5, paragraph 7: Cont'd.
May 11, reported (as section 5, paragraph 7); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3348
For text, and comments in address to the people 3405

Section 5, paragraph 8 (originally section 10). Compensation for unclassified service, recommendations. (Committee Proposal 22)
May 7, reported (as section 10); placed on order of third reading 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 5, paragraph 8); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3348
For text, and comments in address to the people 3405

Section 5, paragraphs 9 and 10 (originally section 11). Appropriations; return of unexpended moneys. Reports and audits of expenditures. (Committee Proposal 22)
May 7, reported (as section 11); placed on order of third reading 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 5, paragraphs 9 and 10); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3349
For text, and comments in address to the people 3405

Section 5, paragraph 11 (originally section 12). Payments for personal service; judicial remedies. (Committee Proposal 22)
May 7, reported (as section 12); placed on order of third reading 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 5, paragraph 11); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3349
For text, and comments in address to the people 3405

Section 6 (originally section 13). Merit systems for local governments. (Committee Proposals 76 and 81m)
May 7, reported (as section 13); placed on order of third reading 3045
May 9, read third time; amended; passed 3187-3198
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 6); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3349
For text, and comments in address to the people 3405

Section 7 (originally section 14). Impeachment of civil officers. Prosecution by 3 members of house of representatives. Trial by senate; oath, presiding officer. Conviction; vote, penalty. Judicial officers, functions after impeachment. (Committee Proposal 42a, b, c and d)
May 7, reported (as section 14); placed on order of reading 3045
May 9, read third time; passed 3187-3198
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 7); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3349
For text, and comments in address to the people 3406

[For section 15 as originally reported by style and drafting, see history of section 33 of article VII above, page 3470.]

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ARTICLE XII. Amendment and revision. (Committee Proposals 64, 65 and 66)
May 7, reported; placed on order of third reading 3045
May 9, read third time; sections 2 and 3 amended; passed 3198-3206
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3349-3350
For text, and comments in address to the people 3406-3407

Section 1. Amendment by legislative proposal and vote of electors. (Committee Proposal 64)
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3198-3206
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3349
For text, and comments in address to the people 3406

Section 2. Amendment by petition and vote of electors. Submission of proposal; publication. Ballot, statement of purpose. Approval of proposal, effective date; conflicting amendments. (Committee Proposal 65)
May 7, reported; placed on order of third reading 3045
May 9, read third time; amended; passed 3198-3206
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3350
For text, and comments in address to the people 3406

Section 3. General revision of constitution; submission of question, convention delegates and meeting. Convention officers, rules, membership, personnel, publications. Submission of proposed constitution or amendment. (Committee Proposal 66)
May 7, reported; placed on order of third reading 3045
May 9, read third time; amended; passed 3198-3206
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3350
For text, and comments in address to the people 3407

SCHEDULE AND TEMPORARY PROVISIONS. (Committee Proposals 6, 23b, 44b, c, d, 47, 68a, b, c, 71a, b, g, 80a, b, 91a and 96f, j)
May 7, reported; placed on order of third reading 3045
May 9, read third time; original section 6 amended; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; original section 6 deleted, balance of sections renumbered, section 15 (originally section 16) amended; adopted 3291-3301
For text as adopted 3351-3353
For text, and comments in address to the people 3408-3410

Section 1. Recommendations by attorney general for changes in laws. (Committee Proposal 44d)
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3351
For text, and comments in address to the people 3408

Section 2. Existing public and private rights, continuance. (Committee Proposal 44b)
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275

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Aug. 1, considered; adopted 3291-3301
For text as adopted 3351
For text, and comments in address to the people 3408

Section 3. Officers, continuance in office. Terms of office. (Committee Proposals 44c and 71g)
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3351
For text, and comments in address to the people 3408

Section 4. Officers elected in spring of 1963, term. (Committee Proposal 68b)
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3351
For text, and comments in address to the people 3408

Section 5. State elective executive officers and senators, 2 and 4 year terms. (Committee Proposals 71a and 80b)
May 7, reported; placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3351
For text, and comments in address to the people 3408

[Original section 6. Senate apportionment. (Committee Proposal 80a)
May 7, reported; placed on order of third reading 3045
May 9, read third time; amended; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; deleted by amendment 3291-3299]

Section 6 (originally section 7). Supreme court, reduction to 7 justices. (Committee Proposal 91a)
May 7, reported (as section 7); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 7); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; renumbered to section 6; adopted 3291-3301
For text as adopted 3351
For text, and comments in address to the people 3408

Section 7 (originally section 8). Judges of probate, eligibility for re-election. (Committee Proposal 96f)
May 7, reported (as section 8); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 8); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; renumbered to section 7; adopted 3291-3301
For text as adopted 3351
For text, and comments in address to the people 3408

Section 8 (originally section 9). Judicial officers, staggered terms. (Committee Proposal 96j)
May 7, reported (as section 9); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 9); placed on order of third reading; considered read third time; passed 3213-3275

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Schedule and Temporary Provisions, Section 8: Cont'd.
Aug. 1, considered; renumbered to section 8; adopted 3291-3301
For text as adopted 3352
For text, and comments in address to the people 3408

Section 9 (originally section 10). State board of education; first election, terms. Abolition of existing state board of education. (Committee Proposal 47)
May 7, reported (as section 10); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 10); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; renumbered to section 9; adopted 3291-3301
For text as adopted 3352
For text, and comments in address to the people 3409

Section 10 (originally section 11). Boards controlling higher education institutions and state board of public community and junior colleges, terms. (Created by style and drafting)
May 7, reported (as section 11); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 11); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; renumbered to section 10; adopted 3291-3301
For text as adopted 3352
For text, and comments in address to the people 3409

Section 11 (originally section 12). Michigan State University trustees and Wayne State University governors, terms. (Created by style and drafting)
May 7, reported (as section 12); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 12); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; renumbered to section 11; adopted 3291-3301
For text as adopted 3352
For text, and comments in address to the people 3409

Section 12 (originally section 13). Initial allocation of departments by law or executive order. (Committee Proposal 71b)
May 7, reported (as section 13); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 13); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; renumbered to section 12; adopted 3291-3301
For text as adopted 3352
For text, and comments in address to the people 3409

Section 13 (originally section 14). State contracts, continuance. Korean service bonus bonds, appropriation. (Committee Proposal 6)
May 7, reported (as section 14); placed on order of third reading 3045
May 9, read third time; passed 3208-3210
May 9, referred to committee on style and drafting 3210
May 11, reported (as section 14); placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; renumbered to section 13; adopted 3291-3301
For text as adopted 3352
For text, and comments in address to the people 3409

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Schedule and Temporary Provisions: Cont'd.	
Section 14 (originally section 15). Mackinac Bridge Authority; refunding of bonds, transfer of functions to highway department. (Committee Proposal 23b)	
May 7, reported (as section 15); placed on order of third reading	3045
May 9, read third time; passed	3208-3210
May 9, referred to committee on style and drafting	3210
May 11, reported (as section 15); placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; renumbered to section 14; adopted	3291-3301
For text as adopted	3352
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Section 15 (originally section 16). Submission of constitution; time, notice. (Committee Proposal 68a)	
May 7, reported (as section 16); placed on order of third reading	3045
May 9, read third time; passed	3208-3210
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May 9, referred to committee on style and drafting	3210
May 11, reported (as section 16); placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; renumbered to section 15; amended; adopted	3291-3301
For text as adopted	3352
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Section 16 (originally section 17). Voters, ballots, effective date. (Committee Proposal 68c)	
May 7, reported (as section 17); placed on order of third reading	3045
May 9, read third time; passed	3208-3210
May 9, referred to committee on style and drafting	3210
May 11, reported (as section 17); placed on order of third reading; considered read third time; passed	3213-3275
Aug. 1, considered; renumbered to section 16; adopted	3291-3301
For text as adopted	3353
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HISTORY OF EXCLUSION REPORTS

Complete text of Exclusion Report and supporting reasons appears where first considered by committee of the whole.

References are to page numbers in Official Record.

Exclusion Report No. — Page

2001. A report recommending the exclusion of article VI, section 14.
Dec. 12, reported by executive branch; referred to committee of the whole 380
Dec. 15, referred to legislative powers 401
Jan. 29, reported by legislative powers; referred to executive branch 699
(See Exclusion Report 2027.)

2002. A report recommending the exclusion of article VI, section 15.
Dec. 12, reported by executive branch; referred to committee of the whole 380
Dec. 15, referred to legislative powers 401
Jan. 29, reported by legislative powers; referred to executive branch 699
(See Exclusion Report 2027.)

2003. A report recommending the exclusion of article X, section 20.
Dec. 14, reported by finance and taxation; referred to committee of the whole 394
Dec. 18, consideration postponed to Dec. 21 405
Dec. 21, considered by committee of the whole 415-416
Dec. 21, reported by committee of the whole; referred to legislative powers 430-431
Jan. 10, reported by legislative powers; referred to committee of the whole 506
Jan. 16, considered, passed by committee of the whole 594-595
Jan. 16, reported by committee of the whole; referred to style and drafting 611

2004. A report recommending the exclusion of article XI, section 13.
Dec. 19, reported by education; referred to committee of the whole 408
Jan. 3, considered, passed by committee of the whole 434-435
Jan. 3, reported by committee of the whole; referred to style and drafting 446

2005. A report recommending the exclusion of section 11 and section 12 of article XI.
Dec. 21, reported by education; referred to finance and taxation 415
Apr. 18, reported by finance and taxation; referred to committee of the whole 2580
Apr. 25, considered, passed by committee of the whole 2829
Apr. 25, reported by committee of the whole; referred to style and drafting 2848

2006. A report recommending the exclusion of article XII, sections 1, 2, 3, 5, 6, 7 and 8.
Jan. 11, reported by miscellaneous provisions and schedule; referred to committee of the whole 534
Jan. 16, considered, passed by committee of the whole 598-600
Jan. 16, reported by committee of the whole; referred to style and drafting 611

2007. A report recommending the exclusion of article X, section 27.
Jan. 12, reported by finance and taxation; referred to committee of the whole 558
Jan. 29, considered, passed by committee of the whole 707
Jan. 29, reported by committee of the whole; referred to style and drafting 715

2008. A report recommending the exclusion of article V, section 31.
Jan. 17, reported by legislative powers; referred to committee of the whole 613
Jan. 29, considered, passed by committee of the whole 708
Jan. 29, reported by committee of the whole; referred to style and drafting 715

Exclusion Report No. — Page

2009. A report recommending that article V, section 10 of the present constitution be excluded from the new constitution.
Jan. 19, reported by legislative powers; referred to committee of the whole 670
Feb. 2, considered, passed by committee of the whole 761
Feb. 2, reported by committee of the whole; referred to style and drafting 778

2010. A report recommending the exclusion of article V, section 11.
Jan. 19, reported by legislative powers; referred to committee of the whole 671
Feb. 2, considered, passed by committee of the whole 761-762
Feb. 2, reported by committee of the whole; referred to style and drafting 778

2011. A report recommending the exclusion of article V, section 32.
Jan. 19, reported by legislative powers; referred to committee of the whole 671
Feb. 2, considered, passed by committee of the whole 762
Feb. 2, reported by committee of the whole; referred to style and drafting 778

2012. A report recommending the exclusion of article V, section 35.
Jan. 19, reported by legislative powers; referred to committee of the whole 671
Feb. 2, considered, passed by committee of the whole 762
Feb. 2, reported by committee of the whole; referred to style and drafting 778

2013. A report recommending the exclusion of article VII, section 3.
Jan. 23, reported by judicial branch; referred to committee of the whole 690
Feb. 2, considered, passed by committee of the whole 763
Feb. 2, reported by committee of the whole; referred to style and drafting 778

2014. A report recommending the exclusion of article VII, section 18.
Jan. 23, reported by judicial branch; referred to committee of the whole 690
Feb. 2, considered, passed by committee of the whole 763-764
Feb. 2, reported by committee of the whole; referred to style and drafting 778

2015. A report recommending the exclusion of article VII, section 22.
Jan. 23, reported by judicial branch; referred to committee of the whole 690
Feb. 2, considered, passed by committee of the whole 764
Feb. 2, reported by committee of the whole; referred to style and drafting 778

2016. A report recommending the exclusion of article XVI, section 4.
Jan. 25, reported by miscellaneous provisions and schedule; referred to committee of the whole 697
Feb. 7, considered, passed by committee of the whole 845-846
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2017. A report recommending the exclusion of article XVI, section 10.
Jan. 25, reported by miscellaneous provisions and schedule; referred to committee of the whole 697
Feb. 7, considered, passed by committee of the whole 846
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2018. A report recommending the exclusion of article X, sections 17 and 18 of the 1908 constitution.
Jan. 25, reported by finance and taxation; referred to committee of the whole 697

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2018: Cont'd.
Feb. 7, considered, passed by committee of the whole 846
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2019. A report recommending the exclusion of sections 2, 3, 4, 5 and 7 of the schedule.
Jan. 29, reported by miscellaneous provisions and schedule; referred to committee of the whole 715
Feb. 7, considered, passed by committee of the whole 850
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2020. A report recommending the exclusion of section 9 of the schedule.
Jan. 30, reported by miscellaneous provisions and schedule; referred to committee of the whole 717
Feb. 7, considered, passed by committee of the whole 850
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2021. A report recommending the exclusion of article III, sections 2 and 3.
Jan. 30, reported by declaration of rights, suffrage and elections; referred to committee of the whole 717
Feb. 7, considered, passed by committee of the whole 851
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2022. A report recommending the exclusion of article III, section 5.
Jan. 30, reported by declaration of rights, suffrage and elections; referred to committee of the whole 717
Feb. 7, considered, passed by committee of the whole 851
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2023. A report recommending the exclusion of article III, section 6.
Jan. 30, reported by declaration of rights, suffrage and elections; referred to committee of the whole 717
Feb. 7, considered, passed by committee of the whole 851
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2024. A report recommending the exclusion of article III, section 7.
Jan. 30, reported by declaration of rights, suffrage and elections; referred to committee of the whole 717
Feb. 7, considered, passed by committee of the whole 851-852
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2025. A report recommending the exclusion of article XI, sections 2 and 6.
Jan. 31, reported by education; referred to committee of the whole 723
Feb. 7, considered, passed by committee of the whole 852
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2026. A report recommending the exclusion of article XI, sections 3, 4, 5, 7, 8, 10 and 16.
Jan. 31, reported by education; referred to committee of the whole 723
Feb. 7, considered, passed by committee of the whole 852
Feb. 7, reported by committee of the whole; referred to style and drafting 863

2027. A report recommending the exclusion of article VI, sections 14 and 15. Substitute for Exclusion Reports 2001 and 2002.
Jan. 31, reported by executive branch; referred to committee of the whole 724
Mar. 19, consideration postponed by committee of the whole 1730-1731
Mar. 29, considered, passed by committee of the whole 1976
Mar. 29, motion to reconsider vote on passage by committee of the whole 1986
Mar. 30, motion to reconsider vote on passage defeated by committee of the whole 2008-2009
Mar. 30, reported by committee of the whole; referred to style and drafting 2009

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2028. A report recommending the exclusion of sections 3, 4, 5, 7 and 8 of article X.
Jan. 31, reported by finance and taxation; referred to committee of the whole 724
Feb. 9, considered, passed by committee of the whole 929
Feb. 9, reported by committee of the whole; referred to style and drafting 938

2029. A report recommending the exclusion of article XVI, section 6.
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 759
Apr. 13, considered, passed by committee of the whole 2426
Apr. 13, reported by committee of the whole; referred to style and drafting 2448

2030. A report recommending the exclusion of article XIII, section 2.
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 759
Apr. 13, considered, passed by committee of the whole 2426
Apr. 13, reported by committee of the whole; referred to style and drafting 2448

2031. A report recommending the exclusion of article XIII, section 4.
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 759
Apr. 13, considered, passed by committee of the whole 2426-2427
Apr. 13, reported by committee of the whole; referred to style and drafting 2448

2032. A report recommending the exclusion of article XIII, section 5.
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 759
Apr. 13, considered, passed by committee of the whole 2427
Apr. 13, reported by committee of the whole; referred to style and drafting 2448

2033. A report recommending the exclusion of article XII, section 4.
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 759
Apr. 16, considered, passed by committee of the whole 2495-2503
Apr. 16, reported by committee of the whole; referred to style and drafting 2504

2034. A report recommending the exclusion of article I, section 1.
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 759
Apr. 13, considered, passed by committee of the whole 2427
Apr. 13, reported by committee of the whole; referred to style and drafting 2448

2035. A report recommending the exclusion of article VIII, section 6, regarding jury commissioners.
Feb. 2, reported by local government; referred to committee of the whole 759
Feb. 16, considered, passed by committee of the whole 1108
Feb. 16, reported by committee of the whole; referred to style and drafting 1111

2036. A report recommending the exclusion of article VIII, section 10.
Feb. 2, reported by local government; referred to committee of the whole 759
Feb. 16, considered, passed by committee of the whole 1108
Feb. 16, reported by committee of the whole; referred to style and drafting 1111

2037. A report recommending the exclusion of article VIII, section 11.
Feb. 2, reported by local government; referred to committee of the whole 759
Feb. 16, considered, passed by committee of the whole 1108-1109
Feb. 16, reported by committee of the whole; referred to style and drafting 1111

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2038. A report recommending the exclusion of article VIII, section 15a, regarding drainage district bonds.
Feb. 2, reported by local government; referred to committee of the whole ... 759
Feb. 16, considered, passed by committee of the whole 1109
Feb. 16, reported by committee of the whole; referred to style and drafting ... 1111

2039. A report recommending the exclusion of article VIII, section 24.
Feb. 2, reported by local government; referred to committee of the whole ... 760
Feb. 16, considered, passed by committee of the whole ... 1109-1110
Feb. 16, reported by committee of the whole; referred to style and drafting ... 1111

2040. A report recommending the exclusion of article VIII, section 31.
Feb. 2, reported by local government; referred to committee of the whole ... 760
Feb. 16, considered, passed by committee of the whole 1110
Feb. 16, reported by committee of the whole; referred to style and drafting ... 1111

2041. A report recommending the exclusion of article III, section 1.
Feb. 2, reported by declaration of rights, suffrage and elections; referred to committee of the whole 760
Apr. 10, considered, passed by committee of the whole ... 2272
Apr. 10, reported by committee of the whole; referred to style and drafting ... 2283

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2042. A report recommending the exclusion of article VII, sections 15, 16 and 21.
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2043. A report recommending the exclusion of article VII, sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 19, 20 and 23.
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2045. A report recommending the exclusion of article V, section 34.
Feb. 2, reported by legislative powers; referred to committee of the whole ... 760
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Apr. 13, reported by committee of the whole; referred to style and drafting ... 2425

2046. A report recommending the exclusion of article V, sections 2, 3 and 4.
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20. A resolution to change the name of veteran's section of the civic center to "constitution hall".
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21. A resolution establishing deadline for introduction of delegate proposals.
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27. A resolution regulating constitutional convention agents at the Michigan constitutional convention.
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28. A resolution regarding the announcement and time of public hearings.
Nov. 7, offered by Mr. Faxon; referred to rules and resolutions 262

29. A resolution requesting authority and funds for the committee on education to hold hearings in the upper peninsula at Houghton and Marquette.
Nov. 7, offered by Messrs. Heideman, Follo and L. W. Richards; referred to committee on administration 263
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30. A resolution for a select committee to deal with proposals not presently within the jurisdiction or consideration of any committee.
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31. A resolution asking the convention to review the salary of a research assistant assigned to the committee on public information.
Nov. 8, offered by Messrs. Snyder, Walker and Perlich; referred to rules and resolutions 267

32. A resolution to amend the substitute for Resolutions 24, 25 and 26.
Nov. 9, offered by Mr. Kelsey; referred to rules and resolutions 274-275

33. A resolution relative to delegate immunity.
Nov. 9, offered by Mr. King; referred to rules and resolutions 275

34. A resolution regarding submission of the constitution to the people for ratification.
Nov. 13, offered by Mr. McCauley and Miss McGowan; referred to rules and resolutions 286
May 1, reported by rules and resolutions with 1 amendment; amendment concurred in; adopted 3028-3029

35. A resolution requesting authority and funds for the committee on judicial branch to hold hearings in the city of Detroit.
Nov. 15, offered by Messrs. Danhof and Ford, on behalf of committee on judicial branch; referred to committee on administration 292
Nov. 16, reported by committee on administration without amendment; adopted 294-295

36. A resolution requesting authority and funds for the committee on finance and taxation to hold hearings in the upper peninsula at Ironwood and Marquette.
Nov. 15, offered by Messrs. Perras, Stopczynski, Binkowski, Walker, Young, Austin, Lundgren, Upton, Leibrand and Dell; referred to committee on administration 292

37. A resolution to amend rule 36 of the standing rules of the constitutional convention.
Nov. 16, offered by Messrs. VanDusen, Hutchinson and Downs; referred to rules and resolutions 296
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38. A resolution requesting a public hearing on the rights of minorities.
Nov. 16, offered by Mrs. Daisy Elliott and Mr. Young; referred to committee on administration 296

39. A resolution expressing sympathy and paying tribute to the memory of the Honorable Sam Rayburn, speaker of the United States house of representatives.
Nov. 16, offered by Messrs. King and Durst; rules suspended; adopted 296

40. A resolution to amend rule 52 of the standing rules of the constitutional convention.
Nov. 20, offered by Mr. Faxon; referred to rules and resolutions 299

41. A resolution concerning referral to committees and reporting by committees.
Nov. 20, offered by Miss Hart and Mr. Downs; referred to rules and resolutions 299
Dec. 8, reported by rules and resolutions with a substitute; report laid over 1 day 359-360
Dec. 11, report considered; substitute amended, concurred in; resolution adopted 365-369

42. A resolution requesting public hearings in Detroit on the problems of eminent domain.
Nov. 21, offered by Messrs. Erickson and Mahinske; referred to committee on administration 303
Nov. 27, reported by committee on administration without amendment; adopted 307

43. A resolution relative to transfer of the constitutional convention records to the Michigan historical commission.
Nov. 22, offered by Mr. DeVries, on behalf of committee on administration; referred to committee on administration 305
Nov. 27, reported by committee on administration without amendment; adopted 307-308

44. A resolution to amend convention rule 33 to provide for the printing of substantive committee reports on committee proposals in the convention journal.
Nov. 27, offered by Mr. Wanger; referred to rules and resolutions 309

45. A resolution to provide a timetable for completing the work of the convention by April 1, 1962.
Nov. 27, offered by Mr. Wanger; referred to rules and resolutions 309
Dec. 5, reported by rules and resolutions with 4 amendments; laid over 1 day 339
Dec. 6, considered; amendments concurred in; adopted 348-353
Feb. 19, Resolution 75 to amend offered 1146
Feb. 21, amended by Resolution 75 1201-1202
Mar. 5, amended by motion 1431
Mar. 21, amended by motion 1786-1787
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46. A resolution commending Mr. and Mrs. Kuhn on the birth of a daughter.
Nov. 29, offered by Messrs. Baginski, Downs, Walker, Mrs. Hatcher, Messrs. Perras and Wanger; rules suspended; adopted 316

47. A resolution requesting authority and funds for the committee on declaration of rights, suffrage and elections to hold hearings in the city of Detroit.
Nov. 30, offered by Mrs. Daisy Elliott and Mr. Young; referred to committee on administration 320

48. A resolution to commend the Michigan consolidated gas company for its showing of the Michigan Story visual education movie and to encourage it to make this movie available to the citizens of the state.
Nov. 30, offered by Messrs. Buback, Downs, Miss Hart, Messrs. Hodges, Kelsey and Liberato; referred to rules and resolutions 320

49. A resolution requesting authority and funds for the committee on legislative organization to hold hearings in the city of Detroit.
Dec. 1, offered by Mr. John Hannah; referred to committee on administration 332
Dec. 5, reported by committee on administration without amendment; adopted 341

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50. A resolution requesting authority and funds for the committee on legislative organization to hold hearings in the city of Berrien Springs.
Dec. 1, offered by Mr. John Hannah; referred to committee on administration 332
Dec. 5, reported by committee on administration without amendment; adopted 341

51. A resolution to invite the recent presidents of the United States, Dwight D. Eisenhower and Harry S. Truman, to make separate addresses to the convention.
Dec. 4, offered by Messrs. Downs, Hutchinson, Romney, Austin, McLogan and White; referred to rules and resolutions 334-335
Dec. 5, reported by rules and resolutions with 4 amendments; amendments concurred in; adopted 339-341

52. A resolution that no delegate shall have a conflict of interest in political ambitions.
Dec. 12, offered by Mr. Downs and Miss Hart; referred to rules and resolutions 335

53. A resolution of gratitude to the citizens of the upper peninsula.
Dec. 6, offered by Mrs. Conklin; rules suspended; amended; adopted 346-347

54. A resolution to commemorate Pearl Harbor day.
Dec. 7, offered by Messrs. Baginski, Everett, Balcer, Millard, Madar, Lesinski, Dean Doty, Bentley and Blandford; rules suspended; adopted 355

55. A resolution requesting authority and funds for the committee on declaration of rights, suffrage and elections to hold hearings in the cities of Detroit, Saginaw and Flint.
Dec. 7, offered by Mr. Pollock; referred to committee on administration 358
Dec. 12, reported by committee on administration without amendment; adopted 380

56. A resolution expressing appreciation to the city of Detroit.
Dec. 8, offered by Mr. Danhof, on behalf of committee on judicial branch; rules suspended; adopted 363

57. A resolution promoting fellowship and understanding among the constitutional convention delegates.
Dec. 11, offered by Mr. Dade; referred to rules and resolutions 365
Mar. 5, reported by rules and resolutions with a substitute; substitute concurred in; adopted .. 1430-1431
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58. A resolution requesting authority and funds for the committee on executive branch to hold hearings in the city of Pontiac.
Dec. 12, offered by Mr. Martin; referred to committee on administration 382
Dec. 14, reported by committee on administration without amendment; adopted 394

59. A resolution to commend Chairman White and the committee on public information for their work in connection with the visit of General Dwight D. Eisenhower.
Dec. 13, offered by Messrs. Spitler and Snyder; rules suspended; adopted 392

60. A resolution requesting the authority and funds for the committee on legislative powers to hold hearings in the cities of Grand Rapids and Detroit.
Dec. 14, offered by Mr. Hoxie, on behalf of committee on legislative powers; referred to committee on administration 396
Dec. 15, reported by committee on administration without amendment; adopted 397

61. A resolution that the constitutional convention recognize the significance of bill of rights day, Friday, December 15, 1961.
Dec. 15, offered by Mr. Stevens; rules suspended; adopted 401-403

62. A resolution expressing appreciation of services provided by the Michigan state medical society and the Ingham county medical society.
Dec. 19, offered by Mr. DeVries, on behalf of committee on administration; referred to rules and resolutions 409
Jan. 16, reported by rules and resolutions without amendment; adopted 589

63. A resolution to amend rule 33 regarding proposals reported out by committees.
Dec. 21, offered by Mr. Faxon; referred to rules and resolutions 415

64. A resolution to memorialize the legislature in the matter of the deletion of section 22 of article II of the 1908 constitution.
Jan. 15, offered by Mr. Pollock, on behalf of committee on declaration of rights, suffrage and elections; referred to rules and resolutions 575

65. A resolution of the constitutional convention requesting action by the legislature pertaining to the orderly completion of convention business in the carrying out of the convention's obligations after adjournment.
Jan. 18, offered by Mr. DeVries; referred to committee on administration 636
Jan. 22, reported by committee on administration with 4 amendments; referred, with amendments, to rules and resolutions 672
Jan. 23, reported by rules and resolutions with 5 amendments; amendments concurred in; adopted 690-692

66. A resolution to provide for the limitation for debate in committee of the whole.
Jan. 19, offered by Messrs. Bentley, Hutchinson and Van Dusen; referred to rules and resolutions 670

67. A resolution to commemorate the one hundred twenty-fifth anniversary of the admission of Michigan into the union.
Jan. 26, offered by Messrs. White, DeVries and Bonisteel; rules suspended; adopted 698

68. A resolution establishing the time of daily sessions.
Jan. 29, offered by Mr. Van Dusen; referred to rules and resolutions 699
Feb. 1, reported by rules and resolutions with 3 amendments; amendments concurred in; adopted 726-736

69. A resolution proposing certain business to be included in the windup of convention affairs by the special windup committee.
Jan. 29, offered by Mr. Austin; referred to committee on emerging problems 700-701

70. A resolution of the constitutional convention establishing a budget for post constitutional convention expenses.
Feb. 12, offered by Mr. DeVries, on behalf of committee on administration; referred to committee on administration 986
Feb. 13, reported by committee on administration with 2 amendments; considered; postponed to 2:00 p.m., Feb. 14 1024-1026
Feb. 15, postponed until 2:00 p.m., Feb. 16 1079
Feb. 19, considered; amendments concurred in; adopted 1155-1169

71. A resolution with respect to adjustment of the voting machine to eliminate visual registration of the vote until the machine has been locked.
Feb. 14, offered by Mr. Kuhn; referred to rules and resolutions 1029
Feb. 21, reported by rules and resolutions without amendment; adopted 1201

72. A resolution amending rule 57 of the rules of the convention.
Feb. 15, offered by Mr. Van Dusen; referred to rules and resolutions 1067
Mar. 5, reported by rules and resolutions without amendment; laid over 2 days 1431
Mar. 7, considered; adopted 1489-1493

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73. A resolution pertaining to an extension of the convention deadline and the placing of the proposed constitution upon the ballot.
Feb. 15, offered by Mrs. Daisy Elliott; referred to rules and resolutions ... 1067-1068

74. A resolution to respectfully request the Michigan legislature to take such action as may be necessary to provide that the constitutional amendment proposed in enrolled house joint resolution "G" of 1961 will not be submitted to the people at the same time as the work of the constitutional convention.
Feb. 16, offered by Messrs. Wanger, Baginski, [illegible]rettie, Mrs. Koeze and Mr. Powell; referred to [illegible]s and resolutions ... 1145
May 9, reported by rules and resolutions with 2 amendments; amendments concurred in; adopted ... 3211-3212

75. A resolution to amend Resolution 45.
Feb. 19, offered by Mr. Van Dusen; referred to rules and resolutions ... 1146
Feb. 21, reported by rules and resolutions with 1 amendment; amendment concurred in; adopted ... 1201-1202

76. A resolution pertaining to the rules to be followed on the order of second reading of committee proposals, as amended.
Feb. 20, offered by Messrs. Leibrand and Perras; referred to rules and resolutions ... 1175

77. A resolution requesting information relative to division of the proposed constitution.
Feb. 20, offered by Miss Hart and Mr. Downs; referred to rules and resolutions ... 1200

78. A resolution relative to post adjournment affairs of the convention.
Feb. 23, offered by Messrs. Binkowski, Ford and Marshall; referred to committee on administration ... 1274

79. A resolution to provide a recess during the week of April 16.
Feb. 23, offered by Messrs. Tubbs and Romney; referred to rules and resolutions ... 1287

80. A resolution requesting that religious bodies of this state offer prayers for the success of the convention.
Feb. 27, offered by Messrs. Bentley, Hutchinson, Downs and Romney; referred to rules and resolutions ... 1325
Mar. 7, reported by rules and resolutions with 3 amendments; amendments concurred in; adopted ... 1488-1489

81. A resolution relative to the absence of delegates during committee of the whole.
Mar. 1, offered by Mr. Nord; referred to rules and resolutions ... 1404

82. A resolution to provide for a recess, without pay, for the Memorial day period.
Mar. 15, offered by Messrs. Madar and Stevens; referred to rules and resolutions ... 1664

83. A resolution relative to sessions on Friday.
Mar. 15, offered by Mr. Leppien and 68 other delegates; referred to rules and resolutions ... 1664
Mar. 21, reported by rules and resolutions with 3 amendments; amendments concurred in; adopted ... 1785-1786

84. A resolution relative to time of convention sessions.
Mar. 23, offered by Mr. Everett and 29 other delegates; referred to rules and resolutions ... 1845
Mar. 29, reported by rules and resolutions with a substitute; substitute amended, concurred in; resolution adopted ... 1951-1953

85. A resolution to hasten the work of the convention and to enable the convention to meet the fiscal deadline of May 15.
Mar. 27, offered by Mr. Allen; referred to rules and resolutions ... 1891-1892
Mar. 29, reported by rules and resolutions with 1 amendment; laid over 2 days ... 1953
Apr. 2, considered; amendment concurred in; adopted ... 2031-2034

86. A resolution to aid in the harmonious, efficient and expeditious completion of the work of the constitutional convention after the example of the 1908 constitutional convention.
Mar. 30, offered by Mr. Dade; referred to rules and resolutions ... 2007

87. A resolution to amend rule 41 regarding application of convention rules.
Apr. 3, offered by Mr. Walker; referred to rules and resolutions ... 2062

88. A resolution of congratulations to Mr. Kent Lundgren on his election to the senate of the state of Michigan.
Apr. 3, offered by Messrs. Perras and Dell; rules suspended; adopted ... 2096

89. A resolution to provide an additional paragraph to rule 50 relative to amendments to committee proposals.
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90. A resolution to memorialize congress to exercise its power to create congressional districts in the state of Michigan.
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